

February 22, 2006
4:00 PM

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its regularly scheduled February meeting on Wednesday, February 22, 2006, at 4:00 p.m. in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, North Carolina. Those present were: Vice Chairman Dean Bonessi, Tony Engel, Gary Griffin, Ann Pouch, Alternate Members Dale Caldwell and J. Eric Goodman, Assistant Zoning Administrators Lyle Case and Larry Glover, Zoning Administrator Natalie Berry, Planning Director Judy Francis, and Secretary to the Board Joyce Karpowski.

Vice Chairman Dean Bonessi called the meeting to order at 4:15 PM. Chairman Bonessi introduced the members of the Board. He presented the minutes of the meeting from January 25, 2006. Ms. Berry informed the Board that the Zoning Section for the Conditional Use Permit referred to in the minutes as Section 16 should have been Section 15 and has been corrected in the minutes and decision. There were no further corrections or changes. Mr. Engel moved to approve the minutes as corrected, Mrs. Pouch seconded, and all members voted to approve the minutes as corrected.

Ms. Berry said that for the election of officers only the 4 permanent Board members could vote. Chairman Bonessi asked for nominations for Chairman. Mr. Engel nominated Mr. Bonessi and Mr. Griffin seconded the nomination. All voted in favor. For Vice Chairman Mrs. Pouch nominated Mr. Griffin and Mr. Engel seconded the nomination. All voted in favor. For Secretary Mrs. Pouch nominated Mrs. Karpowski and Mr. Engel seconded the nomination. All voted in favor.

Chairman Bonessi introduced Ms. Judy Francis, Henderson County Planning Director, to present an update on the proposed Comprehensive Plan. Ms. Francis thanked the Board for having her. She said that this is a work in progress and any comments or suggestions that the Board members have about the draft that is currently on the website or the revised version that hopefully will be available later this spring would be welcome. Suggestions can be done in writing or by phone or over the website online. She said they want the Board to understand what it does and does not do and what it intends to do and doesn't intend to do.

Ms. Francis said she has been employed by Henderson County since October 2005, so the draft was largely completed by Planning Staff before she got here. If she is unsure of any questions from the Board, she will have someone from the Planning Staff contact the questioner. She said the Land Development Code is the culmination of a process that has been ongoing for almost 2 years, in which the Planning Department has done research on past and current development trends, as well as a fairly intensive public input process to determine citizen preferences of how they want the County to develop over time. The document was published and you'll see quite a number of recommendations of how growth management should be addressed in Henderson County in the future. The Land Development Code was recommended in the County Comprehensive Plan and on the website (the website information is on the yellow handout on the back bottom) is the draft and additional information such as a spreadsheet showing components of the Land Development Code and where they came from in the Comprehensive Plan. There is a specific connection between the Comprehensive Plan and the draft Land Development Code. The Code consolidates 6 Ordinances that we currently have: Zoning, Subdivision, Flood Plain, Watershed, Manufactured Home Park and Telecommunications Tower. The intent is to provide one Ordinance that one can go to with land development concerns instead of having to research up to 6 different documents. The paper has been reduced by over 100 pages with the consolidation. On the website is an instruction sheet with how to use this document. The document tries to find ways to allow density and intensity of use to be linked to higher levels of infrastructure. So

more dense or intensive types of land use would be more commonplace in urban areas and moving toward the rural areas the development would become less dense. This arrangement does a couple of things. It allows additional options for things like affordable housing and also helps the County determine where infrastructure is going to be next, at what capacity should the infrastructure be built (water, sewer lines, schools, parks and other public amenities that a local government provides). So having a growth management plan that's based on some concrete underpinnings makes sense with not just current planning but future planning as well. This in a nutshell is how density and intensity is regulated in this document. The current Zoning Ordinance does 2 things: it tells you what can happen on that land and how much it can happen – be it the number of houses, square foot of retail space or whatever. In this scenario, you have the underlying zoning district and then you have an overlay that corresponds to a map that was originally in the Comprehensive Plan that is now being updated. She cited Map 20 that defines the urban growth area, the transitional growth area (suburbs) and the rural growth area (low density). How is urban defined on this map? Availability of water infrastructure, much of it sewer, proximity to very urban environments in the municipalities: schools, fire districts, all those public amenities that we sometimes take for granted but actually don't occur in every part of the County. The transition area is kind of the area around that that is growing now with subdivision activity in those areas pretty densely. The current draft is calling for half acre to 2-acre average lot sizes. The urban area is 2 – 16 units per acre and that would be dependent on which incentive the developer chooses to use. The rural area would be the least intensively developed with fewer services, more challenging topography and steeper slopes. And that would be 1 – 5 acres per dwelling unit. Those densities are currently under review. There's a number of elements of the proposed Ordinance that there's clearly not consensus on in the County. There may never be 100% consensus but we need to address some of these issues. If you go to the draft on the County website, what is highlighted in red is still being worked on in the Planning Board subcommittee and are probably going to change. Those densities are one of them.

Ms. Francis showed Map 20 from the Comprehensive Plan. What's wrong with this map? It's 3 years old and a lot has happened in 3 years. There was a pretty broad brush used to define urban areas because there isn't high levels of infrastructure throughout those blue areas. There is actually more subdivision development that should be classified transition rather than a rural area. Additionally, the municipalities are not represented on the map. We do not have jurisdiction in the municipalities or the ETJ. We need to make sure that people understand that much of that area isn't even in our land use jurisdiction and Mills River didn't exist when this map was originally done. So updating this map, the most recent update was shown. Ms. Francis said the gray areas are municipalities, either the municipal limits themselves or the extra territorial jurisdictions. The dark green area is public lands, either Pisgah National Forest, the Dupont State Forest, or the Green River Gamelands. They are in rural areas but probably will never be developed. So this clear for people to understand how much land this is really affecting. The orange area is the more urban area and it's pretty obvious where that is – the urban corridor, the Interstate corridor, going up toward Fletcher, some on the eastern side of the Flat Rock area, and a pocket of urban development in the Etowah area. But look at the expansion of transition, just in the few years since the maps were originally done. An incredible amount of difference in how much land is suburbanizing – the light yellow area. Because of the way the land lays (pretty fairly compatible topography, with some slopes, but generally pretty decent laying land), much is farmland and that's where we're seeing most growth now. That's where the subdivisions are starting to occur. And once subdivisions reach a certain density, then commercial pods won't be far behind. The grocery stores and retail outlets are hanging back waiting until there's a certain density in a particular area and then they'll come in to service those areas. The light green area is classified as rural and that's because it's very low density at the current time or there are very steep slopes in that area. There's remoteness from water and sewer or from major transportation. Much of that area does not even fall within a fire district. Those are outlying areas. Does that mean it will always be that way? Probably not, unless we intend it to stay that way. What we hope to do is update these maps annually at the very least, because we know the transition area is getting bigger and we know the urban area will be getting bigger, too, as sewer service is extended to additional portions of that corridor. Chances are that as sewer extensions are put into an area, there will be more annexations. Historically it has

worked that way. She wanted to show that because these are the overlays that density is linked to. There will be the general use zoning districts like there are now, but there will be overlays on top of them, so you could be in an R-something in the transition overlay. The R will tell you what can happen on your land and the transition will tell you how much. It's a common technique that is used in a lot of places, it's part of the zoning map just like a general use district is and it hopefully clarifies a lot of concerns that people have about what's going to happen next where we are. You can look at the map and have a pretty good idea of where we anticipate future growth to go and what intensity the growth will be at.

Some of the other themes that you'll find as you go through the Comprehensive Plan involve the issue of transportation. Access management is something that people who are concerned with planning issues really want some attention thrown on. This Board is aware of financial problems that NCDOT is currently experiencing. What that will translate into is not much road improvements around here for awhile, particularly on secondary roads. I-40 will be taken care of and some major transportation routes will get attention, but the secondary roads will not get much love from the DOT for a long time. They just don't have the money to do it. So if you think that new growth will mean the DOT will come and throw in another lane on a road – it won't happen. What can we do? We can incorporate access management standards into the Ordinance. It won't alleviate how many trips are taken on that road, but it will alleviate some of the concerns with the efficiency of the traffic patterns. Will you have to brake every hundred feet for a driveway cut or will there be shared driveway access? Are commercial centers going to have entrance roads rather than a driveway cut for every store? Those are the things they are trying to build into the Ordinance.

Another issue that is transit related and important to note is, currently in Henderson County, there is not a large public transit system. Ms. Francis thinks in the not to distant future the role of public transit will expand more than it currently is. With the cost of fuel increasing, as well as the aging population in the County not necessarily feeling comfortable driving as traffic levels increase, public transportation will be a possible future need. As the federal and state government focus more on funding those types of programs rather than new roads, we will be become more dependent on having an efficient public transportation system. Rural counties will never be like downtown Asheville, but there is hope that we will have a transportation system that works for Henderson County. What does that mean for new development? We would like (not require at this point) for people to reserve a place for a transit stop in the event that a future transit system wants to incorporate a stop there. That would be for a shopping center or grocery store or the front end of a subdivision. We don't expect people to build those now, but it is easier to incorporate the space now, than to retrofit the space later on. It's not required, but if someone incorporates that into their development, they get density bonuses. They would be allowed to do more units or more square footage in a retail scenario for providing an option for public transportation. Public transportation doesn't just include buses – it could be a bike rack or a walking path from an adjacent neighborhood. We want to reward developers that are forward thinking like that.

Affordable housing is an issue that Ms. Francis has heard a lot about. We wanted to find a way to accomplish a few things and the current draft is part of the way there, but there is still work to do on this issue – provide options for affordable housing. How does this happen? In working with developers who are trying to do 2 projects here in Henderson County that are great products that we really need, what's affordable? Affordable is making a house payment that is no more than 30% of your take-home income. What does that mean? You base it on the average income for the County? How does that translate into a house? To be classified as affordable housing in Henderson County, given the current income levels of our residents, the cost needs to be less than \$128,000. When was the last time you saw a house on the market for \$128,000? The product is just not out there. Mr. Engel said it is expensive because he is a builder. Ms. Francis asked how, as a builder, could he produce homes in that price range? Mr. Engel said smaller. Ms. Francis said or higher density. Mr. Engel said if they were attached. Ms. Francis said that he would need sewer, right? Mr. Engel you couldn't fit it in if you didn't. Ms. Francis said they are trying, in the urban area where fewer accessibility is possible, we would like offer, provided a developer does at least (she thinks) 25% of their development in affordable

housing, that they would be allowed to have density bonuses up to 16 units per acre. What that means is town homes, zero lot line homes, multistory multifamily homes (not to exceed 40 feet). It is possible to do 16 units per acre that look very attractive. Affordable housing has this stigma that it has to be ugly, or it has to be plain, or it has to be shoddy looking and that is not the case. I have seen one-bedroom one-bath units that start at \$109,000 that I would move into tomorrow. Two bedroom units for \$121,000 and three bedrooms for \$133,000 and they are really nice and really enhance the neighborhood where they are located. Who is buying these are the schoolteachers, the nurses, the people the community needs that we are compelling to commute by car from someplace else because they can't afford to live here. We need to start taking responsibility for arranging some type of development scenarios where people can afford to buy the product. We're not doing that right now. Mr. Engel explained the same problem in Santa Barbara California. Ms. Francis said the same thing in the Colorado ski resorts. She said the cities subsidized housing for seasonal staff. She said that's not the answer for Henderson County because we don't need seasonal staff. We need year round people in those roles. There is no mechanism in place right now to get houses in a price range that people can afford. If they can't afford to live here, they won't stay here. The salaries aren't anything to brag about and they won't make more money by coming here. They would go to another county making the same money where houses are half the price. Mr. Goodman asked if businesses were having the problem of filling positions advertised in the newspaper. Ms. Francis said didn't know if there was a problem with untrained labor. Mr. Goodman said professional people are making enough to afford a \$130,000 house and up. Ms. Francis said what if they had a couple of kids. Mr. Goodman said they probably have a 2-family income and probably make \$100,000 – 150,000. What's the average income here? Ms. Francis said she didn't think her staff is doing that and they are professionals. Everyone in her office has a college degree and they are not making that kind of money. Mr. Larry Glover said the average income is \$28,000 a year but the average working man is making closer to \$22,000 – 25,000. He continued that if you increase the density to 16 units per acre, you need sewer and will then lose the property by annexation. Ms. Francis said they propose to go into areas that are urban already. It's where there is sewer. Mr. Goodman said the city controls the sewer. Ms. Francis said there is land with sewer access in the County where they would like to encourage higher density development on to accommodate affordable housing. Mr. Griffin questioned if there was a need for affordable housing with the mobile home parks and manufactured homes. Mr. Engel said there was a need. Mr. Goodman said the Ordinance can't control the cost of building materials. Mr. Engel said the cost is skyrocketing. Ms. Francis said she is working with 2 builders who have told her what density they need to make the project work and that is where the numbers are coming from. Mr. Engel asked if they were large developments. Ms. Francis said yes. Mr. Engel said they would have to be huge to be able to.... Mr. Griffin said what happens 20 years from now when there are 16 houses per acre and the newness wears off and they are dated looking. What happens to that neighborhood in 15 years? Ms. Francis said why is that different than any other town home development. Mr. Griffin said he has seen affordable housing become slums in 10 years. Ms. Francis said these are owner occupied, not rental units. Mr. Goodman said to make it affordable, you have to build it cheap and it will not hold up. Mr. Griffin agreed and thinks you will create slums. Ms. Francis said, if we don't address it from a density end, what is their ideas about how to provide affordable housing? Mrs. Pouch said she'd rather see what Ms. Francis is talking about rather than a sprawl of more trailer parks. Ms. Francis said it is a myth that manufactured homes addresses affordability. It is cheaper to get in, but they deteriorate. You're not building any kind of nest egg. Mr. Goodman said what she is proposing deteriorates too, just at a slower rate. Ms. Francis said she doesn't think it deteriorates any more than any other stick built unit. Mr. Griffin said he disagreed, that a town home doesn't hold its value as well as a house on a ½ acre lot. Ms. Francis said she will get the Board of Realtors to research the sale of multifamily town homes and zero lot line homes, because they have been helping with their data. The Board talked about Edneyville Acres and how it never worked. Ms. Francis said that she believed that the developers have some issues in place like the units have to be owner occupied, not for rental. Mr. Goodman said he didn't know how to stop that. Ms. Francis it was a deed restriction and is being done in a lot of places. It would not be policed by the County but by the homeowners association. This was discussed. Ms. Francis said that developments like this are sold out preconstruction, so there is demand. Ms. Francis said if anyone had ideas that the County could use to incorporate affordable

housing into the Ordinance, she would forward them to the Planning Board subcommittee. As far as they have been able to tell the only way to provide affordable housing in Henderson County is through density increases and those density increases have to be to the point where they have access to sewer. The numbers are from developers they have worked with.

Ms. Francis said the next area to talk about is environmental protection. There are some components in the draft to address some specific issues. The Flood Ordinance and Watershed Ordinance fall into this category and there are no substantive changes to either one of those Ordinances. So those Ordinances roll into the Land Development Code with no changes associated with them. Storm water management is included as an option for developers who would like to increase allowable impervious surface area to do on site storm water management. That can be done in a variety of ways using swales or rain gardens or landscaping features where the parking lots would drain into landscaped areas – something to retain the storm water onsite, rather than having it run off onto adjoining properties. That is primarily for nonresidential property. It would be engineered and submitted by the developer in exchange for possibly increases in allowable square footage for non-residential buildings or impervious surface areas. That is voluntary and not required. There are also incentives for developers to stay off steep slopes. The slope is the one that has been kind of a lightning rod for criticism of the Ordinance. There are some parts of the Ordinance that are not working and the slope issue, as currently written, is one. What constitutes steepness in the Piedmont area might not necessarily be steep here. That understood, that doesn't mean we don't have erosion and storm water problems from development on steep slopes here and that is pretty well documented. So, how are those issues addressed? Currently, slopes in excess of 25% cannot be used to calculate density on property unless there is a cluster design. It's just not possible to do a cluster design on a lot of these properties. The question will be, what degree of slope is considered steep? Right now we are working on some slope maps that show what part of the County have slopes in excess of particular degrees and where past landslide events have occurred due to unstable soils. Where are there problems and where aren't there problems? Hopefully, when they are finished with the analysis, we'll be able to determine where they are problems with slope development, either from past events (increased levels of sedimentation in streams). Ms. Francis says it will not be 25%, it'll be much steeper than that. They are in the middle of looking at it and looking at some existing development in the County and whether or not it would work with this code. Some of those developments are ones everyone agrees are good things and some have notorious problems associated with them. She doesn't know what will happen with the slope provision of the Ordinance, all she is certain is that they will be different than the draft on the website.

Mr. Engel asked if the 25% that might be modified is only where the building is located. Ms. Francis said yes. Ms. Francis said she was surprised there were quite a bit of slopes in excess of 25% particularly in the rural area in the outer part of the transition area, but when you start going out from that like 35%, it dramatically reduces. There's a lot of 25% slopes. Slopes in excess of 25%, but when you start asking for slopes in excess of 35% or even 45%, that amount of affected land really drops off. Again, it's part of the work in progress, but it is currently in the draft a certain way. Mr. Engel said that the cost of construction on the steeper slopes goes up dramatically. Ms. Francis said that they have been trying to address the problem by minimizing road standards, so you don't have to have a massive road through the areas, because sometimes the road causes some problems. Right now, the Fire Marshall's Office is adamant that he needs the roads to be a certain way for emergency access. If that's the case, then they can't move very much on the road issues, because we need emergency response. So it will have a lot of different viewpoints and will be interesting to see where it comes out. She doesn't want to see pig paths going up the mountains, but doesn't think you need four lane highways either, especially with low-density housing. But a fire truck has to get up there, too. They are trying to balance that now and are not where they need to be on that issue.

Commercial Compatibility – There are ways someone could increase their density – landscaping, reserving a transit stop, and having pedestrian access to neighborhoods. There are no requirements for architectural design standards at this point. There is an option in the Ordinance for there to be

overlay districts established in the small area planning process that might incorporate design standards, but not in the current draft. Some people think stores won't come here if you say they have to be done a certain way. Most of the stores have at least 3 sets of plans – basic vanilla plan, a slightly enhanced plan, and then one where they will work with the communities. They know when they come into an area what to expect. There is a much greater willingness to create something that will be an asset and enhance the community than cause problems and have negative publicity. Mr. Goodman said then the cost of products goes up. Mr. Caldwell said that's why there are merchandising zones. Mr. Goodman said the costs are passed on to the consumer. Mr. Engel cited the McDonald's in Biltmore Village with an elegant building and grand piano. Ms. Francis asked if the hamburgers cost more. The Board discussed it and the prices have to be competitive.

Agricultural preservation is probably one of the most difficult things to address and there seems not to be consensus within the agricultural community about how to address agricultural preservation. She's not sure if there's consensus that the agriculture community wants to preserve agriculture. There are a lot of things to go into that – international trade agreements is not something addressed at the local level. If someone wants to farm, we need to find ways to encourage that to happen. Agriculture has traditionally been a huge component of this County's economy. It is well over 20% of Henderson County's economy – that's a big chunk. What's going to happen to that over time as the land transitions out of agriculture? 20% of the economy is a big thing to make up. Residential development won't make it up. Maybe in the short term, but residential development will cost more than it brings in, once you throw in schools and the other public services that it needs. What is going to happen long term with the role of agriculture in Henderson County? What we do now and what the state of North Carolina requires is that agriculture is exempt from zoning. The exemption was recently amended to include exemptions for agritourism. So things like pick-your-own apples or corn mazes are exempt from zoning and that is made explicit in this code. The intent was to try to keep density in the more urban areas and have lower density in the outlying areas in the hope that there would be less conflict with existing farms. One of the big complaints from the farming community has been why are you approving these subdivisions right next to me. It's making it difficult to spray chemicals, there are complaints from neighbors about smells and sound and dust. Mr. Goodman said and the farm was there first. This happens all the time and all over. Ms. Francis said how do you address that? Mr. Goodman said buyers should sign a disclosure. Ms. Francis said it is supposed to be disclosed to buyers that there is an agriculture district there. She said it sounds romantic to be next to a farm, but six months later, it's different. There will always be conflict. You could require lower density next to farms. Or the houses are set farther away from the farm for a buffer. Some farmers like that idea and others are not happy with it at all, because they would be subject to the same rules. If they transitioned their property out of agriculture, they would have lower density on their property, too. Mr. Goodman said that would hurt the value of their property and you can't force them to farm forever. Mr. Caldwell said projections on farming say there is great uncertainty as to where farming is going because of globalization. Dealing with today can be shortsighted 25 years down the road. Mr. Goodwin said the farms are the farmer's 401k and education for their children. Ms. Francis said what do you do for the ones that don't view their land that way? Mr. Goodwin said he didn't know and Ms. Francis said that is the problem. Ms. Francis said this is one of the hardest ones. Mr. Goodwin said the farmer should be left alone. Ms. Francis said that's okay but if they want lower density next to their property, those rules have to apply to them also. We can't just selectively say the rules only apply to people next to a farm, not the farm. That could wind us up in court faster than anything else. Mr. Goodwin said it has to be fair. Mr. Griffin said you almost have to look at the farmers as real estate investors. Ms. Francis said that there is not consensus among the farming community. There are a number of affluent farmers in this community that intend to farm. Mr. Goodwin said that a lot of them are not affluent. There was discussion. Mr. Griffin said this is turning into not a farming community. Ms. Francis said all statistics indicate that and the economics trends as well. But there are people who have been farming for generations and want to continue to farm and it is becoming increasingly difficult to do. Is there a way to help them and Ms. Francis doesn't know if there is or not. A suggestion was for the County to use local farm produce in the schools. There was discussion about produce now coming from all over, not local. Ms. Francis says she is sympathetic to the farmers using their land as a 401k and also to the

farmers that want to keep farming and have had obstacles thrown in their way. There was discussion about the same thing happening with manufacturing. Mr. Caldwell said the threat to farming does not have to do with development and land encroachment. Ms. Francis said that is what farmers are telling her. The economic issues are the problem.

Subdivision regulations – Current subdivision regulations are in the Land Development Code – basically the same requirements for plats, the addition of the conservation subdivision not in our current ordinance. There's a short checklist for plats that basically incorporates the state requirements for plats. Mr. Goodwin asked the difference between major and minor subdivision size. Ms. Francis said major subdivisions have more than 10 lots and will stay the same. And there will still be a family subdivision. Mr. Goodwin had to leave and said he was passionate about helping some of his friends that were farmers. Ms. Francis said they are working with a lawyer and hopefully some good things would come from that.

Ms. Francis said that Ms. Berry has been helping with sign provisions, particularly with graphics for the Ordinance to help people understand how to measure sign face. This is currently under review and the draft is being reviewed by sign companies and we are starting to get some feedback from them.

The Flood Ordinance is in Article 10 of the Land Development Code. There are no substantive changes.

There are no substantive changes to the Watershed Ordinance. There are portions that are reserved in case the County wants to incorporate a Soil Erosion Control Program. That's an issue that the County Commissioners are currently talking about. It is not a part of this draft.

Nonconformities is the fancy word for grandfather – what grandfathers in and what doesn't. Lawfully permitted uses are grandfathered in – expansions have to comply. There are provisions that allow replacements or rebuilding in the event of a disaster or unforeseen event like a fire. Abandoned uses that are abandoned for longer than 6 months would have to apply. Ms. Francis thinks this is not long enough and they are looking to extend that period. Subdivision or development plans that have received development approval by the Planning Board prior to the Ordinance will be allowed to continue being developed under the old rules. So a developer who has begun investing in a project, the rules will not change midstream for that person.

So what are we still working on? Ms. Francis said she has made that pretty clear – there are maps being updated, the density issues, subdivision road standards, sign regulations, incorporating a more extensive public review section (one of the common complaints). How are things getting approved and nobody knows what's happening. The current Ordinance doesn't have a provision for it. If citizens would like a more extensive public participation process, there are ways to do that. It is not in the current code. Landscape standards, as well as reformatting some tables and organizational issues are currently being worked on by a Planning Board Subcommittee. What they are doing right now is trying to get as many people as possible in the County aware that they are working on a draft. There are weekly staff meetings to address Land Development Code draft issues. There is a Planning Board Subcommittee that is meeting regularly to address some of those review issues. They continue to do presentations to groups throughout the County as well as drop-in sessions for the general public. They are not formal presentations but casual drop-in where you can sit down and talk to a staff person about questions. Some people feel intimidated asking a question on front of a large group of people and hopefully this format will let people have a more interactive conversation about their concerns and staff can more accurately take down comments. That seems to be working really good so far. They did one at Johnson Farm and got some terrific comments and she is looking forward to the rest. The current draft and a lot of informational material about the draft is on the County website and the address is on the yellow sheet of paper she distributed. Copies can be purchased at the Planning Department for \$10. She would not recommend purchasing one because it is a work in progress and will change. There are copies in the library. There is no timeline established for finishing this. They want to keep

working on it until it is right. That might mean spending a lot of time on it and she is willing from staff perspective to put in the time needed to get it right. She doesn't know how the Commissioners feel but she wants this Board to know that the document is continuing to need work and they are willing to put the time in to do that. So please review the Comprehensive Plan and then review the Land Development Code, which really implements portions of the Comprehensive Plan. She asked the Board to make any comments known to staff. Ms. Francis said the only thing she has had 100% consensus on is that the existing Ordinance needs to go. What happens after that is what she is talking about now. She said there is a handout that says the Zoning Board of Adjustment will continue its current role of being the Flood Damage Prevention Board, the Watershed Review Board, reviewing variances. There is no provision in the current draft for the Zoning Board of Adjustment to do other quasi-judicial proceedings, such as Conditional Use Permits. Ms. Francis has mixed feelings about that and would like the Board to talk about that. Quasi-judicial proceedings are a precise art and it's not the same as a legislative advisory opinion that a Planning Board gets. The Board is the final word on Variances and knows how to do quasi-judicial proceedings. She hopes the Board will discuss taking on Conditional Use hearings because of the experience doing quasi-judicial hearings. A question was asked about the difference between Special Use Permits and Conditional Use Permits. Ms. Francis said that was in Appendix 1. Ms. Francis said the Board of Commissioners wants to get out of the quasi-judicial proceeding business, and in the current draft they are still in it. If the Board of Commissioners looks for someone to take on those proceedings, it will probably be this Board. Ms. Berry said with Special Use Permits there was more public input, and more public will attend including newspapers. Some will be controversial. Ms. Berry said there were probably about 20 –25 Special Use Permits in a year. Ms. Francis there would probably be less with the new Code. Some will be reviewed under the Technical Review Board and won't come to this Board. Ms. Francis said to talk to Ms. Berry because if this Board doesn't want to take it on, they have to be open with the Commissioners and say the Board doesn't want to take it on. Mr. Engel said the Board would have to look into that. Ms. Berry said she has information that she wants to give the Board at each meeting. Ms. Berry said the Board would have a lot of say and impact on projects.

The Board thanked Ms. Francis for an excellent presentation.

COMMITTEE AND STAFF REPORTS: Ms. Berry handed out paperwork from her presentation of the Flood Damage Prevention Ordinance a while back. Ms. Berry gave the Board file folders for the paperwork to bring to meetings. She passed out papers to include. She has maps explaining the Flood Ordinance and will include pictures at a later meeting. One handout outlined the Conditional Use process, which is basically the by-laws and the way we have always done it. The difference will be not sending packet information for Conditional Use Permits or any quasi-judicial hearings. The Board will get it at the meeting because they are not supposed to have any knowledge of it beforehand. Ms. Berry said they will do their best to outline as much as they can for what is issues and is not issues. So the Board can pull this out and not have to go to the Zoning Book.

The second handout is about Planning Board recommendation and what should go to the Planning Board first. Ms. Berry made a list with her suggestions as to what would need Planning Board recommendation and what wouldn't. She asked the Board to look at her recommendations and possibly vote on it next month. The Board discussed this.

Ms. Berry said there are no applications for March but she would like to have a meeting to discuss these things and in April there will be an Application for a Special Permit.

Ms. Berry had a paper discussing dual membership on the Planning Board and Zoning Board of Adjustment. Basically, it says if the member heard the case at the Planning Board, he can't sit on the ZBA because he has prior knowledge. The Planning Board member can't receive the information in his packet and has to sit out of the Planning Board meeting for that particular case. She gave a brief picture of what the case would be and said that the member shouldn't receive anything through the Planning Board if he wanted to sit in on the Board of Adjustment hearing. The case involves Blue

Ridge Community College and Mr. Engel said his wife is on the Board there. Ms. Berry said her understanding is if you don't have a financial interest in it, there isn't a problem. He could ask the Board members if they feel there is a problem. If they don't have a problem and you don't have a problem, then it would be all right. There is also a possible draft to use for a Conditional Use Permit that is all on one sheet of paper. The last handout is another copy of the By-Laws.

OLD BUSINESS: None

NEW BUSINESS: None

There being no further business, Mrs. Pouch made a motion to adjourn, Mr. Engel seconded, and all approved. Chairman Bonessi adjourned the meeting at 5:45 PM. The next meeting is Wednesday, March 22, 2006, at 4 PM.

Dean Bonessi, Chairman

Joyce Karpowski, Secretary