

**DRAFT MINUTES**

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS  
MARCH 27, 2008**

The Henderson County Board of Commissioners met for a special called meeting at 7:00 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bill Moyer, Vice-Chairman Charlie Messer, Commissioner Larry Young, Commissioner Chuck McGrady, Commissioner Mark Williams, County Manager Steve Wyatt, County Attorney Russ Burrell, and Clerk to the Board Elizabeth W. Corn.

Also present were: Associate County Attorney Sarah Zambon, Planners Matt Card and Matt Cable, Senior Planner Autumn Radcliff, Planning Director Anthony Starr, and Deputy Clerk Terry Wilson.

**CALL TO ORDER/WELCOME**

Chairman Moyer called the meeting to order and welcomed all in attendance, stating that the purpose of the meeting was a public hearing on Proposed Amendments to the Henderson County 2020 Comprehensive Plan and Chapter 200A of the Land Development Code. Chairman Moyer requested that the Water Line Extension for Cobblestone Village and the Firing/Shooting Range be added as additional items to the agenda.

Commissioner McGrady was against the Firing/Shooting Range item and did not feel that adequate public notice was given.

Chairman Moyer stated that a number of people from the area had spoken with various Commissioners during the week and they were asked to spread the word. He felt that it would not be prudent for the Commissioners to wait any longer to take action. They should at least have a discussion and decide where they want to go with this item.

*Commissioner Messer made the motion to approve the agenda as amended. The motion passed 4-1 with Commissioner McGrady voting nay.*

**FIRING/SHOOTING RANGE AT JUSTICE ACADEMY**

Chairman Moyer stated that this issue had been bouncing around for a while and a number of Commissioners have had discussions with citizens and certainly citizens have had some legitimate concerns.

**BREAK**

Chairman Moyer stopped the meeting briefly due to technical difficulties.

**CONTINUATION OF FIRING/SHOOTING RANGE AT JUSTICE ACADEMY**

Chairman Moyer continued discussion of the Firing/Shooting Range. The Board has been trying to get clarification on the issue and the Commissioners had different success levels in that regard. A draft resolution had been provided for discussion and possible action. A copy of the resolution is attached hereto and incorporated as a part of the minutes.

Commissioner Williams stated that several people had brought this item forth to him with fairly serious concerns about the prospects of an outdoor shooting range going in at the Justice Academy and the

DATE APPROVED: \_\_\_\_\_

appropriateness of putting such a range at that location. The feedback he had been receiving is that the same opposition would not come from an indoor range if the State can be persuaded to consider that option. This is more or less what the resolution is all about. We all see the value in the Justice Academy, it is a benefit to training our local law enforcement as well as many across the state. We do not want to do anything to stand in the way of trying to meet their needs. It is his understanding that because the property is owned by the State of North Carolina rather than the citizens of Henderson County, the state does not have to comply with our County Ordinances. The state does have the option to supersede our rules. We hope they will hear our concerns and respond accordingly.

Basically the resolution states that we as Board of Commissioners are charged for protecting and promoting the health, safety, and general welfare of the citizens of Henderson County. We recognize the fact that the Academy provides training opportunities for law enforcement personnel promoting the protection of health, safety and welfare of the citizens in Henderson County as well as visitors of Henderson County. They also recognize with law enforcement training there is a need for instruction regarding use of firearms and the discharge of official duties was in the requirement set forth by law. The state of firearms training is fundamental and critical to the mission and purpose of the Justice Academy. The Board of Commissioners support the mission and purpose of the North Carolina Justice Academy and recognizes the academy's value to the County and to the State. It recognizes the need for a state of the art firearm training facility, particularly one to be located at or at close proximity to the academy. The safety concerns related to an outdoor firing range in a populated and growing area does require that such a facility be enclosed as an indoor firearms training facility. Therefore, the Henderson County Board of Commissioners, in recognition of the aforementioned, respectfully requests that the State of North Carolina move to construct a state of the art indoor firearms training facility on the Edneyville Campus of the North Carolina Justice Academy.

Commissioner Williams stated that he had spoken with House Representative Carolyn Justus and Senator Tom Apodaca along with a former director Don Raybin and discussed this item. No conclusions were reached but apparently there was some room for a possibility that this could be an indoor range as opposed to an outdoor range.

Chairman Moyer related that they could not get specific answers as to what the schedule was and how things were going to proceed. In one of the discussions he got the impression that it was a done deal and don't get in the way. His discussions to date lead him to believe that the Board needs to be on record with a positive statement representing our citizens and what we think is the correct solution and try to force that to the state.

Commissioner Messer said that discussions he had with the citizens from that area also concluded that they did not want an outdoor range.

*Commissioner Young made the motion that the Board of Commissioners adopt the resolution and send it to the State asking them to grant our wishes on the Firing Range.*

Chairman Moyer stated that a motion was on the floor and provided time for citizen input.

### **Citizen Input**

1. Kay Caldwell – Ms. Caldwell is against the outdoor firing range. It does violate our recently adopted Zoning Ordinance, which she understands that the State does not have to comply with but it also violates our outdoor firing range code which she questions if the State has to comply

with or not. This firing range would be so close to people's homes; only 200 feet from a house with children living in it. An indoor range does seem to be acceptable.

*Chairman Moyer* reminded the Board of the motion on the floor *and added an amendment to the motion to direct a letter to our Legislators and State and further directed staff to take positive action in getting support on the resolution from our legislatures. All voted in favor and the motion carried.*

**Public Hearing on Proposed Amendments to the Henderson County 2020 Comprehensive Plan & Proposed Text and Map Amendments to Chapter 200A, Land Development Code**

Chairman Moyer stated that the two public hearings would be open for public comment and he would not try to sort out what order the comments came in. The citizens would speak in the order that they had signed up. The Commissioners will sort out the comments as we go along. He informed the people who had signed up to speak that they would be able to direct questions to the Board or Staff. The Board would like to leave with as much clarity on the issue as possible and a full understanding of the concerns. Clerk to the Board Elizabeth Corn had a sign up sheet and would call the first name and the second name so that person would be ready next and allowed each 3 minutes to make comments.

1. Tom Crist – Mr. Crist is with the Western North Carolina Manufactured Housing Association. He requested that the statute requiring 4/12 roof pitch on singlewide and doublewides be rescinded. He felt that having a 4/12 roof pitch on a singlewide basically bans them from the county and does not offer affordable housing. Legislating segregation from parts of the county creates burden and lessens the value of houses from one area to the next. Mr. Crist was in favor of a 3/12 roof pitch. Mr. Crist feels that HUD houses appraise and appreciate just like a stick built house. He said that the Board is looking at existing singlewides within the county not conforming to the standard set forth where they have to have vinyl and shingle. We would like to see this abandoned.
2. Joe Belcher – Mr. Belcher is with CMH Homes Inc, the world's largest manufacturer and retailer of manufactured housing. He lives in Buncombe County but has been providing affordable manufactured housing to Henderson County since 1980. Mr. Belcher provided a video to the Board.
3. Crawford Murphy – Mr. Murphy is an architect from Asheville, North Carolina and a church planning specialist. He was representing the Hendersonville Pentecostal Holiness Church. He spoke in regards to rezoning. The property of the church has been split zoned. He requested the Board take Staff's advice and rezone the property into 1 community commercial parcel which is proper for the church development.
4. Sam Neill – Attorney Sam Neill was representing Bradley Schnyder and speaking in regards to Amendment #4, for rezoning to local commercial. He provided two pictures; one of an existing commercial building located on Mr. Schnyder's property; which is a construction company, and the second was the building housing United Agricultural Products located directly across the street. This property has been used in continuous commercial operation since 1952. About fifteen years ago the packing shed was torn down and a more modern commercial building was built for his construction company. The zoning that is being requested is 6 acres; of the six acres. 2.19 acres are owned by Chris Lamb and has already received a commercial building permit and will be in commercial use. Mr. Schnyder's property is in commercial use as it has been for the last 55 years. Over half of the zoning that is being requested will be grandfathered in as commercial use. He felt it only made sense that the entire area be zoned with the appropriate zoning and be used for appropriate local commercial. He also noted the United Agricultural Products across the street with a total of about eleven (11) acres being used for commercial.

5. Bryan Vaughn – Mr. Vaughn owns Vaughn's Auto Service at 4851 Asheville Highway. He is 1 of 7 businesses near the intersection of Holbert Road. The zoning changed last September and he has spoken with his neighbors and none were aware of the changes. He thinks the new zoning is CC (Community Commercial) but feels that RC (Residential Commercial) would more adequately reflect the C4 in his operations. He was here to petition the Board to adjust his zoning to RC. (Anthony Starr stated that this was not part of what was advertised and has not been part of the consideration. He was not sure if the Board could take action without proper advertising and notification and he would follow through).
6. Karl & Eva Linn – Mr. Linn spoke in regards to Amendment 2. Reading through material he identified that Staff did not support this rezoning nor did the Technical Review Committee. The Planning Board voted 7-0 to permit the rezoning. He questioned why preliminary reviews were held if the Planning Board could go ahead and say that they can make the change. He was concerned with the loss of views and open space.
7. Brad Schnyder – Mr. Schnyder stated that Attorney Sam Neill had spoke on his behalf in regards to Amendment #4. He owns a parcel of land on Sugarloaf Road in which they have had an operational building for approximately twelve years. He is a builder and developer and wants to comply with the zoning rules.
8. Jack Spraul – Mr. Spraul spoke in regards to the proposed rezoning #R-2008-01 commercial map amendment. The Board of Directors of the WolfPen Condominium I Homeowners Association has been duly elected to represent the 199 homeowners in WolfPen Condominium 1. At its regular monthly meeting held this day, the Board of Directors voted 7 to 0 to express its opposition to the proposed zoning change. While not particularly enamored with the present R2MH zoning of the area in question, the Board of Directors believe it is preferable to the proposed rezoning to Local Commercial (LC). Restrictions, if any, on what can be developed under the proposed LC zoning are not readily apparent to the Board of Directors. Not knowing what the owner or developer will build and/or operate on the involved property convinces the Board of Directors that the rezoning should not be approved.
9. W.N. Fortescue – Mr. Fortescue spoke in preservation of open space in R40. When the LDC was passed the conservation subdivision was strictly prohibited in R40. This was a personal disappointment for him and a loss for the County. He first became interested in this issue when the new zoning was proposed and he saw the possibility of preserving an approximate eighty acre tract with a fifty year old garden of native and hybrid rhododendrons and azaleas. He recommended the technique in the conservation subdivision of grouping together houses on a portion of the land; having the same density or perhaps a little bit more as an incentive to the developer to do this. With conservation subdivision you could set aside 50% of that land; preserve it and the land owner would still get the benefit of the same density without destruction of the land.

Anthony Starr replied to a question by Chairman Moyer in regards to Text Amendment 1. He stated that this amendment did deal with this in a round about way. It still would not allow a conservation subdivision as we define them in our code but would allow the residential open space development by a special use permit. The difference is that one is a pre-established standard in the R40 district. Right now they have a forty acre minimum to be able to do that; the proposed change would eliminate that minimum acreage requirement. The conservation subdivision standards reduce setbacks and are a little more flexible. The development in the R40 district would still require a special use permit from the Board of Adjustment where conservation subdivisions are allowed by right.
10. Stefani Oshima – Ms. Oshima owns property on Hwy 64 East and has proposed a change of zoning from R2MH to Local Commercial. She lives across from the Trading Post and the Blue Ridge Humane Society and both businesses have been operational for at least twenty-five years.

This will open up property for the possible addition of a local store. This request is Commercial Map Amendment 3.

11. Brooks F. Stepp – Mr. Stepp owns property on Highway 25/Asheville Highway and leases a garage as an investment at this location. He is requesting RC Zoning.  
Anthony Starr stated that any non-conforming use that was permitted before and for some reason is not permitted now can continue to operate as it has been. The proposed Text Amendment 7 would add motor vehicles sales and leasing to this community commercial district which that area is zoned. With that change there would be very little difference between the community commercial district and the regional commercial district other than the regional commercial district would allow your Walmart type developments and the community commercial would not allow something of that scale; it would still allow retail and a number of other uses including motor vehicle sales and automotive repair.
12. Conway McGee – Mr. McGee resides at 3362 Sugarloaf Road directly opposite the Orchard Trace Golf Course. He was in favor of a rezoning change from R2MH to LC (Local Commercial) in which Mr. Lamb has requested.
13. Flaughn Lamb – Mr. Lamb is requesting that the Orchard Trace Golf Course be rezoned from R2MH to LC (Local Commercial). His business has been there for fifteen years and operates 7 days per week, year round.
14. Ellen Fields – Ms. Fields is a neighbor of the Lamb Golf Course. She had made a couple of calls and found out that the land as zoned allows for housing and the golf course. The LC (Local Commercial) zoning allows for golf courses and housing. This property is surrounded by homes that have existed for many years. She heard that this would allow for manufactured homes. She was afraid of what might happen years down the road if Mr. Lamb sold the golf course. Ms. Fields was against the zoning change.  
Anthony Starr informed Ms. Fields that manufactured homes are now allowed under the current zoning but would not be allowed in the LC (Local Commercial) zoning. Both districts do allow golf courses; there are a number of other business uses that would be allowed with LC that are not allowed with the current R2MH which allows an average of 1 unit per acre with no minimum lot size. The LC allows 4 homes per acre.
15. John Humphrey – Mr. Humphrey spoke in opposition of Commercial Map Amendment 4. The subject property in question is a portion of the land that was developed as Dara Acres about thirty years ago. There are forty or so lots in the area and 2 streets that exit out the proposed subject area. He noted that 3 of the lots in the subject area are part of Dara Acres and are under restricted covenants prohibiting commercial use. He is unsure of the reason they are being included. This is a quiet, affordable neighborhood and they are very much apposed to having a business at the end of their street that they must go in and out of to get to their homes. Traffic on Sugarloaf Road is getting worse all the time. The school is not even open yet and they are having problems already. He gave the Clerk to the Board a petition from the residents of Dara Acres including twelve signatures.
16. Jim Clarke – Mr. Clarke spoke in favor of Industrial Map Amendment 1. This is technically owned under the name Sunset Hill Investments, which is a subsidiary company of Manual Woodworkers and Weavers. Manual Woodworkers and Weavers request that the Commissioners support the zoning change from LC to Industrial. This zoning would be most consistent with their present use of the property; a 200,000 square foot warehouse. This business has been a good tax payer for a long time, they continue to provide several hundred Henderson County jobs, and the Industrial zoning classification would give them to confidence to favorably consider a possible future expansion if in the future the national business climate changed so that an expansion would be possible.

17. Andrew Tate – Mr. Tate spoke on behalf of the Partnership for Economic Development, specifically in regards to Manual Woodworkers and Weavers which is known at Sunset Hill Investments and the Warm Company which is listed legally as the John Belue family. He was speaking and representing Barry Brown of the Warm Company as well. They are requesting that the Board approve the Industrial Map Amendment 1 from LC and R2MH to Industrial zoning. This map amendment has been supported by Planning Staff, the Technical Review Committee, the Planning Board, and it is consistent with present use. This map amendment avoids the risk of spot zoning through the appropriate designation as an industrial district. This map amendment encourages confidence in the future of advanced manufacturing in Henderson County. It encourages confidence in decision makers at both Manual Woodworkers and Weavers and the Warm Company that their businesses welcome, secure, and position for growth in the future. Finally this map amendment puts each Board member in a position to be a catalyst for economic development, growth, and expansion of quality jobs.
18. Chris Lamb – Mr. Lamb spoke in regards to Amendment 4 on Sugarloaf Road. He and his brother had discussed, with the school going in, taking Christy Lane and going across his yard and installing a red light at Sunet Gap while working with DOT. This should help with the traffic since it is a bad area.  
Anthony Starr addressed the Board that these were changes that could be made if the Board found them to be problematic. Discussion followed. Chairman Moyer requested that Mr. Lamb get with Mr. Starr after the meeting to discuss amendments before any action would be taken.
19. Jim Spainhour – Mr. Spainhour was opposed to Amendment 2 and requested that the Board deny the change. The change requested was from R3 to R2. He doesn't understand how it would work with houses built on the side of the mountain when 44% of property has 40-60% slope.
20. Michael Martin – Mr. Martin spoke in regards to amendment 2. He did not think there was any opposition to the request. The request was for CC (Community Commercial); both Staff and the Planning Board recommended LC (Local Commercial), there is no CC in the area currently.

*Commissioner McGrady made the motion that the Board go out of public hearing. All voted in favor and the motion carried.*

Commissioner McGrady proposed that rather than taking action at this meeting, staff be asked to go back and put the ones that have no opposition and bring it back on the consent agenda. Take the rest separately that have either a disagreement between the Planning Board and the Staff or we have heard opposition to and bring them back on the agenda April 7.

Chairman Moyer stated we would put it all on consent agenda and someone can pull a piece of it if there was an issue.

Commissioner Messer questioned how the matters with the manufactured housing would be taken up and suggested that manufactured housing be placed on a future agenda.

Chairman Moyer stated that the issues that were raised for the first time at this meeting would be looked into by the Planning Director Anthony Starr and they will come back with recommendations.

*Commissioner McGrady made the motion that the Board direct staff to go through the various proposed amendments and changes in the comprehensive plan and LDC that there have been no disagreement between staff and the Planning Board or opposition and segregate them from those that there may have been disagreement or some opposition to and come back at the next meeting with the idea that those that are non-controversial be placed on the consent agenda for approval, and those that are in anyway*

*controversial be put on the regular agenda with the expectation that we might take action on them at that meeting.*

Chairman Moyer asked Planning Director Anthony Starr to supply this to the Board as soon as possible so that they would have time to study it.

Commissioner Williams left the room.

Chairman Moyer stated that Commissioner Williams had given him his vote on the motion. *All voted in favor and the motion carried. Commissioner Williams vote counted as affirmative.*

**Water Line Extension – Cobblestone Village**

Chairman Moyer stated that the next item on the agenda is the Water Line Extension for Cobblestone Village. He asked staff to lay out the issues and let the people associated have a chance to speak. The Board could then decide what the next action would be.

Planning Director Anthony Starr stated that the Board had received another packet of the same information from the prior meeting. The Board approves Water Line Extensions and gives their advice to the City of Hendersonville. The current comprehensive plan identifies the subject area as being in the rural agriculture area where we would not expect water and sewer utilities. However, the Board asked staff several months earlier to consider changes to the growth management strategies boundaries. The proposed CCP boundaries would locate the site within the rural urban transitional area. From a policy standpoint, in terms of the Board's decision on the boundary adjustment to the CCP, he felt that may or may not have an affect in the Board's decision. Most of the water lines extension that is off site in either case is already in the urban services area.

Chairman Moyer confirmed that all of the homes would be outside the boundaries and that there will no homes located in the extension area.

Anthony Starr stated that this was correct and most of the off site part of the extension is in the urban services area but it would not serve this site directly; the internal lines would be what serve the homes. All the homes would not be in the urban services area. Currently they are in the rural agriculture area, and if the CCP changes were to be approved it would be in the transitional area.

Commissioner McGrady stated for record that the purposed extension would take water from the French Broad River basin and put it into the Broad River basin.

Anthony Starr stated that under state law, if the city exceeds 2 million gallons per day cumulatively, between water they sell to any extensions they must get approval from the state. Until then it is just a local decision for extensions.

Chairman Moyer stated that he thought there was another subdivision that was approved based on wells and now it appears that maybe there is not adequate water and the decision was made to request public water due to the concern of the depths they would have to go to or whether they would find water at all. When this subdivision was approved it was approved on the basis that there would be wells and there would be no need for the County to get involved at all in the provision of water. Now when the issue comes up the County is brought into the picture on the water side.

Mr. Brian Eli, developer for Cobblestone Village, stated that it was correct that at first wells and septic were planned. Prior to the purchase of the property he has spoken to several of the locals he was dealing with in purchasing the property and he wanted to make sure that he didn't over step his boundaries as far as developing the property. He was told that most people preferred wells here and septic and this would not be a problem. The public water system was never pursued. Most of the lots are 1 to 2 acres in size and this was done in order that the developer did not impact the area any more than necessary. Once 2 of the builders had drilled wells 900 to 1000 feet deep and got maybe a half a gallon a minute, he realized that at this point he couldn't leave them in a situation where they had just built this house and can't get water. He then decided to try to bring city water into the development. He is paying for the entire project and will also be providing a lot of services that are not currently available to that part of the county; Claremont is on an antiquated water system and the pumps could go down at any time. Bringing a water system to Cobblestone Village would solve this problem and also would provide fire protection for Claremont, Kingwood, and Pinnacle Mountain Road.

Chairman Moyer felt it was the consensus of the Board to defer action until April 7 meeting.

*Commissioner Messer made the motion to adjourn the meeting at 8:50 p.m. All voted in favor and the motion carried.*

Attest:

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Teresa L. Wilson, Deputy Clerk to the Board

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William L. Moyer, Chairman