

HENDERSON COUNTY PLANNING BOARD
October 21, 2010

The Henderson County Planning Board met on October 21, 2010 for their regular scheduled meeting at 5:30 p.m. in the King Street Meeting Room located at 100 North King Street, Hendersonville, NC. Planning Board members present were Jonathan Parce, Chair; Steve Dozier, Rick Livingston, Mike Cooper, Tommy Laughter, and Marilyn Gordon. Others present included Anthony Starr, Planning Director; Autumn Radcliff, Senior Planner; Sarah Zambon, Associate County Attorney and Kathleen Scanlan, Secretary. Board members absent were Wayne Garren and Suprina Stepp.

Chairman Parce called the meeting to order of the Henderson County Planning Board. He asked for the approval of September 16, 2010 meeting. Steve Dozier made a motion to approve the minutes and Marilyn Gordon seconded the motion. All members present voted in favor.

Adjustment of Agenda. There were no adjustments to the agenda.

OLD BUSINESS

Continued Discussion – Land Development Code 2010 Annual Text Amendments (TX 2010-02) – Autumn Radcliff, Senior Planner. Ms. Radcliff stated that the Planning Board reviewed and discussed the proposed text amendments at their meeting in September. There was a lot of discussion on the proposed amendments to the improvement guarantee standards, and the Board asked Staff to contact Mr. William Lapsley to see if he would review the proposed amendments and give comment. Ms. Radcliff said that staff met with Mr. Lapsley and he supported the improvement guarantee amendments. Mr. Lapsley provided the following comments:

1. Mr. Lapsley agreed with the proposed amendment that a minimum of 50 percent of the required improvements, based on total project cost that the applicant is guaranteeing, is in place before an applicant can apply for an improvement guarantee (includes rough grading of proposed roads subject to the improvement guarantee). Mr. Lapsley suggested that the County require a form of release from applicable contractors for work that has been completed. (Staff did not incorporate this recommendation into the draft subdivision section as it would be difficult to identify all applicable contractors and administer).
2. Mr. Lapsley suggested that the County require, as part of the improvement guarantee application, a "release of documents" form for construction documents and permits be released for use by Henderson County if the improvement guarantee is executed. The release of document form must be signed by the engineer or contractor responsible for the document creation. (The proposed text amendment would require that all associated design plans and construction specifications for the

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required improvements are submitted to the Subdivision Administrator as part of the improvement guarantee application, so a release of the documents is not needed since the County would already have them on file).

3. Mr. Lapsley requested that the required estimates for the improvement guarantee include estimates for electrical power, natural gas and communication lines. Currently these items are not included in the cost estimates. (Staff has incorporated this recommendation in the draft subdivision section).

4. Mr. Lapsley stated that the amount the applicant is guaranteeing should include required off-site improvements (road improvements, mitigation work, sewer improvements, etc.) as related to the improvements covered in the improvement guarantee (Staff has incorporated this recommendation in the draft subdivision section).

5. Mr. Lapsley encouraged the County to amend the standards to require that cost estimates be prepared by a N.C. professional engineer or by a professional who is routinely engaged in cost estimates. (Staff has incorporated this recommendation in the draft subdivision section).

She also reviewed a table that Staff provided summarizing improvement guarantee standards for other jurisdictions.

Mr. Will Buie of Lapsley and Associates was present to clarify the comments of Mr. Lapsley. He clarified that the 50 percent of the required improvements, which came about due to the economic situation. He stated that this is an important amendment to include because the roads in a development should be graded before the plat is recorded, as it might not be feasible once the construction begins. He said that the road locations sometimes change due to unforeseen existing mountain conditions and is difficult to correct if lots have already been sold. Another comment of interest is the required estimates for the improvement guarantee for electrical power, natural gas and communication lines (utilities). Mr. Buie said because the utility providers are also being affected by the economy, as they no longer are able to recoup their cost from the user base. He said they now require that the developer put forth capital to extend lines into the subdivisions. He said that the County should include the costs of all utilities in the bond in case of this type of.

Ms. Gordon said that the table of standards for other jurisdictions does not show guidelines or what they require percentage wise of the required improvements to be completed and whether there is a standard. Ms. Radcliff said there is no standard and this approach will make sure that some construction has been completed before the applicant could enter into an improvement guarantee and begin recording lots. She said that many of the specific details get addressed when the applicant

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actually does an improvement guarantee (which is an agreement between the County and the applicant). She said that many times these types of things are not necessarily specified in the ordinance, but are agreed upon in the improvement guarantee agreement. She said that each improvement guarantee agreement is a type of contract which spells out the terms of the agreement. Ms. Zambon stated that having the standards stated in the County LDC will further help the County from a legal standing to require these regulations as part of the individual improvement guarantees. Ms. Gordon asked if it is worked out in the negotiation, then how do you determine the 50% of work completed. She had a concern with off-site improvements and feels that this threshold might be set too high for the developer. Mr. Starr said that improvement guarantees are not required, but is an option if developers want to record lots prior to completing the work. He said the majority of the subdivisions complete their work and record the final plat, once they have completed their entire infrastructure for that phase, so this does not come into play. He said there are a number of subdivisions in the past that have chosen to use improvement guarantees. He said the issue of off-site improvements is a critical one because the county's roll in this process is to protect the homeowner so they have a viable lot that they can build on. He said if the off-site improvements aren't included in that estimate and bonded and those details are not worked out, then it will not be a viable lot, despite how much on-site work has been done. He said the number of percentage can be adjusted or only apply to the on-site improvements for work required to be completed before an improvement guarantee application can be considered.

After considerable discussion, the Board made some minor changes and revisions to the text amendments.

Chairman Parce made a motion that the Planning Board recommends the Board of Commissioners approve the proposed Land Development Code 2010 Annual Text Amendments (TX-2010-02) contingent on the following changes discussed.

(1) In Section 86:

- a. (Existing Cemeteries) eliminating the 12-foot wide travelway and just keeping the minimum 20-foot wide right-of-way in major subdivisions.

(2) In Section 115:

- a. Requiring the 50% completion for on-site improvements (eliminating off-site improvements).
- b. Adding a provision requiring applicant to include a professional engineer licensed in North Carolina or certified by a professional land surveyor or landscape architect who is routinely engaged in cost estimates and licensed in North Carolina.
- c. Include separate estimates for off-site improvements (road improvements, mitigation work,

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sewer improvement, etc) required as related to the improvements covered in said improvement guarantee.

- d. Include separate estimates for roads, bridges, water and sewer infrastructure, stormwater infrastructure, pedestrian infrastructure, utilities (including electrical power, natural gas and communication lines), etc. consistent with submitted design plans construction specifications.

Mike Cooper seconded the motion and all members present (7-0) were in favor.

Staff Reports. Mr. Starr said regarding the ETJ expansion, the Mayor gave a presentation to the Board of Commissioners and the Commissioners did not take action. He stated that the Board asked questions and had discussion. The City plans to keep the zoning similar to the County's and try to accommodate the Draft Dana Community Plan efforts and recommendations. The Commissioners plan to take the issue back up on December 17, 2010. He also mentioned that the Etowah-Horseshoe Public hearing for the proposed zoning map amendments will be held on November 9, 2010 at 7 p.m. and that an Open House will be held on November 4, 2010 from 4 – 7 p.m. for the citizens to talk to Staff and ask questions about the proposed zoning changes. Mr. Starr said that the Dana Community Plan is in draft form and the Committee will be hosting a public input session on November 8, 2010 at the Dana Community Center from 4:30 – 7:30 p.m. He also noted that the County will launch a new website on Friday, October 22, 2010.

Adjournment There being no further business, the meeting was adjourned at 6:45 p.m. All members voted in favor.

Jonathan Parce, Chairman
Henderson County Planning Board

Kathleen Scanlan, Secretary