

**EXCERPT OF HENDERSON COUNTY  
PLANNING BOARD MINUTES  
December 20, 2007**

The Henderson County Planning Board met on December 20, 2007 for their regular called meeting at 5:30 p.m. in the King Street Meeting Room at 100 N. King Street, Hendersonville, NC. Board members present were Tedd Pearce, Chair; Renee Kumor, Gary Griffin, Mitchell Gaither, Mike Cooper, Tommy Laughter. Others present included Anthony Starr, Planning Director; Matt Cable, Planner; Matt Card, Planner, Alexis Baker, Planner, Sarah Zambon, Associate County Attorney; Autumn Radcliff, Senior Planner, Mark Williams, Commissioner and liaison to the Planning Board, and Kathleen Scanlan, Secretary. Board members Stacy Rhodes, Jonathan Parce, and John Antrim were absent.

Comprehensive Land Use Plan and Land Development Code Updates – Planning Department.

Comprehensive Land Use Plan Updates: Ms. Radcliff reviewed the Comprehensive Plan updates. She said that, as to the adoption of the Land Development Code any changes that came about that were not reflected in the Comprehensive Plan previously, there needed to be amendments in the Comprehensive Plan to reflect the new policies or direction that the Board of Commissioners decided to take. She said that the Comprehensive Plan is scheduled to undergo annual reviews, but none has been done since its adoption, only because Staff was working on the Land Development Code and it was put on hold until the LDC was completed. She stated that this is not a thorough revision of the Comprehensive Plan, as that is not scheduled until 2010. She stated that the administrative changes were mostly technical and typographical errors. She reviewed the substantive amendments, which are major changes to the Comprehensive Plan. The changes included the attached documents as described in the Staff Report. Chairman Pearce made a motion that the Planning Board recommend to the Board of Commissioners to approve the proposed amendments to the Henderson County 2020 Comprehensive Plan. Tommy Laughter seconded the motion and all members voted in favor.

Land Development Code Updates:

Ms. Radcliff mentioned that the proposed technical amendments were in the packet, but unless the Board has any concerns or issue regarding them, she will begin reviewing the list of substantive text and map amendments. There were no concerns on the technical amendments. Ms. Radcliff began her review of the Text Amendments of the LDC:

**Text Amendment 1 Issue:** A requirement of the R-0 Development is the tract must consist of not less than 40 acres.

**Recommended Solution:** Remove the acreage requirement in Section 200A-37, D(9)b1.

**Text Amendment 2 Issue:** The County has an area that falls within the N.C. designated WS-IV Critical Area for the Upper French Broad River. This area is mapped on the County's official Water Supply Watershed Protection Map, but currently there is no associated text for the WP-WS-IV-CA Upper French Broad River Critical Area Watershed Overlay Sub-District.

**Recommended Solution:** Add the following language provided by the State model Water Supply Watershed Protection Ordinance for this designation.

**Text Amendment Issue 3:** Singlewide manufactured/mobile homes are not constructed with a 4:12 roof pitch as is required in the LDC.

**Recommended Solution:** Change the 4:12 roof pitch requirement for singlewide manufactured/mobile homes in Section 200A-63, SR 1.5, to a 3:12 roof pitch as requested by the manufactured home industry which stated 3:12 as the typical roof pitch for singlewide manufactured homes.

**Text Amendment Issue 4:** Singlewide manufactured homes located in the County prior to the adoption of the LDC may not be moved to another location in the County if the home did not meet the appearance criteria found in Section 200A-63, SR 1.5, (3). This means that any home without lap siding or the specified roofing materials, etc. would not be able to be moved to another location within the County.

**Recommended Solution:** Add the following language to Section 200A-63, SR 1.5 dwelling, manufactured/mobile home: *“any singlewide manufactured home which (1) was manufactured after 1976 (HUD Approved), (2) has been located in Henderson County prior to the initial adoption of this Chapter (September 19, 2007) and (3) Do not meet the appearance criteria provided in this SR 1.5 (dwelling, manufactured/mobile home) may be moved provided said manufactured home is installed to meet the criteria of Section (5) and moved to either of the following locations: (1) a space in an existing manufactured home park or (2) a lot in a zoning district which permits the placement of new manufactured home.”*

**Text Amendment Issue 5:** Outdoor storage greater than 5,000 square feet as an accessory use is not allowed to be placed in a front yard or in any yard abutting a road.

**Recommended Solution:** Change the requirements in Section 200A-63, SR 2.9 to allow storage areas to abut a street, but keep the restriction regarding placement in the front yard. Outdoor storage greater than 5,000 square feet shall not be placed in a front yard. Screening shall be provided consistent with the requirements of Section 200A-150.

**Text Amendment Issue 6:** The road classification restriction in the supplemental requirements determines if a permitted or special use in a zoning district would be allowed on a property that abutted a specific road type of classification. The supplemental requirements provide design requirements which should be adequate to provide protection to adjacent property owners. Road classification standards may be unnecessarily restrictive given the other requirements provided for by the supplemental requirements section of the LDC.

**Recommended Solution:** Remove the road classification restriction for all uses in the supplemental requirements

**Text Amendment Issue 7:** Staff has received a request to add Motor Vehicle Sales or Leasing as an allowed use in the Community Commercial District.

**Recommended Solution:** Add the Motor Vehicle Sales or Leasing as a special use in the Community Commercial (CC) district in Subpart E. Table of Permitted and Special Uses.

**Text Amendment Issue 8:** The Zoning Administrator has requested changes to the recreational and temporary use sections in the Permitted and Special Uses Table.

**Recommended Solution:** Make the following adjustments to Subpart E Table of Permitted and Special Uses Section 200A-62 as per the request of the Zoning Administrator regarding Governmental Recreational Facilities and Sporting and Recreational Facilities. Governmental Recreational facilities were currently allowed as special use permits in all of the residential districts and the O & I and this would change that to allow them as permitted uses. The Sporting and Recreational Facilities were currently allowed in almost all of the districts but not allowed in those that the Governmental Recreational Facilities were, so we made them consistent with all of the other recreational uses. Also, Swim and Tennis Clubs and Model Home Sales Office, (temporary use), would be permitted in all districts.

**Text Amendment Issue 9:** All commercial subdivisions are treated as major subdivision and approved by the Planning Board regardless of the number of lots proposed.

**Recommended Solution:** Proposing a change so that any commercial subdivisions of thirty-four or fewer lots would be reviewed by the TRC (Technical Review Committee) and those that are 35 to 299 lots would go to the Planning Board and those that are 300 or more lots would be brought to the Board of Commissioners for their approval. She also pointed out that when a subdivision of 300

hundred or more lots was approved by the Board of Commissioners with a Master Plan only, the Planning Board would review and approve the Development Plan.

**Text Amendment Issue 10:** Except for the County acting on an improvement guarantee, there are no alternative actions and associated administrative fees if the developer fails to complete the work with two years after the initial improvement guarantee was approved.

**Recommended Solution:** Add language: *If the improvements are completed within the 2 years the applicant shall be in breach with the requirements of this section and the improvement guarantee and any and all monies and accrued interest shall be forfeited by the applicant. If the Planning Director has found that the applicant has made a good faith effort in completing the required improvements within the 2 years, the County may allow the applicant to execute a second improvement guarantee. Said agreement must be in the form of cash on deposit equal to 125 percent of the cost of the remaining improvements. The County shall assess an administrative fee equal to ten percent of the new improvement guarantee monies.*

**Text Amendment Issue 11:** There is no provision in the LDC that would allow for a reduction of the front yard setback in established neighborhoods other than through a variance request.

**Recommended Solution:** Add language that would allow for new buildings in established neighborhoods to meet the same front yard setbacks as adjacent buildings provided that those adjacent buildings were within 100 of either side of the proposed new building and approved by the Zoning Administrator. The required front yard setbacks applied to any lot shall be reduced by the Zoning Administrator at the request of the applicant to the average front yard setback of lots which are (1) located wholly or in part within 100 feet of the lot, (2) within the same block and zoning district as the lot, and (3) fronting on the same side of the road as the lot.

Ms. Radcliff reviewed the following map amendments:

**Request for Residential Map Amendment 1 – Residential District Two Manufactured Housing Along Dana Road:** Currently zoned Residential District One (R1) and is requesting Residential District Two Manufactured Housing (R2MH). She stated that Staff is supporting this request. The property is an existing subdivision where 24 of the 25 existing residences are manufactured homes and this requested district would allow manufactured homes. Mr. Starr pointed out that the area is bounded by Dana Road to the north and Mid-Allen Road to the east. Ms. Radcliff stated that the Technical Review Committee supports Staff's recommendation and the request to change to R2MH from R1.

**Request for Residential Map Amendment 2 – Residential District Two off Ridgeview Drive:** Currently zoned Residential District Three (R3) and is requesting Residential District Two (R2) by Edward Vogel, Owner. Ms. Radcliff stated that currently Staff does not support this recommendation. There is no rural agricultural area and conservation is applied to this subject area. The remaining tracts in Hidden Hills currently zoned R2 are within the Urban Service Area. She said that the owner said it should have been part of Hidden Hills and that it was developed with that subdivision, but Staff has no evidence to support that statement and that this portion is located in a very steep section of Hidden Hills and has no water or sewer availability. Ms. Radcliff stated that the Technical Review Committee agreed with Staff's recommendation that this current zoning should remain as R3. Planning Board members agreed with Staff's recommendation to remain as the current zoning of R3, but that if there is a consideration of R2, Board members felt that there should be a complete study of the entire area.

**Request for Industrial Map Amendment 1 – Industrial along Howard Gap and Old Sunset Hill Roads:** Ms. Radcliff stated that the current zoning is Local Commercial (LC) and Residential District Two Manufactured Housing (R2MH). The applicant, Warm Company and Sunset Hill is requesting

Industrial (I), because the property is suited for industrial use given its current uses and location. She mentioned that Staff supports the request as well as the Technical Review Committee.

**Request for Commercial Map Amendment 1 – Local Commercial Along US Highway 64 East:**

Ms. Radcliff said that currently the zoning is Residential District Two Manufactured Housing (R2MH) and the applicant, Leon Lamb is requesting Local Commercial (LC) because the property is suited for commercial use as it is located near already established commercial property in the City of Hendersonville's jurisdiction. Ms. Radcliff mentioned that it was consistent with the CCP as a community service center applied in the vicinity of the subject area. Ms. Radcliff stated that the Technical Review Committee supported Staff's recommendation and the request by the applicant to change from the current zoning of R2MH to Local Commercial.

**Request for Commercial Map Amendment 2 – Community Commercial along US Highway 64 East**

– Ms. Radcliff said that the current zoning is Residential District Two Manufactured Housing (R2MH), but Mr. Martin is requesting Community Commercial (CC). The reason for the request is the property is suited for community commercial use given its location on US 64 East and its proximity to other parcels identified as Local Commercial. Ms. Radcliff stated that Staff supports this as a Local Commercial District. If it does need to go to a Community Commercial District, the area would need to be studied to alleviate a spot zoning concern, Community Commercial would need to be applied to other commercially zoned properties within the Local Commercial node areas. Ms. Radcliff stated that the Technical Review Committee made a motion that this subject area be designated as Local Commercial (LC) and not Community Commercial as requested by the applicant, Michael Martin, on behalf of Richard McDonald, Owner.

**Request for Commercial Map Amendment 3 – Community Commercial along US Highway 64 East:**

Ms. Radcliff stated that the current zoning is R2MH and the requested zoning by Keiji and Stefani Oshima, Owners, is Community Commercial (CC). The reason for the request is that it is suited for commercial use given its location on US Highway 64 East and adjacent uses. Staff stated that it is consistent with the CCP as there is a community service center node applied in the vicinity of the subject area. Ms. Radcliff stated that the Technical Review Committee supports Staff's recommendation and the request by the applicant to change this from R2MH to Community Commercial (CC).

**Request for Commercial Map Amendment 4 – Local Commercial along Sugarloaf Road:**

Ms. Radcliff stated that the current zoning is R2MH and the property owners are requesting Local Commercial, as the property is suited for commercial use. Ms. Radcliff stated that to be consistent with the CCP, Staff is not recommending commercial as no specific commercial recommendation is applied in the vicinity of subject area. The Urban Services Area designation is applied to the subject area. Ms. Radcliff stated that the Technical Review Committee had made a motion not to include this request from R2MH to Local Commercial with the other map amendment recommendations at this time and that this request should be evaluated on its own merit and that the property owners reapply through the formal rezoning process for this particular site. This would allow the surrounding property owners to give their comment and input.

**Request for Commercial Map Amendment 5 – Local Commercial along Sugarloaf Road and Tee Off Lane:**

Ms. Radcliff stated that the current zoning is R2MH and the requested zoning is Local Commercial by Flaughn Lamb, Owner, who feels it is suited for commercial use as is currently developed as Orchard Trace Golf Club. Ms. Radcliff stated that Staff does not support the request because the golf course is already there and is allowed under the R2MH district. Ms. Radcliff stated that Technical Review Committee supported Staff's recommendation to remain as R2MH instead of the request by the owner for Local Commercial.

**Request for Commercial Map Amendment 6 – Community Commercial along Howard Gap Road:**

Ms. Radcliff said the current zoning is R2MH and the request is for Community Commercial

by Hendersonville Pentecostal Holiness Church. Currently the property is split zoned and the applicants request that the entire property be zoned for commercial use. Ms. Radcliff said that Community Commercial would be consistent with the CCP and should be applied in the vicinity of subject area. Ms. Radcliff mentioned that the Technical Review Committee supported Staff's recommendation and the property owner's request to change from R2MH to Community Commercial (CC).

**Request for Commercial Map Amendment 7 – Local Commercial along Brookside Camp Road and Interstate 26:** Ms. Radcliff said currently it is R1 and the request is for Local Commercial (LC) by Leon Lamb, Owner. The request was based on the opinion that the property is suited for commercial use as is along I-26 and located near already established commercial property. Ms. Radcliff said that Staff does not support the request. Although this subject area may be suitable for commercial development, Staff suggests further study be undertaken before amending the official zoning map. A conditional zoning district which identifies specific commercial uses may be most appropriate for the subject area. She stated that the Technical Review Committee supported Staff's decision to keep the current zoning of R1 and denied the request of Local Commercial by Leon Lamb, Owner. Ms. Kumor said that since this property is in a flood area, why would Mr. Lamb request Local Commercial and put the area at risk? Chairman Pearce stated that he could fill in 20% and expand the amount of commercial land.

After some further discussion, most Board members felt that they do not know enough about any of these properties to make a decision.

**Request for Commercial Map Amendment 8 – Regional Commercial along Interstate 26 and Summit Springs Drive:** Ms. Radcliff stated that the current zoning is R2MH and the requested zoning is RC, Regional Commercial by Jeff Cosgrove, Summit Springs LLC, Owner. He feels that the property is suited for regional commercial use given its visibility from Interstate 26 and its proximity to other parcels identified as Regional Commercial. Ms. Radcliff said that Staff supports the request for map amendment. She stated that the Technical Review Committee supported Staff's recommendation and the request by the owner to change from R2MH to RC, (Regional Commercial).

Chairman Pearce made a motion to recommend the LDC changes, specifically as it applies to the map amendments. Mr. Pearce recommends that the Planning Board support Staff's recommendation on the following map amendments: Residential Map Amendment 1, 2, Industrial Map Amendment 1, Commercial Map Amendment 1 – 8 and on those that Staff is not recommending approval, we would recommend that these be studied as an area study plan and as a formal rezoning so that further study can be given and to look at all the factors involved instead of a brief review. Renee Kumor seconded the motion. The vote was two in favor of the vote (Renee Kumor and Tedd Pearce) and three against (Gary Griffin, Tommy Laughter and Mitchell Gaither). The motion failed.

Chairman Pearce then made a motion that the text amendments of the Land Development Code (Text Amendments 1 – 11) be approved as presented. Tommy Laughter seconded the motion and all members voted in favor.

Chairman Pearce made a motion to table any further discussion on the map amendments as Board members feel they require further study and that proper notice needs to be given before any further discussion of these amendments are made. Mr. Starr stated that at the Commissioners Retreat in January they will be given an introductory review of the map amendments and they can give the Planning Board direction for the requests given. Mr. Starr added that he encourages each Board member to visit each site to become more familiar with each study area amendment. Chairman Pearce asked Sarah Zambon whether the Board should be talking about the map amendments anymore. Ms. Zambon stated that the Board should wait for the Board of Commissioners to give further direction after the retreat and then we will follow the

formal process as laid out in the Land Development Code, where if the map amendments are continued, the property will be posted and then it will come back to the Planning Board's January meeting, then it will go to the Board of Commissioners for a public hearing so that there will be several stages that public will be notified and where they will be able to give input. Mr. Starr clarified that there has been no rule or procedure violated at this point, as this is an informal review. Mr. Griffin stated that he does not feel comfortable whether formal or informal talking about rezoning property unless the public is informed as to what is going on in the community. Mr. Starr stated that there will be a sign on the property posted before the Planning Board meeting indicating that there will be discussion regarding the area. Gary Griffin seconded the motion on tabling the map amendments. All members voted in favor.