

MINUTES
HENDERSON COUNTY PLANNING BOARD
January 20, 2011

The Henderson County Planning Board met on January 20, 2011 for a 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; Stacy Rhodes; Rick Livingston, Tommy Laughter, and Marilyn Gordon. Others present included Anthony Starr, Planning Director; Autumn Radcliff, Senior Planner; Matt Cable, Planner; Sarah Zambon, Deputy County Attorney and Kathleen Scanlan, Secretary. Planning Board members absent were Mike Cooper, Steve Dozier, Suprina Stepp and Wayne Garren.

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

Adjustments. There were no adjustments needed.

OLD BUSINESS

Draft Dana Community Plan. Ms. Radcliff stated that at the joint meeting of the Planning Board and Dana Community Plan Advisory Committee in December, the Plan was presented and Planning Board members chose to continue the discussion of the Draft Plan at January's meeting. Once the Planning Board makes their formal recommendation, it then is forwarded to the Board of Commissioners for their approval and adoption. Ms. Radcliff mentioned that since the December's meeting, the Plan has been presented to other boards and committees with the recommendations that pertained to just those boards and committees. Some of the boards that heard the presentation were the Transportation Advisory Committee; the Historic Resource Commission; Recreation Committee Board; Environmental Advisory Committee and will be presented to the Agricultural Advisory Committee next week. These presentations give other boards a preview of the recommendations in the plan that will be for their board's consideration in the implementation process. She emphasized that the Planning Board needs to make a formal recommendation to the Board of Commissioners before the Dana Plan can proceed forward.

Rick Livingston made a recommendation to the Board of Commissioners to approve and adopt the Draft Dana Community Plan. Marilyn Gordon seconded the motion. She asked if it is appropriate for our Board to make a recommendation before any of these boards make a comment on their section of the Plan. Mr. Starr said that it was fine to go ahead and forward a motion. Mr. Parce said that since we are recommending and not approving, this is acceptable. Stacy Rhodes wanted to amend the motion subject to any comments from any of these boards. Mr. Starr stated that as a practical matter, Staff will forward your motion with any recommendations from any of the committees we have presented the Plan to, but if there are any major points that the Planning Board needs to review, Staff will forward them. All members of the Board present voted in favor of the motion.

Edneyville Plan Implementation – Manufactured Home Park (MHP) Standards. Ms. Radcliff said that this is the first topic in the Edneyville Community Plan as per the schedule which the Planning Board tentatively set. This topic concerns requiring improvements to existing manufactured home parks within the Edneyville Planning Area as recommended in the Edneyville Community Plan. Ms. Radcliff reviewed the current manufactured home park standards and an inventory of the existing parks in the Edneyville Planning area. She reminded the Board that at some point they will need to make a recommendation on all proposed amendments and how they should accomplish each segment and then it will be up to the Commissioners whether they want to pursue and implement the recommendations. The Board of Commissioners will also need to have a formal public hearing before taking any actions. She said the goal of the Plan is to improve development standards for existing

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manufactured home parks within the Edneyville Planning Area. She said the Edneyville Community Plan made two specific recommendations: (1) Prohibit new manufactured home parks with the Edneyville Planning Area; and (2) Consider requiring improvements to existing manufactured home parks within the Edneyville Planning Area. The county should develop an amortization schedule to accomplish this recommendation.

Ms. Radcliff gave a background history of the manufactured home park ordinance, its adoption and requirements of new parks and pre-existing manufactured home parks. This ordinance was prior to the open use zoning district and county-wide zoning. She added that pre-existing manufactured home parks were required to register with the Henderson County Planning Department by January 1, 2000 or could be subject to the provisions of the ordinance. She stated that the standards for manufactured home parks were improved and became part of the LDC in September, 2007. The LDC requires that new manufactured home parks must meet the density standards for the zoning district which they are located and standards related to buffers, road standards, road frontage, separation and setbacks and the containment of prescribed common area. She said that homes located in the park also have specified standards such as: home placement, addressing, concrete pad or treated deck with well-constructed steps for access and continuous underpinning.

Ms. Radcliff stated that a Planning Intern conducted a visual inventory of manufactured home parks in Edneyville last summer. He found that there are approximately 65 parks located in Edneyville. Approximately 40 of these parks contain fewer than 10 spaces; 17 parks have pavement on the road surfacing; 9 parks have 10 or more spaces that do not have pavement and 34 parks are without pavement and had a poor to fair rating on the road conditions. Approximately 2 parks did not have underpinning on the homes and 19 parks have some type of visible buffer.

Ms. Radcliff said that the Edneyville Community Plan recommended requiring improvements to existing manufactured home parks in the Edneyville Planning area through an amortization schedule. It specifically laid out three improvements that should be made:

1. Provide buffering consistent with the LDC requirements for new parks.
2. Provide additional landscaping
3. Pave any existing unpaved internal roads

She compared these three requirements to the Land Development Code and described the details of each. She stated that the Planning Board needs to discuss:

- What improvements should be required for existing manufactured home parks, based on the inventory that was conducted?
- Should the standards apply to all manufactured home parks in the Edneyville Planning area or be based on specific number of park spaces and should the existing standards be strengthened?
- What is the appropriate time allowed to accomplish these requirements? (The legal department can help based on the proposed standards that the Board comes up with and based on the current case law.)
- When should the amortization schedule become effective? (County enforcement staff needs appropriated time to notify park owners and provide informal informational sessions to these owners.)
- Are there other standards that should be included such as solid waste collection standards?
- Should these standards be considered county-wide for all manufactured home parks or just in the Edneyville Community Planning area?
- Should the required improvements for existing manufactured home parks in Edneyville

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be part of the zoning regulations or should they be incorporated in the minimum housing code? (This question can be answered at a later date depending on the proposed standards)

Mr. Tommy Laughter asked what type of legal actions does the County have in place to force existing manufactured park home owners to make those changes. Mr. Starr said it is amortization, which has been built on several court cases in the past years on a number of topics such as signs, junkyards and mobile home parks, which are common examples. He said the County can require certain improvements with manufactured home park regulations provided that you give that property owner enough reasonable time to comply with those requirements and the property owner can either choose to comply with those requirements or discontinue the use. The time is the factor – what is the legal time determined. Mr. Laughter asked whether any other counties have been researched on this for manufactured home parks in other counties to see what they have been doing regarding this. Mr. Starr stated that we have not gotten that far regarding research, but it is more common in municipalities with regard to signs, but said he couldn't give any statistics at this time.

June Barnwell – Edneyville Community Member. Ms. Barnwell said the committee wanted to ban new mobile home parks in the Edneyville area and update the existing manufactured home parks. She emphasized that there were no regulations for new parks, as they didn't want anymore in the area. She added that the Committee felt that the Edneyville community had their fair share of manufactured home parks and that they didn't want all of the parks located in Edneyville. She also added that the Committee had asked whether the zoning could be changed to not allow any manufactured home parks, but Planning Staff stated that the zoning could not be changed.

Mr. Parce asked whether there are any legal ramifications with a statute or ordinance in banning new manufactured home parks in a particular area or manufactured homes. Ms. Zambon said that you can not ban manufactured homes because you can not differentiate between the types of housing, but you could ban manufactured home parks. Mr. Parce is there anywhere where the law says that you can potentially treat one area different from the other. Ms. Zambon stated that she did not feel that you could treat one area any different from another area regarding manufactured home park owners and the uses involved. She added that this involves constitutional legalities. She feels the proper way to handle this is with zoning and zoning districts. She said based on the equal protection law and rational basis as it would be prejudicing homeowners who live in certain areas. Mr. Parce said in regard to the suggested change to the ordinance regarding standards, which would affect this plan, would it pass the constitutional test. Ms. Zambon said that the standards would have to be county-wide and not just for the Edneyville area. Mr. Starr refreshed the Board members on the present zoning districts which allows mobile homes and manufactured home parks. Mr. Parce stated that he was uncomfortable with banning one area. He said if we are trying to establish standards for manufactured homes and for existing ones, we definitely need to look county-wide and not just in one particular area because he feels we could run into a constitutional issue with this ordinance. Mr. Starr said that the only way, if that is possible, we could ban them in the Edneyville area is to create an overlay zoning district that could apply to that particular area and add that no new ones are allowed, but this would not answer the constitutional question in terms of the zoning, which would be the most practical one.

Mr. Livingston stated that he agrees that Edneyville does have too many manufactured home parks and many of those parks are unsightly, mismanaged and neglected and there was no thought to the aesthetics, as it seems it was just done for the financial reward of the land owner. He also wants to acknowledge that there are citizens who live in manufactured homes and parks that are law-abiding, financially secure but manufactured homes (mobile homes) have gotten a bad name for themselves

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because of a few bad citizens. We need affordable homes for the young people who want to live in the County but the County enacts too many requirements and standards that force them to move out because they can not afford the lifestyle that we are implementing. He said he is for some standards and regulations to improve these parks, but to say we will never allow any new parks in Henderson County, he would never be in favor of that. He feels that the standards should be County-wide and not just for a certain area. Mr. Starr wanted to mention that where manufactured home parks are allowed, they are not automatically approved, but are approved after the Board of Adjustment determines that the particular site would be appropriate for a new manufactured home park. He added that while it is still allowed in the County and a few of our zoning districts, it is not by right, but through a Special Use Permit. Mr. Rhodes said that he feels the density requirements will determine the feasibility of establishing a manufactured home park. He said any existing parks should consider requiring screening of dumpsters, and underpinning. He said he was skeptical about requiring all the parks to pave existing roads. He feels that the Code Enforcement Department and the Technical Review Committee should set the standards of the road conditions for safety reasons. Ms. Gordon does agree that the standards should not be centered in one area only, but throughout the County. She said she has concerns with existing parks and who will be paying for these current improvement standards, as it will not be the park owner. She said the burden will be on the lot renter over a period of time. She was concerned with how much we should be telling the park owners to do and how much are they able to do. Ms. Gordon said she would be interested in hearing from the park owners about what their issues are and to think this through and not make any decisions at this time.

Mr. Parce said that after hearing from Board members, he feels they are not comfortable in making any decision tonight but wants to know what is needed to move forward with these issues. Mr. Rhodes said he would like to find out if there is any additional funding or grants for improvements through the State. Mr. Starr stated that the only grant we have is the removal of dilapidated homes, which is very limited in funds. He said that there are no other grant programs available. Ms. Zambon said that manufactured home parks are not permitted to get grant money but it is mainly for individual removal of mobile homes. Mr. Livingston asked Staff to randomly pick 10-12 counties across the State to see if they have dealt with these issues and how they were addressed. Mr. Laughter said his major concern is the visual impact that the manufactured home parks who have not kept their places up in that area or county-wide and have become an eye sore. He said maybe the Board can work on helping out with making the visual characteristics of the existing parks pleasant to compliment the beauty of our area and making sure that the new parks have all of the adequate standards and requirements in place. Mr. Laughter asked of Ms. Zambon to bring back to the Board information on amortization, enforcement issues and the constitutionality regarding the banning of manufactured home parks, either county-wide or just the parks themselves. Ms. Zambon added that she feels that the Board is concerned with the standards, so she will look at the legality of more aesthetic ordinances, because up to this point for the most part, this County has tried to gear regulations towards public health, safety and welfare and also the issues of county-wide versus certain areas. Ms. Radcliff will look into getting a copy for each Board member of the study from sometime before or around 2008 by the School of Government; the number of manufactured home parks in the County that has been permitted under the 1999 Manufactured Home Park Ordinance v. the number that are pre-existing and compare manufactured home park standards for 10-12 counties.

Staff Reports. There were no staff reports.

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Adjournment. There being no further business, the meeting was adjourned at 6:40 p.m.

Jonathan Parce, Chairman
Henderson County Planning Board

Kathleen Scanlan, Secretary