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HENDERSON COUNTY
PLANNING BOARD MINUTES
May 15, 2008

The Henderson County Planning Board met on May 15, 2008 for its 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; Jonathan Parce, Vice-Chair, John Antrim, Tommy Laughter, Suprina Stepp, Stacy Rhodes, Gary Griffin, Mike Cooper and Renee Kumor. Others present included Anthony Starr, Planning Director; Parker Sloan, Planner; Matt Cable, Planner, Sarah Zambon, Associate County Attorney; Mark Williams, Commissioner and liaison to the Planning Board, and Kathleen Scanlan, Secretary. Board members Stacy Rhodes, Gary Griffin and Jonathan Parce were absent.

Chairman Pearce called the meeting to order and asked for the approval of the April 17, 2008 meeting minutes. Renee Kumor made a motion to approve the minutes and John Antrim seconded the motion. All members voted in favor.

Adjustments of the Agenda. No Adjustments were needed.

Staff Reports. Mr. Starr welcomed Suprina Stepp as a new member of the Planning Board. He mentioned that the Edneyville Community Committee met for their first meeting earlier this month and set a public input session for Tuesday, May 20, 2008, at 7 p.m. at Edneyville Elementary. He informed the Board that the Etowah/Horse Shoe Committee continues to meet and some of the issues that they have deal with waterlines and other topics. He also mentioned the fact that the Boardroom should have the audio/visual equipment installed by June's meeting. Renee Kumor inquired the reason why the Floodplain maps and the amendments to the Flood Damage Prevention Ordinance was no on our agenda as indicated in April's minutes. Mr. Starr stated that we ended up not giving confirmation back from the State on some of the technical language until it was too late to include it in the agenda, but that it will go on the June's meeting.

OLD BUSINESS:

Rezoning Application #R-2008-07 – Rezone Approximately 29 Acres of Land - Located off Hendersonville Road (US Highway 25 N) - Regional Commercial (RC) to Local Commercial (LC) Zoning District - Initiated by Henderson County Planning Staff subsequent to a petition submitted

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by a number of the property owners. Presentation by Parker Sloan, Planner. Mr. Sloan stated that Staff received a petition from 28 property owners within the subject area in early April of this year. The Planning Department then initiated the rezoning of the subject area, located off 25 North, from a Regional Commercial zoning district to a Local Commercial zoning district. The subject area is approximately 29 acres composed of 61 parcels. He stated that the subject area is predominately residential with one abandoned commercial use near the intersection of US Hwy 25 N. and Darity Rd. The CCP Future Land Use Map identifies the subject area as being located in the Urban Services Area and the southern portion is also within a Community Service Center. Applying Local Commercial will allow for an increase in the number of permitted residential uses while reducing the amount of commercial uses permitted. Staff supports the rezoning of the subject area to Local Commercial as it is consistent with the recommendations of the Henderson County Comprehensive Plan.

Mr. Sloan stated that Planning staff posted the property notifying them of the Planning Board meeting on May 5, 2008. The Planning Board has 45 days from its first consideration of a rezoning application to make a recommendation to the Board of Commissioners. Thus, the deadline for a Planning Board recommendation to the Board of Commissioners regarding this application is Friday, June 27, 2008. If no recommendation is made by June 27, 2008, the application proceeds to the Board of Commissioners with an automatic favorable recommendation. Upon request of the Planning Board, the individual initiating the request may choose to grant a 45-day extension, at which time the deadline for a Planning Board recommendation would become Friday, August 8, 2008.

There was some discussion among the Board members weighing the difference between Regional Commercial and Local Commercial zoning districts. Chairman Pearce opened public input.

Regina Nunn. Ms. Nunn wanted to emphasize the importance of maintaining their community by changing the zoning to Local Commercial. She said because most of the lots are small, there really isn't anything that could be done in a large way commercially and the residents there do not have any intent to sell as they have been there for many generations. She also stated that in Regional Commercial if residential property is destroyed more than 50%, it can not be built back because residential property is considered a non-conforming use. She also stated that with Regional Commercial, affordable housing is taken from the community.

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Chairman Pearce made a motion that the Board recommends approval of rezoning application #R-2008-07 to rezone the subject area from a Regional Commercial (RC) zoning district to a Local Commercial (LC) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan and based on maintaining the community by changing the zoning. Renee Kumor seconded the motion and all members voted in favor.

NEW BUSINESS:

Rezoning Application #R-2008-06 – Rezone Approximately 2.36 Acres of Land – Located off Walnut Cove Road – Estate Residential (R-40) to Residential Two Manufactured Housing (R2MH) Zoning District – Donald Lee Burnett, Applicant on behalf of property owners Donald Lee Burnett and Jennifer Heidi Long. Presentation by Planning Department. Presentation by Parker Sloan, Planner. Mr. Sloan stated that on March 25, 2008, Donald Lee Burnett submitted an application to rezone approximately 2.36 acres of land, located off Walnut Cove Road from a R-40 (Estate Residential) zoning district to a R2MH (Residential Two Manufactured Housing) zoning district.

The property owners are Donald Lee Burnett and Jennifer Heidi Long. Ms. Long's portion was added by staff. The subject area appears to contain some sort of storage facility. He said that one (1) single family residential use is located on the corner of Walnut Cove Road and Berea Church Road. The property to the north contains an agricultural use and a number of mobile homes which appear to be vacant are located to the southeast. A number of single-family residential uses are located to the southwest along Walnut Cove Road. Mr. Sloan stated the CCP Future Land Use Map identifies the subject area as being located in the Rural/Urban Transition Area, applying R2MH (Residential Two with Manufactured Housing) will allow for an increase in the number of permitted residential uses and applying R2MH will also allow for density based development without a minimum lot size. He stated that the property adjoins adjacent R2MH zoning and that Staff supports the rezoning of the subject area to R2MH consistent with the recommendations of the CCP.

Mr. Donald Lee Burnett, one of the property owners, was present. He said that when he purchased the land there was a mobile home on it, but that he had sold the mobile home and did not realize that there was a time frame of 180 days in order to put another mobile home back on the property. He said he plans on putting a manufactured home on the same spot where the other existed and that is the reason for the rezoning request. He said that he would follow the existing rules and regulations of manufactured homes laid out in the Land Development Code. He said he

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feels that it fits in the area because he borders existing R2MH. He mentioned that there is an existing storage facility on the property and that he stores his business products in it.

Dale Reese said that a year ago he had wanted to put a mobile home on his property, but was told he could only place a modular on the property, even though there are other mobile homes all around his property.

Robin Reese stated that she was opposed of rezoning the property. She was concerned about the commercial use of the storage building on Mr. Burnett's property. She stated that this building is within thirty feet of their property and she said she is not fond of having any type of commercial business literally at their back door because it would affect her family.

Carolyn Franklin said that she lives across from the subject property and mentioned that they do have a mobile home moving business since 1978. She stated that if you allow mobile home on the subject property, then mobile homes should be allowed in the whole vicinity and the whole area should be rezoned.

Mr. Burnett mentioned that he didn't feel that it would be a problem to include the Franklin property, as well as the Chandler property. He added that he is not asking to be zoned commercial and knows that if he gets rezoned to R2MH he would have to go through the process of obtaining a special use permit for his storage facility for business. He said that if he can not no longer store his personal property dealing with a business in the storage facility, then he would move it elsewhere.

Ms. Reese added that the only building presently on this property is a metal building that he uses to store his company's merchandise. She said that there are people continually going in and out of the building all hours of the day and that it affects her family. She says that she wants the Board to know that it is an ongoing business which is being operated every day and sometimes two or three times a day.

Jennifer Heidi Long said she is not affected by the commercial aspect as the Reese's are and is against commercial of any kind for the area. She mentioned that she is for the rezoning to R2MH. Ms. Zambon stated that there are some commercial and retail business that may be allowed in R2MH, but the only one that is allowed by right is a produce stand, all the other commercial uses would require a special use permit, which would have to go before the Board of Adjustment, which would entail a quasi-judicial procedure to determine whether or not it is an appropriate use for that

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area. The Board should be only focused on the rezoning request to R2MH and whether or not it is appropriate for this area and to make a recommendation to the Board of Commissioners and to not consider what is going on with that property at present. Also, the only commercial use allowed in an R-40 district is a bed and breakfast with a special use permit as well as some incidental home occupations. There are some institutional business allowed in R-40 such as churches and other civic buildings.

After some further Board discussion, Chairman Pearce made a motion that the Board recommend denial of rezoning application #R-2008-06 to rezone the subject area from R-40 (Estate Residential) zoning district to a R2MH (Residential Two Manufactured home) zoning district because the additional changes that R2MH leave open do have an affect on adjacent property owners who have been held to the standards of the R-40 zoning. For consistency reasons it should remain as R-40 because of past property owners who have lived by the rules of the district and because of the zoning lines that have been established for a long time in the area. Renee Kumor seconded the motion and further stated that she feels the rezoning request would not be in keeping with the integrity of the neighborhood. All members voted in favor of the motion.

Mr. Starr informed the public that is present, this rezoning will be scheduled for a public hearing by the Board of Commissioners and that adjacent property owners will receive a mailed notice of when that public hearing will be.

Rezoning Application #R-2008-09 – Rezone Approximately 15.48 Acres of Land – Located off US Highway 25 North near Intersection with Holbert Road – Community Commercial (CC) to Regional Commercial (RC) Zoning District – Henderson County Planning Staff on Behalf of Bryan L. Vaughn, Gene A. Wilkie and Wife and Geneco Inc., Owners. Presentation by Matt Cable, Planner.

Mr. Cable stated that Henderson County Planning Staff, on behalf of the property owners, is processing the request that the County rezone approximately 15.48 acres of land, from a CC (Community Commercial) zoning district to an RC (Regional Commercial) zoning district. He stated that the Subject Area is comprised of four (4) parcels of land, the property owners are: Bryan L. Vaughn; Gene A. Wilkie and Wife; and Geneco Inc. The subject area is located off US Highway 25 North near its intersection with Holbert Road and is currently zoned CC (Community Commercial), which was applied on September 19, 2007, as a result of the adoption of the LDC and its Official Zoning Map. CC (Community Commercial) zoning is applied north, south and west of the subject area.

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Mr. Cable explained the differences in the Community Commercial zoning and the Regional Commercial Zoning District. He stated that the subject area was previously zoned C-4 (Highway Commercial) by the US Highway 25 North Zoning Study. As mentioned before, the subject area is composed of four parcels containing commercial uses. Mr. Vaughn's property contains Alley's Mechanic Service; Mr. Wilkie's property contains a garage use and Dale Reese Trailer Sales and an associated used car lot. The Geneco Inc. property contains an office/commercial use including Blue Mountain Computers and Hal Gordon Electrical Service. Adjacent and surrounding area uses are noted in the Staff Report and include single-family residential, agricultural or commercial uses or are largely undeveloped.

On May 5, 2008, Staff posted notice signs on the subject area property providing notice of the consideration of the application by the Planning Board at its May 15, 2008 meeting.

He said Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the current zoning of the subject area, based on the following:

1. The text and map of the CCP do apply an Urban Services Area designation to the subject area but do not identify a Community Service Center at, or in the vicinity of the subject area. According to the CCP, commercial development should exist within zoning districts whose standards and configuration are in keeping with surrounding community. The surrounding area contains primarily single-family and agricultural uses or remains undeveloped. The standards and configuration of Community Commercial zoning appear to be in keeping with the surrounding community, given that it is primarily single-family uses.
2. The CC and RC zoning districts do have differences in permitted uses.
3. Applying RC zoning to the area would not allow for a number of uses currently allowed by CC which may be appropriate for the properties such as hospice residential care facilities, rooming and boardinghouses, RV parks, riding stable, and adult day care facilities among others.
4. Applying RC zoning would allow for uses not allowed by CC: (heliports, automotive towing, tire recapping, entertainment complexes, flea markets, manufactured/mobile home sales, parking garages or lots (requiring payment), retail sales and services greater than 100,000 square feet, shopping malls, truck stops, and truck washes) but because of the large scale of these uses, many require being located on larger tracts of land than may be available within the subject area. For example, retail sales and services greater than 100,000 square feet (if one level) would require a minimum of 2.29 acres of land (excluding parking area and not accounting for impervious surface limitations). Two (2) of the four (4) parcels which

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constitute the subject area are under 2.29 acres in size. One (1) of the four (4) parcels is largely within the floodplain reducing the developable area (without a fill permit) to approximately 1.63 acres.

5. Additionally, currently all RC Zoning Districts are located at interstate interchanges, so the application of RC to this subject area would make this the only RC node not located at an interstate interchange.
6. The Future Land Use Map identifies the majority of the eastern three (3) parcels of the subject area as being appropriate for conservation largely due to the presence of floodplain. It appears that a total of 3.15 acres of the 15.48 acre subject area (approximately 20 percent) falls within the 100-year floodplain. Further, a majority of this 100-year floodplain area (2.94 acres) fall within one parcel (Wilkie) 4.57 acres) accounting for 64 percent of the parcel. As noted in the CCP, land use planning should acknowledge the presence of sensitive natural areas such as floodplain and strive to protect these areas from development that would damage them or diminish their integrity. Community Commercial (CC) zoning would be more adapt to acknowledging the presence of floodplain due to the application of maximum gross floor area limitations not provided for by RC zoning.

Chairman Pearce opened public input.

Kathy Wilkie stated that she owns three parcels on US 25 North and said that she and her husband were happy to have C-4 zoning in 2005 but were shocked with the rezoning in 2007 to Community Commercial. She said that the way they found out was when their tenant, Dale Reese, went to get a permit to operate a car lot and was told that selling his trailers was not allowed. She also mentioned that the seven property owners adjoining her and her husband did not know of the zoning change and somehow missed seeing it in the newspaper and didn't feel that the zoning would change so quickly. She said she believes that if they had known about the upcoming change of this request, it could have nip this in the bud and saved us all some stress. She stated that she has had conversations with the Planning Department and the Code Enforcement Services and were told there must be a mistake with motor vehicle sales and leasing, because when C-4 was changed to CC the uses would remain the same. She added that getting the situation re-evaluated would require them to go through the proper channels and meetings which were understood until we received compliance order from Code Enforcement telling them they could not use the parcel as an automobile sales and service business without a special use permit and that we had 15 days to comply. Upon checking about the permit, she said she was told it would be \$400.00. We were given an application at the time but not a site plan checklist. She said reading the site plan checklist; it looks like it would cost thousands of dollars to get a licensed engineer or

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surveyor to draw up the plans. She said having to get a certain permit each time they lease something is not conducive as this type of service has occurred on the property for approximately 27 years. She said they are not asking for any more than what they previously had under C-4 and would like the Board to consider the request as favorable.

There was discussion regarding the difference between Regional Commercial and Community Commercial and what is permitted and not permitted between the two districts.

Brian Vaughn said they he is one of seven properties in that area with businesses on them for many years. He described that his business has been there for thirty-two years, which deals with car repairs and up to three years ago he also had a dealership. He said with age, he would like to go back to that trade, which would be allowed in the RC (Regional Commercial) district, but not under Community Commercial district, which they are presently zoned. He stated that the idea that the properties were not large enough to be in the RC district seems not consistent as all of the properties north of him that have RC are the same size and some smaller. He said we are just asking to continue with our businesses and/or change our business as the need arises. He doesn't consider this as a rezoning, but rather a reinstating of what they previously had on the property. He asked the Board members to approve the request to Regional Commercial (RC).

Kerry Bodenhammer said his property is on Holbert Road and US 25 North. He stated that he has a residence there and a race car manufacturing business that has been there since 1976 and has had the business since 1981. He added that he didn't have any knowledge or receive any information, either by mail or other means, of the zoning change to Community Commercial. He would like to go back to a similar district that we had several years ago and would like the Board members to consider the request.

Chairman Pearce informed the public that there were notices in the paper as well as articles; public input sessions that were scheduled in various areas of the County, and announcements over the radio regarding the zoning change and meetings to voice your opinion. He said because of all this, the Commissioners didn't feel that the public needed individual mailings about the zoning changes because they felt they had covered all aspects.

Brooks Stepp, who is another adjacent business in the area, said that unless you get a paper or receive a notice in the mail of a zoning change, it is hard to keep up with all of the changes that the County makes. He only heard about this meeting through the Wilkie's. He added that he would like his name added to change the zoning back to what it was.

There was discussion regarding the fact that C-4 zoning was no longer provided by the Land Development Code and that Regional Commercial (RC) took its place.

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Chairman Pearce said that if the Board makes a recommendation, he feels it needs to be a blanket recommendation. He feels that the Board needs to look at everything in this area zoned Community Commercial and should decide whether it should go Regional Commercial or stay Community Commercial. He said for that the Board rezoning some of these parcels and not the others does not make sense. He stated that the purpose of the zoning to Community Commercial was to tie the County Comprehensive Plan together with the Land Development Code zonings in some proper correlation. Ms. Kumor said that the reason why Regional Commercial zoning district is north of these properties is because the interstate interchanges correlate with this district. She said because of the residential uses along US 25 in that area, we did not want to make the commercial area along that highway as invasive as Regional Commercial and in the Mountain Home area, we kept it as Local Commercial. She said as we moved up to the interstate, we went to a more invasive use. Chairman Pearce said that the Planning Board was trying to keep within the recommendations of the County Comprehensive Plan (CCP) and with the documents the County gave us to work with. He further stated that he does not feel that based on the CCP, how the Planning Board could make a recommendation to change the zoning. He said that if they were to change it, he feels that it would require a change to the CCP. Ms. Kumor said she feels rezoning these properties would also require a study of the larger area. Mike Cooper said that at the time and now he felt that anything along this highway should be Regional Commercial. He said he agrees that if we change this section, we need to study the rest all the way to the north where Regional Commercial exists. He said it looks like it would be around 1,400 feet.

After further discussion, Chairman Pearce made a motion that the Planning Board recommends denial of the request for rezoning #R-2008-09 to rezone the subject area from a CC (Community Commercial) zoning district to an RC (Regional Commercial) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. Additionally, the Planning Board feels this should be part of a limited small area zoning study especially for those Community Commercial parcels in the vicinity, rather than spot picking certain properties for special consideration because the same principals apply to everyone of that area that is presently zoned Community Commercial. Further, any change of zoning should show some type of change to the County Comprehensive Plan for the Planning Board to make a positive recommendation for Regional Commercial. Also, any limited small area zoning study that is made on US 25 North or any changes to the zoning in this area should be Board of Commissioners and Staff initiated rather than requiring the property owners to initiate the rezoning. Renee Kumor seconded the motion and all members voted in favor.

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Adjournment. There being no further business, the meeting adjourned at 6:30 p.m. All members voted in favor.

Tedd Pearce, Chairman

Kathleen Scanlan, Secretary