

**HENDERSON COUNTY
PLANNING BOARD MINUTES
April 17, 2008**

The Henderson County Planning Board met on April 17, 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, Stacy Rhodes and Renee Kumor. Others present included Anthony Starr, Planning Director; Parker Sloan, Planner; Alexis Baker, and Kathleen Scanlan, Secretary. Board members Mike Cooper and Gary Griffin were absent.

Chairman Pearce called the meeting to order and asked for the approval of the February 21, 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. Mr. Starr informed the Board members because Alexis Baker was delayed in coming to the meeting because of a planning workshop and wanting to give her time to prepare for her items, he asked that Item 8 become Item 6 and Item 6 became 7 and the other items to follow. In addition, he asked to add another item on the agenda for "new issues and concerns voiced during the Board of Commissioners public hearing on March 27, 2008 on the Land Development Code and Official Zoning Map" and make it Item 9. All Board members were in agreement of the adjustments.

Staff Reports. Mr. Starr stated that there will be new audio and visual equipment in the Board room by next months' meeting. He also informed the Board members that Seven Falls Development agreement was approved at the Board of Commissioners recent meeting. Some of the highlights of the agreement were that Seven Falls will build a new fire station for the Etowah/Horse Shoe Fire Department and the agreement gave Seven Falls vested rights for five year. Mr. Starr mentioned that the Floodplain maps and the amendments to the Flood Damage Prevention Ordinance will be on May's agenda for the Planning Board. He stated that the first Edneyville Community Plan meeting will be on May 6, 2008. Gary Griffin was appointed as Chairman of the committee with Stacy Rhodes appointed to the committee as well. He added that there will be a public input session later in May for the Edneyville community at the Edneyville Elementary School. Mr. Starr announced that Matt Card is on leave and is a proud father of a baby boy and will return to the office on May 1, 2008.

NEW BUSINESS:

Rezoning Application # R-2008-02 – Rezone Approximately 1.83 Acres of Land – Located off Upward Road – Residential One (R1) to Community Commercial (CC) Zoning District – Chris and Natalie Kiefer, Walter John Maki, Joseph Franklin Swain and Mark White (Wild Hare Investments LTD., Applicants. Presentation by Parker Sloan, Planner. Mr. Sloan stated that the applicants (Chris and Natalie Kiefer, Walter John Maki, Joseph Franklin Swain and Mark White (Wild Hare Investments LTD) requests that the County rezone approximately 1.83 acres located off Upward Road from R1 (Residential One) to a CC (Community Commercial). The subject area is composed of eight parcels identified in four tracts. Mr. Sloan stated that William Carl Swain has recently sold his portion of the property, which is Tract C, to Chris and Natalie Kiefer. Mr. Sloan stated that the Comprehensive Plan designated this area as in the Urban Services Area and suggests that this area would be suitable for high density residential/commercial or industrial development. He stated that there is an existing community commercial area to the north that it abuts along Upward Road, so if it was rezoned it would be part of a contiguous Community Commercial zoning district. He said to the east of the subject property it abuts a Regional Commercial District and to the south and west, there are a number of single-family residential uses along Nello Road, Gull Avenue and Allen Road. Mr. Sloan stated that there was a similar rezoning that occurred on May 7, 2007 from

T-15 to C-4 (Highway Commercial). He stated that Staff supports the rezoning request to Community Commercial because it is consistent with the Henderson County Comprehensive Plan and added that the Technical Review Committee voted in favor of the rezoning request.

Ms. Kumor wanted to have Staff review the process of notifications to neighboring property owners on rezoning requests. Mr. Starr stated that the property was posted for notification of a rezoning request approximately ten days from the date of the Planning Board meeting. He added at the Board of Commissioners level when they set the public hearing date, the property owners will receive a mailed notice and the property will be posted again. Mr. Starr stated that State law does not require any notification for Planning Board or any sign to be posted and that the only requirement is a notification of a public hearing. He said the Land Development Code goes a step further to provide the posting of properties before the Planning Board meeting. Chairman Pearce asked Ms. Keifer, one of the applicants, who was present at the meeting to come speak under public input on this subject.

Ms. Natalie Kiefer stated she attended the meeting on behalf of her husband and stated that they desire to get the property rezoned commercial.

After some brief discussion among property owners, Chairman Pearce made a motion that the Planning Board recommends approval of rezoning application R2008-02 to rezone the subject area from R1 (Residential One) zoning district to a CC (Community Commercial) zoning district based on the recommendation of the Henderson County 2020 Comprehensive Plan and the Technical Review Committee. John Antrim seconded the motion and all members present voted in favor.

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 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, 2008. 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.

Mr. Sloan stated that the current zoning of the Subject Area is currently zoned Regional Commercial, as a result of the adoption of the Land Development Code. The Subject Area was previously (prior to LDC adoption on September 19, 2007) zoned Highway Commercial (C-4). The adjacent zoning is Regional Commercial which is applied to the North and East of the Subject Area. Industrial zoning is to the west and the City of Fletcher annexations near the subject area are zoned Interstate Commercial (C-2). The Subject Area is predominately residential with one abandoned commercial use near the intersection of US Hwy 25 N. and Darity Road. North of the Subject Area contains a self storage facility. Arvin Meritor industrial facility is located adjacent to the Subject Area to the west. A variety of retail trade and business/professional services are located to the south. Parcels east of the Subject Area contain a gas station, Smiley's Flea Market, two different modular home sales uses, and other commercial uses.

Mr. Sloan stated that the CCP Future Land Use Map identifies the Subject Area as being located in the Urban Services Area. The southern portion of the subject area is 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 does not recommend a Small Area Zoning study however we do recommend that the board refer the application to the Land Use slash zoning Study subcommittee for review. Some of the Board members questioned as to why it should be referred to subcommittee. Mr. Starr stated that Staff is somewhat indifferent about this suggestion because of the scope of the rezoning, but as

Staff has moved along in their study, it seemed more apparent to Staff that this rezoning is the correct way to handle this situation and that the Planning Board could act on this request. Ms. Kumor asked whether all of the property owners are in agreement of this request. Mr. Starr stated that Staff received signatures from a majority of the residents in this subject area that favored the request. He added that Staff is not asking the Planning Board to make their recommendation tonight because under the code it involves multiple parcels, it is to be placed under the first agenda and could be referred to Board of Commissioners or not to take any action at this time and wait for the recommendation of the Technical Review Committee and make a motion at the next Planning Board meeting for a formal recommendation. After some discussion, Tommy Laughter added that during the US 25 rezoning there was a discussion that was brought before the Planning Board concerning the church in that area, but he does not remember how the church felt with regard to the zoning that was placed on the property at that time and whether or not they wanted a different zoning that was inconsistent with the area. Chairman Pearce opened public input and asked for Regina Nunn to speak on this subject.

Regina Nunn. She stated that she is speaking on behalf of the Brickton Community and that they are in favor of the rezoning request to rezone approximately 29 acres from Regional Commercial (RC) to Local Commercial (LC). She stated that the reason they are requesting this rezoning is that currently the Regional Commercial designation does not allow the property owners any other use but commercial. She stated that this is a residential community that has been there for many generations so the comprise would be to rezone to Local Commercial because it would allow the property owners to maintain their residential status in addition to commercial which is established along US 25. In rezoning to Local Commercial there would be a comprise between residential and commercial. She said that in talking with the majority of the property owners in this subject area (approximately 44) they were not aware of the present zoning and only found through trying to put a residential dwelling on a piece of property that this was not allowed which initiated this request. Chairman Pearce stated that there were two mailings on the US 25 North rezoning making aware at that time of the rezoning that was going on. Ms. Nunn said perhaps some of the people did not either read the notices or things just fell between the cracks.

After some further brief discussion, Ms. Kumor made a motion that the Board not take any action at this time and wait for the recommendation of the Technical Review Committee and make a motion at the next Planning Board meeting. Tommy Laughter seconded the motion and all members present voted in favor. (Jonathan Parce entered the meeting at this time).

Rezoning Application # R-2008-03 – Rezone Approximately 19.15 Acres of Land – Located Along McMurray Road – Residential Two with Manufactured Housing (R2MH) to Industrial (I) Zoning District – Charles A. Wilkins, Agent for McNutt Investments, LLC, Applicant, Robert Camenzind, Owner. Presentation by Alexis Baker, Planner. Ms. Baker stated that the request is for the County to rezone approximately 19.15 acres of a 26.53 acre tract from Residential Two with Manufactured Housing (R2MH) zoning district to an Industrial (I) zoning district. The subject area is one parcel owned by Mr. Robert Camenzind, trustee Enno F. Camenzind Trust. The subject area is located on McMurray Road, approximately 3,610 feet from the intersection of Upward Road. I-26 intersects Upward Road less than 280 feet from McMurray Road. She stated that the subject area is surrounded by R2MH to the north, east, and west. Land adjacent to the subject area to the south on McMurray Road is currently zoned (I) Industrial. Prior to the Land Development Code adoption, the subject area was zoned Open Use. The Comprehensive Plan identifies the subject area as being located in the Urban Services Area and states that it should contain considerable mixture of commercial development and that all regional commercial development should be concentrated here. Ms. Baker stated that currently the subject area is vacant and surrounding areas include a vacant field to the south, agricultural uses are to the north and residential uses with some undeveloped areas to the east. She stated that where McMurray Road intersects with Upward Road there are commercial uses. Currently there is no public water or public sewer located on the subject area. The nearest existing water line is approximately 1,265 feet from the subject area and a proposed sewer line is approximately 2,048 feet from the subject area. The

existing public sewer is approximately 9,971 feet southwest away. Ms. Baker stated that Staff supports the rezoning of the subject area to industrial as it is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan (CCP) as the CCP Future Land Use Map places the subject area in the "Urban Services Area" classification and therefore would be suitable for high density residential, commercial or industrial development. She stated that the Technical Review Committee considered rezoning application at its regularly scheduled meeting on April 1, 2008. Ms. Kumor stated that the small piece they are not asking to rezone, would it have access to the road? Ms. Baker stated that they do have road access and pointed to the area. She also added that the agent can further discuss this. Chairman Pearce asked the agent for the owners to speak on this issue and the request.

Charlie Wilkins. Mr. Wilkins stated that there is an access easement through the residential area as required by the Technical Review Committee. He stated that the purpose of the rezoning is to bring industry to Henderson County. He added that they have plans for immediate development in the form of a business and the property will be subdivided for industrial users, who will be bringing in water from Upward Road. He mentioned that at this time, if and when we bring in an industry, the sewer will come in from a non-adjacent County then we would have help from the economic development partnership to bring sewer in, but until that time, we will be operating off of septic systems.

After some discussion, Chairman Pearce made a motion that the Board recommend sending approval to the Board of Commissioners for rezoning application R2008-03 to rezone the subject area from a Residential Two with Manufactured Housing (R2MH) zoning district to an Industrial (I) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. Renee Kumor seconded the motion and all members present voted in favor.

Rezoning Application # R-2008-04 – Rezone Approximately 0.48 Acres of Land – Located at the Intersection of Mountain Road and Haywood Road – Residential One (R1) to Local Commercial (LC) Zoning District - Kirk Ledoux, Application/Agent for Gregory and Leslie Shipley, Owners. Presentation by Alexis Baker, Planner.

Ms. Baker stated that both this rezoning request and the last one were posted on April 2, 2008. Ms. Baker stated that this rezoning request is located at the intersection of Stoney Mountain Road and Mountain Road, approximately 261 feet from the intersection of Mountain Road and Haywood Road (NC Highway 191). They are requesting to be rezoned from Residential One (R1) to a Local Commercial (LC) zoning district. Ms. Baker stated that the subject area is within the R1 zoning district which is applied to the adjacent property to the east. The Local Commercial zoning district is adjacent to the subject area to the north, west, and south. She said that the rezoning request would be a contiguous zoning district. There is an overlay district of WS-IV Watershed protected area. She stated that all nonresidential development shall be allowed at a maximum of 24% built-upon area, or a maximum of 36% built-upon area upon qualification for a natural drainage and filtering system bonus. Ms. Baker said that currently the subject area contains a single-family residence. The surrounding areas contain commercial, governmental and residential land uses. She stated that there is no existing sewer line but it appears that the sewer line is located near the NCDOT property where the old prison was. Public water is currently located on the subject area.

The Comprehensive Plan identifies the subject area as being located in the Urban Services Area which states that it should contain considerable commercial development at a mixture of scales. She stated that the Comprehensive Plan also identifies the subject area as being located in the Community Service Center and this is intended to be intensive, efficient defined concentrations of mixed services that meet the needs of the surrounding community. The CCP also suggests that land uses within the Community Service Centers should be local, community and regional commercial. Ms. Baker stated that Staff supports the rezoning of the subject area to Local Commercial as it is consistent with the recommendations of the County Comprehensive Plan. Ms. Baker stated that the Technical Review Committee approved the rezoning request.

Greg Shipley spoke on the rezoning request. Mr. Shipley stated regarding the sewer line, he has the understanding that the line falls near the old prison down Mountain Road across his property

and down to the pumping station at Mountain Building and Development. He said the pumping station is located at the corner of Mountain Road and Haywood Road. Mr. Shipley stated that he made application with Cane Creek to tap into that line. Mr. Shipley stated that with the amount of traffic in that area, he feels a light commercial or professional service office would be desirable because of the location and because the adjacent properties are commercial.

Chairman Pearce opened public input.

Dave Walters. Mr. Walters lives nearby this proposed rezoning site. He voiced his concerns with possible flood problems and stormwater runoff because of a related stream that typically floods. With parking lots developed for commercial reasons, this would cause addition problems. He asked that the Board members consider denial of this rezoning application.

Jack Oechslin. Mr. Oechslin was in agreement with Mr. Walters regarding flood and stormwater runoff problems. He stated that he is not concerned with just this particular commercial development proposal, but that it could also encourage further developments of the same which could cause environmental problems and feels that it would not be desirable to the area because of this.

After some considerable discussion among Board members regarding the water and sewer for the proposed subject area, Mr. Starr stated that for the subject area to be rezoned Local Commercial that will increase the likelihood of development of the property and thereby increase the impervious surface of the property and he feels that is a false assumption. He said that the subject property could be developed as a multi-family project and still gets the special intensity allocation and has a higher impervious surface coverage with its current zoning. He stated that really your decision is not whether or not it is developed, but that is not the control of this Board, but whether how it is developed is the question before you and the zoning and if it is consistent with the Comprehensive Plan.

Tommy Laughter made a motion that the Board recommends approval of rezoning application R-2008-04 to the Board of Commissioners rezone the subject area from Residential One (R1) zoning district to an Local Commercial (LC) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. Stacy Rhodes seconded the motion and all members present voted in favor.

New Issues on LDC. Mr. Starr stated that all of the recommendations were acted upon regarding the Land Development Code text amendments and all of the County Comprehensive Plan amendments were recommended. All of the LDC map amendments were acted upon except one, which was the Lamb property on Sugarloaf Road. The Board of Commissioners held off on the Growth Management Strategy Map and the Future Land Use Map because of the one rezoning that did not have action taken. One of the rezoning property owners has changed their mind several times, but he feels that the Board of Commissioners will decide on this at their meeting on May 5, 2008. He said that during that public hearing, there were three new issues that were raised as concerns that were unrelated to the issues at hand. The first issue was that several representatives of Western North Carolina Manufactured Housing Association requested that we allow manufactured homes in the R1 and R2 zoning districts. Currently they are allowed only in R2MH, R3 and R4 areas, so basically they are requesting that they should be allowed in all residential districts except R-40, WR and SW. They suggested that appearance standards be strengthened and require permanent underpinning. The second issue was that Conservation Subdivisions should be allowed in the R-40 zoning district. The third and last issue was a request by two property owners whose previous zoning was C-4, but with the adoption of the Land Development Code, they were rezoned to Community Commercial (CC). The property owners have some uses in mind and which those uses are currently allowed in the present zoning but for some reasons they want to be rezoned to Regional Commercial (RC). The property owners involved are Vaughn and Wilkie, (as shown on the map provided by Mr. Starr). Mr. Starr described

what type of uses that are allowed in Community Commercial and Regional Commercial. Mr. Starr stated that Staff will be working on these issues and bring a report to the Planning Board next month for its consideration.

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