

HENDERSON COUNTY PLANNING BOARD MINUTES September 13, 2004

The Henderson County Planning Board met on September 13, 2004, for a Special Called meeting at 6:00 p.m. in the Board Room of the Land Development Building, 101 East Allen Street, Hendersonville, NC. Board members present were Tedd Pearce, Chairman; Mike Cooper, Vice-Chairman; Leon Allison, Tommy Laughter, Jonathan Parce, Renee Kumor, Paul Patterson, Gary Griffin and Vivian Armstrong. Others present included Anthony Prinz, Planner; Autumn Radcliff, Planner; Karen Smith, Planning Director and Kathleen Scanlan, Secretary.

Chairman Pearce welcomed new Planning Board member Gary Griffin to the Board.

Mr. Prinz showed two different maps, the proposed zoning map and the other depicts the comment areas received in the public input session. Chairman Pearce indicated that the Board would not be taking any public comment at this meeting as the Board intends to study what has been given by the citizens. Chairman Pearce discussed his opinions on how to approach some of the questions and decisions that have been brought to the Board, and also gave some suggestions on how the Board could go forward. Chairman Pearce said that he has been trying to decide how the Board can solve all of the problems of the citizens in that area along with meeting the guidelines of the Comprehensive Plan, and the concerns of the floodplain. He said at this time he feels that the Comprehensive Plan is the guiding principle. He feels the Board should try not to turn the corridor into strip commercial development, and should have some emphasis on preserving farmland. Zoning could prevent floodplain land from being changed from farmland to other uses, such as commercial. He reiterated that he has no idea how to solve the concerns of the citizens that presented their desires and still stay in the guidelines of the Comprehensive Plan. Ms. Kumor asked, "Do we know how the road (US 25 North) impacts with the new road line configurations?" Ms. Smith said that Staff has large copies of the paper maps, but they are not in digital form at this point and cannot be overlaid to see how they fit in with the GIS. Ms. Kumor pointed out the intersection of Mountain Road and US 25 is proposed as C-2, so how much of that can still be considered C-2, because we are proposing C-2P behind it. Ms. Smith said that Staff feels that it is still there and it was discussed in a Subcommittee meeting and one of the property owners gave an understanding of one of the parcels, but we do not have enough information. Ms. Kumor said that Gary Tweed, County Engineer gave a report on sewage recently and she was wondering whether that would be pertinent on knowing when, if ever, any sewer lines would be in the area because that would answer some questions as to what might be reasonable to do with these properties. Ms. Smith said that the update focused on what the Water and Sewer Advisory Committee has done to this point and right now they are at the stage of getting feedback from all of the different jurisdictions. They were going to have another meeting to review and scale back some things but they have not defined the timing on some of these projects. She said it actually added everything on that map that was ever in a planning document and it takes things way out into the County. She said that the Commissioners wanted to follow the CCP and bring it into the Urban Services area. Ms. Kumor asked if it was possible to know where water services are in this study area? Ms. Smith had Mr. Prinz pull up the service areas on the digital map to show Board members. Chairman Pearce asked Board members how they want to come up with a general direction on how they want to

focus on this study. He asked whether the Board wants to be true to the Comprehensive Plan. Ms. Kumor said that if we were to define several goals of the CCP, what would they be? Chairman Pearce said as it relates to this study, the desire not to turn the corridor into a strip development; adjustment be made to the “pod” commercial developments when the area plans are done; a desire on the part of the Commissioners to preserve farmland and prevent floodplain land from being filled in. These matters were discussions by the Comprehensive Plan Advisory Committee and with the Board of Commissioners. He said that if the Board feels that we need to deviate from that significantly, or if we have a different opinion on that, then the Board needs to go to the Commissioners and develop the changes that need to be made to the Comprehensive Plan or try to make this study in accordance with the Comprehensive Plan. Mr. Parce said that of all the comments we heard at the public input sessions, Ken Youngblood’s comments stood out the most. Mr. Parce said that he agreed with Mr. Youngblood in saying that the Board has some real problems with equity that the Board needs to study. He feels that the Board will find it a “tough call” to balance the needs of the community against the needs and rights of the property owners. Chairman Pearce said that the County has a right in planning and a purpose for it and while everyone might not agree with the choices that are defined and made, this Board may not all agree as well. Mr. Parce said that our opinions may not meet the Plan, but we might not consider establishing zoning where there is a lot of non-conforming uses. Chairman Pearce said the Comprehensive Plan gives us some discretion on parcels from prior uses and still be able to have some discretion where it doesn’t become a strip commercial development in a certain area of the study and try to find some balance between the two. Mr. Parce said that the Board might have a right to do this, but is it the right thing to create a lot of non-conforming uses? Chairman Pearce said that not only do we have conflicts with the Comprehensive Plan but also with long term reality and corridors usually become largely commercial. We also have to consider floodplains and farmland preservation in the midst of all of this. He said that he feels the County does not presently have the tools in place to adequately zone a larger major thoroughfare that you need with regard to access management, stormwater management, floodplain management, design standards and proper zoning districts. He added that this is the only zoning ordinance that the county has at the moment to work on and that is why he came up with the thought of looking at everything from two standpoints. One, from the present standpoint of meeting the CCP and two, giving the Commissioners a second option of giving zoning recommendations on property for the time being. In the future more commercial uses would be needed and an overlay district would need to be set up as well as access management situations so there is more control of what will happen instead of creating what the property owner wants the Board to create. He said that in doing so, it tends to put off some of the problems, but he doesn’t feel the Board has the tool to properly do it. He feels the Board should do as much as we can and as well as we can with the tools that we have at present and try to be as equitable as we can. For those that already have certain uses, try as much as the Board can to make them conforming uses and for those that are not conforming, look at a secondary plan the Commissioners can work on when they give us a zoning ordinance that gives us the tools to do it properly. Ms. Armstrong asked whether the consultant has completed his task? Chairman Pearce said that he has done all the work that he is going to do. Ms. Armstrong wanted to know what will be the ultimate result and how will what the consultant has done be used? Chairman Pearce said that he believes it is being used as input and the Board of Commissioners will receive a copy of it. Ms. Armstrong asked, “Will it be a part of the documentation that supports whatever zoning recommendations the majority of the Planning Board make? Ms. Smith said it is part of your consideration and was part of

the Subcommittee's consideration. She stated that Staff should receive the completed form from the consultant soon. Mr. Cooper said that he is concerned and knows from the public input sessions there are property owners in this study area that want commercial zoning, but he is not in favor of all commercial zoning along the corridor. He said that he doesn't know what the Board can do to be fair about it. It is non-conforming and if we say what we are going to do or tentatively plan to do about this, the property owner can continue to use it as he has but not expand the use when the zoning is implemented. There seems to be a lot of uncertainties at this point. He asked if the Board should be looking at not only the ones that gave us their opinion but as a broader picture. Chairman Pearce said that unfortunately it seems that it works that way, but he feels that as the Board looks at the parcels we need to look at adjacent properties to see what could be affected around the area or to include them as well and not just the person that had interest. Ms. Kumor was inquiring about the extra-territorial jurisdiction of the Town of Fletcher. Ms. Smith said that Fletcher does not have an ETJ to the south, it is more to the east. Ms. Kumor said that the Board has been looking at three or four properties that Fletcher has, but Ms. Smith interrupted and said that those are actually voluntarily annexed. Ms. Kumor asked whether Fletcher knows how far south on US 25 Fletcher would extend their jurisdiction? Ms. Smith said that there is a point between Hendersonville and Fletcher where they cannot cross each other. Ms. Smith said that at one time, Fletcher had an annexation study done that took their limits around the Naples area. Ms. Kumor said she thought that Fletcher might have some annexation study to the north of this corridor study that could help in our decisions on zoning. Ms. Smith said that she has discussed with Fletcher's planner about the standards Fletcher wanted to impose, if they should take in all of the area to I-26 and this came after the annexation study previously. She said that this study does look at commercial all along the corridor. Ms. Kumor asked whether this study goes all the way down to the triangle stop? Ms. Smith said that it doesn't because that is in the City's ETJ. Ms. Kumor said she feels that this is another factor because no matter what the Board talks about along that area around the interchange for any citizen to feel they are going to get their maximum worth out of the property, they need to be annexed into Fletcher to do it, should liquor be an issue for their business. Chairman Pearce said that the Subcommittee was liberal around the interchange and went for the highest zoning uses we could on most of the properties around there.

Chairman Pearce said it looks like we need to look at each property one by one. Ms. Smith said that the US 25 North study is the first community plan of the Comprehensive Plan and is listed to be completed by fiscal year 2004-2005. She said that other things that are scheduled on the implementation schedule, adopted by the Board of Commissioners, are to adopt a flood damage prevention ordinance, to do a business and commercial area study and to look at incorporating access management standards into the Land Development code. She added that the code is not scheduled to be developed until December 2005. Ms. Smith said that Mr. Freeman had started doing some research and pulling together some information about the business industrial study and she said she has spoken with Scott Hamilton from the Chamber of Commerce and is going to set up a meeting to talk about that study and how we will approach it. They plan on presenting an update to the Board of Commissioners that ties in with the Board's Strategic Plan and the implementation of the Lockwood Green Study. Ms. Smith said that an access management plan has been discussed regarding the traffic on US 25 north. She said that she has consulted with Beverly Williams from NCDOT, who is assigned to us for long-range transportation planning and Ms. Williams feels that the Metropolitan Planning Organization (MPO) that has been formed to work on the long-

range transportation for our region, could be contacted and perhaps help fund a study to deal with access management on a larger scale, but perhaps to do a study on US 25 North. She said they are in a preliminary stage of that and would need to get permission from the MPO and see how it stacks up with other projects they are trying to fund, which is outside of road improvements. Ms. Smith said regarding floodplains, we are waiting for direction the Board of Commissioners wants to go on this project. Ms. Armstrong asked whether there is a distinction between an access management plan and a traffic study that analyzes the capability of that road, that is, an estimate of the amount of traffic that any particular zoning plan could be put on that road? Ms. Smith said yes there is a difference. She added that she asked NCDOT when they planned for that expansion, if they did it based on land use. She said that in the past, they used a trend approach from traffic counts and that is how they designed that road, but did not take into account land use. Ms. Smith said that Ms. Williams thought the MPO could do some technical analysis with the model. She said it may not be perfect as it does not take into account all of the trips that are generated from the outside and the inside, but they probably can do a rough plan. Ms. Armstrong said that coming up with the original zoning plan the County did not attempt to determine whether or not the road could be handled by the proposed zoning the Subcommittee studied. Ms. Smith said no. Mr. Prinz showed on the digital maps, the existing sewer and water service and it appears that most of the area indicates water service. Ms. Armstrong asked about the two large parcels that are proposed in the "T" zoning districts in the Naples area and was concerned with the distance of the existing sewer and water service. There was some general discussion regarding sewer and water service in the Naples area. Mr. Allison said that since this will be his last meeting on the US 25 North study, he shared his opinion and concerns regarding the study. Mr. Allison said when he lived and had a business in this study area, he noticed that there were a number of local commercial businesses and feels that commercial puts less traffic on the road than more. He feels that this corridor needs to generate commercial. He added that he feels local commercial along this corridor would not create sprawl but would serve the community and the traveling public. Mr. Allison said that he feels this study will change people's lives with the way the proposed zonings will be as the people have worked all of their lives toward a commercial piece of property because it has road frontage. Mr. Allison said that his vote would be commercial all along this corridor. Mr. Laughter said that if this whole area becomes commercial, what are the steps that the Board needs to take and how do we throw out the concepts of what the beliefs of the CCP are. Ms. Armstrong said that the CCP is not the law it is just a guide. Ms. Smith said the CCP does talk about rezoning requests and if there is a deviation proposed from the Comprehensive Plan, then the applicant, in this case the County, would justify the deviation and if the County is adopting that rezoning, then it needs to amend its plan. She said that the provision is there to do it but at this point the CCP is our guiding document. Chairman Pearce said that he finds it difficult to go too far from what the Plan indicates. He said that the Board might have some built-in latitude but we need to look at all of the things that the Plan is talking about and try to figure out a way to go forward. He added that he feels the Board should review them one by one and vote on them. Ms. Armstrong said that she does not understand about the voting. She asked, "What are the other options instead of voting yes or no on each individual property?" Chairman Pearce said that basically as we look at the properties, a vote on each property will not be the final vote, because we'll make a final vote on sending forward the US 25 North study. Ms. Armstrong asked, "Will you be asking the Board tonight to vote individually on each of these requests before us, when the Board has not adopted the underlying one that people want a reconsideration from? Ms. Smith asked whether the Board was comfortable generally with the overall zoning districts on the map

and if there is a big area of concern and some specific comments about it, we can discuss it. Chairman Pearce said that if there are some areas of concern, the Board needs to add them to the list, if not the Board will not get anywhere down the line. Ms. Armstrong said that now that the election is over, this cannot be used as a weapon to threaten folks with because that is gone. She said that her hope is that it now can become a genuine planning tool. Ms. Armstrong referred to a book called, *Legislative Zoning Decisions* by David Owens with the Institute of Government and quoted, "Whether set forth in a comprehensive plan or reflected in a zoning scheme, zoning regulations must be based on an analysis of the suitability of the land for development as in topo, soils, wetlands and flood areas, the availability of needed services (water, sewers, road and rail lines) and existed needed land use." She said she doesn't feel that the Board has done that and does not agree with the way the Board has studied this project and if it takes another month or more to get it right, she does not have a problem with that. Chairman Pearce said that he has already notified the Commissioners that it will be December before this Board will be able to send the Commissioners anything about this study. Ms. Kumor said that Chairman Pearce asked the Board for some guidance as to how we should go about thinking about this process and Ms. Armstrong just read a statement regarding the same guidelines she feels that the Board considered when looking at these properties. Ms. Kumor added said that she feels this Board might not be doing anyone any favors by responding to their issues because we know now that the County sometime will eventually bring sewer and the property owners because of not knowing when this will happen, still might not get the value of the property from rezoning it. Chairman Pearce said that when the Board looks at a property, do we want to come to a decision on the property. Ms. Kumor said that it needs to be a whole decision and whether it fits into this whole concept. She said that when someone makes a request, she wants to know how much of it is left after the road goes through. After some discussion, Mr. Laughter asked whether it was feasible to start at the southern portion of the corridor in reviewing the zoning and work up to the most northern portion and get the general concern areas taken care of first? There were some general discussions among Board members at this time. The Board began its review of the properties. After discussion over the maps, there were several motions made, but died due to lack of a second motion. The following motions were made:

Leon Allison made a motion that the area located near the asphalt plant on the southern portion of US 25 North Study that is currently I-2 to be changed back to the Subcommittee's original recommendation of C-4 zoning on the entire parcels. Tedd Pearce seconded the motion. After some discussion, Mr. Allison withdrew his motion.

Mr. Cooper addressed the area that Mr. Allison previously discussed and made a motion that the existing I-2 should remain in place and the back portion of these parcels that are located in the floodplain should be RC. Jonathan Parce seconded the motion. (Note: Abstaining from a vote is an automatic favorable vote). Mike Cooper, Gary Griffin, Leon Allison, Jonathan Parce, and Tommy Laughter voted in favor. Vivian Armstrong abstained from the vote. Renee Kumor, Paul Patterson and Tedd Pearce voted against the motion. The motion carried six to three. Ms. Armstrong asked whether these votes count or are they just a "straw vote?" Chairman Pearce said that they were straw votes. Ms. Armstrong said that her response after each vote would be a series of questions and the same response for every parcel. She said her response is: "Will it turn US 25 into a parking lot? How will it affect the schools? How can we put 2600 trailers on a parcel with no sewer?" She stated that she couldn't, without enough information, make a rational conclusion to vote.

Regarding the Holbert Road area Chairman Pearce made a motion to recommend C-2 zoning on eleven parcels at the intersection of Holbert Road and US 25 North that had been previously recommended for C-1, RC, and R-15 zoning. The reason mentioned was that the zoning would be contiguous. Tommy Laughter seconded the motion. Tedd Pearce, Mike Cooper, Gary Griffin, Jonathan Parce, Tommy Laughter, and Renee Kumor voted in favor. Vivian Armstrong abstained from the vote. Leon Allison and Paul Patterson voted against the motion. Mr. Allison objected because he felt that the area should be zoned C-4. The vote carried seven to two.

Mr. Allison made a motion to recommend I-1 on three parcels between Twin Springs Road and Interstate 26 owned by Mr. Basine and Mr. Danny House. Jonathan Parce seconded the motion. Gary Griffin, Jonathan Parce, Leon Allison, Tommy Laughter, and Paul Patterson voted in favor. Vivian Armstrong abstained from the vote. Renee Kumor and Mike Cooper were undecided and Chairman Pearce voted against. The vote carried eight to one.

Mr. Cooper made a motion, that in addition to the previous motion voted on regarding the three parcels on Twin Springs Road, the triangle piece of property on Twin Springs Road and the large parcel which contains the existing cemetery be recommended for I-1 zoning. Jonathan Parce seconded the motion. Gary Griffin, Jonathan Parce, Mike Cooper, Leon Allison, Tedd Pearce, Tommy Laughter, and Renee Kumor voted in favor. Vivian Armstrong abstained from the vote. Paul Patterson opposed the vote. The vote carried eight to one.

Chairman Pearce made a motion to Mr. Allison's recommendation for R-15 on the property to the right of the railroad tracks in the Twin Springs Road area that was previously recommended for T-15. Renee Kumor seconded the motion. Tedd Pearce, Renee Kumor, Gary Griffin, Mike Cooper, Tommy Laughter, Jonathan Parce and Leon Allison voted in favor. Vivian Armstrong abstained from the vote and Paul Patterson voted against. The vote carried eight to one.

Mr. Eddie Fox who has two parcels in the northern portion of the Study area in the Howard Gap Road area said he would like to develop a manufactured home park. The Board asked Staff to study this area and come back to the Board with a possible recommendation by the next US 25 North Study meeting.

Mr. Tommy McCraw who has two parcels north of Old Roper Road off of US 25 said that he has invested in the property under the current industrial zoning (I-1) and the Subcommittee's recommendation for his parcels is C-2 for the front portion, along US 25 and R-15 for the back portion. There was some discussion regarding City water being present and because of its current zoning of light industrial that the Board recommended that Staff look at this and the surrounding parcels. The Board recommended that Staff request a letter from Gary Tweed, County Engineer in reference to the water and sewer issues including the forced main hook-ups.

Mr. Danny Goodrich, whose property parcel numbers indicated on map (# 18 & 23) located on Blade Street requested C-4 instead of the Subcommittee's recommendation of C-2P. He stated that he owns a vehicle repair garage. After some discussion, the Board gave no further recommendation.

The Board asked Staff to look at the area that was previously Mountain Home Nursery, referred to on the map as parcel # 111, which is being developed into mini-warehouses. Mr. Patterson indicated that parcel # 111 is his client and that he would not be involved in any discussion or decision. The Board also asked Staff to go back and study the area recommended for C-2P zoning.

The Board discussed the next meeting date for US 25 North Study as possibly September 27th at 6:00 p.m., but decided to have Board members and Staff to find a consensus date and discuss the scheduling of the meeting at the regular Planning Board meeting on September 21st.

Adjournment. There being no further business, Chairman Pearce made a motion to adjourn and Paul Patterson seconded the motion. All members voted in favor. The meeting adjourned at 9:00 p.m.

Tedd M. Pearce, Chairman

Kathleen Scanlan, Secretary