

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
December 7, 2005**

The Henderson County Planning Board met on December 7, 2005 for a special called meeting at 4:00 p.m. in the Board Room of the Land Development Building, 101 East Allen Street, Hendersonville, NC. Board members present were Tedd Pearce, Chairman; Renee Kumor, Paul Patterson, Vice Chairman; Stacy Rhodes, Jonathan Parce, Mike Cooper, Tommy Laughter and Mark Williams. Others present included Judy Francis, Planning Director; Lori Sand, Project Manager; Autumn Radcliff, Planner; Matt Cable, Planner; and Kathleen Scanlan, Secretary. Planning Board member Gary Griffin was absent.

Chairman Tedd Pearce presided over the meeting and called the meeting to order. He turned the meeting over to Lori Sand, Project Manager.

Ms. Sand went over Section Four and Five and the changes that were made from the previous meetings such as land that's unbuildable, road standards table and the number of lots that should be served and if 25 lots and above to serve as a collector road standard as well as signs and sign ordinance and determination of such.

Board members discussed the size of signs permitted in the County. Planning Board recommended to Staff to provide to the Board of Commissioners with the number of signs in the County and what percentage of those signs would be non-conforming under this Code Book. Chairman Pearce asked whether any of this material been forwarded to sign companies to get their input? Ms. Sand said that they hadn't and that this Sign Ordinance is based heavily on the City of Hendersonville's Sign Ordinance. Mr. Patterson feels that the interpretation of the Zoning Administrator calculations for sign determination should be spelled out in the Code Book so everyone knows how it is determined. After some further discussion, Chairman Pearce recommended that the Zoning Administrator look through the Sign Ordinance and make sure that if there is any things that she takes into consideration and considering whether or not it is in compliance and if it is not in the Ordinance, that that particular language be added to the Ordinance so there is no ambiguity about how the calculations are done.

Chairman Pearce acknowledged that Ms. Sand has resigned from her job at Henderson County and extended best wishes to her in the future and thanked her for all of the hard work she has done since working with Henderson County.

Board members felt that this Sign Ordinance is a very important document not to be able to study it more and to send it forward to the Board of Commissioners without the knowledge and expertise we should have. Ms. Francis stated that the Board of Commissioners requested it to be sent forward and Staff is following the instructions that we have been given.

Chairman Pearce stated that he feels that the Planning Board has not had time to adequately study nor to find out from sign companies, etc., how this Ordinance will affect their business as it is written. He asked Staff, "Is this Sign Ordinance in anyway different, either more lenient or more stringent than the City of Hendersonville's Sign Ordinance?" Ms. Sand said that they are very similar in what they regulate and what the sizes they have outlined are. Chairman Pearce said that in the comments and recommendation section to the Board of Commissioners stating that this Sign Ordinance was based on the City of Hendersonville's Ordinance and that the Planning Board does not feel that they have had enough time or expertise to adequately know whether or not these items are reasonable or not and define any areas that this Ordinance differs from the City of Hendersonville's regulations. If the Board of Commissioners would like additional study done on any of the sections involved, we would be glad to put in the time they desire and to instruct the Planning Board as to what they want done.

Ms. Sand said that she received material from the Fire Marshal's Office previous to this meeting suggesting that requested minimum spacing of fire hydrants in areas supplied by municipal and private water systems as recommended by the National Fire Prevention Association and Appendix C of the N.C. Fire Prevention Code. They also requested that fire apparatus access roads be in compliance with Appendix D of the N.C. Fire Prevention Code and that gates for subdivision access be approved in the permit process for the subdivision and that they also meet the requirements of the fire code and provide for 24 hour access by all emergency personnel by means approved by the Fire Official. They mentioned they would like a siren-activated gate or the other option is to give the fire department their own code. They mentioned this would include emergency opening devices as well as minimum width requirements. Chairman Pearce said that after discussion on this, the Planning Board feels that gates for subdivision access be approved in the permit process for the subdivision and that all gated entrances must be coordinated with the fire department of that area.

There was discussion regarding the percentage of slopes in a subdivision and whether there should be a certain percentage mentioned in the Code. Ms. Sand stated that these recommendations are tied to the CCP and the CCP recommends protection of steep slopes and other sensitive areas and so we have tried to as much as we can address those concerns through defining unbuildable land. Chairman Pearce said that with regard to the CCP, there were no impact studies done upon on what impact they would have, not only upon cost to the County to implement some of the things but the affect on homeownership. He added that when we leave this thing, that the County Commissioners look on the whole issue of land use as to whether the numbers are really reasonable and fair to property owners and whether the CCP designations of the three different land groupings are appropriately applied. He added that there was no map study done and it didn't take into account of the total topography of any one section, it only takes into account of a general topography area plus its proximity to public areas, so therefore there was not a detailed study done at the time. After some discussion about unbuildable land, Ms. Francis tried to refine the various comments that have been given by the Board members by saying; either the unbuildable land has to be unbuildable in all scenarios, not different for conventional subdivisions or conservation subdivisions or just get rid of the notion of unbuildable land entirely. Ms. Francis asked whether Board members were recommending a different slope percentage? Board members agreed on no slope percentage because of various well-established subdivisions in the County presently. Ms. Sand reviewed comparisons of subdivisions with steep slopes such as Oleta Falls. She stated that the number of dwelling units permitted based on the draft LDF is gross acreage numbers and do not take into consideration land constraints that would limit the number of dwelling units able to be constructed. She said for example, while Oleta Falls may be permitted approximately 225 units with a conservation subdivision, the actual number of units constructed would likely be fewer due to constraints on the land. She further compared other subdivisions with steep slopes. Chairman Pearce feels that if time permits, Staff should look at older subdivisions such as Kenmure, Champion Hills, Carriage Park, High Vista, Cummings Cove and others and look at them in respect as to whether they are environmentally or esthetically unpleasing and would the general public not appreciate having under the way the Ordinance was done. Mr. Williams said that land in a floodplain should be counted as open space in that calculation. After considerable discussion regarding conservation subdivisions and their density, Chairman Pearce felt that there should be no definition or exclusion of unbuildable land; that Staff needs to look at conservation design formulas as it appears that it is too large of a bonus in the densities there and also, that we are being overly restrictive in the standards if we take out the unbuildable land to the point where it will make things prohibitively expensive. Ms. Kumor stated that without some sort of standard we do risk ending up with some type of trash. The question of affordable housing came up again and whether there is a defined definition of it. Ms. Sand stated that according to our housing planner, she states that affordable housing is considered to be consuming no more than 30% of the household income to individuals and families that have income at or below 80% of the area median income for a family of four. She stated that affordable would change with the median income.

Board members discussed further about affordable housing. Mark Williams stated that regarding a family subdivision there should be a standard and make it in rural areas, one unit per acre. Ms. Sand said that after the last meeting, Matt Card and I discussed this and she said that she agrees that it is an issue and we decided that what would work would be the RTA maximum density, which are actually two dwelling units per acre in a family subdivision. Mr. Williams said with that change, he agrees.

Mr. Rhodes was concerned with the definition of "logging." Ms. Sand said that she took the NAICS logging definition and put it in the definition section and it essentially says, "cutting or cutting and removing." She added the supplemental development standards would only apply to logging operations that were over 3 ½ acres and also the perimeter fencing, if you were chipping or that type of activity, it would need to be fenced, but not including the entire perimeter of the operation. She stated that they took this out of an article on urbanized area that had logging issues. She asked whether the issue of "logging" needs to be addressed? The majority of the Planning Board members stated that in the past they haven't needed a logging issue in this community yet and unless the Commissioners understand that something is coming forward, they feel they do not need to address the logging issue at this time and that it should be deleted from the Code Book.

Paul Patterson stated he doesn't feel that stump dumps should be in this Code Book. Ms. Sand stated that the way the previous Ordinance was structured; stump dumps were essentially regulated as landfills. She said that the Solid Waste Department came to us and requested that we implement State standards and that we are in compliance with the State, so that the State will help in the enforcement and permitting of stump dumps in Henderson County because under our current Ordinance, the State will not help because our standards are so much more restrictive than what the State standards are. She said what they did was took the State requirements for stump dumps and put them in there. Mr. Patterson stated that there is a section in this Code Book where the Zoning Administrator gives their interpretation of this, but he feels that it should be spelled out in black and white so there isn't a need for an interpretation.

Mr. Patterson had concerns with mining and extracting operation definition and who will be able to define it. Chairman Pearce stated that he feels that there are problems in many areas. He feels that someone either in the section or in the definitions should be able to interpret at what point does something become a mining or extracting operation and also in relation to this, there is no definition of a recovery facility, and this should be defined as well. He added that there are quite a few items that have no definitions. He said if they are not clearly defined and there is a threshold for determining when they apply, as we need to be careful because we need some definitions. He added that it would be his recommendation that definitions need to be applied. Mr. Patterson said that regarding sedimentation control, it states about permanent control measures, he doesn't feel that there are permanent control measures. According to NCDENR most of erosion control measures are temporary once things are stabilized. He wanted to know who will define what permanent control measures are, who will monitor it and make sure it is there all of the time? He said that the County would have lots of things that they will need to keep up with. Also dealing with stormwater management and erosion control, these are two different things. Mike Cooper questioned definitions regarding manufactured housing. He feels there is discrepancy in wording as it talks about manufactured homes built within 10 years from date of replacement and pre-1976 manufactured homes not allowed, but it sounds like anything 10 years old is not allowed in this County. Ms. Sand said that sentence has been removed because of litigation and that case law said that is not legal to state that.

Mr. Williams said that there is so much that we as members do not understand yet about this Code Book and that if it is difficult for the Board members, how much more difficult will it be to try to enforce this and leaving a good portion up for interpretation for an administrator. He feels

that if there is a rush to put this in place that is a mistake. He said that the County needs something that is user-friendly and that people will be able to understand. Chairman Pearce said that most issues in Sections Four and Five are handled by professionals. He feels that this Code Book should be well defined. Mr. Williams added that he doesn't feel that this Board has not had enough time to adequately say that it is well defined and feels like the Planning Board is getting ready to send forth something to the Commissioners and putting them in a difficult spot. Ms. Kumor said that she feels that the Planning Board is willing to continue to work on topics as the Commissioners go along the process as they can be done concurrently. She said that the Commissioners can be listening to public input and throw things back to the Planning Board and consider this as to what you have been dealing with. She also feels that there needs to be some type of public campaign for them to understand this process and the Commissioners has the responsibilities for ways to present it to the public. There is a part where public comment is important and then the Commissioners can go back either through the Planning Board or Staff to look at things and craft them so that they are more understandable.

Chairman Pearce said that one of the recommendations of the Planning Board would be that the Board of Commissioners realize that this is a very complex document with far reaching implications and that the Planning Board does not feel that they have had adequate time to digest it. Planning Board urges the Commissioners to proceed with extreme caution and study the document as presented before enacting it as proposed. Mr. Cooper doesn't feel that anyone knows what amount of impact this will have on the people of this County. Chairman Pearce also feels that the County needs to have an impact study on how this Land Development Code will be affected. Chairman Pearce also feels that all of this has gone a little too fast and that the information presented is very difficult to digest and hope that Staff will have time before it is presented to the Board of Commissioners to make sure that a lot of little things such as definitions and other things that are hard to understand will be brought forth clearer. Mr. Laughter said that he feels that the Planning Board should be very conscientious of everybody involved. Public consumption needs to be where everyone understands what they are reading, what they are consuming and how it will affect their lives. He feels the worse thing that this Board can do is rush through this as fast as we possibly can and then give it to a Commissioner and they as well do not know clearly how to answer their questions and concerns. Also in review of Section Three, the Board does not consider unbuildable land needs to be defined or excluded in the computations. In Section Four, Family Subdivisions need to be addressed. Planning Board also requests that the density issues in this document and the CCP be looked at as they might affect affordable housing in Henderson County. Recommend deleting the provisions regarding logging and look at a use regulated but not a clear definition of those regulations. Strike "land clearing" language and make any necessary changes and strike any definitions that are not specified or include all definitions that are not there.

(Mark Williams left the meeting at this time.)

Regarding Article Five, regarding curve radius, shoulder widths and cross slopes, anything that the Planning Board currently has that were approved by the Board of Commissioners are implemented into this Code Book.

Mr. Patterson talked about breaking up collector roads to major and minor collector roads. Perhaps implementing minor collector roads from 25 – 74 homes and give some of the standards on local roads such as 18% slope, but keep the 18-foot wide pavement, which gives us somewhere in between. Mr. Patterson stated that he would provide a table to Staff regarding this issue of breaking up collector roads to a major and a minor collector road as a suggestion.

Mr. Patterson asked, "Who will monitor the stormwater drainage and know whether it is correct or not?" Ms. Sand stated that under this new Code Book, the Technical Review Committee would need to participate and advise on these issues, which includes the County Engineer. Mr. Patterson stated that he has concerns with the Technical Review Committee.

After some general discussion, Mr. Patterson stated that on page 143, Section Five, Item Four, the sentence should be deleted.

Chairman Pearce along with Board members requested that they receive a final draft to replace what they presently have with all of the revisions/suggestions. Chairman Pearce added that he feels very uncomfortable giving anymore recommendations than the fact that these are things that we have had time to notice but that we have not received a final draft yet and that it will probably be seen the same day that the Commissioners receive it at their meeting, which means that this Board will not have had time to review any of the revisions or suggestions that this Board provided. Mr. Patterson had a further concern regarding the Technical Review Committee, as he wanted an explanation of this Committee. He said it bothers him that any subdivision with 49 or fewer lots or whether it is a conservation or not a conservation subdivision, will not come before the Planning Board according to this Code Book, it will go instead to the Technical Review Committee. He asked whether the Planning Board is so busy that we will not see these things? He said that 49 lots is a significant subdivision and that there is accountability that the Planning Board should have. Chairman Pearce said it would be interesting to see what other jurisdictions are using as their cut-off point or number and it might be advisable to get a poll. Ms. Sand said that they based this number on the last few years of the subdivisions that have been reviewed in Henderson County. Ms. Sand said that unique situations can always be forwarded to the Planning Board for their review. Chairman Pearce reiterated the need for public notice or signs in areas where they plan to be subdivided, because if they are not going through the public hearing process of the Planning Board, at that point in time, no one will know what is happening. He said that recommendation was made before and feels that this should be looked at again seriously. Ms. Sand stated that this will be changed and noted as another suggestion of the Planning Board. Chairman Pearce asked Mr. Patterson what number of lots of minor subdivisions should come before Planning Board review? Mr. Patterson said none, as there is accountability and when you put it out to a public forum, you have public input. Technical Review Committee is not necessarily a public forum, as it doesn't have to be. When will they meet and will it be open or closed sessions? Ms. Sand said that those meetings will be regularly scheduled during work hours. Mr. Patterson said how many people work for a living and will be able to attend? He said that people who work would have to make arrangements to attend these meetings. Mr. Patterson changed his mind and said perhaps 11 lots or more, but there still is accountability factor to keep in mind. Mr. Laughter said that if you go into the Technical Review situation and it is not unanimous in what their beliefs and how they handle a subdivision, he feels it might be a good idea to be sent forth. Chairman Pearce said that if they meet all of the provisions of the subdivision section of the Land Development Code, what right do we have to turn them down? Mr. Patterson said, "Do you mean that every subdivision we saw this year and approved, meets all the technical requirements, and how many conditions that we made that they had to meet? Mr. Parce said that he agrees with Mr. Patterson as to how much a burden is it really for the Planning Board to review subdivisions. He said I don't know how many we have looked at. Mr. Cooper said the question is how many haven't we looked at that Staff has approved? Chairman Pearce asked Matt Card and Autumn Radcliff, "How many subdivisions each month do you approve internally compared to what is brought before the Planning Board?" Mr. Card said that for Minor Subdivisions with 4 to 10 lots, it would be one or two approved, but for Minor Subdivisions that are less than 4 lots, there are a number of Staff approvals. Mr. Card said that there are more in the 10 – 30 lot range than there is in the 40 – 50 range. Mr. Cooper said that if you keep the 49 lots or more, the Planning Board will see very few subdivisions. Mr. Card then reviewed a chart that had been made stating: subdivisions with 49 or fewer lots to date in 2005, there were 22 subdivisions reviewed; in 2004, 16 subdivisions; and in 2003, 15 subdivisions. Mr. Card said that subdivisions with 50 or more lots reviewed: in 2005, 11 subdivisions; 2004, 6 subdivisions and in 2003, 5 subdivisions. After further discussion, Chairman Pearce suggests the number should be lowered to 25 lots or more for Planning Board review.

Mike Cooper made a motion that the Planning Board send forth a recommendation to the Board of Commissioners that we do not take up the Land Development Code at this time until it can be further studied, further clarified and tested as to how it will economically impact Henderson County as a whole. Mr. Laughter asked what timetable are we looking at? Mr. Cooper said until we get it resolved and until we come to an understanding of what we are recommending. Mr. Cooper added that he personally would like to see this finished and comfortable with what the Planning Board recommends and then in some form, test drive it. Chairman Pearce added that this Code Book not be implemented until an impact study is done. Ms. Kumor said that she doesn't want the Planning Board to be accused of being the break on this. Mr. Rhodes asked why is January 1, 2006 "the day" to begin implementing this Code Book? Chairman Pearce said that this document is going to the Board of Commissioners and they asked the Planning Board to give them recommendations, not to approve it or disapprove it, but just to give them comments and recommendations on this Code Book. He feels that at some point in time this document should go out to the public and to hear public hearings. Tommy Laughter seconded the motion. Stacy Rhodes, Mike Cooper, Paul Patterson and Tommy Laughter were in favor of the motion. Jonathan Parce, Renee Kumor and Tedd Pearce opposed the motion. The motion carried 4 to 3. Mr. Parce said that in voting against the motion, he doesn't feel that he is saying he's recommending the Code either. Ms. Kumor said that she hopes that if the Commissioners need the Planning Board's help, they will call on us.

Chairman Pearce along with all the Board members requested that they receive an updated copy of the final draft that the Board of Commissioners will be looking at during their meeting on December 15, 2005.

Adjournment. There being no further business, the meeting adjourned at 6:50 p.m.

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Tedd M. Pearce, Chairman

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Kathleen Scanlan, Secretary