

**HENDERSON COUNTY
PLANNING BOARD MINUTES
SPECIAL CALLED MEETING
September 5, 2006**

The Henderson County Planning Board met for a special called meeting regarding the Land Development Code. Board members present were Tedd Pearce, Chairman; John Antrim; Gary Griffin; Renee Kumor; Tommy Laughter; Stacy Rhodes; and Mark Williams (Mr. Rhodes entered later during the meeting). Others present included Anthony Starr, Planning Director; Rodney Tucker, Project Manager; Matt Cable, Planner; Matt Card, Subdivision Administrator; Anthony Prinz, Planner; Richard Smith, Consultant with Benchmark CMR, Inc.; and Larry Rogers. Board members Mike Cooper and Jonathan Parce were absent.

Schedule of Additional Meetings.

Mr. Tucker requested that the Planning Board call another special called meeting for Tuesday, September 12, 2006 at 4:30 p.m. in order to discuss additional sections of the Land Development Code including: Decision Making Agencies; Review Processes and Procedures; and Enforcement, Violations and Appeals. Chairman Pearce asked if there were any major problems with scheduling a meeting for September 12th. Mr. Laughter suggested that he would be leaving that meeting early due to a prior engagement at 6:00 p.m. that evening.

Mr. Starr suggested, rather than adjourn the meeting, that the Planning Board simply continue the meeting. Mr. Williams requested clarification on whether others would be able to participate at the continuance of the meeting if they were not present for today's meeting. The consensus was that members would be able to participate. Chairman Pearce agreed that continuing the meeting was the best option and made a motion to continue the meeting. Mr. Laughter seconded the motion and all voted in favor (6-0).

Buffering Regulations.

Mr. Tucker began reviewing the substantive changes Staff made regarding the Landscaping Regulations. Mr. Tucker explained that buffers have been moved to the front of the landscaping regulations section. Mr. Tucker further explained that in the old draft buffers were based on intensity of uses, but now buffers would be applied based on zoning districts. Mr. Rhodes entered the meeting. Chairman Pearce pointed out that instead of four or five different levels of buffers, they have been reduced to two based on zoning districts.

Chairman Pearce asked how these buffers differ from what the County presently has in the current Zoning Ordinance. Mr. Prinz pointed out that some of the districts have buffers built into them. Mr. Starr said, generally speaking, only on conditional use permits are buffers required for commercial districts. Chairman Pearce then asked if, during meetings with the general public, buffering concerns were raised. Mr. Starr explained that buffering typically comes up on a case-by-case basis, and that this is what buffering requirements contained in the Land Development Code are meant to try to prevent. Mr. Laughter requested clarification on what was required in buffers, asking if the requirements were options or if all of the items were required. Chairman Pearce verified that all plant materials listed in the table were required.

Chairman Pearce then asked the Board their feelings with regard to the impact of the buffers, specifically the number of plantings and widths of the buffers. Mr. Griffin suggested that he felt that trees look good on lots and that the City [of Hendersonville] already requires them. He pointed out that he has to plant trees every 15 feet in the City [of Hendersonville] on the street side of lots. Mr. Starr pointed out that the current draft requires five trees per every 100 feet. Mr. Griffin said that the requirements seem good, but that this is really not enough. Mr. Antrim

agreed, stating he did not feel there were enough plants required. Mr. Laughter asked, if there are not enough trees required should the County require more? Mr. Griffin responded by saying, even in the City [of Hendersonville] where trees are required, he plants more than necessary because it makes land look better. The Board entered discussion of buffering requirements between residential districts to determine what would be required. It was determined that no buffering would be required between residential districts in the current draft.

Chairman Pearce asked for clarification on the differences between large and small trees. Mr. Starr explained that a large tree is over 35 feet at maturity and a small tree is less than 35 feet at maturity. Mr. Tucker pointed out that the plant specifications are located in Table 10.3. Chairman Pearce then asked if the applicants should be given more latitude to have all small trees instead of a mixture of large and small. Mr. Griffin pointed out that he planted twice as many trees as the City [of Hendersonville] requires. Mr. Antrim pointed out that the purposes of the buffer must be looked at, are you blocking a view or are you just providing a physical separation. Mr. Griffin agreed that allowing the developer to have options in plantings is a good idea. Ms. Kumor asked if there is a mechanism for negotiation regarding buffer plantings. Chairman Pearce stated that is really very difficult to write into an ordinance because then it becomes subjective on approval. Mr. Laughter asked, generally, if it was possible to leave any discretionary ability to the Zoning Administrator on such matters. Chairman Pearce pointed out that the County cannot really do that because of potential legal problems this would cause. Ms. Kumor asked how this could be achieved.

Mr. Starr pointed out to the Board that there are other options with regard to buffer requirements. He pointed out that species can be identified and a maximum and minimum buffer spacing requirement can be established based on the species. He pointed out that the down side to this method is that you never will have a comprehensive list of species so you have to have a provision that allows other species at spacing determined by the Zoning Administrator.

Mr. Laughter pointed out that each buffering situation will be different and that the regulations should suggest that the applicant should be allowed to submit alternate plans for someone to approve. Chairman Pearce pointed out that if an alternate plan is less than the ordinance requires, the County is going to have to have a very subjective way of judging it and that gets very difficult to write into an ordinance.

Mr. Starr pointed out that these landscaping regulations are not going to solve every problem or address every circumstance, and are only an attempt to mitigate most circumstances. Chairman Pearce then noted that, in certain cases, topographical considerations may result in the need for no buffering. Mr. Prinz then interjected that "Alternative Compliance" language, originally contained in the regulations, had been stricken and that perhaps this might be reinstated. Mr. Starr pointed out that this was stricken due to legal ramifications of the clause. Chairman Pearce asked if the Alternative Compliance section could remain, but instead of discretion being placed on the Zoning Administrator that it be placed on the Zoning Board of Adjustment. Mr. Starr suggested it might be more appropriate to allow alternative compliance at the discretion of the Technical Review Committee instead of the Zoning Board of Adjustment. Mr. Laughter suggested he liked that and, after further discussion, Chairman Pearce agreed that it would be a good compromise. Chairman Pearce said that common sense has to be in everything the County does, and sometimes decisions are made totally without common sense. Mr. Starr pointed out that the more flexibility that is allowed for common sense, the more vague the language has to be; and this may allow individuals to have too much discretion.

The Planning Board then entered discussion regarding plant material placement within buffers. Chairman Pearce asked the Board if the language should say "uniformly spaced" as it currently

does. Mr. Starr said the intent was to prevent them from bunching all trees to one end which would not be providing a buffer. Mr. Williams expressed concern with the meaning of the phrase and the implications it may have. Mr. Antrim suggested the following language: "Trees and shrubs shall be spaced to provide screening." The Planning Board agreed and entered into a series of side discussions. Mr. Antrim returned to the issue of buffers by asking if buffer plant materials could count toward other requirements. Mr. Starr explained that the way the draft was written would allow for a tree in the buffer to count for other requirements as appropriate.

Parking Lot Regulations.

Mr. Tucker explained that landscaping for parking is required where there are 10 or more parking spaces. He explained that more flexibility was added by allowing either one small or large deciduous trees per five parking spaces. Mr. Rhodes asked if this was in addition to the buffering. Mr. Starr said yes. Mr. Griffin asked if the trees could be counted twice. Mr. Starr said potentially, if they met the requirements of both sections. The Planning Board then entered a number of side discussion. Mr. Starr said that if you are meeting the conditions required in each of these sections, and you can design it in such a way that the same plants will meet the requirements of several sections, then you can count those plants for more than one purpose.

Chairman Pearce then began discussing the requirements for planting strips adjacent to non-curbed parking lots. Chairman Pearce asked why there needed to be six to 12 inches of gravel along the edge of pavement. Mr. Antrim said that the purpose may have been to maintain the integrity of the main parking lot, but the stone is too loose. Mr. Starr explained that it was likely this provision was included by the consultants as a way to provide separation between the landscaped area and edge-of-pavement. Mr. Starr suggested, based on Planning Board discussion, the removal of the first sentence of Section 200A-7 which stated: "If curbing is not proposed within a parking lot the developer shall provide gravel edging a minimum of six (6) and a maximum of twelve (12) inches in width along the edge of pavement." Chairman Pearce agreed.

Street Tree Regulations.

Mr. Tucker explained that tree requirements would apply to major subdivisions only. Chairman Pearce asked for clarification on the definition of a major subdivision, to which Mr. Tucker explained 11 or more lots. Mr. Williams suggested that he was in favor of trees but at the same time was not sure if this section is overcomplicating or regulating a little more than it should. He further pointed out that he favored some regulation and some requirements of beautification but that he felt somewhat uneasy. Mr. Starr pointed out that these regulations are not inconsistent with what a lot of communities are doing, and tend to require less in the way of landscaping than most. In response, Chairman Pearce asked the Board members if they thought it would be appropriate to move Section 200A-16 "Alternative Compliance", as revised, to the beginning of the section, before the regulations got down to the nitty-gritty. After much discussion Mr. Laughter suggested that he liked the section where it currently is because otherwise people will just ignore the rest of the landscaping regulations. Mr. Starr, Chairman Pearce, Mr. Antrim and Ms. Kumor agreed with Mr. Laughter. Mr. Starr left the meeting.

Plant Requirements.

Mr. Williams raised the question of using a point system for plant requirements instead of requiring a specific type of plant at a specific number. Chairman Pearce said the problem with the point system is how to write it and interpret it. Mr. Griffin pointed out that he wanted the playing field to be leveled so that people do not have to spend so much time in front of Boards. He further said the County just needs to tell applicants how many plants they need. Mr. Antrim, in regard to the point system, said why not require 100 points worth of plants per 100 linear feet. At this time Mr. Laughter left the meeting. Mr. Williams then indicated that he felt the Board

needed more time to look over the landscaping section. On this note Chairman Pearce pointed out that the Planning Board agreed that buffering was needed.

Mr. Williams suggested he was for limiting the regulatory side and bureaucracy while increasing flexibility. He also pointed out that he thought it would be wise for local nurserymen to look over the plant species list; people like Cliff Ruth with Cooperative Extension. Mr. Cable pointed out that Mr. Ruth has reviewed and made comment on the landscaping regulations as a whole. Mr. Griffin pointed out that the state has its own standards and requirements when it comes to plantings along roadways. Mr. Williams likes that species are recommended.

The Planning Board then briefly reviewed the remainder of the section. Chairman Pearce said he felt comfortable in saying that people in the landscaping business do not seem concerned. He continued by adding that the Planning Board has addressed its concerns reasonably and would like to finish reviewing the Landscaping section at the meeting on September 12, 2006. He further added that there might be some advantage to the point system and that Staff should prepare something that looked at a point system. Mr. Griffin added that the ordinance will be used for new development and new developments are putting in a substantial amount of money on the project anyway, so maybe a point system would be good to provide them more flexibility to get it done. Chairman Pearce noted that Staff should look at possible flexibility and/or minimal requirements. Mr. Tucker asked if the Planning Board wanted the document to be forwarded to them in PDF, and indicated that, if so, he would have the changes to them by this afternoon. Chairman Pearce told Mr. Tucker to get the Planning Board anything he wanted as soon as he could.

Zoning Regulations.

Richard Smith, Consultant with Benchmark CMR Services, Inc., began describing the Articles of the Zoning Regulations to the Planning Board. He pointed out that Mr. Ron Smith, his associate at Benchmark, could get the Planning Board a memo which would highlight the major changes between this version of the draft and the previous one.

Mr. Smith then began explaining the general layout of the tables. During the review of the district tables, Chairman Pearce pointed out that he would prefer to remove the impervious surface requirements. Mr. Tucker pointed out that Mike Cooper emailed and felt comfortable with 40 percent impervious surface requirements for residential development. Chairman Pearce then pointed out that he was not sure if the County should go the route of impervious surface regulations in any district. Ms. Kumor pointed out that impervious surface is directly related to stormwater and that stormwater management is what the Planning Board should really be talking about. She pointed out flooding issues for a neighbor created by the development of an adjacent impervious surface. Chairman Pearce agreed that stormwater management needs to be in the Land Development Code in time. He added that, until the state finishes developing their regulations, it is not plausible to include them in the LDC. Ms. Kumor added that stormwater management needs to be looked at but asked when the Planning Board should look at it and when the Board of Commissioners should incorporate it. Mr. Prinz suggested that this would be on the direction of the Commissioners.

Individual Planning Board members then responded to the question of regulating impervious surface. Mr. Rhodes felt that impervious surface is too much to try to calculate at this time and should be addressed in the stormwater management at a later time. Ms. Kumor felt that a stormwater management plan is what is needed now. Mr. Griffin agreed with Mr. Rhodes. Mr. Williams and Mr. Antrim suggested that impervious surface be scratched from the draft. Chairman Pearce then, based on Planning Board comment, requested that impervious surface references be scratched for now.

Chairman Pearce then asked if it was possible to do stormwater management sooner, and further, that the Planning Board recommendation to the Board of Commissioners would be that it commission a study and consider implementation of reasonable stormwater policies as soon as possible. The Planning Board then entered lengthy discussion of stormwater management and the need therefore.

Mr. Smith then continued his overview. Mr. Rhodes questioned the unbuildable clause located in the density sections of the districts. Mr. Williams pointed out that this is no longer supposed to be in the draft. Mr. Tucker agreed and Mr. Smith will remove this. Mr. Smith pointed out that he will be renumbering the SR numbers per the request of Mr. Tucker and Mr. Starr and again reminded the Board that Ron Smith would be sending a memo to them for discussion at the September 12 meeting by Thursday, September 7, 2006.

Chairman Pearce suggested, if any Board members wanted to raise any concerns they have via email ahead of that meeting, that such may help expedite the process and make changes before the Planning Board meets again. Mr. Smith agreed that emailing them directly to save time would be fine. Chairman Pearce also said that it appeared the consultants were heading in the right direction. He further asked that everyone really look at what is said in the draft; that the Planning Board and Staff needs to determine if this is something that is reasonable to use; if it can be read and understood; and what will have to be done to make this work.

Mr. Rhodes then pointed out that he would like to see a website where you can put in a parcel number, find out what zone you are in, and get a response as to whether you could/could not do something. He further suggested this website could show what the requirements are in a flow chart format. Chairman Pearce said this is not unreasonable to ask. Mr. Smith pointed out that he has seen it done but is usually very general because there are so many site specific things to deal with. Mr. Rhodes said a disclaimer on the website that this was purely for informational purposes should be included.

Zoning Map.

Mr. Prinz distributed maps showing the revised Growth Management Strategy overlay districts that were originally distributed in February. Mr. Prinz pointed out that the areas around Jeter Mountain and Saluda have changed classification. Chairman Pearce asked if the map was going to be parcel specific. Mr. Prinz said that it was not currently parcel specific. Chairman Pearce asked how this map would fit into the timeline and how this would all be done to have a map ready. Mr. Griffin said he thought the map looked good. Chairman Pearce said he would like to talk to Mr. Starr and discuss how the Board will proceed with the Zoning Map.

General Discussion.

Chairman Pearce asked what other sections were left to approve. Mr. Tucker said Landscaping, Decision Making, Review Processes, and Enforcement. Mr. Smith added that Definitions also needed to be approved at the end of the process. Chairman Pearce stated that the Planning Board is not going to make its time table.

Mr. Tucker asked the Board their position on Comprehensive Plan Amendment timing. Chairman Pearce felt that Comprehensive Plan Amendments should be done after adoption of the Land Development Code because it is likely the Board of Commissioners will make changes to the LDC which will result in more changes to the Plan. He added that some changes to the Comprehensive Plan will be obvious and just need to be made as a correction.

Continuance. There being no further business, at 6:12p.m. the meeting was continued to September 12, 2006 at 4:30 p.m. and all members were in favor.

Tedd Pearce, Chairman

Matt Cable for Kathleen Scanlan,
Secretary