

**Henderson County
Technical Review Committee Minutes
May 6, 2008**

The Henderson County Technical Review Committee met on May 6, 2008 at 2:00 p.m. in the King Street Meeting Room at 100 N. King Street, Hendersonville, NC. Members present were Anthony Starr, Chair; Seth Swift, Toby Linville, Marcus Jones, Gary Lance, Natalie Berry and Rocky Hyder. Others present were Wally Hollis, Fire Marshal Office, Parker Sloan, Planner, Matt Cable, Planner and Kathleen Scanlan, Secretary.

Mr. Starr called the meeting to order. Mr. Starr informed the Committee members of an additional item being added to the agenda regarding Rezoning # R-2008-09, regarding the Vaughn and Wilkie properties off US Highway 25 north. He asked that the item become # 11 and that R-2008-08 item become # 12. Mr. Starr noted that there are three variance requests on the agenda but historically they have gone directly to the Board of Adjustment for their review. He said in the Land Development Code it implies that not all variances would need to come to the Technical Review Committee. Mr. Starr feels that it would only be variances for which the proposed use or the nature of the variance would otherwise require this Committee's approval, such as a major site plan or major subdivision developments. He therefore felt that the three variances on the agenda today (Items 4, 5, and 6) fall in the category of the Board of Adjustment reviewing and that these would not require the Technical Review Committee's approval and be struck from the agenda. After some brief discussion, Toby Linville made a motion that the three items requesting variances (Items 4, 5, and 6) on the agenda are removed and sent on to the Board of Adjustment for their approval. All members voted in favor.

Mr. Starr asked for the approval of the April 1, 2008 minutes. Rocky Hyder made a motion to approve the minutes as presented and all members voted in favor.

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. 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 he plans on cleaning the area and wants to place a manufactured home on the spot where one existed previously. Mr. Starr noted that there was someone who wanted to speak on this matter, but he normally stated that this Committee is not set up for public input. He did ask for the person to give their comment on this matter.

Robin Reese. Ms. Reese stated that she owns the land beside of Mr. Burnett and is within 15 feet of his building, where he has a business. She stated that she is opposed having the zoning changed to a mobile home use or commercial use as she feels it affects their family, being that they are so near. Mr. Starr noted that the Committee needs to consider all potential uses of the property when looking at rezoning requests that it would be changed to and not any one particular use. The Committee would be giving a technical recommendation and that the Committee is not giving a decision on whether a business or a particular residential use should be on this property, but rather deciding on what district this should be. there will be an opportunity of public input at the Planning Board and Board of Commissioner level. After some brief discussion, Mr. Starr made a motion that the Committee recommends approval of rezoning application R-2008-06 to rezone the subject area from an R-40 zoning district to a Community R2-MH zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. All members voted in favor of the motion. Mr. Starr stated that this will now go to the Planning Board this month for their recommendation to the Board of Commissioners.

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 Planning Department. 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. Starr stated that the majority of this area is currently residential use. He added that the Regional Commercial does not permit any residential homes or duplexes and this creates a problem to the area residents. He stated that this rezoning request will address the concerns of the property owners living there as well as allow others to transition to a commercial use, if they chose to do so. He stated that he believes this is a good solution to the issues at hand in this area. After some discussion, Mr. Starr made a motion that the Committee recommend 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. All members voted in favor. He noted that this request will go to the Planning Board meeting next week for their consideration.

Major Site Plan Review – Request for a Special Use Permit for a mobile home park – Located on 15 Acres at 334 Lamb Mountain Road – Freeman Land Surveying, Surveyor for Harold Pace, Owner. Presentation by Code Enforcement Department. Mr. Linville stated that the property owner, Harold Pace, wishes to utilize the property for a mobile home park use. The project site is located on 15 acres of land located at 334 Lamb Mountain Road and is in a Residential 3 (R3) zoning district. Mr. Linville stated that there are shared water and individual sewers proposed. The project meets the requirements of the Land Development Code and all the applicable major site plan requirements have been met. Mr. Jones had concerns regarding the placement of existing culverts for the project. Ms. Berry mentioned that if this project is over one acre an erosion and sedimentation control permit is required. Toby Linville made a motion to approve the major site plan for a mobile home park use subject to the following conditions: (1) a driveway permit needs to be obtained prior to a final CO, (2) suggest that the entrance to the main road

would be at the same location where the existing driveway is, and (3) a erosion control permit be obtained prior to construction. All members voted in favor.

Major Site Plan Review – Request for Warehouse and Storage Use – Located on 1.0 Acres on Etowah School Road, off Highway 64 West – David C. Huntley & Associates, Surveyor for Dr. Don Jablonski, Owner. Presentation by Code Enforcement Department Mr. Linville stated that David Huntley and Associates, Surveyor, on behalf of the owner, Dr. Don Jablonski, submitted this major site plan so he could utilize the property for Warehouse and Storage use which requires major site plan review. The project site is located on 1.0 acre of land located on Etowah School Road, off Highway 64. The project is located in a Community Commercial zoning district. Mr. Linville stated that the project meets the requirements of the Land Development Code and all applicable plan requirements. Mr. Starr stated that on the site plan, looking at the southwest corner of the project, normally we would have buffering between the project area and the adjoining property, being R-1 zoning, a residential area. He asked whether the existing vegetation will remain there as the buffer. Mr. Eubanks, who works for the owner and Ms. Ann Valentine with Luther E. Smith and Associates were present and stated that everything below the fence there is existing vegetation and will remain as the buffer. Mr. Starr stated that an amended site plan should be submitted to show the existing vegetation to provide buffering/screening. Ms. Berry reminded them that if a building permit is not acquired before October 2, 2008, the applicant must get a floodplain permit. The County will be provided with new flood maps and effective that date the site plan in the bottom south portion will be in the floodplain. Mr. Hyder reminded Mr. Eubanks and Ms. Valentine that on the site plan they need to show the location of the fire hydrant prior to the CO (Certificate of Occupancy) noting that the fire hydrant needs to be within 400 feet of a commercial building.

Toby Linville made a motion to approve the major site plan for Dr. Don Jablonski regarding utilizing the property for warehouse and storage subject to the following: (1) Amend the site plan to show existing vegetation on the southern portion of the property, (2) Amend the site plan to show fire hydrant location prior to Certificate of Occupancy and (3) if the building permit is not acquired before October 2008, the applicant must be a floodplain permit. All members voted in favor.

Major Site Plan Review – Request for Utility Substation – Located on 261.8 Acres between Pleasant Grove Road and Pleasant Grove Church Road – William G. Lapsley & Associates, P.A., Agent for Seven Falls, LLC, Owner. Presentation by Code Enforcement Department. Mr. Will Buie of Lapsley and Associates stated that they are requesting on behalf of Seven Falls, LLC, approval of a major site plan for a (utility substation) communications building that will be unoccupied, there will be no water or sewer service. He stated that the primary use would be to house the communications system that will serve the Seven Falls community development. Mr. Starr stated that are screen requirements in particular on the west and northern sides of the property and also a requirement of an 8 foot woven wire fence. Ms. Berry noted that there should be no fencing within the floodway. Rocky Hyder made a motion to approval the major site plan for Seven Falls, LLC regarding the utility substation contingent on two conditions: (1) amending the site plan to show screening requirements on the west and northern sides and an eight foot woven wire fence and (2) amending the site plan to show no fencing within the floodway. All members voted in favor.

Major Site Plan Review – Request for a Special Use Permit for a Recreational Motor Sports Facility – Located on 18.13 Acres at 198 N. Egerton Road – Patterson and Patterson, Agent for George Andrew Bennett, Owner. Presentation by Code Enforcement Department. Mr. Linville stated that this is a major site plan for a recreational motor sports facility which requires a special use permit in the industrial zoning district located on 18.13 acres of land at 198 N. Egerton Road. This is not located in a water supply watershed district, but it is located within the floodplain. Mr.

Linville reviewed the requirements for a motor sports facilities. He mentioned that the project meets the requirements of the Land Development Code. There was discussion among Committee members regarding the security fence requirements in relation to the floodplain. Other requirements were discussed as well. Committee members in general felt that no more than 100 occupants should be at the site at one time and that no fencing should be constructed because of the floodway stipulations and that the applicant make application for a variance by June 14, 2008 or secure a no-rise certificate for placement of fence in the floodway. Committee members after reviewing the site plan, also recommended that an amended site plan be made to show the beginner and main track connected instead of two separate tracks, which is presently shown. Mr. Starr said that this is a two-part motion. The first will be to approve the site plan and then the Special Use Permit. Toby Linville made a motion to approve the major site plan for the recreational motor sports facility site located on N. Egerton Road subject to completion of the following conditions: (1) Amend site plan to reflect 100 maximum occupants at one time; (2) Amend site plan to reflect the beginner and main track as connected; (3) Amend site plan to reflect no fencing will be constructed because of floodway stipulations and (4) make application for a variance by June 14, 2008, or secure no-rise certificate for placement of fence in floodway. Changes to the site plan need to be implemented before the Board of Adjustment meeting. Toby Linville, Anthony Starr, Seth Swift, Natalie Berry, Marcus Jones, and Gary Lance voted in favor. Rocky Hyder opposed the motion. The motion passed 6 to 1. Mr. Starr stated that the Committee members need to discuss and make a motion for a special use permit regarding this project. He said special use permits are required where individual consideration of location, design, configuration and/or operation of a use at a proposed site are necessary to ensure site appropriateness, compatibility with surround uses and the protection of the public health, safety and welfare. Mr. Starr stated that he has studied this requested motor sports facility and feels that this use, given the location in an industrial park and its distance from neighborhoods with the uses in-between there, that he was comfortable with recommending a special use permit at this time. After some discussion, Marcus Jones made a motion to recommend approve to the Board of Adjustment on a special use permit for the recreational motor sports facility contingent on the conditions described in the major site plan approval that were listed. Marcus Jones, Toby Linville, Anthony Starr, Natalie Berry, Seth Swift and Gary Lance voted in favor of the motion. Rocky Hyder opposed the motion for a special use permit. The motion passed 6 to 1.

Rezoning Application #R-2008-09 – Rezone Approximately 15.48 Acres of Land – Located off US Highway 25 North Near its Intersection with Holbert Road – Community Commercial (CC) to Regional Commercial (RC) – Henderson County Planning Staff Initiated on behalf of Bryan L. Vaughn, Gene A. Wilkie and Wife, and Geneco Inc., Owners. Presentation by Planning Department. Mr. Cable stated that this rezoning request was Staff initiated on behalf of three property owners who made a formal request at a Commissioner's meeting. The Subject Area is located off US Highway 25 North near the intersection with Holbert Road and Piney Ridge Road. He said it is surrounded by Community Commercial zoning to the north and the south and to the east and west are residential zoning districts. The subject area contains some existing commercial uses including a mechanic service garage, a trailer and auto service lot and office buildings. A number of residential uses are located to the west of the property. Mr. Cable stated that 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, Community Commercial (CC), which is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan. He said Staff does not support the current rezoning request to Regional Commercial because according to the Comprehensive Plan (CCP) it does not identify a Community Service Center at, or in the vicinity of the Subject Area. According to the CCP, both commercial and industrial 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. Mr. Cable noted that in the report there was a comparison between Community

Commercial zoning and Regional Commercial zoning. He stated that applying RC zoning to the area would not allow for the following uses allowed by Community Commercial such as hospice residential care facilities, rooming and boardinghouses, single-family dwellings accessory to a principal business, marinas, recreational vehicle parks, riding stable, adult day care facilities, swim and tennis clubs and yard sales. He said currently there is not an adjacent Regional Commercial zoning district and within the County all RC Zoning Districts are located at interstate interchanges, so this one would be the only one without an interstate interchange. He stated that a total of 3.15 acres of the 15.48 acre Subject Area falls within the 100-year floodplain. He said that should the Technical Review Committee be inclined to recommend approval of the request, Staff recommends that the Subject Area be modified and expanded to include two additional parcels to the north, making the expanded subject area part of a larger contiguous Regional Commercial zoning district to avoid a spot zoning concern. Mr. Starr reiterated that this was initiated by Staff at the direction of the Board of Commissioners and that they have already set a public hearing for this case. Anthony Starr first made a motion to recommend approval of the rezoning request from Community Commercial to Regional Commercial provided that the subject area be modified and expanded to include two additional parcels, making the "expanded subject area" part of a larger contiguous Regional Commercial zoning district in order to avoid a sport zoning. After discussion among Board members, they were against approving the rezoning request and expanding the area to include any more parcels because of the flood zone and because Regional Commercial is not suitable for this area. Mr. Starr withdrew his motion and made a motion that the Committee recommend denial of rezoning R-2008-09 to rezone the subject area from a Community Commercial (CC) zoning district to a Regional Commercial (RC) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan.

Rezoning # R-2008-08 and Text Amendment # TX-2008-02 - Adopt finalized Flood Insurance Rate Maps (FIRMs) and make necessary associated amendments to the flood damage prevention regulations of Chapter 200A, Land Development Code - Initiated by Henderson County Planning Staff on April 2, 2008 after the receipt of the Letter of Final Determination from FEMA. Presentation by Planning Department. Mr. Cable stated that the development of new Flood Insurance Rate Maps (FIRMs) is a multi-step process that began for Henderson County in August 2005. These FIRMs were reviewed publicly and, following a formal appeals process, were finalized. On April 2, 2008 the County received the Letter of Final Determination for the FIRMs. In addition, the flood damage prevention regulations of the Land Development Code have been amended to reflect: (1) regulation changes associated with the new FIRMs, (2) changes made to the State Model Flood Damage Prevention Ordinance since the original adoption of the regulations in 2005, and (3) organization of regulations within Chapter 200A.

The County has six (6) months in which to adopt the new FIRMs and text amendments (a deadline of October 2, 2008); however, FEMA recommends adoption earlier in an effort to:

- Prevent suspension from the National Flood Insurance Program (NFIP),
- Allow Federal agencies to approve loans and grants within the 100-year floodplain,
- Make State and Federal disaster assistance available for flood-damaged structures, and
- Comply with the North Carolina Flood Act of 2000.

The adoption of the new FIRMs and text amendments will be under procedures outlined by FEMA, the State of North Carolina, and Chapter 200A, Land Development Code. The adoption is consistent with the Henderson County 2020 Comprehensive Plan which supports "minimizing the potential for damage to personal property, infrastructure, and life due to flooding." Attached for your review are maps showing where the FIRMs have resulted in a flood area reduction and where the FIRMs have resulted in a flood area expansion. He said the table in the memo, provides a comparison of 1982 and 2008 floodplain and floodway acreage which fall within the County's jurisdiction. Overall the regulated area will be reduced by over 32 acres, so we have seen a reduction in the 100-year floodplain and floodway. Mr. Cable stated that attached in the packet, are proposed revisions to Chapter 200A, Land Development Code text which are

necessary for the adoption of the new FIRMs, which includes only pertinent sections which have been modified - those are highlighted in yellow. Most of the changes were related to floodway and non-encroachment area regulations. After some further discussion, Mr. Starr asked the Committee members how they would feel about calling a special meeting to consider some significant changes to the Flood Insurance Rate Maps and amended flood damage prevention regulations of the Land Development Code and have the vote just before the Planning Board meeting, just to cover procedurally and to have the recommendation. The Committee members agreed and a tentative meeting was scheduled for Tuesday, May 13, 2008 at 2 p.m. Mr. Starr made a motion that the Committee recommend approval of Rezoning R-2008-08 and Text Amendment TX-2008-02 to adopt the finalized Flood Insurance Rate Maps (FIRMs) and amended flood damage prevention regulations of the Land Development Code necessary to reflect regulation changes associated with the new FIRMs and changes made to the State Model Flood Damage Prevention Ordinance, and further move that these recommendations of approval are consistent with the recommendations of the Henderson County 2020 Comprehensive Plan. All members voted in favor.

Adjournment. Rocky Hyder made a motion to adjourn the meeting and all members voted in favor. The meeting adjourned at 3:05 p.m.

Anthony Starr, Chairman

Kathleen Scanlan, Secretary