

July 9, 2002  
4:00 PM

MINUTES OF THE HENDERSON COUNTY  
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held a special called meeting on Tuesday, July 9, 2002, at 4:00 PM in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, North Carolina. Those present were: Chairman Diane Grant, Dean Bonessi, Anthony Engel, Robert Fleming, and Zoning Administrator Dan Gurley.

Chairman Grant called the meeting to order at 4:13 PM and introduced the members of the Board. Chairman Grant presented the minutes of the meeting held on May 29, 2002. There were no changes or corrections. The Chairman said that the minutes stand approved as presented.

Chairman Grant called forward people who would testify in cases today. Sworn in were: Jon Laughter and Dan Gurley, Zoning Administrator.

**Case CU-02-10, Dan L. Ducote**

Chairman Grant opened the hearing to the public and called Case CU-02-10, Dan L. Ducote, requesting a Conditional Use Permit to use property in a C-2 district as a shopping center. The property is located on US 64 W next to the Horse Shoe U.S. Post Office.

Dan Gurley gave a summary of the issues. The applicant is seeking a Conditional Use Permit in order to construct a shopping center in a C-2 District. Mr. Gurley explained that Mr. Ducote had been issued a permit for a shopping center in error but he needed a Conditional Use Permit to construct the shopping center. Mr. Ducote's permit expired before any construction was started, so now he has come for the Conditional Use Permit. The approximate size of the property in question is 3.09 acres. The parcel is zoned C-2. Section 200-21.B allows for shopping centers with a Conditional Use Permit in a C-2 district. Section 200-55 dictates the procedure that must be followed in granting a Conditional Use Permit. Section 200-69.C dictates the findings that the Board must have certified before granting a Conditional Use Permit. Section 200-21.C states the dimensional requirements of the district. Section 200-21.D only allows the total ground area that is covered by the building to be 40% of the total acreage. Section 200-40 states that shopping centers are required to have 1 parking space per each 300 square feet of gross floor space. The building area of the proposed project is 23,446 square feet requiring a minimum of 79 parking spaces. The applicant has indicated 92 parking spaces on the proposed site plan thus meeting that requirement. Section 200-40.C states that a buffer strip is required for extending parking into a residential district. As indicated on the enclosed map, a small portion of the property is located in a R-30 district. This area is going to be used for parking only, which is allowed, but the parking spaces would have to stay 30 feet away from the creek. According to the Official Water Supply Watershed Map of Henderson County, North Carolina, the property is classified as a WS-IV. Section 192-13.F(2)(b) of the Water Supply Watershed Protection Ordinance only allows for 24% of the total acreage to be impervious. Pursuant to Section 192-13.G of the Water Supply Watershed Protection Ordinance the applicant applied for and was granted a Special Intensity Allocation to exceed the 24% built upon area to 55%. The uses bordering the property are: gas station to the northwest, U.S. Post Office to the southeast, and open land to the southwest. This application was duly advertised as required in Section 200-55 of the Henderson County Zoning Ordinance.

Mr. Gurley did not have the photographs of the property but described the property as one that has been graded and sat vacant next to the gas station and Horse Shoe Post Office. Mr. Gurley said that he would submit the photos into evidence later.

Chairman Grant asked about the Special Intensity Allocation from 24% to 55%. Mr. Gurley explained that in Watershed area WS-IV allows up to 70% build upon area. Using the total area in

the Watershed District, 10% can be built upon. So 2000 acres can be built upon up to 70% of impervious surface. To date, about 300 acres have been used. This acreage will be used eventually and then only 24% of impervious area will be allowed.

Chairman Grant asked if there were enough area between the creek and the back property line to put the required buffer. Mr. Gurley said that there couldn't be anything within 30 feet of the creek, due to the Watershed Ordinance requirement. So there will be 30 feet without anything from the edge of the pavement to the creek. Mr. Gurley explained some of the zoning history and the fact that he could actually move the zoning line 30 feet. But with the Post Office next to the property and the residential district there, he wanted to leave the buffer strip up to the Board. Chairman Grant said that if the Board required a buffer strip, they could require it along the property line, regardless of where the zoning line is. Mr. Gurley concurred. Chairman Grant said that the place needing a buffer would be the eastern and southern boundaries. Mr. Gurley said that the Board could do that. Mr. Gurley pointed out the nearby businesses.

Mr. Gurley provided an artist's rendering of the shopping center. Chairman Grant said that this would compliment the shopping center across the street.

Chairman Grant asked if there were any questions for Mr. Gurley. Mr. Gurley pointed out that Mr. Laughter provided the building, paved and impervious areas on the site plan.

Chairman Grant called Mr. Laughter to come forward. Mr. Laughter said that he was there to basically answer any questions. He said that the property was on city water and there is a water treatment plant in the back for the nearby subdivision and that is where the wastewater will go, so there will be no septic tanks or drainfields. Chairman Grant thanked Mr. Laughter for putting the areas on the site plan, making it much easier for the Board. Chairman Grant said that the building looked much like the nearby shopping center being built. Mr. Laughter said that he was not familiar with it. Mr. Laughter spoke about the building and said that they would work with DOT for the driveway entrances. Chairman Grant said it looked like there were 2 entrances and you could go through the parking lot from one to another. Mr. Laughter said that you could drive all the way around the building. Chairman Grant said there would be space in the back for loading. Mr. Laughter said yes and dumpsters back there also. Mr. Gurley said that a building of this size requires 2 loading areas (12' x 40'), which can be seen on the site plan.

Chairman Grant asked if there were any questions. Mr. Engle questioned the artist's rendering against the site plan, noting ins and outs on the rendering. Mr. Laughter said that the building is straight although the rendering doesn't show it that way. Mr. Engle said that the rendering was showing the style the building would be. Mr. Laughter agreed. Chairman Grant asked if the building was 23,000 sq. ft. Mr. Laughter said it matches the front of the Post Office.

Chairman Grant spoke about a buffer along the rear and side property line and wanted to know if there was enough room for the specific buffer called for in the Ordinance. Mr. Laughter said that the buffer could be put on the building side within the 30 feet. Mr. Gurley said that the Division of Water Quality actually prefers there to be natural vegetation left in place. So the buffer within 30 feet of the building would possibly be all right. Chairman Grant asked what the buffer looked like now and what is the intention of the owner. Mr. Laughter said that it was grown now and the owner intends to stay away from the creek and leave it the way it is now. Mr. Laughter said that there are trees and natural growth. Chairman Grant said that the Board can make a requirement that the area behind the building from the asphalt to the property line remain natural as it is now and asked if that would be reasonable. Mr. Laughter said that he thought it was reasonable from Mr. Ducote's standpoint. Mr. Laughter said that there was room on the side next to the Post Office for tree plantings if the Board wanted. Chairman Grant said that there should be a buffer strip along the eastern property line next to the Post Office. Mr. Laughter said that perhaps they could be cypress. Mr. Engel said that the Ordinance was not species specific. Chairman Grant said that it said evergreen planted every certain amount of feet. Mr. Gurley read the definition of Buffer strip from the Ordinance. Mr. Laughter said that he thought there would be 10 feet, but some parking spaces

could be eliminated. Mr. Engel asked if the back area was level or would need retaining walls. Mr. Laughter said that the area was level from the asphalt to the creek bed. Mr. Laughter also said that there was no danger of flooding.

Mr. Bonessi asked how the water run-off would be handled. Mr. Laughter said that everything would be pitched toward US 64 from the front and they would put ditches and culverts there. Chairman Grant asked about drainage to the back. Mr. Laughter said that it would go into the 30-foot area before the creek. Mr. Fleming asked if it was a catch basin type. Mr. Laughter said no, since it wasn't into the creek.

Chairman Grant asked if there were any other questions or concerns. There were none and the Chairman closed the public hearing.

Chairman Grant asked for discussion and findings of fact. Chairman Grant said that a requirement be that the project be built according to the proposals and sit plan presented. Chairman Grant said that it appears there will be no health or safety issues that would cause this project, if approved, to adversely affect the health or safety of persons working or residing in the neighborhood. Being on a major highway, it has sufficient egress and ingress on the property. There are no curves, which would make access difficult, and there is a traffic light nearby. Chairman Grant said that all other areas of the Ordinance that are required have already been established and set forth. Chairman Grant asked that the Board consider a buffer strip be required along the property line adjoining the Post Office property and the natural area in the back from the pavement to the Wise property line be maintained in its natural condition for a requirement of the Permit. Mr. Gurley suggested that any parking lights be shielded from US 64. Mr. Bonessi made the requirement that all lighting be shielded from US 64. Chairman Grant asked about the sign. Mr. Gurley said that the sign was actually up to the Board. No one was actually sure where signs were going to be placed. The Board discussed signage on the property and the size not to block vision of the roadway. Chairman Grant asked if the mater of the sign could be left tot eh discretion of the Zoning Administrator. Mr. Gurley said that could be done but asked for some guidelines as to what the Board wanted. Chairman Grant said that it would be at the Zoning Administrator's discretion and comparable to the sign at Horse Shoe Crossing or be non-lighted with indirect lighting. Mr. Engel suggested it not be more than 20 feet high.

Mr. Gurley read the conditions that the Board had discussed: the area behind the pavement remain natural from the pavement to the entire southern Wise property line; a buffer strip along the eastern Post Office property line to be added; the project be built according to the proposal and site plan and not vary; all lighting must be shielded from US 64; sign should be comparable to Horse Shoe Crossing and similar in size or if pole sign, non lighted or indirectly lit, no higher than 20 feet. Chairman Grant said that the Board finds that the project will not be detrimental to the public welfare or injurious to property or public improvements.

Chairman Grant asked for a motion. Mr. Fleming said that with regard to the application of Dan L. Ducote for a conditional use permit authorizing the operation of a shopping center on the property in question, I move the Board to make the following findings of facts: the proposed use will not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use; the proposed use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. Accordingly, I further move the Board to grant the requested Conditional Use Permit with and only to the extent represented in the application with the pre stated conditions. Mr. Bonessi seconded the motion. There was no further discussion.

The Chairman called for the vote. The following vote was taken by a show of hands:

Mr. Fleming	Yes
Mr. Bonessi	Yes
Mrs. Grant	Yes
Mr. Engel	Yes

Motion carried and the conditional use permit was approved with conditions.

Chairman Grant said that since this is a special called meeting, there would be no reports and adjournment would be in order. There being no further business, Robert Fleming made a motion to adjourn, Tony Engel seconded the motion, and all members voted in favor. The meeting was adjourned at 4:45 PM.

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Diane Grant, Chairman

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Joyce Karpowski, Secretary