

CALDWELL COUNTY
Lenoir, North Carolina

BOARD OF COMMISSIONERS
March 11, 2008
6:00 p.m.

Present: Herbert H. Greene, Chairman
Ron Beane
Don Barrier
Faye R. Higgins
Dr. John W. Thuss

Absent: None

Staff: Bobby White, County Manager
Kathy T. Myers, Clerk to the Board

Chairman Greene called the meeting to order and explained the procedure that would be used during the work session to review and consider amendments to the zoning ordinance. He said citizens that signed up to speak would be recognized.

Chairman Greene said the zoning ordinance proposal recommended by the Planning Board for certain changes and those would be the topics discussed during the work session: lot sizes in certain areas, greenways, strategic corridors, and others.

A moment of silence followed to remember the men and women in the armed services as well as Sandra Coffey, a Caldwell County resident who recently passed away; the family of Alice White due to the death of Alice's mother; two Salisbury firefighters who died while doing their duties; and Eve Carlson, the UNC student who was murdered. Following, Chairman Greene led the Pledge of Allegiance.

Jerry Coffey, a Gamewell resident, said he saw the issue as a battle between citizens and builders. He said the issue needed to be handled around citizen input.

Don Kincaid spoke in opposition again concerning the potential greenway/pathway in the Valley, in particular, one provision in the County's zoning ordinance proposal. He said it included the corridor that is about 10,000 feet and runs to the Wilkes County line. He expressed concern about a very professional sign erected on Highway 268 that states future Yadkin River Greenway at the beginning of the 10,000 foot greenway. Mr. Kincaid said he read an article in the Charlotte Observer that illustrated his point about a looming problem that the County could be confronted with in the future. A lady in Huntersville bought a house in the country so that she could enjoy the birds, etc. The City of Huntersville and Mecklenburg County have threatened the purpose for her purchasing the house by proposing to create a greenway through her backyard. He said that although Commissioners say it wouldn't happen in Caldwell County, it could happen. He cited a U. S. Supreme Court decision in which they ruled 5 to 4 that a county could take over a particular property for economic development purposes. He said he trusted the

current board or even the next board but was concerned about future boards. Mr. Kincaid said when you cease to be vigilant to government at any level then you lose your liberty. He said the residents want their properties in the Valley protected and want any references to the greenway removed from the zoning ordinance proposal. He said there were more than 92; in fact, most that been contacted (about 99%) were against the greenway.

Commissioner Thuss moved to remove any mention of greenways from the zoning ordinance as had been presented to the Board of Commissioners. Commissioner Higgins seconded the motion. The Planning Director, at the request of Commissioner Barrier, provided a brief history of the greenway project in Yadkin Valley. The vote was unanimous.

Bill Puett urged Commissioners to adopt the Collettsville overlay district as originally proposed. He said the Collettsville Planning Committee wanted lot sizes based on density averaging and a combination of open space with an absolute minimum lot size. They think lot size density averaging should be 3 acres because if you combine it with 25% open space that they recommend you would end up with 2.27 acre lot sizes. Mr. Puett said the plan was great and they liked the concept that is in the plan for conservation-type subdivisions. Also, they would like the committee to be appointed early on so that they could look at additional subdivisions that come to their area. They would also like not to be limited to just commercial but also to include residential so when a developer comes in they can talk to the committee first and then to the planning board. Mr. Puett said that architecture and land use guidelines for commercial should also be required for large subdivisions/residential. He said steep slopes should be included. He said the committee opposed deletion of open space for large subdivisions but liked the density averaging concept in combination with open space. Mr. Puett said it provided developers greater flexibility. He then provided Commissioners an example of a 100-acre subdivision.

Steve Roberts said he grew up in Happy Valley and owned property there. He said there was a bigger challenge to manage the growth in that area to guard against certain problems, i.e. traffic congestion. He said the area has name recognition throughout the State and known for its beauty. He said there would be tourism traffic, additional residential traffic and it would not take much more development before there would be a need for improvements. He said the historic resources could be negatively impacted by growth and they represented barriers to traffic widening projects. He said the intrinsic value as well as the desire of residents to keep the Valley in tact and maintain its integrity was threatened by growth. He said the plan, in general, was a very good one. In higher densities, he said it was smart to require open space but in the lower part of the Valley he thought minimum lot size would be better as opposed to density averaging. He said he was not opposed to the greenway. Mr. Roberts urged Commissioners to control the overall growth in a bigger picture looking ahead about 25 years.

Chairman Greene reminded Mr. Roberts that currently the County has ½ acre lot size requirements with some exceptions and the issue was to increase the size not decrease the size.

Jesse Plaster reiterated his concern that a good land use plan should be backed up with a good zoning ordinance. He talked about the differences in Yadkin Valley and Collettsville with the remaining areas in the County: uniqueness; historic places, landmarks, difficult accesses, existing natural beauty with scenic rural highways. He said compromise was important

concerning lot sizes. Originally, the committee asked for 5-acre minimum lot sizes with 10-acre minimum lot sizes along the ridge line but a 3-acre minimum lot size was a good compromise. He said he felt the average was not restrictive to developers and that it was much like what developers had been doing in the recent past, i.e. The Coves. He said he supported the density averaging as Mr. Puett had described. Mr. Plaster talked about the affordable housing issue not being an issue due to recent developments that were starting out at about \$150,000 minimum for a lot. He said the family subdivision ordinance was a good way to allow people to transfer their livelihood and history to future generations. Mr. Plaster said he felt the current assets should be protected for future generations as well as all Caldwell County residents.

Liza Plaster, a lifelong resident of Happy Valley, said she lived on a 6-generation farm (only goat dairy in the County). She showed Commissioners a sign that she got from the Arts Council as a result of grants from the National Endowment for the Arts and the Appalachian Regional Consortium to the Arts Council for the promotion of arts and tourism in Caldwell County. She said there would be 26 signs, one as a mile marker at each mile between Highway 268 at the bridge and Wilkes County. She said there had been enough money to purchase 19 signs so far. She said each would be beautiful and unique. A local sculptor, Dean Kurfman from Oak Hill Ironworks in Morganton made them and every single sign would be different. In addition to the signs, Ms. Plaster said the grants helped fund a map that would help people find historic places in Happy Valley. Also, people would be able to listen to a recorded tour while they drive in Happy Valley. She encouraged Commissioners not to exploit the beautiful valley and to keep it in tact so that people could see and enjoy its beauty.

Patsy Yount Clark spoke in opposition to increasing lot sizes. She cited a story about hope and noted the County was dying financially and spiritually. Ms. Clark said an increased lot size would prohibit people from selling their land or giving it to their children. She asked Commissioners to give them some hope. Commissioners informed Ms. Clark that the County's family subdivision ordinance would be an option for her in giving land to her children.

John Corpening said there was a lot of property outside of Collettsville and Happy Valley that was in critical or protected areas. He estimated that within a quarter of a mile from his property, there were 1/3 to 1/2 acre lot sizes. Mr. Corpening said he felt property owners could be penalized if the lot sizes were increased. He said the entire county should not be treated equally, that Sawmills south was completely different from Cheeks Crossroads north and in Collettsville. He thanked Commissioners for the opportunity to speak again.

Tye Bishop said Planning staff and the Board of Commissioners were doing a good job and he would not complain about anything. He acknowledged the proposal took a lot of time and there was difficulty in making decisions about lot sizes. Mr. Bishop said Commissioners knew how the community felt and had the facts to work with in making the decision.

Ed Spivey reiterated his comments during the February 18th meeting. He said he supported the density averaging as opposed to a set lot size. In looking at current developments, Mr. Spivey said it seemed foolish not to come up with a plan to at least meet or exceed that which developers have determined they could already make money at. He said they were proposing a 1.84 minimum lot size and The Coves was a little over a 2-acre minimum. He said affordable

housing was not an issue. He told Commissioners that people he built homes for had moved to this area because the area they came from in eastern North Carolina became so crowded. He said one of the things Caldwell County should look at in the future is that the land is attractive to baby boomers and retirees. He said if planning was done correctly, it would prevent overcrowding of development in the County. Mr. Spivey also talked about the traffic from densely populated areas. He said both Collettsville and Happy Valley had limited access and that the Valley was different because there were mountains on both sides with no way to build roads through the area to alleviate traffic.

Jerry Coffey spoke again about the greenway. He said there would be people down there scanning property in order to break in the house. If you have a Cadillac or Lincoln you would be broken into.

Randy Feierabend said as a result of public comments since the recommended proposal for corridor access requirements, the following changes were made:

- corridor access applied only to major subdivisions;
- any lot of record at the adoption of the ordinance would be grandfathered and would be guaranteed a driveway provided the NC Department of Transportation would permit it; and
- would exempt family subdivisions which were, generally, exempt from most requirements.

Mr. Feierabend provided the added language to explain the position since originally recommended and the beginning of dialog.

Jesse Plaster said he was opposed to the corridor proposal because he thought the driveway separation was important especially in the rural areas along the strategic corridors. He was concerned about future subdivisions and said he felt any new subdivisions, minor or major, should have the same requirement of 300-foot separation.

Commissioner Thuss challenged the Planning Board to go back and look at intermediate subdivisions at some point in time. There was discussion about the definition of minor subdivisions and major subdivisions. Commissioner Thuss said he felt it would be unfair to developers of minor subdivisions to be required to have 300' separation of driveways. Following discussion about strategic corridors, Commissioner Thuss suggested that proposal also go back to the Planning Board.

Mr. Feierabend provided the changes Commissioner Thuss, primarily, suggested concerning minimum standards on homes in R-20 districts. Following discussion about manufactured homes and where they were permitted, Commissioner Thuss moved to approve the following language to page 61 of the proposed zoning ordinance. Commissioner Beane seconded the motion and it carried unanimously.

*Single family site built dwellings and modular homes; exclusive of manufactured homes.
All homes must be off-frame construction with masonry foundation finished with brick,*

natural or cultured stone, stucco (painted or unpainted), or masonry finish. Painting of concrete block as a final surface foundation is prohibited.

Commissioner Thuss said there was a lot of talk about land strips and airports. He read the proposal for page 81 of the zoning ordinance which would allow airstrips by right in RA-20 districts if certain standards were met. He said the provision would allow a property owner to have a grass landing strip in an RA-20 zone. Commissioner Beane said he could support it if the airstrips were limited to residents in Caldwell County.

Tye Bishop said he thought the concept of the proposal was to prevent jet aircraft but asked that Commissioners not restrict people from paving the airstrips or the 3000' maximum.

Jesse Plaster said his issue was an airstrip being an amenity to a residential development. He cited an example of a development consisting of 1,000 people where 25% of them may own airplanes and how much noise/traffic it would generate. He cautioned Commissioners not to give so much flexibility.

Commissioner Thuss moved to approve the proposed language with the changes as suggested by Commissioner Beane. Commissioner Beane seconded the motion and it failed by majority vote. Commissioners Greene, Barrier, and Higgins voted in opposition.

Mr. Feierabend introduced the second paragraph of the proposal related to private airstrips. Discussion followed. Commissioner Barrier moved to require a conditional use permit for any landing zones, airstrips, or pads for any aircraft, except for agricultural or emergency aircraft. Commissioner Thuss seconded the motion and it carried unanimously.

Mr. Feierabend also introduced a provision to give partial exemption for Caldwell County public safety and emergency towers. Following discussion, Commissioner Barrier moved to approve the following language in Section 90G.23 of the zoning ordinance. Commissioner Thuss seconded the motion and it carried unanimously.

Wireless Telecommunication Facilities owned and/or operated by Caldwell County (including) its law enforcement services agencies) or a private tower owned and operated by a third party that has, as the primary part of its request, a public service or emergency services component. The above towers are allowed in all zoning districts, and are otherwise exempt from the requirements of Section 90G, except for Section 90G.8 (Maintenance/Removal Agreement) and Section 90G. (Abandonment and Removal). Co-location is allowed but may not be the primary reason for the request. Location and height of facilities must be approved by the County Board of Commissioners. Towers owned and operated by Caldwell County do not require a public hearing. Private third party towers do require a public hearing before the County Commission prior to permitting and approval.

Commissioner Thuss said he wanted to address lot sizes in the balance of the County. Mr. Feierabend read the following recommended proposal. Commissioner Thuss moved to approve the proposal as read, Commissioner Higgins seconded the motion, and discussion followed.

Lot Size – Balance of County

Without Water

- 1.25 acre density average
- 1 acre minimum lot size (same for minor)

With Water

- 1 acre density average
- .75 acre minimum lot size (same for minor)

John Corpening said he did have water on his property and did not object to the lot sizes proposed by Commissioner Thuss.

Commissioner Thuss moved to amend his motion to require lots without water to be at least .75 acres with a 1-acre density average in both minor and major subdivisions and to require lots with water to be at least .5 acres with a 1-acre density average in both minor and major subdivisions.

Steve Roberts said he used to provide consultation to developers and obtain environmental permits for water line systems and sewer systems (several throughout the State). He said if water is provided developers would take advantage of the smaller lot size and there would be a lot of septic system failures. Mr. Roberts said there would be a lot of expense to the County involved with providing water. He suggested to decide lot sizes using the number of bathrooms or whether they had washing machines that use about 75 gallons of water per wash load. He gave examples of subdivisions that you could smell or see that there were failed septic systems because of the dense population. He said he understood the need to maximize property use; however, as the threshold was reached a sanitarian's opinion should be required. Commissioner Thuss said State regulations determine the size of the septic tank and the number of bedrooms was the determining factor.

The motion to amend carried by majority vote with Commissioners Beane and Barrier voting in opposition. The motion, as amended, carried by majority vote with Commissioners Beane and Barrier voting in opposition.

Mr. Feierabend read the lot sizes proposed for planned unit developments (PUD's) in the Mountain, Collettsville, and Yadkin Valley and for planned unit developments in the balance of the County. Commissioner Higgins questioned why the lot sizes for PUD's were required when the requests all have to come before the Board of Commissioners for approval. Mr. Feierabend explained the reason for proposing lot sizes; however, Commissioners took no action regarding the proposed PUD lot sizes.

Mr. Feierabend also read the lot sizes proposed for the Collettsville and Yadkin Valley areas.

Jesse Plaster said the Yadkin Valley committee wanted a 3-acre density average. Commissioner Higgins moved to require lots in Collettsville (except the Wilson Creek area in the moratorium) and Yadkin Valley with or without water to be a 3-acre density average with a 1-acre minimum, lots with water to be a 3-acre density average with a 1-acre minimum, and lots in minor

subdivisions to be 3-acre minimum. Further, that family subdivisions and lots of record were exempt. Commissioner Thus seconded the motion. Discussion followed about defining the area described as Collettsville and Yadkin Valley.

Bill Puett said when the overlay district was originally proposed it included the four townships (Globe, Mulberry, Wilson Creek, and Johns River) and called the Wild and Scenic River; however, it was deleted in the last proposal. He reminded Commissioners that he earlier recommended the district be changed back to the original Wild & Scenic River.

Mr. Feierabend said the boundaries had been well defined by the overlay district maps and the planning committees were aware and approved the district areas. He said the ridge law would prevent building more on the ridge line.

The motion carried by unanimous vote.

Commissioner Thus requested the Planning Director to make the changes to the zoning ordinance as approved by the Board of Commissioners and include it on the April 7th consent agenda for Commissioners to adopt it in its entirety and to make it effective at that time.

Regarding lot sizes in the mountain area (all areas north of Highway 268 not in Collettsville/Yadkin Valley), Mr. Feierabend read the proposal. Commissioner Higgins moved to require the same lot sizes as in Collettsville and Yadkin Valley, lots without water to be at least 3-acre density average or 1-acre minimum, lots with water to be 3-acre density average or 1-acre minimum, and lots in minor subdivisions to be a 3-acre minimum.

Tye Bishop said the steeper areas would be self dictating on lot sizes because of topography. They would require more area for septic tanks and building. Discussion followed about obtaining input from individuals in the mountain area about their wishes.

Chairman Greene expressed concern that action taken had caused the price of a lot for someone to build a home to increase six times, making it harder/less possible for someone to be able to afford a home. He said he had a real problem with causing the cost to increase. He said smart growth, when he first became Commissioner 12 years ago, was defined as clusters of homes to prevent development from spreading out and taking up the entire area. Now, with the action taken by the Board of Commissioners this evening, Chairman Greene said it was causing just the opposite.

Following discussion, Commissioner Higgins withdrew her motion until input by citizens in the mountain area had been obtained.

Commissioner Beane moved to table the issue of the mountain area and Commissioner Barrier seconded the motion. The vote was unanimous.

With no further business to discuss, Commissioner Higgins moved to adjourn and, by unanimous vote, Chairman Greene declared the meeting adjourned at 8:35 p.m.