

# JACKSON COUNTY PLANNING BOARD

## MINUTES

<b>Date:</b> February 8, 2024								
<b>Time Begin:</b> 6:07 p.m.								
<b>Time End:</b> 8:19 p.m.								
<b>Location:</b> Department on Aging, Heritage Room								
Members	Present	Absent		Present	Absent		Present	Absent
Emily Moss	X		Nathan Shepherd	X		Elmer Rhodie Humbert		X
Brian Barwatt	X		Ollin Dunford	X		<i>Vacant</i>		
Adam Holt		X	Joyce Cooper	X		<i>Vacant</i>		
Ken Brown		X	Beverly Crespo	X				

**Staff Present:**

Michael Poston- Planning Director  
 Anna Harkins- Planner I  
 Allison Kelley- Administrative Assistant III  
 Tony Elders- Permitting and Code Enforcement Director

**Call to Order and Quorum Check**

Vice Chair Nathan Shepherd called the meeting to order at 6:07 p.m. and a quorum was present.

**Approval of the Agenda**

Brian Barwatt made a motion to approve the agenda as written. Joyce Cooper seconded the motion, and it carried unanimously.

**Approval of the Minutes**

Brain Barwatt made a motion to approve January 4, 2024 minutes. Beverly Crespo seconded the motion, and it carried unanimously.

**Public Comment**

There were no public comments.

**New Business**

**a) Floodplain and Building Code – Tony Elders**

Mr. Elders stated he is the director for the Jackson County Permitting and Code Enforcement, and has been for 25 years, they use to have only have building inspections in around 2006 and then finally appointed official Planning Director. Prior to that, the erosion and sedimentation control this was handled in building inspections as well as floodplain, and that was all the ordinances we enforced, as there was not many prior to 2005. In 2007, the established Planning Department created an ordinance called the Mountain and Hillside Development Ordinance and a Subdivision Ordinance. Around this time at a Commissioner meeting, they discussed and used the phrase having a moratorium on new subdivisions until they could finalize that ordinance.

Mr. Elders stated this got out of hand and they held a public hearing for those ordinances at Southwestern Community College it overflowed the auditorium, and there were 200 Dump trucks lined up to protest. As a result, they could not get anyone to apply for the positon of Land Development Administrator, and that is how he filled that position, and then later they combined

and reorganized departments, the Planning Department had changes and the Permitting and Code Enforcement Department was created. Mr. Elders stated they are responsible for the building code enforcement in the County and all the municipalities, and there is 14 volumes of the building code and about 500 reference standards in those building codes they enforce and have to keep up with. In addition, the department also enforces the floodplain administration, and every County that participates in the National Flood Insurance Program has to have a designated floodplain administrator and to get to that level of insurance in our County, you have to have a certified floodplain manager and we have Mr. Elders and two others to do that in his department.

Other authorities his department has are sedimentation, road controls, mobile home parks. Over the last four or five years they have very little new manufactured home parks. However, they have had some older manufactured home parks that have replaced one or two units, but he believes land has become more valuable where there is water and sewer available. In addition, he stated most people are not putting up a manufactured home park if they are doing apartments because you almost have to have sewer to get a manufactured home park of any size and place in the County. The National Flood Insurance Program requires if you use their model ordinance is that you have to build your lowest finished floor at the base flood elevation. In 1998 Jackson County adopted a two-foot freeboard in the ordinance, which means that the lowest finished floor has to be two feet above the base flood elevation and it reduces flood insurance costs greatly for people that need flood insurance. If Jackson County chose not to participate in the National Flood Insurance Program, no one in Jackson County could buy flood insurance. Mr. Elders stated that was the case in Swain County until about 10 years ago, as he is asked how do they live in Swain County with those campers on the river because they got washed away. Until Swain County chose to participate in the National Flood Insurance Program, people could put campers where they wanted. This was not good when they had a bad flood as many people had damage and had no recourse because their homeowners would not cover it because you cannot get flood insurance on a regular homeowner's policy; you have to go through the National Flood Insurance Program.

Jackson County's ordinance is the state and federal model ordinance with the exception of the two-foot freeboard, and they adopted the national model flood ordinance. In addition, they adopted the state model for the County's sedimentation and erosion control ordinance, and they have a delegated local program for sedimentation erosion control that started in 2000 and are required to have certain language in the ordinance. From 1976 to 2000, the state were the only ones that enforced erosion control in Jackson County, and most rural counties in North Carolina as most rural counties had not volunteered to be a delegated local program and hire staff to enforce that program. In 2000, the County started with one person and they now have four people that are fully dedicated to sedimentation erosion control.

Last year, the Department processed approximately 314 new home permits, and approximately 800 or 900 land development permits with some form of grading involved that may have not been placing a structure on but could have been just putting in a driveway, a house site, or a new road.

One difference the County does with the sedimentation erosion control ordinance is the main enforcement mechanism that is built into that state ordinance is a notice of violation. If we issue through that policy and notice of violation they changed the rules to where they have to hand deliver it, and they have to make at least two attempts to hand deliver it and send it registered mail and the property owner has 30 days to respond. However, if there is mud running into the river and continues to during those 30 days, they would begin to issue fines, which the fines go to the state and Jackson County does not get to keep those fines.

In 2007, they had an earthen dam built on the Balsam Mountain Preserve golf course that was built without a permit and it broke during a flooding event and flooded Scott's Creek and damaged all kinds of properties all the way to Dillsboro. Mr. Elders stated they issued a \$300,000 in fines for the violation, and the attorneys got involved and negotiated the file down to \$180,000 and the money with to the state even though Jackson County's enforcement officers did all the

work. During that time, the Commissioners gave the Department other enforcement mechanisms for erosion control, including if you are building a house or a building they can hold up your building inspections if you have an erosion control violation. This violation typically get their attention because most builders their money is tied to an inspection and it has been very effective for us. In addition, they also can hold up their certificate of occupancy. The first inspection you have to have on a new house site is an erosion inspection before we will do a footing inspection or a temporary pole inspection. Those enforcement mechanisms have helped tremendously as the employees would be really deflated because there were two at the time that is no longer with the department, and one is still working part-time that did all that work in Balsam Mountain Preserve. Those employees felt they did the majority of the work for the state to come in and take the money, as they were no help in the situation. Mr. Elders stated apart of his job is being the complaint officer for Jackson County, and he receives a lot some of them are valid and some are not, but they keep a log and on average they have about 6 new complaints a week. Once these complaints are received, someone from the department has to go out to investigate and take pictures and he does not have enough staff to complete these investigations as quickly as they would like too and have been told by current and previous bosses to focus on those buying building permits as they were paying most of their salaries.

The erosion control ordinance is geared to the land development, land disturbing activities, which is generally new grading and construction, and the only section that deals with existing places is offset sedimentation or stream sedimentation but majority of the time it happens it is related to the construction site. In addition, he stated there are some things within the ordinance that are exempt that frustrate them, for example the agriculture is exempt and they can plow a field next to the river and it can flood everyone and they cannot do anything thing about it. Mr. Elders stated he has to contact and turn it over the department of agriculture and they basically never do anything about it. In addition, utilities are all exempt including the power company, railroad and any authority over them for land disturbing activities. Department of Transportation has their own local erosion control program, and he has more trouble with them than anybody as they regulate themselves.

He stated when the bridge project R-5000 on Success Way there was a ton of dirt came out of that road that goes to Southwestern Community College (SCC), and a lot of that went up to a location on Locus Creek, and polluted Locus Creek because that was a waste site for DOT, which the County did not regulate. After not receiving response from DOT, they created a River Watch that made a lot of difference where the erosion control officers would go out every workday unless there is something unusual going on to put eyes on the major tributaries and take pictures of the major tributaries that go into the Tuckasegee River. These tributaries start out at the county line in Whittier to the forks of the Tuckasegee, and he also has an inspector in Cashiers that does the major ones up in that area. In addition, he stated they do not generally take pictures from the forks of the river into Tuckasegee to Glenville unless we see mud in the river and they try to track down where it is coming from. The pictures are dated so when they get phone calls regarding the river being muddy they can at least provide information that at such time and date it was clear and that is the best they can do. Mr. Elders stated they did track and send pictures to DOT regarding the Locus Creek project, which helped them to start cooperating and get a response. He stated logging activities are exempt and are regulated by the North Carolina Forest Service, and they have a few best management practices and it is one of the most understaffed state offices he believes in the region that includes Jackson, Macon, and Haywood counties that have around 23 job openings.

Ms. Crespo inquired if Jackson County had the ability to develop our own standards regarding logging or others if they are occurring within the County. Mr. Elders stated the state statute prohibits the County from having a more restrictive sedimentation and erosion control ordinance than the state. Mr. Poston stated the state has given the County the ability to be more restrictive on the level of acreage of disturbance that we start to ask for plans. Mr. Elders stated

they gave the County that ability before they cracked down on those restrictions and he does not believe they could do that now. In addition, he stated the state law ordinance states that anything that disturbs more than one acre or more requires an erosion control plan, and the County has reduced ours to a half acre or more 15 years ago. After they had adopted that requirement, the state passed a statute; he believes it is in the administrative code that states they could not adopt an ordinance more restrictive than the state for sedimentation and erosion control. Mr. Poston over the years, the Planning Board has looked at the sedimentation and erosion control, not so much on the standards but on the process and they have improved the process. Recently they changed the language they did not have to stabilize the ground throughout the grading process until they were in the completion of any phase of grading. The new language added was that no ground could be exposed for more than seven days of ground disturbing activity, be provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. These changes has helped the enforcement officers regulate erosion and give them better management practices.

Mr. Elders stated his department is audited twice a year from the state, and all that they were worried about was why we were not issuing more fines, as they wanted more money to keep their jobs in Raleigh. In addition, he stated they have a mechanism now not to do that because the County Commissioners do not want to issue fines that the state get to collect and if they want to issue fines the state should come to the County to do the work to issue those fines. Mr. Elders stated the state is also making the departments office personnel do all kinds of reports to document our stuff that they do not even do at the state level. Mr. Shepherd stated it is more aggressive in Jackson County compared to Macon County they do not require you to have an erosion control permit before you pour footers. Mr. Elders stated in Jackson County they would see erosion control inspector before a building inspector on almost any project. In addition, he stated they have no authority on state construction projects and there was a landslide in 2019 that made a rental building come off its foundation below from the WCU Millennial Apartments construction site. The County did not inspect that site as it was a state university property, and the officer came from Asheville to inspect the site, they had a pre-construction meeting in February and by Halloween that house was knocked off of its foundation and they had not been back since then. Mr. Elders stated one of our worst polluters was right in the middle of Western Carolina University's campus when they took down Scott and Walker dormitories and built the three new dormitories, there is a small stream that ran down by the track and ran into Cullowhee Creek and it was red and muddy every day. Cullowhee Creek runs into the Tuckasegee River and he received calls regarding the mud in the river and his department documented with pictures to forward over to the state office to get someone to come out to the site. Ms. Crespo inquired if Mr. Elders knew of any counties in North Carolina that have brought that back in house to regulate. Mr. Elders stated he did not know if any counties that have got the state to accept that, as the state is very firm on that control and have a Sedimentation Pollution Control Commission (SPCC) and they are all political appointees that sit on that commission.

Mr. Elders stated Jackson County is stricter than most counties such as Wake and Mecklenburg County. The tools department were given from the Commissioners that allow them to if there is a building involved they can hold up electricity to their property, etc. However, if it is raw grading and no building is involved, it takes a long time to get results, but the ones they have worked with regularly that they have developed a relationship with it is easier for them to see results sooner.

Mr. Poston inquired from Mr. Elders regarding floodplain with the building code, erosion control or manufactured home parks if he sees anything in the ordinances or administration that that could be improved.

Mr. Shepherd stated he had a question regarding the floodplain, and there is a neighborhood with a couple of churches in Sylva near the community garden that is within the floodplain. For example, he stated if someone who owned one of those homes and wanted to have

an addition, oftentimes the finished floor would be several feet, even 10 feet over the existing finished floor level, which is extremely costly. Mr. Elders stated that neighborhood is difficult to build anything in and he believed they did the new flood maps in 2010, and that flooding was caused by that small stream that was supposedly not being able to get into Scotts Creek. Mr. Shepherd inquired if they should consider dropping the two-foot freeboard requirement to zero. Mr. Elders stated he would need to talk to the Town of Sylva because they have their own ordinances, and they have mimicked the County ordinance standards. However, if the Town chose to make that amendment to help that one neighborhood that is a large portion of the Town and they might want to consider that. Mr. Poston stated they need to consider that the two-foot freeboard allows us to achieve a better rate of insurance for people that are in the floodplain. Mr. Elders stated someone would need to do research on the insurance side and how much difference that would make, is it 5% or 40% on a flood policy, we would need to know that answer. Mr. Poston stated another concept that would bounce between expansion of an existing footprint is that the idea is coming into more focus with the Pigeon River flooding and its resiliency in encouraging people to build in these areas that are more susceptible to natural disasters or prone to flooding is something they could explore. In addition, he stated there is a benefit to having a two-foot freeboard is that is less likely that a new structure would flood in a given event because that gives two additional feet for floodwaters to get beyond the 100-year floodplain. The 100-year floodplain elevation is an engineering tool, which means that within the 100-year recurrence interval that a flood of that magnitude has a 1% chance of occurring in any given year. Mr. Shepherd stated his reason behind the question that for affordable housing they are limited by the slope, ridge, floodplain, topography, water and sewer. He inquired how reasonable is it to say one-foot freeboard, and how many dozens of homes then get out of the floodplain, and they have no flood insurance. Mr. Elders stated he believes the number for Jackson County was 217 flood policies, and there is a different number for each town. However, he stated that might be something that the Board of Board of Commissioners wants to consider looking into, and he would suggest to mention that to the Town of Sylva Board or their Planning Board. Mr. Elders stated they could not reduce the base flood elevation.

Mr. Elders stated they consolidated some statutes and generated 160D, however, prior to 2019 the unsafe buildings condemned statute for counties was 153A-366. The statute gave the authority as a building inspector to condemn buildings that are especially dangerous to life because of its liability to fire, bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes. Municipalities statute prior to 2019 before 160D was adopted was 160A and there was language to allow for adopting minimum housing codes, and the town has somewhat of a minimum housing code, however Jackson County does not. The housing code is different from other larger cities where they have a housing officer that goes out to rental properties and does regular inspections. In addition, he stated there is language in 160D that does not allow County to adopt any periodic inspections on existing one and two family homes unless the County goes down that road of adopting a minimum housing ordinance. The statutes are now under 160D-1119 and they added language regarding non-residential buildings or structures that are within a of community development target the area, and gives the authority to go into old abandoned factories, etc. He stated the County does not have a lot of old abandoned non-residential structures like a city would. Mr. Elders stated once a building or structure gets to the point where he has to post a condemnation notice, and they refuse to do something about and get it to a state that they do not think that it is especially dangerous life it is turned over to the hands of the County attorney. In addition, he stated he does not have the authority in the County to order a building to be demolished, as it has to get in front of a judge.

Mr. Elders stated there was a case about 10 years ago, that he thought was going to be danger to children if they got in there it might fall, and the property had posted No Trespassing signs. He stated that case was knocked down in court because they said it did not endanger

children, because they were trespassing and should not be on the property. He stated once it gets passed to make that determination, as it is a high threshold to say that building is especially dangerous to life, and they get interpretations from folks at the state level about how far to take that without a minimum housing ordinance as that gives you more teeth.

He stated there is a lot of work involved with condemnation of a building and he has only had two that made it all the way through to being demolished in the last 25 years.

In addition, he stated he has tried to work out for people that are unable to get that done themselves he tries to connect them to the fire departments to see if they would offer to burn the structure, however, they usually have to get asbestos abatement done which is expensive and sometimes holds that up. If the County wanted to go down the road that might be something for the Board of Commissioners or Planning Board to recommend if they want to go down the road of recommending County funds to help people that could not get an asbestos abatement or the County could consider paying to get rid of an unsafe building. The condemnation is the beginning, and it takes typically a year if you go all the way through the court system to get just one structure order to be demolished. The last one he did was about eight or ten years ago and the County went ahead to demolish the structure and then hold a lien against the property.

Ms. Crespo inquired about the status of the old land store building. Mr. Elders stated he has gotten the fire department to agree to burn that building as it is dangerous and would be good training for his department to burn a house close to other houses. Ms. Crespo stated that building is very dangerous and she believes there is an EPA situation and inquired if it is now a time to bring the state in. Mr. Elders stated the state might have to come out, however he has been waiting on our next County attorney as the next step he needs to take involves the County attorney. In addition, he stated when they had a full-time County attorney they would go talk to the Assistant District Attorney that would help move it along. There is a new County Manager coming in, and the previous County Manager did not want him to use the consultant County attorney for that because they are very expensive.

Ms. Crespo stated she had been reading other ordinance in another county that was not in North Carolina, but there was an idea that states that it cannot be inhabitable, and they have a right to make it useful again, that they have to bring it up to building code standards. She inquired why they could not take a reverse to make it safe rather than tear it down.

Mr. Poston stated that goes back to the idea of minimum housing, and there is 26 counties in the state of North Carolina counties, it breaks down that 13 are urban counties 13 are rural counties. He stated he believed one of the more prohibitive portions of that is the counties having the capacity to actually run a minimum housing program, as they would need more staff and time for the ability to go administer that program. The program would take a lot of time just like how much time it takes to condemn a building, there are many checkpoints along the way. They have to determine why it is an unsafe building; an example is that it could be that people could get into the building because there is no windows, and to satisfy that concern they put plywood over the windows. Mr. Poston stated he is unsure if that gets to the crux of what everyone see is the issue with the building to make it safe, and it does not necessarily remove what the community is most concerned about in that regard. In addition, he stated they could look into that further but that would be a bigger conversation, and a part of that of that conversation is the County does not have anyone that does housing, code enforcement. The current Permitting and Code Enforcement Department have 390 new residential units a year that they are spread across the County. Mr. Elders stated he does not have any employee that specialize in housing code, they are only specialized in statute work and building codes. In addition, he stated housing code enforcement they would need to know how to do notices of violation and serve administrative warrants, and many of the places he knows of that has housing code enforcement they are successful and have retired law enforcement officers do that work as it is more related to law enforcement than a building code inspection. Mr. Elders stated the County would need to hire staff to administer the minimum housing program and they would need to have law enforcement training.

In addition, he stated the last 15 sessions of the legislature have had at least bills introduced and most of the time passed that addressed how we enforce building code in North Carolina. Mr. Elders stated it struggle to keep up with those new bills, as they do not send an email with those updates, they have to find them, research and study them on their own accord and implement them.

The North Carolina Homeowners Association has very powerful lobby and that group has got more powerful over the last 10 or 12 years. In addition, he stated there is about five state senators and six or eight house representatives that are licensed general contractors in the legislature, and that is where all these bills are generated. It is apparent they want less enforcement, as they use to do an average of about 19 required inspections on a new home that we can only now require 7 inspections. Mr. Elders stated they could not require they have a separate shower pan inspection, which is what they use to do, but they can offer it as a service if people want that.

Mr. Poston stated the County is currently undertaking a housing study with the UNC School of Government and they have brought some of their housing experts to our County to help us evaluate the current status and ideas to help us think about that. Mr. Poston stated they could use that as a tool in conjunction when starting to consider minimum housing. In addition, he stated the state had a scattered site housing rehabilitation program, and they would use federal dollars, and every three years, each County would get four to six to \$800,000, for low-to-moderate income families that we could identify that could meet the qualifications required by the federal government. Mr. Poston stated they could help rehab those homes for those individuals so they could stay in those home, and most of the time they are elderly and do not have the ability or the means to rehab the home. The program helps keep people inside their homes and makes them safe, and it means that house can be the housing stock and remains in circulation in the County. For example, if that property owner is moved or transitioned to a care facility or they pass away or it is turned over to their relatives that house can be used as a house again. That program is no longer available to us at the state level, and the County is beginning to think about all these different aspects that we may be able to achieve. In addition, some of that may be continuing to work with the Mountain Projects to identify those homes that are in poor condition that might be able to be rehabbed and reused in the housing market, which helps our affordable housing stock. Typically, the reason that 73 counties are not implementing the minimum housing program is because of the capacity within their county to manage the program. In addition, he stated he would not be surprised if they were to open up that program they would likely get hundreds of complaints, and he believes Mr. Elders already gets complaints along those lines that they have to go out and investigate. Mr. Elders stated 1 out of 10 turns out to be a valid complaint, and quite often, he gets into a neighborly dispute where the one making the neighbor that made the complaint is doing just as much wrong as the neighbor they made the complaint on.

Mr. Elders stated his main office administrator Tiffany Qualls made a brochure on tiny home regulations in North Carolina that is on their website. There are three ways you can do a tiny home legally, one is an RV, which is a park model trailer that is built on a RV regulation, or you can building one on a trailer and you have to have the electrical inspected or you can build a very small house that meets the building code. He stated if he were to build a tiny home, he would build a very small house that meets the building code option, as it would be worth more when they sell it. Those that are stamped RV they only inspect the cord and plug connection and the sewer. In addition, the tiny home that is built on a trailer must be tagged as a trailer and they inspect the wiring inside it.

Mr. Elders stated the process of the condemnation of structures is frustrating and takes a long time, and the County would have to consider if it wants to go down the road of a minimum housing program. In addition, they would need to be prepared to fully staff that program, whether it is a department allotment or law enforcement it would likely take six or eight fully trained people. In addition, he stated The Town of Sylva has a minimum housing ordinance unless they

have changed it in the last year they copied and pasted from somewhere that had things in there like clean toilet fixtures, screens in place, which would be a lot to keep up with and his staff could not keep up with all of that. Mr. Elders stated to make sure they focus on the safety aspect as when they start talking about cleanliness that is quite often an opinion unless you have a standard you can adopt or something. Mr. Poston stated if the Board decides to discuss this, they would need to identify what exactly they are trying to address and make sure that they are applying the correct solution to that, as they would start to see other issues surrounding housing. He stated he would agree that there is a lot of housing they may could improve their housing stock and basic quality of life for people if we could address some of these issues, but tearing it down the issue is gone but we now have one less housing unit. In addition, he stated how do the couple that with some other policies that may improve that housing situation or give a pathway to that so that we are not losing housing stock, he believes it is a bigger issue than just county zoning. In addition, it would likely engender a lot of emotional response to because we would be coming in and telling people that we do not think the house is safe to live in. Mr. Elders stated if they could speak to the County Commissioners to get a full-time County attorney that would really help him regarding condemnation of structures. In addition, he stated they have had consulting attorneys before usually in Sylva but they currently have them in Asheville and they are very expensive and previous administration did not want them to contact them for much. Having an in-house County attorney, they would get an answer usually the same day instead of one three weeks later.

Mr. Poston stated the UNC School of Government is presenting Tuesday to the Board of Commissioners about their initial housing assessment in the County and it would be live-streamed on the county YouTube page at 1:00 p.m. This presentation will be the first step in these conversations regarding housing and what does the County have the ability to do and consider for the County as a whole.

In addition, he stated UNC School of Government is located in Chapel Hill and it is an outgrowth of their legal department and their regional plan, and their whole existence is tied to helping local governments with complex legal updates and questions. Mr. Poston stated his department uses them for land use situations and Mr. Elders department likely use them for some sections of his statues. There is the Development Finance Initiative, and they partner with counties to work through housing needs assessments. This group can get down to the point where if the County had piece property, and they want to do something with housing on it they can help go through the whole process of how to get RFQ out to maybe make that a reality. The County has asked the group to do is come in and really talk about our housing needs and what types of things the County can consider to help address what they can do to help address the housing need. In addition, he stated they do charge a fee but Dogwood Health Trust has given a grant to the County to help set us on a path to addressing our housing needs more comprehensively as a County.

Mr. Elders stated his opinion on the condemnation and whether or not it is minimal housing, it is mentioned that the County might adopt an ordinance, they have not done that and it just addresses abandoned buildings. However, this would need to be looked into by the County attorney if they could develop that to make more specific language than what our ordinance says then the County may hire an enforcement position when adopting the ordinance where they would focus just on that enforcement. That language could be in an ordinance that is not a minimum housing ordinance. In addition, Mr. Elders stated it would be helpful if the County would hire a consultant attorney that just specializes in both Planning and Permitting & Code Enforcement.

**b) Manufactured Homes Discussion**

Mr. Poston stated 160D-910 gives the County the authority to address manufactured home parks, and some of it is really specific to zoned areas. The purpose statement is that the General Assembly and says we believe that the local government should be able to adopt some



regulations regarding manufactured housing. In addition, it also includes municipalities and jurisdictions and says that the General Assembly still believes that manufactured housing is a key part to our housing issues, and this does not mean that they do not want you to not allow manufactured housing anymore. We can address things like placement, basic standards, and maybe some architectural standards. In addition, the state statute and the court system will not support prohibiting manufactured houses to where we would not allow them anywhere.

#### **Manufactured Home Parks in Jackson County**

- Originally adopted in 1995, updated in 2000 (Section 6.3).
- Enforced by the Code Enforcement Department.
- These regulations set minimum standards for the development of manufactured home parks based on the number of units in the park.
- Regulations only apply to parks that were created after 2000.
- If existing parks expand after 2000, the site would have to come into conformance within 5 years.
- Replacing an existing manufactured home in a park is not considered an expansion.
- All parks shall post a permanent identification sign at the entrance.
- Owner/operator of the park is responsible for the maintenance of the park.

If there is an existing manufactured home park that predates 1995 it is considered legally non-conforming, and we recognize its existence if it was built, and we can document that it has a certain number of spaces, our ordinances will still allow you to fill those number of spaces an update and switch out with a newer home. In 2000, they made some more modifications and created levels of manufacturing home parks, and at each level, there is different and additional standards for the bigger the park. In addition, he noted if a manufactured home park is within the city's jurisdiction, those rules do not apply as they have their own ordinance.

#### **Three Levels of Manufactured Home Parks**

- Level 1: 2-11 units
- Level 2: 12-24 units
- Level 3: 25 or more units

#### **All Levels Requires:**

- Potable water supply
- Sewage disposal
- Identification # (address)
- Buffer if park is within 200 ft of residence, unless residence is at an elevation that would render vegetative buffer ineffective
- Two parking spaces per unit
- Setbacks of 15 ft from property boundary line (unless property is in common ownership)
- Units setback 30 ft from each other
- Must comply with Floodplain standards
- Units must be stabilized (straps, anchors, etc. per code)
- Units must be underpinned within 90 days

#### **Road Standards**

- Level 1
  - Roads shall be constructed with drainage systems that prevent water from standing or pooling in the road, shoulders OR minimum construction standards for secondary roads adopted by NCDOT.
- Level 2 – In addition to Level 1 standards
  - Interior roads shall be constructed with an all-weather surface that is at least 12 ft. wide, with 4 ft. shoulders.
- Level 3 – In addition to Level 1 and 2 standards, Level 3 parks shall provide

- Turn around areas at the end of the road. For bulbed turn-around a diameter of at least 40 ft. is required.
- All roads or portion of roads with a slope of 15% or more shall be paved with asphalt or concrete.
- Have 30 ft. of frontage on a state road or have a shared drive with a joint maintenance agreement.

Mr. Poston stated the state statutes changed that states you cannot require a masonry underpinning if the lot is rented, and there is some non-permanent means to underpin units. Mr. Poston provides some examples of parks in the County to show an older park (mid-2000s) off of Skyland Drive and its mature screening along with a newer park (2019-2020) off of 441 where trees that were not at full height yet.

In addition, he showed another park in Webster off Little Savannah and NC-116, it is Haven Hensley's property that is large to show the required spacing between the units that is a safety issue. Some of the other parks like off of Ledbetter Road near campus that use to be called Battle Park, Park Place and now is called River Bend they are packed in there and that spacing is not near as far apart and would have likely been establish in likely the early 70s that predates the ordinance.

Mr. Poston stated not many manufactured parks are coming into existence today due to the likelihood of more utilities that are going to be required based on environmental health regulations, along with the cost of land and where some of these are located. He showed a pictured of a newer park that had to meet all of the standards that included the all weather surface, the road is paved, they have the spacing and the parking. When designed these standards they are looking at the basic health, safety and general welfare, which is why we have road, parking, separation and buffering standards.

**Manufactured Home Parks in Cullowhee**

- Similar Standards
  - Perimeter Buffers (adjacent properties)
  - Drainage
  - Approved water/wastewater
  - 911 address sign
- Cullowhee Specific
  - Recognizes non-conforming parks
  - Requires 3 acres for new parks
  - Limits density to 8 units per acre
  - Uniform underpinning for all units
  - Minimum land area per unit 3,500 sq.ft.
  - 25 ft. setback from each unit and the property line
  - No permanent additions allowed
  - Garbage disposal plan
  - Visitor parking area- 1 space per 2 units
  - 200 sq.ft. of recreation area for each MH space in the park
  - Requires front/rear deck

Mr. Poston stated these standards are more specific and within the Cullowhee Community Planning Area zoned jurisdiction. He stated they have not had a manufactured home park in Cullowhee, but they do have manufactured homes that are allowed in certain districts and we have existing manufactured home parks that are what we call legal non-conforming that existed prior to the ordinance and do not have to meet those standards unless they were to expand. He stated he believed the idea of the number of units per acre and the minimum required square footage per unit is designed to help ensure that you will not have units that are on top of each other. Permanent additions are not allowed and that does not include a deck or porch as those are

usually freestanding, but it is speaking to adding another room on the singlewide or doublewide as that is not allowed anyway and would require an engineer.

Mr. Poston provided an example of a manufactured home park that was located within a floodplain. He stated if you were to replace a unit that was flush with the ground, you are required to elevate that new unit if you are located within the floodway or flood zone. In addition, he provided an example of how that looks at an existing manufactured home park within the floodplain. He stated the difference is about a six foot foundation, there is also a bigger one that is approximately 10.5 feet in the air in that park.

**Manufactured Home Classification by Parks**

- Level 1: 66 Parks (2-11 units)
- Level 2: 10 Parks (12-24 units)
- Level 3: 5 Parks (25 or more units)
- Unclassified: 2 Parks
- Total: 83 Parks

**Manufactured Home Classification by Unit**

- Level 1: 312 units
- Level 2: 165 units
- Level 3: 175 units
- Unclassified: 74 units
- Total: 726 units

Mr. Poston stated he had went through and identified the number of parks that went through the permitting process over the last 30 years. In addition, he stated of those Level 1 Parks there is 40 parks that have 5 or less units in each, so 60% of those parks are smaller. Most of these parks formed prior to the subdivision regulations or the mountain and hillside development regulations that limited the number of units on a piece of property. These new regulations are tools used for manufacture home parks to make sure that there is a driveway, parking spaces, and buffering required. Mr. Poston noted that 80% of the parks are a Level 1, 12% is a Level 2, 6% is a Level 3, and 2% is unclassified. In addition, he stated they have a total of 83 parks by his count, and a total of 726 units. Of those units, 74 units are unclassified because he could not find a classification when looking through those files.

**Manufactured Home Classification by Age**

Era	Parks	Units
Pre-date	3	54
Undetermined	3	25
1995-1999	18	234
2000-2006	32	216
2007-Present	27	187

- 1995: Manufactured Home Park Ordinance was adopted
- 2000: Manufactured Home Park Ordinance was updated
- 2007: Mountain and Hillside Development Ordinance and Subdivision Ordinance was adopted

Mr. Poston stated from 1995-1999 some of our bigger parks were approved during that time. He showed a graph of the number of parks and number of units, from 1995-1999 was the shortest amount of time had the most number of units and the least number of parks. From 2000-2006 was the most parks, but almost the most number in units, and then between 2007 to the present, which is our largest number of time, and they have had their regulatory documents it is the second leading number of parks with the least number of units that we have had established. Mr. Poston stated those numbers could be related to the price of land and real estate development in 2000, when land prices started going a little bit higher, usage of land started changing a little bit and

how people were choosing to use property. Mr. Poston stated this information, trends, and history is important for what they have seen lately. In addition, he stated the Board would need to consider how they want to move forward if they want to take a look at the manufactured home park ordinance and discuss what they see that is not working or if they have concerns that they are not currently addressing.

Ms. Crespo stated she believed that the Level 1 and Level 2 Parks they may should look into as they are going to be mixed in with her house or other people's houses and they should adapt other resolutions, solutions when they are mixed into neighborhoods. In addition, she stated the rooflines, pitch roof they should consider conforming them to the remainder of the neighborhood.

Mr. Poston stated there is a lot of information in communities that have implemented architectural standards for manufactured housing. Cullowhee has a definition of a Class B, which is a gabled roof with a three and a half over 12 pitch, and the only thing that we have to be careful on where we may get into some trouble is if we require a style of architecture that is not available with manufactured home builds.

Mr. Shepherd stated they are looking to buy a new home to swap out one of those units, and they are not buying the cheapest one or the most expensive one and it is 50 grand and that is through a dealer where they would have a bond and insurance, etc. In addition, he stated he believed the average person it would be around \$70,000 for a brand new two bedroom two bath home, and he believed that regulating the roofline would only add a lot of money to that. Mr. Shepherd stated he did not believe that is a real common thing with singlewides like Clayton Homes or other places, and he inquired if they could copy Cullowhee's standards to implement into the County Manufactured Home Park Ordinance.

Mr. Poston stated they could do that, however he does not know if they want a minimum lot size. The worst part of this conversation is that it is not much different than the minimum housing code, is just a different part of the housing conversation. Manufactured housing is what the housing professional's call naturally occurring, affordable housing and communities. It is important for us to understand that manufactured home parks may be coming into existing communities, and we do not have countywide zoning that would say, here are the districts that you can have a manufactured home parks, and until we do that, we need to think about that. In addition, he stated this would be a tough conversation between what does it mean for manufactured home to blend into a community versus are you making it to a point where we consider to be naturally occurring, affordable housing becomes no longer affordable. Those are not regulatory concepts all the time, those are competing needs, the need of community appearance versus the need for the housing for people to work and live in the county.

Mr. Shepherd stated he felt like the Cullowhee regulations did a good job. For example the minimum land area per unit, that is a big lot that gives that natural space, also extra parking, and all these different things that really make that feel more like a standalone home, and uniform underpinning, and feels like a step up from what the County currently has.

Mr. Poston stated yes and no, he believed that it is probably a different way to try to achieve a similar goal. They could consider looking into putting in a minimum area. Mr. Poston stated they would look into the Cullowhee regulations as the base level. In addition, he stated they have never actually applied those standards, they adopted this ordinance in 2015 and then, they have not had a manufactured home park be proposed in Cullowhee. However, the closest they got to that is when Nathan Shepherd's employer at River Bend came to us and said, they would like to figure out how to update this manufactured home park and they discussed all those standards and if they could expand it. They did get to the point where it is a pretty good looking, manufactured home park, it is newer units with a pitch roof and would imagine that is going to be two and a half, three and a half over 12, if he had to guess.

Mr. Shepherd stated the units are nice inside, and they call it the Sandals Resort because it is always couples that are renting those units. Ms. Moss inquired what the rent was in those units. Mr. Shepherd stated it depends, the older unit they rent those for \$420 and they did light

renovations, and the newer units are closer to \$1,000 per unit. Ms. Moss stated all of America right now is that in 10 years, affordable housing is not going to be affordable because people like me are not making more money and the cost of everything is still continued to go up and so what is considered affordable housing today is not necessarily going to be affordable. Mr. Poston stated the actual definition of affordable housing is that you should not be spending more than 30% of your income on not just rent but on housing related items. Ms. Moss inquired if that was before taxes, your take home pay. Mr. Poston stated that is correct, if I make \$10,000 I should not spend more than \$3,000 on housing. Ms. Moss stated these days more and more people spend 50% or more of their income because their wages are not going up, but their rent is and that means everybody and all of a sudden they are in poverty. Mr. Poston stated what ends up happening is that the 30%, which is where HUD and everyone else in the federal government says, that this is what the model says, and if you can't do that it becomes affordable housing if you make 80% or below of the average median income. In Jackson County right now, the AMI is \$48,300 and 80% of that is \$40,000. He stated if you make below that as a household, then you are by definition, low to moderate income, and that is the space where most people are building these affordable housing and it is the 30 to 80% of AMI. In addition, if you spend more than 50% of your salary on household income on housing and housing related items, the term they use for that now is housing burden.

Mr. Shepherd stated this is how this Board affects affordable housing, in the floodplain some of those trailers had to go up an additional two feet above base flood elevation, which that cost \$100,000. Unfortunately, his boss did not recognize that when he was going to do this and it was a huge issue, but they cost \$100,000, and over the long term has to pass that on it to the tenants. He stated they replaced about 30 units, and 8 or 10 units were in the floodplain and because they had to go up above base flood elevation.

Mr. Poston stated this is going to be a conversation that he thinks we are going to run into a lot of issues when talking about what we are doing about housing, resiliency in the housing market is another issue, which is your two foot above freeboard. This is where planning boards get messy and where planning gets messy in the community because we are trying to thread the needle between competing thought processes. We want affordable housing, we want to make sure that it is sustainable housing; we want to make sure that it is housing that that can improve the community, the quality of life and we want to make sure that it is resilient from all the different things that we have to think about insurance wise, flooding, landslides, fires, etc. Mr. Poston stated that is why everyone's perspectives will be important on this, and if it was an easy issue to solve it would of been done.

Mr. Shepherd stated the County has so much property between the County and the Town of Sylva. Mr. Poston stated they actually do not have a lot of property. Mr. Shepherd stated he thinks if you wanted to put like an affordable housing apartment complex in three locations each containing 24 bedrooms or something he thinks that would be really feasible with the number of acres. Mr. Poston stated if you take out the Board of Education or property that is used for schools, we have a lot of property that has been on the books but they are usually away from water and sewer. Mr. Shepherd stated the Town owns several parcels. Mr. Poston stated the Town may, but some of it is around Bridge Park and the only one the County owns is the property next to the Board of Elections building that they fully controls that is not already assigned to another use, like schools. Mr. Shepherd stated there is a four acre parcel by the cemetery. Mr. Poston stated he is talking about keener cemetery, and they have looked at that, and he thinks the problem with that is going to be your slope.

Mr. Poston stated rural counties have a harder time doing this because of capacity, we have to build capacity within us to make these decisions, and we have to understand first what our abilities are and what the County can and cannot address. It takes some other choices and takes building capacity within the community, and what he means by capacity is the understanding and the ability to make these decisions that we want to address this concern, and we have the

authority to do that, and here is how we can impact this issue. Most of this process that we are going through, is to help us and help the commissioner say that here is the problem, that people cannot find housing that meets their needs or any housing. Let's build it, and the question is how do we do that is currently where we are at right now. In addition, he stated the last apartment complex was LIHTC, which is the low income housing tax credit that the state provides from the Housing Finance Agency. There is a segment of developers that that are in the space of LIHTC, there is a tax credit and that is how they make their pro forma work. The last one they have is by Walmart called High Ridge that was completed in 2016, and we had one off of Asheville Highway that was approved for LIHTC, but they ran into some development issues. In addition, he stated the other thing that we have now that we did not have back then is called the HOME Consortium. The region from Haywood County, west and all of the participating governments, counties, we get every year somewhere in the neighborhood of \$600,000- \$700,000 to go towards the building new units, but also to provide services in this low-to-moderate income space across the region, which can be helpful with gap funding. Gap funding is when a project, especially LIHTC project gets a certain amount of money, and then they have a cost overrun and they can apply for these funds to help bridge that gap. Mr. Poston stated they lost that project and had to give up the LIHTC funding, and because of the site constraints that they were running into. In addition, he stated they have some issues, and we know we probably have some potential solutions that we can avail ourselves of and we just have to make decisions and choices, which is part of what this Board will help us do is try to help inform those decisions and choices.

Mr. Poston reminded and encouraged the Board to watch the housing needs assessment that the UNC School of Government is presenting to the Board of Commissioners, and reaffirm to the Commissioners that you saw that presentation and let them know you are interested in making sure that we are developing a housing strategy, which can be helpful. He stated he is not just saying this as a planner, but he could get Tiffany Henry to talk to the Board from the economic development side of things, where are our workers living, the engine that that creates Jackson County as a viable living space and we need these things. He stated he believed the Commissioners understand that there is an issue, and this assessment is giving them an opportunity to understand what their universe of assistance could be, because there are some areas where people may not understand what options are available, and what can we do as a County. Mr. Poston stated he thinks the challenge that we have is you got to think about housing as a spectrum from everybody that does that is unhoused, transitional housing, to every other form of housing. The Commissioner meeting presentation will provided us with a lot of background information, and probably confirm what we already know. Mr. Poston stated this is the first time that these folks are going to come in and actually explain what their initial assessment is, how they came up with the assessment, and begin talking about types of things that we can look at and expect during the process. In addition, he stated they should have their final reports done by September, and they can begin making some decisions about what we want to try to do moving forward.

Mr. Poston stated when you get into funding programs, elected officials like to know more than just anecdotal information they like to know, does the data support and if we are going out for funding for some other groups, like Dogwood Health Trust that fund some things and other programs, they are going to want to see the actual data. The purpose of this assessment is to identifying, especially since 2020, our housing market has totally changed, availabilities have totally change, the price of single family home has totally changed, and all of these things household income has to make to afford a house that is on the market today. This is the first step in having these conversations, and they will come down to choices to make in the community and what best suits our community and trying to figure that out while balancing it all across the board. In addition, he stated to keep in mind that the County may be only able to start focusing in on one section of our housing concern, because at one end you have the unhoused, which is still something that we should be thinking about as a community and how we address it is still going

to be propped up to a community conversation. The housing issue is not just this slice or this slice, it is a continuum that that affects everywhere around it, and some of those unhoused people are not unhoused because they do not have a job as some of them are full-time employed people that work in our community that have issues with finding housing. Mr. Poston stated the world changed on us in 2020, and we will need to figure out what to do with this information and they are going to have to reassess and readjust as they are moving forward because he cannot predict what will happen in 2026.

**c) Regular Meeting Date/Time Discussion**

Mr. Poston stated there was a recommendation from the Board to discuss our regular scheduled meeting date, which is currently scheduled for the second Thursday at the month at 6:00 p.m. He stated in their meeting packets there was a calendar of the regular scheduled meeting dates of other Boards that the Planning Department has every month including the Board of Commissioners regular meetings. Mostly the meetings are at night to allow the public to attend after their day jobs; they typically do not hold meetings on Wednesdays because of church related activities and things of that nature, and generally stay away from Fridays. Mr. Poston stated they usually hold the meetings later to allow the community to be engaged and have the ability to attend and speak to the Boards about their thoughts of what they are doing and or other issues within the community. In addition, he said approximately 80% of the Board is also working fulltime and having a later scheduled meeting also helps for attendance and to fit their schedules. If the Board decides to update their meeting time and date, they would need to update all of that information and inform the County Commissioners and they would need to be in agreeance with the new time and date that the Board is open and available for the public.

The Board decided to look at either the second Monday or third Monday of the month at 6:00 p.m. and asked staff to send out an email to the Board to get a poll if either of those dates would work as a potential new meeting date.

In addition, Mr. Poston updated the Board on the vacancies, he stated District Four, which is Commissioner Mark Jones seat and District Three, which is Commissioner Tom Stribling seat are both vacant. He stated from his understanding at the Board of Commissioners meeting they have some people in mind and are trying to get all of the paperwork that is required and then they would make a decision and vote on those volunteers to be appointed. In addition, they still need to make a vote on the recommendation of Nathan Shepherd as the chairman to the Board.

**Adjournment**


With no further business, Joyce Cooper made a motion to adjourn. Beverly Crespo seconded the motion, and the meeting adjourned at 8:19 p.m.

**Submitted by:**



**Allison Kelley**  
**Administrative Assistant – Planning**

**Approved by:**



**Nathan Shepherd**  
**Planning Board Vice Chairman**

