

# JACKSON COUNTY PLANNING BOARD

## MINUTES

<b>Date:</b> August 19, 2024								
<b>Time Begin:</b> 6:01 p.m.								
<b>Time End:</b> 6:58 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>		
Michael Cox	X		Joyce Cooper	X		<i>Vacant</i>		
Ken Brown	X		Beverly Crespo	X				

**Staff Present:**

Michael Poston- Planning Director  
 John Jeleniewski- Senior Planner  
 Anna Harkins- Planner I  
 Allison Kelley- Administrative Assistant III

**Call to Order and Quorum Check**

Vice Chair Beverly Crespo called the meeting to order at 6:01 p.m. and a quorum was present.

**Oath of Office**

Allison Kelley, clerk to the Board read the Oath of Office for new Board member Michael Cox and he affirmed to execute the duties of Planning Board Member according to the best of his skills and abilities.

**Approval of the Agenda**

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

**Approval of the Minutes**

Ollin Dunford made a motion to approve July 8, 2024 minutes. Emily Moss seconded the motion, and it carried unanimously.

**Public Comment**

There were no public comments.

**Old Business**

a) **Water Recharge Ordinance Discussion**

Mr. Poston presented the following data:

**Water Recharge Regulations**

- We had 5 permits issued in the past year for non-residential buildings.
- One in the Cashiers Commercial Area, Four are in the County.
- None are over the 70% maximum impervious standard.

- Staff with the help from the planning intern Hunter Rogers collected images of bio-retention facilities that could be used to manage onsite stormwater.

Ms. Crespo asked to define non-residential. Mr. Poston stated non-residential includes everything that is not going to be under the single family or two-family residential building code. In addition, he stated trailer parks would not be counted, but apartments would be accounted if we issued any new permits, but we did not issue any new multifamily at the County's jurisdiction.

Mr. Poston discussed the following five non-residential permits that were that were issued this past year. The first non-residential permit issued was off of Edgewater Road in the Cullowhee zoned district for the Sigma Chi Pavilion building. Sigma Chi is a Western Carolina fraternal organization and they have some off-campus property and many do not do fraternity houses anymore. He stated this is more of an alumni/event pavilion that they have in that district, they have about 6.8 acres and it is a very small footprint with the calculation of imperviousness of approximately 5%. Mr. Poston stated even with the standards that we might consider a project like this would never trigger that ordinance and would not need to as it is not a big enough footprint, and the biggest impervious surface is the roof line, and a little bit in the gravel parking area.

The second non-residential permit issued was located within the Cashiers Commercial District south of the crossroads at US 64 and Highway 107 for TJ Bailey's. Mr. Poston showed the site plan with the main building, sidewalks and walkways, and parking and walkways in the rear that is all impervious surface that is approximately 60% of the total lot. Since this project is within the Cashiers Commercial District there are storm water requirements and regardless of how much coverage they would have they are going to be required to have a higher standard because everything around this is developed property as well in non-residential uses. He stated the purpose of the water recharge ordinance is to help manage storm water and allow for water recharge and our ordinance states that the most restrictive applies and for this project the Cashiers ordinance would be the most restrictive of standards. In addition, the front pods on the site plan are bio-retention.

The third non-residential permit issued was located in Glenville off of Highway 107 for a commercial storage building. Mr. Poston stated that the building got removed and a new building was put into place, and it is in the watershed and we go by the most restrictive standard which the watershed only allows 24% impervious surface, and this project is approximately 24% impervious coverage. In addition, he stated this project does not trigger any of the water recharge standards that we have in the County.

The fourth non-residential permit issued was located at the corner Yellow Bird Branch and North River Road for Heritage Christian Mod Classrooms. Mr. Poston stated on this site there is about 30% of impervious coverage that we have calculated based on the new building being put in, and the already existing building.

The fifth non-residential permit issued on Cope Creek Road that is accessed off of Asheville Highway for Cope Creek Storage. Mr. Poston stated the site is approximately a two-acre site and they are only covering about 31% of the total site with impervious areas that include the driveway, parking area and the building. However, if they choose to grow staff will keep an eye on the site applying those standards as they move forward.

Mr. Poston stated based on the data and their experience they do not see many projects that get close to the 70% impervious surface, however the Cashiers project was a bit of an outlier because the lot is approximately a quarter of an acre maybe a little bit bigger or less. He stated when you are dealing with these in more urban spaces, the properties are a little bit

smaller which makes the coverage to be a little bit greater, but we do have some layering of stormwater and water recharge principles that kind of capture a lot more in these types of environments.

Ms. Crespo inquired within these communities that are partially paved and then are eventually going to be paved and those lots are recorded, does that mean that they are grandfathered in and do not have to abide by this standard.

Mr. Poston stated they would still have to take a look at the standard. He stated an example he could think of is when they are replacing impervious surface or it is already impervious and they are going from concrete to a roof line, and it does not change the imperviousness. In addition, he stated any new lot that has not been developed yet and they want to put a mini storage unit on after these rules change, then they still have to comply with this and this does not really apply to residential. Mr. Poston stated residential lots of record, absolutely you have the ability based on our ordinances on any lot of record that was legally created, the County has provisions to allow you at least one dwelling unit on that property. The County does not guarantee multiple units or any other type of use. In addition, he stated if it is a lot of record, we allow one dwelling unit to be placed on it, even if a newer regulation says you would not be able to do that today.

Mr. Poston presented the following examples for a stormwater pond and rain garden:

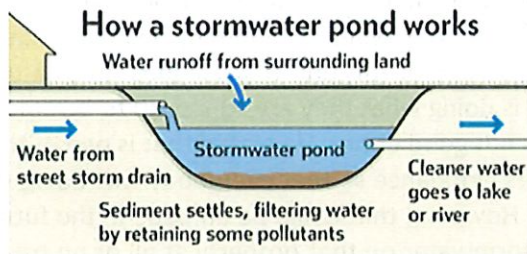


Figure 1: Stormwater Ponds

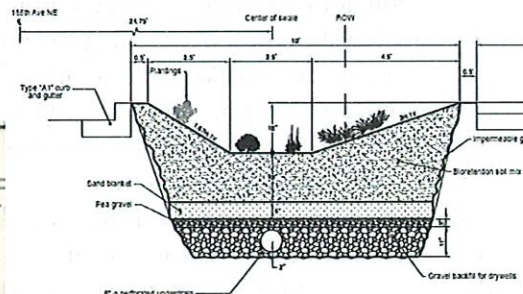


Figure 2: Rain Garden

In addition, he presented a picture of Bridge Park in Sylva of an example of a basin they used as a stormwater management feature. He stated the crosswalks may work as a weir system so as water gets high it will go into the next section and eventually go into the box culvert, and if it does not absorb or evaporate that is the check point then goes into the system at Scotts Creek. In addition, he stated within the basin is native vegetation that is suppose to survive well in wet conditions.

The Board has had previous discussions regarding recommending to the Commissioners to lower the 70% impervious threshold before they have to make some attempts to address stormwater. There was a consensus by the Board to lower that threshold as the ordinance today is not really impacting any development as most are around 30% to 40% and stormwater is not being triggered. Staff has had discussions that they could consider the option to cap impervious surface percentage where they could not go any higher than that percent under any circumstances. Another discussion they could consider is for example at 40% impervious they would be required to start putting in bio retention measures to help improve the water recharge.

Mr. Poston stated staff has reached out to the executive director for the Watershed Association of the Tuckasegee River (WATR) to come in and give the Board a brief presentation on water recharge and what that means in this area, but they have not heard back yet. Staff is

still making efforts to connect with them to discuss some of their best management practice ideas that they would promote as good public policy.

Mr. Cox stated he thinks that all of the five issued permits staff discussed are areas that are going to want to get denser and he does not think it is a bad idea to ask for more. He stated they may want to really clamp down at above an acre site. In addition, he stated it is likely that there will be buildings added to the Cope Creek Storage and the Yellow Bird Branch property added the second building and these sites will probably continue to develop. He stated the Glenville site will also probably seek to get denser if it is allowed by the watershed. Mr. Jeleniewski stated it would be allowed and the watershed is always going to be more restrictive from what we are discussing and that property is relatively small. He stated he ran the calculations because he was given a plan for that site and he was able to dial it in, and he actually had to take out some gravel area that is existing there.

Mr. Cox inquired if you were able to get bonuses for density in the watershed. Mr. Poston stated there is some ability and there is a calculation. Mr. Cox inquired if that was already a part of state law based on the watershed law. Mr. Poston stated yes, and it is the hard limit for them. Mr. Jeleniewski stated they have discussed capping the impervious surface at whatever percent they decided on such as 50% and then anything over that, up to another percentage such as 60% or 70%. He stated anything above 50% there would be bonus incentives and you would add the bioretention, rain garden, underground storage, etc. In addition, he stated you get more impervious credit if you are going to give more back in forms of treatment. Mr. Jeleniewski stated other thing to consider is that you do have a handful of properties in the County that are smaller, about an acre or less where somebody wants to develop non-residential, and they are not required to do any of this and that all adds up to a problem. For example, if you have one 10-acre lot that is doing what they are supposed to be doing, but ten 1 acre lots that are not doing a thing that is not good either. He stated that is one of the reasons a couple years ago we modified the Cashiers Ordinance so that everybody was doing their part to contribute back to the natural resources. However, that could be an issue in the future, just like the Yellow Bird Branch site, there is no stormwater on that property at all or no treatment, and the Tuckasegee River is right across the street. Mr. Jeleniewski stated if you had that situation peppered all along North River Road, which you do and most of it is residential and nobody is doing a thing, all the impurities are dumping right into the river and that is what we are trying to avoid.

Mr. Poston stated staff is looking for feedback of where is the triggering mechanism and how do they want to trigger that threshold such as bioretention, rain garden, and natural vegetation stands as they are a positive impact for water retention and bring groundwater recharge. Staff will be discussing those mechanisms with WATR and will be bringing back those techniques that can be used on site. The other thing that we should be mindful of is that even though our two main water bodies are the Chattooga and Tuckasegee River, there are 250 named streams in the County with tributaries all over the place. Mr. Poston stated it is a good bet if you are in a flatter area, there is probably some water somewhere within the distance. In addition, those named streams will likely end up in those two water bodies eventually, and as we grow we are going to start to see the cumulative effect of all of that. The County Board needs to consider how do we try to address that in some form. We want to kind of thread the needle between being overly prescriptive for example saying they have to do phase two, which is a high standard in North Carolina versus saying you should be able to handle your stormwater and do some mechanisms that can help not just convey it as quickly as possible to the next destination, but to slow that down and let some infiltration occur on its way.

Mr. Brown stated as Mr. Jeleniewski mentioned the cumulative impact of those small lots is really significant in certain areas, especially along North River Road. He stated any new development in that area just adds to the velocity and the amount of stormwater that is flushed. In addition, he stated we have coliform bacteria that is embedded in all the sediments in our streams, and because our river is controlled by hydropower dams every time the water is released, it stirs up those sediments and the coliform counts go up. He stated that is even more indicative that we need to be very patient about making this change and understanding what impacts these smaller, maybe noncontiguous properties will have on the actual velocity and volume of stormwater hitting the river or stream that goes into the river.

Mr. Cox inquired would these smaller properties be triggered by a change of use from a house to a small engine repair shop and the property owner is increasing their impervious surface. Mr. Jeleniewski stated he believed that would be something that would not fall under that ordinance. Mr. Poston stated you would have to account for that at some point. In addition, he stated if they were using parking that was already there or was already impervious and was already calculated, we would have to take a look at that because his initial reaction is he believes it should, because you are going from a residential use that would be exempt to a commercial non-residential use. Mr. Cox stated he is more worried about the little guy that inherits a property and wants to turn it into a business as he does not want to place a huge burden on him and would like to balance that burden.

Mr. Jeleniewski stated staff has discussed that and where that should be. For example, whether if the number is at 50% total impervious do you trigger stormwater controls immediately or is it at 20% or 25% if you are able to hold it lower than your 50% maximum, then maybe you are not required to do that if you are able to not have just sheet flow off. We have to slow down our runoff because if we do not slow it down it causes major erosion issues, which are not going to stop based on the developments and the storm events we have been getting, it is only going to get worse, and it heats the water up. In addition, if we have hot water our ecosystem starts to suffer as the trout does not like that, which is a real problem.

Mr. Poston asked for feedback from the Board of what type of information they would like staff to research and bring back to make an informed decision.

Ms. Crespo stated it has to be geared to the growth, which is a moving target and it is something that is applicable for 2024 but can rapidly change by the time we get to 2026. She inquired can we have a threshold that is applicable to the population that we have in 2024 and anticipate the potential growth in 2025/2026 to allow ourselves the latitude to be able to have the flexibility with that threshold when maybe the population has increased by a third or by half or even doubled. Ms. Crespo stated she believes it has to be based on growth. Mr. Brown stated he could agree with that, but we are rapidly reaching a threshold where groundwater recharge is going to destroy the watershed and the quality of water that we have to live with. Mr. Poston stated he would look to see if anybody has created a framework that anticipates growth like that, however he believes that maybe impractical due to how our state laws are written.

Mr. Brown stated discussing the one-acre lot, made him recall something that he has seen happen locally of a gentleman that came to the County from Florida. He stated he was a mechanic, and he started off with a spot to live then he put a shop on it and he has dug up this, dug up that and put culverts in. In addition, he stated every time the water hits the ground it flushes unbelievable amounts of sediment into that little stream and is unbelievable how much that gentleman has impacted that little stream. Mr. Jeleniewski stated another part of that conversation is that it is a home occupation and there are not enough hours and people in the day to chase that down.

Mr. Cox stated he was not for lowering the total threshold, but he is for having density bonuses from 50% to 60% to 70%. He stated from what he knows from working in Cashiers and listening to a lot of smart civil engineers these rain gardens and a lot of the other systems they design, which have to do with capturing the first inch of rainfall and whatever kind of storm events are very effective. In addition, there are even other ones where you can have underground storage and slow release, there are ones where they can actually separate nasty oils from mechanic shops, etc. Going from 50 to 70 to have that 20% be covered by bonuses he is generally for. Mr. Cox asked staff to bring back information of how this could apply to the little and big sites, for example how would this apply to building a factory to a guy going from a house to a small engine repair shop.

In addition, Mr. Cox stated he is very comfortable with the density bonuses, because people who have the money to build as dense as they possibly can, these things work. However, he does not know if 70% is the right number, he likes buildings so he is usually comfortable with more than most people, but he knows these systems, designs, etc. that are allowed by North Carolina law are effective. Mr. Brown stated he knew the same thing, but hydrologically they are not effective, and it will not be effective as you go forward in the future. He stated the engineering principles that we apply to projects like that today, they do not consider the depth of hydrological knowledge that we have. Ms. Crespo stated we live in a County that has many streams, and a large part of the land mass is water so having these new techniques such as rain gardens are critical when it comes to preserving what we want to in the mountains.

Mr. Poston stated based on the feedback from the Board staff will begin to research the following and bring back information to the Board:

1. Review Tiered System for Site Regulations:
  - Assess whether a tiered system should be implemented for sites above and below 1 acre.
  - Evaluate how regulations can be tailored to address specific issues for smaller sites (e.g., <1 acre) vs. larger sites (e.g., >10 acres).
2. Consider Cumulative Impact of Smaller Sites:
  - Analyze the cumulative impact of multiple smaller sites within the same area and how they should be addressed in regulations.
3. Balance Natural and Built Environments:
  - Ensure that proposed regulations maintain a balance between protecting the natural environment and allowing for development.
  - Consider historical concerns regarding private property rights in North Carolina and ensure compliance with state law and case law.

Mr. Poston stated they have had some rules in place but he believes they have demonstrated over the last couple of months that those rules were never really triggering anything. Mr. Jeleniewski stated it was never tested, the 70% impervious surface rule was kind of a cut and paste rule as there was never anybody in place in Planning that could test that or try to break it. In addition, he stated then reviewing that over the years we just knew it was not where it needed to be.

Mr. Poston reminded the Board that while he does not think we could do stream buffers outside of state mandated stream buffers, we are also going to include setbacks from streams, because we have the ability to do setbacks for buildings and parking areas. The way that our regulatory rules work in Jackson County is they kind of layer on top of each other, because that is the way our ordinance system has naturally developed between our zoned areas, our watershed areas, our floodplain areas, and not all these concepts apply to every property. The water recharge ordinance is really kind of a stopgap measure for all the properties that will not

fall into any of the other buckets to help us address some of these concepts. The watershed goes from the Continental Divide to the dam at Lena Davis intake off of Old Cullowhee Road, and the watershed requires 24% maximum impervious surface for non-residential and there are some density bonuses potentially built in there. In addition, south of Continental Divide to the state line there are some outstanding water resources that the state requires, but that has more to do with proximity to waterways and not necessarily lot coverage. Mr. Poston stated we are worried about everything that is north of the Cullowhee dam, and what gets developed outside of Sylva, Dillsboro and Webster because we cannot control what they do and there is a lot of area around those municipalities.

Mr. Poston stated in order to allow staff enough time to bring back all of the information to the Board, they would likely be cancelling the September meeting to allow staff until October to gather those materials and get up with Katie Price at WATR.

Mr. Brown stated that on North River they try to test the water once a week and it is close to 80% of the time fecal coliform counts at that site are quite considerably above the level for human contact and that has everything to do with stormwater runoff. Mr. Poston stated that is what we are looking to try to start addressing a little bit more. Mr. Brown stated they are trying to get signs up that will indicate week to week the water quality test and whether that it has passed or failed. The level is 126 Most Probable Number (MPN) of colonies per milliliter water and it has been over 600 there just about every week. There is an app called Swim Guide that is updated frequently with all of the different River accesses and sampled water data for E. coli collected once a week by WATR volunteers to determine the water quality within those areas.

### New Business

#### a) Staff Updates

Mr. Poston informed the Board that this would be Ms. Harkins last meeting as she is leaving the Planning Department to move with her husband who is being stationed with the Army to San Antonio, Texas. In addition, he stated Ms. Harkins last day with the Planning Department is August 30th.

### Adjournment

With no further business, Adam Holt made a motion to adjourn. Emily Moss seconded the motion, and the meeting adjourned at 7:30 p.m.

Submitted by:



Allison Kelley  
Administrative Assistant – Planning

Approved by:



Nathan Shepherd  
Planning Board Chairman

