

# Rutherford County Regional Planning Commission

## Part I: Subdivision Regulations



July 9, 2007

# Goals of SubReg-Review Cmte.

- Consider existing infrastructure when examining the impact of development on the surrounding area, (substandard roads and overcrowded schools)
- Implement policy statements to guide Staff and Commission decisions and provide consistency
- Allow staff to work more efficiently

# **Tennessee Planning Commissioners' Handbook**

“...a regional planning commission has broad powers to plan for the total region...The commission may prevent urban sprawl and help preserve agricultural and open space areas. **It may plan for schools and roads**...the necessity to accept growth management responsibilities...is clearly a duty that cannot be ignored. Planning at all levels of government is not mandatory, but it should certainly be considered obligatory.”

## ***Tennessee Code Annotated Section 13-3-403***

“...the avoidance of such scattered and premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of lack of water supply, drainage, transportation or other public services or would necessitate an excessive expenditure of public funds for the supply of such services. This section clearly gives the regional planning commission the power to develop growth management strategies that would time the development of land to the availability of public services and facilities.”

## Recommendations - Roads

- NEW Private Easements: All private roads with greater than 3 lots shall be built to county standards
- Existing Private Easements: Where 3 or more lots are in existence, burden of proof is on the applicant to present convincing evidence that further development on this easement is safe and that the parcels should not be required to perform within the guidelines of a Major Subdivision.
- Applies to both new or existing: Applicant must provide documentation detailing maintenance plan for the road, how utilities are serviced and what accommodations have been made for emergency vehicles to travel this road safely.

# Recommendations - Roads

- A **substandard road** shall be defined as any road with **less than 18' of pavement-width** (for any portion of the roadway) from the primary access point of the proposed development to an arterial or collector roadway.
- A **Roads Escrow Account** will be established to allow developers to contribute funds toward roads that they directly impact.
- The applicant will have satisfied this requirement when he has achieved one of the following:
  - 1) **Established 18' of pavement width from the primary entrance of his development to an arterial or collector roadway**
  - 2) **Deposited the required funds into a Roads Escrow Account**
  - 3) **Received approval from the Planning Commission after presenting proof of safety for development on the existing unimproved roadway.**

# Recommendations - Roads

- Development on roads that ARE listed in the Major Thoroughfare Plan, will require developers to deposit funds into the escrow account.
- Developments on roads that are NOT listed in the Major Road and Street Improvement Section of the Major Thoroughfare Plan, will require developers to improve the road or postpone the development until a standard road is in place.
- Turn lanes and signalization may also be the responsibility of the developer

## Policy Statements – County Attorney to edit language

- It is the policy of the Planning Commission to not grant waivers for developments above (3) lots on a private easement except in extreme and compelling circumstances.
- An internal policy will be established whereby Consolidated Utility District is notified of all residential development. Currently for parcels of 5AC. or more, CUD is not notified until hook-up is requested. [*Will occur at issuance of building permit.*]

# Policy Statements

- **Implementation of Roads Escrow Account:** Rutherford County Finance Director will establish a line-item account for each road where funds have been collected for future improvement. The Planning Department will collect the funds. The Highway and Engineering Departments will provide the Planning Department with a table regarding road fees, so Planning Staff will know how much to collect. The interest earned on the account will stay with each road project funded via this account and portioned out percentage wise to each fund. The Highway and Engineering Departments will determine when it is appropriate to spend funds on road improvements.

# Policy Additions

- **Sidewalks – (Policy Manual)** Ask Staff to draft a general policy regarding when sidewalks are required or appropriate, and a specific policy relating to the proximity of schools, i.e., ½ mile in each direction – should include curb and gutter, staff may adjust as needed.
- **Seeding – (Policy Manual)** Ask Staff to write a policy regarding minimum requirements for seeding & straw in new developments.
- **Curb & Gutter or Ditches – (Policy Manual)** Ask Staff to write a general policy regarding these options. Language should permit flexibility for the Engineering and Design Team to adjust as needed.
- **Urban Growth Boundary Projects** – Per Staff: An informal policy is currently established where Planning Staff consults with Municipalities for all projects submitted in UGB's **A written policy shall be added to the Policy Manual.** Rutherford County will develop intergovernmental tools in collaboration with the municipalities that address planning policies within the designated Urban Growth Boundaries to promote coordinated development of the region.

# Additional Recommendations

- **Architectural Aesthetics** – Ask staff to review building materials and setbacks. If we allow smaller lot sizes as discussed in the Open Space Committee Report, then we need to improve the quality of the building materials to reduce the risk for fire. The committee is also concerned about the increased use of vinyl siding as an acceptable building material. We are finding this product does not age well, promotes the growth of mold and does not fare well under hazardous conditions. A language change regarding acceptable building materials may reside in the Zoning or Codes Regulations, but staff will report back to the RCRPC on this topic.

# Schools as Infrastructure - Debate

- Met with members of the Development Community, Director of Schools and other Board Members, also invited were members of the County Commission Budget Committee
- Reasons in favor:
  - Direct development away from overcrowded schools
  - Require growth to fund the demand for additional seats in classrooms created by new development
  - Give Planning Commission authority to deny future development where no school capacity exists
  - As the responsible party for educating the students of Rutherford County, the County should take the lead in controlling rapid, unmanaged growth
  - A strong educational system benefits current and future residents, promotes economic development and helps developers sell homes

# Schools as Infrastructure - Debate

- Reasons to oppose:
  - May accelerate annexation into the Municipalities
  - Developers feel they are being asked to pay twice for the same service
  - Implementation of an Educational Escrow Account could be problematic due to (a) changing school zones, (b) would fee adjust annually with student enrollment?, and (c) the need to estimate student enrollment for a proposed development
  - Any regulation would only be effective if the Municipalities adopted a similar regulation. Development ratio is 75% Municipalities vs. 25% County.

There are no provisions in place to prevent a repeat of Lake Forest in LaVergne (anywhere in the county), (3000 homes, 7 school buses to transport students, 25 portables, 180% capacity).

School Name	Building Capacity	Student Enrollment	%	Portables
Barfield	1000	1034	1.03	0
Blackman Elementary	850	961	1.13	4
Central Middle	1000	1064	1.06	0
Christiana Elementary	550	617	1.12	6
Eagleville	700	728	1.04	6
Holloway High	160	178	1.11	0
Lascassas	850	864	1.02	1
LaVergne Primary	500	901	1.80	25
Oakland High	1500	1535	1.02	2
Riverdale High	1500	2107	1.40	7
Siegel Middle	1000	1065	1.06	4
Smyrna Elementary	550	650	1.18	9
Smyrna Primary	425	469	1.10	4

What would the “escrow equation” look like?

(1) Establish the weighted average of what a school building costs

2 Elementary schools	2 Middle Schools	1 High School	(Total) / 5 for an Average
\$20M x 2	\$20M x 2	\$25M	= \$105M / 5 = \$21Mil AVG

(2) Establish weighted average of students per school

1000 x 2	1000 x 2	2000	= 6000 / 5 = 1200 students
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(3) Determine the cost per student to build a school

\$21M construction costs / 1200 students = \$17,500 per student to build a school

(4) Cost per lot = \$17,500 x (.46) students = **\$8,050**

# Future demand for schools...

Subdivision Lot Inventory from January 2004 until April 30, 2007

	4673	lots	(2,150 students)
X	\$8,050	per lot	to build schools
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**\$ 37,617,650**

*(Calculation is for County lots only – which is 25% of current development)*

# Recommendations

## RE: Schools as Infrastructure

- Request the County Attorney investigate the concept of an Educational Escrow Account (EEA) as an option
- If an EEA is an option, look at establishing this method county-wide vs. by individual overcrowded school zone (*Not advisable per County Attorney*).
- Consider exchanging density for land for a school site
- Where no other options are viable, deny future development in areas where school overcrowding exists
- RCRPC to establish a partnership with the Municipal Planning bodies to evaluate all options and adopt similar regulations

**UPDATE: July 9, 2007**

## **Attorney General Opinion Requested**

1) Is it reasonable for schools to be considered infrastructure for the purposes of planning?

2) If adding capacity to our school system “would necessitate an excessive expenditure of public funds”, would it be reasonable to deny additional development for areas where schools are overcrowded?

(NOTE: Overcrowded as defined by the building capacity established by the State Fire Marshal).

3) Is an exchange of density for a school site reasonable?

4) Can we apply the same “nexus” between (development and roads) and (development and schools), thereby creating an “educational escrow account”?

# Additional Recommendations

- Permit 2-bedroom homes to be built on lots where 2-bedroom soil sites support septic systems
- Require either a fire hydrant (as per current regulations) or a sprinkler system for all new construction – where supported by water supply
- Require an amenity area for large scale developments (details to be determined)

# Rutherford County Regional Planning Commission

## Part II: Conservation Design



July 9, 2007

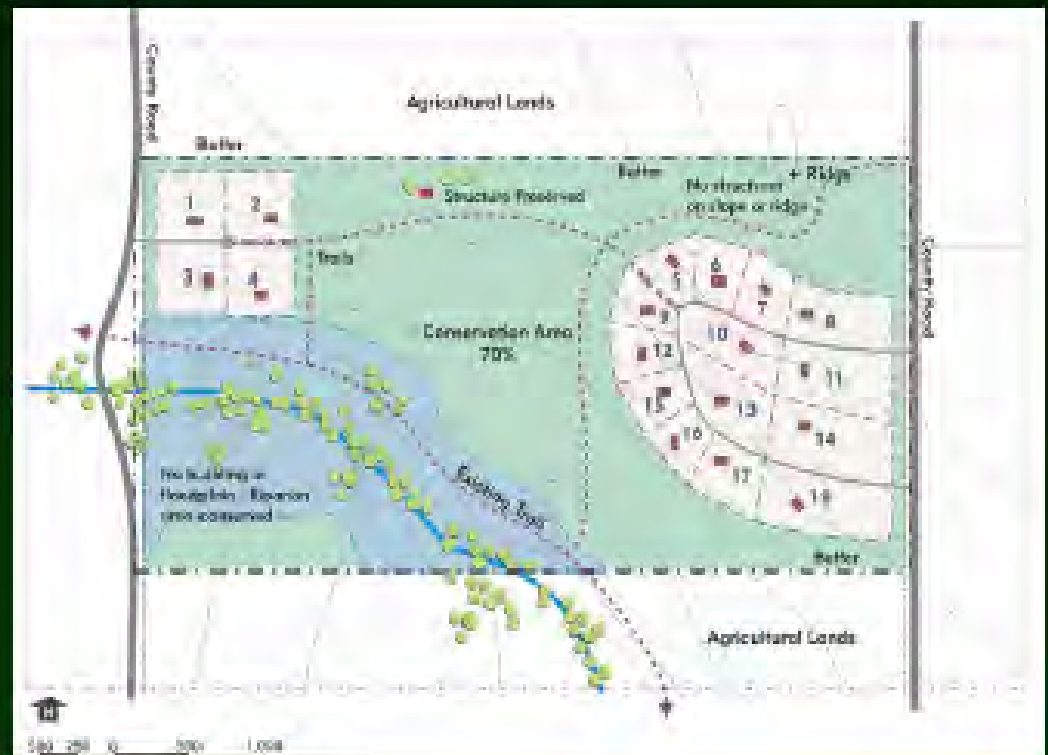
# Goals of Conservation Cmte.

The purpose of this committee is to study how the RCRPC might improve its Zoning and/or Subdivision Regulations in an effort to preserve the rural character of our community while respecting the need and right to develop land to serve Rutherford County's growing population.

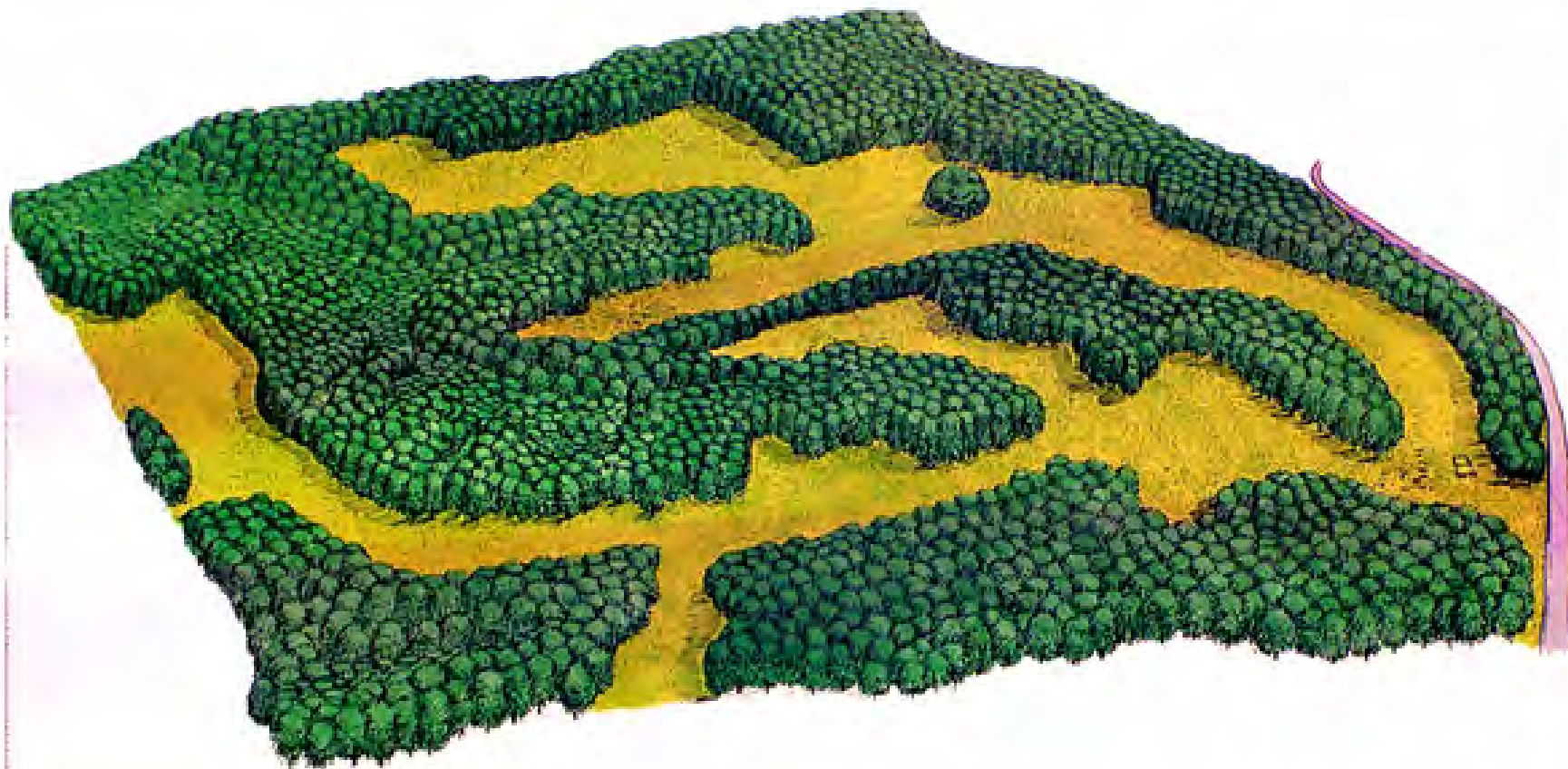
# Land Use Patterns

## CONSERVATION SUBDIVISION

- Permits single-family development
- Smaller building lots
- More open space (60-65%)
- Protection of natural features
- Four step process:
  - Step 1: Resource Analysis & Mapping
  - Step 2: Site Visit
  - Step 3: Delineation of Conservation and Development Areas
  - Step 4: Submission of Conservation Design Plan



# *Land Use Patterns* Undeveloped Rural Land



# *Land Use Patterns*

## Conventional Large Lot Subdivision



# *Land Use Patterns* Rural Residential Development



# *Land Use Patterns* Conservation Subdivision



# Harbor Town, Memphis



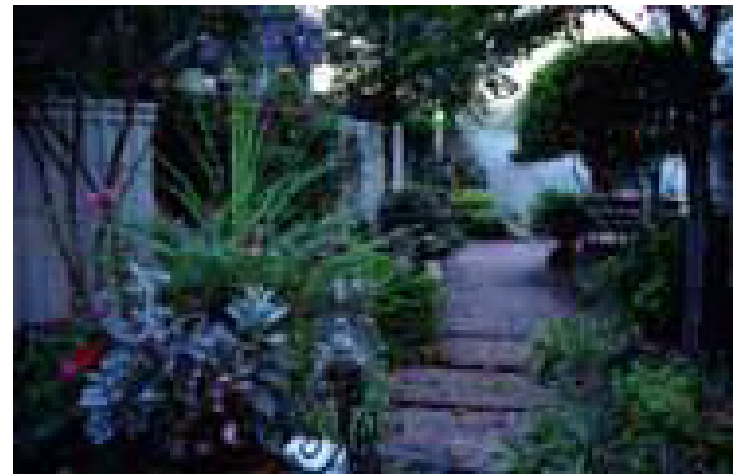
- Narrow streets - Use of alleys
- Incorporate public, private and semi-private space

- Mixed use housing
- Varied architecture



# Harbor Town, Memphis

Community pond and walking trails

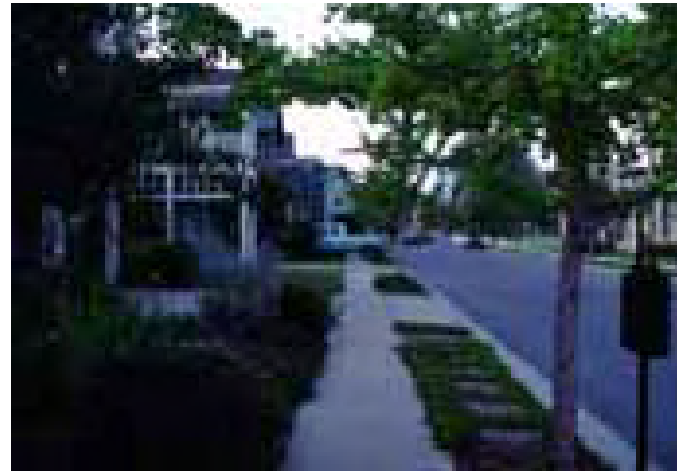


# Harbor Town, Memphis



- Establish a community focal point
- Maximize everyone's enjoyment of open space

- Smaller lot sizes and sidewalks promote a sense of community



# Conservation Zoning (R-15 Equivalent)

Benefits include:

- Flood Control & Water Quality – absorb flood waters and filter pollutants from storm water.
- Plant & Animal Habitat
- Health & Recreation
- Economic – cost effective to develop. Expenses related to infrastructure cost such as road building, storm drainage and water & sewer service are reduced with less linear feet needed to service a smaller area of land. Additional cost-savings occur per lot such as excavating, landscaping, grading and paving. Lots bordering open space and greenways generally yield a higher premium for the developer which translates into higher property values.
- Cultural – Open spaces can protect many of the historic resources and locally significant sites in Rutherford County.

# Recommendations Conservation Zoning

- Staff should spell out all aspects of conservation design (in regulations) in great detail and be prepared to guide and advise developers to maximize potential open space.
- Zoning will occur by density and NOT by lot size. Calculate the number of dwellings per acre and permit applicant to utilize the land for mixed-use housing at various price points.
- Lot size and road frontage become irrelevant. (RCRPC may maintain a minimum allowable or require an average lot size – examples to follow).
- Conservation will be a use by-right and will be offered as an option vs. a forced regulation.

# Recommendations Conservation Zoning

- Define Open Space as usable, preferably undisturbed land. When calculating density, subtract “unusable” land such as: land in floodway, land reserved for use by wastewater (STEP) treatment systems, Cell Tower easements, steep slopes or any other portion of the land that is un-developable.
- Density neutrality will automatically be granted to applicants who agree to design their development using the Conservation Design Model.
- Have Staff plot all know “cultural touchstones” in GIS Mapping System. (Preliminary list supplied by MTSU).
- Per the MTSU Center for Historic Preservation, we shall define a “cultural touchstone” as a property that has been designated by an established heritage program as a property of significance to the community.

# Example of Density Neutral

- Total parcel of Land = 100AC (1-AC = 43,560 square-feet).
- Current zoning permits (2.90) residential structures per acre (gross development capacity). Net development capacity is closer to (2.25) when reduced by land needed for roads, utilities and ROW.
- Assume (1-AC) is a cell tower easement, (10-AC) are needed for STEP System, (4-AC) are in floodway. Useable land is reduced by 15-AC. Therefore the net useable land is 85-AC. Applicant could build (246) units.
- Under Conservation Design, the applicant would be permitted to build the same number of units on less land if he permanently set aside useable land to never be developed.

## Density Neutral - continued

- If 40-AC were preserved as open space, the applicant could build (246) units on the remaining 45-AC for an average lot size of 7,968 square-feet.
- We could require an average lot size of 10,000 s-f and a minimum of 8,000 s-f.
- The applicant could blend his development with estate lots, single family homes and attached homes to achieve the desired density.

# Open Space - Ownership

- **Individual Landowner** – (a) Original landowner may retain ownership of conserved land, or (b) Non-common open space may be deeded to individual landowners in the form of estate lots. These estate lots will have restrictions regarding appropriate use of land.
- **Homeowner's Associations (RECOMMENDED BY COMMITTEE)**
  - 1) Membership must be automatic
  - 2) Zoning requires HOA by-laws gives the association the legal right to place liens on properties of members who fail to pay their dues
  - 3) Facilities should be minimal to keep dues low
  - 4) Detailed maintenance plans for conservation areas should be required by RCRPC as a condition of approval. County has enforcement rights and may place a lien on the property should HOA fail to perform their duties
  - 5) RCRPC Subdivision Regulations will require that all HOAs employ the services of a third party, professional administrator. Developments with fewer than 50 homes may apply for a waiver, all other provisions apply.

# Open Space - Ownership

- **Land Trusts** – Private, charitable groups whose principal purpose is to protect land under its stewardship from inappropriate change.
- **Municipality or other Public Agency** – In special situations a local government might desire to own part of the conservation land, (park or link in a community trail network).
- **Combinations of the Above** – Land within new subdivisions could involve multiple ownerships, including (1) “non-common” open space such as cropland retained by the original farmer, (2) common open space such as ball fields owned by a HOA, and (3) a trail corridor owned by either a land trust or municipality.

# Open Space - Maintenance

- Rutherford County will require conservation area management plans to be submitted and approved prior to granting final subdivision approval.
- Liability – Owners of conservation lands routinely purchase liability insurance policies similar to those that most homeowners maintain.

# Transfer of Development Rights

- Transfer of development rights programs allow landowners to transfer the right to develop one parcel of land to a different parcel of land. In the context of farmland protection, TDR is used to shift development from agricultural areas to designated growth zones closer to municipal services.
- It is the recommendation of the committee that TDR programs be studied in further detail, as this seems to be an intriguing solution for both farmers and developers.

# Blue Line Streams - Recommendations

- Require all riparian buffers to be 50' on each side of a blue line stream.
- Prohibit direct drainage into a blue line stream, unless approved by County Engineering. County Planning and Engineering Staff will have latitude to determine when retention vs. drainage into a blue line stream is most advantageous.
- All lots bordering floodplain, the front yard (from the front set-back requirement), the entire building footprint plus an additional twenty-five feet (25') beyond the foot print, access to the driveway and to the roadway must all be above floodplain level.

Note: The intent of the proposed revision is to remove the requirement that the entire 15,000-sf of a lot be located outside the floodplain. It is our desire to reduce filling of lots and dredging from stream banks to artificially raise the topography of developed land.

# Additional Recommendations

- It is the recommendation of this committee that we require all new developments to install underground utilities in subdivisions.

## Final Note: Zoning Handicap

Both committees acknowledge while the entire county remains zoned R-15, as a use by-right, we are limited to the extent by which the RCRPC may effectively regulate the development of land.

In recent correspondence with the County Attorney's Office, (lawsuit regarding Malibu Estates) we were reminded once again of the need to address Rutherford County's flawed zoning ordinance.

## *Tennessee Planning Commissioners' Handbook*

“Planning presupposes and requires that rationality triumph over irrationality, order over disorder, constructive hope over discouragement and fatalism, action over inaction. It requires extra energy; it is much easier to continue in the existing condition and change only when necessary than to struggle to achieve improvement...In addition, planning is analytically exacting requiring the full range of human knowledge, and procedurally difficult to implement because of individual and organizational reluctance to change and undertake steady advance. Like all human activity, planning always operates to someone’s disadvantage; there are no plans that benefit everyone equally. Each of these characteristics of the planning process makes it harder to establish and perpetuate.”

Melville C. Branch, Comprehensive Planning General Theory and Principles