

IN THE MATTER OF THE APPLICATION OF WINDSOR-AUGHTRY, Inc.
Applicant,

To the

HENDERSON COUNTY BOARD OF ADJUSTMENT,
Permit Authority

ORDER AMENDING SPECIAL USE PERMIT SUP-05-01-A1

The **HENDERSON COUNTY BOARD OF ADJUSTMENT** having held a quasi-judicial public hearing on October 30, 2013 to consider the application submitted by **Windsor-Aughtry** and thus have amended the November 15, 2006 Special Use Permit as follows:

FINDINGS OF FACT

1. A Special Use Permit was approved by the Board of Commissioners on November 15, 2006 and was vested to the site plan presented at the time of application.
2. A quasi-judicial public hearing was held by the Henderson County Board of Adjustment on amendment request on October 30, 2013.
3. The amendment request was approved unanimously based on a motion by Mike Easley and seconded by Tony Engel.
4. The Applicant, Windsor-Aughtry, represented here by owner Drew Norwood, owns the 178.4 acre property off Butler Bridge Road and was as such made a party to this action and was duly sworn. Engineer Bill Lapsley was presented as a witness for the Applicant.
5. Henderson County staff, Parker Sloan was made a party to this action and was duly sworn. Toby Linville and Autumn Radcliff were also made witnesses for the party
6. Mr. Sloan entered the staff report marked #2008-M-09, maps, and site plan into evidence. The County also entered the original special use permit and the subsequent amendment into the record based on the testimony of Zoning Administrator Toby Linville.
7. The original Riverstone Special Use permit (SUP-05-01) was approved in November 2005.
8. The Special Use permit was then amended in SUP-05-01-A1 in August 2006.
9. A new site plan was submitted with the request dated September 16, 2013.
10. The Applicant is the following change from the original special use permit and the subsequent amendment:
 - a. Increase the number of residential units from 524 to 549.
 - b. Add a second swimming pool facility.
11. Testimony was given that this request will not generate additional negative consequences to the project and will not affect glare, traffic, or environmental impacts.
12. All other elements of the Special Use Permit and 2006 Amendments remain the same and in effect.
13. The project is served by public water and sewer.
14. The amendment is recommended by staff, Technical Review Committee and Planning Board.
15. At its October 17th, 2013 meeting, the Planning Board approved revisions to the Riverstone Master Plan.
16. Under the original zoning, the property would be permitted to have 661 units under the property's split zoning R-10 and R-15 zoning districts.
17. Under the original special use permit, the Applicant would be permitted to have 524 units.
18. Under the current zoning under the Land Development Code, the Applicant would be permitted to have 713 units.

19. The Special Use Permit Amendment in 2006 increased the size of the project by approximately 4 acres.

CONCLUSIONS

1. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.
2. All parties were properly before the Board of Adjustment and all evidence presented herein was under oath, and was not objected to by any party. All evidence relied upon in this Order was credible and reliable.
3. Henderson County Code 200A-323 grants the Board of Adjustment the jurisdiction to hear and make special use permit decisions and amend these orders.
4. The request still complies with the Special Use Permit requirements and considerations.
5. The additional lots are still less dense than permitted under the original zoning or current zoning.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS drawn, and it appearing to the HENDERSON COUNTY BOARD OF ADJUSTMENT that the Amendment to Special Use Permit must be **GRANTED**.

IT IS THEREFORE ORDERED by the HENDERSON COUNTY BOARD OF ADJUSTMENT as follows:

The Applicant's Amendment to the Special Use Permit has been GRANTED. The Order shall be amended :

1. Special Permit SUP-06-01 is amended to allow for up to 549 units and a second pool facility.
2. Applicant is vested to the September 16, 2013 site plan.

ORDERED this the ____ day of November 2013.

THE HENDERSON COUNTY BOARD OF ADJUSTMENT

By: _____
Jim Clayton, Chairman

ATTEST:

Jenny Maybin
Secretary to the Zoning Board of Adjustment

ACCEPTANCE BY APPLICANT

I, _____, Applicant, do hereby acknowledge receipt of this order which is the subject of this special use permit request. I further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding on the owner and his successors in interest.

This the _____ day of _____, 2013

_____, Applicant

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON COUNTY

I, _____, a Notary Public for said County and State, do hereby certify that
_____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ of _____, 2012.

(Official Seal)

Notary Public

My Commission expires