REQUEST FOR BOARD ACTION

HENDERSON COUNTY
BOARD OF COMMISSIONERS

orig

QUASI-JUDICIAL PUBLIC HEARING

Special Use Permit Amendment Application SP-04-01-A1 for the Planned Unit Development Known as Leoni's Mountain Lake Homes

Camp Riley, Inc., Applicant

MEETING DATE: Monday, December 4, 2006

ATTACHMENTS:
1. Special Use Permit Order SP-04-01
2. Site / Current Zoning Map
3. Aerial Photo Map
4. Development and Adjacent Property Owners Map
5. Required Findings of Fact for Planned Unit Development Special Use Permits
6. Notice of Public Hearing

SUMMARY OF REQUEST:

Mr. Todd Leoni, agent and owner of Camp Riley, Inc., property owner and applicant, has submitted an application to amend the special use permit SP-04-01 for the planned unit development (PUD) known as Leoni's Mountain Lake Homes. The PUD is located in an R-20 (Low-Density Residential) zoning district along South Lakeside Drive, with the intersection of South Lakeside Drive and Old South Carolina Avenue to the north (See Attachments 2 and 3, Site / Current Zoning Map and Aerial Photo Map). The PUD, as proposed, is to contain 12.01 acres of land, 26 single-family detached dwellings on individual lots, and approximately 4.65 acres of open space (See attachment 1, Special Use Permit Order SP-04-01). The amendment request would not change the acreage, density, or open space proposed for the PUD, but would change group septic systems to public sewer service.
Pursuant to §200-33.A of the Henderson County Code, before the Board of Commissioners may act on such a request, this matter requires "the advice and recommendation" of the Henderson County Planning Board. On September 20, 2006, the Henderson County Board of Commissioners accepted and referred the Special Use Permit Amendment Application (SP-04-01-A1) to the Planning Board for its review and recommendation. During the October 17, 2006 Planning Board meeting, amendment application SP-04-01-A1 was reviewed and the Planning Board offered a recommendation to the Board of Commissioners. The Planning Board recommendation, along with Staff comments, will be submitted as evidence to the Board of Commissioners during the public hearing.

In accordance with Sections 200-56D and 200-70A(6) of the Zoning Ordinance (See Attachment 5, Required Findings of Fact), the Board of Commissioners must make findings of fact regarding compliance with the ordinance in order to grant a Special Use Permit Amendment and may impose conditions on the permit to assure that a proposed use will meet the requirements of the Zoning Ordinance. Section 200-56D lists the general site standards that apply to all special uses. If a general site standard cannot be met and, based on evidence provided during the hearing, the Board finds that imposing conditions (such as increasing minimum specific site standards), will allow such general site standards to be met, then the Board may impose the conditions. However, the applicant does not bear

the burden of demonstrating that all of the general site standards have been met. Section 200-70A(6) requires that the Board of Commissioners also make findings to demonstrate that the proposed use complies with any specific requirements for the use and that provisions have been made for the following, if applicable: ingress/egress; parking and loading; utilities; buffering; playgrounds; open spaces; yards; access ways and pedestrian ways and building and structure location, size and use.

In accordance with the Henderson County Zoning Ordinance, notices of the hearing on the Special Use Permit Amendment Application (SP-04-01-A1) were published in the Times-News on Wednesday, November 15, 2006 and on Wednesday, November 22, 2006 (See Attachment 6, Notice of Public Hearing). On November 15, 2006 the Planning Department posted notices at the project site to advertise the hearing. On November 15, 2006 the Planning Department sent notices of the public hearing via certified mail to the applicant and adjacent property owners.

BOARD ACTION REQUESTED:

Since the matter requires a quasi-judicial public hearing, the Board of Commissioners must consider the evidence presented at the hearing and make findings of fact based on that evidence in order to take action on the Special Use Permit Amendment Application. The Board must issue a written decision within 45 days of the conclusion of the hearing.

Suggested Motion:

No motion is suggested at this time due to the nature of a quasi-judicial public hearing.

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BEFORE THE BOARD OF COMMISSIONERS
FILE NUMBER SP-04-01

IN THE MATTER OF THE APPLICATION OF TODD LEONI
ON BEHALF OF CAMP RILEY, INC.,
Applicant

TO THE

HENDERSON COUNTY BOARD OF COMMISSIONERS,
Permit Authority

BILL HARPER, JR., MARCIA HAMMEL, BRENDA COATES
DIANA GREEN, JUDITH SLOAN, GEORGINA HOLMES,
JUNE REESE, POLLY DAVIS, JERRY JONES and
DIANA SIMPSON,
Additional Parties

ORDER GRANTING APPLICATION SP-04-01 (as revised)
SPECIAL USE PERMIT FOR PLANNED UNIT DEVELOPMENT

The Henderson County Board of Commissioners held a quasi-judicial public hearing on 10 November 2004, to consider the application (#SP-04-01) for a Special Use Permit, as revised, submitted by Todd Leoni on behalf of the Camp Riley, Inc. The following persons were made parties to this proceeding: Todd Leoni on behalf of Camp Riley, Inc.; Henderson County Planning Department staff (Karen C. Smith, Director); Bill Harper, Jr.; Marcia Hammel; Brenda Coates; Diana Green; Judith Sloan; Georgina Holmes; June Reese; Polly Davis; Jerry Jones; and Diane Simpson. Having heard all of the evidence and arguments presented at the hearing, the Board of Commissioners makes the following findings of fact:

1. A quasi-judicial public hearing was held by the Henderson County Board of Commissioners on special use permit application #SP-04-01 (as revised) on 10 November 2004. A quorum of the Board of Commissioners, consisting of Commission Chair Grady Hawkins, Vice-Chair Larry Young, and Commissioners William Moyer and Charlie Messer, was present and participated in this hearing. Upon inquiry by the Chair of the Board of Commissioners, no party objected to the hearing of this matter on 10 November 2004 by the Board of Commissioners as actually attending.

2. This Order, and the approval of the special use permit granted herein, was moved by Commissioner Messer and approved by a majority of the Board of Commissioners as attending the 10 November 2004 hearing, with Commissioner Young voting in opposition.

3. Todd Leoni ("Leoni") is the agent and owner of Camp Riley, Inc. ("the applicant"). The applicant owns certain real property located in Henderson County, North Carolina, being known by Henderson County parcel identification number 00-9567-29-4058-55 ("the subject property"). Leoni, on behalf of the applicant, applied for a special use permit, pursuant to the Henderson County Zoning Ordinance, Section 200-1 *et seq* of the Henderson County Code ("the Ordinance"), to allow a planned use development ("PUD") on the subject property. As a result, Leoni and the applicant were made parties to this proceeding.

4. Karen C. Smith is the Planning Director for Henderson County. As an agent for Henderson County, Ms. Smith was made a party to this hearing.

5. Notice of a quasi-judicial public hearing, pursuant to the Ordinance, the Henderson County Code, and the Rules of the Henderson County Board of Commissioners was duly and timely given. This notice included legal advertisement in *The Times-News* newspaper, notices sent by certified mail to the applicant and property owners within a 100-foot diameter of the boundary of the subject property, and the posting of notice on the subject property.

6. Bill Harper, Jr., ("Harper"), Marcia Hammel ("Hammel"), Brenda Coates ("Coates"), Diana Green ("Green"), Judith Sloan ("Sloan"), Georgina Holmes ("Holmes"), June Reese ("Reese"), Polly Davis ("Davis"), Jerry Jones ("Jones") and Diane Simpson ("Simpson") all sought to become parties to this hearing. As no other party objected, the Board of Commissioners in its discretion made Harper, Hammel, Coates, Green, Sloan, Holmes, Reese, Davis, Jones and Simpson parties to this hearing.

7. Upon inquiry by the Chair of the Board of Commissioners, no party objected to any of the other persons or entities made parties to this action being a party to this action.

8. All parties, and all witnesses presented by any party, were sworn as witnesses in this proceeding on 10 November 2004.

9. Without objection from any party, the Board of Commissioners received into evidence a memorandum from Karen C. Smith, Planning Director, consisting of three pages and ten attachments. No party disputed any of the information contained in this memorandum or these attachments, and the Board of Commissioners finds all the information contained in the memorandum and its attachments to be credible and to be fact for the purpose of this hearing.

10. The subject property consists of 12.01 acres, located across South Lakeside Drive from Lake Osceola. The subject property has frontage on both South Lakeside Drive and Bonner Street. Both Bonner Street and South Lakeside Drive are "state-maintained" roads, maintained by the North Carolina Department of Transportation.

11. The subject property is entirely located in a R-20 Low Density Residential zoning district, as the same is defined by the Ordinance.

12. Under the provisions of the R-20 zoning district, the subject property could be subdivided into 26 lots.

13. Under the Ordinance, a PUD is allowed as a special use in R-20 zoning districts. The Ordinance provides specific site standards for a PUD, as well as general site standards applicable to all special uses.

14. The applicant, in the application for a special use permit as revised (the application, its supporting documentation and all revisions to it collectively "the application"), proposed a PUD to be sited on the subject property. The application proposes a PUD with 26 lots, averaging 12,632 square feet (0.29 acres) in area.

15. As the proposed PUD would contain the same number of single-family residences as would be allowed in a non-PUD development in a R-20 zoning district for the subject property, there would be no additional increment to traffic caused by the approval of the PUD (as opposed to non-PUD development of the subject property).

16. The proposed PUD would utilize two types of single-family dwellings: seven "cottages", which have traditional separated single-family residences; and, nineteen "villas", which make extensive use of "zero lot lines", where two "villas" share a common wall.

17. The proposed PUD would include a new 1,200 foot long private road, which would cross the subject property from South Lakeside Drive to Bonner Street. The North Carolina Department of Transportation has granted driveway permits for this private road onto both South Lakeside Drive and Bonner Street.

18. The proposed PUD would be served by public water, from the City of Hendersonville. The application shows two fire hydrants to be located on the subject property.

19. The proposed PUD would have group septic systems, wherein each lot would have a separate septic tank, but share with one or more other lots a common effluent drain field. The common drain fields will be located on open space dedicated in the proposed PUD. The nearest public gravity sewer is 7,000 feet from the nearest point on the subject property.

20. The review and, if appropriate, approval for a group septic system such as proposed in the PUD must be done by the North Carolina Department of Environment and Natural Resources.

21. The proposed PUD would have 4.65 acres of open space (which includes the proposed private road (consisting of approximately 0.5 acres), as well as the common drain fields), and 7.36 acres in residential lots.

22. The proposed design of the residential lots, with the "cottage" and "villa" lots, allows the lots facing the outer perimeter of the subject property, primarily "cottage" lots, to fit into the character of the existing neighborhood bordering the subject property.

23. A pre-application conference was held between the applicant's representative, the Henderson County Planning Department staff, and the Henderson County Planning Board on 17 August 2004. The applicant caused to be filed a special use permit application (#SU-04-01) on 1 September 2004. On 7 September 2004, the Board of Commissioners referred the application to the Henderson County Planning Board, pursuant to Sections 200-56 and 200-70 of the Ordinance.

24. As the PUD includes the division of land into lots for sale, the same falls within the Henderson County Subdivision Ordinance, and the applicant applied for approval of a nonstandard subdivision under the Subdivision Ordinance. This approval was granted by the Henderson County Planning Board, subject to certain pre-conditions, one of which was the grant by the Board of Commissioners of this special use permit.

25. The applicant, through land planner Luther E. Smith and Associates, submitted revised Master and Preliminary Development Plans for this project to the Henderson County Planning Department on 7 October 2004. These revised plans are a part of the application, and are included in attachment 8 to the Memorandum of Karen C. Smith referred to in finding 9., above.

26. Under §200-56 of the ordinance, certain general site standards apply to all uses requiring a special use permit.

27. The general site standards referred to in 26., above, are all satisfied in this development as proposed (with revisions to the application as found herein), except as otherwise found in paragraph 34., below.

28. Under §200-33A of the ordinance, certain land development standards apply for all planned unit developments.

29. The land development standards referred to in 28., above, are all satisfied in this development as proposed (with revisions to the application as found herein), except as otherwise found in paragraph 34., below.

30. The conveyance of open space, recreational areas and communally owned facilities in a PUD are mandated as follows in §200-33D of the Ordinance:

1. Common open space, recreational areas and communally owned facilities shall be guaranteed by a restrictive covenant describing the areas and facilities and their maintenance and improvement, running with the land for the benefit of residents of the planned unit development or adjoining property owners or both.

2. The applicant must submit to the Board of Commissioners the legal documents which will produce the aforesaid guaranties and, in particular, will provide for restricting the use of common areas and facilities for the designated purposes.

31. The provisions on the conveyance of open space listed in 30., above, are all satisfied in this development as proposed (with revisions to the application as found herein), except as found in paragraph 34., below.

32. Pursuant to the Ordinance, a PUD shall be approved subject to the submission of an instrument or instruments setting forth a plan for permanent care and maintenance of permanent open spaces, recreational areas, easements, rights-of-way and communally owned facilities which would be legally enforceable. The developer shall create a homeowners' association and submit bylaws and rules and regulations governing the association. The developer shall be required to include in every deed the developer makes that membership be mandatory for each home buyer.

1. The provisions shall include, but not be limited to, the following:

   i. The homeowners' association must be set up before the homes are sold.

   ii. The open space restrictions must be permanent not just for a period of years.

   iii. The association must be responsible for liability insurance, local taxes and the maintenance of recreational and other designated facilities.

   iv. Homeowners must pay their pro rata share of the cost; the assessment levied by the association can become a lien on the property.

   v. The association must be able to adjust the assessment to meet changed needs.

2. No such instrument shall be acceptable until approved by the County Attorney as to legal form and effect and the Board of Commissioners as to suitability for the proposed uses.

33. The provisions on the maintenance of the PUD listed in 32., above, are all satisfied in this development as proposed (with revisions to the application as found herein), except as found in paragraph 34., below.

34. The application (as revised) does not satisfy at present the Board of Commissioners as to meeting the general site standards, land development standards applicable to this PUD, the conveyance of open space, recreational areas and communally owned facilities, and maintenance, in the following:

a. The restrictive covenants proposed for the subject property do not provide sufficient lawful provisions to insure the permanence of dedicated open spaces, and the maintenance of roads and septic system (including a provision regarding the assessment of lien on lots in the PUD and the collection of the same to allow for homeowners' association payment of the costs of repairs, improvements, and any common area property taxes).

b. No articles of incorporation or by-laws of a homeowners' association for the PUD has been provided.

c. There is currently no provision as to when the common area is to be conveyed to the homeowners' association.

d. There is no provision as to the location of the sales and construction office to be located on the subject property, nor which entrance is to be considered the primary entrance or construction entrance to the subject property. (At the hearing of this matter, the applicant committed to taking all actions possible to insure that the South Lakeside Drive entrance was the "main entrance" for the project, with the sales office located there, and all literature and signs indicating that the entrance off South Lakeside Drive is the "main entrance", and to insure that the same is also the construction entrance for the project and all workers, materials providers and contractors under the applicant's control.)

e. This special use permit granted should be conditioned on the applicant receiving all approvals required by the Henderson County Subdivision Ordinance, and on the applicant remaining in compliance with the Subdivision Ordinance.

f. All structures (counting two structures utilizing a zero lot line as one structure) may not be closer than 10 feet from one another, all construction of adjacent walls should conform with the North Carolina Building Codes, and that area between buildings must be and remain open and unobstructed.

g. The Applicant must submit to the Henderson County Planning Department plans and other documentation to ensure that the water system has been designed by a professional engineer and that such system has been approved by appropriate local and state agencies, and must construct the system as designed.

h. The Applicant must submit to the Henderson County Planning Department plans and other documentation to ensure that the sewer systems have been designed by a professional engineer and that such systems have been approved by appropriate local and state agencies, and must construct the system as designed.

i. The Applicant must submit to the Henderson County Planning Department documentation of approval of the sedimentation and erosion control plan for the project prior to beginning any construction.

j. The Applicant must submit to the Henderson County Planning Department documentation from Henderson County Emergency Medical Services (EMS) Department and the Fire Chief of Valley Hill Fire & Rescue Department regarding the adequacy of the proposed facilities for emergency medical and fire services prior to beginning construction.

k. The Applicant must in documentation submitted to the Henderson County Planning Department indicate what, if any, fencing, screening or other materials/techniques will be used around the perimeter of the development.

l. Setbacks within the project must be established as follows:

Front: 44 feet, 6 inches from the centerline of rights-of-way, for all lots
Rear: 10 feet, for "villa" lots
Rear: 15 feet, for "cottage" lots
Side: 10 feet (for the non-zero lot line side), 0 feet (for the zero lot line side), for "villa" lots
Side: 7 feet, 6 inches for "cottage" lots

35. The items listed in finding 34., above, may be cured by the imposition of conditions upon the approval of this application by the Board of Commissioners, as stated below.

From the foregoing, the Board of Commissioners concludes as follows:

1. All parties were properly before the Board, 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.

2. Sections 200-7B, 200-33 and 200-56 of the Henderson County Code govern the grant or denial by the Board of Commissioners of a special use permit for a planned unit development.

3. The Board of Commissioners has jurisdiction to hear this matter.

4. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.

5. The application meets all the standards of the Ordinance, subject to the conditions set forth below, and the application should be granted, subject to the conditions set forth below.

IT IS THEREFORE ORDERED by the Henderson County Board of Commissioners that Henderson County special use application number SP-04-01 is hereby granted, subject to the following conditions:

1. Any conditions set herein shall apply to the applicant, and to any bulk transferee of lots from the applicant.

2. The restrictive covenants for the subject property shall be made legally sufficient, in the opinion of the Henderson County Attorney, to lawfully insure:

a. The permanence of dedicated open spaces.

b. The perpetual maintenance of roads and septic system (including a provision regarding the mandatory assessment of a lien on lots in the development on a prorated basis, and the mandatory collection of the same to allow for homeowners' association payment of the costs of repairs, improvements, and any common area property taxes).

3. Articles of incorporation and by-laws of a homeowners' association for the PUD (or other documents lawfully and irrevocably establishing the same) shall be made legally sufficient and, in the opinion of the Henderson County Attorney, and lawfully made of record under North Carolina law.

4. All property designated as common area, open space, roads or the like shall be irrevocably conveyed to the homeowners' association established for the PUD prior to sale of any lots in the PUD.

5. The sales and construction office to be located on the subject property, shall be located adjacent to the intersection of the private road proposed on the subject property and South Lakeside Drive, and shall be present on the property only for such period, as a temporary use, as is allowed to be of a size and for a duration as allowed by the Henderson County Zoning Board of Adjustment.

6. The applicant shall designate the entrance to the private road on the subject property from South Lakeside Drive as the primary entrance and the construction entrance for the PUD. All sales and other literature, signs or advertisements prepared or distributed by the applicant shall indicate such entrance as the primary entrance of the PUD.

7. The applicant shall take all reasonable steps to insure that the entrance to the private road on the subject property from South Lakeside Drive shall be the sole entrance and exit to and from the subject property by all workers, materials or services providers and contractors under the applicant's direction or control, during the development of the subject property or any construction occurring thereon.

8. No structure (as defined in finding of fact 34.f., above may be closer to another than 10 feet, all construction of adjacent walls conforms with the North Carolina Building Codes, and that area between buildings must be and remain open and unobstructed.

9. The Applicant must submit to the Henderson County Planning Department plans and other documentation to ensure that the water system has been designed by a professional engineer and that such system has been approved by appropriate local and state agencies, and must construct the system as designed.

10. The Applicant must submit to the Henderson County Planning Department plans and other documentation to ensure that the sewer systems have been designed by a professional engineer and that such systems have been approved by appropriate local and state agencies, and must construct the system as designed.

11. The Applicant must submit to the Henderson County Planning Department documentation of approval of the sedimentation and erosion control plan for the project prior to beginning any construction.

12. The Applicant must submit to the Henderson County Planning Department documentation from Henderson County Emergency Medical Services (EMS) Department and the Fire Chief of Valley Hill Fire & Rescue Department regarding the adequacy of the proposed facilities for emergency medical and fire services prior to beginning construction.

13. The Applicant must in documentation submitted to the Henderson County Planning Department what, if any, fencing, screening or other materials/techniques will be used around the perimeter of the development.

14. Setbacks: Setbacks within the project must be established as follows:

Front: 44 feet, 6 inches from the centerline of rights-of-way, for all lots
Rear: 10 feet, for "villa" lots
Rear: 15 feet, for "cottage" lots
Side: 10 feet (for the non-zero lot line side), 0 feet (for the zero lot line side), for "villa" lots
Side: 7 feet, 6 inches for "cottage" lots

In the Matter of the Application of Leoni and Camp Riley, Inc.
Order Granting Application for Special Use Permit
File Number SP-04-01

15. The Order granted this permit is expressly conditioned on the applicant receiving all approvals required under the Henderson County Subdivision Ordinance, and upon the applicant remaining in compliance with the Subdivision Ordinance.

This the 6th day of December, 2004.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____

Attest:

Elizabeth W. Corn

Elizabeth W. Corn, Clerk to the Board of Commissioners

In the Matter of the Application of Leoni and Camp Riley, Inc.
Order Granting Application for Special Use Permit
File Number SP-04-01

ACCEPTANCE BY THE APPLICANT

I, Todd Leoni, president of Camp Riley, Inc., do hereby on behalf of Camp Riley, Inc., acknowledge:

(1) the receipt of this order on behalf of Camp Riley, Inc., the owner of the property which is the subject of this Order;
(2) that nothing may be done pursuant to this Order except in accordance with all of its conditions and requirements; and,
(3) that this restriction is and shall remain binding on Camp Riley, Inc., and its successors in interest.

This the _____ day of _____, 2004.

TODD LEONI, President, on behalf of
CAMP RILEY, INC.

STATE OF ~~NORTH CAROLINA~~ Florida
COUNTY OF ~~HENDERSON~~ Dade

I, Andrew Vogel, Notary Public for said County and State, certify that Todd Leoni, president of Camp Riley, Inc., personally came before me this day and acknowledged the due execution of foregoing instrument on behalf of Camp Riley, Inc.

THIS the 16 day of December, 2004.

Andrew Vogel
Commission # DD270205
Expires: Nov. 25, 2007
Aaron Notary
1-800-350-5161

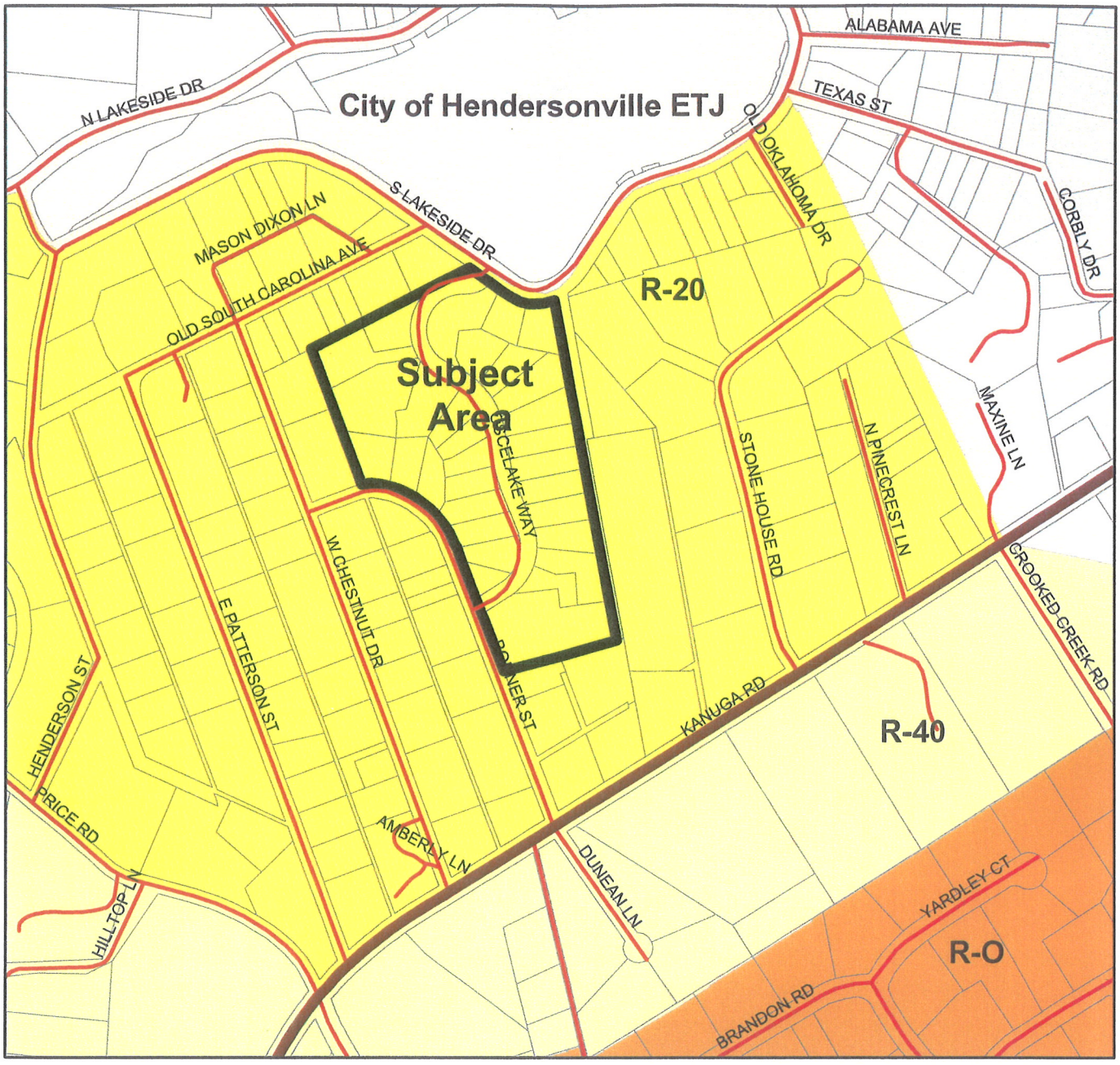
Notary Public

My Commission Expires:

Andrew Vogel
Commission # DD270205
Expires: Nov. 25, 2007
Aaron Notary
1-800-350-5161

Site / Current Zoning Map

Attachment 2



Major Roads
Streets
Subject Area
Parcels

N
W E
S

Special Use Permit Amendment Application
SP-04-01-A1
Mr. Todd Leoni, agent and owner of
Camp Riley, Inc., Applicant

Feet
0 100200 400 600 800 1,000

HCPD 12-04-06

Aerial Photo Map

Attachment 3

Major Roads
Streets
Subject Area
Parcels

N
W E
S

Special Use Permit Amendment Application
SP-04-01-A1
Mr. Todd Leoni, agent and owner of
Camp Riley, Inc., Applicant

Feet
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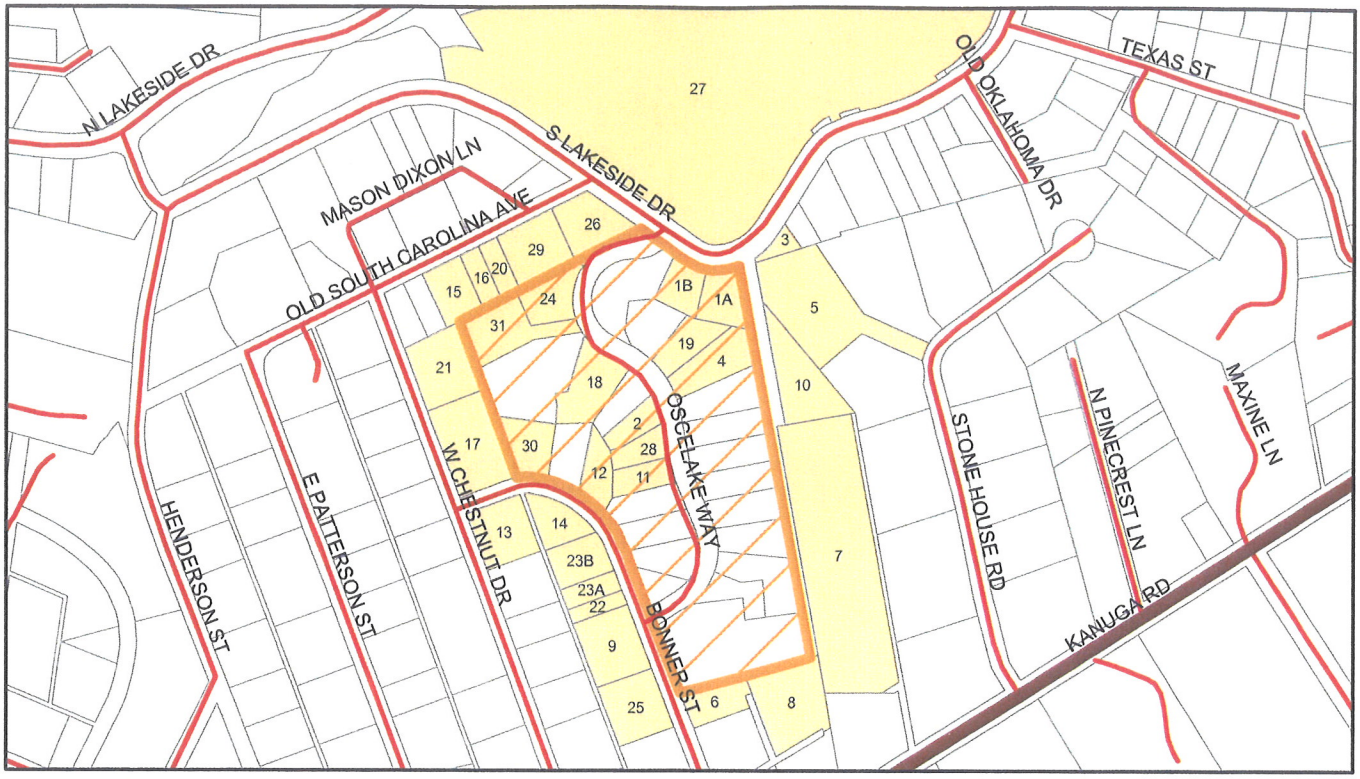
HCPD 12-04-06

Development and Adjacent Property Owners Map

Attachment 4



Major Roads
Streets
Subject Area
Development & Adjacent Property Owners
Parcels

N
W E
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Feet
0 120 240 480 720 960 1,200

Special Use Permit Amendment Application
SP-04-01-A1
Mr. Todd Leoni, agent and owner of
Camp Riley, Inc., Applicant

Property Owner	Property
Bendayan, Salomon & June E	1A & 1B
Berlowitz, Michele T & Jeffrey S	2
Coates, Brenda B	3
Failla, Geraldine L	4
Garland, Donald M & Patricia M	5
Green, Dianna C	6
Hefner, James E & Wife	7
Hefner, R G	8
Holmes, Laurence H & Georgina B	9
Keeling, Sheala Edney	10
Kern, Brad Alan	11
Leight, Deborah; Mousally, Max	12
Lockaby, A P ET AL (Michael Edwin Lockaby)	13
Morgan, Bertie E & John Henry	14
Morris, Joyce C	15
Patterson, Reba W	16
Perry, Ruth Marie	17
Petit, Christophe & Robin Petit-Leoni	18
Pollack, David W	19
Pressley, James R & Doris B	20
Pressley, Sharon Beddingfield	21
Reese, Mabel June & Russell G	22
Reese, Russell G & Wife	23A & 23B
Rinalducci, Teresa M	24
Sloan, Judith Ann	25
Sternfeld, Cris	26
T & A Carolina Corp (Todd Leoni, President)	27
Tessler, Louis	28
Vant Hoff, Theodorus	29
Vimach LLC a Florida LL Company	30
Vogel, Andrew T	31

Henderson County Board of Commissioners Required Findings For Special Use Permit Application for Planned Unit Development

Required Finding	Zoning Ordinance Citation	Y	N
1) **Ownership control**: the land in the development is in single ownership or management by the applicant before final approval and/or construction	200-33A.(1)		
2) **Density requirements**: proposed overall density conforms to underlying zoning district(s) in which the property is located. *"The density (dwelling units per acre) of any proposed planned unit development shall be determined by dividing the total number of square feet in the property by the minimum lot size requirement of a single-family dwelling in the district in which the development is proposed."* If in more than one district "the number of allowable dwelling units must be separately calculated for each portion of the planned unit development that is in a separate district and must then be combined to determine the number of dwelling units allowable in the entire planned unit development." There must be "satisfactory provision" as to "buildings and structures with reference to location, size and use."	200-33A.(2) 200-33A.(9) 200-70A.(6)(f)		
3) **Frontage**: the development shall have a minimum of 200 feet frontage on a paved, public, state-maintained road or highway	200-33A.(3)		
4) **Minimum size** of development: 1½ acres	200-33A.(4)		
5) **Building type:** Buildings in the development are of the type usually allowed in the zoning district(s), plus "single-family detached homes, townhouses and garden apartments" owned as "condominium, cooperative, individual, municipal or any other type of ownership".	200-33A.(5)		
6) The "**spirit and intent**" of the ordinance must be met.	200-33A.(6)		
7) **Height limit** on all buildings of 35 feet	200-33A.(6)(a)[1]		
8) **Building separation**: (1) at least 20 feet for buildings less than 20 feet in height located end to end, plus one foot in separation for each foot greater than 20 feet in height (to a maximum separation of 30 feet); (2) at least 30 feet for buildings less than 30 feet in height located side to side, plus one foot in separation for each foot greater than 30 feet in height (to a maximum separation of 40 feet); and (3) "the Planning Board may permit the minimum building separation for single-family detached units to be reduced below the minimums stated above, provided that the construction of adjacent walls conforms with the North Carolina Building Codes, but in no case shall buildings be closer than 10 feet. When the minimum separation is reduced, the area between buildings shall remain open and unobstructed."	200-33A.(6)(a)[2]		
9) **Access to common area**: Direct access to common area for each dwelling by public street, walkway or other area dedicated to common use. There must be "satisfactory provision" as to "playgrounds, open spaces, yards, accessways and pedestrian ways with reference to location, size and suitability."	200-33A.(6)(b) 200-70A.(6)(e)		
10) **Location of structures**: "The location of structures, shown on the development plan, shall be so arranged as not to be detrimental to existing or other proposed structures or to the development of the neighborhood."	200-33A.(6)(c)		

Required Finding	Zoning Ordinance Citation	Y	N
11) **Privacy** (visual and acoustical) for all dwelling units: "Fences, insulation, walls, barriers, and landscaping shall be used as appropriate for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise."	200-33A.(7)		
12) **Perimeter privacy and screening**: *"If topographical or other barriers within 200 feet of the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Board of Commissioners may impose any of the following requirements: (a) Structures located on the perimeter of the development must be set back from property lines and rights-of-way of abutting streets in accordance with the provision of this chapter controlling the district within which the property is situated; (b) Structures other than single-family detached units located on the perimeter of the development may require screening in a manner which is approved by the Board of Commissioners; or, (c) The location of the structures on the perimeter of the development, as shown on the development plan, shall be so arranged as not to be detrimental to existing structures or to the adjacent neighborhood."* There must be "satisfactory arrangement" as to "buffering with reference to type, location and dimension."	200-33A.(8) 200-70A(6)(d)		
13) **Water and Sewer plans** must be (1) designed by professional engineer, and (2) documentation showing the plans "have been approved by the appropriate local and state agencies, shall be submitted as a part of the application." All utilities must be found in compliance "with reference to locations, availability and capability."	200-33A.(10) 200-70A.(6)(c)		
14) **Parking plans** must include two spaces per dwelling unit, plus 1 per 200 gross square feet of clubhouse. The layout of parking areas, service areas, entrances, exits, yards, signs, landscaping and other "potentially adverse influences" protect the "residential character" of the PUD and the area surrounding.	200-33A.(11) 200-40 200-33A(13) 200-70A.(6)(b)		
15) **Pedestrian ways/bikeways**, if any, must be reasonably insulated from motor traffic.	200-33A.(12)		
16) **Common and open space**: " (1) Common open space, recreational areas and communally owned facilities shall be guaranteed by a restrictive covenant describing the areas and facilities and their maintenance and improvement, running with the land for the benefit of residents of the planned unit development or adjoining property owners or both; and (2) The applicant must submit to the Board of Commissioners the legal documents which will produce the aforesaid guaranties and, in particular, will provide for restricting the use of common areas and facilities for the designated purposes."	200-33D.		
17) **Maintenance**: Plan for homeowners association and for maintenance must be legally enforceable, with membership required of every property owner. Must be submitted to County Attorney and to the Board of Commissioners.	200-33E.		
18) **Planning Board Recommendation** must be received by Board of Commissioners prior to grant of permit.	200-33F.		
19) **Additional information**: The Board of Commissioners may request additional information required "to evaluate the impact of the proposed planned unit development."	200-33F.(4)(c)		

Required Finding	Zoning Ordinance Citation	Y	N
20) **Waiver** (NOT A REQUIREMENT): *"The Board of Commissioners may waive a particular requirement if, in its opinion, the inclusion is not essential to a proper decision on the project."*	200-33F.(4)(c)		
21) **Notice**: must be published once a week for two consecutive weeks in an approved newpaper at least 15 days and not more than 25 days prior to the hearing. Notice must be mailed by registered mail to abutting property owners, and the property must be posted.	200-56B. 200-70A.(1)(b) 200-56C.		
22) **General site standards – health, safety, welfare**: the permit if granted must not have an adverse affect on the health or safety of people residing or working in the neighborhood of the development; it must not be detrimental to public welfare; it must not be injurious to property or public improvements.	200-56D.(1)(a)		
23) **General site standards – noise/odor**: the property "shall be located or developed in such a manner as to minimize the effects of noise, glare, dust, solar access and odor on those persons residing or working in the neighborhood of the proposed use and the property and public improvements in the neighborhood."	200-56D.(1)(b)		
24) **General site standards – traffic safety**: must be developed so as not to adversely affect traffic or safety. There must be satisfactory ingress and egress.	200-56D.(1)(c) 200-70A.(6)(a)		
25) **General site standards – comprehensive plan**: the development must be "consistent with the goals and objectives" in the County's Comprehensive Plan.	200-56D.(1)(e)		
26) **General site standards – complies with Federal and State law.**	200-56D.(1)(d)		
27) **General site standards – environmental/historical impact.** The development must be sited and developed in such a manner "as to minimize the environmental impacts on the neighborhood including the following: groundwater, surface water, wetlands, endangered and threatened species, archeological sites, historical preservation sites and unique natural areas."	200-56D.(1)(f)		
22) through 27) **Modifications imposed by Board of Commissioners**: *"In the event that the Board of County Commissioners determines that a proposed use is contrary to one or more of the general site standards, then the Board of Commissioners may impose a condition on the issuance of the special use permit when such condition will avoid a violation of the general site standards. The condition imposed may be an increase in any minimum specific site standards stated for the regulated use. The imposition of a condition may only be based on evidence presented at the hearing that the general site standards would not be met without the imposition of such condition. The Board must make specific findings of fact based upon the evidence presented prior to the imposition of such condition."*	200-56(d)(2)		

NOTICE OF PUBLIC HEARING ON SPECIAL USE PERMIT AMENDMENT APPLICATION #SP-04-01-A1 FOR THE PLANNED UNIT DEVELOPMENT KNOWN AS LEONI'S MOUNTAIN LAKE HOMES

Notice is hereby given, as required by Sections 200-56 and 200-70 of the Zoning Ordinance of Henderson County, North Carolina, that the Henderson County Board of Commissioners has scheduled a public hearing on special use permit amendment application #SP-04-01-A1 to be allowed to amend the existing Special Use Permit (SP-04-01) for the planned unit development (PUD) known as Leoni's Mountain Lake Homes. The PUD is located along South Lakeside Drive, with the intersection of South Lakeside Drive and Old South Carolina Avenue to the north. The PUD is located in an R-20 (Low-Density Residential) zoning district. Mr. Todd Leoni, agent and owner of Camp Riley, Inc., property owner and applicant, submitted an application to amend the special use permit for the PUD, to change group septic systems to public sewer service.

The hearing will be held on Monday, December 4, 2006, at 7:00 P.M., in the Board of Commissioners meeting room in the Henderson County Administration Building, 100 North King Street, Hendersonville, NC. The hearing will be conducted as a quasi-judicial proceeding. Parties demonstrating standing regarding the application may participate in the hearing. All persons are strongly encouraged not to contact members of the Board of Commissioners prior to the hearing due to its quasi-judicial nature.

Information about the application, the Henderson County Zoning Ordinance as well as the rules of procedure for quasi-judicial proceedings may be obtained at the Henderson County Planning Department, 101 East Allen Street, Hendersonville, NC, between 8:00 A.M. and 4:30 P.M., Monday through Friday, or by calling the Planning Department at (828) 697-4819 [TDD (828) 697-4580].

Elizabeth W. Corn, Clerk to the Board
Henderson County Board of Commissioners

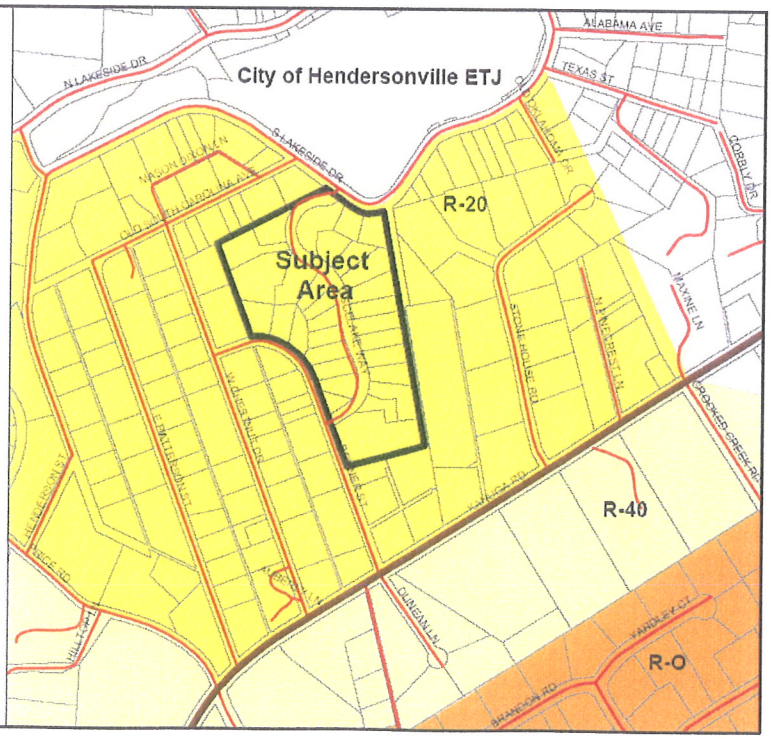
For publication in the Times-News on Wednesday, November 15, 2006 and Wednesday, November 22, 2006.

Special Use Permit Amendment Application SP-04-01-A1

Planned Unit Development Known as
Leoni's Mountain Lake Homes

Camp Riley, Inc. Applicant

Site / Current Zoning Map



Existing Special Use Permit

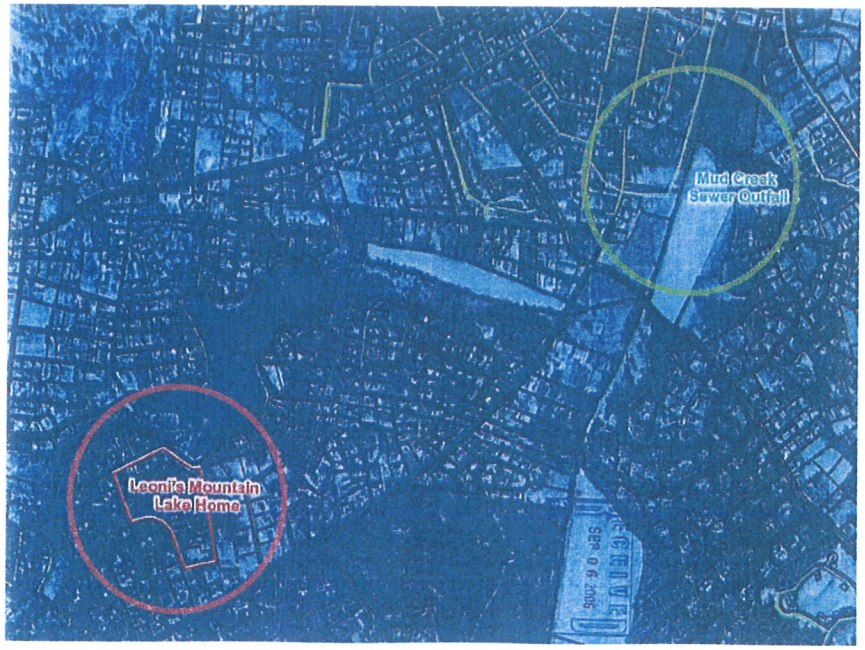
Currently Approved

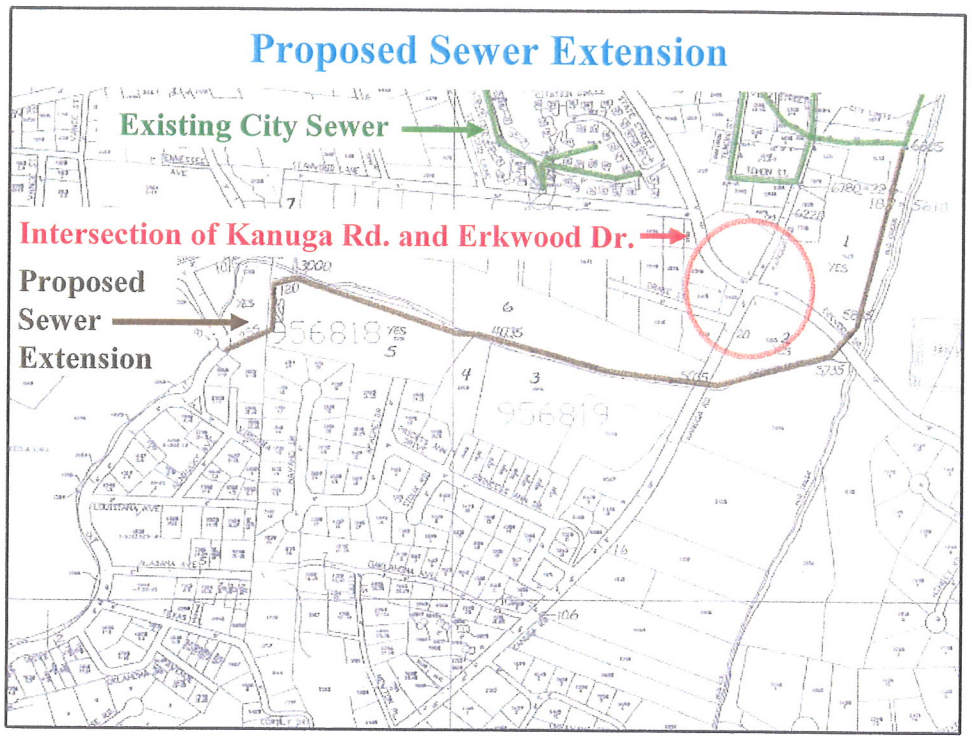
- Lots = 26 single-family lots
- Lot Sizes = 12, 700 square feet (average)
- Dwellings = Cottages and villas (zero lot line)
- Open Space = 4.65 acres
- Water Service = Public, City of Hendersonville
- Sewer Service = Group septic (shared drain fields)

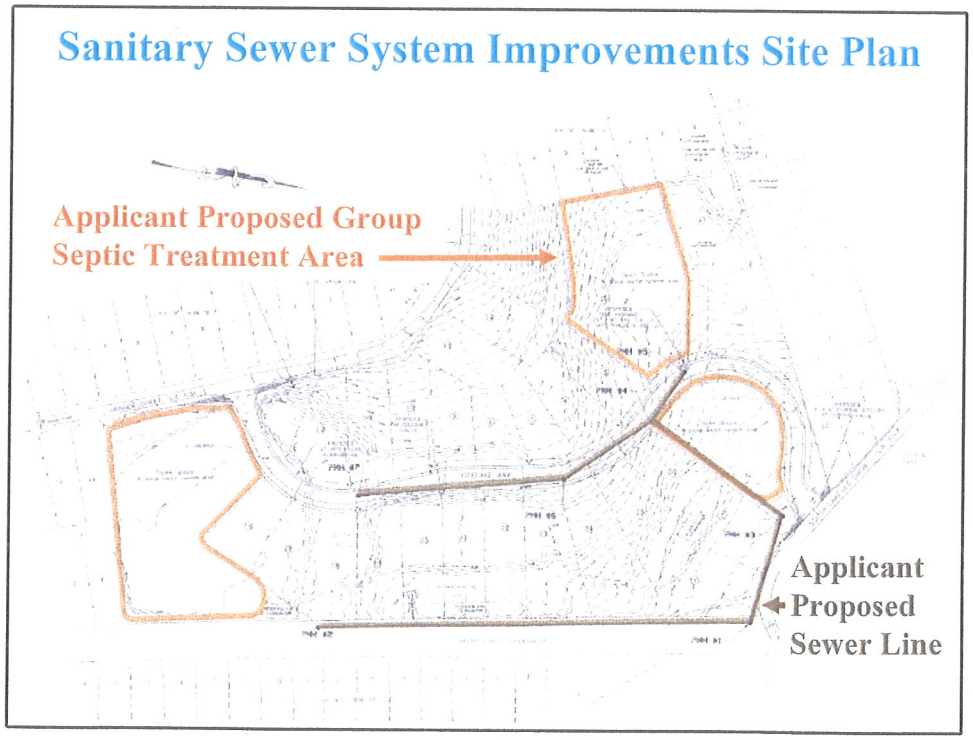
Amendment Request

- Allow Public Sewer instead of Group Septic

Sewer Outfall and PUD Location




Proposed Sewer Extension
Existing City Sewer
Intersection of Kanuga Rd. and Erkwood Dr.
Proposed
Sewer
Extension


Sanitary Sewer System Improvements Site Plan
Applicant Proposed Group
Septic Treatment Area
Applicant
Proposed
Sewer Line

Planning Board Recommended Conditions

A. *Plans and Documentation for Sewer Systems.*

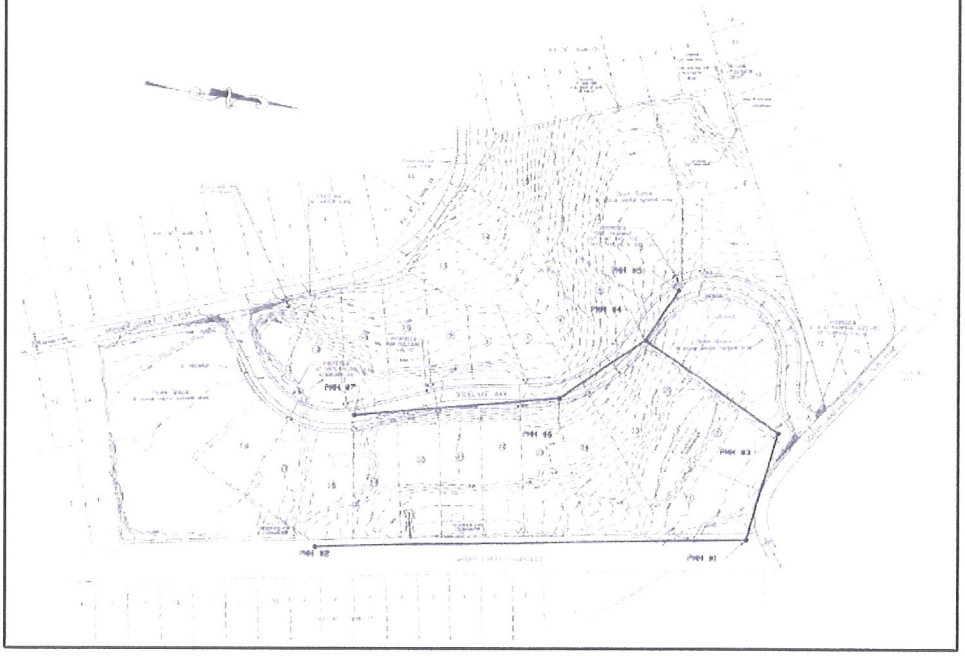
1. Group septic continue to be permitted;
2. Public sewer be permitted should it become available; and
3. Should public sewer be available/installed, the group septic option no longer be available.

Staff Recommended Conditions

A. *Plans and Documentation for Sewer Systems.*

Should the applicant provide public sewer, infrastructure to serve the development should be bonded prior to construction.

Site Plan



Aerial Photo Map

Exhibit C
12-4-06

Excerpts of Special Use Permit Amendment Application (SP-04-01-A1) and Additional Materials Provided by Applicant

To: Henderson County Board of Commissioners

From: Henderson County Planning Staff

Date: December 4, 2006

Subject: Excerpts of Special Use Permit Amendment Application (SP-04-01-A1) and Additional Information Provided for Leoni's Mountain Lake Homes, submitted by Mr. Todd Leoni, agent and owner of Camp Riley, Inc. property owner.

Attachments:

1. Application SP-04-01-A1
2. Cover Letter from Todd Leoni (May 12, 2006)
3. Master Plan Approved Under SP-04-01
4. Letter from John Jeter, P.E. Regarding Easement Acquisition (September 6, 2006)
5. Letter from City of Hendersonville Regarding Sewer Availability (June 21, 2006)
6. City of Hendersonville Map Showing Mud Creek Sewer Outfall and PUD location
7. City of Hendersonville Map Showing Annexation Resolution Boundary and PUD location
8. Map Showing Proposed Sewer Extension from Mud Creek Sewer Outfall
9. Sanitary Sewer System Improvements Site Plan

Exhibit C
Attachment 1

Application No. SU-04-01-A1

RECEIVED
JUN 01 2006
BY

COUNTY OF HENDERSON
STATE OF NORTH CAROLINA
APPLICATION FOR A SPECIAL USE PERMIT

June	01	2006
Month	Day	Year

Applicant: Todd Leoni Phone: 828-545-3554
Address: PO Box 381703 Miami, Florida 33238
Property Owner's Name (if different from above): Camp Riley Inc.
Property Address (if different from above):
Parcel ID Number: 9567-29-4058 Zoning District: Valley Hill

TO THE BOARD OF COMMISSIONERS:

I, Todd Leoni (owner/agent), hereby petition the Board of Commissioners to issue a SPECIAL USE PERMIT for use of the property described in the attached form, or if not adequately explained there, as more fully described herein:
a 12 acre tract adjacent to Lake Osceola, formerly know as Camp Mountain Lake and the YMCA Summer Camp, adjacent to South Carolina Ave and an unopened right of way identified asWright street.

Authority to grant the requested permit is contained in the Zoning Ordinance, Sections 200-15 and 200-33

The Zoning Ordinance imposes the following GENERAL REQUIREMENTS on the use requested by the applicant. Under each requirement, the applicant should explain, where applicable, how the proposed use satisfied these requirements:

General Requirement #1: The use will not adversely affect the health and safety of persons residing or working in the neighborhood:
Proposed residential development is condecive with existing land use in the area.

General Requirement #2: The use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood:
Proposed development will remove existing hazardous improvements on the property, be served by public water supply and minimize existing storm water issues. Proposed traffice will not over burden rad facilities.
(continue remarks on reverse side or separate page)

The Zoning Ordinance also imposes the following SPECIFIC REQUIREMENTS on the use requested by the applicant. The applicant should be prepared to demonstrate that satisfactory provisions have been made for the following, where applicable:

- Satisfactory ingress and egress to property and proposed structures thereon, with particular reference to pedestrian safety and convenience, automotive, traffic flow and control;
- Provision of off-street parking and loading areas where required, with particular attention to the items above and the economic, noise, glare, and odor effects of the conditional use on adjoining

properties in the area;
- Utilities with reference to locations, availability, and compatibility;
- Buffering with reference to type, location, and dimensions;
- Playgrounds, open spaces, yards, landscaping, access ways, pedestrian ways with reference to location, size, and suitability;
- Building and structures with reference to location, size, and use.

In addition, the applicant shall provide the names and addresses of all adjoining property owners.

I certify that all of the information presented by the undersigned in this application is accurate to the best of my knowledge, information, and belief.

Signature of Applicant — Date: 5/31/06

IN THE EVENT THAT ANY DISCREPANCIES EXIST BETWEEN THE CRITERIA OUTLINED ON THIS FORM AND THE ZONING ORDINANCE OF HENDERSON COUNTY, THE ORDINANCE SHALL PREVAIL.

Matthew Cable — Received By — Date: 6/1/06

$400.00 — Fee Paid — Date Received: 5/18/06

** Applicant requests an amendment to the special use permit to have City Sewer installed should City of Hendersonville allow applicant to attach to City Sewer. If Sewer is unavailable then applicant withdraws request.

RECEIVED
JUN 01 2006

HCPD April 2006

Exhibit C
Attachment 2

CAMP RILEY INC
PO BOX 381703
MIAMI, FLORIDA 33238
305-300-4192

May 12, 2006

Matt Card
Henderson County

Re: Mountain Lake Village

Dear Matt:

Please accept this letter as a request to modify my special use permit to change from Drain Fields to Sewer?

This request is based on getting easements from the city to the site.

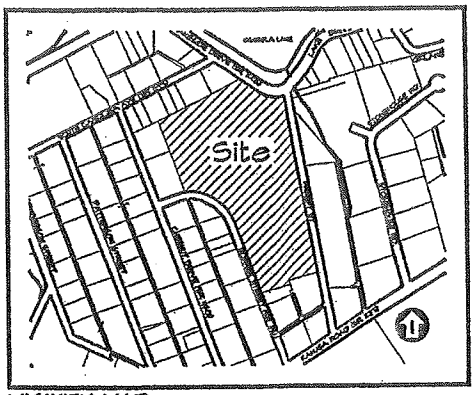
Enclosed please find a check for the application fees.

Thank you.

Very truly yours,

Todd Leoni, President
Camp Riley Inc.

Exhibit C
Attachment 3



VICINITY MAP Not to Scale

PROJECT SUMMARY

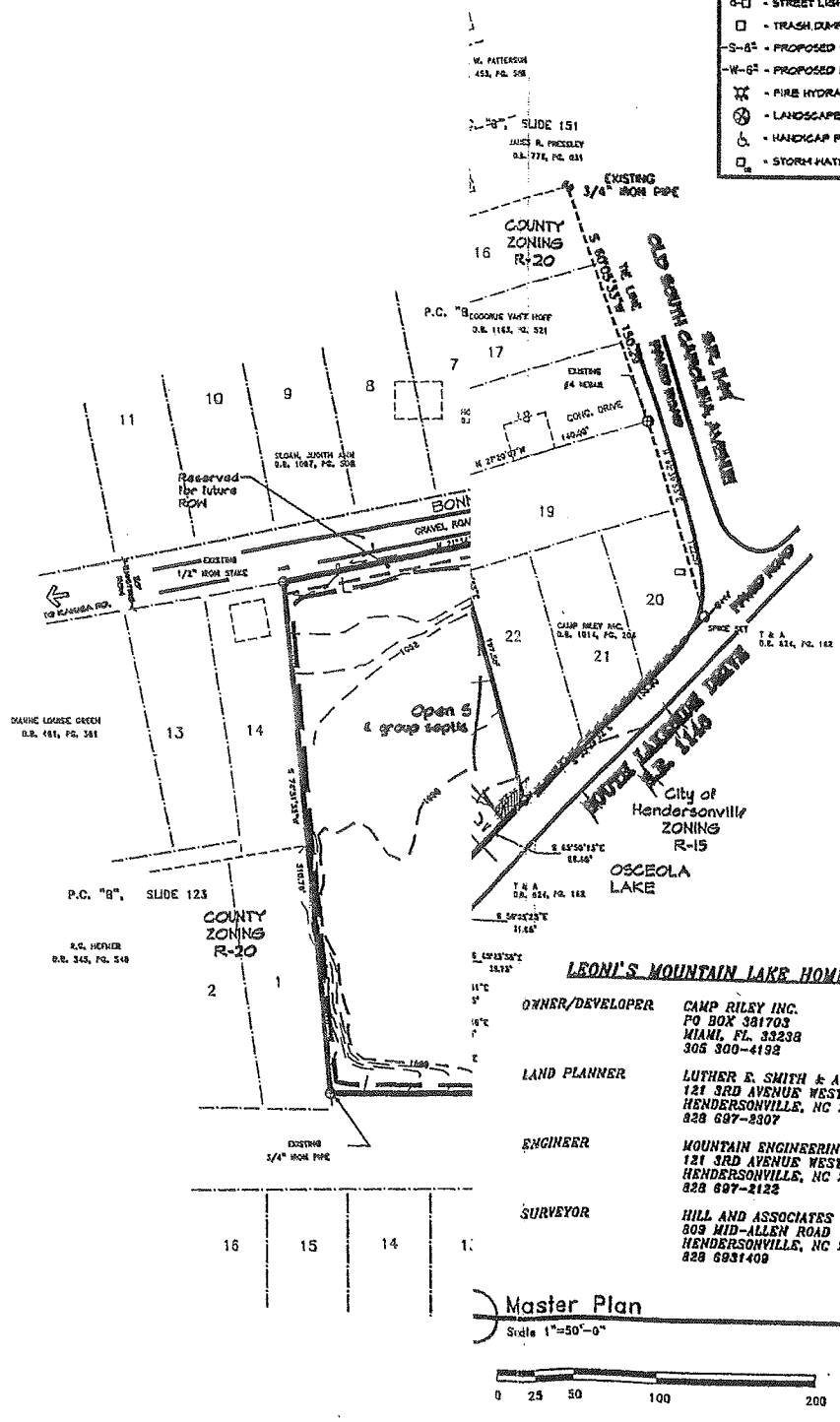
PIN #	9561-29-4058
Project Size	12.01 Acres
Zoning	
Existing	R-20
Proposed	PUD - R-20
Units Proposed	26 SF Residential
Proposed Use	Single Family Res
Fire District	Valley Hill
Water System	Public
Sewer System	Group Septic System
Streets	Private
Length of Road	1,226'
Maximum Building Height	35'

-All open space to be maintained by the Home Owner's Association.
-No portion of the property falls within the 100 yr Floodline.

RECEIVED
OCT 1 2004
By

LEGEND

- STREET LIGHT
- TRASH DUMPSTER W/ SCREENING
- PROPOSED SEWER LINE
- PROPOSED WATER LINE
- FIRE HYDRANT
- LANDSCAPE SCREENING
- HANDICAP PARKING
- STORM WATER CATCH BASIN



LEONI'S MOUNTAIN LAKE HOMES

OWNER/DEVELOPER	CAMP RILEY INC. PO BOX 381703 MIAMI, FL. 33238 305 300-4192
LAND PLANNER	LUTHER E. SMITH & ASSOCIATES, P.A. 121 3RD AVENUE WEST SUITE 1 HENDERSONVILLE, NC 28792 828 697-2307
ENGINEER	MOUNTAIN ENGINEERING CO. 121 3RD AVENUE WEST SUITE 2 HENDERSONVILLE, NC 28792 828 697-2122
SURVEYOR	HILL AND ASSOCIATES SURVEYORS, P.A. 803 MID-ALLEN ROAD HENDERSONVILLE, NC 28792 828 6931409

Master Plan
Scale 1"=50'-0"

0 25 50 100 200

Luther E. Smith & Associates, P.A.
LAND PLANNING · LANDSCAPE ARCHITECTURE
121 Third Avenue West Suite 1
Hendersonville, NC 28792
Phone (828) 697-2307
Fax (828) 697-2406
E-mail lesmith@bellsouth.net

Master Plan
Leoni's Mountain Lake Homes
HENDERSON COUNTY, NORTH CAROLINA

Drawn By	ALV
Checked By	LES
Project	04L402
Preliminary/Final Drawing Plan	
Date	9-28-2004
Job No.	04L402

SHEET 1 OF - 2

Approved Plan Sheet 1

Exhibit C
Attachment 4

MOUNTAIN ENGINEERING COMPANY
CIVIL ENGINEERING + SITE PLANNING

121 Third Avenue West Suite 2 Hendersonville North Carolina 28792
Telephone (828) 697-2122 Facsimile (828) 697-8458

6 September 2006

Mr. Matthew Cable, Planner
HendersonCountyPlanningDepartment
101 East Allen Street
Hendersonville, North Carolina 28792

Re: Special Use Permit Application # SP-04-01-A1
Leoni's Mountain Lake Homes
Sanitary Sewer System Improvements
Henderson County, North Carolina

Dear Mr. Cable :

As we discussed yesterday, in response to your letter of 24 August 2006, for several months Mr. Leoni and I have been negotiating with the City of Hendersonville to build a joint project to extend the city sewer system from the existing **Mud Creek Interceptor** along Mud creek and Shephard Creek up to the above referenced project.

I'm enclosing copies of recent correspondence; which includes schematic designs for the proposed alignment from Mud Creek up to Lakeside Drive at Lake Osceola. Also attached, is a Preliminary Plan showing the proposed collector sewer within Mr. Leoni's project.

While I've been unable to confirm the status of the negotiations, it appears that the City still has to negotiate an easement across the Thomas Trust property.

If you require additional information, please contact me at 697-2122 or 329-2190.

Sincerely yours,

John B. Jeter, P.E.

cc: Dennis Frady
Todd Leoni

Exhibit C
Attachment 5

CITY OF HENDERSONVILLE

"The City of Four Seasons"

WATER AND SEWER DEPARTMENT
Lee Smith, Utilities Director

Wednesday, June 21, 2006

Mr. Todd Leoni
Leoni Real Estate Corporation
P.O. Box 381703
Miami, Florida 33238

RE: LEONI'S MOUNTAIN LAKE HOMES
ADJACENT TO LAKE OSCEOLA
SEWER AVAILABILITY

Dear Mr. Leoni:

We have received and reviewed your request (attached), dated June 19, 2006, regarding sewer availability for the above referenced project. We have determined that City sewer is available to this project along Mud Creek to the east of Kanuga Road from a sewer outfall to the northeast of the project (see attachments). We have also determined that this property is within the Urban Service Area (USA) but is outside the City's resolution of annexation boundary. Based on our findings, the above referenced project would be eligible for City sewer service once an approved sewer system was designed, permitted and constructed to said project, in accordance with all local, state and federal requirements.

If you have any questions or require additional information regarding this correspondence please let us know.

Sincerely,

Lee Smith
Utilities Director

Attachment

cc: Chris Carter, City Manager
Dennis Frady, Assistant Utilities Director
John Jeter, P.E., Mountain Engineering

RECEIVED
SEP 06 2006
BY

305 Williams Street
Hendersonville, NC 28792-4461
e-mail: lsmith@cityofhendersonville.org

Phone: (828) 697-3063
Fax: (828) 697-3089
www.cityofhendersonville.org

Exhibit C
Attachment 6

Exhibit C
Attachment 7

Exhibit C
Attachment 8

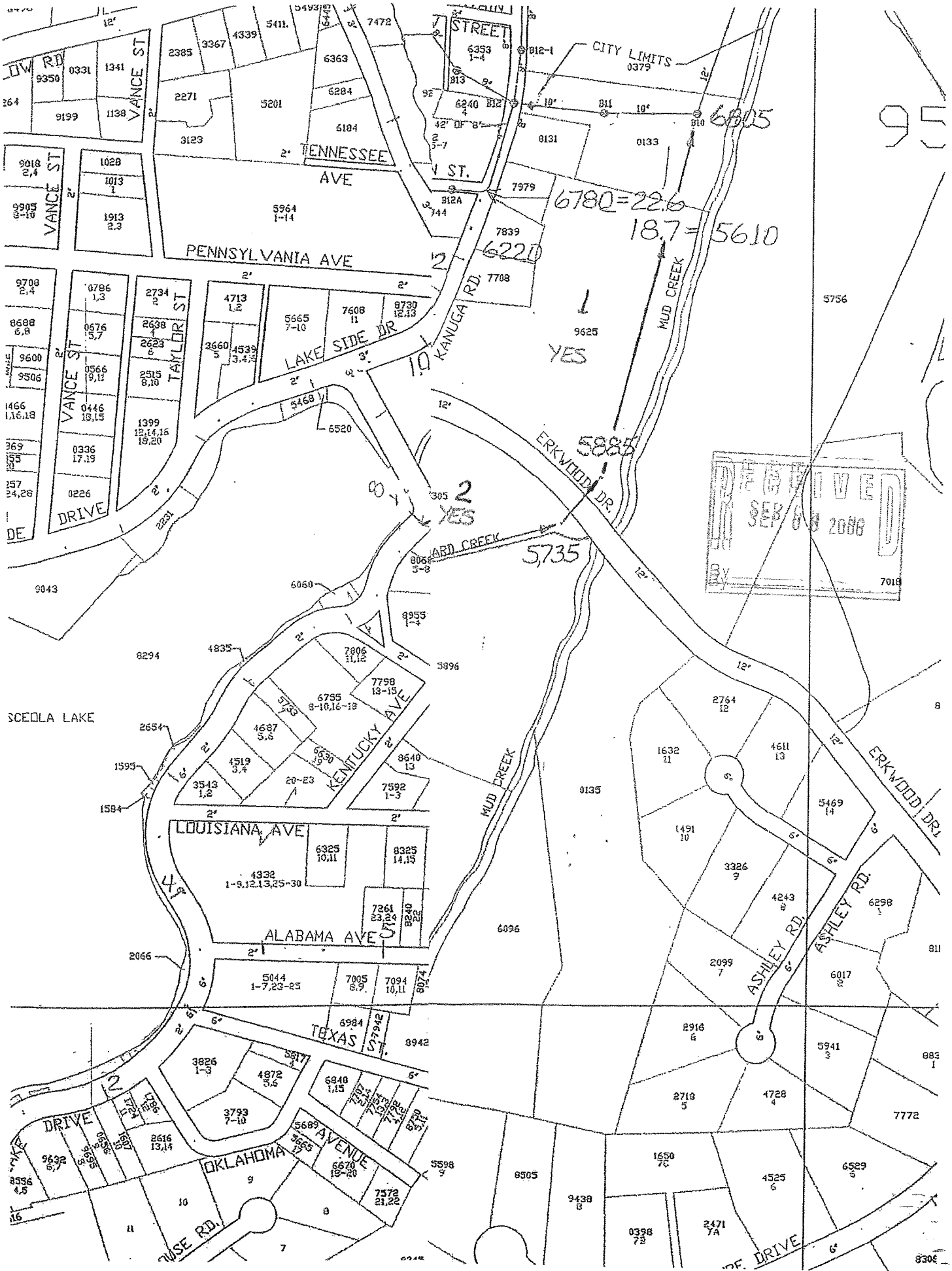
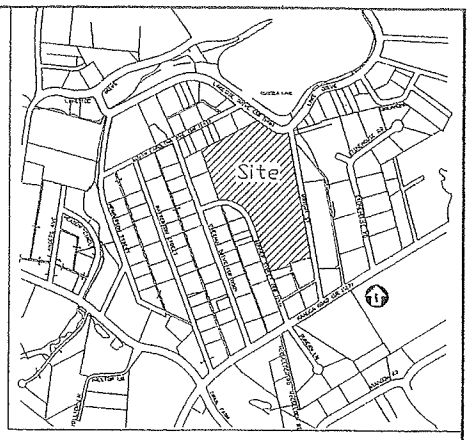


Exhibit C
Attachment 9



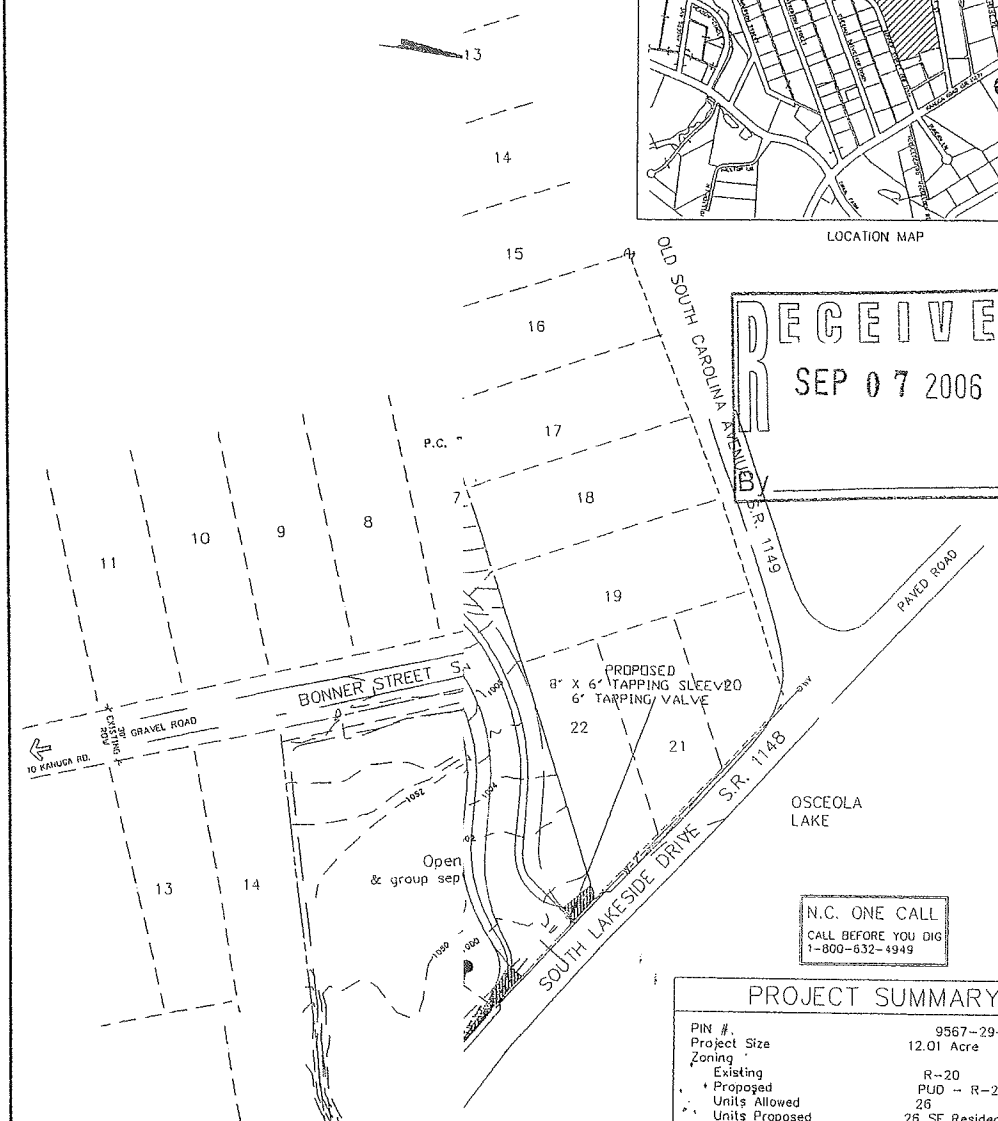
LOCATION MAP

MOUNTAIN ENGINEERING CO.
CIVIL ENGINEERING • SITE PLANNING
121 THIRD AVE. WEST, SUITE 2 HENDERSONVILLE, NC 28792
PHONE (828) 697-2122 - FAX (828) 697-8458

LEONI'S MOUNTIAN LAKE HOMES
LAKE OSCEOLA
HENDERSON COUNTY, NORTH CAROLINA

SANITARY SEWER SYSTEM IMPROVEMENTS
SITE PLAN

RECEIVED
SEP 07 2006
BY



N.C. ONE CALL
CALL BEFORE YOU DIG
1-800-632-4949

PROJECT SUMMARY

PIN #.	9567-29-4058
Project Size	12.01 Acre
Zoning	
Existing	R-20
Proposed	PUD - R-20
Units Allowed	26
Units Proposed	26 SF Residential
Density	2.16/Ac
Open space	
Area in lots	7.36 Acres
Are in Open Space	4.65 Acres
Average Lot Size	29 Acres
Largest Lot	.50 Acres
Smallest Lot	.16 Acres
Fire District	Valley Hill
Water	Public
Sewer System	Group Septic
Streets	Private

-All open space to be maintained by the Home Owner's Association.
-No portion of the property falls within the 100 yr floodline

ENGINEER'S LEGEND

- SANITARY SEWER MANHOLE (PROPOSED)
- SANITARY SEWER MANHOLE (EXISTING)
- SANITARY SEWER SERVICE (PROPOSED)
- WATER SERVICE LATERAL (PROPOSED)
- FIRE HYDRANT (PROPOSED)
- WATER CONTROL VALVE (PROPOSED)
- AIR RELEASE VALVE (PROPOSED)

LAKE HOMES

'LEY INC.
381703
'L. 33338
-4192

E. SMITH & ASSOCIATES, P.A.
' AVENUE WEST SUITE 1
SONVILLE, NC 28792
-2307

'N ENGINEERING CO.
' AVENUE WEST SUITE 2
SONVILLE, NC 28792
-2122

D ASSOCIATES SURVEYORS, P.A.
-ALLEN ROAD
SONVILLE, NC 28792
1409

9/06/06

NORTH CAROLINA PROFESSIONAL ENGINEER SEAL 20180 JOHN BAKER PETER II

DATE	10-21-04
JOB NO.	04-104
DRAWN BY	CWC
CHECKED BY	JBJ
DRAWING NO.	WATER AT LEONI'S

SHEET 1 of 1

HENDERSON COUNTY
Planning Department

Exhibit D
12-4-06

101 East Allen Street • Hendersonville, NC 28792
Phone 828-697-4819 • Fax 828-697-4533

Memorandum

TO: **Henderson County Board of Commissioners**

FROM: **Henderson County Planning Staff**

DATE: **December 4, 2006**

SUBJECT: **Planning Board and Staff Recommendations on Special Use Permit Amendment Application SP-04-01-A1, Camp Riley, Inc., Applicant**

ATTACHMENTS:
1. **Planning Board Minutes from October 17, 2006**
2. **Full Text of Planning Board and Staff Recommendations**

Planning Board Recommendations:

On October 17, 2006 the Henderson County Planning Board reviewed amendment application SP-04-01-A1 and voted (7 to 0) to send a favorable recommendation to the Board of Commissioners based on conditions recommended by Staff and noted herein below (See Attachment 1, Planning Board Minutes from October 17, 2006).

Staff reviewed the special use permit amendment application for the planned unit development (PUD) in accordance with Sections 200-33 (Planned Unit Development), 200-7 ("Special Use" Definition), 200-56 (Special Uses), 200-70 (Powers and Duties of Board of County Commissioners), and 200-15 (R-20 Low-Density Residential District of the Henderson County Zoning Ordinance (HCZO). The Planning Board found, based upon its and Staff's review, that the proposed amendment to the planned unit development meets the requirements of the Henderson County Zoning Ordinance, unless otherwise stated herein below.

Should the Board of Commissioners approve the special use permit amendment application, the Planning Board recommends that such approval be subject to the following conditions, in addition to any other conditions that have been discussed during the hearing, and any conditions that the Board of Commissioners may impose. Planning Board recommended conditions are, as follows:

A. *Plans and accompanying documentation to ensure that the water and sewer systems proposed for the planned unit development have been designed by a professional engineer, and have been approved by the appropriate local and state agencies, shall be submitted as part of the application.* The applicant originally proposed group septic systems would be used in the PUD and is now proposing public sewer provided by the City of Hendersonville may be used in the PUD. The City of Hendersonville has indicated availability of sewer for the PUD (See Attachment 2, Section 1.1). The Planning Board recommends the following conditions:

   (1) Group septic continue to be permitted;

   (2) Public sewer be permitted should public sewer become available; and

   (3) In the event the public sewer is available and installed, the group septic option would no longer be available.

Staff Recommendations:

Staff recommended conditions are as follows:

A. *Plans and accompanying documentation to ensure that the water and sewer systems proposed for the planned unit development have been designed by a professional engineer, and have been approved by the appropriate local and state agencies, shall be submitted as part of the application.* Staff recommends the following conditions:

(1) Should the applicant provide public sewer, the infrastructure to serve the development should be bonded, in accordance with the requirements of the Henderson County Subdivision Ordinance, prior to construction.

Should the Board of Commissioners approve the special use permit application, Staff recommends that such approval be subject to the above noted Staff and Planning Board recommendations, in addition to any other conditions that have been discussed during the hearing, and any conditions that the Board of Commissioners may impose.

Suggested Motion: I move that the Board approve the special use permit amendment request, subject to the conditions suggested by Staff and the Planning Board and any additional conditions that have been discussed during the hearing which the Board wishes to impose.

Exhibit D
Attachment 1

EXCERPT FROM THE HENDERSON COUNTY PLANNING BOARD MINUTES – OCTOBER 17, 2006.

Special Use Permit Amendment Application – (#SP-04-01-A1) – Referral of Special Use Permit Amendment Application from the Board of Commissioners – Request for an Amendment to Mountain Lake Homes Planned Unit Development Special Use Permit SP-04-01 – Todd Leoni, Agent for Camp Riley, Inc. Owner and Applicant. Mr. Cable said that the special use permit concerns changing from group septic to a sewer system. He added that the only change is from group septic to public sewer and that this change should be noted in the permit order and that the Planning Board is making a recommendation for this change, which is an amendment to the original special use permit. (Stacy Rhodes and Jonathan Parce returned to the meeting).

Mr. George Leoni, agent for his son, Todd Leoni stated that he was present on his son's behalf, who was present via the telephone, in case of any questions. Chairman Pearce said that since there are no other changes except the utilities, he feels that the Board should go ahead with the request. Mr. Todd Leoni reiterated that he was approved for the 26 drain fields and wants to make sure that, should public sewer not go into the area because of easement issues, he has the option to go back to group septic. Chairman Pearce asked Ms. Zambon whether the Planning Board can make a recommendation to the Board of Commissioners that the proposed special use permit be allowed to have either the septic as originally proposed or if public sewer becomes available that the special use permit be approved with the public sewer. Ms. Zambon said that there isn't any problem with that wordage and also with the stipulation that once public sewer is in, that other land would not be approved for group sewer any longer. Mr. Todd Leoni was concerned when the final approval would take place? Mr. Cable said that a hearing would need to be set with the Board of Commissioners and then they would hold the hearing to do that final approval. Mr. Leoni asked whether he could withdraw at any time before that. Mr. Cable said that he could, but the recommendation from the Planning Board will cover both ways.

Chairman Pearce made a motion to recommend to the Board of Commissioners that Special Use Permit SP-04-01-A1 for Leoni's Mountain Lake Homes Planned Unit Development be amended to allow Mr. Leoni approval for either group septic in the open space that was originally provided, or if he can obtain the easements, public sewer in lieu of group septic. In the event the public sewer is installed the private sewer option for the open space would no longer be enforced. Renee Kumor seconded the motion and all members voted in favor. All seven members present voted in favor (7 to 0).

Full Text of Planning Board and Staff Recommendations

1. **In accordance with Section 200-33 of the Zoning Ordinance regarding Planned Unit Developments, all Planned Unit Developments must meet certain standards, as follows:**

   1.1. *Plans and accompanying documentation to ensure that the water and sewer systems proposed for the planned unit development have been designed by a professional engineer, and have been approved by the appropriate local and state agencies, shall be submitted as part of the application.*

   No apparent change to the water system will occur as a result of the amendment request; however, changes to sewer system provision for the planned unit development will result from the amendment request. The applicant originally proposed group septic systems would be used in the PUD and is now proposing public sewer provided by the City of Hendersonville may be used in the PUD.

   The applicant has indicated that he and Mr. John Jeter, P.E. have been negotiating with the City of Hendersonville to enter a joint project to extend the city's sewer system from the existing Mud Creek Interceptor to the planned unit development (See Exhibit C, Attachment 4). The applicant has provided a letter from the City of Hendersonville regarding the availability of sewer for the planned unit development (See Exhibit C, Attachment 5). The applicant has also indicated the effort to attain easements from necessary property owners to extend the sewer line to the subject property via an anticipated route indicated in Exhibit C, Attachment 8.

   The Special Use Permit (SP-04-01) Order (See Exhibit A, Attachment 1, Page 7, item 10) requires that the Applicant submit to the Henderson County Planning Department plans and other documentation to ensure that the water and sewer systems have been designed by a professional engineer, that such systems have been approved by appropriate local and state agencies, and that the systems must be constructed as designed.

   Staff recommends that group septic continue to be permitted; public sewer be permitted should it become available; and where public sewer is available and installed, the group septic option no longer be available. Staff also recommends that, should the applicant provide public sewer, the infrastructure to serve the development should be bonded, in accordance with the requirements of the Henderson County Subdivision Ordinance, prior to construction. {HCZO Sections 200-33A(10), 200-33F(4)(b)[6], and 200-33F(4)(a)[7]}.

HENDERSON COUNTY
Planning Department

Exhibit E
12-4-06

101 East Allen Street • Hendersonville, NC 28792
Phone 828-697-4819 • Fax 828-697-4533

Memorandum

TO: **Henderson County Board of Commissioners**

FROM: **Henderson County Planning Staff**

DATE: **December 4, 2006**

SUBJECT: **Additional Staff Comments which did not result in Additional Proposed Conditions**

ATTACHMENTS: **None**

Staff reviewed the special use permit application for the planned unit development (PUD) in accordance with Sections 200-33 (Planned Unit Development), 200-7 ("Special Use" Definition), 200-56 (Special Uses), 200-70 (Powers and Duties of Board of County Commissioners), and 200-15 (R-20 Low-Density Residential District) of the Henderson County Zoning Ordinance (HCZO). The following comments are noted but do not result in additional proposed conditions:

1. **In accordance with Section 200-33 of the Zoning Ordinance regarding Planned Unit Developments, all Planned Unit Developments must meet certain standards, as follows:**

   1.1. *Ownership control. The land in a planned unit development shall be under single ownership or management by the applicant before final approval and/or construction, or proper assurances (legal title or execution of a binding sales agreement) shall be provided that the development can be successfully completed by the applicant.*

   Nine (9) lots within the PUD are currently under different ownership; however, the land in the PUD was originally under single ownership and management by the applicant, Camp Riley, Inc. {HCZO Section 200-33A(1) and 200-33F(4)(a)[1]}

   1.2. *Density requirements. The proposed density of the planned unit development (dwelling units per acre) shall conform to that permitted in the district in which the development is located. The density (dwelling units per acre) of any proposed planned unit development shall be determined by dividing the total number of square feet in the property by the minimum lot size requirement of a single-family dwelling in the district in which the development is proposed.*

   No apparent change as a result of the amendment request (See Exhibit A, Attachment 2, Site / Current Zoning Map). {HCZO Section 200-33A(2), 200-33F(4)(a)[2] and 200-33F(4)(a)[6]}

   1.3. *Frontage requirements. Planned unit developments shall be prohibited except on parcels of land having a minimum frontage of 200 feet on a paved, public, state-maintained road or highway.*

   No apparent change as a result of the amendment request. {HCZO Section 200-33A(3)}

   1.4. *Minimum size. The minimum area for a planned unit development shall be one and one-half contiguous acres.*

   No apparent change as a result of the amendment request. {HCZO Section 200-33A(4)}

1.5. *Height limitations. No building or structure shall exceed 35 feet in height as measured from the highest ground elevation of the building or structure to the highest point of the roof.*

No apparent change as a result of the amendment request. {HCZO Section 200-33A(6)(a)[1]}

1.6. *Required distance between buildings. The minimum distance between buildings shall vary dependent upon type, height, and orientation of buildings to one another.*

No apparent change as a result of the amendment request. {HCZO Section 200-33A(6)(a)[2][c]}

1.7. *Every dwelling unit shall have direct access to a public street, walkway or other area dedicated to common use.*

No apparent change as a result of the amendment request. {HCZO Section 200-33A(6)(b)}

1.8. *There shall be provisions for adequate vehicular circulation to all development properties in order to ensure acceptable levels of access for emergency vehicles.*

No apparent change as a result of the amendment request. {HCZO Section 200-33A(6)(b) and 200-33F(4)(a)[7]}

1.9. *Documentation from Henderson County Emergency Medical Services and the Fire Chief from the appropriate district of the adequacy of the development's facilities for emergency medical and fire services.*

No apparent change as a result of the amendment request. {HCZO Section 200-33F(4)(b)[5]}

1.10. *Privacy. Each development shall provide reasonable visual and acoustical privacy for all dwelling units. Fences, insulation, walls, barriers, and landscaping shall be used as appropriate for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise. Multilevel buildings shall be located within a planned unit development in a way as to dissipate any adverse impact on adjoining low-rise buildings.*

No apparent change as a result of the amendment request. {HCZO Section 200-33A(7)}

1.11. *Perimeter requirements. If topographical or other barriers within 200 feet of the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Board of Commissioners may impose: (1) structures located on the perimeter of the development must be set back from property lines and rights-of-way abutting streets in accordance with the provision of this chapter controlling the district within which the property is situated; (2) structures other than single-family detached units located on the perimeter of the development may require screening in a manner which is approved by the Board of Commissioners; and (3) the location of structures on the perimeter of the development, as shown on the development plan, shall be so arranged as not to be detrimental to existing structures or to the adjacent neighborhood.*

No apparent change as a result of the amendment request. {HCZO Section 200-33A(8)}

1.12. *The proposed treatment of the perimeter of the development, including materials and/or techniques, such as screens, fences and walls.*

No apparent change as a result of the amendment request. {HCZO Section 200-33F(4)(b)[8]}

1.13. *Any pedestrian and bicycle path circulation system and its related walkways shall be insulated as reasonably as possible in order to provide separation of pedestrian and motorized vehicular traffic.*

No apparent change as a result of the amendment request. {HCZO Sections 200-33A(12)}

1.14. *Layout of parking areas, service areas, entrance, exists, yards, courts and landscaping and control of signs, lighting, noise or other potentially adverse influences shall be such as to protect the residential character within the planned unit development and the desirable character in any adjoining property.*

No apparent change as a result of the amendment request. {HCZO Sections 200-33A(13)}

1.15. *Conveyance of open space, recreational areas and communally owned facilities. Common open space, recreational areas and communally owned facilities shall be guaranteed by a restrictive covenant describing the areas and facilities and their maintenance and improvement, running with the land for the benefit of residents of the planned unit development or adjoining property owners or both. The applicant must submit to the Board of Commissioners the legal documents which will produce the aforesaid guaranties and, in particular, will provide for restricting the use of common areas and facilities for designated purposes.*

The Sanitary Sewer System Improvements Site Plan, as submitted by the applicant, (See Exhibit C, Attachment 9), indicates that the open space of the development will contain group septic system areas. Staff does not suggest any additional conditions, beyond those identified in the original Special Use Permit Order (Exhibit A, Attachment 1, Page 3, Item 21), are necessary to ensure this provision is met. {HCZO Sections 200-33D and 200-33F(4)(a)[6]}

1.16. *Maintenance. Planned unit developments shall be approved subject to the submission of an instrument or instruments setting forth a plan for permanent care and maintenance of permanent open spaces, recreational areas, easements, rights-of-way and communally owned facilities which would be legally enforceable. The developer shall create a homeowners' association and submit bylaws and rules and regulations governing the association. The developer shall be required to include in every deed he makes that membership be mandatory for each home buyer. The provisions shall include, but not be limited to, the following: (1) the homeowners' association must be set up before the homes are sold; (2) the open space restrictions must be permanent and not just for a period of years, (3) the association must be responsible for liability insurance, local taxes and the maintenance of recreational and other designated facilities, (4) homeowners must pay their pro rata share of the cost, the assessment levied by the association can become a lien on the property, and (5) the association must be able to adjust the assessment to meet changed needs. No such instrument shall be acceptable until approved by the County Attorney as to legal form and effect and the Board of Commissioners as to suitability for the proposed uses.*

No apparent change as a result of the amendment request. {HCZO Section 200-33E(1)(a through e)(2) and 200-33F(4)(a)[7]}

1.17. *The existing and proposed street and/or vehicular circulation facilities, including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way, notations of proposed ownership of street and or vehicular circulation facilities (public or private).*

No apparent change as a result of the amendment request. {HCZO Section 200-33A(11) and 200-33F(4)(a)[7]}

1.18. *Documentation of an approved sedimentation and erosion control plan shall also be submitted.*

No apparent change as a result of the amendment request. {HCZO Section 200-33F(4)(b)[6]}

2. In accordance with Section 200-56 of the Zoning Ordinance regarding Special Uses, all Special Uses must meet seven General Site Standards, as Follows:

In evaluating whether the general site standards have been met, the Board of Commissioners (BOC) may consider the type and size of the principal use, size of the property and other relevant factors.

2.1. *Establishments requiring a special use permit shall not be located or developed in such manner as to adversely affect the health or safety of the persons residing or working in the neighborhood of the proposed use and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.*

No apparent change as a result of the amendment request. {HCZO Section 200-56D(1)(a)}

2.2. *Establishments requiring a special use permit shall be located or developed in such a manner as to minimize the effects of noise, glare, solar access and odor on those persons residing or working in the neighborhood of the proposed use and the property and public improvements in the neighborhood.*

No apparent change as a result of the amendment request. {HCZO Section 200-56D(1)(b)}

2.3. *Establishments requiring a special use permit shall not be located or developed in such a manner as to seriously worsen the traffic congestion so as to endanger the public safety.*

No apparent change as a result of the amendment request. {HCZO Section 200-56D(1)(c)}

2.4. *Establishments requiring a special use permit shall be located or developed in such a manner as to comply with all applicable federal, state, and local laws, rules and regulations.*

The proposed amendment to change from group septic to public sewer may result in the revision of applications, certificates and permits issued by applicable federal, state, and local agencies in adherence with application laws, rules, and regulations. Staff does not suggest any additional conditions, beyond those identified in Exhibit D, are necessary to ensure this provision is met. {HCZO Section 200-56D(1)(d)}

2.5. *Establishments requiring a special use permit shall be located and developed in such a manner as to be consistent with the goals and objectives as outlined in the Henderson County Comprehensive Land Use Plan.*

No apparent change as a result of the amendment request. {HCZO Section 200-56D(1)(e)}

2.6. *Establishments requiring a special use permit shall be located and developed in such a manner as to be consistent with any approved Official Thoroughfare Plans of Henderson County or any municipality therein.*

No apparent change as a result of the amendment request. {HCZO Section 200-56D(1)(f)}

2.7. *Establishments requiring a special use permit shall be located and developed in such a manner as to minimize the environmental impacts on the neighborhood including the following: groundwater, surface water, wetlands, endangered and threatened species, archeological sites, historical preservation sites, and unique natural areas.*

No apparent change as a result of the amendment request. {HCZO Section 200-56D(1)(g)}

3. In addition to the General Site Standards, under Zoning Ordinance Section 200-70(6) (Powers and Duties of the Board of Commissioners) the Commissioners must find that satisfactory provision and arrangement has been made concerning the following, if applicable

3.1. *Satisfactory ingress and egress to property and proposed structures thereon with particular reference to automotive/pedestrian safety and convenience and traffic flow.*

No apparent change as a result of the amendment request. {HCZO Section 200-70A(6)(a)}

3.2. *Provision of off-street parking and loading areas where required, with particular attention to the economic, noise, glare and odor effects of the special use on adjoining properties in the area.*

No apparent change as a result of the amendment request. {HCZO Section 200-70A(6)(b)}

3.3. *Utilities with reference to locations, availability and capability.*

The proposed amendment will affect utilities with reference to locations, availability and capability. The Applicant has noted the intent to extend public sewer into the development (See Exhibit C). Staff does not suggest any additional conditions, beyond those identified by Exhibit D, are necessary to ensure this provision is met. {HCZO Section 200-70A(6)(c)}

3.4. *Buffering, with reference to type, location and dimensions.*

No apparent change as a result of the amendment request. {HCZO Section 200-70A(6)(d)}

3.5. *Playgrounds, open spaces, yards, access ways and pedestrian ways with reference to location, size and suitability.*

No apparent change as a result of the amendment request. {HCZO Section 200-70A(6)(e)}

3.6. *Building and structures with reference to location, size and use.*

No apparent change as a result of the amendment request. {HCZO Section 200-70A(6)(f)}

A

R E P O R T

Prepared At The Direction Of The

HENDERSON COUNTY BOARD OF COMMISSIONERS

Regarding

The General Reappraisal

Faithfully Submitted For Consideration and Action At The

4 December 2006 Meeting of the Board

By

Stan C. Duncan
County Assessor

PURPOSE OF REPORT:

As directed by the Board during the regular meeting held on 15 November 2006, I am herein setting forth a detailed plan of action and associated costs that if enacted, would greatly aid the Assessor's Office towards completing the 2007 General Reappraisal as originally scheduled.

The plan is not geared to simply produce new appraised values. Rather it considers what is essential in the short term to facilitate the going forward of the reappraisal to be effective as of January 1, 2007, as well as for the long term by considering what will most benefit the county in yearly maintenance of new construction and future reappraisals. The plan recognizes the shortcomings that exist in the current software and in order to overcome such shortcomings (as previously identified in the Report submitted at the November 15th meeting), relies heavily on the professional expertise and past reappraisal experience of the current real property appraisal staff. The goal remains unchanged - to produce valuations synonymous with the highest assessment standards. While the charge to complete the 2007 General Reappraisal is not without its challenges, should the Board of Commissioners so desire, the best option available to is adhere to the plan as presented herein.

The real property staff is comprised of one assistant assessor, one real property supervisor, six real property appraisers, one sales analyst, and one data entry project employee. Presently, they combine for a total of 39 years of fee appraisal experience and 65 years of real property, ad valorem appraisal experience. In addition, 3 are North Carolina State Certified Residential Appraisers. All real property appraisers are either certified by the North Carolina Department of Revenue's Property Tax Division as Real Property Appraisers or are in process of attaining such recognition in a timely manner. The importance and value of such staff cannot be overstated.

RECAP:

The software code for the North Carolina Property Tax System's Computer Assisted Mass Appraisal Module (hereinafter NCPTS CAMA), remains in development and is not expected to be fully completed, tested, and signed off by Wake County until March/April 2007. Consequently, it is not possible to fully utilize the software as originally intended for Henderson County's 2007 general reappraisal.

As originally presented in late 2003, the LR/CAMA product was projected to be completed by the fourth quarter 2004. I and members of my staff were excited at the prospect of what was being developed jointly by Wake County and the software provider, IIS, on behalf of the NCACC and its member counties. Notwithstanding the obvious delay in the timely completion of the code development, I remain committed to the NCPTS product. As stated at the meeting on November 15th, the Billing & Collections module of NCPTS has already demonstrated its worth. I believe subsequent Henderson County reappraisals will prove likewise for the LR/CAMA software.

It was for the above reasons that, at the November 15th meeting, I recommended the County reschedule the 2007 reappraisal to be effective 1 January 2009. No action was taken on that recommendation and instead, the Board moved to request this report detailing a plan of action and the associated costs that might be incurred by keeping to the original 2007 reappraisal schedule.

ADVANTAGES of a 2007 REAPPRAISAL:

1. There would be **no reduction** in the assessed valuation of property certified by The North Carolina Department of Revenue for Public Service Companies. Whereas rescheduling the reappraisal until 2009 would definitely result in a loss of tax base for two years, possibly in excess of $325,000 per year, by reappraising effective for 1 January 2007 that loss is avoided.

2. There would be **improved equity** in the level of assessment of real property when compared to that for personal property. Any reappraisal year creates the most equitable distribution of the property tax burden between owners of real property and owners of personal property. Were the reappraisal rescheduled until 2009, I would estimate the level of assessment for real property as of 1 January 2007 to be approximately 74% of its market value – a difference of 26 percentage points. Meanwhile, all personal property would continue to be assessed at 100% of its market value. By reappraising effective as of 1 January 2007, the distribution of the property tax burden will be at its most equitable.

3. The **"sticker shock" would be less** than if rescheduled to 2009. While there will still be a significant increase to the real property component of the tax base, should the market continue at or near a similar pace as has been evidenced over the past three years, the "sticker shock" associated with the appreciation in the real estate market from 1 January 2003 to 1 January 2007 will be much less than that which would be reasonably expected by rescheduling to 1 January 2009.

4) The Schedules of Values, Standards, and Rules for both market value and present-use value, effective as of 1 January 2007, have been formulated and are ready for presentation. While the study of the local real estate market remains an on-going process, staff has worked diligently to overcome the barriers posed by the lack of software development and has prepared schedules appropriate for the procedures to be employed in completing a 2007 general reappraisal.

CHALLENGES POSED by a 2007 REAPPRAISAL:

1. There will be significant costs associated with completing the reappraisal; costs that were not funded as part of the current budget for the 2006-07 fiscal year. The costs are identified as part of the plan to complete the reappraisal and divided between costs attributable to expanded County efforts versus contracted assistance.

2. Tax base projections for the 2007-08 budget year will be delayed until after the reappraisal notices are mailed to property owners. This will be especially problematic for municipalities and fire districts which have traditionally relied on estimates provided by the Assessor's Office much earlier in the year. As stated in the November 15th Report, Fire Districts, in particular, have requested projections as early as late December 2006 for their upcoming 2007-08 budget preparations. Were the reappraisal rescheduled to 2009, this request could be possible. However, a 2007 reappraisal, under the present set of facts, negates this request. This will simply not be possible. Again, the earliest possible date for communicating the initial tax base estimates will coincide with the mailing of reappraisal notices. Subsequent updates to the tax base will take into consideration allowances for value lost from the investigation of appeals.

3. There will likely be a significant increase in the number of appeals. This will be attributable to two major factors; the increase in assessed values and the public attention focused on this particular reappraisal. While the volume of appeals will require a pronounced response from the real property staff to process the appeals in as expeditious a manner as possible, there are other considerations resulting from appeals that will impact the tax base for the upcoming fiscal year.
    - In a "worst case scenario", once the window for filing appeals to the Board of Equalization & Review has closed, the amount of valuation under challenge will be determined and an estimate made and subtracted from the unchallenged tax base.
    - G.S. 105-321(d) requires that any appeal pending before the North Carolina Property Tax Commission be withheld from the charge given the Tax Collector by the Board of Commissioners, until such appeal has been finally adjudicated.

4. The most significant impact of mailing reappraisal notices in mid-March is how it affects the appeal process and budget process. Though separate functions, they are forever linked as the demands of budget are applied against the amount of tax base available in order to determine a tax rate. The appeal process is tightly structured by statute. Of the utmost importance is that the budget process be given appropriate time for the proper determination of the tax rate.

2007 Reappraisal Project Plan

1) New Servers Installed and Red Hat/Linux Software Installed: County

The hardware and software were included in the Assessor's Office budget for 2006-07. As of today, 4 December2006, updates have been installed on the Oracle servers and Red Hat/Linux has been installed. The application and database are both working. A full import test for CAMA and REVAL is next. Labor is being coordinated by County IT staff, with remote assistance from IIS staff from their offices at Research Triangle Park.

2) Schedule of Values, Standards, and Rules Presented and Adopted: County

- December 4, 2006 – Presentation of the Proposed Schedules of Values, Standards, and Rules (hereinafter "Schedules"), for both market value and present-use value.
- December 8, 2006 – Publication of Notice of presentation of the Schedules made at the December 4th meeting and announcing the time and place for a Public Hearing on the proposed Schedules.
- December 18, 2006 – Public Hearing on the Proposed Schedules for both market value and present-use value.
- December 27, 2006 – Adoption by separate motion of the proposed Schedules for market value and present-use value.
- December 29, 2006 – 1st publication of the Order of Adoption.
- January 5, 2007 – 2nd publication of the Order of Adoption.
- January 10, 2007 – 3rd publication of the Order of Adoption.
- January 21, 2007 – 4th publication of the Order of Adoption.
- January 29, 2007 – last date by which the adopted Schedules may be challenged.

3) **DB Synch-up (new version to be installed):** **$ 17,800**

- Code Changes in Version 1.1 to accommodate Henderson County (Accept Wake County scenarios for Land, Influence & Condition Codes, & Building Additions; change Wake scenarios for Outbuildings and Building Grade and Depreciation.) 7,500
- *** Remove Overrides (see#7 below): 1,800
- *** Develop Requirements to accommodate data changes occurring in 2007 for 2008 and forward. 8,500

The nightly process of synching the production database to the reappraisal database does not yet function as intended. Henderson County was first to voice concerns about this functionality prompting Wake to re-write the specifications. Henderson County along with representatives from Pitt and

Wake County reviewed various aspects of the new code on November 8 - 9, 2006 at the Wake County offices in Raleigh, N.C. Based on a few changes necessary to fit Henderson County's data and business process, testing on the new script should begin as soon as the new servers and software identified in Item #1 above, is completed. **NOTE: IIS will be required to provide a cost for code changes derived from the requirements developed to handle annual maintenance for 2008 and forward in time to be included in the budget process for fiscal year 2007-08.**

4) **On-site Presence by IIS:** **$105,000**

- 2 individuals from December 18th through February 2, 2007; 42,000
  (based on $3,000 per individual/week for seven weeks)
- 1 individual from February 5 through June 29, 2007; 63,000
  (based on $3,000 per week for 21weeks)

Fundamental to the success enjoyed by Henderson County in the migration and implementation of the Billing & Collection component of NCPTS was the on-site presence of IIS staff who, in working with us, dedicated themselves to the success of our project.

By like measure, I believe there is substantial benefit to be derived in working side-by-side in an effort to address the remaining CAMA issues that have yet to be resolved. **However, the key to this being successful hinges on the expertise of the staff assigned to Henderson County. Ultimately, our benefit and success is directly related to having "experienced, knowledgeable and seasoned" personnel that are extremely familiar with the application and database being on-site. This should not and must not be a "learning ground" for relatively new personnel, but rather a "proving ground" confirming the logic of the system and the expertise of IIS.**

The above represents the maximum on-site presence that might be required in order to complete the reappraisal for 2007, accurately determine a tax base for the 2007-08 fiscal year, and prepare for a timely mailing of 2007 annual tax bills. Should less time be required, the costs would be less.

5) **Issue #1088 – Mass Valuation to re-calculate everything:** -
(This is a part of the basic software code – no charge)

6) **Remove all (rate) overrides on land, outbuildings, and additions:** -
(part of the DB Synch-up process detailed in #4 above)

7)	*** **Issue #1761 – Ability to hard key entry of square footage for commercial/industrial sketches:** **This enhancement is the compliment to a previous enhancement made for residential properties. We maintain accurate sketches (bird's-eye views), separately.**	$ 3,600
8)	**Issue #1016 – An enhancement specified by Henderson County to allow three decimal places for acreage:** This enhancement was tested and determined to be working as specified. We paid for this enhancement ($650 paid to Invoice #2006153 on 9 June 2006). However, subsequent code deliveries have altered this enhancement, forcing Henderson County to submit this now-missing functionality as an issue to be rectified by IIS. To date, it has not been restored. This is critical for matching land data to deed documents and processing land lines for both market and present-use value assessments.	-
9)	**Re-migration of commercial mezzanines:** (There should be no charge for this as it was a part of initial migration)	-
10)	*** **Load new PUV Schedules in CAMA:** (Correlate legacy classification data (circa 2002), to the new classifications recommended by the Use-Value Advisory Board for 2007 and forward.)	**$ 1,800**
11)	Verify PUV Soils Information for 1,600+ parcels: This procedure requires the expertise of former PUV appraiser, Lee King in order to be as accurate as possible and be done as expeditiously as possible.	County
12)	Recalculation of Soils Information for PUV: (This is an estimate only – task has not been priced by IIS)	$ 5,000
13)	IPM –Farragut Systems Inc.,. IPM Project Completion ($89,830 less estimate on phase 1 paid out); Servers & Workstations; Possible overtime for GIS/IT;	$ 93,830 78,830 10,000 5,000
14)	**Issue #1309 – VCS Mass Valuation not working on some neighbor hoods: (This is a part of the basic software code – no charge)**	-

15) **Issue #1114 – VCS Mass Valuation Response Time Improvement:** -
(This is a part of the basic software code – no charge)

16) VCS Land Pricing (approximately 844 neighborhoods): County

This process will rely solely on appraisal staff resources as they are best suited to handle this task. It will require the majority of the overtime funding being requested.

17) Create separate VCS tables for multi-planning jurisdictions (est. 100+): County

18) **Issue #1729 – Synching building information to printed PRC's:** -
(This is a part of the basic software code – no charge)

19) **Issue #503 – Improvements to the processing of deed splits:** -
(This is a part of the basic software code – no charge)

20) Elderly exemptions will need to be re-keyed: County
- New Market Value Assessments will need determinations be made regarding the amount of eligible exclusion.

21) Partial exemptions will need to be re-keyed: County
- Each parcel will need review for the amount of partial exemption.

22) **Web-site Enhancements:** **$ 30,600**
- *** Availability of PRC on website; 8,500
- *** Configure Crystal Reports; 3,400
- *** Technical assistance for upgraded web-site; 18,700

23) Web-site upgrade by County Staff: 5,000

24) *** **Develop Appeals Module:** **$ 17,000**
This is an absolute requirement.

Specifications for the Appeals Tracking capability were developed by Wake County and agreed to by Henderson County. However, this functionality has not been delivered and would still need to be tested before final acceptance and deployment by Henderson County.

25)	Enter adjustments to MH's classified as Personal Property: (This is an estimate – task has not been priced by IIS)	$ 5,000
26)	**Issue #1734 – Enhanced Calculation & Printing Options:** *** Individual Neighborhood Calculations; *** Print PRC's Options;	**$ 34,500** 21,000 13,500
27)	Coordinate press releases / response to media requests:	County
28)	Create Reappraisal Notices in-house with IT assistance: Ed Parker to query the database for the needed information to send to our print vendor for the outsourced reappraisal notice. Reappraisal notices would need to be developed in-house by Assessor and IT Department staff.	County
29)	**Develop & install link between P&I and LR/CAMA:** • *** Integration of P&I with LR/CAMA; • *** Notice of Permit Approval sent to Appraiser Queue; Once completed, this link will provide for a more accurate percentage for completion of new construction, and a more efficient allocation of staff resources beginning in 2007, forward.	**$ 4,500** 3,000 1,500
30)	*** **Develop Manufactured Housing Module:** Ability to measure and list manufactured housing in CAMA and subsequently classify as personal or real as appropriate)	**$ 15,450**

Additional Adjustments to Current FY Budget:

1)	Consider permanent reassignment of Database Administrator, Ed Parker, from the County's IT Department to the Assessor's Office and provide adequate funding for overtime hours. The details of this personnel change will need to worked out through the County Manager's Office and IT Department to insure there is no interruption in the delivery of IT services to other county departments.	$ 27,850
2)	With the approval of Henderson County Tax Collector, Terry Lyda, consider an arrangement whereby Delinquent Tax Collector, Lee King, can be assigned, or otherwise allocated, hours necessary to assist the Assessor's Office in the listing, appraisal, and assessment of parcels approved for Present-Use Value.	$ 10,000
3)	Approve overtime request for real property appraisal staff.	$ 92,000
4)	Purchase five copies of Adobe Acrobat Pro software for use in the Assessor's Office.	$ 1,075
5)	**Possible Additional Tasks Contingent upon Program Functionality:**	**$ 94,502**
	DBA Server Support:	7,500
	Data Fixes;	8,500
	Project Management & Consulting;	33,750
	Expenses – upper limit on actual expenses;	25,022
	*** Contingency on certain tasks set out above;	19,730
	(The above items are estimates based on a worst-case scenario. Every attempt will be made to reduce dependency on these items.)	

Funds attributed to IIS for services and enhancements rendered:	**$ 324,752**
Funds attributed to increase in County personnel hours and product (Adobe Acrobat, Farragut IPM, etc.,):	**$ 239,755**
TOTAL FUNDING REQUESTED:	**$ 564,507**
CRITICAL PORTION OF THE TOTAL:	**$ 378,205**
NON-CRITICAL PORTION OF TOTAL:	**$ 186,302**

Challenges of Maintaining Adequate Medicaid/IRPS Reimbursement for Emergency Services

Unpredictable Consumer Flow and Flexible Service Schedule

Emergency Service (ES) for mental health is like any community emergency service…the service must be staffed to respond immediately to the crisis situation regardless of when the crisis occurs or even if any crisis occurs…like the fire department. However, given the economic realities of community mental health funding, having trained and experienced staff merely 'on-standby' for a possible emergency is not feasible; ES staff must help generate revenue by maintaining a caseload of active clients for providing reimbursable activities. Due to the unpredictability of urgent and emergent occurrences, ES staff cannot maintain a fully productive schedule with their assigned clients and simultaneously provide timely ES service. The national standard for staff reimbursable activity in community mental health is 25 hours per week. To adequately respond to crisis events, the expected scheduled activity for an ES worker would be about 12.5 hours per week…leaving 12.5 hours for emergency service, of which an estimated 50% (or 6.25 hrs) may be billable. The net result is approximately 18.75 billable hours compared to 25 billable hours in a non-emergency setting. Even by building in daily ES time, additional time for each ES event is often necessary as many crises consume an inordinate amount of time for satisfactory resolution; for example, an involuntary commitment may take up to 6 hours for placement. With new (and lower) Medicaid and IPRS definitions and rates, one FTE (full time equivalent) position can generate approximately $97,500 in annual charges. Just considering the above figures, one ES FTE position would generate only $73,125 in annual charges…a decrease, or loss, of $24,375 due to ES activity, and this assumes no additional ES time is needed beyond the allotted percent. Obviously, additional ES time required for adequately resolving emergency situations would further diminish the capacity of the ES worker to provide reimbursable services.

Psychiatric Services

A salient component of any ES system is adequate psychiatric coverage and consultation on a 24/7 basis. It has been well chronicled over the past few years that the Medicaid/IPRS rates for physician services are inadequate to fully cover physician services, and especially when including 24/7 on-call coverage. Larger service entities offering primarily Community Support activities can utilize excess CS funds to assist with paying for physician services; smaller service units that now exist in Henderson County will have less ability to leverage CS dollars. Excellence in emergency services requires timely response to crisis situations, and to ensure high quality and responsive emergency services, Parkway Behavioral Health employs a fulltime psychiatrist. Annual cost of a physician employee, to include wages, on-call fees, benefits and indirect costs, averages $320,000; annual average earnings of a psychiatrist working with the public-funded clientele is approximately $235,000…resulting in a shortfall of $85,000. With ES demands, allotting 15% of physician time to non-reimbursable ES activity equates to an additional subtraction from earnings of around $35,000…resulting in a total shortfall of approximately $120,000. Henderson County's share of this revenue shortfall relative to psychiatric services is approximately $18,000, or 15% of the total (Buncombe = 50%; Transylvania = 15%; Henderson = 15%; Polk = 5%; Rutherford = 15%).

Limited IRPS Funds

State/IPRS funds historically have been depleted prior to the end of the fiscal year. During funding shortfalls, non-emergency services can be reduced or eliminated. However, reducing emergency services would pose potential substantial negative consequences both for Parkway Behavioral Health and Henderson County. The ES payer mix includes a higher percentage of IPRS consumers than typically found in public-funded general outpatient agencies due to more options for the Medicaid consumer. Limited IPRS funds pose considerable risk of having those emergency services that are billable to be fully reimbursed, further exacerbating a fragile reimbursement system for emergency services.

Non-Target Pop Residents

Individuals who do not meet the criteria for receiving Medicaid or State-funded mental health/substance abuse services must be offered services by Parkway if they present in a condition of crises or emergency. For other agencies offering public-funded, non-emergency outpatient services, this is not the case. Projecting at least three ES events per week in Henderson County, and conservatively estimating 15% of ES consumers will lack a funding source, then about 23 Henderson County consumers will be served by Parkway Behavioral Health without any reimbursement. Again, conservatively estimating 3 hours of service per crisis consumer and with 50% of ES activity generally reimbursed, then serving the consumers without a funding source will equate to an annual loss of 37.5 billable hours or $5,175.

Costs of No or Inadequate ES system

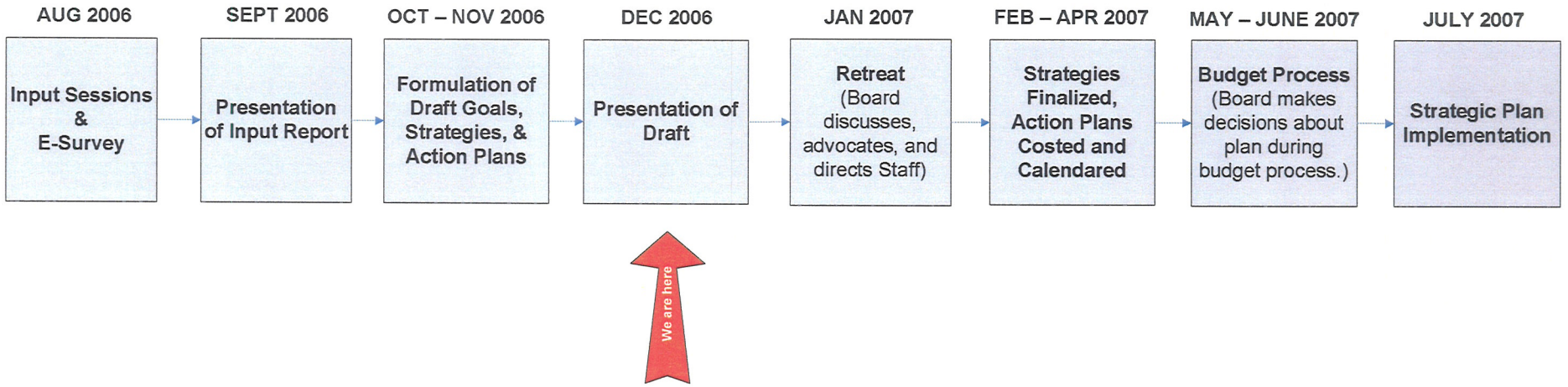
Perhaps the most relevant costs of having no emergency services or inadequate emergency services will be the costs experienced by the residents and community service entities of Henderson County. Common sense, and research literature, point to the increase demand upon a community's 'safety net' infrastructure (DSS, Health Dept, law enforcement, hospitals, etc) as structured mental health crisis interventions decrease. Without the benefit of a system for stabilizing the mentally ill consumer in crisis, the consumer will continue to escalate, eventually leading to a host of actions involving other community resources, such as refuge in the local hospital ER, family intervention by DSS, crisis intervention by local law enforcement, criminal behavior resulting in jail and commitment process requiring law enforcement transportation to Broughton Hospital. The costs associated with these 'community interventions' is beyond simple dollars as the increased instability of the consumer extracts an emotional price from the family, friends and the County's 'helping infrastructure'.

Summary

Like other community emergency services, mental health crisis services require available and responsive qualified staff regardless of the time or frequency of crisis events. Due to the required staffing model and to the low Medicaid/IPRS reimbursement rate for physician services, financial self-sufficiency of emergency mental health services is not achievable. Without a viable mental health ES system in the community, the consequential financial and emotional costs are shared by the community's infrastructure and residents.

2007-2011 Strategic Planning Process

December 2006



DECEMBER 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4 Presentation of Schedules	5	6	7	8 Publication of Notice	9
10	11	12	13	14	15	16
17	18 Public Hearing	19	20	21	22	23
24	25	26	27 Adoption of Proposed Schedule	28 Adoption of Proposed Schedule	29 First publication of Order Of Adoption	30
31						

JANUARY 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3 2nd publication of Order of Adoption	4	5	6
7	8	9 3rd publication of Order of Adoption	10	11	12	13
14 4th publication of Order of Adoption	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

CALENDAR

FOR THE PRESENTATION AND ADOPTION

OF THE

2007 SCHEDULES OF VALUES, STANDARDS, AND RULES

N.C.G.S. 105-317(c) sets forth the manner in which the Schedules of Values, Standards, and Rules are to be presented by the Assessor to the Board of County Commissioners, and ultimately considered and adopted by the Board. The essential statutory direction is as follows:

1. The Schedules of Values, Standards, and Rules must be approved (adopted) by the Board of County Commissioners before January 1 of the year they are applicable.
   G.S. 105-317 (c)

2. The procedure for the presentation, consideration, and adoption of the Schedules of Values, Standards, and Rules for Market Value will be made separately from those for Present-Use Value.
   G.S. 105-317 (c)

3. The Proposed Schedules of Values, Standards, and Rules are to be presented by the County Assessor not less than 21 days before the meeting at which they will be considered by the Board for the purpose of adoption. G.S. 105-317 (c)(1)

4. Once presented by the County Assessor, the Board of Commissioners shall set a date, time, and place, for a Public Hearing to be held at least 7 days before the date they will be considered by the Board for adoption. G.S. 105-317 (c)(2)

5. Based on the above, and the meeting date of December 4, 2006 during which the Proposed 2007 Schedules of Values, Standards, and Rules for both Market Value and Present-Use Value were presented:
   - The earliest date for the Public Hearing would be Monday, December 18, 2006.
   - The earliest date for the adoption of the proposed Schedules would be Wednesday, December 27, 2006 or Thursday, December 28, 2006 (due to the Christmas holidays). G.S. 105-317 (c)(1) & (2)

6. Upon presentation of the Proposed Schedules of Values, Standards, and Rules, a Notice shall be published "in a newspaper having general circulation in the county stating:
    a. That the proposed schedules, standards, and rules to be used in appraising real property in the county have been submitted to the board of county commissioners and are available for public inspection in the assessor's office; and
    b. The time and place of a public hearing on the proposed schedules, standards, and rules that shall be held by the board of county commissioners before adoption by the board.

7. Upon a majority vote of the Board of County Commissioners, it shall issue an Order adopting the Schedules of Values, Standards, and Rules. Notice of this Order shall be published once a week for four successive weeks in a newspaper having general circulation in the county, with the last publication being not less than seven days before the last day for challenging the validity of the schedules by appeal to the North Carolina Property Tax Commission. The Notice shall state:
    a. That the schedules, standards, and rules to be used in the next scheduled reappraisal of real property in the county have been adopted and are open for examination in the office of the County Assessor; and
    b. That a property owner who asserts that the schedules, standards, and rules are invalid may except to the Order and appeal therefrom to the North Carolina Property Tax Commission within 30-days of the date when the Notice of the Order adopting the schedules was first published.

8. The publication of the Notice should follow as closely as possible to the date of initial presentation – most likely, Friday, December 8, 2006.

9. The first publication of the Order of Adoption should follow as closely as possible to the date of actual adoption by the Board – most likely Friday, December 29, 2006; followed by Wednesday, January 3, 2007; Tuesday, January 9, 2007; and Sunday, January 15, 2007.

N.C.G.S. 105-317. Appraisal of real property; adoption of schedules, standards, and rules.

. . . . .

(c) The values, standards, and rules required by subdivision (b)(1) shall be reviewed and approved by the board of county commissioners before

January 1 of the year they are applied. The board of county commissioners may approve the schedules of values, standards, and rules to be used in appraising real property at its true value and at its present-use value either separately or simultaneously. Notice of the receipt and adoption by the board of county commissioners of either or both the true value and present-use value schedules, standards, and rules and notice of a property owner's right to comment on and contest the schedules, standards, and rules shall be given as follows:

(1) The assessor shall submit the proposed schedules, standards, and rules to the board of county commissioners not less than 21 days before the meeting at which they will be considered by the board. On the same day that they are submitted to the board for its consideration, the assessor shall file a copy of the proposed schedules, standards, and rules in his office where they shall remain available for public inspection.

(2) Upon receipt of the proposed schedules, standards, and rules, the board of commissioners shall publish a statement in a newspaper having general circulation in the county stating:

a. That the proposed schedules, standards, and rules to be used in appraising real property in the county have been submitted to the board of county commissioners and are available for public inspection in the assessor's office; and

b. The time and place of a public hearing on the proposed schedules, standards, and rules that shall be held by the board of county commissioners at least seven days before adopting the final schedules, standards, and rules.

(3) When the board of county commissioners approves the final schedules, standards, and rules, it shall issue an order adopting them. Notice of this order shall be published once a week for four successive weeks in a newspaper having general circulation in the county, with the last publication being not less that seven days before the last day of challenging the validity of the schedules, standards, and rules by appeal to the Property Tax Commission. The notice shall state:

a. That the schedules, standards, and rules to be used in the next scheduled reappraisal of real property in the county have been adopted and are open to examination in the office of the assessor; and

b. That a property owner who asserts that the schedules, standards, and rules are invalid may except to the order and appeal therefrom to the Property Tax Commission within 30 days of the date when the notice of the order adopting the schedules, standards, and rules was first published.

(d) Before the board of county commissioners adopts the schedules of values, standards, and rules, the assessor may collect data needed to apply the schedules, standards, and rules to each parcel in the county.

NOTICE

Pursuant to N.C.G.S. 105-317(c), this is to give public notice that the
Proposed Schedules of Values, Standards, and Rules
to be used in the reappraisal of real property for
Market Value and Present-Use Value,
effective as of 1 January 2007,
were presented by the County Assessor to the
HENDERSON COUNTY BOARD OF COMMISSIONERS
at their regularly scheduled meeting on December 4, 2006
and are now available for public inspection
in the offices of the County Assessor located at the following address:

Suite 102
Henderson County Courthouse
201 N. Grove St.
Hendersonville, NC 28792

In addition,
this is to serve notice of a
Public Hearing
on the Proposed Schedules, Standards, and Rules
to be held by the
HENDERSON COUNTY BOARD OF COMMISSIONERS
as follows:

Date & Time: Monday, December 18, 2006 at

Location: Commissioners Meeting Room
County Administration Building
100 N. Church Street
Hendersonville, NC 28792

For more information regarding the Proposed Schedules,
please contact the County Assessor's Office at 697 – 4870.

RESOLUTION SEEKING PRESIDENTIAL ACTION TO PROTECT NORTH CAROLINA HOSPITALS

WHEREAS, North Carolina hospitals provide quality health care for all patients, regardless of their ability to pay; and

WHEREAS, Medicaid payments to hospitals do not cover the actual costs of services; and

WHEREAS, federal law explicitly provides for supplemental payments to hospitals, through the states, to offset a portion of the difference between Medicaid payments and the actual cost of caring for Medicaid and uninsured patients; and

WHEREAS, the State of North Carolina has benefited from this supplemental payment plan for hospitals with the approval of the federal Centers for Medicare and Medicaid Services (CMS) since 1997; and

WHEREAS, in North Carolina this funding has allowed North Carolina hospitals to continue their mission of quality health care for all; and

WHEREAS, CMS is developing regulations that could significantly limit the ability of our hospitals to qualify for supplemental Medicaid payments; and

WHEREAS, such regulations could reduce yearly payments to North Carolina hospitals by as much as $320 million; and

WHEREAS, such a reduction would significantly harm many of our hospitals, the communities they serve and their patients;

NOW, THEREFORE, BE IT RESOLVED that the Henderson County Board of Commissioners respectfully requests The Honorable George W. Bush, President of the United States, to use the power of that office to:

1. Halt promulgation of any regulation or other such action that would limit the funding of hospital care for those who are Medicaid eligible or uninsured, and
2. Preserve the Supplemental Medicaid Payments to North Carolina hospitals.

ADOPTED this the fourth day of December, 2006.

(Seal)

William L. Moyer, Chairman
Henderson County Board of Commissioners

Attest Elizabeth W. Corn
Elizabeth Corn, Clerk to the Board