

**HENDERSON COUNTY
PLANNING BOARD MINUTES
June 21, 2007**

The Henderson County Planning Board met on June 21, 2007 for their regular called meeting at 5:30 p.m. in the Commissioners' Meeting Room at 100 N. King Street, Hendersonville, NC. Board members present were Tedd Pearce, Chair; Mike Cooper, Vice-Chair; Jonathan Parce, Mitchell Gaither, Renee Kumor, Stacy Rhodes, Gary Griffin, John Antrim and Tommy Laughter. Others present included Anthony Starr, Planning Director; Matt Card, Planner; Alexis Baker, Planner; Parker Sloan, Planner; Sarah Zambon, Associate County Attorney; and Kathleen Scanlan, Secretary. Board members Mitchell Gaither and Jonathan Parce were absent.

Chairman Pearce called the meeting to order and asked for the approval of the May 17, 2007 regular Planning Board Meeting Minutes. Renee Kumor made a motion to approve the May 17, 2007 minutes subject to the typographical changes and John Antrim seconded the motion. All members voted in favor.

Adjustments of the Agenda. There were no adjustments needed.

Staff Reports. Mr. Starr introduced Hope Bleecker, who has been recently hired in the Planning Department as the Transportation Planner and shared with everyone her background. Mr. Starr mentioned that at present, in July there will be eight major subdivisions and two rezonings before the Board. Mr. Starr said because of the number of items proposed on July's agenda, he reviewed some open dates for a second meeting, should the Board need to table the regular meeting to continue discussion on the remaining agenda items, he reviewed some open dates that the meeting room would be available. The Board agreed on July 26, 2007 at 6 p.m. as a continued date of the regular meeting. Mr. Starr updated the Board members regarding the Land Development Code and said that the Board of Commissioners will set a public hearing at their July 2nd meeting.

OLD BUSINESS:

Phase 1 Development Plan – Seven Falls Golf and River Club (2007-M19) – 126 Single-Family Residential Lots and 38 Townhouse Units - William G. Lapsley & Associates, Agent for Mountain Development Company, LLC, Developer and Owner. Presentation by Matt Card. After some discussion regarding public input, Chairman Pearce was advised to take public input after Staff and Applicant's presentation, but before the Board votes. The Chairman then stated that the Board members need to vote on the amendment to the Master Plan, as the applicant has requested a revision to the Plan. After some discussion Chairman Pearce asked that Mr. Card update the Board as to where the applicant is with his proposed development plan. Mr. Card stated that Mr. Lapsley, agent for the project, submitted a request to allow 48 units to have temporary individual well and septic system for a period of two years. The applicant made this request because of the extended period of time needed to design, permit and construct the water and community sewer system. Mr. Card stated that the outstanding issues that the Planning Board had discussed at the Planning Board meeting in May were taken care of with Staff's report. Mr. Card reviewed as follows:

1. **Letter from City of Hendersonville.** The Planning Board requested a letter from the City of Hendersonville regarding availability and/or sufficient capacity of the public water system. Mr. Lee Smith, Director of City of Hendersonville Water and Sewer Department, provided a letter regarding water availability to Mr. Lapsley dated June 14, 2007.
2. **Letter Regarding Fire Protection.** The Planning Board requested that an agreement

be reached regarding adequate fire protection for Seven Falls. Attached are two letters from Mr. Rocky Hyder, Fire Marshal, and Mr. Lapsley regarding provisions for fire protection. Mr. Hyder provided a typical diagram of an acceptable sub-station.

3. **Letter Addressing Sewerage.** The Planning Board wanted a letter from the applicant outlining the commitment to constructing a private community sewerage system. Mr. Lapsley submitted a letter clarifying the developer's intent to build this system.
4. **Installation of Temporary Wells and Septic Systems.** Mr. Lapsley has requested, on behalf of the developer that temporary well and septic systems be allowed for a certain number of lots within Phase I of Seven Falls. These wells and septic systems would be allowed until such time as the public or community water system and community sewerage system are operational. Staff supports the developer's request to allow temporary wells and septic systems for a period of two years. Staff also supports the approval of up to 50 temporary wells and septic systems within Phase I of Seven Falls.

Chairman Pearce felt that the temporary well and septic system relate only to the Development Plan and not the Master Plan. Mr. Starr stated that the temporary well and septic issue is the only issue the Board needs to consider in amending the Master Plan, the other issues relate to the Development Plan. After some discussion, Chairman Pearce noted that in his original motion that the Board approved for the Master Plan, he said he had failed to use the word public and/or community water system, so the Board also needs to amend the approval of the Master Plan so that they can use public or private water and sewage systems. After some discussion, Chairman Pearce said that the Board needs to handle the issues at hand on three separate motions. Renee Kumor made a motion to amend the Master Plan approval for the Seven Falls Development to allow for the Plan to read both public and community water and sewer systems. Mike Cooper seconded the motion and all members voted in favor. Ms. Kumor wanted to know when the clock would start on the period of time for temporary wells and septic. Ms. Zambon said that if the Board chose for the developers to use temporary wells and septic, for whatever number of units, the Board should determine what the timeline is and what to tie it to. She suggested that it should be tied to the restrictive covenants so that the provision would be in the restrictive covenants and tie it to the date of the recordation of the restrictive covenants. Mr. Card noted that Staff would like to receive a copy of the recorded Covenants, Conditions, and Restrictions (CCRs) so that we know they are recorded. Chairman Pearce made a motion that the Board amend the Master Plan approval for the Seven Falls Development to allow temporary wells and septic for 48 units for the period of two years and that the two years will start upon the recordation of restrictive covenants or the first issuance of a deeded lot to another party and that the Planning Staff will be given copies of the recorded restrictive covenants at the time of recordation. Mike Cooper seconded the motion. Ms. Kumor asked whether this relates and is specific to Phase 1. Ms. Zambon stated that this is specific to the Master Plan, which would cover all of the phases, not just Phase 1. After further discussion, Board members agreed to amend the motion to add”that the two years will start upon the recordation of restrictive covenants or the first issuance of a deeded lot to another party, **whichever comes first,....**” All members voted in favor.

Mr. Card reviewed an update to Staff's Comments from the May 17, 2007 meeting for the Phase I Development Plan and stated that the following are issues that need to be addressed:

STAFF COMMENTS

1. **Stream Setbacks.** A minimum thirty-foot setback for buildings or other structures is required along all perennial streams. The thirty-foot setback must be noted on the final plat (HCSO 170-37, A).

2. **Soil Erosion and Sedimentation Control.** The Developer should submit notice from NC DENR that a soil erosion and sedimentation control plan has been received or provide documentation that no plan is required prior to beginning construction (HCSO 170-19). Staff has received an approval letter for Phase IA. Staff is unclear whether this covers Phase I or just a portion of Phase I.
3. **Access to Phase I.** Mr. Card mentioned that it appears that access for Phase I will come off of the existing location of Pleasant Grove Road. It is unclear how Phase I will connect to proposed subdivision roads. He said any future changes to the Plan (i.e. approval of any existing public road relocation or revision to the Master Plan) will result in revised Plans being submitted to the Planning Department for review and approval.
4. **Flag Lots.** Mr. Card stated that on the plan, lots 18, 19 and 20 appear to be flag lots. Lots 18 and 19 do not meet the minimum 30-foot width for frontage. Mr. Card stated that Mr. Lapsley has stated that flag lots 18 and 19 have been removed from the project as explained in his letter dated May 16, 2007. Mr. Card said that Staff needs a revised Plan showing this change and that lot 20 is a flag lot with an increased width of 45 feet. He stated that revised plans have been submitted.
5. **Gates.** All proposed gates must meet the minimum standards of the Entry Gates Ordinance (Chapter 87 of the Henderson County Code).
6. **Bridges.** Section 170-21, I of the Subdivision Ordinance requires the applicant to submit a copy of the bridge design plans. Said Plan must show certification from a registered professional engineer indicating that the bridge plans meet state road standards for drainage, hydraulics and minimum live load. As-built drawings of the bridges with certification from a registered professional engineer that the bridges meet state road standards will be required prior to final plat approval or the release of any improvement guarantee.
7. **Townhouse Development.** The applicant has proposed 40 attached townhouse units in Phase I. The review for townhouse development is outlined in Section 170-15 of the HCSO. Sections 170-15 of HCSO states that applications for townhouse developments shall be prepared in conformance with § 170-16 (review for major subdivisions), Articles IV (all areas of review for major subdivisions which includes minimum design standards for roads, water and sewer systems, right-of-way and etc.), Article V (subdivision improvement guarantees) and Article VI (application, enforcement and legal status provisions). Section 170-15 also states that § 170-21F (minimum curve radius), § 170-21G (intersections), § 170-27 (right-of-way access), § 170-31A (lot dimensions) and § 170-31D (lot configuration and frontage) may be modified by the Planning Board. It also states that the Planning Board may use discretion in applying subdivision standards. Portions of Phase I have duplex townhouse units. These units appear to be surrounded by common area with no proposed rights-of-way. It appears that the applicant will be requesting modifications to some of the requirements listed above. The applicant should submit to the Planning Department for review cross-sections or a plan view of the design for the driveways and roads serving the townhouses. The Subdivision Ordinance currently does not have any requirements for driveways or roads serving townhouse units. Therefore all proposed roads and driveways must meet the minimum standards for private roads and must be built before approval of a final plat or release of any improvement guarantee.
8. **Minimum Curve Radius.** Mr. Card stated that Mr. Lapsley requested a reduction in the centerline curve radius of 100 feet with slopes that will exceed 15 feet. He added that the final plat must have a notation regarding this reduction.
9. **Road Grade.** A professional engineer or professional land surveyor must certify on the final plat that no portion of private roads have grades that exceed the maximum allowable grade,

which is 18 percent grade for paved local residential roads and 16 percent grade for paved collector roads.

10. **Water and Sewer.** According to the HCSO, the applicant must provide evidence that the water supply and sewer system plans have been approved by the appropriate agency. All public or private (community) water supply and sewerage systems shall be installed and shall meet the requirements of the Henderson County Health Department or other government authorities having jurisdiction thereof. The development plan may be approved contingent on final approval from such agencies; however, the final plat shall not be approved until all such final approvals have been obtained. Any subdivision served by a public water system shall meet the respective county or municipality's minimum requirements for fire hydrants installation (HSCO 170-20). The Henderson County Fire Marshal's Office has requested that hydrants are spaced 1000 feet apart or closer.

Mr. Card said that Staff is satisfied with the availability letters that have been given, but no approvals have been given. He added that approvals need to be given prior to final plat approval or if they post improvement guarantee monies.

New Comment

11. **Temporary Wells and Septic Systems.** If the Planning Board approves the use of temporary individual wells and septic systems, then Staff suggests that the Planning Board make a condition that is consistent with the language in the draft Covenants, Conditions and Restrictions ("CCRs"). The draft CCRs state:
 - a. For a period of two (2) years commencing on the date the Declaration is recorded in the Official Records, Owners of up to fifty (50) Dwellings shall be allowed to drill, install and maintain deep water wells to provide water service to such Owners' Dwellings. Additionally, during such time period, Owners shall also be allowed to install a septic tank to be utilized in the occupancy of the Dwelling. At such time as a community-wide water system and sewage collection system is available to a Dwelling (whether such systems are provided by the Declarant or governmental entities), such Owners shall be required to connect to such systems and pay any connection fees due the providers of the systems. Thereafter, no Owner shall be allowed to install a water well or septic tank or to utilize any previously installed water well or septic tank.

Review Agency Comment

12. **Comments from the Fire Marshal.** The Planning Board can only require the applicant to meet the minimum standards of the Subdivision Ordinance; the Planning Board may not have the authority to require any additional standards.

Other Comments

13. **Slopes.** Mr. Card stated that pursuant to the goals of the CCP, the applicant should work to protect steep slopes and leave them in their natural state with only limited development. Note: Henderson County does not have any regulations for development on steep slopes. The Planning Board can only require the applicant to meet the minimum standards of the Subdivision Ordinance.

Chairman Pearce opened public input at this time.

Ned Ryan Doyle. Mr. Doyle felt that the Planning Board and the Board of Commissioners have not protected nor have they paid any attention to the concerns of the citizens of Henderson County especially in this community regarding their efforts for an orderly quality of life and for the safety,

health and welfare regarding these large subdivision developments. He mentioned that there is groundwork being made for a law suit in superior court to address issues relating to the safety, health and welfare regarding the citizens in this community and the developments that have been proposed. He said that the current proposals that the Board has *casually been permitting* are not for a pattern of rational, sustainable development, but a pattern for the ultimate destruction of our community.

Mary Jane Pell. Ms. Pell said that she is concerned and disappointed at the Board allowing temporary septic and wells because she said, “you know what temporary means – it never finishes.” She said her main concern is with the water and the golf course, as it will need plenty of water and asked if there are any plans for reservoirs. She is concerned with water run-off and showed some pictures of results of water run-off recently in that area. She mentioned that she has started a group petitioning no more land development acts until the Land Development Code has been passed.

Chairman Pearce commented on some of the things that have been said so far under public input. He mentioned that this Board is appointed by the Board of Commissioners. He said the Board makes decisions based on Planning Staff, County Legal Department and upon whether developments meet the criteria of the Subdivision and Zoning Ordinance. He stated that the Board does not get to vote based on our personal opinions or even the people in the community. He said that the Board has a tight range that they are required to work in, for the most part, it's a check list. He continued trying to answer some of the questions the people had concerns regarding water in that area and for that development. He added that the Planning Board is only allowed to consider regulatory matters and are not a legislative board. The Board of Commissioners make the laws and decide on a moratorium or the types and sizes of developments in the County.

Lorraine Riewerts. She said she felt that the people under public input should have spoken before you had voted on the water issue as this concerns her and the community. Also, she stated she feels that public input is not really worth anything.

Martha Sachs. She stated that she owns property on Pleasant Grove Church Road and she said Henderson County does not need another golf course nor does it need another gated community as this will inhibit the community involvement of newcomers. She mentioned that the County should find a way to keep pesticides from the golf course from getting into the French Broad River.

Chairman Pearce responded that whether Henderson County needs another golf course remains to be seen and only the market will determine whether it is viable in the long run. He also noted that people live in a gated community of their own choice but several of these type communities have many members involved in volunteer activities. Regarding pesticides, Mr. Starr mentioned that this County has no regulations as of yet but that would be regulated by the State.

Richard Freudenberger He expressed concern that a gate planned with the development would impede families trying to evacuate low areas during floods via Jeter Mountain Road. He was also concerned about the three ponds located on the proposed golf course regarding flood issues.

Mr. Starr stated that the State does not allow gates on any public roads. Seven Falls has proposed relocating parts of Pleasant Grove and Pleasant Grove Church roads that cross its property with new sections that could not be gated. He also stated that the County in considering its Subdivision Ordinance, can not hold or deny approval of projects because there is a violation or some inconsistency with another agency or state rule, however; the only instance is regarding building permits. Chairman Pearce wanted Mr. Starr to clarify once again the purpose of the master plan. He said that the purpose of the master plan just approves the basic road and lot configurations and it allows communication between the developer and the Planning Board to

occur before the developer invests in time and engineer costs so that they know that they have basic approval of the concept before they make an investment and design of the project.

Bruce Hatfield. Mr. Hatfield is concerned with the decision of the Board and had concerns with all the aspects of the subdivision – water, sewer, fire protection – and who will pay for the problems in the end.

Angela Fernandini. She distributed copies of three violations issued to Seven Falls for unauthorized work and fill rock in Little Willow Creek. She stated that they have not stopped working on the site despite state orders to do so. She said the Board may not be able to take them into consideration, but I want them for the record. She is concerned of the environmental aspect of the subdivision and the un-orderly growth of the area of Etowah. She also mentioned her concern regarding finding more graves on the site and feels that there should be a proper assessment of the property as well as a proper species inventory before they continue with the development.

Chairman Pearce explained why they chose to vote on a temporary water and sewer system.

Bill O'Connor. He stated that the Boards (Planning Board and Board of Commissioners) should be the one who represents the people of the community and their concerns. He was very concerned and leery about the approval of temporary water and sewer to this development.

Paul Chandler. Mr. Chandler was annoyed by the Planning Board for allowing the project to move ahead. Mr. Chandler asserted that the Planning Board and Board of Commissioners benefit financially from these types of development decisions.

Chairman Pearce stated that no one from the Board receives any money from the developers and said they he resents the accusations that have been made and finds them very insulting.

Beverly Hawkins. She stated that she resides on Pleasant Grove Church Road. She was concerned about adequate access for the driveway to our church, but that she never heard it mentioned during the comments from Staff.

Chairman Pearce said that this was made as a condition at our last Planning Board meeting and that when such time when any development plan that would be affected by this issue of the access to the church, it could not be resolved until this issue would be resolved.

Mr. DeVaney. He is the attorney for the developer, said there was a violation that was blamed on Seven Falls. It had nothing to do with Seven Falls. He said a former owner who had sold land to the project used heavy equipment to remove boulders placed in the creek years ago and because it was after Seven Falls had bought the property, it was cited but has been taken care of. The project has continued to remove tons of trash from the site. Mr. DeVaney said that the wells and septic will only be temporary for that period of time until we are able to hook on to city water. He said that regarding properties sold, there are only commitments to sell or letters of intent, but no lots are being sold. The gate will be on a private road within the property boundary perimeter. An application for approval of the ponds has been sent to the Department of Environment and Natural Resources and up to the scope of DENR's authority.

Mr. Buie reiterated the fact that Seven Falls would not be using City of Hendersonville water for the golf course but utilizing the river and ground water once they dig the ponds and we get authorization for such. He said DENR has specific standards for pesticides and herbicides that

they require for stormwater management systems before the golf course is constructed. regarding violations, Mr. Buie stated that land quality has issued no stop work orders and have issued valid permit for the first phase and that they are working in that first phase and that they have addressed all of the issues with both water quality and land quality had and that there is a meeting scheduled within the next few days to review those issues, so he said he understands they have been addressed. Chairman Pearce asked Mr. Buie to check into this and make sure everything has been taken care for the sake of the community questions.

After some questions that Ms. Kumor had regarding temporary wells and septic, Ms. Zambon told the Board that the developer's own restrictive covenants would require homes to hook onto city water in two years. She said they are not allowed to use private wells and septic systems after two years. Ms. Kumor asked if the developer could change the restrictive covenants. Ms. Zambon stated that if the developer changed the restrictive covenants, the developer would have to run any such change by the County Attorney's office.

Chairman Pearce made a motion to approve the Development Plan for Phase 1 for the Seven Falls Golf and River Club because it meets the requirements of the Subdivision Ordinance rules and regulations, subject to the conditions noted by Staff - # 1 – 11; specifically approving that lots # 18 and # 19 are no longer part of the subdivision and that what was previously identified as lot # 20 has been changed and has a 45-foot right-of-way and recommend approval as a flag lot. This lot will be renumbered and identified in a revised plan. Mike Cooper seconded the motion and all members voted in favor.

The question was brought up again regarding televising the Planning Board meetings. Mr. Starr explained about knowledgeable Staff required and time, but that he would look into the issue. He also explained that when the Administration leaves this building, they will also take with them all of the recording and televising devices, so unless we move the meeting to their new location, we would not have the capability for televising the meetings. Chairman Pearce asked Mr. Starr if he would look into this and discuss this issue with the Commissioners to see if they feel it is important.

Combined Master and Development Plan – Eagle Spring Major Subdivision (2007-M21) – 12 Single-Family Residential Lots off Appleola Road – William G. Lapsley of William G. Lapsley and Associates, P.A., Agent for William Vernon Watkins Trust – Eddie Watkins, Trustee, Owner and Developer. Presentation by Alexis Baker. Ms. Baker stated that Mr. William G. Lapsley with William G. Lapsley and Associates, P.A., agent on behalf of Eddie Watkins trustee to William Vernon Watkins Trust, owner, submitted the Combined Master and Development Plan for the project known as Eagle Springs. The project site is located on 17.80 acres of land located off of Appleola Road. The applicant is proposing a total of 12 lots that will be used for single-family residential purposes.

The site is currently zoned Open Use (OU) which does not regulate the residential use of land. The site is not located in a water supply watershed district or the floodplain. Public roads are proposed to serve the project site. Private water (individual wells) and private sewer (individual septic) are proposed to serve the project site.

Master Plan Comments:

According to Section 170-16B of the Henderson County Subdivision Ordinance (HCSO), the purpose of a Master Plan is to present the overall development concept for a project and to provide general information about the project to allow for assessment of its impact on growth and development of the County, environmental quality, land values, natural features, etc. When reviewing the Master Plan it is important to consider that all land may not be suited to be

subdivided for the purposes of dense development (HCSO §170-3) Staff has reviewed the submitted Master Plan for Eagle Spring, taking into consideration the recommendations of Henderson County's Land Use Plan (the Henderson County 2020 Comprehensive Plan) and Draft Land Development Code:

1. **County Comprehensive Plan (CCP).** The Future Land Use Map of the CCP shows the project site as being located within the Rural Agricultural Area (RAA).
2. **Rural Agricultural Area.** The Rural Agricultural Area (RAA) designation of the Growth Management Strategy is applied to the project site. The RAA is intended to remain predominantly rural with a density of 5 or more acres per dwelling unit (average lot sizes of 5 or more acres per unit). According to the plan, the project would have an average density of 0.67 units per acre (average lot size of 1.48 acres). The proposed densities/lot sizes are reduced from those recommended by the CCP. The CCP states that regulations should encourage "densities that are consistent with steep slopes, poor septic capacities, and sensitive topography." The project site contains limited areas with steep slopes (See Map B: Slopes Map). The applicant has indicated that private individual wells and individual septic will be available to the development.
3. **Land Development Code (LDC).** According to Proposed Draft 9 of the Land Development Code Zoning Map the proposed project site for this development is located entirely in the Residential Zoning District 3 (R3) (See Map C: Draft Land Development Code Map). The current draft of the Land Development Code (LDC) allows for a density of 0.66 units per acre (average lot size of 1.5 acres). According to the plan, the project would have an average density of 0.67 units per acre (average lot size of 1.48 acres). This would be in keeping with the densities generally proposed for the property by the Land Development Code, being that the proposed development is just slightly denser than the LDC would allow. Since differences exist between proposed densities with the LDC and the CCP, if the LDC is adopted as proposed, the CCP may need to be amended to be consistent with the LDC.

Development Plan Comments:

1. **Sedimentation and Erosion Control Plan.** The Applicant shall submit notice from NCDENR that a soil erosion and sedimentation control plan has been received or provide documentation that no plan is required prior to beginning construction (HCSO 170-19).
2. **Public Roads.** The applicant has proposed a public road. The proposed road must be designed and constructed according to NCDOT's minimum construction standards for subdivision roads. NCDOT requirements may exceed the road requirements of the HCSO. At minimum the road must be built to private local road standards. Staff suggests that the applicant contact NCDOT regarding the design and construction of these roads. Any changes to the layout of the proposed road system will require a revised Master and Development Plan be submitted to the Planning Department for review. All roads proposed for public use shall be annotated as "public" on all plans and final plats. Further, the NCDOT District Engineer must sign the plat to indicate that the road design was in accordance with State Road Standards contained in "Subdivision Roads – Minimum Construction Standards" (HCSO §170-21A).
3. **Site Stabilization.** All areas disturbed by the construction of a private road, including cut and fill slopes, shoulders and ditch banks, must be seeded in permanent vegetation to stabilize the soil and prevent erosion. Such seeding should be done as soon as feasible following road construction (HCSO §§170-13A[7] and 170-22).
4. **Lot Configuration and Frontage.** Ms. Baker stated that the Applicant has proposed two flag lots (Lots 10 and 11). The narrowest width of any lot abutting the right-of-way will be 30 feet, however; it has been brought to our attention that due to the location of the drainage

easement, the proposed flag lot # 11 will need to be moved and as such will need to be a condition of approval.

5. **Final Plat Requirements.** The Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance.

Review Agency Comments:

1. **Comments from the Fire Marshal.** Mr. Hyder suggested the feasibility of a dry hydrant for the stream adjacent to lot # 11. Planning Board can only require the applicant to meet the minimum standards of the Henderson County Subdivision Ordinance.

Mr. Buie stated that regarding Condition # 4 – lot configuration and frontage and the flag lots # 10 and 11, he said he feels that the easiest way to address that situation is to adjust the flag locations and move it back to lot # 9, which would take away a bit of acreage from that lot but would shift the flag portions and the driveways would be outside of that drainage easement area and would keep them as fairly sizable lots. Mr. Buie also mentioned that they could explore the feasibility of a dry hydrant, if there is adequate flow.

Mike Cooper made a motion that the Planning Board find and conclude that the Combined Master and Development Plan appears to comply with the provisions of the Subdivision Ordinance; and further move that the Combined Master and Development Plan be approved subject to the following conditions: the applicant satisfies any conditions that may result from the comments listed in the Staff Report and that regarding Condition # 4, with the amendment to the flag lot and that the easement be relocated the access so that it would be outside of the drainage easement area.

Revised Master Plan – Grand Highlands at Bear Wallow Mountain (2007-M20) – 320 Single-Family Residential Lots on Bear Wallow Mountain Road – Andy Otten, Melrose Design Group, P.A., Agent for Westside Land and Timber Co., Inc., Hassco Lands, Inc. and KHM Investments LL, Owner. Presentation by Matt Card. Mr. Card stated that Mr. Andy Otten with Melrose Design Group, PA, agent, submitted a revised Master Plan for an approved major subdivision know as The Grand Highlands at Bearwallow Mountain. The subdivision was originally approved with 99 lots on 288 acres of land on April 19, 2005 by the Planning Board. Staff has subsequently approved revised Plans showing 99 lots and changes to the configuration of the roads and lots within the subdivision.

The applicants are now proposing to add additional adjacent tracts of land to the subdivision totaling 119 acres. The applicant is currently in the design and approval process with the City of Hendersonville for extending public water to the project site from US Hwy 64 East (Chimney Rock Road). This will be approximately a seven (7) mile water line extension. The revised Master Plan shows a total of 320 single-family residential lots on 407.9 acres of land. The applicant is proposing an additional entrance on Bear Wallow Mountain Road to serve the new sections. Access to the new sections will also come from the original sections of the subdivision. Public water and individual septic systems will serve the lots. The project is located in the Open Use zoning district which does not regulate the residential use of land.

The property is adjacent to the Fruitland Farmland Preservation District and according to the North Carolina National Heritage Program's January 2002 inventory and the publication, *Natural Areas of Henderson County: A Preliminary Inventory of the Natural Areas of Henderson County, North Carolina*, the Bear Wallow and Bat Cave Natural Heritage Inventory Sites are located in a close proximity to the project site.

Master Plan Comments:

Mr. Card stated that according to Section 170-16B of the Henderson County Subdivision Ordinance (HCSO), the purpose of a Master Plan is to present the overall development concept for a project and to provide general information about the project to allow for assessment of its impact on growth and development of the County, environmental quality, land values, natural features,

etc. Staff has reviewed the revised Master Plan for Grand Highlands at Bearwallow Mountain, taking into consideration the recommendations of Henderson County's 2020 Comprehensive Plan and Draft Land Development Code. Staff has also reviewed the Plan for compliance with Henderson County's Ordinances and offers the following comments:

1. **Henderson County 2020 Comprehensive Plan (CCP).** The Future Land Use Map of the CCP shows the subject property as being located within the Rural Agricultural Area (RAA) of the Growth Management Strategy.
 - Through the year 2020 the RAA is expected to remain predominantly rural with low-density residential development because of the location, topography, and lack of public infrastructure for these areas.
 - RAAs are usually so far from public water and sewer as to make extensions of such utilities economically unfeasible.
 - The CCP suggests that areas in the RAA should be developed at an average density of 5 or more acres per residential dwelling unit.
 - The CCP states that extraordinary care should be taken in these areas to preserve their rural character and environmental resources.
 - The CCP also states that land use planning should acknowledge the presence of sensitive natural areas such as floodplains, wetlands, areas of excessively steep topography and other natural assets and should strive to protect these areas from development which would damage such resources or diminish their integrity.
 - The Future Land Use Map shows certain areas of the subdivision that are designated as conservation. It appears that these areas are steep slopes. Pursuant to the goals of the CCP, the applicant should work to protect these areas and leave them in their natural state with only limited development. The Planning Board may want to discuss with the applicant the measures for protecting these areas.
2. **Land Development Code (LDC).** According to proposed Draft 9 of the Land Development Code Zoning Map the project site for this development is located entirely in the Residential Zoning District 3 (R3) (See Map C: Draft Land Development Code Map). The current draft of the Land Development Code (LDC) allows for a density of 0.66 units per acre (average lot size of 1.5 acres). According to the plan, the project would have an average density of .78 units per acre.
3. **Public Water.** The applicant is proposing public water (City of Hendersonville). According to Section 170-20 of the HCSO, where public or community water supply and/or sewer system are proposed, a letter from each respective agency must accompany the application, whereby such letter states that there is sufficient capacity to make connection to the utility. According to Appendix 5 (Development Plan Requirements) the applicant shall submit the letter of sufficient capacity during submittal of the application and development plan for any section in the subdivision. Appendix 4 (Master Plan Requirements) does not require submittal of any documents dealing with public utilities. Additionally during development plan approval, the applicant must provide evidence that water supply and/or sewer system plans have been approved by the appropriate agency. All public or private (community) water supply and sewerage systems shall be installed and shall meet the requirements of the Henderson County Health Department or other governmental authorities having jurisdiction thereof. The development plan may be approved contingent on final approvals from such agencies; however, the final plat shall not be approved until all such final approvals have been obtained. The applicant will have to submit a letter of capacity and any approval letters to staff during review of any development plan for this project.
4. **Compliance with the Mountain Ridge Protection.** As mentioned above, Henderson County has adopted the Mountain Ridge Protection Ordinance which states that the provisions of

N.C.G.S 113A-209 apply to all mountain ridges in Henderson County whose elevation is 500 feet or more above the adjacent valley floor. North Carolina G.S. 113A-209 states no county or city may authorize the construction of, and no person may construct, a tall building or structure on any protected mountain ridge. The definition of a tall building found in G.S. 113A-206 is any building with a vertical height of more than 40 feet measured from the top of the foundation and the uppermost point of the building. It also states that where such foundation measured from the natural finished grade of the crest or the natural finished grade of the high side slope of a ridge exceeds 3 feet, then such measurement in excess of 3 feet shall be included in the 40-foot limitation provided that no such building protrudes at its uppermost point above the crest of the ridge by more than 35 feet. The area or ridge under protection is defined as the elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain, and includes all land 100 feet below the elevation of any portion of such line or surface along the crest. By definition this affects the area along the ridge which divides Buncombe County and Henderson County.

Review Agency Comments:

1. **Comments from the Fire Marshal.** Mr. Rocky Hyder submitted comments regarding the need for an additional fire department to cover development outside the five (5) mile limit required by the NC Department of Insurance. This could potentially have a serious impact on the Fire Department's ability to protect the lives and property of this project. Mr. Card stated that the Planning Board can only require the applicant to meet the minimum standards of the Henderson County Subdivision Ordinance; the Planning Board may not have the authority to require any additional standards.

Ms Kumor expressed concern that some of the lots planned are a quarter acre or less. Minimum $\frac{3}{4}$ acre lots are usually required to provide enough space for septic system and repair areas. Mr. Card said that the agent for the developer could answer that question for the Board.

Mr. Andy Otten, who is with Melrose Design Group and is representing Summerset, Inc., pointed out that all of the multiple parcels are all included in the application. He said there are approximately 67 acres out of this 407 acre parcel that is designated as open space, which is greater than 16% and this core of open space is what gives this property character. He added that this is a common-sense plan and meets the standards of the Subdivision Ordinance of Henderson County. Chairman Pearce asked about Ms. Kumor's concerns about some of the lots being small for septic system and repair areas.

Mr. Dean Anderson, President of Summerset, Inc. responded that the developer would not be able to sell lots without septic service. He said while engineers described soils on the mountain top as very amenable to septic, the developer can also pre-treat septic waste or put leach fields from smaller lots into parts of the 67 acres of open space planned as part of the project. He added that some of the smaller lots are on incredibly flat lots next to open spaces and that we had planned them that way. Ms. Kumor said yes, but they are next to streams. Mr. Anderson said the state and county will regulate where septic drain fields can be installed. The developer plans a 30-foot buffer between buildings and streams that flow across the property. Chairman Pearce said at this stage of the game the developer is not required to prove that any septic will actually work, that's an issue between the developer and any potential buyer.

Chairman Pearce asked for Mr. Anderson to explain the fire hydrant location and comment on what Rocky Hyder stated in his response in which Mr. Hyder stated that additional road mileage in the development will require an additional station for Gerton Fire Department in order to maintain the five road mile limit required by the NC Dept. of Insurance. Mr. Anderson said that he had spoke to Mr. Hyder recently and he had received some misinformation. Mr. Anderson stated that the development is 2.38 miles from the Gerton Fire District to the middle of their subdivision and the longest distance from that point to the end of the subdivision would be 9,000 feet, putting us

approximately 4.3 or 4.4 miles from the Gerton Fire District to the very end of the property. Mr. Starr asked is this from the station or the district? Mr. Anderson stated that it was from the station house and he submitted a document showing these distances. Mr. Anderson added that he will be talking with the Fire Chief, Jay Alley about the placement of dry fire hydrants.

Chairman Pearce asked Staff to explain how is this revised master plan play into the existing approvals that have been made and how will this revised master plan affect previously platted lots. Ms. Zambon stated that what has been done is adding acreage and rearranging lot lines. She said since she was not here for the initial conditions of the project, the existing conditions can be kept. Mr. Card said that originally there was a combined Master and Development Plan with an improvement guarantee which allowed them to sell some lots and all of them were properly recorded at the time. He said that the Subdivision Ordinance for this particular project in this particular area does not require them to connect to public utilities – public water or public sewer – on the original development plan that was approved. Mr. Anderson stated that lots previously platted that were not altered in the expanded master plan will be able to drill permanent well, while others will be required to hook onto city water lines once they are available. He said he hopes to get a city water line to the site much sooner than two years. After some further discussion, Chairman Pearce stated that in the motion the Board should allow the project to move forward with building homes on some of the 99 lots previously planned (on the Development Plan), some on permanent wells and some required to hook onto city water within two years.

Public Input:

Bill Berry. Mr. Berry said he hates to see it desecrated with high-density housing and said he hates to see the county take part in it by allowing them to reduce the size and density of lots. Mr. Berry said he doubts lots on the rocky mountaintop will allow for septic systems. The mountain is sold granite and stormwater runoff from the site is going to pick up a high velocity on the way down because that's the only way to go is down. He feels that there should be an environmental study made to see what the affects will be on the surrounding area before any more development occurs. He added that he has sent that suggestion to the Environmental Protection Agency.

Jeff Wilkie. Mr. Wilkie, who lives on Bearwallow Mountain said that Summerset Inc. has agreed to preserve the rolling fields on the mountain's crest that people are used to seeing and has never seen another developer do this. He said they took the most valuable land and left it. He said that he had never seen a developer do that before.

Chairman Pearce made a motion that the Planning Board find and conclude that the revised Master Plan appears to comply with the provisions of the Subdivision Ordinance; and further move that the revised Master Plan be approved subject to the following conditions: the applicant satisfies any conditions that may result from the comments listed in the Staff Report and that the original development plans have ninety-nine (plus or minus lots) that have been previously approved. Any of those lots that are not changed by this master plan are not subject to the public water system requirement. He further stated that any lots sold prior to the installation of the public water system would be allowed to have temporary wells installed for a period of twenty-four months starting from the date of recordation of the final plat or the restrictive covenants, whichever date occurs first. Gary Griffin seconded the motion and all members voted in favor.

Adjournment. There being no further business, the meeting adjourned at 8:16 pm. All members voted in favor.