

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
May 17, 2007**

The Henderson County Planning Board met on May 17, 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, John Antrim and Tommy Laughter. Others present included Anthony Starr, Planning Director; Matt Card, Planner; Matt Cable, Planner; Sarah Zambon, Associate County Attorney; Mark Williams, Commissioner and Liaison to the Planning Board and Kathleen Scanlan, Secretary. Board members Stacy Rhodes, and Gary Griffin were absent.

Chairman Pearce called the meeting to order and asked for the approval of the April 19, 2007 regular Planning Board Meeting Minutes. Renee Kumor made a motion to approve the April 19, 2007 minutes and Tommy Laughter seconded the motion. All members voted in favor.

Adjustments of the Agenda. There were no adjustments needed.

Staff Reports. Mr. Starr introduced Alexis Baker, who is the newest employee in the Planning Department and shared with everyone her planning background and education. Mr. Starr mentioned that the Board of Commissioners scheduled a follow up workshop regarding the Land Development Code for June 12, 2007 at 7:00 p.m. Mr. Starr explained the new format for the agenda items for the Planning Board to reflect the similarity of what is needed for the Board of Commissioners agenda items and to make it easier at the time of the motion of each item.

**NEW 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. Chairman Pearce wanted Mr. Card to review the comments Staff has so they can determine whether they should proceed with the application. Chairman Pearce stated that Staff has outlined deficiencies between the Development Plan and the Master Plan approval. He asked that Mr. Card go over the listed comments. Mr. Card started out with condition 13, dealing with the Master Plan:

13. **Ownership.** Mr. Card indicated that Mr. Lapsley did forward all of the agent forms that needed to be provided, so this condition has been satisfied.

14. **Water and Sewer.** Mr. Card indicated that he had been talking with Mr. Lapsley about his discussions with the City of Hendersonville regarding extending water to the project site. Mr. Card also mentioned that Mr. Lapsley indicated that he is also working on a package treatment plant for the project that would basically be a private community sewage system. Mr. Lapsley, agent for the project stated that he has had several meetings with the City of Hendersonville Water Department staff and they have indicated that they plan to upgrade the water system in the Etowah area which would include the extension of a larger waterline in the direction of the Seven Falls project and to construct a larger water storage tank to serve the Etowah community. He said that the applicant has agreed to work cooperatively with the City on a joint venture and provide monetary funds to contribute to the extension of the line further from their proposed location closer to Etowah across the river and to this development and to furnish the City of Hendersonville with the site for the water storage tank. City of Hendersonville stated that this project is in a preliminary design stage and would probably go into construction sometime in

the fall and the construction would take about nine months. Mr. Lapsley said that it would be about a year from now before that water system is available, so during that time period, subject to Planning Board approval of the Phase 1 development, because the route of that waterline to the water storage tank is through the Phase 1 development. He said that the plan would be to build the roads in Phase 1 up to the storage tank so that when the City of Hendersonville is ready to bid and construct its waterline the path would be there to the water tank site to build it. If the roads are not built and the tank site is not there, then the water system can not be extended to the site, so the plan is to do it. We have a letter of understanding from the City of Hendersonville staff indicating the plan. Chairman Pearce said that the Master Plan approval required that there be no individual wells or individual septic systems on this property. Chairman Pearce asked Mr. Lapsley, "If I understand this correctly, this application is requesting individual wells and individual septic systems, is that correct?" Mr. Lapsley said that when he left the Planning Board meeting, he was under the impression that when the Master Plan was discussed, the Chairman brought this issue up and there was discussion that it may be necessary to put some individual wells and septic tanks on the system and we discussed limiting those. He said if you recall, the Chairman asked for limited list of houses that might be built. Mr. Lapsley said we discussed it and talked about various figures and percentages, so when I left the meeting I understood that there would be a limited number of wells and septic systems allowed during this period until we could get City of Hendersonville water to the site. Chairman Pearce stated that he was very specific in the motion and specifically stated that there be no individual wells or individual septic systems. He added that the Board did discuss that if you could not go on line with the public septic system that a private system could be addressed and that was one of the conditions.

15. **Fire Protection.** The Planning Board made a condition that an adequate (acceptable to the Henderson County Fire Marshal and the developer) agreement be reached with the Henderson County Fire Marshal's office regarding fire protection for Seven Falls. Mr. Card said that the Planning Board stated that this condition must be addressed before review of the Phase I Development Plan. Mr. Lapsley stated that he has met with the Chief of the Etowah Volunteer Fire Department and the understanding that he had with the chief, not with the Fire Marshal, but with the Chief, that the applicant intended to extend City of Hendersonville water with fire hydrants and that project would probably take twelve months to get done and in the interim the applicant would agree to provide dry hydrants wherever the Chief felt that was adequate to provide protection to whatever houses, if any, are constructed within the next 12 months. Mr. Lapsley said he doesn't know whether any homes will be constructed within the next 12 months.

16. **Access to the Pleasant Grove Baptist Church and**

17. **Access to the Cemetery.** Chairman Pearce stated that since we are not reviewing a Development Plan on where this church is as well as the cemetery, he feels that these two conditions are not an issue at this time. Mr. Card agreed, but asked whether the Planning Board has a time frame for these? Chairman Pearce said that as soon as a Master Plan can be updated on these issues or at least at a point when there is a Development Plan that concerns these two issues then they should be settled.

After some further discussion that Renee Kumor had on the specifics and clarifications of approval of the Master Plan, Chairman Pearce asked Staff to send out to all Board members the letter clarifying what was approved in the Master Plan and the conditions of approval of the Master Plan.

Chairman Pearce feels that there are only two choices on this. The first, we could table this request as the conditions of the Master Plan have not been met and it doesn't matter about the rest of the items regarding this request, or we determine that the Board made a mistake when

we made the approval of the Master Plan and we no longer want to continue what we decided regarding the water, sewer, and the fire protection and make revisions of our conditions on the Master Plan. He added that the Board does not have anything in writing that an agreement has been reached on any of these issues.

Chairman Pearce made a motion to table the Development Plan for Seven Falls, Phase 1, until the conditions of the Master Plan regarding the water and sewer and the fire protection are brought to a reasonable conclusion and be in compliance with the Master Plan approval. Renee Kumor asked, "What is a reasonable conclusion?" Chairman Pearce said that they do not install individual wells and individual septic systems but they could have a private sewage system but it must connect to the public water system of the City of Hendersonville. He said regarding the fire protection, a letter from the Fire Marshal's Office that an agreement has been reached and that they are satisfied with the agreement. John Antrim seconded the motion.

Renee Kumor asked for the motion to be repeated. Chairman Pearce restated the motion and indicated again what is reasonable regarding the water and sewer, which is to connect with the public water system of the City of Hendersonville. Mike Cooper asked whether the motion means before the Board goes forward with this project that they need to have the project's water and sewer system approved. Chairman Pearce said we have never required anyone to have their water and sewer plans approved but we have required them to submit letters of evidence that the water supply and sewer system plans have been approved by the appropriate agency. Mr. Starr stated that if they are not going to be able to have individual septic, then they need to state that they will build a package plant and that would have to be online before they could get any certificates of occupancy for home construction. Regarding the water, a letter from the City of Hendersonville. Chairman Pearce said they could amend their application stating that they will have public water and sewer or a private community septic system or the Board needs to change the approval on the Master Plan, but said that he doesn't know what the procedure for that and what all it would entail. Mr. Starr suggested that the applicants receive a letter of capacity from the City of Hendersonville, perhaps their letter of intent might suffice, and we can look into that. Secondly, a letter from the applicant that all homes will be on the community sewer system as part of this and that will mean that they will have to have the plant online before the homes are finished. Thirdly, that Staff receives a statement from the Fire Marshal's Office and the applicant on that issue. Chairman Pearce said he doesn't know how much further the Planning Board can go except to table this application because without these issues resolved with the minutes of the approval. He added we need to take care of these issues first. Mr. Parce stated that if we are requesting these items, he feels that this would be an amendment to the Master Plan, and if there is an amendment to the Master Plan, do we undertake the amendment by ourselves or do we undertake an amendment upon a request by the developer. Mr. Starr stated that this can not be answered until there is a vote on the motion and then that issue can be determined. Mr. Lapsley stated that this could be the only Phase in this development, because it all depends on market conditions. He said that if that would be the case, there would be no reason to extend public water to put in a community sewer system. Mr. Lapsley said that the fact that the Planning Board made that as a requirement is that there is a Master Plan that indicates a potential for nine hundred units and there is no assurance that this will ever happen. Mr. Lapsley added that the point that he is trying to make is that the initial lots in this development plan might be the only lots that will ever be done. Chairman Pearce said that this is not the issue. The motion states that you are out of compliance with the Master Plan approval and the Planning Board is bound to make their approvals based on the Master Plan requirements. Ms. Zambon suggested that this item be tabled until letters are received from the appropriate agencies regarding public water and regarding the fire protection by the Fire Marshal. Then regarding the sewer, a statement signed by the developer committing himself, as this would be public record, to whatever the Planning Board wants regarding the sewer that

would meet the conditions of Master Plan approval at this point. She feels that is the simplest way to go about it at this time.

After some further discussion, Chairman Pearce asked for a vote on the motion. The member who voted in favor of tabling the item: Tedd Pearce, John Antrim, Jonathan Parce, Renee Kumor and Tommy Laughter. Opposing the motion to table this item: Mike Cooper and Mitchell Gaither. The motion carried. This item was tabled.

Master & Development Plan – The Overlook at Waters Edge (2007-M05) – 68 Single-Family Residential Lots and 45 Townhouse Units located off Eade Road – Mark Corn with Associated Land Surveyors & Planners, Agent for Eade Road Investments, LLC, Developer and Owner. Presentation by Matt Cable. Mr. Parce stated that he needs to recuse himself from any discussion or decision on this subject as Mr. Grier is a client of his and a partner in Eade Road Investments, LLC. All members were in favor of his recusal. Mr. Cable stated Associated Land Surveyors, agent, on behalf of Eade Road Investment, LLC, owner, submitted the Combined Master and Development Plan for The Overlook at Waters Edge. The project is located on 76.29 acres of land off Eade Road. The applicant is proposing a total of 68 lots for single-family residential purposes and 45 townhome units (3 duplexes, 1 triplex, and 9 quadraplexes). The townhome units, as provided in the typical on the plan, are to range from 2,625 to 2,850 square feet. The project will be developed in three Phases. Phase 1 is proposed to include 47 lots for single-family residential purposes, 25 townhome units (5 quadraplexes, 1 triplex, and 1 duplex); and a clubhouse, pool and tennis courts. Phase 2 is proposed to include 21 lots for single-family residential purposes. Phase 3 is proposed to include 20 townhome units (4 quadraplexes and 2 duplexes).

Mr. Cable stated that 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. The southern portion of the property borders the French Broad River, and a majority of this area of the parcel is located within the 100 year floodplain or floodway. This area is reserved as “future use.” In conversations with the applicant, he has indicated that this area will be used for agricultural purposes.

Private roads are proposed to serve the project site. The applicant has provided typical road cross sections for all proposed roads both with and without valley gutter. Public water (City of Hendersonville) and private sewer (Etowah Sewer Company) are proposed to serve the project site.

### **Master Plan Comments:**

Mr. Cable 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. 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 The Overlook at Waters Edge, 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 each of the following areas: Conservation Area and Rural/Urban Transition Area (RTA) (See Map A: CCP Future Land Use Map).
2. **Conservation Area.** The conservation area designation is applied to the southern portion of the project site, largely because of the presence of floodplain and floodway in this

area. The CCP states that conservation lands “are intended to remain largely in their natural state, with only limited development,” and further that “such areas should be targeted for protection through regulations and incentives.” The Master and Development Plan indicates that most of the land in floodplain and floodway will be reserved for future use, and the applicant has suggested that this will be placed into an agricultural use. Certain lots (Lots 61-68 and a small portion 44) will also contain portions of floodplain and floodway.

3. **Rural/Urban Transition Area.** The Rural/Urban Transition designation of the Growth Management Strategy is applied to the project site. The RTA is intended to remain predominantly rural with a general density of five (5) or fewer acres per residential dwelling unit (average lot sizes of 5 or fewer acres per unit). According to the Master Plan, the project would have an average density of 1.48 units per acre (average lot size of 0.68 acres). The proposed densities/lot sizes are in keeping with those recommended by the CCP. The CCP states that, “the primary factor preventing urban development in the RTA is the absence of sewer and water service” (2020 CCP, Pg. 130). The plan indicates that public water and private sewer service will be available to the development. Presence of water and sewer may result in a reclassification of the project site to “Urban Services Area” which would also permit the proposed densities.

4. **Land Development Code (LDC).** According to Proposed Draft 8 of the Land Development Code Zoning Map, the proposed project site for this development is located entirely in the Residential Zoning District 2 – Manufactured Housing (R2MH) (See Map B: Draft Land Development Code Map). The current draft of the Land Development Code (LDC) allows for a density of one (1) unit per acre (average lot size of one (1) acre) for single-family residential development and two (2) units per acre (average lots size of ½ acre) for multifamily development. According to the plan, the project would have an average density of 1.48 units per acre (average lot size of 0.68 acres). The applicant is proposing 68 single-family residential lots (which would require 68 acres) and an additional 45 townhome units (which would require 22.5 acres). The project site only contains 76.29 acres which is 14.21 acres less than the proposed development would require in order to achieve the proposed densities. This would not be in keeping with the densities generally proposed for the property by the Land Development Code, being that the proposed development is more dense 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. It should also be noted that the extension of private sewerage to the site may result in the property being zoned R1 which would permit the proposed densities.

5. **Flood Damage Prevention Ordinance.** According to County records, the southern portion of the project site lies within a special flood hazard area. Staff recommends the reconfiguration of lots within the proposed development for the purposes of increasing the amount of non-floodplain and non-floodway land contained by lots 63 through 68. While these lots are not completely within the floodplain, only small portions appear to be located outside of the floodplain. Additionally, County records indicate that large portions of these lots (63-68) may be within the floodway which prevent any development whatsoever. The Planning Board may wish to discuss with the applicant the reconfiguration of these lots. The Planning Board can only require the applicant to meet the minimum standards of the Subdivision Ordinance and may not have the authority to require any additional standards. Mr. Cable suggests that more of the lots be outside of the floodplain.

#### **Development Plan Comments:**

6. **Townhouse Development.** The applicant is proposing townhome units. The review for townhouse development is outlined in HCSO §170-15, which states that applications for townhouse developments shall be prepared in conformance with §170-16 (review for major subdivisions), Article IV (all areas of review for major subdivisions which includes minimum design standards for roads, water and sewer systems, right-of-way, etc.), Article V (subdivision

improvement guarantees), and Article VI (application, enforcement and legal status provisions). Section 170-15 states that the Planning Board may use discretion in applying subdivision standards to townhouse developments, and that the requirements of §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.

Mr. Cable stated that according to the Combined Master and Development Plan the Applicant is requesting Planning Board approval of modifications to the requirements of §170-27 (right-of-way access). Section 170-27 states that all subdivision lots must abut on a private or public right-of-way. The proposed townhomes appear to be surrounded by common area with no proposed rights-of-way. The applicant should submit to the Planning Department, for review, cross sections or plans of the design for the driveways serving the townhomes. The Subdivision Ordinance does not have any requirements for driveways serving townhome units; therefore all proposed 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.

9. **Lot Configuration and Frontage.** The Applicant has proposed the following double-fronted lots: 30 and 45-55. According to §170-31D of the HCSO, double-fronted lots should only be used when necessary. The Planning Board may wish to discuss with the Applicant the need for these double-fronted lots. The applicant has also proposed a flag lot for “future use” which provides frontage for the lot onto Waters Edge Drive. The Planning Board may approve the flag lot only under unusual circumstances and may wish to discuss any circumstances with the applicant.

10. **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).

11. **Water and Sewer.** The applicant has proposed public water (City of Hendersonville) and private sewer (Etowah Sewer Company). 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 water and private 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).

12. **Private Road Standards.** The applicant is proposing a combination of private residential collector roads and private local residential roads. The collector roads include Great Sky Way, Dancing Waters Terrace, and Waters Edge Drive (See Review Agency Comment 2, below). The local roads include River Breeze Circle and Rustling Water Way. The Applicant has provided two typical cross sections for the proposed roads, with and without valley gutter which both appear to be in compliance with §170-21 of the HCSO. The Applicant should indicate which typical cross section will apply to the project prior to development plan approval.

Mr. Cable said the proposed collector roads meet all other requirements with the exception of the proposed centerline radii which must be 110 feet (it appears the applicant has proposed 90 foot centerline radii along Waters Edge Drive in the vicinity of Lot 45). All of the subdivision roads must be designed and constructed to the minimum standards of §170-21 of the HCSO (§170-21 and Table 1).

13. **Road Intersection.** Design and subsequent construction of private roads shall be reviewed by the Planning Board based on the standards and requirements of NCDOT (HCSO §170-21(C)4). According to “Subdivision Roads Minimum Construction Standards,” the most desirable intersections are those with angles of 75 to 90 degrees but that intersections with angles from 60 to 75 degrees are acceptable under extreme conditions. Great Sky Way

intersects with itself twice, each intersection appearing to have angles just above 60 degrees. Mr. Cable indicated that the Planning Board may wish to discuss with the applicant the intersections of Great Sky Way and may wish that the applicant modify the intersection to be more in keeping with minimum construction standards.

14. **Future Access.** Mr. Cable stated that Staff recommends that the applicant provide a stub road somewhere in the vicinity of Lots 9 through 12 to serve as a potential future point of access for emergency response vehicles in the event of an emergency. (He showed the area on a map).

15. **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).

16. **Subdivision Name Signs.** All major subdivisions may provide for, at the primary entrance, subdivision name signs to conform to the Henderson County sign standards. The signs should be located in dedicated sign easements to be shown on the final plat (HCSO §170-24). The applicant is proposing two signs for the subdivision which appear to be located in common area.

17. **Private Roads.** Because private roads are proposed, the final plat(s) must contain a note stating: *The private roads indicated on this final plat may not meet the requirements of the North Carolina Department of Transportation for acceptance into the state road system.* (HCSO 170-21B and Appendix 7)

18. **Farmland Preservation District.** The Final Plat(s) should include a notation that the property is within ½ mile of land in a Farmland Preservation District. The applicant must also submit an affidavit certifying that the applicant is aware of existing Farmland Preservation Districts (HCSO 170-35 and Appendix 11).

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

#### **Review Agency Comments:**

20. **Comments from the Fire Marshal.** Rocky Hyder of the Henderson County Fire Marshal's Office stated that the NC Fire Prevention Code requires a fire hydrant located within 400 feet of any portion of a commercial building. Fire hydrants should be located within 1000 feet of any residential structure. Access roads must provide 13'6" vertical clearance and extend to within 150 feet of any portion of a commercial building. Roads located within a flood zone should be constructed in a manner to prevent closure due to flooding.

21. **Comments from Property Addressing.** Curtis Griffin of the Henderson County Property Addressing Office stated that Waters Edge Drive cannot be used as it has already been used elsewhere. All the other roads have been reserved.

Mr. Cable stated that Staff recommends approval of the Master Plan based on consistency with the CCP and LDC, and its ability to meet the technical standards of the County's Ordinances; provided that the developer addresses any issues raised by the Planning Board and any conditions resulting from discussion.

Ms. Kumor asked whether Mr. Baker would know what Etowah's water and sewer capacity would be. Mr. Terry Baker, agent for the developer, stated, regarding the sewer capacity, he understands they have approximately 120 taps at this time, and when it reaches about 95 taps

left, they would have to submit plans to create an extension or expansion and when it gets to 60 taps it has to be under construction for the expansion. He said that in the last two weeks they have created a fill area that they are getting ready to do the expansion with. Mr. Baker talked about the issue of the lots in the floodplain, but the Chairman felt that this is not an issue that the Planning Board can address, only that the lots are not in the floodway. Ms. Kumor had concerns with the "future use" label. Mr. Baker said that they have no intention of building anything in this area. Regarding townhouse development discussion, some of the units are completely surrounded by common space and do not abut a right-of-way, but in the Subdivision Ordinance it states that all subdivision lots must abut on a private or public right-of-way. Chairman Pearce said that the Planning Board will allow specific modifications to the requirements of the Subdivision Ordinance. Regarding the double-fronted lots, # 30 and # 45-55, Planning Board's discussion was that they would allow these double-fronted lots but only used as necessary and will allow and accept lot # 13 as a flag lot. Mr. Baker said regarding the design and construction of the intersections of Great Sky Way, the Planning Department and Mr. Baker agreed to increase the angle to a minimum of 75 degrees and the radii for Waters Edge Drive will be 110 feet unless it meets the proper cross slope of 15% or more. Mr. Baker stated that they would provide a stub road as a potential future point of access for emergency vehicles at the current location of the flag lot labeled *future development*.

Chairman Pearce 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. In addition regarding the following deviations from the conditions listed as follows:

Items 1 and 2 - The Planning Board feels that the density is ok because of the public water and sewer and that is in keeping with the Ordinances. Regarding the townhouse development, it is understood that all subdivision lots must abut on a private or public right-of-way and must meet the minimum standards for private roads and be built before approval of a final plat. The double-fronted lots are acceptable based upon the topography of the subdivision. The Planning Board is acknowledging that lot # 13 is a flag lot and is acceptable and "future development."

Item 5 – Private Road Standards – That the proposed centerline radii for Waters Edge Drive must be 110 feet and must be included unless it has a cross slope of 15% or greater.

Item 6 – Road Intersection – That the intersections of Great Sky Way be increased to a minimum of 75 degrees in angle as it abuts lot # 36 and at the bottom of Great Sky Way, the road will be renamed.

Item 7 – Future Access – That between lots # 44 and # 45 that private road will be extended to the end of the property line – lots # 45 to # 68, and that the applicant provides a stub road as a potential future point of access for emergency vehicles at the current location of the flat lot labeled "future development." Mike Cooper seconded the motion and all members voted in favor.

Revised Master Plan – Mountain Place (2007-M16) – 54 Single-Family Residential Lots and 66 Townhouse Units located off Bobs Creek Road – Paul Patterson, Agent for William Brown, Owner. Presentation by Matt Card. Mr. Jonathan Parce was also recused from any discussion or decision regarding this project because of client relationship and because of personal reasons, left the meeting at this time. Mr. Card stated that Mr. Paul Patterson, agent, on behalf of William and Carolyn Brown, property owners, submitted a revised Master Plan for a proposed subdivision titled Mountain Place. Mountain Place is located on 79.5 acres of land off Bob's Creek Road and is adjacent to the South Carolina and North Carolina state border. The Planning Board conditionally approved the original Master Plan for Mountain Place on August 17, 2006 and the Phase I Development Plan on September 21, 2006. The original Master Plan was approved with a total of 73 single-family residential lots.



The revised Master Plan significantly changes the layout of the subdivision. The revised Master Plan shows a total of 120 units/lots which includes 54 single-family residential lots and 66 townhome units. One out parcel is proposed which is located in the middle of the subdivision. The current owners of the out parcel, according to County records, are Mr. William Brown and Mr. Roger Brown. The out parcel is an existing lot and it appears that it will not change with the creation of this subdivision.

The applicant has proposed individual wells and private sewer and/or individual septic systems. Private roads are also proposed. The property is located in the Open Use zoning district which does not regulate the residential use of land. The project site is also located in the Green River Fire District and is within one half mile of the Green River Farmland Preservation District.

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 submitted Master Plan for Mountain Place for conformance with Henderson County's Ordinances and offers the following comments:

### **Master Plan**

- 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.
- Land Development Code (LDC).** According to Draft 7 of the Land Development Code Zoning Map the proposed project site for this subdivision is located in the Residential Zoning District 3 (R3). The density of Mountain Place is approximately 1.5 units per 1 acre or 2.26 units per 1.5 acres. The density of Mountain Place is not in compliance with the requirements of the proposed R3 Zoning District.
- Compliance with the Mountain Ridge Protection.** According to the County GoMaps website the southern most property line falls under the County's Mountain Ridge Protection Ordinance. The Mountain Ridge Protection Ordinance 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.

4. **Out Parcel.** An out parcel is located within the proposed subdivision. It appears that the lot configuration of this lot will not change. It is unclear on the Master Plan how access to this parcel will be provided. This parcel must have either 30 feet of frontage on an adequate right-of-way or a minimum of a 30-foot right-of-way to the parcel pursuant to Sections 170-28 and 170-31 of the HCSO.
5. **Townhouse Development.** 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. This comment is for informational purposes only. Mr. Card said that when reviewing the development plans for the townhomes phases of the subdivision the Planning Board may modify the standards as mentioned above.

### **Review Agency Comments**

6. **Comments from the Fire Marshal.** Rocky Hyder with the Henderson County Fire Marshal's Office stated that no proposed fire protection water supply has been submitted. A 120 unit development without provisions for fire suppression water supply can negatively impact the insurance rating for an entire community. Any opportunity to develop a static water point (dry hydrant or stream impoundment) should be explored.

**Section 170-20, C of the HCSO.** According to the Henderson County Subdivision Ordinance (170-20, C), for any major subdivision without a fire suppression rated water system, that either has or is adjacent to an adequate permanent surface water supply, the applicant may be required to install a dry fire hydrant system, the type and location of which is to be determined by the County Fire Marshal. A road to the water source providing permanent all-weather access to the water source that is adequate for fire-fighting equipment shall be required, if applicable.

7. **Comments from the Environmental Health Department.** They stated that these lots have the potential to be steep and rocky therefore pits will probably be necessary for septic system soil evaluations and space for septic systems may be limited.

Mr. Paul Patterson, agent for the developer/owner discussed some of the questions of the Board members regarding this development. Mr. Patterson stated that regarding the wells, we are going to leave them limited to four units per well and we are considering a community sewer system for the project. There was some discussion about the density and the slope areas and Mr. Patterson stated that is the reason why the developer wanted to go with townhomes because it minimizes the amount of disturbance and townhomes are usually in flatter areas with individual lots. Chairman Pearce asked, "What is the access to the out parcel?" Mr. Patterson said that the out parcel will be included in as part of the whole project and that has been recently done. He added that we are increasing the acreage but not the total number of units. Chairman Pearce said that a revision to the Master Plan showing the out parcel now included in the lot configuration of the existing lots in the subdivision. Mr. Patterson said that is correct and the out parcel consists of a total of four acres. Mr. Starr stated that the current driveway looks like it goes into the Phase 2 area, so it might be addressed in the Phase 2 Development Plan or a revised Master Plan. Mr. Starr added that non-substantial Master Plan amendments do not necessarily require Planning Board approval. Chairman Pearce said that now the access to the out parcel is considered a non-issue as it will be part of the development.

Chairman Pearce stated that he has a real problem approving this project with the density and the location because of the County Comprehensive Plan, the proposed Land Development Code and the Subdivision Ordinance regulations. He added that he does not support the total lack of utilities, so therefore does not support this type of development. He mentioned that not all land is meant to be subdivided and that the Board has a right to look at the land use plans and any other documents that are in place for Henderson County to determine. Other Board members added that there are fire issues and the location of the project in relation to services as well as the density issue. Mr. Patterson questioned the density calculations and said that it is 1.2 units per acre, therefore there is six units for every five acres. Chairman Pearce made a motion that the Planning Board deny the revised Master Plan for Mountain Place based upon the density regarding the provisions of the Subdivision Ordinance specifically Section 170-3 regarding land use plan and Section 170-16 (B), master plan submissions, item # 2, in relation to its impact and everything else. John Antrim seconded the motion. Chairman Pearce, John Antrim, Renee Kumor, Mike Cooper and Mitchell Gaither were in favor of the motion. Tommy Laughter opposed the motion.

Chairman Pearce called a five-minute break.

Combined Master & Development Plan – Adger Oak (2007-M18) – 41 Single-Family Residential Lots located near Summer Road – Laughter, Austin and Associates, P.A., Surveyors, Clifford Dalton, Agent for Fary W. Firmender, Developer and Owner. Presentation by Matt Cable.

Chairman Pearce stated that he was told there is a problem with access to the property. Has it been resolved? Mr. Cable stated that to his knowledge, it hasn't been resolved, but the Board could ask Jon Laughter, agent for the property owner. Mr. Laughter said that the property owner is not present but as far as he knows the access is only verbal and that there are no signed deeds confirming access to the development or has there been submitted a NCDOT entrance permit. Chairman Pearce made a motion to deny the combined Master and Development Plan and major subdivision application for Adger Oak because of the lack of ownership of the right-of-way through the properties which provide access to the subdivision. Renee Kumor seconded the motion and all members voted in favor.

Revised Master Plan and Phase II Development Plan – Crystal Creek and Crystal Cove (2007-M17) – 14 Single-Family Residential Lots located off Patterson Road – Terry Baker, Associated Land Surveyors, Agent for Etowah Developers, LLC and Dan Ducote Enterprises, Inc., Owner. Presentation by Matt Card. Mr. Card stated that Jon Laughter, agent on behalf of Etowah Developers, LLC, owner, submitted a revised Master Plan and Phase II Development Plan for Crystal Creek. Mr. Laughter is also showing a new area labeled as Crystal Cove (see Plan). The Planning Board approved the original Master Plan for Crystal Creek and Crystal Heights on July 18, 2006. The Development Plans for Crystal Creek and Crystal Heights were approved on September 19, 2006. A total of 14 new lots on 15.79 acres of land are proposed in Crystal Creek Phase II and Crystal Cove. The applicant has proposed public water (water supplied by City of Hendersonville through a private water system) and individual septic systems. Public roads are proposed. The project is located in the Open Use zoning district.

### **STAFF COMMENTS**

1. **Public Roads.** The applicant has proposed public roads. The proposed roads must be designed and constructed according to NCDOT's minimum construction standards for subdivision roads. Staff is concerned about the proposed intersection or curve in Crystal Mountain Drive. This design may not meet NCDOT's minimum subdivision road standards. Mr. Cable 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 Plan 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 (Section 170-21A).
2. **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).
3. **Soil Erosion and Sedimentation Control.** The Developer should 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.
4. **Water Supply.** See attached comments from the City of Hendersonville Water and Sewer Department regarding the water system. The applicant has proposed public water (City of Hendersonville) through a limited private water system. According to the HCSO, the applicant must provide evidence that the water supply plans have been approved by the appropriate agency. The development plan may be approved contingent on final approval from such agency; 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 hydrant installation (HSCO 170-20).
5. **Numbering of Lots.** Lots in Phase II of Crystal Creek and Crystal Cove should be numbered consecutively with the previous phases of the subdivision. A revised Master Plan and Development Plan, submitted to the Planning Department for review, should show that all lots in the subdivision are numbered consecutively.
6. **Land Development Code (LDC).** According to Draft 7 of the Land Development Code Zoning Map the proposed project site for this subdivision is located in the Residential Zoning District 2 (R2). The density of Crystal Creek including all phases of the subdivision is approximately .9 units per 1 acre. The density of Crystal Creek and Crystal Cove is in compliance with the requirements of the proposed R2 Zoning District.

## Review Agency Comments

7. **Comments from City of Hendersonville.** They mentioned that City water is available to provide service for the 30-40 additional connections to this project, but the water for the project is provided water by Champion Hills booster pumping station which was originally designated by and installed for the Champion Hills subdivision by the developers of that project. Since the installation of this infrastructure, Rambling Ridge and other projects have connected to this isolated pressure zone. At some point in the future this system will reach its capacity and will require upgrading.
8. **Comments from the Fire Marshal.** Rocky Hyder stated that all parcels must be located within 1000 feet of a fire hydrant. Dry hydrant with fire department access should be considered for the lake on Crystal Dawn Drive. He mentioned that road width should support two-way traffic for emergency vehicles.
9. **Comments from the Environmental Health Department.** Mr. Mark Jones from the Environmental Health Department stated that sufficient soil and space is required for on-site sub-surface treatment and dispersal systems, including repair areas, under brushing is required and pits may be required due to rock and/or coprolite.

After some discussion regarding the condition under water supply, the Planning made a condition that no final plat be recorded until a letter from the City of Hendersonville is provided to the Planning Department regarding capacity of the system. They also added that the letter must state that the water system has sufficient capacity and is adequate to serve the new lots in Phase 2 of this development.

Tommy Laughter made a motion that the Planning Board find and conclude that the Phase I Development Plan complies with the provisions of the Subdivision Ordinance except for those matters addressed in Staff Comments section of the Staff Report that need to be addressed; and further move that the Phase I Development Plan be approved subject to the following conditions: that no final plat be recorded until a letter from the City of Hendersonville is provided to the Planning Department regarding capacity of the system and that the letter must state that the water system has sufficient capacity and is adequate to serve the new lots in Phase 2 of this development. Renee Kumor seconded the motion and all members voted in favor.

Combined Master & Development Plan – Sentelle Grove (2007-M15) -16 Single-Family Residential Lots located off Jeter Mountain Road – Michael A. Martin, Agent for Gladiola Pines, LLC – Developer and Owner. Presentation by Matt Cable. Mr. Cable stated that Mr. Dean Pastor, agent, on behalf of Gladiola Pines, LLC, owner/applicant, submitted a Combined Master and Phase II Development Plan and major subdivision application for a project known as Sentelle Grove. The project site is located on 22.51 acres of land located off Jeter Mountain Road. Phase I, which was originally approved as a minor subdivision, contain 10 lots on approximately 15.60 acres. Phase II, which results in the expansion of the subdivision into a major subdivision, is proposed to contain six (6) lots to be used for single-family residential purposes on approximately 6.91 acres. As required by HCSO §170-13A(1)(b), the applicant reapplied as a major subdivision.

The project 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. Private 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 Sentelle Grove, 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 each of the following areas: Conservation Area and Rural Agricultural Area (RAA).
  - **Conservation Area.** The conservation area designation is applied to the western portion of the project site, largely because of the presence of steep slopes in this area. The plan suggests that those lands recommended for conservation will be contained in Lot 11.
  - **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 0.71 units per acre (average lot size of 1.4 acres). The proposed densities/lot sizes are significantly reduced from those recommended by the CCP.
2. **Land Development Code (LDC).** According to Proposed Draft 8 of the Land Development Code Zoning Map, the proposed project site for this development is located entirely in the Residential Zoning District 2 – Manufactured Housing (R2MH). The current draft of the Land Development Code (LDC) allows for a density of one (1) unit per acre (average lot size of one (1) acre) for single-family residential development. According to the plan, the project would have an average density of 0.71 units per acre (average lot size of 1.4 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 less dense 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.

### **Phase II 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. **Private Road Standards.** The Applicant has provided a cross section for the proposed roads of Phase II (Baylee Lane and Olivia Lane). This cross section indicates that these are to be "limited local residential roads." The proposed private road meets all other requirements for a limited local residential road with the exception of the proposed ditch slope which must be 3 to 1 (the applicant has proposed 2 to 1). All of the subdivision roads must be designed and constructed to the minimum standards of §170-21 of the HCSO (§170-21 and Table 1).
3. **Road Grade.** The Applicant has proposed a private paved road for the subdivision. The maximum road grade for limited local residential roads constructed of pavement is 18

percent. A professional engineer or professional land surveyor must certify on the Final Plat that no portion of the road has a grade that exceeds 16 percent or submit a final as-built graded center line profile showing grade and alignment of the road (HCSO §§170-13A[5], 170-21 Table 1 and 170-21E).

4. **Lot Configuration.** Lot 16 does not appear to front an internal right-of-way. It is unclear if access will come from Jeter Mountain Road via the existing gravel drive or through the internal street.
5. **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).
6. **Private Roads.** Because private roads are proposed, the final plat(s) must contain a note stating: *The private roads indicated on this final plat may not meet the requirements of the North Carolina Department of Transportation for acceptance into the state road system.* (HCSO 170-21B and Appendix 7)
7. **Farmland Preservation District.** The Final Plat(s) should include a notation that the property is within ½ mile of land in a Farmland Preservation District. The applicant must also submit an affidavit certifying that the applicant is aware of existing Farmland Preservation Districts (HCSO 170-35 and Appendix 11).
8. **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's comments are related to the provision of fire suppression water supply, and road widths as related to emergency vehicles.
2. **Comments from the Engineering and Facility Services.** Marcus Jones, Director submitted comments regarding the project reflect the need for sufficient soils and space for subsurface treatment, dispersal systems, and repair areas.
3. **Comments from Property Addressing.** Curtis Griffin of the Henderson County Property Addressing Office submitted comments reflecting concerns about access to the existing residence on site.

Mr. Dean Pastor, agent for the owner and applicant, regarding Lot 16 right-of-way stated that they presently have a 12-foot interior access and over 100 feet of frontage on Jeter Mountain Road, which is a public right-of-way and do intend to access the property through the development gates. He said that every lot will have individual well and septic but there is also a well and septic in the common area for the pavilion.

Mike Cooper made a motion that the Planning Board find and conclude that the Combined Master and Phase II Development Plan appears to comply with the provisions of the Subdivision Ordinance and further move that the Combined Master and Phase II Development Plan be approved subject to the following conditions: the applicant satisfies any conditions that may result from the comments discussed by Staff. Renee Kumor seconded the motion and all members voted in favor.

**Public Input:**

Paul Chandler. Concerned with traffic in the Etowah area and concerned that the graveyard stay where it has for many years and not be disturbed by the development.

Angela Fernandini. Concerned with the streams in Seven Falls and that should be cleaned up. She also feels that there should be a species inventory with any development in the County, especially one of this size.

Marshall Gordon. He is concerned with the closing of Pleasant Grove Road in the Seven Falls development, as he feels it is one of the best family-friendly and safest areas for bicyclist. He asked for a full and safe access clause be written into the Master Plan of Seven Falls or that the Planning Board petition the NC Division of Transportation on its importance.

Jeanine Davis. Concerned with all of the developments in the Etowah area and the soil movements.

Richard Freudenburger. Concerned with the developments in Etowah and has been involved with *Smart Growth*. He is concerned with the soil and water problems, such as water run-off and erosion control that develop in large developments as well as the cemetery issue. Traffic is a major problem.

Martha Sachs. She stated that large developments such as Seven Falls, should be looked at in the long term – not only the phase they bring before the Board at the time, but all of the phases of the development and the issues that develop in each phase such as water, erosion, traffic, and other environmental problems. She is concerned with the construction of the golf course and the issues of run-off and flood problems that can happen with such a development.

Chairman Pearce is concerned with the amount of open items on the applications that come before the Planning Board. He stated that he considers these items incomplete and that Staff should not spend a lot of time preparing these for our agendas when he feels they should be rejected by Staff until all has been completed that is required of the applicant. Chairman Pearce said perhaps the Board has not given the authority to Staff or adequate guidance on how the Board feels about these type items. Mr. Starr stated that he agrees with the Chairman and that any subdivision from now on that is not complete will not come before the Planning Board until everything has met the checklist criteria. There was discussion pertaining to the short time between the pre-application conference and the last day to submit their plan for the Planning Board meeting and the Board suggested that the subdivision review schedule should possibly be changed to a 60/45 day schedule – being that the last day for pre-application conference be 60 days before the Planning Board meeting date and the last day to submit plans would be 45 days before the Planning Board meeting date. This will be discussed and revised by Staff at a later date.

Adjournment. There being no further business, the meeting adjourned at 8:52.m. All members voted in favor.

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Tedd Pearce, Chairman

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Kathleen Scanlan, Secretary