

**HENDERSON COUNTY
PLANNING BOARD MINUTES
April 19, 2007**

The Henderson County Planning Board met on April 19, 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; Stacy Rhodes, Jonathan Parce, Gary Griffin, Mitchell Gaither, 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 John Antrim and Mike Cooper were absent.

Chairman Pearce called the meeting to order and asked for the approval of the March 15, 2007 regular Planning Board Meeting Minutes. Tedd Pearce made a motion to approve the March 15, 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 indicated that the Commissioners have completed the public input sessions for the Land Development Code and mentioned that there was between a total of 600 - 700 people that attended all the meetings. He said the original date of April 24, 2007 for the public hearing has been cancelled instead a workshop has been scheduled to discuss the changes they want to make based on the public comments they received and provide direction to the Planning Staff on these changes. Mr. Starr stated that a public hearing will be scheduled sometime in the near future.

OLD BUSINESS: There was no old business.

NEW BUSINESS:

Extension Request for The Grand Highlands at Bear Wallow Mountain (#2005-M12) - Andy Otten with Melrose Design Group, PA, Agent for Westside Land and Timber Co., Inc., Owner. Presentation by Matt. Card. Mr. Card stated that on April 19, 2005, the Planning Board approved a combined Master Plan and Development Plan for the proposed Grand Highlands at Bear Wallow Mountain major subdivision. The Plan was approved subject to the completion of conditions that were imposed during the Planning Board meeting. Mr. Card stated that on April 5, 2007, Mr. Andy Otten, agent for the project submitted a letter requesting a one-year extension of the Development Plan for unexpected delays in providing utilities to the site. Chairman Pearce asked whether Staff has any objections to the extension request and Mr. Card mentioned that they did not. Chairman Pearce made a motion to request one-year extension for The Grand Highlands at Bear Wallow Mountain. Renee Kumor seconded the motion and all members voted in favor.

Mountain Meadows (#2007-M13) – Master Plan – (13 Single-Family Residential Lots) – Located off Oleta Road – Steven Waggoner of Waggoner & Rhodes, Agent for Jeffery Donaldson and Kenneth Burgess, Developers, William May, Jr., Owner. Presentation by Matt Card. Mr. Stacy Rhodes was recused from any discussion or decision on this subdivision review as they are the agent for the developers. All voted in favor of his recusal. Mr. Card stated that Mr. Jeffrey Donaldson, developer and agent, submitted a revised Master Plan for an existing subdivision known as Mountain Meadows. Mountain Meadows is located on approximately 50 acres off Oleta Road. The original Master Plan and Phase I Development Plan for Mountain Meadows was conditionally approved by the Planning Board on November 18, 2003. Phase II was conditionally approved by staff on December 20, 2006. Mr. Card said that the applicant is now

requesting to add approximately 15 acres of land (Phase III), currently owned by William May, Jr. to the subdivision. Phase III will consist of 13 single-family residential lots. Private roads, individual septic systems and individual wells are proposed.

Staff Comments:

Master Plan

1. **County Comprehensive Plan (CCP).** The Future Land Use map of the CCP shows that the subject property is located within the Rural / Urban Transition Area (RTA) of the Growth Management Strategy. The CCP states that the RTA is currently rural in character, with existing pockets of limited higher density residential and commercial development. It says that the primary factor preventing urban development in the RTA is the absence of sewer and water service. It also says that land development ordinances in the RTA should strive for a general, average density of 5 or fewer acres per residential dwelling unit.
2. **Land Development Code (LDC).** According to Draft 7 of the Land Development Code Zoning Map the proposed project site for this development is located entirely in the Residential Zoning District 2 (R2). The current draft of the Land Development Code (LDC) requires a density of 1 unit per acre. It appears that the average density for Mountain Meadows is approximately .91 units per acre. As proposed, the R2 zoning district will allow for single-family residential units. Since differences exist between proposed densities with the LDC and the CCP, if the LDC is adopted as proposed then the CCP may need to be amended to be consistent with the LDC.
3. **Ownership.** An application form was submitted with the Master Plan on March 21, 2007, as required. The application form was signed by Mr. Jeffery Donaldson and not the current property owner of record, Mr. May. Staff has requested that Mr. Donaldson provide an application form or agent form signed by Mr. May.

Mr. Card stated that the application form has been received and signed by the property owner, Mr. May.

Review Agency Comments

4. **Comments from the Fire Marshal.** The Henderson County Fire Marshal's Office stated that the water supply for fire suppression is limited in this area and that a dry hydrant should be located on any available lake or stream. Note: 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.
5. **Comments from Environmental Health Department.** The Henderson County Environmental Health Department stated that each lot will need to be evaluated for suitability for the installation of individual on-site wastewater treatment and disposal systems and for possible well sites. They stated that some lots may not be suitable due to soil depth and characteristics, slope, space, topography and required setbacks. They also mentioned that due to some slopes that are rather steep, this could restrict septic system usability.

Ms. Kumor asked whether there has been any problems as you have started construction with septic systems or wells in the project so far, referring to the comment by the Environmental

Health Department. Mr. Jeff Donaldson, agent for the project stated that most of the lots are 2 acres and over and doesn't appear so far any problems. As far as a dry hydrant request by the Fire Marshal's Office, he said he believes that would not be able to accommodate one. Chairman Pearce said that the Subdivision Ordinance does not have the authority to require any additional standards such as this.

Renee Kumor made a motion that the Planning Board find and conclude that the Master Plan appears to comply with the provisions of the Subdivision Ordinance; and further move that the Master Plan be approved subject to the following conditions: the applicant satisfies any conditions that may result from the comments listed - comments 1 and 2. Jonathan Parce seconded the motion and all members voted in favor.

Mountain Inn & Suites Commercial Subdivision (#2007-M12) – Combined Master Plan and Development Plan – Located off Ballenger Road – Stacy Rhodes of Waggoner & Rhodes, Agent for Mountain Inn and Suites, LLC, Owner. Presentation by Matt Cable. Mr. Stacy Rhodes was recused from any discussion or decision because he is the agent for the owners in this project. Mr. Cable stated that Mr. Stacy Rhodes, on behalf of Mr. Jeff Justus with Mountain Inn and Suites, LLC, owner, submitted a Combined Master Plan and Development Plan for a commercial subdivision off Ballenger Road. This property is located adjacent to Mountain Inn and Suites. The applicant is proposing two lots on approximately 5.29 acres of land which will be used for commercial purposes. Parcel A and the remaining portion of the tract appear to currently be vacant. During the pre-application conference it was indicated that the purposes of the subdivision is for construction of an extended stay hotel and parking. Public water and sewer (City of Hendersonville) are proposed and the project site is currently located in the Open Use (OU) zoning district.

Staff Comments

Staff has reviewed the submitted Combined Master Plan and Development Plan for Mountain Inn and Suites, LLC for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the comments that follow:

1. **Future Development.** According to HCSO §170-31 development plans and master plans should be drawn to show the short-term and long-term plans for the property. The Planning Board may wish to discuss with the applicant plans for the use of the property.
2. **Land Disturbing Activity.** According to HCSO §170-6 no land disturbing or construction activity carried out in conjunction with the development of a subdivision shall be commenced until a development plan has been approved. Section 170-16(C)(4) indicates that the applicant may, only upon receipt of approval of the development plan from the Planning Board, proceed with the establishment of erosion and sedimentation control measures, clearing and other land disturbing and improvement activities associated with the project.

Mr. Cable stated that a site visit conducted April 11, 2007 indicated that the applicant has already begun land disturbing activities on the project site. According to the applicant, such land disturbing activities occurred in early March. These activities occurred between the time of the pre-application conference (February 16, 2007) and the submittal of the Master and Development Plan (March 21, 2007). The applicant is in violation of the Subdivision Ordinance and, in accordance with HCSO §170-46, and Chapter 1, Article II (Penalties and Enforcement) §1-14 of the Henderson County Code, the applicant may be subject to penalties. Construction shall not begin and the final plat shall not be approved until any penalties related to the land disturbing activities have been remedied. The Planning Board should discuss with the applicant the extent of the land disturbing activities.

3. **Soil Erosion and Sedimentation Control.** The developer 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). According to the applicant, no plan has been submitted to NCDENR nor has documentation been provided indicating no plan is required. Land disturbing activities have occurred on site. The Planning Board should discuss with the applicant the need for submittal of written notice regarding sedimentation and erosion control plans.
4. **Buffers.** Property to the north and south of the project site appear to contain residential uses including those owned by Ms. Karen Jarrell, Mr. Greg Sherman, and Mr. Richard Powell. According to HCSO §170-33 the Planning Board may require a buffer strip of no less than 10 feet wide between dissimilar uses of land such as a residential area. The Planning Board may require the applicant to arrange for, or be responsible for the grading and planting of said buffer strip. Retention of existing vegetation is encouraged and the Planning Board has the authority to determine if existing vegetation fulfills the intent of the buffer requirement or if additional vegetation should be planted. The Planning Board should discuss with the applicant buffering along those portions of the property adjacent to residential uses.
5. **Water and Sewer.** The applicant has proposed public water and public sewer (City of Hendersonville). 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 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 (HCSO §170-20).
6. **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 (HCSO §170-35 and Appendix 7).
7. **Final Plat Requirements.** The final plat(s) must meet the requirements of Appendix 7 of the HCSO.

Review Agency Comments

8. **Comments from the Fire Marshal.** The Henderson County Fire Marshal's Office stated that a fire hydrant must be located within 400 feet of any portion of a commercial building. They also mentioned that access roads must be a minimum of 20 feet wide, provide 13'6" vertical clearance and extend to within 150 feet of any portion of a commercial building.
9. **Comments from the Zoning Administrator.** Ms. Natalie Berry, Henderson County Zoning Administrator, stated that it is located in the Open Use Zoning District and there is no watershed or no floodplain located on site. The applicant is aware of the possibility of being annexed into the City's jurisdiction.

Staff has found that the proposed Combined Master Plan and Development Plan appears to meet the technical standards of the Henderson County Subdivision Ordinance except for the comments listed above in Staff Comments. Staff recommends approval of the Combined Master Plan and Development Plan subject to the developer addressing any issues raised by the Planning Board and addressing the comments already discussed.

Mr. Stacy Rhodes, agent for the project explained that the reason why this subdivision came about is that originally there were five acres that was purchased from Jarrell and Croom, under the name Mountain Inn and Suites. Going into this phase, they wanted to bring another partner in on the loan as they wanted to put part of the property under a deed of trust. Mr. Rhodes stated that it will remain Mountain Inn and Suites, but will be an additional partner included. Chairman Pearce asked when the actual land disturbance took place. Mr. Rhodes stated when he did the topo of the site, it had been cleared, but the trees had been logged and some of the topsoil had been there. Chairman Pearce asked if the applicant had started clearing the site in preparation of pulling a permit, but were not subdividing the land, would that be in violation of the Ordinance. Mr. Starr said that if they were not going to subdivide and they were going to disturb more than an acre of land, they would need an erosion permit from the State at least thirty days previous. He said he is not aware of any County code dealing with grading other than for subdivision purposes. Chairman Pearce stated that he doesn't believe that the Planning Board can enforce any penalties and is not certain why *land disturbance activities* is part of the comments. Mr. Starr stated that the Subdivision Ordinance states that the applicant is not to disturb land before it has been approved. Mr. Starr stated that if deemed appropriate, he could assess penalties of \$50.00 per day since the activity started. This would be between the applicant and the Planning Department. Mr. Jeff Justus explained the reason for the subdivision of property and coming before the Planning Board. He said prior to making the decision with the two property owners, the trees were clear cut and the property was cleared, he said that there is no silt on that site because of that. He mentioned that he will deal with the Department of Environment regarding the clearing of this land. There was some discussion regarding buffering and Chairman Pearce noted that in the approval, the applicant's buffering requirements adjacent to the Jerrell property has been addressed in a contract and will be complied with according to the terms of the contract and the private agreement between the two parties. Chairman Pearce asked Mr. Starr whether Staff would have a problem with that. Mr. Starr stated that he would rather not tie this with a private contract but the Board could address this as a standard of approval. After some further discussion with Mr. Justus, it was determined that no buffering requirement would be a condition on this subject property.

Chairman Pearce made a motion that the Planning Board find and conclude that the Combined Master Plan and Development Plan complies with the provisions of the Subdivision Ordinance except for those matters addressed in Staff Comments section of the memo that need to be addressed; and further move that the Combined Master Plan and Development Plan be approved subject to the following conditions: the applicant satisfies any conditions that result from the comments listed and that there be no requirements on buffering applied to the subject property. Comments 2 and 3 are subject to the conditions outside of the Planning Board as they are not up to this board to address. Renee Kumor seconded the motion and all members voted in favor.

Seven Falls Golf and River Club (# 2007-M10) – Master Plan – (700 Single-Family Residential Lots, 164 Townhomes, 36 Condominiums, 211-acre Golf Course and Village Area with Commercial and Recreational Uses) – Located off Pleasant Grove Road, Pleasant Grove Church Road, and Folly Road – William Lapsley & Associates P.A., Agent for Mountain Development Company, LLC, Owner/Developer. Presentation by Matt Card. (Mr. Rhodes returned to the meeting at this time). Chairman Pearce asked Ms. Maryanne Pell, who signed up under public input regarding the Etowah area developments. She stated that she was with ECO and is concerned with the environmental issues such as conditions of the stream and soil and water pollution that a development causes upon streams. She added that with so many golf courses nearby, she feels there is no need to develop another one.

Mr. Card indicated that this is just a Master Plan Submittal. Mr. Card handed out some maps and comments on Seven Falls. He stated that Mr. William Lapsley, agent, on behalf of Mountain Development Company, LLC, owner and developer, submitted a Master Plan application for Seven Falls Golf and River Club. Seven Falls is located on over 40 different parcels of land totaling 1,398 acres. The applicant has proposed a total of 900 residential units which includes 700 single-family lots, 164 town homes and 36 condominiums. The applicant is also proposing an area titled the Village. The Village, located in the northern portion of the project, will have residential uses (single-family and condominium units) commercial uses, community service uses and recreational service buildings that are only intended to serve the proposed subdivision. A 211-acre golf course is also proposed. Excluding the Village area, the subdivision will be developed in six (6) phases.

Mr. Card said that the applicant is proposing to relocate a portion of two existing public roads; Pleasant Grove Road and Pleasant Grove Church Road. Access to the subdivision will come off of Pleasant Grove Road (proposed new location), Pleasant Grove Church Road and Folly Road. NCDOT will require the applicant to conduct a traffic impact analysis. Mr. Card showed the Board the change in location of Pleasant Grove Road and Pleasant Grove Church Road on a map. Chairman Pearce said that this is something that the Board does not approve, but that the State and Mr. Lapsley, agent for the project, have been working with the State on this. Ms. Kumor asked whether it will take away access to the people in the community. Mr. Card stated that to his knowledge, it would only affect access for two property owners and that they would need to change their address because of the change. Mr. Card showed the redesign of the road and any property owner would have access on that proposed road. Chairman Pearce said that any adjacent property owner(s) that pass the development would have access on the new road. Mr. Card stated that Pleasant Grove Road would go around the Village area and there would be gates off of it. Board members noted that there are some lots in the Village area that are located in the 100-year floodplain and that the Pleasant Grove Road will also be in the 100-year floodplain.

According to County tax records it appears that a small portion of the subdivision is not located in a fire insurance district. Individual wells, individual septic systems, private community wells and a private community sewer system are proposed to serve the subdivision. Private roads are proposed. The project site is currently located in the Open Use (OU) zoning district. The applicant and the County are currently working on a development agreement which, if approved by the Board of Commissioners, would allow this project to be vested to current land use regulations

According to County records the southeastern portion of the subdivision is identified as a protected mountain ridge. The height of any buildings or structures located within this area is limited to thirty-five feet. Seven Falls abuts the French Broad River.

Staff 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. Staff has reviewed the submitted Master Plan for Seven Falls for conformance with Henderson County's Ordinances and offers the following comments:

Master Plan

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 floodplains, waterfalls and 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).** 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) and Residential Zoning District 3 (R3). The density of Seven Falls is approximately 1 unit per 1.55 acres. The density of Seven Falls is in compliance with the requirements of both residential zoning districts. The proposed multifamily residential uses (fourplex units) and some of the commercial uses (24-room inn) may not be allowed under the Land Development Code. These uses would be vested to the current Open Use zoning district requirements if the Board of Commissioners approves a development agreement for Seven Falls. Since differences exist between proposed densities with the LDC and the CCP, if the LDC is adopted as proposed then the CCP may need to be amended to be consistent with the LDC.

3. **Ownership.** It appears from County records that the owner and developer of the project, Mountain Development Company, LLC, does not own all of the parcels identified in the subdivision. The applicant must submit agent forms for all people who own property shown as part of Seven Falls. Staff suggests that the Planning Board require, as a condition of approval, Mountain Development Company, LLC, and/or its agent to provide staff with agent forms for every current property owner in Seven Falls and Mr. Card mentioned that there are over forty-one parcels that will need agent forms and he added that he would like the Planning Board to make this a condition of approval and before construction begins.

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 portions of eastern and southern ridges of the project site.

5. **Floodplain Ordinance.** Natalie Berry, Henderson County Floodplain Administrator stated that several of the 40+/- parcels does lie within a special flood hazard area. The floodplain information should be shown on the plan. Base Flood elevation contour lines, finished floor elevations of any structure inside of BFE Map information in written form. Fill must be kept to a maximum of 20% fill of the flood fringe area only. Permits are required for placement of fill in the Special Flood Hazard Area. Permits are also required for construction of all structures located on any parcel that has a special flood hazard designated; these structures have specific requirements such as special foundation walls and elevation certification

6. **Water and Sewerage Systems.** According to Section 170-20, B(1) of the Subdivision Ordinance, a subdivision shall be required to connect to a public water supply system when the subdivision is located within a distance from the existing water system equal to the product of 100 feet multiplied by the number of lots proposed for the subdivision. However, if the subdivision is located more than 5,000 feet from an existing water line, such connection is not a requirement. The distance to public water was not labeled on the Master Plan because these details are generally reviewed during Development Plan review. If the applicant is within 5,000 feet of the nearest public water line, than the applicant shall be required to connect to this system. The applicant should clarify at the meeting the location of the nearest public water line. The applicant should also discuss the sewerage system for the subdivision.

Review Agency Comments

7. **Comments from the Fire Marshal.** The Henderson County Fire Marshal's Office stated that the N.C. Fire Prevention Code requires a fire hydrant located within 400 feet of any portion of a commercial building. Since the development will be located in an area without public water system, dry hydrants should be located as close as possible to the commercial structures and in other lakes and streams serving the residential community. Regarding the roads, the additional road mileage created by this development will require an additional station for Etowah/Horse-Shoe fire department in order to maintain the six road mile limit required by the NC Department of Insurance. 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. Mr. Card stated that the Planning Board may not have the authority to require any additional standards.

8. **Comments from Property Addressing Office.** Mr. Curtis Griffin stated that their office would need a list of proposed road names for the subdivision. If moving of the Pleasant Grove Road is approved, the old section of the road will retain name, new road name will be needed for new section.

Chairman Pearce said that a development this size would require additional emergency equipment. Is there anything in the Ordinance that would allow the Planning Board to require a provision to provide additional fire equipment or is there something in the Land Development Code that addresses this? Mr. Card stated that there is something in the Land Development Code that would allow the Planning Board during Development Plan approval to make a conditional approval that they provide a dry hydrant if they have surface water available on the

property. Mr. Card added that in the development agreement, they are currently working on a site for a substation for Etowah Fire and Rescue and that would be included in the development agreement. Chairman Pearce asks in what regards the Ordinance addresses environmental quality on a Master Plan. Mr. Card said that what he referred to in his comments was what the Comprehensive Land Use Plan addresses because the Subdivision Ordinance does not address much regarding environmental quality. He added that he referred to the future land use map in the Comprehensive Plan areas that were designated as conservation and what the Comprehensive Plan mentions is that these areas should be preserved with limited development, but the Subdivision Ordinance does not have any regulations on environmental quality. Chairman Pearce asked Sarah Zambon, Associate Attorney her opinion on this. Ms. Zambon stated that the Board can look at the Comprehensive Plan as a guiding principle but it is clearly not binding, it would be more persuasive. Mr. Jonathan Parce said that he thought there was a cemetery near the old Fullam Dairy property. Mr. Card said that there is a cemetery on Pleasant Grove Church Road, but is not aware of another cemetery where you mentioned. Chairman Pearce stated that Mr. Lapsley may be able to address this issue.

Mr. Lapsley, agent for the developer/owner briefed the Board on some issues of the project. Mr. Lapsley stated that the developer of this project, Mountain Development Company, LLC, is a local developer and has been in the area for a number of years. He stated that this project has been going on for a number of months. He said that there are 38 parcels of land making up this project and of the 38, 34 have been purchased or are under contract and four parcels are in negotiation with the present property owner. Mr. Lapsley further explained to the Board what was on the property previously and what they are proposing. He explained that there is a cemetery in *The Village* area of the property on the old Fullam Dairy property. He stated that the cemetery will be protected and said that it is their intent to build a chapel near it so that people can use it and respect the cemetery that is there. He added that any family who has a relative there or anyone who wanted to visit would have access through a visitor pass. Renee Kumor asked that if they should find other cemeteries, what they would do about them. Mr. Lapsley stated that any other cemeteries they would find on the site would be protected and would be the responsibility of the developer and the community living there. Mr. Lapsley stated that this project will mean making changes to Pleasant Grove Road and Pleasant Grove Church Road. He stated that the plans call for a section of Pleasant Grove Road, more than a mile in length, to be relocated and raised above the floodplain elevation. A 2,000-foot section of Pleasant Grove Church Road will have to be relocated to allow for the construction of the golf course and this would be outside of the floodplain line. Mr. Lapsley stated there were also be two bridges proposed, one over Little Willow Creek and the other one to allow access under the bridge out to the river by the property owners. Mr. Lapsley added that any road plans that we make would have to be accepted by NCDOT. He said that the process of getting that road accepted by NCDOT requires approval by the Board of County Commissioners, which is another step in the process. He said regarding the floodplain, they do not plan on doing any filling whatsoever in the floodway and there is approximately seventy-five acres of this property within the 100-year floodplain and we are proposing to stay within the twenty percent limit and that includes the roadway proposal (Pleasant Grove Road), which five acres of land included in that and includes a small portion of *The Village* area that would be filled and the golf area would be included, but not exceed the twenty percent restriction. Regarding the streams and wetland that would be impacted, they have all been catalogued and have been discussed with environmental consultants to be evaluated. He also mentioned that as part of a mitigation agreement with the State, the State Officials are going to require the developer to clean up streams that are in the same watershed and those streams will be one located in Mills River on the Hollabrook /Farms subdivision property and the other is in Laurel Park, called Laurel Park Lake. He said they will be spending about \$ 750,000 to clean up those two streams so it's not cheap but they are also going to clean and maintain streams on the Seven Falls property to state and federal standards. Renee Kumor inquired about waste contamination on the property

because of the two dairy farms. Mr. Lapsley stated that there is an animal waste lagoon on the Fullam Dairy property, but it will be addressed. Ms. Kumor asked about the wastewater discharge on the Little Willow stream, will you be dealing with waste there? Mr. Lapsley stated that what they are proposing is that it will have a community sewer system and that it will be all collected from all of the parcels on the property to a wastewater treatment site that will be identified and be treated and be discharged to the French Broad River. Ms. Kumor asked, "How far by the river is it from the one you have on Cummings Cove?" Mr. Lapsley said, "In river miles, maybe one mile to one-and-one-half miles. There are two facilities in that area, one is Cummings Cove and the other is Riverwind." Ms. Kumor asked how many households will be on a private system with Riverwind, Cummings Cove and now Seven Falls on it. Mr. Lapsley stated approximately 1,800 to 2,000. Mr. Lapsley added that if the County had a sewer system there, we would go with it. Ms. Kumor also wanted to know that when the new FEMA maps come out, how that will affect the causeway that you plan on building on the site. Mr. Lapsley stated that the causeway will have two holes in it so that the water will back up under the bridge and flood the floodplain just like it does today. As far as the elevation, the best number we have at the moment is the current FEMA map. He said what they are proposing is to build two feet higher than that, but if the new FEMA comes out and it suggests that it should be higher than that, than we will build it higher, but at this stage, we are designing it to the present standards. Ms. Kumor asked whether you have any drawings that you are proposing that are within the 100-year floodplain for the two bridges. Mr. Lapsley said no, and that they are proposing to not fill anymore than twenty percent of the floodplain, according to the County ordinance. He said there are ten to fifteen lots shown on the master plan that would be filled and raised to an elevation above the 100-year floodplain. After some further discussion regarding stream clean up and other general questions by the Board members, Chairman Pearce stated that he feels for a development of this magnitude there should be no individual wells and septic systems as part of this project. He asked whether there have been any provisions for stormwater retention, even though there is nothing in the Ordinance to regulate this. He feels that the Board has a right to look at the environmental issues. Mr. Lapsley stated that as far as the bulk of the property with single-family lots, he said that because the lots are extremely large, he doesn't feel that the area would receive any substantial impact on stormwater. He said *The Village* area, which is the high density area, will have some stormwater impact and what they are proposing is collecting all of the stormwater and putting it into a facility and putting it into the pond. He said up to the time when the river has a big flood or a normal rain event, all the stormwater from *The Village* area would go into the pond and the pond will provide stormwater retention and will have a significant impact on what gets into the French Broad River. He said we are doing two things with that approach: the stormwater retention and the treatment approach. He said part of the mitigation plan for this project, dealing with State and Federal people, is that we collect all of the stormwater from where I mentioned and treat the first one-inch of runoff from that high density area in the pond.

Chairman Pearce stated that this master plan does meet the Henderson County Subdivision Ordinance, but he believes that as a condition of any approval of this Master Plan that number one: that a satisfactory agreement be reached with the Fire Marshal's Office regarding protection of properties on this site and that the condition must be addressed before review of the Phase 1 Development Plan; number two, that there be no individual wells or septic systems on this property because of the size of this project and because of environmental reasons. Chairman Pearce said that the applicant must connect to the public water system (City of Hendersonville) and a private community sewerage system but wanted the above issues addressed before the review of the Phase 1 Development Plan. Mr. Lapsley stated that the developer was in the process of working out the details for connecting to a public water line with the City.

Chairman Pearce made a motion that the Planning Board find and conclude that the Master Plan appears to comply with the provisions of the Subdivision Ordinance; and further move that the Master Plan be approved subject to the following conditions 1 – 8 and specifically that a satisfactory agreement be reached with the Fire Marshal's Office regarding protection of properties on this site and that this condition must be addressed before review of the Phase 1 Development Plan; that there be no individual wells or individual septic systems on this property; and that regarding condition 9, that adequate access be provided to the cemetery for these people and to Pleasant Grove Baptist Church and that the access must be clearly shown both to the church and the cemetery and delineated on the Development Plan. Renee Kumor seconded the motion and all members voted in favor.

Biltmore Farms Hammond Tract (#2007-M11) – Master Plan – (234 Single-Family Residential Lots, 84 Duplex Units, 147 Triplex Units, 188 Quadraplex Units) – Located off McKinney Road – William Lapsley & Associates P.A., Agent for Biltmore Farms, LLC, Developer and John T. Hammond and James W. Hammond, Owners. Presentation by Matt Cable. Mr. Cable stated that William G. Lapsley and Associates, P.A., on behalf of Biltmore Farms LLC, agent for property owners John T. Hammond and James W. Hammond (Grattan Hammond Jr. Trust and Annette P. Hammond Jr. Trust), submitted a Master Plan and major subdivision application for a project known as Biltmore Farms Hammond Tract. The project site is located on 469.96 acres of land. The site is accessed off of McKinney Road. A total of 653 dwelling units are proposed including 234 single-family dwellings, 42 duplexes (containing 84 dwelling units), 49 triplexes (containing 147 dwelling units), and 47 quadraplexes (containing 188 dwelling units). The project is also proposed to include a community amenity area with clubhouse, tennis and swimming pool. The proposed community amenity area will only serve the development.

Mr. Cable stated that a portion of the project is located within the 100-year floodplain as indicated on the attached Master Plan. The site is currently zoned Open Use (OU) which does not regulate the residential and commercial uses of land. The project site is located in a WS-IV Water Supply Watershed district. He said that private roads are proposed to serve the subdivision and public water (City of Hendersonville) is proposed to serve the development as well as private sewerage (Etowah Sewer Company).

Mr. Cable stated that the Board is only looking at the Master Plan for approval and this does not constitute any Vested Rights approval. He added that the applicant is seeking Vested Rights approval through a separate process.

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. Staff has reviewed the submitted Master Plan for Biltmore Farms Hammond Tract, taking into consideration the recommendations of Henderson County's Land Use Plan (the Henderson County 2020 Comprehensive Plan) and reviewing the plan for conformance with Henderson County's Ordinances and offers the following comments:

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 Transitions Area (RTA).
 - **Conservation Area.** The conservation area designation is applied to the eastern portion of the project site, largely because of the presence of floodplain 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 Plan suggests that this conservation area will remain largely open space, connected by a

system of trails. The Master Plan does, however, suggest that three (3) residential structures will be located within the floodplain.

- **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. According to the Master Plan, the project would have an average density of 1.39 units per acre. The CCP states that, “the primary factor preventing urban development in the RTA is the absence of sewer and water service”. The Master 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.

Staff recommends that the applicant remove the three structures from the floodplain. Staff further recommends that the proposed densities appear to be in keeping with the purposes and intent of the CCP, provided that water and sewer are available to the project.

2. **Land Development Code (LDC).** According to Proposed Draft 7 of the Land Development Code Zoning Map the proposed project site for this development is located entirely in the Residential Zoning District 2 (R2). The current draft of the Land Development Code (LDC) allows for a density of 1 unit per acre for single-family developments and 2 units per acre for multifamily developments. According to the Master Plan, the project would have an average density of 1.39 units per acre. Given that the development is composed of single-family and multifamily uses, this would be in keeping with the densities generally proposed for the property. Presence of water and sewer may result in reclassification of the project site to Residential Zoning District 1 (R1) which would permit densities of 4 to 16 units per acre and all the uses proposed by the Master Plan. 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. Staff recommends that the proposed densities appear to be in keeping with those proposed by the LDC.
3. **Flood Damage Prevention Ordinance.** According to County records 3 of the 4 parcels of the project site lie within a special flood hazard area. Staff recommends the applicant move all structures outside of the floodplain area. Further, staff would like to point out that the primary entrance road to the back portion of the development passes through the floodplain area. This road will need to be elevated in order to provide access during flood events.
4. **Water Supply Watershed Ordinance.** According to County records a majority of the project site falls within the WS-IV Protected Area. A Special Intensity Allocation permit may be required to build the development to the proposed density. A maximum of 24% impervious surface is allowed for projects of this nature.

Review Agency Comments

1. **Comments from the Fire Marshal.** Rocky Hyder of the Henderson County Fire Marshal’s Office submitted comments regarding the project. Mr. Hyder’s comments reflect the requirements of the NC Fire Prevention Code as related to the proposed commercial and multifamily residential uses for the project. Mr. Hyder’s comments also relate to the elevation of roads located within the floodplain.
2. **Comments from the Floodplain Administrator and Water Supply Watershed Administrator.** Natalie Berry, Floodplain Administrator and Water Supply Watershed Administrator, has submitted comments regarding the project. Ms. Berry’s comments

reflect the requirements of the Flood Damage Prevention and Water Supply Watershed Ordinances for purposes of developing in the floodplain and watershed areas.

3. **Comments from Property Addressing.** Curtis Griffin has submitted comments regarding the project. Mr. Griffin's comments reflect the need for road name approval.

Staff has found that the proposed Master Plan appears to meet the technical standards of the Henderson County Subdivision Ordinance, Water Supply Watershed Ordinance and Flood Damage Prevention Ordinance, except for the comments listed above in staff comments. The Master Plan also appears to remain consistent with the recommendations of the County Comprehensive Plan and Land Development Code, and would only be made more consistent with the extension of water and sewer to the project site. Staff recommends approval of the Master Plan subject to the developer addressing any issues raised by the Planning Board. If the Planning Board chooses to deny this project then it must clearly state the reason(s) for denial. According to Section 170-16, B(2) of the Subdivision Ordinance, the master plan shall be formally approved or denied by the Planning Board within 90 days of submission.

Mr. Will Buie, agent for the applicant stated that the project tract consists of 520 acres, but of that total, 50 acres will be retained by the Hammond family. Mr. Buie briefly informed the Board members about the project. He mentioned, regarding the special intensity allocation comments, he does not feel that the project will require the need for special intensity allocations. Mr. Buie stated that for multifamily units, he believes that the project meets the requirements of the Ordinance, as they will be well below the 36% built upon area that is mentioned for multifamily units and all of the lots are over 1/3 of an acre, so that is why we do not believe we will have to ask for a special intensity allocation permits for this project. Mr. Buie stated that regarding stormwater controls, they will be preserving all three stream corridors, all of the floodplain areas and will be providing the 30-foot buffers from the streams. He said that they plan on dispersing as much of the stormwater and providing many stormwater measures throughout the floodplain area. Mr. Buie mentioned that they have held community meetings with adjacent property owners to ask for their input and intend to keep the community aware of what they plan on developing regarding this project. He said they have taken suggestions and comments and implemented them into the project. Ms. Kumor indicated her concern about access to the two adjacent parcels and this was discussed. Mr. Buie stated that access will be insured.

Chairman Pearce made a motion that the Planning Board find and conclude that the Master Plan appears to comply with the provisions of the Subdivision Ordinance; and further move that the Master Plan be approved subject to the following conditions: the applicant satisfies any conditions that may result from the comments discussed by Mr. Cable and that the applicant must provide access to those two parcels located along the eastern boundary of the site which currently are provided access through the subject property. Ms. Kumor felt that in addition to the stated motion, the applicant should meet the requirements of the Flood Damage Prevention Ordinance where floodplain is present; and be approved for the number of units proposed provided the applicant can move all dwelling units outside of the floodplain. She stated that they must elevate the primary entrance road where such travels through the floodplain in order to provide access during flood events. Tommy Laughter seconded the motion with the additional comments and all members voted in favor.

Public Input:

Angela Fernandini. Ms. Fernandini stated that she was a member of an environmental committee and is concerned with the access to the cemetery that is in the Seven Falls project site. She was also concerned with restoring streams in the County and stormwater runoff.

Chuck Rose. He is a resident of Riverwind development and was concerned that with an additional three thousand residents nearby from these new subdivisions developing will cause road congestion, especially during school time. He stated he is also concerned with the school capacity because of the new developments.

Adjournment. There being no further business, the meeting adjourned at 9:15 p.m. All members voted in favor.

Tedd Pearce, Chairman

Kathleen Scanlan, Secretary