

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
February 15, 2007**

The Henderson County Planning Board met on February 15, 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; Stacy Rhodes, Jonathan Parce, Gary Griffin, John Antrim, Mitchell Gaither, Tommy Laughter and Renee Kumor. Others present included Anthony Starr, Planning Director; Matt Card, Planner; Anthony Prinz, Planner; Sarah Zambon, Associate County Attorney; Mark Williams, Commissioner and Liaison to the Planning Board and Kathleen Scanlan, Secretary.

Chairman Pearce called the meeting to order and asked for the approval of the January 18, 2007 regular Planning Board Meeting Minutes. John Antrim made a motion to approve the minutes and Renee Kumor seconded the motion. All members voted in favor.

Adjustments of the Agenda. There were no adjustments needed.

Staff Reports. Mr. Starr stated that at the last Commissioner's meeting, it was discussed regarding the selection of a consultant for an Adequate Facilities Ordinance and will be discussed further at the next Commissioner's meeting. The Commissioners also voted to begin receiving rezoning applications and the Planning Department received three rezoning applications yesterday and they will be on the next Planning Board agenda for March. Mr. Starr mentioned that the Board of Commissioners will hold a workshop on the Land Development Code on February 20, 2007 at 7 p.m. and on Tuesday, March 13, 2007 and for six consecutive Tuesday nights, they plan on public input sessions at different locations around the County. He added that there will be a video on Channel 11 regarding the public input sessions and that the public hearing with the Board of Commissioners has also been scheduled at the end of the public input sessions for April 17, 2007 and will be noted...

**OLD BUSINESS:** There was no old business.

**NEW BUSINESS:**

Combined Master and Development Plan – North Course Village – (File # 2007-M03) – 26 Single-Family Residential Lots off West Fairway Drive – Terry Baker, Agent for Eric Laughter, Owner and Developer. Presentation by Anthony Prinz. Mr. Prinz stated that Mr. Eric Laughter, property owner, submitted through Associated Land Surveyors and Planners PC a Combined Master and Development Plan for the North Course Village major subdivision. Laughter Investments, LLC will be the developer of the project. Mr. Prinz stated that North Course Village is planned to be located in the Etowah community adjacent to the Etowah Valley Golf Course on West Fairway Drive. A Master Plan for North Course Village was approved by the Planning Board on July 18, 2006.

Mr. Prinz said that the developer has changed his plan slightly, mainly reducing the lots down from 27 lots to a total of 26 single-family lots on approximately 7.98 acres of land and re-aligning the roads and also making a couple of other minor adjustments. Public water from the City of Hendersonville and private sewer from the Etowah Sewer Company will serve the development and according to the Combined Master and Development Plan, 1,038 feet of paved private roads are proposed for the development that will utilize a valley/gutter drainage system. The subject property is located within a County Open Use zoning district that does not regulate the residential use of land. The property is not located in a Water Supply Watershed district and there is one official blue line perennial stream which flows along the eastern boundary of the project site.

Staff has reviewed the major subdivision application for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the comments that follow.

1. **Revisions to the Combined Master and Development Plan.** The Combined Master and Development Plan for North Course Village meet the minimum requirements of Appendix 4 and 5 of the HCSO. No revisions to the plan are necessary.

2. **Water and Sewer.** The applicant has proposed public water (City of Hendersonville) and private community sewer (Etowah Sewer Company) for the project. According to the HCSO, the applicant must provide evidence that the water supply and sewer system plans have been approved by the appropriate agencies. Mr. Prinz noted that he has received evidence of adequate water pressure by the City of Hendersonville and sewer capacity by the Etowah Sewer Company. The proposed Combined Master and 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 must meet the respective county or municipality's minimum requirements for fire hydrants installation (HSCO 170-20).

3. **Soil Erosion and Sedimentation Control.** The Developer should submit notice from NC DENR that a soil erosion and sedimentation control plan has been received, or provide documentation that no plan is required prior to beginning construction (HCSO 170-19).

4. **Driveway Permit.** Mr. Prinz stated that there is no deed or right-of-way access shown on the Development Plan but there is a reserve area from Northern Fairway Court to North Course Drive and the purpose of the reserve area is to access the Laughter home. Mr. Prinz stated that Staff's recommendation is to recombine the reserve area with the Laughter property that the house is on so that it would have access to the road. The applicant must obtain a driveway permit through NCDOT for the proposed entrance on West Fairway Drive and provide evidence of permit issuance to the Planning Department.

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

## **REVIEW AGENCY COMMENTS**

Staff has received the following review agency comments regarding the North Course Village Combined Master and Development Plan.

### **Comments from the Henderson County Fire Marshal's Office.**

Rocky Hyder of the Henderson County Fire Marshal's Office stated that the Combined Master and Development Plan depicts one existing fire hydrant located on West Fairway Drive; however, does not show any additional hydrants proposed within the North Course Village development. As stated above, Section 170-20 of the HCSO requires that any subdivision served by a municipal public water system must meet the respective municipality's minimum standards for fire hydrants installation. Mr. Prinz stated that the Planning Board may choose to require a revised Combined Master and Development Plan that shows fire hydrants proposed for the development at the minimum spacing required by the City of Hendersonville.

Mr. Terry Baker, agent for the developer, Mr. Eric Laughter, stated that regarding the fire hydrants, there is no more than an eight-hundred-foot spread between hydrants on the project

and that is sufficient. He also mentioned that they redesigned areas to make it more aesthetically agreeable. He stated that there will be approval letters from the City as well as the State regarding the water and sewer.

Chairman Pearce asked that public input be opened at this time.

Richard Seymour. He stated that he is the President of the Golf Mountain Estates Property Owners Association. Golf Mountain Estates borders the proposed development, North Course Village. He mentioned that his main concerns are with the density of the proposed development and steep inclines that stoop near Gash Creek. He stated that extensive clear-cutting of trees will be needed to accommodate the proposed 26 units which will lead to erosion and swell run-off. He said that with the high density of this development in such a small area will have an adverse effect on the environment. He also added his concern with how the water pressure will be affected with 26 units being built.

Mary Jane Pell. Ms. Pell resides at 2 Masters Crest Drive in Golf Mountain Estates. She is concerned with the water pressure with the added units. She stated that the water is poor from a biological and chemical standpoint and added that with more silt running into Gash Creek will only harm the stream more. She requested that the Planning Board recommend a 30-foot vegetative buffer and that dust screens be used to keep the silt down, because this development is on a slope. She reminded Board members to keep in mind the importance of protecting the environment.

Tommy Brendel. Mr. Brendel is a resident of 3 Masters Crest Drive in Golf Mountain Estates and suggested that the proposed development reduce the amount of units because the high density results in negative affects upon the nearby communities.

Jack Angel. Mr. Angel resides at 54 W. Fairway Lane in Golf Mountain Estates and stated that he too is concerned with the density and with the future of Gash Creek.

Mr. Terry Baker stated that the City of Hendersonville stated that there will be adequate water pressure. The size of the project will be sufficient for water facilities and that the flow is at the road. He stated that the County regulates a buffer dealing with perennial streams and that the developer will follow the regulations of a 30-foot buffer according to the Department of Environment and Natural Resources. Mr. Baker added that there is no clear cutting going on in the development and that each unit will be on a permit basis. He added that the units exceed the requirements of the new Land Development Code as far as the density requirements, even though it is not in affect as of this date and added that this development is not a part of Golf Mountain Estates.

Chairman Pearce asked Staff how the County controls stream buffers and soil erosion. Mr. Prinz talked about stream buffers and Mr. Starr stated that in October the County will begin enforcing the Soil and Erosion Control Ordinance. He stated that issues that occur regarding soil and erosion before the ordinance in the County is in effect should call 1-866-STOPMUD. Mr. Starr added that we do not have a stormwater regulation and the County is looking into implementing enforcement of stormwater runoff in the next budget year.

Ms. Kumor brought up the issue of notification to property owners. Mr. Prinz stated that there are posting requirements but not written notices of nearby residents. Chairman Pearce and Ms. Kumor feel that this is important to look at and implement a policy

Chairman Pearce made a motion that the Planning Board find and conclude that the major subdivision application for North Course Village complies with the provisions of the Subdivision

Ordinance, except for those matters addressed in the Staff Comments section of the memo that need to be addressed; and Mr. Pearce feels that this development also meets the future Land Development Code and the County Comprehensive Plan regulations. He further moved that the Combined Master and Development Plan be approved subject to the adjacent property being recombined as mentioned by Mr. Prinz, and that the fire hydrants meet the City of Hendersonville regulations on water capacity. Tommy Laughter seconded the motion and all members voted in favor.

There was some discussion among Board members regarding the inclusion of utilities in stream buffer areas and whether it is recognized as built-upon areas. The Board suggested that there be additional language added in the Land Development Code to address as a recommendation or an amendment, before it is approved, to either leave the stream area undisturbed or returning it to the same condition or better. Chairman Pearce asked Staff to have this language to the Board at their next meeting for discussion, if possible.

Master Plan for The Glen and Highlands at Flat Rock – (File # 2007-M04) – 45 Single-Family Residential Lots (Highlands Section Only) off Crab Creek Road – Jimmy Edwards, Agent for Parkridge MOB, LLC, Owner. Presentation by Matt Card. Mr. Card stated that Mr. Jimmy Edwards, architect, on behalf of Parkridge MOB, LLC, submitted the Master Plan for this project. The Glen and Highlands at Flat Rock and is proposed to be a continuing care retirement community with some single-family uses. Mr. Card said the project site is located on one parcel of land totaling 132.72 acres off of Crab Creek Road and in the Open Use zoning district which does not regulate the residential or commercial use of land. According to the Master Plan this project is broken into two different areas, The Glen and The Highlands. Mr. Card noted that the applicant is only requesting subdivision approval for The Highlands portion of the project.

Mr. Card stated that The Glen will be located on one parcel of land which will not be subdivided; this parcel will be maintained and owned by a single entity. The Glen will consist of multiple apartment buildings with independent living care units, a health care center and also 91 townhome units which will not be on individual lots. The Glen will also have commercial and other support services that are associated with this development. The applicant is currently seeking a statutory vested right from the Board of Commissioners pursuant to Chapter 189 of the Henderson County Code and if approved, the developer would be vested to the current Open Use zoning district requirements.

The Highlands portion of the project is proposed to have a total of 45 single-family lots and will be served by either public or private roads or a combination of both. Mud Creek runs through the southern portion of the property where the applicant has proposed a sewer and wastewater treatment plant (package plant). Mr. Card mentioned that the applicant is also proposing a community well water system with storage tanks. A couple of ponds are also proposed.

Chairman Pearce was concerned that the Master Plan reads, “The Glen and the Highlands at Flat Rock” for the entire project, when the Board is suppose to be looking at only The Highlands section. Mr. Card said that they added all the other details of The Glen to show the Board what is going on in that section and asked that you only consider The Highlands section of the project. Mr. Card said as far as The Glen section of the project, the applicant has submitted a Statutory Vested Rights application under the current Open Use Zoning District and has been submitted for approval by the Board of Commissioners.

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 Master Plan for The Glen and The Highlands at Flat Rock for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the following comments:

1. **Henderson County 2020 Comprehensive Plan (CCP).** The Future Land Use map of the CCP shows the subject property is located within the Rural Agricultural Area (RAA) of the Growth Management Strategy. The RAA is expected to remain predominantly rural with low-density residential development during the life of the CCP (through 2020) 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. 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 3 (R3). The current draft of the Land Development Code (LDC) requires a density of 1 unit per 1.5 acres. The proposed density of the project including The Glen portion of the project is approximately 2.4 units per acre. Since the project site is located in the Open Use (OU) zoning district, the County does not currently have any regulations that restrict this development from occurring as proposed. The Future Land Use Map of the CCP, Sensitive Natural Areas Map of the CCP and the Natural Heritage Inventory show that the top portion of this development is proposed on land designated as "Conservation" (Pinnacle Mountain). Conservation areas are likely to be sensitive natural areas, such as steep slopes, streams, creeks, waterfalls and other features found on the property. At this time, the County does not have any specific regulations or protections for these environmentally sensitive areas. The Planning Board may want to discuss with the developer the intentions of dealing with the potential safety concerns, environmental issues and demand on public services that the proposed development will have on this area. Staff may have more regarding the impact of this development on public services at the meeting.

### **Review Agency Comments**

1. **Comments from the Fire Marshal.** The Henderson County Fire Marshal's Office submitted comments regarding the subdivision. According to the Master Plan the applicant will provide a private community water system with wells and storage tanks. Mr. Hyder has requested that the storage tanks and ponds have a static water point (dry hydrant) for fire suppression. Mr. Card stated that the applicant needs to explain the measures to be used for fire protection and discuss the design of the community water system.

Mr. Jimmy Edwards, architect and one of the agents for The Glen development stated that he was under the impression that they were submitting a master plan for the entire project – The Glen and The Highlands at Flat Rock. He stated that the statutory vested rights procedure is to go for a subdivision approval and then go to vested rights approval and that is what he thought he was doing. Mr. Starr stated that he had explained previously to Mr. Edwards and Mr. Grant, that the Master Plan was only for the subdivision aspect of it and that we did not have any approval process. Mr. Starr explained that if the Master Plan process was for approving all of it, The Glen and The Highlands, you would not need to go through the vested rights application process because you would be getting vested rights through that. He added that you will be establishing vested rights at this meeting for the subdivision, The Highlands portion, if you receive approval and make substantial expenditure, which is common law vested rights. This will not give you approval of The Glen portion of this project, and therefore the need to apply for statutory vested rights and that will be considered and heard by the Board of Commissioners. Sarah Zambon stated that she concurred with what Mr. Starr just stated.

[Mr. Mark Williams left the meeting at this time].

Mr. Edwards gave a brief history of the area and the proposed continuing care retirement community. He described what has been done and what is proposed. Mr. Edwards clarified that Parkridge MOB, LLC, was the name that the original property was acquired because it was involved with a tax matter when they traded one piece of land for another parcel of land. He stated that the name Parkridge MOB, LLC has no significance but since it was on the tax records that way; we had to file it accordingly. Chairman Pearce asked what the approximate acreage is for The Highlands section. Mr. Edwards said that The Highlands has approximately sixty acres.

Chairman Pearce discussed some of the uses that were mentioned regarding The Glen and felt that some of the proposed uses were not in keeping with the new Land Development Code. Some of the Board members reminded Mr. Pearce that they were not to be considering The Glen portion of the project, it was just for informational use only and that The Highlands was what they should be concerned with. Mr. Starr mentioned that under the current Ordinance, they are not required to get approval from anyone for The Glen section. They have made an application for vested rights for this section because they would not have an opportunity to establish common law vested rights, which means pulling permits or some type of governmental approval and making some type of substantial expenditure for The Glen section. Mr. Starr clarified that the Planning Board is only considering, under the Subdivision Ordinance, the Master Plan, even though it includes The Glen section, as one of the lots. The Board is not approving any uses of the property, the Board is only approving the division of the property, but you can consider the proposed uses of the property with the consistency of the Comprehensive Land Use Plan in determining whether you approve the Master Plan that the Staff and legal department provided you with. Mr. Starr further stated that should the Planning Board approve this project tonight, that will not approve any uses of the property and thereby will not convey vested rights for any uses of the property and that will have to come from the Board of Commissioners.

Ms. Kumor stated her concerns regarding the public safety issue (fire/ambulance) regarding living care/retirement community proposed for The Glen section. Mr. David Ammons, who is one of the agents for this development, stated that he has worked with various retirement communities and explained the public safety aspect of these developments. He stated that basically these communities are a low-impact, self-contained use.

Chairman Pearce made a motion that the Planning Board disapprove the Master Plan. He stated the reasons as follows: According to Section 170-3, *Land Use Plan*, "topographic conditions, inadequate road access, distance from services, unique natural areas, soils that do not easily support soil drainage systems or the proximity to existing and incompatible land uses, all land may not be suited to be subdivided for the purpose of dense development." He also mentioned that this is not in line with what the County Comprehensive Plan (CCP) would recommend and Master Plan approval is one of the items that says it must consider the applicable recommendation of the CCP and things of that nature. John Antrim seconded the motion. Mr. Cooper and Mr. Griffin stated that they disagree with the motion because it is looking at the whole picture of the project and the Planning Board can consider The Glen section but not render a decision because of it. After further discussion, the motion was opposed by a vote of 8 to 1. Tommy Laughter made a motion that the Planning Board find and conclude that the Master Plan for the section of The Highlands, consisting of 46 lots be approved and the Planning Board is not approving any of the uses of the land or the project known as The Glen. Gary Griffin seconded the motion. Board members Tommy Laughter, Gary Griffin, Mike Cooper, Jonathan Parce, John Antrim, Mitch Gaither, Renee Kumor and Stacy Rhodes voted in favor. Chairman Pearce was opposed. The motion carried.

Ms. Kumor wanted Staff to revisit whether the Planning Board meetings could be video taped on Channel 11, as she feels that some of the discussions in the Planning Board meetings, the community would find enlightened. Mr. Starr stated that the only problem is the resources to video tape the meetings would have to come outside of the Planning Department and that would have to be a call that the Commissioners would have to make. The Planners and the Secretary would not be able to video tape as they would be responsible for their duties.

Adjournment. There being no further business, the meeting adjourned at 7:05 p.m. All members voted in favor.

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Tedd Pearce, Chairman

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Kathleen Scanlan, Secretary