

HENDERSON COUNTY PLANNING BOARD MINUTES

September 19, 2006

The Henderson County Planning Board met on September 19, 2006 for their regular called meeting at 5:30 p.m. in the Meeting Room of the Land Development Building at 101 East Allen Street, Hendersonville, NC. Board members present were Tedd Pearce, Chairman; Mike Cooper, Vice-Chairman; Stacy Rhodes, Gary Griffin, Jonathan Parce, John Antrim, Tommy Laughter, and Renee Kumor. Others present included Anthony Starr, Planning Director; Matt Card, Planner; Matt Cable, Planner; Anthony Prinz, Planner; Sarah Zambon, Associate County Attorney; Russell Burrell, County Attorney, Chuck McGrady, Commissioner and liaison to the Planning Board; and Kathleen Scanlan, Secretary. Board member Mark Williams was absent.

Chairman Pearce called the meeting to order and asked for the approval of the August 15, 16, 22, and September 5, 2006 minutes. Renee Kumor made a motion to approve the four sets of minutes. Stacy Rhodes seconded the motion. All members voted in favor.

Annual Election of Officers/Appointment of Secretary. Chairman Pearce presided over the annual election of officers and asked the members to offer nominations for officers. Renee Kumor re-nominated Tedd Pearce as Chairman and Mike Cooper as Vice-Chairman. There were no other nominations made. Tommy Laughter seconded the motion and all members voted in favor. Chairman Pearce appointed Kathleen Scanlan as secretary to the Planning Board. The officers for the coming year are Tedd Pearce, Chairman; Mike Cooper Vice-Chairman; and Kathleen Scanlan, Secretary. (John Antrim arrived).

Adjustments of the Agenda. There were no adjustments to the agenda made.

Staff Reports. Mr. Starr mentioned that he feels Staff needs more time to complete the work on the Land Development Code to present a final draft copy and would like the permission of the Board to cancel the Special Called Meeting for Thursday, September 21, 2006 and reschedule it for Tuesday, October 10, 2006. Board members were in agreement and Chairman Pearce discussed the best time to meet so that all Board members would be able to attend. It was decided to reschedule the special called meeting for Tuesday, October 10, 2006 at 4:00 p.m. He asked that the secretary get back with everyone to make sure the date and time will not conflict with their schedules and to send out, by e-mail, a notice of the change of the meeting once agreed upon. (Tommy Laughter left the meeting).

OLD BUSINESS:

Special Use Permit Application – (#SP-06-01) – Referral of Special Use Permit Application from the Board of Commissioners – Request for a Special Use Permit for Vistas at Champion Hills Planned Unit Development – Chris Day, P.E. with Civil Design Concepts, P.A. for Kasey-Phillips Development, LLC, Applicant. Mr. Cable said the reason why this item was tabled at the last Planning Board meeting was to allow the applicant some additional time to pull together more information for Staff so that Staff could review the application. He said the packet included information from the applicant of what Staff requested from them and what was provided. At the time the packets went out, the applicants were missing two items. One item was the documentation from Champion Hills approving the sewer system, but since then the applicant has provided Staff with a letter from Champion Hills showing that they are in agreement with the development using the pump station. He said that the only thing that they haven't shown is an approved road name for the street. Mr. Cable said that Mr. Day has submitted a list of potential names to Property Addressing which should be revisited within a few days. Chairman Pearce

asked whether there was any reason why the Board would not want to recommend this special use permit application. Mr. Cable said that as long as the Board is in agreement with the list of conditions and have reviewed the report, as well as all of the information provided being accurate, he didn't feel that there would be any reason why this application wouldn't be approved. Mr. Cooper asked, "Do you have any requirements that basically say that the gentleman that signed on behalf of Champion Hills has the authority to sign to grant that permission, to require such documentation?" Mr. Cable said that Staff simply needs documentation that Champion Hills is aware of the request. As a condition of approval, it is required that the applicant submit engineered and detailed plans showing sewer and water. This is normally required as it is a condition of the permit, but they go through the entire process before that is actually provided to Staff and if they do not provide it they would not get their permits. Mr. Day, agent for the developer from Civil Design Concepts, said that he has spoken with all concerned at Champion Hills and their engineer regarding the sewer and stated that at the time that this goes forward, they will submit to the Champion Hills engineer, which is Lapsley and Associates, a detailed review and study of the pump station that shows whether or not it has current capacity or whether the pumps will need to be upgraded to increase that capacity. Mr. Cooper also inquired, "Is Champion Hills willing to treat your sewer discharge or will you be paying for that discharge?" Mr. Day said that he wasn't sure what the developers have worked out with Champion Hills, but assuming approval with this Board, it will go before the Champion Hills board for approval for various issues. He said that he has reserved a road name called *Cherokee Knoll Court*. He said that the County's Property Addressing Office has it in the system as reserved.

Chairman Pearce made a motion to recommend to the Board of Commissioners approval of the Special Use Permit Application #SP-06-01, for Vistas at Champion Hills Planned Unit Development subject to the conditions of the Staff report and the information provided. Mike Cooper seconded the motion and all members voted in favor.

Request for Development Plan Extension – Hutch Mountain Estates – Major Subdivision (File # 2006-M12) – Terry Baker, Agent for Chad Cabe, Owner. Before reviewing this request, Chairman Pearce proposed the idea of giving the Planning Director the authority to administratively grant extensions to subdivisions. After discussing this among Board members, he asked that Staff put together language regarding this issue in the Land Development Code for recommendation to the Board of Commissioners. Mr. Card stated that on July 20, 2004 the Henderson County Planning Board conditionally approved a Combined Master Plan and Development Plan for Hutch Mountain Estates. Mr. Terry Baker, agent for the developer, submitted a letter requesting a one year extension for the Development Plan approval of Hutch Mountain Estates. Mike Cooper made a motion to grant a one-year extension and this would begin July 20, 2006, the date the Development Plan approval expired. Stacy Rhodes seconded the motion and all members voted in favor.

Crystal Creek, Phase 1 and Crystal Heights, Phase II – File # 2006-M40) – Development Plan – 36 Single-Family Lots) – Located off Patterson Road – Associated Land Surveyors, Agent for Etowah Developers, LLC and Dan Ducote Enterprises, inc., Owner. (Chuck McGrady arrived). Mr. Card said that this subdivision came to the Planning Board approximately two months ago for Master Plan approval. He said the Planning Board approved the Master Plan and there has not been any change in the plan. Mr. Card said that they have proposed a dry hydrant on the lake and he showed the thirty-foot access easement to it located between lot 33 and lot 29.

Staff Comments for approval:

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

2. **Private Roads.** Because private roads re proposed, the final plat(s) must contain 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*
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 final plat approval.
4. **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.
5. **Road Grade.** A professional engineer or professional land surveyor must certify on the final plat that no portion of private roads have grades that exceed the maximum allowable grade, which is 18% grade for paved local residential roads and 16% grade for paved collector roads.
6. **Water Supply.** Since the applicant is connecting to a private water system, then according to the HCSO, the applicant must provide evidence that the water supply plans have been approved by the appropriate agency; however, the final plat shall not be approved until all such final approvals have been obtained.
7. **Proposed Lot # 18.** Proposed lot # 18 is an existing lot in the Rambling Ridge subdivision and has adequate frontage on Deer Run Road in Rambling Ridge. Lot # 18 however does not have adequate frontage on Crystal Heights Drive in Crystal Heights but according to the applicant lot 18 will be served through Rambling Ridge and not change. In the HCSO it states that the narrowest width of any lot abutting the right-of-way will be 30 feet. Since this lot has adequate frontage on Deer Run Road then it appears that frontage requirements are satisfied. A revised Development Plan must be submitted showing that lot 18 has adequate frontage on Deer Run Road then it appears that frontage requirements are satisfied. A revised Development Plan must be submitted showing that lot 18 has adequate frontage on a right-of-way as required by the Subdivision ordinance.
8. **Right-of-way for Clifton Property.** According to current County tax records, it appears that a 30-foot right-of-way dissects lot # 18 and is used to serve the Clifton property. The applicant must not obstruct the legal right to access the Clifton property through this right-of-way. The applicant must also submit revised Plans labeling the existing right-of-way accordingly. At the planning Board meeting the applicant should discuss the future use of this right-of-way and access to the Clifton property.

Mr. Card said that regarding comment # 7, which talked about lot # 18, and an easement or right-of-way on the property, which served the Clifton property and went out through the proposed road and through lot # 18 and connected to Rambling Ridge subdivision (Deer Run Road). This was not shown on the Development Plan. Mr. Card said that they have submitted revised plans today showing the right-of-way, which was part of what was requested. Mr. Card mentioned that they have also addressed comment # 8, which was concerning the right-of-way and showing it on the plan. He added that in comment # 7, it addressed lot # 18 and the frontage and since it does have frontage on Deer Run, he feels that it is adequate and meets the standards.

Mr. Cooper asked, "Because the maps provided does not show clearly the contours, is the access to the pond, where they are giving you the right-of-way, provide an all-weather road with the grade not being too steep?" Mr. Card said that the contours follow the actual strip of land, but the engineer would be more familiar with this. Mr. Card also indicated that there has been a change from the developers indicating a proposal of public roads instead of private roads and would like to revise their plans to reflect that.

9. **Comments from the Fire Marshal.** Mr. Card mentioned that they plan on having three-inch water lines throughout the development, so they do not plan on having hydrants. They are proposing dry hydrants. He said that the Chief of Valley Hill Fire Department submitted a comment saying that he wants to meet with the developer and discuss the access and the installation of the dry hydrant so he can monitor the process and make sure that it is set up right.

Ms. Kumor asked how does the revised plan for this subdivision relate in terms of lot # 18, does it exist. Mr. Card said that the Clifton property had a right-of-way, but was not shown on the original plan, so what was done on the revised plans is that they have shown the 30-foot right-of-way through lot # 18, through the road and then accessing the Clifton property and that is what was added to the revised plan. Ms. Kumor said, there isn't a lot # 18? Mr. Card said that there still is a lot # 18 and is included as part of the subdivision.

Mr. Terry Baker, agent for the developers said that lot # 18 was bought for access to water and the water system is located in Rambling Ridge subdivision and that is how this development is going to connect their water systems. Lot # 18 is not part of Crystal Creek, but remains a lot in Rambling Ridge, as they purchased it because the water system is on Deer Run Road and they have granted access for the water to this subdivision. As far as the right-of-way, we have shown it on the Development Plan. Mr. Baker said that regarding the two names, we had suggested changing the subdivision to one name, but that was not accepted with the owners, so it will remain both names for the time being.

After some further discussion, Chairman Pearce made a motion that the planning Board find and conclude that the 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 Development Plan be approved subject to the change in comment # 2, that the roads will be public roads and subject to NCDOT road standards and regarding comment # 7, the proposed lot # 18 is excluded from the development and is an existing lot in Rambling Ridge and not part of this subdivision approval and that the right-of-way is on the Development Plan that the Board was provided with tonight. Mr. Cooper said regarding the statement from the City of Hendersonville granting the development water and making them aware that some day, all of the people that are tied on to their system of Champion Hills that they put in, may be forced to pay a part of prorated portion of upgrading the system. He asked, who and what will be responsible for paying those expenses, if this is developed out and the homeowners are suddenly tagged with a large amount to upgrade the system and how does that work legally? If it is handled as an assessment, is there anything that needs to be recorded that would make the homeowner aware that they are buying into this situation? Mr. Starr said that it would be between the parties and not an issue that the Planning Board would necessarily address. Mr. Baker said that when the development was first started it was discussed with the City of Hendersonville Water Department and they said that when they go to do this, the City of Hendersonville will have nothing to do with lines or meters until everything is in place then the other company that is maintaining and doing that will have the developers of this subdivision to pay an amount per lot for usage fee to the City of Hendersonville. He said he understood that this would be for assisting in improvements for later use. He added that it is a split system with two different companies. Mr. Baker added that the developer will be responsible if anything happens.

Ms. Zambon, Associate County Attorney, felt that this was a private issue and not a public or county issue. Chairman Pearce asked Ms. Zambon to look into this issue and get back with the Board. Mike Cooper seconded the motion and all members voted in favor.

Green Mountain Vistas – (File # 2006-M38) – Combined Master Plan and Development Plan – (24 Single-Family Lots) – Located off Green Mountain Road – Luther E. Smith and Associates, Agent for Phoenix Housing Group, Owners. (Stacy Rhodes recused himself from any discussion or decision in this review because of his relationship with the developers). Mr. Prinz stated that this is a revised Combined Master and Development Plan for the Green Mountain Vistas major subdivision. He said it was originally approved on March 18, 2006, but the developer has reapplied to add an additional seven lots to this development. The secondary change was that they have re-aligned the road so that it would access off of Green Mountain Road, a little further up rather than where they had originally proposed.

Staff has reviewed the Combined Master Plan and Development Plan for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the comments that follow.

1. There were no revisions to the Master Plan are necessary.
2. Revisions to Development Plan. No revisions to the Development Plan are necessary.
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. The applicant must obtain a driveway permit through NCDOT for the proposed entrance on Green Mountain Road 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 Green Mountain Vistas Combined Master and Development Plan. The Planning Board may choose to discuss these comments and impose conditions as necessary to ensure compliance with the HCSO.

1. Comments from the Henderson County Fire Marshal's.
Mr. Prinz stated that the Fire Marshal was concerned with the type of road construction, but the local road in this situation has applied to reduce the shoulder width and that is based upon the excessive cross slope. He said that when you have an excessive cross slope on a local road, you can reduce the shoulder requirements from four to two feet on either side and that is what the Fire Marshal was concerned about. Mr. Prinz said that at this time, the Ordinance does allow it and as long as they can certify that the cross slope on this road exceeds 20% and he doesn't feel that the Board can take any action to require them to widen their shoulders.
2. Comments from the Henderson County Environmental Health Office, Jerry Robinson .
Mr. Prinz said that the results of Environmental Health testing may require the reconfiguration and/or recombination of lots to accommodate the approval of individual water supply and wastewater disposal systems for each development parcel. Such

actions would not require approval of a revised Combined Master and Development Plan for the subdivision.

Hunter Marks, agent for the developer stated that there is a soil scientist out on site and said that they were aware that some of these lots might need to be combined, depending on what they find. Ms. Kumor wanted to know what the access is to Lot 19. Mr. Marks showed on the map the access point. Chairman Pearce asked whether the area where lot 9 is located, over thirty feet at the top? Mr. Marks said that it was.

Mike Cooper made a motion that the Planning Board find and conclude that the revised Combined Master and Development Plan for the Green Mountain Vistas 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. John Antrim seconded the motion and all members voted in favor.

Phase 1, Phase 2 Development Plan and Revised Master Plan for the Mountain Place Major Subdivision (File # 06-M1). (Stacy Rhodes returned to the meeting and John Antrim left). Mr. Card said that this is a revised Master Plan and Phase 1 and 2 Development Plan. He said lots 1R and 3R of Phase 1 were approved as part of a minor subdivision in January 2006 and lot # 2 was recombined with lot 1 to accommodate well and septic systems. On April 11, 2006 the Planning Department conditionally approved an expansion to the minor subdivision which consisted of a total of nine lots in Phase 2. He said they later came back with a major subdivision application to expand this into what is being presented. He said the Planning Board approved the Master Plan in July and now they are coming back for Development Plan approval. Mr. Card said that there is an existing road, which is a deeded road that serves a lot. The portion of Bobs Creek Road to lot # 9 has been built and was approved as part of the minor subdivision. Mr. Card said that there were some concerns regarding that portion of the road. He said that now they are proposing seventy-two lots, they would have to upgrade it to a collector road. He said it basically meets a collector road standard because it has a 50-foot right-of-way and was built to 18-foot road width, but the curve radii are a bit under the required 110, but they can comply with this reduction in curve radius that goes down to 80 feet, but the developer does not have any curve radii that goes down to 80 feet. Mr. Card stated that he has talked with the engineer on site, Paul Patterson and asked about the cross slopes, and he mentioned that the cross slopes in this area were from 21 to 35%, so they definitely exceed 15%. Dealing with cross slope reductions, with collector roads you can reduce your shoulders down to two feet from the required six feet, if there is a cross slope that exceeds 20%, so they can take advantage of that reduction as well. Mr. Card said that the remaining concern is with the grade. He said that they have not put the grade on this plan, but there is a concern that the grade might not meet the 16% maximum grade for collector roads. He said he may be 17%. Chairman Pearce asked, "Would they have to ask for a variance because of this?" Mr. Card said reviewing the Subdivision Ordinance, the major subdivision procedures do not say anything about this particular case, but the minor subdivision procedure actually does. He said it says in the Subdivision Ordinance: *If a minor subdivision is ever expanded, the Planning Board may require the upgrading of improvements including road paving, utility upgrading and additional right-of-way dedication....if an expansion of a minor subdivision results in a total of greater than 10 lots, the applicant will be required to reapply as a major subdivision.* Mr. Card said that based on that language in the Ordinance, this would be up to the Planning Board for determination.

Staff Comments for approval:

1. **Final Plat Requirements.** The final plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance.
2. **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.

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 final plat approval.
4. **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.
5. **Road Grade.** A professional engineer or professional land surveyor must certify on the final plat that no portion of private roads have grades that exceed the maximum allowable grade, which is 18% grade for paved limited local residential roads and 16% grade for paved collector roads.
6. **Farmland Preservation District.** The Final Plat should include a notation that the property is within ½ mile of land in a Farmland Preservation District.
7. **Stub Road.** The length of the stub road extending into lot 4R is not labeled on the Plan. The applicant should clarify this length. The applicant may want to consider removing the alternate turn-around cross section from the Plan as it appears that no alternate turnarounds are used.
8. **Cross Slope and Curve Radius.** According to the road cross section for collector roads, provided on the Development Plan, a 4-foot shoulder is proposed. According to the HCSO a collector road shall have a minimum 6-foot shoulder width and that on collector roads, in cases where the existing cross slope is greater than 10% but less than 20%, a four-foot minimum shoulder width shall be permitted. If the applicant is utilizing this exception pursuant to this Section, then notation of the final plat describing the exception must be provided. It also appears that a few centerline curve radii on Katelyn Lane, a proposed collector road, do not meet the minimum of 110 feet for collector roads. The applicant must build all roads pursuant to the standards of the HCSO.
9. **Development Plan Details.** It appears that the approximate road grade is missing from the Development Plan; revised plans should be submitted showing this detail.
10. **Road AA.** During review of the Mountain Place minor subdivision and after some discussion with the applicant it was determined that a turnaround would not be needed on proposed Road AA. After further review, it appears that this road shall either have a turnaround or be shortened to comply with the regulations in Section 170-21, H of the HCSO, Section 170-21, H states that vehicle turnaround areas shall be provided at the end of all roads that exceed 300 feet. Mr. Card said that it appears that as measured from the centerline of Hollybear Lane, Road AA is 301.43 feet long. Mr. Card said it needs to be interrupted whether you measure to the centerline of the road or to the edge of the pavement. Mr. Card said that Mr. Patterson had mentioned that generally you measure to the edge of the pavement and in that case, it would be 287-some feet and would not exceed that 300 foot requirement. Mr. Card said that measuring to the edge of the pavement is fine. Mr. Starr mentioned that measuring from the centerline is much easier to determine where the beginning and end point is. Mr. Card said that as long as Staff gets a notation that it is 287-some feet from the edge of the pavement, we'll know how long the road really is because it potentially will be serving three lots or less.

11. **Comments from the Fire Marshal.** Mr. Card mentioned that Mr. Hyder's comment was suggesting developing a dry hydrant or stream impoundment but the Planning Board can only require the applicant to meet the minimum standards of the Henderson County Subdivision Ordinance and that the Planning Board may not have the authority to require any additional standards to the subdivision. Chairman Pearce asked whether in the new Subdivision Ordinance has there been any consideration regarding emergency services. Mr. Card said that Staff has added language in the Subdivision Ordinance based on the Fire Marshal's comments dealing with fire protection, road standards, etc.
12. **Comments from Property Addressing.** The Property Addressing Office submitted comments stating that the road must form an intersection or only one road name will be needed.
13. **Comments from Environmental Health.** This office mentioned that the lots are steep and rocky and may require pits for most soil evaluations.

Chairman Pearce said to Paul Patterson, agent for the developer, that the main issue appears to be the road grade and that the Board does not know whether you are requesting a variance from the standards. Mr. Patterson said that the only thing they are requesting is the side slope variance on the shoulders and curve radius. He added that he feels this is a pre-existing road and he wished that it had been addressed to that point because the road has been stoned and paved and everything is ready to go. He mentioned that it was his understanding as well as Mr. Brown's that once he got the road up to a certain point, that the minor subdivision for lots 4,5,6,7,8, and 9 was going to go ahead and go through, so that wasn't going to be a point and that Clarence Jenkins had done all of the road shots. Chairman Pearce said that we still have the issue that when you expand a minor subdivision into a major subdivision and the requirements thereof, generally we try to require them to meet the same road standards as a major subdivision would require to prevent the developer from using the minor subdivision rules as ways to circumvent to make the subdivision rules. Mr. Patterson said that if this had come to us earlier we would have done something about it, but it was just received earlier today. Mr. Patterson added that he feels that the road grades are less than 18%. After some discussion, Mr. Patterson stated that he feels it was a pre-existing road that was pre-approved as part of a conditional approval for minor phases 4 – 9, which was back in April, 2006. He said that was one of the conditions that the roads get paved and that the roads were 18%. He said that now that the master plan has come through, the delay at that time was with Duke Power.

Mr. Starr suggested that since this Board can not decide on the variance itself that you could approve the development contingent on: (1) that a certification is provided that it meets the grade requirements as the standards are now or (2) that they obtain a variance from the Board of Commissioners and they then would follow that process to hear the issues of whether a variance is warranted or not in this case.

Mr. Brown, owner and developer, stated that it is an existing road as he and his son has been living there for over six years. Chairman Pearce said that it isn't an existing subdivision road and the Board would have to consider that in any decision that is made. Chairman Pearce asked Ms Zambon her opinion on this issue. Ms. Zambon said that first the amount of grade needs to be determined and then regarding whether or not it is an existing road because of the different standards between a minor and major subdivision. She said even if it is an existing road and had a house on that road, it would be completely different type of road if there were ten houses on it, so the fact that there is a road there now, doesn't affect the fact that it may or may not meet the standards necessary for a major subdivision. She said she agrees with Mr.

Starr's comment and that the Board can give conditional approval based on the grade and then if they get a variance from the Board of Commissioners, if they needed one. Mr. McGrady said, "What do you anticipate that is going to be needed in terms of soil and erosion and sedimentation control plan, will there be one?" Mr. Patterson said that when he showed up on the site the roads were already in and had been in for six years, all that we did since I've worked on the project is do some cosmetics in different areas to make it a little wider. He said that we have cross slopes and are only requesting two-foot shoulders because of that. He added that no soil and erosion plan is needed because we have taken soil control measures.

After some further discussion regarding the road grade, Mike Cooper made a motion that the Planning Board find and conclude that the Phase 1 and Phase 2 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 Phase 1 and Phase 2 Development Plan be approved subject that the existing road built to serve the minor subdivision must meet collector road standards and not to exceed 16% grade or the applicant can apply for a variance from the private road standards. Also, regarding the cross slope and curve radius, that since the cross slope is over 20% for these Phases, then the applicant may take advantage of the shoulder reductions for collector roads as per the Henderson County Subdivision Ordinance and curve radii reduction pursuant to the rules for collector roads. The applicant must build all roads pursuant to the standards. In addition, the applicant would not need a turnaround on Road AA because the road as measured from the edge of pavement is under 300 feet and that a revised Development Plan should show the centerline length from edge of pavement to ensure compliance with the standards of the Henderson County Subdivision Ordinance. Gary Griffin seconded the motion and all members voted in favor.

Mr. McGrady said he feels the Planning Board is going to have subdivisions coming before it in this interim period before the approval of the Land Development Code which should not be approved. He said that he visited this particular subdivision and that it was extremely steep, lacked fire protection and that the stream is located at the bottom of all of this and this leads to doubt regarding soil and sedimentation with comments that were given. He said he was not suggesting a moratorium but feels uncomfortable about any additional requests going to the Board of Commissioners until the Land Development Code is in place. Mr. Starr said that at the Board of Commissioners meeting tomorrow, September 20, 2006, he plans to ask the Commissioners to consider, given our timeline and process to follow not accepting any further text amendment applications, rezoning requests or special use permit applications that the Board hasn't already received. He said we are at a point now that if we receive any further requests, we could have a new ordinance adopted before they reach the Board of Commissioners to hold a public hearing. He asked if the Planning Board would also consider making a motion recommending this as it would be helpful. (Tommy Laughter returned to the meeting). All members supported Mr. Starr's requested recommendation to the Board of Commissioners.

NEW BUSINESS:

Willow Oaks – (File # 2006-M39) – Combined Master Plan and Development Plan – (14 Single-Family Lots) – Located off South Rugby Road – Laughter, Austin & Associates, Agent for Willow Run Farms, Inc., Owner. Mr. Prinz stated that Willow Oaks are a Combined Master Plan and Development Plan. The development is to be located on a parcel of land 21 acres in size on South Rugby Road, in the area of Westwind Drive. Willow Oaks are proposed to consist of 14 single-family residential lots and will be developed in one phase. The developer plans for all of the homes to be served by public water (from the City of Hendersonville) and individual septic systems. Two proposed private roads (Willow Oak Lane and Willow Oak Drive) will serve the

development. The project site is located in an R-40 Estate Residential zoning district, which does regulate residential uses of land. The subject property is also located within a designated Water Supply Watershed IV area. Henderson County GIS identifies one perennial stream on the property.

Staff has reviewed the Combined Master Plan and Development Plan for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the comments that follow.

Mr. Prinz stated that there are no revisions to the Master Plan.

1. **Revisions to Development Plan.** The following changes must be made for the Development Plan portion of the Combined Master Plan and Development Plan to be in compliance with Appendix 5 (Development Plan Requirements) of the HCSO:
 - i. The large-format copies of the Combined Master and Development Plan must be revised to reflect that the subject property is located within a Water Supply Watershed IV area, at present it shows that it is in a Watershed II area, which is incorrect.
2. **Road Names.** All proposed road names must be approved and reserved by the Henderson County Property Addressing Office.
3. **Water Supply.** According to Section 170-20B (1) of the Henderson County 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 (not to exceed 5,000 feet). According to the Combined Master Plan and Development Plan, the proposed project site is located within 5,000 feet of the nearest public water supply (City of Hendersonville). Therefore, the Applicant is required to connect to the public water supply to satisfy this requirement of the Subdivision Ordinance. The applicant has proposed public water for the project, and as a result, must also provide evidence that the water supply plans have been approved by the appropriate agencies (City of Hendersonville and NC DENR). The Combined Master Plan and Development Plan may be approved contingent on final approval from such agencies; however, a final plat will not be approved for the project 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).
4. **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 provides documentation that no plan is required prior to beginning construction (HCSO 170-19).
5. **Driveway Permit.** The applicant must obtain a driveway permit through NCDOT for the proposed entrance on South Rugby Road and provide evidence of permit issuance to the Planning Department.
6. **Farmland Preservation Program.** The subject property is within ½ mile of a Henderson County Farmland Preservation District, by which, the developer is required by the HCSO to submit an Affidavit of Understanding of Farmland Preservation District (Appendix 11 of the HCSO) with their major subdivision application.

7. **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 Willow Oaks Combined Master Plan and Development Plan.

Comments from the Henderson County Fire Marshal's Office.

Given that the developer has proposed to connect to public water, the location of all proposed hydrants should be shown on a revised Combined Master Plan and Development Plan.

Comments from the Henderson County Zoning Administrator.

The development, as proposed, appears to meet all of the dimensional requirements of the R-40 zoning district and the WS – IV watershed area. If approved, the Zoning Administrator will be responsible for ensuring that all structures built within the subdivision meet the appropriate minimum property line setbacks.

Mr. Cooper said that on lot # 7 there is a big transmission line going through and is noted as *open space*. He inquired if the developer plans to sell that lot, because he doesn't feel they can build in that right-of-way. Mr. Laughter, agent for the developer, said that they are taking advantage of that lot for sale, enough though the homeowner won't be able to build on the Duke Power easement, the lot can be used for a pasture or garden area. After some discussion, Board members felt that the designation of *open space* should be removed from lot # 7 and stated that this would be made a condition of approval.

Renee Kumor made a motion that the Planning Board find and conclude that the 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 Development Plan be approved subject to removing the word *open space* from lot # 7 on the revised plat. Stacy Rhodes seconded the motion and all members voted in favor.

Drew Boggan, resident of Bob's Creek Road in the proposed development of Mountain Place, said the road mentioned was not an existing road but a gravel driveway and said that he is opposed to it. He mentioned that the road is dangerous and a subdivision in the proposed location will ruin the beauty of the landscape in the area. He also questioned whether the developer had followed soil erosion regulations in building the road. Mr. McGrady asked whether the policy has changed. He said previously people could comment at the time the subdivision was being discussed, which would be helpful for the Board in determining their decision. Chairman Pearce apologized to Mr. Boggan in not giving him the opportunity at the time of the discussion of the subdivision and requested that the secretary make sure that a sign up sheet is prominently located for all citizens for public input.

Adjournment. There being no further business, the meeting adjourned at 7:18 p.m.

Tedd Pearce, Chairman

Kathleen Scanlan, Secretary