

HENDERSON COUNTY PLANNING BOARD MINUTES

August 15, 2006

The Henderson County Planning Board met on August 15, 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; Mark Williams, 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; Russell Burrell, County Attorney; Chuck McGrady, 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 July 18 and July 25, 2006 minutes. Renee Kumor made a motion to approve both sets of minutes subject to some typographical errors. John Antrim seconded the motion. All members voted in favor.

Adjustments of the Agenda.

Chairman Pearce informed the Board members that he would be leaving early due to a personal engagement and that Mike Cooper, Vice-Chairman, would be acting as Chair. Item 13, regarding the Zoning Ordinance Text Amendment, were moved to Item 6 in the interest of time for the members of the public present. All members were in favor of the adjustment.

Staff Reports.

Mr. Starr briefly mentioned that after this meeting, the Planning Department and Board will have approved approximately 2,100 subdivision lots since January, 2006. This is a 72% increase since last year. He added that, so far in this year, we have approved as many lots as we've approved for the entire year of 2005.

OLD BUSINESS:

Update on Land Development Code – Planning Staff. Mr. Starr stated that the Planning Board is scheduled to meet tomorrow, August 16, 2006 at 3 p.m. and will discuss the Code at that time.

Henderson County Zoning Ordinance Text Amendment – (TX-2006-01) – Request to Amend the Text of the Henderson County Zoning Ordinance, including §200-21 (C-2 Neighborhood Commercial District), §200-22 (C-4 Highway Commercial District), §200-23 (I-1 Light Industrial District), and §200-24 (General Industrial District) – Angela Beeker, Attorney for Jeff Naber, Rod Rogers and the Sedgewood Property Owners Association. Mr. Cable said that on July 14, 2006 Angela Beeker, on behalf of her clients, Jeff Naber, Rodney Rogers and the Sedgewood Property Owners' Association, submitted an application to amend four sections of the Henderson County Zoning Ordinance.

He said the first amendment, to Section 200-21 of the Zoning Ordinance, would eliminate light industrial uses and junkyards as conditional uses in the C-2 zoning district. The C-2 District is intended to provide for general and commercial activity along major thoroughfares and concentrated general commercial activities.

He said the C-2 district occurs in a number of areas across the County. The parcels included in the C-2 district contain a variety of uses. These include residential, commercial, public facilities, and vacant land uses.

Mr. Cable said the second set of amendments, to Sections 200-22, 200-23, and 200-24 of the Zoning Ordinance, would add mini-storage facilities to uses allowed by right in the C-4, I-1, and I-2 zoning districts.

Mr. Cable then reviewed the C-4, I-1 and I-2 Districts. He said that Staff's position at this time, under the guidelines of the current zoning ordinance, plans, policies and studies, is it supports Proposed Amendment 1 to Section 200-21 of the Zoning Ordinance, to remove light industrial and junkyard uses as conditionally permitted uses; contingent upon the addition of "gasoline service stations" as conditionally permitted uses in the district. This based on the following:

1. The CCP suggests the analysis of existing commercial and industrial districts are necessary to identify appropriate modifications to the Zoning Ordinance. Further, the CCP suggests that the Zoning Ordinance be improved to allow for innovation and adaptation within commercial districts while assuring the protection of adjacent residential development. The permitted uses of the C-2 district may be expanded as a result of these recommendations; however, these recommendations also suggest that currently permitted uses may also need to be removed.
2. The text of the 2020 CCP suggests revisions to the Official Zoning Map are necessary to direct commercial and industrial development to specific areas and to protect adjacent residential development. According to the CCP, industrial development should occur largely within the areas identified by the Industrial Study.
3. The text of the C-2 district indicates that the purpose of the district is to provide for "general and commercial activities" along major thoroughfares and other convenient points in the area.
 - a. C-2 district permitted uses include retail businesses, medical facilities, offices, schools, civic and cultural buildings, churches, public utilities/facilities/buildings, and shopping centers. Staff's position is that these permitted uses adhere to the description of "general and commercial activities."
 - b. C-2 district permitted conditional uses also include light industry uses and junkyards. Staff's position is that light industry uses do not seem to be in keeping with "general and commercial activities" as such uses include: machining and assembly operations, storage plants and tanks, warehouses, junkyards, tire recapping and retreading, and truck terminals.
4. Staff does suggest the modification of the applicant's proposed amendment by the addition of "gasoline service stations" as conditionally permitted uses within the C-2 district. Convenience stores are permitted within the C-2 district and it is Staff's position that a gasoline service station is a similar use. Staff suggests a conditional use permit be issued for this use due to the addition of the accessory gas pumps outside of the gasoline service stations. Staff would also like to point out that, without the modification to the amendment, three new nonconformities would result.

Mr. Cable said Staff's position is that it does not support Proposed Amendment 2, to Section 200-22 of the Zoning Ordinance to permit, by right, mini-storage facility uses. This based on the following:

1. Mini-storage facility uses should be permitted in the same fashion as warehouse uses within districts. The text of the C-4 zoning district permits warehouse uses as a conditional use. Staff's position is that mini-storage facility uses should, if permitted in the C-4 district, be permitted as a conditional use.

He said Staff's position is that it supports Proposed Amendments 3 and 4 to Sections 200-23 and 200-24 of the Zoning Ordinance to permit, by right, mini-storage facility uses. This is based on the following:

1. The I-1 and I-2 districts permit warehouse uses by right and therefore mini-storage facility uses should be permitted by right. By permitting the mini-storage facility uses in the I-1 zoning district, mini storage facility uses will be permitted as a conditional use in the C-4 district, meeting the intended purpose of the applicant's amendment request.

Further, Staff's position is that the 2020 CCP recommendations related to commercial and industrial development, the C-2 zoning district purpose statement, and the community interest in protecting adjacent residential properties from uses which are not in configuration with the surrounding neighborhoods and communities justifies Proposed Amendment 1, as modified by Staff, to Section 200-21; as well as Proposed Amendments 3 and 4 to Sections 200-23 and 200-24. Staff does not support Proposed Amendment 2 to Section 200-22 as the purpose of such would be better achieved through Amendment 3.

He said that it is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given text amendment application. Staff encourages the Applicant to present any information that would inform the County's consideration of the proposed text amendment.

Ms. Angela Beeker, who is the attorney representing the Sedgewood Property Owners Association, Jeff Naber and Rod Rogers.

Ms. Beeker reviewed the reason behind the request for the text amendment. She stated that it precipitated because of something that happened in their neighborhood. She said at the intersection of 191 and Mountain Road, there is being proposed a mini storage facility, which has historically been treated as a warehouse. She said that property is zoned C-2 as is a lot of other property around the subdivision. She added that they will also meet with the Board of Adjustment regarding this particular use, but she feels it caused the subdivision and the neighboring subdivision to take a more global look at what could happen on these other C-2 lots that are around their community. She said it was discussed and felt it was a good idea bring forward a text amendment to move these light industrial uses from a C-2 district, which is a neighborhood commercial district. She said, as stated by Staff, C-2 is intended for a neighborhood commercial activity and not the industrial activities. It is in accordance with the Comprehensive Plan. She said we understand we are requesting a text amendment in the middle of a rewrite, but unfortunately situations like a mini storage pop up while other things are being studied and she feels these homeowners need protection now and feel that they couldn't wait for the revision of the Code before bringing such a text amendment forward. Ms. Beeker said that Staff's position to amend the amendment to the C-4 District to make it a conditional use is appropriate. She said that Staff is proposing that they accept allowing a mini storage as a use by right in the I-1 district so therefore it is automatically allowed in the C-4 District as a conditional use and so it is still added to the C-4 District and she said they would accept that. She added that the reason why she brought forward the amendments to C-4, I-1 and I-2 is, in the hopes that they may win, and had it decided that a mini storage is not a warehouse, it would eliminate the creation of non-conforming uses in the County in the future. She said it is the only reason we are addressing mini storages and it was also the suggestion of the Planning Director that we go forward to do this request so that we would not create any non-conforming uses and also because they are not specifically addressed anywhere in the Zoning Ordinance. She added that she does not feel that they do meet the definition of a warehouse, so there is a gap there and this would address that gap for mini storages and eliminate some non-conforming uses. She said with regard to the gasoline service stations, she requested as Staff goes forward in the Code, that there be some conditions developed to make a gasoline service station more compatible with a neighborhood commercial district.

Mr. Jeff Naber, who lives in the Sedgewood Subdivision, distributed pictures showing the neighborhood and where he lives, which is adjacent to the proposed mini storage site. He pointed out the neighborhood-type businesses that are around the area and feels that they are appropriate for the neighborhood. He also showed photos comparing a mini storage site in the Mountain Home Industrial Park and the proposed mini storage site adjacent to his property. He stated that the big difference between the two sites is in elevation. He added that if the requested text amendment does not pass, there will be other properties where there are subdivisions mixed with industrial uses. He asked for help in protecting their neighborhood as well as others that could be affected by this same situation.

Mr. Rod Rogers, who also lives in Sedgewood Subdivision, said that this proposed mini storage facility is only 90 feet away from his home. He feels that if the requested text amendment is passed, it would maintain the kind of building more appropriate for the area.

Chairman Pearce basically stated that he feels a mini storage facility is not neighborhood friendly but rather suited better for heavy commercial or light industrial areas. Ms. Kumor said that she doesn't feel that Boards should need to constantly protect people and their homes. We write ordinances, we should always be paying attention to what people have invested in their property. She said the protection of the neighborhood should be one of the primary concerns of the Board.

Renee Kumor made a motion to send a favorable recommendation to the Board of Commissioners regarding the proposed text amendment, TX-2006-01 as presented by Staff. Tommy Laughter seconded the motion. Renee Kumor, Tommy Laughter, Tedd Pearce, Mike Cooper, Jonathan Parce, John Antrim and Stacy Rhodes voted in favor. Mark Williams and Gary Griffin opposed the motion. The motion carried seven to two.

Northwoods – (File # 2006-M35) – Combined Master and Development Plan Review – (28 Single-Family Lots) – Located off Pace Road – Barry L. Collins, Agent for Catherine Black, Owner/Developer. Mr. Prinz stated that Ms. Catherine Black, property owner, has re-submitted through Mr. Barry Collins P.L.S., a Combined Master Plan and Development Plan for a proposed subdivision to be known as Northwoods. The project is proposed to be developed on a parcel of land (PIN# 9690679356) approximately 18 acres in size on Pace Road, directly across from Edneyville Elementary School.

Northwoods is proposed to consist of 28 single-family residential lots and will be developed in two phases. The developer plans for all of the homes to be served by public water (from the City of Hendersonville) and individual septic systems. One existing public road (Clark Road) and one proposed public road (Northwoods Trail) will serve the development. The project site is located in a County Open Use (OU) zoning district, which does not regulate residential uses of land and is not located within a designated Water Supply Watershed area. Henderson County GIS identifies one perennial stream on the property. Chairman Pearce asked, "Has there been any major changes from the original?" Mr. Prinz said there is virtually no change except a few additions to the Development Plan

A Combined Master Plan and Development Plan for the Northwoods subdivision was conditionally approved by the Planning Board on February 18, 2003; however, approval of that plan expired in 2005. The developer is now seeking re-approval of the Combined Master and Development Plan.

Mr. Prinz stated that there were no revisions to the Master Plan. He said 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. **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.
 - A phase map must be included on the Plan.
 - The type and length of all proposed culverts must be shown on the Development Plan.
 - The location of all proposed fire hydrants must be shown on the Development Plan.
 - Mr. Prinz said regarding the 60' right-of-way serving lots 13, and 16 off of Northwoods trail, if these lots are not proposed as a public roads, then it would need to meet private road standards of the Subdivision Ordinance. The cross section that he has shown on the plan, does meet the minimum requirements for a private local residential road, which would have to be developed and serve those two lots. He said the length of that road isn't long enough that it would need a turnaround, it would just need to be developed to the minimum standards of a local road. Mr. Prinz talked with Curtis Griffin in Property Addressing, and because it does not serve more than three residential lots, it would not need a road name.
 - If a subdivision sign is proposed for the project, the sign location must be shown on the Development Plan.
2. **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).
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. **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.
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 Northwoods Combined Master Plan and Development Plan. The Planning Board may choose to discuss these comments and impose conditions as necessary to ensure compliance with the HCSO.

- **Comments from the Henderson County Fire Marshal's Office.** Rocky Hyder of the Henderson County Fire Marshal's Office stated that he would like all of the residential lots be located within 1,000 feet of a fire hydrant. He also mentioned that the 18-foot roadways would be adequate for emergency services.

There was some discussion about the 60 foot right-of-way and how it is going to be maintained. Mr. Barry Collins, agent for the applicant, stated that a prior Planner had him make it a 60-foot right-of-way to service lots 13 and 16. He added that there will be two driveways there, so regarding the maintenance, the two owners would take care of the driveway. He also stated that the people who are developing this project will probably go for the higher end of building the streets. Stacy Rhodes said that he feels it would look aesthetically better to have one drive coming in to branch off than to have two parallel spike drives, plus the cost would be less to have one drive.

Chairman Pearce said he feels that the road maintenance should be a condition of approval, whether there is something in the deeds on the affected lots or if there is going to be a homeowners association. Mr. Collins said that he doesn't feel there will be a homeowner's association.

Mr. Curtis Black, son of Catherine Black, property owner, he said if it was decided to add thirty feet to each of those two lots in question, would this process start all over again? Mr. Starr said that it could be administratively approved.

Chairman Pearce made a motion that the Planning Board find and conclude that the Combined Master Plan and Development Plan for Northwoods complies with the provisions of the Subdivision Ordinance except for those matters addressed in the Staff Comments section of the memo; and further move that the Combined Master Plan and Development Plan be approved subject to the following conditions: that an acceptable road maintenance agreement for the road or acceptance by NCDOT prior to final plat recordation and be incorporated into the covenants and restrictions for lots served by said road or right-of-way be divided by two lots as flag lots. Tommy Laughter seconded the motion and all members voted in favor.

Pre-application Conference for an Amendment to Mountain Lake Homes Planned Unit Development Special Use Permit – (#SP-04-01) – Todd Leoni, Agent for Camp Riley, Inc., Owner. Chairman Pearce asked Mr. Cable to review what the Board is amending regarding this project. Mr. Cable stated that it is a request to change all group septic systems and drain fields to public sewer. This would involve amending the Order to reflect the change and also for the development plan to reflect public sewer, because at present they are showing group septic systems in their open space areas on the present plan. Chairman Pearce asked any Board members whether they have any problems with this proposal. Everyone was in agreement to this amendment.

Request for Development Plan Approval Extension - Mountain Lake Homes Planned Unit Development – (Major Subdivision File # 2004-M15) - Todd Leoni, Agent for Camp Riley, Inc., Owner. Mr. Card said that Mr. Leoni is requesting an extension of the Development Plan approval for one year to finish the infrastructure. Mr. Cooper asked, "Are you planning on using the lots that you were going to use for a septic field, and further subdivide?" Mr. Leoni said that he wasn't going to do that. He said he is just trying to get sewer to the area. He did mention that he will need to go through some other homeowner's property and if he is unable to get the required easements through various people's property, he would like to reserve the right to cancel this request. Chairman Pearce said that the only approval that you have at present expires September 21, 2006 unless we approve a one year extension. He said unless the application is pursued, that is a dead issue. If that whole process is followed all the way

through, that would supersede the one that was approved in 2004. Renee Kumor made a motion to approve a one-year extension. Mark Williams seconded the motion and all members voted in favor.

River Stone – (File # 2006-M37) – Combined Master and Development Plan Review – (14 Single-Family Lots in Section 11, 538 Total Lots) – Located between Butler Bridge Road and North Rugby Road – Don Hunley with William G. Lapsley & Associates, agent for Windsor-Aughtry Company, Owner. Chairman Pearce stated that the Board reviewed this previously in a pre-application conference and asked Mr. Card to briefly review any additional changes to the plan. Mr. Card pointed a couple of things that have changed since the pre-application conference. Mr. Card said the applicant added a new section to the subdivision shown as Section 11 and it is proposed to have a total of 14 lots on 3.68 acres. The addition will bring the total of lots to 537. He said to accommodate the entrance for Section 11; the applicant is proposing to remove lot 60. Section 11 is proposed to be located on a portion of an adjoining property currently owned by Mr. Kevin Minish. In Section 11, a 30-foot driveway easement is proposed which will be used as a second access to the remaining portion of Mr. Minish's property. Mr. Card said that they then resubmitted a new plan for the Special Use Permit application purposes and also for subdivision purposes, and that bumped it up to 15 lots and also showed the 30-foot right-of-way, but the right-of-way was in a different location. Chairman Pearce asked whether the 15th lot is a shrinking of other property. Mr. Card said that it looks like it shrunk other properties. Mr. Card said what the Planning Board is to review is the 14 lots, because that is what has been submitted, but the Planning Board might want to consider the revised plans showing the additional lot and added that he does not have a problem with the additional lot. Mr. Card said that Mr. Minish has submitted an agent form for both special use permit and for the subdivision. Mr. Starr stated that Staff does not have a problem to amend the application as the change is not substantial. Chairman Pearce proceeded with the review including the additional lot.

Mr. Card stated that it appears that all requirements regarding the Master Plan have been met.

Development Plan:

1. **Original Approval.** All conditions of approval made at the September 20, 2005 Planning Board meeting continue to apply to the River Stone Subdivision.
2. **Driveway Easement.** Mr. Card stated that the 30-foot driveway easement to serve Mr. Minish's property is not labeled as to whether it will be public or private and will need to be. The road will need to be designed and constructed to a local residential road standards. Chairman Pearce asked, "is there any indication of who will be maintaining it?" Mr. Card said that he has not received any indication.

Final Plat Comments:

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

Standard Comments:

4. **Water and Sewer.** The applicant has proposed public water (City of Asheville) and public sewer (CCWSD). According to the HCSO, the applicant must provide evidence that the water supply and sewer system plans have been approved by the appropriate agency. All public or private (community) water supply and sewerage systems shall be installed and shall meet the requirements of the Henderson County Health Department

or other government authorities having jurisdiction thereof. The development plan may be approved contingent on final approval from such agencies; however, the final plat shall not be approved until all such final approvals have been obtained. Any subdivision served by a public water system shall meet the respective county or municipality's minimum requirements for fire hydrants installation (HSCO 170-20). The Henderson County Fire Marshal's Office has requested that hydrants are spaced 1000 feet apart or closer.

5. **Public Roads.** The applicant has proposed public roads. Roads are to be designated as public and labeled accordingly on the Final Plat. The roads shall be constructed in accordance with NCDOT standards. All roads proposed for public use shall be annotated as "public" on all plans and plats (Section 170-21A).
6. **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 of Section 11 (HCSO 170-19).

Review Agency Comments:

7. **Comments from the Fire Marshal.** The Henderson County Fire Marshal submitted comments regarding the subdivision. 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 to the subdivision.
8. **Other Review Agency Comments.** There are comments from the City of Asheville regarding public water approval for Section 1. Henderson County Utilities Department regarding capacity of the CCWSD Mud Creek Project and Natalie Berry, Henderson County Zoning Administrator regarding the projects conformance with the Zoning Ordinance and Flood Damage Prevention Ordinance.

Mr. Don Hunley stated that the road is going to be an additional driveway access for Mr. Minish and the rest of his property, which is being subdivided off. He said Mr. Minish is contracted to sell it off to the Windsor-Aughtry Company, which is a partner in the development under the Special Use Permit. He added that it will be private and just for his use.

After some discussion regarding the road issue, Chairman Pearce said that they have several options; build it to local residential standards; approve a re-submittal excluding the thirty-foot right-of-way and also exclude it from the modification and/or request a variance from the Board of Commissioners to make that a local limited road. Mr. Starr said he feels that creating a flag lot would be the best solution to not create any lots that are land-locked and can also avoid the road construction issue.

Chairman Pearce made a motion that the Planning Board find and conclude that the revised Master Plan and Section 1 Development Plan complies with the provisions of the Subdivision Ordinance except for those matters addressed in Staff Comments section that need to be addressed and further move that the revised Master Plan and Section 11 Development Plan be approved subject to the following conditions; the applicant satisfies any conditions that result from the comments listed and subject to giving the option of changing the driveway easement to a flag lot or build it to local residential road standards and if so, there would need to be a maintenance agreement provided on that section. In addition, the Planning Board is approving

the 15 lots not the 14 lots as previously indicated. Mike Cooper seconded the motion. All members voted in favor.

NEW BUSINESS:

Special Use Permit Amendment Application – (#SP-05-01-A1) – Referral of Special Use Permit Amendment Application from the Board of Commissioners – Request to Amend the Special Use Permit for River Stone Planned Unit Development (#SP-05-01) – Don Hunley, P.E., with William G. Lapsley & Associates, P.A., Agent for Drew Norwood of Windsor-Aughtry Company, Applicant. Mr. Cable stated that the proposed amendment would add Section 11, which is the 3.68-acre parcel, which is completely located within the R-15 district and will be subdivided into 15 lots. He stated that in the materials they submitted, there is an addition 2.1 acres of open space proposed. Chairman Pearce interrupted and stated that he would like to make a motion to accept this entire report. Mark Williams seconded the motion and all members voted in favor. Jonathan Parce made a motion to send a favorable recommendation to the Board of Commissioners for the Special Use Permit. Stacy Rhodes seconded the motion and all members voted in favor.

Chairman Pearce left the meeting at this time and called a five minute break.

Boulders at Stoney Mountain – (File # 2006-M30) – Combined Master and Development Plan Review – (42 Single-Family Lots) – Located off Randy Drive – Eric McAbee with McAbee & Associates, Agent for Peter Brower, Owner. Mr. Card stated that Mr. Peter Brower, owner, through Mr. Eric McAbee with McAbee & Associates, agent, submitted a Combined Master Plan and Development Plan application for a major subdivision titled The Boulders at Stoney Mountain. The project site is located on four (4) parcels of land totaling approximately forty (40) acres off Randy Drive and originally located within the City of Hendersonville's ETJ and was later relinquished from the ETJ on January 5, 2006. The County subsequently zoned this property to R-15. The entire project site is now located in the County's R-15 zoning district.

The applicant has proposed 42 single family lots of varying sizes. Individual wells and septic systems are proposed, although according to the Combined Master Plan and Development Plan the distance to public water is 1100 feet and the distance to public sewer is 3500 feet.

The subdivision will be accessed through a small parcel located on Randy Drive. Private roads are proposed. One alternate turnaround is proposed and three limited local residential roads (Marble Heights, Garnet Ridge and Feldspar Drive) are proposed. Slate Way and Sunstone Drive are proposed to be collector roads while the remaining roads will be built to local residential road standards.

Mr. Card stated that all the requirements have been met for the Master Plan.

Development Plan Comments

- 1. Minimum Curve Radius.** All subdivision roads must meet the private road standards found in Section 170-21 of the HCSO. Roads must also meet the standards for minimum curve radius (Section 170-21(F)). It appears that on the Plan some of the curve radii are less than the 90-foot minimum for private local residential roads and the 80-foot minimum for private collector roads. In areas where the cross slope does not exceed 15 percent the centerline curve radii must comply with the minimum of 90 feet for local residential roads and 110 feet for collector roads. Where the existing cross slope on private local residential roads is 15 percent or greater, a minimum centerline radius of 60 feet shall be permitted. Where the existing cross slope on private collector roads is 15%

or greater a minimum centerline radius of 80 feet is permitted. The Final Plat(s) must have a notation that states where the existing cross slope exceeds 15 percent a minimum centerline radius of 60 feet and 80 feet, respectively, are permitted (170-21F of the HCSO).

2. **Collector Road Standards.** The section of road between Sunstone Drive and Slate Way must be built to collector road standards because it appears that more than 24 lots are served by this section of road. It is unclear on the Plan which category of private road standards this section will be built to and the road name for this section of road.
3. **Turnarounds.** It is unclear, but it appears that Feldspar Lane is over 300 feet in length. According to Section 170-21, H of the HCSO, vehicle turn around areas shall be provided at the end of all dead-end roads that exceed 300 feet. The applicant must clarify at the Planning Board meeting the length of this road. The hammerhead alternate turnaround at the end of Jade Trail is 86 feet in total length. The Planning Board has approved similar designs to this alternate turnaround but according to Section 170-21, C(3) note 2 of the HCSO, alternate culs-de-sac may be approved by the Planning Board based on sound engineering design and public safety concerns. The Planning Board must determine if this design meets those criteria.
4. **Road Grade.** A professional engineer or professional land surveyor must certify on the final plat that no portion of private roads have grades that exceed the maximum allowable grade, which is 18 percent grade for paved local residential roads and 16 percent grade for paved collector roads.
5. **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. According to the Plan the project site is located within 1100 feet of the nearest public water line (City of Hendersonville). According to Section 170-20, B(2) of the Subdivision Ordinance, a subdivision shall be required to connect to a public sewer system when the subdivision is located within a distance equal to the product of 50 feet multiplied by the number of proposed lots: however, the maximum distance required for connection shall be 2,500 feet. According to the Plan, the project site lies within 3,500 feet of the nearest public sewer line (City of Hendersonville). The applicant will not be required to connect to the public sewer line.

As part of the application materials, the applicant's engineer Davis Civil Solutions, P.A. submitted a letter to the Planning Department discussing the hardship of connecting to the public water line. Section 170-21, B(3) states that exceptions to this provision may be allowed on the basis of terrain, availability of acquiring easements, denial of allocation by the public utility, insufficient capacity of the public system or other circumstances which are unusual or unique to the site. Planning Staff sent a review agency letter to the City of Hendersonville Water and Sewer Department and received comments. Staff has contacted the City again for more information about extending the public water line but has not been able to receive any more information. Staff would like to further discuss this with the City before an exception to Section 170-21, B(1) of the HCSO is made. If the City of Hendersonville can provide water to the site with sufficient capacity, then Staff feels that it may be necessary to connect to a public water line because of the characteristics of the land and based on comments from Department of Environmental Health.

Final Plat and Standard Comments

6. **Final Plat Requirements.** The Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance.
7. **Private Roads.** Because private roads are proposed, the final plat(s) must contain a note stating: *The private roads indicated on this final plat may not meet the requirements of the North Carolina Department of Transportation for acceptance into the state road system (HCSO 170-21B and Appendix 7).*
8. **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.
9. **Water Supply.** If the applicant is required to connect to public water (City of Hendersonville), then according to the HCSO, the applicant must provide evidence that the water supply plans have been approved by the appropriate agency. The development plan may be approved contingent on final approval from such agency; however, the final plat shall not be approved until all such final approvals have been obtained. Any subdivision served by a public water system shall meet the respective county or municipality's minimum requirements for fire hydrant installation (HSCO 170-20).

Review Agency Comments

10. **Comments from the Fire Marshal.** The Henderson County Fire Marshal submitted comments regarding the subdivision.
11. **Comments from Property Addressing.** Regarding comments from the Henderson County Property Addressing office, all road names must be approved before a final plat is approved.
12. **Comments from Environmental Health.** The comments were regarding the feasibility of individual septic and well systems.

There was considerable discussion among Board members on deciding whether the applicant should go with well and septic or to require them to tie on to public water. Mark Williams stated that the Fire Marshal's comment deals with public water supply and that all structures should be located within 1,000 feet of a fire hydrant.

Mr. Eric McAbee with McAbee and Associates, agent for the project, stated that their preliminary feasibility cost to install a storage tank, booster pump station, hydrants, would be somewhere in the \$ 425,000.00, so cost would be a big issue. He said that they have done preliminary soil samples and have gotten some samples back and found it was suitable for septic. He said that the developer understands that some of the lots are hopeful for getting good septic results and also understands that he may have to realign the property lines and may have to combine lots. The road will be less than 300 feet. After some discussion regarding soil testing, Mr. McAbee stated that the soil scientist has done the preliminary for soil testing for septic tanks and knows that he needs to do the test for every lot. He added that some of the lots are at the lower limit of getting septic and well, but will probably be in the high 30's to meet the septic requirements.

Mike Cooper 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: that the Planning Board specifically waives the requirement for the developer to have to tie on to City Water due to the expense and the hardship of the cost for this development. Renee Kumor seconded the motion and all members voted in favor.

Rezoning Application – (#R-2006-03) – Request to Rezone approximately 16.25 Acres Located off Asheville Highway US 25 north), from an R-30 (Low-Density Residential) Zoning District to an I-2 (General Industrial) Zoning District – Jesse D. Johnson, Agent for William W. Gregg, Owner and Applicant. Mr. Cooper asked whether there are any landowners present that are involved with this rezoning request. It was mentioned among some Board members that they feel notices should be sent out at this level because the homeowners are caught unaware once it gets to the Board of Commissioners.

Mr. Cable stated that the request is to rezone approximately 16.25 acres of land located off Asheville Highway, from an R-30 zoning district to an I-2 zoning district.

He said that Staff supports the rezoning request based on the 2020 CCP, the Industrial Study, the conditions of the surrounding area and the adjacent properties and the basic interest of preserving and expanding the industrial component of the County's economy.

Mr. Cable stated that the surrounding uses are some undeveloped lands. He said that there are some adjacent residential uses including a manufactured home park to the north and also some single-family lots. To the north, there are some industrial facilities such as Bildon, Inc. To the south are Berkley Mills and Carolina Material Sales as well as a cellular tower.

Ms. Kumor asked why Staff recommends Industrial in a floodplain and what response do you have to the impact it would have on the other neighbors?

Mr. Cable stated that Staff evaluated the request based on the Industrial Study, completed after the 25 North Zoning Study, which identifies a majority of the subject area as being suitable for industrial development, and the impact to emergency services. I-2 zoning could result in impacts to emergency service provision which would differ from those were the subject area developed under R-30 zoning, due to the nature of the permitted uses in this districts. Developing under either district would produce similar concerns including: the subject area's limited access, the current access point's location predominantly within the floodplain; and the resultant higher levels of impervious surface on the property as a result of development. Were the property developed under R-30 zoning, more dwelling units and residents could be placed at risk during a flood event. If the property developed under I-2 zoning, nonresidential units and workers could be placed at risk during a flood event.

Ms. Kumor stated if the residents around it do not find it preferable, why do you think that type of egregious insult to an R-30 neighborhood is something that is supported? Mr. Cable said he doesn't feel that it would be considered an insult because the I-2 zoning district currently exists in that area. Ms. Kumor said that the homeowners were insulted when it came in the first time. Mr. Cable said that the I-2 district does offer some protection to adjacent residential regarding buffering. Ms. Kumor said that she feels I-2 is the dirtiest district that you can have in a neighborhood, so you are suggesting that in a middle of an R-30 district, in a floodplain, we put what is the dirtiest we can do? Mr. Starr clarified that it will not be in the middle of an R-30 District, but contiguous to an existing industrial district. He said Staff had discussed at length the fact that the Industrial Study recommended it. Ms. Kumor wanted justification that a long narrow strip is an important industrial asset to our community. Mr. Starr said that they had discussed at length that a good portion of the property is in the floodplain and that the potential for loss of life, if there were a significant flood, would be less if the property was occupied by a non-residential use as opposed to residential uses. Ms. Kumor brought up the fact of filling the

land and raising the level of water. Mr. Starr stated that the County does have limits on that in the Flood Damage Prevention Ordinance and the proposed developers would have to sign an engineering certification that it will not impact the area. Ms. Kumor said that she feels that it is the least restrictive – it is the most egregious insult on R-30 property to put an I-2 district in the middle of R-30 property. She added that the other I-2 district is much higher as it has been filled and raised the water level to all of that property in a flood. She added that it is in the middle of a floodplain and none of the neighbors are here to defend it and Staff is recommending it. Mr. Cooper said that the narrow strip you referred to is made up of sixteen and a quarter acres and there is another industrial strip nearby.

Mr. Starr stated that anything that is built will have to be built above the base elevation. So even though they will build in an area that is in the 100-year floodplain, it will have to be built one or two feet above the base level, based on the current maps. If that changes with the new elevation maps that will come out in the next couple of years, then that is retroactively applied to this property and would have to meet the new base elevations, if they haven't already constructed something.

Mark Williams said that the Flood Ordinance does provide protection and has no problem with the rezoning request. He added that he agrees with Staff's recommendation.

Ms. Kumor made a motion to recommend denial of Staff recommendation on the rezoning request # R-2006-03 to the Board of Commissioners. Gary Griffin seconded the motion. Mark Williams added that he does not feel it is in the middle of a residential area because this proposed subject property already adjoins an I-2 district and feels it is an extension as to what is already there.

Mr. Cooper asked the applicant to come before the Board and speak on this issue.

Jesse Johnson, applicant, said he actually agrees with the floodplain issue. He showed the areas that are buildable on his land and stated that there are restrictions on how much fill he could put on the land and in what areas. Mr. Cable stated that the Floodplain Ordinance has restrictions as to what the base flood elevation is in the area.

The motion of Ms. Kumor's was repeated and Gary Griffin seconded the motion. Mike Cooper, Mark Williams, John Antrim, Stacy Rhodes, Jonathan Parce and Tommy Laughter were opposed of the motion. Renee Kumor and Gary Griffin were in favor of the motion. The motion did not carry.

Mark Williams made a motion to send a favorable recommendation to the Board of Commissioners on rezoning request # R-2006-03 and John Antrim seconded the motion. Mike Cooper, Tommy Laughter, Jonathan Parce, Stacy Rhodes, John Antrim and Mark Williams voted in favor. Renee Kumor and Gary Griffin voted against the motion. The motion carried six to two in favor.

Chattooga Trace – (File # 2006-M34) – Master Plan Review – (33 Single-Family Lots) – Located off Willow Road – Luther E. Smith with Luther E. Smith & Associates, Agent for Norman S. and Lesley C. Kimmey, Developers. Mr. Prinz stated that Mr. Norman Kimmey, property owner, has submitted, through Luther E. Smith and Associates, a Master Plan for a proposed subdivision to be known as Chattooga Trace. Mr. Kimmey, will also be the developer of the subdivision. Chattooga Trace is proposed to include two parcels of land totaling approximately 34 acres in size. The subject property is located directly south of the Champion Hills subdivision off of Willow Road, in the area of Chattooga Run.

Chattooga Trace is proposed to contain 33 single-family lots that will be developed in three phases. There will be fifteen lots in phase 1. The developer plans for all of the home sites to be served by public water from the City of Hendersonville; however, the waste water treatment

system for the project has yet to be determined. Multiple private roads are proposed to serve the development with one main entrance from Chattooga Run.

Chattooga Trace is located in a County Open Use (OU) zoning district which does not regulate residential uses of land and is not located within a designated Water Supply Watershed area. Mr. Prinz added that it is located in the Urban Services Area as well as Rural Transition Area of the Growth Management Strategy. He said that the CCP says that we are to expect a variety of residential densities and this is consistent with what Champion Hills has done in the past and what currently exists in the area.

Staff has reviewed the submitted Master Plan for Chattooga Trace for conformance with the HCSO and offers the following comments:

1. **Revisions to the Master Plan.** Staff reviewed the Master Plan and has found it to be in compliance with the requirements of Appendix 4 (Master Plan Requirements) of the HCSO.
2. **Henderson County 2020 Comprehensive Plan (CCP).** The Future Land Use map of the CCP shows the subject property is located within the Urban Services Area (USA) and Rural Transition Area (RTA) of the Growth Management Strategy (See attached). Historically, areas of the USA and RTA have been developed at a variety of residential densities and the same is expected to continue throughout the life of the CCP (through 2020). Areas of the USA and RTA are typically within reasonable distances of public services such as municipal water and sewer making extension of such infrastructure feasible. The developer has proposed public water for the project; however, it has yet to be determined whether or not the project will utilize sanitary sewer service from the nearby Champion Hills community sewer system.

The Future Land Use Map also shows that portions of the development are proposed on land designated as Conservation areas. Conservation areas are generally sensitive natural areas, such as the steep slopes, streams, creeks, waterfalls and other features. At this time, the County does not have any specific regulations or incentives to ensure the preservation of these Conservation areas.

Staff has found that the proposed Master Plan appears to meet the technical standards of the Subdivision Ordinance for Master Plan submittals. Staff recommends approval of the Master Plan by the Planning Board.

Mr. Antrim asked about the road above the lake in Phase 3 shown on the Master Plan. He wanted to know what was outside of the boundary, because it gives the feeling that it's going to have some future development there. Mr. Prinz stated that he doesn't know, but that Staff will look at that at the Development Plan level. He said that we are just reviewing the Master Plan and we are looking at the overall scheme of the development – where it is located and how it relates to other planning documents.

Mike Cooper made a motion that the Planning Board find and conclude that the Master Plan for Chattooga Trace complies with the provisions of the Subdivision Ordinance. Gary Griffin seconded the motion and all members voted in favor.

Mountain Place – (File # 2006-M36) – Master Plan Review – (73 Single-Family Lots) – Located off Bob's Creek Road – Paul Patterson with Patterson & Patterson, Agent/Developer for William Brown, Owner. Mr. Card stated that Mountain Place is located on 79.5 acres of land off Bob's Creek Road and is adjacent to the South Carolina and North Carolina state border. A total of 73 lots are proposed.

Lots 1, 2 and 3 shown on the Master Plan, were approved as a part of a minor subdivision in January of 2006. On April 11, 2006 the Planning Department conditionally approved an expansion to the minor subdivision which consisted of a total of nine (9) lots. Mr. Card stated that a final plat has not been recorded for this section, but the applicant has since built the infrastructure to serve these lots and there is one out parcel proposed which is located in the middle of the subdivision. The current owners of this parcel, according to County records, are Mr. William Brown and Mr. Roger Brown. The out parcel is an existing lot and it appears that it is not counted toward the total number of lots for the subdivision.

The property is located in the Open Use zoning district which does not regulate the residential use of land. The project site is also located in the Green River Fire District and is within one half mile of the Green River Farmland Preservation District.

Mr. Card stated that Staff has reviewed the Master Plan for Mountain Place for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the following comments:

Master Plan Comments

1. **Out Parcel.** The out parcel is located on an existing lot within the proposed subdivision. It appears that the lot configuration and access to this lot will not change. If it is the intention of the developer to include this parcel in the subdivision then this parcel should be labeled and numbered as a lot accordingly.
2. **Road Standards.** Although conditions regarding road standards are made during the review of a development plan, the Planning Board may want the applicant to discuss the intentions for the proposed intersection of Katelyn Lane and Hollybear Lane (adjacent to lots 4, 10 and 7). If proposed as a curve, it appears that the curve radius does not meet the minimum curve radius standard of 80 feet for collector roads with cross slopes that exceed 15%.

Review Agency Comments

3. **Comments from the Fire Marshal.** The Henderson County Fire Marshal submitted comments regarding the subdivision. 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 to the subdivision.
4. **Comments from Property Addressing.** The Henderson County Property Addressing office submitted comments regarding the proposed roads.

Mr. Antrim asked, "How long is Hollybear Lane, is it about 3,500 feet or more? Mr. Patterson, agent for Mr. Brown stated that is about right. He said I think you might be bringing up the difference between collector road standards versus 2,500 feet? Mr. Antrim said that he is more concerned with the circulation regarding safety and fire protection. Mr. Patterson said that the mountain side can be messed up more, but going up more near lots 58 and 59 we could run into a springhead as there are some natural creeks and blue line streams in that area, so it could become a problem. He said he doesn't feel that this road is a problem and doesn't recommend any more roads than what is being proposed.

Mr. Brown said that he has everything stabilized where the roads won't wash out. Regarding the water issue, the property is approximately 1/10 of a mile where the Green River Fire

Department has a lake built for fire protection, which is next to my property. Mr. Parce asked whether there is an existing logging road in Phase 7 that goes up to the old Beddingfield property. Mr. Brown said there is. Mr. Parce asked whether they have right-of-way to use that road. Mr. Brown said there were no right-of-ways. Mr. Starr asked Mr. Brown whether he could discuss more about the curve between lots 4 and 10 on Hollybear Lane and Katelyn regarding the site ability. Mr. Patterson said that was an existing gravel drive and there will be three stop signs there, one coming down the hill, one coming up the hill and another near the stub. It will be a wide intersection to make it easier to maneuver, and will be classified as a "T" intersection. Mr. Parce mentioned about the survey lines between the North and South Carolina and Mr. Brown stated that it has been straightened out.

Mr. Stacy Rhodes 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. Renee Kumor seconded the motion and all members voted in favor.

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 that neither the applicant nor the representative is present. Mr. Cable stated that it is very similar to the River Stone development regarding the conditions and what was suggested at the time. He added that Staff does request additional information from the applicant. Mr. Cooper asked what is the procedure regarding hearing this application without any representation? Mr. Starr said that the Board could proceed on it if you don't have any problems with what Staff is recommending, but if you do have issues that you feel need to be addressed and cannot be answered at this time; you can table this request until the next regular Planning Board meeting. Board members agreed to proceed to hear the request for special use permit application.

Mr. Cable mentioned that Staff requests that the Applicant provide the Board with information regarding any additional proposed treatment of the perimeter, and the amount of disturbance that can be expected within the "undisturbed perimeter" for the purposes of water and/or sewer service and stormwater drainage. Staff suggests, as a condition, additional language be included to prevent future amendments to the plan should the perimeter area be defined by the proposed limits of disturbance boundary line. Staff recommends that the undisturbed perimeter, as described by the applicant, be a condition of approval of the development. He said that the Board should receive information regarding the proposed treatment of the perimeter along the southern boundary, where the subject property abuts property owned by Verne and Beverly Snyder. The Applicant appears to be proposing backfill along the property in this area, which encroaches upon the 25 foot buffer. Staff suggests that, as a condition, the integrity of the 25 foot buffer should be maintained along the southern portion of the property by replanting, using vegetation similar in size and type to what exists at the issuance of the permit, within this 25 foot buffer area upon completion of road construction.

Mr. Cable stated that Staff suggests that the applicant propose final height restrictions and also indicate the number of floors/stories proposed for any and all structures; and that, upon recommendation of adequacy by Staff and the Planning Board, such be a condition of approval. Also, the applicant should provide information regarding the location of proposed sidewalks to determine dwelling unit access and further provide an additional plan or documentation indicating the location of sidewalks to the Planning Department before proceeding to the Board of Commissioners.

Staff also suggests the Planning Board may wish to request that the Applicant contact Henderson County Emergency Medical Services to ensure the adequacy of facilities for

emergency medical services. He said that the Applicant should provide the Board with more information regarding the type, size, and lighting of the proposed sign and that additional documentation regarding the “control of signs”, be provided before proceeding to the Board of Commissioners. The applicant should also clarify the proposed ownership and name of the proposed street, and documentation of such should be provided to the Planning Department before proceeding to the Board of Commissioners.

Mr. Cooper said that after hearing Staff’s comments and questions that need to be addressed, he feels that the applicant should answer all of these concerns and bring them before this Board at the next regular Planning Board meeting before we move on this request. After some discussion, Mr. Starr stated that it would be preferable if the applicant would provide, in writing, how they plan to address the issues mentioned in Staff’s memo, then Staff can include it in the Board member’s packets so the members would have time to consider the information before the next Planning Board meeting. After some further discussion, Mike Cooper made a motion to table this application and request that the Board receive, in writing, how they plan to address the issues that Staff brought before the Board regarding their application request for Special Use Permit and allow Staff to establish a deadline as to when they would need to submit the issues they need to address. John Antrim seconded the motion and all members voted in favor.

Subcommittee Assignments and Meeting Dates. Mr. Cooper encouraged all the Board members to attend the Special Called Meeting for August 16th at 3:00 p.m.

Adjournment. There being no further business, the meeting adjourned at 8:00 p.m.

Tedd Pearce, Chairman

Kathleen Scanlan, Secretary

Mike Cooper, Acting Chairman