

## HENDERSON COUNTY PLANNING BOARD MINUTES

June 20, 2006

The Henderson County Planning Board met on June 20, 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; John Antrim, Tommy Laughter, Jonathan Parce, Gary Griffin, Renee Kumor and Stacy Rhodes. Others present included Justin Hembree, Assistant County Manager/Interim Planning Director; Matt Card, Planner; Matt Cable, Planner; Anthony Prinz, Planner, Russell Burrell, County Attorney, and Kathleen Scanlan, Secretary. Board members Mike Cooper and Mark Williams were absent.

Chairman Pearce called the meeting to order and asked for the approval of the April 25, 2006 quasi-judicial hearing meeting minutes; May 16, 2006 Regular meeting minutes and May 16, 2006 Special Called meeting minutes. Renee Kumor made a motion to approve the three sets of minutes and Tommy Laughter seconded the motion and all members voted in favor.

Adjustments of the Agenda. There were no adjustments made.

Staff Reports. Mr. Hembree informed the Board members that Anthony Starr, the new Planning Director would start on Monday, June 26, 2006. He mentioned that he had toured the County building on Monday, June 19, 2006 while in town and met the Planning Staff as well as other County employees in the Land Development Building. Mr. Hembree mentioned that he discussed the many projects that are before the Planning Department and Board and Mr. Starr mentioned that he would be in touch with each member of the Planning Board to discuss these projects.

### **OLD BUSINESS:**

Update on Land Development Code – Richard Smith, Projects Manager, Benchmark CMR, Inc. Mr. Richard Smith with Benchmark said that he is in the processing of updating the zoning portion of the County's Land Development Code and that Staff is doing the other sections of the Code. He mentioned that he met with the Subcommittee and they requested that he come before the full Board and introduce himself. He said that there is a deadline of September 1, 2006 that was set by the Board of Commissioners so we are well on the way to meet that deadline. Chairman Pearce said that a subcommittee meeting needs to be arranged and that Staff would check with each member to arrange a date and time agreeable with each subcommittee member.

Shuey Knolls – (#2006-M23) – Request for Re-approval of Development Plan - (39 Single-Family Lots) Located off U.S. Highway 64 East – Lee Fears, Agent for Henderson County Habitat for Humanity, Owner and Developer. Chairman Pearce asked Mr. Card whether the only change regarding this project is that it is now going to phases? Mr. Card said that basically the only change is that they are going to phases. He said it use to be a combined Master Plan and Development Plan, but it now has been changed into phases - Phase 1 and Phase 2. Chairman Pearce felt that since the only change to this project is the phasing, he made a motion to approve the Development Plan for Shuey Knolls for Phase 1 and Phase 2 subject to Staff comments in their memorandum that need to be addressed. Stacy Rhodes seconded the motion and all members voted in favor.

Cobblestone Village – (#2006-M6) – Development Plan Review – (50 Single-Family Lots) Located off US Highway 25 and Pinnacle Mountain Road – Tom McCanless, Agent for Brian Ely, Owner. Mr. Card stated that Brian Ely with Flat Rock, LLC, property owner, submitted a Development Plan application for a major subdivision titled Cobblestone Village. The Master Plan for Cobblestone Village was approved at the April 18, 2006 Planning Board meeting. The subdivision will be located on three (3) parcels of land totaling 92 acres off NC Hwy 225 and Pinnacle Mountain Road. Mr. Card said there will be a total of 50 lots are proposed with lot sizes ranging from 1.15 acres to 3.59 acres with proposed individual wells and individual septic systems. The main access into the subdivision will come off of NC Hwy 225, but some of the lots will be accessed from Pinnacle Mountain Road. He said that they have done some minor things from the Master Plan. They have added a few cul-de-sacs and a road.

Mr. Card said Staff has reviewed the Development Plan for conformance with the Henderson County Subdivision Ordinance and offers the comments, some standard, as follows:

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.* (HCSO 170-21B and Appendix 7)
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 (HCSO 170-37A).

#### Development Plan Comments

5. Road Standards. According to the cross sections provided on sheet 4 of the Development Plan, private collector roads and limited local residential roads are proposed. It is not clear on the Development Plan which roads are collector or limited local residential roads. Pursuant to Section 170-21 of the HCSO (Roads in General) Noble Way is the only road that falls under the limited local residential road standards, all other proposed roads must be built to the local residential road standards and a portion of Falkirk Way and the entrance road will have to be built to collector road standards. On a revised Plan the applicant should clarify the standards to which each road will be built. The applicant must also provide the stone-base and paving information on each cross-section and label the right-of-way for each road.
6. Road Frontage. The applicant must demonstrate on a revised Development Plan that lot # 44 and lot # 40 have the required minimum frontage of 30-feet pursuant to Section 170-31, D of the HCSO.
7. Turnarounds. According to Section 170-21, H of the HCSO, all roads or sections thereof with dead-ends or culs-de-sac should not exceed 2,500 feet in length. It also says that the Planning Board may require the installation of a partial turnaround along any road that exceeds 1,500 feet in length. The proposed Falkirk Way appears to exceed 2,500 feet in length. The applicant stated that the length was exceeded due to the topography

of the property. The Planning Board, if it chooses, may require that a partial turnaround be installed on Falkirk Way.

8. Development Plan Details. According to Appendix 5 (Development Plan Requirements) the drainage improvement details must be noted on the Development Plan. The Applicant provided Staff with a completed copy of Appendix 5 with the submittal of the application and it stated that the drainage details are provided on the Soil Erosion and Sedimentation Control Plans. The Applicant must provide this information on a revised Development Plan pursuant to Appendix 5. The Applicant must also show the site triangle information on the Plan.

#### Review Agency Comments

9. Comments from the Fire Marshal. The Henderson County Fire Marshal's Office submitted comments regarding the subdivision. The Planning Board can only require the applicant to meet the minimum standards of the Henderson County Subdivision Ordinance.

There was considerable discussion regarding the Fire Marshal's comment on water supply. Mr. Hyder mentioned that due to the remote location of this subdivision, any water supply point in the area should be developed as a certified water point for fire protection purposes, that is, dry hydrant or drafting point. In replying to several Board members' comments regarding this request by the Fire Marshal, Chairman Pearce said at this time, the Subdivision Ordinance does not give the Planning Board authority to require any additional standards to the subdivision. He did mention that there should be comments in the final draft of the Land Development Code indicating a possible resolution of this issue.

Mr. Tom McCanless, agent and engineer for the project addressed some of the comments of concern. Mr. McCanless said that the project will have all private collector roads. He said the only one that doesn't fall into that category is Noble Way, but plans to make it a private collector road so he can create wider shoulders for drainage. He added that they have the ability to make every road in the development private collector roads. Chairman Pearce suggested that on the final plan to remove the cross section of the limited local roads. Chairman Pearce asked Mr. McCanless whether he could certify that lots # 44 and # 40 will have a thirty-foot frontage? Mr. McCanless said that he could. Chairman Pearce said regarding the comment on turnarounds? Mr. McCanless said that originally that wanted to do a loop road but the topography was too steep and not practical. He did indicate that they could install a partial turnaround along any of the roads that exceed 1,500 feet in length. Stacy Rhodes suggested possibly making a partial turnaround where Falkirk Way and Stirling Court come together. Mr. McCanless thought that might be a good idea and would create a partial turnaround there and showed that he would also create another as well, but would check with the fire department to check on the radius required for their fire trucks and then will work from there. Chairman Pearce said that regarding the drainage details, Staff will need documentation from NCDENR. Mr. McCanless said that they are working those out. Chairman Pearce asked whether you or the developer made a decision about whether or not you plan to do anything about fire suppression? Mr. McCanless demonstrated on a map that they do have an area to build a pond and felt that the owner would not object to building that into the landscape. Ms. Kumor added that perhaps Green River Fire Department could be included in that discussion so that they can give some input. Chairman Pearce said that this could be indicated on the final plat so that they will have time to work things out with the Fire Marshal's Office.

Renee Kumor made 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 that need to be addressed; and further move that the

Development Plan be approved subject to the following conditions that the developer create two turnarounds, a dry hydrant be installed and a storage pond that will be satisfactory to the Fire Marshal's Office. Tommy Laughter seconded the motion and all members voted in favor.

### **NEW BUSINESS:**

Summit Springs – (#2006-M19) – Combined Master Plan and Development Plan Review – (178 Single-Family Lots) Located off Hill Drive – Luther E. Smith and Associates, Agent for Jeff Cosgrove of Hosanna III, LLC, Owner. Mr. Prinz stated that Summit Springs is a Combined Master and Development Plan through Luther E. Smith & Associates for a 178-lot single-family development. He said that it is located between US Highway 25 South and Interstate 26, near Gosnell's Auto Salvage. Chairman Pearce asked, "Didn't the Planning Board review this before?" Mr. Prinz said yes, but there has been changes to the Master and Development Plan and that is why they are here seeking re-approval. The original Master plan was for 385 single-family units and they were going to be located on 13 large tracts of land, so it wasn't going to be an individual home lot subdivision. They were originally approved contingent on sewer going into that development and to get that type of density on this size of land, the 128 acres with 385 units would necessitate sewer. Mr. Prinz stated that unfortunately that sewer approval did not go through so therefore they are here tonight to request a reduction in density down to where they can use septic tanks for each of the 178 units. He indicated that the topography on this property is such that they would need to use pumping stations, but he is not sure whether the capacity is there given that General Electric and International Paper Company use that sewer line. He said the developer plans for all of the homes to be served by public water (from the City of Hendersonville) and individual septic systems and multiple public roads have been proposed to serve the project with the main entrance. The project site is currently located in a County Open Use (OU) zoning district, which does not regulate residential uses of land and is not within a designated Water Supply Watershed; however, Henderson County GIS shows that there are multiple perennial streams and ponds on the property.

Mr. Prinz stated that the comments are as follows:

1. **Revisions to Maser Plan.** No revisions to the Master Plan are necessary.
2. **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.
  - The right-of-way for Interchange Drive (Hill Drive) must be shown on the Development Plan.
  - All proposed roads must be labeled as public or private on the Development Plan.
  - If applicable, the location of all project signs shall be shown on the Development Plan.
  - The location of all proposed fire hydrants must be shown on the Development Plan.
  - Units of measure for the minimum and maximum lot sizes shown within the Project Summary must be square feet.
  - Sight-triangle design does not meet the requirements of the HCSO and should be revised.

Mr. Prinz stated that the map showing the development plan that is being presented to the Board is slightly different than the one in the packet. He said the main difference is that the side triangles have been corrected and that the phase lines are shown on this plan. The original plans that were submitted to the Planning Department did not show that it was going to be a phase development but since then we have been informed by Hunter Marks of Luther E. Smith and Associates office that it will be a three phase development.

**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 (City of Hendersonville) water supply. 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).

Mr. Prinz indicated that Staff has not received documentation to indicate that the plans have been approved.

**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.

Mr. Prinz indicated that Staff has received the affidavit from the applicant, so therefore this has been satisfied.

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

## **REVIEW AGENCY COMMENTS**

1. **Comments from the Henderson County Fire Marshal's Office.** Given that the developer has proposed to connect to public water, the installation of fire hydrants will be required by the City of Hendersonville's utility department. Mr. Prinz stated that the location of each of those fire hydrants must be shown on a revised Combined Master Plan and Development Plan but can't be done until they provide evidence that the water supply plans have been approved by the City of Hendersonville and NC DENR. Mr. Prinz added that this is one of the requirements before Final Plat approval.

Mr. Prinz said that Staff has received comments from Luther E. Smith & Associates, Hunter Marks, regarding the necessary revisions to the Combined Master and Development Plan. He said that they wanted to make a couple comments on changes that they had planned for the subdivision and things that were not provided on the development plan when it was originally submitted to the Staff. Mr. Prinz also mentioned he would like to recommend that the Planning Board discuss item number one (1) regarding the phasing of the development so that Staff can get on record what exactly the phasing lines will be for the subdivision.

Mr. Marks with Luther E. Smith and Associates stated that this is a revision of a plan that was initially submitted and approved in December, 2004. Regarding the sewer comment, he said that they did request from the City of Hendersonville that they provide sewer, but they declined because this was outside of the County's water and sewer advisory council's established Urban Service Area. He said based on this, we needed to reduce our density from 385 units to 178 units. Mr. Marks said that the client wanted to phase this project and wanted to gear this for moderate and low-income housing. The original plan was a Master Plan and Development Plan

for Phase 1, but the client has decided to make Phase 1 everything east of and including Gentle Breeze Lane and the end of Summit Springs Loop and all utilities that would serve the rear of the property all the way to Interstate drive. The entire length of Summit Springs Loop will be part of Phase 1 for access purposes. He said Phase 2 is the center portion of the project and will go from the Phase 1 line to Beck Creek and include Tryon Vista and Cole Creek Court. Phase 3 will be from Beck Creek to the entrance and include Dodging Ridge Lane. Mr. Marks said that before the final plat the water system will be designed and as far as fire protection, whatever the City requirements are, they will meet when they do the design. Stacy Rhodes asked what is the right-of-way from Interchange Drive to Hill Drive? Mr. Marks said Mr. Marvin Mercer is the design engineer and he stated that it is a 50-foot right-of-way. He said the conversations that they have had with NCDOT, they wanted the loop road to have a 50-foot right-of-way because NCDOT is considering it an extension of Hill Drive. Mr. Marks said that he will confirm that it is a 50-foot right-of-way with NCDOT and that it will be shown on the Development Plan.

Stacy Rhodes made a motion that the Planning Board find and conclude that the Combined Master Plan and Development Plan for Summit Springs complies with the provisions of the Subdivision Ordinance except for those matters addressed in the Staff Comments section of the memo that need to be addressed; and further move that the Combined Master Plan and Development Plan be approved subject to the following conditions: That the developer substantiates that Hill Drive, State Road # 1891 will have a right-of-way of thirty feet or greater. Renee Kumor seconded the motion and all members voted in favor.

a'Virea – (#2006-M25) – Combined Master Plan and Development Plan Review – (20 Single-Family Lots) Located off Kanuga Road in the area of Nelson Valley Lane – Jon Laughter, Agent for Dale Maxwell, Owner. Mr. Prinz said that a'Virea is proposed to contain 20 single-family lots and will be developed in one phase and totaling approximately 43 acres in size, in the western portion of the Henderson County, just off Kanuga Road near the Beaumont Estates property. There is one single-family residence currently that exists on the property. He said that the developer plans for all of the homes to be served by public water (from the City of Hendersonville) and individual septic systems as well as two private local residential roads are proposed to serve the development. The project site is located in a County R-40 zoning district, which does regulate residential uses of land and there is one perennial stream on the property.

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

#### Development Plan Comments:

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 cross-section must be added to the Development Plan for each type of proposed turnaround.
- The road center line marker shown in the legend of the Development Plan does not reflect the center line symbology shown on the subdivision layout. The Development Plan must be revised to show consistent symbology for road centerlines.
- E' Vilafont Drive on the subdivision layout is shown as e' Villa Drive on the corresponding road cross-section. The Development Plan must be revised to show consistent naming of the road.
- All curves labeled on the Development Plan are not shown in the curve table. The curve table must be revised to contain information on all curves on the Development Plan.
- The location of the existing sign must be shown on the Development Plan.

- The property shown as Lot #8 of the Old Kanuga Subdivision should be removed from the Development Plan.

2. **Alternative Turnaround Design.** Section 170-21.C of the HCSO allows the Planning Board to approve alternatives to the typical bulb-style cul-de-sac for major subdivisions where the proposed design is based on sound engineering and accounts for public safety concerns. In the past, the Planning Board has approved “T” style turnarounds; however, prior approvals have favored an 80 foot “T” sections rather than the 70 foot “T” section proposed for Avirea Drive. The Planning Board may approve the 70 foot design if they determine that the current design is based upon sound engineering and accounts for public safety concerns.

Chairman Pearce asked whether this was discussed with the Fire Marshal? Mr. Prinz said that this was not discussed with him nor did he submit any comments.

Mr. Parce asked why is Lot 8 is from another subdivision included on that plat? Mr. Prinz said that would be one of the requirements of the development plan. He added that it is a pre-existing lot in an old subdivision and he doesn't seem why it should be on the development plan. He said that there is no modification to this lot and not even said to be part of the a'Viera subdivision and should not be shown on the final plat.

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 2,000 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.

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 provide documentation that no plan is required prior to beginning construction (HCSO 170-19).

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

Staff has received the following review agency comments regarding the e' Avirea 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 Zoning Department.** See comments from Natalie Berry of the Henderson County Zoning Department (attached).

- As stated above in the Project Overview section of this memo, the subject property is located within a County R-40 Estate Residential zoning district. Looking at the Combined Master and Development Plan, it appears that all of the proposed lots meet the minimum lot size requirements of that district. The developer should take care

when locating individual home sites to prevent encroachments on the applicable setbacks.

Chairman Pearce asked Mr. Jon Laughter, agent for the developer, whether there would be a problem making an 80' "T" section turnaround? Mr. Laughter said they did a hammerhead because it would save some of the trees in the area, because it is on the side of a hill. He said if they put a conventional turnaround, the side slopes would run so far up the hill and down the side that "T" could save on construction and some of the trees. Stacy Rhodes said that the "T" is just fine but the standard cul-de-sac radius is 70 feet, but you wouldn't be able to do the complete loop. He added that if it is possible to get an additional five feet on either side that would be good too. Chairman Pearce said that the Subdivision Ordinance is not specific, but that the Board has approved typically 80 feet in the past. He asked Mr. Burrell that if we approve this subdivision with a 70-foot "T" would we have any problem? Mr. Burrell said that if that is allowed under your Subdivision Ordinance appendices and the Board feels that it is safe, then that is the Board's call. After some further discussion, everyone agreed that an 80-foot "T" turnaround would be most desirable and Mr. Laughter agreed to do that. Also, Board members agreed that all reference to e'Avirea should be changed to a'Virea.

Tommy Laughter made a motion that the Planning Board find and conclude that the Combined Master Plan and Development Plan for a'Virea complies with the provisions of the Subdivision Ordinance except for those matters addressed in the Staff Comments section of the memo that need to be addressed; and further move that the Combined Master Plan and Development Plan be approved subject to the following conditions: that the name of the subdivision be correctly labeled as a'Virea and that all road names be correctly labeled and that the Board is specifically approving two flag lots and that there will be an 80-foot "T" section for the proposed a'Virea Drive. Gary Griffin 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. Mr. Cable stated that Todd Leoni, agent and owner of Camp Riley, Inc. was not present. Chairman Pearce said the only thing he feels is that he is changing the sewer, is there any change in the lot sizes or road names? Mr. Cable said not that he was aware of. Mr. Burrell asked if there was a more formal application than the letter that was in the agenda packet? Mr. Cable said that there will be an application later, this was just his pre-application material that Mr. Leoni submitted. Mr. Burrell said that from reading his letter, he is not sure whether he is going forward with an application because he mentions if he gets easements he will go forward but if he doesn't, he won't. Mr. Cable said that Staff has spoken with him and indicated to him that when he does in fact apply, that his application won't be processed until Staff has an indication that he is either trying to get it or he has gotten the easements then the application will go forward. Jonathan Parce made a motion that since there was no agent or applicant present the pre-application was tabled until the applicant brings it forward. Gary Griffin seconded the motion and all members voted in favor.

Pre-application Conference for Vistas at Champion Hills Planned Unit Development – Chris Day, P.E., with Civil Design Concepts, P.A. for Kasey-Phillips Development, LLC, Owner. Mr. Cable stated that Chris Day with Civil Design Concepts, P.A., P.E. for Kasey-Phillips Development, LLC, requested that the Planning Board and Staff hold a pre-application conference for Vistas at Champion Hills, a proposed Planned Unit Development. He outlined the purposes of a pre-application.

He said, as indicated in the Project Narrative provided by Mr. Day, the request is for a 20-lot townhome subdivision located on Willow Road in the Champion Hills area. This is a 12.9 acre parcel largely zoned R-20, with a portion zoned Open Use. There are 10 duplex units proposed



and the development would be served by a private road with access onto Willow Road. Anthony Prinz will discuss the Subdivision in greater detail during the review of the Master Plan.

Mr. Cable said that buffering is not currently indicated in the project narrative or Master Plan. Mr. Day may wish to further clarify their intentions with regard to buffering. Staff has not identified any concerns, beyond buffering, regarding the developer's intentions at this time; however, Mr. Day is available to answer questions and address any concerns the Board may have prior to submitting the Special Use Permit Amendment Application. Chairman Pearce asked whether there is any reason for a buffering requirement. Mr. Cable said that until we receive the application, we will not actually analyze whether there is a reason for a buffer. He added that there is not one proposed and Staff wanted to know if they had intended to propose a buffer but had not indicated it on the plan. Mr. Day, engineer for Jack Kasey, agent for Kasey – Phillips Development, LLC, property owner, stated that the special use permit plans will be submitted next week and we will signify on there the area. The reason for the planned unit development is that the developer is trying to pull everything towards the center so that we can leave all of the existing vegetation around. He said that the access will be off Willow Road and climb up to the top so that these units will actually hang off and we will not disturb any of the existing vegetation along the lower side. Chairman Pearce asked for clarification as to whether the lot sizes are basically close to the unit sizes. Mr. Day said that they are basically the same footprint and are townhome lots. Chairman Pearce said this is like a *pod* development, to preserve as much of the natural area as possible? Mr. Day said yes. Chairman Pearce added, "You will not be disturbing anymore of the areas behind the lots than you need to and so therefore you will not need to put in any additional buffering in, is that correct?" Mr. Day said that is correct, we do not anticipate the need for additional buffering.

Vistas at Champion Hills – (#2006-M27) – Master Plan Review – (20 Townhouse Lots) Located off Willow Road - Chris Day, P.E., with Civil Design Concepts, P.A. for Kasey-Phillips Development, LLC, Owner. Mr. Prinz said the Vistas at Champion Hills are proposed to contain 20 townhouse lots that will be developed in one phase on approximately 13 acres of land and is located right off of Willow Road. The developer plans for all of the home sites to be served by public water from the City of Hendersonville and sewer from the Champion Hills community sewer system and one private loop road that will serve the project with the entrance proposed from Willow Road. Mr. Prinz said that the Master Plan meets all of the requirements of Appendix 4 of the master plan and Staff looked at the County's 2020 Comprehensive Plan and saw that there was basically nothing indicated on the plan that was inconsistent with the location of this project on the future land use map or with the recommendations of the Urban Services Area, where it is located. The densities are the same and there are no conservation areas shown on the property. Staff feels that the type of development that they are proposing is consistent with the Comprehensive Plan that is recommended for that area. Chairman Pearce asked whether they have made application for the special use permit, but that they will be doing so. Mr. Prinz said that they are doing the major subdivision approval and the special use permit review at the same time. Mr. Prinz said that we began with the pre-application which Staff likes to have, especially when there is a special use permit involved to go prior to the master plan and development plan review for that project. Chairman Pearce asked whether the development plan has been received? Mr. Prinz said it has not been received at this time. He said that the developer was waiting to see how the pre-application conference went and how the master plan review went before they actually send forward the details on the development plan. Ms. Kumor at this time asked for clarification on the process of the pre-application conference of the special use permit and the master plan approval and Staff explained the process involved.

Mr. Prinz said that Staff received comments from Natalie Berry, Zoning Administrator and she confirmed the fact that the developer must seek special use permit approval for the sections of the proposed project in the R-20 zoning district to finalize their zoning approval.

Mr. Day explained that after talking with the Planning Staff and realizing the special use permit process is quite a lengthy one, he said he wanted to come in with a pre-application conference and make sure there was nothing that he missed with what he is proposing on the development plan. He added that he had the opportunity of submitting it later, after this meeting. He said he can not go forward until his special use permit is approved.

Chairman Pearce made a motion that the Planning Board find and conclude that the Master Plan for Vistas at Champion Hills complies with the provisions of the Subdivision Ordinance. Jonathan Parce seconded the motion and all members voted in favor.

Rezoning Application #R-2006-01 to Rezone Approximately 107.07 Acres Located between Interstate 26 and Norfolk Southern Railroad in the Naples Community, from an R-20 (Low-Density Residential) zoning district and RC (Rural Conservation) zoning district to an R-10 (High-Density Residential) zoning district – The Layman Foundation of North Carolina and B.L. Hyder, Owners/Applicants. Chairman Pearce asked that one of the applicants introduce themselves. Mr. Curt Watkins stated that he was with the Layman Foundation of North Carolina. Chairman Pearce asked whether the property in question is one that you have a rezoning request or annexation request before the Town of Fletcher? Mr. Watkins said that it wasn't. Mr. Hembree said the reason why this came up is there was some discussion today with some citizens of Fletcher with property in this same area that was petitioned for annexation. Chairman Pearce said he wanted to get this clarified before the Board continued with this request tonight.

Mr. Cable said that on May 17, 2006, Curt Watkins of the Layman Foundation and B.L. Hyder submitted an application to rezone approximately 107 acres located between Interstate 26 and Norfolk Southern Railroad in the Naples Community from R-20 and RC zoning districts to an R-10 zoning district.

The Subject Area is located approximately 1 mile southeast of the Interstate 26 interchange at Asheville Highway and is composed of 2 parcels owned by the respective applicants.

Mr. Cable referred to attachments 3 and 4 of the current zoning maps and said the parcels of the Subject Area are currently zoned R-20 and RC, which were applied on May 9, 2005, as part of the US Highway 25 North Zoning Study. The Subject Area is surrounded on the north by an R-20 zoning district, to the east by OU and R-15 zoning districts, to the south by I-2 and RC zoning districts, and to the west by an RC zoning district.

(At this time, there was a brief slide show of the location of this property and surrounding area).

Mr. Cable said the R-20 Low-Density Residential Zoning District, which defines the Layman Foundation property, is intended to be a quiet, low-density neighborhood consisting of single-family residences and the RC Rural Conservation Zoning District, which defines Mr. Hyder's property, is intended to protect natural resources in rural areas of the County, while maintaining the rural character associated with existing agricultural and low-density residential development. The district allows for low-density residential and other compatible uses including non-residential uses. The R-10 High-Density Zoning District, which is proposed for the Subject Area, is intended to be a high-density neighborhood consisting of single-family and two-family residences and small multifamily residences.

Mr. Cable said a description of each district is included in the staff report and the Board may refer to Attachments 5, 6 and 7 for full text of the districts. Attachment 8 provides a comparison of permitted uses for all three districts.

Mr. Cable stated that if the Board will refer to Attachment 9, Current Land Use Map, the Subject Area is currently undeveloped and most adjacent and surrounding uses include agricultural, residential, commercial, office, institutional and industrial uses. Agricultural uses include properties to the east and southeast, of which some are participants in the Clear Creek Voluntary Agricultural District. Residential uses include single-family residential homes located in the Naples community, north of the Subject Area, along South Old Asheville Road and Canterbury Way. Office and institutional uses are located to the east of the Subject Area, across Interstate 26, including: Park Ridge Hospital, Fletcher Academy and Fletcher Park Inn – all owned by the Layman Foundation. Mr. Cable stated that commercial uses are located to the north of the Subject Area and include WNC Home Oxygen which is located on Canterbury Way, and A Self-Storage Depot, located on Naples Road. Industrial uses are located to the south of the Subject Area in Mountain Home Industrial Park.

Mr. Cable said the Subject Area does not currently have access to water and sewer services but water and sewer services are within one mile of the Subject Area. He noted that there would be some sewer lines running through that property, according to the water and sewer master plan. Chairman Pearce asked whether the water and sewer master plan proposes these utilities for this area soon? Mr. Cable said that there is no time frame, just where they see things going in the future. Chairman Pearce asked whether there has been any designated plan as far as funding this or something of that nature? Mr. Cable said he wasn't aware of any plan. He said the Subject Area does not have frontage on a state maintained road other than I-26, but that is a limited access road. He added that according to the 2006-2012 State Transportation Improvement Program, I-26 is to be widened from four to six lanes.

He said Staff's position under the guidelines of current plans, policies and studies is it does not support rezoning of the property to be zoned for high-density residential uses. Both the text and the map of the 2020 Comprehensive Land Use map which identified the Subject Area as being suitable for industrial development. Both the US 25 North Study and the Henderson County Industrial Study recommend removal of the industrial classification for the majority of the Subject Area. He said Staff's position is that the Subject Area should not be identified for industrial development based on the recent recommendations of the US 25 North Zoning Study and the Industrial Study which are to serve as extensions of the CCP. Those would be considered when they amend the CCP later, as it proceeds with the Land Development Code. Chairman Pearce asked if the Commissioners accepted the Industrial Study recommendation? Mr. Cable said that those were to be rolled in with the amendment of the CCP that coincided with the LDC so therefore, it has not yet been accepted. Chairman Pearce said he was clear from our previous meetings that the previous industrial studies were a large shot-gunning of property and that there was nothing specific or formal before. Mr. Prinz said that it came from the Committee of 100, an organization put together by the Chamber of Commerce. He added that Staff took the recommendations from the Committee of 100 and made them more parcel-specific and the Planning Board voted unanimously to recommend approval to the Board of Commissioners, but at this time it is waiting for the opportunity to be approved by the Commissioners.

Mr. Cable said that both the text and map of the CCP identified portions of the Subject Area parcels as being suitable for conservation. The US 25 North Zoning Study subsequently applied RC zoning to parcels containing large amounts of floodplain and that is the reason that Mr. Hyder's property is included in the RC zoning district along with others across the railroad track and to the south. The RC zoning district is intended to reduce flooding risks for people and property and reserve agricultural land. Both the text and the map of the US 25 North Zoning Study recommended RC and R-20 zoning be applied to the parcel of the Subject Area and were applied on May 9, 2005, as a result of the zoning study, which was supported by Planning Staff, Planning Board and the Board of Commissioners. He said that Staff does not have any records

of the property owners expressing opposition to the proposed zoning during the US 25 North Zoning Study.

Mr. Cable said applying R-10 zoning to the Subject Area could alter the range of uses permitted, increase the number of permitted lots, and reduce lot size requirements and setback requirements. The Board must consider the range of uses, dimension requirements and densities for the existing zoning district compared to the proposed zoning district. Mr. Cable said that R-10 zoning does not allow for as many non-residential uses as are permitted by RC zoning district, while allowing more intense residential uses of land. R-10 zoning district allows for all uses permitted within the R-20 zoning district as well as allowing apartments, two-family dwellings, garage apartments and non-church related cemeteries. RC and R-20 zoning districts allow for large side and rear yard setbacks than the R-10 zoning district. RC zoning district also requires larger front yard setbacks than are required by the R-10 zoning district. The R-10 zoning district allows for up to four times as many lots, by right, as permitted in the RC zoning district and for up to two times as many lots by right as permitted in the R-20 zoning district. He said when applied to the entire Subject Area, Staff estimates for a potential for an increase in the number of dwelling units also by more than 300 percent. Staff's position is that the R-10 zoning district would allow lot sizes and densities which are not in keeping with the rural character of the immediate vicinity of largely agricultural and low-density area.

Mr. Cable said that adding R-10 zoning could largely impact public services and that the Board must consider potential impacts including those to water, sewer, roads, emergency services, and schools. Though water and sewer may become available to the Subject Area, the Henderson County Zoning Ordinance would not require the applicant to connect to these facilities, nor can it be a condition of the rezoning request. The Board may consider the possibility of water and sewer services being extended, but cannot recommend granting the rezoning based on the extension of water or sewer lines to the Subject Area as a condition. The Zoning Ordinance does indicate that it is expected that public water and sewage facilities will be available to each lot in the R-10 district. Roads may also be impacted. The western parcel contains one access point, through High Hills Road, a 20-foot right of way located off of South Old Asheville Road. The eastern parcel currently has no granted point of access. Provided both properties are accessed by High Hills Road, both High Hills Road and South Old Asheville Road could see a much larger increase in traffic volume than would occur should both parcels be developed under current RC and R-20 zoning.

Mr. Cable said emergency service provision may also be impacted as more dwelling units and residents could be placed at risk during a flood event as a result of inadequate access to the Subject Area. Flood events may be more intense and frequent in the localized area as a result of impervious surface that could be created by the development of the Subject Area at R-10 densities. R-10 zoning could also result in a larger increase in traffic volume on surrounding roads, including Naples Road on which Park Ridge Hospital is located, directly impacting the provision emergency of services by the hospital.

Mr. Cable said applying R-10 zoning to the Subject Area may result in spot zoning. Spot zoning is a zoning ordinance or rezoning that singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to relieve the small tract from restrictions to which the rest of the area is subjected. Applying R-10 zoning to the Subject Area would divide a contiguous RC zoning district, resulting in a 9.88 acre parcel to the south of the Subject Area being spot zoned. Staff's position is that the 9.88 acre parcel would be surrounded by a significantly larger 107 acre R-10 district and approximately 350 acre I-2 district (indicating this on a map). Chairman Pearce wanted to know where the nearest R-10 district was located. Mr. Cable said that the nearest R-10 district is located off Butler Bridge Road which is River Stone Planned Unit Development and is approximately 1.71 miles away.

Mr. Cable stated that Staff cannot make a clear showing of the reasonable basis for the rezoning as is required in the event of a "spot zoning."

Staff has identified no plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest that would justify supporting the proposed rezoning. It is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would inform the County's consideration of the proposed rezoning.

Mr. Curt Watkins of the Layman Foundation said that they have approached the County for running a sewer stub there and that the County Engineer, Gary Tweed, has come out and looked at the property and made a recommendation to the Board of Commissioners for sewer to go there. He said The Layman Foundation and Hallmark Development have agreed to make a financial contribution to the proposed project. He said that Gary Tweed informed them that the County's Finance Department has approved their financing plan for the sewer project in this area and that there would be a connection schedule where Fletcher Academy would also be hooking onto sewer that the County plans to run in that area. Mr. Watkins stated that City water is in close proximity, which they are planning to run to the property at their cost. He said it is his understanding that those issues have been addressed for the consideration of the County Commissioners. Mr. Watkins said that The Layman Foundation is the current owner of this property, which has been landlocked for over forty years. He said that currently they have an option to purchase an adjoining piece of property from Mr. Hyder so that we can get out of the landlocked position, because at present we cannot do anything. He did mention that there is one access through a culvert underneath I-26, but that is difficult to get through there. Chairman Pearce said that short of buying adjacent properties and an easement, there is no alternative access. He added, "Where there some alternative roads you were looking at coming in other than the 20 foot right-of-way?" Mr. Watkins said, "We have had some discussions with Ms. Freeman, an adjacent property owner and have also looked at two other areas to see what could be done." Ms. Kumor was concerned that the Board cannot consider the sewer and the easement issue unless there is solid evidence of such. Chairman Pearce said the Board cannot recommend approval of the request until they get evidence that water and sewer have been approved by the Commissioners or that new roads have been approved into this proposed development and deals have been made for such roads. These would be concrete evidence. Chairman Pearce asked Mr. Hembree for additional information concerning the water and sewer issue. Mr. Hembree stated that this area is called the Mud Creek Sewer Project, which has three phases. Phase 1 starts a little northwest of this Subject Area. Phase 2 of that project would actually serve this Subject Area and surrounding area. He stated that when they talk about phases, Phase 2 deals with an interceptor line or force main with pump stations that would serve the US 25 North area. He stated that Phase 3 would go from this section down to the Mountain Home Industrial Park. Mr. Hembree said that what has been approved by the Board of Commissioners is Phase 1 and that project is being put out for bid. He added that this Subject Area falls into Phase 2 and when this was initially discussed there was some consideration given to the possibility of a private developer assisting with the County's cost to speed up the Phase 2 portion. He said that once the County realized that the land use zoning was not compatible with the particular development that was being looked at, the County stepped back to insure that the zoning was correct for the area. He added that in saying this, we are not assuming that the Board of Commissioners or Planning Board would make a recommendation based on initial discussions that were made regarding sewer. He said there are no final plans at this point and no financing has been approved for Phase 2 to be sped up. He did say that it is planned for sometime in the future after Phase 1 is done, to do Phase 2, but this has not been approved by the Board of Commissioners. Ms. Kumor said that the conditions as they exist don't seem to suggest there could be any movement, but if the Commissioners

approve the sewer line, that makes the conditions for the property change and that can make one of the conditions we can rely on to change the zoning.

Chairman Pearce asked, "Was the zoning changed on this property or did it stay the same?" Staff said it was open use and was changed. Chairman Pearce asked about time limitations on rezoning requests? Mr. Burrell said that if the citizen asks for a certain zoning and is turned down, then they have to wait. Chairman Pearce said that the County initiated the zoning over a year ago. After some discussion among Board members, Chairman Pearce said that he doesn't understand even if they would acquire water and sewer, why would the County want that type of density in a flood prone area. Ms. Kumor said that if you have that combined land, because a portion of this will flood, with the property the size that it is under the designation it already has, you could still do a PUD or some kind of compact development in one spot and use the flood areas for open space. She added that you can leverage more density on the property that is not on the floodplain. Chairman Pearce agreed but said with the road access and the surrounding properties and even the distance, another R-10 zoning is completely out-of-line with everything that the CCP and the floodplain calls for. He added that he is not hearing anything other than the fact that they want to do a project and he doesn't understand what he should use as a basis for a recommendation. Ms. Kumor said that by combining the two pieces of property would you not gain the same type of density or ability to build that kind of development. Chairman Pearce said no because with the RC district you are allowed one unit per acre, so the maximum density would be 107 units and with the R-20 district, there would be less than two hundred units available but with R-10, it would be three or four times that. Mr. Cable added that RC does not permit planned unit developments, so they could not do a PUD on that portion of the property. Chairman Pearce said that he would be more understanding if someone came to him and said that they had acquired this additional property and wanted to rezone it R-20, but at this point he finds nothing to encourage and warrant this request. He added that he would be more persuaded to an R-20 zoning designation for the RC property, but would need to further study the flood implications before a decision could be made.

Chairman Pearce made a motion that the Planning Board recommend to the Board of Commissioners that they deny rezoning request # R-2006-01 based upon the fact that there are no changes in plans or policies at this time to justify their request; no changes in existing conditions; no indication from the applicant of any undue hardship nor any overriding community interest to recommend this rezoning request. Mr. Pearce added that due to the limited access to the subject properties by the 20-foot easement, as well as floodplain consideration, both these properties seem unsuitable for high density development. Renee Kumor seconded the motion. All members voted in favor. Chairman Pearce added that he is most concern with the limited access to this property and Ms. Kumor agreed.

Chairman Pearce also mentioned hazardous waste and noise issues which should be taken into account. Chairman Pearce said, with the Board members permission, he would like to amend the comments to the Board of Commissioners to reflect the fact that noise and hazardous waste problems that could result from both the Interstate and the railroad be considered in additional reasons to not rezone that property. Ms. Kumor said she feels that is spurious because there are already a lot of residents between those two areas and it doesn't seem to be bothering them. Chairman Pearce said there is not any R-10 district though. Mr. Griffin added that he feels there should be some real planning done on that property to make it desirable. (Gary Griffin left the meeting at this time).

Ms. Freeman, resident of the area and an adjacent property owner said that you cannot get up that 20-foot road because of the flooding situation, especially since they are widening and construction on US 25 North. She added that she doesn't feel that rezoning it to R-20 would be

any advantage for this area. She disagrees with the amount of residential development requested.

Pre-application Conference for an Amendment to River Stone Planned Unit Development Special Use Permit – (#SP-05-01) – Don Hunley with William G. Lapsley & Associates, Agent for Drew Norwood of Windsor-Aughtry Company. Mr. Cable stated that Drew Norwood with Windsor-Aughtry Company, applicant, and Don Hunley with William G. Lapsley and Associates, agent for the Applicant, requested that the Planning Board and Staff hold a pre-application conference for an amendment to Special Use Permit #SP-05-01 for River Stone Planned Unit Development.

Mr. Cable said that in accordance with the County's Zoning Ordinance, Section 200-33(F)(6) which states that *changes in the Planned Unit Development shall not be made without resubmission of the Planned Unit Development according to these procedures in this section.* This includes the pre-application conference as outlined in Section 200-33 (F)(1). Mr. Cable said the purpose of the pre-application conference is to inform the developer of the County's regulations and to allow them some feedback from the Planning Board and Planning Staff. As indicated in the letter from Mr. Hunley (Attachment 1), the request is to amend SP-05-01 to add 14 lots to the Planned Unit Development and remove one lot that was proposed prior to this by purchase of 4.25 adjacent acres of land, which is zoned R-15.

This will be Section 11 as noted in the first page of Attachment 3. Section 11 will connect with Section 9 and will be accessed by extending New River Road, which will be a public road, northward through lot 607, which will no longer be a building site. There will also be provided a 30 foot right-of-way to the adjacent property through Lot 8 of Section 11 and that is to provide access to the rest of this property. Mr. Cable said that they are subdividing and purchasing that tract of land from Mr. Minish, who owns that property and it would provide access to his property. He also has access from another point. Chairman Pearce asked, "How many lots would be allowed under R-15 zoning?" Mr. Cable said it was originally 660 lots could have been allowed, but now it has been increased to 672 lots. Chairman Pearce asked whether that is based on the zoning of that piece. Mr. Cable said yes and the rest of the property is R-10 or R-15. The total number of lots will change from 524 to 537 with the addition of Section 11 and removal of lot 607.

The applicant has discussed amending SP-05-01 to reduce the setback from the edge of rights-of-way along "side streets." He said ten feet from the edge of rights-of-way is currently required, but the applicant has not made a definitive decision on what they plan to request.

Mr. Cable said Staff is concerned about buffering along the perimeter of Section 11 as none is identified on the plans. He said Staff would like to point out the proposed removal of a berm along lots 331, 332, 333 and 334. Staff has additional concerns regarding the reduction of the setback along the rights-of-way for "side streets."

Mr. Hunley who is the Project Engineer with Lapsley and Associates and stated that last summer the entire process was submitted and brought to the Board for the PUD for River Stone. Mr. Minish, who has a 12-acre parcel said he did not receive any of the notifications and did not participate in that process but subsequently approached Windsor-Aughtry Company and offered to sell them approximately four acres, which we laid out a preliminary plan for that, which would involve extending this stream up through lot 607 and having seven lots on either side. Mr. Hunley said using the PUD calculations there would be twelve more lots allowed for a total of 672, this will net us 13, and so we are at 537 and well under the maximum requirement. This land is not sold to Windsor-Aughtry but under contract based on the special use permit and

also providing him with a second driveway to his property. Chairman Pearce asked whether adjacent property owners were notified on special use permits? Mr. Card said that he was notified according to the address that the tax assessor's office has in their records. Mr. Hunley said that they did not reach him for some reason. Mr. Hunley said that he does have driveway access but it is through an apartment complex and would like a second access. He said that he would still retain 7.85 acres and will be done as the rest of the project has been done and that this would be part of Section 11 of Phase 2. He added that it will be constructed the same time as Section 9. Chairman Pearce said that Staff is particularly concerned with the buffering in that area and the berm being taken out in that area, could you let us know what your plans are. Mr. Hunley explained the buffering and showed their plans on a map. Mr. Card asked, "The thirty-foot right-of-way that is proposed, will that be private?" Mr. Hunley said that it will be another private driveway. Chairman Pearce asked to explain the reduction of setbacks. Mr. Hunley said that the owner is looking at bonding the remaining improvements for an area with 59 lots and the issue came up as to what should be the setback on the side streets. He said that in the special use permit, it doesn't specifically address that issue, this is an interpretation that zoning usually uses. We are just asking for clarification of this in the special use permit.

Subcommittee Assignments and Meeting Dates. There was no subcommittee meetings assigned at this time.

Adjournment. There being no further business, Chairman Pearce made a motion to adjourn and Renee Kumor seconded the motion. The meeting adjourned at 7:54 p.m.

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Tedd Pearce, Chairman

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Kathleen Scanlan, Secretary