

**HENDERSON COUNTY
PLANNING BOARD MINUTES
May 16, 2006**

The Henderson County Planning Board met on May 16, 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, Mark Williams, Jonathan Parce, Mike Cooper, Renee Kumor and Stacy Rhodes. Others present included Justin Hembree, Assistant County Manager/Interim Planning Director; Matt Card, Planner; Matt Cable, Planner; and Kathleen Scanlan, Secretary. Board member Gary Griffin was absent.

Chairman Pearce called the meeting to order and introduced Mr. Antrim as the new Planning Board member. Mr. Antrim briefed the Board members of his background. Mr. Pearce then asked for the approval of the April 18, 2006 regular meeting minutes. Ms. Kumor had some typographical corrections that she shared with the Secretary and made a motion to approve the minutes subject to these corrections. Tommy Laughter seconded the motion and all members voted in favor.

Appointment of Vice-Chairman. Chairman Pearce appointed Mike Cooper as Vice Chairman and it was unanimously agreed by all Board members. Mike Cooper was appointed as Vice Chairman.

Adjustments of the Agenda. There were no adjustments made.

Staff Reports. Mr. Hembree informed the Board members that the Hendersonville Agricultural Advisory Board sent a letter to the County Manager expressing concern over the Land Development Code and inviting him as well as the Planning Board members at a luncheon/meeting to discuss issues that were raised during the input process during the time the Land Development Code was being reviewed. Mr. Hembree asked Board members if they are interested in attending, it is being held on May 24, 2006 at noon at the USDA Service Center. Chairman Pearce requested that an e-mail should be sent out to all Planning Board members to remind them of this event. Mr. Hembree also mentioned that the County has not yet executed a contract with Benchmark but have met with them and discussed their scope of work they propose to do. Mr. Hembree indicated that it should be sometime next week when the contract will be executed. Mark Williams said that he thought the Land Development Code was going to the full board rather than the subcommittee. Chairman Pearce said it will be going to the subcommittee first than the full board, because at the last meeting Board members had agreed that the subcommittee would look at the Code first and make some recommendations and then bring it to the full board, as the full board is the only board that can approve any one section and send it to the Board of Commissioners. Chairman Pearce said that basically the subcommittee wants to verify that every item that has been brought up in public meetings and in public comments either written, verbal, etc. have been included and/or why it hasn't been included before the full Planning Board reviews it. He added that it is also easier to get a smaller group together and more expeditious. Mr. Williams feels it should be the full Board to discuss and review the Code. Chairman Pearce said that perhaps from the zoning aspect, we may look at that differently, but on most of the sections it is material that has been reworked from various ordinances to accommodate this one. Mr. Williams stated that he will probably attend the subcommittee meetings to share any input, but also feels that the full Planning Board will have opportunities once it has been reviewed and refined by the subcommittee. Subcommittee members welcomed all Planning Board members to the meetings to share their input. Mr. Hembree mentioned that the goal is to have a Planning Director hired within thirty days.

OLD BUSINESS:

Draft Order Granting Approval for Carriage Park, Section 18 (Carriage Woods) Development Plan – Planning Staff. Renee Kumor made a motion to accept the Order granting approval of Section 18, Carriage Woods of Carriage Park. Mike Cooper seconded the motion and all members voted in favor.

Draft Order Regarding Carriage Park, Section 7 (Carriage Crest) – Planning Staff. Renee Kumor made a motion to accept the Order denying approval of Section 7, Carriage Crest of Carriage Park. Mike Cooper seconded the motion and all members voted in favor.

Homestead at Mills River, Phase III (File # 2006-M20) – Development Plan – 42 Lots on 67 Acres Located off Whittaker Road – Terry Baker, Agent for Homestead at Mills River, LLC, Owner. Mr. Card stated that this is Phase III for the Homestead at Mills River and is the final phase and is being brought to the Board because the original condition requires that each subsequent phase should be brought back to the Planning Board, rather than approved administratively. Mr. Card mentioned that there are a couple of flag lots, lot 146 and there are a few streams that are shown on the maps. Mr. Card said that the following comments are straight-forward, they are as follows:

1. **Revisions to Development Plan.** The following changes must be made for the Development Plan to be in compliance with Appendix 5 (Development Plan Requirements) of the HCSO.
 - Finished road grades should be added to the Construction Plan for “Road 3”.
 - The length of all proposed culverts must be added to the Construction Plan.
2. **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).
3. **Final Plat Requirements.** Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance for approval.

Mr. Card said there are a few review agency comments, one of which is from the Fire Marshal's Office. It requested a minimum of 96-foot diameter cul-de-sac. Staff's comment mentioned that the expansion of the cul-de-sac and requesting 96 feet is not specifically required but is acceptable under the current standards if the developer chooses to comply with the request. Mr. Hyder also commented regarding the placement of a dry hydrant in Phase 3. Mr. Card mentioned that there is a pond located near lot 149.

Mr. Card also mentioned that he received a comment from the Zoning Administrator who indicated that this project complies with Zoning, Watershed, and Floodplain Ordinances.

Mr. Card indicated that he received comments from Ron Thompson who is concerned about the developer using construction equipment on Old Homestead Road and Hall Road. Chairman Pearce asked what was the initial terms of agreement regarding the road issue. Mr. Card said that the conditions in Phase 1 and Phase 2 initially said that the applicant stated that Hall Road and Old Homeplace Road would not be used for construction vehicles except for small repair vehicles accessing the old Clodfelter home, and that was during approval of those sections.

Ms. Kumor was concerned with streams going through several lots in this project, the requirement of buffers and the implications involved under the Watershed II regulations as well as property owners who might not be aware of the regulations. Mr. Terry Baker with Associated Land

Surveyors said that in order to get a building permit in Henderson County, you need also to acquire a Watershed Permit and all of the criteria is given in order to get a building permit. Mr. McElrath said that the County rule is thirty feet buffer and the development has fifty feet and a deed restriction on every stream on the property. Chairman Pearce said that there is nothing in the Subdivision Ordinance that provides subsequent enforcement, which goes back to a zoning issue. After some further discussion, some Board members felt that the approval of this project could be contingent on what is required in the covenants dealing with buffers in the watershed.

Regarding the dry hydrant, Mr. Baker did not have a problem with complying with installing one, but as far as the cul-de-sac situation, Mr. McElrath will have to address that. Mr. Baker said he felt that Mr. McElrath will work with doing that. It requires an all-weather access road by the ISO regulations, so we would be willing to put in the road through that lot, because that is how that lot is going to be accessed by the pond and technically we will be putting a driveway for the lot while we are doing at the same time. Chairman Pearce said that the Planning Board has no authority to force the issue of the 96-foot diameter cul-de-sac as this would be voluntary by the owner. Mr. McElrath said that he would look into this further.

Mr. McElrath discussed the concern about the construction traffic on Hall Road and mentioned that a concrete truck accidentally went up Hall Road because of a directional problem and was a mistake. He mentioned that the contractors know not to use Hall Road and added that there is a sign posted that prohibits any outside traffic on Hall Road, which he purchased and installed. He further stated that because there are paved roads now in the development, he does not anticipate any construction traffic using Hall Road.

Ron Thompson. Mr. Thompson, resident of Hall Road, stated that the construction traffic has happened frequently and has been an issue for over a year. Recently he saw a Moore and Son construction vehicle, who is the primary contractor for Homestead at Mills River on Hall Road. He said that it is still a continuous problem and has seen up to four vehicles a day on the road, because it is the easiest route in the development, especially accessing the newly developed Phase III. He said that it is a condition that they not use Hall Road, which is Condition 10 – this is not being followed. Mr. McElrath said that construction is not allowed there and said that he has been unaware of other instances that have occurred.

Chairman Pearce asked Staff, “If someone violates one of the terms of condition, what is done?” Mr. Card said, “On previous cases, the County has revoked approval, which is the obvious solution of breaking a condition of approval. There is a violation section, but it is not very detailed.” Mr. Hembree said that he has talked with the County Attorney regarding this issue and the first thing that needs to be done at the Staff level is to determine whether or not there is a violation of the condition. If there is a violation that Staff finds by going out there, then that is when a recommendation would come forward of revoking the permit that is allowing the development. Mr. Hembree said that the first thing that needs to be done is to hold a investigation by the Subdivision Administrator who would determine whether there is a violation of the condition set forth and whether that is continual violation that has been happening. Mr. Parce wanted to know that if there was a violation, would there be a report that would be submitted to the Planning Board? Mr. Hembree said that it would be submitted to the Zoning Board of Adjustment and then on to the court system. Mr. Cooper asked what the Planning Board can require of the developer to insure us that he is doing everything possible on his behalf. Has letters been given to the construction company? Mr. McElrath said that he has spent a lot of money on improvements of this road. He said that Moore and Sons Construction is aware that they should not use Hall Road. After some further discussion, Mr. Cooper suggested to Mr. McElrath to write a letter to Rick Moore of Moore and Sons Construction telling him that one of the conditions of the permit is that no construction vehicles are allowed on Hall Road and should any continue using this road, the permit will be revoked. Mr. McElrath said that he would write a letter

to Mr. Moore. Chairman Pearce asked that a sign specifically indicates that no construction traffic is allowed. He asked to try to solve this problem so no violation procedures need to be enforced. Mr. McElrath said that he will write the letter and put specific signage up to make it perfectly clear that no construction vehicles are allowed. He added that it is important to him what his neighbors think of his project and he stated that he will take care of these issues before the end of the week.

Mr. Ron Thompson clarified his importance of this issue to the Planning Board members and that he has engaged an attorney to start looking into this issue as he feels it is serious and have also looked into having neighbors to sign affidavits regarding the road issue and other issues. Chairman Pearce stated that all issues should be addressed to the Subdivision Administrator of the Planning Department.

Mark Williams made a motion that the Planning Board find and conclude that the Development Plan for Phase III of The Homestead at Mills River 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 Development Plan be approved subject to the following conditions: the applicant satisfies any conditions that result from the comments listed above and that the developer has agreed to the Fire Marshal's second suggestion regarding fire suppression and a paved access to that suppression. With regard to the suggestion of the 96-foot diameter cul-de-sac, the Planning Board has determined that it is not a requirement, but that the developer has the option should they choose to do so. Mike Cooper seconded the motion and all Board members voted in favor.

Headwaters Lake, Section II – (File # 2006-M21) - Master Plan and Development Plan – 10 Lots on 33.1 Acres Located off River Ridge Road – Steve Waggoner, Surveyor for John Ball, Waters View, LLC, Owner and Developer. Stacy Rhodes recused himself because of business relations dealing with this development. Mr. Card mentioned that Mr. John Ball with Waters View, LLC, owner and developer, submitted an application for Section II of the Headwaters Lake subdivision. A Master Plan and Development Plan for Headwaters Lake was conditionally approved by the Planning Board on July 25, 2000 for both Section I and Section II of the subdivision. The major subdivision application for Section II was later withdrawn to allow for the Mr. John Huey minor subdivision which was approved by the Planning Department on May 25, 2004. Section II was never developed. Section I was completed and a final plat was approved by the Planning Department on June 29, 2001 and subsequently recorded. The applicant is now reapplying for approval of Section II of the major subdivision.

Section II is located on 33.1 acres of land and is proposed to be accessed off of River Ridge Road. The applicant is proposing a total of 10 lots which will be served by private gravel roads. One of the proposed subdivision roads extends off Headwaters Road to an adjacent property owned by Mr. Ball. It appears that from the attached Master Plan and Development Plan that a dry hydrant is located along the emergency spillway. The project site is located in the Open Use zoning district which does not regulate the residential use of land. The project site is not located in a designated fire tax district but is closest to the Green River fire tax district.

The lot shown on the attached plan as owned by Mr. John Huey is currently accessed by an existing 60-foot right-of-way off River Ridge Road. This right-of-way is proposed to be abandoned subsequent to the completion of the roads within Section II of Headwaters Lake. Mr. Huey's lot would then be accessed and front on Headwaters Road.

Standard Comments are as follows:

1. Private Roads. Because private roads are proposed, the final plat 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)

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

Master Plan and Development Plan Comments

5. Agent Form. As stated above in the Project Overview, a minor subdivision was created in 2004 which is shown as the John Huey lot on the Master Plan and Development Plan for Headwaters Lake. According to the Master Plan and Development Plan, the recorded plat for this minor subdivision (plat slide 4995) and current County records, Mr. Huey's lot lines will change to accommodate the proposed Plan for Headwaters Lake subdivision. Access to Mr. Huey's lot will also change. Staff feels that the applicant should provide an agent form from Mr. Huey and that his lot be incorporated into the major subdivision. Mr. Steven Waggoner and Mr. William Alexander provided Staff with a right-of-way agreement for Mr. Huey's lot, which was signed by both parties, but the agreement was never recorded with the County. The above situation is not specifically addressed in the County's subdivision regulations.
6. Road Standards. The road shown on the Plan that extends off the proposed Headwaters Lake road and into Mr. Ball's property will have to be built to Henderson County private road standards. As far as providing a turnaround on this road, Section 170-H of the HCSO states that vehicle turnaround areas shall be provided at the end of all dead-end roads that exceed 300-feet. Mr. Card stated that it is up to the interpretation of the Planning Board whether this road is considered a "dead end" road.

Review Agency Comments:

7. Comments from the Fire Marshal. The Henderson County Fire Marshal submitted comments regarding the subdivision. Mr. Card said that 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. Mr. Card stated that the Fire Marshal talked about the road widths (requesting 96-foot paved diameter cul-de-sac) and the water supply (some source such as dry hydrant or drafting point).
8. Comments from Property Addressing. The Henderson County Property Addressing office submitted comments that the road name Headwaters Road must be renamed. The applicant must obtain approval of all proposed road names in Headwaters Lake before a final plat is recorded.

Mr. Card said that this plan is very similar to the original plan submitted previously.

Mr. Bill Alexander, agent for the applicant stated that the road shown on the Plan that extends off the proposed Headwaters Lake road and into Mr. Ball's property is that the sixty-foot right-of-way mentioned is an existing true private right-of-way serving Mr. Ball's other subdivision and uses a secondary one-way road through there as in a "as-built" status from that subdivision and not used for this subdivision. Mr. Alexander said that the reason why they are bringing a 10-lot subdivision as a major is because they had submitted a Master Plan originally for Sections 1 and 2 of Headwaters Lake. While we were in the initial and construction stages, Mr. Huey wanted to buy the lot and at that time decided to withdraw that section at that time. He said we then withdrew and then did a minor subdivision of the entire tract to include the Huey lot and the remaining parcel. We had agreed previously with the Planning Department that if we should ever submit this plan, we would submit it as a major subdivision rather than a minor, because it had been considered originally as part of a major subdivision. Mr. Alexander stated that since he is Mr. Huey's agent as well, he will sign the agency form and submit it to Staff' as per their condition. He said that regarding the Fire Marshal's comments, he doesn't know whether he wants to legally commit to constructing beyond the standards that are required, but is sure that Mr. Ball is willing to talk with the fire department about what he can do voluntarily as long as the cost isn't too great. Chairman Pearce asked if you had a dry hydrant on this lot, where would you access it? Mr. Alexander noted one on Headwaters Road, which is about 1,000 feet away. Mr. Hyder said that the plan he received did not indicate a dry hydrant location, so that access is fine and is satisfactory.

Chairman Pearce made a motion that the Planning Board find and conclude that the Combined Master Plan and Development Plan complies with the provisions of the Subdivision Ordinance except for those matters addressed in Staff Comments section of the memo that need to be addressed; and further move that the Combined Master Plan and Development Plan be approved subject to the applicant satisfying any conditions that result from the comments listed above and requiring the recordation of an agent form on John Huey's lot and regarding Condition 6, changing the language to existing right-of-way and giving the reference as such. Also, that the Planning Board is not requiring any changes due to the comments of the Fire Marshal's Office and noting that the name of the road needs to be changed and addressed to the Property Addressing Office. Tommy Laughter seconded the motion. All members voted in favor.

NEW BUSINESS:

(Stacy Rhodes returned to the meeting at this point).

Tip Top Acres (File # 2006-M18) – Combined Master Plan and Development Plan – 11 Lots on 24 Acres off Corsica Lane – Jon Laughter, Agent for Tip Top Development, LLC, Owner. Mr. Card stated that Mr. Robert Thompson, agent for Tip Top Development, LLC (property owner), has submitted through Laughter, Austin and Associates, a Combined Master Plan and Development Plan for a proposed subdivision to be known as Tip Top Acres. Tip Top Development, LLC, will also be the developer of the subdivision. Tip Top Acres is proposed to be developed on one parcel of land totaling approximately 17 acres in size, in the southeastern portion of the County, just west of the Town of Saluda. The property adjoins the Mountain Vista subdivision off of U.S. Highway 176 and will be accessed from Corsica Lane, which is an existing private road that services the Mountain Vista subdivision..

Tip Top Acres is proposed to contain 11 single-family lots and will be developed in one phase. The developer plans for all of the homes to be served by public water and individual septic systems. One private local residential road is proposed to serve the development. The project

site is located in a County Open Use (OU) zoning district, and is not within a designated Water Supply Watershed area and Henderson County GIS shows that there are no perennial streams on the property.

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.
 - A cul-de-sac cross-section must be added to the Development Plan.
 - Curve radii of the proposed road must be added to the Development Plan
 - The Project Summary should describe the type of residential units proposed for the development.
 - All fire hydrants, if proposed, must be shown on the Development Plan.
 - If a subdivision sign is proposed for the project, the location of that sign should 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.
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. According to the Combined Master Plan and Development Plan, the proposed project site is located within 1,100 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).
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. **Private Road Access Agreement.** The applicant must provide evidence to the Planning Department that the current owners of the Mountain Vista subdivision are willing to provide access to the development through Corsica Drive.
6. **Farmland Preservation Program.** The subject property is within ½ mile of a Henderson County Farmland Preservation District, by which, the developer is required by the HCSO to submit an Affidavit of Understanding of Farmland Preservation District (Appendix 11 of the HCSO) with their major subdivision application.
7. **Final Plat Requirements.** Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance for approval.

REVIEW AGENCY COMMENTS

Comments from the Henderson County Fire Marshal's Office. See comments from Rocky Hyder of the Henderson County Fire Marshal's Office .

- Given that the developer has proposed to connect to public water, a dry hydrant may not be necessary for Tip Top Acres however, the location of all proposed hydrants should be shown on a revised Combined Master Plan and Development Plan.

Comments from Henderson County Property Addressing Division of the Development and Enforcement Services Department. Curtis Griffin of the Henderson County Property Addressing Office stated that Tip Top Road is not an approved road and must be renamed.

Ms. Kumor was concerned about Condition 5, dealing with private road access, since it was stated that all of Mountain Vista subdivision has been built-out. Mr. Card said Mountain Vista is all built-out but we just want to make sure that this development can occur and that they have the right to access their subdivision through the Mountain Vista Subdivision, but Mr. Thompson can address this issue and that it is in his deed that he does have legal access and we just wanted to provide documentation to the Planning Department for our records.

Mr. Bob Thompson stated that he has a copy of the recorded deed, which has the language giving us the easement for both roads and utilities and submitted it to Mr. Card. Mr. Card mentioned that this copy satisfies that condition.

Tommy Laughter made a motion that the Planning Board find and conclude that the Combined Master Plan and Development Plan for Tip Top Acres 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 conditions addressed by Staff, except for Condition 5, which has been satisfied. Renee Kumor seconded the motion and all members voted in favor.

Subcommittee Assignments and Meeting Dates. Ms. Scanlan brought to the attention of the Chairman that there was a vacancy on the Subdivision Issues Subcommittee. Chairman Pearce stated that he would handle this issue at a later date.

Adjournment. There being no further business, Mike Cooper made a motion to adjourn and Tommy Laughter seconded the motion. All members voted in favor. The meeting adjourned at 6:52 p.m.

Tedd Pearce, Chairman

Kathleen Scanlan, Secretary