

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
March 21, 2006**

The Henderson County Planning Board met on March 21, 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; Paul Patterson, Vice-Chairman, Tommy Laughter, Gary Griffin, Mark Williams, Jonathan Parce, Mike Cooper, Renee Kumor and Stacy Rhodes. Others present included Judy Francis, Planning Director; Matt Card, Planner; Anthony Prinz, Planner; and Kathleen Scanlan, Secretary.

Chairman Pearce called the meeting to order. Mr. Pearce asked for the approval of the January 17 and February 21, 2006 minutes. Ms. Kumor noted that there was one typographical error for February 21, 2006 minutes. She made a motion to approve both sets of minutes with the correction on the minutes for February 21, 2006. Stacy Rhodes seconded the motion and all members voted in favor.

Adjustment of Agenda. There was an addition to the agenda regarding the subdivision that was heard last month, Cloven Cliffs and was put under *Old Business* after LDC Activities.

Staff Reports. Ms. Francis introduced the Planning Department's new Project Manager, Rodney Tucker to the Planning Board members.

**OLD BUSINESS:**

The Preserve on Willow (# 06-M13) – Development Plan– (44 Single-Family Residential Lots) Located on 90 Acres of Land on Willow Mountain Road – Luther E. Smith & Associates, Agent for Willow Road, LLC, Jim Zengage, Managing Member. Stacy Rhodes was recused from any discussion or decision on this matter because of business dealings. All members were in favor of his recusal. Mr. Prinz said that Mr. Jim Zengage, agent for Willow Road, LLC (property owner), has submitted, through Luther E. Smith and Associates, a Development Plan for a proposed subdivision to be known as Preserve on Willow. Willow Road, LLC, will also be the developer of the subdivision. The development of The Preserve on Willow is proposed to be on two parcels of land totaling approximately 90 acres in size. The property is located directly south of the Champion Hills subdivision off of Willow Mountain Road, between Little Willow Circle and Brookfield Road.

Mr. Prinz stated that The Preserve on Willow is proposed to contain 44 single-family lots that will be developed in one phase. The developer plans for all of the homes to be served by public water (from the City of Hendersonville) and individual septic systems and private roads are also proposed to serve the development, with one main entrance proposed from Little Willow Circle which will be gated.

Mr. Prinz said the project site is located in a County Open Use (OU) zoning district, which does not regulate residential uses of land. The property is not within a designated Water Supply Watershed area; however, Henderson County GIS shows that there are two perennial streams on the property, one of which feeds an existing pond.

Staff has reviewed the 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 to be in compliance with Appendix 5 (Development Plan Requirements) of the HCSO.

- The location, diameter, and length of all proposed culverts should be shown on the Development Plan.
- Sight triangles must be shown at all proposed road intersections.

2. **Private Roads.** According to the Development Plan, Monarch Drive, a paved private collector road, is proposed to have a finished grade of 17.96% between Dusky Court and Long Trail Lane. The Applicant must reduce the section of Monarch Drive to a final grade of 16% or less to comply with the requirements of the Subdivision Ordinance, or apply for a variance for the proposed 17.96% grade.

Mr. Prinz mentioned that he had been in contact with Mr. Jon Cannon, with Luther E. Smith and Associates office and Mr. Cannon stated that he plans on reducing Monarch Drive down to a local private road rather than a collector road. He added that if they did that, it would meet the requirements of the Ordinance.

3. **Water Supply.** 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).

Mr. Prinz stated that at our previous Planning Board meeting, Mr. Patterson was talking about requiring a letter from NCDENR for the approval of the water supply system, but he stated that he does not know whether the Planning Board wants to make that a condition at this point. Mr. Prinz mentioned that he did receive a water capacity letter from the City of Hendersonville for this project. Ms. Kumor said she felt that if they are part of the City water, they didn't need a letter from NCDENR. Mr. Prinz said that Mr. Patterson's point was that in order for them to make improvements, that they need to get approval from both agencies separately. Mr. Prinz said that in the past, Staff has only required a letter from the City, but Mr. Patterson felt it was a good idea to require the NCDENR letter also, but if the Board chooses, just a letter from the City of Hendersonville would be adequate. Mr. Cooper stated that if we are requiring both letters from some of the projects, we need to make it consistent and require the same for all projects. Chairman Pearce wanted to know what the Subdivision Ordinance states. Mr. Prinz stated that the Ordinance is not specific what agencies we need approval from it just mentions appropriate agencies. Chairman Pearce along with other Board members felt that a separate discussion should be taken up on this subject at another Planning Board meeting to set precedence on this matter. Chairman Pearce added that the wording NCDENR should be stricken for the time being regarding the requirement letters from the City of Hendersonville and NCDENR for water supply.

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).

Mr. Prinz mentioned that a copy of the certificate was received regarding the Soil Erosion and Sedimentation Control.

5. **Driveway Permit.** The applicant must obtain a driveway permit through NCDOT for the proposed entrances on Little Willow Circle and provide evidence of permit issuance to the Planning Department.
6. **Final Plat Requirements.** Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance for approval.

Mr. Prinz said Staff received comments regarding The Preserve on Willow Development Plan from Scott Foster of the Henderson County Environmental Health Department and Wally Hollis of the Henderson County Fire Marshal's Office, but both were standard comments. Mr. Prinz added that the Fire Marshal's Office requested some general specifications regarding the gate. He said there is nothing in the Ordinance that requires this, but it could be made a condition of approval.

Mr. Jonathan Cannon with Luther E. Smith and Associates was present for any questions and stated that he would meet all conditions. He reiterated that regarding Monarch Drive, it would be reduced down to a local private road to meet all standards. Mr. Cannon said that they would be connecting to the City water system and will meet all of their requirements. Chairman Pearce said regarding the comment from the Fire Marshal's Office, Chairman Pearce asked Mr. Cannon to explain their intentions on access issues for the gated community. Mr. Cannon said that The Preserve on Willow is a gated community and there are private roads in the development but there will be 24/7, 365-day access provided for all emergency vehicles as recommended by the Fire Marshal's Office and others.

Mike Cooper made a motion that the Planning Board find and conclude that the Development Plan for The Preserve on Willow 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: 1, 2, 5 and 6. In addition, the private roads, (Condition # 2) as mentioned by Mr. Cannon of Luther E. Smith and Associates office, would be reduced down to a local private road to meet all standards. Tommy Laughter seconded the motion and all members voted in favor.

LDC Activities – Judy Francis, Planning Director. Ms. Francis stated that in the Planning Board packets, there is included the motion concerning the Land Development Code that indicates that the Commissioners want to allocate time with the Planning Board to re-evaluate our draft and also make suggestions concerning the Comprehensive Plan amendments. The amendments that the Commissioners were referring to are as follows:

1. That the Planning Board recommend changes in May 2006 to the 2020 Comprehensive Plan, including specifically the maps in that plan, consistent with more recent demographic and geographic information and public input on land uses.

Ms. Francis also mentioned that Staff has a list of administrative amendments, including the industrial study that the Planning Board recently approved.

2. That the Planning Board and Planning Staff develop a draft Land Development Code during the summer of 2006.

3. That the Board of Commissioners will undertake public input and formal public comments after the Planning Board provides its draft Land Development Code.

Chairman Pearce explained and reviewed some of the proposed document changes he would like the Planning Board to study and review. The comments were as follows:

1. Identify needed amendments to the CCP including map updates, inclusion of the recently completed industrial study, and any other substantive changes.
2. Add *guides* to use of LDC before index.
3. Re-write conservation subdivision option and consider range of alternatives to achieve environmentally responsible development, particularly in sensitive areas.
4. Change names of overlay districts to Urban, Transition, and Rural.
5. Move appendix 1 to Section III.
6. Come up with new densities on all three districts.
7. Change the conservation and affordable housing bonus to a straight percentage or some sliding scale.
8. Change from the intensity of use tables to outlining each zoning districts permitted uses below each districts "purpose" statement in Section III.
9. Incorporate recommended changes from the public input sessions and other comments received by Staff into the Planning Board's document.
10. Work out some way either through a new residential district(s) and or some type of legal process to address density issues that may arise prior to the completion and implementation of small area plans recommendations.
11. Make a final decision on the size of subdivisions that the Planning Board will review and which ones the TRC (Technical Review Committee) will handle and incorporate Staff (including emergency services) concerns.
12. Move all appendices where possible into the applicable sections they are concerning.
13. Incorporate some form of nearby property owner involvement into rezonings and major development approvals prior to consideration by Planning and/or County Commissioners.

Chairman Pearce reviewed the proposed draft activity schedule for the Land Development Code and Comprehensive Plan amendments that was circulated that he asked the Board members to consider. The schedule read as follows:

March – Mid July: Staff and Planning Board formulates amendments to the Comprehensive Plan including map updates, inclusion of the completed industrial study, schedule adjustments, and administrative corrections/clarifications. Additionally, Staff and the Planning Board will proceed with structural reformatting, development of substantive and/or clarifying text changes, and consideration of comments received thus far. Staff will also complete scheduled public presentations requesting comment submittal. The CCP amendments and Land Development Code draft revision will be packaged and forwarded to the County Commissioners to consider in July.

Late July – August: Commissioners hold work sessions to review the proposed CCP amendments and draft LDC including the Planning Board recommendations and Staff comments. Direction will be given to Staff from the Commissioners regarding scheduling and locations of public input sessions.

September – October: Commissioners obtain public comment and direct Staff to draft any changes they would like to have in the CCP and the final version of the draft LDC.

Late October - ?: Commissioners deliberate the adoption of the CCP amendments and the LDC.

Chairman Pearce stated that he would request that the Planning Board agree to this proposed schedule and the general outline presented on how we are going to achieve the restructuring of the Land Development Code. Ms. Francis stated that there are a number of Staff changes that need to be added that are not reflected on this LDC Changes list which will be part of the rewrite and much have come from public comments that have been received at meetings. Ms. Kumor said that she feels we need to give consideration to neighbors and local property owners involved in large development review processes, if we want to reach a proper balance between property rights and public good. We need to allow people to exploit their property but not place additional burden on other property owners. She added that she hopes that will be somehow explained in the Ordinance. Ms. Kumor said that she feels in the Land Development Code it should address safety for all of the citizens. Mr. Williams wanted to know what the Board's options are dealing with this document. Chairman Pearce said that as members of the Planning Board, the Board of Commissioners have asked us to do what we think to make this a document that we can send forward to them with a majority approval. He said when you take the document as a whole; about sixty percent is a codification and reorganization of previous documents. He feels that the Subcommittee members will not send forward a document to the full Planning Board unless they feel it will receive a more than majority approval because he feels they have a responsibility to all of the homeowners and landowners of the County who will be affected by what happens to land development in this County. He added that it is the Planning Board's responsibility to send forth something that is responsible and reasonable that benefits all of Henderson County. Mr. Williams clarified that he wants enough time to send forward a well thought-out document to the Board of Commissioners. Chairman Pearce also feels that if we do not get at least six or seven members in favor of the final document, then there should be a very good reason why. Mr. Cooper feels that an agenda should be established in advance of the meeting so that Committee members are aware and prepared to address the areas that will be discussed and also that all Planning Board members will also have a chance to forward any input and concerns they might have to share on those issues.

Chairman Pearce made a motion to approve the draft activity schedule for the Land Development Code and Comprehensive Plan amendments. Renee Kumor seconded the motion and all members voted in favor.

Cloven Cliffs – Revised Master Plan and Development Plan Review. Mr. Card stated that on February 21, 2006, the Planning Board reviewed the development, but there were some problems with the plans, the roads didn't meet the standards of the Subdivision Ordinance. Mr. Card said specifically the roads did not meet the minimum curve radii standards and a proposed intersection at lots 3, 6 and 7 was said to be unsafe and problematic. There were also roads throughout the project some of which were actually not deeded or platted roads and some of which were, but did not have the deed reference to them. Mr. Card mentioned that another issue was that the Minor Subdivision had been approved by Planning Staff, but was not on the Master Plan.

Mr. Card stated that they did come back to Staff with revised plans to take care of a lot of those problems. Mr. Card showed on a revised plat that the intersection that was mentioned previously has been eliminated. He said that they are proposing to bring this road around, loop it and connect it with another road. Cloven Cliff Drive would also loop around and connect with an existing road, the MacMillan Furniture Road.

Mr. Card stated that he wrote a new memo of Staff comments and briefly reviewed each comment. Mr. Bruner was present for any questions. Chairman Pearce asked whether the pond would be used for fire protection? Mr. Bruner stated that if it were required, they would use the pond for fire protection. Chairman Pearce stated that the Board would make that a condition subject to the fire department or Fire Marshal's office determining that the pond is adequate for a dry hydrant. Should the response from the Fire Marshal's Office or fire department be that it is not adequate, then this would not be a requirement. Chairman Pearce asked Mr. Bruner, "Is it your intention to subsequently develop what you now have as Phase III?" Mr. Bruner said that it is depending upon a current contract that is on Phase III and the buyer has until March 24, 2006 when he will purchase the property or not. Mr. Bruner said if he does not decide to purchase the property, then he said he would like to add additional lots and come back through the process as required. Stacy Rhodes made a motion that the combined Master Plan and Development Plan for Cloven Cliffs complies with the provisions of the Subdivision Ordinance except for those matters addressed in the technical and procedural comments section of the Staff memo that need to be addressed and further move that the combined Master Plan and Development Plan for Cloven Cliffs be approved subject to the following conditions: the applicant satisfies conditions 1 – 10 in Staff's memo that result from the comments listed above and in particular condition 10 regarding fire protection, that is subject to the fire department or Fire Marshal's office determining that the pond is adequate for a dry hydrant. Mark Williams seconded the motion and all members voted in favor.

### **NEW BUSINESS:**

Whisperwood Estates (#06-M12) – Combined Master Plan and Development Plan – (30 Single-Family Residential Lots) Located on 47 Acres off Evans Road – Gary Corn, Agent for TCB Property Development, LLC. Mr. Card stated that the applicant was not present but was informed of the date and time of the meeting. Mr. Gary L. Corn, agent for Mr. John L. Pace and TCB Property Development, LLC, property owner, submitted a Combined Master Plan and Development Plan with an application for a major subdivision titled Whisperwood Estates, but Mr. Corn is not present. Chairman Pearce wanted to know whether there was anything that would need to be discussed with the applicant or his agent about this project? Mr. Card stated that there are a few items of concern. Mr. Card mentioned regarding Condition # 6, Road Cross Section Details. He mentioned that they are proposing gravel roads, the plan shows 6-inch depth but the minimum stone base depth for gravel collector roads is 8 inches. He added that the plan does not include cut and fill slope information, which is 2 to 1 for collector roads and 1.5 to 1 for local residential roads. Mr. Card said that regarding Condition # 5, Road Standards, the 30-foot driveway easement serving lot 14 must be built to limited local residential road standards as the *Henderson County Subdivision Ordinance* does not have standards for driveway easements. Also since this road appears to exceed 300 feet in length then a turnaround shall be provided, according to the *Henderson County Subdivision Ordinance*.

After some discussion regarding the absence of the applicant and agent, Ms. Francis stated that their attendance is recommended but not required. Board members felt that if the applicant was not present to answer some of the questions that Board members have, it should be tabled until the applicant is present to answer them. Mark Williams made a motion to table this proposed project until the applicant or the applicant's agent can attend. Jonathan Parce seconded the motion and all members voted in favor. Chairman Pearce requested Staff to include wording in the Land Development Code that the applicant or the applicant's agent should be in attendance at the Planning Board meeting regarding presentation of their subdivision for any questions that might arise.

Subcommittee Assignments and Meeting Dates. No subcommittee meetings were scheduled at this time.

Chairman Pearce and Board members addressed the issue of larger size drawings of plans for subdivision. After some discussion, Board members requested that they receive at the meeting three large copies so that they can see the details of the plan. Mr. Cooper's office agreed to make the copies needed.

Adjournment. There being no further business, the meeting adjourned at 6:45 p.m. All members voted in favor.

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Tedd Pearce, Chairman

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Kathleen Scanlan, Secretary