

**HENDERSON COUNTY
PLANNING BOARD MINUTES
December 20, 2005**

The Henderson County Planning Board met on December 20, 2005 for their regular called meeting at 7:00 p.m. in the Board Room of the Land Development Building, 101 East Allen Street, Hendersonville, NC. Board members present were Tedd Pearce, Chairman; Paul Patterson, Vice-Chairman, Tommy Laughter, Gary Griffin, Mike Cooper, Renee Kumor and Stacy Rhodes. Others present included Judy Francis, Planning Director; Matt Card, Planner; Anthony Prinz, Planner; Autumn Radcliff, Planner; Matt Cable, Planner; Kathleen Scanlan, Secretary; C. Russell Burrell, County Attorney; and Chuck McGrady, Commissioner and Liaison to the Planning Board. Absent members included Mark Williams and Jonathan Parce.

Chairman Pearce called the meeting to order and ask for the approval of the four sets of minutes – November 10, November 15, and December 7, 2005. Tommy Laughter made a motion to approve all three sets of minutes and Gary Griffin seconded the motion. All members voted in favor.

Adjustment of Agenda. No adjustments were made.

Staff Reports. Ms. Francis stated that at the December 15th Board of Commissioner's meeting, they received the draft copies of the Land Development Code with a complete list of the Planning Board comments outlined and presented in such a way so that they would know what comments the Planning Board had given that were incorporated into the document and what ones were not incorporated into the document. She stated that Staff is working with them to establish a work session schedule and she believes it is their intention if there are additional things that they want more study on, they will be asking the Planning Board to help them with some of that and also if the Planning Board determines that they would like to make additional comments at some point, they would be happy to receive them.

Ms. Francis mentioned that there are two small area plans that have begun. The first small area plan, which involves NC 191 community had their meeting on December 6, 2005 and there was good attendance and participation as well as interest in volunteer work. On Monday, December 19, 2005, we had the second small area plan meeting for Etowah-Horse Shoe area at the Etowah Elementary School. She stated that despite the recent problems with the ice storm, there was good attendance at that meeting as well and good public input. Mr. Cooper stated that the new packet all Board members received with the comments from the Planning Board that were forwarded to the Board of Commissioners, he found that the motion that was stated in there was not exactly the motion that were in the minutes of December 7, 2005. Mr. Cooper felt that the ones in the minutes were more correct and detailed and wanted to know why they didn't get forwarded in the same fashion? Ms. Francis said she had not put that together but if that is a concern, Staff would get a copy of the motion to each Commissioner. Chairman Pearce reiterated that it should be done.

Chairman Pearce requested that Staff be brief on their individual presentations so that the meeting will move along in a more timely fashion.

OLD BUSINESS:

Amendment to the Development Plan for Section 15 (Carriage Crest) in Carriage Park - 42.5-Acre Area in Carriage Park Located off Highway 191 – Bob Grasso, Land Planning Collaborative, Agent for Carriage Park Associates, LLC, Owners. Paul Patterson said that he would recuse himself, as he has been involved in projects with Carriage Park. All Board members approved his recusal. Chairman Pearce stated that this item would be conducted as a quasi-judicial proceeding and the proceeding is to consider an amendment to Section 15, Carriage Crest. Chairman Pearce then asked all parties to the proceeding (Carriage Park Associates, LLC, Dale Hamlin, Manager and Developer; Bob Grasso, Agent for Carriage Park Associates, LLC, Richard Krupp, President of Carriage Park Homeowner's Association (at 2509 Carriage Falls Court) and the Planning Department Staff, (Matt Card, Planner, and Planning Director Judy Francis) to be sworn in.

Mr. Card stated that this is Section 15 and an amendment to the Development Plan and that this is the second time there has been an amendment. The first time was on July 19, 2005 when the Planning Board approved an amendment and the plan was originally approved January 21, 2003. Mr. Card said that the old plan basically had Carriage Crest Drive circulating around, which was connected and served a total of 55 units, both townhouse units and detached single-family residences. He said that now we have 66 lots total, 7 of which are single-family and 59 are townhouse units, which is a change from 65 total lots and 11 were single-family residential units and 54 were townhouse units, so they have added one lot and increased the number of townhouses. He said that Carriage Crest Drive which was proposed as a loop road is now divided into two different roads. All roads except for Crest Court and Summit Road are residential streets with a 45-foot right-of-way. Crest Court is a neighborhood drive with a 30-foot right-of-way and Summit Road appears to be a minor collector road with a 50-foot right-of-way, which is proposed to serve this and other development parcels. The amendment fits the land better because of a lot of steep slopes. Chairman Pearce said that the open space would be properly allocated? Mr. Card said yes. Mr. Card stated that Staff sent out proper notices on November 29, 2005 to all recipients of the Carriage Park mailing list.

Mr. Grasso said that although this is the third change, he feels this amendment fits the land, minimizes street crossings and minimizes land disturbances. Mr. Cooper questioned the dimension of the loop on Summit Road. Mr. Grasso said that it is a center of 20 feet, so that an automobile could make that turn and would have a 30-foot outside turning radius.

Mr. Card reviewed the following comments:

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. **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 NC DENR that a soil erosion and sedimentation control plan has been

received or provide documentation from a professional land surveyor, engineer, landscape architect, architect or professional planner that no plan is required prior to beginning construction.

4. **Water and Sewer Plan Approval.** A letter from the Hendersonville Water and Sewer Department regarding capacity to provide water and sewer service for the entire PUD project was provided on June 11, 1993. The Applicant should provide evidence that the water and sewer plans serving Section 15 (as proposed to be amended) have been approved by the City of Hendersonville Water and Sewer Department and NCDENR prior to beginning construction (HCZO Section 200-33 F(4)(b)[6]).
5. **Private Road Standards.** Special Use Permit #SP-93-13 (Exhibit A [12]) requires that roads be constructed to NCDOT standards for vertical alignment and grade and that the Applicant provide evidence of the responsibility for road maintenance and repair, prior to the recordation of any plat representing lots or units having direct access to said roads.
6. **Setbacks.** Section 15 must comply with the setbacks found in the Schedule of Site Standards in Special Use Permit SP-93-13. According to these standards there is a 30-foot setback for all townhouse units on residential streets. It appears that lots 24 and 25 encroach on this setback. Zoning permits cannot be issued for any structures proposed to be built inside the setback areas. A revised Development Plan should show that all proposed units comply with the standards mentioned above.
7. **Evidence of Infrastructure Development.** The Applicant has indicated in the Descriptive Narrative that sewer and water lines will be extended to the Section 15 boundary. The Applicant shall, prior to any request for review or approval of plans for any development parcel, provide evidence that development infrastructure including roads, drainage, water and sewer, have been extended to the boundary of said parcel; or otherwise provide an improvement guarantee in a form acceptable to the Henderson County Board of Commissioners. Prior to beginning construction, the applicant should, on a revised development plan, clarify where water and sewer lines are located in relation to the development parcel and should show drainage areas and culverts (#SP-93-13 Exhibit A[A][2][d]).
8. **Open Space.** The required open space will need to be put on record prior to or concurrent with the recordation of the Final Plat for lots in Section 15. Mr. Card said that he received a comment from Natalie Berry, Zoning Administrator, indicating that Staff needs to find out how much open space is left in the development. Mr. Card said that it is unclear to him how much is left after 15 years of records and a number of people who worked on them. He feels that a meeting with Dale Hamlin of Carriage Park along with Natalie Berry to discuss this issue and find out how much open space is left of the project. Chairman Pearce asked Mr. Hamlin to meet as requested by Mr. Card so that this can be taken care of. Mr. Hamlin said that he recently completed a search of public records so he said he was ready to meet at anytime.

9. **Revised Development Plan.** The applicant should consider revising the notes section on the Development Plan because the information regarding the roads is incorrect. The revised Development Plan must also have correct site information as the Development Plan shows 65 lots and not 67 lots as proposed. Lot 51 is also labeled twice as both a townhouse lot and a single-family residential lot. A revised Development Plan showing all the suggested changes mentioned above should be submitted to the Planning Department for review.

Mr. Card stated that he recommends approval of Section 15, as amended, subject to the above comments being addressed and any other issues that may arise during the hearing.

Mr. Krupp requested that when the meeting gets scheduled regarding the open space issue, he would like to be notified of the date and time. Mr. Card stated that he would like his packet entered into evidence.

Mr. Cooper made a motion that the Planning Board find and conclude that the amendments to Development Plan for Section 15 of Carriage Park Planned Unit Development complies with the provisions of the Henderson County Zoning Ordinance, Water Supply Watershed Protection Ordinance, Subdivision Ordinance, and the Special Use Permit regulating the Planned Unit Development (#SP-93-13, as amended) except for those matters addressed in the Technical and Procedural Comments section of Staff's memo as indicated by Mr. Card 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. Renee Kumor seconded the motion and all members voted in favor.

Staff was directed to prepare an Order with the Planning Board's findings of fact, conclusions and decision and to bring back at the next Planning Board meeting for approval. The Planning Board allowed the applicant to begin construction prior to approval of the Order, provided the applicant has addressed relevant pre-construction conditions imposed by the Planning Board.

Amendment to the Development Plan for Section 17 (Carriage Woods) in Carriage Park – Proposed Change of Lots from Original Plan Located off Highway 191 – Bob Grasso, Land Planning Collaborative, Agent for Carriage Park Associates, LLC, Owners. Paul Patterson remained recused from any discussion or decision in this matter. Chairman Pearce stated that this quasi-judicial proceeding is to consider an amendment to Section 17, Carriage Woods. Chairman Pearce stated that the same parties that were identified previously will remain sworn-in for this hearing.

Mr. Card's packet was entered into evidence. Section 17 was originally heard and conditionally approved at the July 19, 2005 Planning Board meeting. Mr. Card stated that Section 17 was originally approved with 35 detached townhouses served by two neighborhood drives. The applicant, Dale Hamlin and Carriage Park Associates, LLC, submitted an application on November 21, 2005, which would amend the originally approved Development Plan for Section 17 to 34 townhouses and 2 single-family residential lots. Mr. Card stated that originally they did not propose any single-family lots and are proposing to add one additional road (labeled as road C) to the project, which would serve the single-family residential lots. This road would have to be a residential street with a 45-foot right-of way according to the conditions found in Special Use Permit

#93-13 (as amended). Roads A and B are shown as neighborhood drives and will serve the townhouse units. The roads are proposed as private.

Mr. Grasso stated that there were revisions to the slopes and conditions regarding sedimentation basins and that is the reason why we are before this Board.

Mr. Card reviewed the following comments:

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. **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 NC DENR that a soil erosion and sedimentation control plan has been received or provide documentation by a professional land surveyor, engineer, landscape architect, architect or professional planner that no plan is required prior to beginning construction.
4. **Water and Sewer Plan Approval.** A letter from the Hendersonville Water and Sewer Department regarding capacity to provide water and sewer service for the entire PUD project was provided on June 11, 1993. The Applicant should provide evidence that the water and sewer plans serving Section 17 have been approved by the City of Hendersonville Water and Sewer Department and NCDENR prior to beginning construction (HCZO Section 200-33 F(4)(b)[6]).
5. **Private Road Standards.** Special Use Permit #SP-93-13 (Exhibit A [12]) requires that roads be constructed to NCDOT standards for vertical alignment and grade and that the Applicant provide evidence of the responsibility for road maintenance and repair, prior to the recordation of any plat representing lots or units having direct access to said roads.
6. **Road Names.** The Applicant has proposed two neighborhood drives labeled Road A and Road B and a residential road labeled as Road C for Section 17. The Applicant has not provided road names. Prior to the recordation of the final plat, road names will need to be submitted and approved by the Henderson County Property Addressing Office (HCSO Section 170-25). Such names should be shown on the final plat.
7. **Evidence of Infrastructure Development.** The Applicant has indicated in the Descriptive Narrative that sewer and water lines will be extended to the Section 17 boundary. The Applicant shall, prior to any request for review or approval of plans for any development parcel, provide evidence that development infrastructure including roads, drainage, water and sewer, have been extended to the boundary of said parcel; or otherwise provide an improvement guarantee in a form acceptable to the Henderson County Board of Commissioners. The applicant should, on a revised development plan, clarify where water and sewer lines are located in relation to the development parcel and should show drainage areas and culverts (#SP-93-13 Exhibit A[A][2][d]). If water and

sewer lines are not going to be extended to the development parcel prior to final plat review, the developer must provide an improvement guarantee.

8. **Open Space.** The required open space will need to be put on record prior to or concurrent with the recordation of the Final Plat for lots in Section 17.

9. **Revised Development Plan.** Road C on the amended Development Plan must be a residential street according to the conditions found in Special Use Permit # 93-13 (as amended). Road cross sections have not been provided for this road. A revised Development Plan must be submitted to the Planning Department showing the cross-section for Road C and all corresponding setbacks for single family residential lots 24 and 25. The applicant should consider revising the notes on the Plan because it says all roads are neighborhood drives. The revised Development Plan must also have correct site information as the Development Plan shows 35 lots and not 36 lots as proposed. The unit type in the site information should also reflect the addition of single family residential lots.

Mr. Card stated that with the exception of the comments mentioned, Staff recommends approval of the amendment to Section 17.

Ms. Kumor said regarding Natalie Berry's comment on open space, which she wants this entered into the discussion regarding Section 17 as well, the remaining portion of open space will be based on the entire project. She added that the meeting will be held to determine this. Staff agreed. Mr. Grasso stated that when the project is completely built out, 695 units, which are allowed in the PUD, will take consideration of the open space. He added that the only way we could violate the open space is to have more units than the 695 units proposed in the project. Mr. Grasso said that they are going through the tally to find out where they are with regard to the open space. He also mentioned that there isn't anyway they can exceed or not have enough open space with the project because of the way the PUD is structured.

Renee Kumor made a motion that the Planning Board find and conclude that the amendment to the Development Plan submitted for Section 17 of Carriage Park Planned Unit Development complies with the provisions of the Henderson County Zoning Ordinance, Water Supply Watershed Protection Ordinance, Subdivision Ordinance, and the Special Use Permit regulating the Planned Unit Development (#SP-93-13, as amended) except for those matters addressed in the Technical and Procedural Comments section of Staff's memo 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. Also that Staff be directed to prepare an Order with the Planning Board's findings of fact, conclusions and decision and to bring back at the next Planning Board meeting for approval. The Planning Board allowed the applicant to begin construction prior to approval of the Order, provided the applicant has addressed relevant pre-construction conditions imposed by the Planning Board. Tommy Laughter seconded the motion and all members voted in favor.

Chairman Pearce terminated the quasi-judicial hearing for this meeting.

Amendment to Special Use Permit Application #SP-46-96-A3 - Hospice Expansion – William G. Lapsley & Associates, P.A., Agent for Four Seasons Hospice. Natalie Berry referred to Attachment 8, showing a picture to describe all the buildings on the property

for all the Board members to familiarize themselves with the location of the proposed expansion. Ms. Berry stated that the original permit wanted a 130-bed nursing facility and a 12-bed in-patient hospice facility. She added that they have 130 parking spaces provided and that they only need a total of 108. She said that the first amendment to the Special Use Permit came about in 1999, when they wanted an adult day care and on this they had made all of the conditions, but on the first special use permit they failed to meet a couple of conditions, so she said she wanted to bring them up to make them conditions for this amendment.

Ms. Berry stated that one of the conditions was the bicycle and pedestrian path between hospice and Blue Ridge Technical College and that was not done. The other condition was the landscaping along College Drive and South Allen Road, which was all part of the special use permit. She stated that in Exhibit A, Item 7, it states that a plan showing how people may travel between the Blue Ridge Community College campus and the proposed development, which includes pedestrian crossings, any necessary signage, proposed sidewalks and bike paths should be submitted for review by the Planning Department and she added that she did not see these plans submitted. Ms. Berry stated that with regard to the landscaping condition, this was missed on Exhibit A, but is listed in the Findings of Fact, which is listed under 10 (e). It states, "*Landscape buffering will be provided as necessary along the west side of South Allen Road and along College Drive.*" Ms. Berry said that she has talked with Mr. Lapsley regarding this matter and he had no problems with this.

Ms. Berry said that regarding Amendment 3, they propose to add six more beds and some administration office space. She said it is on the ground which would not take up any loading or unloading that is already there for the Elizabeth House and for the nursing facility, it will be just loading and unloading for this building as well. She said they went ahead and made some parking before they realized they needed to make an amendment so Mr. Lapsley stated that they plan on 17 parking spaces, but they can only get 13 built due to some utility lines and 13 is a sufficient amount for what they are doing. Ms. Berry added that they also propose three signs. They plan to replace the Elizabeth House sign with three signs. The location of the signs will be outside of the sight triangle for the entrance/exit for S. Allen Drive, which is indicated as Sign A. Sign B will be a little further back behind the parking and Sign C will be on the left-hand side for the building that was built with just a zoning permit that is on a separate parcel. She showed the proposed pictures of the signs and added that they will not be lighted signs but will have lights to shine on them. Ms. Berry said that she recommends approval with the conditions of the last special use permit that was left off, and that the applicant meet all of those requirements. Ms. Kumor asked whether there were any new conditions? Ms. Berry said no.

Mr. Lapsley stated that he is the Chairman of Four Seasons Hospice and Palliative Care but also the representative of the applicant, which is not Four Seasons Hospice and Palliative Care, but is Partners in Health Condominium Association, LLC, which is a joint venture of Pardee Hospital and Four Seasons Hospice and Palliative Care. He said that the project is to be funded by Four Seasons Hospice, and he wanted to make that correction for the records. Mr. Lapsley stated that regarding the landscaping, he was uncertain why that was not done, but it will be done and he does not have a problem with making it a condition of the permit. With regard to the sidewalks and bike paths, the photograph shows the sidewalk system that is around the facility. He said that there are not a whole lot of those folks that do much walking or bicycling but the connection to the Blue Ridge Community College campus is understandable. Mr. Lapsley added that the Blue Ridge Community College is developing a master plan for the property immediately

across College Drive and his suggestion would be to coordinate whatever they do with the College. Mr. Lapsley requested that the Board make a condition that they submit to the Staff a plan that Blue Ridge Community College agrees with in regard to getting pedestrian and bicycle access between this site and the campus. It was agreed by Board members that it states as a condition "a plan" which would cover any plan as specified.

Chairman Pearce made a motion to recommend to the Board of Commissioners to approve Special Use Permit # SP-46-96-A3 with the additional provisions that the items regarding the pathway designation and the landscaping as per the 1997 conditions be added to the requirements for approval and the CO's be withheld until those items are completed giving them the flexibility of working with Blue Ridge Community College to accomplish it. Renee Kumor seconded the motion. All members were in favor of the motion except for Paul Patterson, who opposed the motion. The motion carried 6 to 1.

NEW BUSINESS:

Request for Conditional Use Permit (#CU-05-11) – To Operate a Customary Incidental Home Occupation for a Fire Arms Store Located at 51 Jericho Ridge Road in a R-15 Zoning District – Neal Whitaker, Applicant. Mr. Lyle Case, Assistant Zoning Administrator presented the Conditional Use Permit for Neal Whitaker, who has applied for a customary incidental home occupation to operate a business to sell firearms at his residence at 51 Jericho Ridge Road. Mr. Case stated that a lot of the firearms will not be stored there but mostly ordered for customers to pick up at his residence on an appointment basis. The applicant's residence is located in a R-15 zoning district, which allows for a customary home occupation. Mr. Case stated that as part of the application, Mr. Whitaker has applied for his federal license with the Bureau of Alcohol Tobacco and Firearms which requires that he follow state and local ordinances which include zoning ordinances. He said that if Mr. Whitaker is granted the conditional use permit, he would use a small portion of his home, which would be an office, storage area for a safe, and would only use 5% of the 25% allowed of floor space. Mr. Case showed some pictures provided of the applicants home and the floor plan of the laundry room and office area that the applicant plans to use for the business. He stated that the hours of operation would be based on appointment only, but potentially from 8 a.m. – 8 p.m., seven days a week. He mentioned that there is ample room for loading and unloading of the merchandise as there will only be one employee, which is Mr. Whitaker, and added that there will not be any exterior signs for the business. Mr. Case said that one of the comments from the Planning Department, Item Number 5, was that the applicant complies with the subdivision covenants and that they had recently received the covenants and are looking into that matter to see whether he will be able to move forward with his business. He said they expect to receive a letter from his homeowner's association about this. Ms. Kumor asked whether the neighbors have been notified of this home occupation? Mr. Case stated that they had.

Ms. Radcliff reviewed her recommendations for approval.

1. She stated that the application information from the Crimes and Criminal Procedure provide that the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold. The applicant indicated that the guns will be stored in a room of his residence, but did not specify if the guns will be in a locked storage facility or a gun safe. She stated

that Staff suggests that a condition of the permit, if granted, require that the guns will be locked in a secure location in the residence.

2. Ms. Radcliff stated that another concern was whether there would be ammunition sold on site and how that ammunition will be stored.
3. The Board should consider a condition of the permit if granted, that no weapons will be fired on the premises or outside of the residence.
4. Ms. Radcliff stated that any approval of federal license would be supplied to the Zoning Administrator prior to operating the business and also that the Zoning Administrator would be allowed to conduct a site visit to insure that the conditions of the permit have been met.

Chairman Pearce asked Mr. Whitaker to come forward to answer some questions. Mr. Whitaker stated that the firearms will be located in a locked gun safe. Chairman Pearce asked whether he would be selling ammunition? Mr. Whitaker stated that he would be and it will be located in a gun safe and that there will be no weapons fired on the property. Mr. Whitaker stated that he has no problem complying with any recommendations made and that the Bureau of Alcohol Tobacco and Firearms has already been to the home and has approved that part of the application. Tommy Laughter made a motion to recommend approval to the Board of Adjustment regarding the conditions stated in Ms. Radcliff's Memorandum (comments 1 – 5). Gary Griffin seconded the motion and all Board members voted in favor except for Paul Patterson, who opposed the motion. The motion carried 6 to 1.

Christopher's Crossing Master Plan and Development Plan Review – (File #2005-M35) – 17 Single-Family Dwellings on 11.63 Acres Between Oak Grove Road and US Highway 25 South – David Hill, Agent for Mr. Christopher E. Lindsey, Owner. Mr. Prinz stated that Christopher Lindsey, owner, submitted a major subdivision application and combined Master Plan and Development Plan for Christopher's Crossing. The project site is on 11.63 acres of land located off Oak Grove Road. The project site for the subdivision is on a portion of property currently owned by Mr. Lindsey. The applicant is proposing 17 single-family lots with public water and individual septic systems.

Mr. Prinz said that there is one road proposed to serve this subdivision and will be a local residential road with a 45 foot right-of-way and a 16-foot travelway and is located in a R-20 zoning district. He said that from the master plan, it appears that all of the proposed lots meet the minimum lot size requirements of that zoning district and building setbacks are shown on the Master/Development Plan.

Tommy Laughter said that this subdivision has one road, so will Lots 3 and 4 come in through Oak Grove Road? Mr. Prinz said that is his understanding and that they do not have access from the private road and will access through Oak Grove Road. After some discussion, Paul Patterson said the question arises as to whether the lots have road frontage, by definition? Chairman Pearce said that we have an easement access to Lots 12 and 17. Mr. Card said that would be a private drive or a local limited residential road so it would front on that private drive and would have access to the local residential road. Mr. Card said that it would have to be built to limited local residential road standards, which is a 14-foot road, 2-foot shoulders. He said that even though it says a drive easement, it really is under our Ordinance a limited local residential road and that this could be a condition for approval. Mr. Cooper said Lots 11 and 12 there is a note that their being recombined and he feels that the Board needs to specifically mention that in

the motion or would the final plat take care of that? Mr. Prinz stated that the final plat would take care of that and actually it is exempt from our Ordinance.

Mr. Lindsey stated that the lots that front on Oak Grove Road, unless he gets septic permits for those and water to them, he would be able to sell them at that point, because they would be accessed on Oak Grove Road. He said that is his only concern as he would want to sell those lots first. Mr. Cooper asked, "You don't propose to build a road in the back until you sold the front lots, in other words Phase 1 before Phase 2 lots?" Mr. Lindsey said that is correct. Mr. Paul Patterson said that the roads are shown in Phase 1, do they have to be built? He added that he feels if they show it, they need to build it and if not, he would change the phase line to show a difference. Chairman Pearce suggested that the phase lines for Phase 1 would exclude the roads. Mr. Patterson asked whether the road includes Lots 1 and 6? Mr. David Hill, agent for the owner said that it was.

After further discussion regarding the subdivision, Stacy Rhodes made a motion to approve the combined Master Plan and Development and that it complies with the provisions of the Subdivision Ordinance except for those matter addressed in the technical and procedural comments section of Staff's memo. Comment 1, revisions to Development as specified in memo; Comment 2, that the final plat meets the requirement of Appendix 7 of the Subdivision Ordinance; Comment 3, that all private roads depicted on a final plat that serve the proposed subdivision must be labeled as such and the notation required as specified in the memo; Comment 4, that the applicant must connect to the public water supply in order to satisfy this requirement of the Subdivision Ordinance and must also provide evidence that the water supply plans have been approved by the appropriate agency; Comment 5, that the applicant must obtain a driveway permit through NCDOT for the proposed entrances on Oak Grove Road and an additional comment for the applicant to receive a letter stating that no erosion control plan is required by a surveyor. Also to revise the plan for limited local residential roads for Lots 12 and 17 and also to revise the road shown as access to 12 over Lot 11 and to Lot 17 as being limited local residential road requirements. Mike Cooper seconded the motion and all members voted in favor.

Richmore Estates Master Plan and Development Plan Review - (File #2005-M36) – 23 Single-Family Dwellings on 28 Acres off Old Homestead Road – Janice Payne, Agent for Richard Phipps, Owner. Mr. Card stated that Janice Payne, agent for Richard Phipps, owner, submitted an application for this major subdivision. The Master Plan and Development Plan for Richmore Estates was originally approved by the Planning Board on March 27, 2001. On July 15, 2003 the Planning Board granted a one-year extension because the two year Development Plan approval expired. The developer never began construction of the improvements and the one-year extension has since expired. The applicant is now requesting that the Planning Board re-approve the original Development Plan for Richmore Estates so that the developer can begin construction of the improvements in the subdivision.

The subdivision consists of 23 lots on 28 acres of land off of Old Homestead Road. The project will be built in 3 phases. No perennial streams are located on the property but a pond is proposed in the middle of the project site. According to the original Development Plan, public roads are proposed. The new application submitted by Mrs. Payne shows that private roads are proposed. Individual water and septic systems are proposed. The project site is in the R-30 zoning district and Water Supply Watershed IV District. The

property is located within a half mile of the French Broad Farmland Preservation District. Part of lots 8, 9, 10 and 12 are located in the 100-year floodplain.

Due to the minimal amount of frontage on Old Homestead Road, the Planning Board originally approved the subdivision subject to the applicant obtaining a 45-foot right-of-way or a variance for the width of the access to the property. A variance was then applied for and granted by the Board of Commissioners on June 4, 2001, which allowed the applicant to have a 30-foot right-of-way on the entrance road, Candace Way, into the subdivision.

Staff has reviewed the Development Plan for Richmore Estates for conformance with the Henderson County Subdivision Ordinance (HCSO) and other applicable County Ordinances and offers the comments that follow.

Development Plan

1. **Final Plat Requirements.** The Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance.
2. **Farmland Preservation District.** The Affidavit of Understanding of Farmland Preservation District (Appendix 11) was not submitted with the application. Since the property is within ½ mile of the French Broad Agriculture District, an Affidavit must be submitted pursuant to Section 170-35 of the HCSO. The Final Plat should include a notation that the property is within ½ mile of land in a Farmland Preservation District. (HCSO 170-35 and Appendix 7)
3. **Roads.** It is unclear whether private or public roads are proposed. A revised Development Plan must be submitted showing the type of road proposed with all the required road cross sections. Since the County Commissioners granted a variance from the private road standards in Section 170-21 of the HCSO, the roads may not meet NCDOT standards. If 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)
4. **Revised Development Plan.** In addition to the comment above, an updated revised Development Plan must be submitted to the Planning Department that complies with all requirements of Appendix 5 (Development Plan Requirements). The Plan must also have the length to public water and sewer because the developer may be required to extend to these utilities, pursuant to Section 170-20B of the HCSO.
5. **Soil Erosion and Sedimentation Control.** Documentation from David Huntley and Bruce Lowe, submitted to the Planning Department on February 27, 2001, states that no erosion and sedimentation control plans were needed because no more than an acre of land will be disturbed at one time. If at any time the developer disturbs over an acre of land then the developer must submit notice from NCDENR that a soil erosion and sedimentation control plan has been received (170-19 of the HCSO).

6. **Flood Damage Prevention Ordinance.** Pursuant to Article 5.3 of the Flood Damage Prevention Ordinance (FDPO) all subdivisions located wholly or in part in a Special Flood Hazard Area shall have base flood elevation data provided if development is greater than the lesser of five (5) acres or fifty (50) lots. This information must be provided on a revised Development Plan and on the Final Plat(s). According to Natalie Berry, Henderson County Floodplain Administrator, lots 8, 9, 10 and 12 are in a Zone A Flood Hazard Area and any building in this area will need her approval (see attached comments).

7. **Fire Suppression.** According to the Henderson County Subdivision Ordinance (170-20, C), for any major subdivision without a fire suppression rated water system, that either has or is adjacent to an adequate permanent surface water supply, the applicant may be required to install a dry fire hydrant system, the type and location of which is to be determined by the County Fire Marshal. Staff would like the applicant to discuss with the Planning Board any measures being taken for fire protection.

8. **Conditions from March 27, 2001.** Attached to Staff's memorandum is a letter from Karen Smith to the applicant which outlines all the original conditions of approval made by the Planning Board. Some of these conditions have been addressed either by the applicant or by the comments listed above. If the Planning Board feels that any remaining conditions are necessary then they should be made a condition of approval (see attached letter).

Staff has found that the Development Plan for Richmore Estates appears to meet the technical standards of the Henderson County Subdivision Ordinance. Staff recommends approval of Richmore Estates subject to the above listed-comments being addressed and the developer addressing any other issues raised by the Planning Board.

Chairman Pearce asked whether this subdivision will be done in phases or at one time? Mr. Phipps, owner stated that they plan to do the development at one time. The phases just came in terms of the actual structural development, but they plan on putting in the infrastructure and once we get to a certain point in the first phase in terms of being able to stop marketing those lots. He said the phases are mainly for marketing purposes not for development purposes. Chairman Pearce asked whether this project will be completed this time? Mr. Phipps said that the reason it didn't get developed before was there were a number of challenges around that he had no control over. Mr. Patterson stated that on the plan it states regarding Old Homestead Road "no recorded right-of-way found," is there actually a right-of-way on that road? Mr. Phipps couldn't answer that question at this time, but said that the road is there and accessible. He said the challenge came from one of the neighbors in terms of additional space that was needed to do to become compliant, but he understands that they have been resolved. Mr. Patterson suggested that if we make it a condition that we get a letter from their lawyer stating that there is a legal right-of-way. Chairman Pearce asked Mr. Burrell to look into this and to discuss this further later in the discussion of this subdivision.

There was discussion concerning comment 6 in Staff's memorandum which states that lots 8, 9, 10 and 12 are in a Zone A Flood Hazard Area and will need the Floodplain Administrator's approval.

Mr. Burrell said that in checking, he feels that the variance that was granted expired when the development plan expired and was closely tied to the plan that was originally approved by the Planning Board. He added that when this goes back to the Board of Commissioners for a variance, they will not likely have any new evidence that will enable them to make different findings. After some further discussion about the State Road 1212, Old Homestead Road not having the right-of-way recorded, Chairman Pearce feels the best way to address this and the other issues that have been brought up, is to make a condition 9, to make a temporary turnaround if the roads are done in phases; condition 10, a variance must be obtained on the right-of-way since it is less than 45 feet and condition 11 to request a letter from NCDOT stating that Old Homestead Road goes to this proposed subdivision property (Summer Rain Drive).

Mr. Phipps asked the Board, "The variance that was granted before and since nothing has changed significantly about the plan, he wanted to know whether he could impose on the Planning Board to allow it to carry without having to go through the process again, since we are at the point that we can get this subdivision done?" Chairman Pearce said that the Planning Board does not have the authority to grant variances to the Ordinance, but the Planning Board could recommend to the Board of Commissioners that this be approved, but we are not allowed to grant a variance on this. He added that the variance that was granted was for the previous approval of the subdivision. He said a legal opinion may determine that it is still in effect, but that would be up to the County's attorney and your attorneys to iron out. The initial suggestion from the County attorney is that it has expired when the Development Plan and Master Plan expired, so it appears you will need to get a new variance by the Board of Commissioners.

Chairman Pearce made a motion that the Planning Board on March 27, 2001 studied and recommended approval for this subdivision subject to certain conditions and its development plan extension has expired. We find and conclude that the Development Plan for Richmore Estates 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 Development Plan for Richmore Estates be approved subject to the following conditions: the applicant satisfies any conditions that result from the comments listed above and in addition, Condition 9, that turnarounds be provided if the road system is done in phases; Condition 10, that a 45 foot right-of-way, if not available that the Planning Board would recommend to the Board of Commissioners approve the variance as they previously did in 2001 for the 30-foot right-of-way. In the event that the County's legal staff determines that the Board of Commissioners do not need to provide a new variance, the Planning Board would approve it without requiring it to go to the Board of Commissioners. Condition 11, that a letter from NCDOT stating that Old Homestead Road, now known as Summer Rain Drive, is a state road and goes to the property and Condition 12, that the Planning Board agrees that Staff and applicant determine if there is a better way to address the subdivision as it regards Condition 6 (Flood Damage Prevention Ordinance) which it affects lots 8, 9, 10 and 12, that Staff be permitted to approve those adjustments administratively. Mike Cooper seconded the motion. All members voted in favor except for Paul Patterson who opposed of the motion. The motion carried 6 to 1.

Chairman Pearce was concerned and discussed phasing that was brought up in different developments at the meeting tonight. He feels that there should be a condition indicated in the Ordinance regarding this matter. He was also concerned that under the new Land Development Code everything would have been approved by the Technical Review

Committee (TRC) would hope that they would have had concerns about these issues as well as he is worried that he doesn't want anything significant like this to fall through the cracks. Ms. Francis said that the issues that were addressed tonight, she would hope that the TRC would have addressed this matter as well.

Rezoning Application #R-2005-05 - Requests Approximately 27.03-Acre Parcel of Land Located off Mills Street from O & I (Office and Institutional) Zoning District to I-2 (General Industrial) Zoning District - Patsy Brison, Agent for Henderson County Board of Public Education, Owner. Mike Cooper recused himself from any discussion or decision concerning this matter. All approved his recusal. (Commissioner McGrady entered the meeting). Mr. Cable stated that on November 15, 2005, the Henderson County Board of Public Education submitted an application to rezone approximately 27.03 acres of land off Mills Street from an O&I zoning district to an I-2 zoning district and is a single parcel divided by James Street. Patsy Brison is the Applicant's Agent.

Mr. Cable stated that the subject area is located on the old County Fair Grounds within ¼ mile of the intersection of Spartanburg Highway and Highland Lake Road / Upward Road and is currently zoned O & I, which was applied on October 1, 1990, as part of the East Flat Rock Phase I Land Use Plan. The Subject Area is surrounded on the north by an O&I zoning district, to the south by an I-2 zoning district, to the east by a C-4 zoning district, and to the west by a T-15 zoning district.

Mr. Cable said the O&I Office and Institutional District is intended to provide a compatible mixture of office, low-density residential, light commercial and institutional uses. The I-2 General Industrial District, which is proposed for the Subject Area, allows most types of heavy industrial uses including some commercial uses. Residential uses are not permitted.

The subject area is currently undeveloped and most uses within the vicinity of the Subject Area are residential, commercial, industrial, and institutional community uses and has access to City of Hendersonville public water and sewer lines. He said that Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the property to be zoned for industrial uses. This based on the following:

1. Both the text and map of the Henderson County 2020 Comprehensive Plan identify the Subject Area as being located in the Urban Services Area, suitable for industrial development, with northern portions of the Subject area located within a Community Service Center.
2. The CCP calls for industrial areas to be generally segregated from other uses with the exception of Regional Commercial uses. The Subject Area directly abuts an existing C-4 (Highway Commercial) zoning district to the east, which would comply with the recommendations of the CCP regarding uses abutting industrial zoned property.
3. The Henderson County Industrial Study will help the County further refine the industrial land use recommendations in the CCP and will, eventually, lead to industrial sites being zoned industrial. The current draft version of the Henderson County Industrial Study identifies the subject area as "Commercial/Industrial," indicating that it is possible the office and institutional land use classification in the Subject Area could be changed to industrial as a result of that study.

4. The Subject Area directly abuts the existing I-2 zoning district, which would make this property part of a contiguous I-2 zoning district.
5. The Subject Area abuts an existing O&I zoning district and T-15 zoning district, which both commonly abut other existing I-2 zoning districts elsewhere in the County, including those on Highway 25 and that adjacent to the Study Area.
6. Staff has identified no plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest that would justify opposing the proposed rezoning.
7. 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.

The subject area was previously classified as a Superfund Site due to contamination in the southwestern portion of the subject area, near the railroad. The subject area has since been removed from the Federal Superfund Site List; however, North Carolina classifies the subject area as an inactive Superfund Site.

Chairman Pearce stated that the Industrial Subcommittee has a final recommendation to be presented to the full Planning Board and this particular parcel is recommended for industrial designation. Ms. Kumor asked for Staff to reiterate when the neighbors are sent out notices regarding rezoning. Ms. Radcliff stated that they are not notified until a public hearing is set with the Board of Commissioners and then notifications are sent out letting them know the date and time of the public hearing. She added that the only people that are notified at this level are the property owners and agents. Ms. Kumor said that Chairman Pearce had mentioned that when a property goes up for discussion, there should be a sign put on the property. Why does no notification start until it gets to a public hearing level? Mr. Burrell said that when this Ordinance was deducted, this was intended to be more of a technical review from the Planning Board rather than a political way of a public hearing that will happen at the Commissioner's level. There was further discussion regarding notification and Chairman Pearce reiterated what he had mentioned in the past about notification to adjacent property owners at the Planning Board level. Board members mentioned that when the motion is made for this rezoning, it should be based on a technical review and information presented that Board members did not receive public input because there was no notification to adjacent property owners and this way the Board of Commissioners can recognize this fact. Mr. McGrady stated that this is a type of change that should be reflected in the new Land Development Code.

Patsy Brison, who is an attorney with Roberts & Stevens law firm, stated that she represents the Henderson County School Board who owns this property. She said that they do not intend to build a school on the proposed site, but feels that the surrounding Zoning would match with the proposed zoning of I-2. She said that there is adequate infrastructure and because it is flat land, it is good for an industrial use. Ms. Brison asked the Planning Board to respectfully rezone this property to I-2.

Renee Kumor made a motion to recommend to the Board of Commissioners that Rezoning Application # R-2005-05, after a technical review of the property, be rezoned from O & I to I-2, General Industrial use but that the Planning Board caution the

Commissioners that the Planning Board feels that it was unfortunate that no notifications were sent out to adjacent property owners and we feel that this recommendation is made in a void because we have not heard from the neighbors. Gary Griffin seconded the motion. All members were in favor of the motion except for Paul Patterson, who opposed the motion. The motion carried 5 to 1. (Mike Cooper returned to the rest of the meeting).

Rezoning Application #R-2005-06 - Hendersonville Relinquishing ETJ Action - Rezone Remaining Portion of Three Parcels Totaling Approximately 40.27 acres located off View Rock Lane and Adjacent to Stoney Mountain Estates, to a County R-15 (Medium-Density Residential) Zoning District. Ms. Radcliff stated that there is three parcels that are split-zoned by County R-15 zoning district and within the City of Hendersonville ETJ, which is also zoned R-15 under the City's classification. She said that there is approximately 40.27 acres total for all three parcels and are adjacent to Stoney Mountain Estates off of US 25 North. They have access off View Rock Lane, which can be accessed via Stoney Mountain Road and is located within Stoney Mountain Estates and Lyndhurst Drive. Ms. Radcliff stated that according to the City of Hendersonville, a request has been filed by the property owners to remove these parcels from the ETJ. She said that this means that once this action happens and we are anticipating that this is going to be the case, since they have proposed new ETJ boundaries and also are going to be hearing this case on Thursday, January 5, 2006 to make this decision. Once the City makes their decision, the remaining portion of these parcels will be unzoned and so as part of that, Staff has initiated the rezoning application to insure there is no time lapse between the City making a decision and the County actually rezoning the parcel. She said that Staff is working in cooperation with the City of Hendersonville so that once this decision is made it does not become effective until the Board of Commissioners have made its decision on the rezoning. This is so there will be no time lapse and the property will be left unzoned. The Board of Commissioners at its meeting last week, scheduled a public hearing for this rezoning. The public hearing is now scheduled for Wednesday, January 18, 2006 at 11 a.m., during the Board of Commissioner's regular meeting. She said because Staff has initiated this application, there is a time frame that the Planning Board needs to make a recommendation. Chairman Pearce asked Ms. Radcliff whether Staff feels that the County's R-15 zoning is the proper district for this project? Ms. Radcliff said that the property is surrounded on the County's side by R-15 zoning and adjacent to the City's R-15 district. The County's R-15 district is a medium residential zoning district requiring a 15,000 square foot lot and the City's R-15 zoning district is a low-density residential zoning district. She stated that the County and City R-15 Zoning Districts virtually allow the same thing. The major difference between them is that the City's setbacks are less than the County's setbacks. Chairman Pearce asked whether any of this would create problems to the property owners? Ms. Radcliff said she doesn't feel it would, but also referred the question to the agent present, who is representing the property owners in the action to remove the parcels from the City's ETJ. Ms. Kumor asked whether there was sewer and water there? Ms. Radcliff said that there is, but not on the property, but is in close proximity. She said that there are two water lines nearby and a public sewer line is less than ½ mile away. Ms. Radcliff stated that the Board can not consider any uses that are going on the property during a rezoning, but it is her understanding that the property is going to be developed as a subdivision and that they are planning on individual sewer and septic systems. After some discussion among Board members, Ms. Radcliff stated that this property is part of the 191 Small Area Study, even though this could be rezoned to R-15, that potentially

could change with the outcome of the small area plan, if the zoning recommendations come out of that study and are acted upon.

Mr. Steve Survais, who is representing the property owners, stated that there is no access from the Lyndhurst side of the property and there is no other right-of-ways and felt that it was better to put it into the County rather than the City jurisdiction.

Renee Kumor made a motion to recommend Staff's recommendations to the Board of Commissioners on rezoning request # R-2005-06 to rezone the three parcels which are adjacent to Stoney Mountain Estates and subject to the City of Hendersonville relinquishing its jurisdiction, as it will unify the property and keep a piece of property that has the potential of being unzoned in the middle of a residential community zoned with a compatible district. Gary Griffin seconded the motion and all members voted in favor.

Subcommittee Assignments and Meeting Dates. Chairman Pearce asked Staff to look at January's Planning Board meeting and if the agenda is not too full, to try to put the Industrial Study on the agenda at that time. He also requested that copies be sent out to all Board members regarding the properties involved and in addition for Staff to prepare a map showing the entire areas as well as maps broken down into various areas concerning this study.

Commissioner McGrady thanked the Planning Board for what they had done regarding the Land Development Code (LDC) project and recognized that they did not feel they had adequate time to review the document. At this time, Chairman Pearce asked for a motion to amend to the agenda discussion of the LDC. Renee Kumor made the motion to amend to the agenda and Tommy Laughter seconded the motion. All members were in favor of the motion except for Paul Patterson who opposed the motion. The motion carried 6 to 1.

Chairman Pearce agreed that they had limited time and wished they did not have so many constraints on the length of time they had to review it. Commissioner McGrady said that he wanted the Planning Board to understand that they could continue to review specific elements of the LDC as they saw fit and forward their findings onto the Board of Commissioners. After considerable discussion and concerns of the Board members, Chairman Pearce as well as other members of the Planning Board requested Planning Staff to conduct the following:

1. Present Article 9, *Sign Regulations*, to the sign industry including local sign companies for feedback.
2. Provide a more clear method for determining sign area.
3. Conduct a review of subdivisions in the proceeding 6 – 12 month period to examine the affect of LDC densities on those subdivisions.

Ms. Francis indicated to Chairman Pearce and the Board that these requests were in addition to various other projects that Staff is currently working on and that with the shortage of Staff, the ability to respond to the request may take longer than usual.

Commissioner McGrady then encouraged the Planning Board to conduct their own research on topics due to the demands currently on Planning Staff; he also indicated that he would provide the Planning Board with a letter confirming their ability to continue work on the LDC and direct it to Chairman Moyer. Chairman Pearce agreed.

Adjournment. There being no further business, the meeting adjourned at 9:44 p.m.
All members voted in favor.

Tedd M. Pearce, Chairman

Kathleen Scanlan, Secretary