

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

The Henderson County Planning Board met on September 20, 2005 for its regular meeting at 7:05 p.m. in the Board Room of the Land Development Building, 101 East Allen Street, Hendersonville, NC. Board members present were Tedd Pearce, Chairman; Mike Cooper, Vice-Chairman; Tommy Laughter, Renee Kumor, Paul Patterson, Gary Griffin, Stacy Rhodes, and Mark Williams. Others present included Selena Coffey, Interim Planning Director; Lori Sand, Project Manager; Autumn Radcliff, Planner; Matt Card, Planner; Kathleen Scanlan, Secretary; and C. Russell Burrell, County Attorney. Planning Board member Jonathan Parce was absent.

Approval of Minutes. Chairman Tedd Pearce presided over the meeting and called the meeting to order. Mr. Pearce asked for the approval of the August 16, 2005 regular meeting minutes and Renee Kumor seconded the motion. All members voted in favor.

Annual Election of Officers/Appointment of Secretary. Chairman Pearce presided over the annual election of officers and asked the members to offer nominations for officers. Mark Williams stated that he would like to nominate Paul Patterson as Chairman. Renee Kumor re-nominated Tedd Pearce as Chairman. There were no other nominations made. There was a tie between the nomination of Mr. Pearce and Mr. Patterson for Chairman. Gary Griffin, Mark Williams, Mike Cooper and Paul Patterson voted in favor of Paul Patterson as Chairman. Renee Kumor, Tommy Laughter, Tedd Pearce and Stacy Rhodes voted in favor of Tedd Pearce as Chairman. Since there was a tie, the members, with the advice of Russell Burrell, County Attorney, voted two more times but the tie vote was not broken. There was a suggestion that a secret ballot vote be taken and the Board members decided to proceed with that method, but the vote for Chairman remained tied 4 to 4.

After some discussion among Board members, Ms. Kumor stated Chairman Pearce has been working with the representatives of the Board of Commissioners to get the Planning Board through the process of the Land Development Code and she feels that if the leadership of the Board is changed at this time, the investment that has been made in time and dealing with how the Board is going to go through the whole process in getting it done by the December time line, maybe lost and not be able to meet the kinds of deadlines that have been set. After some further discussion, it was suggested by Renee Kumor and Gary Griffin, with the agreement of other members, that Tedd Pearce be reappointed as Chairman until the completion of the Land Development Code process and then elect Paul Patterson as Chairman. Renee Kumor made a motion to reappoint Tedd Pearce as Chairman. Gary Griffin seconded the motion. Renee Kumor, Tedd Pearce, Stacy Rhodes, Tommy Laughter, Mike Cooper and Gary Griffin voted in favor. Paul Patterson and Mark Williams opposed the vote, the motion carried 6-2. Renee Kumor made a motion to elect Paul Patterson as Vice Chairman and Gary Griffin seconded the motion. All members voted in favor. Chairman Pearce reappointed Kathleen Scanlan as Secretary to the Planning Board. The officers for the coming year are Tedd Pearce, Chair; Paul Patterson, Vice Chair and Kathleen Scanlan secretary.

Adjustment of Agenda. Chairman Pearce suggested that Items 9 and 10 dealing with River Stone be reversed so that the Board members could take care of the Special Use Permit application before reviewing the Master and Development Plan for River Stone. All members were in favor of the adjustment.

Staff Reports. Ms. Coffey informed the Board members of the newly appointed Planning Director, Judith Francis of Burke County, who will be starting with the County on October 3, 2005. Matt Card asked the Board members whether they all agree on the date for the Special

Called Meeting for the Vested Rights hearing for Stonecrest set for October 4, 2005 at 4:00 p.m.? All members noted the date and time and were in agreement.

### **OLD BUSINESS:**

Request for Extension of Development Plan Approval for Shuey Knolls Subdivision (File # 03-M10) – Henderson County Habitat for Humanity, Applicant. Mr. Card mentioned that on July 15, 2003, the Planning Board approved the Combined Master Plan and Development Plan for the Shuey Knolls subdivision subject to the completion of conditions imposed during the meeting. Mr. Card mentioned that per Section 170-16C (4) of the Henderson County Subdivision Ordinance, Development Plan approval is valid for two years, however the Planning Board may, for just cause; grant extensions of a development plan approval for a maximum of one additional year. On September 2, 2005, Jack Houtman with Henderson County Habitat for Humanity submitted a letter requesting that the Planning Board grant a one-year extension for the Combined Master Plan and Development Plan. Mr. Card said that according to the letter submitted by Mr. Jack Houtman, the development does not expect to be finished with the infrastructure for 5 years. The Subdivision Ordinance does not specifically address situations where development may not be finished within the one-year extension period. Mr. Card said it would appear that no more extensions are allowed under Section 170-16C (4) of the Subdivision Ordinance, but according to the *Henderson County Planning Board Policy For Granting Subdivision Extensions*, a second request for an extension is possible if over fifty percent of the overall development improvements have been completed. If the applicant has not finished over fifty percent of the infrastructure improvements within the one-year extension, Staff suggests that a new Master Plan and Development Plan be submitted to the Planning Board for review and approval. Mr. Card said that Staff also suggests that if the new Master Plan and Development Plan is reviewed by the Planning Board, the applicant only asks for approval of the infrastructure that can be completed, by phasing the development.

Mr. Card stated that action by the Planning Board is needed to either grant or deny this extension. Such action should be made with consideration of the extension policy because they do not expect to finish with the infrastructure improvements in five years, so that may conflict with the Development Plan approval. Mr. Card said that they have not started infrastructure improvements at all at this time, as they are waiting for funding to be approved, which has recently happened. Mr. Card stated that after a one-year extension, they are allowed to go back to get another year extension, if they have completed more than 50% of the infrastructure, so that would allow four years for that Development Plan. Mr. Card added that Mr. Jon Laughter, surveyor for the development, presented a revised plat showing a revision to the Development Plan, although not substantial, Mr. Card wanted to note the change to the Board members. Mr. Card said basically the change is that they have taken about six lots away from the plan. He said that the plan is to build the Edneyville Community Center in that area and sell this out parcel for that purpose.

Mr. Jack Houtman, Vice President of site development for Habitat for Humanity stated that they were approached by the Edneyville Community Center to sell them some land from our 60-acre parcel, but it was not enough space for them at first and negotiated some lots for their community center. He said that they have offered to do some of the grading in exchange for some additional space, which is the reason for the space change. He said that they are going to put in walking trails and other athletic fields as well as a building for an office and other indoor recreational facilities which would be a center for the community.

Chairman Pearce asked Mr. Burrell, County Attorney, "With Habitat taking the open space and changing it to an out parcel, are we going from a minor change into a substantial change?" Mr. Burrell said that the Board could handle this change at the meeting tonight. Chairman Pearce reviewed the extension policy with Mr. Houtman. Mr. Houtman explained the status of the

project and added that the funds should be released October 4, 2005 and they plan to begin construction the next day with the roads, etc. He said the lots have been staked out and other things have been done to begin construction work. Chairman Pearce asked whether the extension would apply from today's date or from the day that their plat expired? Mr. Card stated that the extension would start as of July 2005 for one-year to get 50% done. Mark Williams asked to define completion, whether that would apply to the roads, water/sewer system, or what? Chairman Pearce said that the 50% would apply to the roads, the water and sewer system and the curbs and gutters.

After some further discussion, Chairman Pearce made a motion to grant a one-year extension for the combined Master and Development Plan for Shuey Knolls and that the Planning Board approves the revisions to the Development Plan as presented to the Board tonight. Mike Cooper seconded the motion. All members voted in favor of the motion with the exception of Paul Patterson. The motion carried 7 to 1.

Hickory Nut Preserve (File # 05-M20) – Revised Master Plan and Development Plan – Located off US Highway 64 East (Chimney Rock Road) – Pesterfield Engineering, Agent for Scott Cole with Frontier Land Co., LLC, Owner. Mr. Card stated that Pesterfield Engineering, agent for Scott Cole, III, with Frontier Land Co. LLC, submitted a revised Combined Master Plan and Development Plan for a major subdivision named Hickory Nut Preserve. Mr. Card said that the applicant is asking for Planning Board approval of the revisions to the Combined Master Plan and Development Plan for Hickory Nut Preserve. Mr. Card said that the project site for the Hickory Nut Preserve subdivision is located off of U.S. Hwy 64 East (Chimney Rock Road). The Combined Master Plan and Development Plan was conditionally approved at the July 19, 2005 Planning Board meeting for 24 lots on 47 acres of land and 9.98 acres common area which included an existing pond. This change is regarding the common area and open space being used for residential, which needs to come before the Planning Board. The 24 lots have not been changed, but the open space has changed significantly with the addition of lot # 5 and reconfiguration of other lots. Mr. Card mentioned that the three changes that have been made to the Combined Master Plan and Development Plan are basically as follows: The first change was to combine lot # 7 and lot # 6 and label the recombined lot, lot # 7. The next change was to re-label lot # 5 to lot # 6. The last change was to add a new 4.51-acre lot in what was designated on the original Combined Master Plan and Development Plan as common area. This new lot is now labeled as lot # 5 on the revised Plan.

With the revision, the overall acreage of common area has changed from 9.98 acres to 5.56 acres. No new lots are created, the total number of lots remains at 24.

Mr. Card said that it appears that the above-mentioned changes are the only changes to the original Combined Master Plan and Development Plan. Staff has found that the proposed revised Combined Master Plan and Development Plan appears to meet the technical standards of the Henderson County Subdivision Ordinance except for the conditions made during the July 19, 2005 Planning Board meeting and the comment regarding the township, which should be Edneyville and not Bat Cave.

Mr. Card said that Staff recommends approval of the revised Combined Master Plan and Development Plan subject to the conditions made at the July Planning Board meeting, the above listed comment and any other issues rose by the Planning Board.

Ms. Lynn Mann with Pesterfield Engineering stated that the reason for this change was that NCDOT requested that they move the entranceway due to the site distances on this curve and in so doing the size of some of the lots needed to be changed and in reconfiguring, we took away about two acres of the common area. She said that the main reason for all of this was to get the NCDOT driveway permit.

Ms. Kumor made a motion to approve the revised Combined Master Plan and Development Plan for Hickory Nut Preserve Major Subdivision subject to the conditions from the July 2005 Planning Board meeting being as follows: (1) 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*; (2) the Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance; (3) Henderson County Property Addressing submitted a comment which states that if Beech Tree Lane and Gorge View Lane comprise one continuous road with no distinct intersection or stop at that intersection, then Gorge View Lane and Beech Tree Lane should only have one road name for both roads; (4) the Final Plat(s) should note that where the existing cross slope is 15 percent or greater, a minimum centerline radius of 60 feet is permitted and that the Combined Master Plan and Development Plan be approved subject to the intersection (Beech Tree Lane and Gorge View Lane) will have a stop sign. In addition, that the township label be corrected on the revised Plan to show Edneyville, not Bat Cave as the township. Mike Cooper seconded the motion. All members voted in favor of the motion with the exception of Paul Patterson. The motion carried 7 to 1.

### **NEW BUSINESS:**

Distribution of Land Development Code – Draft. Chairman Pearce distributed a letter that he received from William Moyer, Chairman of the Board of Commissioners outlining the processing of the Land Development Code. Chairman Pearce said that the major difference that we are looking at is more procedural. He added that we are being asked to make recommendations only, but not to change or rewrite it, as was done in the past to other documents.

Ms. Sand stated that a special called meeting needs to be scheduled and as well as thoughts on formatting. Chairman Pearce said that since the members just received the draft it would be hard to think about formatting the meetings. Chairman Pearce scheduled a special called meeting to discuss this matter for October 11, 2005 at 6 p.m. He suggested seeing if the Board of Commissioners Board Room would be available for this meeting as that location would allow us for more public room.

Special Use Permit Application # SP-05-01, River Stone - Planned Unit Development - Located off North Rugby Road and Butler Bridge Road - Don Hunley with William G. Lapsley and Associates P.A., Agent for Drew Norwood of Windsor-Aughtry Company, Owner. Ms. Radcliff reminded the Board members that at their Planning Board meeting on August 16, 2005 the pre-application conference was held and on August 22, 2005, the applicants submitted a Special Use Permit application to the Board of Commissioners. She stated that on September 6, 2005, the Board of Commissioners referred the application back to the Planning Board as per the Zoning Ordinance for review and recommendations. Ms. Radcliff said that under the Zoning Ordinance for a Planned Unit Development, the Planning Board has 45 days to make a recommendation to the Board of Commissioners from its first consideration, which is at tonight's meeting.

Ms. Radcliff reviewed the Staff memo and said that it is based on the Ordinance section for a Planned Unit Development (PUD). She reviewed the following comments:

Ownership. She stated that it has been established that the property proposed as a PUD is under single ownership of Windsor-Aughtry Company.

Density Requirements. Ms. Radcliff said that approximately 106 acres are located in an R-10 zoning district and approximately 69 acres are located in an R-15 zoning district, which totals

approximately 175.52 acres. She stated that in the R-10 zoning district under the 10,00 square-foot lot requirements for single-family dwellings, you can get approximately 461 units and in the R-15 zoning district you can place approximately 200 units, which is a total of 661 units that would be allowed normally under our Zoning Ordinance. The applicant is proposing 523 single-family lots, which are smaller than the standard minimum in both districts. Ms. Radcliff noted that the applicant did add an additional lot, so the proposed number has been increased to 524 single-family lots. She added that there are no multi-family units proposed. Also, with the density requirements, we based the requirements on the total lots of the area divided by the density for a single-family unit for the current district that is there. In addition, the applicant can cluster the developments together and can compensate for the lot size reduction with common or open space area.

Chairman Pearce asked whether the Ordinance requires the reduction of the floodplain space in the calculations? Ms. Radcliff said that under our Ordinance for the PUD, the density requirements states *that the proposed density of the planned unit development, which is dwelling units per acre, shall conform to that permitted in a district in which the development is located. The density of any planned unit development shall be determined by dividing a total number of square feet in the property by the minimum lot size requirements of a single-family dwelling in the district in which the development is proposed.* She stated that it does not say anything about specifically excluding a natural area or sensitive area. Also, the CCP does not address excluding that area, it just makes provisions that those areas should be protected. Chairman Pearce felt that the Flood Plain Ordinance will indirectly address the allowance of 20% fill without a special fill permit, but it does not exclude it from any calculations. Ms. Radcliff said that the important part about PUDs is that they are not allowed to build any more units than they normally could under the current ordinance, it just gives them the permission to reduce their setbacks and their lot sizes to cluster and then they compensate with offsetting that with open space.

Frontage Requirements. The frontage requirements is 200 feet, the applicant is more than exceeding the requirement with approximately 830 feet of frontage along Butler Bridge Road and 1,950 feet of frontage along North Rugby Road.

Height Limitations. Ms. Radcliff stated that the Zoning Ordinance requires that no building or structure shall exceed 35 feet in height as measured from the highest ground elevation of the building or structure to the highest point of the roof. Ms. Radcliff said that the applicant has not specified any height restrictions for the proposed single-family units and should address this to the Board as a condition of the permit.

Required Distance Between Buildings. Ms. Radcliff said that the applicant has proposed minimum side-to-side separation between structures of 10 feet, which is 5 feet for each lot. She stated that according to the Zoning Ordinance, what is normally required is a 20-foot separation for end-to-end, which is the shortest end. The applicant's proposal can occur below the minimum specified 20 feet provided that the buildings are not closer than 10 feet and that the construction of the adjacent walls conforms with the North Carolina Building Codes and that the area between buildings remains open and unobstructed. She added that the Board needs to look at this requirement and see if it is sufficient.

Water Plans. She stated that the applicant has submitted an application to the Regional Water Authority of Asheville, Buncombe & Henderson indicating application for water distribution system improvements and off site extensions. She added that those letters are part of the subdivision packet.

Sewer Plans. Ms. Radcliff said that it is proposed right now that the Mud Creek Interceptor Project for the Cane Creek Sewer District will supply the sewer for this project. She added that

the applicant is working in cooperation with Henderson County to finalize the lift station construction agreement. She said that Staff suggests that the applicant submits documentation to ensure that a professional engineer has designed the sewer systems and that such systems have been approved by appropriate local and state agencies.

Off-Street Parking. Ms. Radcliff said that it was proposed in the initial plans that the Staff has that 40 parking spaces would be provided at the clubhouse and pool. The revised copy shows that the clubhouse is approximately 1200 square feet and the applicant is proposing only 19 spaces. According to the Zoning Administrator there should be provisions for one space for each 200 square feet of gross floor space for the clubhouse, so that would only be a total of six spaces, which means they are sufficiently meeting the requirement. She mentioned that single-family dwellings require two parking spaces for each dwelling unit, which was not specified, and the Board needs to address this issue.

Erosion Control. Ms. Radcliff said that as part of the application materials, the applicant indicated that the erosion and sedimentation control plans will be submitted upon completion and are awaiting the final recommendation from the environmental consultant. She said that this must also be submitted prior to the approval of the special use permit or as a condition of the special use permit.

Emergency Services. The applicant has provided documentation from Henderson County Fire Marshal's office regarding the adequacy of the proposed facilities for emergency medical and fire services. Ms. Radcliff stated that comments were also received from the Henderson County Emergency Medical Services regarding the proposed PUD. She said these comments are part of the subdivision packet.

Dwelling Units Access. Ms. Radcliff said that each dwelling unit shall have direct access to a public street, walkway or other area dedicated to common use, and a provision for adequate vehicular circulation to all development properties in order to insure acceptable access for emergency vehicles. She mentioned that it was not clear on the maps where these provisions actually occur.

Perimeter Treatment. The applicant has indicated for the proposed PUD that no perimeter treatments are planned to the south and west, along Rugby Road, embankments or cut slopes will be located to the north and east, although no perimeter treatment are planned for embankments. In addition, 4 to 6 foot earthen berms or wooden fences will be placed near the entrances and along the out parcel. She feels that this will need to be addressed further in the subdivision approval of this project.

Privacy. Ms. Radcliff stated that the Board should address if the proposed perimeter treatments mentioned are sufficient.

Conveyance of Open Space. The applicant has indicated that they will grant by restrictive covenant and through conservation easements all common open space, recreational and natural areas and communally owned facilities to the PUD residents describing the areas and facilities and their maintenance and improvement, running with the land for the benefit of the residents of the PUD or adjoining property owners or both. Ms. Radcliff stated that the applicant must submit to the Board of Commissioners the legal documents that will provide for restricting the use of common areas and facilities for designated purposes.

Maintenance. Ms. Radcliff said that the maintenance, according to the bylaws rules and regulations governing the homeowner's association must be approved by the County Attorney prior to the subdivision being approved.

Ms. Radcliff stated that regarding the applicant's proposed preliminary development plan, the setbacks were stated as being 10 feet from the front and rear and 5 feet from the side, which would be the 10-foot separation. She said that Staff suggests that height limitation should be submitted as part of that. In addition, Staff suggests that the Board determine if the proposed setbacks are sufficient, and state if the front setback will be to the center of the street, edge of right-of-way and make a recommendation to the Board of Commissioners that this be a condition of the special use permit. She said that in addition to the side-to-side separation proposed, the Planning Board should consider this as a condition to the Board of Commissioners with additional language that states that the construction of adjacent walls must conform with the N.C. Building Codes and that the area between buildings must remain open and unobstructed.

Ms. Radcliff stated that Section 200-56 of the Zoning Ordinance address issues that are involved in the special use permit that the Board of Commissioners must follow but are general site standards. The Planning Board may address and make recommendations to the Board of Commissioners on each of the following site standards and whether they have been met. In addition to the site standards, this Zoning Ordinance, Section 200-70)(6) states the Commissioners must find that satisfactory provision and arrangement has been made concerning the following

1. Ingress and egress
2. Off-street parking and loading areas
3. Utilities
4. Buffering
5. Playgrounds, open spaces, yards, access ways and pedestrian ways
6. Building and structures

Ms. Radcliff stated that Staff has addressed most of these items through prior comments. She mentioned that based on Staff review of the special use permit application materials, Staff has found that the PUD as proposed meets the general standards for a special use permit for a Planned Unit Development in the R-10 and R-15 zoning districts. In addition, Staff would like to note to the Board that a portion of the proposed PUD is located with the 100-year floodplain and that the applicant on the Preliminary Plan identified the placement of signs and model homes throughout the subdivision, and these should be addressed with conditions in the special use permit, if approved.

Ms. Radcliff stated that the Planning Board may make a recommendation to the Board of Commissioners contingent on the applicant supplying the BOC with the appropriate information, if it is satisfied with statements or information provided by the applicant at the Planning Board meeting. If the Planning Board makes a recommendation that the Board of Commissioners approve the special use permit application and proposes conditions related to the above-noted comments, then Staff suggests it should also ask the Board of Commissioners to specify time-frames within which the applicant must satisfy any conditions.

Mr. Patterson said that looking at the subdivision he sees the fire flow at 500 gallons per minute, which is typical for a residential development with wide separations, but for narrow separations, should it not be 1,000 gallons a minute?

Mr. Don Hunley, with Lapsley and Associates addressed some of the issues presented:

Out Parcel. He stated that he had a mistake regarding the out parcel, and said what he had labeled as an out parcel is actually a remainder of that piece of property that was not transferred to Windsor-Aughtery but was intended initially to be part of the purchase and remains the property of Mr. Holoman and is not part of the planned unit development.

Off-Street Parking. Mr. Hunley stated that they will provide language specifically identifying the two parking spaces per dwelling.

Dwelling Units Access. Mr. Hunley said that there is two basic common areas, one to the west and one to the east. The access to the western common area would be through the recreational area, and the area that the sewer lift station will be built on will have and a ramp down to the 100-year floodplain and that will provide the access that way. The access to the eastern area, the cul-de-sac in Section 8 on the map, will provide across for nature paths.

Perimeter. Mr. Hunley said that the existing homes are built upon the ridge and the planned unit development will be built on the slopes below it, which face south and west. The houses on the ridge basically will have a beautiful view. The PUD will be constructed on the lower level and will be formed by cutting and filling. The homes on the ridge will remain there and they will have the view that they have at present. To keep from obstructing the view is the reason why there is no trees, etc. prescribed for that area.

Fire Flow. Mr. Hunley stated that in addressing Mr. Patterson's concern, they applied for State standard for fire flow, which is a 24-inch line, so that is 500 gallons per minute, but will also run 6-8 inch line as well. He added that they will consult with Rocky Hyder, Fire Marshal for Henderson County with other details.

Setbacks. Chairman Pearce asked where would the setbacks be, from the property line? Mr. Hunley stated that the setbacks would be from the property line. Chairman Pearce said that since all of those will be parking spaces, will the parking be provided in the front of the lots? Mr. Drew Norwood, developer of the project stated that the house will be set back approximately 25-30 feet from the curve and will put us about 15 feet from the property line back. He said that this will give enough room for all of the dwellings to have a two-car garage with doublewide driveways and also to have enough room for any visitors. Ms. Radcliff stated that this should be shown on the plan that each dwelling will have two parking spaces.

Thoroughfare Plan. Mr. Jack Lynch, Chairman of the Transportation Advisory Committee, stated that he does not know any problems with the development at the end of Rugby Road, except that the Committee has asked for a transportation impact analysis through NCDOT. He said that what the committee is concerned about from a transportation point of view is the school traffic and the development all the way to the Glenn Marlow School and there is a potential for the Tap Root Dairy area to go commercial. He said that the Chamber is concerned about the commercial traffic coming from the Tap Root area to the school area. Mr. Lynch stated that regarding the traffic congestion concern, he feels that will be determined in the analysis report, which is a NCDOT requirement and not a committee requirement which was forwarded to the developers.

After considerable discussion regarding setbacks, side separation and off street parking among Board members, it was understood that these would be enforced by the Zoning Administrator and any of these issues could be addressed as a condition. Chairman Pearce was still concerned about the condition concerning traffic congestion. Mr. Lapsley, consulting engineer and design team for this project stated they have discussed with NCDOT concerning this project about road access, turn lanes and other items. Mr. Lapsley stated that as Mr. Lynch indicated a traffic analysis will be done by NCDOT and said that they are in discussion with NCDOT as to how in depth that needs to be. Mr. Lapsley suggested that this Board make a condition of the special use permit for this project indicating that it is subject to NCDOT approval of the traffic impact analysis as a recommendation, and that the developer would comply with those recommendations.

Chairman Pearce made a motion to approve the special use permit application for River Stone Subdivision with the conditions as previously stated and in addition: (1) to look into the fire flow



requirements especially considering the closeness of the structures; (2) that the restrictive covenants state and have an enforcement capability regarding that no obstructions exist between buildings that are less than 20 feet apart; (3) that the Planning Board does not feel they have adequate information to address the site standard that states *shall not be located or developed in such a manner as to seriously worsen the traffic congestion so as to endanger the public safety* and that the transportation impact analysis should be completed and presented as evidence to the Board of Commissioners before they make their decision on the special use permit. Renee Kumor seconded the motion. Paul Patterson asked that a condition also be added that it meets the requirements of off-street parking. Ms. Kumor seconded the motion with this additional condition. All members voted in favor. (Paul Patterson left the meeting at this time).

River Stone (File # 05-M24) - Combined Master Plan and Development Plan - Located off North Rugby Road and Butler Bridge Road - Don Hunley with William G. Lapsley and Associates P.A., Agent for Drew Norwood of Windsor-Aughtry Company, Owner. Mr. Card stated that Don Hunley with William G. Lapsley and Associates P.A., and agent for Windsor-Aughtry Company, owner, submitted a Combined Master Plan and Development Plan application for a proposed major subdivision and planned unit development titled River Stone. The proposed project site is located on two parcels of land totaling 175.52 acres between Butler Bridge Road and North Rugby Road. The applicant is proposing to build 523 single-family residential units. Some structures and roads currently exist on the property and will be removed to accommodate the subdivision. The applicant proposes all single-family residential units but will have different unit types throughout the subdivision.

As discussed during the pre-application conference, the Applicant is obtaining both major subdivision approval and a special use permit. The project is located in two different zoning districts, the 106-acre parcel to the west is zoned R-10 and the parcel to the east is zoned R-15. To allow clustering of lots that do not meet the minimum lot size required by zoning, the applicant is requesting to be a planned unit development, which is allowed as a special use. The surrounding land uses include commercial to the east, industrial to the south and west, residential to the north.

Mr. Card said construction of the project is anticipated to begin at the north entrance and continue at approximately 50 to 100 lots at a time as indicated by the applicant in the attached Development Sequence. The project has been broken up into 10 different sections. Although the project is broken into sections, the applicant is requesting approval of the entire project because it is expected that land disturbing will occur in more than just a particular section at one time. The applicant has indicated that the build out for the entire project is expected to be complete in 7 to 8 years. The developer also intends to build the homes for the subdivision which is not specifically regulated by the HCSO. A clubhouse and pool are proposed and Section 200-40 of the Henderson County Zoning Ordinance regulates parking for this area and the Applicant has shown 40 parking spots for the clubhouse and pool area.

Public roads are proposed and the applicant proposes to build all roads to NCDOT standards. Curb and gutter is also proposed. According to the Combined Master Plan and Development Plan, three entrances will serve the subdivision. The north entrance and west entrance will be located off of Butler Bridge Road and will be the first built, the east entrance is on North Rugby Road and as indicated by the Applicant, will be the last built. On September 2, 2005 the applicant revised the Combined Master Plan and Development Plan, which eliminated the right turn lane into the subdivision. The elimination of this lane was based on the Applicant's meeting with NCDOT and new traffic counts. The applicant is requesting that the Planning Board consider the revised Plans as part of the subdivision review.

Mr. Card said although the French Broad River and Mud Creek are within a few hundred feet of the proposed subdivision, the project is not in a designated water supply watershed district. The 100-year flood line is shown on the Combined Master Plan and Development Plan and it appears to affect some lots. Natalie Berry, Henderson County Floodplain Administrator has submitted comments regarding these lots. The majority of the 100-year floodplain and some of the floodway are located in the 47 acres of proposed common space. No official blue line streams are on the property but Old Mud Creek follows a portion of the southern border of the project. The project is not located within half a mile of a farmland preservation district. Public water (Regional Water Authority) and public sewer (Cane Creek Sewer Service) are proposed. Mr. Card said that according to Gary Tweed, Henderson County Engineer, sewer service will be provided by the proposed Mud Creek interceptor project. A lift station is shown adjacent to the clubhouse and pool area.

Mr. Card said Staff has reviewed the submitted Combined Master Plan and Development Plan for conformance with the Henderson County Subdivision Ordinance (HCSO) and he stated that all the requirements have been met.

The following are comments regarding the Development Plan:

1. **Final Plat Requirements.** The Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance.
2. **Water and Sewer.** The applicant has proposed public water (Regional Water Authority) and public sewer. According to the HCSO, the applicant must provide evidence that the water supply and sewer system plans have been approved by the appropriate agency. All public or private (community) water supply and sewerage systems shall be installed and shall meet the requirements of the Henderson County Health Department or other government authorities having jurisdiction thereof. The development plan may be approved contingent on final approval from such agencies; however, the final plat shall not be approved until all such final approvals have been obtained. Any subdivision served by a public water system shall meet the respective county or municipality's minimum requirements for fire hydrants installation (HSCO 170-20). The Henderson County Fire Marshal's Office has requested that hydrants are spaced 1000 feet apart or closer.
3. **Public Roads.** The applicant has proposed public roads. Roads are to be designated as public and labeled accordingly on the Final Plat. The roads shall be constructed in accordance with NCDOT standards. All roads proposed for public use shall be annotated as "public" on all plans and plats (Section 170-21A). The Applicant must label each road on the Combined Master Plan and Development Plan as "public".
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. **Road Names.** Henderson County Property Addressing submitted comments regarding the layout of road names. Road names must be approved by Henderson County Property Addressing before a Final Plat is recorded.
6. **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 170-37, A).

7. **Development Plan Approval.** Since build out for the entire project is anticipated to last 7 to 8 years, a conflict between the development plan approval periods may occur. According to Section 170-16C (4) of the HCSO, development plan approval is valid for two years. In the two year development plan approval period, the developer is expected to complete all the infrastructure improvements, however, one year extensions may be granted by the Planning Board for just cause.
8. **Future Use of the Out Parcel.** The Combined Master Plan and Development Plan shows an out parcel located near the west entrance. Staff would like the applicant and/or agent to discuss the future use of the out parcel with the Planning Board.
9. **Building Permits.** The applicant has proposed model homes throughout the project. The applicant also intends to build homes as the project progresses. The applicant will not be able to pull but one building permit before final plat approval of the subdivision, unless the infrastructure and improvements are bonded with Henderson County and final plats are recorded per Section 170-44 (building permits) and Sections 170-38 and 170-39 (improvement guarantees) of the HCSO.

Chairman Pearce noted that comment # 8 is no longer a condition that the Board needs to consider as per previous discussion regarding the special use permit.

Mr. Card said that Staff has found that the proposed Combined Master Plan and Development Plan for River Stone appear to meet the technical standards of the Henderson County Subdivision Ordinance. Staff recommends approval of the Combined Master Plan and Development Plan subject to the above listed-comments being addressed and the developer addressing any other issues raised by the Planning Board. River Stone will not only need subdivision approval but approval of Special Use Permit Application #SP-05-01. The developer should not start land improvement activities until both approvals are obtained.

Mike Cooper made a motion that the Planning Board find and conclude that the Combined Master Plan and Development Plan complies with the provisions of the Subdivision Ordinance except for those matters addressed in 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 be approved subject to the following conditions: the applicant satisfies any conditions that result from comments 1, 2, 3, 4, 5, 6, 7, and 9. In addition, that the fire hydrant be installed in accordance with the standards approved by the Henderson County Fire Marshal and that the subdivision approval is contingent upon approval of Special Use Permit Application #SP-05-01. Mark Williams seconded the motion and all members voted in favor.

The Orchards at Flat Rock (File # 05-M26) – Combined Master Plan and Phase I Development Plan (124 units in Phase I) – Located off of South Orchard Road – Norman Diver (Brooks and Medlock Engineering), Agent for Lifestyle Homes of Distinction, Owner. Mr. Card stated that Norman Divers with Brooks and Medlock Engineering and agent for Lifestyle Homes of Distinction, owner, submitted a Combined Master Plan and Phase I Development Plan for a proposed nonstandard subdivision titled The Orchards at Flat Rock. The proposed project site for the subdivision is on four tracts of land totaling 37.92 acres off of South Orchard Road and is an existing golf course. Mr. Card said that the developer intends to do some fine grading and remove all structures on the property.

The applicant, Lifestyle Homes of Distinction, proposes a total of 212 units for the entire project, with 124 attached townhouse units for Phase I. The applicant is proposing five different townhouse unit types and these units vary in square footage and layout. A unit layout is provided on the attached Plan, which shows in detail the arrangement of the units. Mr. Card said, each unit will have two parking spaces and will have access through a 15-foot driveway

with no deeded right-of-way. All land outside of the drip line of each individual unit will be designated as common limited and maintained by the Homeowners Association.

Mr. Card said that private roads are proposed. The applicant has proposed 22-foot wide roads with curb and gutter and a 45-foot right-of-way to serve the subdivision. According to the Combined Master Plan and Development Plan, two entrances are proposed, one of which is in Phase I. A temporary turnaround has been provided at the end of Summerfield Place road for Phase I. The Plan also shows a clubhouse and pool which is accessed by a driveway.

Public water and public sewer (City of Hendersonville for both) are proposed. According to the County Comprehensive Plan, the project is located in the Urban Service Area. The project site is also located in the Open Use zoning district which does not regulate the residential use of land and density of a project. The project is not located in a water supply watershed district. The Blue Ridge Farmland Preservation District is within a half a mile of the project.

Mr. Card said that the review for a townhouse development is outlined in Section 170-15 of the Henderson County Subdivision Ordinance and states in the Ordinance that applications for townhouse developments shall be prepared in conformance with Section 170-16 and that Articles IV (all areas of review for major subdivisions which includes minimum design standards for roads, water and sewer systems, right-of-way and etc.), Article V (subdivision improvement guarantees) and Article VI (application, enforcement and legal status provisions). He stated that under Section 170-15 also states that minimum curve radius, intersections, right-of-way access, lot dimensions, and lot configuration and frontage may be modified by the Planning Board. Mr. Card said that it also states that the Planning Board may use discretion in applying subdivision standards.

Mr. Card said that the applicant has requested modifications to almost all of the standards listed above in the HCSO. According to the Plan, curve radii C1, C2 and C3 will have a radius of 50 feet. Right-of way has also been modified on the Plan, which shows a 45-foot right-of-way with local private residential roads and no right-of-way for the driveways. Mr. Card said that they have proposed a 15-foot wide road for the driveways and lot dimensions, lot configurations and lot frontage are modified in the Plan because of the nature of a townhouse development.

Mr. Card stated that Staff has reviewed the submitted Combined Master Plan and Phase I Development Plan for conformance with the Henderson County Subdivision Ordinance and offers the comments that follow.

#### **Master Plan Comments:**

1. **Phase II Development.** If the Applicant proposes single-family residential dwelling units in Phase II, then Phase II must be reviewed as a major subdivision and meet all of the requirements for a major subdivision.

#### **Development Plan Comments:**

1. **Private Roads.** Because private roads are proposed, the final plat(s) must contain a note stating: *The private roads indicated on this final plat may not meet the requirements of the North Carolina Department of Transportation for acceptance into the state road system.* (HCSO 170-21B and Appendix 7)
2. **Final Plat Requirements.** The Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance.

3. **Farmland Preservation District.** The Final Plat(s) should include a notation that the property is within ½ mile of land in a Farmland Preservation District. (HCSO 170-35 and Appendix 7)
4. **Permits.** The Applicant must obtain all necessary permits. The Developer should submit notice from NCDENR that a soil erosion and sedimentation control plan has been received or provide proof that one is not needed. The Applicant must also obtain a Driveway Access Permit from the NCDOT District Engineer's Office.
5. **Water and Sewer.** The applicant has proposed public water and public sewer (City of Hendersonville for both). According to the HCSO, the applicant must provide evidence that the water supply and sewer system plans have been approved by the appropriate agency. All public or private (community) water supply and sewerage systems shall be installed and shall meet the requirements of the Henderson County Health Department or other government authorities having jurisdiction thereof. The development plan may be approved contingent on final approval from such agencies; however, the final plat shall not be approved until all such final approvals have been obtained. Any subdivision served by a public water system shall meet the respective county or municipality's minimum requirements for fire hydrants installation (HCSO 170-20).
6. **Road Names.** Henderson County Property Addressing submitted a comment that the road name Autumn Hills Drive cannot be used. All road names for this project must be approved by the Henderson County Property Addressing.
7. **Fire Department's Comments.** The Henderson County Fire Marshal's Office has requested that hydrants are spaced 1000 feet apart or closer. The fire district for this project is not in the Edneyville fire district as labeled on the Plan but in the Blue Ridge fire district, this change shall be made on a revised Combined Master Plan and Phase I Development Plan. The Fire Marshal's office is requiring that the roadway to the clubhouse and pool parking lot maintain a 20-foot travel way width. On a comment sheet, which is in the packet, the Fire Marshal's Office has also provided a modified plan that shows potential problem areas for emergency vehicles. They have requested that the circled areas be widened or have turnarounds provided to help alleviate these problems.
8. **Driveway Standards.** Mr. Card said that driveways with a 15-foot travelway width and no specific right-of-way are proposed. The Subdivision Ordinance does not have standards for driveways. The HCSO states, in the definition of a driveway, that if the driveway is located entirely on the individual lot, it shall be exempt from all applicable road standards. It also states that if the driveway is located entirely or partially outside of the individual lot that it is intended to serve, then that portion which is located outside of such individual lot shall be treated as a road and should be designed and built accordingly. Roads that abut 3 or less lots are considered limited local residential roads with a 30-foot right-of-way and 14-foot travelway width. Common space and/or open space do not count as a lot. However, Section 170-15 of the Henderson County Subdivision Ordinance (HCSO) allows modification to right-of-way for nonstandard subdivisions but the 15-foot travelway width which appears to be sufficient for roads that fall under the limited local residential standard. It also appears that some driveways proposed in The Orchards at Flat Rock abut less than 3 lots and some do not. In the past, the Planning Board has allowed townhouse developments, such as Phase III for Fox Glen, to have short roads (driveways) and/or parking spaces, which serve townhouse units that are not built to any specific standard in the HCSO. He stated that it is unclear how to apply these standards to nonstandard subdivisions because the HCSO does not specifically address developments like The Orchards at Flat Rock and

therefore, the Planning Board may feel that the minimum travelway width for the driveways should meet the standards for local residential roads and/or collector roads where appropriate and/or take into consideration the comments from Emergency Services.

There was some discussion about the road standards and whether they should use local residential roads or collector roads standards. Norman Divers, agent for the project along with Bruce Alexander of Lifestyle Homes of Distinction, owner, presented a PowerPoint presentation of their proposed project to give the Board members a general idea of the development.


Mr. Cooper said regarding the driveways, how much right-of-way should there be for four units? Mr. Card said that for four units, there should be a 16-foot road with a 45-foot right-of-way, which is a typical subdivision standard, with three units, it would be a 30-foot right-of-way. Mr. Burrell stated that Section 170-15 of the Henderson County Subdivision Ordinance, allows you to modify Section 170-27 regarding right-of-way access. He said the Ordinance gives you the discretion to basically substitute something that works in the same manner as the Subdivision Ordinance for limited situations like this, to fit the way their development is traveled. He added that the Board can require that the travelway which abuts any given unit could have a dedicated right-of-way. Board members reviewed the definition of driveway as it applies for this project and how the developers can meet the standards specified in the Ordinance.

Chairman Pearce opened public input at this time.

Bob Smoak. Mr. Smoak is an adjacent property owner and stated he was glad to see something positive developing in their neighborhood.

Chairman Pearce made a motion that the Planning Board find and conclude that the Combined Master Plan and Phase I Development Plan 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 subject to Comment 1 of the Master Plan and Comments 1 - 8 of the Development Plan. Specifically noting on Comment 8, dealing with driveway standards and right-of-way, that the driveway issues be resolved by either widening the roads that go to more than three units to a 16-foot travelway for a local residential road and that the right-of-way issues be resolved by proper language in the restrictive covenants giving property owners and their visitors access to every unit and that this language be reviewed and accepted by the County Attorney's office. In the alternative, that they do not wish to comply with this, the Planning Board would recommend that the owners of this development project request a variance from the Board of Commissioners to this travelway standards, and it would be the Planning Board's recommendation to the Board of Commissioners that they accept the plat as presented to the Planning Board for a variance. Tommy Laughter seconded the motion. All members voted in favor.

Adjournment. There being no further business, Chairman Pearce made a motion for the meeting to be adjourned. All members voted in favor. The meeting adjourned at 9:53 p.m.

  
Tedd M. Pearce, Chairman

  
Kathleen Scanlan, Secretary