

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
February 15, 2005**

The Henderson County Planning Board met on February 15, 2005 for its regular 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; Mike Cooper, Vice-Chairman; Paul Patterson, Tommy Laughter, Jonathan Parce, Renee Kumor, Gary Griffin, Stacy Rhodes and Mark Williams. Others present included Karen C. Smith, Planning Director; Matt Card, Planner; Kathleen Scanlan, Secretary; C. Russell Burrell, (Acting) County Attorney and Chuck McGrady, Commissioner and liaison to the Henderson County Planning Board.

Approval of Minutes. Chairman Tedd Pearce presided over the meeting and called the meeting to order. Mr. Pearce asked for the approval of the December 21, 2004 regular meeting minutes, and the January 18, 2005 regular meeting minutes. Mr. Pearce made a motion to approve both sets of minutes as presented. Mark Williams seconded the motion and all members voted in favor.

Adjustment of Agenda. There were no adjustments to the agenda.

Staff Reports. Ms. Smith informed the Board members that the Board of Commissioners denied the rezoning request by Ingles at NC 191 and North Rugby Road. She said regarding US 25 North Zoning Study, the Board of Commissioners had a presentation on the study and have scheduled a public hearing to be held at West Henderson High School on March 21, 2005 at 6:00 p.m. She mentioned that prior to that hearing, Staff will be having three drop-in sessions to gather some public input prior to that hearing on February 23<sup>rd</sup> and 24<sup>th</sup>. Ms. Smith said regarding the Preliminary Highway Map that the North Carolina Transportation presented to the County's Transportation Advisory Committee, which happened on January 27, 2005. She said that the Board of Commissioners and other governing boards are taking a look at it to take comments back to the Transportation Advisory Committee to see whether there are any adjustments needed before they take it to a public meeting to get comments from citizens. She noted that by going to the Planning Department's website under *projects and studies*, there is a packet of information that Staff presented to the Board of Commissioners at the February 7, 2005 meeting to update the Commissioners on what was going on with that plan. Chairman Pearce asked whether any of this would have affected the decisions that were made for the US 25 North Zoning Study? Ms. Smith said possibly indirectly. She said it is a thirty-year plan and it can change. One of the things they will be discussing is the Balfour Parkway proposal. She added that the draft is very preliminary and runs through some County property including the animal shelter and landfill site. Ms. Smith added that the Board of Commissioners gave approval to its two-year strategic plan and the Commissioners will be discussing the implementation of the plan at the February 16<sup>th</sup> meeting, but the strategic plan has a lot of Comprehensive Plan items in it. She said some of the scheduling from the Comprehensive Plan is going to change and will be bringing back a copy of their plan once that it is adopted and then we can see how we are going to need to adjust what we are doing.

Chairman Pearce said that reviews of subdivisions will be conducted informally unless the applicant or anyone qualified to participate in the proceeding requests that such review be conducted as a formal quasi-judicial proceeding.

**NEW BUSINESS:**

Development Parcel Review – Carriage Park Planned Unit Development (PUD),  
Section 21 – Located off NC Highway 191 (Haywood Road) – 14 Proposed  
Single-Family Detached Townhomes – Dale Hamlin, Agent for Carriage Park  
Associates, LLC.

Chairman Pearce stated that this item would be conducted as a quasi-judicial proceeding and the proceeding is to consider Section 21 and Section 22, development parcel review. Paul Patterson said that he would recuse himself, as he has been involved in projects with Carriage Park. All Board members approved his recusal. Ms. Virginia Burke asked Chairman Pearce whether he was still building in Carriage Park? Chairman Pearce said that he does not build for the developer, just for private owners. Ms. Burke asked Chairman Pearce, “You do not have to recuse yourself?” Chairman Pearce said that he does not feel that he needs to and does not feel that it makes any difference on any decision that he makes, but if the Board needs to discuss this, he would be willing. Ms. Burke felt that it was not right for a builder in Carriage Park to be on the deciding body. Chairman Pearce explained that many of the members of the Planning Board are involved in various aspects of construction, legal or engineering issues regarding building. He said that as a builder, he could potentially build in any subdivision. He added that if he had direct financial dealings with the developer, then he feels that would be different and he would need to recuse himself. Chairman Pearce asked Russell Burrell for some legal interpretation. Mr. Burrell said to Mr. Pearce that if he does not have any financial dealings with the developer or any party to this quasi-judicial hearing, then he can proceed. He added that if any member of the Board feels he should not participate, they would need to have that known.

Chairman Pearce said that he feels that in the past he had put conditions on this particular applicant that they probably would not have liked placed on them, so I feel I can handle it. Chairman Pearce added that he feels that everyone on the Board from one time or another has directly or indirectly been involved in land use issues. He asked if anyone had any objections if he continued participating in this proceeding. No Board members had an objection and Richard Krupp, President of Carriage Park Homeowner’s Association also mentioned that he had no objection. Ms. Burke commented that she would prefer that Chairman Pearce recuse himself. Chairman Pearce asked each party to the proceeding whether they had any objection of any Board member to participate in this hearing and no one voiced their objection.

Chairman Pearce then asked all parties to the proceeding Carriage Park Associates, LLC, Dale Hamlin Manager and Developer, Bob Grasso, Engineer for Carriage Park, Planning Department Staff, Karen Smith, Planning Director, Virginia Burke, resident of Section 21, Richard Krupp, President of Carriage Park Homeowner’s Association and resident, Dave Lowles, resident, and James Bandelin, Carriage Park Architectural Committee to be sworn in.

Ms. Smith stated Carriage Park is a Planned Unit Development (PUD) on Haywood Road approved by the Henderson County Board of Commissioners under Special Use Permit

#SP-93-13 (and as amended). Under the most recent amendment to the Special Use Permit (#SP-93-13-A4), Carriage Park is approved for a total of 695 units on 392.3 acres. Through the Special Use Permit for Carriage Park, the Board of Commissioners assigned to the Planning Board the responsibility to approve individual Development Parcels within the project.

Section 21 is 3.65-acre area of the Carriage Park PUD is located off of Highway 191 (Haywood Road). Ms. Smith noted on a map supplied for the hearing the location of Section 21. She stated that the development is for 14 proposed single-family detached townhomes and will have lot sizes ranging from 0.12 to 0.52 acres. The section is located in an R-30 Zoning District and a Water Supply Watershed (WS-IV) area. She said that the development parcel will have public water and sewer will serve the project from the City of Hendersonville Water and Sewer Department. The proposed lots will be served by a neighborhood drive private road built to NCDOT standards per Special Use Permit #SP-93-13.

Ms. Smith said that Section 21 had come to the Planning Board for review in September 2004, along with Section 19, but just as the hearing started, the applicant withdrew the application and decided to revive it in the same form as previously presented. Ms. Smith said that there was an issue with the notice of the hearing. One of the requirements is that the notice be mailed out at least ten days prior to the hearing to the President of the Homeowner's Association but unfortunately the notice did not go out until the next business day. She said she had spoken with the applicant and also Mr. Krupp, who is the President of the Homeowner's Association and asked whether he had any objections or would be willing to waive that notice requirement. Chairman Pearce asked Mr. Krupp whether he objected waiving the notice requirements? Mr. Krupp stated he has no objections. She said that is all of the preliminary comments and will offer the Staff's comments later.

Mr. Dale Hamlin, General Manager of Carriage Park and has been there since 1992. He said that about seven and one-half years ago they started attempting to get approval on building a dam and a lake. He said that the process took many years to get the federal, state and local approvals to construct the largest earth and dam in Henderson County. He said that it is done now, approved and full of water and it is a vision that we have had for twelve years to create this lake that was needed to complete a road system, so we developed a lake instead of a bridge and this Section 21 is a proposed townhouse community that is a high quality control of architecture. He said that he does not feel this area would not be able to sustain single-family custom homes as it is too sensitive. He said that architecturally they want the homes to look good from the water and lakeside. He asked Mr. Grasso to inform the Board members

Mr. Bob Grasso, engineer for Carriage Park, said that they have designed the road system and lots so that they can take advantage of the views of the lake and surrounding area. He said that they want to preserve the area and the lake that was created for the community. Mr. Grasso discussed the comments mentioned in Staff's memo as follows:

Erosion Control Permit. They have received the erosion control permit.

Water & Sewer Plans. Mr. Patterson has submitted water and sewer plans to the City of Hendersonville and to NCDENR.

Private Roads, Road Standards, Road Names. Mr. Grasso said that they would get the road names presented and will get the names submitted and approved by the Property Addressing Office.

Site Information. Any discrepancies will be fixed.

Open Space. The required open space would be put on record as required.

Stream Setbacks Mr. Grasso said that any perennial stream setbacks would be shown on the final plat.

Road Design/Nonstandard Subdivision. Mr. Grasso said that they went with the Real Estate Board definition of a *townhouse*, the difference between a townhouse and a condominium is that in a townhouse you are not just selling the area inside the building but selling the separate land underneath the drip line. He said that is what they are approaching the project with and will probably spec out some duplexes, if the Board feels uncomfortable not having any duplexes within Sections 21 and 22. Mr. Grasso said that there has been a precedent set by this Board previously where we have built the roads to townhouse standards and have a combination of duplexes and detached, such as identified in the Cottages of Carriage Walk, Carriage Commons and Carriage Springs. He further stated that because of the precedent established, that is the reason why we followed the natural course of the design of Sections 21 and 22. He said he feels that it is important to have a townhouse design to control the view and protect the uniqueness of the site, so by dictating the architecture, we can create this village sense and achieve something that will build out exactly what the vision of the creators of Carriage Park have designated.

Ms. Virginia Burke stated that she lives on Lot 18 of Governor's Point and that is in Section 3, which is next to Section 21. She said that when the development company put in the road, known as Road E, they took down many trees behind her home and now the buffer that is required between the development section and the number of feet from her home is no longer there. Ms. Burke is requesting that the developer provide a survey for that area and replant the buffer with tall trees that will screen the roadway from her deck. Chairman Pearce asked Ms. Smith what the minimum buffer requirement is between development parcels and the requirement in between the parcels are. Ms. Smith said that the minimum buffer between development parcels for single family detached or townhouses is 25 feet. She said in the Special Use Permit 93-13, under Condition 6 of Exhibit A, it states that the Board *may* impose these regulations. She further stated that it talks about topographical or other barriers that currently exists or proposed by the applicant, located within 10 feet of the perimeter of the development which do not provide reasonable privacy for existing uses adjacent to the development parcel. The Board of Commissioners may impose any of the following requirements. She stated that it talks about structures other than single-family detached units located on the perimeter of the development parcel may require screening in a manner that is approved by the Board. She said that this refers to what would need to be done inside the development parcel. Chairman Pearce said he believes there is a perimeter buffer around Carriage Park that is 30 feet, which cannot be touched. Mr. Grasso said that they will work with Ms. Burke on the buffering issue. Mr. Grasso added that from a vertical road alignment, the road has been dropped, so the road is going to be more out-of-sight, but if Ms. Burke feels she needs more buffering, they will work with her on that. Ms. Burke stated that she would accept this offer.

Chairman Pearce referred to comment 10, which shows only 15 feet separation between development parcels and the Special Use Permit requires a 25-foot buffer between

development parcels. Mr. Grasso said that is for lot 14 of each Section and will change the property line to accommodate 25-foot requirement.

Mr. Bandelin, who is a resident and member of the Carriage Park Architectural Review Committee and have been reviewing both development parcels. He noted that the three members of the committee that are residents have approved Section 21 as submitted.

Mr. Dave Lowles stated that he lives in Carriage Meadows, which is beyond this development and added that he is also a member of the County Environmental Advisory Commission. He said that by being a member of this environmental committee, it gives him awareness of erosion control issues here in the County. Mr. Lowles stated that he strongly approves this development parcel project and he feels we all need to get on with it as fast as we can. He suggested that there should be some temporary erosion control measures while construction is going on to reduce the erosion and the mud flow into the lake and across the roads. He encourages that the roads be cleaned regularly. Mr. Lowles is concerned that there should be a guardrail across the dam for safety reasons. He mentioned another concern regarding a wall along Road E, which is adjacent to Ms. Burke's property because it relates to the erosion control, the buffer and the appearance of the project. He also suggested that the Master Plan is dated 2000 and should be updated, because downstream to the dam there is an easement for conservation and it should show up on the documents of people that make decisions.

Mr. Grasso said that in looking at the property, he saw some potential places where the lake could receive some sedimentation. He said they are putting in some sediment traps so that has been corrected. He said they would get some temporary seeding down and also use a chipper to make mulch for temporary measures in storm areas. With regard to the guardrails, he agrees that they should be put up and will proceed with that. Chairman Pearce asked whether there is anything in the Special Use Permit that allows the Planning Board control over those issues? Ms. Smith said that there is nothing in the Special Use Permit or the Zoning Ordinance and the Subdivision Ordinance does not give much guidance on that subject either. Mr. Grasso reiterated that he would be sensitive to these issues.

Mr. Richard Krupp questioned the townhouse theory that was mentioned by Mr. Grasso, regarding the selling of lots, but the homeowners would only own the drip line? Mr. Grasso said that was correct. Mr. Krupp asked, "How will the buyer buy the lot when they won't own the whole area that is there?" Mr. Grasso said that the way we presented this envelope is because at the time we did not have a footprint and right now we are closing in on what that footprint would be so we would know what that drip line would be so that it is going to be on out to the road right-of-way and the drip line of the house. He said that it is shown as an envelope but it is actually going to be closing in as the footprint is finally developed. He said these footprints will be submitted and that is how it will be recorded for sale. Chairman Pearce asked, "What is going to happen to the rest of the land? Will that be going into open space or is that going to be owned commonly by the owners of the townhome?" Mr. Hamlin said that it will be owned by the Association and is called limited common and is limited to the use of the owner of the building. Chairman Pearce said that it was said that the property was going from the drip line to the road, so the property in front of them would be their private driveway and the common sidewalk would be included. Mr. Krupp said that he feels it would be like Carriage Walk or Carriage Commons and will

be limited use common land for those owners. Mr. Grasso said that is correct. Mr. Krupp asked whether there would be access for the Carriage Park ownership as a mass through the lake area or the area down to the water? Mr. Grasso said yes, but will need to have a 30-foot buffer. Mr. Krupp added that the Homeowner's Association is in favor of getting this project started and underway.

Ms. Smith said that she is entering the entire Staff's packet into the record as evidence. The conditions that were stated in the memo were as follows:

1. **Erosion Control Permit.** Evidence of approval of an erosion and sedimentation control plan needs to be submitted to the Planning Department prior to the Applicant beginning construction. If such approval is not required by NCDENR, the Applicant may submit certification of such by a professional land surveyor, engineer, landscape architect, architect or professional planner prior to the beginning of any construction.
2. **Water and Sewer Plans 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 21 have been approved by the City of Hendersonville Water and Sewer Department and NCDENR prior to the approval of the final plat (HCZO Section 200-33 [10], F(4)(b)[6]).
3. **Private Roads.** The Applicant provided the private road statement on the plan. On the final plat, the Applicant also should include a note stating: The private roads indicated on this Final Plat may not meet requirements of the North Carolina Department of Transportation for acceptance into the state road system (HCSO Appendix 7).
4. **Road Standards.** Special Use Permit #SP-93-13 requires that roads be constructed to NCDOT standards for vertical alignment and grade. The Applicant has indicated that all proposed roads in Section 21 would be build to NCDOT standards. The Applicant shall also 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 (Special Use Permit #SP-93-13, Exhibit A[12]).
5. **Road Names.** The Applicant has proposed a new neighborhood drive (Road 'E') to serve the lots in Section 21. The Applicant has not provided a road name. Prior to the recordation of the final plat, a road name will need to be submitted and approved by the Henderson County Property Addressing Office (HCSO Section 170-25).
6. **Site Information.** The Applicant indicates that the proposed Development Parcel is zoned R-20. According the Henderson County GIS mapping system, the proposed Section 21 is zoned R-30. The Applicant shows a different directional North arrow on the large development plan compared to the smaller 11x17 development plan. Prior to beginning of any construction, on a revised development plan, the Applicant should indicate the correct Zoning District, show the correct North arrow on all

plans, and show that the development parcel is also located in a Water Supply Watershed (WS-IV) District (#SP-93-13, Exhibit A[19]).

7. **Open Space** – A PUD allows the Applicant the flexibility to create lots which do not meet the minimum dimensional requirements (lot size, setbacks, etc.) of the zoning districts where PUD is allowed, to cluster dwelling units, to include multi-family dwellings, etc. The Applicant has to compensate for the lot size reduction with common area/open space areas. Based on the proposed 14 lots, 9.642 acres of land is necessary to meet the R-30 density requirements. The development parcel size is 3.65 acres. The difference constitutes a 5.99-acre land shortage. The Applicant has specified 5.51 acres of open space are required, which is a shortage of open space by 0.48 acres. The 0.48 acres of land should be dedicated as open space somewhere else in Carriage Park to meet the open space requirements. The Applicant, prior to submittal of the development plan application for Section 21, provided the Planning Office with documentation that currently there is 1-acre more of common area/open space on record than required based on the current level of development in the entire PUD. The required open space will need to be put on record prior to or concurrent with the recordation of the lots in Section 21 (#SP-93-13, Exhibit A [14]).
8. **Stream Setbacks.** The property falls within an area designated WS-IV. Carriage Park is considered an “approved cluster development” under the Water Supply Watershed Protection Ordinance; therefore the minimum lot size under that Ordinance is not applicable. However, per a USGS topographical map for the area, there is a perennial stream in Section 21 (the perennial stream is now engulfed by the lake area illustrated on the plan) and the Watershed Ordinance requires that a 30-foot vegetative buffer be maintained along perennial streams. The Henderson County Subdivision Ordinance also requires a 30-foot setback from perennial streams for buildings and other structures, excluding bridges and culverts. The perennial stream setbacks should be noted on the final plat(s) for Section 21 (WSWS Protection Ordinance Section 192-12A and HCSO 170-37A).
9. **Evidence of Permits Required.** The Applicant shows a lake with a dam abutting Carriage Park Sections 21 and 22. The Special Use Permit does not directly address the creation of a “person made” lake, pond, etc. The permit does require the applicant to submit all pertinent federal, state, or local permits, including sedimentation and erosion control permits or evidence of submission of such permits with an application for development parcel approval. Prior to approval of the final plat, the Applicant should provide copies all appropriate permits, including those related to the lake and dam (#SP-93-13, Exhibit A[A][2][c]).
10. **Development Parcel Buffers.** The Special Use Permit #SP-93-13 Schedule of Site Standards requires a minimum buffer common land of 25 feet between development parcels. The separation between development parcels for Sections 21 and 22 at lot 14 of each Section is less than the minimum 25-foot requirement at approximately 15-foot. On a revised development plan, the Applicant should show a minimum development parcel separation between Sections 21 and 22 of at least 25-foot (#SP-93-13 Exhibit A[7], page 13).

11. **Site Standards.** The Applicant should clearly indicate open space areas on the development plan and clearly identify setback lines, actual setback distance, and development parcel boundary lines. Prior to beginning any construction, the Applicant should clearly mark on a revised development plan open space areas, setback lines, setback distances, and development parcel boundary lines (#SP-93-13 Exhibit A[7]).
12. **Road Design.** The Applicant, under the Site Information section of the development plan, gives unit type as “single-family detached townhouses.” Special Use Permit #SP-93-13, Exhibit A, Definitions, defines a “single-family detached dwelling” as “a one unit structure typically where the owner takes fee simple title to both home and lot.” A “townhouse (townhome)” is defined as “A residential structure containing multiple dwellings units, with party walls, with each unit having it own deeded lot often with shared common areas.” If Section 21 is a single-family detached dwelling development, a residential street is required to serve the lots per the Special Use Permit, but if the development will contain townhouses as defined by the Special Use Permit, then a neighborhood drive is acceptable (#SP-93-13, Exhibit A[7]).
13. **Nonstandard Subdivision.** The Applicant has designated Section 21 to be occupied by townhouses. Townhouses are classified as nonstandard subdivisions which development plans must be prepared in conformance with the Henderson County Subdivision Ordinance Section 170-16 and with Articles IV, V, and VI of the Subdivision Ordinance in cases where the townhouse review is not superseded by other regulations (such as zoning). If the Development Parcel Plan for Section 21 is approved, the applicant must record a Final Plat for Section 21 that meets the Henderson County Subdivision Ordinance requirements for a Non-Standard Subdivision (HCSO Section 170-15B).
14. **Evidence of Infrastructure Development.** The Applicant indicates in the Descriptive Narrative that sewer and water lines extend to the proposed section 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 improvements guarantee in a form acceptable to the Henderson County Board of Commissioners. On a revised Development Plan, the Applicant should 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]).

Ms. Smith reviewed some of the conditions that were not covered by Mr. Grasso. She clarified that regarding Condition 8, stream setbacks, this standard comes from the water supply watershed regulations and not the Clean Water Act as mentioned by Mr. Grasso. She said that because this project is in the WS-IV watershed, this is the reason for the requirement of the 30-foot vegetative buffer. Ms. Smith verified that regarding Condition 9, evidence of permits required, Staff will need to get copies of all permits and added that Staff has received a dam permit from the State. Ms. Smith said that regarding Condition 12, road design, and Condition 13, nonstandard subdivision, she felt that the more restrictive standard should apply because the only difference between the standards for a townhome development versus the single-family detached dwelling is the right-of-way



width. She said the travelway is still eighteen feet, the shoulder is still three feet and the depth of the asphalt and gravel are the same, so the issue comes down to the right-of-way requirement. Chairman Pearce asked are townhomes allowed under the Special Use Permit? Ms. Smith said that they were. The Special Use Permit defines what a townhouse and single-family detached dwelling is and the separate standards that apply to each. She stated that at the time the special use permit was adopted, it might not have been anticipated that there would be a combination of both. Ms. Smith added that if they go with a mixture, she feels they should go with a more restrictive right-of-way requirement, but it appears from all of the other sections the Board has approved, they all had a combination of single-family detached dwellings. She said that the plan that they have presented to the Board is all single-family detached, there are no attached townhomes as per the definition of the Special Use Permit. She said that Mr. Grasso had said that he could propose that, but what you have now is all single-family detached. Ms. Kumor said that if this is the proposal that is acted upon, what arrangements need to happen if they then start making townhomes or dwellings that are detached? Ms. Smith said that she feels it needs to be discussed, if that is what they want to do or come back and amend their plan later. Ms. Smith said that the Board in its motion for approval could indicate that they are proposing a mixture. Ms. Kumor noted that in Section 21 they can have fourteen units and right now they are proposing fourteen units that by our definitions are single dwellings. Ms. Smith said that is right. Ms. Kumor said they are single dwellings because they do not have a common wall. Ms. Kumor said that if they choose to go along more with our definition of what a townhome is; would they then be required to come back and demonstrate how those fourteen units would be dispersed over that property? Ms. Smith said yes, unless they are ready to do that tonight. Chairman Pearce said that if they did townhouses with a common party wall, then they are under the neighborhood drive standards. He said that what they are proposing is to be under the neighborhood drive standards and have townhouse, but not attached, is that correct? Ms. Smith said that is correct. Ms. Kumor said, "Whose definition are we using?" Mr. Burrell said that the Board must use what is defined in the Special Use Permit, because that is what controls this development, even more specifically then the Subdivision Ordinance. Ms. Kumor said by that, what is the definition? Ms. Smith said they would need to follow the residential street standards with larger right-of-ways. Ms. Smith said that other than this, they can take care of the other standards and conditions with revised plans.

With regard to the notice requirements, Mr. Parce asked whether there are any other persons or parties aside from the Homeowner's Association that would have standing in regard to the issue of the items. Mr. Burrell said that the Special Use Permit defines and limits as to who gets the notice but said that it would go to the Homeowner's Association and anyone who has asked for the notice before. Ms. Smith said that if this were an amendment to Section 22, there would be another notice requirement. The Board of Commissioners went back in Section A4 of the Special Use Permit and defined the special procedure there.

Ms. Burke said that she had an issue with one of the statements that was made by Mr. Krupp. She said that Mr. Krupp said that the Homeowner's Association is in favor of getting this project going and getting it finished fast. She said that this has never been discussed at a Homeowner's meeting nor was a vote been taken concerning this proposed development. She said that she is not in favor of getting it done quickly and wants everything to be accounted for as it should be in the Special Use Permit 93-13. She added

that she would want the questions that have come up tonight along with the buffer issue of her property be adhered to. Mr. Krupp said that the executive board is in favor of assisting Mr. Hamlin of Carriage Park in getting the development started. He stated that what he meant by getting it moving, was not to take short cuts or violate any regulations, but to construct the development according to the standards of Henderson County. Mr. Krupp added that they are not opposed to the development of Sections 21 and 22 or the plans that have been presented. He said that this is a Board direction, but not has been taken to an open board, as it does not need to be. Chairman Pearce asked, "In the past, to your knowledge, any comments made by the Association, president or the board's representative present, regarding the sections of Carriage Park, have been executive board decisions and not a vote by the entire board members, is that correct?" Mr. Krupp said that is correct.

Note: Board member Tommy Laughter left the meeting at this time due to a prior commitment.

Chairman Pearce said that the issue the Board has revolves around the nonstandard subdivision as to the type of road and the townhomes. Mr. Grasso said that the townhomes were planned as detached with no party wall in between. Chairman Pearce asked, "How are they defined as townhomes by definition in the Special Use Permit 93-13?" Mr. Grasso said that they were using the North Carolina state law definition and that they would be necessarily attached units. Chairman Pearce asked, "Are you using the definition in regards to the real estate portion of it?" Mr. Grasso said that is correct. Mr. Grasso said that the reason why are we doing these as townhomes as opposed to a single-family residential lot is that we are trying to create a "fishing village" appearance and with that we want to have the houses closest to the street rather than further away. He said with the right-of-ways, it is pushing everything back for the look of a typical subdivision and we are trying to create something closer and are sensitive as to the appearance of the homes around the lake and again, want to capture the appearance of a village. Chairman Pearce asked "What is the difference in the road design standards here between what is being proposed and what is required?" Chairman Pearce stated that it shows it as forty feet and a typical one would be forty-five feet. Mr. Grasso said that we are proposing a 30-foot right-of-way with 22 feet of asphalt. Chairman Pearce asked whether that is the same amount of asphalt on the rest of the roads? Mr. Grasso said yes. He added that they will not deviate from the road standard, but from a subdivision road versus a neighborhood driveway and the main intention is to bring everything closer and some of the main philosophies from other sections of the development. Chairman Pearce asked Ms. Smith whether there is a problem with setbacks? Ms. Smith said that the setback requirement for single-family detached unit from the centerline of the street is 30 feet; for a neighborhood driveway is N/A (not applicable). She said that the setback requirement for townhomes from the centerline of the street is 30 feet and 20 feet from neighborhood drives, which makes it a 10-foot difference. Chairman Pearce was puzzled as to why for a neighborhood driveway it states N/A (not applicable). Mr. Grasso said the reason why it is N/A is because you cannot use a neighborhood driveway in a single-family detached section. Mr. Burrell said that the Board is dealing with whether it complies with the Subdivision Ordinance. If the Board finds that the Subdivision Ordinance requires single-family detached houses under this particular Special Use Permit to require a road standard that has a 45 foot right-of-way rather than a 30-foot right-of-way, then the Board would find that it does not comply with what needs to be found for the Board to approve it as a

subdivision, or a new development parcel. Mr. Cooper asked whether Carriage Park owns more land beyond Section 3? Does the road need to be in the center of the right-of-way? Chairman Pearce said it would affect the development parcel and still have the same 25 feet in between development parcels, isn't that correct? Ms. Smith said that it could be, but it depends where they drew the development parcel boundary. Chairman Pearce asked would the side setbacks be made? Mr. Grasso said that they might have to slide it or work it so that they will be made. Chairman Pearce said that if that is a requirement that this Board makes, that will be something that will need to be worked out. Mr. Cooper said the Board needs to resolve it if it requires a 45-foot or 30-foot right-of-way. Mr. Grasso said what about the precedent that has already been set in the development? Mr. Burrell stated that each parcel needs to stand on its own, but he does not feel that a precedent has been set unless it was expressly stated *even though we have single family dwellings, we are going to allow this to be done*, but if it went through without it being adequately noted by previous review, he does not feel that it would be a precedent unless it is clearly stated on this phase. Chairman Pearce said that if some of them were detached and some of them were attached, how do you address it under the terms of the Special Use Permit? Mr. Burrell said that if they meet the definition of what is a townhome under the Special Use Permit, they could have two units together and lots of two units together. Chairman Pearce asked what happens if they have a single unit isolated out there because that would be non-conforming under the Special Use Permit. Mr. Cooper said that if they have a combination of road standards in the section, then what? Ms. Smith said that this permit does not speak about a mix and she said she was airing on the side of the most restrictive. Mr. Hamlin said that in some of the previous townhouse applications that were permitted or allowed to be built by the Planning Board, they required an attachment with porch roofs and trellis fencing. He said that the permitting department required certain ways of attaching houses so that they would be attached and that would be a possibility of us redesigning the architecture to actually have physical attachments to various buildings. He said that the whole purpose of this is to be able to design the lands and the roads but also the roofs, windows, and the homes themselves so that they will look good from the lake and from the streets. Chairman Pearce said that the Board is faced with a dilemma as to how best to address this. If the Board approves this section as it is presented (townhomes), then they will need to be built as townhomes, as specified under the Special Use Permit. Chairman Pearce said that it says in the permit a *party wall*. He added that he does not believe as a Board we have the ability to approve anything specifically outside the definitions in the Special Use Permit? Ms. Smith said that she does not see anything. Mr. Grasso asked if they could pursue a variance on the right-of-way? Chairman Pearce said that they could through the Board of Commissioners, but it would need to be an amendment. Mr. Burrell said that it would need to be an amendment to the Special Use Permit to allow the mixed use. Mr. Grasso referred to a definition in the Special Use Permit dealing with the definition of condominiums and said that they could do the project as condominiums instead of townhomes. Chairman Pearce said that the ground would be owned in common by the condominium association, but would that change the road requirements? Ms. Smith said that they would need to meet the definition to make them one building. Ms. Kumor said she feels that the Board has three options. The first one would be to make a favorable recommendation with regard to them being townhouses as defined in the Carriage Park Special Use Permit or it would be up to the Commissioners whether they would allow any changes or they could adjust their plan with the Commissioners to resemble in some way a townhouse, as per the definition. The last would be that the Planning Board could say that they will adopt this plan as drawn (single

family dwellings) but one of the conditions would be that the roadway would need to meet that definition of what a roadway must be if it is a single-family dwelling and they could choose that or come back with something else. Ms. Smith said that the Commissioners would not see this unless they would decide to amend their Special Use Permit or the Planning Board wants to attach a condition that is not allowed under the Special Use Permit.

After some further discussion about a definition of a party wall and townhome, Mr. Grasso referred to his presentation stating they had developed an envelope because they haven't defined the footprint and that would be defined when it is recorded as a final plat. He said they have the ability to connect the units so that when the final plat is filed, even though we have the footprint developed, we could resubmit that to the Planning Department. He said that when the final plat is filed, we could have that so they are connected.

Ms. Kumor made a motion that the Planning Board will accept either by definition of a townhome and its road requirements or the definition of a single-family dwelling and its road requirements and because of the way Mr. Grasso pointed out their flexibility, they have the choice to bring back whatever they want for approval, but in an overall view, based on the neighbors responses of the plan to put fourteen dwellings of some sort will be acceptable. In addition, the Board is not denying that, the Board is just asking for a better definition of the concept approved by us. Gary Griffin seconded the motion. Chairman Pearce asked whether the Board can continue a quasi-judicial hearing and if so, what are the notification requirements? Ms. Smith said yes and as long as the Board makes it for a specific date and time. Chairman Pearce said he feels that it would be better under the circumstances to vote against the motion because there is not enough clarification. He also feels that the developer and their representatives understand the confines of what we have. He said that what they have presented to the Board in the drawings show open spaces in between common areas. He said that if the Board approved this, we would be approving single-family dwellings on a neighborhood road that does not meet standards. Ms. Kumor said that your proposal is for me to withdraw my motion and ask that we continue this hearing and allow them the time to come up with something else? Chairman Pearce said he feels that by the next meeting everything would be stated and would still be in place, but that would give the developer until the March meeting or referral to the Board of Commissioners. Mr. Griffin said that it boils down to, are they going to meet the townhome requirements and their setbacks or are they going to meet the single-family residents requirements and there setbacks. He said he feels that is there two choices. Ms. Smith said that if the Board gives the findings on one standard or the other they can. Mr. Burrell added that when they come back here they must meet one standard or the other. Board members felt comfortable with that. Chairman Pearce said that in the motion we are stipulating that all of the conditions as set forth by Staff under the technical comments and in addition to that a buffering agreement should be in place for Virginia Burke regarding this section. Regarding the non-standard subdivision and the road designs (Conditions 12 and 13), they will comply with the townhouse provision as defined and the neighborhood drive or that they will conform to the single-family dwelling rules and the road standards for single-family dwellings. Ms. Kumor said that if they come back with detached dwellings and a mixed grouping, do we have a definition that says you can or cannot mix? Ms. Smith said they can mix but it is not clear what road standard applies. Ms. Kumor added that if they have more than 50% of the homes (either townhomes or single-family dwellings) they must follow the road standards.

She said that would be at least eight dwellings (either eight townhomes and follow those standards or eight single-family residential dwellings and follow that standard). Ms. Smith said that on some conditions it specifies when they need to do certain things, so regarding the buffering agreement, when would they need to do that? Chairman Pearce said he presumes that would need to be done before it is recorded, based upon Special Use Permit 93-13, page 3, under item # 3 (privacy requirements). In addition, the Planning Board also finds and concludes that the Development Parcel Plan submitted for Section 21 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). Ms. Kumor agreed to the additions to her original motion and Mr. Griffin seconded the additional items added to the motion and all members voted in favor of the motion.

Chairman Pearce called a five minute break.

Development Parcel Review – Carriage Park Planned Unit Development (PUD), Section 22 – Located off NC Highway 191 (Haywood Road) – 18 Proposed Single-Family Detached Townhomes – Dale Hamlin, Agent for Carriage Park Associates, LLC.

Chairman Pearce continued the quasi-judicial hearing for Carriage Park. Mr. McGrady suggested that some thought might be given to rewrite the Special Use Permit as the Planning Board has consistently been struggling with it. He said the permit dates back to the time before anybody knew who to do these types of developments. He asked whether we are at the point to take this whole development out of the Special Use Permit and put it back under the normal zoning process and grant a variance for everything that is presently in place and then not need to deal with the rules and regulations of the special use permit. Chairman Pearce said he feels that along with himself, Planning Department Staff, Mr. Hamlin, and legal staff might think about getting together and look to find out whether the Subdivision and Zoning Ordinance has adequate protections to allow for looking at this development. Ms. Smith said that this year is basically going to be spent looking at a new land development code, so now we need to either work under the existing ordinance or wait until we start fresh with a new code. Mr. McGrady said if the Board has any issues that they feel the Board of Commissioners could assist them, they should then forward the issue to them for their recommendation or suggestion.

Chairman Pearce then asked all parties to the proceeding Carriage Park Associates, LLC, Dale Hamlin Manager and Developer, Bob Grasso, Engineer for Carriage Park, Planning Department Staff, Karen Smith, Planning Director, Richard Krupp, President of Carriage Park Homeowner's Association and resident, Dave Lowles, resident, and James Bandelin, Carriage Park Architectural Committee to be sworn.

Ms. Kumor asked whether there was anything different in the concept between this proposed development (Section 22) and Section 21? Ms. Smith said that we would be dealing with just a different amount of units and acreage. Ms. Kumor asked Mr. Burrell if the Board would need to have a certain amount of input from the applicants? Mr. Burrell said that the Board needs to receive some evidence, but it can be abbreviated.

Ms. Smith asked Mr. Krupp, who is the President of the Homeowner's Association whether he had any objections and would be willing to waive that notice requirement for Section 22.

Mr. Krupp stated that the Homeowner's Association is willing to waive the notice requirement for Section 22.

Ms. Smith stated that Section 22, which is across the lake from Section 21, is for 4.18-acre area of the Carriage Park PUD located off Highway 191 (Haywood Road). The development is for 18 proposed single-family detached townhomes. Lot sizes range from 0.10 acres 0.26 acres. The section is located in an R-30 Zoning District and Water Supply Watershed IV and will be served by public water and sewer. The development parcel will also be served by four neighbor drive roads built to NCDOT standards per the Special Use Permit SP-93-13 (and as amended) and the same issues that applied in Section 21. She stated that she was entering Staff's packet that all Board members and parties received into the record as well as all of the conditions as stated below:

1. **Erosion Control Permit.** Evidence of approval of an erosion and sedimentation control plan needs to be submitted to the Planning Department prior to the Applicant beginning construction. If such approval is not required by NCDENR, the Applicant may submit certification of such by a professional land surveyor, engineer, landscape architect, architect or professional planner prior to the beginning of any construction.
2. **Water and Sewer Plans 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 22 have been approved by the City of Hendersonville Water and Sewer Department and NCDENR prior to the approval of the final plat (HCZO Section 200-33 [10], F(4)(b)[6]).
3. **Private Roads.** The Applicant provided the private road statement on the plan. On the final plat, the Applicant also should include a note stating: The private roads indicated on this Final Plat may not meet requirements of the North Carolina Department of Transportation for acceptance into the state road system (HCSO Appendix 7).
4. **Road Standards.** Special Use Permit #SP-93-13 requires that roads be constructed to NCDOT standards for vertical alignment and grade. The Applicant has indicated that all proposed roads in Section 22 would be build to NCDOT standards. The Applicant shall also 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 (Special Use Permit #SP-93-13, Exhibit A[12]).
5. **Road Names.** The Applicant has proposed new neighborhood drives (Road 'A,' Road 'B,' Road 'C,' and Road 'D') to serve the lots in Section 22. 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).
6. **Site Information.** The Applicant indicates that the proposed Development Parcel is zoned R-20. According the Henderson County GIS mapping system, the proposed

Section 22 is zoned R-30. The Applicant shows a different directional North arrow on the large development plan compared to the smaller 11x17 development plan. The note area of the Site Information section of the plan speaks of lot adjustments and open space adjustments that seem to relate to Section 19, Phases I and II. The vicinity map on the plan depicts Section 19, not Section 22. Prior to beginning of any construction, on a revised development plan, the Applicant should indicate the correct Zoning District, show the correct North arrow on all plans, show that the development parcel is located in a Water Supply Watershed (WS-IV) District, correct the vicinity map, and revise the note area to provide information pertaining to the appropriate Section the development parcel plan is depicting (#SP-93-13, Exhibit A[19]).

7. **Open Space** – A PUD allows the Applicant the flexibility to create lots which do not meet the minimum dimensional requirements (lot size, setbacks, etc.) of the zoning districts where PUD is allowed, to cluster dwelling units, to include multi-family dwellings, etc. The Applicant has to compensate for the lot size reduction with common area/open space areas. Based on the proposed 18 lots, 12.40 acres of land is necessary to meet the R-30 density requirements. The development parcel size is 4.18 acres. The difference constitutes an 8.22-acre land shortage. The Applicant has specified that 5.79 acres of open space are required, which is a shortage of open space by 2.43 acres. The 2.43 acres of land should be dedicated as open space somewhere else in Carriage Park to meet the open space requirements. The Applicant, prior to submittal of the development plan application for Section 22, provided the Planning Office with documentation that currently there is 1-acre more of common area/open space on record than required based on the current level of development in the entire PUD. The required open space will need to be put on record prior to or concurrent with the recordation of the lots in Section 22 (#SP-93-13, Exhibit A [14]).
8. **Stream Setbacks.** The property falls within an area designated WS-IV. Carriage Park is considered an “approved cluster development” under the Water Supply Watershed Protection Ordinance; therefore the minimum lot size under that Ordinance is not applicable. However, per a USGS topographical map for the area, there is a perennial stream in Section 22 (the perennial stream is now engulfed by the lake area illustrated on the plan) and the Watershed Ordinance requires that a 30-foot vegetative buffer be maintained along perennial streams. The Henderson County Subdivision Ordinance also requires a 30-foot setback from perennial streams for buildings and other structures, excluding bridges and culverts. The perennial stream setbacks should be noted on the final plat(s) for Section 22 (WSWS Protection Ordinance Section 192-12A and HCSO 170-37A).
9. **Evidence of Permits Required.** The Applicant shows a lake with a dam abutting Carriage Park Sections 21 and 22. The Special Use Permit does not directly address the creation of a “man made” lake, pond, etc. The permit does require the applicant to submit all pertinent federal, state, or local permits, including sedimentation and erosion control permits or evidence of submission of such permits with an application for development parcel approval. Prior to approval of the final plat, the Applicant should provide copies all appropriate permits, including those related to the lake and dam (#SP-93-13, Exhibit A[A][2][c]).

10. **Development Parcel Buffers.** The Special Use Permit #SP-93-13 Schedule of Site Standards requires a minimum buffer common land of 25-feet between development parcels. The separation between development parcels for Sections 21 and 22 at lot 14 of each Section is less than the minimum 25-feet requirement at approximately 15-feet. On a revised development plan, the Applicant should show a minimum development parcel separation between Sections 21 and 22 of at least 25-feet (#SP-93-13 Exhibit A[7], page 13).
11. **Site Standards.** The Applicant should clearly indicate open space areas on the development plan and clearly identify setback lines, actual setback distance, and development parcel boundary lines. Prior to beginning any construction, the Applicant should clearly mark on a revised development plan open space areas, setback lines, setback distances, and development parcel boundary lines (#SP-93-13 Exhibit A[7]).
12. **Road Design.** The Applicant, under the Site Information section of the development plan, gives unit type as “single-family detached townhouses.” Special Use Permit #SP-93-13, Exhibit A, Definitions, defines a “single-family detached dwelling” as “a one unit structure typically where the owner takes fee simple title to both home and lot.” A “townhouse (townhome)” is defined as “A residential structure containing multiple dwellings units, with party walls, with each unit having it own deeded lot often with shared common areas.” If Section 22 is a single-family detached dwelling development, a residential street is required to serve the lots per the Special Use Permit, but if the development will contain townhouses as defined by the Special Use Permit, then a neighborhood drive is acceptable (#SP-93-13, Exhibit A[7]).
13. **Nonstandard Subdivision.** The Applicant has designated Section 22 to be occupied by townhouses. Townhouses are classified as nonstandard subdivisions for which development plans must be prepared in conformance with the Henderson County Subdivision Ordinance Section 170-16 and with Articles IV, V, and VI of the Subdivision Ordinance in cases where the townhouse review is not superseded by other regulations (such as zoning). If the development parcel plan for Section 22 is approved, the applicant must record a final plat for Section 22 that meets the Henderson County Subdivision Ordinance requirements for a Non-Standard Subdivision (HCSO Section 170-15B).
14. **Evidence of Infrastructure Development.** The Applicant indicates in the Descriptive Narrative that sewer and water lines extend to the proposed section 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 improvements guarantee in a form acceptable to the Henderson County Board of Commissioners. On a revised development plan, the Applicant should 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]).



Chairman Pearce said that it is basically everything that was mentioned in Section 21 as far as the types of units and the road standards, which still apply.

Mr. Grasso briefly reviewed the conditions for Section 22 and stated the following:

Erosion Control Permit. The permit has been received.

Water & Sewer Plans Approval. These plans have been submitted and the approvals are pending.

Private Roads. Will provide the required note on the Final Plat.

Road Standards. Will provide evidence of the responsibility for road maintenance and repair prior to recordation of plats.

Road Names. Will submit and get approved the names of the roads by the Property Addressing Office.

Site Information. Will provide the information required.

Open Space. Will make all adjustments as indicated in Staff's memo.

Stream Setbacks. Will meet the requirement of a 30-foot vegetative buffer along perennial streams as indicated in the Subdivision and Water Supply Watershed Ordinances.

Evidence of Permits Required. Will provide all permits prior to the final plat.

Development Parcel Buffers. Will make corrections as needed.

Site Standards, Road Design, Nonstandard Subdivision, and Evidence of Infrastructure Development. Will do the same requirements as indicated for Section 21.

Ms. Kumor asked whether Mr. Bandelin and Mr. Krupp would make the same statements as they did in Section 21. Mr. Bandelin, who is a resident and member of the Carriage Park Architectural Review Committee stated that regarding Section 22, the Committee has reviewed this and support the Board's approval. Mr. Krupp, President of Carriage Park Homeowner's Association reaffirmed that they are in favor of proceeding with the development of Section 22 and indicated that this is an executive board decision by Carriage Park Homeowner's Association.

Chairman Pearce moved that the Planning Board find and conclude that the Development Parcel Plan submitted for Section 22 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 such Plan be approved subject to the following Conditions: that he would make the same motion as was made for Section 21 with the exception that there would not be a condition regarding a buffer for Ms. Virginia Burke and instead of eight units of fourteen units as specified for Section 21, that the number of units for Section 22 (either townhomes or single-family dwellings) be ten units of eighteen units and that they must follow the road standards accordingly. Ms. Kumor seconded the motion. All members voted in favor.

Chairman Pearce directed that Staff bring back the Findings of Fact and Conclusions consistent with the decision the Board made. The approval should include the conditions of Sections 21 and Section 22 that were previously discussed under each motion.

Fox Glen, Phase III Development Plan with a Request to Allow Modifications from Sections of the Subdivision Ordinance – (File # 05-M04) - (21 Townhome Units) - Located Off Howard Gap Road – Luther E. Smith, Agent for Glade Land Fund, LLC, Owner. Mr. Card passed around vested rights papers dealing with Fox Glen. Mr. Card stated that this request is to allow modifications from certain sections of the Henderson County Subdivision Ordinance as they apply to the project (and as allow by the Subdivision Ordinance). He said Luther Smith, Agent for Glade Lane Fund, LLC, and Gaston Campano, owner, submitted a Phase III Development Plan for Fox Glen subdivision.

Mr. Card stated that the total property is a 47.13-acre tract of land located off of Howard Gap Road and will contain multi-family units and single-family units, which include 100 apartments, 21 townhomes, 34 villa homes and 40 cottages. The subdivision will be developed in three Phases. The Master Plan and Phase I Development Plan were approved at the March 16, 2004 Planning Board meeting. The Phase II Development Plan was administratively approved in May of 2004. He said that Phase III consists of 21 townhome units on 3.02 acres of land and proposed access for Phase III is a paved private road, which will come off of Fox Glen Drive and the applicant is requesting modifications to the following sections.

- Modify the minimum curve radius for the private drive in Fox Glen Phase III from 90 feet to 30 feet. Mr. Card said that what has been done on the Development Plan is 30 feet. He explained that by taking the 90 feet to 30 feet, you bring that point back and create a broader curve.
- Change the 45-foot required right-of-way for private local residential roads to 30 feet.
- Modify lot frontage and configuration requirements from the minimum of 30 feet of frontage on a private right-of-way to allow the lots in Fox Glen Phase III to have the minimum size and configuration equal to the ground footprint of the structure and also that the lots not be required to abut a right-of-way or access easement.

Mr. Card said that Section 170-15 of the Henderson County Subdivision Ordinance states that in cases where townhouse review is not superseded by other regulations, such townhouse development shall be reviewed by the Planning Board. Plans for such developments shall be prepared in conformance with 170-16 and with Articles IV, V and VI of the Subdivision Ordinance. This section also states that upon request the following sections may be modified by the Planning Board. He said that in such cases, the Planning Board may use discretion in applying subdivision standards.

Mr. Card said that Staff has reviewed the Phase III Development Plan for Fox Glen for conformance with the Henderson County Subdivision Ordinance and offers 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. **Farmland Preservation District.** 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. **Other Final Plat Requirements.** In addition to the items noted above, the Final Plat(s) for Phase I must meet the requirements of Appendix 7 of the Subdivision Ordinance.

Staff has found that the proposed Phase III Development Plan appears to meet the technical standards of the Subdivision Ordinance except for the requested modifications to the Subdivision Ordinance and those matters addressed in the Technical and Procedural Comments section of the Staff memo. Staff recommends approval of the Phase III Development Plan subject to the above listed-comments being addressed and any other issues raised by the Planning Board. He added that the approval is contingent upon approval of the requested modifications to the applicable sections of the Subdivision Ordinance.

Mr. Cooper asked, "What is the justification for the 30-foot curve radius?" Mr. Card said that the applicant should address that comment. Mr. Patterson said that according to the Vested Right, the site layout has change, are they giving up their vested rights for that? Mr. Card said that as far as the Master Plan it has changed by taking out those three lots as stated in the vested rights. Mr. Patterson said that with that being site specific it becomes difficult. Mr. Burrell said that what the owner's rights are is what precisely the document says and any substantial change needs to be considered. Chairman Pearce asked, "What is considered substantial?" Ms. Smith said that is determined in the eyes of the viewer. She added that if they have added units or changed the road design and similar to that then is used in the subdivision plans. Chairman Pearce said that in typical subdivision rules as the Board would look at them, would you consider these modifications as significant? He said he feels that reducing lots have never been considered a significant change, but the other two items might be significant. Ms. Smith said that the road served more as a loop than a circle. Ms. Smith said that a reduction of units Staff might not consider a significant change but the Board of Commissioners might. Mr. Patterson asked, "What was the right-of-way that was granted in the Vested Rights?" Ms. Smith said that she would need to look at the plan.

Mr. Luther Smith asked Mr. John Cannon from Luther Smith and Associates and also represents the applicant, to answer some of the technical questions that have arisen for this project.

Mr. Cannon stated that the structure and the ground print would be sold with the townhome as a package that the prospective buyer would purchase and the rest of the property in the townhome area would be controlled by the townhome owner's association. He said that would need the owner to request a variance of the townhomes not abutting the right-of-way and the width because the townhomes themselves are not wider than 30 feet and that is the reason why that variance is being requested. He said that the other variance request is for the 45-foot right-of-way to be changed to a 30-foot drive easement and utility easement. He said that would allow for a couple of things to happen for the townhomes. The first is that it puts the townhome owner's association in control of the

drive and the easement, because it is not a public road, it is a private easement. He said that in a right-of-way you are not allowed to provide parking and because it is a tight sight, there would not be room to provide parking directly in front of the unit. He said that there is a garage in the unit, but if we provide a 30-foot easement, then there would be room to put parking in front of each unit. So therefore the request would be for a 30-foot drive and utility easement and not a 30-foot right-of-way. He mentioned that Fox Glen Drive goes through the development is proposed to be a public road. The request to modify the minimum curve radius from 90 feet to 30 feet, he said that once it becomes a drive easement than that 30 foot radius would allow more open space at the end of the units to provide room for recreation for children and adults and would reduce the amount of backing up on a driveway.

Mr. Patterson said that the details show a 30-foot right-of-way, do you mean a 30-foot easement? Mr. Cannon said that it should mean easement.

Mr. Luther Smith said that when the vested rights process began on Fox Glen, as time went on, we received approval for the first phase and for the second phase, we continually updated that Master Plan to the vested rights hearing. He said that at the end the only section that had not been updated was this present section. He said that to address the generality of this section, there are two items in the permit that reads: "the project density shall not exceed a total of 198 residential units, one commercial structure that is located on the Master Plan and the actual unit number of any development area may be adjusted, except the apartment area, shall not exceed 100 units so long as the total number of units approved does not exceed 198." Mr. Smith said that we had the flexibility to drop units and change units in different areas than what was originally on the plan to what actually worked. He said that regarding the request dealing with the driveway, the townhome association owns all of the property but the purpose of having that as an easement as opposed to the right-of-way is that it takes away the potential of the association at some point in time trying to turn it over to the State, but it also allows for on-street parking, which the Ordinance would not allow for in a right-of-way that is often found in townhome complexes. He said that in this case it becomes more of a driveway than a regular street. He said we are asking for abandoning the right-of-way. Chairman Pearce said that with this property being common area and the roads being owned by the townhome owner's association, up to the project boundaries he understands that within the subdivision having control over the road and the road standards and the townhome association owns everything except the pod that the house site is on, does the Board have control over the road standards within there? Ms. Smith said that the Ordinance gives special provisions for townhomes and allows the Planning Board to modify road standards. She said that since it is not subject to the Zoning Ordinance because they are in the Open Use District, we do not have road standards defined there. Ms. Smith said that regarding on-street parking, would it be on dirt or in the shoulder? Luther Smith said that it would be on-street paved parking. Chairman Pearce said that the sidewalk is next to the road as you have drawn. Mr. Smith said he feels that they have abandoned the on-street parking lot. Chairman Pearce said that your testimony is now that you do not have on-street parking? Mr. Smith said he assumes that is right. Chairman Pearce said that Staff's recommendation is something you agree with? Ms. Smith said that Staff does not have any guidelines to reduce these things and so you need to use a lot of discretion here, so therefore Staff does not have anything against what they are proposing. Mr. Patterson said that the 30-foot change in curve radius brings into a safety issue as he feels that is a

big drop. Mr., Cooper asked whether there would be a sewer easement across the corner where the 30-foot right-of-way is located, where the sewer line cuts through there? Is it private sewer or public sewer in there? Mr. Smith said that this is a community sewer system. Chairman Pearce asked whether you were going to pump the high pressure from the school? Mr. Smith said he wasn't sure what has been worked out as there is a lift station on the other end of the project they will be pumping either the County sewer line or something else. Mr. Patterson asked whether there is any right-of-way designated here for sewer, besides the roads? Mr. Smith said that there would be inside the developments once the lines are installed. Mr. Smith said that they requested public sewer in their vested right and that would probably be a substantial change. Chairman Pearce said that in reviewing the variances, he doesn't have any problems with the first two, but the third request will be tight. He said that looking at the alternative as it is presented, there are two thoughts in mind. One, it will deplete open space, which would have affect on the quality of life and two, in his opinion in an area where the Board has little direction and where he feels that they have room available and could eat up more open space and that they could realign the road some, if it was being poorly accepted or wasn't working out then he would agree with the third request. Mr. Griffin asked whether there has been an issue with safety and fire regarding these narrow roads? Ms. Smith said that they did not comment back to Staff. Mr. Patterson said regarding the first modification, he feels that if they make the radius a little bigger it will make it tough on Lots 1,3,and 4, but then there is the safety issue on the other lots. He said he would rather have eighteen more units safer and make three tougher than how it is presented. Chairman Pearce asked Mr. Patterson whether the Board should stay with the 90 feet? Mr. Patterson said that dropping it to 30 feet is a significant change and it does not believe that all of the utilities will go in that 30-foot easement because of 18 feet of pavement and 5 feet of sidewalk, which leaves only 7 feet. Ms. Smith reiterated that the private sewer designation stated would give up their vested right, because the vested right was for public sewer and she wants the developer to be aware of that. After some further discussion among Board members regarding the radius modification, Ms. Kumor wanted more explanation on the other two modifications. Chairman Pearce, the second request is changing it from 45 feet to 30 feet, which would be the entire section off the main road. The other request is since they are deeding only the land under the house as the rest of it is going into the Association of townhomes. Ms. Kumor said that is the driveway up to the houses, as they no longer own the driveway, it is owned by the Association. Chairman Pearce added that since he does not front on a right-of-way, it does not meet the minimum of 30-foot frontage. He said that under this type of housing arrangement, that is not untypical and if it was condominiums, the Board would not have this discussion. Chairman Pearce said that the curve radius is a major issue. Ms. Kumor said she feels that the Board does not have any problem with recommending all the modifications but the curve radius request. She added that since she is not an expert in picking a radius that we would be better or not, she would rather not allow that modification. After some continued discussion, Chairman Pearce suggested that this could go to a subcommittee for a recommendation. Mr. Smith said that if the radius is a problem and from a planning standpoint it needs to be less than 90 feet to whatever is desirable by the Board.

Chairman Pearce made a motion to approve the request to modify lot frontage and configuration requirements from the minimum of 30 feet of frontage on a private right-of-way to allow the lots in Fox Glen Phase III to have the minimum size and configuration equal to the ground footprint of the structure, but disapprove to modify the minimum curve

radius for the private drive in Fox Glen Phase III from 90 feet to 30 feet, because of safety issues. Also to disapprove to change the 45-foot required right-of-way for private local residential roads to 30 feet because there is no place for parking and until something can be done for that. Paul Patterson seconded the motion. Mr. Smith asked whether the Planning Board is establishing parking requirements for townhouse projects that are not in zoned areas? Chairman Pearce said, "apparently so." Mr. Smith said that the Board is addressing this as a zoning issue under the Subdivision Ordinance when it should not be. He said we do have parking in excess of two units, two cars per unit and there is no parking requirements in the Subdivision Ordinance. He added that if this was a zoned area, we exceed what is required in a zoned area and feels that the Board's motion is inappropriate in this standpoint. Tedd Pearce, Renee Kumor, Paul Patterson, Stacy Rhodes and Gary Griffin approved the motion. Mike Cooper, Mark Williams, Jonathan Parce opposed the motion. The motion carried. Ms. Smith asked whether the motion was made just for the modifications and Staff approves the development plan? She wanted direction as to who has development plan approval. Chairman Pearce added that he moves that the Fox Glen Phase III Development Plan be approved subject to comments in the Technical and Procedural Comments section of the Staff memo being addressed (comments regarding private roads, farmland preservation and other final plat requirements). He added that regarding the vested rights status, which is outside of the Board's jurisdiction so therefore, that will be agreed upon between Staff and the Board of Commissioners. Renee Kumor seconded the motion. Tedd Pearce, Paul Patterson, Gary Griffin, Renee Kumor and Stacy Rhodes approved the motion. Mike Cooper, Mark Williams and Jonathan Parce opposed the motion. The motion carried.

Pinnacle Falls, Phase 1 Development Plan and Phase 1 Road Alternate Development Plan with a Request for a Variance from the Subdivision Ordinance (File # 05-M05) – (43 Lots) – Located on the South Side of Pinnacle Mountain Road – Luther E. Smith, Agent for Range Ranger, FLP, Owner Luther Smith on behalf of Pinnacle Falls, LLC. Stacy Rhodes recused himself because of his involvement with projects in Pinnacle Falls. All members voted in favor of his recusal. Chairman Pearce noted that he feels that a Subcommittee should be scheduled to discuss the variance issue of this project, but asked whether the Board needs to hear all of the testimony from Staff before it is sent to Subcommittee? Staff said no. Chairman Pearce asked Mr. Card to present his review to the Board. Mr. Card stated that Mr. Luther Smith submitted an application for a Phase I Development Plan for the Pinnacle Falls subdivision and that the applicant has also submitted a Phase I Road Alternate Plan with a variance request to modify the road standards for a portion of Pinnacle Falls Lane.

Mr. Card said that the Master Plan for Pinnacle Falls was presented to the Planning Board and approved with conditions at the November 16, 2004 meeting. Pinnacle Falls is a proposed 110-lot subdivision on approximately 290 acres of land located on the south side of Pinnacle Mountain Road, between Pinnacle Mountain Road and Cabin Creek Road. Mr. Card said that what they are requesting is to change a portion of the collector road, Pinnacle Falls Lane, to be modified to meet local road standards. He stated they are asking three things. One is the vertical curve distance from 150 feet to 110 feet. He said that Mr. Luther Smith submitted a diagram that shows that. The second request is for road grade to be 18% (for local road) instead of 16% (for collector road) and the third item is regarding ditch slope to be 3 to 1 instead of 4 to 1. Mr. Card stated that the section that

they are proposing to change is approximately station 25 to 59 and is approximately 3900 feet in length (approximately  $\frac{3}{4}$  of a mile).

Chairman Pearce feels that these requests for a variance should be looked at on a field trip with people who have some expertise that are on our subcommittees. Chairman Pearce asked Board members whether they agree that this should go to a subcommittee or that it be heard further tonight? Some Board members asked which members to assign this to. Chairman Pearce stated that it would go to the Subdivision Issues Subcommittee. Mr. Luther Smith said that he understands the Board's concerns regarding the variance and does not disagree with a subcommittee looking at it. He said that they have sent two actions, one is an application for a development plan review that meets all of the conditions of the Ordinance. At the same time, we have requested that the Board considers the application for a variance regarding some very specific issues to a section of the roads, which then will be forwarded to the Board of Commissioners. Mr. Smith added that with a variance undecided they would not be able to build in that section, but it would not keep us from initiating work on the project. He said that the Development Plan that has been submitted, which we would like reviewed at this meeting, meets all of the conditions of the Ordinance and is not contingent upon the variance. Chairman Pearce asked whether he would mind them being considered separately? Mr. Smith said that is correct. Mark Williams asked again who would make up the Subcommittee? Chairman Pearce stated that the Subdivision Issues Subcommittee is comprised of Mike Cooper, Paul Patterson and Stacy Rhodes, but he has recused himself from this project. Ms. Smith stated that Mr. Pearce is also on the Subcommittee. Mr. Cooper asked whether there are any variances regarding these requests for a collector road that the Subcommittee reviewed earlier that would give the Board leeway to do it now? Ms. Smith said no. She said that the standards the Board allowed to be reduced are not ones they are asking for. Mr. Cooper asked whether this is below what can be reduced? Ms. Smith said yes.

Mr. Patterson asked Mr. Smith, regarding the drawing on the vertical stop and sight distance, is that typical to have an eye level and object type at  $3 \frac{1}{2}$ ? Mr. Smith said that he didn't believe it was sight distance, it was vertical sight distance. Mr. Patterson said that is basically the same. Mr. Patterson and Mr. Smith further discussed the details of this.

Chairman Pearce said that the variance requests would be studied by the Subdivision Issues Subcommittee, which is made up of Mike Cooper, Paul Patterson and Mr. Pearce. Chairman Pearce asked Mr. Card to review the Development Plan.

Mr. Card stated that Phase 1 Development Plan for Pinnacle Falls is proposing to build 12 mountain cottages, 20 mountain cabins and 11 single-family retreat sites. The cottage homes will be served by community water and group septic systems. The cabin sites will have community water and individual septic tanks and the retreat homes will be served by individual wells and septic tanks. The development is proposing private paved roads. Mr. Card said that Staff has reviewed the submitted Phase I Development Plan for Pinnacle Falls (exclusive of the Phase I Road Alternate Plan) for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the comments that follow.

1. **Farmland Preservation District.** The Final Plat should include a notation that the property is within  $\frac{1}{2}$  mile of land in a Farmland Preservation District. (HCSO 170-35 and Appendix 7)

2. **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).
3. **Private Roads.** Because private roads are proposed for Phase I, 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)
4. **Other Final Plat Requirements.** In addition to the items noted above, the Final Plat(s) for Phase I must meet the requirements of Appendix 7 of the Subdivision Ordinance.
5. **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.

All previous conditions from the November 16, 2004 Planning Board approval of the Master Plan apply and the applicant must satisfy these conditions. Mr. Card stated that Staff has found that the proposed Phase I Development Plan for Pinnacle Falls (exclusive of the Phase I Road Alternate Plan) appears to meet the technical standards of the Henderson County Subdivision Ordinance. Staff recommends approval of the Phase I Development Plan subject to the above listed-comments and any comments being addressed and the developer addressing any other issues raised by the Planning Board.

Mr. Luther Smith, agent for the applicant, briefly reviewed the Development Plan application and added that the applicant wants to include some of each type of product (cottages, cabins and single-family retreats). He said that in order to get a mix of each type of the sites within the phase, we need to come down into the property a good ways down, which gives a significant amount of collector road but it allows us to pick up some of the cottages at the top, some of the one-acre sites that are in the center and some of the cabins below. Mr. Smith said that basically this project is in three sections, The Meadows, The Cabins and the third section being single-family lots. He said that everything in all three phases that occurs in the cottage area would always be identified as Section 1. He said that they are asking for Development Plan approval for Section 1. Mr. Smith corrected the photo, which was indicated as the entrance, but in fact it was a stump hole when the State cleared Pinnacle Road. He indicated that the entrance is left of the photograph in the woods. Mr. Patterson said that he feels the Master Plan does not match the Development Plan. Mr. Smith said that it does as the Development Plan is only taking portions of lots, it is taking a third of each of the sections in each of the phases. Mr. Patterson regarding the response back from NCDOT. Mr. Smith said that we have not applied for the driveway permit yet but will when we receive Development Plan approval. Mr. Patterson said also regarding the drainage scheduled shown, it is shown as 18" pipe. He said that this has been discussed before and have changed some things, will all of the pipes be 18"? Mr. Smith said that all of them have been calculated and most of them came up less than 18", but from a County standpoint, you are seeing a minimum. He added that he has not come to all of the stream crossings or the major valleys and has an



arch culvert at a stream crossing. Mr. Patterson also asked about wells. Mr. Smith said that they are evaluating the property now in terms of picking locations for community wells. Mr. Patterson said that it is an extremely difficult area.

Chairman Pearce made a motion that the approved Phase 1 Development Plan for Pinnacle Falls be approved contingent on Conditions 1 – 5 as stated in Staff’s memo to the Board. I also move that the Board specifically is not approving the Phase 1 Road Alternate Plan with a Variance Request and that this request has been assigned to the Subdivision Issues Subcommittee for further study and consideration. Renee Kumor seconded the motion. Tedd Pearce, Renee Kumor, Mike Cooper, Gary Griffin, Mark Williams, Jonathan Parce and Gary Griffin voted in favor of the motion. Paul Patterson was opposed to the motion. The motion carried 7 to 1.

Chairman Pearce said that he would like Staff to arrange a site visit of Pinnacle Falls regarding the road alternate plan with a variance request for Subcommittee members, Luther Smith and the developer so that the Board can have this item back on March’s agenda for consideration.

Shadowrun Ridge (File # 05-M02) – Combined Master Plan and Phase 1 Development Plan – (23 Lots) – Located off Sugarloaf Mountain Road – Gary Corn, Agent for Andrea Owensby, Owner.

Mr. Card said that the total project area is on 41.03 acres within a 110.28-acre parcel of land located off of Ivy Hill Road in the Edneyville Township. According to the Combined Master Plan and Phase I Development Plan, a total of 23 residential lots are proposed. The project will be built in three Phases. Phase I will consist of 13 residential lots on 18.10 acres. There is an existing house located within Phase I, which is located on proposed lot 4 (see attached plans). Mr. Card said that they have proposed private gravel roads with individual septic and wells. The project site is located in a County Open Use zoning district. The proposed subdivision is located within half a mile of the Edneyville Farmland Preservation District.

Mr. Card said that Staff has reviewed the Combined Master Plan and the Phase I Development Plan for Shadowrun Ridge for conformance with the Henderson County Subdivision Ordinance and offers the following comments:

Combined Master and Development Plan

1. **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.
2. **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)
3. **Farmland Preservation District.** 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)

4. **Other Final Plat Requirements.** In addition to the items noted above, the Final Plat(s) for Phase I must meet the requirements of Appendix 7 of the Subdivision Ordinance.
5. **Road Names.** Henderson County Property Addressing submitted a comment that the road name "Summersweet Road" is already used and will need to be changed.

Mr. Card said that Staff has found that the proposed Combined Master Plan and Phase I Development Plan appears to meet the technical standards of the Subdivision Ordinance and recommend approval of the Combined Master Plan and Phase I Development Plan subject to the above listed comments.

Mr. Williams stated that in the memo under suggested motion, it does not indicate comment 5, dealing with road names, to be satisfied on the Final Plat, should it not be included? Mr. Card mentioned that comment 5 should be included.

Mr. Card indicated on a map displayed the proposed Phase 1 of Shadowrun Ridge development including lot 2, which currently has a home on the site.

Mr. Patterson asked that on the map, it shows an 18-inch plastic pipe, is it double wall plastic pipe? Mr. Gary Corn, agent for the developer said that it was.

Jonathan Parce made a motion that the Planning Board find and conclude that the Combined Master Plan and Phase I Development Plan for Shadowrun Ridge 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 Phase I Development Plan for Shadowrun Ridge be approved subject to the following conditions: the developer addresses comment 1 before construction and satisfies comments 2, 3, 4 and 5 on the Final Plat. Renee Kumor seconded the motion. Mr. Corn stated that it is unlikely that they will be disturbing over an acre of land, as there is a good road serving the development already and asked if they would still need to provide the soil and erosion letter? Chairman Pearce said either provide a letter or provide documentation that no plan is required. Mr. Corn said that he would submit a letter that they will not be disturbing over an acre of land. All members voted in favor of the motion.

Cloud Nine (File # 05-M03) – Master Plan and Phase 1 Development Plan – (11 Lots) – Located off US Highway 64 (Chimney Rock Road) – Luther E. Smith Agent for Harold and Betty Coston, Owners. Mr. Patterson wanted to note that he had previously worked on a project for Harold and Betty Coston. Chairman Pearce felt that at this point, it would not be a conflict of interest regarding this subdivision review. Mr. Card stated that Cloud Nine is a proposed 35-lot subdivision located off of US Highway 64 (Chimney Rock Road) and according to the Master Plan, the total project area is 22.7 acres comprised of two tracts of land. A commercial lot is proposed and the remaining 34 lots will be used for residential purposes. Mr. Card said that the subdivision will be developed in 3 phases. The first phase will consist of 11 lots including the commercial lot. He said that they have proposed public water (City of Hendersonville), individual septic and private gravel roads will serve the subdivision. Mr. Card showed on a map the division of phase lines for Cloud Nine. He said

that for Phase 1, indicating the commercial lot and Laurel Branch Creek runs through the middle of the property between Phase line II and Phase line III and have shown a sixty-foot buffer, thirty feet on each side. Mr. Card also noted that the property is located in an Open Use zoning district.

He stated that Staff has reviewed the submitted Master Plan and Phase I Development Plan for Cloud Nine for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the comments that follow.

Mr. Card said regarding the Master Plan, it appears that all requirements have been satisfied. Regarding the Development Plan, these are the following comments for approval:

1. **Farmland Preservation District.** 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)
2. **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).
3. **Private Roads.** Because private roads are proposed for Phase I, 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)
4. **Other Final Plat Requirements.** In addition to the items noted above, the Final Plat(s) for Phase I must meet the requirements of Appendix 7 of the Subdivision Ordinance.
5. **Soil Erosion and Sedimentation Control.** The Developer should submit notice from NCDENR that a soil erosion and sedimentation control plan has been received or provide documentation that no plan is required prior to beginning construction.
6. **Water Supply.** The applicant has proposed Public Water (City of Hendersonville). According to the HCSO, the applicant must provide evidence that the water supply plans have been approved by the appropriate agency. 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 hydrant installation. (HSCO 170-20)

Mr. Card stated that regarding comments 5 and 6, Staff has recently received documentation for both items. He said that Staff has found that the proposed Master Plan and Phase I Development Plan for Cloud Nine appears to meet the technical standards of the Henderson County Subdivision Ordinance. Staff recommends approval of the Master Plan and Phase I Development Plan subject to the above listed-comments being addressed and the developer addressing any other issues raised by the Planning Board.

Mr. Smith highlighted some features of the development and confirmed that Staff has received both letters regarding soil erosion and sedimentation control and from the water department. Mr. Patterson asked whether the grades were shown on the plan? Mr. Smith indicated on a map that they are showed in various areas of the plan. Mr. Patterson said that the pipe at the entrance shows an existing fifteen inch pipe. Ms. Smith said that this will need to be discussed as far as the Ordinance is concerned. Mr. Patterson said that he was under the impression that it would need to be upgraded. Ms. Smith was not aware that this was done in all cases. Mr. Smith stated that they have been talking with NCDOT and there is an existing driveway permit that has been issued at this location and it is a driveway into the chapel. Mr. Smith said that an employee with NCDOT came out to look at it and mentioned that they would like the pipe upgraded and indicated that they would like to issue a new permit because of the change in the use. Chairman Pearce noted that this is another issue that needs to be discussed in the *Subdivision Ordinance*. Ms. Smith asked regarding the island in the center of the project, is that above the road grade? Mr. Smith said yes. Ms. Smith asked, "how do you meet the four foot shoulder requirement on either side of the road?" Mr. Smith said it will be addressed in the final design. Mr. Patterson asked Mr. Smith, "On the plan it shows a four foot shoulder, is there any reason why it is not 6 foot shoulders?" Mr. Smith said that when it becomes a collector road, it will then be 6 foot shoulders.

Chairman Pearce made a motion that the Planning Board find and conclude that the Master Plan and Phase I Development Plan for Cloud Nine comply 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 Master Plan and Phase I Development Plan for Cloud Nine be approved subject to completion of conditions<sup>1</sup> - 4. In addition, a new driveway entrance permit will be required and that the size of the pipe at the entrance will be according to NCDOT standards. Mike Cooper seconded the motion and all members voted in favor.

Subdivision Meetings and Assignments. Chairman Pearce asked Matt Card to coordinate a subcommittee meeting involving a field trip regarding the variance request for Pinnacle Falls. Phase 1 and get back with all of the members of the Subdivision Issues Subcommittee as well as with A.J. Ball.

Adjournment. There being no further business, the meeting was adjourned at 10:25 p.m.

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Tedd M. Pearce, Chairman

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Kathleen Scanlan, Secretary