

**HENDERSON COUNTY
PLANNING BOARD MINUTES
November 16, 2004**

The Henderson County Planning Board met on November 16, 2004, for its regular meeting at 7:04 p.m. in the Board Room of the Land Development Building, 101 East Allen Street, Hendersonville, NC. Board members present were Tedd Pearce, Chairman; Mike Cooper, Vice-Chairman; Tommy Laughter, Jonathan Parce, Renee Kumor, Gary Griffin and Mark Williams. Others present included Karen C. Smith, Planning Director; Russell Burrell, Assistant County Attorney, and Kathleen Scanlan, Secretary. Board member Paul Patterson was absent.

Approval of Minutes. Chairman Pearce called the meeting to order and asked for the approval of minutes. Since there were a number of meeting minutes for approval, the Board decided to first approve the October 11, 2004 special called meeting minutes and the September 21, 2004 regular scheduled meeting minutes. Chairman Pearce made a motion to approve both sets of minutes (October 11 and September 21, 2004) and Mike Cooper seconded the motion. All members voted in favor. After a brief discussion among Board members, Chairman Pearce decided to approve all of the Comprehensive Plan meeting minutes from April through May 2004 as one motion. Chairman Pearce then made a motion to approve the minutes of the Comprehensive Plan meetings for April and May 2004 as presented. Mike Cooper seconded the motion. All members voted in favor.

Adjustment of Agenda. There were no adjustments made.

Staff Reports. Ms. Smith introduced two of the new employees to the Planning Department, Natalie Berry, who is the Zoning Administrator, and Matthew Card, the Subdivision Administrator. Ms. Smith informed Board members that the public hearing for the rezoning application dealing with the County's landfill site was scheduled by the Board of Commissioners for November 30, 2004, at 7:00 p.m. She also mentioned that at the Board of Commissioners' meeting on November 10, 2004, the Special Use Permit application for Leoni's Mountain Lake Homes Planned Unit Development was approved with conditions.

OLD BUSINESS:

US 25 North Area Study Update – Planning Board. Chairman Pearce reminded the Board members that the next meeting to discuss and possibly vote on recommendations will be Monday, November 22, 2004, at 6 p.m. in the Board Room of the Henderson County Public Schools at 414 4th Avenue West.

Draft Order Granting Approval of Development Parcel Application for a Planned Unit Development (Carriage Park, Section 19, Phase 1) – Planning Staff. Ms. Smith stated that at the September 21, 2004 Planning Board meeting, the Board voted to find and conclude that the development parcel plan (referenced above) complied with the applicable County ordinances except for certain matters mentioned in the Staff memo at the time. The Board approved the Carriage Park, Section 19, Phase 1 development parcel plan subject to certain conditions and based on that, Staff drafted an Order stating the findings of fact, conclusions and decision of the Board. She had distributed the draft Order at the

beginning of the meeting. Ms. Kumor made a motion to accept the draft Order for Carriage Park, Section 19, Phase 1. Mike Cooper seconded the motion and all members voted in favor.

Request for Extension of Development Plan Approval for Hawke Crest Subdivision (File # 02-M03) – Joseph N. Solitario, Agent for Hawke Ridge Developers, Applicant. Ms. Smith stated that the original request for Hawke Crest subdivision was approved by the Planning Board on March 19, 2002. Ms. Smith stated that the revised Master and Development Plan for both Phase 1 and Phase II and Final Plat for Phase 1 was completed and reviewed by Staff on December 19, 2002. She stated that the developer has not completed Phase II of the project and did not submit a Final Plat prior to the passing of the two-year approval period. The developer, on October 26, 2004, submitted a letter requesting that the Planning Board grant a one-year extension on the project and Ms. Smith stated that the Ordinance allows a developer up to a year extension on the first request. Chairman Pearce made a motion to grant a one year extension for completion of Phase II of Hawke Crest Subdivision. Jonathan Parce seconded the motion and all members voted in favor.

Discussion of Modifications to the Pathways of Solomon Jones – J. Alan Rieger, Manager, Solomon, LLC. Ms. Smith asked Mr. Rieger to briefly present a history of the project to the Board.

Mr. Rieger showed the original subdivision plans of the Pathways of Solomon Jones and mentioned that they have tried to be sensitive to the topography and to the ultimate consumer. He said that they have moved some lot lines, and added some additional property. The original plan was to have a neighborhood of estate-sized properties averaging approximately three acres. Mr. Rieger said that the lot lines look out of form because the center of each lot line is a good place to build a home. He said what they originally were trying to do was to give some marketing flexibility of a residential neighborhood of large home sites, served by City water with underground utilities and a continuous loop road with the potential to do a village in the center, which would be low density; one home per acre. Mr. Rieger said the original plan allowed for a total of 62 proposed lots. He said the 62 lots were not all spelled out to do one-acre home sites, and therefore they left this as a rough-end with a potential of coming back at some point and doing the lot lines again. He said that a month or two later, they had come back to the Planning Board because there was some acreage added, which was bought to allow the developer to connect the original road bed of Solomon Jones to the property. They wanted to add this in to create two more home sites. He said that on the legend, they were called lots, but the land in the middle was originally planned for multiple cottages, but was shown as cottage lots and did not account for the number of cottages. He feels that therein lies the problem or confusion. Mr. Rieger said that they were originally approved for 62 proposed lots. However, as described by the Planning Staff, the project is proposed to have 51 lots on approximately 183 acres with 50 homes on individual lot and 12 cottages on a common area lot making it 62 homes instead of 62 lots and is described on the current map displayed. He added that lot 52 was never counted as a home site, it is a 104-year old home and was numbered for their purposes to bring them into the neighborhood of the Pathways. He said at present, they are under the 53 lots that are shown on the second plan and under the 62 lots that are community services, etc. He requested of the Planning Board to have some flexibility in how they divide their last parcel of land, which is lot 45, rather than having to come back to the Planning Board and be

delayed by 60-90 days on the sale of the property. He mentioned that they plan on ultimately subdividing lot 51 which would access Hebron Road, and that might become a totally separate issue. Mr. Rieger said he is seeking from the Planning Board clarification that the 62 lots is still okay and approval to let the developer come back with a survey that shows the re-division of lot 45 and to allow up to 4 or 5 cottages on that property, as long as it meets the Subdivision Ordinance requirements. Ms. Smith asked Mr. Rieger (looking on the map that was provided to the Board) whether 19R has been legally recombined and when did it happen? Mr. Rieger said that it has been legally recombined and was done today. Ms. Smith asked whether that is the same for 12R? Mr. Rieger said that is the same case for it as well. Chairman Pearce reviewed the number of lots. He said that under the current Ordinance, if you take the large parcel of ground that was discussed and putting 10 – 12 units there, if that was brought back to us instead of a condominium site, it was made individual lots, would that need to be made a re-plat? Ms. Smith said that it would need to be brought back as a section or revision to the Master Plan with a new Development Plan. Ms. Smith said that this was approved under the old Land Development Ordinance, but it is now past the time to construct and this puts us all in a state of limbo. The Board continued discussion of the number of lots and the additional modifications the developer periodically made to the subdivision plan. After some further discussion, Ms. Kumor said that she does not feel that what has been brought to the Board tonight is not too far off of the original plans, so that the issues that Staff has brought up are not whether they are good or bad, but how the Planning Board needs to interpret them. Ms. Smith said that she feels Staff does not have the authority to approve any more lots than what the Planning Board saw on these plans and she feels that the Board should determine what the original intent was. She said if the original intent was for 62 lots, the Board needs to agree on that. Chairman Pearce said he feels, being that he was on the Board at the time, they were envisioning 62 homes and feels that if they had brought this plan to the Board in 1999 as it is today with lot 45 cut up into some type of configuration, the Board would probably have approved it, as it would have met the lot size requirements as long as none of the lots have any flag lot situations. Ms. Smith said that was not an issue back then and it was unzoned. Chairman Pearce feels that the project would have been approved either way – whether the lots were cut up or not. He said he is certain there were discussions about cluster developments and “pod” sites. Ms. Kumor said that the issue is how many dwellings there will be, which we do not know. Chairman Pearce added that the Board does know what the maximum would be. Ms. Kumor confirmed that should the developer reconfigure and subdivide Lot 51, they would need to come back to the Planning Board. Mr. Cooper said he feels that if we give Staff the latitude to adjust this subdivision as long as it does not exceed 62 lots, that should be fine. Chairman Pearce made a motion to allow Staff to allow modifications to the Pathways of Solomon Jones Subdivision up to a maximum of 62 residential lots. Mike Cooper seconded the motion. All members voted in favor.

NEW BUSINESS:

Tatham Woods (File # 04-M16) – Master Plan and Phase 1 Development Plan Review (22 Lots in Phase 1) – Located off US Highway 64 East (Chimney Rock Road) - Mark Searcy (Vista Developers, LLC) Developer and Agent for Catexor, Inc., and Mark Dalton, Owners. Ms. Smith said that this is for Master Plan and Development Plan review for the first phase of what is a proposed expansion of the existing Tatham Woods Subdivision, located off US Highway 64 East. She stated that there have been some land purchases by Catexor, Inc.,

and Mark Dalton, which are the owners of Phase 1. She stated that Catexor, Inc., is also the owner of Phases II and III. Ms. Smith said that the Master Plan is for approximately 111 acres and has a potential for 388 additional residential lots/units, depending on what was going to happen in the other phases. She stated that the future plan does not show any detail for Phases II and III and they would need to come back with revised Master Plans in order to continue with Development Plans for those. Ms. Smith said that the Phase I Development Plan shows twenty-three lots. She stated that there will be a lot, which is Lot 93, that will be combined with Lot 49 in the existing Tatham Mountain Estates development after the final plat recordation. She said that Phase I will be served by individual wells and septic tanks, whereas the other two phases are proposed for City water and some type of community sewer. She stated that this is in the Open Use district, so there are no minimum lot sizes or setbacks imposed by the County, and it is not in a water supply watershed area. The property is within ½ mile of three of the designated farmland preservation districts and because of that, the final plats will require a note on them stating such. She stated that there is some land along Lewis Creek which is located within the 100-year floodplain and also the State of North Carolina has classified Lewis Creek as Class C Trout Waters, which requires a 25-foot vegetative buffer. Ms. Smith said that Staff was informed at the pre-application conference that the number of lots for Phase II and Phase III will be reduced. She said that the name of the project is changing to "Vista at Blacksmith Mountain" and will tie into the name of the other portion, which will be called "Blacksmith Run."

Ms. Smith mentioned that all requirements have been satisfied for the Master Plan and regarding the Development Plan, the following is a list of conditions for Planning Board consideration:

1. *Soil Erosion and Sedimentation Control.* The Developer should submit documentation that a soil erosion and sedimentation control plan has been received from NCDENR prior to beginning construction.
2. *Water Supply.* Ms. Smith stated that there were some comments from the Health Department regarding the ability to drill wells in Phase I and she asked that the developer address this. Chairman Pearce said, as he sees it, there are all of these lots plus the additional lots that will be going into Phases II and III, and it was indicated in Staff's memo that the Subdivision Ordinance requires connection to a public water system if a subdivision is located within a certain distance from an existing water system. Ms. Smith said that the distance is 100 feet times the number of proposed lots. Some exceptions do apply and the Ordinance does not require connection if the subdivision is more than 5,000 feet from an existing water line. She said based on the number of lots proposed for the entire development and the number of lots in Phase I, the subdivision would not be required to connect to the public water system. The application indicates that it is located within 3,186 feet of Phase I. Mr. Cooper asked whether this is an expansion of an existing subdivision since they are going through it? Ms. Smith said that it was started so long ago that the purchaser is now starting a new phase of the subdivision. Mr. Cooper said, "Doesn't that mean that the rest of the subdivision needs to be brought up to collector road standards?" Ms. Smith said that they did not purchase all of the subdivision, they just purchased individual lots in that subdivision and that those roads were designed to State road standards but have not been turned over to the

State. Ms. Smith said that the developer may want to demonstrate that there are economic and other reasons why they should not have to extend water. Chairman Pearce asked whether there is a clause in the ordinance to cover the issue if a developer keeps adding on to the subdivision and the total number of lots and final master plan would have required you to extend water mains and lines, etc.? Ms. Smith said that the Ordinance has a gap in terms of how long a master plan is good for, but there is no specific clause dealing with what he was mentioning. She said that we do have a provision regarding upgrading roads if you own all of the land on both sides of the existing road, but this is not the case here. Mr. Cooper said that these are not State roads already and asked how is it not part of the original subdivision and do they have rights to use the roads? Ms. Smith said that is a question for the developer. She added that they have purchased some lots in that other portion.

3. *Private Roads.* Ms. Smith said that they are required to add a statement on the final plat that the roads may not meet the requirements of the NCDOT for acceptance into the state road system.
4. *Farmland Preservation District.* Ms. Smith stated that the final plat should include a notation that the property is within ½ mile of land in a Farmland Preservation District.
5. *Setback from Perennial Streams.* Ms. Smith indicated that on the Development Plan it should show the required 30-foot setback for buildings and structures from perennial streams. The minimum 30-foot setback must be noted on the final plat.
6. *Other Final Plat Requirements.* Ms. Smith said that any other final plat requirements of Appendix 7 of the *Subdivision Ordinance* must be met.

Ms. Smith stated that next month there will be master and development plans for the new phases (Phase II and III), and that will be Blacksmith Run.

Mr. Luther Smith stated that he is representing both Vista Developers, LLC, and Mark Dalton with regards to Phase I of the development and Vista Developers, LLC, with regard to the remainder of the master plan, Phase II and Phase III. He briefly gave a history of the development. He stated that after the death of the original owner, in the settlement of his estate, the remaining portion which was made up of 30 acres of what was originally planned as part of the original subdivision was divided into two parcels, one having 13 acres and purchased by Mark Dalton and the other having 17 acres purchased by Vista Developers, LLC/Catexor, Inc. They purchased the remaining interest in the lots that the former owner had in the existing lower portion of the development. They also purchased Phases II and III consisting of approximately 80 acres in total. Mr. Smith stated that Mr. Dalton and Vista Developers decided to combine their efforts with regards to the property that had been originally part of the development and so they are combining their efforts in Phase I and Vista Developers will be developing Phases II and III, separately. The original development comprised of 46 lots. Mr. Smith stated that they have the 25 foot undisturbed vegetative buffer that is required by the State for the designated Class C Trout Waters and also have the 30 foot setback from perennial streams that is required by the County. He said Phase I will include 22 single-family lots and there is a weird, undeveloped strip of land shown as lot 93 and the plan proposes to combine lot 93 with lot 49 to make it a little larger. He said that at the time this application was submitted, there were 214 units allocated for Phase II, which is the 47 acres that front on US 64 East, and 152 units for Phase III and those two sections are currently being planned and have been through a

pre-application conference and will be coming back to the Planning Board in December. He said that regarding the existing development, the roads were proposed as State roads and there were four sets of restrictive covenants that were put on record for different sections of lots, all of which are somewhat different. He stated that the homeowners association never was organized, so those roads were never turned over to the NC Department of Transportation. Mr. Smith said that they are proposing in Phase I that the roads be private roads and at the same time, Vista Developers, LLC, is trying to go back and work with the existing property owners in Tatham Woods to form a homeowners association and act as an agent and also turn the existing road system into a private road system so that the entrance can be controlled. Mr. Smith said that the erosion control approval is in place for Phase I and they are proposing private/individual wells as well as individual septic tanks. He said for Phases II and III, there is at present a waterline along US 64 East and in those phases they plan to extend public water.

Chairman Pearce said that the road system on the three phases is private, and asked if the developers can prove that they have access to the use of these roads to get back to these back properties? Mr. Smith said that it is his understanding that in the sale of these two parcels, access was given across the existing road system to those parcels. Chairman Pearce asked whether we need verification of this? After some discussion, it was noted that there was a platted right-of-way for that section. After some further discussion, Chairman Pearce felt that there should be a condition of the Planning Board concerning this issue.

Chairman Pearce made a motion that the Planning Board find and conclude that the Master Plan and the Development Plan for Phase I of Tatham Woods comply with the provisions of the Subdivision Ordinance except for those matters addressed in the technical and procedural comments section of the Staff's memo that have not been satisfied by the developer and that the Master Plan and the Phase I Development Plan be approved subject to the following conditions: The developer satisfies comment 1 prior to beginning construction, satisfies comments 3 through 8 on the Final Plat and takes comment 2 under advisement and, in addition; comment 7 being the verification that they have all of the right-of-way issues resolved to Phase I of this property through the previous original phases in the form of a "Letter of Opinion" by an attorney, and comment 8, that the Board recognizes that this development (Phase I only) in the future will be known as Vista at Blacksmith Mountain. Mark Williams seconded the motion. Mr. Griffin asked whether the developer/owner notified the existing owners of Tatham Woods of the name change? Mr. Smith said that they had. Mr. Ed Nunez of Vista Developers stated that he has spoken with all of the homeowners about the name change and in each of those sections had a unanimous majority, except for one owner, to allow the developer/owners to change the name from Tatham Woods to Blacksmith Mountain and in addition to put in a gate at the road. All members voted in favor of the motion.

Ms. Smith at this time, introduced Lori Sand, new Project Manager for the Comprehensive Plan. All Board members welcomed her to the County.

Stonecrest (File # 04-M17) – Master Plan Review (133 Lots) – Located off Fletcher View Drive – Glade Holdings, Inc., Agent for Kenneth Wilson and Brickton Associates, Owners. Ms. Smith stated that the Stonecrest application is for a Master Plan only. The project is proposed for approximately 96.23 acres of land off Fletcher View Drive, between Old

Hendersonville and Howard Gap Roads. She stated that part of the property was designated as "future development" in a previously approved subdivision for Brickton Industrial Park that adjoins the proposed subdivision on the west, along Old Hendersonville Road. A portion of the eastern boundary of the project site adjoins the rear of the property containing Fletcher Elementary School. Ms. Smith stated that the project site consists presently of all or portions of 6 separate parcels of land. The project will contain 133 lots and 232 residential dwelling units. She said that Glade Holdings is the developer and this project is similar to some of the other Glade projects. They have proposed cottage lots, villa lots, townhomes, one farm lot and also apartments. She demonstrated the areas where each would go on a plan prepared for the Planning Board. Ms. Kumor asked whether the term "villa lots" is defined in the Ordinance? Ms. Smith said no, they are terms derived from Glade Holdings and/or Luther Smith & Associates and, typically, the villa lots use a "zero lot line" concept. She said that all but the farm lot is going to have public water and public sewer from the Cane Creek Water and Sewer District. The farm lot will have a well and septic tank and it is served by a completely different road than the rest of the project. The project is located in the Open Use District, which means it has no minimum lot size and no setback requirements. She indicated that the property is within the US Highway 25 North Zoning Study area and near the Brickton Industrial Park and may be subject to a change in zoning in the future. She said that Glade Holdings has requested that this be not industrial zoning, but that it be designated as residential. She indicated that plans for Brickton Industrial Park had shown an area for future development, knowing that with the topography that it would probably not be developed for industrial use, but since it was all under that ownership, Staff treated it as part of the whole industrial park, and proposed it as "industrial" on various land use and zoning plans. She said that the recommendations coming from the Subcommittee that is working on US 25 North Study area, propose that it be residential use as R-15. Chairman Pearce said that under R-15, with this acreage, we would be looking at approximately 280 lots. Ms. Smith added that under R-15, they might have to do some of the project as a planned unit development rather than the way it is shown in order to cluster the units and have lots that are less than 15,000 square feet.

Ms. Smith mentioned that all requirements have been satisfied for the Master Plan and regarding the Development Plan, the following is a list of conditions for Planning Board consideration:

1. *Sewer System.* Ms. Smith said she had received some comments about the sewer system and the proximity of the sewer and how the developers may have some challenges in getting it to the site. She said that the developer will need to discuss this and their plans for extending public sewer to serve the project.
2. *Zoning.* Ms. Smith said that this deals with the subject property and that it is in the proposed R-15 zoning district. She said that the developer may want to discuss how the proposed subdivision could be affected by future changes in zoning.
3. *County Comprehensive Plan.* Ms. Smith said that this area is within the Urban Services Area, where the County expects water and sewer to be extended in the future and expects high density residential development to occur. This area would also have some places where it would fall into the conservation category, which would have areas of steep slopes. She said that there are no specific standards or regulations to ensure the preservation of such conservation areas, however the developer has proposed a significant amount of open space, which may encompass some of these areas. Ms. Smith said that subject to the conditions addressed and

the developer addressing any other issues raised, Staff recommends approval of the Master Plan.

Mr. Luther Smith, planner and landscape architect, is representing Glade Holdings, who is the applicant for Stonecrest. He described the area of the subject property and the surrounding areas and said that the area is heavily wooded with trees and ridges. The site, as mentioned, has 93 acres that is all or portions of six parcels that are currently being reconfigured. He stated that the property has three access points: adjacent to the Old Hendersonville Highway; to the north there is a private drive called Ammons Drive that connects to the property and Fletcher View Drive, which connects to Howard Gap Road. He said that there is access to three of the lots from Fletcher View Drive and a letter from Glade's attorney has been submitted to Staff, indicating that the property does have access from Fletcher View Drive. He said the proposal is for, as previously mentioned by Ms. Smith, 133 lots total, with one lot for 100 to 200 apartments on it and this lot has direct access to Old Hendersonville Highway. There is a farm lot and rather than intrude on the nearby neighborhood, they decided to leave that access to serve one larger lot which consists of approximately 4 – 5 acres. The remainder of the lots will be cottage lots which are small, single-family lots with the home in the center of the lot and normal setbacks. He said villa lots are ones with zero lot lines and the townhomes, which will be in groups of three, will be set on individual lots within a block and will become an association lot as well. Mr. Smith said that the zoning is Open Use and that they are proposing the density, with 232 units, of 2.4 units per acre as opposed to closer to 3 units, if it were R-15 zoning development. He said that they have planned it such that, if this property were to be zoned R-15 and this plan is accepted, they would have two options: convert it, with the approval of this Board and the Board of Commissioners, to a planned unit development or the applicant could go before the Board of Commissioners, depending on how far along he is with the project, and request a vested right to continue the plan as approved to this point. Mr. Smith said that the plan is to develop the property in three phases. The first phase will include the lot for the apartments, the farm lot, as well as some of the cottage and villa lots. Chairman Pearce said he feels that the Board's major concern is the utilities to the property. Mr. Smith said that City of Hendersonville water exists along Old Hendersonville Road and Brickton Associates has given easements to cross its property to get into the proposed subject property. Regarding the sewer, there are two elements of plans. There are plans prepared by William Lapsley's office from several years ago that were presented to the County and approved to extend sewer from US 25 North into the industrial development, but the plans were never carried out. He added that they are currently reworking the plans by Lapsley's office for submission and they are responsible for developing the sewer from US 25 up (Mr. Smith showed the area of the proposed sewer line on a project map). Mr. Smith showed the project's point of connection to the existing system by gravity. Chairman Pearce asked whether it should be noted on the Master Plan approval that a Development Plan with this type of density would require proof that the sewer problems are resolved? Ms. Smith said that it is not a requirement of the Master Plan level, but it is at the Development Plan level. Mr. Smith said that when they come for the Development Plan approval, all of this will be settled by letters of verification, including any easements by the State that may be needed to accomplish this. Mr. Smith said that they have tried to preserve the heaviest stands of timber in the ravine areas around the property so there will be a significant portion of the property that will be left as common area/open space and it will be turned over to the homeowner's association.

Mr. Cooper made a motion that the Planning Board find and conclude that the Master Plan for Stonecrest 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 that the Master Plan for Stonecrest be approved as described by Mr. Luther Smith subject to comments 1 – 3. Jonathan Parce seconded the motion and all members voted in favor.

Pinnacle Falls (File # 04-M18) – Master Plan Review (110 Lots) – Located off Pinnacle Mountain Road – A.J. Ball, Agent for Range Ranger, FLP, Owner. Ms. Smith said that this application is for a Master Plan for Pinnacle Falls. A.J. Ball is the agent for Range Ranger, FLP, the owner, and Luther E. Smith is the land planner for the project. She said that there were two versions of the Master Plan in the packet, one with contours and one without. The subdivision is proposed on a parcel containing approximately 290 acres of land and located on the south side of Pinnacle Mountain Road, between Pinnacle Mountain Road and Cabin Creek Road. The site encompasses much of the upper drainage basin for Cabin Creek and there are several waterfalls on the property. The property has steep slopes and has a significant change in elevation between the northern and southern portions of the property. Pinnacle Falls is proposed to contain 100 lots that will be developed in several phases and the project proposes several types of lots. She said that there will be 50 mountain cottage sites, 40 mountain cabins sites and 20 single-family retreat sites, which are larger lots. The lots will be developed in groups in different areas of the property. The lots plus the areas proposed for amenities will occupy approximately 90 of the property's 290 acres. She stated that the cottage home sites will be served by community water and group septic systems. The cabin sites will be served by community water and individual septic tanks and the retreat home sites will be served by individual wells and septic tanks. She said that private roads are proposed and the principal access to the project will be from Pinnacle Mountain Road and a secondary access may be available from Cabin Creek Road. Ms. Smith said that the project site is located in the Open Use District and that streams on the property are Class C Trout Streams, which require a 25-foot undisturbed buffer according to State regulations and a 30-foot setback would also be imposed by the County for buildings and structures along all perennial streams. The property is also located in a Farmland Preservation District.

Ms. Smith said the following is a list of conditions for Planning Board consideration:

1. *Water Supply and Sewage Disposal.* Ms. Smith said that there were comments from a sanitarian from the Henderson County Health Department regarding wells and septic tanks on this property. Ms. Smith added that the sanitarian had noted that drilling a well could be difficult in the area of the proposed subdivision and recommended that the water wells be drilled first to determine water availability. There also was a comment about the approval process for community wells.
2. *County Comprehensive Plan.* Ms. Smith stated that this land falls within the Rural/Agricultural Area which is expected to remain predominately rural with low-density residential development. The site also has areas shown as Conservation which are likely to contain steep slopes, sensitive natural areas, farmland and other natural features which are found in the proposed development. Ms. Smith said that the County has no specific regulations or incentives to ensure the preservation of such Conservation areas, however the developer has proposed to cluster groupings of residential lots and amenities and will place a majority of the land within the project site in conservation easements, which Mr. Luther Smith will discuss.

3. *Emergency Services.* Ms. Smith said that the Fire Marshal's office expressed concern that they want to make sure the roads meet the County's standards for access of emergency vehicles. The developers should address this access from Cabin Creek Road and the location of the closest source of water for fire fighting purposes.
4. *Hazard Mitigation* Ms. Smith said that this concerns the hazard issues of developing on steep slopes. She said that the County has no specific standards for addressing these issues, but it may be worthwhile for the developer to take potential natural hazards into account during the development of the project. She asked that the developer might possibly talk about stabilization and erosion control with regard to the construction of the roads and any potential areas that could be susceptible to landslides.

Ms. Smith said that due to the sensitive natural areas and steep slopes on the property, Staff has concerns about the impact the development will have on the property itself and on property within the Cabin Creek watershed.

Mr. Luther Smith said that he is representing Range Ranger, FLP, owner of the Pinnacle Falls Subdivision. Mr. Smith described the location of the proposed subdivision. He said that the primary access to the development is through Pinnacle Mountain Road. Mr. Smith said that a road that comes up through the property is an old County Road (Cabin Creek Road) and there were a number of homesites there. He said when the State took over the road, any right-of-way disappeared and there have been a number of lawsuits over the years as to whether some of the homeowners have access. Mr. Smith said that when they had originally started the project, the survey they were working with indicated that there was a 50-foot right-of-way to Cabin Creek Road. He said they probably have a prescriptive easement and the developer is currently working on figuring out whether the development has a good usable right-of-way back to Cabin Creek Road. The original development plan was to come in and develop the lower section and develop the upper section and have this existing road as an internal pedestrian or small vehicle connection between the two sections. When they found there may be no right-of-way to Cabin Creek Road, it required a plan change. Mr. Smith said that the goal of the development is to have at least 200 acres under a conservation easement. He said that most of the area is made up of old timber. He said that the development plans on 110 homesites. "The Meadows" will contain 50 cottages and in the flatter area, there will be more permanent style homes. The cabins will be located in the valley area. He said that the cottage home area will be served by group septic systems to have approximately 1/3 acre lots in order to leave as much area for open space. The cabin areas will be served by a community water system with wells and pump station. In addition, the Ridges area will be served by individual wells and individual septic fields and those fields will be within the common property for that particular association. He said that there will be additional non-residential lots within the property and a lodge-type community facility that will be separated out on a lot for mortgage purposes.

Mr. Smith said with regard to the 200 acres that is planned to be under the conservation easement, there is a concern regarding the hazard mitigation that Karen Smith mentioned previously. He stated that when they come back to the Board for the different development sections, they might request variances to different portions of the Ordinance, particularly with regards to the roads from a couple of standpoints. One, because of the

amount of disturbance that bringing the road down the slope might cause. He said that if they can reduce it to a local street versus trying to meet the collector road standards, they will then be able to show the amount of reduction of damage and still meet grade requirements for the subdivision as a whole so that fire safety people have good access. Chairman Pearce asked, "When you are stating the subdivision as a whole, are you suggesting having grades that exceed standards?" Mr. Smith said the standard for the collector road, but not the 18% standard for the rest of the development. Chairman Pearce asked whether they would need the collector road if they had the access off of Cabin Creek Road? Mr. Smith said yes, because of the way the Ordinance reads regarding collector roads. Board members generally voiced their concerns with hazard mitigation and the road issues of the development. Mr. Smith said that he does not agree with the issue of collector roads being based on 25 units, when the State bases it on the volume of traffic. Mr. Smith said that given the road standards they have, the amount of disturbance and steep slope areas and the potential problems that can occur, he said that there is another concept of floating lots, which would be lots that do not necessarily have to be on a road (he explained and showed on a map what this theory entailed). He mentioned that there will be some sort of lodge for recreational facilities and there will be some camping areas and picnic areas throughout the property. He said that there will be an extensive trail system as well as other outdoor recreational and wildlife areas designated.

Chairman Pearce asked Mr. Smith to address the matter concerning the closest water source for fire fighting purposes. Mr. Smith said they are looking for some pond sites to help with firefighting. He said as far as the access to Cabin Creek Road, the minimum would be to provide emergency access vehicles. He added that part of the problem is that road is a two-lane road out to Cabin Creek and they would need to get that property owner to allow the developer to upgrade it to support emergency equipment. Chairman Pearce asked whether there will be an answer to this matter before the Development Plan approval. Mr. Smith said that they plan to have one and they are looking at alternative routes. Mr. A.J. Ball, agent for the property owner, stated that regarding the water source, they are planning to acquire a six acre tract that has a $\frac{3}{4}$ acre pond on it. He said that he feels within the next sixty days they will have access to the pond site for the firefighting source of water. Mr. Ball said that regarding the slope issue, he feels that they will be able to meet the requirements for a collector road, in terms of grade, but he does have concerns about disturbance regarding everything above and below the road, but feels that they will be able to overcome the obstacles. Ms. Smith asked Mr. Ball whether they plan to add the six acre tract to the Development Plan? Mr. Ball said that he was not sure at the moment as it adds a common boundary and the developers are not sure what they plan to do with it as of yet. Chairman Pearce asked Ms. Smith whether she would like that added as a condition to the approval? Ms. Smith said if the Board feels comfortable with doing so, that would be fine.

Chairman Pearce made a motion that the Planning Board find and conclude that the Master Plan for Pinnacle Falls 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 that the Master Plan for Pinnacle Falls be approved subject to the conditions 1 – 4 as previously discussed by Ms. Smith, Planning Director, and also with the acknowledgement that the developer may want to add six acres of property adjacent to the Master Plan to the Development Plan and if so, the developer

would be able to do so administratively without amending the Master Plan. Tommy Laughter seconded the motion. All members voted in favor.

Chairman Pearce suggested that Staff send out to all land planner suggesting alternative plans for various ways to subdivide property to all land planners other than what is noted in the Ordinance. Ms. Smith said that we had a gentleman come before a previous Planning Board and developers several years ago regarding this same subject but all that we got out of it in the Subdivision Ordinance was a site analysis. She added that a local land trust is trying to organize something like this again and our Staff has been invited to be involved in the discussion regarding this matter.

Anthony Prinz, Planner, distributed the material for the special called meeting regarding US 25 North for November 22, 2004. There was some brief discussion to clarify some properties in question in that area.

Adjournment. There being no further business, Jonathan Parce made a motion to adjourn and Gary Griffin seconded the motion. All members voted in favor. The meeting adjourned at 9:05 p.m.

Tedd M. Pearce, Chairman

Kathleen R. Scanlan, Secretary