

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
PLANNING BOARD**

MEETING DATE: June 17, 2003

SUBJECT: Silverstone Phase II (01-M02) Development Plan Extension Request

- ATTACHMENTS:**
- 1. Letter Requesting Extension
 - 2. Planning Board Extension Policy
 - 3. Vicinity Map
 - 4. Parcel Map
 - 5. Master and Development Plan

SUMMARY OF REQUEST:

On February 27, 2001 the Planning Board approved the revised Master Plan dated 1/25/01 and revised Development Plan 1/26/01 for Silverstone Phase II. Per Section 170-16 C (4), Development Plan approval is valid for two years, however the Planning Board may, for just cause, grant extensions of a development plan approval for a maximum of one additional year. The developers of Silverstone Phase II did not complete the project and submit a Final Plat prior to the passing of its two-year approval period. On June 3, 2003, Gary Corn, Agent of the applicant, provided a letter requesting an extension of the development plan approval for a period of one year. Mr. Corn stated in his letter due to environmental conditions road construction is not completed and he verbally mentioned that 75% of the roads are completed.

BOARD ACTION REQUESTED:

Action by the planning Board is needed to either grant or deny this extension. Such action should be weighed with consideration of the attached extension policy.

GARY L CORN, INC.

PROFESSIONAL LAND SURVEYOR
522 FLEMING STREET
HENDERSONVILLE, N.C. 28739

June 3, 2003

Derrick Cook
Henderson County Planning Department
Hendersonville, N.C. 28739

RE: Silverglen-Phase Two of Silverstone Subdivision

Mr. Cook:

This is a formal request for a time extension to finish the development of Silverglen.

Due to the wet soil conditions, we have been unable to complete the road construction which was started in September of 2002.

Sincerely,



Gary L. Corn, P.L.S.

received
3 June

HENDERSON COUNTY PLANNING BOARD POLICY FOR GRANTING SUBDIVISION EXTENSIONS

Statutory Reference: Section 170-16C(4) of the Henderson County Subdivision Ordinance states: "Development Plan approval shall be valid for two years, and such approval shall be annotated on the plan itself and certified by the Subdivision Administrator. The Planning Board may, for just cause, grant extensions of the development approval for a maximum of one additional year."

Policy.

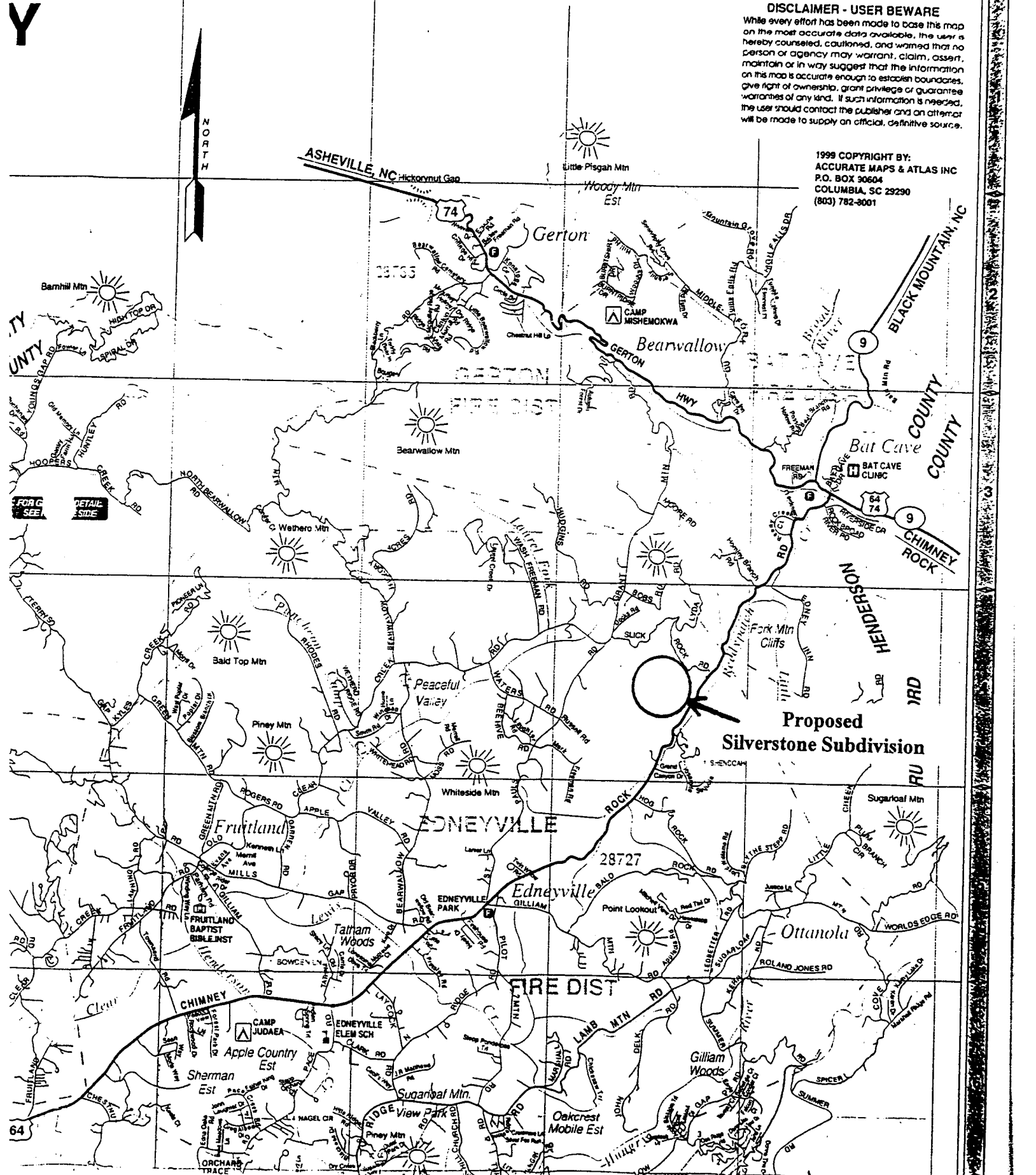
1. The developer should submit in writing a request for an extension, stating the status of the subdivision improvements and the reasons for any delays. The request shall be placed on the agenda for the next scheduled Planning Board meeting.
2. The developer or his/her agent should appear before the Planning Board to answer questions regarding the progress of the development.
3. No extension will be granted unless the developer can demonstrate that a "good faith effort" has been made to develop the property.
4. Property recently developed in an adjacent section of the subdivision, in conformance with the approved Master Plan, may serve as such "good faith effort."
5. A second request for an extension will not be granted unless over fifty percent of the overall development improvements have been completed.

Vicinity Map

DISCLAIMER - USER BEWARE

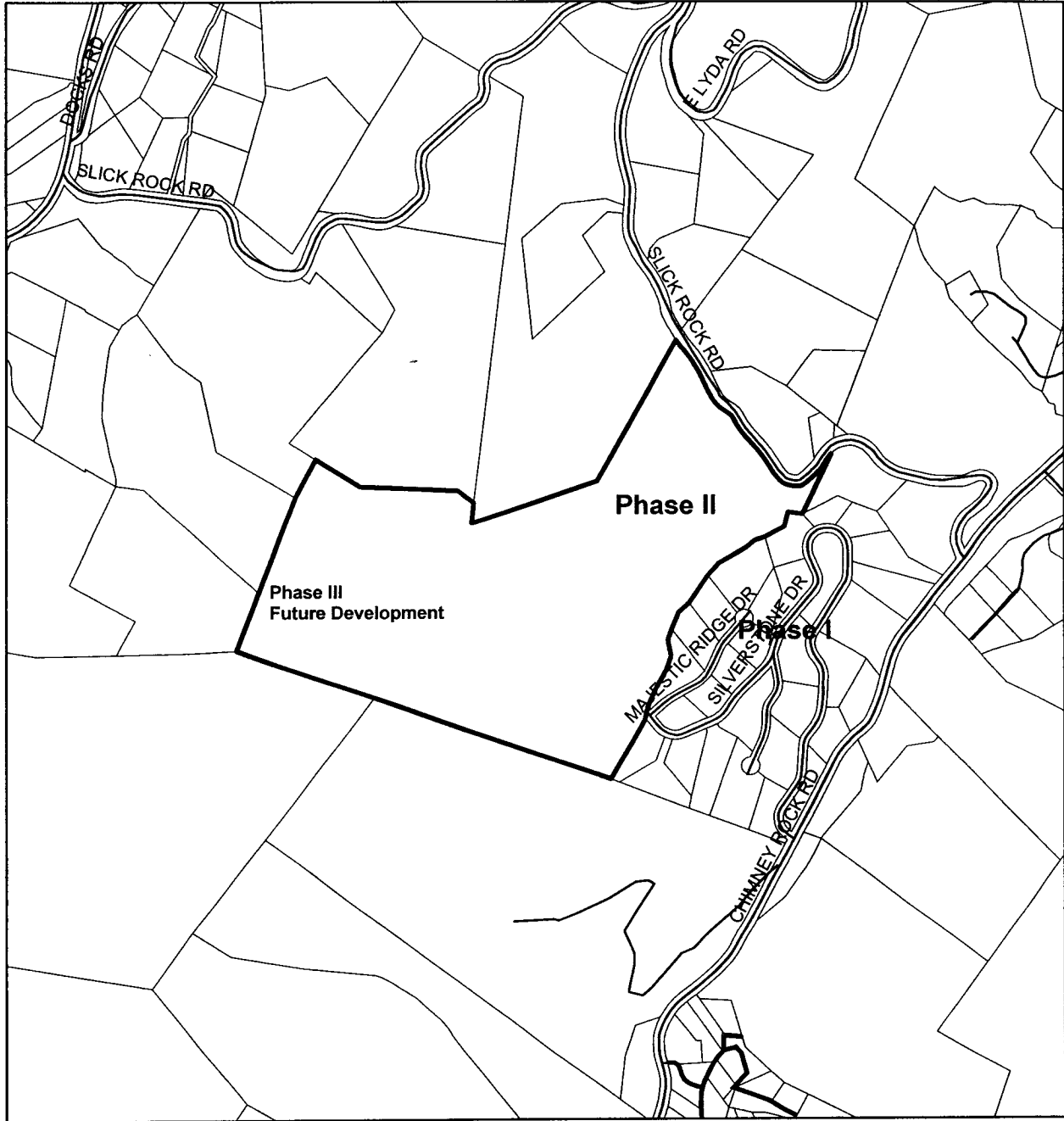
While every effort has been made to base this map on the most accurate data available, the user is hereby counseled, cautioned, and warned that no person or agency may warrant, claim, assert, maintain or in any way suggest that the information on this map is accurate enough to establish boundaries, give right of ownership, grant privileges or guarantee warranties of any kind. If such information is needed, the user should contact the publisher and an attempt will be made to supply an official, definitive source.

1999 COPYRIGHT BY:
ACCURATE MAPS & ATLAS INC
P.O. BOX 30604
COLUMBIA, SC 29290
(803) 782-8001



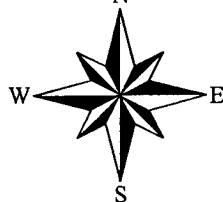
**Proposed
Silverstone Subdivision**

Henderson County Planning Department



Silverglen: Silverstone Phase II

PROPERTY OWNER: Grant Mountain Properties, Inc.
PREPARED BY: Gary L. Corn
MAP ID: 10-0612-25-7721-55
ZONING: Open Use
WATERSHED: None

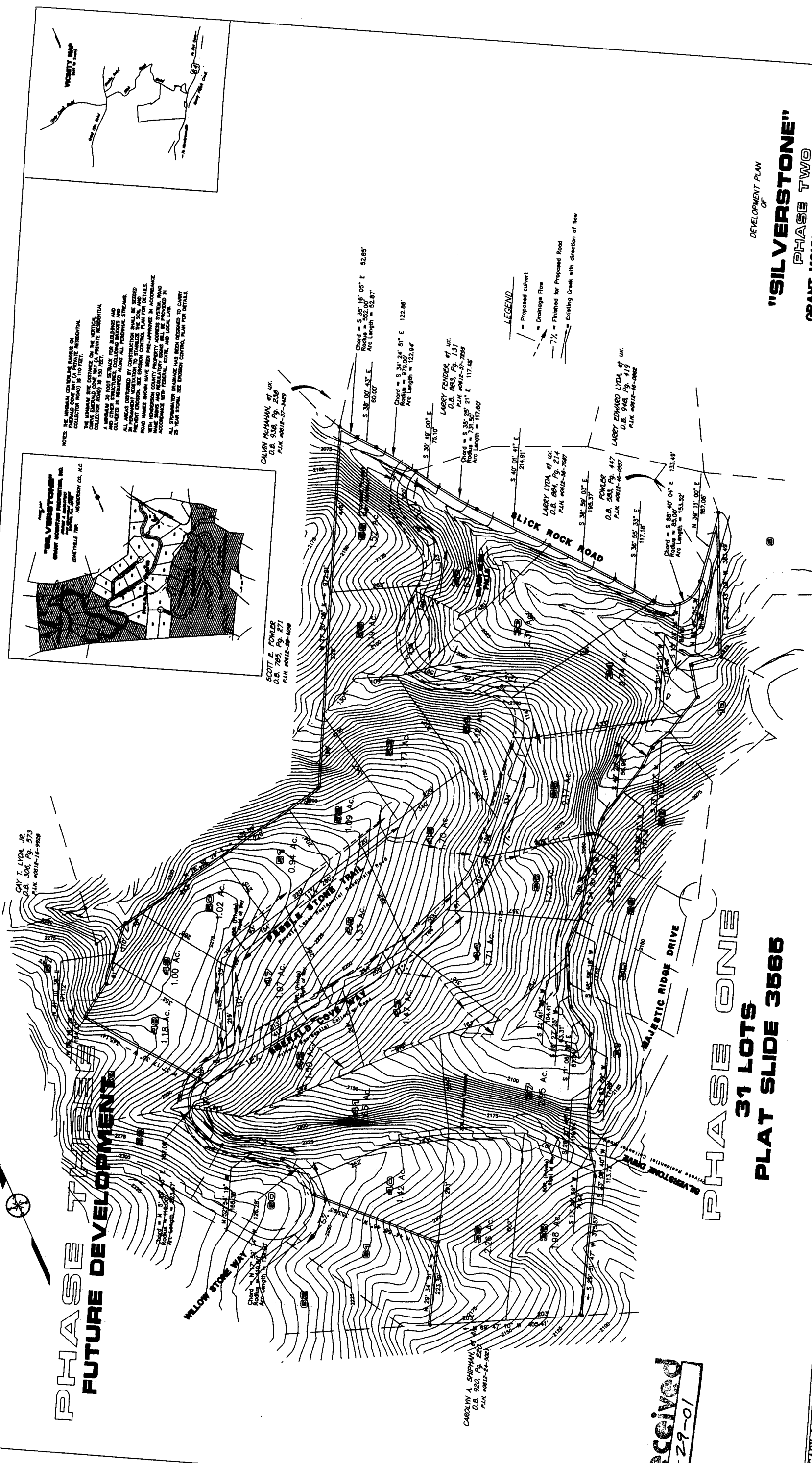


This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map, are hereby notified that the forementioned public primary information sources should be consulted for verification of the information contained on the map. The County and mapping company assumes no legal responsibility for the information contained on this map.

PHASE TWO FUTURE DEVELOPMENT

PHASE ONE 31 LOTS PLAT SLIDE 3685

Received
01-29-01



NOTES: THE MINIMUM CENTERLINE RADIUS ON EMERALD COVE DRIVE (PRIVATE RESIDENTIAL COLLECTION ROAD) IS 140 FEET.
THE MINIMUM SIDE SETBACK ON THE VERTICAL CURVE EMERALD COVE DRIVE (PRIVATE RESIDENTIAL COLLECTION ROAD) IS 150 FEET.
MINIMUM 20 FOOT SETBACK FOR BUILDINGS AND DRIVEWAYS IS REQUIRED ALONG ALL PERIMETER STRENGTHS.
ALL AREAS DISTURBED BY CONSTRUCTION SHALL BE SEEDED WITH APPROPRIATE VEGETATION TO STABILIZE SOILS.
ROAD NAME SIGNAGE SHALL BE PRE-APPROVED IN ACCORDANCE WITH HENDERSON COUNTY PLANNING DEPARTMENT REGULATIONS AND REGULATORY STANDARDS SYSTEM, ROAD SIGNAGE AND REGULATORY STANDARDS SYSTEM, ROAD SIGNAGE AND REGULATORY STANDARDS SYSTEM, ROAD SIGNAGE AND REGULATORY STANDARDS SYSTEM.
ALL STORMWATER DRAINAGE HAS BEEN DESIGNED TO CARRY 25 YEAR STORM. SEE DRAINAGE CONTROL PLAN FOR DETAILS.

LEGEND
 - Proposed culvert
 - Drainage Flow
 - 7% = Finished for Proposed Road
 - Existing Creek with direction of flow

DEVELOPMENT PLAN
OF
"SILVERSTONE"
 PHASE TWO
GRANT MOUNTAIN PROPERTIES, INC.
 (OWNER & DEVELOPER)
 3443 MELLOWVILLE AVENUE
 SANFORD, N.C. 28773
 DEED BOOK 983, PAGE 221
 PARCEL IDENTIFICATION NUMBER 0612-23-9428
 EDNEYVILLE TWP. HENDERSON CO., N.C.

SHEET ONE OF TWO SHEETS

JANUARY 26, 2001

SCALE: 1" = 100'

JOB NO. 92-040-2-F

GAY T. LYDA, JR.
D.B. 306, Pg. 273
P.L.N. 0612-16-9288

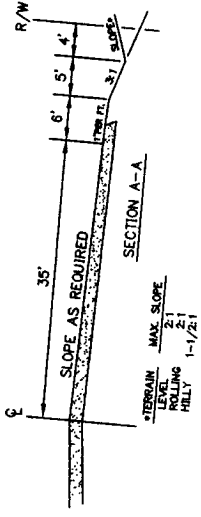
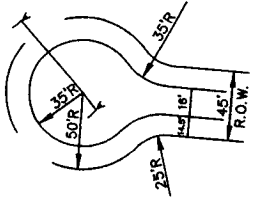
SCOTT E. FOWLER
D.B. 765, Pg. 271
P.L.N. 0612-28-0098

CALVIN McMAHAN, et ux.
D.B. 938, Pg. 249
P.L.N. 0612-37-3489

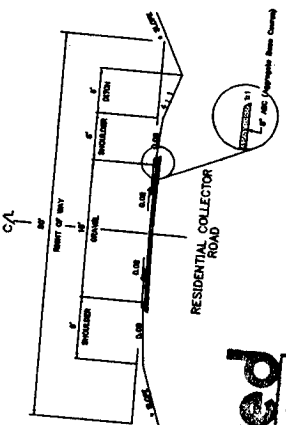
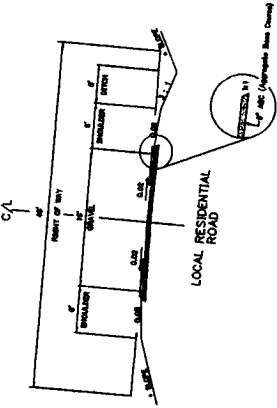
LARRY FENDER, et ux.
D.B. 863, Pg. 131
P.L.N. 0612-37-7828

LARRY EDWARD LYDA, et ux.
D.B. 948, Pg. 419
P.L.N. 0612-16-0882

CAROLYN A. SHIPMAN, et ux.
D.B. 920, Pg. 220
P.L.N. 0612-31-2021

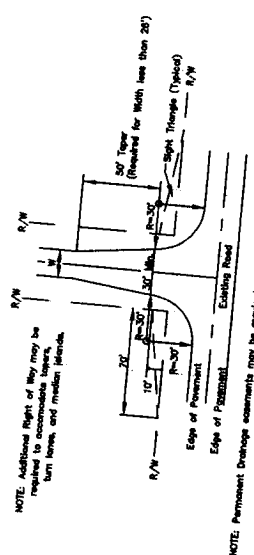
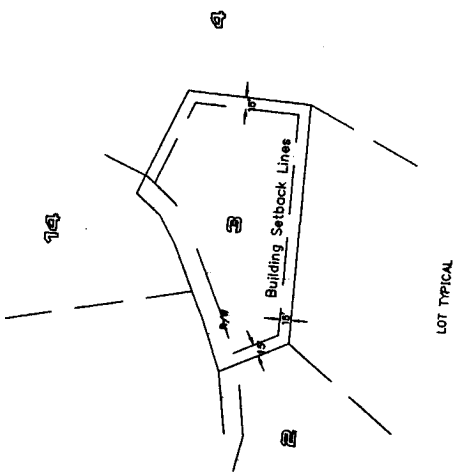


TYPICAL CUL-DE-SAC NO CURB & GUTTER



Received
01-29-01

CARY L. CORN, INC.
PROFESSIONAL LAND SURVEYOR
HENDERSONVILLE, N.C. 27539
FURNISHED BY: 200-294-2040
COPYRIGHT © 1998 BY CARY L. CORN, P.L.L.C.



NOTE: Additional Right of Way may be required to accommodate driveway, turn lanes, and median islands.
NOTE: Permanent drainage easements may be required to accommodate drainage beyond the right of way.
RECOMMENDED ROAD CONNECTION
NEW LOCAL RESIDENTIAL ROAD OR RESIDENTIAL COLLECTOR ROAD AND EXISTING STATE MAINTAINED ROAD

NOTE: THE PROPERTY SHOWN IS NOT LOCATED IN A 100 YEAR FLOOD ZONE.
PROJECT SUMMARY FOR PHASE TWO OF "SILVERSTONE"
TOTAL PROJECT AREA IN ACRES = 46.11 Ac.
NUMBER OF PROPOSED LOTS = 24 RESIDENTIAL LOTS
MINIMUM LOT SIZE IN SQUARE FEET = 40,946.40
MAXIMUM LOT SIZE IN SQUARE FEET = 119,354.40
LENGTH OF PROPOSED PRIVATE STREETS = 3,879.81
WATER SYSTEM = INDIVIDUAL
SEWER SYSTEM = INDIVIDUAL
CURRENT ZONING = NOT ZONED
FIRE DISTRICT = EDNEYVILLE
NEAREST EXISTING WATER SUPPLY FOR FIRE PROTECTION LOCATED AT THE INTERSECTION OF U.S. HWY. 64 WITH GILLIAM MOUNTAIN ROAD, APPROXIMATELY 3 MILES SOUTH OF PROJECT

DEVELOPMENT PLAN
OF
"SILVERSTONE"
PHASE TWO
GRANT MOUNTAIN PROPERTIES, INC.
(OWNER & DEVELOPER)
3443 MELLOWVILLE AVENUE
SANFORD, FLA. 32773
DEED BOOK 982, PAGE 221
PARCEL IDENTIFICATION NUMBER 0612-25-9428
EDNEYVILLE TWP. HENDERSON CO., N.C.

JANUARY 26, 2001

JOB NO. 92-040-2-F

SHEET TWO OF TWO SHEETS

REQUEST FOR ACTION

**HENDERSON COUNTY
PLANNING BOARD**

MEETING DATE: June 17, 2003

SUBJECT: Review of the Major Subdivision Eagle's View

- ATTACHMENTS:**
1. Planning Staff Memo
 2. Applicants' Application
 3. Parcel Map
 4. Vicinity Map
 5. Revised Combined Master and Development Plan
 6. Planning Board Meeting Minutes: 6/27/00, Approved
Revised Master and Development Plan
 7. Old Combined Master and Development Plan
 8. Planning Board Meeting Minutes: 6/18/02, Development
Plan Extension Request Approval

SUMMARY:

The Applicants have submitted a new revised combined Master and Development Plan for the Planning Board review and approval.

**HENDERSON COUNTY
PLANNING DEPARTMENT**

MEMORANDUM

Date: June 11, 2003
To: Planning Board Members
From: Derrick L. Cook, Planner
Re: Plan Reviews for June 17, 2003 Planning Board Meeting
Eagle's View (00-M12)

Eagle's View (00-M12)

James Mark and Dianne Lea Bishop, Owners/Agent

The Planning Board approved a Master and Development Plan for Eagle's View on June 27, 2000 and approved an extension for the Development Plan on June 18, 2002. This extension expires this month and the Applicants have submitted a revised combined Master and Development for review and approval by the Planning Board due to some changes in the property and the design of the subdivision. The property is a 22.10-acre tract located off Lamb Mountain Road (A.K.A Sugarloaf Road). The development is for 26 proposed single-family lots in two phases (13 lots in phase I and 13 lots in phase II). Lot sizes range from 0.59 acres to 1.27 acres. The development is located in an Open Use zoning district and will be served by private water and individual sewer. The applicant is proposing public roads. The property is not located in a Water Supply Watershed district.

Technical and Procedural Comments

Staff has reviewed the combined Master and Development Plan for conformance with the Henderson County Subdivision Ordinance and offers the following comments:

Master Plan

No comments – requirements satisfied.

Development Plan

1. **Soil Erosion and Sedimentation Control** – The Applicant 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 (HCSO 170-19).

*1800-
can be
on a public/collector
road*

*Has
been
submitted*

Staff Recommendation

The submittal is for approval of the combined Master and Development Plan for the subdivision. Staff believes that the submittal satisfactorily addresses the requirements of the Henderson County Subdivision Ordinance. Staff would recommend approval of the combined Master and Development Plan subject to the above listed comments being addressed.

I move that the Planning Board find and conclude that the Master Plan and Development Plan submitted for the Eagle's View Subdivision complies 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 applicant;

AND

I further move that such Plan be approved subject to the following Conditions: The applicants satisfy, comment 1 before construction begins, (and any other conditions imposed by the Planning Board).

5/16/03

HENDERSON COUNTY
SUBDIVISION APPLICATION FORM

Revised

Combined Master + Development Plan

30MAY00
Date of Application

EAGLE'S VIEW
Subdivision Name

00-M12
Application Number

Major Subdivision Minor Subdivision Other

Property Owners Name: JAMES MARK & DIANNE LEA BISHOP

Address: RT 2 BOX 228

City, State, Zip: FLETCHER, NC 28732

Owner's Agent: N/A

Telephone No: (828) 699-2787

PIN 10061006193755 Deed Book/Page 871/100 : 1013/A

Zoning District NONE Fire District ELNEYVILLE Watershed _____

Location of property to be divided: DLAMB MTN RD

Type of Subdivision: Residential Commercial Industrial Present Use _____

No. Lots Created 24 Original Tract Size 25.76 ^{ACRES} New Tract Size _____ No. New Lots _____

Road System: Public ~~Private~~ ~~Combination Public and Private~~

Water System: Individual Community Municipal

Sewer System: Individual Community Municipal

Fee: \$ 200.00 Paid 30MAY00 Method CHECK # 2478

I certify that the information shown above is true and accurate and is in conformance with the Henderson County Subdivision Ordinance.

[Signature]
APPLICANT (OWNER OR AGENT)
Tracey K Flowers

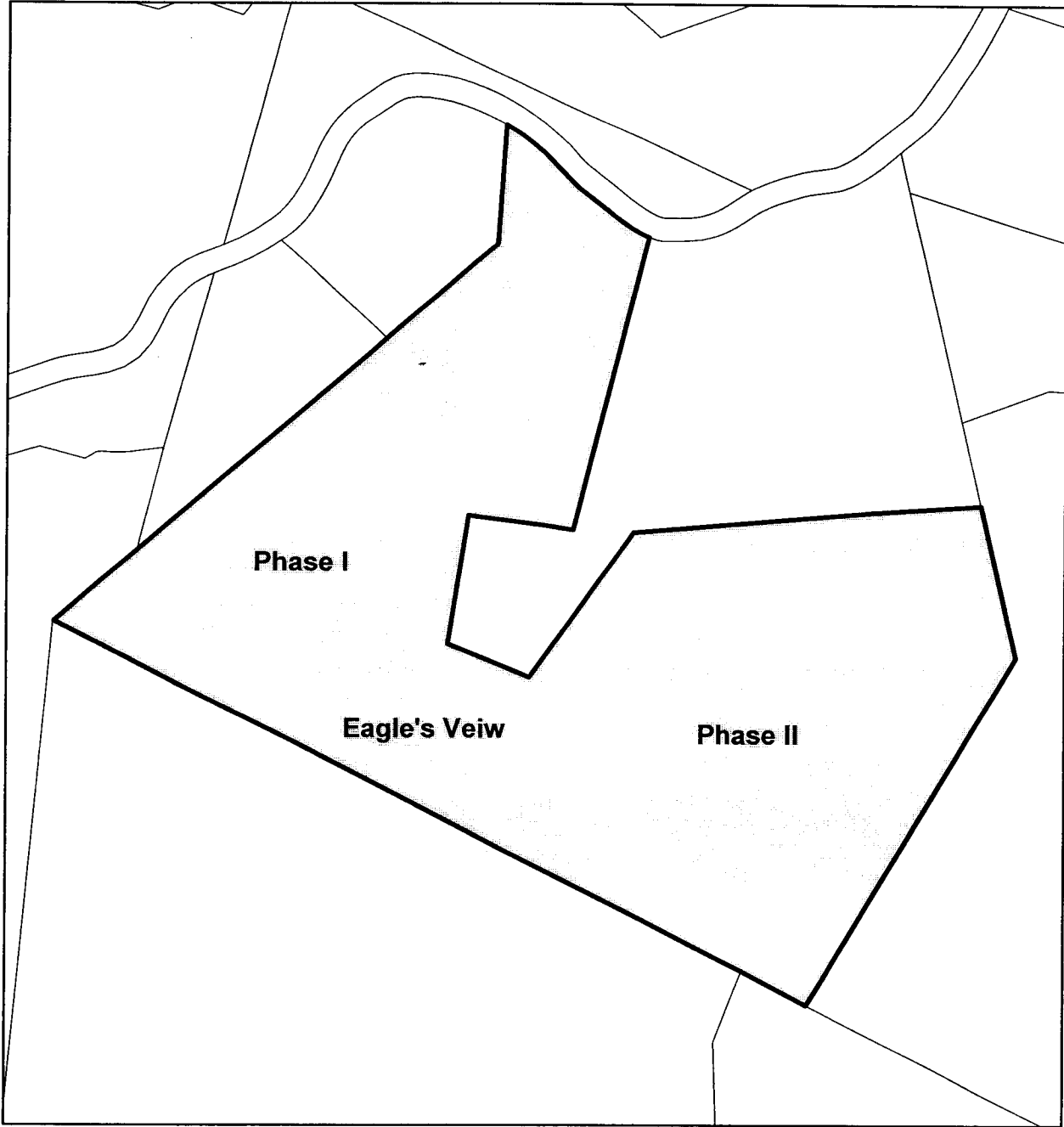
30MAY00
DATE
May 16, 2003

Development Plan Approval / Conditions _____

Final Plat Approval: _____ Plat Recorded _____

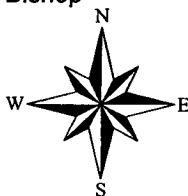
5/16/03
\$400 for Revised Master + Development Plan Check #1403

Henderson County Planning Department



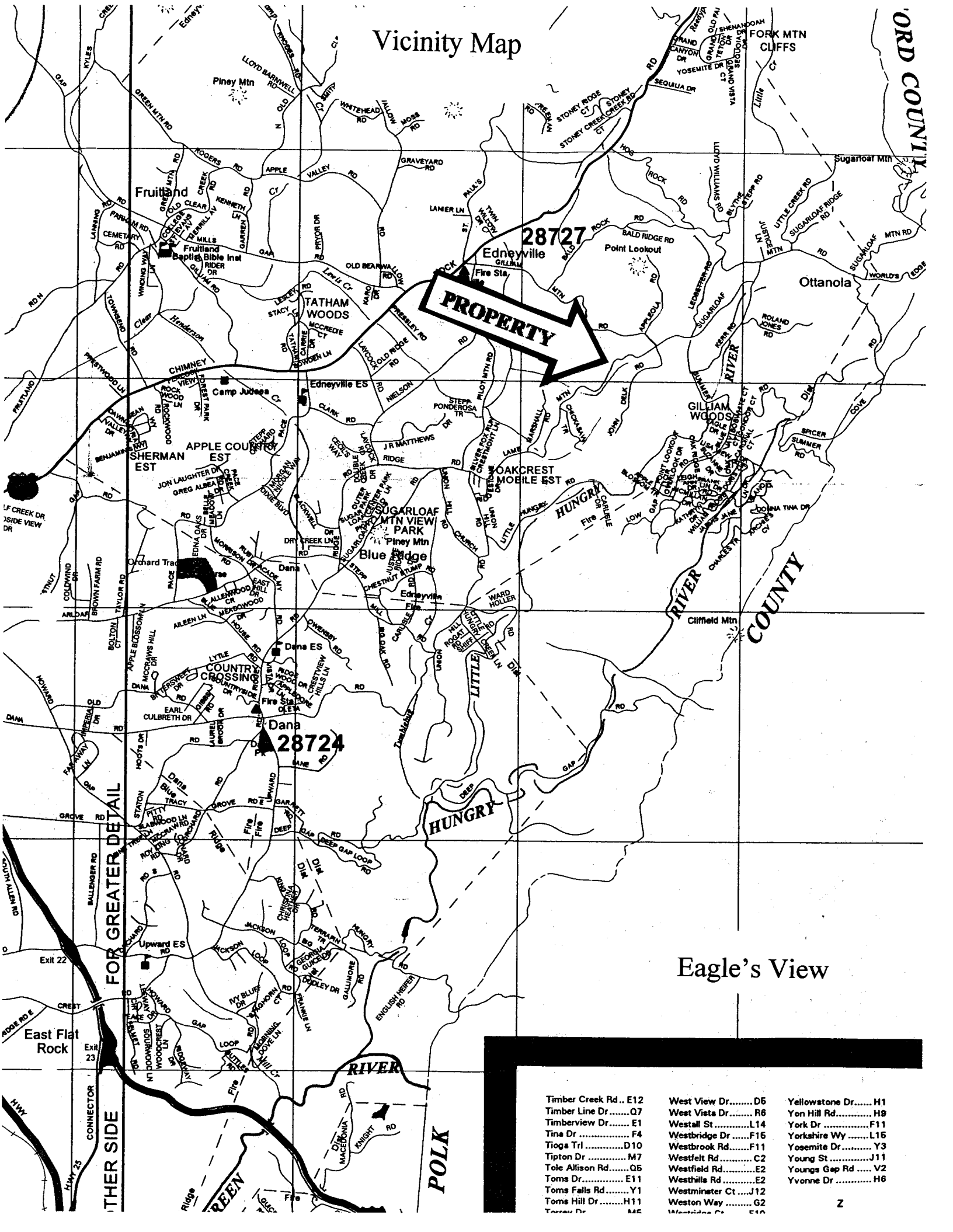
Eagle's Veiw

PROPERTY OWNER: James Mark & Dianne Bishop
AGE N/A
TAX MAP ID: 10-0610-06-1937-55
ZONING: Open Use
WATERSHED: None



This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map, are hereby notified that the forementioned public primary information sources should be consulted for verification of the information contained on the map. The County and mapping company assumes no legal responsibility for the information contained on this map.

Vicinity Map



PROPERTY

28727

28724

Eagle's View

FOR GREATER DETAIL

Timber Creek Rd..... E12	West View Dr..... D5	Yellowstone Dr..... H1
Timber Line Dr..... Q7	West Vista Dr..... R6	Yon Hill Rd..... H9
Timberview Dr..... E1	Westall St..... L14	York Dr..... F11
Tina Dr..... F4	Westbridge Dr..... F16	Yorkshire Wy..... L15
Tioga Trl..... D10	Westbrook Rd..... F11	Yosemite Dr..... Y3
Tipton Dr..... M7	Westfelt Rd..... C2	Young St..... J11
Tole Alison Rd..... Q5	Westfield Rd..... E2	Youngs Gap Rd..... V2
Toms Dr..... E11	Westhills Rd..... E2	Yvonne Dr..... H6
Toms Falls Rd..... Y1	Westminster Ct..... J12	
Toms Hill Dr..... H11	Weston Way..... G2	
Terra Dr..... M5	Westside Ct..... E10	

AREA TABLE

LOT	AREA
LOT 1	= 1.01 ACRES±
LOT 2	= 0.68 ACRES±
LOT 3	= 0.97 ACRES±
LOT 4	= 0.43 ACRES±
LOT 5	= 0.42 ACRES±
LOT 6	= 0.49 ACRES±
LOT 7	= 0.63 ACRES±
LOT 8	= 0.67 ACRES±
LOT 9	= 0.66 ACRES±
LOT 10	= 0.84 ACRES±
LOT 11	= 1.59 ACRES±
LOT 12	= 1.08 ACRES±
LOT 13	= 1.11 ACRES±
LOT 14	= 1.16 ACRES±
LOT 15	= 0.90 ACRES±
LOT 16	= 0.55 ACRES±
LOT 17	= 0.58 ACRES±
LOT 18	= 0.66 ACRES±
LOT 19	= 0.65 ACRES±
LOT 20	= 0.69 ACRES±
LOT 21	= 0.67 ACRES±
LOT 22	= 0.48 ACRES±
LOT 23	= 0.41 ACRES±
LOT 24	= 0.59 ACRES±
LOT 25	= 0.92 ACRES±
LOT 26	= 0.74 ACRES±

DANIELS OUTPARCEL = 0.83 ACRES±
OPEN SPACE = 2.00 ACRES±

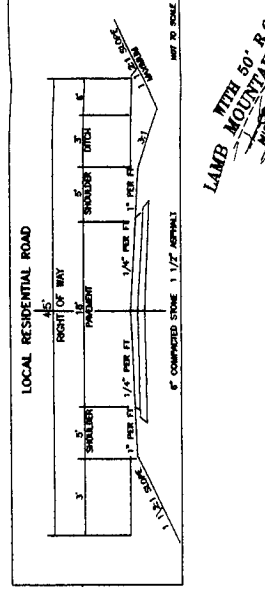
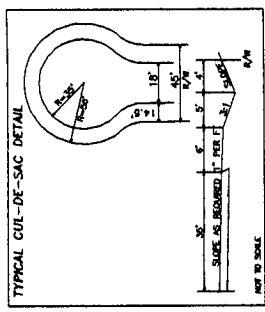


TABLE OF NUMBERED CALLS

COURSE	BEARING	DISTANCE
1	N 72°27'07"W	30.41'
2	N 59°09'26"W	50.06'
3	S 01°28'24"W	50.22'
4	N 57°13'38"W	48.88'
5	N 64°42'08"W	50.26'
6	S 59°48'39"W	50.26'
7	S 51°45'32"W	52.97'
8	S 42°33'07"W	33.43'
9	S 49°41'11"W	33.32'
10	S 47°26'53"W	32.43'
11	S 44°57'38"W	28.14'
12	S 60°03'22"W	37.13'
13	S 71°14'55"W	56.43'
14	S 62°52'29"W	55.35'
15	S 62°51'38"W	25.00'
16	S 62°51'38"W	25.00'
17	S 62°51'38"W	25.00'
18	S 62°51'38"W	25.00'
19	S 62°51'38"W	25.00'
20	S 62°51'38"W	25.00'
21	S 62°51'38"W	25.00'
22	S 62°51'38"W	25.00'
23	S 62°51'38"W	25.00'
24	S 62°51'38"W	25.00'
25	S 62°51'38"W	25.00'
26	S 62°51'38"W	25.00'
27	S 62°51'38"W	25.00'
28	S 62°51'38"W	25.00'
29	S 62°51'38"W	25.00'
30	S 62°51'38"W	25.00'
31	S 62°51'38"W	25.00'
32	S 62°51'38"W	25.00'
33	S 62°51'38"W	25.00'

CALLS ALONG CENTERLINE OF PUBLIC ROADS

COURSE	BEARING	DISTANCE	COURSE	BEARING	DISTANCE
49	S 26°46'48"E	10.00'	63	S 86°42'09"E	143.54'
50	S 81°05'13"E	13.83'	64	S 86°42'09"E	42.50'
51	S 87°59'41"E	101.56'	65	N 01°17'15"W	21.07'
52	N 01°17'15"W	27.35'	66	N 01°17'15"W	21.07'
53	N 01°17'15"W	27.35'	67	N 01°17'15"W	21.07'
54	N 01°17'15"W	27.35'	68	N 01°17'15"W	21.07'
55	N 01°17'15"W	27.35'	69	N 01°17'15"W	21.07'
56	N 01°17'15"W	27.35'	70	N 01°17'15"W	21.07'
57	N 01°17'15"W	27.35'	71	N 01°17'15"W	21.07'
58	N 01°17'15"W	27.35'	72	N 01°17'15"W	21.07'
59	N 01°17'15"W	27.35'	73	N 01°17'15"W	21.07'
60	N 01°17'15"W	27.35'	74	N 01°17'15"W	21.07'
61	N 01°17'15"W	27.35'	75	N 01°17'15"W	21.07'
62	N 01°17'15"W	27.35'	76	N 01°17'15"W	21.07'
63	N 01°17'15"W	27.35'	77	N 01°17'15"W	21.07'
64	N 01°17'15"W	27.35'	78	N 01°17'15"W	21.07'

NOTES:

- AREAS DETERMINED BY COORDINATE COMPUTATION.
- THIS PROJECT DOES NOT LIE IN THE 100 YEAR FLOOD HAZARD ZONE.
- LOT AREAS ARE EXCLUSIVE OF RIGHT OF WAYS.
- LOT 1 IS SET BACK FROM BRANCH WHICH CROSSES
- THE DISTANCE TO THE NEAREST PUBLIC WATER AND SEWER SYSTEM IS IN EXCESS OF 5000'.
- EDNEYVILLE FIRE DEPARTMENT SUBSTATION IS APPROXIMATELY 1.5 MILES NORTH OF PROJECT (SEE VICINITY MAP FOR LOCATION).
- 10' X 20' SIGHT TRIANGLE RESERVED.

LEGEND

- EXISTING CORNER MONUMENT
- AS NOTED
- NEW IRON PIPE SET OR
- AS NOTED
- COMPUTED POINT - NOT STAKED
- CONCRETE MONUMENT
- AS NOTED

REVISED COMBINED MASTER PLAN AND DEVELOPMENT PLAN FOR "EAGLE'S VIEW" SUBDIVISION

PHASE 1

BEING THE PROPERTIES DESCRIBED IN DEED BOOK 1013 PAGE 019 AND DEED BOOK 1127 PAGE 409

JAMES MARK BISHOP AND WIFE,
DIANE LEA BISHOP OWNERS / DEVELOPERS

203 BISHOP LANE
 FLETCHER, N.C. 28732

EDNEYVILLE TOWNSHIP
 HENDERSON COUNTY
 NORTH CAROLINA

MAY 15th, 2003

LESTER O. JOHNSON
 DEED BOOK 760 PAGE 217
 DEED BOOK 454 PAGE 243

LESTER O. JOHNSON
 DEED BOOK 760 PAGE 217
 DEED BOOK 457 PAGE 038

RECEIVED
 20 May 2003

GRAPHIC SCALE - FEET
 100 0 100 200 300

SCALE 1" = 100'

DEED NORTH
 D.B. 1013 PG. 019

LOCATION MAP (N/S)

SURVEY BY
STACY KENT RHODES
 NC PLS 2969
 WACONTER & BIRDSON
 LAND SURVEYORS, INC.
 130 JEL WRIGHT DRIVE
 HENDERSONVILLE, NORTH CAROLINA 28792
 PHONE: (602) 482-1022

DATE: MAY 15th, 2003
 DRAWN BY: R.L. STEPP
 JOB NUMBER: 03-040

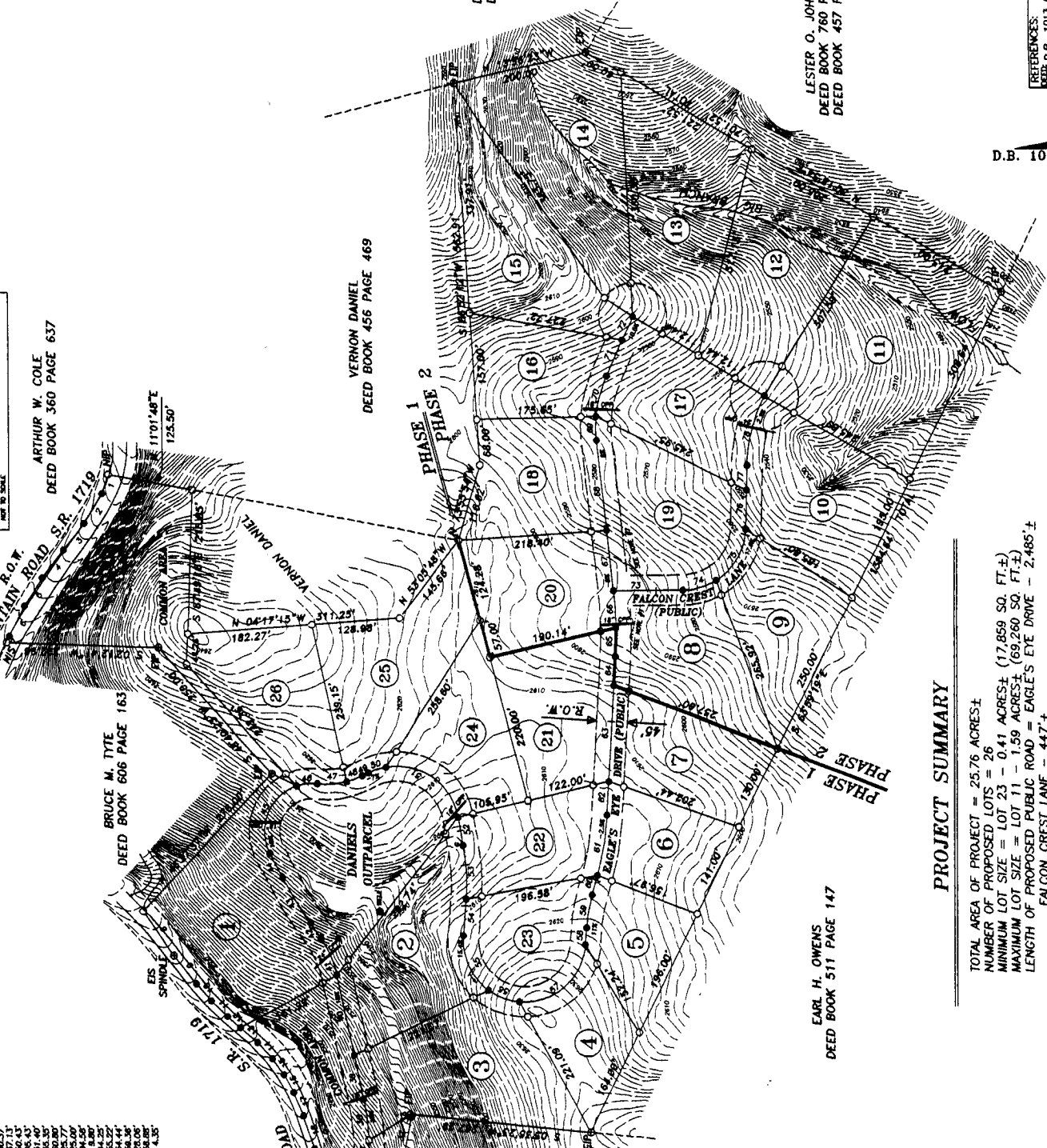
REFERENCES:
 D.B. 1013 PG. 019
 D.B. 1127 PG. 409

TAX ID REFERENCE:
 10-0810-06-1937-55


SCREEN FILE: 03-040M

CHECKED BY: S.K.R.

REVISIONS:



designed to NCDOT standards and have submitted them to be public roads. Individual wells and individual septic systems will service the lots. Mr. Smith stated that the conditions for approval are: (1) the proposed street listed as "road A" needs to be named and the road name will have to be approved in accordance with the Henderson County Property Addressing Ordinance; (2) the development plan should reference sight triangles equal to a minimum of 70 feet along Pottery Terrace Trail and 10 feet along the proposed "road A"; (3) An affidavit of understanding of Farmland Preservation District needs to be submitted to reference that the property lies within ½ mile of a farmland preservation district and should be shown on the plat; (4) Lots 1, 2 and 15 bordering the creek should show a minimum 30 feet setback from the creek in accordance with the *Subdivision Ordinance, Section 170-37(A)*; (5) The developer needs to show the location of the proposed or nearest water supply point for fire protection. Mr. Smith stated that the only real concern regarding this subdivision was with the small strip of land between the development property line and the proposed extension of Pottery Terrace Trail. The small strip appears to be included in lots 16-20. If the proposed road is to be public, Staff suggests the right-of-way be shifted down to the property line or include the additional property in a larger right-of-way to allow for possible connections at a future date. Philip Ward, agent for the developer, stated that the road needed to be built where the 10-foot strip was originally intended for a grading buffer for the property. He stated that he feels the developer would have no problem dedicating more right-of-way beginning in lot 16 and continuing through lot 21. Mr. Pearce asked whether it would make more sense to have the property line to go in the middle of the road instead of to the boundary of the property line. Mr. Ward stated that most property right-of-way is measured from the centerline of the road, but this would make it considerable amount of land between the lots, that is why these particular lots were taken from the outside of the property line. Mr. Ward stated as far as the other technical issues, he had no problems complying with the conditions. Bill Blalock made a motion to approve the second phase of Pottery Terrace subject to the conditions indicated in the agenda packet and as stated by Mr. Lee Smith and regarding Pottery Terrace Trail extension, to dedicate more right-of-way beginning with lot 16 and continuing to lot 21. Walter Carpenter seconded the motion and all members voted in favor.

 Eagle's View – Subdivision Master Plan and Development Plan Review (24 lots) – Stacy K. Rhodes, Agent for James Mark and Dianne Lea Bishop, Property Owners. Mr. Smith stated that Eagle's View subdivision is a 24-lot development in two phases and is requesting at this time approval of both phases. The lots are to be serviced by private wells and septic systems, but has yet to be determined that each lot will have its own individual well. Mr. Smith stated that there are in particular two concerns that Staff has regarding this development. The first one is the location of the access point of the two smaller cul-de-sacs onto Eagle's View Drive. The curve of Eagle's View Drive at the point where Falcon Lane enters appears to just meet the 90 feet curve radius requirements of the ordinance. While it does only serve three lots, Staff is concerned about adequate sight distances for traffic along either road. The area where Raptor Way enters creates a poor intersection in that the angle of the two roads is less than desirable. Eagle's View drive curves around awhile if you remain straight on the roadway you enter onto Raptor Way. Mr. Smith stated that Staff suggests Eagle's View be the portion of the road that remains straight and Raptor Way be the road curving off and suggest that the intersection be reconfigured to bring it more into line as a 90 degree intersection. The second concern is with the road grades. Mr. Smith stated that Stacy Rhodes, surveyor for the project, has indicated there may be a section at the beginning of the proposed Eagle's View Drive that may pose a problem and is seeking approval of this plan in order to determine if a road can actually be constructed to meet the requirements of the *Subdivision Ordinance*, but at this time they are uncertain if they can

meet the grade requirements. Mr. Smith then briefly reviewed the other comments for approval as follows: (1) A approved sedimentation and erosion control plan from the NCDENR; (2) Contour intervals for Development Plans should be at no less than five feet; (3) Road names will need to be named as they appear to be duplicate road names and after naming the roads, they need to be approved in accordance with the Henderson County Property Addressing Ordinance; (4) The development plan should reference sight triangles equal to a minimum of seventy feet along the main road ten feet along the proposed branch roads; (5) An affidavit of Understanding of Farmland Preservation District needs to be submitted; (6) Lots 18, 22, 23 and 24 having the creek either run through them or bordering them should show a minimum 30 feet setback from the creek in accordance with Section 170-37 (A) of the *Subdivision Ordinance*; (7) Potable water for the site is to be provided by individual wells so the nearest source of water for fire protection will have to be identified and (8) On the development plans show the stormwater drainage plans showing the natural drainage of the property and the designs of new drainage systems including swales, ditches, pipes, culverts, and detention ponds meeting the requirements of Section 171-29 of the *Subdivision Ordinance*. Mr. Stacy Rhodes explained the reason the way they designed the curve of Eagle's View Drive at the point where Falcon Lane enters and meet the 90-foot curve radius requirements of the Ordinance. Mr. Rhodes stated that with the approval of this plan, we can try to go in and determine if a road can actually be constructed to meet all of the requirements. He stated that with some leniency on the curve radius, they would probably be able to lower the road grade. Mr. Beattie asked Mr. Rhodes, "why do you need Master Plan approval to find out whether or not you can get a proper road grade in there." Ms. Smith stated that technically under the Ordinance, they are not suppose to grade or anything else until Master Plan approval. Mr. Beattie stated that what concerns him is if they go to the expense of grading, etc. and then they can not meet the grade then they will have to come back requesting a variance, which the Board will not be happy with that. Mr. Beattie asked whether there is a way to find out about the road grade before spending a lot of money to do the work? Ms. Smith asked Mr. Rhodes, "how far would you go into the rest of the development before you would come back for a variance?" Mr. Rhodes stated that he would just do this part of the development and not the entire grading project. Mr. Rhodes stated that they will probably be able to meet the grade by doing some wider road cross-sections, but will need the variance because of the road alignment. Planning Board discussed the requirements for approval of this development. Mr. Carpenter stated that he feels that the Planning Board and the developer understand or suspect that there will be a problem meeting the road grade and curve radius requirements in the statute and that the Planning Board is giving approval of this development specifically subject to being able to meet the requirements and that if they are not met, the Planning Board would not be responsible or something to that effect. Chairman McGrady asked whether this development could be phased so that it would require the lots dealing with the road piece and compliance in the first phase before they would continue developing the rest of the lots. After further discussion, Mr. Pearce made a motion to approve Eagle's View, Phase I and II subject to the conditions mentioned in the agenda packet and reviewed by Lee Smith and additional provision of understanding that any revisions to the grade or curve radius requirements that vary from the plan submitted to us that do not meet the *Subdivision Ordinance* will not necessarily be approved by the County. Bill Blalock seconded the motion and all members voted in favor. (Chairman McGrady turned over the Chairmanship to Mr. Beattie because of previous engagements).

old plan

MASTER AND DEVELOPMENT PLAN FOR
"EAGLE'S VIEW"
SUBDIVISION

PHASE I

BEING THE PROPERTY DESCRIBED IN
DEED BOOK 1013 PAGE 019

JAMES MARK BISHOP
AND WIFE,
DIANNE LEA BISHOP
OWNERS / DEVELOPERS

RT. 2 BOX 228
FLETCHER, N.C. 28732

EDNEYVILLE TOWNSHIP
HENDERSON COUNTY
NORTH CAROLINA

MAY 29th, 2000

PROJECT SUMMARY

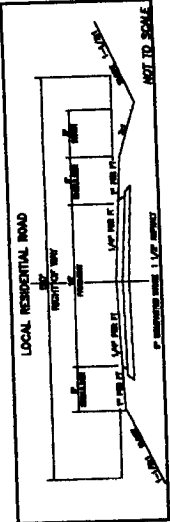
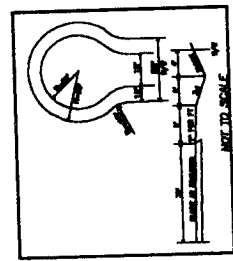
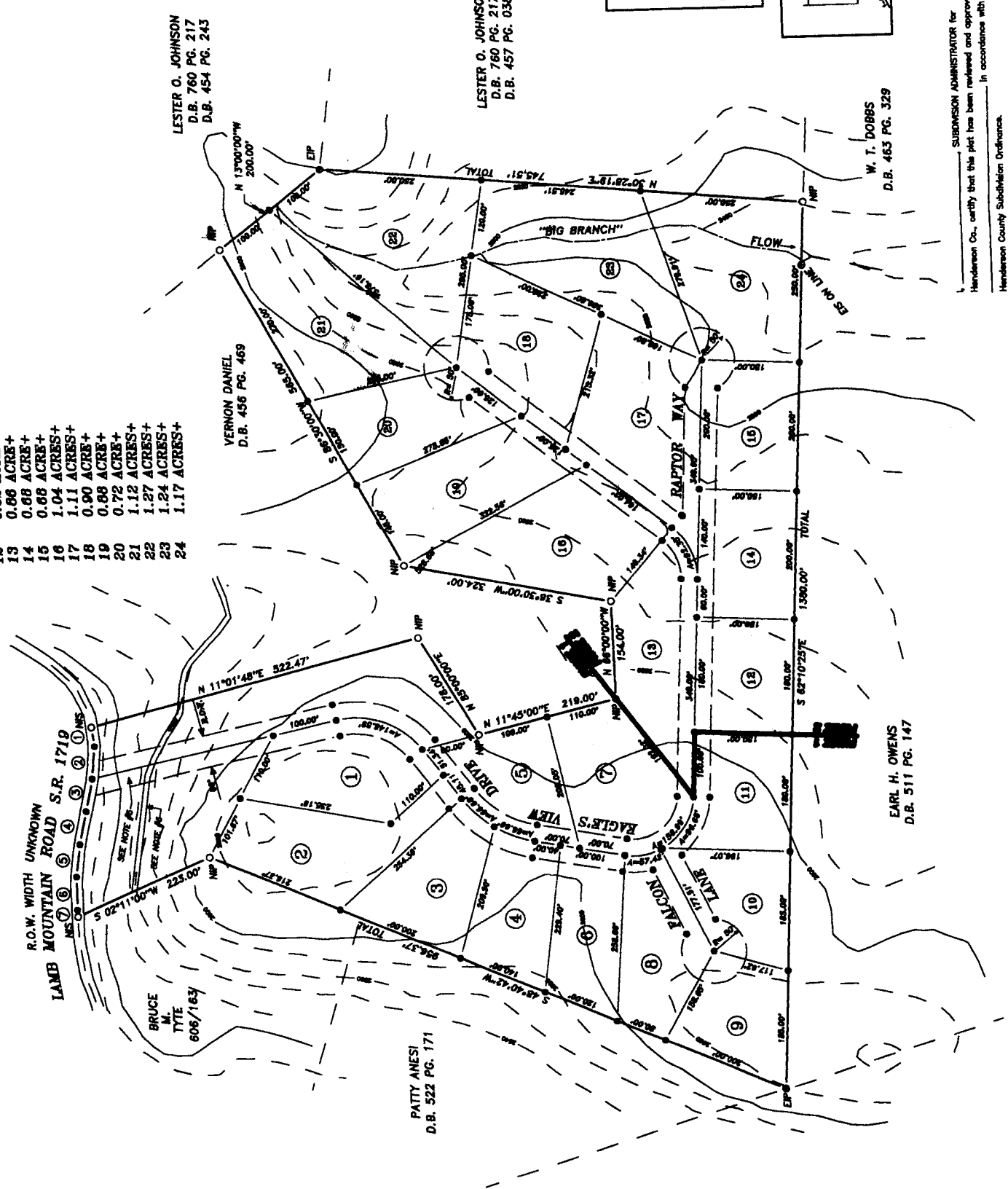
TOTAL AREA OF PROJECT = 22.10 ACRES+
NUMBER OF PROPOSED LOTS = 24
MINIMUM LOT SIZE = 24,720 SQ. FT.
MAXIMUM LOT SIZED PRIVATE ROAD:
LENGTH OF ROAD = 1138.5' +
PHASE II = 1088.4' +
PROPOSED WATER SYSTEM = PRIVATE
PROPOSED SEWER SYSTEM = PRIVATE
THIS TRACT IS UNZONED
FIRE DISTRICT = EDNEYVILLE

AREA TABLE

LOT #	ACREAGE INCLUDING R.O.W.
1	0.79 ACRES+
2	0.83 ACRES+
3	0.67 ACRES+
4	0.60 ACRES+
5	0.84 ACRES+
6	0.60 ACRES+
7	0.82 ACRES+
8	0.68 ACRES+
9	0.80 ACRES+
10	0.80 ACRES+
11	0.64 ACRES+
12	0.82 ACRES+
13	0.86 ACRES+
14	0.68 ACRES+
15	0.68 ACRES+
16	1.04 ACRES+
17	1.11 ACRES+
18	0.90 ACRES+
19	0.68 ACRES+
20	0.72 ACRES+
21	1.12 ACRES+
22	1.27 ACRES+
23	1.24 ACRES+
24	1.17 ACRES+

CALLS ALONG CENTERLINE
OF S.R. 1719
LAMB MOUNTAIN ROAD

COURSE	BEARING	DISTANCE
1	N 72°22'10"W	50.41'
2	N 82°28'22"W	50.98'
3	N 82°28'32"W	50.23'
4	N 32°20'45"W	51.88'
5	N 37°13'58"W	48.98'
6	N 84°42'58"W	51.27'
7	N 88°12'18"W	10.40'



State of North Carolina
County of _____
I, _____, Review Officer of _____ County,
certify that the map or plat to which this certification
is affixed meets all statutory requirements for recording.
Date: _____ Review Officer

I, _____, a PROFESSIONAL LAND SURVEYOR, certify
that this survey creates a subdivision of land within the area of
a county or municipality that has an ordinance that regulates
parcels of land.

I, _____, a PROFESSIONAL LAND SURVEYOR, certify
that this plat was drawn under my supervision from
an actual survey made under my supervision. Page _____
(said description recorded in Book _____)
that the boundaries not surveyed are clearly indicated
drawn from information found in Book _____ Page _____
that the ratio of precision as calculated is 1/_____
that this plat was prepared in accordance with G.S. 47-30
as amended and I have my original signature, registration
number and seal _____ A.D., 20 _____

PROFESSIONAL LAND SURVEYOR

PREPARED BY:
STACY KENT RHODES
NC PLS 2959
WAGGONER & REIDERS
LAND SURVEYORS, INC.
130 LEE WRIGHT DRIVE
HENDERSONVILLE, NORTH CAROLINA 28762
PHONE: (828) 863-1022

DATE: MAY 29th, 2000 DRAWN BY: B.S. & S.K. JOB NUMBER: 00-070

REFERENCES:
DEED: D.B. 1013 PG. 019
TAX ID REFERENCE:
10-0610-06-1837-35
SCREEN FILE: 00-070
CHECKED BY: S.K.R.
REVISIONS:

LOCATION MAP (NTS)

I, _____, SUBDIVISION ADMINISTRATOR for
Henderson Co., certify that this plat has been reviewed and approved as
in accordance with the
Henderson County Subdivision Ordinance.
Date: _____ Signed _____

- NOTES:
1. AREAS DETERMINED BY COORDINATE COMPUTATION
 2. AREAS INCLUDES ANY AND ALL PORTIONS UNDER U.S.S. QUAD MAP "CLIFFFIELD MTN."
 3. TOPOGRAPHICAL INFORMATION WAS OBTAINED FROM JAMES MARK BISHOP AS PER D.B. 1013 PG. 019.
 4. THE CURRENT OWNER OF LAMB MOUNTAIN ROAD IS SUBJECT TO REVISION DUE TO STEEP TERRAIN.
 5. THE ENTRANCE OF RAPTOR WAY ONTO LAMB MOUNTAIN ROAD IS THE BRIDGE TYPE PROPERTY. RIGHT OF WAY
 6. THE SOIL ROAD AS SHOWN IS THE ACCESS TO THE BRIDGE TYPE PROPERTY. RIGHT OF WAY
 7. WIDTH IS UNKNOWN BUT APPEARS TO BE 8' TO 10' WIDE.

- LEGEND
- > EXISTING CORNER MONUMENT AS NOTED
 - o- NEW IRON PIPE SET OR AS NOTED
 - COMPUTED POINT-NOT STAKED
 - c- CONCRETE MONUMENT AS NOTED


input session might be the best alternative. Ms. Smith stated that the report would go out ahead of time to each Board member. After discussion on scheduling a date and time, Chairman Pearce scheduled a Special Called Meeting to discuss this matter for July 9, 2002 at 7:00 p.m. at the Board of Commissioners Meeting Room. It was determined that the report will be sent out one week before the scheduled meeting date.

Ms. Smith stated that Commissioner Don Ward is present and has offered to open the Board of Commissioners Meeting Room in the County Administration Building at 100 North King Street to relocate the people that are here for Item 7, dealing with the rezoning request by Hollabrook Farms. Chairman Pearce decided that the people who were present for Item 7 could move to the Commissioners Meeting Room and that the other items on the agenda would be discussed now and then the meeting would reconvene in the Commissioners Meeting Room to hear Item 7 on the rezoning issue. He told those present they could follow Planner Josh Freeman to the Commissioners Meeting Room. Chairman Pearce then continued on with the other agenda items.

Chairman Pearce mentioned that this is Ms. Peagler's last meeting with the Planning Board as she is leaving the Planning Department to move back to Tennessee, where her husband acquired a job at a company there recently. Mr. Allison added that in addition to moving back to Tennessee, Ms. Peagler is going to become a mother. Everyone wished her well.

Ms. Smith asked that Green River Ridges Subdivision be added to the agenda so that they will be able to get their improvement guarantee released. All Board members agreed.

Requests for Extensions of Development Plan Approval Glens of Aberdeen – Glade Holdings, Inc., Developer. Ms. Peagler stated that on July 27, 1999 the Planning Board approved the Master and Development Plan for the Glens of Aberdeen. A revised Master and Development Plan was approved on June 27, 2000. The developers of the Glens of Aberdeen have completed a majority of the development; however, they did not complete a small section of the project and submit a Final Plat prior to the passing of its two-year approval period. Luther Smith, agent for the developers, sent Tony Campano in his place to ask for an extension of the development plan approval for a period of one year because not all proposed improvements have been completed. Ms. Peagler mentioned that a small section of the development including 400 feet of road that serves 3 units has not been completed at this time. Ms. Peagler mentioned that the water and sewer are in place in the entire development. She stated that the 400-foot road section is still not completed and needs to have the final grading and paving to finish the project. Roger Wolff made a motion to grant a one-year extension for the Glens of Aberdeen. Jack Lynch seconded the motion and all members voted in favor.

 Requests for Extensions of Development Plan Approval - Eagle's View – James Mark Bishop and Dianne Lea Bishop, Developers. Ms. Peagler stated that on June 27, 2000 the Planning Board approved the Master and Development Plan for Eagle's View Subdivision. She stated that the developers of Eagle's View did not complete the project and submit a Final Plat prior to the passing of its two-year approval period. Stacy Rhodes asked for an extension of the Development Plan approval for a period of one year because the North Carolina Department of Transportation is widening Lamb Mountain

Road where the entrance to Eagle's View Subdivision was planned. He stated that because of the widening project it was necessary for them to re-topo and re-engineer a drive that would be acceptable to the County's standards. Leon Allison made a motion to grant a one-year extension for Eagle's View. Roger Wolff seconded the motion and all members voted in favor.

Sunset Ridge (File # 01-M22) – Revised Combined Master and Development Plan Review (42 lots off Turnpike Road) – Jon Laughter, Agent for Dan L. Ducote Construction, Inc., Owners. Ms. Peagler stated that Sunset Ridge is a revised Master and Development plan for a forty-two (42) lot residential subdivision on approximately 24.7 acres off Turnpike Road. A portion of this property was submitted and approved as a seven (7) lot minor subdivision in 1993 and the remaining property received Planning Board approval for a major subdivision at the December 18, 2001 meeting of the Henderson County Planning Board. She stated that the original plan showed two (2) entrances to the development coming off Turnpike Road. The revised plans have eliminated one entrance (between lots 7R & 8) and added an additional cul-de-sac street, which was previously considered a utility easement. She said that lots range in size from just over 1/3 of an acre to just under 1 acre and will be serviced by a public water system and individual septic systems. Plans are being made however to provide a sanitary sewer system to the development. Private covenants were submitted for the previously approved portion of Sunset Ridge and these will also be used for the revised development. Ms. Peagler stated that Staff has reviewed the Combined Master and Development Plan for conformance with the Henderson County Subdivision Ordinance and stated that all requirements have been satisfied regarding the Master Plan. Ms. Peagler stated that with regard to the Development Plan, the following items are contingent on approval:

1. **Sedimentation and Erosion Control** –Submission of a letter from NCDENR stating that a sedimentation and erosion control plan has been approved for Etowah Terrace Subdivision. Etowah Terrace is the name of the minor subdivision previously approved and recorded. The developer states this approval is for the minor subdivision has been revised to show the entire development. NCDENR indicates that they have no plans for Sunset Ridge and that a Sedimentation and Erosion Control Plan will be required. This confusion needs to be cleared. Either a new letter from NCDENR or a copy of the approved plans showing the entire development needs to be submitted to the Planning Department.
2. **Water Supply** – General layout of proposed water lines should be shown on a revised Development Plan. Also letters from the servicing agency should be provided indicating adequate supply is available to service the development (HCSO 170-20).
3. **Sanitary Sewer** – The supplied copy of restrictive covenants indicates sanitary sewer will be supplied to the lots within the development. The plans indicate lots will be served by individual septic systems. However site inspection shows sewer lines are being placed throughout the development. Therefore, General layout of proposed sewer lines should be shown on a

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
PLANNING BOARD**

MEETING DATE: June 17, 2003

SUBJECT: Revised Development Parcel Plan for Carriage Park Section 10, The Ponds, Phase II

- ATTACHMENTS:**
1. Planning Staff Memo
 2. Application CheckList
 3. Descriptive Narrative of the Project (Letter dated 3/20/03 and Narrative date 5/15/03)
 4. Vicinity Map
 5. Parcel Map
 6. Master Plan
 7. Construction Plans for Carriage Park Section 10 – The Ponds, Phase II, dated May 16, 2003
 8. Order Amending May 4, 1999 Order and Specifically Approving Development of Section 10, Phase II
 9. Planning Board Package from 10/31/00
 10. November 15 and 28, 2000 Planning Board Minutes
 11. Contact List
 12. Public Notice

SUMMARY OF REQUEST:

Carriage Park Associate, LLC has submitted for Planning Board review a Construction Plan for Carriage Park Section 10 – The Ponds, Phase II. The new plan shows the “existing gravel road” right-of-way, which has been an on-going issue with Carriage Park Section 10, being removed. Carriage Park Associates, LLC, has resolved the “existing gravel road” issue with the adjoining and nearby property owners and this plan was submitted to show the removal of the gravel road. The Plan also illustrates a reduction in the proposed lake area- now a proposed pond. The plan shows an increase in the Section 10 and some other changes in the design of the Phase II.

Staff may offer additional comments at the Hearing.

Note to Planning Board Members:

Please bring your copies of the Carriage Park Special Use Permit #SP-93-13, including amendments A-1 through A-4.

HENDERSON COUNTY
PLANNING DEPARTMENT

MEMORANDUM

Date: June 11, 2003
To: Planning Board Members
From: Derrick L. Cook, Planner
Re: Plan Reviews for June 17, 2003 Planning Board Meeting
Carriage Park Plan Unit Development Section 10 – The Ponds Phase II

Carriage Park Section 10, The Ponds, Phase II
Carriage Park Associates, LLC, Dale Hamlin, Agent

Background Information

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.

The initial Planning Board Approval of Section 10 in May of 1999 prohibited the applicant (then Carriage Park Development Corporation) from constructing Phase II until the applicant demonstrated to the Planning Board that the “existing gravel road” had been resolved (see attachment 9). The applicant returned to the Planning Board in August of 2000 with a revised Plan for Phase II Section 10 that proposed maintaining the “existing gravel road” and made some related changes to the lay of Phase II. The Planning Board approved the revised Plan for Phase II on November 15, 2000 subject to certain conditions (see attachments 8 and 10). Following such approval, the applicant proceeded with certain development activities in Phase II, however the applicant has not recorded any final plats for Phase II.

Current Application

According to the application, Carriage Park Associates, LLC (now the applicant) has settled “existing gravel road” issue with adjoining and nearby property owners to the Carriage Park development. The property owners had the rights to the “existing gravel road” that extended through Carriage Park, The Ponds, Section 10. From the settlement with the property owners, Carriage Park Associates, LLC, has been allowed to remove the “existing gravel road.” The Applicant has submitted a Construction Plan illustrating this removal of the “existing gravel road.” The Construction Plan also shows a change in the lot configuration with larger lots and a change in the lot numbering from the previous

plans. The Plan proposes a residential street and changes the Golden Pond Court half-T-cul-de-sac to a bulb cul-de-sac. The removal of the "existing gravel road" allowed the cul-de-sac change. The plan shows the appropriate cross-section for the residential road and the new cul-de-sac according to the Special Use Permit standards. The Ponds, Phase II, Section 10 is proposed as 21 single-family detached units off Haywood Road. Lot sizes range from 0.15 acres to 0.32 acres. The section is located in an R-20 Zoning district and a Water Supply Watershed IV. The PUD status of Carriage Park allows it to be considered as an approved cluster development under the Water Supply Watershed Ordinance. Public water and sewer serve the section. Section 10 roads will be private residential streets as permitted by Special Use Permit #SP 93-13 and (as amended).

The review of Section 10, The Ponds, Phase II, is different than for a regular subdivision or phases of a subdivision. The Planning Board will need to conduct its review as a quasi-judicial proceeding. As a quasi-judicial proceeding, the Planning Board will need to make findings of fact and conclusions.

Staff mailed notices of the proceeding for Section 10 as required by the Special Use Permit #SP-93-13 (as amended) on June 6, 2003 (see attachment 12). The Applicant also had notice requirements to fulfill under Amendment A3 of Special Use Permit #SP-93-13 and should confirm completion of such requirements during the hearing.

Technical and Procedural Comments

Staff has reviewed the Construction Plans for Carriage Park Section 10, The Ponds, Phase II for conformance with the Henderson County Zoning Ordinance and Special Use Permit #SP-93-13 (as amended) and offers the following comments:

1. **Erosion Control Permit** – The Applicant states the necessary erosion control permit (required by the May 4, 1999 Order Granting approval of Section 10) has been acquired. Evidence of approval of an erosion and sedimentation control needs to be submitted to the Planning Department prior to Final Plat approval for Section 10, Phase II.

~~2. **Open Space** – The Construction Plan states 9.01 acres of the Phase II project is dedicated as open space with only 5.19 acres required. Based on proposed 21 lots, 10.10 acres of land is necessary to meet the R-20 density requirement. The development parcel size is 13.46 acres, which surpasses the density requirement by 3.36 acres. Does the total open space acreage of 9.01 represent what is dedicated for all of The Ponds, Phase I and II? Additionally, Carriage Park Associates, LLC must dedicate the required open space prior to Final Plat approval by Planning Staff for Phase II.~~

*Extra
will be used
in future
phases.
Add to overall
average.*

3. **Final Plat** – If the Development Parcel Plan for Section 10, Phase II is approved, the applicant must record a Final Plat for Section 10, Phase II that meets the

Henderson County Subdivision Ordinance requirements for a Non-Standard Subdivision.

*See No longer required #1A Page 4 of plat
As per Part B of order*

Since the "existing gravel road" issue appears to have been resolved the adjoining and nearby property owners, condition "a" of November 15, 2000 Order Amending the May 4, 1999 Order to provide and intersection of the "existing gravel road" and Mill Pond Road is no longer required.

Paragraph 1A is recorded of order 11/15/2000

5. Carriage Park Associates, LLC, has reduced the proposed lake (now pond) to 8,500 square feet. The square footage reduction alleviates the need for Carriage Park to get a State Permit for dam construction. Therefore, condition "b" of the November 15, 2000 Order Amending the May 4, 1999 Order, regarding submitting DENR or other agency approval for the lake is no longer needed with the Applicant providing appropriate documentation of this conclusion from DENR or other agency.

Lot 1042 (referred to as lot 17 in the Descriptive Narrative) existed in what was previously outside of the Section 10, Phase II, boundary. As the Applicant stated in the Narrative, the lot constitutes a 1.8% increase in the Section size. According to Special Use Permit Amendment SP-93-13-A3-f (b)(1) on page 7, if a Development Parcel Boundary Line increase or decrease by more than 10% the adjustment must be reviewed and approved by the Board of Commissioners. Since the boundary line change for the Development Parcel represents 1.8%, the Zoning Administrator can technically review the adjustment for approval, however the Planning Board can include the adjustment in its review and approval.

7. **Stream Setbacks** – Section 10, The Ponds, Phase II has a perennial streams indicated on it per the most recent USGS Topographic map. A minimum thirty-foot setback for buildings or other structures, excluding bridges and culverts is required. *Noted in Plat*

8. **Private Roads** – When private roads are shown, the plat 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.** *Over Mill Pond Creek that will meet NCDOT Standards -*

Staff Recommendation

The submittal is for approval of the revised Section 10, The Ponds, Phase II, Development Parcel of the Carriage Park Planned Unit Development. Staff believes that the submittal satisfactorily addresses the requirements of the Henderson County Zoning Ordinance, the Special Use Permit #SP-93-13 (as amended), and the Henderson County Water Supply Watershed Ordinance which regulating the Planned Unit Development.

Staff would recommend approval of the Development Parcel subject to the comments 1 through 3, 5, 6, 7 and 8 listed above being addressed that the Order approving such revised plan reflect necessary amendments to the May 4, 1999 and November 15, 2000 Orders applicable to Section 10 related to the comments listed above and that other prior conditions of the May 4, 1999 and November 15, 2000 Orders that are still applicable be maintained.

Possible Motion

I move that the Planning Board find and conclude that the revised Construction Plan submitted for Section 10, The Ponds, Phase II, of the Carriage Park Planned Unit Development complies with the provisions of the Henderson County Zoning Ordinance, the Henderson County Water Supply Watershed 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 that have not been satisfied by the applicant;

AND

I further move that such Construction Plan be approved subject to the following Conditions: Comment 5 on a Revised Development Parcel Plan, comments 1, 2, 3, 6, 7 and 8 being satisfied prior to the approval of the Final Plat for Section 10, The Ponds, Phase II and that the revised plan reflect necessary amendments to the May 4, 1999 and November 15, 2000 Orders applicable to Section 10 related to the comments listed above and that all other prior conditions of the May 4, 1999 and November 15, 2000 Orders that are still applicable be maintained and any conditions the Planning Board imposes.

**PLANNED UNIT DEVELOPMENT
PROJECT APPLICATION CHECKLIST
(CARRIAGE PARK)**

Date Submitted: 05/16/03 Special Use Permit #93-93 File #

Project Name: Carriage Park Section 10 – Phase 2

Project Location: NC 191, North, Henderson County

Owner/Applicant: Carriage Park Associates, LLC

Mailing Address: 2827 Haywood Road, Hendersonville, NC 28739

Telephone: 828-697-7200 Land Records PIN # 9559-28-7354 Deed Book Page: 801/705

Surveyor: Waggoner & Rhodes Land Surveyors Engineer: Patterson & Patterson Engineering

Pre-application Conference Date: March 31, 2003 Attended by: Vic Knight, Land Planning Collaborative

Required information for Development Plan

The following information shall be indicated on the master plan or detailed phase/section plan, or provided as supporting documentation for project or phase/section approval as applicable, in addition to other requirements defined in Section 700 of the Zoning Ordinance or any existing permit conditions.

Total Project Data		Unit Type	Phase/Section Data	
Tract Size	<u>392.3acres</u>	Single Family	<u>X</u>	Project Summary <u>X</u>
Total units/lots	<u>695</u>	Condominium	<u> </u>	Parcel Size <u>13.46 Ac.</u>
Zoning	<u>R/20-R/30</u>	Townhouse	<u> </u>	Density(units/acres) <u>1.6</u>
Fire District	<u>Mnt.Home</u>	Apartment	<u> </u>	Private Rd <u>X</u>
Density (units/acres)	<u>1.77</u>	Total units/lots	<u>21</u>	Private Water <u> </u>
Road Frontage	<u> </u>			Indiv.Septic <u> </u>
				Public Rd <u> </u>
				Public Water <u>X</u>
				Community Sewer <u>X</u>

General Information

X Scale (no less than 1" = 100')

X North Arrow

X Project Name, Phase/Section Name

X Owner Name

X Title of Map

X Name,Address, & Phone or project designer

X Date

X Legend

X Project map, Vicinity Map

Existing Site Characteristics

X Contours (5' maximum)

N/A Flood Hazard Area

X Structures (within 100' of boundary)

X Streams/ponds/water courses

X Unique or manmade features

X Property line data

X Easements/utilities

X Right-of-way

X Roads/Culverts/etc.

Site Plan Information N/A

<u>X</u> Proposed development areas	<u>X</u> Street horizontal alignment & grade	<u>N/A</u> Walks, paths, bike trails
<u>X</u> Identification of phases	<u>X</u> Vehicular circulation	<u>X</u> Proposed easements
<u>X</u> Proposed structures	<u>N/A</u> Off street parking	<u>N/A</u> Buffer or perimeter treatment
<u>X</u> Proposed lots	<u>N/A</u> Sign design	<u>X</u> Names of adjacent property owners
<u>X</u> Lot sizes/unit numbers	<u>N/A</u> Permanent sign location	<u>X</u> Names of adjacent subdivisions
<u>X</u> Setback lines for typical lot	<u>N/A</u> Ancillary commercial uses	<u>X</u> Storm water system
<u>X</u> Street location	<u>N/A</u> Loading areas	<u>X</u> Water & Sewer systems
<u>X</u> Street names	<u>N/A</u> Service areas	<u>X</u> Proposed common areas
<u>X</u> Street cross section	<u>X</u> Proposed streams/ponds/water courses	<u>N/A</u> Area lighting (if applicable)

WRITTEN DOCUMENTS

- On File- The zoning district or districts in which the project is located.
- On File_ A general statement of objectives to be achieved by the planned unit development through the particular approach proposed by the applicant.
- On File_ A legal description of the total site proposed for development, including a statement of present and proposed ownership.
- On File_ Quantitative data for the following: proposed total number and type of residential dwelling units, parcel sizes, gross residential densities and total amount of open spaces.
- ___N/A_ A development schedule indicating approximate beginning & completion dates of the development, including any proposed stages.
- ___N/A_ A statement of the applicant's intentions with regard to the future selling and/or leasing of all or portions of the planned unit development.
- On File_ A copy of recorded or proposed covenants, restrictions, homeowner's association's documents or instruments setting forth the plan for the care and maintenance of common areas. Recreation areas, open spaces, utilities, streets, and/or vehicular circulation facilities. (NOTE: This item may be omitted by a letter by the owner indicating that existing recorded covenants will be enforced for the new section.)
- ___N/A_ If the developer plans to bond improvements, specify.
- On File_ Information on adjacent land areas, including land use, zoning classifications, public facilities, and any unique natural features.
- On File_ The proposed treatment of the perimeter of the development including materials and/or techniques such as screens, fences, and walls.
- On File_ List of names and addresses of adjacent property owners or those within 100 feet.
- ___N/A_ Evidence of submission or approval of water and sewer system plans.
- ___N/A_ Evidence of submission or approval of an erosion control plan.
- ___N/A_ Documentation from emergency service agencies as to the adequacy of project facilities for emergency medical and fire service.

Note: Items identified with (On File) are on record with SP93-13

FOR PLANNING DEPARTMENT USE

Date Received: 5/16/03 Received by: D. Cook Staff review by: D. Cook Fee Paid \$ 150 5/16/03

_____ Date staff comments conveyed to applicant.

_____ Date of first Planning Board review.

_____ Date of subsequent Planning Board review.

Planning Board Action:

_____ Approved

_____ Denied

_____ Approved w/conditions (copy of permit and conditions attached)

_____ Date of formal notification to Applicant

Plan Approved: _____ Planning Director



March 20, 2003

Derrick Cook
Henderson County Planning Department
101 East Allen Street
Hendersonville, NC 28792

Re: Carriage Park - Section 10, Phase 2

On behalf of Carriage Park, we are submitting this letter along with the previously submitted Section 10 - Phase 2 Site Plan for your review. Phase 2 of Section 10 was originally approved by the Henderson County Planning Board as 21 Single-Family Detached Units. The approved plan included a 35,000 Square Foot Lake and had a Right-of-Way running through the Development Parcel.

The revised plan for Phase 2 proposes to keep 21 Single-Family Detached Units. One of these units, identified as Lot 17, is located outside of the Development Parcel, resulting in a 1.8% increase of the approved parcel boundary. We would like to have this reviewed by Staff as indicated in AP-93-13-A3, 3.f.25.b.

The size of the lake has been reduced to 8,500 Square Feet and will no longer require a State Permit for dam construction, as it will be an excavated lake. This will remove one of the conditions of the previous approval for all permits to be obtained. Carriage Park has obtained the necessary Erosion Control Permit for this section.

The last modification to the site plan involves removing the existing Right-of-Way. A legal agreement has been reached with adjacent property owners to close the existing Right-of-Way.

Both Dale Hamlin and I will be available at the March 31st meeting to answer any questions that you may have. If you have any questions or concerns in the meantime, please do not hesitate to call.

Sincerely,



Vic Knight, ALSA
Land Planning Collaborative, P.A.



Descriptive Narrative

May 15, 2003

CARRIAGE PARK – SECTION 10 – The Ponds Phase 2

Phase 2 of Section 10 is proposed as 21 single-family detached units. Lot sizes range from 0.15 Acres to 0.32 Acres. Streets within Section 10 will be residential streets as provided for in SP93-13. Unit setbacks are provided for in SP93-13 and are indicated on plan.

Certain areas, where indicated on the plan, contain slopes greater than 40%. Disturbance within these areas, initiated by the Developer will be limited to the street construction limits. Disturbed slope areas will be stabilized with permanent vegetation as provided for in the erosion control plan.

A legal description and development objective of Carriage Park property is on file with the Planning Department. Lots within Section 10 are subject to the recorded Declaration and Covenants for Carriage Park also on file.

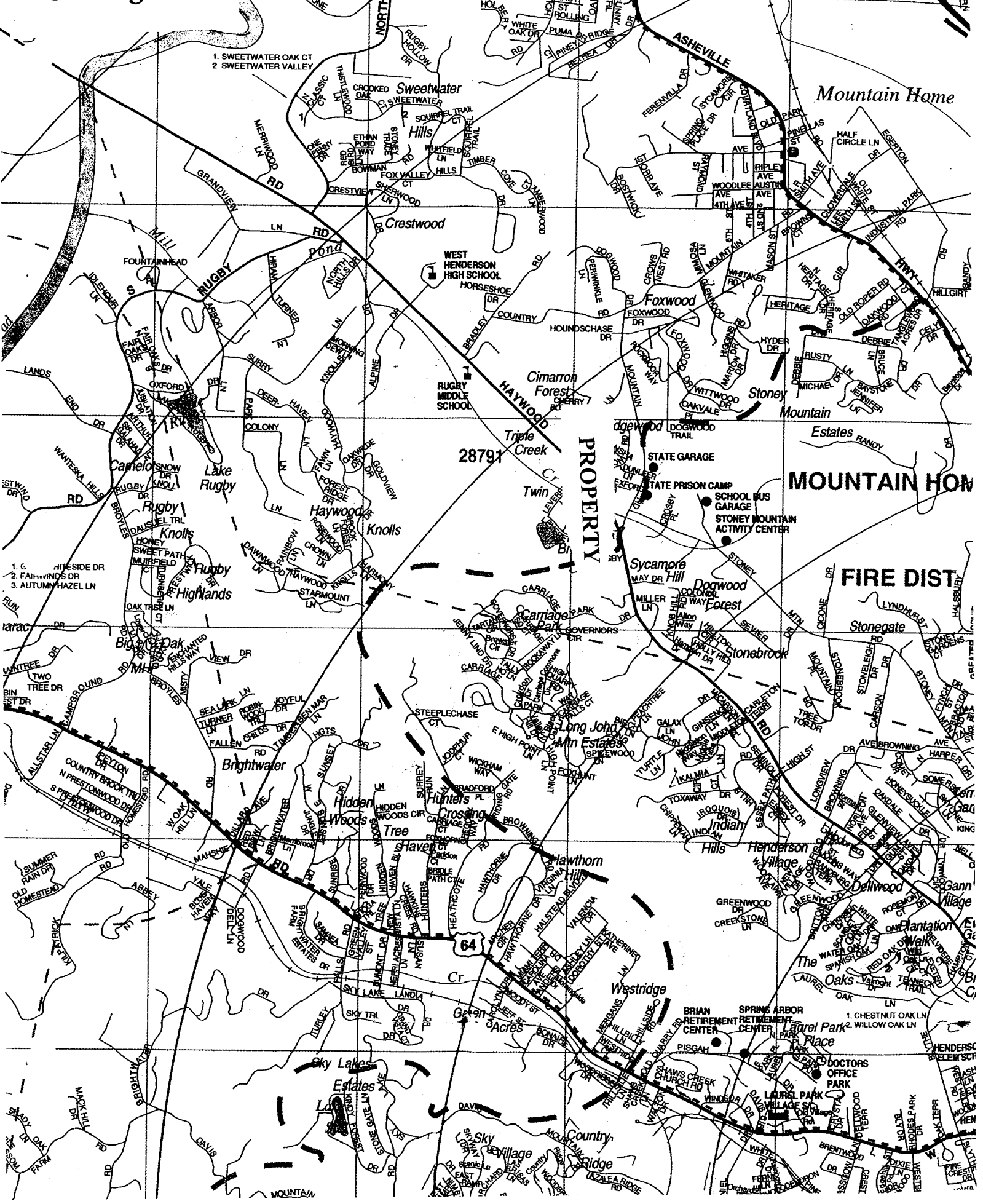
The owner anticipates construction of streets and infrastructure within Section 10 to begin in the summer of 2003, following receipt of all state and local approvals. Construction is planned to be completed within twelve (12) months.

Sewer and water lines are currently available to the boundary of Section 10.

It is not the Owner's intent to sell the development parcel.

Vicinity Map Carriage Park

Attachment = 4



- 1. SWEETWATER OAK CT
- 2. SWEETWATER VALLEY

- 1. C. HITESIDE DR
- 2. FAIRWINDS DR
- 3. AUTUMN HAZEL LN

- 1. CHESTNUT OAK LN
- 2. WILLOW OAK LN

MOUNTAIN HOME

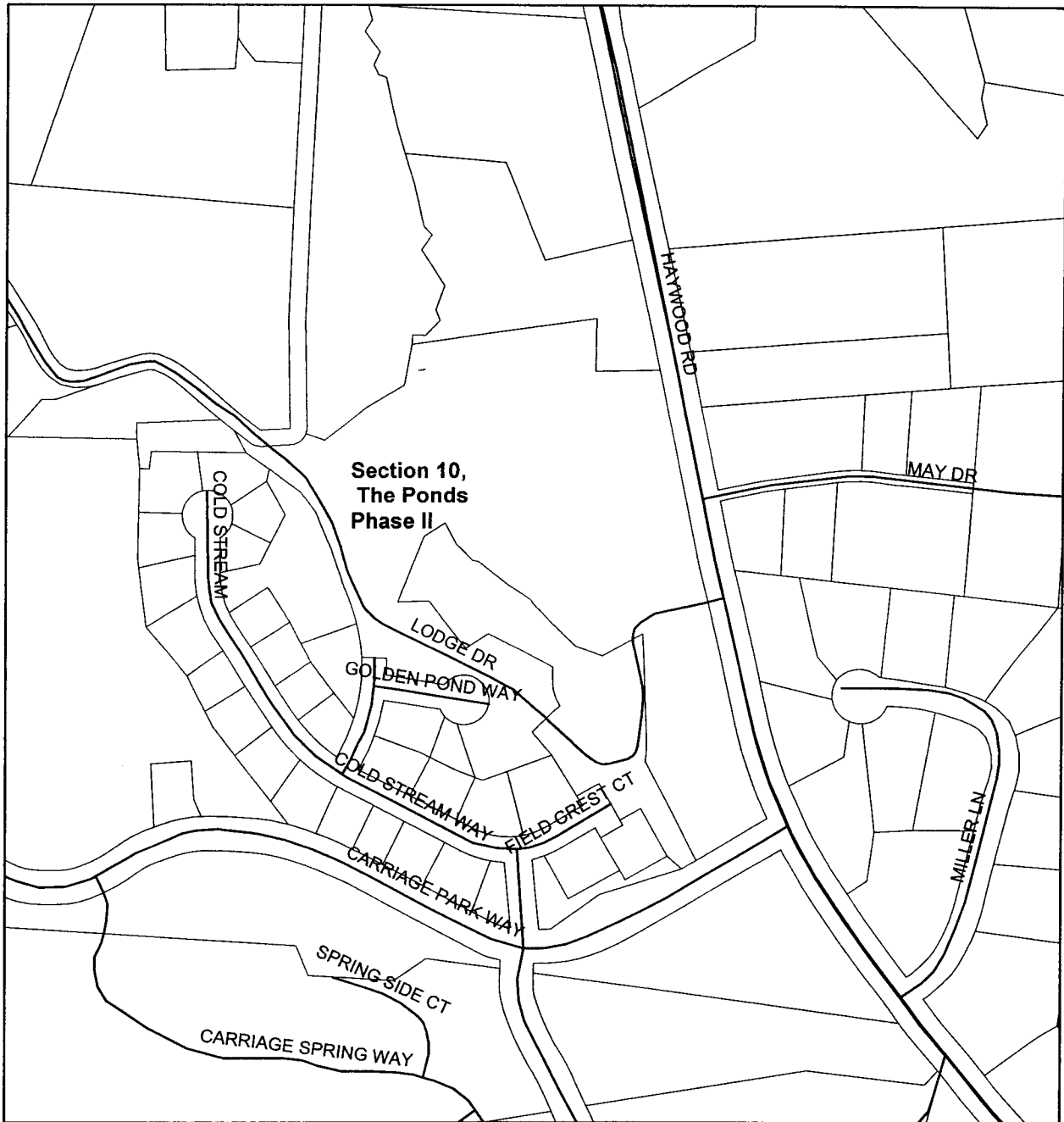
FIRE DIST

28791

PROPERTY

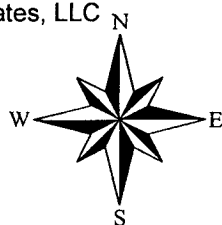
Vicinity Map Carriage Park

Henderson County Planning Department

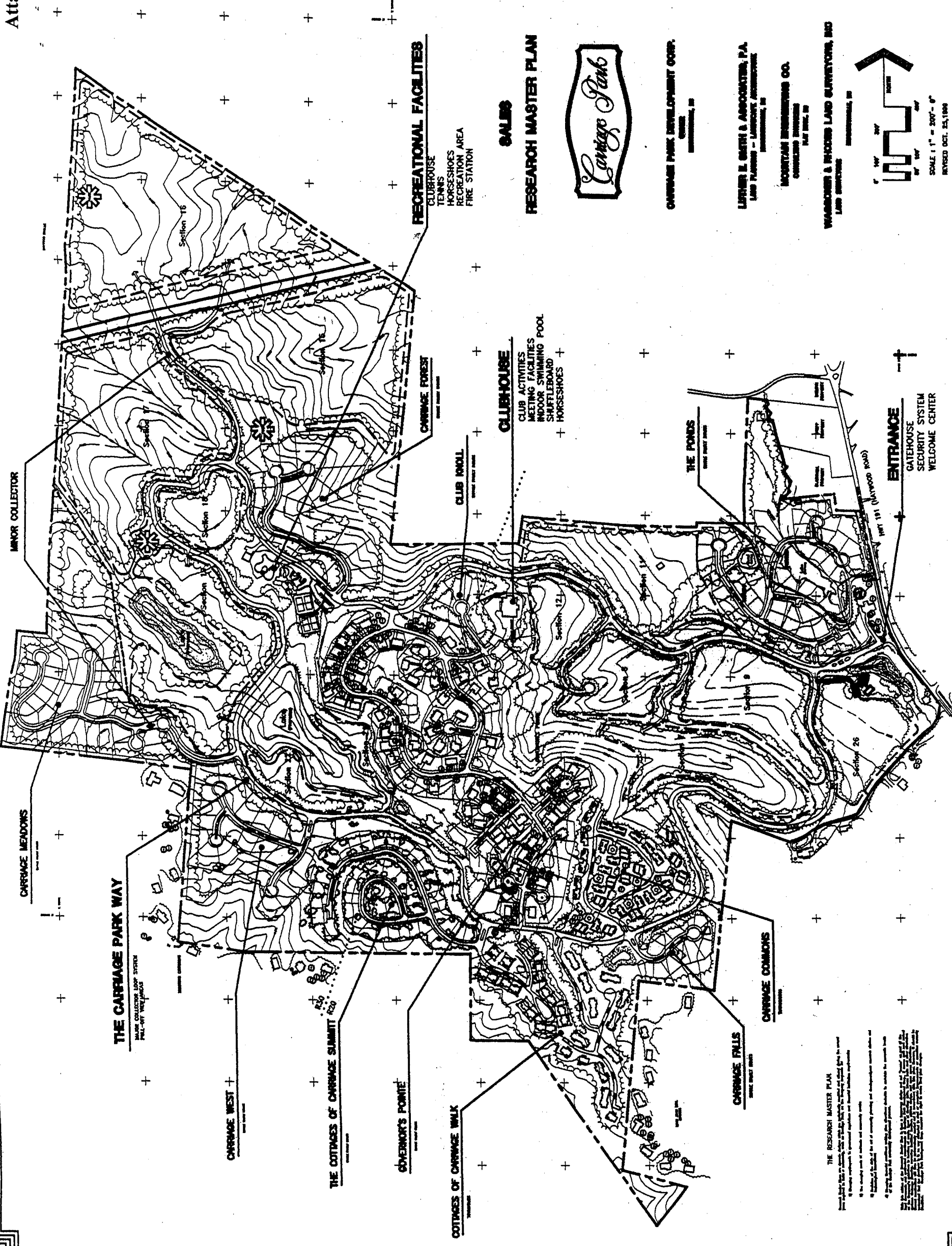


Carriage Park Section 10, The Ponds

This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map, are hereby notified that the forementioned public primary information sources should be consulted for verification of the information contained on the map. The County and mapping company assumes no legal responsibility for the information contained on this map.



PROPERTY OWNER: Carriage Park Associates, LLC
MGI Dale Hamlin
TAX MAP ID: 00-9559-49-7994-55
ZONING: R-20
WATERSHED: WS IV



THE RESEARCH MASTER PLAN

This plan is based on a study of the site and its surroundings. It is intended to provide a framework for the development of the site and to guide the design of the buildings and landscape. The plan is based on the following assumptions:

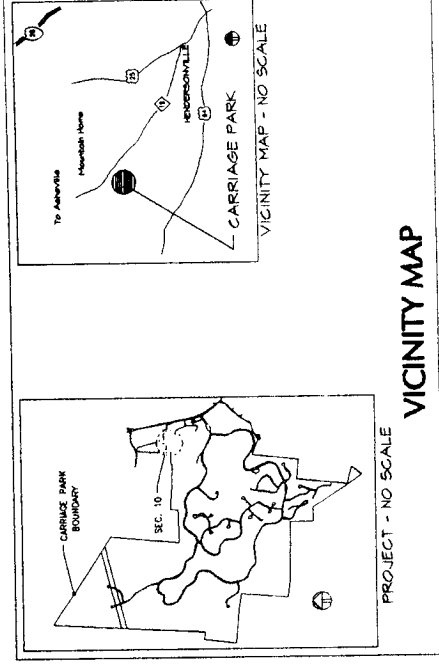
- 1. The site is to be developed as a residential community.
- 2. The site is to be developed in accordance with the zoning regulations of the local government.
- 3. The site is to be developed in accordance with the environmental regulations of the local government.
- 4. The site is to be developed in accordance with the aesthetic requirements of the local government.

The plan is based on the following assumptions:

- 1. The site is to be developed as a residential community.
- 2. The site is to be developed in accordance with the zoning regulations of the local government.
- 3. The site is to be developed in accordance with the environmental regulations of the local government.
- 4. The site is to be developed in accordance with the aesthetic requirements of the local government.

CONSTRUCTION PLANS FOR
CARRIAGE PARK
SECTION 10 - THE PONDS PHASE II
HENDERSON COUNTY, NORTH CAROLINA

MAY 16, 2003



- LIST OF DRAWINGS**
- 1 COVER SHEET
 - 2 SITE PLAN
 - 3 PROPOSED SITE REVISIONS
 - 4 VERTICAL ROAD DESIGN

DEVELOPER:

CARRIAGE PARK ASSOCIATES, LLC
2827 HAYWOOD ROAD
HENDERSONVILLE, NORTH CAROLINA 28739
828/697-7200
CONTACT: DALE HAMLIN

LAND PLANNER:

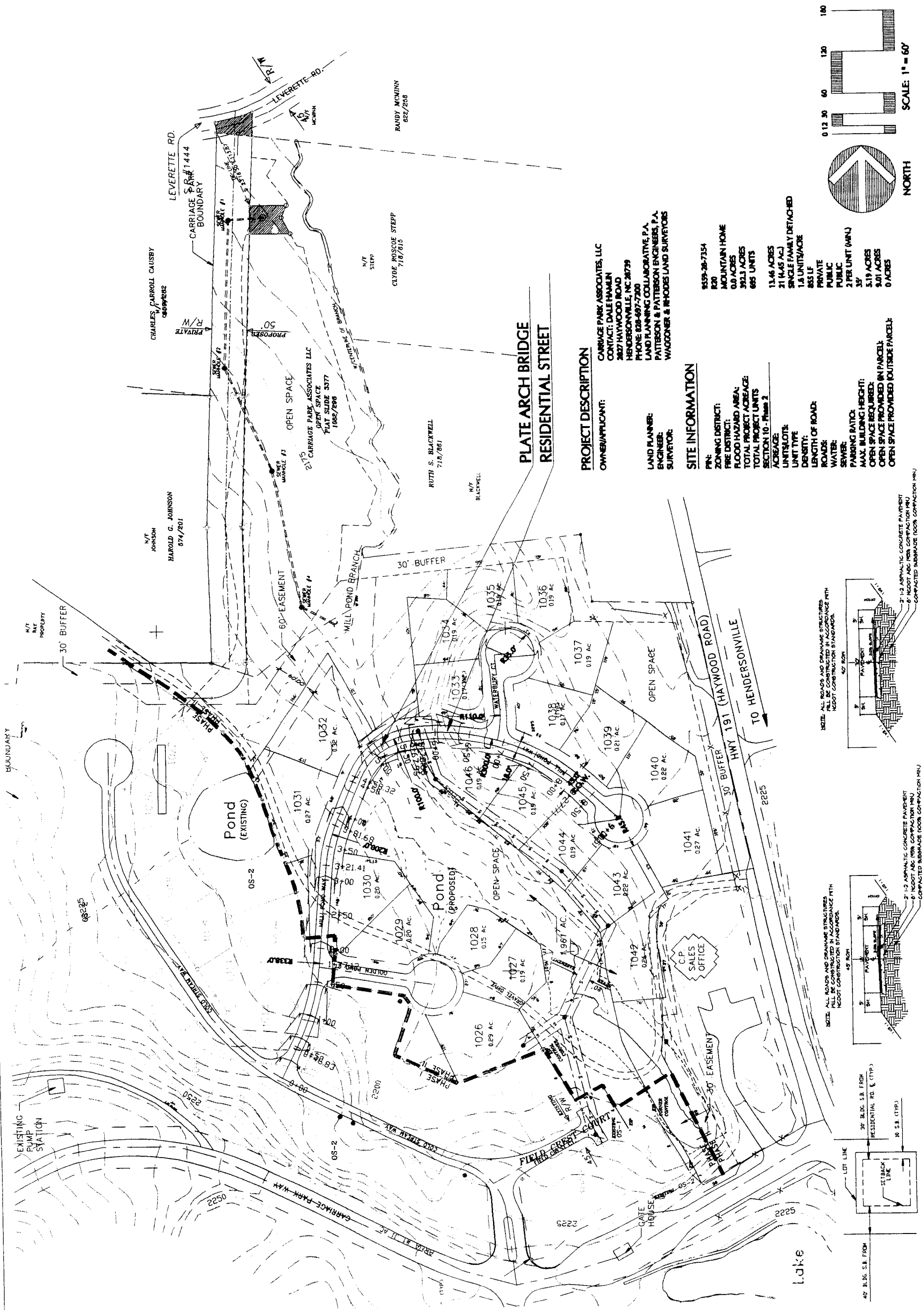
LAND PLANNING COLLABORATIVE, P.A.
77 CENTRAL AVENUE, SUITE A
ASHEVILLE, NORTH CAROLINA 28801
828/253-3660
CONTACT: ROBERT M. GRASSO, ASLA

CIVIL ENGINEER:

PATTERSON & PATTERSON ENGINEERING
P.O. BOX 1189
HENDERSONVILLE, NORTH CAROLINA 28739-1189
828/692-6629
CONTACT: PAUL PATTERSON, P.E.

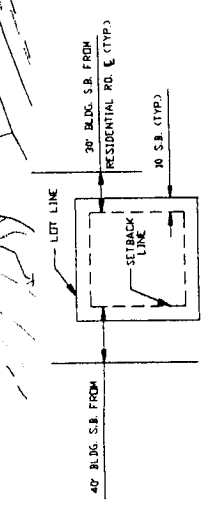
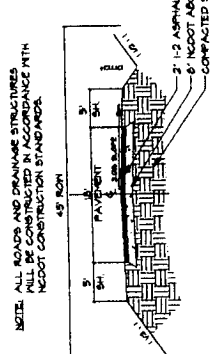
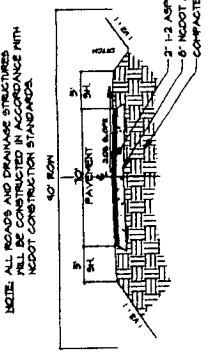
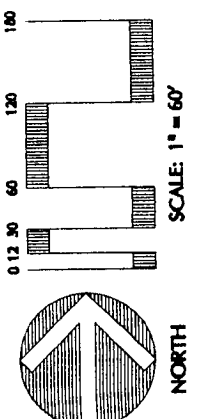
SURVEYOR:

WAGGONER & RHODES LAND SURVEYORS
130 JOEL WRIGHT DRIVE
HENDERSONVILLE, NORTH CAROLINA 28792
828/693-1022
CONTACT: STEVE WAGGONER, RLS



PROJECT DESCRIPTION
 OWNER/APPLICANT: CARRIAGE PARK ASSOCIATES, LLC
 CONTACT: DALE HAMLIN
 2827 HAYWOOD ROAD
 HENDERSONVILLE, NC 28739
 PHONE: 628-697-7200
 LAND PLANNER: LAND PLANNING COLLABORATIVE, P.A.
 ENGINEER: PATTERSON & PATTERSON ENGINEERS, P.A.
 SURVEYOR: WAGGONER & RHODES LAND SURVEYORS

SITE INFORMATION
 PIN: 9539-28-7354
 ZONING DISTRICT: R20
 FIRE DISTRICT: MOUNTAIN HOME
 FLOOD HAZARD AREA: 0.9 ACRES
 TOTAL PROJECT ACREAGE: 342.3 ACRES
 TOTAL PROJECT UNITS: 685 UNITS
 SECTION 10 - PHASE 2: 13.46 ACRES
 ACREAGE: 31 (4.45 AC.)
 UNITS/SLOTS: SINGLE FAMILY DETACHED
 UNIT TYPE: 1.6 UNITS/ACRE
 DENSITY: 85 SLF
 LENGTH OF ROAD: PRIVATE
 ROADS: PUBLIC
 WATER: 2 PER UNIT (MIN.)
 SEWER: 3.19 ACRES
 PARKING: 3.01 ACRES
 MAX. BUILDING HEIGHT: 0 ACRES
 OPEN SPACE PROVIDED (IN PARCEL): 0 ACRES
 OPEN SPACE PROVIDED (OUTSIDE PARCEL): 0 ACRES

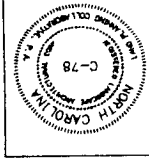


CUL-DE-SAC CROSS SECTION (TYP.)

RESIDENTIAL STREET CROSS SECTION (TYP.)

TYPICAL BUILDING SETBACK

LAND PLANNING
COLLABORATIVE



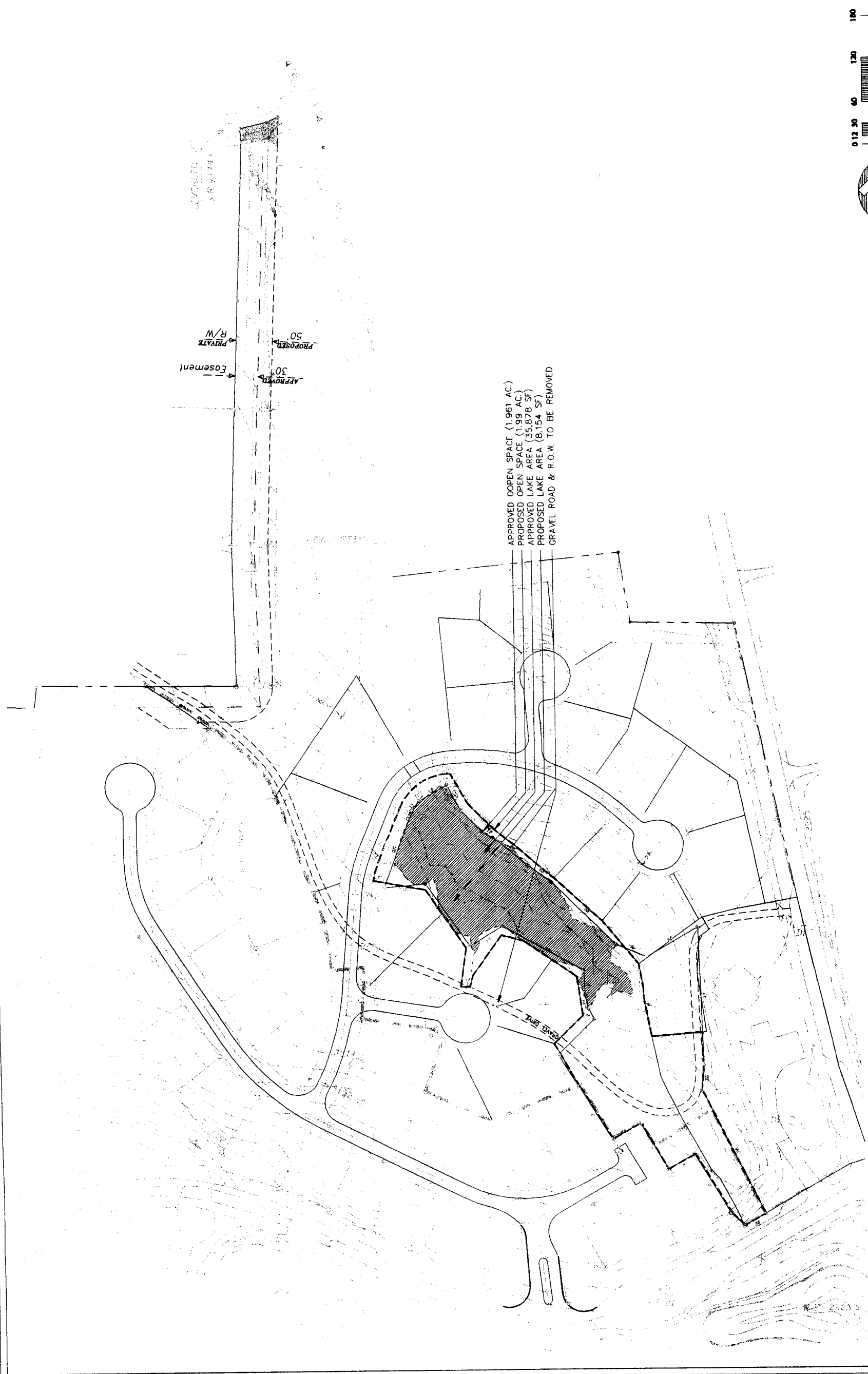
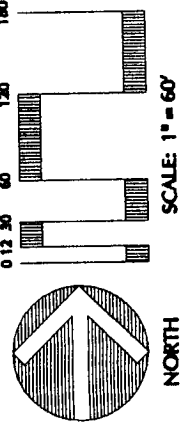
PROPOSED SITE REVISIONS

CARRIAGE PARK

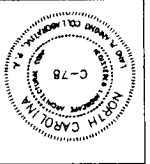
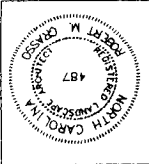
SECTION 10 - THE PONDS
HENDERSON COUNTY, NORTH CAROLINA

JOB NO. 10 -
DATE: MAY 14, 2008
REVISIONS

SHEET
3 OF 4



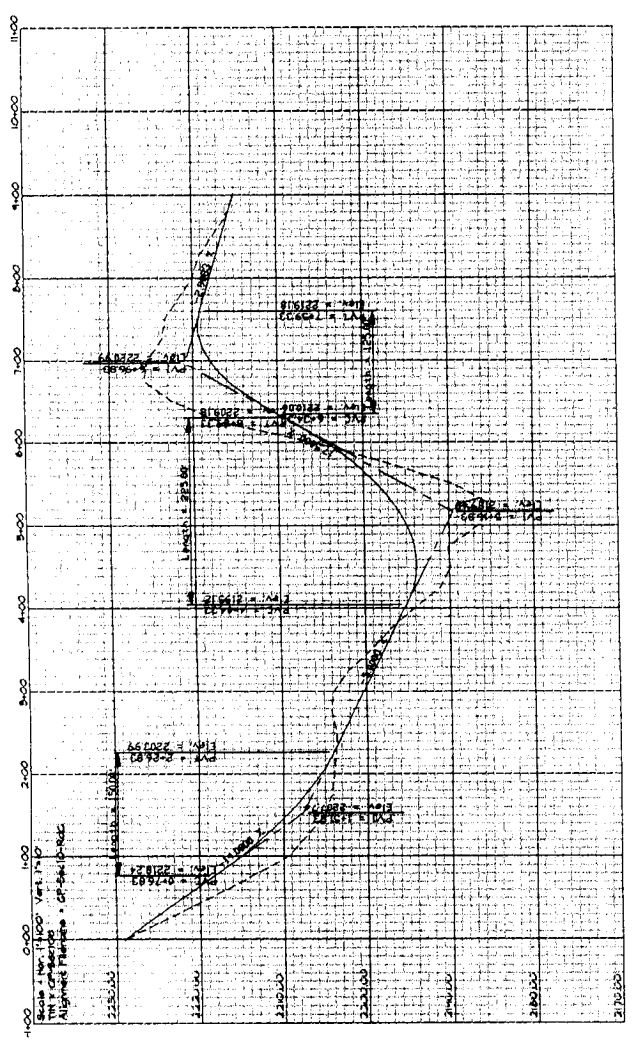
LAND PLANNING COLLABORATIVE
 77 CENTRAL AVE. SUITE A
 ASHEVILLE, N.C. 28801
 PHONE: (828) 253-1111
 FAX: (828) 253-1112
 E-MAIL: info@landplanning.com



VERTICAL ROAD ALIGNMENT

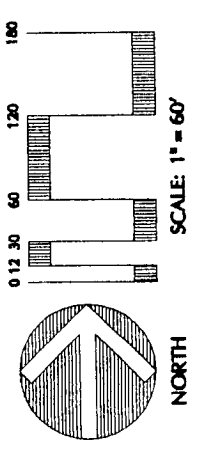
CARRIAGE PARK
 SECTION 10 - THE PONDS
 HENDERSON COUNTY, NORTH CAROLINA

JOB NO.:
 DWG. NO.:
 DATE: MAY 14, 2003
 REVISIONS:
 SHEET
 4 OF 4



1 MILL POND WAY SECTION 4

NOT TO SCALE



COUNTY OF HENDERSON
STATE OF NORTH CAROLINA

AMENDMENT TO DEVELOPMENT PARCEL
CARRIAGE PARK, SECTION 10, THE PONDS

IN THE MATTER OF THE APPLICATION OF
CARRIAGE PARK DEVELOPMENT CORPORATION,
APPLICANT, TO THE
HENDERSON COUNTY PLANNING BOARD,
APPROVAL AUTHORITY

ORDER AMENDING MAY 4, 1999 ORDER AND SPECIFICALLY APPROVING
DEVELOPMENT OF SECTION 10, PHASE II

The Henderson County Planning Board (sitting with the following members present: Chairman Tedd Pearce, Walter Carpenter, Rebecca Nesbitt, Jack Lynch and Roy Huntley) having held a quasi-judicial hearing on November 15, 2000 to consider an application for approval to proceed with the development of Phase II of Section 10, The Ponds, and a request to amend that Order entered on May 4, 1999 which approved the development parcel for Section 10; and having made the following persons parties to the proceeding: Carriage Park Development Corporation, Henderson County Planning Director Karen Smith, Virginia Burke and Jim Sauer of the Carriage Park Homeowners Association; and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

FINDINGS OF FACT

1. The Henderson County Board of Commissioners delegated authority to the Henderson County Planning Board (hereinafter referred to as "Planning Board") to review development parcel applications under Special Use Permit 93-13 issued to Carriage Park Development Corporation (hereinafter referred to as "Carriage Park") on October 11, 1993.
2. The Planning Board, after holding a quasi-judicial hearing and reviewing a development parcel application, adopted an order granting approval of that development parcel for Carriage Park known as Section 10, The Ponds, on May 4, 1999 (hereinafter referred to as the "May 4, 1999 order").
3. The plan that was approved by the May 4, 1999 order contemplated the abandonment of an "existing gravel drive" which was shown on the plan, however, at that hearing some questions were raised by adjoining and nearby property owners outside of Carriage Park as to whether the "existing gravel drive" could or would be abandoned.
4. Paragraph 7 of the conditions of the May 4, 1999 order prohibited Carriage Park Development Corporation (hereinafter referred to as "Carriage Park") from developing any roads or lots in Phase II of Section 10 until it demonstrated a

resolution of the "existing gravel road" which was shown on the approved Alternate Preliminary Plan for Section 10, Phase II.

5. Paragraph 8 of the conditions of the May 4, 1999 order prohibited Carriage Park from impairing the use of the "existing gravel road" until issues regarding such road had been resolved. Paragraph 8 also acknowledged that Carriage Park would install a sewer line but required that damage to the gravel road be minimized, that the road be closed for a short period of time and that the road be restored as near as possible to its prior condition.
6. On August 28, 2000, Carriage Park submitted a revised Alternate Preliminary Plan for Section 10, the Ponds, Phase II (hereinafter referred to as "the revised Plan") that shows that the "existing gravel road" will remain. The revised Plan also showed some adjustments to the layout of Phase II to allow the continued use of the "existing gravel road," including a reduction in the number of proposed Phase II lots from 25 to 21. On the revised Plan, Carriage Park also changed the type of turnaround on the proposed Golden Pond Court, shifted the location of Mill Pond Way in the area south of the existing pond and adjusted the layout of some of the lots and proposed common area. The revised Plan shows a new paved road section that had been constructed by Carriage Park to access a sewer lift station and to connect the "existing gravel road" with Leverette Road. A copy of the revised Plan is attached hereto as Exhibit A and incorporated herein by reference.
7. On October 18, 2000, Carriage Park submitted a letter requesting that the Planning Board remove conditions #7 and #8 from all permits for Section 10;
8. Carriage Park and the adjacent and nearby property owners that use the "existing gravel drive" to access their property had reached a settlement that would allow such adjoining and nearby property owners to continue to use such road.
9. The "existing gravel drive" provides another entrance into Carriage Park off NC191 which does allow for entry into the development beyond the security gate at the main entrance into Carriage Park.
10. The revised Plan shows the "existing gravel drive" intersecting with Mill Pond Way and running through Lots 1025, 1027, 1029 and 1031.
11. Carriage Park indicated that it will provide for "visual and acoustical privacy" (per Special Use Permit #SP-93-13, Exhibit A, Condition 5) for future owners of Lots 1025, 1027, 1029 and 1031, the lots which the "existing gravel drive" traverses, by providing appropriate plantings as units are placed on such lots;

12. If Carriage Park provides for the intersection of the "existing gravel road" and Mill Pond Way to be constructed at grade, it will help ensure that the use of the "existing gravel road" by the adjacent owners will not be adversely affected.
13. Except for the following items, the revised Plan complies with the conditions of SP-93-13 (and as amended) and the Henderson County Zoning Ordinance:
 - a. Carriage Park should submit evidence that plans for the proposed lake have been approved by NCDENR and any other agencies having such authority prior to approval of any final plats for Section 10, Phase II.
 - b. Carriage Park must record a final plat for Section 10, Phase II, and such plat must meet the requirements of the Subdivision Ordinance for Non-standard Subdivisions.
 - c. Carriage Park must dedicate required open space prior to final plat approval of Section 10, Phase II by Planning Staff.
14. The revised Plan is consistent with the Master Plan for the development that is currently on file.

CONCLUSIONS

1. That the Planning Board has jurisdiction to hear and consider Carriage Park's request for amendments;
2. That neither SP-93-13 (as amended) nor the Henderson County Zoning Ordinance prohibit a developer from laying out lots with an existing road or access easement running through the lots and, therefore, those decisions must be left to the developer;
3. That neither SP-93-13 (as amended) nor the Henderson County Zoning Ordinance require that a developer provide for a secured entrance and exit from the development and, therefore, those decisions must be left to the developer;
4. That subject to the conditions listed hereinbelow, the revised Alternate Preliminary Plan for Section 10, Phase II, complies with the conditions of SP-93-13 (and as amended) and the Henderson County Zoning Ordinance; and
5. That because the adjacent and nearby property owners and Carriage Park have reached a settlement that will allow the adjacent and nearby property owners to continue to use the "existing gravel road," conditions 7 and 8 of the May 4, 1999 order are no longer necessary;

NOW, THEREFORE, based on the foregoing FINDINGS OF FACT and CONCLUSIONS, the Henderson County Planning Board, by a vote of 3 to 2, hereby orders:

1. That the revised Alternate Preliminary Plan for Carriage Park, Section 10, Phase II, submitted by Carriage Park Development Corporation, be granted, subject to the following conditions:
 - a. Carriage Park must provide for the intersection of the "existing gravel road" and Mill Pond Road to be at grade.
 - b. Carriage Park must submit evidence that plans for the proposed lake have been approved by NCDENR and any other agencies having such authority prior to approval of any final plats for Section 10, Phase II.
 - c. Carriage Park must record a final plat for Section 10, Phase II, and such plat must meet the requirements of the Subdivision Ordinance for Non-standard Subdivisions.
 - d. Carriage Park must dedicate required open space prior to final plat approval of Section 10, Phase II by Planning Staff.
2. That the request of Carriage Park Development Corporation to remove conditions 7 and 8 from the May 4, 1999 order, be granted, in that such conditions shall no longer be applicable to Section 10, the Ponds, however, all other conditions specified in the May 4, 1999 order shall remain in effect, if they have not already been satisfied.

Ordered the 15th day of November, 2000, and signed the 13th day of December, 2000.

The Henderson County Planning Board

By: _____

Tedd Pearce, Chairman

Attest: _____

Kathleen R. Scanlan, Secretary



RECEIVED

DEC 7 1 2000

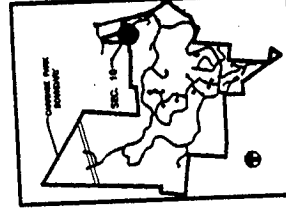
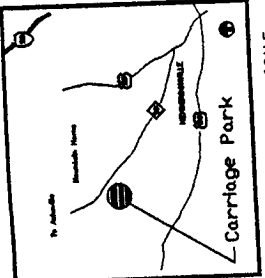
Luther E. Smith & Associates, P.A.
LAND PLANNING • LANDSCAPE ARCHITECTURE
110-9 Third Avenue West
P.O. Box 1000
Charlotte, NC 28201

NORTH CAROLINA

HENDERSON COUNTY, NC

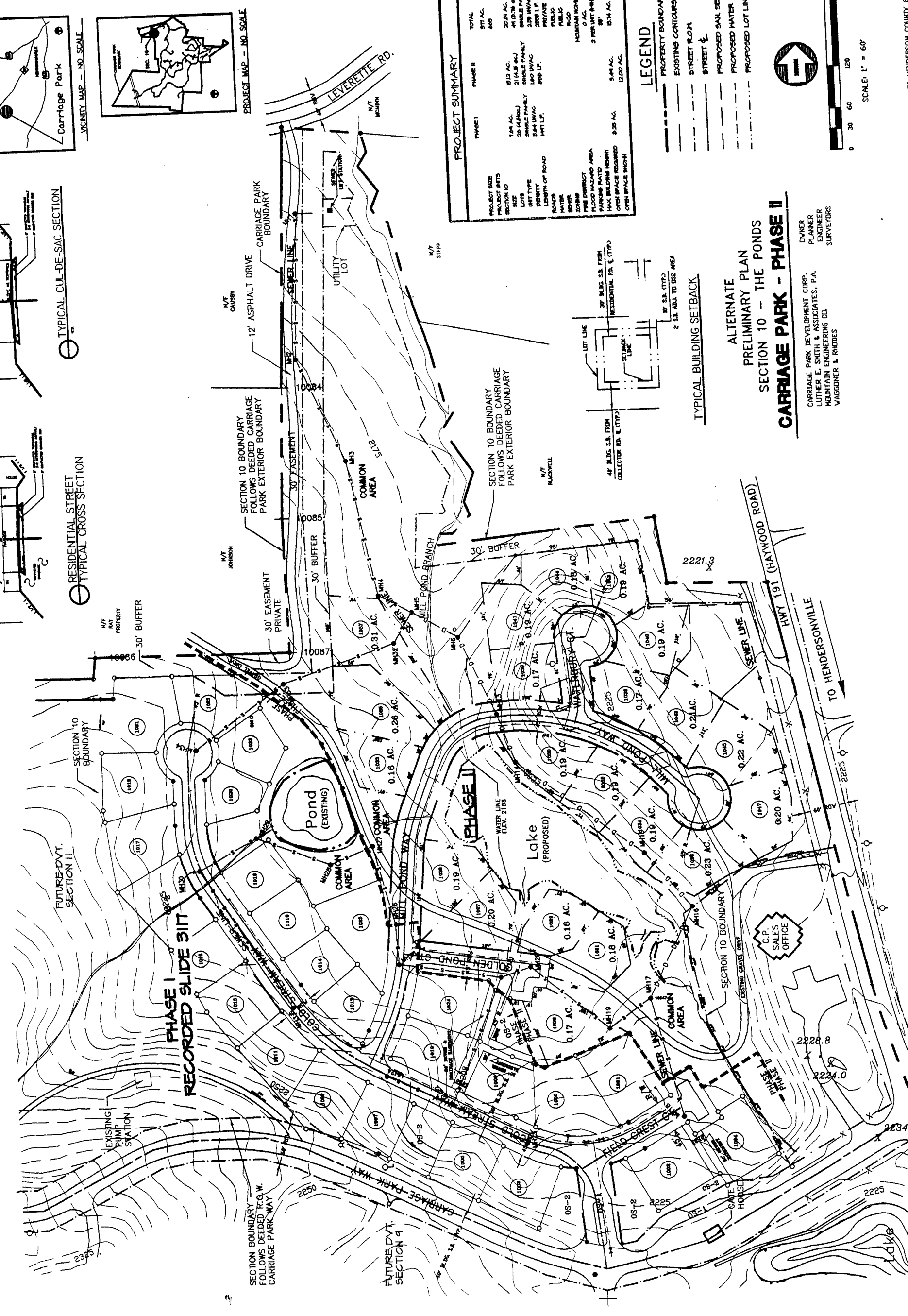
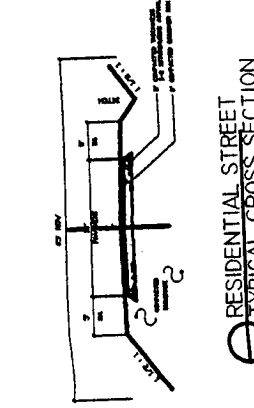
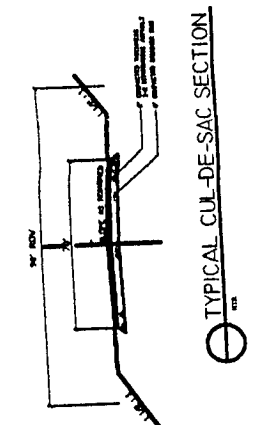
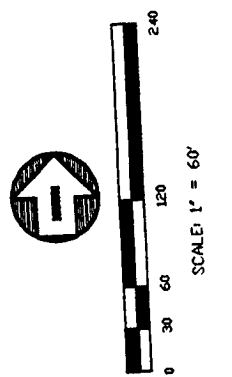
SECTION 10 - THE PONDS - ALTERNATE PHASE II

PROJECT NO.	10100	SHEET	1
DATE	08-20-00		
BY	J.E.S.		
CHECKED BY	J.E.S.		
DATE	08-20-00		



PROJECT SIZE	PHASE I		PHASE II		TOTAL
	AC.	UNITS	AC.	UNITS	
SECTION 10	10.1	42	12.2	49	22.3
SECTION 11	1.8	7	2.1	8	3.9
SECTION 12	2.5	10	3.0	12	5.5
SECTION 13	1.5	6	1.8	7	3.3
SECTION 14	1.2	5	1.4	5	2.6
SECTION 15	1.0	4	1.2	5	2.2
SECTION 16	0.8	3	0.9	4	1.7
SECTION 17	0.7	3	0.8	3	1.5
SECTION 18	0.6	2	0.7	3	1.3
SECTION 19	0.5	2	0.6	2	1.1
SECTION 20	0.4	1	0.5	2	0.9
SECTION 21	0.3	1	0.4	1	0.7
SECTION 22	0.2	1	0.3	1	0.5
SECTION 23	0.1	0	0.2	1	0.3
SECTION 24	0.1	0	0.1	0	0.2
SECTION 25	0.1	0	0.1	0	0.2
SECTION 26	0.1	0	0.1	0	0.2
SECTION 27	0.1	0	0.1	0	0.2
SECTION 28	0.1	0	0.1	0	0.2
SECTION 29	0.1	0	0.1	0	0.2
SECTION 30	0.1	0	0.1	0	0.2
SECTION 31	0.1	0	0.1	0	0.2
SECTION 32	0.1	0	0.1	0	0.2
SECTION 33	0.1	0	0.1	0	0.2
SECTION 34	0.1	0	0.1	0	0.2
SECTION 35	0.1	0	0.1	0	0.2
SECTION 36	0.1	0	0.1	0	0.2
SECTION 37	0.1	0	0.1	0	0.2
SECTION 38	0.1	0	0.1	0	0.2
SECTION 39	0.1	0	0.1	0	0.2
SECTION 40	0.1	0	0.1	0	0.2
SECTION 41	0.1	0	0.1	0	0.2
SECTION 42	0.1	0	0.1	0	0.2
SECTION 43	0.1	0	0.1	0	0.2
SECTION 44	0.1	0	0.1	0	0.2
SECTION 45	0.1	0	0.1	0	0.2
SECTION 46	0.1	0	0.1	0	0.2
SECTION 47	0.1	0	0.1	0	0.2
SECTION 48	0.1	0	0.1	0	0.2
SECTION 49	0.1	0	0.1	0	0.2
SECTION 50	0.1	0	0.1	0	0.2

- LEGEND**
- PROPERTY BOUNDARY
 - EXISTING CONTOURS
 - STREET R.O.W.
 - STREET &
 - PROPOSED SAN SEWER
 - PROPOSED WATER
 - PROPOSED LOT LINES



ALTERNATE
PRELIMINARY PLAN
SECTION 10 - THE PONDS
CARRIAGE PARK - PHASE II

OWNER:
CARRIAGE PARK DEVELOPMENT CORP.
PLANNER:
LUTHER E. SMITH & ASSOCIATES, P.A.
ENGINEER:
MOUNTAIN ENGINEERING CO.
SURVEYORS:
VAGGONER & RHODES

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
PLANNING BOARD**

MEETING DATE: October 31, 2000

SUBJECT: Revised Alternate Preliminary Plan for Carriage Park, Section 10, The Ponds, Phase II

ATTACHMENTS:

1. Planning Staff Memo
2. Letter of Submittal from Luther Smith
3. Alternate Preliminary Plan for Section 10 Approved by Planning Board on 5/4/99
4. Revised Alternate Preliminary Plan for Section 10, Phase II
5. Order Granting Approval of Carriage Park, Section 10, The Ponds
6. Excerpt from the Minutes of the March 31, 1998, March 30, 1999, May 4, 1999 and October 26, 1999 Planning Board Meetings
7. Letter from Mr. Merwin Danny Ray Dated December 30, 1999
8. Letter from Former County Attorney Don Elkins to Former Planning Board Chairman Chuck McGrady Dated March 25, 1999 (with Attachment)
9. Request from Carriage Park Development Corporation to Remove Conditions #7 and #8 from All Permits for Section 10 (with Attachment)

SUMMARY OF REQUEST:

On September 26, 2000, the Planning Board was scheduled to hold a quasi-judicial hearing on a revised Alternate Preliminary Plan for Carriage Park, Section 10, The Ponds, Phase II. The new plan shows that an “existing gravel road,” which was an issue in the original approval of the plan for Section 10, will remain for the use of adjoining property owners. However, at the September meeting Carriage Park Development Corporation requested that the hearing be continued so that it could have its attorney present. The Planning Board agreed to continue the hearing to the October 31, 2000 meeting.

The Planning Board asked that Staff reuse the agenda materials prepared for the September 26, 2000 meeting. The attached material duplicates the material distributed to Planning Board members for that meeting, however two additional items (listed as attachments #8 and #9, above) have been included for your information. Attachment #8 is information that was provided to the Planning Board when it first approved plans for Section 10 in March of 1999. Staff received item #9 after the September meeting. Please note that regarding attachment #9, staff included only the request letter from Carriage Park and the summary it submitted of a series of letters between Carriage Park Development Corporation and the attorney for the Rays and Johnsons. The full set of letters is available at the Planning Department.

HENDERSON COUNTY PLANNING DEPARTMENT

101 East Allen Street • Hendersonville, North Carolina 28792

Phone (828) 697-4819 • Fax (828) 697-4533

MEMORANDUM

TO: Henderson County Planning Board

FROM: Karen C. Smith, Planning Director *KCS*

DATE: September 19, 2000

SUBJECT(S): Revised Alternate Preliminary Plan for Carriage Park, Section 10, The Ponds, Phase II

Background Information

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 delegated to the Planning Board the approval authority for individual Development Parcels within the project.

The Planning Board approved an application for Section 10, The Ponds, on May 4, 1999. Section 10 is located on the right as one enters Carriage Park from Haywood Road (NC Highway 191). However, one of the conditions of the approval was that no development of roads or lots could begin in Phase II of Section 10 unless Carriage Park Development Corporation came back to the Planning Board and demonstrated a resolution of the issue of an "existing gravel road" that crosses Section 10 and is used by owners of property adjacent to Carriage Park. Another condition was that Carriage Park Development Corporation was not to do any act or thing which would impair the use of the gravel road until the issues related to the road use were resolved. Through that condition the Planning Board stated that it anticipated and specifically approved the installation of a sewer line in Section 10 provided that any damage to the road be minimized, that the road be closed for a short period of time and that the road be restored as near as possible to its prior condition. The Order granting approval of Section 10 as well as the minutes from Planning Board meetings at which Section 10 was discussed are attached for reference. Staff approved the Final Plat for Phase I of Section 10 on July 21, 1999.

Current Application

On August 28, 2000, Carriage Park Development Corporation submitted a revised Alternate Preliminary Plan for Section 10 – the Ponds, Phase II, which shows that the "existing gravel road" will remain. There have been some adjustments to the layout of Phase II to allow the

(continued)

continued use of the “existing gravel road,” including a reduction in the number of proposed Phase II lots from 25 to 21. Other changes include a revision to the type of turnaround on the proposed Golden Pond Court, a shift in the location of Mill Pond Way in the area south of the existing pond and adjustments to the layout of some of the lots and proposed common area.

Staff has reviewed the revised Preliminary Plan for Phase II of Section 10 and submits the following comments:

1. Staff expects that the condition of the “existing gravel road” is an issue that will be raised during the Planning Board’s consideration of the revised Preliminary Plan for Phase II of Section 10.
2. The revised Alternate Preliminary Plan for Phase II of Section 10 does not indicate if any provisions will be made to provide “visual and acoustical privacy” (per Special Use Permit #SP-93-13, Exhibit A, Condition 5) for future owners of the lots through which the “existing gravel road” travels . The applicant should address this issue.
3. According to Special Use Permit #SP-93-13, Condition 8: “All plans for dams or water impoundment structures must meet NCDEHNR – Land Quality Division standards, or those of other agencies having such authority.” Prior to approval of any final plats for Section 10, Phase II, the Applicant should submit evidence that plans for the proposed lake have been approved by NCDENR and any other agencies have approval authority.
4. In an effort to resolve the issue of the “existing gravel road,” Carriage Park Development Corporation constructed a new section of paved road that connected the “existing gravel road” with Leverette Road. The new road section is not shown on the revised Alternate Preliminary Plan for Phase II of Section 10. The Applicant should explain if there are any future plans for this road section since the “existing gravel road” is going to continue to be used. Also, the Applicant should submit a revised Preliminary Plan that shows the new road.
5. If the revised Alternate Preliminary Plan for Phase II of Section 10 is approved, the Applicant would need to record a final plat and such plat must meet the requirements of the Subdivision Ordinance for Non-Standard subdivisions.
6. If the revised Alternate Preliminary Plan for Phase II of Section 10 is approved, required open space must be dedicated prior to final plat approval by Planning Staff.
7. Except with regard to the points noted above, the revised Alternate Preliminary Plan for Phase II of Section 10 appears to comply with Special Use Permit #SP-93-13 (and as amended) and the Henderson County Zoning Ordinance.

(continued)

Planning Board Review

As with other applications for Development Parcel review in Carriage Park, the Planning Board will conduct its review of the revised Alternate Preliminary Plan for Phase II of Section 10 as a quasi-judicial proceeding. The Board will need to make findings of fact and conclusions. If the Planning Board takes action on the revised plan at the meeting on September 26, 2000, Staff could prepare a draft order containing the findings and conclusions in accordance with such action for the Board to review at its October 31, 2000 meeting.



Luther E. Smith And Associates, P.A.


LAND PLANNING • LANDSCAPE ARCHITECTURE

119-B Third Avenue West, Hendersonville, North Carolina 28792 (828) 697-2307 • FAX: (828) 697-8458

received
8-28-00 KCS

August 28, 2000

To: Karen Smith - Planning Director
Henderson County Planning Dept.

Fr: Luther E. Smith 

Re: Carriage Park - Section 10 - Phase II - The Ponds

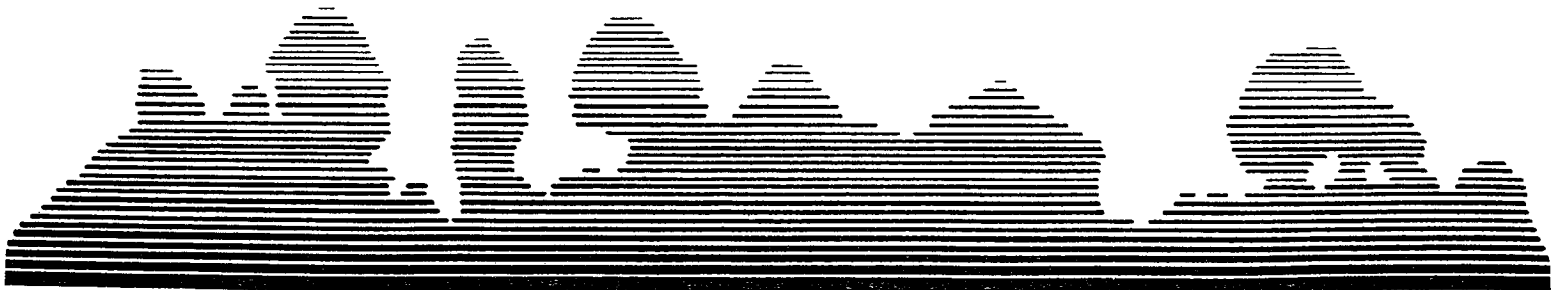
On behalf of Carriage Park, we are submitting the attached Preliminary Plan for Phase II of The Ponds for review by the Planning board at their September meeting.

As you may recall, the Planning board withheld approval of Phase II pending a resolution of the relocation of the right-of-way which crosses the property. This right-of-way is used by adjacent property owners. At this time, the right-of-way will continue to be used in its present location and condition.

The layout of Phase II has been adjusted from the initial proposal, to allow the existing road to remain in its current location.

Both John Jeeter and I will be available at the September meeting to address any questions the Planning Board may have.

Please contact me if you have any questions or require additional information.



Received
3-16-99

SECTION 10 - THE PONDS - ALTERNATE CARRIAGE PARK

DATE	5-15-94
PROJECT NO.	42222
REVISED	NO
DATE	NO

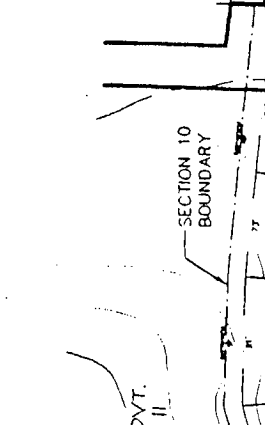
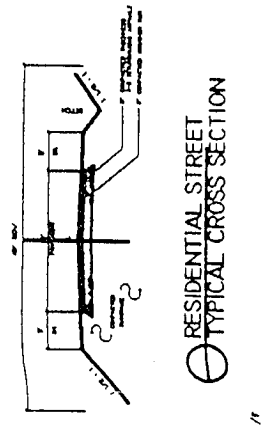
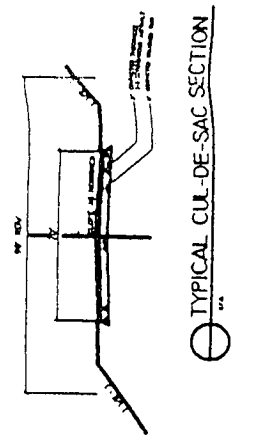
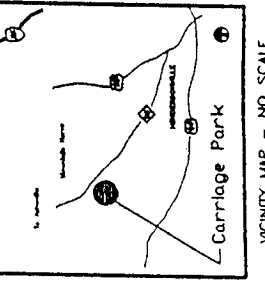
SHEET 1
OF 1

HENDERSON COUNTY, NORTH CAROLINA

Luther E. Smith & Associates, P.A.
LAND PLANNING & LANDSCAPE ARCHITECTURE
1118 Third Avenue East
Raleigh, NC 27604
Phone (919) 877-9200
Fax (919) 877-9200
E-mail: lsmith@lsmith.com



ALTERNATE

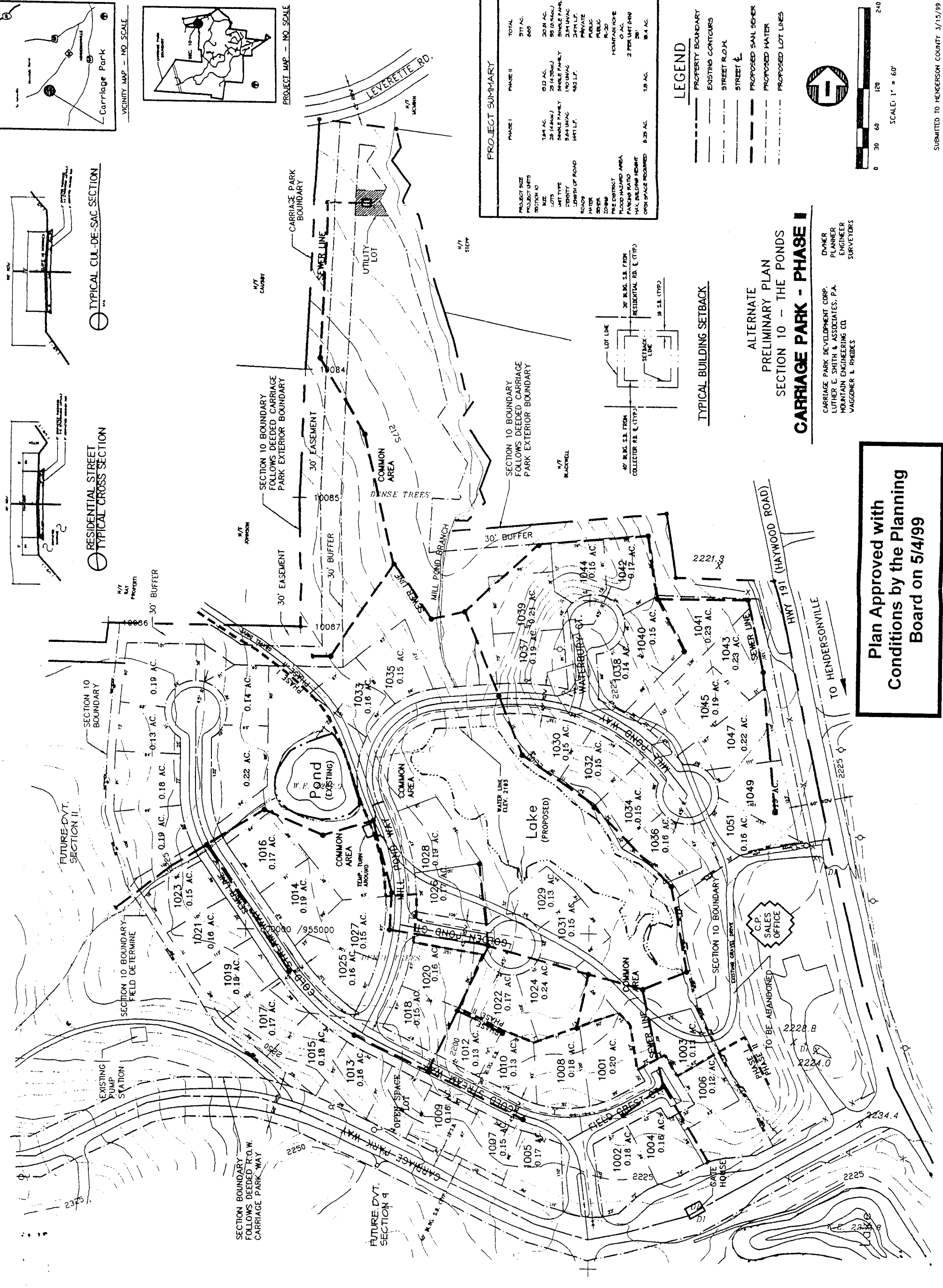
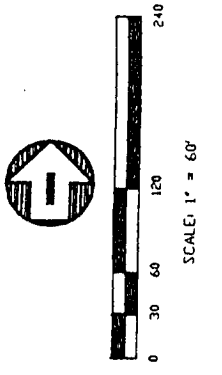


PROJECT SUMMARY

PROJECT SIZE	PHASE I	PHASE II	TOTAL
PROJECT LOTS	144 AC	812 AC	956
SECTION 10	28 (A B+C)	190 (W+X)	218
LOT TYPE	SINGLE FAMILY	SINGLE FAMILY	SINGLE FAMILY
MIN. LOT	8.44 (W+X)	1.90 (W+X)	2.44 (W+X)
MIN. LOT	1.44 (W+X)	1.44 (W+X)	1.44 (W+X)
DENSITY	1.44 (W+X)	1.44 (W+X)	1.44 (W+X)
DEPTH OF ROAD	40.0 FT	40.0 FT	40.0 FT
SEWER	30" DIA	30" DIA	30" DIA
WATER	12" DIA	12" DIA	12" DIA
SEWER	12" DIA	12" DIA	12" DIA
WATER	12" DIA	12" DIA	12" DIA
PRE DISTRICT	0.15 AC	0.15 AC	0.15 AC
FLOOD HAZARD AREA	0.15 AC	0.15 AC	0.15 AC
PARKING RATIO	2 PER UNIT (A+B)	2 PER UNIT (A+B)	2 PER UNIT (A+B)
MAX. BUILDING HEIGHT	20'	20'	20'
OPEN SPACE REQUIRED	8.28 AC	1.8 AC	10.08 AC

LEGEND

- PROPERTY BOUNDARY
- EXISTING CONTOURS
- STREET R.O.W.
- STREET E.
- PROPOSED SAN. SEWER
- PROPOSED WATER
- PROPOSED LOT LINES



ALTERNATE PRELIMINARY PLAN SECTION 10 - THE PONDS
CARRIAGE PARK - PHASE I

CARRIAGE PARK DEVELOPMENT CORP.
LUTHER E. SMITH & ASSOCIATES, P.A.
MOUNTAIN ENGINEERING CO
VAGNER & RHEDS

OWNER
PLANNER
ENGINEER
SURVEYORS

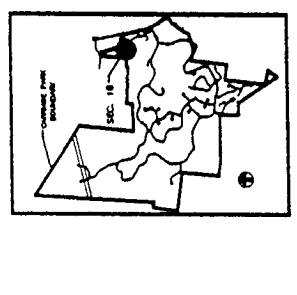
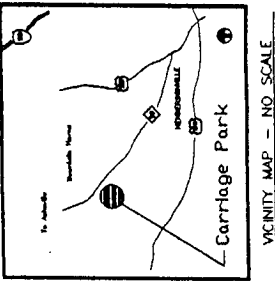
Plan Approved with
Conditions by the Planning
Board on 5/4/99

SUBMITTED TO HENDERSON COUNTY 3/15/99



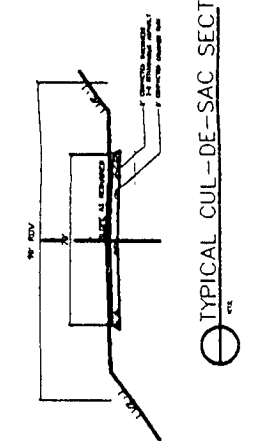
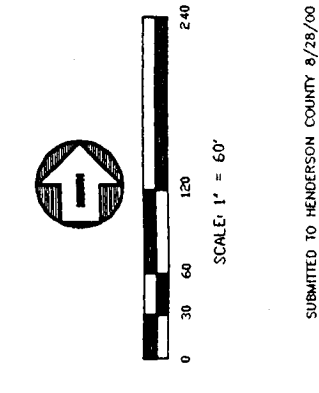
Luther E. Smith & Associates, P.A.
LAND PLANNING & LANDSCAPE ARCHITECTURE
118 - THIRD AVENUE EAST
ROSELAND, NORTH CAROLINA 28068
PHASE 10 - 807-507-7807
PHASE 11 - 807-507-1000

SECTION 10 - THE PONDS - ALTERNATE PHASE II
HENDERSON COUNTY, NORTH CAROLINA
SHEET 1 OF 1
PROJECT NO. 10-11-00
DATE 08-28-00

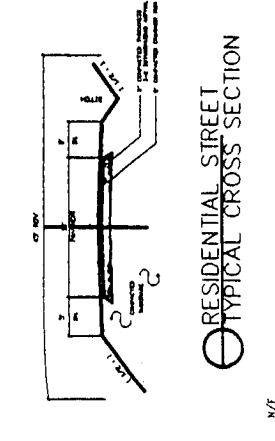


PROJECT SUMMARY	
PHASE I	PHASE II
PROJECT SIZE	TOTAL
PROJECT UNITS	571 AC.
SECTION 10	860
SIZE	30.21 AC.
LOTS	49 (8.79 ac.)
UNIT TYPE	SINGLE FAMILY
DENSITY	2.98 UNITS/AC
LENGTH OF ROAD	2099 LF.
WATER	PRIVATE
SEWER	PUBLIC
ZONING	HOUSING
FIRE DISTRICT	10 A.A. HOPE
FLOOD HAZARD AREA	0 A.A.
PARALLEL PAVED	2 PER LOT (240)
MAX. BUILDING HEIGHT	8-25 AC.
OPEN SPACE REQUIRED	3.44 AC.
OPEN SPACE SHOWN	12.00 AC.

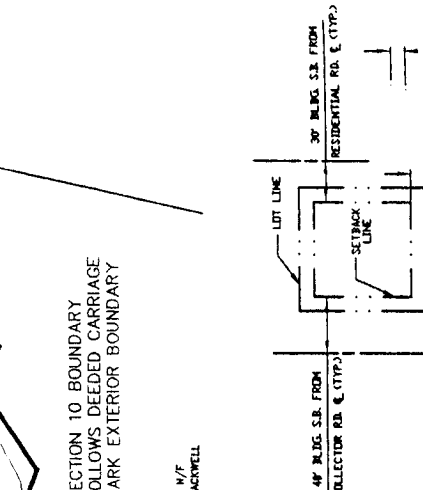
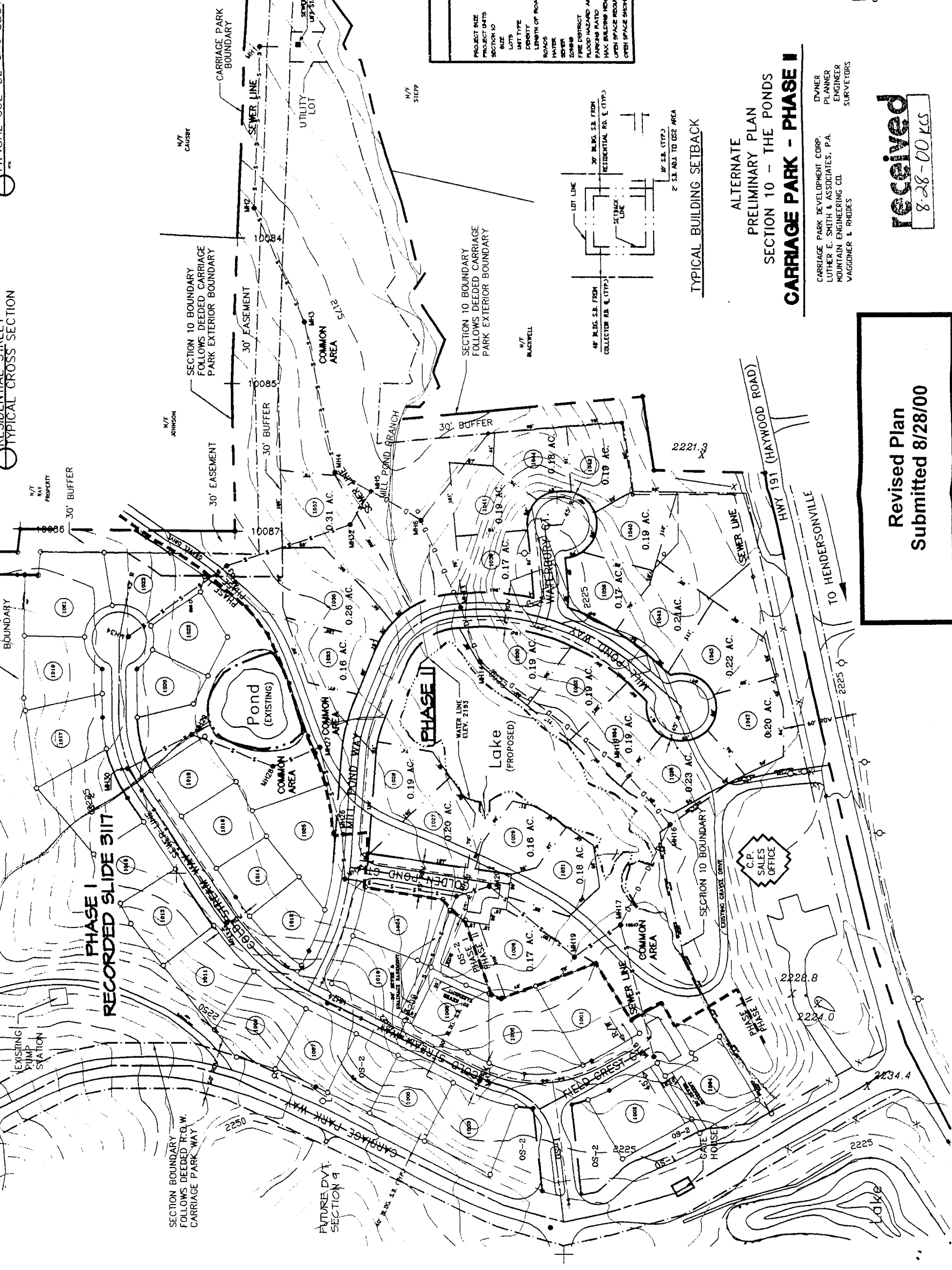
- LEGEND**
- PROPERTY BOUNDARY
 - EXISTING CONTOURS
 - STREET R.O.W.
 - STREET
 - PROPOSED SAN. SEWER
 - PROPOSED WATER
 - PROPOSED LOT LINES



TYPICAL CUL-DE-SAC SECTION



TYPICAL STREET SECTION



TYPICAL BUILDING SETBACK

ALTERNATE
PRELIMINARY PLAN
SECTION 10 - THE PONDS
CARRIAGE PARK - PHASE I

OWNER
CARRIAGE PARK DEVELOPMENT CORP.
PLANNER
LUTHER E. SMITH & ASSOCIATES, P.A.
ENGINEER
MOUNTAIN ENGINEERING CO.
SURVEYORS
VAGGONER & RHODES

Received
8-28-00 KCS

Revised Plan
Submitted 8/28/00

SUBMITTED TO HENDERSON COUNTY 8/28/00

IN THE MATTER OF THE APPLICATION OF
CARRIAGE PARK DEVELOPMENT CORPORATION
APPLICANT TO THE
HENDERSON COUNTY PLANNING BOARD
APPROVAL AUTHORITY

ORDER GRANTING APPROVAL OF DEVELOPMENT PARCEL APPLICATION
FOR A PLANNED UNIT DEVELOPMENT

The Henderson County Planning Board having been delegated authority to review development parcel applications under special use permit number SP-93-13 issued to Carriage Park Development Corp. on October 11, 1993 and having heard all of the evidence and arguments presented before the Planning Board at meetings held on March 30, 1999 and May 4, 1999, makes the following Findings of Fact and draws the following Conclusions.

FINDING OF FACT

1. Carriage Park Development Corporation, hereinafter referred to as "applicant," is the owner of 20.58 acres of land in single ownership located in Henderson County as described in the application for the Special Use Permit.
2. The Applicant, on March 3, 1998, submitted an application for Development Parcel Review, for 23 two-unit townhomes and 1 single townhome on 20.58 acres, such Development Parcel titled *The Ponds*, Section 10.
3. A pre-application conference with the applicant's agent was held by the Henderson County Planning Department on March 3, 1998.
4. The applicant's application was presented before the Henderson County Planning Board on March 31, 1998, in accordance with the terms and conditions of SP-93-13 and the Henderson County Zoning Ordinance.
5. At the March 31, 1998 meeting, the Planning Board tabled action on the application pending resolution of the matter regarding the gravel drive used to access off-site properties adjacent to Section 10.
6. On March 16, 1999, the applicant's agent submitted an application and an alternate preliminary plan for *The Ponds*, Section 10, Development Parcel.
7. On March 30, 1999, the Planning Board reviewed the application for an alternate preliminary plan titled *The Ponds*, Section 10, for 53 single-family detached lots on 20.81 acres and heard from the following parties: Merwin Ray, Harold Johnson, Joe Hope, adjacent property owners to the

development; Virginia Burke, resident of Carriage Park; Dale Hamlin and Luther Smith, petitioners; Chris Timberlake, Planner, and Matt Matteson, Planning Director.

8. On March 30, 1999, the Planning Board tabled action on the pending application to allow the Planning Department the opportunity to notify adjacent property owners and property owners that used the gravel drive, which crosses the development parcel, to access their property.
9. At its May 4, 1999 meeting (rescheduled from April 27, 1999), the Planning Board reviewed the application and the alternate development plan and heard from the following parties: Mr. Chris Timberlake, Mr. Harold Johnson, Mr. Merwin Ray, Mr. Joe Hope, Mr. Dale Hamlin, and Ms. Celia Engleman.
10. There was considerable discussion at the May 4, 1999 meeting about the development's impact on the existing gravel drive and whether or not construction would impair the drive. The gravel drive is used by adjacent property owners to access their property.
11. The Planning Board finds that, except for the following items, the applicant has complied with the conditions of SP-93-13 and Section 200-33 of the Henderson County Code:
 - a. Water Plan Approval. Applicant should provide evidence that the water plans serving the development parcel have been approved by the Hendersonville Water & Sewer Department and North Carolina Department of Environment and Natural Resources (NCDENR).
 - b. Sewer Plan Approval. Applicant should provide evidence that the sewer plans serving the development parcel have been approved by the Hendersonville Water & Sewer Department and North Carolina Department of Environment and Natural Resources (NCDENR).
 - c. Subdivision Standards. Plats must meet technical requirements of the Land Development Ordinance for Non-Standard subdivisions.
 - d. Infrastructure Completion. Sewer lines serving the development parcel (Section 10) must be constructed and approved or bonded in accordance with SP-93-13, condition 9(A)(2)(d). Sewer lift station and force main will be built during the construction of Section 10.
 - e. Erosion and Sedimentation Control Plan. Applicant should provide evidence that an Erosion and Sedimentation Control Plan has been filed and approved by North Carolina Department of Environment and Natural Resources (NCDENR), Land Quality Section.
 - f. Open Space. Required open space must be dedicated prior to Final Plat approval by the Planning Staff.

- g. Phase II Development. That by and with the consent of Carriage Park Development Corporation, no development of roads or lots will begin in the parcel shown on the alternate preliminary plan known as Phase II, until and unless Carriage Park Development Corporation comes back to the Planning Board and demonstrates a resolution of the "existing gravel road" which is shown on the alternate preliminary plan for Section 10, Phase II. It is recognized that the developer may have to apply to the Planning Board for an amendment of the approved alternate preliminary plan in order to resolve these issues.
- h. That Carriage Park Development Corporation is not to do any act or thing which will serve to impair the use of the gravel road until the issues relating to the road use have been resolved. However, it is anticipated that Carriage Park Development Corporation will install a sewer line as shown on the plat and this is specifically approved, provided that any damage to the road will be kept to a minimum, that the road be closed for a short period of time and that the road be restored as near as possible to its prior condition.

CONCLUSIONS

Based on the foregoing Findings of Fact, the Board concludes that the application, plans, documents and statements made by the applicant meet the conditions required by Special Use Permit 93-13.

That any remedial items listed herein must be completed to the satisfaction of the Planning Department prior to formal approval being issued.

Based on the foregoing Findings of Fact and Conclusions drawn, the Henderson County Planning Board, by a unanimous vote of 7 to 0, hereby makes the following order.

ORDER

IT IS THEREFORE ORDERED that the application for Development Parcel Section 10, The Ponds, submitted by Carriage Park Development Corporation, be granted, subject to the following conditions:

1. Water Plan Approval. Applicant should provide evidence that the water plans serving the development parcel have been approved by the Hendersonville Water & Sewer Department and North Carolina Department of Environment and Natural Resources (NCDENR).

2. Sewer Plan Approval. Applicant should provide evidence that the sewer plans serving the development parcel have been approved by the Hendersonville Water & Sewer Department and North Carolina Department of Environment and Natural Resources (NCDENR).
3. Subdivision Standards. Plats must meet technical requirements of the Land Development Ordinance for Non-Standard subdivisions.
4. Infrastructure Completion. Sewer lines serving the development parcel (Section 10) must be constructed and approved or bonded in accordance with SP-93-13, condition 9(A)(2)(d). Sewer lift station and force main will be built during the construction of Section 10.
5. Erosion and Sedimentation Control. Applicant should provide evidence that an Erosion and Sedimentation Control Plan has been filed and approved by North Carolina Department of Environment and Natural Resources (NCDENR), Land Quality Section.
6. Open Space. Required open space must be dedicated prior to Final Plat approval by the Planning Staff.
7. Phase II Development. That by and with the consent of Carriage Park Development Corporation, no development of roads or lots will begin in the parcel shown on the alternate preliminary plan known as Phase II, until and unless Carriage Park Development Corporation comes back to the Planning Board and demonstrates a resolution of the "existing gravel road" which is shown on the alternate preliminary plan for Section 10, Phase II. It is recognized that the developer may have to apply to the Planning Board for an amendment of the approved alternate preliminary plan in order to resolve these issues.
8. That Carriage Park Development Corporation is not to do any act or thing which will serve to impair the use of the gravel road until the issues relating to the road use have been resolved. However, it is anticipated that Carriage Park Development Corporation will install a sewer line as shown on the plat and this is specifically approved, provided that any damage to the road will be kept to a minimum, that the road be closed for a short period of time and that the road be restored as near as possible to its prior condition.

Ordered the 4th day of May, 1999.

The Henderson County Planning Board

By: Charles W. McGrady
Charles W. McGrady, Chairman

Attest:

Kathleen R. Scanlan
Kathleen R. Scanlan, Secretary

Excerpt from the Minutes of the March 31, 1998 Planning Board Meeting.

Carriage Park, Section 10, The Ponds - Development Parcel Review - (PUD, Special Use Permit # 93-13) John Jeter, Agent for Carriage Park Development Corp., Applicant. Chairman Moyer indicated that the Board members were going into a quasi-judicial proceeding. The Planning Board heard testimony from Luther Smith and Dale Hamlin of the petitioners and heard testimony from the following other parties: Mr. Matt Matteson, Planning Director, George Knudsen, Planner, Harold Johnson, Randy McMinn, Merwin "Danny" Ray, Celia Engelman, and Joe Hope, who are adjacent property owners to this development. Chairman Moyer swore in Luther Smith, Dale Hamlin, Matt Matteson and George Knudsen. Chairman Moyer recognized Mr. Knudsen and stated that Carriage Park Development Corporation submitted an application for Section 10, *The Ponds* requesting Preliminary Plan approval from the Planning Board. Mr. Knudsen said they are proposing 23 two unit townhomes and a single townhome with the party wall on the lot line and each unit including its lot deeded separately. The Ponds is a proposed 47 lot subdivision to be located on a 20.6 acre tract off NC 191 and Carriage Park Way. The lots will be served by public water and sewer systems with the roads being private. Section 10 requires 13.98 acres of open space. Mr. Knudsen stated that after the agenda packets had been mailed out, he received a review response from the NCDOT office, which he handed out a copy to each Board member, stating that "the developer should submit a new street and driveway access permit application along with two copies of the master plan and a copy of Section 10 site plans in order to determine the need for a left turn lane at the entrance on NC 191." Mr. Knudsen stated that he and Luther Smith plan to look into this issue and that this would also be another item contingent on approval. Mr. Matteson explained briefly the background of the Special Use Permit process for Carriage Park and the reasons for the quasi-judicial procedure to the Planning Board members who are not acquainted with Carriage Park Development. Mr. Luther Smith demonstrated on a map the Master Plan for Carriage Park Development and Section 10, which is before the Board for approval and reviewed the requirements in the planned unit development. Mr. Carpenter stated that he still has a problem with the boundary lines outside of this development parcel. Some of which in this case, is also the outside boundary of the property, which would be the boundary between Section 10 and Section 11. Mr. Smith stated that the permit states Carriage Park should generally show the amendments of the development parcel and come in with a surveyed plat at the end. Mr. Carpenter quoted from the *Special Use Permit Conditions*, "upon application for review such parcel will have a measurable and definitive property boundary..... they will generally conform to with those on the research Master Plan." Mr. Carpenter stated, "this is the time for a meets and bounds description, not later, in fact it would have solved a lot of problems if this had been resolved with the Planning Board on Sections 23 and 24." Mr. Carpenter stated that he will not vote in favor of this Section 10 unless the parcel shows meets and bounds. Chairman Moyer asked how this can be solved. Mr. Smith stated that if the Planning Board wants a surveyed defined line, Carriage Park will support the Board's desire, but that is not Carriage Park's understanding of the permit. It states that if Carriage Park generally defines the line that is measurable on the ground, that is acceptable, but not that it be a surveyed line. Mr. Smith stated that if the Planning Board feels that a surveyed line is required, then this should be made a condition to the *Special Use Permit* for all future sections. Mr. Case stated that the Board needs to know a definite defined outer perimeter for

Excerpt from the Minutes of the March 31, 1998 Planning Board Meeting.

each section. After more discussion, Eva Ritchey made a motion to disapprove the application until the perimeter of the property is defined. Walter Carpenter seconded the motion. All members voted in favor except for Marilyn Gordon. The motion passed six to one.

Chairman Moyer swore in the petitioners: Harold Johnson, Randy McMinn, Merwin "Danny" Ray, and Joe Hope. Each spoke regarding their concerns with the right-of-way access they presently have and use through Carriage Park Development, Section 10. After each petitioner spoke, Mr. Knudsen reviewed the other items contingent on approval of Section 10: (1) that the applicant provide evidence that the water plans serving the project have been approved by the Hendersonville Water & Sewer Department and NCDEHNR; (2) that the applicant provide evidence that the sewer plans serving the project have been approved by the Hendersonville Water & Sewer Department and NCDEHNR; (3) that the applicant provides evidence that a sedimentation and erosion control plan has been filed with and approved by NCDEHNR and that structures and culverts are shown on plan; (4) that the applicant come before the Planning Board for approval of the affected development parcel (water and sewer lines serving Cold Stream Way in Section 10) for recommendation to be forwarded to the Board of Commissioners; and (5) that the applicant show existing roads and right-of-way on site plan specifically show the un-named private road which enters the development parcel from NC 191 and that serves the residents located outside the Carriage Park Development property. Mr. Knudsen presented plat recordation items required before plat approval: (1) plats shall meet technical requirements of the *Land Development Ordinance* for non-standard subdivisions; (2) before Final Plat approval, required open space must be dedicated; and (3) any restrictions or covenants unique to Section 10 must be presented to the Planning Department at the time of recordation. Mr. Knudsen stated that Staff recommends approval be granted subject to the items mentioned being satisfied and that the Final Plat be reviewed and approved administratively.

Mr. Joe Hope suggested that all property owners subject to this road access be included in the discussions. Chairman Moyer stated that the Planning Board does not have the authority or ability to determine that issue. Chairman Moyer stated that the Planning Board previously had adopted a policy concerning review of development plans in regard to easements. The policy reads, "It is generally the policy of the Henderson County Planning Board not to become involved in disputes regarding easements. However, the Planning Board feels strongly that it should not approve any subdivision plans for any property over which a visible and apparent right of way exists in favor of another property owner until the issue is finally resolved between the landowners." Ms. Ritchey stated that she would not be in favor of approving this Section 10 of Carriage Park because of the access issue. Ms. Gordon suggested that involved property owners review proposed changes to the Subdivision Ordinance as they relate to R-O-W and consider affects on future use of their property. Mr. Hamlin stated that he was not pleased with being confronted with the easement issue without having prior knowledge of the Planning Board's policy on easements as well as the descriptive meets and bound showing on the plat. He said that this could have been resolved before the meeting and suggested that he wants better guidance in future. Mr. Joe Hope stated that in 1993 the Carriage Park Master Plan showed a lake over the

Excerpt from the Minutes of the March 31, 1998 Planning Board Meeting.

subject petitioner's road, so therefore this is not a new issue. It has been planned for the last five years. He suggested that all property owners be contacted regarding any further developments regarding this Section. Chairman Moyer stated that he feels this item should be tabled for next month's meeting until this road issue has been resolved. Mr. Smith suggested that it should be tabled indefinitely until Carriage Park Development has time to work out the road issue with the property owners. Mr. Smith stated that he has concerns with what Mr. Hope stated and feels that it is up to the attorneys as to who are the parties involved in the use of the road and not the Planning Board. Mr. Smith stated that Carriage Park Development was made aware of the policy regarding easements on March 25, 1998, prior to that time we were not aware of the policy, so there was no intent on Carriage Park's part to slide anything by anyone. He further mentioned that Carriage Park has always known that there is a road issue that the property owners have to work out. Chairman Moyer stated that the Planning Board should table or continue the hearing at this time until the proper steps have been taken by the applicant and notice has been given to continue at a later date. Walter Carpenter made the motion to continue the hearing at a later date and Eva Ritchey seconded the motion. All members voted in favor.

Carriage Park, Section 10, The Ponds – Development Parcel Review – (PUD, Special Use Permit # 93-13) – Luther Smith, Agent for Carriage Park Development Corp., Applicant. Mr. Matteson explained the PUD review process regarding Carriage Park, mainly for the benefit of four Planning Board members who never participated in the process. Mr. Matteson indicated that the Planning Board can formally reopen the quasi-judicial hearing and if all parties agree, close the quasi-judicial hearing and continue discussion on a regular review basis. The Board established the parties involved in the application. The parties were: Merwin “Danny” Ray, Harold Johnson, Joe Hope, adjacent property owners to this development; Virginia Burke, resident of Carriage Park; Dale Hamlin and Luther Smith, petitioners; Chris Timberlake, Planner and Matt Matteson, Planning Director. Chairman McGrady opened the recessed hearing. He then requested, after all parties consented, a motion to close the quasi-judicial hearing and continue discussion as a regular review item. Mr. Tedd Pearce made a motion to close the quasi-judicial hearing and have this subject heard as a regular review item. Bill Blalock seconded the motion. The petitioners, Luther Smith and Dale Hamlin stated that the quasi-judicial hearing is being closed for the reason that the initial proposal is withdrawn. All members voted in favor. The regular review process began.

Mr. Timberlake reviewed the alternate plan of *The Ponds*, Section 10 with two modifications. (1) the configuration of the development parcel has changed slightly but the acreage within the parcel has essentially remained the same; and (2) the original plan has been slightly changed to add the location of the gravel drive that crosses the property. The alternate plan shows Section 10 composing of 53 single family detached lots on a total of 20.8 acres. The developer intends to swap a portion of common area with a portion located in the Section 11 development parcel for development. Mr. Timberlake showed this intended “swap” on a revised plan for this project. Section 10 is bordered by Section 11 to the west, Carriage Park Way to the south, and Highway 191 to the east. Walter Carpenter stated that the issue regarding this swap is whether it generally conforms to the Master Plan, and he stated that he feels it does. Mr. Timberlake stated that the developer seeks approval of the alternate plan and requests that the Final Plat for Section 10 development parcel be recorded in two phases. Mr. Timberlake stated the following items should be satisfied prior to Final Plan approval: (1) Water Plan Approval; (2) Sewer Plan Approval; (3) Erosion and Sedimentation Control plan; (4) Evidence of Infrastructure Development; (5) Plats meeting technical requirements of the Land Development Ordinance; (6) Requirement of open space dedication; (7) granting conditional plan approval for the “unencumbered phase” of Section 10 and resolvment of the issue regarding the easement across Section 10. Mr. Luther Smith stated that what Carriage Park is asking for tonight regarding Section 10 is approval dealing with the alternate plan changes that have been proposed. Mr. Smith stated that Carriage Park has had several meetings to solve the problem regarding the easement, but as of this date, they have found a solution to the problem, but are still working on this issue. He said that Carriage Park is in a position that they need to initiate some of the development in the first part of Section 10 principally to allow Carriage Park to extend the sewer system. Mr. Smith stated that initially, Carriage Park is asking for Preliminary Plan approval for Section 10, *The Ponds*, with the understanding that all that will be developed is what is colored on the map shown for

Phase 1, which does not impact the existing road. When the issue of the road has been resolved, Carriage Park will show the Planning Board how it was resolved and if it requires any changes to Phase 2. Mr. Carpenter stated that he still has a problem with the boundary lines outside of this development parcel. Mr. Carpenter was also concerned with the road easement issue. Mr. Smith stated that Phase 1 of Section 10 does not effect the road issue. Chairman McGrady opened public input on this subject at this time.

Merwin "Danny" Ray, Harold Johnson, and Joe Hope all spoke about their concerns regarding the procedure used in sending notices out for this hearing. They felt that all property owners concerned or adjacent with this Section 10 should have received notices of this hearing so that they could voice their views. Mr. Ray pointed out several people who should have been notified about this hearing. Each spoke regarding their concerns with the right-of-way access they presently have and use through Carriage Park Development, Section 10. Mr. Ray stated that he owns a piece of property that is not shown on the map and that the map indicates a lake where his property is located. He mentioned that there is a lower road in that area that has been maintained by the nearby property owners who use that road. Mr. Ray had concerns whether Carriage Park has any environmental protection plan in place for the wildlife as well as water and silt erosion damage control. Mr. Carpenter asked Mr. Ray for a list of people who did not get notices for this meeting so that Staff will have a complete list.

Mr. Joe Hope suggested that all property owners subject to this road access be included in the discussions. Mr. Hope stated that there has been little or no effort made by Carriage Park to offer any resolution to this right-of-way access even to the point of having any serious meetings. He feels that Carriage Park has had sufficient time to resolve this matter.

Mrs. Virginia Burke was concerned whether there was a change in the size of the area because of the swap between Section 10 and Section 11 and if it has affected any change in size of the common space.

Dale Hamlin, General Manager of Carriage Park stated they are not at this meeting to work out the right-of-way issue but rather center on the development issue of the alternate plan of Section 10.

Chairman McGrady stated that the issues that the Planning Board need to look at is (1) the mailing of notices and (2) easement and right-of-way issue. Chairman McGrady stated that he had worked out a motion for Planning Board's approval, which he read as: *"move that the alternate plan of Section 10, dated March 15, 1999, showing a reconfigured development parcel of 20.8 acres in two phases having a total of 53 lots, be approved with the following conditions: Water Plan Approval, Sewer Plan Approval, Erosion and Sedimentation Plan Approval, Infrastructure Development (sewer lift station and force main), meet Land Development Ordinance Standards for Non-Standard Subdivision, and open space dedication. However, that upon satisfactory completion of all of the above in Phase I (9.8 acres and 28 lots) the final plat may be approved by Staff. Phase II was to go back before the Planning Board. Once the issue regarding*

right-of-way across Phase II has been resolved, then Phase II must be reviewed by the Planning Board. It is further moved that the Planning Board shall not in the future consider plans for any further development parcels offered in phases." Luther Smith stated that Carriage Park would put a condition regarding this Development Parcel that nothing will be put in Phase I but the portion to the left (south) of the road until Carriage Park can prove to the Planning Board that the easement issue has been resolved. Mr. Hope stated before a decision is made regarding this proposed alternate plan to Section 10, the Planning Board should look at two issues: (1) since nothing has been attempted regarding the right-of-way issue, then any action should be tabled until it has been resolved; and (2) if there is anyone on the Board that might be in a relationship or seek a gain from Carriage Park he feels that they should recuse themselves from any decisions made. Mr. Pearce stated since he is a contractor and builder, he has been hired on an individual basis by the homeowner but never through Carriage Park directly. Chairman McGrady asked the individual Board members of their opinion on the approval of this plan.

Mr. John Jeter mentioned that he had been in contact with Charles Walker, an adjacent property owner, and that he is well aware of this issue.

Mr. Pearce made a motion to approve the proposal for Carriage Park, the Alternate Plan for Section 10 subject to Water Plan Approval, Sewer Plan Approval, Erosion and Sedimentation Plan Approval, Infrastructure Development (sewer lift station and force main), meeting Land Development Ordinance Standards for Non-Standard Subdivision, and open space dedication. However, that upon satisfactory completion of all of the above in Phase I (9.8 acres and 28 lots) the final plat may be approved by Staff. Once the issue regarding the right-of-way across Phase II has been resolved, then Phase II must be reviewed by the Planning Board. Rebecca Nesbitt seconded the motion. Bill Blalock, Tedd Pearce and Rebecca Nesbitt voted in favor. Walter Carpenter, Mary Jo Padgett, Jack Beattie and Raymond Ward voted against. The motion failed. Mr. Beattie made a motion to table any action on this matter until the next Planning Board meeting to allow Staff to send out a written notice to all people who are impacted by this Phase of the development for Carriage Park. Raymond Ward seconded the motion. Mr. Pearce was concerned whether the Planning Board would have to encounter the same process and end up having to hear the same thing again at the next meeting. Mr. Carpenter stated that the decision of the Planning Board has been delayed at present in respect to the people who didn't have notice of this hearing and were not able to attend and voice any evidence regarding this matter. Raymond Ward, Mary Jo Padgett, Walter Carpenter and Jack Beattie voted in favor of the motion. Bill Blalock, Tedd Pearce and Rebecca Nesbitt voted against. The motion passed. Chairman McGrady informed the public that the April's meeting will be changed because of the absence of some members and Staff. This change will be discussed further in the meeting and it will be published in the paper and all concerned parties will be notified.

Excerpt from the Minutes of the May 4, 1999 Planning Board Meeting

Carriage Park, Section 10, The Ponds – Development Parcel Review – (Continued from 3/30/99 Meeting) (PUD, Special Use Permit # 93-13) – Luther Smith, Agent for Carriage Park Development Corp., Applicant. Chairman McGrady presided over the meeting and stated that the review of this application is being reconvened, not as a quasi-judicial hearing, but a regular subdivision review, from last month's meeting. At the March 30, 1999 Planning Board meeting, action was tabled on this item to allow Planning Staff to mail out proper notices to adjacent property owners and to property owners who use the gravel drive easement that intersects through the Carriage Park, Section 10 development parcel. Mr. Timberlake stated that the notices for this meeting were mailed out on April 12, 1999 and also a sign was posted at Carriage Park entranceway as well as beside the gravel drive easement. Chairman McGrady stated that he received a letter from Merwin "Danny" Ray regarding the conflict of interest issue by one of our Board members, Tedd Pearce. After discussion between the Chairman, Mr. Pearce and the County Attorney, it was decided that since this subject has never been brought up before, there should be an open discussion on this. He stated that Mr. Pearce is willing to do whatever the Board desires, but likewise, Mr. Pearce is not interested in having the members of the Planning Board conflicted out on various items, until we understand what the issues are. Chairman McGrady proposed to discuss this issue as a preliminary matter and make a decision before we enter into the Carriage Park application. Chairman McGrady requested Mr. Merwin Ray to discuss his concerns.

Mr. Merwin Ray stated that he feels Mr. Tedd Pearce has contracts with Carriage Park, which he feels is an obvious conflict of interest and should be recused from these Carriage Park hearings.

Chairman McGrady asked Jennifer Jackson to give her interpretation of this matter. Jennifer Jackson stated that if Mr. Pearce does have a direct financial interest or other significant interest in a development, the Board would have a conflict in interest and would need to recuse him from any discussions or decisions regarding that matter. She feels that the Board needs to inquire if Mr. Pearce has any direct interest either financially or otherwise in Carriage Park's development as well as any other type of conflict of interest.

Mr. Pearce stated that he does not own any property in Carriage Park, has no contracts or ever has in Carriage Park, and has not built any homes for Carriage Park. Mr. Pearce said that he built a home for a private individual and has recently won a bid to build another home for a private individual in Carriage Park. Ms. Jackson asked that Mr. Pearce clear up the discussion concerning a list of approved builders. She stated that she was told that this is a recommended list and not an exclusive list of builders in this development. Mr. Pearce stated that he does not believe that there is a specific list anywhere that is handed out to prospective land owners. Mr. Dale Hamlin, General Manager of Carriage Park Development Corp. stated that he is in agreement with Mr. Pearce and knows that he has built a house for a homeowner and plans to build another home for a private home owner. Mr. Pearce said that Carriage Park Development Corp. has had no financial interest or contractual business with Carriage Park. Mr. Hamlin said that Mr. Pearce does appear on a sign that states the list of builders who have built in Carriage Park but that Carriage Park does not intend to use his services in Section 10 of the development and that Carriage Park has no relationship whatsoever with Mr. Pearce. Mr. Pearce stated that he has spoken to Mr. Joe Hope, an adjoining property owner to Carriage Park, regarding building homes in subdivisions that he represents, but

Excerpt from the Minutes of the May 4, 1999 Planning Board Meeting

has declined any business endeavors as of present. Walter Carpenter inquired as to how many homes Mr. Pearce builds in a year. Mr. Pearce stated that he builds approximately five homes per year in Henderson County. Ms. Celia Hines Engleman stated that she "believes Carriage Park does not build any homes and therefore are selling the lots to prospective builders and owners, etc. and of late, the people on that Board are the ones that pretty much have secured the jobs." She stated that she does not know Mr. Pearce, and she has no objection to him on the Board, but feels if there is a conflict, generally speaking, he should recuse himself from this matter. Mr. Pearce stated that the reason he wanted this discussion is that there is another Board member as well that has interest in building companies and this issue could be raised frequently. Mr. Beattie stated that it is important as a Board we appear and behave with high integrity and do not leave issues that can be construed, but also those issues should be raised on factual information and this one, in his opinion, does not appear to be. He said it really is an issue of appearance and there possibly needs to be some guidelines on this issue. If there are some people who feel it is not appropriate for a member to be included on the discussion or decision of a certain item, then the Board needs to listen to that matter. Chairman McGrady stated that the Board can do one of two things: (1) Mr. Pearce could recuse himself or (2) the Board could entertain a motion for recusal. No action was taken and Mr. Timberlake proceeded with the review of the application. Ms. Engleman asked why this meeting is not held as a quasi-judicial hearing. Chairman McGrady stated that we closed out the quasi-hearing and reopened it at the March 30, 1999 meeting as a regular subdivision review process.

Mr. Harold Johnson stated that since he had time to read the application information regarding Section 10 of Carriage Park, he opposes this development because of the road R-O-W. He feels the road issue needs to be rectified before this development section is approved.

Mr. Merwin Ray stated that in his opinion that easement and R-O-W's are not shown on the Preliminary Plan and has concerns with water erosion problems in this Section of the development and brought photos for Board members to review. Michael Case stated that on the plans that the Board members have, the easements and R-O-W's are shown. Mr. Case stated that the Board is here to find the fact. Mr. Case asked Mr. Ray whether he has a deeded access and what would the right-of-way width be. Mr. Ray stated that he has a deeded right-of-way on the *cartage road* and the width is approximately 20 feet. Mr. Ray stated that there has been some erosion occurring because of the development.

Mr. Joe Hope stated that there has been no meetings with Carriage Park to solve this problem, but that the families involved in this R-O-W issue would like the problem solved. He stated that with approval of Phase 2 in this Section, it would mean the shutting of the road in question. Mr. Hope wanted to clarify that there are three families that go over the road in question.

Mr. Dale Hamlin, General Manager of Carriage Park Development Corp. stated that Mr. Joe Hope does not have any deed or right-of-way. The roadbed that the parties have talked about, goes behind the Carriage Park office or the NC 191 access back over to Leverett Road and that Mr. Hope has closed it and posted signs for the last seven years. It is a fire and ambulance problem as it stands at present. Mr. Hamlin stated that the only one that could provide access from Leverett Road would be Mr. Hope but Mr. Hope does not use the road. Mr. Hamlin stated that Mr. Ray mentioned that Carriage Park has attributed to potholes in the road, but Carriage Park did not build the road. Mr.

Excerpt from the Minutes of the May 4, 1999 Planning Board Meeting

Hamlin indicated that he drove the road and there seemed to be no issues of drainage problem and found it easily passable. Mr. Hamlin stated that he had met with Joe Hope a few weeks back, and stated that Mr. Hope wanted to develop his property and that he needed sewer, mentioning that he would like to get Carriage Park's City sewer and public service gas. Mr. Hope felt that if Carriage Park could supply him with these utilities, everything else could be smoothed out [regarding the R-O-W]. Mr. Hamlin stated that he feels not everyone is *speaking from the same hymnal* and that he hoped it would be a Planning Board issue and not a legal issue. Mr. Hamlin would like the Planning Board to approve one-half of one development section, which could stand on its own forever, even if the other phase would never get approved. Mr. Hamlin stated that Carriage Park will try to solve the R-O-W issue and at that point, we will then be back with the Phase 2 section. He said that their R-O-W issues should have no bearing on Phase 1 of Section 10. After several attempts to capture the suitable motion and have a brief consultation with Jennifer Jackson, Staff Attorney, regarding the motion, it was decided that a recess will be called after hearing the item regarding the zoning study of the ETJ by the Town of Laurel Park. (Please refer to the motion made by Walter Carpenter on Carriage Park below, after the Laurel Park item).

Motion Regarding Carriage Park. Walter Carpenter made a motion to approve the alternate Preliminary Plan of Carriage Park, Section 10, *The Ponds*, dated March 15, 1999, showing a reconfigured development parcel of 20.8 acres in two phases having a total of 53 lots, be approved with the following conditions: (1) Water Plan Approval, (2) Sewer Plan Approval, (3) Erosion and Sedimentation Plan Approval, (4) Infrastructure Development (sewer lift station and force main), (5) must meet the Land Development Ordinance Standards for Non-Standard Subdivision, and open space dedication, (6) by and with the consent of Carriage Park Development Corp., no development of roads or lots will begin in the parcel shown on the Alternate Preliminary Plan, known as Phase 2, until and unless Carriage Park Development Corp. comes back to the Planning Board and demonstrates a resolution of the "existing gravel road" which is shown on the Alternate Preliminary Plan for Section 10, Phase 2. It is recognized that the developer may have to apply to the Planning Board for an amendment of the approved development plan in order to resolve these issues. (7) Carriage Park Development Corp. is not to do any act or thing which will serve to impair the use of the gravel road until the issues relating to the road use have been resolved. It is anticipated that Carriage Park Development Corp. will install a sewer line as shown on the plat and this is specifically approved, provided that any damage to the road will be kept to a minimum, that the road be closed for a short period of time and that the road be restored as near as possible to its prior condition. Mr. Blalock seconded the motion and all members voted in favor.

Excerpt from the Minutes of the October 26, 1999 Planning Board Meeting.

Update on Private Road Issue in Carriage Park, Section 10, The Ponds. Mr. John Jeter, Director of Development for Carriage Park, stated the current situation regarding a driveway that serves two properties that adjoins Carriage Park. Those owners have an easement through the property. Carriage Park proposes to relocate a section of the driveway and take it out to Leverette Road. He stated that shortly after they started grading the road in the summer, the property owners (Johnson's and Ray's and their children) met with Dale Hamlin, General Manager of Carriage Park and Mr. Cracchiolo to come to some agreement. The younger Johnson's and the Ray's came to an understanding with Mr. Hamlin but the elder Johnson's and Ray's were not generally in favor of relocating the driveway. Their children felt there would be an advantage if they had access to Leverette Road, which is a paved road, and accesses Highway 191 at a signal light. The younger Johnson's and Ray's have school-age children, and would prefer the access to Leverette Road. Mr. Jeter stated that they graded the proposed driveway and the understanding was Carriage Park would build this road and see if they would accept it. Mr. Jeter showed pictures of the relocation of the road in its present state. Mr. Jeter said they would be proposing the road to comprise of a 12 feet wide, 6-inch base, and 1-½ inches of pavement. Mr. Jeter stated that the parties (Johnson's and Ray's) after construction of this relocated road is complete, would decide whether or not to abandon the easement and give it to Carriage Park.

**Included as an Information Item in the January
25, 2000 Planning Board Agenda Packets**

Merwin Danny Ray
Victor Alan Ray

2831 Haywood Road
Hendersonville, NC 28791

Phone 828-693-3018
Home Phone 828-693-9917

December 30, 1999

Karen Smith
Senior Planner
Henderson County
Planning Department
101 East Allen Street
Hendersonville, NC 28792

Dear Karen Smith,

In reference to the enclosed excerpt from the October 26, 1999 regular called meeting of the Henderson County planning Department. Mr. John Jeter stated the owners have an Easement through the property. My deed, my son, Victor Alan Ray and my neighbor Harold Johnson all have deeds with marked sections that we have a Right of Way not an Easement over the existing road to Highway 191. There never has been any accidents of the property owners entering or exiting the Right of Way to Highway 191. I have not had any dealings with Mr. John Jeter about any of these proposed road issues.

In a meeting called by Mr. Cacchioclo, he stated to all property owners he would build a road to Leverette Drive that enters Highway 191 at the signal light and it would be wide enough for two vehicles to pass each other. Only a one lane road has been built almost 1/4 mile long. No two standard size vehicles can pass each other or pull off to the side to allow them to pass. This road has a blind hilltop that you cannot see oncoming traffic. Twice while using this road I have narrowly averted a head on collision. The other vehicle had to back down the hill off the winding road to Leverette Drive to allow passage. At night or with ice or snow this would be a near impossible maneuver for us old semi-retired people to achieve.

My son Victor Alan Ray is a decorated veteran of the Desert Storm War and fought for our country in Iraq and Kuwait in the 3rd Armored Division and later served with UN troops after the cease fire guarding and patrolling the borders before returning to Germany and back to the U.S. He has started to build a home on his property. He has purchased the \$500.00 set plans for his first home since his release from the military. The land has passed the required sewage drainage perk test and he has received a bid from his contractor to start. However, his home lender refuses to process his loan if he is required to use this one lane road with no Right of Way deed. I find this to be a very sorry way to treat a local veteran that has put himself in harms way to see that out state and country have the use of oil today.

The younger Ray son is not in favor of, nor does he prefer relocating his Right of Way as stated in the excerpt. Emergency vehicles cannot negotiate passing on this road. None of the property owners have made any verbal, written or legal agreements with our attorneys concerning the private road issue in Carriage Park Section 10, The Ponds.

Other issue remain, including compensation for the loss of property values, repair of the present Right of Way being destroyed, legal fees, etc. We thank you for any assistance you can give us concerning these matters.

Sincerely,

A handwritten signature in cursive script that reads "Merwin Danny Ray". The signature is written in black ink and is positioned above the printed name.

Merwin "Danny" Ray

BEGINNING at an existing iron pin located North $38^{\circ}7'41''$ East 97.87 feet from the southwest corner of a one story frame home and running thence North $04^{\circ}45'00''$ 139.57 feet to an N.S.P., thence North $71^{\circ}40'11''$ East 208.26 feet to an N.S.P. in the center line of an existing gravel road and right of way and running there with the following calls: South $30^{\circ}17'18''$ East 81.17 feet, South $39^{\circ}42'18''$ East 40.15 feet South $70^{\circ}46'31''$ East 42.67 feet and North $78^{\circ}29'39''$ East 39 feet to a point in the center line of said existing gravel road and right of way. Thence running along the center line of an existing drive and new 15 foot right of way the following calls: South $68^{\circ}05'07''$ West 40.34 feet, South $74^{\circ}21'49''$ West 55.33 feet and South $87^{\circ}41'42''$ West 25 feet to an N.S.P. set in the center line of said existing drive and new 15 foot right of way, thence South $40^{\circ}40'38''$ West to an N.S.P. 97.96 feet, thence North $87^{\circ}24'09''$ West 175 feet to the point and place of Beginning and containing .965 acres more or less as depicted on the survey for Merwin Danny Ray, prepared by Patterson & Patterson Surveying, Job No. 97-08-25-A in August 1997 and constituting Lot 2 of the Merwin Danny Ray Family Subdivision the portion of that property conveyed to Merwin Danny Ray in Henderson County Deed Book 583 Page 25, reference to which is made for further ease of description.

There is also conveyed to grantees, heirs and assigns, a right of way over the presently existing road leading from the above described property to U.S. Highway 191 for the purpose of ingress, egress, and regress, said road going over that property described in Deed Book 235 at Page 172 of the Henderson County Registry.

EXHIBIT A

LEGAL DESCRIPTION FOR DEED FROM MERWIN W. RAY AND WIFE, EDITH G. RAY TO VICTOR ALAN RAY

BEGINNING at a point which is North 88 deg. 47 min. 40 sec. West 100.04 feet from the southeasternmost corner of that property conveyed by Merwin Danny Ray and wife, to Harold Johnson and wife by deed recorded in Deed Book 574 at Page 199 of the Henderson County Registry, said point also being the center of an existing road; thence continuing with said road North 54 deg. 27 min. West 121.87 feet to a point; thence North 57 deg. 36 min. West 49.04 feet to a point; thence North 78 deg. 29 min. West 29.43 feet to a point; thence South 80 deg. 56 min. West 38 feet to a point; thence South 72 deg. 13 min. West 30.23 feet to a point; thence South 78 deg. 30 min. West 39 feet to a point; thence North 70 deg. 47 min. West 42.67 feet to a point; thence North 39 deg. 42 min. West 40.15 feet to a point; thence North 30 deg. 17 min. West 180.43 feet to a point; thence North 38 deg. 24 min. West 133.93 feet to a point; thence North 57 deg. 59 min. 53 sec. West 30.96 feet to a point; thence North 80 deg. 27 min. 06 sec. West 15.54 feet to a point; thence leaving the center of said road South 04 deg. 45 min. West 415.65 feet to an iron pin; thence South 87 deg. 24 min. 09 sec. East 411.83 feet to an iron pin; thence North 04 deg. 12 min. 20 sec. East 32 feet to a buggy axle; thence South 88 deg. 47 min. 40 sec. East 176.34 feet to the point and place of BEGINNING, containing 2.36 acres, more or less.

THERE is also conveyed to Grantees, heirs and assigns, a right of way over the presently existing road leading from above described property to U.S. Highway 191 for the purpose of ingress, egress, and regress, said road going over that property described in Deed Book 235 at Page 172 of the Henderson County Registry.

DON H. ELKINS
ATTORNEY AT LAW
CLYDE SAVINGS BANK BUILDING
228 SIXTH AVENUE EAST, SUITE 18
HENDERSONVILLE, NORTH CAROLINA 28792

TELEPHONE: (828) 692-2205
FAX: (828) 692-8489

MARILYN G. GHANDOUR
LEGAL ASSISTANT/OFFICE MANAGER

Received
3/25/99

March 25, 1999

Mr. Chuck McGrady
c/o Henderson County Planning Department

VIA Hand-Delivery

Dear Chairman McGrady:

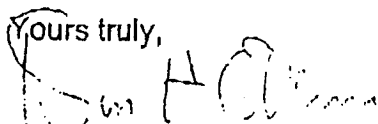
I am writing to you concerning the attached Planning Board and Planning Department policy entitled "Planning Department Internal Policy for Review of Development Plans in Regard to Easements" which was adopted by the Planning Board on January 31, 1995.

After reviewing this policy I would strongly recommend that the use of this policy be changed so as to limit its use only to the final plat stage of review. To withhold preliminary plan (development plan) review or to deny a preliminary plan based upon a developer's failure to satisfactorily resolve all known easement or right-of-way issues at such an early stage of development is too burdensome on the developer. By adopting and following this policy the Planning Board is placing itself in the middle of a legal dispute which should best be left to the developer and those having, or claiming to have, an easement or right-of-way.

It would be proper and in accordance with NCGS 47-30 for the Planning Board to require that any visible and apparent easements or rights-of way be noted on the preliminary and final plan. In addition, the Planning Board would be wise to condition the approval of the final plats on the satisfactory resolution of those easement and/or right-of-way issues.

This recommendation will be particularly pertinent to your upcoming review of the preliminary plan for Section 10 of Carriage Park; however, I intend this recommendation to be of a general nature.

Yours truly,


Don H. Elkins
County Attorney

cc: Board of Commissioners
David E. Nicholson
Matt Matteson

PLANNING DEPARTMENT INTERNAL POLICY
FOR REVIEW OF DEVELOPMENT PLANS
IN REGARD TO EASEMENTS

For the purpose of this policy term, easements may be in many forms including right-of-ways, drainage easements, and utility easements (i.e., gas, water, sewer, telephone, etc.).

The Henderson County Land Development Ordinance addresses easements as follows:

302 Definition: Easement (Right-of-Way): A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons [Section 307].

507.1 Utility Easements: Easements for utilities shall be provided, preferably centered on rear or side lot lines, and shall be at least twenty (20) feet in total width, or as may be required by any agency.

507.2 Drainage Easements: An easement shall be reserved by the subdivider or otherwise provided conforming with the lines of any drainage way into which natural drainage has been diverted. Said drainage way shall be of sufficient width to carry storm water runoff from a ten-year storm.

Appendix 7 and 8: requires that existing easements be shown on Preliminary Plans and Final Plans, respectively.

Appendix 9: requires that existing easements be annotated on the Final Plat in addition to any new right-of-ways for newly dedicated streets. Also, such right-of-ways should be marked public or private.

General Statutes 47-30 N.C. Mapping Requirements

Requires the surveyor to annotate, "all visible and apparent rights-of-way, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown" [G.S. 47-30 Section (f)8].

Policy Regarding Subdivision Plats

It is generally the policy of the Henderson County Planning Board **not** to become involved in disputes regarding easements. However, the Planning Board feels strongly that it should not approve any subdivision plans for any property over which a visible and apparent right of way exists in favor of another property owner until the issue is finally resolved between the landowners.

Planning Staff should, in their review of development plans, utilize County tax maps and "on site" inspection of an applicant's property to determine if there appear to be any existing easements which are not shown on the development plan. If any indication of such are revealed, staff shall make inquiry with the applicant as to the extent of such.

If, after such discussion with the applicant it is the opinion of the Planning Staff that an easement may, in fact, exist which should be shown on the Preliminary Plan and/or Final Plat, Staff shall require that the developer make such change prior to any plan approval.

If the developer contends that there is no valid easement, the developer must produce documentation to defend his position. If such documentation is deemed adequate by the Planning Department, then the Planning Staff may ultimately approve the Final Plat, without showing the easement.

The developer has the right to appeal any Staff decision to Planning Board under the provisions in Section 210 of the Land Development Ordinance.

Approved by HCPB
1/31/95



RECEIVED

OCT 18 2000

16 October 2000

Ms. Karen C. Smith, Director
Henderson County Planning Department
101 East Allen Street
Hendersonville, N.C. 28739

Re: Carriage Park – The Ponds (Section 10)
Preliminary Plan (Phase 2)

Dear Ms. Smith:

As you know, Carriage Park Development Corp. has always acknowledged the ingress and egress rights granted to the property owners adjoining Carriage Park – Section 10. There is no question that Harold Johnson and family, Danny Ray and family as well as Victor Ray and family have the right to cross over Carriage Park property within Section 10 (formerly the Scott tract).

While Carriage Park has made a good-faith effort to negotiate the relocation of the easement to the new paved driveway which the Company has built connecting to Leverette Road, the Johnson's and Ray's (communicating through their lawyer) have made it very clear that a negotiated settlement doesn't interest them. Their true interest is to damage Carriage Park Development Corp. financially while at the same time extorting money from the Company (see attached copies of correspondence).

Clearly, relocating the driveway would result in the best design for "The Ponds" neighborhood and would be in the best interest of all concerned; however, it isn't worth the \$ 195,000 that the Johnson, and Ray demands would cost Carriage Park. Their extortion demands include:

1. \$ 150,000 for the Johnson's and Ray's claimed loss.
2. \$ 25,000 for construction and surveying of a new road at least twenty (20) feet in width (this is an estimate of Carriage Park's cost).
3. \$ 20,000 for payment of the lawyer's fees incurred by the Ray's and Johnson's (this is an estimate of Carriage Park's cost).

In correspondence from their lawyer (Billy Clarke), the Johnson's and Ray's have insisted that they prefer the existing road (driveway) and they have flatly refused to negotiate an exchange of easements unless Carriage Park meets all of their demands for money.

Since Carriage Park can develop Phase 2 of this Section without relocating the existing driveway and since the Plan does not limit the ingress and egress rights of either the Ray families or the Johnson family, Carriage Park Development Corp. requests that the Henderson County Planning Board remove conditions # 7 and # 8 from all permits for this Section.

If you require additional information, please contact me at 697-7200 or 681-6394 (pager)

Sincerely,



John B. Jeter, P.E.

Attachments

cc Dale Hamlin
Bob Johnson

Summary of letters attempting to negotiate resolution of right of way issue

<u>Date</u>	<u>From</u>	<u>Summary of letter</u>
5/1/00	CPDC	Asking Johnson/Ray to sign agreements after attempting to personally meet
5/19/00	Billy Clark*	Rejecting agreement, with new demands
6/6/00	CPDC	Conceding on one point, asking for agreement again
6/7/00	Billy Clark*	Rejecting agreement, reiterating demands
6/26/00	Billy Clark*	Adding the demand of \$150,000** to resolve issue
8/30/00	CPDC	Offering \$9000.00*** to resolve issue
8/31/00	Billy Clark*	Acknowledging CPDC letter of 8/30/00
9/6/00	Billy Clark*	Reducing demand to \$135,000**
9/7/00	CPDC	Offering two turnouts***
9/7/00	Billy Clark*	Acknowledging CPDC letter of 9/7/00
9/12/00	Billy Clark*	Rejecting offer, reiterating \$135,000** demand

* Attorney for Roberts&Stevens law firm representing Johnson and Ray

** with additional demands ***with additional concessions

MINUTES

Henderson County Planning Board
101 East Allen Street
Hendersonville, NC 28792

November 15, 2000

The Henderson County Planning Board met for a special called meeting on November 15, 2000 at 7:00 p.m. in the Land Development Building on 101 East Allen Street, Hendersonville, NC. Board members present were Chairman Tedd Pearce, Jack Lynch, Roy Huntley, Rebecca Nesbitt and Walter Carpenter. Others present included Karen C. Smith, Planning Director, Jennifer Jackson, Assistant County Attorney and Kathleen Scanlan, Secretary. Those absent were Board members Jack Beattie and Chuck McGrady.

Chairman Pearce indicated that the Board members were going into a quasi-judicial proceeding. He stated that the proceeding concerns an application to consider a Revised Alternate Preliminary Plan for Carriage Park, Section 10, The Ponds, Phase II. Chairman Pearce gave an overview of the procedure for a quasi-judicial proceeding and established all the parties for the proceeding. The Board acknowledged the parties as John Jeter, Dale Hamlin and Bob Johnson of Carriage Park Development Corporation and Karen C. Smith, Planning Director for Henderson County. Other parties to this proceeding were Ms. Virginia Burke, Carriage Park Homeowner, and Mr. Jim Sauer, President of the Carriage Park Home Owner's Association. Chairman Pearce swore in all the parties indicated and asked for Ms. Smith to give the Board an introduction regarding the revision.

Ms. Smith stated that on September 26, 2000, the Planning Board was scheduled to hold a quasi-judicial hearing on a revised Alternate Preliminary Plan for Carriage Park, Section 10, The Ponds, Phase II. The new plan shows that an "existing gravel road", which was an issue in the original approval of the plan for Section 10, will remain for the use of adjoining property owners. However, at the September meeting, Carriage Park Development Corporation requested that the hearing be continued so that it could have its attorney present. The Planning Board agreed to continue the hearing to the October 31, 2000 meeting however, because the October 31, 2000 meeting had to be rescheduled, the Planning Board decided to hold a "special called meeting" to consider the revised plan. Ms. Smith said that Carriage Park is a Planned Unit Development on Haywood Road approved by the Henderson County Board of Commissioners under Special Use Permit SP-93-13 (and as amended). The Planning Board approved an application for Section 10, The Ponds, on May 4, 1999. She stated that Section 10 is located on the right as one enters Carriage Park from Haywood Road (NC 191). However, one of the conditions of the approval was that no development of roads or lots could begin in Phase II of Section 10 unless Carriage Park Development Corporation came back to the Planning Board and demonstrated a resolution of the issue of an "existing gravel road" that crosses Section 10 and is used by owners of property adjacent to Carriage Park. Another condition was that Carriage Park Development Corporation was not to do any act or thing which would impair the use of the gravel road until the issues related to the road use were resolved. Ms. Smith stated that through that condition, the Planning Board stated that it anticipated and specifically approved the installation of a sewer line in Section 10 provided that any damage to the road be minimized, that the road be closed for a short period of time and that the road be restored as near as possible to its prior condition. Staff approved the Final Plat for Phase I of Section 10 on July 21, 1999.

Ms. Smith said that on August 28, 2000, Carriage Park Development Corporation submitted a revised alternate Preliminary Plan for Section 10, The Ponds, Phase II, which shows that the "existing gravel road" will remain. There have been some adjustments to the layout of Phase II to allow the continued use of the "existing gravel road," including a reduction in the number of proposed Phase II lots from 25 to 21. Other changes include a revision to the type of turnaround on the proposed Golden Pond Court, a shift in the location of Mill Pond Way in the area south of the existing pond and adjustments to the layout of some of the lots and proposed common area.

Ms. Smith stated that also on October 18, 2000, the Planning Department received a letter from Carriage Park Development Corporation that requests that the Planning Board remove conditions # 7 and # 8 from all permits for Section 10. Chairman Pearce asked whether the other parties had any questions at this time. There were no questions.

Chairman Pearce then asked Mr. Jeter with Carriage Park Development Corporation to give evidence. Mr. Jeter, Project Engineer and Director of Development for Carriage Park Development Corporation stated that Section 10 has been a long, drawn out process and went over the time line that has been involved leading up to the present. He stated that Carriage Park Development Corporation has acknowledged the ingress and egress rights granted to the property owners adjoining Carriage Park, Section 10 and feel that there is no question that the Johnson and Ray families have the right to cross over Carriage Park property within Section 10. Mr. Jeter said that while Carriage Park has made a good-faith effort to negotiate the relocation of the easement to the new paved driveway which the company has built connecting to Leverette Road, the Johnsons and Rays have made it very clear that a negotiated settlement does not interest them. Mr. Jeter said that relocating the driveway would result in the best design for "The Ponds" neighborhood and would be in the best interest of all concerned, but in correspondence with their lawyers the Johnsons and Rays have insisted that they prefer the existing road and they have refused to negotiate an exchange of easements unless Carriage Park meets all of their demands for money. He stated that these proposals can not be met. Carriage Park can not spend additional monies to widen the road as it has estimated that the cost would be around \$ 20,000.00 plus the claimed damage loss of \$ 150,000 to the Johnsons and Rays. Mr. Jeter said that Carriage Park has elected to revise the Plan with no impediment to the easement for the "existing gravel road." He said that because of this issue, it has proven to be quite a hardship for Carriage Park. Carriage Park can develop Phase II of this Section without relocating the existing driveway and it does not limit the ingress and egress rights of either the Ray family or the Johnson family. Mr. Jeter also said that Carriage Park Development Corporation requests that the Henderson County Planning Board remove conditions # 7 and # 8 from all permits for this Section. Mr. Jeter informed the Board members that it is his understanding that both the Johnsons and Rays have dropped their objections to the plan as proposed. Mr. Sauer asked, "how much money has Carriage Park Development already paid to build the new driveway to Leverette Road?" Mr. Jeter said that there has been almost \$ 20,000.00 spent on the driveway.

Chairman Pearce then asked Luther Smith, Landscape Architect for the Carriage Park Development Corporation, to give a brief description of the revision. Mr. Smith showed a new revised map of Phase II and said that the revised application for Phase II includes 21 lots on 13 acres with 5 ½ acres of open space, which will be put on record. The traditional cul-de-sac into Golden Pond has been changed to a "hammerhead" cul-de-sac and there is a re-alignment of Mill Pond Way to facilitate allowing the "existing gravel road" to run through the property. Mr. Smith stated that having the "existing gravel road" there is not the best design scenario for this particular phase and offers a number of problems, including security to the basic development

and also impacts on several lots, a marketing issue. Mr. Smith indicated that one of the conditions mentioned by Planning Staff is to provide provisions of visual and acoustical privacy for future owners of the lots through which the “existing gravel road” travels. He said that they will look at plantings or whatever else is necessary to help reduce impact on those lots. He mentioned that his understanding is that the 30-foot easement to Leverette Road (which was shown on the revised plan be presented) will remain in place, but will not be open for traffic until such point in time that a final decision has been made as to whether it can be used as an access to those properties. In addition, as indicated on the map Mr. Smith showed, the 30-foot easement serves as an access to the lift station. Mr. Smith stated that erosion control plans have been approved and that appropriate permits will be obtained for the dam and will be provided to the Planning Department. Walter Carpenter asked Mr. Smith, “how is Carriage Park going to sell lots 1031, 1029, 1027 and 1028?” Mr. Smith stated that it will present a marketing situation that the developers will have to address any potential buyers. Mr. Carpenter asked if Carriage Park thinks that the Planning Board should approve a development Phase with a road going through lots. Mr. Smith said that if the developer can not sell these lots, they will remain the property of the developer. He mentioned that there are other subdivisions in the County with roads that go through lots. He added that there is enough room for the setback requirements. Mr. Carpenter asked Mr. Smith, “what will be done with Mill Pond Way, with the drive that crosses it, and how will they intersect?” Mr. Smith said that Mill Pond Way will be paved and the “existing gravel road” will remain graveled and will be at a level grade with the paved road section. He mentioned that all other comments mentioned by Planning Department Staff will be met. Chairman Pearce asked if any of the other parties had questions. Mr. Sauer asked if the possible loss of the four lots Mr. Carpenter referred to plus \$ 20,000 for the road to Leverette Road was a lot for Carriage Park to lose. He stated that lots in The Pond section have been selling for \$ 60,000 per lot or more each so therefore the reduction is going to cost Carriage Park Development Corporation approximately a quarter of a million dollars. He stated that it is a significant amount of money for Carriage Park to lose in addition to the \$ 20,000 they have already spent on the paved road. Walter Carpenter felt that Mr. Sauer was making a statement but that it was not pertinent to the issue before the Planning Board. Ms. Virginia Burke asked Mr. Smith to show her on the map provided, the location of the gravel road in relation to Mill Pond Way. Mr. Smith did so.

Chairman Pearce then asked evidence of the other parties and began with Ms. Burke.

Ms. Burke, said she has been a resident of Carriage Park for over ten years, and stated that her main concern was with the security. She said she is not comfortable with the open access proposed. She said although the roads are private, the access is open to anyone. She stated that there is no restricted entry with this newly revised plan. In reply to the security issue, Mr. Dale Hamlin, General Manager of Carriage Park Development Corporation asked Ms. Burke whether she was aware that access by a “spur” off the gravel road to Carriage Park Way has been in existence since 1992, when Carriage Park bought it. Until recently there had been two ways to enter into Carriage Park by the main entrance and by this “spur” off the gravel road. She stated that she was not aware of this second entryway as it was not noticeable and not advertised.

Mr. Jim Sauer, President of Carriage Park Homeowners Association and resident of Carriage Park, said that the materials on this Plan have been reviewed and they do not demonstrate a permanent solution or resolution of the gravel road issue in Phase II, Section 10, The Ponds. The Homeowners Association does not contest a need for an access road of some sort for the neighboring parties, however the Association has some concerns regarding permanent use of the existing gravel road as a solution for this access. He stated that it was his understanding

that both parties had agreed to use the alternative paved road leading along the perimeter of the PUD, which has already been completed. He stated he understands that neighbors have some objections to the use of this new road. He asked, "are we wrong in assuming that the two parties agreed to this alternative?" He said that the Association questions the suitability of a semi-public gravel road cutting through the center of the PUD and this neighborhood, cutting it into two parts. Such an intrusion would cross at least one of the private roads of the Carriage Park PUD providing potential access to all of the private road system in Carriage Park. On behalf of the Association, he asked the Planning Board to request that the two parties to do their best to resolve this issue so that this gravel road will be eliminated. Carriage Park owners bought their properties with the understanding that there would be a single entrance, which at sometime might have security protection. Chairman Pearce acknowledged that Mr. Danny Ray was now present and asked him if he intended to present evidence. Mr. Ray did not plan to do so.

Chairman Pearce asked Ms. Smith to review the Staff comments on the plan. Ms. Smith said that Mr. Smith had addressed some of the comments earlier. Referring to the Staff memorandum in the agenda packets, she noted the comments that needed to be addressed: Item 3 – the Applicant should submit evidence that plans for the proposed lake have been approved for dams or water impoundment structures by NCDEHNR – Land Quality Division standards or those of other agencies having such authority; Item 5 - upon approval of the alternate Preliminary Plan for Phase II of Section 10 the applicant would need to record a final plat and such plat must meet the requirements of the Subdivision Ordinance for Non-Standard Subdivisions and Item 6 - upon approval of the alternate Preliminary Plan for Phase II of Section 10, required open space must be dedicated prior to final plat approval by Planning Staff. Chairman Pearce asked Ms. Smith if the Special Use Permit (93-13) had any conditions regarding the question of access, whether it is a single or multiple access. Ms. Smith stated that she would need to review the permit to answer the question. Mr. Carpenter again brought up the concern about the road running through the lots. Ms. Smith stated that she does not find any reason either in the Ordinances or in the Special Use Permit for the Board to disapprove the plan based on the roads running through the lots. Ms. Nesbitt asked about the security issue. Ms. Smith also said that she does not feel there is anything in either the Ordinances or the SUP that addresses security.

Chairman Pearce asked for any closing statements. Mr. Sauer stated that he does not understand the settlement agreement and said that if Carriage Park Development Corporation is going to give up four lots is valued at \$ 250,000 (total) and if it only cost \$ 20,000 to fix the road so that it would work well for the neighbors, it seems like that is a very good trade-off.

Walter Carpenter stated that he feels that if Carriage Park had designed the plan with the road outside the lots, that would be fine, but having lots with a road crossing them is not appropriate, not only for the owner of the right-of-way but for the people who are buying the lots.

Mr. Huntley asked whether there is a way to omit those four lots from the Plan until this road issue is settled. Ms. Jackson stated that the road issue is settled and that there is no resolution to this gravel driveway except that it has to stay there, that is the resolution.

Ms. Nesbitt stated that she feels that the easement issue is between the purchaser and the seller and also stated that she still has concerns with the security situation. She stated that as long as it meets the requirements and that Staff is satisfied that it does, then there is nothing the Planning Board can do.

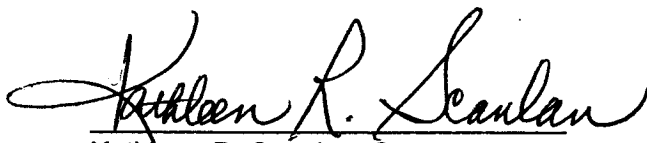
Jack Lynch made a motion to approve the alternate Preliminary Plan for Carriage Park, Section 10, The Ponds, Phase II, as submitted subject to Items 3, 5 and 6 of the conditions of the Staff memorandum being met and to delete Item 7 and 8 from the previous Order dated May 4, 1999. Mr. Carpenter asked if he would amend the motion where the existing gravel road meets the paved road, Mill Pond Way, it be an even grade. Mr. Lynch amended his motion to as noted by Mr. Carpenter. Rebecca Nesbitt seconded the motion.

Mr. Carpenter quoted from the May 4, 1999 minutes, "Mr. Hamlin stated that he would like the Planning Board to approve one-half of one development section, which could stand on its own, even if the other phase would never get approved." Mr. Carpenter stated that Mr. Hamlin said that because he knew this was a road that he had to deal with before we were going to approve this development portion. Mr. Carpenter stated that the Planning Board had been telling them for five years or more, while he has been on the Board, that the Board was not going to approve the Plan with the road going through the lots unless he showed the road. This implied that nothing could impinge on the road. He said lots do impinge on the road. He feels that this is wrong and that Carriage Park has tried to be fair, but that is not pertinent to the issue. He said that the lots are impinging on that road and he further stated that the government should not approve it because it is saying that it is proper and right and it is not, the government should be above that and that is what we are tonight, the government. He feels that if they design the road so it is not within the confines of the lots, that is fine. He opposes the motion as presented. The vote was taken and those in favor of the motion were Rebecca Nesbitt, Jack Lynch and Tedd Pearce. Those members opposed were Roy Huntley and Walter Carpenter. The motion passed. Chairman Pearce requested that Staff brings back the findings of fact and conclusions consistent with the decision and the Board's discussion and noted that the decision must be rendered within 45 days of the conclusion of the hearing.

Adjournment. There being no further business, Chairman Pearce adjourned the meeting at

8:22 p.m.


Tedd M. Pearce, Chairman


Kathleen R. Scanlan, Secretary

Action on Proposed Order for Carriage Park, Section 10, The Ponds, Revised Preliminary Plan – Staff. Ms. Smith stated that at the Special Called Meeting on November 15, 2000, the Planning Board requested that Staff prepare an order granting approval of the revised plan and the request regarding the conditions in the prior order. She stated that in each Board member's packet is the Order that resulted from the November 15, 2000 meeting. She stated that she and Jennifer Jackson, Assistant County Attorney, had worked on the Order and she informed the Board members that a copy of the map is not attached to the draft. The applicant will submit a reduced copy of the map that was presented at the meeting, which showed the new road that leads to Leverette Drive. She stated that the attachment would be included in the official Order. Chuck McGrady stated that there were only five members (Walter Carpenter, Tedd Pearce, Jack Lynch, Rebecca Nesbitt and Roy Huntley) at the meeting therefore, he, Jack Beattie, and the two new members, should not take part in action on the order. Walter Carpenter asked whether there would be separate minutes regarding this meeting. Ms. Smith stated that there will be, but the turnaround time was too short to include them into Board members' packets at this meeting. Mr. Carpenter wanted to make sure that in the minutes his motion would reflect that he voted against the Order because of the road running through some lots. Ms. Smith stated that it would show what was stated at the meeting. Mr. McGrady stated that the Order does not reflect the dispute that resulted in the three-two vote. Mr. Carpenter stated that he felt the Order accurately reflects what was done. Jack Lynch made a motion to approve the Order regarding the revised alternate Preliminary Plan for Carriage Park, Section 10, The Ponds, Phase 2. Valerie Welbourn seconded the motion. Mr. McGrady stated that the motion should be made and seconded by Board members who attended the meeting. Mr. Carpenter stated that he has no problem with seconding the motion as long as he is voting on what the Board did at the meeting. Chairman Pearce stated that it is his feeling that the Order reflects the decision that was made. Jennifer Jackson stated that the Board is basically approving the form of the Order. She suggested that since all the members that were present at that meeting are not in attendance now, Board members could table action on this matter until all five members are present to make a motion on this issue. Jack Lynch withdrew his motion and the action on the Order was tabled until the meeting of January 3, 2001. All Board members were in favor.

Update on Mills River/Fletcher Area Land Use Study – Staff and Subcommittee. Ms. Page summarized the Mills River/Fletcher Land Use Study Public Input Sessions. She stated that there were three meetings: the agricultural community, generally, attended the first meeting; the general population in the study area attended the second meeting and the third meeting was primarily citizens of the Fletcher area. Josh Freeman indicated that he attached in the packet for the Planning Board the individual responses, both positive and negative, which were received at the meetings. He stated that the document is a summary of public input gathered during the input sessions. He stated that the citizens' ideas have been incorporated into the responses. He stated that Staff summarized the topics most talked about at the input sessions and that there were eleven general topics: (1) annexation, (2) economy, (3) environment and aesthetics, (4) facilities and infrastructure, (5) growth, planning, (6) industrial and commercial development, (7) land use, (8) location, (9) opposing regulations, (10) supporting regulations, and (11) scale, sense of community and the quality of life. Chairman Pearce and Jack Beattie commended Staff on their work with the input sessions. Mr. Lynch asked what the next step is regarding this study. Ms. Page stated that since this is a draft document, she feels that the subcommittee needs to meet again to discuss the next steps. She stated that Commissioner Moyer has requested that the Planning Board make an interim report to the Board of Commissioners and this will be an issue discussed at the next Subcommittee meeting. Mr. McGrady asked whether there was a split regarding land use planning among the citizens at the public input sessions. Ms. Page stated that she had sensed no split and Mr. Freeman stated

CARRIAGE PARK MAILING LIST:

Carriage Park Home Owners Association
PO Box 1793
Hendersonville, NC 28793

Vic Knight, ASLA
Land Planning Collaborative
77 Central Avenue, Suite A
Asheville, NC 28801

Paul Patterson
Patterson & Patterson, Surveyors & Engineers
117 West Barnwell, Suite 1
Hendersonville, NC 28792

Harold Engelman
310 Croydon Drive
Hendersonville, NC 28791

~~James Sauer
617 Carriage Commons Drive
Hendersonville, NC 28791~~

Sue Karrer
132 Jenny Lind Drive
Hendersonville, NC 28791

Virginia Burke
114 Jenny Lind Drive
Hendersonville, NC 28791

Robert Dungan, Attorney-at-Law
33 Pate Avenue, Suite 200
Asheville, NC 28801

Dean Freund
9 Governor's Drive
Hendersonville, NC 28791

Jack Drill
113 Carriage Walk Lane
Hendersonville, NC 28791

Property owners within 100 ft. of Carriage Park:

**Ruth Blackwell-2839 Haywood Road
Hendersonville, NC 28791**

**Danny Ray-349 Lodge Drive
Hendersonville, NC 28791**

**Jacob Ray c/o Victor Ray-375 Lodge Drive
Hendersonville, NC 28791**

**Harold and Karla Johnson-P.O. Box 1818
Hendersonville, NC 28793**

Henderson County Planning Department

101 EAST ALLEN STREET • HENDERSONVILLE, NC 28792
PHONE: (828)-697-4819 • FAX: (828)-697-4533

June 5, 2003

NOTICE OF PUBLIC HEARING ON APPLICATION FOR DEVELOPMENT PARCEL REVIEW FOR SECTION 10 OF CARRIAGE PARK

To Whom It May Concern:

At its regular meeting on June 17, 2003 at 7:00 P.M. the Henderson County Planning Board will hold a quasi-judicial hearing on Section 10, The Ponds Phase II, of Carriage Park. The hearing on the section will be held in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, North Carolina. The applicant, Carriage Park Associates, LLC, is requesting approval of the development plan for Section 10.

Parties demonstrating standing regarding the application may participate in the hearing. Information such as a summary of the rules of procedure for quasi-judicial proceedings, the application material for Section 10 and the requirements of the Zoning Ordinance and the Special Use Permit (#SP-93-13 and as amended**) for Carriage Park is available for review in the Henderson County Planning Department, 101 East Allen Street, Hendersonville, North Carolina. The Planning Department is open weekdays between the hours of 8:00 A.M. and 4:30 P.M. For more information, you may contact the Planning Department at (828) 697-4819.

***Special Use Permit # SP-93-13 (and as amended) for the Carriage Park Planned Unit Development requires that the County notify owners of property outside the perimeter of Carriage Park but within 100 feet of a development parcel that is the subject of an application, and also that the County notify and operating homeowner's association within the Carriage Park Planned Unit Development that may have a direct interest in the review of such new development parcel applications.*

HENDERSON COUNTY
PLANNING DEPARTMENT

MEMORANDUM

Date: June 11, 2003
To: Planning Board Members
From: Derrick L. Cook, Planner
Re: Plan Reviews for June 17, 2003 Planning Board Meeting
Lone Laurel (03-M09)

Lone Laurel (03-M09)
Wayne T. Nix, Owner/Agent

The property is an 18.96 acres tract located off Lamb Mountain Road/Sugarloaf Road. The development is for 24 proposed single-family lots. The development will be completed in one phase. Lot sizes range from 0.37 acres to 2.40 acres. The development is located in an Open Use zoning district and will be served by private water and individual sewer. Private roads will serve the development. The property is not located in a Water Supply Watershed district.

Technical and Procedural Comments

Staff has reviewed the combined Master and Development Plan for conformance with the Henderson County Subdivision Ordinance and offers the following comments:

Master Plan

No comments – requirements satisfied.

Development Plan

- 1. Soil Erosion and Sedimentation Control** – The Applicant 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 (HCSO 170-19).
- 2. Road Grade** - The applicant has proposed private gravel roads to serve the project. The grade requirement for private gravel local residential subdivision roads is that they not to exceed 15%. The grade for a portion of the proposed Bent Laurel Court around the entrance of the cul-de-sac and fronting lots 20, 22, 23, and 24 grade is shown on the plan as 17.9%. The portion of the proposed road that

exceeds 15% grade must be paved according to the Henderson County Subdivision Ordinance (HCSO 170-21E). The Ordinance also requires that portions of the road that is within 50-feet of the parts of the road section exceeding 15% must be paved on each side. A revised Development Plan with cross-section showing the required paving standards for the portion of the road that must be paved should be submitted to the Planning Department prior to construction.

Staff Recommendation

The submittal is for approval of the combined Master and Development Plan for the subdivision. Staff believes that the submittal satisfactorily addresses the requirements of the Henderson County Subdivision Ordinance. Staff would recommend approval of the combined Master and Development Plan subject to the above listed comments being addressed and a revised plan being submitted as specified.

I move that the Planning Board find and conclude that the Master Plan and Development Plan submitted for the Lone Laurel Subdivision complies 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 applicant;

AND

I further move that such Plans be approved subject to the following Conditions: The applicant satisfies, comments 1 and 2 before construction begins, (and any other conditions imposed by the Planning Board).

HENDERSON COUNTY
SUBDIVISION APPLICATION FORM

5-15-03 Lone Laurel 03-109
Date of Application Subdivision Name Application Number

Major Subdivision Minor Subdivision Other

Property Owners Name: WAYNET, NIX AND WIFE ANNE NIX AND JEFFREY W. NIX AND WIFE DALE L. NIX

Address: 1310 N. RIDGE ROAD

City, State, Zip: HENDERSONVILLE, N.C. 28792

Owner's Agent:

Telephone No: 828 685-3659

PIN 10-0600-63-0631-55 Deed Book/Page D.B. 1137 PG. 465

Zoning District O.U. Fire District EDNEYVILLE Watershed NONE

Location of property to be divided: AN 18.96 ACRE TRACT ADJOINING LAMB MTN ROAD

Type of Subdivision: (x) Residential () Commercial () Industrial Present Use

No. Lots Created 24 Original Tract Size 18.96 New Tract Size No. New Lots 24

Road System: () Public () Private () Combination Public and Private

Water System: (x) Individual () Community () Municipal

Sewer System: (x) Individual () Community () Municipal

Fee: \$ 400.00 Paid 5/16/03 Method Check # 3506

I certify that the information shown above is true and accurate and is in conformance with the Henderson County Subdivision Ordinance.

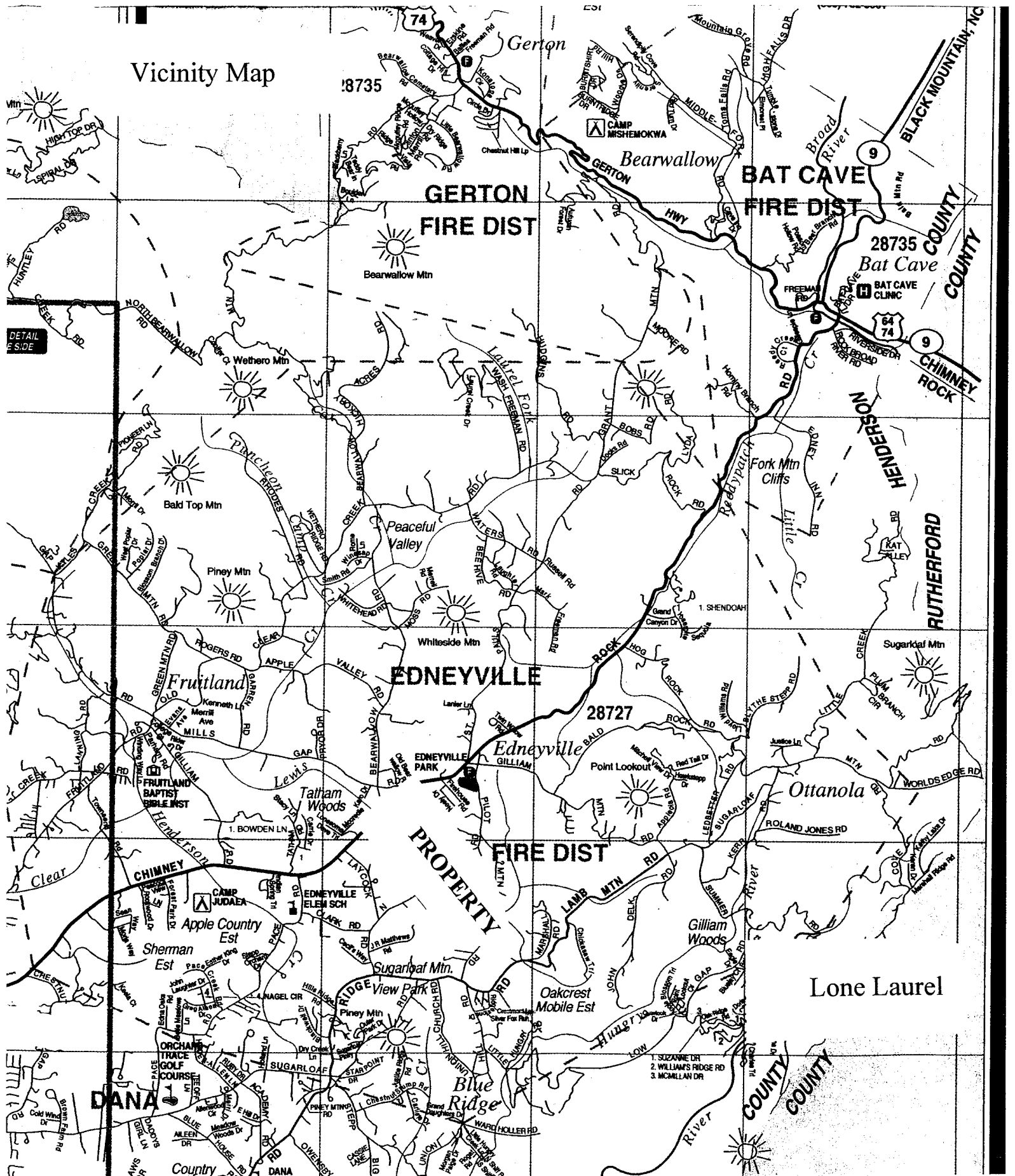
Wayne T. Neal
APPLICANT (OWNER OR AGENT)

5-8-03
DATE

Development Plan Approval / Conditions

Final Plat Approval: Plat Recorded

Vicinity Map



28735

GERTON FIRE DIST

BAT CAVE FIRE DIST

Bearwallow Mtn

28735 Bat Cave

BAT CAVE CLINIC

CHIMNEY ROCK

EDNEYVILLE

28727

EDNEYVILLE FIRE DIST

PROPERTY

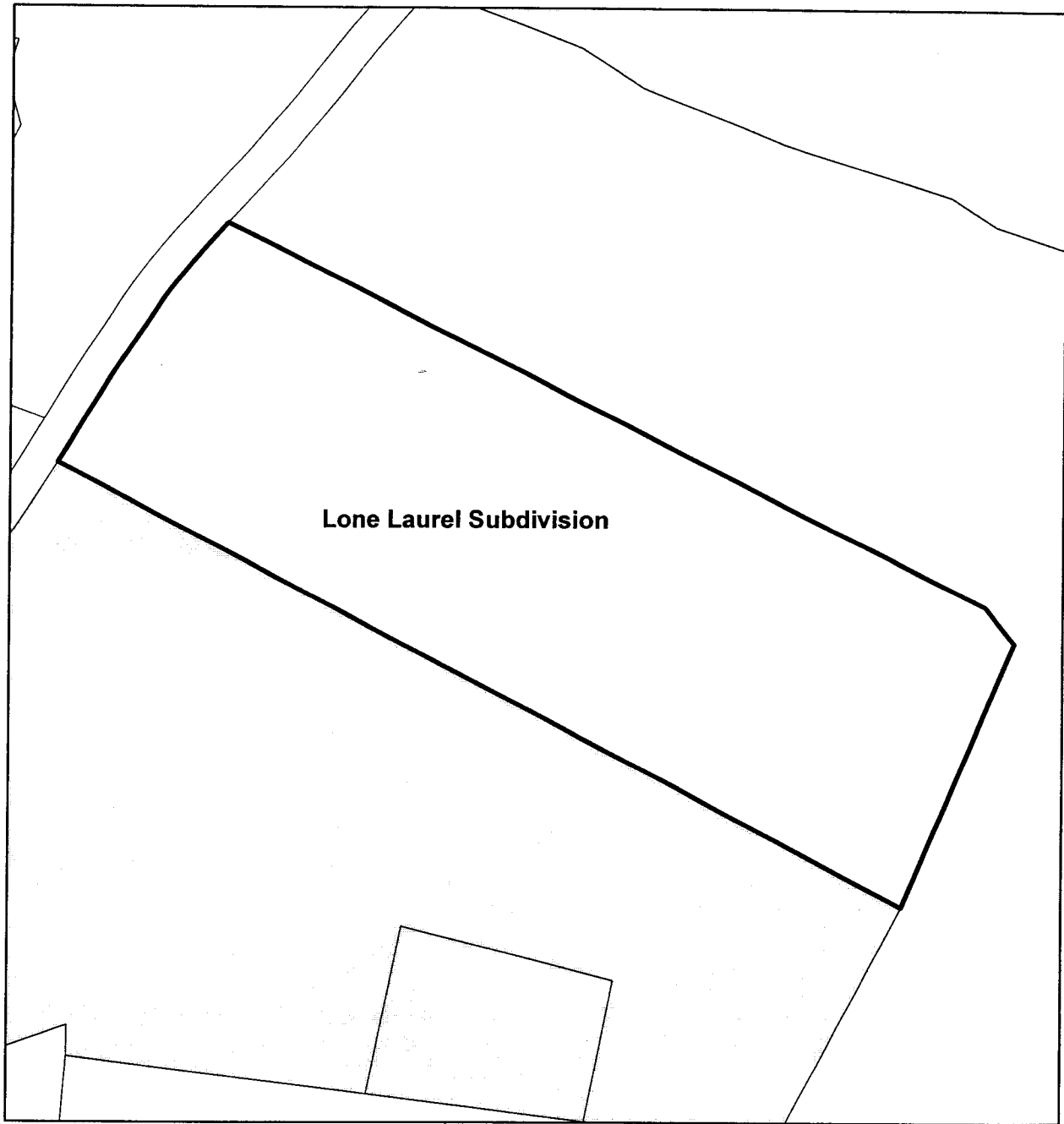
Lone Laurel

DANA

Blue Ridge

CHIMNEY ROCK

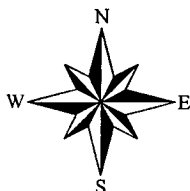
Henderson County Planning Department



Lone Laurel Subdivision

Lone Laurel Subdivision

PROPERTY OWNER: Wayne Nix and Family
AGENT: Stacy Rhodes
TAX MAP ID: 10-0600-63-0631-55
ZONING: Open Use
WATERSHED: None



This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map, are hereby notified that the forementioned public primary information sources should be consulted for verification of the information contained on the map. The County and mapping company assumes no legal responsibility for the information contained on this map.

PLAT OF COMBINED MASTER AND DEVELOPMENT PLAN OF LONE LAUREL SUBDIVISION

FOR
WAYNE T. NIX AND WIFE, ANN F. NIX AND
JEFFREY W. NIX AND WIFE, DALE L. NIX
 1310 NORTH RIDGE ROAD
 HENDERSONVILLE, NC 28792
 OWNER / DEVELOPER
 BEING A MAJOR SUBDIVISION
 OF THE PROPERTY DESCRIBED IN
 DEED BOOK 1137 PAGE 465

BLUE RIDGE TOWNSHIP
 HENDERSON COUNTY
 NORTH CAROLINA

MAY 9th, 2003

CALLS ALONG CENTERLINE OF SHEEP LAUREL COURT (PRIVATE)

COURSE	BEARING	DISTANCE
28	S 25°44'52"W	120.00'
29	S 25°44'52"W	100.00'

CALLS ALONG CENTERLINE OF BENT LAUREL COURT (PRIVATE)

COURSE	BEARING	DISTANCE
30	S 25°44'52"W	185.00'
31	S 25°44'52"W	45.00'

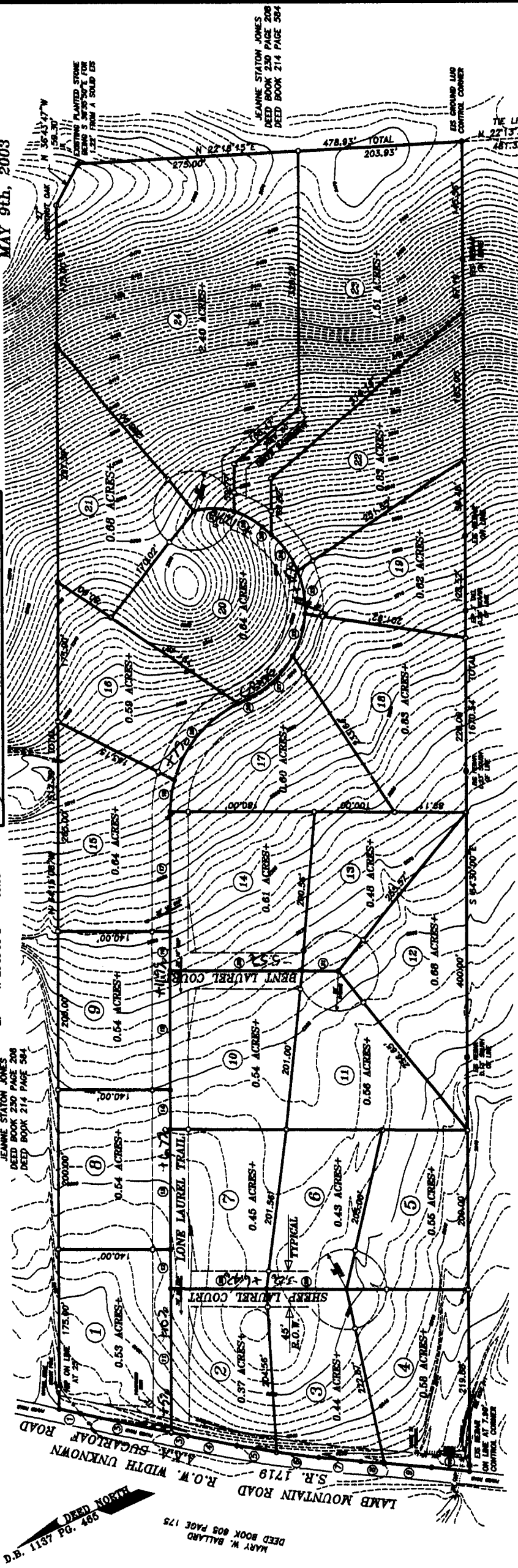
CALLS ALONG CENTERLINE OF LONE LAUREL TRAIL (PRIVATE)

COURSE	BEARING	DISTANCE
11	S 64°15'08"E	180.00'
12	S 64°15'08"E	49.01'
13	S 64°15'08"E	150.99'
14	S 64°15'08"E	49.01'
15	S 64°15'08"E	150.99'
16	S 64°15'08"E	49.01'
17	S 64°15'08"E	150.99'
RAD: 153.27' TAN: 20.17'		
LEN: 40.11' DELTA: 14°59'46"		
18	S 56°45'16"E	40.00'
RAD: 124.88' TAN: 69.18'		
LEN: 124.87' DELTA: 45°55'19"		
19	S 24°57'42"E	126.11'
20	S 07°40'03"E	15.80'
RAD: 124.88' TAN: 39.31'		
LEN: 76.18' DELTA: 34°57'03"		
21	S 19°08'35"E	75.00'
RAD: 124.88' TAN: 28.19'		
LEN: 55.45' DELTA: 25°26'37"		
22	S 48°20'25"E	55.00'
RAD: 124.88' TAN: 26.19'		
LEN: 55.45' DELTA: 25°26'37"		
23	S 73°47'02"E	55.00'
RAD: 124.88' TAN: 28.97'		
LEN: 56.93' DELTA: 26°07'21"		
24	N 80°25'59"E	56.44'
25	N 87°22'18"E	15.00'
RAD: 91.48' TAN: 26.29'		
LEN: 40.33' DELTA: 23°15'20"		
26	N 54°44'38"E	40.00'
RAD: 91.48' TAN: 26.29'		
LEN: 51.19' DELTA: 32°03'40"		
27	N 26°05'08"E	50.53'

CALLS ALONG EAST MARGIN OF PAVEMENT OF LAMB MOUNTAIN ROAD S.R. 1719 ALSO KNOWN AS SUGAR LOAF ROAD

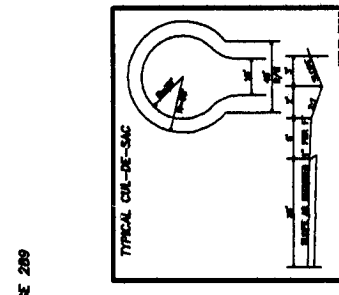
COURSE	BEARING	DISTANCE
1	S 37°16'10"W	22.24'
2	S 37°20'52"W	116.72'
3	S 37°20'52"W	44.21'
4	S 37°20'52"W	44.21'
5	S 37°20'52"W	44.21'
6	S 37°20'52"W	44.21'
7	S 37°20'52"W	44.21'
8	S 37°20'52"W	44.21'
9	S 37°20'52"W	44.21'
10	S 37°20'52"W	44.21'

SEVERAL ADJUSTMENTS FOR
 HORIZONTAL CURVES AND
 HORIZONTAL ALIGNMENT
 HORIZONTAL CURVES
 HORIZONTAL ALIGNMENT
 HORIZONTAL CURVES
 HORIZONTAL ALIGNMENT



PROJECT SUMMARY
 TOTAL AREA OF PROJECT - 18.89 ACRES
 TOTAL AREA OF NEW LOTS - 24 - 14,172 SQ. FT.
 MINIMUM LOT SIZE - LOT 24 - 104,544.0 SQ. FT.
 APPROXIMATE LENGTH OF NEW RIGGS - 1746.4'-2
 TYPE OF SEWER SYSTEM - INDIVIDUAL
 DEVELOPMENT LOCATED IN EMEVILLE FIRE DISTRICT
 THE DISTANCE TO THE NEAREST DESIGNATED WATER SUPPLY
 FOR FIRE PROTECTION IS A MINIMUM OF 100 FEET
 LESS THAN 2000'± HORIZONTALLY FROM SMD PROJECT

- NOTES:**
- AREAS DETERMINED BY COORDINATE COMPARISON.
 - AREAS ARE EXCLUSIVE OF ALL RIGHTS OF HWY AND OR EASEMENTS.
 - THE CURRENT OWNER OF RECORD IS WAYNE T. NIX AND WIFE, ANN F. NIX AND JEFFREY W. NIX AND WIFE, DALE L. NIX.
 - THIS PROJECT ALONGS A DESIGNATED PORTION OF THE EMEVILLE FIRE DISTRICT AND PRESERVATION DISTRICT.
 - THE TOTAL AREA OF THIS PROJECT IS 18.89 ACRES.
 - THE TOTAL AREA OF THIS PROJECT IS 18.89 ACRES.
 - THE TOTAL AREA OF THIS PROJECT IS 18.89 ACRES.
 - THE TOTAL AREA OF THIS PROJECT IS 18.89 ACRES.
 - THE TOTAL AREA OF THIS PROJECT IS 18.89 ACRES.
 - THE TOTAL AREA OF THIS PROJECT IS 18.89 ACRES.
 - THE TOTAL AREA OF THIS PROJECT IS 18.89 ACRES.



PROFESSIONAL LAND SURVEYOR
 I, STACY KENT RHODES, a duly licensed Professional Land Surveyor, do hereby certify that this is a true and correct copy of the original plat as recorded in the public records of Henderson County, North Carolina.

DATE: MAY 7th, 2003
 JOB NUMBER: 03-038

STACY KENT RHODES
 NC PLS 2869
 WAGGONER & WAGGONER
 LAND SURVEYORS, INC.
 1300 W. WYTHE ST.
 HENDERSONVILLE, NORTH CAROLINA 28792
 PHONE: (405) 483-1022

- LEGEND**
- EXISTING CORNER MONUMENT
 - AS NOTED
 - NEW IRON PIPE SET OR
 - AS NOTED
 - COMPUTED POINT - NOT STAKED
 - CONCRETE MONUMENT
 - AS NOTED



SCALE 1" = 60'
 GRAPHIC SCALE - FEET
 0 100 200 300 400 500 600 700 800 900 1000

DEED BOOK 417 PAGE 289
 HAROLD PRICE

DEED BOOK 805 PAGE 175
 MARY W. BALLARD

DEED BOOK 230 PAGE 208
 DEED BOOK 214 PAGE 584
 JEANNE STATION JONES

DEED BOOK 417 PAGE 289
 HAROLD PRICE

DEED BOOK 417 PAGE 289
 HAROLD PRICE

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
PLANNING BOARD**

MEETING DATE: June 17, 2003

SUBJECT: Update on County Comprehensive Plan and Other Major Planning Initiatives

ATTACHMENTS: Issue Update

SUMMARY OF REQUEST:

Attached is the issue update on the CCP and other major planning initiatives that Planning Staff prepared for the Board of Commissioners' June 2, 2003 meeting. The issue update summarizes the tasks that are either in progress or have been completed related to the CCP and the other major planning initiatives. The update also includes items that staff hopes to complete before the July 7, 2003 Commissioners' meeting.

No Planning Board action is required at this time, although comments are welcome.



Issue: Comprehensive County Plan (CCP) & Other Major Planning Initiatives

Issue Update Prepared By: Karen Smith, Planning Director

Date of Issue Update: June 2, 2003

Current Status:

Since the May 1, 2003 Issue Update on the CCP and other major planning initiatives, the following activities have occurred:

CCP

- Staff reviewed the proposals submitted for the survey and meeting facilitation components of Phase III of the CCP project. Staff selected Insight Research to conduct the survey design, distribution and result tabulation and selected the Henderson County Dispute Settlement Center to facilitate the community meetings.
- Staff updated the CCP Advisory Committee on 5/15/03 via e-mail of the status of the CCP project.
- Staff updated the Planning Board on 5/20/03 regarding the status of the CCP project.
- Staff met with representatives of Insight Research and the Dispute Settlement Center on 5/23/03 to discuss contract details.
- Staff has begun the process of designing questions for the survey.
- Staff is finishing the interview and candidate selection process for the Planning Project Manager position.
- Staff is continuing to update maps and to analyze other statistical information related to completing Phases I and III of the project. Staff has also begun visiting and assessing facilities for the community meetings for Phase III of the project.

US 25 North Corridor Study

- The consultant has done a general windshield survey, confirmed the study area boundary and has formatted the study outline.
- The consultant has begun the initial data gathering such as population, traffic counts, etc.
- The initial mapping has been completed and includes study area boundary, zoning, general land use, lot size and presence of floodplain.



Mills River Planning Project

The Planning Committee of the Mills River Incorporation Committee did not complete any specific tasks during the past few weeks due to activities in Raleigh related to the incorporation effort.

Steps Forward:

Over the next month, staff plans to accomplish the following tasks related to the major planning initiatives:

CCP

- Staff will meet with Insight Research to finalize the survey.
- Staff will review and conduct a test run of a draft of the survey.
- Staff will begin to finalize arrangements for the community meetings.
- Staff will begin work on a public relations campaign regarding public participation in the CCP process.
- Staff hopes to have the Planning Project Manager begin work.
- Staff will work on rescheduling a meeting with representatives of the school system regarding the Education element of the CCP.
- Staff will update the CCP Advisory Committee and the Planning Board on the status of the project.

US 25 North Corridor Study

- The consultant will continue documenting the windshield survey for land use, curb cuts, etc.
- The consultant will continue to gather and analyze data including recommendations from other planning studies.
- The consultant will continue with mapping and map analysis.
- The consultant will review material and begin preparations for public meetings, which begin in August in conjunction with the CCP public outreach meetings.
- Staff will continue to assist the consultant as needed.

Mills River Planning Project

- The Planning Committee of the Mills River Incorporation Committee is scheduled to meet on 6/10/03 to bring together the ideas of committee members.



- The Planning Committee hopes to have a community meeting in June or July and will send a draft plan to Planning Staff in July at the earliest.
- Staff will provide assistance to the Planning Committee as needed.

HENDERSON COUNTY
Planning Department

10

101 East Allen Street • Hendersonville, NC 28792
Phone 828-697-4819 • Fax 828-697-4533

HENDERSON COUNTY

Memorandum

TO: Henderson County Planning Board
FROM: Karen C. Smith, Planning Director *KCS*
DATE: June 12, 2003
SUBJECT: Proposed Amendments to the Henderson County Zoning Ordinance

The County Manager may be proposing some amendments to the County Zoning Ordinance that would clarify the "Group Development" concept in the Ordinance and related items. Under the Group Development provisions, more than one principal building may be constructed on a lot. It is possible that staff will have to distribute and review any such proposed amendments at the Planning Board meeting so I wanted the Planning Board members to know ahead of time that there may be another agenda item.