

**Henderson County
Technical Review Committee Minutes
January 2, 2008**

The Henderson County Technical Review Committee met on January 2, 2008 at 2:00 p.m. in the King Street Meeting Room at 100 N. King Street, Hendersonville, NC. Members present were Anthony Starr, Chair; Seth Swift, Rocky Hyder, Marcus Jones, Natalie Berry, Sam Laughter and Toby Linville. Others present were Matt Cable, Planner II, Autumn Radcliff, Senior Planner, and Kathleen Scanlan, Secretary.

Mr. Starr called the meeting to order and asked for the approval of the December 4, 2007 and December 17, 2007 minutes. Marcus Jones made a motion to approve both set of minutes as presented. All members voted in favor.

Combined Master and Development Plan – Adger Oak – 29 Single-Family Residential Lots on 43.82 Acres – Located off Charles Trail – Jon Laughter, Laughter, Austin and Associates, P.A., Agent, on behalf of Gary W. Firmender, Owner – Planning Department. Mr. Cable stated that this is the first subdivision that the Technical Review Committee has had the approval authority for based on its size, because it is fewer than 34 lots. He stated that Staff is recommending that the TRC refer this item back to the Planning Board with a recommendation and comments about this project. He said that the Planning Board had seen this project and denied it and because of this, Staff is recommending that the TRC forward it back to the Planning Board. The alternative motion would be that the TRC could approve the application with conditions.

Mr. Cable stated that the project is located on 43.82 acres off Charles Trail. The project proposes a total of 29 single-family lots and it is in the R3 zoning district with private individual wells and private individual septic proposed to serve the site. He said that this is both a Master and Development Plan. When reviewing the Master Plan, the Committee can consider several issues; severe topographical conditions, inadequate road access, distance from services, unique natural areas, soils that do not easily support drainage systems and the proximity to existing and incompatible land uses, that mean all land may not be suitable to be subdivided for the purpose of dense development.

Mr. Cable stated that Staff has reviewed the submitted Combined Master and Development Plan for Adger Oak, taking into consideration the recommendations of the *Henderson County 2020 Comprehensive Plan* and reviewing the plan for conformance with Henderson County Land Development Code. Mr. Cable reviewed comments dealing with the 2020 Comprehensive Plan and LDC:

1. ***Henderson County 2020 Comprehensive Plan (CCP)***. The Future Land Use Map of the CCP shows the project site as being located within each of the following areas: Conservation Area and Rural/ Agricultural Area (RAA).

- **Conservation Area.** Mr. Cable stated that the conservation area designation is applied to the eastern portion of the project site, largely due to slopes. Slopes within the project site appear to be in excess of 25 percent, with portions having slopes in excess of 60 percent. The CCP states that conservation lands “are intended to remain largely in their natural state, with only limited development,” and further that “such areas should be targeted for protection through regulations and incentives”. He said, should the TRC wish to approve the Master Plan, Planning Staff recommends the Applicant reconfigure lots and alter the design of the development so that lots where slopes in excess of 60 percent comprise a large portion of the total lot area be reconfigured. According to the Master Plan, lots which contain a large portion of their area in slopes in excess of 60 percent include Lot 2 and Lot 29. He said, as noted in LDC §200A-75, the project site may not be suited to be subdivided for the purpose of dense development due to severe topographic conditions.

- **Rural Agricultural Area.** The Rural Agricultural Area (RAA) designation of the Growth Management Strategy is applied to the project site. The RAA is intended to remain predominantly rural with a density of five (5) or more acres per dwelling unit (average lot sizes of five (5) or more acres per unit). According to the plan, the project would have an average density of approximately 0.66 units per acre (average lot size of 1.51 acres). The proposed densities are higher and the lot sizes are reduced from those recommended by the CCP. The CCP states that regulations should encourage “densities that are consistent with steep slopes, poor septic capacities, and sensitive topography.” The Applicant is proposing individual septic for the lots in the development.

2, **Chapter 200A, Henderson County Land Development Code (LDC).** According to Chapter 200A, Henderson County Land Development Code (LDC) and its Official Zoning Map adopted September 19, 2007 (as amended), the proposed project site is located within the Residential Three (R3) Zoning District. The R3 district allows for single-family residential development with a standard residential density of 0.66 units per acre (average lot size of 1.5 acres) where the slope is less than 60 percent. The project site contains slopes in excess of 60 percent, but they do not account for ten (10) percent or more of the tract, therefore the density reduction does not apply. A total of 43.82 acres are in this category, meaning a total of 29.21 units would be permitted. Mr. Cable stated that the Applicant’s proposal of 29 units would fall within the density permitted by Chapter 200A

3. **Fire and Rescue Services.** The project site is not located in a fire and rescue district. Inadequate road access and distance from services mean that all land may not be suitable to be subdivided for the purpose of dense development.

4, **Emergency Services Impact Report (ESIR).** An ESIR is not required for the proposed development as it is a residential subdivision of fewer than 50 lots/units (29 lots are proposed).

Mr. Cable reviewed the Development Plan comments for approval:

1. **Soil Erosion and Sedimentation Control Plan.** The Applicant shall submit written notice from the appropriate local agencies verifying that an Erosion and Sedimentation Control Plan has been received or a written notice from a professional land surveyor, engineer, landscape architect, architect, or professional planner certifying that no plan is required.
2. **Fire Protection Requirements.** According to LDC §200A-81 B(3), for any *subdivision* without a fire suppression rated water system, that either has or has access to an adequate permanent surface water supply (100,000 gallon storage in a 50 year drought), the *Applicant* shall be required to install a dry fire hydrant system, the type and location of which is to be determined by the County Fire Marshal. It does not appear that the applicant has any surface water supply on the project site. An Emergency Services Impact Report (ESIR) is not required for the proposed development; however, Staff has calculated road miles to the nearest Fire Station (3.92 miles) and EMS Station (15.64 miles).
3. **Private Road Standards.** The Applicant has provided a cross section for the proposed on site roads (including Adger Oak Lane). This cross section indicates that these are to be subdivision collector roads. All subdivision roads must be designed and constructed to the minimum standards of LDC §200A-81 C (Table 3.1).
4. **Road Grade.** The Applicant has proposed private paved roads for the subdivision. The maximum road grade for collector roads constructed of pavement is 16 percent. The applicant is proposing a road that appears to approach grades of 16 percent. A professional engineer or professional land surveyor must certify on the Final Plat that no portion of the on-site roads has a grade that 16 percent or submit a final as-built graded center line profile showing grade and alignment of the road (LDC §200A-81 C (Table 3.1) and §200A-81 C(4)).
5. **Road Frontage and Existing Off-Site Access.** Mr. Cable stated that this is one of the major concerns. He said any tract of land to be subdivided must have frontage on an existing public

(state-maintained) road or a private right-of-way to the public road (LDC §200A-81 K). The project site has frontage on a right-of-way to a public (state-maintained) road. The Applicant has provided, as part of the application materials, a legal opinion from Attorney Walter C. Carpenter that the applicant has right-of-way to a public (state-maintained) road (Low Gap Road (SR 1716)) but the widths of these rights-of-way cannot be determined. The project is limited to a maximum of one (1) lot per acre (the applicant is proposing a minimum lot size of one (1) acre).

Charles Trail, Jane Way Drive, Jane Lane and McMillan Drive (Hereinafter “access roads”) provide the access point from the subject property to Low Gap Road (SR 1716). These access roads are narrow (often one (1) lane) and lack shoulders, ditches and turnarounds. Planning Staff recommends the following be conditions of approval (as related to access roads) prior to beginning any land disturbing activity on the project site:

- a. The Applicant upgrade these access roads to meet the minimum standards of Chapter 200A (Article III, Table 2.1, Private Subdivision Collector Road) excluding the requirements for additional right-of-way;
- b. The Applicant provide bridge plans which meet the requirements of LDC §200A-81(D) for the off-site bridge located on Charles Trail; and
- c. The Applicant provides the appropriate cross section for the access roads on a revised Master and Development Plan to be submitted prior to beginning any land disturbing activity.

Mr. Cable said, additionally, as a condition of approval, the applicant should provide right-of-way for any existing portion of Charles Trail which is located on the subject property. This should be provided on the revised Master and Development Plan. He said Planning Staff visited the site and it appears that an existing portion of Charles Trail may be on the project site. The Master Plan seems to indicate that Charles Trail enters the subject property and exits the property but does not continue inside of the property.

6. **Road Intersections.** The Applicant has proposed extending an existing road, Charles Trail, into the subject property as the entrance to the development. If, as noted in Comment 5, Charles Trail continues through the subject property and beyond to the east, the proposed entrance to the development will need to be redesigned to reflect a new road. Intersections with angles of 75 to 90 degrees are preferred (LDC §200A-81 C(6)). Planning Staff recommends, as a condition of approval, that the Applicant provide the appropriate cross section for the access roads on a revised Master and Development Plan to be submitted prior to beginning any land disturbing activity on the project site. Road intersection angels, which meet the requirements of the LDC, must be shown on the final plat.
7. **Road Name Approval.** Proposed road names for a private road shall be pre-approved by Henderson County in accordance with Chapter 142 of the Henderson County Code, Property Addressing. The applicant is proposing a road which is in alignment with another road and therefore is required to be named Charles Trail (according to the plan as submitted). If, however, the road is realigned (as noted in Development Plan Comments 5 and 6) another road name will need to be provided and approved by Property Addressing.
8. **Shoulder Stabilization.** All areas disturbed by the construction of a private road, including cut and fill slopes, shoulders and ditch banks, shall be seeded to stabilize the soil and prevent erosion. Seeding should be done as soon as feasible after road construction (LDC §200A-81 E).
9. **Drainage.** All road or drainage structures shall be constructed in accordance with state roads standards. Road drainage side ditches shall be constructed with sufficient depth and width to carry the expected volume of storm water runoff (LDC §200A-81 C(3)). The applicant has proposed drainage onto Lots 2, 3, 5, 6, 8, and 29. Drainage easements shall be reserved on-

site by the applicant, or otherwise provided, conforming to the lines of any drainageway into which natural runoff has been diverted (LDC §200A-81 L).

10. **Notice of Farmland Preservation District.** The applicant has submitted an affidavit certifying the awareness of an existing Farmland Preservation District. The final plat shall contain a note stating that the property lies within one-half (½) mile of land in a Farmland Preservation District (LDC §200A-81 P).
11. **Street Tree Requirements.** Street trees shall be required for all major subdivisions (LDC §200A-81 R). Trees shall be required at a rate of one (1) large deciduous tree per 50 feet of property abutting an internal road (LDC §200A-145). Trees shall be placed within the right-of-way or within 20 feet of the edge of the right-of-way and may be placed in groups with a minimum spacing of no more than 65 feet (LDC §200A-146). The applicant meets these requirements by his indication that 110 trees will be planted at 50 foot intervals along the road right-of-way line on both sides of the proposed roads of the development
12. **Subdivision Names.** The final plat shall contain certification that the public records of the County have been searched and the proposed subdivision name meets the standards set forth in this Chapter (LDC §200A-81 G).
13. **Miscellaneous Advisory Provisions.** The Applicant should become familiar with the miscellaneous advisory provisions contained in LDC §200A-81 S.

Final Plat Requirements. The Final Plat(s) must meet the requirements provided by the Planning Department whenever a subdivision of land occurs.

Mr. Hyder stated that currently this project is not listed in a fire district but we are working on proposals that would have to go through local and state legislation to prove that it is in a fire district because of the mileage to the Edneyville Fire Station 3. Mr. Hyder was also concerned with the road access, off-site bridge plans and weight requirements, fire suppression and water supply. Mr. Hyder pointed out to Mr. Jon Laughter, agent for the project, that after you cross the bridge, which we are assuming the bridge will be brought up to standards, there is a deep curve and then an intersection that you would have to turn back on, how much leeway does the applicant have to improve this situation, such as the turn radius? Mr. Hyder asked whether they will be accomplished now or will we be asked later on? Mr. Laughter stated that the only access to the property is the roads that are there now and according to the lawyer the right-of-way is sufficient to maintain what is there now. He said to change the alignment and go through a lot, we will need to discuss this with the property owner. Mr. Laughter questioned Mr. Hyder's concerns with the bridge. Mr. Hyder stated he is uncertain whether the bridge will be able to hold the imposed load of 40,000 lbs. and wanted to know whether the applicant feels it can handle the capacity. Mr. Laughter stated that there is no axle load capacity posted, but the bridge holds the construction traffic as well as other traffic at present. Mr. Hyder added that he is also concerned that the bridge will not withstand a flooding event.

After some further discussion, Mr. Laughter was concerned that although the TRC will make a recommendation, he wants to know why it needs then to go back to the Planning Board for its review. Mr. Starr stated that when the Land Development Code was adopted there was a provision placed in the Code, at the recommendation of the Planning Board and the Board of Commissioners that if the TRC for whatever reason it wanted to, could refer an approval to the Planning Board. Mr. Laughter said that if the Committee can detail what it wants, then he doesn't feel that it should go to the Planning Board as it would delay the project further. Mr. Starr stated that if the TRC refers this to the Planning Board, it will state the conditions upon approval. Ms. Berry mentioned that she would like Lot 2 reconfigured and the design altered because of the steepness of the grade in relation to erosion control.

After some discussion with Mr. Laughter, Mr. Starr suggested bringing back the design for Charles Trail off-site improvements, and then the TRC would approve it and construction could be

started, but before a final plat can be recorded, the improvements to Charles Trail would have to be complete. Mr. Starr stated that a combined Master and Development Plan might not have been appropriate to handle this and should have been only the Master Plan. Mr. Starr suggested that if the TRC gave Master Plan approval contingent upon a revised Development Plan be brought back that indicated the improvements for Charles Trail, that way the Master Plan implies approval for the lots and their basic configuration and road layout. This would give Mr. Laughter what he is seeking, the basic approval. Then with the Development Plan, you would need the off-site improvements done. The Master Plan approval approves the basic road and lot configuration. Mr. Swift brought up the issue that there might be a septic concern because of the lots being too narrow. To finalize their discussions, Mr. Starr stated that the motion would be to approve the Master Plan only for Adger Oak subject to the following:

1. **Comprehensive Plan.** The Applicant shall alter the design of the development/reconfigure Lots 2 and 29 so that said lots are not comprised primarily of slopes in excess of 60 percent. The reconfiguration of these lots shall not result in the creation of other lots which are comprised primarily of slopes in excess of 60 percent. This reconfiguration shall be provided by the Applicant with the revised Master Plan and on the Development Plan.
2. **Road Frontage and Existing Off-Site Access.** Charles Trail, Jane Way Drive, Jane Lane and McMillan Drive (hereinafter “access roads”) provide the access point from the subject property to Low Gap Road (SR 1716). These The following must be provided by the Applicant on/with the Development Plan:
 - a. The appropriate cross sections for the “access roads” which meet the requirements of §200A-81 (C) (excluding right-of-way widths).
 - b. Either:
 1. A certified assessment by a qualified registered professional engineer indicating that the existing bridge over Hungary River on the “access road” meets applicable state standards and the requirements of LDC §200A-81(D); or
 2. Bridge plans which meet the requirements of LDC §200A-81(D) for the off-site bridge located on the “access road” (specifically §200A-81(D)(2)).
 - c. Right-of-way for any existing portion of Charles Trail which is located on the subject property.
3. **Completion of Off-Site Improvements.** Prior to any Final Plat approval, the Applicant shall either:
 - a. Complete all off-site improvements to the “access roads”; or
 - b. Provide a platted right-of-way for the “access roads” which would allow for the necessary improvements to these roads to meet the requirements of LDC §200A-81(C) and (D).

The Applicant shall not, unless a platted right-of-way is provided (see 3b above), be allowed to secure a subdivision improvement guarantee for the off-site improvements.

4. **Road Intersections.** The Applicant shall provide a revised Master Plan and Development Plan which indicates an intersection with, rather than an extension of, Charles Trail. This “access road” currently continues beyond the project site and therefore cannot be extended, as shown on the Master Plan. The Applicant shall indicate right-of-way for the existing portion of Charles Trail located on the project site and shall include this proposed right-of-way on any final plat(s).
5. **Plan Submittal.** A revised Master Plan must be submitted with the Development Plan.

The Applicant may not proceed with land improvement activities (including land disturbing or construction activities) associated with the project until the Applicant receives Development Plan approval. Master Plan approval shall be valid for two (2) years. Marcus Jones seconded the motion and all members voted in favor.

Major Site Plan Review – Dennis Dorn – Located on 2.74 Acres North of the Intersection of Haywood Road and Mountain Road – Propose Retail Sales and Services Less than or Equal to 50,000 Square Feet (of Gross Floor Area) – Code Enforcement Department. Mr. Linville stated that the major site plan review is for a retail sales and service that is less than or equal to 50,000 square feet located on approximately 2.74 acres of land located northwest of the intersection of Haywood Road and Mountain Road. There are lighting requirements for areas for vehicular and pedestrian access. The project is located in the Upper French Broad water supply watershed district and is not located within the floodplain. It is in the Local Commercial zoning district and public water and public sewer is proposed. He said it meets all of the requirements of the Land Development code and major site plan requirements. He said that this project was proposed six months ago for mini storage units. It required a special use permit under the old Ordinance and now is permitted as a special use. He said presently it is for seven retail spaces and four separate buildings. Mr. Starr stated that the only question he had is that the LDC requires all driveways be located as far back from intersections as possible, unless they are part of the intersection. He said that the driveway on Highway 191 is not in compliance with the Code. For better traffic control and given its proximity to the intersection Mr. Starr would not like to have that driveway connection on Highway 191, from an Access Management standpoint. Mr. Larry Hyder of Dean and Associates, Inc. stated that he feels it is important to have this driveway access especially because of the type of businesses that will be there. It's important to have access off 191 and Mountain Road. He said that if there are some adjustments that need to be made with the driveway, that could be possible. He said that there have been issues with slope elevations, but that they are working on getting those fixed. Mr. Hyder noted the placement of fire hydrants on the project. The Code may require that some additional trees be along the perimeter of the property, mainly along Mountain Road and Highway 191, but that this could be approved administratively by Mr. Linville. Toby Linville made a motion to approve the major site plan by Dean Dorn and Associates as submitted. All members voted in favor of the motion.

Major Site Plan Review – Henderson County Public Schools – Hillandale Elementary School – Located on 50.24 Acres of Land Located at 191 Preston Lane off West Blue Ridge Road – Propose School (Public) – Code Enforcement Department. Mr. Linville stated that the Henderson County Public Schools wished to utilize the property at 191 Preston Lane, south of W. Blue Ridge Road off of Rocky Branch Road for Hillandale Elementary School. This is for an addition of a new 78,000 square foot classroom building and associated parking. Mr. Linville stated that they have met all of the major site plan requirements dealing with road class, lighting, operations and public address/loud speaker requirements. The project is not located in a water supply watershed district or floodplain and public water and public sewer are proposed. After some brief discussion, Natalie Berry made a motion to approve the major site plan review for Henderson County Public Schools as presented. All members voted in favor of the motion.

Seth Swift made a motion to adjourn the meeting at 3:15 p.m. All members voted in favor.

Anthony Starr, Chairman

Kathleen Scanlan, Secretary