

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: December 15, 2005

SUBJECT: Extension Request for an Improvement Guarantee for Carriage Park

ATTACHMENTS: 1. Letter by Engineer Requesting Extension
2. New Draft Performance Guarantee Agreement
3. Cost Estimates

SUMMARY OF REQUEST:

On October 19, 2005, the Board of Commissioners approved an application for an improvement guarantee for Section 19, Phase II, in the Carriage Park planned unit development. The Performance Guarantee Agreement was not approved at this meeting and was subsequently approved at the November 7, 2005, Board of Commissioners meeting. In accordance with the Performance Guarantee Agreement, the developer deposited a certified check of \$71,177.50 with Henderson County to guarantee completion of the improvements. The improvement guarantee covers the water distribution system and sewer system for this section of Carriage Park. The completion date in the Performance Guarantee Agreement is November 30, 2005.

On December 5, 2005, the Planning Department received a letter from Paul Patterson, engineer for the project, requesting to extend the completion date on the improvement guarantee to March 1, 2006, due to some unforeseen delays (see attached letter). Section 170-39 of the Subdivision Ordinance allows the Board of Commissioners, upon proof of difficulty, to grant extensions to completion dates for improvement guarantees for a maximum of one additional year, provided that the time between initiation and completion of the improvements does not exceed two years.

If the Board of Commissioners agrees to grant the requested extension, staff has attached for the Board's consideration a draft Performance Guarantee Agreement which reflects a new improvements completion date of March 1, 2006. The new Performance Guarantee Agreement must be executed by the relevant parties if the Board approves the extension request.

COUNTY MANAGER'S RECOMMENDATION/BOARD ACTION REQUESTED:

The extension, if granted, would not cause the developer to exceed the two-year maximum time period for completion of the required improvements. Therefore, I recommend that the Board approve the request to extend the completion date for the improvement guarantee for Carriage Park Section 19, Phase II, to March 1, 2006.

PATTERSON & PATTERSON

PAUL PATTERSON WILLIAM PATTERSON
PROFESSIONAL ENGINEER/LAND SURVEYOR PROFESSIONAL LAND SURVEYOR
P.O. BOX 1189
HENDERSONVILLE, NC 28793-1189
1-828-692-6629 (TEL & FAX)

Memorandum

To: Matt Card, Planner @ Henderson County Planning Department
From: Paul Patterson, P.E./P.L.S.
Date: December 5, 2005
Re: Carriage Park Section 19, Phase 2 - Performance Guarantee Agreement

Mr. Card,

As per our conversation this afternoon, we are hereby requesting an extension of the Performance Guarantee Agreement between Carriage Park Associates, LLC and the Henderson County Board of Commissioners. The agreement was entered into at the beginning on November 2005 with an anticipated completion date of November 31, 2005 for the water and sewer improvements to Carriage Park Section 19, Phase 2.

We have obtained approval for the Section 19, Phase 2, Water Main and Sewer Line Extensions from both NCDENR and the City of Hendersonville. As of the November 31, 2005, the water extension to Section 19, Phase 2 has been installed. To the best of my knowledge, the Waterline and Sewerline Extension Agreements have been signed and recorded in the Henderson County Register of Deeds office.

Due to some unforeseen delays in state approval and recent poor weather conditions, the start of construction has been delayed to mid to late December. This delay has already caused the construction to be finished, and even begin, past the agreement deadline. This new start comes during the upcoming holidays of Christmas and New Year, as well as during times of poor weather conditions. These items will cause costly delays in the installation of the infrastructure.

Therefore, we are requesting that the agreement be extended until March 1, 2006 and that this request be heard at the next Henderson County Board of Commissioners meeting on December 15, 2005. Should you have any question and/or comments, please do not hesitate to call. Thanks in advance for your assistance in this matter.

Sincerely,



Paul Patterson, PE/PLS

Cc: File 05-06-27-ENG

STATE OF NORTH CAROLINA

PERFORMANCE GUARANTEE AGREEMENT

COUNTY OF HENDERSON

THIS AGREEMENT made and entered into this ____ day of _____, 200_, by and between Carriage Park Associates, LLC, hereinafter referred to as "Developer," and the Henderson County Board of Commissioners, hereinafter referred to as "Board;"

WITNESSETH:

WHEREAS, the Board and the Developer entered into an Agreement on November 7, 2005 (hereinafter "the original Agreement"), concerning an improvement guarantee for, Section 19, Phase II, of the Carriage Park Planned Unit Development, hereinafter referred to as the "Project," located in Henderson County, North Carolina; and

WHEREAS, the Developer placed on deposit a certified check of \$71,177.50 with Henderson County in accordance with the original Agreement; and

WHEREAS, the original Agreement provided that all required improvements were to be completed on or before the 30th day of November, 2005; and

WHEREAS, the Developer obtained approval of a Final Plat from Henderson County Planning Department staff on November 8, 2005 and subsequently recorded such Final Plat; and

WHEREAS, the Developer has requested that the Board of Commissioners approve extending the completion date of the original agreement to March 1, 2006

IT IS THEREFORE AGREED as follows:

1. The Developer will, on or before March 1, 2006, complete as required the following improvements which will serve Section 19, Phase II, of Carriage Park: water distribution and sewer system, as required by the Special Use Permit #SP-93-13, as conditionally approved by the Henderson County Planning Board on June 21, 2005, and as shown on the attached cost estimates prepared by Paul Patterson, P.E., (sealed and dated September 27, 2005).
2. At such time as this Agreement is fully executed, then this Agreement will supercede prior Agreements between the Board and the Developer regarding the improvement guarantee.
3. In the event that the required improvements are completed as required, the funds will be released. In the event that the improvements are not completed as required, then the Developers shall be in breach of this Agreement and the Improvement Guarantee and the County shall use the funds on deposit with Henderson County to complete the required improvements.
4. The County Manager shall have the authority to approve the release of portions of the Improvement Guarantee as work progresses, provided the amount remaining under the

Improvement Guarantee meets or exceeds 125% of the cost of the remaining improvements. The County Manager has the discretion to require the Developer to provide, at the Developer's expense, an independent verification of the remaining work.

IN WITNESS WHEREOF, the Board has, by appropriate action, caused this Agreement to be reviewed for approval by the County Attorney and executed by its Chairman or other authorized member and attested by the Clerk, and the Developer has caused this Agreement to be properly executed, this the ____ day of _____, 200_.

APPROVED AS TO FORM:

County Attorney

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: _____
William L. Moyer, Chairman

ATTESTED BY:

[OFFICIAL SEAL]

Elizabeth W. Corn, Clerk to the Board

DEVELOPER OF CARRIAGE PARK:
Carriage Park Association, LLC

BY: _____
Manager

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

I, _____, Notary Public for said County and State, certify that Elizabeth W. Corn personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners of Henderson County, a municipal corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by the Chairman of the Board of Commissioners, sealed with its corporate seal, and attested by her as its Clerk.

THIS the ____ day of _____, 200_.

Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]

STATE OF _____
COUNTY OF _____

I, _____, Notary Public for said State and County certify that _____, Manager of Carriage Park Associates, LLC, personally came before me this day and acknowledged the due execution of the foregoing instrument.

THIS the ____ day of _____, 200_.

Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]

PATTERSON & PATTERSON

PAUL PATTERSON WILLIAM PATTERSON
PROFESSIONAL ENGINEER/LAND SURVEYOR PROFESSIONAL LAND SURVEYOR
P.O. BOX 1189
HENDERSONVILLE, NC 28793-1189
1-828-692-6629 (TEL & FAX)

Memorandum

To: Matt Card, Planner @ Henderson County Planning Department
From: Paul Patterson, P.E./P.L.S.
Date: September 27, 2005
Re: Bond for Carriage Park, Section 19, Phase 2

Mr. Card,

I have attached herewith copies of the estimated costs to provide water and sewer to the site of Carriage Park, Section 19, Phase 2. These estimates were based on recent bids by contractors for work within Carriage Park at Section 19, Phase 1 and Section 22. This utility work will be bonded in order to record a plat for said Section 19, Phase 2. The estimates are as follows:

ITEM	ESTIMATED COST
Water Installation	\$41,376.00
Sewer Installation	\$15,566.00
Subtotal:	\$56,942.00
25% Contingency:	\$14,235.50
Bond Amount:	\$71,177.50

I believe that fulfills the requirements for water and sewer availability for this section of Carriage Park. Should you have any question and/or comments, please do not hesitate to call. Thanks in advance for your assistance in this matter.

Sincerely,



Paul Patterson, PE/PLS

Cc: File 05-08-32-ENG

CARRIAGE PARK

SECTION 19 - Phase 2

ESTIMATE

SEWER:

Item Description:	Quantity	Unit Cost	Cost
3" SDR13.5 PVC	1427 lf	8.00	\$11,416.00
Tie into Existing 8" Sewer Line	1 ea	1000.00	\$1,000.00
Misc. Fittings	1 ls	1000.00	\$1,000.00
Sewer Air/Vacuum Valve	1 ea	1200.00	\$1,200.00
Punch Under Carriage Park Way	1 ls	650.00	\$650.00
3" Plug	1 l.f.	300.00	\$300.00

Subtotal: \$15,566.00



CARRIAGE PARK

SECTION 19 - Phase 2

ESTIMATE

WATER:

Item Description:	Quantity	Unit Cost	Cost
8" CL350 D.I.	1332 l.f.	18.00	\$23,976.00
Fire Hyd. & Assembly	2 ea	2000.00	\$4,000.00
8" Gate Valves	3 ea	600.00	\$1,800.00
90° Bends	1 ea	550.00	\$550.00
8" Plug	1 ea	650.00	\$650.00
Roadway Bore	30 l.f.	110.00	\$3,300.00
Misc. Fittings	1 ls	1500.00	\$1,500.00
8"x8"x4" Hydrant Tee	1 ea	600.00	\$600.00
AARV	2 ea	1000.00	\$2,000.00
4" Gate Valve	1 ea	600.00	\$600.00
8"x8"x8" T.S. & Valve	1 ea	2400.00	\$2,400.00
Subtotal:			\$41,376.00

