

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

QUASI-JUDICIAL PUBLIC HEARING

Special Use Permit Application SP-06-01 for the Planned Unit Development Known as Vistas at Champion Hills

Mr. David Phillips, Applicant for Kasey-Phillips Development, LLC, Owner

Meeting Date: Monday, November 6, 2006

Attachments:

1. Site / Current Zoning Map
2. Aerial Photo Map
3. Adjacent Property Owners Map
4. Notice of Public Hearing
5. Required Findings of Fact for Planned Unit Development Special Use Permits

SUMMARY OF REQUEST:

Mr. Chris Day with Civil Design Concepts, P.A., on behalf of Kasey-Phillips Development, LLC and Mr. David Phillips, the applicant and Kasey-Phillips, property owner, submitted an application to develop a planned unit development (PUD) known as Vistas at Champion Hills on a single parcel of land (PIN 9557-37-2300) totaling approximately 12.89 acres, located at the intersection of Little Willow Circle and Willow Road. The PUD known as Vistas at Champion Hills is located in an R-20 (Low-Density Residential) zoning district and OU (Open Use) zoning district (See Attachments 1 and 2, Site / Current Zoning Map and Aerial Photo Map). The PUD is proposed to contain 12.89 acres of land, 20 townhome dwelling units, and 8.5 acres of open space.

Pursuant to §200-33.A of the Henderson County Code, before the Board of Commissioners may act on such a request, this matter requires “the advice and recommendation” of the Henderson County Planning Board. On August 2, 2006, the Henderson County Board of Commissioners accepted and referred the Special Use Permit Application (SP-06-01) to the Planning Board for its review and recommendation. During the August 15, 2006 Planning Board meeting, the Planning Board undertook its first consideration of application SP-06-01. The Planning Board continued its consideration of the application at its September 19, 2006 meeting and offered a recommendation to the Board of Commissioners. The Planning Board recommendation, along with Staff comments, will be submitted as evidence to the Board of Commissioners during the public hearing.

In accordance with Sections 200-56D and 200-70A(6) of the Zoning Ordinance (See Attachment 5, Required Findings of Fact), the Board of Commissioners must make findings of fact regarding compliance with the ordinance in order to grant a Special Use Permit and may impose conditions on the permit to assure that a proposed use will meet the requirements of the Zoning Ordinance. Section

200-56D lists the general site standards that apply to all special uses. If a general site standard cannot be met and, based on evidence provided during the hearing, the Board finds that imposing conditions (such as increasing minimum specific site standards), will allow such general site standards to be met, then the Board may impose the conditions. However, the applicant does not bear the burden of demonstrating that all of the general site standards have been met. Section 200-70A(6) requires that the Board of Commissioners also make findings to demonstrate that the proposed use complies with any specific requirements for the use and that provisions have been made for the following, if applicable: ingress/egress; parking and loading; utilities; buffering; playgrounds; open spaces; yards; access ways and pedestrian ways and building and structure location, size and use.

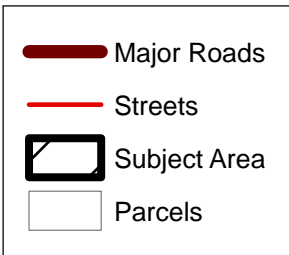
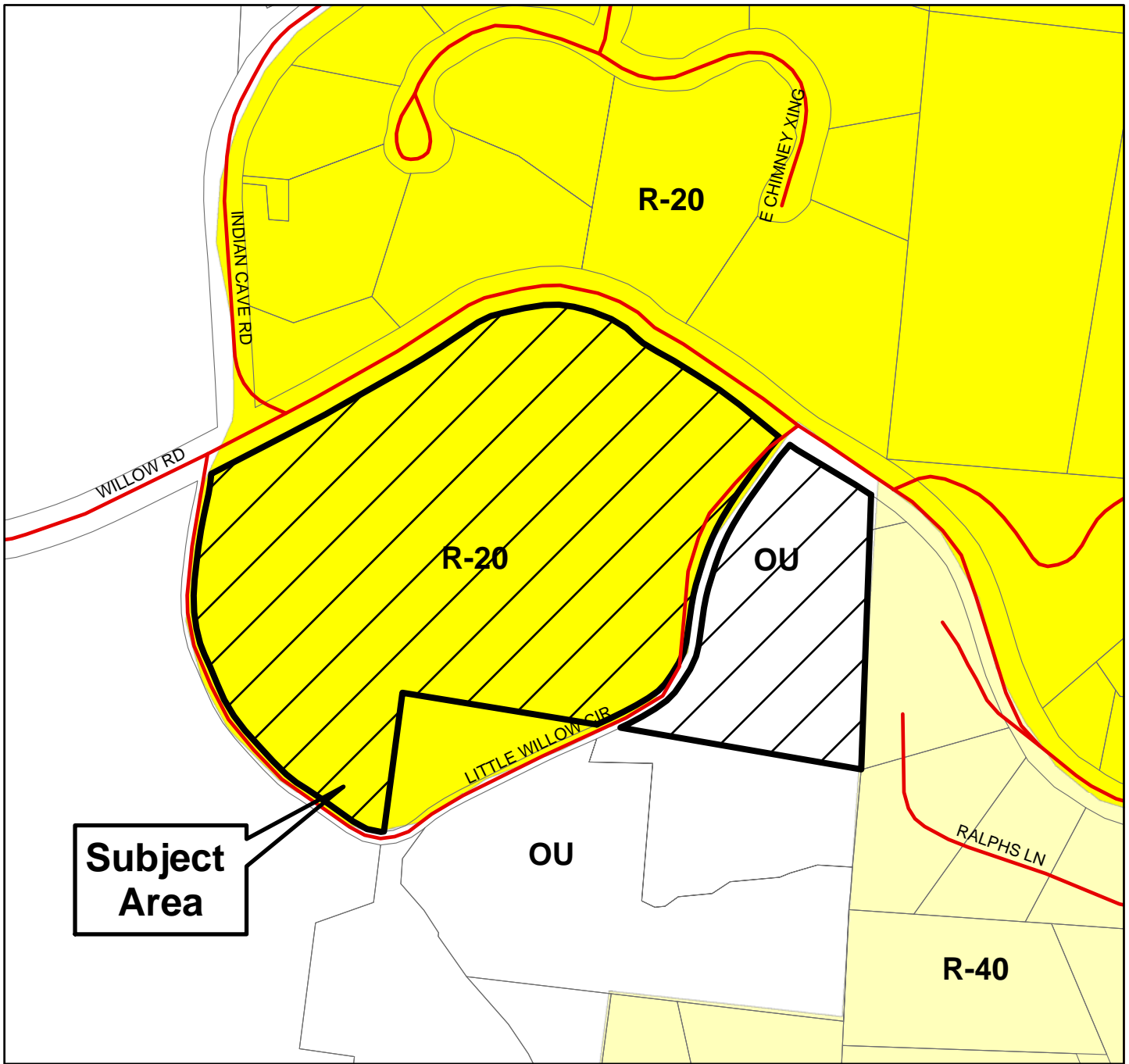
PUBLIC NOTICE:

In accordance with the Henderson County Zoning Ordinance, notices of the hearing on the Special Use Permit Application (SP-06-01) were published in the Times-News on Thursday, October 12, 2006 and on Thursday, October 19, 2006 (See Attachment 4, Notice of Public Hearing). On October 19, 2006 the Planning Department posted notices at the project site to advertise the hearing. On October 19, 2006 the Planning Department sent notices of the public hearing via certified mail to the applicant and adjacent property owners (See Attachment 3, Adjacent Property Owners Map).

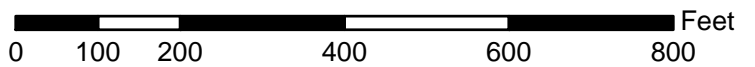
COUNTY MANAGER'S RECOMMENDATION / BOARD ACTION REQUESTED:

Since the matter requires a quasi-judicial public hearing, the Board of Commissioners must consider the evidence presented at the hearing and make findings of fact based on that evidence in order to take action on the Special Use Permit Application; therefore, I would prefer to reserve my comments until such evidence is presented. The Board must issue a written decision within 45 days of the conclusion of the hearing.

Site / Current Zoning Map






Special Use Permit Application SP-06-01
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Kasey-Phillips Developoment, LLC, Owner and Applicant



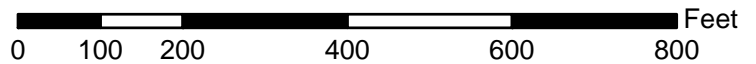
Aerial Photo Map



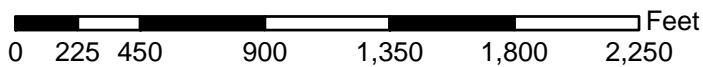
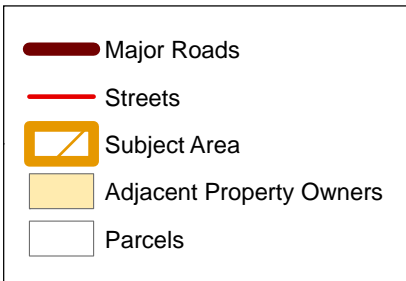
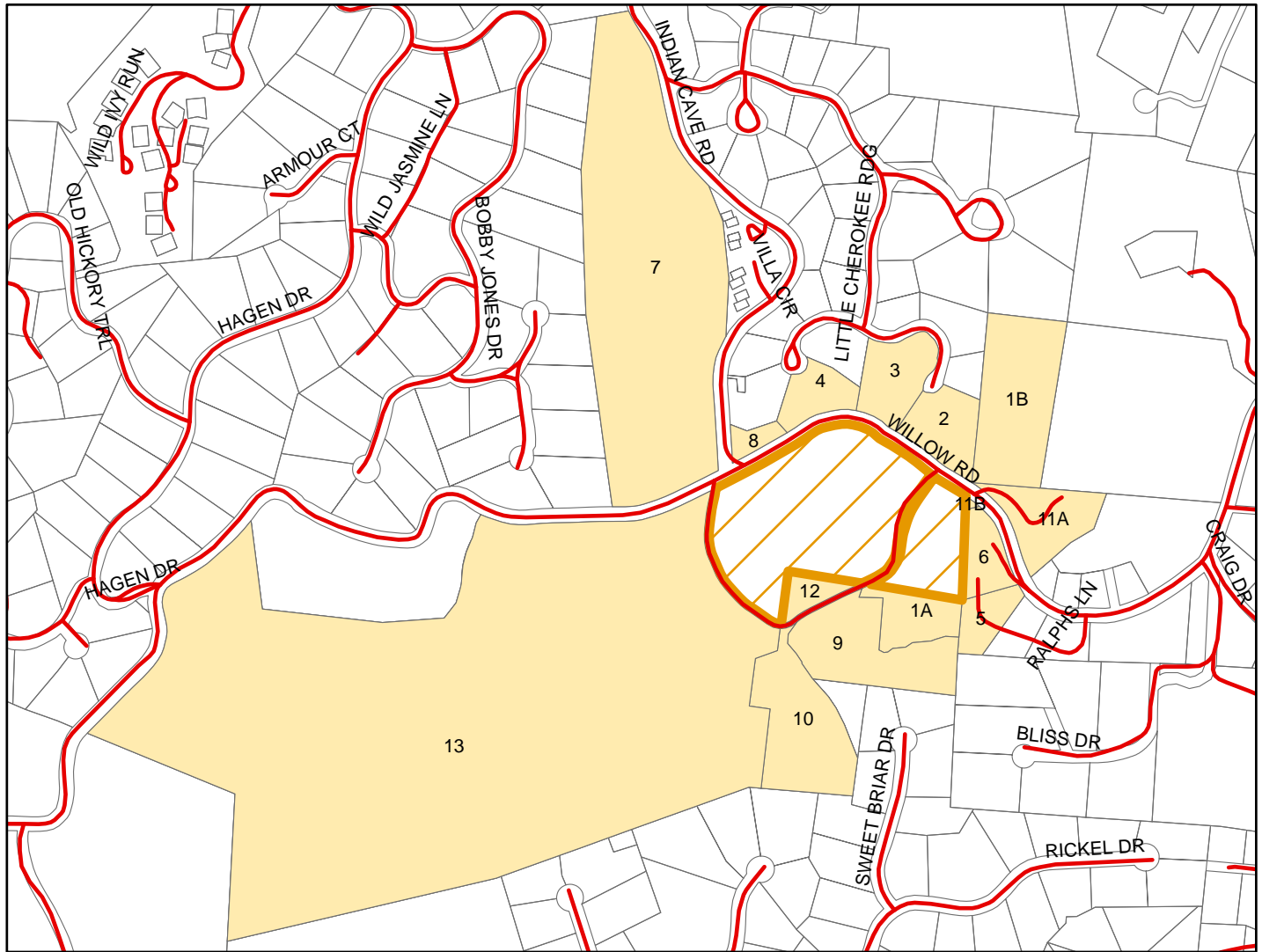
	Streets
	Subject Area
	Parcels



Special Use Permit Application SP-06-01
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Kasey-Phillips Developmont, LLC, Owner and Applicant



Adjacent Property Owners Map



Property Owner	Property
Barnette, James H Jr & Linda L	1A & B
BLT Enterprises LLC	2
Burgio, Victor T & Charleen E L	3
Bushong, Kathy H	4
Camp, Jack Lesley & Katharine Marie	5
Camp, William E & Wife	6
Champion Hills Club, Inc	7
Champion Hills Property Owners Asso Inc	8
French, Hans T & Michele M	9
Hills, Jerry W & Martha V	10
Nash, Jack V	11A & B
Snyder, Verne & Beverly	12
Willow Road LLC	13

Special Use Permit Application SP-06-01
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Kasey-Phillips Development, LLC, Owner and Applicant

**NOTICE OF PUBLIC HEARING
ON SPECIAL USE PERMIT APPLICATION #SP-06-01
FOR A PLANNED UNIT DEVELOPMENT
KNOWN AS VISTAS AT CHAMPION HILLS**

Notice is hereby given, as required by Sections 200-56 and 200-70 of the Zoning Ordinance of Henderson County, North Carolina, that the Henderson County Board of Commissioners has scheduled a public hearing on special use permit application #SP-06-01 for a proposed planned unit development (PUD) known as Vistas at Champion Hills. The PUD known as Vistas at Champion Hills is to be located at the intersection of Little Willow Circle and Willow Road in an R-20 (Low-Density Residential) zoning district and an OU (Open Use) zoning district. Mr. Chris Day with Civil Design Concepts, P.A., on behalf of Kasey-Phillips Development, LLC, property owner, and Mr. David Phillips, applicant, submitted an application to develop the PUD on a single parcel of land (PIN 9557-37-2300) totaling approximately 12.89 acres. The PUD is proposed to contain 20 townhome dwellings units and approximately 8.5 acres of open space.

The hearing will be held on Monday, November 6, 2006, at 7:00 P.M., in the Board of Commissioners meeting room in the Henderson County Administration Building, 100 North King Street, Hendersonville, NC. The hearing will be conducted as a quasi-judicial proceeding. Parties demonstrating standing regarding the application may participate in the hearing. All persons are strongly encouraged not to contact members of the Board of Commissioners prior to the hearing due to its quasi-judicial nature.

Information about the application, the Henderson County Zoning Ordinance as well as the rules of procedure for quasi-judicial proceedings may be obtained at the Henderson County Planning Department, 101 East Allen Street, Hendersonville, NC, between 8:00 A.M. and 4:30 P.M., Monday through Friday, or by calling the Planning Department at (828) 697-4819 [TDD (828) 697-4580].

Elizabeth W. Corn, Clerk to the Board
Henderson County Board of Commissioners

For publication in the Times-News on Thursday, October 12, 2006 and Thursday, October 19, 2006.

**Henderson County Board of Commissioners Required Findings
For Special Use Permit Application for Planned Unit Development**

Required Finding	Zoning Ordinance Citation	Y	N
1) Ownership control: the land in the development is in single ownership or management by the applicant before final approval and/or construction	200-33A.(1)		
2) Density requirements: proposed overall density conforms to underlying zoning district(s) in which the property is located. <i>“The density (dwelling units per acre) of any proposed planned unit development shall be determined by dividing the total number of square feet in the property by the minimum lot size requirement of a single-family dwelling in the district in which the development is proposed.”</i> If in more than one district “the number of allowable dwelling units must be separately calculated for each portion of the planned unit development that is in a separate district and must then be combined to determine the number of dwelling units allowable in the entire planned unit development.” There must be “satisfactory provision” as to “buildings and structures with reference to location, size and use.”	200-33A.(2) 200-33A.(9) 200-70A.(6)(f)		
3) Frontage: the development shall have a minimum of 200 feet frontage on a paved, public, state-maintained road or highway	200-33A.(3)		
4) Minimum size of development: 1½ acres	200-33A.(4)		
5) Building type: Buildings in the development are of the type usually allowed in the zoning district(s), plus “single-family detached homes, townhouses and garden apartments” owned as “condominium, cooperative, individual, municipal or any other type of ownership”.	200-33A.(5)		
6) The “ spirit and intent ” of the ordinance must be met.	200-33A.(6)		
7) Height limit on all buildings of 35 feet	200-33A.(6)(a)[1]		
8) Building separation: (1) at least 20 feet for buildings less than 20 feet in height located end to end, plus one foot in separation for each foot greater than 20 feet in height (to a maximum separation of 30 feet); (2) at least 30 feet for buildings less than 30 feet in height located side to side, plus one foot in separation for each foot greater than 30 feet in height (to a maximum separation of 40 feet); and (3) “the Planning Board may permit the minimum building separation for single-family detached units to be reduced below the minimums stated above, provided that the construction of adjacent walls conforms with the North Carolina Building Codes, but in no case shall buildings be closer than 10 feet. When the minimum separation is reduced, the area between buildings shall remain open and unobstructed.”	200-33A.(6)(a)[2]		
9) Access to common area: Direct access to common area for each dwelling by public street, walkway or other area dedicated to common use. There must be “satisfactory provision” as to “playgrounds, open spaces, yards, accessways and pedestrian ways with reference to location, size and suitability.”	200-33A.(6)(b) 200-70A.(6)(e)		
10) Location of structures: “The location of structures, shown on the development plan, shall be so arranged as not to be detrimental to existing or other proposed structures or to the development of the neighborhood.”	200-33A.(6)(c)		

Required Finding	Zoning Ordinance Citation	Y	N
11) Privacy (visual and acoustical) for all dwelling units: “Fences, insulation, walls, barriers, and landscaping shall be used as appropriate for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise.”	200-33A.(7)		
12) Perimeter privacy and screening: <i>“If topographical or other barriers within 200 feet of the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Board of Commissioners may impose any of the following requirements: (a) Structures located on the perimeter of the development must be set back from property lines and rights-of-way of abutting streets in accordance with the provision of this chapter controlling the district within which the property is situated; (b) Structures other than single-family detached units located on the perimeter of the development may require screening in a manner which is approved by the Board of Commissioners; or, (c) The location of the structures on the perimeter of the development, as shown on the development plan, shall be so arranged as not to be detrimental to existing structures or to the adjacent neighborhood.”</i> There must be “satisfactory arrangement” as to “buffering with reference to type, location and dimension.”	200-33A.(8) 200-70A(6)(d)		
13) Water and Sewer plans must be (1) designed by professional engineer, and (2) documentation showing the plans “have been approved by the appropriate local and state agencies, shall be submitted as a part of the application.” All utilities must be found in compliance “with reference to locations, availability and capability.”	200-33A.(10) 200-70A.(6)(c)		
14) Parking plans must include two spaces per dwelling unit, plus 1 per 200 gross square feet of clubhouse. The layout of parking areas, service areas, entrances, exits, yards, signs, landscaping and other “potentially adverse influences” protect the “residential character” of the PUD and the area surrounding.	200-33A.(11) 200-40 200-33A(13) 200-70A.(6)(b)		
15) Pedestrian ways/bikeways , if any, must be reasonably insulated from motor traffic.	200-33A.(12)		
16) Common and open space: “ (1) Common open space, recreational areas and communally owned facilities shall be guaranteed by a restrictive covenant describing the areas and facilities and their maintenance and improvement, running with the land for the benefit of residents of the planned unit development or adjoining property owners or both; and (2) The applicant must submit to the Board of Commissioners the legal documents which will produce the aforesaid guaranties and, in particular, will provide for restricting the use of common areas and facilities for the designated purposes.”	200-33D.		
17) Maintenance: Plan for homeowners association and for maintenance must be legally enforceable, with membership required of every property owner. Must be submitted to County Attorney and to the Board of Commissioners.	200-33E.		
18) Planning Board Recommendation must be received by Board of Commissioners prior to grant of permit.	200-33F.		
19) Additional information: The Board of Commissioners may request additional information required “to evaluate the impact of the proposed planned unit development.”	200-33F.(4)(c)		

Required Finding	Zoning Ordinance Citation	Y	N
20) Waiver (NOT A REQUIREMENT): <i>“The Board of Commissioners may waive a particular requirement if, in its opinion, the inclusion is not essential to a proper decision on the project.”</i>	200-33F.(4)(c)		
21) Notice : must be published once a week for two consecutive weeks in an approved newspaper at least 15 days and not more than 25 days prior to the hearing. Notice must be mailed by registered mail to abutting property owners, and the property must be posted.	200-56B. 200-70A.(1)(b) 200-56C.		
22) General site standards – health, safety, welfare : the permit if granted must not have an adverse affect on the health or safety of people residing or working in the neighborhood of the development; it must not be detrimental to public welfare; it must not be injurious to property or public improvements.	200-56D.(1)(a)		
23) General site standards – noise/odor : the property “shall be located or developed in such a manner as to minimize the effects of noise, glare, dust, solar access and odor on those persons residing or working in the neighborhood of the proposed use and the property and public improvements in the neighborhood.”	200-56D.(1)(b)		
24) General site standards – traffic safety : must be developed so as not to adversely affect traffic or safety. There must be satisfactory ingress and egress.	200-56D.(1)(c) 200-70A.(6)(a)		
25) General site standards – comprehensive plan : the development must be “consistent with the goals and objectives” in the County’s Comprehensive Plan.	200-56D.(1)(e)		
26) General site standards – complies with Federal and State law.	200-56D.(1)(d)		
27) General site standards – environmental/historical impact. The development must be sited and developed in such a manner “as to minimize the environmental impacts on the neighborhood including the following: groundwater, surface water, wetlands, endangered and threatened species, archeological sites, historical preservation sites and unique natural areas.”	200-56D.(1)(f)		
22) through 27) Modifications imposed by Board of Commissioners: <i>“In the event that the Board of County Commissioners determines that a proposed use is contrary to one or more of the general site standards, then the Board of Commissioners may impose a condition on the issuance of the special use permit when such condition will avoid a violation of the general site standards. The condition imposed may be an increase in any minimum specific site standards stated for the regulated use. The imposition of a condition may only be based on evidence presented at the hearing that the general site standards would not be met without the imposition of such condition. The Board must make specific findings of fact based upon the evidence presented prior to the imposition of such condition.”</i>	200-56(d)(2)		