

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: 2 January 2007

SUBJECT: Approval of order from quasi-judicial hearing

ATTACHMENT(S): Draft order

SUMMARY OF REQUEST:

This matter is on for approval of the order from this Board's hearing on the Leoni's Mountain Lake Subdivision special use permit amendment in December 2007.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Approval of the draft order.

If the Board is so inclined, the following motion is suggested:

I move that the Board approve and adopt the draft order as the order of the Board.

IN THE MATTERS OF THE APPLICATIONS OF
CAMP RILEY, INC.,
Applicant,

to the

HENDERSON COUNTY BOARD OF COMMISSIONERS,
Permit Authority,

Regarding

LEONI'S MOUNTAIN LAKE HOMES.

The Henderson County Board of Commissioners held a quasi-judicial hearing on 4 December 2006, to consider the application SP-04-01-A1, for the amendment of a previously granted special use permit. This application was submitted by the property owner, Camp Riley, Inc. Having heard all of the evidence and arguments presented at the hearing, the Board of Commissioners makes the following findings of fact:

1. A quasi-judicial hearing was held by the Henderson County Board of Commissioners on the special use permit application SP-04-01-A1. All members of the Board of Commissioners were present and participated in this hearing. Commissioner Williams had served on the Henderson County Planning Board during the period in which it gave its recommendation on the proposed amendment, but did not actually participate in the matter at that level. Further, Commissioner Williams is able to make an impartial decision in this matter, and no party (as named below) or Commissioner objected to his participation in this hearing.
2. Notice of the quasi-judicial hearing, pursuant to the Henderson County Code, and the Rules of the Henderson County Board of Commissioners was duly and timely given. This notice included legal advertisement in *The Times-News* newspaper published 15 November 2006 and 22 November 2006, notices sent by certified mail to the applicant and all adjacent property owners to the boundary of the subject property, and the posting of notice on the subject property.
3. At the commencement of this hearing, the Chairman stated that the Board recognized the applicant and the Henderson County Planning Department as parties to this hearing, and inquired whether any person or entity sought to become a party to this action. The following persons, who own adjoining parcels to the property in question, were made parties to this action: Brenda Coates and Don Garland.
4. The Chairman stated that the sole issue was the proposed amendment of the previously granted special use permit SP-04-01, and the sole change proposed by the amendment was allowing an additional method of solid waste disposal (public sewer service) for the developer to choose beyond that previously allowed under the special use permit.
5. Except as modified hereby, all findings and conclusions stated in the Order granting permit SP-04-01 remain as true, and are incorporated herein by reference.

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6. Except as expressly modified hereby, all the terms and conditions of the Order granting permit SP-04-01 will remain in full force and effect after entry hereof.

7. The proposed amended special use, as granted below, satisfies all requirements for special uses under the Henderson County Code.

8. The Planning Department recommended and all other parties agreed that the amendment be granted, subject to the following additional conditions:

Plans and accompanying documentation, to ensure that the water and sewer systems proposed for the planned unit development have been designed by a professional engineer, and have been approved by the appropriate local and state agencies, shall be submitted as part of the application. Should the applicant provide a public sewer, the infrastructure to serve the development shall be bonded, in accordance with the Henderson County Subdivision Ordinance, prior to construction. Once public sewer is installed and/or bonded, the group septic option would no longer be available under the special use permit.

From the foregoing, the Board of Commissioners concludes as follows:

1. All parties were properly before the Board, and all evidence presented herein was under oath, and was not objected to by any party. All evidence relied upon in this Order was credible and reliable.

2. The Board of Commissioners has jurisdiction to hear this matter.

3. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.

4. The application for amendment of the special use permit meets all the standards of the Ordinance, subject to the conditions set forth below, and the application for the amended special use permit should be granted, subject to the conditions set forth below.

IT IS THEREFORE ORDERED by the Henderson County Board of Commissioners that Henderson County special use permit amendment application number SP-04-01-A1 is hereby granted, subject only to the following conditions:

1. Applicant will be allowed to employ public sewer service as an additional method of solid waste disposal for the developer to choose beyond that previously allowed under the previously granted special use permit SP-04-01.

2. Plans and accompanying documentation, to ensure that the water and sewer systems proposed for the planned unit development have been designed by a professional engineer, and have been approved by the appropriate local and state agencies, shall be submitted as part of the application. Should the applicant provide a public sewer, the infrastructure to serve the development shall be bonded, in accordance with the Henderson County Subdivision Ordinance, prior to construction. Once public sewer is installed and/or bonded, the group septic option is no longer allowed under special use permit SP-04-01.

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3. Except as expressly modified hereby, all the terms and conditions of the Order granting permit SP-04-01 will remain in full force and effect after entry hereof.

Announced 4 December 2006, and approved in final form, this the 2nd day of January, 2007.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____
WILLIAM L. MOYER, Chairman

Attest:

Elizabeth W. Corn, Clerk to the Board of Commissioners

ACCEPTANCE BY THE APPLICANT

I, _____, do hereby on behalf of Camp Riley, Inc.,
acknowledge:

(1) the receipt of this order on behalf of Camp Riley, Inc., the owner of the property which is
the subject of this Order;

(2) that nothing may be done pursuant to this Order except in accordance with all of its
conditions and requirements; and,

(3) that this restriction is and shall remain binding on Camp Riley, Inc., and its successors in
interest.

This the day of January, 2007.

On Behalf of Camp Riley, Inc.

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

I, _____, Notary Public for said County and State, certify that
_____, who is the _____ of Camp
Riley, Inc., personally came before me this day and acknowledged the due execution of foregoing
instrument on behalf of Camp Riley, Inc.

THIS the day of January, 2007.

Notary Public

My Commission Expires: