

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
JUNE 28, 2007

The Henderson County Board of Commissioners met for a special called meeting at 6:00 p.m. in the Bo Thomas Auditorium at Blue Ridge Community College.

Those present were: Chairman Bill Moyer, Vice-Chairman Charlie Messer, Commissioner Larry Young, Commissioner Chuck McGrady, Commissioner Mark Williams, Assistant County Manager Selena Coffey, and County Attorney Russell Burrell.

Also present were: Planner Matthew Cable, Planning Director Anthony Starr, and Associate County Attorney Sarah Zambon.

CALL TO ORDER/WELCOME

Chairman Moyer called the meeting to order and welcomed all in attendance. This is a vested rights proceeding with respect to VR-2007-01, the Glens and Highlands at Flat Rock, where Jerry Grant and Jimmy Edwards are the petitioners. Petitioners are seeking vested rights under Chapter 189 of the Henderson County Code which allows a land owner to establish a vested right for a development project through the approval of a site specific plan.

QUASI-JUDICIAL PROCEEDING – VESTED RIGHTS APPLICATION VR-2007-01 for the Proposed Continuing Care Retirement Community Development Known as The Glen and Highlands at Flat Rock

Commissioner McGrady made the motion to continue the vested rights proceeding. All voted in favor and the motion carried.

Chairman Moyer – “We are back into public hearing. For those of you who may not have been here before, we went through the establishment of the parties...well let me make one other comment. Some of the people and certain portions of the hall said they could not hear some of us or some of the speakers. If that’s the case it’s very hard for me to tell. If you’ll just raise your hand at a certain time we’ll try to fine tune the microphones. He did work on them, I think we have an improvement but if you cannot hear please just raise your hand and we’ll try to make some adjustments because we certainly want everyone to hear what is going on. At the last hearing we identified the parties; the staff gave their overview, the petitioner presented their evidence and for those of you that didn’t hear we have to do this quasi-judicial somewhat as a quasi-judicial legal proceeding, so we have to follow certain established rules. That’s why we have to be much more rigid than we are in certain places. We have some cross examination of the petitioner and his evidence and then we move into the presentation of evidence by the other parties, and we have five (5) parties. We started...Mr. McPhail was the...one of the parties who’s represented by Attorney Boyd Massagee. We were...had just started and were in the process of Mr. Massagee presenting his evidence and we will continue at that point. Attorney Massagee, let me mention one other thing before you start. Um, I will go over...after we finish the evidence of the parties, we will have public comment from those that have signed up. We have the list for those that signed up the last time. As I mentioned before there is also a sign up sheet...is it still out back Mrs. Corn? There’s a sign up sheet out there if you were not here the last time and you would like to speak or just make a public comment with respect to this issue, all comments will be limited to this issue. Please sign up in the back

DATE APPROVED _____

and after we complete the list of all those have signed up we will then go to that list so everyone has a chance to get to speak. After the parties have finished presenting their evidence we will then have...go into public comment and staff will present their evidence after that. At the last meeting there was some incidents of noise, whistling and what some people viewed as threats or intimidation and otherwise disruptive behavior. We are not going to tolerate any of that this evening. We have people from the Sheriff's Department here and anyone that continues with the disruptive behavior will be removed from this building, and the property by a Sheriff's Deputy. Please don't make...we don't want that to be necessary but we want everyone to feel comfortable to make their statement as they see fit not to be interrupted or be harassed in anyway and we're going to insist to see that that's done. It is my intent to try to keep things moving and get this wrapped up tonight. I know you've had to come now back twice as we have. We'd like to try to complete this and move on. We'll do the best we can. We have fifty some people signed up to speak so that's going to take a while. So I'll try to keep it moving. We'll follow the same rules as we did the last time. The parties get ten (10) minutes, the people making public comment get three (3). I'll do what I did the last time, if you're in the middle of a point that's relevant to the record I will let that be completed but if you go off into something that's not relevant or whatever in my view then we'll hold you to the time limit and we'll try to keep it moving the best we can. Ms. Beeker"

Attorney Angela Beeker – “Mr. Chairman thank you so much for your comments. For the record, we do object to Mr. Massagee putting on any other witnesses as it was our understanding he rested. Obviously everybody's had a chance to go home and mobilize since we presented our check case in chief so we would object to that. Thank you.”

Chairman Moyer – “Alright, noted for the record Mrs. Beeker.”

Attorney Boyd Massagee – “The first witness I would call sir would be Mr. Luther Smith. Luther Smith has a degree from NC State in Landscape Architecture. He's got a Masters Degree down there for Landscape Architecture. Testimony was made by the applicant to...as to how much of a specific building could be seen and he's going to address that. Mr. Smith”

Luther Smith – “Mr. Chairman, do I have to be sworn in as a witness?”

Chairman Moyer – “I guess you do, Boyd how many people do you have that were not sworn in before?”

Attorney Boyd Massagee – “Probably all of them sir.”

Chairman Moyer – “Would you have any...Ms. Corn can you go down and swear them in? Don't tell me she doesn't have a bible? Can you swear these people in?”

Russ Burrell – “You don't need a Bible, just raise their right hand.”

Clerk to the Board Elizabeth Corn – “If you'll raise your right hand please, do you swear to tell the truth to the Board of Commissioners and do you swear that everything you say will be the truth and nothing but the truth so help you God?”

In Unison – “I do”

Chairman Moyer – “Luther is there a signup sheet on that list on the podium where you are?”

Luther Smith – “There is not”

Unintelligible from Anthony Starr

Chairman Moyer – “I think we’d better do it here as well and get their name and address just like we did for all the other witnesses.”

Attorney Boyd Massagee – “I would ask him just to state his name and address if he may sir in addition to writing it down.”

Chairman Moyer – “Right, that’s what we’ll need.”

Attorney Angela Beeker – “I’m sorry Mr. Chairman could I raise one other point of order.”

Chairman Moyer – “Sure”

Attorney Angela Beeker – “We were limited in our case in chief, although you did grant us some latitude and we would ask you to bear that in mind as they continue.”

Chairman Moyer – “I will do that”

Attorney Boyd Massagee – “I still have my timesheet Mr. Chairman of the amount of time you granted them and I’ll be happy to have just what you granted them.”

Chairman Moyer – “It’s on a per person, per witness basis Mr. Massagee.”

Attorney Boyd Massagee – “I understand that. Would you state your name and your address please sir?”

Luther E. Smith – “My name is Luther E. Smith. My office address is 129 Third Avenue West, Hendersonville, North Carolina.”

Chairman Moyer – “You may continue”

Luther E. Smith – “I thought he was going to ask me a question. Our office was requested to develop what is called a view shed map for the area in Crab Creek which plan is to be located. Looking at this blown up unfortunately the colors aren’t quite as good but if you look in the center...very center of that map you’ll see kind of a reddish square. Based on our copy of the site plan for the development and USGS topo maps we were able to estimate the proposed elevation for the bottom of the building. Um, from that point and a location...from that point we then projected a line of site distance...or a line of site, excuse me, for radius the outer radius covered approximately two miles and it’s broken down. Again, it’s very difficult to see, um but the sort of pale yellow area you see primarily to the right hand side of the screen in the center is the area where the elevation is lower than the building and from that area theoretically the building could be viewed. View shed maps are very much like uh, the idea if you’ve had a group photograph, they say if you can see the camera then the camera can see you. Uh it takes into account land form only. It does not take into account vegetation because vegetation can come and go. So this map is developed based on the land form for the valley. The next level of the darker sort of olive green that you see we then went vertically a hundred feet from the base of the building uh and projected again a line of site at that level to see what portions and those are the portions in dark green of the county again could see the main building from their property. We then stepped up another level of a hundred feet it’s a very kind of pale green just outside of the darker green in several areas that indicates again areas

where this piece of property and the proposed buildings could be viewed or could be seen. Basically this map just shows that the area as a...extending two miles you see at the very top of the map there are areas um, up above Kanuga Lake in that area which would be uh I guess a part...part of the edge of Champion Hills and Indian Cave and so forth. Again, line of site distance could see the development on this piece of property.”

Attorney Boyd Massagee – “Roughly how wide is it from one side to the other to be able to see this building...see this site?”

Luther E. Smith – “Well yes, from the building we ran uh distance of two miles out from the building so uh obviously you have Jeter Mountain to the left...you’re really looking at an area of about uh perhaps three and a quarter miles. A Transector crawl says that the building could be seen there along Crab Creek boundary basically.”

Attorney Boyd Massagee – “Mr. Chairman I don’t have any other questions of him”

Chairman Moyer – “Alright thanks Luther.”

Attorney Boyd Massagee – “Is he excused to go sir?”

Chairman Moyer – “No I’m going to wait until all yours are done and let the other parties cross examine.”

Attorney Boyd Massagee – “My next witness Mr. Chairman is a man named Joseph Hummer. Mr. Hummers a Professor of Engineering at North Carolina State University. Very briefly he has engineering degrees and a master of engineering degree from Michigan State. He got his PHD in Engineering from Purdue. He’s been teaching and studying...teaching primarily at NC State where he is now professor and he is teaching on the subject of traffic and I want to ask him to talk with you about the affects that he finds will occur to the traffic, danger wise, if you have this many additional people and if you have this many additional commercial vehicles. Dr Hummer, if you’d state your name and address sir.”

Joseph Hummer – “My name is Joe Hummer. My address is 115 Windswept Lane in Cary, North Carolina, 27518. I’m a Professor of Civil Engineering at NC State. I should say for the record here that I’m appearing as a private citizen and not on behalf of NC State University.”

Chairman Moyer – “Mr. Massagee was a copy of this given to Mrs. Beeker that we have in front of us?”

Attorney Angela Beeker – “No”

Attorney Boyd Massagee – “A copy of what sir?”

Commissioner Young – “This packet”

Chairman Moyer – “Yes, Mr. Hummer’s presentation.”

Attorney Boyd Massagee – “This presentation that we have here sir is to be introduced when...unintelligible. We will hand it up right now sir if you give us a moment.”

Chairman Moyer – “We have it here. I want to be sure Mrs. Beeker has it.”

Attorney Boyd Massagee – “You already have it”

Chairman Moyer – “Yes we have it. Mrs. Beeker I don’t believe does.”

Attorney Boyd Massagee – “Okay”

Elizabeth Corn – “I’ll give it to her”

Chairman Moyer – “Alright”

Attorney Angela Beeker – “When did the Board receive this, just tonight?”

Chairman Moyer – “Just tonight”

Joseph Hummer – “Thank you for the opportunity to speak. Uh, my credentials are up on the screen here and uh most relevant for the proceedings here tonight is the fact that in my research career of twenty something years I have developed models to predict highway safety, that is the number of crashes that will occur on two lane little roads like Crab Creek Road and I have courses for the Federal Highway Administration and for NC State University on how to do that uh predict the number of crashes. The task before me uh was to try to make a prediction of the number of collisions on Crab Creek Road due to this proposed new development and you can see these steps that I took uh to achieve that task and I’ll go over those steps briefly here before getting to the results. The first big thing that I had to do to make a prediction about safety due to this proposed development was to forecast the volume in new traffic that is called trip generation and I used the standard manual which is the trip generation manual from the Institute of Transportation Engineers. Land Use Code 255, which I believe is the appropriate code for this type of development, called a continuing care retirement community. I did make an assumption that all trips coming out of the new development would be turning toward Hendersonville. I believe that’s a conservative one being that the next closest definition is to the west is a good longer distance away; Brevard I believe. I did forecast the uh, uh, uh time period of interest in the background growth rate for traffic on Crab Creek Road that is without this new development the traffic volume would still be growing so I made a forecast of that. In the segment of interest, the one I’ll be making a forecast for runs from the new development uh back into town uh ending at the first traffic signal which is Price Road. I did gather some other data to help me make my forecast; you can see those here. These are standard sources available to all. Uh, three years of collision data from the North Carolina Department of Transportation; three years is a standard time frame. Uh, this is the most recent three years of collision data available to the NCDOT. I also looked at NCDOT state wide and county wide collision statistics. I did review some aerial photos and maps that run wide in a visit to the site recently. The collision prediction methods that I used to...are shown here, there are two of them. Uh, one was uh relatively simple uh use of the collision rate that NCDOT had calculated based on that last three years worth of collision data uh that is uh standard calculation collisions per hundred million vehicle miles and in the second method that I used was the model that I helped develop for federal highway administration that is a uh referred to in the literature as the Zague Model. I was the second author on that. Uh, I’d like to call it the Zague and Hummer Model. Um, it is a model that is used worldwide uh like I said uh Federal Highway Administration and uh it is useful in this case because it was developed uh with data from North Carolina and uh I believe six other states. Then I find an older drive factor, given that the development will be serving mostly older drivers, uh the classic U-shaped curve that you see there is uh one that’s one all highway safety people and that is uh as we age and continue to drive our collision rate or collision risk goes up so over on the yx’s there, the vertical that’s crashes per million vehicle miles and people over 65 tend to get less safe and that’s certainly going to be the case here out of this new development. Collision

severity is an important thing as well to make a forecast of that number of fatal and injury collisions I used the NCDOT statewide data uh and the data from Crab Creek Road over the last three years. Okay if we could advance the slides we could get to the punch line here. There it is. The results show us that Crab Creek Road is already hazardous. Relatively hazardous uh the current crash rate 327 per hundred million vehicle miles. By comparison the average for all rural roads in Henderson County is about 200 is the average state wide. The average for other rural two lane primary roads in Henderson County is 234, so this road is already safety wise uh in bad shape. The three...last three years of collision data showed us an average of 26 collisions per year which is quite a large amount and if...if this development does not go forward but we still make the forecast of safety based on that rate we would predict that the number of collisions would go up to 32 by the year 2012 my forecast horizon. And as far as I know uh there's no proposal to update the geometry on Crab Creek Road, uh make safety improvements to it so that's pretty uh firm result there. We could also see that the uh proposed development will be generating high volumes of traffic. Uh, approximately 940 need trips per day was my estimate again based on standard factors from the trip generation manual...almost a thousand trips per day and uh compare that to the current volume that's...that's about 22% addition to the current volume. With a typical uh background uh growth rate by 2012 we could predict that Crab Creek Road would be carrying over 6000 vehicles per day uh which with the new development and other developments in the area would be a 44% increase over the current volume of just over 4000. So that's a lot of cars on that uh narrow winding road. The real punch line is here, prediction of the additional collisions due to the proposed new development. If this development goes forward as proposed there will be an additional almost 7 collisions per year on that stretch of Crab Creek Road. There will be an additional 2 collisions per year that will be injuries...will result in injuries to at least one of the parties involved and the fatal collision rate will be on average...this development would cause an additional fatal crash about every 17 years. That is just due to this development that is in addition to the current traffic and the background expected growth in the area. My conclusion is that uh this proposed development on this site is a...is a bad idea from a highway safety perspective. That's a higher volume of traffic to be generated with a long distance to town and no alternate modes of transportation available on a road that's already relatively hazardous and uh this development will generate many more collisions; six per year; two injury collisions per year; and uh a fatality as predicted on a previous slide. It's going to be a lot of extra collisions and my recommendation is uh on this basis uh the Board should decline the request."

Attorney Boyd Massagee – "I have no questions of this witness Mr. Moyer."

Chairman Moyer – "Are you going to place in evidence this packet of information; the copy of his slides?"

Attorney Boyd Massagee – "I'm offering into evidence all of the packet that you have there sir which includes his slides."

Chairman Moyer – "Alright"

Attorney Boyd Massagee – "Thank you, thank you sir. The next witness is Mr. Michael Brookshire. He is the erosion control officer for Buncombe County. He has been a certified professional erosion and sedimentation control man for over 19 years in Buncombe County. Mr. Brookshire, would you come up and again state your name and address please?"

Michael Brookshire – "Yes sir, my name is Michael Brookshire. Uh, I live on 275 Peacock Lane in Penrose that is right off Crab Creek Road. I had worked for Buncombe County, again I'm not representing the County, I'm here as a private citizen. Uh, been asked by my neighbors and friends to

come and just explain again what my concerns would be and what permits etc. would be required for this project and long term perspective for storm water erosion control. Uh, I do have a degree from UNCA and am a Certified Professional Erosion Sedimentation Control. Two years in the sewer department. I have my waste water formal collection. My concerns on this project, the main permitting process is at this time this project will be over seen by DENR unless it's permitted. I understand Henderson County is looking at having its own local program. At this time uh all the measures will be designed for a 10 year storm event if they go through the Department of Environment and Natural Resources. Uh, a 10 year storm event is for the temporary measures; all storm water controls, velocity reduction, uh it does not really address volumes of water. What we look at in the velocity control is mainly just trying to slow that water down. The concerns I have on this project are again the 10 year storm event, there is a very high probability during the grading activity that silt loss will occur. Um, the...that's just something that uh we've had um storm events exceed 10 year storm seems like around here every year or two so the process um that they would need to go through of course is uh Army Corp of Engineers permits. I've not seen lately...I haven't seen in my years with the County um uh storm...uh ponds...and again I don't have a detail plan but what I've seen of their plan is I've not seen um the Army Corp of Engineers give a permit to inline ponds and streams anymore. Usually they want you to take that out of the stream. The other requirements they would need of course is DOT encroachments, storm water quality, wildlife uh comments, they would need a NPDS permit which is a National Pollutant Discharge Elimination System permit. The main thing this permit does is requires the contractor or the developer on site to maintain a rain gauge. He keeps a track of if the rains...the amount of rainfall in the area. If we exceed a 10 year storm event mainly what he will log...or he will log that or what rain event; the amount of silt loss and what corrective actions he took. So you're talking about something that he is doing on this own that you're depending on the contractor to do. If the storm exceeds that 10 year event, and like I said a lot of times during the construction, over the process of how long this project would take we're looking at you know some severe, possible severe off site sedimentation. Uh, if it exceeds a 10 year storm event it would not be a violation of the ordinance. Uh, they would come out and require you to reinstall the measures and get them back in place. They would not even let...at that point they could not you know levy fines. Division of Water Quality might possibly could with stability violations but DENR would not. The stricter requirements, you know, would help a great deal which we've done in Buncombe County and I think Henderson County is looking at that. My main concerns are the silt loss during the project; but my biggest concern is the long term affect. I've always felt like during projects we will usually, you're going to lose some silt, with this tracking on the road, um whether you have a minor...minor silt loss through a sediment trap or basin or whatever. The long term affects on this project that I'm concerned about especially if we're not going to address, you know, volumes and they may well very well address some volumes but we're talking about a lot of impervious surface. I did take a look at Mud Creek uh you're talking about a waste water discharge also, so the amount of impervious surface with that waste water discharge to Mud Creek, uh long terms my biggest concern would be the downstream erosion. There is no doubt in my mind that unless we do some additional things that we will have downstream erosion to Mud Creek. That's a lot of additional volumes. Uh, again if they get through all these hoops and permits that are required um then again I would suggest...highly suggest that we look at additional requirements to uh maybe retention or something to...on this project to...to uh take care of that. But, again I was asked by a lot of my friends and stuff just to share my concerns and reviewing plans, what I would be looking for and what the minimum requirements were, and as I look at a site that would be my long term concern is the downstream erosion."

Chairman Moyer – "Attorney Massagee do you have any..."

Attorney Boyd Massagee – "I do not have any questions now."

Chairman Moyer – “Alright, thank you sir. Don’t leave there may be some questions for you later. No, you can sit down now but I’ll wait till Mr. Massagee finished his witnesses.”

Attorney Boyd Massagee – “I would next call on Mr. Chairman, Robert W. Hastings. Mr. Hastings is a geologist. He is...has an undergraduate degree and a master’s degree and he has been involved in...in water control, sewer control all of his life. I want to ask him to come up and state his name and give his address please. He’s going to address the same issue as basically with you that is water quality; water availability to - to - to the neighboring properties and the sewer situation.”

Robert W. Hastings – “My name is Robert Hastings. I live at 31 Arborvale Street, Asheville, North Carolina.”

Chairman Moyer – “Can you move a little closer to the mic so...the people in the back are not hearing you.”

Robert W. Hastings – “I think that should work.”

Chairman Moyer – “Better”

Robert W. Hastings – “Did you get the information”

Chairman Moyer – “No, start again”

Robert W. Hastings – “My name is Robert Hastings. I live at 31 Arborvale, Asheville, North Carolina, 28801 and as Mr. Massagee said I’m a registered geologist. I’ve been involved in ground water supply um waste water discharge and waste water discharge compliance activities for 20 of my professional years. There, in my view...there are two inter-related problems with the proposed development. One is the potential water supply issue and the second is the potential water quality issue to Mud Creek and that has components to it. I’ll deal with the water supply issue first. Um, this part of the state relies on fractured rock aquifer system. The only way that the aquifer system is recharged is from direct precipitation. There is no great bucket of sand and gravel that stores water like there is on the coastal plains or something like that. There is no large reservoir of underground water, so the available water supply is directly related to the amount of precipitation that falls in the area and the available water for a given well is directly related to how much of the surrounding areas precipitation is available for that particular well to draw from. I’ve gone out to the area. I’ve looked at a number of wells there. I’ve done a well survey. I’ve looked at Mud Creek. I’ve looked the topography and my observations lead me to believe that given the current number of residences there and the current number of already approved subdivision tracts which will be relying on either individual domestic wells or small community supply water systems, which rely on single wells to supply for a number of houses and given the lack of studies or understanding of the complex hydro-geologic interactions of a specific area, I think that the potential for um impacts or - or some sort of noticeable effect in a surrounding well from the withdrawal of the proposed 80 to 90,000 gallons per day of water is real. Now to address this the state is required that for any new water development project they do the specific capacity or specific yield and the draw down test which means they install a production well; in fact their supposed to install all of the production wells. They pump each of them for 24 hours, on the case of an in grader well, in that we’re talking about here we pump...they pump them all for 24 hours and they determine if they can indeed get the supply of water that they need for the permitted activity. While these are fine test for determining the yield of a well but they do nothing to evaluate the impact to a surrounding neighbor’s facility. What you need to do that is you need to attain steady state in your pumping conditions where you’re pumping long enough for

everything to come into balance and you need to go measure all the neighbor's wells before and during to see what kind of impact your having. Now this is not a state requirement at the time but it is best practice in determining the availability and the impact of withdrawal on a water of a water source on a broader area than that particular well had. Okay, in fact it's...it's indirectly addressed by the North Carolina Administrative code because they have a specific requirement that says...a well should be located so that any draw down of any well shall not interfere with the required yield of another well. So they indirectly address this. Okay surface water, and there's two components to this; there's a waste water discharge uh Mud Creek is a small creek I'm sure you've all seen it. It's already impaired. It's impaired by sedimentation, which Mr. Brookshire has addressed. It's come, it's already impaired by sedimentation by the introduction of agricultural chemicals resulting in toxicity and by the introduction of nutrients primarily from sewage; either sewage treatment plants like the one that is proposed here which is a small package plant. There are several located along this waterway or from septic field perk...septic field um water peculating and running off into the stream itself. I did a quick record search on the type of plant that proposed to be installed. There are 220 of these facilities permitted in Western North Carolina. In the last 13 months there were 416 separate (unintelligible) violations from these 220 plants and these are real violations these aren't paperwork violations these are untreated sewerage getting into a waterway. There are 416 out of 90 plants so not all of them failed in a given 13 month period but that's a pretty high percentage and 16 of these plants are in Henderson County. So, it's a problem...it's a known problem by the state. These package plants...the problem with these package plants is they tend to be little on the maintenance list, part time operators, they don't get a lot of attention, their not high quality operations in general. The last issue is the surface water impact from sedimentation. Mr. Brookshire addressed that pretty well but one point I would like to make that he didn't is that when you look at the current drainage features, there are three drainages that leave that facility and they all converge onto adjacent single property. So everything that's done on the proposed development parcel will be felt by any single property owner down stream because all three of these waterways converge onto that property. Now once again North Carolina Administrative code requires that they do not allow for any off site sediment migration. So, I don't, in my experience, I don't feasibly see how they can do this. So I think when you look at this project you need to consider these particular issues as well as others that have been brought up and really think about the long term impacts of this development both construction and non-construction phase to the environmental quality of the area. Thank you."

Chairman Moyer – "Attorney Massagee any questions?"

Attorney Boyd Massagee – "Yes just briefly sir. It has been testimony sir to the affect of the 80-90,000 gallons taken down per day by this project; do you have an opinion satisfactory to your self as to what affect that'll have on the adjoining property owners as to their well water availability?"

Robert W. Hastings – "Like I...like I mentioned earlier if we don't have a hydro-geologic base we don't have a comprehensive study. That's a fairly substantial withdrawal from a small catch man area. I think you're going to see impacts in the available water supply in surrounding wells."

Attorney Boyd Massagee – "That mean a reduction?"

Robert W. Hastings – "Yes"

Attorney Boyd Massagee – "Thank you, I don't have anything else"

Chairman Moyer – "Mr. Massagee, next"

June 28, 2007

10

Attorney William Alexander – “Mr. Chairman um, I just want one clarification. We had...were handed a two page uh um summary as...is this of his testimony I believe?”

Attorney Boyd Massagee – “Yes”

Attorney William Alexander – “Okay I just wanted to make sure. Thank you”

Attorney Boyd Massagee – “Thank you.”

“Next Witness”

Attorney Boyd Massagee – “Next Witness sir would be Johnny Griffin. John Griffin is a lawyer in uh Gastonia. He has a law degree from the University of North Carolina – I’m sorry from the University...Wake Forest University...undergraduate degree from North Carolina. He is a certified public accountant; basically all Mr. Griffin does is involved with tax and property tax is the issue that I want him to address with you. Observation was made at early on and the applicant’s testimonies in response to the shameless question about whether or not they...this property was going to be subject to property tax. Then the statement was made that we will have a contract with the County that we will continue to pay property tax. We contend that is something that is totally unenforceable and I want him to address that if he will and he is getting all sorts of papers together here. Do you wish some...have these been handed out?”

Johnny Griffin – “To them”

Attorney Boyd Massagee – “Mr. Burrell I’m going to hand to you...is there any possibility you might hand them out?”

Johnny Griffin – “Good evening I’m John Griffin. I live at 10920 Ridge Acres Drive in Charlotte, North Carolina and I’m a tax lawyer. I was asked if the entity would have to pay property taxes and my response is basically that it depends on who owns the entity and what their doing with it or the project and what their doing with it at the time the property taxes are due. So it can change over time. Uh, as far as my handouts I’ve got two things for you. First what I would call the short one it’s only two pages. It’s just a copy of Article 2 of the North Carolina Constitution and it basically spells out that it is the state that is in charge of the property taxation. The County’s main role is to administer it fairly. But it’s the state that makes the laws and grants the exemptions. The second handout which is uh larger and I wasn’t quite sure how much to bring. I started with the property tax section of the General Statutes but that was over 200 pages worth of material and I didn’t think we would have time for that so I cut it down to 30 but uh, I guess I’ll draw your attention to just a few previsions that I think are – are relevant in the Board’s decision. The first page is 105275 and I just put that in there so you’ll see that it refers to the constitution when it exempts any property from taxation. Uh, then as you can imagine there’s a lot of um...one other thing to note on that is that that statute also provides I think nineteen or twenty different exceptions where uh different owners doing different things with property can qualify to be exempt from property taxes. Then over on what I labeled page sixteen is 105278.6 which is an additional statutory exception if the property is used for charitable purposes and among those that it allows for is a home for the aged, sick or infirm, so if the bricks or whatever is approved here were ever used for a home for aged, sick or infirm it could for example qualify for an exemption from property taxes. Next over on what I would call my page twenty is a copy of North Carolina General Statute 105-278.6A which exempts qualified retirement facility from property taxes and you’ll notice if you skip down to paragraph C it will tell you what have to do to get a full exclusion for property taxes under this section, but essentially the project has to be owned

by a charity and it has to devote about 5% of its revenues to health and the less fortunate that live in the retirement home and if it does that then it's totally exempt from property taxes. Over on what I would call my page twenty-four is a copy of another statute that you might want to look at. Its 105-278.7 and this is what I would call more of a catch all type of exemption where if the property is used for educational, scientific, literary or charitable purposes then it can be exempt from property taxes. On my page twenty-eight is another example of a similar statute. This statute exempts property that is used for charitable hospital purposes. And over on page twenty-nine is one other thing, it's a summary from West Law on a court case that's interpreted statutes but I think it's a good illustration of some other things to keep in mind. In this case uh a charity set up a daycare center for children for the hospitals employees. So while the daycare would normally not be an exempt activity for property taxes, because it was a supporting uh part of the hospital it also qualified for the exemption from property taxes, so supporting functions to exempt functions can qualify to be exempt from property taxes."

Chairman Moyer – "I have a question"

Attorney Boyd Massagee – "Yes sir, if I may, if this property is conveyed by the applicant after it's constructed or during construction do such a charity, would that charity if it qualified under these statutes be tax exempt?"

John Griffin – "Yes sir"

Attorney Boyd Massagee – "Now if...can – can you in North Carolina in your opinion prohibit property by contract or otherwise from being conveyed if X owns the property, the applicant owns the property for instance, can they be prohibited or can they contract away their right to convey it?"

John Griffin – "I don't think so because the constitution of North Carolina guarantees certain entity's the right to be exempt from property taxes so I don't think you can transfer that right away."

Attorney Boyd Massagee – "So if this property as I understand you will be tax exempt for the period of time that it is owned by the charities that qualify as you've described."

John Griffin – "Yes sir"

Attorney Boyd Massagee – "Those are the questions that I have now Mr. Chairman and I thank you sir."

Chairman Moyer – "My question is a follow up to that, is it your position that in granting these vested rights if the Board put a condition on that they would...that there would be an agreement that they would pay taxes, payment in lieu of taxes comparable to what they pay tax if that's not constitutional?"

John Griffin – "You know I looked for something on that and I could not find anything but the um vesting statute and I have a copy of that and it's paragraph F of that statute; says that the right runs with the land and I think your contract would be with whoever made the application and then I'm not sure you know you could do it even without the constitution since the right by statute runs with the land."

Chairman Moyer – "Okay, other questions from the Board? Alright, thank you. Mr. Massagee, next"

Attorney Boyd Massagee – "I don't have any other witnesses right now sir."

Chairman Moyer – "Alright, Mrs. Beeker just for your information um when you get to cross, I'm going

to give you the opportunity later...not...well hopefully later tonight...but maybe even later to put rebuttal testimony on, then if you would rather do that instead of cross on these points, we'll do that later."

Attorney Boyd Massagee – "If you would let me introduce this – it is a petition of several hundred people (not at mic – unintelligible)"

Commissioner McGrady – "I believe we've already got that."

Chairman Moyer – "Can we have that? I don't think Mrs. Beeker may have that but...does she? Alright now we will move to uh cross examination of Mr. Massagee's witnesses so that they can leave. I know some of them want to leave...by the other parties and uh subject to uh what I say Mrs. Beeker you will have a chance for rebuttal. Do you have questions? Alright"

Attorney Angela Beeker – "First I would ask Mr. Hummer to come forward. Oh good there's two microphones so we want have to share. First of all could you describe for me the section or sections of Crab Creek Road that you analyzed?"

Joseph Hummer – "Sure the uh sections in the road I analyzed were uh from the uh proposed new development toward town uh ending at the first signal uh which was Price Road."

Attorney Angela Beeker – "Okay, um do you have the data with you from the state that you used for that segment of the road?"

Joseph Hummer – "I do, yes"

Attorney Angela Beeker – "Can I see that please?"

Joseph Hummer – "Sure, it's here. Do we have other copies? I don't want to give away my only copy. Okay"

Chairman Moyer – "Well I would ask..."

Attorney Angela Beeker – "Okay"

Chairman Moyer – "that you would give us copies if you're going to use that...that we get copies just as soon as you can make copies available."

Voice from audience – "yes sir we will"

Chairman Moyer – "Alright"

Attorney Angela Beeker – "Okay the period indicated in this study is from 3-1-2004 to 2-28-2007 so that's a three year time block that you referred to?"

Joseph Hummer – "Yes"

Attorney Angela Beeker – "and how many accidents did you testify that there were?"

Joseph Hummer – "There were 70 collisions."

Attorney Angela Beeker – “78 collisions and how many did you testify that resulted in injury?”

Joseph Hummer – “I don’t believe I said but if I recall”

Attorney Angela Beeker – “Could you tell me how many that was?”

Joseph Hummer – “If I remember right it was thir...I think it’s in here too. I remember that 32% of those were injury...that is uh 25% collisions out of the 78.”

Attorney Angela Beeker – “and how many fatalities?”

Joseph Hummer – “and there was one fatal collision out of the 78.”

Attorney Angela Beeker – “and where did that occur?”

Joseph Hummer – “I don’t know...it was somewhere in that stretch but uh I...”

Attorney Angela Beeker – “Are you aware of where any of these collisions have occurred on the road or what their cause was or anything like that...did you look at that?”

Joseph Hummer – “There’s a summary here that I reviewed briefly. It looked to me like a fairly even distribution of collisions throughout the section. Geographically and, as far as you asked about collision type, there is a breakdown of that in the summary from the NCDOT as well. Twenty eight of those collisions...twenty eight out of seventy – the most common type was fixed object; that is a vehicle running off the road and hitting something uh hazardous on the roadside.”

Attorney Angela Beeker – “Did you look at the age of the drivers that were involved in those accidents?”

Joseph Hummer – “I did not, I don’t believe they provide a breakdown of age in this summary that’s available uh from the uh the NCDOT and a larger summary but this is a standard summary and it doesn’t provide age.”

Attorney Angela Beeker – “Um, did you find any accidents that occurred at the intersect...at the point where Pearl Lane meets with Crab Creek Road?”

Joseph Hummer – “We can look on here and see. I don’t recall.”

Attorney Angela Beeker – “Okay, if you turn left out of Pearl Lane, do you know where that takes you?”

Joseph Hummer – “Turn left out of Pearl Lane, would that be heading west toward Brevard?”

Attorney Angela Beeker – “Yes, are you aware of what is west of...along Crab Creek where that takes you...what other things might be located there that might draw people? I believe you said it was conservative to use the fact that everybody would be turning right. You thought that that would be conservative because where else would they go?”

Joseph Hummer – “Right yes I did say that.”

Attorney Angela Beeker – “Are you aware of what’s to the left?”

Joseph Hummer – “That it’s uh...uh many more miles to Brevard. I don’t have the distance on that.”

Attorney Angela Beeker – “I don’t have anything else Mr. Chairman.”

Chairman Moyer – “Alright, thank you Mrs. Beeker.”

Attorney Angela Beeker – “Does anybody else?”

Chairman Moyer – “Is that for all of his witnesses for now you’re finished.”

Attorney Angela Beeker – “No that’s...I’m finished with him.”

Chairman Moyer – “Oh alright”

Attorney Angela Beeker – “I didn’t know if you wanted to have any of the other people called...”

Chairman Moyer – “No I’m going to let you finish and then go to that.”

Attorney Angela Beeker – “Alright... Mr. Brookshire. I just had a couple of questions for you. Brookshire, excuse me. Isn’t it true that for any development um that occurs on this property they’re going to have take into account the ten year storm and that that a limitation regardless of what you build there you have to take the ten year storm into account.”

Michael Brookshire – “Yes”

Attorney Angela Beeker – “Okay that’s all I have.”

Michael Brookshire – “Okay”

Attorney Angela Beeker – “Um Mr. Hastings...okay. How many um - gallons of water per day does the average 3 bedroom house require?”

Robert Hastings – “I would look...actually I would look that up but off the top of my head it’s about a hundred and twenty five gallons per bedroom.”

Attorney Angela Beeker – “Okay...so if my math is correct, three bedrooms would be three hundred and seventy five per day?”

Robert Hastings – “I think there’s actually some de-escalation factor that would take into account multiple people using the bathroom and so on and so forth but it’s about that number.”

Attorney Angela Beeker – “Okay...um if two hundred homes were going on this property each digging individual wells would you have the same concerns?”

Robert Hastings – “In reality if there were two hundred wells going on this property they would property use a small number of community well systems because drilling that many individual wells that close together is not really the smartest way to do it. What you talking...well I think what you’re asking is am I

worried about the total extraction of water and the numbers of houses going to extract the same amount of water as the facility you've got planned and my answer is there's a lot of development pressure in this area, there's a lot of new subdivisions that have been permitted, there's a lot of community systems going on. In general we need to understand the limitation of the ground water resource. However, this is a large concentrated withdrawal of a...of a fairly substantial volume of water."

Attorney Angela Beeker – "How many plants are there located along this waterway already? You stated that..."

Robert Hastings – "Which type of plants?"

Attorney Angela Beeker – "Waste water treatment plants...discharge having an MPDS discharge."

Robert Hastings – "I know for a fact that there's one up stream."

Attorney Angela Beeker – "Where is that?"

Robert Hastings – "It's at Camp Blue Star."

Attorney Angela Beeker – "How far away is that from this?"

Robert Hastings – "It's about a quarter of a mile."

Attorney Angela Beeker – "Upstream from this"

Robert Hastings – "Upstream from this"

Attorney Angela Beeker – "Are you aware of any others?"

Robert Hastings – "Further downstream towards town but not within a couple miles reach."

Attorney Angela Beeker – "Okay...Who has jurisdiction right now to make decisions regarding waste water treatment plants?"

Robert Hastings – "That would be the Department of Environmental Natural Resources."

Attorney Angela Beeker – "Okay...nothing else."

Robert Hastings – "Thank you"

Attorney Angela Beeker – "Mr. Griffin if this facility were operated as a full profit facility all of those statutes that you presented would be irrelevant is that correct?"

John Griffin – "I think so, most of them are for charities and there may be a hundred or so that are in there...there may be some that aren't but for the most part..."

Attorney Angela Beeker – "But the ones that you submitted would be irrelevant..."

John Griffin – "for charity"

Attorney Angela Beeker – “were solely for charity. If this was operated as a for-profit facility none of those statutes would be applicable, is that correct?”

John Griffin – “I think that’s true.”

Attorney Angela Beeker – “Thank you, I don’t have anything else. I will have rebuttal and just as a point of order the testimony from the geologist, I believe, was repetitive...was the same testimony that they put on at the last...”

Chairman Moyer – “Alright now the other parties who were identified – course we’ve uh had Mr. Massagee’s attorney but Mr. Cherry, is Mr. Cherry here? Um and then Mr. Knowlton...okay and Mr. Erb...”

Attorney Boyd Massagee – “Mr. Erb is not here sir, I am representing him. I will make up an argument for him. I will now offer evidence”

Chairman Moyer – “and Ms. McDowell”

Misty McDowell – “Right here”

Chairman Moyer – “Oh okay, now the way this will work the parties by the procedure we have now we’ll go through in the order starting with Mr. Cherry, have the right to ask any questions they want of Mr. Massagee’s witnesses. This is not your time to make statements or make your issues or whatever. This is if you have a question with respect to anything that was said, just like Mrs. Beeker did, anything that was said by any of these witnesses. You have questions and need clarification, need expansion, this is the time to do that but not to make your statement. So we’ll start with Mr. Cherry, do you have any questions of these witnesses?”

John Cherry – “No sir”

Chairman Moyer – “Alright...Mr. Knowlton”

Bill Knowlton – “No sir”

Chairman Moyer – “Okay...and your waving at Mr. Erb”

Voice from audience – “yes sir”

Chairman Moyer – “Okay...Ms. McDowell do you have any questions at this time?”

Misty McDowell – “No sir”

Chairman Moyer – “Okay...now we will move...now we’ll go to each of the parties in the same order and this is your chance to put in any testimony any statements that you want. This is not questions. This is your chance to put on your evidence as it’s called and then the other parties will have the right to ask you questions, only the parties. Mr. Cherry would you like to make testimony on the record?”

John Cherry – “yes sir”

Chairman Moyer – “Alright, come down state your name, address and then present your evidence.”

John Cherry – John Cherry, 7 Curtis Drive, Hendersonville. Uh, recently we have been tried in the press as being the villains at...at Crab Creek by not wanting to grant uh this uh the Glen to be put in. Basically it said not in our back yard. Well, let me give you another scenario. What if across from Kenmure some big guy come in with a lot of money, bought the land across the street and wanted to put in a salvage yard. Well, that would also be a case of not in my back yard. They wouldn't want it although that salvage yard probably wouldn't uh run anybody's wells dry and pollute a creek. But in my opinion a salvage yard would not be the place across from Kenmure. Also, in my opinion, this Glen project is not a place for a rural setting and basically you want to build a small city with a hospital. At the present the nights out there are very quite. I sleep with my door open. The door opens to a screen porch. During the night I might here an owl or early in the morning I may hear roosters crow. After the Glen is put in, if it is, I most likely am going to hear emergency vehicles running up and down the road. Recently my father was in a resthome in Wilson, North Carolina. While in his stay, for two month, he was transported to the hospital by the emergency rescue squad; lights and sirens going one time. Multiply this, his stay, by eighty people in this nursing home and you will get the idea of how our peaceful countryside will end. As you know our homes near the city and the hospital they propose to build are on well water. I call an eighty bed nursing home a hospital and a project with over five hundred people, I call that a city. It's larger than a lot of small towns in North Carolina. I hope they don't get to build this city but if they do I would like the citizens of Henderson County to have some type of safety net. My proposal is, should the Glen be allowed to build this, then the Glen to put up a one million dollar super fund to be maintained for thirty years. The Glen would get the money out of the interest and the super fund would be used when our wells go dry...we would be able to have them re-bored and possibly, hopefully get water and also when their package treatment plant erupts and spills raw sewage all in Mud Creek that - that money would be used to clean up the creek. This money, this million dollar super fund, would be maintained for a period of 30 years or until the County gets water and sewer to our location. Let me find...it's kind of dark uh here...because I have to find my place. You heard our witnesses on how dangerous Crab Creek is. If this city is built, I'm more worried about the travel on Crab Creek Road during the 5 years of construction period than after this city is built. It's hard to imagine the number of heavy trucks it will take to build this city and I would like to say if any of my family or me get killed or maimed by a construction vehicle I will personally hold each - each of you responsible and will probably see you in court and let twelve people decide if you are responsible. I hope the other residents will do the same. So do the right thing and just say no to their request. Thank you.”

Chairman Moyer – “Thank you. Mrs. Beeker, do you have any questions at this time?”

Attorney Angela Beeker – “No”

Chairman Moyer – “Alright, Mr. Knowlton do you have any questions of Mr. Cherry?”

Bill Knowlton – “No sir”

Chairman Moyer – “Mr. Massagee, representing Mr. Erb?”

Attorney Boyd Massagee – “We do not sir”

Chairman Moyer – “Alright, Ms. McDowell do you have any questions at this time?”

Misty McDowell – “no sir”

Chairman Moyer – “Alright, Mr. Knowlton you are the next party and you...this is your opportunity to make...put your evidence on the record.”

Bill Knowlton – “My name is William Knowlton. I live at 95 Mountain View Estate Road, Hendersonville 28739 and I’m speaking on behalf of the Mountain View Estate Property Owners Association. Uh, if you’ll let me deviate for a moment here sir I have a copy of petition which I’ll get.”

Chairman Moyer – “Bring it down to our attorney and he’ll pass it down.”

Bill Knowlton – “I’d like to begin...which is really not evidence but I just want to state this and that is... there seems to be an illusion that it’s us, present resident’s, against these other retiree’s that want to move into Glen or Highlands and our position is simply this. Uh, we welcome them, many of them we go to church with and bowl with and the like and we know them and they’d be great neighbors. And, we’re not against development because we know what’s going to happen. There are things that we need to address. Now you’ve heard a bunch of experts talk about Crab Creek and the dangers. We don’t hold any credentials. We haven’t studied. We don’t know anything about road management. The only thing we know is that we drive Crab Creek Road every single day and sometimes two or three times a day. In our community we have lost one of the members in death on Crab Creek Road. Others have had accidents on Crab Creek Road. We have people that have lived in our development for up to eighty years and others as little as five years. What are we really looking at? I think in a way we are more expert, and what we’d like to talk about is the fact that Crab Creek Road is really two roads. From November through May you have one road and then you have what we call an invasion from the South and basically from May through November we have another road and that road seems to slow down and therefore people are in a hurry, they pass on double lines, accidents are...only by the grace of God don’t just continue to pile up. So what we are looking at is this and this is one of our concerns. If indeed this project is approved, we need to see the speed limit reduced, we need to see a caution light at that blind curve near Pearl, we need to see a turn lane put in, and more than anything else, since you’re coming down at fifty miles an hour when you come around the turn we need an acceleration lane for folks coming out of Pearl. That’s going to save the lives of these folks coming in...it’s going to save our lives from driving. So that’s just something we hope you would consider as you make your decision. Alright, looking at another infrastructure, I hate to say this and I guess I won’t mean it in a funny way but the building of four and five story buildings in this area is ludicrous. It’s bigger than a barn and larger than a silo. Additionally common sense tells us we have a hook and ladder that will only reach three stories and it’s a real limitation. I would not like to be on the fourth and fifth story even though I have sprinkler systems waiting for the floors one, two and three to burn down so that I can move down and have...uh...uh...uh...a sole means of egress. The ladders can’t reach me and it’s a long jump. But that’s just something to consider. Now for most of us, our greatest asset is our home. And most are retired and on a fixed income and this becomes more important to everyone. The loss of our home would be catastrophic to most if not all. The delineation of the aquifer is not known. How large is it? How deep is it? What is the quantity? We need a hydrology study to understand or to determine the scope, the dimension and the amount of water that is available to meet the needs of the community. I would like to know...yes there’s enough water down there based on what we have right now for the next fifty, seventy-five or a hundred years; or is it only five or ten years because we’ve been drawing an awful lot out and now we have someone else who’s going to pull out a million gallons a year. Now I know that...I read in the paper and I know that in all honesty they’re saying they’re only going to use thirty to forty gallons a day...a thousand gallons a day. The truth is if you have a permit for ninety you better plan on ninety because you’re going to use it. It’s going to grow and the size of the population is going to get larger.

Now the question is should this yearly demand for millions of gallons of water; their use and our use, reduce the water table or cause it to settle into the valley. We who live on the mountain side could lose our wells and therefore our homes. No water constitutes an uninhabitable home and therefore virtually worthless for sale or taxation. Now I'd just like to offer something for – for consideration. I would like it considered that a hydrology study of the aquifer be accomplished. So at least we know what we're talking about. I understand that there's water within a reasonable distance. I think it's approximately two miles uh from the Glen and Highlands. Bring water to them. Pipe in city water and sewage or bring the Highlands and Glen to the water which means they have to move from that location and if none of those are acceptable we like to offer the thought that you establish a bond or an escrow account to protect the wells and therefore the homeowners. I don't think that a ten, twenty or thirty years...I only know from some data that was sent to me that I...was handed to me that in other states, for example Arizona, they're looking at one hundred years. You can determine the years but it is necessary that something be considered. Now before I go any further I would like to at this time ask Brian Halterman, who's one of our associate team members to come up here and present some of his observations and then I will return sir."

Chairman Moyer – "Was he sworn as a witness?"

Bill Knowlton – "No he was not...Brian"

Chairman Moyer – "Mrs. Corn, would you swear the witness?"

Elizabeth Corn – "Raise your hand please...Do you swear that the evidence you're going to provide will be the truth and nothing but the truth so help you God?"

Brian Halterman – "I do. I'd like to put up a couple of slides."

Chairman Moyer – "Would you state your name and address for the record?"

Brian Halterman – "My name is Brian Halterman, 343 Mountain View Estates Road, Hendersonville 28739. Um, this is a...up here on the screen is a view from my front porch. I have another picture which it showed the bower straight but I'm standing on the front porch and this is uh as the landscape architect said earlier...this is the view shed that I experience. Um, I believe we call that Bear Rock, the rock right there in the middle. You could...go to the second slide please, a close-up of that one. Okay Bear Rock that the Highlands would start just below that and the Glens would be right about in the lower center of the slide. Um, I own seventeen acres. I built a house there about three years ago. I also own seven platted lots and have the ability to develop an additional five lots even under the proposed Land Development Code. My overall concern, I guess it's sort of a common sense one. This is a very large dense project in a very low density part of the County. The planners and the document asking for vested rights brought this out very nicely. This is a...the idea of a continuing care community I'm certainly not against. I know many people who live in them. My parents are about to enter one and they are very good things to have. Now this, the proposed community of the Glen is not an average size one. I've done a little survey around the southeast. This is a larger than average size continuing care community. In fact most of them don't have building over three stories tall. You go to small cities around the southeast, most of them don't. A lot of that is because of what Mr. Knowlton brought up the ability for fire protection in case of a rescue situation. The proposal at the...for the Glen, I call it an Atlanta sized continuing care community. It's not an average size. It's a gargantuan one compared to ones around the southeast. So what we have here is a proposal to build a gargantuan size continuing care community in one of the most rural environments that I can imagine. This is an environment that I enjoy and having two five story

towers is certainly not going to benefit the value of my property. Now um, I just want to bring up a couple of quick points then turn it back to uh to Bill and that is one, I know as Commissioners you want to grow tax base of Henderson County. This is...this is good and this is very um acceptable thing to do. But I want to make the point that this is not the last train out on increasing the tax base of this area. This property will develop very nicely as a single family development as basically the new Land Development Code calls for. So basically we have a proposal that doesn't fit into what the neighborhood looks like now. Doesn't fit into a proposed Land Development Code so basically the developer is looking for a large loophole and a window right in between this serves that's existing and what the future might be as proposed by the planners and I'm very much against that. Um, obviously this project will change Crab Creek forever. In other words, it will be the development standard. It's not just that this development, but it's kind of developments that will happen in the future. I'm sure you want the highest quality developments that produce, you know, good tax base for the County. In my opinion the sensible approach would be to deny this application on the basis of it not fitting in the existing neighborhood; not fitting in with the proposed future development code, the fact that it will strain, as the experts have said, the public infrastructure which does not exist currently at an adequate level. To deny the application and ask the developer to either come back with a new proposal um for a lower density project which would fit in or basically to have the dev...to let this property develop as a single family development. In fact, part of...I applaud part of the developers proposal which is the upper part just below the rock which is called the Highlands, which is single family homes on, I think they say, one - four acre lots. That is exactly the kind of development we want. It fits in. It will produce more tax base. It will not strain the road. It will not strain the aquifer. It will not strain Mud Creek. It is a sensible way to go with development. So I urge you to deny the request for vested rights."

Bill Knowlton – "residents of Henderson County to guarantee us to the best of your ability that the water table will be protected and therefore not jeopardize our homes and community. We employ you, if you must error and somebody's going to think you made a bad decision whether it's...you go for it or against it. But if you must error we're asking you to do so to promote our safety, our health and our welfare. We'd like to point out that for us this is not an investment. This is not a gamble that we make for profit. So if we lose, we lose everything. We lose our home, our quality of life and then I ask you in all sincerity, where do we go? What do we do? Thank you sir, do you have any questions?"

Chairman Moyer – "Mrs. Beeker, do you have any questions of Mr. Knowlton?"

Attorney Angela Beeker – "I do"

Chairman Moyer – "Alright, why don't you move over to the other phone, the other...that's it...you move over there and..."

Bill Knowlton – "I'd rather stand over here next to her."

Attorney Angela Beeker – "Mr. Knowlton, where is Mountain View Estates?"

Bill Knowlton – "Mountain View Estates is...if you look at your map we're across...Cross Crab Creek Road, right across from uh the Glen and the Highlands."

Attorney Angela Beeker – "Okay, how many um homes are in Mountain View Estates now?"

Bill Knowlton – "Right now we have I believe fourteen."

Attorney Angela Beeker – “How many more do you expect?”

Bill Knowlton – “Well it depends on how many people buy the lots.”

Attorney Angela Beeker – “How many lots are there?”

Bill Knowlton – “But considering it could probably go up to as many as uh twenty...twenty one homes”

Attorney Angela Beeker – “Total”

Bill Knowlton – “yes”

Attorney Angela Beeker – “Okay. How old are you?”

Bill Knowlton – “sixty-seven, but I’m married.”

Chairman Moyer – “We needed that”

Attorney Angela Beeker – “Do you consider yourself to be a safe driver?”

Bill Knowlton – “Yes, I would hope so...I mean that’s what I tell my insurance company.”

Attorney Angela Beeker – “okay”

Bill Knowlton – “yes”

Attorney Angela Beeker – “Alright, um I believe you made the statement that a four to five story building is ridiculous because of the fire. How is this different than any other four to five story building anywhere else that exists now as far as fire and protection?”

Bill Knowlton – “Well for the most part, as far as I know, that only the hospitals and the churches and some municipal buildings are taller but I don’t even believe that in Hendersonville you can build a five story building.”

Attorney Angela Beeker – “Understood but, as far as a fire safety, wouldn’t the fire safety issues be the same for any five story building regardless of where it’s located?”

Bill Knowlton – “Well it...yes if you only have a hook and ladder that only goes up to three stories. If you have a hook and ladder that can handle that then it would differ.”

Attorney Angela Beeker – “Okay, thank you”

Bill Knowlton – “Yes ma’am”

Attorney Angela Beeker – “Let me know when you’re single.”

Chairman Moyer – “Mr. Knowlton don’t leave...don’t leave yet.”

Bill Knowlton – “Yes sir.”

Chairman Moyer – “Mr. Cherry do you have any questions for Mr. Knowlton?”

John Cherry – “No questions”

Chairman Moyer – “Alright, uh Attorney Massagee”

Attorney Boyd Massagee – “I have none sir”

Chairman Moyer – “Alright, Ms. McDowell do you have any questions for Mr. McDowell? Alright - any of the Board - alright...back to you Mr. McDowell...I mean Mr. Knowlton. We will now move to uh”

Attorney Angela Beeker – “Mr. Chairman, I have some questions for Mr. Halterman.”

Chairman Moyer – “Oh, I’m sorry...okay.”

Attorney Angela Beeker – “Can you tell me how many living units there are in Carolina Village?”

Brian Halterman – “Pardon me”

Attorney Angela Beeker – “Can you tell me?”

Brian Halterman – “No, I have no idea.”

Attorney Angela Beeker – “Were you aware there are three hundred and seventy two units in Carolina Village?”

Brian Halterman – “No”

Attorney Angela Beeker – “Were you aware that there are three hundred and fifty units in Deerfield? Do you know where Deerfield is?”

Brian Halterman – “No, I don’t”

Attorney Angela Beeker – “It’s in Buncombe County. Were you aware that there are three hundred and eighty six...just one second...in Tryon Estates? Three hundred and eighty-two...excuse me in Tryon Estates”

Brian Halterman – “I’m not...no I’m not aware of the number.”

Attorney Angela Beeker – “Okay...that’s all – and - are you aware of how many units are proposed for this?”

Brian Halterman – “Yes, I’ve read the proposal.”

Attorney Angela Beeker – “Is it to your memory less than those numbers...lower three hundred?”

Brian Halterman – “The total population is higher than numbers you’ve just mentioned.”

Attorney Angela Beeker – “Okay, thank you”

Chairman Moyer – “Do any of the other parties have questions for this gentleman?”

Attorney Boyd Massagee – “I have a question for him sir.”

Chairman Moyer – “Okay”

Attorney Boyd Massagee – “Are you aware that all those facilities she mentioned are in the middle of towns except this one that’s in the middle of the woods?”

Chairman Moyer – “No, no, no let’s not start the applause please...we want to keep this moving, any other questions for that witness? Alright, Mr. Massagee do you have a statement to make on behalf of Mr. Erb?”

Attorney Boyd Massagee – “Very briefly sir. Mr. Erb owns...in his life...owns a tract of land gentlemen that is adjoining Mr. McPhail’s land and they too, these two tracts are the biggest neighbors that there are. They have, if not as much, they have almost as much as all the other joining people together as I can best measure the distances and they will be the most adversely affected. I walked over Erb’s land for the first time, but I walked over Erb’s land here recently, at least significant parts of it and the land is just gorgeous rural land that if this is approved is going to be placing it in the edge of a small town. Incidentally going out there I passed the intersection of his house and I passed another intersection. In both of them I had to go up and turn around. Unfortunately it was about four o’clock in the afternoon, between four and five. I almost got hit three times. That road out there, from my own personal knowledge, is a severe problem. The basic position that I would have both from Mr. Erb’s point of view and from Mr. McPhail’s point of view is this; this looks to me like a pretty good project. It looks to me like its well engineered, good architects, people that I don’t know who are building it but.”

Chairman Moyer – “Mr. Massagee are you making your closing statement?”

Attorney Boyd Massagee – “I’m not...I’m not.”

Chairman Moyer – “It sounds like it.”

Attorney Boyd Massagee – “Well, stay with me if you will. What they have done Mr. Chairman, they have put the right building, the right facilities; what they’re trying to do is put it in the wrong place. This is good facility but should be going the wrong...should go in another place. Thank you sir.”

Chairman Moyer – “Mrs. Beeker”

Attorney Angela Beeker – “Mr. Massagee were you testifying?”

Chairman Moyer – “I will and I’m unmarried. Did you take an oath at the last meeting?”

Attorney Boyd Massagee – “I do not recall”

Chairman Moyer – “I believe he did, I think everybody was sworn.”

Attorney Boyd Massagee – “Would you like for me to be sworn now. I’d be glad to repeat it.”

Attorney Angela Beeker – “Okay”

Chairman Moyer – “Alright Mrs...just so we’re sure”

Attorney Angela Beeker – “just as a point of order I...Mr. Massagee, myself, and Mr. Alexander remained seated while everybody else stood up and took the oath so if it’s testimony...”

Chairman Moyer – “It is testimony, his testimony, Mrs. Corn would you swear Mr. Massagee.”

Elizabeth Corn – “Please raise your right hand. Do you swear that any testimony you give this evening is the truth and nothing but the truth so help you God?”

Attorney Boyd Massagee – “I swear that it was ma’am.”

Chairman Moyer – “From now on I think we’ll have to swear the attorney’s in too Mrs. Corn so that we make sure they tell the truth on these. Are there questions for Mr. Massagee in his role as spokesman for Mr. Erb? I’m going to try to shortcut some of this. Okay, Ms. McDowell, do you have statement and testimony?”

Misty McDowell – “My name is Misty McDowell. I live at 131 Pearl Lane which is about seventy-five yards from the proposed secondary entrance to the Glen. I have many concerns about the impact this type of development will have on Crab Creek Community. I’ve lived here for five years myself. My husband Daniel grew up here, so did his father, James McDowell. For over a hundred years our home has been centered on raising children and helping neighbors. Myself, I have a three year old little boy who loves playing outdoors, playing in the creek, and walking to the bridge at the end of Pearl Lane. The area is very child friendly. James and Juanita McDowell, who live directly behind me, they have eighteen grandchildren and three great-grandchildren who love to spend time down there at our house. Being able to run, play, ride bikes and just enjoy the outdoors is something that’s becoming very hard to find. Having the freedom to do this is priceless in my opinion. With the Glen being placed in such a rural area of homes it takes away the freedom of those around it. We live here; out of the city limits because this is the type of life we want to teach our children and want to preserve as long as possible. The increase in traffic will take away the joy of being in the yard and listening to the frogs at night and walking to the bridge with my little boy. With a development of this size the construction traffic will be constant, not to mention the delivery trucks, the workers and the resident’s once the development is finished. Our peaceful home will no longer exist. All the children that come down to play in the creek and catch crawfish will no longer have that option. It will be polluted with waste from the sewage treatment facility just right up from us. This isn’t only a question of the Glen having the right to be here; but also a question of do we as citizens of Henderson County for over a hundred years have the right to maintain our lifestyle? We’re not opposed to develop but the characteristic of Crab Creek is mostly rural, agricultural, and conservation according to the growth management study adopted by the Planning Department, July 16, 2004. I understand why the potential resident’s of the Glen would be excited to claim a spot here in Crab Creek. The existing resident’s felt the same excitement. I mean no disrespect to those involved in the Glen but we are fighting for our way of life. The Glen’s placement will set off a change of events in our peaceful Crab Creek Community. It will cause the people downstream to be fearful of using Mud Creek to irrigate their gardens. The increase in water flow will cause erosion that you know has been stated, not to mention when we have summer downpours the flooding that may occur. In my opinion Crab Creek Road is one of the most beautiful drives in the County. During the fall the traffic is tremendous. With the addition of construction traffic, delivery traffic and residential traffic it will

become extremely dangerous for...to drive on or to bike on; the whole stretch from Henderson County to Brevard. I'm also concerned with the possible tax increase in years to come. With such a vast development the entire area will have to adjust to provide a safe environment for the people of the Glen and the existing residents. Roads will need to be widened; more accidents will increase the need for more rescue services. It may also deter tourists away from this particular area because of the high traffic and the increased danger on this particular road. Not many years ago I recall Florida was one of the top retirement areas but uncontrolled development caused higher taxes and made the area so crowded it become a major ordeal to go shopping or go eat at restaurants or go for a peaceful evening stroll. A lot of people found it more sensible to sell property and avoid the high taxes and moved to smaller places such as Hendersonville and Brevard to enjoy those things again. As I said before, I'm not opposed to development I just think we should retain the characteristics that causes people to want to be here. By allowing Crab Creek to remain Crab Creek and keep it a place where children are raised outside and neighbors want to help each other. Pearl Lane is a very tight community. There are eleven homes on this road. We all know each other and I feel comfortable going on vacation or allowing my little boy to go out and play. If we allow this um, it could cause us not to be able to pay our land taxes if it increases due to new road construction and such. My husband and myself are capable of increasing our income but what about the citizens who have fixed incomes, people who have lived here their entire life. Is it fair to allow change that could cause our own Henderson County resident's to relocate or become homeless. For the people who have the resources to live in a place such as the Glen, they have many other options. I think the Glen located in an area suitable for the magnitude of this development would be beneficial, but the proposed location is not suitable. The Crab Creek Community is not prepared for such a development. The County has enough issues to address consonant, where to use tax money without adding the complications that will come with the decision to allow this development. The amount of water that will be used is also a concern. Many people around this area have well water. If the water table's lowered it may cause homeowners to have to drill deeper wells or possibly even dry up. Ninety thousand gallons of water a day will cover residential needs, but I'm not sure if that addressed the concerns of the laundry from the hospital and the needs of the spa and the water used to keep the restaurant going. I know in homecare you may change one person's bed two to three times and have to wash those sheets. The water table may not be affected immediately but we have to look ahead. The good lord gave us the resources we need to survive but what he gave us when he created this earth is all we have. Preventing a problem is an easier solution than reversing one. I love being able to take my son on his tricycle and my animals for a walk down to the bridge without worrying about being hit by a car. The people of Pearl Lane are very mindful of children and animals. We drive with caution and consideration for our neighbors. Recently we had some dump trucks using Pearl Lane hauling dirt out. The first few trips were slow and easy but by the second day of hauling the trucks were no longer considerate. They were in a hurry, very messy, and when passing cars on the road, gave very little of the road and didn't slow down. I was afraid for the safety of my little boy. It would be hard to see a small child from a fast moving dump truck. It took away our freedom of being able to enjoy our daily activities. This was a small taste of things to come with the pending development. I have children at my house most of the time. I baby sit, I have nieces and nephews who come and spend time at our house. Riding bicycles and playing softball in the pasture is one...some of the ways we spend our time during the day. With any development there will be increased traffic, but most developments in Crab Creek area are family oriented. They also have children, pets, and the concerns for their family as we do. A retirement facility such as this brings in more than just residents. It brings in the spa workers, the construction workers, the lawn maintenance care workers, delivery truck workers, home care workers, there's too many to list. All of these increase our chances of possibly being robbed, our children being kidnapped, or perhaps even fatally injured just waiting at the end of the road for the school bus. This is a rural agriculture area. We want to have that characteristic preserved. As residents of Henderson County we rely on you, the Commissioners, to protect us and make fair decisions for us. You were voted in with trust that you would make responsible decisions with how

to use our tax money and to protect the interest of all of our residents. I don't envy the decision you have to make. If the Glen's not accepted they'll possibly move to a more suitable location and try again. If the Glen's allowed, we the residents...we're at the mercy. We're left with an uncertain future. A lot of people chose to start their families in this community and did so because of the character of this place. This type of development will take away our freedom of our lifestyle and I appreciate the opportunity to speak and be heard."

Chairman Moyer – "Thank you Ms. McDowell. Ms. McDowell before you leave the other parties have an opportunity to ask you questions. I'll start with Mrs. Beeker - no questions. Mr. Cherry"

John Cherry – "No"

Chairman Moyer – "Mr. Knowlton"

Bill Knowlton – "No sir"

Chairman Moyer – "and Attorney Massagee for Mr. Erb"

Attorney Boyd Massagee – "No sir"

Chairman Moyer – "Alright, well thank you Ms. McDowell and you are finished. We are finished with the testimony of all the parties and the cross examination by the other parties. We are now going to move into the public comment part where we have...if you weren't here for when we had the rules; the parties under our procedures are given ten (10) minutes to ask...to make their statement so because they are parties with respect to the people making statements you will have three (3) minutes and we'll hold you tightly to that. We have probably sixty (60) some people that would like to speak so we're going to try to give everybody a chance. You have three minutes. I think you can make your comments in three and Mrs. Corn will be timing you. What are going to...tell...how are you going to notify them Mrs. Corn? (Bell rings) When the times up. She'll read the name of the person that's going to speak and then the person who will next. If your comments have already been covered and you don't want to speak, all you have to do is say pass and we'll move on to the – to move on to the next person."

Commissioner McGrady – "Mr. Chairman when are we going to – we understand they're going to rebuttal witnesses – you going to take those at the end?"

Chairman Moyer – "Yes, after this"

Commissioner McGrady – "...and we were given a lot of documents and I'm assuming they're all in but the only sets of things...I don't know what they relate to or all of the pictures...no one responded to any of that. So at some point later we need to clean that up for the record."

Chairman Moyer – "Which that was part of Mr. Massagees and we'll get that clarified."

Attorney William Alexander – "It was my understanding that Planning Staff was going to go before our rebuttal in our original plan because we need to hear what they say before we know what to present to you."

Chairman Moyer – "Well Planning Staff has not gone yet. Planning Staff is going to go after we get to public comment."

Attorney William Alexander – “Oh, I understood you to say that after public comment we would go into our rebuttal, - that explains it.”

Chairman Moyer – “Well sorry”

Commissioner Williams – “Mr. Chairman I for one would not mind to stretch just briefly.”

Chairman Moyer – “Alright we’ll take a five minute break to stretch and then we’ll start with public comment. Mrs. Corn, who will be first?”

Elizabeth Corn – “Bill Ramsey”

Chairman Moyer – “Bill Ramsey – you will be first.”

FIVE MINUTE BREAK

Chairman Moyer – “I’m very sorry about the temperature. We’ve tried to get that corrected unsuccessfully. I can assure you it’s just as hot up here as it is out there...probably hotter, so we’d love to get some air, there’s nothing moving up here. With respect to...now moving into the witnesses – before we do that I’m going to ask Attorney Massagee to clarify these pictures and make sure we know what’s in the record, but while he’s getting ready to do that we have close to a hundred people signed up – they take three (3) minutes times a hundred – you can imagine and I don’t want necessarily people sitting around waiting. We’re going to start the list...but as far as rebuttal a testimony will do that at the next meeting. We will not do that tonight so you can free your people and go off because there’s no way we’re going to cover all the people and if we fortunately cover all hundred then we’ll call it a night. We are looking at right now July 24 at 6:00 pm, at this same location, hopefully with more air conditioning at our next date. We haven’t set that yet but the Board has looked at our schedules and we’ve talked to the attorney’s – I think that date is going to work and then we’ll pick up whatever witnesses don’t have a chance to speak tonight. We’ll go into staff’s; then rebuttal, and then whatever we go from there...closing remarks, etc. It looks like we’re clearly – we’ll need another time and that will be the date. Attorney Massagee would you clarify the pictures that were in the stack that we got...put them in the record.”

Attorney Boyd Massagee – “I will sir, I’ll ask the plaintiff to come to the stand”...(not at mic – unintelligible)...do you wish for him to be sworn again?”

Chairman Moyer – “No if he was sworn before that’s fine.”

Attorney Boyd Massagee – “The pictures that are up here in this stack, Mr. McPhail are those the same pictures that I essentially had in front of me right here plus the ones that Sue is going to hold up now – are these the same pictures?”

Fritz McPhail – “Yes they are”

Attorney Boyd Massagee – “Just point to them one by one as we go along and tell me basically what they are and if any...I’ll ask you now do these actually and correctly portray the property that you are going to describe.”

Fritz McPahil – “Yes”

Attorney Boyd Massagee – “Tell what each of these are very briefly please.”

Fritz McPhail – “Okay. The first picture which is not on the board was a picture from Burt Green...Burt’s house essentially overlooking the – the development site and that’s not one that we look but that is...that is the smaller picture that you have. Now their order – let’s just see.”

Attorney Boyd Massagee – “Why don’t you just use the board?”

Fritz McPhail – “We’ll start – I will. The first picture is, if any of you all have been to the Pinnacle Mountain Lookout, basically taken directly from the top of Pinnacle Mountain and the development stands...”

Commissioner Young – “These pictures are numbered aren’t they?”

Chairman Moyer – “Ours are numbered he says.”

Fritz McPhail – “Yes this particular number one, if that one’s numbered, that one is the...from the Pinnacle Mountain Lookout.”

Chairman Moyer – “Number two is...”

Fritz McPhail – “Number two is Pearl Lane. This is a where Misty McDowell lives. This is going to be one of their main entrances I presume. I’m not sure if it’s main or alternate. It seems to switch but as you would drive down across this bridge you would then turn right into the development and that’s what Misty McDowell spoke of earlier, the eleven houses that are on this small road. The third picture is a just a picture of Mud Creek right adjacent to one of their entrances. The fourth picture is a kind of a picture of where their entrance road will traverse up into the development underneath Pinnacle Mountain. The fifth picture looking toward Brevard at one of their entrances you can see that it’s on the Hendersonville side of a blind curve. The next picture I have is the location of their waste water treatment plant in between Kanuga Road and Mud Creek right next to that barn.”

Attorney Boyd Massagee – “Show them on here”

Fritz McPhail – “That is shown right here.”

Attorney Boyd Massagee – “What number”

Fritz McPhail – “Number six. Picture number seven is taken from our back porch looking onto the development which will basically be behind those trees and the road you see kind of behind the lake will be sitting on our back porch we’ll be watching the service trucks and the cars and all that kind of stuff you know travel by. This is a picture from their pasture. I’m on number eight, forgive me. This is the approximate location of the high rise buildings, kind of over about where those trees are located looking – that’s kind of looking toward Hendersonville with Camp Blue Star being behind us. Obviously picture number nine is Camp Blue Star. This is not of the development although it does border the development. Picture number ten is just an approximate location of the high rise facilities. Picture number eleven is the other alternate entrance that they’re using or showing.”

Attorney Boyd Massagee – “What numbers that?”

Fritz McPhail – “That’s number eleven, also on a blind curve. I believe there was an accident right in front of this entrance within the last ten days. I don’t know what it is...you can actually go here...you can see tire marks coming both going toward Hendersonville screeching and stopping, also tire marks in the other lane screeching and stopping with a bunch of orange marks on the road so I’m not exactly sure...we’ve tried to ask the fire department was it an accident. I think it must have been an accident. It happened at night because we heard it and I have yet to receive verification but all you have to do is go out and look and it’s literally right in front of this proposed entrance and it’s on the road for everybody to see, happened within the last ten days. This is just a picture from our back porch where my Mother and I live.”

Attorney Boyd Massagee – “What is that shown in the picture?”

Fritz McPhail – “That is called the sunrise in the valley. It’s kind of looking over toward Pearl Lane where the McDowell’s live. The...this is a...the next picture is a soccer field. Camp Blue Star starts their color games about 6:00 am in the morning. This is fairly close to the new development, towards the Highlands portion of their development because Camp Blue Star does border the property. This is the Solomon Chapel which is their...Camp Blue Star’s Chapel which is also fairly close to the back of the Highlands portion of their development. This is the Camp Blue Star’s rope course and that’s in between Highland Chapel and in back behind those trees that you see is the Highlands portion of the development. This next picture is...are just some trees that are located in the general vicinity of where the multi story buildings will be. This is a picture from Crab Creek Community Baptist Church just standing in their parking lot right underneath that lot that you see is where you’ll see the high rise buildings. This other picture is just one of many trees that are on the land. I don’t have any idea...we don’t have a tree ordinance to my knowledge in Hendersonville so that’s just a picture of one of the trees I suspect that looked...I don’t know what will happen with that tree. And this other picture is just a picture of a sunset a couple of miles down the road. That’s all.”

Chairman Moyer – “Mr. Alexander”

Attorney William Alexander – “Assuming since he was identifying these pictures that we can ask him just one or two questions about the pictures just to clarify what they are.”

Chairman Moyer – “Yes sure.”

Attorney William Alexander – “Mr. McPhail the pictures which you’ve identified as being of the land, I assume meaning the land upon which the Glen proposes to build its project, are all those pictures of the same land which you sold to Mr. Frady?”

Fritz McPhail – “Well yes, the Glen is on – located on that land, correct.”

Attorney William Alexander – “Thank you”

Chairman Moyer – “Do any of the other parties have any questions with respect to the pictures – I’m not going to go through all the names, if anybody does raise their hand? If not we’ll move into the statements. Now these witnesses are limited to three minutes. Mrs. Corn will call the persons to speak, again if you don’t want to speak just say pass. She’ll also give the name of the next person so you’re ready. We’ll try to move through this as quickly as we can, Mrs. Corn.”

Elizabeth Corn – “First will be Bill Ramsey following him will be Fritz McPhail.”

Bill Ramsey – “We’re sorry to see you having to sit on metal chairs, that can’t be nice. I’d like briefly to recap the first meeting for those that weren’t here from the notes that I made at that time. Speaking for his developer, the developers Attorney Mr. Alexander, said – made three points. And as my notes reflect those points were these. The public has no right to be here and has no right to comment. His second point was if the Board of Commissioners do not okay this project the developer will see them in court in Raleigh and will likely win there. And the third point according to my notes was using existing open use land use loop holes we may choose to do something much worse than this with our land and murmurs were heard among the supporters of that position and the audience about race tracks and hog farms. With threats already registered by his attorney the developer spoke next and said, in much softer terms, hey I’m really a good guy. The public always loves all of my projects and one day I many even plan to live in this project myself. Finally a self described old geezer spoke, I can recognize and old geezer because I am one myself, he said please don’t leave me homeless and force me to leave my beloved Henderson County. These were very touching words but they were spoken by a man with a special interest in this project that his own Flat Rock rejected two years ago. Next the developer’s attorney returned to badger affected neighbors and experts and in his belittling of these people demonstrated the developer’s obvious attitude toward his intended future neighbors. Much has been made about vested rights for the developers but my question here tonight is what about the vested rights of our citizens? Years after every Board of Commissioner member has left office and in fact has left this earth, Henderson County residents at that time will have to live with the development decisions that you make in the year 2007. If you choose to reject this high density high rise retail development a legal battle may result. Many of us want to have you understand that we as concerned citizens will pay the taxes needed to defend our beautiful county. We don’t disagree with the need for more continuing care retirement communities. As a senior myself I’m presently looking for one in the not too distant future, but we do simply urge you not to allow this misleadingly labeled project called the Glen at Flat Rock to be located in this rural and ecologically fragile valley. Thank you for your time.”

Chairman Moyer – “Thank you Mr. Ramsey”

Elizabeth Corn – “Following Fritz McPhail will be Susan Cox.”

Fritz McPhail – “Yes and I have spoken at the last meeting, so I’ll pass.”

Susan Cox – “I’ll pass”

Elizabeth Corn – “Following Susan...okay - Michael Brookshire”

Michael Brookshire – “pass”

Elizabeth Corn – “David McMurray”

Chairman Moyer – “Mr. McMurray...alright move on”

Elizabeth Corn – “Stuart Ryman”

Stuart Ryman – “pass”

Elizabeth Corn – “Boyd Massagee”

Attorney Boyd Massagee – “pass”

Elizabeth Corn – “Kay Papazian...not here. Richard Freudenberger – following Mr. Freudenberger will be Wayne Jones.”

Richard Freudenberger – “Gentlemen your vote on this Glen and Highlands project will be a watershed issue for the future of this County’s development. If approved, it more than these other developments; the Biltmore Farms, Hammond Project, the Seven Falls, the Bockle, the Grand Puba at Bearwallow and all the other numerous and pretentious gated communities seeking exceptional rights and permitting. This will set a careless precedent for the development of large quasi commercial properties in areas never intended for them. This project was conceived at the bequest of a few privileged folks after they were sent packing out of Flat Rock. It is six miles outside the city on a road that was designed to handle rural traffic. It is a threat to the health of Mud Creek and to the Mud Creek watershed restoration project which has been ongoing at largely taxpayer expense for several years. It is a public safety risk to inhabitants as adequate fire equipment for a project of this density is housed nearly one half hour away at the Valley Hill #1 station and it is a threat to the water supplies of future controlled growth in this community. As County Commissioners you should be well aware of the fragile ecological state of the Mud Creek water shed and it would be deceitful to cast your vote in favor of this project. Further I would hope that you would have more respect for the federal state and local taxpayers money than to throw away the time and funding that has already been designated for the Mud Creek water shed restoration project to date that’s ongoing for probably four years now. I have spent more than ten years as a V1 volunteer monitoring the Mud Creek in order to elevate it beyond a class C water level. It’s a very moderate, lineate level that it is at now. You are aware that this residential commercial development would not be permitted under the proposed Land Development Code. Given these people special dispensation at this late hour is both improper and imprudent. The Glen and Highlands project would be an excellent project off Four Seasons Boulevard or some other urban thoroughfare or four lanes designed to handle it. Putting it where it is at this point and time is simply not a responsible decision. Thank you.”

Chairman Moyer – “Thank you”

Elizabeth Corn – “Following Wayne Jones will be Darryl Johnston.”

Wayne Jones – “What I just presented to the Commissioners was some copies of some things off of the internet about E. coli contamination and the reason I looked it up is because where my family lives there’s about 79 acres there that the Wards farm. The Wards can’t be here because he is in the middle of his farming. This is his living. It’s every bit irrigated in Mud Creek. All of it’s irrigated. It’s all under plastic. Not only that if you look right there below Pearl Lane, the Bell boys they have potatoes there. When they need to irrigate it comes directly probably within less than a hundred yards of where this package sewer plant is being proposed to be put in. It talks about E. coli; E. Coli you know in 2006 our fresh spinach, the fast food hamburgers in 93 and then it says, I’m just going to skip through this, one of the major causes to our vegetable is irrigation, water contaminated or you know it’s where if the water is contaminated with E. coli is used to irrigate our crops. Now this is something to really think about as much farming has been already pushed out of our county. It’s almost gone and then there’s a thing from the Cape Lookout Coastkeeper. His name is Frank Tursi. He done an extensive study and he’s done a...I talked also even to the riverkeeper over in Brevard...no Buncombe County, it’s the Buncombe County Riverkeeper and these people have really done a lot of extensive study about these package sewer plants which the state told me was called and considered a biological mechanical system. Mechanical, I think Mr. Young - you used to work in the automobile industry. Somebody ought to know what mechanical is.

Have you ever had your car fail? And when they talk about these modern marvels, just read this. This talks about even the Titanic the Hindenburg the Space Shuttle, what they've done to us these modern marvels that have been engineered and designed. But then what catastrophic result has come from it. But with this farming and our families I have two children I have six grandchildren and they play around Mud Creek where my property joins Mud Creek. Probably just a little over a half mile below where the Glen is proposed and this is a real concern. In fact the state, talking with the state, they said they would come out and test our waters. It's not within a hundred feet or a thousand feet. They will test it if this project goes in, before it goes in and after it goes in and for years after because they said it's not possible but probable that the quality of water, if they pull that much out of the ground, will go down in our well system for a mile or two down this creek and that's really, that really concerns us at citizens. I mean what kind of future do our children or our grandchildren have if we can't protect the resources? Think about it; our water and our food and our air, what's more important and what all – what else can we pass on to our children except just growing them up in family. They talk about historic; well this year at Crab Creek Baptist Church, at least the majority of our people here that are present, that's where they attend. That church was built in 19 or 1834. It's a hundred and seventy three years old this year. That's about as historic as Flat Rock and we don't want to see this community destroyed with this kind of over developing and our water systems and the just the chances that we're taking. I mean you start on a downhill slope and if it's a gradual slope you keep going and going and after a while when you get to the bottom of it you look and you realize it's a long climb back and is it worth selling out the future of our children for a few hundred dollars or a pocket full of money. I mean we need to consider that Commissioners. I thank you for your time. I hope you'll read that."

Elizabeth Corn – "Following Darryl Johnston will be Kim Jones."

Darryl Johnston – "My name is Darryl Johnston. I live on Jeter Mountain Terrace. I've lived here for about eighteen years. People move to Crab Creek for the quiet and rural life, not a small city. Five and four story apartment buildings are ridiculous in this area. Anybody who has any sense at all would realize that. As has been mentioned before, Flat Rock rejected this proposal. One person in the newspaper called this project – it would be a resort. I don't think they would like it to be called the resort of Crab Creek. They would still like to use the name Flat Rock. Who wants this project besides the developers and the people from Kenmure and Flat Rock who have proposed it many years ago and will be the inhabitants of it? Not the staff as I understand, they have rejected it. The Chairman of the Planning Commission or Board, whatever you call it, in the newspaper stated he was opposed to it. The residents as you can see here are obvious – of Crab Creek are obviously opposed to it. Going to the road and traffic on the road, in the Chicago area for fifty years I never wore a seat belt. When I moved here and drove on Crab Creek I immediately started wearing a seat belt. If you've driven the road you can see the number of people who speed above the 50 mile an hour speed limit, who cross the center line, especially on curves. It's a dangerous road as everyone who drives it knows. There's apparently some confusion about the traffic on the road. The Glen at Crab Creek nursing facility will add about 2200 daily trips according to an article in the newspaper; that the developers hired...some expert to come up with that figure. In 2005 there were about I believe it was 4400 trips or usage of the road according to the newspaper. This additional 2000 plus will bring it up to 6000 or more, a 50% increase in the usage on the road. And then we have the first five years where the trucks and the traffic will be horrendous. I would doubt that many realtors would want to bring their customers out on Crab Creek Road and see all the commercial trucks, commercial equipment blocking up the roads. It's not a good selling point for our area of the county. I would like to add just one final thing, as stated in the newspaper, no matter how much lipstick you put on a pig it's still a pig."

Elizabeth Corn – "Following Kim Jones will be Kenneth Erb - okay."

Chairman Moyer – “Is Ms. Jones Here?”

Elizabeth Corn – “He said they passed – alright Kenneth Erb”

Chairman Moyer – “Kenneth Erb passed.”

Elizabeth Corn - “Oh okay”

Chairman Moyer – “I think the other person is not here”

Elizabeth Corn – “Elizabeth Reid – Pete Bonesteel – John R-O-N-I-C-H I believe – A. R. Lasitter – Richard and Phyllis something that starts with a K – Barbara Holmes – Donzas is the first name and the last name starts with a W...looks like – Oley Cox”

Oley Cox – “I’d like to reserve my time...”

Elizabeth Corn – “Dot Drew”

Voice from audience: “Could I use some help please?”

Elizabeth Corn – “Mr. Moyer”

Chairman Moyer – “Have you signed up to speak”

Attorney William Alexander – “No sir he said he wanted to...unintelligible”

Chairman Moyer – “Well it when you come up to the mic and sign, sign your name and address so we have it for the record.”

David McMurray – “Thank you my name is David McMurray, I was – okay I see it.”

Attorney William Alexander – “Sir we want to object for the record if his testimony...if it’s going to be more than comment as opposed to flat testimony such as he rendered earlier.”

Chairman Moyer – “I’m not sure what you mean Mr. Alexander, he has three minutes to make a public statement like everybody else – that’s all he’s not a party.”

Attorney William Alexander – “It’s not an objection to...”

Chairman Moyer – “Alright”

David McMurray – “He had deferred to me because he wanted me to respond to earlier testimony about response time with emergency vehicle when I personally drove the route from Valley Hill number 1 to the intersection of Pearl Lane and Crab Creek Road three times and averaged those trips. If you take the route by Price Road the average time was 9 minutes and 10 seconds. If you take the route to Old Kanuga to Crab Creek Road the average driving time would be 8 minutes and 52 seconds. I drove this with a one ton truck and drove over slightly over the speed limit which would be the approximate speed of an emergency vehicle of that size by most fire department policies.”

Chairman Moyer – “Thank you”

Attorney Boyd Massagee – “Mr. Chairman you asked last week for a statement from him to be presented. I have it if you wish it from Mr. McMurray. I have it if you wish it, if you don’t I don’t. I only mentioned that because you asked me for it.”

Chairman Moyer – “Would you hand up the statement so we can see it Mr. Massagee?”

Commissioner McGrady – “It’s already up here – coming down”

Chairman Moyer – “Mr. Alexander have you seen this statement?”

Attorney William Alexander – “I’m just now looking at it Mr. Moyer.”

David McMurray – “Mr. Chairman you could ask me to summarize what I testified to at the previous meeting in writing and that’s a summary of what I testified to previously.”

Chairman Moyer – “Alright, I think then we’ll let Mr. Alexander, you can handle it in their rebuttal”

Attorney William Alexander – “Alright thank you”

Chairman Moyer – “since we already had a chance to address this, next”

Elizabeth Corn – “Dot Drew – Edwin Babcock – Mrs. Drew, okay”

Dot Drew – “Yes thank you very much I’m Dot Drew and my husband and I retired here and have lived in the Hendersonville area out off of little River Road and then in Laurel Park for twenty total years. We have seen a lot of changes and in spite of the complexity of getting those changes into affect, I think that this town has done a wonderful job of getting to the point where it is. The volunteers that have come from the people who’ve lived here a long time and also those that are coming to retire here and live here for the rest of their lives has been immeasurable and invaluable relative to putting a dollar on that. I think we can expect that further with the new growth that we’re going to have and it’s inevitable that we’re going to have some. All of the questions that I have...have been answered in the several meetings that have been held. It’s been very interesting. We’ve seen a democratic process; we’ve seen some people who have objected and they a right to do that, and then we’ve had the rebuttals and that’s a wonderful thing to see but I would certainly love to see this new facility come to Henderson County. We’re going to need it. My husband and I – it was a God send for us both with health concerns down the road but also to have a lifestyle that we would like to maintain and those that are coming, that’s what they are looking for also. So, I would certainly like to see this happen and I think the people who come here will certainly be a compliment to those of us who are already here. Thank you very much”

Chairman Moyer – “Thank you”

Elizabeth Corn – “Edwin Babcock”

Edwin Babcock – “My name is Edwin Babcock and I live at 409 Birdland Drive. Those of you who’ve never been up there, Birdland Drive is a short private road butting off of Jeter Mountain Terrace. I live at the top of a ridge on the other side of the valley from Blue Star Camp. I have a two bedroom house with

what I call a mediocre well. Its seventy feet deep; it's refills itself at the rate of 3.6 gallons a minute and it holds maybe sixty gallons. If all the damage that's going to be done to this aquifer is as we predict all this water draw down and a lack of replenishment caused by all the hard surfaces which is going to prevent water from seeping in, is the water level below my well going to drop by a hundred feet? Who is going to make me whole? Is the County going to make me whole? No...are the resident's of the Glen going to make me whole? No...ten or fifteen years from now the developer isn't going to be anywhere around and he's going to say not our responsibility. So who's going to make me whole? Who's going to drill me a new well through the rock? Who is going to run city water out to me and build a pumping station to get it up to the top of the hill? The only person left is me and I don't feel too confident about it. Not confident at all. That's all the additional things I have to say about water. I just want to point out one or two other things. Twenty three years ago I first moved to Henderson County, driving on Crab Creek Road was very difficult because of shift change workers at the industrial plants in Brevard, like the Dupont Plant, rushing up and down the road desperate to get to work and desperate to get home again from work. This situation makes me think we're going to go back to that and it was not a safe or pleasant experience to go through that. There's already a poisoned well on Walnut Cove Road. You just have to consider all this and remember all this water has to flow all the way through Hendersonville and the rest of Henderson County before it joins up with back Fork Creek, I guess I shouldn't have mentioned back Fork Creek, and gets to the French Broad River. Whatever pollution is in there is also going to have to flow all the way through the rest of Henderson County to get out. Thank you"

Elizabeth Corn – "Bruce Campbell – following Mr. Campbell will be Bruce Hatfield"

Bruce Campbell – "Thank you Commissioners for allowing me to speak. One thing I want to clear up from the last meeting, I'm not an old geezer but I am – my wife and I are in support of the building of the Glen. We went to the original meeting and the follow-up meeting, and the follow-up meetings about the Glen. We listened to the companies that are putting this together and we did not just take for granted what they told us. We visited their facility in Raleigh, North Carolina. We spent the night there and we remembered what they told us at these meetings just what it was going to be like. We visited the buildings; we visited their facilities, the banking part of it the insurance part of it. We had dinner with the guest there...the residents there and everything they told us was true. The next day we did visit the grounds and I'm telling you – you could not tell when you left the facility, and it's in an upscale neighborhood or subdivision. Everything was just immaculately taken care of. You could not see the buildings from the highway and this is in Raleigh, North Carolina. I feel like that these people have gone – they have been so above board – there have been so many misconceptions produced but these people have told us exactly what their product was and it was there and I expect that to happen here. Thank you very much."

Elizabeth Corn – "Following Mr. Hatfield will be Ed Destremps"

Bruce Hatfield – "Before I get started there was a comment made tonight about a death in this area. I'd like to remind you of who's that death may have been. There is a lady that's very well known by the County Commissioners by the name of Eliza Growley. She lived in the Village of Flat Rock and was very involved with the Village of Flat Rock. It was her husband that was killed on Little River Road when a friend of mine who drives a semi-trailer called the cowboy drivers, the dump truck drivers. Keep that in mind gentlemen. I come from a little place called Salado, Texas; population 350 when I left. I'm sorry 349 when I left in 1976. I have a question to ask tonight. How many of you are from Kenmure, would you please stand up? How many members from Flat Rock, would you please stand up? You see the reason I ask that is two years ago the Village of Flat rock, in no uncertain terms, said we don't want this in our area and it doesn't belong and we won't shove it down somebody else's throat. In the Sunday

Times – Times News, May 13, 2007, the developer of the Glen in Flat Rock, but maybe it should be called Crab Creek, placed a full page display ad and the ad is filled with nothing but discrepancies, half truths, misstatements, and quite honestly is down right lies. First the idea for the Glen was circulated around the late 1990's by Bob Demartini, (Gutter Helmet) of Kenmure. He was looking for a means for those of his friends who were nearing the ends of their lives to remain in the Flat Rock area. A group of folks, now known as the 65+ Awareness Committee, was formed to explore the possibility of a Comprehensive Care Community. They borrowed information from the Home Owners Association of Kenmure's Stay program, a program designed for elderly persons to remain in their homes with minimal care. The 65+ Awareness Committee issued, using the Village of Flat Rock Stationary, and under the signature of then Mayor Terry Hicks, letters to major corporations who specialized in CCRC operations. The letters basically called attention to Flat Rock and attempted to generate interest from these companies in establishing a CCRC in the Village of Flat Rock. In April of 2001 The Village Council of the Village of Flat Rock insisted that the group of 65+ cease using the Village of Flat Rock stationary and not to include any information in communications with regards to the Village Councils interest in the project. In fact they reiterated their policy on not being a partner in the development of a CCRC in Flat Rock many times over but Mr. Demartini kept doing it anyway. In July of 2001 Mayor Hicks states that the Council made clear to the Committee of 65+ that they were not to solicit for a CCRC in the name of the Village of Flat Rock and again in July of 2001 a letter is sent to Mr. Demartini stating that he was not to involve the Village of Flat Rock in the solicitation for a CCRC in the Village of Flat Rock. Councilman Roark, in a memo dated 3/8/04, states for the Village of Flat Rock to build such a facility they would have to rezone from R40 residential to commercial to accommodate a CCRC. In the March 11, 2004 minutes Council member Staton states he would not, I quote he would not shove down the throats of adjoining property owners who object to having a CCRC as a neighbor or anything that would be abhorrent to them. In April of 2004 the Council receives 102 letters from residents opposing a CCRC in Flat Rock. Thus the first part of the Developer's ad is in question. As far as statements that there are long waiting lists for retirement centers, my neighbor is planning on entering one this fall. It was at her request to enter one this fall and not based upon a waiting list as reported by the developer. In fact, there were discrepancies...there were discussions in 1999 and 2000 regarding the availability however since then more spaces have become available and other projects have come online, in fact other companies are expanding their facilities. The developer states that a CCRC provides independent living, assisted living, and skilled nursing care. While this is basically true, according to information provided by Mr. Demartini, one must be independent, and without the need for nursing care upon entering the facility. With regards to health care, who will provide the services, Pardee Hospital, Park Ridge Hospital, Mission St. Joe's? Does this mean that patients will be transported to Pardee Hospital some 8-10 miles away or Park Ridge another ten miles more or to Mission some 30 miles away? If we believe the developer, many of these folks will need serious medical care at some point. Is this in the best interest of the patient? What's the relationship of Park Ridge MOB, that stands for medical office building, to the developer, a not for profit entity. The developer says the Glen is not a commercial development. Then why did the Village of Flat Rock state in no uncertain terms that to build the CCRC in Flat Rock they would have to rezone from R-40 residential to commercial? After all what do you call banks, stores, spas, salons, auditoriums, libraries, mail centers, theatres, health clinics, offices, and a wellness center?"

Chairman Moyer – “Mr. Hatfield would you please wrap up”

Bruce Hatfield – “The developer intends to build two five story buildings and a 4 story apartment building that he says won't be visible. Do they have some kind of invisible paint on the building or using building materials they could paint a mural so...unintelligible. He says the development will be self-sufficient with regards to water and sewer. What he doesn't tell you is that he will have to drill through wells and fractured bedrock environment which has significant impact on people's wells in the

community. He doesn't tell you that Kanuga Conference drilled 17 wells although only 4 are working and that they had to run lines from Hendersonville to Kanuga Conference to provide for the 300-400 people capacity they are experiencing this time of year. He says they'll contribute over \$800,000 to the tax base. What he doesn't tell you the need for police, fire and emergency services will exceed the revenues by multiples of this. Consider a ladder truck that just came from Bo Lovelace our chief of fire department of downtown Hendersonville, it exceeds a million dollars and that's just for a basic truck. A basic fire engine is \$350,000 – 400,000. Police cars! A cardiac life support unit \$300,000. It'll cost you the taxpayer much more. With regards to the waste system..."

Chairman Moyer – "Mr. Hatfield you've expanded...gone beyond your time I'm sorry that's it."

Bruce Hatfield – "I'm sorry too Mr. Moyer. With regards to waste"

Chairman Moyer – "No, No that's it."

Bruce Hatfield – "No it's not...this isn't over Mr. Moyer by a long shot"

Elizabeth Corn – "Ed Destremps"

Ed Destremps – "I support building the Glen for three reasons. First it's needed. My wife and I have lived in this area for over twenty years. We'd like to continue living here when we can no longer take care of ourselves. If you approve the Glen, we'll be able to do that. If you don't approve the Glen, chances are good that we'll have to move elsewhere because as you know CCRC's are in very short supply here. The County won't be able to satisfy our needs and the needs of many other elderly people. The second reason I support the Glen is it would be an asset to the County. Not only will it provide taxes to the County but it will also provide jobs, ongoing jobs, such as electricians, plumbers, lawn maintenance people, administrative people, jobs, money which would - may have been lost when the Dupont Plant closed. The third reason I support the Glen is that it would be a good neighbor. I wouldn't want to live in a facility that was antagonistic to its neighbors. I know that the developer feels the same way and he'll do everything possible to work with his neighbors to satisfy all the concerns that have been raised here. There's a solution to these problems and they'll go out of their way to find those solutions. So for that reason I urge you to support the Glen...to approve the Glen. Thank you"

Elizabeth Corn – "Mary Terjesen – Robert"

Chairman Moyer – "I think she's coming down."

Elizabeth Corn – "Oh okay"

Chairman Moyer – "No, then I guess I'm wrong, is Ms. Tegjesen here? Next"

Elizabeth Corn – "Robert Haught H-A-U-G-H-T – Dee Dee and Bruce Recker – Bob Ronningen – Martha Sachs"

Chairman Moyer – "Martha, you going to speak?"

Martha Sacks – "For the almost ten years now, I've been on the County Advisory Committee that visits nursing homes, assisted living facilities, adult care homes and I need to tell you that this place is very desperately needed. The only one that we have right now as you all know is Carolina Village and

Carolina Village once you buy in that's it – your moneys there and you don't get it back. This is a facility which is...where you would have equity, you would buy whatever you buy whether it's an apartment or a villa and when you move or die your heirs will still be able to sell that. If it's increased in value they will get that. This is something we really need here and we need it very, very badly. One of the other things that this place is...no...Carolina Village has got a waiting list about right now about twelve years and when they continue...after they've done the building their planning it will still be about five years. Those of us who live in Henderson County and most of the people who are probably going to come here are not people coming in from the outside, they're people already here who want to be able to stay here and not have to be moving when they need nursing care. They want to be able to get it where they live. The things that have been said about the traffic on Crab Creek, I would argue with very strongly because of all the places that I visited and I visited many of them, and Carolina Village certainly...I hardly ever pass another car on the road and they have almost as many people there as is going to be in this facility. I hardly ever pass a single car going into that place because most of the people that move into these type of facilities do so at the point where they can't or don't want to drive anymore, or if they had two cars before they're only going to have one now. When they talked about this being also a commercial development, they're wrong. This is not commercial in the sense that it is open to the public. These facilities that they're talking about; the theatre, the workshop, the spa, the fitness center, the bank and barbershop are for the residents. They're not for the public so it will not increase traffic for people coming in there and it will decrease traffic because these people will not be going out for these things. If on the same land you were to build all the single family homes you could, almost every single one of them was going to have at least two cars and every place they go they're going to be driving these cars that will increase the traffic. The accidents that happen on Crab Creek, most of the accidents particularly the dead ones in this county, the deadly ones I mean, have been teenagers who've been going to fast around a curve or have been drinking or on drugs. I read the papers and I've got a teenage grandson...so I read the stuff really carefully. In terms of the water, according to the thing drawn up by your – I don't know what dropped but something did – drawn up by your Planning Staff, the nearest water line is 2.36 miles away and the nearest sewer line is 4.36 miles. If we can be running all the lines we're running out to the Edneyville area and planning to run the water up the mountain there, I don't see any reason why if this became necessary it couldn't happen here. Another thing I want to address is...Ms. McDowell was concerned, and I think rightly so, about the increase in value of properties when you have this...this would happen anyway if single family homes were going there they would be high rise homes. But what we need to do and we need to do this all over the county is to put a moratorium for people 65 and older on their homes so that they don't get an increase in assessment until that home is sold so that people living on fixed incomes are not put out of their homes. There are solutions to every problem that has been raised here and I think that as somebody who has visited these homes I can tell you that this need is real and if it's not done here it's got to be somewhere and every place you go it's going to be not in my back yard. So we may as well do it here because their plan is an excellent one.”

Elizabeth Corn – “Bob Eklund - Clyde Knight - Gary & Karen”

Linda Knight – “Our names are Linda and Clyde Knight. We have lived on Crab Creek Road for almost sixteen years. Our land does adjoin the property in question. We'll be literally across from the septic treatment plant. My husband still works part-time but I have retired after teaching for thirty-eight years. This meeting is not about how wonderful this family is - they will be wonderful where ever they build. It is not about the need for retirement centers, they are a real necessity. It is not about the great money that they'll give to the County – they can do that wherever they develop. What it is about is where. The land they purchased was already planned as R3 for a reason. That designation is appropriate for the area and the people already living there. These people have made a commitment to this area because they want to live in a rural setting not a mini city. It appears to be a simple decision. Number one they can build a few

homes, get their investment back and more but they should call that development the Highlands of Crab Creek. Number two they can look for a location that has city water, sewers and roads that will support all of the residents, all of the employees and all needed medical services. This may make their profit margin less but they will never lose money. We depend on you to make the right decision. Thank You”

Clyde Knight – “There’s a section of this whole area directly across from the two entry areas for the center and there are four homes – there right there, if they can only...if they want to straighten the road out that means four homes will go kind of back on a back that’s about fifty feet high and that means that those four homes will probably have to be done away with if they do straighten the road out. In most cases this probably will become a property area and you want be able to take the land from them, it will have to come from people across the road from them. Thank you.”

Elizabeth Corn – “Gary & Karen – Sam Highberger – Herbert Drew – Frank Blazey – Timothy & Sharon O’Keefe – Steven Corey – Jerry Grant – Burton Greenberg”

Burton Greenberg – “Commissioners...plant...stay up there (placing his cane) do the best we can. My name is Burt Greenberg. I live at 125 Mathew Drive, Jeter Mountain Terrace. I’m across the way from Camp Blue Star but I’m about five hundred feet above it. I look down directly on that property. Ten years ago someone had a dream about this project. Now we have a nightmare. This is Pandora’s Box and Pandora’s Box has uncertainties and all the ills of man and they will be set free when this box becomes open. So open it at your own peril. The water supplied by deep wells of 90,000 gallons per day, that’s a lot. Headlines in the newspaper just the other day headlines - official - the Glen no threat to wells, a contrived story by a writer and info given to him, a desperate ploy to subdue fears. Then later on in the article the man says, with little info given to the expert. I don’t know how you can qualify that. Not if but when trouble strikes and water is low who do we turn to? Is it the developer? He could care less. The Commission, the County, not my job. The sewerage package plant; to empty into Mud Creek, at best contaminated, dirty, always has been in trouble. Who’s going to check the condition of the plant and how often? Mud Creek wasn’t named for the first person who found it, only for its mud. Stretching emergency services to the point of too late; fire and rescue may respond sooner but does not transport. EMS from Pardee Hospital would take approximately 25 minutes, about 1 hour with a round trip. The Fire Chief Cannon, I spoke to him the other day, was misquoted when the developer said that he could respond in 2 minutes. The station number two near by, manned by one person could respond possibly in 2 minutes. Station number one with the pumper and hook and ladder would take make longer. The impacts on the roads extremely dangerous, corkscrew, blind curves and no shoulders to pull over to let emergency vehicles pass, no way. Double yellow lines all the way and no passing. Said to be designed for 10,000 trips, well this is as much fun as driving dodging bumper cars in amusement parks. Then possibly added construction for 5 years, Flat Rock said no. Putting a mini city in this area is like putting the Queen Mary in Lake Lure for daily excursion. It doesn’t fit or belong here; it’s out of place and Flat Rock said no. As elected officials you are to protect the people who elected you. Do what is good for them and right for them but not a developer who hits and runs. This is your responsibility, if you don’t listen to the people and your own staff why have them. I will present Pandora’s Box to your later. Thank you for the opportunity.”

Elizabeth Corn – “Evelyn Romeo – Lloyd Steen”

Lloyd Steen – “Thanks for the opportunity to speak. My name is Lloyd Steen. I’m a resident of Henderson County at 314 Oklawaha Circle, 28739. I listened to the statements concerning the opinions of various people about the impact of the Glen on the public health, safety and welfare of Henderson County. Some valid statements were made. I will limit my remarks to one of those areas, the area of

public welfare. At the present time approximately 70% of the residents living in the nursing homes of Henderson County are being paid for by the taxpayers. This year that amounts to approximately twenty four million dollars. The Glen at Flat Rock represents a group of citizens who are personally trying to make provisions for their own care should they need assisted living or nursing home care. The Glen, if allowed to be built, will relieve the taxpayers of that portion of nursing home expenses attributable to the residents of the Glen and furthermore the taxes generated by the for-profit Glen will help pay for the nursing home residents who are unable to pay their own way. The demographics of the nation indicate when the baby boomers need..."

Because of technical problems the last part of Mr. Steen's statement was not recorded.

Elizabeth Corn – "Jim Heidebrecht – Bill Carpenter – Marlene Arnold"

Marlene Arnold – "Thank you for hearing me, I appreciate that. My husband and I and our family live on twenty four acres on upper Mud Creek off Pearl Lane at 93 Licklog Lane. We are called Licklog Lane, it's out driveway but before it was always Pearl Lane. When we came here I met the lady that this...this is named after – Pearl. She is a McDowell and they have some of...for five generations they have some of the most wonderful families that has been around us. When we moved onto the land in 71 we enjoyed a very peaceful and a wonderful life. We were blessed with pure water, clean air and good neighbors and if you come up our road you will see our old barns, you will see our lifestyle in our pastures and our gardens. We moved far from the bustling and the hustling of the city. We enjoyed abundant wildlife and I think this bothers me very much. I'm an artist and a photographer and I have enjoyed the red tail hawks, the owls, we had a panther surprise us one night. I just...I don't know what...how to quantify the cost of this against the habitat of these animals, against our environment, our water, the sewerage and our way of life. Of the...I won't say that...it's just about the heavy equipment for the next five years that we will have to...I can't...we will not be able to go out without running into the dirt and into the mess that's going to be there. I'm concerned about the surface water, the ground water, the sewerage plant; how it would affect Mud Creek and the surrounding land. Acres of permeable land will be roofed over and paved and when we have those storms, like we do have, the creeks are going to be more polluted and the banks down the creeks are going to be eroded. During a heavy rain earlier this year the smaller subdivision right across the street from where the Glen proposes to had done, I'm sure, all that the state required them to do and they put up silt fences, but when we had a heavier rain the silt fences were knocked down and the mud flowed into Crab Creek and the drivers that came along hit this mud, they couldn't control their vehicles and they had wrecks. And just yesterday we heard that there was twenty inches in one hour in Texas; it can happen. We're not prepared for the things that could happen. We're retired and we live on a fixed income and our property evaluation was raised 62% this year. I don't know what, I can't even imagine in five years how it will be raised. I don't...this is our retirement home. I don't know if we're going to be able to live here. I don't know if we'll be able to pay the taxes when they are raised to match our new neighbors. The other morning I woke up and I had this thought in my mind...I said what is this going to be like? Well, I thought it is...it's a hundred and thirty two acres of downtown Hendersonville that's going to be dropped right next door to us and just to give you an idea of that area, if you started at Barnwell Street and you went north on Main Street and you crossed sixty four to seventh avenue, that would be one way. If you go from Washington Street and you go east and you go across...past the old courthouse and you go past the new courthouse and you get to Pine Street, that's the area of it. And we...but it doesn't have four and five story buildings that we are going to be...I think that this is really bad...finish up here. If this project doesn't happen here other reasonable construction will happen and make the tax base rise. Would those of you who have not had an opportunity to speak, and are in opposition of the vested rights, please stand quietly so that you can be acknowledged by our Commissioners. Thank you."

Elizabeth Corn – “Charles Harrell”

Charles Harrell – “I’m Charles S. Harrell and I’m on the waiting list for the Glen and I’m here to speak on behalf of having it built. Having moved to Western North Carolina in 1960, the first week we were here we met Bob and Myrtle Grant, the parents of Jerry and Rick Grant. In the past 47 years, having known all members of the Grant family, I have never seen any of the family do anything or build anything that we should be ashamed of. In these past 47 years I was involved in real estate, residential development and was the founding Board Chairman of a bank which is now RBC Centura. I am still on the Board of the Better Business Bureau over Western North Carolina and I have been for twenty four years. We are fortunate to have such a high quality facility as the Glen at Flat Rock being built in Henderson County. In closing, can we please consider the more than 250 families who have expressed a desire to utilize a nice retirement center such as the Glen at Flat Rock when we leave our lovely homes? We should not have to go to Buncombe County, Polk County or any other place outside of Henderson County to find a nice place to spend our last years and the location should be ours whether it be rural, urban or whatever. May I respectfully request that you give approval to proceed with this good and much needed project?”

Elizabeth Corn – “Bill Knowlton”

Bill Knowlton – “pass”

Elizabeth Corn – “Betsy Huneycutt”

Betsy Huneycutt – “My formal name is Mary E. Huneycutt if you need that for the record. Gentlemen, Mr. Chairman my family has lived on Crab Creek Road or in the area of Crab Creek community since before the war of southern oppression and this is a commercial issue and a commercial venture with issues. To name a few; visual affect, conservation, density, water, availability water, pollution, noise pollution, light pollution, road capacity, road safety, fire service, medical service, erosion, property tax enforcement and lawyer threats. Last session we heard a gentleman ask that the development be approved to render himself and others a place that they could live the rest of their lives with dignity and comfort. Not one of us in the red shirts tonight would elect to deny him that or to deny others that but not one of us should be required to have the affect of altering the quality of our lives in order to make life better for someone else. We’ve worked hard to have what we have in Henderson County. We have the right to keep it. Based on issues of health, safety and welfare our County Planning Department Staff, more familiar with the County capacity and the affects of this development on the land in this community than any of us, has recommended denial. We who live in the area beg you to see that health, safety and welfare, quality of life we live; in many case our ancestors lived and found this place to be perfect in terms of the quality of life, we ask to not to let that be destroyed. What could compel you to make a decision that you fly in the face of your competent staff and also fly in the faces of those of us most affected by your decision? To approve this development will prove once and for all in Henderson County water flows uphill, say no deny it. Thank you.”

Elizabeth Corn – “Vicki Yarnal – Myrtle Williams – Turner Hice”

Chairman Moyer – “She’s coming. I think that’s Mrs. Williams.”

Myrtle Williams - “I’m Myrtle Williams. I presently live on Jeter Mountain. I have lived in the Crab Creek Community since 1938.”

Chairman Moyer – “They’re having trouble hearing you let us...let us...turn up...no you stay where you are...see if we can turn the mic up a little bit and get it a little better okay, try again”

Myrtle Williams – “I’m Myrtle Williams. I have lived in Henderson County since 1938 in the Crab Creek area of Henderson County since 1938. We own farm land approximately a half a mile below, down the creek from the Glens where it is proposed. Back when Blue Star put in their sewerage system and pumped it into Mud Creek, there was no more fish in the creek. When Sexton’s put in their sewerage system for the cattle, it actually took paint off the cars that was sprinkled as they went by. If you’ll remember back in California they got E. coli from human sewerage being irrigated on the farm lands. My farm land is irrigated out of Mud Creek. It is irrigated all the way to almost to White Street in Hendersonville underground; it’s no longer splattering cars, but it’s going underground and directly into the vegetables. What are we going to do if we get E. coli in our vegetables? I have children and grandchildren living on Walnut Grove Road where the farm land is being irrigated out of Mud Creek. I’m quite concerned. I drive Crab Creek Road almost daily. I work closer into town and I go that road everyday. I’ve had a wreck on Crab Creek Road. I wasn’t a teenager either. I was in my sixties. So I wasn’t flying. I’m quite concerned about this development. There’s no medical service out there. They’re going to be in some medical services but they don’t have the ambulances out there to take them to town to the doctors, hospitals or whatever. There’s a lot of traffic on that road. I leave home at 6:00 of the morning. There’s traffic on that road then. I go home about 1:30 and it’s a whole lot worse. On weekends, especially in the fall of the year, that’s the most beautiful valley you can see and there’s traffic car after car after car. I am quite concerned about the water and sewerage and the health and welfare of our community. I ask you...I have no doubt that we need a retirement center for these older people. I’m older myself. I’m in my seventies but we don’t need it out there where there’s no services. I beg you, don’t approve it. Thank you”

Elizabeth Corn – “Turner Hice – Laurie Roberts – Kenneth Kafla – John Cherry”

John Cherry – “I’ll pass”

Elizabeth Corn – “Stanley...I can’t make out the last name but it starts with a T – G.M. Granger I believe, 5 shadow address 5 shadow something – Peter”

Chairman Moyer – “Wait a minute I think you’ve got.”

Greg Ganger – “My name is Greg Ganger and I am both a business owner and a resident of Henderson County but more importantly I’m a resident nine tenths of a mile from this supposed facility. Just some observations I’ve made with all the comments during these meetings, the response time for any fire vehicles – nine minutes is a long time and for a vehicle that can not reach a five story building, I’d hate to be on the top two floors. Let’s go to an extreme case of draught, well water is there going to be enough water pressure to fight any fires while waiting for the city to respond? Like I said, I’d hate to be on the top floor. The Glen has said they want to be good neighbors, they said they wanted to put in a turning lane, and in the same breath they also said they wanted or have requested city water to be brought out. That means tearing up the road, construction crews to bring that pipeline out. They’ve also asked PSNC to bring our natural gas, am I correct? Well, as far as they know, you have, again tearing up the road. Well what have they offered the community for those services for our inconvenience, for tearing up the road, for any other improvements for our safety? I haven’t heard anything. Just imagine you’re coming from the Glen approaching the intersection of Crab Creek, up hill, on a curve, speed limits 50 miles an hour, you have facility bus with these residents in it, how fast you can make it out on Crab Creel Road? Do they have a chance? I don’t know. Let’s take Crab Creek Road, I’m no older individual but I do the

speed limit; day or night people pass me on a double yellow line. That's not safe. It's a dangerous stretch of road but there have been improvements made. Take into account the blinking yellow light at the intersection of Little River Road and Kanuga. Now it was put there for our safety. How many people pay attention to that blinking yellow light? How many near misses? How many accidents do we have to see to see that it's a bad road regardless of what other...what safety precautions we use? May I ask a question?"

Chairman Moyer – “No, you can not. It's your chance to make a statement, not ask questions.”

Greg Ganger – “Okay. Well as far as I remember most of these Glen residents are already Henderson County residents, as far as I remember so if the Glen says that all this revenue is coming in, tax revenue, don't these residents already pay taxes? Just some thoughts, oh and I don't believe that Carolina Village has a five story building. Thank you very much”

Elizabeth Corn – “Peter and the last name starts with a D...2515 Kanuga Road – Misty McDowell”

Chairman Moyer – “No, no”

Elizabeth Corn – “Okay I'm to the last page and I believe there are quite a few repeats. Charles Harrell – Theodore Banacek – Jim Baldwin”

Chairman Moyer – “Wait a minute wait a minute Mr. Banacek is here.”

Elizabeth Corn – “Okay”

Theodore Banacek – “My name is Theodore Banacek. I'm at 1609 Kanuga Road. I've lived there since 1980. I selected the place because it was a wonderful location. Kanuga Road is a beautiful place so everybody says. I know we need a facility for the people after they cannot take care of themselves but I believe that what these people have is a wonderful plan, however Crab Creek Road is not the place for it. Thank you”

Elizabeth Corn – “Jim Baldwin – Martha Sachs”

Chairman Moyer – “alright, Martha has already spoken”

Elizabeth Corn – “Bruce Campbell has already spoke – Doug Wilder”

Doug Wilder – “pass”

Elizabeth Corn – “Bill Ramsey, I believe he spoke. Bruce Hatfield”

Chairman Moyer – “He spoke”

Elizabeth Corn – “Richard Freudenberger”

Richard Freudenberger – “spoke”

Elizabeth Corn – “Sharon Woodcock”

Sharon Woodcock – “pass”

Elizabeth Corn – “Stanley Tirrelli – George Maddox”

George Maddox – “pass”

Elizabeth Corn – “Ed Destrempts – R. J. Demartini – Gene King”

Gene King – “pass”

Elizabeth Corn – “Robert Bell – Denise Mathers”

Chairman Moyer – “wait a minute”

Denise Mathers – “My name is Denise Mathers. I live in Holly Brook on Sandra Way that is off of Crab Creek Road and I’ve lived there for seven years. We’re about one eighth of a mile before Valley Hill going toward the new development. Just the other day when I was coming home from work there was an emergency vehicle behind me. Where was I supposed to go? There are no shoulders, there’s no place to pull off it’s very, very hazardous. That’s my main concern of driving on Crab Creek Road and Kanuga Road is there is no place to go and those emergency vehicles are behind you. The other problem, that we have, in leaving Holly Brook is to our right going toward the development there is a knoll in the road and you cannot see over that knoll if you’re in a large SUV or truck you might be able to but in an ordinary car you cannot see over that knoll. It’s hard enough with the traffic as it is now. With more traffic that way, more emergency vehicles etc. that will even be more of a hazard. My mother lived in a resident home for five years. I know how good they are. I know the good that they do. I also know there is a need for that in Henderson County. I do not deny the need. It does not need to be in Crab Creek. It needs to be in an area where there’s a four lane road, where it’s close to the hospital facilities and where the people that are living there can have the assistance they need on timely basis. That is what’s needed.”

Elizabeth Corn – “Gwen Johnston”

Gwen Johnston – “Good evening. I’m sure you’re all very tired of listening to everybody pro and con. My name is Gwen Johnston. I live on Jeter Mountain Terrace. My husband and I came here eighteen years ago and we built our home; our dream home. We actually built with our builder with our bare hands and we felled trees to make sure that we keep it as rustic as it is today. Within hopes we could live in until the end of our time and then perhaps give it to our sons and his family so he could have something as he’s a hard working man to support five people. We love our neighbors, we love our home, we do know there is a need for something like this but like everyone else says it really is a wrong place to put it. We are very concerned about the well water. We are concerned about traffic. That light that the gentleman spoke about, they put it in basically after one of our neighbors was in a tremendous accident there and was bruised from the neck all the way down front and back and they put in that blinking light. There is one thing that a lot of people haven’t talked about and the roads are very icy in the winter time. My husband and I have gone out many times with a chainsaw in the trunk of the car and sawed off trees and everything just to make our way to get into town. That would be very hard for somebody much older to do and we’re old enough. We’ve come around curves; we’ve run into actually a horse that we’ve had to slam on our brakes to keep from hitting him. We’ve dodged a couple of cows and a baby calf and we did not hit any of them. We know that this is needed and some lady spoke very, very nicely about it. You’re going to put it somewhere so let’s put it here. Flat Rock really didn’t want it and really and truly I think they had the place to put it; really and truly I will ask you sincerely, please do not put it here and

jeopardize the people that have worked so hard for their homes. The Glen, I'm sure, is wonderful but it is really for wealthy people to go in and in their time and in a very wealthy wonderful environment. It doesn't do a thing for people that don't have the money and can't afford to live there. Please think about it and don't do it. Thank you so much."

Elizabeth Corn – "Bryan Haltermann – Shannon Brown"

Shannon Brown – "My name is Shannon Brown. I'm 31 years old and I've lived here my whole life. I have three children, this is my youngest. They play in the creek. They play in Mud Creek. We live on Walnut Cove Road. My children love to go up on Pinnacle Mountain Road and ride across the mountain and see the beautiful mountains and see the leaves changing and with this great big building that they're going to be putting down there it's going to change the mountain so much. I know that this is much needed there's so many people that could benefit from this. Not the young people but the older people and I know it's much needed but it's not needed in our community; not in the rural setting that they're wanting to put it. I just pray that you'll just reconsider and have them put it in another location. Thank you so much for your time."

Elizabeth Corn – "Samyra Jones"

Samyra Jones – "My name is Samyra Jones and I've lived in Henderson County all my life and I live on the family farm that's less than a half a mile...or less than a mile down the creek from where this proposed development is going to be and I'm concerned about our water; with 90,000 gallons, give or take at least, being pulled out of the ground each day, that's going to affect our water. I'm also concerned about the waste water possibly contaminating our family property. My mother's already spoke and together we all own in our family seventy nine acres along the Mud Creek and that land is farmed by the Wards and it's irrigated with the water from Mud Creek. I'm also concerned about all the extra traffic on Crab Creek Road and the safety for my family. I am concerned too – are concerned about the water on Pearl Lane because five out of the eleven families that live there have reservoir water. Also the traffic in Flat Rock and Little River Road will increase dramatically because that's like a shortcut to Upward Road. Flat Rock rejected this proposal because of the traffic and it was to be an eye sore to their community. I think it would be an eye sore to our community also. Concerning the medical response time, my son-in-law is a fireman at the city of Hendersonville and he heard the call from Ms. McPhail recently and he timed the call from the time the call came in till the time the ambulance came by our house and it was twenty-nine minutes. I think that's a long time for an ambulance to get to and emergency call. I ask you Commissioners, please reconsider and deny this development for Crab Creek. It needs to somewhere but not in our community because we love our little community as a rural area; we want to keep it that way. Thank you."

Elizabeth Corn – "Gregory Ganger...he's already spoke – Linda & Clyde Knight...I believe they have. That's all Mr. Chairman."

Chairman Moyer – "That's the previous list plus tonight's list."

Elizabeth Corn – "Yes sir"

ADJOURN

Chairman Moyer – "Now is there anyone in attendance that has not been called or spoken that would like to speak? Alright, well I certainly want to...as indicated before we're going to stop this evening. I want

to thank you all for your courtesy; everyone that has spoken for your decorum through the meeting. It's been very, very comforting and positive. I'd like to now have...as I mentioned before...we thought we were going to run out of time so we've set up a date for July 24 at 6:00 PM and I'd like somebody from the Board to make a motion that we continue this hearing until July 24 at 6:00 PM right here at this same location."

Chuck McGrady – "So moved with air conditioning."

Chairman Moyer – "I'm sorry, the 24th at 6:00 PM.

Chuck McGrady – "24th – 24th at 6:00 PM."

Chairman Moyer – "Right here hopefully cooler. All in favor of that motion say I.

In Unison – "I"

Chairman Moyer – "Thank you again, that's it for this evening."

Attest:

Terry Wilson, Deputy Clerk to the Board

William L. Moyer, Chairman