

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY

### BOARD OF COMMISSIONERS

**MEETING DATE:** 4 February 2008

**SUBJECT:** Board action on administrative denial of application for vested rights

**ATTACHMENT(S):** Application

#### **SUMMARY OF REQUEST:**

On 18 September 2007 (note: the Land Development Code was adopted by this Board on 19 September 2007), Parkridge MOB, LLC, filed an application for vested rights in section 2 of The Highlands, a part of The Glen and Highlands at Flat Rock (“the Project”). A copy of this application, consisting of 5 pages, is attached.

County staff dismissed this application as incomplete due to not meeting the technical requirements of the Henderson County Code as the same was in effect on 18 September 2007 (the application did not contain an adequate “site specific development plan” to meet the requirements of then section 189-2). The applicant has requested Board action, likely in anticipation of further litigation.

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

#### **BOARD ACTION REQUESTED:**

Confirmation of staff action dismissing the application as incomplete.

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

***I move that the Board dismiss the 18 September 2007 application of Parkridge MOB, LLC, for vested rights.***

**Application for Vested Right**  
**Pursuant to N.C.G.S. 153A-344.1**

NAME Parkridge MOB, LLC  
ADDRESS 64 Peachtree Road, Suite 201  
Asheville, NC 28803  
PROPERTY ADDRESS 691 Crab Creek Road  
Hendersonville, NC  
PROPERTY PIN NUMBER 9546514260

**CERTIFICATION**

I, EE JERRY GRANT, MEMBER, hereby certify that I am seeking to acquire a vested right pursuant to N.C.G.S. 153A-344.1 and the Henderson County Vested Rights Ordinance. I understand and agree that my application will be considered by the Board of County Commissioners following notice and a public hearing and that I am under a duty to provide complete and accurate information to the Board of Commissioners.

This 18<sup>th</sup> day of September, 2007.

Jerry Grant  
Applicant MEMBER

\_\_\_\_\_  
OFFICIAL USE ONLY

DATE RECEIVED:

September 18, 2007 MB

THIS APPLICATION IS SUBMITTED IN THE ALTERNATIVE TO A PREVIOUS APPLICATION FILED, AND NOT IN LIEU THEREOF. APPLICANT WILL CONTINUE TO PURSUE ITS RIGHTS AS ASSERTED IN HENDERSON COUNTY FILE NO. 07 CVS 1399. THIS IS NOT AN ELECTION OF REMEDIES.

William M. Alexander, Jr.  
WILLIAM M. ALEXANDER, JR.  
Attorney to Applicant

**SUPPLEMENT TO THE APPLICATION OF PARKRIDGE MOB, LLC  
FOR APPROVAL OF A SITE SPECIFIC DEVELOPMENT PLAN**

The applicant, Parkridge MOB, LLC, by and through its undersigned attorney, submits this information document to the Commissioners of Henderson County as a supplement to the application filed in this cause. This submission is to fully inform the governing body as to the specific detail of the plan proposed for approval, and to provide certainty as to the specific level of vested rights which the applicant seeks to pursue.

As stated on the principal application, this application is brought secondarily to and in the alternative to the relief sought by applicant in a prior proceeding, which proceeding is currently being reviewed by the Superior Court of Henderson County in a civil action bearing Henderson County File # 07 CVS 1399 . This application is **not brought nor should it be construed as replacing** the existing proceeding, and this application is only in the alternative to the relief sought in said proceeding. This application is not an election by the applicant to proceed in a fashion contrary to that previously requested, but is instead intended to serve as a request for vested rights to be exercised only if applicant's prior request is ultimately denied.

This project is a single family residence subdivision known as THE HIGHLANDS, a portion of which major subdivision plan has already been submitted to the Henderson County Planning Board and approved by that entity as a major subdivision under the provisions of the Henderson County Subdivision Ordinance. By this application, applicant seeks approval of a site specific development plan and resulting vested rights to insure the ability of applicant to develop the balance of the property into a single family residence subdivision with densities and lot sizes as proposed herein. The applicant seeks a five year period of approval of the site specific plan as is provided for by State Statute and by local Ordinance.

By way of supplement and information, applicant offers the following:

**PERIMETER BOUNDARIES AND PHYSICAL AREAS OF USE**

The graphic plan herein submitted by the applicant adequately describes the perimeter boundaries of the property. The land so depicted is all either owned by the applicant or under contract for purchase by the applicant.

**SITE SPECIFIC ADDITIONAL INFORMATION**

As to the proposed project, the applicant offers the following additional information and specifics:

**Streets, Infrastructure, Pedestrian Walkways, and Safety Features:**

1. The main Entrance Drive, signage, special lighting, and special landscape will be located off existing Pearl Lane just beyond the bridge. Special landscape features may include entrance monuments or walls constructed with rock or similar material, introduction of additional trees, shrubs, and plants, and such other landscaping

features as will improve the aesthetic nature of the entrance.

2. The entire street network will be as shown on the plan of paved streets. Basic roadway lighting will be provided. Streets will be a minimum of 18' in width and grades will not exceed 16%. The street design and paving will meet the recommended standards of Henderson County and NCDOT.
3. Individual single-family residences within The Highlands will have private parking within the individual lots.
4. Sanitary septic sewer systems will serve the individual homes and any restroom facilities in common areas.
5. Potable water will be provided by individual wells (1 for each lot) or by shared wells (no more than five residences to a well as may be allowed by applicable regulations).
6. No fire protection will be provided, though easements along streets and lot lines will be reserved for installation of public utilities and resulting fire hydrants, should the public utilities ever see fit to install the same. The project is served by the Valley Hill Volunteer Fire Department. The lake, if ultimately constructed, will be outfitted with a dry hydrant or other device as may be required to allow the same to serve as a source of water for fire protection.
7. A stormwater system and erosion control measures that comply with all NCDNR requirements for this type of project will be installed. An erosion control plan approved by appropriate regulatory authorities will be in place prior to beginning any work and maintained during all construction.
8. Electrical power will be provided to necessary points by a system of underground distribution and pad transformers.
9. The telephone, cable, and internet service will be provided by an underground distribution network to all structures. These will be installed within reserved easements and along direct service lines to individual structures.
10. Applicant wishes to reserve the right to install a primary pedestrian walk system in the form of sidewalks that connect to all lots on the site.
11. The project will be landscaped primarily with indigenous plant material native to the region along roads and at entrances only. No screens or buffers are proposed.

**BUILDINGS and CONSTRUCTION SPECIFIC INFORMATION:**

The structures within the project will be single family residences with appurtenant outbuildings.

In addition to the residences, the applicant proposes to be able to elect to construct the following structures to serve the common grounds:

Ground Maintenance –

A storage type building for ground maintenance equipment and supplies.  
One-Story Shed type building - no more than 2,000 Sq. Ft.

Utility transmission stations as required by the utility companies.

Totals:

There will be a total of 110 lots and resulting residential structures within the project. *45 - Phase I  
65 - Phase II  
110 Total on A*

**COMMENTS AS TO DEGREE OF SLOPE**

The current open use zoning classification of this property does not restrict building upon slopes. The proposed LDC prohibits building on slopes over 60% except at a density of 1 unit to each 1.5 acres. This property is not believed to contain slopes in excess of 60%, but to the degree that the same exist those portions will be restricted to a density as proposed in the LDC.

THIS SUPPLEMENT to the application of Parkridge MOB, LLC for approval of a site specific development plan is made and submitted this the 18<sup>th</sup> day of September, 2007.

LAW OFFICES OF WILLIAM M. ALEXANDER, JR., PLLC

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WILLIAM M. ALEXANDER, JR.

BY: *Jason R. Patomson*

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