

IN THE MATTER OF THE APPLICATION OF Vistas at Champion Hills  
Applicant,

To the

HENDERSON COUNTY BOARD OF ADJUSTMENT,  
Permit Authority

ORDER AMENDING SPECIAL USE PERMIT SUP06-01

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The HENDERSON COUNTY BOARD OF ADJUSTMENT having held a quasi-judicial public hearing on January 30, 2013 to consider the application submitted by Bruce Alexander and the request on December 18, 2012 have thus amended the November 20, 2006 Special Use Permit as follows:

FINDINGS OF FACT

1. A Special Use Permit was approved by the Board of Commissioners on November 20, 2006 and was vested to the site plan presented at the time of application.
2. A quasi-judicial public hearing was held by the Henderson County Board of Adjustment on amendment request on January 30, 2013.
3. The amendment request was approved unanimously based on a motion by Hilliard Staton and seconded by Tony Engel.
4. The Applicant, Bruce Alexander and Henderson County staff, Toby Linville were both made parties to this action and were duly sworn. There were no witnesses.
5. Mr. Linville entered the staff report into evidence.
6. Mr. Alexander testified that no other components of the Special Use Permit other than those proposed will change with this request. This request will not generate additional negative consequences to the project and will not affect glare, traffic, or environmental impacts.
7. A new site plan was submitted with the request dated December 18, 2012.
8. The Applicant is requesting two changes to the original special use permit
  - a. Replace originally proposed duplexes with single family homes. The Applicant testified this request was made because of market forces making it easier for these homes to sell and finance.
  - b. Permit 5 ft side yard setbacks and 10 ft front and rear setbacks. Originally there was supposed to be 20 feet between duplexes. The change in housing structure allows for less room between structures.
9. The original project was approved prior to the Land Development Code as a special use permit for a planned unit development.
10. The project is zoned R-2 and is in the Urban Services Area and is thus consistent with the Comprehensive Plan.. It is served by public water and sewer.
11. The density remains the same from the original proposal as the amended plan and the required open space is still met.
12. The amendment is recommended by staff and the Technical Review Committee.

CONCLUSIONS

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

2. All parties were properly before the Board of Adjustment and all evidence presented herein was under oath, and was not objected to by any party. All evidence relied upon in this Order was credible and reliable.
3. Henderson County Code 200A-323 grants the Board of Adjustment the jurisdiction to hear and make special use permit decisions and amend these orders.
4. The request still complies with the Special Use Permit requirements and considerations.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS drawn, and it appearing to the HENDERSON COUNTY BOARD OF ADJUSTMENT that the Amendment to Special Use Permit must be **GRANTED**.

IT IS THEREFORE ORDERED by the HENDERSON COUNTY BOARD OF ADJUSTMENT as follows:

**The Applicant's Amendment to the Special Use Permit has been GRANTED. The Order shall be amended :**

1. Special Permit SUP-06-01 is amended so that single family homes are placed in lieu of duplexes and that the setback requirements will be no less than 5 ft side yard and 10ft rear and front yard setbacks.

ORDERED this the \_\_\_ day of February 2013.

THE HENDERSON COUNTY BOARD OF ADJUSTMENT

By: \_\_\_\_\_  
Jim Clayton, Chairman

ATTEST:

\_\_\_\_\_  
Toby Linville  
Secretary to the Zoning Board of Adjustment

**ACCEPTANCE BY APPLICANT**

I, \_\_\_\_\_, Applicant, do hereby acknowledge receipt of this order which is the subject of this special use permit request. I further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding on the owner and his successors in interest.

This the \_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
\_\_\_\_\_, Applicant

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STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON COUNTY

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the \_\_\_ of \_\_\_\_\_, 2012.

(Official Seal) \_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission expires