

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
October 18, 2007**

The Henderson County Planning Board met on October 18, 2007 for their regular called meeting at 5:30 p.m. in the Commissioners' Meeting Room at 100 N. King Street, Hendersonville, NC. Board members present were Tedd Pearce, Chair; Jonathan Parce, Renee Kumor, Mike Cooper, John Antrim, Gary Griffin, Mitchell Gaither and Tommy Laughter. Others present included Anthony Starr, Planning Director; Matt Card, Planner; Alexis Baker, Planner; Mark Williams, Commissioner and Liaison to the Planning Board; Sarah Zambon, Associate County Attorney; and Kathleen Scanlan, Secretary. Board member Stacy Rhodes was absent.

Chairman Pearce called the meeting to order and asked for the approval of the September 18, 2007 special called meeting and September 20, 2007 regular Planning Board Meeting Minutes. John Antrim made a motion to approve both set of minutes and Gary Griffin seconded the motion. All members voted in favor.

Adjustments of the Agenda. There was no adjustment to the agenda.

Staff Reports. Mr. Starr notified the Board members that the Etowah-Horse Shoe Community Planning Advisory Committee met on Tuesday, October 16, 2007 and John Antrim is the Planning Board's liaison and Chair of the Committee. It was their first meeting and they discussed the process and background issues and will be scheduling a public input session for the community in November for the committee to take input. Mr. Starr mentioned that there will be at least one meeting in the evening and the Chairman suggested that perhaps there could be an additional meeting during the daylight hours. Mr. Starr mentioned that people will also be able to give their input via e-mails. He also stated that he will give updates to the Board members periodically. Mr. Starr let the Board members know that the Planning Department's website has been revised with new and additional information and encouraged the Board members to look on the site and if they had any suggestions to voice them to Staff. Mr. Starr said that the Planning Department will be hosting a meeting for the surveyors, engineers and the development community on Thursday, November 8<sup>th</sup> to answer questions regarding the Land Development Code and changes that have occurred such as process changes with new subdivisions application deadlines and new regulation requirements and standards.

**OLD BUSINESS:**

Request for One Year Extension of Development Plan Approval for Whisperwood Estates (2006-M12). Presentation by Alexis Baker. The Board members had reviewed extension request and Chairman Pearce asked Staff whether there were any problems with approving this extension. Since Staff had no comments, Chairman Pearce made a motion that the Planning Board find and conclude that the applicant has made a good faith effort to develop this subdivision in accordance with the approval and further moved that the Planning approve the request for a one year extension of Development Plan approval for Whisperwood Estates. Renee Kumor seconded the motion and all members voted in favor.

## **NEW BUSINESS:**

Combined Master and Development Plan – Sugar Loaf Preserve Major Subdivision (2007-M32) – 23-Single-Family Residential Lots Located off Little Creek Road – Clifford Dalton, Agent, Jon Laughter, Surveyor for Clifford Dalton and Douglas W. and Janet Barnwell, Owners. Presentation by Alexis Baker. Alexis Baker stated that Clifford Dalton, Douglas W. Barnwell and Janet Barnwell, owners, submitted the Combined Master and Development Plan for the project known as Sugar Loaf Preserve. The project site is located on 29.6 acres of land located off of Little Creek Road. The applicant is proposing a total of 23 lots that will be used for single-family residential purposes. The site is not located in a water supply watershed district or the floodplain. Private roads, individual wells and septic are proposed to serve the project site.

At the time of application, the project area was located in the Open Use (OU) zoning district which does not regulate the residential use of land and should be evaluated on these merits for subdivision approval.

Staff has found that the proposed Combined Master Plan and Development Plan appears to meet the technical standards of Chapter 170, Henderson County Subdivision Ordinance, except for the comments listed in the Staff Report. Staff recommends approval of the Combined Master and Development Plan subject to the developer addressing any issues raised by the Planning Board and addressing the comments listed:

### **Development Plan Comments:**

1. **Sedimentation and Erosion Control Plan.** As mentioned in the review agency comment from Erosion and Sedimentation Control Services, Ms. Berry addressed the need to have all Erosion and Sedimentation Control Plans, without prior approval by NCDENR before October 1, 2007, submitted through the Henderson County Erosion and Sedimentation Control Services.
2. **Private Roads.** Because private roads are proposed, the final plat(s) must contain a note stating: *The private roads indicated on this final plat may not meet the requirements of the North Carolina Department of Transportation for acceptance into the state road system (HCSO §170-21B and Appendix 7).*
3. **Private Road Standards.** The Applicant has provided a cross section for the proposed road. This cross section indicates that these are to be “local roads.” All subdivision roads must be designed and constructed to the minimum standards of HCSO §170-21 (Table 1).
4. **Road Grade.** The Applicant has proposed private paved roads for the subdivision. The maximum road grade for local roads constructed of pavement is 18 percent. The applicant is proposing a road that appears to approach grades of 18 percent. A professional engineer or professional land surveyor must certify on the Final Plat that no portion of the road has a grade that exceeds 18 percent or submit a final as-built graded center line profile showing grade and alignment of the road. Ms. Baker suggested that the Planning Board should, as a condition of approval, also require that the applicant submit a copy of an as-built drawing of the road, showing grades, with certification from a registered professional engineer that the road grades meet the standards required in this subsection prior to final plat approval or release of any improvement guarantee.
5. **Road Names.** As mentioned in the review agency comment below, Property Addressing questioned the labeling of Plum Branch Circle on the plan. The proposed private road labeled “Mountain View Circle” is already in use. Prior to final plat submittal, a revised Master and Development Plan should be submitted to Staff with a new road name reserved through Property Addressing.

6. **Road Frontage and Existing Off-Site Access.** Any tract of land to be subdivided must have frontage on an existing public (state-maintained) road or a private right-of-way to the public road. The project site uses a private 50-foot right-of-way as offsite access to Little Creek Road. The property which contains the offsite access is owned by Clifford Dalton, applicant. Therefore, a right-of-way conveyance agreement is not necessary.
7. **Drainage.** All road or drainage structures shall be constructed in accordance with state roads standards. Road drainage side ditches shall be constructed with sufficient depth and width to carry the expected volume of storm water runoff. Drainage easements do not appear to be required as the drainage ways appear to be within the right-of-way of the road or within open space.
8. **Site Stabilization.** All areas disturbed by the construction of a private road, including cut and fill slopes, shoulders and ditch banks, must be seeded in permanent vegetation to stabilize the soil and prevent erosion. Such seeding should be done as soon as feasible following road construction.
9. **Fire Suppression.** According to HCSO §170-20C, for any major subdivision without a fire suppression rated water system, that either has or is adjacent to an adequate permanent surface water supply, the applicant may be required to install a dry fire hydrant system, the type and location of which is to be determined by the County Fire Marshal. As a condition of approval the applicant should provide documentation from the Fire Marshal's Office that an adequate permanent surface water supply is or is not available. If an adequate supply is available, a road to the water source providing permanent all-weather access to the water source that is adequate for fire-fighting equipment shall be required. The closest surface waters, indicated on the vicinity map, appear to be located offsite near Trio Lane
10. **Final Plat Requirements.** The Final Plat(s) must meet the requirements of Appendix 7 of Chapter 170, Henderson County Subdivision Ordinance.

**Review Agency Comments:**

1. **Comments from the Fire Marshal.** Comments suggest the need for a dry hydrant due to the remote location of this subdivision. The Planning Board can only require the applicant to meet the minimum standards of the Henderson County Subdivision Ordinance; the Planning Board may not have the authority to require any additional standards.
2. **Comments from Property Addressing.** Comments from Property Addressing questioned the labeling of Plum Branch Circle on the plan. The proposed private road labeled "Mountain View Circle" is already in use. Prior to final plat submittal, a revised Master and Development Plan should be submitted to Staff with a new road name reserved through Property Addressing.
3. **Comments from Erosion and Sedimentation Control Services.** Comments from Erosion and Sedimentation Control Services address the need to have all Erosion and Sedimentation Control Plans, without prior approval by NCDENR before October 1, 2007, submitted through the Henderson County Erosion and Sedimentation Control Services.
4. **Comments from the North Carolina Department of Transportation.** Comments from NCDOT require the developer to apply for and obtain a Street and Driveway Access Permit from the District Engineer's office before connecting to SR 1706, Little Creek Road. Any road within the subdivision added to the State maintained system must be listed as public when filed at the Register of Deeds office.

John Antrim made a motion that the Planning Board find and conclude that the Combined Master and Development Plan appears to comply with the provisions of Chapter 170, Henderson County Subdivision Ordinance; and further move that the Combined Master Plan and Development Plan be approved subject to the following conditions: the applicant satisfies any conditions that may

result from the comments reviewed by Staff. Renee Kumor seconded the motion and all members voted in favor.

Combined Master and Development Plan – Old Pace Major Subdivision (2007-M33) – 14 Single-Family Residential Lots Located off Sky Valley Road and Old Pace Farm Lane – Melrose Design Group, P.A., Agent for Old Pace Investors, LLC, Developer and Owner. Presentation by Matt Card. Mr. Matt Fusco of Melrose Design Group, P.A., agent, on behalf of the owners (Old Pace Investors, LLC; Bearpen, LLC; Gary A. and Ann S. Robison; and Channing M. and Elaine F. Hubbard) submitted the Combined Master and Development Plan for Old Pace. The project is located on 58.80 acres of land off Old Pace Farm Lane with a combined total acreage of 213.24 acres. The applicant is proposing a total of 14 lots for single-family residential purposes to be developed in one phase. Four (4) areas of open space are also proposed and private roads, individual wells and septic are proposed to serve the project site. At the time of application the project was located in the Open Use (OU) zoning district, which does not regulate the residential use of land, and should be evaluated on these merits for subdivision approval.

Staff has found that the proposed Combined Master and Development Plan appears to meet the technical standards of Chapter 170, Henderson County Subdivision Ordinance except for the comments listed in the Staff Report. Staff recommends approval of the Combined Master and Development Plan subject to the developer addressing any issues raised by the Planning Board and addressing the comments listed:

**Development Plan Comments:**

1. **Sedimentation and Erosion Control Plan.** The Applicant has submitted notice from NCDENR that a soil erosion and sedimentation control plan has been received and approved.
2. **Private Roads.** Because private roads are proposed, the final plat(s) must contain a note stating: *The private roads indicated on this final plat may not meet the requirements of the North Carolina Department of Transportation for acceptance into the state road system.*
3. **Private Road Standards.** The Applicant has provided a cross section for the proposed roads (Ridge Pines Road and Valley Oaks Road). This cross section indicates that these are to be “local roads.” All subdivision roads must be designed and constructed to the minimum standards of HCSO.
4. **Road Grade.** The Applicant has proposed private paved roads for the subdivision. The maximum road grade for local roads constructed of pavement is 18 percent. The applicant is proposing a road that appears to approach grades of 18 percent. A professional engineer or professional land surveyor must certify on the Final Plat that no portion of the road has a grade that exceeds 18 percent or submit a final as-built graded center line profile showing grade and alignment of the road. The Planning Board should, as a condition of approval, also require that the applicant submit a copy of an as-built drawing of the road, showing grades, with certification from a registered professional engineer that the road grades meet the standards required in this subsection prior to final plat approval or release of any improvement guarantee.
5. **Road Intersections.** Design and subsequent construction of private roads shall be reviewed by the Planning Board based on the standards and requirements of NCDOT. According to “Subdivision Roads Minimum Construction Standards” the most desirable intersections are those with angles of 75 to 90 degrees but that intersections with angles from 60 to 75 degrees are acceptable under extreme conditions. The applicant appears to be proposing intersections which meet the “Subdivision Roads Minimum Construction Standards”.
6. **Turnarounds.** The Planning Board may require the installation of a partial turnaround along any road that exceeds 2,500 feet in length. The applicant is proposing a road (Ridge Pines Road) which exceeds 2,500 feet in length (3,587 feet in length total). The applicant is proposing a partial turnaround at Lot 13. A cross-section for the turnaround is proposed which appears to meet the requirements of Chapter 170.

7. **Stub Roads.** The applicant is proposing a stub road (Valley Oaks Road) to serve as a potential future connection to an adjacent parcel of land which may be further subdivided by a property owner (not as a part of the Old Pace major subdivision). According the HCSO §170-21H, "stub roads shall be designed in locations which will permit the future extensions of subdivision roads."

8. **Bridges.** The applicant is proposing a bridge on Ridge Pines Road, over the unnamed tributary to Shoal Creek. The applicant has submitted bridge plans showing certification from a registered professional engineer indicating that the bridge plans meet state road standards for public road bridges for drainage, hydraulics, minimum live load and vertical clearance. The travelway width across the bridge is proposed to be 18 feet. According to HCSO §170-21I(2) the applicant must submit a copy of an as-built drawing of the bridge with certification from a registered professional engineer that the bridge meets the standards required in this subsection prior to final plat approval or release of any improvement guarantee.

9. **Drainage.** All road or drainage structures shall be constructed in accordance with state roads standards. Road drainage side ditches shall be constructed with sufficient depth and width to carry the expected volume of storm water runoff (HCSO § 170-21D). Drainage easements do not appear to be required as the drainage ways appear to be within the right-of-way of the road or within open space (HCSO §170-29(C)).

10. **Site Stabilization.** All areas disturbed by the construction of a private road, including cut and fill slopes, shoulders and ditch banks, must be seeded in permanent vegetation to stabilize the soil and prevent erosion. Such seeding should be done as soon as feasible following road construction (HCSO §§170-13A[7] and 170-22).

11. **Existing Off-Site Access.** Any tract of land to be subdivided must have frontage on an existing public (state-maintained) road or a private right-of-way to the public road (HCSO §170-28). The project site is proposed to be accessed by Old Pace Farm Lane (existing right-of-way width undetermined) located off of Sky Valley Road (SR 1260).

The project parcels abut Old Pace Farm Lane which has a right-of-way that does not meet the minimum width requirements of Chapter 170. According to Chapter 170, the applicant shall be required to provide additional right-of-way to conform to the standards to the maximum extent possible. The applicant is proposing, and is required, to provide up to one-half (½) of the required right-of-way measured from the centerline of the existing right-of-way (required right-of-way of 45 feet with one-half (½) of that right-of-way being 22.5 feet). As a condition of approval the applicant is required to provide the 22.5 feet of right-of-way for all portions of the project which abut one side of Old Pace Farm Lane, and 45 foot right-of-way for all portions of the project which are located on both sides of Old Pace Farm Lane.

Old Pace Farm Lane is one (1) lane (10 to 11 feet in width), is not constructed of adequate gravel/asphalt; and lacks shoulders, ditches and turnarounds. As a condition of approval the applicant should be required to upgrade Old Pace Farm Lane, on the portion of the road owned by the applicant, to meet the minimum standards for private local residential subdivision roads. The Planning Board should, as a condition of approval, require that the applicant submit a revised Combined Master and Development Plan to Staff showing the appropriate cross section for Old Pace Farm Lane (private local residential subdivision roads).

12. **Fire Suppression.** According to HCSO §170-20C, for any major subdivision without a fire suppression rated water system, that either has or is adjacent to an adequate permanent surface water supply, the applicant may be required to install a dry fire hydrant system, the type and location of which is to be determined by the County Fire Marshal. As a condition of approval the applicant should provide documentation from the Fire Marshal's Office that an adequate permanent surface water supply is or is not available. If an adequate supply is

available, a road to the water source providing permanent all-weather access to the water source that is adequate for fire-fighting equipment shall be required.

**13. Subdivision Name Signs.** All major subdivisions may provide for, at the primary entrance, subdivision name signs to conform to Chapter 200A, Article VII (Sign Regulations), sign standards. The signs should be located in dedicated sign easements to be shown on the final plat (HCSO §170-24). The applicant is proposing one (1) sign for the subdivision which is located within a sign easement.

**14. Final Plat Requirements.** The Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance.

#### **Review Agency Comments:**

1. **Comments from North Carolina Department of Transportation.** Josh Lanning, Assistant District Engineer with NCDOT submitted comments regarding the project. Mr. Lanning's comments reflect the need for obtaining street and driveway access permits prior to connecting any roads or drives to an NCDOT maintained road (Sky Valley Road (SR 1260).
2. **Comments from Property Addressing.** Curtis Griffin of the Henderson County Property Addressing Office submitted comments regarding the project. Mr. Griffin's comments reflect that the proposed road names are acceptable.
3. **Comments from the Fire Marshal.** Rocky Hyder of the Henderson County Fire Marshal's Office submitted comments regarding the project. Mr. Hyder's comments are related to the need for a static water supply, bridge construction standards, and the requirements of the entry gate ordinance.
4. **Comments from Valley Hill Fire.** Tim Garren of Valley Hill Fire and Rescue submitted comments regarding the project. Mr. Garren's comments are related to the establishment of a static water supply
5. **Comments from the Floodplain Administrator/Watershed Administrator/Erosion Control Chief.** Natalie Berry, Floodplain Administrator, Watershed Administrator and Erosion Control Chief of the Building Services Department Erosion Control Division submitted comments regarding the project. Ms. Berry's comments reflect the need to obtain an erosion and sedimentation control permit from either Henderson County or NCDENR. (The applicant has obtained said permit from NCDENR).

Matt Fusco of Melrose Design Group spoke on Phase 2 and 3 that Board members expressed concerns over and stated that this piece has been separated out amongst the group of current owners into its own individual parcel. The remainder of all of the lands owned by each of the individuals would stand as ownership and this would be considered a subdivision of itself. He said that part of the reason that it was separated was because of the steep section of land that separates the upper portions of the property and from the lower portion and that there would not be a potential access because of the terrain. He also mentioned that they will be widening the right-of-way to get to the main entrance.

Tommy Laughter made a motion that the Planning Board find and conclude that the Combined Master and Development Plan appears to comply with the provisions of Chapter 170, Henderson County Subdivision Ordinance; and further move that the Combined Master and Development Plan be approved subject to the following conditions: the applicant satisfies any conditions that may result from the comments listed in the Staff Report. John Antrim seconded the motion and all members voted in favor.

Master Plan Review – Grandview Estates (2007-M34) – 27 Single-Family Residential Lots Located off NC Highway 191 and Grandview Lane – Terry Baker with Associated Land Surveyors, Agent for Flavor 1<sup>st</sup> Investments, Inc., Owner and Developer. Presentation by Alexis Baker. (Mitchell Gaither recused himself from any discussion or decision regarding this project and the View at Hawthorn as he is the owner of Flavor 1<sup>st</sup> Investments, which is the developer for both of these projects). Ms. Baker stated that Mr. Terry Baker, agent, on behalf of the owner, Flavor First Investments, Inc., submitted the Master Plan for Grandview Estates. The project is located on approximately 35.12 acres of land and the applicant proposes 27 lots with private roads, municipal water, and individual septic systems. She stated that at the time of application the project was located in the R-40 zoning district, and should be evaluated on these merits for subdivision approval.

**Staff Comments:**

1. **Sedimentation and Erosion Control Plan.** The Applicant shall submit notice from NCDENR or the Henderson County Building Services Erosion Control Division that a soil erosion and sedimentation control plan has been received or provide documentation that no plan is required prior to beginning construction.
2. **Private Road Standards.** The cross section provided on the Development Plan appears to meet the private roads standards in §170-21 of the Henderson County Subdivision Ordinance (HCSO). The roads must be designed and constructed to the minimum standards of §170-21 of the HCSO.
3. **Lot Configuration and Frontage.** According to HCSO §170-31D, double-fronted lots should be used only when necessary. For traffic flow purposes proposed lots should be accessed by the internal streets. Because lots 20 through 27 and 1 through 10 are double fronted staff recommends as a condition of approval that all of the proposed lots be accessed by either Broad Acres Drive or Broad View Drive.
4. **Drainage.** All road or drainage structures shall be constructed in accordance with state roads standards. Road drainage side ditches shall be constructed with sufficient depth and width to carry the expected volume of storm water runoff (HCSO §170-21D).
5. **Site Stabilization.** All areas disturbed by the construction of a private road, including cut and fill slopes, shoulders and ditch banks, must be seeded in permanent vegetation to stabilize the soil and prevent erosion. Such seeding should be done as soon as feasible following road construction (HCSO §§170-13A[7] and 170-22).
6. **Existing Off-Site Access.** Any tract of land to be subdivided must have frontage on an existing public (state-maintained) road or a private right-of-way to the public road. The project site fronts NC Hwy 191 and Grandview Lane The project site is proposed to be accessed by Grandview Lane (existing right-of-way width undetermined).

According to Chapter 170, the applicant shall be required to provide additional right-of-way to conform to the standards to the maximum extent possible. The applicant is proposing, and is required, to provide up to one-half (½) of the required right-of-way measured from the centerline of the existing right-of-way (required right-of-way of 50 feet with one-half (½) of that right-of-way being 25 feet). As a condition of approval the applicant is required to provide the 25 feet of right-of-way for all portions of the project which abut one side of Grandview Lane, and 50 feet of right-of-way for all portions of the project which are located on both sides of Grandview Lane.

7. **Water.** The applicant has proposed public water (City of Hendersonville). According to the HCSO, the applicant must provide evidence that the water supply plans have been approved by the appropriate agency. All public water systems shall be installed and shall meet the requirements of the Henderson County Health Department or other government authorities having jurisdiction thereof. The development plan may be approved contingent on final approval from such agencies; however, the final plat shall not be approved until all such final

approvals have been obtained. Any subdivision served by a public water system shall meet the respective county or municipality's minimum requirements for fire hydrants installation (HCSO §170-20).

8. **Farmland Preservation District.** The Final Plat(s) should include a notation that the property is within ½ mile of land in a Farmland Preservation District (HCSO 170-35 and Appendix 11). An affidavit of understanding must be submitted to the Planning Department before final plat approval can be given.

9. **Miscellaneous Advisory Provisions.** The Applicant should become familiar with the miscellaneous advisory provisions contained in §170-37 of the HCSO (HCSO §170-13A[9]).

10. **Final Plat Requirements.** The Final Plat(s) must meet the requirements of Appendix 7 of the HCSO (HCSO § 170-13A[8]).

#### **Review Agency Comments:**

1. **Comments from the Fire Marshal.** Rocky Hyder of the Henderson County Fire Marshal's Office stated that each parcel must be located within 1,000 road feet of a fire hydrant..

2. **Comments from NCDOT.** Josh Lanning of the North Carolina Department of Transportation stated that the developer must apply for and obtain a street and driveway access permit from the District Engineer's office prior to connecting any roads or drive to a NCDOT maintained road. This will include the proposed connection to Grandview Lane. Also, all lots must be served internally, no direct access from individual lots to NC 191 will be allowed. He said if at anytime in the future the developer plans to have the roads within the subdivision added to the State maintained system all roads within the subdivision must be listed as public. In addition the plat must be approved by the District Engineer prior to being filed at the Register of Deeds Office.

3. **Comments from Henderson County Erosion Control Division.** Natalie Berry Erosion Control Division Chief, stated that if the Erosion and Sedimentation control plan has not been submitted to Environmental and Natural Resources Land Resource Division for approval prior to October 1, 2007, submittal will be required through the Henderson County offices..

Mark Corn, agent for the developer, stated that he had no problem with Staff's recommendation that all proposed lots be accessed by either Broad Acres Drive or Broad View Drive. He also mentioned that lots 17, 18, and 19 would have to service off of Grandview Lane, as there is no other access to those lots. Mr. Starr stated that this is consistent with Staff's recommendation. Board continued to discuss this project and felt that as a condition of approval, lots 20 through 27 and 1 through 10 are double-fronted and should be accessed by either Broad Acres Drive or Broad View Drive and that restrictive covenants indicating the access for these lots must be recorded prior to final plat submission and in addition, require that a note be added to the final plat indicating access for the lots.

Chairman Pearce made a motion that the Planning Board find and conclude that the Master Plan complies with the provisions of Chapter 170 of the Henderson County Subdivision Ordinance; and further move that the Master Plan be approved subject to the following conditions: the applicant satisfies any conditions that result from staff comments listed in the Staff Report and that lots 20 through 27 and 1 through 10 should be accessed by either Broad Acres Drive or Broad View Drive. The restrictive covenants indicating access for these lots must be recorded prior to final plat submission and in addition, require that a note be added to the final plat indicating access for the lots. Mike Cooper seconded the motion and all members voted in favor.



Investments, Inc., Owner and Developer. Presentation by Matt Card. Matt Card stated that Mr. Mark Corn with Associated Land Surveyors submitted the major subdivision application and Master Plan for The View at Hawthorn. The application for The View at Hawthorn was submitted on September 13, 2007 before the adoption of the Land Development Code (LDC). Therefore, the application will be reviewed under the applicable County regulations in place at the time of submittal.

The owner, Flavor 1<sup>st</sup> Investments, Inc., is proposing a total of 12 lots on 20.97 acres of land. Public water (City of Hendersonville) and septic systems are proposed. Private roads are proposed.

Master Plan Comments:

**1. County Comprehensive Plan (CCP).** The Future Land Use Map of the CCP shows the project site as being located within the Urban Services Area. The Urban Services Area is the area within which most urban services and urban scale development should be concentrated. Wide ranges of residential densities will exist. Over the long term, land use regulations and policies should favor higher density development, consistent with natural constraints and the availability of urban services. The Future Land Use Map shows that most of the development is proposed for land that contains areas designated as conservation. These are likely to be sensitive natural areas such as steep slopes over 25 percent slope. The CCP states that conservation lands are intended to remain largely in their natural state, with only limited development and further that such areas should be targeted for protection through regulations and incentives. (2020 CCP, page. 134).

**2. Land Development Code (LDC).** According to the Land Development Code Zoning Map the proposed project site for this development is located entirely in the Residential Zoning District 2 (R-2). R-2 under the Land Development Code (LDC) allows for a density of one (1) unit per acre for single-family residential development. The applicant has proposed a density of approximately .57 units per acre or 1.75 acres per unit which complies with the density regulations of R-2. Approximately 3.1 acres of land on the project site have a slope of 60% or greater. According to the LDC, those 3.1 acres would be limited to 1 unit per 2 acres in R-2. Therefore the applicant would be allowed a total of 17 units on the project site. At the time the application was submitted the County had no land use regulations in place to limit development on these slopes.

Review Agency Comments:

**1. Comments from Property Addressing.** Mr. Griffin of Property Addressing Department stated that it appears that the appropriate road names are now reserved with his department.

**2. Comments from North Carolina Department** Mr. Josh Lanning, Assistant District Engineer with NCDOT stated that the developer must apply for and obtain a street and driveway access permit from the District Engineer's office prior to connecting any roads or drives to a NCDOT maintained road. He also mentioned that if at anytime in the future the developer plans to have the roads within the subdivision added to the State maintained system, all roads within the subdivision must be listed as public. In addition, the plat must be approved by the District Engineer prior to being filed at the Register of Deeds Office.

**3. Comments from Natalie Berry.** Natalie Berry Erosion Control Division Chief stated that if the Erosion and Sedimentation control plan has not been submitted to Environmental and Natural Resources Land Resource Division for approval prior to October 1, 2007, submittal will be required through the Henderson County offices.

Mr. Card stated that access to the subdivision comes from an existing private 45-foot right-of-way through the Hawthorn Hills subdivision and talking with the agent regarding the access, there appears to be no legal problem with using this right-of-way. Mr. Card stated that he had talked with several residents of Hawthorn Hills and their concerns were mainly with the access as well as

with the traffic, septic system perking and also the public water capacity. Mr. Card said that since this is just a Master Plan, Staff would not receive a capacity letter from the City of Hendersonville until the Development Plan has been submitted. Ms. Kumor asked what type of utility system does Hawthorn Hills have, private or public? Mr. Card stated that he believes they have public water and septic system. Ms. Kumor asked whether there have been problems with the soil perking in that area. Mr. Card stated that he had heard from a property owner that there are problems with water capacity at the very top of Hawthorn Hills and because of the terrain; the property owner indicated that they may not get 12 septic systems on this proposed development. Chairman Pearce stated that problems with perking would be between the purchaser of the land and the property owner and would be ascertained by the Health Department. Chairman Pearce asked Ms. Zambon, Associate County Attorney, about the access issue. Ms. Zambon suggested that before a Development Plan approval comes before the Board, the deed could show the right-of-way access or the access could be approved in some other way. Jonathan Parce suggested an opinion letter from an attorney verifying that the property owner does have access into the proposed development. Ms. Zambon agreed that this would be acceptable.

Mr. Cameron Baker with Associated Land Surveyors quoted from the deed book and page regarding this development, and stated that it conveys a non-exclusive access easement over Heathcote Road and Riding Gate Road as shown on the recorded plats of Hawthorn Hills Subdivision between the above described property and US Highway 64 West. Mr. Baker stated that the property owner does understand about the water capacity letter.

Chairman Pearce opened public input.

Robert Kalin. Mr. Kalin lives at 408 Browning Road in Hawthorn Hills and his concerns related to erosion and sedimentation control, water supply capacity and the access issue.

Tom Kimmell. Mr. Kimmell lives at 412 Browning Road in Hawthorn Hills and his concerns were that there will be no insulation of the stream, hence erosion and sedimentation problems. Chairman Pearce stated that this issue would be addressed once they submit a Development Plan.

Bill Cleary. Mr. Cleary lives at 406 N Browning Road in Hawthorn Hills and President of Hawthorn Hills Property Owners. He reiterated his concerns with water run-off and perking.

Ken Gromzin. Mr. Gromzin lives at 220 Heathcote Road in Hawthorn Hills reiterated the same concerns of the other property owners.

Bill DeRosa. Mr. DeRosa lives at Bradford Place in Hawthorn Hills and spoke on his concerns regarding erosion due to the steep slope.

Mr. Starr answered the concerns regarding the soil and erosion control, streams, water capacity and the slope issues. Regarding the stream issue, Mr. Baker stated that they have not had time yet to look at all of the streams on the property and that any streams on the property will have the standard 30-foot buffer and will be handled on a case-by-case basis.

Susan Buttermore. Ms. Buttermore lives at 6 Wickham Way and was concerned with the minimum water pressure, the steep slope, the change of the flow of the water because of water run-off. She felt that there should be an extensive analysis of the property before any developing goes on. She expressed disappointment that the developer did not come to the Hawthorn Hills Homeowners Association and talk to them about the proposed development.

After some further discussion, Chairman Pearce made a motion that the Planning Board find and conclude that the Master Plan appears to comply with the provisions of the Subdivision Ordinance; and further move that the Master Plan be approved subject to the following conditions: the applicant satisfies any conditions that may result from the comments listed in the Staff Report and that the developer provide an opinion letter by an attorney regarding the access to the property substantiating that there is proper access and a right to use that road to the proposed development. Jonathan Parce seconded the motion and all members voted in favor.

Adjournment. There being no further business, the meeting adjourned at 6:45 p.m. All members voted in favor.

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Tedd Pearce, Chairman

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Kathleen Scanlan, Secretary