

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

PUBLIC HEARING

Rezoning Application #R-2007-02 (T-15 to C-4) Chris Kiefer, Applicant & Property Owner

Meeting Date: Monday, May 7, 2007

Attachments:

1. Staff Report
2. Aerial Photo Map
3. Excerpt of Planning Board Minutes from March 15, 2007
4. Notice of Public Hearing

SUMMARY OF REQUEST:

Rezoning Application #R-2007-02, which was submitted on February 14, 2007, requests that the County rezone approximately 0.37 acres of land, located off Upward Road, from T-15 (Medium-Density Residential with Manufactured Homes) zoning district to a C-4 (Highway Commercial) zoning district. The Subject Area consists of one parcel (parcel identification number 9578909195) owned by Mr. Chris Kiefer, Applicant.

The Henderson County Planning Board considered rezoning application #R-2007-02 at its regularly scheduled meeting on March 15, 2007. During that meeting, the Planning Board voted 8 to 0 to send the Board of Commissioners a favorable recommendation to rezone the Subject Area from an existing T-15 zoning district to a C-4 zoning district. The Planning Board also requested that the Board of Commissioners consider rezoning two adjacent parcels totaling approximately 1.39 acres of land from an R-20 zoning district to a C-4 zoning district. These parcels are located to the north of the Subject Area across Upward Road and are currently owned by Doris McCrain (parcel identification numbers 9578908356 and 9578907354).

PUBLIC NOTICE:

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with Section 200-76 of the Henderson County Zoning Ordinance and State Law, notices of the May 7, 2007, public hearing regarding rezoning application #R-2007-02 were published in the Hendersonville Times-News on April 18, 2007 and April 25, 2007. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area on April 26, 2007 and the applicant on April 27, 2007 and posted signs advertising the hearing on the Subject Area on April 26, 2007.

BOARD ACTION REQUESTED:

Planning Staff recommends that the Board approve the application to rezone the Subject Area from a T-15 zoning district to a C-4 zoning district. Staff does not recommend that the Board rezone the two (2) additional parcels owned by Doris McCrain from an R-20 zoning district to a C-4 zoning district.

Suggested Motion:

I move that the Board approve rezoning application #R-2007-02 to rezone the Subject Area from a T-15 (Medium-Density Residential) zoning district to a C-4 (Highway Commercial) zoning district. I further move that Board not rezone the two (2) additional parcels owned by Doris McCrain.

Henderson County Planning Department Staff Report

Rezoning Application #R-2007-02 (T-15 to C-4) Mr. Chris Kiefer, Applicant

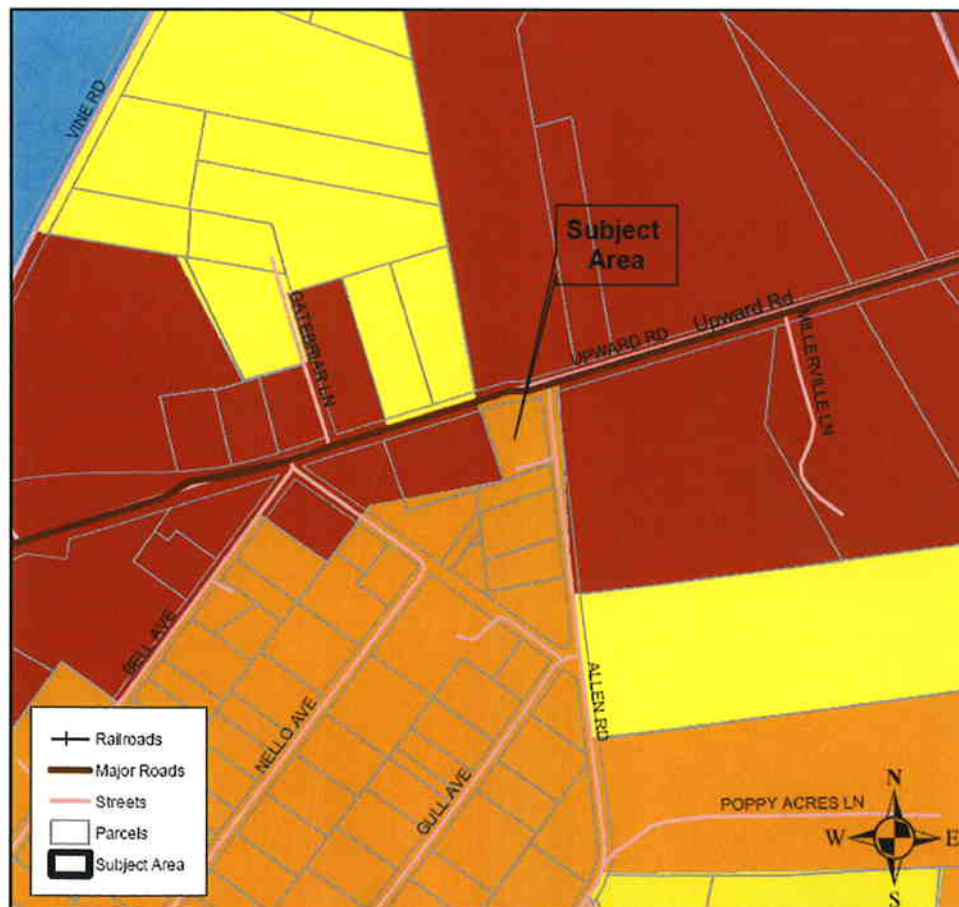
1. Rezoning Request

- 1.1. **Date of Application:** February 14, 2007
- 1.2. **Property Owner/Applicant:** Mr. Chris Kiefer
- 1.3. **Request:** Rezone Subject Area from a T-15 (Medium-Density Residential with Manufactured Homes) zoning district to a C-4 (Highway Commercial) zoning district.
- 1.4. **Subject Area**
 - 1.4. **PIN:** 9578-90-9195
 - 1.4. **Size:** Approximately 0.37 acre tract of land.
 - 1.4. **Location:** Intersection of Upward Road and Allen Road.

2. Current Zoning

- 2.1. **Application of Current Zoning:** The Subject Area is currently zoned T-15, which was applied on September 8, 1992, as part of the East Flat Rock Land Use Study, Phase II.

Map A: Current Zoning



2.2. **Adjacent Zoning:** The C-4 (Highway Commercial) zoning district surrounds the Subject Area to the east, west and north. To the northwest of the Subject Area is the R-20 (Low Density Residential) zoning district. To the south of the Subject Area is the T-15 (Medium-Density Residential with Manufactured Homes) zoning district (See Map A).

2.3. **District Comparison:**

2.3. **T-15 Zoning District:** *This district is intended to be a medium-density neighborhood consisting of single-family, two-family, limited multifamily residences and manufactured home residences. It is expected that public water facilities will be generally available to each lot, providing a healthful environment, although the residential development may be dependent upon individual septic tank systems for sewage disposal.* (HCZO §200-20, Pg. 46). T-15 is a medium density residential district with manufactured homes. Permitted uses include: single-family and two-family dwellings, apartments (provided they are no larger than a four-family dwelling on a single lot), garage apartments, manufactured homes on individual lots, churches and associated uses, transformer/public stations, public utility stations, customary accessory buildings, schools, civic and cultural buildings, limited communications towers and family care homes. Conditional uses include manufactured home parks, parks, camps, tennis and racquet clubs and golf courses, customary incidental home occupations, libraries and bed-and-breakfast inns. Special uses include medical institutional care development and group 6 communication towers. Setbacks are as follows: 75 feet from the centerline of major streets; 50 feet from the centerline of all other streets; and side and rear setbacks of 15 feet and rear setbacks of 15 feet. A maximum height of 35 feet applies. (HCZO §200-20, Pg. 49)

2.3. **C-4 Highway Commercial Zoning District:** *“This district is designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve persons traveling by automobile and local residents. Since these areas are generally located on the major highways, they are subject to the public view. They should provide an appropriate appearance and ample parking and be designed to minimize traffic congestion.”*(HCZO §200-22). C-4 is a highway commercial zoning district permitting, by right, commercial uses at various scales. Permitted uses include: retail business, offices, hospitals/clinics, libraries/schools, churches, restaurants, automobile sales/services, miniature golf courses, hotels, mini-storage facilities, and communication towers among other uses. Conditional uses include shopping centers, junkyards and recreational vehicle parks. Special uses include group 5 communication facilities, motor sports facilities, and adult establishments. Setbacks are as follows: 75 feet from the centerline of major streets; 60 feet from the centerline of all other streets; and side and rear setbacks equivalent to the side yard requirements of the contiguous district(s). A maximum height of 40 feet for principal structures applies (HCZO §200-22, Pg. 50).

3. **Current Uses of Subject Area and Adjacent Properties**

3.1. **Subject Area Uses:** The Subject Area currently contains one single-family residential structure.

3.2. **Adjacent Area Uses:** Single-family residential uses surround the Subject Area. The single-family residential uses include a duplex to the east and a manufactured house to the south.

- 3.3. **Availability of Water and Sewer:** Public water (City of Hendersonville) is available to the Subject Area. Public sewer (City of Hendersonville) is not currently available to the Subject Area and, according to the Water and Sewer Master Plan, is not proposed to be extended to the Subject Area; however, the nearest existing sewer line is approximately 150 feet away, located south of the Subject Area and crossing Allen Road.

4. Transportation and Access

- 4.1. **Frontage:** The Subject Area has approximately 125 feet of road frontage along Upward Road and approximately 140 feet of frontage on Allen Road.
- 4.2. **Transportation:** Table A, below, provides Annual Average Daily Traffic Counts for Upward Road between Interstate 26 and US Hwy 176.

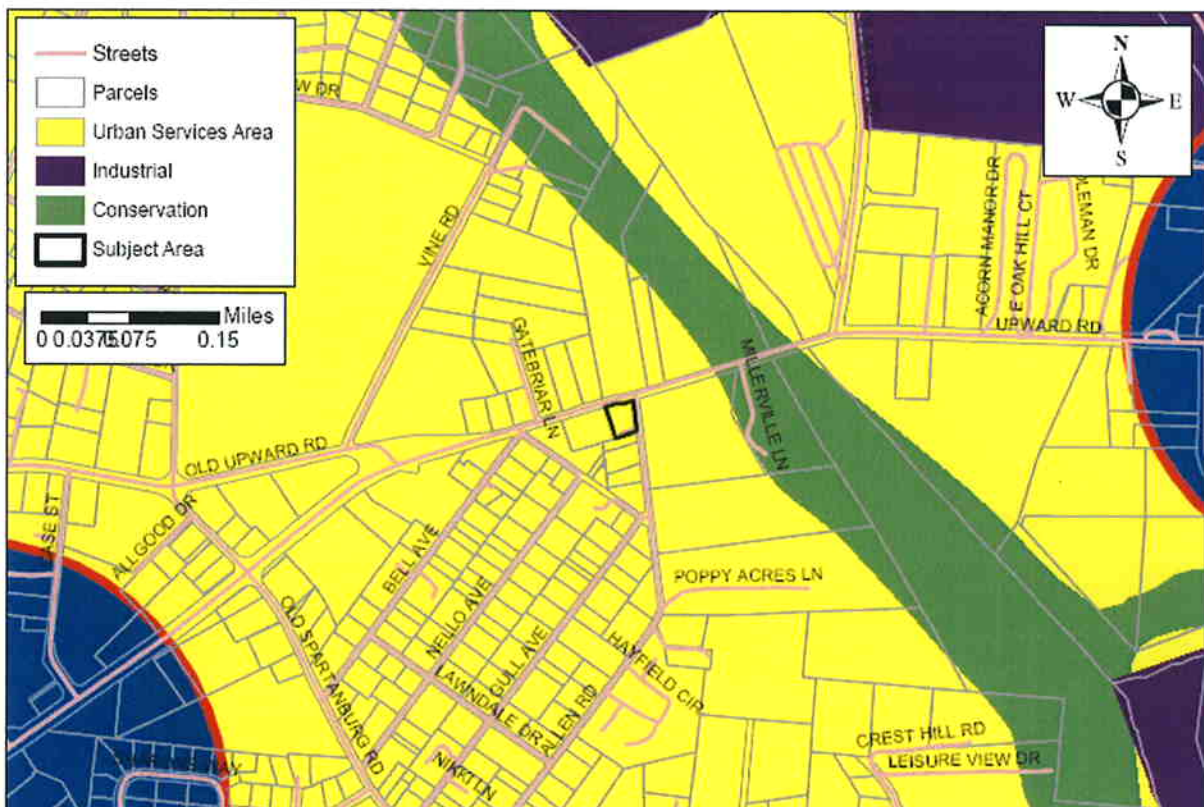
Table A. Annual Average Daily Traffic Count				
Road	2002	2003	2004	2005
Upward Road	---	17,000	17,000	---

- 4.3. **The NCDOT 2007-2013 State Transportation Improvement Program (STIP):** The Transportation Improvement Program, within the Subject Area, includes the widening and improving of Upward Road from US Hwy 176 to Howard Gap Road (SR 1006) (Project Number R-4430).

5. The Henderson County, North Carolina 2020 Comprehensive Plan (CCP)

- 5.1. The CCP Future Land Use Map identifies the Subject Area as being located in the Urban Services Area (2020 CCP, Pg. 128, Pg. 129 & Appendix 1, Map 24) (See Map B).

Map B: 2020 County Comprehensive Plan Future Land Use Map

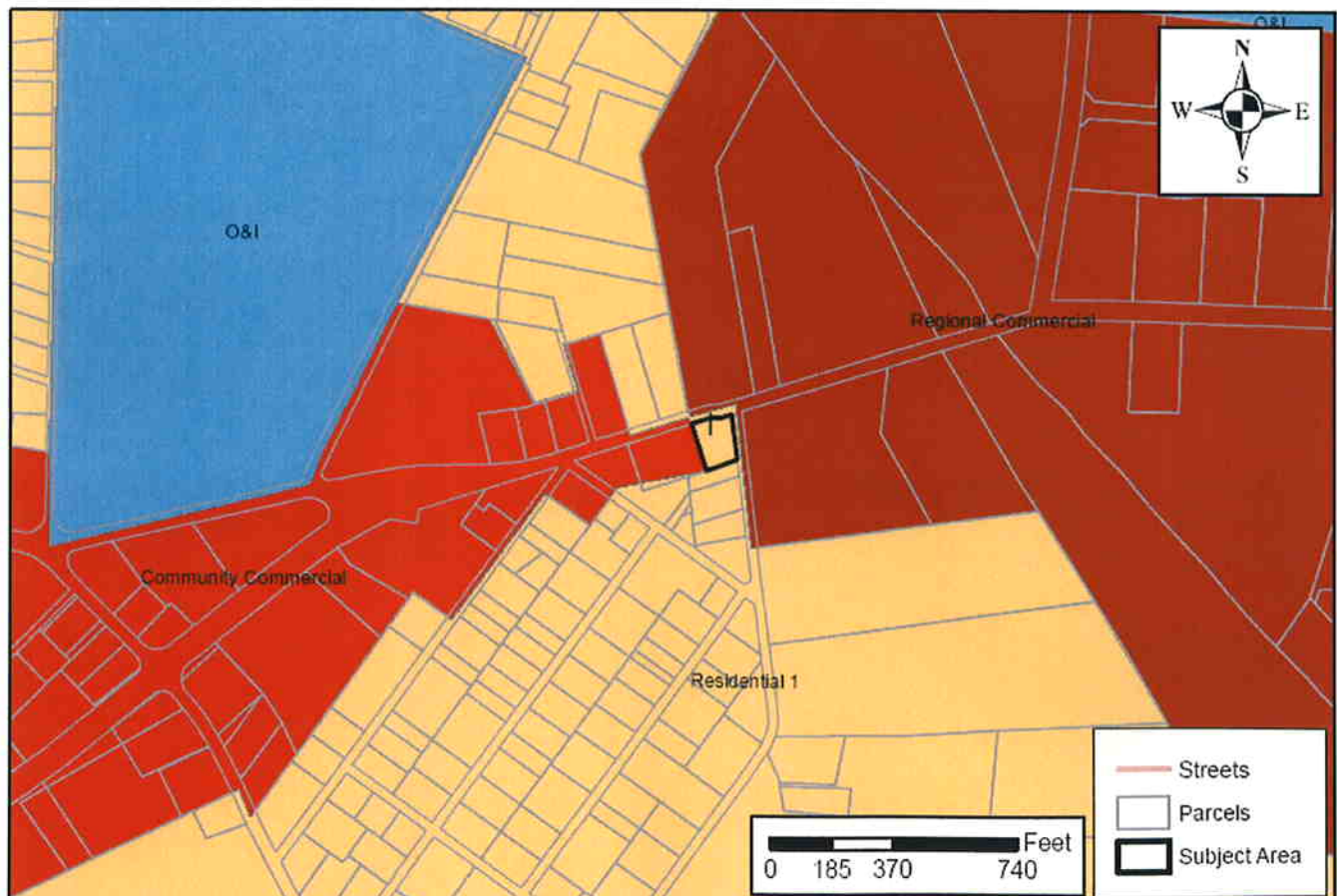


- 5.2. The CCP also states that, “the USA will contain considerable commercial development at a mixture of scales,” and further, “all regional commercial development should be concentrated here. Commercial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129).
- 5.3. The CCP Future Land Use Map does not identify the Subject Area as being specifically more suitable for residential, commercial or industrial development.

6. The Draft Land Development Code

- 6.1. The Draft Land Development Code Zoning Map identifies the Subject Area as transitioning to the R1 (Residential One) zoning district. Properties to the east of the Subject Area, which are currently zoned C-4 (Highway Commercial) are identified as transitioning to an RC (Regional Commercial) zoning district. Properties to the west of the Subject Area, which are currently zoned C-4 (Highway Commercial) are identified as transitioning to an CC (Community Commercial) zoning district (See Map C).
- 6.2. If the Subject Area is rezoned to C-4 (Highway Commercial) it would transition to the CC (Community Commercial) zoning district as the Applicant has requested that the property be zoned CC (Community Commercial) under the Land Development Code, if applicable.

Map C: Draft Land Development Code Zoning Map



6.3. Draft Land Development Code Proposed District Comparison:

- 6.3. **R1 Residential District One:** *“The purpose of Residential District One (R1) is to foster orderly growth where the principle use of land is residential. The intent of this district is to allow for medium to high density residential development consistent with the recommendations of the Comprehensive Plan. This general use district is typically meant to be utilized in areas designated as Urban in the Comprehensive Plan”* (Draft LDC §200A-27).
- 6.3. **CC Community Commercial Zoning District:** *“The purpose of the Community Commercial District (CC) is to foster orderly growth where the principle use of land is commercial. The intent of this district is to allow for commercial development consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide commercial development that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other uses done primarily for sale or profit on the local and community level; (2) is directed largely to defined Community Service Centers as defined in the Comprehensive Plan; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general use district is meant to be utilized in areas designated as Transition or Urban”* (Draft LDC §200A-33).
- 6.3. **RC Regional Commercial Zoning District:** *“The purpose of the Regional Commercial District (RC) is to foster orderly growth where the principal use of land is commercial. The intent of this district is to allow for commercial development consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide commercial development that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other uses done primarily for sale or profit on the local, community, and regional level; (2) is directed largely to defined Community Service Centers as defined in the Comprehensive Plan; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general use district is meant to be utilized in areas designated as Urban in the Comprehensive Plan”* (Draft LDC §200A-34).

7. Staff Comments

Staff’s position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the property to be zoned for commercial uses. This based on the following:

- 7.1. **The 2020CCP:** The text and map of the 2020 CCP suggest that the Subject Area would be suitable for high-density residential, commercial or industrial development. The CCP indicates that the USA is suitable for commercial development in keeping with the surrounding community.
- 7.2. **Adjacent Zoning:** The Subject Area directly abuts the existing C-4 (Highway Commercial) zoning district to the east and west. If the Subject Area were to be rezoned to C-4 (Highway Commercial) this property would be apart of a contiguous C-4 (Highway Commercial) zoning district. Additionally, the Subject Area abuts the T-15 (Medium-Density Residential with Manufactured Homes) zoning district to the south. It appears that commercial zoning districts commonly abut residential zoning districts in this area of the County.

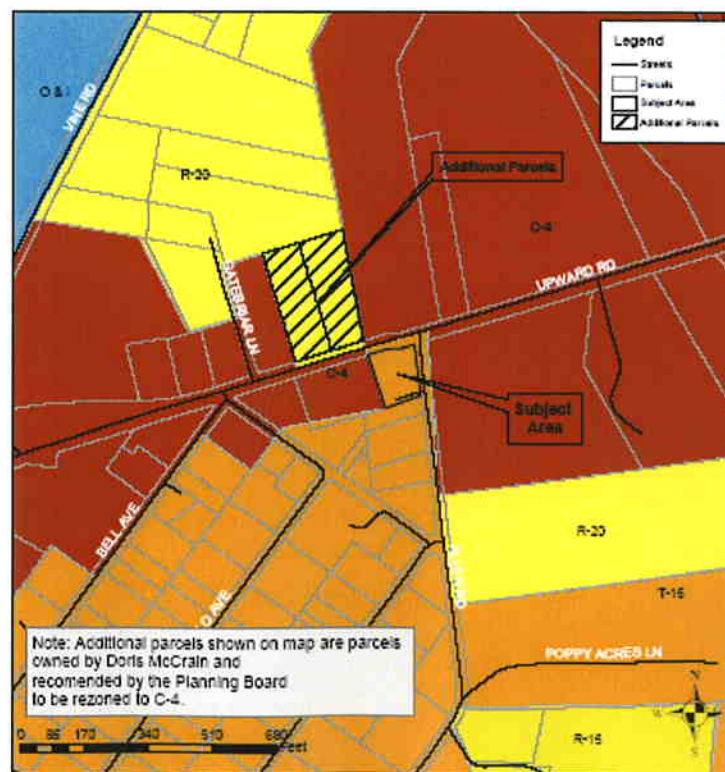
8. Staff Recommendations

- 8.1. Staff has identified no plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest that would justify opposing the proposed rezoning.
- 8.2. It is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would inform the County's consideration of the proposed rezoning.

9. Planning Board Recommendations

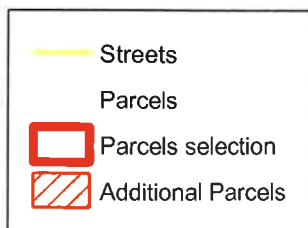
- 9.1. See Attachment 3, Excerpt of Planning Board Minutes from March 15, 2007.
- 9.3. The Henderson County Planning Board considered rezoning application #R-2007-02 at its regularly scheduled meeting on March 15, 2007. During that meeting, the Planning Board voted 8 to 0 to send the Board of Commissioners a favorable recommendation on rezoning application #R-2007-02 to rezone the Subject Area from a T-15 zoning district to a C-4 zoning district.
- 9.3. The Planning Board also recommended that two (2) parcels owned by Doris McCrain, located in the vicinity of the Subject Area, be rezoned from an R-20 zoning district to a C-4 zoning district (see Map D). The two parcels are contiguous to the C-4 and R-20 zoning districts. Staff spoke with Doris McCrain on April 26, 2007 regarding the possibility of the County rezoning her parcels. Ms. McCrain is opposed to her parcels being rezoned to a commercial zoning district. At this time, Staff has identified no plans or policies or overriding community interest that would justify rezoning these additional parcels. Staff recommends that the Board not rezone her parcels to C-4 as part of rezoning application #R-2007-02.

Map D: Current Zoning Map Showing Additional Parcels



Aerial Photo Map

Attachment 2



0 35 70 140 210 Feet

Rezoning Application
#R-2007-02
Mr. Chris Kiefer, Applicant



HCPD 03-15-07

EXCERPT FROM THE HENDERSON COUNTY PLANNING BOARD MINUTES

MARCH 15, 2007

Rezoning Application – (#R-2007-02) – Request to Rezone approximately 0.37 Acres located off Upward Road, from a T-15 (Medium-Density Residential with Manufactured Homes) Zoning District to a C-4 (Highway Commercial) Zoning District – Chris and Natalie Kiefer, Owner and Applicant. (Jonathan Parce was recused because of client relationships with the applicants). Mr. Card stated that the rezoning application is located off Upward Road and is requesting T-15 zoning district to a C-4 zoning district. The subject area consists of one parcel owned by Mr. Chris Kiefer, applicant.

He said the Subject Area is currently zoned T-15, which was applied on September 8, 1992, as part of the East Flat Rock Land Use Study, Phase II. He stated that the adjacent zoning is C-4 (Highway Commercial) zoning district which surrounds the subject area to the east, west and north. To the northwest of the Subject Area is the R-20 (Low Density Residential) zoning district and to the south of the Subject Area is the T-15 (Medium-Density Residential with Manufactured Homes) zoning district. Mr. Card then discussed the district comparison (T-15 and C-4).

Mr. Card stated that the Subject Area uses contain one single-family residential structure. The adjacent area uses is Single-family residential uses surround the Subject Area. The single-family residential uses include a duplex to the east and a manufactured house to the south. Public water (City of Hendersonville) is available to the Subject Area. Public sewer (City of Hendersonville) is not currently available to the Subject Area and, according to the Water and Sewer Master Plan, is not proposed to be extended to the Subject Area; however, the nearest existing sewer line is approximately 150 feet away, located south of the Subject Area and crossing Allen Road.

Mr. Card stated that the Subject Area has approximately 125 feet of road frontage along Upward Road and approximately 140 feet of frontage on Allen Road.

Mr. Card provided some other information regarding the Subject Area as follows:

- The NCDOT 2007-2013 State Transportation Improvement Program (STIP): The Transportation Improvement Program, within the Subject Area, includes the widening and improving of Upward Road from US Hwy 176 to Howard Gap Road (Project Number R-4430).
- The Henderson County, North Carolina 2020 Comprehensive Plan (CCP): The CCP Future Land Use Map identifies the Subject Area as being located in the Urban Services Area. The CCP also states that, "the USA will contain considerable commercial development at a mixture of scales," and further, "all regional commercial development should be concentrated here. "Commercial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community".
- The CCP Future Land Use Map does not identify the Subject Area as being specifically more suitable for residential, commercial or industrial development.
- The Draft Land Development Code: The Draft Land Development Code Zoning Map identifies the Subject Area as transitioning to the R1 (Residential One) zoning district. Properties to the east of the Subject Area, which are currently zoned C-4 (Highway

Commercial) are identified as transitioning to an RC (Regional Commercial) zoning district. Properties to the west of the Subject Area, which are currently zoned C-4 (Highway Commercial) are identified as transitioning to an CC (Community Commercial) zoning district.

Mr. Card stated that if the Subject Area is rezoned to C-4 (Highway Commercial) it would transition to the Community Commercial (CC) zoning district as the Applicant has requested that the property be zoned CC (Community Commercial) under the Land Development Code, if applicable.

- Draft Land Development Code Proposed District Comparison: R1 Residential District One: *"The purpose of Residential District One (R1) is to foster orderly growth where the principle use of land is residential. The intent of this district is to allow for medium to high density residential development consistent with the recommendations of the Comprehensive Plan. This general use district is typically meant to be utilized in areas designated as Urban in the Comprehensive Plan"* (Draft LDC §200A-27).
- CC Community Commercial Zoning District: *"The purpose of the Community Commercial District (CC) is to foster orderly growth where the principle use of land is commercial. The intent of this district is to allow for commercial development consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide commercial development that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other uses done primarily for sale or profit on the local and community level; (2) is directed largely to defined Community Service Centers as defined in the Comprehensive Plan; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general use district is meant to be utilized in areas designated as Transition or Urban"* (Draft LDC §200A-33).
- RC Regional Commercial Zoning District: *"The purpose of the Regional Commercial District (RC) is to foster orderly growth where the principal use of land is commercial. The intent of this district is to allow for commercial development consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide commercial development that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other uses done primarily for sale or profit on the local, community, and regional level; (2) is directed largely to defined Community Service Centers as defined in the Comprehensive Plan; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general use district is meant to be utilized in areas designated as Urban in the Comprehensive Plan"* (Draft LDC §200A-34).

Staff Comments and Recommendation:

Mr. Card stated that Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the property to be zoned for commercial uses. This based on the following:

- The 2020CCP: The text and map of the 2020 CCP suggest that the Subject Area would be suitable for high-density residential, commercial or industrial development. The CCP indicates that the USA is suitable for commercial development in keeping with the surrounding community.

- **Adjacent Zoning:** The Subject Area directly abuts the existing C-4 (Highway Commercial) zoning district to the east and west. If the Subject Area were to be rezoned to C-4 (Highway Commercial) this property would be apart of a contiguous C-4 (Highway Commercial) zoning district. Additionally, the Subject Area abuts the T-15 (Medium-Density Residential with Manufactured Homes) zoning district to the south. It appears that commercial zoning districts commonly abut residential zoning districts in this area of the County.

Mr. Card said Staff has identified no plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest that would justify opposing the proposed rezoning.

After some discussion, Chairman Pearce made a favorable recommendation to the Board of Commissioners regarding the rezoning request 2007-02, located off Old Hendersonville Road from T-15 to C-4 owned by Mr. Chris Kiefer and also recommend to the Board of Commissioners rezoning to C-4 the two properties across the street that abut Upward Road that are presently R-20. John Antrim seconded the motion and all members voted in favor.

**NOTICE OF PUBLIC HEARING
ON PROPOSED ZONING MAP AMENDMENTS
(Rezoning Application #R-2007-01 and #R-2007-02)**

The Henderson County Board of Commissioners will hold a public hearing on two applications (#R-2007-01 and #R-2007-02) for proposed amendments to the Official Zoning Map of Henderson County, North Carolina. The proposed amendment for rezoning application #R-2007-01 would rezone approximately 4.87 acres of land located off Naples Road (SR 1534), from a T-15 (Medium-Density Residential with Manufactured Homes) zoning district to an I-2 (General Industrial) zoning district. The Subject Area consists of one parcel (9652730943) owned by the applicant, Matthew W. Dyer.

The proposed amendment for rezoning application #R-2007-02 would rezone approximately 0.37 acres of land, located off Upward Road (SR 1783), from a T-15 (Medium-Density Residential with Manufactured Homes) zoning district to a C-4 (Highway Commercial) zoning district. The Subject Area consists of one parcel (9578909195) owned by the applicant, Chris Kiefer. The Board of Commissioners may also consider rezoning two parcels owned by Doris McCrain and located across Upward Road from the Subject Area totaling 1.39 acres of land (9578908356 and 9578907354) from an R-20 zoning district to a C-4 zoning district as recommended by the Henderson County Planning Board.

The public hearing will be held on Monday, May 7, 2007, at 7:00 P.M, in the Board of Commissioners Meeting Room located in the Henderson County Administration Building, at 100 North King Street in Hendersonville, NC. The public is invited to attend and comment on the proposed amendment.

Written comments addressed to the Henderson County Board of Commissioners, 100 North King Street, Hendersonville, NC 28792, will be accepted prior to the hearing. Information about the proposed rezoning is available for review in the Henderson County Planning Department, 213 1st Avenue East, Hendersonville, NC, between the hours of 8:00 A.M and 4:30 P.M., Monday through Friday, or on the Henderson County Website at <http://www.henderson.lib.nc.us/county/planning/rezonings/main.html> For more information, call the Planning Department at (828) 697-4819 [TDD for the hearing impaired (828) 697-4580].

Please note that after considering public hearing comments, the Board of Commissioners may discuss other options or make changes to the proposed amendment before taking final action.

Elizabeth Corn
Clerk to the Board
Henderson County Board of Commissioners

For publication in the Times News on Wednesday, April 18, 2007 and Wednesday, April 25, 2007.

Rezoning Application #R-2007-02 (T-15 to C-4)

Chris and Natalie Kiefer, Applicant

