

March 15, 2007

Rezoning Application #R-2007-02

**REQUEST FOR BOARD ACTION**

**HENDERSON COUNTY  
PLANNING BOARD**

**Meeting Date:** March 15, 2007

**Subject:** Rezoning Application #R-2007-02

**Attachments:** 1. Staff Report  
2. Aerial Photo Map

**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 (PIN 9578909195) owned by Mr. Chris Kiefer, Applicant.

According to the Zoning Ordinance, the Planning Board has 45 days from its first consideration of a rezoning application to make a recommendation to the Board of Commissioners. Thus, the deadline for a Planning Board recommendation to the Board of Commissioners regarding this application is Friday, April 27, 2007. If no recommendation is made by April 27, 2007, the application proceeds to the Board of Commissioners with an automatic favorable recommendation. Upon request of the Planning Board, the Applicant may choose to grant a 45-day extension, at which time the deadline for a Planning Board recommendation would become Tuesday, June 12, 2007.

Planning Board action is needed to recommend that the Board of Commissioners approve, approve with modifications, table, or deny rezoning action #R-2007-02. The Planning Board also has the option of referring the rezoning action to a subcommittee for consideration prior to sending a recommendation to the Board of Commissioners.

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## Henderson County Planning Department Staff Report

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

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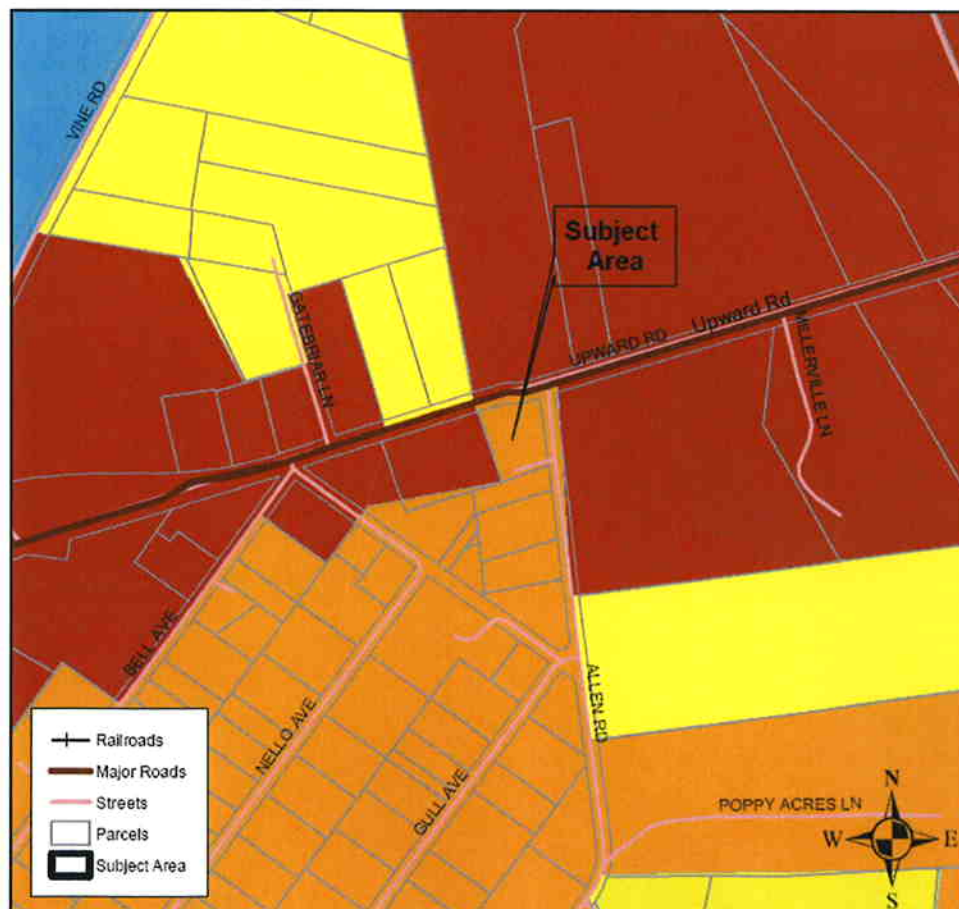
#### 1. Rezoning Request

- 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.

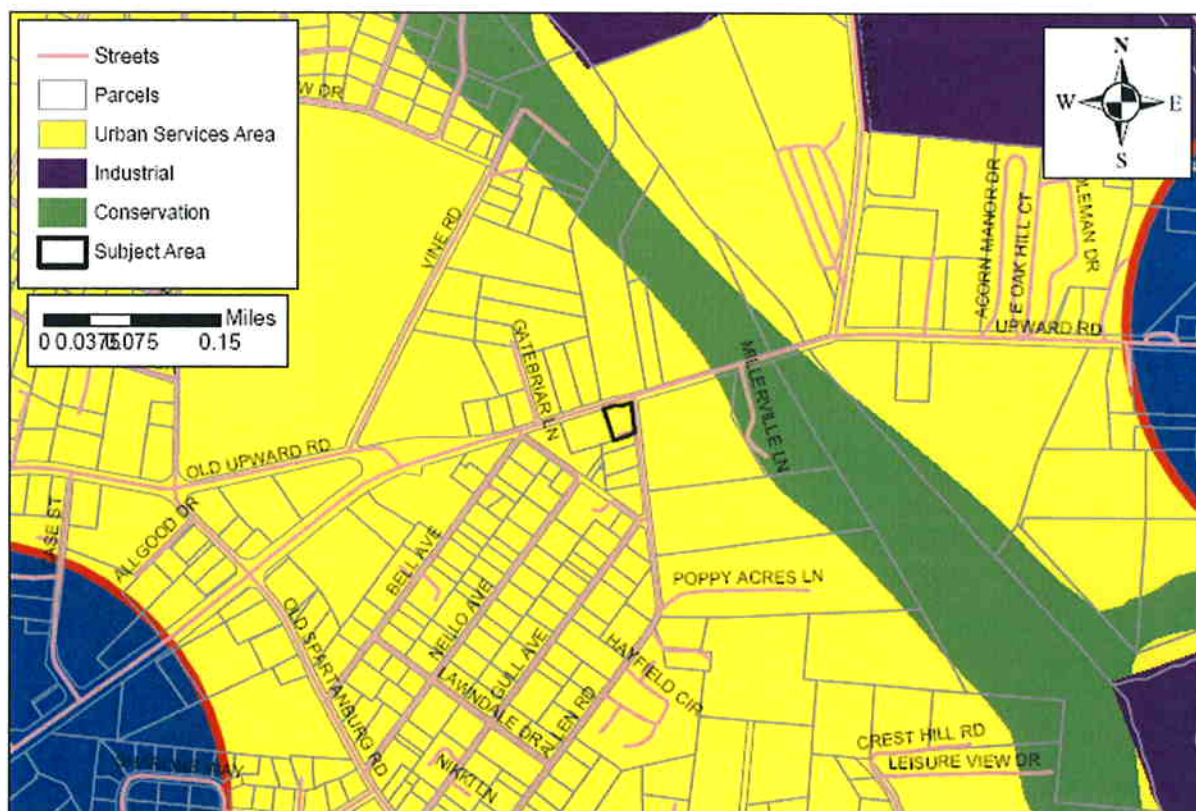
| Table A. Annual Average Daily Traffic Count |      |        |        |      |
|---|------|--------|--------|------|
| Road  | 2002 | 2003   | 2004   | 2005 |
| Upward Road                                 | ---  | 17,000 | 17,000 | ---  |

- 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**



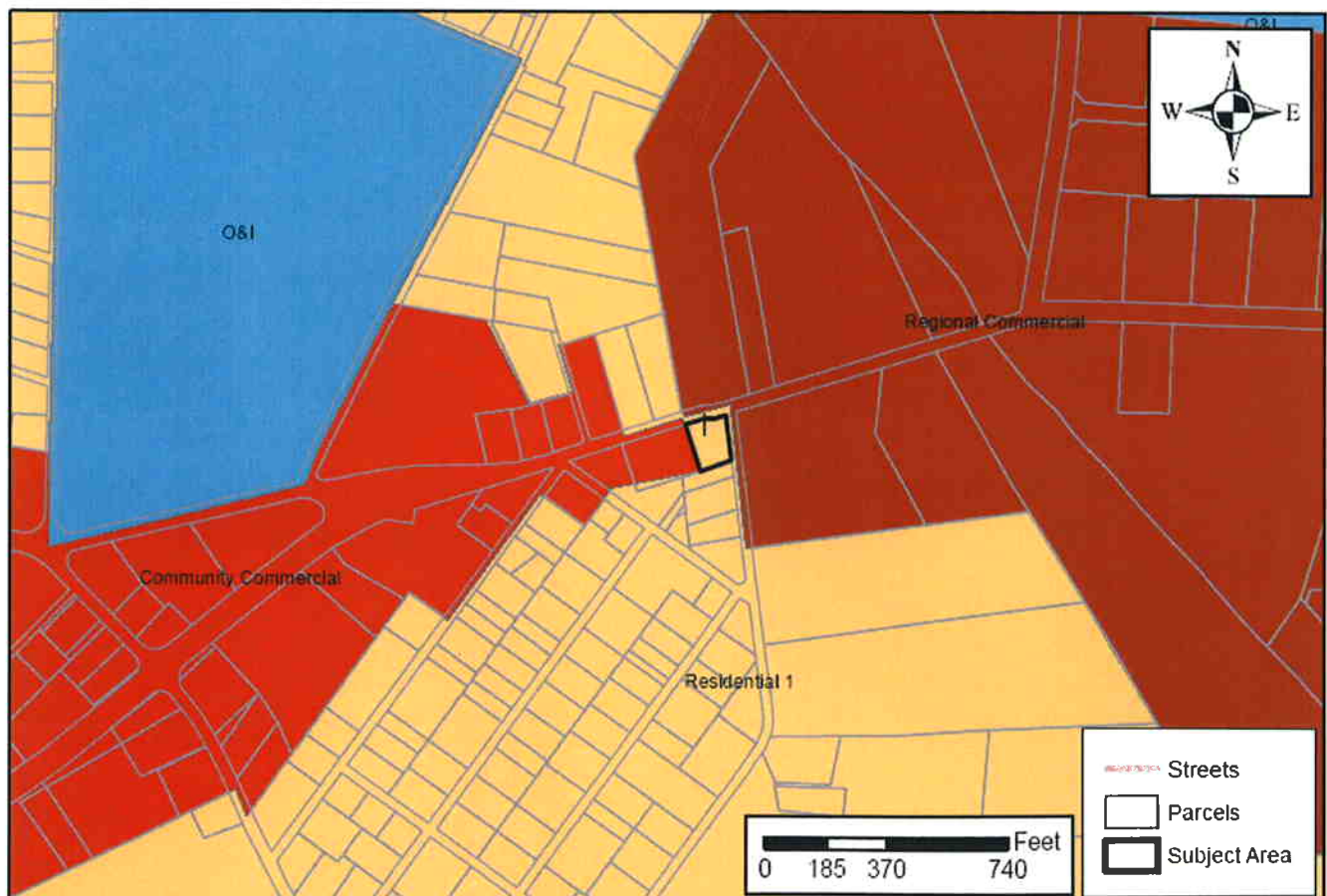


- 5.2. The CCP also states that, “the USA will contain considerable commercial development at a mixture of scales,” and further, “all regional commercial development should be concentrated here. Commercial development will exist within predefined zoning districts whose standards and configuration are 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. Staff requests the Applicant not discuss any specific use being considered for the property. The Planning Board cannot consider any specific proposed use for the property and must only consider the range of possible uses when reviewing and making recommendations on the rezoning request.

**9. Planning Board Recommendations**

- 9.1. To be determined.



# Aerial Photo Map

Attachment 2



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