

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY PLANNING BOARD

**MEETING DATE:** Thursday, May 17, 2007

**ATTACHMENTS:**

1. Staff Report
2. Vicinity Map
3. Photos of Project Site
4. Review Agency Response Form – Fire Marshal’s Office
5. Review Agency Response Form – Engineering and Facility Services
6. Review Agency Response Form – Property Addressing
7. Subdivision Application
8. Combined Master and Development Plan

**SUBJECT:** Combined Master and Development Plan for Adger Oak

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

Mr. Jon Laughter with Laughter, Austin & Associates, P.A., agent, on behalf of Gary W. Firmender, owner, submitted a Combined Master and Development Plan and major subdivision application for a project known as Adger Oak. The project site is located on 43.82 acres of land (PIN 0610-71-9536) located near Summer Road (SR 1713). The applicant is proposing a total of 41 lots that will be used for single-family residential purposes. Private roads are proposed to serve the project site. Private water (community well) and private sewer (individual septic) are proposed to serve the project site.

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

Staff has found that the proposed Combined Master and Development Plan for Adger Oak does not appear to meet the technical standards of the Henderson County Subdivision Ordinance. Staff recommends denial of the Combined Master Plan and Development Plan subject to the listed comments (See Attachment 1, Staff Report, specifically Comment 8 regarding road frontage and existing off-site access) and any other issues raised by the Planning Board.

#### **Suggested Motion:**

I move that the Planning Board find and conclude that the Combined Master and Development Plan does not appear to comply with the provisions of the Subdivision Ordinance;

And

I further move that the Master Plan be denied

**Alternative Motion:**

I move that the Planning Board find and conclude that the Combined Master and Development Plan appears to comply with the provisions of the Subdivision Ordinance;

And

I 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 and any other comments that result from discussion at the Planning Board meeting.

---

**Henderson County Planning Department Staff Report****Combined Master and Development Plan Review for Adger Oak Major Subdivision (File #2007-M18)**

**Gary W. Firmender, Applicant**  
**Jon Laughter with Laughter, Austin and Associates P.A., Agent**

---

**Project Overview:**

Mr. Jon Laughter with Laughter, Austin & Associates, P.A., agent, on behalf of Gary W. Firmender, owner, submitted a Combined Master and Development Plan and major subdivision application for a project known as Adger Oak. The project site is located on 43.82 acres of land (PIN 0610-71-9536) located near Summer Road (SR 1713). The applicant is proposing a total of 41 lots that will be used for single-family residential purposes.

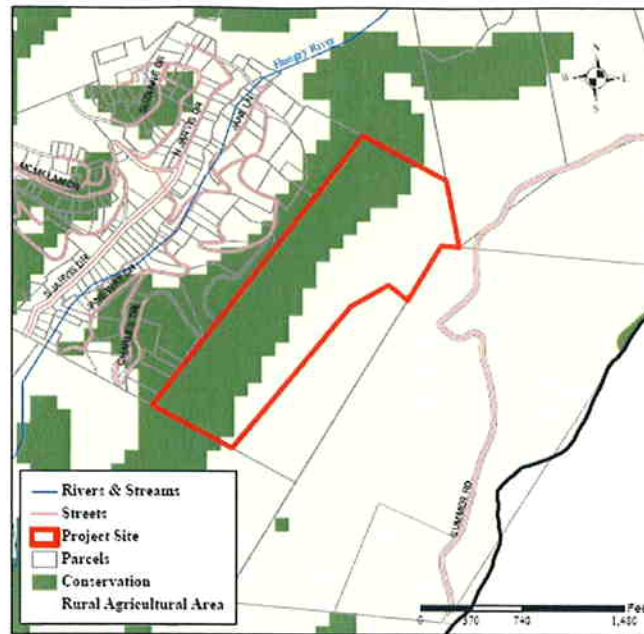
According to the Combined Master Plan and Development Plan the project site has access onto Summer Road by a 50 foot right-of-way. County records do not show the existence of the 50 foot right-of-way to the property which, as proposed, traverses three individual adjacent properties owned by Bright's Creek Holdings, LLC (PINs: 0610-80-5493 and 0620-01-7869) and Mr. Thomas Jackson (PIN: 0610-92-1554).

The site is currently zoned Open Use (OU) which does not regulate the residential use of land. The site is not located in a water supply watershed district or the floodplain. Private roads are proposed to serve the project site. Private water (community well) and private sewer (individual septic) are proposed to serve the project site.

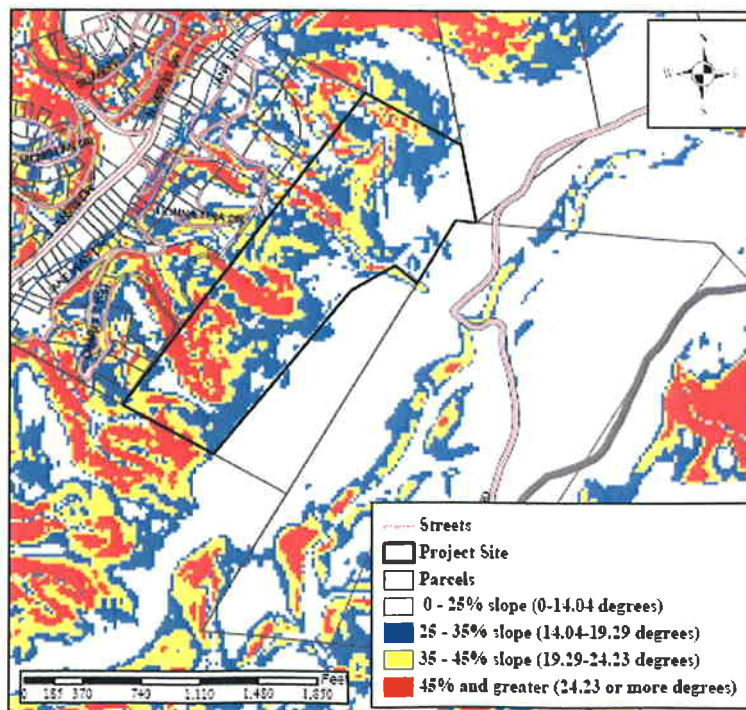
**Master Plan Comments:**

According to Section 170-16B of the Henderson County Subdivision Ordinance (HCSO), the purpose of a Master Plan is to present the overall development concept for a project and to provide general information about the project to allow for assessment of its impact on growth and development of the County, environmental quality, land values, natural features, etc. When reviewing the Master Plan it is important to consider that all land may not be suited to be subdivided for the purposes of dense development (HCSO §170-3) Staff has reviewed the submitted Master Plan for Adger Oak, taking into consideration the recommendations of Henderson County's Land Use Plan (the Henderson County 2020 Comprehensive Plan) and Draft Land Development Code:

1. **County Comprehensive Plan (CCP).** The Future Land Use Map of the CCP shows the project site as being located within each of the following areas: Conservation Area and Rural Agricultural Area (RAA) (See Map A: CCP Future Land Use Map).

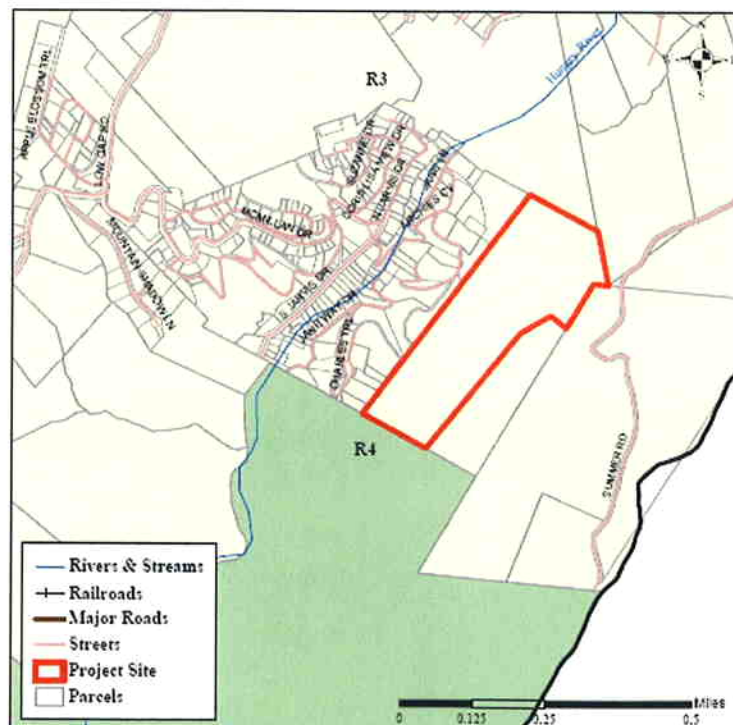
**Map A: CCP Future Land Use Map**

- Conservation Area.** The conservation area designation is applied to the western portion of the project site, largely because of the presence of steep slopes in this area (See Map B: Slopes Map). 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, Pg. 134). The plan suggests that those lands recommended for conservation will be primarily divided into Lots 4 through 38.

**Map B: Slopes Map**

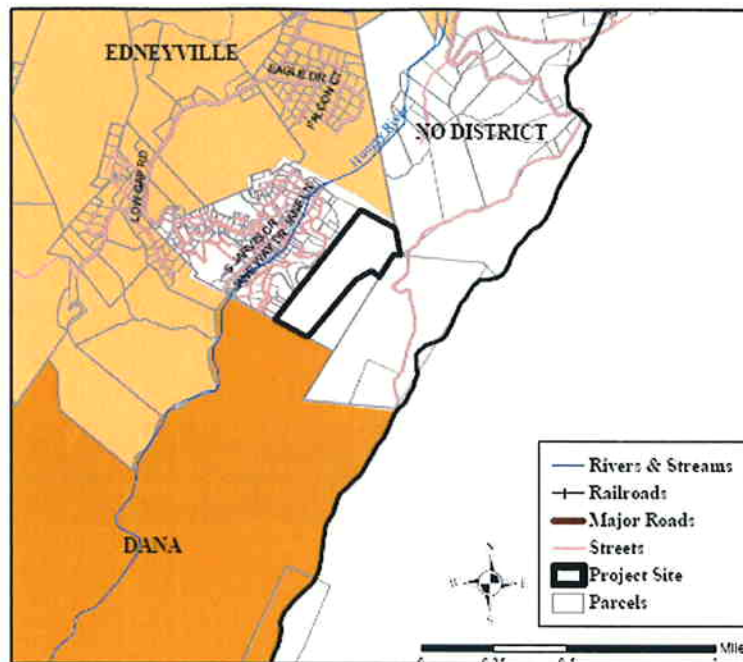
- **Rural Agricultural Area.** The Rural Agricultural Area (RAA) designation of the Growth Management Strategy is applied to the project site. The RAA is intended to remain predominantly rural with a density of 5 or more acres per dwelling unit (average lot sizes of 5 or more acres per unit). According to the plan, the project would have an average density of 0.93 units per acre (average lot size of 1.07 acres). The proposed densities/lot sizes are significantly reduced from those recommended by the CCP. The CCP states that regulations should encourage “densities that are consistent with steep slopes, poor septic capacities, and sensitive topography.” The applicant has indicated that private community wells and individual septic will be available to the development.
2. **Land Development Code (LDC).** According to Proposed Draft 8 of the Land Development Code Zoning Map the proposed project site for this development is located entirely in the Residential Zoning District 3 (R3) (See Map C: Draft Land Development Code Map). The current draft of the Land Development Code (LDC) allows for a density of 0.66 units per acre (average lot size of 1.5 acres). According to the plan, the project would have an average density of 0.93 units per acre (average lot size of 1.07 acres). This would not be in keeping with the densities generally proposed for the property by the Land Development Code, being that the proposed development is more dense than the LDC would allow. Since differences exist between proposed densities with the LDC and the CCP, if the LDC is adopted as proposed, the CCP may need to be amended to be consistent with the LDC.

**Map C: Draft Land Development Code Map**



3. **Fire and Rescue Services.** The project site is not served by any fire and rescue department (See Map D: Fire District Map). According to County records, the project site does not have frontage or a right of way to the property as they have proposed it. Inadequate road access and distance from services (including fire and rescue services) mean that all land may not be suited to be subdivided for the purpose of dense development (HCSO §170-3).



**Map D: Fire District Map****Development Plan Comments:**

1. **Sedimentation and Erosion Control Plan.** The Applicant shall submit notice from NCDENR that a soil erosion and sedimentation control plan has been received or provide documentation that no plan is required prior to beginning construction (HCSO 170-19).
2. **Private Road Standards.** The Applicant has provided a cross section for the proposed roads (Firmender Drive and Adger Oak Lane). This cross section indicates that these are to be “local roads.” The cross section should be revised to indicate that these are to be “private residential collector roads” as these roads serve 25 or more lots. The proposed private road meets all other requirements for a collector road with the exception of the proposed centerline radii which must be 110 feet (the applicant has proposed 100 feet). All of the subdivision roads must be designed and constructed to the minimum standards of §170-21 of the HCSO (§170-21 and Table 1).
3. **Road Grade.** The Applicant has proposed a private paved road for the subdivision. The maximum road grade for private collector residential subdivision roads constructed of pavement is 16 percent. The plan shows road grades approaching 16 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 16 percent or submit a final as-built graded center line profile showing grade and alignment of the road (HCSO §§170-13A[5], 170-21 Table 1 and 170-21E).
4. **Road Intersection.** Design and subsequent construction of private roads shall be reviewed by the Planning Board based on the standards and requirements of NCDOT (HCSO §170-21(C)4). 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 Planning Board may wish to discuss with the applicant the intersection of

Firmender Drive and Adger Oak Lane. The intersection appears to have an internal angle of 30 degrees and an external angle of 150 degrees. Staff requests that the applicant provide a detail of the intersection. The Planning Board may wish to request that the applicant modify the intersection to be more in keeping with minimum construction standards.

5. **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). The applicant has proposed drainage onto Lots 8, 9, 16, 19, 23, and 41. Drainage easements shall be reserved on-site by the applicant, or otherwise provided, conforming with the lines of any drainageway into which natural runoff has been diverted (HCSO §170-29(C)).
6. **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).
7. **Subdivision Name Signs.** All major subdivisions may provide for, at the primary entrance, subdivision name signs to conform with Henderson County 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 two signs for the subdivision which do not appear to be located on the project site, and instead are located on properties owned by Bright's Creek Holdings, LLC. An easement must be acquired from the current property owner before any signs may be placed.
8. **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 (HCSO §170-28). The plan shows a 50 foot right-of-way to the public road which traverses three separate properties and extends approximately 100 feet from the project site at the existing right-of-way for Summer Road. Henderson County records do not show the existence of any such right-of-way. As proposed the applicant does not have frontage or a private right-of-way to an public (state maintained) road. Such frontage or right-of-way must be acquired by the applicant in order to obtain development plan approval.
9. **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)
10. **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. The applicant must also submit an affidavit certifying that the applicant is aware of existing Farmland Preservation Districts (HCSO 170-35 and Appendix 11).
11. **Final Plat Requirements.** The Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance.

**Review Agency Comments:**

1. **Comments from the Fire Marshal.** Rocky Hyder of the Henderson County Fire Marshal's Office submitted comments regarding the project (See Attachment 3). Mr. Hyder's comments are related to sources for static water supply points.
2. **Comments from the Engineering and Facility Services.** Marcus Jones, Director submitted comments regarding the project (See Attachment 4). Mr. Jones' comments reflect the need for sufficient soils and space for subsurface treatment, dispersal systems, and repair areas.
3. **Comments from Property Addressing.** Curtis Griffin of the Henderson County Property Addressing Office submitted comments regarding the project (See Attachment 5). Mr. Griffin's comments reflect concerns about the configuration of the proposed intersection.



DEVELOPER & OWNER: Gary W. Firmender  
AGENT: Clifford Dalton  
SURVEYOR: Laughter, Austin and Associates, P.A.  
ZONING: OU  
WATERSHED: None  
WATER SYSTEM: Private Wells  
SEWER SYSTEM: Private Septic  
ROAD SYSTEM: Private



-  Roads  
 Surface Water  
 Project Site  
 Parcels





**1.** View of Project Site looking west from Summer Road. The Project Site is not located adjacent to the road, and begins roughly at the forest line.



**2.** View of Project Site looking northeast east from Summer Road.



**3.** View Summer Road south of the Project Site, in the vicinity of Bright's Creek Major Subdivision. Summer Road is not paved in the vicinity of the Project Site.



**4.** View of the far east corner of the Project Site, nearest Summer Road. The forested area between the adjacent fields constitutes this farthest corner of the site.

## HENDERSON COUNTY PLANNING DEPARTMENT REVIEW AGENCY RESPONSE FORM

I have reviewed the plan(s) for subdivision application **#2007-M15 (Adger Oak)** and offer the following comments:

**Water Supply** – No fire suppression water supply provided. Sources for static water supply points (i.e. streams, ponds, etc) should be utilized if available.

**Roads** – Access roads will support two-way traffic for emergency vehicles.

**Entry Gates** – Should comply with the Henderson County Entry Gate Ordinance.

<u>Rocky Hyder</u>	Emergency Services	5/02/07
Reviewed By	Agency	Date

Please return to: Matt Cable, Planner  
Henderson County Planning Department  
213 First Avenue East  
Hendersonville, NC 28792  
mcable@hendersoncountync.org

**File No. 2007- M15**

## **Matt Cable**

**From:** Kathleen Scanlan  
**Sent:** Wednesday, May 02, 2007 9:39 AM  
**To:** Matt Cable  
**Subject:** FW: Review for Adger Oak Major Subdivision

Another comment below from Marcus.

*Kathleen Scanlan, Administrative Assistant  
Henderson County Planning Department  
Phone: 828-697-4819, Ext. 1051  
Fax: 828-697-4533  
kscanlan@hendersoncountync.org*

---

**From:** Mark Jones  
**Sent:** Wednesday, May 02, 2007 9:38 AM  
**To:** Kathleen Scanlan  
**Subject:** RE: Review for Adger Oak Major Subdivision

Sufficient soil and space is required for subsurface treatment and dispersal systems (including repair areas).

---

**From:** Kathleen Scanlan  
**Sent:** Tuesday, May 01, 2007 3:34 PM  
**To:** Seth Swift (sswift@hendersoncountync.org); Dr. Stephen Page (spage@henderson.k12.nc.us); Commander Eddie Watkins (number44@hotmail.com); Sam Laughter (saml@hendersoncountync.org); Terry Layne (laynetb@hendersoncountync.org); Rocky Hyder (rhyder@hendersoncountync.org); Marcus Jones (mjones@hendersoncountync.org); Natalie Berry (nberry@hendersoncountync.org); Curtis Griffin (cgriffin@hendersoncountync.org); Autumn Radcliff (autumnr@hendersoncountync.org); Barbara Blaine (bblaine@henderson.k12.nc.us); Bo Caldwell (bcaldwell@henderson.k12.nc.us); Jimmy Womack; Laurie Moorhead (laurie.moorhead@ncmail.net); Wayne Watkins (wayne.watkins@ncmail.net); patrickl@hendersoncountync.org  
**Subject:** Review for Adger Oak Major Subdivision

Please forward your comments to : [mcable@hendersoncountync.org](mailto:mcable@hendersoncountync.org)  
Thank You.

*Kathleen Scanlan, Administrative Assistant  
Henderson County Planning Department  
213 1st Avenue East, 3rd Floor  
Hendersonville, NC 28792  
kscanlan@hendersoncountync.org  
697-4819, Ext. 1051  
697-4533, Fax*

## HENDERSON COUNTY PLANNING DEPARTMENT REVIEW AGENCY RESPONSE FORM

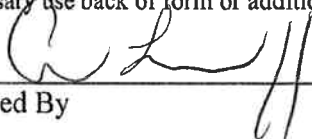
I have reviewed the plan(s) for subdivision application #2007-M18 (Adger Oak) and offer the following comments:

Street names reserved

Question make up of intersection and how  
it will be built

(If necessary use back of form or additional sheets for comments)

Reviewed By



Agency

Peop Add

Date

5-1-07

Please Return to:

Matthew Cable, Planner  
Henderson County Planning Department  
213 1<sup>st</sup> Avenue East  
Hendersonville, NC 28792  
mcable@hendersoncountync.org

File No. 2007-M18



## APPENDIX 1

# HENDERSON COUNTY SUBDIVISION APPLICATION FORM

Date of Application \_\_\_\_\_ Subdivision Name \_\_\_\_\_ Application Number \_\_\_\_\_

☒ Major Subdivision

☐ Minor Subdivision

☐ Other

Property Owners Name: GARY W. FIRMENDEA

Address: PO BOX 308

City, State, Zip: ISLE OF PALMS, SC 29451

Owner's Agent: CLIFFORD DALTON

Telephone No: 828 685 7625

PIN 0610-71-9536 Deed Book/Page 902/015

Zoning District DUE Fire District Edgewood Watershed Clear Creek

Location of property to be divided: \_\_\_\_\_

Type of Subdivision: ☒ Residential ( ) Commercial ( ) Industrial Present Use \_\_\_\_\_

No. Lots Created 47 Original Tract Size 43.8 New Tract Size \_\_\_\_\_ No. New Lots \_\_\_\_\_

Road System: ( ) Public ☒ Private ( ) Combination Public and Private

Water System: ☒ Individual ( ) Community ( ) Municipal

Sewer System: ☒ Individual ( ) Community ( ) Municipal

Fee: \$ 400.00 Paid 2/13/07/3/2/07 Method check # 24852

I certify that the information shown above is true and accurate and is in conformance with the Henderson County Subdivision Ordinance.

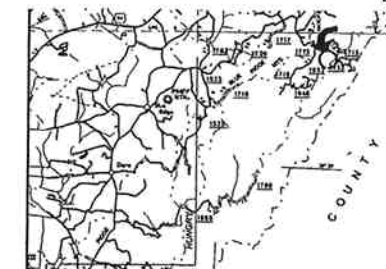
[Signature]  
APPLICANT (OWNER OR AGENT)

2/9/07  
DATE

Development Plan Approval / Conditions \_\_\_\_\_

Final Plat Approval: \_\_\_\_\_ Plat Recorded \_\_\_\_\_

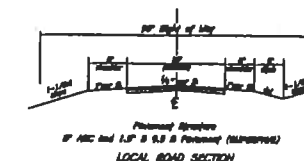




VICINITY MAP

## PROJECT SUMMARY

TOTAL PROJECT AREA	43.82 AC
NUMBER OF PROPOSED LOTS/UNITS BY TYPE	41
SINGLE FAMILY LOTS (AC)	40,000 SF (0.92 Ac.)
MINIMUM LOT SIZE (AC)	59,024 SF (1.36 Ac.)
MAXIMUM LOT SIZE (AC)	3,457 SF
LENGTH OF PROPOSED PRIVATE ROADS	PRIVATE
WATER SYSTEM	PRIVATE
SEWER SYSTEM	PRIVATE
CURRENT ZONING AND SETBACKS	OPEN USE
DISTANCE TO PUBLIC WATER	5+ MILES
DISTANCE TO PUBLIC SEWER	5+ MILES



TYPICAL CUL-DE-SAC

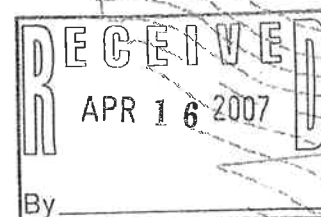
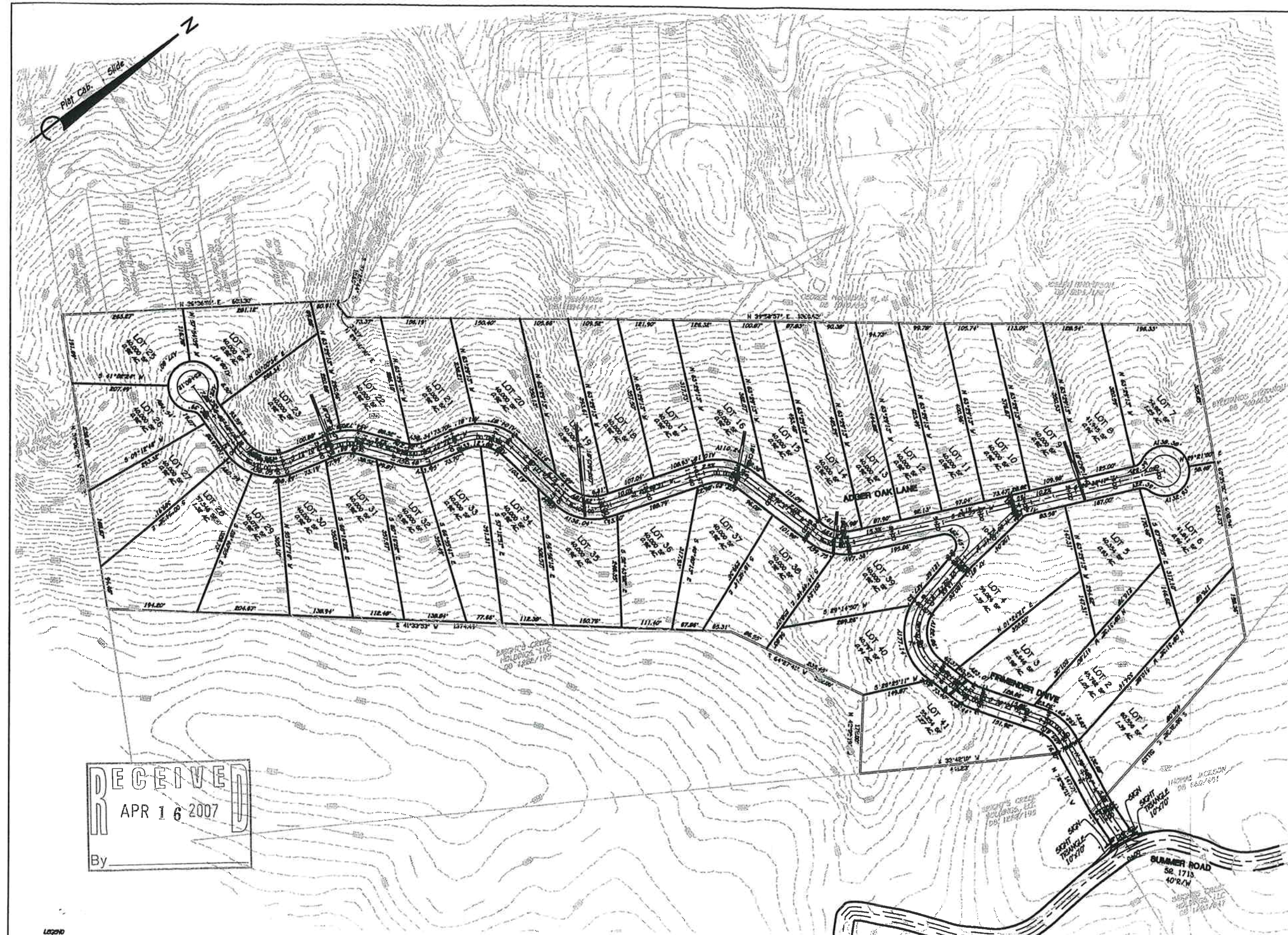


OWNER: Gary H. Pittman  
P.O. Box 308  
Isle of Palms, SC 29451  
AGENT: Clifford Dalton  
865-685-7825

### ADDER OAK DEVELOPMENT COMBINED MASTER AND DEVELOPMENT PLAN

EDNEYVILLE TWP.		HENDERSON COUNTY, N.C.	
LAUGHTER, AUSTIN AND ASSOCIATES, P.A. 131 FOURTH AVENUE EAST HENDERSONVILLE, NORTH CAROLINA 28792 (800) 692-9089			
CREW CHIEF	CHECKED BY JHL	DATE	SHEET NO.
DRAWN BY PSP	SCALE 1" = 100 FT.	3/10/07	1 OF 1
DESIGN FILE XXXXXXXX	BUYER FILE 07056		
FLUSH MAP PANEL NUMBER XXXXXX XXXX	TAX PARCEL NUMBER 0610-71-0456		

JOB NO. 07-056



LEGEND  
 L.P. SET - HIGH PIPE SET  
 L.S. SET - HIGH STAKE SET  
 E.L.P. - EXISTING HIGH PIPE  
 E.L.S. - EXISTING HIGH STAKE  
 E.C.M. - EXISTING CONCRETE MARKER  
 P.C. - PILE MARKER  
 -X-X- - APPROXIMATE FENCE LOCATION  
 1 - CENTER LINE (ROAD, STREET, STREAM, ETC.)  
 H/W - HATCH  
 P/P - POWER POLE AND/OR TELEPHONE POLE  
 R/R - RAILROAD  
 R - RADII  
 L - LENGTH OF CURVE  
 D.I. - DROP INLET  
 R.O.M. - RIGHT OF WAY

