

DRAFT MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
THURSDAY, JULY 16, 2020**

The Henderson County Board of Commissioners met for a Special Called Meeting/Public Hearing at 6:00 p.m. in the auditorium of West Henderson High School, 3600 Haywood Road, Hendersonville, NC.

Those present were: Commissioner Mike Edney, Commissioner Rebecca McCall, Vice-Chairman William Lapsley, County Manager Steve Wyatt, Assistant County Manager Amy Brantley, Attorney Russ Burrell and Clerk to the Board Teresa Wilson.

Also present were: Planning Director Autumn Radcliff, Planner Matt Champion, Director of Business and Community Development John Mitchell, Code Enforcement Director Toby Linville, Emergency Management/Rescue Coordinator Jimmy Brissie, PIO Kathy Finotti – videotaping, and Deputies Jeff Corn, Tracy Davis & Robert Merz as security.

Absent were: Chairman Hawkins (recused) Commissioner Messer (In loving memory 1954-2020)

CALL TO ORDER/WELCOME

Vice-Chairman Lapsley called the meeting to order and welcomed all in attendance. Mr. Lapsley explained that this public hearing is a rare situation where there are only three commissioners present; Chairman Hawkins was recused and Commissioner Messer's unexpected passing. However, only three commissioners are required to be present for a quorum. Commissioner Messer's position will be filled by the Republican Party rather quickly, however the applicant did not wish to delay the public hearing to wait on the replacement. Each person who has signed up to speak will be given three minutes to speak. No questions will be taken by the commissioners during the public comment period.

Public Hearing for Conditional Rezoning Application #R-2020-01-C, Tap Root Farms, Regional Commercial (RC) to Conditional District (CD-2020-01)

Commissioner McCall made the motion to go into public hearing. All voted in favor and the motion carried.

Planner Matt Champion stated Conditional Rezoning Application #R-2020-01-C was initiated on January 31, 2020 and requests that the County conditionally rezone approximately 297 acres of land from Regional Commercial (RC) to a Conditional District (CD-2020-01). The project consists of 3 parcels located off Butler Bridge Road with a total acreage of 319.66 acres. The proposed rezoning does not include approximately 22.66 acres located directly adjacent to Butler Bridge Road. The property owners and applicants are Johnston Family Group, and the agent is William Alexander.

The applicant is proposing a residential development with a mix of single-family lots and townhomes that total 699 units. The development is required to be approved as a conditional rezoning due to the number of units. Conditional Districts allows for the Board of Commissioners to place conditions on the property to address community concerns and make the proposed development compatible with adjacent uses.

As required by the LDC, a neighbor compatibility meeting was held on Friday, February 21, 2020 in the King Street Meeting Room.

The Technical Review Committee (TRC) reviewed the application on March 3, 2020 and made a motion to forward the application to the Planning Board with conditions as discussed.

DATE APPROVED:

The Planning Board reviewed the conditional rezoning request at its May 21, 2020 meeting electronically. The Planning Board voted 6-2 to forward a favorable recommendation.

PUBLIC NOTICE:

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with §42-303 and §42-346 (C) of the Henderson County Land Development Code and State Law, notice of the July 16, 2020 public hearing regarding rezoning application #R-2020-01-C was published in the Hendersonville Lightning on July 1st and July 8th. The Planning Department sent notices of the hearing via first class mail to the owners of properties within 400 feet of the Subject Area on June 26, 2020 and posted signs advertising the hearing on June 26, 2020.



As a reminder, conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined chapter standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the districts and applying it to each individual development project.

Only those uses, and structures indicated in the approved petition and site plan shall be allowed on the subject property, including any subsequent amendments. A change of location of the structures may be authorized. Changes to the site plan layout shall not increase the number of structures.

Since the conditional rezoning is approved with an associated site plan, any changes to the proposed site plan requires the Board of Commissioners to approve the amendment.

The application requests that the County conditionally rezone approximately 297 acres of land from Regional Commercial to a Conditional District (CD-2020-01). The subject area is located off Butler Bridge Road, adjacent to I-26, and just south of the Henderson County/Buncombe County line. The northern boundary of the site runs parallel to Cane Creek, while the French Broad River runs adjacent to the western boundary of the site. The PINs included in this application are: 9652-03-1362, 9642-82-3681, and 9642-84-4544.

The proposed rezoning does not include approximately 22.66 acres located directly adjacent to Butler Bridge Road. The property owners and applicants are Johnston Family Group and the agent is William Alexander.

As shown on the major site plan for the subject area, the applicant is proposing 699 total residential units. 427 single family units and 227 townhome units. The overall density for the project is 3.05. 29,700 linear feet of private roadways. 40.7% or 121 acres of open space. The project also includes common areas and development amenities.

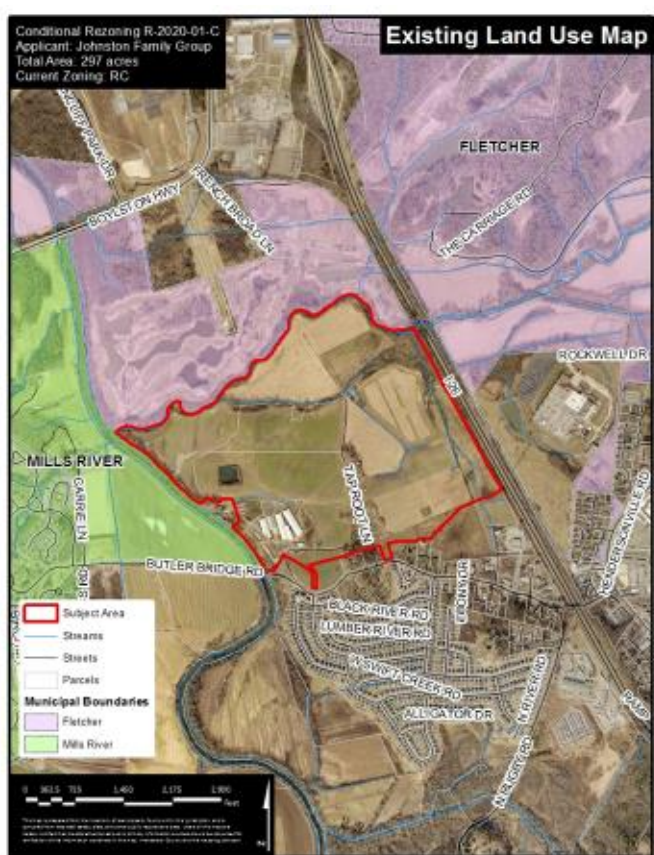
The TRC reviewed the application on March 3rd and the Planning Board reviewed the application on May 21st. The conditions discussed at the TRC and Planning Board meetings are attached to the staff report.

Additionally, as required by the LDC for conditional districts, a neighborhood compatibility meeting was held on Friday, February 21st in the King Street meeting room. A summary of the neighborhood compatibility meeting is attached to the staff report.

The following map shows the river stone major subdivision south of the subject area. Interstate 26 to the east of the site and Broadmoor Golf Course to the north of the site. The Asheville Regional Airport is located within 600 feet to the north of the subject area.

The subject area is primarily used for agriculture with a limited number of residential structures located on the three parcels making up the subject area. The site also includes several structures utilized for agricultural purposes.

Aerial Map



Conditional Districts

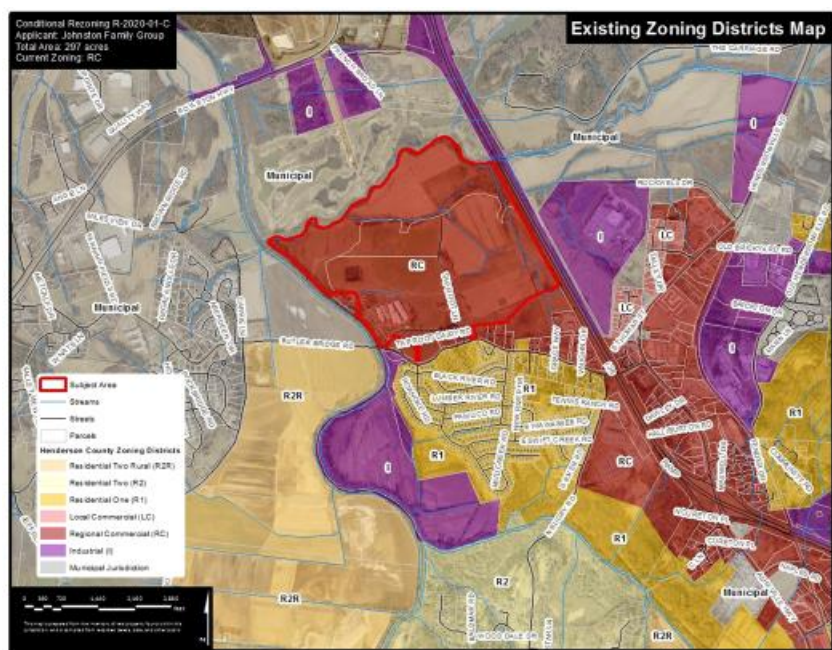
Conditional rezoning's are:

- Legislative decisions
- Require a site specific plan (only what is on the plan is allowed)
- The BOC may require additional conditions of the development, provided the developer agrees to those conditions
- Process provides protection to adjacent properties

Application Summary

- Conditional Rezoning Request: R-2020-01-C
- Applicant/Owner(s): Johnston Family Group
- Agent: William Alexander
- Property Location: Butler Bridge Road on PINs: 9652-03-1362, 9642-82-3681, & 9642-84-4544
- Conditionally rezone from a Regional Commercial (RC) Zoning District to a Conditional District (CD-2020-01)
- Approximately 297 acres

Current Zoning Map



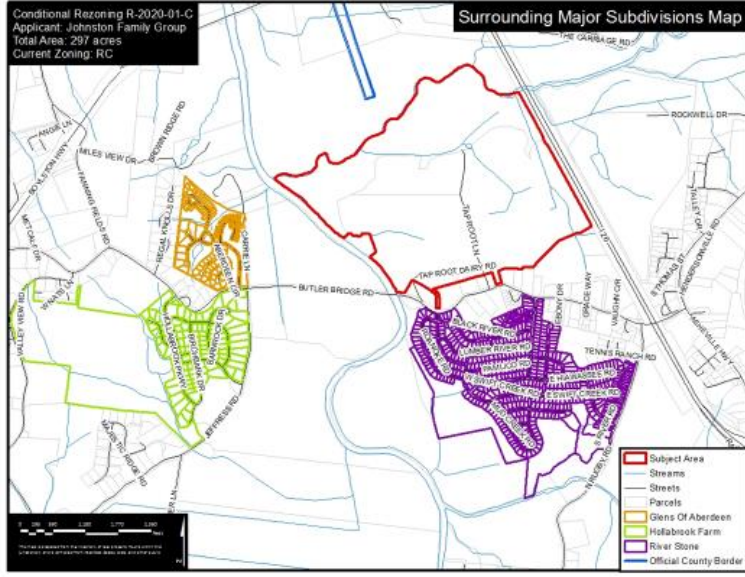
The subject area is currently zoned regional commercial. The subject area was first zoned Open Use in 2001. On March 3, 2003, the subject area was rezoned from an Open Use district to a general Industrial zoning district. In 2005, the subject area was rezoned from a general industrial district to a Highway commercial zoning district. When the land development code was adopted in September of 2007, property throughout the County zoned highway commercial was changed to a regional commercial zoning district.

The subject area is adjacent to regional commercial, residential one, and industrial zoning districts to the south. The industrial zoning district is also adjacent to the subject area to the east. The town of Fletcher's general commercial and interstate commercial zoning districts are found to the north and east of the subject area. The town of Mills River's light industrial zoning district is found adjacent to the subject area across the French Broad River

The applicant requested a conditional district which are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other

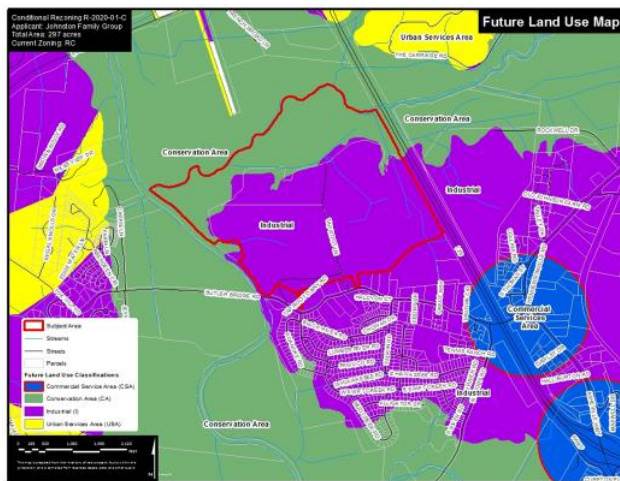
reasons, carry out the purposes of the comprehensive plan, proposes to impose special limitations and conditions on the use of the property included in the application. Conditions may be imposed in the furtherance of the purpose of the LDC and the recommendations of the County Comprehensive Plan.

Surrounding Subdivisions



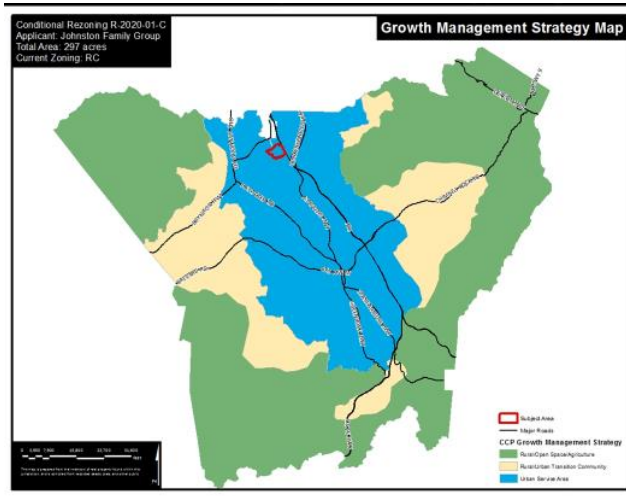
Shown on this map is several surrounding subdivisions within proximity of the subject area. Riverstone is located south of the subject area and originally approved under a special use permit for a planned unit development in 2005. The most current master plan shows a total of 549 lots. Hollabrook Farms was annexed into the Town of Mills River’s jurisdiction but originally approved under Henderson County’s land development codes for a total of 237 lots. The plan was later amended to reduce the number of approved lots to 101. The undeveloped phase received approval under a special use permit by the Town of Mills River for an assisted living residence, but not plans have been submitted at this time. Glens of Aberdeen was approved and developed under the County’s land development ordinance prior to being annexed by the Town of Mills River. The subdivision was approved for 109 lots on 43 acres with a mixture of single-family cottages and townhomes.

CCP Future Land Use Map



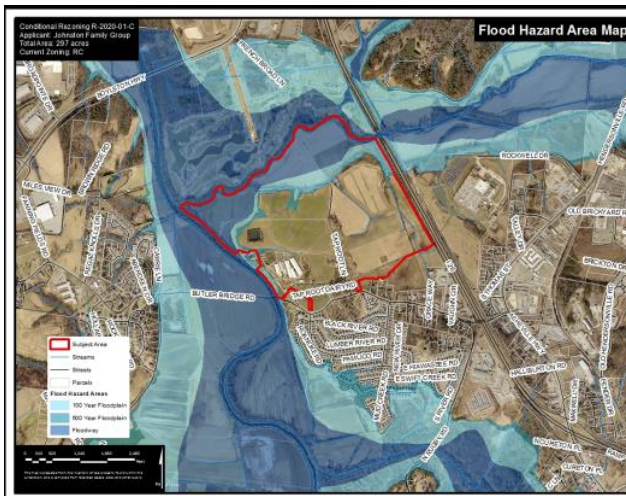
Henderson County’s Comprehensive Plan future land use map shows the subject area within the industrial classification and a large portion of the subject area along the French Broad River being in the conservation classification. The Industrial future land use classification should be found within urban services area, and in other areas on a very limited basis. Most industrial uses should be segregated from other uses except for regional commercial uses. The conservation future land use classification includes land that are intended to remain largely in their natural state, with only limited development.

Growth Management Strategy Map



The CCP growth management strategy map shows the subject area located in the urban services area. Henderson County’s Comprehensive plan says urban service areas will contain considerable commercial development at a mixture of scales.

Floodplain Map

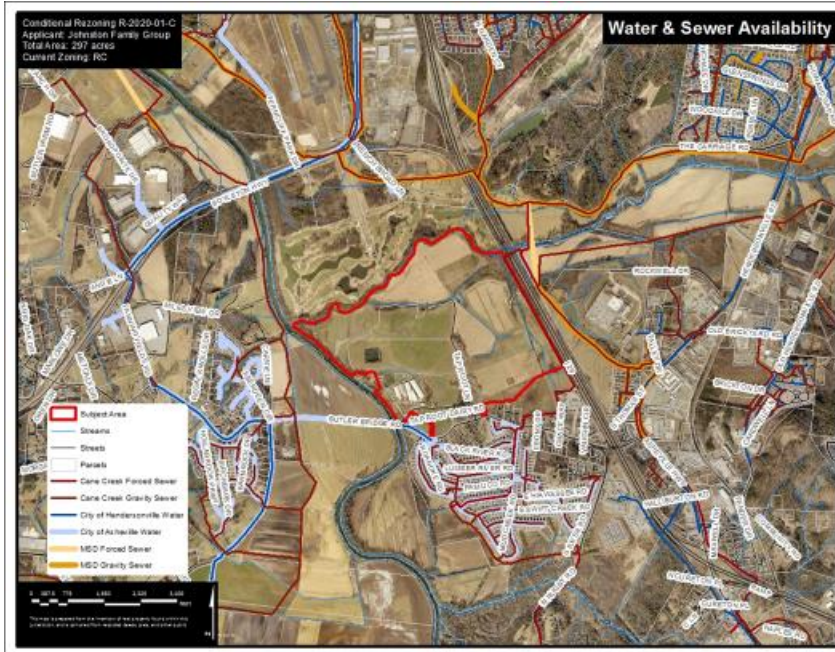


This flood hazard map shows the 100- & 500-year floodplains and the floodway that are found on the subject area. Most of the identified flood prone area within the subject area is in the floodway or non-encroachment area. The land development code does not allow structures in the floodway unless it is a functionally dependent facility such as docks or utilities. The 100- and 500-year floodplains does allow for structures provided they are elevated and up to 20% of this area may be filled by right. The developer will have to work with the floodplain administrator for Henderson County when encroaching in the flood hazard areas.

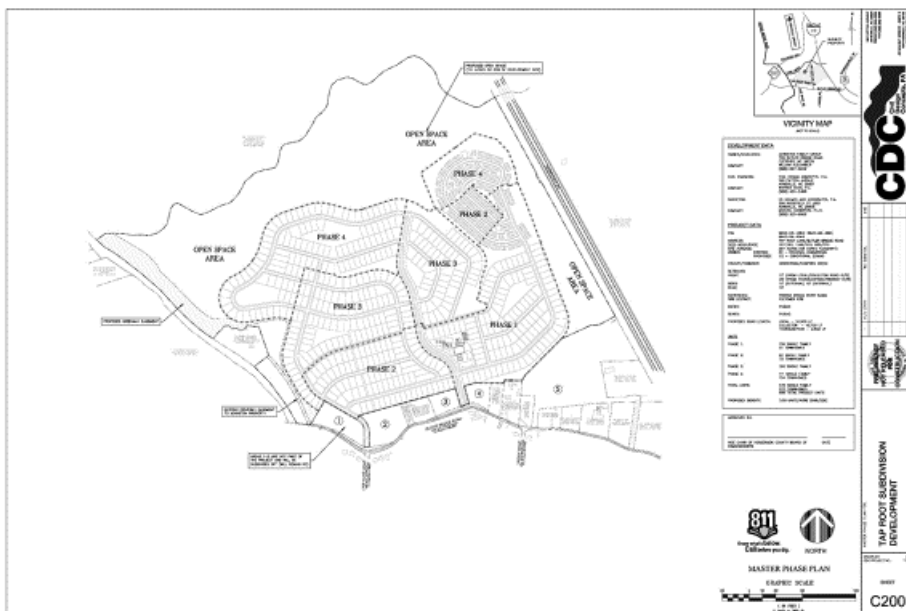
The Board of Commissioners approved a land development code text amendment during their November 20,

2019 meeting that changed how a developer calculates density. The developer can only use the acreage of the subject area outside of a floodway to calculate density. The density for the project prior to the LDC text amendment would calculate to 2.4 units per acre. A rough estimate shows approximately 68 acres of the subject area located in a floodway out of 94 total acres in a flood hazard area. The overall density of the project is calculated using the total acreage of the site less the acreage within the floodway for a total of 229 acres. Based on 699 units with 229 acres calculates to 3.05 units per acre.

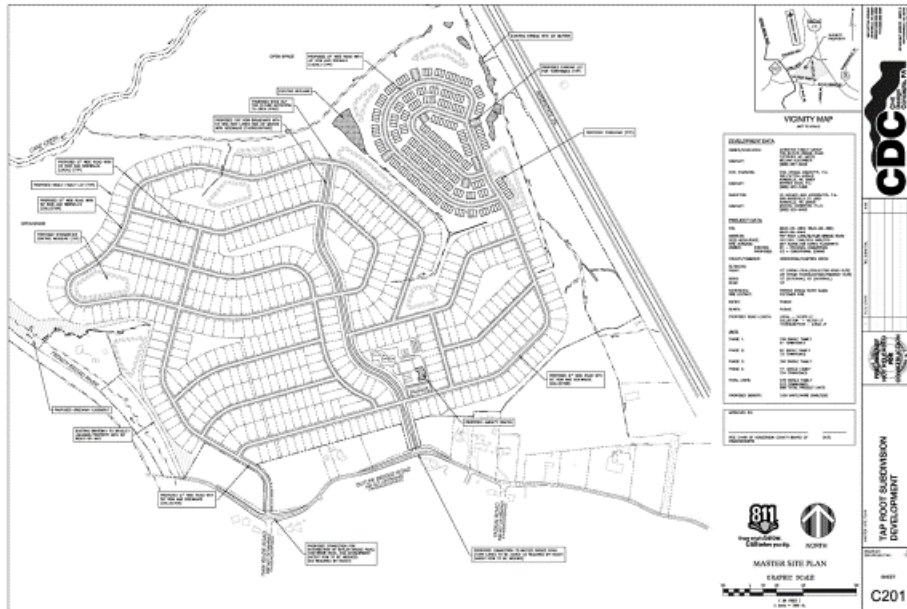
Public Utilities Map



The subject area is near multiple public utility providers. The City of Asheville and City of Hendersonville offer public water connections. The applicant has proposed connection to the City of Hendersonville’s water line. The applicant is proposing connection to public sewer via the Cane Creek Sewer District to serve the project. The applicant must provide capacity letters for both public utility connections.



The proposed site plan for the subject area identifies the different phases of development. As you can tell the project is primarily focused in the areas outside of the flood hazard areas. The site will be accessed off Butler Bridge Road in two separate locations.



The master site plan for the subject area shows the proposed major residential subdivision with both single-family and townhome dwellings. Based on the number of units, the applicant is required to be processed as a conditional district.

- Project Summary
- 699 Units (Project Total)
 - 472 Single Family
 - 227 Townhomes
- Proposed Density of 3.05 units per acre
- Proposed Road Length, 29,700 LF
- Min. of 121 acres or 40.7% Open Space
- Common Area and Development Amenities

The project consists of 699 total residential units with 427 identified as single-family and 227 identified as townhome units. The overall density is 3.05 units per acre. The project will be completed in 4 separate phases. Total length of new private roads is 29,700 linear feet. Minimum of 121 acres or 40.7% of the subject area as open space.

Conditional Rezoning's

- Conditions required by the LDC and additional conditions recommended for consideration and requests made by the TRC and Planning Board are found in the attached List of Conditions

Conditional districts are zoning districts in which the development and use of the property is subject to predetermined chapter standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the districts and applying it to each individual development project.

The uses permitted in this conditional zoning district is limited to those shown on the submitted site plan. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject area. The Planning Board may recommend reasonable and appropriate conditions be attached to the application.

The applicants have self-imposed several conditions as part of their request. The list of condition as discussed by the TRC, Planning Board, and from the applicants can be found in the List of Conditions.

Applicant’s Engineer

Warren Suggs addressed the Traffic Study. Civil Design Concepts Traffic Consultant went back to NCDOT with the 30% reduction in homes and the TIA checklist. They are waiting on final signatures and will receive the written acknowledgement shortly. The second entrance does not require a dedicated right and left turn.

Applicant’s Attorney Bill Alexander

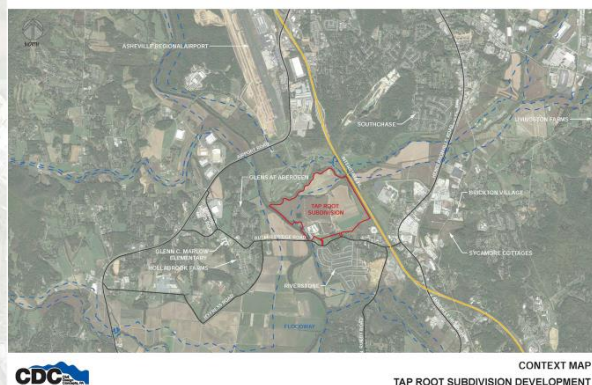
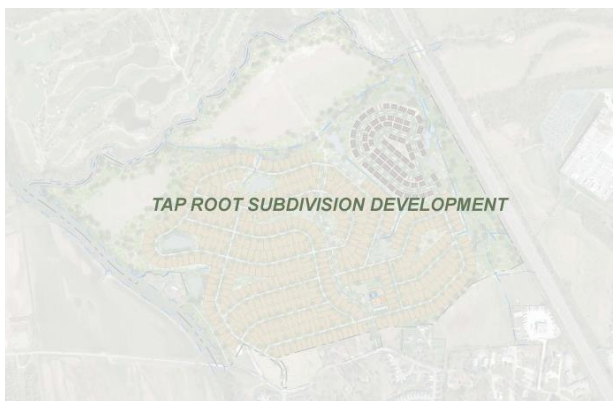
Mr. Alexander represents the Johnston Family Group, descendants of SE and Anita Johnston. The family ran Tap Root Dairy for many generations and over the years it became less practical. The children ran the dairy for a number of years and made the decision to farm the land, eventually working with economic development folks looking to sell the land for Industry. It was on the market for many years with no interest, and Mr. Alexander feels being surrounded by residential didn’t help. He feels high density residential is the best use for the property.

The airport has stated that the applicant has already applied, but this is a new application. The airport’s concern about being sued for noise and debris will be covered by a Navigation Easement signed as a blanket easement to prevent homeowners from suing. Full disclosure will be given to every property owners. No bodies of water will be added beyond what is already there to keep ducks and geese away. Flights have increased by over 200 per day, and Mr. Alexander feels this would not have happened if it was a safety concern.

The applicant addressed all previous concerns prior to coming to the Board, and has satisfied the conditions. Density has been substantially reduced from 1200 units to 699 units. The applicant has agreed to no uplighting in the subdivision due to concern of interference with airplanes.

They do not anticipate any changes by DOT, but will comply. They have committed to set aside and convey the greenway to an entity established by the Board.

Vice-Chairman Lapsley stated no decision will be made at this meeting, so that the Board has more time to review and see DOT’s conditions.

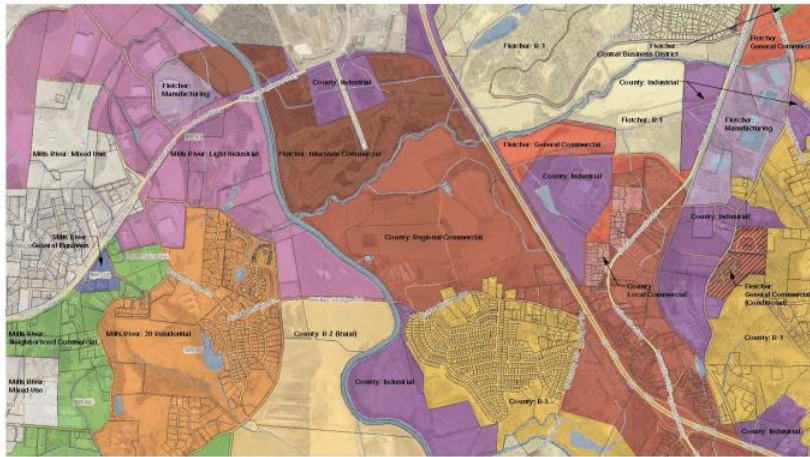




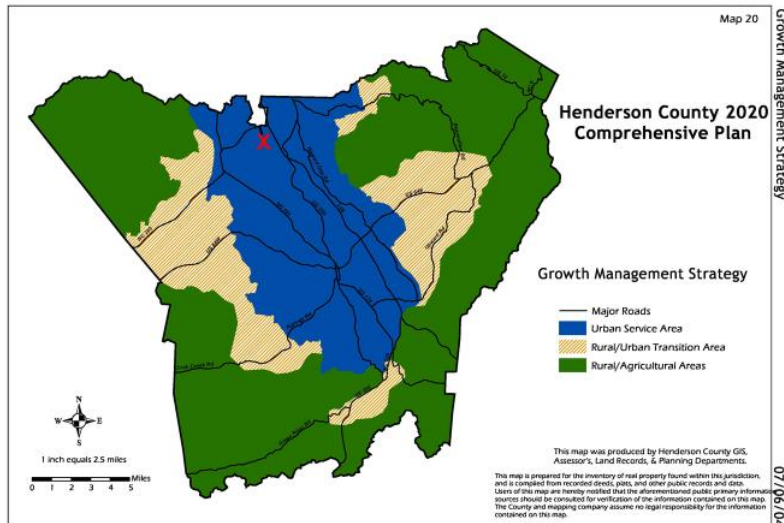
- 472 SINGLE FAMILY LOTS
- 227 TOWNHOME LOTS
- TOTAL UNITS 699
- +4 PHASES
- 297 ACRES
- 3.05 UNITS/ACRE



TAP ROOT SUBDIVISION DEVELOPMENT



ZONING
TAP ROOT SUBDIVISION DEVELOPMENT



42-35 REGIONAL COMMERCIAL DISTRICT (RC)

A. PURPOSE. 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 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 (USA) IN THE COMPREHENSIVE PLAN.

B. DENSITY AND DIMENSIONAL REQUIREMENTS. EACH USE ALLOWED IN THIS DISTRICT SHALL AT A MINIMUM CONFORM TO THE FOLLOWING REQUIREMENTS (IN THE CASE OF A NONRESIDENTIAL USE THE RESIDENTIAL DENSITY REQUIREMENTS SHALL NOT APPLY). IN SOME CASES A SPECIFIC USE MAY BE REQUIRED TO MEET THE SUPPLEMENTAL REQUIREMENTS AS SET FORTH IN §42-63 (SUPPLEMENTAL REQUIREMENTS).

Table 2.9. RC Density and Dimensional Requirements

(1) Residential Density (units/acre)		16	
Maximum Impervious Surface (%)		80	
Maximum Floor Area (sq. ft)		Unlimited	
(5) Yard Setbacks (feet)	Front or ROW	Local	10
		Collector	10
		Thoroughfare	20
		Boulevard	30
		Expressway	40
	Freeway	45	
	Side	10	
Rear	10		
Maximum Height (feet)		50	

Zoning – Tap Root Subdivision Development

42-27. RESIDENTIAL DISTRICT ONE (R1)

A. PURPOSE. THE PURPOSE OF RESIDENTIAL DISTRICT ONE (R1) IS TO FOSTER ORDERLY GROWTH WHERE THE PRINCIPAL 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 (USA) IN THE COMPREHENSIVE PLAN.

B. DENSITY AND DIMENSIONAL REQUIREMENTS. EACH USE ALLOWED IN THIS DISTRICT SHALL, AT A MINIMUM, CONFORM TO THE FOLLOWING REQUIREMENTS (IN THE CASE OF A NONRESIDENTIAL USE THE RESIDENTIAL DENSITY REQUIREMENTS SHALL NOT APPLY). IN SOME CASES A SPECIFIC USE MAY BE REQUIRED TO MEET THE SUPPLEMENTAL REQUIREMENTS AS SET FORTH IN §42-63 (SUPPLEMENTAL REQUIREMENTS).

Table 2.1. R1 Density and Dimensional Requirements

(1) Residential Density (units/acre)		(2) Standard	4
		(3) Intermediate	6
		(4) Maximum	12
(5) Yard Setbacks (feet)	Front or Right-of-Way (ROW)	Local	15
		Collector	20
		Thoroughfare	35
		Boulevard	50
		Expressway	60
	Freeway	90	
	Side	10	
Rear	10		
(6) Maximum Height (feet)			40

	PROJECT SIZE	DENSITY ALLOWED	MAX UNITS
REGIONAL COMMERCIAL - RC	298 ACRES	16 UNITS/ACRE	4,578
RESIDENTIAL DISTRICT ONE - R1	298 ACRES	8 UNITS/ACRE	2,288



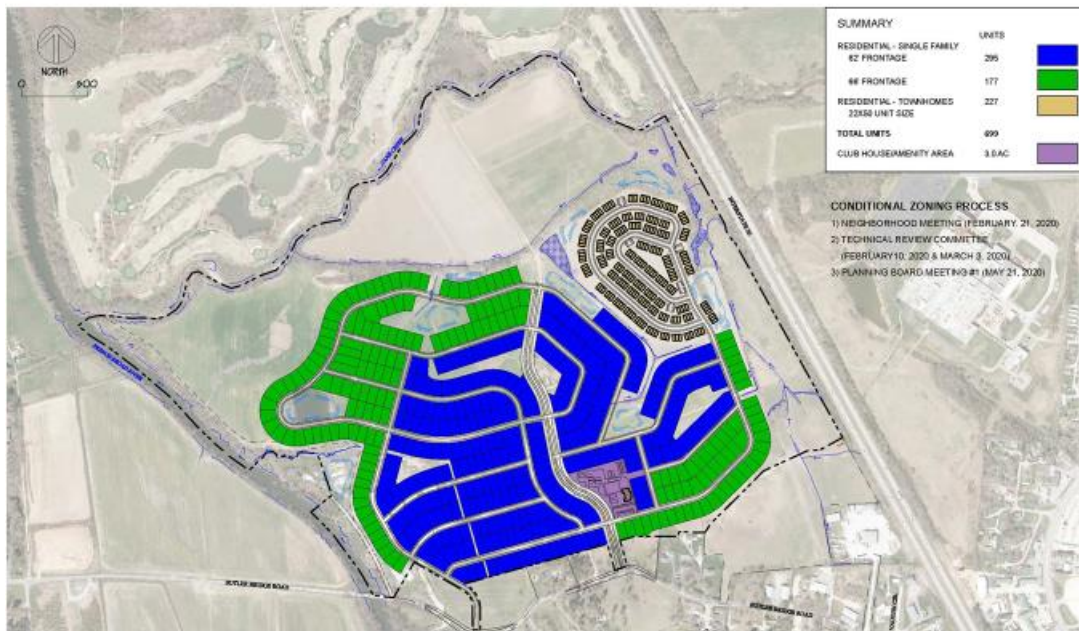
2002 AERIAL PHOTO
TAP ROOT SUBDIVISION DEVELOPMENT



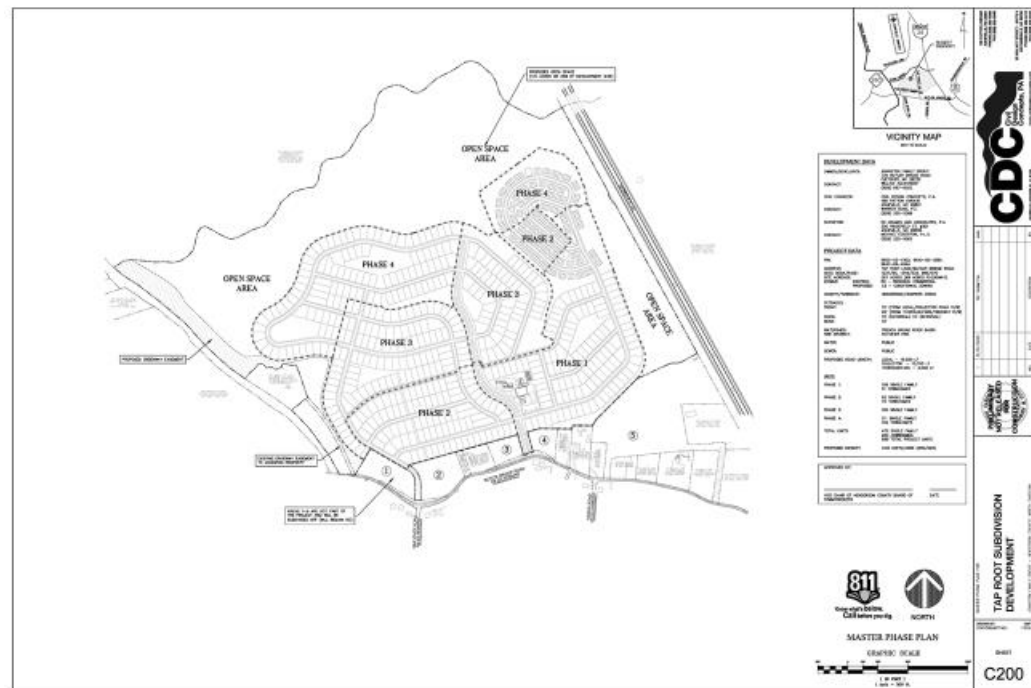
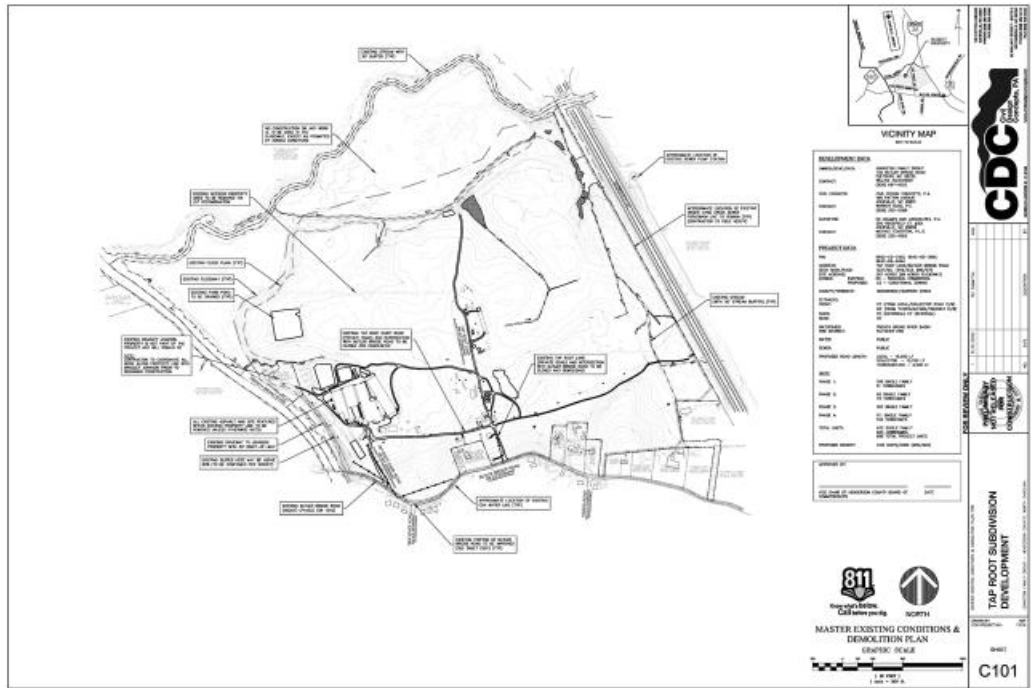
2013 AERIAL PHOTO
TAP ROOT SUBDIVISION DEVELOPMENT

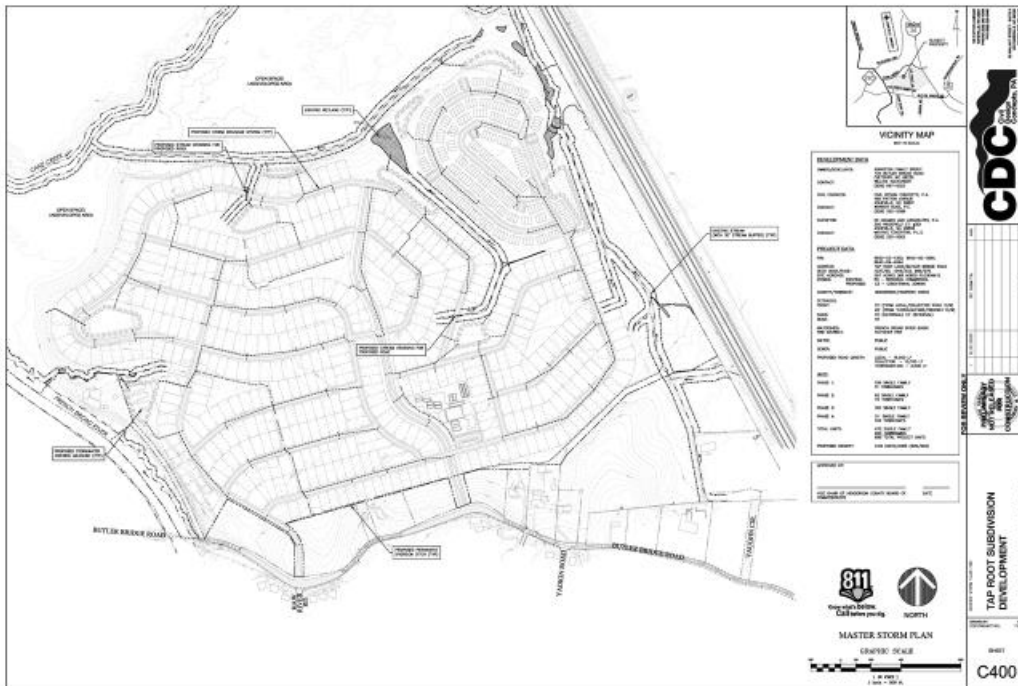
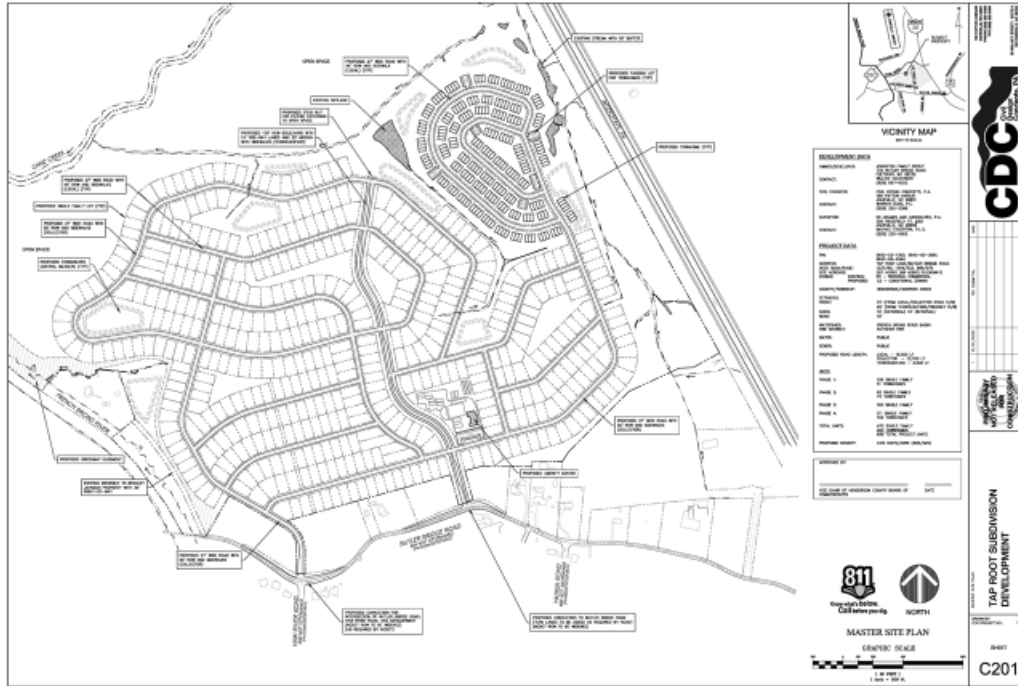


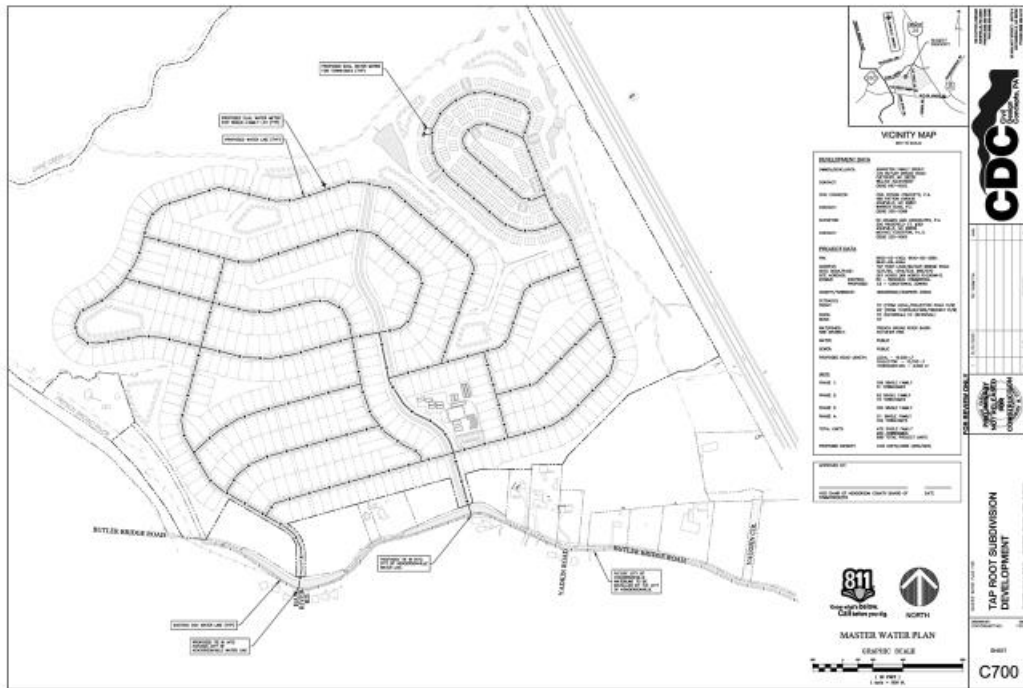
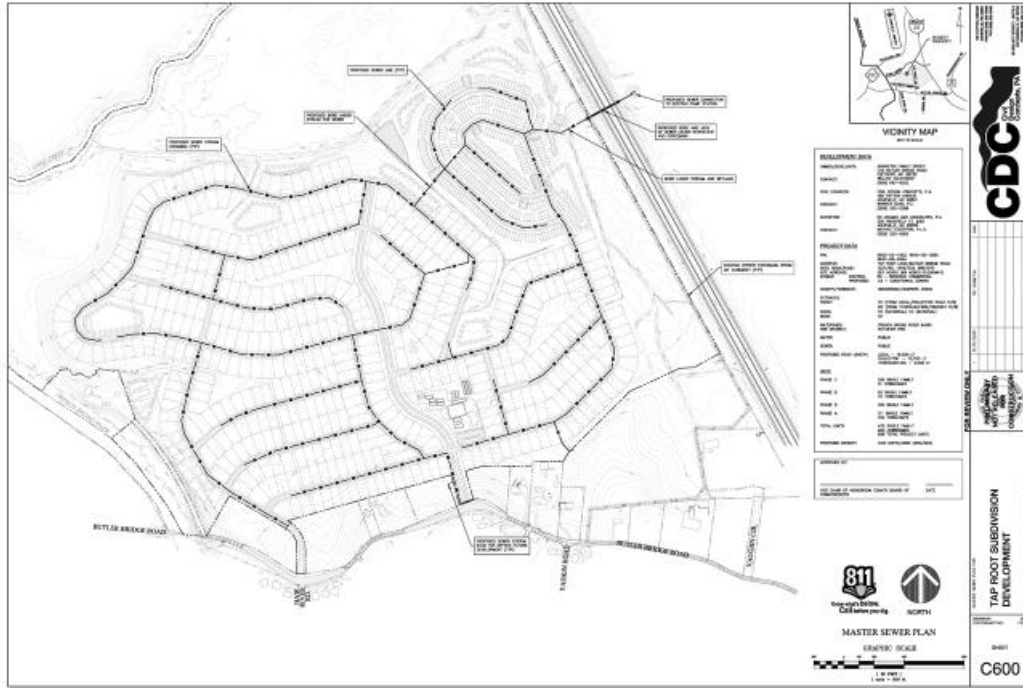
2013 AERIAL PHOTO
TAP ROOT SUBDIVISION DEVELOPMENT



MASTER PLAN
TAP ROOT SUBDIVISION DEVELOPMENT









TAP ROOT SUBDIVISION DEVELOPMENT

Public Input (Public Input 1-50 were received prior to the meeting)

1. Anonymous - The rural small-town feel of our area is very important to me and my family. Being a life-long resident, I have seen the changes in the past few years. Congestion and traffic are already an issue on local roads, the interstate is horrible and it will be multiplied with an addition of 699 housing units. Schools and roads are at capacity, and this type of development is unnecessary and unwanted from county residents that I have spoken with. Enough development. Thank you for considering my opinion are others like myself.
2. Anonymous - I oppose #R-2020-01-C due to overcrowded school and roadways in this area. Build infrastructure first then push for growth. Do not forget the impact that William Johnston had on our community when he polluted the French Broad River. Use the land in its intended zoning limitation as farm land! There have been plenty of offers for the land within its zoning restrictions. Mary Corn has sent threatening emails to school officials to prevent opposition to this project. Please remember that you are serving the county and it's people, not individuals trying to make a buck at the cost of the taxpayers. This project will turn into nothing but a money pit for the county.
3. Anonymous - The proposed development of tap root is not in keeping with Henderson County development goals. It will be an "undesir
4. Anonymous - I think that changing the zoning designation for taproot dairy farms would be detrimental to the area. First of all, there is promise of bringing other industry that would bring much-needed jobs to the area. Amazon just built around the corner! With the planned road improvements and location this area is very desirable to business and as a neighbor I would much support a business moving in to that area over another neighborhood. We need jobs, not more strain on our school system. I know the owners say that they have tried to market the land for commercial use unsuccessfully but this is a different day and this could be an asset to the county.
5. Our local school cannot handle the influx of children that would move to be in the Glenn Marlow district. There is no plan for how to handle that type of influx. 700 new residences Will generate a large number of school aged children. We currently have a desirable area in the more we pack it full with Mega neighborhoods the less desirable it will become and the more we all stand to lose. Local school and road infrastructure is already taxed. A new Mega Neighborhood would not bring the tax revenue benefit that a job producing industry could promise. Please vote no to this recommendation.

It is not what is best for the county.

6. Adrienne Giddens - After less than a year, I am writing again to voice my opposition to the current development plan for the Tap Root Dairy Farm. I am not against development completely, but I do feel strongly that any development needs to be respectful of the existing communities and add value to our area. I believe we can work together to plan a development that would be a win-win for all involved (county, current property owner, and existing communities). First, I want to start with the concerns I have. 700 new homes and approximately 1,500 residents is still an overwhelming size for this area. The impact on traffic will be life-altering if appropriate measures are not taken to divert the traffic to various main roads. Butler Bridge cannot support 1,000 additional cars each day. School growth would out-pace responsible planning and the quality education of my children would be compromised. Many of us in the Hollabrook Farm neighborhood moved here to be in the Glenn Marlow school district. We have a significant interest in maintaining the high ranks of the school and the caring community culture that currently exists. The cost to support this development takes more out of my pocket. Commissioner Lapsley pointed out in 2019 that the previously proposed development was an “urban development” which would require urban-like resources, and though the current proposal is approximately two-thirds the size of the original proposal, this is still an accurate assessment. At an estimated expense of \$980 per home, these resources would cost the county approximately around \$685,000 with only an estimated \$395,000 gained in property tax (and these estimates don’t even include expenses associated with building additional school space). The difference has to be made up by the rest of the county. As Commissioner McCall stated previously, Henderson County taxpayers will have to support the cost but will get little benefit from the development. To Commissioner Edney’s point, “land-use changes should not worsen congestion, burden roads, water and sewer and public facilities like schools.” So how do we compromise on a development to allow the property owner to sell the old farm, meet the needs of housing while also benefiting the county, the existing communities, and honoring the county comprehensive plan requirements? I would encourage the County representatives sit down with HOA representatives of the existing communities and come up with a proposal for the developer. Some proposed ideas I have heard included a combination of retail and homes. Include a public green space and/or sports complex to avoid housing next to the interstate. The people have ideas, and we want to see our area thrive! Let’s come together! Please don’t support the current proposal. We can do better for Henderson County and its residents.
7. Molly Angel - As a Henderson County resident I strongly oppose the development of the Taproot property to become a 700 home housing development. The roads and infrastructure of the local community cannot support such a large influx of traffic. The schools do not have room to accommodate all the students this would bring in. The Taproot land is directly on the flight path of the planes leaving the airport and would be a very noisy and polluted place to live. The zoning on this large piece of land is not residential for good reason. Please vote against this development.
8. Aaron Byrd - Two main points: 1) Low-flying planes present many dangers to residents of this proposed development. 2) The Butler Bridge traffic corridor will already be taxed with the widening of I-26, and a development like this would add fuel to that fire. To elaborate on the first point, the noise pollution is obvious, but there is also the potential for falling debris from aircraft or fuel spillage (both of which happen routinely across America), and an after-takeoff crash would be catastrophic. Also, as I wrote to the commissioners last year, there is ample scientific evidence that living so close to an airport results in higher toxic blood lead levels in children and increased risk for other problems like premature births, low birth weights, asthma, poor educational outcomes, etc. Please do not subject your constituents to these dangers. Please do not allow this land to be re-zoned for residential development.
9. Anonymous - Please vote no on 700 home development at Tap Root. Overcrowded schools and traffic will be a major concern for many.
10. Anonymous - I am against this as it will put a strain on our school system.
11. Anonymous - Do not proceed with housing at Root dairy. The roads will not be able to handle the

traffic

12. Anonymous - We do not want Tap Root to be developed into housing.
13. Anonymous - Until you have a plan to fix the road that floods at least once a year, and our already over crowded school..you shouldn't even consider putting this huge neighborhood in. This has been turned down because of the enormous strain it will put on our area. Why are we even talking about this again? None of those previous issues have gone away. Please don't put such a horrible burden on our utilities and our emergency service personal by allowing so many townhomes/homes to clog up our area.
14. Anonymous - We do not need more developments and construction during this 26 project as it will become hard enough to navigate.
15. Anonymous - I am completely against the development of tap root dairy into a residential neighborhood. The roads and schools cannot handle such a development!
16. Martha Wutschel - I am a resident of Mills River. My primary reasons for opposing this high density development: Infrastructure should outpace growth and clearly Butler Bridge Road is not equipped for the huge increase in traffic and the closest school is at capacity. Safety and quality of life directly under the flight path of a growing airport - why would we place our future residents in this environment with the bright lights, noise and safety concerns? This proposed community is close to the Buncombe County line so many of the residents will most likely work in Buncombe - thus reducing the taxes to support the size of this development. It is my understanding that Fletcher does not want to incorporate this property because the taxes generated will not cove the cost of police, fire, ambulance services. This will place a burden on our county and potential increased taxes. Henderson County needs to follow their comprehensive plan and not allow two high density housing developments so close to each other. In addition to these concerns what protection or guarantee is there from this project starting but not being completed during this time of economic uncertainty? Please consider other options for this land or at a minimum reduce the capacity by at least half. Thank you
17. Anonymous - We are very concerned what another large neighborhood in this area will do to the surrounding schools. The traffic situation will be bad too since butler bridge is known to flood.
18. Anonymous - An increase in housing units will cause significant problems for our schools, roads, and natural surroundings in the Butler Bridge area
19. Anonymous - I'm concerned about the impact of the development on Glenn Marlow as well as traffic on Butler Bridge Road. How will we cope with the increase in traffic issues caused by the construction on the 26 overpass and construction of a new development? Further, we all know that overpass will take a very long time to complete and during that time all traffic, including large construction vehicles, will be diverted by the elementary school which is already dangerous at pick up and drop off without added traffic. What will be done to ensure the safety of children? Last, with the increase in traffic from the construction and the overpass shut down, what happens when the sod field floods over the road for several days at a time? What do we do then? I believe in increasing housing options, especially those that service a range of incomes, but it doesn't seem like any infrastructure issues are being addressed, especially with Marlow's ability to serve ~700 more families.
20. Furman Angel - My concerns with this development were initially connected to the scope and the infrastructure impact that it would have on our community, however, those concerns have only grown when seeing the heart behind the reactions to those concerns when they were expressed by immediate neighbors at the Neighborhood Compatibility Meeting from Feb 21st, 2020. This is visible by reading the responses to numbers 1 and 17 of the notes/minutes of that meeting. The response to question 1 from Mr Alexander seems to make clear that, regarding stress on school infrastructure, it is not a concern of the applicant and the issue will simply be pushed downstream for the school board to solve and deal with. The response to question 17 from Ms Radcliff seems to make clear that ensuring road infrastructure is in place to handle this boom in pressure is simply in the theoretical phase with nothing concrete being established or put into action. If there is no more

- care on the part of the applicant to see these things addressed in timely advance or in unison with this project, but to simply push ahead in a rather bullying manner, then this is not someone that I feel comfortable with having this type and scope of impact on our community.
21. Anonymous - Approval of this project will necessitate county expenditures for additional law enforcement, increased school personnel, increased EMS and fire services, and adversely effect taxpayer income.
 22. Anonymous - My vote is no. We do not have the infrastructure to support this development. A dairy farm is a dairy farm is a dairy farm.
 23. Anonymous - This development will not add to the quality of life in Hendersonville but instead destroy the fabric of life in our great city. This will turn a once beautiful city into another congested, polluted, unappealing, tax-draining town of poorly planned development. When you look at the development plans from a bird's-eye view it is absolutely disgusting and egregious that any planning/development board that gave two hoots about the town would allow this to be built. Greed is the motivator and there is no foresight involved with this type of development. In the end, the schools will suffer, the roads, the quality of air, the quality of life in Hendersonville and surrounding communities. It's appalling that a development of this size, abutting another development equally sized is even being considered. Make Hendersonville great? More like turn Hendersonville into an overcrowded, over-taxed, burden on the residents who want a quality of life, not a town embarrassed to call home. This is unconscionable and the planners have absolutely no foresight on the future impact of such a project.
 24. Anonymous - In light of the our current situation and how it will affect funding for our locations, counties and state, it does not make sense to add such a large complex that will impact schools, roads and our municipalities.
 25. Anonymous - Please do not add to the rumbling trucks and heavy traffic in Butler Bridge Rd by building this development. The Amazon distribution center is bad enough! But even more importantly this fabulous elementary school will be overwhelmed and overcrowded.
 26. Anonymous - Very bad idea.
 27. Anonymous - I am against the new development. We have lived on Butler Bridge road for 12 plus years. The road is extremely busy. We have one child who has gone through Glenn Marlow and one who is currently enrolled. The class sizes are very large for an elementary school due to all of the developments that feed in. Adding this many homes will only worsen that situation. Yes, you can add to the school, but will that be done prior to the development or after the fact? Butler Bridge road is very congested during prime times. It cannot withstand anymore volume. This area is not ready for a development this size. I am not against residential, but it needs to be a size that this area can support. Please think of your current county residents when making your decision. We deserve that.
 28. Anonymous - As someone that lives on Black River Rd. in the neighborhood directly across the street from the proposed development I stand in complete favor with the zoning request. I find it antithetical that anyone that moved into the area would stand against this development. It smacks of the idea that what is good for me isn't for others. We having a growing community and in order to maintain the growth we must have new families moving j to the area in order to support the tax base. These people will be bringing their jobs and businesses with them and supporting an array of services that are needed.
 29. Anonymous - I am stunned that we would be considering putting such a large community in a flight path to the airport on top of the strain that it will inevitably have on our community.... This doesn't seem hard to understand... Has everyone that is voting on this been out to the sight? Have you visited the schools that it will affect? Have you seen the roads that they will be traveling on? I am all for having an opinion... please be sure it is an educated one.
 30. Anonymous - I recommend that the BOC deny the conditional zoning application #R-2020-01-C (Tap Root Dairy redevelopment). The project calls for 93% of the property to be rezoned to Conditional District (CD) for the purpose of approving the future construction of 699 residential units. The proximity of this property to the Asheville Regional Airport should preclude consideration

of any residential development here due to aircraft noise at low altitude. Therefore the reduction in this application for 699 units, down from the previous application's 1099 units, will allow the development of residences where none is allowed by the current plan for the property in a Regional Commercial (RC) zoning district. The local schools are already over capacity and will not be able to be funded for expansion, especially with the economic impact of the Covid-19 pandemic. Such redevelopment as proposed for this area is not supported by the current configuration and capacity of Butler Bridge Road which is admitted in the Application. There is no plan or funding for improvements to Butler Bridge Road which would be the irresponsibility of NCDOT. Again, the financial impact of the Covid-19 pandemic on NCDOT would make any needed improvements less likely than when the Application was made. I ask the BOC to, therefore, deny the conditional zoning application #R-2020-01-C (Tap Root Dairy redevelopment).

31. Anonymous - There should be a cap on the number of units in the zoning approval. 699 units on 271 acres is unnecessarily overcrowded and is a black hole burden on the nearby Elementary school, Glenn Marlow. At least consider more reasonable planning like the layout of Riverstone which has just 549 lots. You are damaging many Mills River resident's property value, overtaxing the school district and hurting the development of our town's future potential all for the greed of money. Why develop this property in a way that is an eye sore? Why not be a better steward of this property and develop the plans in a way that protects the integrity of our landscape.
32. Anonymous – I am a resident of Henderson county and am opposed to the resining of the taproot dairy.
33. Kristine Kaufman - I am a resident of Mills River, NC. I strongly recommend that the Henderson County Planning Board does not recommend the conditional zoning application be approved for the Tap Root Dairy Land (#R-2020-01-C) for the following reasons: 1. According to the Henderson County 2020 Comprehensive Plan, the best use of this particular piece of land was deemed to be industrial. There is a limited amount of land around the county that can be used for industrial and that in addition has the immediate access to transportation channels such as I-26 and the airport. There is a much greater amount of county land that could be most efficiently used as residential. 2. Furthermore, the best use of land under the landing zone of a growing airport is not high density residential. There is a number of potential hazards from a jet fuel dump accident (which happened in January 2020 in California) to the statistic that most airplane accidents take place during the take-off or landing. These things do happen and have happened AVL. In December 2019, there was an airplane crash during a take-off at the Asheville Airport. 3. If this situation was reversed, and Asheville Regional Airport was asking to build a new runway over a large housing development, the County would not allow it. It is super unfortunate when flight paths change or a runway is built and now residential housing is impacted. Simply put, no one should have to live under a flight path. It is not a great quality of life for people to live under a flight path. But it does happen. Here it doesn't have to happen. 4. While the county does need housing, this is not the place for a very large housing development. There is a very large development across the street and placing another larger development across from it would completely change the area of the county from a rural to an urban area. This is not an urban area. 5. This proposed development does not help future expansion of the airport, which is an economic driver in our county and WNC as a region. The airport and airline industry is expecting a slower return to normal over these next 3 – 5 years as a result of the economic impact of the Co-Vid 19 Pandemic. It is going to need all the help it can get and this proposed rezoning does not help and in fact I would argue, would impede it. 6. While I understand there is a very large distribution center going in nearby and a need for housing for potential workers, the reality is the vast majority of the workers at said distribution center will be earning approximately \$31k per year. Even in a two-income household of \$62k, that would not be enough to afford a \$400k house. (You are looking at needing to earn approx. \$80+k) It was noted last summer, that since this land was relatively flat, it wouldn't be as expensive to develop it. However, this cost savings DOES NOT get passed down to the home buyer. The houses are projected to cost \$400k. This is not affordable housing by Henderson County guidelines. What the county needs is more affordable

- housing. This is not it. Lastly, as evidence from the new distribution center going in down the road, there is a market in this area for this type of land use in this area of the county. Thank you for your time.
34. Melissa Blake - With the NC DOT announcing that they are furloughing the majority of their staff due to losing 300 million dollars, how does one justify adding 700 homes to already overcrowded roads such as Butler Bridge, Rugby, Hendersonville Rd., and I26? With the future uncertainty of COVID19, and currently overcrowded schools such as GME, Rugby, and West, how does one justify adding more students when there is not a plan to educate the current students for the fall of 2020 with some ability to social distance? With 30 plus kids in 4th and 5th grades at GME, one can barely walk through the classroom. Members of the planning board, please take a moment to seriously consider the tremendous negative impact that allowing 700 homes into an already overloaded system will cause. If possible, please start focusing more efforts towards improving, advocating, and finding environmentally friendly ways to improve planning our infrastructure.
 35. Jillian Biggs - I understand the need for development and continued economic growth however, the current schools and infrastructure are unable to accommodate a project of this size. Prior to approval, I would like a plan for the roads and schools to accommodate the growth. Some of the reasons why we specifically chose to live where we do was quick, easy access to work place and high quality schools, especially Glenn Marlow Elementary. If displaced from the school district our home value would decrease and increased traffic will eliminate our need for quick transportation to work. Furthermore, as employee of the airport we are concerned about the noise the new development would experience and the danger of being within 1 mile of the runway. Historically, developments have sued airports due to noise complaints (even if the development went in after the airport and a legal document was signed acknowledging the noise prior to/at purchase). If the airport is sued, our company may withdraw from Asheville airport. This would result in massive job loss from this area and relocation of employees (away from the Asheville area). Additionally, should an aircraft experience an emergency they may need to land and the development is dangerously close to the runway.
 36. Nicki ? - My biggest fear is for the local school system. Rugby and West are already at maximum capacity. Dumping 600+ houses more of children in to the school system will continue to decrease the quality education we want for our children. It will also decrease experiences (such as making it on a sports team, being able to participate in extracurriculars, getting in to specialized classes) that are so important to our children. I think building this development is a huge mistake and a selfish, money driven plan. It is absolutely not what is in the best interest of the community.
 37. Blake Redden - I would like to recommend that the County, the Town of Fletcher, the DOT, the developers, and any other parties involved strongly consider this parcel's capabilities to impact and connect all areas surrounding it. A new urbanist style development could be created by extending Rockwell Dr. over I-26 to the subject property, tying this property directly to Fletcher through Rockwell Dr. This would not only assist in alleviating traffic concerns on Butler Bridge but it would completely revamp the possibilities for the development of this property and the properties surrounding it.
 38. Martha Callen - I am against the development unless there is planning to expand Butler Bridge Road and address the issue of overcrowding at current schools.
 39. Scott Rowbotham - Highly opposed to this project. The surrounding area schools and infrastructure cannot handle this level of expansion. Please don't be greedy and listen to people that live here. Vote NO on tap root dairy project!
 40. Scott Barlow - This development should not be approved. It is overly dense for the area. It will be across the street from a neighborhood of similar density, which is a nightmare to just drive around due to the claustrophobic configuration of the homes there. What's more, the property sits under the direct flight path of hundreds of planes per day, which is not only a noise issue, but disaster waiting to occur. A plane crashed near the Ag Center just last year! The contractor has outs to walk away from this development as well, which will leave a failed neighborhood and black eye on the area.

The strain on the schools, police/fire and infrastructure of the winding farm road it will be situated on are also concerning. All of this was enough to vote no, but now with COVID and our tourism industry in shambles, who can really afford these homes? These aren't second homes for wealthy folks and all of our furloughed hospitality workers are financially crushed, so who is really going to pay \$300k+ to live under an airport and open their windows into their neighbor's home since they are so close? Vote no!

41. Emilie Ogren - I am very concerned about the proposed home community on tap root dairy land. The area is already over crowded and now the new construction of the Amazon Distribution center will cause even more traffic and over population. Also, as a healthcare worker, I am very concerned about how the Covid pandemic will affect overcrowding of schools, and other aspects of our community. Please vote no to the proposal. Butler Bridge Road can not take anymore development!
42. Eric Pommerer - Without a clear plan for accommodating so many families in our schools, I don't see how this is sustainable.
43. Patrick Sullivan - I was opposed to the last proposed development for the Tap Root Dairy property because of the density of the project. This latest proposal is for less units, but still too high for Butler Bridge Road and our schools which are already bursting at the seams. I am not opposed to all development at Tap Root, but it must be proportionate to number of acres that are actually usable, excluding the wetlands that are counted but don't tell the full story of the actual density. Thank you for your consideration.
44. Ameena Zia - Do not wish for the tap root property development decision at this time...we need to revisit the regional comprehensive plan to ensure that we participate in equitable development and not haphazard decision-making. Thank you.
45. James Hemphill - Totally against this plan we have enough problems with traffic in this area as it is our schools are not equipped for all the extra kids and congestion no I don't think it's a good idea to put another development herein this area it is not really situated for all that here we will have lots of problems already with the Bridge being closed for so long so I vote NO
46. Kari Byrd - We can't handle the traffic, it will crowd our schools, there shouldn't be a housing development directly under a busy flight path..and we definitely shouldn't be considering anything of this magnitude as we're dealing with the economic devastation from a global pandemic.
47. William Hansen - I oppose this project due to the burden it will place on already full schools, as well as the increased traffic on Butler Bridge road.
48. Eeric Clonch - The current residential density proposal for Tap Root Dairy is much more similar to surrounding neighborhoods than the original proposal in 2019. My two remaining concerns are: 1) the future residents living on the Tap Root property will be adjacent to a 6-lane Interstate, and under the flightpath of a fast-growing airport that will soon serve 100,000 flights per year. How will the Commissioners address quality of life issues for these homeowners, and for that matter this particular area of high-density residential homes in the northernmost section of the urban services corridor within jurisdiction of the Henderson County Commissioners? 2) With the residents of River Stone, and the soon to be residents of Tap Root, both residing in Henderson County, but effectively on the doorstep of both the Town of Fletcher and the Town of Mills River, a reasonable conclusion is that most of these residents will use Parks & Recreation facilities of those municipalities rather than facilities owned by Henderson County, if for no other reason than convenience and proximity to the parks & recreation facilities in Fletcher and Mills River. While Fletcher residents and Mills River residents welcome the friends & neighbors living in River Stone and Tap Root, we worry about the strain, wear & tear, and costs on municipal facilities from county residents. Can Henderson County invest some County money into the planned Greenways in this section of the county in the near future? Can Henderson County invest some money into the recreation facilities in the Town of Mills River and Town of Fletcher, similar to what was done with the Henderson County Athletics & Activity Center (which is logistically located within the Hendersonville City Limits) nearly a decade ago, and what is currently being done with Jackson Park (which is located adjacent to the Hendersonville City Limits)? Residents of the Town of Mills River and the Town of Fletcher pay

County Taxes as well, and we would like to see more funds from the County Parks & Recreation department invested in facilities on this side of the County, which is also one of the fastest growing areas of Henderson County.

49. John Callan – I am opposed to this project. The elementary school and Butler Bridge Road cannot currently support the increased population.
50. Sue Bucky – (via email) - They would like to be at the meeting tonight, but I am 75 and have severe asthma. I will email my statement instead. I live off of Butler Bridge Road and I am extremely concerned that the proposed Taproot development will negatively impact our way of life. It seems to me that the only people in favor of this development are the owners of the farm and their friends and family. So, if this goes through, the owners will move, and the friends and family (who do not live in the actual area surrounding Butler Bridge Road) will not be impacted. I implore you to consider the opinions of your constituents who actually live in the area that will be affected. Here is a video I took a couple of weeks ago of traffic on Butler Bridge and N. Rugby Road. Butler Bridge Road and Rugby Road - Saturday June 27, 2020 Imagine if we added in 1500 cars from a 700-home development. And now imagine the road is flooded and the bridge closed at the sod farm.
51. Michael Hernandez – Supports Tap Root Farm. He feels studies show area can handle the new development, and people should be able to sell their property as they wish.
52. Cindy Rice – “GARAA Council” – Feels the application is improper. She is against the project due to safety and feels the land is not compatible.
53. Michael Reisman “GARAA” – Feels airplanes are flying too close to vicinity of homes. He shared information regarding crashes in residential areas over the years. This development, he feels, is located at the end of the runway, the worst place for a subdivision.
54. Lew Bleiweis”GARAA” – Feels another subdivision next to the airport is unsafe and unhealthy. Growth will be seen at the airport because the community asks for it. It also provides economic growth.
55. Jimmy Cowan – Feels growth is inevitable and farmers must use their land as part of their retirement. He supports the project and feels the applicant should be able to sell their land as necessary.
56. Brian Upchurch – Supports the project and realizes growth is inevitable. The applicant has gone above and beyond to meet the requests.
57. Linda Upchurch – Supports the project. She has concerns but welcomes the new community.
58. Stephanie Bolome – Is against the project and feels it is not safe for homes with the flight plan. It will bring in too much growth, noise and danger of fumes.
59. Julie Schlegel – Is against the project and feels its scale is too big for the area. The infrastructure cannot handle the number of homes. Commercial property would be a better fit.
60. Kris Kaufman – Is against the project and feels Industrial Commercial would be a better fit. This is not affordable housing for natives. This would not be a safe subdivision, and there would be no quality of life for the homeowners.
61. Stefanie Wolf – left before speaking.
62. Mary Louse Corn “applicant” – She is for the project and feels she did the best to meet all requirements.
63. Mike Corn “applicant” – Did not speak.
64. Melissa Blake – Submitted a petition against the project with 856 signatures opposing the 699 home subdivision. She feels the roads cannot adequately handle the development.

Commissioner McCall made the motion to go out of public hearing. All voted in favor and the motion carried.

Commissioner McCall questioned the timeframe of the project, and if there is a home warranty. Commissioner McCall further asked the applicant, if at all possible, to keep as much of the labor and materials as local as possible. She felt the wording of the distance between the housing was poorly worded.

Bill Alexander responded that start up would be no less than four months. Warren Suggs felt it could be nine months or longer before dirt was turned, and one and a half years before building begins. The complete project will be approximately ten years depending on the market. A warranty is provided, no waivers of warranty. The builder is one of the largest builders in the country.

Commissioner Edney referred to “Street, traffic and parking” and asked questions regarding the sidewalks, parking on the street, DOT’s completion of roads, and smallest lot size.

Bill Alexander responded there is 5.6 miles of sidewalks and the contractor is going beyond the LDC requirements. Parking is allowed on one side of the street, and he will verify if this is agreeable with the Fire Association. DOT will complete 50% of the roads before the first home is sold.

Warren Suggs stated the some lots will be smaller, but did not have the exact measurement.

Commissioner Edney was not comfortable with the language of “Resident Amenities” 16B, and would provide new language to the applicant. He would not agree to the City of Hendersonville providing water, and requested each phase be a complete project.

List of Conditions for Conditional Rezoning Application #R-2020-01-C

Conditions per Applicants/Property Owners:

GENERAL CHARACTERISTICS and PROPOSED CONDITIONS

The following conditions are proposed by the Applicant and are in addition to and intended to supplement the approved site plan and the Henderson County Land Development Code (herein “Henderson County LDC”). In case of any conflict between this document, the LDC, and the site plan, the approved site plan is intended to control. To the extent that any specification or development standard has been omitted from or is not addressed in the site plan or this document, the presumption is that the standard or specification in the LDC shall apply.

1. The Subject Property consists of 297 acres located on Butler Bridge Road in Henderson County (PINs: 9652-03-1362, 9642-82-3681, 9642-84-4544). The Subject Property currently consists of three tracts, shown as Tract 1, 2 and 3 on Exhibit A hereto. Those tracts for purposes of consideration of this application will be recombined into one tract, the perimeter of which is illustrated on the site plan.
2. The subject property is rezoned from RC to CD
3. Size and Scope of project (numbers are approximate, subject to confirmation when site plan is final):
 - a. Size of project: 297 acres.
 - b. As shown on the site plan: Maximum of 699 total residential units, including 472 single family homes (67.67%) and 227 town homes (32.33%); Single family lot sizes shall be a minimum of 7,100 square feet for at least 354 lots (75%) of the total single family lots on the subject property. All buildings to have a minimum 20-foot separation. All single-family lots will have side setbacks of ten feet.
 - c. Overall project density will not exceed 3.05 units per acre, including floodplain, greenway easements, or other open space areas proposed for conveyance to County or third-party conservation organization.
4. I-26 and outer boundary of project: All buildings must maintain 50-foot minimum setback from the I-26 right of way; no landscape buffer required along outer project boundary.
5. The development plan will provide for four separate phases of construction, with each Phase being those areas depicted as such on the site plan. The specific provisions and conditions for development set out below shall apply to each phase. Unit sales shall be allowed from an individual phase at such time as the individual phase has complied with the requirements of Chapter 42, Article III, Subpart A

of the Land Development code (42-74 et seq.), for the rezoned conditional district, subject to such modifications and requirements as may be imposed on that district pursuant to this application.

STREETS, TRAFFIC AND PARKING

6. Sidewalks not less than 5 feet in width shall be installed on at least one side of each roadway within the development, with a planted strip at least 2 feet in width between sidewalk and curb.
7. Interior roads – shall be built to Henderson County design standards for residential subdivisions; minimum roadway width of 27 feet including 2' valley curb & gutter. The central “spine” road will have a central planted median, with paved surface of 14' minimum paved lanes and 30” curb and gutter and will be built to NCDOT standards with minimum 60-foot road right of way. No pervious pavement shall be required within the development.
8. Traffic Impacts on Butler Bridge Road – The project will adhere to all recommendations of Traffic Impact Analysis approved by NCDOT. All NCDOT- required improvements must be complete not later than the completion of construction of 50 % + 1 of the total units in each phase of the project, unless NCDOT directs otherwise. However, entrance improvements for each phase of the project shall be completed before a certificate of occupancy is issued for any structure in that phase of the project.
9. Off-street parking: each unit shall have sufficient off-street parking for at least two automobiles. An additional 114 off-street spaces (.5 space per townhome unit) shall be provided, with locations as shown on the site plan. All the townhome units and associated off-street parking are in Phase 1, Phase 2 and Phase 4.

On-street Parking. Within the single-family area, on-street parking shall be allowed on only one side of the street. No on-street storage of boats, campers, recreational vehicles, or trailered apparatus shall be allowed.

INFRASTRUCTURE

10. Stormwater drainage facilities shall be built to NCDOT design standards for residential subdivisions; No standing water detention facilities allowed, only subsurface.
11. Fire hydrant locations shall be provided per Henderson County fire standards within development and be approved by the Fire Marshall and indicated on the development plan.
12. Subsurface utilities are required for all phases of the development.

LANDSCAPING, OPEN SPACE and AMENITIES

13. Landscaping---including street trees, buffers, and natural areas--will be provided as required by the Henderson County LDC and noted on Master Plan
14. Greenway:

A permanent easement will be reserved along the French Broad River for use by the County as a greenway, in the approximate location shown on the master plan. The easement will be 50 feet in width where not restricted by topography or individual lot ownership, but in no case may the easement be less than 20 feet in width. Lots that adjoin the greenway may be smaller than standard in order to accommodate the greenway. This easement shall not be defeasible. Lots abutting the proposed future public greenway shall execute a disclosure statement. Other greenways and trails shall be as shown on the master plan.

15. Open Space:
 - a. The applicant will set aside approximately 121 acres of the Subject Property as open space. A minimum of 10% of the total area in the townhome sections shall be open space.
 - b. Open space areas (approximate size and location) shall be shown on the master plan. These areas shall be designated and (where applicable) dedicated for each phase of the project as plats are recorded. The open space does not have to be owned by the HOA, but can be held

by an individual, organization or non-profit or the County, subject to restrictions to prevent development.

- c. All areas of open space located in the 100 year flood plain or the flood way shall be used only for those purposes allowed for conservation areas under Chapter 42, with the following exceptions: (i) The greenway area provided for in Section 14, above, which shall upon request of the County be conveyed to the County, and (ii) passive recreation of all types, and (iii) motor vehicle traffic shall be allowed for special event parking authorized by the HOA or developer, maintenance of the property and/or environmental enhancement or cleanup projects (including projects to improve the bank condition, subsurface streambed condition, water quality, navigability, or fish and wildlife habitat in and along the existing water courses), for handicap access and parking for and at water access and enjoyment sites along Cane Creek and the French Broad River, (iv) Owners, Developer, or subsequent owners may use any portion of the open areas for the transmission of public or private utilities to service the development or surrounding properties and in conjunction therewith may convey interests and easements in the lands to public utilities, branches of Government, or other appropriate parties, (v) for conveyance to third parties or governmental entities as may necessary and reasonable for the establishment of, repair of, construction of or use of roads and streets, and (vi) public uses of the land for public recreation if the County, a non-profit approved by the County, or any Municipality takes ownership and control thereof for the public good. The exact location & size of the greenway areas to be conveyed to the County shall be approved by the County. The developer shall prepare and deliver to the County a properly prepared survey plat of that area. There shall be retained to the landowner (Developer) reasonable points of access to the French Broad River and to Cane Creek along and through the greenway area. Owner shall have the authority to designate those areas of access. The County will cover all closing costs. The Developer (landowner) shall provide a clear & unencumbered title to the property shown on the plat. A reasonable easement for access to the Greenway for maintenance of the Greenway shall be conveyed to the County across the roads of the subdivision, and across any open space area necessary to access the Greenway, with the course thereof being determined by Owner, but which in any event shall allow motor vehicle access to the Greenway. Following conveyance of the Greenway area, applicant shall have no further responsibility for these areas.
- d. A perpetual restriction shall be in legal form imposed upon title to all the Open Areas, preventing the establishment of any new open water impoundments. This is for the purpose of preventing increased populations of wildfowl which could create a danger to aviation in the local area. Nothing herein shall apply to Cane Creek or the French Broad River, and applicant is not required to destroy or mitigate existing wetlands.

16. Resident amenities:

- a. Central amenity area measuring at least 2.5 acres, including: (1) Olympic size (25 meters by 50 meters) swimming pool, with smaller splash pool; (2) clubhouse of at least 5,000 square feet of covered area, with storage space, restrooms and meeting space with tables, chairs, and restroom facilities; (3) patio/deck area with tables and chairs; (4) playground with equipment; (5) pickleball courts. Other amenities include playgrounds dispersed through the site, and a trail system as shown on the master plan, with benches and viewing platforms.
- b. Amenity Areas shall be constructed and open to residents (transferred to HOA or third-party organization) not later than the completion of construction of 50 % + 1 of the total units in Tract 1 of the project, unless the HOA elects to receive title later or higher percentage.

AIRPORT

17. Attached as Exhibit "A-3" to the application is an example of the Avigation Easement, which applicant shall execute in substantially identical form by all the owner(s) of property making up the subject development prior to the sale of any lots in the development. Further, any owner (including

the developer) of residential property who sells property within the Tap Root Development is required to disclose to buyers that: (1) the property is located in close proximity to the Asheville Regional Airport; (2) the property is subject to the Avigation Easement (together with the recording information regarding the Avigation Easement in the Henderson County, North Carolina Registry).

STANDARD CONDITIONS

18. Street lighting: Lighting will be installed in accordance with the following:
 - Light Level - .5 fc average with 4-6 Avg/Min uniformity (or compliant with current IES/ANSI standards for residential street lighting – reference RP-8-18)
 - Pole Mounting Height – Max 25 ft (spacing dependent on design layout to meet recommended light level)
 - Pole Material – Aluminum or Concrete preferred
 - B-U-G Rating (Back-Up-Glare) – Not to exceed B2-U0-G2 (B1-U0-G1 preferred) Light Source – LED, 3500K or 4000K Color Temp (not to exceed 4000K)
19. Street Trees—Street trees shall be installed per Henderson County LDC requirements, using County-approved species.
20. Building Code – Builder/ Developer to adhere to Henderson County LDC whenever it exceeds the NC Building Code requirements.
21. There must be a minimum separation of 20 feet between buildings in the townhome area. All single-family lots shall have a 10-foot side setback.
22. Submit to and receive approval of a water utilities plan from the City of Hendersonville and comply with City of Hendersonville regulations, or in the alternative from any other public water utility provider or authority.
23. Submit to and receive approval of a sewer utilities plan from the Cane Creek Sewer District and provide proof of MSD wastewater treatment allocation.
24. Apply for and receive a swimming pool permit from the Henderson County Department of Public Health Division of Environmental Health prior to the pool construction.
25. Submit for prior approval all building plans for all structures to the County Inspections Department.
26. Apply for a floodplain, stormwater, and soil erosion control permit from the County for each phase of development.
27. Require cluster mailboxes per the standards and requirements of the USPS and identify on the development plan an area with appropriate vehicle access and parking.
28. Apply for and execute an encroachment agreement with NCDOT for utility work within the right of way of Butler Bridge Road and I-26.
29. Apply for and receive a NCDOT street access permit and comply with all required road improvements identified by the TIA and NCDOT.
30. Pay in full all fees for permits, as each fee is assessed or becomes due.
31. Per Chapter 42 of the Henderson County Code, the approval authority for each phase of the project is delegated to the Henderson County Planning Board. To the degree any phase exceeds 300 units or lots, as shown on the Master Site Plan, the same are deemed approved and the Commission assigns to the planning board its authority to review and approve.
32. The County shall retain the right to suspend construction and the issuance of building permits if the developer is found by the County to be in noncompliance with any one of the conditions imposed on the Tap Root Project by the Board of Commissioners.

REQUIREMENT FOR HOMEOWNERS ASSOCIATION and RESTRICTIVE COVENANTS

Applicant is responsible for implementing the development plan and maintaining compliance with all the conditions set out herein, all the features of the approved master plan, and all applicable provisions of the Henderson County LDC to the extent not waived or modified herein.

Applicant has elected to carry out some of its responsibilities through a Homeowners Association (HOA), and the use of private restrictive covenants, as allowed by the Henderson County Code. The

forms of the organizational documents and bylaws for the HOA, as well as the restrictive covenants, and other documents governing the operation of the HOA and the project (herein collectively “HOA documents”) shall be reviewed by the County Attorney as to their legal sufficiency to satisfy this limited purpose prior to issuance of the permission of the Planning Office to record the final plat. To this end, the County reserves the right to review any amendment or revision to the HOA documents prior to its effectiveness to ensure continued compliance with this conditional zoning ordinance, and other applicable County ordinances.

Failure to comply with any of the provisions of this conditional zoning ordinance or the Henderson County LDC, or other applicable provisions of the County ordinances, shall subject the applicant or its successors to penalties at law or in equity as provided for in the Henderson County LDC, other County ordinances, or North Carolina law, including repeal or amendment to this conditional zoning enactment.

Conditions per Land Development Code:

1. Open Space. The applicant is required to set aside 25% open space. Open space should be recorded with the register of deeds and is required to remain as shown on the approved site plan and cannot be developed. The open space does not have to be owned by the HOA, but can be held by an individual, organization or non-profit.
2. HOA. The developer is required to set up an HOA (Homeowner Association) and subsequent documents should be reviewed and approved by the County Attorney prior to recording of such restrictions.
3. Common Area/Open Space. The LDC requires that common area be provided for 10% of the total area in the townhome sections.
4. Townhome Layout. The LDC states that there be a minimum space of 20 feet between buildings and a maximum building length of 150 feet per building (see applicant requested conditions).
5. Subsurface Utilities. Subsurface utilities are proposed and are required for the townhome sections.
6. Pervious Pavement. The LDC requires that 25% of all paved surfaces (roads, parking areas, drives, sidewalks, etc.) be pervious pavement for the townhome phases.
7. Impervious Pavement. All paved surfaces (roads, parking areas, drives, sidewalks, etc.) may be impervious pavement or surfaces within the site, including the townhome phases (see applicant requested conditions), subject however to a Stormwater Phase II permit for new impervious surfaces as set forth below.
8. Pedestrian Facilities. The LDC requires 1 linear foot of sidewalk or trail for every linear foot of improved or newly proposed roadway within the development. The sidewalk or trail must be at least 5 feet in width (see applicants requested conditions).
9. Private Roads. The applicant is proposing private roads, which are allowed. Certification by NCDOT is required to be on the final plat if public roads are proposed.
10. Buffering and Setbacks. The LDC requires that structures are setback 50 feet from I-26 and that a B2 buffer is required within this setback.
11. Traffic Impact Analysis (TIA) Requirements. Any road improvements identified in the TIA and as approved and required by NCDOT shall be a condition of approval. (see letter from NCDOT).

Conditions per Erosion/Sedimentation/Flood:

12. Erosion control permit required in phases
13. Stormwater Phase II permit required for all new impervious surfaces
14. If utilizing fill option within flood hazard areas, fill work must be completed prior to subdividing lots

Conditions per Building/Inspections:

15. ADA accessibility requirements for USPS cluster boxes
16. Amenities are required to be built with ADA compliance

Conditions per Fire Marshal/Emergency Services:

- 17. Fire suppression plan required for approval
- 18. 27' wide roads within project

Conditions per Environmental Health:

- 19. Pool requires Department of Health overview

Conditions per Cane Creek Sewer/MSD:

- 19. Request a capacity letter

Vice-Chairman Lapsley noted that Cane Creek Water and Sewer District no longer exists. It will be the Metropolitan Sewerage District "MSD".

Conditions per NCDOT:

- 20. Traffic Impact Analysis required and necessary improvements to be installed by Developer
- 21. Any damage to existing NCDOT roadways during construction must be fixed immediately
- 22. Obtain an encroachment agreement with NCDOT for any utility work within the public right-of-way

Conditions per City of Hendersonville Water:

- 23. Developer will be responsible for installing waterline from N. Rugby Road and Butler Bridge Road intersection to site
- 24. Individual services for each unit (both single-family and townhomes) required

Conditions per Henderson County Planning Board:

- 25. Not to install fruit bearing trees on property

Conditions per Board of Commissioners:

- 26. The Board delegates review and approval of all subsequent development plans to the Planning Board provided that all substantial changes be referred to the Board of Commissioners as an amendment to the conditional zoning district.
- 27. The applicant includes all conditions agreed to and approved by the Board on the site plan that shall be recorded with the Henderson County Register of Deeds.

Vice-Chairman Lapsley informed the applicant that a decision would not be made at tonight's meeting. The Board is taking the project seriously and needs to review further. This will be placed on the August 19, 2020 agenda.

ADJOURN

Vice-Chairman made the motion to adjourn at 8:10 p.m. All voted in favor and the motion carried.

Attest:

Teresa L. Wilson, Clerk to the Board

William Lapsley, Vice-Chairman