

REQUEST FOR BOARD ACTION

HENDERSONCOUNTY BOARD OF COMMISSIONERS

MEETING DATE: April 3, 2023

SUBJECT: Public Hearing for Conditional Rezoning Application #R-2023-02-C, The Farmhouse at Tap Root, Regional Commercial (RC) to Conditional District (CD-2023-02)

PRESENTER: Matt Champion, Zoning Administrator
Autumn Radcliff, Planning Director

ATTACHMENTS:

1. Staff Report
2. Neighborhood Meeting Summary
3. Site/Master Plan
4. Application
5. Conditions from Applicant
6. Conditions from Asheville Regional Airport and TRC
7. TIA Summary & Conclusions
8. Certification of Public Hearing Notification
9. Resolution of Consistency
10. Staff PowerPoint Presentation

SUMMARY OF REQUEST:

Rezoning Application #R-2023-02-C was initiated on February 15, 2023, and requests that the County conditionally rezone approximately 19.12 acres of land from Regional Commercial (RC) to a Conditional District (CD-2023-02). The project contains all of PIN 9652-12-2330 that has direct access to Butler Bridge Rd (SR1345). The Johnston Family Group are the current property owners. The applicants are the Johnston Family Group and Orange Capital Advisors, LLC. The agent for the application is Bill Alexander.

The applicant is proposing a multi-family residential development with a total of 306 units. The development is required to be approved as a conditional rezoning due to the number of multi-family units. Conditional rezonings 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 Wednesday, March 1, 2023, in the King Street Meeting Room. A copy of the meeting report is included in the agenda item.

The Technical Review Committee (TRC) reviewed the application on March 7, 2023, and made a motion to forward the application to the Planning Board with conditions as discussed. A copy of the conditions required by the TRC and self-imposed by the applicant are attached to this agenda item.

The Planning Board reviewed the conditional rezoning request at its March 16, 2023, meeting. The Planning Board voted 6-1 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 April 3, 2023, public hearing regarding rezoning application #R-2023-02-C was published in the Hendersonville Lightning on March 22nd and March 29th. 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 March 17, 2023, and posted signs advertising the hearing on March 20, 2023.

BOARD ACTION REQUESTED:

Before taking action on the rezoning request, the Board of Commissioners must hold a public hearing. A suggested motion is provided.

Suggested Motion:

I move that the Board (approve, approve with modifications, or deny) rezoning application #R-2023-02-C to rezone the Subject Area to a Conditional District (CD-2023-02) based on the recommendations of the Henderson County Comprehensive Plan, and with any conditions stated in the staff and master plan report and additional conditions as discussed, and;

I move that the Board approve the attached resolution regarding the consistency with the CCP.



STAFF REPORT

HENDERSON COUNTY PLANNING DEPARTMENT

100 North King Street | Hendersonville, NC 28792 | (828) 697-4819

Prepared by:

Matt Champion, Zoning Administrator

CASE

R-2023-02-C

BOARD OF COMMISSIONERS MEETING**DATE:**

April 3, 2023

PROPERTY OWNER

Johnston Family Group

PROPERTY LOCATION/ADDRESS

Butler Bridge Rd (SR1345), Hoopers Creek Township

APPLICANT

Orange Capital Advisors, LLC &
Johnston Family Group

PIN:

9652-12-2330

SUMMARY OF REQUEST

A rezoning of the above referenced PIN (hereafter the subject area from **Regional Commercial (RC)** to **Conditional District (CD-2023-02)**.

Existing Zoning

Regional Commercial (RC)

Existing Land Use

Industrial

Site Improvements

Vacant

Request Acreage

19.12 Acres

ADJACENT ZONING

North CD-2020-01

East RC, I

South R1, RC

West RC, CD-2020-01

USE OF LAND

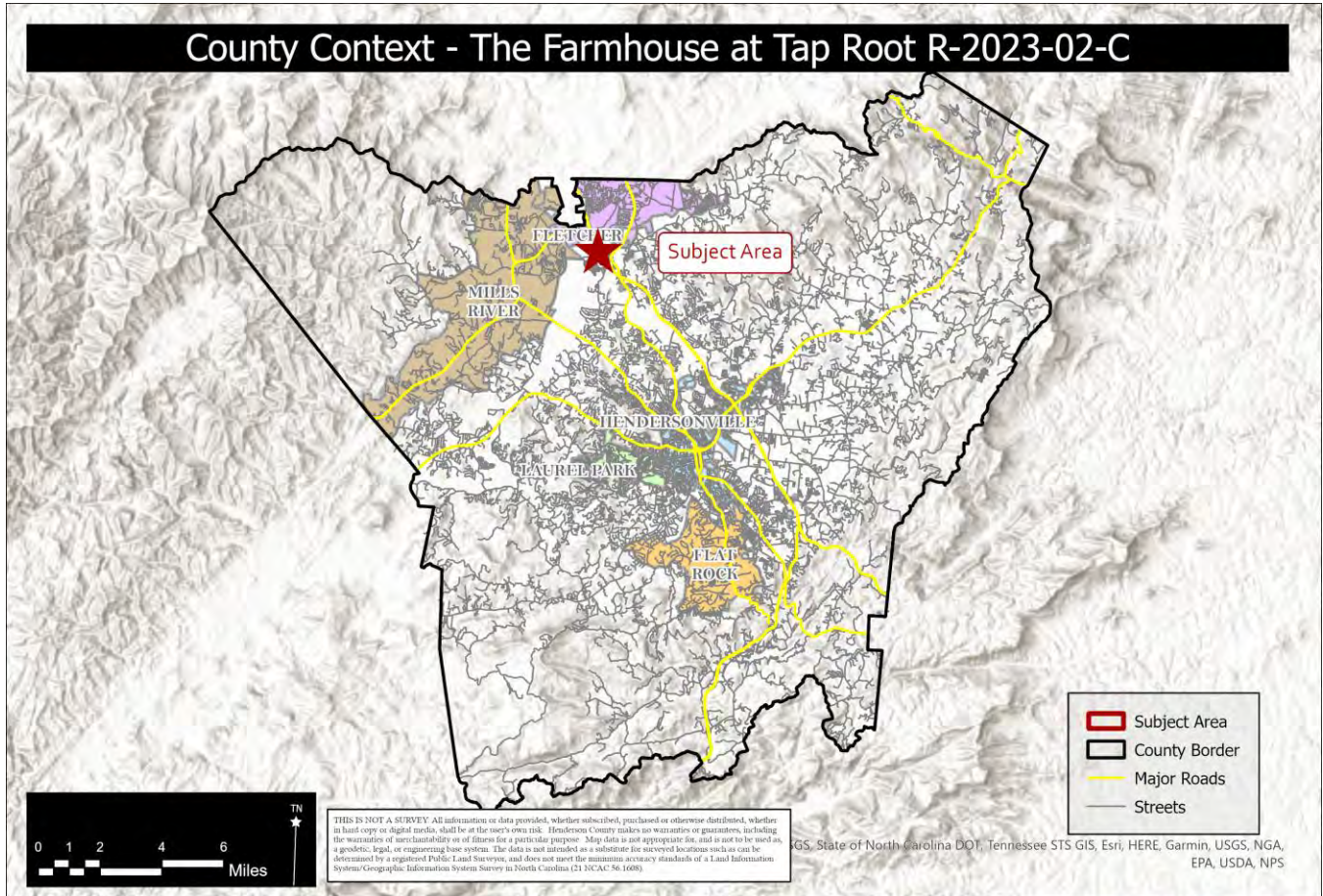
Future Tap Root

Commercial, I-26

Single Family, Commercial

Single Family, Future Tap Root

Map A: County Context



Property Owner: Johnston Family Group Agent: William Alexander
Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
Current Zoning: Regional Commercial (RC)



BACKGROUND:

The applicants, Orange Capital Advisors, LLC, and the Johnston Family Group, are seeking to rezone one parcel from Regional Commercial (RC) to a Conditional District (CD-2023-02). The subject area is approximately 19.12 acres, and the assessed acreage is 18.93 acres. The attached Master Plan is proposing a total of 306 multi-family residential units in 12 structures with an amenity area for the residents.

The subject area referenced in the aerial map below was an outparcel and not part of the Tap Root, CD-2020-01 rezoning. The subject area was shown as Lot “F” on recorded plat slide 13670. The current property owner, Johnston Family Group, owns the property and has marketed it for future development.

Map B: Aerial



Property Owner: Johnston Family Group Agent: William Alexander
Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
Current Zoning: Regional Commercial (RC)

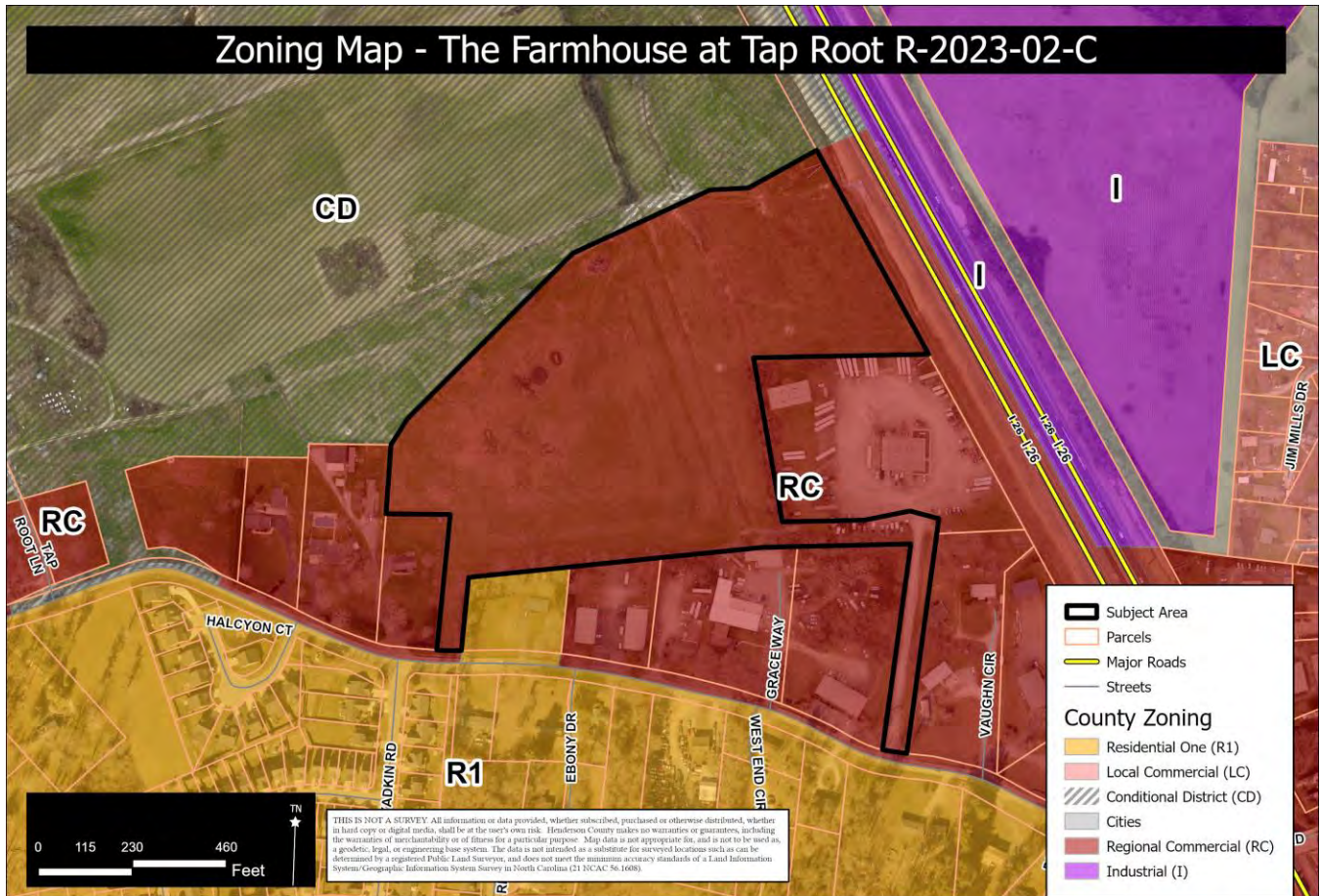


SUBJECT AREA & ADJACENT PROPERTIES:

The property to the east of the subject area contains a commercial use, Judy Jones Trucking, and is adjacent to Interstate 26. The right-of-way shown for I-26 does reflect the expanding right-of-way necessary for the I-26 widening project. South of the subject area consists of several commercial properties including Thomson & Brown Custom Builders, Thompson Mechanical, and Keep Camping Mobile RV Repair. To the west and north of the subject area are residential uses and the proposed Tap Root development.

The Tap Root development is an existing Conditional District #CD-2020-01 that is currently under construction. The Board of Commissioners approved this zoning map amendment on August 19, 2020, for a total of 699 residential units on 297 acres. The developer has obtained Development Plan approval from the Henderson County Planning Board for all four phases on May 20, 2021. Currently, the developer is working on grading and utility installation.

Map C: Current Zoning



Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)



District Comparison:

Regional Commercial (RC): “The purpose of the Regional Commercial (RC) zoning district 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.” Residential density in Regional Commercial is sixteen (16) units per acre with a maximum impervious surface allowance of 80% (LDC §42-28).

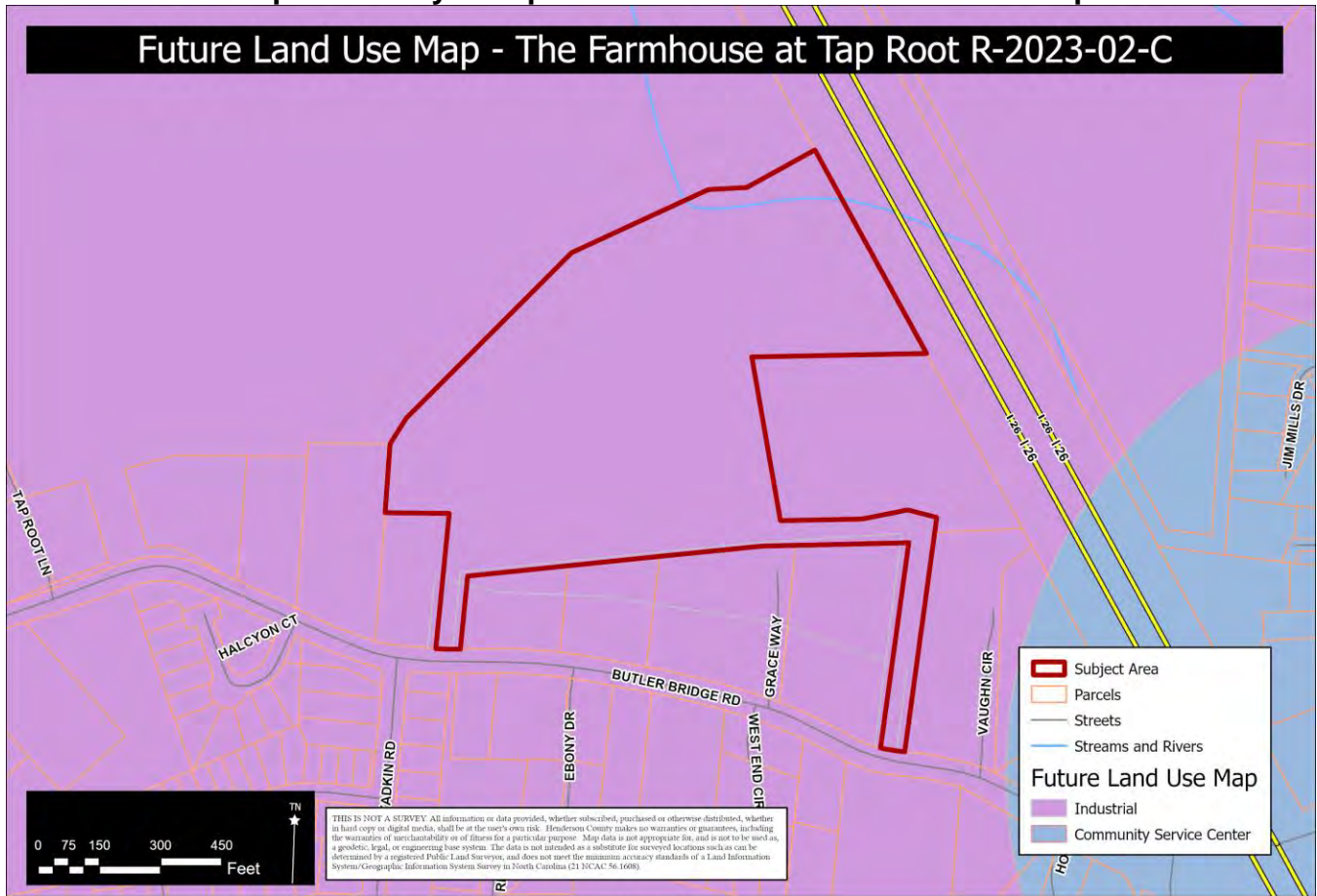
Conditional District (CD): “Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the Comprehensive Plan, proposes to impose special limitations and conditions on the use of the property proposed for rezoning” (Chapter 42, Land Development Code §42-45). Conditions may be imposed in the furtherance of the purpose of the LDC and the recommendations of the County Comprehensive Plan.

Comparison of Districts: The existing Regional Commercial (RC) zoning district allows for primarily commercial development and multifamily residential units (16 units per acre). The corresponding Conditional District (CD) applies to instances where certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land *uses* are of a nature or scale that may have significant impacts on both the immediately surrounding area and the entire community, which cannot be predetermined or controlled by general district standards. There are also circumstances in which a general use district designation allowing such a *use* by right would not be appropriate for a particular property though the *use* could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted *Comprehensive Plan*, and adopted district. The review process established in this section provides for the accommodation of such *uses* by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the *use* with the use and enjoyment of neighboring properties.

Conditional Zoning Approval: If a petition for conditional zoning is approved, the development and use of the property shall be governed by the existing Chapter requirements applicable to the district’s category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Official Zoning Map. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property.

Adjacent Zoning: Conditional District CD-2020-01 is found to the north and northwest of the subject area. Residential One (R1) zoning and Regional Commercial (RC) zoning is found to the southwest and south of the subject area. Industrial (I) zoning and Regional Commercial (RC) zoning is found to the east of the subject area.

Map D: County Comprehensive Plan Future Land Use Map



Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)

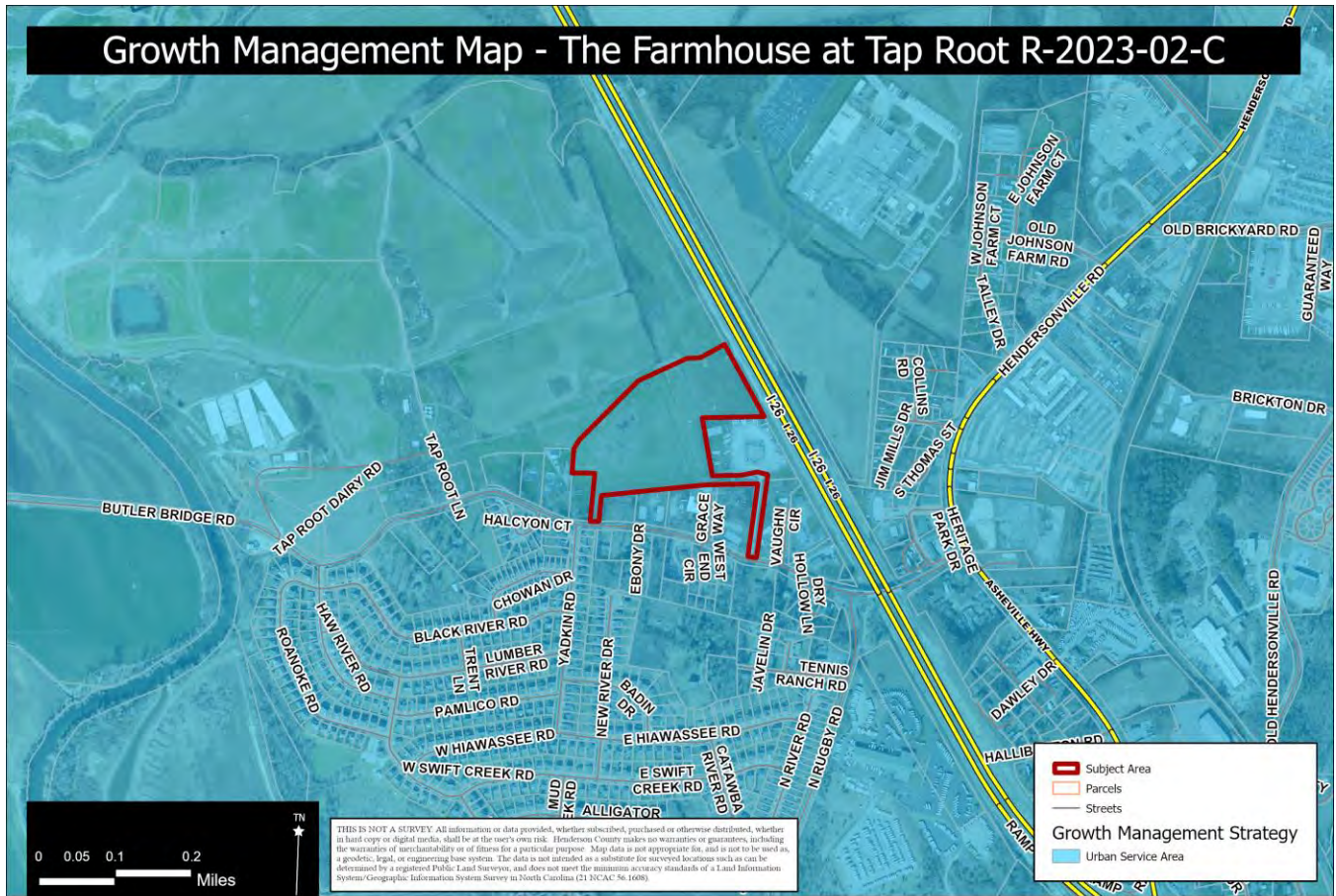


County Comprehensive Plan (CCP) Compatibility

The CCP Future Land Use Map identifies the subject area as being in the **Industrial Area**.

Industrial: The CCP states that, “Most defined industrial areas should lie within the 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. Industrial areas depicted on Map #24, Future Land Use Map are derived from existing industrial zoning districts, as well as from those area depicted upon Map #8, “Committee of 100” Recommended Industrial Development Zones.” (CCP, Pg. 140).

Map E: Growth Management Strategy Map

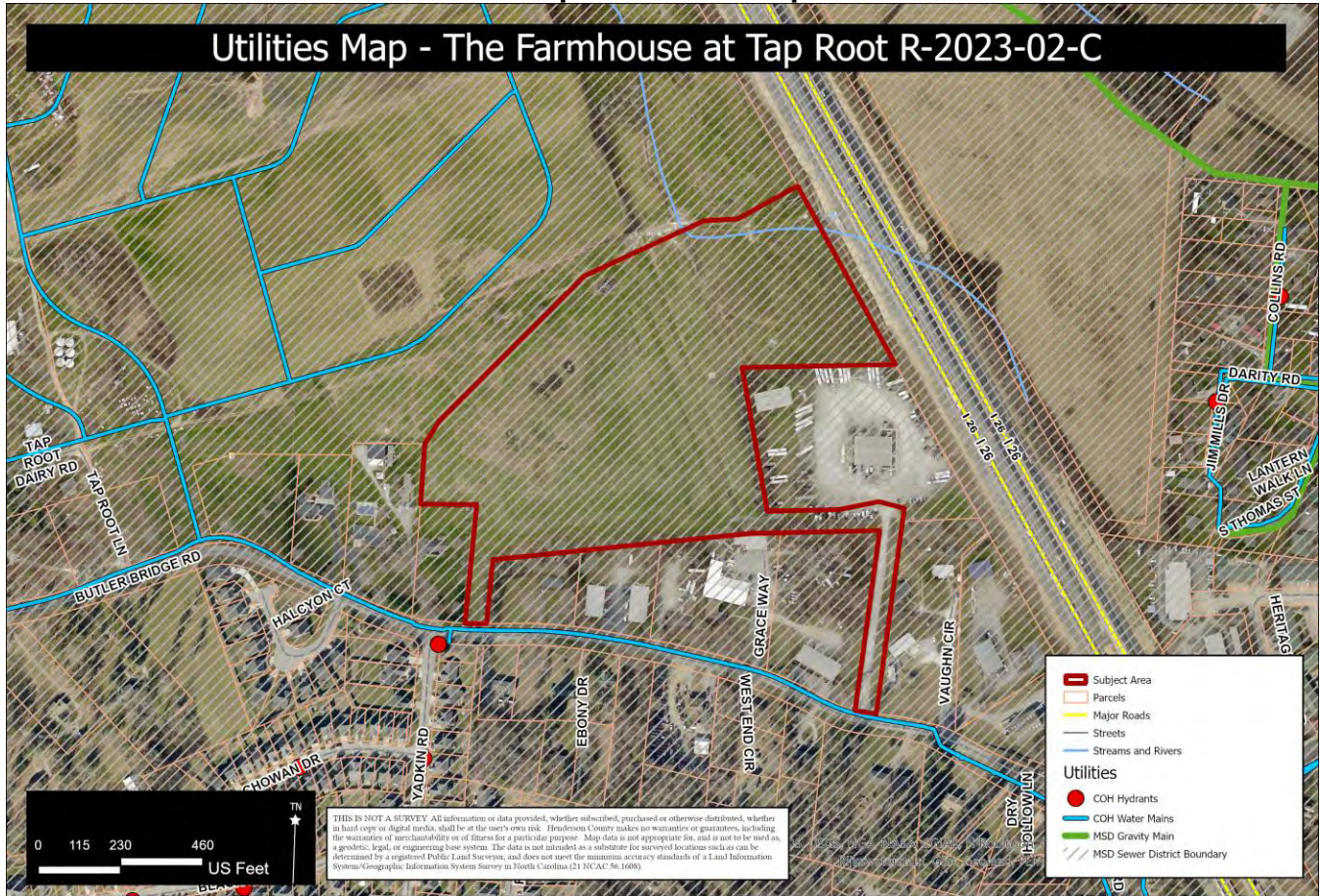


Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)



Growth Management Strategy Compatibility: The CCP shows the subject area located in the Urban Services area for Growth Management Strategy. The CCP states “The USA will contain considerable commercial development at a mixture of scales: Local, Community, and Regional, as defined below. In particular, all Regional Commercial development should be concentrated here. Commercial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community.” (CCP, pg. 133, #4.) (See Map E)

Map F: Utilities Map



Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)



Water and Sewer

The applicant is proposing connections to MSD public sewer and City of Hendersonville public water.

Existing Roads and Easements

The subject area has two access points along Butler Bridge Rd (SR 1345) that will serve as the primary access and emergency access to the proposed development.

Proposed Conditional District (CD-2023-02) Development

As part of the rezoning application, the applicant has submitted a master plan of the proposed development. The applicant is proposing to use the site for a multi-family residential development with on-site amenities for the residents. Based on the total number of multi-family units, the applicant must undergo a conditional rezoning as required by the Land Development Code. Any development proposing 10 or more multi-family units requires a conditional rezoning. The Conditional District allows the Board of Commissioners to place

conditions or restrictions on the property that binds this specific development and location. Below is an overview of the proposed development.

- 306 total multi-family residential units
 - Mixture of 1-, 2-, and 3-bedroom units
 - Proposed density of 16 units/acre
- 12 total residential structures
 - Ten (10) 3-story structures with a proposed height 40'
 - 30 residential units per structure
 - Two (2) 2-story structures with a proposed height of 24'
 - 6 garage spaces and 3 residential units per structure
- Amenities
 - Fitness center
 - Community lounge
 - Clubhouse with mailroom
 - Pool
 - Dog park
 - 5' sidewalks throughout development
 - Garage collection area with compactor
- 459 total parking spaces
 - 9'X18' standard parking space
 - 9 ADA accessible parking spaces
- 4,050LF of private roadway
 - 24' wide drive isles
 - 20' wide drive to Butler Bridge Rd
 - 20' wide gravel drive to Butler Bridge Rd for emergency access
 - Proposed round-a-bout with mountable curbs for emergency access
- Approximately 15 acres of disturbance
 - 7.89 acres of impervious surfaces post development (42%)
 - 11.04 acres of pervious surfaces post development (58%)
 - 20% Open Space (3.78 acres)
 - 10% Common Space (1.89 acres)

Traffic Impact Analysis (TIA)

The Traffic Impact Analysis (TIA) as required by NCDOT is underway. The NCDOT required a TIA due to the State's threshold for traffic generated by the proposed use. The applicant will work with NCDOT to determine the intersections to be studied, the peak hours for traffic counts, and any other potential impacts of the development. Any required road improvements identified in the TIA and as approved and required by NCDOT will be included as a county condition if approved. It should be noted that the widening of Butler Bridge Road is identified in the Metropolitan Transportation Plan (MTP) 2045 but would not be considered until the 2040 SPOT Prioritization process. The project is not currently funded or listed in the TIP or STIP.

Neighborhood Compatibility Meeting

A neighborhood compatibility meeting was held on March 1, 2023. A summary of the NCM will be attached as part of the application for Planning Board and Board of Commissioners.

Technical Review Committee (TRC) Recommendations

The Technical Review Committee (TRC) reviewed rezoning application R-2023-02-C at the March 7, 2023, meeting. The TRC moved to forward the rezoning application to the Planning Board with conditions. Conditions imposed by the TRC are found in the attached list of conditions.

Planning Board Recommendations

The Planning Board voted 6 to 1 to send forward a favorable recommendation to the Board of Commissioners on March 16, 2023. No additional conditions were recommended by the Planning Board.

Board of Commissioners Public Hearing

The Board of Commissioners will hold a public hearing on April 3, 2023.



Neighborhood Compatibility Meeting
Conditional Zoning Request #R-2023-02-C (The Farmhouse at Tap Root)
March 1, 2023, at 1:00 p.m.
King Street Meeting Room located at 100 N. King Street, Hendersonville, NC

Letters about the meeting were mailed to property owners within 400 feet of the boundary of the proposed development. Approximately 3 people attended the meeting in addition to county staff, the applicants (Orange Capital Advisors, LLC), the applicants engineer (Warren Sugg with CDC), and the property owner's attorney (Bill Alexander).

Ms. Autumn Radcliff opened the meeting and provided a welcome and introductions. She stated that the purpose of the meeting is for nearby neighbors to learn about the proposed project and ask questions of the applicant prior to formal review by the Planning Board and Board of Commissioners (BOC). She stated that the applicant would give a presentation of the proposed project and then there would be an opportunity for attendees to ask questions about the proposed development.

Project Overview by the Applicant: Mr. Warren Sugg, applicants engineer with CDC, and Ms. Jasmine Murphy, development manager with Orange Capital, provided a brief overview of the project. The project is located off Butler Bridge Road near I-26 and adjacent to Judy Jones Trucking. The proposed development, The Farmhouse at Tap Root, is for 306 apartments on 19.12 acres. The development would consist of 12 residential structures, 459 parking spaces, 3.78 acres (20%) of open space, 1.89 acres of common space (10%), and would have 2 entrances off Butler Bridge Road per emergency service requirements. The development also includes several amenities consisting of a fitness center, community lounge, clubhouse with mailroom, pool, dog park, 5 ft sidewalks throughout development, and garage collection area with compactor. Mr. Sugg also added that the buildings were in a circular layout with parking throughout and included a round-a-bout within the development for internal traffic flow. He also stated that there is a proposed stormwater sand filter retention area with drainage for runoff that were being designed per the county code. The development would be served by the City of Hendersonville water and a gravity fed MSD sewer line through an easement off the adjacent Tap Root subdivision. He mentioned that it was planned for the construction traffic to use the emergency service entrance at the trucking business. Mr. Bill Alexander, attorney for the property owner, stated that the property being utilized by the adjacent trucking business is owned in fee simple by his clients and is part of this application. Mr. Alexander stated that the application will include the same light restrictions for the airport as those placed on the adjacent development for Tap Root.

Questions and Answer Discussion: Below is a list of questions asked by the citizens that attended the meeting followed by the applicant's response/explanation.

1. Will there be turn lanes on Butler Bridge Road? – NCDOT is reviewing the Traffic Impact Analysis (TIA), and we do not know what improvements will be required yet, but the TIA will be completed in the next couple of weeks. Any improvements identified that are required by NCDOT, such as turn lanes, will be installed by the developer.
2. There was concern with the increase in traffic on Butler Bridge Road and if the development will consider that as part of the TIA? – The TIA will consider existing traffic including the traffic of the proposed surrounding development.
3. What is the timeline for construction? – For the permit side, the applicant is going through conditional rezoning process for the project approvals for the next couple of months. If approved,

the engineer and developer will work on the design and additional permitting requirements over the next following 6 months. The construction would not be until sometime next year (2024).

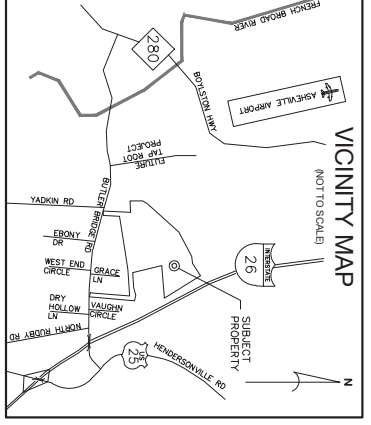
4. Mike Reisman with the Asheville Regional Airport stated that he had worked with Mr. Alexander and CDC on the adjacent development for Tap Root. He stated that the proposed development is in close proximity to the airport operations. The airport is not opposed to development, but due to the location just off the main flight path to runway, he stated that the planes will be close, relatively low, and there will be noise. Mr. Reisman stated that an aviation easement was required with the Tap Root development and the airport would like to request one for this development also. He stated that no one owns the property above (the airspace), but there is going to be impacts to this community. The aviation easement will provide some protection as residents would be made aware when signing a lease agreement. Mr. Reisman stated that there is no issue with the proposed lighting but would like a condition that no lighting impact the airspace or airport. He stated that the airport is ok with open stormwater retentions if it drains within 48 hours after a storm, and it be constructed with wildlife distractions such as rip rap along the edges or other bird related deterrents.

The developer said they plan to investigate ways to provide noise reduction with insulation and sound-proof window materials to buffer sounds from the interstate and airport. The developer stated they have looked at ways to address lighting concerns on other projects and can do something similar with this development and plan to have down facing lights only.

5. What will the building height of the structures be? – The tallest building will probably not be taller than 45 ft. Mr. Alexander stated that application states it will abide by the 50-foot height requirement per the RC (Regional Commercial) district.
6. How many parking spaces per building/units will there be? – There will be a total of 459 parking spaces which is 1.5 spaces per unit ratio per LDC requirements.
7. Mr. Alexander stated that the public had misinformation that this development was proposing 399 units, but it is only 306 units.
8. A main concern was still traffic, and the road damage already present due to the Tap Root subdivision that is underway. There was an understanding that the applicant is not responsible for road or road maintenance. This is an issue that the NCDOT is responsible for, but wanted it noted.

Ms. Radcliff stated that the application will have its formal review process starting next week. The TRC (Technical Review Committee) will look at the technical requirements of the site plan. The Planning Board will review and make a recommendation to the Board of Commissioners (BOC). The BOC will hold a public hearing before acting on the application. She stated that property owners within 400 ft of the project will receive a mailed notice of both the Planning Board and the BOC meetings. The public hearing will be advertised in the Hendersonville Lightning and the property will be posted. The BOC will have the approval authority of the application.

With no further comments or questions the meeting was concluded at 1:39 p.m.



DEVELOPMENT DATA

OWNER/DEVELOPER: ORANGE CAPITAL ADVISORS
 ORANGECAP, LLC
 200 PATTON AVENUE, SUITE 200
 ASHEVILLE, NC 28786
 CONTACT: JASMINE MURPHY (803) 585-7697

CIVIL ENGINEER: CIVIL DESIGN CONCEPTS, P.A.
 168 PATTON AVENUE, SUITE 200
 ASHEVILLE, NC 28786
 CONTACT: ED HOLMES (828) 252-5388

SURVEYOR: ED HOLMES & ASSOCIATES
 200 RIDGEFIELD COURT, SUITE 208
 JASPER, NC 28755
 CONTACT: JASON M. GARDNER (828) 225-6562

PROJECT DATA

PIN: 9652-12-2330
 ADDRESS: BUTLER BRIDGE ROAD
 COUNTY/TOWNSHIP: HENDERSON/HOOPEERS CREEK
 PROJECT AREA: 19.12± ACRES
 CURRENT ZONING: RC (REGIONAL COMMERCIAL)
 PROPOSED ZONING: CZ (CONDITIONAL ZONING)

PERVIOUS AREA: 0.00 ACRES (0%)
POST DEVELOPMENT PERVIOUS AREA: 7.89 ACRES (42%)
IMPERVIOUS AREA: 18.93 ACRES (100%)
PREVIOUS AREA: 18.93 ACRES (100%)

ZONING DATA

COUNTY/TOWNSHIP: HENDERSON/HOOPEERS CREEK
 WATERSHED: FRENCH BROAD RIVER BASIN
 FIRE DISTRICT: FLETCHER FIRE
 WATER: PUBLIC
 SEWER: PUBLIC
 PROPOSED ROAD LENGTH: 4,090 LF

VEHICULAR

REQUIRED SPACES: 459 - 1:5:1 RATIO
 SPACES PROVIDED: 9

HANDICAPPED SPACES: 9
SPACES PROVIDED: 9

BUILDINGS DATA:

BUILDING	DESCRIPTION	HEIGHT	SEA
A	3 STORES	40±	261,404 SF
B	3 STORES	40±	33,710± SF
C	3 STORES	40±	33,710± SF
D	3 STORES	40±	33,710± SF
E	3 STORES	40±	42,204 SF
F	2 STORES	24±	7,200± SF
G	3 STORES	40±	33,710± SF
H	3 STORES	40±	33,710± SF
I	3 STORES	40±	46,575± SF
J	3 STORES	40±	261,404 SF
K	3 STORES	40±	46,575± SF
L	3 STORES	40±	261,404 SF
M	1 STORY	12±	1,800± SF
N	1 STORY	12±	1,800± SF
O	1 STORY	12±	2,000± SF

DENSITY CALCULATIONS:

ALLOWED: 306 UNITS/ACRE
 PROJECT UNITS: 306 UNITS - 16.0 UNITS/ACRE

OPEN SPACE CALCULATIONS:

REQUIRED: 3.78 AC (20%) PROVIDED: 3.78 AC
 COMMON: REQUIRED: 1.89 AC (10%) PROVIDED: 1.89 AC

CDC INSPECTIONS HOTLINE:
 828-771-4753 OR INSPECTION@CDC.CD/CDC.COM

Know what's below.
 Call before you dig.

811

NORTH

EXISTING CONDITIONS & DEMOLITION PLAN

GRAPHIC SCALE
 1 inch = 60 ft.

FOR REVIEW ONLY

NO.	DATE	DESCRIPTION	BY
1	02/15/2023	CONCEPTUAL ZONING SUBMITTAL	MAD



THE FARMHOUSE @ TAP ROOT

ORANGE CAPITAL ADVISORS - HENDERSON COUNTY, NORTH CAROLINA

CDC Civil Design Concepts, PA

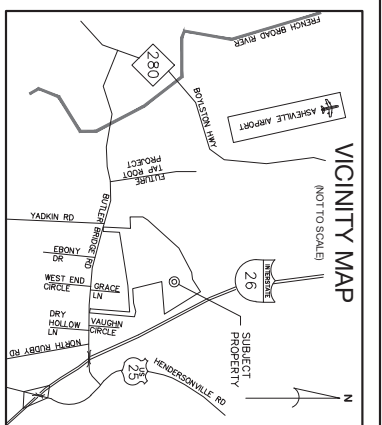
168 PATTON AVENUE
 ASHEVILLE, NC 28786
 PHONE (828) 252-5388
 FAX (828) 252-5365

52 WALNUT STREET - SUITE 9
 WAYNESVILLE, NC 28786
 PHONE (828) 452-4410
 FAX (828) 456-5455

NCBELS LICENSE #: C-2184
 www.civildesignconcepts.com

SHEET
C101

DRAWN: [Name]
 CHECKED: [Name]
 DATE: 12/20/22
 XXX PERMIT NO.



DEVELOPMENT DATA

OWNER/DEVELOPER: ORANGE CAPITAL ADVISORS
 CONTACT: JASMINE WURSHY (803) 568-7697
 CIVIL ENGINEER: CIVIL DESIGN CONCEPTS, P.A.
 CONTACT: ED HOLMES (828) 252-5388
 SURVEYOR: ED HOLMES & ASSOCIATES
 CONTACT: JASMIN GARDNER (828) 225-6562

PROJECT DATA

PIN: 9652-12-2330
 ADDRESS: BUTLER BRIDGE ROAD
 PROJECT ACREAGE: 19.12± ACRES
 CURRENT ZONING: RC (REGIONAL COMMERCIAL)
 PROPOSED ZONING: CZ (CONDITIONAL ZONING)
 SETBACKS: FRONT: 10', SIDE: 10', REAR: 10'
 DISTURBED AREA: 15.0± AC
 IMPERVIOUS AREA: 0.00 ACRES (0%)
 PERVIOUS AREA: 18.93 ACRES (100%)

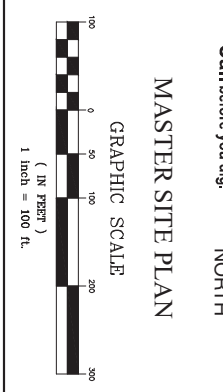
ZONING DATA

COUNTY/TOWNSHIP: HENDERSON/HOOPEERS CREEK
 WATERFINDER: FRENCH BROAD RIVER BASIN
 FIRE DISTRICT: FLETCHER FIRE
 WATER: PUBLIC
 SEWER: PUBLIC
 PROPOSED ROAD LENGTH: 4,050 LF
 VEHICLE CALCULATIONS:
 REQUIRED SPACES: 459 - 1:5.1 RATIO
 HANDICAPPED SPACES: 9
 BUILDING DATA:

BUILDING	DESCRIPTION	HEIGHT	SEA
A	3 STORIES	40±	26,149± SF
B	3 STORIES	40±	33,710± SF
C	3 STORIES	40±	42,206± SF
D	3 STORIES	40±	42,206± SF
E	2 STORIES	24±	7,200± SF
F	2 STORIES	24±	7,200± SF
G	3 STORIES	40±	33,710± SF
H	3 STORIES	40±	46,575± SF
J	3 STORIES	40±	46,575± SF
K	3 STORIES	40±	26,149± SF
L	1 STORY	12±	1,800± SF
M	1 STORY	12±	1,800± SF
N	1 STORY	12±	2,000± SF
O	1 STORY	12±	2,000± SF

DENSITY CALCULATIONS

ALLOWED: 306 UNITS MAX - 16.0 UNITS/ACRE
 PROJECT UNITS: 306 UNITS - 16.0 UNITS/ACRE
OPEN SPACE CALCULATIONS:
 REQUIRED: 3.78 AC (20%) PROVIDED: 3.78 AC
 COMMON:
 REQUIRED: 1.89 AC (10%) PROVIDED: 1.89 AC



NO.	DATE	DESCRIPTION	BY
1	02/15/2023	CONCEPTUAL ZONING SUBMITTAL	MAD



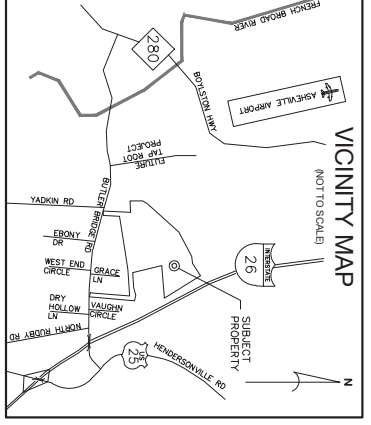
MASTER SITE PLAN FOR:
THE FARMHOUSE @ TAP ROOT
 ORANGE CAPITAL ADVISORS - HENDERSON COUNTY, NORTH CAROLINA

CDC Civil Design Concepts, PA
 NCBELS LICENSE #: C-2184
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 PHONE (828) 452-4410
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SHEET
C200



DEVELOPMENT DATA

OWNER/DEVELOPER: EVOLVE COMPANIES, LLC
 CONTACT: HUNTER YOUNG (336) 960-2332
 CIVIL ENGINEER: CIVIL DESIGN CONCEPTS, P.A.
 CONTACT: ANDREW PATTON (828) 252-5388
 SUPERVISOR: XXXX
 CONTACT: XXXX XXXX XXXX XXXX

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PIN: 9652-12-2330
 ADDRESS: BUTLER BRIDGE ROAD
 PROJECT ADDRESS: 19.12± ACRES
 CURRENT ZONING: RC (REGIONAL COMMERCIAL)
 PROPOSED ZONING: CZ (CONDITIONAL ZONING)
 SETBACKS:
 FRONT: 10'
 SIDES: 10'
 REAR: 10'
 DISTURBED AREA: 15.0± AC
 IMPERVIOUS AREA: 0.00 ACRES (0%)
 PERVIOUS AREA: 18.93 ACRES (100%)

ZONING DATA

COUNTY/TOWNSHIP: HENDERSON/HOOPE'S CREEK
 WATERSHED: FRENCH BROAD RIVER BASIN
 FIRE DISTRICT: FLETCHER FIRE
 WATER: PUBLIC
 SEWER: PUBLIC
 PROPOSED ROAD LENGTH: 4,090 LF

VEHICULAR

REQUIRED SPACES: 459 - 1:5:1 RATIO
 SPACES PROVIDED: 9
HANDICAPPED SPACES:
 SPACES REQUIRED: 9
 SPACES PROVIDED: 9

BUILDING DATA

BUILDING	DESCRIPTION	HEIGHT	SEA
A	3 STORES	40±	26,140± SF
B	3 STORES	40±	33,710± SF
C	3 STORES	40±	42,200± SF
D	3 STORES	40±	42,200± SF
E	2 STORES	24±	7,200± SF
F	2 STORES	24±	7,200± SF
G	3 STORES	40±	33,710± SF
H	3 STORES	40±	46,575± SF
J	3 STORES	40±	26,140± SF
K	3 STORES	40±	46,575± SF
L	1 STORY	12±	1,800± SF
M	1 STORY	12±	1,800± SF
N	1 STORY	12±	2,000± SF

DENSITY CALCULATIONS

ALLOWED: 306 UNITS MAX - 16.0 UNITS/ACRE
 PROJECT UNITS: 306 UNITS - 16.0 UNITS/ACRE

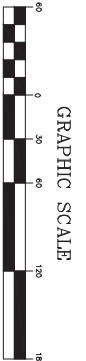
OPEN SPACE CALCULATIONS:

REQUIRED: 3.78 AC (20%) PROVIDED: 3.78 AC
 COMMON: 1.89 AC (10%) PROVIDED: 1.89 AC



Know what's below.
Call before you dig.

SITE PLAN



FOR REVIEW ONLY

SITE PLAN FOR:
715 GREENVILLE HWY

EVOLVE COMPANIES, LLC - HENDERSONVILLE, NORTH CAROLINA

PRELIMINARY NOT RELEASED FOR CONSTRUCTION

WARREN M. S. STOKES

NO.	DATE	DESCRIPTION	BY
1	02/15/2023	CONCEPTUAL ZONING SUBMITTAL	MAD

168 PATTON AVENUE
ASHEVILLE, NC 28786
PHONE (828) 252-5388
FAX (828) 252-5365

52 WALNUT STREET - SUITE 9
WAYNESVILLE, NC 28786
PHONE (828) 452-4410
FAX (828) 456-5455

NCBELS LICENSE #: C-2184
www.civildesignconcepts.com



HENDERSON COUNTY PLANNING DEPARTMENT
100 N. King Street | Hendersonville, NC 28792 | 828-697-4819

MAP AMENDMENT APPLICATION FORM

GENERAL INFORMATION

Date of Application: February 15, 2023

Previously Submitted: Yes No

Date of Pre-Application Conference: January 17, 2023

Type of Map Amendment (Circle One): Rezoning Conditional Zoning Special Mixed Use/Conditional

Site Plan Attached: Yes No

Permission to acquire aerial footage of subject area: Yes No

PARCEL INFORMATION*

PIN: 9652122330 Deed Book/Page: 1337/065 Tract Size (Acres): 19.12

Zoning District: RC Fire District: Fletcher Watershed: French Broad Floodplain: NA

Location of property to be developed:

a 19.12 acre tract remaining portion of Deed Book 1337 at page 065, being all of PIN # 9652122330, located adjacent to and to the east of Tap Root Farms subdivision on Butler Bridge Rd., Henderson County (see attached survey and report)

*If subject area contains multiple PIN's please attach a list and the above parcel information for each tract or individual PIN.

REZONING REQUEST

Attached is:

A description of the property in question sufficient to unequivocally describe and identify said property. Such description may take the form of a property survey, a legal description or a legible copy of a County cadastral or composite tax map clearly annotated with district lines which follow political boundaries, geographical features or property lines.

Current Zoning District: RC Requested Zoning District: Conditional (RC)

CONTACT INFORMATION

Property Owner:

Name: Johnston Family Group (detail attached)

Phone: 828-697-6022

Address: c/o 559 N. Justice Street

City, State, and Zip: Hendersonville, NC 28739

Applicant:

Name: Orange Capital Advisors, LLC and Owner

Phone: 828-697-6022

Address: c/o 559 N. Justice Street

City, State, and Zip: Hendersonville, NC 28739



HENDERSON COUNTY PLANNING DEPARTMENT
100 N. King Street | Hendersonville, NC 28792 | 828-697-4819

Contact Information

Property Owner:

Name: _____

Phone: _____

Email: _____

Address: _____

Agent:

Name: William M. Alexander, Jr., Attorney

Phone: 828-697-6022

Email: bill@alexlaw.com; wmalexjr@alexlaw.com

Address: 559 N. Justice St., Hendersonville, NC 28739

Plan Preparer:

Name: Warren Sugg, Civil Design Concepts, PA

Phone: 828-252-5388

Email: wsugg@cdcgo.com

Address: _____

I certify that the information shown above is true and accurate and is in conformance with the Land Development regulations of Henderson County.

Orange Capital Advisors, LLC
& Johnston Family Group

By: WILLIAM M. ALEXANDER, JR., AGENT AND ATTORNEY

FEBRUARY 15, 2023

Print Applicant (Owner or Agent)

Date

William M. Alexander, Jr.

FEBRUARY 15, 2023

Signature Applicant (Owner or Agent)

Date

The individual owners, comprising the Johnston Family Group, are listed on the attached Addendum. The owners and Orange Capital Advisors, LLC are co-applicants.

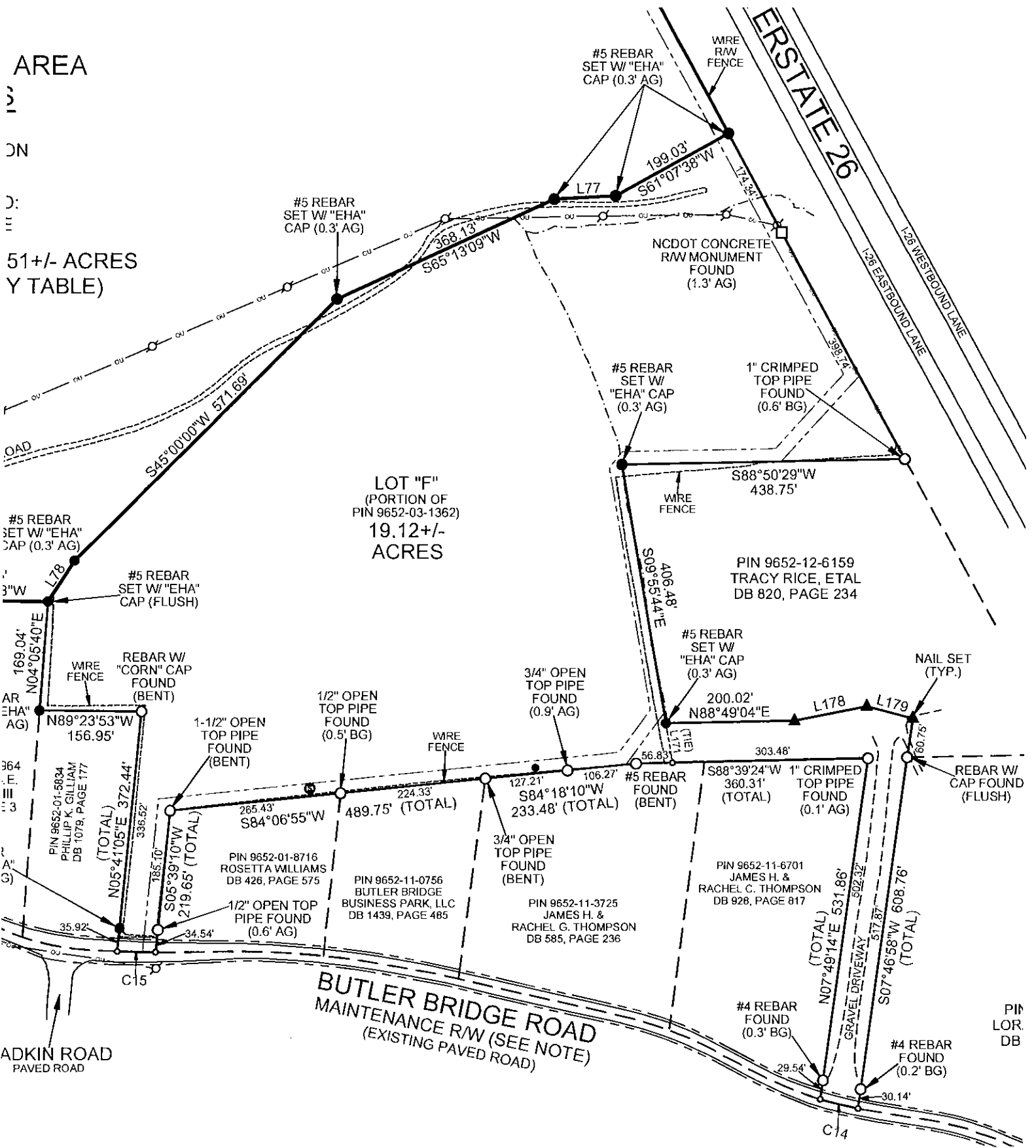
COUNTY STAFF ONLY

Fee: \$ _____ Paid: _____ Method: _____ Received by: _____

Community Planning Area: _____

Date Current Zoning Applied: _____

AREA
 ON
 51+/- ACRES
 (BY TABLE)



LOT "F"
 (PORTION OF
 PIN 9652-03-1362)
 19.12+/-
 ACRES

PIN 9652-12-6159
 TRACY RICE, ETAL
 DB 820, PAGE 234

PIN 9652-01-8716
 ROSETTA WILLIAMS
 DB 426, PAGE 575

PIN 9652-11-0756
 BUTLER BRIDGE
 BUSINESS PARK, LLC
 DB 1439, PAGE 485

PIN 9652-11-3725
 JAMES H. &
 RACHEL G. THOMPSON
 DB 585, PAGE 236

PIN 9652-11-6701
 JAMES H. &
 RACHEL C. THOMPSON
 DB 928, PAGE 817

PIN
 LOR.
 DB

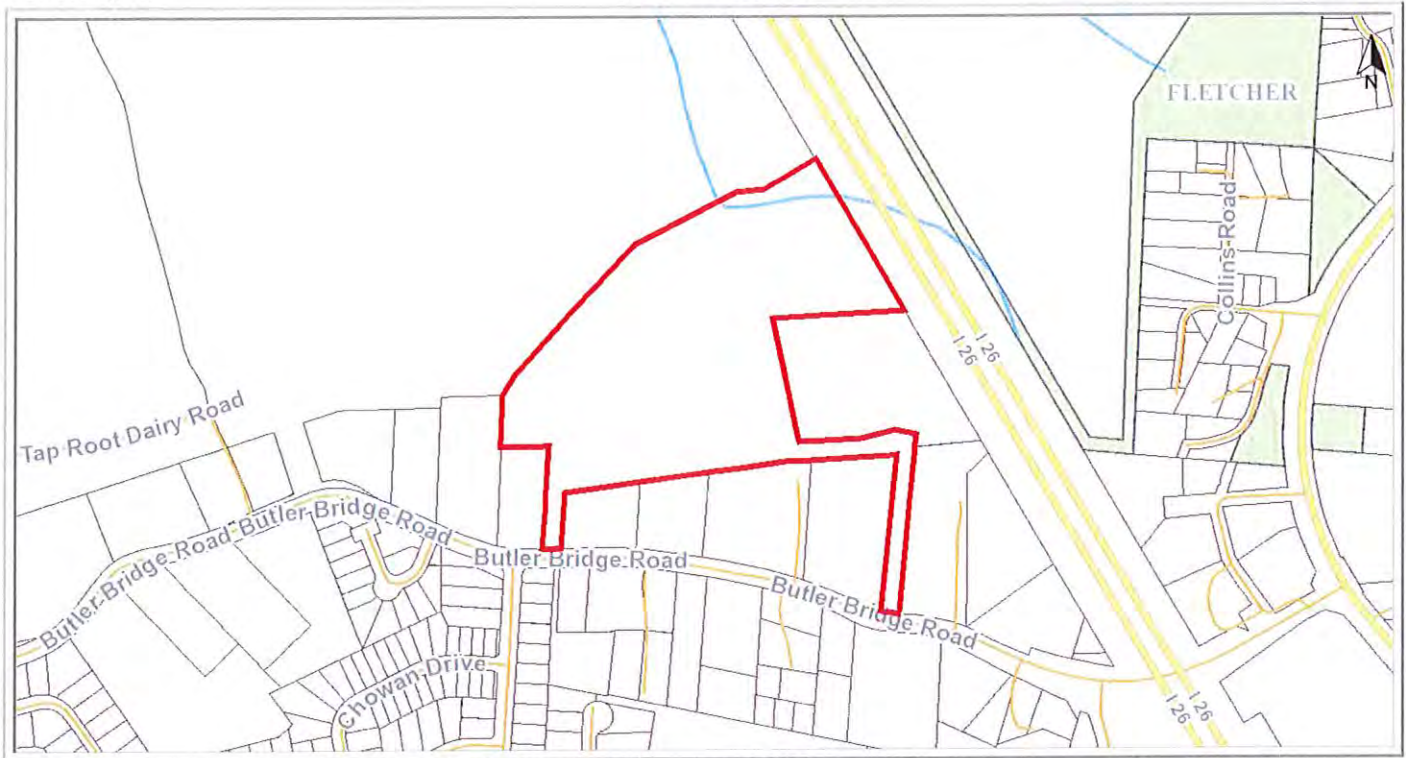
ADKIN ROAD
 PAVED ROAD

BUTLER BRIDGE ROAD
 MAINTENANCE R/W (SEE NOTE)
 (EXISTING PAVED ROAD)

ERSTATE 26

Description of Project Property

BEING all of Lot "F", (Henderson County, North Carolina PIN# 9652-03-1362) comprised of 19.12 acres more or less, as shown on that certain survey recorded in Book 2021 at Slide 13670 of the Henderson County, North Carolina Register of Deeds.



WARNING: THIS IS NOT A SURVEY

Parcel Information

REID:	10008014	Pin:	9652122330
Listed to:	CORN, MARY LOUISE;CORN, MICHAEL R;JOHNSTON, S E III;JOHNSTON, KATHY G;JOHNSTON, WILLIAM FRANKLIN;JOHNSTON, NANCY M;JOHNSTON, TIMOTHY MARCUS;JOHNSTON,	Neighborhood:	TAP ROOT DAIRY
Mailing Address:	735 BUTLER BRIDGE RD	Township:	Hoopers Creek
Mailing City, State, Zip:	FLETCHER, NC 28732	Municipality:	
Physical Address:	0 NO ADDRESS ASSIGNED	Tax District:	FLETCHER FIRE
Deed:	003281/00243	Plat:	2021 13670
Date Recorded:	2018-12-18 00:00:00.0	Elementary School District:	MARLOW
Revenue Stamps:	0	Middle School District:	RUGBY MIDDLE
County Zoning:	RC,R1	High School District:	WEST HIGH
Property Description:	MINOR SUBDIVISION 19.12 ACRES LOF PL2021-13670	Soil:	Delanco (dillard) loam, 2 to 7 percent slopes
Map Sheet:	9652.03	Voting Precinct:	Brickton
Assessed Acreage:	18.93000000	Commissioner District	2
Building Value:	\$0.00	Agricultural District	Mills River
Land Value:	\$1,173,700.00	North Carolina House District	117
Value To Be Billed:	\$1,173,700.00	U.S. House District	11
North Carolina Senate District	48	Flood Zone:	Zone X, Not Shaded (Areas outside of the floodplain)



Henderson County
 Geographic Information Systems (GIS)
 200 North Grove Street
 Hendersonville, NC 28792
 P: (828) 698-5124
 F: (828) 698-5122

THIS IS NOT A SURVEY.

All information or data provided, whether subscribed, purchased or otherwise distributed, whether in hard copy or digital media, shall be at the user's own risk. Henderson County makes no warranties or guarantees, including the warranties of merchantability or of fitness for a particular purpose. Map data is not appropriate for, and is not to be used as, a geodetic, legal, or engineering base system. The data is not intended as a substitute for surveyed locations such as can be determined by a registered Public Land Surveyor, and does not meet the minimum accuracy standards of a Land Information System/Geographic Information System Survey in North Carolina (21 NCAC 56.1608).

**Supplement to Conditional
Re-zoning Application # _____
Johnston Family Group, Owner
Orange Capital Advisors, LLC
Revised Proposed Conditions for Approval**

The following conditions are in addition to and intended to supplement the application for Conditional Re-zoning submitted by the Co-Applicants, the proposed 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 final approved site plan will 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. Size and Scope of project (numbers are approximate, subject to confirmation when site plan is final):
 - a. Size of project: 19.12 acres per survey
 - b. As shown on the site plan: Maximum of 306 total residential apartment units, based in ten (10) total apartment building, plus associated amenities buildings, of a size and scope illustrated on the site plan.
 - c. Overall project density will not exceed 16.0 units per acre. Dimensional requirements are as shown on the site plan. Building separation shall be a minimum of twenty feet (20') stated in SR1.5 4(b).
2. I-26 and outer boundary of project: All buildings must maintain 45 foot minimum setback from the I-26 right of way. Perimeter boundary setbacks as are illustrated on the site plan submitted. No landscape buffer is required along outer project boundary.
3. Sidewalks not less than 5 feet in width shall be installed on at least all sides of each building that separate the building from a roadway or parking lot within the development.
4. Interior roads – build to Henderson County design standards for residential major subdivisions; minimum road right of way width of 50 feet for roads that will be made public (including valley curb & gutter if utilized). Travelable surfaces of two way roads built to at least 18' width, and one way roads to 12' travelable surface. No pervious pavement shall be utilized within the development.
 4. A. Road passage in parking lot areas- In parking lot areas, all two way road passage shall have a 26' width between parking spaces, as opposed to the 24' passage shown on the site plan. This is

to comply with the Fire Marshall requirements.

5. Traffic Impacts on Butler Bridge Road - Developer will adhere to all reasonable recommendations resulting from the Traffic Impact Analysis, and must comply with all standards and requirements of NCDOT for the roadway entrances onto Butler Bridge Road. Entrance improvements if any required shall be completed before a certificate of occupancy is issued for any dwelling structure.
6. Off-street parking: each unit shall have sufficient off street parking for at least one and one-half (1.5) standard passenger automobiles per residential unit. (Averaged over the total units). Additional off-street spaces shall be provided for the common amenities area, with locations and number as shown on the site plan. No on-street storage of boats, campers, recreational vehicles, or trailer apparatus shall be allowed within the project.
7. Storm water drainage facilities shall be built to an approved engineered storm water treatment and retention plan, and shall be approved by by State or local authority as by law required.. No standing water detention facilities shall be allowed of such size or nature as would attract large numbers of waterfowl. The storm water retention pond shall be constructed in compliance with the standards and rules of NCDEQ as may be required at the time of construction, and the same shall be permitted or otherwise authorized by the proper government authority, recognizing that the facility is within five miles of a regional airport.
8. Fire hydrant locations shall be provided per Henderson County fire standards within development and be approved by the Fire Marshall and indicated on each development plan.
9. Subsurface utilities are required for all phases of the development.
10. Landscaping---including street trees, buffers, and natural areas--will be provided as required by the Henderson County LDC and noted on Master Plan
12. Open Space:
 - a. The applicant will set aside approximately 20% of the Subject Property (3.78 acres) as open space. A minimum of 1.89 acres of the total area in the project shall be common space, including amenity locations.
 - 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.
13. Resident amenities:
 - a. Central amenity facilities will include those features shown on the site plan.
14. Lighting;
 - a. Street lighting: Lighting will be installed in accordance with the following:

(1). 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)

(2). Pole Mounting Height - Max 25 ft (spacing dependent on design layout to meet recommended light level)

(3) Pole Material - Aluminum or Concrete preferred

(4) 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)

14.1 Matters Relating to the Airport- No upward facing lighting shall be utilized on the project which could reasonably interfere with aviation operation and navigation related to the Asheville Regional Airport, or which could reasonably be construed to create confusion to pilots in navigation.

The Applicant consents to execution and recording of an Avigation Easement in that form attached hereto . The reference therein to an aeronautical study may be revised if a new study is required by law.

Other provisions which relate to the Airport are included in the Storm Water provisions contained herein, as well as in the prohibition against creating water features, other than a pool, which would promote standing water that reasonably would attract large numbers of wildfowl.

15. Street Trees—Street trees shall be installed per Henderson County LDC requirements, using County-approved species.

16. Building Code - Builder/ Developer to adhere to Henderson County LDC whenever it exceeds the NC Building Code requirements.

17. Submit to and receive approval of a water utilities plan from the City of Hendersonville and comply with City of Hendersonville regulations.

18. Submit to and receive approval of a sewer utilities plan from the applicable Sewer District and provide proof of wastewater treatment allocation.

19. Submit for prior approval all building plans for all structures to the County Inspections Department.

20. Apply for a floodplain, stormwater, and soil erosion control permit from the County for all required phase of development.

21. Apply for and execute an encroachment agreement with NCDOT for utility work within the right of way of Butler Bridge Road and I-26, as needed.

22. Apply for and receive a NCDOT street access permit and comply with all required road improvements identified by the TIA and NCDOT, as may be required by law.

23. Pay in full all fees for permits, as each fee is assessed or becomes due.

24. Per Chapter 42 of the Henderson County Code, the approval authority for each phase of the project, if needed, is delegated to the Henderson County Planning Board.

25. 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 Project by the Board of Commissioners.

26/ The site plan is deemed amended to show the emergency (eastern entrance) as being totally on the property of the project, to correct an error existing thereon.

REQUIREMENT FOR RESTRICTIVE COVENANTS

Co-applicant Developer is responsible for implementing the development plan and maintaining compliance with all of the conditions set out herein, all of 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 the use of private restrictive covenants, as allowed by the Henderson County Code. The forms of the restrictive covenants will be submitted to the County Attorney for approval after application approval. To this end, the County shall reserve the right to review any amendment or revision to the restrictive covenant documents prior to their effectiveness to ensure continued compliance with this conditional zoning ordinance, and other applicable County ordinances.

Failure to comply with any of the provisions of the 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 the conditional zoning enactment.

This supplement to Proposed Conditions to Re-Zoning respectfully submitted this the 16th day of March, 2023.

Law Offices of William M. Alexander, Jr., PLLC

By: *William M. Alexander, Jr.*

(Signed electronically)

WILLIAM M. ALEXANDER, JR.

ATTORNEY TO APPLICANTS

559 N. JUSTICE STREET

HENDERSONVILLE, NC 28739

(828) 697-6022

BILL@ALEXLAW.COM

Prepared By and Return to: William M. Alexander, Jr., 559 N Justice Street, Hendersonville, NC 28739

STATE OF NORTH
CAROLINA COUNTY
OF HENDERSON

AVIGATION EASEMENT

This Avigation Easement made and entered into this the ____ day of _____, 2023, by and between MARY LOUISE CORN and husband, MICHAEL R. CORN, WILLIAM FRANKLIN JOHNSTON and wife NANCY M. JOHNSTON, S.E. JOHNSTON, III and wife, KATHY G. JOHNSTON, TIMOTHY MARCUS JOHNSTON (single), and BRADLEY A. JOHNSTON (single), all being of Henderson County, North Carolina (herein collectively “Grantor”), and the Greater Asheville Regional Airport Authority, a body corporate and politic of the State of North Carolina, and its’ successors and assigns (herein collectively “Grantee”), and the County of Henderson, a body corporate and politic of the State of North Carolina (“County”);

WITNESSETH:

WHEREAS, Grantor is the fee simple owner of approximately 19.12 acres located on Butler Bridge Road in Henderson County, North Carolina (PIN# _____), which real property is a portion of that property formerly known as the Tap Root Dairy Farm, and which property is more particularly described on Exhibit A attached hereto and incorporated herein by reference (“Property”);

WHEREAS, Grantee is the owner, operator and sole sponsor of the Asheville Regional Airport in Henderson County and in Buncombe County, North Carolina (“Airport”);

WHEREAS, a conditional re-zoning application (#R-2023- ____-C) was filed in Henderson County, NC seeking to have the Property re-zoned from Regional Commercial to a Conditional District;

WHEREAS, Grantee opposed the re-zoning application, due to the proximity of the property to

the aviation activities of the Airport which may at times be over or near the Property; and

WHEREAS, on account of Grantee's concerns, Grantor has agreed to provide an Avigation Easement to Grantee.

NOW THEREFORE, in consideration of the sum \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor, for themselves, their heirs, administrators, executors, successors and assigns, do hereby give, grant and convey to the Grantee and the Grantee's successors and assigns, the following appurtenant rights and benefits, for the use and benefit of the Grantee, the Airport, aircraft operators, the Federal Aviation Administration, the United States and the public:

1. A perpetual right and easement for the unobstructed use, passage and flight of all types of aircraft in and through the airspace over the Property at any height or altitude allowed by law above the surface of the land.

2. A perpetual right and easement of said aircraft to cause noise, vibrations, fumes, fear, interference with sleep or communication, illumination, deposits of dust, and fuel particles (incidental to the normal operation of aircraft), and other disturbances or any other effects associated with or incident to the normal operation of aircraft taking off, landing or otherwise operating at or in the vicinity of the Airport, or on, over, or in the vicinity of the Property.

3. As used herein, the term "aircraft" shall mean any and all types of aircraft, as defined by the Federal Aviation Administration, whether now in existence or hereinafter manufactured and developed, to include, but not be limited to: jet, propeller-driven, civil, military, commercial and general aviation aircraft and helicopters, regardless of existing or future noise levels or times of operation, for the purpose of transporting persons or property through the air, by whoever owns or operates the aircraft.

4. The Grantor agrees to keep the Property free of any of the following: structures (permanent or temporary) that might create glare or contain any lights that are aimed up or into the flight path of aircraft, or that otherwise interfere with the safe flight of aircraft during the hours of darkness; fuel handling and storage facilities; smoke generating activities; radio interference with any Airport, FAA, or other aviation frequency or communication facilities or equipment; and the creation of any means of electrical interference that could effect the movement of aircraft in the easement area. (Nothing in this paragraph is intended to impact normal, reasonable residential use of the Property.)

5. The Grantor agrees to restrict the height of structures and other obstructions on the Property to heights as required by the aeronautical study undertaken (2019-ASO-2092-OE) and as required by the March 6, 2019 FAA Determination of No Hazard to Air Navigation related to the Property, and to prevent the use of the Property that would interfere with the arrival or departure of any aircraft at the Airport or with the air navigation and communication facilities and equipment serving the Airport.

These perpetual rights and easement shall run with title to the Property, shall be binding on the Grantor and the future owners of all or any portion of the Property, and their respective heirs, successors, successors-in-title, and assigns, and any other person or entity that now or hereafter has any legal, equitable, or beneficial interest in all or any portion of the Property and shall be subject to the following terms, conditions and limitations:

1. These perpetual rights and easement shall be for the use and benefit of Grantee, the Airport, the aircraft operators using the Airport, the Federal Aviation Administration, the United States, and the public, and

shall be for the benefit of the Airport as it is now constituted and as it may exist in the future irrespective of any expansion of the Airport, the construction of any additional runways or other facilities thereon or any other change that may hereafter occur at the Airport or the facilities thereof.

2. Except as otherwise provided herein, these perpetual rights and easement shall be given full effect notwithstanding any increase in the number or frequency of aircraft using or flights landing or taking off from the Airport, any change in the patterns or altitudes of such aircraft or flights or the proximity thereof to the Property, or any change in the type or noise characteristics of such aircraft, and notwithstanding any other change in the Property's exposure to aircraft noise or other aircraft disturbance.

3. Except as otherwise provided herein, Grantee, the Grantee's members, board, officers, directors, employees, agents, successors and assigns, the Airport, and all aircraft operators using the Airport, and the County, its officials, agents and employees, are all hereby released and forever discharged from any claims by the Grantor or the Grantor's successors in title, now or in the future, whether now known or unknown, for compensation or for other relief by reason of any alleged interference with the use and enjoyment of the Property or impact on the market value thereof, heretofore occurring or resulting now or in the future from operation of aircraft using the Airport or located at the Airport.

4. These perpetual rights and easement shall terminate upon abandonment of the Airport. For purposes of this Avigation Easement, "abandonment of the Airport" shall mean that it ceases to be an airport of any type.

5. This Avigation Easement shall run with the title to the Property and be perpetual in nature (unless terminated by abandonment of the Airport), and shall bind the Grantor and all future owners of all or any portion of the Property, their respective heirs, successors, successors-in-title, and assigns, and any other person or entity that now or hereafter has any legal, equitable or beneficial interest in all or any portion of the Property, and shall expressly benefit the United States, the Federal Aviation Administration, the Airport, and the Greater Asheville Regional Airport Authority, and their respective successors and assigns.

6. The Grantor, and all successors-in-title, of all or any portion of the Property, now or in the future, shall disclose to any buyers of all or any portion of the Property that this Avigation Easement exists, and the place of recording of this Avigation Easement in Henderson County, NC Registry.

TO HAVE AND TO HOLD the perpetual rights and easement granted herein unto the Grantee and its successors and assigns forever. It being understood and agreed that all provisions herein shall run with the title to the Property and shall be binding upon the Grantor and all future owners of all or any portion of the Property, and their respective heirs, administrators, executors, officers, directors, members, managers, employees, successors, successors-in-title and assigns, and any other person or entity that now or hereafter has any legal, equitable or beneficial interest in all or any portion of the Property, forever.

Grantor does hereby covenant to the Grantee that Grantor is seized of the Property in fee simple and has the right to convey the perpetual rights and easement granted herein.

IN WITNESS WHEREOF, the Grantor has hereunto set their hand and seal as of the day, month and year above written.

03/16/2023

GRANTORS:

MARY LOUISE CORN

MICHAEL R. CORN

S.E. JOHNSTON, III

KATHY G. JOHNSTON

WILLIAM FRANKLIN JOHNSTON

NANCY M. JOHNSTON

TIMOTHY M. JOHNSTON

BRADLEY A. JOHNSTON

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

I, a Notary Public in and for said County and State, do hereby certify that Mary Louise Com, Michael R. Com, William F. Johnston, Nancy M. Johnston, S.E. Johnston, III, Kathy G. Johnston, Bradley A. Johnston, and Timothy M. Johnston personally appeared before me this day and acknowledged the due execution of the foregoing Avigation Easement.

Witness my hand and notarial seal, this the _____ day of _____, 2023.

Notary Public

Print Name: _____

My Commission Expires: _____

EXHIBIT A

The following tracts are subjected to this easement:

Being all of that tract of land designated as "Lot F" on that certain plat of survey prepared by C.M. Edgerton, Jr., PLS entitled "Subdivision Survey for D.R. Horton, Inc at the Tap Root Dairy Site", dated September 21, 2021, Job # 18322, and Drawing # D21-088, as the same appears of record at Plat Slide 13670 and 13671 in the record of plats in the Office of the Register of Deeds of Henderson County, North Carolina, and further appearing at Book 2021 at Page 13670 (2) reference to which is made for a more specific description by metes and bounds. Tract 1 as shown thereon and as herein conveyed consists of 19.12 Acres, more or less, and is a portion of that same property described in Deed Book 3281 at page 243 of the Office of the Register of Deeds of Henderson County, NC.

There is less and excepted from this conveyance all interests or title affecting Tract 1 established by that certain deed to the North Carolina Department of Transportation recorded in Deed Book 3257 at page 711, including specifically the Temporary Construction Easement established therein.

Conditions for R-2023-02-C The Farmhouse at Tap Root

Conditions Requested by the Asheville Regional Airport:

1. Avigation Easement – Current property owner shall execute an Avigation Easement in substantially similar form as the prior Avigation Easement that was a condition of approval for the Tap Root Dairy project. The developer shall record the avigation easement prior to the beginning any building construction or sale of the property. Further, any owner (including the developer) of residential property who plans to sell, rent or lease property within the Development is required to disclose to any buyer, renter or lessee that: (1) the property is located in close proximity to the Asheville Regional Airport; and (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).
2. Any stormwater retention/detention system needs to completely drain within 48 hours and include design features that will incorporate wildlife deterrent, including birds, from using the system, such as:
 - a. Install riprap along the basin banks extending 10' beyond the top of the basin
 - b. Other acceptable means of wildlife deterrents.
3. Any site lighting will be directed downwards and away from aircraft flight paths and not cause any operational issues for aircraft in the National Airspace.

Conditions Requested by the Technical Review Committee:

1. Completion of TIA as required by NCDOT
2. NCDOT driveway permit
3. Army Corps of Engineers 404 Permit for wetlands disturbance
4. Site Development soil erosion and sedimentation control permit
5. Site Development stormwater permit
6. Environmental Health commercial pool permit
7. Increase drive isles to 26'
8. Ensure all interior turns can accommodate a fire ladder truck
9. Add additional sidewalk for ADA parking space at amenity area
10. City of Hendersonville public water allocation and extension request
11. MSD public sewer allocation and extension request

The Farmhouse at Tap Root Apartments Traffic Impact Analysis

Located in
Fletcher, North Carolina

Prepared For:

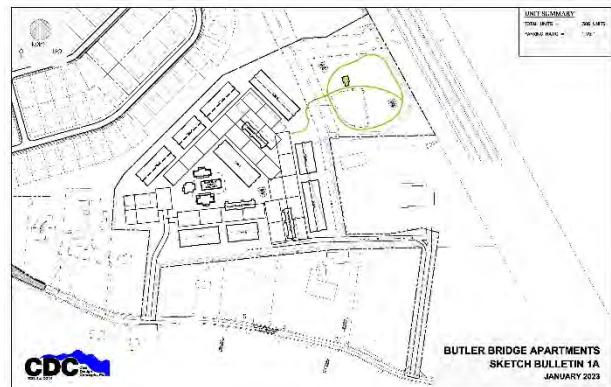
Orange Capital

Alec Gregg

125 Regional Pkwy, Ste 200

Orangeburg, SC 29118

agregg@orangecapital.net



Prepared By:

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828.456.8383

March 9, 2023

The Farmhouse at Tap Root Apartments Traffic Impact Analysis

Fletcher, North Carolina

Documentation Prepared by:



1155 North Main Street
Waynesville, NC 28786
828-456-8383

David W. Hyder, P.E.

March 9, 2023

MITIGATION

This section discusses the proposed mitigations at each intersection and access point. If no mitigations are proposed, that too is noted.

Intersection 1: US 25 & Butler Bridge Rd

The mitigation at this intersection will be performed by others.

Intersection 2: Butler Bridge Rd & N. Rugby Rd

It is recommended to adjust the signal timing at this intersection.

Intersection 3: Butler Bridge Rd & Yadkin Rd

No mitigation is warranted at this intersection.

Intersection 4: Butler Bridge Rd & Jeffress Rd

No mitigation is warranted at this intersection.

Intersection 5: Butler Bridge Rd & Access 1

A 75-foot right turn lane with a 200-foot deceleration lane is warranted at this access point.

Intersection 6: Butler Bridge Rd & Access 2

No mitigation is warranted at this intersection.

EFFECT OF THE PROJECT ON ALTERNATE MODES

The project will not affect alternative modes in the area.

CONCLUSION

In accordance with Henderson County Zoning Ordinance Section 42-135 A2, this TIA was performed because the development is proposed to generate an average daily traffic count of 1000 plus vehicles per day and 100 plus trips during the peak hour.

This report shows that the operational problems caused by the development can successfully be mitigated, and the proposed project, "The Farmhouse at Tap Root Apartments," will not materially endanger public health and safety.

Certification of Notice of Public Hearing

In accordance with NCGS 160D-343 the Planning Department certifies notice of the April 3, 2023 hearing regarding Rezoning Application #R-2023-02-C were:

1. Submitted to the Hendersonville Lightning on March 17, 2023 to be published on March 22, 2023 and March 29, 2023 by Matt Champion;
2. Sent, via first class mail, to the owners of properties adjacent to the Subject Area(s) on March 17, 2023 by Matt Champion;
3. Sent, via first class mail, to the property owner on March 17, 2023 by Matt Champion; and
4. Signs were posted on the Subject Area(s) on March 20, 2023 by Matt Champion.

The signatures herein below indicate that such notices were made as indicated herein above:

1. *Matt Champion*

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, Toby Linville , a Notary Public, in and for the above County and State, do hereby certify that

 Matt Champion

personally appeared before me this day.

WITNESS my hand and notarial seal, this the 21st day of March , 2023.

My commission expires:

 6/29/26





BOARD OF COMMISSIONER ENACTMENT 2023- _____

RESOLUTION OF CONSISTENCY WITH THE COUNTY COMPREHENSIVE PLAN

WHEREAS, pursuant to N.C. General Statute §160D, Article 1, the Henderson County Board of Commissioners exercises regulations relating to development within the County’s jurisdiction; and

WHEREAS, the Henderson County Board of Commissioners (Board) adopted the Land Development Code (LDC) on September 19, 2007 and has amended the LDC to address new and changing issues;

WHEREAS, the Board desires to update and revise the regulations of the LDC; and

WHEREAS, the Planning Director and Planning Board provided recommendations regarding the proposed zoning map amendment with case #R-2023-02-C; and

WHEREAS, pursuant to N.C. General Statute §160D-601, the Planning Director provided the prescribed public notice and the Board held the required public hearing on April 3, 2023; and

WHEREAS, N.C. General Statute §160D-605 requires the Board to adopt a statement of consistency with the County Comprehensive Plan (CCP); and

NOW THEREFORE, BE IT RESOLVED by the Henderson County Board of Commissioners as follows:

1. That the Board reviewed the proposed map amendment (#R-2023-02-C The Farmhouse at Tap Root) and finds that it is reasonable, in the public interest and it is consistent with the CCP and the Growth Management Strategy located therein; and
2. That the Board determines that the proposed map amendment provides for the sound administration of the LDC while balancing property rights and promoting reasonable growth within the County; and
3. That this Resolution shall be retained in the Office of the Clerk to the Board of Commissioners.

THIS the 3rd day of April 2023.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: _____
Rebecca McCall, Chairman

ATTEST:

Denisa Lauffer, Clerk to the Board

[COUNTY SEAL]

Rezoning #R-2023-02-C The Farmhouse at Tap Root



Board of Commissioners
April 3, 2023

Henderson County Planning Department

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Public Hearing Notice

- Legal Ad was published in the Hendersonville Lightning on March 22nd and March 29th
- The property was posted on March 20th
- Letters were mailed to property owners within 400 feet of the Subject Area on March 17th

Henderson County Planning Department

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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

Henderson County Planning Department

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Application Summary

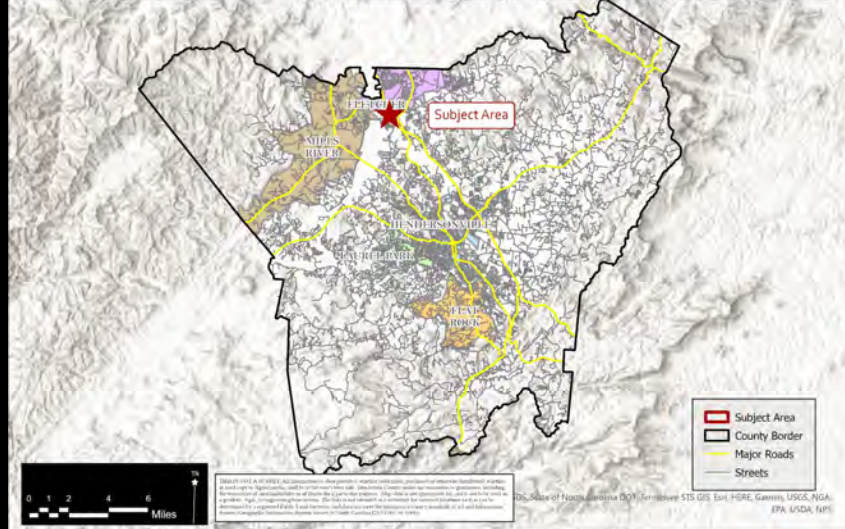
- Conditional Rezoning Request: R-2023-02-C
- Owner(s): Johnston Family Group
- Applicant(s): Johnston Family Group & Orange Capital Advisors, LLC
- Agent: William Alexander
- Property Location: Butler Bridge Road on PIN: 9652-12-2330
- Conditionally rezone from a Regional Commercial (RC) Zoning District to a Conditional District (CD-2023-02)
- Approximately 19.12 acres

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County Context Map

County Context - The Farmhouse at Tap Root R-2023-02-C



Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)



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Aerial Map

Aerial Map - The Farmhouse at Tap Root R-2023-02-C

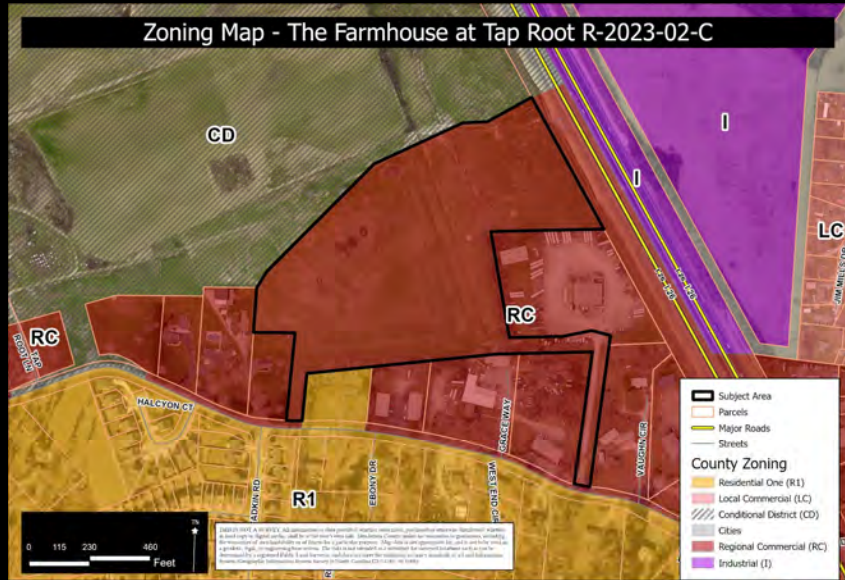


Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)



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Current Zoning Map

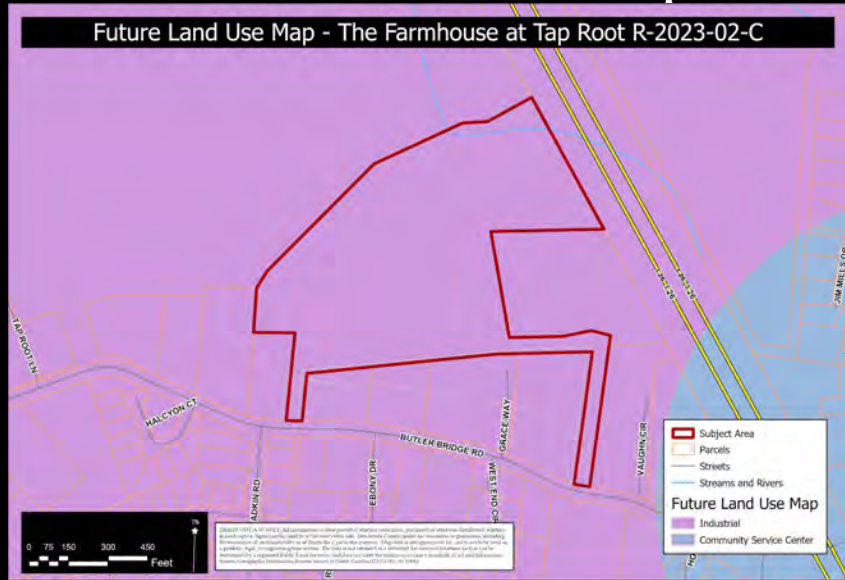


Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)



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CCP Future Land Use Map



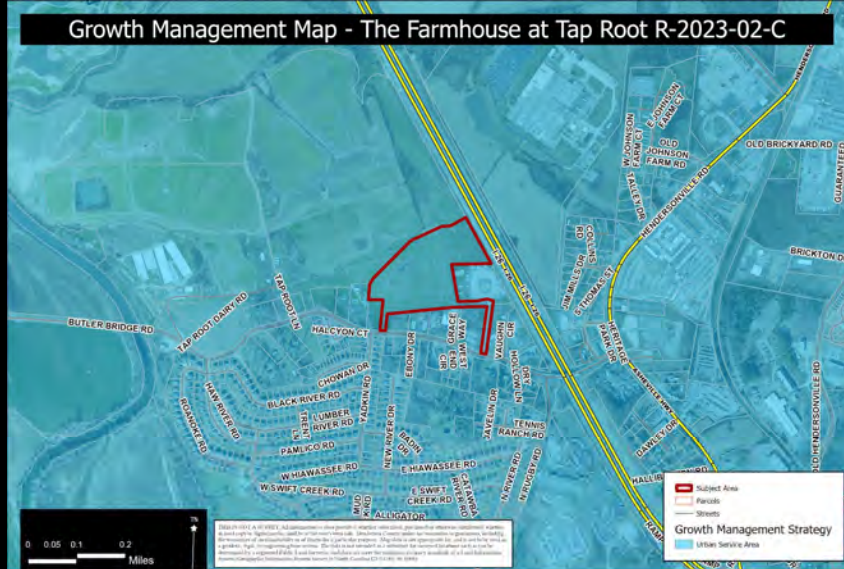
Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)



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Growth Management Strategy Map

Growth Management Map - The Farmhouse at Tap Root R-2023-02-C



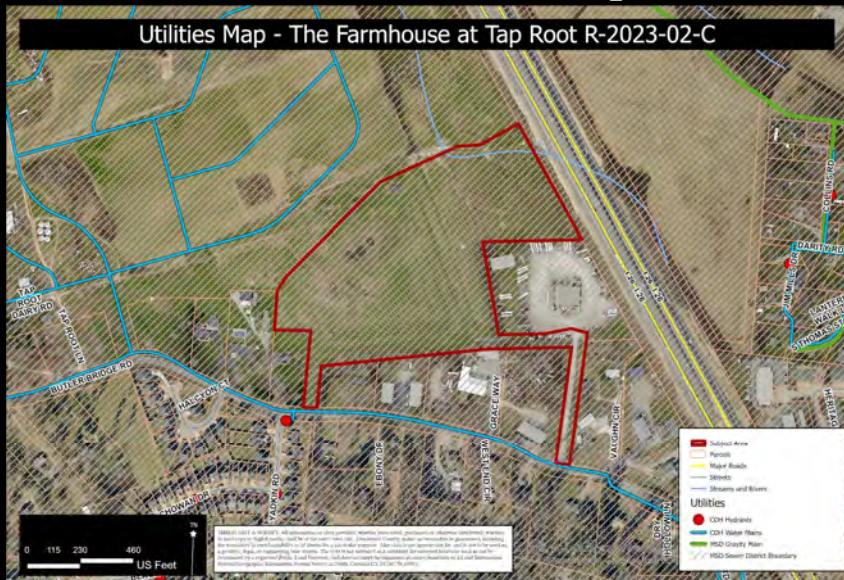
Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)



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Public Utilities Map

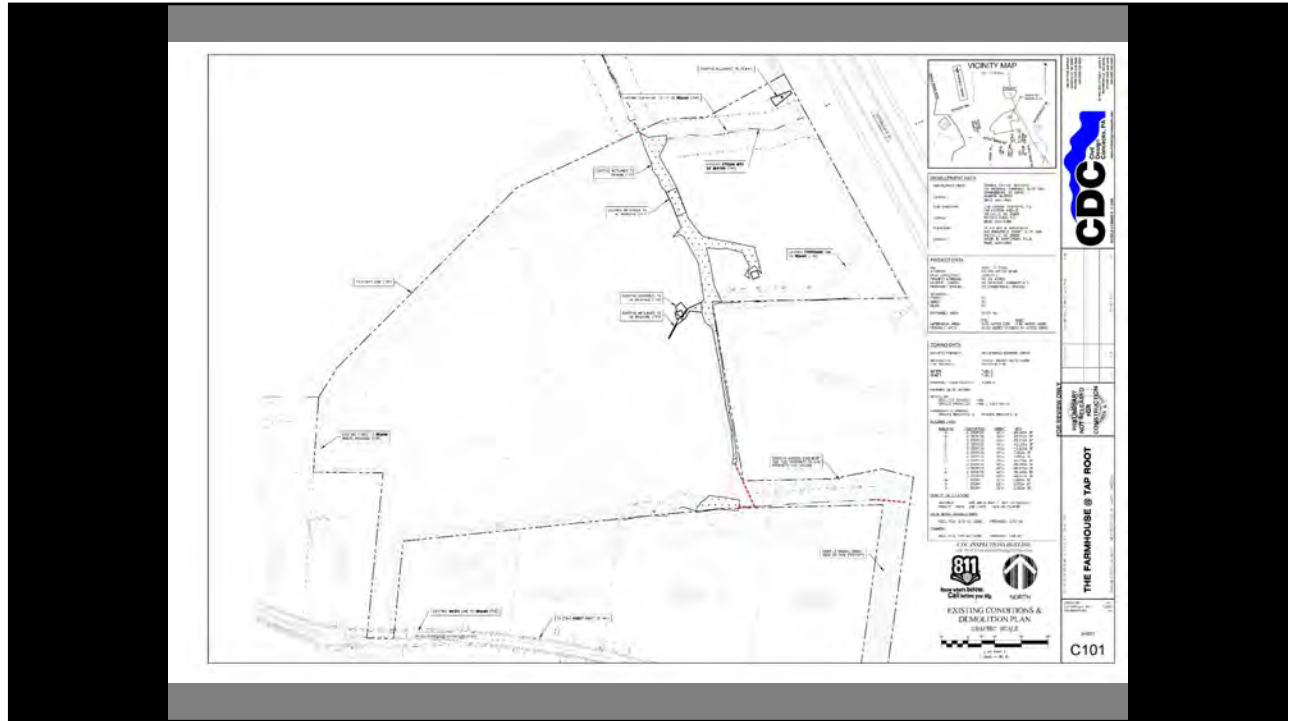
Utilities Map - The Farmhouse at Tap Root R-2023-02-C



Property Owner: Johnston Family Group Agent: William Alexander
 Assessed Acreage: 18.93 Acres PIN: 9652-12-2330
 Current Zoning: Regional Commercial (RC)



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Project Summary

- 306 multi-family units
 - Mixture of 1-, 2-, and 3-bedroom units
 - Proposed density of 16 units/acre
- 12 total residential structures
 - Ten 3-story structures
 - 30 dwelling units per structure
 - Two 2-story structures
 - 6 garage spaces and 3 dwelling units per structure
- Amenities including a fitness center, community lounge, clubhouse with mailroom, pool, dog park, 5' sidewalk, garbage collection, and inclusive playground
- 459 parking spaces with 9 ADA accessible spaces
- 20% open space
- 10% common space

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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

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Rezoning #R-2023-02-C The Farmhouse at Tap Root

Questions



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