

**HENDERSON COUNTY
PLANNING BOARD MINUTES
March 15, 2007**

The Henderson County Planning Board met on March 15, 2007 for their regular called meeting at 5:30 p.m. in the Commissioners' Meeting Room at 100 N. King Street, Hendersonville, NC. Board members present were Tedd Pearce, Chair; Mike Cooper, Vice-Chair; Stacy Rhodes, Jonathan Parce, Gary Griffin, John Antrim, Mitchell Gaither, and Tommy Laughter. Others present included Anthony Starr, Planning Director; Matt Card, Planner; Matt Cable, Planner; Sarah Zambon, Associate County Attorney; Mark Williams, Commissioner and Liaison to the Planning Board and Kathleen Scanlan, Secretary. Board member Renee Kumor was absent.

Chairman Pearce called the meeting to order and asked for the approval of the February 15, 2007 regular Planning Board Meeting Minutes. John Antrim made a motion to approve the minutes and Stacy Rhodes seconded the motion. All members voted in favor.

Adjustments of the Agenda. There were no adjustments needed.

Staff Reports. Mr. Starr informed the Planning Board that the public input sessions will begin on Tuesday, March 20, 2007 at 7 p.m. at the Patterson Center at Fletcher Academy and will continue for the next four Tuesdays at various locations, ending with a formal public hearing on April 24, 2007 with the Board of Commissioners.

OLD BUSINESS: There was no old business.

NEW BUSINESS:

Williams Commercial Subdivision (# 2007-M08) – Combined Master Plan and Development Plan – David Huntley, Agent for Ernest and Nancy Williams, Owner. Mr. Cable stated that Mr. David Huntley, agent for Ernest and Nancy Williams, owner, submitted a Combined Master Plan and Development Plan for a commercial subdivision off of US Highway 176. The applicant is proposing a total of two lots on approximately 2.17 acres of land which will be used for commercial purposes.

Tract A currently contains a single story commercial structure which appears currently to be vacant. Tract B currently has businesses operating on the property in two existing single story structures. The commercial uses of Tract B are currently operating under Conditional Use Permit #CU-14-02 granted by the Board of Adjustment on October 30, 2002 which allowed the Williams to develop a shopping center with two buildings on the property. The project site is in the C-4 highway commercial zoning district which regulates the commercial use of land. Public water and public sewer (City of Hendersonville for both) are available on site.

Staff has reviewed the submitted Combined Master Plan and Development Plan for Ernest and Nancy Williams for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the comments that follow:

1. **Final Plat Requirements.** The final plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance.
2. **Buffers.** The Climenhaga property is currently zoned C-4 (Highway Commercial) but contains a single-family residential use. Fencing and evergreen shrubbery, located within a vegetated strip (a minimum of 28 feet in width), currently provides a buffer from the Climenhaga property. The Planning Board may require a buffer strip in accordance with HCSO §170-33; however, a buffer has already been provided.

Review Agency Comments

3. **Comments from the Fire Marshal.** The Henderson County Fire Marshal's Office stated that a fire hydrant must be located within 400 feet of any portion of a commercial building. Mr. Hyder also stated that access roads must be at least 20 feet wide with 13'6" vertical clearance and extend to within 150 feet of any portion of a commercial building. Mr. Cable stated that the Planning Board can only require the applicant to meet the minimum standards of the Henderson County Subdivision Ordinance; the Planning Board may not have the authority to require any additional standards to the subdivision.
4. **Comments from the Zoning Administrator.** Ms. Natalie Berry, Henderson County Zoning Administrator, stated that the Williams Commercial project is subject to the City of Hendersonville area of consideration and that the applicant must get with the City's Planning Department and find out if they have any interest in annexation before they can proceed with County Zoning issues. This would include parking, landscaping, and setbacks.

Mr. Cable stated that Staff has found that the proposed Combined Master Plan and Development Plan appears to meet the technical standards of the Henderson County Subdivision Ordinance except for the comments listed above in Staff Comments. Staff recommends approval of the Combined Master Plan and Development Plan subject to the developer addressing any issues raised by the Planning Board and addressing the comments listed above.

Chairman Pearce made a motion that the Planning Board find and conclude that the Combined Master Plan and Development Plan complies with the provisions of the Subdivision Ordinance except for those matters addressed in Staff Comments section of the memo that need to be addressed. Mike Cooper seconded the motion and all members voted in favor.

Mountain Dream (# 2007-M02) – Combined Master and Development Plan – (21 Single-Family Residential Lots) – Located off Owensby Road – Jon Laughter of Laughter, Austin & Associates, Agent for Cabin Dream Homes, Inc., Owner/Developer. Mr. Card stated that Cabin Dream Homes, Inc., owner and developer, has submitted, through Laughter, Austin, and Associates, a Combined Master and Development Plan for a proposed subdivision to be known as Mountain Dream. Mountain Dream is proposed to be developed on two parcels of land totaling approximately 17.5 acres in size located off Owensby Road. Henderson County tax records indicate that one of the proposed development parcels is currently owned by Judith Tabor Huntley.

Mr. Card stated that Mountain Dream is proposed to contain 19 single-family lots that will be developed in one phase. One out-parcel is proposed for the development adjacent to Owensby Road in the area of an existing single-family dwelling. Ms. Huntley will retain ownership of the proposed out-parcel. The developer plans for all of the homes to be served by private individual water and septic systems and one public road is proposed to serve the development with the main entrance on Owensby Road.

The project site is located in a County Open Use (OU) zoning district, which does not regulate residential uses of land and is not within a designated Water Supply Watershed area.

Staff has reviewed the major subdivision application for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the comments that follow:

1. **Application.** As a portion of the project area is currently owned by Ms. Judith Tabor Huntley, a subdivision application, or appointment of agent form, must be submitted on her behalf to demonstrate consent for the major subdivision approval.
2. **Revisions to Development Plan.** The following changes must be made for the Development Plan portion of the Combined Master and Development Plan to be in compliance with Appendix 5 (Development Plan Requirements) of the HCSO.
 - The project summary should be revised to reflect that the plans propose 19 single-family residential lots, one of them being an out-parcel.
 - If a subdivision sign is proposed for the project, the sign location must be shown on the Development Plan.
3. **Soil Erosion and Sedimentation Control.** The Developer should submit notice from NC DENR that a soil erosion and sedimentation control plan has been received, or provide documentation that no plan is required prior to beginning construction (HCSO 170-19).
4. **Driveway Permit.** The applicant must obtain a driveway permit through NCDOT for the proposed entrance on Owensby Road and provide evidence of permit issuance to the Planning Department.
5. **Farmland Preservation Program.** The subject property is within ½ mile of a Henderson County Farmland Preservation District, by which, the developer is required by the HCSO to submit an Affidavit of Understanding of Farmland Preservation District (Appendix 11 of the HCSO) with the major subdivision application.
6. **Final Plat Requirements.** Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance for approval.

REVIEW AGENCY COMMENTS

Mr. Card said Staff received the following review agency comments regarding the Mountain Dream Combined Master and Development Plan. The Planning Board may choose to discuss these comments and impose conditions as necessary to ensure compliance with the HCSO.

- 1, **Comments from the Henderson County Fire Marshal's Office.** Rock Hyder, Fire Marshal, stated that no fire protection water supply is provided. The proposed development is approximately ¾ mile from public water supply.
 - According to Section 170-20B (1) of the Henderson County Subdivision Ordinance, a subdivision shall be required to connect to a public water supply system when the subdivision is located within a distance from the existing water system equal to the product of 100 feet multiplied by the number of lots proposed for the subdivision (not to exceed 5,000 feet). Being that the subject property is not within 2,000 feet of existing public water infrastructure, the developer is not required by the HCSO to serve the development with public water.

There was some discussion among Board members regarding one out-parcel proposed for the development. Jon Laughter was not present to answer any questions the Board had regarding the right-of-way through the out-parcel.

Chairman made a motion that the Planning Board find and conclude that the Combined Master and Development Plan for Mountain Dream complies with the provisions of the Subdivision Ordinance except for those matters addressed in the Staff Comments section of the memo that need to be addressed; and further move that the Combined Master and Development Plan be approved subject to the following conditions: the applicant satisfies any conditions that result from the comments discussed by Planning Staff. John Antrim seconded the motion and all members voted in favor.

Pleasant View (# 2007-M07) – Combined Master and Development Plan – (17 Single-Family Residential Lots) – Located off Pleasant Grove Road – Associated Land Surveyors, Agent for Juanita Brogden, TC Williams and Eugina Barber, Owner. Mr. Cable stated that Juanita Brogden, TC Williams, and Eugina Barber (property owners), have submitted through Associated Land Surveyors and Planners PC., a Combined Master and Development Plan for the Pleasant View major subdivision. Brogden Contracting will be the developer of the project. Pleasant View is proposed to be developed on one parcel of land totaling approximately 19.36 acres in size located off of Pleasant Grove Road.

Pleasant View is planned to contain 17 single-family lots that will be developed in one phase. The developer plans for all of the homes to be served by private individual water and septic systems. Two private roads are proposed to serve the development, with the main entrance off Pleasant Grove Road.

Mr. Cable stated that the subject property is located within a County Open Use zoning district, which does not regulate residential uses of land and is not located in a Water Supply Watershed area. One official blue line perennial stream flows along the western boundary of the project site.

STAFF COMMENTS

Staff has reviewed the major subdivision application for conformance with the Henderson County Subdivision Ordinance (HCSO) and offers the comments that follow.

1. **Revisions to Development Plan.** The following changes must be made for the Development Plan portion of the Combined Master and Development Plan to be in compliance with Appendix 5 (Development Plan Requirements) of the HCSO.
 - Private local residential roads require a drainage ditch with a minimum of 3:1 slope. The private road cross-section must be revised to show an adequate drainage ditch for each of the proposed roads.
2. **Water Supply.** According to Section 170-20B (1) of the Henderson County Subdivision Ordinance, a subdivision shall be required to connect to a public water supply system when the subdivision is located within a distance from the existing water system equal to the product of 100 feet multiplied by the number of lots proposed for the subdivision (not to exceed 5,000 feet). According to the Combined Master Plan and Development Plan, the proposed project site is located within 1,500 feet of the nearest public water supply infrastructure (City of Hendersonville). Being within 1,700 feet of such infrastructure, the Applicant is required by the HCSO to serve the proposed development with public water. Exceptions to this requirement may be granted by the Planning Board based upon terrain hardships, inability to acquire easements, or inadequate capacity.

3. **Soil Erosion and Sedimentation Control.** The developer should submit notice from NC DENR that a soil erosion and sedimentation control plan has been received, or provide documentation that no plan is required prior to beginning construction (HCSO 170-19).
4. **Driveway Permit.** The applicant must obtain a driveway permit through NCDOT for the proposed entrance on Pleasant Grove Road and provide evidence of permit issuance to the Planning Department.
5. **Final Plat Requirements.** Final Plat(s) must meet the requirements of Appendix 7 of the Subdivision Ordinance for approval.

REVIEW AGENCY COMMENTS

Staff has received the following review agency comments regarding the Pleasant View Combined Master and Development Plan. The Planning Board may choose to discuss these comments and impose conditions as necessary to ensure compliance with the HCSO.

1. **Comments from the Henderson County Fire Marshal's Office.** Rocky Hyder, Fire Marshal, stated that there is no fire protection water provided. The proposed development is approximately 66 miles from a fire hydrant. Regarding roads, an 18-foot roadway would provide adequate access for emergency service vehicles.

- Comments regarding public water access have been addressed in the Staff Comments section above.

2. **Comments from the Henderson County Zoning Department.** Ms. Natalie Berry of the Henderson County Zoning Department stated that since it is in the Open Use District, that district does not regulate single family dwelling subdivision developments. The entrance is located in a special flood hazard area and must be shown on the plan. She further stated that if this is the only entrance, the roadway must be elevated to Base Flood Elevation and anchored to prevent floatation, collapse and lateral movement.

Staff has found that given the above conditions, the major subdivision application for Pleasant View appears to meet the minimum standards of the Henderson County Subdivision Ordinance. Staff recommends approval of the Combined Master and Development Plan subject to the above comments being addressed, and the developer addressing any other issues raised by the Planning Board.

Terry Baker, agent for the developer, stated that the water system is across two parcels and the French Broad River and where the crow flies. The road footage is almost three miles that the water line would have to be run, so we have no way of coming across these private parcels. He said it is actually three miles from the hydrant road-wise to the entrance of the subdivision project. Chairman Pearce said that under this scenario that because of going through private property and the French Broad River, that route is not acceptable, so basically if it is within 1700 feet, they could connect to the water system. Mr. Baker also mentioned, regarding the comment from the Zoning Administrator, that the road at the entrance, which is a State maintained road, is above three-tenths of a foot of Base Flood Elevation and is an exact measurement.

Chairman Pearce made a motion that the Planning Board find and conclude that the major subdivision application for Pleasant View complies with the provisions of the Subdivision Ordinance except for those matters addressed in the Staff Comments section of the memo

that need to be addressed; and further move that the Combined Master and Development Plan be approved subject to the water supply. He stated that if the water line is within 1700 feet on public access that the subdivision would be required to connect to the public water otherwise they would be allowed to use private wells. Tommy Laughter seconded the motion and all members voted in favor.

Big Creek (#2007-M09) – Master Plan – 77 Single-Family Residential Lots, 4 Duplex Units, a Community Pavilion, a Lodge, Guest Cabins, Outfitters Shop and Equestrian Office – Design Workshop, Agent for Big Creek Lodge, LLC, Owner. Mr. Card stated that Design Workshop Inc., on behalf of Big Creek Lodge, LLC, property owner, submitted a Master Plan and major subdivision application for a project titled Big Creek. The project site for Big Creek is located within the Pisgah National Forest on 84.62 acres of land. The site is accessed off of North Mills River Road which ends at the edge of the property. Mr. Card provided some photos of the bridge area and of the proposed site area. Mr. Card mentioned that he had a conversation with Randy Burgess, who is the District Ranger with Pisgah National Forest and he was saying that North Mills River Road ends where you enter the forest. The section that goes through North Mills River Campground is inside the national forest and owned and maintained by the U.S. Forest Service. They would have to grant the Big Creek project a right-of-way through the National Forest so that they could access the property. He stated that the bridge itself is maintained by the U.S. Forest Service and the developers would also, if the owners would expand or improve that bridge, they would have to get approval through the Forest Service in order to do so. The property is split by an existing U.S. Forest Service road (referred to as Yellow Gap Road). Located on the project site is a one lane bridge (approximately 40 feet long and 14 feet wide) which spans the North Fork of the Mills River. The applicant has proposed a total of 85 residential units which includes 77 single-family dwelling units, 4 duplex units, a community pavilion, lodge, guest cabins, outfitters shop and equestrian office. It appears that the outfitter shop and community pavilion are not included in the 89 unit total. The proposed commercial uses will only serve the development.

Mr. Card said that a portion of the project is located within the 100-year floodplain as indicated on the attached Master Plan. The site is currently zoned Open Use (OU) which does not regulate the residential and commercial uses of land. The project site is located in a WS-II Water Supply Watershed district. Private roads, private community water (wells) and sewerage systems (group septic) are proposed.

STAFF COMMENTS

According to Section 170-16B of the Henderson County Subdivision Ordinance (HCSO), the purpose of a Master Plan is to present the overall development concept for a project and to provide general information about the project to allow for assessment of its impact on growth and development of the County, environmental quality, land values, natural features, etc. Section 170-16, B (2) of the Subdivision Ordinance states that the Planning Board shall review the Master Plan, taking into consideration the applicable recommendations of the Henderson County Land Use Plan (County Comprehensive Plan) and the potential use of the land to be subdivided, together with the impact of the subdivision and proposed use, whether residential, commercial or industrial. Staff has reviewed the Master Plan for Big Creek for conformance with the Henderson County Subdivision Ordinance (HCSO), Henderson County Water Supply Watershed Ordinance (WSWSPO), Henderson County Zoning Ordinance (HCZO) and Henderson County 2020 Comprehensive Plan (CCP) and offers the following comments:

Master Plan Comments

1. **Subdivision Ordinance.** In addition to the comments written above, Section 170-3 in Article 1 (General Provisions) of the Subdivision Ordinance states that the Subdivision Ordinance is based, in part, on the Henderson County Comprehensive Land Use Plan and, in particular, its goals and objectives. The Planning Board must consider the CCP, its goals and objectives described below in comment 2 when reviewing the Master Plan. Section 170-3 also states that due to severe topographic conditions, inadequate road access, distance from service, unique natural areas (as defined in Section 170-9), soils that do not easily support soil drainage systems, or the proximity to existing and incompatible land uses, all land may not be suited to be subdivided for the purpose of dense development. Staff does not believe that this subdivision is compatible with surrounding land uses and this site is not suitable for dense development, as proposed.

2. **Henderson County 2020 Comprehensive Plan (CCP).** The Future Land Use Map of the CCP shows the subject property as being located within the Rural Agricultural Area (RAA) of the Growth Management Strategy.

- Through the year 2020 the RAA is expected to remain predominantly rural with low-density residential development because of the location, topography, and lack of public infrastructure for these areas.
- RAAs are usually so far from public water and sewer as to make extensions of such utilities economically unfeasible.
- The CCP suggests that areas in the RAA should be developed at an average density of 5 or more acres per residential dwelling unit.
- The CCP states that extraordinary care should be taken in these areas to preserve their rural character and environmental resources.
- The CCP also states that land use planning should acknowledge the presence of sensitive natural areas such as floodplains, wetlands, areas of excessively steep topography and other natural assets and should strive to protect these areas from development which would damage such resources or diminish their integrity.
- The Future Land Use Map shows that most of the development is proposed for land that contains areas designated as conservation. These are likely to be sensitive natural areas, such as steep slopes, streams, creeks, waterfalls, forest reserves, wildlife conservation areas and key watersheds.
- The CCP states that lands identified as conservation are intended to remain largely in their natural state, with only limited development.
- It appears that the applicant and his agents have gone through extensive measures to protect certain areas of the project site with conservation designed subdivision; however, Staff feels that the proposed density and location of units adjacent to the North Fork of the Mills River and Rocky Fork Creek are in contravention to the CCP and its goals and objectives.

3. **Impact of Development.** The area surrounding the proposed project is heavily used by the public for fishing, camping, hiking, biking, hunting and horseback riding. A development in this location would have a significant impact on the surrounding area, public recreation, existing natural environment and water quality. In regards to the impact on water quality see comment 7. Staff has received comments from the Pisgah District Ranger and Cradle of Forestry Interpretive Association who manage the North Mills River Recreation Area & Campground. These comments discuss potential safety issues with a development in this area (see review agency comment 4). Staff believes that the development of Big Creek will lead to more traffic through the campground and recreation area. This will increase the chance of accidents occurring between motorists and pedestrians. There are also public safety concerns with the development of housing

adjacent to hunting and fishing areas. The Planning Board may want to discuss with the developer the intentions of dealing with these potential public safety issues.

4. **Fire Protection.** It appears that the project site is located more than 6 miles from the nearest fire station. This would have serious impact on the Fire Department's ability to protect the lives and property of this project. In addition, it is Staff understands that homes or businesses located beyond this 6 mile limit are rated as a class 10 fire insurance rating. This is considered by the insurance industry as an area without fire protection. Fire insurance is difficult to obtain for properties in these situations.

5. **Floodplain.** According to County records a portion of the project site is located in an unnumbered "A" zone 100 year floodplain. Since the project is located in an unnumbered "A" zone, base flood elevation (BFE) data is not currently available. It is staff's opinion that we can not properly evaluate the road design and lot configuration without base flood elevation data. Without this data to indicate where the 100 year floodplain extends, it is not feasible to determine if the proposed lot configuration and road layout would be adequate or safe. A master plan should not be approved until the flood data is provided by a qualified hydrologic engineer.

6. **Existing Bridge.** The bridge is too narrow to meet subdivision or fire code requirements at only 14 feet wide. In addition, it has no weight rating posted. It has not been determined if the current bridge could support fire apparatus. The elevation of the bridge may also be a concern for flooding. The bridge appears to be only 9 feet above the water of North Mills River and may not be above the base flood elevation. Again, because we do not have base flood elevation the safety of the bridge can not be determined. A master plan should not be approved until the flood data is provided by a qualified hydrologic engineer.

7. **Water Quality.** The City of Hendersonville has a water supply intake for drinking water just north of the project site. This is due to the pristine water quality of the rivers and streams in this area. The North Fork of Mills River and Rocky Fork Creek both located on the property have been designated by the State as high quality water and trout streams. Mr. Brian Cole with the US Fish and Wildlife Service has indicated that the Big Creek project will have an adverse impact on water quality and the endangered Appalachian Elktoe population located in North Mills River. Henderson County has seen firsthand the impact development can have on water quality with sediment filling ponds and flowing into streams. The Planning Board should discuss with the developer the intentions of mitigating the impacts of development on water quality.

8. **Water Supply Watershed Ordinance.** § 192-22 of the Water Supply Watershed Protection Ordinance says, *"No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption: inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality"*. Staff believes that this project, as proposed, poses a threat to water quality, public health, safety and welfare. The applicant has proposed 14 units directly on the North Fork of the Mills River, two road crossing over Rocky Fork Creek and a couple of units within close proximity to Rocky Fork Creek. According to § 192-15 of the Water Supply Watershed Ordinance, a minimum thirty-foot vegetative buffer is required along all perennial streams. Staff feels that a thirty-foot buffer does not mitigate the adverse impact development will have on the water quality of North Fork of Mills River and Rocky

Fork Creek. While the County has no specific standards exceeding a minimum thirty-foot vegetative buffer, it is worthwhile for the developer to consider building units further from the river.

9. **Land Development Code (LDC).** According to Draft 7 of the Land Development Code Zoning Map the proposed project site for this development is located entirely in the Residential Zoning District 3 (R3). The current draft of the Land Development Code (LDC) requires a density of 1 unit per 1.5 acres. The proposed density of the project is approximately 1.41 units per 1.5 acres. Since differences exist between proposed densities with the LDC and the CCP, if the LDC is adopted as proposed then the CCP may need to be amended to be consistent with the LDC.

Review Agency Comments

1. **Comments from the Fire Marshal.** Mr. Rocky Hyder, Fire Marshal, stated that a fire hydrant must be located within 400 feet of any portion of a commercial building according to the NC Fire Prevention Code. Regarding roads, access roads must be at least 20 feet wide with 13'6" vertical clearance and extend to within 150 feet of any portion of a commercial building. Bridges serving commercial property must meet the width and vertical clearance requirements of access roads and be designed for a live load sufficient to carry the imposed loads of fire apparatus.
2. **Comments from the Water Supply Watershed Administrator.** Natalie Berry, Water Supply Watershed Administrator and Floodplain Administrator, has submitted comments regarding the project detailing regulations according to the Water Supply Watershed Ordinance and the Flood Damage Prevention Ordinance..
3. **Comments from the US Fish and Wildlife Service.** See attached comments provided by with the US Fish and Wildlife Service. In these comments Mr. Cole has suggested ways to minimize the impacts on water quality, the endangered Appalachian Elktoe and other fish and wildlife resources. The applicant should take into consideration these recommendations.
4. **Comments from USDA (Forest Service).** Comments from Mr. Randall Burgess, District Ranger for the Pisgah Ranger District.
5. **Other Comments.** Mr. Card mentioned that comments have been submitted from various concerned organizations and citizens.

Mr. Card stated that as previously mentioned, the Master Plan is inconsistent with the CCP and the goals and objectives of the Growth Management Strategy. Since the adoption of the CCP, the Planning Board has approved master plans for subdivisions that were not compatible with the CCP. When reviewing the project it appears that the Big Creek Master Plan is more inconsistent with the CCP and requirements of Section 170-3 and Section 170-16, B of the Subdivision Ordinance than previously approved subdivisions. This is a result of the proposed density and adverse impact this density will have on environmentally sensitive areas and the incompatibility with the surrounding area and uses. In addition, since this project is in a key watershed area the development of Big Creek, as proposed, poses a threat to water quality, public health, safety and welfare and is therefore in contravention to the requirements of the County's Water Supply Watershed Ordinance. Mr. Card said that for these reasons, Staff recommends denial of the Big Creek Master Plan, as proposed.

Mr. Craig Justus discussed the project. He is representing Kent Smith, the developer for the project. Mr. Justus stated that they had met with Staff on this project and are confused with the opposition of Staff's memo. He noted that this is not a Development Plan they are presenting but a Master Plan concept submittal. He stated that this is private property and the developer is relying on the rules that are in place in the Ordinances and wants to comply with all the Ordinances.

Mr. Kent Smith, President and CEO of Global Development Resources, which is the company that owns the property, stated that he is interested in managing its development properly. He mentioned that he has met with all of the various agencies involved in this project so that collectively he could develop a plan that would be presented. He stated that because a family death occurred last year, the project was put on a delay and only continued planning it again recently. He stated that he would rather not develop this land and instead sell it and have the land to remain in its natural state. He asked the Board to consider tabling the project so that he could meet with all of the government agencies concerned with the development and then after meeting with them, he may not need to come back before the Board. Mr. Smith asked Mr. Blau, design engineer for the project, to review Staff's comments.

Mr. Bryan Blau showed a map of the project and said that there was intensive analysis of the site and explained that they did look at soils, slopes, elevation, vegetation, watersheds, drainage and used an overlay system to look at all of these factors. He stated that the developer is very conscious of the environment and are aware of all of the regulations. He feels that they had gotten into more of the substance of the project with the Planning Staff, there might not have been as much opposition.

Mr. Blau reviewed the items of contention that caused an unfavorable recommendation from Planning Staff:

1. Setbacks from the streams - He stated that for the most part, the plan exceeds the required 30 foot buffer. He stated that they will be working with Staff on a more significant buffer on what that distance would be as requested by Staff.

Chairman Pearce interrupted as he felt that the Board needs to focus on what is before them and not any future plans, as we could address that as a separate issue if needed. Mr. Justus interjected and restated that the applicant is asking for this item to be tabled. We are just trying to inform you of the direction we plan on taking and the importance of the rules and guidelines that are in place. Chairman Pearce said that we have many ordinances that come into play and so the Board will need to address the issue as to whether we will table it or make a judgment on it tonight, but before that we would need to address specifically the issues we have before us. Mr. Justus stated that their point is that the issues may resolve themselves from tabling it. Chairman Pearce made a motion to not table this item and that the Board proceeds with the discussion and possibly make a judgment on it as it is presented today. Ms. Zambon interjected and stated that should the Planning Board chose to table the motion and grant the request, there is a stipulation that she would like the developer to sign regarding the ninety-day time period for decisions from the Planning Board on this issue. Chairman Pearce stated that he would add this to the motion. Tommy Laughter seconded the motion. Chairman Pearce added that the Board has a project before the Board and has been presented, if it had been withdrawn, but it has been presented, so he feels it is appropriate to go through with it. Ms. Zambon stated that the developer has the option of withdrawing at the end of their presentation. Mr. Justus stated that he was trying to save time by asking tabling the project. He said that if you want to go through each comment and take action, he feels that they need to spend more time going

through each of the Staff report items and in fact they have argument as to each one. After some further discussion, he stated that all of this could go away if we could a chance to discuss these issues in Staff's report and try to work through it by tabling this now. Board members wanted to know the difference between withdrawing the application and tabling it. Mr. Starr explained the differences and other options. Mr. Starr clarified that when this plan was submitted over a month ago to Staff in a pre-application conference, that is the time that the developer gives the information to Planning Staff and makes Staff aware of what the key factors are for the project. He said it is not the time where Staff is able to sit down and identify all of the concerns that Staff may or may not have as that is the purpose of Staff's review. Mr. Starr said Staff has done that now and that is the purpose of the report. He added that he assures everyone that no one has been blind-sighted because the process is handled the same way for everyone. After some further discussion, all Board members were in favor of not tabling this project and continuing the meeting on this issue.

Mr. Craig Justus addressed Staff's comments. He reviewed the density and said that what they are proposing for the site under the Open Use Zoning district is acceptable. He said the Zoning Ordinance conflicts with the County Comprehensive Plan (CCP) regarding density so what the CCP states is only an advisory tool but what the Zoning Ordinance states is the rule of law. He added that what Staff says is that we are too dense, is contrary to what North Carolina law would allow us on this piece of property. Regarding setback requirements on this property, the minimum requirement is 30 feet, but according to the Staff report, they would want us to do better and Mr. Justus stated that the developer can do better, but all of these comments are related to a conceptual Master Plan. The Development Plan would be more specific and with that we will comply with the 30-foot setback, but try to comply with Staff's suggestions, with a larger setback that would be satisfactorily with Staff. Mr. Justus stated that regarding impact on the campsite and traffic related going on off-site, according to the Subdivision Ordinance it does comply within the development. He added that there was some mention about access to the property. He said that they have an easement signed by the U.S. Forestry Service signed in 1975 to the former property owner of this property in question. He said that this property has been in existence for more than 100 years with people getting to the property with no problems. Mr. Justus said that the developer does have insurance on the structure located on the property. There was some further discussion regarding the easement issue and Mr. Kent Smith stated that he is aware of needing to do something about the road through the campground and the pedestrian safety. He is aware that the public knows that the road goes through to US 276 and there is a lot of traffic through there. He said that if we reach an agreement with all of the parties involved that he would not go forward with this subdivision plan without sitting with them and Staff to re-evaluate the things that were very valid points and that were made by those parties relative to this plan. He said if an agreement is reached, we wouldn't move forward but if we don't reach an agreement with them, we would like to submit a plan that is more consistent with what they want to see happen.

Mr. Smith stated that he does not want to go further with discussion of this plan and wanted to exercise the right to withdraw the application at this time. Chairman Pearce stated that the withdrawal is accepted. He added that the Board does have the right to consider density, as not all land is developable or not all land is suitable for density development. There are some zoning issues. He said regarding the fire issues, they relate to the bridge and the commercial use which require fire hydrants and is a concern. He said regarding sewer, the watershed ordinance gives the Board the right to make adequate provisions to protect the water supply and it is a major source of pure water. He would like to see some type of responsible certification that if sewer systems are installed, where they are individual units or a group plan of some nature, that adequate provision is made. He added that significant reductions in density is the

only way and all of the County Ordinances play an important part in this development and would make a difference in a decision on the Master or Development Plan. Mr. Smith briefly stated all of the uses he plans to place on the subject area, if he decides to develop it. Chairman Pearce acknowledged the people who signed up under *Public Input* for Big Creek but because the application had been withdrawn, there was no need to go forward with the input session at this time.

Rezoning Application – (#R-2007-01) – Request to Rezone approximately 5 acres Located off Old Hendersonville Road, from a T-15 (Medium-Density Residential with Manufactured Homes) Zoning District to an I-2 (General Industrial) Zoning District – Matthew Dyer, Owner and Applicant. Ms. Radcliff stated that on February 14, 2007 Matthew Dyer submitted an application to rezone approximately 4.87 acres of land located off Old Hendersonville Road, from a T-15 zoning district to an I-2 zoning district. The Subject Area is located approximately nine-tenths of a mile south of the intersection of Howard Gap Road and US Highway 25 North. It is currently zoned T-15, which was applied on May 9, 2005, as part of the US Highway 25 North Zoning Study and is surrounded by T-15 zoning. She stated that there is an I-2 zoning district which touches the bottom portion of the Subject Area to the southwest, land adjacent to the Subject Area to the north is within the Town of Fletcher's jurisdiction and is zoned Fletcher M-1 (Manufacturing/Industrial).

Ms. Radcliff reviewed the T-15 zoning district and the I-2 district and informed the Board members what uses were allowed in each district. She said that adjacent and surrounding area uses include agricultural and single-family residential uses to the south and west, including a manufactured home park. Industrial uses located to the north and east include Owen Manufacturing, Carolina Pipe Supply, and Stone Truck Parts among others.

Staff Comments and Recommendations

Ms. Radcliff stated that Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the property to be zoned for industrial uses. She stated that this recommendation is based on the following reasons:

1. The text and map of the 2020 CCP identify the Subject Area as being suitable for industrial development.
2. The US Highway 25 North Zoning Study did not recommend industrial zoning for the Subject Area due to the absence of public water and sewer; however the Henderson County Industrial Study, which took place after the US 25 North Zoning Study, supports the CCP recommendations that the Subject Area and surrounding property be reserved for industrial uses. Public water and sewer are also in proximity to the Subject Area and serve surrounding industrial sites.

She said it is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would inform the County's consideration of the proposed rezoning.

Ms. Radcliff also stated that the parcel size is 4.87 acres; water distance is ¼ mile; sewer distance is ½ mile and the required sewer connection by the Henderson County Subdivision Ordinance is 2,500 feet maximum.

Chairman Pearce asked Board members whether they opposed this request for any reason, but all members were in agreement that they favored I-2 for this Subject Area. Tommy Laughter made a motion to send a favorable recommendation to the Board of Commissioners that rezoning application #R-2007-01 be zoned I-2 from T-15. Mike Cooper seconded the motion and all members voted in favor.

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

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

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

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

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

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

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

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

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

Staff Comments and Recommendation:

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

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

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

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

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

Rezoning Application – (#R-2007-03) – Request to Rezone approximately 2.41 Acres located off Naples Road, from an I-1 (Light Industrial) Zoning District to a C-4 (Highway Commercial) Zoning District – Walter Rowland, Owner and Applicant, B.L. Hyder, Applicant’s Agent. (Stacy Rhodes was recused because of his involvement with the surveying work on this project). Mr. Cable stated that on February 14, 2007 Walter M. Rowland, along with his agent, B.L. Hyder, submitted an application to rezone approximately 2.41 acres of land located off Naples Road, from an I-1 zoning district to a C-4 zoning district. The Subject Area is located at the intersection of I-26 and Naples Road; approximately ½ mile south of the intersection of I-26 and US Highway 25 North and is currently zoned I-1, which was applied on May 9, 2005, as part of the US Highway 25 North Zoning Study. He added that the Subject Area is surrounded by I-1 zoning. To the west is a C-4 district, to the north and east is an R-15 district, and to the south is an R-20 district.

Mr. Cable reviewed the two districts and the uses that they allowed in each (I-1 and C-4). He said that the Subject Area is composed of two parcels, each parcel is currently developed with Residential uses include single-family residential homes located in the Naples community, east of the Subject Area. Commercial uses are located to the east of the Subject Area and include WNC Home Oxygen (located on Canterbury Way) and A Self-Storage Depot and U-Haul (located on Naples Road). Commercial uses are located to the south of the Subject Area, at the corner of US Highway 25 North and South Naples Road, and include Southern Showcase Housing, Advanced Alarm and Lock, Jake’s Driving Range, and a structure formerly housing Diamond Brand. In addition commercial uses are located at the intersection of US Highway 25 North and Naples Road, and include Shell/Bojangles/Stuckeys. Industrial uses are located north of the Subject Area and include Oxilife, Inc. and Saluda Mountain Products, Inc. (located off Twin Springs Road).

Staff’s position at this time, under the guidelines of current plans, policies and studies, is it does not support the rezoning of the property to be zoned for commercial uses. This based on the following:

1. The CCP suggests that the Subject Area would be suitable for high-density residential, commercial, or industrial development, but does not indicate which use may be most appropriate.

2. The US Highway 25 North Zoning Study, which resulted in the current I-1 zoning, recommended this area as appropriate for industrial development.
3. The Industrial Study identified the Subject Area as suitable for industrial development as well. These studies are intended to be extensions of, and further refine recommendations made by the CCP.
4. Spot Zoning is also a concern. Rezoning the Subject Area would result in these parcels being completely surrounded by an I-1 zoning district.

Mr. Cable stated that Staff has identified no plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest that would justify supporting the proposed rezoning. Staff's position is that it supports the recommendations of the US Highway 25 North Zoning Study and Industrial Study and recognizes a spot zoning concern were the Subject Area to be rezoned. Mr. Cable stated that, should the Planning Board wish to recommend approval for the rezoning request, staff suggests that it consider including parcels to the southwest of the Subject Area (at minimum 2 Parcels owned by Mr. Scott Jarvis) in order to alleviate spot zoning concerns. This would not, however, be in keeping with the recommendations of the US 25 N Study or Industrial Study. Mr. Cable stated that Staff had spoken with Scott Jarvis, but he had not determined how he felt about his parcels being rezoned at the time. Mr. Cable added that Mr. Jarvis might have some input to provide to the Board members.

He said it is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would inform the County's consideration of the proposed rezoning.

Mr. Boyd Hyder, agent for the applicant stated that the reason for the zoning change from I-1 to C-4 is that the proposed project for the site would be more compatible for highway commercial as it is more visible to the existing Naples Road. He added that because of the terrain and non-accessibility to the interstate, this site would not be suitable for industrial use.

Mr. Scott Jarvis, owner of parcels 8 adjacent parcels southwest of the subject area, stated that he feels that C-4 highway commercial would be more suitable than the I-1, light industrial zoning that is presently on his property because it would have more visibility and that it is bordered by two roads. He submitted a letter indicating that he would request changes to be made for his parcels from I-1 to C-4 in order to alleviate spot zoning concerns.

Gary Griffin made a motion to recommend to the Board of Commissioners that request R2007-03 of approximately 2.41 acres of land located off Naples Road, owned by Walter Rowland Jr. be rezoned from I-1 to C-4 and that the rezoning also include all 8 of Mr. Scott Jarvis's parcels because it is more suitable for the land and would alleviate spot zoning concerns. Tommy Laughter seconded the motion and all members voted in favor.

Chairman Pearce made a motion to recommend to the Board of Commissioners significant changes to the Draft Land Development Code. These changes were as follows:

- Commercial uses are allowed in the industrial zoning district. Specific uses were not discussed but they recognized that there are some commercial uses that could be compatible with industrial uses.

- The opinion of the Planning Board is that there is a need for a fourth residential/rural zoning district. The proposed district, R-4, would be for an average density of 1 dwelling unit per 5 acres. Also, the Board suggested that areas within and near public lands such as the Pisgah National Forest, Dupont State Forest, the Green River Gamelands and land with extremely steep slopes and key watershed areas should be given this R-4 zoning classification.

Mike Cooper seconded the motion and all members voted in favor.

Adjournment. There being no further business, the meeting adjourned at 7:40 p.m. All members voted in favor.

Tedd Pearce, Chairman

Kathleen Scanlan, Secretary