

MEMORANDUM

TO: Henderson County Planning Board

FROM: Karen C. Smith, Planning Director

DATE: January 15, 2004

SUBJECT(S): Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 for a Motocross Racing Facility

ATTACHMENTS:

1. Application Materials Submitted 12/10/03
2. Vicinity Map
3. Addendum to Variance Application Submitted 01/15/04
4. Current Zoning Map
5. Current Generalized Land Use Map
6. Aerial Image of Subject Property
7. USGS Topography Map
8. Comments from Review Agencies
9. Letters Received by Planning Department

Background Information

On December 10, 2003, Mr. J. Michael Edney, on behalf Mr. George Andrew Bennett, submitted an application (#SU-03-01) and related materials (see attachment 1) for a special use permit to allow the operation of a motocross racing facility in a County I-2 (General Industrial) zoning district. The Henderson County Zoning Ordinance (“HCZO” or “Zoning Ordinance”) allows “motor sports facilities” in the I-2 district as a special use and provides specific site standards for motor sports facilities in the I-2 district as well general site standards applicable to all special uses. The motor sports facility is proposed for a tract of land (parcel identification number of 00-9660-09-8902-55) that Mr. Bennett owns at 198 North Egerton Road, behind Mountain Home Industrial Park (see attachment 2). The subject property contains approximately 15.36 acres.

The Board of Commissioners is the approval authority for special use permits. Sections 200-56 and 200-70 of the HCZO require that the Board of Commissioners refer applications for Special Use Permits to the Planning Board for review and recommendations prior to the Board of Commissioners holding a public hearing.

In addition to the application for the special use permit, Mr. Edney also submitted an application (#BOCV-03-01) requesting variances related to the special use permit (see attachment 1). On January 15, 2004, Mr. Edney submitted an addendum to the variance application (see attachment 3), which clarifies the extent to which the applicant is requesting the variances. 200-70A(7) of the HCZO allows the Board of Commissioners to consider variances associated with special uses. The HCZO does not specifically require that the Planning Board make recommendations on such variance requests, although consideration by the Planning Board may be necessary to fully assess the special use permit application.

At its December 17, 2003 meeting, the Board of Commissioners voted to refer Special Use Permit application #SU-03-01 for a motocross racing facility (with related variance application #BOCV-03-01) to the Planning Board for review and recommendations.

General Site Description

As noted above, the property on which the proposed motocross racing facility will be located (the "subject property") is located in an I-2 zoning district (see attachment 4) and adjoins the Mountain Home Industrial Park. The subject property is bordered by Mud Creek on the northeast. Properties owned by Branford Wire and Manufacturing and Carolina Industries, Inc., both of which contain industrial uses, adjoin the subject property on the southeast. Adjacent to the subject property on the southwest are two vacant lots owned by D. Nabors as well as a tract owned by CAB Properties which contains mini-storage units. Properties adjoining the northwestern side of the subject property include a tract containing residential uses (but which is mainly undeveloped where it adjoins the subject property) owned by James Owen, a vacant tract listed under Nancy P. Rhodes, Executrix, and Estelle B. Parks, as well as a mainly undeveloped tract owned by Clement Pappas NC, Inc. Attachment 5 shows generalized current land uses in the vicinity of the subject property and attachment 6 provides an aerial view of the subject property and surrounding area. The applicant has provided an aerial photo of the subject property in the application materials (see attachment 1) and a color version of such photo will be available at the Planning Board meeting.

The site plan submitted by the applicant indicates that much of the subject property is located within the 100-year floodplain and a map showing floodplain areas was included with the application materials. Flood Insurance Rate Maps for Henderson County from the Federal Emergency Management Agency (FEMA) indicate that most of the property is within the 100-year floodplain and a portion is within the 500-year floodplain. The topography of the subject property is illustrated on attachment 7.

The application materials for Special Use Permit #SU-03-01 indicate that the proposed motocross racing facility will consist of a 4,540-foot long "main track" and a 1,010 "beginner track." A gravel patron area, a parking area, a gravel drive, a registration pavilion, a concession stand, portable toilets and a hand wash station are also proposed on the site plan. The application materials also indicate that water and sewage disposal service for the site is "private." According to the City of Hendersonville Water and Sewer Department, public water is available on North Egerton Road. The closest public sewer (a force main) is also on North Egerton Road, per the Henderson County Utilities Department.

Review of Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01

Staff has reviewed Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 for compliance with the HCZO and offers the comments which follow. To assist in the review, Staff solicited comments from various municipal, county, state and other agencies that are often involved in the review of development projects. Copies of the comments received to date are attached (attachment 8).

1. I-2 (General Industrial) District.

The I-2 (General Industrial) district (Section 200-24 of the HCZO) does not contain a purpose statement like most of the other districts in the Zoning Ordinance, however it is the more intensive of the two industrial districts in the Ordinance (I-1, Light Industrial, being the other industrial district). It allows by right a variety of commercial, office and industrial uses, ranging from retail

businesses, medical offices and automobile sales and service to storage plants and tanks and warehouses. The district allows some uses by right provided certain standards are met, such as junkyards, amusement parks, mobile home display areas, civic and cultural buildings, certain communications towers, airports and “any industrial use, excluding those prohibited by §200-24C.” Section 200-24C prohibits hazardous waste disposal facilities and/or radio active waste disposal facilities in the I-2 district. Mining and extraction operations are allowed in the I-2 district subject to the granting of a Conditional Use Permit by the Zoning Board of Adjustment and Group 5 communications towers, motor sports facilities and adult establishments are permitted in the I-2 district subject to approval of a Special Use Permit by the Board of Commissioners. Specific site standards apply to all of the Conditional and Special Uses allowed in the I-2 district.

2. Motor Sports Facility General.

Section 200-24F(2) of the HCZO allows motor sports facilities as a special use in the I-2 district. Section 200-7 of the HCZO defines a “motor sports facility” as follows:

MOTOR SPORTS FACILITY -- Any facility, track or course upon which racing events are conducted.

The HCZO defines the term “racing event,” used in the definition of motor sports facility as:

RACING EVENT -- Any time, speed or distance competition using motor vehicles, whether or not conducted under the auspices of a recognized sanctioning body, including but not limited to events on the surface of land and water. "Racing events" shall be deemed to include any practice sessions, time trials, qualification rounds or any other similar activity.

The proposed motocross racing facility would, therefore, be classified as a motor sports facility under the Zoning Ordinance.

Motor sports facilities are divided into two categories, “major motor sports facility” and “minor motor sports facility” for regulatory purposes in the Zoning Ordinance. The definitions of each are as follows:

MOTOR SPORTS FACILITY, MAJOR -- A motor sports facility having a seating or standing capacity of 1000 or more persons. For purposes of this definition, standing capacity shall be computed based on three persons for each two hundred square feet of space directed to patron use. [Added 5-16-2001]

MOTOR SPORTS FACILITY, MINOR -- A motor sports facility having a seating or standing capacity of less than 1000 persons. For purposes of this definition standing capacity shall be computed based on three persons for each two hundred square feet of space directed to patron use. [Added 5-16-2001]

The application materials propose a maximum of 250 patrons and a total of 500 patrons and riders for the facility. The site plan indicates that 35,000 square feet of space will be devoted to patron use. Based on this information, it appears that the proposed motocross racing facility will be classified as a minor motor sports facility for purposes of review under the Zoning Ordinance.

3. Minor Motor Sports Facility – Specific Site Standards.

The specific site standards which apply to motor sports facilities are provided in HCZO Section 200-24F(2). Each requirement from Section 200-24F(2) is listed below, followed by Staff findings regarding each requirement.

- (a) *Racing events may only be conducted during the hours of 7:00 a.m. to 11:00 p.m. Racing events may be conducted for a maximum of three consecutive days, a maximum of five days in any calendar week and a maximum of six hours per day.*

The applicant has proposed hours of operation as “daylight hours only.” Based on the standard cited above, the applicant would be prohibited from operating the motocross racing facility before 7:00 A.M., even if daylight occurred before that time and such restriction would have to be made a condition of the special use permit, if granted. While the applicant could operate until 11:00 P.M., he has proposed that operations will be discontinued after dark. Such restriction should be a condition of the special use permit, if granted. The standard above also limits the applicant to operating for no more than 6 hours per day. This, too, would have to be a condition on the special use permit, if granted.

Regarding frequency of operations, the application materials state that “98% of all track activity would take place on weekends.” It does not appear that the applicant has provided any additional information regarding the frequency of operations on the property. As stated in the definition of motor sports facility, racing events include practice sessions. The standard cited above would restrict the applicant in terms of the number of events and practices that can occur and the duration of such events and practices. The applicant should provide more information as to how the standards regarding frequency of operations will be met.

- (b) *Secure fencing shall be required.*

Section 200-7 of the HCZO defines “fencing” as:

FENCING -- The use of a translucent, opaque or perforated barrier extending from the surface of the ground to a uniform height at all points around the portions of the property containing the regulated principal use, including but not limited to storage or use of inventory, materials or equipment associated with the principal use, if such use(s) is unenclosed. Such fencing must be constructed of wood, wire, steel or of any substance of a similar nature and strength, but which perforations or openings are not larger than sixteen square inches.

The application materials state that fencing will be “natural, vegetative.” Based on the above definition, the proposed fencing does not satisfy the requirements of the Zoning Ordinance. The applicant should address this issue.

- (c) *A minimum one-hundred-foot buffer as defined in § 200-32.1A shall be required.*

Section 200-32.1A of the HCZO defines a buffer as:

BUFFER -- A continuous strip of land, measured from the property lines or from any street bordering or traversing the property (whichever is closer to the principal use or building), in which no development or principal use may occur, but which may contain screening, fencing, interior service roads not intended for patron use, principal use signs, business signs and gate or security houses. Access road corridors may cross the buffer at entrance and exit points only.

The applicant has requested variances from the 100-foot buffer standard. According to supplemental information submitted by the applicant on January 15, 2004 regarding the extent of the variance requests, the applicant is proposing to meet the buffer requirement on the southwest boundary but is proposing to have a 50-foot buffer on the northwest boundary (a 50-foot variance) or would like the ability to provide parking in the buffer, a 50-foot buffer on the northeast boundary (a 50-foot variance) and a 10-foot buffer on the southeast boundary (a 90-foot variance).

Specific site standards, such as the buffer requirement, were established to help mitigate the impacts of proposed uses, such as motor sports facilities, on neighborhoods. In Staff's opinion, the applicant has not provided reasons for the buffer variances that will satisfy the findings that the Board of Commissioners must make in order to grant a variance. Such findings can be found on the variance application as well as in Section 200-70A(7) of the HCZO. There appears to be sufficient space on the property to provide the required buffer. The existence of a track or other improvements that were previously constructed on the subject property is not sufficient reason for granting the buffer variances. In order to meet the buffer requirements, the applicant would need to move part of the gravel patron area, the registration pavilion, part of the parking and part of the main track. The definition of "buffer" as applicable to the subject property would not allow parking within the buffer unless a variance were granted.

Because the applicant cannot meet the minimum buffer requirement and Staff does not feel that the requirements for granting a variance of the buffer requirement are satisfied, the proposed motorcross racing facility would not be able to be located on the subject property.

- (d) *A minimum setback (as defined in § 200-32.1A) of 500 feet for minor motor-sports facilities, and 1500 feet for major motor sports facilities, shall be required.*

Section 200-32.1A of the HCZO defines "setback" as follows:

SETBACK -- A continuous strip of land, measured from the property lines or from any street bordering or traversing the property (whichever is closer to the principal use or building) in which no principal use is permitted. Limited development, including buffers and related development, parking lots and accessory structures and buildings, access road corridors, and interior service roads, may occur within the setback.

It appears that it is impossible for the applicant to meet the setback requirements of the HCZO on the subject property. The applicant has applied for variances from the minimum 500-foot setback requirement for minor motor sports facilities. According to supplemental information submitted by the applicant on January 15, 2004 regarding the extent of the variance requests, the applicant would like the ability to provide a 100-foot setback on the

southwest boundary (a 400-foot variance), a 50-foot setback on the northwest boundary (a 450-foot variance), a 50-foot setback on the northeast boundary (a 450-foot variance) and a 10-foot setback on the southeast boundary (a 490-foot variance).

Specific site standards, such as the setback, were established to help mitigate the impacts of proposed uses, such as motor sports facilities, on neighborhoods. The setback variances requested are quite large in relation to the 500-foot minimum standard. As with the buffer requirement, the applicant has not provided, in Staff's opinion, reasons for the setback variances that will satisfy the findings that the Board of Commissioners must make in order to grant a variance. The setback, therefore, acts as a means of excluding motor sports facilities from the subject property. This being the case, it is Staff's opinion that the special use permit for the proposed motocross facility should not be granted.

(e) Parking requirements found in § 200-40 shall be met.

Section 200-40 of the HCZO requires that for motor sports facilities, 1 parking space be provided for each 3 seats based on maximum capacity of the motor sports facility or per each 200 square feet of space devoted to patron use, whichever is greater. The application materials do not indicate that seating will be provided. Therefore, based on the 35,000 square feet proposed for patron use on the site plan, the number of required parking spaces would be 175. The site plan proposes 167 spaces. It appears that the applicant has based the amount of parking on the amount of square feet of patron area shown on the site plan as being "required" (33,400 square feet) rather than on the amount of patron area proposed (35,000 square feet). In order to meet the minimum parking requirement, eight (8) additional spaces must be shown on the site plan.

In addition, Staff has a concern about the number of parking spaces to be provided and the typical parking lot layout detail shown on the site plan because the parking appears to be designed to accommodate standard automobiles and pick-up trucks. Based on observations by the Planning Director and the Henderson County Zoning Administrator of activities on the subject property prior to the applicant filing for a special use permit, Staff expects that the property could be accessed by vehicles pulling trailers of various sizes that carry motocross bikes and all-terrain vehicles as well as recreational vehicles and vehicles pulling travel trailers. As stated in attached comments by the Henderson County Zoning Administrator, the Zoning Ordinance does not specify a minimum size for parking spaces. The site plan indicates that spaces will typically be 9 feet wide by 20 feet long. The applicant should address whether the parking as shown on the site plan will be able to accommodate the various types of vehicles that will access the subject property. The applicant should also address if any handicapped-accessible parking will be provided.

While the site plan provides information about the roads serving the subject property, it does not appear to indicate whether the parking area will be gravel, paved or some other surface. The applicant should address this issue and also indicate if the parking spaces will be identified with striping.

Based on observations by the Planning Director of activities on the subject property prior to the applicant filing for a special use permit, it appeared that users of the property were

parking on adjacent property owned by Branford Wire. The applicant should address whether off-site parking will be utilized for the proposed motocross racing facility.

- (f) *Loading requirements found in § 200-41C shall be met.*

Section 200-41 of the HCZO states that the loading requirements for “truck terminals and other non-residential uses” should provide “sufficient space to accommodate the maximum number of trucks to be stored or loading or unloading at any one time.”

The site plan does not appear to address loading or unloading area. While none may be necessary, the applicant should specifically indicate such.

- (g) *At least one direct access road corridor as defined in § 200-32.1A, having a minimum width of 45 feet, and a minimum travelway width of 20 feet shall be required for all minor motor sports facilities.*

Section 200-32.1A defines an “access road corridor” as follows:

ACCESS ROAD CORRIDOR -- A private passageway containing a road, street, driveway, etc., that provides the principal means of direct vehicular entry and/or exit between a regulated use and a paved, public road, street or highway. An access road corridor shall be located entirely on the subject property or on an easement appurtenant. An access road corridor shall contain a clear and unobstructed travelway, except for any necessary security gates, and shall have a minimum vertical clearance of a least 13 feet, six inches.

The “typical entrance road section” on the site plan indicates that the entrance road will have a 45-foot right-of-way, a 20-foot travelway, 4-foot shoulders and a 3-foot ditch on one side. A note on the site plan also indicates that the existing gravel entrance road will “be widened to meet Henderson County standards.” The entrance road runs along a right-of-way between the subject property and North Egerton Road, a state-maintained road which is paved to a point beyond the entrance to the subject property. The site plan does not appear to indicate if the minimum vertical clearance standard of 13 feet, 6 inches will be met, although it appears that the current access road to the property would meet the standard. The applicant should address this issue. In addition, the applicant should indicate at what point the entrance road will be upgraded. If the special use permit were to be granted, a condition on the permit should require that the entrance road be constructed prior to operation of the facility.

- (h) *Fire protection shall be required.*

Section 200-7 of the HCZO defines “fire protection” as:

FIRE PROTECTION -- The design, construction and installation of buildings and facilities, equipment, appliances and infrastructure or the protection of the facilities and buildings, and the occupants thereof, from the effects or potential effects of fire. All uses requiring fire protection in this chapter shall be required to comply with the standards of the National Fire Protection Association.

The application materials do not appear to make any specific references as to how fire protection, as defined by the HCZO, will be provided. The applicant should address this matter.

- (i) *Noise mitigation shall be required.*

Section 200-7 of the HCZO defines “noise mitigation” as:

NOISE MITIGATION -- A good-faith effort to reduce the noise effects, if any, that the principal use may have on the neighborhood.

“Neighborhood” is defined by the HCZO as:

NEIGHBORHOOD -- Any area impacted by a principal use.

The application requirements in Section 200-38.3B(10) require that a noise mitigation plan be submitted for approval by the Board of Commissioners. The application materials state that peak noise emission from the proposed use is estimated to be 60-70 dBA and that noise mitigation will be provided through “space and natural vegetation.” The material also states that “noise containment is accomplished through distance to working areas.”

Staff does not believe that the applicant has provided a sufficient noise mitigation plan, particularly because of the variance requests from buffer and setback requirements (addressed above) as well as a request for a variance from the minimum 2-mile separation from healthcare facilities. Such requirements are intended to help mitigate the impact of noise from the proposed use on the neighborhood. The applicant should address this issue in more detail.

- (j) *Adequate lighting shall be required.*

The HCZO defines lighting as:

LIGHTING -- Outdoor lighting fixtures installed and operated in such a manner as to provide for the safety of those persons residing or working on the property and which protect the streets and neighboring properties from direct glare or hazardous interference of any kind.

The application requirements in Section 200-38.3B(11) require that a lighting plan be submitted. Regarding lighting, the application materials indicate that the motocross facility will be for “daylight use only.” It appears from the site plan that no specific lighting has been proposed. If patrons or riders will be leaving as darkness falls, some lighting may be necessary. The Planning Board may want the applicant to address this issue further. It may be that all patrons and riders must leave the property before dark and must not arrive before daylight.

- (k) *A minimum separation of two miles from any health-care facility shall be required.*

The HCZO defines “separation” as follows:

SEPARATION -- Where separation restrictions are required no portions of the property containing the regulated principal use, including but not limited to storage or use of inventory, materials or equipment associated with the principal use, shall be situated within the stated distance from the approximate center (centroid as determined by the Henderson County Assessor's office) of the property on which a protected use is located, whether such protected use(s) is (are) located within or outside of Henderson County, or within the municipal boundaries or extraterritorial jurisdictions of any municipality located within or outside of Henderson County.

The HCZO defines "healthcare facility" as:

HEALTHCARE FACILITY -- Any residential or in-patient medical facility, whether public or private, including but not limited to the following: general hospitals; chronic disease, maternity, mental, tuberculosis and other specialized hospitals; facilities for intensive care and self-care; nursing homes, including skilled nursing facilities and intermediate care facilities; and facilities for continuing care of the elderly and infirm.

The application requirements in Section 200-38.3B(5) require the submittal of a map from the Henderson County Assessor's Office showing that the separation requirements for the proposed use, if any, will be met. The applicant has submitted such a map (see attachment 1) which shows the subject property, a circle representing a 2-mile radius from the subject property (as per the definition of "separation") and the sites of healthcare facilities within the 2-mile radius as per the Henderson County Assessor's records. The map shows six healthcare facilities falling within the 2-mile radius. The applicant has requested a variance from the minimum separation requirement. Per the addendum to the variance application received on January 15, 2004, the applicant is requesting that the separation be reduced from 2 miles to 1,760 feet (or 1/3 mile), which would constitute a 1 and 2/3 mile variance.

As mentioned with regard to the buffer and setback requirements, the separation requirement is intended to help mitigate the impact of the proposed use on the neighborhood, and, in this case, on healthcare facilities in the vicinity of the proposed use. The applicant has submitted letters of support from providers of two of the six healthcare facilities that are identified as being within 2 miles of the subject property (see attachment 1). However, Staff does not believe that the findings that the Board of Commissioners must make in order to grant a variance on the separation standard, and such a major variance at that, are satisfied simply because healthcare facility providers within the required 2-mile separation do not object to the proposed use. The separation standard acts much like the setback standard in that it is a means of excluding motor sports facilities from the subject property. For these reasons, it is Staff's opinion that the special use permit for the proposed motorcross facility should not be granted.

- (1) *Motor sports facilities shall be prohibited on protected mountain ridges.*

Section 200-7 of the HCZO defines "protected mountain ridge" as follows:

PROTECTED MOUNTAIN RIDGE -- Any mountain ridge whose elevation is 500 or more feet above the elevation of the adjacent valley floor. For purposes of this definition, "ridge"

shall mean the elongated crest or series of crests at the apex of the mountain(s) including all land having an elevation of 0 to 100 feet less than the apex(es).

The subject property is in a very low lying area of Henderson County. This site standard has been satisfied.

- (m) The owner or operator shall be required to meet the application requirements of § 200-38.3.

Staff has reviewed the application requirements of Section 200-38.3 and offers the comments that follow. Only those requirements for which additional information or clarification is needed from the applicant are mentioned. The requirements are identified by the relevant section number of the Zoning Ordinance

Section 200-38.3B - General

The application form submitted by the applicant for Special Use Permit #SU-03-01 should reference Section 200-24F(2) as the authority for granting the requested permit.

Section 200-38.3B(3) – Site Plan

revised

- (c) The site plan does not appear to show the parcel identification number for the subject parcel.

revised Note 1 and not surveyed

- (e) While metes and bounds are shown on the site plan along the boundary of the subject parcel, the Zoning Ordinance requires that surveyed boundary lines of any parcel, or portion thereof, that will contain the proposed use, and surveyed point of highest elevation (finished grade) to the nearest foot be shown on the site plan. The survey lines are to be surveyed by an active North Carolina registered land surveyor. *(It does not appear that the surveyed highest point of elevation is shown on the site plan. Also, Staff would like for the Planning Board to review Note 1 shown on the site plan. The applicant should address if, based on Note 1, the site plan satisfies the requirement regarding surveyed boundary lines being shown on the site plan.*

revised

- (f) The site plan should show the proposed dimensions of all structures and areas not within structures devoted to principal uses. While the site plan shows the length of the tracks, it is not clear how wide the travelways are on the proposed tracks.

- (g) The site plan should show the proposed dimensions of all structures and areas devoted to accessory uses, such as the concession stand, the registration pavilion, etc.

revised

- (h) The proposed location, use and dimensions of the stated minimum buffer and setback should be shown on the site plan.

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revised

- (i) The site plan should show proposed loading area(s), if any.

revised

- (k) Line and grade of proposed access road corridors, travelways and service roads should be shown. While the plan refers to "Henderson County standards" for the entrance road, the Zoning Ordinance does not contain any standards for such so the applicant should indicate what standards are proposed.

showing section is flat

- (l) The site plan should show the proposed locations, if any, of stormwater drainage structures or facilities.

Section 200-38.3B(6). – Certification Regarding Separation Requirements

The applicant has responded to this requirement by stating in the application materials, “Applicant has filed contemporaneously with the Special Use Application, a Variance Request as to separation requirements. Cannot now certify compliance.” Since the applicant cannot certify compliance at this time, and since a variance has not yet been granted regarding separation, this remains an open item.

Section 200-38.3B(8) – Schedule of Proposed Hours of Operation

The application materials state that the hours of operation for the motocross racing facility will be “daylight hours only.” See staff comments above regarding specific site standard (a). Additional information is needed.

Section 200-38.3B(10) – Noise Mitigation Plan

See staff comments above regarding noise mitigation. The applicant provided a response to this item in the application materials but needs to provide additional information.

Section 200-38.3B(13) – Fencing

See staff comments above regarding fencing. The applicant provided a response to this item in the application materials but needs to provide additional information.

Section 200-38.3B(14) – Written Narrative

The applicant has provided responses to the required items for the written narrative in the application materials. However, Staff believes that additional information is needed to:

- Describe the proposed use. The application materials have minimal information about the proposed use and how it will operate (the application material says “motocross practices and races”, for example). The applicant may be planning to provide a more thorough description at the Planning Board meeting.
- Clarify the maximum number of patrons. The site plan says the occupancy will be 500 total patrons and riders while the application materials say 250 maximum patrons.
- Further explain the types of materials and equipment that will be used on site. For example, the application materials say “motorcycles.” Will all-terrain vehicles use the track? Will there be any other equipment brought in for special events?
- Address the Planning Board on the status of the erosion control plan for the subject property.

Staff will be providing additional comments at the Planning Board meeting, particularly regarding whether the special use permit application satisfies the general standards for all special use permits in Section 200-56 of the Zoning Ordinance and any other requirements of Section 200-56 and Section 200-70 (both of which deal with special use permits in general). The applicant has addressed the general site standards in the application materials (see responses in attachment 1). Based on the comments already provided, however, Staff cannot support the Special Use Permit Application SU-03-01 or Variance Application #BOCV-03-01.

COUNTY OF HENDERSON
STATE OF NORTH CAROLINA
APPLICATION FOR A SPECIAL USE PERMIT

December 9, 2003
Month Day Year

Applicant: George A Bennett Phone: c/o J. Michael Edney 828-692-4130
Address: c/o 1509 Haywood Rd, Suite C Hendersonville, NC 28791
Property Owner's Name (if different from above): SAME
Property Address (if different from above): 198 North Edgerton Rd, Hendersonville, NC
Parcel ID Number: 00-9660-09-8902-55 (99-67418) Zoning District: I-2

TO THE BOARD OF COMMISSIONERS:

I, J. Michael Edney (owner/agent), hereby petition the Board of Commissioners to issue a SPECIAL USE PERMIT for use of the property described in the attached form, or if not adequately explained there, as more fully described herein:

Motocross Racing Facility.....
.....
.....
.....

Authority to grant the requested permit is contained in the Zoning Ordinance, Sections 1105.05

The Zoning Ordinance imposes the following GENERAL REQUIREMENTS on the use requested by the applicant. Under each requirement, the applicant should explain, where applicable, how the proposed use satisfied these requirements:

General Requirement #1: The use will not adversely affect the health and safety of persons residing or working in the neighborhood: Industrial Area and/or Open Land.....
.....
.....

General Requirement #2: The use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood: Use will not overburden existing infrastructure.....
.....
.....

(continue remarks on reverse side or separate page)

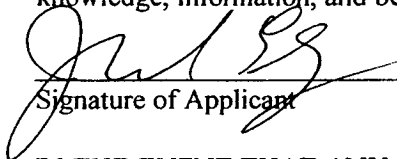
The Zoning Ordinance also imposes the following SPECIFIC REQUIREMENTS on the use requested by the applicant. The applicant should be prepared to demonstrate that satisfactory provisions have been made for the following, where applicable:

- Satisfactory ingress and egress to property and proposed structures thereon, with particular reference to pedestrian safety and convenience, automotive, traffic flow and control;
- Provision of off-street parking and loading areas where required, with particular attention to the items above and the economic, noise, glare, and odor effects of the conditional use on adjoining

- properties in the area;
- Utilities with reference to locations, availability, and compatibility;
- Buffering with reference to type, location, and dimensions;
- Playgrounds, open spaces, yards, landscaping, access ways, pedestrian ways with reference to location, size, and suitability;
- Building and structures with reference to location, size, and use.

In addition, the applicant shall provide the names and addresses of all adjoining property owners.

I certify that all of the information presented by the undersigned in this application is accurate to the best of my knowledge, information, and belief.



 Signature of Applicant

12-9-03

 Date

IN THE EVENT THAT ANY DISCREPANCIES EXIST BETWEEN THE CRITERIA OUTLINED ON THIS FORM AND THE ZONING ORDINANCE OF HENDERSON COUNTY, THE ORDINANCE SHALL PREVAIL.

Karen C. Smith

 Received By

12/10/03

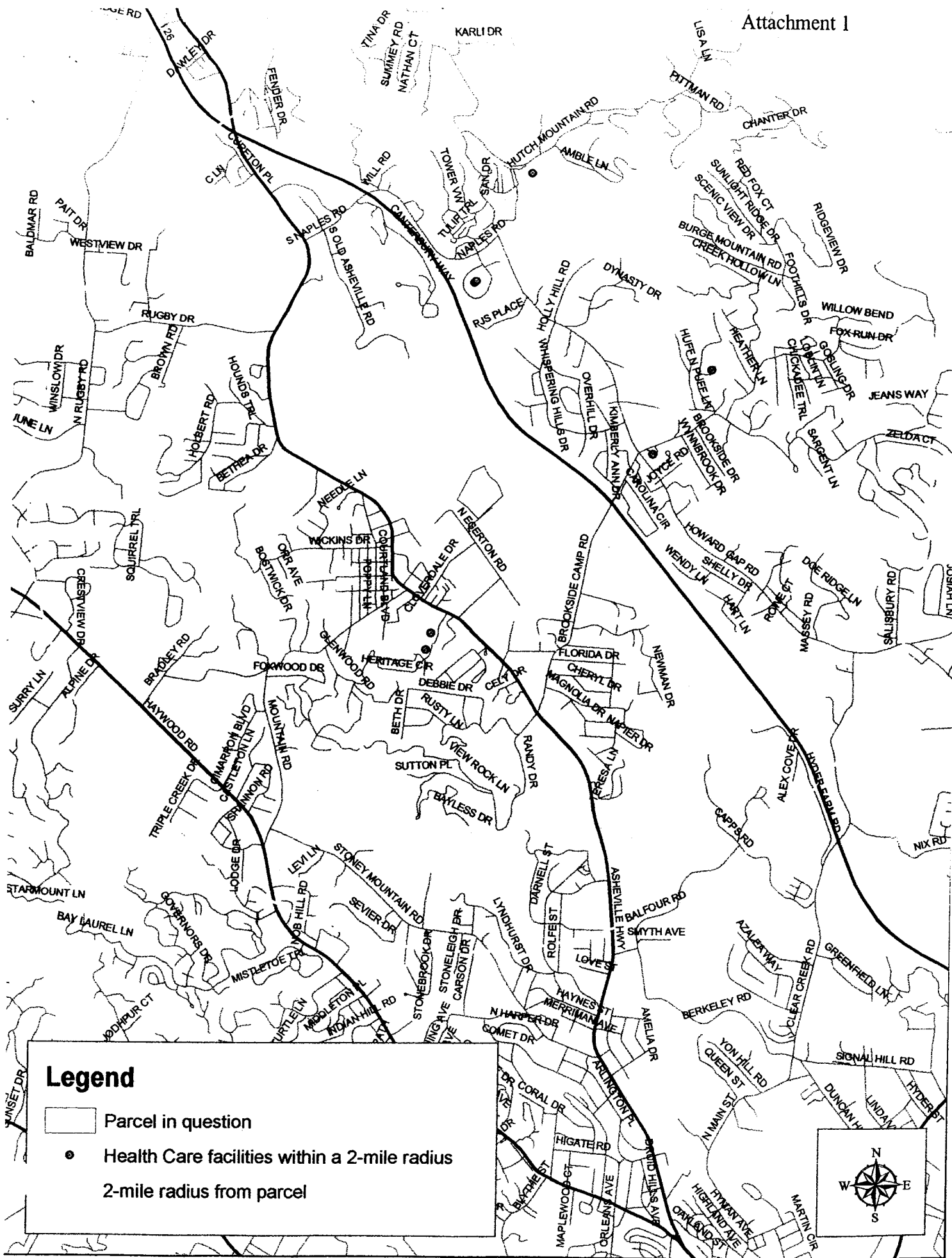
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\$300.⁰⁰ Receipt #5839

 Fee Paid

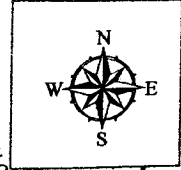
12/10/03

 Date Received



Legend

- Parcel in question
- Health Care facilities within a 2-mile radius
2-mile radius from parcel



State of North Carolina

Henderson County

Special Use / Variance Addendum
(200-38-38.3 B Requirements)

App No.: _____

- | | |
|--|--|
| 1. Name of Applicant: | George A. Bennett |
| 2. Permit Fee: | PAID |
| 3. Site Plan: | PROVIDED |
| 4. Site Plan: | NA |
| 5. Assessors Map - Density/Separation: | ATTACHED |
| 6. Certificate - Density/Separation: | Applicant has filed contemporaneously with the Special Use Application, a Variance Request as to separation requirements. Cannot now certify compliance. |
| 7. Adjacent Owners: | ATTACHED |
| 8. Hours of Operation: | Daylight Hours Only |
| 9. Peak Noise Emission: | Estimated at 60-70 dBA |
| 10. Noise Mitigation Plan: | Space and Natural Vegetative Buffer |
| 11. Lighting: | Daylight Use Only |
| 12. Screening: | NA |
| 13. Fencing Plan: | Natural Vegetative |
| 14. (A) Operations: | Motocross Practices and Races. |
| (B) Employees: | 10-20 Per Event |
| (C) Max Patrons: | 250 |
| (D) Materials: | Motorcycles |
| (E) Indoor/Outdoor: | Outdoor |
| (F) Federal / State Permits: | Sedimentation Control |
| (G) Units Production: | NA |
| (H) Other Info: | NA |
| 15. Hazardous Substances: | NONE |

General Requirements

- (1) **The following general site standards shall apply to all uses requiring a special use permit:**

(a) Establishments requiring a special use permit shall not be located or developed in such a manner as to adversely affect the health or safety of the persons residing or working in the neighborhood of the proposed use and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.

Applicant response to (a) above

The establishment of a motocross track on the proposed 18 acre plot, to be referred to as **Lot 8902** in the continuation of this document, would in no way adversely affect the health or safety of the persons residing or working in the neighborhood. There are **no persons** residing in the area. Lot 8902 is located in an I2 District. There are no industrial buildings which immediately join the **track course itself** as currently laid out. On one boundary of lot 8902 there are industrial buildings but the track itself joins only the flood plain area of this property. In the Spring of 2003 all of Lot 8902 and all adjoining property which adjoins the track layout itself was under water with the risen water of Mudd Creek. The applicant feels the establishment of a Motocross Course on Lot 8902 is in compliance with D (1) (a) of 200-56.

Section (b)

(b) Establishments requiring a special use permit shall be located or developed in such a manner as to minimize the effects of noise, glare, dust, solar access and odor on those persons residing or working in the neighborhood of the proposed use and the property and public improvements in the neighborhood

Applicant response to (b) above

The establishment of a motocross track on **Lot 8902** would in no way adversely affect any persons working in the area through noise, glare, dust, solar access or odor. Noise containment is accomplished through distance to working areas. Dust is controlled through a sprinkler system. Glare and solar access are non

issues. The applicant feels the establishment of a Motocross Course on Lot 8902 is in compliance with D (1) (b) of 200-56.

Section (c)

(c) Establishments requiring a special use permit shall not be located or developed in such a manner as to seriously worsen the traffic congestion so as to endanger the public safety.

Applicant response to (c) above

The establishment of a motocross track on **Lot 8902** would in no way adversely effect or worsen the normal traffic in the area. Public safety would not be compromised. 98% of all track activity would take place on week ends. All businesses in the industrial park would be closed. No adjacent businesses operate more than one shift. The track attendance traffic on a given weekend in no more than twenty five vehicles. This would equate to the normal Industrial Park traffic during the week.

The applicant feels the establishment of a Motocross Course on Lot 8902 is in compliance with D (1) (c) of 200-56

Section (d)

(d) Establishments requiring a special use permit shall be located or developed in such a manner as to comply with all applicable federal, state and local laws, rules and regulations.

Applicant response to (d) above

Applicant has two minor items to complete to be in compliance with the local EPA manager. With the exception of these two items all other EPA requests have been complied with and approved by the agent of the EPA. Applicant is not aware of any Federal or State requirements. Local laws, rules and regulations are controlled by County statute and all such issues are being addressed directly through activity such as this submission. We see no problems with Section (d). The applicant feels the establishment of a Motocross Course on Lot 8902 is in compliance with D (1) (d) of 200-56.

Section (e)

(e) Establishments requiring a special use permit shall be located and developed in such a manner as to be consistent with the goals and objectives as outlined in the Henderson County Comprehensive Land Use Plan.

Applicant response to (e) above

The Applicant feels that the establishment of a Motocross Track on Lot 8902 does not violate any of the goals or objectives outlined in the Henderson County Comprehensive Land Use Plan. The land is classified as being 98% Flood District. There are times during the Spring when the land is entirely under water. It was like this in the Spring of 2003. As Flood District land there is no real commercial use for the lot. No commercial operation in the Industrial Park has attempted to use any of the lower flood plain. All have withdrawn to higher ground. Lot 8902 has no plausible use other than partial year use as some type of recreational facility. The applicant feels the establishment of a Motocross Course on Lot 8902 is in compliance with D (1) (e) of 200-56.

Section (f)

(f) Establishments requiring a special use permit shall be located and developed in such a manner as to be consistent with any approved Official Thoroughfare Plans of Henderson County or any municipality therein.

Applicant response to (f) above

There are no known Official Thoroughfare Plans of Henderson County which depict the establishment of a major throughway on this Flood Plain District. The applicant feels the establishment of a Motocross Course on Lot 8902 is in compliance with D (1) (f) of 200-56.

Section (g)

(g) Establishments requiring a special use permit shall be located and developed in such a manner as to minimize the environmental impacts on the neighborhood including the following: groundwater, surface water, wetlands, endangered and threatened species, archeological sites, historical preservation sites and unique natural areas.

Applicant response to (g) above

The fact that Mother Nature has complete control over this Lot while transforming it from dry land to wetland to lake front during the course of a year indicates to the applicant that no normal season of the land is altered by the establishment of a motocross track for the use of the youth of the County. The use of the lot 8902

is determined by Mother Nature herself. There will be times when there can be no use of the land due to flooding. There will be other times when the land will have limited use due to wetland phenomena. There will be a shorter period when the land can be used as a sport track. The Applicant sees no damage to the land other than the distribution of some dirt. The applicant feels the establishment of a Motocross Course on Lot 8902 is in compliance with D (1) (g) of 200-56.

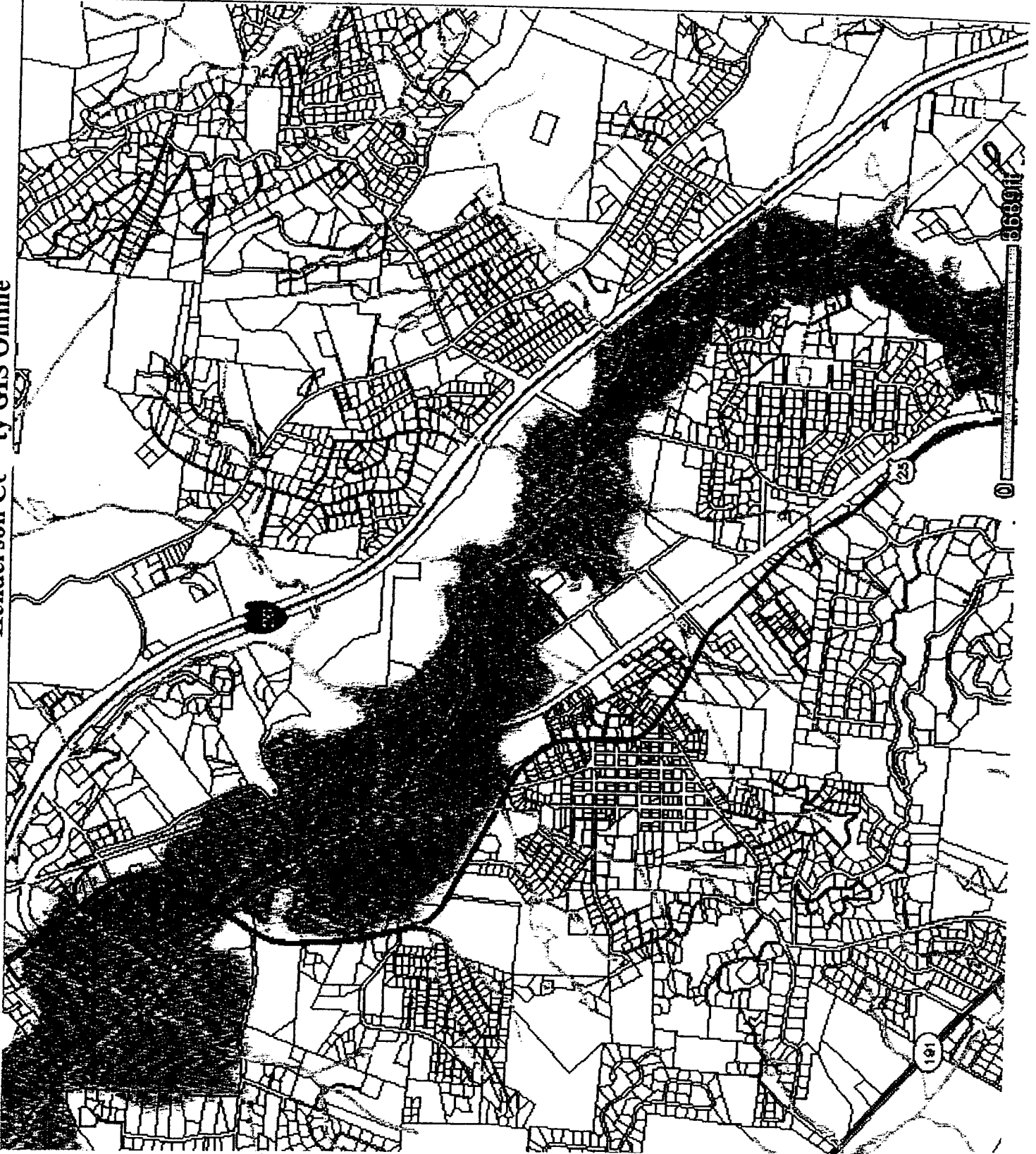
Adjoining
Properties

&

100 year
Floodplain
Depiction

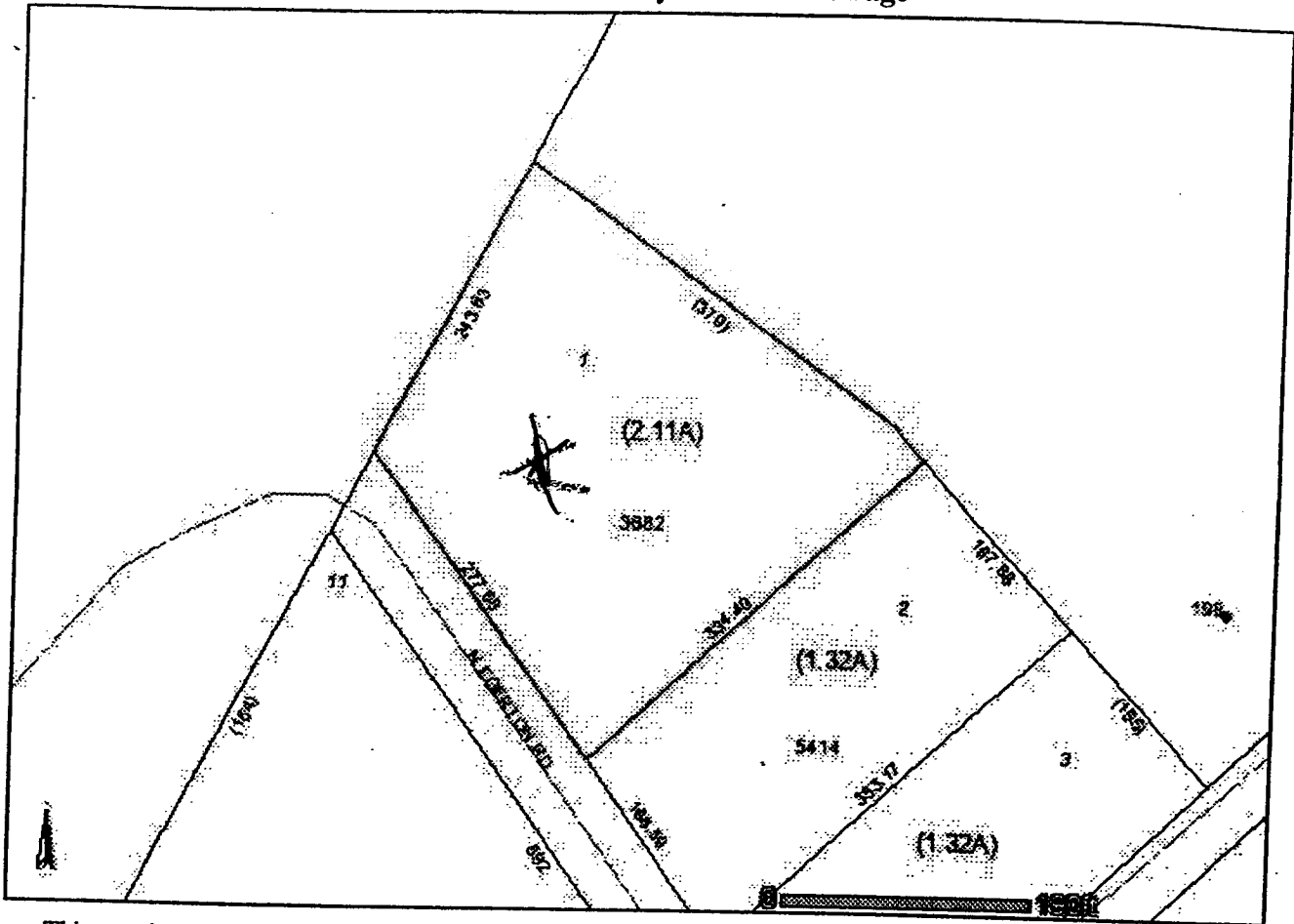
Henderson County GIS Online

- Legend**
- Selected Features
 - Streams and Rivers
 - Major Roads
 - Parcels
 - Flood Districts
 - 100 Year Floodplains
 - 500 Year Floodplains



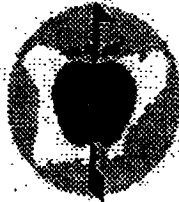
1168981

Henderson County Parcel Print Page



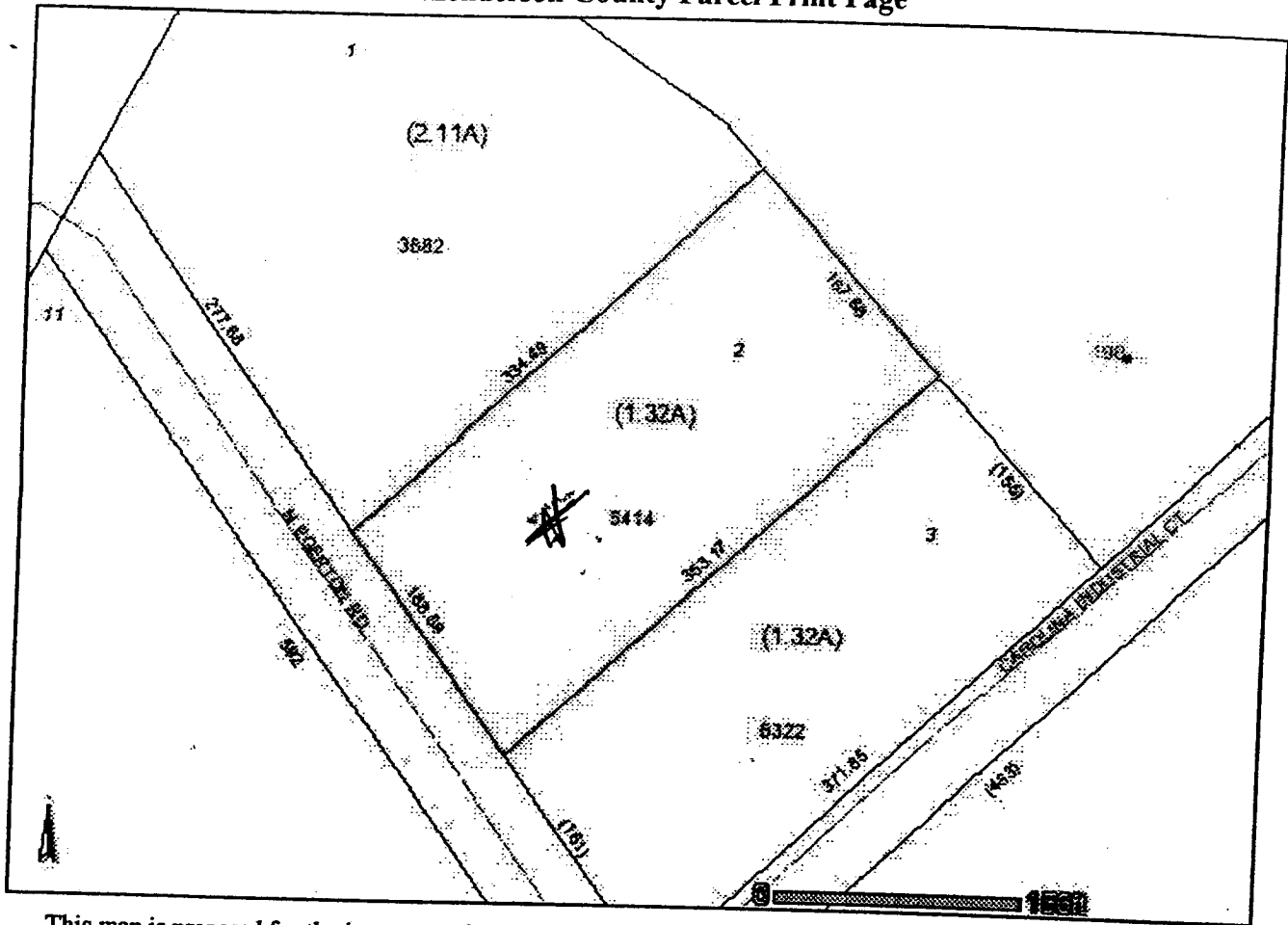
This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map. The County and mapping company assume no legal responsibility for the information contained on this map.

Date: 11/13/2003



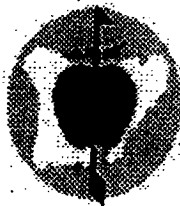
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PID	9972542
NAME_1	CAB PROPERTIES LLC
NAME_2	
ADDRESS_1	285 MIDLAND DR
ADDRESS_2	
CITY	ASHEVILLE
ST	NC
ZIP	28804
PROP_DESC	#1 PER SLD/4507
ACRES	2.15
MAP_SHEET	9660.01
NBR_BLDGS	3
DATEREC	2/2/2003
DB_PG	1135/177
LAND_VAL	0
BLDG_VAL	0
TOTAL_VAL	0
NBHD_DESC	MTN.HOME INDUST. PK
Subdivision	
SALE_PRICE	275000
LANDUSE	500

Henderson County Parcel Print Page



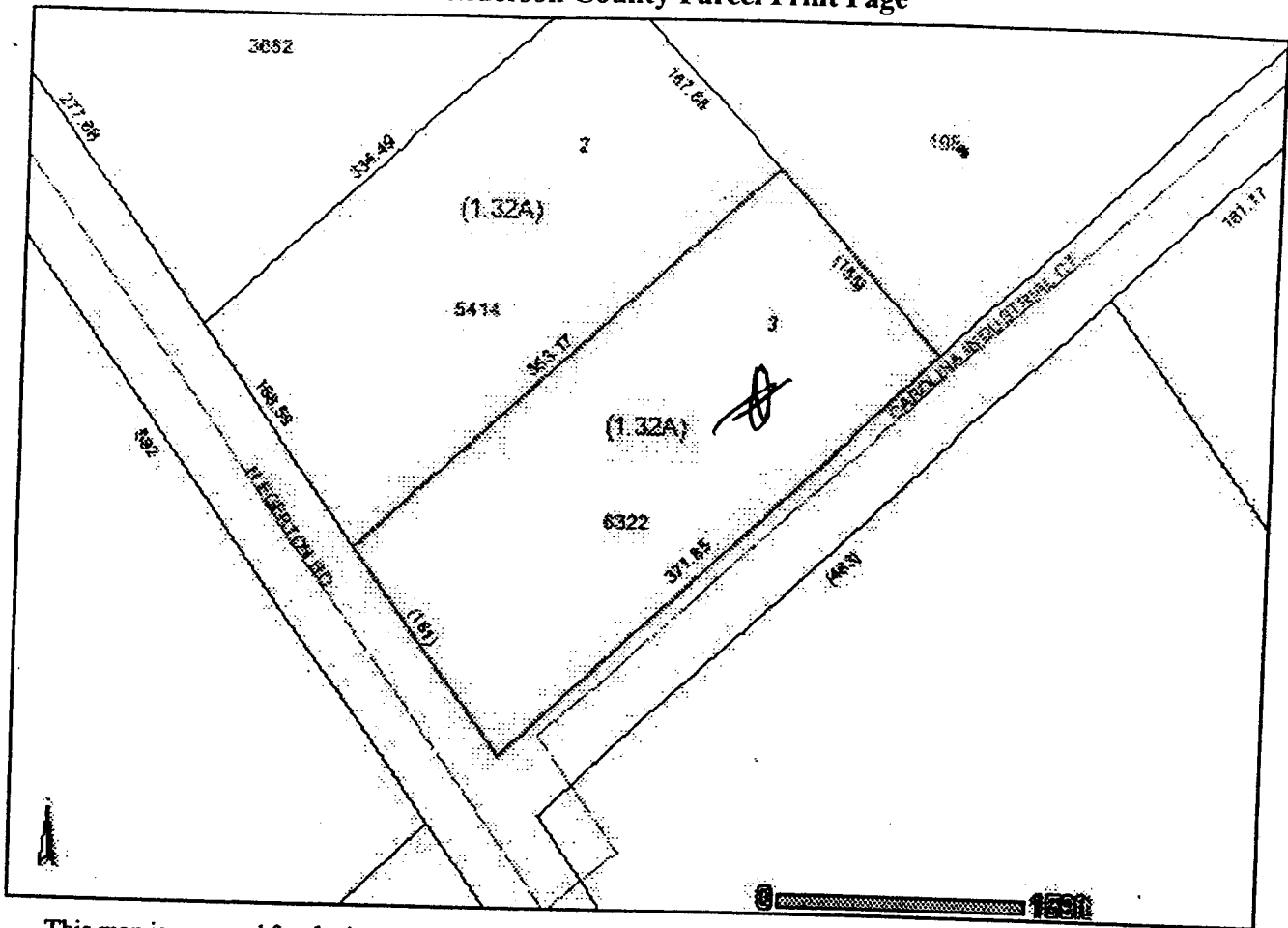
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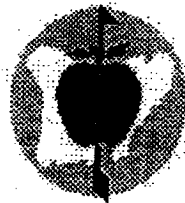
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PID	9972543
NAME_1	NABERS, DAVID C
NAME_2	NABERS, REBECCA M
ADDRESS_1	41 TARHEEL DR
ADDRESS_2	
CITY	FLAT ROCK
ST	NC
ZIP	28731-8604
PROP_DESC	#2 PER SLD/4507
ACRES	1.33
MAP_SHEET	9660.01
NBR_BLDGS	0
DATEREC	8/3/2000
DB_PG	1039/072
LAND_VAL	0
BLDG_VAL	0
TOTAL_VAL	0
NBHD_DESC	MTN.HOME INDUST. PK
Subdivision	
SALE_PRICE	0
LANDUSE	500

Henderson County Parcel Print Page



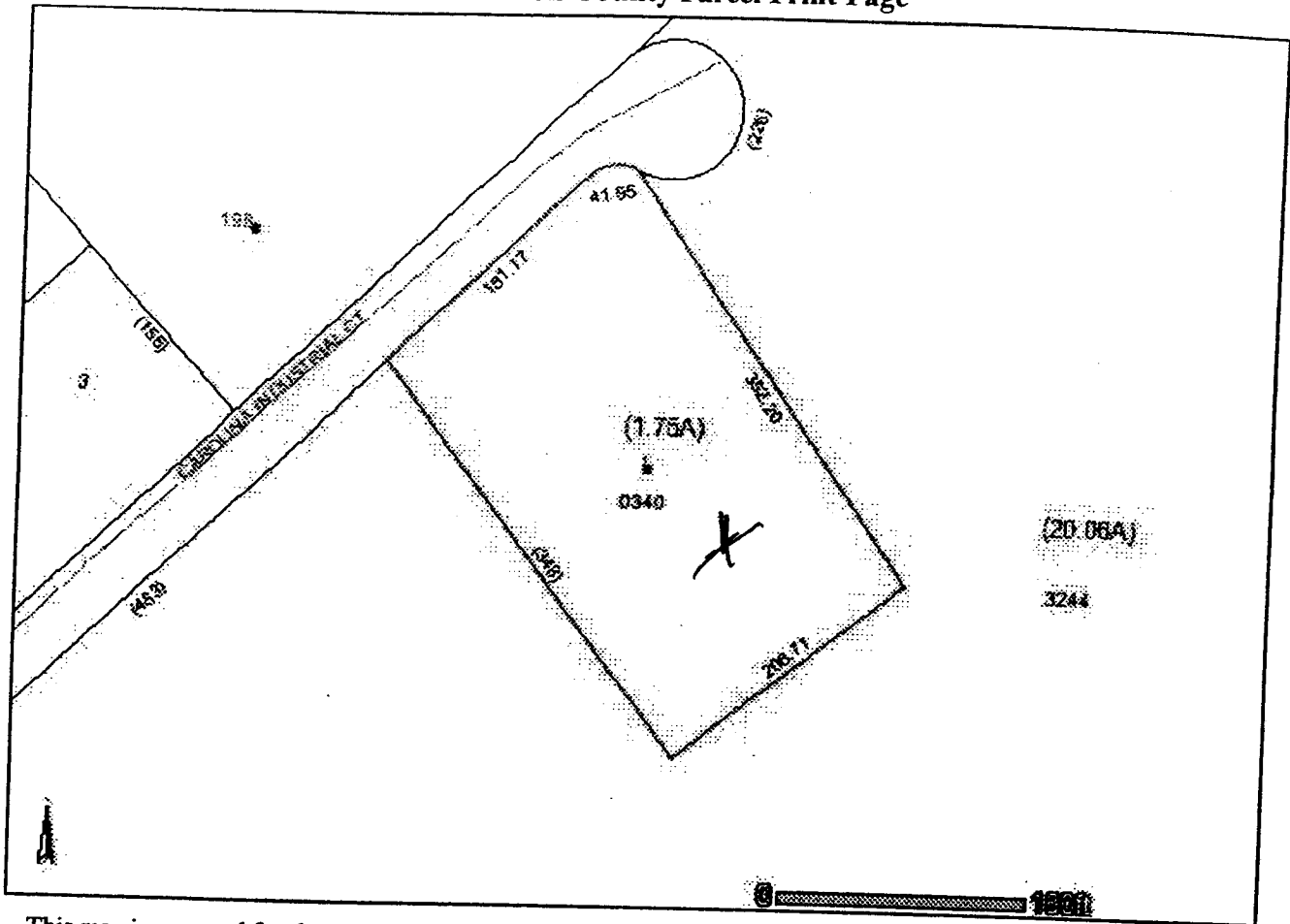
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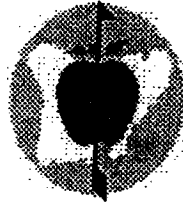
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NAME_2	NABERS, REBECCA M
ADDRESS_1	41 TARHEEL DR
ADDRESS_2	
CITY	FLAT ROCK
ST	NC
ZIP	28731-8604
PROP_DESC	#3 PER SLD/4507
ACRES	1.32
MAP_SHEET	9660.01
NBR_BLDGS	0
DATEREC	8/3/2000
DB_PG	1039/072
LAND_VAL	0
BLDG_VAL	0
TOTAL_VAL	0
NBHD_DESC	MTN.HOME INDUST. PK
Subdivision	
SALE_PRICE	0
LANDUSE	500

Henderson County Parcel Print Page



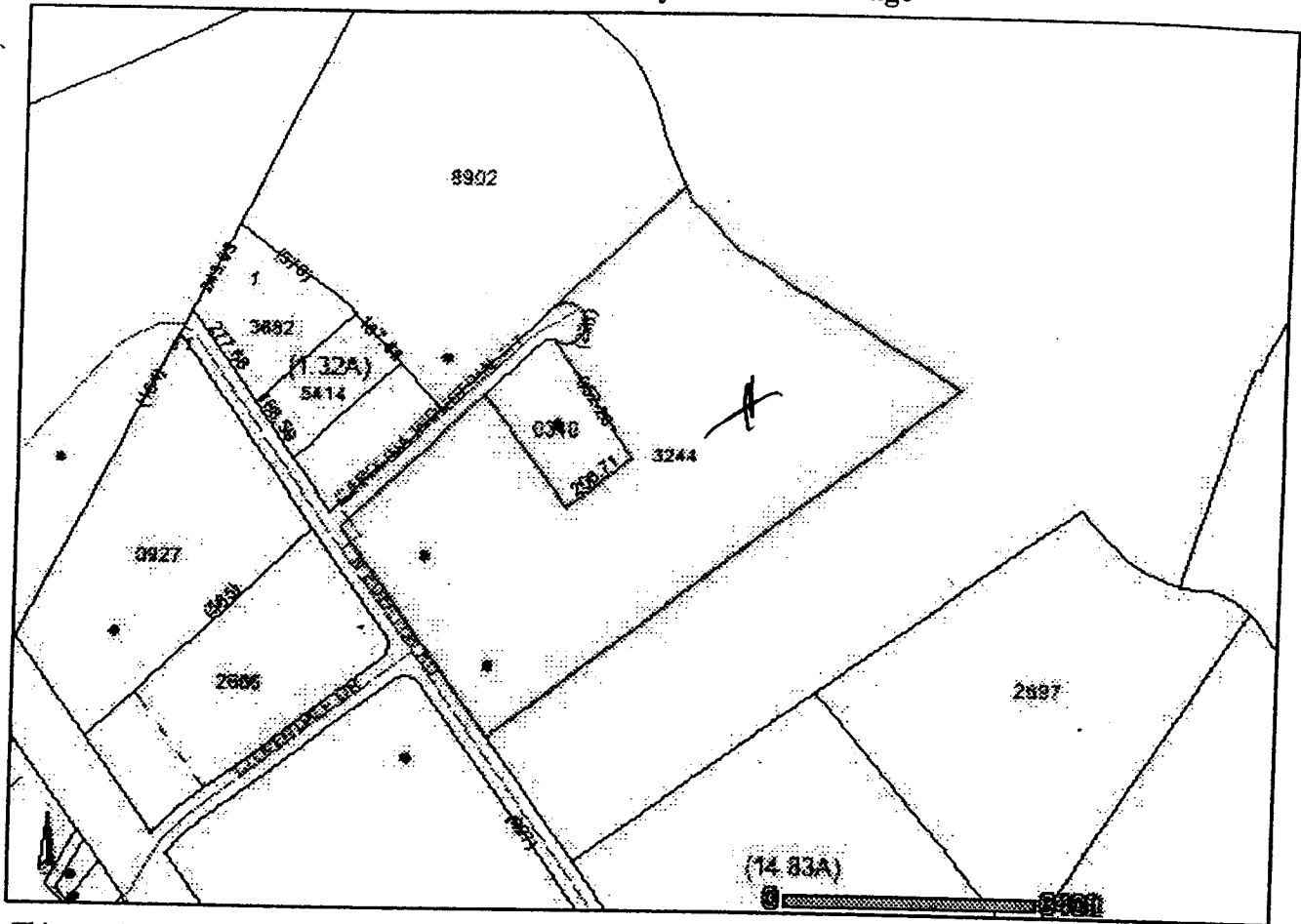
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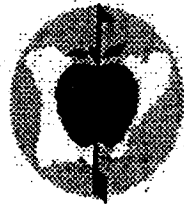
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NAME_1	CAROLINA INDUSTRIES INC
NAME_2	
ADDRESS_1	PO BOX 857
ADDRESS_2	
CITY	MOUNTAIN HOME
ST	NC
ZIP	28758-0857
PROP_DESC	SR1632 ON EGERTON ROAD
ACRES	1.75
MAP_SHEET	9660.01
NBR_BLDGS	1
DATEREC	
DB_PG	984/047
LAND_VAL	55100
BLDG_VAL	789600
TOTAL_VAL	844700
NBHD_DESC	MTN.HOME INDUST. PK
Subdivision	
SALE_PRICE	0
LANDUSE	501

Henderson County Parcel Print Page



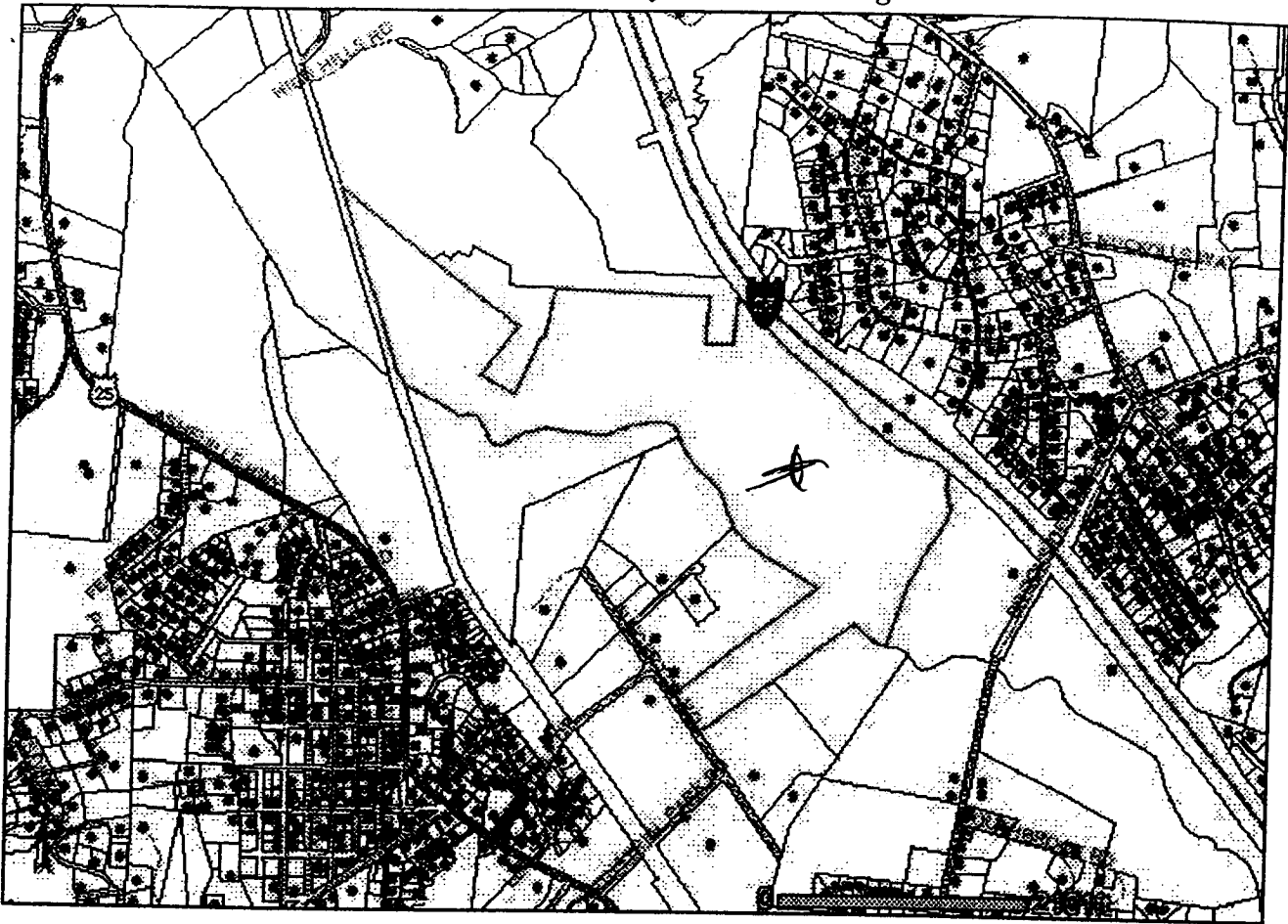
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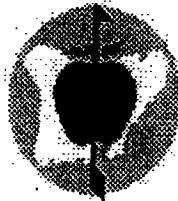
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PIN	00966019324455
PID	9962420
NAME_1	BRANFORD WIRE AND MANUFACTURIN
NAME_2	
ADDRESS_1	PO BOX 677
ADDRESS_2	
CITY	MOUNTAIN HOME
ST	NC
ZIP	28758
PROP_DESC	SR1632 ON EGERTON ROAD
ACRES	20.06
MAP_SHEET	9660.01
NBR_BLDGS	7
DATEREC	5/3/1976
DB_PG	544/389
LAND_VAL	450900
BLDG_VAL	1672600
TOTAL_VAL	2123500
NBHD_DESC	MTN.HOME INDUST. PK
Subdivision	
SALE_PRICE	0
LANDUSE	501

Henderson County Parcel Print Page



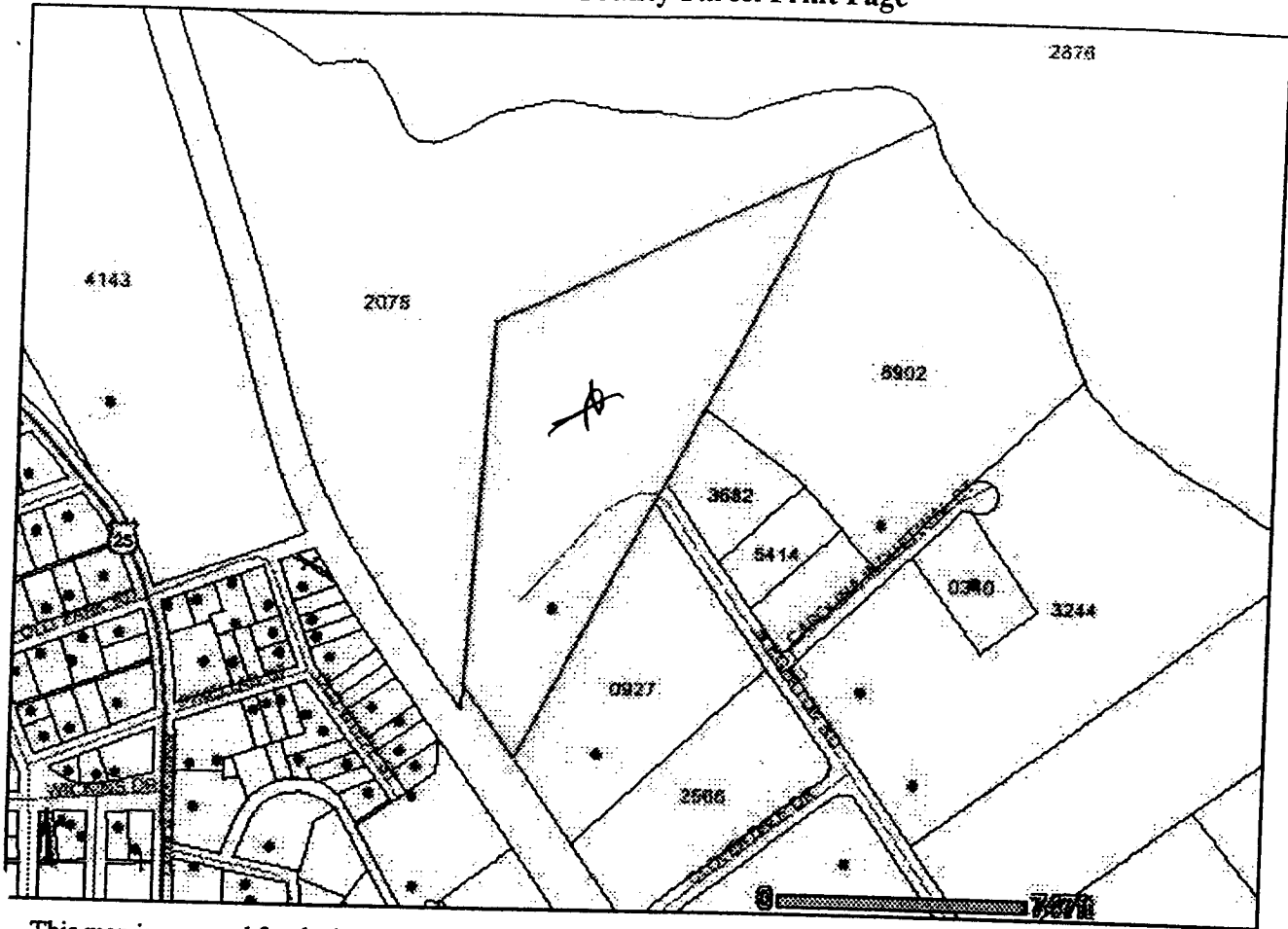
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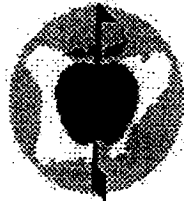
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PID	9966505
NAME_1	CLEMENT PAPPAS NC INC
NAME_2	
ADDRESS_1	10 N PARSONAGE ROAD
ADDRESS_2	
CITY	
ST	
ZIP	
PROP_DESC	SR1632 EGERTON RD
ACRES	150.17
MAP_SHEET	9661.03
NBR_BLDGS	0
DATEREC	4/0/2001
DB_PG	1067/068
LAND_VAL	900700
BLDG_VAL	1400
TOTAL_VAL	902100
NBHD_DESC	MOUNTAIN HOME
Subdivision	
SALE_PRICE	5550000
LANDUSE	105

Henderson County Parcel Print Page



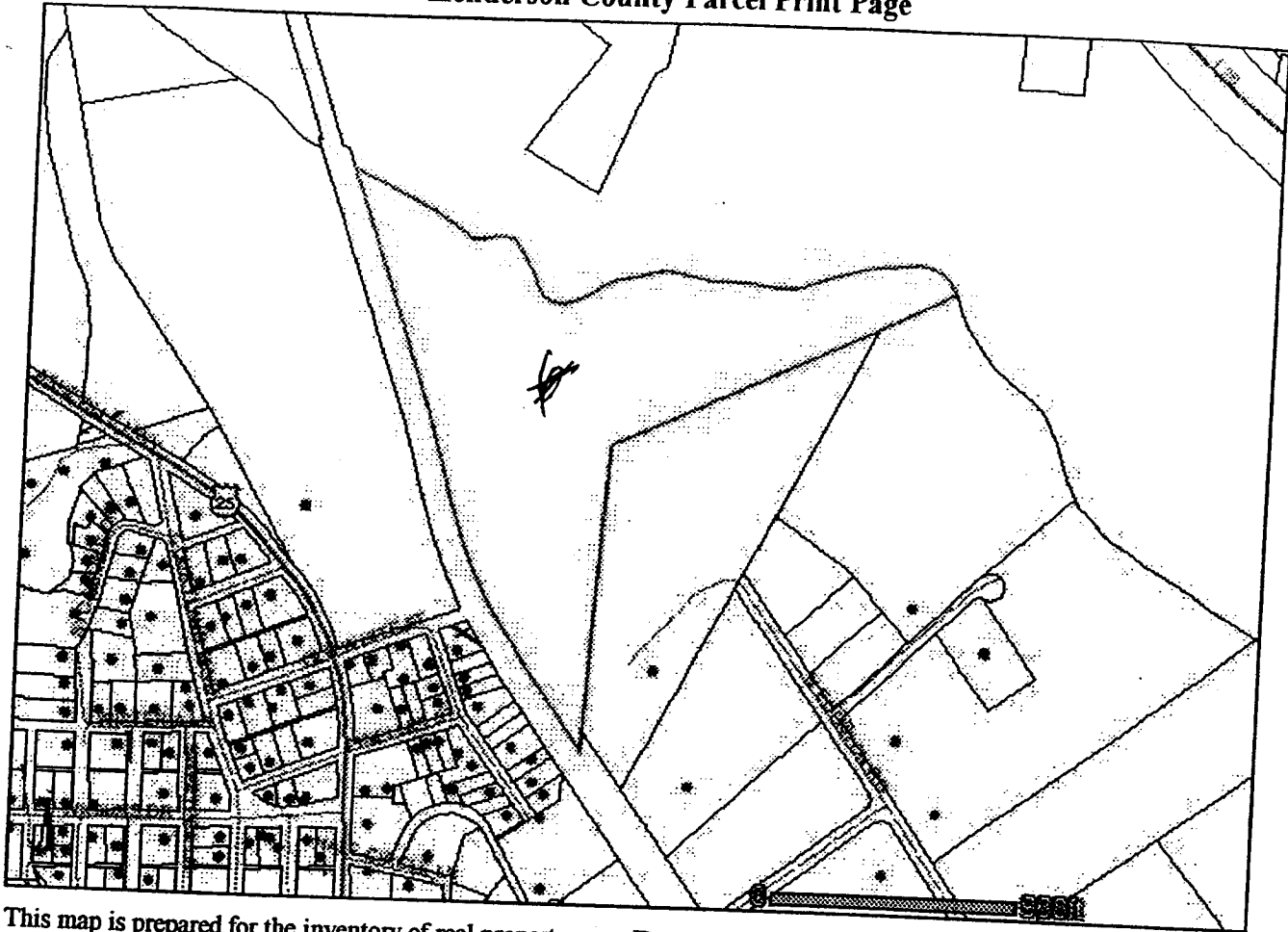
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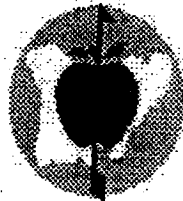
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PID	0100112
NAME_1	OWEN, JAMES A
NAME_2	OWEN, ALICE M
ADDRESS_1	P O BOX 185
ADDRESS_2	
CITY	NAPLES
ST	NC
ZIP	28760
PROP_DESC	SR1530 OFF CLOVERDL ST
ACRES	17.05
MAP_SHEET	9650.08
NBR_BLDGS	1
DATEREC	1/3/2001
DB_PG	1054/348
LAND_VAL	108600
BLDG_VAL	92000
TOTAL_VAL	200600
NBHD_DESC	MOUNTAIN HOME
Subdivision	
SALE_PRICE	185000
LANDUSE	110

Henderson County Parcel Print Page



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Rec	1
PIN	00965190207855
PID	9927938
NAME_1	RAY, NELLIE PARKS
NAME_2	
ADDRESS_1	80 MATTHEW LANE
ADDRESS_2	
CITY	BLUE RIDGE
ST	GA
ZIP	30513
PROP_DESC	US25 N ON
ACRES	33.03
MAP_SHEET	9651.04
NBR_BLDGS	0
DATEREC	3/-1/1946
DB_PG	285/361
LAND_VAL	106200
BLDG_VAL	0
TOTAL_VAL	106200
NBHD_DESC	MOUNTAIN HOME
Subdivision	WHITE,W H
SALE_PRICE	0
LANDUSE	100





We build strong kids,
strong families,
strong communities.

Attachment 1

Y M C A

1851-2001

April 24, 2003

To Whom It May Concern:

Mountain Home Motorcross Park is generously donating its facility to the YMCA of Western North Carolina to use for its Project Youth Outreach Program. The YMCA has a minibike program for at-risk youth and Mountain Home has been providing the opportunity for us to use their riding facility. The minibike program could not function without a location to ride. We appreciate our collaborative efforts with the park.

Sincerely,

A handwritten signature in black ink that reads "LaTisha Steele". The signature is fluid and cursive.

LaTisha Steele
Youth Director, Asheville YMCA

YMCA of Western North Carolina

Asheville YMCA ▼ 30 Woodfin Street ▼ Asheville, NC 28801 ▼ 828-252-4726 ▼ Fax 828-253-8137

Asheville YMCA Youth Services Center ▼ 201 Beaverdam Road ▼ Asheville, NC 28804 ▼ 828-253-4706 ▼ Fax 828-253-2033

YMCA Mission: To put Christian principles into practice through programs that build healthy spirit, mind and body for all.





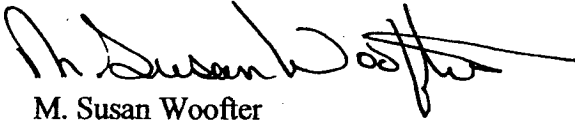
3200 Heritage Circle • Hendersonville, NC 28791

December 1, 2003

To Whom It May Concern:

Heritage Hills Retirement Community has no complaint or objection to the current motor-cross speedway located approximately 2 miles distance. To our knowledge we have not registered a complaint from a resident pertaining to the current speedway.

Sincerely;



M. Susan Woofler
Executive Director



December 1, 2003

George Bennett
40 Harwood Lane
Fairview, NC 28730

RE: Mountain Home Motocross

Dear George:

Park Ridge Hospital finds the location of the motocross track in Mountain Home acceptable and has no problem as it relates to noise or other issues created by the location of the track.

Sincerely,

Michael H. Schultz
President & CEO

mja



WIRE & MANUFACTURING CO.

Stainless Steel Wire

November 20, 2003

Karen Smith
Henderson County Zoning
101 East Allen Street
Hendersonville, NC 28792

Ref: Mountain Home Motor Cross

Dear Karen,

Regarding the Mountain Home Motor Cross use of property as our neighbor, the location of the motor cross track is acceptable to us for buffer purposes. We do not intend to use the land adjacent to the track.

Please call with any questions.

Sincerely,

Richard A. Harcke
President

Application No. BOCV-03-01

COUNTY OF HENDERSON
STATE OF NORTH CAROLINA
APPLICATION FOR A VARIANCE

December 9, 2003

Month Day Year

Applicant: George A. Bennett (By: J. Michael Edney) Phone: 828-692-4130
Address: c/o 1509 Haywood Road, Suite C Hendersonville, NC 28791
Property Owner's Name (if different from above): SAME
Property Address (if different from above): 198 North Edgerton Road, Hendersonville, NC 28792
Parcel ID Number: 00-9660-09-8902-55 (99-67418) Zoning District: I-2

Directions to property from Hendersonville: US Hwy 25 North to Mountain Home Industrial Park

TO THE ZONING BOARD OF ADJUSTMENT:

I, J. Michael Edney Attorney for George A Bennett (owner/agent), hereby petition the Zoning Board of Adjustment for a VARIANCE from the literal provisions of the Zoning Ordinance of Henderson County because I am prohibited from using the parcel of land described in the form "Zoning Permit Application" in a manner shown by the Site Plan. I request a variance from the following provisions of the ordinance (cite section numbers): 200-24.1-2.F(2)(c.) One Hundred Foot Buffer; (d) Five Hundred Foot Setback; (k) Two Miles From Health Care Facility.

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Zoning Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach three conclusions as a prerequisite to the issuance of a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, (b) that the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, and (c) that in granting the variance, the public safety and welfare have been assured and substantial justice has been done. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these three required conclusions:

(a) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three rules to determine whether in a particular situation "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

(1) If he complies with the provisions of the ordinance, the property owner can secure no reasonable return from or make no reasonable use of his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.) The real property is completely within the flood plain and virtually undevelopable

(2) The hardship of which the applicant complains results from unique circumstances related to the applicant's land. (Note: Hardships suffered by the applicant common with his neighbors do not justify a variance. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the land.) Applicant has invested substantial time, money and energy in this project and is in debt in an amount in excess of \$100,000.00 owed on the property. The property cannot practically be used for any regular ongoing activity because it floods after heavy rains. The land could not be filled without Federal, and State permits, and only then at a huge expense.

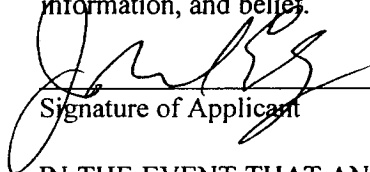
(3) The hardship is not the result of the applicant's own actions. The land in question has, since the development of the Industrial Park, been flood land and virtually un-usable.

(b) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.) The property cannot be used for any purpose within the I-2 Zoning classification. Natural buffering currently exists and the sites proximity to Mud Creek and I-26 make it appropriate for minimal other activities.

(c) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.) If Variance denied, property will become basically useless. If variance allowed, recreational activities for public will be allowed as well as training ground for law enforcement etc lost.

(Please continue remarks on separate page if necessary.)

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.


Signature of Applicant

12/9/03
Date

IN THE EVENT THAT ANY DISCREPANCIES EXIST BETWEEN THE CRITERIA OUTLINED ON THIS FORM AND THE ZONING ORDINANCE OF HENDERSON COUNTY, THE ORDINANCE SHALL PREVAIL.

Raven C. Smith
Received By
\$150.00 Receipt # 5840
Fee Paid

12/10/03
Date
12/10/03
Date Received

State of North Carolina

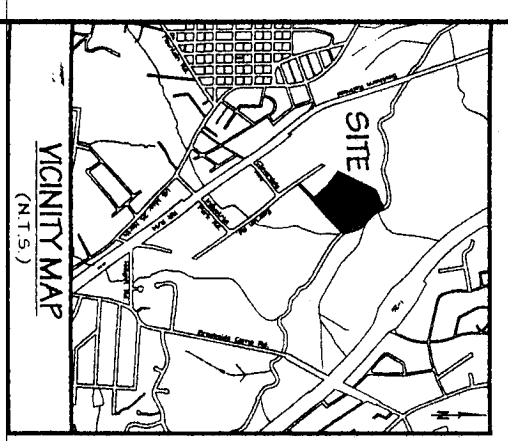
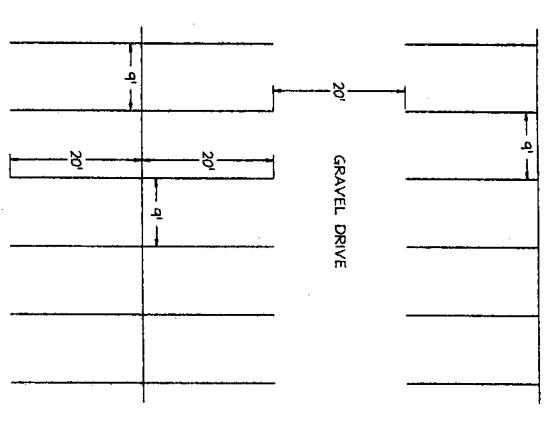
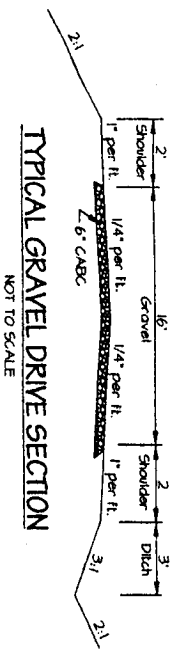
Henderson County

Special Use / Variance Addendum
(200-38-38.3 B Requirements)

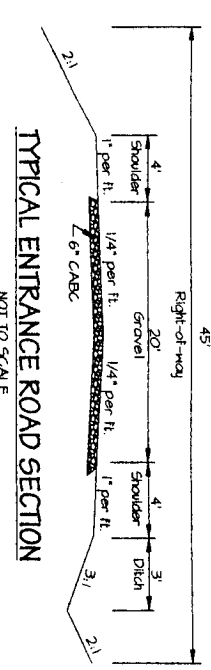
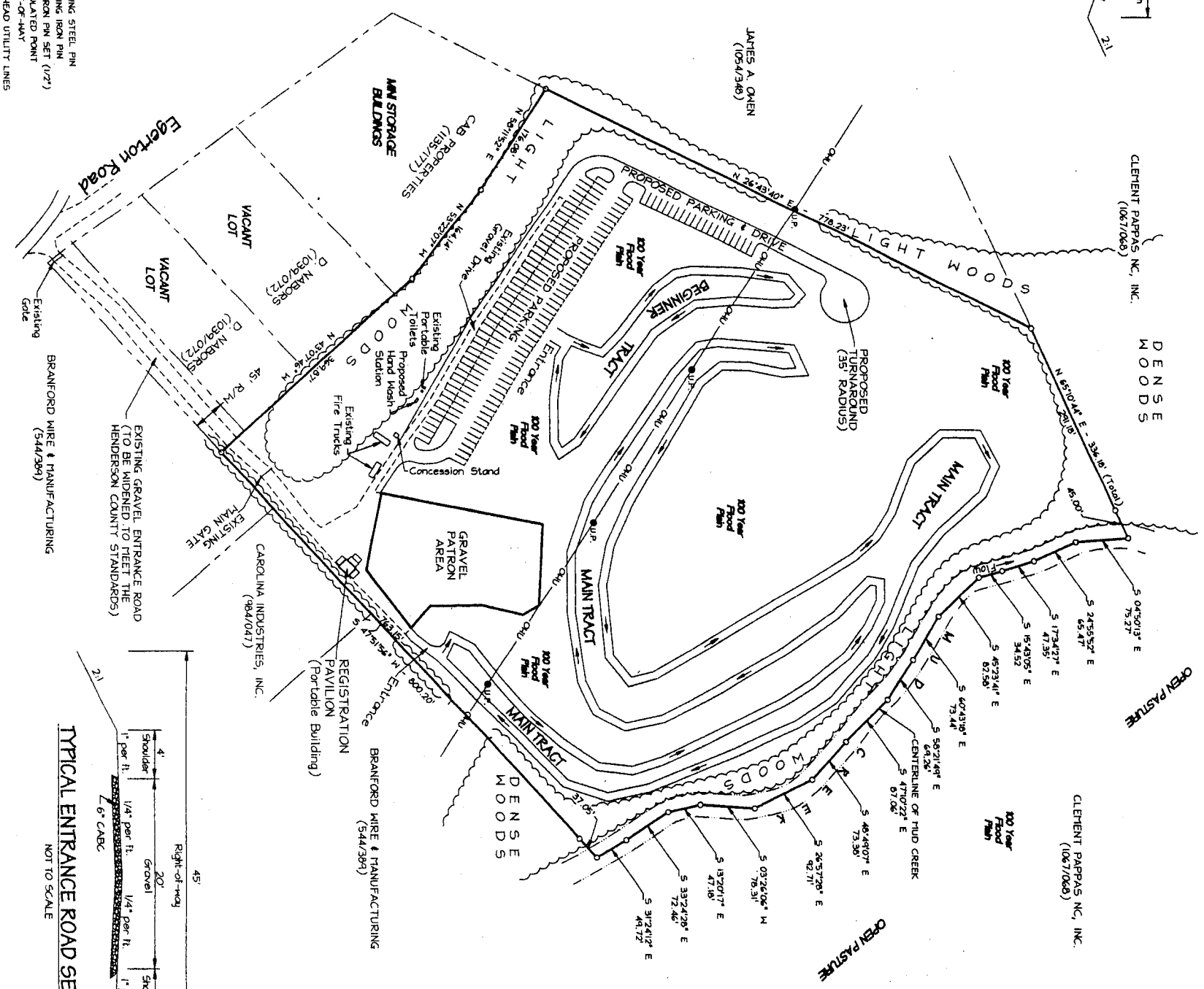
App No.: _____

- | | |
|--|--|
| 1. Name of Applicant: | George A. Bennett |
| 2. Permit Fee: | PAID |
| 3. Site Plan: | PROVIDED |
| 4. Site Plan: | NA |
| 5. Assessors Map - Density/Separation: | ATTACHED |
| 6. Certificate - Density/Separation: | Applicant has filed contemporaneously with the Special Use Application, a Variance Request as to separation requirements. Cannot now certify compliance. |
| 7. Adjacent Owners: | ATTACHED |
| 8. Hours of Operation: | Daylight Hours Only |
| 9. Peak Noise Emission: | Estimated at 60-70 dBA |
| 10. Noise Mitigation Plan: | Space and Natural Vegetative Buffer |
| 11. Lighting: | Daylight Use Only |
| 12. Screening: | NA |
| 13. Fencing Plan: | Natural Vegetative |
| 14. (A) Operations: | Motocross Practices and Races. |
| (B) Employees: | 10-20 Per Event |
| (C) Max Patrons: | 250 |
| (D) Materials: | Motorcycles |
| (E) Indoor/Outdoor: | Outdoor |
| (F) Federal / State Permits: | Sedimentation Control |
| (G) Units Production: | NA |
| (H) Other Info: | NA |
| 15. Hazardous Substances: | NONE |

NOTES:
 1. THIS DRAWING DOES NOT CONSTITUTE A GUARANTEE OF ACCURACY. BOUNDARY CORRECTION FROM INCORPORATION OF FIELD MEASUREMENTS AND REVISIONS TO THIS DRAWING SHALL BE THE RESPONSIBILITY OF THE CLIENT.
 2. FOR SOURCE OF TITLE SEE DEED BOOK 1067 AT PAGE 705.
 3. PROPERTY AS SHOWN HEREON IS SUBJECT TO FLOODING AS PER FIRM MAP, PANEL 31025 0095 B, DATED MARCH 1, 1982.

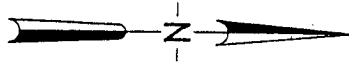


- LEGEND:
- E.S.P. - EXISTING STEEL PIN
 - E.I.P. - EXISTING IRON PIN
 - N.E.M. IRON PIN SET (1/2")
 - CALCULATED POINT
 - R.M. - RIGHT-OF-WAY
 - OVERHEAD UTILITY LINES
 - U.P. - UTILITY POLE



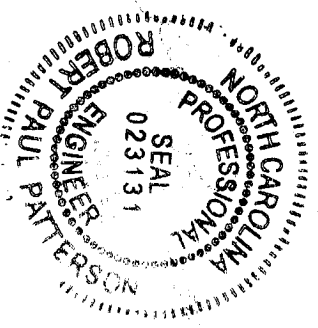
REVISED 3/2003

SCALE: 1" = 200'



PROJECT - SUMMARY

TOTAL PROJECT:	15.36 AC. ±
PROPOSED USE:	MOTOR CROSS FACILITY
DWELLING UNIT DENSITY:	N/A
COTTON AREA:	N/A
WATERSHED:	N/A
ZONING:	1-2 (GENERAL INDUSTRIAL)
FIRE DISTRICT:	MTN. HOME
WATER:	PRIVATE
SEWER:	PRIVATE (Current)
ROADS:	PRIVATE (Gravel)
OCCUPANCY:	500 TOTAL PATRONS & RIDERS
PARKING SPACES:	167 TOTAL (Proposed)
TRACTS AND LENGTHS:	MAIN TRACT ~ 4,540'
	BEGINNER TRACT ~ 1,010'
PATRON AREA:	33,400 SQ.FT. REQUIRED
	35,000 SQ.FT. PROPOSED



OWNER:
 G. ANDREW BENNETT
 40 HARMOOD LANE
 FAIRVIEW, NC 28730
 (828) 628-0274

SURVEYOR/ENGINEER:
 PATTERSON & PATTERSON
 PAUL PATTERSON, P.E. & P.L.S.
 WILLIAM PATTERSON, P.L.S.
 P.O. BOX 1189
 HENDERSONVILLE, NC 28793-1189
 TEL: & FAX: (704) 697-7428

MOUNTAIN HOME MOTOR CROSS

HENDERSONVILLE TOWNSHIP - HENDERSON COUNTY, N.C.

SITE PLAN

PATTERSON & PATTERSON

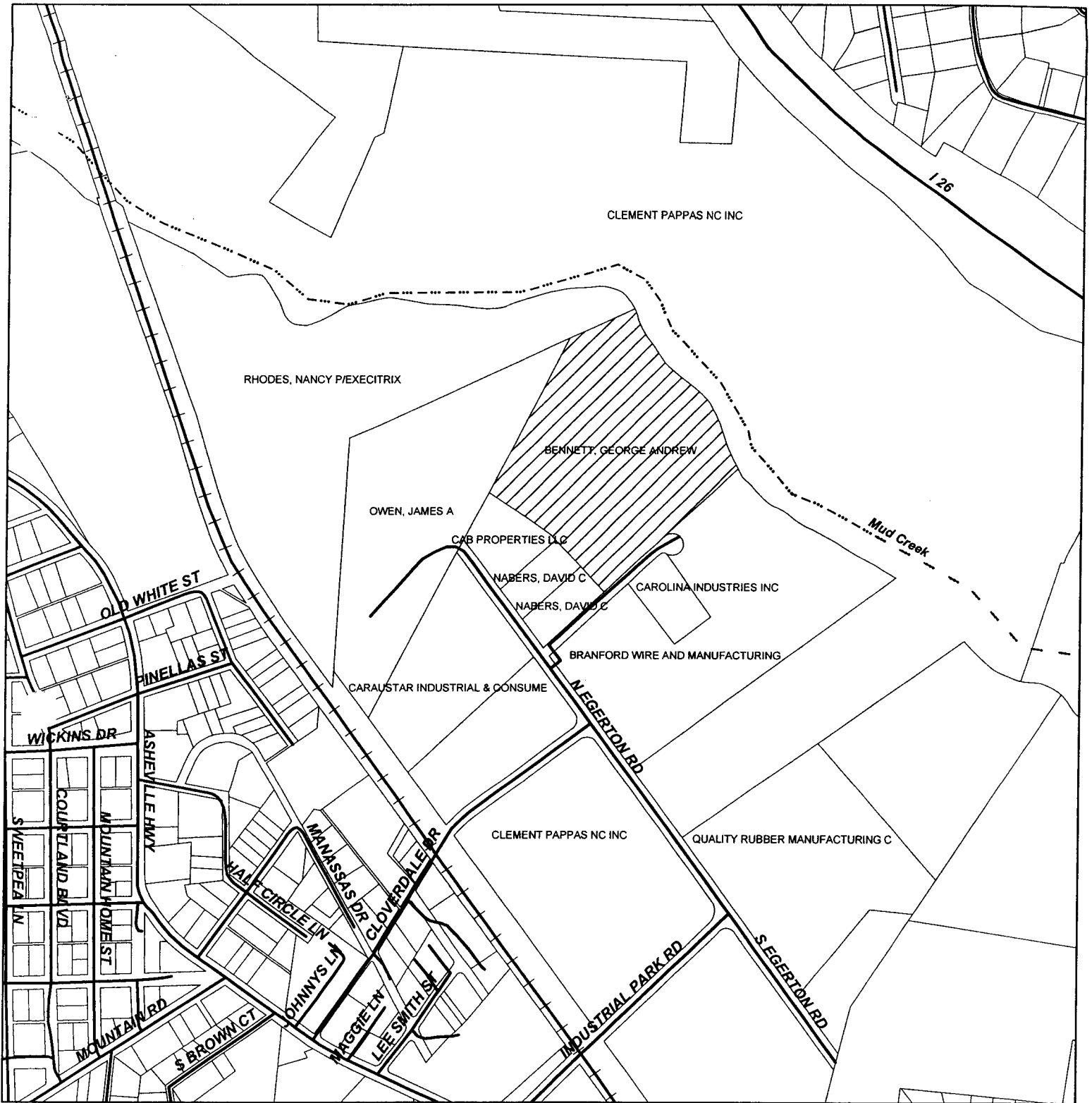
ENGINEERING - SURVEYING - PLANNING
 PAUL PATTERSON WILLIAM PATTERSON
 PROFESSIONAL ENGINEER/LAND SURVEYOR PROFESSIONAL LAND SURVEYOR
 P.O. BOX 1189
 HENDERSONVILLE, NC 28793-1189
 TEL: & FAX: (704) 697-7428

DRAWING NAME: MOTOX	DATE: 12/03/03
JOB NO.: 03-10-63-ENG	SCALE: NOTED

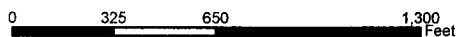
SUBMITTED: 12/03/03

REVISIONS

SHEET 1

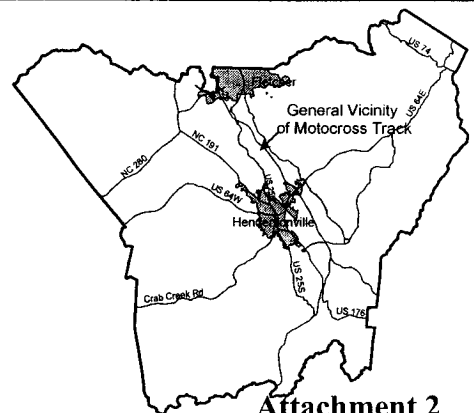


**Vicinity Map for Proposed
Motocross Racing Facility
George Andrew Bennett,
Property Owner**



- Major Streams
- +— Rail
- Streets
- ▨ Racing Facility Parcel
- Parcels

Henderson County Planning Department
12/29/2003



JAN 15 2004

COUNTY OF HENDERSON
STATE OF NORTH CAROLINA
APPLICATION FOR VARIANCE
ADDENDUM

JANUARY 15, 2004

Petitioner herein does submit the following addendum to clarify the nature and extent of the variance requested:

1) 200-24-1-2.F(2) (c) One Hundred Foot Buffer

SOUTHWEST BOUNDARY - **No variance required**
NORTHWEST BOUNDARY - **Reduce buffer to 50 feet or
Allow Parking in Buffer Area**
NORTHEAST BOUNDARY - **Reduce Buffer to 50 feet**
SOUTHEAST BOUNDARY - **Reduce Buffer to 10 feet**


2) 200-24-1-2.F(2) (d) Five Hundred Foot Set Back

SOUTHWEST BOUNDARY - **Reduce Set Back to 100 feet**
NORTHWEST BOUNDARY - **Reduce Set Back to 50 feet or
Allow Parking in Area**
NORTHEAST BOUNDARY - **Reduce Set Back to 50 feet**
SOUTHEAST BOUNDARY - **Reduce Set Back to 10 feet**

3) 200-24-1-2.F(2) (k) Two Mile (10560 feet) Health Care Separation

**Reduce 10560 foot (2 Mile) Health Care Separation to
1760 foot (1/3 Mile) Separation**

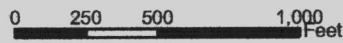
Respectfully Submitted,


J. Michael Edney
Attorney for Petitioner

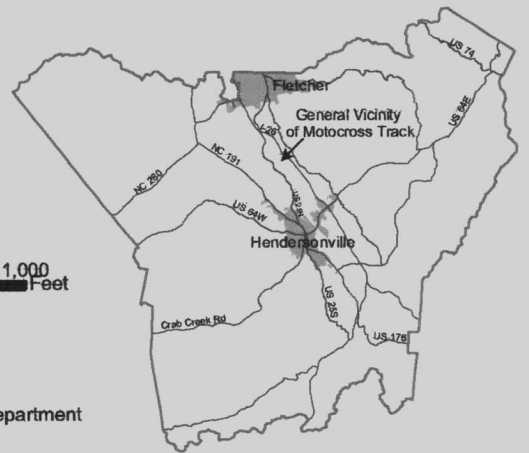


**Current Zoning for Proposed
Motocross Racing Facility
George Andrew Bennett,
Property Owner**

- | | | |
|-------|------------------------|------------------------|
| ----- | Major Streams | Zoning District |
| — | Streets | I-2 |
| + + | Rail | OPEN USE |
| | Racing Facility Parcel | R-15 |
| | Parcels | R-20 |



Henderson County Planning Department
1/13/2004





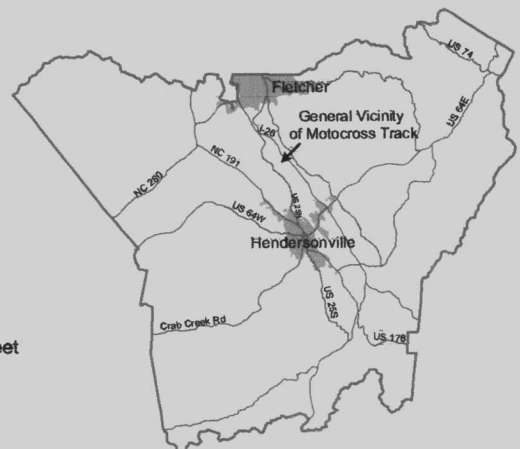
**Current General Land Use
Proposed Motocross Racing Facility
George Andrew Bennett,
Property Owner**

- Major Streams
- Streets
- +— Rail
- ▨ Racing Facility Parcel
- Parcels

- General Land Use**
- Undeveloped
 - Residential
 - Community-Cultural
 - Commercial
 - Industrial
 - Transportation-Utility



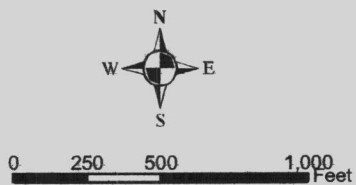
0 175 350 700 Feet



Henderson County Planning Department 1/16/2004

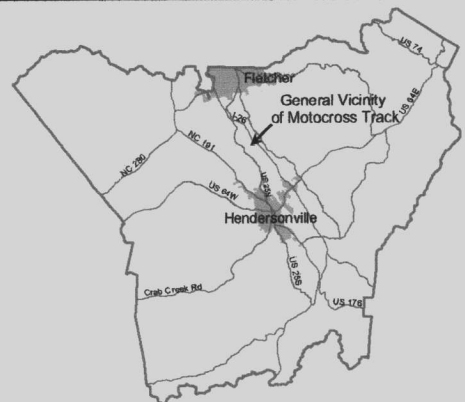


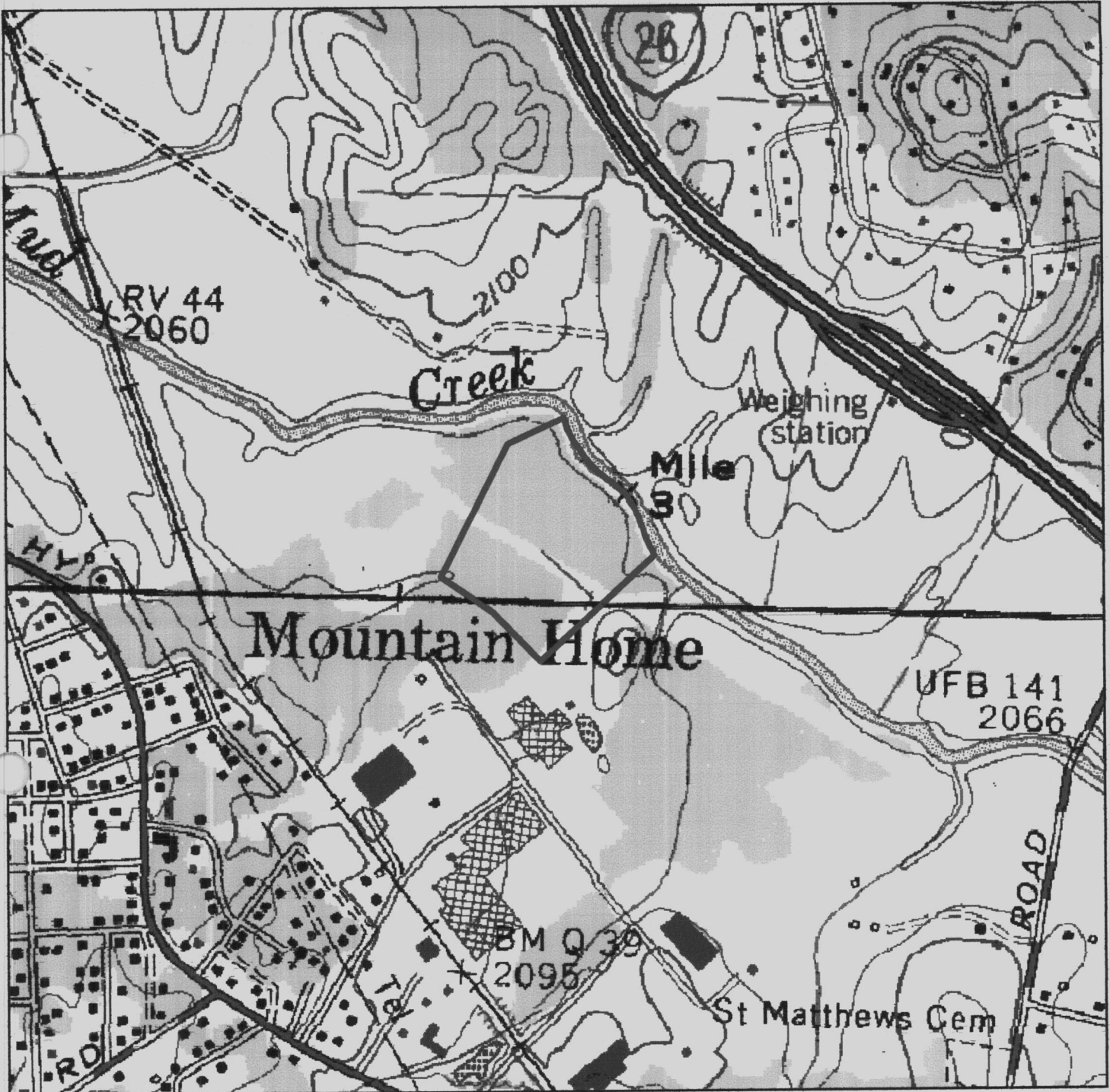
**Aerial Image of Proposed
Motocross Racing Facility
George Andrew Bennett,
Property Owner**



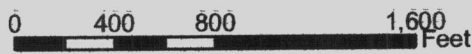
- Major Streams
- Streets
- + + Rail
- Racing Facility Parcel
- Parcels

Henderson County Planning Department
1/13/2004





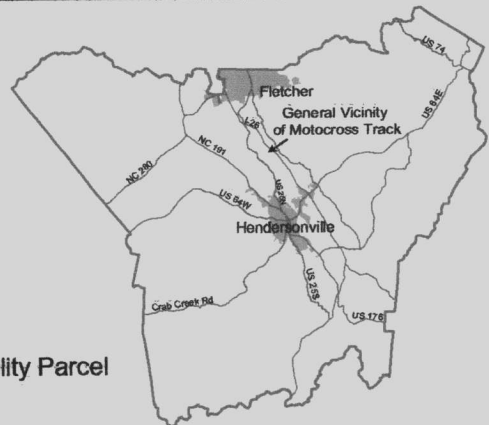
**USGS Topo Map for
Proposed Motocross Racing Facility
George Andrew Bennett,
Property Owner**



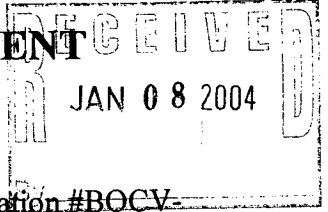
Henderson County Planning Department
1/14/2004



 Racing Facility Parcel



HENDERSON COUNTY PLANNING DEPARTMENT



REVIEW AGENCY RESPONSE FORM

I have reviewed Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 by J. Michael Edney, for George Andrew Bennett, for a motocross racing facility and offer the following comments:

The City Has A 8" water line to N. Egerton Rd, when they want a water meter they to make a Application at the water & DEPT at the operation created 305 Williams st.

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

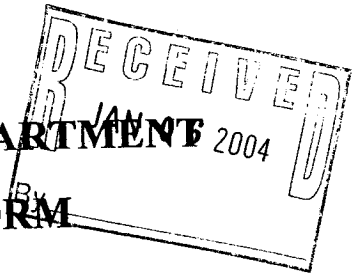
Reviewed By: Ezra Almon Dir, Agency: Hendersonville Water & Sewer, Date: 1-6-04

Please Return to:

Karen Smith, Planning Director
Henderson County Planning Department
101 East Allen Street
Hendersonville, NC 28792
kcsmith@hendersoncountync.org

HENDERSON COUNTY PLANNING DEPARTMENT

REVIEW AGENCY RESPONSE FORM



I have reviewed Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 by J. Michael Edney, for George Andrew Bennett, for a motocross racing facility and offer the following comments:

SEWER RELATED ISSUES:

NO SEWER IS ADJACENT TO THE SUBJECT SITE.
THE CLOSEST SEWER IS ALONG N. EGERTON ROAD
SOUTHEAST OF PARCEL 00966019324455
(BRANFORD WIRE).

THE SEWER LINE IS A FORCE MAIN, THEREFORE
ANY CONNECTIONS WOULD ALSO HAVE TO BE
A PUMP STATION / FORCE MAIN. IT APPEARS
EASEMENTS WOULD NEED TO BE OBTAINED ACROSS
OTHER PARCELS AS WELL AS AN N.C.D.O.T.
ENCROACHMENT.

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

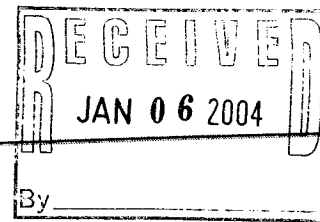
Douglas Greenman
Reviewed By

UTILITIES
Agency

01/06/04
Date

Please Return to:

Karen Smith, Planning Director
Henderson County Planning Department
101 East Allen Street
Hendersonville, NC 28792
kcsmith@hendersoncountync.org



Karen C Smith

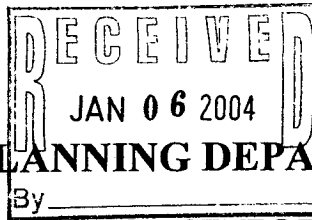
From: Rocky Hyder [rhyder@hendersoncountync.org]
Sent: Tuesday, January 06, 2004 3:10 PM
To: Karen Smith
Subject: Special Use Permit Application # SU-03-01

Karen,
I am writing to provide comment from the public safety perspective on Special Use Permit Application # SU-03-01 and Related Variance Application # BOCV-03-01 for a Motocross Racing Facility.

1. In order to support provision of emergency services an all weather access road 20' in unobstructed width with 13' 6" vertical clearance should be provided to the area.
2. A fueling / refueling area should be designated and posted with no smoking signs along with a 40 BC rated fire extinguisher. All fuel, oils, other hazardous materials and trash should be removed when the area is vacant.
3. Chairs, tables, bleachers, and other items should be secured against flooding.
4. The area should be secured when vacant.

If you have any questions or concerns please contact me.

Rocky Hyder
Henderson County Emergency Management
11 E. Allen Street
Hendersonville, NC 28792
rhyder@hendersoncountync.org



HENDERSON COUNTY PLANNING DEPARTMENT

REVIEW AGENCY RESPONSE FORM

I have reviewed Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 by J. Michael Edney, for George Andrew Bennett, for a motocross racing facility and offer the following comments:

I have reviewed the proposed plans for the Motor cross Racing Facility
located at 198 N. Egerton Rd behind Mountain Home Industrial Park and
find it adequate for Henderson County Emergency vehicles. If you have any
further questions, please call me at 697-4825.

Terry B. Layne, Director

Henderson County EMS

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

Reviewed By _____ Agency _____ Date _____

Please Return to: Karen Smith, Planning Director
Henderson County Planning Department
101 East Allen Street
Hendersonville, NC 28792
kcsmith@hendersoncountync.org


HENDERSON COUNTY PLANNING DEPARTMENT

REVIEW AGENCY RESPONSE FORM

I have reviewed Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 by J. Michael Edney, for George Andrew Bennett, for a motocross racing facility and offer the following comments:

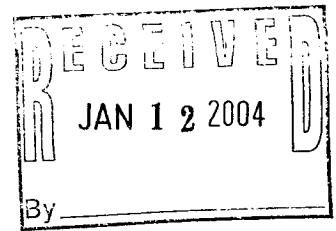
Reference the site plan provided, the Ordinance formula for figuring parking for the the number of patrons/riders proposed (500) is correct (167). However, it should be noted that while I observed the track in operation (while it was unpermitted for such a use), there were very few single vehicles that arrived at the facility to observe or otherwise participate in activities. The majority of vehicles I observed entering the facility were pickup trucks with trailers—these trailers carried motorcycles and the assorted accesories required in the operation of these vehicles. I observed no general sizes as to trailer dimensions, some were quite large and others were smaller. Further, I am of the understanding that when weekend “events” are held, (such as scheduled “races,” or “heats” or “bracket”-type racing) attendance at the facility traditionally significantly grows, and in addition to the pickup truck with trailers, RV’s of all sizes and shapes descend upon the facility. There is no allowance in the site plan specified for anything other than conventional parking spaces, and while the Zoning Ordinance doesn’t require anything else; the applicant is seeking a Special Use Permit and multiple variances, and the issue of accomodating oversized vehicles is relevant and should be addressed by the applicant, in addition to other zoning-related issues as defined in §200-24.F.

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

Reviewed By  Hend. Co. Planning • Zoning Agency 01/05/2004
Date

Please Return to:

Karen Smith, Planning Director
Henderson County Planning Department
101 East Allen Street
Hendersonville, NC 28792
kcsmith@hendersoncountync.org



HENDERSON COUNTY
DEPARTMENT AND AGENCY
SUBDIVISION REVIEW RESPONSE FORM

This office has reviewed the plans for the proposed subdivision named Motor Cross Racing Facility and offer the following comments:

1. The developer must apply for and obtain a Street and Driveway Access Permit from the District Engineer's office prior to connecting any roads or drives to a NC DOT maintained road. This permit should also be obtained before any building permits are issued.

Upon completion of the aforementioned comments, NC DOT shall continue its review.

C.E. Bandy
Reviewed by

NCDOT
Agency

1/9/04
Date

Please return this form to:

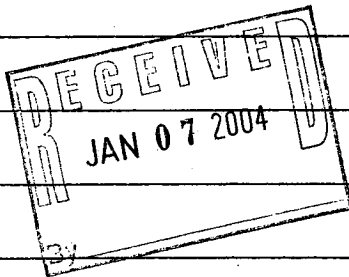
Karen C. Smith
Henderson County Planning Department
101 E. Allen Street
Hendersonville, NC 28792

HENDERSON COUNTY PLANNING DEPARTMENT

REVIEW AGENCY RESPONSE FORM

I have reviewed Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 by J. Michael Edney, for George Andrew Bennett, for a motocross racing facility and offer the following comments:

No comments except the general observation that some erosion control would be in order.



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

Ray Davis

Reviewed By

~~1/2/04~~
Agency

1/2/04
Date

Please Return to:

Division of Water Quality

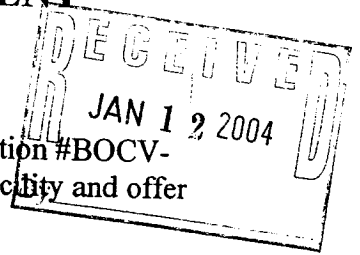
Karen Smith, Planning Director
Henderson County Planning Department
101 East Allen Street
Hendersonville, NC 28792
kcsmith@hendersoncountync.org

buffer 100' M.Ck
100' W.Side

Hydric
M.L. or NE
SE Contour

HENDERSON COUNTY PLANNING DEPARTMENT

REVIEW AGENCY RESPONSE FORM



I have reviewed Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 by J. Michael Edney, for George Andrew Bennett, for a motocross racing facility and offer the following comments:

The site is bordered by Mud Creek. Since a motocross facility by nature will have a great deal of nonvegetated soil a buffer of 50' to 100' should be required along the creek. By the same token a buffer should also be left on the northwest side of the tract since floodwaters will be flowing across the site and leaving on the NW side.

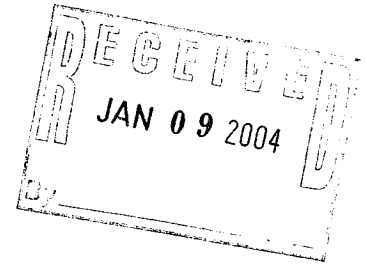
- The Henderson County soil survey shows that about 20% of the site contains hydric soils. If these soils have a tree cover they are wetlands and any earth movement or filling may require a Corps of Engineers permit.

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

<u>Bob Carter</u>	<u>Soil + Water</u>	<u>1/12/04</u>
Reviewed By	Agency	Date

Please Return to: Karen Smith, Planning Director
Henderson County Planning Department
101 East Allen Street
Hendersonville, NC 28792
kcsmith@hendersoncountync.org

To:
Karen Smith, Planning Director
Henderson Co. Planning Department
101 East Allen Street
Hendersonville, NC 28792



Re: Request for comments on Special Use Permit application #SU-03-01 for a
Motocross Racing Facility

January 9, 2004

I have reviewed Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 by J. Michael Edney, for George Andrew Bennett, for a motocross racing facility and offer the following comments:

I have strong concerns about the proximity of this proposed facility to Mud Creek and the resulting sedimentation impact that may result.

A motocross racing facility, by its very nature, causes land disturbance as a result of normal on-going operations. The entire track site consists of bare, loose soil, with no vegetation to hold it in place. The Applicant states, in his response to Section G of the General Requirements, that he "sees no damage to the land other than the distribution of some dirt." Disturbance of dirt constitutes very real damage, and is not a minor impact.

Mud Creek is classified by the State as a Class C stream, designated for aquatic habitat and secondary recreation. It is currently listed on the State 303(d) List of Impaired Waterbodies for non-support of aquatic life. Extensive study by the State Division of Water Quality (DWQ) documents that sedimentation is the foremost pollutant contributing to the degradation of Mud Creek and the aquatic habitat it is supposed to provide.¹ DWQ data also document that urban stormwater run-off is a significant contributor to sedimentation in Mud Creek.

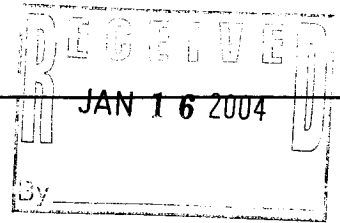
The Applicant notes that the proposed motocross site floods during heavy spring rains, and the site plan submitted by the Applicant shows that only light woods separate the proposed track from the Mud Creek stream channel. With such little natural protection from run-off, it is extremely likely that increased sediment loads from Lot 8902 will enter Mud Creek as a result of the proposed land use, contributing to further sedimentation of the stream channel and degradation of aquatic habitat.

*Riparian buffers of deep-rooted, dense, woody vegetation (trees) are the best means of protecting streams from sediment run-off. Optimal buffer width depends on land use, and ranges from 50 to 100 feet, or more. Since the proposed land use involves a high level of continuous land disturbance, a wider buffer would probably be needed for adequate stream protection. **I recommend that granting the permit for this facility be dependent upon development and regular maintenance of a wooded riparian buffer, wide enough to protect Mud Creek from unusually high sediment run-off from the site (at least 50 feet).** We (Cooperative Extension Service) can provide information to help the Applicant or his contractor design an adequate buffer.*

¹ *(Biological Impairment in the Mud Creek Watershed, French Broad River Basin, Henderson County, June 2003. North Carolina Department of Environment and Natural Resources, Division of Water Quality, Planning Branch. Prepared for the Clean Water Management Trust Fund.*

FLETCHER ACADEMY, INC.

P.O. Box 5440 • Fletcher, NC 28732 • (828) 687-5114



January 13, 2004

Karen Smith
Henderson County Zoning
101 East Allen St.
Hendersonville, NC 28792

RE: Motorcross zoning variance

Dear Ms Smith:

Under discussion by the Zoning Board is the request for a zoning variance to accommodate a Motorcross facility in the Mountain Home community.

To protect the environment and the pleasant surroundings of this community which has contributed to the development of retirement living, which in itself dramatically contributes to the financial base of the business community, I am requesting that the zoning board maintain the zoning guideline that previously was developed to have resolution to this category of question before us.

By observation, not actual measurements, it appears that this track site is located approximately three-quarters of a mile south, from the property of the Fletcher Campus, along I-26 from the Old Naples road and just to the West of I-26.

This observation places the Fletcher Academy, Inc. campus, which includes two schools, one of which has boarding students and a congregate living retirement community with 175 residents, in "close" proximity. The Park Ridge Hospital is also located within the community under discussion; however the hospital facility is not within my jurisdiction qualifying me to speak on its behalf (hospitals are included in the zoning code under discussion).

Having so recently been involved in the issues dealing with the race tack in this same community, I would suggest that this issue is well documented. It is well within the privilege of the developer to make such request for variance and to present his facts. The points of consideration are very similar in nature to what is on record from the previous debate. This record would reveal the conclusion of a very long debate that resulted in the zoning code which defines the resolution to this issue, within this community.

I am anticipating reasonableness and consistency,

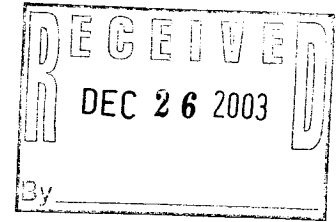
A handwritten signature in cursive script, appearing to read "Gerald A. Nash".

Gerald A. Nash
President

HARPER CYCLE & MARINE

1108 Spartanburg Highway ** Hendersonville, NC 28739
Phone:(828) 692-1124 ** Fax : (828) 692-6170 ** www.harpercycle.com

DECEMBER 22, 2003



To: Henderson County Commissioners
Henderson County Planning Board

From: Harper Cycle & Marine
William L Harper III
1108 Spartanburg Hwy
Hendersonville, NC 28739

Reference: Request for Special Use Permit by Mountain Home Motocross Park.

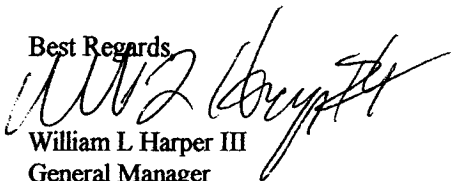
Dear Sirs,

It has come to my attention through several articles in the Times-News that Mountain Home Motocross Park has applied for a Special Use Permit which would allow them to operate a small (500 maximum patrons and riders combined) motocross track for the youth of Henderson County. I believe that this park would be a valuable asset to the community and warrants your consideration. This facility would be used primarily by the families of Henderson County as a recreational outlet. These folks are not the professional racers that I think the zoning was intended to block. The people that would use this facility are in fact mostly young people and their families that enjoy motocross much like some families enjoy playing ball or some other sport. The County currently spends thousands maintaining parks and recreational facilities. Here is an opportunity to have another recreational facility at no cost to Henderson County. I have also learned that none of the neighbors of the Park have any problem with the facility. In fact, some have actually offered to help the park. Motocross has become a very family oriented sport and Mountain Home Motocross Park is a good option for Henderson County. Please consider this Special Use Permit in favorable terms.

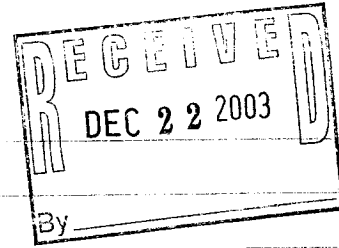
There is also an economic consideration here also. Within Hendersonville there are three major motorcycle dealerships. At any given time each will stock a minimum of twenty five units which require some type of off road terrain to be enjoyed. Currently buyers must travel to surrounding counties to enjoy their purchase. The combined sales of these businesses is in the millions. We also employ a number of the citizenry of the County. Motocross is acknowledged by the experts as the fastest growing sport in America. Attendance at the Winter Series Super Cross will equal that of a National Football League game. The sport is recognized through several major magazines. The sport has matured as a family function with husbands, wives and children all riding together.

We here at Harper Cycle & Marine hope that the Planning Board will give this request the consideration it deserves.

Thank you for your time and consideration. If you have any questions or comments please feel free to contact me at (828) 692 - 1124.

Best Regards

William L Harper III
General Manager

Dec. 18, 2003

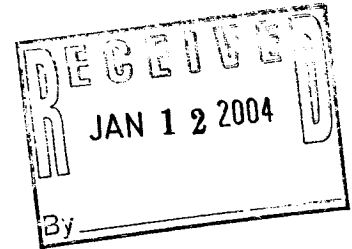


Because of the excessive noise created by the motor-cross track proposed, we are against this track.

The newspaper states that there has been no opposition from Amewas or business. That's because it is just now becoming public knowledge.

These screaming 2-cycle engines are a detriment to enjoying our private lives.

Mr. & Mrs Tom Fenwick 698-1221
3229 Debbie Drive, Stone Mt. Estates
Hendersonville, NC 28791



January 9, 2004

Henderson County Planning Department
101 E. Allen Street
Hendersonville, NC 28792

Attn: Ms. Karen Smith, Planning Director
Henderson County Planning Board

Re: Motor Sports Speedway

Dear Ms. Smith:

On behalf of the Clement-Pappas Company, I'd like to express my appreciation for the opportunity to comment on the above-referenced project.

Our firm is in the final stages of negotiation to operate a warehouse at 199 N. Egerton Road. Upon completion of these arrangements, it is our intent to move a major portion of our warehousing and shipping operation to that facility. Inherent in that move is a significant increase in tractor-trailer traffic on Egerton Road in the vicinity of the project. That traffic can be expected to occur between the normal shipping hours of 6:00 AM to 9:00 PM weekdays and 6:00 AM to 2:00 PM on Saturdays.

Clement-Pappas has no objection to the Motor Sports Speedway project as long as adequate provisions are made to guarantee, to the extent possible, the safety of all concerned parties and that sufficient parking is provided to assure ingress/egress for the warehouse operation. It is imperative that any permit for the Speedway includes provision for issuance of operating restrictions consistent with the previously noted concerns. Clement-Pappas opposes any development that causes harm to its business interests.

Should you have any questions or wish to discuss this matter in detail, please feel free to contact me personally (828-693-0711, Ext. 1244) at your convenience.

Very truly yours,

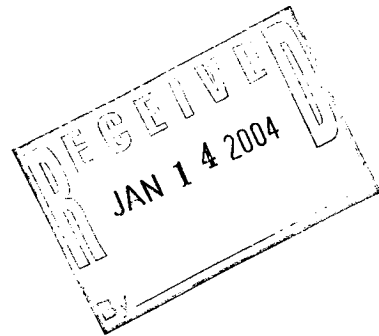
Michael A. Koral, PE

Xc: Michael P. Strickland, Clement Pappas NC
Pete McNamee, Maintenance Supervisor

Blake Kehoe, Plant Manager
File

P. O. Box 1009 Mountain Home, NC 28758
828-692-1894 828-697-2984 (Fax)

MS KAREN SMITH
HENDERSON COUNTY PLANNING DEPT
101 EAST ALLEN STREET
HENDERSONVILLE, N.C. 28792



DOUGLAS DUNLAP
331 BROOKSIDE CAMP ROAD
HENDERSONVILLE, N.C. 28792

DEAR MS. SMITH & BOARD,

PLEASE BE ADVISED THAT I AM AGAINST A MOTORCYCLE-ATV MOTOR
SPORT
PARK IN MT. HOME.

I LIVE LESS THAN A MILE FROM THIS LOCATION ALONG MUD CREEK.
THE CONSTANT NOISE ON THE WEEKENDS IS NOT SOMETHING I
WISH TO HEAR FROM DAY LIGHT TO DARK.

I AM AMAZED THIS ACTIVITY EVER STARTED. IF WE CAN NOT HAVE A
NASCAR
RACETRACK THAT RUNS ONE NIGHT A WEEK IN THE SUMMER MONTHS,
HOW CAN YOU APPROVE THIS LOCATION THAT WILL BE A CONSTANT
RACING ENVIROMENT FOR A LONGER PERIOD OF TIME.

RESPECTFULLY SUBMITTED,

Douglas Dunlap
DOUGLAS DUNLAP

Work 697-2222
Home 692 9379

HENDERSON COUNTY
Planning Department

101 East Allen Street • Hendersonville, NC 28792
Phone 828-697-4819 • Fax 828-697-4533

MEMORANDUM

TO: Henderson County Planning Board
FROM: Karen C. Smith, Planning Director *KCS*
DATE: January 20, 2004
SUBJECT(S): Special Use Permit Application #SU-03-01 and Variance Application
#BOCV-03-01 for a Motocross Racing Facility (Continued)

Staff previously provided to the Planning Board a memorandum (“the January 15, 2004 Staff memo”) with comments regarding Special Use Permit Application #SU-03-01 and Variance Application #BOCV-03-01 submitted by J. Michael Edney, on behalf of George Andrew Bennett, for a proposed motocross racing facility. The comments focused on Staff’s review of the special use permit application for conformance with the specific site standards for motor sports facilities in an I-2 district, including the application requirements.

Staff has reviewed Special Use Permit application #SU-03-01 for conformance with Henderson County Zoning Ordinance (HCZO) Section 200-56, Special Uses, and Section 200-70, Powers and Duties of the Henderson County Board of Commissioners, and offers the comments provided below.

General Site Standards for Special Use Permits

In accordance with Section 200-56D of the Henderson County Zoning Ordinance (HCZO), all special uses must meet seven general site standards. Section 200-56D states, “In evaluating whether the general site standards have been met, the Board of Commissioners may consider the type and size of the principal use, size of the property and other relevant factors. The applicant will not bear the burden of proving that all of the general site standards as listed below have been met. The applicant will, however, be required to produce evidence sufficient to rebut any evidence that the general site standards would not be met or that a condition is necessary.” Section 200-56D(2) provides that the Board of Commissioners, if it finds that a proposed use is contrary to one or more of the general site standards, may impose a condition on the special use permit if the condition will “avoid a violation of the general site standards stated for the regulated use.” Section 200-56D(2) also states that, “The condition imposed may be an increase in any minimum specific site standards stated for the regulated use. The imposition of a condition may only be based on evidence presented at the hearing that the general site standards would not be met without the imposition of such condition. The Board must make specific findings of fact based upon the evidence presented prior to the imposition of such condition.”

The applicant has addressed each of the general site standards in the application materials (beginning on the sheet titled “General Requirements” in attachment 1 of the January 15, 2004 Staff memo). If the applicant is not able to adequately address certain general site standards, but one or more

conditions on the special use permit, if granted, could do so, then the Planning Board may want to propose such condition(s) to the Board of Commissioners as part of its recommendation.

Each general site standard, with related Staff comments based on the standard and the applicant's written response to the standard, is listed below:

1. HCZO Section 200-56D(1)(a).

Establishments requiring a special use permit shall not be located or developed in such a manner as to adversely affect the health or safety of the persons residing or working in the neighborhood of the proposed use and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.

From the January 15, 2004 Staff memo, the Board may recall that Section 200-7 of the HCZO defines "neighborhood" as "Any area impacted by a principal use." Defining the neighborhood that will be impacted by the proposed motocross racing facility is not a simple task. As stated in the applicant's response to the first general site standard, the proposed use will be located in an I-2 General Industrial zoning district and there are industrial uses as well as a floodplain area in the immediate vicinity. However, the specific site standards for minor motor sports facilities in an I-2 district require a 2-mile separation from healthcare facilities as well as a substantial buffer (100 feet) and setback (500 feet). The specific site standards seem to indicate that the impacts of a motor sports facility may extend beyond the proposed use's immediate neighbors. The applicant is requesting variances from the buffer, setback and separation from healthcare facilities standards. If the ordinance standards cannot be met and the variances are not granted, it appears the proposed use will not be able to satisfy this general site standard.

One public safety item raised by the Henderson County Fire Marshal concerns the designation of a fueling/refueling area. If such an area is proposed, it should be shown on the site plan. In addition, the Fire Marshal has suggested that it be posted with no smoking signs along with a 40 BC rated fire extinguisher. The Fire Marshal has also suggested that all fuel, oils other hazardous materials and trash should be removed when the area is vacant. The applicant should these issues with the Planning Board.

2. HCZO Section 200-56D(1)(b).

Establishments requiring a special use permit shall be located or developed in such a manner as to minimize the effects of noise, glare, dust, solar access and odor on those persons residing or working in the neighborhood of the proposed use and the property and public improvements in the neighborhood.

As with the above general site standard, defining the neighborhood that could be impacted by the proposed use is difficult. The specific site standards for the buffer, the setback and the separation from healthcare facilities, are intended to help mitigate the impacts of proposed motor sports facilities. Regarding noise, Section 200-38.3B(10) requires submittal of a noise mitigation plan for approval by the Board of Commissioners. The application materials state that peak noise emission is estimated to be 60-70 dBA and that noise mitigation will be provided through "space and natural

vegetation.” The applicant’s response to this general site standard states that “noise containment is accomplished through distance to working areas.” As noted in Staff’s comments regarding the specific site standards (in the January 15, 2004 memo), Staff does not believe that the applicant has provided a sufficient noise mitigation plan, particularly in light of the requests for variances from the buffer, setback and healthcare separation standards. In order to better address this general site standard, the applicant should address the noise issue in more detail.

The other potential impact of the proposed use that the applicant addressed in the response to the general site standards is that of dust. The application materials note that dust “is controlled through a sprinkler system.” The sprinkler system is not shown or otherwise addressed on the site plan, however there is a system of hoses and sprinklers on the subject property. There also appears to be a “hard suction” pipe or hose that is typically used for firefighting purposes that runs from the edge of the subject property into Mud Creek. Staff does not know the purpose of such hose. In order to better address this general site standard, the applicant should further address the operation of the sprinkler system.

3. HCZO Section 200-56D(1)(c).

Establishments requiring a special use permit shall not be located or developed in such a manner as to seriously worsen the traffic congestion so as to endanger the public safety.

North Egerton Road is a state-maintained road. The North Carolina Department of Transportation (NCDOT) has provided comments on the proposed motocross racing facility (see attachment 8 of the January 15, 2004 Staff memo) which state that the applicant must apply for and obtain a street and driveway access permit from the District Engineer’s office prior to connecting any roads or drives to a state-maintained road and prior to the issuance of any building permits. If the special use permit is granted, staff would suggest that the NCDOT driveway permit requirement be a condition of approval.

The applicant’s response to this general site standard states that the proposed use, “...would not adversely effect or worsen normal traffic in the area. Public safety would not be compromised. 98% of all track activity would take place on week ends. All businesses in the industrial park would be closed. No adjacent businesses operate more than one shift. The track attendance traffic on a given weekend in no more than twenty five vehicles. This would equate to normal Industrial Park traffic during the week.”

The application materials provide for a maximum of 250 patrons and a total of 500 patrons and riders, which leads one to believe that the site has been designed to handle many more than 25 vehicles. Based on observations by the Planning Director of activities on the subject property prior to the applicant filing for a special use permit, Staff expects that special events on weekends would attract more than 25 vehicles.

Staff has learned from a letter (see attachment 9 of the January 15, 2004 Staff memo) from a representative of Clement Pappas, an industry located on North Egerton Road in the Mountain Home Industrial Park, that it intends to move much of its warehousing and shipping operation to a warehouse located at 199 North Egerton Road (which appears to be the former Smurfit-Stone

operation across North Egerton Road from the entrance to the subject property). The letter notes that there will be an increase in tractor-trailer traffic on Egerton Road in the vicinity of the proposed project and that the traffic to and from the warehouse can be expected to occur between 6:00 A.M. and 9:00 P.M. on weekdays and between 6:00 A.M. and 2:00 P.M. on Saturdays. According to its human resources department, Clement Pappas operates three shifts during the week and at least one and sometimes up to three shifts on Saturdays. It occasionally runs a shift on Sundays.

The application materials do not adequately address the types and frequency of weekend events, how many riders and patrons to expect, how patrons and riders will access the property from US 25 North (Industrial Park Road to North Egerton Road and/or Cloverdale Drive to North Egerton Road), whether there is a possibility of vehicles having to wait on North Egerton Road prior to entering the property (particularly during special events), etc. In addition, the applicant has not addressed how frequently the site will be used for practices and how many riders and vehicles associated with such riders would be expected for practices. In order to better address this general site standard, the applicant needs to provide some additional information.

4. HCZO Section 200-56D(1)(d).

Establishments requiring a special use permit shall be located or developed in such a manner as to comply with all applicable federal, state, and local laws, rules and regulations.

The application materials state that the applicant has two minor items to complete to "...be in compliance with the local EPA manager. With the exception of these two items, all other EPA requests have been complied with and approved by the agent of the EPA." Staff assumes that the applicant is referring to requirements for an erosion and sedimentation control permit from the North Carolina Department of Environment and Natural Resources (NCDENR), and not the United States Environmental Protection Agency (EPA). It is Staff's understanding that the applicant is seeking or has sought approval of an erosion and sedimentation control plan from NCDENR. Staff has not yet been able to confirm the status of such approval from William Beck, the Environmental Technician with NCDENR who reviews erosion control plans for projects within Henderson County. As noted in the January 15, 2004 Staff memo, Staff would like the applicant to comment on the status of the erosion control plan approval. In order to address this general site standard, if the special use permit is granted, Staff believes that the Board of Commissioners should consider a condition that requires submittal to the Planning Department of evidence of approval of an erosion and sedimentation control plan for the subject property prior to any further grading, road construction, parking lot construction or other activities on the subject property.

Satisfied

Regarding other federal, state and local laws, rules and regulations, the application materials state that, "Applicant is not aware of any Federal or State requirements. Local laws, rules and regulations are controlled by County statute and all such issues are being addressed directly through activity such as this submission."

It is Staff's understanding that building permits may be required from the Henderson County Inspections Department for the registration pavilion shown on the site plan. The concession stand may be too small to require a building permit. Whether or not building permits are required, the applicant must obtain zoning permits for such structures. Permits from the Environmental Health

section of the Henderson County Department of Public Health may also be required (for example, depending on the nature of the concession stand. In order to address this general site standard, if the special use permit is granted, Staff would suggest that the Board of Commissioners include as a condition of the permit that the appropriate permits (building, zoning, health, etc.) be obtained from Henderson County related to the operation of the motocross racing facility prior to their construction/use. If such structures were constructed without the proper permits, then the applicant should obtain the applicable permits prior to opening the motocross racing facility.

Comments from Bob Carter, District Conservationist with the Soil and Water Conservation Service (see attachment 8 of the January 15, 2004 Staff memo), note, "The Henderson County soil survey shows that about 20% of the site contains hydric soils. If these soils have a tree cover they are wetlands and any earth movement or filling may require a Corps of Engineers permit." The Army Corps of Engineers is a federal agency. The applicant should address if any contact has been made with the Corps of Engineers regarding possible wetlands on the property and if the applicant knows if a Corps of Engineers permit will be required.

5. HCZO Section 200-56D(1)(e).

Establishments requiring a special use permit shall be located and developed in such a manner as to be consistent with the Goals and Objectives as outlined in the Henderson County Comprehensive Land Use Plan.

The applicant's response to this general site standard states that the applicant does not feel that the proposed use would violate any of the goals and objectives of the Henderson County Land Use Plan. The application materials state, "The land is classified as being 98% Flood District. There are times during the Spring when the land is entirely under water. It was like this in the Spring of 2003. As Flood District land there is no real commercial use for the lot. No commercial operation in the Industrial Park has attempted to use any of the lower flood plain. All have withdrawn to higher ground. Lot 8902 has no plausible use other than partial year use as some type of recreational facility."

The future land use map in the 1993 CLUP designates the site of the proposed motocross facility as well as adjoining land for "Agriculture" uses. The Agriculture area adjoins an area designated "Industrial." The Agriculture designation is likely due to the subject property and other parcels being within the 100-year floodplain of Mud Creek. The I-2 zoning in the area was completed prior to the completion of the 1993 CLUP. Although the proposed use does not conform with the future land use map, it is allowed by the current zoning subject to the granting of a special use permit.

6. HCZO Section 200-56D(1)(f).

Establishments requiring a special use permit shall be located and developed in such a manner as to be consistent with any approved Official Thoroughfare Plans of Henderson County or any municipality therein.

The applicant responded to this general site standard by stating, "There are no known Official Thoroughfare Plans of Henderson County which depict the establishment of a major thoroughway on the Flood Plain District." At this time, Henderson County does not have an approved thoroughfare plan, although NCDOT is working on one at this time. Neither the Mountain Home Industrial Park area nor the subject property were included in the study area for the Thoroughfare Plan adopted by the City of Hendersonville on November 7, 1991.

7. HCZO Section 200-56D(1)(g).

Establishments requiring a special use permit shall be located and developed in such a manner as to minimize the environmental impacts on the neighborhood including the following: groundwater, surface water, wetlands, endangered and threatened species, archeological sites, historical preservation sites, and unique natural areas.

The applicant has responded to this general site standard by stating that, "The fact that Mother Nature has complete control over this Lot while transforming it from dry land to wetland to lake front during the course of a year indicates to the applicant that no normal season of the land is altered by the establishment of a motocross track for the use of the youth of the County. The use of the lot 8902 is determined by Mother Nature herself. There will be times when there can be no use of the land due to flooding. There will be other times when the land will have limited use due to wetland phenomena. There will be a shorter period when the land can be used as a sport track. The Applicant sees no damage to the land other than the distribution of some dirt."

Comments provided by Bob Carter, District Conservationist for the Soil and Water Conservation Service, (see attachment 8 of the January 15, 2004 Staff memo) express the need for buffering along Mud Creek as well as along the northwest side of the property, due to the amount of nonvegetated soil on the site and the potential for flooding. Diane Silver, Mud Creek Watershed Coordinator and Natural Resources Extension Agent with North Carolina Cooperative Extension Service, also provided written comments to staff (see attachment 8 of the January 15, 2004 Staff memo), in which she noted concerns about the amount of bare, loose soil associated with a motocross facility and the impact that sediment carried by flood waters on the property could have on an already-impaired Mud Creek. Ms. Silver's comments also suggest the need for vegetated buffering along Mud Creek. She has offered to the applicant the assistance of the Cooperative Extension Service in designing an adequate buffer. The applicant should address what, if any, buffering will be provided on the subject property and if any buffering is/ will be required by NCDENR as part of the erosion and sedimentation control plan approval. The Planning Board may want to consider whether to recommend that a vegetated buffer be provided/maintained.

As the Planning Board is aware, at this time, Henderson County does not participate in the National Flood Insurance Program and does not regulate development in or filling of floodplain areas. State and federal permits (NCDENR for erosion control, Army Corps of Engineers for wetlands permits, etc.), may apply in floodplain areas, however.

3.18 acres

Other Considerations for Special Use Permits

In addition to the general site standards, under HCZO Section 200-70 (Powers and Duties of the Board of Commissioners) the Commissioners must find that satisfactory provision and arrangement has been made concerning the following, if applicable:

- a. Satisfactory ingress and egress to property and proposed structures thereon with particular reference to automotive/pedestrian safety and convenience and traffic flow and control.
- b. Provision of off-street parking and loading areas where required, with particular attention to the items in "a" above and the economic, noise, glare and odor effects of the special use on adjoining properties in the area.
- c. Utilities with reference to locations, availability and capability.
- d. Buffering with reference to type, location and dimensions.
- e. Playgrounds, open spaces, yards, access ways and pedestrian ways with reference to location, size and suitability.
- f. Building and structures with reference to location, size and use.

Most of the components of items a-f, above, have been generally addressed through other sections of this memo and the January 15, 2004 Staff memo. However, Staff would like for the applicant to comment on:

- Items "a" and "e" regarding how pedestrian traffic, automobile traffic and rider traffic will be managed on the site.
- Item "d" regarding what existing vegetation will remain on the site and if any additional buffering material will be provided. Also, the applicant should address when various items such as the accessory buildings, dumpster, some junk vehicles and other items located within buffer areas will be removed.

AGENDA
HENDERSON COUNTY PLANNING BOARD

Tuesday, February 17, 2004
7:00 P.M.

Meeting Room, Land Development Bldg.
101 E. Allen Street
Hendersonville, NC 28792

1. Meeting Called to Order.
- 1.1 *Sing Along - How long has it been on the agenda?*
2. Approval of Minutes – January 20, 2004 Regular Meeting.
3. Adjustment of Agenda.
4. Staff Reports.

Notice: Reviews of subdivisions will be conducted informally unless the applicant or anyone qualified to participate in the proceeding requests that such review be conducted as a formal quasi-judicial proceeding.

OLD BUSINESS:

5. Status Report on Planning Initiatives - Planning Staff.

NEW BUSINESS:

6. Etowah Office Complex, (File# 04-M01) – Master Plan and Development Plan Review for Property Located off McKinney Road - (2 Lots on 4.83 Acres; 1 Residential Lot and 1 Non-Residential Lot) - James E. McKinna, Owner/Agent.
7. Zoning Map Amendment Application # R-04-01 to Rezone Approximately 0.31 Acres Located at the Intersection of Resort Street and Shepherd Street, from R-15 (Medium-Density Residential) to C-2P (Preservation Neighborhood Commercial) - Charlene Rogers, Agent for Charles Pace, Applicant.
8. US 25 North Area Study – Discussion of Preliminary Draft – Michael Harvey, CMR Services, Inc.
9. Approval of Order for Amendment to Carriage Park, Section 14, Carriage Forest, for the Sewer Lift Station Lot.
10. Public Input.
11. Subcommittee Assignments and Meeting Dates.
 - a. Water Supply Watershed Issues Subcommittee
 - b. Short Term Zoning Subcommittee
 - c. Subdivision Issues Subcommittee
 - d. Others
12. Adjournment.

February 17/04 -

Absent: Mike Cooper
Cindy Sabatelli

Minutes - Revised - 1st Leon
2nd Vivian

Adjusted -

Staff Reports - Brachure
BCC Mtg. -

#5 - Karen - (update)

#6 - Etowah Office Complex - (see memo)

Vivian Leads - need to be updated on Enhancement Drive -

Permitted
Uses?

Open Use - 12 uses for permits by SUP.

Vivian Gillespie Mudack - Adj. to complex - have they been notified?

↓ Egress/Ingress - maintained?

Leon - side road requirement of buffer?

MR. McKenna -

Paul - ROW from McKenna - What is ROW?

McKenna - Either 60 or 75' ROW -

Vivian Dev. Plan - no zoning permit is req. in open use district -

Lead concerned about adjacent property owners activities -
Kramer - can be an adjacent by product - could the
a problem if not evidence was not that -
Husain - Rightly owner - McLeod - have fine receipts - not that?
McKenna - marked area -
Lead - can make a condition for buffer -

Call to recommendation

Private Road - Commercial prop. can only use ^{up to} 50'

of Enhancement circle as access to commercial
site - 10' ^(height) along ^{boundary} along lot 18 along
Pave the access to the 145' property line

where inspection is not there - adjoining the McLeod
McKenna agreed w/ 10' wide evergreen buffer ^{Property} circle -
~~McKenna~~

Johnny - just

Call in Janus -

Janus opposed.

Paul
Text

Marken cannot

#17 - R-07-01 -
Autyynn - briefed Board on area -
See Attachment 2 for parts of her presentation ⁱⁿ the packet -
Recommendation
See page 8 - Attachment 2.

Charlene Rogers - old. block w/ buffer (Shepherd Street) -
Shown on map.

Karen - reminded

Leon - if you lived in a house you could have as a home occupation -

Tedd - unfavorable recommendation
as per staff's comments.

Vivian - second the motion.

3-3 (tie) - Vivian for Tedd
 Jimmy for Leon Against
 ~~Wade~~ Tedd Paul

Tedd - recommend approval - favorable
Paul - 2nd

(3) for - Leon Jimmy (3)
 Paul Tedd Against
 Tedd Vivian

#9 Appraisal of Carriage Park Aides -

Jedd - 1st
Leon - 2nd

all in favor of Aides

Paul ^{was} recused,

#8 US 25 North Study - Michael Harney

Look @

Existing land uses & constraints of land uses

Current zoning

Access issues

regulating dev. to identifying issues - (zoning, transportation, etc.)

Concerns additional industrial dev.

Residential dev. protected -

recommend zoning -

Encourage commercial dev. on large scale dev. along corridor -

Jedd - 25N will be commercial - Concerned about curb cuts that will potentially exist - defining a method that a large track - more of an access road be encouraged - protect the undeveloped area Commercial area from Stoney Mtn. Rd. to approx. I-26 area.

Michael

Proposes:

Adapting districts - transitional zoning districts -

Split zoning property - not recommended -

Develop an incentive program - deal w/ access roads -

Vivian - existing infrastructure will stay as is?

Michael -

How far south?

Vivian - traffic addressed?

Michael - multi-curb cuts - mitigate land uses -
find compatible uses - ease congestion -

Judd - frontage road? -

Michael - issues on 100-200' frontage of property -
large amount of land - then burden will be w/ expense

Tommy - 191 to 280 (H County line) what was purpose?

Karen - will be Mills River -

Tommy - residential - latched off -

Karen - north of 280 - limited of curb cuts -

Michael

Encourage DOT to form a curb cut committee
for issues -

Michael

Bruce - Specific zoning classification

Karen Ashmont - residentially - medical use -

Majority agreed on commercial along highway -

Paul - Flood Prevention Act,
Sewer

Michael Flood Act. be adopted -

Citizens concerned with fill up to dev. land on floodplain
Tree Board Standard - adopt - go beyond what is
required -

Reg. developers to stabilize soil -

Transitional zoning districts -

Mixed use PUD's - open use districts

Points

Commercial

New transitional zoning

Environmental impacts

not appear to buffering - industrial/commercial

split zoning

Subcommittee

A (Mar. 3rd - 4:30pm.) WSW Issues

B. Hidden lakes - establish boundary areas

C. Get w/water

D.

Jed
1st

- Leon
2nd

9pm.

Adyorn

HENDERSON COUNTY PLANNING BOARD MINUTES JANUARY 20, 2004

The Henderson County Planning Board met on January 20, 2004, for its regular meeting at 7:09 p.m. in the Meeting Room of the County Administration Building, 100 North King Street, Hendersonville, NC. Board members present were Tedd Pearce, Chair, Walter Carpenter, Vice Chair, Leon Allison, Mike Cooper, Tommy Laughter, Vivian Armstrong and Paul Patterson. Others present included Derrick Cook, Planner, Autumn Radcliff, Planner, Karen Smith, Planning Director and Kathleen Scanlan, Secretary. Board members, Cindy Dabaibeh and Todd Thompson were absent.

Adjustment of Agenda. Chairman Pearce called the meeting to order and noted that due to the length of the agenda, the applicant for Item 12, regarding the Proposed Motocross Racing Facility, is willing to continue his item to another meeting date. Chairman Pearce asked Michael Edney, representing the applicant for Item 12, to clarify whether a continuance of his item would be agreeable. Mr. Edney stated that understanding the length of the Planning Board's agenda, a continuation to either this Thursday or next Tuesday would be agreeable with his client. Chairman Pearce then made a motion to continue the Planning Board meeting for Item 12 and possibly other issues if need be, to Tuesday, January 27, 2004 at 7:00 p.m. in the Meeting Room of the County Administration Building at 100 North King Street. Chairman Pearce stated that with the approval of Leon Allison, he asked that his rezoning request, Item 9, be moved after Item 11. Mr. Allison was in agreement.

Approval of Minutes. Chairman Pearce asked for the approval of the December 16, 2003 minutes. Mr. Allison mentioned that there was a typographical error he found on page 13 of the “draft” minutes. The correction was noted by the Secretary. Ms. Armstrong noted several typographical errors and all were noted by the Secretary. Chairman Pearce made a motion to approve the minutes for December 16, 2003 with the corrections noted. Vivian Armstrong seconded the motion and all members voted in favor.

Staff Reports. There were none.

OLD BUSINESS:

Status Report on Planning Initiatives - Planning Staff. Ms. Smith noted that the update report was presented at the joint meeting earlier in the month.

NEW BUSINESS:

Amendment to Carriage Park – Section 14, Carriage Forest (Sewer Lift Station Lot) Dale Hamlin, Agent, Carriage Park Associates, LLC, Applicant. Paul Patterson said that he would recuse himself, as he has been involved in projects with Carriage Park. All Board members approved his recusal. Chairman Pearce stated that this item would be conducted as a quasi-judicial proceeding and the proceeding is to consider an amendment to Section 14, Carriage Forest. Chairman Pearce then asked all parties to the proceeding Carriage Park Associates, LLC, Dale Hamlin, Manager and Developer and the Planning Department Staff, (Derrick Cook, Planner, and Planning Director Karen Smith) to be sworn in. Mr. Cook stated that Carriage Park is a Planned Unit Development (PUD) on Haywood Road approved by the Henderson County Board of Commissioners and was approved for a total of 695 units on 392.3 acres. He stated that Section 14, Carriage Forest, encompasses 14.42 acres of land within the R-30 zoning district and in the Watershed IV district. He stated that the Planning Board originally approved the Development Parcel Plan on March 26, 1996 and the Final Plat was signed on August 19, 1996 with a 20-foot sewer easement stretching throughout the site. He stated that with regard to this application, the applicant is proposing a ~~sewer station lift lot~~ **sewer lift station lot**, which encompasses 0.037 acres of land, which will have a 30-foot right-of-way extending to it. He stated that this parcel will be within the open space area of Carriage Park and will be deeded to the City of Hendersonville, which is the reason why it is before the Planning Board. He explained that when you have any kind of open space that is disturbed within Carriage Park, such as if it is not going to be deeded over to the homeowners association, then the Planning Board needs to review and approve that distribution of land. Mr. Cook reviewed the list of Staff comments as follows:

1. 30-foot right-of-way – The Applicant proposes a 30-foot right-of-way to access the sewer lift station lot. The dedication of a right-of-way can provide use by more than the utility vehicles to service the lift station. Staff believes that unless the Applicant designates the right-of-way as a utility easement, the right-of-way should be built to “neighborhood drive” road standards. As defined in #SP-93-13 a “neighborhood drive” is “a paved access typically

serving by direct access, townhouse, condominiums or apartments, with 3 foot shoulders, such road having a 30 foot access easement (including utility use) and having 18 feet (width) of pavement (I-2 Asphalt), 1 ½ inches in thickness on a 6 inch ABC Stone base and not exceeding 18 percent grade.” On a revised site plan a cross-section of a “neighborhood drive” should be shown.

2. A acknowledgement should be made stating that the proposed amendment otherwise appears to comply with Special Use Permit # SP-93-13 (and as amended), the Henderson County Zoning Ordinance, and the Henderson County Water Supply Watershed Protection Ordinance.
3. If the amendment is approved, the Applicant would need to record a new plat showing the changes in the open space. Such plat must meet the requirements of the Subdivision Ordinance for Non-Standard subdivisions.
4. Open Space – Unless the Applicant can provide evidence that the 0.037-acres of open space lost from Section 14 is represented in recorded open space, the 0.037-acres of land should be dedicated as open space somewhere else in Carriage Park to meet requirements. The additional open space will need to be put on record prior to or concurrent with the recordation of the sewer lift station lot in Section 14.

Ms. Armstrong asked whether the proposed 30-foot right-of-way was in the same location as the original 20-foot easement? Mr. Cook stated that it somewhat corresponds with the proposed easement. The easement that they have goes right through the property altogether including that area. Mr. Cook showed on a map the area the easement goes through. Ms. Armstrong asked whether the proposed 30-foot right-of-way is in addition to the 20-foot easement? Chairman Pearce stated that Mr. Dale Hamlin could address that issue. Ms. Armstrong also asked, “Why does the City of Hendersonville require a 1600-foot lot, which appears to be what this space encompasses? Chairman Pearce added that this question should be addressed as well to Mr. Hamlin. Ms. Armstrong also asked, “What kind of improvements will the City of Hendersonville require in the right-of-way?” Chairman Pearce said that this, too, would be better directed to Mr. Hamlin than County Staff.

Mr. Hamlin stated that he is concerned about the right-of-way matter. He said that what was brought to the Planning Board is an open space adjustment of 0.037 acres. He said that Carriage Park does have the amount in its open space acreage to handle this and has evidence to this effect. He added that Carriage Park has an extra acre at this time. Mr. Hamlin said that the right-of-way is a new issue that he is not sure about as he said that he does not want to build a

neighborhood drive because it will not be servicing apartments, condominiums or townhouses. Chairman Pearce asked whether it is a utility easement? Mr. Hamlin said that he is not deeding the utility easement and that it is open space. He mentioned that Carriage Park has utility easements and rights-of-way everywhere that service various situations. He added that he does not remember that this classification was something the Planning Board required when it is just a roadway servicing a sewer station that the City of Hendersonville required. Mr. Hamlin stated that it is through open space. Chairman Pearce stated that the question is, “Should it be designated as a utility easement?” Mr. Hamlin asked, “What is a utility easement as he can not find it in the County’s Zoning Ordinance?” He said that there is no definition of a utility easement, only a definition of an easement. Mr. Carpenter stated that the Board is trying to help him because the alternative is it will need to be a road and be built to road standards. Mr. Hamlin said that he feels this might be the first time the Planning Board has asked of me to describe rights-of-way and utility easements. These descriptions show up on plats when they are approved, but when a change is made from time-to-time on something, a utility easement has not been in front of this Board before. Mr. Carpenter added that he has never seen one regarding Carriage Park. Chairman Pearce said that there are other lift stations in Carriage Park. Mr. Hamlin said that there are five lift stations. Chairman Pearce asked how were the others handled? Ms. Smith replied by stating she did not know. Mr. Hamlin stated that normally when they are near a road Carriage Park builds a driveway and deeds a little lot to the City. The City then owns the small lot and driveway. He said that in this case, this is a remote location and the City declined a previous access, as it was too steep. The 20-foot easement is for the sewer lines that are already in the ground. The 30-foot easement is for a private road that takes the City down to service the sewer lift station. Mr. Hamlin stated that he would accept the utility easement if that is something he needed to accept, but he would like to just have it as an easement as he might want it as a walking trail as well. Mr. Carpenter stated that as a utility easement he feels that it could also be a walking trail. Mr. Carpenter stated that showing the road as a utility easement would mean that the City Water Department would have the right to drive on it to get to the sewer lift station. Chairman Pearce asked, “On your other lift stations, you say you have a small drive-way to it, was the drive-way also deeded to the City?” Mr. Hamlin said yes, as in those cases it was right off of the road. Ms. Smith stated for an example, there is a lift station in Section 10 near Leverette Drive, and there was access there already and it was shown on the plan. Ms. Armstrong asked Mr. Hamlin whether the City of Hendersonville is requiring Carriage Park to make any improvements inside this easement or right-of-way? Mr. Hamlin said that they are not requiring any improvements. Chairman Pearce said that it is normal for utilities to request deeded property for things that they are going to take possession of and maintain. Chairman Pearce stated that the City is taking title to the actual lot where the lift station

is. Chairman Pearce feels that there shouldn't be a problem labeling this as a utility easement, but he asked if it is labeled as a utility easement, does that preclude any other use? Mr. Carpenter said that no, it just says that it can be used as a utility easement and if it is used for something else too, that is fine. Mr. Carpenter said that Carriage Park can not stop the City from driving in or out of there as they have a right-of-way over it, but Carriage Park still owns it, or the homeowners will or whomever ends up with it. He said they could do whatever with it as long as it is consistent with the City being able to drive into it. Ms. Smith stated that Staff is just trying to make sure that it doesn't become access to a lot. Chairman Pearce asked if the Board could make a condition that states the utility easement could not be access to a lot? Mr. Hamlin stated that it actually couldn't be access to a lot as they need lot access on paved roads. Mr. Cooper stated that the access does touch Lot 18 in this area. Mr. Hamlin added that there are sedimentation ponds in that area that need to be serviced. Chairman Pearce feels that the Board could make a condition that the easement or right-of-way can not be used to access any lots. Mr. Carpenter requested a copy of the recorded plat for Section 14 from Staff. He said that he feels this is part of what was designated as open space when Section 14 was recorded. He said that the other part that is east of there is not part of any section that has not been dealt with. He said that when you put this plat on record, you designate this area as open space, is it not fair to say that at that time the owners then have some undivided interest in that open space? Mr. Hamlin said that the open space has been conveyed to the Homeowners Association, however this is a lift station for the use of the utility system that the homeowners have bought into. He said that in the declaration in the covenants of the Carriage Park Homeowners Association contemplates having lift stations and water booster stations because of the terrain of the subdivision, so it is not taking anything away, it is just getting the City to accept their responsibility for maintaining it. Mr. Carpenter asked if Carriage Park Associates, LLC could convey something to the City that they don't own with a right-of-way of common area that they do not own? Mr. Hamlin stated that this is the third time Carriage Park has asked for an adjustment to open space by the Board and each time you have had the same questions. He said the open space is dedicated but not deeded to the Homeowners Association and that the company still owns it. Mr. Hamlin feels that this is an administrative measure, not a Board measure, but because of the way the documents are written, they are here in front of the Board tonight to seek an adjustment in open space. Mr. Hamlin feels that this will happen from time to time. Mr. Hamlin asked Mr. Carpenter whether he thinks Carriage Park could change their documents to allow a little latitude on things like this that do come up on a large development? Chairman Pearce stated that this is another issue appropriate for Staff and the Carriage Park people to sit down and discuss and perhaps come up with some minor adjustments to the amendments that the Planning Board might want to consider and the Board of

Commissioners would need to approve. Chairman Pearce stated that the open space has not been deeded to the Homeowners Association but it is being recorded that this amount of space is being set aside. He asked whether it would be appropriate to consider as part of any letter of approval, should we approve it that the Homeowners Association approves the adjustment to the open space? Mr. Carpenter feels that any approval by the Board would not affect the homeowners rights. He does not want the County trumping the homeowners rights or interest in the open space already dedicated and that whatever is done by the Board would be subject to the homeowners interest in the open space. He feels that Carriage Park Associates, LLC, will need to deal with the homeowners in order to have good title to convey to the City. He added that he couldn't imagine anyone arguing about it. He does not feel that the County should say it is ok, if there is a real issue as to the ownership of this and the rights of all the parties, or that the Board should not bind the Homeowners Association. He added that it does not bother him to approve this, subject to that.

Chairman Pearce directed that Staff bring back the Findings of Fact and Conclusions consistent with the decision the Board makes. The approval should include the following conditions:

- (1) Regarding the 30 foot right-of-way, the Board feels it is appropriate to label it as a utility easement and a note should be placed on the plat stating that it can not be used as access to any residential lot in the subdivision.
- (2) The proposed amendment otherwise appears to comply with Special Use Permit # SP-93-13, as amended, the Henderson County Zoning Ordinance, and the Henderson County Water Supply Watershed Protection Ordinance.
- (3) The Applicant should record a new plat showing the changes in the open space, which would meet the requirements of the Subdivision Ordinance for non-standard subdivisions.
- (4) That the Applicant provides evidence that the 0.037-acres of open space lost from Section 14 is represented in recorded open space and that the lift station lot in Section 14 (0.037 acres) is dedicated as open space somewhere else in Carriage Park to meet requirements.
- (5) That the Board approves the amendments without any prejudice to the rights of the Homeowners Association or others in and to the open space dedicated in Section 14 (Slide 2227 of the Henderson County Registry).

Ms. Armstrong made a motion to approve the amendment to Carriage Park, Section 14, Carriage Forest, (Sewer Lift Station Lot), subject to the comments discussed above. Tommy Laughter seconded the motion and all members voted in favor. Chairman Pearce stated that the Findings of Fact would be brought back to the Board at the next Planning Board meeting. Ms. Smith asked if Carriage Park could record the plat prior to the Order coming back to the

Board at the next meeting, if everything is in compliance? All Board members agreed that there is no objection to recording the plat prior to the Order being approved.

Riverwind Section IV - Master Plan and Development Plan Review for Property Located off Etowah School Road – (102 Single-Family Lots on 35.90 Acres) – Gary Queen, Agent for Carrollwood Development, LLC, Owner. Mr. Cook said that Riverwind was originally brought to the Board in 1997 and was approved on August 26, 1997 and on January 26, 1999 the project was granted a development plan extension for Section IV. He said that at that time, the applicant was not able to complete the project and it expired. The current application is a reapplication for Section IV, which encompasses 35.90 acres of land with 102 single-family residential lots. He said that it is in the Open Use district. Public roads, public water, and a community septic system would service the property. The property is not located in a Water Supply Watershed Protection district, but portions of the project are in a floodplain. Mr. Cook stated that all technical requirements were satisfied regarding the Master Plan. He said that with regard to the Development Plan, his comments are as follows:

1. Soil Erosion and Sedimentation Control – The applicant should submit notice from NCDENR that a soil erosion and sedimentation control plan has been received or provide documentation that no plan is required prior to beginning construction (HCSO 170-19).
2. Common Area – The Applicant has designated a 9.4-acre common area at the entrance of Phase IV. If applicable, future structures on the common area must meet the applicable zoning or other ordinance requirements and be clearly identified for their designated use on the Final Plat (Section 170-31B).
3. Farmland Preservation – On the Final Plat, a statement should be noted saying the subdivision lies within ½ mile of the French Broad Farmland Preservation District (HCSO 170-35 and Appendix 7).
4. Perennial Stream Setback – The Applicant has acknowledged on the Development Plan the 30-foot building setback from perennial streams. However, the stream illustrated on the Development Plan is not shown on the most recent USGS topographical map. The County does not require the 30-foot setback noted on the Plan, but since the applicant has imposed the 30-foot setback, such setback should be noted on the Final Plat (HCSO Appendix 7).
5. Road Grade – The Applicant has provided the approximate road grade for the proposed public roads. On the Final Plat, conformance with the road grade standards of the NCDOT will need to be certified (HCSO 170-21 Table 1, 170-21E).

6. Public Roads – Since the Applicant has proposed public roads to serve the development, on the Final Plats, the Applicant should have an NCDOT Engineer seal with signature acknowledging that the proposed road design meets NCDOT standards (Appendix 7).
7. Water Supply – The Applicant did supply a letter of water capacity from the City of Hendersonville Water and Sewer Department. The Applicant must meet the City of Hendersonville’s minimum requirements for fire hydrant installation (HCSO 170-20). Final approval of water supply system must be provided and such system must be installed (or an improvement guarantee for such system must be posted) prior to the Final Plat approval, if applicable.

Mr. Patterson asked why Section IV is not defined by metes and bounds? Mr. Tom Jones, agent for the applicant, stated that it could be an omission on his part. The internal line for the entire project, the southern boundary, is an internal phase line as this project was done in three phases. He said that Phases 1 – 3 have been completed and Phase IV is before the Board tonight. He said that they do have the metes and bounds on the outer boundary, which would be between Phase IV and the surrounding property owners. He added that there aren’t metes and bounds on what would be considered a phase line between Phase 3 and Phase IV and he will add that to the Plan. Mr. Carpenter said that there is a large portion in the floodplain and it concerns him. Mr. Jones stated that the original Plan from 1997, was for 149 lots and that actually went all out to the edge of the property. He said that it is true that the vast amount of the property is in the floodplain, but one of the things they did to redesign Phase IV when the current applicant bought it was to pull away from that floodplain and minimize the fill to the greatest extent possible. He said it does not eliminate all fill in the floodplain but it is minimized from what the Plan previously called for and they also eliminated a stream crossing through the addition of fill that would have gone on the top area. Mr. Carpenter said that it shows a 100-year floodplain and asked if there is a 25-year or 50-year floodplain? Is there something that exists that is less than a 100-year floodplain? Mr. Jones stated that usually you consider the 100-year floodplain line and the 500-year floodplain line, which is the fringe, and there is very little difference in this case in those two lines. He added that you usually do not consider floodplain less than the 100-year floodplain line. Ms. Armstrong asked, “Would those lots be filled so that the finished floor will be above the 100-year floodplain?” Mr. Jones stated that this is correct and is the plan. He said that is why they pulled that in and minimized the fill. From a practical, environmental and cost-wise standpoint, it is more practical to build these 102 lots than the 149 lots that were originally proposed. Chairman Pearce **said that** Henderson County does not have a flood damage protection ordinance. Ms. Smith **said that** NCDENR might have

something to say about it with regard to erosion control plans and also the Corps of Engineers might have something to say about filling in the wetlands, but it is not directly a flood damage situation. Ms. Armstrong referred to an issue that arose in the joint meeting [Comprehensive Plan Advisory Committee and Planning Board] discussions regarding the people’s concerns about building in a floodplain and she thought about that when asking questions about this development. Ms. Smith stated that the County has talked about doing an ordinance and are in the beginning stages of looking at it again. Mr. Patterson stated that regarding the road alignment on Jonquil Drive there is some discontinuity on the curve radius in that area and he asked why? Mr. Jones stated that they will try to make that a smooth continuation of the road alignment and will line it up properly with the existing road. Mr. Patterson stated that on Lot 8, it seems that the right-of-way on Beechnut Drive was changed from 50 feet to 45 feet. He asked why was this done as it appears it is serving at least another 25 lots on that road, which makes it a collector road by definition again. Mr. Jones stated that it would be up to County Staff to determine what a right-of-way width is going to be required. He said it was their interpretation that any given house would go the shortest distance, in which case, 20 houses would not be serviced by any portion of Beechnut Drive after it “Ts” off there, so that was the thought. He stated that they would be glad to look at that again if it needs to be 50 feet for a greater distance. Mr. Carpenter feels that it should be 50 feet. Chairman Pearce said that you could say that they are only going to the next cul-de-sac, but he feels that Beechnut Drive and Tranquil Drive encompass enough lots that they would be required to have a 50 foot right-of-way. Mr. Cook said he sees what Mr. Patterson is saying but said he believes that what Mr. Jones felt was that he had a break in that intersection, which would allow him to go down to 45 feet. Chairman Pearce stated that if you use logic here, you would have to assume Beechnut Drive stops somewhere between 24-25 lots. Ms. Smith stated that you count dwelling units having driveway access on the subject road and dwellings on side roads which feed the subject collector road, but the last block of the collector ending in the dead end, may be designated under local residential standards. Mr. Jones asked about changing it to a 50-foot right-of-way to Tranquil Court? Chairman Pearce said that he feels all of Beechnut Drive needs to be 50 feet. Ms. Smith stated that if they are willing to do the 50-foot right-of-way, that fine, but Staff is not sure where all of the driveways are going and there are some corner lots as well. Chairman Pearce asked Staff, “What are NCDOT standards on that?” Ms. Smith said it states that for residential collector roads under NCDOT standards, a 50 foot right-of-way is required. She said they define their collector roads differently than the County does for private roads. Ms. Smith noted that the plans propose public roads, therefore they must meet NCDOT right-of-way standards. Mr. Jones asked whether it could be worked out with Staff and when the plat

is recorded? Mr. Carpenter stated that if NCDOT signs off on it, he has no problems with it. Mike Cooper made a motion that the Planning Board find and conclude that the Master Plan and Development Plan submitted for the Riverwind, Section IV, subdivision complies with the provisions of the Subdivision Ordinance except for those matters addressed in the Technical and Procedural Comments section of the Staff's memo that have not been satisfied by the applicant; and he further moves that the Master Plan and Development Plan be approved subject to the following conditions: That the Applicant satisfies comment 1 before constructions begins, and comments 2 – 7 on the Final Plat or by Final Plat approval. In addition, that the metes and bounds on the phase line of Phase IV be designated. Tommy Laughter seconded the motion. Mike Cooper, Tommy Laughter, Tedd Pearce, Walter Carpenter and Leon Allison voted in favor. Paul Patterson and Vivian Armstrong voted against the motion. The motion carried.

Zoning Map Amendment Application # R-03-03 to Rezone Approximately 12.31 Acres Located on South Lakeside Drive, Across from Lake Osceola, from R-20 (Low Density Residential) to R-10 (High Density Residential) – Todd Leoni, Agent for Camp Riley, Inc., Applicant. Chairman Pearce asked Mr. Leoni, applicant, to speak first on this rezoning issue as per his request. Mr. Leoni stated that he is trying to find a way to develop this property into some nice homes. He said he has owned this property since 1991 and went to camp there when he was a youth. He lives in Miami, Florida, but purchased this property in hopes of having a camp on it, but it never happened. He said that he had rented the property to the YMCA for approximately seven years and since then has left the property undeveloped. He said that there are a few problems with the property. One, the property needs a sewer system to be developed because the property won't perk and in order to accommodate the proposed development he would need to spend approximately \$ 300,000 to \$ 500,000 to bring sewer and a lift station to the site. Mr. Leoni said that at the present, the property is zoned R-20, which could accommodate 24 homes. He said he is looking for a higher density in order to accommodate this development. He feels that the Lake Osceola area is one of the most beautiful areas in Henderson County and feels that this area has not been developed in the right way. He said that he has discussed the proposed development with a land planner and a developer but feels that the development needs to be feasible before he can begin developing anything on this site. He said that it is located in the extra-territorial jurisdiction of the City of Hendersonville and had asked the City whether they had planned on annexing his property into the City in the next few years, but the City had said they had no intention on doing this. He said that he had spoken with the City Planner, Roger Briggs, regarding sewer, and he had mentioned that it would be no

problem if he would pay for it. He feels that everyone in the area would get use out of this because everyone at present is on a septic tank. He mentioned that he is also the owner of the Lake. He said that if he can develop this parcel the way he would like to develop it, it would have homes ranging from \$ 175,000 - \$ 250,000. He feels that it would not only improve that area, but the entire Osceola Lake area, which he feels has been neglected. In closing, he requests the Board consider changing the zoning to a higher density where he can make this property beautiful and feasible for him to do it. Mr. Allison said with regard to the Staff's comment in our packets, he is under the impression that the Board can not approve the rezoning request without City water and sewer and can not make a recommendation on the rezoning contingent on him bringing in sewer. Mr. Carpenter said that he does not interpret that in that way. He said that what it says on R-10 that it is expected that water and sewer will be available to each lot, but he has never read it to say that something couldn't be rezoned if it didn't have water and sewer. Ms. Smith said that anytime the Board has had any higher density, rezoning requests, water and sewer has been present. Mr. Carpenter feels that it is a significant issue, but it is not an "end-all" because it is not there. He added that the Board could not say we'll rezone the area if you bring the sewer in. Chairman Pearce asked Ms. Radcliff to give Staff's input.

Ms. Radcliff clarified the district text for R-10 zoning and stated, "This district is intended to be a high-density neighborhood consisting of single-family and two-family residences and small multifamily residences. It is expected that public water facilities and public sewer facilities will be available to each lot, providing a healthful environment." She said that it is expected to be there but it is not a condition of whether or not it is rezoned, as there are plenty of districts out there that get rezoned where sewer and water is not available. She added that Staff is always faced with the issue of whether we want to provide sewer and water to areas where we want higher density development or are we to zone areas for higher density development and let that guide where water and sewer is extended. She said that is something that the Board should also keep in mind. This proposed zoning area has a total of 12.31 acres and is currently R-20 zoning, a low density residential district. She stated that the big difference between R-20 and R-10 zoning is that you can have two-family dwellings, which allows for duplexes, triplexes and quadplexes, which would allow up to a four family attached unit. R-10 would also allow for garage apartments, one per lot. She said that with the current size of the property, without allocating any land for roads, setbacks or other uses, there could be roughly 53 two-unit buildings or 35 three-unit buildings or 26 four-unit buildings on the property. She added that R-10 would allow for 53 homes compared to 26 homes under R-20 zoning. Another difference is

the lot size and setbacks. Ms. Radcliff showed some photos of the property in relation to adjacent uses in the area. She stated that the subject parcel is surrounded by single-family residential uses except for its frontage along South Lakeside Drive. She added that the majority of the uses surrounding the subject parcel are residential with the exception of some nearby commercial uses, including Crooked Creek Golf Course located in the Crooked Creek Subdivision, Kanuga Timesaver Market, located southwest of the subject parcel at the intersection of Kanuga Road and Crail Farm Road, Hendersonville Golf and Country Club, located northwest of the subject parcel, and Rubin's Osceola Lake Inn on Willow Road. She added that most of the lots in that area do not conform to the R-20 zoning district lot size, but most of them currently have homes on them. Chairman Pearce asked would they conform better to R-10 than R-20? Ms. Radcliff stated that the majority of the homes in the area would conform to the R-10 zoning district. Ms. Radcliff stated that with regard to the 1993 Comprehensive Land Use Plan, the Plan identifies the area as appropriate for residential but does not say what density that residential should be. She said that right now, Staff recommends that Rezoning Application R-03-03 as it is submitted, be denied. She said that it is based solely upon the following reasons: Although it is consistent with the 1993 Comprehensive Land Use Plan (map and text), no density is specified for this area and since the request is for an R-10 zoning district and there is no sewer there, that it would not be the most appropriate use for it. Although public sewer lines are within eight tenths of a mile of the subject parcel, the City of Hendersonville has no plans to consider the annexation of this area and therefore the burden of providing sewer service to the property would be on the property owner. The county does not have conditional zoning, and although the Board may consider the possibility of sewer services being extended, it cannot grant the rezoning based on the extension of sewer lines to the property as a condition. She added that the Board should keep in mind that the size of the tract, which is 12.31 acres, is inside of an R-20 zoning district. Even though the ETJ (extra-territorial jurisdiction) boundary is across the way with R-15, it would basically be an isolated area. Mr. Carpenter pointed out on the lot size conformity map (enclosed in the Board's packet) that there are some lots that are non-conforming in the R-20 district that are R-10 zoning size lots. Ms. Radcliff stated that this map generally gives the Board an idea, if you decide to approve this request, what the surrounding character of the community is at present. Chairman Pearce opened public input at this time.

Dorothy Parramore She stated that she is a neighbor of the Camp Riley property and has lived in that area for twenty-three years and realizes that Mr. Leoni has a beautiful piece of property. She said that she has watched it go to various camps. She really hoped that the property

would never be developed, but it will become developed someday. She stated that she does not object to an R-20 development, but objects to it being rezoned to R-10. She said that her reasons for that is that she feels that the area is used as a recreational area for many people all times of the day now and that would increase considerably. The increased number of people in that small area would increase the traffic. She stated that if it were going to be developed, she would like to see it remain R-20.

Diane Simpson. She stated that she agrees with Ms. Paramore and would have no objections to it being an R-20 development, but is against R-10 for the same reasons. She said the lake and area is beautiful.

Bill Harper, Jr. He said that he has lived in the area for thirty-five years. He feels that there is more foot traffic around Lake Osceola than they have in Patton Park. He said it is a true family atmosphere there. He feels that putting in a high density area would not be a good idea. He said he would like to see the County buy that tract of land and make it into a park.

Judith Sloan. She asked whether this is considered an official zoning hearing? Mr. Carpenter stated that the Planning Board makes a recommendation to the Commissioners and then the Commissioners have the final say on it, and they have a public hearing. She asked, “When are the adjacent property owners notified?” Chairman Pearce stated at the Board of Commissioners level. She said that she owns property on Bonner Street and expected the zoning to remain R-20. She said that most people have three lots in the area and the neighborhood does not look like an R-10 neighborhood. She encourages any of the Board members to come out and see the area. She feels that R-10 would devalue the present property and finds it odd to take a piece of a subdivision and make it high density housing. She said that the roads are very small in that area which would cause congestion. She said that she is not against developing the land and for the owner to make money off of the land, but she wants to have some protection.

Mr. Leoni said that he did not expect that he would have this opposition to the R-10 zoning and is concerned about the area and the neighbors. He asked whether it would be possible to request R-15 instead of the R-10, since the next door properties are zoned R-15 that are in the City’s extra territorial jurisdiction? He asked if he could recommend changing his zoning to a more medium density as that might do less harm to the neighbors and bring down the density? Ms. Smith stated that he could amend the application accordingly. Mr. Carpenter stated that there are several ways Mr. Leoni can go about this. One, he can amend the application from R-10 to R-15. Two, he could consider R-15 district in addition to R-10 and three, for the Board to consider both even over your objection. Mr. Leoni said he would go for R-15, if it would

please the neighbors, which would bring down the density to medium. Chairman Pearce asked Mr. Leoni whether he is asking to amend the rezoning request to consider R-15 rather than R-10? Mr. Leoni said “Yes.”

Ms. Radcliff reviewed the differences between R-10 and R-15. She stated that R-15 is a medium density residential district that consists of single-family and two-family residences and small multi-family residence. She said that it is expected that public water facilities will be generally available to each lot providing a healthful environment. She said that the residential development maybe dependent upon septic tanks systems for their sewage disposal. R-15 allows for about the same uses as R-10, but the difference would be the lot size and setback requirements. R-15 has a minimum lot size of 15,000 square feet for single-family dwellings and 7,500 square feet for two or more families. She said that this means on the 12.31 acres without allocating any land for roads, setbacks or other uses, there could be 35 homes versus 26 homes in R-20 and versus 53 homes under the R-10 district. Also in R-15 there could be 35 buildings of two-family dwellings, 23 buildings of three-family buildings and 17 buildings of the four unit dwellings. She said that this district would reduce the development down from the R-10 district to almost half. Chairman Pearce stated that there is a building height in R-15 of 35 feet that is not required in R-10. Chairman Pearce asked each person who spoke under public input whether the R-15 zoning changed their opinion over the R-10 zoning? Individually each person still was not in favor of the zoning change, whether it being R-10 or R-15. Ms. Armstrong asked whether the change in the application would change the Staff’s conclusions? Ms. Smith stated that Staff would still be looking at rezoning an area inside of R-20. Ms. Smith said that she does not feel it would change our recommendation. Ms. Radcliff feels that Staff still has the same concerns with R-15 as we do with R-10 in that area. Ms. Radcliff stated that she feels that the Board should consider that if sewer were in that area, would R-10 or R-15 be appropriate? Mr. Allison said that if you change to R-15 he feels he does not see him afford sewer for that development nor under the R-10 development. He feels that it is not appropriate or viable for that area to have R-15 and would vote no. Mr. Patterson stated that there is more of an issue than sewer, but there is no way to go R-15 or R-10 without sewer and he would vote no. Ms. Armstrong stated she does not feel that the applicant has met his burden and feels that he will find another option, but she can not support this rezoning application. Mr. Carpenter stated that he is concerned about the roads in that area as they are small and adding more traffic would add considerably more problems to them. He also feels that there is no change in conditions as to how it was before. He said, “If it was appropriate before why is it inappropriate now?” Is there something that has been changed externally? He feels there

hasn't been. Chairman Pearce said that based on other applications that have been brought to the Planning Board on this particular piece of property, there has always been a problem with traffic congestion and feels that is one of the biggest considerations and if anything has been changed. Mr. Carpenter made a motion to send to the Board of Commissioners an unfavorable recommendation on rezoning application R-03-03 as amended to R-15. Vivian Armstrong seconded the motion. All members were in favor of the motion.

Zoning Map Amendment Application # R-03-05 to Rezone Approximately 107.5 Acres Located off Crab Creek Road, Hidden Lake Road, and Hidden Cove Lane, from OU (Open Use) to R-20 (Low-Density Residential) – Lynn Matykiewicz, Agent for Hidden Lake Estates Association, Applicant. Paul Patterson recused himself because of clients he has in the proposed rezoning area. All Board members were in favor of his recusal. Ms. Radcliff stated that this application was submitted on December 18, 2003 to request that the County rezone multiple parcels totaling 107.5 acres located off Crab Creek Road, Hidden Lake Road and Hidden Cove Lane, from an Open Use zoning district to an R-20 (Low-Density Residential) zoning district. She stated that the subject area borders to the north the Kanuga Conference Center and is about one tenth of a mile from a T-20 (Low-Density Residential with manufactured homes) and a small portion to the northeast that borders an R-40 (Estate Residential) zoning district. She stated that the Open Use zoning district allows virtually anything by right. There are a few uses that are allowed in the Open Use district but are governed by other ordinances, which include the manufactured home parks and the communication towers. She said that also vehicle graveyards, manufactured home graveyards are permitted with standards. The other uses that would need to come before the Board of Commissioners would include incinerators, solid waste management facilities, mining and extraction operations, concrete plants, asphalt plants, junkyards, motor sports facilities, slaughtering plants, amusement parks, chip mills and heavy industry. She stated that the R-20 district is a single-family residential zoning district, which allows no commercial activities by right. She said that it is strictly for site-built and modular residential units and would not allow manufactured homes. Churches and other small related uses are allowed by right with standards. New lots must be a minimum of 20,000 square feet. Setbacks are 75 feet from the centerline of a major street, 50 feet from the centerline of all other streets and 25 feet from the side and rear property lines and there is no maximum building height for principal structures. Ms. Radcliff said that the subject area is currently utilized for single-family residences. She showed on a current zoning map that the majority of the uses surrounding the subject area are residential with the exception of some nearby commercial uses and camps, with some undeveloped forest land. She said that most of the

subject area is already developed with homes on it. On a R-20 lot size conformity map, there is a sizable area surrounding the subject parcel that conforms to R-20 requirements and only a few lots that would not conform to R-20. She pointed out the subject area that is proposed for R-20 and noted that there is one parcel inside this proposed area that would not meet the R-20 requirements and currently does not have a home on it. She added that it does not mean that they could not build on it, it just means that it would require some extra steps for the property owner. The owners would need to go to the Zoning Administrator and prove that the lot existed as it did prior to zoning, which would have been in 2001, and prove that it was not subdivided. If it was found as a non-conforming lot, they would still need to meet the setback requirements for R-20 and if they could not meet the setbacks, they would then need to go before the Board of Adjustment and ask for a variance. Ms. Radcliff stated that Staff generally supports rezoning application R-03-05 based on the following: The proposed rezoning is consistent with both the future land use map and the text of the 1993 Comprehensive Land Use Plan.

The rezoning request demonstrates that there is a considerable amount of support for amending the official zoning map to protect the residential uses within the subject area, and to eliminate the potential of haphazard commercial and industrial development within the subject area. The Staff supports rezoning the subject area to an R-20 zoning district due to the current land use, lot sizes, lack of public water and sewer, and the broad range of uses that could occur under the current Open Use designation. Staff is conscious of the applicant's long-term and ongoing efforts and support to zone the area for residential purposes. Ms. Radcliff stated that Staff does have some concerns regarding the rezoning application. She stated that the entire Hidden Lake Estates Subdivision is not included in the rezoning application. There is also one large parcel that is not included in the rezoning application, which is approximately 24.9 acres, and there are parcels within the Hidden Lake Estates Subdivision that would be almost completely surrounded by the proposed R-20 district. She said that these areas would create holes or pockets of Open Use zoning and Staff finds it difficult to support the original rezoning request if such parcels are excluded. Ms. Radcliff stated that Staff recommends three alternatives.

Alternative 1. Staff recommends that the Planning Board make either a favorable or unfavorable recommendation on the rezoning application, as submitted, to the Board of Commissioners and then the Planning Board consider immediately initiating its own rezoning amendment to rezone the isolated parcels within the subject area to R-20 if appropriate, which she showed on Staff's recommended rezoning map which encompasses approximately 142.14 acres of land. She added that there was a letter sent out to each of those owners saying that the rezoning application had been submitted and that they were initially part of it either by

signature or by verbal agreement with the applicant. She said that there was also a letter sent out to the few people in the isolated areas, including the homeowners association and including the one parcel not in the subject rezoning saying that they would be isolated and surrounded by a zoning district and could possibly be added into the application.

Alternative 2. Staff recommends that the Planning Board consider asking the applicant to amend their application to include the isolated parcels within the subject area. The Planning Board would then send either a favorable or unfavorable recommendation on the amended rezoning application to the Board of Commissioners.

Alternative 3. Staff recommends that the Planning Board consider asking the applicant to defer rezoning application R-03-05. Then the Planning Board could immediately initiate its own rezoning study based upon this application to consider a larger area around the subject area.

Lynn Matykiewicz, representing the Hidden Lake Estates Association (of which she is president) and the applicant on this submission spoke. She feels that it is in the best interest of the area to move forward with the R-20 district as it has been a long standing effort that she picked up late last year. She wanted to bring it forward to the Planning Board to get some resolution on it one way or the other. She said she understands about the lake itself and the other small piece of property, which is actually owned by the Hidden Lakes Estates Association. She stated that she was not sure why it was not included on the request but that the properties in white (shown on Staff's map) were not included in the rezoning request because those property owners were not interested in signing a piece of paper indicating their support for it. She would like to get this resolved and move forward with it. She said that the large piece of property has been clear-cut in the last six months and understand that the owner wants to develop it. She said there has not been any indication what that property will entail, but she would support including that piece of property into the R-20 request, but she could not arbitrarily include it in the application. Ms. Armstrong asked whether their association is a North Carolina non-profit corporation, and if membership in it is mandatory and automatic for everyone that owns a lot in your subdivision? Ms. Matykiewicz answered yes to both questions. Ms. Armstrong asked how many members are in the association? Ms. Matykiewicz said there are around 15-17 members. There is one exclusion in this particular area, and it was due to some issues in the original development and there was litigation many years ago over this. She added that there is one lot that is excluded from the membership of this association, and that lot is not included in the application. Chairman Pearce asked whether

there are restrictive covenants that affect the building size, etc.? Ms. Matykiewicz said that there were. Chairman Pearce stated that he has a problem approving the subject area as requested because of the holes, as they make no sense at all. He said he was curious why Staff stopped where they did on their recommended rezoning of the 142.14 acres, and asked why they didn't take it all the way over to the T-20 zoning district? Ms. Radcliff stated that the reason was that these were the property owners who had indicated their support to be rezoned to R-20 and the only reason Staff added in the ones we did, is because they were going to be isolated. She said that if the rezoning was going to go further than the request, Staff feels that the application needs to be pulled or denied and that there needs to be a zoning study of the entire area. Chairman Pearce said he feels that the Board could set up a zoning study on the remainder of that area at a later time. Ms. Armstrong asked whether Staff has received back anything on the correspondence that was sent to the property owners that were not included in the application? Ms. Radcliff stated that there have been a few that called and asked questions about the rezoning and also there have been some that have come by the office inquiring about the rezoning. She stated that there was one couple that indicated their desire not to be in the request. Mr. Laughter asked if they expressed why they didn't want to be part of the application? Ms. Radcliff said that the only thing they had indicated was that it was already residential and they didn't feel that there was a need to zone it residential as it has already developed into that and they did not want the increase in the setbacks that they would need to conform to if they decided to put anything else on the property. Chairman Pearce asked whether there was anyone present who would like to speak on this request?

Sandy Hershburg. She stated that her and her husband have lots 29, 30 and share lot 26 with Mr. and Mrs. Ray. It currently shows that the Rays own Lot 26 entirely, but it is owned jointly. She stated that they have been involved in considering rezoning as they indicated for years, but that they were surprised, since they are not part of the homeowners association, that the request was for R-20 zoning as they were initially interested in extending the R-40 zoning district. She stated that they are not against the zoning as they would like the protection that it would provide. She would like to see it moved up all the way to the T-20 district, but does not know what type of resistance would be encountered. She said that some of the properties are in multi-generation families that started out with farming and have several generations of family members on the property and they simply do not want restrictions of any kind. She said that before this was changed to Open Use Zoning, there was not enough support for new zoning. She said that she would encourage the protective zoning and is very much in favor of the rezoning.

Chairman Pearce stated that he was in favor of Staff's Alternative 1 in which the Planning Board makes either a favorable or unfavorable recommendation on the rezoning application as submitted to the Board of Commissioners and then the Planning Board considers immediately initiating its own rezoning amendment to rezone the isolated parcels within the subject area to R-20 if appropriate. In addition, he would want to also consider amending the application to include the land between R-40 and T-20 below the Kanuga Conference area. He said the Board can do this in several ways. Mr. Carpenter and Chairman Pearce asked the applicant whether she understood what has been said? Ms. Matykiewicz said she would like it explained. Chairman Pearce stated that the Board could make an unfavorable recommendation and then initiate a rezoning for the 142.14 acres or the Board could ask the applicant to defer the application for the time being and allow the Board to initiate their own study through the Board's zoning subcommittee and look at the entire area and come forward with a recommendation for the entire area and not just the general area of the application. Mr. Cooper asked whether the applicant could amend her application to include all of this? Mr. Carpenter stated that she could, but it would put her in the middle with the neighbors. Chairman Pearce stated that there are a lot of things going on with the Board at present with the Comprehensive Land Use Plan and the U.S. 25 North Land Use Study. Ms. Smith stated that if the Board sends a unfavorable recommendation, the application will proceed to the Board of Commissioners and it would schedule a hearing and go through that process. After some discussion, Chairman Pearce feels that the Board should go with sending an unfavorable recommendation on the current application and then the Board should initiate their own recommendation for the 142.14 acres and further recommend that by June, 2004, the zoning subcommittee initiate a study of the adjacent land between the R-40 and the T-20 zoning below the Kanuga Conference area. Ms. Smith added that if the Board of Commissioners denies the application, they cannot consider the same application within 12 months. Mr. Carpenter feels what would work the best, is for the applicant to agree to table the application at the present time and for the Planning Board to study the whole area. He said he is concerned with the holes in it and it is not sensible. He said, in addition, they should look at those areas east of the subject property, between the subject parcel and T-20 zoning district. He said if the application would be tabled, the time is not running. He said generally the Board has a timetable or it goes automatically as a favorable recommendation. He also mentioned that at any time the applicant could come back to the Board and un-table the request if they felt like the Planning Board was not moving fast enough on the request and ask the Planning Board to do something. Chairman Pearce said that he feels that realistically, the Board can not look at the request until June, 2004. Ms. Matykiewicz said that she can speak for the association and

feels that it is reasonable to table the application at this point and allow the Planning Board to go forward with their own zoning study in hopes that it will be concluded within the calendar year of 2004 with some determination. She feels that it would be in the interest of all of the parties concerned to see if all of those additional parcels can be included in the rezoning. Chairman Pearce noted the application is tabled at this time, and directed Staff to have the Land Use Zoning Subcommittee appointed to study this request and give recommendations for the entire area.

Zoning Map Amendment Application # R-03-06 to Rezone Approximately 8.68 Acres Located at the Intersection of NC 191 and North Rugby Road, from R-30 (Low Density Residential) to C-2 (Neighborhood Commercial) – William G. Lapsley & Associates, P.A., Agent for Conomo Properties, LLC, Applicant. Ms. Radcliff stated that this application was received from Conomo Properties, LLC on December 19, 2003. She stated that the request is to rezone an 8.68-acre portion of one parcel from an R-30 (Low-Density Residential) zoning district to a C-2 (Neighborhood Commercial) zoning district. Ms. Radcliff noted on a map the portion of the proposed zoning request and stated that it is similar to what the Planning Board had reviewed back in March 2003. Chairman Pearce asked Ms. Radcliff if she would review anything that differs from the previous application. Ms. Radcliff stated that the previous zoning request, which was R-02-07, was submitted on December 20, 2002. This first proposal was referred to as Alternative A and requested that the County rezone portions of the 180 acre parcel owned by Conomo Properties, LLC, from an R-30 zoning district to an 85-acre R-20 zoning district and a 12.39-acre C-2 zoning district. An 82-acre portion of this application was to remain as R-30. A portion of the property is in the floodplain and also in a protective Water Supply Watershed IV area. She stated that it then went to a Subcommittee and the Subcommittee came back with an alternative to Alternative A, which was referred to as Alternative B. Alternative B reduced the size of the proposed C-2 district from approximately 12.39 acres to approximately 7.69 acres, eliminated in its entirety the R-20 district proposed by Alternative A and maintained the remainder of the property as an R-30 zoning district. She stated that the third alternative, Alternative C, which is exactly like the current rezoning application, was to eliminate a strip of R-30 zoning along the southern and eastern boundary of the proposed C-2 district, which comprises 8.6 acres. She said that the difference between Alternative B and Alternative C was that it extended the boundary lines out to the centerlines of the road and cleaned it up for administrative purposes. She said that Alternative C was actually Staff's recommendation. The Planning Board recommended against Alternatives A and B, but because Alternative C was merely a modification to Alternative B, the Planning Board's motion also, in effect,

recommended against Alternative C. She stated that on April 25, 2003 the applicant officially withdrew the application prior to the public hearing that had been scheduled by the Board of Commissioners.

She said that the present application request is most like Alternative C, in which the applicants are looking for 8.6 acres of C-2 at the intersection of NC 191 and North Rugby Road. She said that looking at the zoning in the vicinity of the area, there is a small C-2 district directly across the intersection of NC 191 and North Rugby Road on South Rugby Road. She described on a map the general land use of the surrounding area of the subject parcel. She stated that it is surrounded by an R-30 zoning district to the east, north and northwest and extending south of the subject parcel is a 1,200-acre R-40 zoning district. She stated that the 1993 Comprehensive Land Use Plan did call for commercial at this intersection, but did not specify what type of commercial it needed to be or how large a scale of commercial it needed to be. She stated that the Plan is strictly a guideline and noted that the draft of the updated Plan should be available to the Board of Commissioners for their recommendation around the first part of June 2004. She said she does not know whether the new Plan will call for a commercial designation at this intersection. She noted that NC 191 is still on the books to be widened and there is a traffic light at this intersection and a turn lane coming from both directions.

Ms. Radcliff stated that currently Staff recommends that the Board consider two important questions. The first, “is commercial development appropriate at the intersection of NC 191 and North Rugby Road?” The 1993 Plan, both the text and the map, support commercial development for this area, but it gives no scale or size of how big the commercial development should be. Also, there is commercial development across the street, which is C-2 and it was done back in December 1995, which also set a precedent for this area. Staff toiled with the question, if one thing is appropriate on one side, should it be appropriate for the other side and at what scale? Ms. Radcliff stated that if the Board concludes that commercial development is appropriate at the intersection of NC 191 and North Rugby Road, then the second question becomes, “Is the scale of commercial development permitted within a C-2 zoning district appropriate at the intersection of NC 191 and North Rugby Road or is there a more suitable zoning district?” She stated that the Comprehensive Land Use Plan text recommends that “commercial development in rural communities should be downscaled” therefore Staff believes that C-2 may not be consistent with this recommendation. Staff feels that a C-1 or C-2P district might be a more small-scaled zoning district for this neighborhood. Ms. Smith clarified that Ms. Radcliff referred to the fact that there is commercial development across the intersection but

Ms. Radcliff meant that it was a *commercial zoning district*. Ms. Radcliff agreed. Ms. Smith added that there is an approved conditional use permit for a convenience store and gas station for across the street, it just never has been developed.

Mr. Arthur Cleveland, owner and applicant of the proposed rezoning request stated that one of the main reasons for coming back and why the application was pulled in April was because it was confusing. He added it was confusing to him as to exactly what they were getting to and what was the final application was going to be. He said he was involved in several large projects and he wanted the ability to study this application further and spend more time on the property and make sure that commercial would be the best use for this property. He stated that he has spent time in the area of the property in relation to traffic as well as the potential growth of the NC 191 area. He mentioned to the newer Board members some background history of the property. He feels that the application narrows the focus to rezone the area on the corner because it is a commercial site. He gave his opinions as to why he feels it should be commercial. One, because of a commercial site across the street; two, because of the stop light intersection; three, because he feels there is a commercial pattern in that area that has already developed; and four, because the terrain favors commercial development rather than residential development. He stated that what he wants to develop is a neighborhood shopping facility as he feels it is most appropriate for that tract of land. He said it is the most logical use especially because of the traffic patterns that have developed. Ms. Armstrong asked whether Mr. Cleveland had considered one of the other commercial zoning districts that Staff suggested? Mr. Cleveland stated that he was not familiar with the C-2P District until Mr. Lapsley reviewed the districts with him. He feels that the C-1 District is for smaller stores and feels it is not appropriate for this community and the C-2P District has limitations he is not familiar with. He said he prefers C-2 but could make the case for C-2P. Chairman Pearce asked Ms. Radcliff to give differences between the C-2 and C-1 and C-2P Districts. Ms. Radcliff stated that the C-2 Neighborhood Commercial District provides for any retail business or service conducted within an enclosed building as well as hospitals, clinics, public utilities, and Group 1, 2 and 4 communication towers. She said that shopping centers and light industries are allowed with a conditional use permit. The setbacks are 75 feet from major roads and 60 feet from all others and there is a maximum building height of forty feet. The minimum side and rear setbacks would be the same as the side and yard requirements to which the district is contiguous, which would be the Zoning Administrator's call. She said that in this case, she is not sure if it would be with the R-40 requirements or the R-30 requirements. She said that the C-2P Preservation Neighborhood Commercial District also allows for any

retail business or service conducted in an enclosed building, public utilities, and offices. She said the main difference between the two districts, is that the C-2P District also allows for single-family homes and so it wouldn't have to be commercial site only. She stated that hospitals, clinics, libraries, churches, schools, restaurants and bed and breakfasts are allowed with a conditional use permit in the C-2P District but it takes away the light industry. Ms. Smith added that in C-2P Districts, planned unit developments and residential apartment developments with a special use permit from the Board of Commissioners are allowed. She referred to the project regarding the East Flat Rock Elementary School, Parkside Commons Apartments, as that is in the C-2P District. Chairman Pearce stated that considering the closeness of the two districts, except that there are some additional residential uses and PUD availability allowed in C-2P District, why would Staff necessarily recommend C-2P over C-2 for this particular property? Ms. Radcliff said the reason would be because the property could still be used for single-family residential development or it could be used for commercial and under the C-2 it could only be used for commercial and there still would be a probability of 8.6 acres put in a shopping center or some type of light industry. She added that junkyards could be allowed, but it would have to comply with Section 200-38.3 of the Henderson County Zoning Ordinance, and C-2P would alleviate some of those types of haphazard developments. Ms. Smith stated that another consideration regarding C-2P District depends on the water and sewer availability, as there is no density specified. If water and sewer were made available, you could expect a higher density than what the R-30 District would allow, but without that possibility the density may not change. Chairman Pearce asked all Board members if they had a major change in opinion or if they want to look at it in a different way than the last time of their request? He asked the Board whether they would like to proceed on this request and go through the public input list. Board members in general stated that their opinion has not changed since the last time and added that they have not heard anything different from the last time they voted. Chairman Pearce asked Tommy Laughter and Vivian Armstrong, new members to the Board since the last request, whether they felt comfortable to proceed with a motion. Ms. Armstrong stated that the supplemental memorandum that was given to all the Board members at the start of the meeting makes it clear that there remains considerable opposition to this request. She stated that she had followed the previous request in the newspaper and given all of the information, she stated that she could not support this rezoning request. Chairman Pearce feels that the Board should send forth the same recommendation as before. Tommy Laughter asked the reason why the request was rejected the last time. Chairman Pearce stated that he thought the motion should have gone forward the last time because he believed the Comprehensive Land Use study and recommendations still favored

commercial, so the unfavorable recommendation did not come from him. Mr. Allison stated previously he mentioned that he was for business, but he said his reason for denying the request was that he felt that the commercial district should have been there before the residential development and that the homeowners now should have a say on the request. Mr. Laughter asked how did that other commercial site get zoned across the street? Ms. Smith stated that originally on that site Staff had recommended C-1 for that area, but it went with C-2 and also the fact that the Land Use Plan called for commercial. Mr. Carpenter feels that since Chairman Pearce voted for the motion the last time, it would be inappropriate for him to make the motion against it this time. Mr. Carpenter made a motion to send an unfavorable recommendation to the Board of Commissioners on rezoning request R-03-06. Leon Allison seconded the motion. Walter Carpenter, Leon Allison, Tommy Laughter, Vivian Armstrong, Mike Cooper and Paul Patterson voted in favor of the motion. Chairman Pearce opposed the motion. The motion carried.

Zoning Map Amendment Application # R-03-04 to Rezone Approximately 7.76 Acres Located off Old Spartanburg Road, from R-15 (Medium-Density Residential) to C-4 (Highway Commercial) – Leon Allison, Applicant. Mr. Allison asked for recusal as he is the applicant for this proposal and it would be a conflict of interest. The Board approved the recusal. Ms. Radcliff stated that the total acreage of this parcel 12.61, but the request is for approximately 7.76 acres to be rezoned. The request is for the subject parcel to be rezoned from R-15 (Medium-Density Residential) to C-4 (Highway Commercial). The property is located off of Old Spartanburg Road just north of Spartanburg Highway and Upward Road. The subject parcel is currently zoned R-15 and the front portion of the property, which is approximately a 300-foot wide strip along Old Spartanburg Road that contains approximately 4.62 acres, is zoned C-4, which was applied on September, 2000 as part of a rezoning application submitted by Mr. Allison. The City of Hendersonville ETJ area adjacent to the subject property is zoned with a Hendersonville City R-15 district. She stated that to the southeast of the subject property, across Old Spartanburg Road, is a small parcel on which the City of Hendersonville approved a C-3 zoning district for an antique shop. South of the subject parcel is a County C-4 zoning district. North of the subject parcel is a County R-15 zoning district and to the east of the subject parcel, with the exception of a 2.65 acre tract zoned R-15 (County), is a (County) R-20 zoning district. Ms. Radcliff stated that in 1998, the previous owner of the subject parcel, Michael Owenby, requested that the County rezone the approximately 12-acre parcel from R-15 to a T-15 zoning district. She said that was denied for several reasons, including concerns about the density at which a manufactured home park would be allowed to develop with a

Conditional Use Permit under T-15, and the location of the floodplain. The Planning Board sent an unfavorable recommendation to the Board of Commissioners, and on May 4, 1998, the Henderson County Board of Commissioners voted to deny Mr. Owenby's rezoning application. Ms. Radcliff said that in 2000, Mr. Allison submitted a rezoning application requesting that the County rezone his entire parcel on Old Spartanburg Road (approximately 12 acres) from an R-15 zoning district to a C-4 zoning district. She said it went to a subcommittee of the Planning Board which sent an unfavorable recommendation to the full Planning Board. Mr. Allison revised his application to request that the County rezone only the front portion along Old Spartanburg Road, which is a 300-foot wide strip of property, approximately 4.62 acres, from R-15 to C-4 and leave the remaining portion of the property as R-15. She said that on September 5, 2000, the Henderson County Board of Commissioners approved the rezoning application (R-01-00) as amended. Chairman Pearce asked what the gray shaded area (on the map) means? Ms. Smith said that the dark gray area is the City of Hendersonville's corporate limits as opposed to the light gray area, which is the City's ETJ. Ms. Smith stated that on September 2, 2000, the City of Hendersonville relinquished its extraterritorial jurisdiction on a small portion of the subject parcel. Ms. Radcliff said that on September 26, 2000, the Planning Board, with Mr. Allison's consent, requested that the portion of the property that was removed from the City of Hendersonville ETJ and became an unzoned area, be zoned R-15 by the County. On November 6, 2000, the Henderson County Board of Commissioners approved their request.

Ms. Radcliff said that the R-15 district only allows residential development. The standard lot sizes are a minimum of 15,000 square feet and it does not allow any commercial activity by right. The C-4 Highway Commercial District will allow most small and large scale commercial uses by right, including shopping centers, and recreational vehicle parks. Light industries, motor sports facilities and adult establishments are permitted with a Special Use Permit. She stated that it is important to note that the proximity and size of this parcel to the surrounding R-15 and R-20 Districts would make it virtually impossible for a motor sports facility to go on the subject parcel, and the adult establishment would need to meet a minimum separation of 1,000 feet from any other adult business or residential dwelling unit. Therefore, as long as the nearest dwelling was not within 1,000 feet of the subject parcel, then it would be impossible for an adult establishment to go there. She stated that the back of the subject parcel is currently vacant and the front portion is currently utilized as a business. The subject parcel is surrounded by residential uses, although there is some commercial development all along US 176. She added that there is an automobile salvage discount business that is located on Old

Spartanburg Road that is across from this parcel and is zoned C-4. The subject parcel also has access to both water and sewer. Ms. Radcliff stated that Staff’s recommendation on this rezoning is that the application as it is submitted be denied, which is based upon the following:

- (1) The proposed rezoning is inconsistent with the both the future Land Use Map and the text of the 1993 Comprehensive Land Use Plan, and Phase 1 of the East Flat Rock Zoning Study, as it calls for residential development in the area around the subject parcel and through that whole area and delineates commercial development to be more along US 176 and did not intend for it to go back any further.
- (2) The district text states that a C-4 District is generally located on major highways, and Old Spartanburg Road is not considered a major highway and the property would not have direct access to US 176, so it would need to access it through various routes.
- (3) The majority of the subject parcel is located within the 100-year floodplain. She stated that reviewing commercial development and residential development, Staff found that certain commercial uses may not be as much of a risk as residential development, but the potential impact of a large-scaled commercial use or light industry on the site is a concern.
- (4) The surrounding residential community may already be located in close proximity to existing commercial developments, but granting the rezoning request would further encroach the commercial development into a residential district.
- (5) The 2000 application that allowed C-4 on the front portion of the subject parcel set a precedent for future rezonings on the north side of Old Spartanburg Road, but the County must decide how far the C-4 zoning district should be allowed to extend and where to set the boundaries.

Chairman Pearce asked Mr. Allison to speak regarding his proposed rezoning application. Mr. Allison stated that thinks that it is better to develop this parcel as commercial rather than residential. He stated that he bought this as a farm about four years ago and all of his neighbors came to him and asked him not to develop it as high density residential, but they said they would support a commercial site on it. He said that he and all of his neighbors get along well and that they would have come to the meeting tonight on his behalf, but due to their age, time and weather conditions, they were not be able to make it. He mentioned that since he has had the property, he has improved the site and some of the problems that occurred on his property. He feels that he has been an asset to the adjacent properties and feels that the community supports him 100%. Mr. Allison showed some photos of the proposed rezoning site and explained the buffering he has between his property and the adjacent properties. He said that William Beck, with NCDENR, Land Quality Section, was out inspecting work that had been

done on his property and said that everything was in compliance. Mr. Allison added that Mr. Beck agreed that down the road for age or whatever might happen, the mobile homes near the creek adjacent to the subject parcel, which are built right on the edge of the creek, would not be allowed on that site again. He stated that if he develops any more of his property without subdividing, he would need to go before the Board of Adjustment. The Board of Adjustment would make him adhere to all of the landscaping and buffer requirements, and a property owner can have only one building on one piece of property or one lot, no matter how big or small the lot is. He stated that at present, he would like this subject parcel for an addition to his business. He said that the Comprehensive Land Use Plan of 1993 was to promote quality commercial and industrial businesses. He said that the reason why he is not on the main highway on US 176, is that is where shopping centers are mainly located. He said that a small business couldn't afford to be on a main highway because the cost involved with land. He said that where his property is located, the roads and visibility are good and the traffic flow has not increased since his business opened. He said that if he were able to develop the property further, he would be able to add some jobs to the job market for the County. He also mentioned that he would like to develop a composting business.

Chairman Pearce said that this matter has already come before the Planning Board previously, and he had made an unfavorable recommendation for changing the subject parcel to C-4 at that time. He said it was not because of what Mr. Allison had in mind for the property, but because the zoning stays with the property and breaking the line from Spartanburg Highway and the upper side of Old Spartanburg Road did not make sense. Chairman Pearce said he feels the same way now. He feels that there are numerous things that could come in under the C-4 zoning, so much of which could have repercussions. He said we are not talking about what happens today, but what will happen in the future.

Walter Carpenter said that he had voted against this request as well because it is not on a major highway, and it is in a 100-year floodplain. He said he was not convinced that R-15 is the proper zoning there because it is in a flood zone, but he is not inclined to change it unless there is some change in conditions that leads him to believe that what was done before was done in error. He stated that if it is a 300-foot deep piece of C-4, there are some significant limitations to what can be built there by the setbacks and the size of it. That would be removed if the whole piece was rezoned. He does feel that Mr. Allison has improved the land, even though he was against him having C-4. He said that he would have to vote against his request.

Mike Cooper said that with what Mr. Allison has done to the property, it is much improved. He said he does not see any practical use for the balance of his property other than farming, but it is not designated as farmland. He feels that it is not feasible for residential and also feels that it is unreasonable for him not to be able to use the balance of his property. He said, “Where do you draw the line on commercial?” He feels that as time goes on, the County will see more commercial sites. He said he has mixed emotions about this request.

Paul Patterson stated that commercial developments have more impervious surface than anything else. He feels that regarding Mr. Allison property, even though it is a flat area, with time when the County has a 100-year flood there will be problems with flooding. He said that he is not sure residential should be there, but he is not sure whether commercial should be there either. He feels the Board needs to look at the zoning for future use not just for the present use.

Walter Carpenter made a motion that the Planning Board sends an unfavorable recommendation to the Board of Commissioners on rezoning application R-03-04. Chairman Pearce seconded the motion. The reason for the unfavorable recommendation was that the subject parcel is not on a major highway, it is within the 100-year floodplain, and there is no change in the conditions of the property that would warrant a rezoning. Also, C-4 zoning allows such a wide range of uses, and increasing the size of the C-4 district could broaden what all could be included. All members voted in favor except for Mike Cooper, who opposed the motion. The motion carried.

Subcommittee Assignments and Meeting Dates. The Board discussed the development of a Watershed Issues Subcommittee to discuss issues dealing with the Water Supply Watershed Ordinance with representatives of the Town of Mills River. Chairman Pearce appointed Walter Carpenter, Paul Patterson and himself to be the Planning Board representatives of the subcommittee. Ms. Smith stated that Carolyn Johnson and Ellen Carland would be the Mills River representatives. Ms. Smith stated that she would get together with the Mills River representatives to find out a date and time that will be agreeable to all and send out a notice accordingly. Ms. Smith mentioned forming a subcommittee to study the rezoning request for Hidden Lakes. Chairman Pearce said if Staff is not in the position to handle starting that study on Hidden Lakes at present, he does not want to put an undue burden on Staff with everything else that is going on. He suggested that if Staff wants to start working on the study and come forth with some recommendation maps and materials that would be appropriate. Mr. Carpenter

stated that looking at the other place between the two zoned areas, in terms of what are the present uses and sizes, is what needs to be started with the study. He feels that a defined area is required and that Staff will probably need to go further out past the boundary of the application. Ms. Smith suggested that Staff could pull together some basic information about the area and present it at the February Planning Board meeting and then have the Board schedule something at that time. Board members agreed.

Adjournment. There being no further business, Walter Carpenter made a motion to continue the meeting to Tuesday, January 27, 2004, at 7:00 p.m. in the Board of Commissioners Meeting Room. Mike Cooper seconded the motion and all members voted in favor. The meeting adjourned at 10:35 p.m.

Tedd Pearce, Chairman

Kathleen Scanlan, Secretary

REQUEST FOR BOARD ACTION**HENDERSON COUNTY
PLANNING BOARD**

MEETING DATE: February 17, 2004

SUBJECT: Update on County Comprehensive Plan (CCP) and Other Major Planning Initiatives

ATTACHMENTS: 1. Issue Update

SUMMARY OF REQUEST:

Attached is the issue update on the CCP and other major planning initiatives that Planning Staff prepared for the Board of Commissioners' February 2, 2004 meeting. The issue update summarizes the tasks that are either in progress or have been completed related to the CCP and other major planning projects. The update also includes items that staff hopes to complete before the Commissioners' March 8, 2004 meeting.



Issue:	Comprehensive County Plan (CCP) & Other Major Planning Initiatives
Issue Update Prepared By:	Karen Smith, Planning Director, and Joshua Freeman, Planning Project Manager
Date of Issue Update:	February 2, 2004

Current Status:

Since the January 5, 2004 Issue Update on the CCP and other major planning initiatives, the following activities have occurred:

CCP

- On 01/05/04, Staff, along with members of the Planning Board and the CCP Advisory Committee, attended the meeting of the Board of Commissioners to hear the Phase III wrap-up presentation.
- Staff began analyzing public input collected at the community meetings for use in developing the CCP.
- Staff met with the Hendersonville Chapter of the Civitan International Club on 01/12/04, to make a presentation, answer questions and gather input regarding the CCP.
- The CCP Advisory Committee and the Planning Board held a joint meeting to discuss the CCP on 01/12/04. At such meeting, Staff presented an update of the CCP, and provided an overview of the public input received to date.
- On 01/13/04, the Project Manager met with Carolina Mountain Land Conservancy to gather GIS data useful for the CCP.
- The coordinating committee responsible for administering the \$8,500 grant obtained from the USDA, met on 01/13/04 to begin working out the details associated with the Agriculture Element of the CCP. The coordinating committee consists of Mr. Marvin Owings, NC Cooperative Extension Service; Mr. Bob Carter, US Natural Resources Conservation Service / Henderson County Soil and Water Conservation District; Mr. Tom Elmore, Land-of-Sky Regional Council; and the Project Manager.
- On 01/16/04, County Public Information Officer Chris Coulson, CCP Advisory Committee Chairman Jack Lynch, and the Project Manager taped an update on the CCP for broadcast on Channel 11.
- The Agriculture Element coordinating committee met on 01/20/04 to continue work on the Agriculture Element of the CCP.



- On 01/20/04, Staff compiled and distributed verbatim transcriptions of all public input received via the Community Meetings, to all public libraries in Henderson County, Nita's Grocery in Gerton, the Bat Cave Post Office, and the Polk County Public Library in Saluda.
- On 01/22/04, Marvin Owings, of the NC Cooperative Extension Service, gathered input from the Henderson County Apple Growers Association for the Agriculture Element of the CCP.
- Staff met with representatives of the Henderson County Public Schools on 01/26/04 to discuss the CCP.
- The CCP Technical Team met on 01/28/04 to discuss the status of the project.
- Staff continued revising and updating land use and other maps for use in the CCP.
- Staff sent information to Land of Sky Regional Council staff related to the Housing Element of the CCP.

US 25 North Corridor Study

- On 01/13/04, Michael Harvey, of CMR Services, Inc. (the "consultant"), conducted two public input sessions for study area residents and property owners. A total of 28 individuals attended the sessions and many provided input.
- During January, Staff compiled and analyzed results of the survey the Planning Department sent to study area property owners in December. Staff received approximately 380 responses out of the 1,443 surveys that it mailed (a 26% response rate).
- Staff sent the consultant summary data tables and charts of the survey results as well as input obtained from the CCP community meetings held in the fire districts within the study area.
- Staff provided the Planning Board with a written update on the study prior to its joint meeting with the CCP Advisory Committee on 01/12/04.
- The consultant has been preparing a rough draft of the study and intends to submit it by the end of January to Staff for comment.

Steps Forward:

Over the next month, Staff and relevant contractors, boards and committees plan to accomplish the following tasks related to the CCP and other major planning initiatives:

CCP

- Staff will update the CCP Advisory Committee Chairman Jack Lynch and Planning Board Chairman Tedd Pearce on the status of the CCP on 02/02/04 and 02/16/04.



- Staff will update the Planning Board on the status of the project at its 02/17/04 meeting.
- Staff will continue development of the various elements of the CCP and will follow up with contractors providing assistance with certain elements.
- Staff will continue to interview members of the CCP Community Committee.
- Staff will continue to implement the public relations campaign related to the CCP.

US 25 North Corridor Study

- Staff will review the consultant's rough draft of the study and provide comments.
- The consultant intends to present a draft of the study to the Planning Board during the month of February.
- Staff will provide the Planning Board with a status report on the project for its 02/17/04 meeting.

HENDERSON COUNTY
PLANNING DEPARTMENT

MEMORANDUM

Date: February 11, 2004
To: Planning Board Members
From: Derrick L. Cook, Planner
Re: Plan Reviews for February 17, 2004 Planning Board Meeting
Etowah Office Complex (04-M01)

Etowah Office Complex (04-M01)
James E. McKinna, Owner/Agent

The property is a 4.83-acre tract located off McKinney Road. The proposed development is for two lots. The original tract served as a residential lot. The Applicant proposes to split off a major portion of the existing lot, 3.22 acres, to be sold for commercial development. A portion of the residential lot that the Applicant is maintaining is located in (WS-IV) Water Supply Watershed Protected Area. The full 4.83-acre tract is located Open Use zoning district. The residential lot is directly served Enchantment Circle, which is a private road. The private road also serves as right-of-way access for two other residents. The proposed new commercial lot is fronted by state-maintained McKinney Road. Public water and sewer will serve the proposed lot.

Technical and Procedural Comments

Staff has reviewed the combined Master and Development Plan for conformance with the Henderson County Subdivision Ordinance and offers the following comments:

Master Plan

No comments – requirements satisfied.

Development Plan

1. **Soil Erosion and Sedimentation Control** – The Applicant should submit notice from NCDENR that a soil erosion and sedimentation control plan has been received or provide documentation that no plan is required prior to beginning construction (HCSO 170-19).
2. **Stream Setbacks** – The applicant shows a thirty-foot setback from the perennial stream indicated on the most recent USGS Topographic map that borders the

proposed development. On the Final Plat the applicant should note a minimum thirty-foot setback for buildings or other structures from the perennial stream prior to the beginning of any construction (HCSO 170-37A).

3. **Farmland Preservation** – The Applicant provided the Affidavit of Understanding of Farmland Preservation District. On the final plat, a statement should be noted saying the subdivision lies with ½ mile of the French Broad Farmland Preservation District (HCSO 170-35 and Appendix 7).
4. **Buffer for commercial and industrial subdivisions** – The Applicant proposed commercial lot is surrounded my residential parcel. Several residential lots directly abut the proposed development. For commercial and industrial subdivisions, the Planning Board may require a buffer of no less than 10 feet wide where lots back up to or are adjacent to a major street or between dissimilar uses of land such as a residential area. The Planning Board or Subdivision Administrator may also requires the applicant either to arrange for, or be responsible for, the grading and planting of said buffer strip. Retention of existing vegetation that would provide an equivalent buffer is encouraged. The Planning Board shall have the authority to determine if existing vegetation fulfills the intent of the buffer requirement or if additional vegetation should be planted (HCSO 170-33). *(Shown photos)*
5. **Water and Sewer Supply** – The Applicant supplied a letter of water capacity from the City of Hendersonville Water and a letter of sewer capacity from the Etowah Sewer Company. The Applicant must meet the City of Hendersonville’s minimum requirements for fire hydrant installation (HCSO 170-20). The Applicant advised Staff that no water or sewer lines currently exist on the proposed commercial lot, but there are pipeline accesses available all around the property.
6. **Private Road** – Enchantment Circle is an existing private right-of-way that currently serves the Applicant’s home and two other residents. The private road is designate as a 30-foot right-of-way with a 10-foot paved travelway, per staff’s measurement. Since the private road abuts the proposed non-residential lot and the Applicant may have control over the private road, Staff advised the Applicant that the Planning Board has the option to require the existing right-of-way be upgraded to meet the minimum private road standards for non-residential roads (HCSO 170-27). Section 170-21 of the Henderson County Subdivision Ordinance states “the Applicant for a commercial or industrial subdivision shall provide roads constructed at no less than state road standards for public residential collector roads, regardless of whether such roads are proposed to be public or private.

Other Comments

Staff waived the application requirement to provide metes and bounds for the residential lot. Even though the residential lot is technically a part of the proposed subdivision, staff believed the proposed non-residential lot was the focus and had the Applicant provide metes and bounds and contour intervals for that lot.

Staff Recommendation

The submittal is for approval of the combined Master and Development for Etowah Office Complex subdivision. Staff believes that the submittal satisfactorily addresses the requirements of the Henderson County Subdivision Ordinance except for those matters addressed in the Technical and Procedural Comments section of the Staff's memo that have not been satisfied by the applicant. Staff would recommend approval of the combined Master Plan and Development Plan subject to the above listed comments being addressed.

Possible Motion

I move that the Planning Board find and conclude that the combined Master Plan and Development Plan submitted for Etowah Office Complex subdivision complies with the provisions of the Subdivision Ordinance;

AND

I further move that the combined Master Plan and Development Plan be approved subject to the following Conditions: The Applicant satisfies comments 1 before construction begins, and comments 2, 3, 4, 5, and 6 (if imposed) on the Final Plat or by Final Plat approval (and any other conditions imposed by the Planning Board).

HENDERSON COUNTY
SUBDIVISION APPLICATION FORM

1-20-04 Otawah Office Complex 2004-101
Date of Application Subdivision Name Application Number

Major Subdivision Minor Subdivision Other

Property Owners Name: JAMES E. MCKINNA

Address: PO Box 176 Enchantment Circle

City, State, Zip: OTAWAH, N.C. 28729

Owner's Agent: JAMES E. MCKINNA

Telephone No: 828-891-4942

PIN 9529-81-5087 Deed Book/Page 598/189

Zoning District open use Fire District Elbowsh/horsehoe Watershed WS IV

Location of property to be divided: off McKinley Road

Type of Subdivision: (Residential) (Commercial) () Industrial Present Use _____

No. Lots Created 2 Original Tract Size 4.83 New Tract Size 3.22 No. New Lots 1

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

Water System: () Individual () Community (Municipal)

Sewer System: () Individual () Community (Municipal)

Fee: \$ 400.00 Paid \$120.00 12/26/03 Method Cash
280.00 1/19/04 Check

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

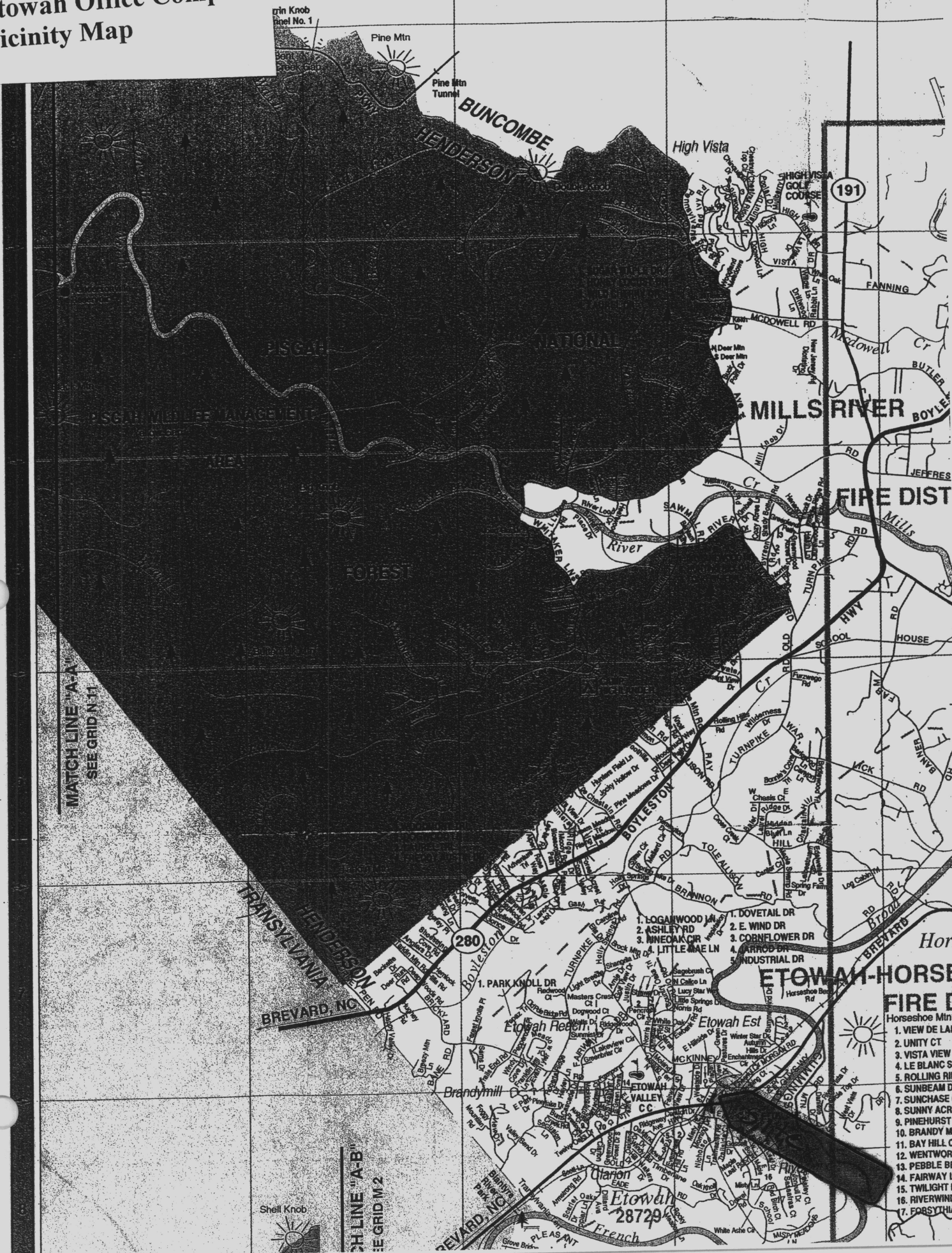
James E. McKinna
APPLICANT (OWNER OR AGENT)

1-20-04
DATE

Development Plan Approval / Conditions _____

Final Plat Approval: _____ Plat Recorded _____

Etowah Office Complex Vicinity Map



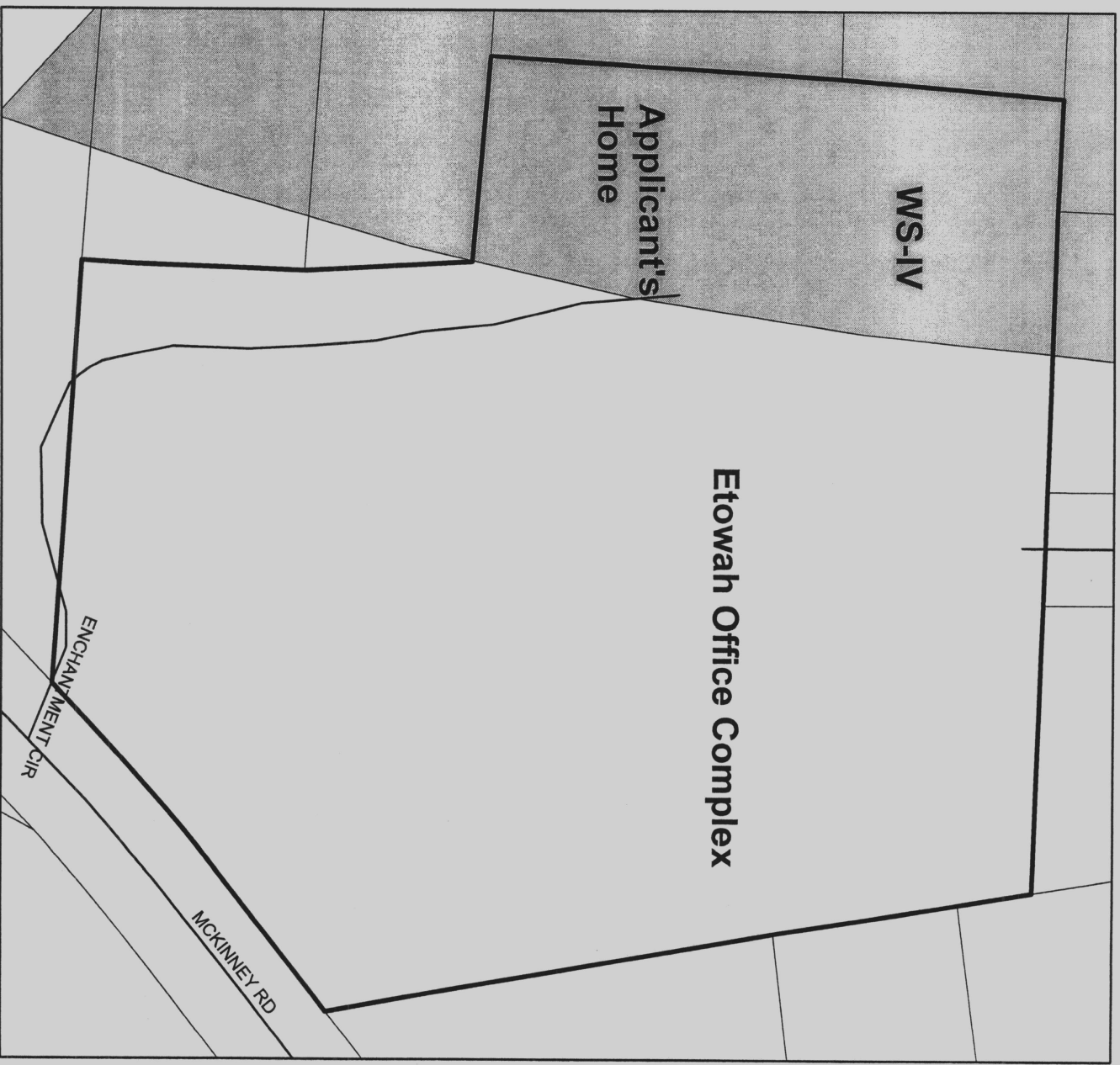
MATCH LINE "A-A"
SEE GRID N.11

MATCH LINE "B-B"
SEE GRID M.2

- ETOWAH-HORSESHOE FIRE DISTRICT**
- 1. VIEW DE LAK
 - 2. UNITY CT
 - 3. VISTA VIEW (
 - 4. LE BLANC SC
 - 5. ROLLING RID
 - 6. SUNBEAM DR
 - 7. SUNCHASE C
 - 8. SUNNY ACRE
 - 9. PINEHURST (
 - 10. BRANDY MI
 - 11. BAY HILL C'
 - 12. WENTWORT
 - 13. PEBBLE BE
 - 14. FAIRWAY LI
 - 15. TWILIGHT L
 - 16. RIVERWIND
 - 17. FORSYTHIA

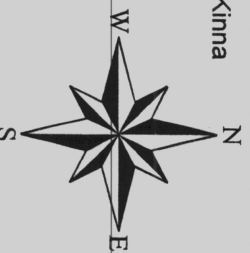


Henderson County Planning Department



Etowah Office Complex

PROPERTY OWNER: James E. McKinna
AGENT: James E. McKinna
TAX MAP ID: 9529-81-5087
ZONING: Open Use
WATERSHED: WS-IV



This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map, are hereby notified that the forementioned public primary information sources should be consulted for verification of the information contained on the map. The County and mapping company assumes no legal responsibility for the information contained on this map.

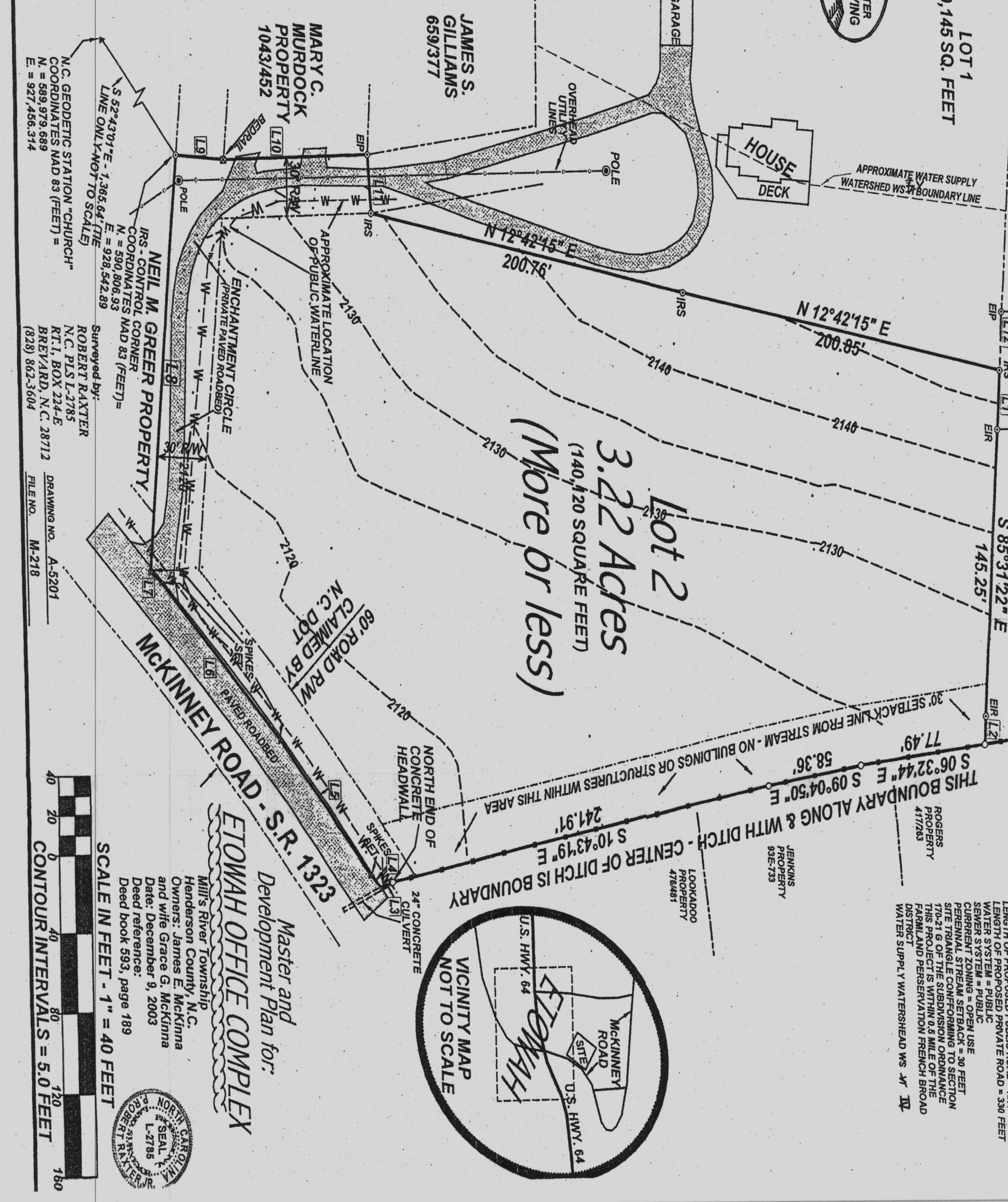
CMS - CONCRETE MONUMENT SET
 CONTROL CORNER
 DISTINGUISHED MONUMENT
 UP = UNMARKED POINT
 IRS = IRON ROD SET
 ACREAGE CALCULATED BY COORDINATE COMPUTATION
 RW = RIGHT-OF-WAY
 P1 = POINT OF INTERSECTION
 THIS PROPERTY IS SUBJECT TO ALL RESTRICTIONS, SETBACK LINES, ROADWAYS, ZONING ORDINANCES, EASEMENTS AND RIGHTS-OF-WAY APPEARING ON THE PROPERTY AND/OR OF RECORD.
 THIS PROPERTY IS NOT IN A FLOOD HAZARD AREA IN ACCORDANCE WITH INSURANCE RATE MAPS.
 I, ROBERT RAXTER CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
 ALL DISTANCES SHOWN ON THIS PLAT ARE N.C. GRID DISTANCES DERIVED BY USING A COMBINED FACTOR OF 0.999776192
 THIS SUBJECT PROPERTY IS WITHIN 0.5 MILE OF THE FARMLAND PRESERVATION FRENCH BROAD RIVER DISTRICT
 ADDRESS OF OWNERS: P. O. BOX 178, ETOWAH, N.C., 28729

Id	Bearing	Distance
L1	S 85°30'18" E	29.93'
L2	S 85°31'22" E	14.13'
L3	S 23°57'48" E	7.72'
L4	S 45°47'38" W	9.96'
L5	S 51°31'02" W	88.13'
L6	S 48°28'36" W	108.39'
L7	S 39°29'28" W	8.45'
L8	N 84°25'31" W	213.45'
L9	N 05°34'29" E	29.99'
L10	N 00°39'09" W	89.96'
L11	N 86°12'37" E	30.05'
L12	S 85°30'18" E	29.91'

State of North Carolina -- County of Henderson
 Review Officer of Henderson County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer _____ **Date** _____
 I, ROBERT RAXTER, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 593, page 189); that the boundaries not surveyed are clearly indicated as broken lines drawn from information found in Book 659, page 377, and/or Plat file N/A; that the ratio of precision as calculated is 1" in 7,500'; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this the 10th day of DECEMBER A.D., 2003

Surveyor **RRA** Registration number **L-2785**
 State of North Carolina ----- Henderson County
 Filed for registration on the _____ day of _____, at _____ o'clock M. and registered and verified on _____ day of _____, 20 in _____
 Filed file _____ Slide no. _____



REGISTER OF DEEDS, HENDERSON COUNTY

1/29/04

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
PLANNING BOARD**

Meeting Date: February 17, 2004
Subject: Rezoning Application # R-04-01

- Attachments:**
1. R-04-01 Application (with attachments)
 2. Staff Report
 3. Site / Current Zoning Map
 4. Vicinity / Current Zoning Map
 5. Current Land Use Map
 6. 1993 CLUP Map
 7. R-15 District Text
 8. C-2P District Text
 9. Pictures of the Subject Parcel

SUMMARY OF REQUEST:

Rezoning Application # R-04-01, which was submitted on January 20, 2004, requests that the County rezone one parcel totaling 0.31 acres, located at the intersection of Resort Street (SR 1776) and Shepherd Street (SR 1779), from an R-15 Medium-Density Residential zoning district to a C-2P Neighborhood Commercial zoning district. The applicant is Charles Pace, and the applicant's agent is Charlene Rogers.

According to the Zoning Ordinance, the Planning Board has 45 days from its first consideration of a rezoning application to make a recommendation to the Board of Commissioners. Thus, the deadline for a Planning Board recommendation to the Board of Commissioners regarding this application is Thursday, April 1, 2004. If no recommendation is made by April 1, 2004, then the application proceeds to the Board of Commissioners with an automatic favorable recommendation. Upon request of the Planning Board, the applicant may choose to grant a 45-day extension, at which time the deadline for a Planning Board recommendation would become Monday, May 17, 2004.

Planning Board action to make either a favorable or unfavorable recommendation on the rezoning application as submitted, or to recommend modifications to the application, would be appropriate. The Planning Board has the option of referring Rezoning Application # R-04-01 to a subcommittee for consideration prior to sending a recommendation to the Board of Commissioners.

Application to Amend the Official Zoning Map of Henderson County, NC
REZONING

1. PROPERTY OWNER INFORMATION

Charles Jackson Pace
Property Owner Name

P.O. Box 991
Mailing Address

Saluda, NC 28973
City, State, Zip Code

828-749-9548
Telephone Number(s)

Note:
The property owner must file applications for zoning map amendments. If owners of multiple parcels are requesting rezoning, one owner should sign the application and attach statements or other documents showing support for the application with signatures from the other owners. Include property owner names and mailing addresses as well as parcel identification numbers (PINs).

2. SUBJECT PROPERTY INFORMATION

Attach a description of the property for which rezoning is being proposed. Such description may be in the form of a property survey, a legal description or a legible copy of a Henderson County cadastral or composite tax map which shows the proposed zoning district boundary changes.

Size of Area to be Rezoned .31 Acres

Parcel ID Number(s)* 0109648

Current Zoning* RU (R-15)

Proposed Zoning* Commercial for (C-2P) Beauty Salon

* If additional space is needed, attach a list of the PINs, the current zoning and the proposed zoning for each parcel proposed for rezoning.

Deed Book + Page 1128/729

3. ADJACENT PROPERTY INFORMATION

Attach a list of property owner names, mailing addresses and parcel ID numbers for parcels abutting the property proposed for rezoning.

I certify that the information contained in this application is true and accurate to the best of my knowledge.

Charles Jackson Pace
Signature of Property Owner

1-20-04
Date

Staff Use Only

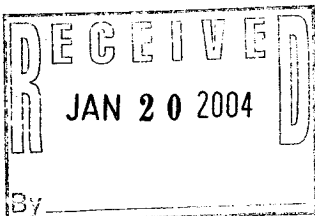
Previous request for same amendment? Yes No Action: _____

Date: _____

Application Received By: Autumn Radloff

Date: 1-20-04

Non-refundable application fee: \$300.00



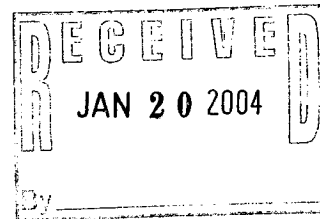
I, Charles Jackson Pace, owner of the property at 212 Shepherd Street, appoint Charlene Rogers, my sister, to be my agent in the case of this zoning request.

Charles Jackson Pace

January 20, 2004

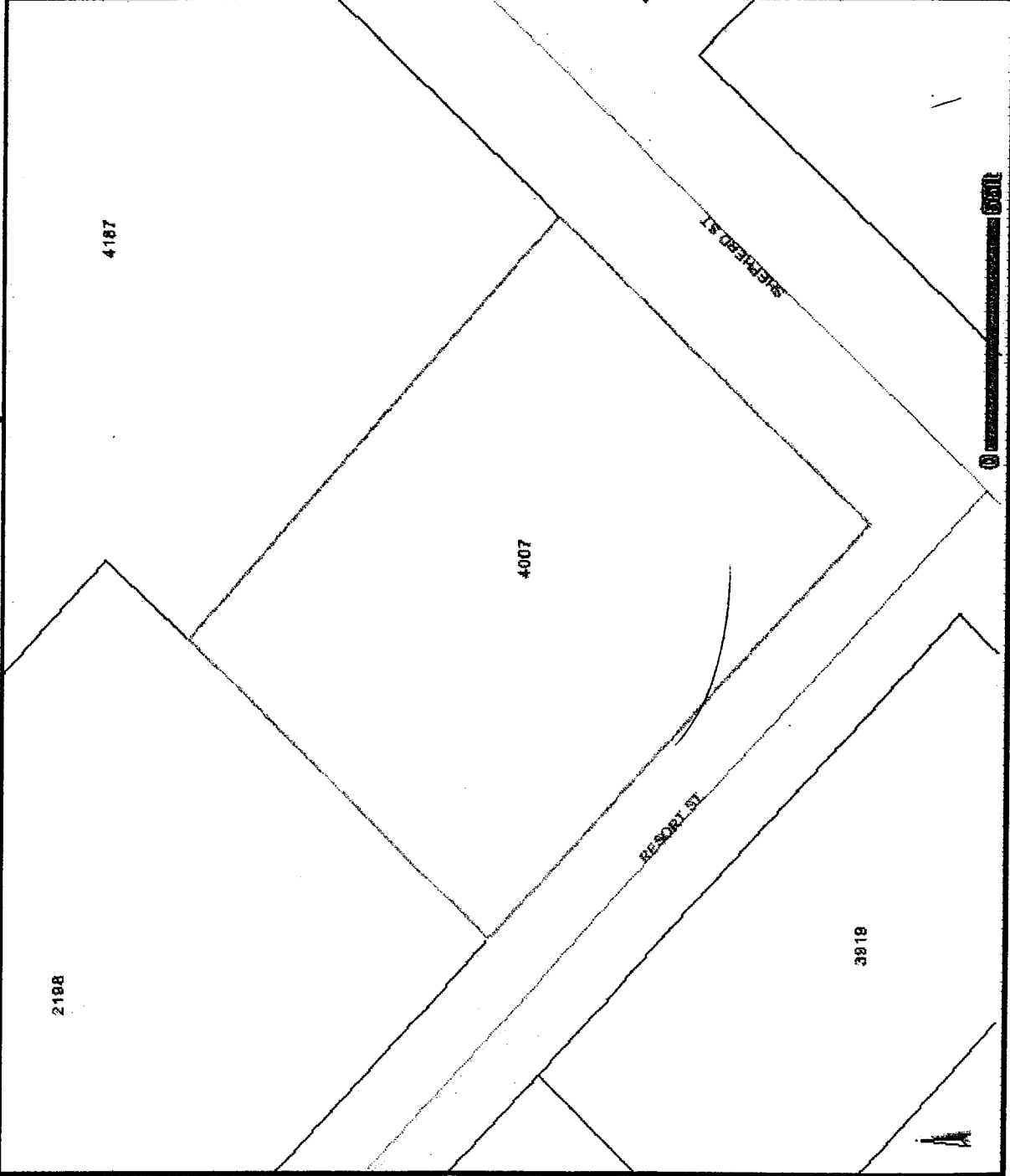
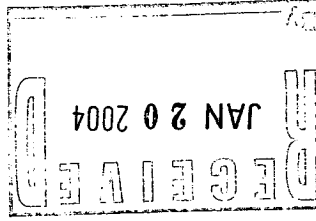
Charlene Rogers
215 Shepherd St.
Hendersonville, NC
28792

692-0772 Home
697-2570 Work *
388-0674 Cell



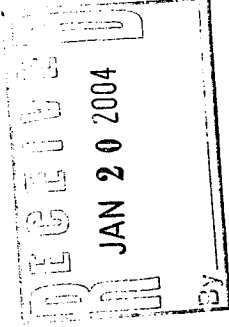
Henderson County GIS Online

- Legend
- Selected Features
 - Streets
 - Major Roads
 - Parcels

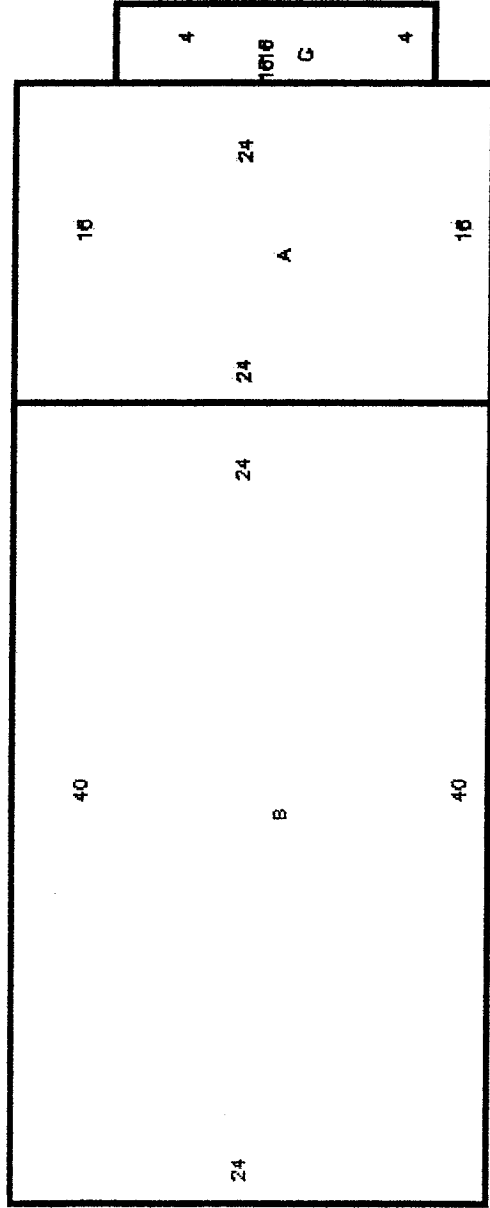


Henderson County Property Record Card

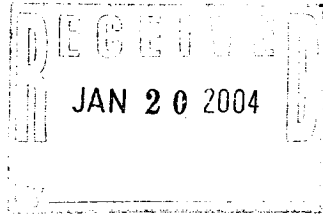
OWNERSHIP PACE CHARLES JACKSON		PID 0109648		NEIGHBORHOOD 186 EAST FLAT ROCK ZONED		PAGE 1/1		DATE 1/19/2004	
P O BOX 991 OLD MTN PAGE RD SALUDA NC 28773		PIN 00-9577-29-4007-55		CYCLE A		STATUS ACTIVE		DEED BOOK AND PAGE 1128/728	
PROPERTY ADDRESS 212 SHEPHERD ST		ANCESTOR 0		ZONING* OU		LAND USE 105		VERIFIED SALE 0	
PROPERTY DESCRIPTION #01 B F GIBBS PROP		TAX DISTRICT 01 BLUE RIDGE FIRE		ACCOUNT 120189		BLDG # NULL		SALE DATE 02/11/03	
LAND INFORMATION		CLASS R1		DOC ACRES 0.31		APR ACRES 0.31		VISITATION DATA DATE 05/14/02 SOURCE SJ ESTIMATE RV	
SEG	1	2	3	4	5	BUILDING INFORMATION G H I J			
TYPE	4					BUILDING SKETCH (Open Full Page)			
ACRE	0.31					<div style="border: 1px solid black; width: 150px; height: 100px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> <div style="border: 1px solid black; width: 80%; height: 80%; margin: 5px;"> <div style="border: 1px solid black; width: 80%; height: 80%; margin: 5px; display: flex; align-items: center; justify-content: center;"> A </div> </div> </div>			
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SOIL									
USE									
ADJ									
AMOUNT DEFERRED									
MARKET VALUE				\$0					
				\$12,600					
OUTBUILDINGS									
BLDG TYPE									
USE									
SIZE									
GRADE									
YEAR									
CDU									
VALUE									
GENERAL REMARKS									
DISCLAIMER									
This information is collected for inventory of property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this information are hereby notified that the aforementioned sources should be consulted for verification of the information contained in this report.									
TOTAL BUILDING VALUE					TAX VALUE SUMMARY				
\$42,392					COST \$12,600 MARKET \$0 INCOME \$0				
					BUILDINGS \$42,400 MARKET \$0 INCOME \$0				
					TOTAL MARKET VALUE \$55,000 MARKET \$0 INCOME \$0				
					TOTAL AMOUNT DEFERRED \$0 MARKET \$0 INCOME \$0				
					TOTAL TAX VALUE \$55,000 MARKET \$0 INCOME \$0				



BUILDING SKETCH FOR PID(0109648) BUILDING (1)



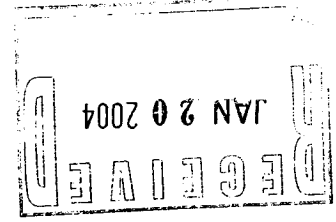
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Henderson County Parcel Adjiner Search Results

1	2	3	4	5	6	7	8
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9950983	0102834	0109865	0104905	0109826	0104347	9955238	0107974
COUNTRY MEADOWS HM OWNER ASSOC	BAISLEY, ALLEN C	PAGE, CHARLES JACKSON	HINDERER, CARL L	HOLBERT, SHERMAN	HERDA, PAUL R	ROGERS, CHARLENE PACE	REID, WILLIAM A
COUNTRY MEADOWS CONDOS	BAISLEY, BONNIE R	P O BOX 981	218 SHEPHERD ST	HOLBERT, BETTY	HERDA, BETTY A	REID, JOAN T	211 SHEPHERD STREET
COUNTRY MEADOW LANE	2230 SABAL PALMS DR	OLD MTN PAGE RD		PO BOX 483	38 WINTRY DRIVE		
HENDERSONVILLE	EDGEWATER	SALUDA	HENDERSONVILLE	HENDERSONVILLE	HENDERSONVILLE	HENDERSONVILLE	HENDERSONVILLE
NC	FL	NC	NC	NC	NC	NC	NC
28739	32141	28773	28739	28793	28792	28792	28792
COMMON AREA	#09,#10 B F GIBBS PROP	#02 B F GIBBS	#11-#14 B F GIBBS	RESORT ST ON	#21 STEPP-JONES S/D	SR1779 ON SHEPHERD ST	SR1779 ON SHEPHERD ST
8.81	0.27	0.58	0.81	0.43	0.24	0.7	0.26
9677.05	9677.05	9677.05	9677.05	9677.05	9677.05	9677.06	9677.05
0	0	1	1	1	1	1	1
5/21/1993	9/1/2000	0/0/2003	1/1/2000	7/1/2003	4/1/1994	0/0/2003	3/2/1991
825775	1045/111	1128/727	1019/868	1154/832	847/144	1128/734	775/883
128100	11800	16200	18600	13900	11100	17800	1800
0	0	74800	14000	48190	48100	113000	25400
128100	11800	90600	10500	82990	57600	130800	37000
COUNTRY MEADOWS CONDOS	EAST FLAT ROCK ZONED	EAST FLAT ROCK ZONED	EAST FLAT ROCK ZONED	EAST FLAT ROCK ZONED	EAST FLAT ROCK ZONED	EAST FLAT ROCK ZONED	EAST FLAT ROCK ZONED
Subdivision	GIBBS, B F	GIBBS, B F	GIBBS, B F	STEPP, JONES PROPERTY	STEPP, JONES PROPERTY	STEPP, JONES PROPERTY	STEPP, JONES PROPERTY
190000	24000	0	74500	32500	50300	0	0
202	105	110	110	110	110	105	115

[Click here to download this information as a text file](#)



Henderson County Planning Department Staff Report

Rezoning Application #R-04-01 (R-15 to C-2P) Charles Pace, Applicant Charlene Rogers, Applicant's Agent

1. Introduction

- 1.1. Applicant: Charles Pace
- 1.2. Applicant's Agent: Charlene Rogers
- 1.3. Subject Parcel #: 00-9577-29-4007-55
- 1.4. Application Date: January 20, 2004
- 1.5. Request: Rezone one (1) parcel of land from an **R-15 (Medium-Density Residential)** zoning district to a **C-2P (Neighborhood Commercial)** zoning district. Please see Attachment 3: Site / Current Zoning Map.
- 1.6. Parcel Size: 0.31 acres.

2. Location

- 2.1. See Attachment 4: Vicinity / Current Zoning Map.
- 2.2. The Subject Parcel is located at the intersection of Resort Street (SR 1776) and Shepherd Street (SR 1779).
- 2.3. The Subject Parcel is located southeast of US 25 South (Greenville Hwy).

3. Zoning and Area History

- 3.1. Please see Attachment 4: Vicinity / Current Zoning Map.
- 3.2. The Subject Parcel is currently zoned R-15 (Medium-Density Residential), which has been in effect since at least 1981.
- 3.3. Adjacent Zoning:
 - 3.3.1. The Subject Parcel is within an R-15 (Medium-Density Residential) zoning district. A county R-T (Residential Transient) zoning district is adjacent to Subject Parcel on the south and southwest.

3.3.2. City of Hendersonville zoning is adjacent to the above-mentioned R-T and R-15 zoning districts.

3.3.1.1 According to the City of Hendersonville, the area that borders the County R-T and R-15 districts is zoned City R-15 and Greenville Highway Mixed Use. The City of Hendersonville's R-15 zoning district requires 15,000 square feet per lot. Setbacks are as follows: 30 feet from the centerline of streets, 10 feet from side property lines, and 15 feet from rear property lines. The Greenville Highway Mixed Use district is intended to encourage a mix of medium density residential development in conjunction with appropriately scaled and compatible commercial development, consisting of retail sales and services, professional office accommodation services and similar uses.

3.4. The Subject Parcel is located northwest approximately 460 feet of a County R-20 (Low-Density Residential) and approximately 640 feet from a County R-10 (High-Density Residential) zoning district. The Subject Parcel is also located northeast approximately 736 feet from a C-1 (Residential Commercial).

3.5. **Comparison of Districts:**

3.5.1. **R-15 Purpose Statement:** *"This district is intended to be a medium-density neighborhood consisting of single-family and two-family residences and small multifamily residences. It is expected that public water facilities will be generally available to each lot, providing a healthful environment, although the residential development may be dependent upon septic tanks for sewage disposal."*
(Henderson County Zoning Ordinance [HCZO] § 200-16).

3.5.2. **C-2P Purpose Statement:** *"This district is intended to provide for commercial and residential activity in selected historical communities. These regulations are designed to preserve and enhance the historical elements of the community while allowing for mixed but compatible uses."*([HCZO] § 200-27).

3.5.3. R-15 is a Medium-Density Residential zoning district allowing no commercial activities by right. R-15 allows by right single-family and two-family residential dwellings and apartments, provided that they be no larger than a four-family dwelling on a single lot, including garage apartments (one per lot). Site-built and modular residential units are permitted by right, while manufactured homes are not. Churches, church cemeteries, certain signs, transformer and public utility stations, customary accessory buildings (including private garages, noncommercial greenhouses, and workshops), schools, civic and cultural buildings, family care homes, and certain communication towers are allowed by right with standards. Among other things, Planned Unit Developments (PUD's), R-A Residential Apartment

Developments, R-O Residential Open Space Developments, and Medical Institutional Care Developments (MICD) are permitted with a Special Use Permit, and camps, bed-and-breakfast inns, libraries, non-church cemeteries, and customary incidental home occupations are permitted with a Conditional Use Permit. The standard lot size is a minimum of 15,000 square feet (.34 acres), with a minimum lot size per dwelling unit of 7,500 square feet for buildings with two or more family dwellings. Unless otherwise allowed through a Special Use Permit, setbacks are as follows: 75 feet from the centerline of major streets and 50 feet from the centerline of all others; 15 feet from the side and rear property lines. The maximum building height is 35 feet for principal structures.

3.5.4. The C-2P Preservation Neighborhood Commercial zoning district allows by right single-family and two-family residential dwellings and apartments, provided that they be no larger than a four-family dwelling on a single lot, including garage apartments. Site-built and modular residential units are permitted by right, while manufactured homes are not. Other uses allowed by right include, retail businesses and services, offices, public utilities, public facilities, and public buildings. Civic and cultural buildings, certain communication towers, and family care homes are permitted by right with standards. PUD's (Planned Unit Developments) and RA (Residential Apartment) Developments are allowed with a special use permit. Hospitals, clinics, libraries, schools, churches (excluding cemeteries), restaurants, bed-and-breakfast establishments, and home occupations are allowed with a conditional use permit. The C-2P zoning district has no minimum lot size but has a maximum permissible lot coverage, which states that the total ground covered by the building in this district shall not exceed 60% of the total lot area. Setbacks are as follows: 50 feet from the centerline of major streets and 30 feet from the centerline of all others; the side and rear property lines are the same as the side yard requirements to which the district is contiguous; and there is a maximum building height of 40 feet for principal structures.

3.5.5. See Attachments 7 and 8: R-15 and C-2P District Texts.

4. Subject Parcel Use and Adjacent Uses

- 4.1. Please see Attachment 5: Current Land Use Map.
- 4.2. The Subject Parcel contains one building and according to the applicant, it has been or is being used for residential purposes (See Attachment 9: Pictures of the Subject Parcel).

4.3. Looking at a broader area, the majority of the uses surrounding the Subject Parcel are single-family residential including Charlestown Place, a PUD, located 640 feet southeast of the Subject Parcel and Country Meadows Condos. There are also some nearby commercial uses located along US 176 (Spartanburg Highway) and US 25 (Greenville Highway) including, Briarwood Motel, The Cottages of Flat Rock, The Blossom Basket, Sherman's Business Park, Bent Oaks Motel, Highland Lake Inn, and various retail business.

5. Utilities / Infrastructure

5.1. **Sewer / Water:** The Subject Parcel has access to City of Hendersonville water service, and the nearest public sewer line is approximately 480 feet east of the Subject Parcel.

5.2. **Natural Gas:** The Subject Parcel is located in the service area for natural gas supply lines.

5.3. **Transportation:**

5.3.1. The Subject Parcel has approximately 104 feet of frontage along Shepherd Street (SR 1779), and 134 feet of frontage along Resort Street (SR 1776).

5.3.2. The 2001 Annual Average Daily Traffic Count for Shepherd Street (SR 1779) in the vicinity of the Subject Parcel was 7,500 vehicles per day. By comparison, the 1999 Annual Average Daily Traffic Count for Shepherd Street (SR 1779) in the vicinity of the Subject Parcel was 11,600 vehicles per day. Staff could not find daily traffic count information for Resort Street (SR 1776).

5.3.3. See Section 6.2 regarding NCDOT plans for the area.

6. Relevant Policies, Plans and Actions

6.1. **US 25 South Corridor Study, Accepted by the Board of Commissioners on January 7, 2002:**

6.1.1. The Henderson County Board of Commissioners assigned the Study Committee the task of studying a 300-foot wide corridor on either side of US 25 South, between the jurisdictional boundaries of the City of Hendersonville and the Village of Flat Rock, and making zoning and land use recommendations for this area. However, certain recommendations contained herein do address a broader area when necessary.

6.1.1.1. The recommended zoning map for the US 25 South Corridor Study support the current county residential zoning district on the Subject Parcel and recommends that the current R-15 district be extended

south of the Subject Parcel (US 25 South Corridor Study Recommended Zoning Map, Appendix B-5).

6.1.1.2. The US South Corridor Study also recommended that the northern portion of US 25 South should be rezoned to a C-2P zoning district (US 25 South Corridor Study, Pg. 16). Although this area does not include the Subject Parcel, this recommendation is inconsistent with the rezoning request in that the study recommended commercial uses along US 25 South and not the surrounding residential neighborhood where the Subject Parcel is located.

6.2. 1993 Henderson County Comprehensive Land Use Plan (1993 CLUP):

6.2.1. See Attachment 6: 1993 CLUP Map.

6.2.2. Both the Future Land Use Map and the text of the 1993 CLUP considered the area around the Subject Parcel to be suitable for residential growth. The proposed rezoning is inconsistent with this recommendation.

6.2.3. One goal of the 1993 CLUP is to, "minimize conflicts between housing and other land uses by using buffering" (1993 CLUP, Pg. 85). Although the C-2P district is intended for neighborhood development, the size of the Subject Parcel (0.31 acres), the location of the existing building to the property line and the proximity of the adjacent neighbors would prevent a buffer from being constructed even though it is not required in a C-2P district. The proposed rezoning is inconsistent with this goal.

6.2.4. A goal of the 1993 CLUP is to, "identify appropriate land area for residential development within the county" (1993 CLUP, Pg. 85). The proposed rezoning is in an area that the 1993 CLUP recognized for residential development. Commercial development at any scale was not intended for this community; therefore, the rezoning request is inconsistent with this goal.

6.2.5. The 1993 CLUP also recommends that, "indiscriminate sprawl and haphazard development should be avoided through countywide zoning and other land use controls" (1993 CLUP, Pg. 92). The Subject Parcel is located in an area that has been zoned for medium-density residential development since at least 1981 and the 1993 CLUP supports residential development at this location. The rezoning request is inconsistent with this recommendation.

6.2.6. The 1993 CLUP also identifies the US 25 South Corridor as one of several roads in Hendersonville experiencing "development pressures and

problems from traffic congestion generated by the additional activity..." (1993 CLUP, Pg. 76). The proposed rezoning would only add to the traffic congestion problems on US 25 South and create additional development pressures within the surrounding neighborhood.

6.3. NCDOT Transportation Improvement Plan:

- 6.3.1. Neither US 25 South nor any other road in close proximity to the Subject Parcel is scheduled for improvements under the NCDOT 2004-2010 Transportation Improvement Program (TIP).
- 6.3.2. The Henderson County Board of Commissioners and the Henderson County Transportation Advisory Committee recommendations to NCDOT for the 2006-2012 Draft TIP proposes, "adding turning lanes on US 25 South from White Street to the intersection of Erkwood and Shepherd Streets; straighten the Erkwood, Shepherd Street intersection with US 25 South; square up the intersection of Rutledge Drive and US 25 South at the Jackson Funeral Home; construct greenways, bikeways, bike lanes, and walkways."

6.4. Other Issues:

6.3.3. Synopsis of Spot Zoning:

6.3.3.1. "Spot Zoning occurs when a relatively small tract of land is zoned differently from the surrounding area. In North Carolina, spot zoning is not illegal in and of itself... however, it must be clearly supported by a reasonable basis? Although flexibility is granted to have relatively small zoning districts, the court is sensitive to ensuring that there is a legitimate public interest in having a small district and will invalidate rezoning in which one owner benefits or is relieved from zoning burdens at the expense of his or her neighbors and the community at large." David W. Owens. 1993. *Legislative Zoning Decisions: Legal Aspects*. Institute of Government, University of North Carolina at Chapel Hill. Pp. 68-71. "The larger the area of spot zoning, the more likely it is to be reasonable. Singling out an individual lot for special zoning treatment is more suspect than creating a zoning district that involves multiple parcels and owners." David W. Owens. 2001. *Introduction to Zoning, 2nd Edition*. Institute of Government, University of North Carolina at Chapel Hill. Pg. 46.

- 6.3.4. Would approval of Rezoning Application # R-04-01 constitutes spot zoning? Are there identifiable justifications for granting the proposed rezoning?

Over the years, a general test as to the appropriateness of rezoning applications has emerged. This test is specifically intended to address the matter of spot zoning, but is applicable as a test for all rezoning applications.

- 6.3.4.1. **Size of the Tract:** It is Staff's position that the Subject Parcel is of inadequate size without the participation of adjacent parcels in the rezoning application or the availability of an adjacent C-2P district. Therefore, rezoning the Subject Parcel would create a small, isolated C-2P district within a bigger R-15 zoning district.
- 6.3.4.2. **Compatibility with existing plans:** In the case of the Subject Parcel, the proposed rezoning is inconsistent with the 1993 Comprehensive Land Use Plan map and text, which recommends "Residential" uses for the Subject Parcel and its vicinity (See Attachment 6: 1993 CLUP Map). The 1993 CLUP did not call for any commercial development on the Subject Parcel or in the surrounding community along US 25 South, excluding the area currently within the City of Hendersonville. According to the 1993 CLUP, commercial development was recommended along US 176 (Spartanburg Highway) due to the traffic congestion already present on the US 25 South corridor. In addition, the US 25 South Corridor Study recommended the current county R-15 zoning on and in the vicinity of the Subject Parcel.
- 6.3.4.3. **Benefits and detriments...is the Applicant unreasonably harmed by current zoning? What impact would the change have upon the property owners and neighbors?** Currently, the Subject Parcel is 0.31 acres in size, which, under R-15 zoning can only be used for residential purposes. The proposed C-2P district would allow for both residential and small-scaled commercial uses. The Subject Parcel and the surrounding neighborhood are currently utilized for residential purposes. The range of uses allowed in C-2P could potentially increase traffic and the number of parked vehicles on the Subject Parcel, if it changed to a commercial use, and would be noticeable to adjacent property owners and neighbors. It is staff's opinion that granting the rezoning to allow for commercial uses would alter the character of the community.
- 6.3.4.4. **Relationship between newly allowed uses and previously allowed uses:** The major difference between R-15 and C-2P, in terms of use, is the fact that C-2P allows for small-scaled commercial

development including; retail businesses and services, offices, public utilities, public facilities, and public buildings by right. In addition, hospitals, clinics, and libraries are allowed with a conditional use permit. The additional uses permitted in the C-2P district would be visible to the community and would likely have an impact.

- 6.3.4.5. **What impact would the change have upon public services (roads, schools, police, fire, water, sewer, etc.)?** In staff's opinion, the proposed rezoning would not have a noticeable impact upon public services due to the relatively small size of the Subject Parcel and the availability of the current public utility service area.
- 6.3.4.6. **Has there been a change in conditions that would warrant a rezoning of the Subject Parcel?** Staff can identify none. The surrounding community is an older residential neighborhood that has developed under the current R-15 zoning since at least 1981. The Subject Parcel has access to nearby commercial developments along US 176 and staff does not feel that there has been a change in conditions that would support another commercial node at this intersection.
- 6.3.4.7. **What policy precedent would the change set for future requested amendments?** It is Staff's position that granting the proposed rezoning would set a precedent for future, similar applications, and create a small-scaled commercial node at the intersection of Resort Street and Shepherd Street.

7. Staff Comments and Recommendations

7.3. **Recommendation:** Staff recommends that Rezoning Application # R-04-01, as submitted, be denied. This is based upon the following:

- 7.3.1. The proposed rezoning is inconsistent with the both the Future Land Use Map and the text of the 1993 CLUP.
- 7.3.2. Although the district text for C-2P states that the district is to provide for commercial and residential activity in selected historical communities, the Subject Parcel is located outside of the Village of Flat Rock, and is in close proximity to nearby commercial developments along US 176 and US 25 South.
- 7.3.3. Another important aspect of the Subject Parcel is the size of the tract in terms of "Spot Zoning". It is Staff's position that the Subject Parcel is of

inadequate size in the context a C-2P zoning district, and without the participation of adjacent parcels in the rezoning application, rezoning the Subject Parcel would create a small C-2P district within a bigger R-15 zoning district and would likely be considered "spot zoning."

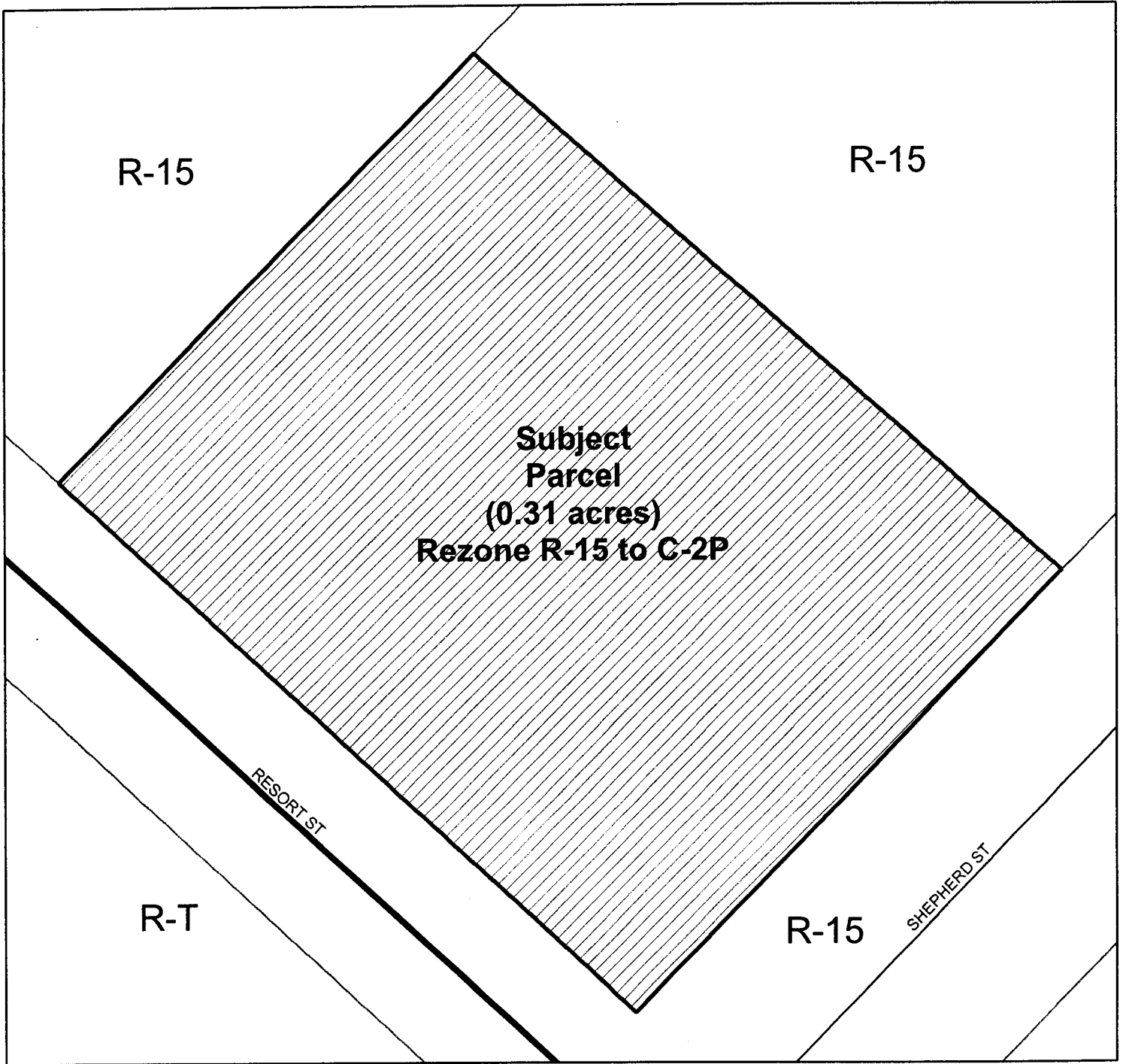
- 7.3.4. The 1993 CLUP calls for commercial development along US 176 and specifically calls for residential uses in the vicinity of US 25 South and the Subject Parcel. Staff cannot identify any need nor change in the community to create a new commercial node at the intersection of Resort Street and Shepherd Street.
- 7.3.5. When reviewing a rezoning request, the Board must consider the range of uses for the existing zoning district compared to the proposed zoning district. The C-2P district would allow by right for small-scaled commercial uses. It is Staff's position that rezoning the Subject Property to a C-2P zoning district would not be in keeping with the character of the immediate vicinity and would set a precedent in this area for future, similar applications.
- 7.3.6. Staff has identified no plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest that would justify granting the proposed rezoning.

7.1.6.1 It is generally incumbent upon the Applicant to demonstrate on 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.




8. Planning Board Recommendations

6.1. To be Determined.

Site / Current Zoning Map



Legend

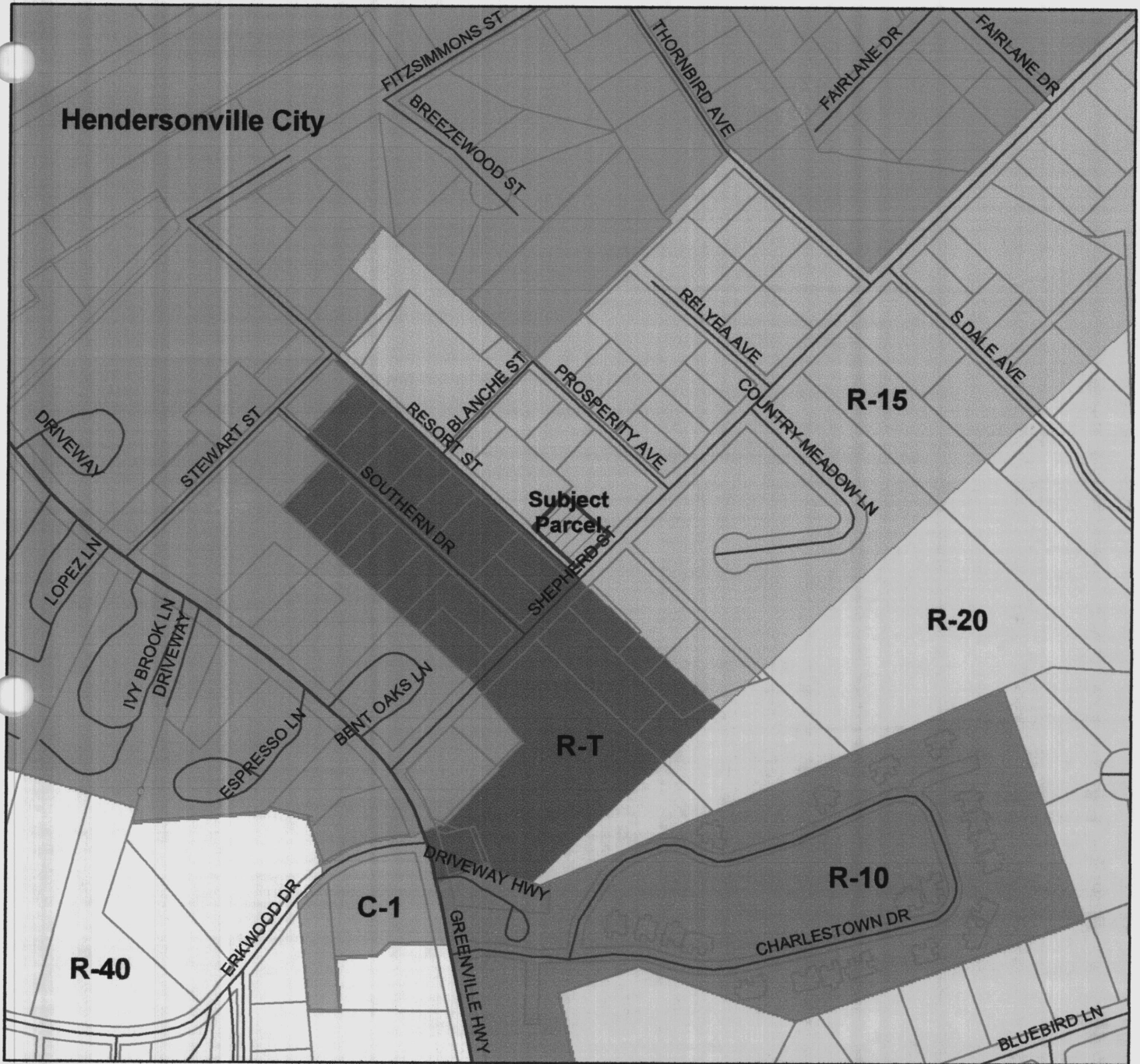
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-  Parcels
-  Subject Parcel



Zoning Map Amendment
Application # R-04-01
Applicant, Charles Pace



Vicinity / Current Zoning Map

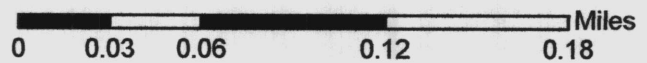


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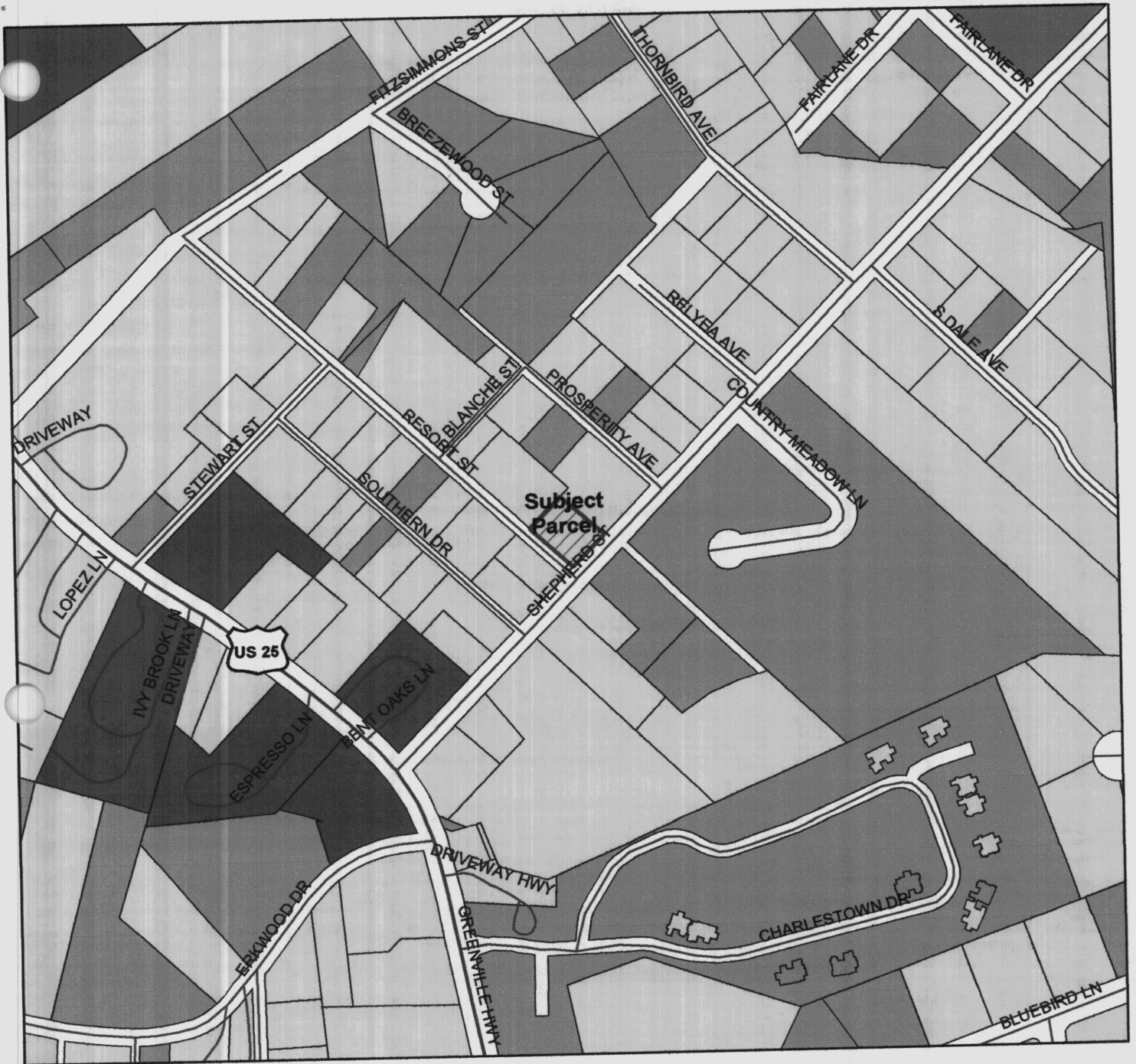
- Streets
- Parcels
- ▨ Subject Parcel














Zoning Map Amendment
Application # R-04-01
Applicant, Charles Pace



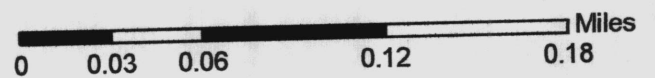
Current Land Use Map



Legend

 Streets	 Community Facilities
 subjectParcel	 Commercial
 Subject Parcel	 Industrial
General Land Use	 Transportation
 Undeveloped	 Utilities
 Residential	 Unknown

Zoning Map Amendment
 Application # R-04-01
 Applicant, Charles Pace



1993 Comprehensive Land Use Plan Map

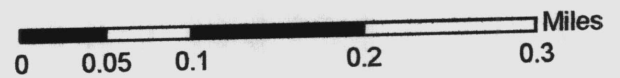


Subject Parcel

Legend

	Streets		RURAL-CONSERVATION
	Parcels		PUBLIC-PARK
	Subject Parcel		RESIDENTIAL
Layer			COMMUNITY-FACILITY
	CONSERVATION		COMMERCIAL
	AGRICULTURE		INDUSTRIAL

Zoning Map Amendment
 Application # R-04-01
 Applicant, Charles Pace



§ 200-16. R-15 Medium-Density Residential District.

This district is intended to be a medium-density neighborhood consisting of single-family and two-family residences and small multifamily residences. It is expected that public water facilities will be generally available to each lot, providing a healthful environment, although the residential development may be dependent upon septic tanks for sewage disposal.

A. Within the R-15 Medium-Density Residential District, the following uses are permitted:

- (1) Single-family dwellings, excluding manufactured homes. [Amended 12-15-1993]
- (2) Two-family dwellings.
- (3) Apartments, provided that they be no larger than a four-family dwelling on a single lot; furthermore, provided that there be a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
- (4) Garage apartments (one per lot).
- (5) Churches, provided that:
 - (a) The structures are placed not less than 50 feet from any property line.
 - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.
 - (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
- (6) Church cemeteries on property contiguous to or adjacent to the principal church assembly building, provided that all plots shall be set back at least 20 feet from any property line.
- (7) Church bulletin boards not exceeding 12 square feet in area.
- (8) Signs not more than four feet square in area advertising the sale or rental of property on which they are located.
- (9) Transformer and public stations, provided that:
 - (a) Transformer stations:
 - [1] The structures are placed not less than 75 feet from any property line.
 - [2] The structures are enclosed by a woven-wire fence at least eight feet high.
 - [3] No vehicles or equipment is stored on the premises.
 - [4] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.
 - (b) Public utility stations:
 - [1] The structures are located on sufficient land to meet all setback requirements of this chapter.
 - [2] The stations are completely enclosed, either by a building or a wire fence at least eight feet high.

- [3] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.
- (10) Customary accessory buildings, including private garages, noncommercial greenhouses and workshops.
- (11) Public schools having multiple curricula and private schools having curricula approximately the same as ordinarily given in public schools.
- (12) [Added 11-7-1983] Civic cultural buildings, including auditoriums, theaters for the performing arts, museums, art galleries, symphony and concert halls and historical societies, provided that:
- (a) The structures are placed not less than 50 feet from any property line.
 - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.
 - (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
 - (d) The facility is operated not for profit and satisfactory proof of the tax exempt status of the organization is exhibited to the Zoning Administrator.
 - (e) One parking space is provided for each two seats in auditoriums, theaters and symphony and concert halls.
 - (f) One parking space for each 100 feet of gross floor space directed to patron use shall be provided for museums, art galleries and historical societies.
- (13) Group 1 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
- (14) Group 2 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
- (15) Family care homes, provided that no new family care home shall be located within a one-half-mile radius of an existing family care home. [Added 7-7-1998]
- B. Special uses. The following uses shall be permitted, subject to a finding by the Board of County Commissioners that both the conditions in the definition of "special use" in § 200-7B and those conditions listed below will be met:
- (1) Planned unit developments, subject to the conditions listed under § 200-33 of this chapter.
 - (2) R-O Residential Open Spaces Development, subject to the conditions listed under § 200-35 of this chapter.
 - (3) R-A Residential Apartment Development, subject to the conditions listed under § 200-36 of this chapter.
 - (4) Medical, institutional care development, subject to conditions listed under § 200-37 of this chapter.
 - (5) Group 6 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
- C. Conditional uses. The following uses shall be permitted, subject to a finding by the Board of Adjustment that both the conditions in the definition of "conditional use" in § 200-7B and those conditions listed below will be met:
- (1) Parks, camps, tennis and racquet clubs and golf courses. (Miniature golf courses and practice driving tees operated for commercial purposes are not allowed.)

Attachment 7
Henderson County
PC/Codebook for Windows

- (2) Customary incidental home occupations, including, but not limited to, dressmaking, cooking, baking, music instruction, the practice of such professions as insurance, medicine, artistry, architecture accounting, permitted as as accessory uses in a residence.
- (3) Libraries.
- (4) Nonchurch-related cemeteries.
- (5) Bed-and-breakfast inns. [Added 12-23-1992]

D. Dimensional requirements. Within the R-15 Medium-Density Residential District as shown on the Zoning Map, the following dimensional requirements shall be complied with:

Minimum Lot Area (sq. ft.)	Minimum Lot Area Per Dwelling (Family) Unit (sq. ft.)	Maximum Building Height (ft.)	Minimum Front Yard Setback From Center Line of Street		Yards	
			Major ¹ (ft.)	Minimum All Others (ft.)	Side (ft.)	Rear (ft.)
15,000	15,000 (1 family) 7,500 (2 or more families)	35	75	50	15	15

NOTES:

¹ Where the major street is more than two lanes, including parking lanes, setback requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved street abutting the property in subject.

§ 200-27. C-2P Preservation Neighborhood Commercial District. [Added 9-8-1992]

The purpose of this district is to provide for commercial and residential activity in selected historical communities. These regulations are designed to preserve and enhance the historical elements of the community while allowing for mixed but compatible uses.

- A. Within the C-2P Preservation Neighborhood Commercial District, the following uses are permitted:
- (1) Any retail business or service conducted within an enclosed building.
 - (2) Any retail business making products sold primarily at retail on the premises.
 - (3) Other public utilities, public facilities and public buildings.
 - (4) Offices: business, professional, medical and public.
 - (5) Civic and cultural buildings, including auditoriums, theaters for the performing arts, museums, art galleries, symphony and concert halls and historical societies. Such uses must meet the same site requirements stated in § 200-21A(6).
 - (6) Single-family dwellings, excluding manufactured homes, two-family dwellings, three-unit to four-unit apartments, including garage apartments. [Amended 12-15-1993]
 - (7) Customary accessory buildings.
 - (8) Group 1 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998EN]
 - (9) Group 2 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998EN]
 - (10) Family care homes, provided that no new family care home shall be located within a one-half-mile radius of an existing family care home. [Added 7-7-1998]
- B. Special uses. The following uses shall be permitted, subject to a finding by the Board of County Commissioners that both the conditions in the definition of "special use" in § 200-7B and those conditions listed below will be met:
- (1) Planned unit developments, subject to the conditions listed herein under § 200-33.
 - (2) [Added 2-5-2001] Residential apartment developments, subject to the conditions listed herein under § 200-36.
- C. Conditional uses. The following uses shall be permitted, subject to a finding by the Board of Adjustment that both the conditions in the definition of "conditional use" in § 200-7B and those conditions listed below will be met:
- (1) Hospitals, clinics, veterinary clinics, libraries, schools and churches, excluding cemeteries.
 - (2) Restaurants, bed-and-breakfast establishments.
 - (3) Home occupations.
- D. Dimensional requirements. Within the C-2P Preservation Neighborhood Commercial District as shown on the Zoning Map, the following dimensional requirements shall be met:

Attachment 8
*Henderson County
 PC/Codebook for Windows*

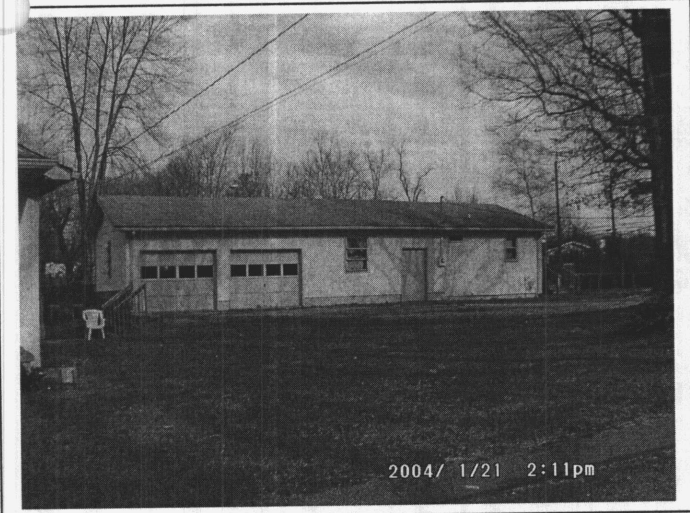
Minimum Front Yard Setback From Center Line of Street		Building Height	Maximum Minimum Yards		
Major ¹ (ft.)	All Others (ft.)		Side (ft.)	Rear (ft.)	(ft.)
50	30	40			The same as the side yard requirements to which the district is contiguous.

NOTES:

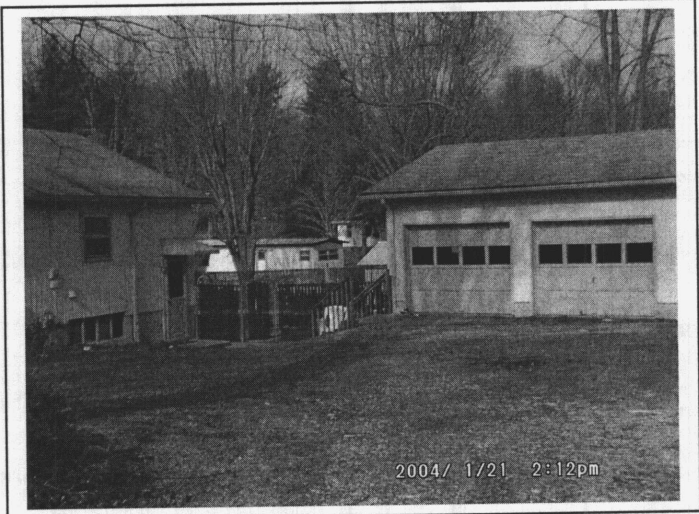
1 Where the major street is more than two lanes, including parking lanes, setback requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved street abutting the property in subject.

E. Maximum permissible lot coverage. The total ground area covered by the building in this district shall not exceed 60% of the total lot area.

Rezoning Application # R-04-01



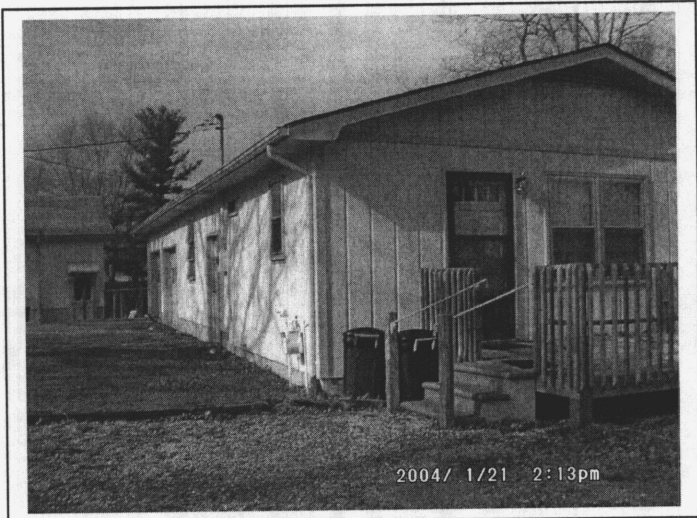
Looking at the Subject Parcel from Resort Street (SR 1776).



Proximity of the Subject Parcel to adjacent property.



Looking at the Subject Parcel from Shepherd Street (SR 1779).



Another view of the proximity of the Subject Parcel to the adjacent property.

**IN THE MATTER OF THE APPLICATION OF
CARRIAGE PARK ASSOCIATES, LLC, APPLICANT
TO THE HENDERSON COUNTY PLANNING BOARD,
APPROVAL AUTHORITY**

**ORDER GRANTING APPROVAL OF AMENDMENTS TO THE
DEVELOPMENT PARCEL FOR CARRIAGE PARK PLANNED UNIT DEVELOPMENT,
SECTION 14, CARRIAGE FOREST FOR THE SEWER LIFT STATION LOT**

The Henderson County Planning Board, having been delegated authority to review development parcel applications under Special Use Permit SP-93-13 issued to Carriage Park Development Corporation (now Carriage Park Associates, LLC) on October 11, 1993; having held a quasi-judicial hearing on January 20, 2004, to consider an application for amendments to a development parcel known as Section 14, Carriage Forest; having voted to recuse Planning Board member Paul Patterson from the proceedings at his request as he has worked in his capacity as a Professional Engineer for the Applicant in Carriage Park; having identified the following persons as parties to the proceeding: Mr. Dale Hamlin, Manager of Carriage Park Associates, LLC; Karen C. Smith, Henderson County Planning Director; and Derrick Cook, Henderson County Planner; and having heard all of the evidence and arguments presented at the hearing, makes following FINDINGS OF FACT and draws the following CONCLUSIONS:

FINDINGS OF FACT

1. Carriage Park Associates, LLC (hereinafter referred to as "Applicant") is presently developing a Planned Unit Development under Special Use Permit SP-93-13 (and amended) [hereinafter referred to as "SP-93-13"].
2. Through an order approved on March 26, 1996, the Henderson County Planning Board, hereinafter referred to as "Planning Board," approved with conditions an application for the development parcel in Carriage Park known as Section 14, Carriage Forest, hereinafter referred to as "Section 14." As approved, Section 14 contained 19 single-family detached homes on 14.42 acres to be served by public water and sewer provided by the City of Hendersonville and private roads.
3. On August 19, 1996, Planning Staff approved the Final Plat for Section 14. A total of 6.41 acres of open space were concurrently placed on record.
4. The Applicant, on December 22, 2003, submitted an application to amend the approved plan for Section 14. Included with the application was a plat showing a proposed lot encompassing an existing sewer lift station, hereinafter referred to as the "sewer lot," located in open space of Section 14 with a proposed 30-foot right-of-way leading to the sewer lot, a copy of such plat being attached hereto as Exhibit A. The sewer lot is to be deeded to the City of Hendersonville and will therefore remove 0.037 acres from the previously recorded open space.

5. Amendment A-3 of Special Use Permit #SP-93-13 requires that the Planning Board review amendments affecting open space.
6. Subject to the following items, the application for proposed amendments to Section 14 complies with the conditions of SP-93-13 (and as amended), the Henderson County Zoning Ordinance, the Henderson County Water Supply Watershed Protection Ordinance and the original order for Section 14.
 - a. 30-foot right-of-way – The Applicant proposes a 30-foot right-of-way to access the sewer lift station lot. The dedication of a right-of-way can provide use by more than the utility vehicles to service the lift station and it touches at least one lot in Section 14. Unless the Applicant designates the right-of-way as a utility easement, the right-of-way would have to be built to “neighborhood drive” road standards. As defined in #SP-93-13 a “neighborhood drive” is “a paved access typically serving by direct access, townhouse, condominiums or apartments...with 3 foot shoulders, such road having a 30 foot access easement (including utility use) and having 18 feet (width) of pavement (I-2 Asphalt), 1 ½ inches in thickness on a 6 inch ABC Stone base and not exceeding 18 percent grade.” If the right-of-way is not designated as a utility easement, on a revised site plan a cross-section of a “neighborhood drive” would have to be shown. The Applicant has indicated that it does not intend for the right-of-way to be a “neighborhood drive.” It would, therefore, be appropriate for the proposed 30-foot right-of-way to be labeled as a utility easement with a note that it cannot be used as access to any residential lot in the development.
 - b. If the amendment is approved, the Applicant would need to record a new plat showing the changes in the open space. Such plat must meet the requirements of the Subdivision Ordinance for Non-Standard subdivisions.
 - c. Open Space – Unless the Applicant can provide evidence that the 0.037-acres of open space lost from Section 14 is represented in recorded open space, the 0.037-acres of land should be dedicated as open space somewhere else in Carriage Park to meet the SP-93-13 (and as amended) requirements. The additional open space will need to be put on record prior to or concurrent with the recordation of the sewer lift station lot in Section 14.
7. The Homeowners Association and/or others may have rights in and to the Open Space dedicated in Section 14 at Slide 2227 of the Henderson County Registry of Deeds.

CONCLUSIONS

1. The Planning Board has jurisdiction to hear and consider the Applicant’s request for amendments to development parcel plans, including those in Section 14, Carriage Forest.
2. The quasi-judicial proceeding held by the Planning Board on this matter was properly noticed and no objection to the proceedings of the hearing on January 20, 2004, was made.

3. Base on the foregoing FINDINGS OF FACT, the Planning Board concludes that subject to the conditions listed hereinbelow, the application for the amendments to Carriage Park, Section 14, Carriage Forest, as proposed by the Applicant and as shown on the attached Exhibit A meets the requirements of the SP-93-13 (and as amended), the Henderson County Zoning Ordinance, the Henderson County Water Supply Watershed Ordinance, and the original order for Section 14.

NOW, THEREFORE, based on the foregoing FINDINGS OF FACT and CONCLUSIONS, the Henderson County Planning Board, by unanimous vote, hereby orders that the application to amend the approved plan for Carriage Park, Section 14, Carriage Forest, submitted by Carriage Park Associates, LLC, be granted, subject to the following conditions:

1. The 30-foot right-of-way noted on Exhibit A should be labeled as a 30-foot utility easement on the plat to be recorded and a note should be placed on such plat stating that the utility easement cannot be used as access to any residential lot in the Planned Unit Development.
2. The Applicant must record a new plat showing the changes in the open space. Such plat must meet the requirements of the Subdivision Ordinance for Non-Standard subdivisions.
3. Unless the Applicant can provide evidence that the 0.037 acres of open space lost from Section 14 is represented in recorded open space, the 0.037 acres of land should be dedicated as open space somewhere else in Carriage Park to meet requirements. The additional open space will need to be put on record prior to or concurrent with the recordation of the plat for the sewer lift station lot in Section 14.
4. The Planning Board approves the proposed amendments without prejudice to the rights of the Carriage Park Homeowners Association or others in and to the open space dedicated in Section 14, Slide 2227 of the Henderson County Registry of Deeds.

Ordered the 20th day of January, 2004, and signed the ___ day of _____, 2004

The Henderson County Planning Board

By: _____
Tedd Pearce, Chairman

Attest:

Kathleen R. Scanlan, Secretary

ACCEPTANCE BY THE APPLICANT

I, Dale A. Hamlin, Applicant, do hereby acknowledge receipt of this Order on behalf of Carriage Park Associates, LLC, owner of the property, which is the subject of this Order Granting Approval of Amendments to the Development Parcel for Carriage Park Planned Unit Development, Section 14, Carriage Forest, under Special Use Permit SP-93-13 (as amended). I further acknowledge on behalf of Carriage Park Associates, LLC, that nothing may be done pursuant to this Order except in accordance with all of its conditions and requirements and that this restriction shall be binding on Carriage Park Associates, LLC, and its successors in interest.

This the ____ day of _____, 200__

Dale A. Hamlin, General Manager
Carriage Park Associates, LLC

STATE OF _____
COUNTY OF _____

I, _____, Notary Public for said State and County certify that Dale A. Hamlin personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 200__.

Notary Public

[NOTARIAL SEAL]

My Commission Expires: _____

ACCEPTANCE BY PROPERTY OWNER

I, _____, _____ of Carriage Park Associates, LLC, do hereby acknowledge receipt of this order by Carriage Park Associates, LLC, owner of the property which is the subject of this Order Granting Approval of Amendments to the Development Parcel for Carriage Park Planned Unit Development, Section 14, Carriage Forest, under Special Use Permit SP-93-13 (as amended). Carriage Park Associates, LLC, further acknowledges and agrees that nothing may be done pursuant to this Order except in accordance with all of its conditions and requirements and that this restriction shall be binding on Carriage Park Associates, LLC, and its successors in interest.

This the ____ day of _____, 200_

(Signature)
_____, Manager
(Name) (Title)
Carriage Park Associates, LLC

STATE OF _____
COUNTY OF _____

I, _____, Notary Public for said State and County certify that _____, the Manager of Carriage Park Associates, LLC, a limited liability company, personally came before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

THIS the ____ day of _____, 200_.

Notary Public

[NOTARIAL SEAL]

My Commission Expires: _____

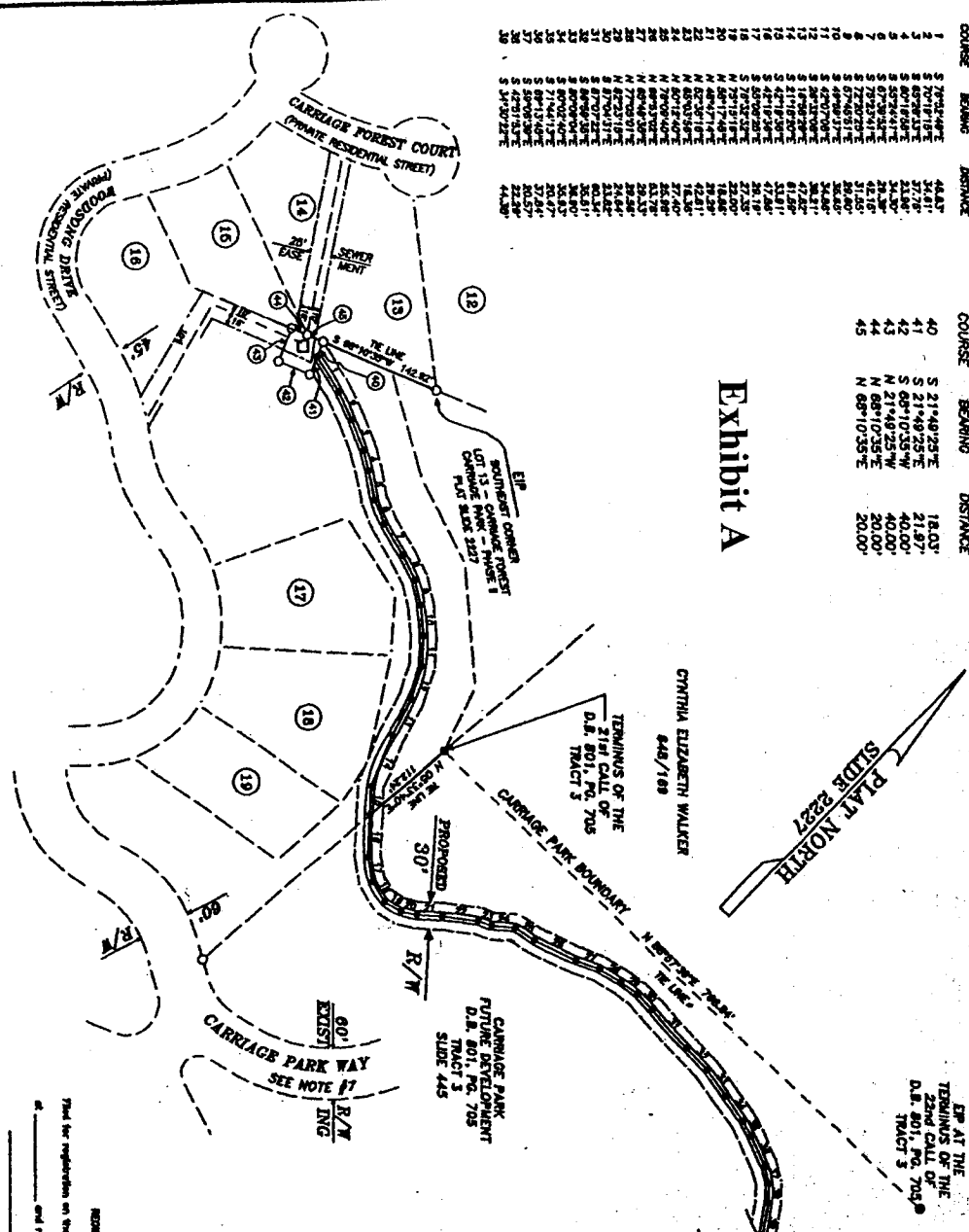
TABLE OF NUMBERED CALLS ALONG CENTRELINE OF PROPOSED 30" R/W

COURSE	BEARING	DISTANCE
1	S 70°11'18"E	44.87
2	S 69°28'13"E	34.61
3	S 60°18'04"E	37.72
4	S 67°54'14"E	33.86
5	S 72°32'11"E	28.28
6	S 72°20'29"E	42.18
7	S 72°20'29"E	31.00
8	S 42°07'08"E	34.88
9	S 32°21'06"E	42.11
10	S 21°48'25"E	18.03
11	S 21°48'25"E	21.97
12	S 68°10'35"W	40.00
13	N 21°48'25"W	40.00
14	N 68°10'35"E	20.00
15	N 68°10'35"E	20.00
16	N 68°10'35"E	20.00
17	N 68°10'35"E	20.00
18	N 68°10'35"E	20.00
19	N 68°10'35"E	20.00
20	N 68°10'35"E	20.00
21	N 68°10'35"E	20.00
22	N 68°10'35"E	20.00
23	N 68°10'35"E	20.00
24	N 68°10'35"E	20.00
25	N 68°10'35"E	20.00
26	N 68°10'35"E	20.00
27	N 68°10'35"E	20.00
28	N 68°10'35"E	20.00
29	N 68°10'35"E	20.00
30	N 68°10'35"E	20.00
31	N 68°10'35"E	20.00
32	N 68°10'35"E	20.00
33	N 68°10'35"E	20.00
34	N 68°10'35"E	20.00
35	N 68°10'35"E	20.00
36	N 68°10'35"E	20.00
37	N 68°10'35"E	20.00
38	N 68°10'35"E	20.00
39	N 68°10'35"E	20.00
40	N 68°10'35"E	20.00
41	N 68°10'35"E	20.00
42	N 68°10'35"E	20.00
43	N 68°10'35"E	20.00
44	N 68°10'35"E	20.00
45	N 68°10'35"E	20.00

TABLE OF NUMBERED CALLS AROUND LIFT STATION LOT

COURSE	BEARING	DISTANCE
40	S 21°48'25"E	18.03
41	S 21°48'25"E	21.97
42	S 68°10'35"W	40.00
43	N 21°48'25"W	40.00
44	N 68°10'35"E	20.00
45	N 68°10'35"E	20.00

Exhibit A



PLAT OF SEWER LIFT STATION LOT

CARRIAGE FOREST SECTION 14

CARRIAGE PARK - PHASE II

HENDERSONVILLE TOWNSHIP

HENDERSON COUNTY

NORTH CAROLINA

MAY 20th, 2003
SCALE 1" = 100'

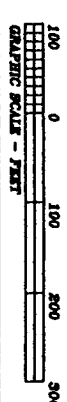
State of North Carolina
County of _____
Notary Public for _____ County,
do hereby certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.
Date: _____
Notary Public: _____

I, a PROFESSIONAL LAND SURVEYOR, certify that this plat was drawn under my supervision from (Good description provided to State Surveyor, Page _____) that the boundaries not surveyed are clearly indicated from the information found in Book _____ Page _____ that the rules of precision as established by G.S. 47-30 are observed, witness my original signature, registration this _____ day of _____, A.D. 20 ____.

PROFESSIONAL LAND SURVEYOR

REVISIONS OF DEEDS
That for registration on the _____ day of _____ at _____ and recorded on this _____

REVISIONS OF DEEDS



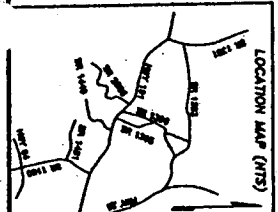
SURVEYED BY
STEVEN LLOYD WAGGONER
NC PLS 2874

WAGGONER & REDDES
LAND SURVEYORS, INC.
130 JOEL WINGET DRIVE
HENDERSONVILLE NORTH CAROLINA 28762
PHONE: 828-933-1022

NOTES:
1) AREA DETERMINED BY COORDINATE COMPUTATION

- LEGEND
- EXISTING CORNER MONUMENT
 - AS NOTED PIPE SET OR
 - AS NOTED
 - COMPUTED POINT-NOT STAKED
 - CONCRETE MONUMENT
 - AS NOTED

SUBDIVISION ADMINISTRATION for
Henderson Co., certify that this plat has been reviewed and approved as
Henderson County Subdivision Ordinance.
Date: _____ Signed: _____



REFERENCES:
DEED, D.B. 801, P.G. 705
TRACT 3

PLAT SLIDE 2227

TAX ID REFERENCE:
00-8650-20-8544-95

SCRM FILE: 30614P52

CHECKED BY: SLW

REVISIONS:

DATE: MAY 20th, 2003

DRAWN BY: DKS

JOB NUMBER: 93-30614

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
PLANNING BOARD**

MEETING DATE: February 17, 2004

SUBJECT: US 25 North Area Study – Update and Discussion

ATTACHMENTS: None

SUMMARY OF REQUEST:

Mr. Michael Harvey, of CMR Services, Inc., (the consultant assisting with the study of the US 25 North area) will be present at the February 17, 2004 meeting to update the Board on the status of the project, review and discuss information related to the study and obtain feedback from the Planning Board.