

REQUEST FOR BOARD ACTION

HENDERSON COUNTY PLANNING BOARD

MEETING DATE: March 19, 2020

SUBJECT: Conditional Rezoning Application #R-2020-01-C Tap Root Farms

PRESENTER: Autumn Radcliff, Planning Director
Matt Champion, Project Development Planner

ATTACHMENTS: 1.) Staff Report
2.) Neighborhood Compatibility Report Summary
3.) Site/Master Plan
4.) List of Conditions
5.) PowerPoint Slides

SUMMARY OF REQUEST:

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

The applicant is proposing a residential development with a mix of single-family lots and townhomes that total 699 units. The development is required to be approved as a conditional rezoning due to the number of units. Conditional Districts allows for the Board of Commissioners to place conditions on the property to address community concerns and make the proposed development compatible with adjacent uses. As required by the LDC, a neighborhood compatibility meeting was held on Friday, February 21, 2020 in the King Street Meeting Room. A copy of the meeting report is included in the agenda item.

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

A copy of the conditions required by the Land Development Code, the TRC, and self-imposed by the applicant are attached to this agenda item.

BOARD ACTION REQUESTED:

The Planning Board has 45 days from its first consideration to provide a recommendation to the Board of Commissioners or the request is forward with a favorable recommendation unless otherwise agreed upon by the applicant. Staff requests the Planning Board make a recommendation to the Board of Commissioners to approve, approve with modification or deny the conditional rezoning application (#R-2020-01-C) to rezone the Subject Area to a Conditional District (CD-2020-01).

Suggested Motion:

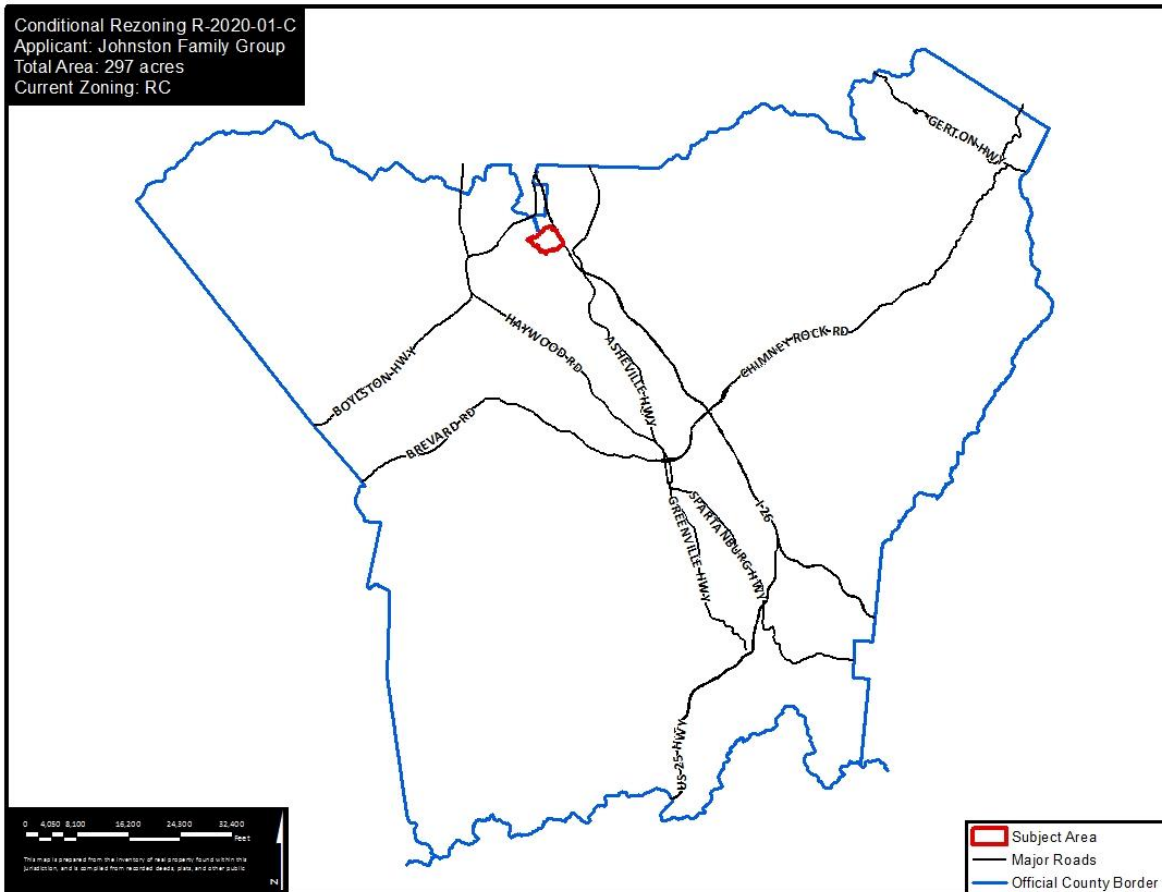
I move that the Planning Board recommend the Board of Commissioners (approve, approve with conditions or deny) conditional rezoning application #R-2020-01-C to rezone the Subject Area to a Conditional District (CD-2020-01) based on the recommendations of the Henderson County 2020 Comprehensive Plan.

Henderson County Planning Department Staff Report
Conditional Rezoning Application #R-2020-01-C (RC to CD)

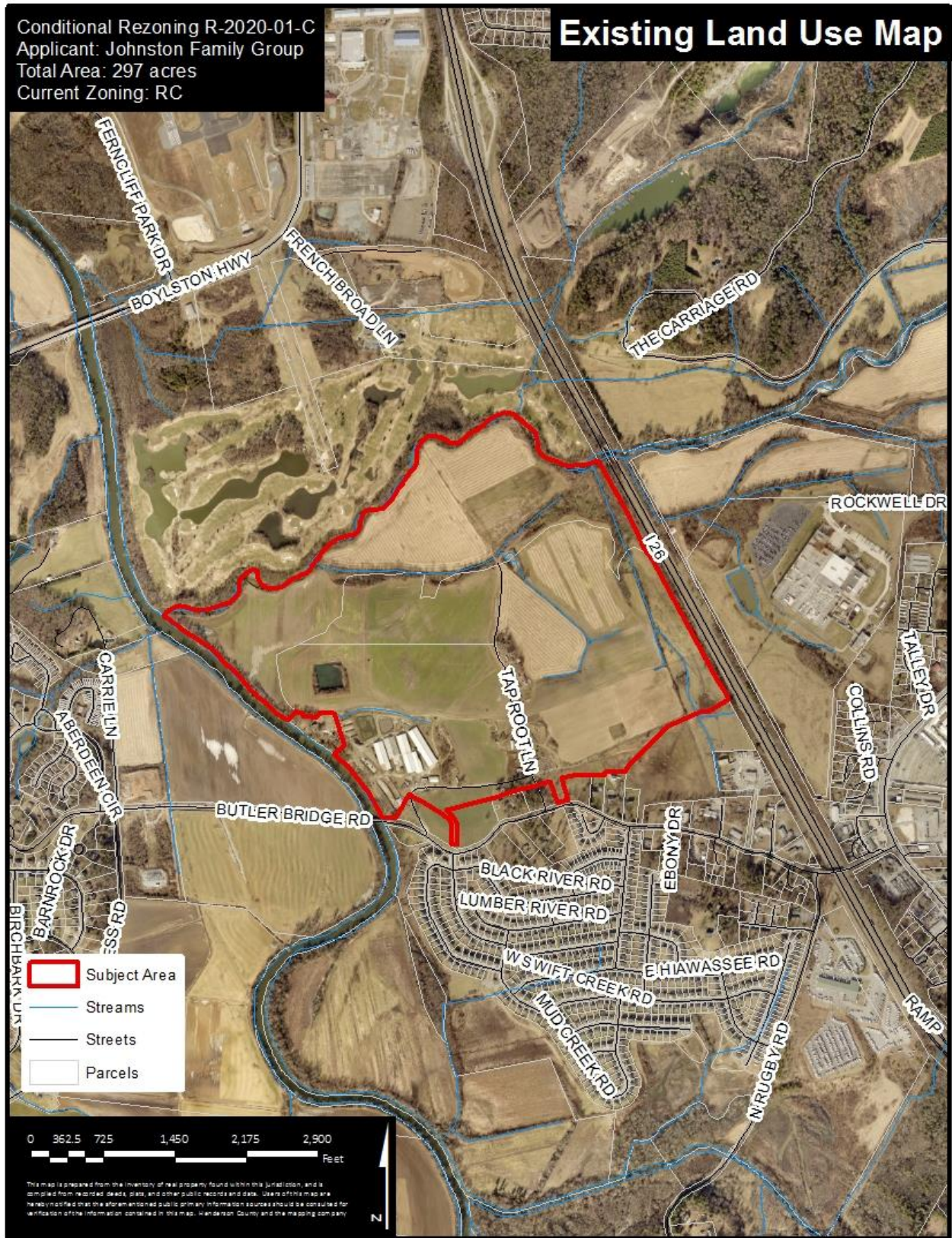
Applicant(s)/Owner(s)
Johnston Family Group (Bill Alexander, Agent)

- 1.1. **Applicant/Property Owner:** Johnston Family Group
- 1.2. **Agent:** Bill Alexander
- 1.3. **PINs:** 9652-03-1362, 9642-82-3681, & 9642-84-4544
- 1.4. **Request:** Conditionally rezone a portion of the above PIN's (hereafter the subject area) from a Regional Commercial (RC) zoning district to a Conditional District (CD-2020-01).
- 1.5. **Size:** Total parcel area is approximately 319.66 acres. Subject area is approximately 297 acres. There are 5 outparcel lots that total approximately 22.66 acres that are not included in the proposed rezoning request and are not part of the development.
- 1.6. **Location:** The subject area is located on Butler Bridge Road (SR 1345), adjacent to Interstate I-26, and just south of the Henderson County/Buncombe County line. The northern boundary of the site runs parallel to Cane Creek, while the French Broad River runs adjacent to the western boundary of the site.

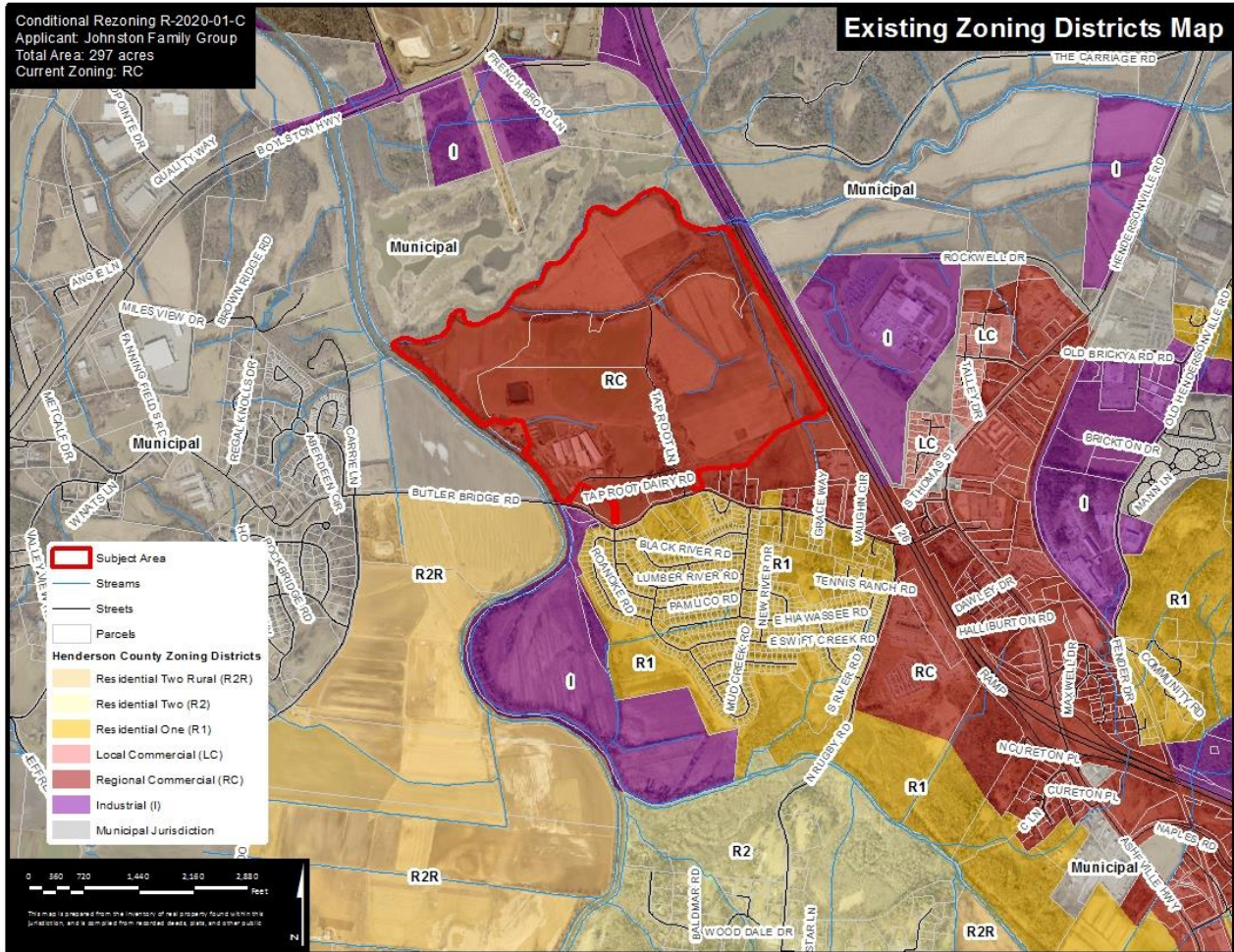
Map A: County Context



Map B: Aerial



Map C: Current Zoning



2. Current Zoning

2.1. Application of Current Zoning: The subject area is currently zoned Regional Commercial (RC). (See Map C). The subject area was first zoned Open Use (OU) in 2001. On March 3, 2003, the subject area was rezoned from an OU district to a General Industrial (I-2) zoning district. On 2005, the subject area was rezoned from an I-2 district to a Highway Commercial (C-4) zoning district. When the LDC was adopted in September of 2007, property previously zoned C-4 was changed to the current Regional Commercial (RC) zoning district.

2.2. Adjacent Zoning: The subject area is adjacent to a variety of zoning districts including municipal zoning districts.

County Zoning: The subject area is adjacent to Regional Commercial (RC), Residential One (R1) and a small portion of Industrial (I) zoning to the south. An Industrial (I) zoning district is also directly adjacent to the east of the subject area.

Town of Fletcher: The Town of Fletcher is adjacent to the north and east of the subject area. The Town of Fletcher’s zoning designation is General Commercial (C-1) and Interstate Commercial (C-2).

Town of Mills River: The property across the French Broad River and adjacent to the subject area, are part of the Town of Mills River’s municipal district. These properties are zoned MR - Light Industrial (MR-LI).

2.3. District Comparison:

2.3.1. Regional Commercial (RC): “The purpose of the Regional Commercial (RC) zoning district is to foster orderly growth where the principal use of land is commercial. The intent of this district is to allow for commercial development consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide commercial development that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other uses done primarily for sale or profit on the local, community, and regional level; (2) is directed largely to Community Service Centers as defined in the Comprehensive Plan; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general use district is meant to be utilized in areas designated as Urban (USA) in the Comprehensive Plan.” Residential density in Regional Commercial is sixteen (16) units per acre with a maximum impervious surface allowance of 80% (LDC §42-28).

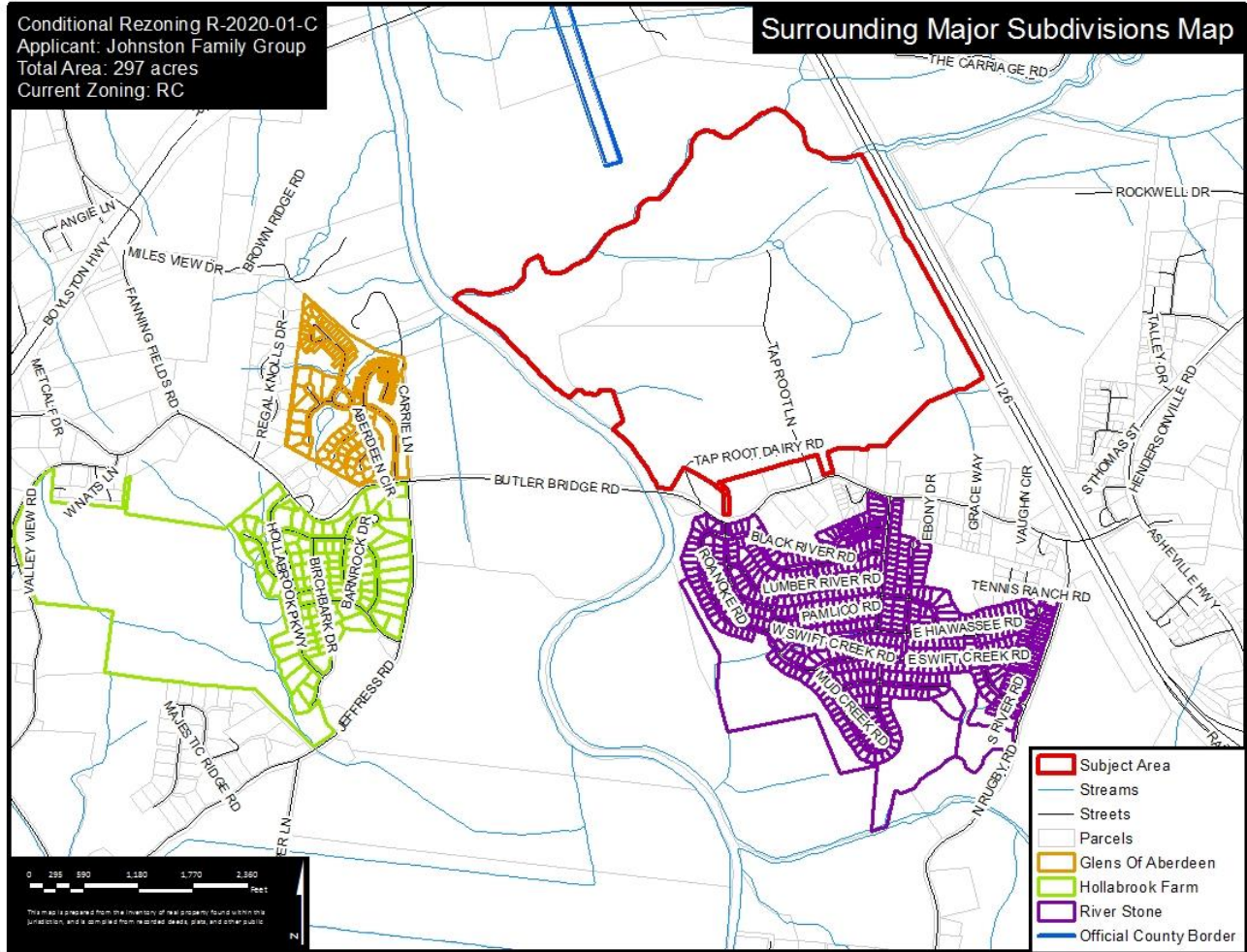
2.3.1. Conditional District (CD): “Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the Comprehensive Plan, proposes to impose special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

3. Current Uses of Subject Area and Adjacent Properties

- 3.1. **Subject Area Uses:** The subject area is primarily used for agriculture with a limited number of residential structures located on the three parcels making up the subject area.
- 3.2. **Adjacent Area Uses:** The surrounding properties include a variety of uses. To the west, adjacent uses are primarily considered agricultural with one residential property between the subject area and the French Broad River. On the northern boundary of the subject area is a 171-acre parcel, which is utilized as a golf course. To the east of the subject area are agricultural uses as well as an 86-acre tract that is occupied by an industrial manufacturing facility. Parcels to the east of the subject area are separated by Interstate 26 (I-26). South of the subject area, along Butler Bridge Road, are a mixture of commercial, industrial, and residential properties. Included in the residential properties along Butler Bridge road is the River Stone subdivision which contains approximately 549 single-family homes.
- 3.3. **Asheville Regional Airport:** The Asheville Regional Airport property is located within 600 feet to the north of the subject area. According to the airport’s Executive Director, the developer is required to make an application to the Federal Aviation Administration (FAA) to determine if the development would have any impacts on the operations at the

airport. A copy of this report showing no impact to airspace has been received. The airport has expressed concern with the noise of the aircraft on potential residents that could impact the operation of the airport and with the proximity to the runway and land use compatibility with aircraft traffic. The applicant has provided draft easement language and deed restrictions to mitigate legal challenges to the airport’s operations.

Map D: Surrounding Major Subdivisions Map



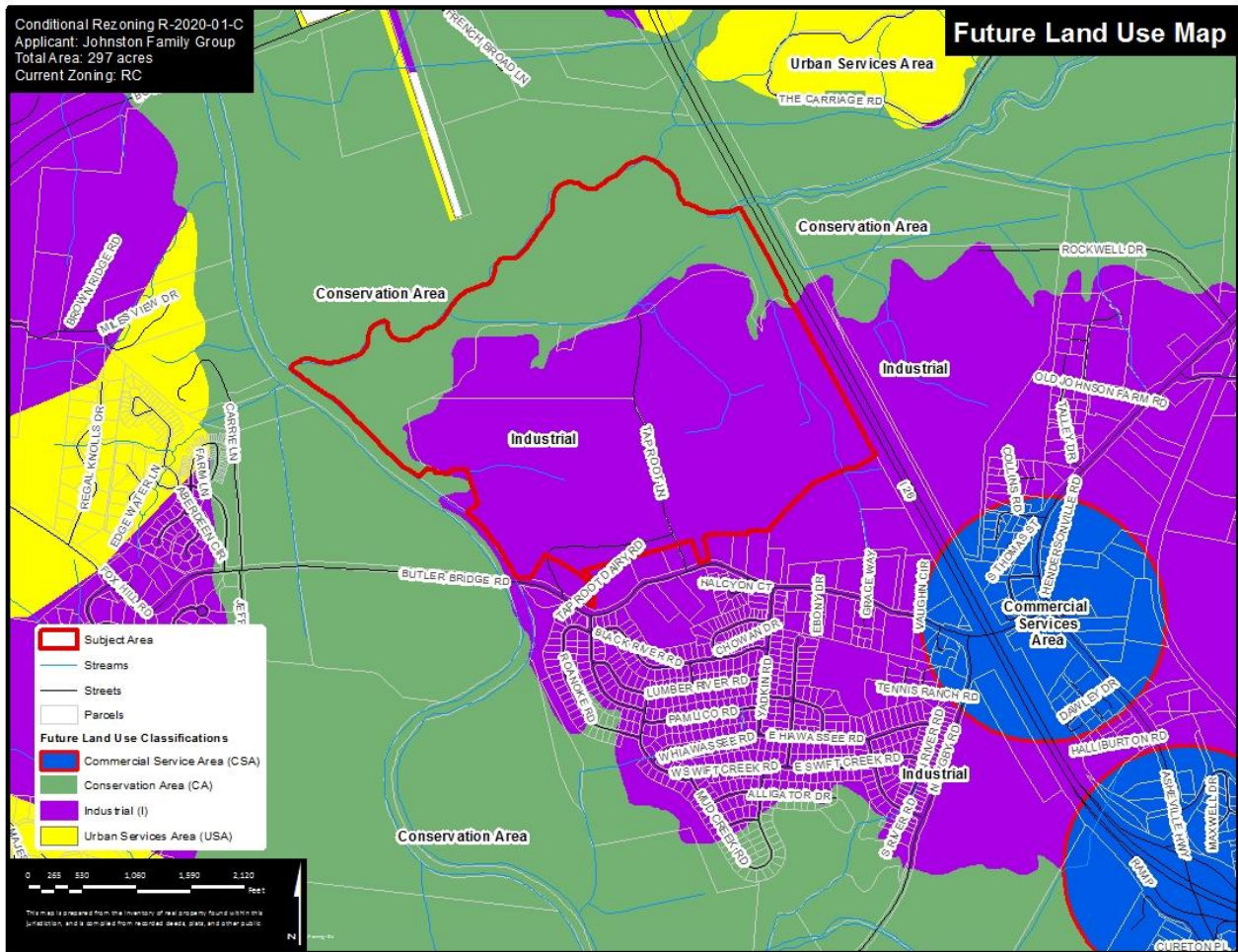
3.4. Comparison of Surrounding Subdivisions: Several subdivisions are near the proposed development including several smaller subdivisions located along N. Rugby Road. Some of these subdivisions located along Butler Bridge Road include Riverstone, Hollabrook Farms and the Glens of Aberdeen.

Riverstone: Riverstone was originally approved under a special use permit for a Planned Unit Development (PUD) in November of 2005 by the Henderson County Board of Commissioners. The master plan was amended several times and the current subdivision is approved for 549 lots. The zoning district on this property was R-10 and R-15 at the time of the special use permit approval. The current zoning under the LDC is R1.

Hollabrook Farms: The Hollabrook Farms property was zoned as an I-2 (General Industrial) zoning district in 2001. In 2005, the owners requested that the property (106.57 acres) be rezoned to an R-10 zoning district. Although the Town of Mills River incorporated in June of 2003, this property was still in the County’s jurisdiction at the time of the rezoning request. The existing subdivision was annexed into the Town and was approved under a special use permit for 237 lots. The plan was later amended, and the final phase was removed from the subdivision reducing the approved lots to 101. The undeveloped phase of this subdivision received approval under a special use permit by the Town of Mills River for an assisted living residence. Final plans have yet to be submitted.

Glenns of Aberdeen: The Glenns of Aberdeen (formerly Butler Lake) was developed under the County ordinance prior to the Town of Mills River incorporating. The subdivision was approved in July of 1999 for 109 lots on 43 acres for a mixture of single-family cottages and townhomes.

Map E: County Comprehensive Plan Future Land Use Map



4. The Henderson County Comprehensive Plan (CCP)

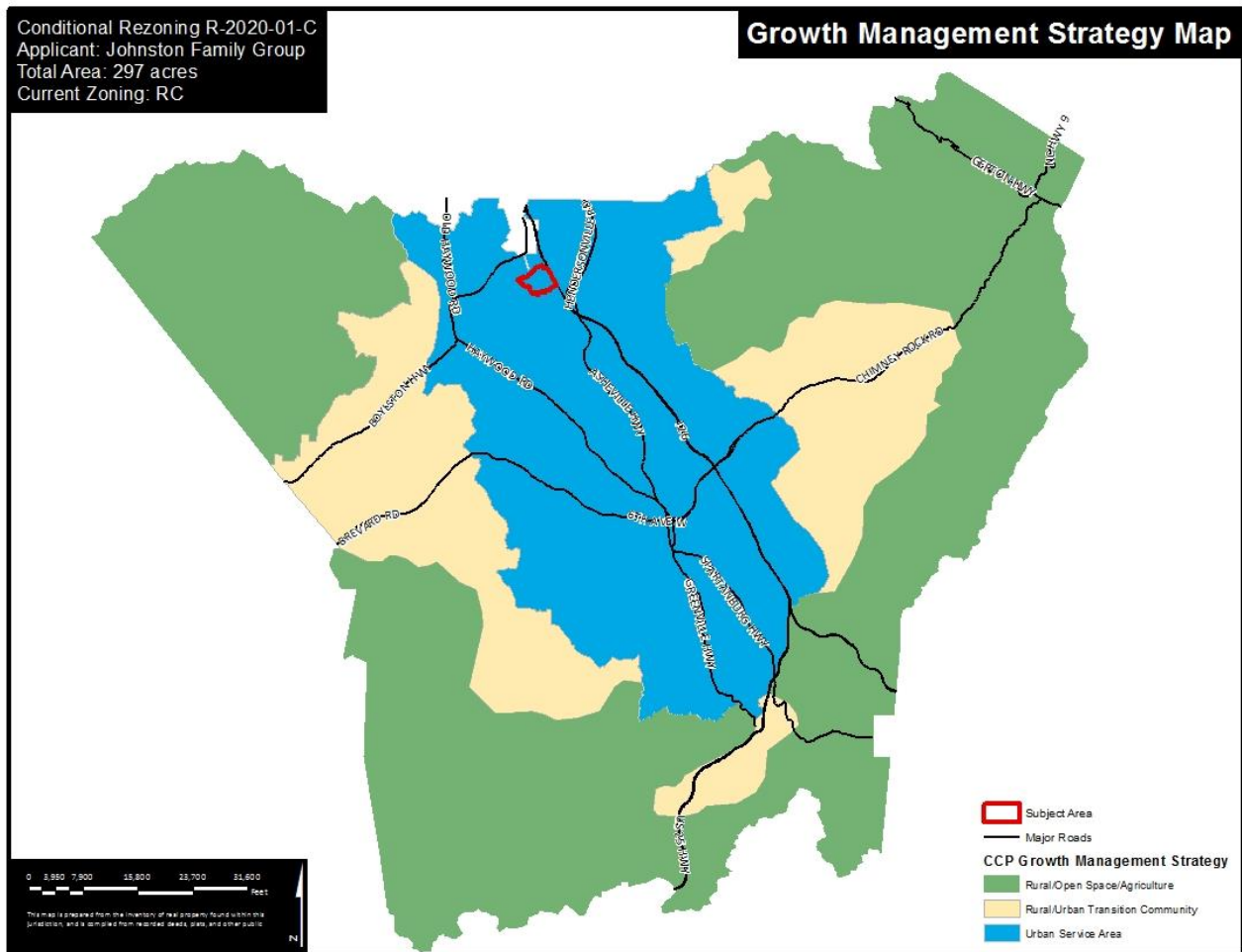
4.1. The CCP Future Land Use Map identifies the subject area as primarily being in an Industrial area with a large portion of the subject area along the French Board River

being in the Conservation area (CCP, Pgs. 128, 129 & Appendix 1, Map 24). (See Map E). The subject area is also located within the Urban Service Area.

4.1.1. **Industrial:** The CCP states that, “Most defined industrial areas should lie within the Urban Services Area, and in other areas on a very limited basis. Most industrial uses should be segregated from other uses except for Regional Commercial uses. Industrial areas depicted on Map #24, Future Land Use Map are derived from existing industrial zoning districts, as well as from those area depicted upon Map #8, “Committee of 100” Recommended Industrial Development Zones.” (CCP, Pg. 140).

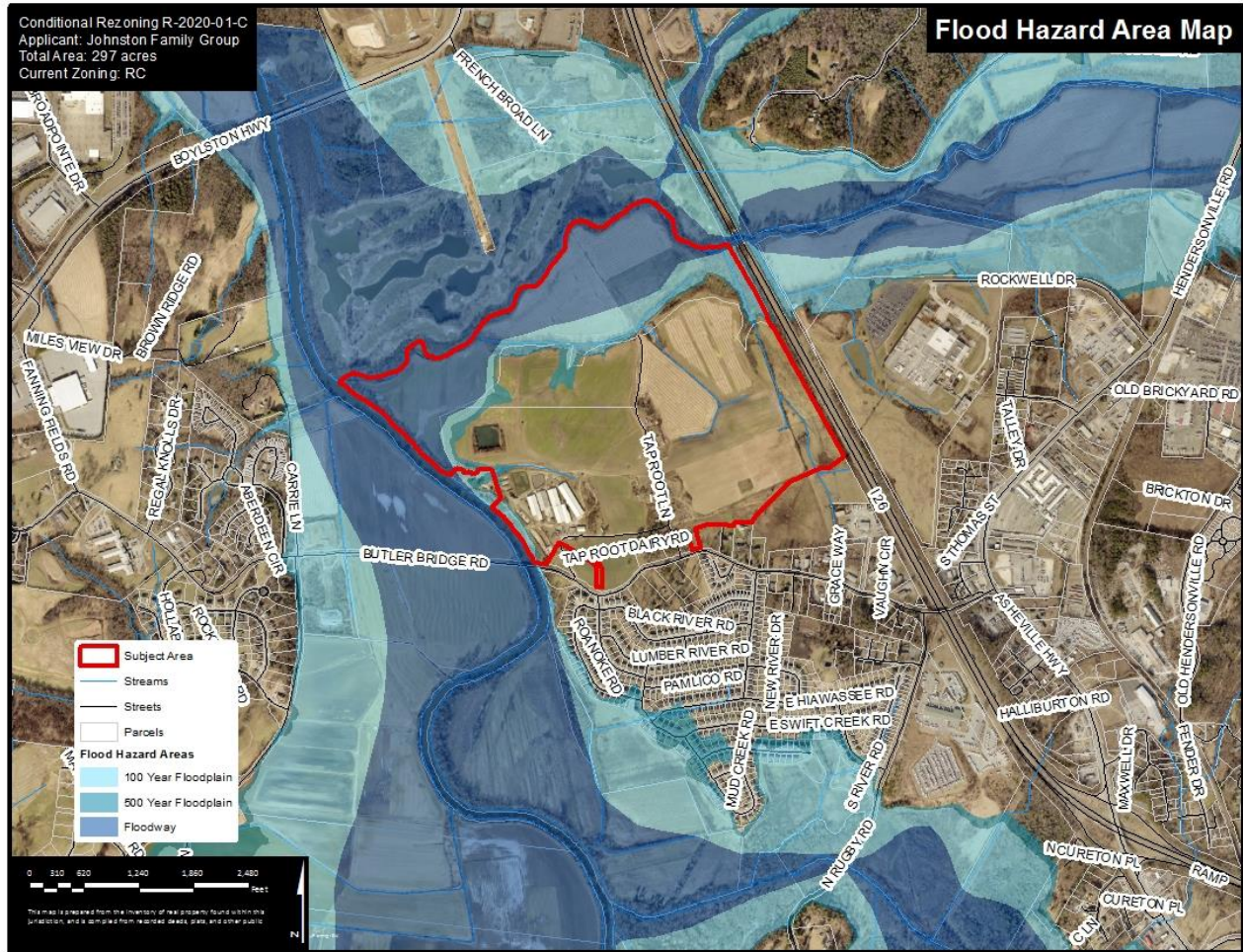
4.1.2. **Conservation:** This category includes land areas that are intended to remain largely in their natural state, with only limited development. Such areas should be targeted for protection through regulations and incentives. Conservation areas are lands that generally exhibit any of the following characteristics: 1. Sensitive natural areas such as steep slopes, floodplains, major wetlands, forest reserves and wildlife conservation areas, and key watersheds 2. Areas of historic and archeological significance 3. Local, state or federally-managed natural areas 4. Areas managed for agricultural or forestry land uses 5. Other areas yet to be defined.

Map F: Growth Management Strategy Map



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

Map G: Floodplain Map



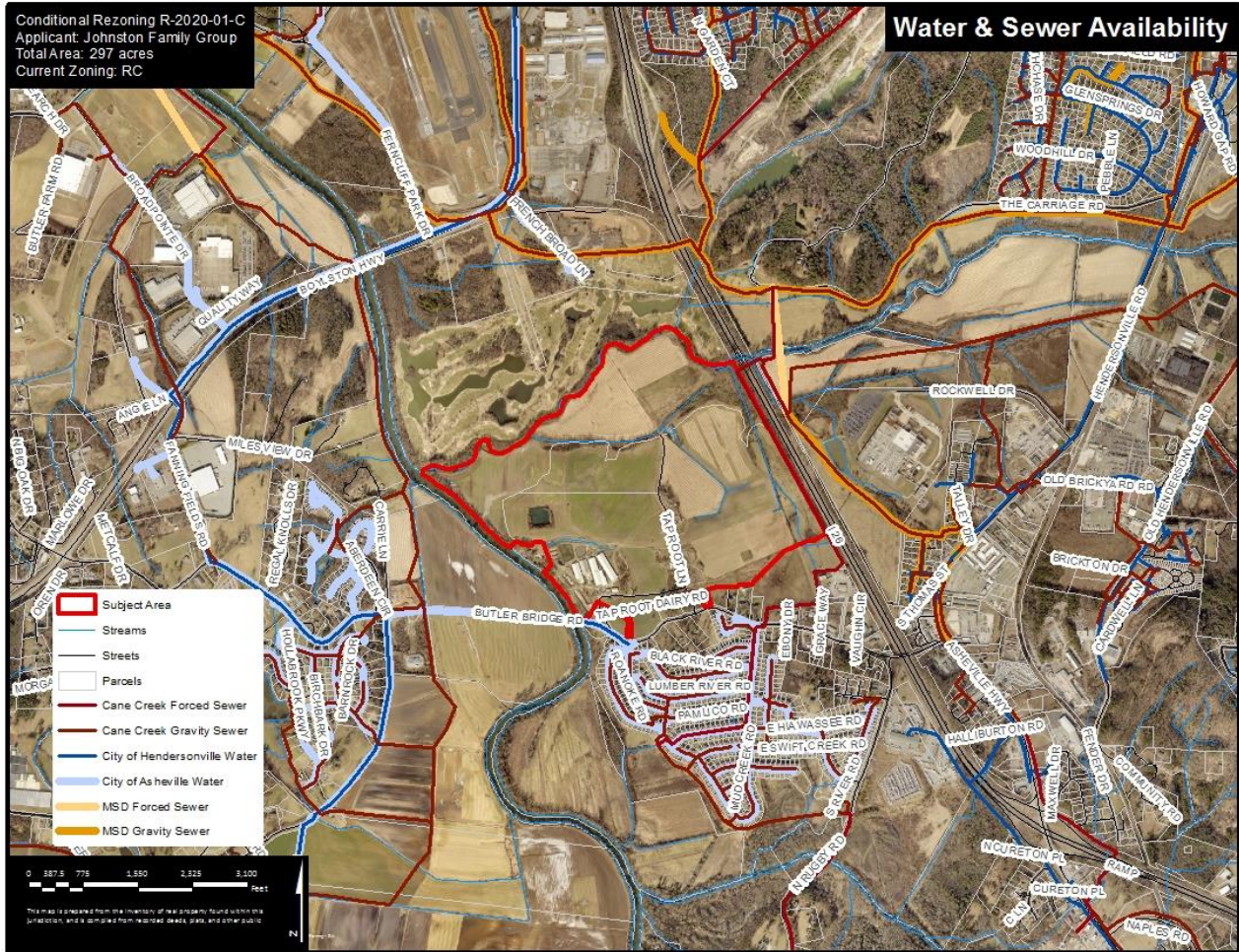
5. Floodplain

5.1. **Floodway:** Most of the identified flood prone area within the subject area is in the floodway or non-encroachment area (See Map G). The LDC does not allow structures in the floodway unless it is a functionally dependent facility, such as docks, new water or sewer lines, streambank restoration projects, recreational uses (excluding enclosed structures) and bridges.

5.2. **Floodplain:** The subject area contains both the 100-year and 500-year floodplains (See Map G). Structures are permitted in this area provided they are elevated, and up to 20% of this area may be filled by right.

5.3. **Density Calculation:** The Board of Commissioners approved an LDC Text Amendment during their November 20, 2019 meeting that changed how a developer calculates density. The developer can only use the acreage of the subject area outside of a floodway to calculate density. The density for the project prior to the LDC Text Amendment would calculate to 2.4 units per acre. A rough estimate shows approximately 68 acres of the subject area located in a floodway out of 94 total acres in a flood hazard area. The overall density of this project is calculated using the area outside of the floodway, which is approximately 229 acres. The proposed project has an overall density of 3.05 units per acre.

Map H: Water and Sewer Availability Map



6. **Water and Sewer**

- 6.1. **Public Water:** The applicant is proposing connection to public water via the City of Hendersonville to serve the development. The applicant must provide a capacity letter as a condition
- 6.2. **Public Sewer:** The applicant is proposing connection to public sewer via the Cane Creek Sewer District to serve development. Both Cane Creek and MSD have indicated capacity availability. The applicant must provide a capacity letter as a condition of approval.

7. Proposed Conditional District (CD-2020-01) Development

7.1. **Proposed Use:** The applicant is proposing to use the site for a major residential subdivision, that incorporates both single-family and townhome dwellings. Based on the number of units proposed and the types of dwellings proposed, the applicant is requesting a Conditional District to allow more flexibility in design, and as required by the LDC for any subdivision with more than 299 lots. Any development proposing 10 or more multifamily units also require a conditional rezoning. The Conditional District allows the Board of Commissioners to place conditions or restrictions on the property that binds this specific development and location. Below is an overview of the development.

- 699 (Project Total)
 - 427 Single-family
 - 227 Townhomes
- Proposed Density of 3.05 units per acre
- 4 Proposed Phases
- Proposed Road Length, 29,700 LF
- Minimum of 121 acres or 40.1% Open Space
- Common Area and Development Amenities

8. Neighborhood Compatibility Meeting

8.1. A neighborhood compatibility meeting was held on Friday, February 21, 2020 at 3:00 PM in the King Street Meeting Room. Invitations were sent to property owners within 400 feet of the subject area’s boundary. Approximately 22 people attended and heard about the proposed development and asked questions of the applicant.

8.2. A report of this meeting was forwarded to the Planning Board and Board of Commissioners.

9. Traffic Impact Analysis (TIA)

9.1. The Traffic Impact Analysis (TIA) as required by NCDOT is underway. The NCDOT required a Traffic Impact Analysis (TIA) due to the State’s threshold for traffic generation by the proposed use. The applicant completed a preliminary scoping meeting with NCDOT to determine the intersections to be studied (8 intersections total), the peak hours for traffic counts, and any other potential impacts of the development. A condition of approval will include any required road improvements identified in the TIA and as approved and required by NCDOT. A copy of the TIA will be provided for review after completion.

10. Staff Comments

10.1. **The CCP:** The CCP Future Land Use Map (See Map D) places the Subject Area in Industrial and Conservation area classifications.

10.2. **Comparison of Districts:** The existing Regional Commercial (RC) zoning district allows for primarily commercial development and multifamily residential units (16 units per acre). The corresponding Conditional District (CD) applies to instances where certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land *uses* are of a nature or scale that may have significant

impacts on both the immediately surrounding area and the entire community, which cannot be predetermined or controlled by general district standards. There are also circumstances in which a general use district designation allowing such a *use* by right would not be appropriate for a particular property though the *use* could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted *Comprehensive Plan*, and adopted district. The review process established in this section provides for the accommodation of such *uses* by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the *use* with the use and enjoyment of neighboring properties.

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

10.3.1. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to §42-50 (Alterations to Approval). Changes to the site plan layout shall not increase the number of structures. (LDC §42-49)

11. Technical Review Committee (TRC) Recommendations

11.1. The TRC discussed this application on Tuesday, March 3, 2020. Conditions discussed at the TRC meeting are shown on the List of Conditions.

12. Planning Board Recommendations

12.1. TBD March 19, 2020

13. Recommended Conditions from the LDC, TRC, and Planning Board

13.1. All conditions discussed are attached to the staff report.



Neighborhood Compatibility Meeting
Conditional Zoning Request #R-2020-01-C (Tap Root)
Friday, February 21, 2020 at 3:00 p.m.

Letters about the meeting were mailed to property owners within 400 feet of the boundary of the proposed development, and approximately 22 people attended the meeting. The following County staff and applicant(s) were in attendance:

<i>Name</i>	<i>Title/Organization</i>
Autumn Radcliff	Planning Director
John Mitchell	Business and Community Development Director
Matt Champion	Project Development Planner
Bill Alexander	Applicant Agent/Attorney
Warren Sugg	Civil Design Concepts

Mr. John Mitchell opened the meeting and provided a welcome and introductions. He stated that the purpose of the meeting is for nearby neighbors to learn about the proposed project and ask questions of the applicant prior to formal review by the Planning Board and Board of Commissioners (BOC).

Mr. Mitchell answered questions pertaining to the LDC and the 12-month denial period. He stated that the County Attorney had reviewed for acceptance and it has been 13 months since the previous application was submitted and that this is a new application and separate from the previous application.

Applicant's Agent Overview: Mr. Bill Alexander, applicant's agent and attorney for the owners. Mr. Alexander addressed the provision in the LDC. He stated that the Johnston Family is the applicant for this application and the project scope and acreage is different. The previous application was made by Mr. Ken Jackson for a much larger project scope with 1099 units. The Johnston Family is proposing much lower density. As today there is no contract in place to sell this property, but they are working with a developer on the sale of the property. The farm is no longer in production. This property is identified for high density development, has access to public utilities and location to road and schools. The Johnston Family has been working on a plan to get approval and sell to a developer. The project is proposing 699 homes to address the cost of extending utilities and staying affordable. If the family contracts to sell the property on this plan it has cost the family millions of dollars on revenues to make a project that if viable for the community. He stated that this is a different applicant and a different project.

Brief Description: Mr. Alexander stated that the property is 321 acres and they are reserving some small parcels on Butler Bridge Road including a 19-ac parcel on the south side. He stated that these areas are left out of the application and will remain RC. He said that the total project area is 296 ac that are included in the rezoning request and 121 ac are reserved as open space. The County approved a text amendment for density calculations in the fall which does not allow an applicant to calculate floodway area towards overall density allocation but does allow this area to count as open space. He said the average density is approximately 3.1 units per acer which is the exact same density of Riverstone.

Conditions Proposed by Applicant: Mr. Alexander stated that the owners are proposing conditions on the property per this approval which include no fill in the floodplain even though 20% is allowed by Henderson County. The project also meets the conservation subdivision status, but the applicant is not seeking a density bonus. He said there are many conditions proposed by applicant including: a greenway easement along the French Broad River and Cane Creek with limitations to recreational uses, handicap access by motor vehicles only, and prohibit property in floodway from any open water or wetland development due to proximity to airport. He said that these are all self-imposed conditions in the application and include many of the previous conditions discussed by the previous applicant's proposal and all of these will go to the BOC for review.

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

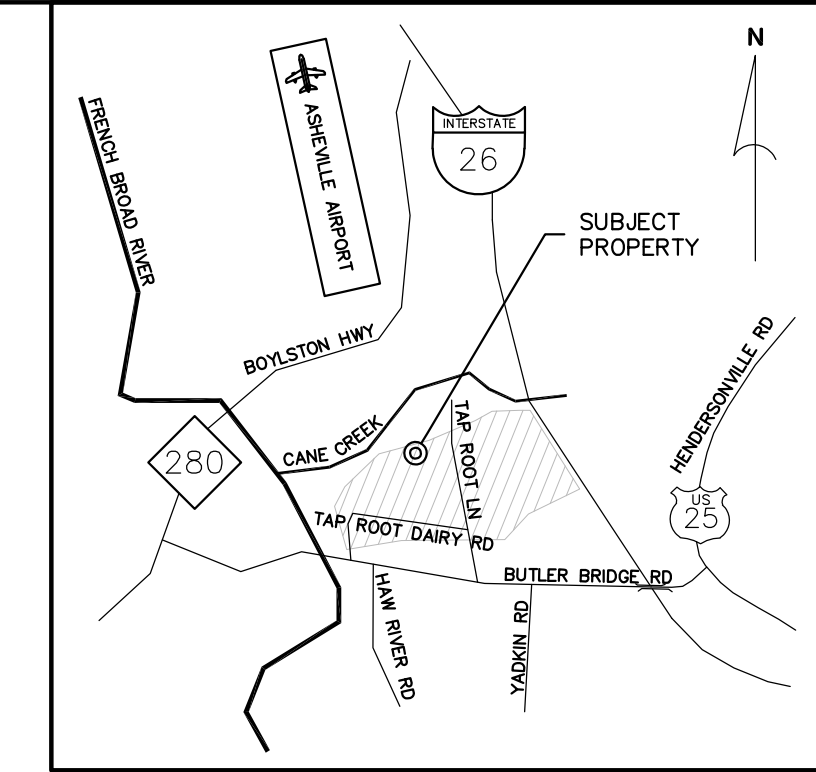
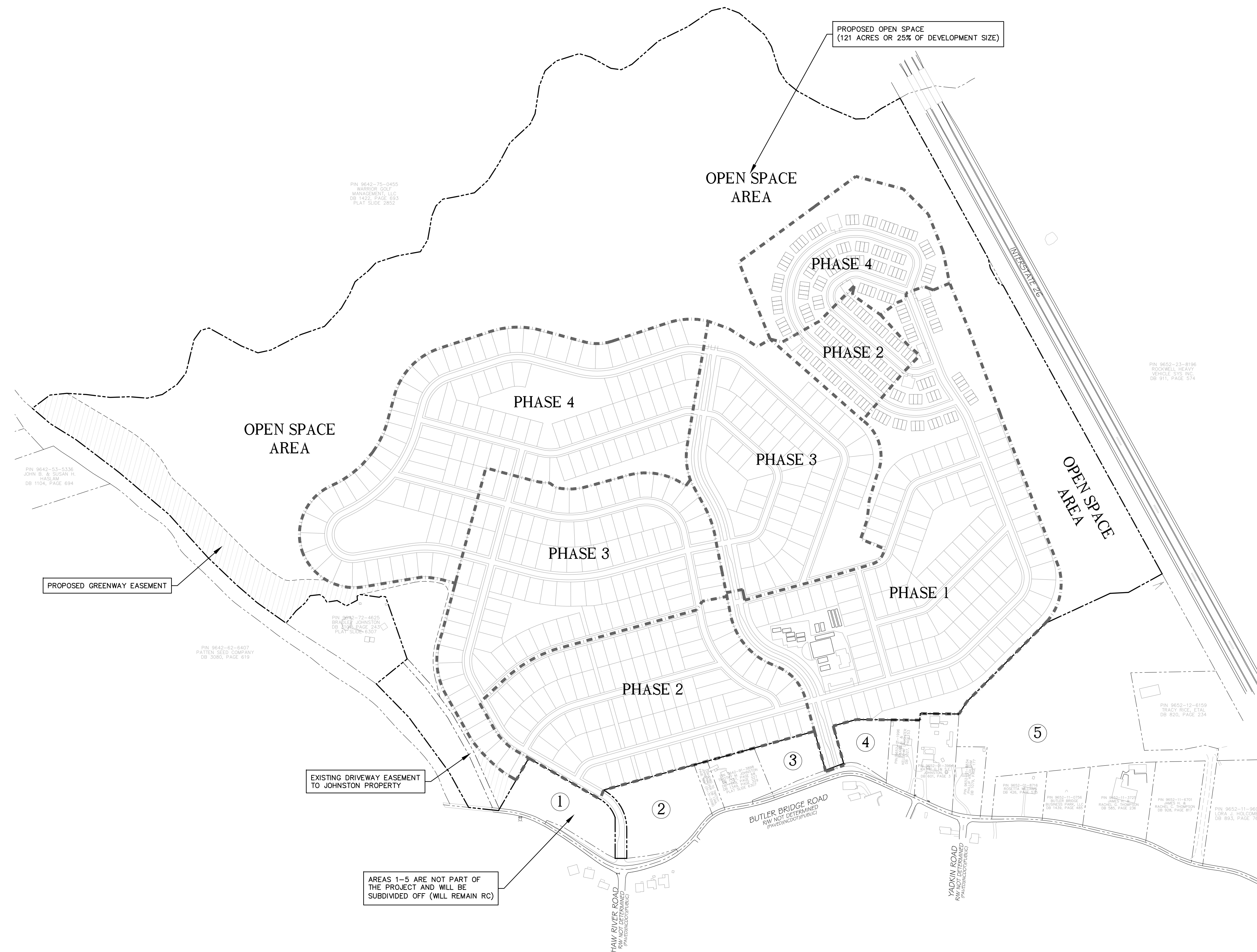
1. **Concern with the capacity of Glenn Marlow and the number of bus trips. Concern that the school cannot support this development.** Answer: Mr. Alexander stated that he is not on the school board but one of his clients is on the school board. We are sympathetic to the schools and every school in the County is facing this and the budget issues to keep up. That is not part of the planning process with this application. The school board will have to address this issue if the project is approved but there will be time to address. This development would provide affordable housing in the range of \$200-\$250k. Approximately 60% of County is retirees and school aged children may not be an issue in the development depending on the home buyers. The funds for school are through the tax rate and funds set aside by the school board.
2. **Who is the new developer and where are they located?** Answer: Mr. Alexander stated that he cannot disclose who the developer is until a contract is signed.
3. **Is there any plan to address the flooding on Butler Bridge Road?** Answer: That will be up to NCDOT to address this and the flooding is not due to this project and is not part of this project. That is already occurring.
4. **When you delete the unbuildable acreage in the floodway, how much buildable acreage is there.** Answer: We are at 3.1 units per acre after subtracting floodway.
5. **What will you do about the school capacity, you didn't answer that?** Answer: All kids have an equal right to education and that is not contingent on this project.
6. **What about the impact to the services?** Answer: Henderson County is growing. Promoting a development or growth in one area over another does not change the overall impact. This property has access to services already.
7. **The school is at capacity, what is the plan of the school board?** Answer: Mr. Mitchell stated that the Planning Board and BOC will have to discuss this issue.
8. **How is the acreage calculated with open space?** Answer: Floodplain can be counted for density calculation which is why the density is 3.1 units per acre. Both floodway and floodplain can be counted as open space.
9. **I feel that the conservation is one sided. How is Henderson County prepared to deal with the pressure put on Mills River? Can this be put on hold until Mills River completes their comprehensive plan?** Answer: Mr. Mitchell stated that the County has its comprehensive plan and this application is for the portion in Henderson County's jurisdiction.
10. **What about Mills River's jurisdiction?** Answer: This parcel is in the County and is not in Mills River's jurisdiction and the approval authority is with the Board of Commissioners.
11. **The greenway that is proposed, is that in the floodway? If approved, who is responsible to upkeep the area, is the County on the hook to maintain?** Answer:

When the greenway issue was raised with the previous applicant, unaware of the plan. My client felt that if the County wanted the land for the greenway as discussed with the previous applicant, they would offer to set it aside. It would be up to the County how that would be built, and the applicant is willing to work with the County, Fletcher, or a land conservancy to allow the construction of the greenway. The applicant is not proposing to build the greenway or maintain it.

12. **Will the greenway area be under the ownership of the County?** Answer: It would be an easement but up to the BOC if they wanted to be the owner.
13. **The owners have had an historic contribution to the County and positive response to the community concerns? Once sold who is responsible for putting this in?** Answer: It is the nature of a conditional rezoning and the BOC can apply conditions. The property is subject to those conditions and any future owner is also subject to those conditions. We included only the reasonable conditions that the Johnston Family is comfortable with. The property owners are proposing covenants and restrictions on the property for future owners. The County will be responsible for enforcing the conditions of approval.
14. **When will the sale of the property take place?** Answer: Not during the conditional zoning process.
15. **Should we be concerned about the outparcels and if those will have homes on it in the future?** Answer: Ms. Radcliff stated that those parcels are not included in the conditional zoning request and will be limited to the uses allowed in the current RC zoning which does not allow residential units. The subject area would have to go back through the conditional zoning process before any additional homes could be permitted.
16. **What is the parcel zoned now?** Answer: Ms. Radcliff stated that the property is zoned Regional Commercial (RC).
17. **Are there any projects in place for Butler Bridge Road?** Answer: Ms. Radcliff stated that the French Broad River MPO and NCDOT have planned improvements to Butler Bridge Road, but those have not been funded or designed.
18. **Is a TIA required?** Answer: Ms. Radcliff said that NCDOT required a TIA before and will require that the TIA be updated for this specific plan.
19. **You counted the floodplain for density?** Answer: Mr. Sugg stated that the floodplain acreage was used to calculate density, but the floodway was not which is why the density is 3.1 units per ac.
20. **Does the conservation subdivision not apply due to greenway easement?** Answer: Mr. Alexander stated that the project still meets the conservation subdivision standards regardless of the greenway easement.
21. **Is the TIA going to include the previous discussed intersections to be considered? Will it also consider the new distribution center in Mills River?** Answer: Mr. Sugg stated that the TIA will consider all the previous discussed intersections. It will not consider the distribution center as that is not part of this project and the traffic studies is only for the increase due to this development and not other projects.
22. **Has the family considered commercial development with the new proposed distribution center down the road? Has there been any recent marketing for commercial development?** Answer: Yes.
23. **Should it be a concern that someone on the Planning Board is a realtor and could benefit from this project?** Answer: Mr. Alexander stated that no Planning Board member is involved with this transaction. Mr. Mitchell stated that the Planning Board is made up of volunteers and they do not make the final decision, only a recommendation. You should state your concerns at the planning board meeting, but the BOC make the approval decision.

24. **Concerned with traffic on Butler Bridge Road. The road capacity is a concern especially with flooding.** Answer: Mr. Alexander stated this why NCDOT is responsible for the traffic study and road issues.
25. **Going back to comprehensive plan and Mills River. There a regional approach to the impact of this development? Can we not table the decision until after Mills River completes its comprehensive plan? There are too many homes and not enough infrastructure? Is it possible to table?** Answer: Mr. Mitchell stated what the regulatory options are moving forward. Mr. Champion stated that the TRC will meet on the technical standards on March 3rd. The Planning Board will meet on March 19th to make a recommendation and the BOC will set a public hearing at the earliest May. Mr. Mitchell stated that the BOC has the final approval. Mills River has no approval authority on this project.
26. **It came up last time about the flight path for the airport. Are there any studies on this?** Answer: Mr. Alexander stated there are not noise regulations that apply to the development. This property along with many other properties and developments are in the flight path. The regulations are for the setback from the end of the runway and the decent path requirements. Mr. Mike Resign stated that it depends on the specific aircraft and it various. Mr. Alexander stated we plan on requiring an avigation easement. We do not speak negatively of the airport but recognize several developments in both directions of the airport that are impacted. Mr. Lew Bleiweis stated that the airport sympathizes with the Johnston Family and their property desires but is still concerned on the location to the airport and the end of the runway being less than 4500 feet. He stated that it was a quality of life issues of the future residents in this development. The airport is supportive of commercial and industrial development, but it is not a good location for affordable housing. Mr. Alexander stated we understand the safety concern but feel that the airports objective is to possible future noise complaints from residence and that is being addressed.
27. **Who is responsible for answering our concerns about schools and adequate infrastructure?** Answer: Mr. Mitchell stated that this is the beginning of the process and the Planning Board and Board of Commissioners will discuss these issues. The Planning Board is an open meeting to the public and a public hearing will take place later.
28. **Can we see the new proposed plan?** Answer: Mr. Sugg put a site plan of the development and pointed out proposed areas of the project. Mr. Mitchell stated that a copy of the plan is on the county website under the TRC meetings and will be posted for each meeting throughout the process.
29. **What can be built on the property if approved? How many units are proposed?** Mr. Alexander stated that 699 units are proposed. Ms. Radcliff stated that only what is proposed on the site plan would be allowed.
30. **Is the same outparcels reserved from the last plan?** Answer: Yes

With no further comments or questions the meeting was concluded at 4:48 p.m.



VICINITY MAP
(NOT TO SCALE)

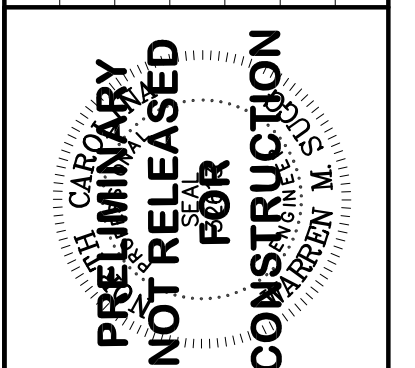
DEVELOPMENT DATA	
OWNER/DEVELOPER:	JOHNSTON FAMILY GROUP 735 BUTLER BRIDGE ROAD FLETCHER, NC 28732 WILLIAM ALEXANDER (828) 697-6022
CONTACT:	
CIVIL ENGINEER:	CIVIL DESIGN CONCEPTS, P.A. 168 PATTON AVENUE ASHEVILLE, NC 28801 WARREN SUGG, P.E. (828) 252-5388
CONTACT:	
SURVEYOR:	ED HOLMES AND ASSOCIATES, P.A. 300 RIDGEFIELD CT. #301 ASHEVILLE, NC 28806 MICHAEL EDGERTON, P.L.S. (828) 225-6562
CONTACT:	
PROJECT DATA	
PIN:	9652-03-1362; 9642-82-3681; 9642-84-4544
ADDRESS:	TAP ROOT LANE/BUTLER BRIDGE ROAD
DEED BOOK/PAGE:	1337/65, 1349/333, 985/070
SITE ACREAGE:	297 ACRES (68 ACRES FLOODWAY)
ZONING:	EXISTING: RC - REGIONAL COMMERCIAL PROPOSED: CZ - CONDITIONAL ZONING
COUNTY/TOWNSHIP:	HENDERSON/HOOPEERS CREEK
SETBACKS:	
FRONT:	15' (FROM LOCAL/COLLECTOR ROAD R/W)
SIDES:	20' (FROM THOROUGHFARE/FREEWAY R/W)
REAR:	10' (EXTERNAL) 10' (INTERNAL)
WATERSHED:	FRENCH BROAD RIVER BASIN
FIRE DISTRICT:	FLETCHER FIRE
WATER:	PUBLIC
SEWER:	PUBLIC
PROPOSED ROAD LENGTH:	LOCAL - 16,500 LF COLLECTOR - 10,700 LF THOROUGHFARE - 2,500 LF
UNITS	
PHASE 1:	109 SINGLE FAMILY 51 TOWNHOMES
PHASE 2:	92 SINGLE FAMILY 72 TOWNHOMES
PHASE 3:	160 SINGLE FAMILY
PHASE 4:	111 SINGLE FAMILY 104 TOWNHOMES
TOTAL UNITS:	472 SINGLE FAMILY 227 TOWNHOMES 699 TOTAL PROJECT UNITS
PROPOSED DENSITY:	3.05 UNITS/ACRE (699/229)

APPROVED BY: _____ DATE _____
VICE CHAIR OF HENDERSON COUNTY BOARD OF COMMISSIONERS

168 PATTON AVENUE
ASHEVILLE, NC 28801
PHONE (828) 252-5388
FAX (828) 252-5388



MAD	BY	NO.	DATE	DESCRIPTION
1			01/31/2020	TRC SUBMITTAL

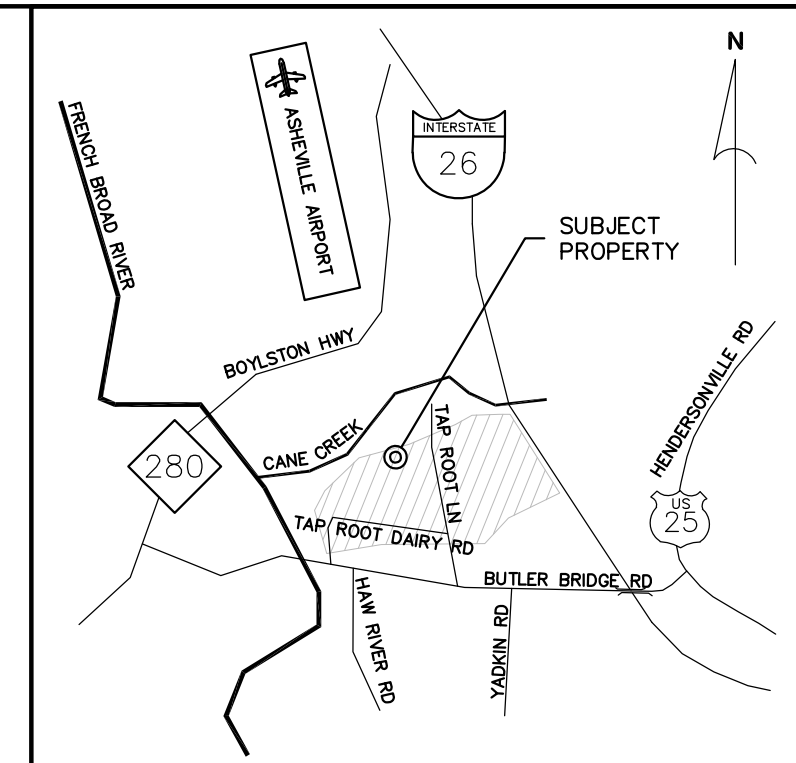
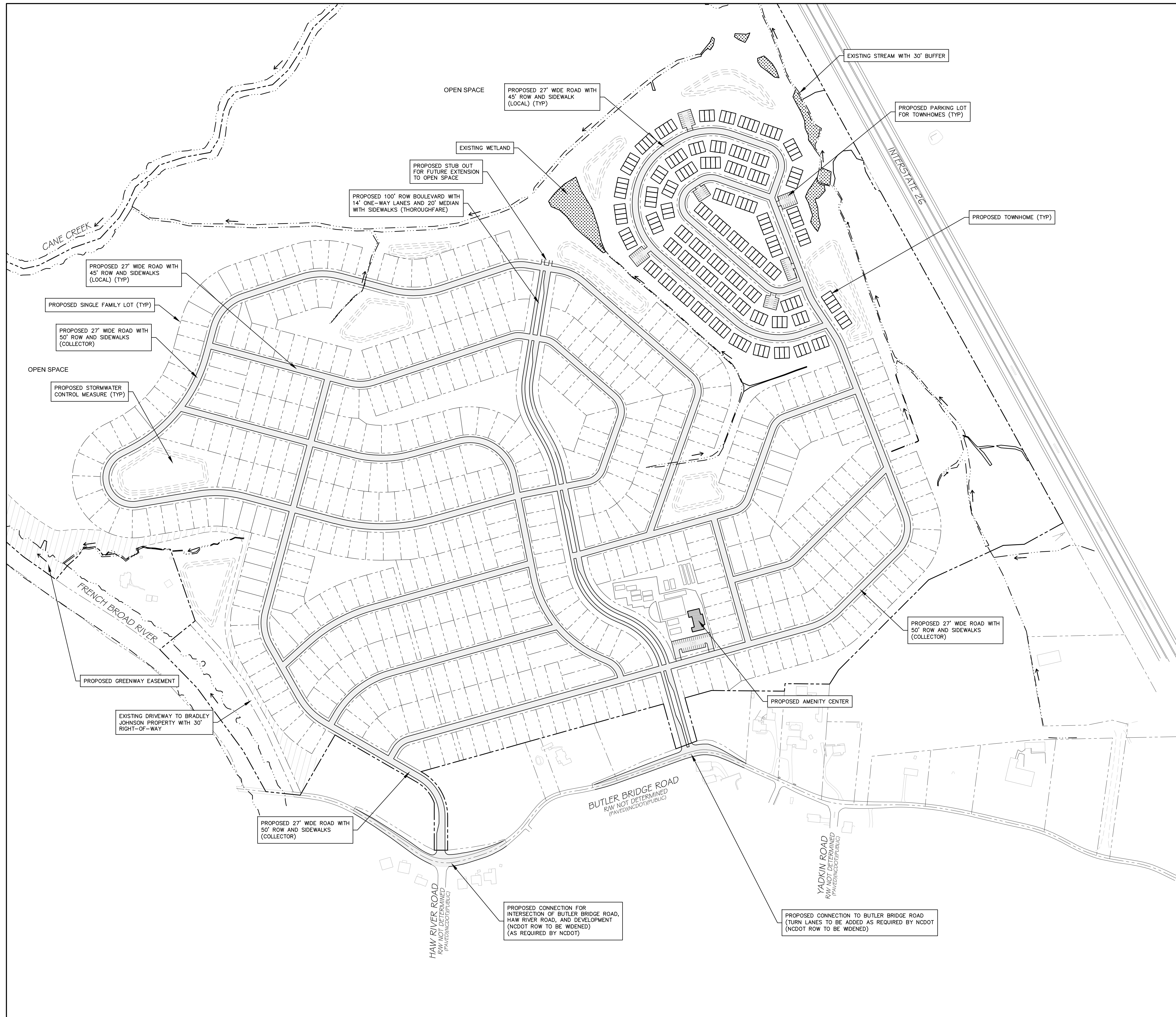


MASTER PHASE PLAN FOR:
TAP ROOT SUBDIVISION DEVELOPMENT
JOHNSTON FAMILY GROUP - HENDERSON COUNTY, NORTH CAROLINA

DRAWN BY: AMP
CDC PROJECT NO.: 11854
SHEET
C200

MASTER PHASE PLAN

GRAPHIC SCALE
0 150 300 600 1200
(IN FEET)
1 inch = 300 ft.



VICINITY MAP
(NOT TO SCALE)

DEVELOPMENT DATA	
OWNER/DEVELOPER:	JOHNSTON FAMILY GROUP 735 BUTLER BRIDGE ROAD FLETCHER, NC 28732 WILLIAM ALEXANDER (828) 697-6022
CONTACT:	
CIVIL ENGINEER:	CIVIL DESIGN CONCEPTS, P.A. 168 PATTON AVENUE ASHEVILLE, NC 28801 WARREN SUGG, P.E. (828) 252-5388
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CONTACT:	
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ADDRESS:	TAP ROOT LANE/BUTLER BRIDGE ROAD
DEED BOOK/PAGE:	1337/65, 1349/333, 985/070
SITE ACREAGE:	297 ACRES (68 ACRES FLOODWAY)
ZONING:	EXISTING: RC - REGIONAL COMMERCIAL PROPOSED: CZ - CONDITIONAL ZONING
COUNTY/TOWNSHIP:	HENDERSON/HOOPEERS CREEK
SETBACKS:	FRONT: 15' (FROM LOCAL/COLLECTOR ROAD R/W) 20' (FROM THOROUGHFARE/FREEWAY R/W) SIDES: 10' (EXTERNAL) 10' (INTERNAL) REAR: 10'
WATERSHED:	FRENCH BROAD RIVER BASIN
FIRE DISTRICT:	FLETCHER FIRE
WATER:	PUBLIC
SEWER:	PUBLIC
PROPOSED ROAD LENGTH:	LOCAL - 16,500 LF COLLECTOR - 10,700 LF THOROUGHFARE - 2,500 LF
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PROPOSED DENSITY:	3.05 UNITS/ACRE (699/229)

APPROVED BY: _____ DATE _____
VICE CHAIR OF HENDERSON COUNTY BOARD OF COMMISSIONERS

811
Know what's below.
Call before you dig.

NORTH

MASTER SITE PLAN

GRAPHIC SCALE
0 100 200 400 600
(IN FEET)
1 inch = 200 ft.

168 PATTON AVENUE
ASHEVILLE, NC 28801
PHONE (828) 252-5388
FAX (828) 252-5388

52 WALNUT STREET - SUITE 9
WAYNESVILLE, NC 28786
PHONE (828) 252-5400
FAX (828) 452-5455

CDC Civil Design Concepts, PA
www.civildesignconcepts.com

NCBELS LICENSE # C-2184

MAD	BY	NO.	DATE	DESCRIPTION
1			01/31/2020	TRC SUBMITTAL

PRELIMINARY
NOT RELEASED
FOR
CONSTRUCTION
APRIL 5, 2020
WARREN SUGG, P.E.

MASTER SITE PLAN

TAP ROOT SUBDIVISION
DEVELOPMENT

JOHNSTON FAMILY GROUP - HENDERSON COUNTY, NORTH CAROLINA

DRAWN BY: CDC PROJECT NO.: AMP 11854

SHEET
C201

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

Conditions per Applicants/Property Owners:

GENERAL CHARACTERISTICS and PROPOSED CONDITIONS

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

1. The Subject Property consists of 297 acres located on Butler Bridge Road in Henderson County (PINs: 9652-03-1362, 9642-82-3681, 9642-84-4544). The Subject Property currently consists of three tracts, shown as Tract 1, 2 and 3 on Exhibit A hereto. Those tracts for purposes of consideration of this application will be recombined into one tract, the perimeter of which is illustrated on the site plan.
2. The subject property is rezoned from RC to CD
3. Size and Scope of project (numbers are approximate, subject to confirmation when site plan is final):
 - a. Size of project: 297 acres.
 - b. As shown on the site plan: Maximum of 699 total residential units, including 472 single family homes (67.67%) and 227 town homes (32.33%); Single family lot sizes shall be a minimum of 7,100 square feet for at least 354 lots (75%) of the total single family lots on the subject property. All buildings to have a minimum 20-foot separation. All single-family lots will have side setbacks of ten feet.
 - c. Overall project density will not exceed 3.05 units per acre, including floodplain, greenway easements, or other open space areas proposed for conveyance to County or third-party conservation organization.
4. I-26 and outer boundary of project: All buildings must maintain 50-foot minimum setback from the I-26 right of way; no landscape buffer required along outer project boundary.
5. The development plan will provide for four separate phases of construction, with each Phase being those areas depicted as such on the site plan. The specific provisions and conditions for development set out below shall apply to each phase. Unit sales shall be allowed from an individual phase at such time as the individual phase has complied with the requirements of Chapter 42, Article III, Subpart A of the Land Development code (42-74 et seq.), for the rezoned conditional district, subject to such modifications and requirements as may be imposed on that district pursuant to this application.

STREETS, TRAFFIC AND PARKING

6. Sidewalks not less than 5 feet in width shall be installed on at least one side of each roadway within the development, with a planted strip at least 2 feet in width between sidewalk and curb.
7. Interior roads – shall be built to Henderson County design standards for residential subdivisions; minimum roadway width of 27 feet including 2’ valley curb & gutter. The central “spine” road will have a central planted median, with paved surface of 14’

minimum paved lanes and 30" curb and gutter and will be built to NCDOT standards with minimum 60-foot road right of way. No pervious pavement shall be required within the development.

8. Traffic Impacts on Butler Bridge Road – The project will adhere to all recommendations of Traffic Impact Analysis approved by NCDOT. All NCDOT- required improvements must be complete not later than the completion of construction of 50 % + 1 of the total units in each phase of the project, unless NCDOT directs otherwise. However, entrance improvements for each phase of the project shall be completed before a certificate of occupancy is issued for any structure in that phase of the project.
9. Off-street parking: each unit shall have sufficient off-street parking for at least two automobiles. An additional 114 off-street spaces (.5 space per townhome unit) shall be provided, with locations as shown on the site plan. All the townhome units and associated off-street parking are in Phase 1, Phase 2 and Phase 4.

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

INFRASTRUCTURE

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

LANDSCAPING, OPEN SPACE and AMENITIES

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

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

Other greenways and trails shall be as shown on the master plan.

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

owned by the HOA, but can be held by an individual, organization or non-profit or the County, subject to restrictions to prevent development.

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

16. Resident amenities:

- a. Central amenity area measuring at least 2.5 acres, including: (1) Olympic size (25 meters by 50 meters) swimming pool, with smaller splash pool; (2) clubhouse of at least 5,000 square feet of covered area, with storage space, restrooms and meeting space with tables, chairs, and restroom facilities; (3) patio/deck area with

tables and chairs; (4) playground with equipment; (5) pickleball courts. Other amenities include playgrounds dispersed through the site, and a trail system as shown on the master plan, with benches and viewing platforms.

- b. Amenity Areas shall be constructed and open to residents (transferred to HOA or third-party organization) not later than the completion of construction of 50 % + 1 of the total units in Tract 1 of the project, unless the HOA elects to receive title later or higher percentage.

AIRPORT

17. Attached as Exhibit “A-3” to the application is an example of the Avigation Easement, which applicant shall execute in substantially identical form by all the owner(s) of property making up the subject development prior to the sale of any lots in the development. Further, any owner (including the developer) of residential property who sells property within the Tap Root Development is required to disclose to buyers that: (1) the property is located in close proximity to the Asheville Regional Airport; (2) the property is subject to the Avigation Easement (together with the recording information regarding the Avigation Easement in the Henderson County, North Carolina Registry.

STANDARD CONDITIONS

18. Street lighting: Lighting will be installed in accordance with the following:

- Light Level - .5 fc average with 4-6 Avg/Min uniformity (or compliant with current IES/ANSI standards for residential street lighting - reference RP-8-18)
- Pole Mounting Height - Max 25 ft (spacing dependent on design layout to meet recommended light level)
- Pole Material - Aluminum or Concrete preferred
- B-U-G Rating (Back-Up-Glare) - Not to exceed B2-U0-G2 (B1-U0-G1 preferred)
Light Source - LED, 3500K or 4000K Color Temp (not to exceed 4000K)

19. Street Trees—Street trees shall be installed per Henderson County LDC requirements, using County-approved species.
20. Building Code - Builder/ Developer to adhere to Henderson County LDC whenever it exceeds the NC Building Code requirements.
21. There must be a minimum separation of 20 feet between buildings in the townhome area. All single-family lots shall have a 10-foot side setback.
22. Submit to and receive approval of a water utilities plan from the City of Hendersonville and comply with City of Hendersonville regulations, or in the alternative from any other public water utility provider or authority.
23. Submit to and receive approval of a sewer utilities plan from the Cane Creek Sewer District and provide proof of MSD wastewater treatment allocation.
24. Apply for and receive a swimming pool permit from the Henderson County Department of Public Health Division of Environmental Health prior to the pool construction.
25. Submit for prior approval all building plans for all structures to the County Inspections Department.
26. Apply for a floodplain, stormwater, and soil erosion control permit from the County for each phase of development.

27. Require cluster mailboxes per the standards and requirements of the USPS and identify on the development plan an area with appropriate vehicle access and parking.
28. Apply for and execute an encroachment agreement with NCDOT for utility work within the right of way of Butler Bridge Road and I-26.
29. Apply for and receive a NCDOT street access permit and comply with all required road improvements identified by the TIA and NCDOT.
30. Pay in full all fees for permits, as each fee is assessed or becomes due.
31. Per Chapter 42 of the Henderson County Code, the approval authority for each phase of the project is delegated to the Henderson County Planning Board. To the degree any phase exceeds 300 units or lots, as shown on the Master Site Plan, the same are deemed approved and the Commission assigns to the planning board its authority to review and approve.
32. The County shall retain the right to suspend construction and the issuance of building permits if the developer is found by the County to be in noncompliance with any one of the conditions imposed on the Tap Root Project by the Board of Commissioners.

REQUIREMENT FOR HOMEOWNERS ASSOCIATION and RESTRICTIVE COVENANTS

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

Applicant has elected to carry out some of its responsibilities through a Homeowners Association (HOA), and the use of private restrictive covenants, as allowed by the Henderson County Code. The forms of the organizational documents and bylaws for the HOA, as well as the restrictive covenants, and other documents governing the operation of the HOA and the project (herein collectively "HOA documents") shall be reviewed by the County Attorney as to their legal sufficiency to satisfy this limited purpose prior to issuance of the permission of the Planning Office to record the final plat. To this end, the County reserves the right to review any amendment or revision to the HOA documents prior to its effectiveness to ensure continued compliance with this conditional zoning ordinance, and other applicable County ordinances.

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

Conditions per Land Development Code:

1. Open Space. The applicant is required to set aside 25% open space. This open space shall not include more than 50% in primary conservation areas and shall not be composed entirely of secondary conservation areas. Open space should be recorded with the register of deeds and is required to remain as shown on the approved site plan and cannot be developed. The open space does not have to be owned by the HOA, but can be held by an individual, organization or non-profit.
2. HOA. The developer is required to set up an HOA (Homeowner Association) and subsequent documents should be reviewed and approved by the County Attorney prior to recording of such restrictions.

3. Common Area/Open Space. The LDC requires that common area be provided for 10% of the total area in the townhome sections.
4. Townhome Layout. The LDC states that there be a minimum space of 20 feet between buildings (1 foot of separation for each one foot of building height in excess of 30 feet) and a maximum building length of 150 feet (see applicant requested conditions).
5. Subsurface Utilities. Subsurface utilities are proposed and are required for the townhome sections.
6. Pervious Pavement. The LDC requires that 25% of all paved surfaces (roads, parking areas, drives, sidewalks, etc.) be pervious pavement for the townhome phases (see applicant requested conditions).
7. Pedestrian Facilities. The LDC requires 1 linear foot of sidewalk or trail for every linear foot of improved or newly proposed roadway within the development. The sidewalk or trail must be at least 5 feet in width.
8. Private Roads. The applicant is proposing private roads, which are allowed. Certification by NCDOT is required to be on the final plat if public roads are proposed.
9. Buffering and Setbacks. The LDC requires that structures are setback 50 feet from I-26 and that a B2 buffer is required within this setback.
10. Traffic Impact Analysis (TIA) Requirements. Any road improvements identified in the TIA and as approved and required by NCDOT shall be a condition of approval. (see letter from NCDOT).

Conditions per Erosion/Sedimentation/Flood:

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

Conditions per Building/Inspections:

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

Conditions per Fire Marshal/Emergency Services:

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

Conditions per Environmental Health:

18. Pool requires Department of Health overview

Conditions per Cane Creek Sewer/MSD:

19. Request a capacity letter

Conditions per NCDOT:

20. Traffic Impact Analysis required and necessary improvements to be installed by Developer
21. Any damage to existing NCDOT roadways during construction must be fixed immediately

22. Obtain an encroachment agreement with NCDOT for any utility work within the public right-of-way

Conditions per City of Hendersonville Water:

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

Conditions per Henderson County Planning Board:

25. TBD

WE, all the applicants and property owners in R-2020-01-C, agree to the foregoing conditions:

Rezoning #R-2020-01-C Tap Root Subdivision



Planning Board
March 19, 2020

Henderson County Planning Department

1

Application Summary

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

Henderson County Planning Department

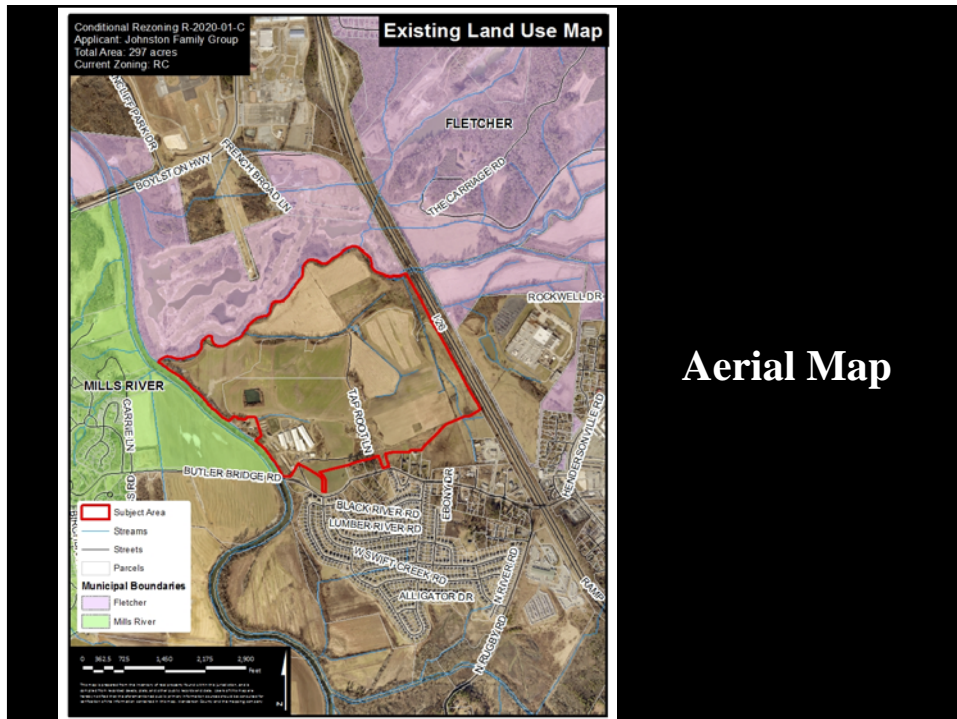
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Project Summary

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

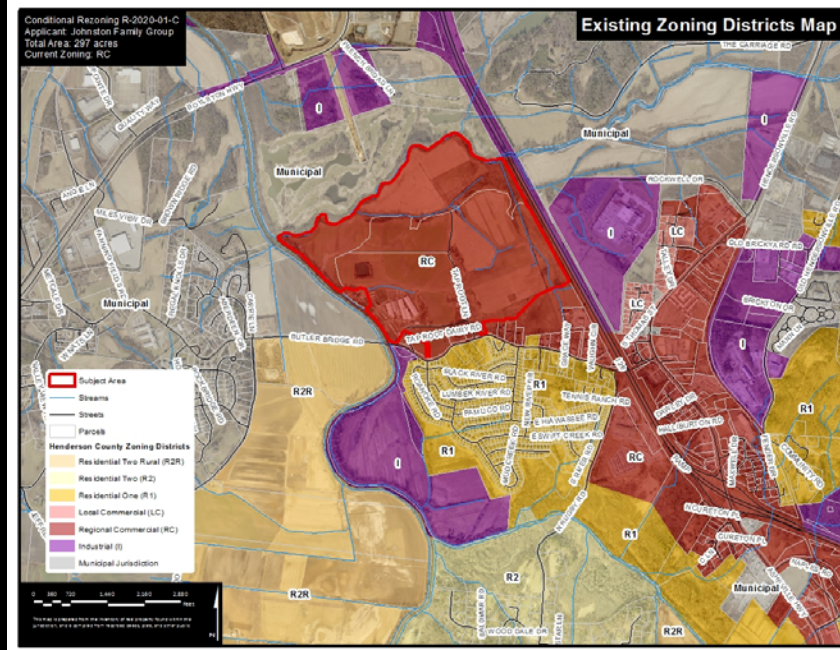
Henderson County Planning Department

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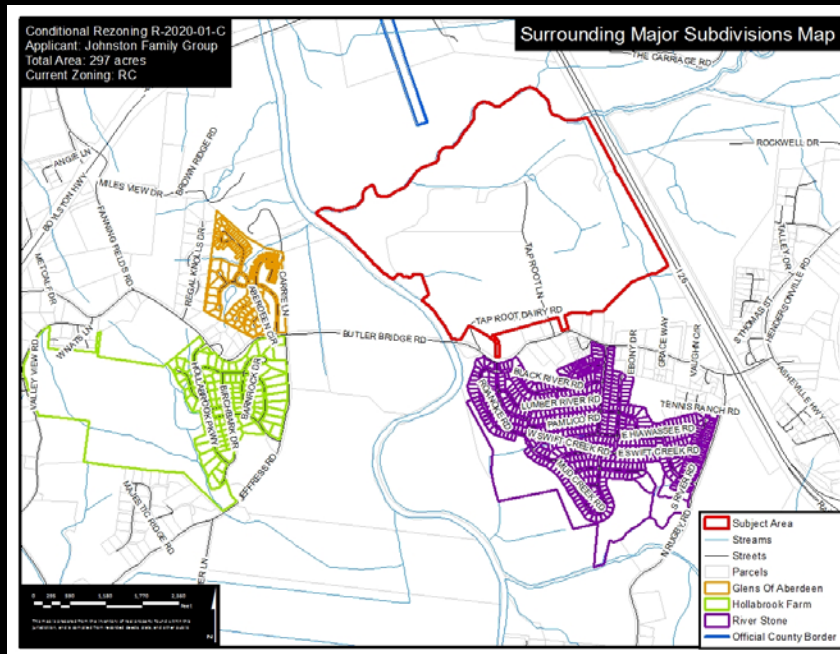
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Current Zoning Map



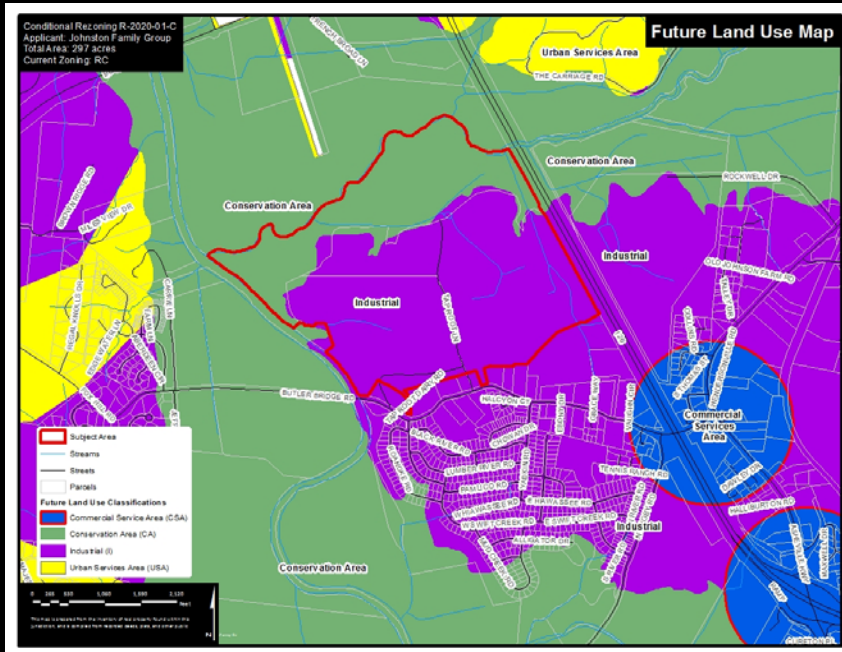
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Surrounding Subdivisions



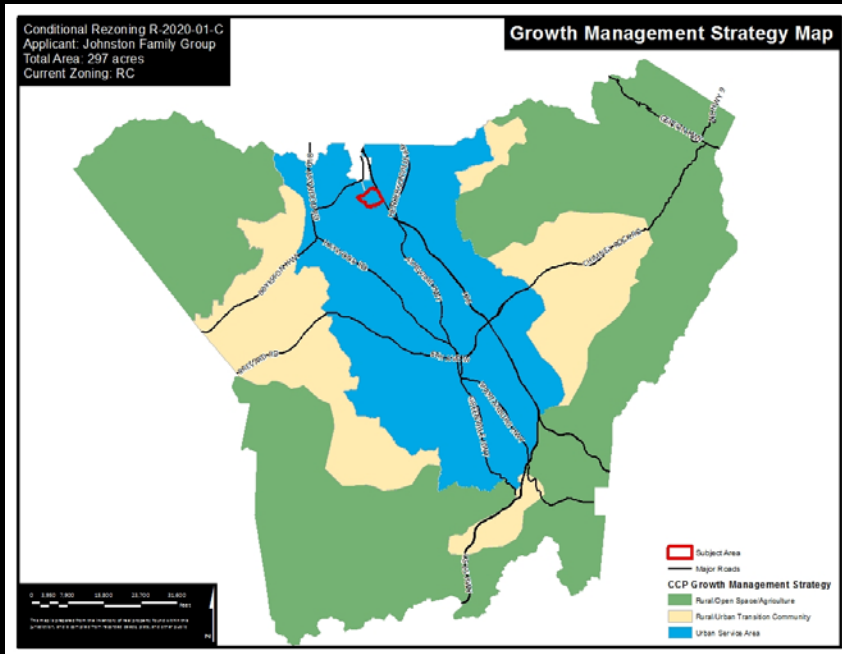
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CCP Future Land Use Map



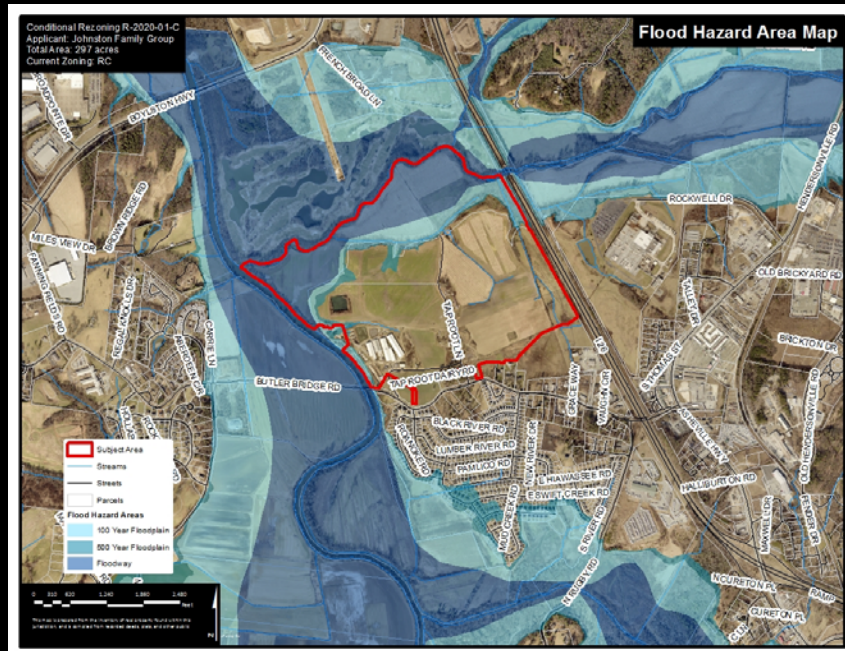
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Growth Management Strategy Map



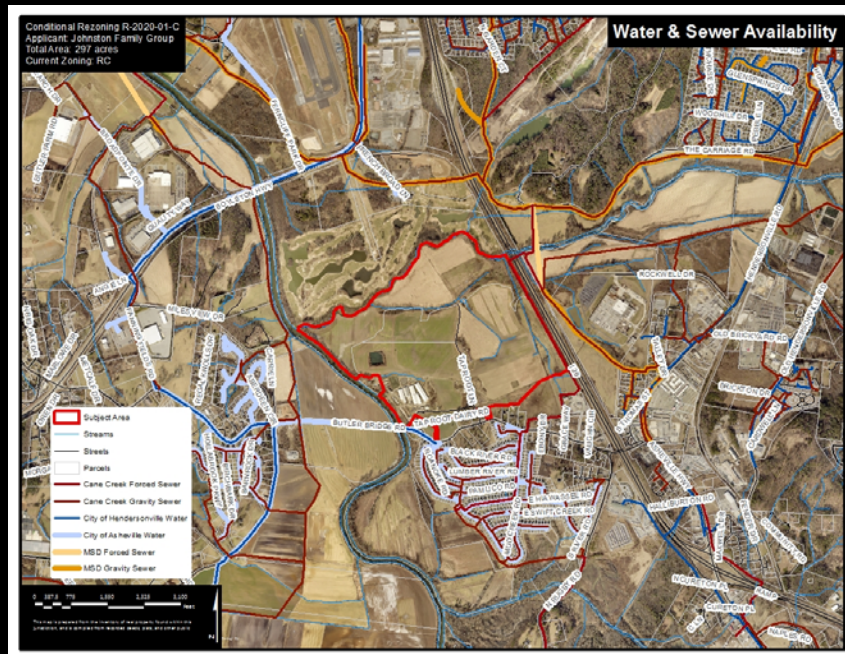
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Floodplain Map

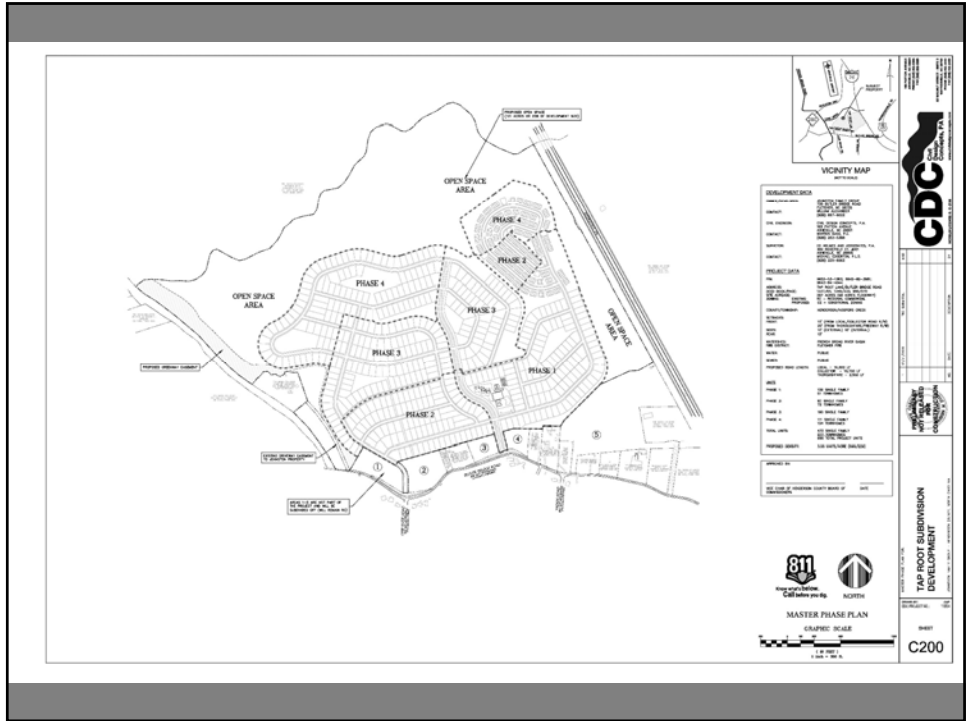


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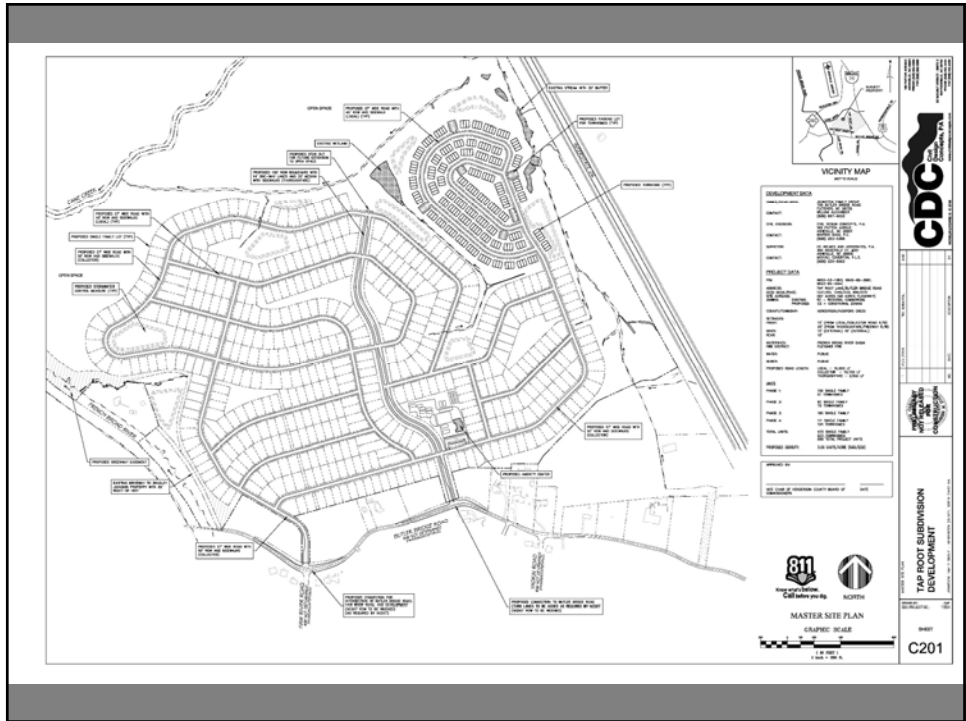
Public Utilities Map



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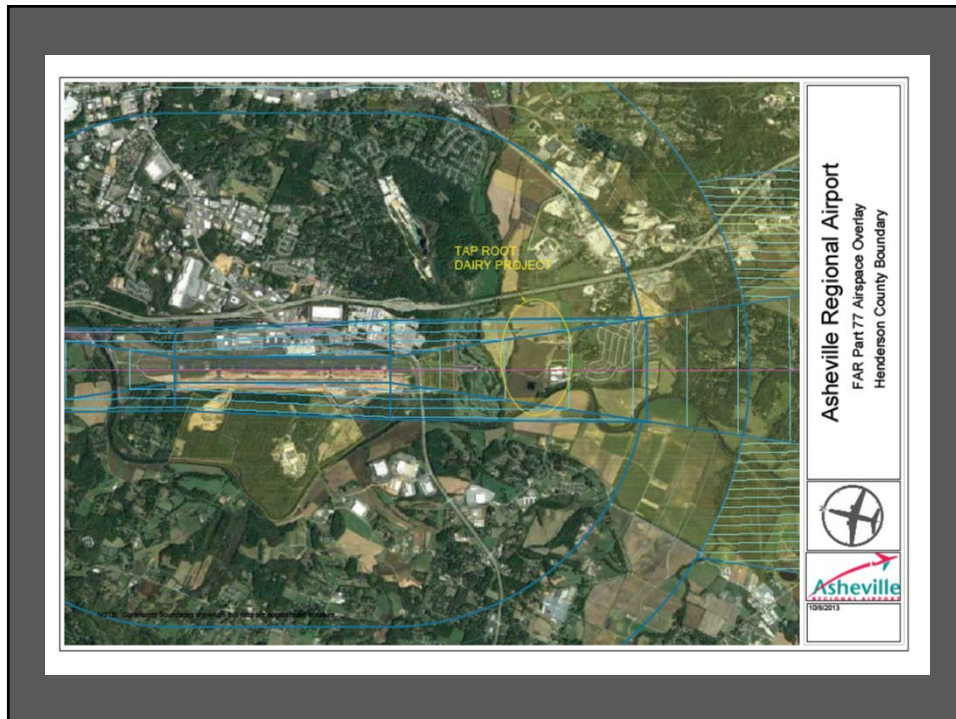


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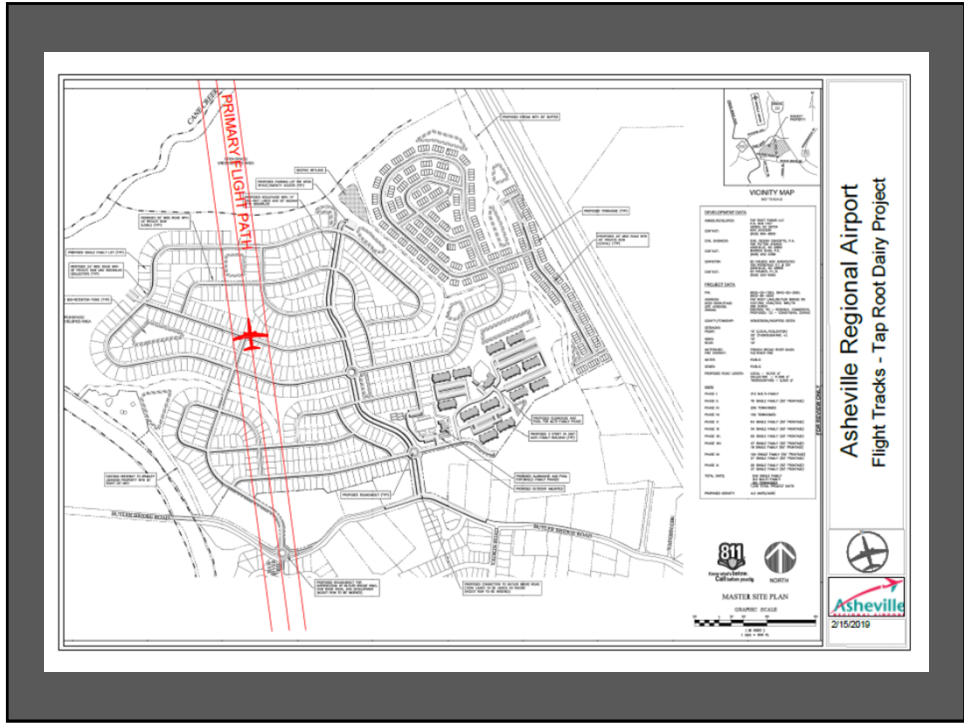
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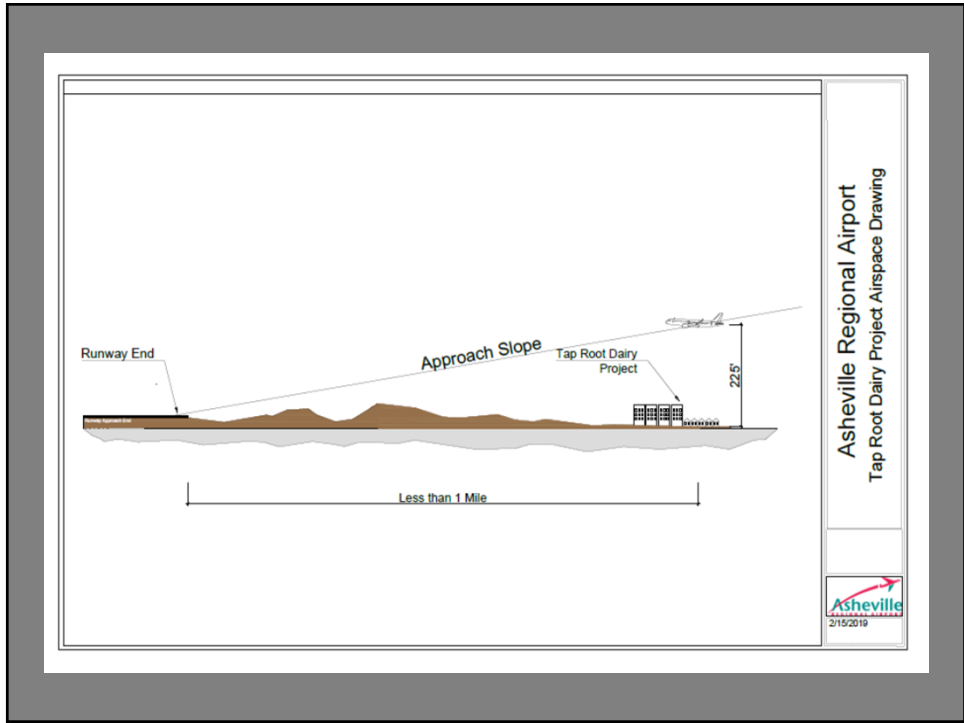
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