

**HENDERSON COUNTY
PLANNING BOARD MINUTES
January 18, 2005**

The Henderson County Planning Board met on January 18, 2005 for its regular meeting at 7:00 p.m. in the Board Room of the Land Development Building, 101 East Allen Street, Hendersonville, NC. Board members present were Mike Cooper, Vice-Chairman, Paul Patterson, Tommy Laughter, Jonathan Parce, Stacy Rhodes and Mark Williams. Others present included Karen C. Smith, Planning Director; Autumn Radcliff, Planner; Matt Card, Planner; Kathleen Scanlan, Secretary; and C. Russell Burrell, (Acting) County Attorney. Board members Tedd Pearce, Renee Kumor and Gary Griffin were absent.

Approval of Minutes. Due to the absence of Chairman Tedd Pearce, Vice Chairman Mike Cooper presided over the meeting and called the meeting to order. He stated that there were no minutes to approve.

Adjustment of Agenda. There were no adjustments made.

Staff Reports. Ms. Smith informed the Board members that at the January 3, 2005 Board of Commissioners meeting, the Commissioners approved, as recommended by the Planning Board, the rezoning request by the County, the Board of Education and NCDOT for the property on Stoney Mountain Road and Mountain Road including the landfill. Ms. Smith said that on January 12, 2005, the Board of Commissioners held a workshop on the US 25 North study. She said that Mr. Pearce gave an introduction and Staff reviewed the recommendations in summary form. She said that the Board of Commissioners would determine how it would handle the public input process for this study at its meeting on January 19, 2005. She added that the Board of Commissioners extended its thanks to the Planning Board for all of the work that they put into the study.

Vice Chairman Cooper said that 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:

There was no *old business*.

NEW BUSINESS:

Zoning Map Amendment Application (#R-04-05) to Rezone Approximately 106.57 Acres Located off Butler Bridge Road, from an I-2 (General Industrial) Zoning District to an R-10 (High-Density Residential) Zoning District – William M. Alexander, Jr., Agent for Hollabrook Farms, Applicant. Ms. Radcliff stated that on December 20, 2004, Hollabrook Farms submitted a rezoning application, # R-04-05, requesting that the County rezone a 106.57-acre approximate parcel of land, from an I-2, General Industrial, zoning district to an R-10, high-density residential, zoning district. She said that the parcel is located off Butler Bridge Road and is approximately less than 200 feet east from where Butler Bridge Road crosses the French Broad River and the Town of Mills River boundary. The subject area is also located ½ mile from the jurisdiction of the Town of Fletcher, 4/10 of a mile west of the

intersection of Butler Bridge Road and I-26, within one mile of Glenn Marlow Elementary School and approximately two miles from the Asheville Regional Airport. Ms. Radcliff stated that the southwestern portion of the subject area is located within the 100-year floodplain, and this information is from the County's flood maps, which is outdated and therefore there is a possibility that the boundaries may be off somewhat.

Ms. Radcliff stated that the subject area is currently zoned I-2, which was applied on November 5, 2001 as a result of a rezoning application submitted by Hollabrook Farms, requesting a change to the parcel's prior Open Use zoning. The parcel was the subject of rezoning application R-03-01, contained 222 plus acres and has since been subdivided. With the exception of the ten parcels to the north of the subject area that are zoned Open Use, the subject area is surrounded on the north, south, and west by a County I-2 zoning district. Ms. Radcliff said that the land to the east and north of the subject area is part of the US Highway 25 North Zoning Study and is recommended by the Planning Board to be zoned R-15, RC, and C-4. She said that in addition, it is also located in close proximity to the Town of Mills River. The Town of Mills River zoning in the vicinity of the subject area includes an MR-Light Industrial district along Butler Bridge Road and an MR-30 Residential district surrounding the MR-Light Industrial district.

Ms. Radcliff gave a brief summary of the I-2 General Industrial District and the R-10 High-Density Residential District, noting their differences as well as what is permitted and not permitted in the two districts. She said that the subject area is currently utilized for agricultural purposes and most of the uses within the vicinity of the area are either residential or agricultural in nature, but east of the subject area at the intersection of Butler Bridge Road and US 25 and also US 25 and I-26, there is a considerable amount of heavy commercial and light industrial development. She said that within a mile west of the subject area, the Cane Creek Sewer District has an existing public sewer line that serves the Glenn Marlow Elementary School and the Regional Water Authority has a main water line located at the intersection of Jeffries Road and Butler Bridge Road. She stated that the subject area does not have access to the water line at the present time and it would need to be accessed across the French Broad River. Ms. Radcliff said that in addition, the new Mills River interceptor line (sewer) will soon be available but connections to this line from the subject property would require crossing the French Broad River also. In addition, the City of Hendersonville has a water line fourth-tenths of a mile east of the subject area near North Rugby Road.

Ms. Radcliff said that regarding the previous rezoning request, on August 24, 2001, Hollabrook Farms submitted an application requesting that the County rezone approximately 222.31 acres of land located on the south side of Butler Bridge Road, between the points where Butler Bridge Road crosses the French Broad River and crosses I-26, from an Open Use zoning district to an I-2 zoning district. She said that a portion of rezoning application # R-03-01 included the subject area of rezoning application # R-04-05. Ms. Radcliff showed on a map the entire area of the rezoning application at that time and said that the property has since been subdivided. She showed that the upper corner is the portion of this rezoning request and that the lower portion is an I-2 zoning district. She stated that on September 25, 2001, the Planning Board voted unanimously to recommend to the Board of Commissioners that the subject parcel be rezoned to I-2 based on the fact that there was no objection from adjacent property owners, that the I-2 zoning district would not adversely affect the residential character of the neighborhood, and due to the location of the floodplain, the subject parcel was more suitable for agricultural or

industrial uses. She stated that on November 5, 2001, the Board of Commissioners held a public hearing and voted to approve rezoning application # R-03-01 as submitted.

Ms. Radcliff stated that the US Highway 25 North project to widen the highway to five lanes is currently underway. The Henderson County Board of Commissioners and the Henderson County Transportation Advisory Committee recommendations to NCDOT for the 2006-2012 draft TIP recommended for the widening of I-26 from the US 25 connector to NC 280 from four lanes to six lanes.

Ms. Radcliff said that the Mills River/Fletcher Land Use Study was approved by the Planning Board and it voted to send a favorable recommendation to the Board of Commissioners. The study was presented to the Board of Commissioners on March 21, 2001. She said that study shows the subject area lies within that study area and is identified as being marketed as a possible industrial location. The Study recommends that the area be used for industrial purposes.

Ms. Radcliff said that both the text and the map of the 2020 CCP identify the subject area as being located in the Urban Services Area and suitable for industrial development, with a portion of the subject area being identified for conservation. She also stated that the former Committee of 100 recommended that the area in the vicinity of the subject area, including the area itself, be zoned for industrial development. In addition, an existing industrial zoning district surrounds three sides of the subject area. The presence of existing industrial districts and the potential of future industrial development would offer little protection except for any required vegetated buffering, to an R-10 residential district. She said that I-2 zoning was applied to the subject area on November 5, 2001 at the request of the current property owner and was supported by Planning Staff, the Planning Board, and the Board of Commissioners. Ms. Radcliff said that 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. Although, it should be noted that the Planning Board recommended in the US Highway 25 North Zoning Study for the adjacent property to be medium-density residential. She said it is generally incumbent upon the applicant to demonstrate an overriding justification for approving a given rezoning application and that Staff encourages the applicant to present any information that would inform the County's consideration of the proposed rezoning. The R-10 district text states that *it is expected that public water facilities and public sewage facilities will be available to each lot, providing a healthful environment.* Although water and sewer are available at or near the subject area making it desirable for high-density development, accessing public sewer would require having to cross the French Broad River by attaching a line at the bridge on Butler Bridge Road. The Henderson County Zoning Ordinance would not require the applicant to connect to these utilities. Ms. Radcliff said that the location of the subject area to US Highway 25, I-26, and the proximity to the Asheville Regional Airport makes it suitable to support industrial development.

Ms. Radcliff stated that the Board must ask the following question, "Should the subject area and the surrounding area still be identified for industrial development?" She said it should be pointed out that until the countywide industrial/commercial zoning study and the NC 191 South/Mills River East Small Area Plan are completed, which are expected to be completed within the next two years, the answer to this question is unknown.

Mr. Alexander reviewed the history of the property and said that it was originally purchased by John and Myra Hollamon in 1963 and was operated as a commercial dairy farm until 1995, when it was then discontinued as a dairy operation, due to the size of the operation and for economic reasons. He stated that the property was placed on the market in 1992 as a potential industrial site and continuously after 1995 it has been marketed as an industrial site and has been placed with a number of brokers as well as with the Chamber of Commerce. In the entire period of time up through today, there have been no offers from any potential industrial purchaser. Mr. Alexander stated that in 2001, in an effort when the County first zoned this property as Open Use, the Hollamon family, still anticipating an industrial application of the property, applied to the Planning Board and the Board of Commissioners for a rezoning to an I-2 zoning district. He said that it was felt at that time that the in-place zoning of the property as a heavy industrial site would help attract and assure potential purchasers to the property for industrial application. He said they had prepared the application in the summer of 2001, and by fall of 2001 the economic environment of the U.S. changed. He added that the Hollamon family continued marketing the property until recently, as an industrial site and has finally determined that the highest and best use for the property at the present time would be for high-density residential use.

Mr. Alexander stated that in the County's prior Land Use Plan, it showed that the proposed industrial areas included not only this property but over into the Town of Mills River to the west, where the Hollamon family owns another industrial site, and essentially everything around the Town of Fletcher, Naples area and to the east and north of Fletcher and Naples. He said that although this future Land Use Plan identified this general area for industrial development, the Planning Board in its recommendations to the County Commissioners on the US 25 North corridor plan, recommended against industrial development on other properties that were previously identified as industrial within the proposed future Land Use map. He said he feels that this is an acknowledgement of existing land uses and many other planning factors. Mr. Alexander also pointed out on the US 25 North Zoning Map that surrounding the subject parcel is industrial zoning. Mr. Alexander pointed out that there have been a number of changes in the overall environment since the enactment of I-2 zoning on this property in 2001. The first is the change in the economic environment and the availability of proposed industrial would not be as important. Secondly, when the subject property in 2001 was first zoned I-2, the Tap Root property, which adjoins the subject property, was not zoned I-2, it was zoned Open Use and was zoned I-2 subsequent to the Hollabrook Farms initial application. Third, in 2001, there was the ABWA water main which was available down through the Mills River valley on the other side of the river and went right up to the property owned by the Hollamon family, but there was no sewer in place at that time or any assurance of sewer. Mr. Alexander said that at this point in time, we can safely assume that the sewer line is coming into being and is under construction in certain portions. The Cane Creek project (sewer line project) will give direct access of this property to the sewer line, but will involve running a force main for high density residential development across the French Broad River. He said the Hollamon family in anticipating that, when they sold their river bottoms on the other side of the river and also when they sold the floodplain portion that surrounds this subject area, they reserved easements in those instruments necessary to allow them to run lines to both the existing water and water main and the projected Cane Creek sewer line.

Mr. Alexander said that the portion that was sold from the original tract was approximately 109.61 acres and that is essentially the floodplain portion of the original ground. What the Hollamon family has retained is the high ground portion of the parcel. Mr. Alexander said that the one previous use of this particular tract that was proposed a number of years ago that would have classified it as industrial use was when the Hollamon family contracted to sell the entire parcel, both tracts, to the City of Hendersonville for a future public sewer treatment facility. He said that in response to the reaction of the nearby neighbors regarding this, the City of Hendersonville elected to forego that opportunity and build onto its existing plant. He said that this is the only industrial application known to the Hollamon family in the last twenty years. He said according to the County's CCP, the entire subject parcel is located within the Urban Services Area as identified by the Board of Commissioners and is an appropriate area to concentrate high density residential development.

Mr. Alexander said that the Hollamon family has acknowledged for many years the ability of this property to be used for industrial and do not dispute the fact that it is a good use for the property. Mr. Alexander stated that most industries are concentrating near the Highway 280 corridor as it gives them visibility and access to a four or five lane road as compared to the subject parcel, which is located on a two-lane road. He said that in terms of marketing and meeting the needs of the County for heavy industrial sites, the Tap Root property across the road is better. He also said there is a need for affordable housing for the employees of those industries. (Mr. Alexander handed out a report from the Land-of-Sky Regional Council entitled *Regional Vision 2010*). Mr. Alexander said that the Regional Vision report acknowledges that to maintain the economic health of our community, it is critical that we attract industrial development to attract higher paying jobs. Mr. Alexander pointed out that the report states the need to, "*create greater supply of and improve access to affordable housing*" and he feels that is the most important justification and purpose for the rezoning application. He further mentioned that the subject land could provide badly needed affordable housing near potential industrial sites, a key recommendation of the Land-of-Sky Regional Council's report. He added that by the use of high-density housing, more land will be available for green space and rural conservation. In closing, Mr. Alexander asked for the Board's support on the rezoning request.

Mr. Cooper opened public input.

Scott Hamilton. Mr. Hamilton identified himself as the Executive Director of the Henderson County Partnership for Economic Development, which is the economic development division of the Greater Hendersonville Chamber and was formerly called "The Committee of 100." He, along with several Chamber of Commerce members present urged the Planning Board to keep industrial zoning for the 106 acres because the County has limited sites to attract new industrial employers. He noted that housing and schools compete with industry for land. He also cited its gentle rolling topography and its close proximity and location to the Asheville Regional Airport, I-26 and gas, water and sewer infrastructure. He noted that the property across the street is Tap Root Dairy/Johnson Farm and it is zoned industrial. He said that changing the subject parcel to residential could adversely impact their marketing nearby property to an industry because the industry might look at the proximity to residential units that may be in and around an area as a liability. He said that this would also depend on the type of manufacturing that would come into the area.

He spoke about manufacturing wages and the economic benefits of industry. He pointed out the industrial sites along Highway 280 and requested that the Partnership would like to see the subject property remain industrial, but he also understands and respects the property owner's request.

Mr. Cooper said that the Board could approach this in several ways. The Board could send forward a recommendation to the Board of Commissioners or the Board could send it to a subcommittee. Mr. Cooper asked Board members how they feel about the rezoning application and what the Board should do. Mr. Laughter said that he feels, like the former Committee of 100, that this area is in significant need of industrial uses. He said that high-density residential activity would significantly impact the other areas for other potential companies that may want to come into the area. Mr. Patterson said he feels that the Tap Root Dairy property might be a better site to develop for industrial use because of the sewer and water issue, but he does not feel it would be beneficial to send the request to a subcommittee. He was comfortable with voting on it. Mr. Parce, Mark Williams and Stacy Rhodes felt that they are prepared to vote on this issue. Mr. Patterson pointed out that affordable housing was brought up in this discussion, but he feels that there is no guarantee that there will be affordable housing there. He added that while studying the Comprehensive Plan, the members could not define what affordable housing is. He does not feel that a home costing \$ 150,000 is affordable housing, and therefore the Board can not and should not look at that aspect of the rezoning application.

Mr. Laughter made a motion to send an unfavorable recommendation on the rezoning application to the Board of Commissioners based on the recommendations that Staff submitted in their report to the Planning Board. Paul Patterson seconded the motion. Tommy Laughter, Paul Patterson and Mike Cooper voted in favor of the motion. Mark Williams, Stacy Rhodes and Jonathan Parce voted against the motion. Because it was a 3 to 3 vote, the motion failed and Board members decided to make another motion. Jonathan Parce made a motion to send a favorable recommendation to the Board of Commissioners. Mark Williams seconded the motion. Mr. Parce said that his vote was based on the fact that the applicant submitted a good case for the rezoning request and that all around the area will be residential, and the area along the river is sold to another developer and he understands there will be a conservation easement. Mr. Cooper as well as Mr. Williams felt that the applicant has tried to market it for industrial development without success and understand the property owner's request to change. Jonathan Parce, Mark Williams, Stacy Rhodes and Mike Cooper voted in favor of the motion. Paul Patterson and Tommy Laughter voted against the motion. The motion carried 4 to 2.

The Homestead at Mills River (File # 05-M01) – Revised Master Plan and Revised Phase 1 Development Plan – (165 Total Lots) – Located Off Whitaker Lane – Terry Baker, Associated Land Surveyors, Agent for The Homestead at Mills river, LLC, Owner.

Mr. Card informed the Board that the application is for a Revised Master Plan and Revised Phase 1 Development Plan for The Homestead at Mills River. He said that according to the Revised Master Plan, the subject property is a 290.53-acre tract located off Whitaker Road in the Mills River Township. The entire development will contain a total of 165 single-family residential units. Mr. Card said that the Master Plan shows that the subdivision will be developed in three phases. Mr. Card pointed out on a map the 26-acre tract of land to the northern portion of Phase 1 that was added. He also stated that the revision also shows lot line changes and a road change. The Phase 1 Development Plan

shows the addition of lots 64 – 71 and revision of the surrounding lots. He said that there are eight lots that were added in total and Shining Rock Path is proposed to extend further north to serve the new lots. Mr. Card stated that Phase 1 would now consist of 71 lots and one out parcel. Individual septic systems and wells are proposed and paved private roads will serve the proposed lots. The development is located in the Open Use zoning district, which does not regulate residential uses of land. The property is also located in a WS-II watershed district and there are three perennial streams located on the property. The property is located within a half mile of the Mills River Farmland Preservation District.

Mr. Card said he has reviewed the Revised Master Plan and the Revised Phase 1 Development Plan for The Homestead at Mills River for conformance with the Henderson County Subdivision Ordinance and other relevant County land use ordinances and offered the following comments and pointed out that conditions of approval from prior plan reviews had been incorporated into his memo.

Mr. Card mentioned that regarding the Revised Master Plan all requirements have been satisfied. With regard to the Revised Development Plan, the comments are as follows:

1. Common Area. The applicant has designated a common area and clubhouse using the existing lot and home near the entrance of Phase 1. Future structures on the common area must meet the applicable watershed requirements. The HCSO requires that special use lots must be clearly identified for their designated use on the final plat (HCSO 170-31, B).
2. Farmland Preservation District. The Final Plat should include a notation that the property is within ½ mile of land in a Farmland Preservation District (HCSO 170-35 and Appendix 7).
3. Stream Setbacks. A minimum thirty-foot setback for buildings or other structures is required along all perennial streams. The thirty-foot setback must be noted on the final plat (HCSO 170-37, A).
4. Private Roads. Because private roads are proposed for Phase 1, the final plat must contain a note stating: *the private roads indicated on this final plat may not meet the requirements of the North Carolina Department of Transportation for acceptance into the state road system.* (HCSO 170-21B and Appendix7).
5. Other Final Plat Requirements. In addition to the items noted above, the Final Plat(s) for Phase 1 must meet the requirements of Appendix 7 of the Subdivision Ordinance.
6. Project Phases. According to Section 170-16, B, 2 of the HCSO, “Upon approval of the Master Plan and Development Plan of the first section of the subdivision by the Planning Board, if successive sections are submitted for review and each substantially conforms to the Master Plan and where no new lots are created, all technical requirements and development standards have been met, the Subdivision Administrator may approve the development plans for successive sections administratively. Under such review, the action deadlines in Subsection 170-16C below for the Planning Board shall be the same for the Subdivision Administrator who may, for good reason, refer any section to the Planning Board for review after giving due notice to the applicant.” The Planning Board previously decided to require that development plans for future phases of The Homestead at Mills River, (with the exception of Phase 1-A) be reviewed by the Planning Board.

7. Compliance with Other Provisions. All proposed subdivisions of land, including those defined in HCSO 170-12, shall comply, where applicable, with the requirements of the Zoning Ordinance and the Water Supply Watershed Protection Ordinance (WSWSPO) (HCSO 170-7). The Homestead at Mills River is located in a WS-II Water Supply Watershed. According to the WSWSPO Section 192-13 C, in order to maintain a predominately undeveloped land use intensity, single-family residential uses shall be allowed at a maximum of one dwelling unit per 40,000 square feet of lot size, except in approved cluster developments. All other residential and nonresidential development shall be allowed at a maximum of 12% built-upon area. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate best management practices to minimize water quality impacts. In addition to the perennial stream setback in the Henderson County Subdivision Ordinance, the WSWSPO requires a minimum 30-foot vegetative buffer along all perennial streams (WSWSPO 192-15).
8. Erosion Control Plans for Individual Lots. Per the applicant's written request to the Planning Board, all persons building homes in The Homestead at Mills River proposed subdivision shall submit for approval by the developer or homeowners association an engineered soil erosion control plan prior to construction. Prior to final plat approval, the developer should provide to the Planning Department the wording of a covenant regarding erosion control plans for individual lots.
9. Revised Soil Erosion and Sedimentation Control Plan. Shawna Riddle, with the NCDENR Land Quality Section, stated in an e-mail that she will need a revised plan for the additional acreage disturbed for the change of Shinning Rock Path. Her comments were included in the Planning Board packets. Confirmation of submittal of such revised plan to NCDENR must be submitted to the Planning Department prior to the applicant beginning any land disturbing in the additional acreage.
10. Improvement Guarantee. The Board of Commissioners approved the posting of an improvement guarantee (letter of credit) by the developer to allow the developer to obtain final plat approval for lots in Phase 1 without having to complete the road, drainage and other site improvements. If the Planning Board approves the Revised Development Plan for Phase 1, the developer must apply to the Board of Commissioners for an amendment to the existing improvement guarantee.
11. Existing Right-of-Way. The applicant stated that Hall Road would not be used for construction vehicles except for small repair vehicles accessing the old Clodfelter Home. The applicant has also agreed to close the right of way access from Hall Road and Old Homeplace Road when the proposed subdivision roads in the Homestead project are complete for each corresponding phase.
12. Future Use of the Out Parcel. The Revised Master Plan and the Revised Phase 1 Development Plan show one out parcel. Mr. Card mentioned that he would like the developer and/or agent for the developer to discuss the future use of the out parcel with the Planning Board.

Mr. Card stated that Staff has found that the proposed Revised Master Plan and Revised Phase 1 Development Plan for The Homestead at Mills River appear to meet the technical standards of the Henderson County Subdivision Ordinance. He said that Staff recommends approval of the Revised Master Plan and Revised Phase 1 Development

Plan subject to the above listed comments and pre-existing conditions being addressed and the developer addressing any other issues raised by the Planning Board.

Mr. Patterson said that Staff recommendation states, "*Appears to meet.*" Ms. Smith said it does, unless someone has seen something to be pointed out.

Mr. Baker, with Associated Land Surveyors and agent for The Homestead at Mills River, LLC, wanted to clarify that there were ten lots added, but they lost two in the transition, so therefore there are eight additional lots. Mr. Baker explained that they moved the road as the property beside the development was purchased and they created ten lots on a 16-acre parcel. He said the road was moved up over the ridge to access the lots better and showed the change on a map. He said that according to the environmental people, moving the road up further from the stream or creek is an asset. He said that the soil and erosion control plan revisions are almost finished and will be submitted to NCDENR office before anything will be done. Mr. Laughter wanted Hall Road pointed out on the map and Mr. Baker identified the road. Mr. Cooper asked, "What are the future plans for the *out parcel*?" Mr. Baker said that this would be addressed.

Mr. Patterson said that when the Board first looked at this project, there was a design speed for the roads and he asked if Mr. Baker knew what that was? Mr. Perry Davis of Cape Fear Engineering said that he feels they used the K-values given in the Subdivision Ordinance to do the vertical curves. Mr. Patterson said that a partner with Cape Fear had in the past, made it clear that the Subdivision Ordinance does not have K values but he said he tried to explain to him that the Ordinance does have K values and also explained that based on some generalizations of that and the NCDOT manual that basically K values rule and they apply to this project. Mr. Patterson pointed out that there is at least one vertical curve that does not meet the Ordinance that we have. Mr. Davis clarified that they are using the K values depending on collector roads, which have a 20 value or on local roads a 10 value. Mr. Patterson said that on Shining Rock Path near lots 65 and 66, the road goes from a collector road to a local road. Mr. Davis said that they counted twenty-five lots back and that is where we stopped the collector road designation, but the road template stays the same and there is very little difference. He said that from that point forward, they are allowed to go a little steeper and use the K value of 10. Mr. Baker stated that regarding the collector road, the Board previously has ruled on another project to take it up to an intersection and beyond there it was ok to change designations. That is why he followed the same rules for this development. He added that the grade beyond there is not significant.

Mr. Cooper asked Mr. McElrath what his plans are for the out parcel and is it part of The Homestead? Mr. McElrath, who represents The Homestead at Mills River, stated that the out parcel is not part of the development and said that it contains a cabin that Mr. Redden and his family have used for many years. He said that the land immediately behind the cabin is relatively steep and laurel-thicketed. Mr. McElrath said that his agreement with Mr. Redden is to share the pond and the stocking of it. He said that Mr. Redden retained a five-acre piece across the hill and plans to build a cabin there and continue enjoying the area. Mr. McElrath said that The Homestead at Mills River, consisting of three families, will own the former Redden Cabin and that they have young children and will use it for recreation. He added that the parcel would be accessed via Hall Road. Mr. Cooper handed Mr. McElrath a handout letter that Board members received from some of the

residents of Hall Road. Mr. McElrath commented on the remarks of the letter, one of which dealt with construction traffic. Mr. McElrath was not sure what they defined as construction traffic as he explained that they had encountered some unusual circumstances such as the wettest summer on record and a giant rock that needed to be blasted and the hurricanes the County received in the fall, which made it nearly impossible to limit traffic. Mr. McElrath indicated various gestures that were made to remedy some problems that his neighbors had complained about. He mentioned that there was a neighbor who worked a graveyard shift and had requested that no work be done on Saturdays, and he said that although they had all the circumstances that held back construction, they stopped working on Saturday to accommodate that neighbor. Mr. McElrath mentioned that he put about 100 tons of crusher run on Hall Road, even though he was not obligated to do that because he said he is trying to leave it in better condition than when they first began using it. Mr. McElrath apologized for heavier trucks that used Hall Road than what he had anticipated, however he said that none of Moore & Sons grading equipment and construction equipment went through there with the exception of a fuel truck. He added that there is no indication of how many trucks he had turned away from Hall Road. Mr. McElrath said he "notified every contractor that would be using that road to be mindful of the neighbors and their speed." He said that those days have passed as he mentioned he had not used Hall Road, prior to a week ago, for about thirty days and to his knowledge, no one else has either and the gates remain locked. He said that the situation that has presented itself is over and that again he would like to apologize to the neighbors. Mr. Cooper asked Mr. McElrath if now that they have an entrance, the use of Hall Road is over? Mr. McElrath stated that is right. Mr. McElrath said that Mr. Hedden would use Hall Road to access his home until such time that Mills River Way crosses the top and heads down to his home. He said that when that time comes, he will no longer use Hall Road and will not be allowed to according to his deed. He said that right-of-way would be dead when it touches what is currently Phase 2. Mr. McElrath said that concerning the out parcel, it has an approximately 1100-square foot rustic cabin and the plan to use it for recreation.

Mr. Cooper opened public input for this subject.

Richard Dillingham. Mr. Dillingham is a resident of Hall Road. Mr. Dillingham said that now that the developer has procured the property, which is in front of his property, he is more concerned because it is affecting him at present. He added that he would like that property to become a greenway as he feels that his main concern along with the other property owners of Hall Road is that the developer will some day parcel out the land around the cabin, which will make more traffic on Hall Road. He said he feels that the residents will be confronted with this problem the rest of the time that the residents live there. Mr. Dillingham said he just wants to see that the development is done right and if the residents have rights to do something, he wants to exercise them. He said he does not want to infringe on their rights but wants to protect their sanity and sanctity.

Mr. Cooper asked what is the right-of-way on Hall Road? Terry Baker said that it is approximately 8 to 10 feet. Mr. Cooper asked if he limits himself to no access through The Homestead and the only right-of-way is what is deeded, could he subdivide? Ms. Smith said that since he has less than 30 feet of off-site access, any subdivision would have to average to one unit per acre, which is the same as the watershed requirement. Mr.

Cooper said that he can still subdivide it. Mr. Dillingham asked, "Could they have a development?" Ms. Smith said they could have multiple lots.

Ron Thompson. Mr. Thompson lives at 135 Hall Road and said he feels that the new plan of this project benefits the ecology of the area by staying away from the stream and he is happy with them making an entranceway to the development. He thanked Rick Moore for the road work that was done. Mr. Thompson said that his main concern is Hall Road. He mentioned that the residents of Hall Road have suffered greatly. He said that from April to November he estimates that between 3,500 and 4,500 trips have been generated because of The Homestead at Mills River, on that single lane gravel road. Mr. Cooper asked whether he feels that traffic was due to on-lookers and sightseers? Mr. Thompson said he didn't feel so. He said it was construction traffic. Mr. Thompson said that what the Board permitted them to use on that road was Mr. McElrath's vehicle and one maintenance vehicle. Mr. Thompson suggested that Mr. McElrath put a conservation easement on the 10 acres, forever forbidding any development. Mr. Thompson said that Mr. McElrath said that he has no intentions to develop the out parcel. He said that he has it today, but in the future he could sell it to someone – anyone - and therefore he said he does not want to attach restrictions to the land. Mr. Thompson said that once the right-of-way was put in, traffic on Hall Road decreased. He suggested that the developer install signs directing construction traffic to the subdivision and telling people to keep off of Hall Road. Mr. McElrath said that the land is under contract and he doesn't own it at present, so therefore, he has not gotten far along in the progression of thought as to what will be done with the property, but it won't be a detriment to the community. Mr. Cooper said that all Mr. Thompson is worried about is that it will not be part of The Homestead at Mills River nor will it be accessed by roads in The Homestead at Mills River. Mr. McElrath said that it will not be a part of The Homestead at Mills River and it will not have access to that development. Mr. Thompson referred to the Planning Board minutes of a prior meeting stating, "The applicant stated that Hall Road and Old Homeplace Road would not be used for construction vehicles, except for small repair vehicles accessing the old Clodfelter home and other conditions." He mentioned that in the minutes it defines exactly only two vehicles and that would be Scott McElrath's vehicle and a small black Toyota truck.

Buddy Everhart. Mr. Everhart said that he purchased his property on Hall Road in April 2004 and it is located beside the old Clodfelter home. He added he sees what is going on out there. He said that the traffic has almost ceased and what the traffic amounted to was various small contractors. Mr. Everhart said that what he is concerned with is, if he gave the Board assurance previously of the traffic situation, then he said he does not know what faith to put in the assurance he's giving now, if you look at past history. He said as a resident, The Homestead at Mills River will back up to his property on the back and side portion. He said that the development is going to be a great community but Hall Road is not made for heavy traffic. He stated that he has concerns that if the out parcel is developed by some future owner, meaning cut into by three or four lots, Hall Road will not be able to stand the traffic. Mr. Cooper asked Mr. Burrell, Assistant County Attorney, to address this issue. Mr. Burrell said that there is not a lot that the Planning Board can do for a piece of land that is not part of the subdivision in front of it. Mr. Cooper said that he has looked at the plans and feels that there are some lots that have some tough access but that's not his or the Board's problem. He said that as long as the roads meet the Subdivision Ordinance, as they show they are going to meet them, and everything meets the requirements and the comments and stipulations that are described in the Planning

Department's memo, then he is in favor of the development. Mr. Cooper added that moving the road from the creek does nothing but enhance the project and what the Board is considering is basically an amendment to the subdivision that already was approved.

Mr. Patterson said that there is a comment from NCDOT regarding the driveway entrance, and he asked if the access permit been applied for? Mr. Davis said that to the best of his knowledge it has been. Mr. McElrath asked an open permission to repair Hall Road, while some of the residents were present. They all generally agreed.

Jonathan Parce made a motion that the Planning Board find and conclude that the Revised Master Plan and Revised Phase 1 Development Plan for The Homestead at Mills River comply with the provisions of the Subdivision Ordinance except for those matters addressed in the technical and procedural comments section of the Staff memo that need to be addressed and further moved that the Revised Master Plan and Revised Phase 1 Development Plan for The Homestead at Mills River be approved subject to the following conditions: the applicant satisfies all pre-existing conditions from previous Planning Board meetings, any conditions that result from the comments listed in Staff's memorandum and in addition, that the out parcel is not part of The Homestead at Mills River development and will not be accessed through The Homestead at Mills River road system. Tommy Laughter seconded the motion. Mr. Patterson clarified that this covers all items that were previously discussed and approved. Mr. Cooper said that was the intention that all conditions from previous Planning Board meetings for The Homestead at Mills River apply to the current approval. Mike Cooper, Jonathan Parce, Tommy Laughter, Stacy Rhodes and Mark Williams voted in favor. Paul Patterson opposed the motion. The motion carried 5 to 1.

Subdivision Meetings and Assignments. Ms. Smith suggested that the Board wait until Mr. Pearce is present to schedule some meetings.

Adjournment. There being no further business, the meeting was adjourned at 9:10 p.m.

Tedd M. Pearce, Chairman

Kathleen Scanlan, Secretary