

## **HENDERSON COUNTY PLANNING BOARD MINUTES June 15, 2004**

The Henderson County Planning Board met on June 15, 2004, for its regular meeting at 7:00 p.m. in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, NC. Board members present were Tedd Pearce, Chairman; Leon Allison, Paul Patterson, Mike Cooper, Tommy Laughter, Cindy Dabaibeh and Vivian Armstrong. Others present included Brad Burton, Zoning Administrator; Karen C. Smith, Planning Director; and Kathleen Scanlan, Secretary. Board member Todd Thompson was absent.

Chairman Pearce and the Board acknowledged Walter Carpenter's resignation from the Planning Board and noted his fourteen years of service as a member, past Chair and Vice Chair. Chairman Pearce, on behalf of the Planning Board and Planning Department Staff, presented Mr. Carpenter with a plaque.

Approval of Minutes. Chairman Pearce presided over the meeting and called the meeting to order. He asked for the approval of the regular meeting minutes of May 18, 2004. Tommy Laughter made a motion to approve the minutes and Leon Allison seconded the motion. All members voted in favor.

Election of Vice Chairman. Chairman Pearce presided over the election of Vice Chairman and asked the members to offer nominations for the office. Leon Allison stated that he would like to nominate Mike Cooper as Vice Chairman. There were no more nominations. Chairman Pearce seconded the motion and all members voted in favor.

Adjustment of Agenda. Chairman Pearce asked that Item 6, dealing with the US 25 North Study, be moved to after Item 10, in the interest of time.

Staff Reports. Ms. Smith said that in the Planning Board's packet is the regular monthly update regarding the Comprehensive Plan and the US 25 North Study. She informed the Board that the Board of Commissioners had scheduled a meeting to discuss the Plan on Friday, June 18, 2004 at 9:00 a.m. She said that they had two public input sessions the previous week, had discussions following those input sessions and gave Staff direction. They had discussed that the Plan might be adopted on Friday, June 18, 2004, maybe with some changes. She said that if this occurs, Staff would have a final document out and printed sometime after that. Ms. Smith said that the Commissioners requested that Staff prepare an implementation schedule and pull together some cost information. Chairman Pearce stated that the Subcommittee has met twice and will meet again on June 29, 2004 regarding the US 25 North recommendations and he hopes that the Subcommittee will be in a position by the July Planning Board Meeting to discuss it. He feels that if they are concerned about anything, perhaps a special called meeting will be scheduled.

### **NEW BUSINESS:**

Soapstone Creek Estates (File # 04-M07) – Combined Master Plan and Development Plan Review for Property Located off McElrath Road – (32 Lots Total) – Terry A. Baker, Agent for Soapstone Creek Estates, LLC, Owner. Derrick Cook said that there is a brief synopsis of the subdivision details in the Planning Board's individual packets. He reviewed the technical and procedural comments and stated that regarding the Master Plan, all requirements were satisfied. The following were the comments under the Development Plan: Mr. Cook mentioned

that Comment 1, Soil Erosion and Sedimentation Control; Comment 2, Private Roads; Comment 3, Perennial Stream and Buffer Area; Comment 4, Common Area; and Comment 5, Road Grades, are all standard comments that are usually required. Mr. Cook said that dealing with Comment 6, driveway easements, the applicant has proposed three 30-foot drive easements. Mr. Cook pointed out on the map the locations of the easements. One of the easements extends through Lot 32 to Lot 31 and due to the terrain of that lot, will give a better access to the road system. The second easement abuts Lot 28 and Lot 26, leading to Lot 27, and the third easement is a driveway easement going through Lot 13, extending to Lot 12. He said that according to the *Henderson County Subdivision Ordinance*, we really do not have the term "driveway easement" and Staff believes that at the minimum it would need to be classified as a limited local residential private road and would need to meet such standards and a cross-section would need to be provided on a revised Development Plan illustrating this. He discussed with the surveyor, Mr. Terry Baker, new road names would need to be applied to those driveway easements and would need to be approved by the Property Addressing Office. Chairman Pearce acknowledged the receipt of a letter from Dr. Tom Burnett, with Soil and Water, which superceded his previous letter regarding an incorrect review of another subdivision. Chairman Pearce asked whether they would be separate road names or would they be continuation of the existing roads that it comes off of the cul-de-sac? Mr. Cook said that he did not know. Mr. Cook said that dealing with Comment 7, culverts and drainage plans, this is a normal statement that Staff usually requires. He mentioned that when he went out to the site, the applicant had some culverts already existing within the road system that did not meet the County's standards and that they had been put in recently, so Mr. Cook advised the applicant that they would need to remove them and replace them with a minimum of 18-inch diameter culverts where they are currently shown on the drawing as 15-inch diameter. Mr. Cook stated that regarding Comment 8, legend, the applicant shows "CMP" (corrugated metal pipe) and "CPP" (corrugated plastic pipe) in the legend area of the Plan and believes these represent what type of culvert pipes would be used in the project, but it does not specifically reflect which pipe would be used in the project and Staff believes that for clarity it should be noted which proposed pipe type would be used at all proposed culvert locations and that the applicant should submit a revised Master and Development Plan prior to beginning any construction. Mr. Allison said that these pipes are state approved, and asked if it really matters which pipe they use? Mr. Cook said not really but Staff feels that it would be best to know which one will be there. After some technical discussion, Mr. Cook said that based on what is in the Subdivision Ordinance, Staff has not received notification from the State on the acceptance of 15-inch plastic pipe as of yet. Mr. Cook referred to a previous subdivision, Mountain Vista, where the developer had put in 15 inch culverts that did not meet the County's standards, but if the State would have given notification that the State would have approved them, we would have let them go, but since the State did not do so, they needed to be removed and replaced by 18-inch culverts. Mr. Allison said that the reason is that corrugated metal pipe collects silt and stops the flow of water. Ms. Smith said that there is a slight conflict because the text of the Subdivision Ordinance stated that private roads need to meet NCDOT standards for culverts and drainage but the Subdivision Ordinance's appendices, in addition to requiring that State Standards be met, specifies 18-inch culverts. Chairman Pearce noted that the Board needs to look at the appendices on that subject. He asked whether the Board should consider requiring for approval of this subdivision, that they meet NCDOT standards for the road culverts only? Ms. Smith said only if we can get NCDOT to tell us that they are okay for this plan and that they will function properly. Chairman Pearce said that regarding Comment 7, he feels that this comment should read: Culverts and drainage structures along the proposed roads need to be designed to NCDOT standards. Culvert locations, length, diameter (which should meet NCDOT minimum size of 18 inches) and type should be shown on the combined Master and Development Plan (Section 170-21-D, 170-29-B and Appendix 5). Any pipe less than 18 inches in diameter must be approved in writing by NCDOT. Chairman Pearce said that if in fact NCDOT has changed their standards, the Board

would like to get this in writing. Chairman Pearce questioned comment # 8 regarding the type of pipe they would be using for the project, is this something normally we need to put in? Mr. Cook said that normally we would get the applicant put the specific pipe type at each culvert. Chairman Pearce said then that is all we need. Mr. Allison asked whether the Board could change that in the Ordinance to reflect this? Chairman Pearce said that the Board would need to go back and change it in the Ordinance. Mr. Patterson said at that point in time, if the State calls for a 15-inch pipe, they would have to tell you that it is a 15-inch double wall plastic not metal, so at that time the applicant would need to say what type it is. Ms. Smith said that all this requirement deals with is the labeling on the plan. Mr. Allison asked what would happen when Staff checks the pipes and find they were labeled one way on the plan and when they were installed it was less costly to do another type? Mr. Patterson said as long as a professional has designed the piping, it doesn't matter. After some discussion, Chairman Pearce didn't feel at this time the Board should go into the Ordinance to try to adjust the wording, because he feels that the Board is giving the applicant enough leeway on the pipe itself that will solve most of their problems and he added that this legend problem is minor. Chairman Pearce added that in the future the Subdivision Issues Subcommittee could look at some minor changes dealing with wording on this matter.

Mr. Cook stated that under the "other comments" the applicant would need to discuss the status of the existing roads and rights-of-way that are located on the property. He said that several appear to serve adjoining properties. Mr. Cook said that lots 18, 19, 20 and a portion of lot 17 are located within the WS-II Water Supply Watershed Protection Area. He said that they meet and exceed the lot size requirement, which, in this case, is a 40,000 square feet minimum, and that there are no perennial streams on those lots, so any setback or buffer is required. Mr. Cooper asked for an explanation of the existing right-of-ways. Chairman Pearce said concerning existing right-of-ways, the Board would need to know where they are going to and whether someone has a right to use them, if they still are in use and for how long. He referred to The Ponds, Section 10, of Carriage Park, where a gentleman had a right-of-way and Carriage Park wanted to give him a different right-of-way, but it was worked out with the owner to protect the man who had the right to use it. Mr. Cooper said that there are no standards to improve those right-of-ways. Chairman Pearce said no, but they are not to deteriorate them either.

Chairman Pearce asked Mr. Terry Baker, agent for Soapstone Creek Estates, whether he was comfortable with building the driveway easements to local limited residential private road standards? Mr. Baker said that the owners prefer not to because in most cases, the roads would be feeding just one lot. He said he realizes that they have the possibility to serve additional lots because they touch them. The lots serviced by these easements have enough road frontage on the primary road system and the easements' only function is to serve one lot. He added that they could adjust some lot lines (lots 32, 26 and 28) to varying degrees. He said lot 31 does have (309 feet frontage approximately) and they can get a road up there, although it is not an ideal situation. Mr. Cook said that according to the Ordinance, for it to be defined a driveway, it must be on a specific lot, serving that lot only. He said that dealing with lots 31 and 32, presently there is an easement going through lot 32 directly to lot 31. He said that the Ordinance states that if the easement is off of the lot it serves, then the portion of easement that exists off the lot it serves must meet the Ordinance's road standards. Ms. Smith said that the way the Ordinance is written, "road" equals "easement," "easement" equals "road" and all roads need to be designed and constructed accordingly. Mr. Baker said that they would do everything to correct this issue and may do some reconfiguring of lot 32 and with the other lots, and will bring them up to the standards.

Regarding the existing rights-of-way (three), Mr. Baker said most of them are logging roads and some have gravel on them but they are pretty primitive. Chairman Pearce reviewed all of the

rights-of-way with Mr. Baker to determine that they will not infringe on any adjacent property owners. Chairman Pearce asked Ms. Smith whether there is anything that the Board can further do to protect those rights-of-way? Ms. Smith said that the Planning Board did a policy back in 1995 based on the *Land Development Ordinance*, which talks about making sure that the right-of-way is identified on a preliminary plan and/or the final plat, or if the developer states that there is no valid easement, they would need to produce documentation with regard to that. Ms. Smith said that in this case, they would need to identify and label them on the final plat. Mr. Laughter asked, "What is running through the middle of lot 22?" Mr. Baker said that it is an old logging road. Mr. Patterson said that on the entrance it looks like there is a 12-foot right-of-way and before that it shows the end of the McElrath Road right-of-way. He asked what happens there because there is barely enough to touch the subject property? Mr. Baker said that the 12-foot right-of-way runs through there and that they have the proper distance across between an EIP (existing iron pipe) and the end of the right-of-way. Mr. Patterson said that this would have to have collector road characteristics into the first intersection and the second intersection due to the number of lots. Mr. Patterson said that the deed only shows 45 feet on McElrath Road. Mr. Baker said that is the State right-of-way. Mr. Patterson asked whether they would be building the roads to NCDOT standards or private road standards. Mr. Baker said it would be private road standards. Mr. Patterson said that it would need to have a 50-foot right-of-way. Mr. Baker said he couldn't do anything about the State right-of-way. Mr. Patterson asked where the 45-foot right-of-way stopped. Mr. Baker said that on the plans it shows where it is dashed out all the way up and stops on the property. Paul Patterson asked, "Who owns the lot east of lot 1?" Mr. Baker said that he did not know but could find out. Mr. Patterson is concerned with the second intersection at lots 30, 31, 5 and 6. He said it should have a 50-foot right-of-way. Mr. Baker said that there is 50 feet across there and back to the EIP that would get them through there. Mr. Patterson said that on the proposed building setbacks, there is 50-feet from the center of the cul-de-sac. Mr. Baker said that is the figure that the developers provided, but if the Board wants him to propose something different to the developer, he can do so.

Chairman Pearce moved that the Planning Board find and conclude that the combined Master and Development Plan submitted for Soapstone Creek Estates subdivision complies with the provisions of the Subdivision Ordinance except for those matters addressed in the technical and procedural comments section of the Staff's memo that have not been satisfied by the applicant and additional comments which will be labeled # 9 and #10. He further moves that the combined Master and Development Plan be approved subject to the following conditions: The Development Plan Comments # 1, 2, 3, 4 and 5 will apply. Regarding comment # 6, that either the driveway easements be eliminated or be brought to limited residential local private road standards. If they are made into roads, then road names will need to be assigned. The Planning Board will give the developer the option of deleting the driveway easements and adjusting the property lines to remove the three easements. Comment # 7, that it should read as noted in the technical and procedural comments except that "of 18-inches" should be struck, and the Planning Board ruled and added that any pipe less than 18 inches in diameter must be approved in writing by NCDOT. Comment # 8 will apply as is. Comment # 9 should be added and read that collector road standards apply to Soapstone Creek Drive. Comment # 10, should be added and note that the three existing rights-of-way are noted and the developer agrees to maintain them to allow their continued use and not infringe upon the properties they go to. Mike Cooper seconded the motion. Ms. Smith asked, on the collector road standards, if the Board wanted that to be shown on the revised development plan and/or final plat? Chairman Pearce said on both plans. Mr. Patterson felt that there should also be an additional comment that a surveyor certifies that all roads meet Henderson County road standards for both grade and alignment. Chairman Pearce agreed to and added that additional comment to his motion and noted it as Comment # 11. Mike Cooper agreed to the change on his second to the motion. All members voted in favor of the motion.

Willow Place (File # 04-M08) – Combined Master Plan and Development Plan Review for Property Located off Willow Road – (20 Lots Total) – Gene Parker, Agent for Charles M. Fisher, Sr., Owner. Mr. Cook said that there is a brief synopsis of Willow Place Subdivision in the Planning Board's packet, and with regard to the Master Plan, all requirements were satisfied. Regarding the Development Plan, his comments were as follows:

1. Public Roads – The applicant should have an NCDOT engineer's seal with signature acknowledging that the proposed road design meets NCDOT standards (Appendix 7).
2. Water Supply – Although the applicant did supply a letter of water capacity from the City of Hendersonville Water and Sewer Department, they must meet the City of Hendersonville's minimum requirements for fire hydrant installation (HCSO 170-20). Final approval of the water supply system must be provided and such system must be installed (or an improvement guarantee for such system must be posted) prior to the Final Plat approval, if applicable.
3. Road Grade – The applicant has provided the approximate road grades for the proposed public roads. On the Final Plat, conformance with the road grade standards of the NCDOT will need to be certified (HCSO170-21, Table 1, 170-21E).
4. Zoning – The applicant has provided the appropriate zoning district of R-20 and setback requirements of the district on the combined Master and Development Plan. On the Final Plat, the applicant should also provide the appropriate zoning district of R-20 and the setback requirements of the district (Appendix 7).

Mr. Patterson said that in the pre-agenda package Staff sent out to the Board members, it was referenced that this subdivision might not be presented at the June's Planning Board meeting, and he asked Derrick to explain this comment? Mr. Cook said that he was needing some information to make it possible to meet the County's requirements by the time of the June Planning Board meeting. Mr. Cook added that he did not take them off of the agenda because he had deferred them from last month and the applicant was making his best efforts to get all of the information in to make the June's meeting. Mr. Cook said that he was waiting on the Sedimentation and Erosion Control Plan and also information on the culverts and once that arrived, it looked like they had met all of the minimum requirements, so Staff let them move forward on the agenda and not defer them another month. Chairman Pearce made a motion that the Planning Board find and conclude that the combined Master and Development Plan submitted for Willow Place subdivision complies with the provisions of the *Subdivision Ordinance* except for those matters addressed in the technical and procedural comments section of the Staff's memo that have not been satisfied by the applicant and further move that the combined Master and Development Plan be approved subject to the following conditions: the applicant satisfies comments 1 through 4 on the Final Plat or by Final Plat approval. Tommy Laughter seconded the motion. Tedd Pearce, Tommy Laughter, Leon Allison, Mike Cooper and Cindy Dabaibeh voted in favor of the motion. Vivian Armstrong and Paul Patterson opposed the motion for approval. The motion carried five to two.

Request for a Conditional Use Permit (#CU-04-13) to Construct a Five-Building Mini-Storage Facility (Light Industry) in a C-4 Zoning District that fronts both Mills Street and Highway 176 – Gary Salvaggio, Agent. Ms. Smith, acting on behalf of Brad Burton, Zoning Administrator who is out of town, said that this conditional use permit is to allow light industry in a C-4 highway commercial zoning district. She said that the property is located south of the old hosiery mill, for which the Planning Board has previously reviewed a conditional use permit. Chairman Pearce

interrupted to note that Mike Cooper wishes to recuse himself because the applicant is a client of Mr. Cooper. All Board members voted in favor of recusal.

Ms. Smith stated that the property owner is MSMM Enterprises, LLC, and Mr. Gary Salvaggio is the agent. She stated that the property is comprised of three parcels and a total acreage of 2.83. The proposed project is for 362 storage units contained in five buildings and an office. Ms. Smith said that warehousing is allowed in the C-4 zoning district as a conditional use as it is a use by right in the light industrial district. She said that the setbacks for the property in this zoning district would be 75 feet from the centerline of a major street and 60 feet from the centerline of other streets, however if the road is greater than a two-lane road, which is the case on Spartanburg Highway, the front setbacks are measured from the edge of the pavement into the road 12 feet and then out 75 feet into the property. The closest zoning district is T-15 and the applicant meets the requirements of the side and rear yard setbacks for T-15, which are 15 feet.

Ms. Smith said that the application does not indicate how many employees or employee vehicles will be operating from the site. She said that the plan shows five spaces, but Staff can not quite determine whether that is sufficient and said that the Staff will need to get more information. Ms. Smith said that there are no specific requirements for warehousing in the *Zoning Ordinance*. She said that the only concerns that this Board and the Board of Adjustment will have is making sure that it complies with various things that might be applicable or anything that the Boards feel should be conditions that can be agreed upon between the applicant and the Boards. Ms. Smith stated that issue # 8 of the "zoning official's report" states: *Lighting, fencing, landscaping and hours of operation have not been addressed by the project developer on the site plan submitted* and that this will need to be addressed by the applicant. Ms. Smith stated that the applicant's agent is not present. She further stated that these items that need to be addressed by the applicant or applicant's agent are not that significant as the Board of Adjustment can deal with these issues at its meeting. She said that the Ordinance suggests that the Planning Board make a recommendation on the conditional use permit. Chairman Pearce said that he feels comfortable forwarding a favorable recommendation to the Board of Adjustment. He made a motion to send a favorable recommendation to the Board of Adjustment for the conditional use permit to construct a five-building mini-storage facility in a C-4 zoning district subject to the Board of Adjustment reaching satisfactory conclusions on Issue # 7 dealing with parking issues and Issue # 8, dealing with lighting, fencing, landscaping and hours of operation. Leon Allison seconded the motion. Mr. Patterson asked whether there are any requirements that the applicant to be present at the meeting? Ms. Smith said that there are no requirements for the applicant to be present at the Planning Board meeting, but someone will need to be at the Board of Adjustment meeting. Mr. Patterson said he feels it is a bad precedent not to show up. Ms. Smith stated that Brad Burton had indicated to the applicant that they needed to be at this meeting. Chairman Pearce asked, "What type of time frame does the Board of Adjustment have on conditional use permits?" Ms. Smith said that from the close of their hearing, they have 45 days to offer a decision. Chairman Pearce asked if it would cause any delays if the Planning Board delayed the recommendation? Ms. Smith said that the Board of Adjustment will hear this conditional use permit at the end of June. Chairman Pearce said that if the Board feels comfortable going forward with the applicant not being here, we can. He added that he feels it is a practical use in this zoning district. After some further discussion regarding this matter, the vote was taken. Tedd Pearce, Leon Allison and Cindy Dabaibeh voted in favor. Tommy Laughter, Paul Patterson and Vivian Armstrong opposed the motion. There was discussion concerning the tie vote. The members who opposed the motion felt that the applicant's agent or applicant should have been present to answer any questions concerning this application. Board members decided to forward the motion to the Board of Adjustment as a tie vote (3 in favor and 3 opposed).

Request for a Conditional Use Permit (#CU-04-14) to Operate a Customary Incidental Home Occupation from his residence in an R-40 Zoning District on Adger Drive – Jim Pace, Petitioner. Ms. Smith stated that this request for a customary incidental home occupation, which is allowed in most residential districts, including the R-40 district, with approval by the Board of Adjustment. She stated that in Mr. Burton's report, he provided what the *Zoning Ordinance* defines as a customary incidental home occupation. She said that an important matter to note is that an applicant cannot use over 25% of the total floor space of any structure for the occupation and it limits the type of businesses that can be done as well as requires that the business be done within the building itself instead of a garage or a stand-alone building. Ms. Smith said that the applicant has been operating a dental crown/cap business at this location and it was discovered that this was being done. The business has been operating for approximately one year and three months and currently employs two full-time individuals as well as an employee who makes deliveries. The location makes and receives UPS deliveries. Ms. Smith noted the photos of the the facility's operation that were enclosed in the Planning Board's packets. Ms. Smith said that the area of operation does not exceed the 25% total floor space, the driveway area is sufficient for access and parking spaces are adequate, enough though there are no designated spaces, but according to the zoning administrator, there is enough area to accommodate the Staff that is there. Some of the questions that need to be answered are:

1. Whether there will be a sign.
2. Whether there will be any employees added to the operation.

Ms. Smith said that she questioned the application in terms of the definition of customary home occupation and discussed it with Mr. Burton. In particular, she questioned the terminology *carried on by the occupants thereof* and whether or not it allowed employees or whether it could only be conducted by the people who live in the home. She said that the Board of Adjustment looks on these on a case-by-case basis. She said that they searched to see if a similar matter occurred before and did find two other cases that allowed employees, but the Board of adjustment imposed a limit to the number of employees to limit the impact that the use could have on the neighborhood.

Mr. Jim Pace passed out to the Board members a site plan for the home occupation and the square footage that each area takes up Mr. Pace indicated that he had checked to see if a home occupation was allowed in R-40 and was told it was if it didn't exceed 25% of the home. He said that it was later brought to his attention that he would need a conditional use permit to operate this business under R-40 zoning. He said he had talked with Mr. Burton and explained to him that he wanted to make it legal. Mr. Pace explained that one of his employees is no longer working for him, which brings it down to just one employee, and the other employee who does pick up and delivers to some doctor's offices once a day. He stated that the only other traffic he has is UPS, which comes once a day. His employees, a husband and wife team, drive a truck or car to his laboratory every day (Monday – Friday). The hours for them are 7 a.m. to 2 p.m. and that is the only other traffic he has coming to his home. Mr. Pace said that he had checked with his neighbors and told them his intentions as to what he planned to do before he had even started this operation to make sure it would be okay with all of his neighbors.

Mr. Patterson asked Mr. Pace whether he had any clients coming to the home? Mr. Pace said he did not and added that it is strictly UPS service and delivery service. Chairman Pearce asked what the maximum number of employees would be? Mr. Pace commented that it would be a maximum of three full-time employees on site. Chairman Pearce asked what about signage? Mr. Pace said that there will be no signs and added that he does not want anyone

to know that he is there. Chairman Pearce made a motion to recommend that the Board of Adjustment to approve Conditional Use Permit CU-04-13, subject to the issues already mentioned in the Zoning Official's Report as well as the following suggested conditions:

1. That the applicant acknowledges that no clients will be coming to the dental lab.
2. That the applicant will employ no more than 3 full time equivalent employees on site.
3. No yard signs advertising the business will be erected.

Vivian Armstrong seconded the motion and all members voted in favor.

US 25 North Area Study Update – Michael Harvey, CMR Services, Inc., and Land Use/Zoning Study Subcommittee of the Planning Board. Mr. Harvey said that what each member has is a rough draft of the finished final document. He stated the subcommittee has been assigned to study the zoning elements of the study. He said that Staff has indicated that they would need to make some corrections and that he has also found some items that will need to be corrected. He said that he is looking for the Planning Board's comfort level with the policy statements and to try to answer any questions specifically regarding them. Mr. Harvey said that regarding the maps that were not included in this draft document he will be coordinating the production of those maps with Staff to insure that they do not come up with a color combination that is different from other maps that the Board has seen. Mr. Harvey said that he has been informed that the Subcommittee is almost finished with its comprehensive review of their zoning recommendations, but he wants to make sure that the Board members are comfortable with the document so that they can discuss it. Mr. Harvey is wanting to know whether the Board members are comfortable in discussing specific policy recommendations and discussing the rationale as to why the recommendations were made and why certain avenues were not focused upon. Chairman Pearce asked Board members whether they have had adequate time to study this report? He said that there are several ways the Board can go about doing this review. One, is to have a general presentation of the report from Mr. Harvey and specifically, instead of working on the zoning items, give the thought process behind why he was making general recommendations, for instance on floodplain and other issues of interest. He added that he does not know whether everyone has had adequate time to prepare, but if the Board is comfortable and feels that it is in a position to talk to Mr. Harvey in detail about items, the Board can go forward with the study. Ms. Armstrong said she feels that it would be better to have a complete document that is finished and corrected with maps included. She added that she had a problem finding things that were referenced in the study and feels that the text is not user-friendly. Ms. Smith indicated that her memo talks about several items that are referenced in the draft but not included. Chairman Pearce said that the Board is not approving anything and Mr. Harvey is just presenting the draft. He added that the Board of Commissioners agreed to give the Planning Board an extension between 90 – 120 days from the time the Planning Board receives their draft. Chairman Pearce asked at what level of detail the Planning Board wanted Mr. Harvey to review the document, or would the Board rather have Mr. Harvey be more general in his comments? Mr. Cooper said that he has not had much time to review this document to be able to discuss policy or anything else relating to this study. Chairman Pearce feels that Mr. Harvey needs to just go over the highlighted and important issues that the Board needs to know to find out what the Board's opinion is on the issues.

Mr. Harvey said that the overall purpose of the US 25 North study is to review the existing land use patterns and development regulations currently enforced in the identified study area and to devise a set of practices for future land use development within the corridor. Mr. Harvey said that in order to do that, you need to look at the existing land use patterns and existing constraints on future development of the corridor and try to establish policies. Mr. Harvey stated that one of the chief concerns is that the majority of the study area is in a floodplain, which



became a large focus of this project in terms of coming up with some concise recommendations and providing some options that would address that major problem. He said that another issue is the lack of local infrastructure in terms of water and sewer lines. He said most of the area is on septic and individual wells, which can impose some separate problems. He has found out in the public input sessions as well as discussions with Staff that there are also concerns with environmental degradation as additional development comes. There are also concerns with stormwater run-off, flooding, soil erosion and sedimentation control, as well as the environmental stability of the area and what future development would do. Mr. Harvey said that the main reason for this study is the widening of US 25 North, which would make the area more popular for development. He said that the current zoning designation (Open Use District) of the area does not allow the ability to comprehensively plan because of the allowances of district. He said that this limits what Staff and the Planning Board can do. Mr. Harvey said that the predominant land use in the study area is residential followed closely by commercial development, but the area has been selected for large increases of industrial areas. He added that the Committee of 100 recommended several tracts of land in this general area to be either rezoned or encouraged to be developed for industrial purposes. He said one of the chief concerns in this study area is the floodplain followed by the lack of infrastructure and access (transportation) management, which will be a big concern with the widening of US 25 North. He said that not only the Planning Board, but also the general public, expressed the need to protect the existing nodes of development (that is residential and commercial), not to put a shopping center in the middle of residential development which could destroy the quality of life, which Mr. Harvey said affects the floodplain, stormwater run-off, and infrastructure/utility services. He said that in fashioning the strategies or policy recommendations, the study tried to focus on preserving existing nodes of development, recommending logical expansions of industrial districts and trying to come up with some creative ways to handle additional development (such as the Fletcher Academy property and the Heritage Hills property). He said that the majority of the commercial and industrial recommendations are based on several factors, including the County making a pro-active effort to deal with the development of the flood zone. He said that Section 5 of the study, recommended several policy initiatives for doing so. He said that the main recommendation is that the County adopt a Comprehensive Flood Damage Prevention Ordinance. This would essentially would require any development in the floodplain to adhere to certain development design criteria and other standards that would mitigate any negative potential impact on the floodway and would protect the property from being overly damaged during a storm event. He added that it would mean commercial structures would either need to be flood-proofed or elevate out of the base flood zone and residential property would need to have the first floor of living space above base flood, so it wouldn't not be flooded out in a storm event. It would also require developers to pay attention to developing in a flood zone but they need to recognize that they cannot create additional adverse secondary impacts on adjacent property. He said that this is the primary recommendation but he also provided additional options with respect to dealing with flood zone developments if a Flood Damage Prevention Ordinance is not developed. The study suggested and recommended an overlay district for all property in the flood zone and requires developers to adhere to specific development criteria to mitigate the impacts that development would have in that area. He said that the study also recommends that the County could adopt a new zoning classification, such as a special environmental district, for which he had provided an example. If the Board does not recommend those options, the County should zone that area R-40 and not to allow any other development except what is allowed in R-40 zoning district. Ms. Armstrong asked, "How many acres are in the floodplain?" Mr. Harvey said that he was not sure of the total acreage. Ms. Armstrong asked what floodplain are we talking about? Mr. Harvey said it includes everything. Ms. Armstrong said it is up to and including what storm frequency? Mr. Harvey said it is the 500 year floodplain. Mr. Patterson added that this is not always defined. Ms. Armstrong asked if the Board feels that the floodplain covers approximately 30% of this study areas. Chairman Pearce

said he feels it covers at least one-third. Ms. Smith said of that floodplain, most of it is the 100-year because in our County very little is in the 500-year floodplain. Ms. Armstrong said that in one version of the Comprehensive Plan, there was an acreage number for the County that was in the floodplain and she feels that all the floodplain is located in this corridor, is that accurate? Most members felt that was not accurate. Chairman Pearce said that most of the floodplain is located in Mills River. Mr. Harvey said that number will be put into the report. Ms. Armstrong said that the report states that the majority of the study area is located in the floodplain. Even though one-third is in the floodplain, she felt that is not the majority, as that would be 50%. Mr. Cooper said that he would agree with a statement that a majority of the vacant property is in the floodplain. Chairman Pearce said that the wording needs to be changed to reflect what amount of property is in the floodplain. Ms. Armstrong was concerned that there are in several locations very specific numbers dealing with parcels, acreage and structures, so it seems that there should be the number of acres in the floodplain stated. Mr. Harvey also mentioned that there are other recommendations dealing with the protection of the local environment. The report recommends that the County adopt a Comprehensive Stormwater Ordinance and he provided a copy of a sample ordinance. Mr. Allison said that in reference to Section 6, Page D-5, Section 9, Fees, it asks under the residential for \$ 100 per inspection, and he asked how many inspections does this include? Mr. Harvey said that it depends on how long it takes to certify that the work has been done in compliance with the permit. He said generally it was put in to give the Board an idea of the fee structure and it is not intended to say that the County should do this. Mr. Harvey said that essentially the report designates a stormwater administrator and that person is the one that is responsible for making these determinations. After some further discussion concerning the fees, Chairman Pearce said that this is only a sample fee schedule.

Chairman Pearce said that in sending this report forward to the Commissioners, he asked Ms. Smith that the Commissioners would want some pre-approved ordinance(s) to coincide with what the Planning Board would recommend and what is their level of expectation? Ms. Smith said because the Comprehensive Plan has a time schedule on developing and implementing some ordinances, she feels that the Planning Board might not want to get too technical. She added that the Comprehensive Plan addresses floodplains, stormwater, erosion and sedimentation control (whether or not a local program), etc. Ms. Smith said she does not know whether the Planning Board wants this document to be the only information on these topics, because she feels they are much broader. She said that the Comprehensive Plan needs to guide Staff and the Board in how they approach these issues, but the zoning portion is important. Chairman Pearce said that in getting into the rezoning, the floodplain becomes an issue and the Board has one or two new zoning districts that the Board members need to consider. He said to send the study forward with recommendations using new zoning districts, the Board would need to approve and send forth with the document a recommendation for changes to the *Zoning Ordinance*. Ms. Smith said if the Board wants to recommend a district the County does not have, the Board will need to recommend some text zoning amendments, but she asked if the Board would be willing to do that now or if the Board would want to save that for the rewrite? She said that if it gets saved for the rewrite, the properties subject will need to remain in the Open Use District or changes to an existing district. Mr. Harvey said that if the Board chooses not to adopt a comprehensive stormwater ordinance, mainly because of uncertainty related to the Phase II stormwater requirements, he provided other options. One of the options is that the County could adopt regulations on the amount of fill material that can be deposited on a parcel of property. He also said that the Board could adopt regulations requiring all non-residential development or non-single family residential development to contain stormwater on-site. Mr. Harvey said that anytime a change is made to the *Zoning Ordinance*, it will be felt everywhere, unless the Board adopts some type of overlay district for this corridor and he does not feel that is a viable option. Mr. Harvey said that the document recommends regulations for non-residential developments limiting the amount of impervious surface that can

be placed on a given property for commercial and industrial developments, which is a focus on stormwater issues, and requiring minimum amounts of natural vegetation be preserved on property in conjunction with some stormwater elements. The document also recommends that all environmentally sensitive areas be left as open space and protected. He said that with respect to infrastructure management, the document recommends that the County adopt an adequate public facilities ordinance. He said that essentially if there is not adequate facilities to serve a specific development, whether it be a single family residence, a subdivision, a large-scale commercial operation, etc., the project could not be built until the developer came up with a contingency plan to address the lack of facilities. Ms. Armstrong asked about the difference between a moratorium and an adequate public facilities ordinance. Mr. Harvey said that the difference is the developer is allowed the opportunity to come with a contingency plan to address the lack of facilities. He added that the future of a development would not overburden the local landscape. Ms. Armstrong said that in her opinion, when she was reading the document, she noted several requirements which she perceived as "moratorium" in the entire corridor until there is sewer capacity and lines to handle development and asked if that was pretty accurate? Mr. Harvey said that is certainly not what the report wants to encourage, however CMR Services also believes that the County needs to be pro-active in allowing development and that there will be adequate facilities to support it, otherwise the County would be running into some of the many problems it has now. After some brief discussion, Ms. Armstrong referred to page 39 of the document which states, "CMR Services staff has encouraged the County to require developers to extend essential services, specifically water and sewer lines, to support new developments rather than allow for the continued use of septic tanks and private wells...." She said she feels that this means a "moratorium." She said that the big developers who are publicly financed or have big dollars can do that, but the smaller concerns can not do that. Chairman Pearce added that the additional problem in Henderson County is that all of the large tracts of ground that are available are in the floodplain and that most tracts of ground are odd-shaped. Ms. Armstrong was concerned that there was no actual figures mentioned regarding how many acres in this study area are undeveloped and of the undeveloped, how many are in the floodplain. Chairman Pearce said that he suggested adjustments and, with regard to the figures, that they be more defined in breaking things out in acreage. Tommy Laughter asked Mr. Harvey, "How much time did you spend in this area?" Mr. Harvey said he spent four to five days a week for the first three months coming up and reviewing what his predecessor had done. Mr. Laughter asked whether he had attempted to talk with property owners? Mr. Harvey said he did not, except the ones that attended public input sessions. He added that the reason he did not talk with property owners is because it could influence him and take away his objectivity. Chairman Pearce said that the Board members acknowledged receipt of this document and asked Mr. Harvey to take into account some of the concerns and questions that would help clarify it. He clarified that there will be corrections to the map and text and requested that two weeks before the July Planning Board meeting the Board have all of the final updates and recommended changes to the draft. He added that basically he would like the Planning Board members to receive the document on or before July 6, 2004. Ms. Smith asked whether the Subcommittee will have their report for the July Planning Board meeting? Chairman Pearce said that they would be able to report and should have all of the recommendations done and at the July Planning Board meeting start the presentations to the Board and with the Board's permission, if necessary, call a special meeting just for this study. Chairman Pearce and Ms. Smith reiterated by stating that the County hired CMR Services to write the report and the Planning Board is making some comments and some recommended changes to the document and will then recommend approval or disapproval of the recommendations regarding CMR Service's study and then the Board of Commissioners will decide what to do with all that information once it receives it.

Ms. Armstrong said that since the Board finished work on the Comprehensive Plan, there is something about being away from it for a while and that seems to make it look different and allow one to begin to absorb it. She said that both of these studies, the Comprehensive Plan to a larger extent, as well as the US 25 North Study, have far reaching implications with regard to taxes for the people who live there. She asked whether the Board would consider suggesting an impact statement be prepared, not from the point of view of the people who prepare it, but from some independent point of view. She said that this US 25 North Study will affect property owners' rights and be expensive in huge ways and all that the Board has is basically one point of view – a planner's point of view. She said she feels that perhaps the Board members are not capable of seeing all of the impacts because they only bring their personal experiences. Chairman Pearce said that is one advantage that the Board members have as a Board, more so than most boards because all of the member's points of view are varied in relation to building and planning in nature. Ms. Armstrong said it is bigger than points of view, but skills. She said one of the questions she had dealt with was the sewer and the implications of a moratorium. She asked how much sewer capacity is there? Is there enough capacity to do 300 homes, and if so, how much does it cost. Ms. Armstrong feels that this is some of the reason she feels that an impact statement is needed and questioned why the Board could not consider having an impact statement for this study and maybe for the Comprehensive Plan. Some of the questions she has is what is the 20 year impact going to be, the cost, and what will it really mean? Chairman Pearce said he feels there are a couple of ways to approach that but it might be ahead of time. He said that we are saying that this is a report that has been prepared and the Board is going to make recommendations on it to the Board of Commissioners. Chairman Pearce feels that this study is much more specific and has far more reaching financial implications than the Comprehensive Plan. If the policies suggested in this document were implemented, there would be some very significant opinions. Chairman Pearce said that he feels the Planning Board's recommendations need to be addressed. Ms. Armstrong asked if with adoption of these policies and ordinances, will it increase the cost of a home? Chairman Pearce said that Ms. Armstrong has presented the Board with a very logical problem and a means to resolve it, but as to how it will play out, perhaps it could be included in the information the Board will forward to the Commissioners. He said that the Board needs to be forthright and look at the information and present it in a manner such that the Board of Commissioners can make a reasonable decision based upon the information of CMR Services, Planning Staff and the Planning Board. Mr. Laughter said he feels that the Subcommittee that has been studying this issue as well as the full Planning Board need to be careful on the judgments they make to not step on anyone's toes. Chairman Pearce said that the Subcommittee has studied the area parcel-by-parcel and has tried to be as exact as possible and come up with some logic to the changes. He reiterated that the Planning Board needs to provide the Commissioners with a good report with our recommendations implying that there will be many ramifications if implemented. Mr. Cooper said that the zoning is a small portion of this study compared to the impact of the policies recommended. After some further discussion, Chairman Pearce asked Ms. Smith to get some further direction regarding this study and what the Commissioners are expecting of this Board within the timetable that has been allocated. Ms. Smith feels that a special meeting to discuss this study would be the preference. She added that there is a scope and budget for this project, so some of things that have been discussed aren't things that they will be able to take care of at this point. She said that when the County goes further with these other ordinances where it has been budgeted for the next fiscal year, they can then get into those matters.

Subcommittee Assignments and Meeting Dates. There were no assigned subcommittee meetings scheduled.

Adjournment. There being no further business, Tedd Pearce made a motion to adjourn and Leon Allison seconded the motion. All members voted in favor. The meeting adjourned at 9:15 p.m.

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Tedd M. Pearce, Chairman

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Kathleen Scanlan, Secretary