



Bruce Andersen, Chairman
Harold Bankirer
Addison Causey
Barry Hester
Jeff Neely
Joe Sailers

Sam Mount, Vice Chairman
Todd Bowland
Leonard Cook
JoAnne Miller
Randy Poindexter

Minutes of the Planning Board

The Regular Meeting of the Planning Board was held at the Huntersville Town Hall at 6:30 p.m. on October 27, 2009.

Call to Order

The Chairman called the meeting to order at 6:32 p.m.

Board Member Attendance

Bruce Andersen, Harold Bankirer, Todd Bowland, Addison Causey, Leonard Cook, Barry Hester, JoAnne Miller, Jeff Neely, Randy Poindexter, and Joe Sailers (attended after quorum). Sam Mount was absent.

Staff Attendance

Jack Simoneau, Planning Director, David Peete, Principal Planner, Whitney Hodges, Senior Planner, Lisa McCarter, Planner 1 and Michelle Haines, Secretary.

Consent Agenda

An Agenda change was requested to move Item 5 ahead of Item 4. Addison Causey made a Motion to approve the Agenda change, and Barry Hester seconded the Motion. The vote was unanimous.

Barry Hester made a **Motion to Approve** the Minutes of the September 22, 2009 Regular Planning Board Meeting with the revision requested by Addison Causey to revise page 2, paragraph 4, third line so that it requires a *quality* level of materials for screening. Jeff Neely seconded the **Motion**, and the vote was unanimous.

Public Comment

There were no individuals signed up to address the Planning Board for public comments.

Action Agenda

1. Lisa McCarter, Planner I presented a Text Amendment (TA 09-06), which is a request by the Town of Huntersville to modify the Zoning Ordinance Article 9.52 Uses Permitted with Conditions, 12.2.1 General Definitions, and Article 3 Zoning Districts to establish regulations for alternative energy sources, expressly wind and solar energy which are the most common types of alternative energy. The proposed text would allow small facilities by right as an accessory use in all zoning districts, and allow large facilities as a use permitted with conditions in the R, TR, HC, and CB zoning districts. A copy of the Staff Report is attached hereto as Exhibit "A", and incorporated herein by reference.

Staff updated the Planning Board from the Public Hearing which included the concerns raised by Town Board members that turbines would appear in subdivisions. Staff proposed minimum lot size requirements for small and large wind facilities. Currently there is no height limitation for small wind facilities as it would be considered an accessory structure. Concerns were expressed over the height at the public hearing so Staff added an option that wind facilities attached to a roof would have a 10 foot height limit above the roof. The large wind facilities would be currently be subject to essential services conditions and would have no maximum height. The proposed text would limit the height with options including 150 feet and 100 feet. Other changes that have been made is the addition of solar hot water heating as a solar energy facility and adding wording that wind turbines must comply with FAA and FCC regulations and the applicant would be responsible for correcting disruptions. Bruce Andersen wanted specific language to define a time frame for the responsible party to make corrections if the FCC regulations do not address the specific issue. Staff proceeded with stating that a maximum of one (1) turbine would be allowed for small wind facility and large solar roof top facilities would be exempt from the screening requirements. Staff is not opposed to adding noise concerns into the Ordinance.

Bruce Andersen commented that screening may be advisable in some instances, and Staff responded that wording would be needed so that the screening would not shade the solar feature. Jeff Neely questioned what defines a large roof top. Staff replied that to define a small and large solar and wind facility is to determine the electricity generated, and if the usage is over what is needed for that property it would be considered large with the excess energy going back into the grid. JoAnne Miller commented that in general these facilities produce more electricity than necessary for that one regular residential structure. Jack Simoneau, Planning Director responded that a small solar facility is intended primarily to offset part or all of the beneficiaries. The excess generated would go back to the grid. The definition is not simply if you generate more than what is needed you therefore are automatically a large facility. With solar, the State statutes have been amended so that Town and County Ordinances can not preclude solar panels for residential properties. Some board members commented that large facilities should be for businesses selling energy and generating power.

Addison Causey questioned if a 100,000 square foot office warehouse building was providing solar hot water and energy predominately for the building with minor excess energy would have to screen their solar panels. Staff responded that the proposed wording did not require screening the panels because the intention was to not shade them and also not to put obstacles in the way of installing the panels. Jack Simoneau responded that with the scenario given it would be classified as a small facility and buffering would not be required. Bruce Andersen asked if the rules applied to a small verses a large facility are different, and Staff agreed. Bruce Andersen felt that more criteria were needed to say that it is "less than" something. JoAnne Miller suggested *major* and *minor*. Addison Causey commented that it could be differentiated between residential and commercial use. Jack Simoneau responded that it is all relative. If there is a million square foot building with solar panels or a seventy thousand square foot building with panels and it is primarily there for the beneficiary of that building, with some excess energy, it would still be a small facility. It is Staff's recommendation that the language (small/large) be kept. We will learn more each year and with the changing technology will ultimately adjust the Ordinance.

JoAnne Miller commented that the newer panels are smaller unlike the older larger panels, and neither look bad. If installing them on a warehouse why would you want to screen them? It only adds to the cost and prevents people from going solar and going green.

Bruce Andersen commented that his concern was not screening but the rules. Staff showed the members a brief summary of what is being proposed. Harold “Hal” Bankirer commented that analyzing the two definitions the only thing that would be a large is “not small” and small has 3 criteria. There should be a definition for large; i.e. commercial and designed to generate electricity. JoAnne Miller added to “generate electricity for sale, not for use”. Bruce Andersen commented that large should meet requirements. Addison Causey added that solar panels should not require screening. Bruce Andersen added that under the proposed definitions 99.9% of permits would fall under the *small*, and did not see the value of having the current large definition.

Jack Simoneau informed the members that the Planning Department had been contacted by power companies to see if solar farms are allowed in our community. Currently, they would have to be in a Special Purpose District and require a Special Use Permit. Bruce Andersen reported that Duke Energy is planning to put them on residences owned by Duke and by definition that will be a commercial facility. Bruce Andersen’s point was that the large facilities should be defined; whether by small or large, square footage or electrical capacity. Jack Simoneau reiterated that he felt very comfortable with the recommendation; that if it is generated to serve that building (whether residential or commercial) it would be called a small facility, and if it is not that classification by definition it would be a large facility with different standards. It could be added that by nature these facilities are commercial.

Bruce Andersen questioned the placement of a facility, and Staff responded that it would be subject to the zoning setbacks. Jack Simoneau responded that the State statutes supersede the zoning regulations. Bruce Andersen asked what the State defines as “small”, and Mr. Simoneau responded it was a single family residence. Bruce Andersen commented that anything other than a residence should be “large”. Otherwise there are no guidelines for the large solar facilities.

Jack Simoneau stated to the members that there is no time crunch for which to have this amendment approved. From the input received from the public hearing Staff felt the big issue was windmills and that solar was basic. If there are issues with the solar it can be adjusted. The proposed language may not cover everything, but it is a compilation of many different Ordinances found throughout the country, as well as a model Ordinances for the State.

Jeff Neely questioned the Chairman if it was as simple as small solar facilities being residential, and large being commercial. Bruce Andersen wanted to include multi-family in the small and stated he had no problem with that. Hal Bankirer raised the concern that with *residential/commercial* some would be using residential roof tops to power or help power other homes and clusters, therefore generating more electricity than they require for the facility they are under and if that would be considered residential or not under those definitions.

JoAnne Miller stated she would like to defer the matter until the next monthly meeting so she could do more research including the Duke Energy website. Bruce Andersen agreed. He further

stated to Mr. Simoneau that he understood why the proposal was written this way; however, felt it missed the big picture (i.e. the percentage under small and large). Jack Simoneau responded that the small will take care of the vast majority of the facilities, and there will be a few power companies, and maybe some entrepreneur, that are looking for large facilities. He was concerned if the Planning Board recommends anything other than single family or multi-family be identified as a large facility. As the draft is written it limits where the large facilities can go (TR, R, SP, HC and CB on the roof top). In further example, if there is a business in the Town Center District that wanted solar panels on the roof top, and with the Board's direction it would not be allowed if it were a commercial building. This would not be good policy. Bruce Andersen agreed, but stated that could be changed as well to open it up to more districts. Jack Simoneau questioned why it would be done if the business only has several solar panels to heat an office in the Town Center Zoning District. The intention of the large facility is to deal with solar farms. He reiterated that staff feels comfortable with the proposal. If there is a continuation it is needed to state what information is needed to be addressed from the Planning Department.

Todd Bowland commented that it would be difficult to remove a residence off the grid. He suggested that small and large be re-named, and that it be differentiated between a power generation facility and other users. A power generation facility would need to meet certain criteria. As with JoAnne Miller's statement, it needs to be as easy for people as you can make it. Bruce Andersen stated that he agreed with Mr. Simoneau; that if it limits the Zoning Districts that would not make sense. He further stated that he still felt uncomfortable, and since JoAnne Miller suggested the *minor* and *major*, he suggested that Staff think about those terms.

Lisa McCarter stated she was completed with her presentation and asked if the Board had questions about the wind facilities. She also indicated that the photographs that Bruce Andersen submitted were printed for him and could be shown to the other members. Bruce Andersen asked if there was a small and large definition for wind, and Staff responded that it is the same as solar; the Amendment is for solar and wind facilities. Bruce Andersen commented that he could not agree with Staff. His point was that if there is a facility that uses a massive amount of energy they would be able to put wind towers all over their property and be considered as non-commercial and therefore would not have to meet any rules.

Jack Simoneau stated that if the Board was not comfortable with the staff proposal, it was fine. The Planning Department understood that the wind would be the most controversial. Based on the research of Lisa McCarter, there are two levels; one that generates a lot of power and off the grid, and then others that generate power to serve that purpose (the residence). Bruce Andersen commented on the proportions, and dealing with a wind farms. He requested that his photographs be shown. Lisa McCarter pointed out that there were options for wording for the small wind facilities such as only one (1) turbine is allowed for a small wind facility. Bruce Andersen proceeded to describe his photographs of turbines in the mid-west (Great Lakes area).

JoAnne Miller commented that there is not enough prevailing wind in this area to make the wind turbines economically feasible. Based on her knowledge the East Coast and Mountain area can sustain wind facilities, but not in this area. Bruce Andersen commented that it was not economically feasible for power generation, but for someone who wants to go green is not always for economics. Barry Hester commented on government grants. Bruce Andersen

commented that with tax credits the total cost is 8% of the actual facility, and JoAnne Miller stated that was for solar not wind. There are certain parts of the country that it is recommended and will save money, or not cost you money; here, it will cost you over the initial investment.

Jeff Neely suggested that based upon the conversation that the biggest issue before the Board is solar. He recommended that the Board focus on solar at this point and finalize that part of the Amendment. JoAnne Miller wanted wind mentioned to the point that only one (1) turbine is allowed and maybe on a ten (10) acre lot size. The Board could revisit this at a later time. There is not going to be someone that wants to put one in their backyard. At a later time with the change of technology it could be revisited, and keep the turbines out of the subdivisions.

Lisa McCarter noted that currently there is not a height restriction but is subject to Article 8.7 Height Limitations. The setback would have to be as big as the height. Jeff Neely thought the big discussion was with the wind and it could be narrowed down quickly, and get solar off the table. Bruce Andersen commented that more than half of the discussion at the Town Board was on the wind and it was rather negative. He thought it should be addressed, particularly the Zoning District by right with the conditions in all district. He did not feel it would fly with him or the Town Board based on their comments. He also noted that they should be allowed, but they should not be based on the ratio of setback vs. height, and be away from property lines. Also, the noise has not been discussed. Lisa McCarter asked if he had a suggestion for the setback, and Bruce Andersen stated he would make 10 to 1 or 5 to 1.

Randy Poindexter suggested that the minimum acreage be 5 acres and gave the example of those living in the ETJ that are in the 5 acre (plus) range. Jack Simoneau showed the members a map that represented property owned per acreage where the facilities would be allowed. Bruce Andersen questioned the distance from the property line with a 5 acre lot. JoAnne Miller commented that the distance from the property line would be the same as the height of the turbine. Staff commented that it would be 1.5 to the adjacent structure, and to the adjacent property line it would be 1. It was clarified that the setback would be measured from the base. Jack Simoneau further clarified that height is determined by the highest point, which would include the blade. Lisa McCarter directed the members to the definitions within the proposed Amendment. Bruce Andersen suggested that the ratio be up to 2 with a 5 acre lot. The members were comfortable with 75 feet.

Bruce Andersen further stated that he was bothered by accessory by right with conditions in all districts, and asked if it could be modified. Jack Simoneau stated that anything written will be more restrictive than today. Currently, every person can have accessory structures on their lot and if it is uninhabitable it is not subject to a height limit. If it is established to a 5 acre lot with one (1) tower, and a 2 to 1 setback having a height limit of 75' the window is narrowed down. There are not a lot of neighborhood residential TN-D zones that have 5 acre lots that are not intended for commercial development. The members discussed subdivisions and/or areas that may contain lots that would fit the criteria.

Hal Bankirer questioned Staff about the noise. Lisa McCarter responded that the State model does have a noise limitation (55 decibels), and Bruce Andersen questioned where the measurements are taken. Jack Simoneau reminded the members that the Town has a Noise

Ordinance that is enforced by the Police Department. Lisa McCarter stated that, "Audible sound from a large wind facility shall not exceed 55 decibels as measured at any occupied building of the non-participating land owner." The model Ordinance suggests that the local ordinance control the sound for the small facility, which Bruce Andersen stated that he clearly does not agree with that. He suggested that the limit be enhanced to make it to the property line of the adjacent land owners for any wind facility, which was agreed upon with the members. Bruce Andersen questioned the level of noise at 55 decibels.

Lisa McCarter recognized Bruce Andersen's suggestion for time parameters when the applicant is responsible for interruptions, etc. Hal Bankirer questioned the language, "the applicant responsible for any signal disruption", and asked if this was a statement of fact or corrective action. Staff responded that it is to hold them (applicant) liable. Hal Bankirer suggested that the party responsible for disruption is responsible for eliminating the disruption, and that it is clearly stated. Lisa McCarter referred the members to page 2, h.1. Bruce Andersen read, "...shall mediate any harm caused", and the only question not answered is "how" and "when". Barry Hester suggested it may be in the FAA and FCC Regulations, and should be referred. Jeff Neely suggested that with any disruption it must be ceased and dismissed immediately. Scenarios were further discussed, and that mitigation of disruptions may happen on the adjacent property to make corrective actions.

Hal Bankirer suggested that Staff submit to the members the FCC documents for their review. Bruce Andersen requested a draft of changes to the members prior to the next meeting (a week or so) so they are better prepared.

Jack Simoneau reminded the Planning Board of the new Rules concerning deferrals. Since the Town Planning Department is the Petitioner in this matter, staff agrees to defer to the next monthly meeting to provide additional information to the members.

Addison Causey made a **Motion to Defer** accepting the Petitioners suggestion to defer to the next monthly meeting in order to allow further study. Joe Sailers seconded the Motion.

The Chairman asked for further discussion and Todd Bowland pointed out to the Board that a refrigerator runs at approximately 65 decibels, a quiet residential area is 55, a quiet library whisper is 55 and a remote wilderness area is 50 decibels. 55 decibels is very quiet.

The vote carried unanimously.

2. David Peete, Principal Planner presented a Text Amendment (TA 09-11), which is the Town of Huntersville proposing to amend both the Zoning Ordinance and Subdivision Ordinance to modify Land Development Standards Manual references. A copy of the Staff Report is attached hereby as Exhibit "B" and incorporated herein by reference.

Staff informed the members that the Town of Huntersville needs to create its own set of standards, which will continue to be similar standards to Charlotte and Mecklenburg County incorporating much of the current manual(s) being used. The action before the Board is to

change the references (approximately 40 in the Zoning and Subdivision Ordinance) and name, and referencing the City of Charlotte and Mecklenburg County standards. Bruce Andersen questioned if “standards” could be used rather than “manuals” so there is no confusing between the multiple manuals. Staff indicated that the definitions would need to be followed and the term *manual* would need to be used.

Randy Poindexter questioned the timing of the process, and Staff responded that the department is currently working on them and hopefully will have the core of the documents completed by the first quarter of the year.

Jeff Neely made a **Motion to Approve** and Randy Poindexter seconded the Motion. The vote carried unanimously.

3. Whitney Hodges, Senior Planner presented a Text Amendment (TA 09-09), which is a request by John Choate of Choate Custom Homes to amend Article 9.52 and Article 12 (Country Inn Development) of the Zoning Ordinance to increase the number of rooms from 20 to 24; increase the number of cottages from 6 to 8; reduce the setback requirements for parking areas, accessory structures and special event areas; and allow these developments not to provide street connections. A copy of the Staff Report is attached hereto as Exhibit “C” and incorporated herein by referenced.

Staff updated the Board members since the Public Hearing and advised of the one (1) change made being, “the owner/management should reside onsite”.

Bruce Andersen questioned Staff about the setbacks and what they are for, and Staff responded they were for accessory building, special event activities and parking. Mr. Andersen recalled parties being a previous issue with neighbors. Staff responded that it is proposed to change the special event setback from 100’, which would stay except where there is dedicated Open Space or easement on an adjoining property owner then it would be reduced to 35’. There will always be a 30’ vegetated buffer on the exterior. Bruce Andersen questioned in general where the special events areas can go on properties and Staff responded they do not have to go in any special area and again recited the setback requirements. This project has the special event area located and identified on the plans. JoAnne Miller commented that there are homes located near the events area (across the road and to the side).

Bruce Andersen commented that the driving force of this matter is that a section of this entrance is public. Staff commented that even if it was not public there may be a problem with a parking buffer with the adjoining property owner. Joe Sailors asked what the reasoning was behind the dedication of the right-of-way. Staff responded that it is to meet the requirements of a farmhouse cluster.

Bruce Andersen questioned (in general) if a Country Inn is always going to be a Farmhouse Cluster, and Staff responded, “No”. That is a separate issue. Bruce Andersen questioned why have text amendments when conditions could be placed, and Staff responded that the developer/applicant wants to tweak certain things based on how they want to lay out the

particular site. Additionally, the applicant is requesting a separate farmhouse cluster application and this action is creating some of the issues. JoAnne Miller commented that it looks like it is two (2) separate things, and Staff agreed. Joe Sailors agreed and that they are overlapping issues. Staff responded that some of the changes to the text are not related to the farmhouse cluster, such as the changes for the existing structure, and the changes for the number of rooms.

Jack Simoneau addressed the Board concerning a Special Use Permit (“SUP”), which would allow a reduction in standards. What happens is the applicants have very specific standards for the buildings and distances. Every standard would have to be met before a Special Use Permit would be issued, and a variance would not be granted. Whitney Hodges responded to Mr. Andersen by stating that staff is fine with all the requirements with the exception of one (1); the elimination of a road connection because of the County Inn development. It is not a Special Use Permit requirement; it is actually a subdivision requirement (which is required) because they are adding a road. Generically, a piece of property that is 20 acres and a Country Inn is developed comes through with a project and they are not required to put in a road connection. If it were a commercial site plan it would be required. With a subdivision is it very clear; you connect roads to roads. The applicant is asking for relief through their Special Use Permit. Bruce Andersen stated that he listened to the explanation and argument at the public hearing and felt he understood that staff wants a dedication and or building the road but is comfortable with a reservation. He asked if it could be written in the Text Amendment, Sketch Plan or SUP, and Staff responded that it could be written in the subdivision sketch plan or SUP. Staff also suggested that it be recommended to take the language out and put the reservation issue in one of the other approvals in order to make it specific to the applicant’s property. The Board agreed they were comfortable with that.

Hal Bankirer asked Staff if there were any concerns about the reduction in the parking setbacks, and staff responded they were not concerned. If there were neighborhood concerns they could be addressed through this process.

Staff requested that the members add to the Motion the text language change since the public hearing, along with the consistency statement.

JoAnne Miller was concerned about the people who came to the neighborhood meeting with noise concerns from the events. Staff responded that with a Text Amendment letters are not sent to individual property owners. Bruce Andersen requested the applicant to address this issue.

John Choate, Choate Custom Homes, LLC addressed the Board members and first stated that there was one (1) gentlemen that was concerned about the location but was not present at the neighborhood meeting. He further stated that in looking at the Country Inn Development they considered it to be a self-enclosed / self-contained development. The second issue is that if they do reserve a right of way, the issue is with financing. In order to get financing for a development the reservation... Bruce Andersen interjected and advised Mr. Choate that the Planning Board would not discuss financing during this segment. John Choate closed his comments.

Jeff Neely made a **Motion to Approve** amending Article 9.52.3 to include that the owner/management shall reside onsite and removing Article 9.52.8 in its entirety. In considering

the proposed amendment to the official Zoning Ordinance to change the requirements of the Country Inn Development, it was recommended to approve the proposed language for Text Amendment Petition TA 09-09, as presented or amended. It is reasonable and in the public interest to amend the Zoning Ordinance based upon the discussion tonight. Joe Sailers seconded the Motion. The vote carried unanimously.

4. Whitney Hodges, Senior Planner presented a subdivision sketch plan by John Choate of Choate Custom Homes requesting approval for Yellow Hill Subdivision. The property is approximately 34 acres and is located at 13145 McCord Road (PIN 011-24-104). Two lots are proposed to be created and a public road will be added. One lot will be used for a country inn development and the other will be used for a farmhouse cluster subdivision. A copy of the Staff Report is attached hereto as Exhibit "D" and incorporated herein by reference.

Staff stated that there is a road being built and the creation of two (2) lots. The farmhouse cluster is in the back with the Country Inn development in the front. Staff still has an issue with connecting the streets, and since that was not approved as part of the Text Amendment the street stubs must connect according to the Subdivision Ordinance. Joe Sailers asked about the adjoining subdivision, and Jack Simoneau responded that at the Public Hearing he stated it may be likely to fall by the wayside because of the three (3) year conditions due to the economy. However, the subdivision was approved last year. In August 2009 there a law was passed that extended every development in North Carolina for an additional three (3) years. Staff reiterated that the only issue is the right-of-way reservation. She also stressed that one thing different between reservation and dedication is that if redeveloped it would then be decided where it (the road) should go. If the Town decided at some point that the connection was needed in 25-30 years from now, the Town would have to purchase it. The developers are not giving it away.

Joe Sailers stated that he understood the costs relative to a dedicated right-of-way; a reserved right-of-way; a recognized easement and it did not make sense to put a handicap in the process for this particular piece of property as it is developed right now. Staff questioned if he was saying the reservation was a handicap, and Mr. Sailers responded, "in terms of financing the property." Staff commented that the Planning Department has the benefit of having a paralegal (Michelle Haines) on staff and from what is understood a right of way reservation is not necessarily a "cloud" on the title, but it is an "exception", which she could explain in more detail. This (the financing) is actually beyond the realm of what the Planning Department should contemplate. Bruce Andersen asked if it was possible in the structure of the language to say that if this property (Lot 1) is redeveloped to something other than what it is today that would require a connection then a connection will have to be made between point A and point B, (point A being the stub and point B being the public road) while not defining the path, but that a road shall be constructed to meet the connectivity. Is that legal? Staff responded that with redevelopment that connections be determined, and it may make better sense that connection be in a different place at that time. Bruce Andersen agreed that it would need to be flexible, and the reason to do this is to protect a future path. All they have to do under that circumstance is not build a wall of houses, bricks, or anything that prevents the path/road from being constructed. Addison Causey questioned if the applicant was allowed to build a structure to the extent this property was redevelopment for another use and if that structure could be moved or removed in order to make

the connection. Staff responded affirmatively, and in cases of redevelopment and roads and if the Town had to buy the right of way then the extra structure does add to the cost. There is no Town precedent for this. JoAnne Miller noted that there are no buildings in that area of the right-of-way. Bruce Andersen questioned why do this now as opposed to a Petitioner with a redevelopment plan. Staff responded that for one reason is because it is a requirement. The regulation states that it must be dedicated and build it. The reservation of right-of-way is a compromise for this unique situation. Bruce Andersen questioned that the Ordinance says to build it for this project, and Staff responded affirmatively because now it is a subdivision, and it says build it, and a road is being added. Staff understood that the applicants want the development to be unique and it is hoped that the Country Inn is there for 100 years, but the issue becomes when the traffic patterns change within the 100 years or the demand is different and we (the Town) would like to have that reservation if the Town of Huntersville is ever in a position to build them. Bruce Andersen asked why a stub was not being asked the other way, and Staff responded that it is because they connect to McCord Road.

JoAnne Miller asked the applicant how many people (maximum) would there be in the Country Inn section for an event, and Mr. Choate estimated 50, 75, maybe 100. The business plan is based on special events and room numbers. JoAnne Miller was concerned about having another entrance on McCord (even emergency exit) for the large group of people and having only one way in and out. Staff responded that there are driveways concerns and site distances to address.

Bruce Andersen called Dick Brolin to the podium. Mr. Brolin with Piedmont Designs introduced himself to the Board. He stated that they do have a single entry to the facility and it is what NCDOT would like to see and it will serve both the farmhouse cluster and Country Inn. He informed the Board that the soils on the site are limited for septic systems. He showed the location of the areas with good soil for the Inn and the farmhouse cluster. To address the driveway issue, there are only five (5) homes and 24 rooms on the site which is no different than a low density subdivision. Regular traffic does not require a second way in or out. To address the idea of fire protection, we could look at the SUP. Mr. Brolin stated, "With the sketch plan we are looking at Lot 1 with 20 acres and 10 acres for the farmhouse cluster (Lot 2)".

JoAnne Miller asked the Planning Director for the status of sewer on Ramah Creek. Dick Brolin stated that he is also involved in Huntersville East and they are moving forward at a very slow pace. The sewer line that they have agreed to as part of their approval is 3 miles, and with this site it is shy of half mile away from that one. That sewer line will not be in function for another 3 to 5 years. For sewer to serve this particular site or area it would be another half mile of pipe. Joe Sailors questioned the lift station on the Lot 2, and Dick Brolin stated he could answer those questions once they start looking at the Special Use plan because then they would have the site plan. He did state that there is no lift station for the homes on Lot 2, and further described the septic systems and facilities.

Bruce Andersen questioned the area in the middle section of the project that is south of the road. Staff responded that area has some wetlands and is where their greenbelt / greenway is located.

Whitney Hodges added that the adequacy determination was based on 20,000 square footage of commercial space, and they will need an addition 10,000 square feet. Staff referred the Board to the Staff Report (page 3). Bruce Andersen questioned the statement in the Report, "mitigation is required". Staff responded that they need to apply for the additional adequacy. If there are services to allocate there will be an allocation and if not there will be mitigation. John Choate commented that the application will be submitted for the additional footage. Joe Sailers asked if the main structure was increased, or were the 5 units increased. John Choate responded that the number of units went up slightly and the owners have increased the size of the Inn. Bruce Andersen asked if this meets the criteria for deferment since all the square footage had not been accounted for through the Determination of Adequacy process. Staff recommended proceeding. The Board is only recommending approval for the sketch plan if it meets the ordinance criteria. Since the adequacy application for the remainder has not been submitted it does not hinder the process, and at this point all they can still build the Inn. Jack Simoneau clarified to the members that there is no deficiency in the application. It is their choice when to apply for adequacy. It is up to the developer as they can apply at the sketch plan, Special Use Permit or wait until they pull building permits which might be six (6) months to a year. Joe Sailers questioned that they have a determination for 20,000 square feet, but when they come back with more details they will need the additional 10,000 square foot determination, and Mr. Simoneau responded affirmatively.

Joe Sailers made a **Motion to Approve** the sketch plan as submitted with the recommendation that connectivity for the right-of-way to be reserved, and if Parcel 1 is redeveloped other than what is planned, then the right-of-way would be dedicated. The **Motion** was further **Amended** to include that §6.200.3 requirements are met through the note of reservation if added to the sketch plan. Addison Causey seconded the Motions.

Hal Bankirer wanted to clarify that the Motion would meet the compromise between the developer and Staff. Staff responded that only half of the compromise was met. In order to fully meet the compromise they put the right-of-way in and the way it is written only if the property is redeveloped would the right-of-way be created. Staff discussed the non-conforming issue for this project and the right-of-way. If the road was put in they would still be allowed to use the property as a Country Inn. It now becomes a nonconforming use because the 20 acre parcel is split which doesn't meet the criteria. They would still be allowed to use the property and there would be restrictions. Joe Sailers stated that the other side of the coin was the area where the road would be located is the drainage field for the Country Inn, which other members did not agree. As he understood the earlier conversation, the drainage field and the right-of-way locations would conflict. He also felt that a bank would ask about a dedicated right-of-way. John Choate stated that the bank would have issue with the Town coming in at whatever point to put in a road. Bruce Andersen stated that is why the Motion says this is only in the case of a redevelopment. The Chairman asked if the Motion was understood. There was no further discussion.

The vote was 9-1 with Todd Bowland opposing.

5. Whitney Hodges, Senior Planner presented a Special Use Permit (“SUP”) requested by John Choate of Choate Custom Homes to develop a country inn development in the Transitional Residential District per the conditions of Article 9.52. The property is located at 13145 McCord Road (PIN 011-24-104). A copy of the Staff Report is attached hereto as Exhibit “E” and incorporated herein by reference.

Bruce Andersen commented that Article 9.52.3 has been corrected earlier, and .8 is deleted. He asked for further discussion and none was made.

Addison Causey made a **Motion to Approve** the Yellow Hill Inn Special Use Permit as agreed to by Staff. Barry Hester seconded the Motion. The vote carried unanimously.

Other Business

There was no other business for discussion.

Adjournment

Barry Hester made the Motion to adjourn and Jeff Neely seconded the Motion. There being no further business the meeting was adjourned.

Approved this 17th day of November 2009.

Bruce Andersen, *Chairman*

Michelle V. Haines, *Secretary*

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