

The Madison County Planning Board met in regular session on Tuesday, February 20, 2024, at 6:30 p.m. at the Madison County Public Library Marshall Branch, 1335 N. Main Street, Marshall, North Carolina.

In attendance were Vice-Chairman Wesley Keith; members Mary Rice, Daniel Rice, Clayton Honeycutt, Lee Wilde, and Kenneth Kashbua; Development Services Director Brad Guth; County Planning and Zoning Attorney John Noor; and Clerk Mandy Bradley. Members Jackie Ball, Jared Silver, and Kevin Morton were not in attendance.

Welcome

Vice-Chairman Keith opened the meeting at 6:31 p.m.

Approval of the Minutes

Upon review of the minutes from February 16, 2022, March 3, 2022, April 21, 2022, May 17, 2022, May 31, 2022, August 2, 2022, August 16, 2022, September 20, 2022, January 17, 2023, February 21, 2023, March 7, 2023, April 18, 2023, May 16, 2023, and December 19, 2023, with motion by member Daniel Rice and second by member Mary Rice, the Board voted unanimously to accept the minutes from 2022 and 2023.

Installation of New and Reappointed Planning Board Members

An introduction of Board members was provided by the Board.

Public Address to the Board

Maxine Ramsey spoke regarding construction on a neighboring property.

Quasi-Judicial Hearings

1. Application from John Kyle Innis for a Permit for Construction of a Single-Family Dwelling Under the Mountain Ridge Protection Ordinance. PIN# 9852-81-2696 Brothers Lane Mars Hill, NC 28754 Elevation 4120' on 9 Acres

Vice-Chair Keith administered the oath to applicant John Innis and Development Services Director Brad Guth as witnesses with standing with no other witnesses presenting.

Mr. Innis discussed information contained in the permit including that the road falls within fifty (50) feet of the ridgetop setback requirement. Mr. Guth presented a map and drawing of the proposed work for the property and discussion was had regarding the lot and setback of structures.

Mr. Innis provided additional information regarding specific details of the proposed structures including a proposed height for the house of thirteen (13) feet as well as information regarding the slope of the ridge. A member of the audience provided unauthorized comment and counsel was provided by Attorney Noor regarding the process of the hearing. Further discussion was had by the Board and Mr. Innis regarding information including the proposed height of the carport with Mr. Innis noting that it would be probably be ten (10) feet and previous clearing to the property, deemed as pre-existing was also discussed with counsel being provided by Attorney Noor regarding the Land Use Ordinance and the definition of structures as applicable in Sections 501 and 503 of the Ordinance as being anything constructed or erected including but not limited to buildings.

A member of the audience, Steven Highley requested to be granted standing as a witness with professional knowledge in the field as a land surveyor. Counsel was provided by Attorney Noor and Vice-Chair Keith administered the oath to Mr. Highley who requested to address the Board to discuss the definition of a structure as a professional land surveyor. Counsel was provided by Attorney Noor regarding standing of the witness with Mr. Highley advising the Board that he does not own adjoining property of the applicant and would not suffer damages, but that he would like to provide his opinion to the Board.

Member Honeycutt cited a personal conflict of interest and his need for recusal under the condition of his relationship with Mr. Highley. Counsel was provided by Attorney Noor regarding member Honeycutt's recusal from the vote in determining Mr. Highley's standing and the ability for member Honeycutt to rejoin the meeting as a voting member should Mr. Highley not be granted standing.

Discussion was had by the Board and Mr. Highley regarding his request for standing with further counsel being provided by Attorney Noor. Upon motion by member Wilde and second by member Mary Rice, the Board voted 5-0 to disapprove standing with Vice-Chair Keith and members Mary Rice, Daniel Rice, Wilde, and Kashbua voting in favor and member Honeycutt not voting due to recusal, but rejoining the meeting as a voting member immediately following the vote.

Mr. Innis continued his testimony noting that the top of the building sits at 4,134.8 feet in elevation and is taller than thirty (35) feet above the ridgeline since the ridgeline is lower in elevation in certain areas. He also discussed potential changes to the Mountain Ridge Protection Ordinance in the future with counsel being provided by Attorney Noor regarding adherence to the Mountain Ridge Protection Ordinance in its current version. Mr. Innis provided additional information regarding changes that he has made to building plans noting that he was trying to follow the Ordinance provisions and that as a result, there is new information regarding the plans which is not contained in the packet that the Board was provided.

Counsel was provided by Attorney Noor regarding submittal of the additional information not previously available to the Board and discussion was had by the Board, Mr. Guth, and Mr. Innis regarding the changes. Information discussed included the building's height to the ridgeline depending on the point of elevation of the ridge, changes to the structural height of the building from what is noted in the initial application, and elevation.

Counsel was provided by Attorney Noor regarding the ability of the Board to request additional information from the applicant prior to deliberation and discussion was had by the Board regarding additional information that may be needed to ensure that standards are met for the project. Further discussion was had by Mr. Innis regarding the structure, elevation, and that the structure would be protruding more than thirty-five (35) feet above the ridge top, cresting the ridgeline on the property.

Discussion was had by the Board regarding additional consideration of the updated information and application with counsel being provided by Attorney Noor.

Upon motion by member Mary Rice and second by Vice-Chair Keith, the Board voted unanimously to continue the application with the correct information and any other information that you feel is pertinent until the March 19th meeting. (Attachment 1.1)

2. Application from Saloua Lahlou for a Special Use Permit for a Campground on 10.51 Acres at 112 Munaya Way Marshall, NC 28753 PIN# 9705-56-5273

Discussion was had regarding the absence of applicant and/or applicant's representative and counsel was provided by Attorney Noor regarding considerations available to the Board to hold or continue the hearing in the absence of applicant or applicant's representative being present at the hearing.

Upon motion by member Mary Rice and second by member Danny Rice, the Board voted unanimously to continue until the March 19, 2024, meeting.

Legislative Hearings

1. Application from IKIS LLC, Ibrahim Salameh Representative to Rezone PIN 9747-24-0970, Stone Cottage Road, Mars Hill, NC from R-A Residential Agriculture to (RB) Retail Business

Member Honeycutt cited a personal conflict of interest and his need for recusal from the rezoning application under the condition of his relationship with Steven Highley, applicant's representative. Counsel was provided by Attorney Noor and member Honeycutt immediately exited the meeting.

Steven Highley, Surveyor with Kudzu Associates acting as the applicant's representative, presented and discussed the applicant's request for rezoning as well as a survey of the parcel contained in the application. Information discussed included the proposed rezoning request from Residential Agriculture (R-A) to Residential Business (RB), that the parcel joins another parcel owned by the applicant which is currently zoned RB, location of property, proximity of neighbors, and potential use of the property.

Counsel was provided by Attorney Noor and Development Services Director Brad Guth discussed permitted uses in the RB District.

Attorney Noor exited the meeting at 7:41 p.m.

Attorney Noor returned to the meeting at 7:41 p.m.

Additional discussion was had by Mr. Guth regarding zoning of surrounding properties and he noted consistency with the County's Comprehensive Plan.

Counsel was provided by Attorney Noor regarding public comment and Vice-Chair Keith opened the floor for public comment at 7:44 p.m.

Glennis Ponder spoke regarding construction on a neighboring property with counsel being provided by Attorney Noor regarding the process of the hearing.

Rick Shepherd spoke regarding the use of the property.

With no additional public comment being received, Vice-Chair Keith closed public comment at 7:53 p.m.

Discussion was had by the Board and Mr. Highley regarding the request, uses, and property access with counsel being provided by Attorney Noor.

Upon motion by member Mary Rice and second by member Danny Rice, with counsel being provided by Attorney Noor, the Board voted 4-1 in favor to approve and find consistent with the comprehensive plan with members Mary Rice, Danny Rice, Wilde, and Kashuba voting in favor; Vice-Chair Keith voting opposed; and member Honeycutt not voting due to recusal.

Additional discussion was had. (Attachment 2.1)

2. Application from Madison County to amend the Land Use Ordinance to Include Biomass Facility Special Uses in the Residential Agriculture and Industrial Land Use Districts

Member Honeycutt returned to the meeting at 7:57 p.m.

Development Services Director Brad Guth presented and discussed proposed changes to the Madison County Land Use Ordinance for inclusion of Biomass facilities and provided information regarding the current moratorium that is in place for the development of such facilities.

Counsel was provided by Attorney Noor regarding compliance of the hearing notice as required with Mr. Guth confirming that notice was provided as described.

Vice-Chair Keith opened public comment at 8:00 p.m.

Jim Tibbets spoke regarding proposed changes to the Land Use Ordinance and language contained in the Biomass standards.

Elaine Robbins spoke regarding allowances contained in the proposed Biomass standards.

Carl Batchelder spoke regarding the proposed standards.

Glennis Ponder spoke regarding Biomass.

With no further public comment being received, Vice-Chair Keith closed public comment at 8:10 p.m.

Discussion was had by the Board regarding Biomass and standards contained in the proposed language to include Biomass in the County's Land Use Ordinance. Information discussed included definitions, operating standards, allowances, zoning standards, and additional provisions that the Board may direct staff to include in the standards.

Counsel was provided by Attorney Noor and additional comment was provided by members of the audience.

Additional discussion was had by the Board who requested that amendments to the language be made based on facility power generation, allowances for industrial zones, facility capabilities and specifications; and the Board requested additional information regarding specifics for power generation.

Additional counsel was provided by Attorney Noor. Upon motion by member Wilde and second by member Honeycutt, the Board voted unanimously to table. (Attachment 2.2)

Planning Matters

Update on Data Processing Workgroup

Mr. Guth discussed the Data Processing Workgroup.

Update on Madison County Ridgetop Protection Ordinance

Mr. Guth discussed the Ridgetop Protection Workgroup.

Other Announcements/Updates

Mr. Guth discussed a request from the Economic Development Board for a joint meeting with the Planning Board to review business uses in residential areas. Upon motion by member Honeycutt and second by member Wilde, the Board voted unanimously to do a land use review workgroup with the Economic Development Board.

Potential future Land Use Ordinance changes regarding tiny houses and mobile home parks were discussed by Mr. Guth.

Discussion was had by the Board.

Adjournment

Upon motion by member Mary Rice and second by member Honeycutt, the Board voted unanimously to adjourn at 8:54 p.m.

This the 20th day of February 2024.

MADISON COUNTY

RECEIVED
DEC 08 2023
BY: Sylvia Shelton



Land Use Permit Application

Property Information:

Property Address: No 911 Address - 99999 Brothers Lane Mars Hill, NC 28754

Parcel/Tax ID Number: 9852-81-2696

Land Use Classification: A-O RA R-1 R-2 NC CMU RB C I

Lot Size: 8.99 acres Lot Width: 528 ft Lot Coverage Percentage _____

Current Use: Vacant

Proposed Use: Residential Single-home

Accessory Buildings: Carport

Site Plan: The attached site plan should include property boundaries, setbacks, dimensions, and the placement of any buildings or structures. Including the following:

Flood Plain: Yes No

Watershed: Yes No

Protected Ridge: Yes No

Elevation: 4120

Building Height: 30ft

Applicant Information:

Full Name of Applicant: John Kyle Innis Date 12/8/2023

Phone Number: 828 775 2255 Email Address: Kyle@tynerconstruction.com

Mailing Address: 1610 Lickskillet Rd Burnsville NC 28714

Is the applicant the owner Yes No

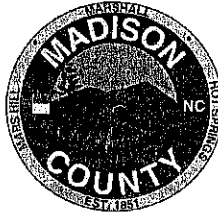
Certifications:

If a permit is granted, I/We, the undersigned, agree to conform to all county ordinances and codes. Furthermore, we agree to meet all state-mandated standards such as health, building safety, and fire. I hereby swear that the above information is truthful and accurate to the best of my understanding.

Signature of Applicant: John K Innis Date: 12/8/2023

#OVER#

RECEIVED
DEC 08 2023
BY: Sylvia Shelton



Residential Permit Application
Protected Mountain Ridges (3,000 Foot Elevation)

Applicant Information:

Full Name of Applicant: John Kyle Innis
Phone Number: 828 775 2255
Email Address: Kyle@tynerconstruction.com
Mailing Address: 1610 Lickskillet Rd Burnsville NC 28714

Property Information:

Property Address: No 911 Address - 99999 Brothers Lane Mars Hill, NC 28754
Parcel/Tax ID Number: 9852-81-2696

Proposed Construction Details:

1. Type of Construction (e.g. Single-family dwelling, addition, renovation):

2. Description of Proposed Work:

Construction of .4 mile Road from existing Right-of-way,
new home single-family custom home, 2-bed, 2-bath, with
new well and septic. Detached carport with solar panels

3. Estimated Project Cost: \$ 1,500,000

4. Proposed Start Date: March 2024
Proposed Completion Date: March 2025

Site Plan|Elevation Drawings Information:

Please attach a professional site plan that consolidates all the information about the site on one sheet.

1. Property Boundaries and Dimensions
2. Existing Site Conditions
3. Building Footprints
4. Water and Sewer Layouts:
5. Easements and Rights-of-Way:
6. Perimeter Treatment:
7. Adjacent Land Areas:
8. Road Access: Showing road and driveway locations
9. Building Elevation Profiles:
10. Accurate Measurements and Scales
11. North Arrow for Orientation
12. Any Required Setbacks and Ordinance Requirements

Additional Sheets or Drawings: Certain elements may be detailed on separate sheets or drawings for clarity and detail. For example:

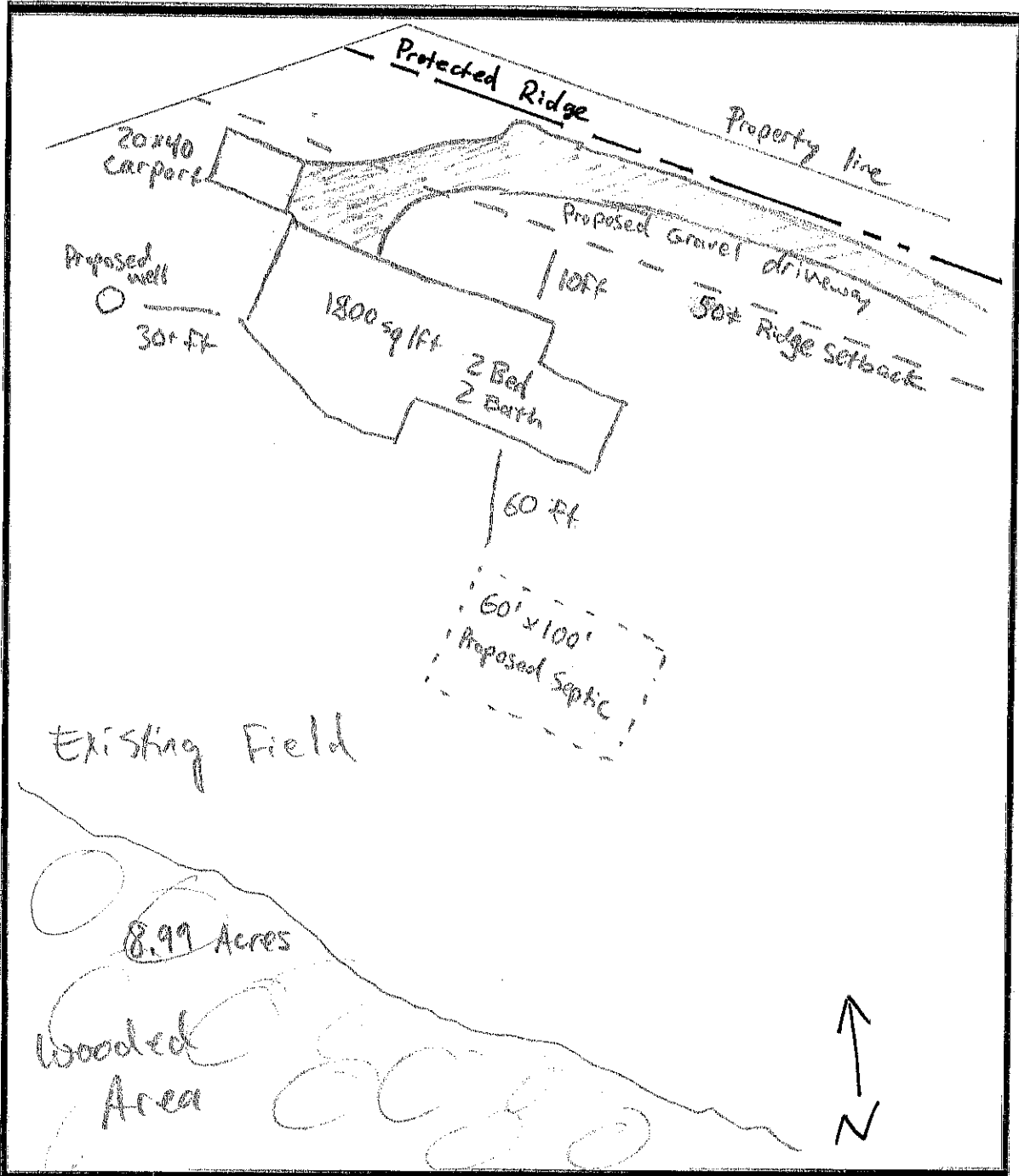
- Elevation Drawings: These focus on building elevation profiles and may be separate from the main site plan.
- Topography Maps: If the topography is complex, a separate topography map might be used.

Declaration:

I hereby certify that the information provided in this application is true and accurate to the best of my knowledge. I understand that any false or misleading information may result in the rejection of this application.

Applicant's Signature: John K Lewis Date: 12/8/2023

Site Plan Not Shown to Scale

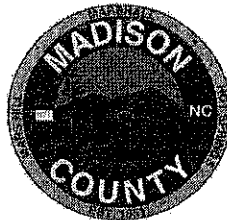


Certification:

I, the undersigned applicant/property owner, certify that the information provided is accurate and that I have included all the required items in the site plan. I understand that any changes may void this site plan.

Signature of Authorized Agent/Owner: John K Lewis Date: 12/8/2023

#End#



Madison County Planning Board

Staff Findings Report

Rezoning Application: Request to change the Land Use of PIN 9747-24-0970 from RA-Residential Agriculture to RB-Retail Business

Location: PINs # 9747-24-0970

Applicant: IKIS LLC, Ibrahim Saleme

Representative: Steven Higley

Date: 1.16.2024

Prepared by: Brad J. Guth

Staff Recommendation: Approve Rezoning to Retail Business

Introduction

The rezoning application is proposed to enable the property owner to combine the parcel with the adjoining property already zoned for [R-B] Retail Business. The current use of the property is not a conforming use with the Residential Agriculture land use designation.

Objectives of the Rezoning

The primary objective is to facilitate a broader range of commercial activities that align with the property's adjoining properties.

Analysis of the Proposed Rezoning

Advantages:

- 1. Supports New Uses:** Opens opportunities for a broader range of commercial activities. [Provided in the list of permitted [R-B] Retail Business uses]

- 2. Economic Development:** Stimulates local economic growth by attracting new businesses and creating jobs.
- 3. Increased Tax Revenue:** Potentially increases tax revenue, supporting public services and infrastructure.
- 4. Enhanced Property Utilization:** Promotes more efficient use of the property.
- 5. Alignment with Growth Trends:** Ensures relevance and value in line with area growth or shifts in land use patterns.
- 6. Community Revitalization:** Acts as a catalyst for broader community revitalization.
- 7. Diversification of Local Economy:** Enhances economic resilience through diversification.
- 8. Improved Services for Residents:** Introduces improved services and amenities for residents.
- 9. Potential for Environmental Cleanup:** Opportunity for environmental improvement.
- 10. Better Land Use Compatibility:** Enhances compatibility with surrounding properties.

Disadvantages:

- 1. Increased Traffic and Congestion:** This may result in increased traffic and potential congestion.
- 2. Environmental Impact:** Potential concerns depending on the nature of new business activities.
- 3. Impact on Local Character and Aesthetics:** Potential alteration of the area's character.
- 4. Strain on Public Services:** Increased demand on public services such as law enforcement.
- 5. Effect on Property Values:** Possible impact on property values, particularly residential.
- 6. Infrastructure Upgrades:** Requirement for infrastructure improvements to support new businesses.

Impact Analysis

- 1. Traffic Impact:** Potential increase in traffic due to heightened commercial activity.
- 2. Public Services Impact:** Potential requirement for more public services.
- 3. Impact on Surrounding Property Values:** Potential influence on property values in the surrounding area.
- 4. Community Impact:** Various impacts on the local community, including neighboring residents and businesses.

Comparison with Existing Policies/Laws

- 1. Madison County Land Use Ordinance (Amended October 2023):** Aligns with local land use ordinances.
- 2. 2030 Madison County Comprehensive Plan (Adopted July 2022):** Consistent with the comprehensive plan's objectives to encourage business activity and medium to high-density uses along main roads.

Conclusion and Recommendation

After thorough analysis, including consideration of both advantages and disadvantages, it is recommended that the Planning Board approve the rezoning to Retail Business. This recommendation takes into account the alignment of the rezoning with local policies and plans, the correction of existing non-compliance issues, and the numerous potential benefits that the rezoning could bring to the local economy and community.

References

1. Madison County Land Use Ordinance (Amended October 2023).
2. 2030 Madison County Comprehensive Plan (Adopted July 2022).

Suggested Motion

"I move that the Planning Board make a favorable recommendation to the Board of Commissioners on the application to rezone PIN 9747-24-0970 from RA-Residential Agriculture to RB-Retail Business, consistent with the 2030 Madison County Comprehensive Plan."



P.O. Box 873
Marshall, N.C. 28753

COUNTY OF MADISON
ZONING APPLICATION

Check Appropriate Item(s):

- *AMENDMENT TO ZONING MAP ->ZONING CHANGE REQUEST
- *CONDITIONAL USE or SPECIAL USE
- *APPEAL OF ADMINISTRATIVE DECISION
- *VARIANCE

To be completed by staff
Date Received: _____
Fees Rec'd _____

PART I - To be completed by ALL Applicants

I-A IDENTIFICATION OF PROPERTY

STONE COTTAGE ROAD (VACANT)

- 1) Number and Street: R-A
- 2) Present Zoning: TRACT A, PLAT BOOK 5, PAGE 851 3) Acres: 0.747 4) Pin Number: 9747-2A-0970 DB 772/939
- 5) Legal Description of Property (Omit for zoning text amendment) - Attach if necessary.

I-B PROPERTY

- 1) The deed restrictions, covenants, trust indentures, etc. on said property are as follows (or copy attached): if NONE so state:
BENEFITS FROM WELL EASEMENT (WELL OFFSITE) DB 422/404
- 2) (a) Has this property or any part thereof ever been considered for Variance, Special Use, Appeal of Administrative Decision or Amendment to the Zoning Map before? *YES NO

(b) Date: _____ (c) What was the disposition of the case? _____

(d) Former Applicant Name: _____
Former Applicant Address: _____
Former Phone: _____

Part 2 - Request Type

2-A REZONING - (AMENDMENT TO THE ZONING MAP) - Application for amendments to the Zoning District Map are heard by the Planning Board which makes a recommendation to the County Commissioners. Only the County Commissioners has authority to grant or deny amendments to the Zoning District Map.

- 1) (a) Existing Zoning: R-A
- (b) Proposed Zoning: R-B
- (c) Existing Use: VACANT
- (d) Proposed Use: FOR SALE WITH BUSINESS ZONING

Zoning Designations:

| | | | |
|-----|---------------------------------|-----|-----------------------------|
| AO | Agriculture Open-Space District | RA | Residential Agriculture |
| R-1 | Residential District | R-2 | Residential-Resort District |
| I-D | Industrial District | C | Commercial |
| N-C | Neighborhood Commercial | CMU | Commercial Mixed Use |

2) The following must be submitted with this application:

- *Preliminary Site Plan - prepared by a registered design professional
- *Rendering or Perspective - depicting possible uses
- *Other - please describe

3) Please list names, addresses, and phone numbers of the adjoining property owners.

2-B SPECIAL USE REQUEST or CONDITIONAL USE- Conditional Use requests are heard by the Board of Adjustment which will make a decision. Special Use requests are heard by the Planning Board.

1) Are development plans submitted with this application? *YES *NO

2) Parking requirements:

a) Proposed number of parking spaces to be provided:

b) Number of parking spaces required of Zoning Ordinance:

Other

a) Attach tabulation of total land area and percentage thereof designated for various uses

b) Are there any land use intensity requirements? *YES *NO If yes, attach data.

SMM

I-C

IDENTIFICATION OF APPLICANT - All applicants must have standing (an interest in property that will be directly affected by requested action)

1)

Applicant: IKIS SM
Name: H-S ENTERPRISE, LLC
Address: 254 JUPITER RD. WEAVERVILLE NC 28787
Phone: (828) 335-7131

Agent (if any):

Name: STEVEN M HIGLEY, KVDZU SURVEY ASSOCIATES PLLC
Address: 810 ENGLISH RIDGE DR. MARS HILL NC 28754
Phone: (828) 689-8770

2) Owners of all property included in this application:

Name: IKIS SM
H-S ENTERPRISE, LLC
Address: SAME AS APPLICANT
Phone: _____

3) If the applicant is a Land Trust, Partnership, Corporation, or LLC, etc., or if the subject property is owned or controlled by a Land Trust, Partnership, Corporation or LLC, List name and interest of all Land Trust Beneficiaries or Partners and attach evidence that the person submitting the application on behalf of the Land Trust or Partnership is authorized to do so.

| NAME/ADDRESS | PHONE | INTEREST |
|--|----------------------|-------------|
| Trustee/Partner: <u>IBRAHIM K SALAMEH</u> | <u>(828)335-7131</u> | <u>100%</u> |
| Beneficiary/Partner: <u>254 JUPITER RD. WEAVERVILLE NC 28787</u> | | |
| Beneficiary/Partner: <u>NOTHING FOLLOWS SM</u> | | |
| Beneficiary/Partner: _____ | | |

5) Does the applicant have a proprietary interest in the land or land improvements? *YES *NO

If YES, state interest and attach documentation:

If NO, state what interest otherwise qualifies the applicant to apply:

6) Names of the owners of the improvement(s) on the property in this applicant if different from above:

| NAME | Address |
|------------|---------|
| <u>N/A</u> | |

7) If the applicant is a corporation or LLC etc., attach evidence that the person submitting the application on behalf of the corporation is authorized to do so.

2-C

VARIANCE

To the Madison County Board of Adjustment:

I, hereby petition the Board of Adjustment for a Variance from the provisions of the Madison County Ordinance because, under the interpretation given to me by the Zoning Administrator, I am Prohibited from using the parcel of land described in the application in a manner shown by the plot plan attached. I request a variance from the following provision(s) of the ordinance:



FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The board must find there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, that the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit, and that in granting of the variance the public safety and welfare have been assured and substantial justice has been done. Please attach any proof, evidence or other documentation to show why this variance is being applied for.

2-D Appeal of an Administrators Decision

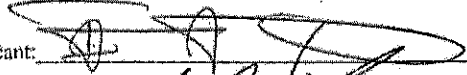
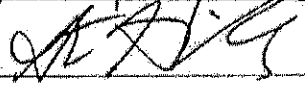
An appeal must be taken within 30 days after the date of the decision or order appealed from.

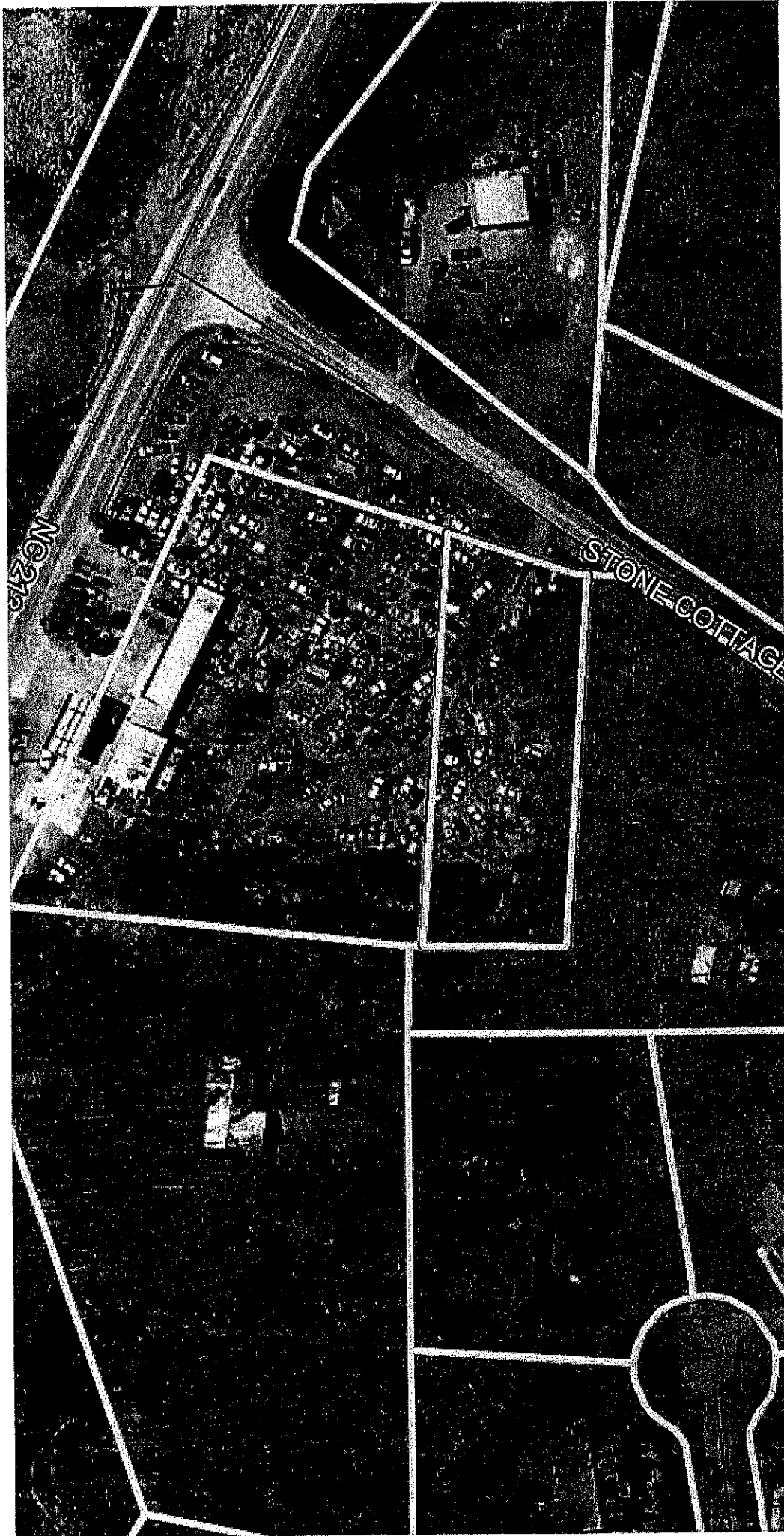
I, the undersigned, do hereby respectfully make application and petition the Board of Adjustment of Madison County as hereinafter requested, and in support of this application, the following facts are shown:

1. Reasons for appeal.
2. Decision rendered by Zoning Office.

PART 3 - TO BE COMPLETED BY ALL APPLICANTS

To the best of my knowledge, I hereby affirm that all information in this application and any attached material and documents are true and accurate:

- a) Signature of Applicant:  _____
- b) Signature of Agent (if any):  _____
- c) Date: 12/13/2023



**Madison County Land Use Ordinance
Biomass Facility
DRAFT 7 11/9/23
Land Use Ordinance Amendments**

[Chapter 2 Definitions]

Biomass Facility Definition

A facility that converts biomass sources into value-added products for public or private use. Biomass includes but is not limited to, wood and wood processing waste, wood pellets, agricultural crops and waste materials, biogenic materials in municipal solid waste, animal manure, and human sewage.

Large Biomass Facility:

- 1. Annual Biomass Throughput:** A large biomass facility processes over 10,000 metric tons of biomass per year
- 2. Energy Production:** A large biomass facilities generate over 25,000MWh or more energy annually.
- 3. Number of Employees:** A large biomass facility has over 100 employees.
- 4. Capital Investment Threshold:** A large biomass facility requires an investment of over \$10 million.

Small Biomass Facility:

- 1. Annual Biomass Throughput:** A small biomass facility processes under 10,000 metric tons of biomass per year.
- 2. Energy Production:** A small biomass facility generates less than 25,000 MWh of energy annually.
- 3. Number of Employees:** a small biomass facility has under 100 employees.

4. Capital Investment Threshold: A small biomass facility requires an investment of less than \$10 million

Annual Biomass Throughput refers to the total quantity or volume of biomass materials processed or used by a facility within one year. It represents the biomass brought into the facility for conversion, processing, or utilization.

Biomass throughput includes various organic materials such as wood, agricultural crops, waste materials, and other biogenic substances. This measure is essential for assessing the capacity and productivity of biomass facilities, whether they are focused on energy generation, biofuel production, or the manufacturing of value-added products from biomass sources.

Typically, annual biomass throughput is measured in units like metric tons or cubic meters per year, depending on the type of biomass and the facility's specific objectives. It provides valuable data for evaluating biomass processing operations' efficiency, environmental impact, and economic performance.

[Chapter 3 Establishment of Districts]

Large Biomass Facility Land Use Districts: Special Use in [I] Industrial

Small or Temporary Biomass Facility Land Use Districts: Special Use in [AO] Agricultural-Open Space; [RA] Residential Agriculture; [C] Commercial [RB] Retail Business

[Chapter 8 Special Requirements]

8.11 Large Biomass Facility

The development of a Large Biomass Facility shall go before the Board of Adjustment for a special use permit and shall conform to all applicable standards. Any property used for a Large Biomass Facility shall also comply with the following standards:

8.11.1 Special Use Standards

8.11.1.1. Compatibility: The proposed use must be compatible with the surrounding area and not have a negative impact on the surrounding properties or the community. It should not create excessive noise, traffic congestion, or other adverse effects that could disrupt the neighborhood.

8.11.1.2 Public Health and Safety: The proposed use must meet health and safety standards. This can include compliance with fire codes, building codes, and other regulations related to public health and safety.

8.11.1.3 Environmental Impact: The proposed use shall not have an adverse impact on the environment. This may involve considerations such as stormwater management, erosion control, slope stability, natural resource conservation, energy consumption, and emissions discharged from the proposed use.

8.11.1.4 Traffic and Parking: The proposed use should not significantly increase traffic congestion or parking demands beyond what the infrastructure can accommodate. Adequate parking spaces and access points should be provided to ensure safe and efficient circulation of vehicles.

8.11.1.5 Neighborhood Impact: The proposed use should not disrupt the rural character or quality of the surrounding neighborhood. Factors such as aesthetics, scale, design, and landscaping may be considered to ensure the proposed use blends well with the existing built environment.

8.11.2 Purpose. The purpose of this section is to establish a set of special regulations applicable exclusively to Large Biomass Facilities. These regulations are in addition to all other provisions of this ordinance. In adopting these standards, Madison County finds that Large Biomass Facilities have the potential to be incompatible with surrounding residential uses, thereby having the potential for a deleterious effect on adjacent residents. Special regulations for Large Biomass Facilities are necessary to ensure they will be compatible with surrounding uses and will not act to harm or alter the area they are located in.

8.11.3 Permit Any person, firm, or corporation wanting to construct or expand a Large Biomass Facility shall first submit an application and site plan to the Madison County Zoning Office. An application will not be complete until it contains all the required and requested information and is certified complete by the Zoning Administrator in writing to the applicant, notifying them that the application has been forwarded to the Board of Adjustment.

8.11.4 Submittal Requirements

8.11.4.1 A **narrative** describing the proposed Large Biomass Facility, including an overview of the project;

8.11.4.2 A site plan showing the proposed location and dimensions of all existing and proposed structures, screening, fencing, property lines, access roads, turnout locations, ancillary equipment, transmission lines, and the location of any residence within 100 feet of the perimeter of the facility;

8.11.4.3 Standard drawings of the Large Biomass Facility system components;

8.11.4.4 Copies of any unredacted lease agreement and easement(s);

8.11.4.5 Evidence that the electrical utility provider has been informed of the customer's intent to install an interconnected, customer-owned generator (off-grid systems shall be exempt from this requirement);

8.11.4.6 Other relevant studies, reports, certifications, and approvals as may be reasonably requested by Madison County to ensure compliance with this Article; such as a Traffic Impact Analysis; Stormwater Management Plan; Grading Plan; Appraisal of Impact of Proposed Use on properties within 100 yards of the proposed use; final approvals of all permits required from environmental regulators; Geotechnical analysis if the site contains slopes in excess of 18%

8.11.4.7 Decommissioning plans that describe the anticipated life of the facility, the estimated decommissioning costs in current dollars, and the anticipated manner in which the facility will be decommissioned and the site restored; and

8.11.4.8 Signature of the property owner(s) and the owner/operator of the facility (if different than the property owner).

8.11.5 Hours of Operation The hours of operation allowed shall be compatible with the land uses adjacent to the facility. In no case, however, shall such use that adjoins residentially used or zoned property conduct business between the hours of 10 pm and 7 am.

8.11.6 Landscaping Buffers The facility and area associated with the use shall be screened from adjoining properties by a buffer strip of a minimum of 150 feet. The planting materials shall comply with the requirements in the definition of a buffer strip.

8.11.7 Screening Facilities shall be enclosed by a sight-obstructing screen of at least 6 feet in height adjacent to public roads and 8 feet in height adjacent to properties of a residential, educational, or institutional nature. All such screens must be maintained in a

sound and stable manner for the life of the operation. If state or federal requirements for screening are more stringent, such requirements shall be applicable.

8.11.8 Open Space Requirements A minimum of 15 percent of the gross site area shall be landscaped open space.

8.11.9 Use Separation Two hundred feet minimum from any property line; Four hundred feet minimum from any residence.

8.11.10 Noise All Large Biomass Facilities shall adhere to the Madison County Noise Ordinance. Additionally, Equipment-producing noise or sound up to 70 decibels shall be located no closer than 1000 feet to the nearest residence.

8.11.11 Disturbances The facility shall meet all requirements of the State of North Carolina regarding noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the zoning district in which it is located.

8.11.12 Structural Requirements

8.11.12.1 Compliance with Building Code: The facility shall meet all requirements of the North Carolina State Building Code.

8.11.12.2 Electric Code: All components must comply with the current edition of the National Electric Code and be UL-listed (or equivalent).

8.11.13.3 Underground Wiring: Any electric wiring shall be located underground, except where wiring is brought together for interconnection to system components and/or the local utility power grid.

8.11.13 Parking Large Biomass Facilities shall comply with the parking requirements of the Madison County Land Use Ordinance and the maximum occupancy according to the North Carolina State Building Code. Parking surfaces are not required to be paved. The Zoning Administrator should not grant the permit unless it is determined the parking generated by the facility can be accommodated without undue disruption or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.

8.11.14 Access Access to the facility shall be by way of a collector or higher classified road and shall be controlled with gates, chains, fences, ditches, and/or vegetation to prevent unregulated access.

8.11.15 Dust All unpaved areas shall be maintained in a manner that prevents dust from leaving the property.

8.11.16 Signage No signage shall be permitted on the perimeter fence, with the exception of one (1) sign not to exceed 32 square feet that displays the name, address, and emergency contact information of the facility as well as appropriate warning signs.

8.11.17 Permit Requirements The facility shall obtain all applicable state and federal permits. The facility must comply with all requirements as set forth by the North Carolina Division of Environmental Quality.

8.11.18 Disposal of Toxic/Hazardous Matter Disposal of toxic/hazardous matter at any Biomass Facility shall be expressly forbidden.

8.11.19 Violation of Special Use Permit or Section 8.11

In the event of a violation of a special use permit or Section 8.11 for a Biomass Energy Facility, the following actions and procedures shall be followed:

8.11.19.1 Initial Warning: If it is determined that the conditions and agreements specified in the special use permit have not been fulfilled or there is a violation of Section 8.11, the zoning administrator will issue a warning. The permit holder will have ten (10) days to bring their operations into compliance with all permit and ordinance requirements.

8.11.19.2 Subsequent Violations: In case of any subsequent violations, the County will issue a notice of violation indicating non-compliance with the permit or ordinance.

8.11.19.3 Appeal Process: The permit holder has the right to appeal the notice of violation to the Board of Adjustment, following the procedures outlined in this ordinance.

8.11.19.4 Termination of Special Use Permit: If a notice of violation leads to the termination of the special use permit, the permit may only be reinstated through the following processes:

a. Public Hearing: A public hearing will be held before the Board of Adjustment to reconsider the permit. During this hearing, the notice of violation will be reviewed and evaluated.

b. Reversal or New Application: If the notice of violation is reversed during the public hearing, the original special use permit will be reinstated. Alternatively, if the notice is affirmed or not appealed, a new special use permit application must be submitted and approved by the Board of Adjustment.

Please note that these procedures are applicable unless specifically stated otherwise in this ordinance.