

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

PUBLIC HEARING

**Rezoning Application # R-04-03 As Amended
(R-20, R-15 & T-15 to C-2)**

Henderson County Manager, Applicant

Meeting Date: Monday, January 3, 2005

Attachments:

1. R-04-03 Application as Amended (with attachments)
2. Staff Report
3. Vicinity / Current Zoning Map
4. Watershed / Current Zoning Map
5. Current Land Use Map
6. 1993 Comprehensive Land Use Plan Map
7. 2020 County Comprehensive Plan Map
8. R-20 District Text
9. R-15 District Text
10. T-15 District Text
11. C-2 District Text
12. WS-IV District Text
13. Subject Area Photos
14. Planning Board's Recommended Zoning Map
15. Excerpt, October 19, 2004 Planning Board Meeting Minutes
16. Letter from William A. Lemke, Jr.
17. Public Hearing Notice

SUMMARY OF REQUEST:

Rezoning application #R-04-03, which was submitted on June 4, 2004, requested that the County rezone multiple parcels of land totaling approximately 150.31 acres, located at and near the intersection of Stoney Mountain Road and Mountain Road, from R-20 (Low-Density Residential), R-15 (Medium-Density Residential), and T-15 (Medium-Density Residential with Manufactured Homes) districts to a C-2 (Neighborhood Commercial) zoning district. Henderson County, the Henderson County Board of Public Education and the North Carolina State Highway Commission own the parcels that are the subject of the rezoning application. Henderson County Manager David Nicholson is the lead applicant.

The Henderson County Planning Board first considered rezoning application #R-04-03 at its regularly scheduled meeting on Tuesday, August 17, 2004, at which time the Board agreed to wait until its regularly scheduled September meeting to set a date to hold a public input session on and revisit the rezoning request. On Tuesday, September 21, 2004, the Planning Board voted to hold the public input session during its regularly scheduled October meeting and requested that staff notify adjacent property owners.

The Henderson County Planning Board held a public input session and reviewed the application at its meeting on Tuesday, October 19, 2004, at which time the County Manager amended the application to include an additional 12.03-acre parcel of land (PIN 9650-83-0296) that was not included in the original application. The Planning Board voted (4 to 3) to send the Board of Commissioners a favorable recommendation on the amended application to rezone the entire subject area, with the exception of two parcels (PINs 9650-83-0296 and 9650-92-0038) to a C-2 zoning district (See Attached Planning Board's Recommended Zoning Map).

Before taking action on the application, the Board of Commissioners must hold a public hearing. The Board of Commissioners canceled the public hearing that was scheduled for November 30, 2004 due to problems with the public hearing notification process. In addition, the November 30, 2004 meeting itself was canceled.

In accordance with Section 200-76 of the Henderson County Zoning Ordinance and State Law, notices of the January 3, 2005, Public Hearing regarding Rezoning Application # R-04-04 were published in the Hendersonville Times-News on December 15, 2004 and December 22, 2004. The Planning Department sent notices of the hearing via first class mail to the applicants and owners of properties adjacent to the Subject Area on December 9, 2004. Planning Staff posted signs advertising the hearing on the Subject Area on December 10, 2004.

COUNTY MANAGER'S RECOMMENDATION / BOARD ACTION REQUESTED:

Following the Public Hearing, Board action to approve, modify or deny Rezoning Application # R-04-03 would be appropriate.

Application to Amend the Official Zoning Map of Henderson County, NC
REZONING

1. PROPERTY OWNER INFORMATION

Henderson County
Property Owner Name
100 North King Street
Mailing Address
Hendersonville, NC 28792
City, State, Zip Code
(828) 697-4809
Telephone Number(s)

Note:
The property owner must file applications for zoning map amendments. If owners of multiple parcels are requesting rezoning, one owner should sign the application and attach statements or other documents showing support for the application with signatures from the other owners. Include property owner names and mailing addresses as well as parcel identification numbers (PINs).

2. SUBJECT PROPERTY INFORMATION

Attach a description of the property for which rezoning is being proposed. Such description may be in the form of a property survey, a legal description or a legible copy of a Henderson County cadastral or composite tax map which shows the proposed zoning district boundary changes.

Size of Area to be Rezoned ≈ 150.31 ac Parcel ID Number(s)* See Attachment
Current Zoning* R-20, R-15, T-15 Proposed Zoning* C-2

* If additional space is needed, attach a list of the PINs, the current zoning and the proposed zoning for each parcel proposed for rezoning.

3. ADJACENT PROPERTY INFORMATION

Attach a list of property owner names, mailing addresses and parcel ID numbers for parcels abutting the property proposed for rezoning.

I certify that the information contained in this application is true and accurate to the best of my knowledge.

[Signature]
Signature of Property Owner

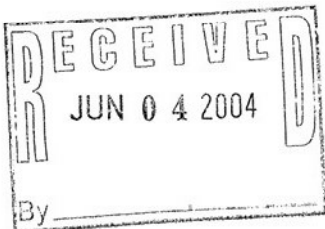
6/4/04
Date

Staff Use Only

Previous request for same amendment? Yes No Action: _____ Date: _____

Application Received By: Karen Smith Date: 6/4/04

Non-refundable application fee: \$300.00





STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

June 1, 2004

Mr. Justin B. Hembree
Assistant County Manager
Henderson County
100 North King Street
Hendersonville, NC 28792-5097

Dear Mr. Hembree:

Thank you for your letter of May 5, 2004, concerning the rezoning of NCDOT property located on Mountain Road in Henderson County. The map you enclosed shows what appears to be the entirety of our maintenance yard, complex number 45-02.

Understanding that the requested designation C-2 allows for all types of governmental uses, this letter is to confirm that the NCDOT supports the proposed rezoning.

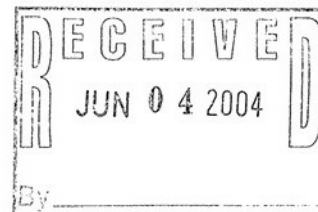
If you need any additional information in the meantime, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Reuben E. Moore".

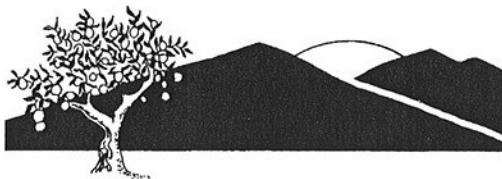
Reuben E. Moore, PE
Division Operations Engineer

cc: R. G. Watson, PE, Division Engineer
J. E. Snakenberg, Jr., PE, Acting Director of General Services
File



Board of Public Education

Ervin W. Bazzle, *Chairperson*
 Melissa L. Maurer, *Vice Chairperson*
 Kenneth R. Butcher
 Betsy J. Copolillo
 Kristin L. Huntley
 Jane S. Orwoll
 Deborah D. Reemes


**HENDERSON COUNTY
 PUBLIC SCHOOLS**
Where Tomorrow Begins

Tom Burnham, Ed. D.
Superintendent

414 Fourth Avenue West
 Hendersonville, NC 28739-4261
 Phone: (828) 697-4733
 Fax: (828) 697-5541 or 697-4738

May 12, 2004

Mr. Justin B. Hembree
 Assistant County Manager
 100 North King Street
 Hendersonville NC, 28792

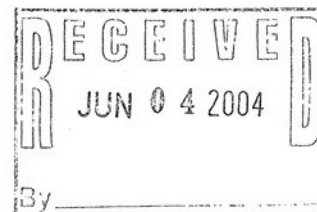
Dear Mr. Hembree:

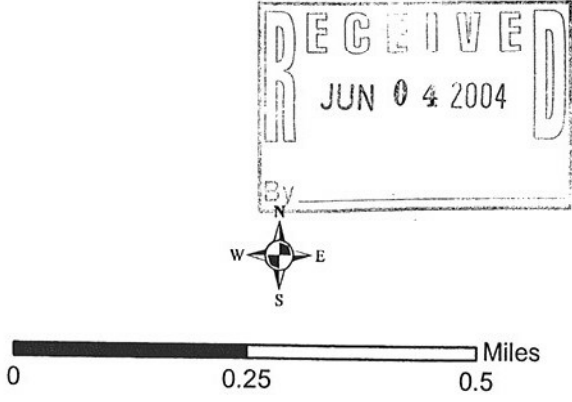
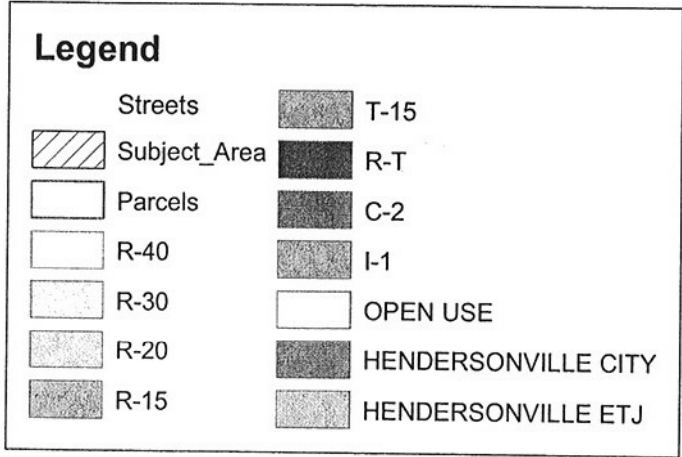
This is in response referencing a change in zoning on a parcel of property located in the Mountain Road area. The rezoning of the area will be from R-15 (residential) to C-2 (commercial). The Henderson County Public School Bus Garage is currently located in that area. The School Bus Garage has been at that location for over 50 years. At the present time, there are no plans or funds to relocate the Bus Garage to another site. The Henderson County Public Schools acknowledges and approves of changing the zone classification of the School Bus Garage property to commercial. Please feel free to contact me by phone at 697-4733 or at the above address if I can be of further assistance.

Sincerely,

Bo Caldwell
 Senior Director, Facility Management Services

Cc: Dr. Tom Burnham, Superintendent

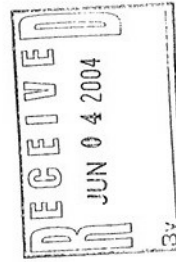




Rezoning Applicants

FID	ALPHA	NAME_1	ADDRESS_1	ADDRESS_2	CITY	ST ZIP	ACRES	ZONING
0	00965092003855	HENDERSON CO BOARD OF COMMISSIONERS	244 SECOND AVENUE EAST		HENDERSONVILLE	NC 28739	37.29	R-15
1	00965062211255	NORTH CAROLINA STATE HIGHWAY COMMISSION					11.99	R-20
2	00965062398355	NORTH CAROLINA STATE HIGHWAY COMMISSION					10.73	R-20
3	00965062965055	HENDERSON COUNTY	244 2ND AVE E		HENDERSONVILLE	NC 28792	5.78	R-15
4	00965072721755	HENDERSON CO LANDFILL	STONEY MTN ROAD		HENDERSONVILLE	NC 28739	61.89	R-15
5	00965062569155	NORTH CAROLINA STATE HIGHWAY COMMISSION					1.35	R-20
6	00965061477355	HENDERSON COUNTY	100 NORTH KING ST		HENDERSONVILLE	NC 28792	4.62	T-15
7	00965062704155	HENDERSON COUNTY	100 NORTH KING ST		HENDERSONVILLE	NC 28792	0.94	T-15
8	00965062907155	HENDERSON CO HUMANE SOCIETY INC	PO BOX 706		HENDERSONVILLE	NC 28793	0.41	O&I
9	00965061688855	HENDERSON COUNTY	100 NORTH KING ST		HENDERSONVILLE	NC 28792	0.39	T-15
10	00965061477355	HENDERSON COUNTY	100 NORTH KING ST		HENDERSONVILLE	NC 28792	4.62	T-15
11	00965061852555	HENDERSON CO BOARD OF PUBLIC SCHOOLS	C/O JIM YARBROUGH	414 4TH AVENUE WEST	HENDERSONVILLE	NC 28739	2.95	R-15
12	00965061661255	HENDERSON COUNTY	100 NORTH KING ST		HENDERSONVILLE	NC 28792	0.53	T-15
13	00965071632555	HENDERSON CO STONEY MTN ACTIVITY CENTER	C/O 400 N MAIN ST		HENDERSONVILLE	NC 28739	6.40	R-15
14	00965061548955	HENDERSON COUNTY	715 FLEMING ST		HENDERSONVILLE	NC 28791	0.42	T-15
Total Acres							150.31	

*NOTE: The FID numbers correspond with the map submitted with application.



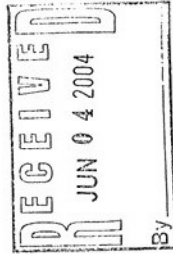
Adjacent Property Owners

ALPHA	NAME_1	NAME_2	ADDRESS_1	ADDRESS_2	CITY	ST/ZIP	ZONING
00965093241955	BOND, GEORGE F JR	BOND, BARBARA T	515 VIEW ROCK LN		HENDERSONVILLE	NC 28791	R-15
00965052995155	BRYSON, CHARLES T ETAL 13y		616 OAKLAND STREET		HENDERSONVILLE	NC 28791	R-20
00965061623555	CAPPS, RICHARD BRYAN		811 STONEY MTN RD		HENDERSONVILLE	NC 28739	R-20
00965051860155	CASE, PATRICK D	CASE, HEIDI	589 STONEY MOUNTAIN ROAD		HENDERSONVILLE	NC 28739	R-20
00965081211355	CRISP, MICHAEL R		730 MOUNTAIN ROAD		HENDERSONVILLE	NC 28791	R-15
00965092289555	DOSTER, ROBERT OWEN II	DOSTER, BARBARA HUNNICUTT	115 SUTTON PL		HENDERSONVILLE	NC 28791	R-15
00965073245355	DOSTER, MICHAEL D	DOSTER, DIANE P	119 OAKVALE PLACE		HENDERSONVILLE	NC 28791	R-15
00965091691455	DUGGIN, JERRY D	DUGGIN, BARBARA A	1300 RANDY DR		HENDERSONVILLE	NC 28791	R-15
00965092634155	ENDRES, DAVID	ENDRES, GERALDINE	1320 RANDY DR		HENDERSONVILLE	NC 28791	R-15
00965091822455	GLOVER, JOY GILBERT		C/O FIRST CITIZENS BANK TSA	100 S ELM ST	GREENSBORO	NC 27401	R-15
00965061052355	GRIFFIN, WAYNE	GRIFFIN, PATRICIA	855 STONEY MOUNTAIN RD		HENDERSONVILLE	NC 28791	R-20
00965051951655	GRIFFIN, WAYNE E	GRIFFIN, PATRICIA L	855 STONEY MTN RD		HENDERSONVILLE	NC 28791	R-20
00965083029655	HENDERSON CO BOARD OF COMMISSIONERS		100 N KING ST		HENDERSONVILLE	NC 28792	R-15
00965083843855	HENDERSON CO BOARD OF COMMISSIONERS		244 SECOND AVENUE EAST		HENDERSONVILLE	NC 28739	R-15
00965080083555	HENDERSON COUNTY	BOARD OF COMMISSIONERS	100 N KING ST		HENDERSONVILLE	NC 28792	R-15
00965061241455	HYDER, ROBERT STEVE	HYDER, NORMA JEAN	1004 GILBERT ST				R-20
00965061333955	HYDER, ROBERT STEVE	HYDER, NORMA JEAN	1004 GILBERT ST				R-20
00965061151055	HYDER, ROBERT STEVE II		1004 GILBERT ST		HENDERSONVILLE	NC 28792	R-20
00965071908855	HYLEMON, ROBERT D	HYLEMON, ANGELA C	P O BOX 151		MOUNTAIN HOME	NC 28758	R-15
00965081100555	HYLEMON, ROBERT D	HYLEMON, ANGELA C	P O BOX 151		MOUNTAIN HOME	NC 28758	R-15
00965052818855	JOHNSON, DONA L		15 WEXFORD DR		HENDERSONVILLE	NC 28791	R-20
00965090361155	LEMKE, WILLIAM AMELL JR & WIFE		670 STONEY MOUNTAIN RD		HENDERSONVILLE	NC 28791	SPLIT
009650609885455	LEVI, JACK R & WIFE		747 STONEY MTN RD		HENDERSONVILLE	NC 28739	R-15
00965052863855	LIPPERT, JOHN J & WIFE		206 SHANNON RD		HENDERSONVILLE	NC 28791	R-20
00965063132755	MERCADO, JOSE JESUS	MERCADO, MYRNA	514 CORBLY DR		HENDERSONVILLE	NC 28739	R-20
00965073043255	NEWELL, MALCOLM G	NEWELL, ELIZABETH B	1935 COUNTRY PLACE		CUMMING	GA 30040	SPLIT
00965053826255	OWENBY, ANTHONY DEAN	OWENBY, KIMBERLY C	224 SHANNON ROAD		HENDERSONVILLE	NC 28791	R-20
00965053832755	PETTIT, JEROME L	PETTIT, DENISE	226 SHANNON RD		HENDERSONVILLE	NC 28791	R-20
00965080686555	REVIS, ICEY JANE		698 STONEY MTN RD		HENDERSONVILLE	NC 28791	R-15
00965092871555	SCHNEIDER, ROLFE E & WIFE		8 FRITH DR		ASHEVILLE	NC 28803	R-15
00965063749655	SHEETS, ROGER A	SHEETS, DARLENE K	P O BOX 1223		MOUNTAIN HOME	NC 28758	SPLIT
00965052856755	SMITH, EMIL E & WIFE		13 DUNLEER LN		HENDERSONVILLE	NC 28791	R-20
00965052957155	SMITH, EMIL E & WIFE		13 DUNLEER LN		HENDERSONVILLE	NC 28791	R-20
00965052934355	SMITH, EMIL E & WIFE		13 DUNLEER LN		HENDERSONVILLE	NC 28791	R-20

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Adjacent Property Owners

ALPHA	NAME_1	NAME_2	ADDRESS_1	ADDRESS_2	CITY	ST ZIP	ZONING
00965061220855	SOUTHERN CROSS INVESTMENTS LLC		345 ROCQUET CLUB ROAD		ASHEVILLE	NC 28803	R-20
00965073441655	SUMMEY, STEVEN W		222 FOXWOOD DR		HENDERSONVILLE	NC 28739	R-15
00965083915455	SUTTON, KENNETH W		156 SUTTON PL		HENDERSONVILLE	NC 28791	R-15
00965063542755	THOMAS, MARK E	THOMAS, Lyla C	112 PIONEER MOUNTAIN RD		HENDERSONVILLE	NC 28791	SPLIT
00965051688355	THOMPSON, DONALD O SR		PO BOX 2736		HENDERSONVILLE	NC 28793	C-2
00965070385055	WHITMIRE, RONNIE	WHITMIRE, JOANN	81 CHESTNUT GAP RD		HENDERSONVILLE	NC 28792	R-15
00965090062855	WORLEY, STEVEN	WORLEY, LUCILLE B	676 STONEY MOUNTAIN RD		HENDERSONVILLE	NC 28791	SPLIT



Help | Codes and Abbreviations

Henderson County Property Record Card											
OWNERSHIP			NEIGHBORHOOD			PAGE		1/1		DATE	
HENDERSON CO BOARD OF COMMISSIONERS			893 NORTH HVILLE R-15							10/19,	
100 N KING ST			CYCLE			STATUS		REVENUE STAMPS		DATE TRANSFERRED	
HENDERSONVILLE NC 28792			A			ACTIVE		400.00		04/16/96	
PROPERTY ADDRESS			ZONING*			LAND USE		VERIFIED SALE		SALE DATE	
234 FOXWOOD DR			R-15			801					
PROPERTY DESCRIPTION			ACCOUNT			BLDG #				VISITATION DATA	
MTN HOME ADJOINING HEN CO LANDFILL			156091			NULL					
LAND INFORMATION			DOC ACRES			APR. ACRES		DATE		ID	
			EX-1			12.03		10/09/02		NM	

BUILDING INFORMATION												
SEG	1	2	3	4	5	SECTION	A	B	C	D	E	F
TYPE	4	10	6			TYPE	MA					
ACRE	1.00	5.74	5.29			SQFT	960					
SQFT						STORIES	1.0					
RATE	22500	6000	4000			WALL	WOOD SIDING					
SOIL						YEAR	1991					
USE						E. AGE	AVERAGE					
ADJ						CDU	C-					
AMOUNT DEFERRED	\$0											
MARKET VALUE	\$78,100											
OUTBUILDINGS												
BLDG	3					PHYS						
TYPE	SB					FUNCT						
USE	48					BSMT A	0%					
SIZE	28 X 120					BSMT F	%					
GRADE	C+					ATTIC A	0%					
YEAR	1991					ATTIC F	%					
CDU	G					BEDROOMS	2					
VALUE	47300					FULL	1					
						HALF	0					
						HEATING	H					
						F OPEN	0					
						F STACK	0					
						AC	YES					

TAX VALUE SUMMARY														
LAND			BUILDINGS			TOTAL MARKET VALUE			TOTAL AMOUNT DEFERRED			TOTAL TAX VALUE		
\$78,100			\$177,800			\$255,900			\$0			\$255,900		
MARKET			MARKET			MARKET			MARKET			MARKET		
\$0			\$0			\$0			\$0			\$0.00		
INC			INC			INC			INC			INC		
\$0			\$0			\$0			\$0			\$0.00		

0-12-11-00.003-AC CHG BY SLJD/3576 CHANGES
 BOUNDARY LINE

GENERAL REMARKS

DISCLAIMER

This information is collected for inventory of property found within this jurisdiction and is compiled from recorded deeds, plats, and other public records and data. Users of this information are hereby notified that the aforementioned sources should be consulted for verification of the information contained in this report.

60 X 120

No Buildings Present
 or No Image Available

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 By

Henderson County Planning Department Staff Report

Rezoning Application #R-04-03 As Amended (R-20, R-15 & T-15 to C-2) Henderson County Manager, Applicant

1. Introduction

- 1.1. Lead Applicant: Henderson County Manager
- 1.2. Subject Area as Amended: 16 parcels (see "Rezoning Applicants" sheet in Attachment 1 for Parcel Identification Numbers (PINs) and Attachment 3: Vicinity / Current Zoning Map)
- 1.3. Original Application Date: June 4, 2004
- 1.4. Request: The original request was to rezone 15 parcels of land from **R-20 (Low-Density Residential)**, **R-15 (Medium-Density Residential)**, and **T-15 (Medium-Density Residential with Manufactured Homes)** districts to a **C-2 (Neighborhood Commercial)** district, but during the Planning Board on meeting on October 19, 2004, the Applicant amended the application to include an additional 12.03-acre parcel of land (PIN 9650-83-0296). Please see Attachment 3: Vicinity / Current Zoning Map
- 1.5. Subject Area Size: The original application was for 150.31 acres (approximately); the amended application is for 162.34 acres (approximately).
- 1.6. Note: Hereafter the "Subject Area" refers the subject area as amended.

2. Location

- 2.1. Please See Attachments 3 & 4: Vicinity / Current Zoning Map and Watershed / Current Zoning Map.
- 2.2. The Subject Area is located at and near the intersection of Stoney Mountain Road (SR 1383) and Mountain Road (SR 1381).
- 2.3. The Subject Area extends east along Stoney Mountain Road approximately 2,937 feet, and north along Mountain Road, approximately 1,630 feet.
- 2.4. The northeastern-most portion of the Subject Area has approximately 775 feet of frontage along the south side of Randy Drive, and the northern portion of the Subject Area has approximately 161.07 feet along Foxwood Drive and approximately 113 feet along View Rock Lane.

- 2.5. The Subject Area is located approximately one-tenth (0.1) of a mile northwest of the City of Hendersonville Extraterritorial Jurisdiction (ETJ) (see Attachment 3).
- 2.6. The Subject Area is also located approximately one-half (1/2) of a mile east of West Henderson High School and Rugby Middle School.

3. Zoning and Area History

- 3.1. Please See Attachments 3 & 4: Vicinity / Current Zoning Map and Watershed / Current Zoning Map.
- 3.2. The Subject Area is currently zoned R-20 (Low-Density Residential), R-15 (Medium-Density Residential), and T-15 (Medium-Density Residential with Manufactured Homes), which appear to have been in effect since at least January of 1981. Virtually all of the Subject Area is also located in a WS-IV Water Supply Watershed (Upper French Broad River-Asheville).
- 3.3. **Adjacent Zoning:**
 - 3.3.1. The Subject Area is surrounded by County zoning districts. The western boundary of the Subject Area adjoins to the west an R-20 zoning district and a C-2 zoning district. To the north are R-20, OU (Open Use) and R-15 districts. An R-15 district adjoins the Subject Area to the east and R-15 and R-20 districts are located to the south of the Subject Area.
 - 3.3.2. The City of Hendersonville ETJ is one-tenth (0.1) of a mile southeast of the Subject Area. The ETJ areas closest to the Subject Area are zoned R-20 (Low-Density Residential) and R-15 (Medium-Density Residential) under the City of Hendersonville's Zoning Ordinance.
 - 3.3.2.1. According to the City of Hendersonville Zoning Ordinance, the City R-20 district requires 20,000 square feet per lot. Setbacks are as follows: 35 feet from the centerlines of streets, 15 feet from the side property lines, and 20 feet from the rear property line. The City of Hendersonville's R-15 district requires 15,000 square feet per lot. Setbacks are as follows: 30 feet from the centerline of streets, 10 feet from side property lines, and 15 feet from the rear property line.
 - 3.3.3. The majority of the surrounding area to the south and west, as well as a small area to the northeast of the Subject Area, are located in a WS-IV Water Supply Watershed.
- 3.4. **Comparison of Districts:**
 - 3.4.1. **R-20 Purpose Statement:** *"This district is intended to be a quiet, low-density neighborhood consisting of single-family residences."* (Henderson County Zoning Ordinance [HCZO] § 200-15).

- 3.4.2. R-20 is a single-family residential zoning district allowing no commercial activities by right. Site-built and modular residential dwellings are permitted by right, while manufactured homes are not permitted. Churches, church cemeteries, certain signs, transformer and public utility stations, customary accessory buildings (including private garages, noncommercial greenhouses, and workshops), schools, civic and cultural buildings, family care homes, and certain communication towers are allowed by right with standards. Planned Unit Developments (PUDs), R-A Residential Apartment Developments, R-O Residential Open Space Developments, and Medical Institutional Care Developments (MICD) are permitted with a Special Use Permit, and camps, bed-and-breakfast inns, libraries, and customary incidental home occupations are permitted with a Conditional Use Permit. New lots must be a minimum of 20,000 square feet (.45 acres) unless otherwise allowed through a Special Use Permit. Setbacks are as follows: 75 feet from the centerline of major streets and 50 feet from the centerline of all other streets; and 25 feet from side and rear property lines (some exceptions apply). There is no maximum building height for principal structures.
- 3.4.3. **R-15 Purpose Statement:** *“This district is intended to be a medium-density neighborhood consisting of single-family and two-family residences and small multifamily residences. It is expected that public water facilities will be generally available to each lot, providing a healthful environment, although the residential development may be dependent upon septic tanks for sewage disposal.”* (Henderson County Zoning Ordinance [HCZO] § 200-16).
- 3.4.4. R-15 is a medium-density residential zoning district allowing no commercial activities by right. R-15 allows by right single-family dwellings, two-family residential dwellings and apartments, provided that they are no larger than a four-family dwelling on a single lot and that a buffer strip is provided along the side and rear property lines (some exceptions apply), and garage apartments (one per lot). Site-built and modular residential dwellings are permitted by right, while manufactured homes are not permitted. Churches, church cemeteries, certain signs, transformer and public utility stations, customary accessory buildings (including private garages, noncommercial greenhouses, and workshops), schools, civic and cultural buildings, family care homes, and certain communication towers are allowed by right with standards. Planned Unit Developments (PUDs), R-A Residential Apartment Developments, R-O Residential Open Space Developments, and Medical Institutional Care Developments (MICDs) are permitted with a Special Use Permit, and camps, bed-and-breakfast inns, libraries, non-church cemeteries, and customary incidental home occupations are permitted with a Conditional Use Permit. The standard lot size is a minimum of 15,000 square feet (.34 acres), with a minimum lot size per dwelling unit of 7,500 square feet for buildings with two or more dwelling units. Unless otherwise allowed through a Special Use Permit, setbacks are as follows: 75 feet from the centerline of major streets and 50 feet from the centerline of all others; 15 feet from

the side and rear property lines (some exceptions apply); and a maximum building height of 35 feet for principal structures.

- 3.4.5. **T-15 Purpose Statement:** *“This district is intended to be a medium-density neighborhood consisting of single-family, two-family, limited multifamily and manufactured home residences. It is expected that public water facilities will be generally available to each lot, providing a healthful environment although the residential development may be dependent upon individual septic tank systems for sewage disposal.”* (Henderson County Zoning Ordinance [HCZO] § 200-20).
- 3.4.6. T-15 is a medium-density residential zoning district allowing no commercial activities by right. It allows by right single-family and two-family residential dwellings, garage apartments (one per lot), and apartments, provided that they are no larger than a four-family dwelling on a single lot and that there is a planted buffer strip along the side and rear property lines (some exceptions apply). Site-built residential dwellings and modular residential dwellings are permitted by right. Manufactured homes (on individual lots) are permitted provided they are placed on permanent foundations constructed to the specifications provided for in the North Carolina Uniform Residential Building Code and provided they meet the same lot size and setback requirements for the T-15 zoning district. Churches, church cemeteries, certain signs, transformer and public utility stations, customary accessory buildings (including private garages, noncommercial greenhouses, and workshops), schools, civic and cultural buildings, family care homes, and certain communication towers are allowed by right with standards. Medical Institutional Care Developments (MICDs) are permitted with a Special Use Permit, and camps, bed-and-breakfast inns, libraries, customary incidental home occupations, and manufactured home parks are permitted with a Conditional Use Permit. The standard lot size is a minimum of 15,000 square feet (.34 acres), with a minimum lot size per dwelling unit of 7,500 square feet for buildings with two or more dwelling units. Unless otherwise allowed through a Special Use Permit, setbacks are as follows: 75 feet from the centerline of major streets, 50 feet from the centerline of all others streets and 15 feet from the side and rear property lines (some exceptions apply); the maximum building height is 35 feet for principal structures.
- 3.4.7. **C-2 Purpose Statement:** *“The purpose of this district is to provide for general commercial activity along major thoroughfares and at other convenient points in the area. Regulations are designed to preserve the traffic-carrying capacity of the streets and to generally provide for off-street parking. It is not the intent of this district to encourage extensive strip commercial development but rather to provide concentrations of general commercial activities.”* (Henderson County Zoning Ordinance [HCZO] § 200-21).
- 3.4.8. C-2 is a general neighborhood commercial district allowing most commercial uses by right. Most by-right uses must be located within an enclosed building or make

products sold primarily at retail on the premises and include: retail businesses and services, hospitals, clinics, veterinary clinics, libraries, schools, churches, public utilities, public facilities, public buildings, offices, civic and cultural buildings, and certain communication towers. Shopping centers and light industrial uses are permitted with a Conditional Use Permit. Residential uses are not permitted. The C-2 zoning district has no minimum lot size but has a maximum permissible lot coverage standard which states that the total ground area covered by the building in this district shall not exceed 40% of the total lot area. Front setbacks are: 75 feet from the centerline of major streets and 60 feet from the centerline of all other streets. The side and rear setback is the same as the side yard requirements to which the district is contiguous. The maximum building height for principal buildings is 40 feet.

3.4.9. **WS-IV Watershed – Protected Area-Purpose Statement:** *“In order to accommodate moderate to high land use intensity, unless exempted below, development activities in WS-IV areas shall be conducted in accordance with the terms of this subsection. Single-family residential uses shall develop at a maximum of one dwelling unit per 20,000 square feet of lot size, or three dwelling units per acre upon qualification of a natural drainage and filtering system bonus. All nonresidential development shall be allowed at a maximum of 24% built-upon area, or a maximum of 36% built-upon area upon qualification for a natural drainage and filtering system bonus.”* (Henderson County Water Supply Watershed Protection Ordinance [HC-WSWPO] § 192-13-F).

3.4.9.1. Note: A minimum thirty-foot vegetative buffer for development activities, and a minimum one-hundred foot vegetative buffer for development using the special intensity allocation provision, is required along all perennial streams indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by the Watershed Administrator. Desirable artificial stream bank or shoreline stabilization is permitted. No new development is allowed in the buffer except for water-dependent structures, other structures such as flagpoles, signs and security lights which result in only de minimus increases in impervious area and public projects, such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water best management practices.

3.4.10. Please note that where the Zoning Ordinance and Water Supply Watershed Ordinance standards conflict with each other, the most restrictive standard applies.

3.4.11. See Attachments 8 through 12: District Text Descriptions.

4. Subject Area Uses and Adjacent Uses

- 4.1. Please see Attachment 5: Current Land Use Map.
- 4.2. The Subject Area not only contains multiple parcels, but multiple uses as well. The Henderson County landfill is located within the Subject Area and contains the following uses: a recycling facility, a transfer station, an organic waste area, a metal drop off area, a construction and demolition (C&D) disposal operation, above ground storage tanks, a methane gas recovery and distribution operation and a fee collection station with scales. The Henderson County Public School maintenance garage, the Henderson County animal shelter, and the Stoney Mountain Activity Center, including county office space, are all located within the Subject Area. In addition, NCDOT own three parcels of land in the Subject Area located at the intersection of Stoney Mountain Road and Mountain Road. NCDOT's property contains various structures including a former North Carolina Division of Prisons facility and the existing NCDOT Highway Maintenance – Bridge Equipment facility.
- 4.3. Looking at the surrounding area, the uses within the vicinity of the Subject Area include single-family residential, undeveloped, and community-cultural. It should be noted that undeveloped land may include forested as well as agricultural land, and any parcel containing residential development where the acreage to dwelling unit ratio is 10:1 or greater. The following residential developments (among others) are within close proximity to the Subject Area: Triple Creek and Sedgewood to the west, Cimarron Forest to the northwest, Foxwood to the north, Stoney Mountain Estates to the northeast, Baystone Heights to the east and Carriage Park, Creekside, Sycamore Hill and Dogwood Forest to the south. In addition, there are commercial activities located at the intersection of Mountain Road and NC 191. These commercial uses are located in the existing C-2 zoning district: Haywood Animal Hospital, MBDI-Mountain Building & Development Inc., Picture Photography and Corns Factory Outlet, Emerald Isles Tanning, Nail, & Hair Salon, and Park Ridge Medical Associates. In addition, the following commercial uses are not located in a commercial zoning district, but are within close proximity to the Subject Area: Huskey Chiropractic Center to the southwest, Nettlewood Furniture Restoration to the southwest, George Justice Nursery to the north, and the Hendersonville Equipment Shop to the north.
 - 4.3.1. It is important to note that the Historic Johnson Farm, Rugby Middle School, and West Henderson High School are all located within one-half (0.5) mile to the west of the Subject Area.

5. Solid Waste Facility Background

- 5.1. The landfill is the only existing public landfill in Henderson County. The Henderson County Solid Waste Department provides the county with a transfer station for waste disposal and drop-off site for recyclable materials, white goods (used appliances and metals), tires, and

wood waste. The Department is responsible for waste reduction, recycling, and disposing of solid waste in order to protect the public's health, safety and welfare.

5.1.1. Section 200-7 of the Henderson County Zoning Ordinance defines "Solid Waste Management Facilities" as:

- (1) Land, personnel and equipment used in the management of solid waste. Incinerators and drop-off recycling centers are specifically excluded from this definition. Solid waste management facilities include the following: (a) transfer station; (b) landfill; or (c) materials recovery facility.
- (2) Specifically excluded from this definition and any regulation under this chapter are those solid waste management facilities that are constructed and/or operated by or on behalf of any federal, state, or local governmental entity; provided, however, that this exclusion from regulation only applies to those solid waste management facilities not operating as a hazardous waste disposal facility or radioactive waste disposal facility (which are prohibited in all zoning districts).

6. Utilities / Infrastructure

6.1. **Sewer / Water:** The Subject Area currently has access to public water services, and the closest public sewer line is approximately two-tenths (0.2) of a mile southwest of the Subject Parcel along Lodge Road.

6.2. **Natural Gas:** The northern portion of the Subject Area is located in the service area for natural gas supply lines.

6.3. **Transportation:**

- 6.3.1. The Subject Area has approximately 2,937 feet of frontage along Stoney Mountain Road (SR 1383), and 1,630 feet of frontage along Mountain Road (SR 1381), including approximately 775 feet of frontage along Randy Drive.
- 6.3.2. The 2002 Annual Average Daily Traffic Count by NCDOT for Stoney Mountain Road (SR 1383) in the vicinity of the Subject Area was 3,700 vehicles per day. By comparison, the 2001 Annual Average Daily Traffic Count for Stoney Mountain Road in the vicinity of the Subject Area was 3,600 vehicles per day.
- 6.3.3. The 2002 Annual Average Daily Traffic Count by NCDOT for Mountain Road (SR 1381) in the vicinity of the Subject Area was 5,200 vehicles per day. By comparison, the 2001 Annual Average Daily Traffic Count for Mountain Road in the vicinity of the Subject Area was 4,200 vehicles per day.
- 6.3.4. See Section 7.1 regarding NCDOT plans for the area.

7. Relevant Policies, Plans and Actions

7.1. NCDOT Transportation Improvement Plan:

- 7.1.1. The NCDOT 2004-2010 Transportation Improvement Program (TIP) includes a rural project (R-2588), in the vicinity of the Subject Area, to widen NC 191 from NC 280 south of Mills River to Kensington Road (SR 1411) in Hendersonville to multi-lanes.
- 7.1.2. The Henderson County Board of Commissioners and the Henderson County Transportation Advisory Committee recommendations to NCDOT for the 2006-2012 Draft TIP stated that project R-2588 should remain a TIP project and that widening and safety issues associated with Stoney Mountain Road be made a part of that project, but that no further planning or design work be done on this project until after the transportation plans for the County and City of Hendersonville have been completed and approved
 - 7.1.2.1. The Board of Commissioners and Transportation Advisory Committee recommendations also note that in the spring of 2002, NCDOT completed a “superb” resurfacing project on NC 191 and made major improvements to enhance traffic flow and safety.

7.2. 1993 Henderson County Comprehensive Land Use Plan (1993 CLUP):

- 7.2.1. See Attachment 6: 1993 Comprehensive Plan Map. Note: Staff consulted the 1993 CLUP because the rezoning application was submitted prior to adoption of the County Comprehensive Plan. Staff has also included information from the County Comprehensive Plan in Section 7.3 of this report.
- 7.2.2. Both the text and map of the 1993 CLUP identifies the intersection of Stoney Mountain Road and Mountain Road as being suitable for commercial development, and the remaining area of the Subject Area as being suitable for community-facility uses and residential development (1993 CLUP Map, Figure 14).
- 7.2.3. An objective of the 1993 CLUP is to, “use zoning to establish and maintain the integrity of commercial, industrial, and residential areas” (1993 CLUP, Pg. 86). Rezoning the Subject Area from residential districts to a C-2 zoning district would change the integrity of both the commercial and residential areas, but considering the current land uses already in place, rezoning the Subject Area would be in keeping with the character of the existing neighborhood. It should be noted that although the C-2 zoning district should not disrupt the community considering the current land uses, staff is concerned with the size and extent of the commercial district as a whole.
- 7.2.4. Another objective of the 1993 CLUP is to, “plan for environmentally safe solid waste disposal facilities, including regional facilities, and to identify and preserve land needed for future public buildings and for future utility and service delivery facilities”

(1993 CLUP, Pg. 88). The Henderson County landfill, animal shelter, and various county offices are already located within the Subject Area. The County has acquired additional land surrounding its current facilities to help ensure the safety of the environment and to plan for future expansion as needed. When reviewing a rezoning application, the Board should consider the range of uses allowed in each zoning district, but due to the nature of the current land uses in the Subject Area the types of uses that portions of the property could be utilized for in the future are limited.

- 7.2.5. One goal of the 1993 CLUP is to, “promote intergovernmental coordination to ensure that maximum service is provided for the minimum amount of public dollars expended” (1993 CLUP, Pg. 89). An objective of this goal is to, “develop regional pilot programs to determine the benefits of programs, such as recycling and solid waste transfer stations, and to promote the sharing of equipment and facilities among local governments.” The Subject Area has land owned by three governmental entities operated by at least five governmental departments, and a number of public facilities located in one central area.

7.3. 2020 Henderson County Comprehensive Plan (2020 CCP):

- 7.3.1. See Attachment 7: 2020 County Comprehensive Plan Future Land Use Map.
- 7.3.2. The 2020 CCP’s Future Land Use Map identifies the Subject Area as being located in the Urban Services Area. A Community Service Center node is located in the vicinity of the intersection of NC 191 and Mountain Road (2020 CCP, Pg. 128, & Appendix 1, Map 24).
 - 7.3.2.1. The Urban Services Area is defined as, “the area within which most urban services and urban-scale development is currently concentrated, and within which such development should generally be concentrated through the year 2020” (2020 CCP, Pg. 128). The 2020 CCP states that, “The Urban Services Area (USA) will contain considerable commercial development at a mixture of scales: local, community, and regional commercial development. Commercial development will exist within predefined zoning districts, whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129). The proposed rezoning Subject Area is located in the USA, and an existing C-2 (Neighborhood Commercial) zoning district is adjacent to the Subject Area. The nature of the current land uses in the Subject Area, some of which are already intensive, will probably not change dramatically in the future, therefore, it is Staff’s opinion that the proposed zoning district would be in keeping with the standards and configuration of the surrounding community.

- 7.3.2.2. A Community Service Center node is shown located on the Future Land Use Map in the vicinity of the Subject Area. Community Service Centers are, "...intended to be intensive, efficient, defined concentrations of mixed services that meet the needs of the surrounding community and defined service areas" (2020 CCP, Pg. 134). The CLUP calls for them to be, "...located in unified development concentrations at intersections of selected thoroughfares and in central locations that are convenient to nearby residential development" (2020 CCP, Pg. 134). The Subject Area has developed as a regional service center, contains needed County and State facilities and operations, and can be fairly easily accessed. It is Staff's opinion that the Subject Area already functions as a Community Service Center.
- 7.3.2.3. Under the key principle of "Accessibility, Efficiency, and Equity in the Provision of Services, Facilities, and Resources," the 2020 CCP states that the County's "...objective is to ensure that all people have access to and use of community facilities and services..." and that "As good stewards of the community's resources, we must plan for the efficient development of these services and facilities and direct our growth and economic development to areas that can be served efficiently, while discouraging development in areas that cannot be efficiently served" (2020 CCP, Pg. 5).
- 7.3.3. The 2020 CCP identifies the Subject Area as being in a Priority 2 Planning Area within the community-based planning framework. The CCP assigns highest priority to areas within the USA where it is anticipated that extensive growth will occur (2020 CCP, Pg. 144 and Figure CP.2). According to the CCP implementation schedule adopted by the Board of Commissioners, a community plan for the area containing the Subject Area is scheduled to be completed in FY 2005-2006 (2020 CCP, Pg. 155).
- 7.3.3.1. The 2020 CCP states that, The County will continue to accept rezoning applications from within the Community Planning Area both prior to and after the development of community plans, although the County will refrain from accepting rezoning applications of community plan, rezonings will be denied if they are inconsistent with the text of the Future Land Use Map" (2020 CCP, Pg. 145).
- 7.3.4. The 2020 CCP states that, "It is recognized that additional issues may be identified that are not currently considered within this Comprehensive Plan. Examples may include issues regarding library facilities, emergency services, solid waste, and others" (2020 CCP, Pg. 146). It is Staff's opinion that an emphasis should be given to public facilities that are County-owned and operated when those facilities directly affect public health, safety and welfare.

8. Staff Comments and Recommendations

- 8.1. The question before the Board is: **Should the existing commercial zoning district at the intersection of Stoney Mountain Road and Mountain Road be expanded?** If the Board concludes that it should be expanded, then the question becomes: **Is the size of the commercial zoning district appropriate for this location?**
- 8.1.1. Both the text and map of the 1993 CLUP identify the Subject Area as being suitable for commercial development and for community-facilities, although no recommendation is given in terms of specific zoning districts or the appropriate size of commercial or community facilities development.
- 8.1.2. Both the text and map of the 2020 CCP identify the Subject Area as being located in the Urban Services Area (USA) and show a Community Service Center node encompassing the area around the intersection of NC 191 and Mountain Road.
- 8.1.3. The 2020 CCP states that the USA will contain considerable commercial development at a mixture of scales: local, community, and regional commercial development. The Subject Area is also identified as an area where it is anticipated that extensive growth will occur.
- 8.1.4. The 2020 CCP also states that additional issues may need to be identified and addressed when considering such uses as solid waste and others. Necessary County facilities are not directly addressed in the 2020 CCP, but an objective of the 1993 CLUP is to plan for environmentally safe solid waste disposal facilities. The County has acquired additional land surrounding its current facilities to help ensure the safety of the environment and to plan for future expansion as needed.
- 8.1.5. The size of the proposed C-2 district and the close proximity to residential uses is a concern to Planning Department staff, but considering the type of uses that have already been developed in the area, the staff also feels that, with the exception of the transfer station, landfill, and materials recovery facility (which are not regulated by County zoning), and with the exclusion of the Trace Property (PIN 9650-83-0296), the C-2 zoning district would bring the Subject Area into closer conformity with the Henderson County Zoning Ordinance. Staff from the Henderson County Manager's Office will be present at the public hearing to discuss the proposed rezoning in more detail.

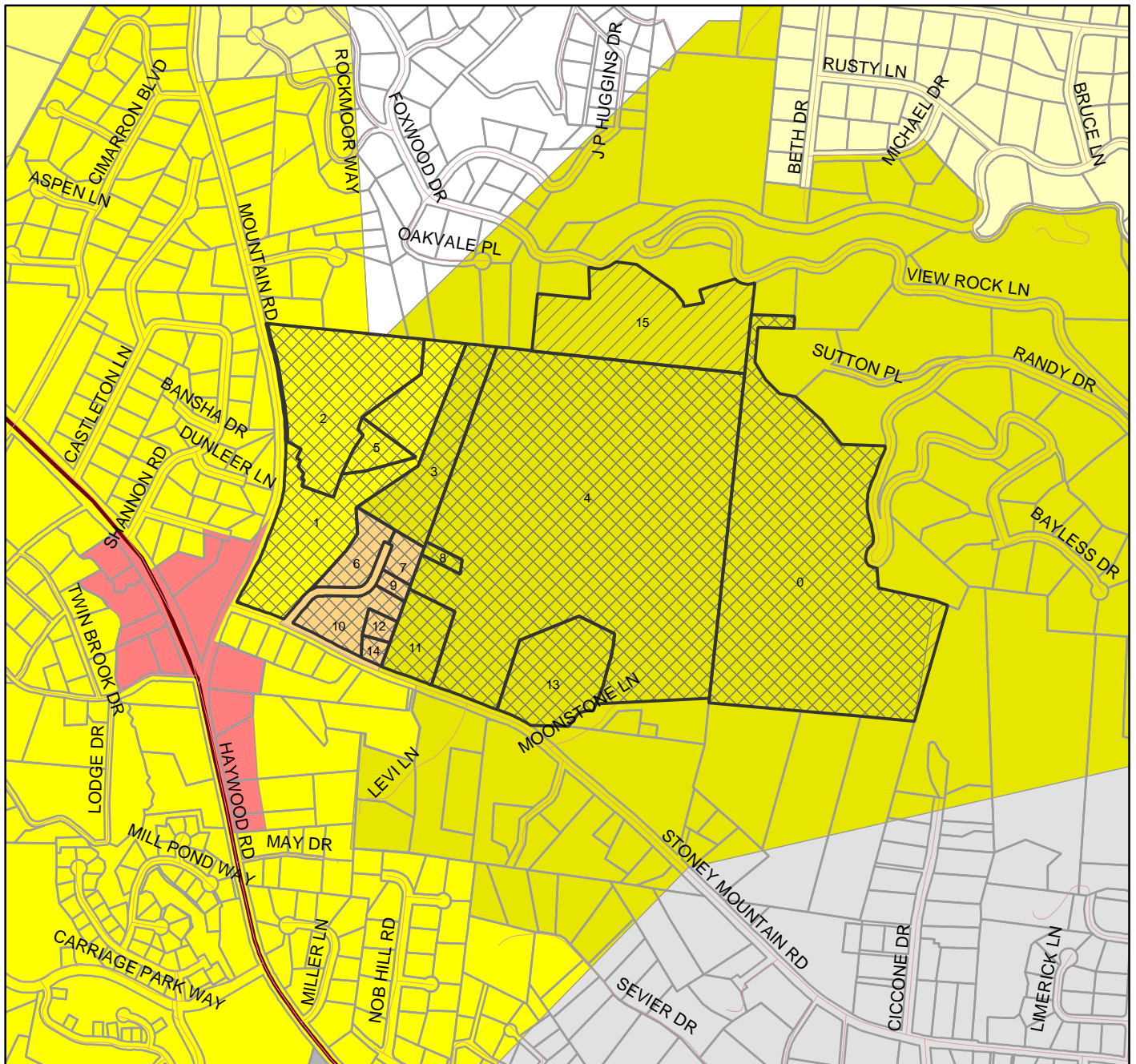
9. Planning Board Recommendations

- 9.1. See Attachment 14: Planning Board's Recommended Map.
- 9.2. The Henderson County Planning Board reviewed rezoning application #R-04-03 at its meeting on October 19, 2004, and voted (4 to 3) to send the Board of Commissioners a **favorable** recommendation on the amended application to rezone the entire Subject Area,

with the exception of two parcels (PIN 9650-83-0296 and 9650-92-0038) to a C-2 zoning district (See Attachments 14 & 15 – Planning Board’s Recommended Zoning Map and Excerpt from the Planning Board Meeting on October 19, 2004). This is based upon the following:

- 9.2.1. The two parcels (PIN 9650-83-0296 and 9650-92-0038) should be excluded, as it does not make sense to designate commercial property in a subdivision nor at the end of a residential, one-way street. In addition, the Planning Board also felt that the residential neighbors should be given peace of mind and some sort of protection from future commercial uses
- 9.2.2. The Subject Area has been used for non-residential development, including the county landfill, and the County is requesting that the zoning match the current land use and thus create fewer non conformities.

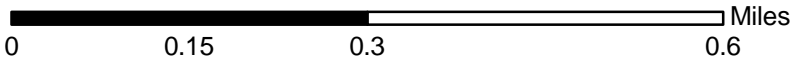
Vicinity / Current Zoning Map



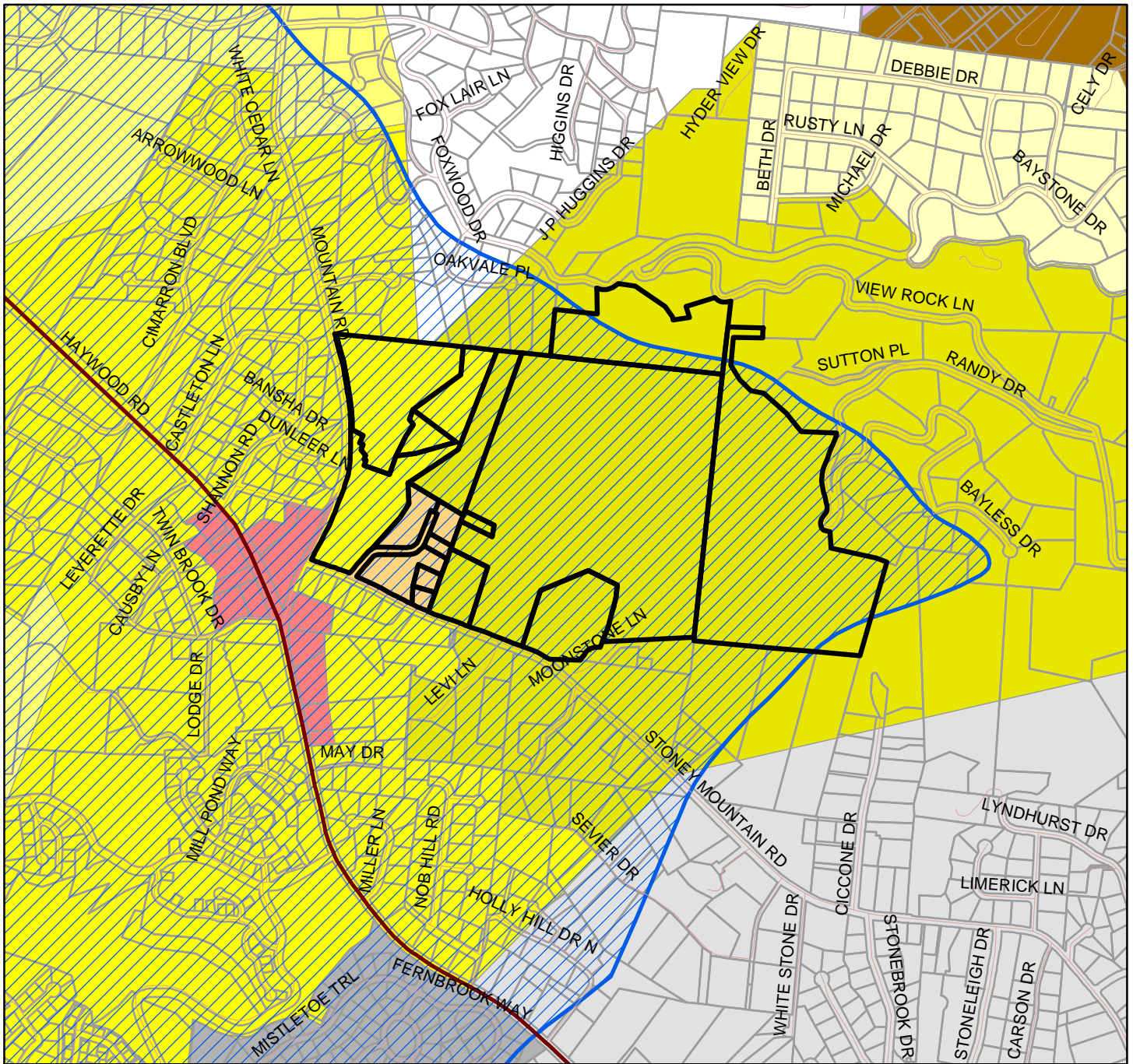
Legend

	Original Application		R-15
	Amended Application		T-15
	Streets		C-2
	Parcels		OPEN USE
	R-40		HENDERSONVILLE CITY
	R-30		HENDERSONVILLE ETJ
	R-20		

**Rezoning Application
#R-04-03, As Amended
Henderson County
Manager, Applicant**



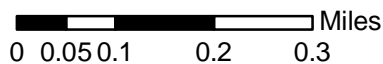
Watershed / Current Zoning Map



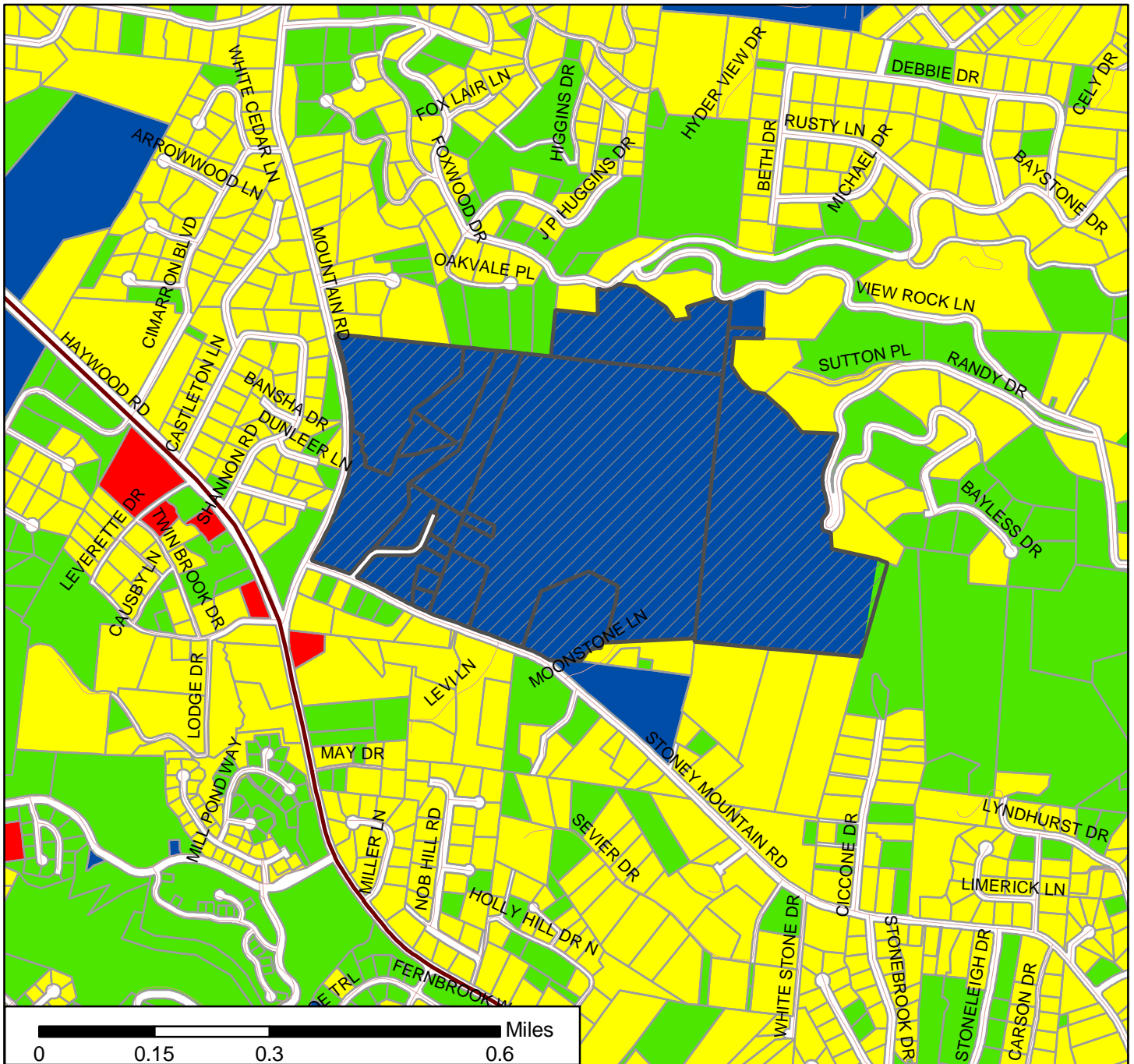
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	WS I		WS III CA		R-40		I-1
	WS II		WS IV		R-30		OPEN USE
	WS II CA		WS IV CA		R-20		HENDERSONVILLE CITY
	WS III		Streets		R-15		HENDERSONVILLE ETJ
	Parcels		T-15		Subject Area As Amended		
			R-T				
			C-2				

**Rezoning Application
#R-04-03 As Amended
Henderson County
Manager, Applicant**



Current Land Use Map

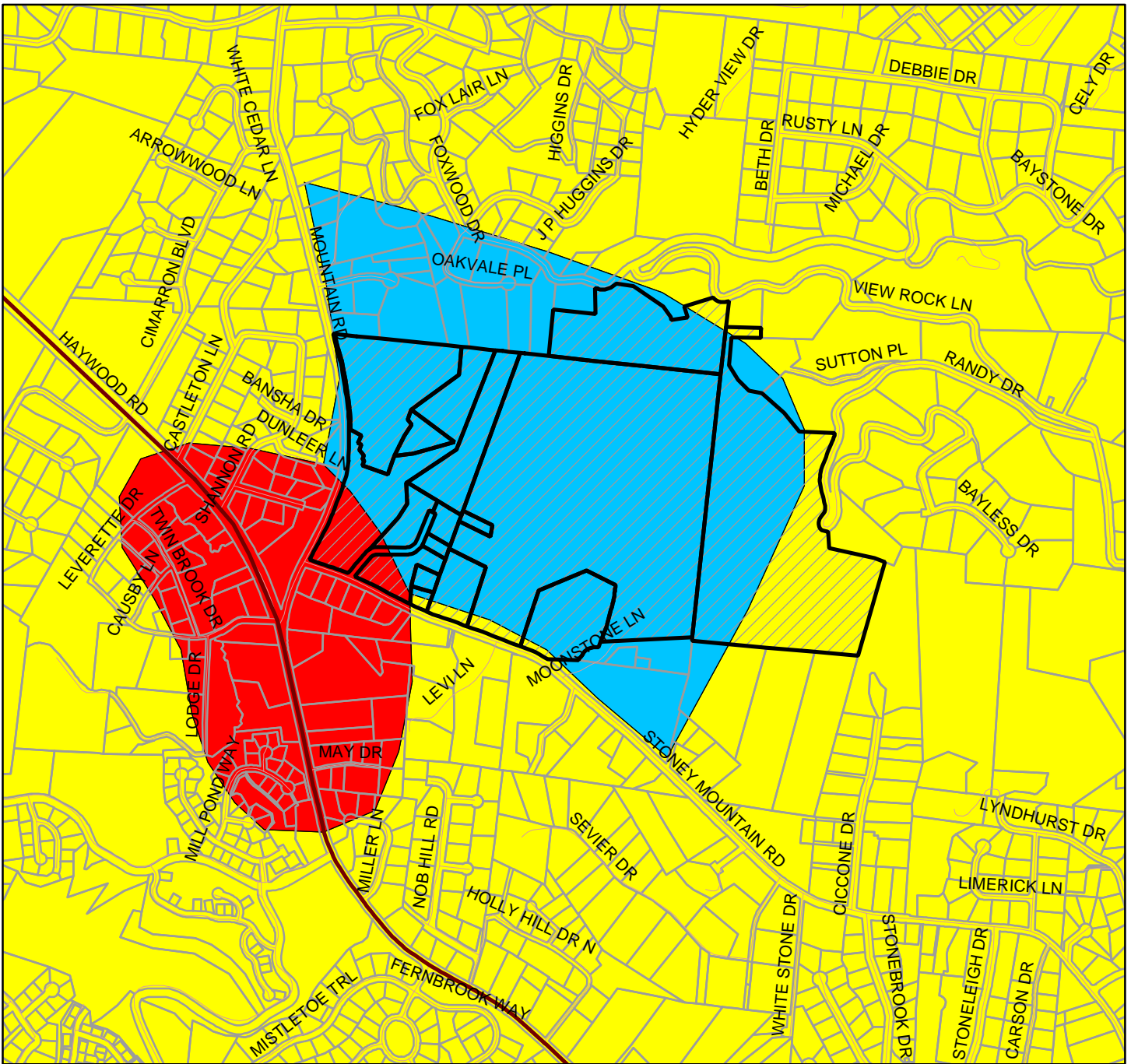


Legend












Streets	Recreation
Subject Area As Amended	Residential
Parcels	Community-Cultural
Surface Water	Commercial
Public/Private Conserved	Industrial
Undeveloped**	Transportation-Utility
Agriculture/Horticulture/Managed Forestland	

**Rezoning Application
#R-04-03 As Amended
Henderson County
Manager, Applicant**

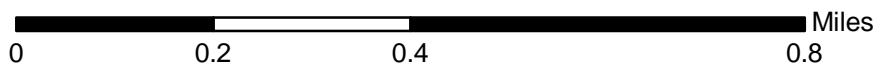
** May include forested as well as agricultural land. Any parcel containing residential development where the acreage to dwelling unit ratio is 10:1 or greater is classified as undeveloped.



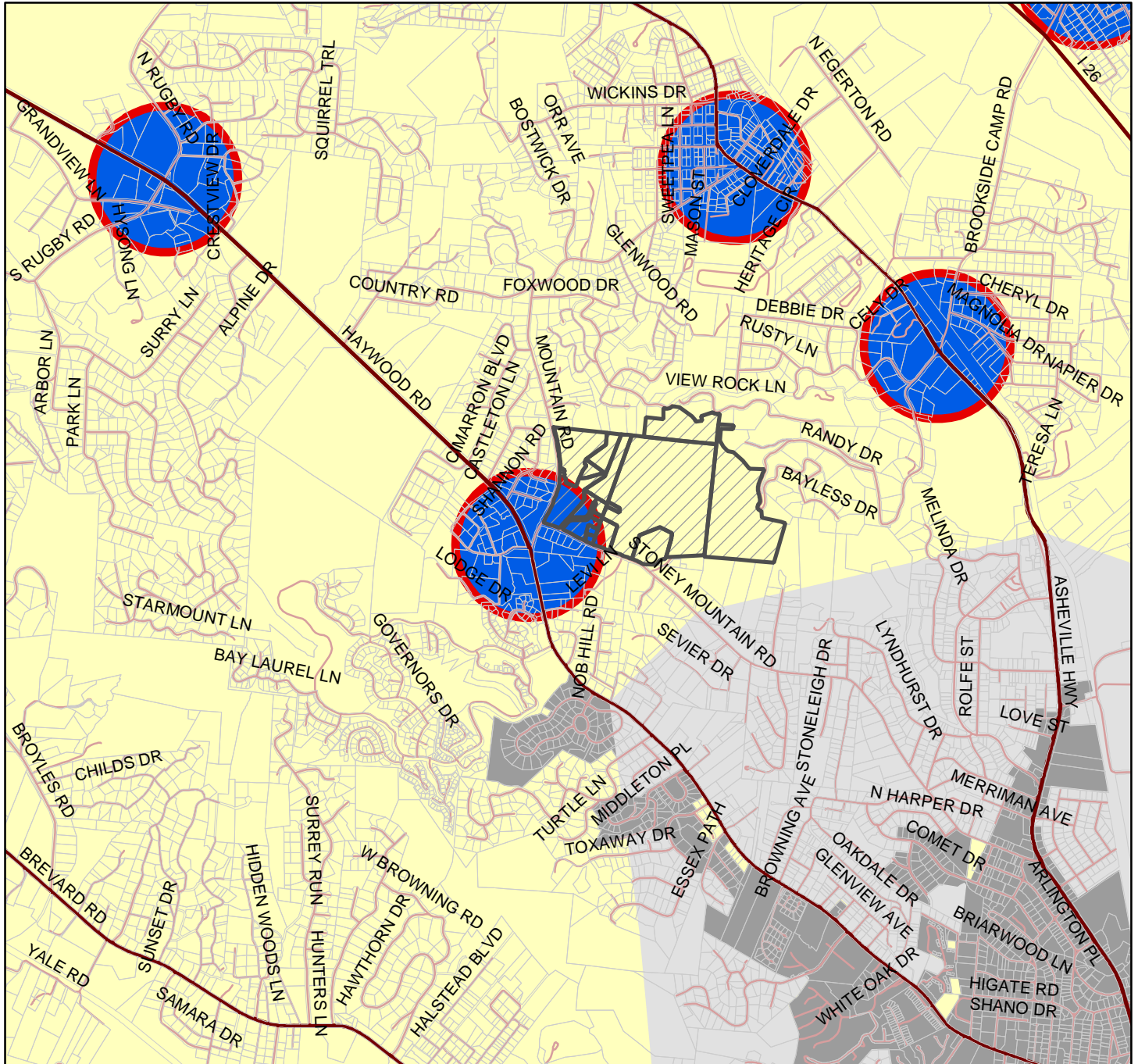
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- | | |
|--|---|
|  Streets |  PUBLIC-PARK |
|  Parcels |  RESIDENTIAL |
|  CONSERVATION |  COMMUNITY-FACILITY |
|  AGRICULTURE |  COMMERCIAL |
|  RURAL-CONSERVATION |  INDUSTRIAL |
| |  Subject Area As Amended |








**Rezoning Application
#R-04-03 As Amended
Henderson County
Manager, Applicant**



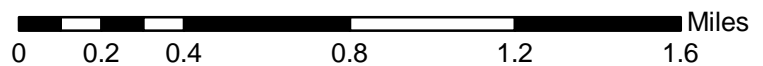
2020 County Comprehensive Plan Future Land Use Map



Legend

-  Streets
-  Parcels
-  Urban Services Area
-  Hendersonville_ETJ
-  Citylimits_dissolved
-  Community Service Centers
-  Subject Area As Amended

**Rezoning Application
#R-04-03 As Amended
Henderson County
Manager, Applicant**



§ 200-15. R-20 Low-Density Residential District.

This district is intended to be a quiet, low-density neighborhood consisting of single-family residences.

A. Within the R-20 Low-Density Residential District, the following uses are permitted:

- (1) Single-family dwellings, excluding manufactured homes. [Amended 12-15-1993]
- (2) Churches, provided that:
 - (a) The structures are placed not less than 50 feet from any property line.
 - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.
 - (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
- (3) Church cemeteries on property contiguous to or adjacent to the principal church assembly building, provided that all plots shall be set back at least 20 feet from any property line.
- (4) Church bulletin boards not exceeding 12 square feet in area.
- (5) Signs not more than four feet square in area advertising the sale or rental of property on which they are located.
- (6) Transformer and public stations, provided that:
 - (a) Transformer stations:
 - [1] The structures are placed not less than 75 feet from any property line.
 - [2] The structures are enclosed by a woven-wire fence at least eight feet high.
 - [3] No vehicles or equipment is stored on the premises.
 - [4] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.
 - (b) Public utility stations:
 - [1] The structures are located on sufficient land to meet all setback requirements of this chapter.
 - [2] The stations are completely enclosed, either by a building or a wire fence at least eight feet high.
 - [3] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.
- (7) Customary accessory buildings, including private garages, noncommercial greenhouses and workshops.
- (8) Public schools having multiple curricula and private schools having curricula approximately the same as ordinarily given in public schools.
- (9) [Added 11-7-1983] Civic and cultural buildings, including auditoriums, theaters for the performing arts, museums, art galleries, symphony and concert halls and historical societies, provided that:
 - (a) The structures are placed not less than 50 feet from any property line.
 - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.

- (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
- (d) The facility is operated not for profit and satisfactory proof of the tax-exempt status of the organization is exhibited to the Zoning Administrator.
- (e) One parking space is provided for each two seats in auditoriums, theaters and symphony and concert halls.
- (f) One parking space for each 100 feet of gross floor space directed to patron use shall be provided for museums, art galleries and historical societies.

(10) Group 1 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]

(11) Group 2 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]

(12) Family care homes, provided that no new family care home shall be located within a one-half-mile radius of an existing family care home. [Added 7-7-1998]

B. Special uses. The following uses shall be permitted, subject to a finding by the Board of County Commissioners that both the conditions in the definition of “special use” in § 200-7B and those conditions listed below will be met:

- (1) Planned unit developments, subject to the conditions listed under § 200-33 of this chapter.
- (2) R-A Residential Apartment Development, subject to the conditions listed under § 200-36 of this chapter.
- (3) R-O Residential Open Spaces Development, subject to the conditions listed under § 200-35 of this chapter.
- (4) Medical, institutional care development, subject to conditions listed under § 200-37 of this chapter.
- (5) Group 6 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]

C. Conditional uses. The following uses shall be permitted, subject to a finding by the Board of Adjustment that both the conditions in the definition of “conditional use” in § 200-7B and those conditions listed below will be met:

- (1) Parks, camps, tennis and racquet clubs and golf courses. (Miniature golf courses and practice driving tees operated for commercial purposes are not allowed.)
- (2) Customary incidental home occupations, including, but not limited to, dressmaking, cooking, baking, music instruction, the practice of such professions as insurance, medicine, artistry, architecture accounting, permitted as accessory uses in a residence.
- (3) Libraries.
- (4) Bed-and-breakfast inns. [Added 12-23-1992]

D. Dimensional requirements. Within the R-20 Low-Density Residential District as shown on the Zoning Map, the following dimensional requirements shall be complied with:

Minimum Lot Area	Minimum Lot Area Per Dwelling (Family) Unit	Maximum Building Height	Minimum Front Yard Setback From Center			
			Major ¹	Minimum All Others	Yards	
					Side	Rear

(sq. ft.)	(sq. ft.)	(ft.)	(ft.)	(ft.)	(ft.)	(ft.)
20,000	20,000	Unlimited	75	50	25	25

NOTES:

¹ Where the major street is more than two lanes, including parking lanes, setback requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved street abutting the property in subject.

§ 200-16. R-15 Medium-Density Residential District.

This district is intended to be a medium-density neighborhood consisting of single-family and two-family residences and small multifamily residences. It is expected that public water facilities will be generally available to each lot, providing a healthful environment, although the residential development may be dependent upon septic tanks for sewage disposal.

A. Within the R-15 Medium-Density Residential District, the following uses are permitted:

- (1) Single-family dwellings, excluding manufactured homes. [Amended 12-15-1993]
- (2) Two-family dwellings.
- (3) Apartments, provided that they be no larger than a four-family dwelling on a single lot; furthermore, provided that there be a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
- (4) Garage apartments (one per lot).
- (5) Churches, provided that:
 - (a) The structures are placed not less than 50 feet from any property line.
 - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.
 - (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
- (6) Church cemeteries on property contiguous to or adjacent to the principal church assembly building, provided that all plots shall be set back at least 20 feet from any property line.
- (7) Church bulletin boards not exceeding 12 square feet in area.
- (8) Signs not more than four feet square in area advertising the sale or rental of property on which they are located.
- (9) Transformer and public stations, provided that:
 - (a) Transformer stations:
 - [1] The structures are placed not less than 75 feet from any property line.
 - [2] The structures are enclosed by a woven-wire fence at least eight feet high.
 - [3] No vehicles or equipment is stored on the premises.
 - [4] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.
 - (b) Public utility stations:
 - [1] The structures are located on sufficient land to meet all setback requirements of this chapter.
 - [2] The stations are completely enclosed, either by a building or a wire fence at least eight feet high.
 - [3] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.

- (10) Customary accessory buildings, including private garages, noncommercial greenhouses and workshops.
- (11) Public schools having multiple curricula and private schools having curricula approximately the same as ordinarily given in public schools.
- (12) [Added 11-7-1983] Civic cultural buildings, including auditoriums, theaters for the performing arts, museums, art galleries, symphony and concert halls and historical societies, provided that:
- (a) The structures are placed not less than 50 feet from any property line.
 - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.
 - (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
 - (d) The facility is operated not for profit and satisfactory proof of the tax exempt status of the organization is exhibited to the Zoning Administrator.
 - (e) One parking space is provided for each two seats in auditoriums, theaters and symphony and concert halls.
 - (f) One parking space for each 100 feet of gross floor space directed to patron use shall be provided for museums, art galleries and historical societies.
- (13) Group 1 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
- (14) Group 2 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
- (15) Family care homes, provided that no new family care home shall be located within a one-half-mile radius of an existing family care home. [Added 7-7-1998]

B. Special uses. The following uses shall be permitted, subject to a finding by the Board of County Commissioners that both the conditions in the definition of “special use” in § 200-7B and those conditions listed below will be met:

- (1) Planned unit developments, subject to the conditions listed under § 200-33 of this chapter.
- (2) R-O Residential Open Spaces Development, subject to the conditions listed under § 200-35 of this chapter.
- (3) R-A Residential Apartment Development, subject to the conditions listed under § 200-36 of this chapter.
- (4) Medical, institutional care development, subject to conditions listed under § 200-37 of this chapter.
- (5) Group 6 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]

C. Conditional uses. The following uses shall be permitted, subject to a finding by the Board of Adjustment that both the conditions in the definition of “conditional use” in § 200-7B and those conditions listed below will be met:

- (1) Parks, camps, tennis and racquet clubs and golf courses. (Miniature golf courses and practice driving tees operated for commercial purposes are not allowed.)
- (2) Customary incidental home occupations, including, but not limited to, dressmaking, cooking, baking, music instruction, the practice of such professions as insurance, medicine, artistry, architecture accounting, permitted as accessory uses in a residence.
- (3) Libraries.

- (4) Nonchurch-related cemeteries.
- (5) Bed-and-breakfast inns. [Added 12-23-1992]

D. Dimensional requirements. Within the R-15 Medium-Density Residential District as shown on the Zoning Map, the following dimensional requirements shall be complied with:

Minimum Lot Area (sq. ft.)	Minimum Lot Area Per Dwelling Unit (sq. ft.)	Maximum Building Height (ft.)	Minimum Front Yard Setback From Center Line of Street		Minimum Yards	
			Major ¹ (ft.)	All Others (ft.)	Side (ft.)	Rear (ft.)
15,000	15,000 (1 family) 7,500 (2 or more families)	35	75	50	15	15

NOTES:

¹ Where the major street is more than two lanes, including parking lanes, setback requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved street abutting the property in subject.

§ 200-20. T-15 Medium-Density Residential with Manufactured Homes District. [Amended 11-7-1983; 12-23-1992; 12-15-1993]

This district is intended to be a medium-density neighborhood consisting of single-family, two-family, limited multifamily residences and manufactured home residences. It is expected that public water facilities will be generally available to each lot, providing a healthful environment, although the residential development may be dependent upon individual septic tank systems for sewage disposal.

- A. Within the T-15 Medium-Density Residential with Manufactured Homes District, the following uses are permitted:
- (1) Single-family dwellings.
 - (2) Two-family dwellings.
 - (3) Apartments, provided that they be no larger than a four-family dwelling on a single lot; furthermore, provided that there be a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
 - (4) Garage apartments (one per lot).
 - (5) Manufactured homes situated on individual lots, provided they meet the same lot size, yard and sanitation requirements as conventional structures. All manufactured homes shall be placed on permanent foundations constructed to the specifications provided for in the North Carolina Uniform Residential Building Code.
 - (6) Churches, provided that:
 - (a) The structures are placed not less than 50 feet from any property line.
 - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.
 - (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
 - (7) Church cemeteries on property contiguous to or adjacent to the principal church assembly building, provided that all plots shall be set back at least 20 feet from any property line.
 - (8) Church bulletin boards not exceeding 12 square feet in area.
 - (9) Signs not more than four feet square in area advertising the sale or rental of property on which they are located.
 - (10) Transformer and public stations, provided that:
 - (a) Transformer stations:
 - [1] The structures are placed not less than 75 feet from any property line.
 - [2] The structures are enclosed by a woven-wire fence at least eight feet high.
 - [3] No vehicles or equipment is stored on the premises.
 - [4] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.
 - (b) Public utility stations:
 - [1] The structures are located on sufficient land to meet all setback requirements of this chapter.

[2] The stations are completely enclosed, either by a building or a wire fence at least eight feet high.

[3] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.

(11) Customary accessory buildings, including private garages, noncommercial greenhouses and workshops.

(12) Public schools having multiple curricula and private schools having curricula approximately the same as ordinarily given in public schools.

(13) Civic and cultural buildings, including auditoriums, theaters for the performing arts, museums, art galleries, symphony and concert halls and historical societies, provided that:

(a) The structures are placed not less than 50 feet from any property line.

(b) They are located with access to a street, as shall be determined by the Zoning Administrator.

(c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.

(d) The facility is operated not for profit and satisfactory proof of the tax-exempt status of the organization is exhibited to the Zoning Administrator.

(e) One parking space is provided for each two seats in auditoriums, theaters and symphony and concert halls.

(f) One parking space for each 100 feet of gross floor space directed to patron use shall be provided for museums, art galleries and historical societies.

(14) Group 1 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]

(15) Group 2 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]

(16) Family care homes, provided that no new family care home shall be located within a one-half-mile radius of an existing family care home. [Added 7-7-1998]

B. Special uses. The following use shall be permitted, subject to a finding by the Board of County Commissioners that both the conditions in the definition of "special use" in § 200-7B and those conditions listed below will be met:

(1) Medical, institutional care development, subject to conditions listed under § 200-37 of this chapter.

(2) Group 6 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]

C. Conditional uses. The following uses shall be permitted, subject to a finding by the Board of Adjustment that both the conditions in the definition of "conditional use" in § 200-7B and those conditions listed below will be met:

(1) Manufactured home parks, subject to the requirements and conditions listed under § 200-34 of this chapter.

(2) Parks, camps, tennis and racquet clubs and golf courses. (Miniature golf courses and practice driving tees operated for commercial purposes are not allowed.)

(3) Customary incidental home occupations, including, but not limited to, dressmaking, cooking, baking, music instruction, the practice of such professions as insurance, medicine, artistry, architecture accounting, permitted as accessory uses in a residence.

(4) Libraries.

(5) Bed-and-breakfast inns.

D. Dimensional requirements. Within the T-15 Medium-Density Residential with Manufactured Homes District as shown on the Zoning Map, the following dimensional requirements shall be complied with:

Minimum Lot Area (sq. ft.)	Minimum Lot Area Per Dwelling Unit (sq. ft.)	Maximum Building Height (ft.)	Minimum Front Yard Setback From Center Line of Street			
			Major ¹ (ft.)	All Others (ft.)	Minimum Yards	
					Side (ft.)	Rear (ft.)
15,000	15,000 (1 family) 7,500 (2 or more families)	35	75	50	15	15

NOTES:

¹ Where the major street is more than two lanes, including parking lanes, setback requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved street abutting the property in subject.

§ 200-21. C-2 Neighborhood Commercial District.

The purpose of this district is to provide for general and commercial activity along major thoroughfares and at other convenient points in the area. Regulations are designed to preserve the traffic-carrying capacity of the streets and to generally provide for off-street parking. It is not the intent of this district to encourage extensive strip commercial development but rather to provide concentrations of general commercial activities.

A. Within the C-2 Neighborhood Commercial District, the following uses are permitted:

- (1) Any retail business or service conducted within an enclosed building.
- (2) Any retail business making products sold primarily at retail on the premises.
- (3) Hospitals, clinics, veterinary clinics, libraries, schools and churches, excluding cemeteries.
- (4) Other public utilities, public facilities and public buildings.
- (5) Offices: business, professional and public (including doctors, dentists, etc.).
- (6) [Added 11-7-1983] Civic and cultural buildings, including auditoriums, theaters for the performing arts, museums, art galleries, symphony and concert halls and historical societies, provided that:
 - (a) The structures are placed not less than 50 feet from any property line.
 - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.
 - (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
 - (d) The facility is operated not for profit and satisfactory proof of the tax-exempt status of the organization is exhibited to the Zoning Administrator.
 - (e) One parking space is provided for each two seats in auditoriums, theaters and symphony and concert halls.
 - (f) One parking space for each 100 feet of gross floor space directed to patron use shall be provided for museums, art galleries and historical societies.
- (7) Group 1 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
- (8) Group 2 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
- (9) Group 4 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]

B. Conditional uses. The following uses shall be permitted, subject to a finding by the Board of Adjustment that both the conditions in the definition of "conditional use" in § 200-7B and those conditions listed below or in Section 200-23 Light Industry, if applicable, will be met:

- (1) Shopping centers.

(2) Light industry.^{1EN} Junkyards shall be required to comply with the application requirements stated in Section 200-38.3 of this Chapter.

C. Dimensional requirements. Within the C-2 Neighborhood Commercial District as shown on the Zoning Map, the following dimensional requirements shall be complied with:

Minimum Front Yard Setback		Maximum Building Height	Minimum Yards	
From Center Line of Street Major¹	All Others		Side	Rear
(ft.)	(ft.)	(ft.)	(ft.)	(ft.)
75	60	40	The same as the side yard requirements to which the district is contiguous.	

D. Maximum permissible lot coverage. The total ground area covered by the building in this district shall not exceed 40% of the total lot area.

NOTES:

1 Where the major street is more than two lanes, including parking lanes, setback requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved street abutting the property in subject.

§ 192-13. F. WS-IV Watershed Areas – Protected Area. [Amended 11-18-1998; Adopted 5-23-1994]

In order to accommodate moderate to high land use intensity, unless exempted below, development activities in WS-IV areas shall be conducted in accordance with the terms of this subsection. Single-family residential uses shall develop at a maximum of one dwelling unit per of lot size or three dwelling units per acre upon qualification of a natural drainage and filtering system bonus. All nonresidential development shall be allowed at a maximum of 24% built-upon area, or a maximum of 36% built-upon area upon qualification for a Natural Drainage and Filtering System Bonus.

- (1) Allowed uses:
 - (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
 - (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-0209).
 - (c) Residential development.
 - (c) Nonresidential development.
- (2) Density and built-upon limits.
 - (a) Single-family residential development shall not exceed one dwelling unit per 20,000 square feet of lot size, as defined on a project-by-project basis, unless such development qualifies for a natural drainage and filtering system bonus, in which case development shall not exceed three dwelling units per acre of lot size. No residential lot shall be less than 20,000 square feet, excluding road right-of-way, except within an approved cluster development, unless such lot qualifies for a natural drainage and filtering system bonus, in which case the lot shall not be less than 1/3 acre (14,520 square feet).
 - (b) Multifamily residential or nonresidential development shall not exceed 24% built-upon area on a project-by-project basis unless such development qualifies for a natural drainage and filtering system bonus, in which case development shall not exceed 36% built-upon area. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.
 - (c) In addition to the development allowed under Subsection F(2)(a) and (b) above, new development and expansions to existing development may occupy up to 10% of the protected area with up to 70% built-upon area when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIA's consistent with the provisions of this article. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate best management practices to minimize water quality impacts
- (3) Natural drainage and filtering system bonus. For projects implementing a natural drainage and filtering system as defined in this article, the project may be developed in accordance with the following density and built-upon limitations without the utilization of engineered stormwater controls:
 - (a) Single-family residential development shall not exceed three dwelling units per acre (or one dwelling unit per 14,520 square feet of lot size).

- (b) All other residential and nonresidential development shall not exceed 36% built-upon area.
- (c) If stormwater runoff is filtered naturally and is not passed by gutters, drains, pipes, paved swales or other similar conduits, qualification for a natural drainage and filtering system bonus shall not impose a more stringent requirement than Chapter 170, Subdivision of Land, or the North Carolina erosion and sedimentation control permit requirements.

(4) Sedimentation and erosion control exemption.

- (a) Development projects undertaken within a WS-IV area may qualify for an exemption from the density and built-upon limits as set out in this section if the project meets all of the following criteria:
 - [1] The development project does not require a sedimentation and erosion control plan and permit under the rules and regulations promulgated by the North Carolina Sedimentation Control Commission.
 - [2] The development project is nonresidential.
 - [3] The development project is the initial development activity on the project site or tract and is not an expansion of any improvements already existing on the project site or tract having a built-upon area as defined in this article.
- (b) In evaluating whether the development project meets the criteria listed above for the sedimentation and erosion control exemption, the following rules shall apply:
 - [1] The exemption shall not be available to nonresidential subdivisions, nonresidential cluster development or nonresidential development projects being developed in phases.
 - [2] The exemption shall not be available for single-family or any other residential development projects, including customary home occupations.
 - [3] If construction of the development project is discontinued for a period of time in excess of 180 consecutive calendar days, any further construction shall be considered an expansion to improvements already existing on the project site or tract, and any such further construction shall meet the requirements of this article. However, only the built-upon area of said further construction and the remainder of the project site or tract shall be used in the density calculations.
 - [4] Any exempted development project may be repaired and/or reconstructed if damaged or destroyed. Any such reconstruction or repair shall not be considered an expansion of an improvement already existing, provided that their construction or repair restores the building or built-upon area to substantially the same condition and built-upon area as before any such damage or destruction. To the extent that any such reconstruction or repair enlarges the impervious surface associated with the building or built-upon area being reconstructed or replaced, the reconstruction or repair shall be considered an expansion to an exempted development project and shall be required to meet the density and built-upon limits contained in this article in accordance with Subsection F(4)(c) below.
- (c) Expansions to development projects which were exempted under this section shall not be exempted from the terms of this article. All such expansions shall be required to meet the requirements of this article; however, only the built-upon area of the expansion and the undeveloped area of the project site or tract shall be used in the density calculations.

Subject Area Photos – Rezoning Application #R-04-03



Entrance to the Henderson County Landfill & Stoney Mtn. Activity Center.



View of the Henderson County Landfill.



Transfer station, Stoney Mtn. Activity Center, and recycling center.



Former NC Division of Prisons Facility & the existing NCDOT Highway Maintenance-Bridge Equipment Facility.

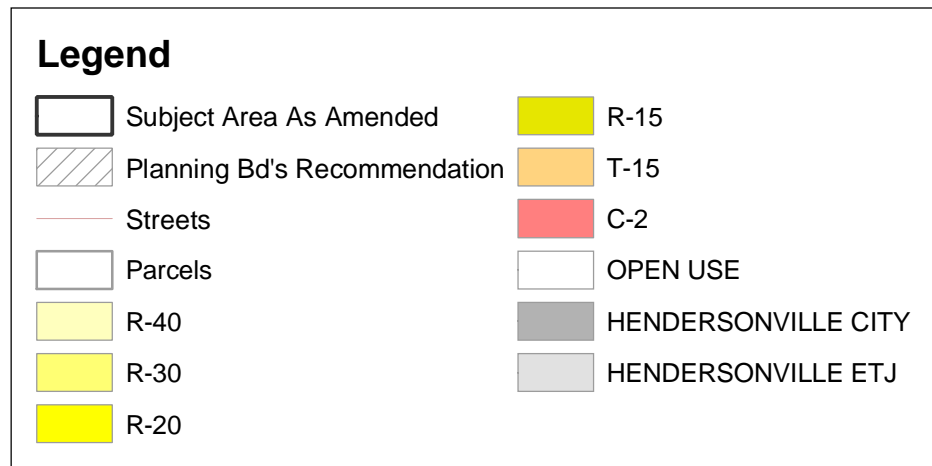
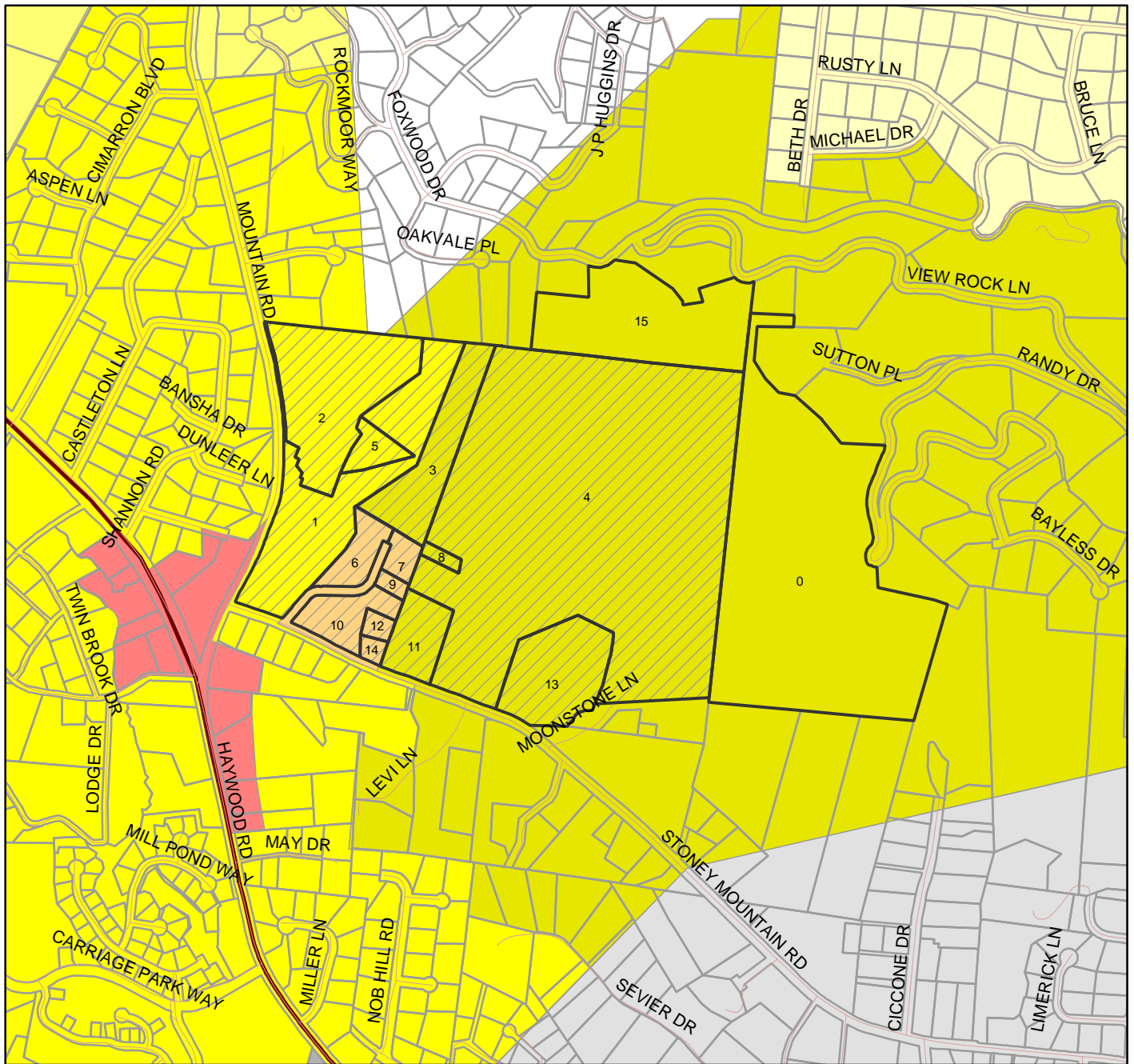


Henderson County Public Schools bus maintenance garage.

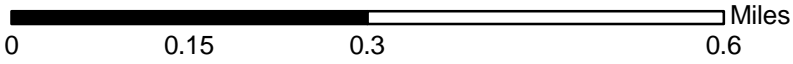


Bus garage storage area.

Planning Board's Recommended Map



**Rezoning Application
#R-04-03, As Amended
Henderson County
Manager, Applicant**



Excerpt from the Planning Board Meeting on October 19, 2004

Public Input Session for Zoning Map Amendment Application (# R-04-03) to Rezone Approximately 150.31 Acres Owned by Henderson County Government, the Henderson County Board of Public Education and the North Carolina State Highway Commission and Located Near the Intersection of Stoney Mountain Road and Mountain Road from R-20 (Low-Density Residential), R-15 (Medium-Density Residential), and T-15 (Medium-Density Residential with Manufactured Homes) Districts to a C-2 (Neighborhood Commercial) Zoning District. Ms. Radcliff presented a brief summary regarding the application, which was presented at the August's Planning Board meeting. She said on June 4, 2004, the County submitted a rezoning application requesting that 15 parcels of land totaling approximately 150.31 acres, located at and near the intersection of Stoney Mountain Road and Mountain Road with multiple zoning districts be rezoned to a C-2, Neighborhood Commercial zoning district. She indicated that the map shown on the screen outlines the subject area there, the parcels and the current zoning in that location. She noted that there is a current C-2 zoning district in the location of the intersection of NC 191 and Mountain Road and it extends up Mountain Road past the Stoney Mountain Road interchange. She said the subject area is currently zoned R-15, R-20 and T-15 since January, 1981 and is also located in a water supply watershed. She said the C-2 zoning district, the general neighborhood commercial district allows most commercial uses by right. Most of these uses must be located in an enclosed building or make products sold primarily at retail on the premises. There are also some conditional use permits that can be granted in the C-2 district to allow some other uses. Indicating on a screen, Ms. Radcliff showed that the subject property is located in a water supply watershed, WS-IV watershed, in which all non-residential development is allowed at a maximum of 24% build upon area or a maximum of 36% build upon area upon qualification for natural drainage and filtering system bonus. She said a minimum 30-foot buffer is required for development activity and a 100-foot vegetative buffer for development using the special intensity allocation provision is required along all perennial streams indicated on the USGS topographical maps. She showed some photos of the subject area stating that the subject area contains a number of government facilities and includes the County landfill, bus garage, animal shelter and the former NC Division of Prison Facilities. She said the subject area is surrounded or within the vicinity of both residential and commercial activities including a number of subdivisions, the historic Johnson Farm, Rugby Middle School and West Henderson High School.

The subject area has access to public water services and the closest public sewer line is approximately .02 mile southwest of the subject area along Lodge Road. Ms. Radcliff said that at the August 17, 2004 Planning Board meeting, she reviewed the relative plans and policies including the NCDOT Transportation Improvement Plan and the 1993 Comprehensive Land Use Plan in addition to the 2020 Comprehensive Plan, which was adopted on July 6, 2004 by the Board of Commissioners. She said Staff recommended at that time that the Board would address two questions to make the recommendation to send on to the Board of Commissioners about the subject area. The first question was, "Should the existing commercial district at the intersection of Stoney Mountain Road and Mountain Road be expanded and if the Board concludes that it should be expanded, the question would be, is the size of the district appropriate for this location? Both the text and the map of the 1993 Comprehensive Land Use Plan identified the subject area for being suitable for commercial development and for community facilities, although no recommendation is given in terms of a specific zoning district or the appropriate size of commercial or community facility development. She added that both the text and the map of the 2020 Comprehensive Plan identifies the subject area as being located in the Urban Services area and shown as a community service center node comprising the area around the intersection of NC 191 and Mountain Road. She said the 2020 Comprehensive Plan that states the Urban Services area will contain considerable commercial development and a mixture of local community and regional commercial development. The subject area is also identified as an area where it is anticipated that extensive growth will occur. In addition, the 2020 Comprehensive Plan also states that additional issues may need to be identified and addressed when considering such uses as solid waste or other. Necessary county facilities are not directly addressed in the 2020 Comprehensive Plan, but the objective of the 1993 Plan is to plan for environmentally safe solid waste disposal facilities. The County has acquired additional land surrounding its current facilities to help ensure the safety of the environment and to plan for future expansion as needed.

Ms. Radcliff said that the size of the C-2 district is a concern to the Planning Department but considering the type of uses that have developed in the area, Staff feels, with the exception of the transfer station, landfill, and materials recovery facility, the C-2 zoning district would bring the subject area into a closer conformity with the Henderson County Zoning Ordinance.

Mr. Nicholson said that he is the lead applicant for this proposed rezoning of the acreage owned by the Henderson County Board of Commissioners, Henderson County Board of Public Education and the NC Department of Transportation. He said that he feels that these properties are not residential in nature, unless you consider the fact that the old Stoney Mountain Activity Center was the County Home and that the Department of Corrections had a prison site that kept residents for a period of time, but he generally feels that it is not a residential area. He said that Henderson County purchased the main bulk site of the sixty-nine acre parcel in 1944. This property has been and will be under governmental authority for many years to come. Mr. Nicholson said that the landfill has closed down with the exception of the construction and demolition site (C & D) and the County has to monitor the landfill site for a long time to ensure that it is environmentally closed properly.

Mr. Nicholson said that he does not know the reason why it was zoned residentially to begin with and the reason why we chose C-2 for this area is because it is the most suitable tool presently. He said by proposing C-2 zoning for this area, it would allow the three government units to bring their property into compliance with the Ordinance as well as be able to do things in the future because according to the *Zoning Ordinance*, Section 221A-4, it states that public utilities, public facilities and public buildings are permitted uses in C-2. He stated that the reason why the County is asking for this rezoning is to be able to utilize two of the facilities (Department of Education and Department of Transportation) and the County plans to construct a new animal shelter on the land and would like to relocate the recycling center on that site too. In addition on that site, the County has discussed building an additional bay for the transfer station. Mr. Nicholson said that the County will be closing down in a few years the construction and demolition (C & D) landfill and those materials will need to be sent off to a regional facility and another bay will need to be built on that site once that is done.

Mr. Nicholson said that due to an oversight by his assistant, there are three parcels that were left out of the original application, but one of those parcels that are referred to as the "old Trace property" should have been included and he requested that this should be included in the application. Mr. Nicholson submitted to Planning Staff a description of the property. He said that there is a barn on the property that the County would like to use for storage of records. Chairman Pearce asked whether the Trace property also

includes the house that is on it? Mr. Nicholson explained that the County had initially purchased the property, which included the house, but has since sold it to an individual.

Mr. Nicholson stated that he knows that the Planning Board has to consider all of the possible uses in C-2 and realizes that this is an usual request because it comes from a Henderson County official. In closing, asked the Board for a favorable recommendation to the Board of Commissioners to allow the County to correct the zoning on this property to bring it in compliance with the Ordinance as well as to allow the County to proceed on the proposed projects.

Chairman Pearce said that in the C-2 zoning district it allows any retail service conducted within an enclosed building, but at this location there is a lot of services being provided but are not in an enclosed building. In C-2 are public buildings and facilities, are they required to be within an enclosed building? Ms. Smith said that if the Ordinance does not specify, no they are not. Chairman Pearce said that he has a problem with the old Trace property being added and questions whether the Board can legally add a property to the request because of public hearing notices, etc.? Ms. Smith said that the time you can not add to it is once that it is sent to the Board of Commissioners and they advertise a public hearing, the Commissioners would need to send it back to the Planning Board if the application changed at that point. She said that tonight's input session before the Planning Board is not required under the Ordinance, so she feels that we can allow the application to be amended for the addition. Mr. Cooper asked, "The current transfer station that the County built, was it built prior to it being rezoned? Also, the NCDOT has recently built a new facility there, how do they permit these without proper zoning?" Ms. Smith said the State is allowed to have open uses of land without being regulated by zoning, but if they build a building, they would need to get a zoning permit. She indicated that what you are referring to regarding NCDOT, she believes they were replacing square foot for square foot. She said that currently the County's solid waste management facilities are not regulated by zoning and were exempt when the County adopted the Open Use District, but if it was done prior to that, it would have been interrupted under the civic and cultural definition in the Zoning Ordinance.

Chairman Pearce at this time, opened public input on this matter.

Dave Duggin. Mr. Duggin stated that he resides at 1300 Randy Drive and his property adjoins the landfill on the east side. Mr. Duggin said the property under discussion has uses that are not desirable and are already impacted by visual images, sounds and dust. He said that he was interested and concerned when the topic of zoning arises and wants to guard against any further objectionable uses of this subject property. He was questioning, "Why is this change being sought and what impact would it bring?" Mr. Duggin stated that in checking the County's Zoning Ordinance he can understand the reason for this proposed zoning change for the County's uses, but host uses that do not conform with the surrounding R-15 residential zoning and that the R-15 zoning still does present some protection. C-2 zoning will lessen that protection. He feels that the C-2 zoning will open the door that might allow future boards to more easily make further changes in zoning. Mr. Duggin feels that the 37.29 acres, referred to and indicated on the map as "O" should be removed from the application as this would offer the residents, based on heights, a degree of protection and openness. He said all of the buildings involve anything but the presence of construction and demolition (C & D). He said that the purpose of his request is that if it has no other use but C & D and to give careful consideration to deny the Trace tract. He stated that he is also concerned that someday if this subject tracts gets rezoned C-2, there could be a landfill or cellular tower constructed and for those reasons, he asked that it remain as R-15 zoning.

Barbara Doster. Ms. Doster stated that they live on the parcel between Sutton Place and Randy Drive and abut the C & D property. Ms. Doster wanted to know what caused this request now? Chairman Pearce said the construction of the animal shelter brought about a new facility that did not conform to the existing zoning and the County made a decision to make a rezoning request for the entire parcels that the County owns there. She stated that she has heard about the list of possibilities that could develop under the C-2 zoning and that she feels any of those things listed in the Ordinance could take place and if the County has any plans for anything other than what is presently there now, besides the animal shelter? She said that if there are plans in the future, will the surrounding property owners be notified of those changes or will it be assumed that they will be approved just because they are in the C-2 listing? Ms. Smith said that there is a list of uses allowed in C-2, but that Staff is not suppose to take into consideration the particular uses that are proposed, only to look at the rezoning application. She added that Staff knows more about this application than we would normally know about any other C-2 application. Ms. Smith said that if the property were to be rezoned C-2 and

the use is either a conditional or special use, this would require either the Board of Commissioners and/or the Board of Adjustment approval, there is a public hearing on those issues and adjacent property owners are notified. Ms. Doster asked whether this land could ever be used as another landfill, maybe on a smaller scale? Mr. Nicholson said that a landfill on that site would not be possible under the new State regulations.

Barbara Bond. Ms. Bond stated that they live at 515 View Rock Lane that immediately abuts the "L" shaped extrusion on the northeast portion of the eastern 1/3rd tract under consideration. She read a letter from her husband, which she corroborates, which states that they support a new animal shelter and also are not oppose to adding office space at the Board of Education bus garage. She said that they recognize the value to the neighbors to keep a viable transfer station and to continue hauling our refuse to South Carolina. She stated that they are opposed to an incinerator and see the successful transfer station as the preferred alternative and if a second bay is needed in the transfer station, they would as well support that move. She said that they agree that the existing zoning in no way resembles the current usage, but are concerned that while all of the proposed new uses and construction described will occur on the middle and western two major tracts, the proposal will rezone all three tracts. If the C & D landfill will never be utilized for garbage, then why does the County need to rezone that tract? She suggested to just rezone two of the three tracts and leave the neighbors up on the top of Stoney Mountain with the additional protection that R-15 affords as opposed to C-2. She also indicated that the Board should also exclude the Trace property tract from consideration of the rezoning. She mentioned that although buildings can never be built on the old landfill, a cell tower could be erected which would be undesirable for the community. Ms. Bond, in closing, mentioned that the Board should consider rezoning only the two major tracts to allow for the County's projects but the land adjacent to the neighborhood yards and the Trace property stay as R-15.

Mr. Williams said that under R-15 zoning, communications towers would be permitted even as it is zoned presently. Ms. Smith said that an existing tower can be replaced and you can do a tower up to 50 feet, such as ham radio towers and the only other tower permitted is a 100-foot monival tower but a permit is required by the Board of Commissioners to do that. Chairman Pearce asked what is required under C-2 zoning? Ms. Smith said it would be the same.

David Baylass. Mr. Baylass resides at 290 Randy Drive in Stoney Mountain Estates. He briefly informed the Board members of his personal and professional background. He mentioned that his parents purchased Stoney Mountain in 1965 and has helped with the planning of the subdivision through his professional background. He said that he supports the three previous people who live around the Stoney Mountain area and what they said. Mr. Baylass feels that the Board members need to think about what the long range aspects will be. He said that although Mr. Nicholson said that obviously the proposed site is non-residential, but if you look at the aerial view of the area all the homeowners that talked tonight are in a close proximity of this proposed request and are a residential community. He asked that the Board look at this issue strongly and consider all aspects as to what the future will be.

Bo Caldwell. Mr. Caldwell stated that he works with the Board of Public Schools and is the director of facilities. He said with the increasing number of students in the County there are more buses needed. He said that the present bus garage is old and there have been at least four renovations to the bus garage. Mr. Caldwell said that what he is proposing for the bus garage is to add a couple of offices because the State is requiring to do a program that plots every student and roads where they live in the County so that it will make more efficiency in the bus routes. He said presently the bus garage is so small that it would not be able to accommodate any offices for this purpose.

Alice Worley. Ms. Worley asked, "What is going to happen to the old prison camp and where the fence is at?" Chairman Pearce said this is owned by the State and have given no indication as to what they plan to do with it. Ms. Worley added that she feels that the prison would be a good place to house the animal shelter, as it was used during the storm with All Creatures Great and Small organization. Chairman Pearce said that unfortunately the State does own that property and the County does not have any say. Mr. Nicholson said that property has always been owned by the Department of Transportation and allowed the Department of Corrections to operate on the property. Mr. Nicholson said that the Department of Transportation plans to use it for storage and what is being stored there will remain there. Tommy Laughter asked, "What are the property owners rights after the process goes past the Board of Commissioners?" Mr. Nicholson said that the Board of Commissioners has no choice but to vote for or against. Mr. Nicholson said that it has been discussed to put together a different procedure with regard to property that the Board of Commissioners own, but that has not been acted

upon. He said at this point in time, the Board of Commissioners will make a decision and procedural if we haven't followed the process, it is always a possibility of court level, but at this point in time, the Board of Commissioners would make that call. Chairman Pearce asked, "What impact, if any, would the property that is marked as "O" (C & D Landfill) and the Trace Property were not included in this rezoning application?" Mr. Nicholson if the "O" property is just C & D, it does not have to be changed and it is clearly non-conforming and changing the zoning would make it conforming. He added that it is not buildable land. He said if the Planning Board wants to make a different recommendation to the Board of Commissioners, we could address that at that point. Mr. Williams asked, "What prompted the inclusion of the Trace property in the rezoning application request?" Mr. Nicholson said he was reminded of the adjacent properties around the original request properties and had requested a zoning permit to store County records in the barn on the Trace property, but was told he would not be allowed to under the present zoning. He said he then asked that this property be included in the request. Ms. Kumor inquired about the cell towers on Stoney Mountain Road and what does the Airport feel about that? Ms. Smith said that the cellular towers need to meet FAA regulations, so they would have something to say about it. Mr. Nicholson said that in discussing this with the Airport, they said they would redirect their traffic if needed to accommodate for the cellular towers. Ms. Smith said that there is a co-located antenna on one of the large Duke Power transmission towers off Mountain Road, which is the closest to that area. Chairman Pearce said that he has a problem with the Trace property being included because he feels that setting a property as a commercial designation at the end of a residential, one-way street would not be done in any jurisdiction, and therefore it does not make any sense to him. He added that if the Board has the right to put conditions such as this on zoning in the Zoning Rewrite it would be a good thing to do, but at this time we do not have the tools to do so in our present Zoning Ordinance. Chairman Pearce made a favorable recommendation to the Board of Commissioners for Rezoning Application # R-04-03 to zone approximately 150.31 acres from R-20, R-15, and T-15 to C-2 (Neighborhood Commercial) subject to excluding the Trace property and the property labeled "O" on the map, which is known as the C & D property. Tommy Laughter seconded the motion. After some brief discussion, Tedd Pearce, Jonathan Parce, Renee Kumor and Tommy Laughter voted in favor of the motion. Mike Cooper, Gary Griffin and Mark Williams voted against the motion. The motion carried four to three.

William A. Lemke, Jr.
670 Stoney Mountain Road
Hendersonville, NC 28791-1345
828-693-8866



21 Nov 2004

Henderson County Board of Commissioners
100 North King Street
Hendersonville, NC 28792

Subject: Henderson County Rezoning Application #R-04-03

Dear Board Members:

This letter is in response to the Henderson County Planning Department letter, 17 November 2004, sent to me as a property owner adjacent to / in the vicinity of the subject area.

I wish to state my support for the Henderson County Planning Department recommendation to rezone the subject area to C-2 with the exception of the two parcels, PIN 9650-83-0296 and 9650-92-0038. These two exception parcels are numbered "0" and "15" on attachment 2 to the referenced letter.

The current land use map shows significant residential property adjacent to the area proposed for rezoning. The two exception parcels provide a buffer to existing properties not already buffered by at least a roadway.

I recommend the Board exclude the two parcels and rezone the remaining property in the application to C-2 as recommended by the Henderson County Planning Department.

Thank you for your time and consideration.

Sincerely,

William A. Lemke, Jr.

cc: BOC
DEN
Karen S.

**NOTICE OF PUBLIC HEARING
ON PROPOSED ZONING MAP AMENDMENT
(Henderson County Application # R-04-03 As Amended)**

The Henderson County Board of Commissioners will hold a Public Hearing on a proposed amendment to the Official Zoning Map of Henderson County, North Carolina. The amendment would rezone multiple parcels of land totaling approximately 162.34 acres, located at and near the intersection of Stoney Mountain Road and Mountain Road, from R-20 (Low-Density Residential), R-15 (Medium-Density Residential), and T-15 (Medium-Density Residential with Manufactured Homes) districts to a C-2 (Neighborhood Commercial) zoning district. Henderson County, the Henderson County Board of Public Education and the North Carolina State Highway Commission own the parcels that are the subject of the rezoning application. Henderson County Manager David Nicholson is the lead applicant.

The public hearing will be held on Tuesday, November 30, 2004 at 7:00 P.M. in the Board of Commissioners Meeting Room located in the Henderson County Administration Building, at 100 North King Street in Hendersonville, NC. The public is invited to attend and comment on the proposed amendment.

Written comments addressed to the Henderson County Board of Commissioners, 100 North King Street, Hendersonville, NC 28792, will be accepted prior to the hearing. Information about the proposed amendment is available for review in the Henderson County Planning Department, 101 East Allen Street, Hendersonville, NC, between the hours of 8:00 A.M and 4:30 P.M., Monday through Friday, or on the Henderson County Website at <http://www.henderson.lib.nc.us/county/planning/rezonings/R0403/List.html> For more information, call the Planning Department at (828) 697-4819 [TDD for the hearing impaired (828) 697-4580].

Please note that after considering public hearing comments, the Board of Commissioners may discuss other options or make changes to the proposed amendment before taking final action.

Elizabeth Corn
Clerk to the Board
Henderson County Board of Commissioners

For Publication in the Times-News on Wednesday, November 10, 2004 and Wednesday, November 17, 2004.