

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

PUBLIC HEARING

Rezoning Application #R-2006-01 (R-20 & RC to R-10)

The Layman Foundation of North Carolina and B. L. Hyder, Applicants

Meeting Date: Wednesday, July 19, 2006

- Attachments:**
1. R-2006-01 Application (with partial attachments)
 2. Staff Report
 3. Vicinity / Current Zoning Map
 4. Site / Current Zoning Map
 5. R-20 District Text
 6. RC District Text
 7. R-10 District Text
 8. Comparison of Permitted Uses by Zoning District
 9. Current Land Use Map
 10. Water and Sewer Master Plan Map
 11. 2020 County Comprehensive Plan Future Land Use Map 1
 12. Henderson County Industrial Study Recommendations Map
 13. 2020 County Comprehensive Plan Future Land Use Map 2
 14. Floodplain Map
 15. Memo from Floodplain Administrator
 16. Photos of Study Area
 17. Excerpt of Draft Planning Board Minutes from June 20, 2006
 18. Notice of Public Hearing
 19. Aerial Photo Map

SUMMARY OF REQUEST:

Rezoning Application #R-2006-01, which was submitted on May 17, 2006, requests that the County rezone approximately 107.07 acres of land, located between Interstate 26 and Norfolk Southern Railroad in the Naples community, from an R-20 (Low-Density Residential) zoning district and RC (Rural Conservation) zoning district to an R-10 (High-Density Residential) zoning district. The Subject Area appears to be parcels 9661-02-2982 and 9651-92-1626 which are owned by the respective applicants, the Layman Foundation of North Carolina (parcel 9661-02-2982) and B. L. Hyder (parcel 9651-92-1626).

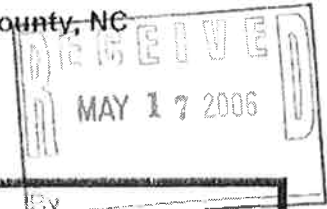
The Henderson County Planning Board considered rezoning application #R-2006-01 at its regularly scheduled meeting on June 20, 2006. During that meeting, the Board voted 7 to 0 to send the Board of Commissioners a recommendation for denial of rezoning application #R-2006-01 to rezone the Subject Area from existing R-20 and RC zoning to an R-10 zoning district.

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with Section 200-76 of the Henderson County Zoning Ordinance and State Law, notices of the July 19, 2006, public hearing regarding rezoning application #R-2006-01 were published in the Hendersonville Times-News on June 28, 2006 and July 5, 2006. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area on July 5, 2006 and to the applicants July 6, 2006. Planning Staff posted signs advertising the hearing on the Subject Area on July 6, 2006.

COUNTY MANAGER'S RECOMMENDATION / BOARD ACTION REQUESTED:

Following the public hearing, Board action to approve, modify or deny rezoning application #R-2006-01 would be appropriate.

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



1. PROPERTY OWNER INFORMATION

THE LAYMAN FOUNDATION OF NC
Property Owner Name
PO Box 5440
Mailing Address
Fletcher, NC, 28732
City, State, Zip Code
828 667 5100
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 107± AC. Parcel ID Number(s)* ① 9661-02-2982 ② 9651-92-1626
Current Zoning* ① R20 ② RC Proposed Zoning* R10

* 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.

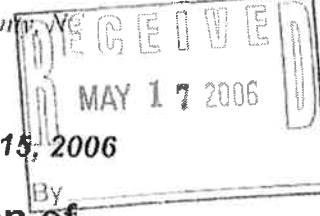
[Signature]
Signature of Property Owner

5/16/06
Date

Staff Use Only
Previous request for same amendment? Yes No Action: NA Date: NA
Application Received By: Matthew Cable Date: 5/17/06

Non-refundable application fee: \$400.00

Addendum #1 to Application to Amend the Official Zoning Map of Henderson County, NC



Addendum #1 to

Date: May 15, 2006

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

Statement showing support for the application: Property Owners of multiple parcels requesting rezoning

- 1. Property Owner Name: The Layman Foundation of NC
- Address: PO Box 5440
Fletcher NC 28732
- PIN: 9661-02-2982

By my signature, I/we support this Application to Amend the Official Zoning Map of Henderson County, NC

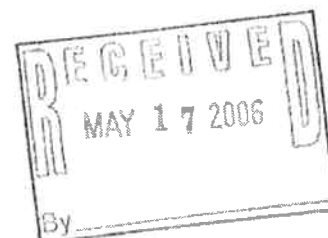
5/16/06

Signature of Property Owner

Date

Addendum #1 to Application to Amend the Official Zoning Map of Henderson County, NC

2. Property Owner Name: B L Hyder
Address PO Box 2569
Asheville NC 28802
PIN 9651-92-1626



By my signature, I/we support this Application to Amend the Official Zoning Map of Henderson County, NC

Geopler L Hyder 5-16-06
Signature of Property Owner Date

Henderson County Planning Department Staff Report
Rezoning Application #R-2006-01 (R-20 & RC to R-10)
The Layman Foundation of North Carolina and B. L. Hyder, Applicants

1. Introduction

- 1.1. Applicants: The Layman Foundation of North Carolina and B. L. Hyder
- 1.2. Subject Area PIN: 00966102298255 & 00965192162655
- 1.3. Application Date: May 17, 2006
- 1.4. Request: Rezone 107.07 acres (approximately) composed of parcels 9661-02-2982 and 9651-92-1626 (hereafter the Subject area) from an R-20 (Low-Density Residential) zoning district and RC (Rural Conservation) zoning district (respectively) to an R-10 (High-Density Residential) zoning district. (See Attachment 3, Vicinity/Current Zoning Map).
- 1.5. Subject Area Size: Approximately 107.07-acre tract of land (composed of a 36.95 acre parcel (9661-02-2982) and a 70.12 acre parcel (9651-92-1626)).

2. Location

- 2.1. See Attachment 3, Vicinity/Current Zoning Map
- 2.2. The Subject Area is located between Interstate 26 and Norfolk Southern Railroad, approximately 5,600 feet (1.06 miles) southeast of the Interstate 26 interchange at Asheville Highway (US 25 North).
- 2.3. The Subject Area is located approximately 3,000 feet (0.57 miles) southeast of the intersection of Asheville Highway (US 25 North) and South Naples Road (SR 1696); 2,100 feet (0.40 miles) east of the intersection of Asheville Highway (US 25 North) and Rugby Drive (SR 1417); and 6,800 feet north of the intersection of Asheville Highway (US 25 North) and Baystone Drive/Brookside Camp Road (SR 1454/SR 1528).
- 2.4. The Subject Area has approximately 3,550 feet (0.67 miles) of road frontage (not suitable for access) along Interstate 26.
- 2.5. The Subject Area abuts Norfolk Southern Railway on the west.

3. Current Zoning

- 3.1. See Attachment 3, Vicinity/Current Zoning Map and Attachment 4, Site/Current Zoning Map
- 3.2. The Subject Area is currently zoned R-20 (Low-Density Residential) and RC (Rural Conservation), which were applied on May 9, 2005, as part of the US Highway 25 North Zoning Study.

3.3. Adjacent Zoning:

- 3.3.1. The Subject Area is surrounded to the north by an R-20 (Low-Density Residential) zoning district, to the east by OU (Open Use) and R-15 (Medium-Density Residential) zoning districts, to the south by I-2 (General Industrial) and RC (Rural Conservation) zoning districts, and to the west by an RC (Rural Conservation) zoning district.
- 3.3.2. The Subject Area is also located approximately 1,800 feet (0.34 miles) east of two C-4 (Highway Commercial) zoning districts and 2,500 feet (0.47 miles) south of an I-1 (Light Industrial) zoning district. The Subject area is located approximately 9,050 feet (1.71 miles) southeast of the nearest R-10 district (located off Butler Bridge Road (SP-05-01, River Stone Planned Unit Development)).

3.4. Comparison of Districts:

- 3.4.1. See Attachments 5, 6 and 7, District Text Descriptions and Attachment 8, Comparison of Permitted Uses by District
- 3.4.2. **R-20 Low-Density Residential Zoning District**
 - 3.4.2.1. **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).
 - 3.4.2.2. R-20 is a residential zoning district permitting single-family units, including site-built and modular residential units, and excluding manufactured residential units. Permitted uses include family care homes, churches, church cemeteries, certain signs, schools, civic and cultural buildings, customary accessory buildings, and transformer and public utility stations among other uses. Uses permitted with a Conditional Use Permit include camps, bed-and-breakfast inns and libraries, among other uses. Uses permitted with a Special Use Permit include Planned Unit Developments, R-O Residential Open Spaces Developments, R-A Residential Apartment Developments, and Medical Institutional Care Developments among other uses. Lots must be a minimum of 20,000 square feet (.45 acres). Setbacks are as follows: 75 feet from the centerline of major streets (including Interstate 26); 50 feet from the centerline of all others; and 25 feet from side and rear property lines. There is no maximum building height for principal structures (some exceptions apply (example: Planned Unit Developments)) (HCZO §200-15).

3.4.3. **RC Rural Conservation Zoning District**

3.4.3.1. **RC Purpose Statement:** *“The RC Rural Conservation District is established to help protect natural resources such as water supply sources, in rural areas of the county while maintaining the rural character associated with existing agricultural and low-density residential development. The district allows for orderly, low-density residential and other compatible uses while ensuring that development not having access to public water supplies and dependent on septic tanks for sewage disposal will occur at sufficiently low density to provide a healthful environment”* (HCZO §200-32).

3.4.3.2. RC is a rural conservation zoning district allowing uses which are primarily residential or agricultural. Single and two-family units are permitted, including site-built, modular, and manufactured residential units. Permitted uses include family care homes, customary incidental home occupations, customary accessory buildings, bed-and-breakfast inns, agriculture, seasonal agricultural stands, planned seasonal agricultural worker developments, rural accessory businesses, churches, cemeteries (family and church), certain signs, schools, government and community facilities/buildings, and transformer and public utility stations among other uses. Uses permitted with a Conditional Use Permit include agricultural product processing and storage facilities, sawmills, camps, commercial campgrounds, outdoor recreation facilities, conference centers, nursery and day-care facilities, veterinary clinics, kennels/animal shelters, retail services, and offices among other uses. Lot sizes and setback requirements are the largest and most stringent of all the residential districts in the Zoning Ordinance. Lots must be a minimum of 1 acre (43,560 square feet). Setbacks are as follows: 75 feet from centerline of all streets (major and others); 35 feet from side and rear property lines (for residential uses); and 40 feet from side and rear lot lines (for nonresidential uses). A maximum building height of 35 feet applies (HCZO §200-32).

3.4.4. **R-10 High-Density Residential Zoning District**

3.4.4.1. **R-10 Purpose Statement:** *“This district is intended to be a high-density neighborhood consisting of single-family and two-family residences and small multifamily residences. It is expected that public water facilities and public sewage facilities will be available to each lot, providing a healthful environment”* (HCZO §200-17).

3.4.4.2. R-10 is a high-density residential zoning district that allows by right single-family dwellings, two-family dwellings, apartments (provided that they be no larger than a four-family dwelling on a single lot), and garage apartments (one per lot), but excludes manufactured homes. Permitted uses include family care homes, churches, church cemeteries, certain signs, schools, civic and cultural buildings, customary accessory buildings, and transformer and public utility stations among other uses.

Uses permitted with a Conditional Use Permit include camps, bed-and-breakfast inns, libraries, customary incidental home occupations, and non-church cemeteries. Uses permitted with a Special Use Permit include Planned Unit Developments, R-A Residential Apartment Developments, R-O Residential Open Space Developments, and Medical Institutional Care Developments among other uses. Lots must be a minimum of: 10,000 square feet (.22 acres) for single-family dwellings; 15,000 square feet (.34 acres) for two-family dwellings; 20,000 square feet (.46 acres) for three-family dwellings; and 25,000 square feet (.57 acres) for four-family dwellings. Setbacks are as follows: 75 feet from the centerline of major streets; 50 feet from the centerline of all other streets; and 10 feet from side and rear property lines. A maximum building height of 35 feet applies (HCZO §200-17).

4. Subject Area Uses and Adjacent Uses

- 4.1. See Attachment 9, Current Land Use Map
- 4.2. The Subject Area is currently undeveloped.
- 4.3. Adjacent and surrounding area uses include agricultural, residential, commercial, office, institutional, and industrial uses.
 - 4.3.1. Agricultural uses include several properties to the west and southwest. Three properties adjacent to the Subject Area, to the west, are participants in the Clear Creek Voluntary Agricultural District. Properties in proximity to the Subject Area, to the north, are also participants in the Clear Creek Voluntary Agricultural District.
 - 4.3.2. Residential uses include single-family residential homes located in the Naples community, north of the Subject Area, along South Old Asheville Road (SR 1533) and Canterbury Way. In addition, residential uses are located to the east of the Subject Area across Interstate 26, in the Whispering Hills neighborhood.
 - 4.3.3. Office and institutional uses are also located to the east of the Subject Area, across Interstate 26, on properties owned by the Layman Foundation of North Carolina. These office and institutional uses include: Park Ridge Hospital, Lelia Patterson Center, Fletcher Academy, and Fletcher Park Inn.
 - 4.3.4. Commercial uses are located to the north of the Subject Area and include WNC Home Oxygen (located on Canterbury Way) and A Self-Storage Depot and U-Haul (located on Naples Road (SR 1534)). In addition, commercial uses are located to the northwest of the Subject Area, at the corner of Asheville Highway (US 25 North) and South Naples Road (SR 1696), and include Southern Showcase Housing, Advanced Alarm and Lock, Jake's Driving Range, and a structure formerly housing Diamond Brand.
 - 4.3.5. Industrial uses can be found to the south of the Subject Area in Mountain Home Industrial Park, which contains Printpack, Inc.; Quality Rubber Manufacturing

Company, Inc.; Clement Pappas, Inc.; Haynes Wire Company; and Kyocera Industrial Ceramics Corp., among others.

5. Utilities/Infrastructure

5.1. Sewer/Water:

5.1.1. See Attachment 10, Water and Sewer Master Plan Map

5.1.2. The Subject Area is located within the Cane Creek Water and Sewer District, but does not currently have access to sewer and water services. The nearest sewer line is located approximately 4,800 feet (0.91 miles) northeast of the Subject Area, near the Interstate 26 interchange at Asheville Highway (US 25 North). The nearest water line is located approximately 700 feet (0.13 miles) north of the Subject Area, along Naples Road (SR 1534).

5.1.3. See Section 6.1 regarding Mud Creek Sewer Project plans for the area.

5.2. Transportation:

5.2.1. Annual Average Daily Traffic Counts for Interstate 26, Asheville Highway (US 25 N), Naples Road (SR 1534), and South Naples Road (SR 1696) are provided in Table 5.A., below.

Road	2002	2003	2004
Interstate 26	-	-	48,000
Asheville Highway (US 25 N)	15,000	20,000	19,000
Naples Rd (SR 1534)	4,400	-	5,100
South Naples Rd (SR 1696)	-	1,600	1,700

5.2.2. No Annual Average Daily Traffic Counts recorded since 2000 are available for South Old Asheville Road (SR 1533), off of which High Hills Drive is located.

5.2.3. No Annual Average Daily Traffic Counts are available for High Hills Drive, as this is not a state maintained road.

5.2.4. See Section 6.2 regarding NCDOT plans for the area.

6. Relevant Policies, Plans and Actions

6.1. Henderson County Mud Creek Sewer Project:

6.1.1. The Mud Creek Sewer Project, part of the Master Sewer Interceptor Plan, is intended to occur in three phases and service properties located along Asheville Highway (US 25 N). Phase I, which has been approved by the Board of Commissioners, includes areas to the north of the Subject Area. Phase II and Phase III have not yet been approved. Phase II will occur in the vicinity of the

Subject Area and Phase III will occur to the south of the Subject Area, in the vicinity of Mountain Home Industrial Park.

6.2. The NCDOT 2006-2012 State Transportation Improvement Program (STIP):

- 6.2.1. The Transportation Improvement Program, within the vicinity of the Subject Area, includes the project to widen US Highway 25 to five lanes (Project Number R-2214 (currently underway)); and the widening of Interstate 26 between NC 225 to NC 280 from four to six lanes (Project Number I-4400).
- 6.2.2. No improvements are scheduled for South Old Asheville Road (SR 1533), South Naples Road (SR 1696), or Naples Road (SR 1534).

6.3. 2020 Henderson County Comprehensive Plan (CCP):

- 6.3.1. The CCP Future Land Use Map identifies the Subject Area as being located in the Urban Services Area (2020 CCP, Pg. 128, Pg. 129 & Appendix 1, Map 24). (See Attachment 11, 2020 County Comprehensive Plan Future Land Use Map 1)
 - 6.3.1.1. The CCP states that, “Development within the USA should be accessible by roads which are developed to urban standards, with capacities to accommodate increasingly complex volumes of traffic” (2020 CCP, Pg. 129).
 - 6.3.1.2. The CCP states that, “Wide ranges of residential densities will exist. Over the long term, land use regulations and policies should favor higher density development, consistent with natural constraints and the availability of urban services. At the same time, policies and regulations should protect existing less-intensely developed communities” (2020 CCP, Pg. 129).
 - 6.3.1.3. The CCP states that, “Sewer and water infrastructure investments should be focused within the USA first and foremost” (2020 CCP, Pg. 129).
 - 6.3.1.4. The CCP also states that, “the County’s economic development activities should be pursued within USA” (2020 CCP, Pg. 129).
- 6.3.2. The CCP Future Land Use Map also identifies the Subject Area as being suitable for industrial development (2020 CCP, Pg. 129, Pg. 136, Pg. 148 & Appendix 1, Map 8 and Map 24). (See Attachment 11, 2020 County Comprehensive Plan Future Land Use Map 1 and Attachment 12, Henderson County Industrial Study Recommendations)
 - 6.3.2.1. The CCP states that, “Industrial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129).
 - 6.3.2.1.1. It should be noted that the industrial classification on the Future Land Use Map is based on recommendations from the former Committee of 100 (now the Partnership for Economic Development) of the Greater Hendersonville Chamber of Commerce which presented its recommendations regarding sites for future industrial development and associated zoning

for a 10-15 year time frame to the Henderson County Board of Commissioners on October 17, 2001.

- 6.3.2.2. The CCP also states that, “It is intended that the Countywide Industrial/Commercial Zoning Study and Community Plans will further refine the location, extent, and intensity of future industrial areas” (2020 CCP, Pg. 136).
 - 6.3.2.2.1. According to the CCP implementation schedule adopted by the Board of Commissioners, the Countywide Industrial/Commercial Zoning Study is scheduled to be completed in FY 2004-2005 (2020 CCP, Pg. 148).
 - 6.3.2.2.1.1. The 2006 Henderson County Strategic Plan, adopted by the Board of Commissioners on February 6, 2006 (Henderson County 2006 Strategic Plan, Pg. 7, Strategy 1.1), supports the development of the industrial sector of the economy by implementing the recommendations of the Lockwood Greene Study [E-01]. (See Action Step 2, below)
 2. Identify appropriate land to preserve for future industrial development.
 - a. Work with the Partnership for Economic Development to establish criteria to be used in identifying parcels appropriate for industrial development. (Feb 05)
 - b. Gather GIS data representing each of the criteria. (Mar 05)
 - c. Develop GIS model to do countywide, parcel-based analysis to locate parcels meeting all the criteria. (Mar 05)
 - d. Compare parcels identified through modeling with the “Committee of 100 Recommended Industrial Zones Map” (Map 8 in the CCP) and revise as necessary. (Apr 05)
 - e. Initiate processes to amend the CCP and the Official Zoning Map of Henderson County as needed to protect sites for industrial development. (May 05)
 - f. Incorporate land regulation tools in the new Land Development Code to further protect identified parcels. (Dec 05)

- 6.3.2.2.1.2. The Planning Board reviewed and unanimously (a vote of 8 to 0) provided a favorable recommendation on the Henderson County Industrial Study at its January 17, 2006 meeting. According to the draft of the Henderson County Industrial Study recommended by the Planning Board, the majority of the Subject Area is not recommended for industrial use. The draft Henderson County Industrial Study states that “Industrial designations are recommended to be removed from property recently rezoned for commercial and/or residential use in the northern portion of Henderson County in the area of the US Highway 25 North Zoning Study (Rezoning Action R-05-01) and Hollabrook Farms Rezoning (Rezoning Application R-04-05)” (Draft Henderson County Industrial Study, Pg. 3).
- 6.3.3. The Future Land Use Map identifies a portion of the Subject Area being identified for conservation (2020 CCP, Pg. 129, Pg. 134, & Appendix 1, Map 24). (See Attachment 13, 2020 County Comprehensive Plan Future Land Use Map 2 and Attachment 14, Floodplain Map).
- 6.3.3.1. The CCP states that, “Land use planning should acknowledge the presence of sensitive natural areas such as floodplains, wetlands, areas of excessively steep topography, and other natural and cultural assets, and should strive to protect these areas from development that would damage them or diminish their integrity” (2020 CCP, Pg. 129).
- 6.3.3.2. The CCP also states that conservation, “includes land areas that are intended to remain largely in their natural state, with only limited development,” and these areas, “should be targeted for protection through regulations and incentives” (2020 CCP, Pg. 134). Conservation lands include areas managed for agriculture, forestry, and floodplains among other sensitive natural areas.
- 6.3.4. The Subject Area is identified as being in the Priority 1 Planning Area, the US Highway 25 North Planning Area, within the community-based planning framework (CCP, Appendix I, Map 33). 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). The community plan for the area containing the Subject Area was completed in FY 2004-2005 (2020 CCP, Pg. 155). (See Section 6.4 regarding the US Highway 25 North Zoning Study).
- 6.4. US Highway 25 North Zoning Study:**
- 6.4.1. The Subject Area lies within the area defined by the US Highway 25 North Zoning Study. As recommended by that Zoning Study, the R-20 (Low-Density Residential) zoning district and RC (Rural Conservation) zoning district were proposed and recommended for the Subject Area parcels.

- 6.4.1.1. The US Highway 25 North Zoning Study states that, “An R-20 district is recommended between Old Asheville Road and I-26. Properties in this area are not affected by the floodplain of Mud Creek and a significant amount of single-family, conventional style homes currently exist. Parcels in this recommended district are generally consistent with the lot size requirements of the R-20 zoning district (20,000 square feet). Recommending R-20 is intended to promote low-density residential development consistent with existing characteristics of the area and recommendations of the CCP’s Future Land Use map for limited development in conservation areas” (US 25 N Zoning Study, Pg. 30).
- 6.4.1.2. The US Highway 25 North Zoning Study also states that, “RC was recommended in many areas throughout the Study Area to work toward preserving agricultural uses and to limit density of development in flood-prone areas, while allowing a diverse range of development choices. The basic premise of using an RC district in such areas is that with lower densities and intensities of use there is less impact on the natural environment and hopefully less risk for people and property from the effects of flooding” (US 25 N Zoning Study, Pg. 23).

The Planning Board and the Planning Staff tried to recommend zoning districts that were appropriate for the existing uses predominant in the area, while also relying heavily upon development policies outlined within the County Comprehensive Plan (See Section 6.3 regarding the 2020 CCP).

On November 22, 2004, the Planning Board voted 7 to 1 to send the Board of Commissioners a favorable recommendation, with stated modifications, on the proposed US Highway 25 North Zoning Study.

On May 9, 2005, the Board of Commissioners rezoned the portion of the US Highway 25 North Zoning Study containing the Subject Area, based on the recommendations of the US Highway 25 North Zoning Study.

7. Staff Comments and Recommendations

7.1. Staff’s position at this time, under the guidelines of current plans, policies, and studies, is it does not support the rezoning of the property to be zoned for high-density residential uses. This based on the following:

- 7.1.1. Though both the text and map of the 2020 CCP identify the Subject Area as being suitable for industrial development, both the US Highway 25 North Zoning Study and Henderson County Industrial Study recommend removal of the industrial classification for a majority of the Subject Area. Staff’s position is that the Subject Area should not be identified for industrial development, based on the more recent recommendations of the US Highway 25 North Zoning Study and Henderson County Industrial Study, which are extensions of the 2020 CCP. (See Attachment 11, CCP Future Land Use Map 1 and Attachment 12, Henderson County Industrial Study Recommendations Map).

- 7.1.2. Both the text and map of the 2020 CCP identify portions of the Subject Area parcels as being suitable for conservation. The US Highway 25 North Zoning Study reflects the CCP recommendation through the application of the RC zoning district to parcels containing large amounts of floodplain. As indicated in the US Highway 25 North Zoning Study, the RC zoning district is intended to reduce flood risk to people and property and preserve agricultural lands. (See Attachment 13, CCP Future Land Use Map 2; Attachment 14, Floodplain Map; and Attachment 15, Memo from Floodplain Administrator regarding flood damage prevention regulations).
- 7.1.3. Both the text and map of the US Highway 25 North Zoning Study recommended RC and R-20 zoning be applied to the parcels contained by the Subject Area. RC and R-20 zoning were applied to the Subject Area on May 9, 2005, as a result of the Zoning Study supported by Planning Staff, the Planning Board, and the Board of Commissioners. The property owners did not express opposition to the proposed zoning during the US Highway 25 North Zoning Study process.
- 7.1.4. Applying R-10 zoning to the Subject Area would alter the range of uses permitted, increase the number of permitted lots, reduce lot size requirements, and reduce setback requirements. The Board must consider the range of uses, dimensional requirements, and densities for the existing zoning districts compared to the proposed zoning district.
 - 7.1.4.1. R-10 zoning does not allow for as many nonresidential uses as permitted by the RC zoning district, while allowing for more intense residential uses of land. R-10 zoning allows for all uses permitted within the R-20 zoning district as well as allowing apartments, two-family dwellings, garage apartments, and non-church related cemeteries. (See Attachment 8, Comparison of Permitted Uses by Zoning District).
 - 7.1.4.2. RC and R-20 zoning districts require larger side and rear yard setbacks than are required by the R-10 zoning district. RC zoning also requires larger front yard setbacks than are required by the R-10 district.
 - 7.1.4.3. R-10 zoning allows for up to 4 times as many lots, by right, as permitted in the RC zoning district (lot size of 43,560 square feet). R-10 zoning allows for up to 2 times as many lots, by right, as permitted in the R-20 zoning district (lot size of 20,000 square feet). R-10 allows for lot sizes of 10,000 square feet (1 family), 15,000 square feet (2 families); 20,000 square feet (3 families) and 25,000 square feet (4 families). When applied to the entire Subject Area, Staff estimates a potential for an increase in the number of lots by more than 300 percent.
 - 7.1.4.4. R-10 zoning allows for over 3 times as many dwelling units, by right, as permitted in the RC and R-20 zoning districts. When applied to the entire Subject Area, Staff estimates a potential for an increase in the number of dwelling units by more than 300 percent.

Staff's position that the R-10 zoning district would allow lot sizes, densities, setbacks, and uses which are not in keeping with the rural character of the immediate vicinity, a largely agricultural and low-density residential area.

- 7.1.5. Applying R-10 zoning to the Subject Area could largely impact public services. The Board must consider potential impacts including those to water, sewer, roads, emergency services, and schools.
 - 7.1.5.1. R-10 zoning is expected to be applied where public water and sewer facilities are available to individual lots in order to provide a healthful environment. Though water and sewer may be available to the Subject Area, making it more desirable for high-density development (the nearest sewer line is approximately nine-tenths of a mile from the Subject Area and the nearest water line is approximately one-eighth of a mile from the Subject Area), the Henderson County Zoning Ordinance would not require the applicant to connect to these facilities. The Board may consider the possibility of water and sewer services being extended, but cannot grant the rezoning based on the extension of water or sewer lines to the Subject Area as a condition.
 - 7.1.5.2. R-10 zoning being applied to the Subject Area may result in impact on roads. Parcel 9651-92-1626 (western parcel) contains one access point, through High Hills Road, a 20-foot right of way located completely in the floodplain directly off of South Old Asheville Road. (See Attachment 14, Floodplain Map). Parcel 9661-02-2982 (eastern parcel) currently has no granted point of access. Provided both properties are accessed by High Hills Road; High Hills Road, South Old Asheville Road, and South Naples Road could see a much larger increase in traffic volume than would occur should both parcels be developed under current R-20 and RC zoning.
 - 7.1.5.3. R-10 zoning would result in impacts to emergency service provision. (See Attachment 14, Floodplain Map). More dwelling units and residents could be placed at risk during a flood event and such a flood event may be more intense and frequent in the localized area as a result of the following:
 - 7.1.5.3.1. The Subject Area currently has limited access (see 7.1.5.2 above) located completely in the floodplain;
 - 7.1.5.3.2. R-10 would allow for an approximate 300 percent increase in permitted lots and dwellings; and
 - 7.1.5.3.3. R-10 would allow for higher levels of impervious surface due to permitted densities.

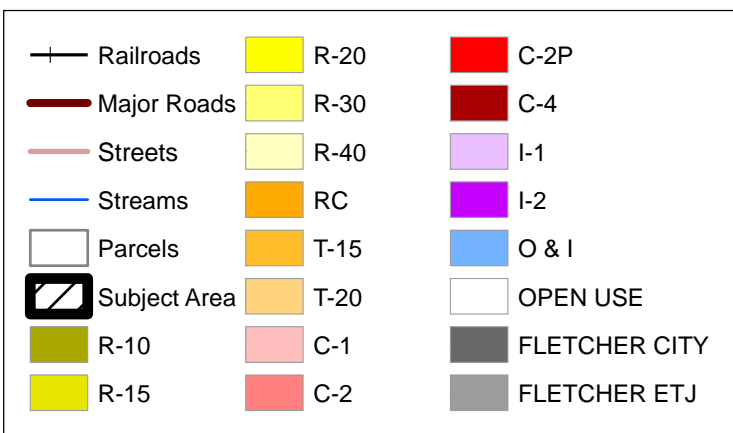
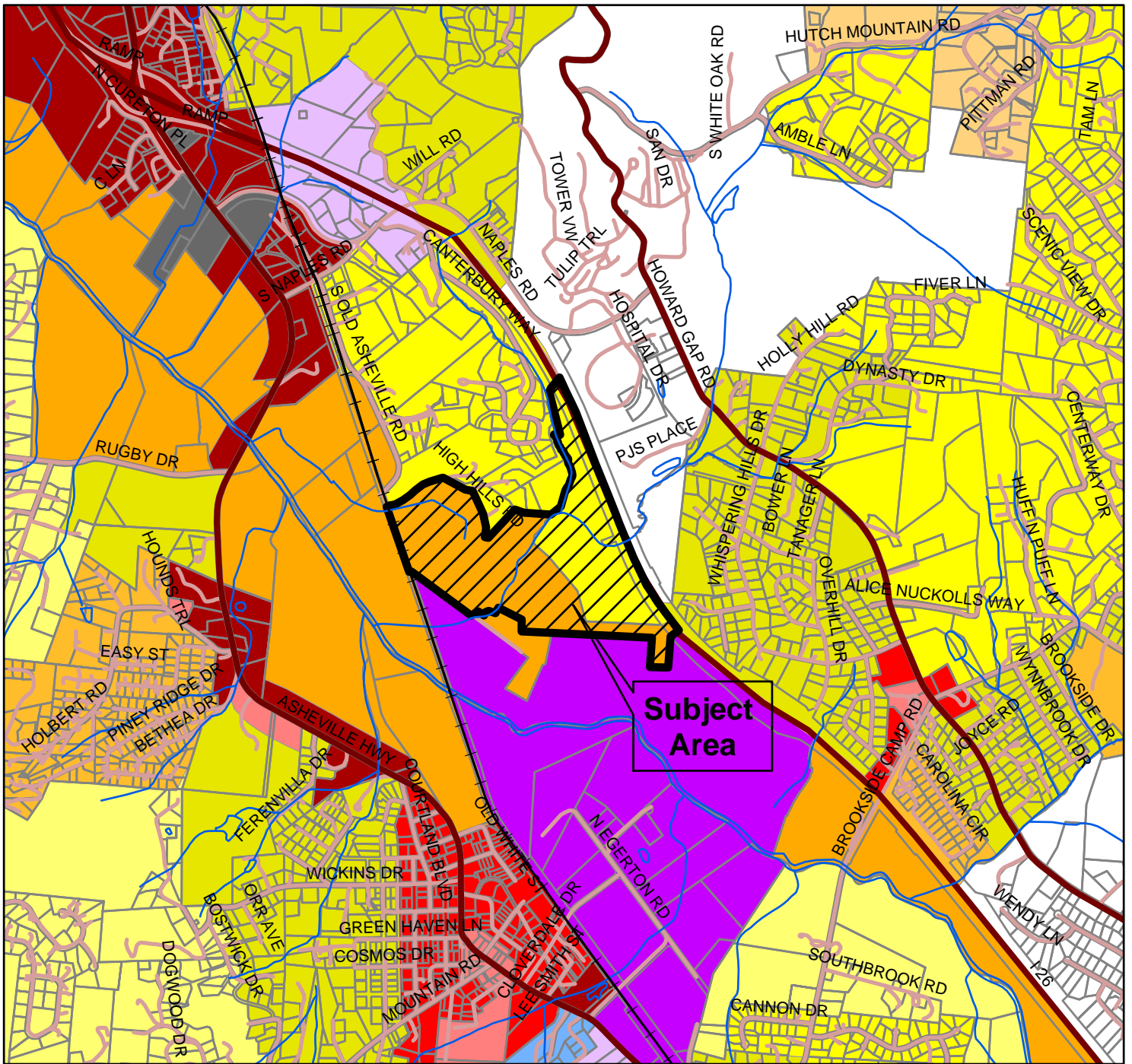
R-10 zoning would, should the parcels be developed, result in a larger increase in traffic volume on surrounding roads, including Naples Road (SR 1534) on which Park Ridge Hospital is located. This traffic volume could impact emergency services provided by the hospital.

- 7.1.5.4. R-10 zoning would allow for an increase in lots and dwellings, which would also result in a potential increase in the number of school-aged persons residing in the Subject Area. It is anticipated that schools would accommodate the potential additional students that could result.
- 7.1.6. Applying R-10 zoning to the subject area may result in “Spot Zoning.” Spot zoning is a zoning ordinance or amendment (rezoning) that singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to relieve the small tract from restrictions to which the rest of the area is subjected. Applying R-10 zoning to the Subject Area would divide a contiguous RC (Rural Conservation) zoning district, resulting in a 9.88 acre parcel (approximate) to the south of the Subject Area being spot zoned.
- 7.1.6.1. Staff’s position is that the 9.88 acre parcel (approximate) would be in ownership by a single person and would be surrounded by a significantly larger R-10 zoning district (approximately 107.07 acres proposed in this application) and I-2 zoning district (approximately 335.67 acres existing). Staff further notes that it cannot make a clear showing of the reasonable basis for the zoning as is required.
- 7.1.7. Staff has identified no plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest that would justify supporting the proposed rezoning.
- 7.1.7.1. It is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would inform the County’s consideration of the proposed rezoning.

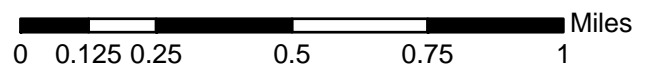
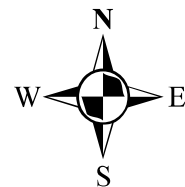
8. Planning Board Recommendations

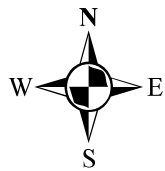
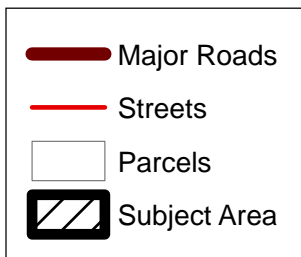
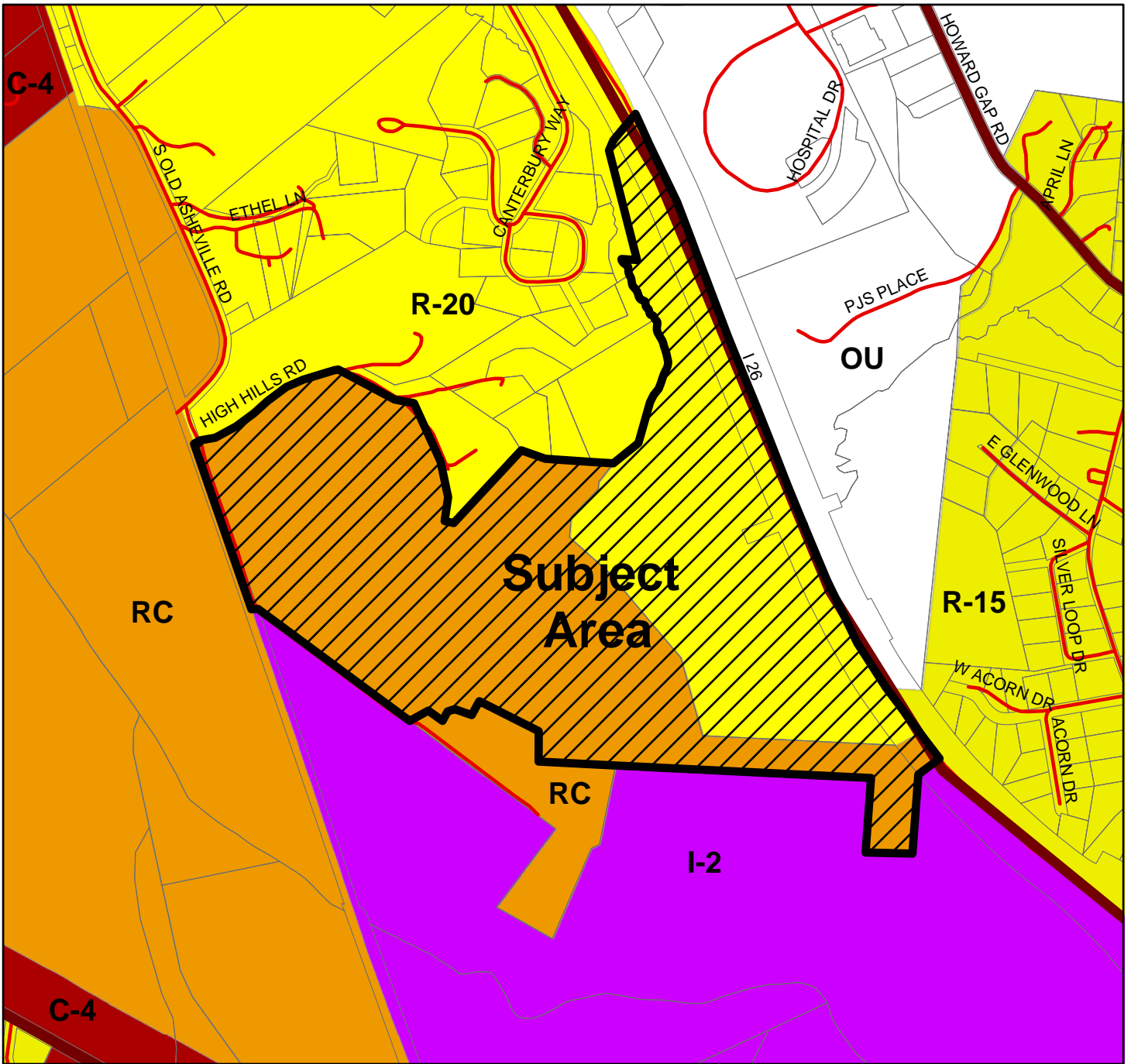
- 8.1. See Attachment 17, Excerpt of Draft Planning Board Minutes from June 20, 2006
- 8.2. The Henderson County Planning Board considered rezoning application #R-2006-01 at its regularly scheduled meeting on June 20, 2006. During that meeting, the Planning Board voted 7 to 0 to send the Board of Commissioners a recommendation to deny rezoning application #R-2006-01 to rezone the Subject Area from R-20 and RC zoning districts to an R-10 zoning district.

Vicinity / Current Zoning Map



**Rezoning Application
#R-2006-01
The Layman Foundation of North
Carolina and B. L. Hyder, Applicants**





Rezoning Application
#R-2006-01
The Layman Foundation of North Carolina and B. L. Hyder, Applicants

Miles

§ 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 (sq. ft.)	Minimum Lot Area Per Dwelling (Family) Unit (sq. ft.)	Maximum Building Height (ft.)	Minimum Front Yard Setback From Center		Minimum Yards	
			Major¹ (ft.)	All Others (ft.)	Side (ft.)	Rear (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.

§ 200-32. RC Rural Conservation District. [Added 6-5-1995]

The RC Rural Conservation District is established to help protect natural resources, such as water supply sources, in rural areas of the county while maintaining the rural character associated with existing agricultural and low-density residential development. The district allows for orderly, low-density residential and other compatible uses while ensuring that development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.

- A. Within the RC District, the following uses are permitted (refer to § 200-38 for listing of site conditions where applicable):
- (1) Agriculture (as defined in § 200-7B).
 - (2) Single-family dwellings and two-family dwellings as follows:
 - (a) One principal single-family dwelling, plus one accessory dwelling per lot. Principal and accessory dwellings may include single-family dwellings, manufactured homes, garage apartments or a combination of any of the above. Such units may be either permanent or temporary.
 - (b) Not more than one two-family dwelling per lot.
 - (3) Churches (with site conditions).
 - (4) Church cemeteries (with site conditions).
 - (5) Church bulletin boards not exceeding 12 square feet in area.
 - (6) Family cemeteries.
 - (7) Signs (with site conditions).
 - (8) Customary accessory buildings, including private garages and noncommercial greenhouses, studios and workshops.
 - (9) Transformer and public utility stations (with site conditions).
 - (10) Public schools having multiple curricula and private schools having curricula approximately the same as ordinarily given in public schools.
 - (11) Other governmental and community facilities and buildings (libraries, police, fire and rescue stations, public parks, etc.).
 - (12) Community clubs and civic clubs.
 - (13) Customary incidental home occupations as accessory uses in a residence (with site conditions).
 - (14) Rural accessory businesses on residential lots subject to the provisions in the definition of "rural accessory business" in § 200-7B (with site conditions).
 - (15) Seasonal stands for the sale of agricultural products as an accessory use, located in the front yard of any lot, provided that they are located a safe distance from the edge of the traveled portion of the street.
 - (16) Bed-and-breakfast inns (with site conditions).

- (17) Planned seasonal agricultural worker developments (with site conditions).
 - (18) Group 1 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
 - (19) Group 2 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
 - (20) Group 4 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
 - (21) 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. 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 in § 200-38, if any, will be met:
- (1) Veterinary clinics.
 - (2) Commercial campground.
 - (3) Commercial outdoor recreation facilities, including, but not limited to, golf courses, tennis clubs, stables, etc.
 - (4) Retail services which may include retail sales related to such services (with site conditions).
 - (5) Offices: business, professional, medical, financial (with site conditions).
 - (6) Nursery and day-care facilities (with site conditions).
 - (7) Camps.
 - (8) Kennels and animal shelters.
 - (9) Agricultural product processing and storage facilities (for products not exclusively grown on premises).
 - (10) Conference centers.
 - (11) Sawmills no more than two acres in size (with site conditions).
- C. Special uses. The following uses shall be permitted, subject to a finding by the Board of Commissioners that both the conditions in the definition of "special use" in § 200-7B and those conditions listed in § 200-38, if any, will be met:
- (1) (Reserved)^{EN}
- D. Dimensional requirements, residential uses. Within the RC District as shown on the Zoning Map, the following dimensional requirements shall be met:

Minimum Front

¹Editor's Note: Former Subsection C(1), which provided for radio and television broadcast antennas as a special use, was repealed 3-2-1998.

Minimum Lot Area (sq. ft.)	Minimum Lot Area Per Dwelling (Family) Unit (sq. ft.)	Maximum Building Height (ft.)	Yard Setback From Center Line of Street		Minimum Yards	
			Major ¹ (ft.)	All Others (ft.)	Side (ft.)	Rear (ft.)
43,560	1-family dwelling: 43,560 1st 43,560 2nd 2-family dwelling: 43,560 1st 43,560 2nd	35	75	75	35	35

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.

E. Dimensional requirements, nonresidential uses. Within the RC District as shown in the Zoning Map, the following dimensional requirements shall be met:

Minimum Lot Area (sq. ft.)	Minimum Lot Area Per Dwelling (Family) 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.)
43,560	43,560	35	75	75	40	40

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.

§ 200-17. R-10 High-Density Residential District.

This district is intended to be a high-density neighborhood consisting of single-family and two-family residences and small multifamily residences. It is expected that public water facilities and public sewage facilities will be available to each lot, providing a healthful environment.

A. Within the R-10 High-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 all 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 or property on which they are located.
- (9) Transformers 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 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.
 - (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 and accounting, shall be 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-10 High-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 (Family) Unit (sq. ft.)	Maximum Building Height (ft.)	Minimum Front Yard Setback From Center Line of Street		Minimum Yards	
			Major¹ (ft.)	All Others (ft.)	Side (ft.)	Rear (ft.)
10,000	10,000 (1 family) 5,000 (2 or more families)	35	75	50 10	10	

NOTES:

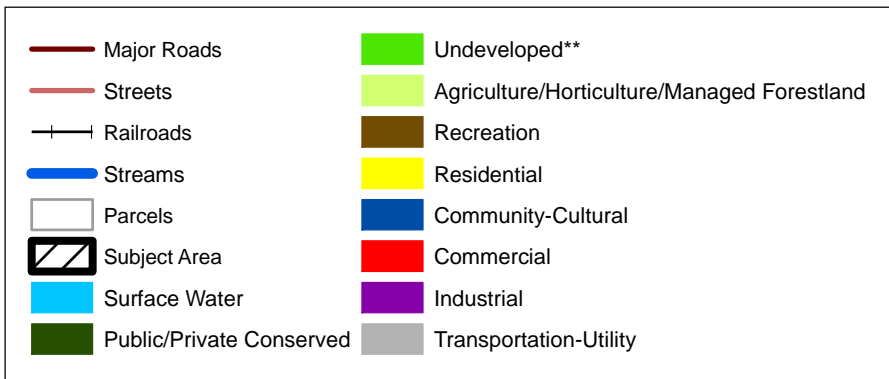
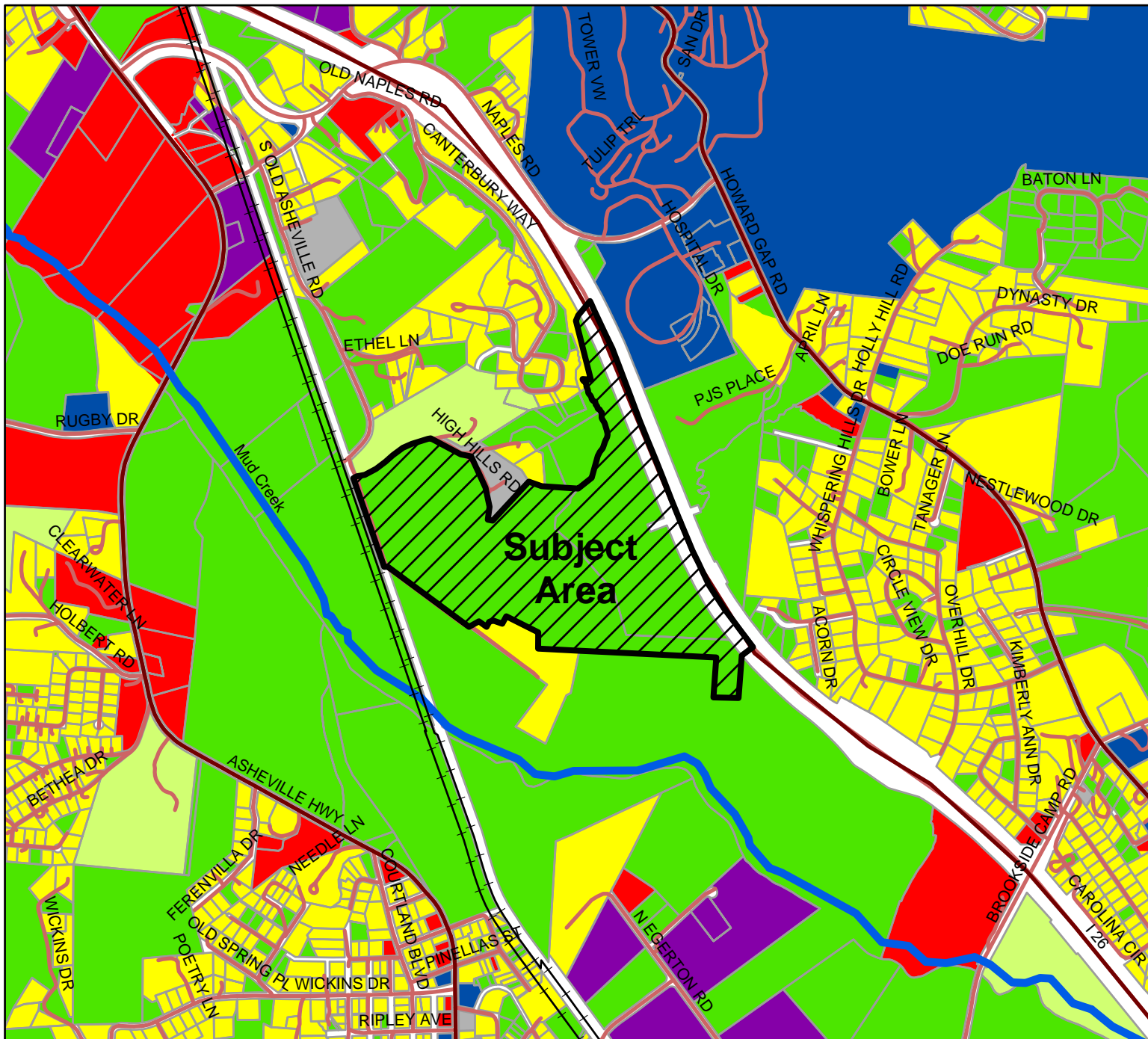
¹ Where the major street is more than two lanes, including parking lanes, setback requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved street abutting the property in subject.

Table 1. Comparison of Permitted Uses by Zoning District			
Uses	RC	R-20	R-10
Agricultural Uses			
Agriculture (Accessory Use)	P	-	-
Agricultural Product Processing and Storage Facilities (Products not exclusively grown on premises)	CU	-	-
Bona fide farms	P	P	P
Residential Uses			
Apartments (Up to a quadraplex on a single lot)	-	-	P
Bed-and-Breakfast Inns	P	CU	CU
Family Care Homes	P	P	P
Manufactured Homes	P	-	-
Planned Seasonal Agricultural Worker Developments	P	-	-
Planned Unit Developments	-	SU	SU
R-A Residential Apartments	-	SU	SU
R-O Residential Open Spaces Developments	-	SU	SU
Single-family Dwellings	P	P	P
Two-family Dwellings	P	-	P
Accessory Uses			
Accessory Dwellings	P	-	-
Home Occupations (Customary Incidental)	P	CU	CU
Garage Apartments (One per lot)	P	-	P
Rural Accessory Businesses	P	-	-
Accessory Structures			
Customary Accessory Buildings (Noncommercial greenhouses, private garage, workshops, etc.)	P	P	P
Recreational Uses			
Commercial Campgrounds	CU	-	-
Commercial Outdoor Recreation (Golf courses/stables/tennis clubs)	CU	-	-
Governmental and Community Facilities/Buildings (Including parks)	P	-	-
Parks, Camps, Tennis Racquet Club)	CU	CU	CU
Educational and Institutional Uses			
Cemeteries (Church)	P	P	P
Cemeteries (Family)	P	-	-
Cemeteries (Nonchurch related)	-	-	CU
Churches	P	P	P
Civic and Cultural Buildings (Auditoriums, theaters, museums, art galleries, symphony/concert halls, historical societies, etc.)	-	P	P
Community/Civic Club Buildings	P	-	-
Conference Centers	CU	-	-
Governmental and Community Facilities/Buildings (Fire and rescue stations/libraries/police stations)	P	-	-
Kennels/Animal Shelters	CU	-	-
Libraries	P	CU	CU
Medical Institutional Care Developments	-	SU	SU

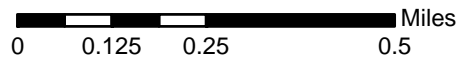
P = Permitted by Right; CU = Permitted with Conditional Use Permit; SU = Permitted with Special Use Permit

Table 1. Comparison of Permitted Uses by Zoning District			
Uses	RC	R-20	R-10
Nursery/Day Care Facilities	CU	-	-
Schools (Public/Private)	P	P	P
Veterinary Clinics	CU	-	-
Business, Professional and Personal Service Uses			
Offices: Business, Financial, Medical and Professional	CU	-	-
Retail Trade Uses			
Retail Sales and Service Businesses	CU	-	-
Seasonal Stands (Agricultural products)	P	-	-
Transportation, Warehousing and Utilities Uses			
Group 1 Communication Towers/Tower Activities	P	P	P
Group 2 Communication Towers/Tower Activities	P	P	P
Group 4 Communication Towers/Tower Activities	P	-	-
Group 6 Communication Towers/Tower Activities	-	SU	SU
Public Utility Stations	P	P	P
Sawmills (No more than 2 acres in size)	CU	-	-
Transformer Stations	P	P	P
Sign Uses			
Church Bulletin Boards	P	P	P
Signs (Off-premise directional, on-premise and property identification)	P	-	-
Signs (Sale/rental of property)	P	P	P
Group Development Uses			
Group Developments	P	P	P

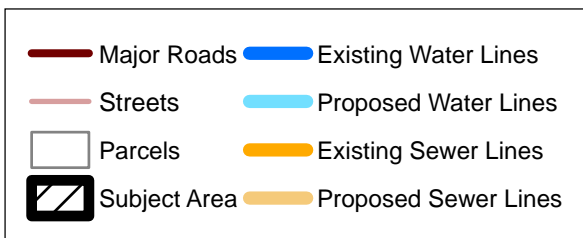
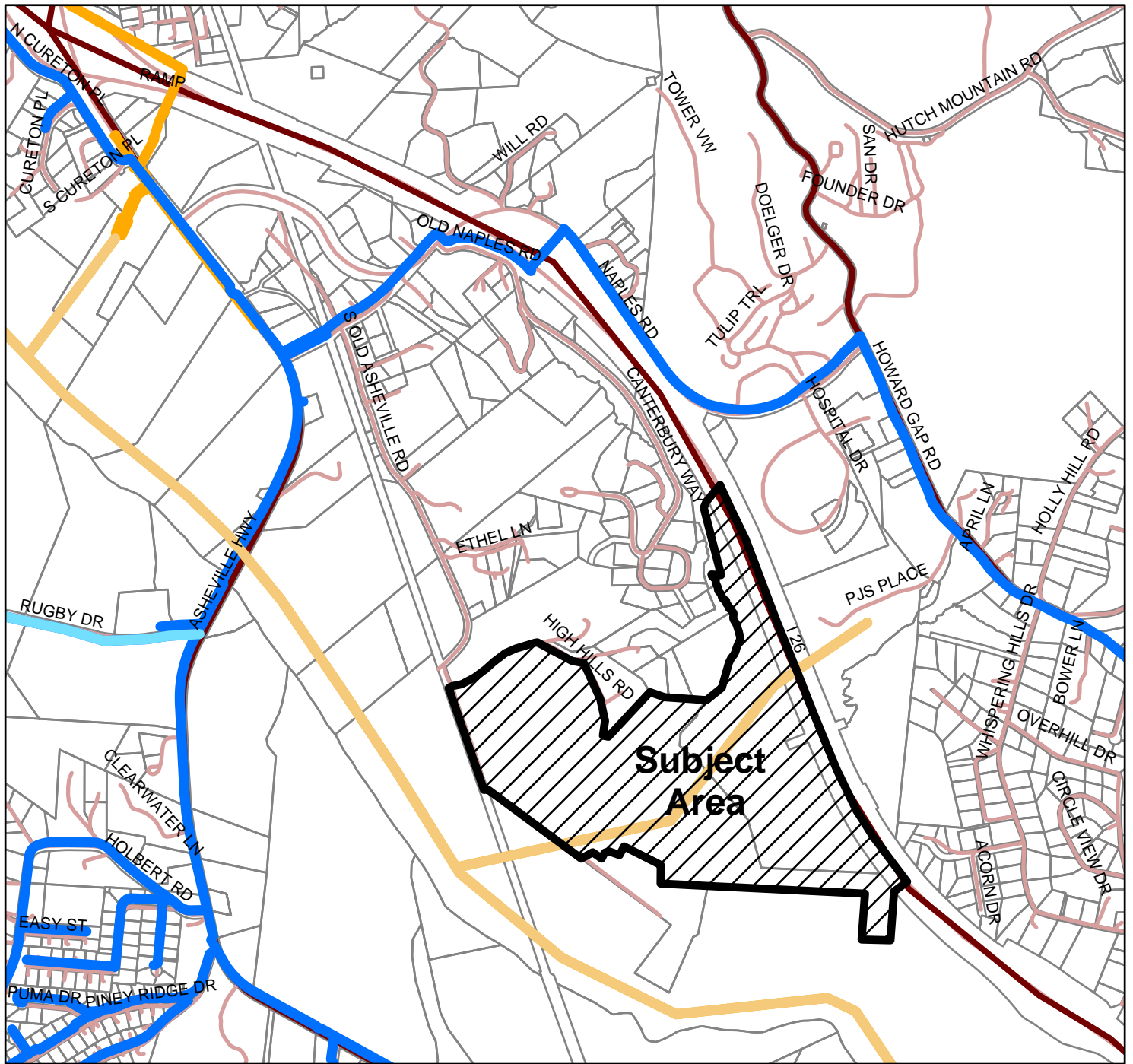
P = Permitted by Right; CU = Permitted with Conditional Use Permit; SU = Permitted with Special Use Permit



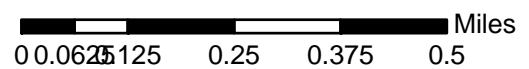
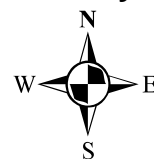
**Rezoning Application
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Carolina and B. L. Hyder, Applicants**



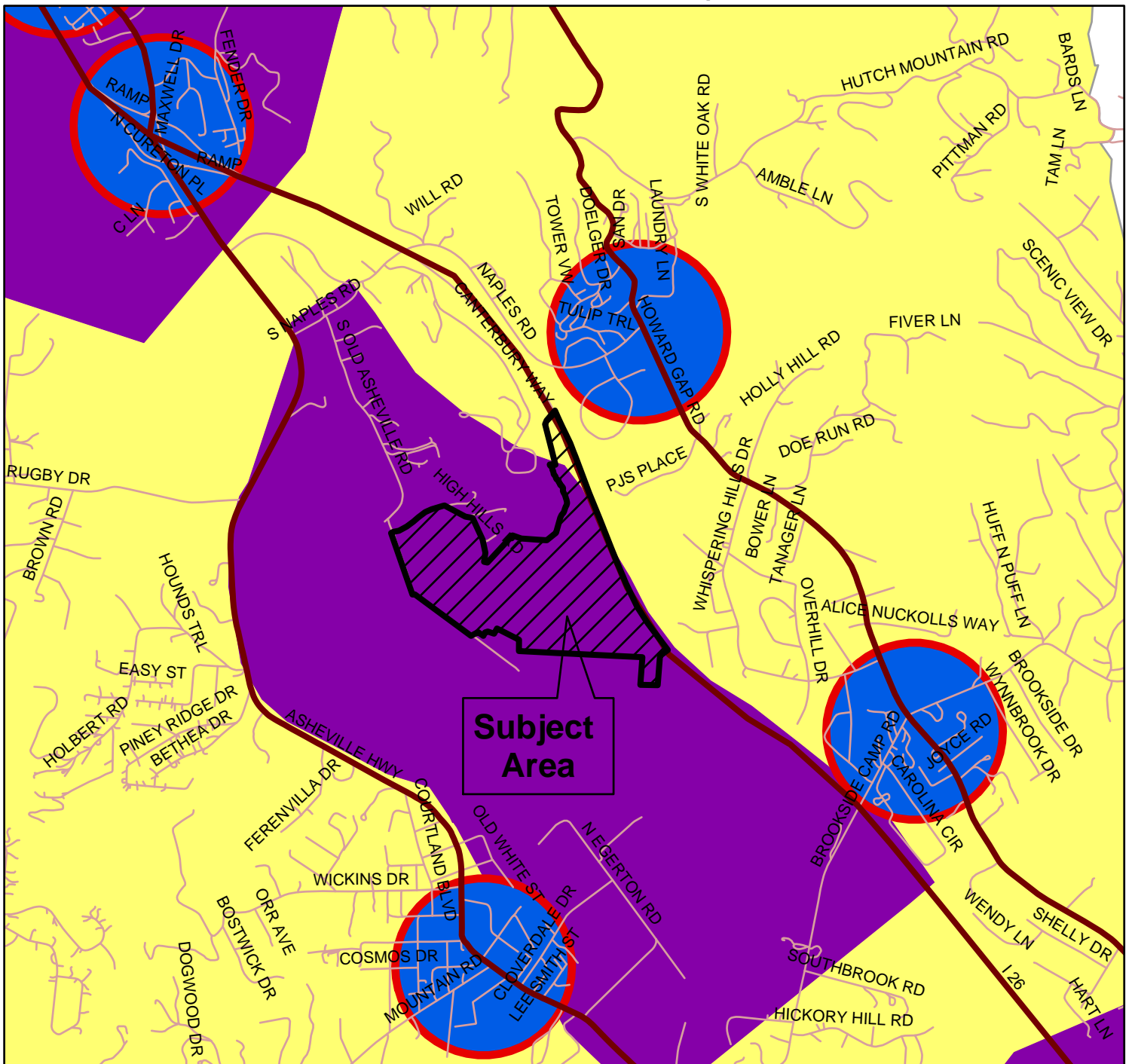
** May include forested as well as agricultural land. Any parcel containing residential development where the acreage to dwelling unit ratio is 10:1 or greater is classified as undeveloped.



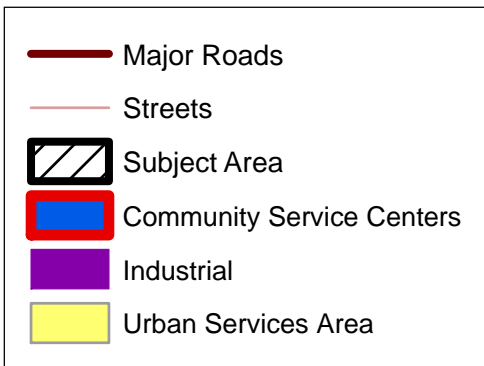
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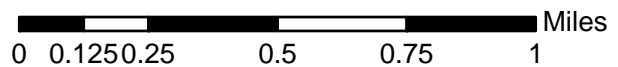
2020 County Comprehensive Plan Future Land Use Map 1



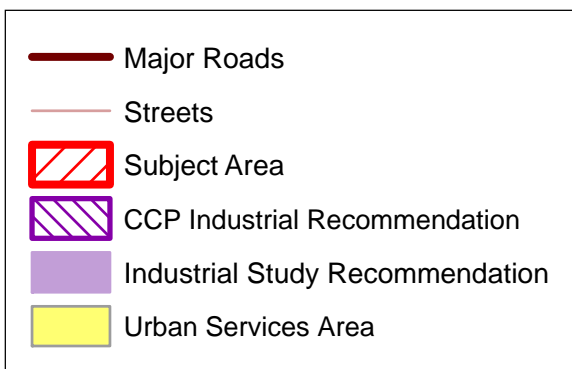
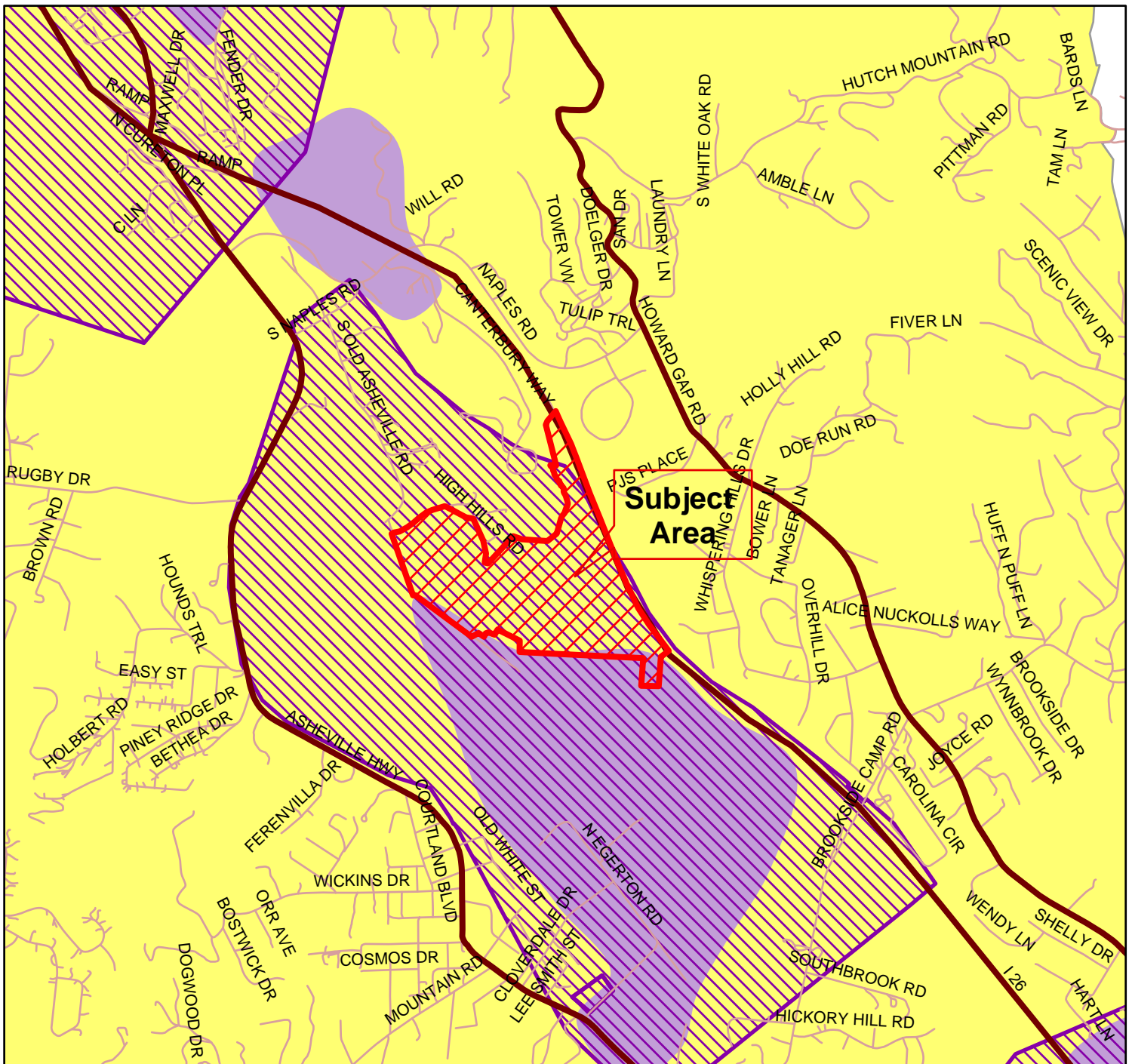
Subject Area



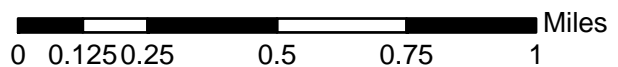
**Rezoning Application
#R-2006-01
The Layman Foundation of North
Carolina and B. L. Hyder, Applicants**



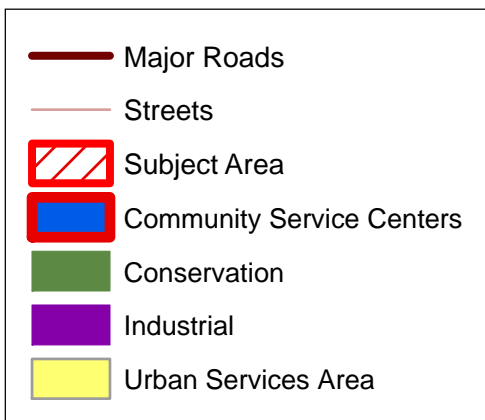
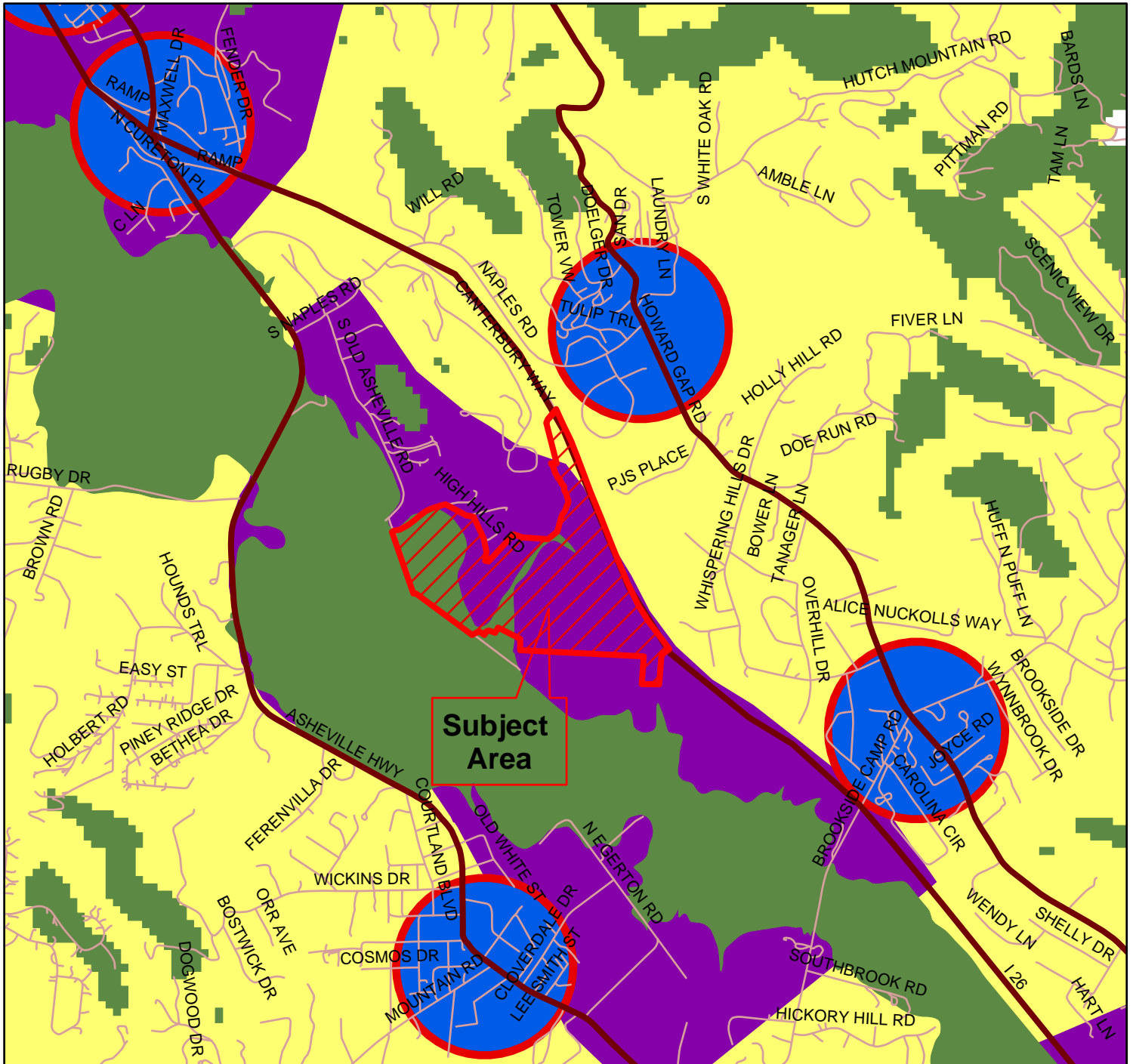
Henderson County Industrial Study Recommendations Map



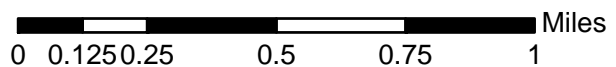
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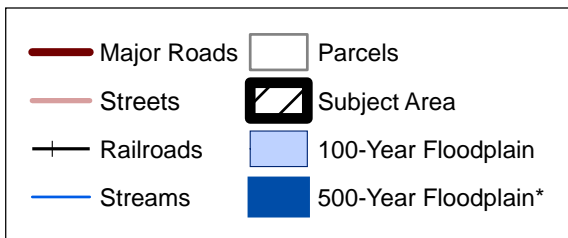
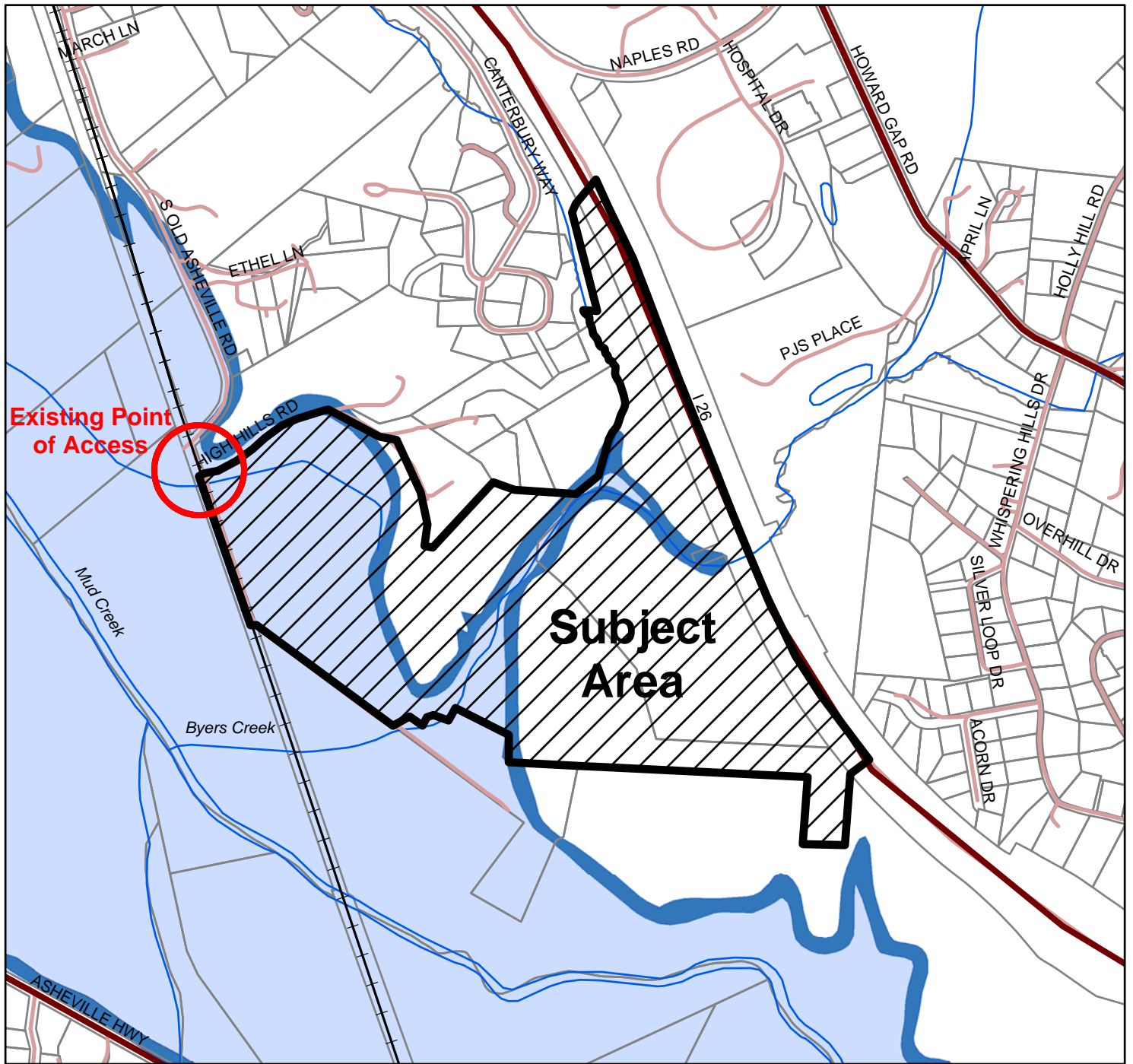


2020 County Comprehensive Plan Future Land Use Map 2

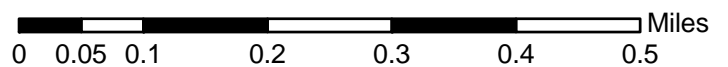
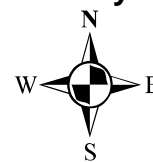


**Rezoning Application
#R-2006-01
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Rezoning Application
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Henderson County, North Carolina Development & Enforcement Department Zoning Administration

MEMO

TO: Matt Cable, Planner
 FROM: Natalie J. Berry, CFM, Floodplain Administrator *NJB*
 DATE: June 8, 2006
 RE: General Flood Damage Prevention Ordinance comments regarding rezoning R-2006-01

The two parcels identified are located within a special flood hazard area. The parcel identification numbers are 9651-92-1626 and 9661-02-2982.

5.1 General Standards: In all Special Flood Hazard Areas the following provisions are required.

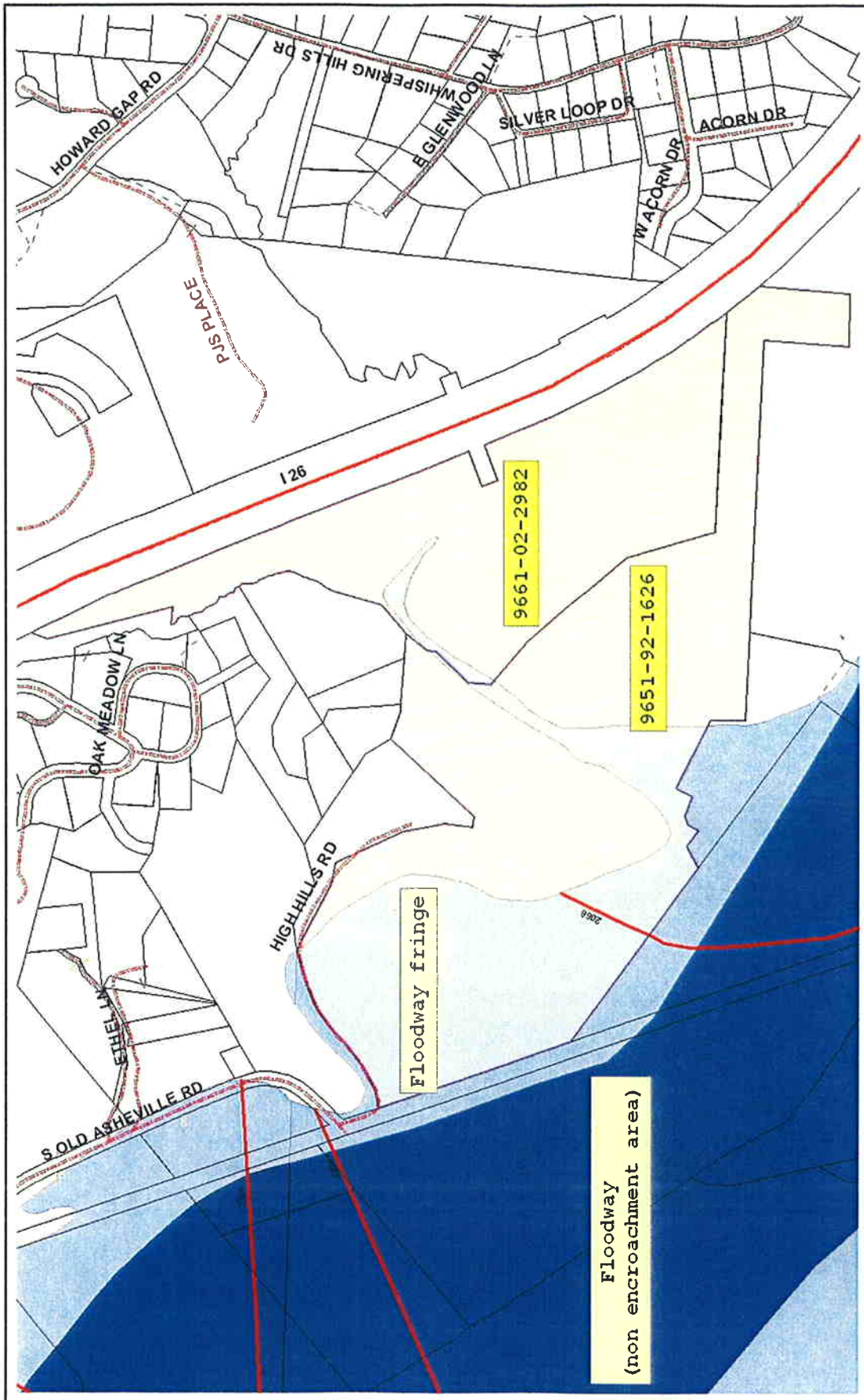
(B) In the floodway fringe area as indicated on the FBFM, no fill whatsoever shall be allowed except on parcels of land, the boundaries of which are of record in the Henderson County Registry as of the date of adoption of this Ordinance, and then only upon no more than twenty percent (20%) of the total of the floodway fringe area contained in each such parcel, except that additional fill may be permitted in the floodway fringe pursuant to a special fill permit granted pursuant to Section ARTICLE 04.7 of this Ordinance. (see below)

4.7 Special Fill Permit Procedures:

(A) The Board of County Commissioners shall have the power to grant, in particular cases meeting specific community need and subject to appropriate conditions and safeguards, permits for special fill in the floodway fringe.

Section 4.7 requires a "No-Rise" Certification to be eligible. A "No-Rise" requires the following items:

- (i) Certification, on a form as published by FEMA, or acceptable alternative form approved by FEMA, of hydrological and hydraulic analyses, performed in accordance with standard engineering practice, that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood; or
- (ii) Technical documentation in the form of hydraulic analysis of the existing and proposed conditions. This documentation shall be either: complete runs of existing and proposed conditions using the HEC II/HEC-RAS step backwater analysis computer program as prepared by the US Army Corp. of Engineers for the analysis of flow plan hydraulics; or
- (iii) An alternative method currently approved by FEMA for use in the revision process for FEMA flood maps. In this case, the engineer shall provide a letter from FEMA indicating that the method used is acceptable; and,
- (iv) Any other technical documentation in the form of detailed site and construction plans, showing that all requirements of this chapter are met.





View of High Hills Road and eastern portion of subject area from the intersection of South Old Asheville Highway (SR 1533) and High Hills Road.



View of eastern portion of Subject Area from High Hills Road.

**DRAFT HENDERSON COUNTY
PLANNING BOARD MINUTES
June 20, 2006**

Excerpt

Rezoning Application #R-2006-01 to Rezone Approximately 107.07 Acres Located between Interstate 26 and Norfolk Southern Railroad in the Naples Community, from an R-20 (Low-Density Residential) zoning district and RC (Rural Conservation) zoning district to an R-10 (High-Density Residential) zoning district – The Layman Foundation of North Carolina and B.L. Hyder, Owners/Applicants. Chairman Pearce asked that one of the applicants introduce themselves. Mr. Curt Watkins stated that he was with the Layman Foundation of North Carolina. Chairman Pearce asked whether the property in question is one that you have a rezoning request or annexation request before the Town of Fletcher? Mr. Watkins said that it wasn't. Mr. Hembree said the reason why this came up is there was some discussion today with some citizens of Fletcher with property in this same area that was petitioned for annexation. Chairman Pearce said he wanted to get this clarified before the Board continued with this request tonight.

Mr. Cable said that on May 17, 2006, Curt Watkins of the Layman Foundation and B.L. Hyder submitted an application to rezone approximately 107 acres located between Interstate 26 and Norfolk Southern Railroad in the Naples Community from R-20 and RC zoning districts to an R-10 zoning district.

The Subject Area is located approximately 1 mile southeast of the Interstate 26 interchange at Asheville Highway and is composed of 2 parcels owned by the respective applicants.

Mr. Cable referred to attachments 3 and 4 of the current zoning maps and said the parcels of the Subject Area are currently zoned R-20 and RC, which were applied on May 9, 2005, as part of the US Highway 25 North Zoning Study. The Subject Area is surrounded on the north by an R-20 zoning district, to the east by OU and R-15 zoning districts, to the south by I-2 and RC zoning districts, and to the west by an RC zoning district.

(At this time, there was a brief slide show of the location of this property and surrounding area).

Mr. Cable said the R-20 Low-Density Residential Zoning District, which defines the Layman Foundation property, is intended to be a quiet, low-density neighborhood consisting of single-family residences and the RC Rural Conservation Zoning District, which defines Mr. Hyder's property, is intended to protect natural resources in rural areas of the County, while maintaining the rural character associated with existing agricultural and low-density residential development. The district allows for low-density residential and other compatible uses including non-residential uses. The R-10 High-Density Zoning District, which is proposed for the Subject Area, is intended to be a high-density neighborhood consisting of single-family and two-family residences and small multifamily residences.

Mr. Cable said a description of each district is included in the staff report and the Board may refer to Attachments 5, 6 and 7 for full text of the districts. Attachment 8 provides a comparison of permitted uses for all three districts.

Mr. Cable stated that if the Board will refer to Attachment 9, Current Land Use Map, the Subject Area is currently undeveloped and most adjacent and surrounding uses include agricultural, residential, commercial, office, institutional and industrial uses. Agricultural uses include properties to the east and southeast, of which some are participants in the Clear Creek Voluntary Agricultural District. Residential uses include single-family residential homes located in the Naples community, north of the Subject Area, along South Old Asheville Road and Canterbury Way. Office and institutional uses are located to the east

of the Subject Area, across Interstate 26, including: Park Ridge Hospital, Fletcher Academy and Fletcher Park Inn – all owned by the Layman Foundation. Mr. Cable stated that commercial uses are located to the north of the Subject Area and include WNC Home Oxygen which is located on Canterbury Way, and A Self-Storage Depot, located on Naples Road. Industrial uses are located to the south of the Subject Area in Mountain Home Industrial Park.

Mr. Cable said the Subject Area does not currently have access to water and sewer services but water and sewer services are within one mile of the Subject Area. He noted that there would be some sewer lines running through that property, according to the water and sewer master plan. Chairman Pearce asked whether the water and sewer master plan proposes these utilities for this area soon? Mr. Cable said that there is no time frame, just where they see things going in the future. Chairman Pearce asked whether there has been any designated plan as far as funding this or something of that nature? Mr. Cable said he wasn't aware of any plan. He said the Subject Area does not have frontage on a state maintained road other than I-26, but that is a limited access road. He added that according to the 2006-2012 State Transportation Improvement Program, I-26 is to be widened from four to six lanes.

He said Staff's position under the guidelines of current plans, policies and studies is it does not support rezoning of the property to be zoned for high-density residential uses. Both the text and the map of the 2020 Comprehensive Land Use map which identified the Subject Area as being suitable for industrial development. Both the US 25 North Study and the Henderson County Industrial Study recommend removal of the industrial classification for the majority of the Subject Area. He said Staff's position is that the Subject Area should not be identified for industrial development based on the recent recommendations of the US 25 North Zoning Study and the Industrial Study which are to serve as extensions of the CCP. Those would be considered when they amend the CCP later, as it proceeds with the Land Development Code. Chairman Pearce asked if the Commissioners accepted the Industrial Study recommendation? Mr. Cable said that those were to be rolled in with the amendment of the CCP that coincided with the LDC so therefore, it has not yet been accepted. Chairman Pearce said he was clear from our previous meetings that the previous industrial studies were a large shot-gunning of property and that there was nothing specific or formal before. Mr. Prinz said that it came from the Committee of 100, an organization put together by the Chamber of Commerce. He added that Staff took the recommendations from the Committee of 100 and made them more parcel-specific and the Planning Board voted unanimously to recommend approval to the Board of Commissioners, but at this time it is waiting for the opportunity to be approved by the Commissioners.

Mr. Cable said that both the text and map of the CCP identified portions of the Subject Area parcels as being suitable for conservation. The US 25 North Zoning Study subsequently applied RC zoning to parcels containing large amounts of floodplain and that is the reason that Mr. Hyder's property is included in the RC zoning district along with others across the railroad track and to the south. The RC zoning district is intended to reduce flooding risks for people and property and reserve agricultural land. Both the text and the map of the US 25 North Zoning Study recommended RC and R-20 zoning be applied to the parcel of the Subject Area and were applied on May 9, 2005, as a result of the zoning study, which was supported by Planning Staff, Planning Board and the Board of Commissioners. He said that Staff does not have any records of the property owners expressing opposition to the proposed zoning during the US 25 North Zoning Study.

Mr. Cable said applying R-10 zoning to the Subject Area could alter the range of uses permitted, increase the number of permitted lots, and reduce lot size requirements and setback requirements. The Board must consider the range of uses, dimension requirements and densities for the existing zoning district compared to the proposed zoning district. Mr. Cable said that R-10 zoning does not allow for as many non-residential uses as are permitted by RC zoning district, while allowing more intense residential uses of land. R-10 zoning district allows for all uses permitted within the R-20 zoning district as well as allowing

apartments, two-family dwellings, garage apartments and non-church related cemeteries. RC and R-20 zoning districts allow for large side and rear yard setbacks than the R-10 zoning district. RC zoning district also requires larger front yard setbacks than are required by the R-10 zoning district. The R-10 zoning district allows for up to four times as many lots, by right, as permitted in the RC zoning district and for up to two times as many lots by right as permitted in the R-20 zoning district. He said when applied to the entire Subject Area, Staff estimates a potential for an increase in the number of lots by more than 300 percent. Staff estimates for a potential for an increase in the number of dwelling units also by more than 300 percent. Staff's position is that the R-10 zoning district would allow lot sizes and densities which are not in keeping with the rural character of the immediate vicinity of largely agricultural and low-density area.

Mr. Cable said that adding R-10 zoning could largely impact public services and that the Board must consider potential impacts including those to water, sewer, roads, emergency services, and schools. Though water and sewer may become available to the Subject Area, the Henderson County Zoning Ordinance would not require the applicant to connect to these facilities, nor can it be a condition of the rezoning request. The Board may consider the possibility of water and sewer services being extended, but cannot recommend granting the rezoning based on the extension of water or sewer lines to the Subject Area as a condition. The Zoning Ordinance does indicate that it is expected that public water and sewage facilities will be available to each lot in the R-10 district. Roads may also be impacted. The western parcel contains one access point, through High Hills Road, a 20-foot right of way located off of South Old Asheville Road. The eastern parcel currently has no granted point of access. Provided both properties are accessed by High Hills Road, both High Hills Road and South Old Asheville Road could see a much larger increase in traffic volume than would occur should both parcels be developed under current RC and R-20 zoning.

Mr. Cable said emergency service provision may also be impacted as more dwelling units and residents could be placed at risk during a flood event as a result of inadequate access to the Subject Area. Flood events may be more intense and frequent in the localized area as a result of impervious surface that could be created by the development of the Subject Area at R-10 densities. R-10 zoning could also result in a larger increase in traffic volume on surrounding roads, including Naples Road on which Park Ridge Hospital is located, directly impacting the provision emergency of services by the hospital.

Mr. Cable said applying R-10 zoning to the Subject Area may result in spot zoning. Spot zoning is a zoning ordinance or rezoning that singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to relieve the small tract from restrictions to which the rest of the area is subjected. Applying R-10 zoning to the Subject Area would divide a contiguous RC zoning district, resulting in a 9.88 acre parcel to the south of the Subject Area being spot zoned. Staff's position is that the 9.88 acre parcel would be surrounded by a significantly larger 107 acre R-10 district and approximately 350 acre I-2 district (indicating this on a map). Chairman Pearce wanted to know where the nearest R-10 district was located. Mr. Cable said that the nearest R-10 district is located off Butler Bridge Road which is River Stone Planned Unit Development and is approximately 1.71 miles away. Mr. Cable stated that Staff cannot make a clear showing of the reasonable basis for the rezoning as is required in the event of a "spot zoning."

Staff has identified no plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest that would justify supporting the proposed rezoning. It is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would inform the County's consideration of the proposed rezoning.

Mr. Curt Watkins of the Layman Foundation said that they have approached the County for running a sewer stub there and that the County Engineer, Gary Tweed, has come out and looked at the property and made a recommendation to the Board of Commissioners for sewer to go there. He said The Layman Foundation and Hallmark Development have agreed to make a financial contribution to the proposed project. He said that Gary Tweed informed them that the County's Finance Department has approved their financing plan for the sewer project in this area and that there would be a connection schedule where Fletcher Academy would also be hooking onto sewer that the County plans to run in that area. Mr. Watkins stated that City water is in close proximity, which they are planning to run to the property at their cost. He said it is his understanding that those issues have been addressed for the consideration of the County Commissioners. Mr. Watkins said that The Layman Foundation is the current owner of this property, which has been landlocked for over forty years. He said that currently they have an option to purchase an adjoining piece of property from Mr. Hyder so that we can get out of the landlocked position, because at present we cannot do anything. He did mention that there is one access through a culvert underneath I-26, but that is difficult to get through there. Chairman Pearce said that short of buying adjacent properties and an easement, there is no alternative access. He added, "Where there some alternative roads you were looking at coming in other than the 20 foot right-of-way?" Mr. Watkins said, "We have had some discussions with Ms. Freeman, an adjacent property owner and have also looked at two other areas to see what could be done." Ms. Kumor was concerned that the Board cannot consider the sewer and the easement issue unless there is solid evidence of such. Chairman Pearce said the Board cannot recommend approval of the request until they get evidence that water and sewer have been approved by the Commissioners or that new roads have been approved into this proposed development and deals have been made for such roads. These would be concrete evidence. Chairman Pearce asked Mr. Hembree for additional information concerning the water and sewer issue. Mr. Hembree stated that this area is called the Mud Creek Sewer Project, which has three phases. Phase 1 starts a little northwest of this Subject Area. Phase 2 of that project would actually serve this Subject Area and surrounding area. He stated that when they talk about phases, Phase 2 deals with an interceptor line or force main with pump stations that would serve the US 25 North area. He stated that Phase 3 would go from this section down to the Mountain Home Industrial Park. Mr. Hembree said that what has been approved by the Board of Commissioners is Phase 1 and that project is being put out for bid. He added that this Subject Area falls into Phase 2 and when this was initially discussed there was some consideration given to the possibility of a private developer assisting with the County's cost to speed up the Phase 2 portion. He said that once the County realized that the land use zoning was not compatible with the particular development that was being looked at, the County stepped back to insure that the zoning was correct for the area. He added that in saying this, we are not assuming that the Board of Commissioners or Planning Board would make a recommendation based on initial discussions that were made regarding sewer. He said there are no final plans at this point and no financing has been approved for Phase 2 to be sped up. He did say that it is planned for sometime in the future after Phase 1 is done, to do Phase 2, but this has not been approved by the Board of Commissioners. Ms. Kumor said that the conditions as they exist don't seem to suggest there could be any movement, but if the Commissioners approve the sewer line, that makes the conditions for the property change and that can make one of the conditions we can rely on to change the zoning.

Chairman Pearce asked, "Was the zoning changed on this property or did it stay the same?" Staff said it was open use and was changed. Chairman Pearce asked about time limitations on rezoning requests? Mr. Burrell said that if the citizen asks for a certain zoning and is turned down, then they have to wait. Chairman Pearce said that the County initiated the zoning over a year ago. After some discussion among Board members, Chairman Pearce said that he doesn't understand even if they would acquire water and sewer, why would the County want that type of density in a flood prone area. Ms. Kumor said that if you have that combined land, because a portion of this will flood, with the property the size that it is under the designation it already has, you could still do a PUD or some kind of compact development in one spot and use the flood areas for open space. She added that you can leverage more density on the property that is not on the floodplain. Chairman Pearce agreed but said with the road access and the surrounding

properties and even the distance, another R-10 zoning is completely out-of-line with everything that the CCP and the floodplain calls for. He added that he is not hearing anything other than the fact that they want to do a project and he doesn't understand what he should use as a basis for a recommendation. Ms. Kumor said that by combining the two pieces of property would you not gain the same type of density or ability to build that kind of development. Chairman Pearce said no because with the RC district you are allowed one unit per acre, so the maximum density would be 107 units and with the R-20 district, there would be less than two hundred units available but with R-10, it would be three or four times that. Mr. Cable added that RC does not permit planned unit developments, so they could not do a PUD on that portion of the property. Chairman Pearce said that he would be more understanding if someone came to him and said that they had acquired this additional property and wanted to rezone it R-20, but at this point he finds nothing to encourage and warrant this request. He added that he would be more persuaded to an R-20 zoning designation for the RC property, but would need to further study the flood implications before a decision could be made.

Chairman Pearce made a motion that the Planning Board recommend to the Board of Commissioners that they deny rezoning request # R-2006-01 based upon the fact that there are no changes in plans or policies at this time to justify their request; no changes in existing conditions; no indication from the applicant of any undue hardship nor any overriding community interest to recommend this rezoning request. Mr. Pearce added that due to the limited access to the subject properties by the 20-foot easement, as well as floodplain consideration, both these properties seem unsuitable for high density development. Renee Kumor seconded the motion. All members voted in favor. Chairman Pearce added that he is most concern with the limited access to this property and Ms. Kumor agreed.

Chairman Pearce also mentioned hazardous waste and noise issues which should be taken into account. Chairman Pearce said, with the Board members permission, he would like to amend the comments to the Board of Commissioners to reflect the fact that noise and hazardous waste problems that could result from both the Interstate and the railroad be considered in additional reasons to not rezone that property. Ms. Kumor said she feels that is spurious because there are already a lot of residents between those two areas and it doesn't seem to be bothering them. Chairman Pearce said there is not any R-10 district though. Mr. Griffin added that he feels there should be some real planning done on that property to make it desirable. (Gary Griffin left the meeting at this time).

Ms. Freeman, resident of the area and an adjacent property owner said that you cannot get up that 20-foot road because of the flooding situation, especially since they are widening and construction on US 25 North. She added that she doesn't feel that rezoning it to R-20 would be any advantage for this area. She disagrees with the amount of residential development requested.

**NOTICE OF PUBLIC HEARING
ON PROPOSED ZONING MAP AMENDMENT
(Rezoning Application #R-2006-01)**

The Henderson County Board of Commissioners will hold a public hearing on an application (#R-2006-01) for a proposed amendment to the Official Zoning Map of Henderson County, North Carolina, that would rezone approximately 107.07 acres of land, located between Interstate 26 and Norfolk Southern Railroad in the Naples community, from an R-20 (Low-Density Residential) zoning district and RC (Rural Conservation) zoning district to an R-10 (High-Density Residential) zoning district. The Subject Area appears to be parcels 9661-02-2982 and 9651-92-1626 which are owned by the respective applicants, the Layman Foundation of North Carolina (parcel 9661-02-2982) and B. L. Hyder (parcel 9651-92-1626).

The public hearing will be held on Wednesday, July 19, 2006, at 11:00 A.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.

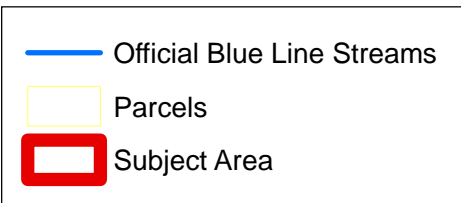
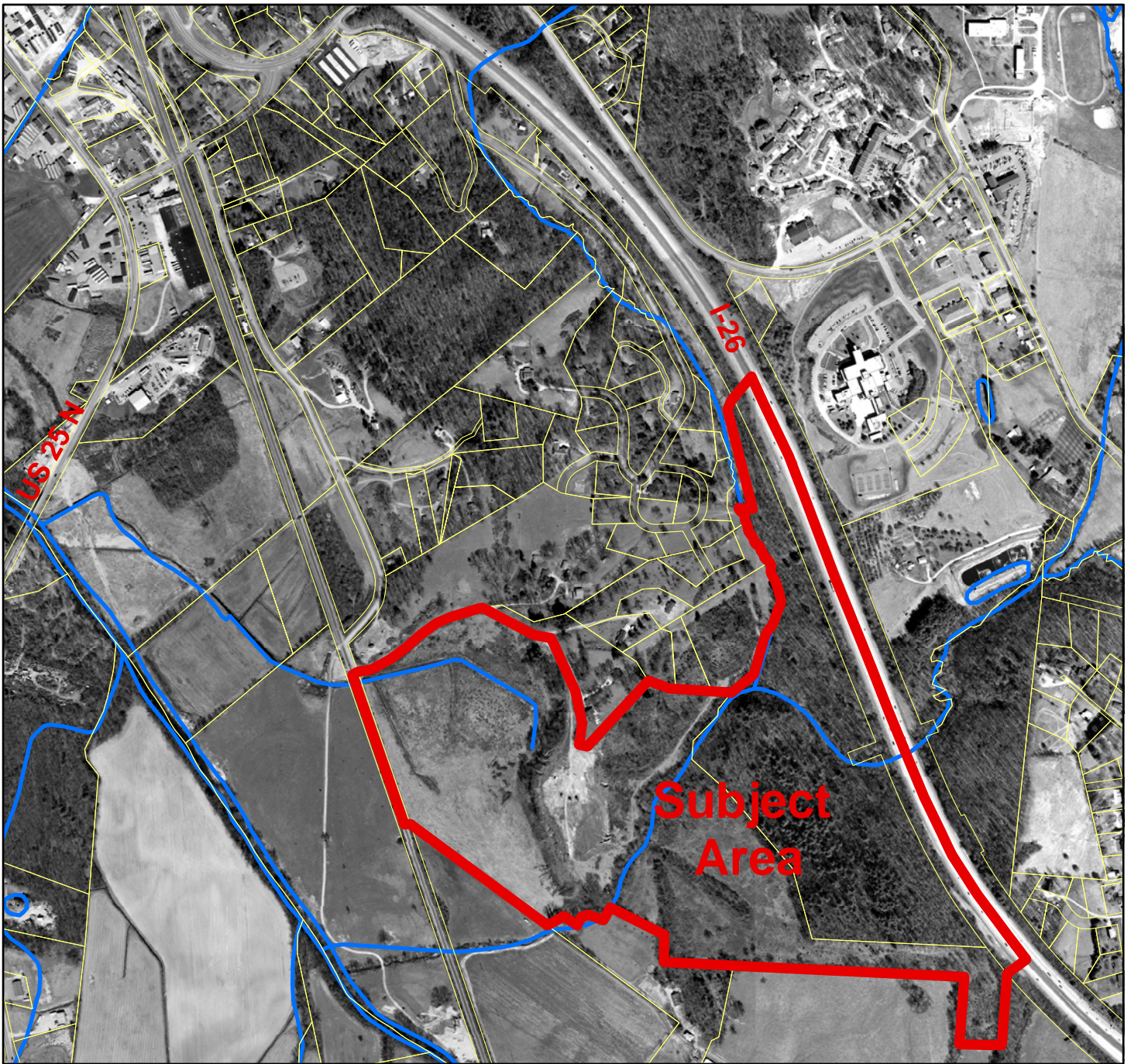
Written comments addressed to the Henderson County Board of Commissioners, 100 North King Street, Hendersonville, NC 28792, will be accepted prior to the hearing. Information about the proposed amendment is available for review in the Henderson County Planning Department, 101 East Allen Street, Hendersonville, 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/main.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



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#R-2006-01
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Carolina and B. L. Hyder, Applicants**

