

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY BOARD OF COMMISSIONERS

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### PUBLIC HEARING

#### Rezoning Application #R-2006-02 (R-20 to R-10)

Michael L. and Tracy J. Burns, Applicants

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**Meeting Date:** Wednesday, September 20, 2006

**Attachments:**

1. R-2006-02 Application (with partial attachments)
2. Staff Report
3. Site / Current Zoning Map
4. Vicinity / Current Zoning Map
5. R-20 District Text
6. R-10 District Text
7. Comparison of Permitted Uses by Zoning District
8. Current Land Use Map
9. Water and Sewer Master Plan Map
10. 2020 County Comprehensive Plan Future Land Use Map
11. Aerial Photo Map
12. Photos of Study Area
13. Planning Board Minutes from July 18, 2006
14. Notice of Public Hearing

#### SUMMARY OF REQUEST:

Rezoning Application #R-2006-02, which was submitted on June 9, 2006, requests that the County rezone approximately 5.91 acres of land, located off Greenville Highway (NC 225), from an R-20 (Low-Density Residential) zoning district to an R-10 (High-Density Residential) zoning district. The Subject Area appears to be parcel 9577-27-6882 which is owned by the applicants, Michael L. and Tracy J. Burns. The Applicants' Agent is Norma McMahan.

The Henderson County Planning Board considered rezoning application #R-2006-02 at its regularly scheduled meeting on July 18, 2006. During that meeting Planning Staff recommended approval of the application to the Planning Board which voted 5 to 1 to send the Board of Commissioners a favorable recommendation for rezoning application #R-2006-02 to rezone the Subject Area from existing R-20 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 September 20, 2006, public hearing regarding rezoning application #R-2006-02 were published in the Hendersonville Times-News on August 30, 2006 and September 6, 2006. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the

Subject Area and applicants on September 6, 2006. Planning Staff posted signs advertising the hearing on the Subject Area on September 6, 2006.

**COUNTY MANAGER'S RECOMMENDATION / BOARD ACTION REQUESTED:**

Following the public hearing, Board action to approve, modify or deny rezoning application #R-2006-02 would be appropriate.

Application #: R-2006-02

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

**1. PROPERTY OWNER INFORMATION**

MICHAEL L & TRACY S. BURNS  
Property Owner Name

1690 Greenville Hwy.  
Mailing Address

HENDERSONVILLE, N.C. 28139  
City, State, Zip Code

Home Telephone Number(s) -828-698-2640  
Michael cell-828-674-3368  
TRACY cell-910-616-2366

**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 5.91

Parcel ID Number(s)\* 00-9577-27-682-155

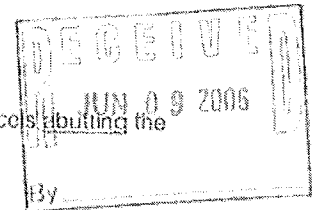
Current Zoning\* R-20

Proposed Zoning\* R-10

\* 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.

Tracy Burns  
Signature of Property Owner

6-8-06  
Date

agent for owner Sigra M. P. ...  
Devery ...

828-674-5954

**Staff Use Only**

Previous request for same amendment? Yes  No  Action: NA

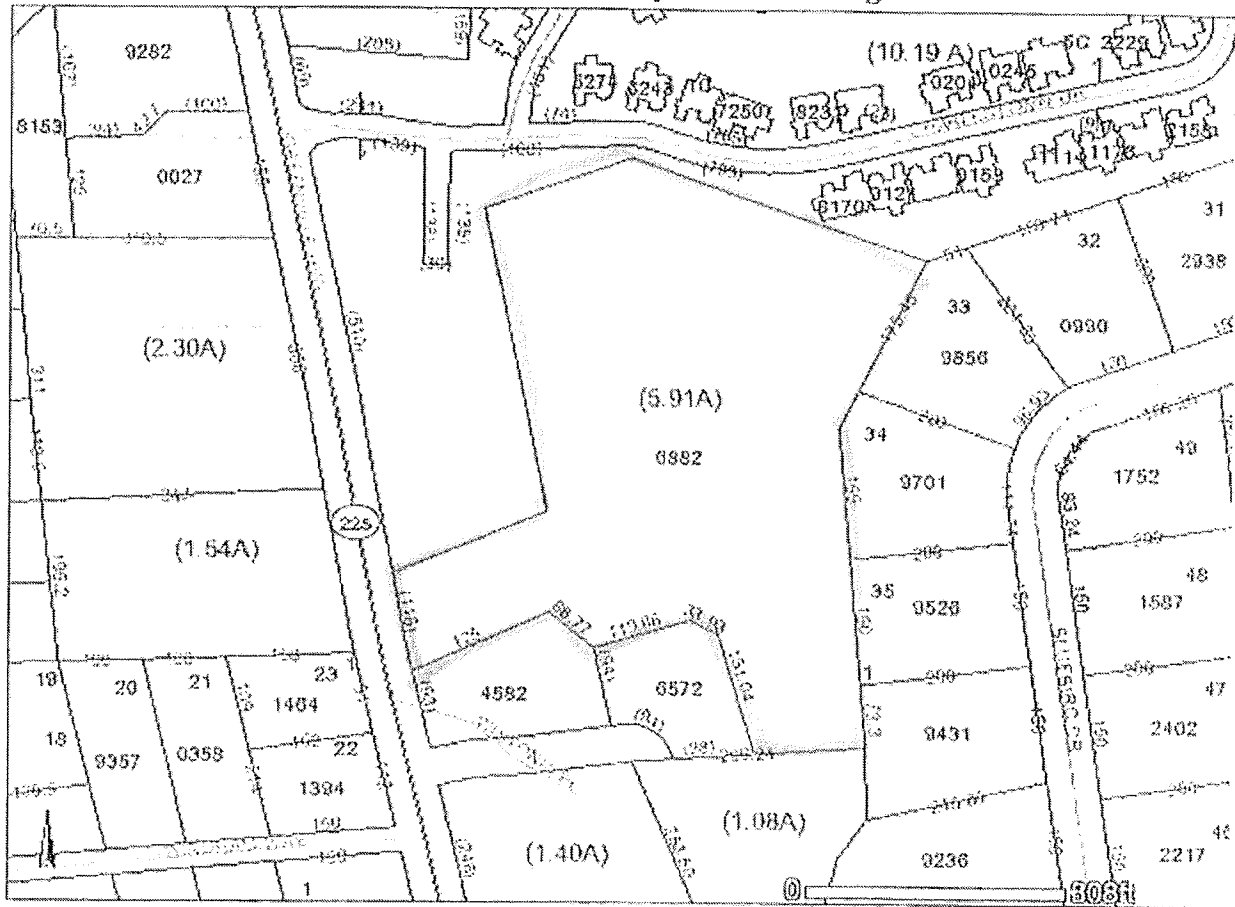
Date: NA

Application Received By: Matthew Cable

Date: 6/9/06

**Non-refundable application fee: \$400.00**

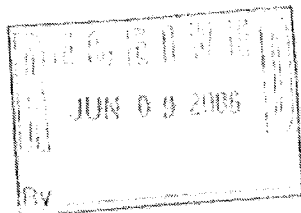
Henderson County Parcel Print Page



\*\*\*WARNING: THIS IS NOT A SURVEY!  
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Date: 6/9/2006

This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map. The County and mapping company assume no legal responsibility for the information contained on this map.



Rec	1
PIN	957276082
PID	9973125
Name_1	BURNS, MICHAEL
Name_2	BURNS, TRACY
Prop_Desc	PT TR B ACTONBRIA
Map Sheet	9577.06
Nbr_Bldgs	1
Daterec	17-OCT-03
Book/Page	1158/396
Land_Value	NA Until January 2007
Bldg_Value	NA Until January 2007
Total_Val	NA Until January 2007
Nbhd_Desc	EAST FLAT ROCK ZC
Subdivision	
Stamps	1500
Landuse	110
Address 1	1690 GREENVILLE HI
Address 2	
Address 3	
City	HENDERSONVILLE
State	NC

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**Henderson County Planning Department Staff Report**

**Rezoning Application #R-2006-02 (R-20 to R-10)**

**Michael L. and Tracy J. Burns, Applicants**

**Norma McMahan, Agent**

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**1. Introduction**

- 1.1. Applicants: Michael L. and Tracy J. Burns
- 1.2. Subject Area PIN: 00957727688255
- 1.3. Application Date: June 9, 2006
- 1.4. Request: Rezone 5.91 acres (approximately) composed of parcel 9577-27-6882 (hereafter the Subject Area) from an R-20 (Low-Density Residential) zoning district to an R-10 (High-Density Residential) zoning district. (See Attachment 3, Site/Current Zoning Map)
- 1.5. Subject Area Size: Approximately 5.91-acre tract of land.

**2. Location**

- 2.1. See Attachment 4, Vicinity/Current Zoning Map
- 2.2. The Subject Area is located off Greenville Highway (NC 225), approximately 860 feet (0.16 miles) south of the intersection of Greenville Highway (NC 225) and Erkwood Drive (SR 1164) / Shepherd Street (SR 1779).
- 2.3. The Subject Area is located approximately 1,400 feet (0.27 miles) north of the intersection of Greenville Highway (NC 225) and North Highland Lake Road (SR 1783).
- 2.4. The Subject Area is located approximately 4,160 feet (0.79 miles) west of the intersection of North Highland Lake Road (SR 1783) and Spartanburg Highway (US 176).
- 2.5. The Subject Area has approximately 118 feet (0.02 miles) of road frontage along Greenville Highway (NC 225).

**3. Current Zoning**

- 3.1. See Attachment 3, Site/Current Zoning Map and Attachment 4, Vicinity/Current Zoning Map
- 3.2. The Subject Area is currently zoned R-20 (Low-Density Residential), which was applied to the area on July 9, 1981, when zoning was initiated in Henderson County.

### 3.3. Adjacent Zoning:

- 3.3.1. The Subject Area is surrounded to the north by an R-10 (High-Density Residential) zoning district, to the south and east by an R-20 (Low-Density Residential) zoning district, and to the west by an R-40 (Estate Residential) zoning district.
- 3.3.2. The Subject Area is also located approximately 275 feet (0.05 miles) southeast of a C-1 (Residential Commercial) zoning district; 250 feet (0.05 miles) south of an R-T (Transient Residential) zoning district, and 600 feet (0.10 miles) southwest of an R-15 (Medium Density Residential) zoning district.
- 3.3.3. The Subject Area is also located approximately 450 feet (0.08 miles) southeast of parcels within the City of Hendersonville jurisdiction, most of which is currently zoned GHMU (Greenville Highway Mixed Use).
  - 3.3.3.1. The Greenville Highway Mixed Use Zoning District Classification is “intended to encourage a mix of medium density residential development in conjunction with appropriately scaled and compatible commercial development, consisting of retail sales and services, professional offices, accommodations services and similar uses” (City of Hendersonville Zoning Ordinance, Article V, Section 5-22 (Pg. 62)).
  - 3.3.3.2. The City of Hendersonville considers R-15 and R-10 zoning districts of the City’s ordinance to be medium-density residential districts (City of Hendersonville Zoning Ordinance (Pg. I)). The R-15 and R-10 zoning districts of the City of Hendersonville contain comparable lot sizes to Henderson County’s R-15 (Medium-Density Residential) and R-10 (High-Density Residential) zoning districts.

### 3.4. Comparison of Districts:

- 3.4.1. See Attachments 5 and 6, District Text Descriptions and Attachment 7, 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 (0.45 acres). Setbacks are as follows: 75 feet from the centerline of major streets; 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. R-10 High-Density Residential Zoning District

3.4.3.1. **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).

3.4.3.2. 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 and 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 (0.46 acres) for three family dwellings; and 25,000 square feet (0.57 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 8, Current Land Use Map
- 4.2. The Subject Area currently contains a single-family residential use. (See Attachment 12, Photos of Subject Area).
- 4.3. Adjacent and surrounding area uses include residential, commercial, office, and community-cultural uses. Adjacent residential uses include Charlestown Place Planned Unit Development, a townhome development to the north of the Subject Area (See Attachment 12, Photos of Subject Area), and portions of Statonwoods Subdivision to the south of the Subject Area. Much of the surrounding area, including properties to the north and south of the Subject Area, along Greenville Highway (NC 225), contain single-family residential uses. Commercial and office uses are located to the north of the

Subject Area in and around the intersection of Greenville Highway (NC 225) and Erkwood Drive (SR 1164) / Shepherd Street (SR 1779). These commercial and office uses include: Bernard's Fauxtastic Finishes, Sherman's Business Park (contains the Salon at Creekside, Creekside Spa, Stephen Sayers and Associates, and Janice Sherman and Associates), Flat Rock Centre, The Blossom Basket, and Bent Oaks Cottages. A community-cultural use, Pinecrest Presbyterian Church, is located south of the Subject Area at the intersection of Greenville Highway (NC 225) and North Highland Lake Road (SR 1783).

**5. Utilities/Infrastructure**

**5.1. Sewer/Water:**

5.1.1. See Attachment 9, Water and Sewer Master Plan Map

5.1.2. The Subject Area is located within the City of Hendersonville Sewer and Water Service Areas. The property currently has access to City of Hendersonville water. The nearest City of Hendersonville sewer line is located on adjacent property, just north of the Subject Area.

**5.2. Transportation:**

5.2.1. Annual Average Daily Traffic Counts for Greenville Highway (NC 225), Erkwood Drive (SR 1164), Shepherd Street (SR 1779), North Highland Lake Road (SR 1783) and Spartanburg Highway (US 176) are provided in Table 5.A., below.

<b>Road</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Greenville Highway (NC 225)	7,700	8,600	8,800
Erkwood Drive (SR 1164)	-	4,700	-
Shepherd Street (SR 1779)	-	3,500	-
North Highland Lake Road (SR 1783)	5,500	-	-
Spartanburg Highway (US 176)	18,000	18,000	18,000

5.2.2. Greenville Highway (NC 225) shows consistent increase in annual average daily traffic count between 2002 and 2004. Spartanburg Highway (US 176) shows no change during the same time period.

5.2.3. See Section 6.1 regarding NCDOT plans for the area.



**6. Relevant Policies, Plans and Actions**

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

6.1.1. The Transportation Improvement Program includes the project to construct bikeways and greenways along US Highway 25 South (Project Number E-4726). No improvements are scheduled for Erkwood Drive (SR 1164), Shepherd Street (SR 1779), North Highland Lake Road (1783) or Spartanburg Highway (US 176).

**6.2. The US 25 South Corridor Study, Accepted by the Board of Commissioners on January 7, 2002:**

6.2.1. The Board of Commissioners assigned the US 25 South Corridor Study Committee (composed of representatives of the Henderson County Planning Board, Village of Flat Rock Council, City of Hendersonville Planning Board, and US 25 South Corridor residents) the task of studying a 300-foot wide corridor on either side of Greenville Highway (NC 225 (Formerly US 25 South)), between the jurisdictional boundaries of the City of Hendersonville and Village of Flat Rock, and making zoning and land use recommendations for this area. Certain recommendations contained therein do address a broader area as necessary.

6.2.1.1. The US 25 South Corridor Study recommends that “only predominantly single-family residential uses should be permitted south of the Erkwood Drive/Shepherd Street Intersection” (US 25 South Corridor Study, Pg. 14). The Study further states, “It is the position of the US 25 South Corridor Study Committee that this portion of the Study Area is best suited for light to medium density residential purposes... As a result, this portion of the Study Area will create little additional traffic congestion along US 25, as an increase in the number of curb cuts and vehicles originating from this area will be minimized.”

6.2.1.2. The recommended zoning map for the US 25 South Corridor Study support the current R-20 zoning on the Subject Area (US 25 South Corridor Study Recommended Zoning Map, Appendix B-5).

**6.3. 2020 Henderson County Comprehensive Plan (CCP):**

6.3.1. See Attachment 10, 2020 County Comprehensive Plan Future Land Use Map

6.3.2. 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).

6.3.2.1. 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).

6.3.2.2. 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).

- 6.3.2.3. The CCP states that, “Sewer and water infrastructure investments should be focused within the USA first and foremost” (2020 CCP, Pg. 129).
- 6.3.2.4. The CCP also states that, “the County’s economic development activities should be pursued within the USA” (2020 CCP, Pg. 129).
- 6.3.3. The Future Land Use Map also identifies the northern portion of the Subject Area as being within an identified Community Service Center (2020 CCP, Pg. 134 & Appendix 1, Map 24).
  - 6.3.3.1. The CCP states that, “Community Service Centers are intended to be intensive, efficient, defined concentrations of mixed services” (2020 CCP, Pg. 134).
  - 6.3.3.2. The CCP also states that Community Service Centers, “Are appropriate for a mixture of commercial uses scaled to the service area in question; residential uses of varying densities depending upon available services; and community facilities such as schools, parks, community centers and other similar community facilities” (2020 CCP, Pg. 134).
  - 6.3.3.3. The CCP also states that Community Service Centers should contain the following general land uses: community facilities, local commercial, community commercial, and regional commercial uses (2020 CCP, Pg. 135).
- 6.3.4. The Subject Area is identified as being in a Priority 4 Planning Area, the East Flat Rock / Upward Road 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 is scheduled to begin in FY 2006-2007 (2020 CCP, Pg. 155).
  - 6.3.4.1. The 2006 Henderson County Strategic Plan, adopted by the Board of Commissioners February 6, 2006, (Henderson County 2006 Strategic Plan, Pg. 12, Strategy 1.23) provides an action step regarding the community planning process, as follows:
    - Strategy 1.23 Begin community planning process. [CCP, Section 4, Implementation Steps]**
    - Action Steps:
      - 1. Amend CCP Implementation Schedule, in addition to other minor/technical revisions, in order to accommodate for the completion of the Land Development Code. (Apr 06)
      - 2. Complete the NC191 South/Mills River East small area plan. (FY 06-07)
      - 3. Complete the Etowah/Horseshoe/Mills River South small area plan. (FY 06-07)

4. Begin the East Flat Rock/Upward Road small area plan. (FY 06-07)
5. Begin the Howard Gap Road small area plan. (FY 06-07)

According to the Strategic Plan, the small area plan that could affect the Subject Area (East Flat Rock/Upward Road) would begin in Fiscal year 2006-2007.

## **7. Staff Comments and Recommendations**

7.1. Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports 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 US 25 South Corridor Study (accepted by the Board of Commissioners January 7, 2002) supported the current R-20 zoning district and further recommended that light-density to medium-density residential uses remain in the area south of the Erkwood Drive/Shepherd Street intersection (this general area includes the Subject Area); both the text and map of the 2020 CCP (adopted by the Board of Commissioners July 6, 2004) identify the Subject Area as being located in the Urban Services Area. The 2020 CCP recommends that land use regulations and policies favor higher density development in the Urban Services Area while protecting existing less intensely developed communities. In regard to the Subject Area, the 2020 CCP appears to support more dense residential development than suggested by the US 25 South Corridor Study. (See Attachment 10, 2020 County Comprehensive Plan Future Land Use Map).
- 7.1.2. Both the text and map of the 2020 CCP identify the northern portion of the Subject Area as being within a Community Service Center. Community Service Centers are intended to provide concentrations of mixed services including residential uses of varying densities based upon available services. The Subject Area's location in a Community Service Center indicates this area may be appropriate for a variety of densities. (See Attachment 10, 2020 County Comprehensive Plan Future Land Use Map).
- 7.1.3. Applying R-10 zoning to the Subject Area would increase the number 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 of the existing R-20 zoning district as compared to the proposed R-10 zoning district.
  - 7.1.3.1. 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 7, Comparison of Permitted Uses by Zoning District).
  - 7.1.3.2. R-10 zoning 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). R-20 zoning allows for lot sizes of 20,000

square feet. When applied to the Subject Area, approximately two (2) times as many lots could be permitted.

7.1.3.3. R-10 zoning allows for more than three (3) times as many dwelling units, by right, as permitted in the R-20 zoning district. When applied to the Subject Area, a 330 percent increase in dwelling units could be permitted.

7.1.3.4. R-10 zoning allows minimum side and rear yard setbacks of ten (10) feet; where R-20 zoning requires larger side and rear yard setbacks of 25 feet. The front yard setback remains the same in both districts (50 to 75 feet dependent upon street type).

R-10 zoning allows for reduced lot sizes and setbacks, increased densities, and additional uses. The lot sizes, setbacks, densities, and uses of the R-10 district seem to be in keeping with the character of the immediate vicinity as the Subject Area directly abuts an existing R-10 district, making it part of a contiguous R-10 district.

7.1.4. Applying R-10 zoning to the Subject Area could impact public services. The Board must consider potential impacts including those to water, sewer, roads, emergency services, and schools.

7.1.4.1. 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 located on an adjacent property and a water line runs through 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 sewer services being extended, but cannot recommend granting the rezoning based on the extension of sewer lines to the Subject Area as a condition.

7.1.4.2. R-10 zoning would result in a potential increase in traffic on roads. The Subject Area parcel has 118 feet of road frontage along Greenville Highway (NC 225), on which the driveway access currently exists. Were the Subject Area developed under proposed R-10 zoning an increase in traffic along Greenville Highway (NC 225) could occur. It is Staff's position that the potential increase in traffic along Greenville Highway (NC 225) as a result of the application of R-10 zoning does not appear largely different than could occur under existing R-20 zoning.

7.1.4.3. R-10 zoning would result in a potential increase in lots/dwellings, resulting in a potential increase in provision of emergency services and a potential increase in the number of school-aged persons residing on the Subject Area.

It is Staff's position that, due to the relatively small size of the Subject Area and similarities among the two districts, R-10 zoning does not appear to create a

largely different impact on public services than were the Subject Area developed under existing R-20 zoning.

7.1.5. Staff should identify plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest to justify supporting a proposed rezoning. Staff's position is that the recommendations of the 2020 CCP, the conditions of the surrounding area, and the similarity of the zoning districts' permitted uses justify supporting the proposed rezoning.

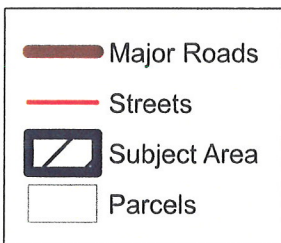
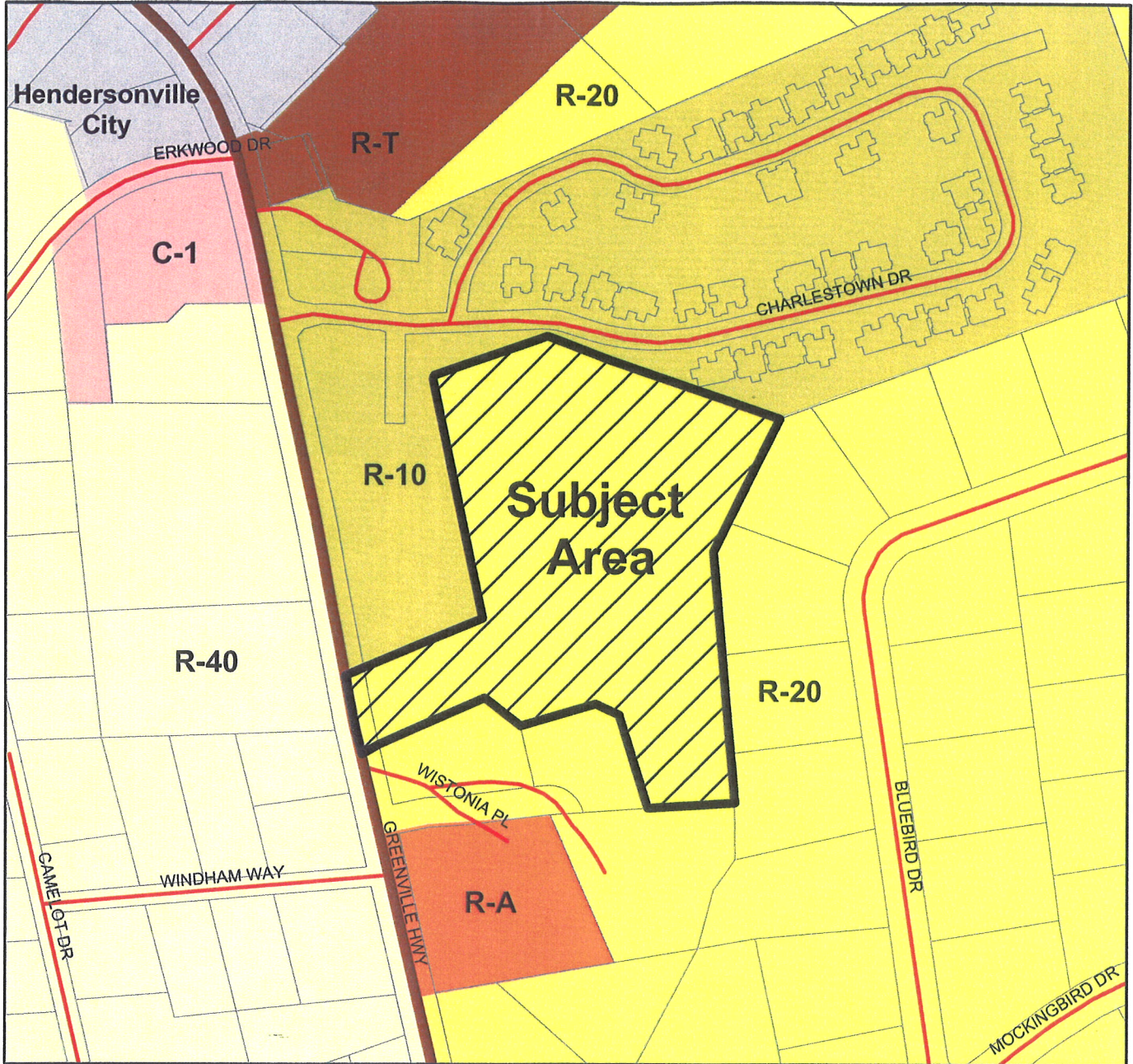
7.1.5.1. It is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would further inform the County's consideration of the proposed rezoning.

## **8. Planning Board Recommendations**

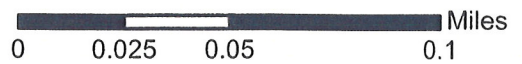
8.1. See Attachment 13, Excerpt of Planning Board Minutes from July 18, 2006

8.2. The Henderson County Planning Board considered rezoning application #R-2006-02 at its regularly scheduled meeting on July 18, 2006. During that meeting, the Planning Board voted 5 to 1 to send the Board of Commissioners a favorable recommendation on rezoning application #R-2006-02 to rezone the Subject Area from an R-20 zoning district to an R-10 zoning district.

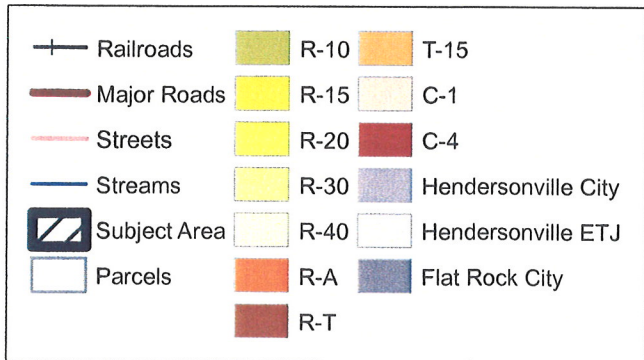
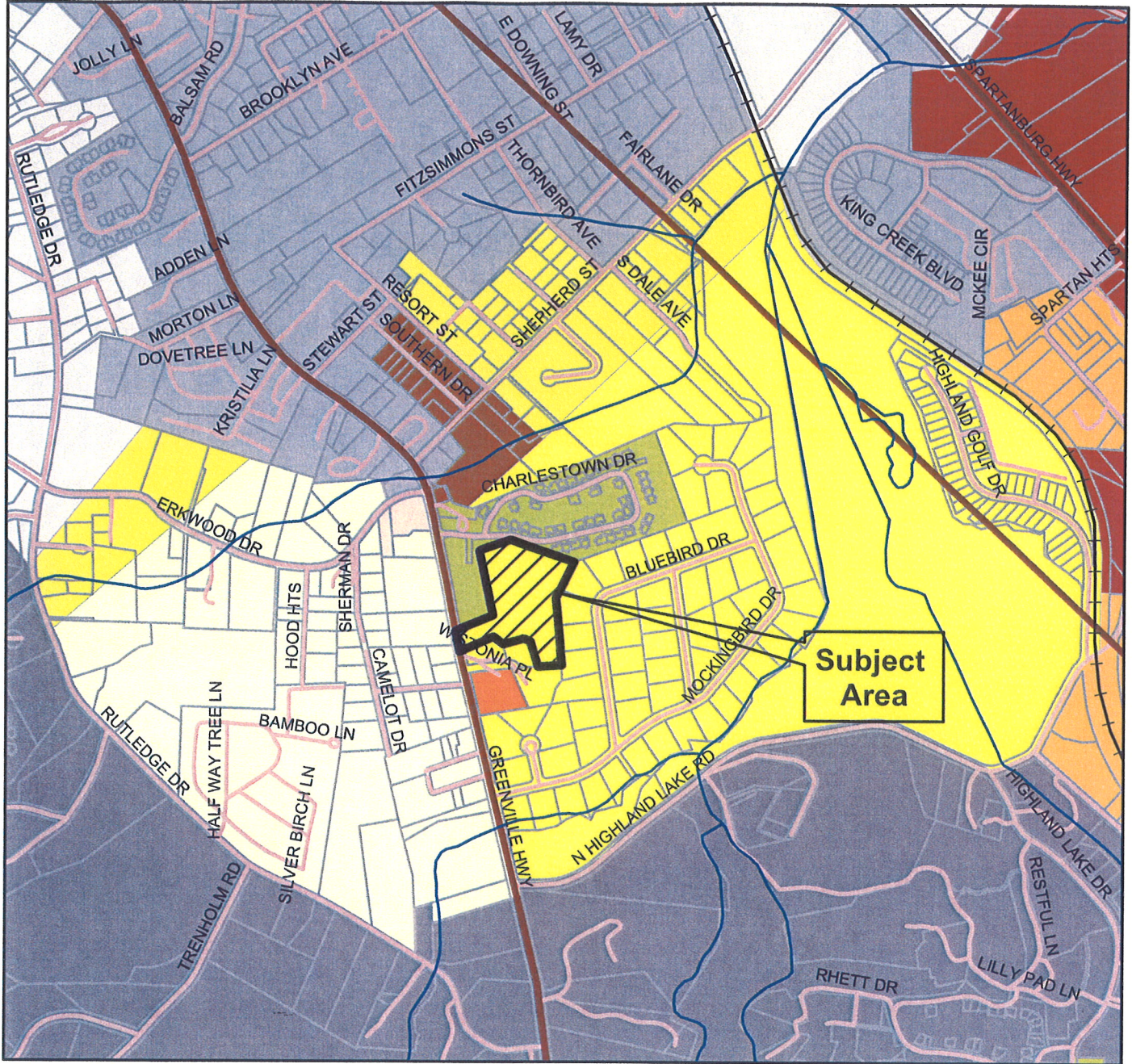
# Site / Current Zoning Map



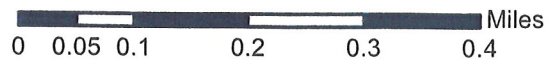
**Rezoning Application**  
**#R-2006-02**  
**Michael L. & Tracy J. Burns, Applicants**  
**Norma McMahan, Agent**



# Vicinity / Current Zoning Map



**Rezoning Application**  
**#R-2006-02**  
**Michael L. & Tracy J. Burns, Applicants**  
**Norma McMahan, Agent**



**§ 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 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	
			Major <sup>1</sup> (ft.)	All Others (ft.)	Side (ft.)	Rear (ft.)
20,000	20,000	Unlimited	75	50	25	25

NOTES:

<sup>1</sup> 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	
			Major <sup>1</sup> (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	

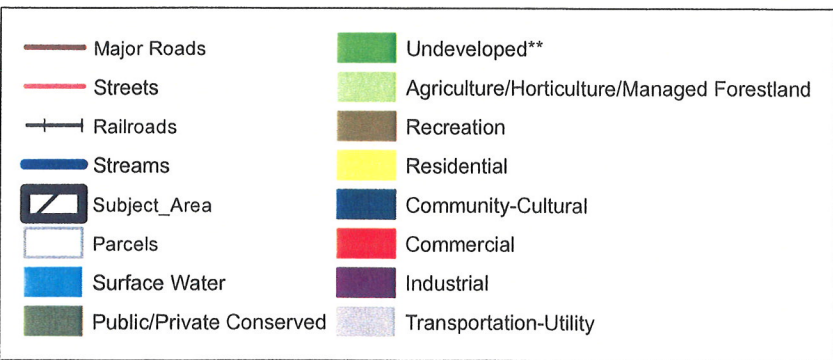
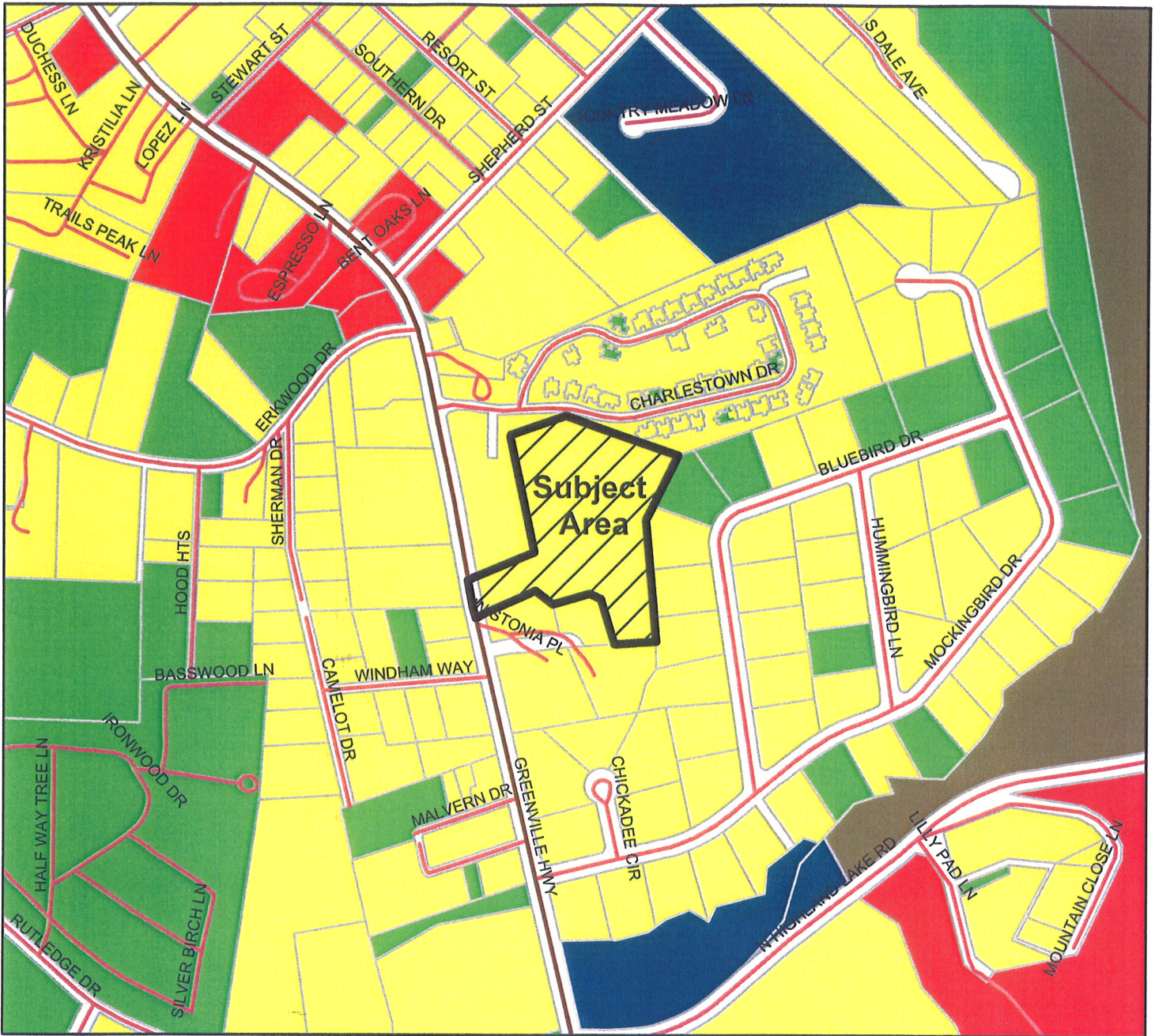
NOTES:

<sup>1</sup> 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.

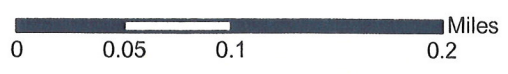
<b>Table 1. Comparison of Permitted Uses by Zoning District</b>		
<b>Uses</b>	<b>R-20</b>	<b>R-10</b>
<b>Agricultural Uses</b>		
Bona fide farms	P	P
<b>Residential Uses</b>		
Apartments (Up to a quadraplex on a single lot)	-	P
Bed-and-Breakfast Inns	CU	CU
Family Care Homes	P	P
Planned Unit Developments	SU	SU
R-A Residential Apartments	SU	SU
R-O Residential Open Spaces Developments	SU	SU
Single-family Dwellings	P	P
Two-family Dwellings	-	P
<b>Accessory Uses</b>		
Home Occupations (Customary Incidental)	CU	CU
Garage Apartments (One per lot)	-	P
<b>Accessory Structures</b>		
Customary Accessory Buildings (Noncommercial greenhouses, private garage, workshops, etc.)	P	P
<b>Recreational Uses</b>		
Parks, Camps, Tennis Racquet Clubs	CU	CU
<b>Educational and Institutional Uses</b>		
Cemeteries (Church)	P	P
Cemeteries (Nonchurch related)	-	CU
Churches	P	P
Civic and Cultural Buildings (Auditoriums, theaters, museums, art galleries, symphony/concert halls, historical societies, etc.)	P	P
Libraries	CU	CU
Medical Institutional Care Developments	SU	SU
Schools (Public/Private)	P	P
<b>Transportation, Warehousing and Utilities Uses</b>		
Group 1 Communication Towers/Tower Activities	P	P
Group 2 Communication Towers/Tower Activities	P	P
Group 6 Communication Towers/Tower Activities	SU	SU
Public Utility Stations	P	P
Transformer Stations	P	P
<b>Sign Uses</b>		
Church Bulletin Boards	P	P
Signs (Sale/rental of property)	P	P
<b>Group Development Uses</b>		
Group Developments	P	P

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

# Current Land Use Map

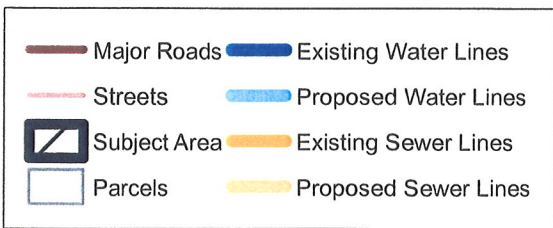
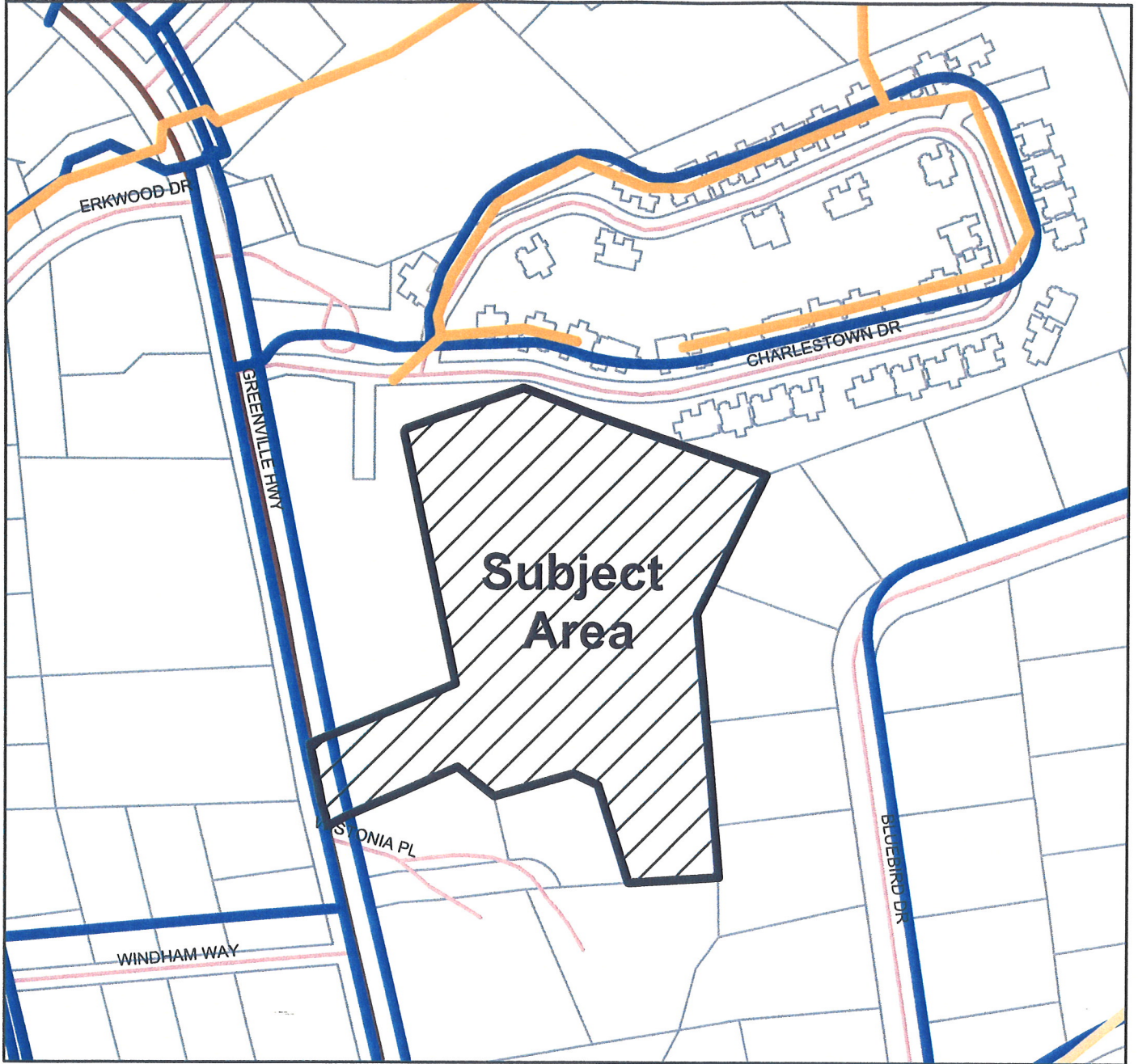


**Rezoning Application**  
**#R-2006-02**  
**Michael L. & Tracy J. Burns, Applicants**  
**Norma McMahan, Agent**

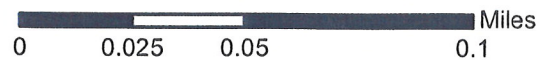


\*\* May include forested as well as agricultural land. Any parcel containing residential development where the acreage to dwelling unit ratio is 10:1 or greater is classified as undeveloped.

# Water and Sewer Master Plan Map

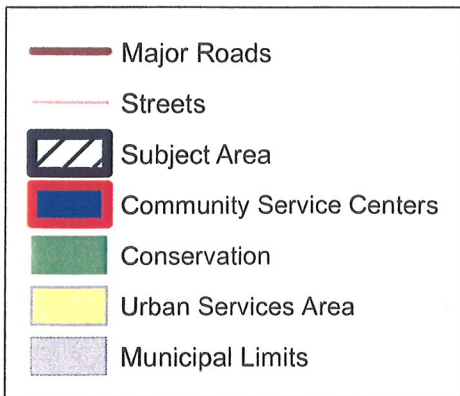
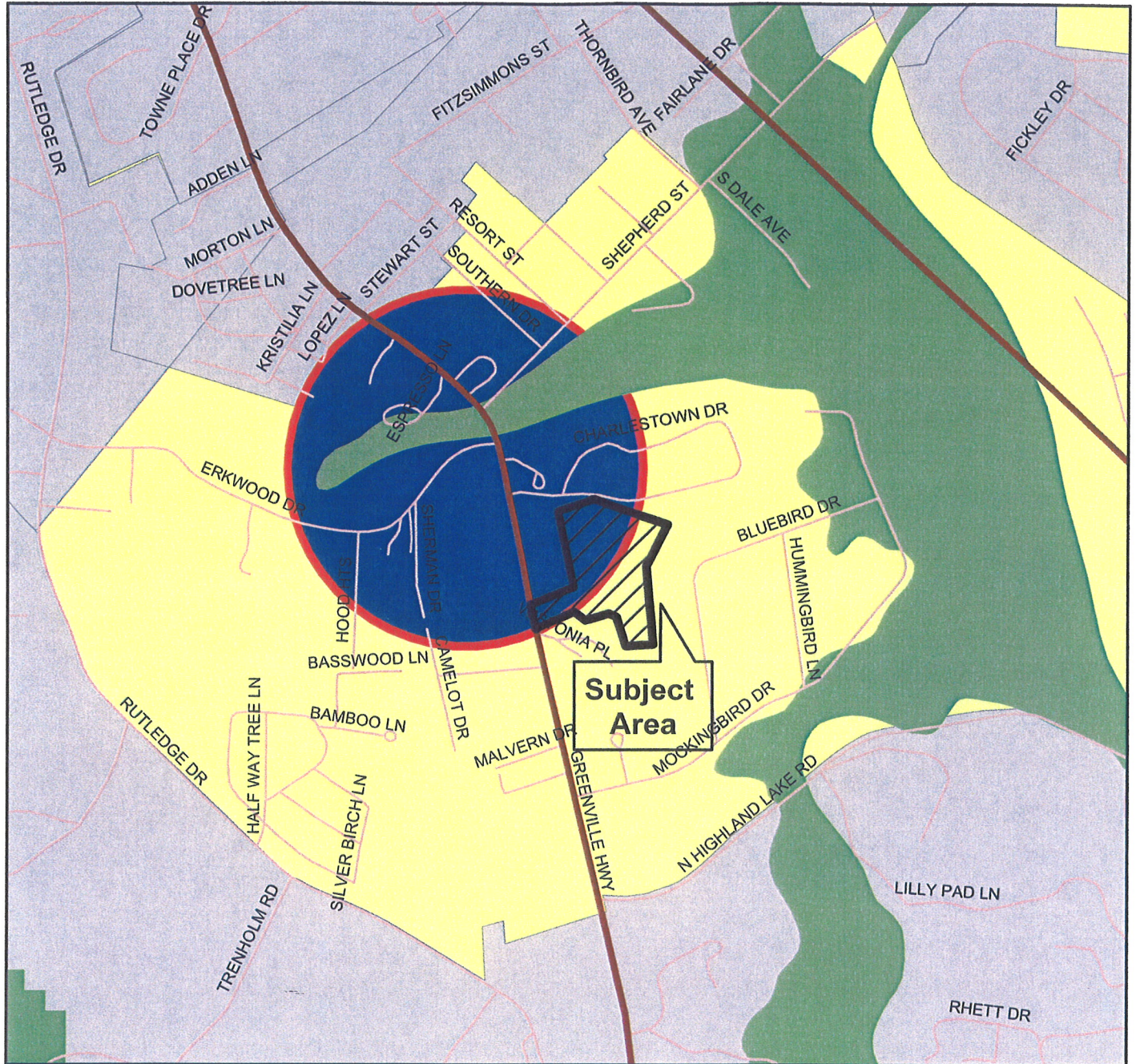


**Rezoning Application**  
**#R-2006-02**  
**Michael L. & Tracy J. Burns, Applicants**  
**Norma McMahan, Agent**



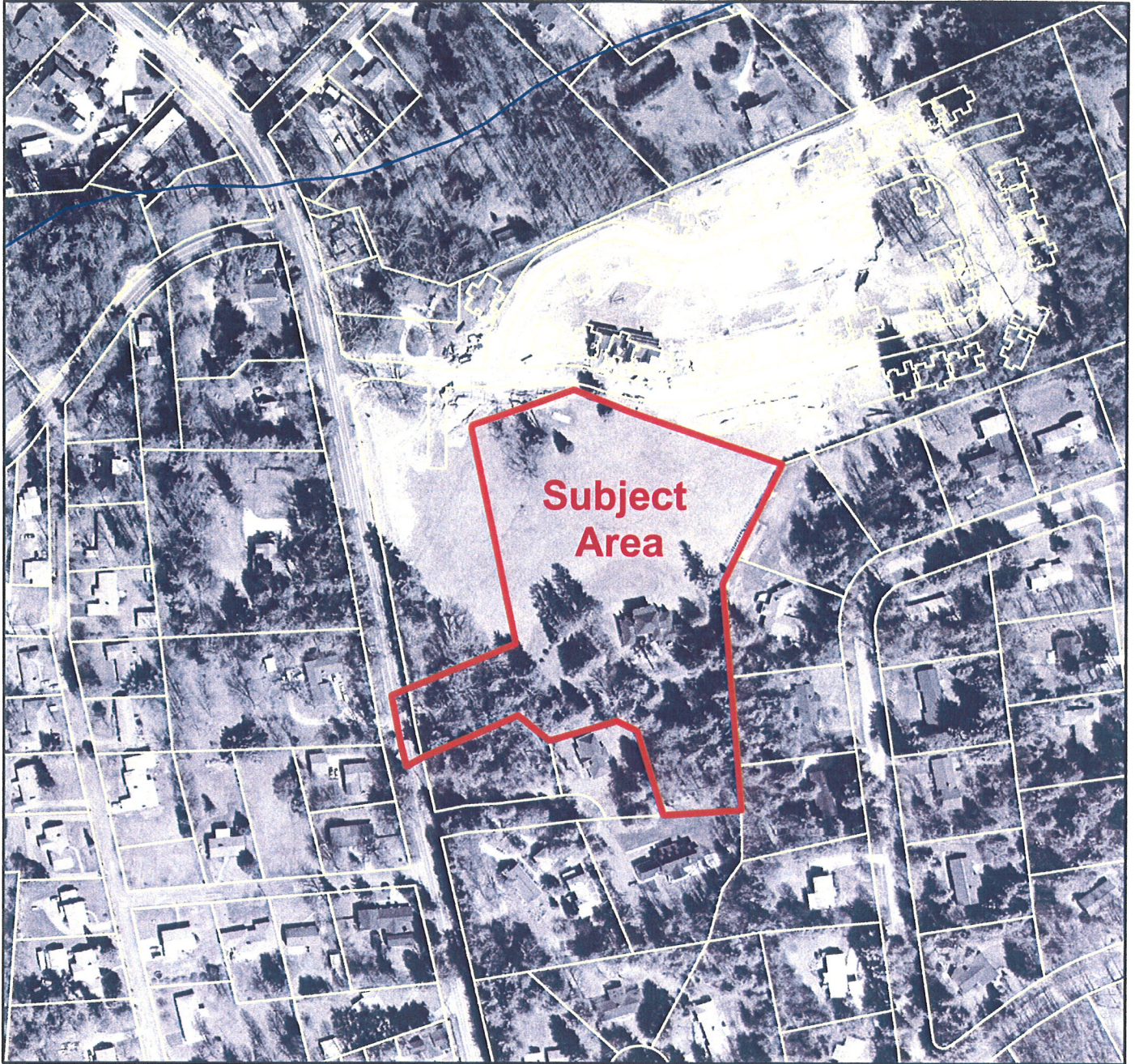




# 2020 County Comprehensive Plan Future Land Use Map



**Rezoning Application**  
**#R-2006-02**  
**Michael L. & Tracy J. Burns, Applicants**  
**Norma McMahan, Agent**

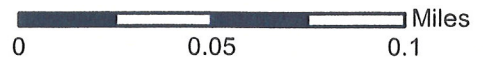




+	Railroads		Subject Area
—	Streams		Parcels



**Rezoning Application**  
**#R-2006-02**  
**Michael L. and Tracy J. Burns, Applicants**  
**Norma McMahan, Agent**





View of existing private drive to the Subject Area located off of Greenville Highway (NC 225).



View of northern portion of Subject Area from the existing private drive. The visible residential structures are located in Charlestown Place Planned Unit Development.



View of existing residential structure looking south.



View of existing residential structure looking east along the private drive.

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
July 18, 2006**

**Excerpt**

Rezoning Application - (#R-2006-02) – Request to Rezone Approximately 5.91 Acres Located off Greenville Highway (NC 225), from an R-20 (Low-Density Residential) Zoning District to an R-10 (High-Density Residential) Zoning District — Norma McMahan, Agent for Michael L. and Tracy J. Burns, Owners and Applicants.

Mr. Cable stated that on June 9, 2006, Michael L. and Tracy J. Burns submitted an application to rezone approximately 5.91 acres of land from an R-20 zoning district to an R-10 zoning district. The subject area is owned by the applicants, Michael and Tracy Burns and the Applicant's Agent is Norma McMahan. He stated that the subject area is located off Greenville Highway, approximately two-tenths of a mile south of the intersection of Greenville Highway and Erkwood Drive / Shepherd Street and is currently zoned R-20, which was applied to the area when zoning was initiated in Henderson County. The subject area is surrounded to the north by an R-10 zoning district, to the south and east by an R-20 zoning district, and to the west by an R-40 zoning district. Mr. Cable said that the R-20 Low-Density Residential Zoning District is intended to be a quiet, low-density neighborhood consisting of single-family residences. 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 stated that the subject area currently contains a single-family residential use and most uses adjacent to the subject area are residential. Uses within the vicinity include commercial, office, and community-cultural uses.

Adjacent residential uses include Charlestown Place Planned Unit Development to the north and Statonwoods Subdivision to the south. Commercial and office uses, including Sherman's Business Park and Flat Rock Center, are located to the north of the subject area in and around the intersection of Greenville Highway and Erkwood Drive/Shepherd Street.

Mr. Cable said that the property currently has access to City of Hendersonville water. The nearest City of Hendersonville sewer line is located on adjacent property, just north of the subject area.

Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the property to be zoned for high-density residential uses; this is based on the following:

1. Both the text and map of the 2020 CCP identify the subject area as being located in the Urban Services Area, with northern portions of the subject area located within a Community Service Center, making it suitable for mixed services including residential uses with varying densities.
2. R-10 zoning allows for reduced lot sizes and setbacks, increased densities, and additional uses.
3. Applying R-10 zoning to the subject area would increase the number of uses permitted. R-10 zoning allows for all uses permitted within the R-20 district as well as allowing apartments, two-family dwellings, garage apartments, and non-church related cemeteries. Applying R-10 zoning would permit two (2) times as many lots and three (3) times as many dwelling units, by right, as could occur under current R-20 zoning. Applying R-10 zoning would reduce side and rear yard setbacks from 25 feet to 10 feet.
4. Though there are differences between R-10 and R-20 zoning; the lot sizes, setbacks, densities, and uses of the R-10 district seem to be in keeping with the character of the immediate vicinity

as the subject area directly abuts an existing R-10 district, making it part of a contiguous R-10 district.

5. Applying R-10 zoning to the subject area could impact public services. It is Staff's position that, due to the relatively small size of the subject area and similarities among the two districts, R-10 zoning does not appear to create a largely different impact on public services than were the subject area developed under existing R-20 zoning.
6. Staff should identify plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest to justify supporting a proposed rezoning. Staff's position is that the recommendations of the 2020 CCP, the conditions of the surrounding area, and the similarity of the zoning districts' permitted uses 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 further inform the County's consideration of the proposed rezoning.

Chairman Pearce had some questions dealing with densities and encouraged Staff to look into the legality of how the County computes density. He had concerns regarding the provisions of services [water and sewer]. Mr. Cable said that the property already has water and is directly adjacent to sewer facilities. After some discussion, Chairman Pearce said that if R-10 districts are expected to have public water and sewer facilities available and the subject area doesn't, he doesn't see how the Board can approve it. Mr. Cooper said, "What is expected that they are going to pay to extend, because a developer is never going to have public sewer if they don't pay to extend it, because the City generally will not pay to extend it." Ms. Kumor said that in the Ordinance [Subdivision] it says you are near a sewer line, you have to tie in, unless you are far away, then the Planning Board does not force the issue. After some continued discussion, Ms. Kumor analyzed the comments of Chairman Pearce and said she feels he wants to make sure that the Board doesn't assume that the provisions of services will happen. She said that if it is rezoned, the potential exists and if that potential does not become actual, the property owner cannot develop to the R-10 zoning capacity because the land will not be able to handle it, if they use septic systems. Chairman Pearce said that he feels that there should be something more concrete regarding the sewer extension and it should be in place for the Board to consider rezoning that property, especially having served on the US 25 South Corridor Committee a few years ago for the County with individuals from the municipalities. He said that there was a strong feeling among that committee that without sewer, these areas should not have a greater density than the ones already specified.

Norma McMahan, applicant's agent, said that the sewer line is close to this property, about 4 or 5 feet from it. She said their intentions are to try to get a quiet organization such as a skilled nursing home. Chairman Pearce reminded the applicant that this could not be considered. Chairman Pearce said getting sewer to that property means crossing over a number of easements. He asked whether they have received any letters from the City guaranteeing extension? Ms. McMahan said that she has not, but Joe Crowell owns the property beside the applicant would possibly sell his two acres to combine with ours and then they would have sewer access.

Mark Williams made a favorable recommendation to the Board of Commissioners to rezone approximately 5.91 acres of land located off Greenville Highway from an R-20 to an R-10 zoning district, application # R-2006-02. John Antrim seconded the motion. Those in favor of the motion were: Mark Williams, John Antrim, Renee Kumor, Tommy Laughter and Mike Cooper. Chairman Pearce was opposed. The motion was 5 to 1 in favor.

**NOTICE OF PUBLIC HEARING  
ON PROPOSED ZONING MAP AMENDMENT  
(Rezoning Application # R-2006-02)**

The Henderson County Board of Commissioners will hold a public hearing on an application (#R-2006-02) for a proposed amendment to the Official Zoning Map of Henderson County, North Carolina, that would rezone approximately 5.91 acres of land, located off Greenville Highway (NC 225), from an R-20 (Low-Density Residential) zoning district to an R-10 (High-Density Residential) zoning district. The Subject Area appears to be parcel 9577-27-6882 which is owned by the applicants, Michael L. and Tracy J. Burns.

The public hearing will be held on Wednesday, September 20, 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

For publication in the Times News on Wednesday, August 30, 2006 and Wednesday, September 6, 2006.