

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

Meeting Date: September 2, 2008

Subject: Public Hearing for Rezoning R-2008-10

Attachments:

1. Staff Report
2. Aerial Photo Map
3. Community Commercial (CC) District Text
4. Excerpt of Planning Board Minutes
5. Photos of Subject Area
6. Certification of Notice Requirements
7. Powerpoint Presentation

Summary of Request:

Rezoning Application #R-2008-10, which was submitted on May 22, 2008, requests that the County rezone approximately 0.83 acres from an Estate Residential (R-40) zoning district to a Community Commercial (CC) zoning district. The Subject Area is one parcel (PIN 9549-28-1451) located at 3751 Brevard Road (US Hwy 64) and owned by Mr. Kevin Brown. The Subject Area is located within the Etowah and Horse Shoe Communities Planning Area. Pursuant to §200A-314C(2)e of the Land Development Code the Planning Director initiated this rezoning request.

The Henderson County Planning Board considered rezoning application #R-2008-10 at its regularly scheduled meeting on July 17, 2008. During that meeting, the Planning Board voted 6 to 0 to send the Board of Commissioners a favorable recommendation on rezoning application #R-2008-10 to rezone the Subject Area from an Estate Residential (R-40) zoning district to a Community Commercial (CC) zoning district.

Public Notice:

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with Section 200A-314 of the Henderson County Land Development Code and State Law, notices of the September 2, 2008, public hearing regarding rezoning application #R-2008-10 were published in the Hendersonville Times-News on August 20, 2008 and August 27, 2008. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area and the applicant on August 18, 2008 and posted signs advertising the hearing on the Subject Area on August 18, 2008 (see Attachment 6 for Certification of Notice Requirements).

Board Action Requested:

Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the subject area from R-40 (Estate Residential) to CC (Community Commercial) which is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

Suggested Motion:

I move that the Board approve rezoning application #R-2008-10 to rezone the Subject Area from an R-40 (Estate Residential) zoning district to a CC (Community Commercial) zoning district as recommended by the Staff Report. I further move that rezoning application #R-2008-10 is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

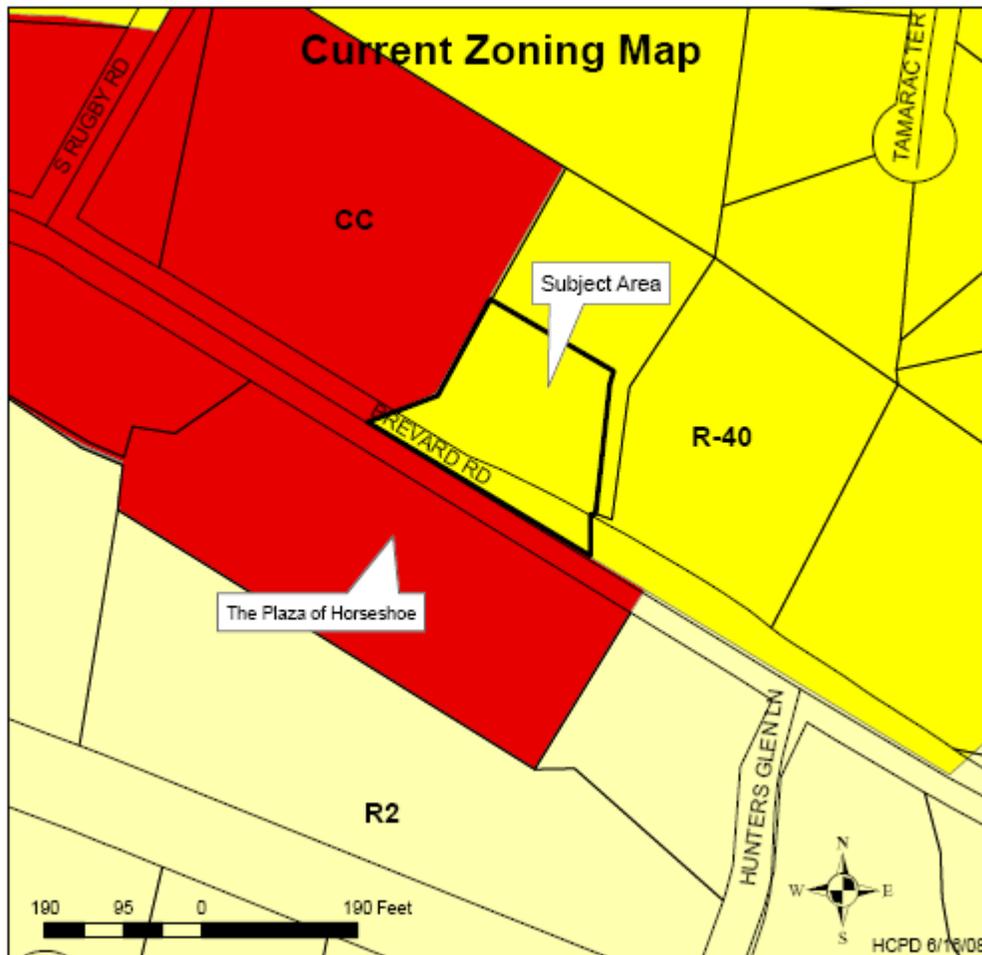
Henderson County Planning Department Staff Report**Rezoning Application #R-2008-10 (R-40 to CC)****Mr. Kevin Brown, Owner/Applicant**

1. REZONING REQUEST**1.1. Date of Application:** May 22, 2008**1.2. Property Owner and Applicant:** Mr. Kevin Brown**1.3. Request:** Rezone Subject Area from an R-40 (Estate Residential) zoning district to a CC (Community Commercial) zoning district.**1.4. Subject Area:****1.4.1. Size:** Approximately .83 acres of land comprised the one parcel.**1.4.2. PIN:** 9549281451 (See Map A)**1.4.3. Location:** The Subject Area is:**1.4.3.1.** About 500 feet southeast of the intersection of South Rugby Road (SR 1312) and US Hwy 64 West (Brevard Road); and**1.4.3.2.** Located across from the The Plaza of Horse Shoe.**Map A: Map of Subject Area**

2. CURRENT ZONING

- 2.1. **Application of Current Zoning:** The Subject Area is currently zoned R-40 (Estate Residential) which was originally applied with the adoption of Chapter 200, Zoning Ordinance in July 1981. (See Map B).

Map B: Current Zoning



- 2.2. **Adjacent Zoning:** To the northeast R-40 (Estate Residential), to the west and south CC (Community Commercial). Surrounding the CC zoning district is R2. The CC zoning district was previously (prior to LDC adoption on September 19, 2007) zoned C2. The R-40 has remained the same. The R2 zoning district was previously zoned R-30.

2.3. **District Comparison:**

R40 Estate Residential District: “This district is established as a district in which the principal use of the land is for low-density residential use. This district is intended to ensure that residential 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. This district is also intended to be a quiet, low-density neighborhood consisting of single-family residences.” (Chapter 200A, Land Development Code §200A-

27). R-40 (Estate Residential) (1) requires 35 foot side and rear setbacks; (2) does not limit maximum height; and (3) provides a minimum lot size of 40,000 square feet.

Community Commercial District (CC): The intent of this district is to allow for commercial development consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide commercial development that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other uses done primarily for sale or profit on the local and community level; (2) is directed largely to Community Service Centers as defined in the Comprehensive Plan; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general use district is meant to be utilized in areas designated as Transition or Urban in the Comprehensive Plan. The Community Commercial zoning district: (1) allows multifamily development (five or more units); (2) has a maximum floor area for commercial development of 80,000 sq ft; (3) 45-foot front yard setback and 10-foot side and rear setbacks; and (4) maximum height of 50 feet.

3. CURRENT USES

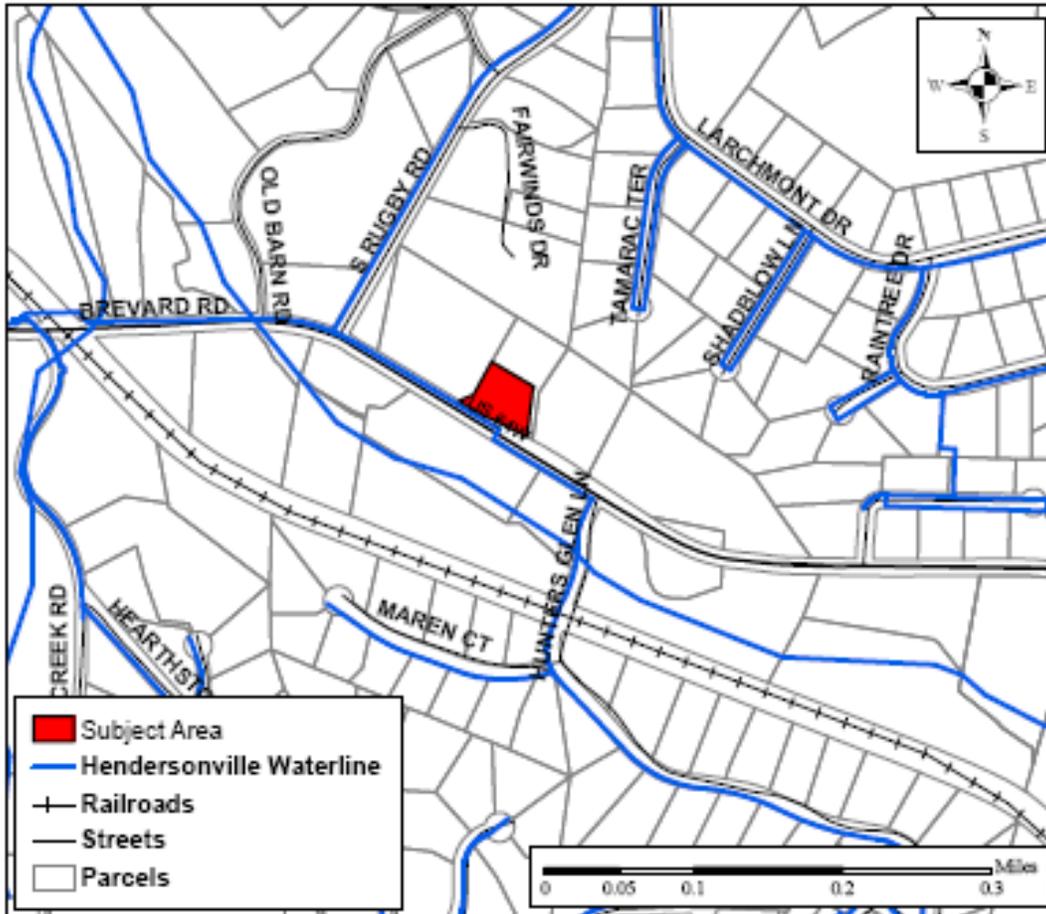
- 3.1. **Subject Area Uses:** The Subject Area contains a single-family residential dwelling unit.
- 3.2. **Adjacent Area Uses:** Surrounding area contains primarily single-family residential uses with commercial uses across US Hwy 64 (Brevard Road) from the Subject Area.
- 3.2.1. **To the Northwest, North and East:** Are multiple properties with single-family residential uses.
- 3.2.2. **To the South and Across US Hwy 64 (Brevard Rd):** Is the Plaza of Horse Shoe with 14 different types of businesses. Also across US Hwy 64 and to the southeast is the Horse Shoe post office and to the southwest is the Citgo Quick Mart.



4. WATER AND SEWER

- 4.1. **Public Water:** Public water (City of Hendersonville) appears to be located on the Subject Area site (See Map C).
- 4.2. **Public Sewer:** Public sewer does not appear to be located at the Subject Area. (See Map C).

Map C: Water and Sewer Map



5. TRANSPORTATION AND ACCESS

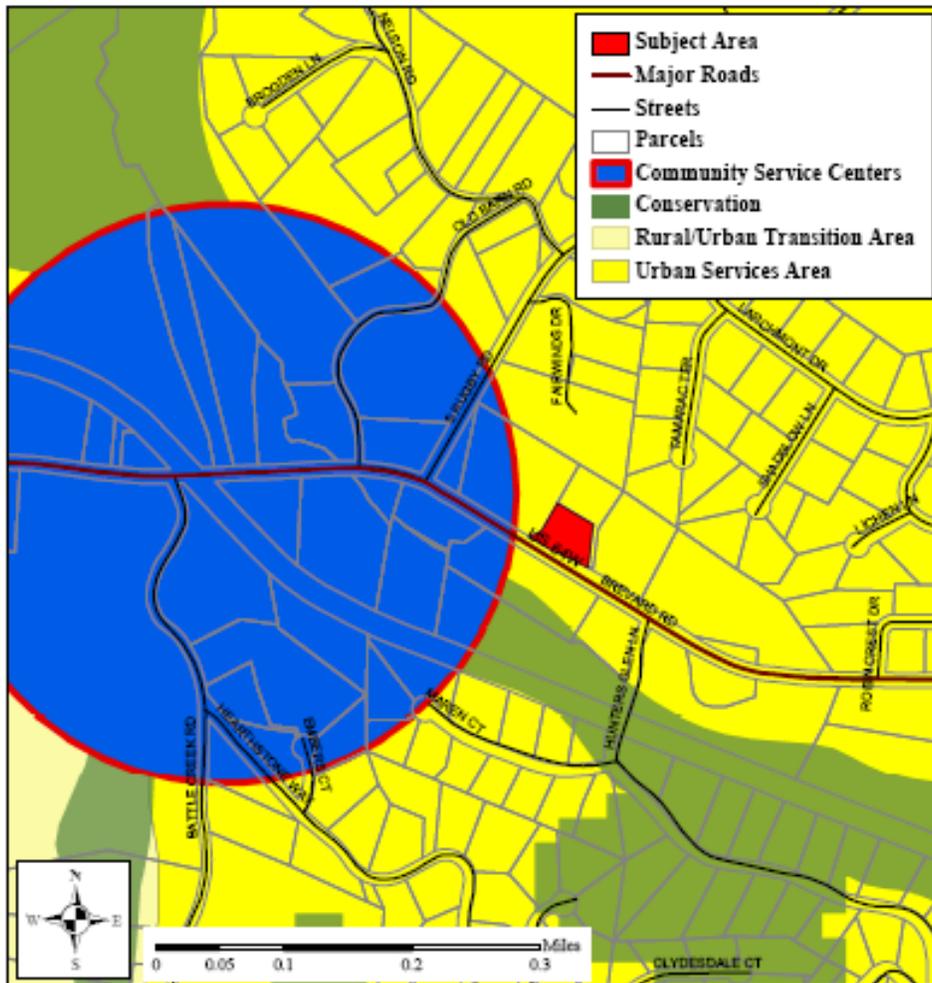
- 5.1. **Frontage:** The Subject Area has approximately 260 feet of road frontage along US Hwy 64 (Brevard Rd).
- 5.2. **Transportation:** Table A, below, provides Annual Average Daily Traffic Counts for US Hwy 64 in the vicinity of the Subject Area.

Table A. Annual Average Daily Traffic Count					
Road	2002	2003	2004	2005	2006
US Hwy 64	12,000	12,000	12,000	-	-

6. HENDERSON COUNTY 2020 COMPREHENSIVE PLAN (CCP)

6.1. **Urban Services Area:** The CCP Future Land Use Map identifies the Subject Area as being located in the Urban Services Area (2020 CCP, Pgs. 128, 129 & Appendix 1, Map 24) (See Map D). The Future Land Use Map also shows the Subject Area located next to a Community Service Center.

Map D: 2020 County Comprehensive Plan Future Land Use Map



6.1.1. The CCP states that, “the USA will contain considerable commercial development at a mixture of scales: *Local, Community, and Regional*. Commercial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129).

6.1.2. The CCP Future Land Use Map (See Map C) shows that the Subject Area is close to a “Community Service Center”.

- 6.1.2.1. The CCP states that, “Community Service Centers are intended to be intensive, efficient, defined concentrations of mixed services” (2020 CCP, Pg. 134).
- 6.1.2.2. 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).
- 6.1.2.3. 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).

7. STAFF COMMENTS

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 from an R-40 (Estate Residential) zoning district to a CC (Community Commercial) zoning district. This based on the following:

- 7.1. **Urban Services Area:** The CCP Future Land Use Map (See Map D) places the subject area in the “Urban Services Area” classification. The text and map of the 2020 CCP suggest that the Subject Area would be suitable for commercial development among other uses. It states that the USA will contain considerable commercial development at a mixture of scales: *Local, Community and Regional*. The CCP indicates that the USA may be suitable for commercial development provided the development is in keeping with the surrounding community. Applying CC (Community Commercial) may be in keeping with surrounding residential uses if adequate protections for these uses are in place. The Land Development Code would require a B-2 buffer for all commercially zoned property directly abutting residentially zoned property. Additionally, the current size of the property may limit the type of future uses.
- 7.2. **Future Land Use Map:** The Future Land Use Map of the 2020 CCP identifies the Subject Area as being in close proximity to 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 next to a Community Service Center indicates this area may be appropriate for a variety of uses. Community Service Centers generally show areas best suited for concentrated commercial development. As a need arises or as the community grows, it is anticipated that Community Service Centers will also need to expand.
- 7.3. **Adjacent Zoning:** The Subject Area directly abuts an existing CC (Community Commercial) zoning district to the northwest and south. If the Subject Area were to be rezoned to CC (Community Commercial) this property would be a part of a contiguous CC (Community Commercial) zoning district. The CC (Community Commercial) zoning district may be acceptable for this property, however the LC

(Local Commercial) zoning district may be the most suitable zoning district. The LC (Local Commercial) zoning district allows for single-family residential uses. The CC (Community Commercial) zoning district does not allow single-family residential uses.

8. STAFF RECOMMENDATION

8.1. When reviewing rezoning requests Staff attempts to identify plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest to justify supporting the proposed rezoning. Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the Subject Area to CC (Community Commercial) consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

8.1.1. 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. Staff requests the Applicant not discuss any specific use being considered for the property. The Board of Commissioners cannot consider any specific proposed use for the property and must only consider the range of possible uses when reviewing and making recommendations on the rezoning request.

9. TECHNICAL REVIEW COMMITTEE RECOMMENDATION

9.1. The Henderson County Technical Review Committee considered rezoning application #R-2008-10 at its regularly scheduled meeting on July 1, 2008. During the meeting, the Technical Review Committee voted unanimously to send forward a favorable recommendation on rezoning application #R-2008-10 to rezone the Subject Area from an R40 (Estate Residential) zoning district to an CC (Community Commercial) zoning district.

10. PLANNING BOARD RECOMMENDATION

10.1 The Henderson County Planning Board considered rezoning application #R-2008-10 at its regularly scheduled meeting on July 17, 2008. During that meeting, the Planning Board voted 6 to 0 to send the Board of Commissioners a favorable recommendation on rezoning application #R-2008-10 to rezone the Subject Area from an Estate Residential (R-40) zoning district to a Community Commercial (CC) zoning district.



Rezoning Application #R-2008-10
Owner/Applicant: Mr. Kevin Brown
Current Zoning: R-40
Proposed Zoning: CC

Legend

- Streets
- Parcels

§200A-34. Community Commercial District (CC)

- A. **Purpose.** The purpose of the Community Commercial District (CC) is to foster orderly growth where the *principal use* of land is commercial. The intent of this district is to allow for *commercial development* consistent with the recommendations of the *Comprehensive Plan*. In accordance with the *Comprehensive Plan*, the district will allow for and provide *commercial development* that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other *uses* done primarily for sale or profit on the local and community level; (2) is directed largely to Community Service Centers as defined in the *Comprehensive Plan*; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general *use district* is meant to be utilized in areas designated as Transition or Urban in the *Comprehensive Plan*.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases a specific *use* may be required to meet the Supplemental Requirements as set forth in §200A-63 (Supplemental Requirements).

Table 2.8. CC Density and Dimensional Requirements			
		(1) <i>Residential Density</i> (units/acre)	16
		<i>Maximum Impervious Surface</i> (%)	80
		(2) <i>Maximum Floor Area</i> (sq ft)	80,000 or 30,000
<i>Yard Setbacks</i> (feet)	<i>Front or ROW</i>	<i>Local</i>	20
		<i>Collector</i>	25
		<i>Thoroughfare</i>	35
		<i>Boulevard</i>	45
		<i>Expressway</i>	55
		<i>Freeway</i>	60
		<i>Side</i>	10
		<i>Rear</i>	10
Maximum Height (feet)			50

- (1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

$$\text{Lot size} \times \text{allowable units per acre} = \text{permitted dwelling units}$$

The following example assumes a 5 acre tract with an allowable density of 16 units/acre:

$$5 \text{ acres} \times 16 \text{ units per acre} = \mathbf{80 \text{ permitted dwelling units}}$$

The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.

- (2) Within a multi-tenant *structure/site*, , the principal tenant shall have a maximum *gross floor area* of 80,000 square feet. The maximum *gross floor area* for any other tenant shall be 30,000 square feet. The maximum *gross floor area* for a single unit on a single *lot* shall be 30,000 square feet.

Rezoning Application # R-2008-10 – Request to Rezone Approximately .83 Acres of Land – Fronting Directly on US Highway 64 West (Brevard Road) – from R-40 (Estate Residential) Zoning District to a CC (Community Commercial) Zoning District – Kevin Brown – Presentation by Jason Waddell. Mr. Waddell stated Rezoning Application #R-2008-10 requests that the County rezone approximately .83 acres of land, located off of US Hwy 64 (Brevard Road), from an R-40 (Estate Residential) zoning district to a CC (Community Commercial) zoning district. The property is currently owned by Kevin Brown. The Technical Review Committee reviewed and sent forward a favorable recommendation on the rezoning at its July 1st meeting. Mr. Waddell explained the comparison between the R-40 zoning district and the Community Commercial.

Planning staff posted the property giving notice of the Planning Board meeting on July 7, 2008. The Planning Board has 45 days from its first consideration of a rezoning application to make a recommendation to the Board of Commissioners.

Mr. Waddell stated that Staff's position at this time, under the guidelines of current plans, policies and studies, is it support the rezoning of the property to be zoned from R-40 zoning district to CC (Community Commercial) zoning district because the CCP future Land Use map places the subject area in the Urban Services Area and that it suggested that the subject area would be suitable for commercial development among other uses and applying Community Commercial may be in keeping with surrounding residential uses if adequate protections for these uses are in place. The future Land Use map also identifies the subject area as being in close proximity to a Community Service Center and therefore may be appropriate for a variety of uses. The subject area directly abuts an existing Community Commercial zoning district to the northwest and south and if this was to be rezoned, this property would be part of a contiguous Community Commercial zoning district. He stated that however the Local Commercial zoning district may be the most suitable zoning district as it allows for single-family residential uses, where the Community Commercial does not allow these uses.

Mike Cooper made a motion that the Planning Board recommends approval of rezoning application #R-2008-10 to rezone the Subject Area from an R-40 (Estate Residential) zoning district to a CC (Community Commercial) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. Tommy Laughter seconded the motion and all members voted in favor.

Rezoning Application #R-2008-10
Photos of Subject Area
Subject Area located off of US Hwy 64 West.

Single-family residence on Subject Area.



View of side yard next to shared driveway.



View of rear yard



View of single-family residence behind Subject Area.



Certification of Notice of Public Hearing

In accordance with NCGS 153A-343 the Planning Department certifies notices of the September 2, 2008 hearing regarding Rezoning Application #R-2008-10 were:

1. Submitted to the Hendersonville Times-News on August 13, 2008 to be published on August 20, 2008 and August 27, 2008 by Autumn Radcliff;
2. Sent, via first class mail, to the owners of properties adjacent to the Subject Area on August 18, 2008 by Matt Card;
3. Sent, via first class mail, to the property owners on August 18, 2008 by Matt Card; and
4. Posted on the Subject Area on August 18, 2008 by Matt Card.

The signatures herein below indicate that such notices were made as indicated herein above:

1. Autumn Radcliff
2. Matt Card

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, KATHLEEN R. SCANLAN, a Notary Public, in and for the above County

and State, do hereby certify that AUTUMN RADCLIFF,

_____ , and MATT CARD

personally appeared before me this day and acknowledged the due execution by

AUTUMN RADCLIFF / MATT CARD of the foregoing instrument.

WITNESS my hand and notarial seal, this the 19 day of AUGUST, 2008.

My commission expires:

10/24/2010

(SEAL)
Kathleen R. Scanlan
NOTARY PUBLIC

