

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY BOARD OF COMMISSIONERS

**Meeting Date:** September 2, 2008

**Subject:** Public Hearing on Rezoning Application #R-2008-05-C

**Attachments:**

1. Staff Report
2. Site Plan
3. Excerpt from Land Development Code, Subpart B. Conditional Zoning Districts
4. Residential One (R1) District Text
5. Local Commercial (LC) District Text
6. Comparison Table of Permitted Uses
7. Certification of Notification of Public Notice
8. Photos of Subject Area
9. PowerPoint Presentation Handouts

### SUMMARY OF REQUEST:

Rezoning #R-2008-05-C, initiated by the Henderson County Board of Commissioners at the request of the Emergency Services Department, requests that the County rezone approximately 9.98 acres of a 12.03 acre tract of land owned by Henderson County, from an R1 (Residential One) zoning district to a LC-CD (Local Commercial Conditional District). The Subject Area is located in the Foxwood subdivision off Foxwood Drive, and adjacent to the Henderson County Landfill.

Conditional zoning districts are different from traditional zoning districts because they require a site plan for the proposed use(s) of the property and certain conditions or restrictions are placed on the property based on the proposed or allowable use(s). Conditional zoning district decisions are a legislative process subject to the same procedures as traditional zoning districts (See attachment 3).

The County proposes to use the large barn and property for emergency services storage and County government storage. It is expected that this use would generate an average of 1 trip per week and would have little to no impact on the neighborhood. Staff held a neighborhood meeting on April 15, 2008 with approximately 30 residents of the Foxwood subdivision to answer questions and concerns and address issues that the neighbors might have. With the conditional zoning district process, the County can impose limitations upon itself to address neighborhood concerns. With that in mind, only the storage by the county and emergency services would be allowed. Other commercial uses and governmental operations would not be allowed.

The Henderson County Planning Board considered rezoning application #R-2008-05-C 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-2008-05-C, with modifications to conditions 7.4 and 7.6, to rezone the Subject Area from an R1 (Residential One) zoning district to a LC-CD (Local Commercial Conditional District).

**PUBLIC NOTICE:**

Before taking action on the request, the Board of Commissioners must hold a public hearing. In accordance with §200A-314(C) and 200A-337(B) of the Henderson County Land Development Code and State Law, notices of the September 2, 2008, public hearing regarding rezoning #R-2008-05-C, 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 property owners on August 22, 2008 and posted signs advertising the hearing on the Subject Area on August 21, 2008.

**BOARD ACTION REQUESTED:**

Planning Staff recommends that the Board of Commissioners approve rezoning application #R-2008-05-C with the conditions outlined and with any additional conditions as discussed by the Board as it is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

**Suggested Motion:** I move that the Board approve Rezoning Application #R-2008-05-C based on the recommendations of the Henderson County 2020 Comprehensive Plan, and with the conditions as noted in the staff report, and any other conditions that the Board has discussed.

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**Henderson County Planning Department Staff Report**

**Rezoning Application #R-2008-05-C (R1 to LC-CD)**

**Henderson County Emergency Services and County Storage Facility**

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**1. Rezoning Request**

- 1.1. **Date Initiated:** March 6, 2008.
- 1.2. **Initiated By:** Henderson County Board of Commissioners at the request of the Emergency Services Department.
- 1.3. **Request:** Rezone Subject Area from an R1 (Residential One) zoning district to a LC-CD (Local Commercial Conditional District).
- 1.4. **Subject Area** (See Map A)

**Map A: Map of Subject Area**



1.4.1. **Size:** Approximately 9.98 acres of a 12.03 acre tract of land.

1.4.2. **Location:** The Subject Area is:

1.4.2.1. Southeast of the intersection of Stoney Mountain Road (SR 1383) and Mountain Road (SR 1381);

1.4.2.2. Adjacent to the north of the Henderson County Landfill;

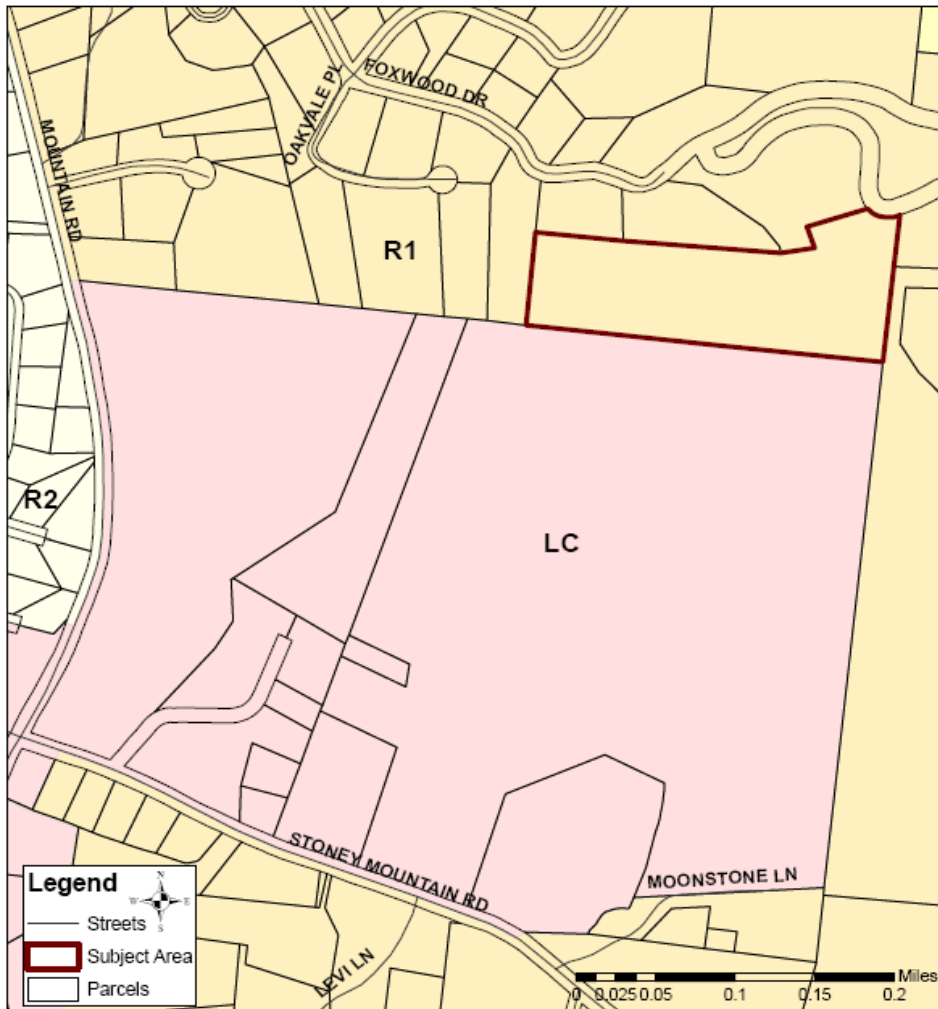
1.4.2.3. Is located in the Foxwood Subdivision;

1.4.2.4. Has access from Foxwood Drive and the landfill.

**2. Current Zoning**

2.1. **Application of Current Zoning:** The Subject Area is currently zoned R1 (Residential One), which was applied on September 19, 2007, as a result of the adoption of the Land Development Code (See Map B). The Subject Area was previously (prior to LDC adoption on September 19, 2007) zoned R-15 (Medium-Density Residential). The southern portion of the Subject Area is located in the WP-WS-IV-PA (Upper French Broad River Protected Area) Watershed Overlay Sub-District.

**Map B: Current Zoning**



2.2. **Adjacent Zoning:** To the south of the Subject Area is Local Commercial (LC) zoning; to the west, north, and east is Residential One (R1) zoning.

2.3. **District Comparison:**

2.3.1. **R1 Residential District One:** *“The purpose of Residential District One (R1) is to foster orderly growth where the principle use of land is residential. The intent of this district is to allow for medium to high density residential development consistent with the recommendations of the Comprehensive Plan. This general use district is typically meant to be utilized in areas designated as Urban in the Comprehensive Plan”* (Chapter 200A, Land Development Code §200A-27).

R1 requires 10 foot side and rear setbacks, maximum height 40 feet, and a standard density of four (4) units per acre (maximum density of 16 units per acre).

2.3.2. **LC Local Commercial Zoning District:** *“The purpose of the Local Commercial District (LC) is to foster orderly growth where the principal use of land is commercial and residential. 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 and residential developments 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 a local or neighborhood scale; (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 all service areas”* (LDC §200A-33).

LC requires 10 foot side and rear setbacks, maximum height 40 feet, a standard density of 4 units per acre (maximum density of 16 units per acre), a maximum 80% impervious surface. A single commercial use on a single lot would be limited to 10,000 square feet maximum floor area and with a multi tenant structure the maximum floor area would be 80,000 square feet (30,000 square feet for the principal tenant and 10,000 square feet for any other tenants).

3. **Current Uses of Subject Area and Adjacent Properties**

3.1. **Subject Area Use:** The Subject Area contains a single-family dwelling and a large metal structure that was previously used as a carriage house and barn by the original property owners.

3.2. **Adjacent Area Uses:** Surrounding area lands contain residential and commercial uses.

3.2.1. **To the West, North and East:** Single-family residences primarily in the Foxwood and Baystone Heights subdivisions surround the Subject area.

3.2.2. **To the South:** The Henderson County Landfill and NC-DOT maintenance facility.

**4. Water and Sewer**

- 4.1. **Public Water:** Public water is not currently located on the Subject Area site. The City of Hendersonville has a water line approximately 1,000 feet west of the Subject Area (See Map C).
- 4.2. **Public Sewer:** Public sewer is not currently located on the Subject Area site. An existing force main, operated by the Cane Creek Sewer District, runs along Haywood Road and Mountain Road. However, the receiving sewer system, operated by the City of Hendersonville, does not have sewer capacity from the Cane Creek Water and Sewer District. An upgrade to the existing system may be necessary for public sewer to be made available to the area (See Map C).

**Map C: Water and Sewer**



**5. Transportation and Access**

- 5.1. **Frontage:** The Subject Area parcel has approximately 161 feet of road frontage along Foxwood Drive located within the Foxwood Subdivision and accessed from Mountain Road (SR 1381). The Subject Area also has access via a private road from the landfill that is accessible from the landfills main entrance located on Stoney Mountain Road (SR 1383).
- 5.2. **Transportation:** Table 2, below, provides Annual Average Daily Traffic Counts for Stoney Mountain Road (SR 1383) and Mountain Road (SR 1381).

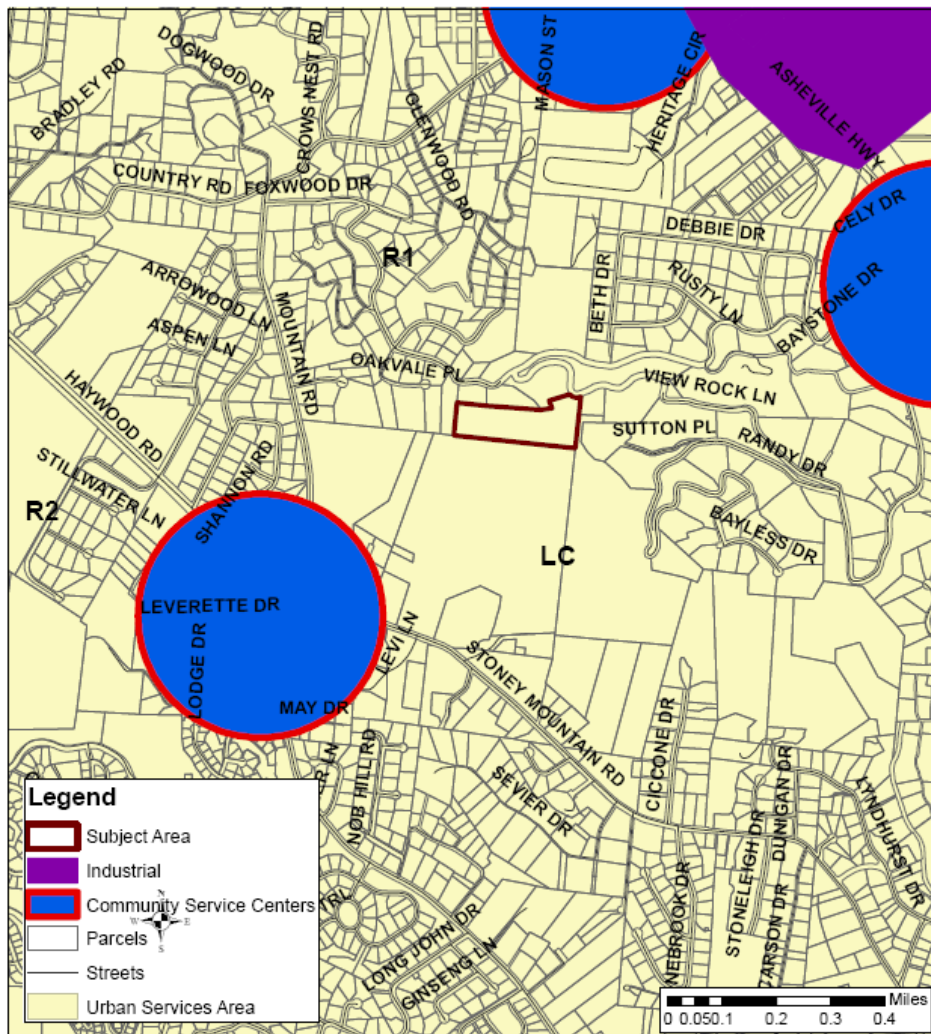
Road	1999	2001	2002	2004
Stoney Mountain Road (SR 1383)	3,100	3,600	3,700	5,400
Mountain Road (SR 1381)	4,200	4,200	5,200	5,200

5.3. **The NCDOT 2009-2015 State Transportation Improvement Program (STIP):** No improvements are scheduled for Stoney Mountain Road (SR 1383) or Mountain Road (SR 1381).

**6. The 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).

**Map D: 2020 County Comprehensive Plan Future Land Use Map**



6.1.1. The CCP states that, “the County’s economic development activities should be pursued within USA” (2020 CCP, Pg. 129).

- 6.1.2. The CCP states that, “the USA will contain considerable commercial development at a mixture of scales,” and further, “all regional commercial development should be concentrated here. Commercial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129).
- 6.1.3. The CCP Future Land Use Map (See Map D) does not place the Subject Area in a “Community Service Center” area. But commercial zoning districts are adjacent to the Subject Area.

## **7. Conditional Zoning Districts**

Conditional zoning districts are different from traditional zoning districts because they require a site plan for the proposed use(s) of the property and certain conditions or restrictions are placed on the property based on the proposed or allowable use(s). Conditional zoning district decisions are a legislative process subject to the same procedures as traditional zoning districts (See attachment 3).

According to the Land Development Code, conditional zoning districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the Comprehensive Plan, proposes to impose special imitations and conditions on the use of the property proposed for rezoning (LDC§200A-45 - §200A-51).

The County proposes to use the large barn and property for emergency services storage and County government storage. It is expected that this use would generate an average of 1 trip per week and would have little to no impact on the neighborhood. With the conditional zoning district process, the County can impose limitations upon itself to address neighborhood concerns. With that in mind, only the storage by the county and emergency services would be allowed. Other commercial uses and governmental operations would not be allowed. Staff suggests the following conditions be imposed on the Subject Area:

- 7.1. The existing structures on the Subject Area shall be used for the storage of emergency service supplies and equipment including the storage of County government records and property. Only storage by the County and emergency services shall be allowed. Other commercial uses and governmental operations shall not be allowed.
- 7.2. Stored items shall be stored indoors. Outdoor storage shall not be allowed.
- 7.3. Lighting mitigations is required. There shall be a minimum amount of lighting for the facility, and this lighting should not adversely affect the surrounding neighbors.
- 7.4. Access to the Subject Area shall be via the Henderson County Landfill.
- 7.5. The portion of the Subject Area adjacent to Foxwood Drive shall remain zoned for residential uses.
- 7.6. The existing wooded areas as identified on the site plan shall remain intact and shall comply with the provisions in condition 7.8.
- 7.7. The existing power line right-of-way shall remain open and unobstructed.
- 7.8. The proposed use(s) shall comply with the landscape design standards and off street parking provisions as outlined in the Land Development Code (LDC Article V and VI).
- 7.9. The Subject Area may be accessed at any time for just cause to retrieve emergency service items stored on the premises.



## **8. Staff Comments and Recommendations**

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 to a Local Commercial Conditional District (LC-CD). This based on the following:

- 8.1. **The 2020 CCP:** 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 high-density residential, commercial or industrial development. The CCP indicates that the USA may be suitable for commercial development provided the development is in keeping with the surrounding community. A Local Commercial Conditional District can ensure that use(s) will be compatible with the surrounding community.
- 8.2. **Adjacent Zoning:** The Subject Area directly abuts an existing Local Commercial (LC) zoning district to the south. If the Subject Area were to be rezoned to a Local Commercial Conditional District (LC-CD) this property would be apart of a contiguous LC zoning district.
- 8.3. **Conditional Zoning Districts:** Applying conditions or restrictions to the Subject Area reduces and/or eliminates the impact on the surrounding community. There are circumstances in which a general use district designation allowing such a use or all uses by right would not be appropriate for a particular property though the use could, if properly planned, be appropriate for the property consistent with the objectives of the Land Development Codes conditional zoning districts, the adopted Comprehensive Plan, and adopted district.

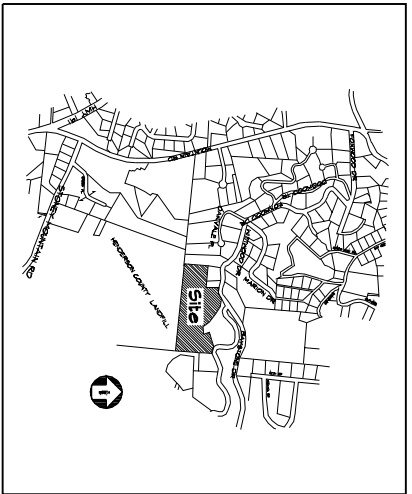
## **9. Technical Review Committee Recommendations**

- 9.1. The Henderson County Technical Review Committee (TRC) considered rezoning application #R-2008-05-C on July 1, 2008, and voted 7-0 to recommend that the Board of Commissioners approve that the Subject Area be rezoned from an Residential One (R1) zoning district to a Local Commercial Conditional District (LC-CD) with the conditions as stated by Staff and based on the recommendations of the Henderson County 2020 Comprehensive Plan.

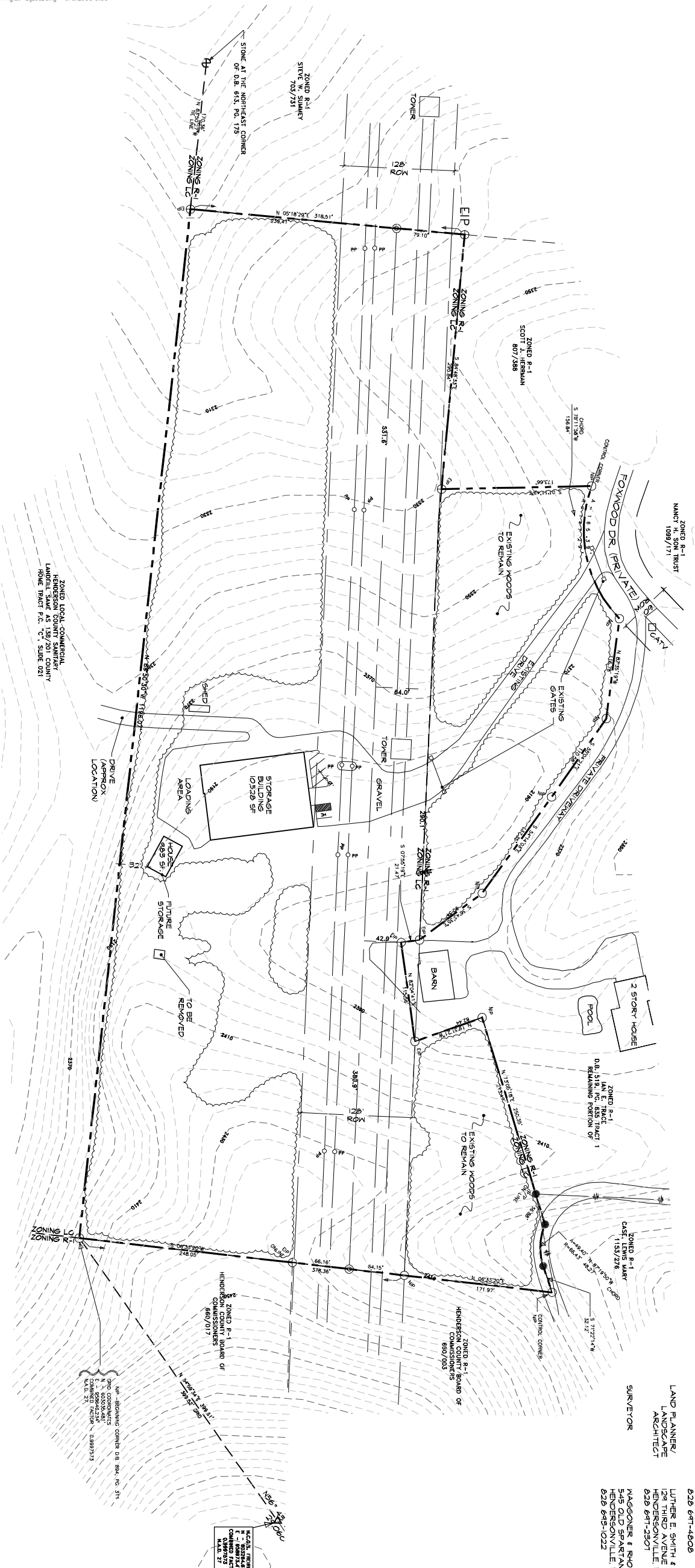
## **10. Planning Board Recommendations**

- 10.1. The Henderson County Planning Board considered rezoning application #R-2008-05-C 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-2008-05-C, with modifications to conditions 7.4 and 7.6, to rezone the Subject Area from a Residential One (R1) zoning district to a Local Commercial Conditional District (LC-CD).
  - 10.1.1. **Modifications to condition 7.4:** Remove the word primary so that conditions 7.4 reads; Access to the Subject Area shall be via the Henderson County Landfill. Changes are reflected in staff report.

- 10.1.2. **Modification to condition 7.6:** State that condition 7.6 will comply with the provisions of condition 7.8 for the wooded areas. Changes are reflected in staff report.



VICINITY MAP Not to Scale



PROJECT SUMMARY	
Total Project Area	112.16 AC.
Pin No.	4650-83-0246
Existing Zoning	R-1
Proposed Zoning	R-1, Local Commercial

**COUNTY GOVERNMENT STORAGE**

DEVELOPER/  
APPLICANT  
HENDERSON COUNTY BOARD  
OF COMMISSIONERS  
ONE HISTORIC COURTHOUSE SQUARE  
SUITE 1  
HENDERSONVILLE, NC 28742  
628 697-4808

LAND PLANNER/  
LANDSCAPE  
ARCHITECT  
LUTHER E. SMITH & ASSOCIATES, P.A.  
129 THIRD AVENUE, SUITE 201  
HENDERSONVILLE, NC 28742  
628 697-2301

SURVEYOR  
MAGGONER & RHODES  
245 DEER SPRING AVENUE ROAD  
HENDERSONVILLE, NC 28742  
628 693-0222



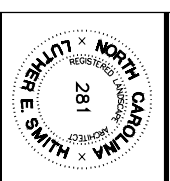
MAJOR SITE PLAN  
Scale 1"=60'

Submitted to Henderson County for Master Plan  
Approval 22 April 2008.



Luther E. Smith  
& Associates, P.A.  
LAND PLANNING  
LANDSCAPE ARCHITECTURE  
129 THIRD AVENUE, SUITE 201  
HENDERSONVILLE, NC 28742  
(628) 697-2301  
Fax: (628) 697-2302  
luther@smithandassociates.com

**COUNTY GOVERNMENT STORAGE  
EMERGENCY SERVICES STORAGE FACILITY**  
HENDERSON COUNTY,  
NORTH CAROLINA



Date:	Drawn By:
07-01-2008	RMS
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MAJOR SITE  
PLAN

S-1  
OF - 1

## Subpart B. Conditional Zoning Districts

### §200A-1. Conditional Zoning Districts Established

Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the *Comprehensive Plan*, proposes to impose special limitations and conditions on the *use* of the property proposed for rezoning.

Conditional Zoning Districts are zoning districts in which the development and *use* of the property is subject to predetermined Chapter standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to each individual development project. For each General Use Zoning District, there is a corresponding Conditional Zoning District (CD) which corresponds to each of the districts authorized by this Chapter as follows: R1-CD; R2-CD; R2MH-CD; R3-CD; R-4-CD; OI-CD; LC-CD; CC-CD; RC-CD; I-CD; R-40-CD; WR-CD; SR-CD; and MU-CD.

Certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land *uses* are of a nature or scale that may have significant impacts on both the immediately surrounding area and the entire community, which cannot be predetermined or controlled by general district standards. There are also circumstances in which a general use district designation allowing such a *use* by right would not be appropriate for a particular property though the *use* could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted *Comprehensive Plan*, and adopted district. The review process established in this section provides for the accommodation of such *uses* by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the *use* with the use and enjoyment of neighboring properties.

Where the *applicant* for rezoning desires property to be rezoned to such a district in such situations, the Conditional Zoning District is a means by which such special conditions can be imposed in the furtherance of the purpose of this Chapter and the recommendations of the *Comprehensive Plan*. The Conditional Zoning District classification will be considered for rezoning only with the consent of the property owner. If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid or if the *applicant* should fail to accept any condition, it is the intent of this Chapter that the authorization of such Conditional Zoning District shall be null and void and of no effect and that proceedings shall be instituted to rezone the property to its previous zoning classification.

### §200A-2. Plans and Other Information to Accompany Petition

Property may be rezoned to a Conditional Zoning District only in response to, and consistent with, a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a *site plan*, drawn to scale, and supporting information and text that specifies the actual *use* or *uses* intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements, will govern the development and *use* of the property.

### **§200A-3. Approval of Conditional Zoning District**

Conditional Zoning District decisions are a legislative process subject to judicial review using the same procedures and standard of review as applicable to general *use district* zoning decisions. Conditional Zoning District decisions shall be made in consideration of identified relevant adopted land *use* plans for the area, including, but not limited to, the *Comprehensive Plan*, strategic plans, district plans, *community plans*, *neighborhood plans*, corridor plans, and other land-use policy documents.

### **§200A-4. Conditions to Approval of Petition**

In approving a petition for the reclassification of property to a Conditional Zoning District, the Planning Board may recommend, and the Board of Commissioners may request that reasonable and appropriate conditions be attached to the approval of the petition. Conditions and site-specific standards shall be limited to those that address the conformance of the development and *use* of the site to County ordinances and any officially adopted *Comprehensive Plan* or other land *use* plan, that address the impacts reasonably expected to be generated by the development or *use* of the site. Any such conditions should relate to the impact of the proposed *use* on surrounding property, support facilities (such as parking areas and *driveways*), pedestrian and vehicular circulation systems, *screening* and buffering areas, timing of development, *road* and *right-of-way* improvements, water and sewer improvements, *stormwater* drainage, provision of *open space*, and other matters that the Commissioners may find appropriate or the *applicant* may propose. Such conditions to approval of the petition may include dedication to the County, State or other public entity, as appropriate, of any *rights-of-way* or *easements* for *roads*, water, sewer, or other public utilities necessary to serve the proposed development. The *applicant* shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board of Commissioners and the *applicant* may be incorporated into the petition.

### **§200A-5. Effect of Approval**

If a petition for conditional zoning is approved, the development and *use* of the property shall be governed by the existing Chapter requirements applicable to the district's category, the approved *site plan* for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Official Zoning Map.

Only those *uses* and *structures* indicated in the approved petition and *site plan* shall be allowed on the subject property. A change of location of the *structures* may be authorized pursuant to §200A-50 (Alterations to Approval). Changes to the *site plan* layout shall not increase the number of *structures*.

Following the approval of the petition for a Conditional Zoning District, the subject property shall be identified on the Official Zoning Map by the appropriate district designation. A conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example "OI-CD").

**§200A-6. Alterations to Approval**

Except as provided herein, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Official Zoning Map and shall be processed in accordance with the procedures of this Chapter.

The *Planning Director* or designee shall have the delegated authority to approve an amendment to an approved *site plan*. The standard for approving or denying such an amendment shall be that the change does not significantly alter the *site plan* or its conditions and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial.

For *nonresidential development*, an increase in the intensity of the development is limited to ten (10) percent of the approved *structure* size or 1,000 square feet, whichever is less. For *residential development*, increases in density are limited to ten (10) percent of the development or no more than five (5) *dwelling units*, whichever is less.

The *Planning Director*, however, shall have the discretion to decline to exercise the delegated authority either because of uncertainty about approval of the change pursuant to the standard or because Board of Commissioner consideration and public hearing is deemed appropriate under the circumstances. If the *Planning Director* declines to exercise this authority, the *applicant* may request a map amendment as permitted by this Chapter.

**§200A-7. Review of Approval of a Conditional Zoning District**

It is intended that property shall be reclassified to a Conditional Zoning District only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Board of Commissioners a report, which may recommend that the property be classified to another district.



**§200A-1. Residential District One (R1)**

- A. **Purpose.** The purpose of Residential District One (R1) is to foster orderly growth where the *principal use* of land is residential. The intent of this district is to allow for medium to high density *residential development* consistent with the recommendations of the *Comprehensive Plan*. This general *use district* is typically meant to be utilized in areas designated as 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).

<b>Table 2.1. R1 Density and Dimensional Requirements</b>			
(1) <i>Residential Density</i> (units/acre)		(2) Standard	4
		(3) Maximum	16
(4) <i>Yard Setbacks</i> (feet)	<i>Front or Right-of-Way (ROW)</i>	<i>Local</i>	15
		<i>Collector</i>	20
		<i>Thoroughfare</i>	35
		<i>Boulevard</i>	50
		<i>Expressway</i>	60
		<i>Freeway</i>	90
		<i>Side</i>	10
	<i>Rear</i>	10	
(5) Maximum Height (feet)			40

(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:

*Lot size* x allowable units per acre = permitted *dwelling units*

The following example assumes a 5 acre tract with an allowable density of 4 units/acre:

5 acres x 4 units per acre = **20 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 (1/2) the eligible density.

- (2) Standard *residential density* shall be applied:
  - a. On a *lot* existing at the time of the initial adoption of this Chapter, where there is not adequate area to comply with the applicable standard *residential density* requirement;
  - b. To single-family residential *uses*; and
  - c. To multifamily residential *uses* with fewer than five (5) units.



- (3) Maximum *residential density* shall be available to multifamily dwellings (including duplexes, triplexes, quadraplexes and multifamily dwellings with five (5) or more units). provided such dwellings are generally served by public or private utility systems which meet the requirements of the Henderson County Department of Environmental Health or other governmental authorities having jurisdiction thereof.
- (4) Residential *accessory structures* shall be located in *side* or *rear yards* and shall be *setback* a minimum of ten (10) feet from any property line.
- (5) Maximum height may be exceeded in multifamily developments as detailed in §200A-63 (Supplemental Requirements) SR 1.6. (Dwelling, Multifamily, Five (5) or More Units), provided such developments do not exceed 50 feet in height.

**§200A-1. Local Commercial District (LC)**

- A. **Purpose.** The purpose of the Local Commercial District (LC) is to foster orderly growth where the *principal use* of land is commercial and residential. 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 and residential 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 a local or *neighborhood* scale; (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 all service areas.
- 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).

<b>Table 2.7. LC Density and Dimensional Requirements</b>			
(1) <i>Residential Density</i> (units/acre)	(2) Standard	4	
	(3) Maximum	16	
<i>Maximum Impervious Surface</i> (%)		80	
(4) Maximum <i>Floor Area</i> (sq ft)		30,000 or 10,000	
(5) <i>Yard Setbacks</i> (feet)	Front or ROW	<i>Local</i>	25
		<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)		40	

(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:

<p><i>Lot size</i> x allowable units per acre = permitted <i>dwelling units</i></p> <p>The following example assumes a 5 acre tract with an allowable density of 4 units/acre:</p> <p>5 acres x 4 units per acre = <b>20 permitted dwelling units</b></p>
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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) Standard *residential density* shall be applied:
  - a. On a *lot* existing at the time of the initial adoption of this Chapter, where there is not adequate area to comply with the applicable standard *residential density* requirement.
  - b. To single-family residential *uses*.
- (3) Maximum *residential density* shall be available to multifamily dwellings (including duplexes, triplexes, quadraplexes and multifamily dwellings with five (5) or more units). provided such dwellings are generally served by public or private utility systems which meet the requirements of the Henderson County Department of Environmental Health or other governmental authorities having jurisdiction thereof.
- (4) Within a multi-tenant *structure/site*, one unit shall have a maximum *gross floor area* of 30,000 square feet. The maximum *gross floor area* for any other commercial *use* or single unit on a single *lot* within the project shall be 10,000 square feet. A maximum 80,000 total square feet for any multi-tenant *structure* shall apply.
- (5) Residential *accessory structures* shall be located in *side* or *rear yards* and shall be *setback* a minimum of ten (10) feet from any property line.

## Subpart E. Table of Permitted and Special Uses

## §200A-1. Table of Permitted and Special Uses

USE TYPE	GENERAL USE DISTRICT P=Permitted; S=Special Use Permit		
	R1	LC	SR
<b>1. RESIDENTIAL USES</b>			
<i>Assisted Living Residence</i>	S	P	1.1
<i>Bed and Breakfast Inn</i>	P	P	1.2
<i>Continuing Care Retirement Community</i>	S	P	1.3
<i>Dwelling, Duplex</i>	P	P	1.4
<i>Dwelling, Multifamily, Five (5) or More Units</i>	S	S	1.6
<i>Dwelling, Quadraplex</i>	S	S	1.7
<i>Dwelling, Single Family Detached</i>	P	P	1.8
<i>Dwelling, Triplex</i>	P	P	1.9
<i>Family Care Home</i>	P	P	1.10
<i>Fraternity and/or Sorority House</i>	P		1.11
<i>Hospice Residential Care Facility</i>	S	P	1.12
<i>Nursing Home</i>	S	P	1.14
<i>Rooming and Boardinghouse</i>	S	P	1.15
<b>2. ACCESSORY USES</b>			
<i>Childcare Facility (as an accessory for a principal business)</i>		P	2.1
<i>Drive-Thru Window</i>		P	2.2
<i>Dwelling, Single-Family (as an accessory for a principal business)</i>		P	2.3
<i>Fuel Pumps</i>		P	2.4
<i>Home Occupation, Adult Day Care</i>	P	P	2.5
<i>Home Occupation, Childcare Facility</i>	P	P	2.6
<i>Home Occupation, General</i>	P	P	2.7
<i>Outdoor Storage ≤5000 sq ft</i>		S	2.8
<b>3. ACCESSORY STRUCTURES</b>			
<i>Automatic Teller Machine</i>		P	3.2
<i>Boathouse, Private</i>	P		3.3
<i>Bulkhead</i>	P		3.4
<i>Carport</i>	P	P	-
<i>Dock/Pier</i>	P		3.5
<i>Dwelling, Accessory Residential</i>	P	P	3.6
<i>Garage, Residential</i>	P	P	-
<i>Gate and/or Guardhouse</i>	P	P	3.7
<i>Greenhouse</i>	P	P	3.8
<i>Heliport (Private Accessory)</i>	S		3.9
<i>Loading Bay</i>		P	-
<i>Outdoor Sale Display Areas</i>		P	3.10
<i>Planned Seasonal Agricultural Worker Development</i>	P	P	3.12
<i>Produce Stand, Accessory</i>	P	P	3.13
<i>Satellite Dish</i>	P	P	-

USE TYPE	GENERAL USE DISTRICT P=Permitted; S=Special Use Permit		
	R1	LC	SR
Storage Shed	P	P	3.14
Swimming Pool, Spa, Hot Tub, Residential	P	P	-
Wastewater Treatment Plant, Small Accessory	P	P	3.15
<b>4. RECREATIONAL USES</b>			
Athletic Field, Non-commercial	P		4.2
Camp	S	P	4.3
Coin Operated Amusements		P	4.5
Common Area Recreation and Service Facilities	P	P	4.6
Golf Course and/or Country Club	P	P	4.7
Governmental Recreational Facilities	S	P	4.8
Indoor Recreational Facilities (Bowling Alley, Skating Rink, Bingo Games, Indoor Miniature Race Tracks)		P	4.9
Marina		P	4.10
Miniature Golf Course or Driving Tees/Ranges (operated for commercial purposes)	S	P	4.11
Outdoor Recreational Facilities	S		4.15
Park	P	P	4.16
Physical Fitness Center	S	P	4.17
Riding Stables		P	4.19
School (Sports Instructional)		P	4.20
Sporting and Recreational Facilities	S		4.23
Swim and Tennis Club	P	P	4.24
<b>5. EDUCATIONAL AND INSTITUTIONAL USES</b>			
Adult Day Care Facility	P	P	5.1
Ambulance Services	P	P	5.2
Cemetery/Mausoleum/Columbarium (excluding crematoriums)	P	P	5.3
Childcare Facility	P	P	5.4
Club/Lodge	P	P	5.5
Community Club	P	P	5.7
Fire and Rescue Station	P	P	5.9
Funeral Home or Crematorium		P	5.10
Government Offices		P	5.11
Museum/Library/Archive	S	P	5.14
Place of Assembly, Large		P	5.15
Place of Assembly, Small		P	5.16
Police Station	S	P	5.17
Religious Institution	P	P	5.18
School (Home)	P	P	-
School (Public/Private/Charter)	P	P	5.19
Youth Center	S	P	5.20
<b>6. BUSINESS, PROFESSIONAL, AND PERSONAL SERVICES</b>			
Animal Shelter		S	6.1
Automobile and Equipment Service		P	6.2

USE TYPE	GENERAL USE DISTRICT P=Permitted; S=Special Use Permit		
	R1	LC	SR
<i>Broadcasting and Communications Facilities</i>		P	6.4
Car Wash		P	6.5
Exterminating and Pest Control Services		P	6.6
<i>Kennel</i>		S	6.7
Motel/Hotel		S	6.8
Office: Business, Professional and Public		P	6.9
<i>School (Technical, Trade and Business)</i>		P	6.10
<i>Urgent Care Clinic</i>		P	6.13
<b>7. RETAIL TRADE</b>			
Convenience Store		P	7.4
<i>Landscaping Materials Sales and Storage</i>		S	7.8
<i>Open Air Market</i>		S	7.11
<i>Produce Stand</i>		P	7.13
Retail Sales and Services $\leq 50,000$ sq ft (of gross floor area)		P	7.14
<b>9. TRANSPORTATION, WAREHOUSING AND UTILITIES</b>			
<i>Communication Facilities, Category 1</i>	P	P	9.3
<i>Communication Facilities, Category 2</i>	P	P	9.3
<i>Utility Substation</i>	P	P	9.12
<i>Waste Collection and Transfer Facility (Non-hazardous)</i>	S	S	9.15
<i>Wastewater Treatment Plant</i>	S	S	9.16
Water Treatment Plant	S	S	9.17
<b>10. MANUFACTURING &amp; INDUSTRIAL USES</b>			
<i>Machining and Assembly Operations <math>\leq 10,000</math> sq ft (of gross floor area)</i>		P	10.7
<i>Manufacturing and Production Operations <math>\leq 10,000</math> sq ft (of gross floor area)</i>		P	10.8
<i>Recycling Centers, Drop-Off Facilities</i>	P	P	10.14
<i>Research and Development Operations (Non-hazardous)</i>		P	10.16
<b>11. TEMPORARY USES</b>			
Christmas Tree Lot Sales	P	P	11.1
Circuses, Carnivals, Fairs, Religious Services (or similar types of events)		P	11.2
<i>Model Home Sales Office, Temporary</i>	P	P	11.3
Movie Production	P	P	-
<i>Yard Sale</i>	P	P	11.4
<b>12. TEMPORARY STRUCTURES</b>			
<i>Portable Storage Container</i>		P	12.1
<i>Produce Stand, Temporary</i>	P	P	12.2
Temporary Construction Project Buildings	P	P	12.3
Tent Sale		P	12.4
<b>13. AGRICULTURAL USES</b>			
<i>Agriculture</i>	P	P	-
Food Manufacturing	P	P	-
<i>Forestry</i>	P	P	-
<i>Forestry Support Services</i>	P	P	-

USE TYPE	GENERAL USE DISTRICT P=Permitted; S=Special Use Permit		
	R1	LC	SR
Veterinary Services (livestock)	P	P	-

**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 #R-2008-05-C, 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 property owners and owners of properties adjacent to the Subject Area on August 22, 2008 by Autumn Radcliff; and
3. Posted on the Subject Area on August 21, 2008 by Parker Sloan.

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

1. Autumn Radcliff
2. Parker Sloan

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, KATHLEEN R. SCARLAN, a Notary Public, in and for the above County and State, do hereby certify that AUTUMN RADCLIFF, and PARKER SLOAN

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

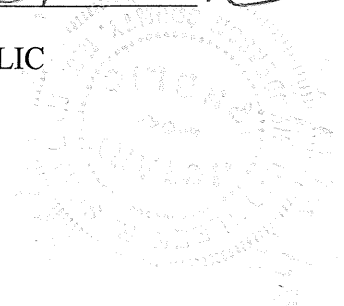
\_\_\_\_\_ of the foregoing instrument.

WITNESS my hand and notarial seal, this the 19<sup>th</sup> day of AUGUST, 2009.

My commission expires:

10/24/2010

(SEAL)  
Kathleen R. Scarlan  
NOTARY PUBLIC





**Photos of Subject Area: R-2008-05-C**



Barn to be used for County Storage.



Looking south from the Subject Area towards the County Landfill.



Looking north to an adjacent house within Foxwood Subdivision.



Access drive from within Foxwood Subdivision. Drive will not be used to access the County Storage Facility.



Wooded are to the west.



Wooded area to the east.

Rezoning Application  
#R-2008-05-C

Residential 1 (R1) to  
Local Commercial Conditional District (LC-CD)

Board of Commissioners Meeting 9-2-08

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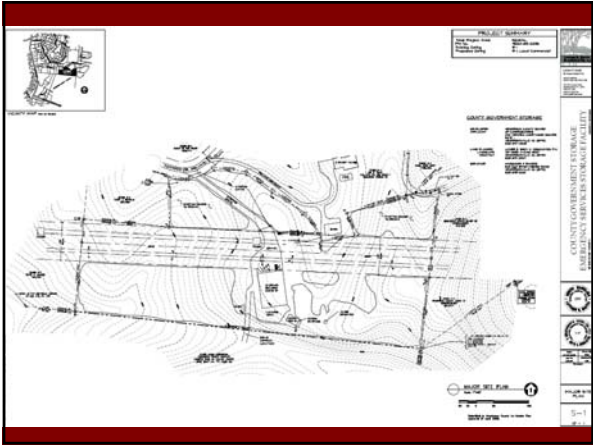
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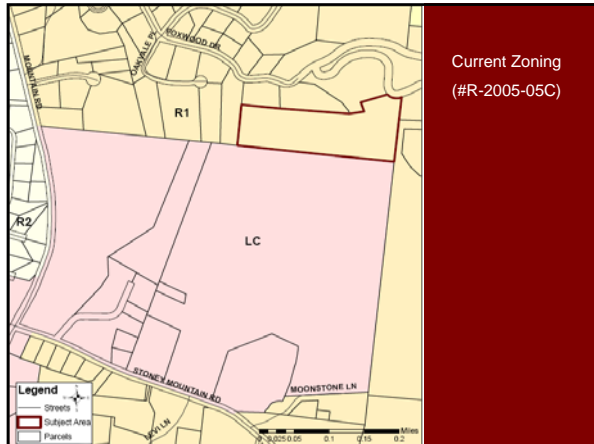
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Current Zoning  
(#R-2005-05C)

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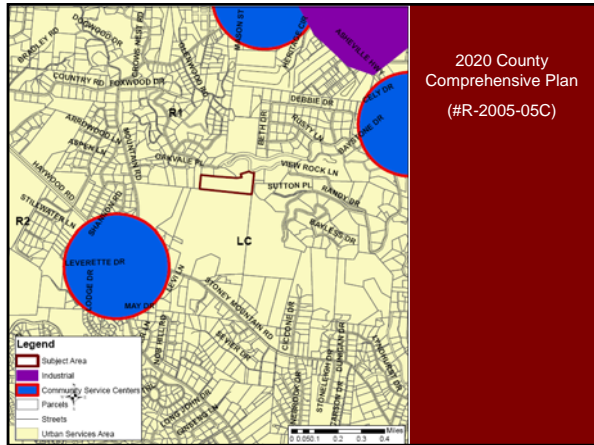
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2020 County  
Comprehensive Plan  
(#R-2005-05C)

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Staff suggests the following the conditions:

- 7.1. The existing structures on the Subject Area shall be used for the storage of emergency service supplies and equipment including the storage of County government records and property. Only storage by the County and emergency services shall be allowed. Other commercial uses and governmental operations shall not be allowed.
- 7.2. Stored items shall be stored indoors. Outdoor storage shall not be allowed.
- 7.3. Lighting mitigations is required. There shall be a minimum amount of lighting for the facility, and this lighting should not adversely affect the surrounding neighbors.
- 7.4. Access to the Subject Area shall be via the Henderson County Landfill.
- 7.5. The portion of the Subject Area adjacent to Foxwood Drive shall remain zoned for residential uses.

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Staff suggests the following the conditions:

7.6. The existing wooded areas as identified on the site plan shall remain intact and shall comply with the provisions of condition 7.8.

7.7. The existing power line right-of-way shall remain open and unobstructed.

7.8. The proposed use(s) shall comply with the landscape design standards and off street parking provisions as outlined in the Land Development Code (LDC Article V and VI).

7.9. The Subject Area may be accessed at any time for just cause to retrieve emergency service items stored on the premises.

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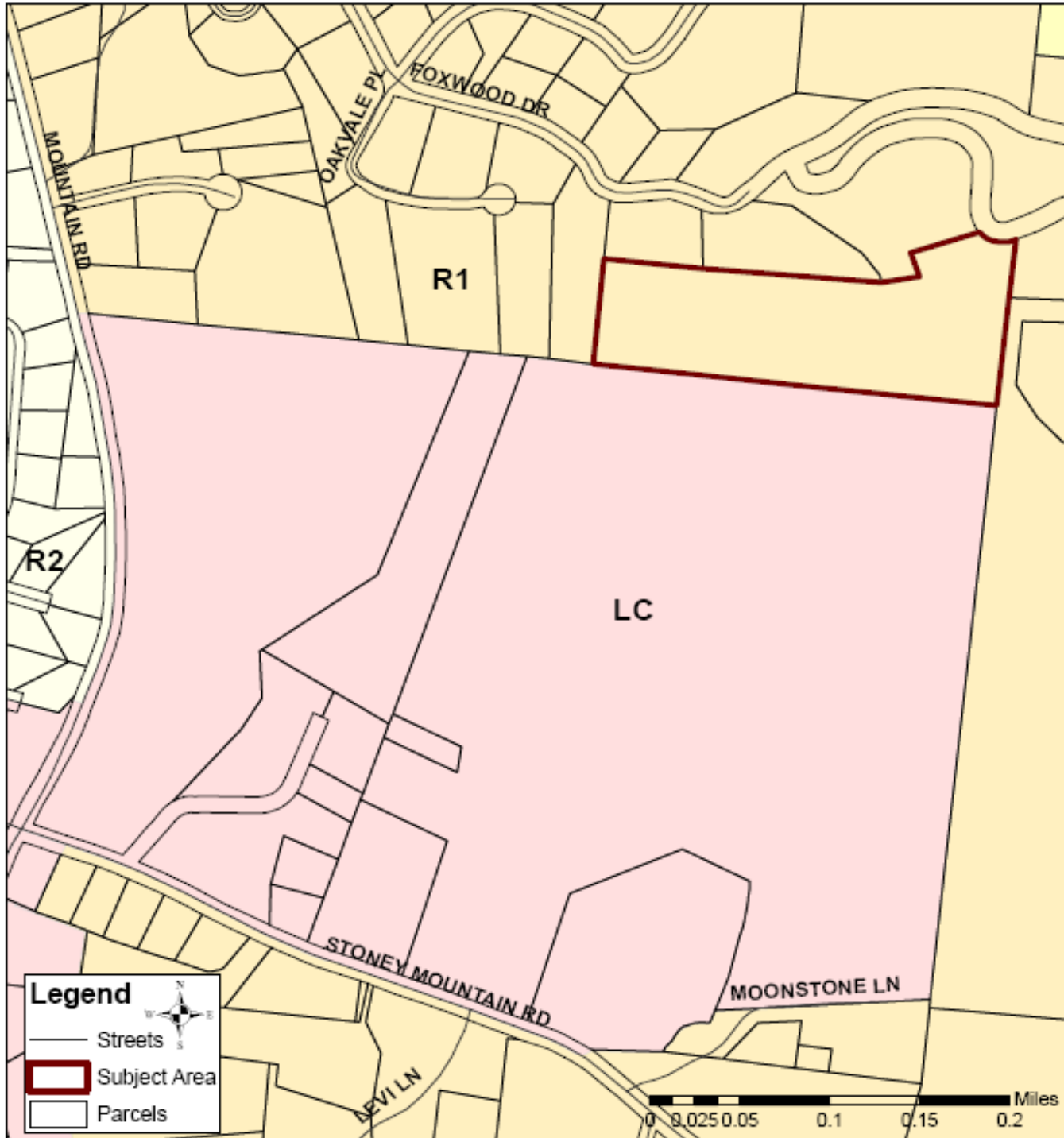
# Rezoning Application #R-2008-05-C

Residential 1 (R1) to  
Local Commercial Conditional District (LC-CD)





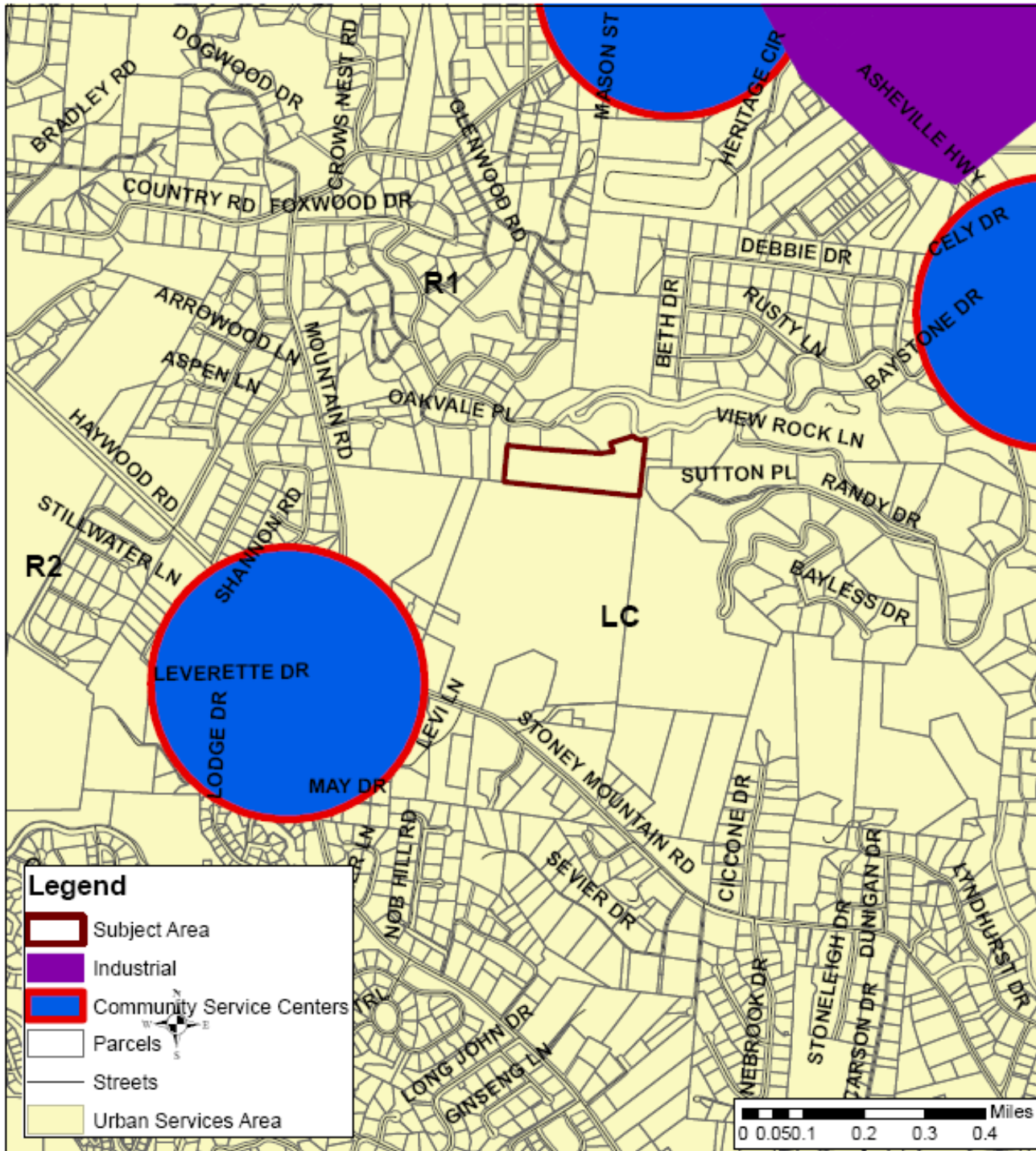
Aerial Photo  
(#R-2005-05C)



Current Zoning  
(#R-2005-05C)



2020 County  
Comprehensive Plan  
(#R-2005-05C)



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