

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 17 September 2008

SUBJECT: Approval of Order for Conditional Zoning District R-2008-05-C

ATTACHMENT(S): R-2008-05-C Order

SUMMARY OF REQUEST:

At this Board's September 2, 2008 regularly scheduled meeting, the Board approved the conditional zoning district R-2008-05-C. This rezoning was at the request of the Emergency Services Department to allow them to store emergency equipment on County property adjacent to the Henderson County landfill. Attached is an order reflecting the outcome of the hearing and the conditions this Board placed on the conditional zoning district.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Approval of the Order or direct staff to make changes.

If the Board is so inclined, the following motion is suggested:

I move this Board approve Conditional Zoning District Order R-2008-05-C as submitted.

**IN THE MATTER OF THE REQUEST of the Henderson County Emergency Services Department,
Applicant,**

To the

**HENDERSON COUNTY BOARD OF COMMISSIONERS,
Approving Authority**

ORDER GRANTING CONDITIONAL ZONING DISTRICT R-2008-05-C

The **HENDERSON COUNTY BOARD OF COMMISSIONERS** having held a public hearing on September 2, 2008 to consider the request initiated by the Board of Commissioners at the request of the Henderson County Emergency Services Department, to request a Conditional Zoning District, makes the following FINDINGS OF FACTS and draws the following CONCLUSIONS:

FINDINGS OF FACT

1. A public hearing was held by the Henderson County Board of Commissioners on conditional zoning district request R-2008-05-C. All regular members of the Board of Commissioners were present at the hearing.
2. This Order and the approval herein was moved by Charlie Messer and approved by a vote of 5-0.
3. **Henderson County Emergency Services Department**, hereinafter referred to as the "Applicant" is the owner of the subject property.
4. Autumn Radcliff is the Senior Planner for Henderson County. Mrs. Radcliff presented the analysis and recommendations of staff regarding this request.
5. Notice of a public hearing, pursuant to the North Carolina General Statute and the Henderson County Land Development Code §200A-314(C) and 200A-337(B) was duly and timely given. This notice included published notice in the Hendersonville Times-News on August 20, 2008 and August 27, 2008; posted signs on the property on August 21, 2008; and notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area on August 22, 2008;
 - a. The Applicant's conditional zoning district request is consistent with the Notice of Public Hearing produced, published, and posted for the proceeding in that the notice contemplated the size and scope of the request.
6. Conditional zoning districts are described and authorized by the Henderson County Land Development Code in §200A-45 through §200A-51.
7. The subject property is a 9.98 acre portion of a 12.03 acre tract and is currently zoned Residential District One (R1). The southern part of the parcel is located in the WP-WS-IV-PA (Upper French Broad River Protected Area Watershed Overlay Sub-District).
8. The subject property is adjacent to the Henderson County Landfill and is located in the Foxwood Subdivision. The property has access from Foxwood Drive and from the landfill.
9. Prior to the adoption of the Land Development Code, the property was zoned R-15 (Medium-Density Residential). South of the subject property is currently zoned Local Commercial (LC) and the remainder of the adjacent property is zoned Residential District One (R1).
10. The subject property currently contains a single-family dwelling and a large metal structure that was previously used as a carriage house and barn.
11. The Landfill and a NCDOT maintenance facility are to the south of the property and single-family residences surround the remainder of the property.
12. There is no public water or public sewer on the property.

13. The property has road frontage on Foxwood Drive and is accessed from Mountain Road. There is a private road to the property accessible from the Henderson County Landfill's main entrance on Stoney Mountain Road.
14. The Henderson County 2020 Comprehensive Plan identifies the parcel as being located within the Urban Services Area (USA). The USA is intended to contain substantial commercial development on a mixed scale within zoning districts keeping with the surrounding neighborhoods.
15. The request would change the subject property from a Residential One (R1) zoning district to a Local Commercial Conditional District (LC-CD) with conditions determined by the Board of Commissioners based on staff recommendations.
16. The intended use of the property is to store and access emergency equipment and for local government storage and could only be used by the property owner for this purpose.
17. It is expected that the intended use would generate an average of one trip per week and would have little to no impact on the neighborhood in terms of traffic.
18. Planning staff met with residents of the Foxwood subdivision on April 15, 2008 to hear and address resident concerns.
19. The Technical Review Committee considered the request on July 1, 2008 and voted unanimously (7-0) to support the request.
20. The Planning Board reviewed the application on July 17, 2008 and voted unanimously (6-0) to recommend the proposal to the Board of Commissioners.

CONCLUSIONS

1. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.
2. All parties were properly before the Board of Commissioners and all evidence presented herein was credible and reliable.
3. Henderson County Code §§200A-314 and 200A-271 grant the Board of Commissioners the jurisdiction to hear and make rezonings.
4. The rezoning does meet all the standards of the Land Development Code and the rezoning should be **GRANTED** based on the reasons established below:
 - a. The subject area is in the Urban Services Area as identified by the Comprehensive Plan and would be suitable for commercial development in keeping with the surrounding community.
 - i. The intended use of the property keeps with the surrounding neighborhood;
 - ii. The recommended conditions put appropriate limits on the intensity and use of the property so that the surrounding single-family homes will not be disturbed.
 - b. The subject property is adjacent to an existing Local Commercial zoning district and rezoning this parcel would allow a contiguous Local Commercial zoning district.
 - c. Conditional zoning allows this Board to make reasonable conditions on the parcel in order to diminish or eliminate the impact the rezoning would have on the neighborhood.
5. Conditional zoning districts require a public hearing but, as with other map amendments, is fundamentally a legislative decision for this Board.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS drawn, and it appeared to the HENDERSON COUNTY BOARD OF COMMISSIONERS that the Rezoning must be **GRANTED**.

IT IS THEREFORE ORDERED by the HENDERSON COUNTY BOARD OF COMMISSIONERS as follows:

The requested CONDITIONAL ZONING DISTRICT has been GRANTED. The Applicant must adhere to the conditions established in this Order as follows:

CONDITIONS

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.
2. Stored items shall be stored indoors. Outdoor storage shall not be allowed.
3. Lighting mitigation is required. There shall be a minimum amount of lighting for the facility, and this lighting should not adversely affect the surrounding neighbors.
4. Access to the rezoned portion of the Subject Area shall only be via the Henderson County Landfill.
5. The portion of the Subject Area adjacent to Foxwood Drive shall remain zoned for residential uses.
6. The existing wooded areas as identified on the site plan shall remain intact and shall comply with the provisions in condition 8.
7. The existing power line right-of-way shall remain open and unobstructed.
8. The proposed use(s) shall comply with the landscape design standards and off street parking provisions as outlined in the Land Development Code.
9. The Subject Area may be accessed at any time for just cause to retrieve emergency service items stored on the premises.

ORDERED this the ____ day of Septemeber, 2008.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____
William Moyer, Chairman

ATTEST:

Terry Wilson
Clerk to the Henderson County Board of Commissioners