

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** Monday, October 5, 2009

**SUBJECT:** Public Hearing for Rezoning Application #R-2009-01

**ATTACHMENTS:**

1. Staff Report
2. Aerial Photo Map
3. Subject Area Photos
4. Residential One (R1) District Text
5. Excerpt of Planning Board Minutes from August 20, 2009
6. Notice of Public Hearing
7. Certification of Notification of Public Hearing
8. Power Point Slides

#### **SUMMARY OF REQUEST:**

Rezoning Application #R-2009-01 is a staff initiated request for the County to rezone approximately 4.23 acres of land, located near the intersection of Rutledge Dr. and Erkwood Dr, from the City of Hendersonville's relinquished ETJ to a Residential One (R1) zoning district. The Subject Area is composed of three (3) parcels. The subject area owner is Mud Creek Baptist Church, INC.

The Henderson County Planning Board considered rezoning application #R-2009-01 at its regularly scheduled meeting on August 20, 2009. During that meeting, the Planning Board voted unanimously to send forward a favorable recommendation on rezoning application #R-2009-01 to rezone the Subject Area to R1 (Residential One).

#### **PUBLIC NOTICE:**

Before taking action on the application, 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 October 5, 2009, public hearing regarding rezoning application #R-2009-01 were published in the Hendersonville Times-News on September 16, 2009 and September 23, 2009. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area and the Applicants and posted signs advertising the hearing on the Subject Area on September 18, 2009. Attachment 7 includes a certification to this effect.

#### **BOARD ACTION REQUESTED:**

Planning Staff recommends that the Board of Commissioners approve the application to rezone the Subject Area to a Residential One (R1) zoning district

#### **Suggested Motion:**

I move that the Board recommend approval of rezoning application #R-2009-01 to rezone the Subject Area to a Residential One (R1) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan.

---

## Henderson County Planning Department Staff Report

### Rezoning Application #R-2009-01

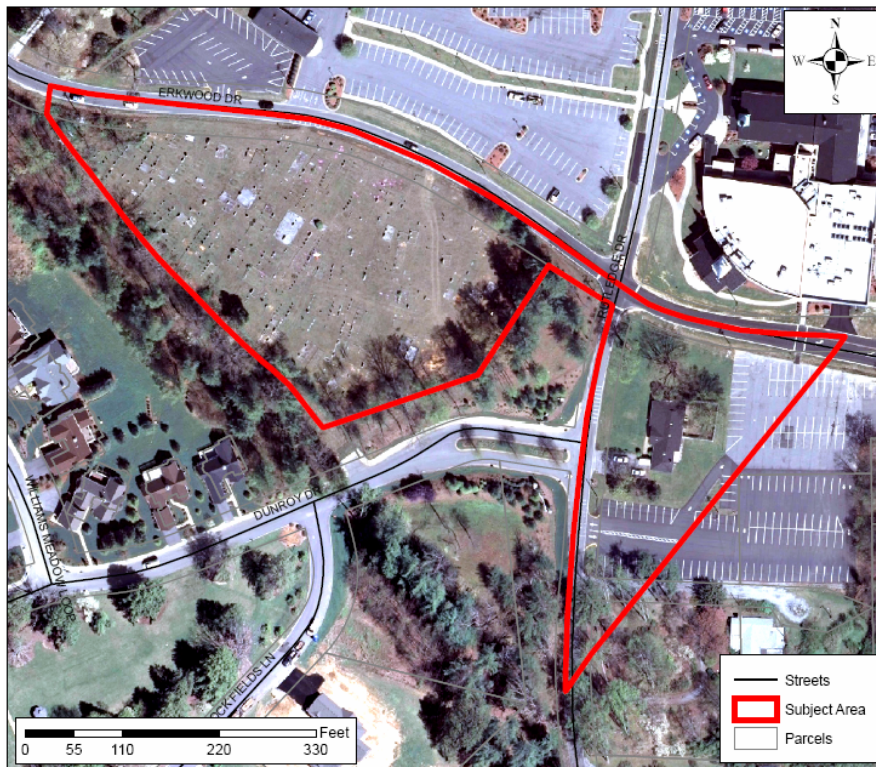
Mud Creek Baptist Church, INC, Owner

Initiated by the Henderson County Planning Staff, Applicant

#### 1. Rezoning Request

- 1.1. **Applicant:** Initiated by the Henderson County Planning Department
- 1.2. **Property Owner:** Mud Creek Baptist Church, INC
- 1.3. **Request:** Rezone three parcels of land that were relinquished from the City of Hendersonville ETJ to an R1 zoning district.
- 1.4. **Subject Area** (See Map A)

**Map A: Map of Subject Area**



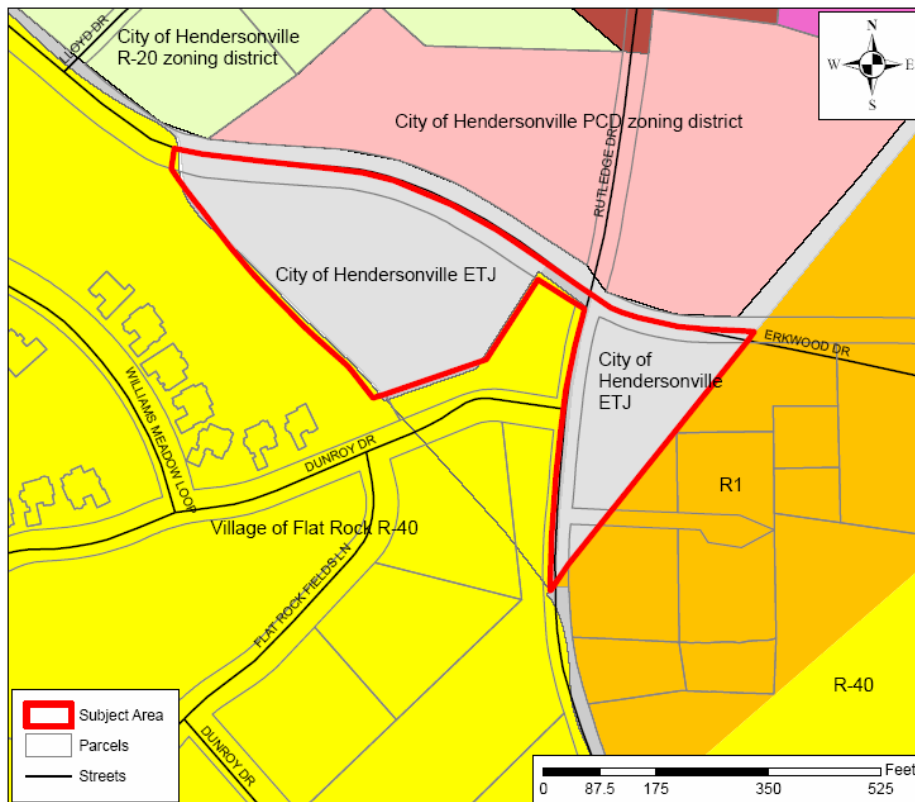
- 1.5. **PINs:** 9567-98-6403, 9577-08-0254, 9577-08-0022
- 1.6. **Size:** Total of 4.23 acres to be rezoned.
- 1.7. **Location:** The Subject Area is located along Rutledge Drive (SR 1166), approximately 2,400 feet from the intersection of Greenville Highway (NC

225) and Erkwood Drive (SR 1164). And 4,200 feet from the intersection of Erkwood Drive (SR 1164) and Kanuga Rd (SR 1127)

**2. Current Zoning**

2.1. **Application of Current Zoning:** The subject area was relinquished from the City of Hendersonville’s ETJ on October 6, 2005. The Village of Flat Rock accepted a portion of this relinquished ETJ into their jurisdiction however, specifically left these parcels out. The County was not notified that these parcels were relinquished back to the county. A recent application by Mud Creek Baptist Church identified the discrepancy in the surrounding zoning area. Staff initiated the rezoning application to rectify the issue.

**Map B: Current Zoning**



2.2. **Adjacent Zoning:** The Subject Area is adjacent to County R1 zoning to the east. Land adjacent to the Subject Area to the west is zoned a Village of Flat Rock R-40 zoning district. Land adjacent to the Subject Area to the north is zoned City of Hendersonville R-20 and PCD (Planned Commercial Development).

2.3. **Prior Zoning:** The areas surrounding the Subject Area were previously (prior to LDC adoption on September 19, 2007) zoned R-15 (Medium-Density Residential).

## 2.4. Proposed Zoning

2.4.1. **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).

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

3.1. **Subject Area Uses:** The Subject Area parcel abutting Erkwood drive contains a cemetery. The remaining portions of the subject area are facilities associated with Mud Creek Baptist Church.

3.2. **Adjacent Area Uses:** The surrounding properties are primarily religious institution uses associated with Mud Creek Baptist Church. The remaining uses within close proximity to the subject area within the County, Village of Flat Rock, and City of Hendersonville are residential.

## 5. The Henderson County 2020 Comprehensive Plan (CCP)

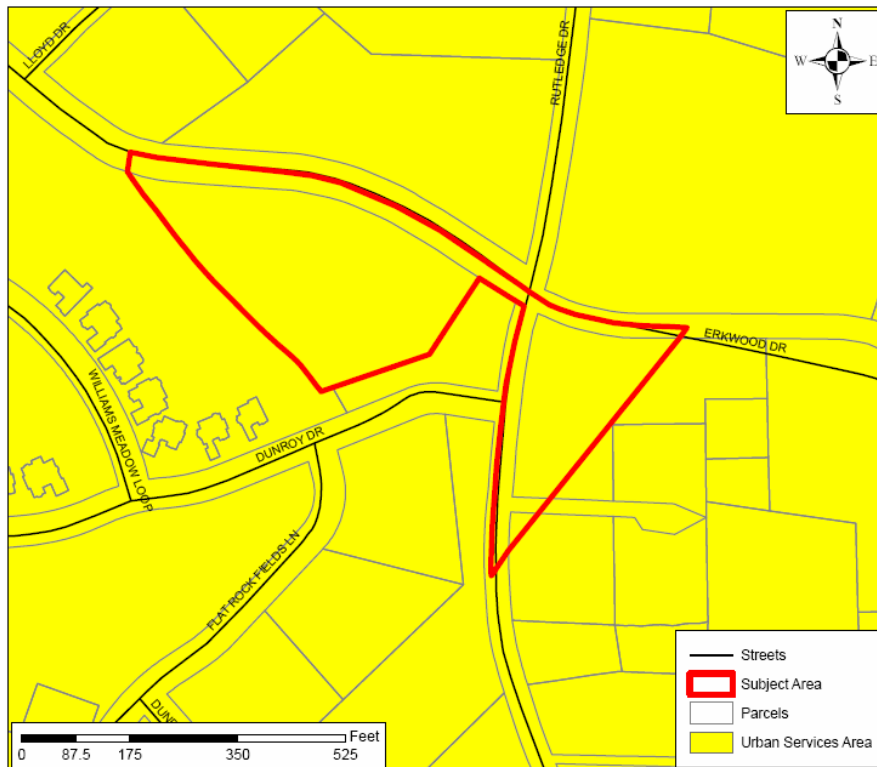
5.1. **Urban Services Area:** The CCP Future Land Use Map identifies the Subject Area as being located in the Urban Services Area (USA)(2020 CCP, Pgs. 128, 129 & Appendix 1, Map 24) (See Map D).

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

5.1.2. The CCP also states that, “the USA is that area within which most urban services and urban-scale development is currently concentrated, and within which such development should generally be concentrated through the year 2020” (CCP, Pg. 128).

5.1.3. 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.” (2020 CCP, Pg. 120).

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



**6. 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 an R1 (Residential One) zoning district. This based on the following:

6.1. **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 development.

6.2. **Adjacent Zoning:** The Subject Area directly abuts an existing R1 zoning district to the east. If the Subject Area were to be rezoned to R1 this property would be apart of a contiguous zoning district.

**7. Staff 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 Subject Area to R1 consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

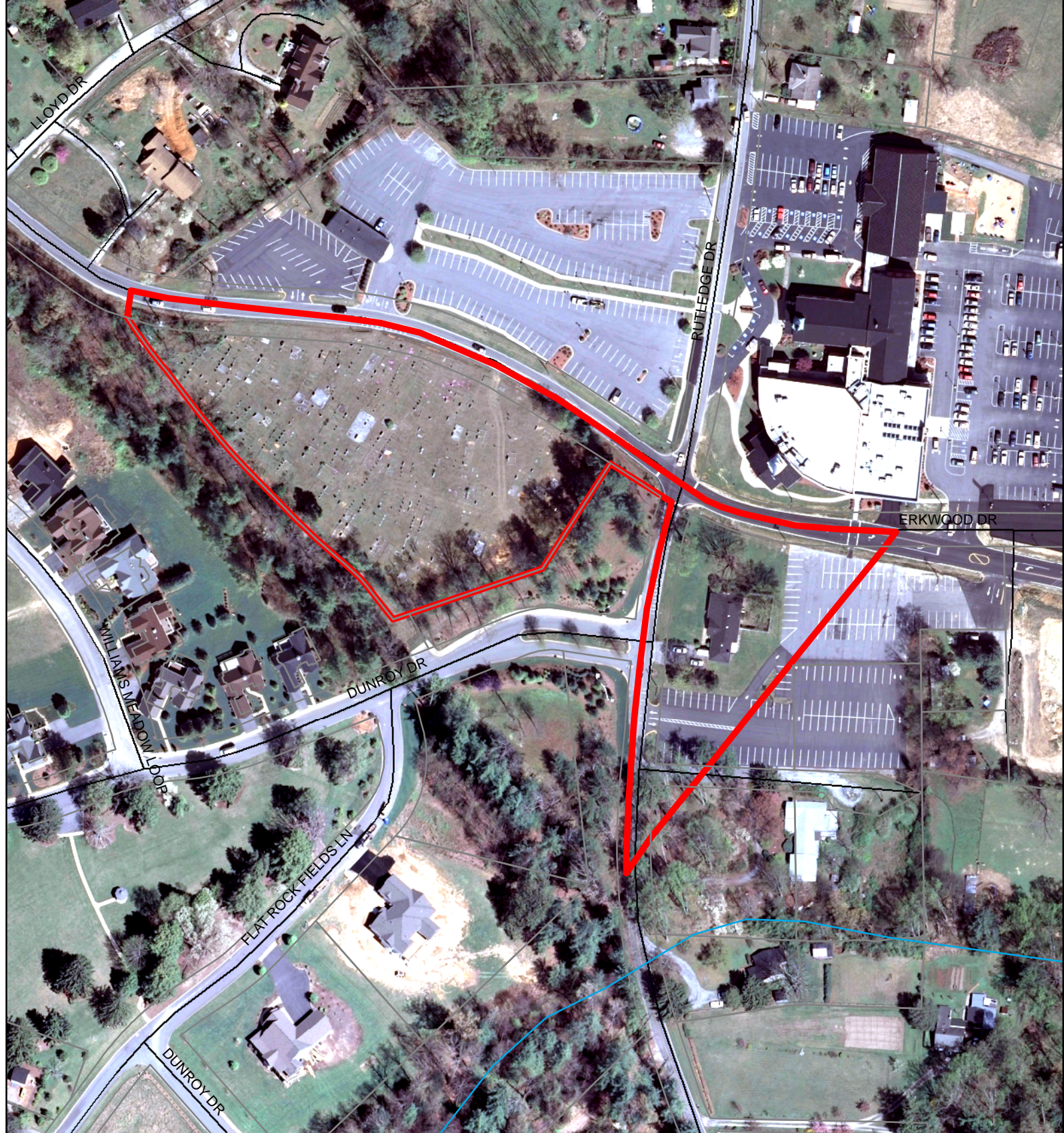
7.1.1. According to the City of Hendersonville, the Subject Area was removed from the City of Hendersonville's Extra Territorial Jurisdiction (ETJ). Currently, the Subject Area is NOT zoned. As a result, Staff is recommending that the Subject Area be rezoned R-1 to match the surrounding R-1 zoning.

**8. Technical Review Committee Recommendations**

8.1. The Henderson County Technical Review Committee considered rezoning application #R-2009-01 at its regularly scheduled meeting on August 4, 2009. During that meeting, the Technical Review Committee voted unanimously to send forward a favorable recommendation on rezoning application #R-2009-01 to rezone the Subject Area to R1 (Residential One).

**9. Planning Board Recommendations**

9.1. The Henderson County Planning Board considered rezoning application #R-2009-01 at its regularly scheduled meeting on August 20, 2009. During that meeting, the Planning Board voted unanimously to send forward a favorable recommendation on rezoning application #R-2009-01 to rezone the Subject Area to R1 (Residential One).



**Legend**

- Parcels
- Subject Area
- Streets

Rezoning Application  
R-2009-01  
Mud Creek Baptist Church, owner



0 95 190 380 Feet



View of Mud Creek Baptist Church looking east.



View of Mud Creek Baptist Church building looking south.



View of Cemetery looking south from Erkwood Dr.



Rezoning Application #2009-01

**§200A-27. 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) Intermediate	8	
		(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 (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*; and

- c. To multifamily residential *uses* with fewer than five (5) units.
- 
- (3) Intermediate residential density shall be available when individual dwellings would be served by both: (1) a *municipal water supply system* and (2) a *sewage disposal system* (of the following types: municipal, approved public, or approved community) which meet the
  
  - (4) 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.
    - a. A total of at least five (5) units would be permitted by standard residential density, and
  
    - b. Such dwellings are generally served by both: (1) a *municipal water supply system* and (2) a *sewage disposal system* (of the following types: municipal, approved public, or approved community) which meet the requirements of the local or State authorities.
  
  - (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.
  
  - (6) 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.

**NOTICE OF PUBLIC HEARING  
ON PROPOSED ZONING MAP AMENDMENT  
(Rezoning Requests #R-2009-01 and #R-2009-02)**

The Henderson County Board of Commissioners will hold a public hearing on two requests for proposed map amendments to the Official Zoning Map of Henderson County, North Carolina.

Rezoning Application #R-2009-01, would rezone approximately 4.23 acres of land, located near the intersection of Rutledge Drive and Erkwood Drive, from the City of Hendersonville's relinquished ETJ to a Residential One (R1) zoning district. The Subject Area is composed of three (3) parcels (PINs: 9567-98-6403, 9577-08-0254, 9577-08-0022). The subject area owner is Mud Creek Baptist Church, INC.

Rezoning Application #R-2009-02, would rezone approximately 23 acres of a 67 acre tract, located off McMurray Road (SR 1790), from an R2MH (Residential Two with Manufactured Housing) zoning district to an I (Industrial) zoning district. The subject area (PIN: 9588-35-3238) is owned by William McKay Trust.

The public hearing will be held on Monday, October 5, 2009, at 7:00 P.M., in the Board of Commissioners Meeting Room located in the Henderson County Historic Courthouse, at 1 Historic Courthouse Square, 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, 1 Historic Courthouse Square, Suite 1, 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, 213 1<sup>st</sup> Avenue East, 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 [www.hcplanning.org](http://www.hcplanning.org). 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 amendments before taking final action. The Henderson County 2020 Comprehensive Plan will be updated and amended, as necessary, to reflect the action of the Board of Commissioners.

Terry Wilson  
Clerk to the Board

Henderson County Board of Commissioners

For publication in the Times News on September, September 16, 2009 and Wednesday, September 23, 2009.

**EXCERPT FROM THE HENDERSON COUNTY PLANNING BOARD MINUTES**  
**August 20, 2009**

Rezoning Application # R-2009-01 – Request to Rezone Approximately 4.23 Acres of Land Located near the Intersection of Rutledge Drive and Erkwood Drive – From the City of Hendersonville’s Relinquished ETJ to a Residential One (R1) Zoning District – Staff Initiated for the County for Mud Creek Baptist Church, Inc., Owner. Presentation by Parker Sloan. Mr. Sloan stated that the rezoning request is Staff initiated for the County to rezone approximately 4.23 acres of land located near the intersection of Rutledge Drive and Erkwood Drive from the City of Hendersonville’s relinquished ETJ to a Residential One (R1) zoning district. The subject area is composed of three parcels and the owner is Mud Creek Baptist Church, Inc. He stated that the adjacent zoning is County R1 to the east, Village of Flat Rock R-40 zoning to the west and City of Hendersonville R-20 and Planned Commercial Development (PCD) zoning to the north. Prior to the LDC adoption, the property was zoned R-15 (Medium-Density Residential). Mr. Sloan stated that the current uses of the subject area are the parcel that abuts Erkwood Drive contains a cemetery and the remaining portions are facilities associated with Mud Creek Baptist Church. He said surrounding the subject property are properties primarily religious institution uses associated with Mud Creek Baptist Church and the remaining uses within close proximity to the subject area with the County, Village of Flat Rock and City of Hendersonville are residential.

Mr. Sloan stated that Staff’s position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the property to an R1 (Residential One) zoning district based on the 2020 CCP classification of Urban Services area and the text and map of the CCP suggests that the subject would be suitable for high-density residential development and that the subject area directly abuts an existing R1 zoning district to the east, making this rezoning a contiguous zoning district. He added that currently because the City of Hendersonville removed is from their extra territorial jurisdiction (ETJ), the subject area is not zoned. In addition, the Technical Review Committee at its August 4, 2009 meeting unanimously voted to send forward a favorable recommendation on rezoning this subject area.

Chairman Pearce opened public input.

Mr. Ed Shane. Mr. Shane is an adjacent property owner who stated that he was concerned with the small vacant property, which is part of the rezoning request and wanted to know what is planned for that area. Chairman Pearce mentioned that it is not a requirement to ask the applicant their reasons for rezoning but rather whether it supports the CCP and LDC. Mr. Shane also talked about the traffic congestion that the church creates on Sundays and other occasions for the nearby property owners. Chairman Pearce responded by stating that the Planning Board does not have any authority over traffic.

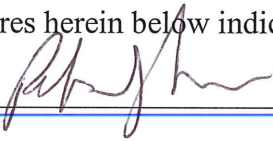
Mr. Pearce made a motion that the Board recommends approval of rezoning application # R-2009-01 to rezone the subject area to a Residential One (R1) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. Mike Cooper seconded the motion and all members voted in favor.

**Certification of Notice of Public Hearing**

In accordance with NCGS 153A-343 the Planning Department certifies notices of the October 5, 2009 hearing regarding Rezoning Application #R-2009-01 and Rezoning Application #R-2009-02 were:

1. Submitted to the Hendersonville Times-News on September 9, 2009 to be published on September 16, 2009 and September 23, 2009 by Parker Sloan;
2. Sent, via first class mail, to the owners of properties adjacent to the Subject Area on September 18, 2009 by Parker Sloan;
3. Sent, via first class mail, to the property owners on September 18, 2009 by Parker Sloan; and
4. Posted on the Subject Area on September 18, 2009 by Parker Sloan.

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

1. 
2. \_\_\_\_\_

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 PARKER SLOAN,  
\_\_\_\_\_, and \_\_\_\_\_

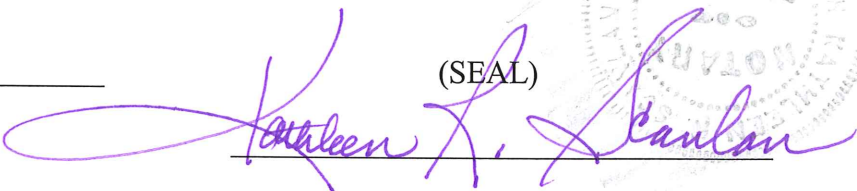
personally appeared before me this day and acknowledged the due execution by

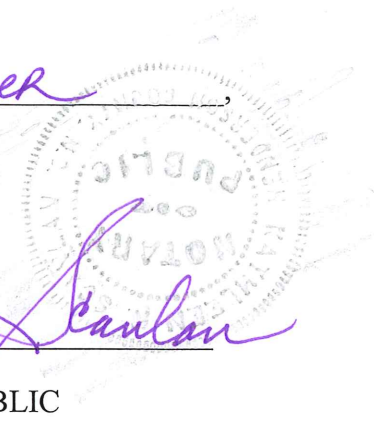
PARKER SLOAN of the foregoing instrument.

WITNESS my hand and notarial seal, this the 21 day of September,  
2009.

My commission expires:

10-24-2010

(SEAL)  
  
NOTARY PUBLIC



**Rezoning #R-2009-01**  
**Initiated by Henderson County Planning Staff, owned by Mudcreek Baptist Church**

