

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** May 18, 2011

**SUBJECT:** William Corn Conditional Rezoning (R-2010-03-C)

**PRESENTED BY:** Sarah Grace Zambon

**ATTACHMENT(S):** Order Granting Conditional Industrial Zoning District

**SUMMARY OF REQUEST:**

At this Board's May 2<sup>nd</sup> meeting, a public hearing was held on the proposed Industrial conditional district rezoning for William Corn. Planning staff presented information regarding the subject property, analysis, recommendations and conditions. The Applicant was present to answer questions and discuss his business. This Board discussed the rezoning and recommended conditions. The Board made a motion to approve the rezoning with conditions which passed unanimously. This Board requested staff prepare an order based on the hearing and conditions as amended. This Order is the summation of the hearing and the discussion of the Board.

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

**BOARD ACTION REQUESTED:**

Approval of the draft order on the conditional rezoning district.

**Suggested Motion:**

I move that the Board approve the draft Order as presented based on the Board's conditions and discussion at the public hearing.

**IN THE MATTER OF THE REQUEST of William Corn,  
Applicant,**

**To the**

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

**ORDER GRANTING CONDITIONAL ZONING DISTRICT R-2010-03-C**

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The **HENDERSON COUNTY BOARD OF COMMISSIONERS** having held a public hearing on May 2, 2011 to consider the request initiated by the Board of Commissioners at the request of William Corn, 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-2010-03-C. All regular members of the Board of Commissioners were present at the hearing.
2. This Order and the approval herein was moved by William O'Connor and approved by a unanimous vote of five (5) votes in the affirmative and zero (0) in opposition.
3. William Corn, hereinafter referred to as the "Applicant" is the owner of the subject property and was present at the hearing to offer information. The subject property is located off Howard Gap Road.
4. Parker Sloan is a planner with the Henderson County Planning Department. Mr. Sloan presented the evidence, analysis and recommendation 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 Tribune on April 14, 2011 and April 21, 2011. First class mail was sent by Mr. Sloan to adjacent property owners on April 14, 2011. Mr. Sloan also posted signs on the property regarding the conditional zoning request on April 15, 2011.
  - a. The Applicant's conditional zoning district request is not inconsistent 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. Mr. Sloan presented a staff report, an aerial photo map, and a site plan, stipulations of the parties, notice of public hearing, certification of notification of public hearing, and a Power Point presentation to the Board of Commissioners.
7. Conditional zoning districts are described and authorized by the Henderson County Land Development Code in 200A-45 through 200A-51.
8. The subject property is 2.42 acres of a 6.26 acre tract and has a PIN of 9670-24-2970.
9. The property is off Howard Gap Road (SR. 1006) and is currently zoned residential district R-1.
10. The subject area's current zoning has been in place as R-1 since September 19, 2007 when the Land Development Code was adopted. Prior to the adoption of the Land Development Code, the property was zoned open use.
11. The subject property contains a single-family dwelling and a large fenced-in gravel yard for storing vehicles.
12. The surrounding and adjacent properties are used for residential and commercial uses.
13. A mining facility owned by Vulcan Mines, Inc. exists to the west of the property.

14. On November 1, 2010 William Corn, the applicant, submitted a request to rezone part of his parcel from R-1 (Residential One) to an I-CD (Industrial Conditional District).
15. The Applicant's request was to rezone part of the property industrial so that the applicant can use the subject property in part as a parking area for his automobile towing business.
16. Mr. Sloan submitted evidence that the Henderson County 2020 Comprehensive Plan (CCP) identified the subject area as located in the Urban Services Area and Industrial area. Planning Staff supports the rezoning because it is in keeping with the recommendation of the County Comprehensive Plan.
17. Planning staff recommends an Industrial Conditional Zoning district for this property because of the neighboring residential uses and existing automobile business onsite.
18. Conditional zoning districts are deemed more appropriate by staff to limit the industrial uses permitted on the subject area.
19. The Technical Review Committee considered the request on January 18, 2011 and voted unanimously to support the request.
20. The Planning Board reviewed the application on February 17, 2011 and voted 5-2 to recommend the proposal to the Board of Commissioners.
  - a. The Planning Board recommended that the property be split zoned so that the Applicant's home will remain residentially zoned and his business will be zoned industrial. The purpose of this was to prevent nonconforming uses on the parcel.
21. Mr. Corn is not on the rotation for impoundment with the Sheriff's Office. Most of his vehicles come from the City of Hendersonville and from Highway Patrol.
22. There were no members of the public or adjacent property owner present at the hearing offering input to the Board.
23. Commissioners raised questions regarding the height of the fence.
24. The Board of Commissioners discussed the number of cars and the length of time to keep the vehicles on the subject property.
25. The Applicant offered information regarding practically how many cars and how long they are on the property based on his business practices.
  - a. Mr. Corn said that he could fit 25 vehicles on the subject property.
  - b. Depending on the reason the cars are towed or impounded, the vehicles may be on the property between five days and two months.

### **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. Notice was provided by mail, newspaper advertisement, and property posting. These methods of notification were certified by Mr. Sloan.
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 grants the Board of Commissioners the jurisdiction to hear and make rezoning decisions.
4. The rezoning is consistent with the Henderson County 2020 Comprehensive Plan and the rezoning should be **GRANTED** based on the reasons established below:
  - a. The property is contiguous with an industrial zone including the Vulcan Mine Property.
  - b. The subject area is in the Urban Services Area and Industrial Area of the Henderson County 2020 Comprehensive Plan and would be suitable for limited industrial uses.
    - i. The intended use of the property, automobile storage, keeps with the surrounding neighborhood of residential, commercial and mining uses;
    - 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.
  - 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.

- i. Conditional rezoning allows this Board to limit the industrial use on the property to solely automobile towing so that the use is not too intense to interfere with the adjacent residential areas.
  - ii. By split-zoning the property, the Applicant will be allowed to have his residence and business on the parcel.
  - iii. Both residential and industrial uses are contiguous with the surrounding area.
5. Conditional zoning districts require a public hearing but, as with other map amendments, is fundamentally a legislative decision for this Board.
  6. All below conditions have been accepted by the Applicant either in writing on the stipulations or by acceptance at the hearing and are mutually agreed upon by the Applicant and this Board.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS drawn, and it appearing 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. This Order incorporates the site plan as Attachment A and the aerial map as Attachment B and thus are part of this Order.
2. The existing fenced area on the property shall be used for the temporary storage of vehicles associated with the property owner's automotive towing business. Other commercial or automotive related uses shall not be allowed.
3. Major Site Plan is required in accordance with §200A-299 (Major Site Plan Review).
4. Adequate lighting shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. Lighting mitigation required.
  - a. Adequate lighting is defined in §200A-359 (Definitions) as "[L]ighting of areas used for vehicular and pedestrian access which serves to heighten visibility and, as a result, protect the public health, safety, and welfare."
  - b. Lighting Mitigation is defined in §200A-359 (Definitions) as "[M]itigating the impact of outdoor lighting fixtures in order to protect neighboring properties and road from direct glare or hazardous interference of any kind. Lighting mitigation typically involves directing lighting fixtures away from adjacent properties but may also include the installation of planted buffers, screens, walls, etc."
  - c. There are no other lighting requirements beyond adequate lighting and lighting mitigation.
5. Unpaved roads, travel-ways and/or parking areas shall be treated to prevent dust from adversely affecting adjacent properties.
6. The Applicant cannot have more than fifteen (15) vehicles in storage on the site at one time.
7. Individual vehicles may not be stored on the subject property for more than sixty (60) days.
8. The remaining portion of the Subject Area that contains an existing residential home shall remain zoned for residential uses.
9. The operations of an automotive towing use shall be totally enclosed by: (1) a security fence at least eight (8) feet in height; (2) a wall at least eight (8) feet in height; or (3) a fireproof building. Entrances and exits should be secured and locked during non-operating hours.
  - a. If a fence is built it must be 75 percent opaque, where all spaces are evenly distributed, and with the finished side of the fence facing adjacent properties or road. Fences longer than 20 linear feet shall be

landscaped with: a row of shrubs spaced a maximum of ten (10) feet apart, or a row of evergreen trees planted no more than 15 feet apart

10. All required parking spaces must meet the design requirements of the Land Development Code §200A-161-165. The proposed parking spaces shall comply with the landscape design standards and off street parking provisions as outlined in the Land Development Code (LDC Article V and VI). It appears the applicant is proposing 4 parking spaces and the spaces shown on the site plan meet the requirements of the Land Development Code.
11. Any signs used on site must meet current standards of Article VII of the LDC Henderson County Code §200A.
12. If the applicant has plans for future expansion of the existing business, all potential modification or expansions should be noted on the site plan.
13. Alterations to this Approval may be approved by the Planning Director or his designee as per §200A-50.

ORDERED this the \_\_\_ day of \_\_\_\_\_, 2011.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

By: \_\_\_\_\_  
J. Michael Edney, Chairman

ATTEST:

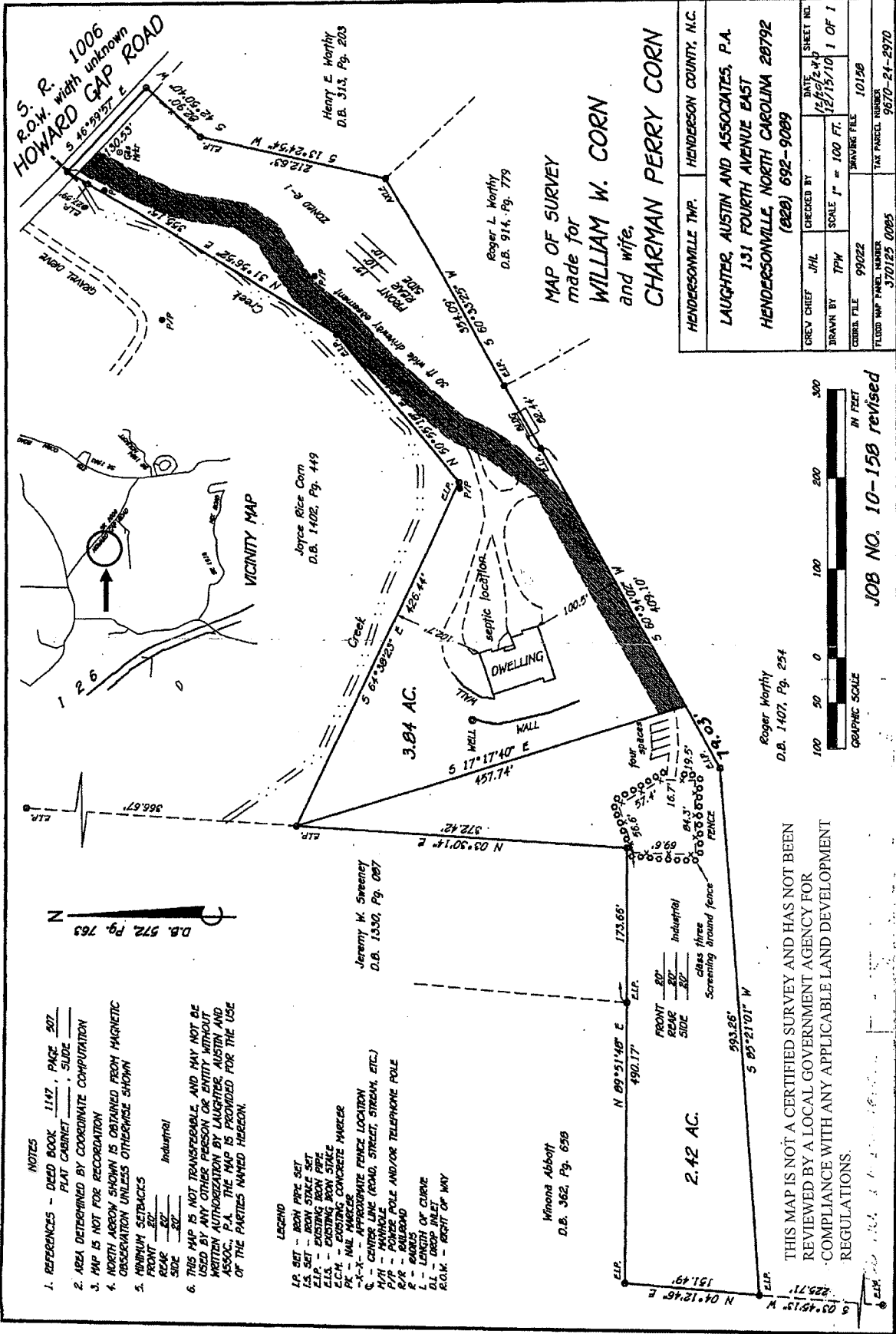
\_\_\_\_\_  
Terry Wilson  
Clerk to the Henderson County Board of Commissioners

**ACCEPTANCE BY APPLICANT**

I, William Corn, Applicant, do hereby acknowledge receipt of this Order and consent to the conditions as written in this Order.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2011

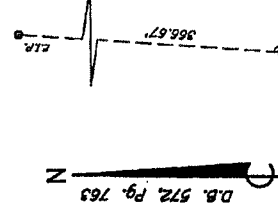
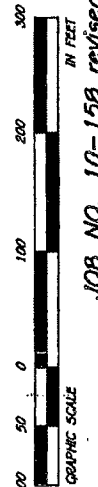
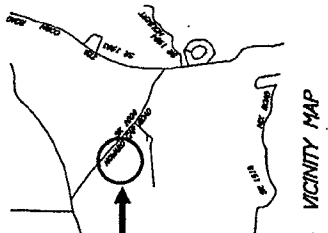
\_\_\_\_\_  
William Corn, Applicant



S. S. R. 1006  
R.O.W. with unknown  
width  
HOWARD GAP ROAD

MAP OF SURVEY  
made for  
**WILLIAM W. CORN**  
and wife,  
**CHARMAN PERRY CORN**

HENDERSONVILLE TWP.	HENDERSON COUNTY, N.C.
LAUGHTER, AUSTIN AND ASSOCIATES, P.A. 131 FOURTH AVENUE EAST HENDERSONVILLE, NORTH CAROLINA 28792 (828) 692-9089	
CREW CHIEF: JHL	CHECKED BY: [Signature]
DRAWN BY: TPH	SCALE: 1" = 100 FT.
CORR. FILE: 99022	DRAWING FILE: 10159
FLOOD MAP PANEL NUMBER: 370123-0085	TAX PARCEL NUMBER: 9670-24-2970
DATE: 12/15/10	SHEET NO.: 1 OF 1



- NOTES**
1. REFERENCES - DEED BOOK 1147, PAGE 207  
FLAT CABINET SLIDE
  2. AREA DETERMINED BY COORDINATE COMPUTATION
  3. MAP IS NOT FOR RECORDATION
  4. NORTH ARROW SHOWN IS OBTAINED FROM MAGNETIC OBSERVATION UNLESS OTHERWISE SHOWN
  5. MINIMUM SETBACKS  
FRONT 20'  
REAR 20'  
SIDE 20'
  6. THIS MAP IS NOT TRANSFERABLE AND MAY NOT BE USED BY ANY OTHER PERSON OR ENTITY WITHOUT WRITTEN AUTHORIZATION BY LAUGHTER, AUSTIN AND ASSOC. P.A. THE MAP IS PROVIDED FOR THE USE OF THE PARTIES NAMED HEREON.

- LEGEND**
- LP SET - IRON PIPE SET
  - I.S. SET - IRON STAKE SET
  - ELP - EXISTING IRON PIPE
  - ELCA - EXISTING CONCRETE MARKER
  - PK - IRON PIPE
  - X-X- - APPROXIMATE FENCE LOCATION
  - C - CENTER LINE (ROAD, STREET, STREAM, ETC.)
  - M/H - MANHOLE
  - P/P - POWER POLE AND/OR TELEPHONE POLE
  - P/R - POWER ROAD
  - L - LENGTH OF CURVE
  - DL - DROP INLET
  - R.O.W. - RIGHT OF WAY

Winona Abbott  
D.B. 962, Pg. 656

Roger Worthy  
D.B. 1407, Pg. 254

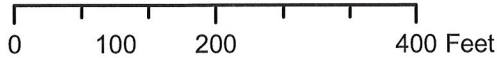
THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.







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**Rezoning Application  
#R-2010-03-C  
Billy Corn, owner**

This map is prepared for the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map.



**Legend**

-  Portion to be Rezoned
-  Total Project Parcel
-  Parcels
-  Streets

