

## REQUEST FOR COMMITTEE ACTION

### HENDERSON COUNTY TECHNICAL REVIEW COMMITTEE

**MEETING DATE:** November 5, 2013

**SUBJECT:** Rezoning Application #R-2013-04-C

**PRESENTER:** Parker Sloan, Planner

**ATTACHMENTS:**

1. Staff Report
2. Vicinity Map
3. Site Plan
4. Color Rendering

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

Rezoning Application #R-2013-04-C, which was submitted on September 5, 2013, requests the County rezone approximately 1.42 acres of land. The applicant requests a rezoning from a Residential Two Rural (R2R) zoning district to a Local Commercial Conditional (LC-CD) zoning district. The subject area parcel is owned by Kenneth and Brenda Allen and the applicant is Westside Village Property, LLC. (PIN: 9575-64-2842).

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.

#### **TECHNICAL REVIEW COMMITTEE ACTION REQUESTED:**

Planning Staff requests the Technical Review Committee take action to recommend that the Board of Commissioners approve, approve with modifications, table, or deny rezoning application #R-2013-04-C. The site plan will still need to be reviewed and approved by the TRC as per the Land Development Code Section 200A-327 through Section 200A-331.

#### **Suggested Motion:**

I move that the TRC recommend approval of rezoning application #R-2013-04-C to rezone the subject area to a Local Commercial Conditional (LC-CD) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan and subject to the approval of the corresponding major site plan.

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**Henderson County Planning Department Staff Report**

**Rezoning Application #R-2013-04-C (R2R to LC-CD)**

**Kenneth and Brenda Allen, Owner  
Westside Village Property, LLC, Applicant**

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**1. Rezoning Request**

- 1.1. **Applicant:** Westside Village Property, LLC
- 1.2. **Property Owner:** Kenneth and Brenda Allen
- 1.3. **PIN:** 9575-64-2842
- 1.4. **Request:** Rezone Subject Area from an R2R (Residential Two Rural) zoning district to a LC-CD (Local Commercial Conditional District).
- 1.5. **Subject Area** (See Map A)

**Map A: Map of Subject Area**



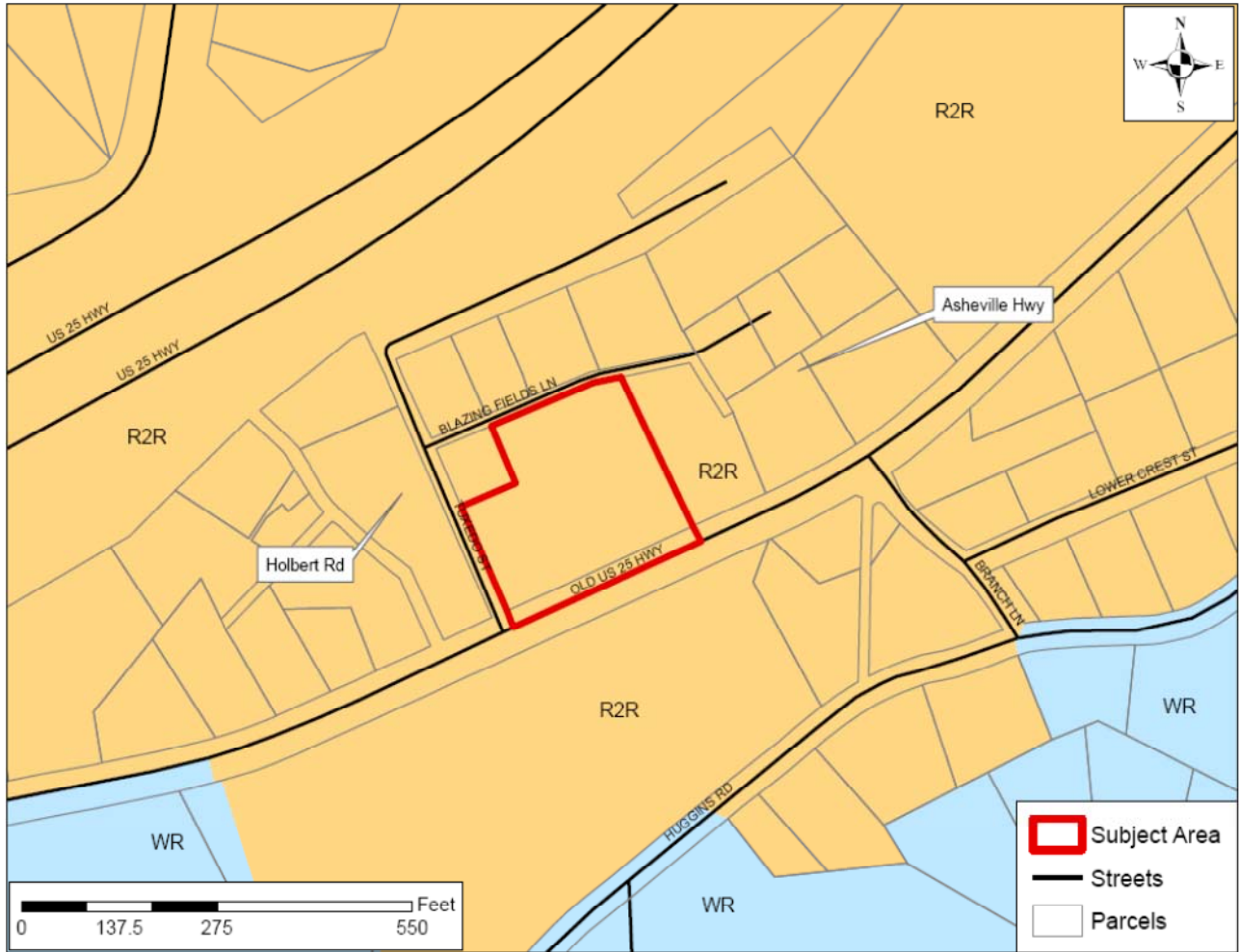
1.5.1. **Size:** Approximately 1.42 acres of land.

1.5.2. **Location:** The Subject Area is off of Old US Hwy 25.

**2. Current Zoning**

2.1. **Application of Current Zoning:** The Subject Area is currently zoned R2R (Residential Two Rural), 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 open use.

**Map B: Current Zoning**



2.2. **Adjacent Zoning:** The subject area is surrounded by Residential Two Rural (R2R) zoning to the south, north, east, and west.

**2.3. District Comparison:**

2.3.1. **Residential Two Rural:** *“The purpose of Residential District Two Rural (R2R) is to foster orderly growth where the principal use of land is residential. The intent of this district is to allow for low to medium density residential development, with the inclusion of manufactured housing, consistent with the recommendations of the Comprehensive Plan. This general use district is typically meant to be utilized in areas designated as transitional in the Comprehensive Plan”* (Chapter 200A, Land Development Code §200A-29). R2R requires 10 foot side and rear setbacks, a maximum building height of 40 feet, and a standard density of one (1) unit per acre (maximum density of 2 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).*

(1) LC (Local Commercial) requires 10 foot side and rear setbacks; (2) establishes a maximum building height of 40 feet; (3) Provides a 30,000 square feet maximum gross floor area for one unit in a multi-tenant structure, 10,000 square feet for any other commercial use or a single unit on a single lot, a maximum of 80,000 square feet for any multi-tenant structure, and a standard density of four (4) units per acre for residential (maximum sixteen (16) units per acre) (Chapter 200A, Land Development Code §200A-33)

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

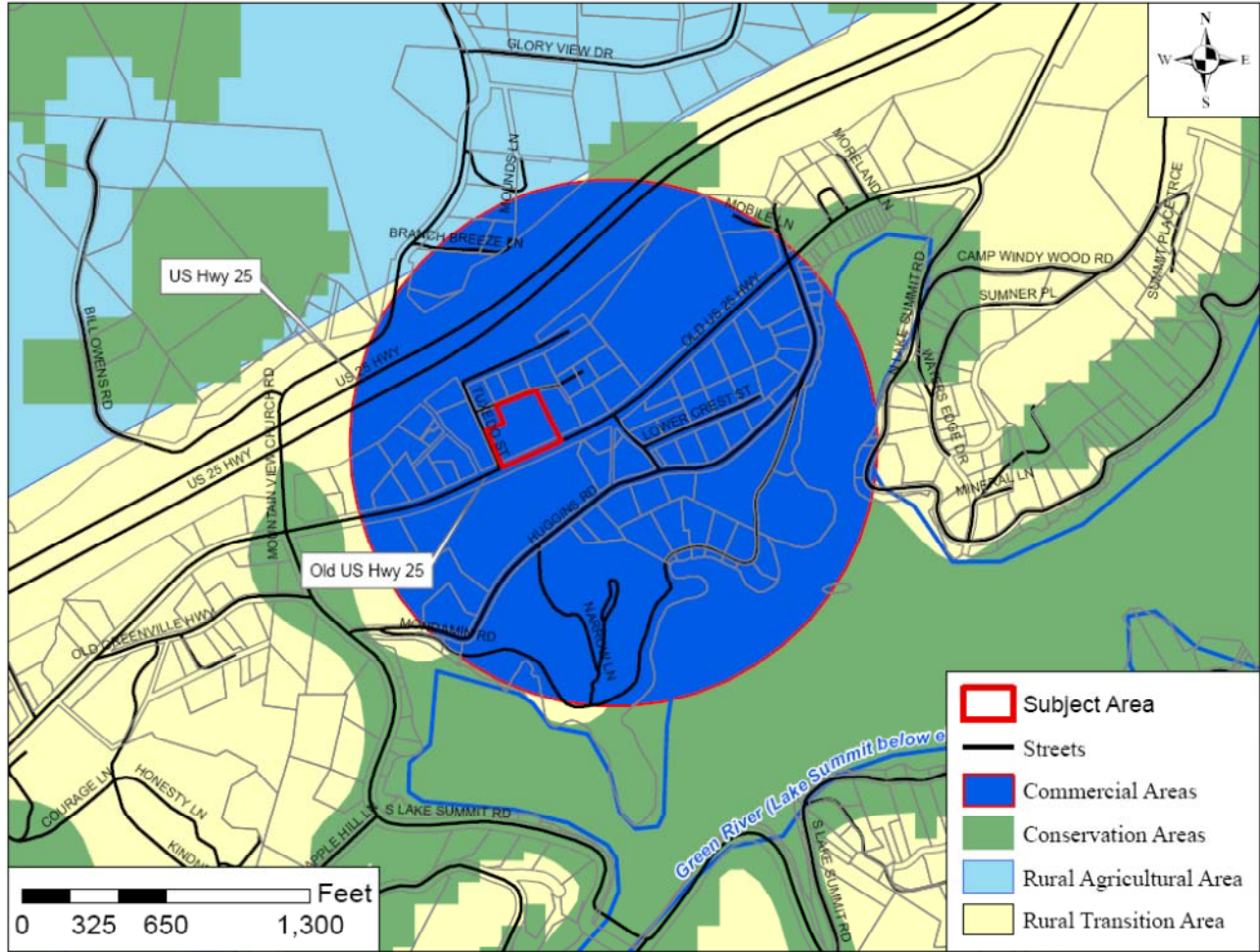
3.1. **Subject Area Use:** The Subject Area is currently vacant land.

3.2. **Adjacent Area Uses:** Surrounding area lands contain primarily single-family residences. Across the street from the subject area is the old Tuxedo Mill property which is currently planned to be converted into the Tuxedo Park facility. To the east down Old Hwy 25 is Tuxedo first Baptist Church.

### **4. The Henderson County 2020 Comprehensive Plan (CCP)**

4.1. **Urban Services Area:** The CCP Future Land Use Map identifies the Subject Area as being located in the Rural Transition Area (2020 CCP, Pgs. 128, 129 & Appendix 1, Map 24) (See Map D). The subject area is also within a Community Service Node

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



- 4.1.1. The CCP states that, “The RTA is currently rural in character, with existing pockets of limited higher density residential and commercial development. The text of the 2020 CCP suggests that the subject area would be suitable for clustering and conservation design encouraged with the intent of maintaining a rural environment, protecting sensitive natural areas, and reserving land for future development. (2020 CCP, Pg. 130)
- 4.1.2. The CCP states that, “Community Service centers are intended to e intensive, efficient, define concentrations of mixed services that meet the needs of the surrounding community and defined service areas. Community Service Centers are appropriate for a mixture of commercial uses scaled to the service area in question; residential uses varying densities depending upon available services; and Community facilities such as schools, parks, community centers, and other similar facilities.” (2020 CCP, Pg. 138).

**5. The Green River Tuxedo Zirconia Community Plan**

The Green River Tuxedo Zirconia Community Plan Advisory Committee approved their draft plan on September 10<sup>th</sup> 2013. The community plan and its recommendations were present to the Planning Board for its review on October 17, 2013. The Planning Board will make a

recommendation to the Board of Commissioners. The Board of Commissioners may hold a public hearing before adopting the Plan. Plan recommendations, including zoning recommendations, will be implemented at a later date.

- 5.1. Local Commercial zoning is not currently located anywhere within the Green River Tuxedo Zirconia area. However, LC (Local Commercial) was recommended along Old US Hwy 25 from N. Lake Summit Road south to the intersection with Zircon Avenue.
- 5.2. The Community did not recommend specific design standards or support regulations or requirements for design standards. Although, the GRTZ area encourages new non residential uses to design developments that reflect the values and unique characteristics of the Planning Area.

## 6. Conditional Zoning Districts

Staffs position at this time is that it supports a rezoning of the project site to Local Commercial. However, due to the neighboring residential uses, distance from existing Local Commercial zoning and pending adoption of the GRTZ Community Plan, staff thinks a Local Commercial Conditional Zoning district would be more appropriate. This will limit the commercial use on the project site to only the proposed use, retail sales and services.

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 limitations and conditions on the use of the property proposed for rezoning (LDC§200A-45 - §200A-51).

The subject area is currently vacant. The applicant, Westside Village Property LLC, is proposing to use the site for retail sales and services, a use which is not allowed in R2-R. A rezoning is required for the business to be permissible. Staff suggests the following conditions be imposed on the Subject Area:

- 6.1. (1) Site Plan. Major *Site Plan* required in accordance with §200A-299 (Major Site Plan Review).
- 6.2. (2) Lighting. *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.
- 6.3. Building Orientation: The building may be located within 25 feet from the edge of the ROW. The main entrance of the building should face the street and all of the parking should be located on the side and rear of the building.
- 6.4. Buffer: The County LDC requires a B1 buffer (20 feet) along each side of the property that is adjacent to a residential district.
- 6.5. 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 more than the required parking spaces and the spaces shown on the site plan meet the requirements of the Land Development Code.

- 6.6. If the applicant has plans for future expansion of the existing business, all potential modification or expansions should be noted on the site plan.

**7. Staff Comments and Recommendations**

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 Technical Review Committee, Planning Board, and 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.

Staff’s position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the portion of the project site to be zoned to a Local Commercial Conditional District (LC-CD). This based on the following:

- 7.1. **The 2020 CCP:** The CCP Future Land Use Map (See Map D) places the Subject Area in the “Rural Transition Area” classification. The text and map of the 2020 CCP suggest that the Subject Area would be rural in character, with existing pockets of limited higher density residential and commercial development.
- 7.2. **Adjacent Zoning:** The Subject Area does not abut an existing Local Commercial (LC) zoning district.
- 7.3. **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.

**GRTZ Community Plan Recommendations:** The GRTZ Community Plan recommended the area surrounding and including the subject area to be rezoned to a Local Commercial (LC) zoning district. Since the Plan has not been adopted and if adopted the rezoning recommendations would be implemented at a later date, Staff supports a Local Commercial Conditional District at this time.

**8. Technical Review Committee Recommendations**

- 8.1. TBD

**9. Planning Board Recommendations**

- 9.1. TBD

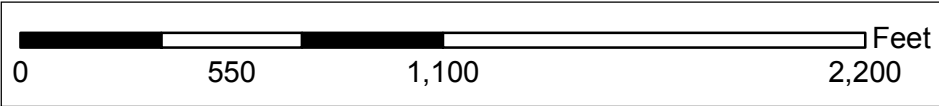


US Hwy 25

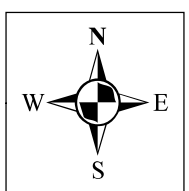
Old US Hwy 25




Tuxedo First Baptist Church

Future Site of Tuxedo Park



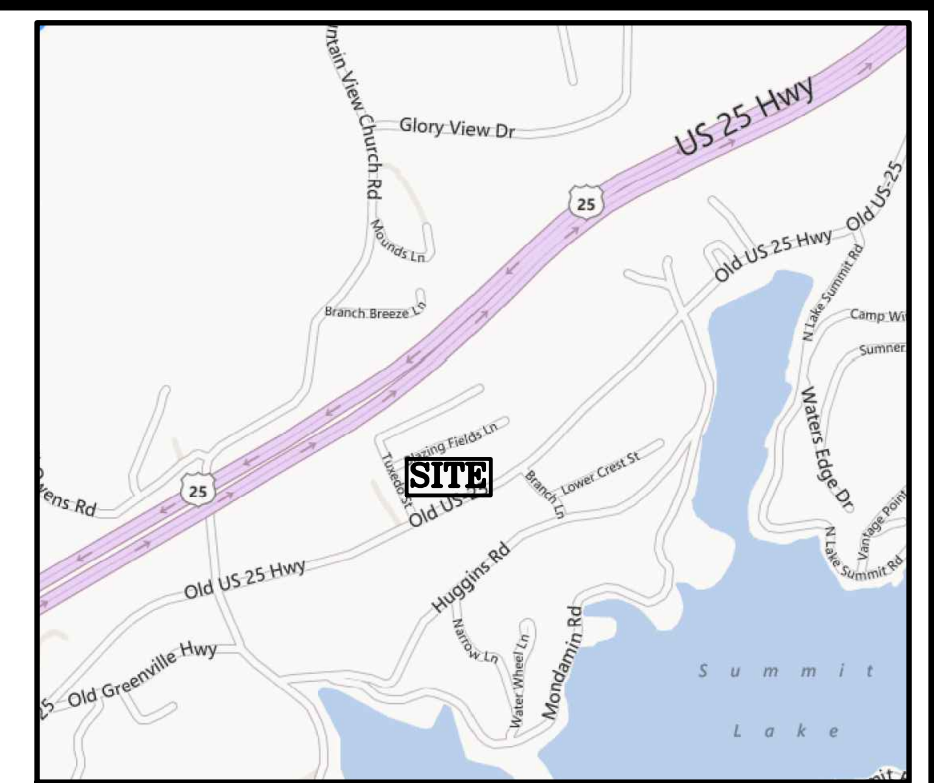
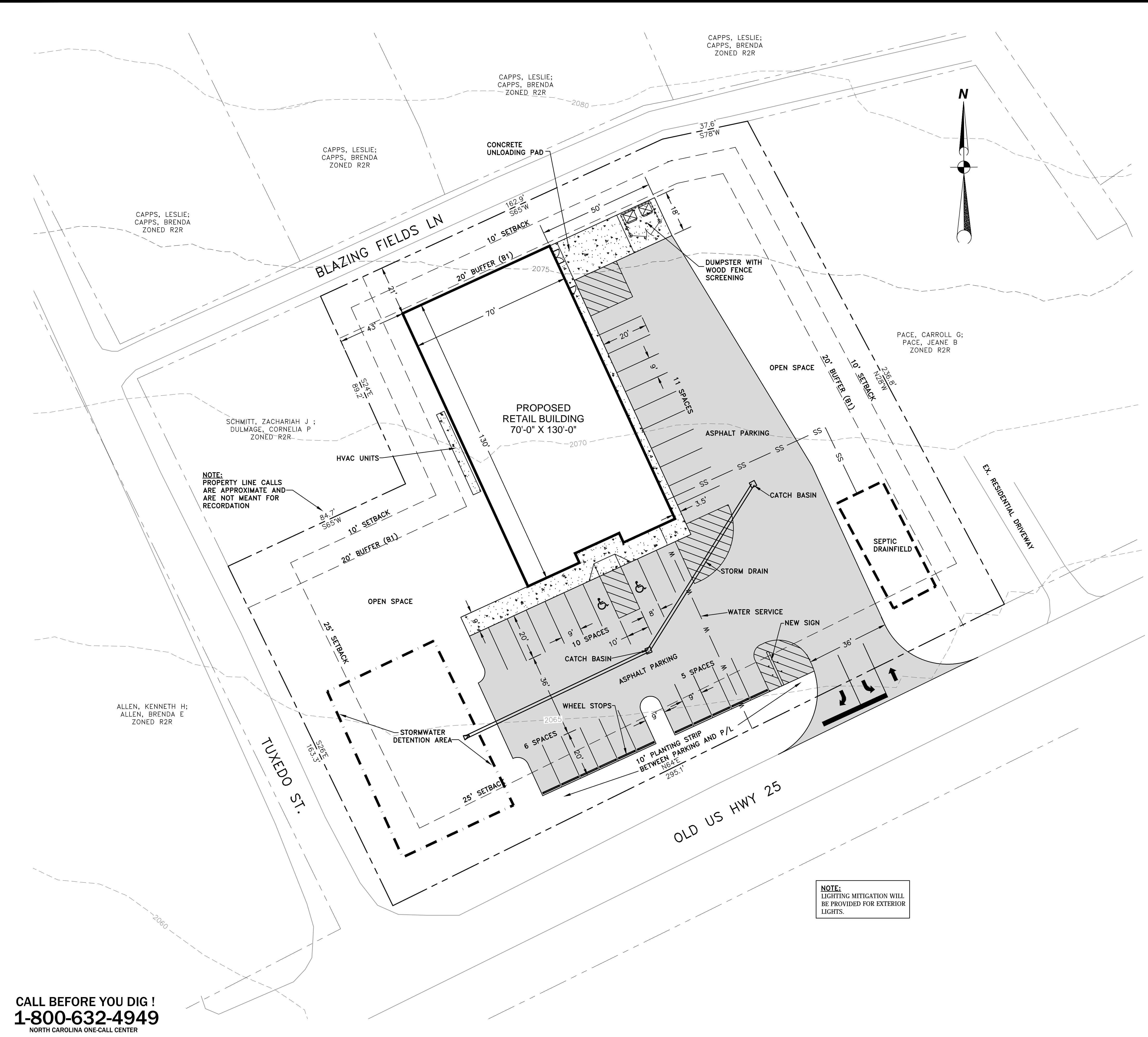
Rezoning Application  
R-2013-04-C  
WestSide Village Properties, LLC,  
Applicant



-  Subject Area
-  Streets
-  Parcels



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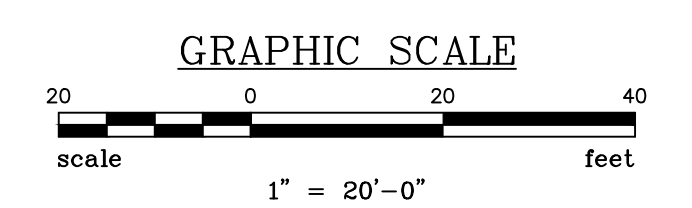


VICINITY MAP  
SCALE: NTS

DEVELOPMENT INFORMATION:	
OWNER:	WESTSIDE VILLAGE PROPERTIES, LLC 847 TRACY GROVE ROAD FLAT ROCK, NC 28731 PHONE No. (828) 243-9100 P.O.C. - DENNIS DORN
PROJECT ENGINEER:	KELLY B. SELLARS, PE PO BOX 161441 BOILING SPRINGS, SC 29316 PHONE No. (864) 699-9512
PIN NUMBERS:	9575642842
CURRENT ZONING:	R2R (RESIDENTIAL DISTRICT TWO RURAL)
PROPOSED ZONING:	LC (LOCAL COMMERCIAL DISTRICT)
PROJECT AREA:	1.42 ACRES
SETBACKS	FRONT 25' SIDE 10' REAR 10'
BUILDING INFORMATION:	PROPOSED BUILDING 9,100 SF
IMPERVIOUS SURFACE:	31,700 SF = 0.72 AC

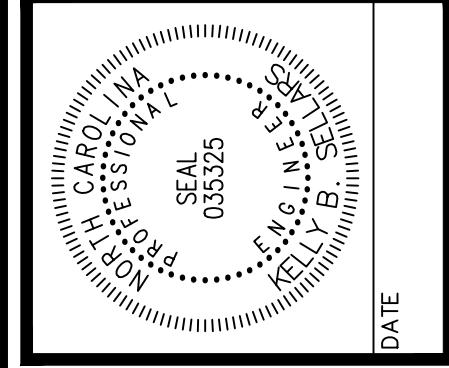
PARKING REQUIREMENTS:	
MIN. ONE SPACE PER 500 SF GROSS FLOOR AREA	
9,100 SF/500= 19 SPACES REQUIRED MIN.	
PARKING PROVIDED:	
REGULAR SPACES	30
HANDICAP SPACES	2
<b>TOTAL</b>	<b>32</b>

LEGEND	
	ADJOINER
	SETBACK/BUFFER LINE
	ASPHALT PAVEMENT
	OPEN/GREEN SPACE
	CONCRETE
	STORM DRAINAGE AND STRUCTURE
	EXISTING CONTOUR LINE
	PROPERTY LINE
	NEW SEWER SERVICE
	NEW WATER SERVICE



NOTE:  
LIGHTING MITIGATION WILL  
BE PROVIDED FOR EXTERIOR  
LIGHTS.

**ENGINEER:**  
**KELLY B. SELLARS**  
PO BOX 161441  
BOILING SPRINGS, SOUTH CAROLINA 29316  
(864) 699-9512 PHONE  
(864) 699-9523 FAX  
EMAIL: KELLY@KBSSELLARS.COM



NO.	DATE	DESCRIPTION	BY
1.	09-20-13	REZONE SITE PLAN	KBS

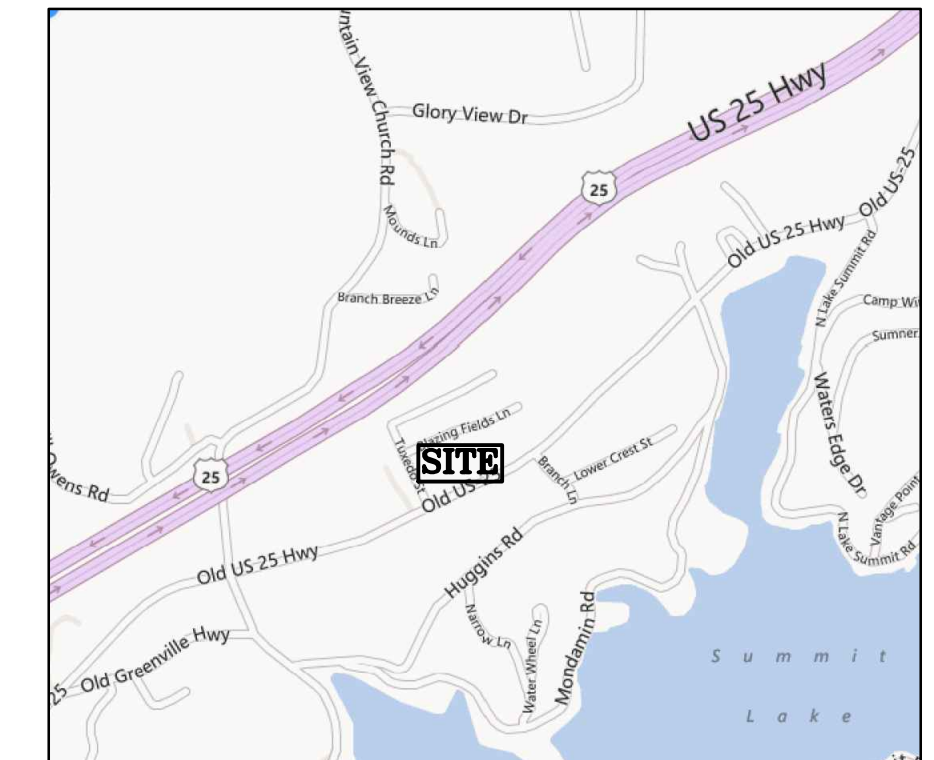
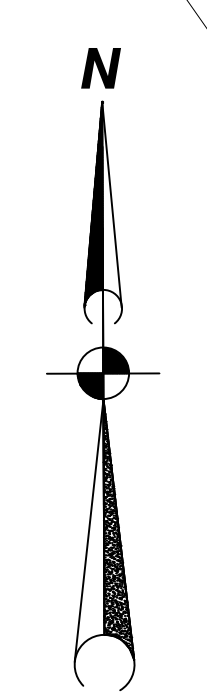
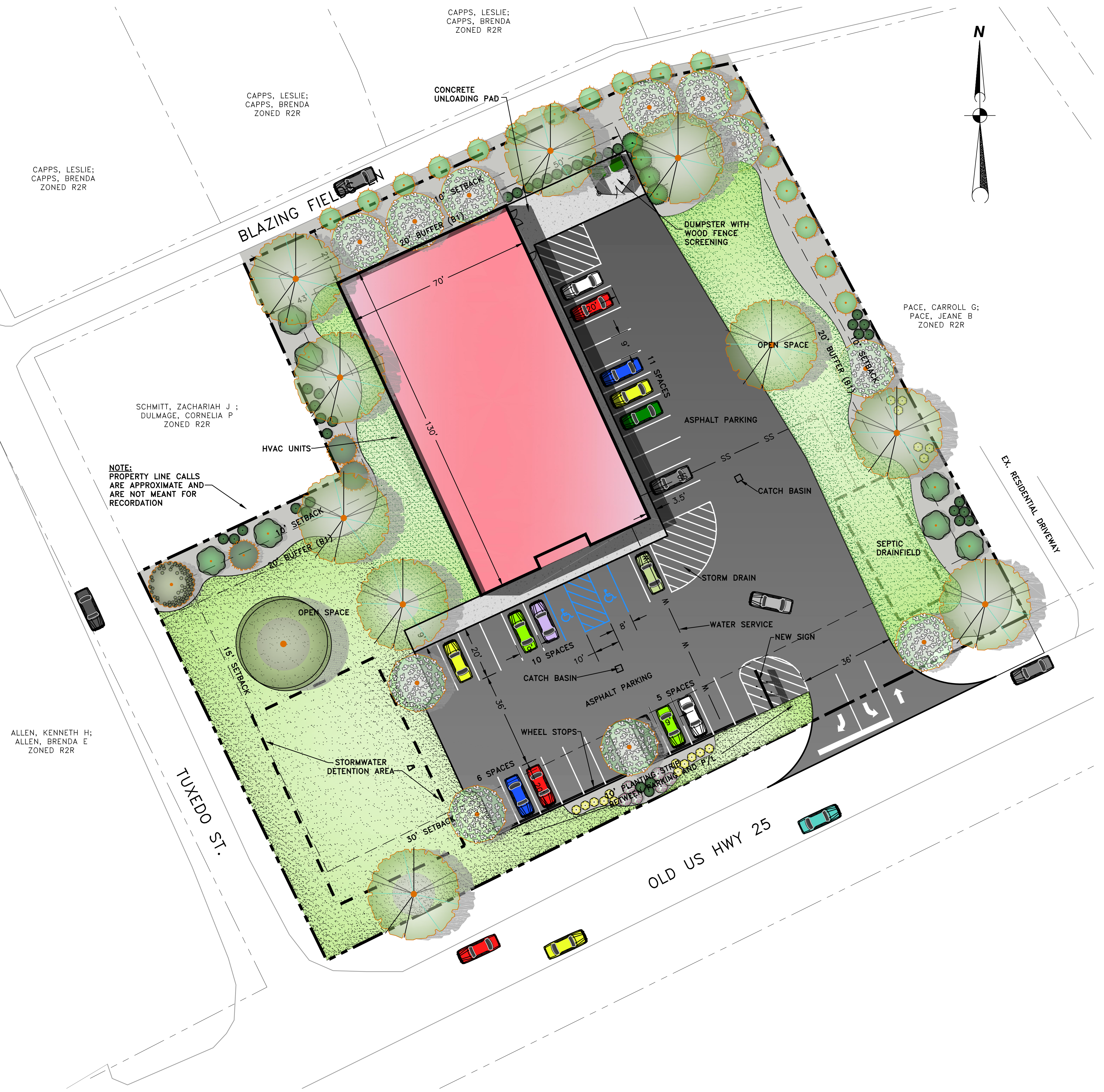
PROJECT TITLE:  
RETAIL BUILDING FOR  
WESTSIDE VILLAGE  
PROPERTIES, LLC  
SOUTH CAROLINA  
HENDERSON COUNTY

SHEET TITLE:  
SITE PLAN

SHEET NO.	OF
1	1
PROJECT NO.	
13-432	

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VICINITY MAP  
SCALE: NTS

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847 TRACY GROVE ROAD  
FLAT ROCK, NC 28731  
PHONE No. (828) 243-9100  
P.O.C. - DENNIS DORN

**PROJECT ENGINEER:** KELLY B. SELLARS, PE  
PO BOX 161441  
BOILING SPRINGS, SC 29316  
PHONE No. (864) 699-9512

**PIN NUMBERS:** 9575642842

**CURRENT ZONING:** R2R (RESIDENTIAL DISTRICT TWO RURAL)  
**PROPOSED ZONING:** LC (LOCAL COMMERCIAL DISTRICT)

**PROJECT AREA:** 1.42 ACRES

**SETBACKS:** FRONT 30'  
SIDE 15'  
REAR 10'

**BUILDING INFORMATION:** PROPOSED BUILDING 9,100 SF

**IMPERVIOUS SURFACE:** 31,700 SF = 0.72 AC

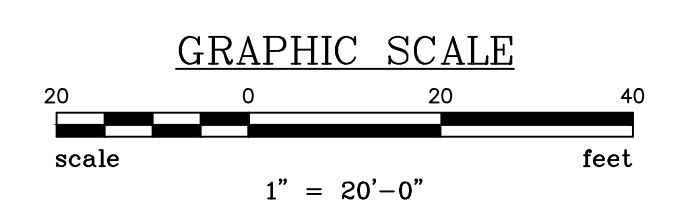
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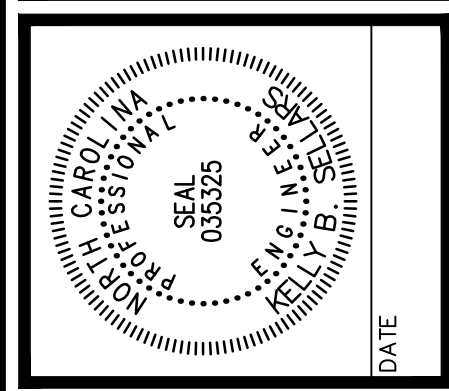
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**LEGEND**

- ADJOINER
- - - SETBACK/BUFFER LINE
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- OPEN/GREEN SPACE
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- STORM DRAINAGE AND STRUCTURE
- - - - - EXISTING CONTOUR LINE
- — — — — PROPERTY LINE
- SS — SS — NEW SEWER SERVICE
- W — W — NEW WATER SERVICE



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PO BOX 161441  
BOILING SPRINGS, SOUTH CAROLINA 29316  
(864) 699-9512 PHONE  
(864) 699-9513 FAX  
EMAIL: KELLY@KBSSELLARS.COM



NO.	DATE	DESCRIPTION	BY:
1.	09-20-13	REZONE SITE PLAN	KBS

PROJECT TITLE:  
**RETAIL BUILDING FOR  
WESTSIDE VILLAGE  
PROPERTIES, LLC**

SHEET TITLE:  
**SITE PLAN**

SHEET NO.	OF
1	1
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13-432	

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