

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY BOARD OF COMMISSIONERS

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### PUBLIC HEARING

Rezoning Application #R-2005-06  
(R-15 proposed)  
County Planning Staff Initiated

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**Meeting Date:** Wednesday, January 18, 2006

- Attachments:**
1. Staff Report
  2. Vicinity / Current Zoning Map
  3. Current Land Use Map
  4. 2020 County Comprehensive Plan Future Land Use Map
  5. County R-15 District Text
  6. City of Hendersonville R-15 District Text
  7. Letter from the City of Hendersonville
  8. Excerpt of Planning Board Minutes from December 20, 2005
  9. Notice of Public Hearing

#### SUMMARY OF REQUEST:

Planning Staff learned that three parcels split zoned by a County R-15 (Medium-Density Residential) zoning district and a City of Hendersonville R-15 (Low-Density Residential) zoning district, has been requested to be removed from City of Hendersonville's Extra Territorial Jurisdiction (ETJ). These three parcels, totaling approximately 40.27 acres, are located adjacent to Stoney Mountain Estates off of US Highway 25 North, and have access off View Rock Lane and Lyndhurst Drive (SR 1384). According to the City of Hendersonville, a request was filed by the property owners to remove these three parcels (the "Subject Area") from its ETJ. This means that the entire portion of the Subject Area will be placed back under the County's jurisdiction and would result in a portion of the properties being unzoned. As a result, rezoning application #R-2005-06, was initiated by County Staff to rezone the remaining portion of the Subject Area to a County R-15 zoning district if the Subject Area is removed from the ETJ for the City of Hendersonville.

Our records indicate that CR Wilkes Inc., Thomas L Tatham Farm Inc., and Deborah Cobb Baldwin own the three parcels in question. Per Henderson County tax records, the Subject Area contains the following parcels:

CR Wilkes Inc. – PIN 9660113349  
Thomas L. Tatham Farm Inc. – PIN 9660009720  
Deborah Cobb Baldwin – PIN 9660105646

The Henderson County Planning Board first considered rezoning application #R-2005-06 at its regularly scheduled meeting on Tuesday, December 20, 2005, at which time the Board voted unanimously (7-0) on a motion to send the Board of Commissioners a favorable recommendation on rezoning the Subject Area to an R-15 zoning district.

The Hendersonville City Council's held a public hearing on relinquishing the Subject Area from the City of Hendersonville's ETJ on Thursday, January 5, 2006, and approved the application effective Wednesday, January 18, 2006.

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with Section 200-76 of the Henderson County Zoning Ordinance and State Law, notices of the January 18, 2006, public hearing regarding rezoning application #R-2005-06 were published in the Hendersonville Times-News on December 28, 2005 and January 4, 2006. The Planning Department sent notices of the hearing via first class mail to the applicants and owners of properties adjacent to the Subject Area on January 6, 2006. Planning Staff posted signs advertising the hearing on the Subject Area on January 5, 2006.

**COUNTY MANAGER'S RECOMMENDATION / BOARD ACTION REQUESTED:**

Following the public hearing, Board action to approve, modify or deny rezoning application #R-2005-06 would be appropriate.

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## Henderson County Planning Department Staff Report

### Rezoning Application #R-2005-06 (Requesting R-15) City of Hendersonville to Relinquish ETJ

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#### 1. Introduction

- 1.1. Applicant: Initiated by the Henderson County Planning Staff
- 1.2. Subject Area PIN's: CR Wilkes Inc. – PIN 9660113349  
Thomas L. Tatham Farm Inc. – PIN 9660009720  
Deborah Cobb Baldwin – PIN 9660105646
- 1.3. Request: Rezone three parcels of land (hereafter the "Subject Area") totaling approximately 40.27-acres to an R-15 (Medium-Density Residential) zoning district (see Attachment 2: Vicinity / Current Zoning Map).

#### 2. Location

- 2.1. Please see Attachment 2: Vicinity / Current Zoning Map
- 2.2. The Subject Area has access off View Rock Lane and Lyndhurst Drive (SR 1384) and is adjacent to Stoney Mountain Estates.
- 2.3. The Subject Area is located approximately four-tenths (0.4) of a mile east of the Henderson County Landfill, and approximately two-tenths (0.2) of a mile north of Stoney Mountain Road (SR 1383).

#### 3. Current Zoning

- 3.1. Please see Attachment 2: Vicinity / Current Zoning Map
- 3.2. The Subject Area is currently split zoned by a County R-15 zoning district, which appears to have been in effect since at least January of 1981, and a City of Hendersonville R-15 (Low-Density Residential) zoning district.
- 3.3. **Adjacent Zoning:**
  - 3.3.1. The Subject Area is located within a County R-15 zoning district and a City of Hendersonville R-15 zoning district. The Subject Area is also approximately 245 feet west of a City of Hendersonville R-15 (Medium-Density Residential) zoning district.

- 3.3.2. The Subject Area is also located approximately three-tenths (0.3) of a mile northeast and four-tenths (0.4) of a mile west of a County C-2 (Neighborhood Commercial) zoning district, and less than one-half (1/2) of a mile northeast of a County I-2 (General Industrial) zoning district.

**3.4. Comparison of Districts:**

- 3.4.1. Please see Attachments 5 & 6: Zoning District Text Descriptions for a County R-15, and a Hendersonville City R-15 zoning district
- 3.4.2. **County R-15 Medium-Density Residential Zoning District:**
- 3.4.3. **County R-15 Purpose Statement:** *"This district is intended to be a medium-density neighborhood consisting of single-family and two-family residences and small multifamily residences. It is expected that public water facilities will be generally available to each lot, providing a healthful environment, although the residential development may be dependent upon septic tanks for sewage disposal."* (Henderson County Zoning Ordinance [HCZO] § 200-16).
- 3.4.4. County R-15 is a medium-density residential zoning district allowing no commercial activities by right. R-15 allows by right single-family dwellings, two-family residential dwellings and apartments, provided that they are no larger than a four-family dwelling on a single lot and that a buffer strip is provided along the side and rear property lines (some exceptions apply), and garage apartments (one per lot). Site-built and modular residential dwellings are permitted by right, while manufactured homes are not permitted. Churches, church cemeteries, certain signs, transformer and public utility stations, customary accessory buildings (including private garages, noncommercial greenhouses, and workshops), schools, civic and cultural buildings, family care homes, and certain communication towers are allowed by right with standards. Planned Unit Developments (PUDs), R-A Residential Apartment Developments, R-O Residential Open Space Developments, and Medical Institutional Care Developments (MICDs) are permitted with a Special Use Permit, and camps, bed-and-breakfast inns, libraries, non-church cemeteries, and customary incidental home occupations are permitted with a Conditional Use Permit. The standard lot size is a minimum of 15,000 square feet (.34 acres), with a minimum lot size per dwelling unit of 7,500 square feet for buildings with two or more dwelling units. Unless otherwise allowed through a Special Use Permit, setbacks are as follows: 75 feet from the centerline of major streets and 50 feet from the centerline of all others; 15 feet from the side and rear property lines; and a maximum building height of 35 feet for principal structures.
- 3.4.5. **City of Hendersonville R-15 Low-Density Residential Zoning District:**

- 3.4.6. **City R-15 Low-Density Residential Zoning District Classification.** *“This zoning district classification is for areas in which the principal use of land is for medium density single-family residences. It is expected that all dwellings in such district will have access to public water supplies or public sewage disposal facilities or a reasonable expectation of such service in the future.”* (City of Hendersonville Zoning Ordinance [CHZO], Article IV § 5-3).
- 3.4.7. City R-15 is a low-density residential zoning district allowing no commercial activities by right. R-15 allows by right single-family dwellings, two-family dwellings, and one accessory dwelling unit provided it does not exceed 800 square feet of floor area and is situated on a lot on which a principal residential dwelling unit is also situated and shall be clearly incidental or accessory to such principal residential structure. Manufactured homes are not permitted. Also allowed by right with certain restrictions and requirements are accessory structures, camps, parks, home occupations, religious institutions containing no more than 50,000 square feet of gross floor area, signs, telecommunications antennas, and adult care homes and child care homes so long as the use is incidental to the residential use and does not change the residential character of the dwelling. Bed and breakfast facilities, cemeteries, public utility facilities, and primary & secondary schools containing no more than 50,000 square feet of gross floor area are permitted as Conditional Uses. Adaptive reuses and telecommunications towers are permitted as special uses. The standard lot size is a minimum of 15,000 square feet (.34 acres), with a minimum lot size of 15,000 square feet for the first dwelling unit and 7,500 square feet for one additional dwelling unit in one building. Unless otherwise allowed, setbacks are as follows: 30 feet in the front; 10 feet from the side; 15 feet from the rear; 85 feet minimum lot width at building line; and a maximum building height of 35 feet.

#### **4. Subject Area Uses and Adjacent Uses**

- 4.1. Please see Attachment 3: Current Land Use Map
- 4.2. The Subject Area appears to be vacant according to the Henderson County aerial photos (taken in March of 2001).
- 4.3. Looking at the surrounding area, most uses within the vicinity of the Subject Area are residential or undeveloped. Residential uses include Stoney Mountain Estates Subdivision to the north, Pauls View Subdivision to the northeast, Greater Drive Hills Subdivision to the west, Stoney Garden Subdivision and Stonegate Acres Subdivision to the south, Stoney Oaks Subdivision to the southwest, and a number a single-family residential homes that surround the Subject Area. In addition, the Henderson County Landfill, the recycling center, Stoney Mountain Activity Center, the Henderson County Animal Shelter, the Henderson County Public School maintenance garage, and three parcels owned by NC

DOT are approximately four-tenths (0.4) of a mile west of the Subject Area at the intersection of Stoney Mountain Road and Mountain Road. There are also a number of Commercial uses less than one (1) mile to the west and east of the Subject Area at the intersection of NC 191 and Mountain Road and at the intersection of Stoney Mountain Road and US Highway 25 North.

## 5. Utilities / Infrastructure

5.1. **Sewer / Water:** The Subject Area does not have direct access to public water or sewer, but the City of Hendersonville has a water line along Dunigan Drive, approximately 291 feet south of the Subject Area, and along Melinda Drive, approximately 400 feet east of the Subject Area. The City of Hendersonville public sewer line is located less than one-half (1/2) a mile southwest of the Subject Area.

### 5.2. **Transportation:**

5.2.1. The Annual Average Daily Traffic Count for Lyndhurst Drive (SR 1384) in the vicinity of the Subject Area was 660 vehicles per day for 2002. By comparison, the Annual Average Daily Traffic Count for Lyndhurst Drive in the vicinity of the Subject Area was also 660 vehicles per day for 2001.

5.2.2. The Annual Average Daily Traffic Count for Stoney Mountain Road (SR 1383) in the vicinity of the Subject Area was 4,900 vehicles per day for 2003. By comparison, the Annual Average Daily Traffic Count for Stoney Mountain Road in the vicinity of the Subject Area was 3,600 vehicles per day for 2001.

5.2.3. There was no traffic count data shown for View Rock Lane since it is a private road.

5.2.4. See Section 6.1 regarding NCDOT plans for the area.

## 6. Relevant Policies, Plans and Actions

### 6.1. **NCDOT Transportation Improvement Plan:**

6.1.1. Currently, the 2006-2012 Transportation Improvement Plan (TIP) and the 2007-2013 Draft TIP do not list any planned projects along any roads in the vicinity of the Subject Area.

### 6.2. **2020 Henderson County Comprehensive Plan (CCP):**

6.2.1. Please see Attachment 4: 2020 County Comprehensive Plan Future Land Use Map

6.2.2. The CCP Future Land Use Map identifies the Subject Area as being located in the Urban Services Area and containing an area identified for conservation (2020 CCP, Pg. 128 & Appendix 1, Map 24).

- 6.2.2.1. 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).
- 6.2.2.2. 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).
- 6.2.2.3. The CCP states that, "the County's economic development activities should be pursued within the USA," and "development within the USA should be accessible by roads which are developed to urban standards, with capacities to accommodate increasingly complex volumes of traffic" (CCP, Pg. 129).
- 6.2.2.4. The conservation category includes, "land areas that are intended to remain largely in their natural state, with only limited development," and these areas, "should be targeted for protection through regulations and incentives" (2020 CCP, Pg. 134). Two characteristics of conservation lands are areas managed for agricultural or forestry land uses and sensitive natural areas such as floodplains and slopes over twenty-five (25) percent.
  - 6.2.2.4.1. It is important to note that the majority of the Subject Area appears to be located in an area consisting of steep slopes, which may account for the conservation designation.
- 6.2.3. The CCP's Future Land Use Map does not identify the Subject Area as being located within a Community Service Center. Although it should be noted that a Community Service Center is present at the intersection of NC 191 and Mountain Road and is less than one (1) mile west of the Subject Area (2020 CCP, Pg. 128 & Appendix 1, Map 24).
- 6.2.4. The Subject Area is identified as being in a Priority 2 Community Planning Area, the NC 191 South/Mills River East Planning Area, within the community-based planning framework (CCP, Appendix I, Map 33). The CCP assigns highest priority to areas within the USA where it is anticipated that extensive growth will occur (CCP, Pg. 144 and Figure CP.2).
  - 6.2.4.1. According to the 2005 Henderson County Strategic Plan, adopted by the Board of Commissioners on February 16, 2005, (Henderson County 2005 Strategic Plan, Pg. 13, Strategy 1.23) the implementation schedule in the CCP regarding the community planning process was revised, as follows:

**Strategy 1.23: Begin community planning process. [CCP, Section 4, Implementation Steps]**

Action Steps:

1. Amend CCP Implementation Schedule in order to accommodate for the completion of the Land Development Code. (Mar 05)
2. Begin the NC 191 South/Mills River East small area plan. (FY 05-06)
3. Begin the Etowah/Horseshoe/Mills River South small area plan. (FY 05-06)
4. Begin the East Flat Rock/Upward Road small area plan. (FY 05-06)
5. Begin the Howard Gap Road small area plan. (FY 06-07)

The small area plan that could affect the Subject Area (NC 191 South/Mills River East Plan now referred to as the NC 191/Haywood Community Plan) was scheduled to begin Fiscal-Year 2005-2006 and is currently underway.

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

- 8.1. Based on the following, Staff supports an R-15 (Medium-Density Residential) Residential zoning district for the Subject Area.
  - 8.1.1. Both the text and map of the 2020 CCP identify the Subject Area as being located in the Urban Services Area (USA) and suitable for industrial development, with a portion of the Subject Area being identified for conservation. The CCP also states that, "wide ranges of residential densities will exist" within the Urban Service Area.
  - 8.1.2. The Subject Area is also in an existing established residential community and is surrounded by low and medium-density development by both the County zoning and the City of Hendersonville zoning that primarily, only allow for residential uses.
  - 8.1.3. According to the City of Hendersonville, a request was approved to remove the portion of the Subject Area from the City of Hendersonville's Extra Territorial Jurisdiction (ETJ). This means that the entire portion of the Subject Area will be placed back under the County's jurisdiction and would result in a portion of the properties being unzoned. As a result, Staff is recommending that the portion of the Subject Area that is removed from the City of Hendersonville's ETJ be rezoned R-15 to match the surrounding R-15 zoning.

## **9. Planning Board Recommendations**

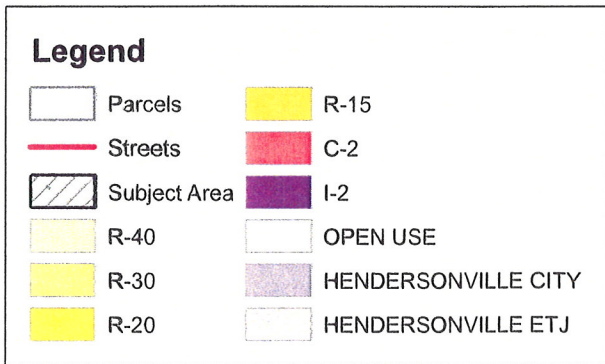
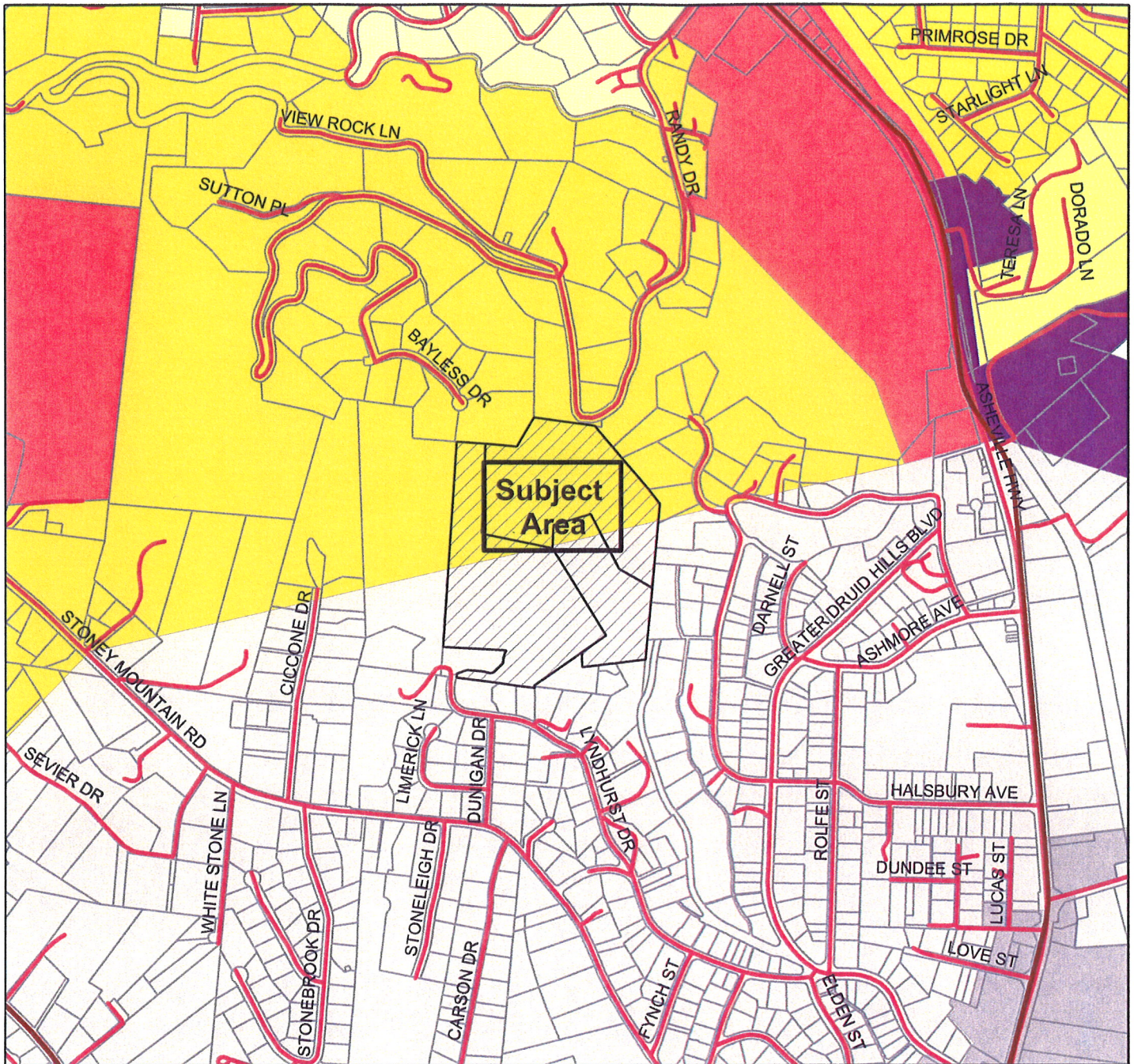
- 9.1. To Please see Attachment 8: Excerpt of Planning Board Minutes from December 20, 2005
- 9.2. The Henderson County Planning Board first considered rezoning action #R-2005-06 at its regularly scheduled meeting on Tuesday, December 20, 2005, at which time the Board



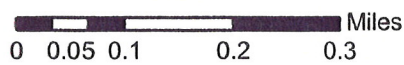
voted unanimously (7-0) on a motion to send the Board of Commissioners a favorable recommendation on rezoning the Subject Area to an R-15 (Medium-Density Residential) zoning district. This was based on Staff's recommendations and the following:

- 9.2.1. It would unify the property and keep a piece of property that has the potential of being unzoned in the middle of a residential zoned community.
- 9.2.2. The R-15 (Medium-Density Residential) zoning district is compatible with the surrounding zoning.

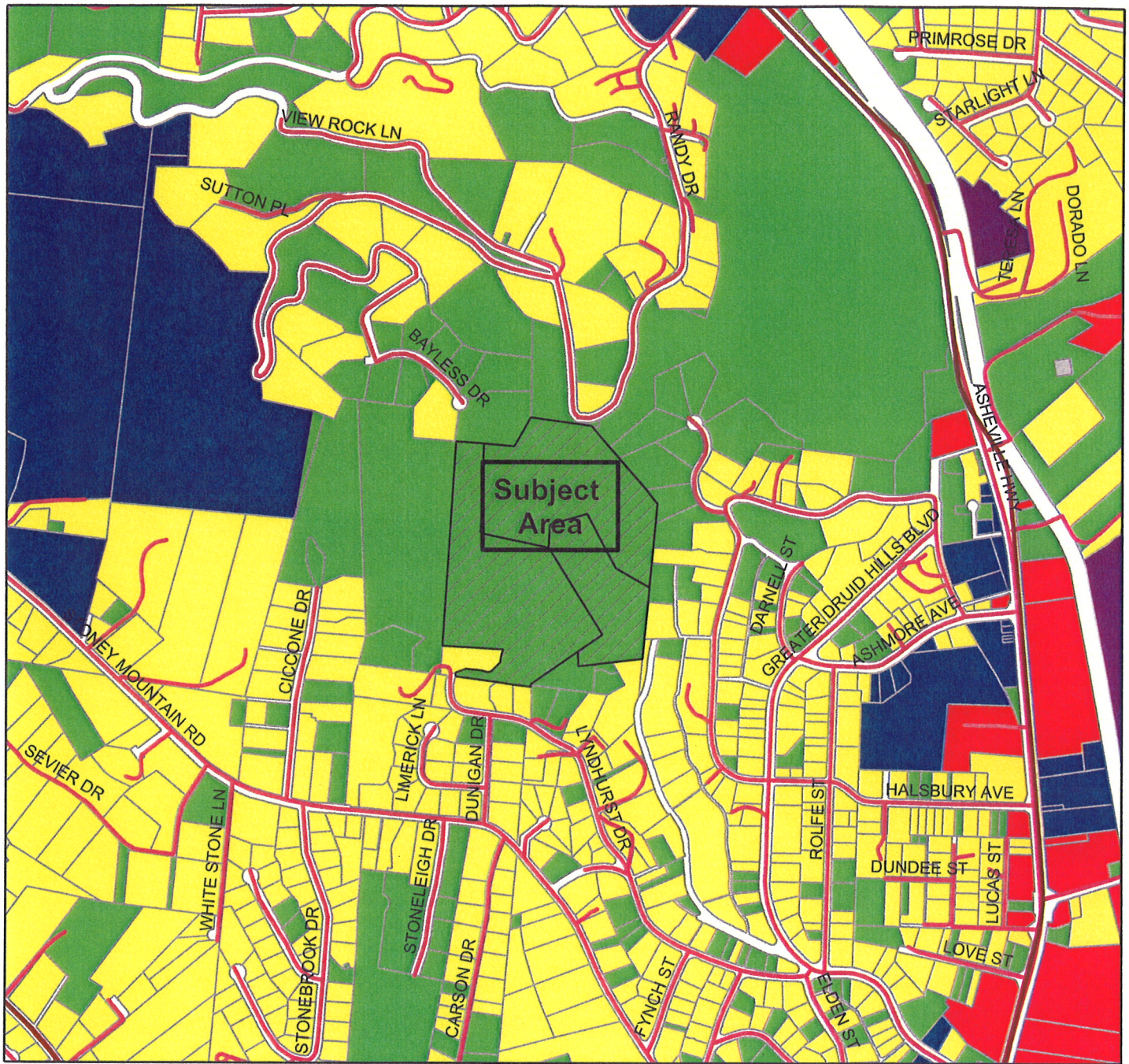
# Vicinity / Current Zoning Map



**Rezoning Application  
#R-2005-06  
Hendersonville Relinquishing ETJ Action**



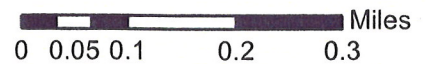
# Current Land Use Map



**Legend**

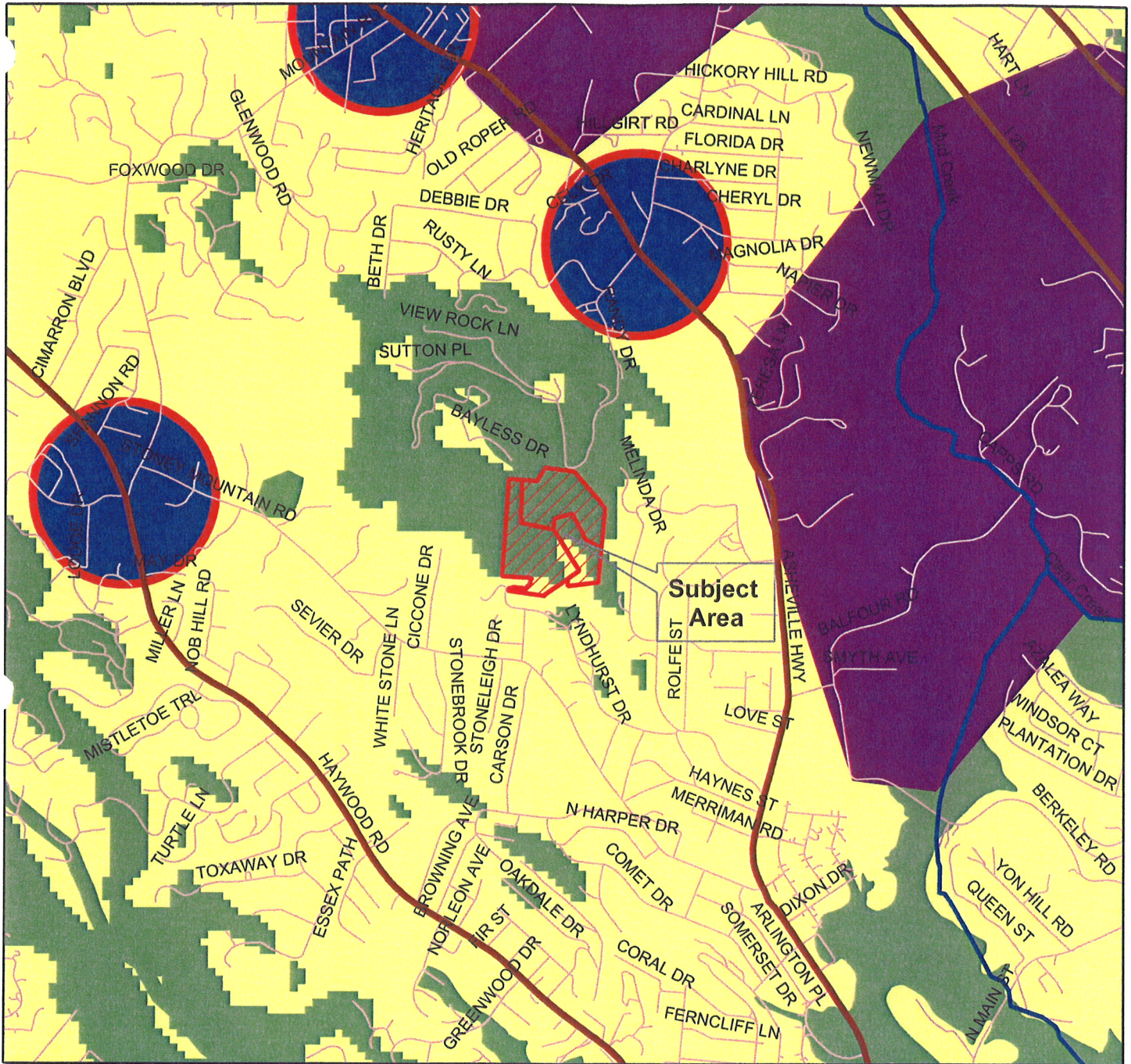
	Parcels		Recreation
	Streets		Residential
	Subject Area		Community-Cultural
<b>General Land Use</b>			Commercial
	Surface Water		Industrial
	Public/Private Conserved		Transportation-Utility
	Undeveloped**		
	Agriculture/Horticulture/Managed Forestland		

**Rezoning Application  
#R-2005-06  
Hendersonville Relinquishing  
ETJ Action**










\*\*May include forested as well as agricultural land. Any parcel containing residential development where the acreage to dwelling unit ratio is 10:1 or greater is classified as undeveloped.

# 2020 County Comprehensive Plan Future Land Use Map



**Subject Area**

**Legend**

	Subject Area		Community Service Centers
	Streets		Urban Services Area
			Industrial
			Conservation
			Rural/Urban Transition Area

**Rezoning Application  
#R-2005-06  
Hendersonville Relinquishing  
ETJ Action**



**§ 200-16. R-15 Medium-Density Residential District.**

This district is intended to be a medium-density neighborhood consisting of single-family and two-family residences and small multifamily residences. It is expected that public water facilities will be generally available to each lot, providing a healthful environment, although the residential development may be dependent upon septic tanks for sewage disposal.

A. Within the R-15 Medium-Density Residential District, the following uses are permitted:

- (1) Single-family dwellings, excluding manufactured homes. [Amended 12-15-1993]
- (2) Two-family dwellings.
- (3) Apartments, provided that they be no larger than a four-family dwelling on a single lot; furthermore, provided that there be a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
- (4) Garage apartments (one per lot).
- (5) Churches, provided that:
  - (a) The structures are placed not less than 50 feet from any property line.
  - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.
  - (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
- (6) Church cemeteries on property contiguous to or adjacent to the principal church assembly building, provided that all plots shall be set back at least 20 feet from any property line.
- (7) Church bulletin boards not exceeding 12 square feet in area.
- (8) Signs not more than four feet square in area advertising the sale or rental of property on which they are located.
- (9) Transformer and public stations, provided that:
  - (a) Transformer stations:
    - [1] The structures are placed not less than 75 feet from any property line.
    - [2] The structures are enclosed by a woven-wire fence at least eight feet high.
    - [3] No vehicles or equipment is stored on the premises.
    - [4] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.
  - (b) Public utility stations:
    - [1] The structures are located on sufficient land to meet all setback requirements of this chapter.
    - [2] The stations are completely enclosed, either by a building or a wire fence at least eight feet high.
    - [3] There is an evergreen planted buffer strip along the side and rear property lines of residential zoned property.

- (10) Customary accessory buildings, including private garages, noncommercial greenhouses and workshops.
- (11) Public schools having multiple curricula and private schools having curricula approximately the same as ordinarily given in public schools.
- (12) [Added 11-7-1983] Civic cultural buildings, including auditoriums, theaters for the performing arts, museums, art galleries, symphony and concert halls and historical societies, provided that:
  - (a) The structures are placed not less than 50 feet from any property line.
  - (b) They are located with access to a street, as shall be determined by the Zoning Administrator.
  - (c) There is a planted buffer strip along the side and rear property lines, except where such lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.
  - (d) The facility is operated not for profit and satisfactory proof of the tax exempt status of the organization is exhibited to the Zoning Administrator.
  - (e) One parking space is provided for each two seats in auditoriums, theaters and symphony and concert halls.
  - (f) One parking space for each 100 feet of gross floor space directed to patron use shall be provided for museums, art galleries and historical societies.
- (13) Group 1 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
- (14) Group 2 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]
- (15) Family care homes, provided that no new family care home shall be located within a one-half-mile radius of an existing family care home. [Added 7-7-1998]

B. Special uses. The following uses shall be permitted, subject to a finding by the Board of County Commissioners that both the conditions in the definition of "special use" in § 200-7B and those conditions listed below will be met:

- (1) Planned unit developments, subject to the conditions listed under § 200-33 of this chapter.
- (2) R-O Residential Open Spaces Development, subject to the conditions listed under § 200-35 of this chapter.
- (3) R-A Residential Apartment Development, subject to the conditions listed under § 200-36 of this chapter.
- (4) Medical, institutional care development, subject to conditions listed under § 200-37 of this chapter.
- (5) Group 6 communications towers and tower activities (as defined in and subject to the requirements in § 200-38.1). [Added 3-2-1998]

C. Conditional uses. The following uses shall be permitted, subject to a finding by the Board of Adjustment that both the conditions in the definition of "conditional use" in § 200-7B and those conditions listed below will be met:

- (1) Parks, camps, tennis and racquet clubs and golf courses. (Miniature golf courses and practice driving tees operated for commercial purposes are not allowed.)
- (2) Customary incidental home occupations, including, but not limited to, dressmaking, cooking, baking, music instruction, the practice of such professions as insurance, medicine, artistry, architecture accounting, permitted as accessory uses in a residence.
- (3) Libraries.

- (4) Nonchurch-related cemeteries.
- (5) Bed-and-breakfast inns. [Added 12-23-1992]

D. Dimensional requirements. Within the R-15 Medium-Density Residential District as shown on the Zoning Map, the following dimensional requirements shall be complied with:

Minimum Lot Area (sq. ft.)	Minimum Lot Area Per Dwelling (Family) Unit (sq. ft.)	Maximum Building Height (ft.)	Minimum Front Yard Setback From Center Line of Street		Minimum Yards	
			Major <sup>1</sup> (ft.)	All Others (ft.)	Side (ft.)	Rear (ft.)
15,000	15,000 (1 family) 7,500 (2 or more families)	35	75	50	15	15

NOTES:

<sup>1</sup> Where the major street is more than two lanes, including parking lanes, setback requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved street abutting the property in subject.

**City of Hendersonville R-15 District Text:**

**Section 5-3 R-15 Medium-Density Residential Zoning District Classification.** This zoning district classification is for areas in which the principal use of land is for medium density single-family residences. It is expected that all dwellings in such district will have access to public water supplies or public sewage disposal facilities or a reasonable expectation of such service in the future.

**5-3-1 Permitted Uses:** *(amended 09-04-97, 04-10-03)*

The following uses are permitted by right in the R-15 Medium Density Residential Zoning District Classification, provided that they meet all requirements of this Section and all other requirements established in this Ordinance:

Accessory dwelling units, subject to special requirements contained in Section 16-4, below  
*(added 04-10-03)*

Accessory structures *(amended 04-10-03)*

Adult care homes so long as the use is clearly incidental to the residential use of the dwelling and

does not change the essential residential character of the dwelling

Camps

Child care homes so long as the use is clearly incidental to the residential use of the dwelling and

does not change the essential residential character of the dwelling

Home occupations

Parks

Planned residential developments (minor), subject to the requirements of Article VII, below

Religious institutions containing no more than 50,000 square feet of gross floor area *(amended 09-07-00)*

Residential dwellings, single-family

Residential dwellings, two-family

Signs, subject to the provisions of Article XIII

Telecommunications antennas, subject to special requirements contained in Section 16-4, below.

**5-3-2 Conditional Uses:** *(amended 09-04-97)*

The following uses shall be permitted in the R-15 Medium Density Residential Zoning District Classification only upon issuance of a conditional use permit pursuant to Article X and shall be subject to special requirements contained in Section 16-4, below:

Bed and breakfast facilities

Cemeteries

Public utility facilities

Schools, primary & secondary, containing no more than 50,000 square feet of gross floor area

**5-3-3 Dimensional Requirements:**

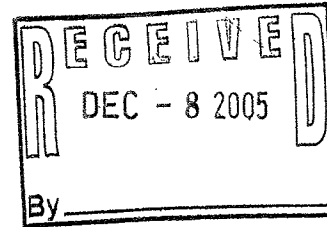


Minimum Lot Area in Square Feet:	15,000
Lot Area per Dwelling Unit in Square Feet:	15,000 for the first; 7,500 square feet for one additional dwelling unit in one building.
Minimum Lot Width at Building Line in Feet:	85
Minimum Yard Requirements in Feet:	Front: 30 Side: 10 Rear: 15
Maximum Height in feet:	35

**5-3-4 Special Uses.** *(amended 09-04-97, 04-10-03)*

The following uses shall be permitted in the R-15 Medium Density Residential Zoning District Classification only upon issuance of a special use permit pursuant to Article VII and shall be subject to special requirements contained in Section 16-4, below:

- Adaptive reuses
- Telecommunications towers

**MEMORANDUM**

**TO:** Honorable Mayor and Members of City Council  
**FROM:** Planning Department  
**RE:** Public Hearing: Request to Amend City's Boundary of Extraterritorial Jurisdiction  
**DATE:** December 8, 2005

The Planning Department has received a request from C. R. Wilkes, Inc., Thomas L. Tatum Farms, Inc., Ann Stepp Johnson and Deborah E. Cobb Baldwin seeking an amendment to the City's boundary of extraterritorial jurisdiction (ETJ). This request from the property owners concerns a total of three lots, either completely or partially within the area of extraterritorial jurisdiction. These lots are situated on the northern ETJ boundary, generally equidistant from Asheville Highway and Stoney Mountain Road. Refer to the map attached to this memorandum.

The applicants are planning to sell these properties to a developer who proposes to build on the land a conventional single-family subdivision. The southern portion of this cluster of lots is currently subject to zoning and subdivision regulations of the City, while the northern portion is subject to zoning and subdivision regulations of Henderson County. The amounts of land in each jurisdiction are approximately equally divided.

The subdivision planned for the property will have as its primary entrance, perhaps its only entrance, off Randy Drive, which is in the County's jurisdiction. Further, compliance with two differing sets of development regulations can be problematic for developers. As a consequence the property owners have requested that the City relinquish its extraterritorial jurisdiction over the southern portion of these lots.

This requested action is not without precedent. The City has adjusted the extraterritorial jurisdiction boundary in the past for various reasons, the most comparable being the relinquishing of a small area of ETJ in the vicinity of the Hendersonville Airport in September, 2000.

A copy of the Ordinance Amending the Ordinance Establishing Extraterritorial Jurisdiction Boundaries is attached to this memorandum.

**Suggested Motions:****For Approval:**

I move Council to approve "An Ordinance Amending the Ordinance Establishing Extraterritorial Jurisdiction Boundaries For the City of Hendersonville".

**For Denial:**

I move Council to deny approval of "An Ordinance Amending the Ordinance Establishing Extraterritorial Jurisdiction Boundaries For the City of Hendersonville".

H:etj ord.amend.memo

**EXCERPT FROM THE  
HENDERSON COUNTY  
PLANNING BOARD MINUTES  
December 20, 2005**

Rezoning Application #R-2005-06 - Hendersonville Relinquishing ETJ Action - Rezone Remaining Portion of Three Parcels Totaling Approximately 40.27 acres located off View Rock Lane and Adjacent to Stoney Mountain Estates, to a County R-15 (Medium-Density Residential) Zoning District. Ms. Radcliff stated that there is three parcels that are split-zoned by County R-15 zoning district and within the City of Hendersonville ETJ, which is also zoned R-15 under the City's classification. She said that there is approximately 40.27 acres total for all three parcels and are adjacent to Stoney Mountain Estates off of US 25 North. They have access off View Rock Lane, which can be accessed via Stoney Mountain Road and is located within Stoney Mountain Estates and Lyndhurst Drive. Ms. Radcliff stated that according to the City of Hendersonville, a request has been filed by the property owners to remove these parcels from the ETJ. She said that this means that once this action happens and we are anticipating that this is going to be the case, since they have proposed new ETJ boundaries and also are going to be hearing this case on Thursday, January 5, 2006 to make this decision. Once the City makes their decision, the remaining portion of these parcels will be unzoned and so as part of that, Staff has initiated the rezoning application to insure there is no time lapse between the City making a decision and the County actually rezoning the parcel. She said that Staff is working in cooperation with the City of Hendersonville so that once this decision is made it does not become effective until the Board of Commissioners have made its decision on the rezoning. This is so there will be no time lapse and the property will be left unzoned. The Board of Commissioners at its meeting last week, scheduled a public hearing for this rezoning. The public hearing is now scheduled for Wednesday, January 18, 2006 at 11 a.m., during the Board of Commissioner's regular meeting. She said because Staff has initiated this application, there is a time frame that the Planning Board needs to make a recommendation. Chairman Pearce asked Ms. Radcliff whether Staff feels that the County's R-15 zoning is the proper district for this project? Ms. Radcliff said that the property is surrounded on the County's side by R-15 zoning and adjacent to the City's R-15 district. The County's R-15 district is a medium residential zoning district requiring a 15,000 square foot lot and the City's R-15 zoning district is a low-density residential zoning district. She stated that the County and City R-15 Zoning Districts virtually allow the same thing. The major difference between them is that the City's setbacks are less than the County's setbacks. Chairman Pearce asked whether any of this would create problems to the property owners? Ms. Radcliff said she doesn't feel it would, but also referred the question to the agent present, who is representing the property owners in the action to remove the parcels from the City's ETJ. Ms. Kumor asked whether there was sewer and water there? Ms. Radcliff said that there is, but not on the property, but is in close proximity. She said that there are two water lines nearby and a public sewer line is less than ½ mile away. Ms. Radcliff stated that the Board can not consider any uses that are going on the property during a rezoning, but it is her understanding that the property is going to be developed as a subdivision and that they are planning on individual sewer and septic systems. After some discussion among Board members, Ms. Radcliff stated that this property is part of the 191 Small Area Study, even though this could be rezoned to R-15, that potentially

could change with the outcome of the small area plan, if the zoning recommendations come out of that study and are acted upon.

Mr. Steve Survais, who is representing the property owners, stated that there is no access from the Lyndhurst side of the property and there is no other right-of-ways and felt that it was better to put it into the County rather than the City jurisdiction.

Renee Kumor made a motion to recommend Staff's recommendations to the Board of Commissioners on rezoning request # R-2005-06 to rezone the three parcels which are adjacent to Stoney Mountain Estates and subject to the City of Hendersonville relinquishing its jurisdiction, as it will unify the property and keep a piece of property that has the potential of being unzoned in the middle of a residential community zoned with a compatible district. Gary Griffin seconded the motion and all members voted in favor.

**NOTICE OF PUBLIC HEARING  
ON PROPOSED ZONING MAP AMENDMENT  
(Rezoning Application # R-2005-06)**

The Henderson County Board of Commissioners will hold a public hearing on an application (#R-2005-06) for a proposed amendment to the Official Zoning Map of Henderson County, North Carolina, for three parcels of land split zoned by a County R-15 (Medium-Density Residential) zoning district and a City of Hendersonville R-15 (Low-Density Residential) zoning district, that has been requested to be removed from City of Hendersonville's Extra Territorial Jurisdiction (ETJ). These three parcels, totaling approximately 40.27 acres, are located adjacent to Stoney Mountain Estates off of US Highway 25 North, and have access off View Rock Lane and Lyndhurst Drive (SR 1384). According to the City of Hendersonville, a request has been filed by the property owners to remove these three parcels (the "Subject Area") from its ETJ. This means that the entire portion of the Subject Area will be placed back under the County's jurisdiction and would result in a portion of the properties being unzoned. As a result, rezoning application #R-2005-06, was initiated by County Staff to rezone the remaining portion of the Subject Area to a County R-15 zoning district if the Subject Area is removed from the ETJ for the City of Hendersonville.

Our records indicate that CR Wilkes Inc., Thomas L Tatham Farm Inc., and Deborah Cobb Baldwin own the three parcels in question. Per Henderson County tax records, the Subject Area contains the following parcels: CR Wilkes Inc. – PIN 9660113349, Thomas L. Tatham Farm Inc. – PIN 9660009720, Deborah Cobb Baldwin – PIN 9660105646.

The public hearing will be held on Wednesday, January 18, 2006, at 11:00 A.M, in the Board of Commissioners Meeting Room located in the Henderson County Administration Building, at 100 North King Street 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, 100 North King Street, 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, 101 East Allen Street, 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 <http://www.henderson.lib.nc.us/county/planning/rezonings/main.html> 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 amendment before taking final action.

Elizabeth Corn  
Clerk to the Board  
Henderson County Board of Commissioners