

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY BOARD OF COMMISSIONERS

**Meeting Date:** June 2, 2008

**Subject:** Public Hearing for Rezoning R-2008-04

**Attachments:**

1. Staff Report
2. Aerial Photo Map
3. Residential One (R1) District Text
4. Local Commercial (LC) District Text
5. Comparison Table of Permitted Uses
6. Excerpt of Planning Board Minutes
7. Photos of Subject Area
8. Certification of Notice Requirements
9. Powerpoint Presentation

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### **SUMMARY OF REQUEST:**

Rezoning Application #R-2008-04, which was submitted on March 3, 2008, requests that the County rezone approximately 0.48 acres of land, located at the intersection of Stoney Mountain Road (SR 1383) and Mountain Road (SR1381), approximately 261 feet from the intersection of Mountain Road (SR 1381) and Haywood Road (NC Highway 191) from Residential One (R1) zoning district to a Local Commercial (LC) zoning district. The Subject Area is one parcel (PIN 9650-51-8601) owned by Gregory and Leslie Shipley.

The Henderson County Planning Board considered rezoning application #R-2008-04 at its regularly scheduled meeting on April 17, 2008. During that meeting, the Board voted 6 to 0 to send the Board of Commissioners a favorable recommendation for rezoning application #R-2008-04 to rezone the Subject Area from an existing R1 zoning district to a LC zoning district.

### **PUBLIC NOTICE:**

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with Section 200A-314 of the Henderson County Land Development Code and State Law, notices of the June 2, 2008, public hearing regarding rezoning application #R-2008-04 were published in the Hendersonville Times-News on May 14, 2008 and May 21, 2008. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area and the applicant on May 14, 2008 and posted signs advertising the hearing on the Subject Area on May 14, 2008 (see Attachment 10 for Certification of Notice Requirements).

### **BOARD ACTION REQUESTED:**

Staff's position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the subject area from R1 (Residential One) to LC (Local Commercial) which is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

**Suggested Motion:**

I move that the Board approve rezoning application #R-2008-04 to rezone the Subject Area from an R1 (Residential One) zoning district to a LC (Local Commercial) zoning district as recommended by the Staff Report. I further move that rezoning application #R-2008-04 is consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

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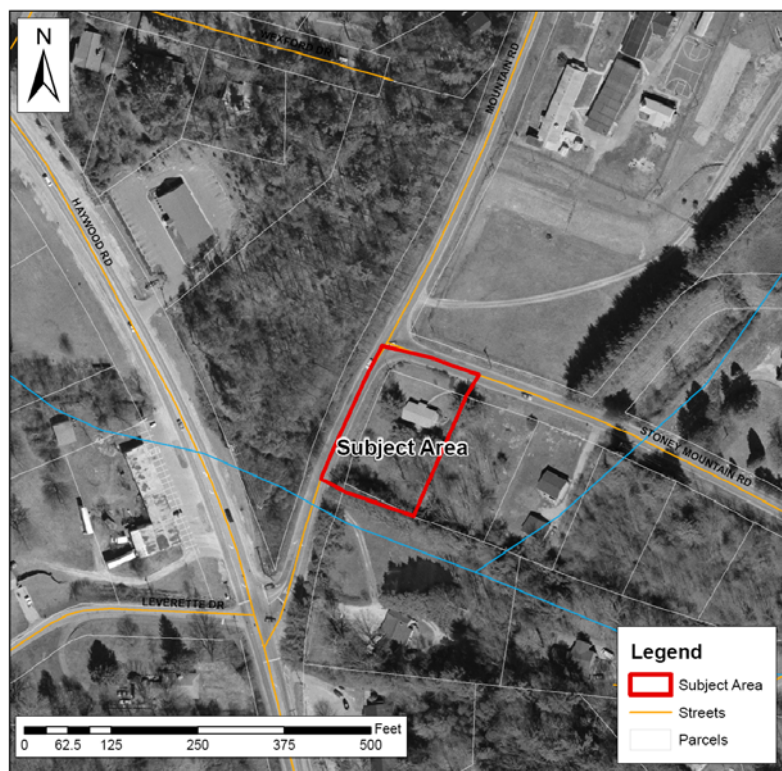
## Henderson County Planning Department Staff Report

### Rezoning Application #R-2008-04 (R1 to LC) Gregory and Leslie Shipley, Property Owners Kirk Ledoux, Applicant/Agent

#### 1. Rezoning Request

- 1.1. **Date of Application:** March 3, 2008
- 1.2. **Property Owners:** Gregory and Leslie Shipley
- 1.3. **Applicant/Agent:** Kirk Ledoux
- 1.4. **Request:** Rezone Subject Area from an R1 (Residential One) zoning district to an LC (Local Commercial) zoning district.
- 1.5. **Subject Area** (see Map A)

**Map A: Map of Subject Area**

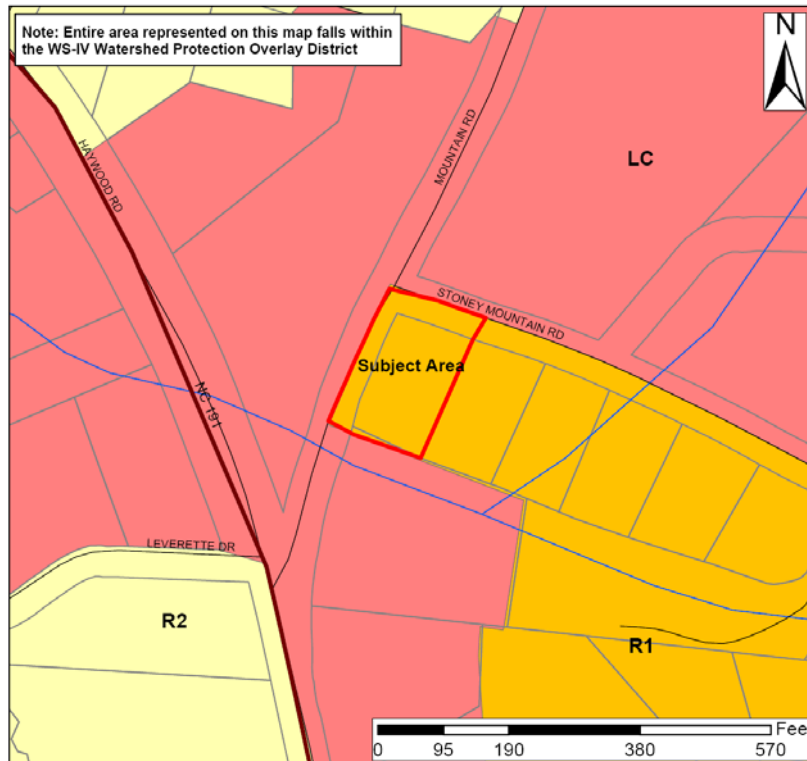


- 1.5.1. **PIN:** 9650-51-8601
- 1.5.2. **Size:** Approximately 0.48 acre tract, exclusive of right-of-way
- 1.5.3. **Location:** The Subject Area is located at the intersection of Stoney Mountain Road (SR 1383) and Mountain Road (SR 1381), approximately 261 feet from the intersection of Mountain Road (SR 1381) and Haywood Road (NC Highway 191).

## 2. Current Zoning

- 2.1. **Application of Current Zoning:** The Subject Area is currently zoned R1 (Residential one) 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 R-20 (low density residential) (see Map B).

**Map B: Current Zoning**



- 2.2. **Adjacent Zoning:** The Subject Area is within the R1 (Residential One) Zoning District, which is applied to the adjacent property to the east. The LC (Local Commercial) Zoning District is adjacent to the Subject Area to the north, west, and south (See Map B).
- 2.3. **Prior Zoning:** The areas surrounding the Subject Area and to the east (prior to LDC adoption on September 19, 2007) were zoned R-20 (low density residential). Areas to the north, south, and west were zoned C-2 (Neighborhood Commercial).

### 2.4. **District Comparison:**

- 2.4.1. **R1 High-Density Residential Zoning District:** *“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 recommendation of the Comprehensive plan. This general uses 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, a maximum building height of 40 feet, and a standard density of four (4) units per acre (maximum sixteen (16) units per acre) (LDC §200A-27).
- 2.4.2. **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). LC requires 10 foot side and rear setbacks, maximum building height of 40 feet, 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) (LDC § 200A-33). Where this district abuts a lot in a residential district, there shall be provided and maintained along the property line a twenty foot buffer with a designated number of trees planted every 100 linear feet of abutting property line (LDC §200A-136,137).*

- 2.4.3. **Overlay Districts:** Where the Zoning District Regulations and Water Supply Watershed Protection Overlay Districts standards conflict with each other, the most restrictive standard applies.

2.4.3.1. **WS-IV Watershed – Protected Area:** In order to accommodate moderate to high land use intensity, development activities in WS-IV areas shall be conducted in accordance with the terms of Subpart D of the Land Development Code. Single-family residential uses shall develop at a maximum of one dwelling unit per 20,000 square feet of lot size, or three dwelling units per acre upon qualification of a natural drainage and filtering system bonus. All nonresidential development shall be allowed at a maximum of 24% built-upon area, or a maximum of 36% built-upon area upon qualification for a natural drainage and filtering system bonus (LDC § 200A-53D(9)).

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

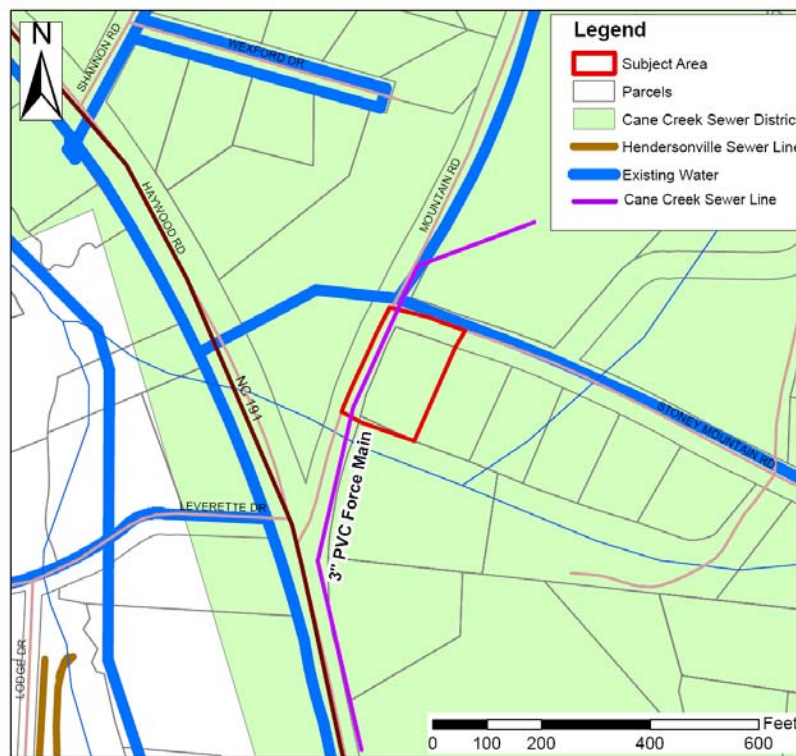
- 3.1. **Subject Area Uses:** The Subject Area appears to contain a single family residence.
- 3.2. **Adjacent Area Uses:** Surrounding area lands contain commercial, governmental and residential land uses. The NCDOT Division of Highways Henderson Complex is to the north; Mountain Building and Development is to the south, single-family residential uses are to the east; and undeveloped land is to the west of the Subject Area. Other uses along Stoney Mountain Road include the Henderson County Animal Shelter, Transfer Center, and Public Schools Bus Garage; and Stoney Mountain Activity Center. Commercial uses along Haywood Road (NC Highway 191) include Emerald Isles Tanning and Hair Salon, the Picture Perfect Studio, and Haywood Animal Hospital.

### **4. Water and Sewer**

- 4.1. **Public Water:** Public water is currently located on the Subject Area (See Map C).
- 4.2. **Public Sewer:** Public sewer is not currently located on the Subject Area. An existing force main, operated by the Cane Creek Water and Sewer District, runs along Haywood Road and Mountain Road. However, the receiving sewer system, operated by the City of Hendersonville, does not have sewer capacity from the Cane Creek Water and Sewer

District. An upgrade to the existing system may be necessary for public sewer to be made available to the Subject Area (See Map C).

**Map C: Water and Sewer**



## 5. Transportation and Access

- 5.1. **Frontage:** The Subject Area has approximately 116 feet of road frontage along Stoney Mountain Road (SR 1383), and 177 feet along Mountain Road (SR 1381).
- 5.2. **Transportation:** Table 1, below, provides Annual Average Daily Traffic Counts for Stoney Mountain Road (SR 1383) and Mountain Road (SR 1381).

Table 1. Annual Average Daily Traffic Count*				
Road	1999	2001	2002	2004
Stoney Mountain Road (SR 1383)	3,100	3,600	3,700	5,400
Mountain Road (SR 1381)	4,200	4,200	5,200	5,200

\*No traffic counts provided since 2004

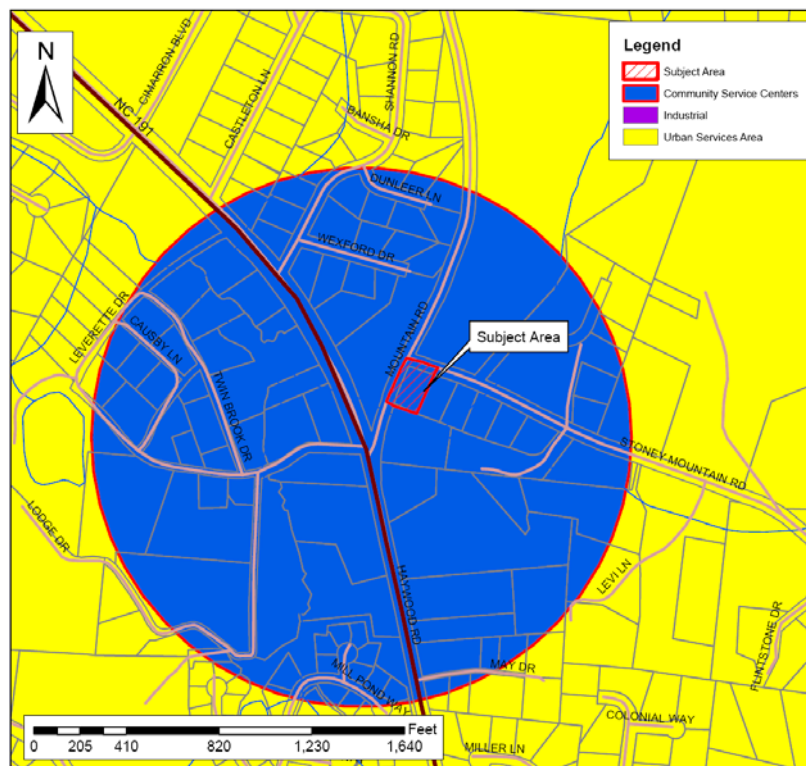
- 5.3. **The NCDOT Draft 2009-2015 State Transportation Improvement Program (STIP):** No improvements are scheduled for Stoney Mountain Road or Mountain Road.

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

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

- 6.1.1. The CCP states that, “the County’s economic development activities should be pursued within USA” (2020 CCP, Pg. 129).
- 6.1.2. The CCP states that, “the USA will contain considerable commercial development at a mixture of scales,” and further, “all regional commercial development should be concentrated here. Commercial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129).
- 6.2. **Community Service Center:** The CCP Future Land Use Map also identifies the Subject Area as being located in the Community Service Center, a special designation within the Urban Services Area (2020 CCP, Pg. 129, Pg. 134-5, Pg. 148 & Appendix 1, Map 24)(See Map D).

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



- 6.2.1. The CCP states that, “Community Service Centers are intended to be intensive, efficient, defined concentrations of mixed services that meet the needs of the surrounding community and defined service areas” (2020 CCP, Pg. 134).
- 6.2.2. The CCP states that “Community Service Centers are located in unified development concentrations at intersections of selected thoroughfares and in central locations that are convenient to nearby residential development so as to minimize problems associates with “strip” commercial development” (2020 CCP, Pg 134).
- 6.2.3. The CCP also suggests that land uses within the Community Service Centers should be Local Commercial, Community Commercial, and Regional Commercial (2020 CCP, Pg. 135).

## **7. 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 be zoned for commercial uses. This is based on the following:

**7.1. 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, commercial or industrial development. The CCP also indicates that commercial uses may be suitable for the area as the Subject Area falls within the specially designated "Community Service Center" in the USA.

**7.2. Adjacent Zoning:** The Subject Area directly abuts an existing Local Commercial (LC) Zoning District to the north, west, and south. If the Subject Area were to be rezoned to LC, this property would be apart of a contiguous LC zoning district.

**7.3. Comparison of Districts:** Applying Local Commercial (LC) will allow for commercial and residential uses.

## **8. Staff Recommendations**

8.1. When reviewing rezoning requests Staff attempts to identify plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest to justify supporting the proposed rezoning. 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 Local Commercial (LC) consistent with the recommendations of the Henderson County 2020 Comprehensive Plan.

8.1.1. 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.

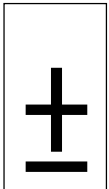
## **9. Technical Review Committee Recommendations**

9.1. The Henderson County Technical Review Committee considered rezoning application #R-2008-04 at its regularly scheduled meeting on April 1, 2008. During that meeting, the Technical Review Committee voted unanimously to send forward a favorable recommendation on rezoning application #R-2008-04 to rezone the Subject Area from a R1 zoning district to a LC zoning district.

## **10. Planning Board Recommendations**

10.1. The Henderson County Planning Board considered rezoning application #R-2008-04 at its regularly scheduled meeting on April 17, 2008. During the meeting, the Planning Board voted unanimously (6-0) to send forward a favorable recommendation on rezoning application #R-2008-04 to rezone the Subject Area from a R1 zoning district to a LC zoning district.

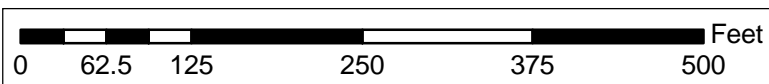




**Legend**

-  Subject Area
-  Streets
-  Parcels

Rezoning Application  
#R-2008-04  
Gregory and Leslie Shipley, Owners



**§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).

Table 2.1. R1 Density and Dimensional Requirements			
(1) <i>Residential Density</i> (units/acre)		(2) Standard	4
		(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>	
	<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:
- 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) 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.
- (4) 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.
- (5) 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.



**§200A-1. Local Commercial District (LC)**

- A. **Purpose.** 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 development* 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.
- 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).

Table 2.7. LC Density and Dimensional Requirements			
(1) <i>Residential Density</i> (units/acre)		(2) Standard	4
		(3) Maximum	16
Maximum <i>Impervious Surface</i> (%)			80
(4) Maximum <i>Floor Area</i> (sq ft)			30,000 or 10,000
(5) <i>Yard Setbacks</i> (feet)	Front or <i>ROW</i>	<i>Local</i>	25
		<i>Collector</i>	25
		<i>Thoroughfare</i>	35
		<i>Boulevard</i>	45
		<i>Expressway</i>	55
		<i>Freeway</i>	60
	<i>Side</i>		10
	<i>Rear</i>		10
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*.
- (3) 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.
- (4) Within a multi-tenant *structure/site*, one unit shall have a maximum *gross floor area* of 30,000 square feet. The maximum *gross floor area* for any other commercial *use* or single unit on a single *lot* within the project shall be 10,000 square feet. A maximum 80,000 total square feet for any multi-tenant *structure* shall apply.
- (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.

USE TYPE	GENERAL USE DISTRICT P=Permitted; S=Special Use Permit		
	R1	LC	SR
<b>1. RESIDENTIAL USES</b>			
<i>Assisted Living Residence</i>	S	P	1.1
<i>Bed and Breakfast Inn</i>	P	P	1.2
<i>Continuing Care Retirement Community</i>	S	P	1.3
<i>Dwelling, Duplex</i>	P	P	1.4
<i>Dwelling, Multifamily, Five (5) or More Units</i>	S	S	1.6
<i>Dwelling, Quadraplex</i>	S	S	1.7
<i>Dwelling, Single Family Detached</i>	P	P	1.8
<i>Dwelling, Triplex</i>	P	P	1.9
<i>Family Care Home</i>	P	P	1.10
<i>Fraternity and/or Sorority House</i>	P		1.11
<i>Hospice Residential Care Facility</i>	S	P	1.12
<i>Nursing Home</i>	S	P	1.14
<i>Rooming and Boardinghouse</i>	S	P	1.15
<b>2. ACCESSORY USES</b>			
<i>Childcare Facility (as an accessory for a principal business)</i>		P	2.1
<i>Drive-Thru Window</i>		P	2.2
<i>Dwelling, Single-Family (as an accessory for a principal business)</i>		P	2.3
<i>Fuel Pumps</i>		P	2.4
<i>Home Occupation, Adult Day Care</i>	P	P	2.5
<i>Home Occupation, Childcare Facility</i>	P	P	2.6
<i>Home Occupation, General</i>	P	P	2.7
<i>Outdoor Storage ≤5000 sq ft</i>		S	2.8
<b>3. ACCESSORY STRUCTURES</b>			
<i>Automatic Teller Machine</i>		P	3.2
<i>Boathouse, Private</i>	P		3.3
<i>Bulkhead</i>	P		3.4
<i>Carport</i>	P	P	-
<i>Dock/Pier</i>	P		3.5
<i>Dwelling, Accessory Residential</i>	P	P	3.6
<i>Garage, Residential</i>	P	P	-
<i>Gate and/or Guardhouse</i>	P	P	3.7
<i>Greenhouse</i>	P	P	3.8
<i>Heliport (Private Accessory)</i>	S		3.9
<i>Loading Bay</i>		P	-
<i>Outdoor Sale Display Areas</i>		P	3.10
<i>Planned Seasonal Agricultural Worker Development</i>	P	P	3.12
<i>Produce Stand, Accessory</i>	P	P	3.13
<i>Satellite Dish</i>	P	P	-
<i>Storage Shed</i>	P	P	3.14

Yellow highlighting indicates uses allowed in R1 and not in LC.

Orange Highlighting indicates uses allowed in LC and not in R1.

USE TYPE	GENERAL USE DISTRICT P=Permitted; S=Special Use Permit		
	R1	LC	SR
<i>Swimming Pool, Spa, Hot Tub, Residential</i>	P	P	-
<i>Wastewater Treatment Plant, Small Accessory</i>	P	P	3.15
<b>4. RECREATIONAL USES</b>			
<i>Athletic Field, Non-commercial</i>	P		4.2
<i>Camp</i>	S	P	4.3
<i>Coin Operated Amusements</i>		P	4.5
<i>Common Area Recreation and Service Facilities</i>	P	P	4.6
<i>Golf Course and/or Country Club</i>	P	P	4.7
<i>Governmental Recreational Facilities</i>	P	P	4.8
<i>Indoor Recreational Facilities (Bowling Alley, Skating Rink, Bingo Games, Indoor Miniature Race Tracks)</i>		P	4.9
<i>Marina</i>		P	4.10
<i>Miniature Golf Course or Driving Tees/Ranges (operated for commercial purposes)</i>	S	P	4.11
<i>Outdoor Recreational Facilities</i>	S		4.15
<i>Park</i>	P	P	4.16
<i>Physical Fitness Center</i>	S	P	4.17
<i>Riding Stables</i>		P	4.19
<i>School (Sports Instructional)</i>		P	4.20
<i>Sporting and Recreational Facilities</i>	S	S	4.23
<i>Swim and Tennis Club</i>	P	P	4.24
<b>5. EDUCATIONAL AND INSTITUTIONAL USES</b>			
<i>Adult Day Care Facility</i>	P	P	5.1
<i>Ambulance Services</i>	P	P	5.2
<i>Cemetery/Mausoleum/Columbarium (excluding crematoriums)</i>	P	P	5.3
<i>Childcare Facility</i>	P	P	5.4
<i>Club/Lodge</i>	P	P	5.5
<i>Community Club</i>	P	P	5.7
<i>Fire and Rescue Station</i>	P	P	5.9
<i>Funeral Home or Crematorium</i>		P	5.10
<i>Government Offices</i>		P	5.11
<i>Museum/Library/Archive</i>	S	P	5.14
<i>Place of Assembly, Large</i>		P	5.15
<i>Place of Assembly, Small</i>		P	5.16
<i>Police Station</i>	S	P	5.17
<i>Religious Institution</i>	P	P	5.18
<i>School (Home)</i>	P	P	-
<i>School (Public/Private/Charter)</i>	P	P	5.19
<i>Youth Center</i>	S	P	5.20
<b>6. BUSINESS, PROFESSIONAL, AND PERSONAL SERVICES</b>			
<i>Animal Shelter</i>		S	6.1
<i>Automobile and Equipment Service</i>		P	6.2

Yellow highlighting indicates uses allowed in R1 and not in LC.

Orange Highlighting indicates uses allowed in LC and not in R1.

USE TYPE	GENERAL USE DISTRICT P=Permitted; S=Special Use Permit		
	R1	LC	SR
<i>Broadcasting and Communications Facilities</i>		P	6.4
<i>Car Wash</i>		P	6.5
<i>Exterminating and Pest Control Services</i>		P	6.6
<i>Kennel</i>		S	6.7
<i>Motel/Hotel</i>		S	6.8
<i>Office: Business, Professional and Public</i>		P	6.9
<i>School (Technical, Trade and Business)</i>		P	6.10
<i>Urgent Care Clinic</i>		P	6.13
<b>7. RETAIL TRADE</b>			
<i>Convenience Store</i>		P	7.4
<i>Landscaping Materials Sales and Storage</i>		S	7.8
<i>Open Air Market</i>		S	7.11
<i>Produce Stand</i>		P	7.13
<i>Retail Sales and Services ≤50,000 sq ft (of gross floor area)</i>		P	7.14
<b>9. TRANSPORTATION, WAREHOUSING AND UTILITIES</b>			
<i>Communication Facilities, Category 1</i>	P	P	9.3
<i>Communication Facilities, Category 2</i>	P	P	9.3
<i>Utility Substation</i>	P	P	9.12
<i>Waste Collection and Transfer Facility (Non-hazardous)</i>	S	S	9.15
<i>Wastewater Treatment Plant</i>	S	S	9.16
<i>Water Treatment Plant</i>	S	S	9.17
<b>10. MANUFACTURING &amp; INDUSTRIAL USES</b>			
<i>Machining and Assembly Operations ≤10,000 sq ft (of gross floor area)</i>		P	10.7
<i>Manufacturing and Production Operations ≤10,000 sq ft (of gross floor area)</i>		P	10.8
<i>Recycling Centers, Drop-Off Facilities</i>	P	P	10.14
<i>Research and Development Operations (Non-hazardous)</i>		P	10.16
<b>11. TEMPORARY USES</b>			
<i>Christmas Tree Lot Sales</i>	P	P	11.1
<i>Circuses, Carnivals, Fairs, Religious Services (or similar types of events)</i>		P	11.2
<i>Model Home Sales Office, Temporary</i>	P	P	11.3
<i>Movie Production</i>	P	P	-
<i>Yard Sale</i>	P	P	11.4
<b>12. TEMPORARY STRUCTURES</b>			
<i>Portable Storage Container</i>		P	12.1
<i>Produce Stand, Temporary</i>	P	P	12.2
<i>Temporary Construction Project Buildings</i>	P	P	12.3
<i>Tent Sale</i>		P	12.4
<b>13. AGRICULTURAL USES</b>			
<i>Agriculture</i>	P	P	-
<i>Food Manufacturing</i>	P	P	-

Yellow highlighting indicates uses allowed in R1 and not in LC.

Orange Highlighting indicates uses allowed in LC and not in R1.

USE TYPE	GENERAL USE DISTRICT P=Permitted; S=Special Use Permit		
	R1	LC	SR
<i>Forestry</i>	P	P	-
<i>Forestry Support Services</i>	P	P	-
Veterinary Services (livestock)	P	P	-

Yellow highlighting indicates uses allowed in R1 and not in LC.

Orange Highlighting indicates uses allowed in LC and not in R1.

**HENDERSON COUNTY  
PLANNING BOARD MINUTES  
April 17, 2008**

Rezoning Application # R-2008-04 – Rezone Approximately 0.48 Acres of Land Located at the Intersection of Mountain Road and Haywood Road – Residential One (R1) to Local Commercial (LC) Zoning District - Kirk Ledoux, Application/Agent for Gregory and Leslie Shipley, Owners. Presentation by Alexis Baker, Planner. Ms. Baker stated that both this rezoning request and the last one were posted on April 2, 2008. Ms. Baker stated that this rezoning request is located at the intersection of Stoney Mountain Road and Mountain Road, approximately 261 feet from the intersection of Mountain Road and Haywood Road (NC Highway 191). They are requesting to be rezoned from Residential One (R1) to a Local Commercial (LC) zoning district. Ms. Baker stated that the subject area is within the R1 zoning district which is applied to the adjacent property to the east. The Local Commercial zoning district is adjacent to the subject area to the north, west, and south. She said that the rezoning request would be a contiguous zoning district. There is an overlay district of WS-IV Watershed protected area. She stated that all nonresidential development shall be allowed at a maximum of 24% built-upon area, or a maximum of 36% built-upon area upon qualification for a natural drainage and filtering system bonus. Ms. Baker said that currently the subject area contains a single-family residence. The surrounding areas contain commercial, governmental and residential land uses. She stated that there is no existing sewer line but it appears that the sewer line is located near the NCDOT property where the old prison was. Public water is currently located on the subject area.

The Comprehensive Plan identifies the subject area as being located in the Urban Services Area which states that it should contain considerable commercial development at a mixture of scales. She stated that the Comprehensive Plan also identifies the subject area as being located in the Community Service Center and this is intended to be intensive, efficient defined concentrations of mixed services that meet the needs of the surrounding community. The CCP also suggests that land uses within the Community Service Centers should be local, community and regional commercial. Ms. Baker stated that Staff supports the rezoning of the subject area to Local Commercial as it is consistent with the recommendations of the County Comprehensive Plan. Ms. Baker stated that the Technical Review Committee approved the rezoning request.

Greg Shipley spoke on the rezoning request. Mr. Shipley stated regarding the sewer line, he has the understanding that the line falls near the old prison down Mountain Road across his property and down to the pumping station at Mountain Building and Development. He said the pumping station is located at the corner of Mountain Road and Haywood Road. Mr. Shipley stated that he made application with Cane Creek to tap into that line. Mr. Shipley stated that with the amount of traffic in that area, he feels a light commercial or professional service office would be desirable because of the location and because the adjacent properties are commercial.

Chairman Pearce opened public input.

Dave Walters. Mr. Walters lives nearby this proposed rezoning site. He voiced his concerns with possible flood problems and stormwater runoff because of a related

stream that typically floods. With parking lots developed for commercial reasons, this would cause addition problems. He asked that the Board members consider denial of this rezoning application.

Jack Oechslin. Mr. Oechslin was in agreement with Mr. Walters regarding flood and stormwater runoff problems. He stated that he is not concerned with just this particular commercial development proposal, but that it could also encourage further developments of the same which could cause environmental problems and feels that it would not be desirable to the area because of this.

After some considerable discussion among Board members regarding the water and sewer for the proposed subject area, Mr. Starr stated that for the subject area to be rezoned Local Commercial that will increase the likelihood of development of the property and thereby increase the impervious surface of the property and he feels that is a false assumption. He said that the subject property could be developed as a multi-family project and still gets the special intensity allocation and has a higher impervious surface coverage with its current zoning. He stated that really your decision is not whether or not it is developed, but that is not the control of this Board, but whether how it is developed is the question before you and the zoning and if it is consistent with the Comprehensive Plan.

Tommy Laughter made a motion that the Board recommends approval of rezoning application R-2008-04 to the Board of Commissioners rezone the subject area from Residential One (R1) zoning district to an Local Commercial (LC) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. Stacy Rhodes seconded the motion and all members present voted in favor.



**1.** View of posting from the southwestern portion of subject area.



**2.** View of existing single family residence on the subject area.



**3.** View of posting on the northeastern corner of the subject from corner of Mountain Road (SR 1381) and Stoney Mountain Road (SR 1383).



### Certification of Notice of Public Hearing

In accordance with NCGS 153A-343 the Planning Department certifies notices of the June 2, 2008 hearing regarding Rezoning Application #R-2008-04 were:

1. Submitted to the Hendersonville Times-News on May 6, 2008 to be published on May 14, 2008 and May 21, 2008 by Matthew Cable;
2. Sent, via first class mail, to the owners of properties adjacent to the Subject Area on May 14, 2008 by Alexis Baker;
3. Sent, via first class mail, to the applicant and agent on May 14, 2008 by Alexis Baker; and
4. Posted on the Subject Area on May 14, 2008 by Alexis Baker.

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

1. Matthew Cable
2. Alexis Baker

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

Kathleen R. Scanlan, a Notary Public, in and for the above County and State, do hereby certify that Matthew Cable,  
\_\_\_\_\_, and Alexis Baker

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

PLANNING Dept. of the foregoing instrument.

WITNESS my hand and notarial seal, this the 14 day of May,  
2008.

My commission expires:

10/24/2010

(SEAL)  
Kathleen R. Scanlan  
NOTARY PUBLIC

# **Rezoning Application #R-2008-04 (R1 to LC)**

Gregory Shipley, Applicant

