

March 15, 2007

Rezoning Application #R-2007-03

REQUEST FOR BOARD ACTION

HENDERSON COUNTY PLANNING BOARD

Meeting Date: March 15, 2007

Subject: Rezoning Application #R-2007-03

Attachments:

1. Staff Report
2. Aerial Photo Map

SUMMARY OF REQUEST:

Rezoning Application #R-2007-03, which was submitted on February 14, 2007, requests that the County rezone approximately 2.41 acres of land, located off Naples Road (SR 1534), from an I-1 (Light Industrial) zoning district to a C-4 (Highway Commercial) zoning district. The Subject Area appears to be parcels 9651-77-5124 and 9651-77-3029, which are owned by the Applicant, Walter M. Rowland Jr. The Applicant's Agent is B.L. Hyder.

According to the Henderson County Zoning Ordinance (HCZO), the Planning Board has 45 days from its first consideration of a rezoning application to make a recommendation to the Board of Commissioners. Thus, the deadline for a Planning Board recommendation to the Board of Commissioners regarding this application is Friday, April 27, 2007. If no recommendation is made by April 27, 2007, then the application proceeds to the Board of Commissioners with an automatic favorable recommendation. Upon request of the Planning Board, the Applicant may choose to grant a 45-day extension, at which time the deadline for a Planning Board recommendation would become Tuesday, June 12, 2007.

Planning Board action to recommend that the Board of Commissioners approve, approve with modifications, table, or deny rezoning action #R-2007-03 would be appropriate. The Planning Board also has the option of referring the rezoning action to a subcommittee for consideration prior to sending a recommendation to the Board of Commissioners.

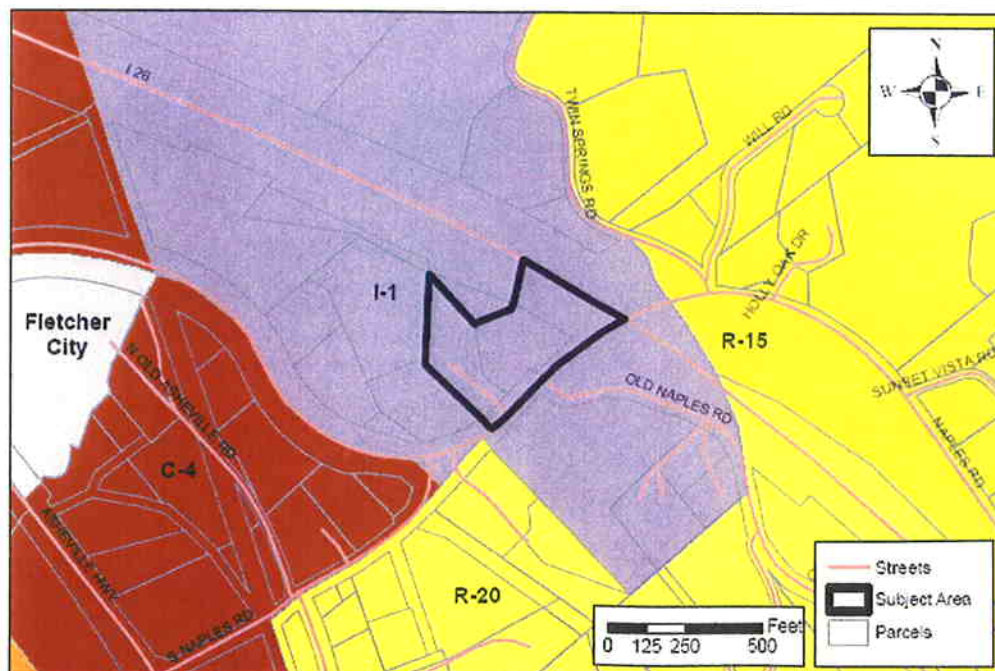
Henderson County Planning Department Staff Report**Rezoning Application #R-2007-03 (I-1 to C-4)****Walter M. Rowland, Applicant**

1. Rezoning Request

- 1.1. **Date of Application:** February 14, 2007
- 1.2. **Property Owner/Applicant:** Walter M. Rowland
- 1.3. **Applicant's Agent:** B.L. Hyder
- 1.4. **Request:** Rezone Subject Area from an I-1 (Light Industrial) zoning district to a C-4 (Highway Commercial) zoning district.
- 1.5. **Subject Area**
 - 1.5.1. **PIN:** 9651-77-5124 (easternmost parcel) & 9651-77-3029 (westernmost parcel)
 - 1.5.2. **Size:** Approximately 2.41-acre tract of land (composed of a 1.15 acre parcel (9651-77-5124) and a 1.26 acre parcel (9651-77-3029)).
 - 1.5.3. **Location:** Intersection of Naples Road (SR 1534) and Interstate 26.

2. Current Zoning

- 2.1. **Application of Current Zoning:** The Subject Area is currently zoned I-1 (Light Industrial), which was applied on May 9, 2005, as part of the US Highway 25 North Zoning Study (See Map A).

Map A: Current Zoning

- 2.2. **Adjacent Zoning:** The I-1 (Light Industrial) zoning district completely surrounds the Subject Area. To the west is a C-4 (Highway Commercial) zoning district, to the north and east is an R-15 (Medium-Density) zoning district, and to the south is an R-20 (Low-Density Residential) zoning district (See Map A).
- 2.3. **District Comparison:**
- 2.3.1. **I-1 Light Industrial Zoning District:** *Please note that there is no purpose statement for the I-1 Light Industrial Zoning District.* I-1 is a light industrial zoning district permitting most light industrial uses and some commercial uses, but excluding all residential uses. Permitted uses include: retail businesses, offices, personal service businesses, tire recapping, automobile sales/service, gas stations, warehouses/mini-storage and junkyards, among other uses. Special uses include group 5 communication towers and motor sports facilities. Setbacks are as follows: 75 feet from the centerline of major streets; 60 feet from the centerline of all other streets; and side and rear setbacks equivalent to the side yard requirements of the contiguous district(s). There is no maximum building height for principal structures (HCZO §200-24, Pg. 57).
- 2.3.2. **C-4 Highway Commercial Zoning District:** *“This district is designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve persons traveling by automobile and local residents. Since these areas are generally located on the major highways, they are subject to the public view. They should provide an appropriate appearance and ample parking and be designed to minimize traffic congestion.”*(HCZO §200-22). C-4 is a highway commercial zoning district permitting, by right, commercial uses at various scales. Permitted uses include: retail business, offices, hospitals/clinics, libraries/schools, churches, restaurants, automobile sales/services, miniature golf courses, hotels, mini-storage facilities and communication towers, among other uses. Conditional uses include shopping centers, junkyards and recreational vehicle parks. Special uses include group 5 communication towers, motor sports facilities, and adult establishments. Setbacks are as follows: 75 feet from the centerline of major streets; 60 feet from the centerline of all other streets; and side and rear setbacks equivalent to the side yard requirements of the contiguous district(s). A maximum height of 40 feet for applies to structures (HCZO §200-22, Pg. 50).

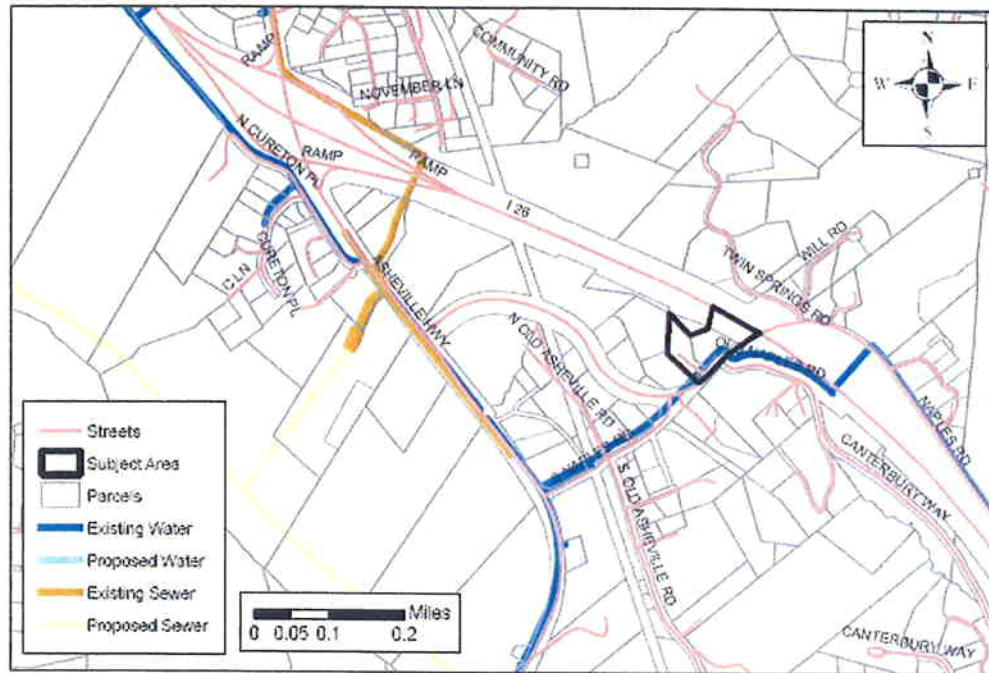
3. **Current Uses of Subject Area and Adjacent Properties**

- 3.1. **Subject Area Uses:** Each of the two (2) parcels of the Subject Area contain single-family residential structures and standard residential accessory structures.
- 3.2. **Adjacent Area Uses:** Surrounding area uses include undeveloped lands and single-family residential uses to the west, industrial uses to the north (including Oxilife, Inc. and Saluda Mountain Products, Inc.), commercial uses to the east (including WNC Home Oxygen and A Self-Storage Depot and U-Haul), and single-family residential uses to the south.

4. Water and Sewer

- 4.1. **Availability:** Public water appears to be available to the Subject Area, provided by the City of Hendersonville. Public sewer is not currently available and, according to the Water and Sewer Master Plan, is not proposed to be extended to the Subject Area. The nearest existing sewer line is approximately 1300 feet (0.25 miles) from the Subject Area (See Map B).

Map B: Water and Sewer



5. Transportation and Access

- 5.1. **Frontage:** The Subject Area has approximately 400 feet (0.07 miles) of road frontage along Naples Road (SR 1543) and approximately 220 (0.04 miles) of frontage (not suitable for access) along Interstate 26.
- 5.2. **Transportation:** Table 1, below, provides Annual Average Daily Traffic Counts for Interstate 26, US Highway 25 North, and Naples Road (SR 1534).

Table A. Annual Average Daily Traffic Count				
Road	2002	2003	2004	2005
Interstate 26	-	-	48,000	50,000
US Highway 25 North	15,000	20,000	19,000	-
Naples Rd (SR 1534)	4,400	-	5,100	-

- 5.3. **The NCDOT 2007-2013 State Transportation Improvement Program (STIP):** The Transportation Improvement Program, within the vicinity of the Subject Area, includes the widening of Interstate 26 between NC 225 to NC 280 to multi-lanes (Project Number I-4400). No improvements are scheduled for Naples Road (SR 1534).

6. The Henderson County, North Carolina 2020 Comprehensive Plan (CCP)

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

Map C: 2020 County Comprehensive Plan Future Land Use Map



- 6.2. The CCP also 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).
- 6.3. The CCP also states that, “the USA will contain virtually all existing and future industrial development and will be the focus of future economic development activities. Industrial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129).
- 6.4. The CCP Future Land Use Map (See Map C) does not place the Subject Area in an “Industrial” or “Community Service Center” area. The CCP does not specifically identify which type of use (high-density residential, commercial or industrial) may be the most suitable for the Subject Area.

7. The US Highway 25 North Zoning Study

- 7.1. The Subject Area lies within the area defined by the US Highway 25 North Zoning Study (Priority 1 Planning Area within the community-based planning framework (CCP Appendix I, Map 33). The US Highway 25 north zoning Study (US 25 N Study) recommended the I-1 (Light-Industrial) zoning district be applied to the Subject Area.
- 7.2. The US 25 N Study states that, “An I-1 Light Industrial district is recommended along I-26 in the area of Twin Springs Road, Naples Road and Old Naples Road. I-1 is recommended in this area based primarily upon existing uses, including: A Self-Storage

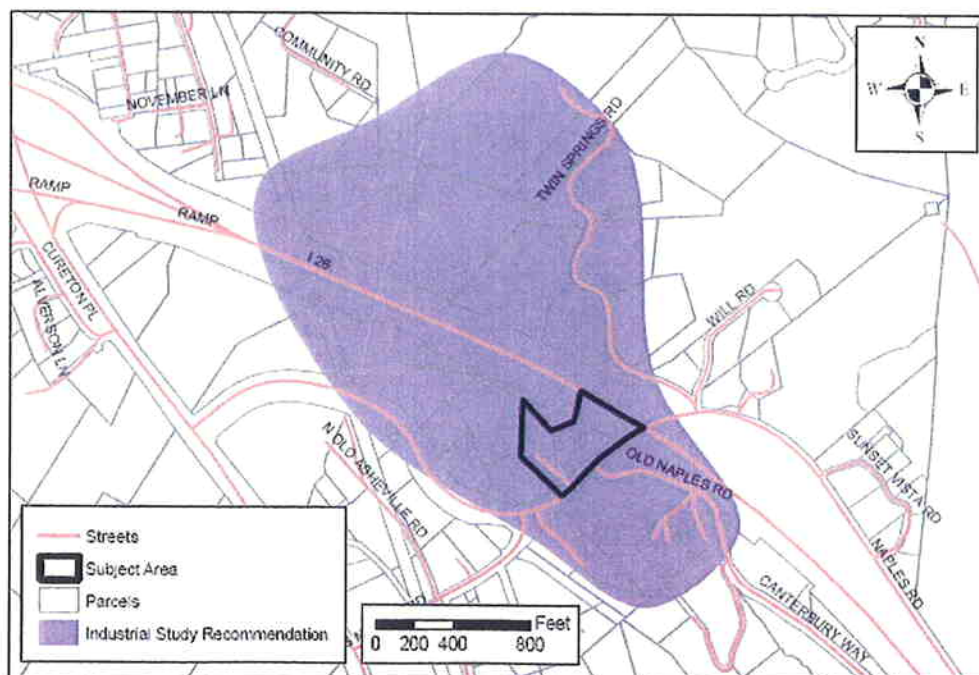
Depot, ISS Co. Manufacturing and Machining, WAEN PAX-TV, and Oxilife, Inc.” (US 25 N Zoning Study, Pg. 21).

- 7.3. The US 25 N Study also states that, “Recommendations for commercial zoning in northern portions of the Study Area are generally concentrated along US Highway 25 North, at or near the interchange with I-26. Commercial zoning districts in this area were placed in relation to existing commercial land uses and property suitable for expansion of such development. C-4 Highway Commercial was recommended in this area to create a regional scale commercial node at this key intersection with I-26” (US 25 N Study, Pg. 22).
- 7.4. On May 9, 2005, the Board of Commissioners rezoned the portion of the US Highway 25 North Zoning Study containing the Subject Area, based on the recommendations of that Study.

8. The Draft Henderson County Industrial Study

- 8.1. The CCP states that, “It is intended that the Countywide Industrial/Commercial Zoning Study and Community Plans will further refine the location, extent, and intensity of future industrial areas” (2020 CCP, Pg. 136). The Draft Henderson County Industrial Study (Industrial Study) is a result of this CCP recommendation. The Planning Board reviewed and unanimously (a vote of 8 to 0) provided a favorable recommendation on the Draft Industrial Study at its January 17, 2006 meeting. The Board of Commissioners has not yet reviewed/approved/implemented the Industrial Study.
- 8.2. According to the Industrial Study, the Subject Area is recommended for industrial use (See Map D). The Industrial Study states that, “numerous industrial areas in the northern portion of the County have been expanded to reflect the actions previously taken by the Board of Commissioners to rezone parcels within the US Highway 25 North Zoning Study Area for industrial use” (Draft Industrial Study, Pg. 3).

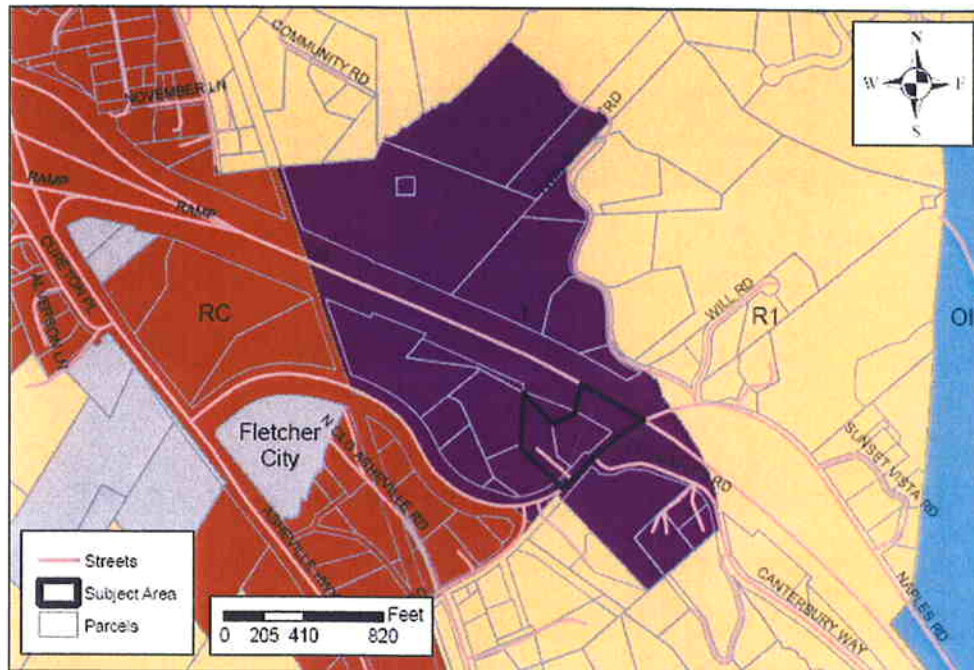
Map D: Industrial Study Recommendations



9. The Draft Land Development Code

- 9.1. The Draft Land Development Code Zoning Map identifies the Subject Area as transitioning to an I (Industrial) zoning district. Properties to the south of the Subject Area, which are currently zoned C-4 (Highway Commercial) are identified as transitioning to an RC (Regional Commercial) zoning district (See Map E).
- 9.2. The Subject Area, were it to remain I-1 (Light Industrial) would transition to the I (Industrial) zoning district. Were the Subject Area to be rezoned to C-4 (Highway Commercial) it would transition to the RC (Regional Commercial) zoning district.

Map E: Draft Land Development Code Zoning Map



9.3. Draft Land Development Code District Comparison:

- 9.3.1. **I Industrial Zoning District:** *“The purpose of the Industrial District (I) is to foster orderly growth where the principal use of land is a mixture of industrial and heavy commercial. The intent of this district is to allow for industrial and heavy commercial development consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide industrial and heavy commercial development that: (1) is compatible with adjacent development and the surrounding community; (2) will minimize conflict between land uses; and (3) is sensitive to its impact on surrounding land uses and the environment (natural and man-made)” (Draft LDC §200A-36).*
- 9.3.2. **RC Regional Commercial Zoning District:** *“The purpose of the Regional Commercial District (RC) is to foster orderly growth where the principal use of land is commercial. 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 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 the local, community, and regional level; (2) is directed largely*

to defined 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 areas designated as Urban in the Comprehensive Plan” (Draft LDC §200A-34).

10. Staff Comments

Staff’s position at this time, under the guidelines of current plans, policies and studies, is it does not support the rezoning of the property to be zoned for commercial uses. This based on the following:

10.1. **The 2020CCP:** 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 Future Land Use Map (See Staff Report Pg. 4, Map C) does not place the Subject Area in an “Industrial” or “Community Service Center” area. The CCP does not specifically identify which type of use (high-density residential, commercial or industrial) may be the most suitable for the Subject Area.

10.2. Comparison of Districts:

10.2.1. Applying C-4 zoning to the Subject Area would limit the number of industrial uses and increase the number of commercial uses permitted. Height limitations would apply under the C-4 zoning district where they do not apply under the I-1 zoning district. Setbacks would remain unchanged.

10.2.2. Applying C-4 zoning could have similar impacts on public services (water, sewer, roads, emergency services, and schools) as would I-1 zoning, dependent upon the scale of development and/or type of use proposed under either district.

10.3. The US Highway 25 North Zoning Study and Henderson County Industrial Study:

10.3.1. Both the US Highway 25 North Zoning Study and Henderson County Industrial Study, which are intended to be extension of the 2020 CCP, recommend an industrial classification for the Subject Area and those parcels immediately adjacent to and surrounding the Subject Area. This application is based on existing uses (US 25 N Study) and site suitability (Industrial Study).

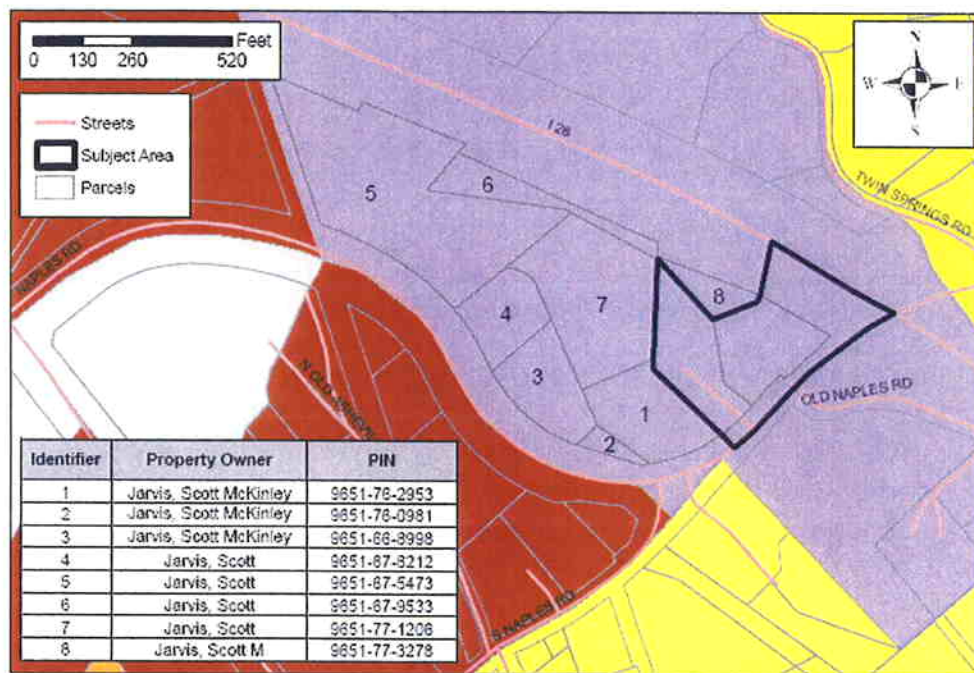
10.3.2. The US Highway 25 North Zoning Study does recommend C-4 (Highway Commercial) zoning for those properties to the south of the Subject Area. According to the Zoning Study, the application of this district in these areas is related largely to the proximity of these parcels to the intersection of Interstate 26 and US Highway 25 North.

10.4. **Spot Zoning:** Applying C-4 zoning to the Subject Area may result in “Spot Zoning.” Spot zoning is a zoning ordinance or amendment (rezoning) that singles out and reclassifies a relatively small area of land owned by a single person and surrounded by a much larger area uniformly zoned, so as to relieve the small tract from restrictions to which the rest of the area is subjected. Applying C-4 zoning to the Subject Area would leave the parcels completely surrounded by an I-1 (Light Industrial) zoning district.

11. Staff Recommendations

- 11.1. Staff has identified no plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest that would justify supporting the proposed rezoning. Staff supports the recommendations of the US Highway 25 North Zoning Study and Industrial Study and also recognizes a spot zoning concern were the Subject Area to be rezoned.
- 11.2. Should the Planning Board wish to recommend approval for the rezoning request, staff suggests that the Planning Board consider including parcels to the southwest of the Subject Area (See Map F (Specifically Parcels 1 and 2 and their associated rights-of-way)) which would make the Subject Area part of a larger, contiguous C-4 (Highway Commercial) zoning district. Expanding the Subject Area would alleviate spot zoning concerns but would not reflect the recommendations of the US Highway 25 North Zoning Study or Industrial Study.

Map F: Current Zoning Map with Adjacent Owners



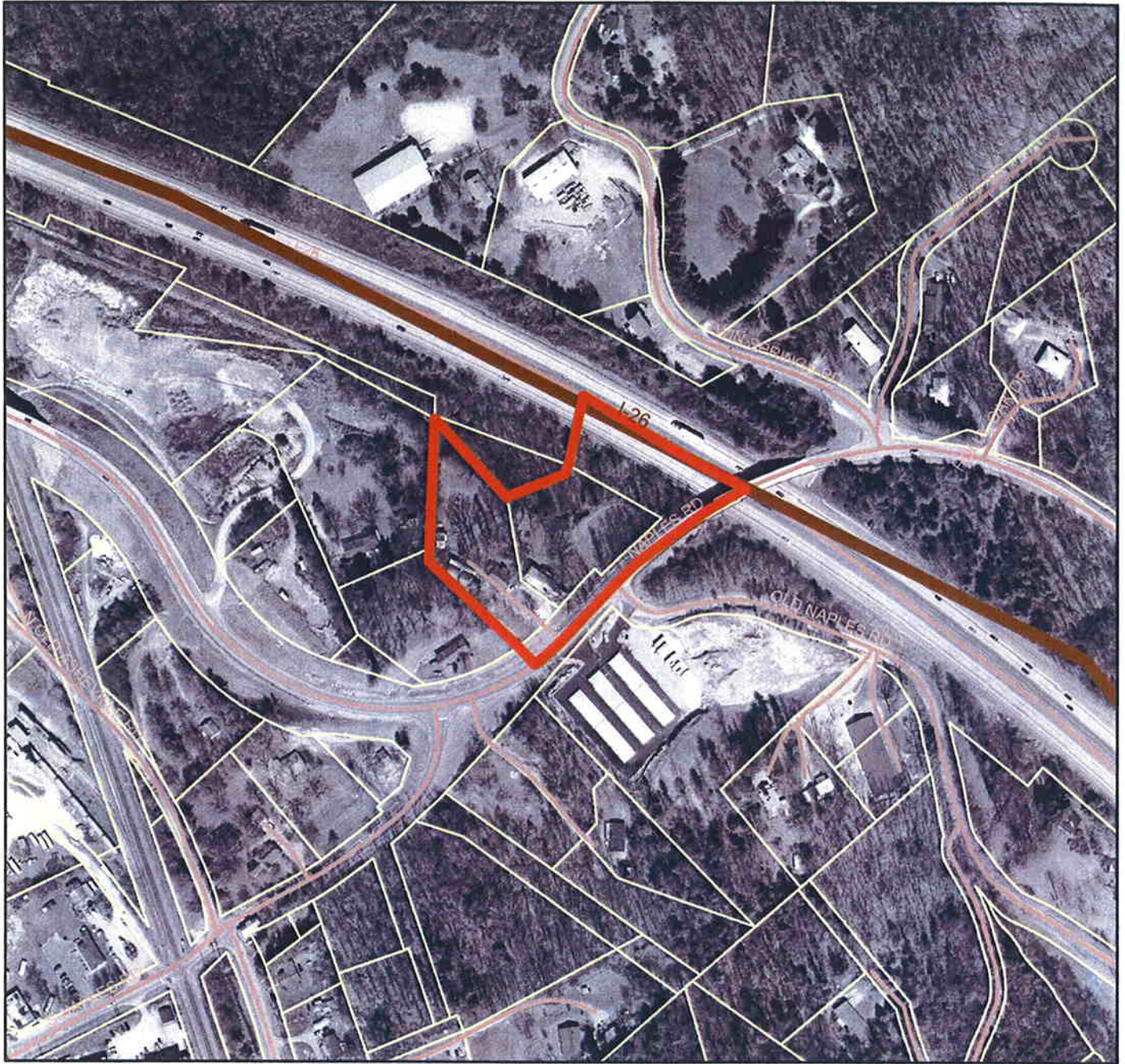
- 11.2.1. It is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would inform the County's consideration of the proposed rezoning. Staff requests the Applicant not discuss any specific use being considered for the property. The Planning Board 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.

12. Planning Board Recommendations

- 12.1.1. To be determined.

Aerial Photo Map

Attachment 2



0 50 100 200 300 400 500 Feet

Rezoning Application
#R-2007-03
Mr. Walter M. Rowland Jr., Applicant
Mr. B.L. Hyder, Agent

HCPD 03-15-07