

## **REQUEST FOR BOARD ACTION**

### **HENDERSONCOUNTY BOARD OF COMMISSIONERS**

**MEETING DATE:** May 17, 2021

**SUBJECT:** Public Hearing for Conditional Rezoning Application #R-2021-01-C, HS Shipman, from Community Commercial (CC) to Conditional District (CD-2021-01)

**PRESENTER:** Matt Champion, Zoning Administrator  
Autumn Radcliff, Planning Director

**ATTACHMENTS:**

1. Motions for Consideration
2. Aerial Map
3. Staff Report
4. Neighborhood Meeting Summary
5. Site/Master Plan
6. List of Conditions
7. Certification of Public Hearing Notification
8. Resolution of Consistency
9. Planning Staff PowerPoint Presentation

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

Rezoning Application #R-2021-01-C was submitted on February 19, 2021 and requests that Henderson County conditionally rezone approximately 6.5 acres of land from Community Commercial (CC) zoning district to a Conditional District (CD-2021-01) to construct a new asphalt plant. The subject area is located on a portion of PIN: 9568-37-1990 along Spartanburg Hwy (US176). The property owner is Jeffrey B. Shipman Enterprises, Inc., the applicant is HS Shipman, and agents are Warren Sugg and Brian Gulden.

Conditional Districts allows for the Board of Commissioners to place conditions on the property to address community concerns and make the proposed development compatible with adjacent uses.

As required by the LDC, a neighbor compatibility meeting was held on Tuesday, March 20, 2021. A copy of the meeting report will be sent to the Board of Commissioners.

The Technical Review Committee (TRC) reviewed the application on April 6, 2021.

The Planning Board reviewed the conditional rezoning request at its April 15, 2021 meeting and voted 5-2 to send forward an unfavorable recommendation.

**PUBLIC NOTICE:**

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with §42-303 and §42-346 (C) of the Henderson County Land Development Code and State Law, notice of the May 17, 2021 public hearing regarding rezoning application #R-2021-01-C was published in the Hendersonville Lightning on May 5<sup>th</sup> and May 12<sup>th</sup>. The Planning Department sent notices of the hearing via first class mail to the owners of properties within 400 feet of the Subject Area on April 30, 2021 and posted signs advertising the hearing on May 3, 2021.

**BOARD ACTION REQUESTED:**

Before taking action on the rezoning request, the Board of Commissioners must hold a public hearing.

If the Board approves the rezoning, any conditions of approval should be stated with the motion. The Board must also adopt a resolution of consistency with the CCP.

Since a conditional zone is proposed by the applicant, and since, pursuant to N.C. Gen. Stat. §160D-703(b), “only those conditions mutually approved by the . . . petitioner may be incorporated into the zoning regulations”, prior to the Board giving final approval, should it be so inclined, the Board must, secure the applicant/petitioner’s agreement to any conditions proposed by the Board. The attached “(Proposed) Conditions” referred to above have already been approved by the applicant and have space for the addition of more proposed conditions as a result of today’s Board action. As a result of §160D-703(b)’s requirement, a bifurcated procedure is proposed, as below.

**Please see the attached motions for the Board consideration.**

Proposed Motions for Conditional Rezoning Application R-2021-01-C

► **Option 1** (approval without any Board of Commissioner-imposed conditions other than those contained or implied in the application and site plan submitted as a part of the application, and approval of statement of consistency with the comprehensive plan)

**I move that the Board (1) find that the approval as I am about to state is consistent with the resolution for this agenda item regarding consistency with the County Comprehensive Plan, and (2) approve this application subject only to any and all conditions contained in the application for this rezoning, and those expressed or implied in the site plan which was a part of the application.**

► **Option 2** (denial of the application)

**I move that the Board deny this application.**

► **Option 3** (tentative approval with additional conditions imposed by the Board in addition to those contained or implied in the application and site plan submitted as a part of the application, and approval of statement of consistency with the comprehensive plan)

**I move that the Board (1) find that the approval as I am about to state is consistent with the resolution for this agenda item regarding consistency with the County Comprehensive Plan, and (2) give provisional and tentative approval of this application subject to any and all conditions contained in the application for this rezoning, to those conditions expressed or implied in the site plan which was a part of the application, and the conditions I will state:**

[list any and all conditions the Board wishes to impose, including all those agreed to orally by the applicant at the public hearing, as all conditions must be (1) agreed to in writing by the applicant (2) prior to the entry of the Board's final decision]

**I further move that this Board appear on the Board's agenda for final decision, in light of whatever decision is made by the applicant regarding any conditions requested by this Board, at the Board's next regular meeting.**

**The conditions I propose are:**

Proposed Conditions for Option 3

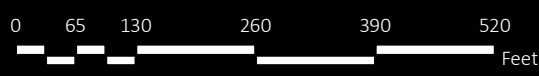
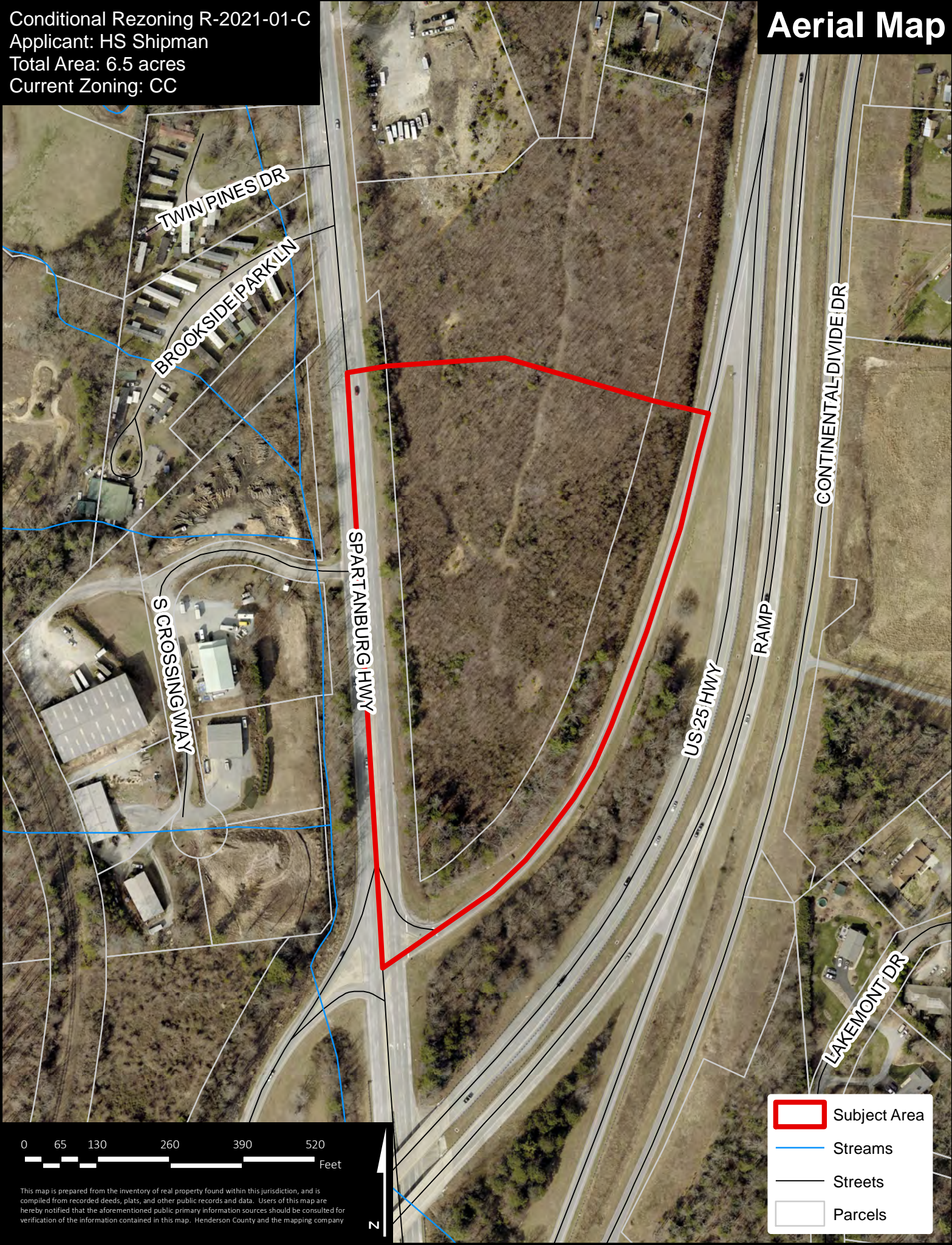
1. All the conditions stated in the staff report submitted in this matter.
  - 2.
  - 3.
  - 4.
  - 5.
- Etc.

► **Option 4 (other)**





I move that the Board's debate and decision on this matter be continued until [\_\_\_\_\_date].

Conditional Rezoning R-2021-01-C  
Applicant: HS Shipman  
Total Area: 6.5 acres  
Current Zoning: CC

# Aerial Map



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

-  Subject Area
-  Streams
-  Streets
-  Parcels

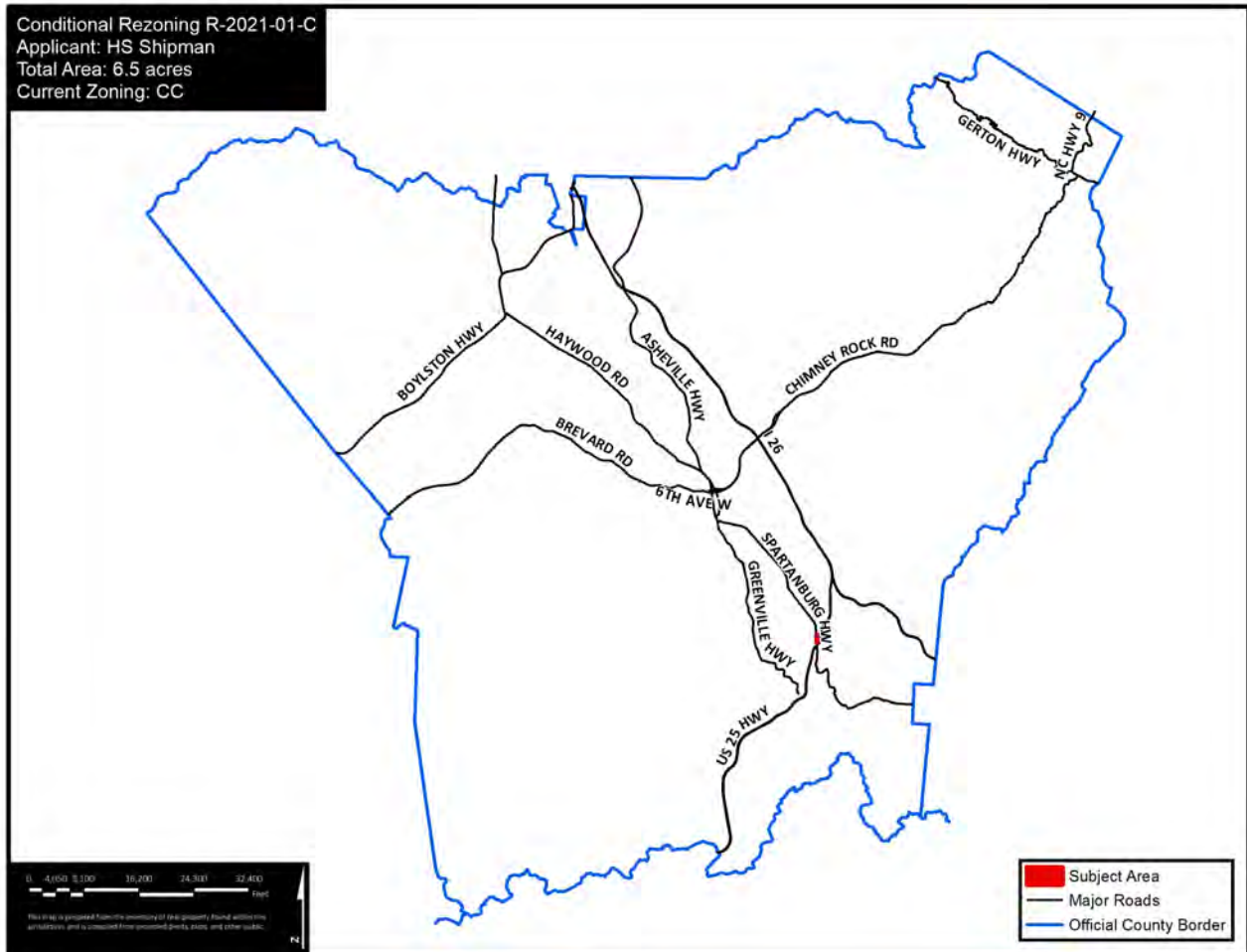
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**Henderson County Planning Department Staff Report**  
**Conditional Rezoning Application #R-2021-01-CD (CC to CD-2021-01)**

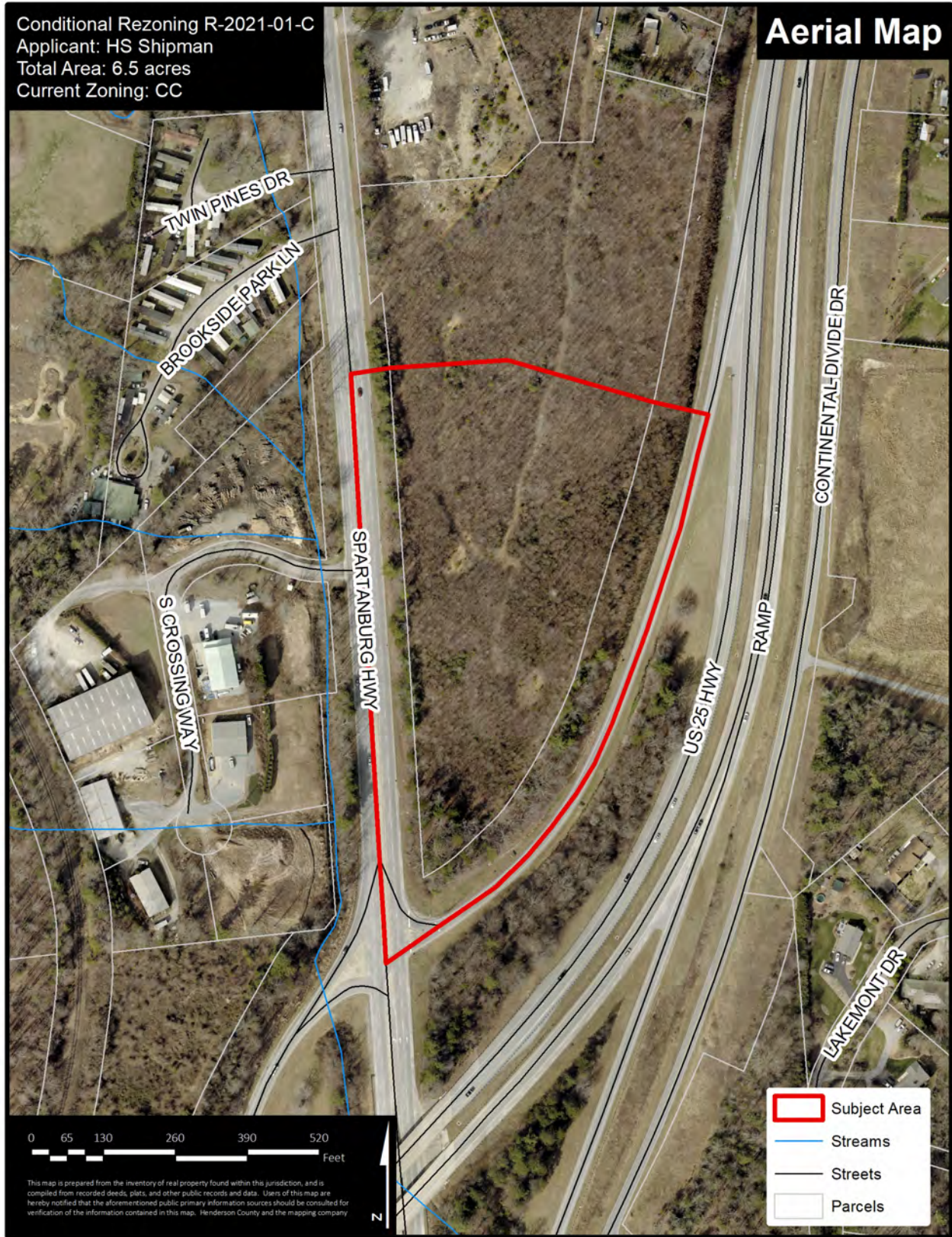
**Applicant(s): HS Shipman**  
**Owner(s): Jeffrey B. Shipman Enterprises, Inc.**  
**Applicants Agent: Warren Sugg, Civil Design Concepts**

- 1.1. **Applicant:** HS Shipman
- 1.2. **Agent:** Warren Sugg, Civil Design Concepts
- 1.3. **PIN:** 9586-37-1990
- 1.4. **Request:** Conditionally rezone a portion of the above PIN (hereafter the subject area) from a Community Commercial (CC) zoning district to a Conditional District (CD-2021-01) to construct a new asphalt plant.
- 1.5. **Size:** Total parcel area is approximately 11.9 acres. Subject area is approximately 6.5 acres. Remaining 5.4 acres are not included in this application.
- 1.6. **Location:** The subject area is located on Spartanburg Hwy (US 176), adjacent to US Hwy 25 and the Exit 7 ramp off US Hwy 25.

**Map A: County Context**



Map B: Aerial

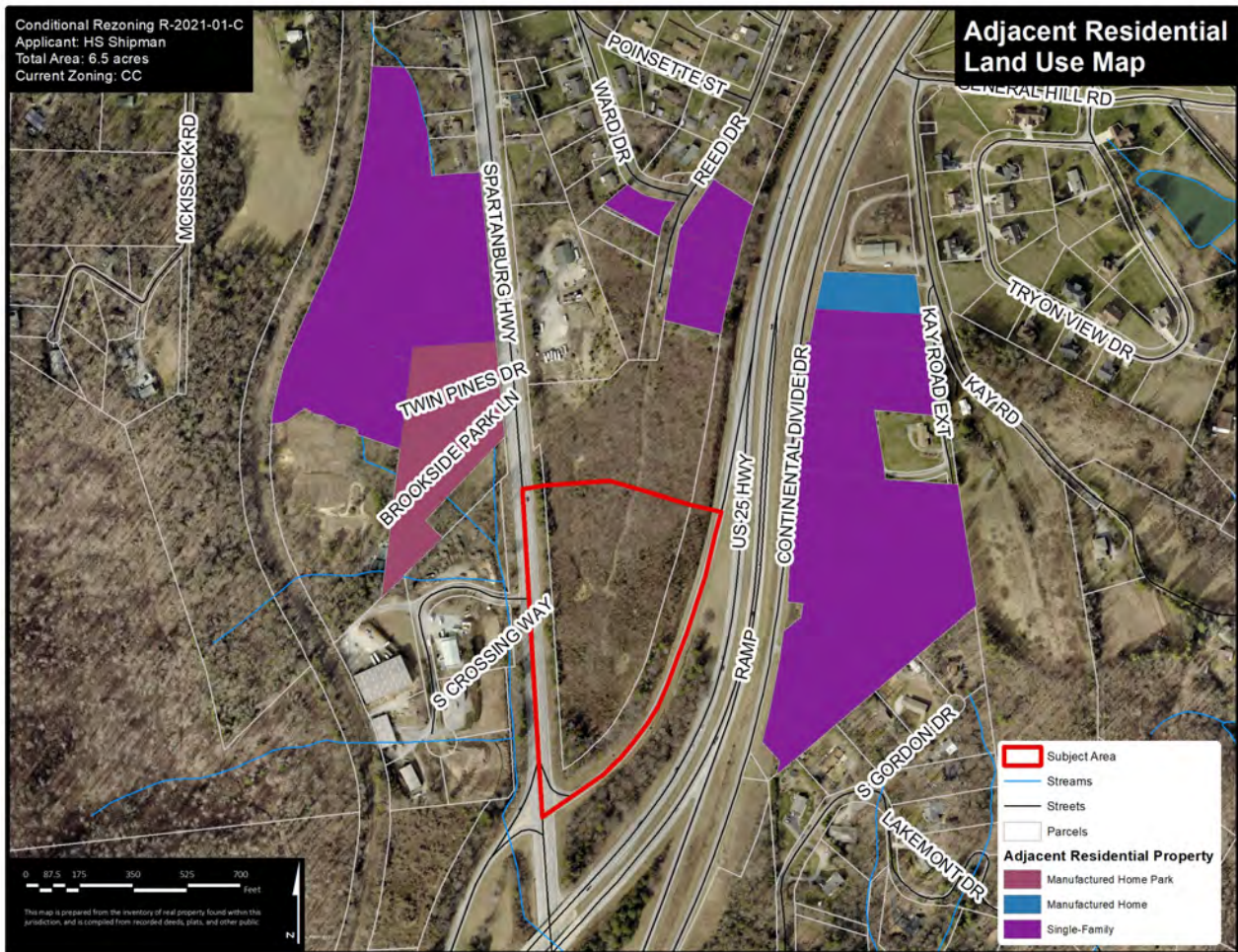






2.2.1. **Conditional District (CD):** “Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the Comprehensive Plan, proposes to impose special limitations and conditions on the use of the property proposed for rezoning” (Chapter 42, Land Development Code §42-45). Conditions may be imposed in the furtherance of the purpose of the LDC and the recommendations of the County Comprehensive Plan. Conditional zoning districts are unique zoning regulations applied to a specific property and include a site-specific plan. Approved conditions are recorded with the register of deeds and runs with the land.

**Map D: Adjacent Residential Use Map**



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

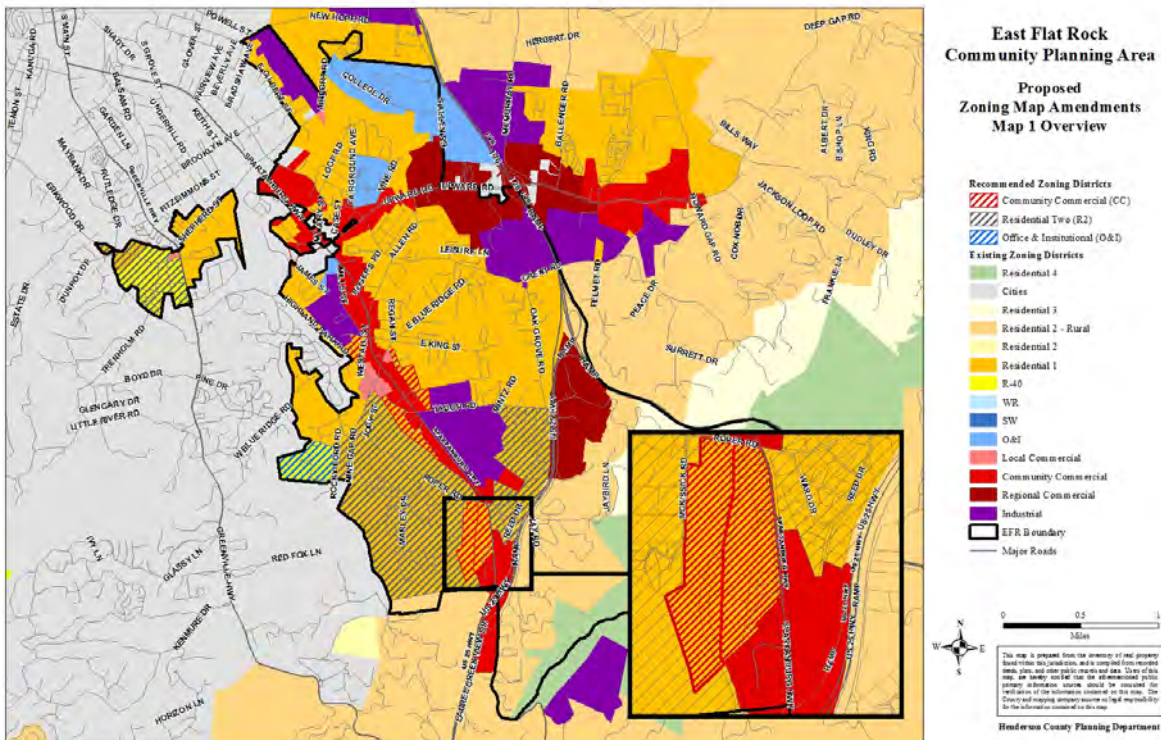
3.1. **Subject Area Uses:** The subject area is currently vacant and has an approved erosion and sedimentation control plan for land clearing activities. These activities such as, land clearing, grading, and site preparations are allowed with the appropriate erosion control permit and/or the related stormwater permit.

County staff notified the property owner and project engineer, that any use of the property would require a zoning permit and the property had no approved uses permitted at this time. **Any investment related to the site improvements cannot be considered as part of the conditional rezoning request.**

Improvements were made at the owner’s expense, and with the owner’s knowledge that a zoning permit for specific uses may, or may not, be allowed and are not guaranteed. All property owners are entitled to seek zoning permits in accordance with the Land Development Code.

3.2. **Adjacent Area Uses:** The surrounding properties include a variety of uses. To the west and north, adjacent uses are primarily commercial consisting of the South Crossing Business Park and an automotive repair business for large commercial vehicles. To the east, northeast, and northwest the adjacent uses are primarily residential containing the Brookside Manufactured Home Park, single-family stick-built structures, and manufactured homes. (See Map D).

**Map E: Overview of EFR Recommended Zoning Changes**

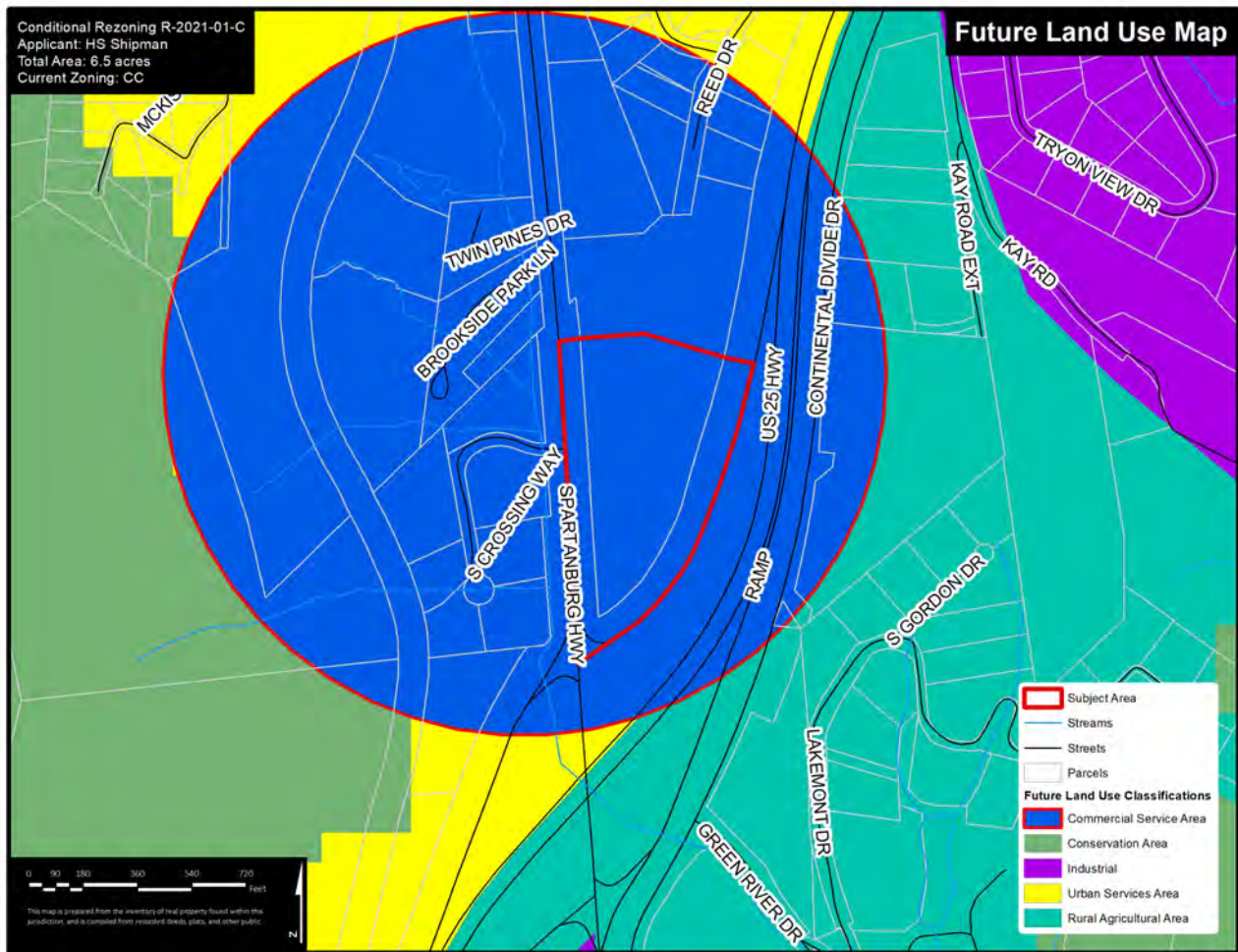


3.3. **East Flat Rock Community Plan:** The Henderson County Board of Commissioners adopted the County Comprehensive Plan (CCP) on July 6, 2004. A principal recommendation of the CCP is the detailed study of individual communities within the County. The East Flat Rock (EFR) Community Plan is a community specific comprehensive plan that outlines future goals related to land use and development, community character and design, natural and cultural resources, agriculture, housing,

community facilities and public services, transportation and economic development as it relates to the CCP. The Board of Commissioners by resolution took action on the EFR Community Plan on May 17, 2018. Within the EFR Community Plan were several recommended zoning changes. (See Map E). While the subject area is contained within the boundary of the EFR Community Plan, it was not recommended for any proposed zoning map amendments. The subject area has been zoned Community Commercial since the adoption of the Land Development Code in September of 2007.

3.3.1. EFR Community Plan does recommend rezoning property along Spartanburg Hwy (US 176) from Residential One (R1) to Community Commercial (CC) within the vicinity of the subject area.

**Map G: County Comprehensive Plan Future Land Use Map**



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

4.1. The CCP Future Land Use Map identifies the subject area as being in the **Community Service Center (CSC)** (CCP, Pgs. 138-140 & Appendix 1, Map 24). (See Map G).

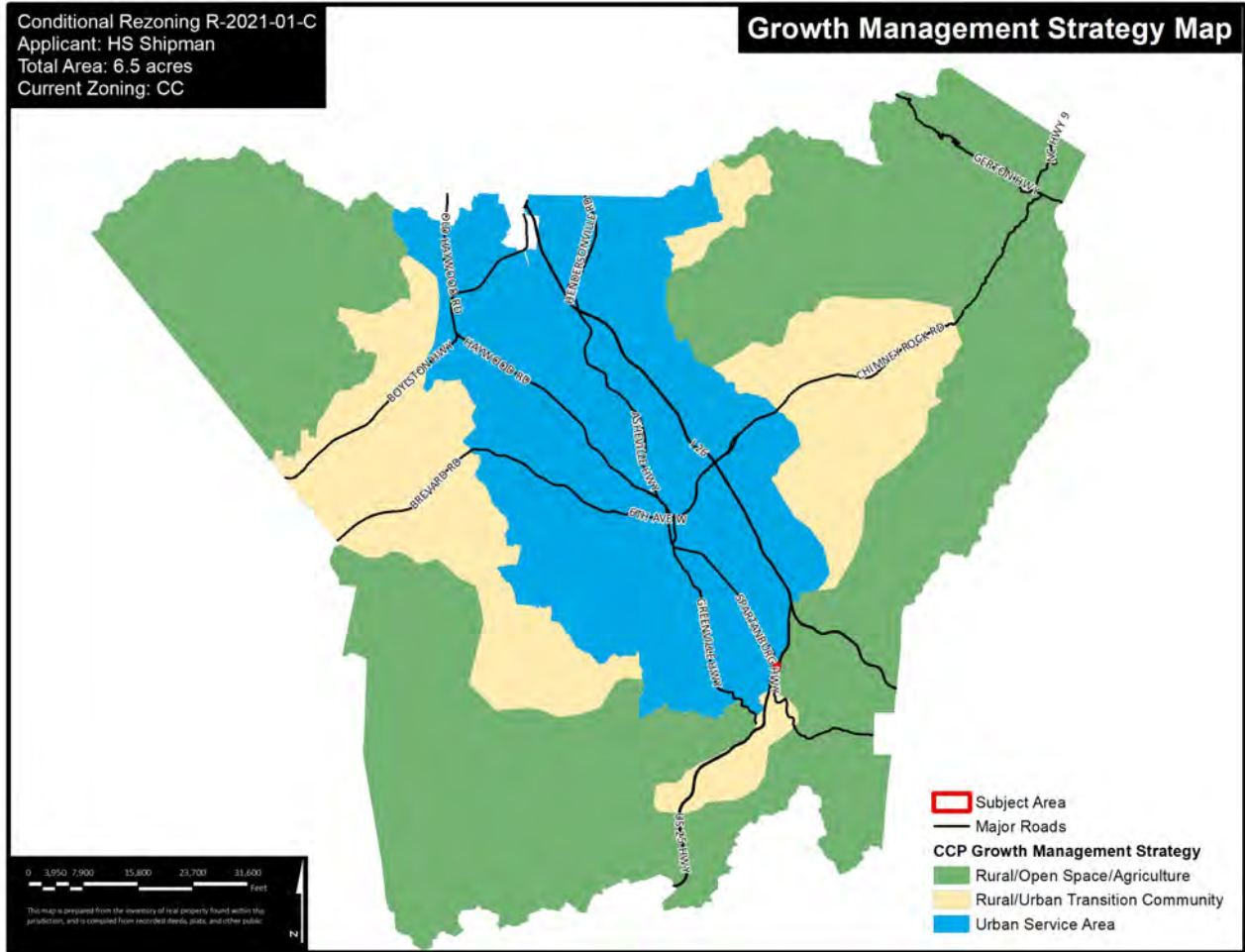
4.1.1. **Community Service Center:** *Community Service Centers* are intended to be intensive, efficient, defined concentrations of mixed services that meet the needs of the surrounding community and defined service areas. *Community Service*

*Centers* are appropriate for a mixture of commercial uses scaled to the service area in question; residential uses of varying densities depending upon available services; and *Community Facilities* such as schools, parks, community centers, and other similar *Community Facilities*. The mixture and intensity of land uses contained within *Community Service Centers* are intended to be appropriate within the context of the surrounding community and intended service area. *Community Service Centers* should also be properly controlled by appropriate aesthetic standards, access management standards, and other appropriate development control measures. (CCP, Pg. 138).

4.1.1.1. Furthermore, **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 associated with “strip” commercial development. CSC should be priority targets of investments for sewer and water, public transportation, greenways, other general road improvements, and other appropriate infrastructural improvements. (CCP, Pg. 138).

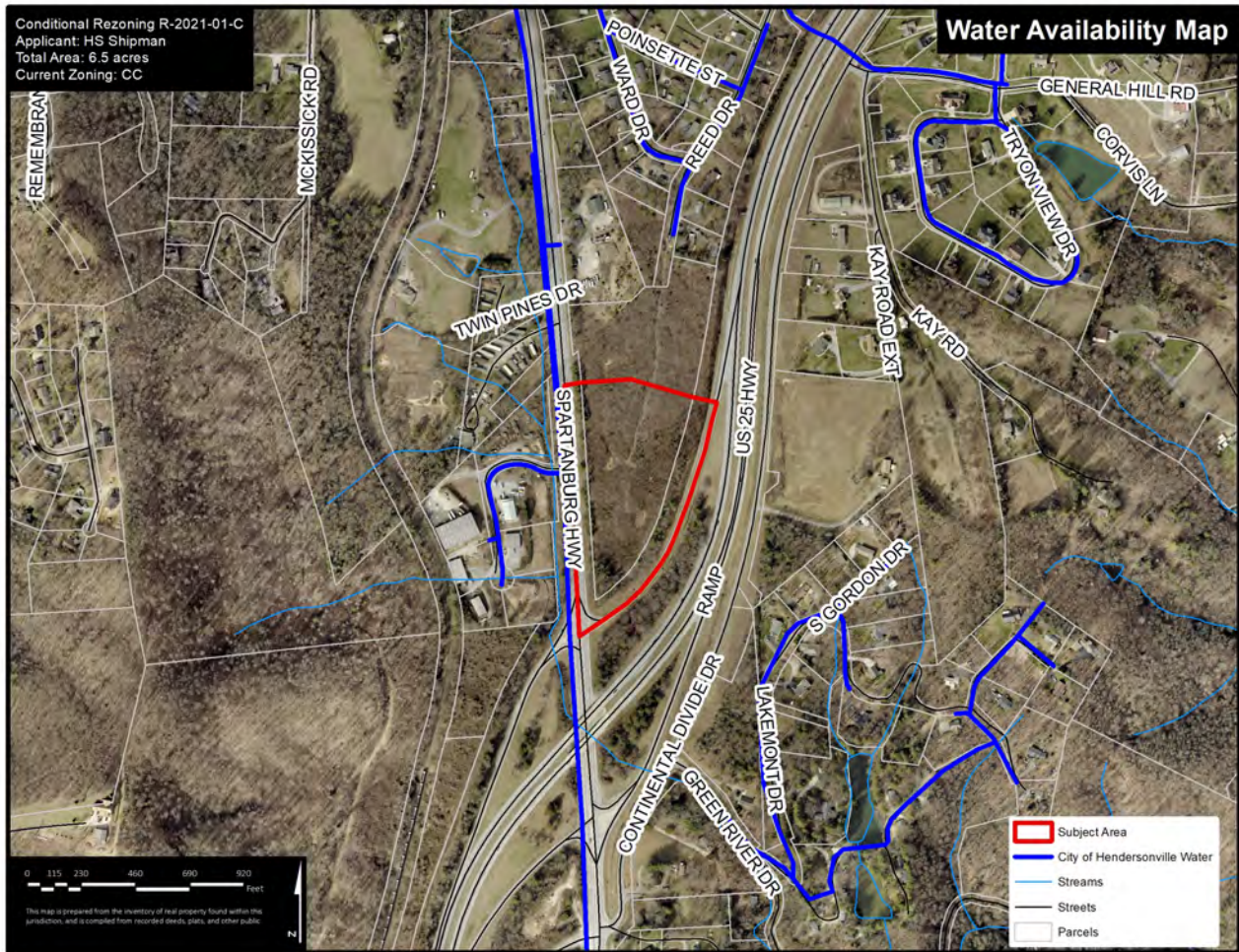
4.1.1.2. **Community Commercial** areas are located within defined Community Service Centers. Though still pedestrian friendly, they are larger center serving larger market areas and are situated at logical intersections along major roads. With proper project design, residential uses can also be included within Community Commercial areas. Public utilities are generally required. They should include 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 and community level. They should be compatible with adjacent development and the surrounding community and should minimize congestion and sprawl. (CCP, Pg. 139).

### Map H: Growth Management Strategy Map



4.1.3. **Growth Management Strategy:** The CCP shows the subject area located in the Urban Services Area (USA) for Growth Management Strategy. The CCP states “The USA will contain considerable commercial development at a mixture of scales: Local, Community, and Regional, as defined below. In particular, 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.” (CCP, pg. 133, #4.) (See Map H)

### Map I: Water Availability Map



#### 5. Water and Sewer

5.1. **Public Water:** The applicant is proposing connection to public water via the City of Hendersonville to serve the project. The applicant must provide a capacity letter as a condition.

5.2. **Public Sewer:** The applicant is proposing an individual septic system to serve the project.

#### 6. Buffering and Separation

6.1. **Buffering:** The applicant is proposing to install a 30' B2 Buffer to all residential property or property zoned residential.

6.1.1. B2 Buffer includes: 2 large or 3 small deciduous trees per 100 linear feet or 5 large or 12 small evergreen trees per 100 linear feet.

6.2. **Separation:** The applicant is showing a setback 500' of an existing dwelling unit in addition to a site wide 100' perimeter setback.

**7. Supplemental Requirement 10.1 for Asphalt Plant**

**(These requirements do not automatically apply to a conditional rezoning application but may be conditions required by the Board of Commissioners as well as other conditions not stated below.)**

- (1) Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).
- (2) Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.
- (3) Dust Reduction. Unpaved *roads, travelways* and/or parking areas shall be treated to prevent dust from adverse effects to adjacent properties.
- (4) Separation. An *asphalt plant* shall not be constructed or newly located within:
  - a. One-half (½) mile of an existing *school, library, day care facility, healthcare facility and/or religious institution*; and
  - b. Five hundred (500) feet of an existing *dwelling unit* (located in a *residential zoning district* and not located on the same property as the *use*).
- (5) Perimeter Setback. One hundred (100) feet.
- (6) Security. The operations of an *asphalt plant* shall be totally enclosed by: (1) a security fence or wall at least eight (8) feet in height; or (2) a fireproof *building*. Entrances and exits should be secured and locked during non-operating hours.

**8. Proposed Conditional District (CD-2021-01) Development**

8.1. **Proposed Use:** The applicant is proposing to use the site for a new asphalt drum plant. The Conditional District allows the Board of Commissioners to place conditions or restrictions on the property that binds this specific development and location. Below is an overview of the development.

- 400 Square Foot Steel Control Building
- Raw Materials Storage Area
- Heavy Duty Asphalt Pad and Driveway
- Loading Zone
- Three Parking Spaces for Employees
- 2 Acres of Impervious Surfaces on Total Tract (17%)
- 1.8 Acres of Impervious Surfaces on Project Parcel (28%)
- Accessed off Spartanburg Hwy (US 176)
- Maximum Building Height – 65ft

**9. Neighborhood Compatibility Meeting**

- 9.1. A neighborhood compatibility meeting was held on Tuesday, March 30, 2021 at 4:00 PM at Blue Ridge Community College (BRCC). Invitations were sent to property owners within 400 feet of the subject area’s boundary.
- 9.2. A report of this meeting is attached.

**10. Staff Comments**

- 10.1. **The CCP:** The CCP Future Land Use Map (See Map G) places the subject area in Community Service Center classification.

10.2. **Comparison of Districts:** The existing Community Commercial (CC) zoning district allows for primarily commercial development with a maximum gross floor area of 80,000 sq ft. The corresponding Conditional District (CD) applies to instances where certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land *uses* are of a nature or scale that may have significant impacts on both the immediate surrounding area and the entire community, which cannot be predetermined or controlled by general district standards. There are also circumstances in which a general use district designation allowing such a *use* by right would not be appropriate for a particular property though the *use* could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted *Comprehensive Plan*, and adopted district. The review process established in the LDC provides for the accommodation of such *uses* by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the *use* with the use and enjoyment of neighboring properties.

10.3. **Conditional Zoning Approval:** If a petition for conditional zoning is approved, the development and use of the property shall be governed by the existing Chapter requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Official Zoning Map.

10.3.1. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to §42-50 (Alterations to Approval). Changes to the site plan layout shall not increase the number of structures. (LDC §42-49)

## 11. **Technical Review Committee (TRC) Recommendations**

11.1. The Technical Review Committee (TRC) reviewed the site plan on Tuesday, April 6, 2021 at 2:00 pm. The TRC does not approve the site plan or make a recommendation on the application. The TRC does not have authority of technical requirements under the State or EPA and will not discuss those standards. Any required permits from the EPA, State, Federal, Department of Environmental Quality (DEQ) (including related Water or Air Quality restrictions) will be required as conditions of approval if the BOC approves the application. The TRC forwarded the application to the Planning Board.

## 12. **Planning Board Recommendations**

12.1. The Planning Board reviewed this application on Thursday, April 15, 2021 at 5:30 pm at Blue Ridge Community College (BRCC) in the Thomas Auditorium. The Planning Board voted 5-2 to send forward an unfavorable recommendation to the Board of Commissioners.

## 13. **Board of Commissioners Public Hearing**

13.1. May 17, 2021 at 5:00pm at the Blue Ridge Community College Thomas Auditorium.

## 14. **Recommended Conditions from the LDC, TRC, and Planning Board**



- 14.1. All conditions discussed will be attached to the staff report for the Board of Commissioners meeting.



Neighborhood Compatibility Meeting  
Conditional Zoning Request #R-2021-01-CD (HS Shipman)  
Tuesday, March 30, 2021 at 4:00 p.m.  
Blue Ridge Community College (BRCC)

Letters about the meeting were mailed to property owners within 400 feet of the boundary of the proposed development. Approximately 189 people attended the meeting. The following County staff and applicant's agent were in attendance:

| <i>Name</i>     | <i>Title/Organization</i>                              |
|-----------------|--------------------------------------------------------|
| Autumn Radcliff | Planning Director                                      |
| Matt Champion   | Zoning Administrator                                   |
| John Mitchell   | Business and Community Development Director            |
| Jeff Shipman    | Applicant                                              |
| Brian Gulden    | Applicant's Agent, Attorney                            |
| Warren Sugg     | Applicant's Agent, Engineer with Civil Design Concepts |
| Greg Renegar    | Plant Manager Alltech                                  |

Ms. Autumn Radcliff opened the meeting and provided a welcome and introductions. She stated that the purpose of the meeting is for nearby neighbors to learn about the proposed project and ask questions of the applicant prior to formal review by the Planning Board and Board of Commissioners (BOC). She stated that the applicant would give a brief overview of the proposed project and then there would be an opportunity for citizens to ask questions directly of the applicant.

**Applicant's Agent Overview:** Mr. Brian Gulden introduced the applicant the project team here today. He provided an overview of the site plan and maps provided for the community.

**Questions and Answers Discussion:** Below is a summary of this discussion.

1. There was concern from a neighbor about the impact on health and the environment. - The applicant answered that they have completed studies on the air, water, and health impacts as well as a study on property values. These studies and reports showed there was not direct impact to the neighbors and community.
2. EPA regulates emissions of asphalt plants and there is standard that must be met. - The applicant preformed a study to determine the release of emissions that would be produced and released, and that study showed that the levels are below the state threshold.
3. There could be some odor when production is taking place. Technology exists that can reduce noise and odor.
4. When the panel was asked if they would live next door to and asphalt plant, they all answered yes. Mr. Renegar has worked with asphalt plants for 37 years and knowing what he knows stated he was comfortable with living next to this. He stated that the fumes are not carcinogenic.

5. The question of recent mud running of the site was asked. - The applicant stated this had been due to major rain events where the sediment ran over the silt fencing due to the amount of rainfall. They have discussed ways to correct and help prevent in the future with the County engineer and project engineer.
6. There was community concern about the quality of live and have additional toxins in the community.
7. There were questions related to plant operations per week and if the material had to stay heated. - The applicant stated that it does have to stay heated, but there is no smell due to the heating process. Mr. Renegar stated that there is technology that prevents you from being able to smell it if this plant puts this in place.
8. It was stated that there are 3 other asphalt plants are in Henderson County currently. It was asked who stands to benefit from another asphalt plant in Henderson County.
9. The State regulates how much emissions are admitted and if you go over what happens? - The applicant stated that if you are in violation, the state will shut the plant down until you are in compliance.
10. How often are the inspections conducted by the State? - The state provides how often and when they come out to check. Unsure of the set time how often this is monitored.
11. Several questions were asked from the last application submittal and were restated to the applicant, below are those responses.
  - Equivalent of tons per hour (200) but depends on plant productions.
  - 35 million per hour btu burner.
  - Run according to what is sold. Grind hard if sold a lot. Could be 50%. Based on 35 million BTU per hour.
  - Up to State or County to stipulate standards.
  - Various but average of 250 degrees fahrenheit
  - Title 5 is particulates and can be a state and local requirement.
  - There is no RPA crushing onsite.
  - There is an onsite silo with a 100-ton silo and there will be a total of 2 silo's.
  - The power source is natural gas heating supplied from PSNC.
  - The plant will not be burning fuel. It will be from natural gas and burning natural gas does not produce sulfur.
  - The plant will have a grind house on the back side and have technology to reduce the noise. Can have silencer on the fan. Dryer and the drive system with chain or train drive. This one is proposed to have a train driver and is insulated. 6 ½ diameter and the insulation makes the gravel rotation quiet.
  - Question about TRC determination was asked. - Ms. Radcliff stated that the TRC is a staff committee that can only review the site plan to see if it meets the requirements for the County ordinances and not State or Federal regulations as those are administered directly by those agencies. She stated that the TRC will not be approving or making a recommendation on anything related to this rezoning request.
  - No runoff will go into the creek or Green River and this has been submitted to County erosion control and can provide for the community.
  - No cleaning chemicals will be onsite. Trucks will be cleaned at another location.
  - There is State regulations to contain spills and asphalt hardens when spilled and the area will be within concrete containments.
  - Projected emissions per hour capacity is included in the report the applicant completed and will be submitted to the County.

- Why is construction completed when the project is not approved? Graded site to show community how small the footprint of the project will be.
  - Equipment will be new, not used.
  - Buner and equipment will have silencer.
  - Completed report has noise numbers.
12. What preventions are in place to handle a fire? - The equipment has safeguards to shut down and prevent a fire.
  13. Fire in other plants owned by Alltech. Statesville had a fire. Most neighbors in Statesville not happy with plant.
  14. How many dump trucks will be running at full capacity? - Probably 10
  15. Will you subcontract with other companies? - Probably yes
  16. Lived near asphalt plant and dump trucks running fast. Will you control your drivers? - Yes. Call my office if anyone ever sees my drivers running that fast.
  17. Find a zoning where the asphalt plant is allowed. Stick to County zoning. - This plant is small and there is not another site available. It will not be seen, heard, or smelled.
  18. Live in MFH park and ½ of the residents are senior citizens. There is setback to churches and schools, so what about the senior citizens that are across the street 24/7 and the impact to them?
  19. How many asphalt plants have you owned, and experience do you have? - None but that is why I will hire people who do.
  20. Why do you need this plant if 3 other plants are only at 30% capacity producing? - I have bought asphalt at the other plants. I have also seen no documentation that this will or has made anyone sick.
  21. Concern that property values will be impacted.
  22. What assurances will be given to the community that we will not smell it, have traffic and truck issues, and that property values will not be impacted? Will you post a bond? – The applicant’s attorney stated that we have expert advice and there is no authority given for a bond requirement. Bond is not required for development of business in this community.
  23. The standards in the LDC are for industrial zoned land not in residential areas.
  24. Can the options change to a cheaper option if zoned? - No because that is what we will be using and approved for.
  25. The applicant stated that MIA in writing did a study on other asphalts plants in the area and there is no impact on property values.
  26. What are the positive benefits we will get from this asphalt plant? - Benefits of the asphalt plant to the community and hiring of new jobs.
  27. Snowball effect if approved – property values go down, sell out for less and move out.
  28. Had 2 major erosion events, how do you stop in the future and cannot undo the impact after the fact. You did without any regard to downstream property.
  29. Work in emergency medicine. Enjoy the area and outdoors and clean water of green river. There is a state mask mandate if you do not follow that to protect your community how can you protect us from this plant impacts.
  30. Stated facts in Alltech pamphlet providers, not label as carcinogenic due to lack of evidence. Why we allow or want any amount of toxins in community. How do we know there will not be any impact to school kids or people? - Because our toxicologist has provided a report.
  31. We do not want this as a community so why do you keep trying to put it in?
  32. Retired to Flat Rock and have many concerns about asphalt plant. Previous estimate was up to 50 trucks a day. Increase in traffic and congestion on Spartanburg. Use median turn lane in past to park your vehicles preventing others to use turn lane and safety concern. If

trucks can enter site where will they wait? – The entrance will be widened out and will not be parked in the road/turn lane.

33. There is no situation where an asphalt is going to be compatible with neighborhoods.
34. These toxins are carcinogenic that will impact the community.
35. With all the rain and documented runoff, how can you control runoff in the future events.  
– Have discussed this with the county and engineers. These have been unseasonal events. Channel dug with concrete on either side. Upgraded silt fencing and measures. Not happy with the runoff and would not have wanted that and the negative impact to community and PR. It will be hydroseeded in the coming weeks.
36. Business in Green River for kayaking. Clarify that you are leveraging off our State and local laws should make us feel ok with the standards. – Standards for industries on emissions are regulated by the state and these measures are in place to protect the community.
37. Environmental experience and there is a federally endangered plant nearby as well as a business that produce herbs that will be impacted. These herbs are supplied to Ingles and other retailers with elderly women that work at the business.
38. Small business owner in community and respect what that takes. Is there a possibility your proposal will be denied, and will you resubmit the same application? Will you keep trying or stop? – We have not thought about losing.
39. Live near Mud Creek Church and a new resident to Henderson County. Urban planner by nature and this is a gate way to the south. Concerned with health issues, light. Lost sister and 5 friends to cancer and lived next to asphalt plant that was meeting standards in the 70's and 80's. This project is not suited to this location and is an incompatible use. Will work with you Jeff to find another location for free. – Applicant stated send me some information.
40. Live 150 yards from site, worked at college and loved area and quality of life. Drum plant and can run continually? - Yes
41. Max rating for equipment is 200 tons.
42. Concerned with storage of crude oil and being flammable. Matter of when you have a fire not if. Henderson County fire departments not equipped for that kind of fire. What about if lightning strikes and starts a fire. Neighborhoods right there with elderly people that do not drive. Safety concern for neighbors and the fire department. Have you talked to the fire department about this? – No but we will work with them and the Fire Marshall to keep everyone safe and healthy. We do not want any damage to health, air, water, etc.
43. Applicants stated that one 20,000-gallon tanker will be on site.
44. Keep running to keep it warmed up and usually run 40 tons per hour. Approximately 10,000 gallons of oil. And space to park fire engines to fight fire. - Applicant lost home to fire and understand and fire is concern and take it very seriously.
45. Concern with oil and toxin emissions if a fire happens in a residential neighborhood. Cancer survivors and heart issues of neighbors.
46. PHD and air pollution toxicologist. Spent most of my life investigating facilities and most facilities meet federal, state and local standards. Read modeling report and questions is that report said benzene concentration allowed by NC. What is the low and high for what is allowed and will be at this site? – County has or we will get a copy of the report with this information.
47. Live adjacent to site in Highland Hills subdivision. Thanked everyone coming out. Many take this exit and most stay on 25 connector which is above the plant location. I can see the equipment parked there and wonder how much more we would see the plant and smokestacks. People driving into Henderson County will see the plant. – Will build walls out of the bank and it will not be visible except for the smokestacks. Have started

building those. The goal is that you will not see anything. Plan to do an open house in the coming weeks to show the community what we are planning and how small the footprint is and to accommodate and work with the community.

48. Can you make the plant bigger if approved? Would it be easier to expand and change the plant if approved? – Will be up to the Commissioners and trying to be transparent. This is a small company.
49. Our life savings is in our homes. – The community will not be losing anything. Property values shown in study will not be impacted.
50. I have visited all 3 asphalt plants in the County. These are all hidden and is not adjacent to neighborhoods. Videoed the black debris on Asheville Hwy from the Rogers plant which is 1.3 miles away. Spartanburg Hwy will be smeared by black debris. What will be our impression as the gateway to Henderson County and to visitors? – That is from where they are paving and from the tack left on the truck tire and not from the plant itself.
51. The muddy runoff to Laurel Creek to Green River this past weekend and have been documented with photos from Friends of East Flat Rock. Muddy water overflow with an asphalt plant will now contain other pollutant with the runoff in future. Do you have funds for this type of event? – We will be insured and will not be poisoning the water. No toxins will leave the site and get into the river.
52. Pursuing this project to grow your business and for profit. Did you consider our health and property values? – Yes which is why we have done reports and studies. I am a live long resident. Trying to grow a business and create jobs locally and statewide.
53. Do you feel regret to what you are doing to our lives? – I do not feel I am harming anyone's lives, or I would not have attempted this.
54. Any information that other business support and can benefit from this plant. –Yes
55. Can you provide that to BOC – Yes if those business are ok with sharing that information.
56. Compatibility long term, do you believe that people will move here and settle with this asphalt plant is there. – Yes because you will not know it is there.
57. Number of jobs has changed. – Yes it will add total around 18 jobs.
58. Any job loss in surrounding area. – None that I am aware of.
59. Why do you need to have this asphalt plant? - Survival.
60. Have short term rentals but no one will want to come with an asphalt plant there. This is our inheritance and have a lot of money invested in this. – No one will be able to see it or know it is there.
61. Can we come to you if there is smell or will you clean up black residue on the road? – Yes, if it is from us. If this is happening with the Rogers plant, then the state and plant owner should be contacted so that the issues are addressed and rectified. The plant should be a good neighbor.
62. Live off Macedonia Road. This site does not meet the requirements of an asphalt plant. The application was withdrawn about 6 months ago and since then have spent a vast amount of money on something that has no approvals on it. Why did you spend that money? You speak as if you already have the approval. – We are doing work, and in the event we are approved, we are ready. We have cleared the property so that the community can come and see the footprint.
63. Flags could have made the same statement, but you cleared and spent a lot of money and I find that hard to believe that it was for the community to see. If it were my money, I would have waited to get approval.
64. Live across the ramps on 25. Amazed that you would come here and face the community knowing the feelings. The last speaker spoke about the investment in the land without

- approvals, what is your response? – I have the hope that me and the community could come to an agreement under a conditional rezoning and have conditions to have this.
65. Will you keep trying for this if denied? – I will keep fighting. This is not going to harm anyone.
66. Camp industry and impact on them with this plant. The economic impact on the County and community with the camps in this area are huge. We have the largest concentration of camps in this area of the county. What will your asphalt plant bring to me as a camp owner? – Believer of free enterprise. The plant should not impact you, so not sure how it might directly affect you either way.
67. How will the Planning Board and Commissioners weigh the impact to other things and to the camp industry? The camp industry has the footprint to allow us to grow vs another small business and industry.
68. Concern with the amount of traffic. You stated that you lost your home to a fire, how do you feel about the amount of people losing their homes due to asphalt plant? – I would talk to anyone about this project. I am meeting every standard and concern (traffic, noise, smell, etc.) but it is still the mentality of not in my back yard. There is no middle ground with the community.
69. The rezoning of this property is not necessary in any shape or form and the outcry from the community is expected.
70. Live in Cinnamon Woods and apologize for outburst a few moments ago. Very upset and emotional about this plant. I can see the proposed site from my backyard, and we will be able to see and know it is there. We have spent hundreds of dollars for our home and concerned with impact. Building the banks will not hide it and you will still get a glimpse. The previous gentleman offered to help find a new location. This is about what you want to do so how can I believe anything you say? – You will never believe anything the owner says based on the comments today.
71. Owner of Lakemont cottage. Spent a lot of money and sorry that you are having to go through this. Are you willing to give me a personal guarantee to buy my property if I must sell? – Mr. Shipman has agreed to comply with all rules and requirements. He hopes you will not be able to see it, but you might get a glimpse. It is not a fair question to ask him to buy your property. The answer is no. We hope to get approval but if we lose, we lose.
72. I will offer to work with you to put an approved use on the property by the planning department and look for a site for an asphalt plant that meets the county standards.
73. Commend you for being a business owner. I am with Lakemont cottage and bring people into the community. You bring 18 jobs to community, but we feel we bring more to the community and are across the street. Nothing you can do about seeing and hearing you regardless of the banks/walls. I will see your trucks and know you are there. As a businessperson, I do not know how you spent that money without knowing something we do not. How much more will you invest and spend time when the community does not want this? – The work done is out of total desperation for the chance the project is approved. Come and ask me any questions. There is no Commissioner in my pocket or paid off. I have stated this, but it does not matter to the public.
74. I am a nurse, until age 72 and cancer took that. I hear you respond to everyone with your own reality, but it is not ours and our perspective. Understand our side. Your actions and grading the property and burning trees gave us a precursor of what an asphalt plant would be like and the health damage seen from just the burning of the trees. Sorry I cannot support you.

75. I live 1,100 feet from the site and have spoke to Jeff. After you get the pad finished, what is the elevation of it and how high, including the silos? - 65 feet high and those are the highest structures. 2,160 in elevation, and the final grade will be 2,155 in elevation.
76. If the tax revenue is with property taxes, the other 3 plants are very low. What is your projected tax value if approved after everything is finished? – Will have to get that to you
77. Sign about good neighbor. Last year during June 8<sup>th</sup> neighborhood compatibility meeting, Warren answered most all questions and others were in the room. The smell of the plant was asked, and someone said, don't answer him. Is that a good example of being a good neighbor? – The applicants attorney stated that was him and no that was not a good neighbor response. Jeff stated that we may not have wanted to answer that questions because we did not have the air quality information.
78. Someone stated that a scientist could say anything like not impact to health concerns. I believe that you believe this will plant will not harm anyone. Property and real estate values of an expert that Brian presented in Madison County showed an asphalt plant would have an impact on the community. – That was a different matter and not this one. You can ask a question on this project. Those are my closing statement in court about a different project. The opinion from speaking with experts is that the real estate values are not impacted.
79. The Madison study show that values are impacted near asphalt plants.
80. You stated last time that the plant would operate 6 days a week, is that still the case? – We strive for 5 days of week, but on occasion it could be 6 days. Some days we could run 8 hours a day and on others only 2 days depending on the job or projects.
81. Mr. Shipman stated this is plant is not for the I-26 project. Those contracts have already been awarded.
82. The noise on Spartanburg Hwy has increased with big trucks. How will you impact that with your trucks? – There will be some truck traffic but unknow where the trucks came from. There is an increase now and that is not from this site or my business. The quarry is also nearby and trucks coming and going from SC,
83. At the last neighborhood compatibility meeting, you stated that the minimum standards will be met. Why the minimum? The storm event standard shows that. – We did install additional standards for run off and will do what we can to prevent that. We will continue to take measures and seed the banks and that will help stop some of the additional runoff.
84. I appreciate these conservations and know this is hard. I am sorry that some of the comments and conservation has not been respectful. I live in zirconia and have respiratory issues in our household and know of others nearby with similar issues. I am a business owner and have respect for other business owners. People are scarred and emotional about the plant. I looked at data. Can you not move somewhere else? – It is not economically feasible to move to Polk county for an example. I am willing to try to work with everyone and this is exhausting for everyone. Just because we do not agree does not mean we have to belittle each other. I understand people are scarred. I had same concerns with a cell tower behind my house, but I trust the data that this is not harmful.
85. If data stated that a cell tower could give your child brain cancer would you fight it? – I would look at data objectively, but there is nothing I could do.
86. You stated you are sure that there will not be an impact. Where did your data come from? – I did my own research and study on Rogers Group when that plant went in in Grimesdale. There was no impact to property values. Some neighbors did not like the owner. I am willing to talk to anyone about this. How many have gotten sick or got cancer as a direct impact of the plant? What proof is there that the plant caused it? I have never owned a plant, but I am hiring people who have, to run it.



87. Applicant - I think the interviews and information is what people believe. The source matters, and I have to believe the facts as they are presented. I will look at any information that you send or data for health impacts and real estate impacts.
88. I live in East Flat Rock. I am not from here but moved here for a reason. Trying to see your side of the story and this is confusing and trying to understand. The property is zoned commercial you should be able to do what you want as commercial. Did you not know what it was zoned that way before you bought it? – Yes, and there is guidelines and a process for specific projects like these.
89. You gambled with this property? – Yes, with this project and property. I believe there is no impact based on the reports, studies, and data we have.
90. Could put the investment into the property to do more research about the impact? - We could but the community would have to accept the results of the report and they do not accept any information provided so far.
91. My mom invested in a home down the road. If you cannot put asphalt plants near a school or library, then why here next to homes? – That is in the LDC which states the minimum separation requirements that is required by the County in industrial zoning districts for asphalt plants. Counties put in schools near industry.
92. Will there be black on the road from the plant? – No. It is tack from the truck tires from the job site where the paving is taking place not from the plant.
93. The source of the tack is irrelevant, but there will be tack on the road.
94. Can you give me the names and locations of plants that are not visible and do not have a smell? Just wondering if this is possible. - I do not know about other plants. We will be a good neighbor, and these are the goals and plans for our plant. To be out of site and out of mind. Our toxicology report and studies state this is possible. The expert stated that they have thousands of plants around the world and have the technology to diminish the noise and smell from certain distances from the plant. Plants are visible depending on the location. There is technology that can prevent the asphalt mix from smelling, but it is up to the operator to be a good neighbor and go above the required standards. The temperature controls the smell and smoke as part of the operation.
95. The fear of the financial impact to homes and business. You stated not to worry, but how would you feel? – Putting up an asphalt plant will not cause anyone to lose their home. It will not devalue their property or make them sick.
96. I live in deer meadow near the site. Thank you for hearing questions and concerns. The question was would you be willing to live near an asphalt plant and one of you stated if I did not know what you know now about asphalt plants then probably not. Perception is 99% reality. Can you honestly say that property values will not go down? – No, property values will not be impacted.
97. I would not have purchased my property if I had known that an asphalt plant might go there.
98. Some of the pictures on the information brochure provided showed raw materials. – The mix is 95% rock/gravel and 5% mix/glue.
99. Are there safety standards for natural events like hurricanes? – We will take precautions and meet standards. The gravel piles should not move during storm events. Asphalt is not harmful. For example, fish hatcheries are lined with asphalt and so are some reservoirs.
100. The requirements and protection are only based on what we know today but that could change the future and that is the concern. This has happened in the past with other corporations and business next to homes and people.
101. I have been in this county for a long time. fighting for East Flat Rock and it took 20 years to get out some undesirables out and helped get housing for the elderly. I have served on TDA and know the impact to the economy that visitors bring in. The pay of the few

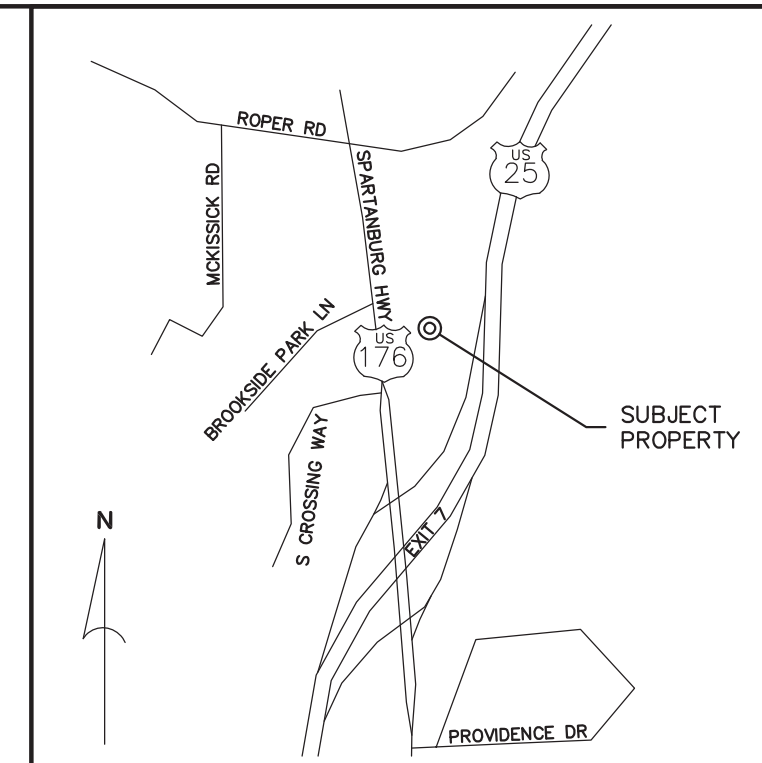
employees is a small amount to the impact on tourism to this County and the money they bring. That is a beautiful piece of property and encourage you to do something different with it. I know the Commissioners and I am sure you have met with each of them. The bottom line is money, and we are all making a living. If you made no money from this, would you do this for charity and work on this project because you believe in an asphalt plant in this area? How many hours, time and trips for charity to aid this project would you give. Elderly have health issues and are in this area. This will have a negative impact on health and there are homes for sale that are impacted. If it is so safe would you invest in homes here. We have fog and mist here till 10 most mornings. If anyone had asthma they could not sit on the porch and breath. What is the height? – The silo will be 65 feet and the elevation will be 2,155 totals.

102. Can you see it. You can see around the surrounding mountain. – We are going to do all to make it the least visible as possible.
103. Please consider doing something different with that property for your community and neighbors.
104. We are relying on the state to regulate this. Can you smell it and if not is there still toxins getting into your lungs even if you can't smell it? – We have a report to provide on air quality.
105. How we will know it is not on your porch if we can't see or smell it. – We have to rely on the experts and studies. Can have additional study for the community.
106. Would you put up continuing monitoring technology. – We will consider it. There is a substantial cost associated with these technologies that are not typically required.
107. Most of the plant operations and the plan will not be seen after the banks are installed. It will be built up like a bowl within the next couple of weeks.

With no further questions, Mrs. Radcliff stated that the Technical Review Committee (TRC) will review the site plan on April 6<sup>th</sup> at 2:00. The TRC will not be approving or making a recommendation on the rezoning request. The Planning Board would discuss the request at its meeting on April 15<sup>th</sup> at 5:30 PM at BRCC and will make a recommendation to the Board of Commissioners. She stated that the Board of Commissioner will schedule a public hearing before making any decision on the rezoning request. Notification of the public hearing will be given prior to the meeting once a date is determined. She thanked everyone who attended the meeting.

Meeting concluded at 7:54 PM

- NOTES**
1. ALL SITEWORK SHALL BE IN ACCORDANCE WITH ALL LOCAL, STATE, AND NATIONAL REGULATORY STANDARDS AND ALL REQUIREMENTS IN THE PROJECT TECHNICAL SPECIFICATIONS.
  2. SINGLE-PHASE CONSTRUCTION.
  3. ALL WORK MUST BE PERFORMED BY A NORTH CAROLINA LICENSED CONTRACTOR.
  4. CONTRACTOR IS RESPONSIBLE FOR LOCATING AND VERIFYING THE EXACT LOCATION AND ELEVATION FOR ALL UTILITIES PRIOR TO CONSTRUCTION; AND TO NOTIFY ENGINEER OF ANY CONFLICTS OR DISCREPANCIES. THE LOCATION OF SOME UTILITIES SHOWN ON THE PLANS HAVE BEEN APPROXIMATED. ALL BURIED UTILITIES HAVE NOT BEEN SHOWN ON THE PLANS AND IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THEIR LOCATION PRIOR TO CONSTRUCTION.
  5. CONTRACTOR SHALL PROTECT EXISTING SITE FEATURES (SHOWN TO REMAIN) AND NEWLY COMPLETED WORK DURING CONSTRUCTION. ANY DAMAGE INCURRED DURING OR RESULTING FROM CONSTRUCTION ACTIVITY IS THE RESPONSIBILITY OF THE CONTRACTOR AND IS TO BE REPAIRED IN ACCORDANCE WITH APPLICABLE STANDARDS OF APPROPRIATE AGENCIES AT THE CONTRACTOR'S EXPENSE.
  6. THE CONTRACTOR IS TO NOTIFY ALL UTILITY COMPANIES AT LEAST 72 HOURS BEFORE CONSTRUCTION ACTIVITY IS TO BEGIN. THE CONTRACTOR SHALL NOTIFY ULCCO AT 1-800-632-4949 OR 811 72 HOURS BEFORE CONSTRUCTION BEGINS.
  7. SIDEWALKS SHALL BE CONSTRUCTED IN ORDER TO PROVIDE POSITIVE DRAINAGE AWAY FROM ALL STRUCTURES. A MAXIMUM OF 5% SIDEWALK/CROSSWALK LONGITUDINAL SLOPE IS PERMITTED. A MAXIMUM OF 1/4" PER FOOT SIDEWALK/CROSSWALK CROSS SLOPE IS PERMITTED. ANY SIDEWALK/CROSSWALK INSTALLED WITH A STEEPER SLOPE SHALL BE REMOVED AND REPLACED AT CONTRACTOR'S EXPENSE.
  8. ALL RADI LISTED ARE FROM FACE OF CURB UNLESS OTHERWISE NOTED. ALL PARKING LOT RADII ARE 5' UNLESS OTHERWISE NOTED.
  9. ALL ROAD/PARKING LOT IMPROVEMENTS, STRIPING AND SIGNAGE SHALL BE IN ACCORDANCE WITH THE LATEST MANUAL ON UNIFORM TRAFFIC CONTROL DEVICE (MUTCD). CONTRACTOR MAY USE A PAINT SUITABLE FOR ASPHALT APPLICATION IN LIEU OF THERMOPLASTIC WITH PRIOR APPROVAL FROM THE ENGINEER.
  10. CURB END TREATMENT TO BE APPLIED TO ALL CURB ENDS. REFER TO CURB END TREATMENT DETAIL.
  11. PROPOSED ROADS TO BE PRIVATE. HENDERSON COUNTY IS NOT RESPONSIBLE FOR ANY ROAD MAINTENANCE.



**VICINITY MAP**  
(NOT TO SCALE)

**DEVELOPMENT DATA**

|                  |                                                                                                                |
|------------------|----------------------------------------------------------------------------------------------------------------|
| OWNER/DEVELOPER: | HS SHIPMAN, LLC<br>PO BOX 368<br>FLAT ROCK, NC 28731                                                           |
| CONTACT:         | JEFF SHIPMAN<br>(828) 693-0230                                                                                 |
| CIVIL ENGINEER:  | CIVIL DESIGN CONCEPTS, P.A.<br>168 PATTON AVENUE<br>ASHEVILLE, NC 28801<br>WARREN SUGG, P.E.<br>(828) 252-5388 |
| CONTACT:         |                                                                                                                |

**PROJECT DATA**

|                 |                                   |
|-----------------|-----------------------------------|
| PIN:            | 9586-37-1990                      |
| ADDRESS:        | 9999 SPARTANBURG HWY, E FLAT ROCK |
| DEED BOOK/PAGE: | 3552/363                          |
| TOTAL:          | 11.9 ACRES                        |
| SITE ACREAGE:   | PROJECT PARCEL: 6.5 ACRES         |
|                 | CC-COMMUNITY COMMERCIAL           |
|                 | CZ-CONDITIONAL ZONING             |

**ZONING:** PROPOSED ZONING:

**SETBACKS (ASPHALT PLANT):**

|         |      |
|---------|------|
| FRONT:  | 100' |
| SIDES:  | 100' |
| REAR:   | 100' |
| CORNER: | 100' |

**DISTURBED AREA:**

|                 |                           |
|-----------------|---------------------------|
| TOTAL:          | 4.5 AC (38%)              |
| PROJECT PARCEL: | 3.8 AC (60%)              |
| GRADING:        | 20,000 CY ONSITE-BALANCED |
| WATERSHED:      | GREEN RIVER               |

**VEHICULAR PARKING:**

REQUIRED SPACES: 1 (MIN. 1/4000 SF)

SPACES PROVIDED: 3

HANDICAPPED SPACES:

SPACES REQUIRED: 1 SPACES PROVIDED: 1

**IMPERVIOUS CALCULATIONS:**

|                   |                 |                   |
|-------------------|-----------------|-------------------|
| PRE-DEVELOPMENT:  | IMPERVIOUS      | PERVIOUS          |
|                   | 0.00 ACRES (0%) | 11.9 ACRES (100%) |
| POST-DEVELOPMENT: | 2.0 ACRES (17%) | 9.9 ACRES (83%)   |

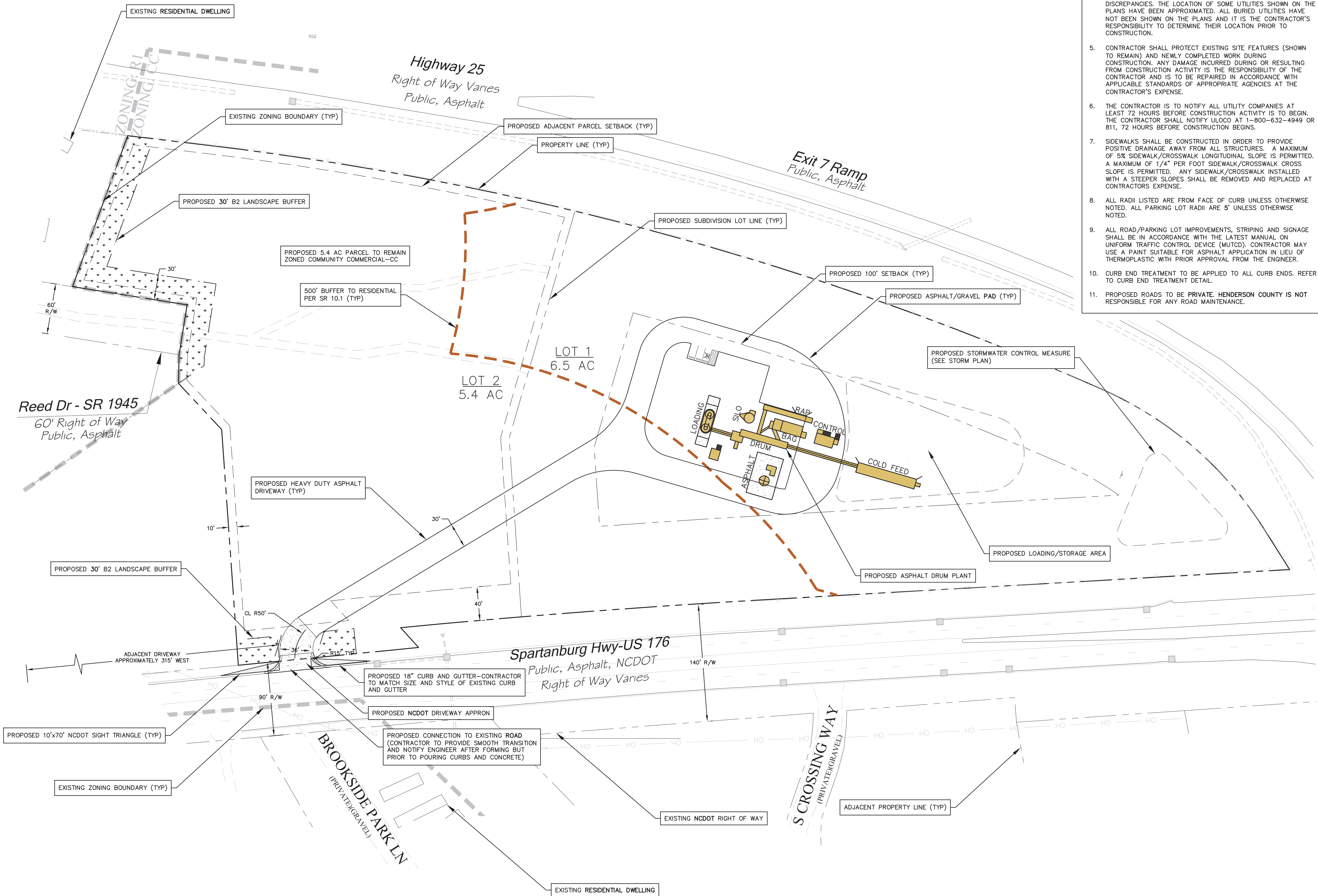
**LANDSCAPING REQUIREMENTS:**

BUFFER: 30' B2 BUFFER TO RESIDENTIAL  
(PLANTINGS BY EXISTING TREE CREDIT PENDING TREE SURVEY)

**OPEN SPACE CALCULATIONS:**

N/A

**SOIL TYPE:** EwE/HyC  
**SOIL GROUP:** B/C



**811** Know what's below. Call before you dig.

**NORTH**

**SITE PLAN**

**GRAPHIC SCALE**

0 30 60 120 240  
(IN FEET)  
1 inch = 60 ft.

168 PATTON AVENUE  
ASHEVILLE, NC 28801  
PHONE (828) 252-5388  
FAX (828) 252-5388

52 WALNUT STREET - SUITE 9  
WAYNESVILLE, NC 28786  
PHONE (828) 252-5400  
FAX (828) 455-5455

**CDC** Civil Design Concepts, PA  
NCIELS LICENSE # C-2184

| NO. | DATE       | DESCRIPTION                  |
|-----|------------|------------------------------|
| 1   | 02/18/2021 | CONDITIONAL ZONING SUBMITTAL |

**FOR REVIEW ONLY**

PRELIMINARY NOT RELEASED FOR CONSTRUCTION

HENDERSON COUNTY ASPHALT PLANT

HS SHIPMAN, LLC - HENDERSON COUNTY, NORTH CAROLINA

DRAWN BY: SDG  
CDC PROJECT NO.: 22019  
HC PERMIT NO.: N/A

SHEET  
**C201**



100 North King Street  
Hendersonville, NC 28792

**List of Conditions for Conditional Rezoning Application #R-2021-01-C**

Conditions per Land Development Code (LDC §42-52):

1. Meet all supplemental requirements for proposed use (LDC §42-63)
2. Must obtain and provide a copy of all permits required by North Carolina.

Conditions per Erosion/Sedimentation/Flood:

3. High-density storm water permit
4. Revised erosion control permit for new use

Conditions per Building/Inspections:

5. 2018 North Carolina Building Code
6. 2017 North Carolina Building Code for electrical

Conditions per Environmental Health:

7. Apply and obtain a septic permit for private on-site septic system

Conditions per NCDOT:

8. Revised NCDOT driveway permit

Conditions per Public Utilities (City of Hendersonville Water):

9. Apply for individual tap
10. Backflow RPZ required for commercial use

Conditions discussed at Public Hearing:

11. Amend site plan to include all the listed conditions and record with the Register of Deeds.
12. The Board of Commissioners delegates review and approval of all subsequent development plans to the Planning Board provided that all changes be referred to the Board of Commissioners as an amendment to the conditional zoning district.
13. \_\_\_\_\_
14. \_\_\_\_\_
15. \_\_\_\_\_
16. \_\_\_\_\_
17. \_\_\_\_\_

WE, all the applicants and property owners in R-2021-01-C, agree to the foregoing conditions:

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**Certification of Notice of Public Hearing**

In accordance with NCGS 160D-323 and 160D-343 the Planning Department certifies notice of the May 17<sup>th</sup>, 2021 hearing regarding Rezoning Application #R-2021-01-C were:

1. Submitted to the Hendersonville Lightning on April 27, 2021 to be published on May 5, 2021 and May 12, 2021 by Matt Champion;
2. Sent, via first class mail, to the owners of properties adjacent to the Subject Area(s) on April 30, 2021 by Matt Champion;
3. Sent, via first class mail, to the property owner on April 30, 2021 by Matt Champion; and
4. Signs were posted on the Subject Area(s) on May 3, 2021 by Jacob Compher and Matt Champion.

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

1. Matt Champion
2. [Signature]

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

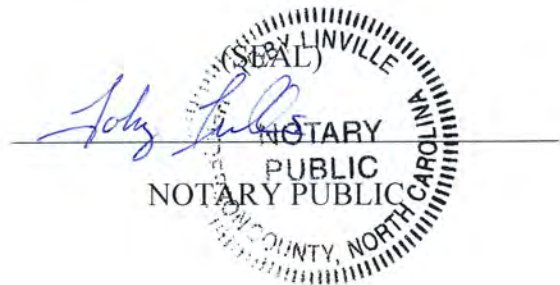
I, Toby Linville, a Notary Public, in and for the above County

and State, do hereby certify that Matt Champion & Jacob Compher, personally appeared before me this day.

WITNESS my hand and notarial seal, this the 4<sup>th</sup> day of May 2021.

My commission expires:

5/25/21





## **RESOLUTION OF CONSISTENCY WITH THE COUNTY COMPREHENSIVE PLAN**

**WHEREAS**, pursuant to N.C. General Statute §160D, Article 1, the Henderson County Board of Commissioners exercises regulations relating to development within the County's jurisdiction; and

**WHEREAS**, the Henderson County Board of Commissioners (Board) adopted the Land Development Code (LDC) on September 19, 2007 and has amended the LDC to address new and changing issues;

**WHEREAS**, the Board desires to update and revise the regulations of the LDC; and

**WHEREAS**, the Planning Director and Planning Board provided recommendations regarding the proposed zoning map amendment with case #R-2021-01-C; and

**WHEREAS**, pursuant to N.C. General Statute §160D-601, the Planning Director provided the prescribed public notice and the Board held the required public hearing on May 17, 2021; and

**WHEREAS**, N.C. General Statute §160D-605 requires the Board to adopt a statement of consistency with the County Comprehensive Plan (CCP); and

**NOW THEREFORE, BE IT RESOLVED** by the Henderson County Board of Commissioners as follows:

1. That the Board reviewed the proposed map amendment (#R-2021-01-C, HS Shipman) and finds that it is reasonable, in the public interest and it is consistent with the CCP and the Growth Management Strategy located therein; and
2. That the Board determines that the proposed map amendment provides for the sound administration of the LDC while balancing property rights and promoting reasonable growth within the County; and
3. That this Resolution shall be retained in the Office of the Clerk to the Board of Commissioners.

**THIS** the 17<sup>th</sup> day of May 2021.

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

**BY:** \_\_\_\_\_  
**WILLIAM LAPSLEY, Chairman**  
**Henderson County Board of Commissioners**

**ATTEST:**

\_\_\_\_\_  
**Teresa Wilson, Clerk to the Board**

**[COUNTY SEAL]**



## Rezoning #R-2021-01-C HS Shipman



Henderson County Board of Commissioners  
May 17, 2021

*Henderson County Planning Department*

1

## Public Hearing Notice

- Legal Ad was published in the Hendersonville Lightning on May 5<sup>th</sup> and May 12<sup>th</sup>
- The property was posted on May 4<sup>th</sup>
- Letters were mailed to property owners within 400 feet of the Subject Area on April 30<sup>th</sup>

*Henderson County Planning Department*

2

## Conditional Districts

Conditional rezoning's are:

- Legislative decisions
- Require a site-specific plan (only what is on the plan is allowed)
- The BOC may require additional conditions of the development, provided the developer agrees to those conditions
- Process provides protection to adjacent properties

*Henderson County Planning Department*

3

## Application Summary

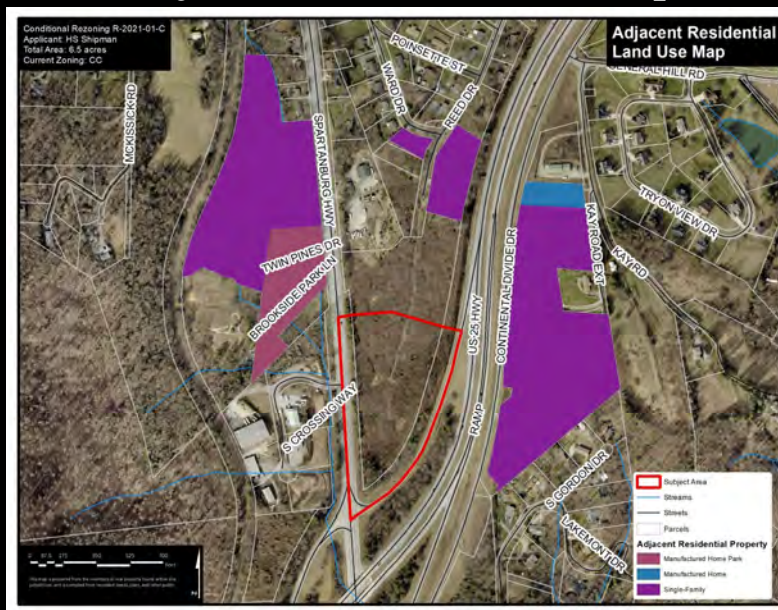
- Conditional Rezoning Request: R-2021-01-C
- Submitted on February 19, 2021
- Owners: Jeffrey B. Shipman Enterprises, Inc.
- Applicant: HS Shipman
- Agent: Warren Sugg & Brian Gulden
- Rezone from a Community Commercial (CC) Zoning District to a Conditional District (CD-2021-01)
- Subject Area is 6.5 Acres
- 5.4 Acres to Remain Community Commercial (CC)

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## Adjacent Residential Use Map



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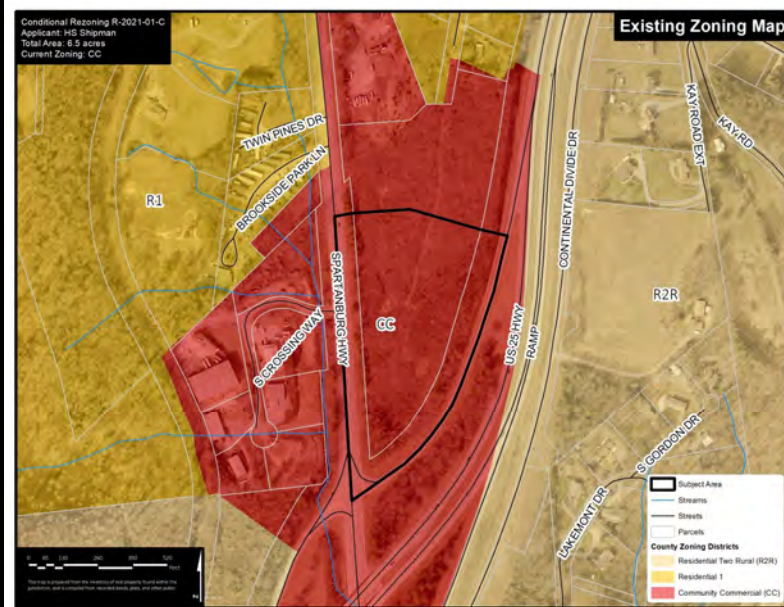
## LDC Supplemental Requirements 10.1 for Asphalt Plant

- (1) Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).
- (2) Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.
- (3) Dust Reduction. Unpaved *roads, travelways* and/or parking areas shall be treated to prevent dust from adverse effects to adjacent properties.
- (4) Separation. An *asphalt plant* shall not be constructed or newly located within:
  - a. One-half (½) mile of an existing *school, library, day care facility, healthcare facility* and/or *religious institution*; and
  - b. Five hundred (500) feet of an existing *dwelling unit* (located in a *residential zoning district* and not located on the same property as the *use*).
- (5) Perimeter Setback. One hundred (100) feet.
- (6) Security. The operations of an *asphalt plant* shall be totally enclosed by: (1) a security fence or wall at least eight (8) feet in height; or (2) a fireproof *building*. Entrances and exits should be secured and locked during non-operating hours

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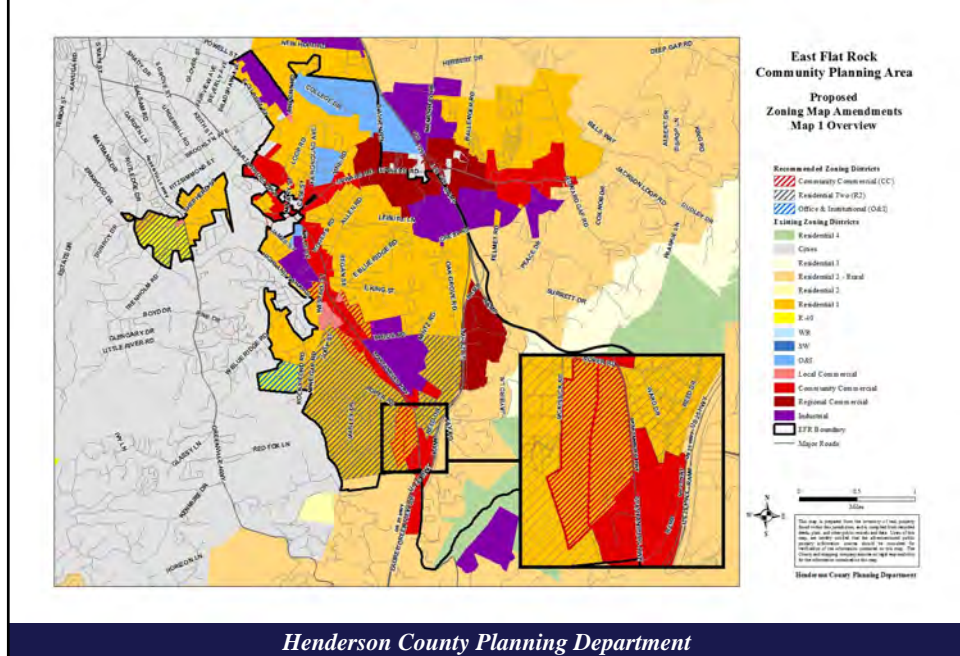
8

# Existing Zoning Map



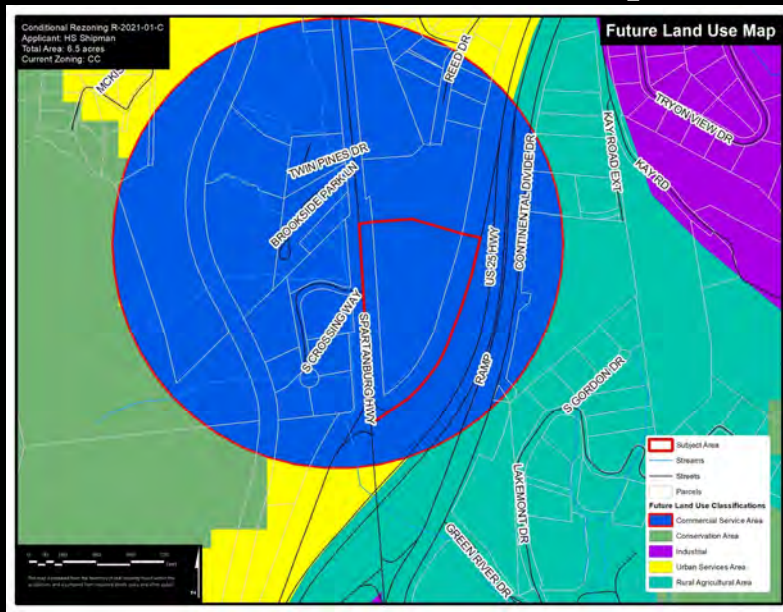
9

# EFR Recommended Zoning Changes



10

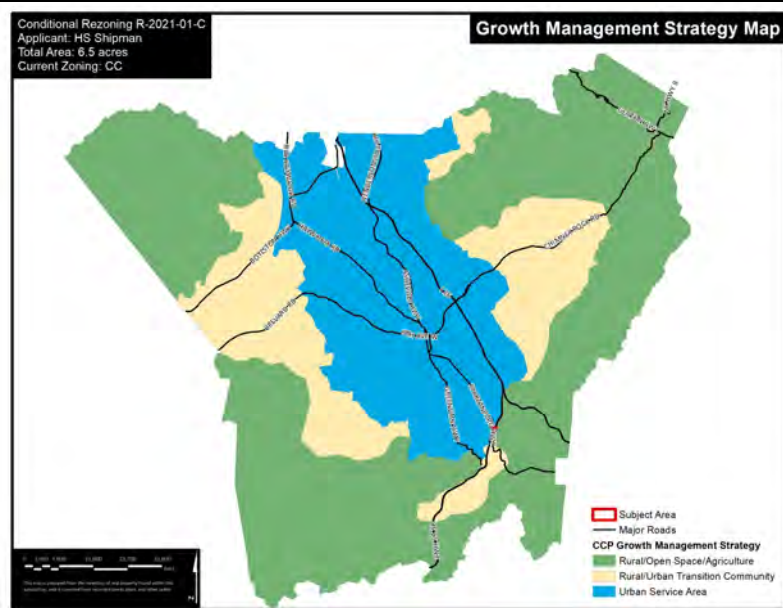
# CCP Future Land Use Map



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# Growth Management Strategy Map



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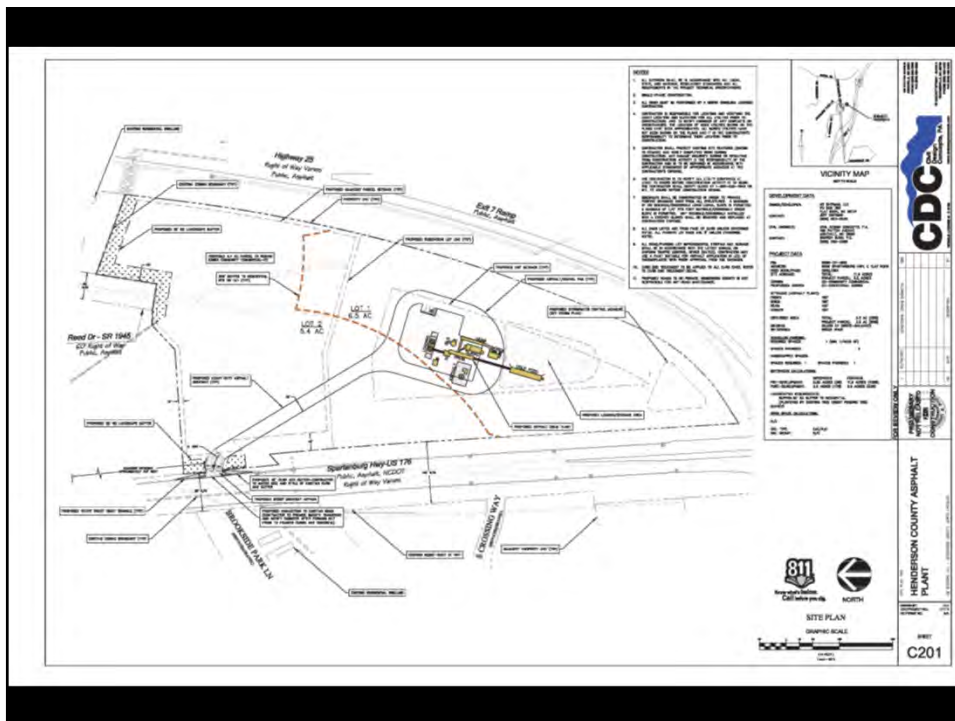
12

# Water Availability Map



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### Site Plan Summary

- 6.5 Acres (Remaining 5.4-acre portion not included in this application)
- 400 Square Foot Steel Control Building
- Raw Materials Storage Area
- Heavy Duty Asphalt Pad and Driveway
- Loading Zone
- Three Parking Spaces for Employees
- 2 Acres of Impervious Surfaces on Total Tract (17%)
- 1.8 Acres of Impervious Surfaces on Project Parcel (28%)
- Accessed off Spartanburg Hwy (US 176)
- Maximum Building Height of 65ft

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### Conditional Rezoning's

- Conditions required by the LDC and additional conditions recommended for consideration and requests made by the TRC and Planning Board are found in the attached List of Conditions

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## Application Dates:

Neighborhood Compatibility Meeting: Tuesday, March 30, 2021 at 4:00pm

Technical Review Committee: Tuesday, April 6, 2021 at 2:00 PM

Planning Board: Thursday, April 15, 2021 at 5:30 PM

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## Public Comment Opportunity:

Public comment may be received up until the day before the meeting. Public comment may be submitted in one of the following ways.

- Emails intending to act as public comment must be addressed to [input@hendersoncountync.gov](mailto:input@hendersoncountync.gov) and must have a subject line reading "May 17<sup>th</sup> public comment", must be signed, and must be received at that address by not later than 5:00 p.m. on May 16, 2021.
- Postal mail intended to act as public comment must specify that it is intended as public comment for the May 17<sup>th</sup> meeting of the Board of Commissioners, must be received by 5:00 p.m. on May 16, 2021, and must be addressed to:  
Public Input  
c/o Clerk to the Board of Commissioners  
1 Historic Courthouse Square, Suite 1  
Hendersonville, NC 28792
- All public comment received by 5:00 p.m. on May 16<sup>th</sup>, 2021 will be sent to each of the Board members by staff for their review prior to the meeting. Public comments received will not be read aloud during the meeting.

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# Conditional Rezoning #R-2021-01-C

## Questions



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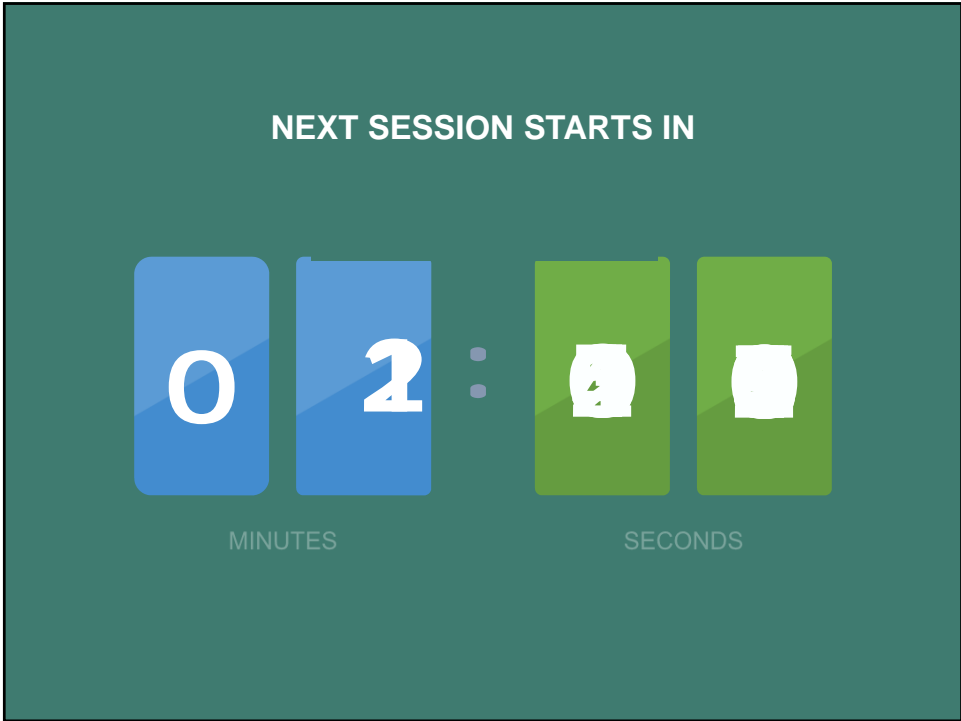
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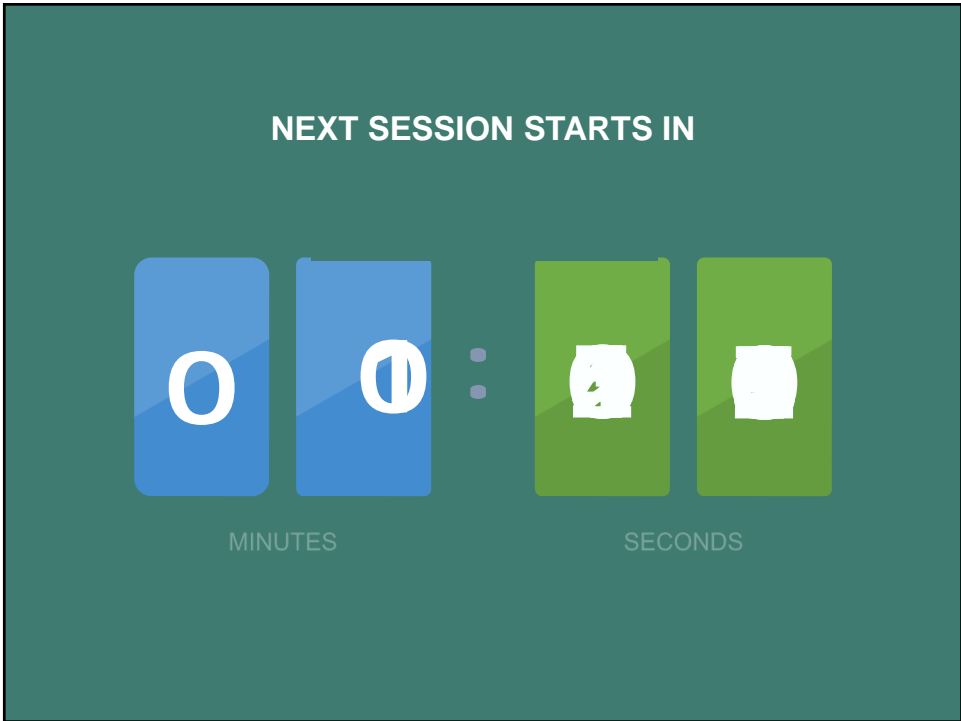
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