

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** Monday, May 2, 2011

**SUBJECT:** Public Hearing for Rezoning Application #R-2010-03-C

**PRESENTER:** Parker Sloan, Planner

**ATTACHMENTS:**

1. Staff Report
2. Aerial Photo Map
3. Site Plan
4. Stipulation of Parties
5. Notice of Public Hearing
6. Certification of Notification of Public Hearing
7. Power Point Slides

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

Billy Corn, owner submitted rezoning application #R-2010-03-C for the County to rezone approximately 2.42 acres of land, located off of Howard Gap Road (US 176), from Residential One (R1) to an Industrial Conditional (I-CD) zoning district (PIN: 9670-24-2970). The Henderson County Planning Board considered rezoning application #R-2010-03-C at its regularly scheduled meeting on February 17, 2011. The Planning Board voted 5-2 to send forward a favorable recommendation on rezoning application #R-2010-03-C to rezone the subject area to an Industrial Conditional (I-CD) zoning district.

Conditional zoning districts are different from traditional zoning districts because they require a site plan for the proposed use(s) of the property and certain conditions or restrictions are placed on the property based on the proposed or allowable use(s). Conditional zoning district decisions are a legislative process subject to the same procedures as traditional zoning districts. If approved, the Board must take action at its next meeting to provide an order of conditions to the applicant.

#### **BOARD ACTION REQUESTED:**

Planning Staff recommends approval of the application to rezone the subject area from a Residential 1 (R1) zoning district to an Industrial Conditional (I-CD) zoning district.

#### **Suggested Motion:**

I move that the Board approve rezoning application #R-2010-03-C to rezone the subject area from a Residential 1 (R1) zoning district to an Industrial Conditional (I-CD) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan.

AND

I further move that the Board direct Staff to prepare an order for presentation at the next Board of Commissioners meeting.

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**Henderson County Planning Department Staff Report**

**Rezoning Application #R-2010-03-C (R1 to I-CD)**

**Billy Corn, Owner**

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**1. Rezoning Request**

1.1. **Applicant:** Billy Corn

1.2. **Property Owner:** Billy Corn.

1.3. **PIN:** 9670-24-2970

1.4. **Request:** Rezone Subject Area from an R1 (Residential One) zoning district to an I-CD (Industrial Conditional District).

1.5. **Subject Area** (See Map A)

**Map A: Map of Subject Area**



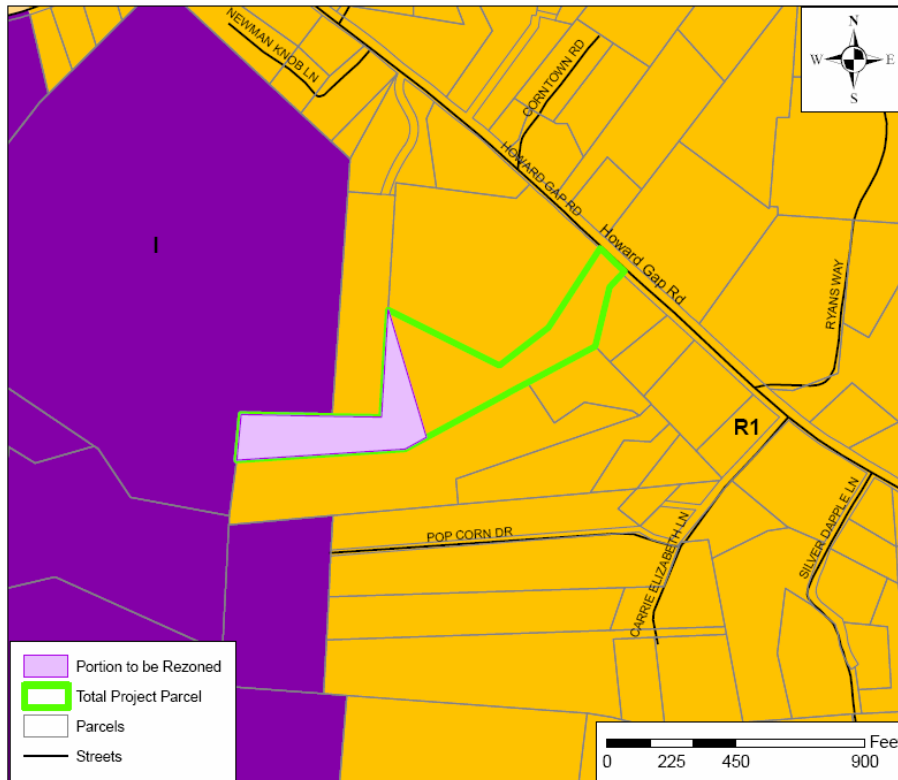
1.5.1. **Size:** Approximately 2.42 acres of a 6.26 acre tract of land.

1.5.2. **Location:** The Subject Area is off of Howard Gap Road (SR: 1006)

**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 open use.

**Map B: Current Zoning**



2.2. **Adjacent Zoning:** To the west of the Subject Area is Industrial zoning; to the south, north, and east is Residential One (R1) zoning.

**2.3. District Comparison:**

2.3.1. **R1 Residential District One:** *“The purpose of Residential District One (R1) is to foster orderly growth where the principle 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”* (Chapter 200A, Land Development Code §200A-27).

R1 requires 10 foot side and rear setbacks, maximum height 40 feet, and a standard density of four (4) units per acre (maximum density of 16 units per acre).

2.3.2. **I (Industrial 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 lands uses; and (3) is sensitive to its impact on surrounding land uses and the environment (natural and man-made)” (Chapter 200A, Land Development Code §200A-36).

The Industrial District requires 20 foot side and rear setbacks, a maximum building height of 72 feet for principal structures, maximum impervious surface of 80%, and an unlimited maximum floor area.

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

3.1. **Subject Area Use:** The Subject Area contains a single-family dwelling and large fenced in gravel yard for storing vehicles.

3.2. **Adjacent Area Uses:** Surrounding area lands contain residential and commercial uses.

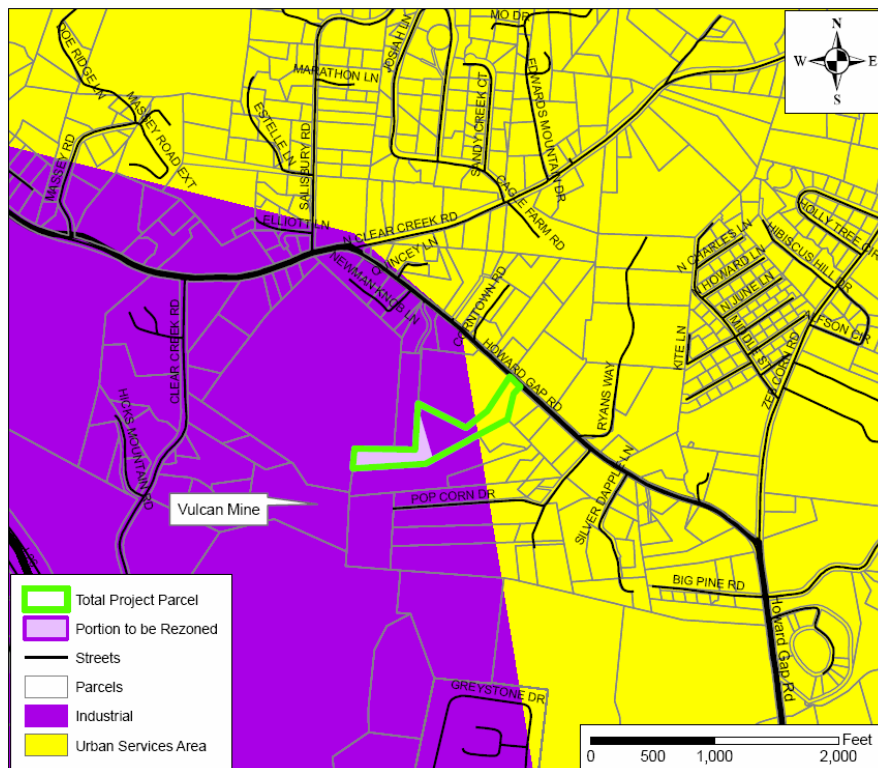
3.2.1. **To the South, North and East:** primarily single-family residences and residential subdivisions surround the project area.

3.2.2. **To the West:** A mining facility owned by Vulcan Mines INC.

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

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

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



4.1.1. The CCP states that, “the County’s economic development activities should be pursued within USA” (2020 CCP, Pg. 129).

- 4.1.2. 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).
- 4.1.3. The CCP states that, “Industrial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129).
- 4.2. **Industrial:** The CCP Future Land Use Map identifies the Subject Area as being located in an Industrial Area, a special designation within the urban services area (2020 CCP Pgs. Pgs. 136, 137 & Appendix 1, Map 24).
- 4.2.1. The CCP states that, “most defined industrial areas should lie within the Urban Services Area, and in other areas on a very limited basis. Most industrial uses should be segregated from other uses with the exception of Regional Commercial uses” (2020 CCP, Pg. 136).

## 5. Conditional Zoning Districts

Staffs position at this time is that it supports a rezoning of the project site to Industrial. However, due to the neighboring residential uses and the existing automotive towing business on site, staff thinks an Industrial Conditional Zoning district would be more appropriate. This will limit the industrial use on the project site to only towing and storage and still allow for residential use.

Conditional zoning districts are different from traditional zoning districts because they require a site plan for the proposed use(s) of the property and certain conditions or restrictions are placed on the property based on the proposed or allowable use(s). Conditional zoning district decisions are a legislative process subject to the same procedures as traditional zoning districts (See attachment 3).

According to the Land Development Code, conditional zoning districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the Comprehensive Plan, proposes to impose special limitations and conditions on the use of the property proposed for rezoning (LDC§200A-45 - §200A-51).

The applicant, Billy Corn, is currently using the project site as a parking area for his automotive towing business. This business is not allowed in R1. A rezoning is required for the business to be permissible. Staff suggests the following conditions be imposed on the Subject Area:

- 5.1. The existing fenced area on the property shall be used for the temporary storage of vehicles associated with the property owners automotive towing business. Other commercial or automotive related uses shall not be allowed.
- 5.2. (1) Site Plan. Major *Site Plan* required in accordance with §200A-299 (Major Site Plan Review).
- 5.3. (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.
- 5.4. (4) Dust Reduction. Unpaved *roads, travelways* and/or parking areas shall be treated to prevent dust from adverse affects to adjacent properties.

- 5.5. (5) Outdoor Storage. Storage of more than four (4) *vehicles* on site for a period greater than 24 hours constitutes an *outdoor storage* (see SR 2.8 and SR 2.9 (Outdoor Storage)).
- 5.6. The remaining portion of the Subject Area that contains an existing residential home shall remain zoned for residential uses.
- 5.7. (3) Security. The operations of an automotive towing *use* shall be totally enclosed by: (1) a security fence at least eight (8) feet in height; (2) a wall at least eight (8) feet in height; or (3) a fireproof *building*. Entrances and exits should be secured and locked during non-operating hours.
- 5.8. Fencing. The existing fence does not meet the minimum screening requirements. Screen Class Three (3). A fence or wall constructed with a minimum height of six (6) feet, that is at least 75 percent *opaque*, where all spaces are evenly distributed, and with the finished side of the fence facing the adjacent property or *road*. Fences longer than 20 linear feet shall be landscaped with: a row of *shrubs* spaced a maximum of ten (10) feet apart, or a row of *evergreen trees* planted no more than 15 feet apart (see Figure 5D).
- 5.9. All required parking spaces must meet the design requirements of the Land Development Code §200A-161-165. The proposed parking spaces shall comply with the landscape design standards and off street parking provisions as outlined in the Land Development Code (LDC Article V and VI). It appears the applicant is proposing 4 parking spaces and the spaces shown on the site plan meet the requirements of the Land Development Code.
- 5.10. Any signs used on site must meet current standards of Article VII of the LDC
- 5.11. If the applicant has plans for future expansion of the existing business, all potential modification or expansions should be noted on the site plan.

## 6. Staff Comments and Recommendations

It is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would inform the County's consideration of the proposed rezoning. Staff requests the Applicant not discuss any specific use being considered for the property. The Technical Review Committee, Planning Board, and the Board of Commissioners cannot consider any specific proposed use for the property and must only consider the range of possible uses when reviewing and making recommendations on the rezoning request.

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

- 6.1. **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 indicates that the USA may be suitable for commercial development provided the development is in keeping with the surrounding community. The CCP also indicates that Industrial may be suitable for the area as the Subject Area falls within the specially designated industrial area in the USA A Industrial Conditional District can ensure that use(s) will be compatible with the surrounding community.

- 6.2. **Adjacent Zoning:** The Subject Area directly abuts an existing Industrial (I) zoning district to the west. If the Subject Area were to be rezoned to an Industrial Conditional District (I-CD) this property would be apart of a contiguous Industrial zoning district.
- 6.3. **Conditional Zoning Districts:** Applying conditions or restrictions to the Subject Area reduces and/or eliminates the impact on the surrounding community. There are circumstances in which a general use district designation allowing such a use or all uses by right would not be appropriate for a particular property though the use could, if properly planned, be appropriate for the property consistent with the objectives of the Land Development Codes conditional zoning districts, the adopted Comprehensive Plan, and adopted district.

## **7. Technical Review Committee Recommendations**

- 7.1. The Henderson County Technical Review Committee considered rezoning application #R-2010-03-C on February 1, 2011. During that meeting, the Technical Review Committee voted unanimously to send forward a favorable recommendation on rezoning application #R-2010-03-C to rezone the Subject Area to a Conditional Industrial (I-CD) zoning district.

## **8. Planning Board Recommendations**

- 8.1. The Henderson Planning Board considered rezoning application #R-2010-03-C on February 17, 2011. During that meeting, the Planning Board voted 5-2 to send forward a favorable recommendation on rezoning application #R-2010-03-C to rezone the Subject Area to a Conditional Industrial (I-CD) zoning district.



Vulcan Mine

Howard Gap RD





HOWARD GAP RD

Approximate Location of Gravel Impound Lot

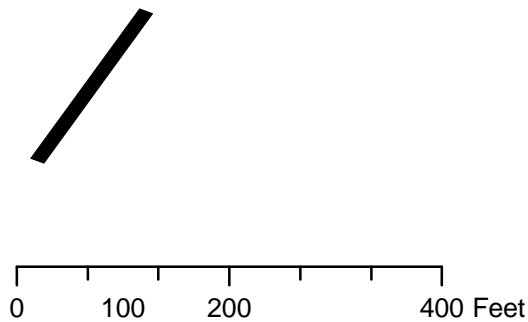
Pop Corn Drive

POP CORN DR

**Legend**

-  Portion to be Rezoned
-  Total Project Parcel
-  Parcels
-  Streets

Rezoning Application  
#R-2010-03-C  
Billy Corn, owner





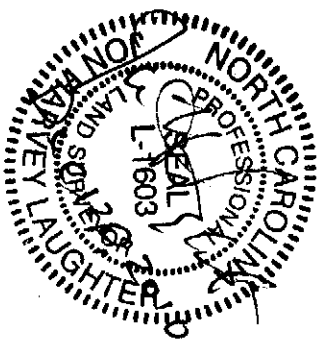
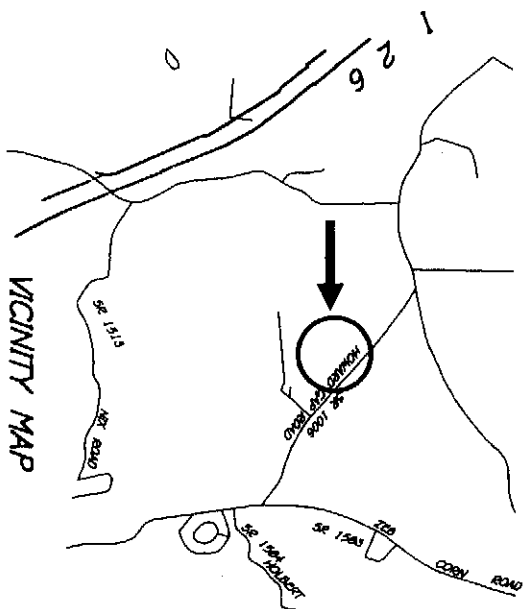
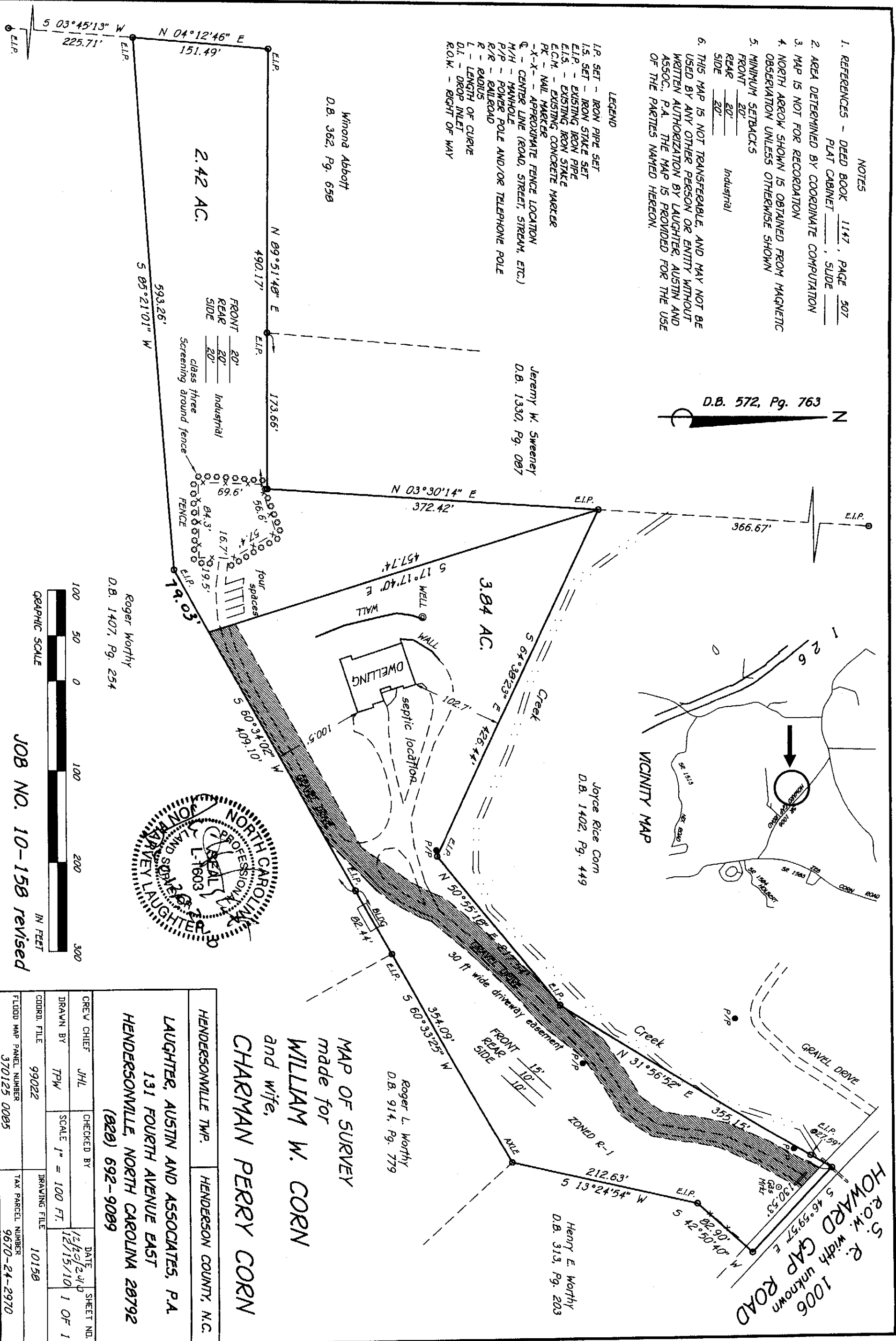
NOTES

1. REFERENCES - DEED BOOK 1147, PAGE 507  
PLAT CABINET \_\_\_\_\_, SLIDE \_\_\_\_\_
2. AREA DETERMINED BY COORDINATE COMPUTATION
3. MAP IS NOT FOR RECORDATION
4. NORTH ARROW SHOWN IS OBTAINED FROM MAGNETIC OBSERVATION UNLESS OTHERWISE SHOWN
5. MINIMUM SETBACKS  
FRONT 20'  
REAR 20'  
Industrial 20'
6. THIS MAP IS NOT TRANSFERABLE, AND MAY NOT BE USED BY ANY OTHER PERSON OR ENTITY WITHOUT WRITTEN AUTHORIZATION BY LAUGHTER, AUSTIN AND ASSOC., P.A. THE MAP IS PROVIDED FOR THE USE OF THE PARTIES NAMED HEREON.

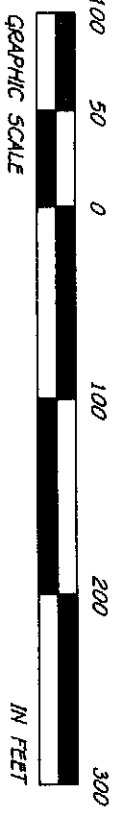
LEGEND

- I.P. SET - IRON PIPE SET
- I.S. SET - IRON STAKE SET
- E.I.P. - EXISTING IRON PIPE
- E.I.S. - EXISTING IRON STAKE
- E.C.M. - EXISTING CONCRETE MARKER
- P.K. - NAIL MARKER
- X-X- - APPROXIMATE FENCE LOCATION
- Q - CENTER LINE (ROAD, STREET, STREAM, ETC.)
- M/H - MANHOLE
- P/P - POWER POLE AND/OR TELEPHONE POLE
- R/R - RAILROAD
- R - RADIUS
- L - LENGTH OF CURVE
- D.I. - DROP INLET
- R.O.W. - RIGHT OF WAY

D.B. 572, Pg. 763



Roger Worthy  
D.B. 1407, Pg. 254



JOB NO. 10-158 revised

MAP OF SURVEY  
made for  
**WILLIAM W. CORN**  
and wife,  
**CHARMAN PERRY CORN**

HENDERSONVILLE TWP. HENDERSON COUNTY, N.C.  
**LAUGHTER, AUSTIN AND ASSOCIATES, P.A.**  
131 FOURTH AVENUE EAST  
HENDERSONVILLE, NORTH CAROLINA 28792  
(828) 692-9089

CREW CHIEF	JHL	CHECKED BY		DATE	12/20/2010	SHEET NO.	
DRAWN BY	TPW	SCALE	1" = 100 FT.		12/15/10	1 OF 1	
COORD. FILE	99022	DRAWING FILE	10158				
FLOOD MAP PANEL NUMBER	370125 0085	TAX PARCEL NUMBER	9670-24-2970				

**HOWARD GAP ROAD**  
R.O.W. with unknown  
width  
1006  
Henry E. Worthy  
D.B. 313, Pg. 203

### STIPULATION OF PARTIES

The undersigned parties to this matter hereby stipulate and agree to the following:

1. That on November 1, 2010, Applicant **William Corn** submitted a conditional rezoning request to be heard by the Henderson County Board of Commissioners.
2. That a conditional rezoning is permitted under our ordinance under provisions 200A-45 through 200A-51.
3. That the Applicant's request came before the Henderson County Board of Commissioners in a public hearing on May 2, 2011.
4. That in a conditional rezoning the Applicant must agree to any conditions placed on the property by the Board of Commissioners.
5. That the Applicant and the County, by and through its Planning Director, agree on the following conditions prior to the hearing:
  - a. The existing fenced area on the property shall be used for the temporary storage of vehicles associated with the property owners automotive towing business. Other commercial or automotive related uses shall not be allowed.
  - b. (1) Site Plan. Major *Site Plan* required in accordance with §200A-299 (Major Site Plan Review).
  - c. (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.
  - d. (4) Dust Reduction. Unpaved *roads, travelways* and/or parking areas shall be treated to prevent dust from adverse affects to adjacent properties.
  - e. (5) Outdoor Storage. Storage of more than four (4) *vehicles* on site for a period greater than 24 hours constitutes an *outdoor storage* (see SR 2.8 and SR 2.9 (Outdoor Storage)).
  - f. The remaining portion of the Subject Area that contains an existing residential home shall remain zoned for residential uses.
  - g. (3) Security. The operations of an automotive towing *use* shall be totally enclosed by: (1) a security fence at least eight (8) feet in height; (2) a wall at least eight (8) feet in height; or (3) a fireproof *building*. Entrances and exits should be secured and locked during non-operating hours.
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- i. All required parking spaces must meet the design requirements of the Land Development Code §200A-161-165. The proposed parking spaces shall comply with the landscape design standards and off street parking provisions as outlined in the Land Development Code (LDC Article V and VI). It appears the applicant is proposing 4 parking spaces and the spaces shown on the site plan meet the requirements of the Land Development Code.
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- k. If the applicant has plans for future expansion of the existing business, all potential modification or expansions should be noted on the site plan.

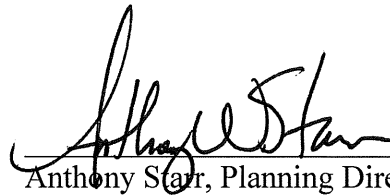
This the 15 day of April 2011.



William Corn

4-15-11

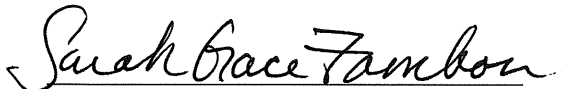
Date



Anthony Starr, Planning Director

Date

Prepared By:



Sarah Grace Zambon

Deputy County Attorney

Henderson County Attorney's Office

**NOTICE OF PUBLIC HEARING  
ON PROPOSED ZONING MAP AMENDMENT  
(Rezoning Requests #R-2010-03-C)**

The Henderson County Board of Commissioners will hold a public hearing for a proposed map amendment to the Official Zoning Map of Henderson County, North Carolina.

Rezoning Application #R-2010-03-C, which was submitted on November 1, 2010 requests the County rezone approximately 2.42 acres of land, located off of Howard Gap Road (US 176), from an R1 (Residential One) zoning district to an I-CD (Industrial Conditional District). Conditional zoning districts are different from traditional zoning districts because they require a site plan for the proposed use(s) of the property and certain conditions or restrictions are placed on the property based on the proposed or allowable use(s). The applicant is proposing an automotive towing and outdoor storage facility.

The public hearing will be held on Monday, May 2, 2010, at 5:30 P.M., in the Board of Commissioners Meeting Room located in the Henderson County Historic Courthouse, at 1 Historic Courthouse Square, in Hendersonville, NC. The public is invited to attend and comment on the proposed amendment.

Written comments addressed to the Henderson County Board of Commissioners, 1 Historic Courthouse Square, Suite 1, Hendersonville, NC 28792, will be accepted prior to the hearing. Information about the proposed amendment is available for review in the Henderson County Planning Department, 213 1<sup>st</sup> Avenue East, Hendersonville, NC, between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday, or on the Henderson County Website at [www.hcplanning.org](http://www.hcplanning.org). For more information, call the Planning Department at (828) 697-4819 [TDD for the hearing impaired (828) 697-4580].

Please note that after considering public hearing comments, the Board of Commissioners may discuss other options or make changes to the proposed amendments before taking final action. The Henderson County 2020 Comprehensive Plan will be updated and amended, as necessary, to reflect the action of the Board of Commissioners.

Terry Wilson  
Clerk to the Board

Henderson County Board of Commissioners

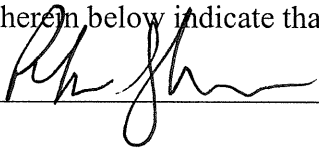
**For publication in the Hendersonville Tribune on Thursday, April 14, 2011 and Thursday, April 21, 2011.**

**Certification of Notice of Public Hearing**

In accordance with NCGS 153A-343 the Planning Department certifies notices of the May 2, 2011 hearing regarding Rezoning Application #R-2010-03-C were:

1. Submitted to the Hendersonville Tribune on April 11, 2011 to be published on April 14, 2011 and April 21, 2011 by Parker Sloan;
2. Sent, via first class mail, to the owners of properties adjacent to the Subject Area on April 14, 2011 by Parker Sloan;
3. Sent, via first class mail, to the property owners on April 14, 2011 by Parker Sloan; and
4. Posted on the Subject Area on April 15, 2011 by Parker Sloan.

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

1. 
2. \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, KATHLEEN R. SCANLAN, a Notary Public, in and for the above County

and State, do hereby certify that PARKER SLOAN,

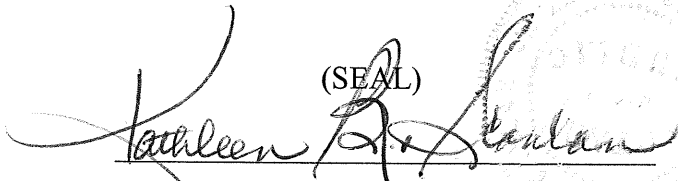
\_\_\_\_\_, and \_\_\_\_\_

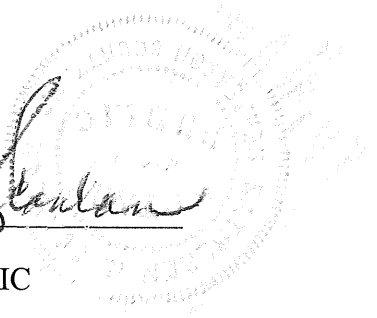
personally appeared before me this day and acknowledged the due execution ~~by~~

\_\_\_\_\_ of the foregoing instrument.

WITNESS my hand and notarial seal, this the 14 day of APRIL, 2011.

My commission expires:  
10-23-2015

(SEAL)  
  
 \_\_\_\_\_  
 NOTARY PUBLIC



**Conditional Rezoning  
#R-2010-03-C  
Billy Corn Owner & Applicant**



**Henderson County Board of Commissioners Meeting  
May 2, 2011**

**Presented by: Parker Sloan, Planner**

*Henderson County Planning Department*

**Rezoning Application #R-2010-03-C Preview**

- Billy Corn, Owner and Applicant.
- Rezone approximately 2.42 acre of a 6.26 acre tract from Residential One (R1) to Industrial Conditional (I-CD).
- Property is located off Howard Gap Road.
- The proposed use shall be for the temporary storage of vehicles associated with the applicants automotive towing business.
- Vehicles are associated with police impoundment and general wrecker services.

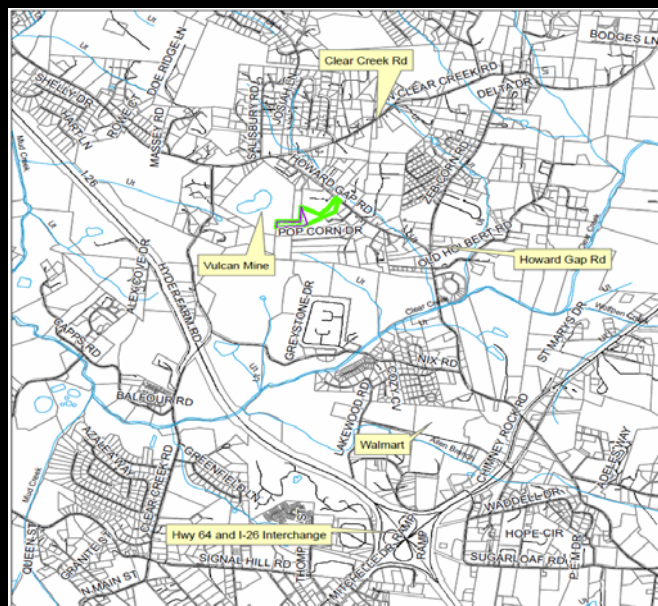
*Henderson County Planning Department*

## Rezoning Application #R-2010-03-C Continued

- The proposed use is supported by the 2020 CCP.
- This would be the only use allowed in the I-CD.
- If the existing automotive towing business were to cease operations and move somewhere else, the subject area would immediately revert back to the original zoning R1

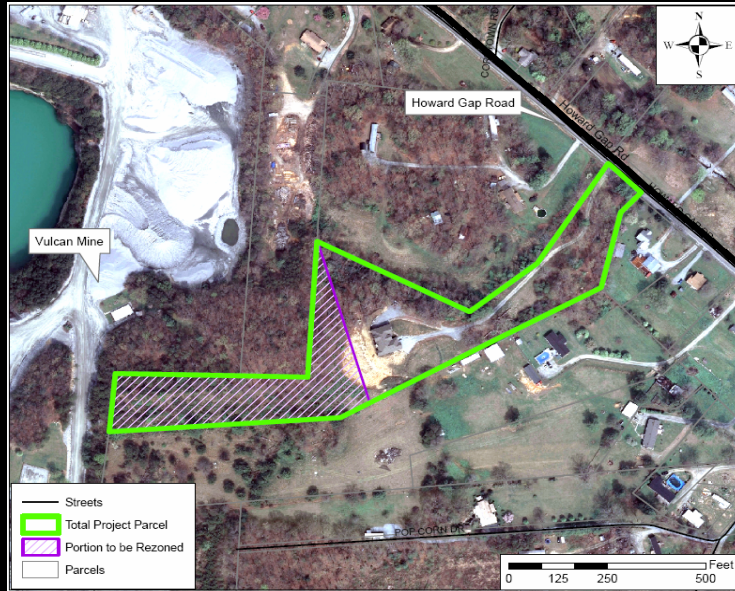
*Henderson County Planning Department*

## Rezoning Application #R-2010-03-C



*Henderson County Planning Department*

# Rezoning Application #R-2010-03-C



*Henderson County Planning Department*

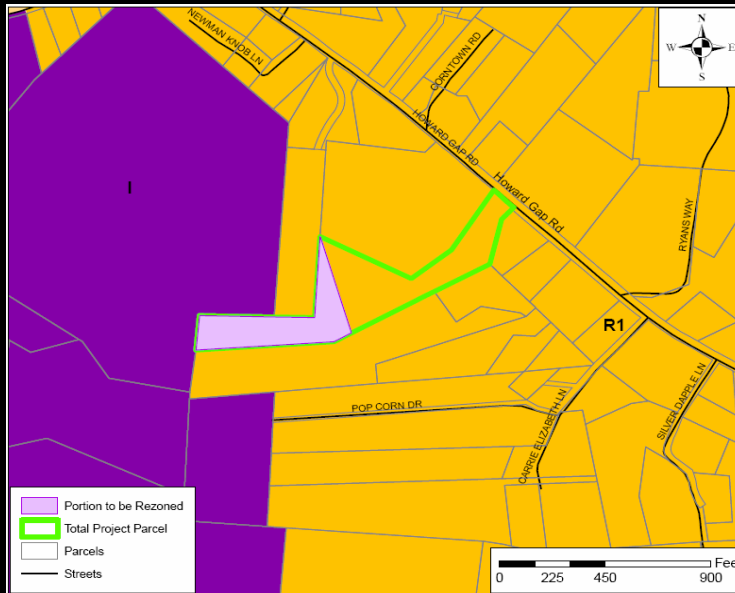






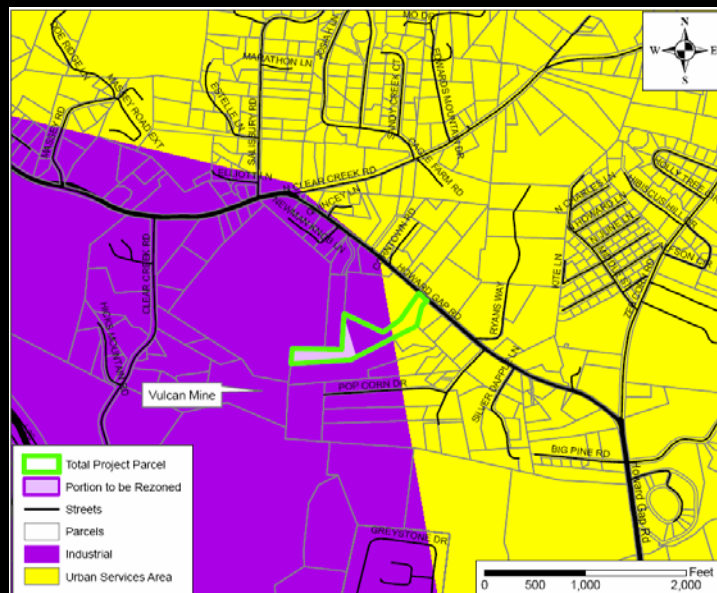


# Rezoning Application #R-2010-03-C



Henderson County Planning Department

# Rezoning Application #R-2010-03-C



Henderson County Planning Department

# Rezoning Application #R-2010-03-C

## PUBLIC COMMENT



*Henderson County Planning Department*

## Questions and Discussion



**Henderson County Board of Commissioners Meeting  
April 4, 2011**

**Presented by: Parker Sloan, Planner**

*Henderson County Planning Department*