

REQUEST FOR BOARD ACTION

HENDERSON COUNTY PLANNING BOARD

MEETING DATE: January 16, 2020

SUBJECT: Conditional Rezoning Application #R-2019-07-C Highway, LLC

PRESENTER: Matt Champion, Project Development Planner

ATTACHMENTS: 1.) Staff Report
2.) Site Plan
3.) List of Conditions
4.) Summary of Neighborhood Compatibility Meeting
5.) PowerPoint Handout

SUMMARY OF REQUEST:

Rezoning Application #R-2019-07-C requests that the County conditionally rezone approximately 50.19 acres of land from Residential Two (R2) zoning district to Mixed Use Conditional (MU-CD) zoning district. The subject area is located on PIN: 9651-07-2408 at 2075 N. Rugby Road (SR1365) about a ½ mile north of Rugby Drive (SR1417). The property owner and applicant are Highway, LLC.

The application is submitted with an attached site plan showing the specific proposed use for the subject property. As a conditional rezoning application, if approved, the property may only be used as shown by the site plan and limited by any conditions attached by the TRC, Planning Board, and Board of Commissioners.

As required by the LDC, a neighbor compatibility meeting was held on Friday, January 10, 2020 in the King Street Meeting Room. The Technical Review Committee reviewed the rezoning request on January 7, 2020. Conditions discussed at the TRC meeting have been attached to the staff report.

PLANNING BOARD ACTION REQUESTED:

The Planning Board has 45 days from its first consideration to provide a recommendation to the Board of Commissioners or the request is forwarded with a favorable recommendation unless otherwise agreed upon by the applicant. Staff requests the Planning Board make a recommendation to the Board of Commissioners on conditional rezoning application (#R-2019-07-C) from Residential Two (R2) to Mixed Use Conditional District (MU-CD).

Suggested Motion:

I move that the Planning Board forward rezoning application #R-2019-07-C with a (favorable or unfavorable) recommendation and with any conditions discussed to be reviewed by the Board of Commissioners for approval based on the recommendations of the Henderson County Comprehensive Plan.

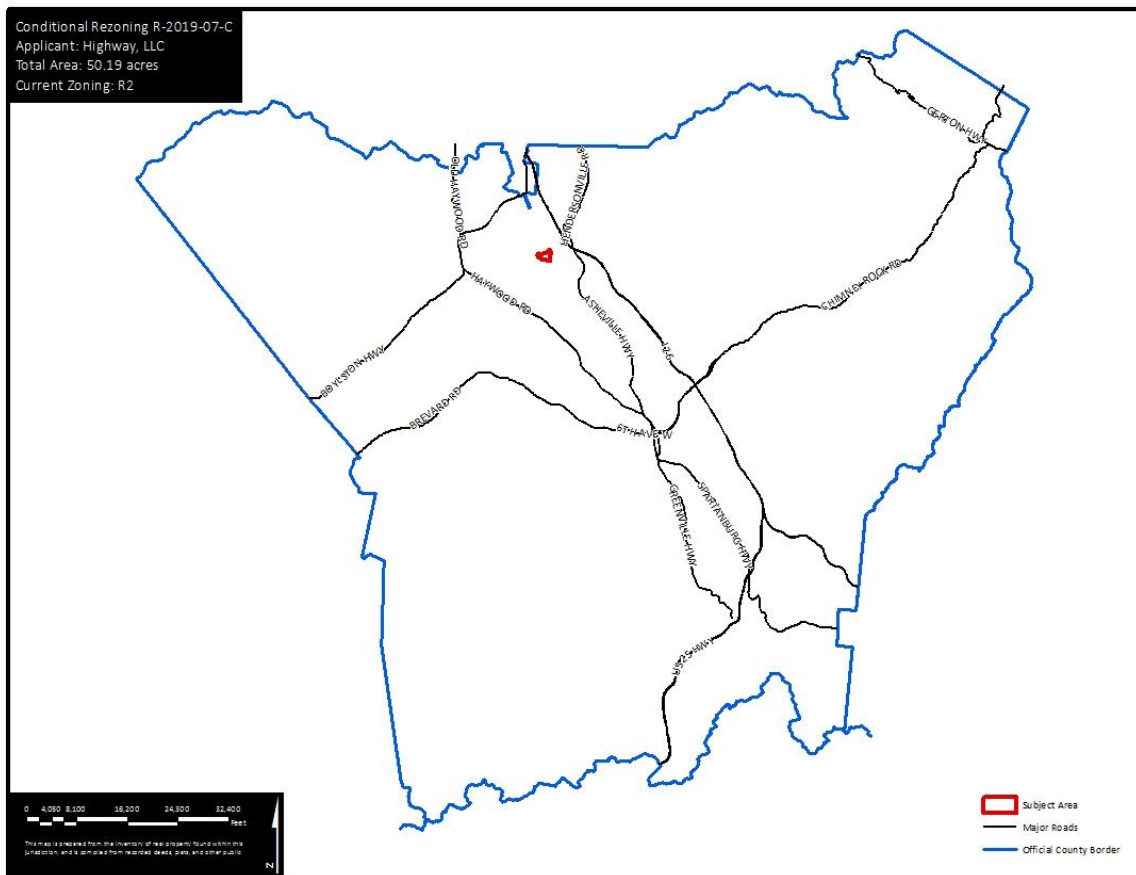
Henderson County Planning Department Staff Report
Conditional Rezoning Application #R-2019-07-C (R2 to MU-CD)

Owner/ Applicant: Highway, LLC

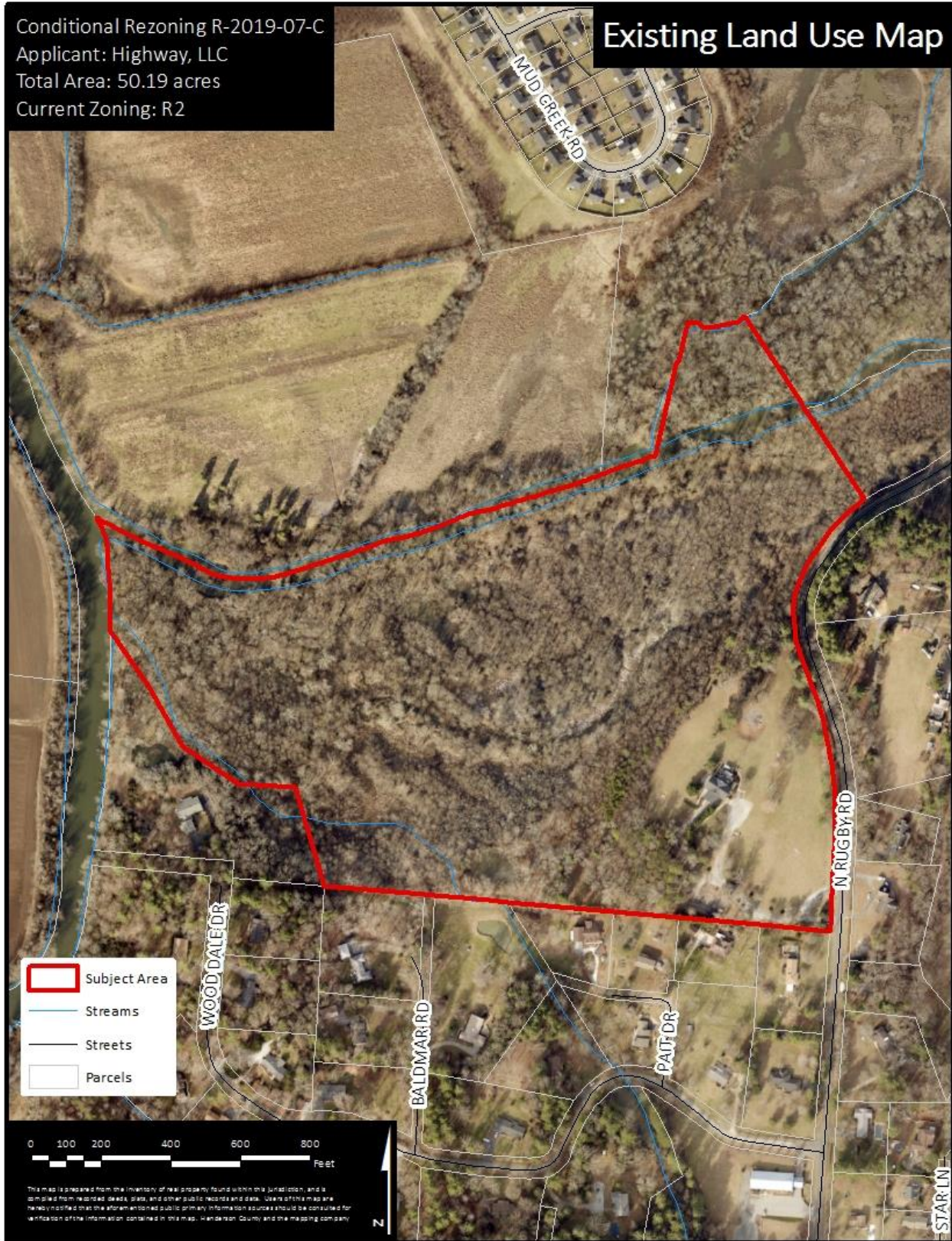
1. Rezoning Request

- 1.1. **Owner:** Highway, LLC
- 1.2. **Applicant:** Highway, LLC
- 1.3. **PIN:** 9651-07-2408
- 1.4. **Request:** Conditionally rezone subject area from a Residential Two (R2) zoning district to a Mixed-Use Conditional District (MU-CD).
- 1.5. **Size:** Approximately 50.19
- 1.6. **Location:** The subject area is located at 2075 N. Rugby Road (SR1365) about a ½ mile north of Rugby Drive (SR1417).

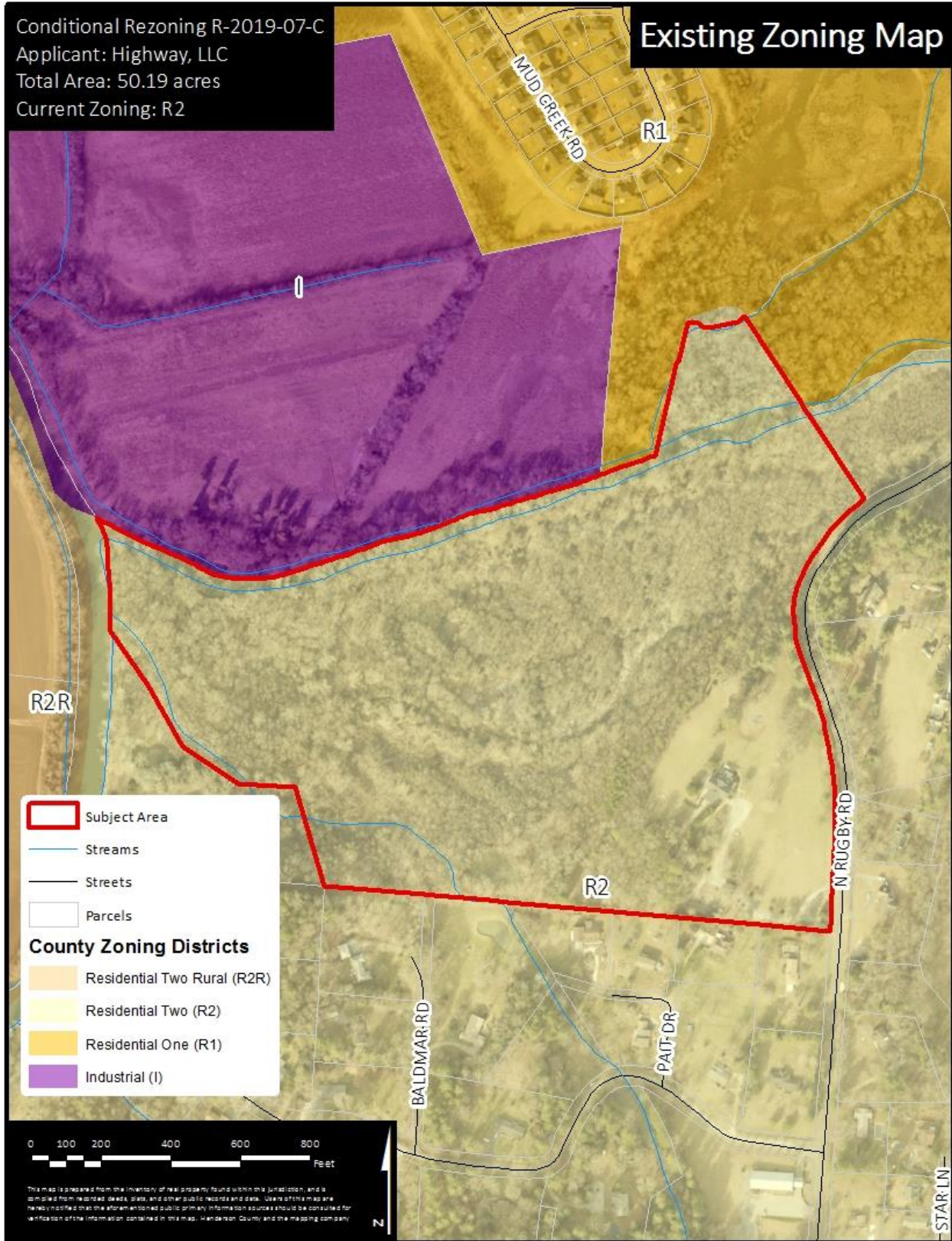
Map A: County Context



Map B: Aerial Image



Map C: Current Zoning



2. Current Zoning

2.1. **Application of Current Zoning:** The subject area is currently zoned Residential Two (R2). R2 is a low to medium density residential zone.

2.2. **Adjacent Zoning:** The subject area is adjacent to Residential Two Rural (R2R) to the west, Residential One (R1) and Industrial (I) to the north, and R2 to the south and east. (See Map C)

2.3. **District Comparison:**

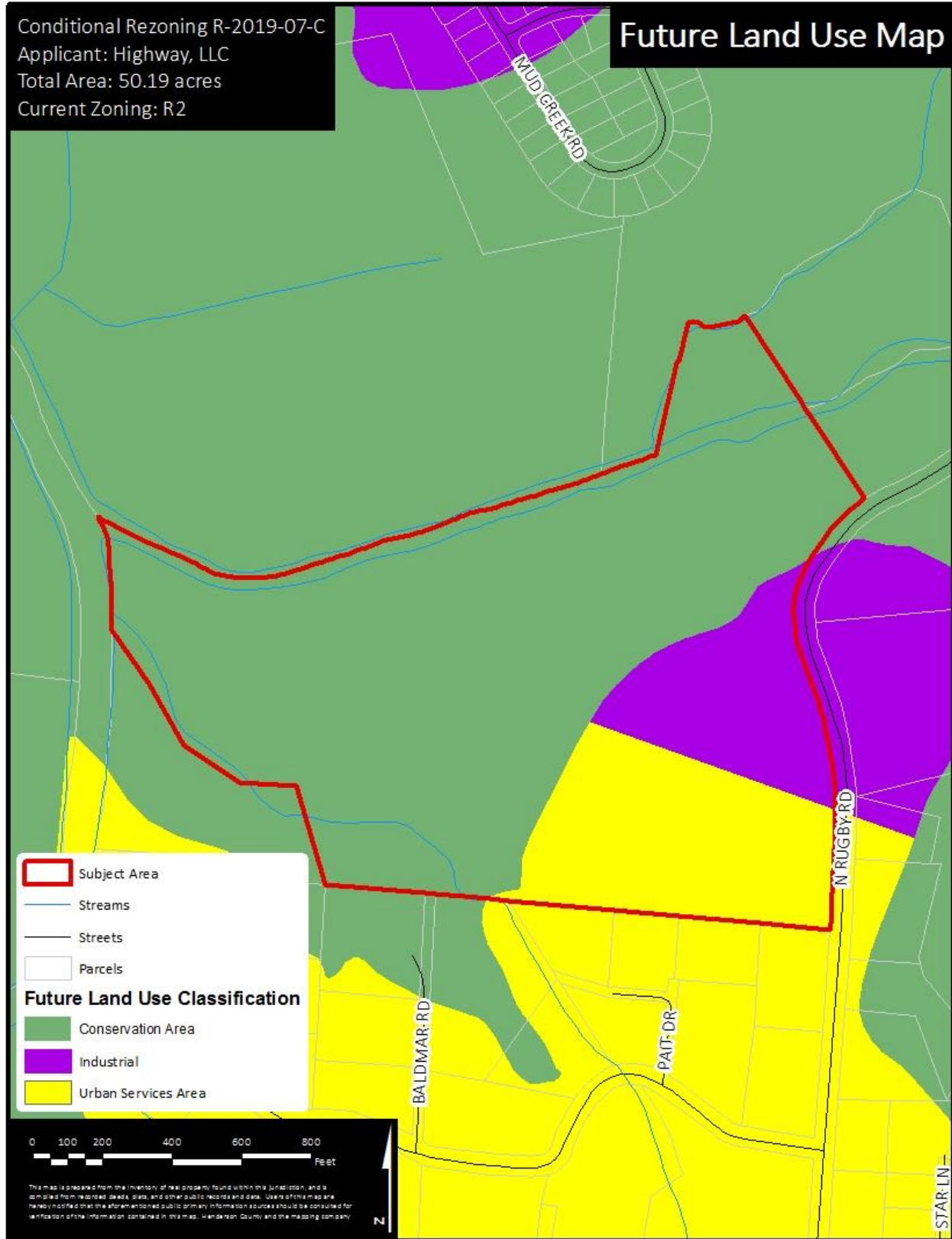
2.3.1. **Residential Two Zoning District (R2):** The purpose of Residential District Two (R2) is to foster orderly growth where the principal use of land is residential. The intent of this district is to allow for low to medium density residential development consistent with the recommendations of the Comprehensive Plan. This general use district is typically meant to be utilized in areas designated as Transitional (RTA) in the Comprehensive Plan. (LDC §42-28).

2.3.2. **Mixed Use Conditional District (MU-CD):** Mixed Use District (MU) is created to plan and promote developments that embody variety, innovation, and flexibility by allowing a variety of uses, lot sizes, dwelling unit types, and design requirements. MU districts are intended to be located in areas designated by the Comprehensive Plan as Transitional (RTA) or Urban (USA), and are required to utilize municipal, public, or community utility systems. MU districts shall be considered Conditional Zoning Districts only. The intent of the MU district is to: (1) permit a creative approach to the development of land; (2) provide for an efficient use of land; (3) enhance the appearance of developments through preservation of natural features; and (4) provide for recreational areas and open space where appropriate. (LDC §42-52).

2.3.2.1. Conditional Zoning Districts are zoning districts in which the development and use of the property is subject to predetermined Chapter standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to each individual development project. (LDC §42-45)

2.3.2.2. The use permitted in the conditional district is limited to those shown on the submitted site plan attached to the application. The use may have appropriate and reasonable conditions placed on it if agreed to by the Board of Commissioners and the Property Owner.

Map D: County Comprehensive Plan Future Land Use Map



3. The Henderson County Comprehensive Plan (CCP)

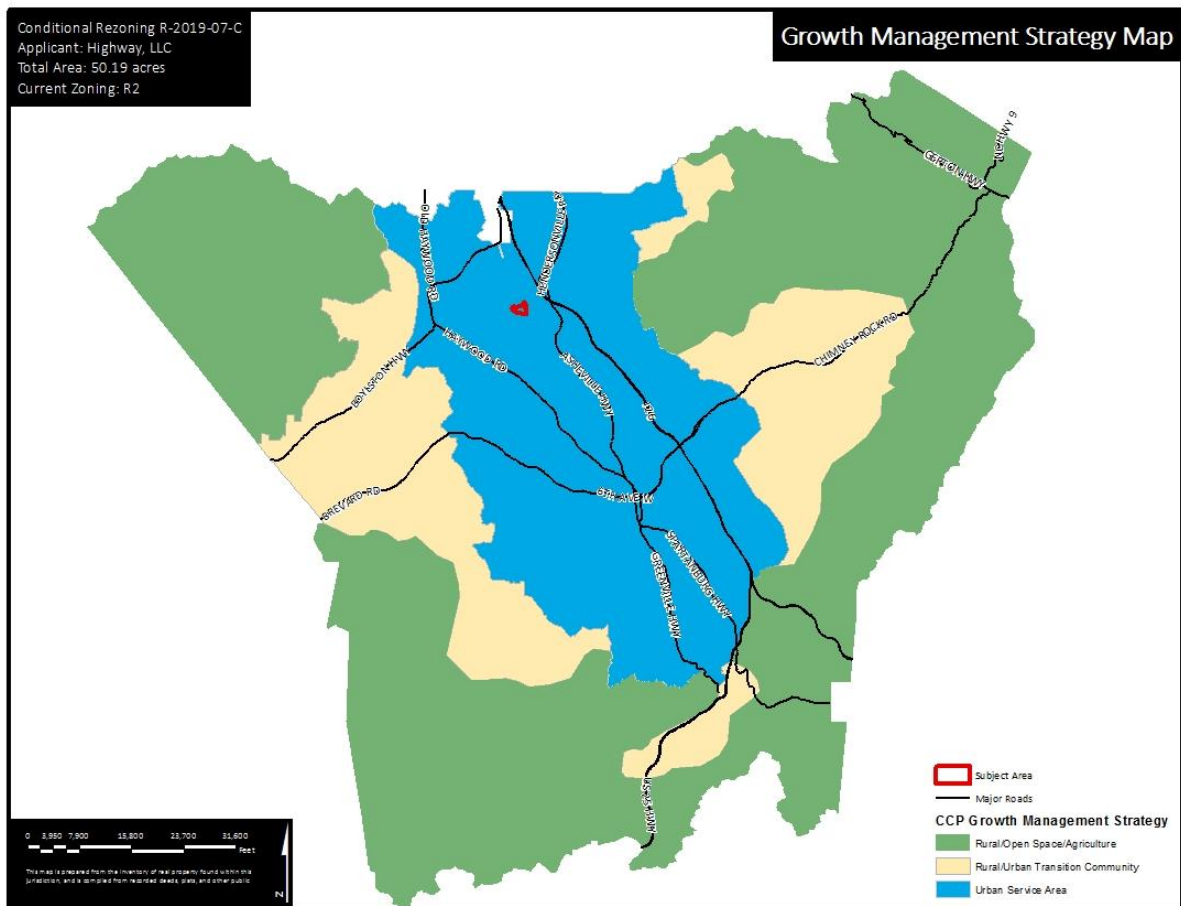
3.1. **Future Land Use:** The CCP Future Land Use Map identifies the subject area as being covered by the **Conservation, Urban Services Area, and Industrial** classifications. (CCP, Pgs. 138-140). (See Map D).

3.1.1. **Conservation:** “This category includes land areas that are intended to remain largely in their natural state, with only limited development. Such areas should be targeted for protection through regulations and incentives.” (CCP, Pg. 138)

3.1.2. **Urban Services Area:** “The USA will contain virtually all existing and future industrial development and will be the focus of future economic development activities. Industrial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community.” (CCP, Pg. 133)

3.1.3. **Industrial:** “Parcels containing facilities wherein raw or pre-processed resources, materials, substances, or components are mechanically, physically, chemically, or otherwise transformed into new products; waste materials are collected, treated, or disposed of; subsurface natural resources are extracted and/or processed; Livestock, cargo, merchandise, materials or hazardous substances are transferred, stored or warehoused for wholesale or other distribution; passengers or passenger vehicles are collected or transferred; water, fuel, or electricity is produced, processed, stored, transferred or transmitted.” (CCP, Appendix IV pg. 12)

Map E: CCP Growth Management Strategy



3.2 **Growth Management Strategy:** The CCP shows the subject area located in the Urban Services area 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 E)

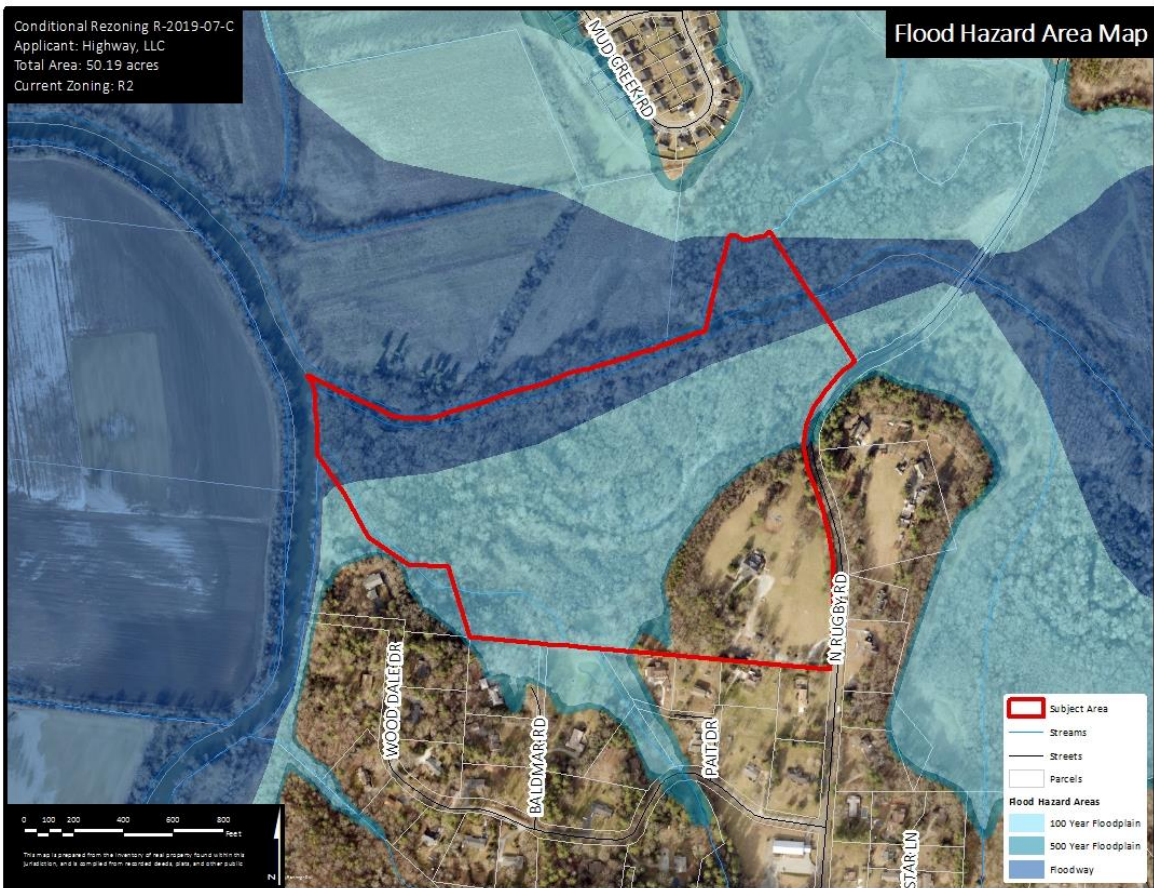
4. **Current Uses of Subject Area and Adjacent Properties**

1.1. **Subject Area Uses:** The subject area was most recently used as an all-girls boarding school. That use has ceased but the existing structure remains along with several on-site amenities.

1.2. **Adjacent Area Uses:** The adjacent properties contain multiple uses. Residential uses are found to the north, east, and south of the subject area. Agricultural uses surround the subject area to the west and north. Riverstone Major Residential Subdivision is found north of the subject area.

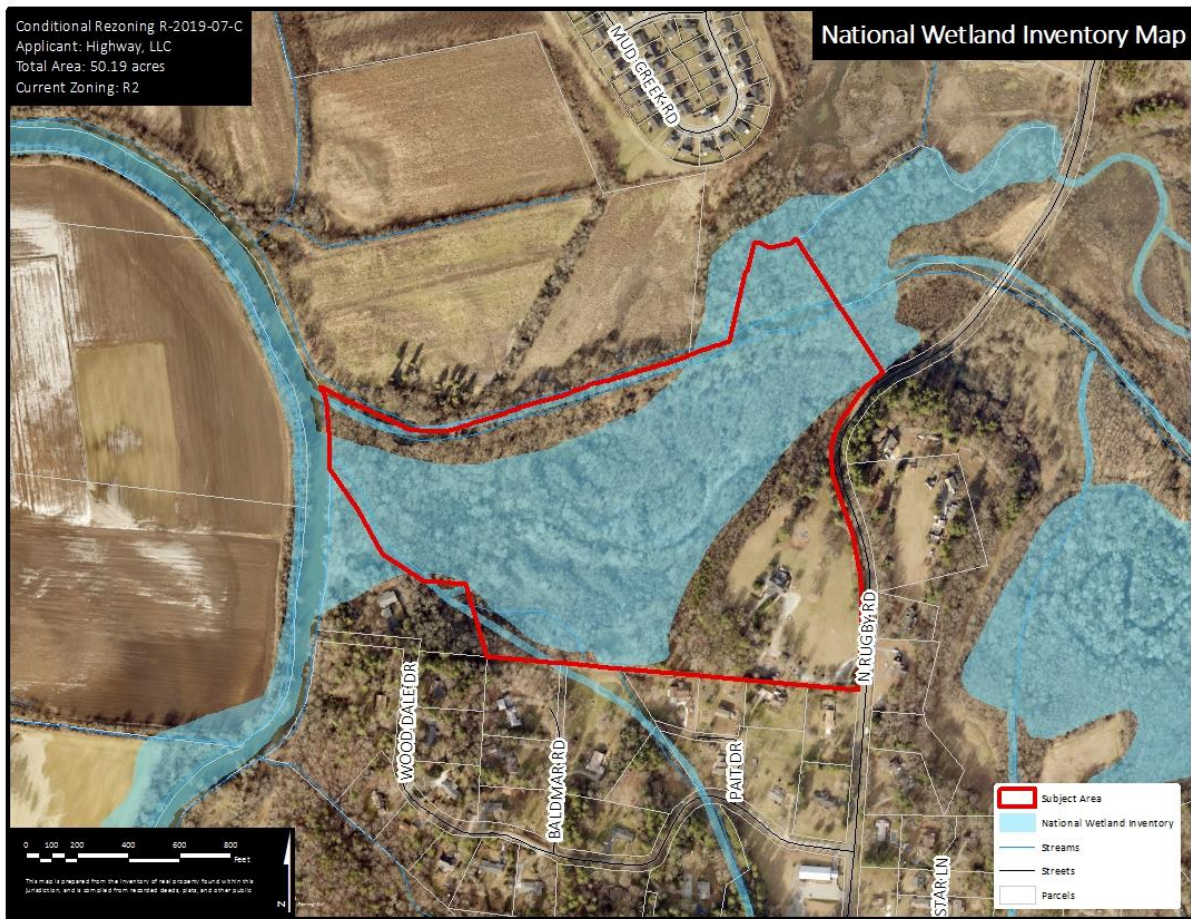
5. **Water and Sewer:** The subject is currently served by the City of Hendersonville water. There is a large on-site community septic system with a 5,500 gallon/day capacity. The site plan indicates a total usage of 5,450 gallons/day. Cane Creek Sewer District lines are in close proximity to the subject area.

Map F: Flood Hazard Areas



6. **Flood Hazard Areas:** As seen in Map F, the subject area contains floodway, 100-year floodplain, and 500-year floodplain.

Map G: National Wetlands



7. **National Wetland Inventory:** As seen in Map G, the subject area contains property located within the National Wetlands Inventory. The wetland type is classified as freshwater forested/shrub wetland. Disturbance within a wetland requires approval from the US Army Core of Engineers.

8. **Site Plan Features:**

- Existing 16,564 square foot house with basement retrofitted to accommodate 12 hotel rooms and 25-person capacity public restaurant
- New day spa in place of existing patio
- New bakery building to support public restaurant
- New 4,320 square foot barn with taproom open to public
- New pool with hot tub and fireplace
- Existing basketball court retrofitted for tennis court
- 25 yurts 15' in diameter on elevated platforms 2' above BFE
- 4 bathhouses with 6 toilets and 6 showers in each building
- 66 parking spaces provided to accommodate all uses (only 51 parking spaces required by LDC)

9. Staff Comments:

- 9.1. **CCP:** The CCP Future Land Use Map (See Map D) places the subject area in the Conservation, Urban Services Area, and Industrial future land use areas. The Growth Management Strategy in the CCP shows this area being in the Urban Services Area (See Map E).
- 9.2. **Adjacent Zoning:** The subject area is adjacent to Residential Two Rural (R2R) to the west, Residential One (R1) and Industrial (I) to the north, and R2 to the south and east.
- 9.3. **District Comparison:** Residential Two (R2) zoning district is to allow for low to medium 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 Transitional (RTA) in the Comprehensive Plan. Mixed Use District (MU) is created to plan and promote developments that embody variety, innovation, and flexibility by allowing a variety of uses, lot sizes, dwelling unit types, and design requirements. MU districts are intended to be located in areas designated by the Comprehensive Plan as Transitional (RTA) or Urban (USA), and are required to utilize municipal, public, or community utility systems.
- 9.4. **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.

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)

10. Technical Review Committee (TRC) Recommendations:

- 10.1. The TRC discussed this application on Tuesday, January 7, 2020. Conditions discussed at the TRC meeting are shown on the List of Conditions.

11. Neighborhood Compatibility Meeting:

- 11.1. A neighborhood compatibility meeting was held on Friday, January 10, 2020 at 1:00 PM in the King Street Meeting Room.
- 11.2. A report of this meeting will be forwarded to the Planning Board and Board of Commissioners.

List of Conditions for Conditional Rezoning Application #R-2019-07-C

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

1. Pervious pavement shall be required for a minimum of 25 percent of all paved surfaces within a MU District
2. Utility lines within a MU District shall be subsurface
3. Dumpster on concrete pads shall be designed to drain to bio-retention areas to filter stormwater before reaching a larger drainage system
4. 20 percent of all lands within the MU District shall be classified as open space in perpetuity
5. 10 percent of all lands within the MU District shall be classified as common area for the use and benefit of the occupants/patrons
6. Landscaping and buffering required based on each particular use
7. Meet all supplemental requirements for each proposed use (LDC §42-63)

Conditions per Erosion/Sedimentation/Flood:

8. Yurts must be placed on platform 2' above Base Flood Elevation
9. Erosion control permit required if disturbance is greater than 1 acre
10. Stormwater Phase II permit required for all new impervious surfaces
11. Cart path construction will require an as-built and no-rise

Conditions per Building/Inspections:

12. Yurt platforms will be inspected
13. Yurts must be fixed to platform
14. Yurt manufacturer must provide an engineered seal set of building plans
15. 2018 North Carolina Building Code
16. 2017 North Carolina Building Code for electrical
17. Carbon monoxide detectors required
18. Sprinklers required in all commercial buildings
19. Fire separation required between hotel rooms
20. Bathhouses are to be built to commercial standards
21. ADA parking spaces required for each building

Conditions per Fire Marshal/Emergency Services:

22. Cart path must meet North Carolina Fire Code for emergency response vehicles (minimum of 12' wide)
23. Cart path not to exceed 15% grade
24. Cart path needs road name and yurts require addresses

Conditions per Environmental Health:

25. Permit required for proposed pool
26. Pool requires dressing rooms and showers per North Carolina code
27. Existing septic system requires a licensed operator

28. Calculated flows for each proposed use needed to determine if existing wastewater system is sufficient

Conditions per NCDOT:

29. Access to site will require NCDOT driveway permits

Conditions per Public Utilities (City of Hendersonville Water):

30. City of Hendersonville requires a chance of use permit

31. Upgrade existing water infrastructure or verify backflow prevention and cross-connection prevention measures are installed to meet current standards

**Neighborhood Compatibility Meeting for N. Rugby Road
January 10, 2020
King Street Meeting Room**

A neighborhood compatibility meeting was held on Friday, January 10, 2020 at 1:00 PM in the King Street Meeting Room located at 100 N. King Street in Hendersonville, NC. The project being consider is located at 2075 N. Rugby Road on approximately 50.19 acres. It is currently zoned Residential Two Rural (R2R) and is requested to be rezoned to a Mixed Use Conditional district with a site-specific plan for a hotel with 12 rooms, 25 yurts with 4 bathhouses, pool, bakery, 25-person capacity restaurant open to the public, day spa, and a barn with a tap room and upper residence for the owner.

Approximately 25 residents attended along with the developer and the applicant, Mr. Kevin High, and his engineer, Mr. Tyson Griswold. The following county staff was in attendance: Mr. Matt Champion, Project Developer Planner, Ms. Autumn Radcliff, Planning Director, and Mr. John Mitchell, Business and Community Development Director.

Mr. John Mitchell welcomed the residents and spoke to the group before the meeting about the process. Mr. Matt Champion explained the purpose and format of the meeting. He explained that this meeting was to answer questions about the project and an opportunity to hear directly from the applicant and his agent. He went over the proposed conditional rezoning process and turned the meeting over to the applicant and his agent.

Mr. High stated he was out of the Charleston area and plans to relocate to this area. He welcomed anyone contacting him and gave out his cell number to the neighbors to call with any questions or concerns. He stated that he was planning a high-end destination for higher end cliental. Currently there are 13 rooms in the hotel with dinning on the main level that will be open to the public. He plans to close the restaurant at 11:00 PM. He stated that he wanted the property to be pristine and look good. He stated on the one property line on the left side of the driveway that goes to the French Broad River is planned to have a planted a buffer of Leland Cypress trees between his property and the neighbors. The property would also have a day spa with steam rooms, hot tubs, etc. that is open to the public. Behind the spa is the swimming pool that will be built. Nothing can be seen unless you are on the property. The developer had pictures of what this might look like once built. He stated that the entrance at the existing stone pillars would remain and they would separate it for two-way traffic (entrance and exit). On back of property is Rugby Road and floodplain. He stated that this is where the yurts will be located and will be constructed just outside of the floodplain. He stated that the yurts are glamping with a tent and actual furniture inside. He stated they will provide an airport shulte to the airport and has discussed with some of the airlines about having accommodations for pilots and crew overnight. He will have a permeant residence above the tap room with a separate entrance. He stated that his engineer was available for questions, and that the existing onsite septic is adequate for the proposed project. He stated that they hope to connect to Cane Creek sewer once available if feasible.

The meeting was opened for questions from residents.

Questions for Residents:

1. Are there plans for a brewery? Answer – No it is a tap room, no onsite brewery. No trucks and no distribution are planned.
2. Concern with noise pollution with places like Bold Rock in Mills River.
3. Resident at back of property and concerned with trees and existing vines? Answer- Plan to clean up vines.
4. What are your plans there after cleaning up? Answer- Leave as walking trails and natural.
5. Where are the yurts going to be located? Answer - Back side of property.
6. Resident at 107 Pate Drive stated that the yurts are on my back side of my property?

7. How much noise will the yurts give off including the bathhouses? Answer - not very much. This is not a party compound and we will be planting 100's of trees that will block the sound.
8. Encouraged about the developer's comments, but concerned with the noise and had a tree come down on their property? Answer – I will take care of the down trees and understand the concern. I will be living on the property and the restaurant and tap room will not be open past 11:00 PM. I encourage neighbors to call my cell if they hear issues. Had only one issue in Charleston with noise over the years and it was on the neighbor's property.
9. Encouraged about the trees as well? Current clearing of brush is loud. When will the trees be planted? Answer - The brush is being removed during the day and will be temporary. The trees will be planted as part of the construction of the project as quickly as possible.
10. Concern with yurts and flooding? Answer- Yurts will be elevated on a platform.
11. Have you considered the traffic on Rugby and that it is used as a cut through for traffic and additional traffic with school age drivers?
12. Michael Nash – Concern with floodplain and plans of building walkways in that area and concerned about the impact to existing wildlife on property and bugs? Answer - Leaving alone, would like to address issues with pond and mosquitos. Would like a dock on pond later.
13. Sherry Holbert lives across street – Supports the project and the vision for the property. Worked and talked with Kevin about fence and project and feels comfortable. Thankful with keeping property green and preserving.
14. Jennifer Hobby – 3rd house down. Concerned with water runoff and is lower than the subject area but likes some of the clearing being done. Answer - Engineer explained that the runoff will be designed to redirect runoff. Increases under 1 ac disturbance and will look at issues.
15. Traffic concerns at property and concern with Butler Bridge being closed for a time and unsure if the applicant was aware of that. Answer - Will be temporary and is out of our control.
16. Will tap room be open to public? Answer – Primarily for weddings but will be open to the public.
17. Concerned with parking availability. Will you increase the size of the parking and will that be visible? Answer - The tree line will eliminate the views. We will repair the existing parking and expanding parking for handicap spaces. Parking at barn will be down the hill and not visible.
18. Question on mixed use district, is it only on this property? Matt Champion stated it was only for this property.
19. Heard about a rehab facility? Answer - Owner bought from the rehab owners.
20. Mr. Claude Sikes. North Rugby area is R2R and this will be bringing in a commercial business in a residential area. A 5-star restaurant is great but not sure how that fits in with yurts and nomads? Answer - They are 5-star yurts. This is not a camper or pop up tent. It is upscaled with an olive color tents to blend in to the landscape and will have furniture inside. A bathhouse is planned but they may put a bathroom in the yurts.
21. Concern with drinking and driving on Rugby Road? Answer - My bar tender should be doing his job and not allowing that. If so, I will be looking into issues such as these.
22. Air BNB near by and the noise from the pool this summer was terrible? Same concern in Sweetwater Hills and concerned with short term rentals? Answer - Pool not open to public and the hope is the tree line will buffer the sound. The jets flying over are much louder. In my experience with rentals, 70% of renters do not have children. Do not anticipate that our guests will travel with children as it is high end.
23. Additional concern with wooded area and trash that has floated down stream from mud creek from flooding and thankful for the clean up occurring? Answer- I have removed 100's of bags of garbage already and will continue to clean up the trash.
24. Hope as a community neighbor you will keep this up so that it does not impact our property value and we will be watching? Ok with project for now if no issues? Answer - Plan to be a good neighbor and hope that it will raise the property values in the future.
25. Not for the bathhouse concept and would like to see individual bathrooms in the yurts?
26. Josh Edwards -133 Pate Drive - Concerned with parking lot and if will be for guests or employees? Answer - That parking area will be used for overflow at wedding events.

27. Parking could be an eye sore? Answer - Trees should buffer and will check with lighting and work with neighbor to adjust lighting direction so no impact on neighbors.

John – Any question of staff? None at this time.

Owner thanked everyone for attending.

Matt welcomed any questions of staff to contact the Planning Department anytime.

Meeting ended at 1:38 PM.

Rezoning #R-2019-07-C Skylaramma



Planning Board
January 16, 2020

Henderson County Planning Department

Application Summary

- Conditional Rezoning Request: R-2019-07-C
- Applicant: Highway, LLC
- Property Location: 2075 N. Rugby Road
- Conditionally rezone from a Residential Two (R2) Zoning District to a Mixed Use Conditional (MU-CD) Zoning District
- Approximately 50.19 acres

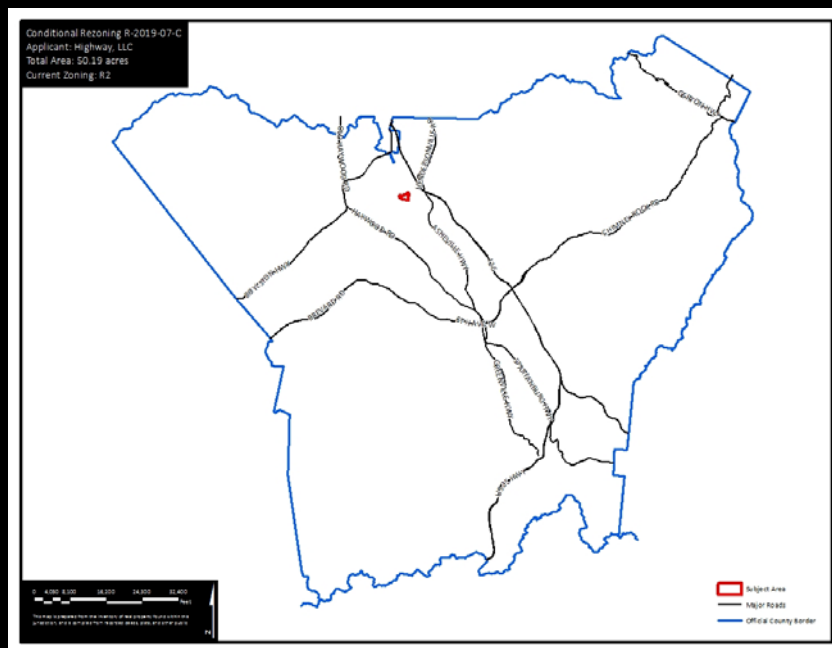
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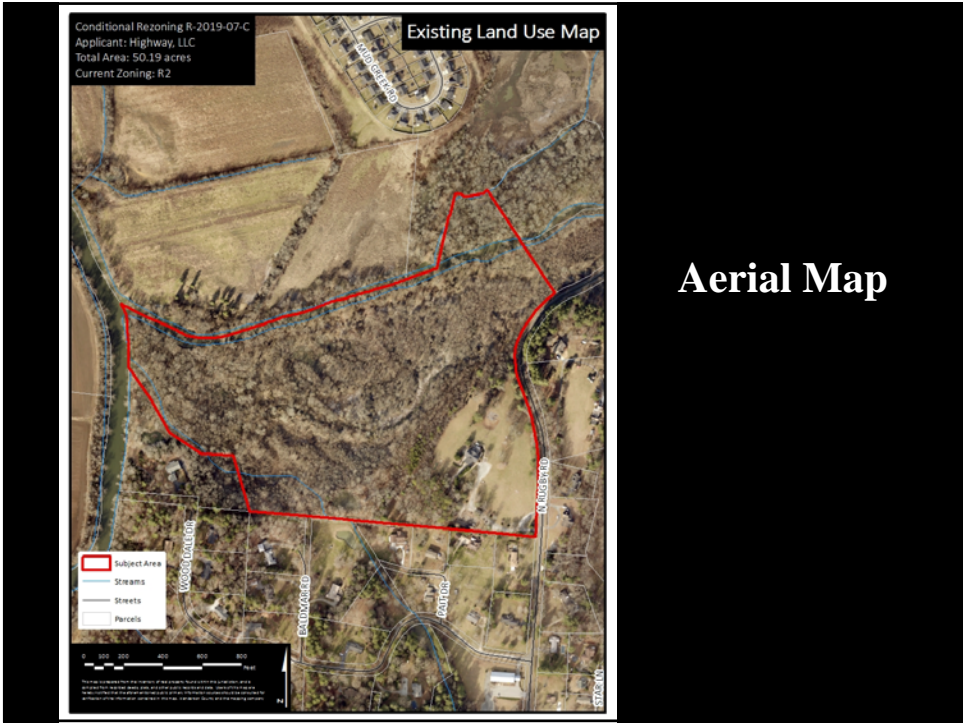
Project Summary

- Existing 16,564 square foot house with basement retrofitted to accommodate 12 hotel rooms and 25-person capacity public restaurant
- New day spa in place of existing patio
- New bakery building to support public restaurant
- New 4,320 square foot barn with taproom open to public
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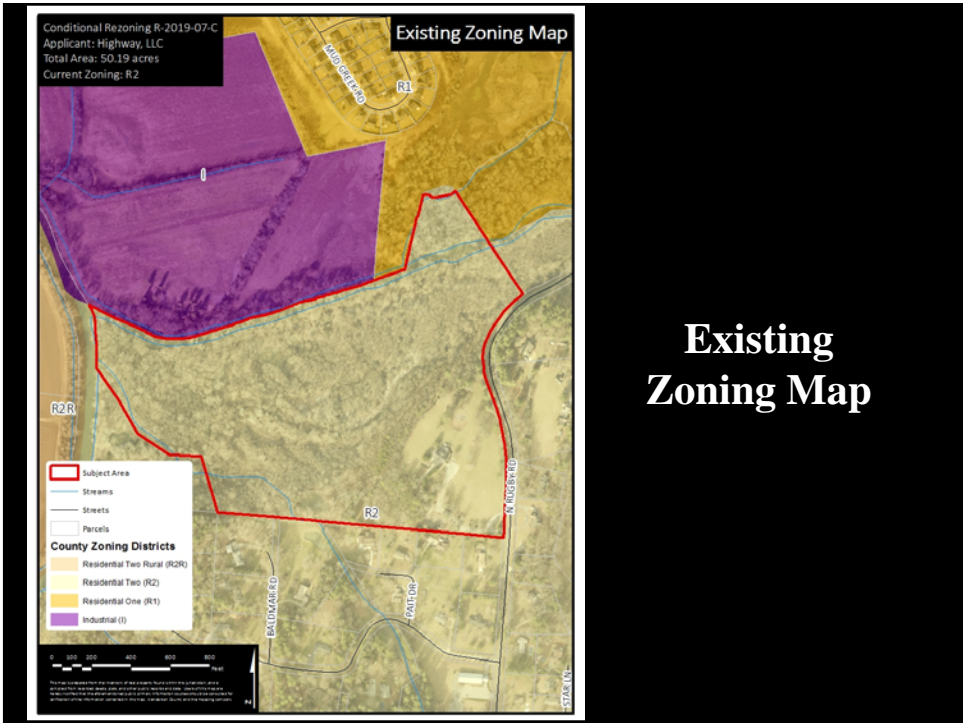
Henderson County Planning Department

County Context Map

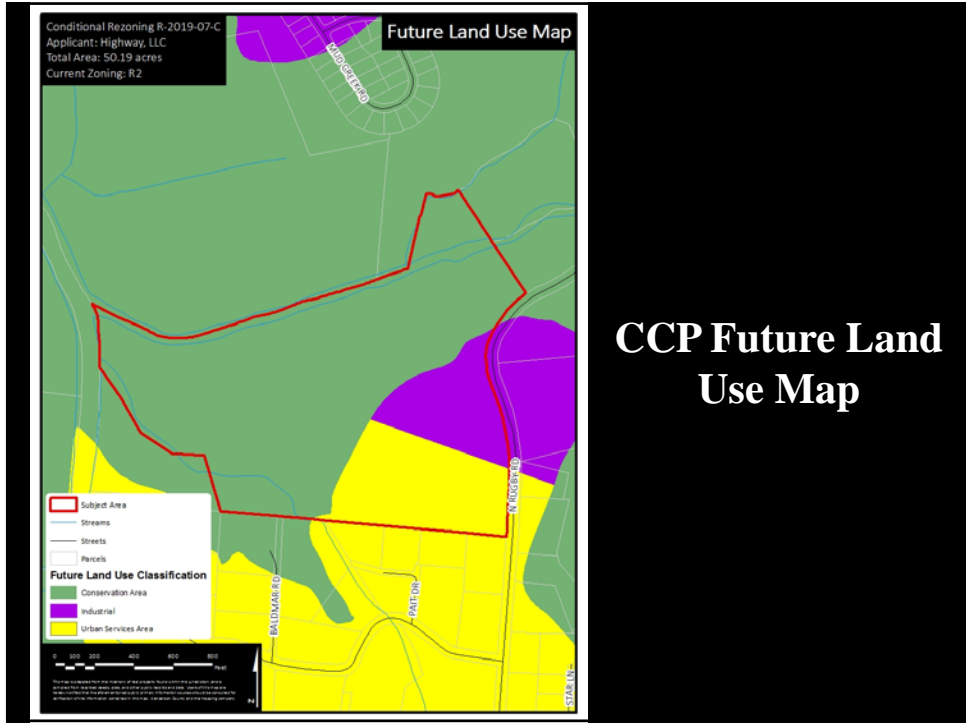




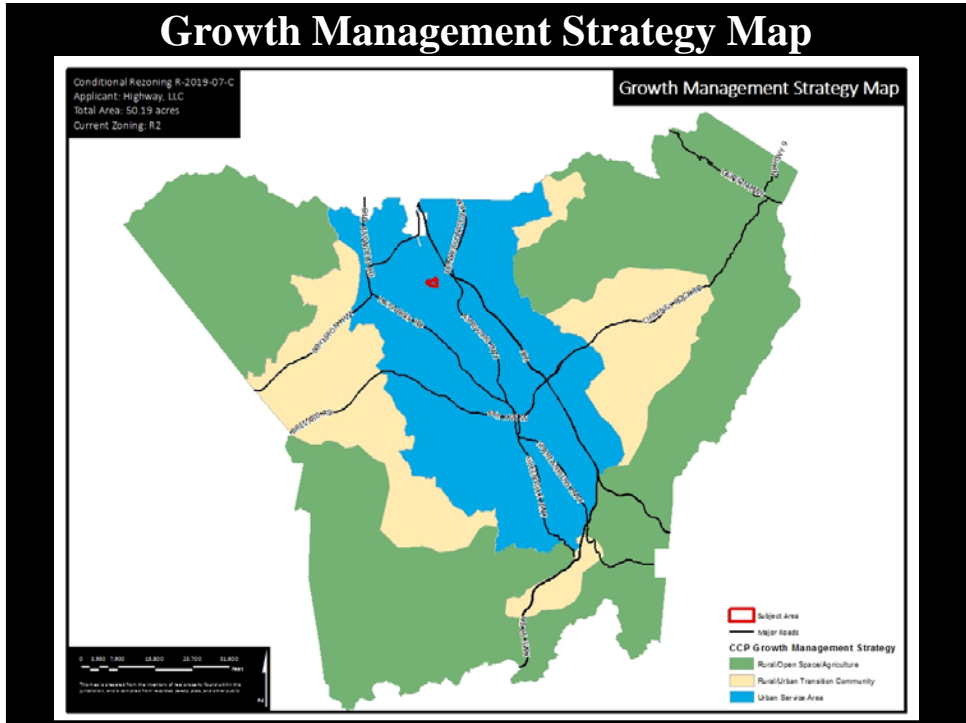
Aerial Map

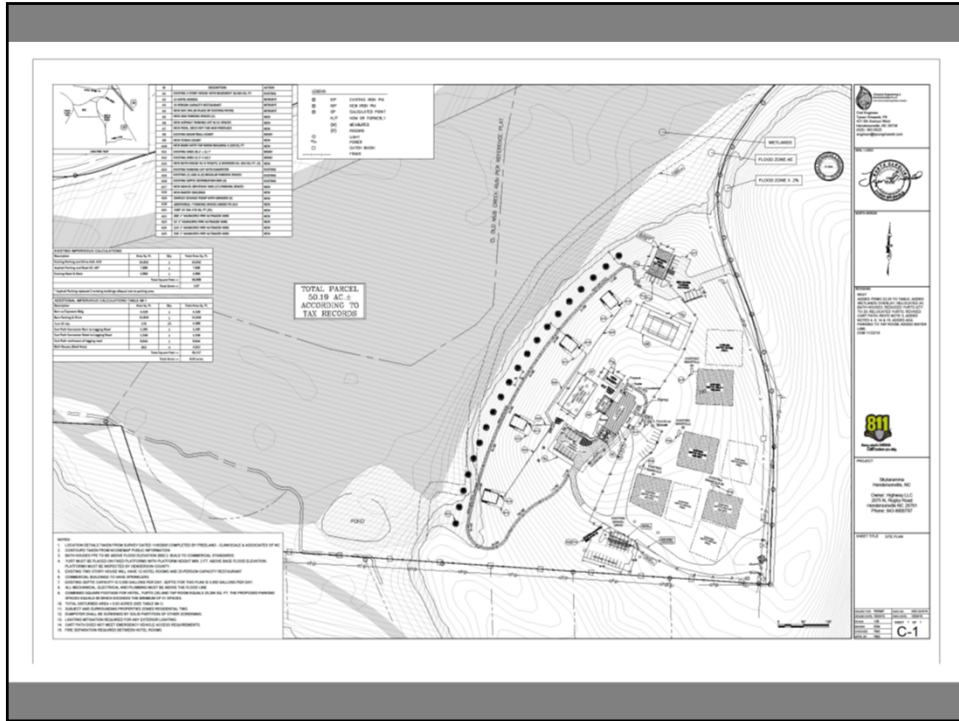


Existing Zoning Map



CCP Future Land Use Map





Conditional Rezoning #R-2019-07-C

Questions

