

# REQUEST FOR BOARD ACTION

## HENDERSON COUNTY PLANNING BOARD

**MEETING DATE:** June 18, 2020

**SUBJECT:** Conditional Rezoning Application #R-2020-03-C SE Asphalt

**PRESENTER:** Matt Champion, Project Development Planner

**ATTACHMENTS:** 1.) Staff Report  
2.) Site Plan  
3.) Neighborhood Compatibility Summary  
4.) PowerPoint

### **SUMMARY OF REQUEST:**

Rezoning Application #R-2020-03-C was submitted on May 1, 2020 and requests that Henderson County conditionally rezone approximately 6.5 acres of land from Community Commercial (CC) zoning district to a Conditional District (CD-2020-03) 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 DGP Holdings, LLC and NKMR Ventures, LLC. The applicant is SE Asphalt-Jeff Shipman, and agents are Warren Sugg with Civil Design Concepts and Brian Gulden, attorney.

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 Monday, June 8, 2020. A copy of the meeting report is included in the agenda item.

The Technical Review Committee (TRC) will review the application on June 16, 2020.

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

Staff requests the Planning Board make a recommendation to the Board of Commissioners to approve, approve with modification or deny the conditional rezoning application (#R-2020-03-C) to rezone the Subject Area to a Conditional District (CD-2020-03).

#### **Suggested Motion:**

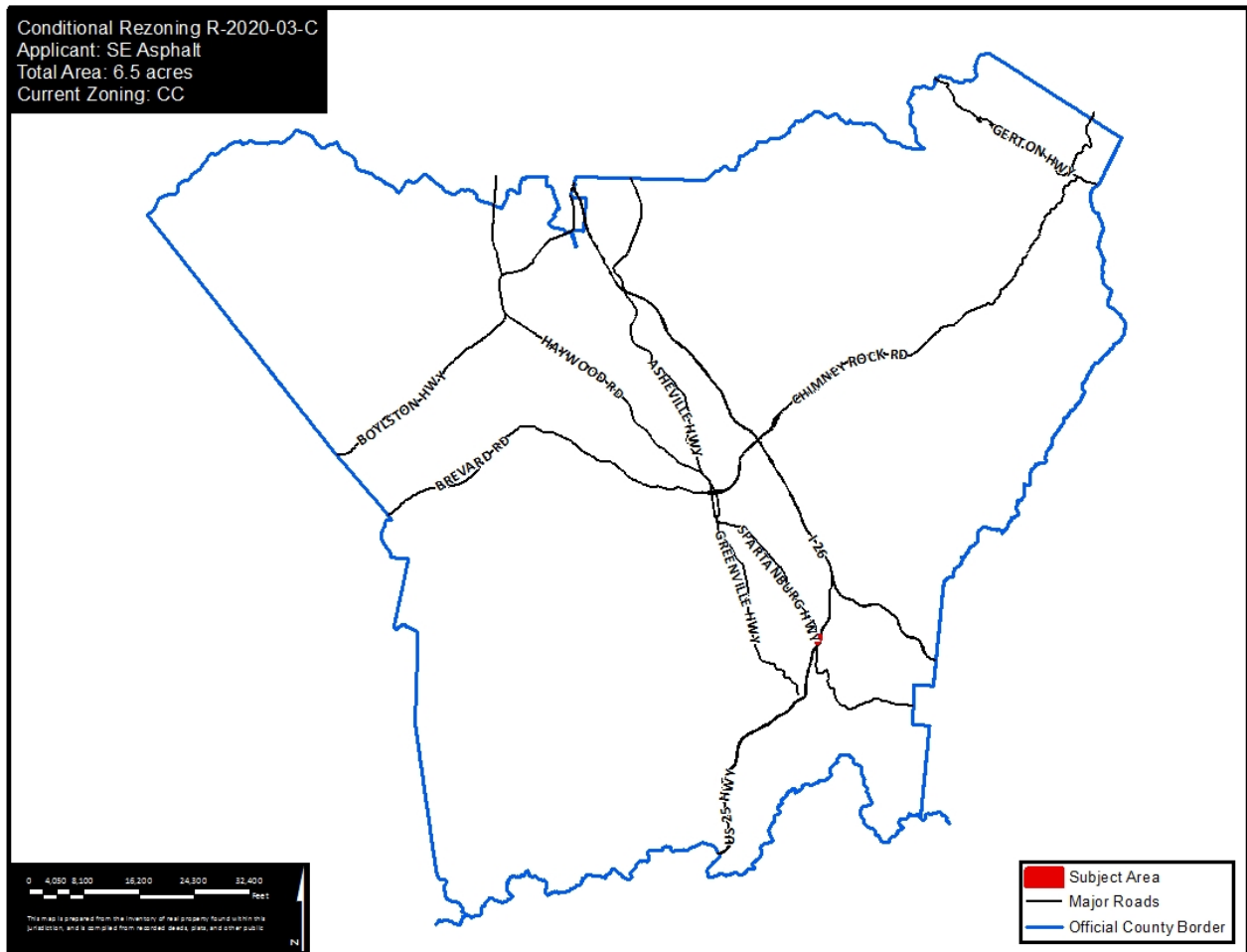
I move that the Planning Board recommend the Board of Commissioners (approve, approve with modification or deny) conditional rezoning application #R-2020-03-C to rezone the Subject Area to a Conditional District (CD-2020-03) based on the recommendations of the Henderson County Comprehensive Plan.

**Henderson County Planning Department Staff Report**  
**Conditional Rezoning Application #R-2020-03-C (CC to CD)**

**Applicant(s): SE Asphalt-Jeff Shipman**  
**Owner(s): DGP Holdings, LLC and NKMR Ventures, LLC**  
**Applicants Agent: Warren Sugg, Civil Design Concepts**

- 1.1. **Applicant:** SE Asphalt-Jeff 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-2020-03) 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 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.

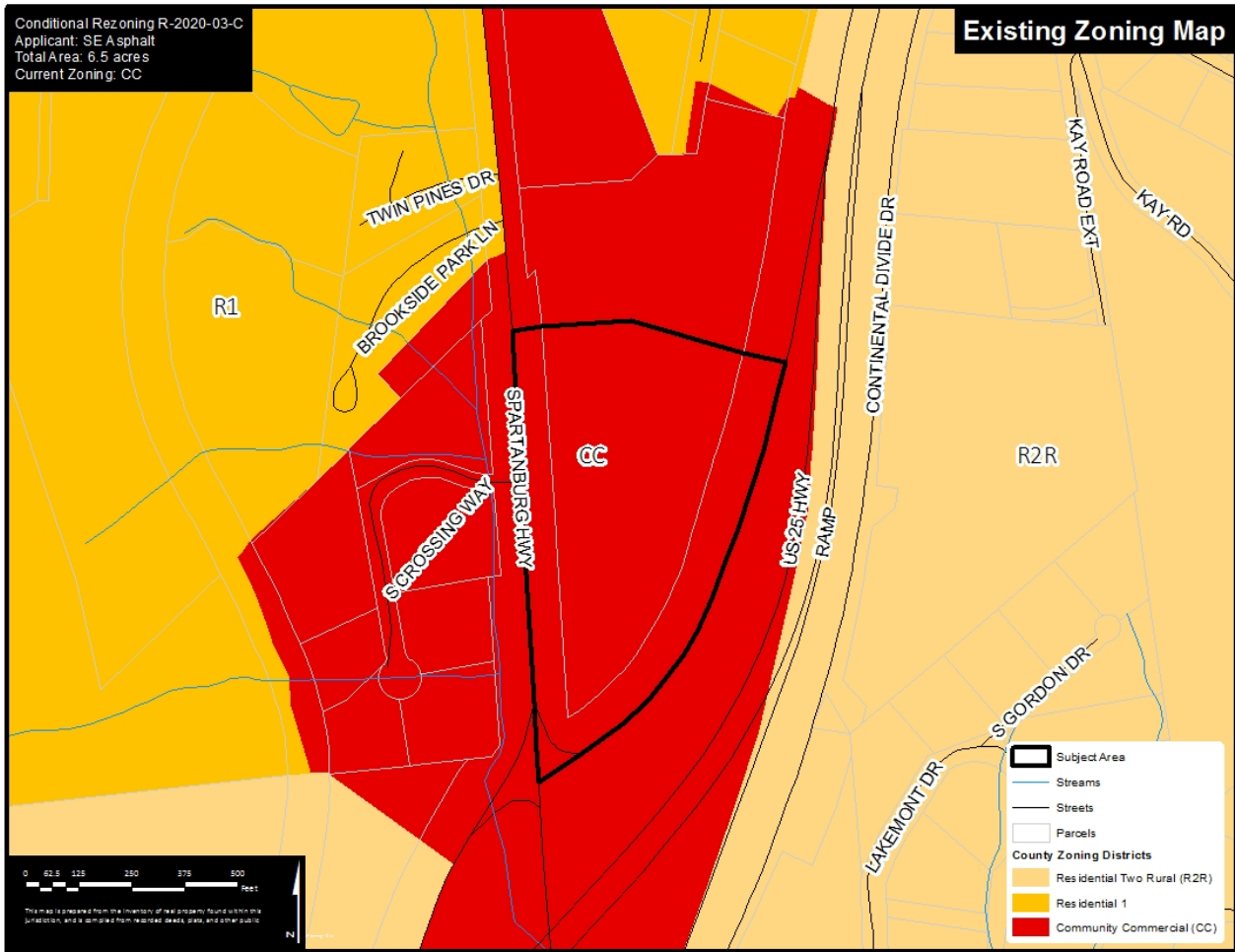
**Map A: County Context**



Map B: Aerial



### Map C: Current Zoning



## 2. Current Zoning

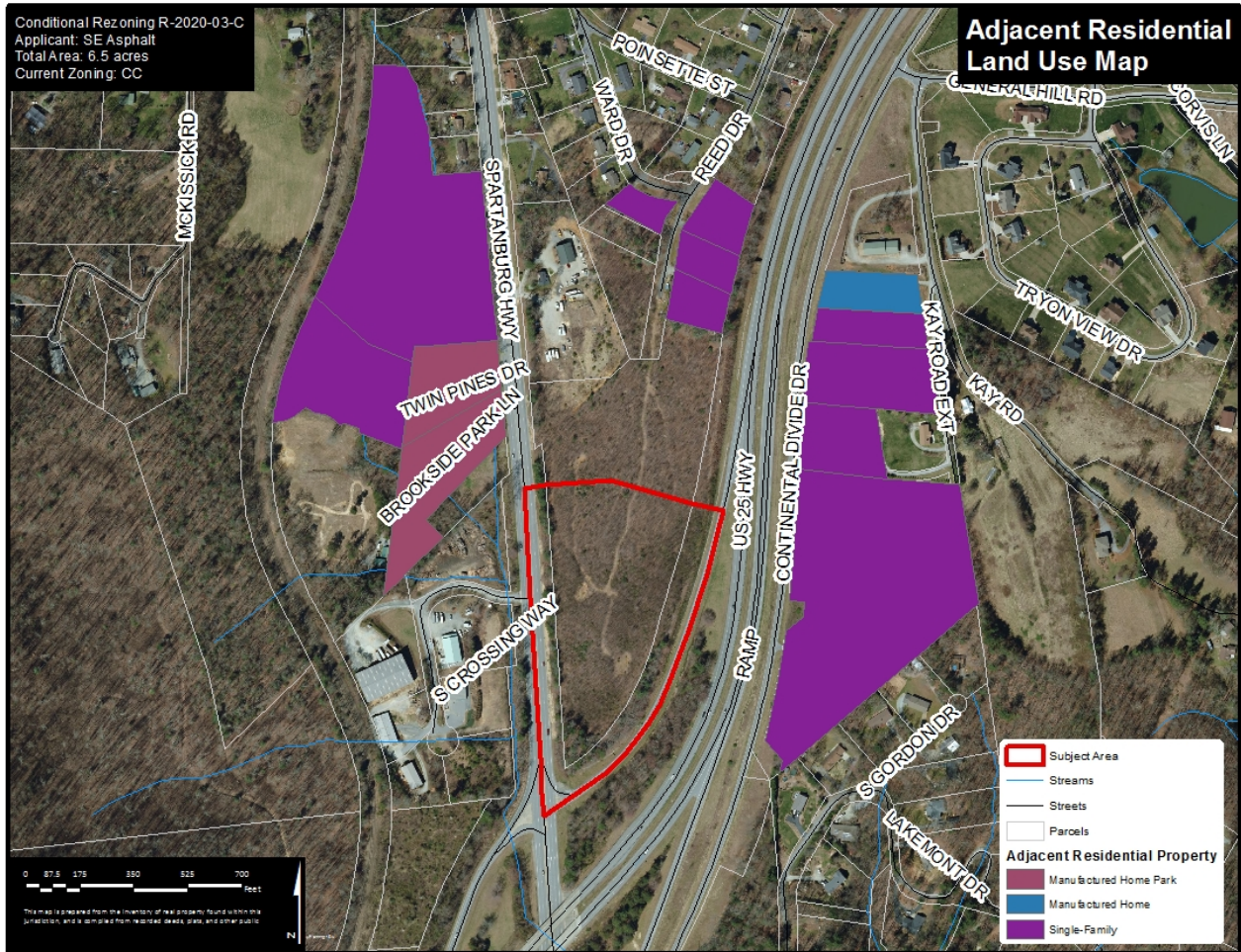
2.1. **Application of Current Zoning:** The subject area is currently zoned Community Commercial (CC). Property to the east of the subject area is zoned Residential Two Rural (R2R). Property to the north, west, and south is zoned Residential One (R1) and Community Commercial (CC). (See Map C)

### 2.2. **District Comparison:**

2.2.1. **Community Commercial (CC):** “The purpose of the Community Commercial District (CC) is to foster orderly growth where the *principal use* of land is commercial. The intent of this district is to allow for *commercial development* consistent with the recommendations of the *Comprehensive Plan*. In accordance with the *Comprehensive Plan*, the district will allow for and provide *commercial development* that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other uses done primarily for sale or profit on the local and community level; (2) is directed largely to Community Service Centers as defined in the *Comprehensive Plan*; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general use district is meant to be utilized in areas designated as Transitional (RTA) or Urban (USA) in the *Comprehensive Plan*.” Maximum floor area in Community Commercial is 80,000sq ft (LDC §42-34).

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.

**Map D: Adjacent Residential Use Map**

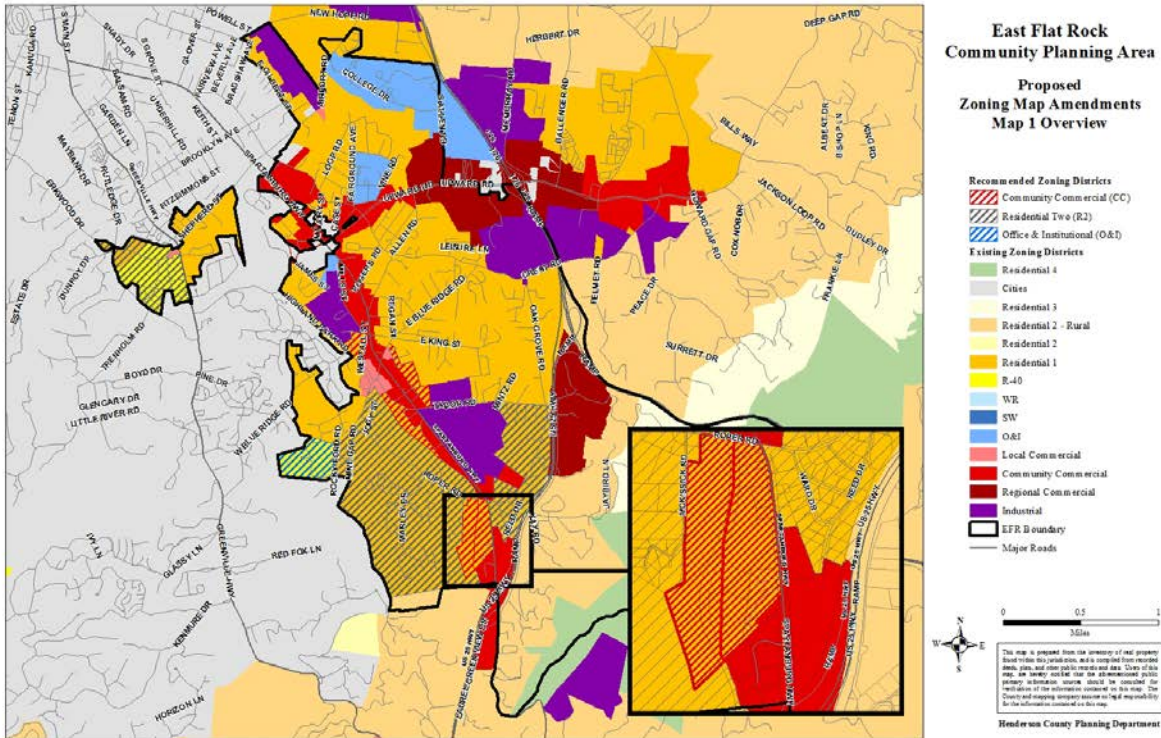


**3. Current Uses of Subject Area and Adjacent Properties**

3.1. **Subject Area Uses:** The subject area is currently vacant and heavily forested.

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

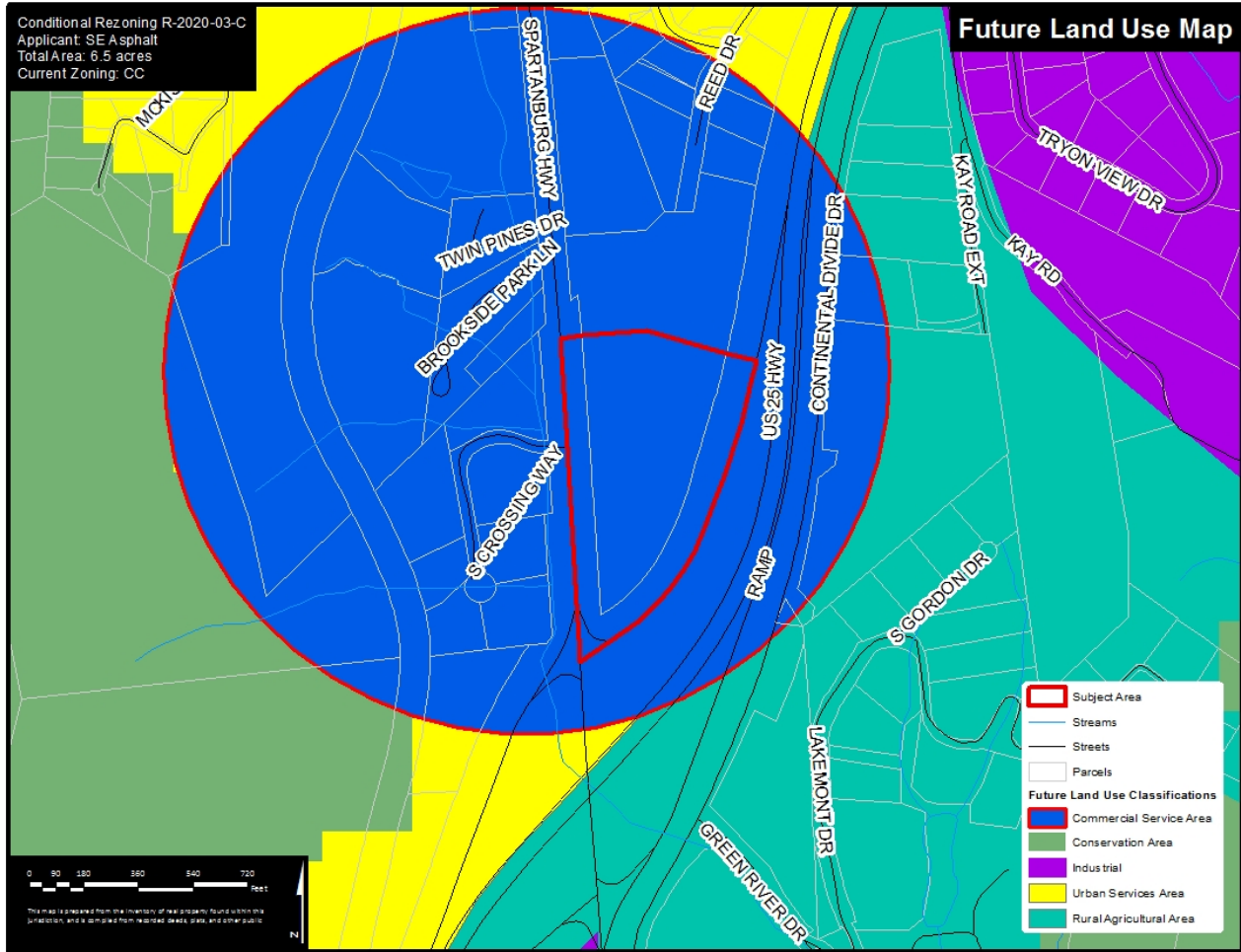
**Map E: Overview of EFR Recommended Zoning Changes**



**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).

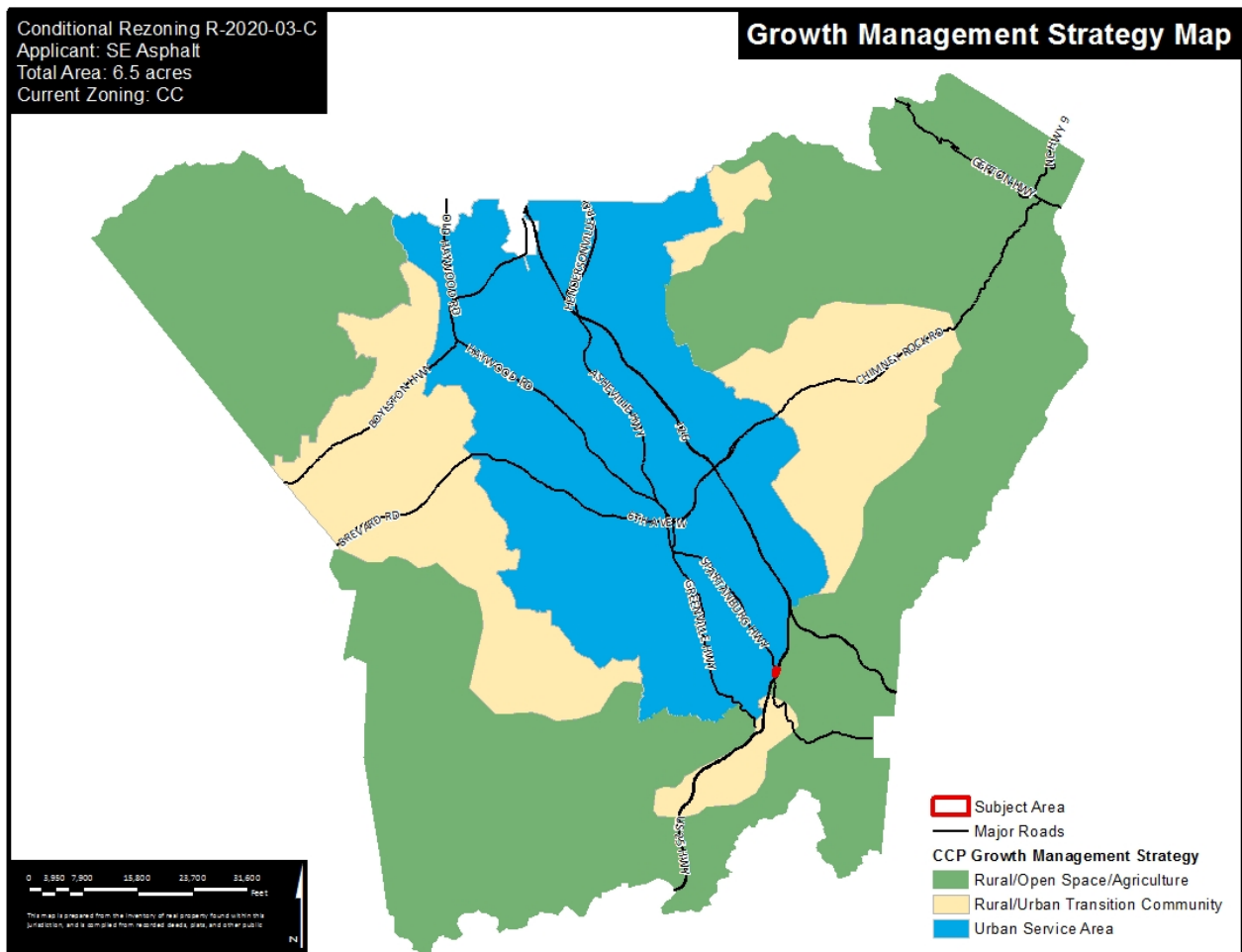
4.1.1. **Community Service Center:** *Community Service Centers* are intended to be intensive, efficient, defined concentrations of mixed services that meet the needs of the surrounding community and defined service areas. *Community Service Centers* are appropriate for a mixture of commercial uses scaled 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).

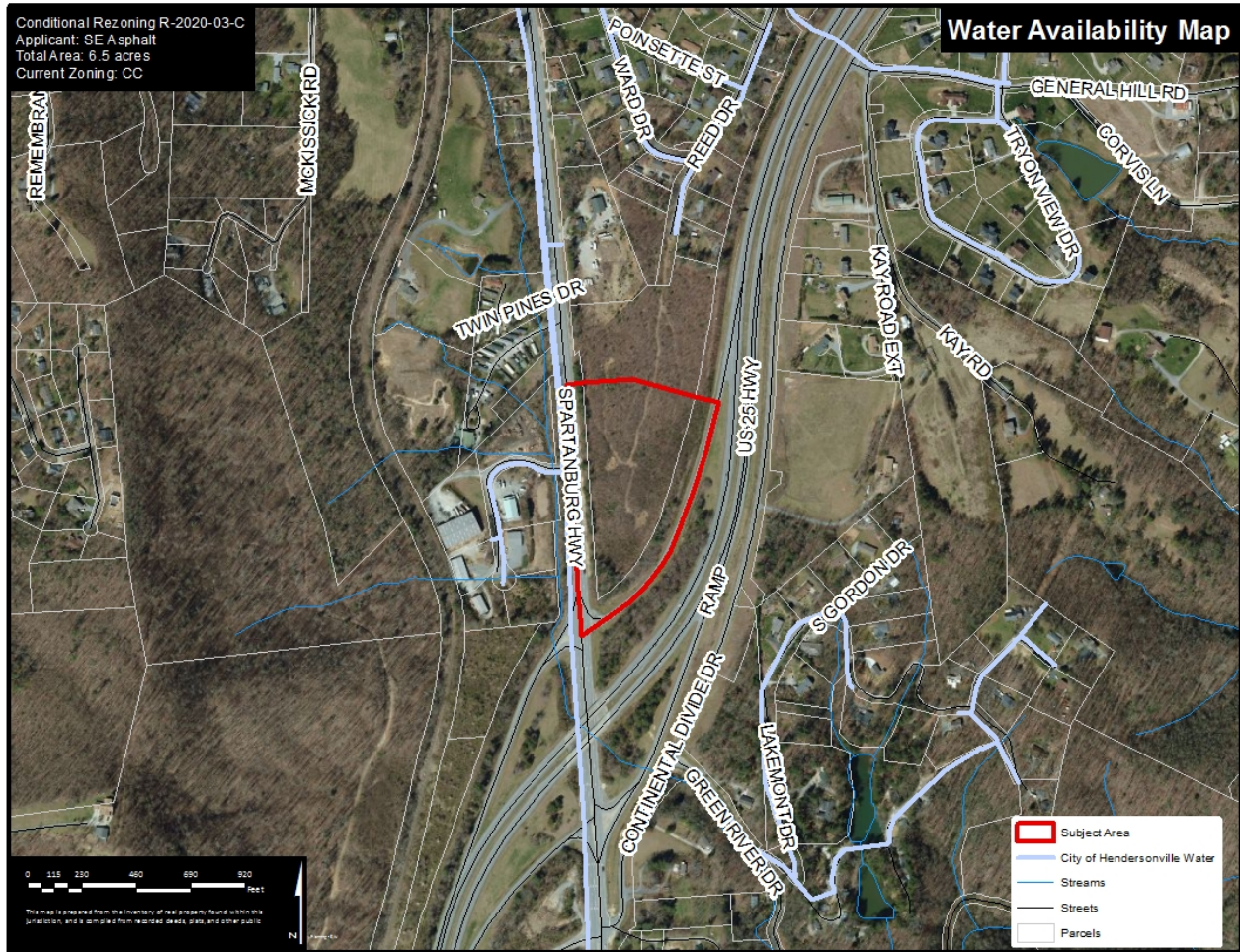
**Map H: Growth Management Strategy Map**





4.1.3. **Growth Management Strategy:** The CCP shows the subject area located in the Urban Services area 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 required to install a 30’ B2 Buffer to all residential property or property zoned residential and a 20’ B1 Buffer to all commercial property.

- 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.
- 6.1.2. B1 Buffer includes: 1 large or 2 small deciduous trees per 100 linear feet or 2 large or 6 small evergreen trees per 100 linear feet.
- 6.2. **Separation:** The applicant is required to setback 500' of an existing dwelling unit in addition to a site wide 100' perimeter setback.

**7. Supplemental Requirement 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.

**8. Proposed Conditional District (CD-2020-03) 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.

- 350 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)

**9. Neighborhood Compatibility Meeting**

- 9.1. A neighborhood compatibility meeting is scheduled for Monday, June 8, 2020 at 1:00 PM in the King Street Meeting Room. Invitations were sent to property owners within 400 feet of the subject area's boundary.
- 9.2. A report of this meeting will be forwarded to the Planning Board and Board of Commissioners.

**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 immediately 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 this section 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**

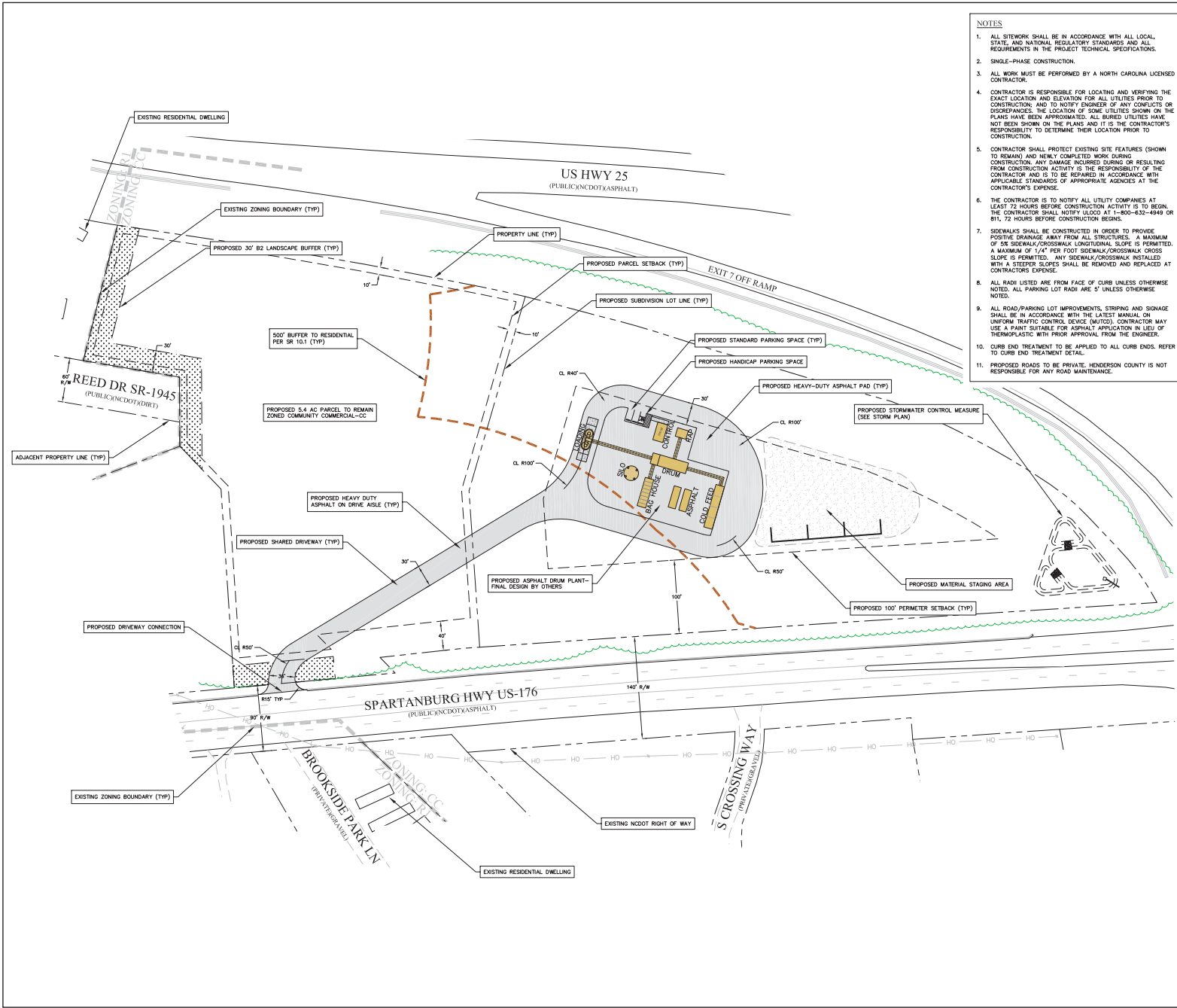
11.1. The TRC will discuss this application on Tuesday, June 16, 2020.

**12. Planning Board Recommendations**

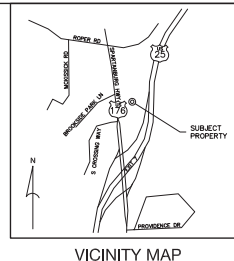
12.1. The Planning Board will discuss this application on Thursday, June 18, 2020.

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

13.1. All conditions discussed are attached to the staff report.



- 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 UCCO AT 1-800-632-4949 OR 817, 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 RADIUS 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 DEVICES (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.



**DEVELOPMENT DATA**

OWNER/DEVELOPER: SE ASPHALT  
 2997 SPARTANBURG HWY  
 EAST FLAT ROCK, NC 28726  
 JEFF SHIPMAN  
 (828) 643-0230

CONTACT: CIVIL DESIGN CONCEPTS, P.A.  
 168 PATTON AVENUE  
 ASHVILLE, NC 28803  
 WARREN SHOGG, P.E.  
 (828) 252-5368

**PROJECT DATA**

FIN: 9586-37-1990  
 ADDRESS: 9999 SPARTANBURG HWY, E FLAT ROCK  
 SEED BOOK/PAGE: 1458/24  
 SITE ACREAGE: TOTAL: 11.9 ACRES  
 PROJECT PARCEL: 6.5 ACRES  
 ZONING: CC-COMMUNITY COMMERCIAL  
 CC-CONDITIONAL ZONING

PROPOSED ZONING: CC-COMMUNITY COMMERCIAL  
 CC-CONDITIONAL 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

**PARKING CALCULATIONS:**

VEHICULAR: REQUIRED SPACES: 1 (MIN. 1/4000 SF)  
 SPACES PROVIDED: 3

HANDICAPPED SPACES: SPACES REQUIRED: 1 SPACES PROVIDED: 1

**BUILDING DATA:**

BUILDING CONTROL	DESCRIPTION	HEIGHT	GEA
STEEL		12'	350 SF

**MEANS/CALCULATIONS:**

PRE-DEVELOPMENT: IMPERVIOUS: 0.05 ACRES (200 SURF)  
 PERVIOUS: 11.9 ACRES (100%)  
 POST-DEVELOPMENT: IMPERVIOUS: 2.0 ACRES (17%)  
 PERVIOUS: 9.9 ACRES (83%)

**OPEN SPACE CALCULATIONS:**  
 N/A

**LANDSCAPING REQUIREMENTS:**  
 BUFFER 30' B2 BUFFER TO RESIDENTIAL (PLANTINGS BY EXISTING TREE CREDIT PENDING TREE SURVEY)  
 SOIL TYPE: EwE/HyC  
 SOIL GROUP: B/C

168 PATTON AVENUE  
 ASHVILLE, NC 28803  
 (828) 252-5368  
 FAX (828) 252-5368

168 PATTON AVENUE - 1000  
 ASHVILLE, NC 28803  
 (828) 252-5368  
 FAX (828) 252-5368

Civil Design Concepts, PA  
 www.civil-design.com

NCCE LICENSE # C-1814

NO.	DATE	DESCRIPTION
1	05/07/2020	CONDITIONAL ZONING SUBMITTAL

FOR REVIEW ONLY

PRELIMINARY NOT RELEASED FOR CONSTRUCTION

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

NORTH

**SITE PLAN**

GRAPHIC SCALE

(IN FEET)  
 1 Inch = 60 Ft.

SHEET  
**C201**

SEE PLAN FOR: HENDERSON COUNTY ASPHALT PLANT

SE ASPHALT - HENDERSON COUNTY, NORTH CAROLINA

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



Neighborhood Compatibility Meeting (Virtual)  
Conditional Zoning Request #R-2020-03-C (SE Asphalt)  
Monday, June 8, 2020 at 1:00 p.m.

Letters about the meeting were mailed to property owners within 400 feet of the boundary of the proposed development. Approximately 125 people attended the meeting and 161 people submitted questions online prior to 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	Project Development Planner
John Mitchell	Business and Community Development Director
Jacob Compher	Planner
Warren Sugg	Applicant's Agent, Engineer with Civil Design Concepts

Mrs. 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 gave a quick overview for the process of the meeting. The applicant would give a presentation of the proposed project, staff would proceed by asking questions to the applicant that were submitted online, followed with questions from the public participating in the meeting. She thanked everyone who has submitted comments through the various submission methods.

**Applicant's Agent Overview:** Mr. Warren Sugg, Agent, with Civil Design Concepts gave a brief overview of the project. The subject area is bound by Spartanburg Hwy and US25. The acreage of the total project PIN is 11.9 acres. The subject area is only 6.5 acres and the remaining portion of the parcel, 5.4 acres, will remain in Community Commercial. There are several buffers required of the project. The driveway for the site will be off Spartanburg Hwy. The site will access public water through the City of Hendersonville and have an on-site private septic system. The applicant is from this area and has been here for several decades. The site will be constructed for the applicant who will run the site and doesn't intend to be developed and sold off. The site is in a central location and is easily accessible for trucks to access I-26 without driving through higher residential areas. Market demand is high based on connectivity and accessibility which is a primary reason for this specific site. The site would not be running 24-7, but times of operations could vary based on contracts with NCDOT.

**Questions and Answers Discussion:** Below is a list of questions asked by the citizens that either attended the meeting or submitted questions online prior to the meeting then followed by the applicant's response/explanation. Several questions submitted online were asked by multiple

citizens. The applicant's agent just referred to previous answers when the same questions was asked.

1. Has a traffic study been conducted to determine the effect on the Level of Service on Spartanburg Highway? No traffic impact analysis is required.
2. What odor control measures will be in place and how are they monitored? State has air quality requirements for asphalt plants and is monitored either hourly, daily, or bi-annually based on those requirements.
3. What effort has been considered for the health of the individuals who are in our communities bordering this area? What risks to the elderly population that lives in the area who may already have compromised breathing issues? What can we expect from the change in air quality and odors coming from the plant? State outlines specific tolerances that an asphalt plant can emit when in operation. Applicants have hired a specialist to determine these standards and to make sure the plant will meet these standards.
4. What will be the noise level requirements for the site? Standard noise levels for any commercial activity. The site will sit down from the road which will capture the noise generated during operation.
5. How can you mitigate pollution to nearby streams like Laurel Creek which you would practically be sitting on and is one of the largest tributaries to the Green River? The project will be required to install stormwater and erosion and sedimentation controls.
6. How do you plan to protect us from chemical emissions? Comply with state requirements and controls that are in place for operations.
7. What are the plans to make the intersection of Spartanburg Hwy and Roper Road safer with the increased truck traffic? NCDOT requires a driveway permit that will outline stipulations the applicant will have to personally install or mitigate in order to operate out of the site.
8. Have the teachers and school families been notified of the potential detrimental effects of exposure to the asphalt plant air to young children who practice PE and sports outdoors? The County has set specific distance requirements that the project must be set back from residential areas. The project is designed to meet those standards.
9. What is the economic impact on residential real estate values within a ½ mile of a plant? Unable to answer what impact the plant will have on residential property values since his profession is in engineering not a property appraiser.
10. How will the smell from the plant be contained? Why can't it be located in an industrial area more suitable? Noted and already answered.
11. What will be done to protect the air we breathe and the Green River from toxins? Noted and already answered.
12. What is the risk to public health? How will it increase truck traffic on roads in East Flat Rock and Flat Rock? Noted and already answered
13. How will this plant affect the air quality for Hillandale and Flat Rock schools? Noted and already answered
14. What are the proposed hours and days of operation? Monday through Saturday from 6:00 AM to 7:00 PM.
15. Will there be a report on the environmental impact the proposed plan will have on the watershed and specifically the Green River Game Lands and will this report be made

- available to the public? The applicant has hired an environmental specialist who will perform a Phase 1 Environmental Assessment that will be performed for the site.
16. What is the justification for why the 2 existing plants in Hendersonville cannot meet local needs such that a 3<sup>rd</sup> is needed? The applicant feels like this asphalt plant is needed.
  17. Is the applicant aware of the homes in the Lakemont subdivision and how close some of these homes are to the proposed site (just across Hwy 25)? Noted and interior setbacks are in place for site.
  18. What is the county proposing as far as ensuring waste run off? The applicant will have an on-site septic system, stormwater retention controls, and erosion and sedimentation plan for runoff during development. Also, the applicant will monitor air quality during operations.
  19. Have there been health issues related to the output of an asphalt plant? The applicant is complying with the requirements outlined by the state.
  20. Will a noise study be conducted? The applicant is unaware of a potential noise study but will look into it.
  21. Why isn't this plant being built in an industrial park instead of a community? Noted
  22. Will the operator have monies but in reserve or bonds to cover any neighborhood illnesses that could be proven in the future to be directly connected to this operation in close proximity of neighborhoods. Noted
  23. How will my health and property values be protected? Have environmental studies been done to see how detrimental this will be to the area? Noted and already answered these questions.
  24. How would you like to live across the street from an asphalt plant? Noted
  25. What is the average income of the proposed plant's near neighbors? Noted
  26. What type of chemicals are used for such a plant? Have there been air quality impact surveys done to show what impact this will have on our health? Noted
  27. Why this location? The applicant chose this location due to it's proximity to US25, location to surrounding counties, and Comp Plan recommendations.
  28. How many properties in Henderson County already zoned for industrial use? Why each one is unacceptable for the proposed project? The applicant chose this site due to it's proximity to surrounding areas and major roads.
  29. How many trucks are anticipated to be entering/exiting the facility daily? 50 trucks or less per day.
  30. How was this meeting advertised to local residents? Mrs. Radcliff covered this during her introduction. Mailings to adjacent property owners within 400' of the site and advertising on the County's website.
  31. How many truck trips would the plant experience at top production levels? 50 trips or less per day.
  32. Will this plant be temporary or permanent? The plant will be permanent.
  33. What businesses or entities will be sharing the proposed driveway shown on the site plan? The applicant does not know what or if any other businesses will occupy the 5.4 acre outparcel.
  34. Is the creation of the proposed subdivision integral to the application under review? Not required, but the applicant only wants the property included in the application to be 6.5 acres.

35. How are the 30' B2 buffer to residential and 500' residential buffer requirements related?  
The 30' B2 buffer is for landscaping and screening the site from adjacent property owners, specifically residential. The 500' residential buffer is a required setback from residential uses for the entire project.
36. Would design standards from the East Flat Rock community plan be included with the construction of the site? The applicant will gladly review those design standards.

Questions below were asked by the attendees of the live zoom meeting. Following the question, the applicant's agent responded.

1. Lois Pasapane - Who owns the land? Can you list specific benefits to the community?  
Mr. Sugg, the land is owned by DPG Holdings, LLC. Benefit for community by providing asphalt to the area as infrastructure needs arise. Being proposed by someone who has been a part of this community for decades.
2. Reid - Would Mr. Sugg object to this project if it was proposed in his area? Mr. Sugg, takes the question under advisement.
3. Mark - Will they be recycling the millings of old asphalt? Catch basin for truck's being washed after dropping off the millings? Can they guarantee nothing will runoff from the site? Mr. Sugg, millings will take place on site. Wash down areas will meet state requirements for runoff and all local requirements. Will do a Phase 1 Environmental Review that will address the soil and ground containments
4. Gordon Smith - Justify the rezoning from commercial to industrial? Social justice issues surrounding GE and how will the project further those issues? Mr. Sugg, conditional rezoning is a standalone district. Not going to a straight industrial district. Social justice issues are outside of the purview of a site preparer
5. Nathan Newquist - New full-time jobs created and income? Mr. Sugg, 6 to 7 employees and well-paid workers. Not comfortable giving the full salary detail.
6. Jen - Does your client plan to sell the property after 5 years? Mr. Sugg, no they plan to remain at site and be permanent.
7. Shannon Nicholson - What is your process from hearing neighborhood complaints? Mr. Sugg, right now is the time to voice all concerns. Continue to let your concerns be voiced to us. Continue to submit questions or concerns to County Staff
8. Eric Riewerts - What is the decibel level of noise anticipated? And frequency of all operations on site? Mr. Sugg, has not quantified but anticipated not to be higher than what is on US25 and Spartanburg Hwy. Can assure that the noise and frequency will be lower than Spartanburg Hwy and US25. Required to keep the 5.4 acre outparcel as part of this process? Mr. Sugg, no and the outparcel can't just be cleared.
9. Michelle Tennant Nicholson - Why did we not postpone this since not everyone can access the meeting? Mrs. Radcliff, this is a Q&A and not the only opportunity to submit comment and questions. Trying to remain respectful of health and safety of all. Mr. Sugg, happy to continue answering questions at the end of today's meeting. The agent is speaking on behalf of the applicant since they are more familiar with the technical elements of the plan. Currently a high demand for asphalt in the community.
10. Gary Steinberg - What will be monitored as far as air pollution and air quality? At what frequency? Mr. Sugg, number of different levels. State looks at some hourly and annually based on what type of material is being put into the air



11. Buck Heatherly - How much do we need a new asphalt plant based on I-26 being concrete? Mr. Sugg, doesn't do the market research on saturation of the current market, but the applicant is trying to put money back into the economy. Property owner has ability to develop something that's in demand.
12. Tom - Has the rock quarry already said they don't want the asphalt plant within proximity to this proposed site? Mr. Sugg, the applicant is already in discussions with the quarry.
13. Dee - Expansion of I-26, has the increased in traffic been taken into consideration? Mr. Sugg, doesn't anticipate the widening will increase traffic to the site.
14. Ellen Reed - Air particulates and noise issues? Mr. Sugg, has addressed those comments, not to everyone's liking, but what the project will mitigate
15. Linda McKinnish Bridges - What are the positive contributions to the EFR community this project will bring? Mr. Sugg, positive impacts include the new jobs being created. New infrastructure projects throughout the community that this project will be able to assist with. The CZ locks the developer in to what is shown on the site plan and this is it.
16. Jenna - Why should the surrounding residents be exposed to such pollutants? Mr. Sugg, NC and Henderson County have regulations in place to help mitigate the issues the applicants may produce on site.
17. John Kosanke - Smell? How strong of a smell will this plant emit? What is the smell generated on site? Mr. Sugg, smell would be the same as the asphalt being put down on the road. The state has requirements that must be followed by the site when in operation.
18. Michelle - How would the site provide data available for the public to review? Mr. Sugg, the reports are posted on the state of north Carolinas website and are public. Monitoring of air quality is required by the state
19. Mike Murphy - How far out will the sounds be heard? Mr. Sugg, nothing more than 1/2 mile away at a maximum. Some ways it would be nice if they could be turned off, but they are required as part of safety requirements for workers. The site is will help hold the sound in since it's located in a depression.
20. Kim - How much noise? How much smell? What are the levels? Mr. Sugg, plans on having a noise study completed and will be part of the application for Planning Board and BOC
21. Grace C - What is the salary of the workers being paid? Mr. Sugg, living wage but doesn't know the exact dollar figure at this moment. The exact salary depends on the experience and can't be quantified at this moment.
22. Connie Bressler - Why can't the applicant answer the questions instead of the agent? Mr. Sugg, is a civil engineer and oversees the plan and technical elements. He is the one point of contact for the project and makes it easier to have all information channeled from one individual.
23. Hunter Wrenn - Will the applicants let the residents know what the requirements are for the state approval and how will they be mitigated if something happens? Mr. Sugg, modeling is done early in the process with regards to air quality. If after the modeling there are concerns or worries, those will be mitigated and taken seriously.
24. Liz Goyer - Can you answer the question about property values and how they will be compensated for that reduction? Mr. Sugg, intention is not to have any detriment to surrounding property values. Mrs. Sugg is a real estate agent. But Mr. Sugg is not a real estate professional and can't speak to that specific.

25. Ellen - How does the size of this plant compare to the plant owned by Tarheel in the Grimesdale neighborhood? Mr. Sugg, taking these into consideration, but this is a different site and different operation.
26. Barbara Bozon - Why do they still want to build here with so much opposition? Mr. Sugg, the applicant has chosen this location because of the high demand and best site they could find to suit their needs.
27. Erik Riewerts - How visible will the site be from the road? Will there be a berm? Mr. Sugg, there is an existing berm covered in vegetation and will remain post development. 30ft cut on the east side where the site will sit down in it. 30' and 40' depression at the bottom of the development.

Jacob Compher (on behalf of people calling)

28. Nancy Wilson - What are the intentions for another site? Mr. Sugg, this is the site chosen and will follow through with the process. Alternate routes in case of accident on I-26 or US25? Mr. Sugg, NCDOT will be the ones to address this issue.
29. Keith Sizemore - What will be done with the remaining outparcel? Mr. Sugg, undeveloped at this time.
30. Angela Davis - Does this project outweigh the negatives on the local economy? Mr. Sugg, yes.
31. Mike Webb - How will the plant be run? Mr. Sugg, plans on running off gas.
32. Bruce Griffith - Why he can't speak with the applicant? Mr. Sugg, is the agent and will answer any question citizens have.
33. Reid - Who's in the conference room with you? Mr. Sugg, the attorney, applicant and property owner in the room. Are you biased on this project? Mr. Sugg, is unbiased and is a trained civil engineer. This is his profession and is getting paid to draw this plan and see it through the process. Not financially motivated to get this project through.
34. Gordon Smith - Would the applicant be willing to store materials indoors? Loading of materials indoors? Turning the 5 acres into a permanent buffer? Sound barrier walls? Mr. Sugg, they will explore the additional buffering and inside operations instead of outside. 50 trucks is all they expect on a daily basis.
35. Lynn Frisbee - Are your answers honesty and with integrity? Mr. Sugg, yes, he has answered honestly and with integrity.
36. Connie Bressler - Will the applicant be willing to do things for the community? Mitigate environmental issues? Mr. Sugg, the applicant will resolve any issues they make.
37. Mark - How do we deal with the impacts of decreased land values? How would the applicant like it by their house? Mr. Sugg, hears your concern and doesn't have a response on how to best address a question like this. He can't judge what one person wants while others don't want. When did the piece of property get sold? Mr. Sugg, not privy to when the site was sold or changed hands
38. Ellen - How does the size of the proposed plant compares to the Tarheel plant? Mr. Sugg, 200-ton site per day which is comparable in size to tarheel. Recently, tarheel has declared bankruptcy? Mr. Sugg, the applicant is financially capable of developing the site and purchasing the site.
39. Ben Rogers - Comments about this not being a benefit to the community. Mr. Sugg, comments taken into consideration.

40. John Kosanke - Is a zero-emission asphalt plant possible? Mr. Sugg, he will inquire with the environmental consultant about this possibility.
41. Erik - 200-ton site per day? Mr. Sugg, 200-ton per hour. How many trucks per day for total operation? Mr. Sugg, it all depends on the amount of work the site has. 50 is a good estimate of trucks per day for total operations. Believes that is a peak number and not all day or every day.
42. Grace - Comments on the total number of trucks being utilized per day. Mr. Sugg, the maximum amount the plan can do per hour is 200-ton. The plant will not be operating, at that level, always.
43. Tony - Is the applicant required to or willing to compensate the loss of property values? Will the applicant pay for the health issues associated with this plant? Where does his asphalt come from right now? Mr. Sugg, at this time the comments will be taken into consideration.
44. Terri Reed - Why the creation of six jobs trumps the loss of property values? Mr. Sugg, can't speak to property values. Just wanted to iterate what the site will look like if in operation.
45. Dee - Why are we trying to change the zoning? Mrs. Radcliff, the site is currently zoned Community Commercial. The application is required to construct the proposed project since it's not permitted by right in the Community Commercial District.
46. Mark - Impact on the environment is a lot. Mr. Sugg, given the current crisis therefore the zoom meeting is taking place. He wishes all could be in a room together to discuss the project in person.
47. Erik Riewerts - Top of the berm to top of the plants highest tower? How much does the tower stick out? Mr. Sugg, the applicant is still determining which exact plant will be built. So, can't give a definitive answer on how high the tower will stick out. At what point in the process does everyone know what exactly is to be built? Mrs. Radcliff, the applicant is for an asphalt plan and that's it. Conditions can be placed on the property to regulate the height and additional buffer requirements. Can't build any height whatever the applicant wants, because the commissioners will place a limit. In the Community Commercial district, the current height restriction is 50'. The height is not unlimited.
48. Angela Davis - Would the owner be willing to publish what an asphalt plant process looks like? Mr. Sugg, the applicant can pull together a description of how the asphalt plant works and the different modeling required for the state. The termination date for the project is not known at the moment and wants to know what the TRC and Planning Board have as comments.
49. Ben Rogers - Is this plant self-regulated? Mr. Sugg, no, all the information must be reported to the state not directly to the feds. All levels must be reported. What is going to happen with the by-product? Mr. Sugg, will investigate it.
50. Linda McKinnish Bridges - Questioned his honesty and integrity. Why Mr. Shipman couldn't give an introduction for the project? Mr. Sugg, the applicant is in the room and his council Brian Golden. Has tried to be as honest and upfront as possible during this process.
51. Terri Reed - Will his employees monitor the materials and air quality? How often does the state monitor the site? Will they test adjacent property and impacts? Will residents get a report of the findings? Mr. Sugg, all reporting will be done employee and third party. Does not know how often the state will come and inspect the site. The reports are

viewable online through the state's website. Mrs. Radcliff addressed a comment about who can represent the applicant. Mr. Warren Sugg is the agent for the applicant.

52. Jenna - Asphalts smell with interaction of the fog? Applicants business history with asphalt? Mr. Sugg, the applicant has been doing this for several decades. Part of the monitoring and requirements by the state is to investigate the interaction asphalt has with the fog. The applicant does not own another asphalt plant but has been in the business for decades. This is a very long process and still requires multiple approvals even after the BOC.
53. Michelle Tennant Nicholson - Not capturing the YouTube comments. People were unable to attend the zoom meeting or submit comments. Mrs. Radcliff verified that we had multiple methods to submit comments. We will go back and pull the comments from the YouTube channel and provide them to the applicant. If we have Spanish speaking individuals the County and applicant will go back and make sure they can review all materials. Will parrots adjacent to the site die? Mr. Sugg, everyone is concerned with the air pollution, but it's not a guarantee that wildlife will die.
54. Erik Riewerts - Is the applicant willing to keep the remaining 5.4 acres not included in this application as a permanent buffer? Mr. Sugg does not know what is permitted by right in the Community Commercial district. Mrs. Radcliff gave an overview of what is permitted in the Community Commercial district. This project requires specifics vs. a general use district. In the community commercial district, a rezoning to that district all the uses must be taken into consideration. The conditional district limits the uses based on what is shown on the site plan. The applicant is leaving that remaining portion under the community commercial. Whatever is permitted by the right in the Community Commercial is allowed on that remaining portion. Mr. Sugg will take into consideration of that remaining property to be a buffer.
55. Steve Gospodinoff - Has the applicant be made aware of the potential for loss of property values? Mr. Sugg will take those comments into consideration. Mrs. Radcliff clarified that the property was zoned Open Use in 2001 then community commercial in 2007 during the adoption of the LDC.
56. Christie Rogers - Does he own other businesses? Mr. Sugg said the applicant doesn't have any other plants just works in the asphalt business up until this point. What was the property value differences between pre asphalt plant and post asphalt plant? Has there been a study of the economic impact of the asphalt plants in the area? Mr. Sugg said they would look into it.
57. Ben Rogers - Will there be protective ground lining or a waste treatment pond on site? What guarantees is the applicant going to put in place to protect the water and soil? Mr. Sugg said the onsite waste system will be a septic system. The runoff from the site will be controlled by a retention pond.
58. Gordon Smith - Will there be a place online to view all the questions and answers from today's meeting and unanswered questions? Mrs. Radcliff said there will be responses to today's questions in a summary which will be forwarded on to the Planning Board and BOC. The applicant will have additional time to submit responses to questions they were unable to answer. The recording of the meeting will be reviewable online. The NCM is not required by State law, but instead a requirement of the LDC. The Planning Board will be Thursday, June 18, 2020 through zoom. The TRC will be held Tuesday, June 16,

2020 through zoom as well. The TRC is a technical review only and doesn't have any approval authority of the project.

59. Michelle Tennant Nicholson - Can you please address that your brother in law owns Tarheel Paving although you said you didn't have other family members in the in-asphalt business? Mr. Sugg said he will take it into consideration.
60. Erik Riewerts - When do we see the environmental plan for the project? Mr. Sugg said the consultant was brought on board and will have it completed prior to the planning board meeting. Mrs. Radcliff said that the county does not have regulations in our current code that addresses state regulations. They must meet the additional requirements at those levels, but the county doesn't regulate those specifics. County will enforce that the additional state approvals necessary and make sure that all those approvals are in prior to any building should commence.
61. Jenna - why did the applicant not disclose that he said he didn't have family in the business? Mr. Sugg said his brother was part of tarheel at some point.
62. Janis - Does the applicant have training to run a plant? Mr. Sugg said the applicant has been in the business for multiple years and will employ the correct people to run this plant. His intent is to follow all the rules required.

With no further questions, Mrs. Radcliff stated the upcoming meetings this project will be discussed or reviewed. Final approval rests with the Board of Commissioners. She thanked all who attended the meeting today.

Meeting concluded at 5:09 PM

**Meeting Follow Up Note:** Staff sent a copy of this report to the applicant's agent to provide any additional answers or follow up information as request by citizens. The applicant received this report and request on Tuesday, June 9<sup>th</sup>. Any information submitted by the applicant will be sent to the Planning Board and Board of Commissioners.

## Rezoning #R-2020-03-C SE Asphalt



Henderson County Planning Board  
June 18, 2020

*Henderson County Planning Department*

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## 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*

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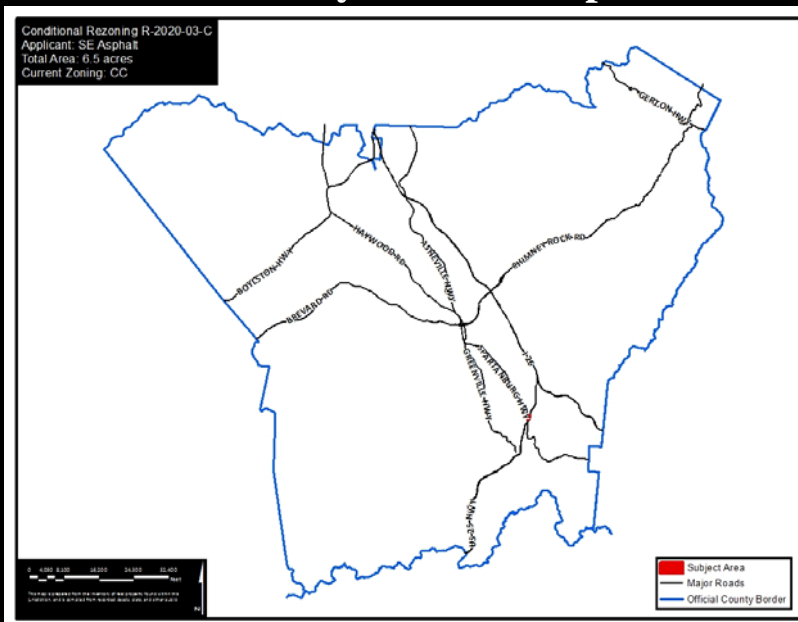
# Application Summary

- Conditional Rezoning Request: R-2020-03-C
- Submitted on May 1, 2020
- Owner: DGP Holdings LLC
- Applicant: SE Asphalt-Jeff Shipman
- Agent: Warren Sugg
- Rezone from Community Commercial (CC) Zoning District to a Conditional District (CD-2020-03)
- Subject Area is 6.5 Acres
- 5.4 Acres to Remain Community Commercial (CC)

*Henderson County Planning Department*

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## County Context Map



*Henderson County Planning Department*

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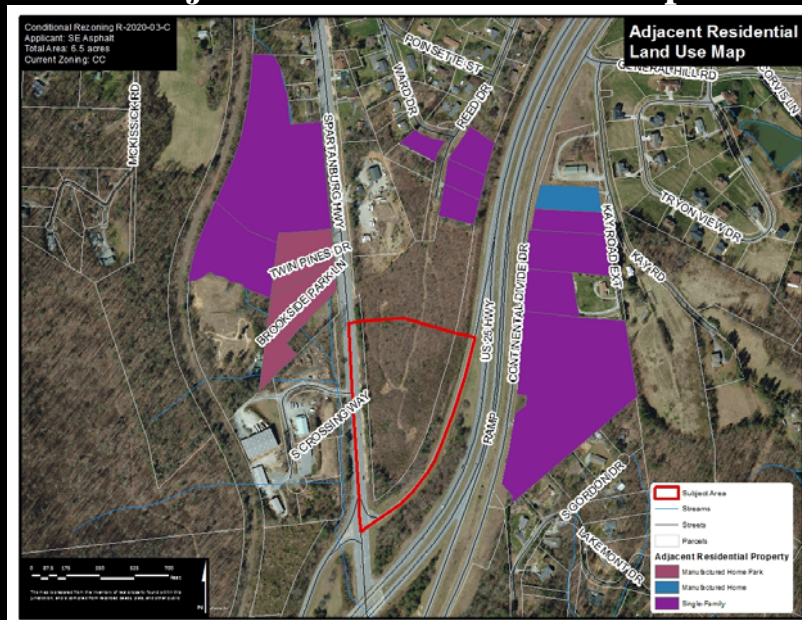
# Aerial Map



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# Adjacent Residential Use Map

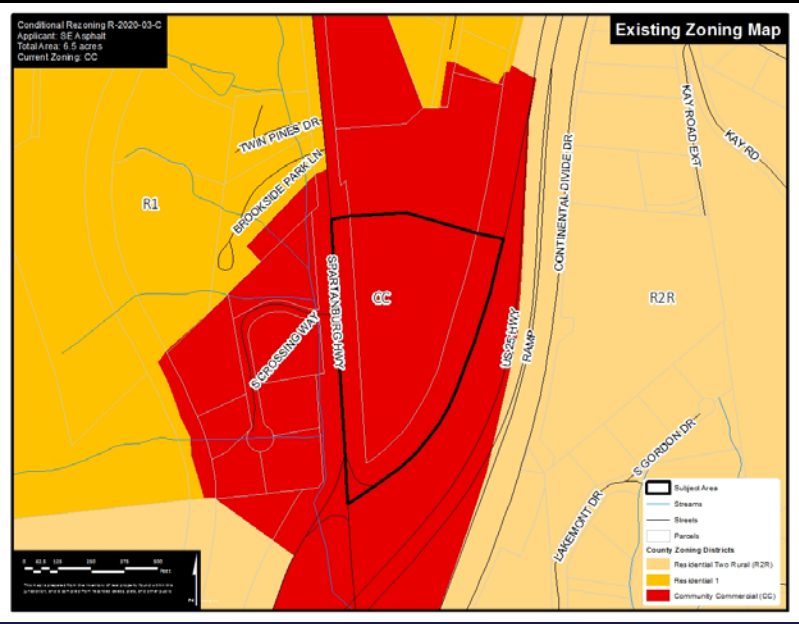


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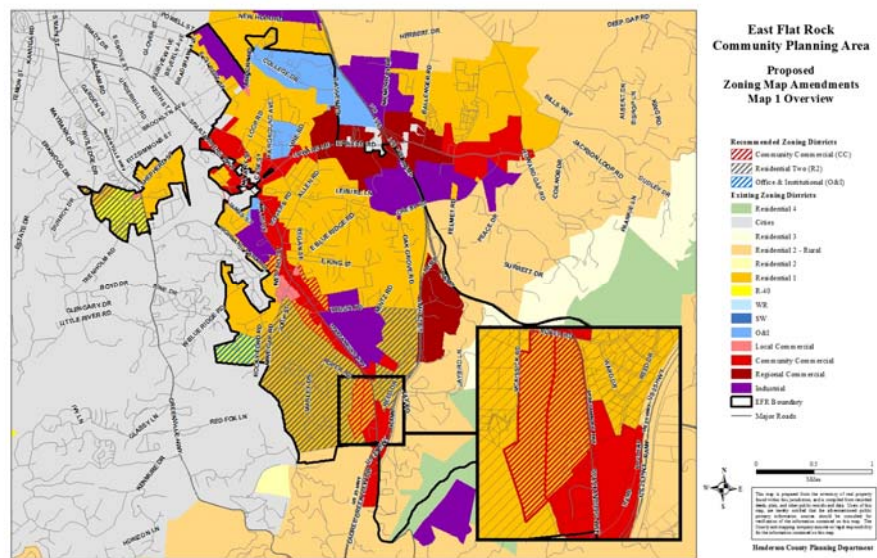
# Existing Zoning Map



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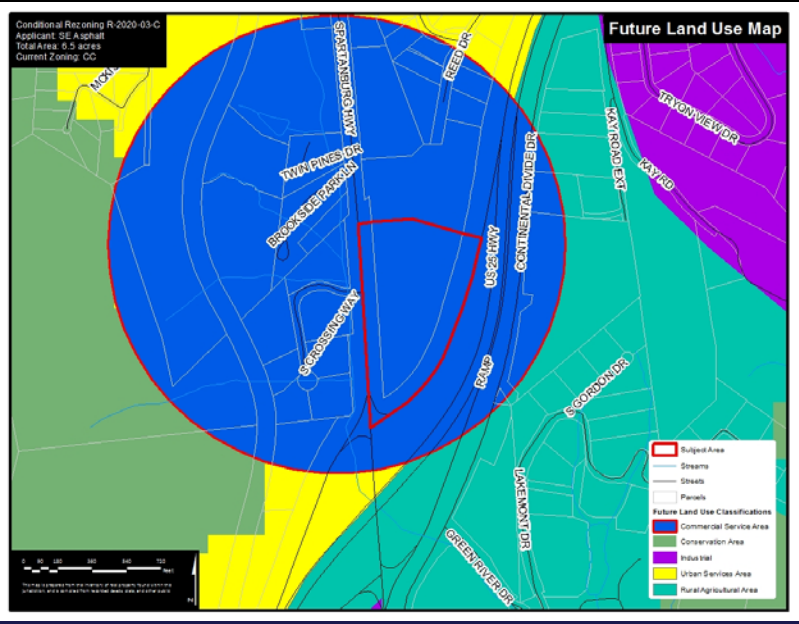
# EFR Recommended Zoning Changes



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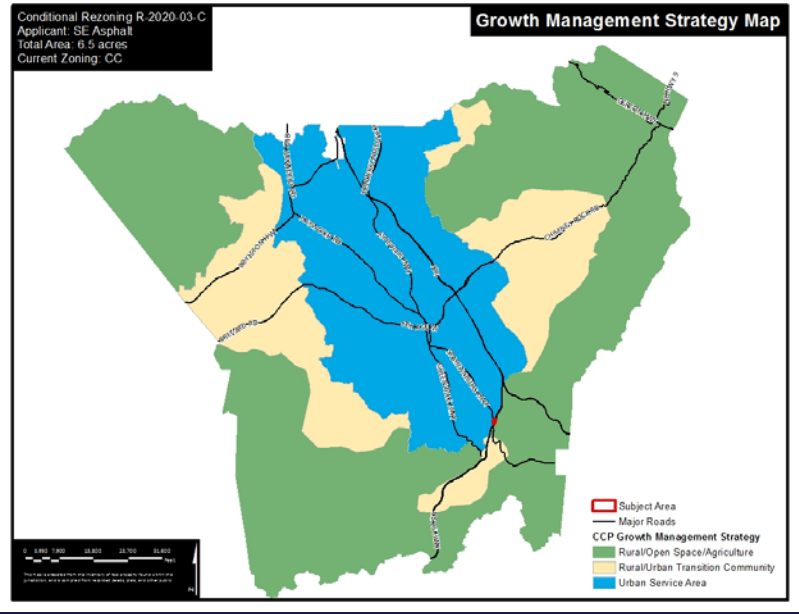
# CCP Future Land Use Map



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# Growth Management Strategy Map



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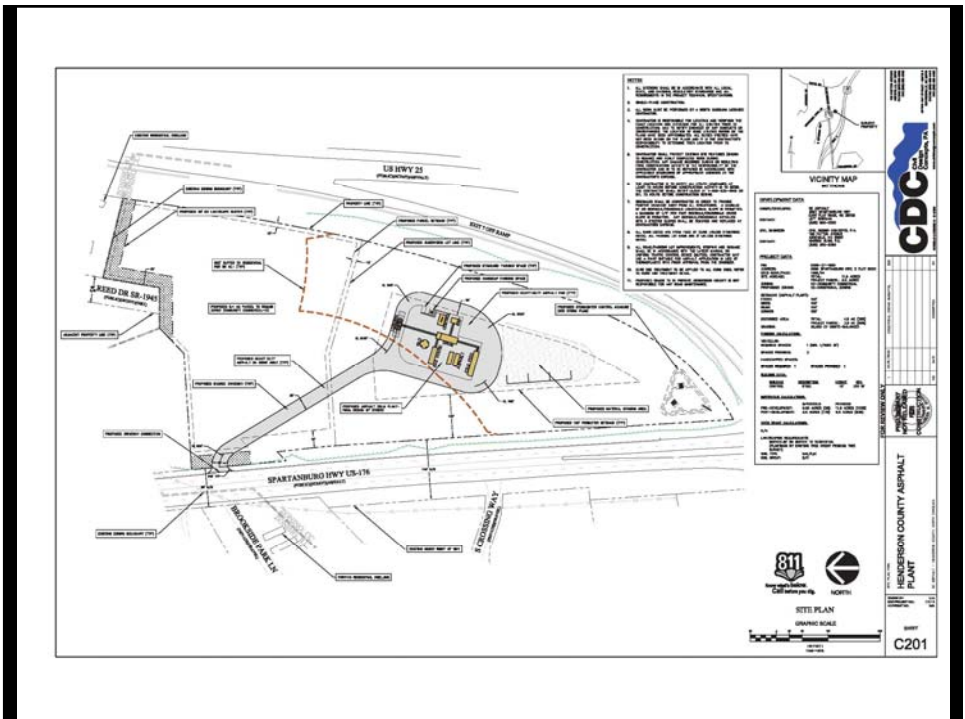
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# Water Availability Map



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## Site Plan Summary

- 6.5 Acres (Remaining 5.4 acre portion not included in this application)
- 350 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)

*Henderson County Planning Department*

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## Next Steps:

Neighborhood Compatibility Meeting: Monday, June 8, 2020 at 1:00pm

Technical Review Committee: Tuesday, June 16, 2020 at 2:00 PM

Planning Board: Thursday, June 18, 2020 at 5:30 PM

Board of Commissioners: Public Hearing will be scheduled at a later date. The County Clerk will submit official notification when the hearing is announced.

\*Due to concerns with COVID-19 and to meet social distancing requirements, these meetings will be remote. Please visit the county website for remote meeting access.

*Henderson County Planning Department*

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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.

1. Written comment addressed to Planning Department at 100 N. King Street, Hendersonville, NC 28792\*
2. Emailed to [hcplanning@hendersoncountync.gov](mailto:hcplanning@hendersoncountync.gov)
3. Calling the Planning Department at 828-697-4819 M-F, 8:00 am to 4:30 pm
4. Submitted directly online at the [hcplanning.org](http://hcplanning.org)
5. Public comments limited to 3 minutes. Public comments will be read aloud during meeting and part of the official minutes.

*Henderson County Planning Department*

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## Conditional Rezoning #R-2020-03-C

# Questions



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