



CITY OF HENDERSONVILLE
PLANNING BOARD REGULAR MEETING
Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Thursday, February 08, 2024 – 4:00 PM

AGENDA

1. **CALL TO ORDER**
2. **APPROVAL OF AGENDA**
3. **APPROVAL OF MINUTES**
 - A. Minutes of January 11, 2024
4. **OLD BUSINESS**
5. **NEW BUSINESS**
 - A. Administrative Review: Preliminary Site Plan– Estrada and Sons Expansion (A23-32-SPR) – *Tyler Morrow – Planner II*
 - B. Rezoning: Standard Rezoning – Upward Rd-Spinx (P24-07-RZO) – *Matthew Manley, Strategic Projects Manager*
 - C. Zoning Text Amendment: Tree Canopy Preservation & Enhancement (P24-08-ZTA)
6. **OTHER BUSINESS**
7. **ADJOURNMENT**

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the Community Development Department no later than 24 hours prior to the meeting at 828-697-3010.

Minutes of the Planning Board Regular Meeting - Electronic January 11, 2024

Members Present: Jim Robertson (Chair), Peter Hanley, Beth Robertson, Laura Flores, Donna Waters, Tamara Peacock

Members Absent: Barbara Cromar, Yolanda Robinson

Staff Present: Tyler Morrow, Planner II, Matthew Manley, Strategic Projects Manager, Lew Holloway, Community Development Director (Zoom)

I Call to Order. *The Chair called the meeting to order at 4:00 pm. A quorum was established.*

II Approval of Agenda. Chair stated the agenda has changed and the 715 Greenville Highway application has been removed by the applicant. There are two city initiated text amendments that were on the agenda. The Childcare Home amendment and the definitions amendment which were to be presented by Alex and she is out sick so these two items have been removed. ***Mr. Hanley moved to approve the revised agenda. The motion was seconded by Ms. Peacock and passed unanimously.***

Lew Holloway, Community Development Director stated for clarification that the applicant for 715 Greenville Highway requested to have their application removed from the agenda tonight. Chair stated so they have not withdrawn their application. Mr. Holloway stated they have not withdrawn their application, they asked to be removed from tonight's agenda.

III Approval of Minutes for the meeting of November 9, 2023. ***Ms. Peacock moved to approve the Planning Board minutes of the meeting of November 9, 2023. The motion was seconded by Ms. Waters and passed unanimously.***

Chair stated normally the Planning Board does not allow for public comment before the meeting because they do allow for public comment before each item. He stated because 715 Greenville Highway was on the agenda and some folks showed up tonight expecting it to be on the agenda he is going to allow for two minutes by any member of the public that wishes to speak tonight about anything that is maybe not on the agenda any longer to make comments. Chair stated if anyone would like to make any comments he will allow two minutes at this time.

Lynne Williams, Chadwick Avenue stated she submitted photos to the Board for the 715 Greenville Highway rezoning which included the entire front section of Greenville Highway where the entrance and exits for the project would be and that was completely submerged in water. The back of the property was also completely flooded. It is an island on the southside of town and if she needed to go to the hospital she has to think of alternative routes to get there and is unable to find one. She was concerned about the loss of trees and the loss of the floodplain and has stated this at several Planning Board meetings. Ten-year storm drains are not sufficient with these large development sites. She suggested making increments for the requirements for the storm system. This was not pouring rain but lightly sprinkling for a day. She was concerned about the impacts of these larger developments.

Sandra Williams, 309 Chadwick Avenue (Zoom) stated it was interesting to her that this was to be submitted for rezoning today and nature decided to show them what it would be like if the apartments were there. If it is resubmitted she will show up for that meeting and bring photographs and remind the city that

the flooding could happen at any time and it was a mess. She complimented the first responders for their work during the flooding. If this was to happen again it would be hard for the responders to get 184 people out of a building if the building was there on that corner. She objects to the project and thinks nature showed us why it is not the proper place for 184 apartment units with families and children living in them.

Chair closed public comment.

IV Old Business

V New Business

V(A) Zoning Map Amendment- Standard Rezoning – 116 Stewart Street (P23-96-RZO). Mr. Manley gave the following background:

The property is located at 116 Stewart Street. The property owners are Roger and Deborah Grant. It is a 0.44 acre tract of land that is zoned R-15 and the applicants are requesting it to be rezoned to GHMU, Greenville Highway Mixed Use. There is a single-family dwelling on the property. The Future Land Use Designation is High Intensity Neighborhood.

The current land use map was shown and is included in the staff report and the presentation. Mr. Manley discussed the map.

A use comparison table was included in the staff report and the presentation. The dimensional requirements were included and discussed.

Site photos were shown and included in the staff report and the presentation. The new construction above the garage was pointed out.

The 2030 Comprehensive Future Land Use Map was shown in the staff report and presentation.

Comprehensive Plan Consistency was discussed and is included in the presentation and staff report.

General amendment standards were discussed and are included in the staff report.

A draft consistency statement is included in the staff report.

Rationale for approval and denial were included in the staff report.

Chair asked if there were any questions for staff.

Chair asked about Supplementary Standards for Accessory Dwelling Units in the R-15 district. Mr. Manley stated he wasn't sure off the top of his head but one standard is the accessory dwelling unit cannot exceed 800 square feet. And there can only be one accessory dwelling unit per lot. Chair asked why they restrict that to 800 sq. ft. Mr. Manley stated the nature of the accessory dwelling unit is that it is subordinate to the primary structure. Other places require accessory dwelling units to be a percentage of the primary structure. Chair asked when this requirement was established. Mr. Manley stated that was before his time. Accessory dwelling units are allowed in all residential districts.

Chair asked about Bill HP365 allowing accessory dwelling units by right. Mr. Manley was unaware of this bill.

Chair asked where 122 Stewart was on the map. Mr. Manley stated the property is north of the city limits line. Chair stated this is the only other property not zoned GHMU.

Roger Grant, 116 Stewart Street stated his name and address for the record. Chair stated because the Board needs to consider all the permitted uses for a rezoning, he asked Mr. Grant not to tell the Board what they have planned.

Mr. Grant stated he is simply looking for the same zoning that the rest of his neighbors have. That street and across the street from him are all zoned as GHMU. Adjacent to him is GHMU. His property is sitting there in a different zoning requirement and that is why he would like to have his property rezoned.

There were no questions for the applicant.

Chair opened for public comment.

Lynne Williams, Chadwick Avenue was concerned about neighbors being pushed out by commercial uses and the impacts this will have on the neighborhoods. She was concerned about the GHMU zoning having no minimum lot size requirement and no density cap. The GHMU zoning continues to grow and this has a huge impact on residential neighborhoods and Chadwick Avenue. She was concerned about extending GHMU and this not being consistent with the Comp Plan's goals. There are no checks for stormwater for properties under one acre. She was also concerned about open space with new construction. This cuts into the residential character of the neighborhood and she is concerned about the permitted uses in the GHMU zoning district.

Chair closed public comment.

The Board discussed the change not being extreme compared to the existing zoning. The applicant is limited to what he can do there with the size of the property. Ms. Waters asked about a variance. Chair stated he believes the rezoning was recommended by staff to the property owner. Mr. Manley stated variances are based on a hardship. Board discussed the definitions and the removal of the term garage apartment. Mr. Hanley felt this was no big deal and fits in with the neighborhood.

Mr. Hanley moved the Planning Board recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9577-19-7262) from R-15 (Medium Density Residential) to GHMU (Greenville Highway Mixed Use) based on the following: 1. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because: The Development Guidelines and Primary Recommended Land Uses of the High Intensity Neighborhood designation align with the design standards and permitted uses outlined in the Greenville Highway Mixed Use Zoning District. 2. We [find] this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because: 1. The proposed rezoning would align the zoning of the subject parcel with other parcels on Stewart Street. 2. The proposed rezoning would allow an increase in residential density. 3. The size of the lot would constrain potential high intensity uses from entering the surrounding residential neighborhood. Ms. Peacock seconded the motion which passed unanimously.

V(B) Zoning Map Amendment– Standard Rezoning – 799 S. Grove Street (P23-95-RZO). Mr. Morrow gave the following background:

The City of Hendersonville received an application from Roy D. Neill, property owner for 799 S. Grove Street (PIN 9578-14-0598) and currently zoned R-15, Medium Density Residential. The proposed rezoning request is for C-2, Secondary Business district. The property is 0.52 acres and the Future Land Use Designation is High Intensity Neighborhood.

The Future Land Use Designation was discussed and included in the staff report and presentation.

The dimensional requirements for each zoning was shown and discussed and is included in the staff report and presentation. A comparison table of the uses for each district was included in the staff report.

Site photos of the property were shown and included in the staff report and presentation.

The City's Future Land Use Map was shown and deemed the subject property as High Intensity Neighborhood. This is included in the staff report and presentation.

Comprehensive Plan Consistency was discussed and is included in the presentation and staff report.

General rezoning standards were discussed and are included in the staff report.

A draft consistency statement is included in the staff report.

Rationale for approval and denial were included in the staff report.

Chair asked if there were any questions for staff.

Chair asked about tree removal for residential and commercial. Mr. Morrow stated there are no requirements currently for tree preservation but this could change. Chair asked about the requirements if this property was developed as residential. Mr. Morrow explained the requirements for R-15 which has a minimum lot size for single-family as 15,000 sq. ft. Realistically they could put one single-family dwelling and an accessory dwelling unit on the property. For a minor PRD the requirement is 2.75 dwelling units per acre so the most they could get would be two units. Chair stated this is if they developed it with the current zoning. Mr. Morrow stated yes.

Mr. Morrow stated the minimum lot size for the C-2 zoning is 6,000 sq. ft. for residential so they could get more on the property under the C-2 zoning. For minor PRD's in the C-2 zoning it is 8.5 units per acre. The C-2 zoning does not allow multi-family and the R-15 zoning does not allow multi-family.

Chair asked if they could combine the uses and have commercial on the bottom floor of the building and residential on top floor. Mr. Manley stated yes.

There were no further questions for staff.

Roy Neill, 131 Lyndale Street stated in the past decade Grove Street has changed dramatically. It is about 150 yards from the intersection of Spartanburg Highway and Grove Street. He feels this would be the best use of the property. There are only two residential properties on S. Grove Street at this time. He feels this would be an ideal commercial lot.

There were no questions for the applicant.

Chair opened the meeting for public comment.

Ken Fitch (Zoom), 1046 Patton Street stated at a past Planning Board meeting there was concern about endangered residential zoned areas and one of the concerned areas was this location. There are only two residential properties on Grove Street but there are other residential properties in the area and this could impact them.

Lynne Williams, Chadwick Avenue stated like Mr. Fitch stated there were extensive conversations for other properties on Hillview Boulevard. This area is similar to the Chadwick Avenue area. The impact of living on a street that is half commercial causes impacts to the residential properties such as traffic and noise and even drilling like what happens on Chadwick Avenue.

Chair closed public comment.

Ms. Peacock moved Planning Board recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN: 9578-14-0598) from R-15 Medium Density Residential Zoning District to C-2 Secondary Business Zoning District based on the following: 1. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because: The subject property is designated as a "Priority Infill Area" in the comprehensive plan which are areas that are considered a high priority for the City to encourage infill development on remaining vacant lots and redevelopment of underutilized or underdeveloped properties. The High Intensity Neighborhood designation also calls for offices and retail along thoroughfares as a secondary recommended land use. 2. We [find] this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because: 1. C-2 zoning is present all along the Grove Street corridor north of the property until the zoning transitions to CMU at the intersection of S. Grove Street and E. Caswell Street. 2. The proposed rezoning to C-2 could lead to infill commercial development on a long vacant and underutilized property. Mr. Hanley seconded the motion which passed unanimously.

VI Other Business.

VI(A) Election of Chair and Vice-Chair. Mr. Robertson stated he is willing to serve as Chair again unless someone else would like to be nominated. ***Mr. Hanley nominated Jim Robertson as Chair and Tamara Peacock as Vice -Chair to serve for one year. Ms. Waters seconded the motion which passed unanimously.***

VI(B) Approval of Annual Schedule for Regular Meetings. ***Mr. Hanley moved the Planning Board to approve the annual meeting dates for 2024. Ms. Robertson seconded the motion which passed unanimously.***

Mr. Manley gave a Comp Plan update.

VII Adjournment – *The meeting was adjourned at 5:10 pm.*

Jim Robertson, Chair

SUBMITTER:	Tyler Morrow	MEETING DATE:	February 8th, 2024
AGENDA SECTION:	New Business	DEPARTMENT:	Community Development
TITLE OF ITEM:	Administrative Review: Preliminary Site Plan– Estrada and Sons Expansion (A23-32-SPR) – <i>Tyler Morrow – Planner II</i>		

PROJECT/PETITIONER NUMBER:	(A23-32-SPR)
PETITIONER NAME:	Estrada & Sons, LLC [Applicant and Owner] [Applicant/Owner]
ATTACHMENTS:	<ol style="list-style-type: none">1. Staff Report2. Preliminary Site Plan3. Application / Owner Signature Addendum

PRELIMINARY SITE PLAN REVIEW-ESTRADA & SONS EXPANSION (A23-32-
SPR)
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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PROJECT SUMMARY

- Project Name & Case #:
 - Estrada & Sons Expansion
 - A23-32-SPR
- Applicant & Property Owner:
 - Estrada & Sons, LLC [Applicant and Owner]
- Property Address:
 - 620 Duncan Hill Road
- Project Acreage:
 - 1.82 Acres
- Parcel Identification (PIN):
 - 9579-05-1268
- Parcel Zoning:
 - C-3 Highway Business
- Future Land Use Designation:
 - High Intensity Neighborhood
- Requested Uses:
 - Wholesale Business
- Type of Review:
 - **Administrative**- Decisions made in the implementation, administration, or enforcement of the Zoning Ordinance that involve the determination of facts and the application of objective standards set forth in the Zoning Ordinance.



SITE VICINITY MAP

The City of Hendersonville is in receipt of an application for preliminary site plan review from Salvador Estrada of Estrada & Sons LLC. The applicant is proposing to construct a 4,000 square foot addition onto the existing 20,473 square foot business.

The proposed site plan shows an 80' by 50' addition onto the rear of the existing structure at 620 Duncan Hill Road. The proposed addition is proposed to be 18' in height.

Due to this development exceeding the threshold of 20,000 square feet, the project is required to go through preliminary site plan review as defined in Chapter 7 of the zoning ordinance.

Since this project does not exceed the 50,000 square foot trigger that requires a rezoning to a conditional zoning district, the project will be developed in accordance with the underlying C-3 zoning.

PRELIMINARY SITE PLAN REVIEW GUIDELINES

Review of Preliminary Site Plans

Review of preliminary site plans applies to larger projects where the costs of developing detailed final plans can be substantial. It is designed to provide the applicant an opportunity to obtain authorization for a site specific development while incurring reduced expense. Review of preliminary plans is a function of the Planning Board.

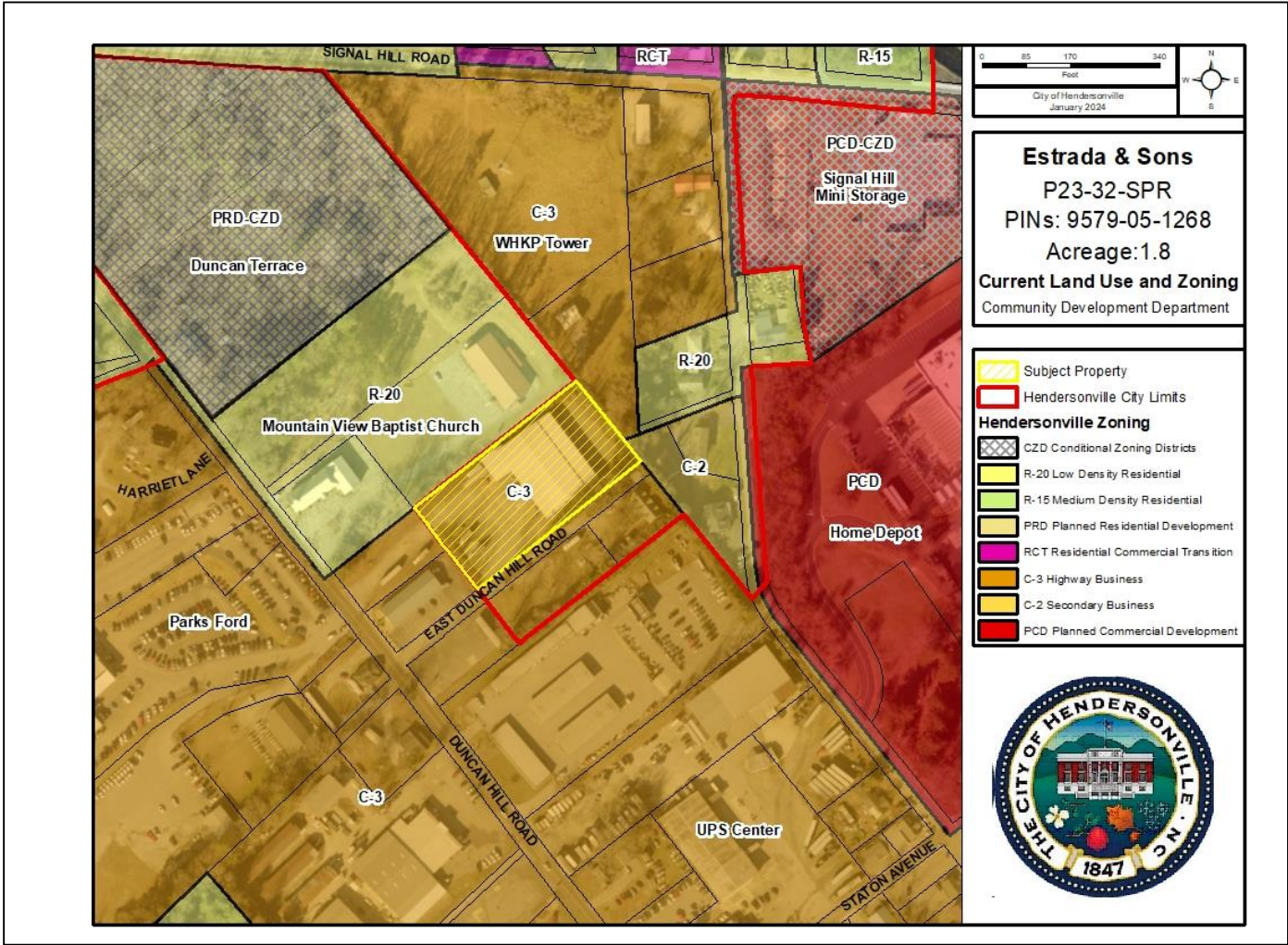
Preliminary plan review is required of all development undergoing Site Plan Review for the following:

- Any commercial, industrial or institutional development consisting of more than 20,000 square feet of floor area.
- Addition of more than 30 parking spaces.
- Any Minor Planned Residential Development consisting of 9 or more dwelling units.

An application for preliminary site plan approval shall not be approved unless the planning board determines that the application and final site plan demonstrate compliance with this ordinance, including the provisions of section 7-11 below, and other applicable regulations.

The planning board may impose such reasonable conditions on an approval as will ensure such compliance with this ordinance.

Approval of a preliminary site plan shall not entitle the applicant to the issuance of a zoning compliance permit. Upon approval of the preliminary site plan by the Planning Board the applicant must then submit an application and final site plans meeting the requirements of of the zoning ordinance, in addition to any other approval including but not limited to stormwater approval, utility approval, driveway permits, land disturbance approval, etc. The applicant shall have two years from the date of such approval to obtain final site plan approval.



City of Hendersonville Current Zoning & Land Use Map

The subject property is zoned C-3 Highway Business and contains an existing wholesale business.

There are various zoning districts and uses surrounding the subject property. Parcels to the east are zoned C-3 Highway Business, C-2 Secondary Business, R-20 Low Density Residential and PCD, Planned Commercial Development. All adjacent parcels to the east contain commercial uses. Parcels to the south are zoned C-3. This area contains the highway business uses associated with the Four Seasons commercial corridor. This area also contains other shipping and receiving uses including the UPS center. Parcels to the west are zoned C-3 and contains Parks Ford. Parcels to the north are zoned R-20 Low Density Residential and PRDCZD. The R-20 zoned parcels contain the Mountain View Baptist Church. This project is required to buffer their use from this adjacent use. Further north from the subject property is the Duncan Terrace Apartment project approved by City Council. There is currently no land disturbance or construction occurring for Duncan Terrace, but final site plans have been submitted to the City.

SITE IMAGES



View of the front of the Estrada and Son's existing building.



View of the sites access (E. Duncan Hill Road)

SITE IMAGES



View of the rear of the building where the addition is proposed.



View of existing mature buffer on the rear of the property.

PROPOSED DEVELOPMENT DETAILS

- **Proposed Use: Wholesale Business**
 - 24,473 square feet (total)
 - 4,000 square feet (proposed)
 - 20,473 square feet (existing)
 - Proposed Height: 18'
- **Site:**
 - 1.82 Acres
 - No floodplain is present on the site.
 - No steep slopes are present on the site.
 - No Blue line streams are present on the site.
- **Streets/ Access**
 - The site is proposed to continue to use its existing access off of E. Duncan Hill Road, a privately maintained road.
- **Parking**
 - Wholesale & industrial: 1 per each 2 employees at maximum employment on a single shift
 - Required: 5 parking spaces (10 employees max)
 - Currently proposed: 10 Parking spaces (7 new and 3 existing).
 - The existing parking spaces at the rear of the property may need to be reconfigured to be brought into the current dimensional requirements. This can be done at final site plan. The development meets the parking requirements without these existing spaces.
- **Landscaping**
 - The proposed development will provide a type A buffer between themselves and the church property to the northwest.
 - Type A buffers require:
 - 3 broadleaf canopy trees
 - 20 evergreen shrubs (4-foot centers)
 - 25 flowering shrubs
 - No existing trees are proposed to be removed.
- **Public Utilities**
 - The site will be served by City of Hendersonville Water and Sewer.

OUTSTANDING PRELIMINARY SITE PLAN COMMENTS

COMMUNITY DEVELOPMENT

Site Plan Comments:

The preliminary site plan accompanying this petition meets the standards established by the Zoning Ordinance for developments in the C-3 Highway Business Zoning District (5-8), and Preliminary Site Plan (7-3-3) with the following exceptions:

- None

CITY ENGINEER

Preliminary Site Plan Comments:

- None

WATER / SEWER

Preliminary Site Plan Comments:

- None

FIRE MARSHAL

Preliminary Site Plan Comments:

- None

STORMWATER ADMINISTRATOR

Preliminary Site Plan Comments:

- None

FLOODPLAIN ADMINISTRATOR

Preliminary Site Plan Comments:

- None

PUBLIC WORKS

Preliminary Site Plan Comments:

- None

NCDOT

Preliminary Site Plan Comments:

- None

TRANSPORTATION CONSULTANT

Preliminary Site Plan Comments:

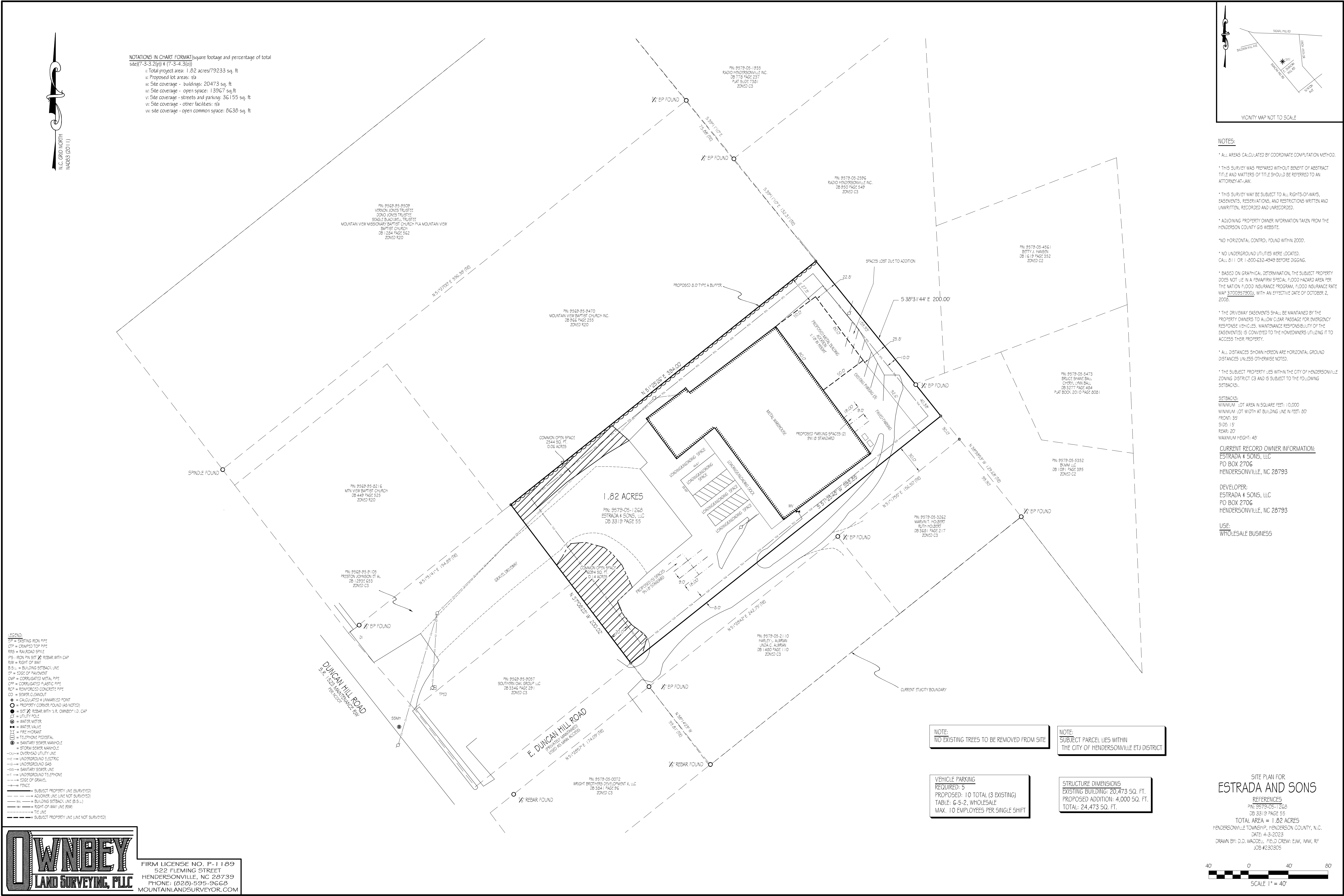
- None (the proposed use and square footage does not trigger a TIA (1,000 daily trips, 100 peak hour) ** Sometimes ITE does not provide a rate or equation to calculate daily trips. In these cases, you multiply the PM peak hour by a factor of 10. For the Estrada and Sons Expansion it would be 430 daily trips anticipated. **

Trip Generation									
Land Use	Intensity	Units	Daily	AM Peak Hour			PM Peak Hour		
				Total	In	Out	Total	In	Out
Retail Land Uses			0	13	9	4	43	23	20
860 - Wholesale Market	24.5	PKSP	0	13	9	4	43	23	20
Subtotal			0	13	9	4	43	23	20
Internal Capture			0	0	0	0	0	0	0
Pass-By			0	0	0	0	0	0	0
Total Net New External Trips			0	13	9	4	43	23	20

STAFF ANALYSIS

Zoning Compliance:

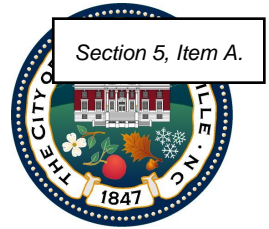
Based on the review by staff, the submitted preliminary site plan for the Estrada & Sons Expansion Project meets the Zoning Ordinance standards established for commercial projects within the C-3 Highway Business District and Preliminary Site Plan Review (Section 7-3-3.2).





CITY OF HENDERSONVILLE
COMMUNITY DEVELOPMENT DEPARTMENT

100 N. King St. ~ Hendersonville, NC ~ 28792
 Phone (828)697-3010 ~ Fax (828) 697-6185
<https://www.hendersonvillenc.gov/>



APPLICATION FOR SITE PLAN REVIEW

Section 7-3 City Zoning Ordinance

The following are required to constitute a complete application for preliminary site plan review:

- ~ This form including the property owner(s) signature(s).
 - ~ Appropriate fee.
 - ~ 2 copies and a digital file of the site plan containing items in Section 7.3-3.2 of the City Zoning Ordinance.
- Projects proposing any of the following must submit a complete application at least 32 days prior to any Planning Board meeting.
- Any commercial, industrial or institutional development consisting of 20,000 or more square feet of floor area.
 - Addition of more than 30 parking spaces.
 - Any minor planned residential development consisting of nine or more dwelling units.

The following are required for final site plan review:

- ~ This form including the property owner(s) signature(s)
- ~ 2 copies of the site plan containing items in Section 7-3-4.3 of the City Zoning Ordinance

Date	1-31-2024	Type of Plan Review	<input checked="" type="checkbox"/> Preliminary	<input type="checkbox"/> Final
Name of Project	Site Plan for Estrada and Sons, LLC			
Location/Address of Property	620 Duncan Hill Road			
List 10 digit PIN or 7 digit PID number for each property	9579-05-1268			
Contact Information	Salvador Estrada			
Address				
Phone	864-915-2286	Fax		Email
CHECK TYPE OF DEVELOPMENT		<input type="checkbox"/> Residential	<input checked="" type="checkbox"/> Commercial	<input type="checkbox"/> Other
Current Zoning	C3	Total Acreage	1.82	
Proposed Building Sq.ft.	4000	# of Dwelling Units		
Official Use:				
DATE RECEIVED:		BY	FEE RECEIVED\$	

This should be C-3

Applicant(s):Printed Name Estrada and Sons LLC☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____Signature Salvador EstradaTitle Managing Member Email floridavineripe@gmail.comAddress of Applicant PO Box 2706, Hendersonville, NC 28793

The title should be
"managing member"

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Applicant _____

Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Applicant _____

Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Applicant _____

Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Applicant _____

Property Owners(s):* ^ Printed Name Salvador Estrada☐ Corporation ☒ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____Signature *Salvador Estrada*

102C68D89C9A433...

Title Managing Member Email floridavineripe@gmail.comAddress of Property Owner PO Box 2706, Hendersonville, NC 28793

* ^ Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Property Owner _____

* ^ Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Property Owner _____

* ^ Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the City of Hendersonville personnel to enter the subject property for any purpose required in processing this application.

^ If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION.



LIMITED LIABILITY COMPANY ANNUAL REPORT

SOSID: 1523406
Date Filed: Section 5, Item A.
Elaine F. N...

North Carolina Secretary of State
CA2023 242 00224

NAME OF LIMITED LIABILITY COMPANY: Estrada & Sons, LLC

SECRETARY OF STATE ID NUMBER: 1523406 STATE OF FORMATION: NC

REPORT FOR THE CALENDAR YEAR: 2021, 2022, 2023



Filing Office Use Only

☒ Changes

SECTION A: REGISTERED AGENT'S INFORMATION

1. NAME OF REGISTERED AGENT: Salvador Estrada, Jr

2. SIGNATURE OF THE NEW REGISTERED AGENT:

SIGNATURE CONSTITUTES CONSENT TO THE APPOINTMENT

3. REGISTERED AGENT OFFICE STREET ADDRESS & COUNTY 4. REGISTERED AGENT OFFICE MAILING ADDRESS

600 Duncan Hill Rd

PO Box 2706

Hendersonville, NC 28792 Henderson

Hendersonville, NC 28793 Henderson

SECTION B: PRINCIPAL OFFICE INFORMATION

1. DESCRIPTION OF NATURE OF BUSINESS: Farming

2. PRINCIPAL OFFICE PHONE NUMBER: (828) 513-5061

3. PRINCIPAL OFFICE EMAIL:

4. PRINCIPAL OFFICE STREET ADDRESS

5. PRINCIPAL OFFICE MAILING ADDRESS

600 Duncan Hill Rd

PO Box 2706

Hendersonville, NC 28792 Henderson

Hendersonville, NC 28793 Henderson

6. Select one of the following if applicable. (Optional see Instructions)

☐

The company is a veteran-owned small business

☐

The company is a service-disabled veteran-owned small business

SECTION C: COMPANY OFFICIALS (Enter additional company officials in Section E.)

NAME: Salvador Estrada

NAME:

NAME:

TITLE: Managing Member

TITLE:

TITLE:

ADDRESS:

ADDRESS:

ADDRESS:

PO Box 2706

Hendersonville, NC 28793 Henderson

SECTION D: CERTIFICATION OF ANNUAL REPORT. Section D must be completed in its entirety by a person/business entity.


SIGNATURE
Form must be signed by a Company Official listed under Section C of This form.

10/17/23
DATE

Salvador Estrada

Managing Member

Print or Type Name of Company Official

Print or Type Title of Company Official

SUBMIT THIS ANNUAL REPORT WITH THE REQUIRED FILING FEE OF \$200

MAIL TO: Secretary of State, Business Registration Division, Post Office Box 29525, Raleigh, NC 27626-0525

SUMMARY: The City of Hendersonville received Annexation applications from the Spinx Company, LLC (anticipated owners) and from Michael, Dietra, and Spevines Jones (current owners) for 6 parcels totaling 4.723 Acres located along Upward Road at the southeast corner of the intersection with Old Spartanburg Rd (across from Dairi-O). The applicant has not requested zoning, therefore the City is initiating zoning for these parcels from County CC, Community Commercial & R-1, Residential One to CHMU, Commercial Highway Mixed Use.

The subject property is outside of the corporate city limits on the southeastern edge of Hendersonville. The subject property sits outside of the City’s ETJ but within the Upward Road Planning District.

CHMU permits a range of intense commercial uses and residential uses (up to 12 units/acre) and includes design standards for all uses other than single-family and two-family (per State Statute). As a standard rezoning, all uses would be permitted if approved, including “convenience stores with or without gasoline sales”. CZD would be triggered by projects exceeding 50 units or exceeding a cumulative square footage of 50,000 Sq Ft.

PROJECT/PETITIONER NUMBER:	P24-07-RZO
PETITIONER NAME:	City of Hendersonville [applicant] Michael Jones/Spevines Jones [current owner] Spinx Company, LLC [anticipated owner]
ATTACHMENTS:	1. Staff Report 2. Draft Ordinance 3. Proposed Zoning Map

STANDARD REZONING: UPWARD RD - SPINX (P24-07-RZO)
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT 12



PROJECT SUMMARY

- Project Name & Case #:
 - Upward Rd - Spinx
 - P24-07-RZO
- Applicant & Property Owner:
 - City of Hendersonville [Applicant]
 - Michael Jones/SpEVines Jones/Spinx Company, LLC.[Owner]
- Property Address:
 - 2120 Old Spartanburg Rd
- Project Acreage:
 - 4.723 Acres
- Parcel Identification (PINS):
 - 9577-89-7580; 9577-89-8138; 9577-89-6187; 9577-89-6236; 9577-89-5289; 9577-89-6416
- Current Parcel Zoning:
 - County Community Commercial (CC)
 - Residential 1 (R1)
- Proposed Zoning District:
 - CHMU (Commercial Highway Mixed Use)
- Future Land Use Designation:
 - City – High Intensity Neighborhood
 - County –Urban Services Area (residential density maximized where utilities present)



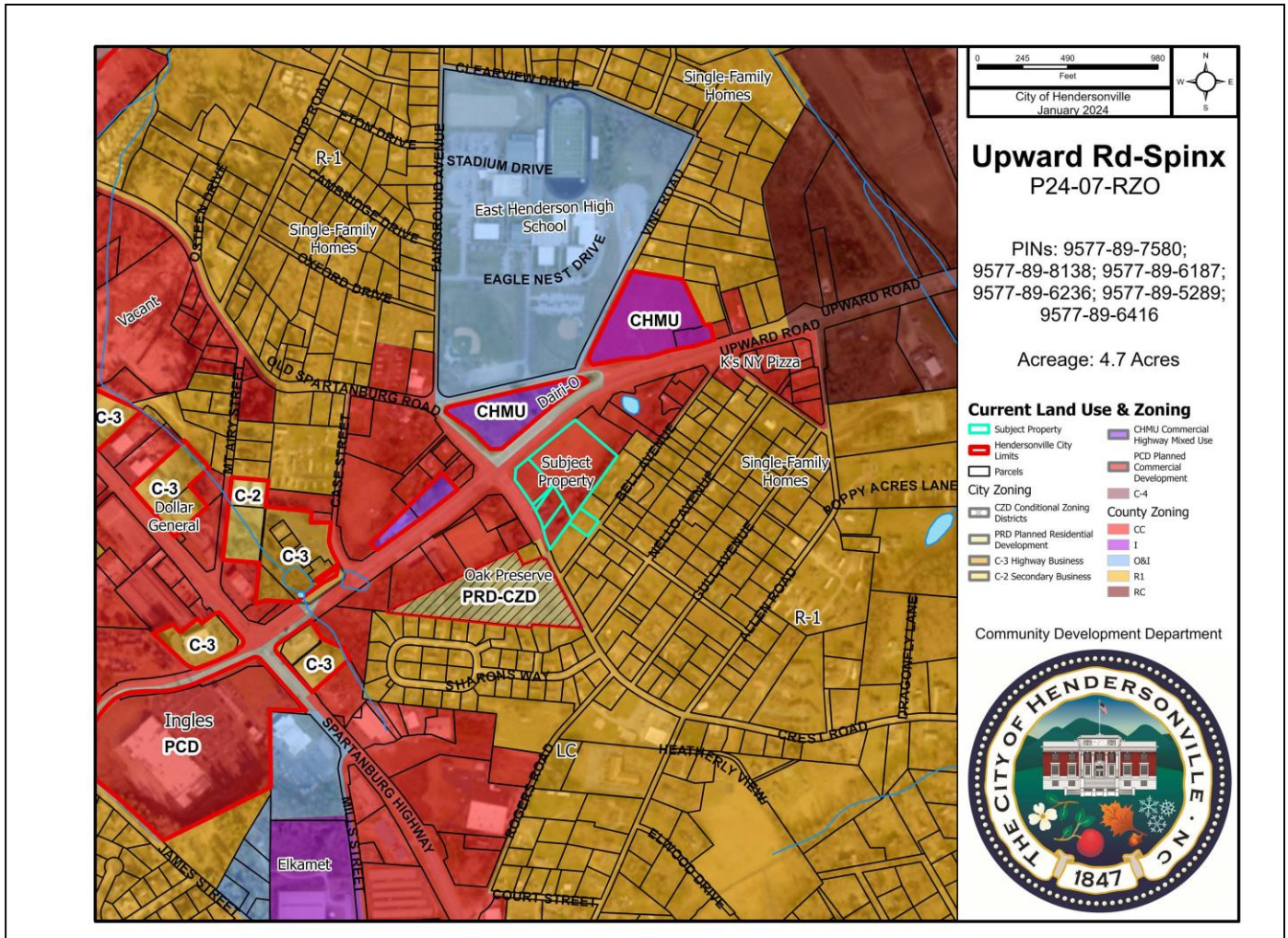
SITE VICINITY MAP

The City of Hendersonville received Annexation applications from the Spinx Company, LLC (anticipated owners) and from Michael, Dietra, and Spevines Jones (current owners) for 6 parcels totaling 4.723 Acres located along Upward Road at the southeast corner of the intersection with Old Spartanburg Rd (across from Dairi-O). The applicant has not requested zoning, therefore the City is initiating zoning for these parcels from County CC, Community Commercial & R-I, Residential One to CHMU, Commercial Highway Mixed Use.

The subject property is outside of the corporate city limits on the southeastern edge of Hendersonville. The subject property sits outside of the City's ETJ but within the Upward Road Planning District.

CHMU permits a range of intense commercial uses and residential uses (up to 12 units/acre) and includes design standards for all uses other than single-family and two-family (per State Statute). As a standard rezoning, all uses would be permitted if approved, including "convenience stores with or without gasoline sales". CZD would be triggered by projects exceeding 50 units or exceeding a cumulative square footage of 50,000 Sq Ft.

EXISTING ZONING & LAND USE



City of Hendersonville Current Zoning & Land Use Map

The subject property is currently in the Zoning Jurisdiction of Henderson County. The parcels are primarily zoned Community Commercial with a small parcel zoned Residential I. They are located outside of the corporate City Limits in an area where some satellite parcels have been annexed into the City with zoning designations including Commercial Highway Mixed Use (CHMU) and C-3 Highway Business. The properties within these districts are developed with fast food restaurant chains and lodging. There is a significant amount of vacant property as well as commercial, residential and institutional uses in proximity of the subject parcel.

The County zoning in this area is predominantly Community Commercial (CC) along Upward Road and Residential One (R1) further setback from Upward Rd. The CC zoning district includes, "a variety of retail sales and services, public and private administrations, offices and all other uses done with adjacent development and the surrounding community." The CC allows for up to 16 units / acre for residential development. The R1 zoning is intended to "allow for medium to high-density residential development" and permits densities ranging from 4 units / acre up to 12 units / acre.

SITE IMAGES



View facing west along subject property frontage on Upward Rd.



*View facing east along subject property frontage at corner of
Upward Rd. & Old Spartanburg Rd*

SITE IMAGES



View facing north along subject property frontage on Old Spartanburg Rd. Single-family home is part of subject property



Typical view of site from Upward Rd. Dense bamboo lines entire rear boundary of site. Site of tree grove on right side of photo.

SITE IMAGES



View of tree grove in south/southwest area of the site (behind existing single-family home). Remainder of the site is field.



View of sinkhole or drainage basin at rear edge of subject property

SITE IMAGES

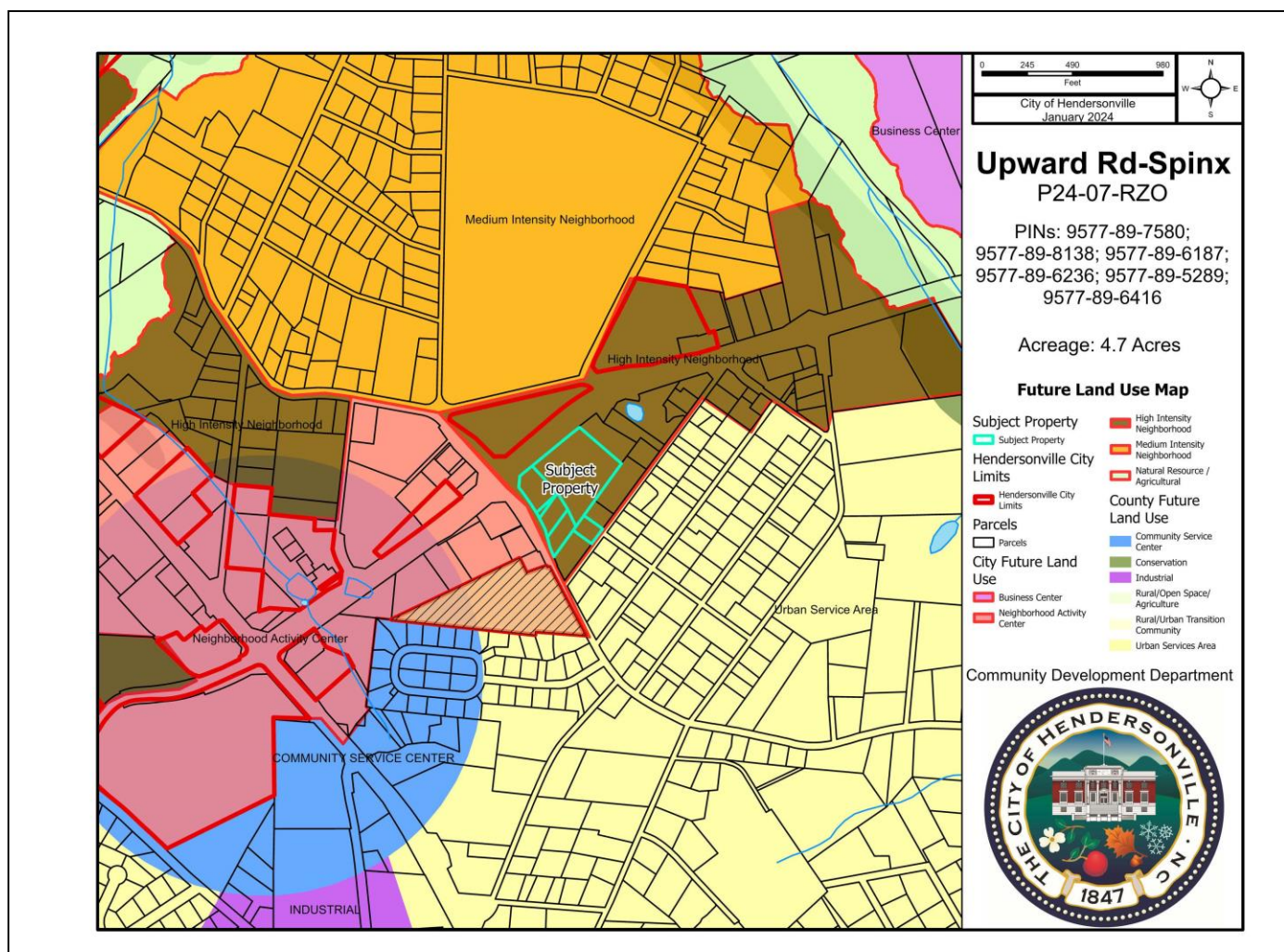


View of metal storage shed on portion of property that fronts on Bell Ave



View of single-family homes which front on south east side of Bell Ave.

FUTURE LAND USE



City of Hendersonville Future Land Use Map

The City's 2030 Comprehensive Plan designates the subject property as High Intensity Neighborhood in the City's Future Land Use Map.

Adjacent parcels to the east on Upward Road are also designated High Intensity Neighborhood. Parcels to the west along Upward Rd are designated as Neighborhood Activity Center. Properties southeast of Bell Ave are outside of the City's Future Land Use Map study area.

The County's 2020 Future Land Use Map designates the properties on Bell Ave as Urban Service Area. It is also in close proximity to an area designated as Community Service Center where "a mix of commercial uses will be contained and residential densities are to be maximized where utilities are present."

The subject parcel is also part of the Upward Rd Planning Area which was adopted in 2011 in response to the need to manage growth outside the ETJ in an area where sewer service would be desired.

REZONING ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4)

GENERAL REZONING STANDARDS: COMPREHENSIVE PLAN CONSISTENCY

Future Land Use	The subject property is designated as <i>High Intensity Neighborhood</i> on the <i>Future Land Use Map</i> . Goal LU-7 Encourage low-maintenance, high density housing that supports Neighborhood and Regional Activity Centers and downtown and provides a transition between commercial and single-family development. [CONSISTENT]
	Strategy LU-7-1. Locations: • Priority infill development areas where high-density development is desirable and/or expected including boulevards and major thoroughfares near neighborhood activity centers [CONSISTENT]
	Strategy LU-7.2. Primary recommended land uses: • Single-family attached and multifamily residential, planned residential developments, and open space [CONSISTENT] Strategy LU-7-4 Development guidelines: • Encouragement of multi-story, mixed-use buildings with retail on ground floors and office/residential on upper floors [CONSISTENT] • Placement of higher-intensity uses close to boulevards and major thoroughfares [CONSISTENT] • Architectural guidelines to encourage compatibility between different land uses [CONSISTENT] • Encouragement of walkable neighborhood design [CONSISTENT] • At least 60% open space in new residential developments of greater than 3 acres [PARTIALLY CONSISTENT]
	The subject property is designated as a <i>Priority Infill</i> on the <i>Growth Management Map 8.3a</i> .
	The subject property is primarily designated as a <i>Development Opportunity</i> on the <i>Development Framework Map</i> .
Land Use & Development	Goal LU-1. Encourage infill development that utilizes existing infrastructure in order to maximize public investment and revitalize existing neighborhoods.
	Goal LU-3. Promote fiscal responsibility with development, annexation and expansion of Hendersonville's Extra-Territorial Jurisdiction (ETJ).
Population & Housing	Strategy PH-1.1. Promote compatible infill development.
	Goal PH-3. Promote safe and walkable neighborhoods.
	Strategy PH 3.2 – Encourage mixed land use patterns that place residents within walking distance of services.
Natural & Environmental Resources	No Goals, Strategies or Actions are directly applicable to this project.
Cultural & Historic Resources	No Goals, Strategies or Actions are directly applicable to this project.

Community Facilities	No Goals, Strategies or Actions are directly applicable to this project.
Water Resources	No Goals, Strategies or Actions are directly applicable to this project.
Transportation & Circulation	Strategy TC-1.1. - Encourage mixed-use, pedestrian-friendly development that reduces the need to drive between land uses.

REZONING ANALYSIS – GENERAL REZONING STANDARDS (ARTICLE 11-4)

GENERAL REZONING STANDARDS	
Compatibility	Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property –
	Considering the vehicular traffic along Upward Rd (boulevard) and the interchange with I-26 (freeway), the CHMU zoning district permits uses that are compatible with this area and the design guidelines of the CHMU further support compatibility.
Changed Conditions	Whether and the extent to which there are changed conditions, trends or facts that require an amendment -
	Upward Road is a corridor experiencing significant growth. In the last three years, there have been no less than 9 development requests/approvals in the Upward Rd area alone. In addition to those development applications, there have been other development inquiries, some of which have been significant in scale. While other areas of Hendersonville are experiencing growth, no other specific area of town has seen this scale of development requests in recent years, especially when it comes to requests for commercial development.
Public Interest	Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare -
	Design guidelines found in CHMU support the creation of compatibility, high quality development. Additional quality commercial development within the City will generate additional tax revenue. Additional quality residential development within the City would provide needed housing.
Public Facilities	Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment
	The site will be served by City water and sewer service, as well as City Fire and Police. Upward Road is designated as a Boulevard in the comprehensive transportation plan and is maintained by NCDOT. Old Spartanburg Rd is maintained by NCDOT and classified as a Collector. The City's Comprehensive Plan designates this road as a Minor Thoroughfare.
Effect on Natural Environment	Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife -
	As a standard rezoning, there is no proposed development consider as part of the rezoning process. The subject property features an existing single-family home. The site is primarily field with one small hardwood tree grove located in the southwest portion of the site. The rear property line is lined by a dense grove of bamboo.

The petition is found to be **consistent** with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

The Goals & Strategies of LU-7 “High-Intensity Neighborhood” calls for primary and secondary recommended land uses, locations, and development guidelines which align with the proposed CHMU zoning.

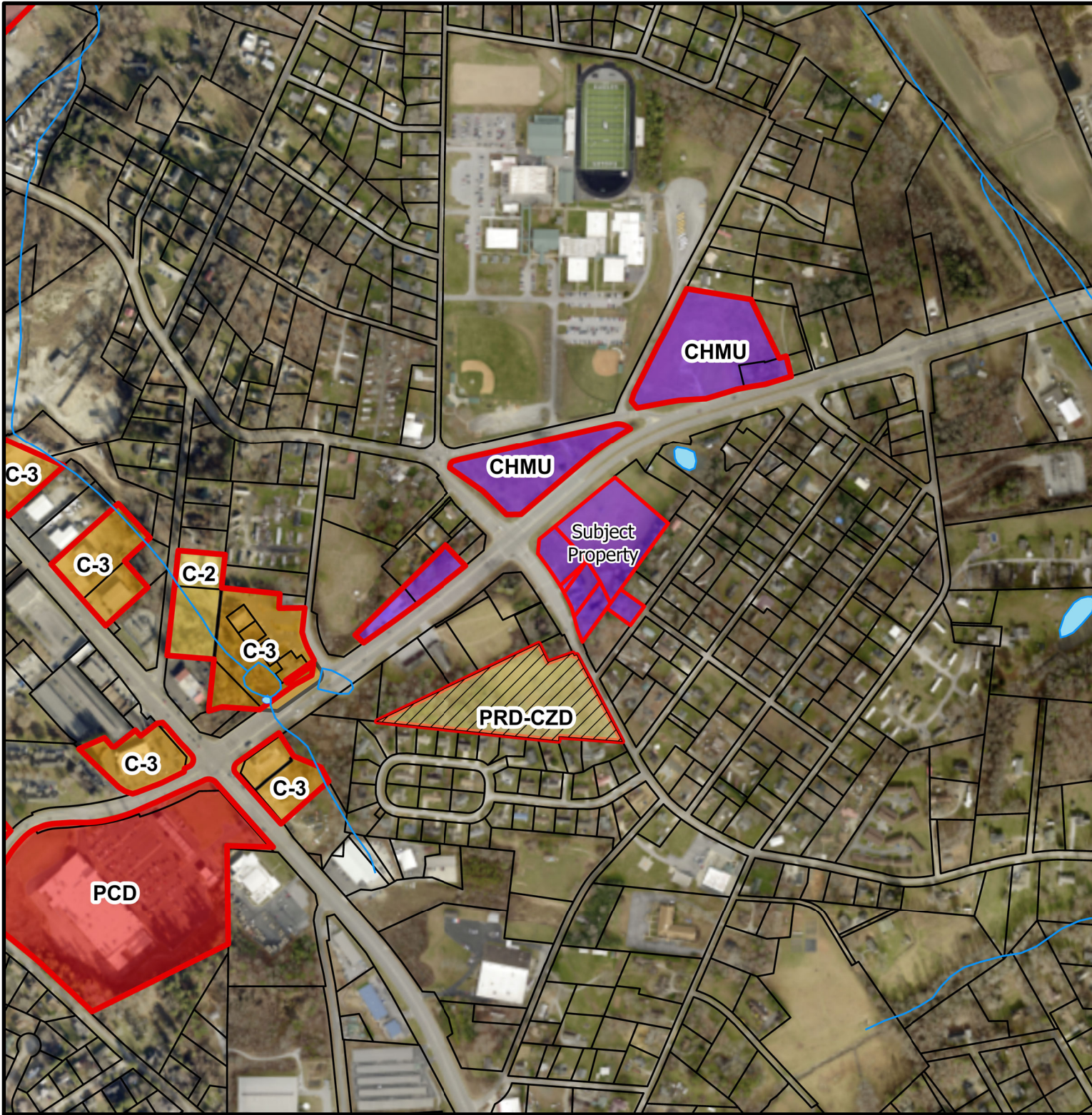
We **[find/do not find]** this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

DRAFT [Rationale for Approval]

- *Commercial Highway Mixed Use is the zoning district established for the Upward Rd Planning Area*
- *The Commercial Highway Mixed Use zoning district is well suited to achieve the goals of the Comprehensive Plan for this area*
- *The property is located in an area designated as a “Priority Infill Area” according to the City’s Comprehensive Plan*

DRAFT [Rational for Denial]

- *While the CHMU zoning districts permits development that may align with the Development Guidelines found in LU-7.4, not all of the guidelines are requirements of this zoning district.*



Upward Rd-Spinx P24-07-RZO

PINs: 9577-89-7580;
9577-89-8138; 9577-89-6187;
9577-89-6236; 9577-89-5289;
9577-89-6416

Acreage: 4.7 Acres

Proposed Zoning Map

City Zoning	
CZD Conditional Zoning Districts	PCD Planned Commercial Development
PRD Planned Residential Development	C-4
C-3 Highway Business	Subject Property
C-2 Secondary Business	Hendersonville City Limits
CHMU Commercial Highway Mixed Use	Parcels

Community Development Department



Ordinance # ____ - ____

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR CERTAIN PARCELS (POSSESSING PIN NUMBERS 9577-89-7580; 9577-89-8138; 9577-89-6187; 9577-89-6236; 9577-89-5289; AND 9577-89-6416) BY CHANGING THE ZONING DESIGNATION FROM HENDERSON COUNTY CC (COMMUNITY COMMERCIAL) ZONING DISTRICT AND HENDERSON COUNTY R1 (RESIDENTIAL ONE) ZONING DISTRICT TO CITY OF HENDERSONVILLE CHMU (COMMERCIAL HIGHWAY MIXED USE) ZONING DISTRICT

IN RE: Parcel Numbers: 9577-89-7580; 9577-89-8138; 9577-89-6187; 9577-89-6236; 9577-89-5289; 9577-89-6416
Upward Rd - Spinx (File # P24-07-RZO)

WHEREAS, the Planning Board took up this application at its regular meeting on February 8th, 2024; voting [redacted] to recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville, and

WHEREAS, City Council took up this application at its regular meeting on March 7th, 2024, and

WHEREAS, City Council has found that this zoning map amendment is consistent with the City’s comprehensive plan, and that it is reasonable and in the public interest for the reasons stated, and

WHEREAS, City Council has conducted a public hearing as required by the North Carolina General Statutes on March 7th, 2024,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina:

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9577-89-7580; 9577-89-8138; 9577-89-6187; 9577-89-6236; 9577-89-5289; 9577-89-6416 from Henderson County CC (Community Commercial) Zoning District and Henderson County R1 (Residential One) Zoning District to City of Hendersonville CHMU (Commercial Highway Mixed Use) Zoning District.
2. Any development of this parcel shall occur in accordance with the Zoning Ordinance of the City of Hendersonville, North Carolina.
3. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 7th day of March 2024.

Attest: Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney



CITY OF HENDERSONVILLE
AGENDA ITEM SUMMARY
PLANNING DIVISION

SUBMITTER: Lew Holloway **MEETING DATE:** February 8th, 2024
AGENDA SECTION: Public Hearings **DEPARTMENT:** Community Development
TITLE OF ITEM: Zoning Text Amendment: Tree Canopy Preservation & Enhancement (P24-08-ZTA)

SUGGESTED MOTION(S):

<u>For Approval:</u>	<u>For Denial:</u>
<p>I move Planning Board recommend City Council <u>adopt</u> an ordinance amending the official City of Hendersonville Zoning Ordinance, Article VII, Sections 7-3-3 and 7-3-4 and Article XV, Sections 15-4, 15-5, 15-6, 15- 9 and 15-9 and to add the new Section 15-14 and 15-15 to establish additional requirements for the provision and protection of trees:</p> <p>1. The petition is found to be <u>consistent</u> with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:</p> <p>The petition aligns with the Comprehensive Plan’s Strategies; NR-2.3. Promote preservation of woodlands. Mature trees and wooded areas are significant community-defining natural features that contribute to Hendersonville’s identity, LU-3.5. Minimize negative impacts from growth and land use changes on existing land uses and LU-3.6. Update the Zoning Code to ensure conformance with the Comprehensive Plan.</p> <p>2. We [find] this petition, in conjunction with the recommendations presented by staff, to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:</p> <p>1. The proposed text amendment seeks to promote compatibility between new development on sites with surrounding existing development, by reducing the removal of existing site vegetation and</p>	<p>I move Planning Board recommend City Council <u>deny</u> an ordinance amending the official City of Hendersonville Zoning Ordinance, Article VII, Sections 7-3-3 and 7-3-4 and Article XV, Sections 15-4, 15-5, 15-6, 15- 9 and 15-9 and to add the new Section 15-14 and 15-15 to establish additional requirements for the provision and protection of trees:</p> <p>1. The petition is found to be <u>consistent</u> with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:</p> <p>The petition aligns with the Comprehensive Plan’s Strategies; NR-2.3. Promote preservation of woodlands. Mature trees and wooded areas are significant community-defining natural features that contribute to Hendersonville’s identity, LU-3.5. Minimize negative impacts from growth and land use changes on existing land uses and LU-3.6. Update the Zoning Code to ensure conformance with the Comprehensive Plan.</p> <p>2. We [<u>do not find</u>] this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:</p> <p>1. The proposed text amendments decreases the flexibility available to property owners seeking to redevelop property within the City.</p> <p>2. The proposed text amendment reduces the available property for new</p>

<p>tree canopy and enhancing the integration of new plantings in required open space.</p> <p>2. The proposed text amendment aligns with the public interest in that it seeks to offset some of the impacts of large scale development on adjacent properties and on existing natural resources.</p> <p>3. The proposed text amendment will offset a portion of the ongoing impacts of new development on the natural environment within the City.</p> <p>[DISCUSS & VOTE]</p>	<p>development within the City, potentially increasing the costs associated with development and impacting affordability within the City.</p> <p>[DISCUSS & VOTE]</p>
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***SUMMARY:** The City of Hendersonville is initiating a zoning text amendment to establish a standard for tree canopy preservation and to increase efforts to enhance canopy established by new development. The ordinance amendment was initiated at the request of the City of Hendersonville Tree Board and guided to this point by an Ad Hoc Tree Ordinance Committee. That committee has been meeting since late summer/early fall to review the tree board request and develop the ordinance which is presented here. In May 2023, the Tree Ordinance Committee began the first of nine meetings to review recommendations from the tree board for amendments to the City’s Zoning Ordinance.*

Primary recommendations found in the ordinance being presented for adoption are as follows; 1) the establishment of a canopy preservation standard. This standard would be applicable to lots which exceed 2 acres and establishes a baseline requirement to preserve 20% of the canopy with a requirement that an additional 10% (for a total of 30%) be preserved, allowing for alternative compliance approaches for the final 10%. 2) The establishment of additional canopy enhancement standards for new development. These can be broadly categorized by a) increased planting requirements for Vehicular Use Areas, b) the introduction of planting requirements to all “Open Space and Common Open Space” currently required by the code and c) the introduction of Street Tree requirements throughout the City’s Zoning Districts.

PROJECT/PETITIONER NUMBER:	P24-08-ZTA
PETITIONER NAME:	City of Hendersonville
ATTACHMENTS:	<p>1. Staff Report</p> <p>2. Legislative Committee Summary Report</p> <p>3. Draft Ordinance Changes</p> <p>4. Draft Ordinance Changes (Clean Version)</p>

ZONING TEXT AMENDMENT:
TREE CANOPY PRESERVATION & ENHANCEMENT (P24-08-ZTA)
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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AMENDMENT ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4)**Error! Bookmark not defined.**

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND REZONING REASONABLENESS STATEMENT
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PROJECT SUMMARY

- Project Name & Case #:
 - Tree Canopy Preservation & Enhancement
 - P24-08-ZTA
- Applicant:
 - City of Hendersonville
- Articles Amended:
 - Article VII – Development Review; Sections 7-3-3 and 7-3-4, Article and Article XV – Buffering, Screening and Landscaping; Sections 15-4, 15-5, 15-6, 15-9, 15-13 and the addition of Sections 15-14 and 15-15.
- Applicable Zoning District(s):
 - Various
- Future Land Use Designation
 - Various
- Planning Board - Legislative Committee Meeting
 - January 16, 2024
- Summary Basics:
 - The petition proposes to establish Tree Canopy Preservation Standards for a certain scale of new development and enhances the requirements of the Buffering, Screening and Landscaping Standards of the Zoning Ordinance in favor of enhanced tree planting requirements for certain types of new development.



Summary of Amendment Petition:

The City of Hendersonville is initiating a zoning text amendment to establish a standard for tree canopy preservation and to increase efforts to enhance canopy established by new development. The ordinance amendment was initiated at the request of the City of Hendersonville Tree Board and guided to this point by an Ad Hoc Tree Ordinance Committee. That committee has been meeting since late summer/early fall to review the tree board request and develop the ordinance which is presented here. In May of 2023, the Tree Ordinance Committee began the first of nine meetings to review recommendations from the tree board for amendments to the City's Zoning Ordinance.

Primary recommendations found in the ordinance being presented for adoption are as follows; 1) the establishment of a canopy preservation standard. This standard would be applicable to lots which exceed 2 acres and establishes a baseline requirement to preserve 20% of the canopy with a requirement that an additional 10% (for a total of 30%) be preserved, allowing for alternative compliance approaches for the final 10%. 2) The establishment of additional canopy enhancement standards for new development. These can be broadly categorized by a) increased planting requirements for Vehicular Use Areas, b) the introduction of planting requirements to all "Open Space and Common Open Space" currently required by the code and c) the introduction of Street Tree requirements throughout the City's Zoning Districts.

AMMENDMENT ANALYSIS – AMENDMENT OVERVIEW

This zoning text amendment can be viewed as having two primary goals. 1) To establish Tree Canopy Preservation standards for certain new development and redevelopment. These standards are based on the existing canopy found on the site at the time of development/redevelopment. 2) To enhance planting requirements, specifically for trees, associated with new development with a particular interest in improving “Open Space” and “Common Open Space” planting requirements and “Street Tree” planting requirements. These requirements are triggered are development sites which exceed 2 acres.

To achieve the goal if canopy preservation the Committee has recommended a two tiered preservation standard. Tier I canopy represents a requirement that 20% of the existing canopy shall be preserved. Tier II is required in addition to Tier I and incentivizes additional preservation with additional plating requirements if the development does not achieve the canopy preservation targets in the Tier II standards.

To achieve the second goal the ordinance introduce three new and/or modified planting requirements for new development which exceeds the thresholds established in Section 15-2. These new requirements include; 1) changes to vehicular use area landscaping which increases the number required while also creating more flexibility in how those plantings are spaced throughout the vehicular use area. 2) Expansion of section 15-13 to include all ‘Open Space’ required in the code, not just that associated with “mixed-use” zoning districts, and “Common Open Space,” typically 10% of certain residential and commercial development that did not previously come with planting standards. 3) The addition of Section 15-14 Street Trees which is establishes a more broadly applicable in require for the integration of street trees across zoning districts and development within the City. Currently, this requirement is associated with entry corridor overlay districts and certain limited zoning districts. In combination, these three requirements are intended to facilitate the pursuit of canopy enhancement on new development or redevelopment sites.

There are a number of other administrative clarifications, including new definitions, site plan submittal requirements and clarifications to tree credit standards.

LEGISLATIVE COMMITTEE RECOMMENDATION

The Legislative Committee of the Planning Board met to discuss this petition at their recurring meeting on Tuesday, January 16, 2024. The members of the committee that were present were Jim Robertson, Peter Hanley and Donna Waters; staff attending included Matthew Manley. The Ordinance changes were discussed for approximately one hour and the following questions and recommendations were offered by the Committee members;

QUESTIONS

- If it is intended that future growth should occur within the existing city limits to limit pressure on surrounding environments, what effect will tree canopy preservation standards have on the City’s ability to house that growth?
- What expertise (model policies, resources, experts, etc.) was used to develop the policies in the ordinance?
- What was the impetus for creating Tree Canopy protection standards? Is it tied to

the results of the Tree Canopy Study?

- Will the Species List be updated?
- In calculating the 20%/10% tree preservation areas, are only the trees within that area that qualify as “canopy trees” counted? Are invasive species counted? How will the area be determined? From analysis of aerial views, data from Canopy Study or from field surveys?

RECOMMENDATIONS

- Species list should be referred to as “Required Landscape Species Lists for Street, Tree and Land Development Projects 2022” or just “Landscape Species Lists for Street, Tree and Land Development Projects 2022”.
 - 3-Year Hold is not long enough to deter clear-cutting sites in advance of development. This position is based on the length of time it takes to go through the development process including entitlement approvals, financing, final site plan approvals, etc. A more prohibitive penalty should be considered such as 5-10 year Hold plus standards for immediate mitigation (silt fencing, seed cover, tree plantings, etc.)
 - Clarify language for newly planted “canopy trees” - that they will be 50’ [at maturity].
 - Include illustrations for Street Tree so that recommendations are clearly understood.
 - Require street trees between street and sidewalks.
 - Require that trees adjacent to sidewalks have a minimum ground clearance of 7-8’.
 - For Sec 15-9, consider allowing for/requiring rain gardens or some form of water infiltration into Planting Islands in parking lots. Current planting requirements limits the amount of water getting to tree roots (planting space has curb and gutter and drip line of trees eventually exceeds the planting space). This burdens tree growth and/or causes trees to die.
-

Section 7-3-3 Review of preliminary site plans.

7-3-3.2 – Contents of preliminary site plans.

Section 7-3-4 Review of final site plans.

7-3-4.3. – Contents of final site plans.

Section 15-2 Review of preliminary site plans.

7-3-3.2 – Contents of preliminary site plans.

AMENDMENT ANALYSIS – COMPREHENSIVE PLAN CONSISTENCY (ARTICLE 11-4)

COMPREHENSIVE PLAN CONSISTENCY	
Land Use & Development	Strategy LU-3.5. Minimize negative impacts from growth and land use changes on existing land uses. Strategy LU-3.6. Update the Zoning Code to ensure conformance with the Comprehensive Plan
Population & Housing	Strategy PH-1.5.6. Promote the installation of street trees through private redevelopment projects and targeted installations in locations such as “park streets” identified in Strategy CF-7.1.
Natural & Environmental Resources	Strategy NR-2.3. Promote preservation of woodlands. Mature trees and wooded areas are significant community-defining natural features that contribute to Hendersonville’s identity.
Cultural & Historic Resources	<i>There are no Goals, Strategies, or Actions that are directly applicable to this petition.</i>
Community Facilities	Strategy CF-7.1 Create “park streets” that extend parks into neighborhoods by utilizing unique signage, landscaping, street trees and pedestrian path treatment.
Water Resources	<i>There are no Goals, Strategies, or Actions that are directly applicable to this petition.</i>
Transportation & Circulation	Strategy TC-1.3. Incorporate Complete Streets concepts into future roadway improvements in order to create multi-modal streets..

GENERAL REZONING STANDARDS

Compatibility	Whether and the extent to which the proposed amendment is compatible with existing and proposed uses -
	<i>The proposed text amendment seeks to promote compatibility between new development on sites with surrounding existing development, by reducing the removal of existing site vegetation and tree canopy and enhancing the integration of new plantings in required open space.</i>
Changed Conditions	Whether and the extent to which there are changed conditions, trends or facts that require an amendment -
	<i>There has been increased pressure to develop Greenfield sites throughout the city. Previously unimpacted by large scale development these sites within the City and ETJ contribute to the character of the surrounding neighborhoods. The large scale clearing and grading often associated with new development has generated considerable concerns regarding conservation and preservation of natural resources and quality of life for residents within the City.</i>
Public Interest	Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare -
	<i>The proposed text amendment aligns with the public interest in that it seeks to offset some of the impacts of large scale development on adjacent properties and on existing natural resources.</i>
Public Facilities	Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment
	<i>The proposed text amendment does not have a large impact on public facilities.</i>
Effect on Natural Environment	Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife -
	<i>The proposed text amendment will offset a portion of the ongoing impacts of new development on the natural environment within the City.</i>

DRAFT COMPREHENSIVE PLAN CONSISTENCY AND TEXT AMENDMENT REASONABLENESS STATEMENT

The petition is found to be [consistent] with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

The petition aligns with the Comprehensive Plan's Strategies; NR-2.3. Promote preservation of woodlands. Mature trees and wooded areas are significant community-defining natural features that contribute to Hendersonville's identity, LU-3.5. Minimize negative impacts from growth and land use changes on existing land uses and LU-3.6. Update the Zoning Code to ensure conformance with the Comprehensive Plan

We [find] this proposed zoning text amendment petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

DRAFT [Rationale for Approval]

- *The proposed text amendment seeks to promote compatibility between new development on sites with surrounding existing development, by reducing the removal of existing site vegetation and tree canopy and enhancing the integration of new plantings in required open space.*
- *The proposed text amendment aligns with the public interest in that it seeks to offset some of the impacts of large scale development on adjacent properties and on existing natural resources.*
- *The proposed text amendment will offset a portion of the ongoing impacts of new development on the natural environment within the City.*

DRAFT [Rational for Denial]

- *The proposed text amendments decreases the flexibility available to property owners seeking to redevelop property within the City.*
- *The proposed text amendment reduces the available property for new development within the City, potentially increasing the costs associated with development and impacting affordability within the City.*

LEGISLATIVE COMMITTEE REVIEWPROJECT #: P24-08-ZTAMEETING DATE: January 16, 2024

PROJECT/AMENDMENT: Tree Canopy Preservation & Enhancement Ordinance

APPLICANT/PETITIONER: City-Initiated

COMMITTEE SUMMARY:

Planning Staff (Matt Manley) met with the Planning Board's Legislative Committee, including Peter Hanley (in-person), Donna Waters (in-person) and Jim Robertson (Zoom), to review the draft ordinance language as prepared on behalf of the Tree Ordinance Committee. This was the only item on the agenda. The committee discussed the item for approximately 1 hour.

QUESTIONS:

The following questions were posed by members of the Legislative Committee:

- If it is intended that future growth should occur within the existing city limits to limit pressure on surrounding environments, what effect will tree canopy preservation standards have on the City's ability to house that growth?
- What expertise (model policies, resources, experts, etc.) was used to develop the policies in the ordinance?
- What was the impetus for creating Tree Canopy protection standards? Is it tied to the results of the Tree Canopy Study?
- Will the Species List be updated?
- In calculating the 20%/10% tree preservation areas, are only the trees within that area that qualify as "canopy trees" counted? Are invasive species counted? How will the area be determined? From analysis of aerial views, data from Canopy Study or from field surveys?

RECOMMENDATIONS:

The following recommendations were made by members of the Legislative Committee:

- Species list should be referred to as "Required Landscape Species Lists for Street, Tree and Land Development Projects 2022" or just "Landscape Species Lists for Street, Tree and Land Development Projects 2022".
- 3-Year Hold is not long enough to deter clear-cutting sites in advance of development. This position is based on the length of time it takes to go through the development process including entitlement approvals, financing, final site plan approvals, etc. A more prohibitive penalty should be considered such as 5-10 year Hold plus standards for immediate mitigation (silt fencing, seed cover, tree plantings, etc.)

RECOMMENDATIONS (cont.):

- Clarify language for newly planted “canopy trees” - that they will be 50’ [at maturity].
- Include illustrations for Street Tree to that recommendations are clearly understood.
- Require street trees between street and sidewalks. Require that trees adjacent to sidewalks have a minimum ground clearance of 7-8’.
- For Sec 15-9, consider allowing for/requiring rain gardens or some form of water infiltration into Planting Islands in parking lots. Current planting requirements limits the amount of water getting to tree roots (planting space has curb and gutter and drip line of trees eventually exceeds the planting space). This burdens tree growth and/or causes trees to die.

DISCUSSION ONLY - NO ACTION TAKEN

THIS IS A WORKING DRAFT. THIS DOCUMENT HAS NOT BEEN REVIEWED BY THE TREE BOARD ORDINANCE REVISION COMMITTEE.

Ordinance #

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND ARTICLE XII – DEVELOPMENT REVIEW, SECTION 7-3-3 AND SECTION 7-3-4 AND ARTICLE XV – BUFFERING , SCREENING, AND LANDSCAPING, SECTIONS 15-4 THROUGH 15-6, SECTION 15-9, SECTION 15-13, AND TO ADD NEW SECTIONS 15-14 AND 15-15 OF THE CITY OF HENDERSONVILLE ZONING ORDINANCE TO ESTABLISH ADDITIONAL REQUIREMENTS FOR THE PROVISION AND PROTECTION OF TREES.

WHEREAS, ...

NOW, THEREFORE, BE IT ORDAINED by City Council of the City of Hendersonville, North Carolina that:

SECTION 1. This Ordinance shall be known as “An Ordinance to Establish New Requirements for the Provision and Protection of Trees.”

SECTION 2. Article XII. Development Review is hereby amended as follows:

Sec. 7-3-3. Review of preliminary site plans.

7-3-3.2 Contents of preliminary site plan. Applicants for developments required to undergo preliminary site plan review shall, as a part of the application for such development, submit a preliminary site plan which shall show the following:

n) A plan showing tree line before site preparation, designated tree canopy preservation areas and new canopy installation areas, identifying the acreage of each, as well as areas to be screened, fenced, walled and/or landscaped;

t) Proposed limits of land disturbing activity.

Sec. 7-3-4. Review of final site plans.

Sec. 7-3-4.3 Contents of final site plan. A site plan showing the following shall accompany an application for site plan approval:

w) A plan showing tree line before site preparation, designated tree canopy preservation areas and new canopy installation areas, identifying the acreage of each, as well as areas to be screened, fenced, walled and/or landscaped.

x) Proposed limits of land disturbing activity.

SECTION 3. Article XII. Definition of Terms is hereby amended as follows:

Sec. 12-2. Definition of commonly used terms and words.

Canopy tree: A tree with a large, broad spreading crown, usually broadleaf and deciduous with a minimum mature height of 50 feet.

Recommended Species List: The Recommended Landscape Species List for Street Trees and Land Development Projects adopted by the Hendersonville Tree Board, as amended.

Specimen Tree: A large or medium maturing tree that is 25 inch DBH or greater; or a small maturing tree that is 10 inch DBH or greater, as designated on the Recommended Species List.

SECTION 3. Article XV. Buffering, Screening, and Landscaping is hereby amended as follows:

Sec. 15-2. Landscaping, buffering and screening required.

Landscaping, buffering and screening shall be required for developments within the planning jurisdiction of the City of Hendersonville, including its extraterritorial jurisdiction, as set forth herein.

- a) The following developments must bring the entire site into full compliance with the requirements of this article:
 - 1) Any new public or private development, with the exception of single or two-family homes on lots that were created by a method excluded from subdivision authority pursuant to G.S. 160D-802(1)-(5) or that existed on or before [insert date];
 - 2) A change of use to a higher impact. For purposes of this section, the following list ranks differing uses from lowest to highest impact: residential, mobile home park, institutional & cultural, commercial, industrial;
 - 3) Renovations with a total cost exceeding 50 percent of the assessed value of the building according to Henderson County tax records or an appraisal by a state licensed appraiser;
 - 4) Expansions exceeding 50 percent of the pre-expansion floor area or paved surface;
 - 5) Existing unpaved parking lots which are paved over.

Sec. 15-4. Existing vegetation.

a) **Preservation of existing vegetation.** Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to a proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing preserved trees and shrubs may be credited towards required buffer trees, street trees, and parking lot trees, in accordance with paragraph b), below.

b) **Credits and other incentives to preserve vegetation.** Preserved trees may be credited at the following rate:

2—12 inch DBH (diameter at breast height) tree = 1 tree

13—18 inch DBH tree = 2 trees

19—24 inch DBH tree = 3 trees

25+ inch DBH tree = 4 trees

In order to receive credit, preserved vegetation must be in good health and condition, and must not be listed as an Invasive Plant on the Recommended Species List. Trees designated to be preserved must be indicated on the site plan and on landscape and grading plans. Protective barriers, if utilized in accordance with paragraph c), below, must also be shown on the landscape and grading plans. A preserved tree shall be replaced with the total number of trees which were credited to the existing tree if the preserved tree dies.

c) **Tree Canopy Preservation.** All developments required to comply with this Article pursuant to Sec. 15-2 herein, with the exception of development of tracts whose area is no greater than two acres, shall preserve existing trees in compliance with this Section.

(1) **Existing Tree Canopy:** Any reference in this Chapter to existing tree canopy shall refer to the most recent Tree Canopy Cover Assessment conducted by the City of Hendersonville. Percentages refer to the relation of tree canopy to gross site area in square feet.

For any development site for which the City's Tree Canopy Cover Assessment does not provide data, the developer shall provide a plan, showing the dripline of the existing tree canopy, and such plan shall be conducted by a land surveyor, civil engineer, landscape architect licensed by the State of North Carolina or Arborist certified by the International Society of Arboriculture.

(2) **Preservation of Tier One Canopy:** 20 percent of the existing tree canopy on the site shall be preserved. The specific trees preserved shall be at the discretion of the developer. Tier One Canopy is not eligible for fee-in-lieu

without a variance issued by the Board of Adjustment.

- (3) **Preservation of Tier Two Canopy:** In addition to the Tier One Canopy required to be preserved by this Section, existing tree canopy on the site shall be preserved, and new tree canopy shall be installed, in accordance with one of the options in the table below:

Select One:	Existing Tree Canopy Preserved (in addition to Tier One Canopy)	New Tree Canopy Installation Required	Total Tier Two Canopy Required
Option 1	10%	0%	10%
Option 2	5%	7%	12%
Option 3	0%	15%	15%

The developer may request to pay a fee-in-lieu of the Tier Two Canopy preservation requirements pursuant to this section.

- (4) **Protection of trees during construction:** All trees required to be preserved by this Section shall be protected during construction in accordance with the standards contained in Sec. 15-4(d) below.
- (5) **Credit for existing vegetation:** All trees preserved pursuant to this Section may be credited towards the requirements of this Article subject to the provisions of Sec. 15-4(b) above.

All specimen trees preserved on a development site may receive 1.5 times their actual canopy coverage in the calculation of preserved tree canopy if such tree is protected during construction in accordance with the standards contained in Sec. 15-4(d) below.

- (6) **Fee in lieu.** Where specifically provided, the City Manager, or their designee, may, in lieu of preserving trees pursuant to this Section, allow the developer to pay a fee-in-lieu of tree preservation to the City's Tree Fund. The fee-in-lieu shall be established in the City's Fee Schedule.

In order to qualify for fee-in-lieu, the developer shall submit a letter outlining the unique hardship(s) that make the tree canopy requirement difficult to meet. Examples of unique hardships may include: conditions that are peculiar to the property; topography which results in impractical design; no other reasonable alternatives for accommodating required site improvements; and inability to achieve an appropriate development density. Personal hardships not directly related to the land do not justify use of this subsection.

- (7) **Delay of development approval.** In addition to any other method of

enforcement or remedy available, the City may refuse to issue a development approval for a period of three years following the removal of all or substantially all of the trees that are required to be protected under this Article.

- d) **Protection of existing trees during construction.** The regulations contained in this paragraph shall apply in those circumstances when a developer has either: (1) elected to protect trees during construction in order to receive credit under subsection b) of this section, or (2) been required to preserve canopy under this subsection c) of this section.

Sec. 15-5. General standards.

The following general standards shall apply to all landscaping requirements in this article.

- a) Unless otherwise specified, the exact placement of required plants and structures shall be the decision of the developer. The type of plants used shall be limited to those on the Recommended Species List. No plants listed as an Invasive Plant in the Recommended Species List may be used to meet the requirements of this ordinance. Required landscaping shall be designed in such a manner as to impart its aesthetic character when viewed from any area accessible to the public or from adjacent properties.

- h) **Native species.** For each development site, at least 75 percent of the trees required under the provisions of this article shall be native species as listed on the Recommended Species List.

Sec. 15-6. Bufferyards.

TABLE OF BUFFER REQUIREMENTS

Proposed Land Use	Existing Land Use /Zoning District ¹					
	Residential ²	Residential, multi-family ³	Mobile Home Park ⁴	Institutional & Cultural ⁵	Commercial ⁶	Industrial ⁷
Residential	X	X	X	X	X	X
Residential, multi-family	8-foot A	X	X	X	X	X
Mobile Home Park	10-foot B	10-foot B	X	8-foot A	10-foot B	X

Institutional & Cultural	10-foot B	10-foot B	8-foot A	X	X	X
Commercial	10-foot B	10-foot B	10-foot B	8-foot A	X	X
Industrial	25-foot C	25-foot C	25-foot C	15-foot B	15-foot B	X

Notes for Table of Buffer Requirements:

- 1 Buffering is required if adjacent parcel of land is used or zoned for the category noted regardless whether adjacent parcel is located in the city, the city's extraterritorial jurisdiction (ETJ), or the planning jurisdiction of another governmental entity. Existing adjacent land use takes precedence over zoning district. Buffer requirement for the district will be used if adjacent land is vacant.
- 2 Includes the following use districts: R-40, R-20, R-15, R-10, R-6, RCT, PRD.
- 3 Includes only those parcels developed as multi-family.
- 4 Includes the PMH district or an existing mobile/manufactured home park.
- 5 This category includes religious, recreational, child care and educational uses and the following use districts: MIC and PID.
- 6 Includes the following use districts: C-1, C-2, C-3, C-4, PCD, CMU, GHMU, HMU, UV, UR and CHMU.
- 7 Includes the following use districts: I-1, PMD.

Sec. 15-9. Landscaping for vehicular use areas.

Trees and shrubs are required in and around vehicular use areas with more than six spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, reduce glare from vehicular use areas, and to help filter exhaust from vehicles.

- a) **Perimeter and interior plantings.** Vehicular use areas must be planted with at least one tree and two shrubs for every 3,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas. Trees shall be evenly distributed throughout the vehicular use area, taking into account topography, shape of the vehicular use area, and necessary site improvements. At least 75 percent of the required parking lot trees must be broadleaf canopy trees. Trees and shrubs must be planted within 20 feet of the vehicular use area to count as parking lot landscaping; provided, however, all street trees required by other provisions of this zoning ordinance shall count as parking lot landscaping.

When a development contains 20 or more contiguous parking spaces, 50 percent of the trees and shrubs required by paragraph a), above, must be planted in islands or medians located within the parking lot. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot. At a minimum, such tree islands shall consist of an area at least equal in size to two parking places side-by-side (360 square feet). Parking bays shall be broken up with

landscaped islands or medians to avoid long monotonous rows of parking. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.

- b) **Planting strips.** When a vehicular use area lot is located within 100 feet of an abutting property and no bufferyard is required, a planting strip which is a minimum of five feet wide shall be planted between the vehicular use area and the abutting property, except along approved driveway openings which run perpendicular to the planting strip. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in paragraph a), above, if the planting strip is located within 20 feet of the vehicular use area. Adjacent businesses on separate lots which share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the reasonable use of the shared parking or driveway. Vehicular use areas located behind buildings and screened from view from public rights-of-way shall be exempt from this requirement.

Sec. 15-13. Common open space landscaping. In addition to all other landscaping required by this zoning ordinance, each development parcel required to provide common open space pursuant to Sec. 6-16 shall contain a minimum of one tree and five shrubs for every 1,200 square feet of common open space on such development parcel. A minimum of 50 percent of the trees shall be canopy trees.

At least 70 percent of the street trees planted shall be large-maturing trees (>50 feet in height). The remaining trees shall be medium maturing trees (25-50 feet in height).

No landscaped area shall be constructed with more than ten percent of the total area of gravel, stone, concrete, asphalt, or other similar material, excepting necessary walks.

Sec. 15-14. Open space landscaping. In addition to all other landscaping required by this zoning ordinance, each development parcel required to provide open space shall contain a minimum of one tree and five shrubs for every 4,000 square feet of common open space on such development parcel. A minimum of 50 percent of the trees shall be canopy trees.

At least 70 percent of the street trees planted shall be large-maturing trees (>50 feet in height). The remaining trees shall be medium maturing trees (25-50 feet in height).

No landscaped area shall be constructed with more than ten percent of the total area of gravel, stone, concrete, asphalt, or other similar material, excepting necessary walks.

Sec. 15-15. Street Trees. Street trees shall be required at the rate of one tree for every 35 linear feet of property abutting a street. Trees do not need to be spaced evenly. They may be clustered with a minimum spacing of 15 feet and a maximum spacing of 75 feet.

At least 70 percent of the street trees planted shall be large-maturing trees (>50 feet in height). The remaining street trees shall be medium maturing trees (25-50 feet in height).

Where overhead utility lines are present, streets trees shall be planted at the rate of one small-maturing tree (<25 feet in height) for every 25 linear feet of property abutting a street. Nothing herein shall be construed to prohibit a deviation from the mature height requirements or planting distance from the street right-of-way to accommodate existing overhead utility lines.

Street trees shall be placed in a planting strip on private property and not within the street right-of-way. No street tree can be planted farther than 35 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary, but the minimum width cannot be less than seven feet and the average width shall be at least ten feet. The planting area must be covered with living material, including ground cover and/or shrubs, except for mulched areas directly around trees and shrubs, so that no soil is exposed. When a sidewalk is proposed to be constructed on a development site and right-of-way configuration requires that it be constructed on the developer's property, the width of the planting strip may be reduced to an average of seven feet.

Street trees shall not be required on a property line abutting a street when the minimum setback provided is less than ten feet. By way of example, if the minimum setback required for a development is less than 10 feet from a property line abutting a street, but the setback provided is 10 feet or more, street trees are required.

During the development review process, the approving authority for the city may permit minor deviations in the placement of trees in order to avoid conflict with utility structures and utility lines.

SECTION 4. If any provision of this ordinance or its application is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable.

SECTION 5. It is the intention of the City Council and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 6. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this ____ day of _____ 202__.

Attest: _____
Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Becker, City Attorney

DRAFT