

STANDARD REZONING: 1208 STANWOOD LN (P23-26-RZO)

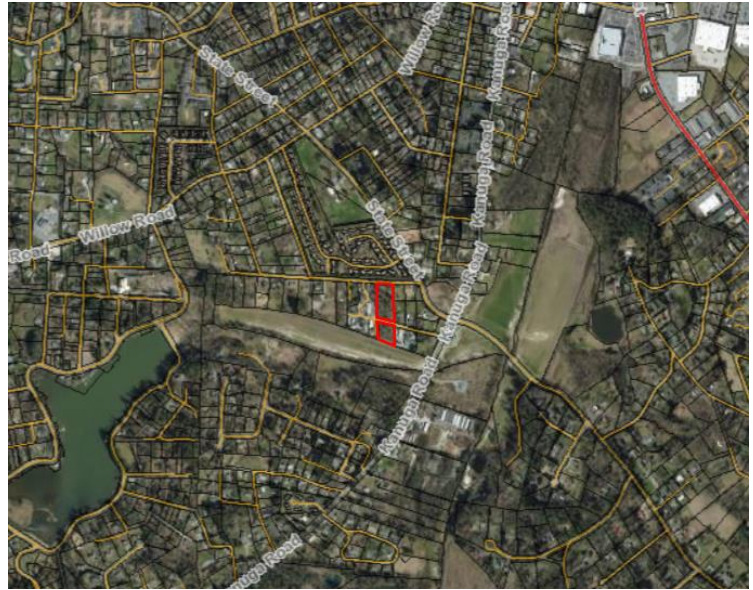
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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PROJECT SUMMARY

- Project Name & Case #:
 - 1208 Stanwood Rezoning
 - P23-26-RZO
- Applicant & Property Owner:
 - Michael Murphy [Applicant]
 - Michael Murphy & Ginger Murphy[Owner]
- Property Address:
 - 1208 Stanwood Ln
- Parcel Identification (PIN):
 - 9568-51-8549
- Project Acreage:
 - 1.8 Acres
- Current Parcel Zoning:
 - R-15 Medium Density Residential
- Requested Zoning:
 - R-10 Medium Density Residential
- Future Land Use Designation:
 - Medium Intensity Neighborhood
 - Natural Resource/Agriculture



SITE VICINITY MAP

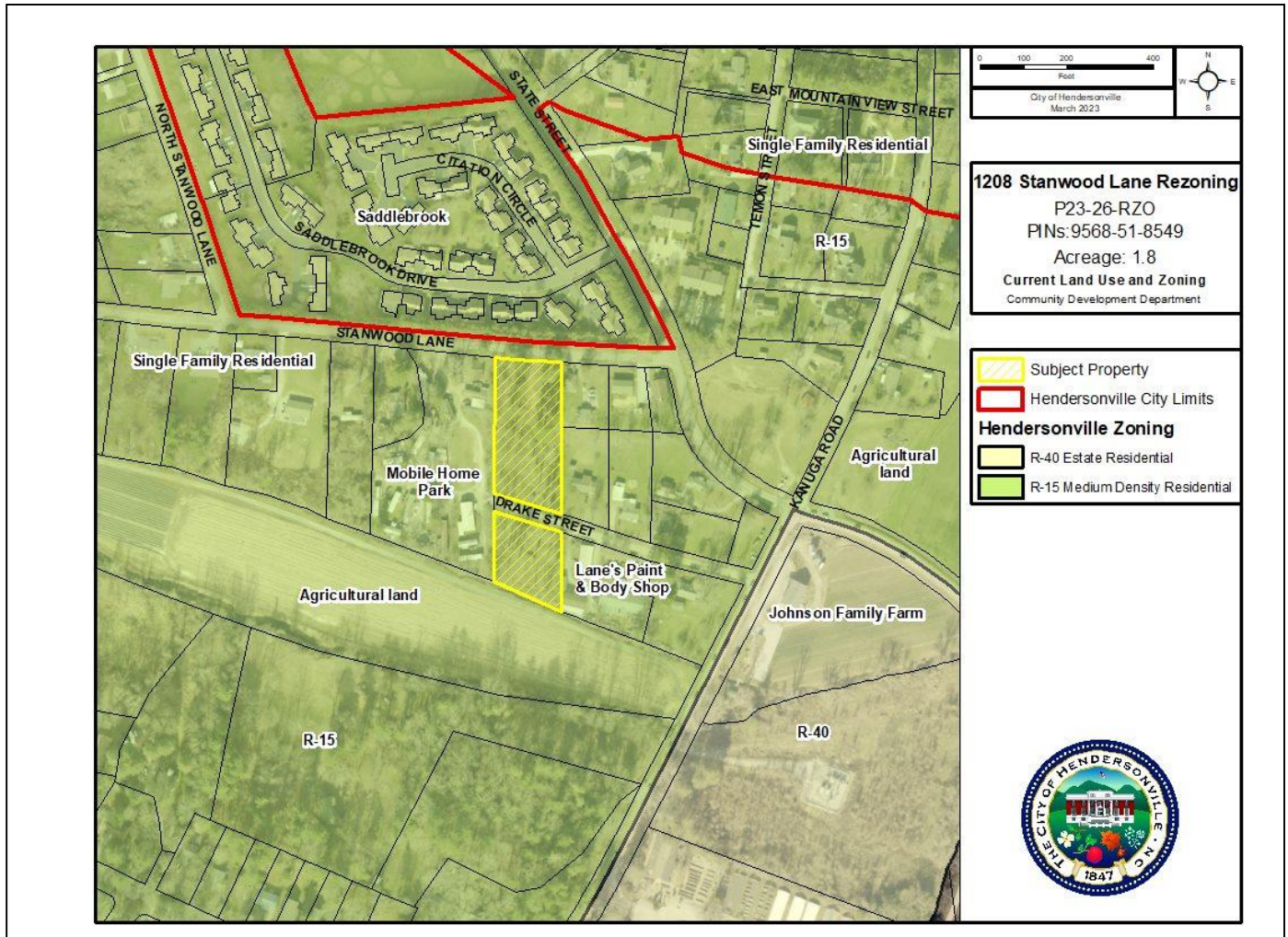
The City of Hendersonville is in receipt of an application for a Standard Rezoning from Michael Murphy, applicant/owner. The applicant is requesting to rezone the subject property (PIN: 9568-51-8549) located at 1208 Stanwood Ln from R-15, Medium Density Residential Zoning District to R-10, Medium Density Residential Zoning District.

The southernmost $\frac{1}{3}$ of the parcel is divided by Drake St which provides access from Kanuga Rd to a mobile home park neighboring the subject property. The portion of the parcel located south of Drake St is primarily located in the 100-Year Floodplain.

The City of Hendersonville Zoning Ordinance states that, during a standard rezoning process, an applicant is prohibited from discussing the specific manner in which they intend to develop or use a site.

If rezoned, there will not be a binding site plan, list of uses nor any conditions placed on the site. All permitted uses within the R-10 district would be allowed on the site.

EXISTING ZONING & LAND USE



City of Hendersonville Current Zoning & Land Use Map

The subject property is located in the ETJ in the south/southwestern portion of the City of Hendersonville's zoning jurisdiction. This portion of the ETJ has been in place since the ETJ was initially established in 1975. The subject property is zoned R-15 - the predominant zoning district found along the entire western side of the City's jurisdiction, stretching from Kanuga Rd to the south and beyond Stoney Mountain Rd to the north. Other zoning districts proximate to the subject property include R-40 (Low Density Residential) just .1 miles to the east and R-20 (Low Density Residential) located .2 miles further east.

It should be noted that there are multiple instances of site-specific uses, non-conforming uses and exempt uses in the vicinity of the subject property. To the west of the subject property is a mobile home park with a density of 8.7 units/acre. To the north is the Saddlebrook community which is a PUD with a density of 5 Units/Acre (excluding ROW). Additionally, there is a Paint & Body shop on the southeast side of the subject property. Some agricultural-oriented commercial activity is concentrated around the intersection of Kanuga Rd / State St on a bona fide farm which is zoned R-40. As a bona fide farm, this parcel is exempt from city zoning in the ETJ per GS 160D-903(c).

SITE IMAGES



Subject property facing south from Stanwood Ln



View along Stanwood Ln at subject property facing towards State St

SITE IMAGES



View of adjacent property from center of site



View of adjacent property from center of site

SITE IMAGES



View from center of site with Drake St and neighboring mobile home park in the background



View along Drake St where it passes through subject property and provides access to mobile home park

SITE IMAGES

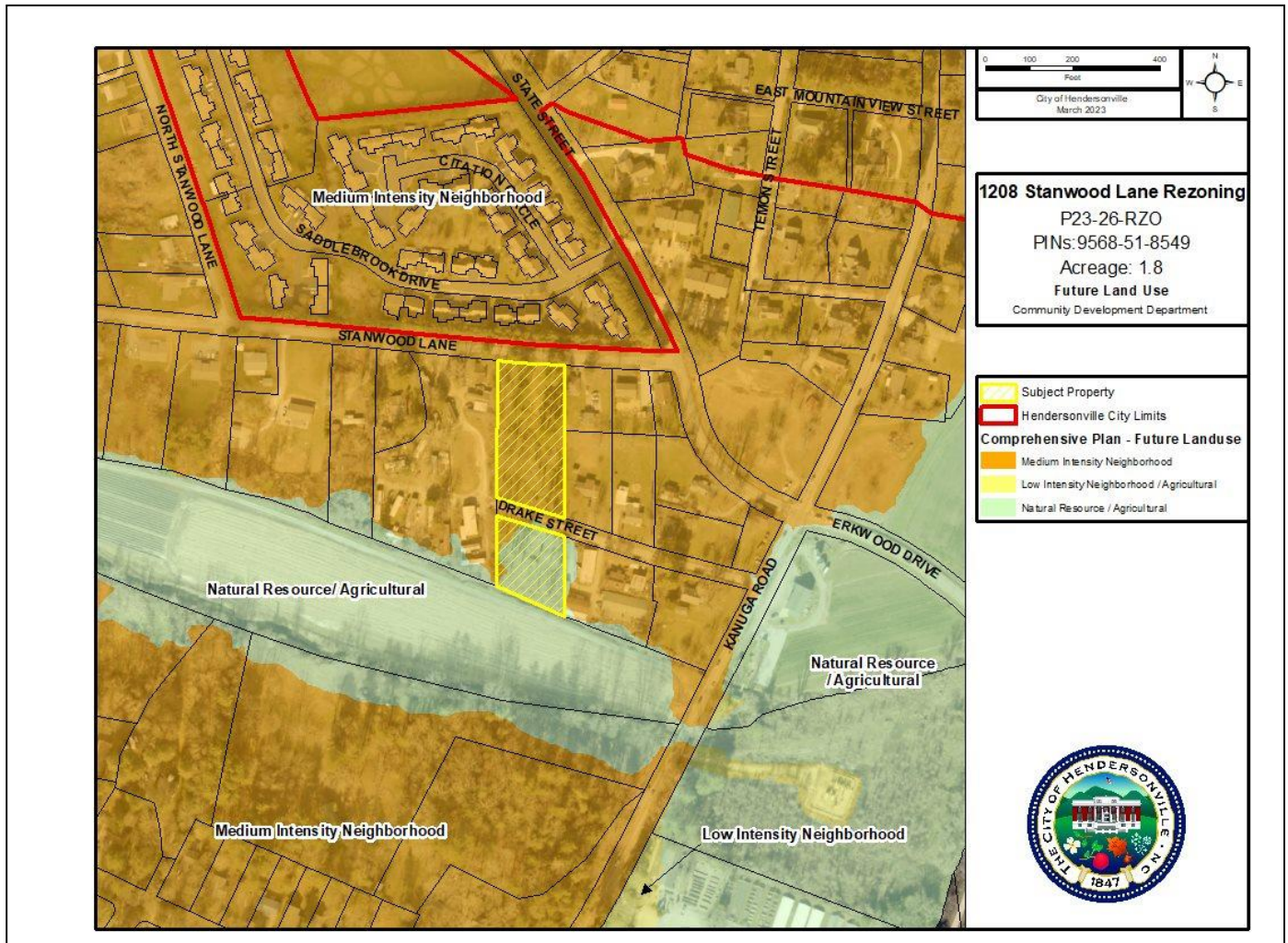


View of floodplain at south end of site



View of agricultural use to the south of subject property located along Shepherd Creek

FUTURE LAND USE



City of Hendersonville Future Land Use Map

The City of Hendersonville's 2030 Comprehensive Plan Future Land Use Map designates the southwestern quadrant of the planning area, including the majority of the subject property, as 'Medium Intensity Neighborhood'. The 100-Year floodplain in southern portion of the subject property, as well as other low lying areas along the Shepherd Creek and Mud Creek floodplains, are designated as 'Natural Resource/Agricultural'. Portions of land south of Kanuga Rd are designated as 'Low Intensity Neighborhood'.

COMPREHENSIVE PLAN CONSISTENCY

Future Land Use	NORTHERN PORTION OF SITE: Goal LU-6 - Medium Intensity Neighborhood: Provide a transition between High and Low-Intensity Neighborhood areas while providing a wide range of housing formats and price points. Promote walkable neighborhood design and compatible infill development in new neighborhoods and as a means of preserving and enhancing existing neighborhoods.
	Strategy LU-6.2 Primary Land Uses: <ul style="list-style-type: none"> • Single Family attached and detached [CONSISTENT]
	Strategy LU-6.3 Secondary Land Uses: <ul style="list-style-type: none"> • Limited multi-family residential along roadways designated as Boulevards or Major Throughfares on the Future Land Use Map [CONSISTENT]
	Strategy LU-6.4 Development Guidelines: <ul style="list-style-type: none"> • 2 to 8 Units per gross acre [CONSISTENT ~ R-10 = 5.5 units per acre] • At least 60% Open Space [LIMITED] • Architectural guidelines to encourage compatibility when different housing types abut one another (e.g. similar building height, massing, roof pitch, and rhythm of windows and façade detailing) [INCONSISTENT] • Encouragement of walkable neighborhood design [INCONSISTENT]
	SOUTHERN PORTION OF SITE: Goal LU-4.Natural Resource/Agricultural Areas: Create an interconnected network of green infrastructure that preserves environmentally sensitive areas, protects water resources through low-impact stormwater management, provides floodwater storage, provides community open space and recreational opportunities, and preserves agricultural resources.
	Strategy LU-4.1. Location: <ul style="list-style-type: none"> • The FEMA 100-year Floodplain [CONSISTENT]
	Strategy LU-4.2. Primary recommended land uses: <ul style="list-style-type: none"> • Open space [LIMITED] • Recreational amenities [CONSISTENT] • Low-impact stormwater management facilities [INCONSISTENT] • Flood storage [CONSISTENT] • Agricultural uses [INCONSISTENT]
	Strategy LU-4.3. Secondary recommended land uses: <ul style="list-style-type: none"> • Utilities other than stormwater management [CONSISTENT] • Single-family attached and detached structures [CONSISTENT] • Cemeteries [INCONSISTENT]
	Strategy LU-4.4. Development guidelines: <ul style="list-style-type: none"> • Preservation and restoration of natural hydrology [LIMITED] • Encouragement of Low-Impact Development principles, as described under Strategy WR-2.3 [LIMITED] • Development of non-motorized pathways to connect neighborhoods, businesses, parks, and regional greenways [LIMITED] • Residential uses limited to one unit per gross acre or less with at least 60% open space [LIMITED]

Land Use & Development	<i>Growth Management (Map 8.3a): Designated as “Preservation/Enhancement Area”. Developed areas in which few significant changes are expected, or undeveloped areas that are not considered a high priority for growth. The City should respond to development or redevelopment in these areas by maintaining and enhancing existing neighborhood character and maintaining consistency with Comprehensive Plan goals and strategies.</i>
	<i>Goal LU-1. Encourage infill development that utilizes existing infrastructure in order to maximize public investment and revitalize existing neighborhoods.</i>
	<i>Goal LU-2. Discourage development in areas needed for protection of natural and agricultural resources and protection of citizens from natural hazards.</i>
Population & Housing	<i>Strategy PH-2.1. Encourage variation in lot sizes and housing types within new developments.</i>
	<i>Strategy PH-2.2. Encourage provision of affordable housing units in new developments.</i>
	<i>Strategy PH-3.2. Encourage mixed land use patterns that place residents within walking distance of services.</i>
Natural & Environmental Resources	Goal NR-1. -Preserve environmentally sensitive areas in order to protect life and property from natural hazards, protect water resources, and preserve natural habitat.
	<i>Strategy NR-1.1 - Discourage and reduce development of structures and impervious surfaces within the FEMA Floodway and 100 Floodplain.</i>
	<i>Strategy NR-1.2 Protect land adjacent to streams to protect water quality, reduce erosion and protect wildlife habitat.</i>
	<i>Strategy NR-1.3 Encourage restoration of natural habitat and drainage patterns in developed areas.</i>
	<i>Strategy NR-1.5 - Continuously assess development and preservation efforts within areas planned as Natural Resources/Agricultural on the Future Land Use Map (Map 8.3b in Chapter 8) based on their conservation value</i>
	Goal NR-2. - Provide a variety of quality open space, distributed equitably throughout Hendersonville, that can be used for recreational opportunities and aesthetic enhancements
	<i>Strategy NR-2.1. - Encourage clustered development that preserves open space while allowing a return on investment.</i>
	<i>Strategy NR-2.2. - Acquire or encourage acquisition of environmentally sensitive properties</i>
	<i>Strategy NR-2.3. -Promote preservation of woodlands</i>
	<i>Strategy NR-2.4. - Promote the location and design of open space areas within developments so that they contribute to and link individual homes to the City’s green infrastructure network.</i>
	<i>Strategy NR-3.2. Enable and encourage Low-Impact Development practices in stormwater management</i>
Cultural & Historic Resources	<i>No Goals, Strategies, or Actions are directly applicable to this project.</i>

Community Facilities	<i>No Goals, Strategies, or Actions are directly applicable to this project.</i>
Water Resources	<i>Strategy WR-2.2. Prevent development of floodplains and stream corridors in order to preserve natural drainage patterns and improve the quality of stormwater runoff</i>
Transportation & Circulation	<i>Strategy TC-1.4. Encourage pedestrian connections between dead end streets and adjacent neighborhoods.</i>
	<i>Strategy TC-2.2. Preserve and expand the public greenway system as a core component of the bicycle and pedestrian transportation system</i>

GENERAL REZONING STANDARDS	
Compatibility	Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property –
	<p>The subject property and all properties abutting it are zoned R-15 (Medium Density Residential). R-15 is also the predominant zoning district found throughout the surrounding area with the exception of R-40 (Low Density Residential) and R-20 (Low Density Residential) which are located further east of the subject property.</p> <p>There are multiple instances of site-specific land uses, non-conforming uses and exempt uses in the vicinity of the subject property. Abutting the property to the west is a mobile home park with a density of 8.7 units per acre. To the north is the Saddlebrook community which is a Planned Unit Development with a density of 5 Units/Acre. The maximum density currently permitted under R-15 is 3.75 units/acre for a Minor Planned Residential Development. Additionally, there is a Paint & Body shop on the southeast side of the subject property. And lastly, some agricultural-oriented commercial activity (produce stand, food truck, etc.) is concentrated around the intersection of Kanuga Rd and State St on the site of a bona fide farm that is zoned R-40. As a bona fide farm, this parcel is exempt from city zoning in the ETJ per GS 160D-903(c). It should also be noted that the municipal boundaries of the Village of Flat Rock are less than ¼ mile from the property.</p>
Changed Conditions	Whether and the extent to which there are changed conditions, trends or facts that require an amendment -
	<p>With the exception of an observed increase in commercial activity at the intersection of State St and Kanuga at the location of a bona fide farm, there have been no significant recent changes in the immediate area.</p> <p>In 1990, the Saddlebrook Neighborhood, located adjacent to the north of the subject property, was approved as a Special Use Permit. This Planned Unit Development is zoned R-15 and has a density of 5 Units per Acre on 15 Acres. This subdivision was legally established according to the zoning standards that were in place at the time. The R-15 zoning permitted 6 units/acre for single-family attached homes according to the 1994 Zoning Ordinance. The R-15 zoning district has subsequently been amended to not permit multi-family uses and permits single-family and two-family uses at a rate of 3.75 units/acre as part of a Minor PRD.</p> <p>More broadly, another changed condition is the lack of housing supply / low availability rate of affordable housing which has created a housing shortage throughout the region.</p>
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 -
	<p>The rezoning will allow for additional residential development. Utilizing a Minor PRD, a maximum increase of 3 units could be achieved if rezoned from R-15 to R-10.</p>

Public Facilities	<p>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</p>
	<p>A Water / Sewer Availability Request was received for this parcel. Both utilities are available to the site.</p> <p>The site will be served by an NCDOT maintained street, which is classified as a “local street” in the comprehensive plan. There are currently no sidewalks on Stanwood Ln or Drake St.</p> <p>Sanitation, Police and Fire service will be provided to the parcel upon voluntary annexation. Fire hydrants are needed in the area. Extension of sanitation services to the site would be relatively seamless given proximity to existing services.</p>
Effect on Natural Environment	<p>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 -</p>
	<p>In comparing aerial photographs to current conditions, it does appear that this site was once a wooded lot that has now been cleared with the exception of some trees at the southern end of the parcel.</p> <p>There is a blue line stream bisecting diagonally across the subject property. There is also a blue line stream shown on the USGS map along the southern property boundary. Assuming that these blue line streams are not piped and are deemed to be protected waterways according to the US Army Corp of Engineers, the City’s standards for Stream Buffer Protections would need to be met if/when the property is developed. One half acre of the parcel is located in the 100-year floodplain and would be subject to the City’s standards for Floodplain Protection and subject to our Floodplain Development Ordinance. Section 17-2-2 of the City’s Zoning Ordinance provides the following:</p> <p>d)In order to allow design flexibility to achieve high quality site design and better utilization of land adjacent to the special flood hazard area, a property owner or developer may fill and/or use for development up to ten percent of the special flood hazard area contained within the boundaries of any development site upon satisfactorily demonstrating the following:</p> <ol style="list-style-type: none"> 1)The proposed fill and/or development provides for a higher quality site design and better utilization of land adjacent to the special flood hazard area than would be possible without the intrusion necessary to achieve the high quality design; and 2)The proposed fill and/or development represents the minimum amount of special flood hazard area intrusion necessary to achieve the high quality design. <p>Public and private roads and sidewalks shall not count toward the allowable ten percent of the special flood hazard area on a tract that can be filled and/or used for development in accordance with section 17-2-2(d).</p> <p>A property owner or developer may fill and/or use for development more than ten percent of the special flood hazard area when such would be necessary so that the property to be developed, including both the special flood hazard area and land adjacent thereto, equals one-half acre.</p>

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 Medium Intensity Neighborhood designations call for Attached and Detached Single Family Residential uses as Primary Land Uses and Development Guidelines recommend densities at a rate of 2 - 8 units per acre. The R-10 Medium Density Residential Zoning District permits single-family and two-family uses at a maximum of 5.5 units per acre.

DRAFT [Rationale for Approval]

- *The proposed residential zoning district is compatible with the character of the surrounding neighborhood and the adjacent land uses.*
- *The petition provides for a modest increase in density without introducing new uses that would be detrimental to or out of character with the surrounding neighborhood.*
- *The proposed increase in density would provide a public benefit by allowing for additional needed housing stock.*
- *The proposed increase in density helps to offset limitations to development which are constrained by the presence of a 100-Year Floodplain on the subject parcel.*

DRAFT [Rational for Denial]

- *The proposed residential zoning district is incompatible with the rural character of the surrounding neighborhood and the adjacent land uses.*
- *The proposed increase in density would be detrimental to the surrounding community due to an intensification of traffic congestion in the area.*
- *Density levels on the subject property should be maintained in order to limit impacts on the 100-Year Floodplain.*

SPOT ZONING ANALYSIS

The UNC School of Government provides a [Legal Summary on the issue of Spot Zoning](#) (David Owens, April 2020). According to the Legal Summary, Spot Zoning was defined in the “Blades v City of Raleigh” case as follows:

A zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to impose upon the smaller tract greater restrictions than those imposed upon the larger area, or so as to relieve the small tract from restrictions to which the rest of the area is subjected, is called “spot zoning”.

The Legal Summary goes on to provide criteria when considering the legality of “Spot Zoning”. Those criteria are listed as follows:

1. The size and physical attributes of the site;
2. The benefits and detriments to the landowner, the neighbors, and the community;
3. How the actual and previously permitted uses of the site relate to newly permitted uses;
4. Any changed conditions warranting the amendment; and
5. Other factors affecting the public interest

Spot Zoning Definition Analysis | Below is an analysis of the Spot Zoning definition as it relates to the proposed rezoning of 1208 Stanwood Ln:

- Does the amendment single out and reclassify a relatively small tract?
 - The subject property is 1.8 Acres.
- Is the tract owned by a single person?
 - There are two property owners: Michael Murphy and Ginger Murphy
- Is the tract surrounded by a larger area uniformly zoned?
 - The R-15 zoning district associated with the subject property, from a broad perspective, encompasses a contiguous area that is approximately 1,800 Acres. The R-15 district represents a large portion of the western side of the City, stretching from Kanuga Rd, to the south, up to the northern boundary of the ETJ along Asheville Hwy. Given that this district narrows to a single row of parcels at the intersection of Blythe St and 6th Ave (US 64), one could take a narrower view of the R-15 district. Applying this narrower view, the R-15 area stretching from Blythe St/6th Ave to Kanuga Rd encompasses an area of approximately 1,050 acres.
 - An R-40 district is located .1 miles from the subject property.
 - An R-20 district is located .2 miles from the subject property.
- Does the amendment relieve the small tract from restrictions to which the rest of the area is subjected?
 - Allows for smaller minimum lot size/increase in density

Spot Zoning Criteria Analysis | Below is an analysis of the Spot Zoning criteria as it relates to the proposed rezoning of 1208 Stanwood Ln:

1. Size and physical attributes of the site:

- The subject property is 1.8 Acres.
- .5 acres of the subject property are in the 100-Year Floodplain.

2. Benefits and Detriments to the Landowner, the Neighbors, and the Community:

- The benefit to the landowner would be a density increase from 3.75 Units/Acre to 5.5 Units/Acre (using Minor PRD as max density).
- On a 1.8 Acre site this would allow for 9 units instead of 6 units and potentially allow for better utilization of land given the presence of floodplain.
- Detriments to the neighboring landowners could be that the maximum increase of 3 additional dwelling units would increase associated noise, light and traffic impacts.
- The benefit to the community would be a slight increase in housing units to address housing shortage

3. Actual and Previously Permitted Uses of the Site in Relation to Newly Permitted Uses:

- The permitted uses in R-15 and R-10 are identical with one exception. 'Cemeteries' are a Special Use in R-15 but not permitted in R-10.
- Both districts are primarily single-family/two-family zoning districts with 5,000 Sq Ft difference in minimum lot size for a single-family home.

4. Changed Conditions Warranting the Amendment:

- Recent changed conditions include increased in commercial activity at the intersection of State St and Kanuga at the location of a bona fide farm.
- In 1990, the Saddlebrook Neighborhood, located adjacent to the north of the subject property, was approved as a Special Use Permit (site-specific approval). This Planned Unit Development is zoned R-15 and has a density of 5 Units per Acre on 15 Acres. This subdivision was legally established according to the zoning standards that were in place at the time. The R-15 zoning permitted 6 units/acre for single-family attached homes according to the 1994 Zoning Ordinance.
- There is a non-conforming Mobile Home Park adjacent to the site with a density of 8.7 Units per Acre on 3.1 acres. This mobile home park was established at some point between 1955 and 1984.
- Adjacent to the site to the southeast is an auto paint and body shop which is not a permitted use in the R-15.
- The remainder of the immediate area appears to be single-family homes with lot sizes ranging from .5 to 1 acre.

5. Other Factors Affecting the Public Interest.

- Compatibility with Plan – The 2030 Comp Plan Future Land Use Map designates this area as 'Medium Intensity Neighborhood' which recommends a density of 2-8 Units / Acre. R-15 currently allows 3.75 Units/Acre while R-10 would permit 5.5 Units/Acre.

Staff Analysis | Based on this analysis, staff believes this petition would be categorized as a Spot Zoning because it benefits a single property owner/household and because it is a single 1.8-acre parcel surrounded by a very large area that is uniformly zoned R-15. However, based on the other considerations, it is staff's opinion that the proposed rezoning would be considered a valid rezoning for the following reasons:

- Development constraints associated with the presence of a flood zone on the property.
- Changed conditions in the area established by the introduction of the density associated with Saddlebrook and the adjacent Mobile Home Park,
- Changed condition involving a text amendment (September 1997) which reduced the permitted densities in the R-15 district (reduced single-family attached density from 6 units/acre to 3.75 units/acre and eliminated multi-family uses).
- Only marginal difference between the proposed zoning (R-10) and the existing zoning (R-15).
- Permitted uses in R-10 are not out of character with the surrounding area.
- The rezoning would not be considered detrimental to the neighborhood character