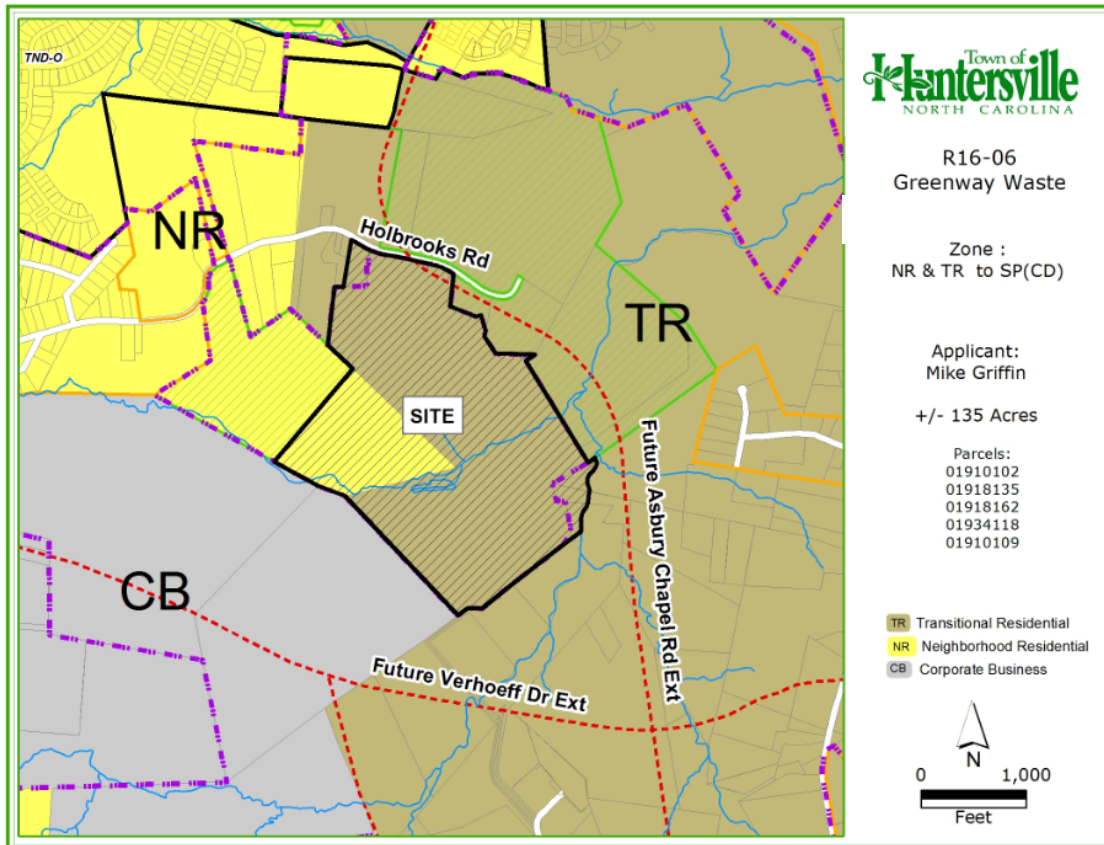


Petition R16-06 Greenway Waste Solutions Landfill

PART 1: PROJECT SUMMARY



Applicant: Mike Griffin

Property Owner:
Greenway Waste
Solutions, LLC and
Mike Hammill

Property Address:
15300 Holbrooks
Road, 15120
Holbrooks Road, and
others.

Project Size: 135
acres

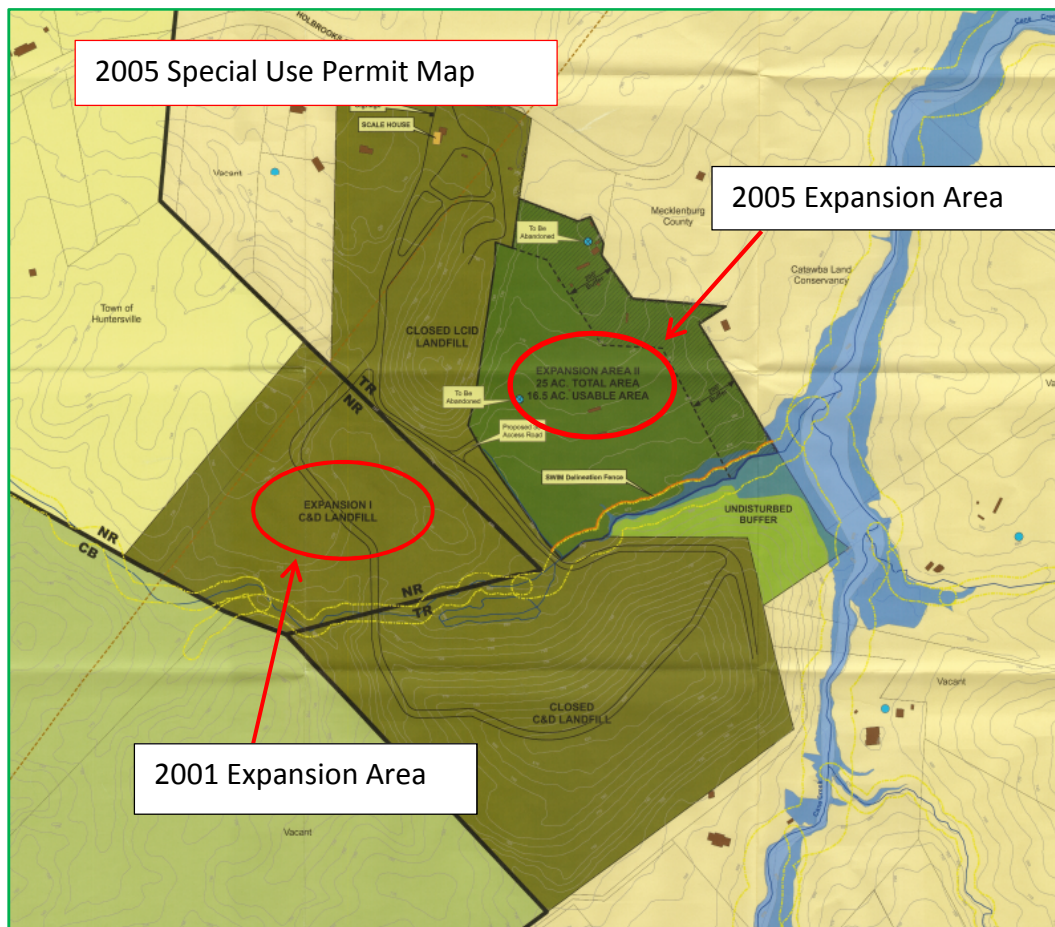
Parcel Numbers:
01910102, 01910109,
and portions of
01918135, 01918162,
01934118

Application Summary:

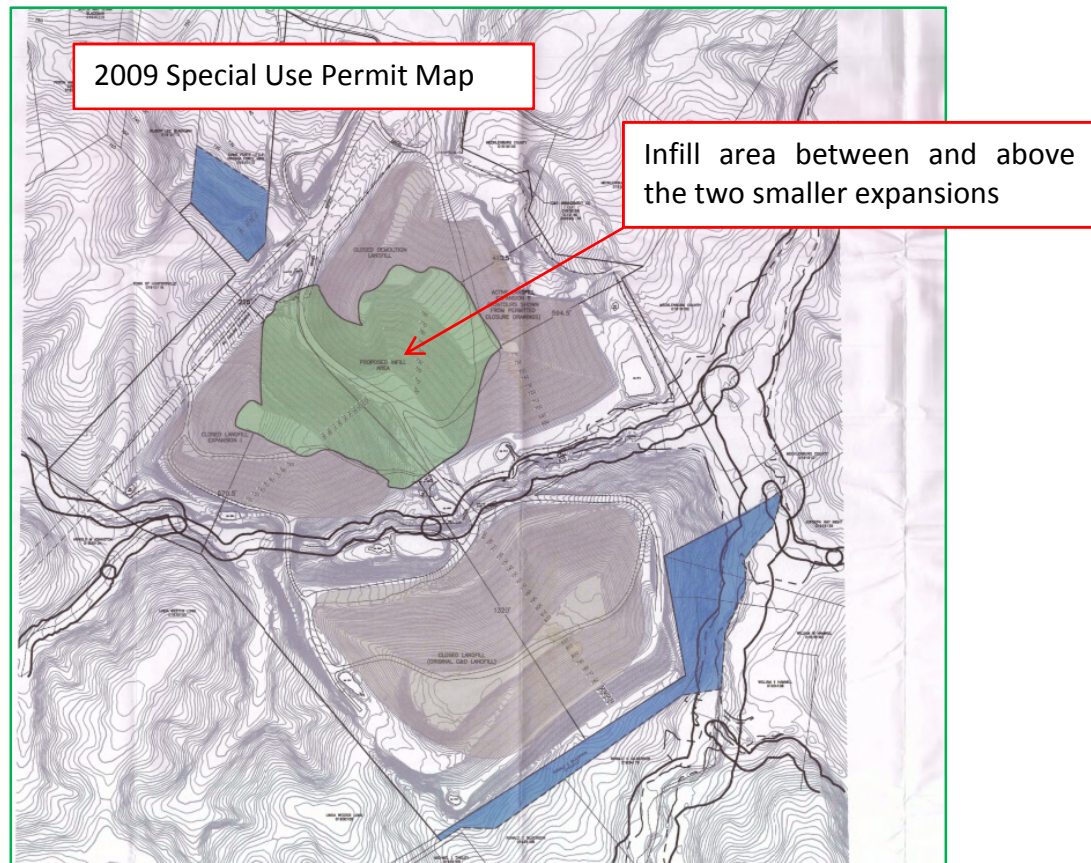
- Greenway Waste Solutions, LLC has submitted a conditional rezoning application to rezone their property from Neighborhood Residential (NR) and Transitional Residential (TR) to Special Purpose Conditional District (SP-CD). The purpose of the rezoning is to allow the applicant to seek a Special Use Permit (SUP) for an expansion of their landfill operation and accommodate the construction of a recycling facility on the site.
- Adjoining Zoning and Land Uses
North: Transitional Residential (TR), Park Land: David Waymer Regional Flying Park, Vacant Land
South: Corporate Business (CB), Commerce Station Business Park, Vacant Land
East: Transitional Residential (TR), Large Lot Single Family Residential, Vacant Land
West: Neighborhood Residential (NR), Vacant Town Land, Single Family Residential
- The Greenway Waste Solutions Landfill is considered a Construction and Demolition (C and D) landfill in the Huntersville Zoning Ordinance and is regulated by Article 9.23 of the ordinance. It is also regulated by the State of North Carolina Department of Environment and Natural Resources Division of Waste management (NCDENR)
- The landfill has been in operation on Holbrook Road since June 24, 1993. After the adoption of the Huntersville Zoning Ordinance in 1996, the landfill became and operated as a legal nonconforming use due to being located in a residential zoning district. As a legal nonconforming use, the landfill could continue its operation but could not expand unless that expansion was in complete conformance with the zoning ordinance.
- On December 18, 2000 per the landfill's request, a text amendment to the zoning ordinance was approved by the Huntersville Town Board allowing one expansion of the facility not to last more than 5 years from the

approval of the NCDENR permit. In 2001 the landfill was permitted its first expansion per the new ordinance. See 2005 Special Use Permit Map below.

6. On September 19, 2005 per the landfill's request, a text amendment was approved by the Town Board modifying the number of expansions allowed for landfills from one to two, with the issuance of Special Use Permit (SUP). The time limit remained at 5 years for each expansion to operate.
7. On November 21, 2005 a Special Use Permit was approved allowing the landfill to have its second expansion for no more than 5 years. Please see the 2005 SUP map below showing the locations of the two expansions.

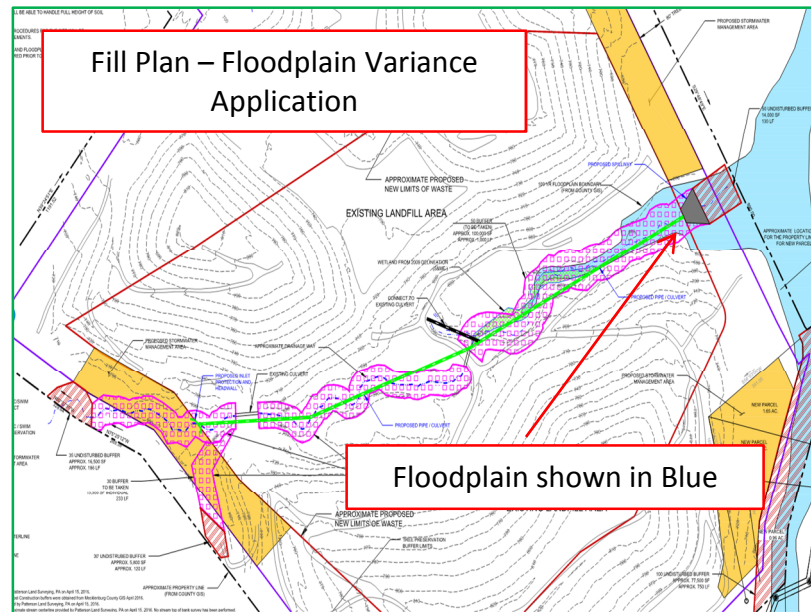


8. On December 7, 2009 per the applicant's request, a text amendment was approved by the Huntersville Town Board which significantly modified the requirements of Article 9.23. Noteworthy changes included:
 - Added flexibility to allow landfills to not have immediate access on a thoroughfare provided the Town Board finds that the access "would not likely cause any injurious effect on the property adjacent to the access".
 - Allowed existing landfills to continue their operation indefinitely as long as the landfill had an unexpired Special Use Permit and did not expand its exterior boundaries.
 - Deleted the landfill expansion section so that any expansion of a facility would need to fully conform to current ordinance standards.
9. On December 7, 2009 the Town Board approved the landfill's Special Use Permit (SUP) amendment application allowing them to fill in between the previous two expansions and removing its 5 year expiration date. This allowed the landfill to continue its operation as exists indefinitely as long as there was no expansion to its boundaries. The submitted lifespan of the landfill at that time was 25 years. Please see the 2009 SUP map below. The approved SUP itself is included in your agenda package for reference.



10. Greenway Waste's current proposal is to pipe the stream running through the center of the landfill and to add an "expansion area" on top of it. This fill area would then connect the fill areas to the north and south of the creek (please see the Rezoning/SUP plan proposed below on page 7). They also propose to add a recycling facility to the site near Holbrook Road which will allow them to more efficiently recycle waste and encumber the new fill area on site more slowly, thus increasing the life expectancy of the landfill. In order to accomplish this however, the following Huntersville approvals would be required as proposed:

- A variance from the Zoning Board of Adjustment to Article 8.25.5 of the Huntersville Zoning Ordinance in regard to S.W.I.M buffers. Rather than allowing for the required 35-50 foot water quality buffer on the property, the landfill proposes to pipe the stream and fill on top of it thus removing any buffer.
- A variance from the Zoning Board of Adjustment to Section 151.60 (A)(10) of the Floodplain Ordinance, which states that no landfill may fill in a regulated floodplain except by variance. Please see the proposed fill plan below. The area in the blue to the east of the site is shown as floodplain.
- A variance from the Zoning Board of Adjustment to Article 9.23 of the Zoning Ordinance in regard to buffers for Construction and Demolition Landfills. Article 9.23 prohibits fill area in designated wetlands, FEMA community flood areas, and requires a 50 foot buffer from delineated streams.
- A conditional rezoning to Special Purpose Conditional District (SP-CD). There is no expansion language in the ordinance for landfills since the December 2009 text amendment. When a landfill now expands its boundaries it must do so per the requirements of Article 9.23. There it requires that landfills be located in the Special Purpose (SP) zoning district with the issuance of a special use permit. The landfill is looking to add properties to the landfill operation and thus is seeking a rezoning to SP.
- An updated Special Use Permit that includes the new fill area and added properties to the landfill.



11. The variance applications are currently being heard by the Board of Adjustment. The Board held a hearing on July 12, 2016 and continued the hearing until August 9, 2016. This proposed rezoning application therefore cannot be approved if the variance applications are not also approved in conformance to ordinance standards.
 - **Update 8/12/16:** At the August 9 meeting per that applicant's request, the variance application hearings were continued again until the Board's September 13, 2016 meeting. The request was made in order for the applicant to have more time to address staff comments.
12. The rezoning plan/Special Use Permit plan also includes a 30,000 sqft recycling building located toward Holbrooks Road. The purpose of this metal building is to make the recycling and separation of the construction debris more efficient. This facility would reduce the amount of waste added to the landfill and thus increase the lifespan of the use.
13. It is estimated that with the combination of adding another fill area over the creek and the addition of the recycling facility on site, the lifespan of the landfill will be extended another 40-50 years.
14. Article 9.23 of the Huntersville Zoning Ordinance requires that landfills in the SP district be issued a Special Use Permit by the Town Board. The Special Use Permit (SUP) is being processed concurrently with the rezoning application. Therefore the SUP is tentatively scheduled to go before the Planning Board on August 23 for recommendation to the Town Board at their September 6 meeting.
15. A neighborhood meeting was held on Monday June 27, 2016. The invitation list, attendance list and summary of the meeting are included in your agenda packet.

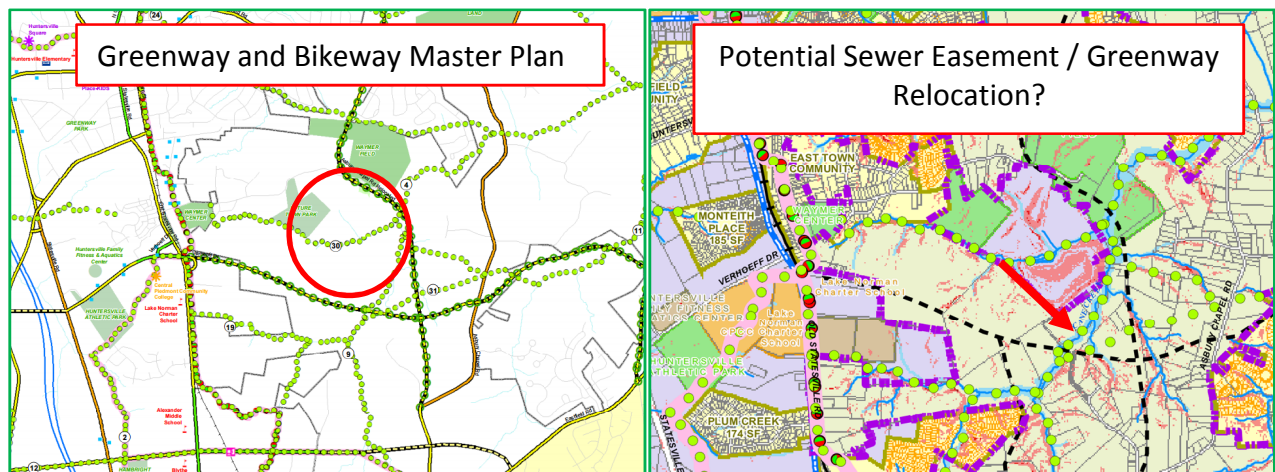
PART 2: REZONING/SITE PLAN ISSUES

- Article 9.23.3 requires that landfills "not conflict with the objectives of the most detailed plan adopted for the area". A greenway is planned along the stream that is proposed to be piped and covered in the application (see the Greenway and Bikeway Master Plan map below). It is common to locate greenways and other recreational areas in landfills after the site has been filled and closed. Piping and filling the creek however would eliminate the feasibility of a greenway path as shown on the approved greenway plan. In addition, if the rezoning and SUP are approved and the lifespan of the landfill is extended indefinitely, having an open greenway through an

active landfill would create safety and security concerns for the landfill. Therefore the current application conflicts with the approved Greenway and Bikeway Master Plan.

However, Charlotte Water is currently in discussions to establish a sewer line and related easement in the vicinity of the applicant's southern property line. The sewer line would extend east and connect to Cane Creek, ultimately where the proposed greenway would also connect (please see the map below). It may be possible to relocate the greenway along the new sewer easement to the south and connect with the Cane Creek greenway at a further south location. The Greenway, Bikeway, and Trail Committee is meeting on Tuesday, July 26 to discuss this potential relocation. If this area is deemed as an appropriate realignment, the applicants have stated that they would accommodate the sewer and greenway easement on their property down to Cane Creek. However if the alignment is changed, a note and/or graphic representation of the relocated greenway should be shown on the applicants rezoning plan.

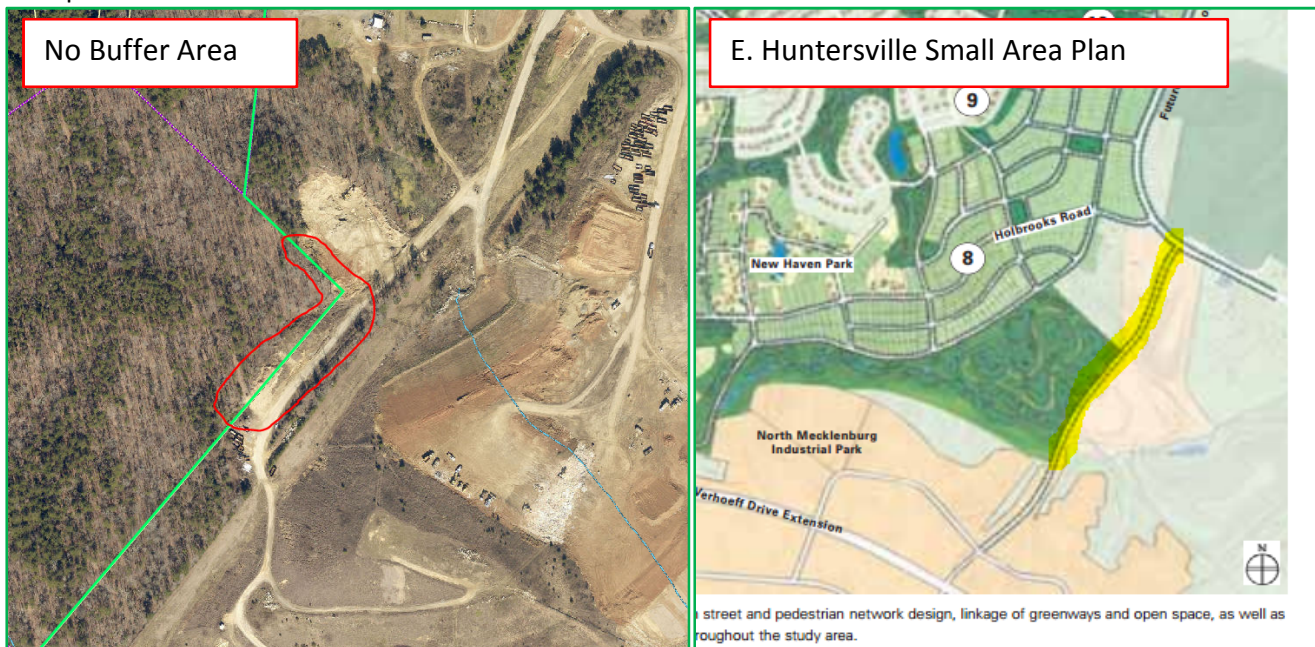
- **UPDATE: 8/12/16:** At their July 26 meeting, the committee recommended to re-locate the greenway to the southern portion of the applicant's property to coincide with the future sewer right of way. The condition of the recommendation was that the relocation only takes place if the rezoning proposed is approved.
- If the Town Board agrees with the committee's recommendation, they will need to take final action to amend the Master Plan and move the greenway.
- The updated plan submitted by the applicant does not accommodate for the proposed relocated greenway along their property. Staff recommends the plan be amended to show a 20 foot easement along the property line to accommodate for the installation of a greenway trail as proposed.



- Article 7.5 of the Huntersville Zoning Ordinance requires that developments in the Special Purpose (SP) zoning district provide an 80 foot buffer adjacent to their property lines (if not adjacent to other CB, SP, or CI zoned property). To conform to this section of the ordinance, wherever existing vegetation does not exist within the 80 foot buffer area, an opaque planted buffer would need to be installed. The applicants are seeking modification of the buffer requirements through the conditional rezoning process, per Article 11.4.7 K. The rezoning plan shows the areas where modification is proposed in a hatched green shading. (See rezoning plan below on page 7)
 - Article 2.3 of the Huntersville Zoning Ordinance states that when projects are redeveloped, they need to come up to current zoning code "to the extent practicable". Considering this is an existing landfill endeavoring to redevelop to current zoning standards, staff is generally supportive of the modification except for the one area shown below. From aerial photography, not including areas proposed to be planted per the ordinance, there seems to be about 20-50 feet of existing vegetation around the entire perimeter of the site except for the area shown below. In this area the grading and clearing have

encroached up to the property line. Therefore staff recommends this area be landscaped per ordinance requirements to establish an opaque buffer.

- **UPDATE 8/12/16:** The updated plans submitted by the applicant do not include any buffering or screening in this area.
- The subject property is not located within the boundaries of any of the Small Area Plans adopted by the Town of Huntersville. However, the East Huntersville plan does mention and recommend a connector road in between the proposed Verhoeff Drive extension to the south and the future Asbury Chapel extension to the north. The north/south connector road could traverse the subject property. Staff recommends that the applicants reserve right of way, or commit to accommodate a street connection through their property. In the 2009 SUP, the applicants reserved the right of way in the area of the gas pipeline and buffer at the southwest edge of the property through their main entrance. Something similar could be done for this application as well. Please see a portion of the E. Huntersville Small Area Plan below.

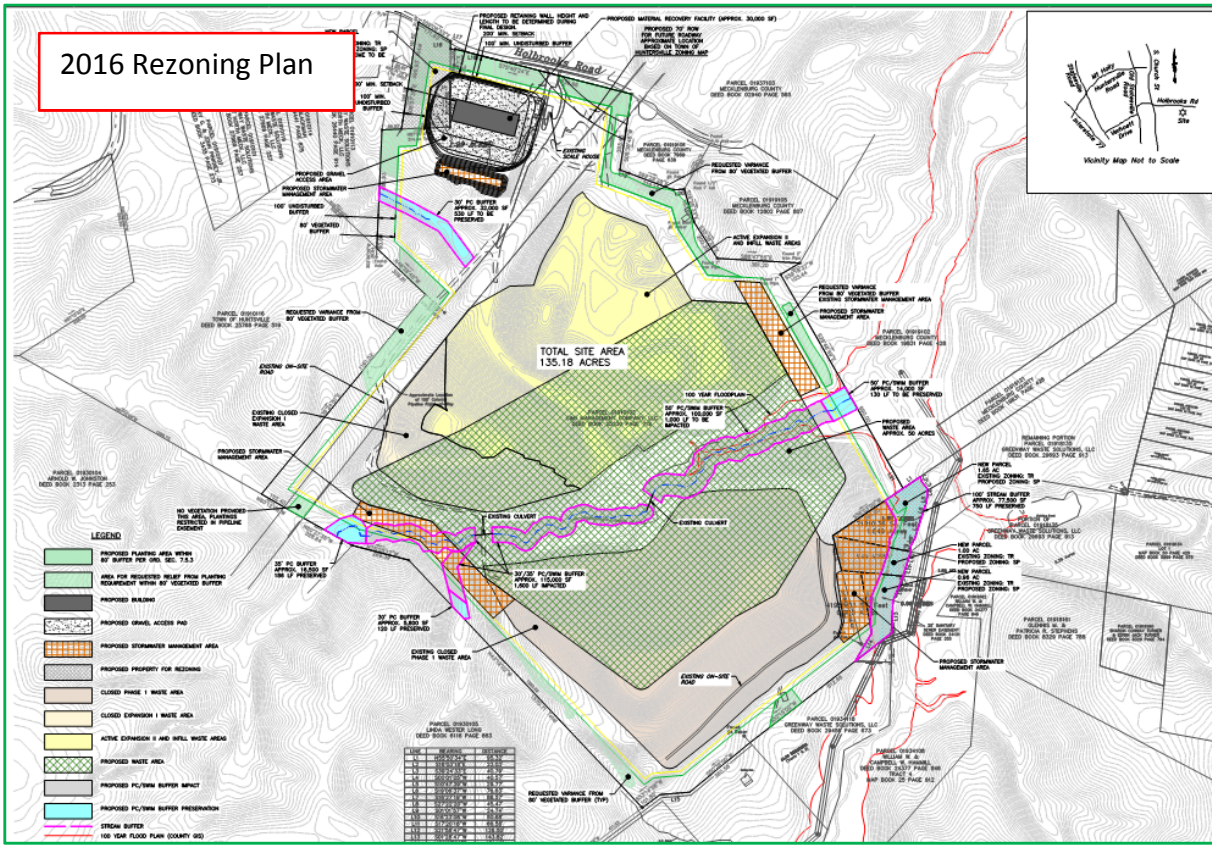


- **UPDATE 8/12/16:** The updated rezoning plan submitted by the applicant does not include a note or commitment to accommodate a future connector road through the property.
- Article 9.23.4 A of the Huntersville Zoning Ordinance requires that landfills over 10 acres be accessed from a major or minor thoroughfare or from a street built to commercial street standards that connects directly to a major or minor thoroughfare". The existing landfill does not have access to a thoroughfare or a street that is built to commercial street standards. Access is from Holbrooks Road, which is a secondary residential street. The ordinance states that the Town Board may issue a SUP for a landfill that does not front on a thoroughfare or commercial street if it finds that it "would not likely cause any injurious effect on the property adjacent to the access".

When the last Special Use Permit application was submitted in 2009, the NCDOT district engineer commented in an email to the applicant that Holbrooks Road "does not possess the pavement structure to accommodate the truck traffic it has experienced and will be subject to with the continued use your company is planning". Please see the email attached in your agenda packet. The SUP was eventually approved with an added stipulation that the condition of Holbrooks road be reviewed in 5 years. Another condition was that the applicant contribute \$25,000 in the next 10 years toward the maintenance of Holbrook Road. In December of 2014 public works and engineering staff inspected Holbrook Road and found that it was in good condition as NCDOT had just finished repaving the street in 2013 (added 4 inches of asphalt). As of this date, the

applicant has not forwarded the \$25,000 to NCDOT for the street maintenance. In regard to this application, NCDOT has similar concerns. Please find correspondence from the District Engineer attached in your agenda packet. The approved 2009 Special Use Permit is also included in your agenda packet for reference.

- **UPDATE 8/12/16:** Staff is not aware of any further discussions the applicant has had with NCDOT about the durability of Holbrook Road, or whether or not the core samples of the road have been taken per the District Engineer's request.
 - There are no notes on the updated rezoning plan that address the maintenance of Holbrook Road.
- Article 7.4 of the Huntersville Ordinance requires that development in the SP district save a minimum of 30% of the specimen trees located on the site. A tree survey of the existing trees needs to be submitted to determine what specimen trees are located on the site and how many are required to be saved.
 - **UPDATE 8/12/16:** The updated rezoning submittal did not include a tree survey to ensure compliance with the tree save requirements of the ordinance.
- Article 6 of the Ordinance requires .25 spaces of parking per 1000 sqft of warehouse/manufacturing building. With the newly added building, a new formal parking area of 8 parking spaces along with landscaping is required. No formal parking area is currently located at the site.
 - **UPDATE 8/12/16:** The updated rezoning plan includes required parking spaces along the edge of the future recycling building. However Article 6 of the ordinance requires that the parking area include an asphalt driveway as part of the parking area and formal landscaping around the perimeter of it. The updated plan shows gravel around the perimeter of the parking spaces and no landscaping per ordinance requirements.
- Article 9.23.4 D states that driveways from the landfill need to be paved a distance of 100 feet back from the public street. The main entrance drive is paved with asphalt in conformance; however the exit drive is paved only about 20 feet back.
 - **UPDATE 8/12/16:** The updated rezoning plan shows the exit drive to be paved 100 feet back from ROW in conformance to the ordinance.
- Article 9.23.4 E states that "a non-climbable fence, at least 6' high, shall be installed around the landfill and all of its operation as a safety device". The rezoning plan does not indicate the site is secured with the required security fencing.
 - **UPDATE 8/12/16:** The letter from the applicant states that the site is "closeable and secured from vehicular and pedestrian access" but does not provide how that is done. The letter also mentions that a variance will be submitted for the fence requirement. No variance application has been submitted for this section of the ordinance. The updated rezoning plan includes a note stating that "heavy vegetation" prevents access to the site. The submitted information does not provide conformance to the fence and security requirement of this section of the ordinance.
- Article 9.23.6 requires that the hours of operation for landfills be limited to 7 am to 6 pm. The rezoning plan should be amended to add a conditional note with the required hours of operation.
 - **UPDATE 8/12/16:** The updated letter from the applicant notes that the hours of operation will be limited from 7 am to 6 pm. That same note should be added to the rezoning plan as a condition of the rezoning.
- On July 21, 2016 an updated rezoning plan was submitted to staff for review. However since there was not enough time to do the review prior to the Town Board agenda deadline, any changes will be highlighted at the Public Hearing.



PART 3: TRANSPORTATION ISSUES

- Based on the proposed addition to the existing land use, a TIA due to the expansion was not required.
- Connection to a thoroughfare or industrial street that connects to a thoroughfare. This development's only proposed connection to a thoroughfare is through its existing driveway to future Asbury Chapel Road. This development does not provide for or make a commitment to provide for a connection to a potential industrial street to the south through the Commerce Station Industrial Park should that road be built sooner.

PART 4: REZONING CRITERIA

Article 11.4.7(d) of the Zoning Ordinance states that "in considering any petition to reclassify property, the Planning Board in its recommendation and the Town Board in its decision shall take into consideration any identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents".

STAFF COMMENT – Staff finds the proposed use consistent with the following policies of the 2030 Huntersville Community Plan:

- Policy CD-2: Focus higher intensity development generally within 2 miles of the I-77 and NC 115 corridor.** The landfill is just inside the two mile radius of the I-77 and NC 115 Corridor.
- Policy ED-12: Business Retention and Expansion.** The landfill expansion would prevent the premature closing of this local business in the Huntersville area, and continue to serve the Town and surrounding region in Construction and Demolition waste needs for years in the future.

STAFF COMMENT – Staff finds the proposed use not consistent with the following policies of the **2030 Huntersville Community Plan**:

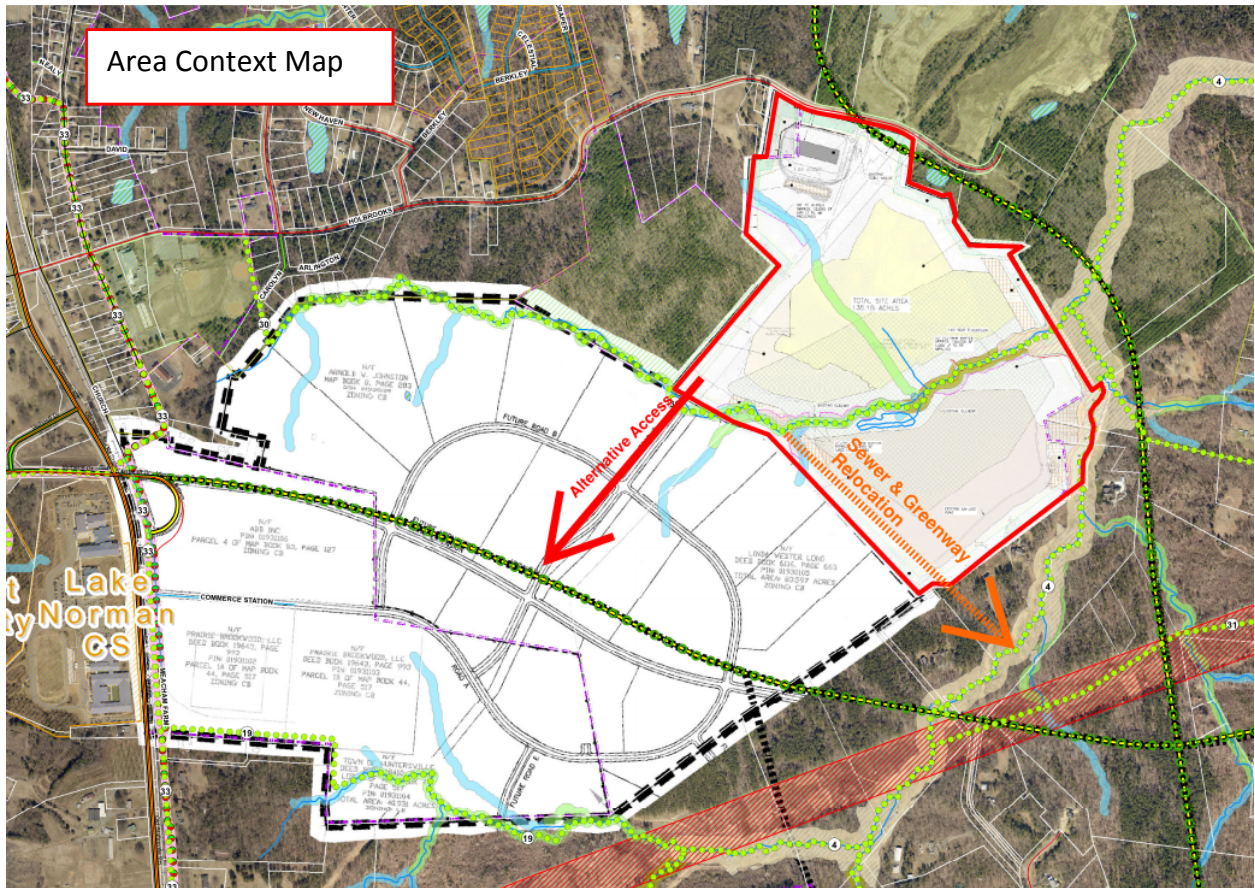
- **Policy E-1: Preservation and Environment.** The stream, vegetated buffer, and future greenway that are running through the landfill are proposed to be piped and covered with additional landfill area. Although the buffer is proposed to be mitigated for water quality purposes through the variance process and the greenway plan could potentially be amended, those needed modifications have not yet been approved.
- **Policy E-2: Location of New Development.** This policy encourages new development to avoid areas of significant environmental, scenic, or cultural resources. The application proposes new landfill area to be located in a protected stream and a future greenway.
- **Policy T-6: Pedestrian Connections.** This policy supports the installation of sidewalks, bikeways, and greenway trails connecting various uses. The application does not accommodate the greenway planned through the property as shown on the Huntersville Greenway and Bikeway Master Plan. However if the greenway plan is ultimately amended to modify the alignment, the plan would no longer be in conflict with this policy.
- **Policy CD-5: Infrastructure:** This policy supports the continued requirement that adequate public infrastructure such as roads either exist or will be made available to support new development. The adequacy of Holbrook Road to accommodate the landfill's truck traffic has been a question for many years. Back in 2009, NCDOT stated that the pavement structure for Holbrook Road was not designed to handle the landfill's truck traffic and requested that the landfill participate in the maintenance of the road. With no definite timetable on obtaining frontage on a thoroughfare or commercial road, the rezoning and SUP extending the life of the landfill indefinitely, and the recycling facility adding more trucks onto Holbrook Road, NCDOT has similar concerns in regard to this current application. The latest email from the District Engineer Wendy Taylor requesting core samples of the road is included in your agenda packet.

Article 11 Section 11.4.7(e) of the Zoning Ordinance states that: "in considering any petition to reclassify property the Planning Board in its recommendation and the Town Board in its decision should consider:

- 1. Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property.**

STAFF COMMENT:

The proposed Special Purpose (SP) zoning would be located immediately adjacent to the Commerce Station Business Park (zoned CB) to the south, and would be compatible with the future uses of that park (office, industrial, warehousing, etc). The majority of areas along Holbrook Road to the north and west of the landfill however are either park land or single family residential uses. Unfortunately, there is no current access to the south through the business park, only through Holbrook Road and the residential neighborhoods. Thus, the continuing commercial traffic and access is not compatible with the residential development to the west of the landfill. It is recommended that the applicant work diligently with the Town and County to extend Verhoeff extension and connect to it as soon as feasibly possible. This would open up the business park for further economic development and relieve the Holbrook Road neighborhood of the commercial traffic created by the landfill. Please see the future, alternative access shown below on the area context map.



It is not recommended that the application be approved with the right to use Holbrooks Road as an access indefinitely. Each of the landfill permits/text amendments approved by the Town through the years has gradually and continually increased its lifespan with no requirement for alternate access. In 2009 their Special Use Permit application was approved by the Town Board with no expiration date, but with an estimated lifespan of 25 years for the facility. That approval thus allowed continued Holbrook Road access through the year 2034. Staff recommends that the lifespan of the facility not be extended past that date without alternate access being achieved on a thoroughfare.

2. **The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, transit service, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, storm water drainage systems, water supplies, and wastewater and refuse disposal.**

STAFF COMMENT:

- Engineering and Public Works has determined that based on the expansion proposed, the new amount of traffic that will be generated will not meet the threshold that would require the submission of Traffic Impact Analysis (TIA). Please find the TIA determination from engineering in your agenda packet.
- Planning staff issued a Determination of Adequacy (DOA) for fire vehicles and station space, police vehicles and station space, and parks and recreation gyms and parks on April 11, 2016. The determination of adequacy letter is attached in your agenda packet for reference.
- As mentioned previously, NCDOT has concerns that Holbrooks Road does not have the pavement structure to accommodate continued and indefinite heavy truck traffic. Please find the emails from NCDOT attached in your agenda package.

3. Whether the proposed reclassification will adversely affect a known archeological, environmental, historical or cultural resource.”

STAFF COMMENT:

Through the variance review, the applicants are applying to mitigate the disturbance of the water quality S.W.I.M. buffer per Article 8.25.11. Since the stream is being piped and encased in concrete, staff is not aware of any adverse effect to the stream.

- **UPDATE 8/12/16:** Staff contacted Mecklenburg County Solid Waste Management just prior to the public hearing in order to ascertain if there were any environmental issues or violations with the subject landfill. The County stated that there have been reports of off-site contamination at the landfill but we would need to contact the North Carolina Department of Environmental Quality (NCDENR is now known as NCDEQ) for further information and details. In subsequent conversations with NCDEQ after the public hearing staff was informed of the following:
 - The Greenway Solutions Landfill on Holbrook Road has been found to exceed state regulatory limits of various groundwater and surface water contaminants and methane gas since 2013. Further, a Notice of Violation was issued on September 16, 2014 to the landfill due to an encroachment upon their required state mandated buffer to the east of the property. As of now, the landfill remains in violation of the required buffer.
 - It appears the constituents leaching from the landfill have contaminated multiple drinking water wells adjacent to the subject property. Two parcels were purchased (including one residence) by the landfill and two homes were added on to municipal water service due to the groundwater contamination. According to NCDEQ, the applicant has been cooperative with the state in installing both shallow and deep groundwater monitoring wells and methane gas monitoring wells, in an effort to analyze and find the nature and extent of both the groundwater contamination and the methane gas exceedances. The applicant has also been cooperative in addressing the immediate issue of the contamination of the adjacent drinking water wells as discussed above. The monitoring and analyzing of both the groundwater and methane gas contamination is ongoing. At this time, there are still many unknowns in regard to the nature and extent of the existing groundwater and surface water contamination and potential methane gas migration. Once the nature and extent is more fully understood, NCDEQ will require mitigation plans for the applicant to begin contamination cleanup of both the active fill area, and the fill area that is closed out and inactive (which is under a different set of state rules). Contamination has also been found in the groundwater monitoring wells near the stream, and recently in the surface water sampling of the stream that is being proposed to be piped and covered with the expansion. Please find the groundwater monitoring well locations of the site in a map forwarded by NCDEQ in your agenda package.

PART 5: PUBLIC HEARING

The Public Hearing was held on August 1, 2016. Multiple individuals from the public voiced their concerns about the landfill's continued use of Holbrook Road and the potential negative affects the landfill expansion would have on the environment. A representative of the Holbrook Association voiced his support of the application. Please find the drafted minutes included in your agenda packet.

PART 6: STAFF RECOMMENDATION.

In order to have more time to address the outstanding comments, the applicant has requested that the Planning Board continue the application until their September 27, 2016 meeting. Staff supports the continuance request.

PART 7: PLANNING BOARD RECOMMENDATION

The Planning Board met on August 23, 2016 to consider the application. Per the applicant's request, the application was continued until the Board's September 27, 2016 meeting.

PART 8: CONSISTENCY STATEMENT - R 16-06: Greenway Waste Solutions Landfill

Planning Department	Planning Board	Board of Commissioners
Approval: To be determined. Please see the Staff Recommendation for comment.	APPROVAL: In considering the proposed rezoning of Petition R16-06, Greenway Waste Landfill, located on Holbrook Road, the Planning Board finds that the rezoning is consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. The Planning Board recommends approving the conditional rezoning plan for the Greenway Waste Landfill as shown in Rezoning Petition R16-06. It is reasonable and in the public interest to rezone this property because... <i>(explain)</i>	APPROVAL: In considering the proposed rezoning of Petition R16-06, Greenway Waste Landfill on Holbrook Road the Town Board finds that the rezoning is consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. We recommend approving the conditional rezoning plan for the Greenway Waste Landfill as shown in Rezoning Petition R16-06. It is reasonable and in the public interest to rezone this property because... <i>(Explain)</i>
DENIAL: To be determined: Please see the Staff recommendation for comment.	DENIAL: In considering the proposed rezoning of Petition R16-06, Greenway Waste Landfill on Holbrook Road, the Planning Board finds that the rezoning is not consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. We recommend denial of Rezoning Petition R16-06. It is not reasonable and not in the public interest to rezone this property because..... <i>(Explain)</i>	DENIAL: In considering the proposed rezoning of Petition R16-06, Greenway Waste Landfill on Holbrook Road, the Town Board finds that the rezoning is not consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. We recommend denial of Rezoning Petition R16-06. It is not reasonable and not in the public interest to rezone this property because..... <i>(Explain)</i>