

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** Monday, February 1, 2010

**SUBJECT:** Public Hearing for Rezoning Application #R-2009-03

**ATTACHMENTS:**

1. Staff Report
2. Aerial Photo Map
3. Subject Area Photos
4. Excerpt of Planning Board Minutes from December 17, 2009
5. Notice of Public Hearing
6. Certification of Notification of Public Hearing
7. PowerPoint Slides

#### **SUMMARY OF REQUEST:**

Rezoning Application #R-2009-03, requests the County rezone approximately 2 acres of an existing 4.5 acre tract located on Ballenger Road just north of Upward Road. The applicant requests a rezoning from a Residential 1 (R1) to a Regional Commercial (RC) zoning district. The subject area is owned by William Hoffman and Mr. Timothy Hoffman is the applicant's agent. (PIN: 9588-51-5370)

The Henderson County Planning Board considered rezoning application #R-2009-03 at its regularly scheduled meeting on December 17, 2009. The Planning Board voted unanimously to send forward a favorable recommendation on rezoning application #R-2009-03 to rezone the subject area to a Regional Commercial (RC) zoning district.

#### **PUBLIC NOTICE:**

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with §200A-314(C) and §200A-337(B) of the Henderson County Land Development Code and State Law, notices of the February 1, 2010 public hearing regarding rezoning application #R-2009-03 were published in the Hendersonville Times-News on January 13, 2010 and January 20, 2010. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the subject area and the applicants on January 15, 2010 and posted signs advertising the hearing on the subject area on January 20, 2010. (See Attachment 6)

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

Planning Staff recommends approval of the application to rezone the subject area from a Residential 1 (R1) zoning district to a Regional Commercial zoning (RC) district.

#### **Suggested Motion:**

I move that the Board approve rezoning application #R-2009-03 to rezone the subject area from a Residential 1 (R1) zoning district to a Regional Commercial (RC) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan.

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## Henderson County Planning Department Staff Report

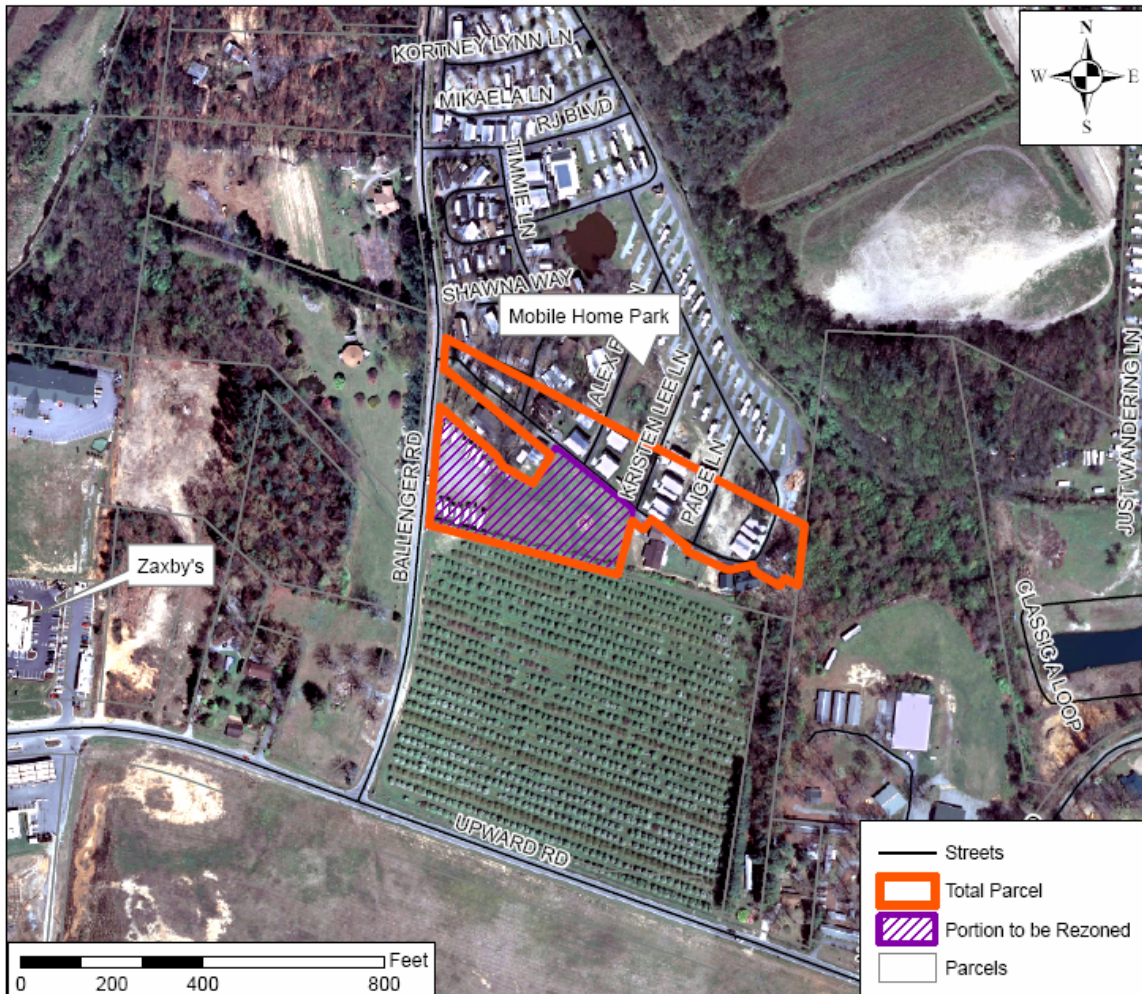
### Rezoning Application #R-2009-03 William Hoffman Owner

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#### 1. Rezoning Request

- 1.1. **Application Submittal Date:** October 14, 2009
- 1.2. **Property Owner/ Applicant:** William Hoffman
- 1.3. **Agent:** Timothy Hoffman
- 1.4. **Request:** Rezone a 2 acre portion of the William Hoffman property from an R1 zoning district to a Regional Commercial (RC) Zoning District.
- 1.5. **Subject Area:** (See Map A)

**Map A: Subject Area**

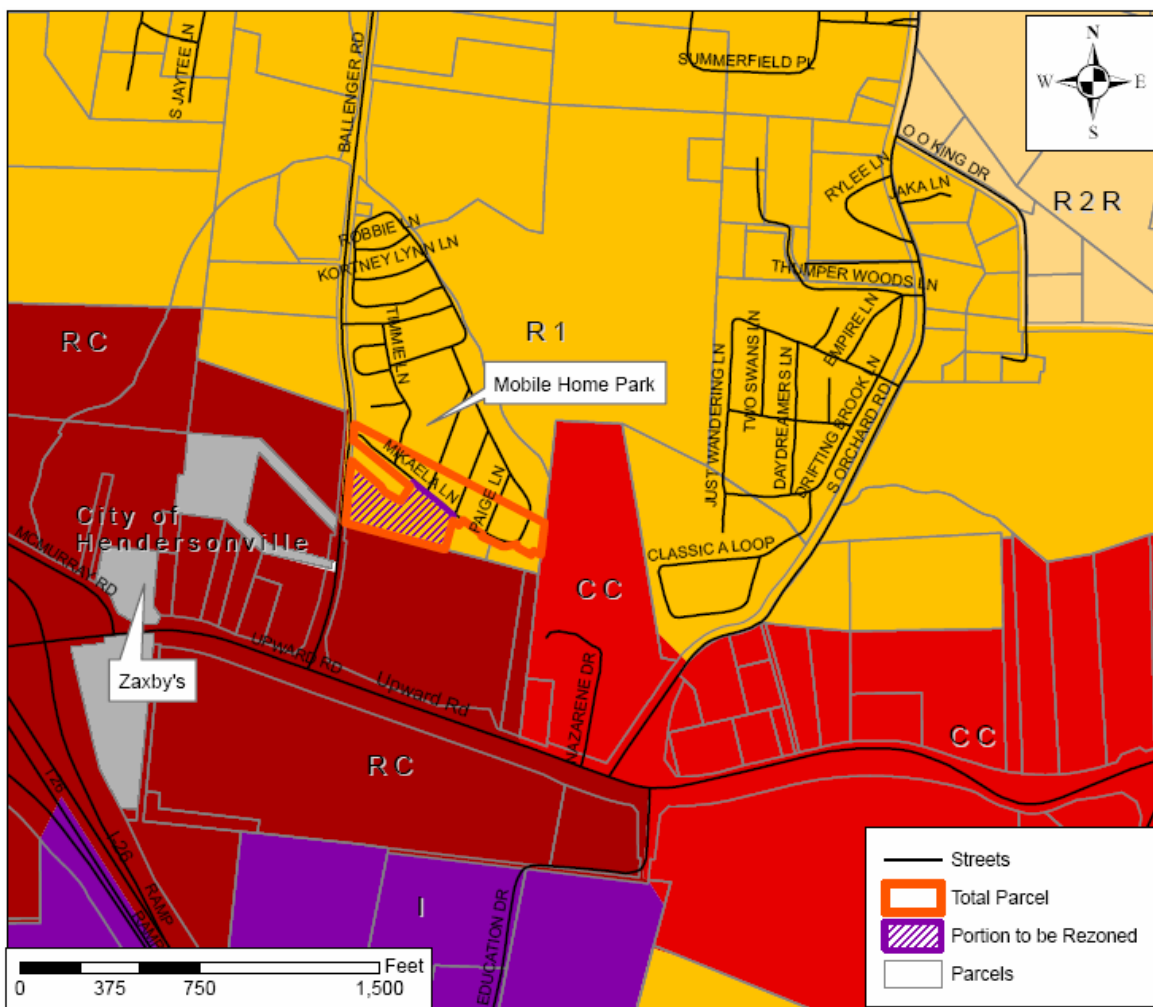


- 1.6. **PIN:** 9588-51-5370
- 1.7. **Size:** The application requests the County rezone a 2 acre portion of the 4.4 acre tract.
- 1.8. **Location:** The Subject Area is located along Ballenger Road (SR 1791), approximately 650 feet from the intersection of Upward Road (SR 1783) and Ballenger Road (SR 1791).

**2. Current Zoning**

- 2.1. **Application of Current Zoning:** The subject area was zoned R1 on September 19, 2007 with the adoption of the Land Development Code.

**Map B: Current Zoning**



- 2.2. **Adjacent Zoning:** The Subject Area is adjacent to R1 (Residential One) zoning to the north and east. Land adjacent to the Subject Area to the south and west is zoned RC (Regional Commercial).

### 2.3. District Comparison:

2.3.1. **R1 Residential District One:** *“The purpose of Residential District One (R1) is to foster orderly growth where the principle use of land is residential. The intent of this district is to allow for medium to high density residential development consistent with the recommendations of the Comprehensive Plan. This general use district is typically meant to be utilized in areas designated as Urban in the Comprehensive Plan”* (Chapter 200A, Land Development Code §200A-27).

R1 requires 10 foot side and rear setbacks, maximum height 40 feet, and a standard density of four (4) units per acre (maximum density of 16 units per acre).

2.3.2. **RC Regional Commercial Zoning District:** *“The purpose of the Regional Commercial District (RC) is to foster orderly growth where the principal use of land is commercial. The intent of this district is to allow for commercial development consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide commercial development that: (1) includes a variety of retail sales and services, public and private administrations, offices and all other uses done primarily for sale or profit on the local, community, and regional level; (2) is directed largely to defined Community Service Centers as defined in the Comprehensive Plan; (3) is compatible with adjacent development and the surrounding community; and (4) will minimize congestion and sprawl. This general use district is meant to be utilized in areas designated as Urban in the Comprehensive Plan”* (Chapter 200A, Land Development Code §200A-35).

(1) RC (Regional Commercial) requires 10 foot side and rear setbacks;  
(2) establishes a maximum height of 50 feet;

(3) provides a standard density of 16 units per acre with a maximum 80% impervious surface; (4) The maximum floor area is unlimited.

### 3. Current Uses

3.1. **Subject Area:** The Subject Area currently appears to contain a fenced-in RV storage area.

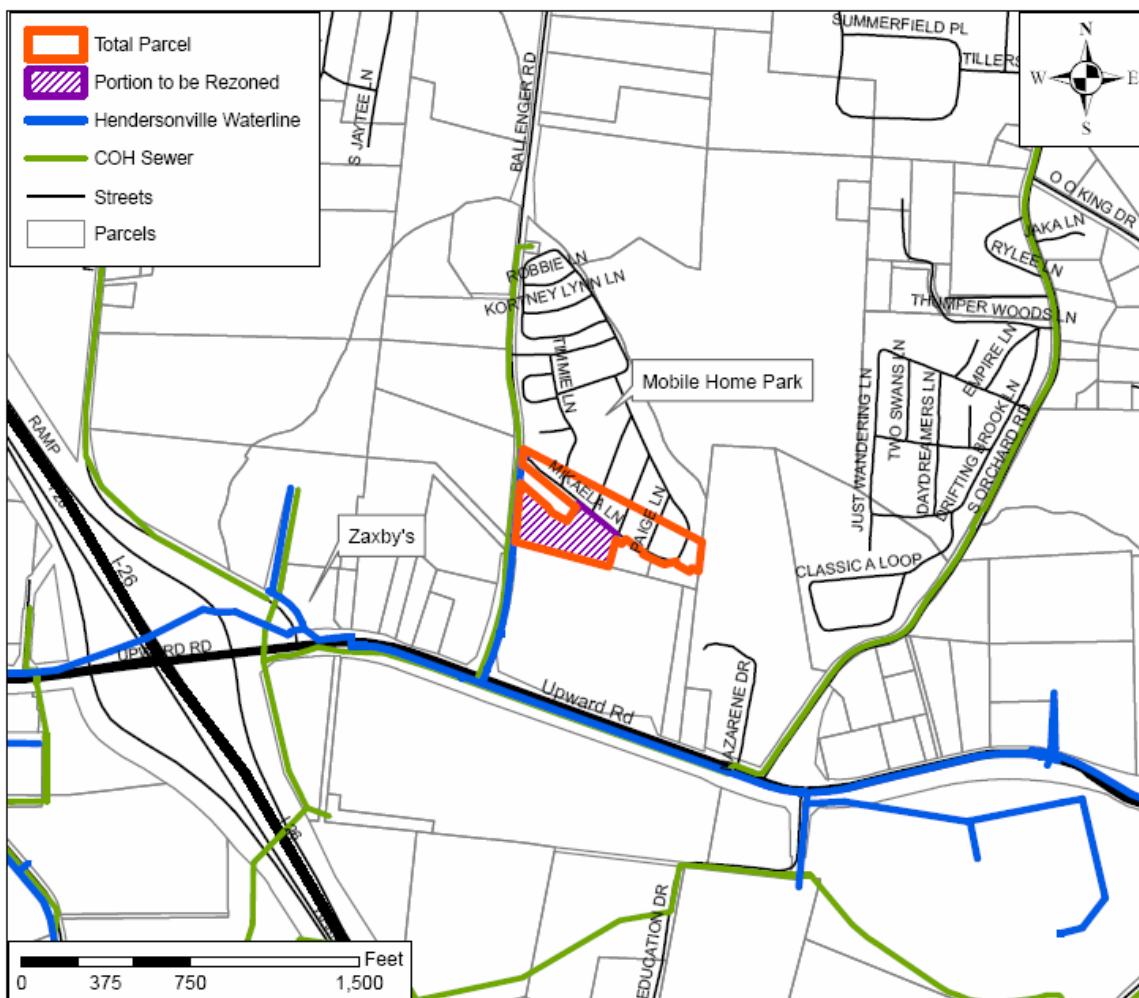
3.2. **Adjacent Area:** The surrounding properties include an apple orchard to the south, other agricultural uses to the southwest with some single family residential homes, and an RV park is located to the north on property owned by the applicant. Where McMurray Road (SR 1790) intersects with Upward Road (SR 1783), there are commercial uses including but not limited to Zaxby's, the Wafflehouse, Mountain Inn and Suites, Bloomfields Dishes.



**4. Water and Sewer**

- 4.1. **Public Water:** The nearest water line abuts the Subject Area along Ballenger Road (SR 1791). (See Map C)
- 4.2. **Public Sewer:** Public sewer currently serves the Subject Area along Ballenger Road (SR 1791). (See Map C)

**Map C: Water and Sewer**



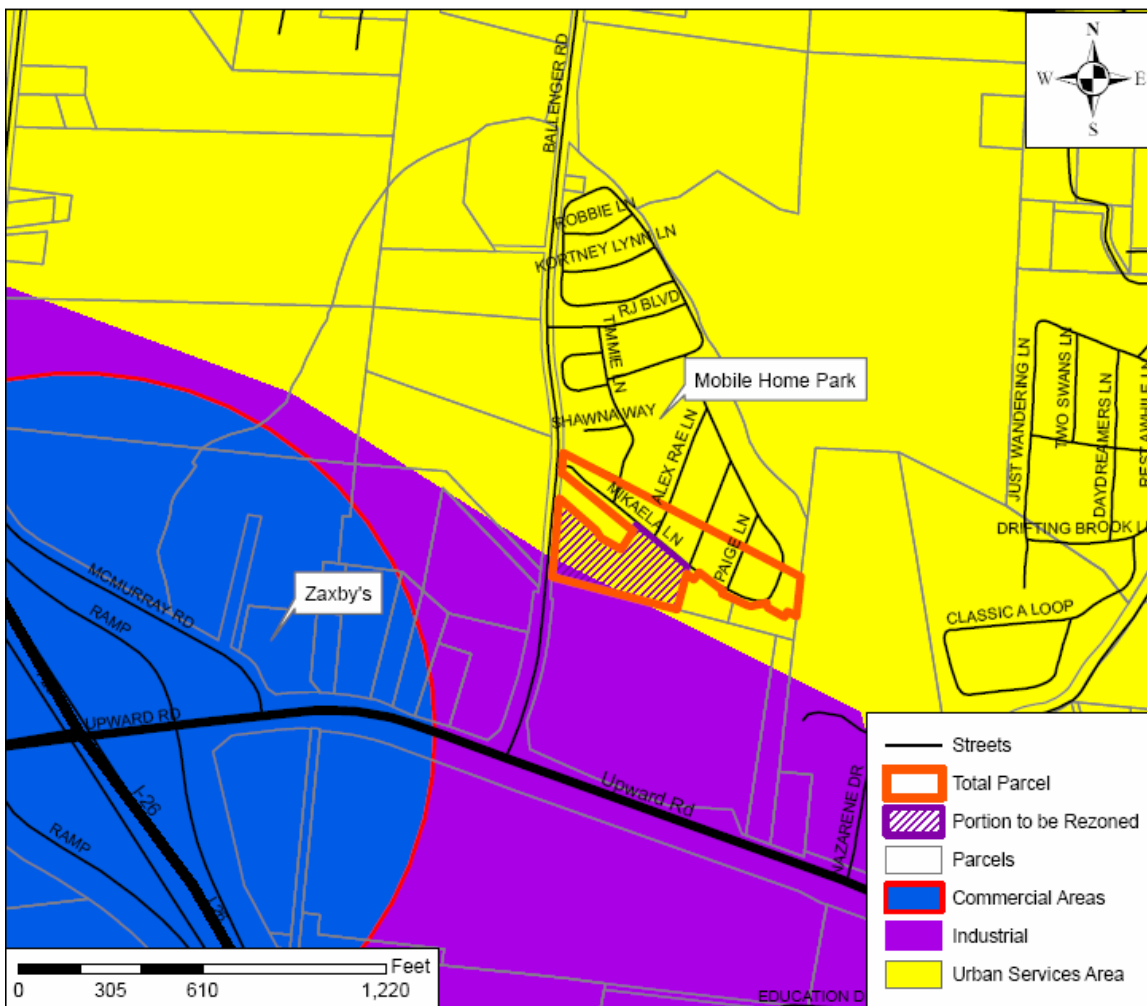
**5. Transportation and Access**

- 5.1. **Frontage:** The Subject Area has approximately 275 feet of road frontage along Ballenger Road (SR 1790).
- 5.2. **The NCDOT Draft 2009-2015 State Transportation Improvement Program (STIP):** The Transportation Improvement Program, within the vicinity of the Subject Area, includes the widening and improvement of Upward Road (SR 1783) from Spartanburg Highway (US 176) to Howard Gap Road (SR 1006), project number R-4430.

## 6. The Henderson County 2020 Comprehensive Plan (CCP)

- 6.1. **Urban Services Area:** The CCP Future Land Use Map identifies the Subject Area as being located in the Urban Services Area (USA)(2020 CCP, Pgs. 128, 129 & Appendix 1, Map 24) (See Map D).
- 6.1.1. The CCP states that, “the County’s economic development activities should be pursued within USA” (2020 CCP, Pg. 129).
- 6.1.2. The CCP also states that, “the USA is that area within which most urban services and urban-scale development is currently concentrated, and within which such development should generally be concentrated through the year 2020” (CCP, Pg. 128).
- 6.1.3. The CCP states that, “the USA will contain considerable commercial development at a mixture of scales,” and further, “all regional commercial development should be concentrated here. Commercial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129).
- 6.1.4. The CCP states that, “Industrial development will exist within predefined zoning districts whose standards and configuration are in keeping with the surrounding community” (2020 CCP, Pg. 129).
- 6.2. **Industrial:** The CCP Future Land Use Map identifies a small portion of the Subject Area as being appropriate for Industrial Development. (2020 CCP Pgs. 136, 137 & Appendix 1, Map 24).
- 6.2.1. The CCP states that, “most defined industrial areas should lie within the Urban Services Area, and in other areas on a very limited basis. Most industrial uses should be segregated from other uses with the exception of Regional Commercial uses” (2020 CCP, Pg. 136).

**Map D: 2020 County Comprehensive Plan Future Land Use**



**7. Staff Comments & Recommendations**

Staff’s position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the property to a Regional Commercial (RC) zoning district. This based on the following:

7.1. When reviewing rezoning requests Staff attempts to identify plans or policies, changes in existing conditions, undue hardship to the Applicant, or overriding community interest to justify supporting the proposed rezoning. Staff’s position at this time, under the guidelines of current plans, policies and studies, is it supports the rezoning of the Subject Area to Regional Commercial (RC) consistent with the recommendations of the Henderson County 2020 Comprehensive Plan. This based on the following:

7.1.1. **The 2020 CCP:** The CCP Future Land Use Map (See Map D) places the subject area in the “Urban Services Area” classification. The text and map of the 2020 CCP suggest that the Subject Area would be suitable for high-density residential, commercial or industrial development. The

CCP also indicates that Industrial may be suitable for the area as a small portion of the Subject Area falls within the specially designated industrial area in the USA.

- 7.1.2. **Adjacent Zoning:** The Subject Area directly abuts an existing Regional (RC) zoning district to the south. If the Subject Area were to be rezoned to Regional Commercial this property would be apart of a contiguous Regional Commercial (RC) zoning district.
- 7.1.3. It is generally incumbent upon the Applicant to demonstrate an overriding justification for approving a given rezoning application. Staff encourages the Applicant to present any information that would inform the County's consideration of the proposed rezoning. Staff requests the Applicant not discuss any specific use being considered for the property. The Technical Review Committee, Planning Board, and the Board of Commissioners cannot consider any specific proposed use for the property and must only consider the range of possible uses when reviewing and making recommendations on the rezoning request.

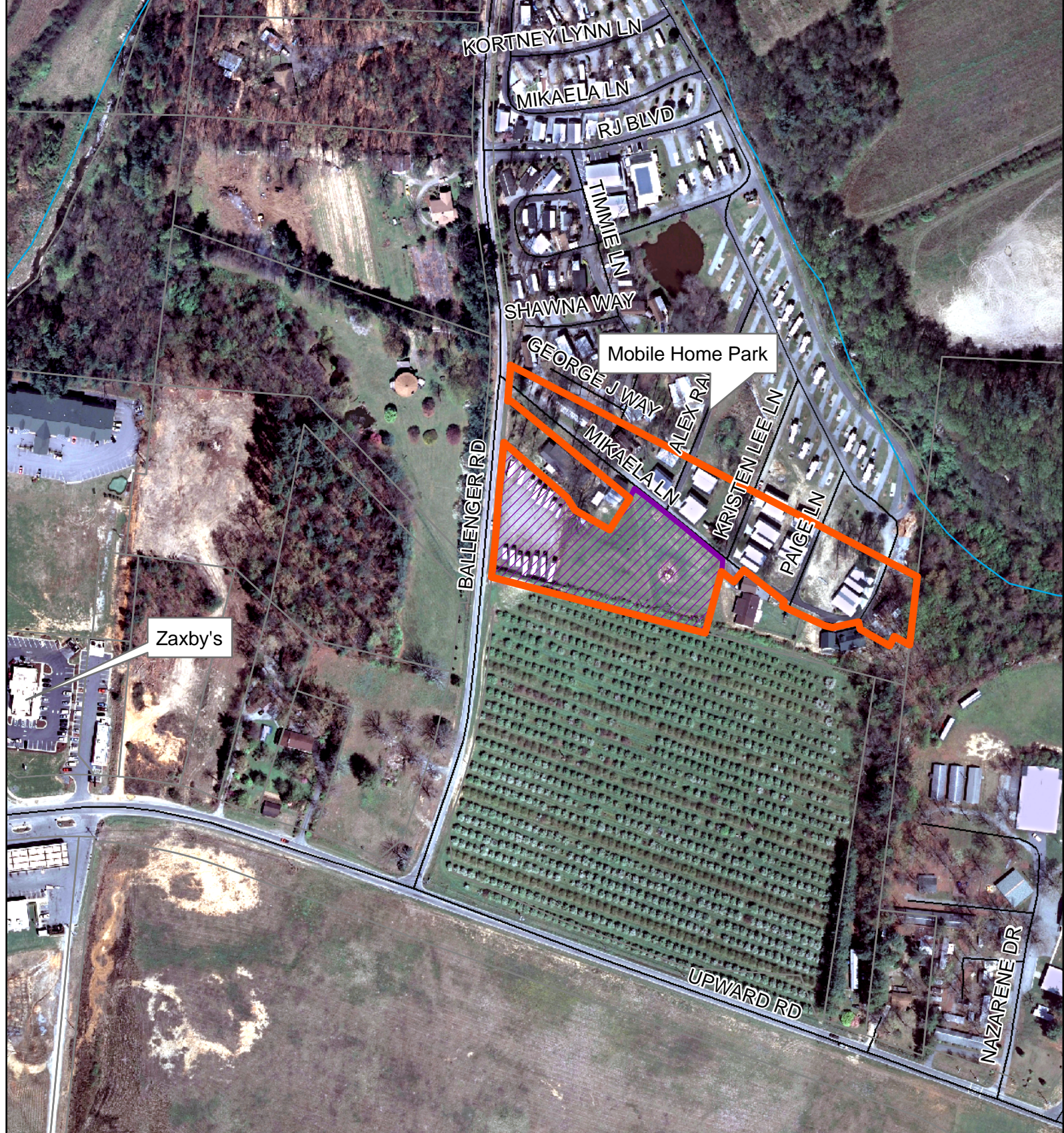
## 8. Technical Review Committee Recommendations

- 8.1. The Henderson County Technical Review Committee considered rezoning application #R-2009-03 on December 1, 2009. During that meeting, the Technical Review Committee voted unanimously to send forward a favorable recommendation on rezoning application #R-2009-03 to rezone the Subject Area from a Residential One (R1) zoning district to a Regional Commercial (RC) zoning district.

## 9. Planning Board Recommendations

- 9.1. The Henderson County Planning Board considered rezoning application #R-2009-03 on December 17, 2009. During that meeting, the Planning Board voted unanimously to send forward a favorable recommendation on rezoning application #R-2009-03 to rezone the Subject Area from a Residential One (R1) zoning district to a Regional Commercial (RC) zoning district.





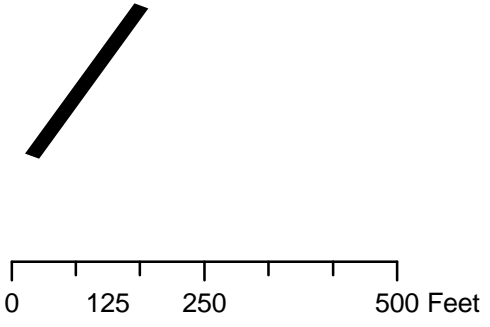
Zaxby's

Mobile Home Park

**Legend**

- Streets
- Total Parcel
- Portion to be Rezoned
- Parcels

Rezoning Application  
 R-2009-03  
 Hoffman, owner







View of Subject Area from Mikaela Rd looking west.



View from Ballenger Rd looking southeast.



View of Subject Area from Mikaela Rd looking east.



View from Ballenger Rd looking east.

**EXCERPT FROM THE HENDERSON COUNTY PLANNING BOARD MINUTES**  
**December 17, 2009**

Rezoning Application # R-2009-03 – Request the County to rezone approximately 2 acres of an existing 4.5 Acre Tract from Residential One (R1) to a Regional commercial (RC) Zoning District – Timothy Hoffman, Applicant's Agent for William Hoffman, Owner – Presentation by Parker Sloan, Planner. Mr. Sloan stated that the applicant requests a rezoning from a Residential One (R1) to a Regional Commercial (RC) zoning district. The subject area is owned by William Hoffman and Mr. Timothy Hoffman is the applicant's agent. Mr. Sloan said that the subject area is adjacent to R1 zoning to the north and east and RC (Regional Commercial) is to the south and west of the subject area. He explained the zoning comparisons and stated that currently the subject area contains a fenced in RV storage area. The surrounding properties include an apple orchard to the south, other agricultural uses to the southwest with some single-family residential homes, and an RV park is located to the north on property owned by the applicant. Where McMurray Road intersects with Upward Road, there are commercial uses including but not limited to Zaxby's, Waffle House, Mountain Inn and Suites, Bloomfield's Dish Barn. He said the nearest water line abuts the subject area along Ballenger Road and public sewer serves the subject area along Ballenger Road. Mr. Sloan stated that Staff's position at this time, supports the rezoning of the subject area to Regional Commercial which is consistent with the recommendation of the Henderson County 2020 Comprehensive Plan.

After a brief discussion period, Mike Cooper made a motion that the Planning Board forwards a recommendation to the Board of Commissioners to approve rezoning application # R-2009-03, to rezone the subject area from Residential One (R1) to a Regional Commercial (RC) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan. Renee Kumor seconded the motion and all members voted in favor.

**NOTICE OF PUBLIC HEARING  
ON PROPOSED ZONING MAP AMENDMENT  
(Rezoning Requests #R-2009-03)**

The Henderson County Board of Commissioners will hold a public hearing for a proposed map amendment to the Official Zoning Map of Henderson County, North Carolina.

Rezoning Application #R-2009-03, which was submitted on October 14, 2009 requests the County rezone approximately 2 acres of an existing 4.5 acre tract. The applicant requests a rezoning from a Residential One (R1) to the Regional Commercial (RC) zoning district. The subject area is owned by William Hoffman.

The public hearing will be held on Monday, February 1, 2009, at 7:00 P.M., in the Board of Commissioners Meeting Room located in the Henderson County Historic Courthouse, at 1 Historic Courthouse Square, in Hendersonville, NC. The public is invited to attend and comment on the proposed amendment.

Written comments addressed to the Henderson County Board of Commissioners, 1 Historic Courthouse Square, Suite 1, Hendersonville, NC 28792, will be accepted prior to the hearing. Information about the proposed amendment is available for review in the Henderson County Planning Department, 213 1<sup>st</sup> Avenue East, Hendersonville, NC, between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday, or on the Henderson County Website at [www.hcplanning.org](http://www.hcplanning.org). For more information, call the Planning Department at (828) 697-4819 [TDD for the hearing impaired (828) 697-4580].

Please note that after considering public hearing comments, the Board of Commissioners may discuss other options or make changes to the proposed amendments before taking final action. The Henderson County 2020 Comprehensive Plan will be updated and amended, as necessary, to reflect the action of the Board of Commissioners.

Terry Wilson  
Clerk to the Board

Henderson County Board of Commissioners

For publication in the Times News on Wednesday, January 13, 2009 and Wednesday, January 20, 2009.

**Certification of Notice of Public Hearing**

In accordance with NCGS 153A-343 the Planning Department certifies notice of the February 1, 2010 hearing regarding Rezoning Application #R-2009-03 were:

1. Submitted to the Hendersonville Times-News on January 5, 2010 to be published on January 13, 2010 and January 20, 2010 by Parker Sloan;
2. Sent, via first class mail, to the owners of properties adjacent to the Subject Area on September 15, 2010 by Parker Sloan;
3. Sent, via first class mail, to the property owners on January 15, 2010 by Parker Sloan; and
4. Posted on the Subject Area on January 20, 2010 by Parker Sloan.

The signatures herein below indicate that such notices were made as indicated herein above:

1. [Signature]
2. \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, KATHLEEN R. SCANLAN, a Notary Public, in and for the above County and State, do hereby certify that PARKER J. SLOAN,

\_\_\_\_\_, and \_\_\_\_\_

personally appeared before me this day and acknowledged the due execution by

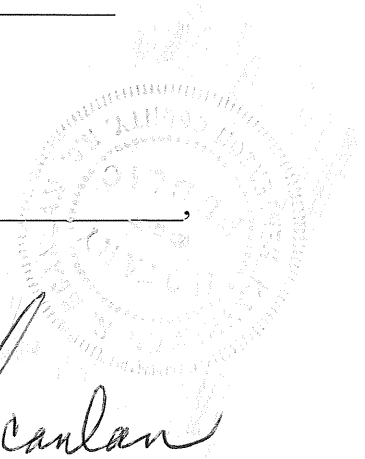
\_\_\_\_\_ of the foregoing instrument.

WITNESS my hand and notarial seal, this the 22 day of JANUARY, 2010.

My commission expires:

10/24/2010

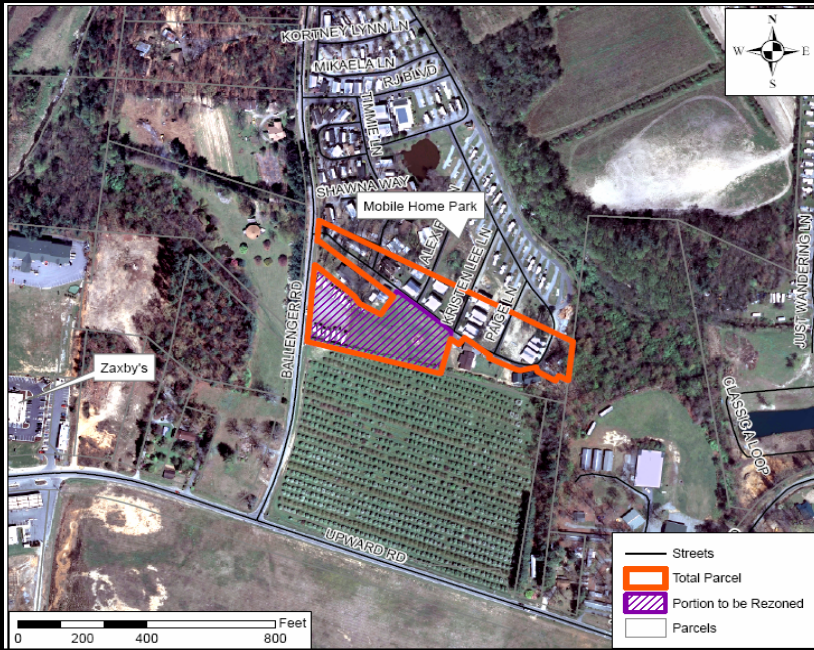
[Signature] (SEAL)  
NOTARY PUBLIC



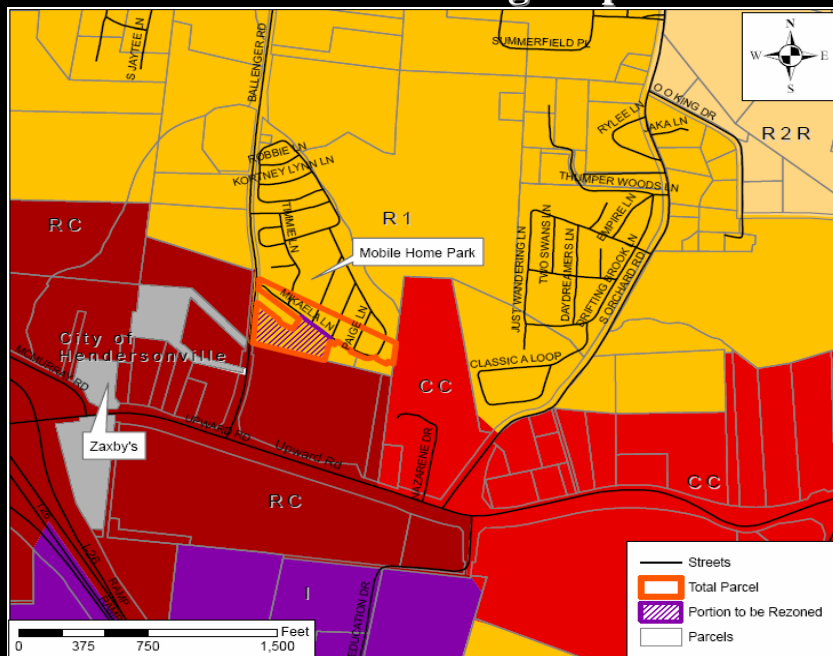
**Rezoning #R-2009-03**  
**William Hoffman, owner & applicant**



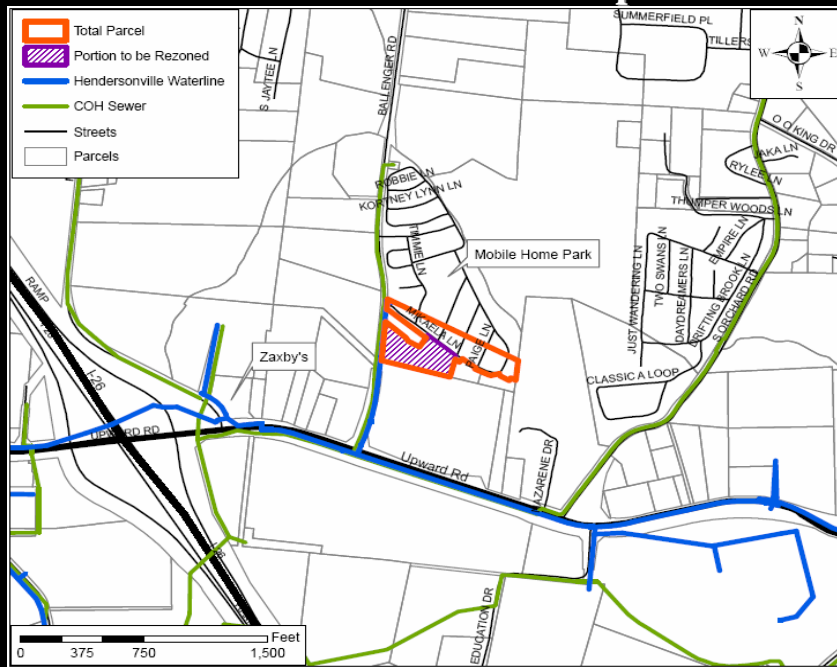
# Aerial Photo Map



# Current Zoning Map



# Water and Sewer Map



# 2020 CCP Future Land Use Map

