

## REQUEST FOR COMMITTEE ACTION

### HENDERSON COUNTY TECHNICAL REVIEW COMMITTEE

**Meeting Date:** December 1, 2009

**Subject:** Rezoning Application #R-2009-03

**Staff Contact:** Parker Sloan, Planner

**Attachments:**

1. Staff Report
2. Application
3. Aerial Photo Map
4. Subject Area Photos
5. Residential One(R1) District Text
6. Regional Commercial (RC) District Text

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

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 a Regional Commercial (RC) zoning district. The subject area is owned by William Hoffman and Mr. Timothy Hoffman is the applicant's agent.

#### **TECHNICAL REVIEW COMMITTEE ACTION REQUESTED:**

Technical Review Committee action to recommend that the Board of Commissioners approve, approve with modifications, table, or deny rezoning request #R-2009-03 would be appropriate.

#### **Suggested Motion:**

I move the Committee recommend approval of 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.

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## Henderson County Planning Department Staff Report

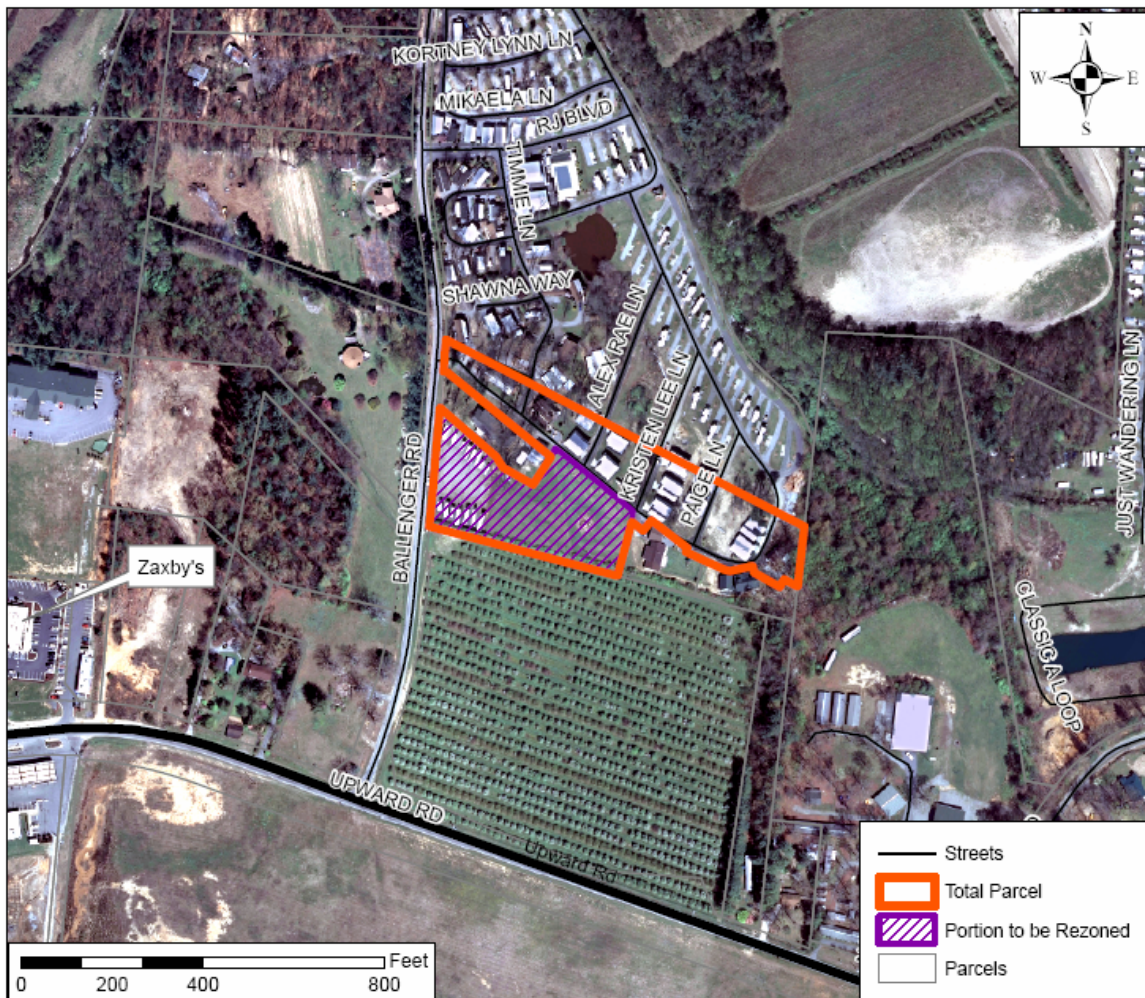
### Rezoning Application #R-2009-03 William Hoffman Owner

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#### 1. Rezoning Request

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

**Map A: Subject Area**



1.5. **PIN:** 9588-51-5370

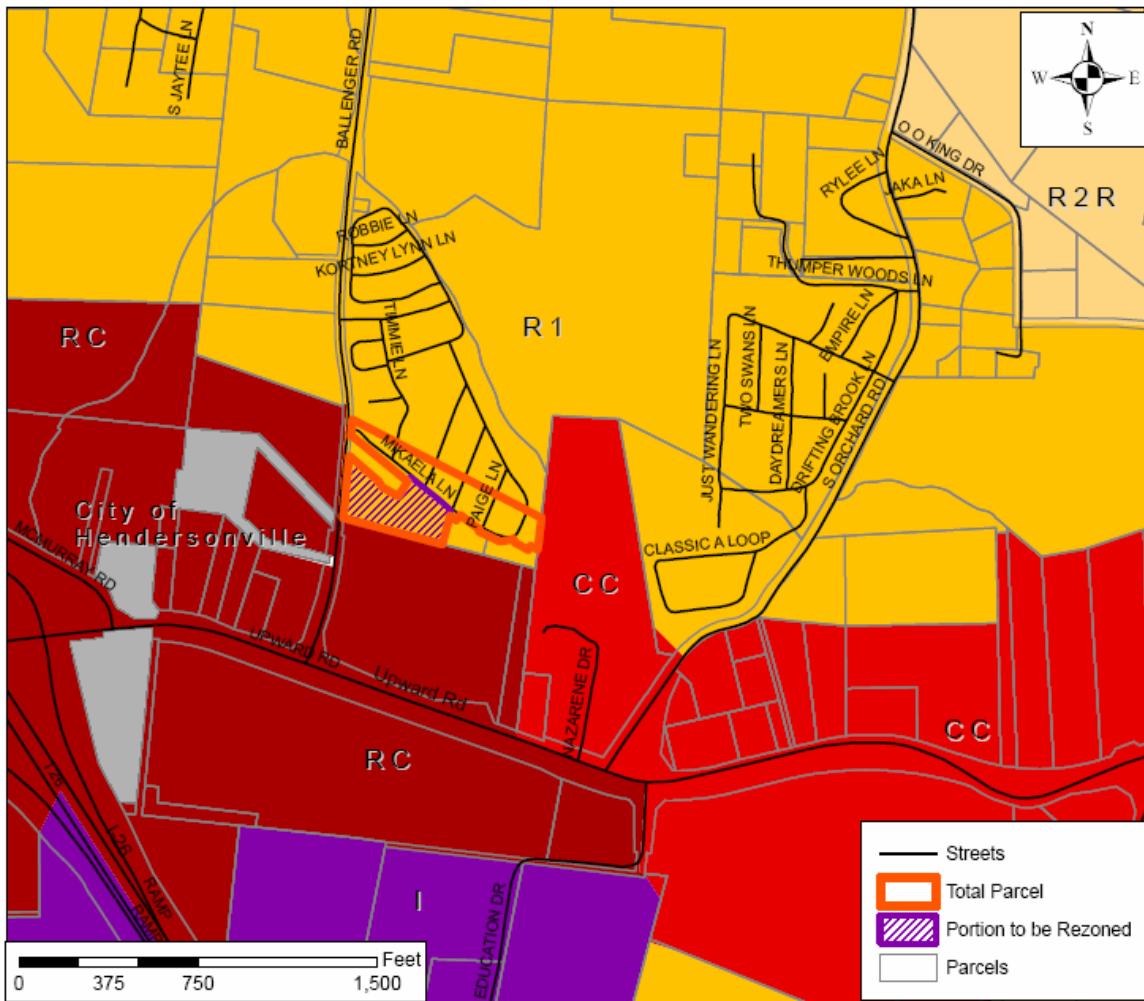
1.6. **Size:** The application requests the County rezone portion of a 4.4 acre tract.

1.7. **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

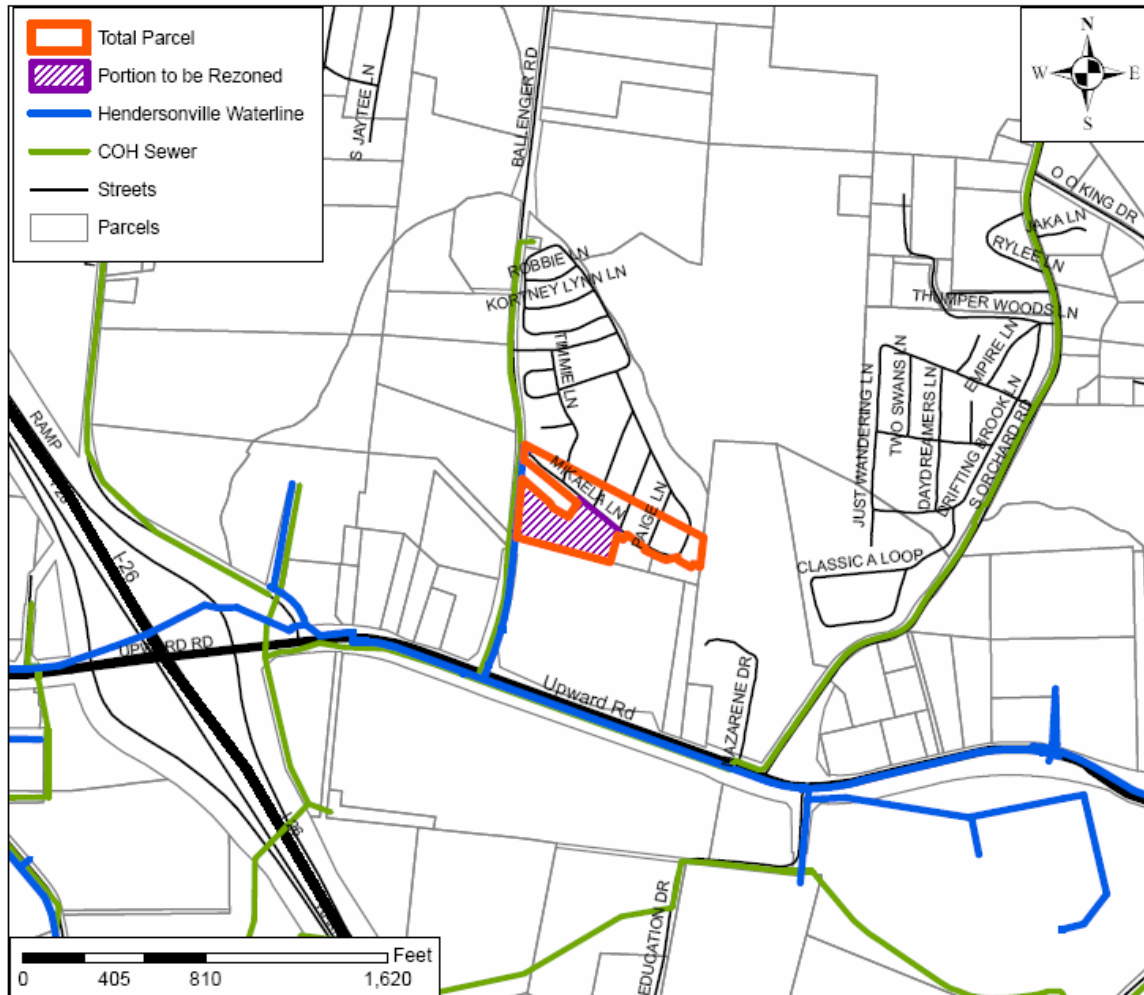
3.1. **Subject Area:** The Subject Area currently appears to contain a fenced in RV storage area.

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**

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:

**8. Staff Recommendations**

8.1. 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:

8.1.1. **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.

8.1.2. **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.

8.1.3. 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.

## 9. Technical Review Committee Recommendations

9.1. TBD

## 10. Planning Board Recommendations

10.1. TBD



**HENDERSON COUNTY  
MAP AMENDMENT APPLICATION FORM**

**GENERAL INFORMATION**

Date of Application: 10/14/09

Previously Submitted (Circle One): Yes  No

Date of Pre-Application Conference: 10/14/09

Type of Map Amendment (Circle One): Rezoning Conditional Zoning Special Mixed Use/Conditional

Site Plan Attached (Circle One): Yes No

**PARCEL INFORMATION\***

PIN: 9588515260 Deed Book/Page: \_\_\_\_\_ Tract Size (Acres): 4.437 +/- ACRES

Zoning District: \_\_\_\_\_ Fire District: \_\_\_\_\_ Watershed: \_\_\_\_\_ Floodplain: \_\_\_\_\_

Location of property to be developed: PROPERTY FRONTING ON BALLENGER RD AND RUN'S CONTIGOUS TO MIKABELA LANE  
SEE PLOT ATTACHED

\*If subject area contains multiple PIN's please attach a list and the above parcel information for each tract or individual PIN.

**REZONING REQUEST**

Attached is:

\_\_\_\_\_ A description of the property in question sufficient to unequivocally describe and identify said property. Such description may take the form of a property survey, a legal description or a legible copy of a County cadastral or composite tax map clearly annotated with district lines which follow political boundaries, geographical features or property lines.

Current Zoning District: R-1 Requested Zoning District: REG. COMMERCIAL

**CONTACT INFORMATION**

Property Owner: BARBARA F. HOFFMAN TRUST

Name: William F. Hoffman Trust Phone: 828-697-9523

Address: 915 BALLENGER RD City, State, and Zip: FLAT ROCK N.C 28731

Applicant: BARBARA F. HOFFMAN

Name: William F. Hoffman Phone: 828-697-9523

Address: 915 BALLENGER RD City, State, and Zip: FLAT ROCK N.C 28731

Agent:

Name: Timothy A. Hoffman Phone: 828-674-7327

Address: 915 BALLENGER RD City, State, and Zip: FLAT ROCK N.C 28731

Agent Form (Circle One): Yes  No

Plan Preparer:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ City, State, and Zip: \_\_\_\_\_

Application No. \_\_\_\_\_

I certify that the information shown above is true and accurate and is in conformance with the Land Development regulations of Henderson County.

William F. Hoffman  
Print Applicant (Owner or Agent)

X BARBARA J. HOFFMAN

[Signature]  
Signature Applicant (Owner or Agent)

X Barbara J. Hoffman

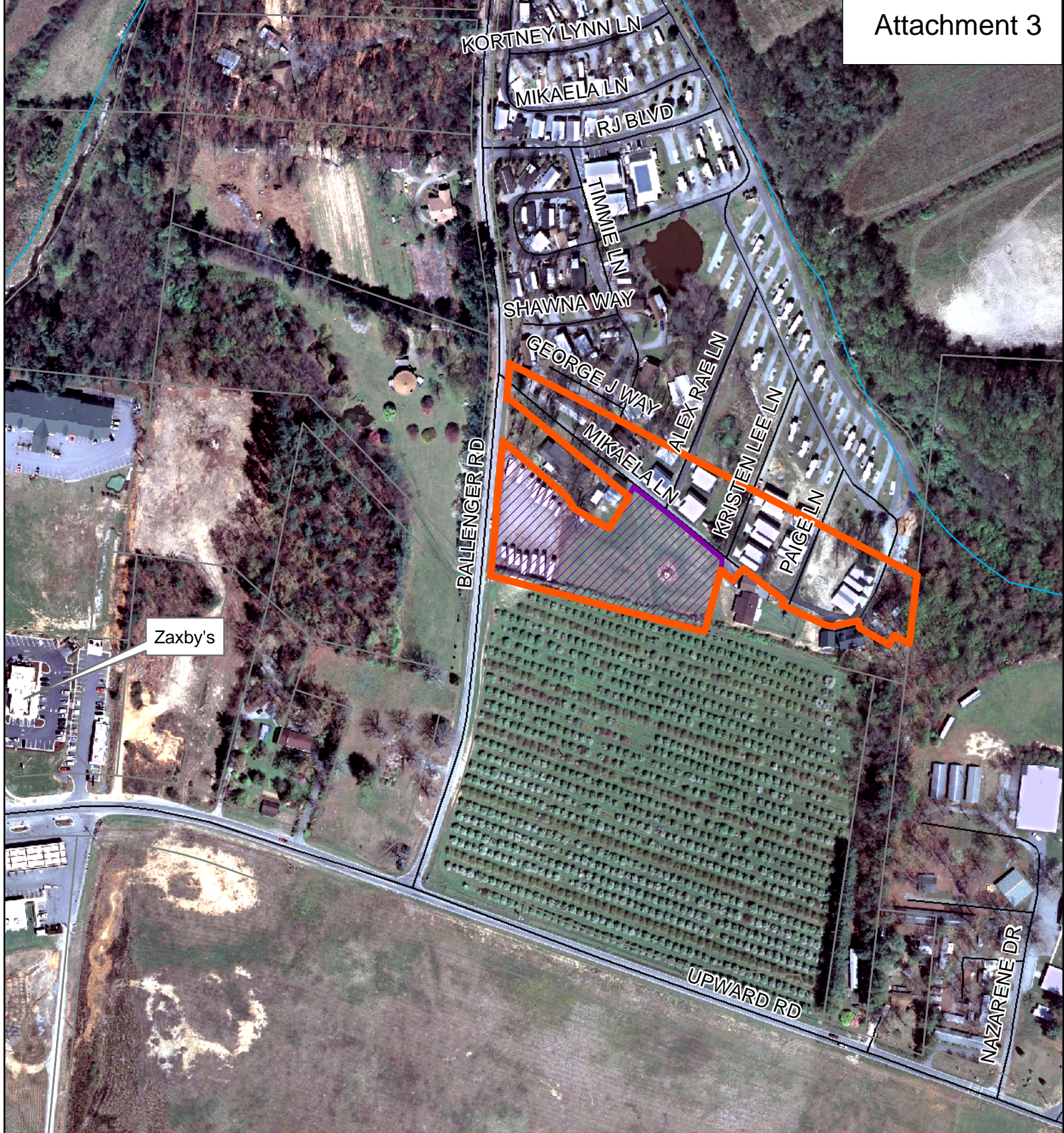
10/4/19  
Date

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**County Use Only**

Fee: \$ 800.<sup>00</sup> Paid: \_\_\_\_\_ Method: \_\_\_\_\_ Received by: \_\_\_\_\_

Community Planning Area: \_\_\_\_\_

Date Current Zoning Applied: \_\_\_\_\_

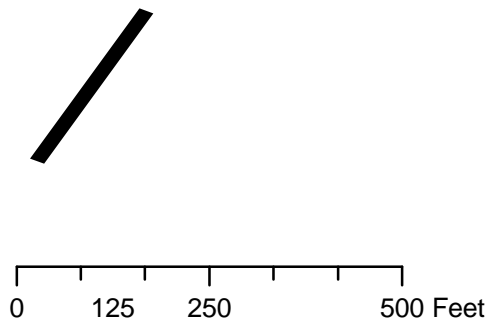


Zaxby's

**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.

Rezoning Application #2009-03

**§200A-27. Residential District One (R1)**

- A. **Purpose.** The purpose of Residential District One (R1) is to foster orderly growth where the *principal 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*.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall, at a minimum, conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases a specific *use* may be required to meet the Supplemental Requirements as set forth in §200A-63 (Supplemental Requirements).

<b>Table 2.1. R1 Density and Dimensional Requirements</b>			
(1) <i>Residential Density</i> (units/acre)		(2) Standard	4
		(3) Intermediate	8
		(3) Maximum	16
(4) <i>Yard Setbacks</i> (feet)	<i>Front or Right-of-Way (ROW)</i>	<i>Local</i>	15
		<i>Collector</i>	20
		<i>Thoroughfare</i>	35
		<i>Boulevard</i>	50
		<i>Expressway</i>	60
		<i>Freeway</i>	90
		<i>Side</i>	10
		<i>Rear</i>	10
		(5) Maximum Height (feet)	40

- (1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

*Lot size* x allowable units per acre = permitted *dwelling units*

The following example assumes a 5 acre tract with an allowable density of 4 units/acre:

5 acres x 4 units per acre = **20 permitted dwelling units**

The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.

- (2) Standard *residential density* shall be applied:
  - a. On a *lot* existing at the time of the initial adoption of this Chapter, where there is not adequate area to comply with the applicable standard *residential density* requirement;

- b. To single-family residential *uses*; and
  - c. To multifamily residential *uses* with fewer than five (5) units.
- (3) Intermediate residential density shall be available when individual dwellings would be served by both: (1) a *municipal water supply system* and (2) a *sewage disposal system* (of the following types: municipal, approved public, or approved community) which meet the
- (4) Maximum *residential density* shall be available to multifamily dwellings (including duplexes, triplexes, quadraplexes and multifamily dwellings with five (5) or more units). provided such dwellings are generally served by public or private utility systems which meet the requirements of the Henderson County Department of Environmental Health or other governmental authorities having jurisdiction thereof.
- a. A total of at least five (5) units would be permitted by standard residential density, and
  - b. Such dwellings are generally served by both: (1) a *municipal water supply system* and (2) a *sewage disposal system* (of the following types: municipal, approved public, or approved community) which meet the requirements of the local or State authorities.
- (5) Residential *accessory structures* shall be located in *side* or *rear yards* and shall be *setback* a minimum of ten (10) feet from any property line.
- (6) Maximum height may be exceeded in multifamily developments as detailed in §200A-63 (Supplemental Requirements) SR 1.6. (Dwelling, Multifamily, Five (5) or More Units), provided such developments do not exceed 50 feet in height.

**§200A-35. Regional Commercial District (RC)**

- A. **Purpose.** 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 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*.
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements (in the case of a nonresidential *use* the *residential density* requirements shall not apply). In some cases a specific *use* may be required to meet the Supplemental Requirements as set forth in §200A-63 (Supplemental Requirements).

<b>Table 2.9. RC Density and Dimensional Requirements</b>				
		(1) <i>Residential Density</i> (units/acre)	16	
		<i>Maximum Impervious Surface</i> (%)	80	
		<i>Maximum Floor Area</i> (sq ft)	Unlimited	
<i>Yard Setbacks</i> (feet)	<i>Front or ROW</i>	<i>Local</i>	15	
		<i>Collector</i>	30	
		<i>Thoroughfare</i>	40	
		<i>Boulevard</i>	50	
		<i>Expressway</i>	50	
		<i>Freeway</i>	60	
			<i>Side</i>	10
			<i>Rear</i>	10
<i>Maximum Height</i> (feet)			50	

- (1) *Residential density* shall be calculated utilizing the entire acreage of a *tract* of land. Under this scenario, *residential density* shall be determined based on the following formula:

*Lot size* x allowable units per acre = permitted *dwelling units*

The following example assumes a 5 acre tract with an allowable density of 16 units/acre:

5 acres x 16 units per acre = **80 permitted dwelling units**

The maximum *residential density* for portions of the *tract* with a *slope* of 60 percent or greater (where such *slope* areas of the *tract* account for ten (10) percent or more of the *tract*) shall be one-half (½) the eligible density.