

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: Monday, October 3rd, 2016

SUBJECT: Public Hearing for Rezoning Application #R-2016-01

PRESENTER: Kyle Guie, Planner

ATTACHMENTS:

1. Staff Report
2. Aerial Photo Map
3. Notice of Public Hearing
4. Certification of Notification of Public Hearing
5. Resolution of Consistency with CCP
6. Power Point Slides

SUMMARY OF REQUEST:

Rezoning Application #R-2016-01 which was initiated on March 15, 2016 at the request of applicant and agent, Mr. Russell Galloway, who requests the County rezone approximately 67.34 acres of land (thereafter the "Subject Area") from Industrial (I) zoning to Residential One (R1) zoning.

The Board of Commissioners held a public hearing on the application during the June 6, 2016 meeting. The Board tabled the request based on the need for additional documentation and referred the item back to Planning Board. The Planning Board considered rezoning application for a 2nd time at its regularly scheduled meeting on August 18, 2016. During that meeting, the Planning Board voted to remove the Sherman properties from the application and to move forward with the rezoning for the remaining properties.

PUBLIC NOTICE:

Before taking action on the application, the Board of Commissioners must hold a public hearing. In accordance with §42A-314(C) and §42A-337(B) of the Henderson County Land Development Code and State Law, notices of the June 6, 2016, public hearing regarding rezoning application #R-2016-01 were published in the Hendersonville Lightning on September 15, 2016 and September 22, 2016. The Planning Department sent notices of the hearing via first class mail to the owners of properties adjacent to the Subject Area on September 22, 2016 and the Subject Area property owners on September 22, 2016 and posted signs advertising the hearing on the Subject Area on September 26, 2016.

BOARD ACTION REQUESTED:

If approved, State law requires that the Board adopt a written statement of consistency with the County Comprehensive Plan (CCP). A draft resolution is provided.

Suggested Motion:

I move that the Board (approve, approve with conditions or deny) rezoning application #R-2016-01 to rezone the Subject Area to a Residential One (R1) zoning district based on the recommendations of the Henderson County 2020 Comprehensive Plan and other supporting information, and;

I move that the Board the attached resolution regarding the consistency with the CCP.

Henderson County Planning Department Staff Report

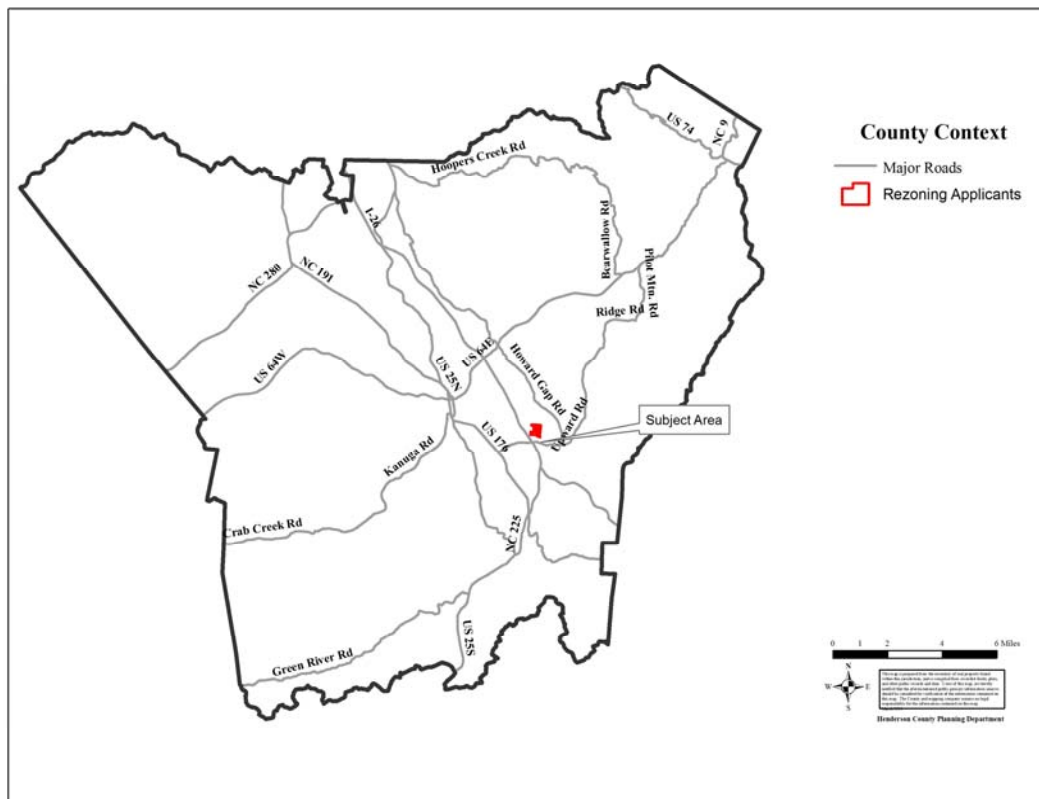
Rezoning Application #R-2016-01 (I to R-1)

Multiple, Owner(s)
Kermit (Russell) Galloway, Applicant/Agent

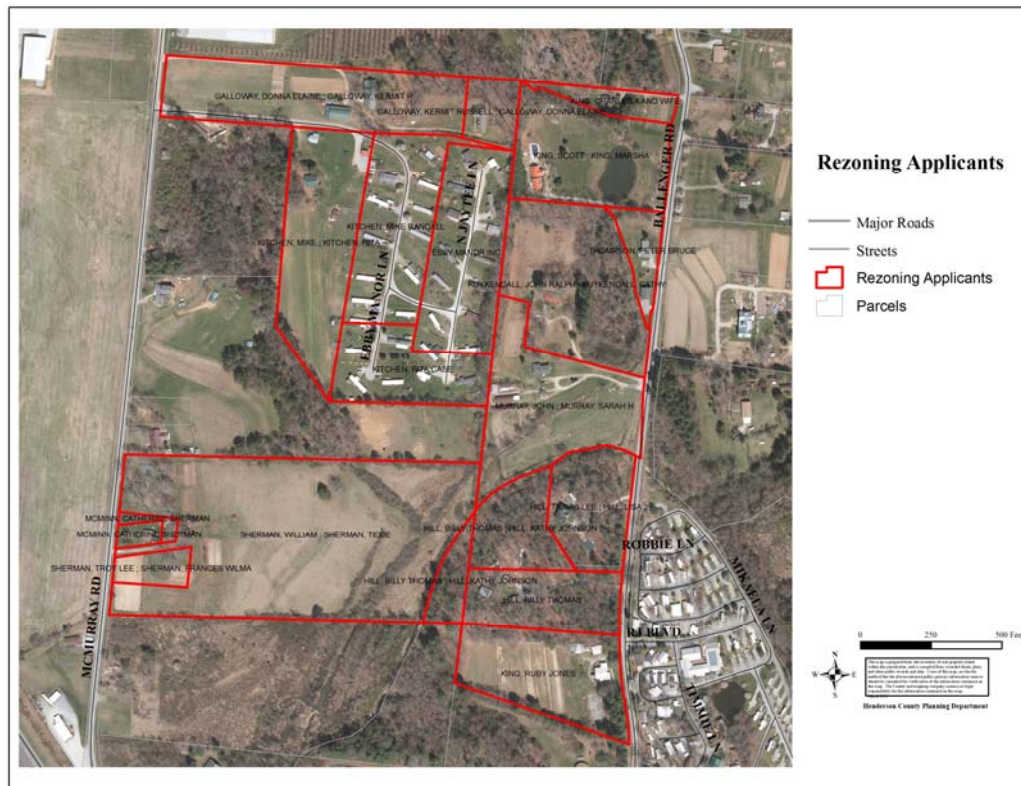
1. Rezoning Request

- 1.1. **Applicant/Agent:** Kermit (Russell) Galloway
- 1.2. **Property Owner:** Multiple
- 1.3. **PINs:** 9588324264, 9588324353, 9588329376, 9588339384, 9588417882, 9588423819, 9588424155, 9588426374, 9588427180, 9588428755, 9588429462, 9588430921, 9588432368, 9588435303, 9588436866, 9588439210, 9588439634, 9588530824, 9588531397, 9588323341
- 1.4. **Request:** Rezone subject area from an Industrial (I) zoning district to a Residential One (R-1) zoning district.
- 1.5. **Size:** Approximately 67.34 acres of land
- 1.6. **Location:** The subject area is located between McMurray Road and Ballenger Road east of Interstate 26. Refer to map A for a County Context map and map B for an aerial photo map.

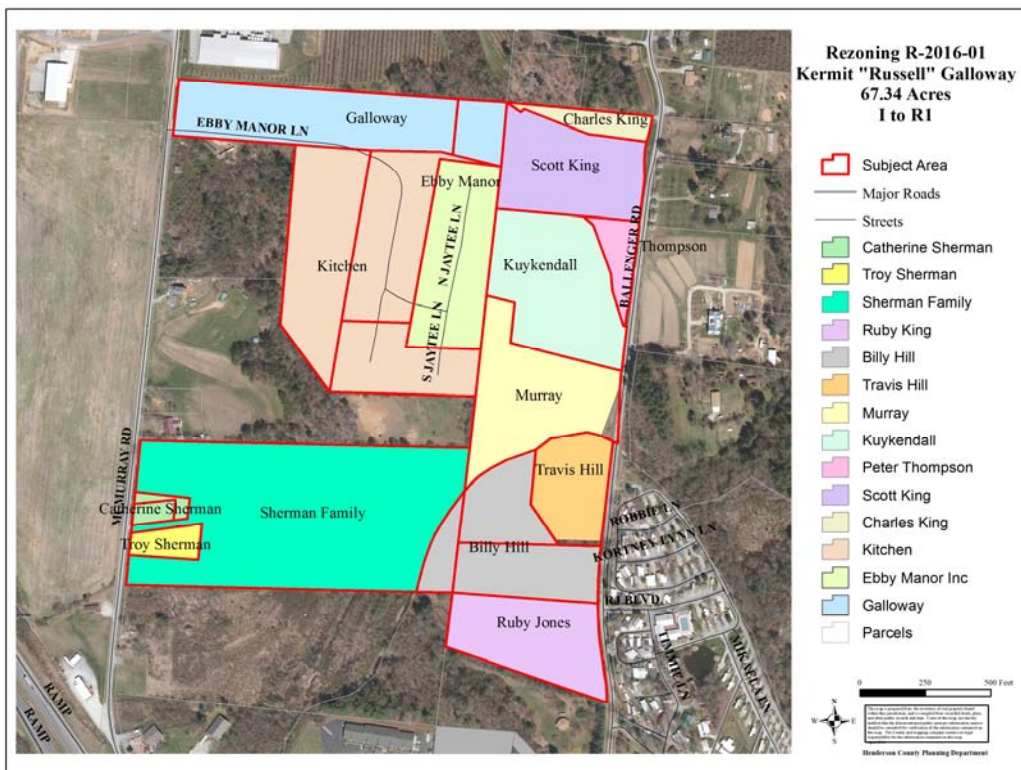
Map A: County Context



Map B: Aerial Photo



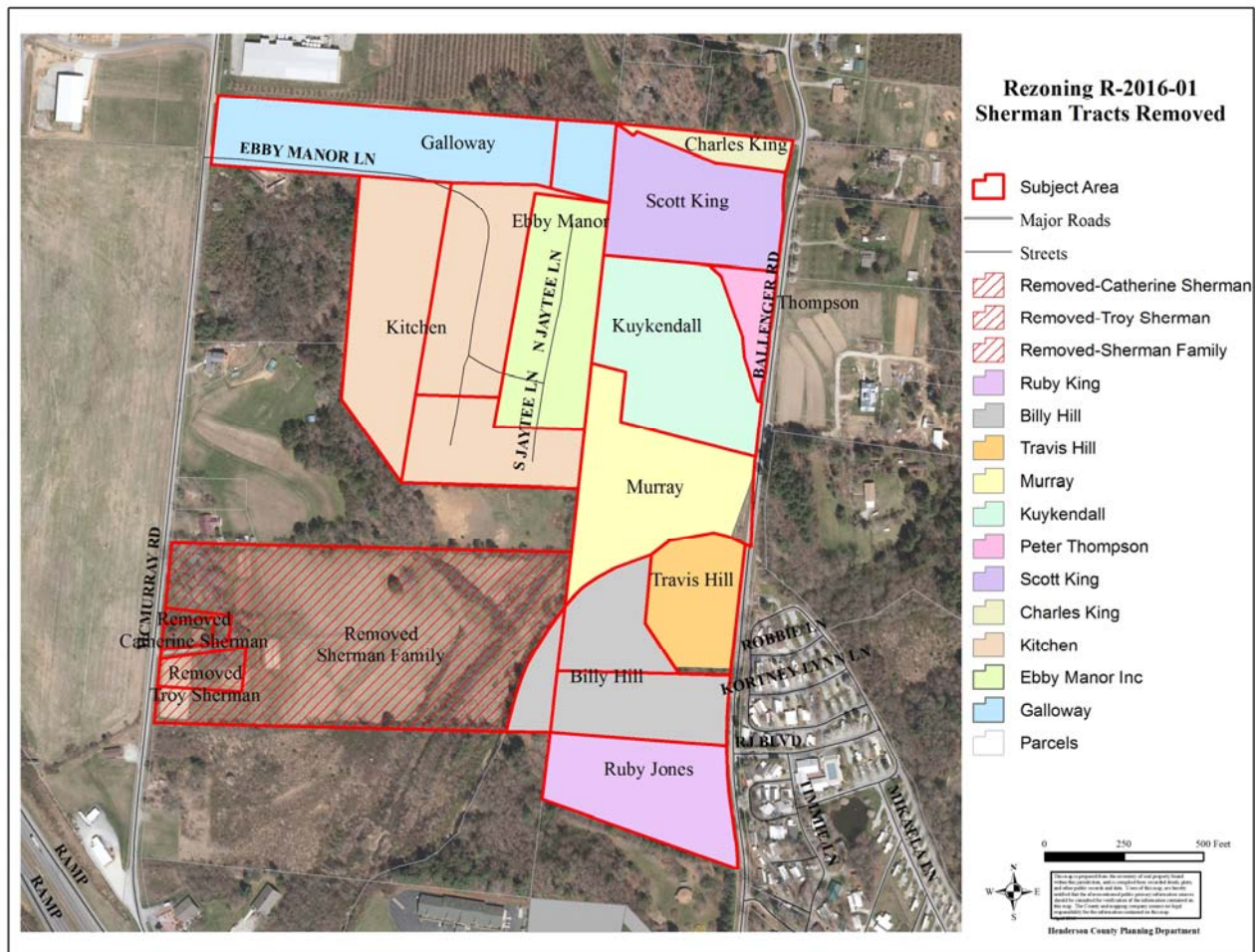
Map C: Property Owners



2. **Background**

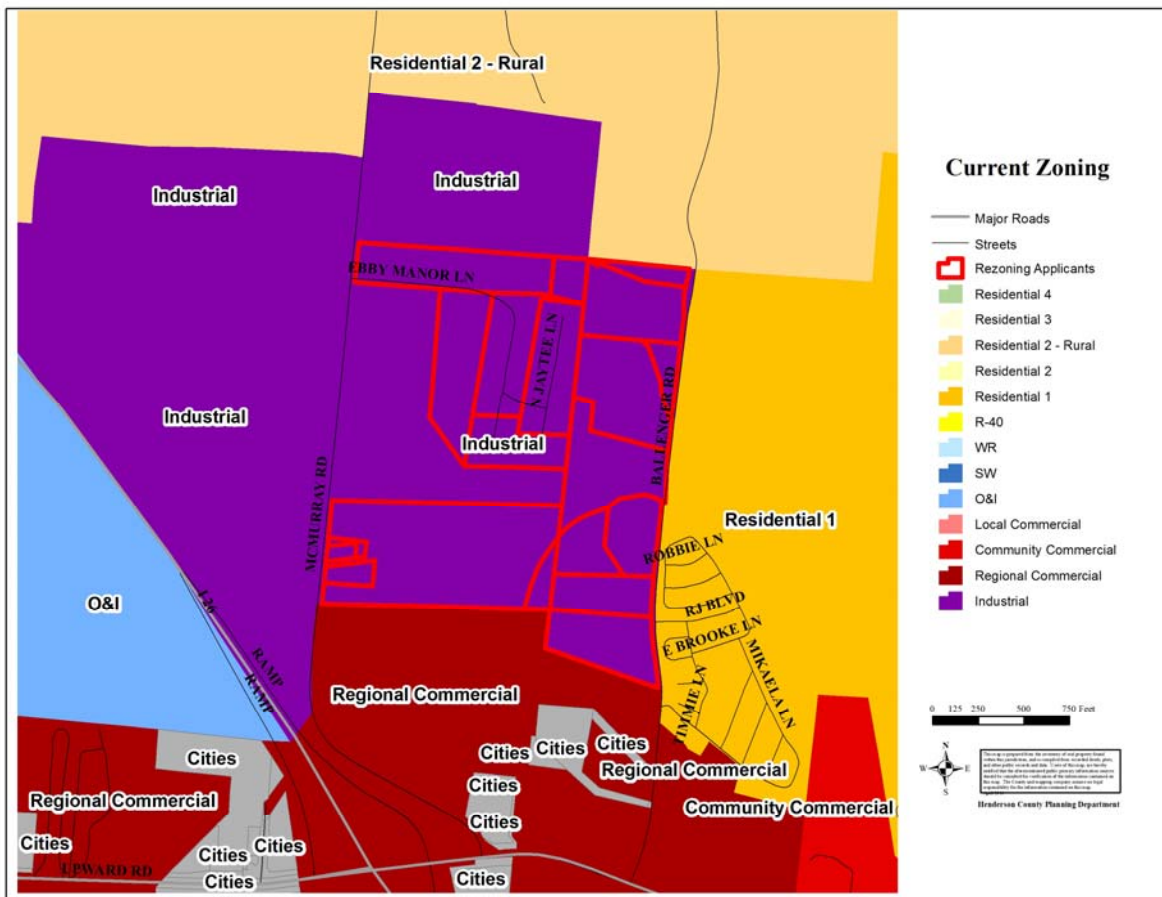
- The area was part of the Dana Community Plan adopted on March 16, 2011.
 - The community planning process took approximately 14 months to complete and included 2 public meetings.
- In February of 2014, the BOC adopted the fourth community plan for the GRTZ area and directed staff to implement the rezoning recommendations of the Edneyville, Dana and GRTZ community plans. Refer to Map H for Dana Community Plan rezoning recommendations.
- On November 19, 2014 the BOC voted 5-0 to rezone the area near McMurray and Ballenger Road from Residential 1 to Industrial (approximately 24 parcel or 87.6 acres). This hearing was advertised in the Hendersonville Tribune on November 6, 2014 and November 13, 2014 and public hearing notices were posted on November 7, 2014. Due to the number of parcels included in the overall rezoning request, the expanded publish notice was used in accordance with NCGS 153A-343. Refer to Map I.
- In August of 2015, Planning Staff was contacted by Mr. William Sherman and Mr. Russell Galloway who was concerned with the current zoning and allowed uses, including the construction of new single family dwellings.
- On September 24, 2015, Mr. Galloways appeared before the Planning Board to request the Board initiate a rezoning for this area. Since this area was part of an adopted Community Plan and the rezoning had been supported by both the Planning Board and BOC, no action was taken to initiate a rezoning.
- Upon speaking with Mr. Galloway in the following months, staff sent a letter to the five property owners that had inquired about the rezoning request. The letter provided background information on the industrial zoning district and explained how the property owners could apply for a formal rezoning if desired. Each owner received a copy of the rezoning application.
- Mr. Galloway submitted a rezoning application and signed State of Understanding and Appointment of Agent forms from all landowners within the Subject Area on March 15, 2016.
- The Planning Board reviewed the application at their April 21, 2016 meeting where they made a favorable recommendation to the Board of Commissioners.
- The Board of Commissioners held a public hearing on June 6, 2016 where they voted to continue discussions on the application.
- The Planning Board reviewed the application for a second time during their August 18, 2016 meeting to specifically address two questions that arose during the public hearing regarding Ebby Manor Incorporated and the Sherman property. After reviewing information and hearing from the Sherman family, the Planning Board made a recommendation to remove the Sherman properties from the application and to move forward with the rezoning for the remaining properties. Refer to Map D.

Map D: Planning Recommendation



2. Current Zoning

2.1. **Application of Current Zoning:** The subject area was rezoned Industrial (I) on November 19, 2014 as part of the recommendation from the Dana Community Plan (See Map E). Prior to this date, the subject area was zoned Residential One (R-1).

Map E: Current Zoning

2.2. **Adjacent Zoning:** The subject area is adjacent to Industrial (I) to the west. Residential One (R1) to the east, Regional Commercial (RC) to the south, and both Industrial (I) and Residential Two Rural (R2R) to the north.

2.3. **District Comparison:**

2.3.1. **Industrial (I) District:** “The purpose of the Industrial District (I) is to foster orderly growth where the principal use of land is a mixture of industrial and heavy commercial. The intent of this district is to allow for industrial and heavy commercial development consistent with the recommendations of the Comprehensive Plan. In accordance with the Comprehensive Plan, the district will allow for and provide industrial and heavy commercial development that: (1) is compatible with adjacent development and the surrounding community; (2) will minimize conflict between land uses; and (3) is sensitive to its impact on surrounding land uses and the environment (natural and man-made).” (LDC §42A-36).

- (1) Industrial (I) requires 20 foot side and rear setbacks; (2) establishes a maximum building height of 72 feet; (3) Provides an unlimited square feet maximum gross floor area; (4) Maximum impervious surface area of 80% (Chapter 42, Land Development Code §42B-36)

2.3.2. **Residential One (R1) District:** “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 §42A-27).

(1) 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).

3. Current Uses of Subject Area and Adjacent Properties

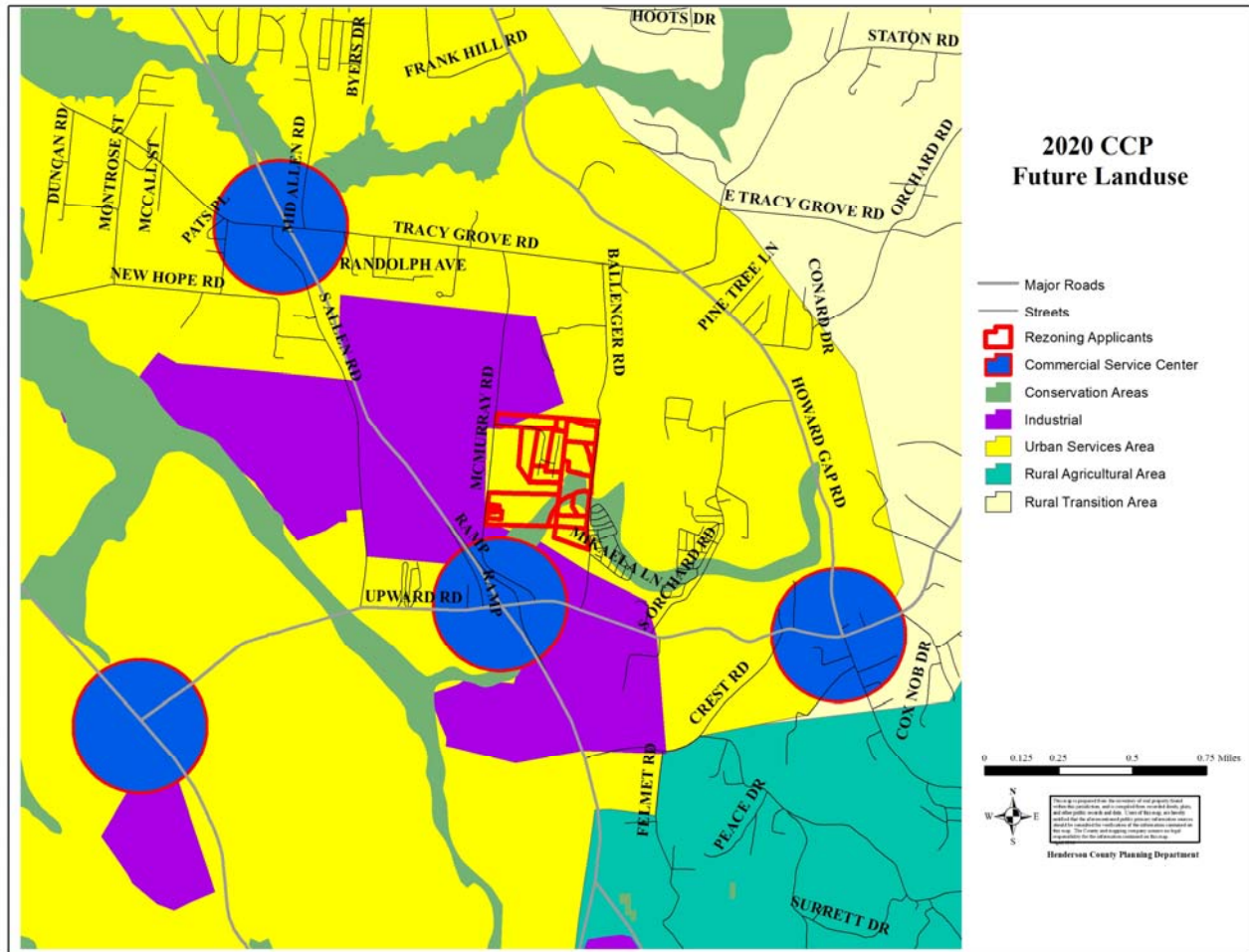
3.1. **Subject Area Uses:** The subject area is primarily used for residential purposes.

3.2. **Adjacent Area Uses:** The surrounding properties contain industrial, residential, commercial, vacant, and RV park uses.

4. The Henderson County 2020 Comprehensive Plan (CCP)

4.1. The CCP Future Land Use Map identifies the subject area as being located in the Industrial, Urban Services, and Conservation area (2020 CCP, Pgs. 128, 129 & Appendix 1, Map 24). (See Map F).

Map F: 2020 County Comprehensive Plan Future Land Use Map

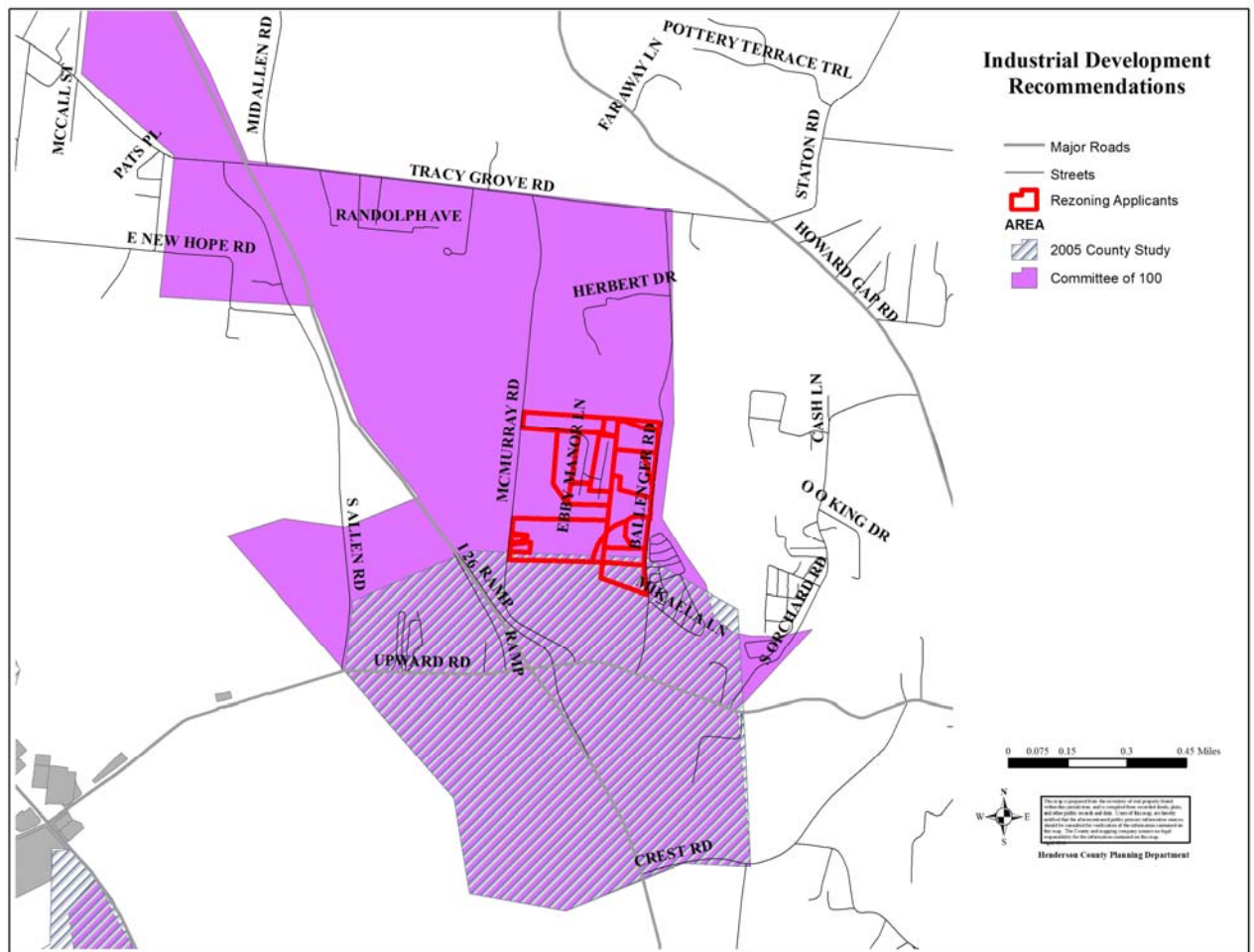


4.1.1. **Industrial:** “See the Current Land Use Definition of Industrial, in Appendix IV, Glossary. Most defined industrial areas should lie within the Urban Services Area, and in other areas on a very limited basis. Most industrial uses should be segregated from other uses with the exception of Regional Commercial uses. Industrial areas depicted on Map # 24, Future Land Use Map are derived from existing industrial zoning districts, as well as from those area depicted upon Map # 8, “Committee of 100” Recommended Industrial Development Zones. It is intended that the Countywide Industrial / Commercial Zoning Study and Community Plans will further refine the location, extent, and intensity of future industrial areas. (2020 CCP, Pg. 140).

4.1.2. **Urban Services Area:** 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. The USA will essentially contain all existing and future industrial developments, which will be the future focus of economic development activities” (2020 CCP, Pg. 129).

- 4.1.3. **Conservation:** This category includes land areas that are intended to remain largely in their natural state, with only limited development. Such areas should be targeted for protection through regulations and incentives. Conservation areas are lands that generally exhibit any of the following characteristics: 1. Sensitive natural areas such as steep slopes, floodplains, major wetlands, forest reserves and wildlife conservation areas, and key watersheds 2. Areas of historic and archeological significance 3. Local, state or federally-managed natural areas 4. Areas managed for agricultural or forestry land uses 5. Other areas yet to be defined
- 4.2. In 2005, the Henderson County Planning Department created a study to analyze suitable sites for industrial development. The Study was a result of CCP recommendation e-01 of the Economic Development element. The Study Area partially falls within the industrial development area identified in the study. The Partnership of Economic Development, formerly the Committee of 100 also created industrial development areas that are slightly more comprehensive than the 2005 County study. Refer to Map G for both recommended industrial development areas.

Map G: Committee of 100 and 2005 Industrial Development Study



4.3. The CCP recommended the creation of community based planning to more strategically identify the opportunities and constraints of communities within the County.

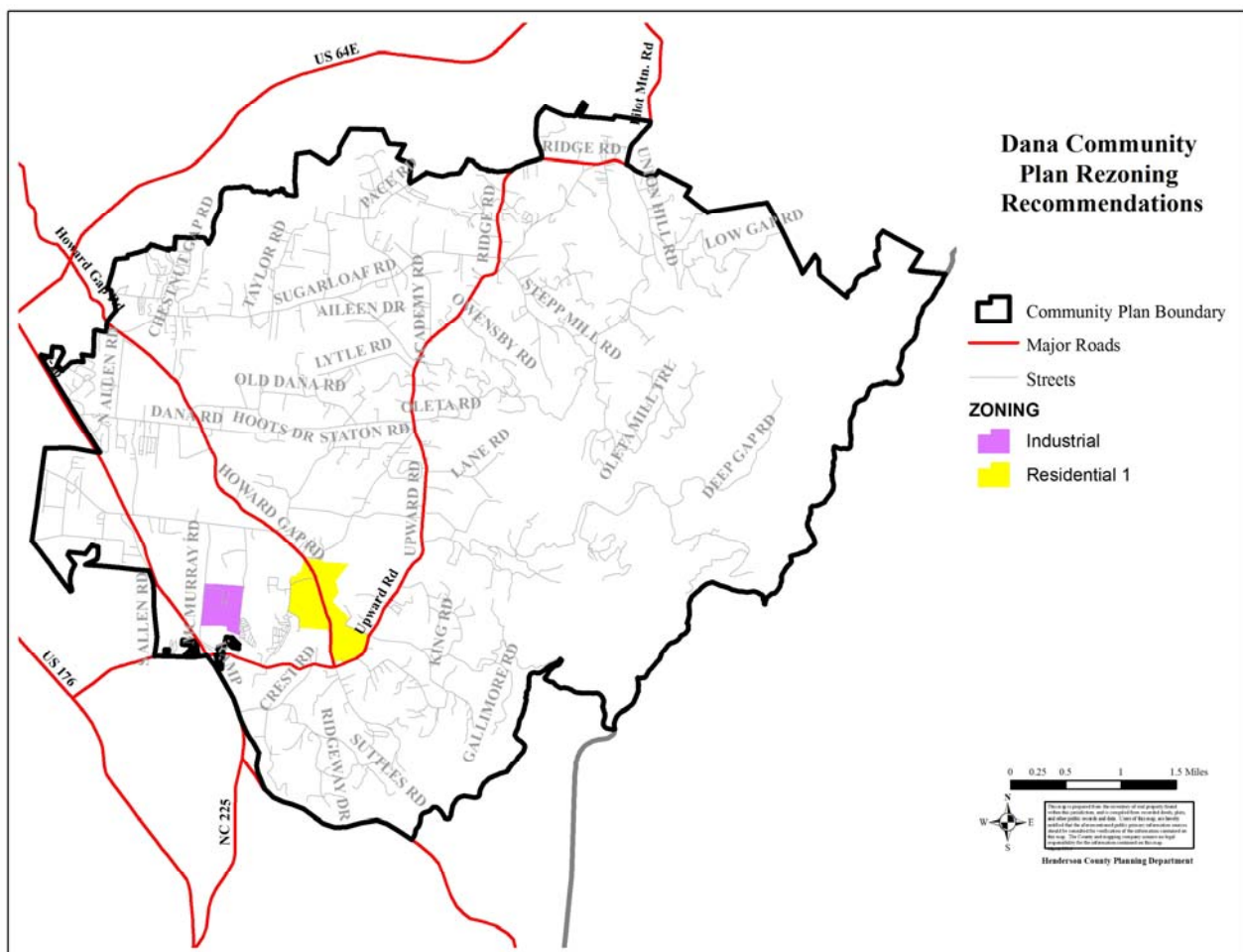
4.3.1. “The next step in the County’s approach to planning at the sub-county level is the establishment of a community based planning process. This process builds upon the LURG by establishing a series of defined planning areas that will be the subject of detailed community plans. Such a process allows for advance project planning and budgeting, avoids geographic gaps, and allows for a scope of study that is more comprehensive in nature” (2020 CCP, Pg. 149).

4.3.2. “Community Planning Framework Henderson County 2020 Comprehensive Plan. The adoption of each community plan shall constitute an amendment to this Comprehensive Plan. Each community plan shall be informed by the various detailed studies envisioned in Section 3 of this Comprehensive Plan (i.e., sewer and water master plan, long-range public school facilities master plan, and others.). Furthermore, community plans may identify needed improvements to these studies and so revisions to such should be made as necessary” (2020 CCP, Pg. 150).

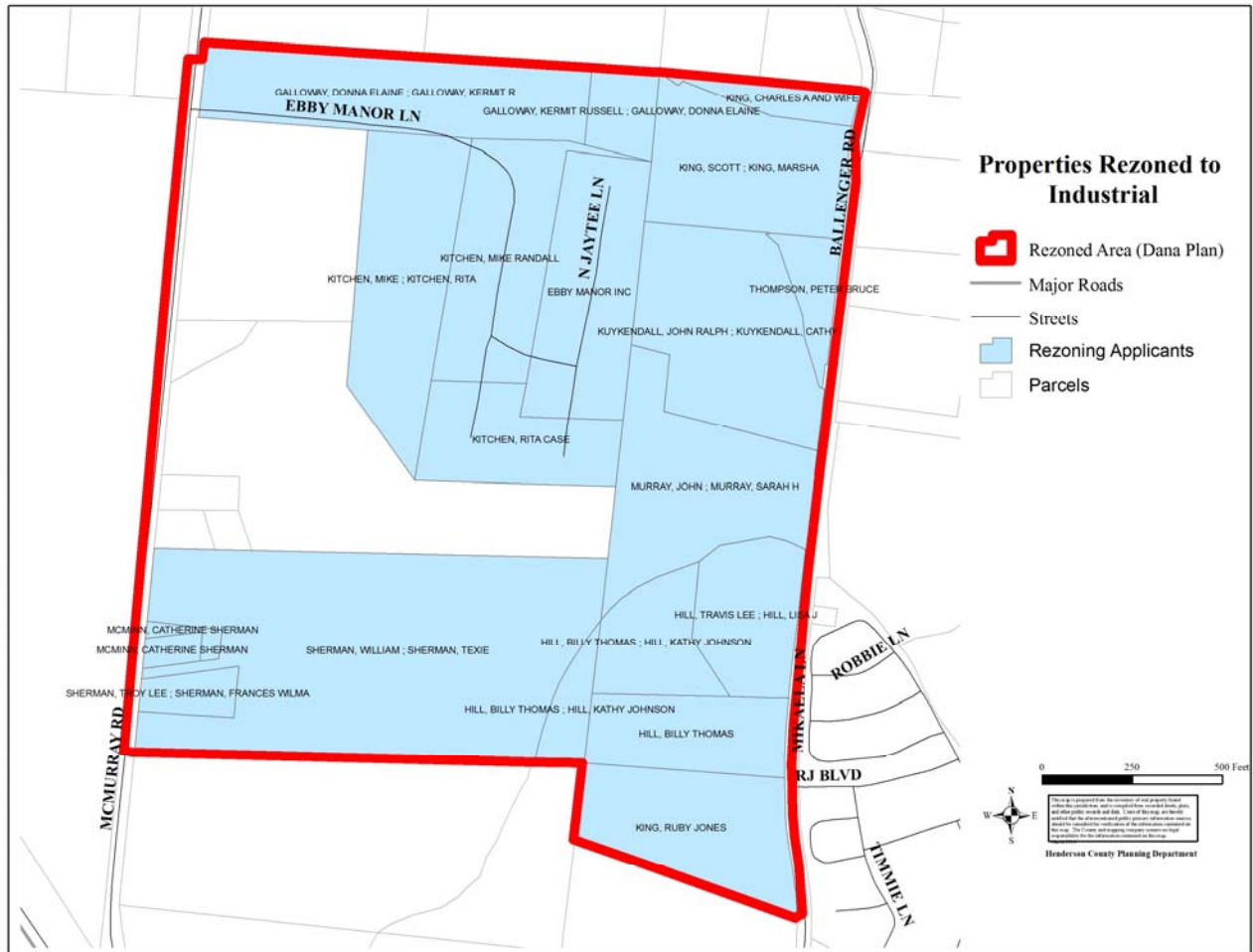
5. Dana Community Plan

- 5.1. The Dana Community Plan future landuse map identifies the subject area as being located within the Industrial area (Dana Community Plan, Pg. 67). Refer to Maps H and I.
- 5.2. The Dana Community Plan outlined Landuse and Development Goals and Objects. “Industrial (I) Zoning District Map Amendment. To increase opportunities for industrial development within the Planning Area and in the vicinity of the Interstate-26 interchange at Upward Road, I zoning should be applied to those properties bounded by McMurray Road and Ballenger Road and located between the existing Regional Commercial (RC) and Industrial (I) zoning (Dana Community Plan, Pg. 53).

Map H: Dana Community Plan Rezoning Recommendations



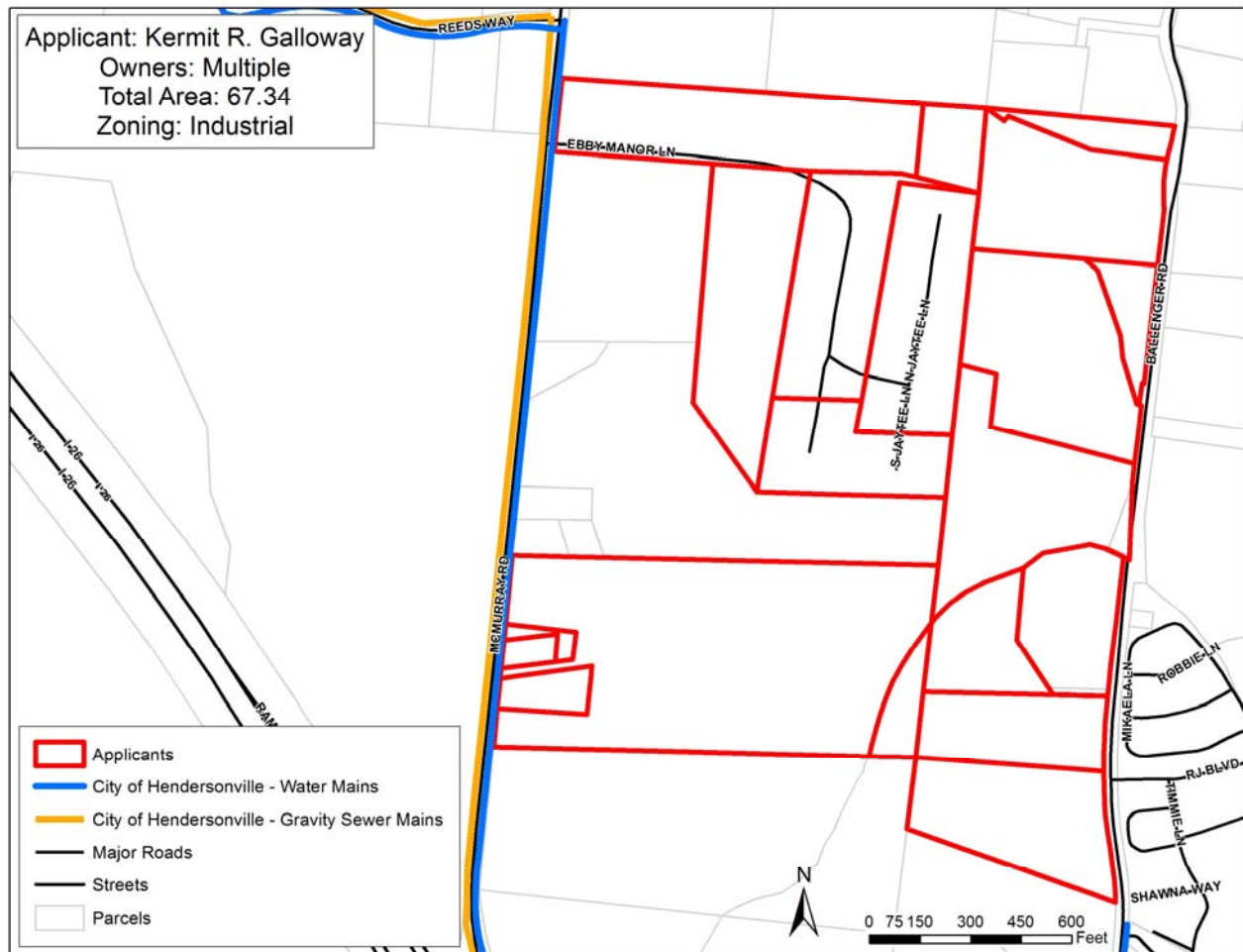
Map I: Dana Community Plan Industrial Rezoning



5. Water and Sewer

- 5.1. **Public Water:** City of Hendersonville water main runs along McMurray Road adjacent to the subject area.
- 5.2. **Public Sewer:** City of Hendersonville gravity sewer main runs along McMurray Road adjacent to the subject area.

Map J: Water and Sewer Map



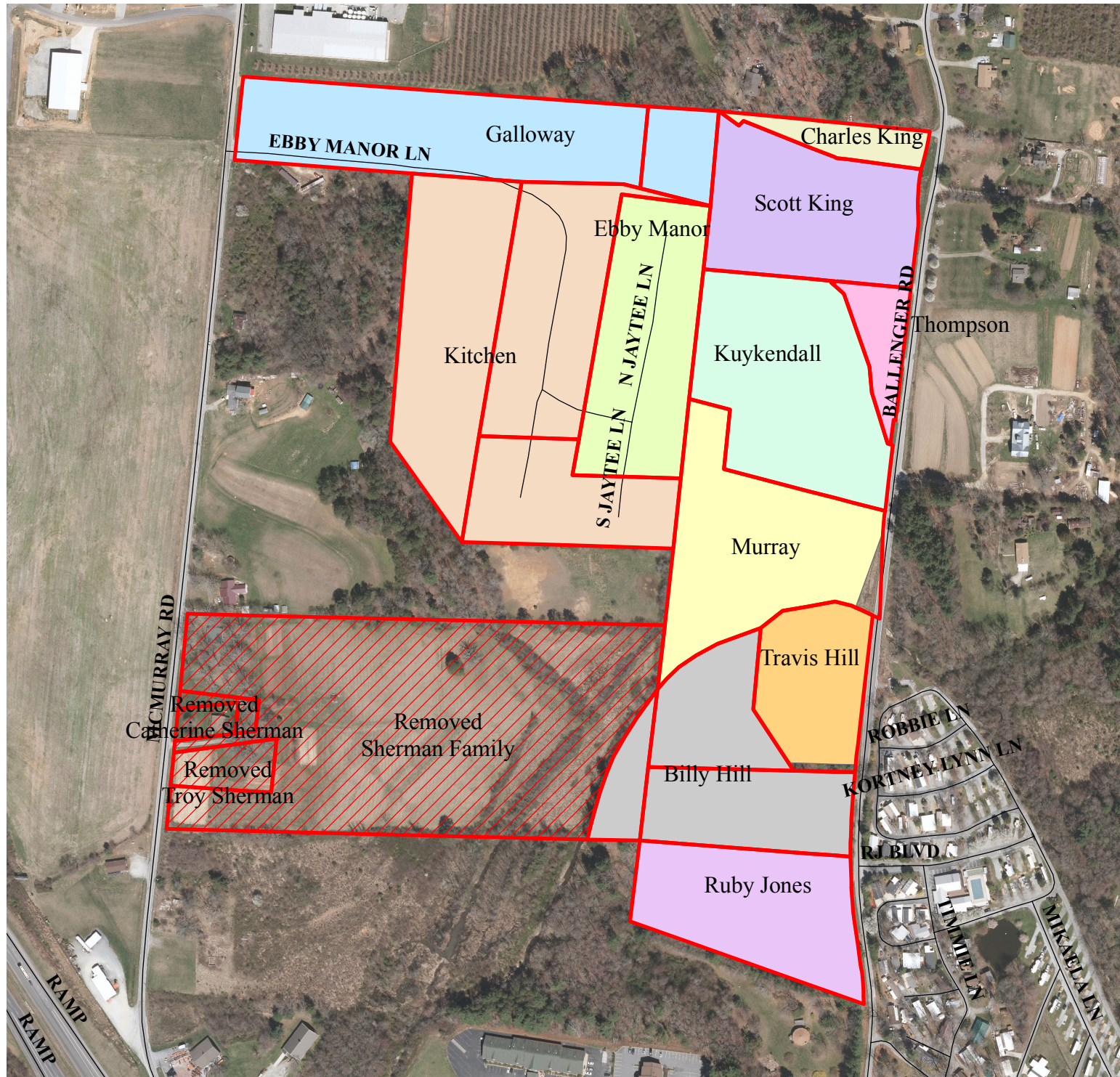
6. Staff Comments

- 6.1. **The 2020 CCP:** The CCP Future Land Use Map (See Map D) places the Subject Area in the Industrial, Urban Services Area, and Conservation classifications. The text and map of the 2020 CCP suggest that the Subject Area would be suitable for residential development.
- 6.2. **Adjacent Zoning:** The subject area is adjacent to Industrial (I) to the west. Residential One (R1) to the east, Regional Commercial (RC) to the south, and both Industrial (I) and Residential Two Rural (R2R) to the north.
- 6.3. **Comparison of Districts:** The existing Industrial (I) zoning district does not allow for new residential development. Applying the Residential One (R1) zoning district will allow for residential development.

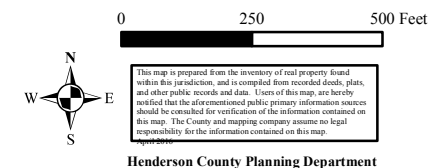
7. Planning Board Recommendations

The Planning Board Reviewed the application for a second time during their August 18, 2016 meeting where a recommendation to remove the Sherman properties from the application and to move forward with the rezoning for the remaining properties. Refer to Map D.

Rezoning R-2016-01 Subject Area With Sherman Tracts Removed



- Subject Area
- Major Roads
- Streets
- Removed-Catherine Sherman
- Removed-Troy Sherman
- Removed-Sherman Family
- Ruby King
- Billy Hill
- Travis Hill
- Murray
- Kuykendall
- Peter Thompson
- Scott King
- Charles King
- Kitchen
- Ebby Manor Inc
- Galloway
- Parcels



**NOTICE OF PUBLIC HEARING
ON PROPOSED ZONING MAP AMENDMENT
(Rezoning Requests #R-2016-01)**

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-2016-01, which was submitted on March 15, 2016 requests the County rezone approximately 67.34 acres. The applicant requests a rezoning from Industrial (I) to a Residential One (R1) zoning district. The applicant/agent is Mr. Russell Galloway.

The public hearing will be held on Monday, October 3, 2016, at 5:30 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. The Henderson County Planning Board voted to remove four parcels adjacent to McMurray Road at their August 18, 2016 meeting.

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, 100 N. King Street, 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. For more information, call the Planning Department at (828) 697-4819.

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.

Teresa Wilson
Clerk to the Board
Henderson County Board of Commissioners

For publication in the Hendersonville Lighting on Thursday, September 15, 2016 and Thursday, September 22, 2016.

Certification of Notice of Public Hearing

In accordance with NCGS 153A-343 the Planning Department certifies notice of the October 3, 2016 hearing regarding Rezoning Application #R-2016-01 were:

1. Submitted to the Hendersonville Lightning on September 12, 2016 to be published on September 15, 2016 and September 22, 2016 by Kyle Guie;
2. Sent, via first class mail, to the owners of properties adjacent to the Subject Area(s) on September 22, 2016 by Kyle Guie;
3. Sent, via first class mail, to the property owners on September 22, 2016 by Kyle Guie; and
4. Signs will be posted on the Subject Area(s) on September 26, 2016 by Kyle Guie.

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

1. [Signature]

STATE OF NC

COUNTY OF Henderson

I, Toby Linville, a Notary Public, in and for the above County and State, do hereby certify that

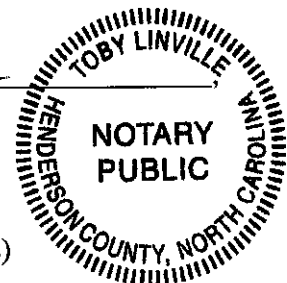
Kyle Guie, and _____

personally appeared before me this day.

WITNESS my hand and notarial seal, this the 21 day of September 2016.

My commission expires:

5-25-21



(SEAL)
[Signature]

NOTARY PUBLIC



RESOLUTION OF CONSISTENCY WITH THE COUNTY COMPREHENSIVE PLAN

WHEREAS, pursuant to N.C. General Statute §153, Article 18, the Henderson County Board of Commissioners exercises regulations relating to development within the County's jurisdiction; and

WHEREAS, the Henderson County Board of Commissioners (Board) adopted the Land Development Code (LDC) on September 19, 2007 and has amended the LDC to address new and changing issues;

WHEREAS, the Board desires to update and revise the regulations of the LDC; and

WHEREAS, the Planning Director and Planning Board provided recommendations regarding the proposed zoning map amendment with case #R-2016-01; and

WHEREAS, pursuant to N.C. General Statute §153-323, the Planning Director provided the prescribed public notice and the Board held the required public hearing on June 6, 2016; and

WHEREAS, N.C. General Statute §153-341 requires the Board to adopt a statement of consistency with the County Comprehensive Plan (CCP); and

NOW THEREFORE, BE IT RESOLVED by the Henderson County Board of Commissioners as follows:

1. That the Board reviewed the proposed map amendment (#R-2016-01 applicant/agent Mr. Russell Galloway) and finds that it is reasonable, in the public interest and it is consistent with the CCP and the Growth Management Strategy located therein; and
2. That the Board determines that the proposed map amendment provides for the sound administration of the LDC while balancing property rights and promoting reasonable growth within the County; and
3. That this Resolution shall be retained in the Office of the Clerk to the Board of Commissioners.

THIS the 3rd day of October, 2016.

HENDERSON COUNTY BOARD OF COMMISSIONERS

BY: _____
THOMAS H. THOMPSON, Chairman

ATTEST:

Teresa Wilson, Clerk to the Board

[COUNTY SEAL]

Rezoning #R-2016-01 Kermit (Russell) Galloway



Public Hearing
October 3, 2016

Presented by: Kyle Guie, Planner

Henderson County Planning Department

Original Application Summary

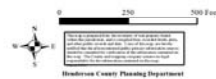
- Submitted on March 15, 2016
- Planning Board Initially Reviewed on April 21, 2016
- BOC held Public Hearing on June 6, 2016 (item tabled)
- Planning Board Reviewed a 2nd time on August 18, 2016
- Applicant/Agent: Mr Russell Galloway
- Rezone from Industrial (I) Zoning to Residential One (R1) Zoning
- 67.34 acres
- 20 parcels

Henderson County Planning Department

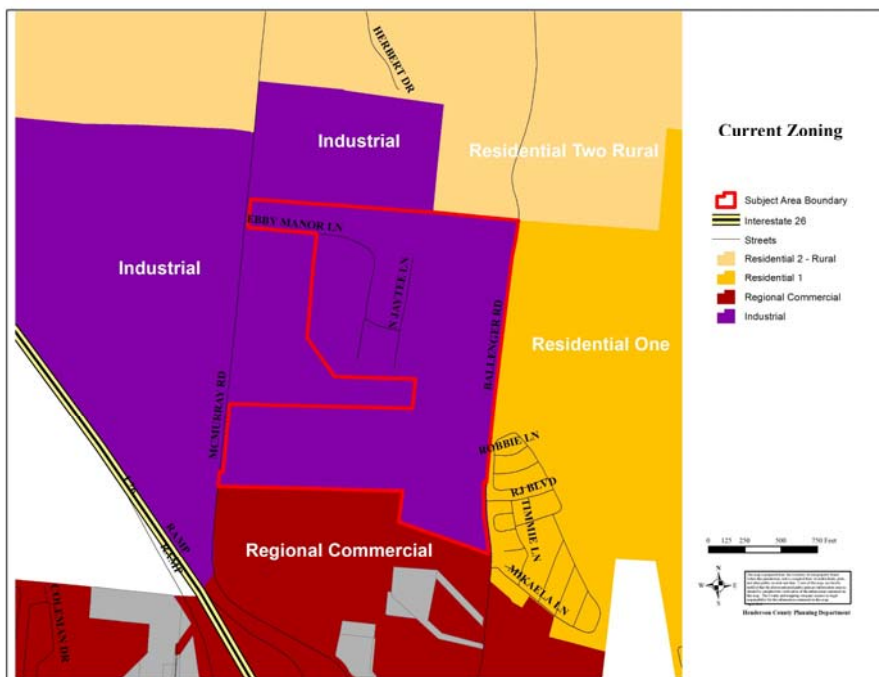


Rezoning Applicants

- Major Roads
- Streets
- Rezoning Applicants
- Parcels

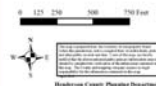


Henderson County Planning Department



Current Zoning

- Subject Area Boundary
- Interstate 26
- Streets
- Residential 2 - Rural
- Residential 1
- Regional Commercial
- Industrial



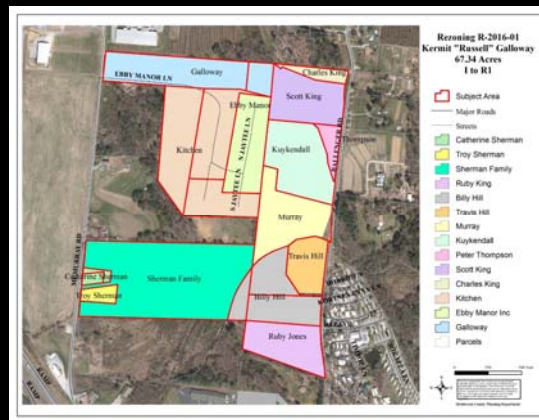
Zoning Overview

- Current Zoning: Industrial
- Zoned Residential One with adoption of Land Development Code in 2007
- Zoned Open Use Prior to 2007
- Current Adjacent Zoning:
 - Industrial, Residential One, Residential Two Rural, Regional Commercial

Henderson County Planning Department

Ebby Manor Inc

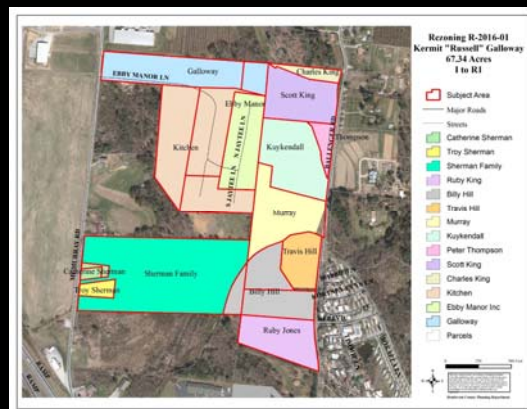
- Documentation with signatures needed from all shareholders of Ebby Manor Inc
- Mike Kitchen (President) and Rita Kitchen (Secretary) are the two shareholders
- The Articles of Incorporation has been submitted
- Both President and Secretary have signed the Statement of Understanding for Rezoning Request Form



Henderson County Planning Department

Sherman Property

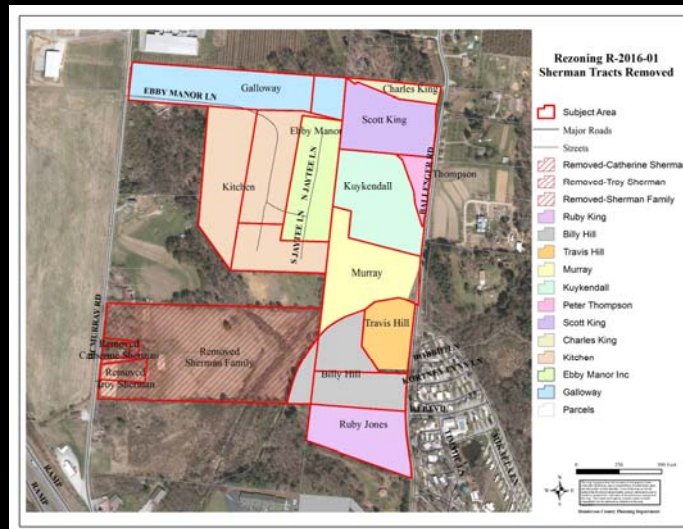
- 14 acre tract PIN #9588329376
- Mother and Father are deceased
- Siblings: Troy Sherman, John Sherman, Catherine Sherman, and Roy Sherman
- 1 of 4 siblings signed the Statement of Understanding for Rezoning Request



Henderson County Planning Department

Planning Board Recommendation

- The Planning Board Reviewed the application for a second time during their August 18, 2016 meeting where they made a recommendation



Henderson County Planning Department

- Public hearing advertised in the Hendersonville Lightning on September 15th and 22nd
- Letters to landowners sent out on September 22nd
- Letters to adjacent landowners sent out September 22nd
- Property was posted in 6 locations on September 26th

Board Recommendation

Henderson County Planning Department