

REQUEST FOR BOARD ACTION

HENDERSON COUNTY PLANNING BOARD

MEETING DATE: August 18, 2016

SUBJECT: Rezoning Application #R-2016-01

PRESENTER: Kyle Guie, Planner

ATTACHMENTS:

1. Staff Report
2. Industrial (I) District Text
3. Residential One (R1) District Text
4. PowerPoint Handouts

SUMMARY OF REQUEST:

Rezoning Application #R-2016-01, which was initiated on March 15, 2016 at the request of applicant and agent, Kermit Russell Galloway, who requests the County rezone approximately 67.34 acres of land (thereafter the “Subject Area”) Industrial (I) zoning district to a Residential One (R1) zoning district. The Planning Board initially reviewed this application on April 21, 2016 and made a favorable recommendation to the Board of Commissioners. The Board of Commissioners held a public hearing on the application at their June 6, 2016 meeting. The Board tabled the request based on the need for additional documentation and referred the item back to Planning Board.

Planning staff posted the property giving notice of the Planning Board meeting on August 11, 2016. The Planning Board has 45 days from its first consideration of a rezoning application to make a recommendation to the Board of Commissioners. If no recommendation is made by this date, the application proceeds to the Board of Commissioners with an automatic favorable recommendation. Upon request of the Planning Board, the Applicant may choose to grant a 45-day extension.

Planning Board action to recommend that the Board of Commissioners approve, approve with modifications, approve with conditions, table, or deny rezoning action #R-2016-01 would be appropriate.

Suggested Motion:

I move that the Planning Board recommend the Board of Commissioners approve, approve with modification 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, Dana Community Plan, and other relevant planning documents.

Henderson County Planning Department Staff Report

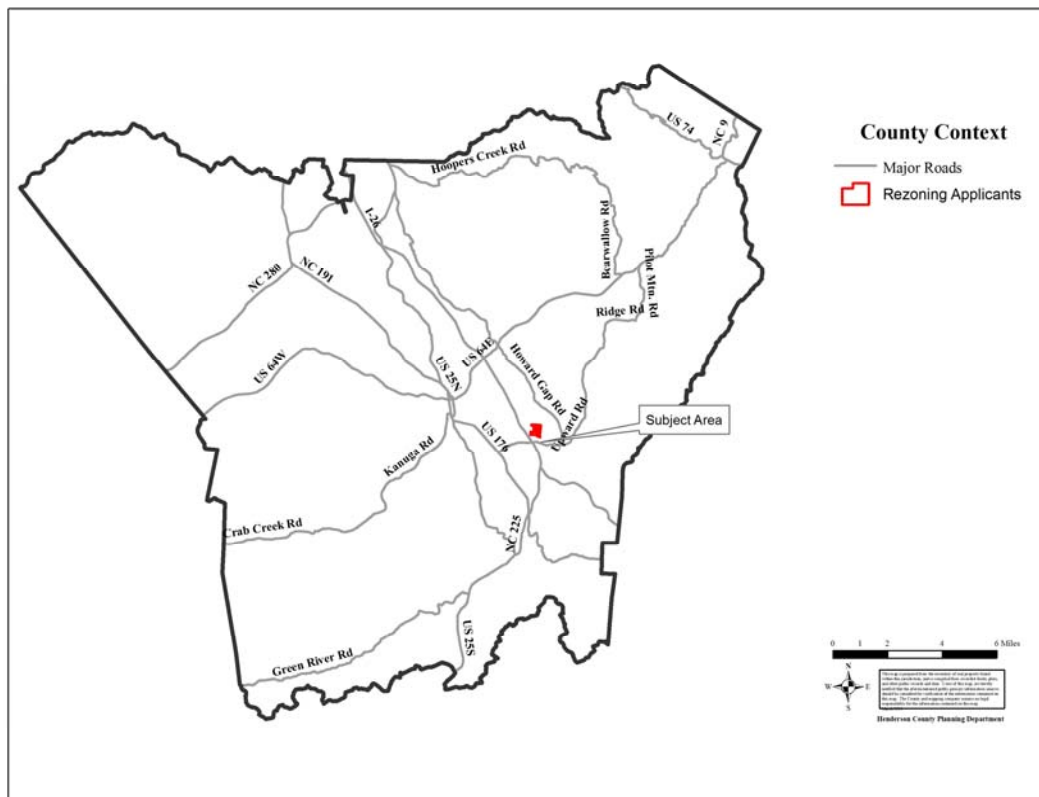
Rezoning Application #R-2016-01 (I to R-1)

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

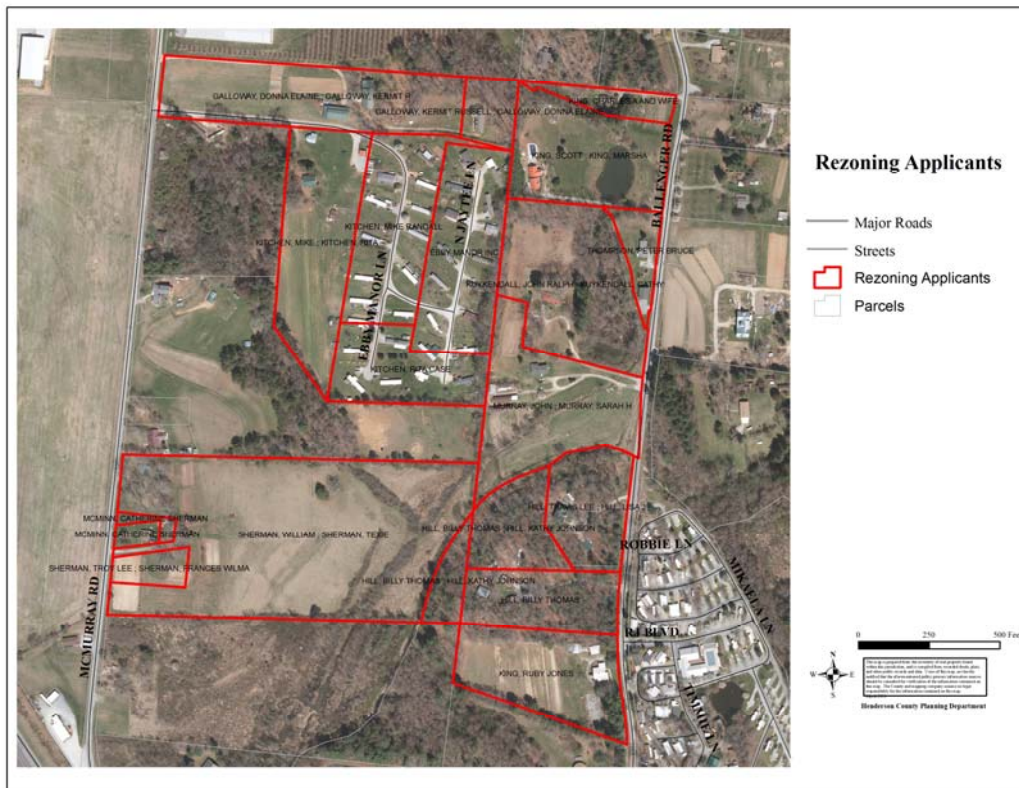
1. Rezoning Request

- 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.

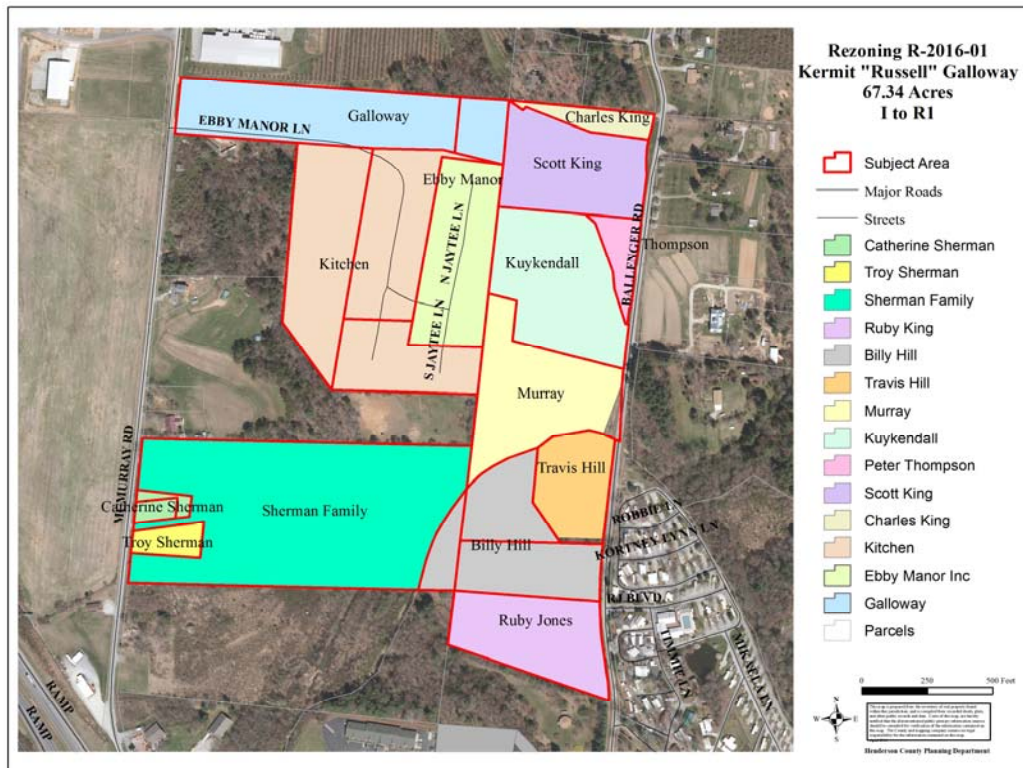
Map A: County Context



Map B: Aerial Photo



Map C: Property Owners

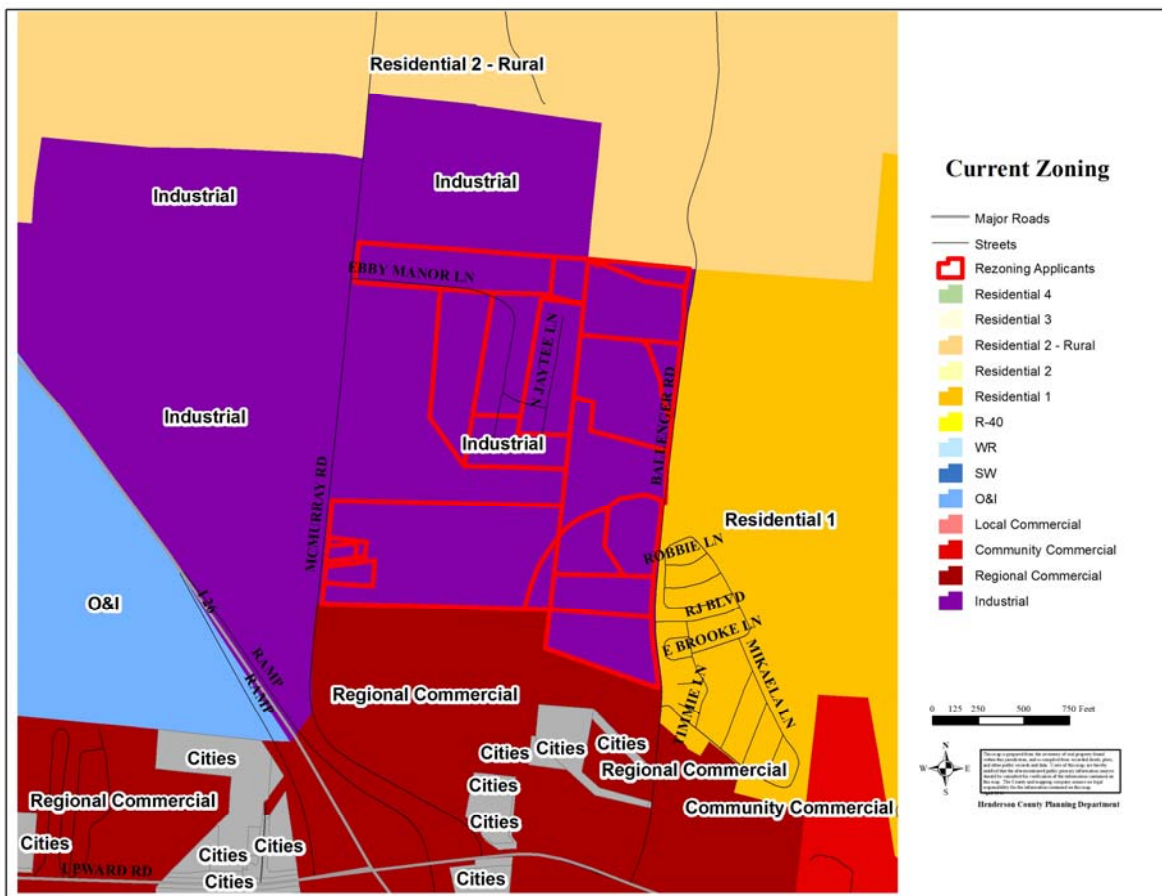


2. Background

- 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 G 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 H.
- 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.

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 D). Prior to this date, the subject area was zoned Residential One (R-1).

Map D: 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

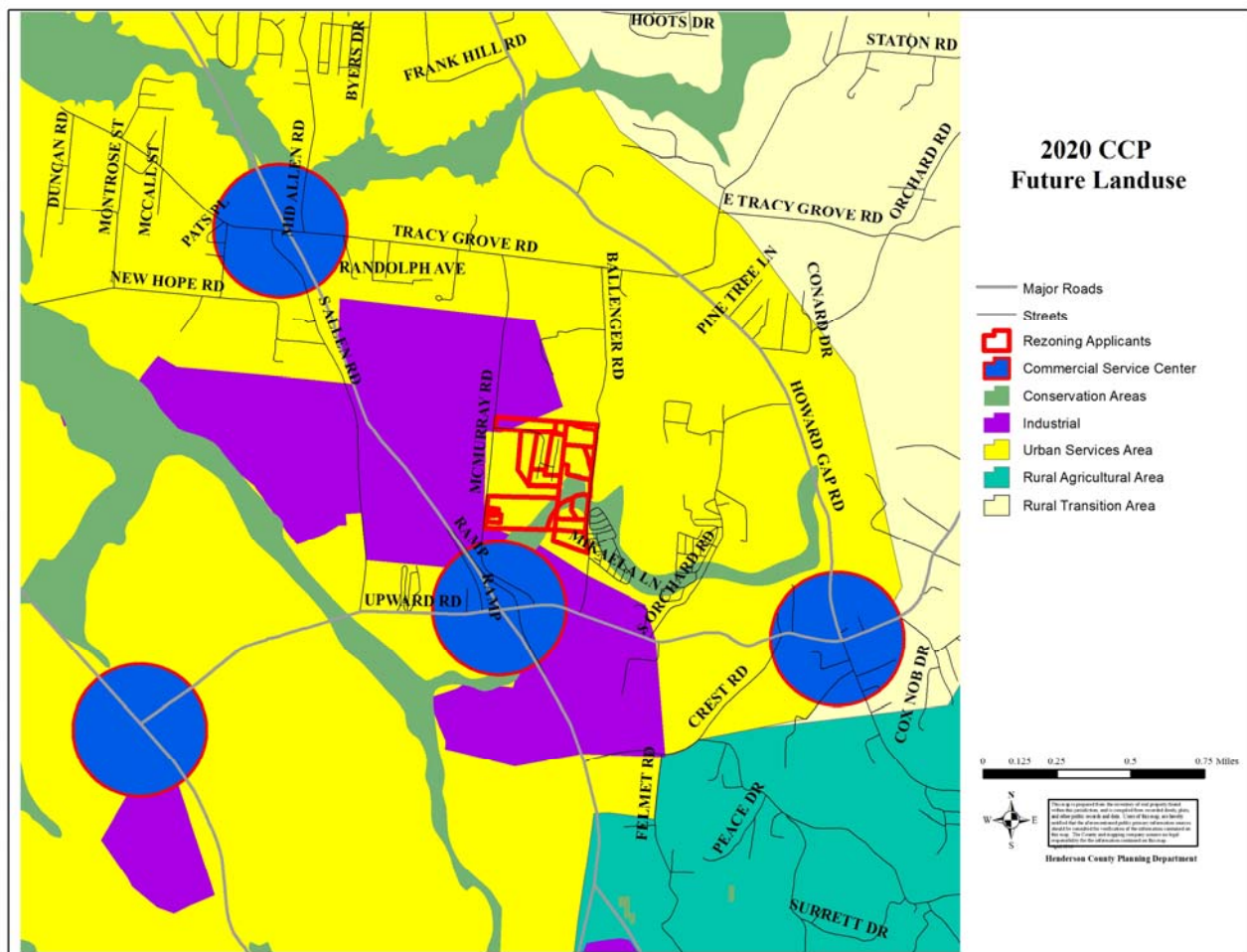
3.1. **Subject Area Uses:** The subject area is primarily used for residential purposes.

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

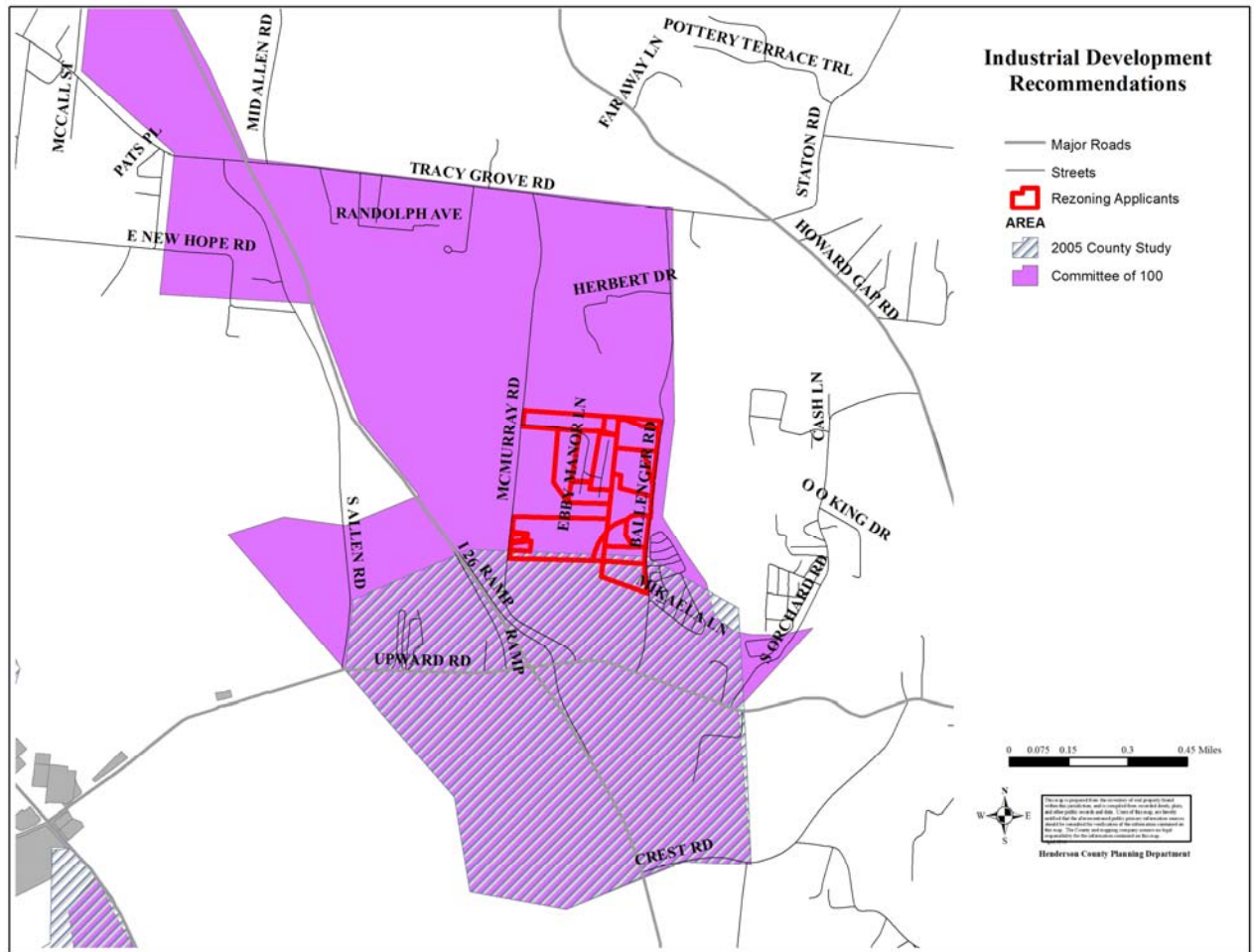
4. The Henderson County 2020 Comprehensive Plan (CCP)

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 E).

Map E: 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 F for both recommended industrial development areas.

Map F: 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.

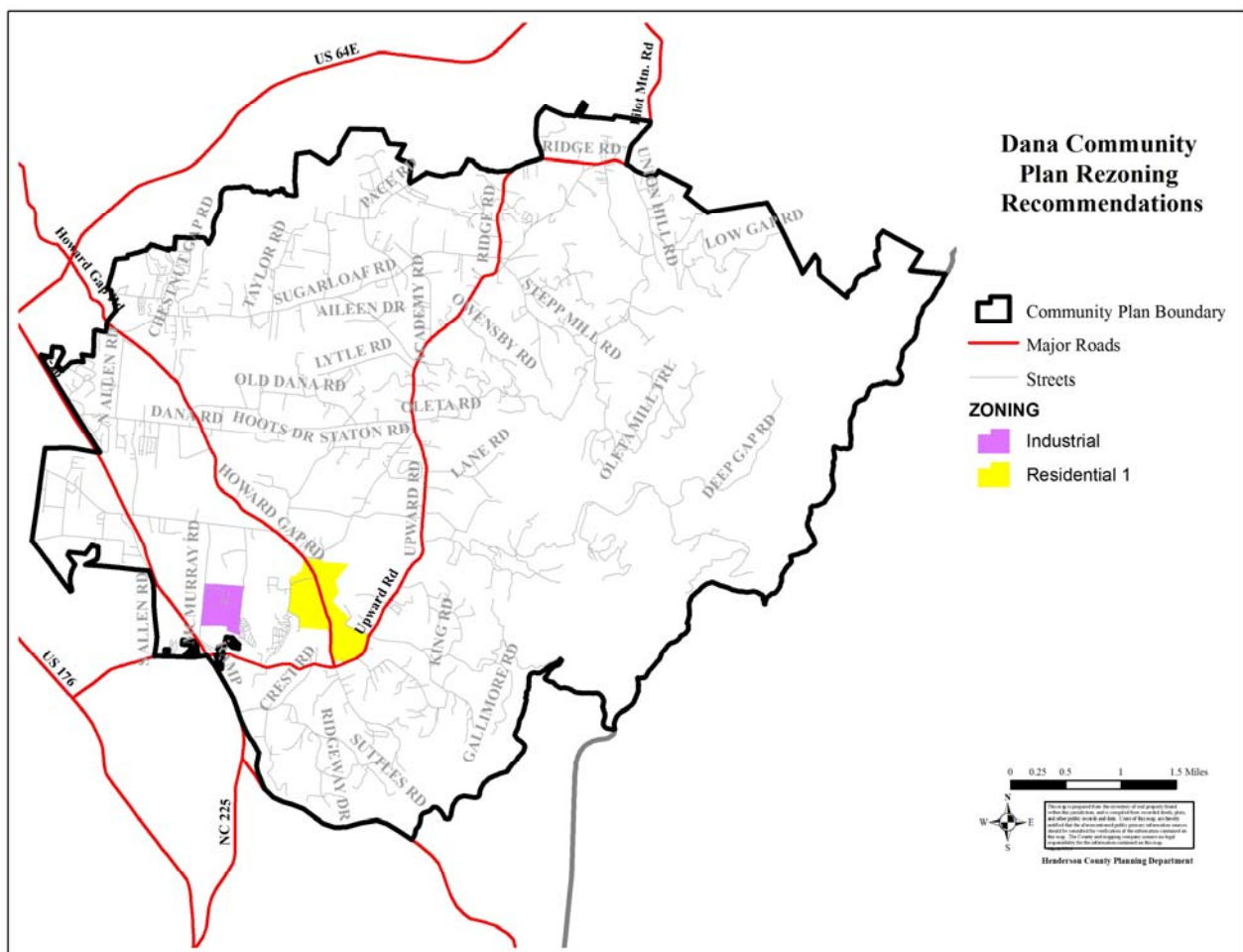
4.3.1. “The next step in the County’s approach to planning at the sub-county level is the establishment of a community based planning process. This process builds upon the LURG by establishing a series of defined planning areas that will be the subject of detailed community plans. Such a process allows 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).

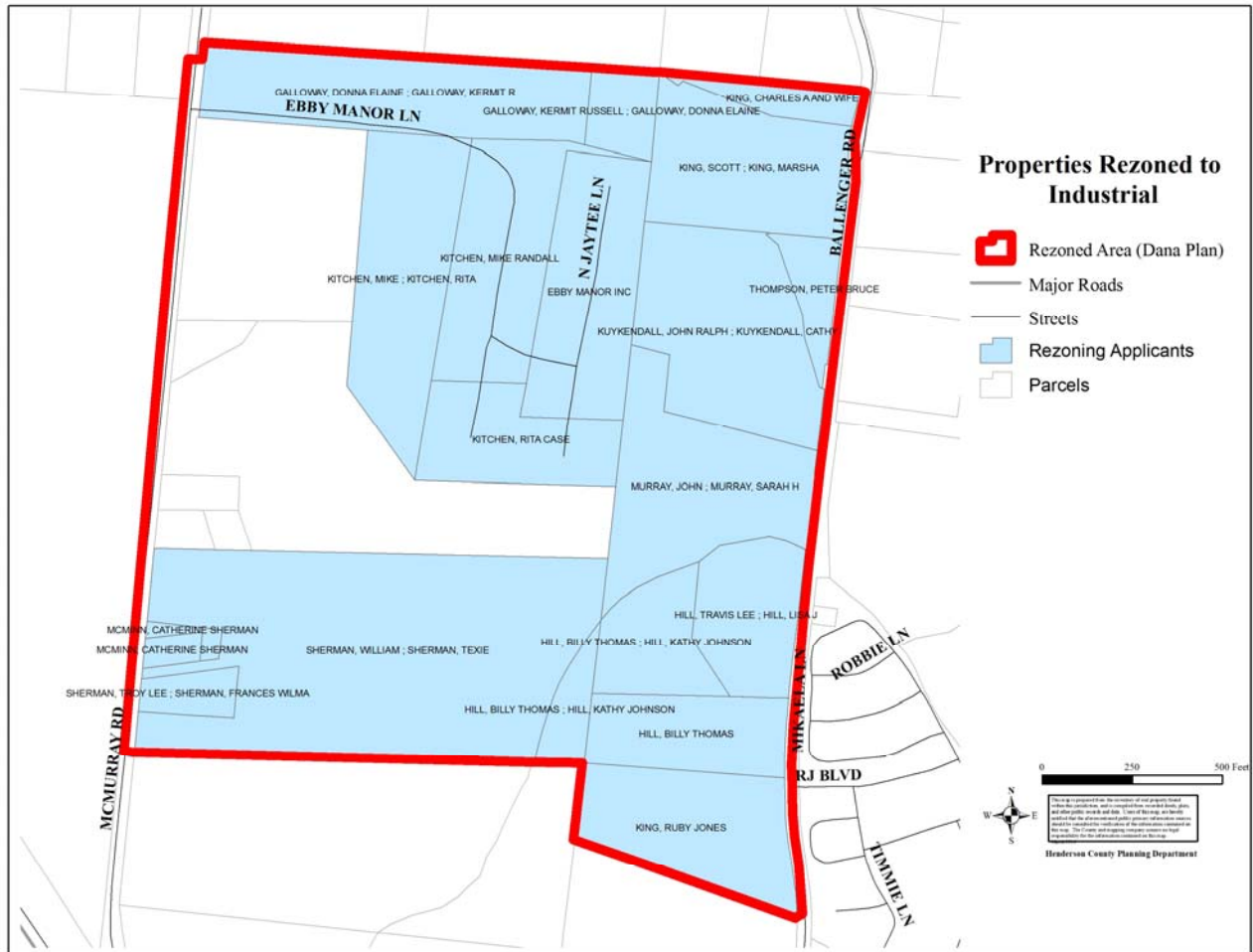
4.3.2. “Community Planning Framework Henderson County 2020 Comprehensive Plan. The adoption of each community plan shall constitute an amendment to this Comprehensive Plan. Each community plan shall be informed by the various detailed studies envisioned in Section 3 of this Comprehensive Plan (i.e., 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 G and H.
- 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 G: Dana Community Plan Rezoning Recommendations



Map H: 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.

Applicant: Kermit R. Galloway
 Owners: Multiple
 Total Area: 67.34
 Zoning: Industrial

Legend:

- Applicants
- City of Hendersonville - Water Mains
- City of Hendersonville - Gravity Sewer Mains
- Major Roads
- Streets
- Parcels

Scale: 0 75 150 300 450 600 Feet

Streets shown: REEDS WAY, EBBBY-MANOR-LN, S-JAYCEE-LN, BREENGERRD, McMURTRY RD, MIKAELA LN, ROBBIE LN, RJB LVD, SHAWNA WAY, RAY

- 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.

7.1. To Be Determined

§42-36. Industrial District (I)

- A. **Purpose.** 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).
- B. **Density and Dimensional Requirements.** Each *use* allowed in this district shall at a minimum conform to the following requirements. In some cases a specific *use* may be required to meet the Supplemental Requirements as set forth in §42-63 (Supplemental Requirements).

Table 2.10. I Density and Dimensional Requirements			
Maximum Impervious Surface (%)			80
Maximum Floor Area (sq ft)			Unlimited
Yard Setbacks (feet)	Front or ROW	Local	20
		Collector	30
		Thoroughfare	40
		Boulevard	50
		Expressway	50
		Freeway	60
	Side		20
	Rear		20
Maximum Height (feet)			72

- (1) *Accessory structures* shall be located in *side* or *rear* yards and shall be *setback* a minimum of five (5) feet from any property line.

§42-27. 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 (USA) 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 §42-63 (Supplemental Requirements).

Table 2.1. R1 Density and Dimensional Requirements			
(1) <i>Residential Density</i> (units/acre)		(2) Standard	4
		(3) Intermediate	8
		(4) Maximum	16
(5) <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
(6) 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:

<p>$Lot\ size \times allowable\ units\ per\ acre = permitted\ dwelling\ units$</p> <p>The following example assumes a 5 acre tract with an allowable density of 4 units/acre:</p> <p>$5\ acres \times 4\ units\ per\ acre = \underline{20\ permitted\ dwelling\ units}$</p>

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 ($\frac{1}{2}$) the eligible density.

- (2) Standard *residential density* shall be applied:
- 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;
 - To single-family residential *uses*; and
 - To multifamily residential *uses* with fewer than five (5) units.

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



Henderson County Planning Board
August 18, 2016

Presented by: Kyle Guie, Planner

Henderson County Planning Department

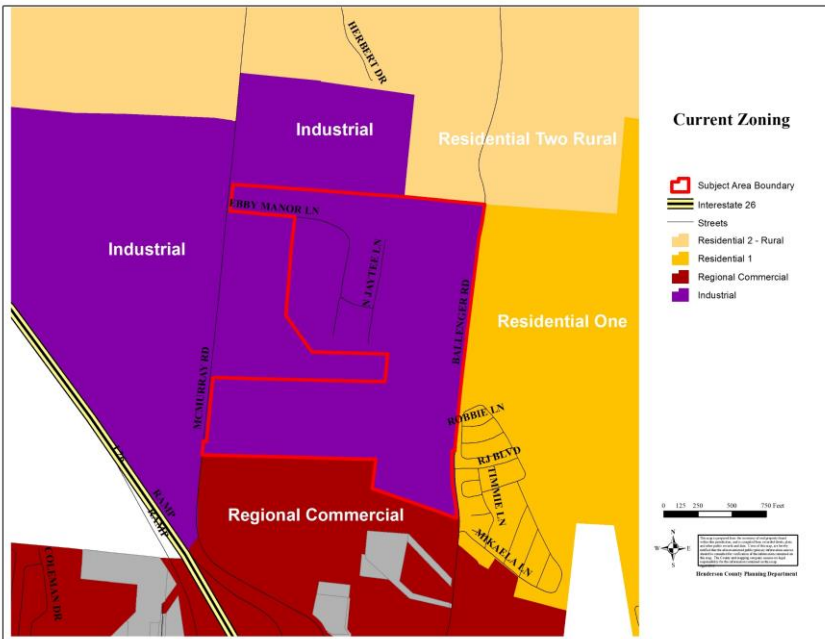
Application Summary

- Rezoning Request: R-2016-01
- Submitted on March 15, 2016
- Planning Board Reviewed on April 21, 2016
- BOC held Public Hearing on June 6, 2016
- Applicant/Agent: Mr Russell Galloway
- Rezone from Industrial (I) Zoning to Residential One (R1) Zoning
- 67.34 acres
- 20 parcels

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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

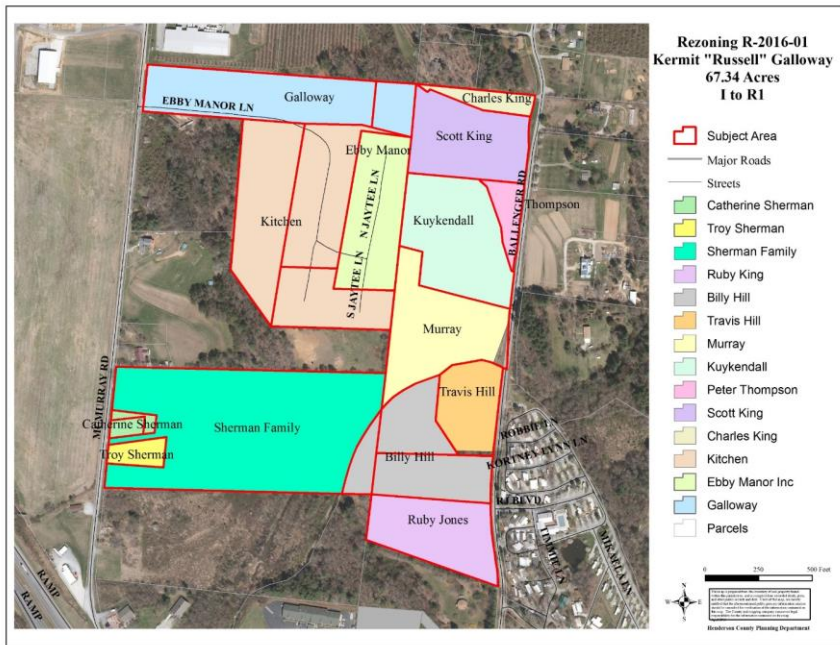


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Rezoning Applicants



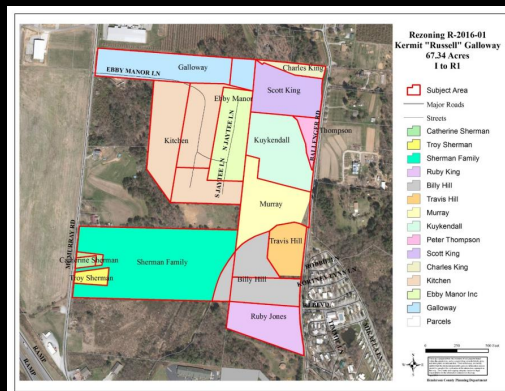
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Ebby Manor Inc

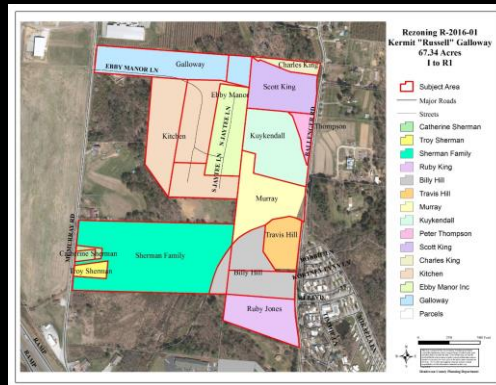
- Documentation with signatures needed from all shareholders of Ebby Manor Inc
- Mike Kitchen (President) and Rita Kitchen (Secretary) are the two shareholders
- The Articles of Incorporation has been submitted
- Both President and Secretary have signed the Statement of Understanding for Rezoning Request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

Board Recommendation

Henderson County Planning Department