

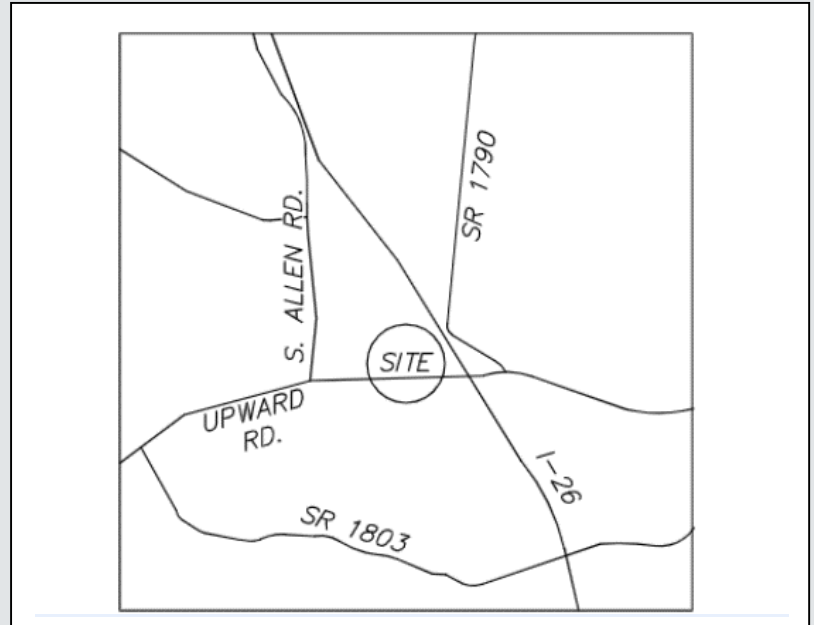
CONDITIONAL REZONING: UPWARD ROAD RESTAURANT (P22-15-CZD)  
CITY OF HENDERSONVILLE - COMMUNITY DEVELOPMENT STAFF REPORT

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## PROJECT SUMMARY

- Project Name & Case #:
  - Upward Road Restaurant
  - P22-15-CZD
- Applicant & Property Owner:
  - Dennis Terry [applicant]
  - NC Hendersonville Upward Road, LLC [owner]
- Property Address:
  - No Address Assigned
- Project Acreage:
  - 0.75 Acres
- Parcel Identification (PIN):
  - 9588-20-6649
- Current Parcel Zoning:
  - PCD (Planned Commercial Development Conditional Zoning District)
- Requested Zoning:
  - CHMU-CZD (Central Highway Mixed Use - Conditional Zoning District)
- Future Land Use Designation:
  - Regional Activity Center
- Neighborhood Compatibility Meeting:
  - March 1, 2022

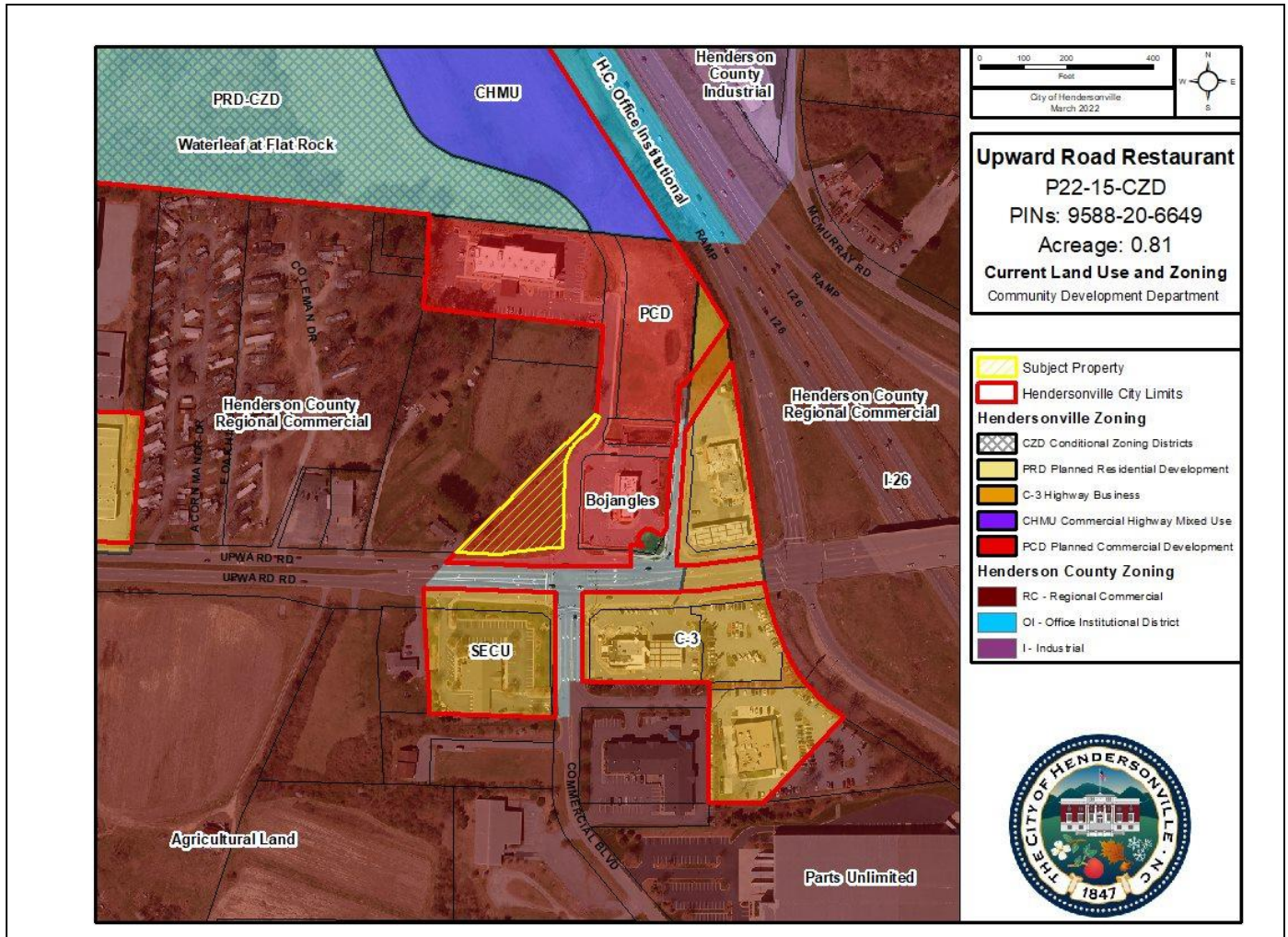


SITE VICINITY MAP

*The City of Hendersonville is in receipt of an application for a Conditional Zoning District from Dennis Terry (applicant) and NC Hendersonville Upward Road, LLC (Property Owners). The applicants are requesting to rezone the subject property, PIN 9588-20-6649 and located on Upward Road, from PCD, Planned Commercial Development to CHMU CZD, Commercial Highway Mixed Use Conditional Zoning District for the construction of a 950 square foot drive in restaurant on approximately 0.75 acres. The CHMU permits drive-in restaurants.*

*The subject parcel was previously a part of a multi-phased Planned Commercial Development – Special Use Permit that was first approved in 2008 and later re-approved in 2014 however the approved site plan expired in 2019. The portion of the PCD involving the subject parcel was slated for a 3,080 Sq Ft restaurant.*

## EXISTING ZONING & LAND USE



### City of Hendersonville Current Zoning & Land Use Map

The subject property is currently zoned PCD-CZD, Planned Commercial Development Conditional Zoning District as it was part of a multi-phased project discussed later in this report. The property is bordered to the east, northeast and adjoined via Upward Crossing Blvd to the remainder of the parcels zoned PCD. Access to the I-26 interchange at Upward Rd is the dominate factor driving development/redevelopment in the area.

To the west and north of the parcel the zoning is Henderson County – Regional Commercial. Some of the uses present in this area are fast food, financial (bank), convenience/gas station, hotel, manufacturing, mobile home park, large agricultural tracts and single-family homes on large tracts of land that could be redeveloped.

Other recent rezonings have occurred on properties north of the site which lay between I-26 and S. Allen Rd. These properties include not-yet-constructed multi-family residential uses (PRD zoning) that have been approved in the last 12 months. Additional vacant land in this area was recently annexed and zoned CHMU – a zoning district created specifically for this area.

The subject property is located in the Upward Rd Planning District adopted in 2011 along with the CHMU zoning district.



## SITE IMAGES



*View facing north along Upward Crossing from Upward Rd*



*View facing east along Upward Rd from Upward Crossing*



SITE IMAGES



*View of large mature trees along site boundary*



*View of large mature trees along site boundary*



## SITE IMAGES



*View of proposed site entrance area*



*View of proposed site entrance area looking toward intersection of Upward Crossing and Upwards Rd..*

## REZONING HISTORY

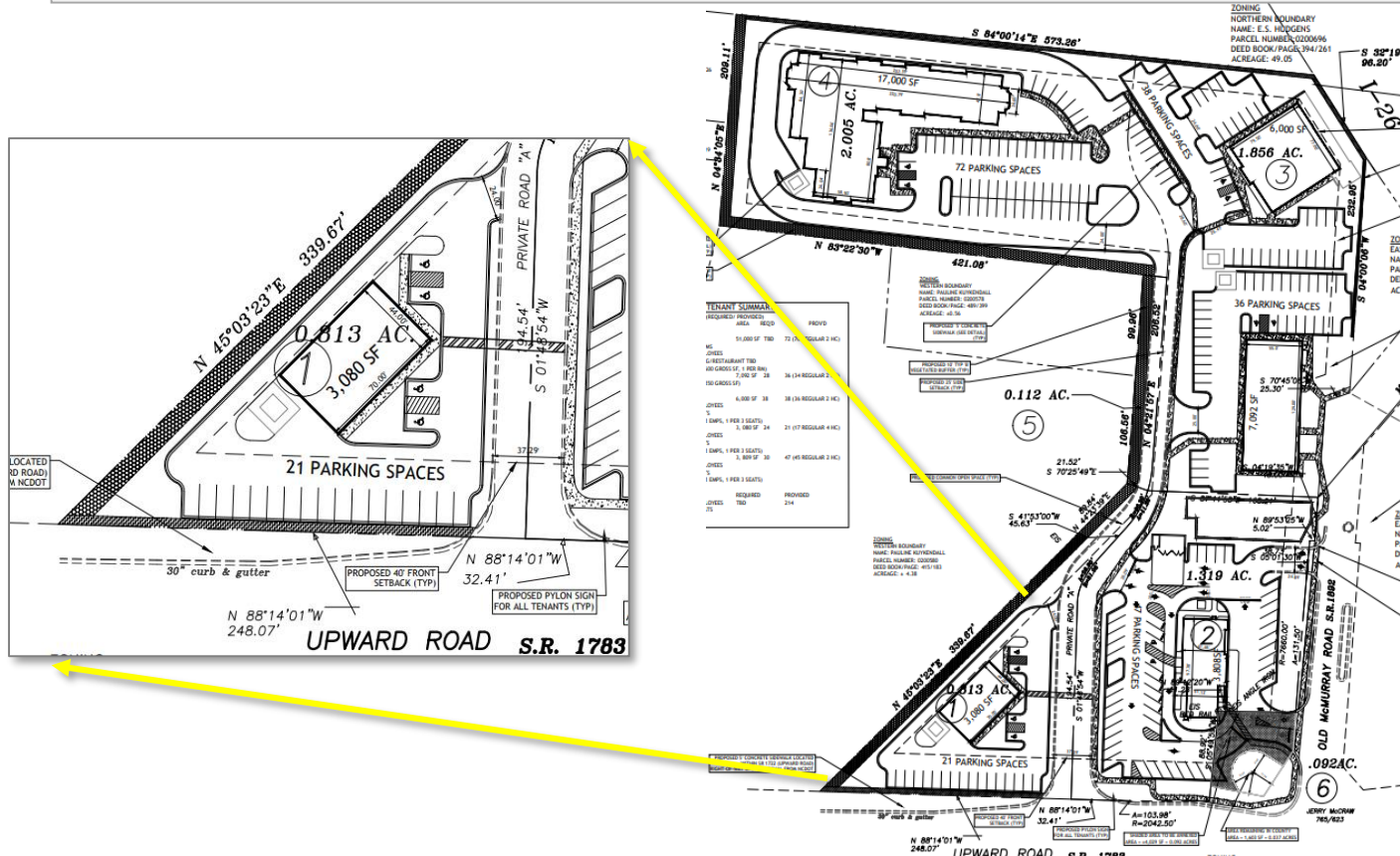
Prior Rezoning	Summary of Prior Petition	Status
Initial PCD zoning (2008) PCD Reapproved (7/3/2014) Expired (7/3/2019)	A site plan for a multi-phased retail, hotel and restaurant Planned Commercial Development.	Preliminary Site plan was approved by City Council- Final site plan was approved for portions of the development, but never fully developed.

Minutes from July 3, 2014 City Council meeting:

<https://library.municode.com/nc/hendersonville/munidocs/munidocs?nodeId=2d9a5168057e4>

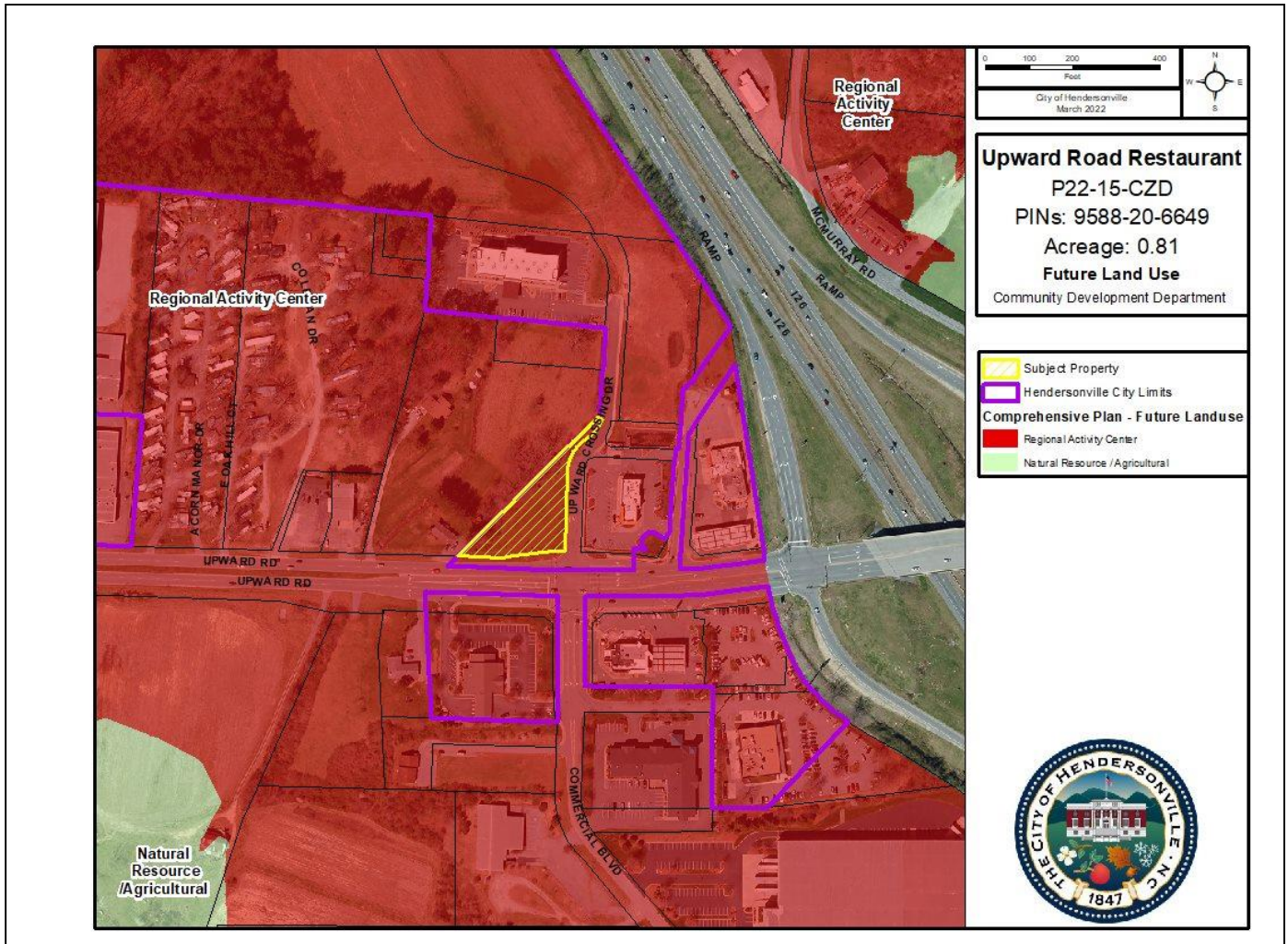
### Upward Road Property PCD

- 6.197 Acres
- 70,981 Sq Ft of Buildings
  - Hotel 51,000 Sq Ft (built)
  - Retail 7,092 Sq Ft
  - Restaurant 6,000 Sq Ft
  - Restaurant 3,809 Sq Ft (built)
  - Restaurant 3,080 Sq Ft (current proposal)





## FUTURE LAND USE



City of Hendersonville Future Land Use Map

The City's 2030 Comprehensive Plan designates the subject property as **Regional Activity Center** and it is located within an **Activity Node** as indicated in the City's Future Land Use Map. Restaurants are a primary recommended land use in the Regional Activity Center designation.

All parcels in the surrounding area share this same designation which can be attributed to the proximity to the interchange with I-26 and Upward Rd. I-26 is classified as a Freeway and Upward Rd is a Boulevard according to the City's Comprehensive Plan.

The only other future land use designation in proximity to the subject property is Natural Resource / Agricultural due to the presence of the Dunn Creek floodplain to the south of Upward Rd and east of I-26.

The subject parcel is also part of the Upward Rd Planning Area which was adopted in 2011 in response to the need to manage growth outside the ETJ in an area where sewer service would be desired.



## GENERAL REZONING STANDARDS: COMPREHENSIVE PLAN CONSISTENCY

Future Land Use	<p><b>Goal LU-9. - Regional Activity Center:</b>  “Meet the large-scale retail needs of Hendersonville residents while encouraging mixed-use, walkable design through redevelopment and infill projects.”  [CONSISTENT]</p>
	<p>Strategy LU-9.1. Locations:</p> <ul style="list-style-type: none"> <li>Commercial areas surrounding the US64/I-26 and Upward Road/I-26 interchanges. [CONSISTENT]</li> </ul>
	<p>Strategy LU-9.2. Primary recommended land uses:</p> <ul style="list-style-type: none"> <li>Restaurants [CONSISTENT]</li> </ul>
	<p>Strategy LU-9.4. Development guidelines:</p> <ul style="list-style-type: none"> <li>Mitigation of bulk of large buildings through façade detailing and window coverage [CONSISTENT]</li> <li>Hiding of large parking lots (more than one double-row deep) from thoroughfares with out-lot structures [CONSISTENT]</li> <li>Provision of pedestrian connections to parking and other buildings and properties [CONSISTENT]</li> </ul> <p><u>Activity Nodes:</u></p> <ul style="list-style-type: none"> <li>Encouragement of multi-story, mixed-use buildings with retail on ground floors and office/residential on upper floors [INCONSISTENT]</li> <li>Placement of new buildings close to the street along thoroughfares (less than 20 feet) encouraged [INCONSISTENT]</li> <li>Location of all parking to the side or rear of buildings or in a garage encouraged [CONSISTENT]</li> <li>Improved pedestrian connections to surrounding neighborhoods [CONSISTENT]</li> </ul>
Land Use & Development	<p>Growth Management: The property is designated as a “<b>Priority Growth Area</b>” on the Growth Management Map (Map 8.3a). “Areas that are considered a high priority for expansion of the ETJ, annexation, and extension of infrastructure and services”. [CONSISTENT]</p>
	<p>Development Framework: The subject parcel is not listed as “<b>Development Opportunity</b>” in the Comprehensive Plan’s Map 8.2b: Development Framework due to the fact that the parcel was part of a previously-approved PCD that was not fully constructed. [CONSISTENT]</p>

GENERAL REZONING STANDARDS: COMPREHENSIVE PLAN CONSISTENCY	
Population & Housing	<ul style="list-style-type: none"> <li>• Strategy PH-1.4. Allow redevelopment and/or reuse of single-family homes that directly front on arterials into office or high-density residential uses in coordination with the Future Land Use Map.</li> </ul>
	<ul style="list-style-type: none"> <li>• Strategy PH-3.2. Encourage mixed land use patterns that place residents within walking distance of services</li> </ul>
Natural & Environmental Resources	<ul style="list-style-type: none"> <li>• Strategy NR-2.3. Promote preservation of woodlands</li> </ul>
	<ul style="list-style-type: none"> <li>• Strategy NR-3.2. Enable and encourage Low-Impact Development practices in stormwater management.</li> </ul>
Cultural & Historic Resources	<b>No Goals, Strategies or Actions are directly applicable to this project.</b>
Community Facilities	<b>No Goals, Strategies or Actions are directly applicable to this project.</b>
Water Resources	<ul style="list-style-type: none"> <li>• Strategy WR-2.3. Enable and encourage Low-Impact Development practices in stormwater management.</li> </ul>
Transportation & Circulation	<ul style="list-style-type: none"> <li>• Strategy TC-1.1. - Encourage mixed-use, pedestrian-friendly development that reduces the need to drive between land uses.</li> </ul>
	<ul style="list-style-type: none"> <li>• <b>Goal TC-5.</b> - Enhance key gateways to the community in order to present a positive first impression and increase civic pride.</li> </ul>
	<ul style="list-style-type: none"> <li>• Strategy TC-5.1. - Incorporate aesthetic improvements such as landscaped medians and street trees along roadways.</li> </ul>
	<ul style="list-style-type: none"> <li>• Strategy TC-5.2. - Enhance key entrances within the City, as indicated on Map 7.3a</li> </ul>



GENERAL REZONING STANDARDS	
Compatibility	<b>Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property –</b>
	The proposed site plan is for a automobile-oriented quick service restaurant which also features a walk-up window. Considering the vehicular traffic along Upward Rd (boulevard) and the interchange with I-26 (freeway) and proximity to proposed Multi-Family apartments, both the drive-through and walk-up windows and location of the site are compatible with the area.
Changed Conditions	<b>Whether and the extent to which there are changed conditions, trends or facts that require an amendment -</b>
	The corridor along Upward Rd has seen and will continue to see growth and development. The addition of manufacturing, multi-family and interstate-oriented restaurants and services is expected for the area.
Public Interest	<b>Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare -</b>
	Additional commercial development within the City will generate additional tax revenue. Additional food options will expand opportunities for residents and visitors and the
Public Facilities	<b>Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment</b>
	The development has been reviewed by the City of Hendersonville Water & Sewer Dept. The site will be served by City water and sewer service. Upward Road is designated as a boulevard on the comprehensive transportation plan and is maintained by NCDOT. Upward Crossing Rd is currently privately maintained. The development has been reviewed by the City Fire Dept and will also be served by the City of Hendersonville Police.
Effect on Natural Environment	<b>Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands and wildlife -</b>
	Site is mostly a greenfield, new development reflects an increase in impervious surfaces.
	The site currently has 14 trees 12” or greater DBH on or adjacent to the property line of the site. The developer is proposing to remove approximately 5 trees and retain 3 trees on the site. The remaining 6 trees are on the adjacent property. The applicant is also proposing to plant 8 new trees. An additional 18 are required to meet the standards for a Type B buffer.

The petition is found to be **consistent** with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because:

*The Future Land Use designation of Regional Activity Center recommends restaurant as a primary land use and the location and site design of the project align with the goals and strategies of LU-9.*

We **[find/do not find]** this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

*DRAFT [Rationale for Approval]*

- *The Upward Road corridor is classified as a Boulevard and is appropriate for drive-in restaurants.*
- *The development will provide additional food options for residents and visitors*
- *The subject property is consistent with the interstate interchange-oriented development occurring in this area.*
- *The subject property is located in a “Priority Growth Area”*

*DRAFT [Rational for Denial]*

- *The development would require a reduction of the vehicular area setback standards*
- *The development requires a 50% reduction of the required Common Open Space*
- *The development does not meet all the design standards for the CHMU due to a reduction in the dept of the building offsets.*



**PROPOSED REQUEST DETAILS**

- The site plan accompanying this petition contains the following provisions:
  - 1 - 1-story, 950 Sq Ft drive-thru/walk-up restaurant building
  - 18' in height
  - 12 Parking Spaces provided
- Requested Uses: Restaurant

**Developer Proposed Conditions:**

- Vehicular use setback: 5' from ROW line
- Common Space Ratio: Greater than or equal to 0.05
- Building offset: the depth of the offset can be as little as 1/15th and up to 1/5th the length of the longest adjacent wall panel.
- Loading Zone to be removed from required standards.
- Preserved trees shall be protected to the extent feasible with respect to required construction activities.
- Eradicate invasive plant species throughout the property as listed in the recommended landscape species list for street trees and land development projects.
- Trees that are required for Type B buffer that are not able to be placed adjacent to retaining wall shall be relocated on property.

**OUTSTANDING ISSUES & PROPOSED CONDITIONS:**

**COMMUNITY DEVELOPMENT**

**Site Plan Comments**

- The site plan accompanying this petition meets the standards established by the Zoning Ordinance for Planned Residential Development (5-14) and Site Plan Review (7-3) with the following exceptions:
  - Addressed through Developer Proposed Conditions:
    - The Type B buffer needs to include 4 canopy trees per 100 linear feet [See developer proposed condition]
    - 1 - 36" Oak is slated for preservation and Tree Credits (5). Existing vegetation protection standards are not satisfied [See developer proposed condition].
    - Common Open Space is provided at 5% of the site rather than the required 10%. [See developer proposed condition]
    - Vehicular use area setback is 5' rather than the required 20'. [See developer proposed condition]
    - The building offsets are proposed to be 1/5<sup>th</sup> the length of the longest adjacent wall panel rather than the required 1/10<sup>th</sup> or minimum of 1' projection depth. [See developer proposed condition]
  - Resolved:
    - Type B buffer shown as 175 LF but site has 450 LF of adjacent property line. As shown, site plan reflects 7 required trees. 450 LF of buffer requires 18 trees. [resolved]
    - Indicate how 5-27-4.1.4 d & e will be satisfied [resolved]

- Provide info on how you are satisfying 5-27-4.1.5 (3 Architectural Details) [resolved]
- Provide Building Materials per 5-27-4.1.6 and 5.27-4.1.10 and 18-6-4.8 [resolved]
- Indicate how 5-27-4.1.7 is being satisfied [resolved]
- Address cross-connection with adjacent property (18-6-4.6) [resolved]
- Provide internal pedestrian access / connection to building from public sidewalk and consider sharpening radius at drive-thru exit, creating shorter crossing and placing crosswalk for walk-up orders/employee access (6-12-2, 5-27-4.1.3, 5-27-4.1.9, & 18-6-4.6).[resolved]
- Provide Landscaping Calculations to determine compliance [resolved]

**Proposed City-Initiated Conditions:**

- None

**CITY ENGINEER**

**Site Plan Comments:**

- Concrete drive apron/sidewalk through drive should be called out as 6" thick

**Proposed City-Initiated Conditions:**

- None

**FIRE MARSHAL**

**Site Plan Comments**

- None

**Proposed City-Initiated Conditions:**

- None

**STORMWATER ADMINISTRATOR**

**Site Plan Comments:**

- It appears that the current drainage plan is to tie into the existing stormwater basin behind Bojangles. If this is the plan, stormwater calculation will be required to demonstrate that the existing basin has the capacity to treat the additional runoff from the new site. [resolved]

**Proposed City-Initiated Conditions:**

- None

**FLOODPLAIN ADMINISTRATOR**

**Site Plan Comments:**

- None

**Proposed City-Initiated Conditions:**

- None

**PUBLIC WORKS DIRECTOR:**



**Site Plan Comments:**

- Sidewalk encroachment permit needed from NCDOT - submit to City for approval.

**Proposed City-Initiated Conditions:**

- None

**NCDOT**

**Site Plan Comments:**

- None

**Proposed City-Initiated Conditions:**

- None

**TRANSPORTATION CONSULTANT**

**Site Plan Comments & Recommended Conditions:**

- Jonathan Guy with Kimley Horn did not review this project since a TIA was not triggered by the zoning ordinance and NCDOT did not relay any traffic concerns to the City.

**TREE BOARD**

**Site Plan Comments & Recommended Conditions:**

- See attached Tree Board Summary