

REQUEST FOR COMMITTEE ACTION

HENDERSON COUNTY TECHNICAL REVIEW COMMITTEE

MEETING DATE: March 1, 2022

SUBJECT: Rezoning Application R-2022-01 Elliot

PRESENTER: Matt Champion, Zoning Administrator

ATTACHMENTS: 1.) Staff Report
2.) Application

SUMMARY OF REQUEST:

Rezoning Application R-2022-01, submitted on February 14, 2022, requests that the County rezone approximately 48.17 acres of land from Residential Two Rural (R2R) to Community Commercial (CC). The acreage consists of 3 parcels (PIN: **9565-31-5911, 9565-31-6679, & 9565-30-7834**) located off Cabin Creek Road (SR 1109). The property owners are Daniel Park and Lark Elliot. The applicant is Hunter Marks.

PLANNING BOARD ACTION REQUESTED:

Staff requests the Technical Review Committee make a recommendation to the Planning Board on rezoning application (R-2022-01) for approximately 48.17 acres from Residential Two Rural (R2R) to Community Commercial (CC).

Suggested Motion:

Motion that the Technical Review Committee forward rezoning application R-2022-01 to the Planning Board for review.



STAFF REPORT

HENDERSON COUNTY PLANNING DEPARTMENT

100 North King Street | Hendersonville, NC 28792 | (828) 697-4819

Prepared by:

Matt Champion, Zoning Administrator

CASE

R-2022-01

TECHNICAL REVIEW COMMITTEE**MEETING DATE**

March 1, 2022

PROPERTY OWNER

Daniel Park; Lark Elliot

PROPERTY LOCATION/ADDRESS

Cabin Creek Road (SR1109), Green River Township

AGENT /APPLICANT

Hunter Marks

PIN's

9565-31-5911, 9565-31-6679, & 9565-30-7834

SUMMARY OF REQUEST

A rezoning of the above referenced PIN's (hereafter the subject area from **Residential Two Rural (R2R)** to **Community Commercial (CC)**.

Existing Zoning

Residential Two Rural (R2R)

Existing Land Use

Rural Agricultural Area; Conservation

Site Improvements

Vacant

Request Acreage

48.17 Acres

ADJACENT ZONING**USE OF LAND****North**

Residential Two Rural (R2R)

Single Family Homes

East

Residential Two Rural (R2R)

Single Family, Forested

South

Residential Two Rural (R2R)

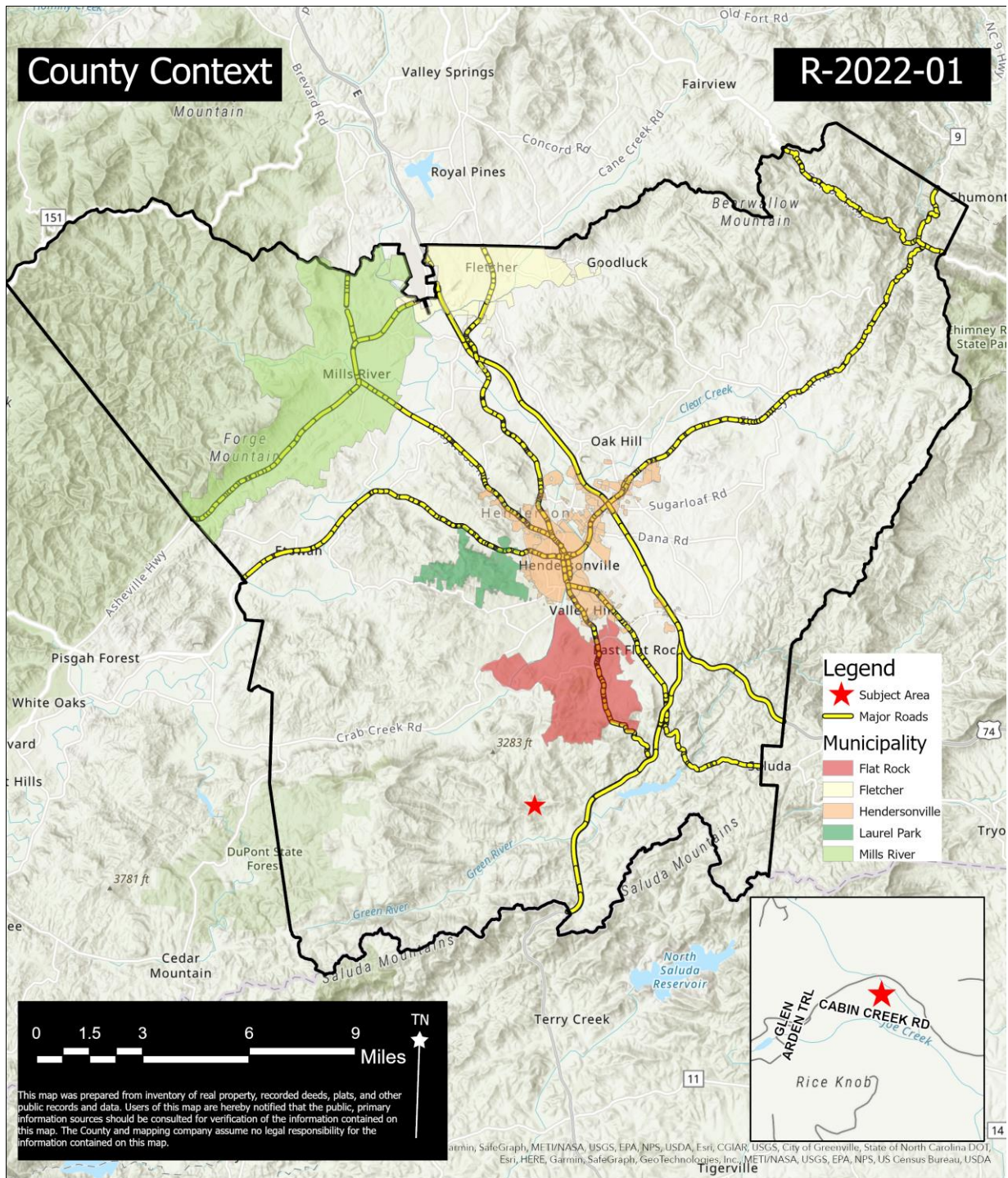
Single Family, Agriculture

West

Residential Two Rural (R2R)

Single Family, Camp Glen Arden

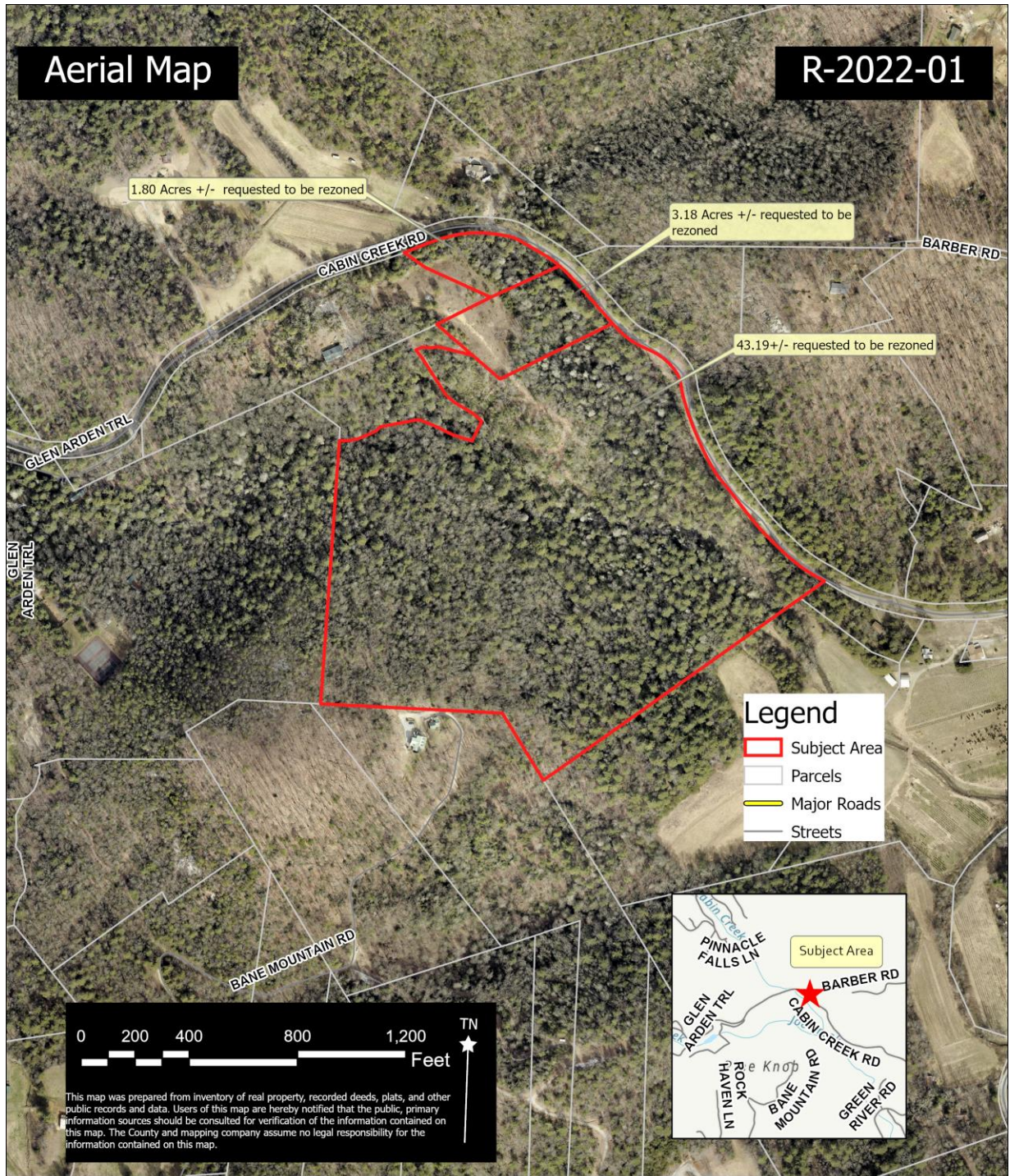
Map A: County Context



Applicant: Lark Elliott
 Total Surveyed Area: 48.17
 Current Zoning: Residential District Rural (R2R)



Map B: Aerial



Applicant: Lark Elliott
Total Surveyed Area: 48.17
Current Zoning: Residential District Rural (R2R)



BACKGROUND:

The applicant, Lark Elliot, is seeking to rezone three parcels to Community Commercial (CC) from Residential Two Rural (R2R). The three parcels combined are approximately 48.17 acres.

ANALYSIS:

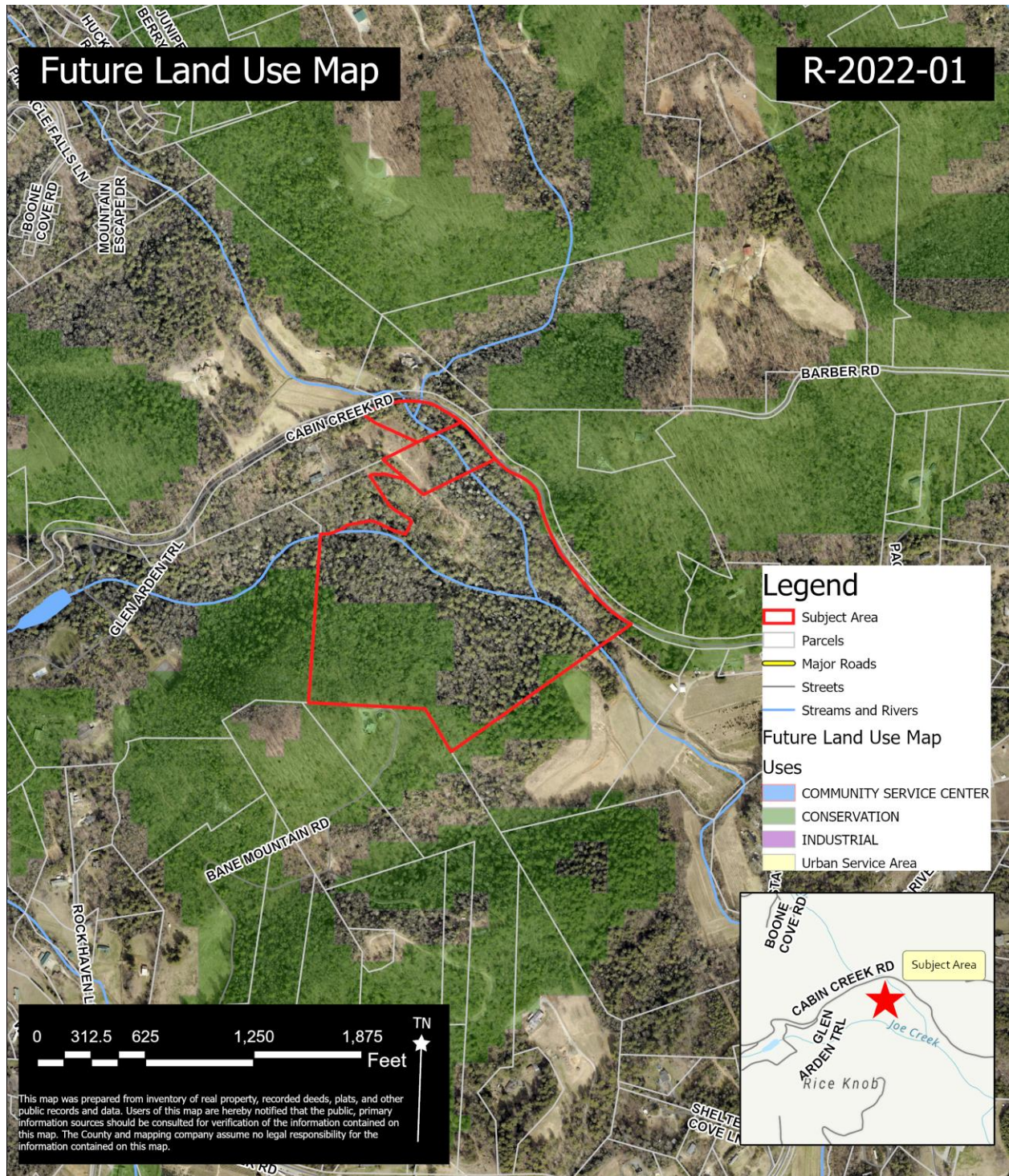
District Comparison:

Residential Two Rural (R2R): The purpose of Residential District Two Rural (R2R) is to foster orderly growth where the *principal use* of land is residential. The intent of this district is to allow for low to medium density *residential development* and rural commercial and light industrial development consistent with the recommendations of the *Comprehensive Plan*. This general *use district* is typically meant to be utilized in areas designated as Transitional (RTA) in the *Comprehensive Plan*. (LDC §42-29)

Community Commercial (CC): The purpose of the Community Commercial District (CC) 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 and community 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 Transitional (RTA) or Urban (USA) in the *Comprehensive Plan*. (LDC §42-34)

Comparison: Community Commercial (CC) district principal use of land is commercial. Residential Two Rural (R2R) district is defined as where the principal use of land is residential. Community Commercial (CC) districts provide compatibility with adjacent development and surrounding community. Only multi-family residential uses are permitted in Community Commercial (CC). Most commercial uses are not permitted in Residential Two Rural (R2R).

Map D: County Comprehensive Plan Future Land Use Map



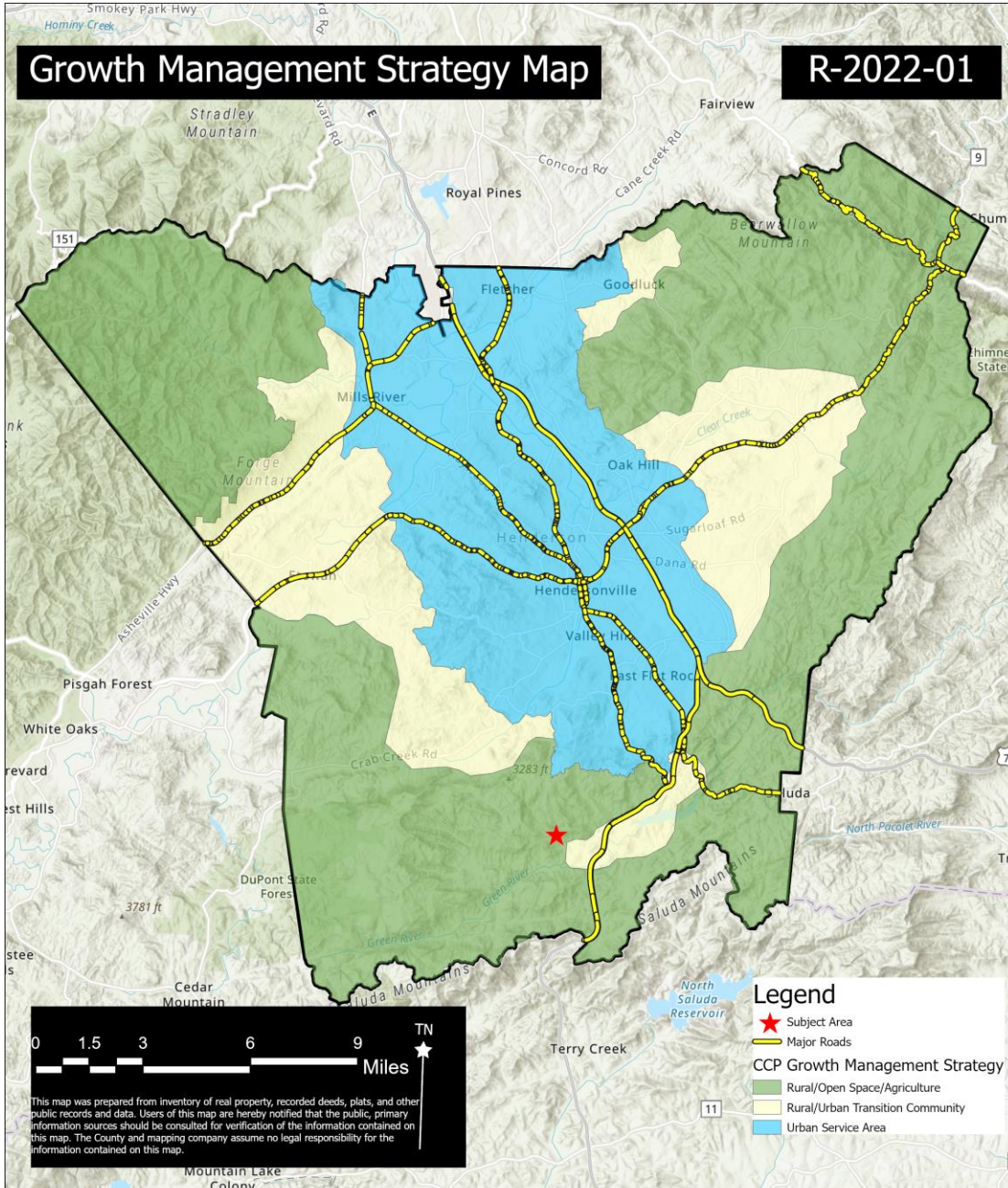
Applicant: Lark Elliott
Total Surveyed Area: 48.17
Current Zoning: Residential District Rural (R2R)



County Comprehensive Plan (CCP) Compatibility

The CCP Future Land Use Map identifies the subject area as being in the **Rural/Open Space/Agriculture Area**.

Map E: Growth Management Strategy Map



Applicant: Lark Elliott
Total Surveyed Area: 48.17
Current Zoning: Residential District Rural (R2R)



Rural Agricultural Area: The CCP shows the subject area located in the Rural Agricultural Area. The CCP states “The RAA covers those portions of the county that are predominantly rural and are characterized by low-density residential development with substantial land areas devoted to agriculture and undeveloped lands. Land use policies will seek to retain that character. Most sections of the RAA are so far from sewer services as to make their extension largely impossible. Land development regulations should recognize this by not permitting densities that would require sewer services or introduce traffic capacity problems and by encouraging densities that are consistent with steep slopes, poor septic capacities, and sensitive topography. Densities should be considerably lower than that of the USA or RTA.” (CCP, pg. 136.) (See Map E)

Conservation Areas: The CCP shows the subject area is within a Conservation Area. The CCP states “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” (CCP, pg. 138).

Community Commercial (CC): CC is a commercial zoning district. The CCP suggests “Community Commercial areas are located within defined Community Service Centers. They should include a variety of retail sales and services, public and private administrations, offices, and all uses done primarily for sale or profit on the local and community level. They should be compatible with adjacent development and the surrounding community and should minimize congestion and sprawl.” (CCP, pg.139) Per the request from the CCP, “New mixed-use commercial district will be created and applied in Community Service Centers throughout the county. Broader range of allowable uses with more substantial design standards for industrial, commercial, and dense residential uses.” (CCP, pg.141) The subject area is approximately 1 mile from a Community Service Center Node.

Additional Studies and Plans: The subject area falls within the township of Green River. The Green River, Tuxedo, and Zirconia (GRTZ) community plan was adopted by the Board of Commissioners on February 19, 2014. As part of the recommendations in the GRTZ community plan, the Board of Commissioners adopted the proposed zoning map amendments on November 19, 2014, changing the zoning district for the subject area from Residential Three (R3) to Residential Two Rural (R2R). Another Land Use and Development Goals and Objectives of the GRTZ community plan included to amend the Land Development Code to promote rural and local businesses. LUD3.1 in the GRTZ community plan recommended consideration of allowing small scale retail sales and services use in the Residential Two Rural (R2R) zoning district.

Water and Sewer

There are currently no improvements on the subject area.

Existing Roads and Easements

Cabin Creek Road (SR 1109) is contiguous to the subject area and acts as the primary access to the subject area.

Technical Review Committee (TRC) Recommendations

The Technical Review Committee (TRC) will hear R-2022-01 at the March 1, 2022, meeting.

Planning Board Recommendations

The Planning Board will hear the case following the Technical Review Committee.

Board of Commissioners Public Hearing

The Board of Commissioners will hear the case following the Planning Board.

Staff Conclusion

Staff finds no issue regarding R-2022-01, provided the subject area is recombined. The issuance of this map amendment would bring the parcel into conformance with the current Land Development Code.

HENDERSON COUNTY
MAP AMENDMENT APPLICATION FORM

GENERAL INFORMATION

Date of Application: 2-9-22

Previously Submitted (Circle One): Yes No

Date of Pre-Application Conference: 2-9-22

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

Site Plan Attached (Circle One): Yes No

PARCEL INFORMATION*

PIN: 9565315911 ("North Parcel") Deed Book/Page: 003787/00007 Tract Size (Acres): 2.17

Zoning District: RZR Fire District: Green River Watershed Floodplain: No

Location of property to be developed: Cabin Creek Rd.

*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: RZR Requested Zoning District: Community Commercial

CONTACT INFORMATION

Property Owner:

Name: Lark Elliott Phone: 704-968-5907
Address: 2101 Coniston Pl. City, State, and Zip: Charlotte, NC 28207

Applicant:

Name: Lark Elliott Phone: 704-968-5907
Address: 2101 Coniston Pl. City, State, and Zip: Charlotte, NC 28207

Agent:

Name: WATERMARK LANDS. ARCHITECTURE Phone: (828)-551-7105
HUNTER MARKS
Address: 51BN JUSTICE ST. STE. C City, State, and Zip: HV, NC 28739
Agent Form (Circle One): Yes No

Plan Preparer:

Name: SAME Phone: n
Address: " City, State, and Zip: n

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.

Lark Elliott, Daniel J. Park
Print Applicant (Owner or Agent)

Lark Elliott 2-9-22
Signature Applicant (Owner or Agent) Date

Lark Elliott as POA for Daniel J. Park 2-9-22

County Use Only

Fee: \$ _____ Paid: _____ Method: _____ Received by: _____

Community Planning Area: _____

Date Current Zoning Applied: _____

Additional Parcel Information

PIN: 9565316679 ^("MIDDLE" PARCEL) Deed Book / Page: 003786/00595

Tract size: 3.32 Zoning district: R2R

Fire District: Green River, Floodplain: No

Location: Cabin Creek Rd.

PIN: 9565307834 ^("SOUTH" PARCEL) Deed Book / Page: 003786/00591

Tract size: 43.76 Zoning District: R2R

Fire District: Green River. Floodplain: No

Location: Cabin Creek Rd.

APPOINTMENT OF AGENT FORM (OPTIONAL)

I Lark Elliott owner of property located on Cabin Creek Rd.
(Owner Name) (Street Name)

recorded in 003787/00007 and having a parcel identification number of 9565315911
(Deed Book/Page) (PIN) ("NORTH" Parcel)

located in Henderson County, North Carolina, do hereby appoint Hunter Marks
(Agent's Name)

to represent me in an application to the Planning Department and authorize him/her to act as my agent in all matters, formal and informal except as stated herein, and authorize him/her to receive all official correspondence.

I understand that as the listed property owner, I must sign all affidavits and statements required by any applicable ordinance.

Lark Elliott
Signature of Property Owner

2-9-22
Date

Signature of Property Owner

Date

- Printed Name(s) of Property Owner(s):
- Lark P. Elliott
 - _____
 - _____
 - _____
 - _____
 - _____

*Please attach additional pages for additional property owners. All property owners listed on the recorded deed must sign this form, otherwise it will be deemed invalid.

APPOINTMENT OF AGENT FORM (OPTIONAL)

I Lark Elliott owner of property located on Cabin Creek Rd.
(Owner Name) (Street Name)

recorded in 003786/00595 and having a parcel identification number of 9565316679
(Deed Book/Page) (PIN) (MIDDLE PARCEL)

located in Henderson County, North Carolina, do hereby appoint Hunter Marks
(Agent's Name)

to represent me in an **application to the Planning Department** and authorize him/her to act as my agent **in all matters**, formal and informal except as stated herein, and authorize him/her to receive all official correspondence.

I understand that as the listed property owner, I must sign all affidavits and statements required by any applicable ordinance.

Lark Elliott
Signature of Property Owner

2-9-22
Date

Signature of Property Owner

Date

- Printed Name(s) of Property Owner(s):
1. Lark P. Elliott
 2. _____
 3. _____
 4. _____
 5. _____
 6. _____

*Please attach additional pages for additional property owners. All property owners listed on the recorded deed must sign this form, otherwise it will be deemed invalid.

APPOINTMENT OF AGENT FORM (OPTIONAL)

I Daniel J. Park owner of property located on Cabin Creek Rd.
(Owner Name) (Street Name)

recorded in 003786/00591 and having a parcel identification number of 9565307834
(Deed Book/Page) (PIN) ("SOUTH" PARCEL)

located in Henderson County, North Carolina, do hereby appoint Hunter Marks
(Agent's Name)

to represent me in an application to the Planning Department and authorize him/her to act as my agent in all matters, formal and informal except as stated herein, and authorize him/her to receive all official correspondence.

I understand that as the listed property owner, I must sign all affidavits and statements required by any applicable ordinance.

Lark P. Elliott as POA for Daniel J. Park 2-9-22
Signature of Property Owner Date

Signature of Property Owner Date

- Printed Name(s) of Property Owner(s):
1. Daniel J. Park
 2. _____
 3. _____
 4. _____
 5. _____
 6. _____

*Please attach additional pages for additional property owners. All property owners listed on the recorded deed must sign this form, otherwise it will be deemed invalid.

2

Continued from Page 1

Directions: Initial the line opposite any one or more of the subdivisions as to which the principal desires to give the Attorney-in-Fact authority and strike through those subdivisions remaining to which the principal does not give the Attorney-in-Fact authority.

If power of substitution and revocation is to be given:

 [Signature] I also give to such person full power to appoint another to act as my Attorney-in-Fact and full power to revoke such appointment

If period of Power of Attorney is to be limited:

 [Signature] This Power of Attorney shall become effective upon recordation of this instrument

 [Signature] This Power of Attorney terminates on my death or revocation

If Power of Attorney is to be a Durable Power of Attorney under the provision of Article 2 of chapter 32A and is to continue in effect after the incapacity or mental incompetence of the principal:

 [Signature] This Power of Attorney shall not be affected by my subsequent incapacity or mental incompetence

If Power of Attorney is to take effect only after the incapacity of mental incompetence of the principal:

 This Power of Attorney shall become effective after I become incapacitated or mentally incompetent.

If Power of Attorney is to be effective to terminate or direct the administration of a custodial trust created under the Uniform Custodial Trust Act:

 In the event of my subsequent incapacity or mental incompetence, the Attorney-in-Fact of this Power of Attorney shall have the power to terminate or to direct the administration of any custodial trust of which I am the beneficiary.

If Power of Attorney is to be effective to determine whether a beneficiary under the Uniform Custodial Trust Act is incapacitated or ceases to be incapacitated:

 The Attorney-in-Fact of this Power of Attorney shall have the power to determine whether I am incapacitated or whether my incapacity has ceased for the purposes of any custodial trust of which I am the beneficiary.

Should my first named Attorney-in-Fact be unable to perform all the matters and things herein set out to be done and performed and if I have appointed an alternate Attorney-in-Fact hereinabove, then and in that event the Alternate Attorney-in-Fact hereinabove designated shall be my true and lawful Attorney-in-Fact to do and perform in my name and in my stead all matters and things herein authorized to be done and performed by my Attorney-in-Fact with all the powers and authority herein given.

My Attorney-in-Fact shall keep full and accurate records of all transactions for me, as my agent, of all my property and the disposition thereof, and shall render to me, if competent, or to my nearest living relative if I shall be incompetent, at least annually, inventories and accounts of all transactions of my Attorney-in-Fact done in my behalf; and to the extent that I am able to do so, I hereby relieve my Attorney-in-Fact of the responsibility and duty of filing any reports with the court.

IN WITNESS WHEREOF, the Principal has hereunto set his hand and seal.

Date: 6/2/2017 Signature: *[Signature]* (SEAL)

STATE OF North Carolina COUNTY OF Surry

On this 2nd day of June, 2017, personally appeared before me the said named Daniel J. Park, to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

My Commission expires: 09/25/2018

[Signature]
Notary Public - James N. Freeman, Jr.

