

REQUEST FOR COMMITTEE ACTION

HENDERSON COUNTY TECHNICAL REVIEW COMMITTEE

MEETING DATE: September 5, 2023

SUBJECT: Rezoning Application R-2023-09 Peterson Property

PRESENTER: Matt Champion, Zoning Administrator

ATTACHMENTS: 1.) Staff Report
2.) Application
3.) Zoning Prior to LDC

SUMMARY OF REQUEST:

Rezoning Application R-2023-09, submitted on August 9, 2023, requests that the County rezone approximately 2.38 acres of land from the Residential Two (R2) zoning district to the Community Commercial (CC) zoning district. The zoning map amendment application is for a portion of PIN: 9549-19-5165 with access along Old Bard Rd (Private) and S Rugby Rd (SR 1312). The property owners and applicants are Jeri and Ernest Peterson.

ACTION REQUESTED:

Staff requests the Technical Review Committee make a recommendation to the Planning Board on rezoning application (R-2023-09) for approximately 2.39 acres from Residential Two (R2) to Community Commercial (CC).

Suggested Motion:

Motion that the Technical Review Committee forward rezoning application R-2023-09 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-2023-09

TECHNICAL REVIEW COMMITTEE

MEETING DATE

September 5, 2023,

PROPERTY OWNER

Ernest & Jeri Peterson

PROPERTY LOCATION/ADDRESS

253 Old Barn Rd, Hendersonville, NC 28791
Hendersonville Township

APPLICANT

Ernest & Jeri Peterson

PIN's

Portion of PIN: 9549-19-5165

SUMMARY OF REQUEST

A rezoning of the above referenced PIN (hereafter the subject area from Residential Two (R2) to Community Commercial (CC).

Existing Zoning

Residential Two (R2)

Existing Land Use

Commercial & Residential

Site Improvements

Kennel, Single Family Residential Dwelling, & Barn

Requested Acreage

2.38 Acres out of 6.5 Acres

ADJACENT ZONING

USE OF LAND

North

Residential Two (R2)

Residential

East

Community Commercial (CC) & R2

Commercial & Residential

South

Community Commercial (CC)

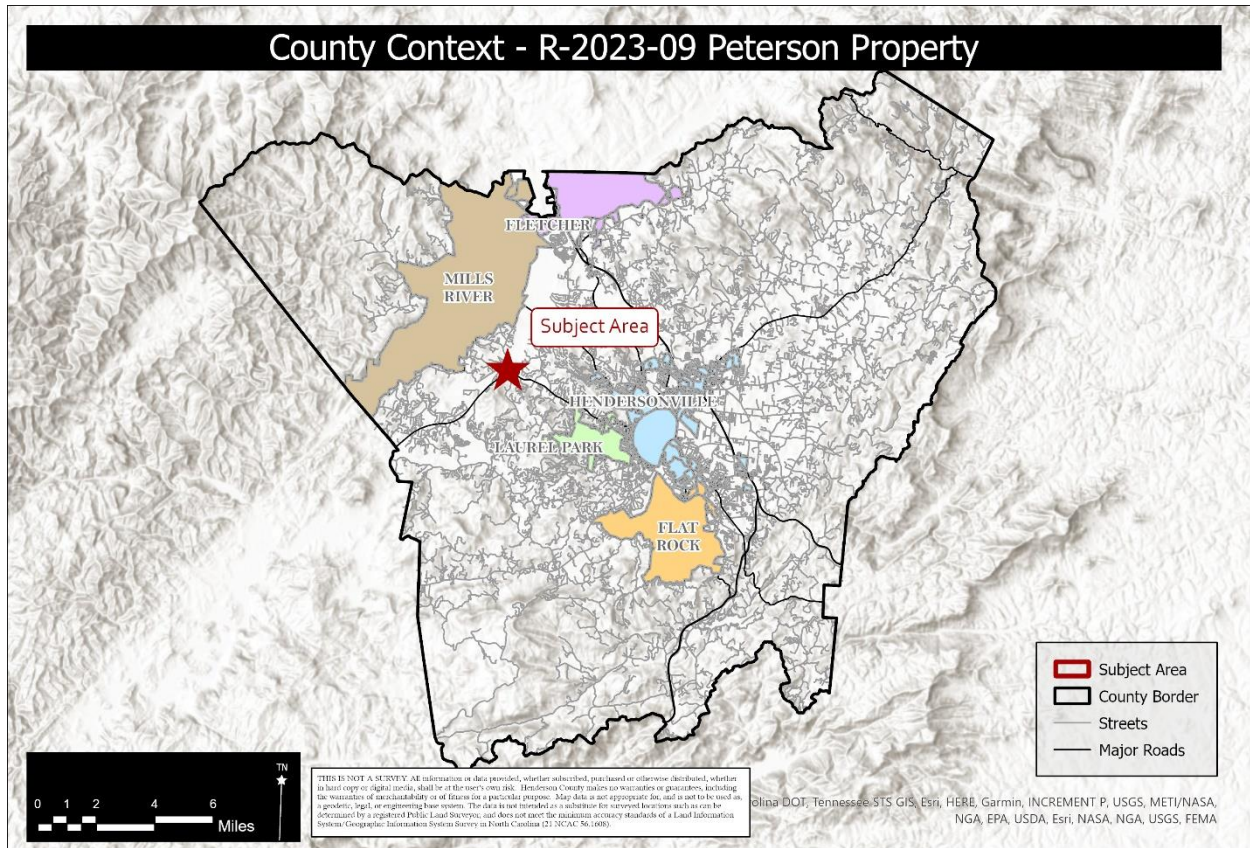
Commercial & Residential

West

Community Commercial (CC) & R2

Commercial & Residential

Map A. County Context



Property Owners/Applicants: Ernest and Jeri Peterson
 Rezoning Area: 2.38 Acres PINs: 9549-19-5165
 Current Zoning: Residential Two (R2)



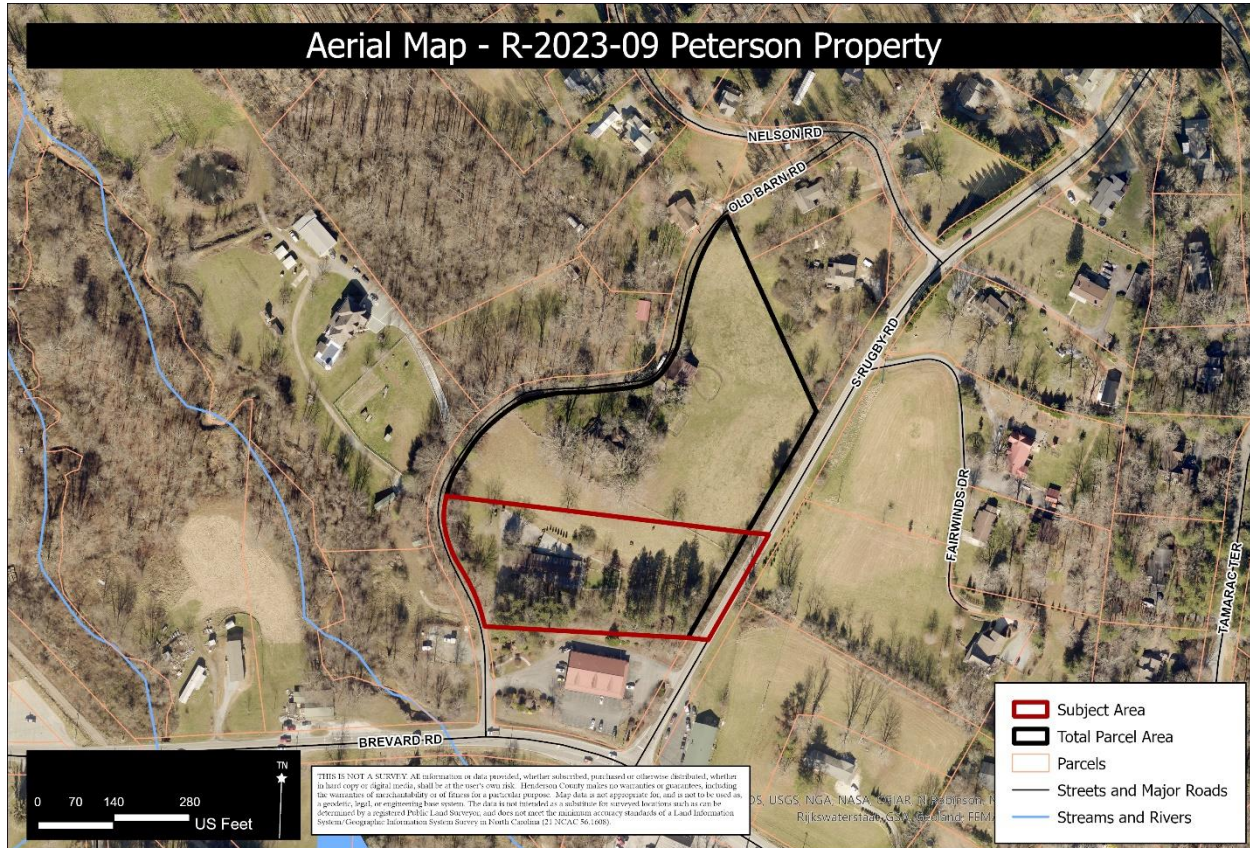
BACKGROUND:

The applicants and property owners, Ernest and Jeri Peterson, are seeking to rezone a portion of PIN 9549-19-5165 from Residential Two (R2) to Community Commercial (CC). The total acreage of the parcel is 6.5 assessed acres and the portion to be rezoned is 2.38 acres. The site currently contains a commercial kennel at 253 Old Barn Rd, a residential structure at 129 Old Barn Rd, and a large barn north of the residential structure. The kennel was constructed in 1987, the residential structure was built in 1927, the barn was added to the property in 2000. Additionally, there is roughly 3,000SQFT of paved area serving the kennel. The area north of the kennel, including the paved area serving the kennel is not included in the rezoning (see Map B).

The Horse Shoe community within Henderson County has been zoned since 1967. During that time, subject area was zoned Estate Residential (R-40) along with most of the surrounding properties. In 1984, the subject area was part of a zoning map amendment application that changed a portion of the subject area from R-40 to Neighborhood Commercial (C-2) zoning district. The C-2 district allowed for the current property owners to construct the commercial kennel. During the adoption of the Land Development Code in September of 2007, an effort was made to clean up split zoning and rezoned the portion of subject area from C-2 back to R-

40. In 2010, when the Board of Commissioners adopted the zoning map amendment recommendations in the Etowah and Horse Shoe Community Plan, the subject area was rezoned to R2.

Map B. Aerial



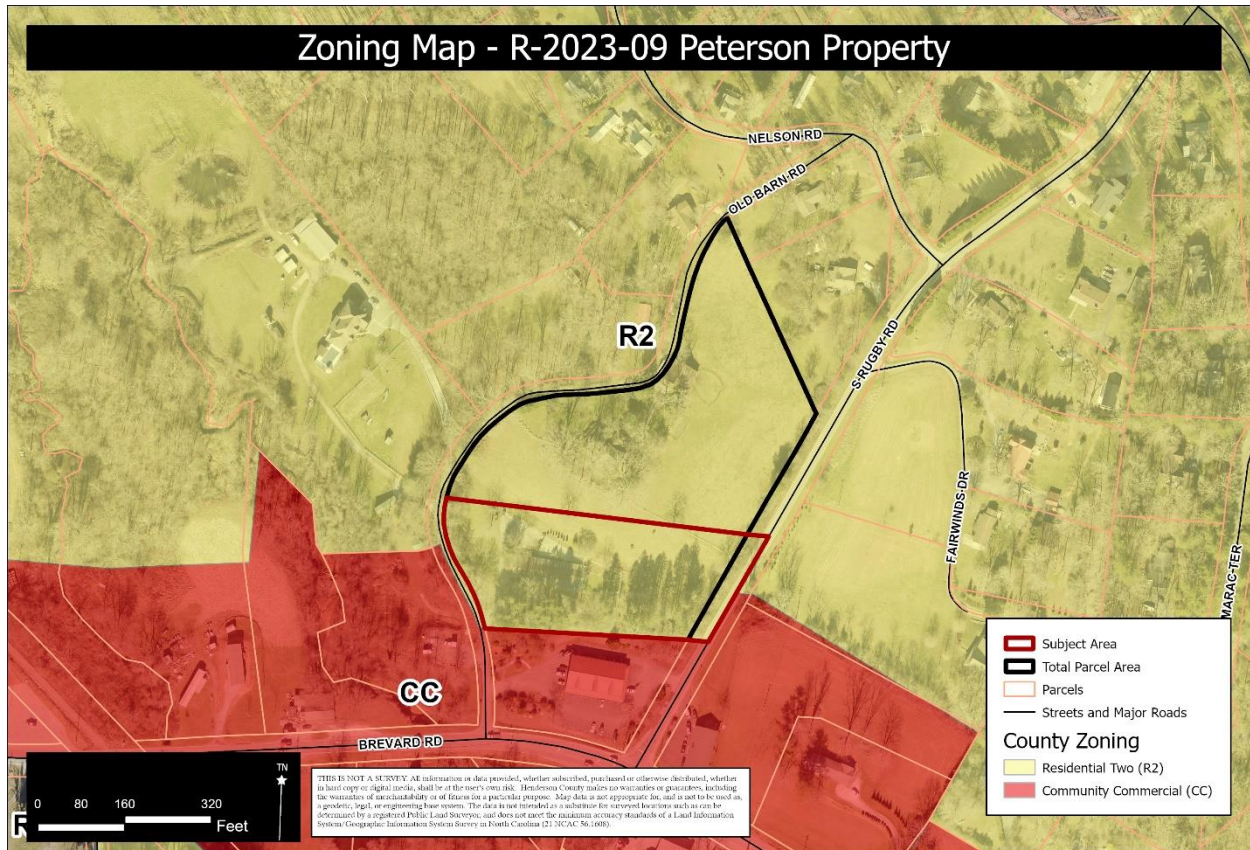
Property Owners/Applicants: Ernest and Jeri Peterson
 Rezoning Area: 2.38 Acres PINs: 9549-19-5165
 Current Zoning: Residential Two (R2)



SUBJECT AREA & ADJACENT PROPERTIES:

As previously mentioned, the subject area currently a commercial kennel, called Horse Shoe Kennels. The property to the south of the subject area contains a commercial structure with multiple tenants. The property to the east of the subject area contains a commercial structure with a mixture of retail sales and services called Cognitive Brew House. The property to the north of the subject area contains residential structures and vacant land. The property to the west of the subject area contains a mixture of residential structures, a commercial storage building, and a staging area for materials and equipment storage.

Map C: Current Zoning



Property Owners/Applicants: Ernest and Jeri Peterson
 Rezoning Area: 2.38 Acres PINs: 9549-19-5165
 Current Zoning: Residential Two (R2)



DISTRICT COMPARISON:

Residential Two (R2): The purpose of Residential District Two (R2) 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 consistent with the recommendations of the Comprehensive Plan. It is also the intent of this district to allow for flexibility in the continuation of existing nonresidential uses. This general use district is typically meant to be utilized in areas designated as Transitional (RTA) in the Comprehensive Plan.” Standard residential density in the Residential Two (R2) Zoning District is 1 unit per acre, with a maximum density of 2 units per acre. (LDC 42-28).

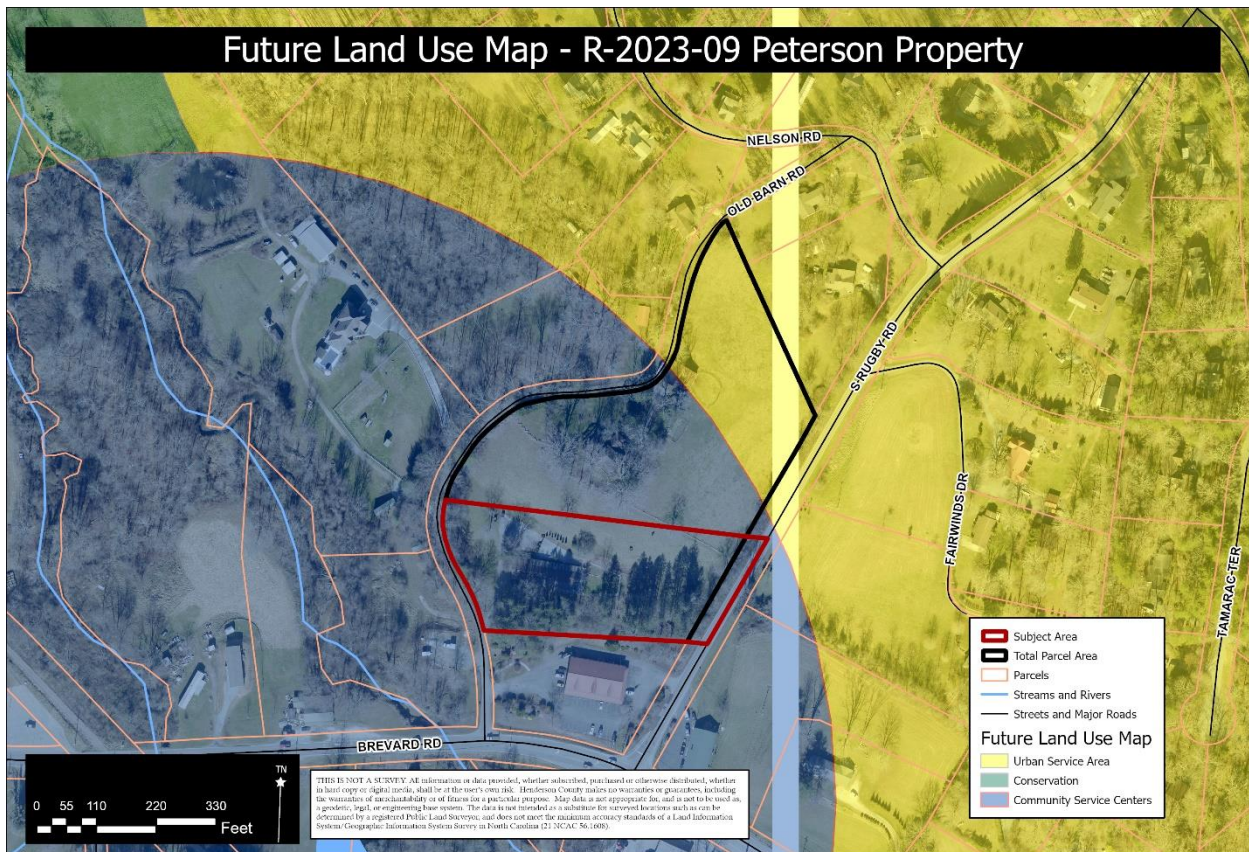
Community Commercial (CC): “The purpose of the Community Commercial District (CC) is to foster orderly growth where the principal use of land is commercial. The intent of this district is to allow for commercial development consistent with the recommendations of the Comprehensive Plan. In accordance 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. The intent of this district is to allow for commercial development consistent with the recommendations of the Comprehensive Plan. This general use district is meant to be utilized in areas designated as Transitional (RTA) or Urban (USA) in the Comprehensive Plan.” Single Family Residential Dwellings are not permitted in the Community Commercial (CC) Zoning District. (LDC 42-34)

Comparison of Districts: The existing Residential Two (R2) district allows for Single Family Residential development with a standard density of 1 unit per acre. The proposed Community Commercial (CC) Zoning District allows primarily for commercial development and multi-family residential development. Single Family Residential Dwellings are not permitted in the Community Commercial (CC) district.

Adjacent Zoning: Residential Two (R2) zoning is found to the northeast, north, and northwest of the subject area. Community Commercial (CC) zoning is found to the southeast, south, and southwest of the subject area.

Map D: County Comprehensive Plan Future Land Use Map



Property Owners/Applicants: Ernest and Jeri Peterson
 Rezoning Area: 2.38 Acres PINs: 9549-19-5165
 Current Zoning: Residential Two (R2)

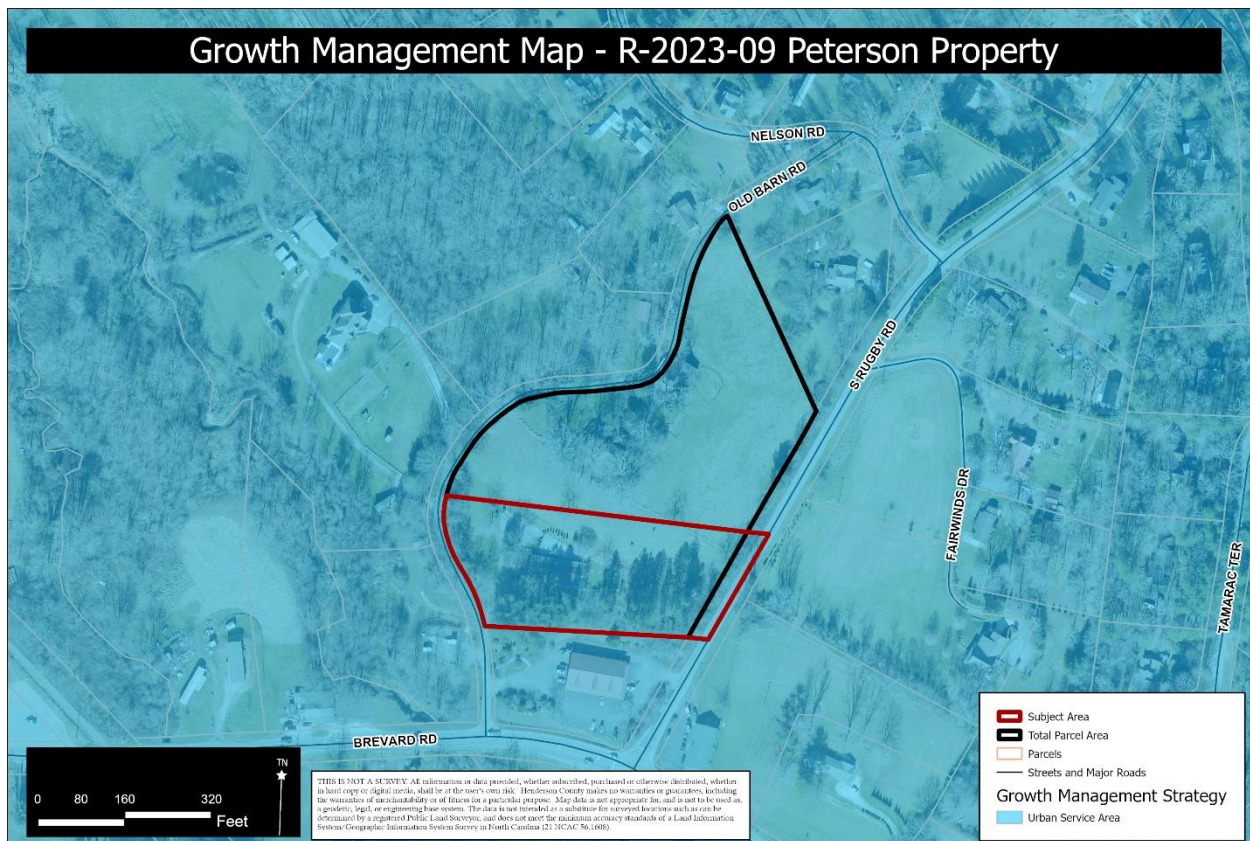


County Comprehensive Plan (CCP) Compatibility The CCP Future Land Use Map identifies the subject area as being contained within the Community Services Center classification.

Community Service Centers: The CCP states that, “Community Service Centers are intended to be intensive, efficient, defined concentrations of mixed services that meet the needs of the surrounding community and defined service areas. Community Service Centers are appropriate for a mixture of commercial uses scaled to the service areas; and Community Facilities such as schools, parks, community centers, and other similar Community Facilities. The mixture and intensity of land uses contained within Community Service Centers are intended to be appropriate within the context of the surrounding community and intended service area.

Urban Services Area: The CCP shows the subject area located in the Urban Services Area for Growth Management Strategy. The CCP states, “Substantial investments in affordable housing development should occur within the USA.” (CCP p. 133 #6). Additionally, “Wide ranges of residential densities will exist. Over the long term, land use regulations and policies should favor higher density development, consistent with natural constraints and the availability of urban services.” (CCP p. 133)

Map E: Growth Management Strategy Map

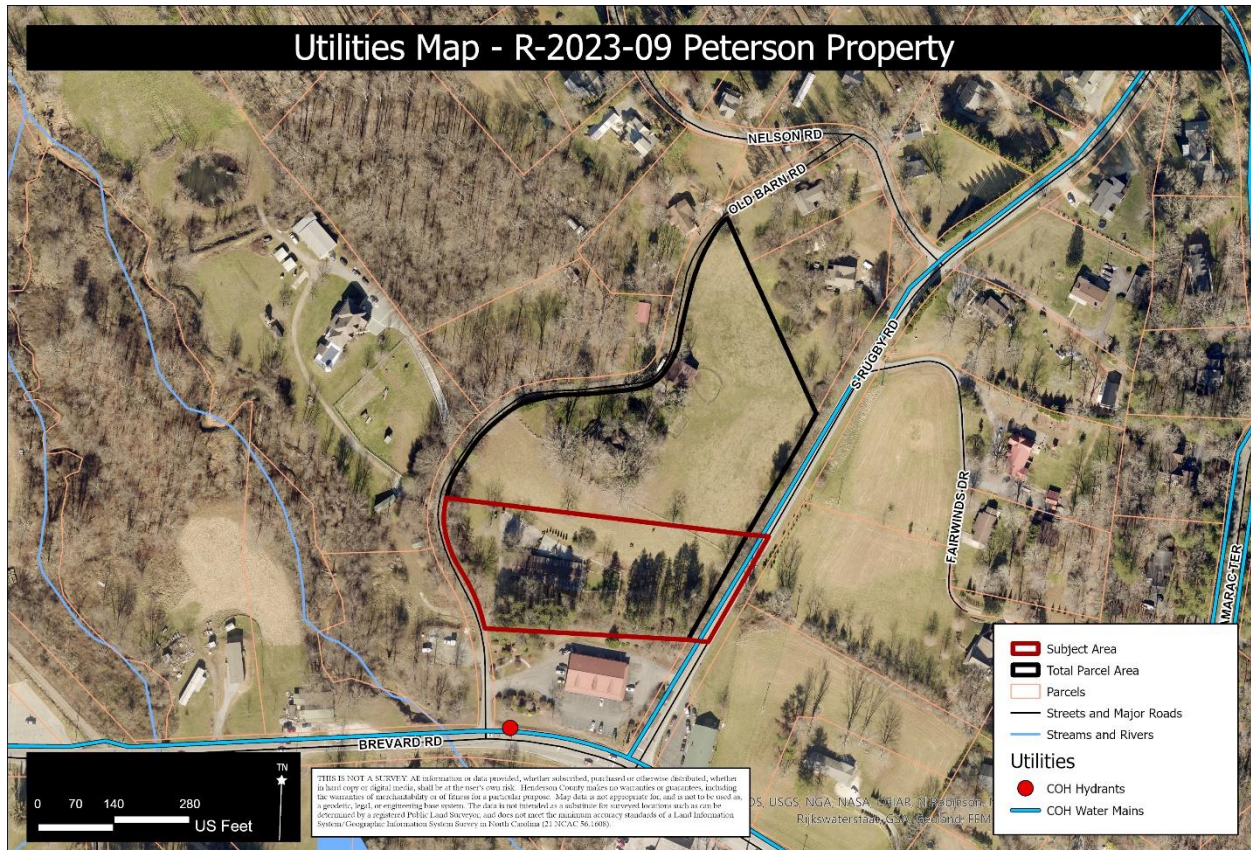


Property Owners/Applicants: Ernest and Jeri Peterson
 Rezoning Area: 2.38 Acres PINs: 9549-19-5165
 Current Zoning: Residential Two (R2)



Growth Management Strategy Compatibility: The CCP shows the subject area located in the Urban Services are for Growth Management Strategy. The CCP states, “Substantial investments in affordable housing development should occur within the USA.” (CCP p. 133 #6)

Map F: Utilities Map



Property Owners/Applicants: Ernest and Jeri Peterson
 Rezoning Area: 2.38 Acres PINs: 9549-19-5165
 Current Zoning: Residential Two (R2)



Water and Sewer

The applicant is not proposing any new infrastructure or utility connections at this time. City of Hendersonville Public Water is available to the subject area.

Existing Roads and Easements

The subject area currently has access along Old Barn Rd (Private) and frontage along S. Rugby Rd (SR 1312).

Technical Review Committee (TRC) Recommendations

The Technical Review Committee will hear this case at their September 5, 2023, meeting.

Planning Board Recommendations

The Planning Board will hear the case at their September 21, 2023.

Board of Commissioners Public Hearing

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

HENDERSON COUNTY
MAP AMENDMENT APPLICATION FORM

GENERAL INFORMATION

Date of Application: 8/9/23

Previously Submitted (Circle One): Yes No

Date of Pre-Application Conference: 8/9/23

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

Site Plan Attached (Circle One): Yes No

Permission to acquire aerial footage of subject area: Yes No

PARCEL INFORMATION*

PIN: 9549-19-5165 Deed Book/Page: 587/959 Tract Size (Acres): 6.5 Total 1.54 Request

Zoning District: R2 Fire District: Etowah Watershed: WS-IV Floodplain: N/A

Location of property to be developed: 253 Old Barn 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: Residential Two Requested Zoning District: Community Commercial

CONTACT INFORMATION

Property Owner:

Name: Jeri Peterson Phone: 828-808-6587

Address: 253 Old Barn Rd City, State, and Zip: H'ville, NC 28791

Applicant:

Name: Jeri Peterson Phone: 828-808-6587

Address: 253 Old Barn Rd City, State, and Zip: H'ville, NC 28791

Agent:

Name: _____ Phone: _____

Address: _____ City, State, and Zip: _____

Agent Form (Circle One): Yes No

Plan Preparer:

Name: _____ Phone: _____

Address: _____ City, State, and Zip: _____

10-2500-1

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.

Jeri Peterson

Print Applicant (Owner or Agent)

Jeri Peterson

Signature Applicant (Owner or Agent)

8/9/23

Date

County Use Only

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

Community Planning Area: Etoah and Horse Shoe

Date Current Zoning Applied: R-2010-02 11/9/2010 R-40 to R-2

Prepared by: Don H. Elkins, Attorney at Law
Hendersonville, North Carolina

OK 859
PJ.

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

This Deed, Made this 1st day of APRIL, in the year of our Lord, one thousand nine hundred and EIGHTY, between

KENNETH ARDRON, WIDOWER
of the County of HENDERSON, and State of NORTH CAROLINA, of the first part, and

ERNEST O. PETERSON and wife, JERI J. PETERSON
of the County of HENDERSON, and State of NORTH CAROLINA, of the second part,
WITNESSETH:

APR 4 1980

WITNESSETH, That the said part. Y of the first part, for and in consideration of the sum of (\$ 10.00)
TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS----- DOLLARS,
in hand paid by the said part. ies of the second part, the receipt whereof is hereby acknowledged, ha. S Bargained and Sold, Con-
veyed and Confirmed, and by these presents do^{ES} Bargain and Sell and Convey and Confirm, unto the said part. ies of the second part,
their
heirs and assigns forever, all the following described place... or parcel ... of land lying and being in the Town-
ship of HENDERSONVILLE, County of Henderson, and State of North Carolina, and known and designated as follows, viz:

BEGINNING at an iron pin in the northwestern margin of the new Rugby Road, said iron pin standing North 28° 15' East 300 feet from the point of intersection of the northwestern margin of the new Rugby Road and the northern edge of the pavement of U.S. Highway 64; and runs thence from said beginning point with the northwest margin of the new Rugby Road, North 28° 15' East 347 feet to a stake in the center of the old Rugby Road; thence with the center of the old road, North 7° East 65 feet and North 30° East 54 feet to an iron pin, a corner of the Charles Capps property; thence with Capps line, leaving the old Rugby Road, North 26° 30' West 400 feet to an iron pin in the southeast margin of Breath-less View Drive; thence with said margin of said Drive, the following courses and distances: South 42° 30' West 74 feet; South 23° West 80 feet; South 11° 30' West 100 feet; South 33° 30' West 85 feet; South 63° 15' West 100 feet; South 77° West 150 feet; South 32° West 115 feet; South 5° West 100 feet; South 15° East 100 feet; and South 26° 45' East 145 feet to an iron pin; thence leaving said Drive, a new line, North 89° East 397 feet to the point and place of BEGINNING; containing 6.89 acres, more or less.

There is also conveyed to the grantees herein the right to use water from the system of the Howard Smith Subdivision, as shown by plat recorded in Plat Book 4, at page 80, in the office of the Register of Deeds for Henderson County, North Carolina, provided the grantees shall pay to Howard Smith and wife, Avie Smith, their heirs and assigns, the sum of \$24.00 per year. The right to use water shall be limited to use for domestic purposes inside of the buildings situated on the property and shall not be used for more than one dwelling house. The failure to make payments for water rent as herein provided will terminate the right of the grantees, their heirs and assigns, to use water from this system.

The grantees, their heirs and assigns, are hereby given the right to go upon the lands of Howard Smith and wife for the purpose of maintaining, repairing or replacing the present water line leading from the pump house to the property conveyed herein.

There is also conveyed hereby the right of ingress and egress over the road in the Howard Smith Subdivision as shown on plat recorded in Plat Book 4, at page 80, Henderson County Registry, going to and from Rugby Road and also over the road known as Breath-less View Drive leading from the Howard Smith Subdivision as shown on the above-referenced plat to and from Brevard Road, U.S. Highway 64.

BEING the identical property described in Deed Book 387, at page 589, and in Deed Book 444, at page 221, of the Registry for Henderson County, North Carolina.

TO HAVE AND TO HOLD THE SAME, Together with all hereditaments and appurtenances thereunto in any wise appertaining, unto the said part.ies. of the second part, their heirs and assigns forever.

And the said part.y. of the first part do.es covenant with the said part.ies of the second part, their heirs and assigns, as follows: FIRST, that the said part.y. of the first part is the owner and lawfully seized of said land and premises. SECOND, That he has good right and full power to convey the same. THIRD, That the same are free from all incumbrances whatsoever. And, FOURTH, That the said part.ies. of the second part, their heirs and assigns, shall quietly enjoy and possess the same, and that the said part.y. of the first part, his heirs, executors and administrators, will forever warrant and defend the title to the same against all lawful claims.

IN TESTIMONY WHEREOF, The said part.y. of the first part ha.S. herunto set his hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Berneth Ardron (Signature) KENNETH ARDRON, WIDOWER (SEAL) Richard A. Oae Do (Signature) (SEAL) (SEAL)

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, Marilyn G. Ghandour, a Notary Public, in and for the above County and State, do hereby certify that KENNETH ARDRON, widower

personally appeared before me this day and acknowledged the due execution by him of the foregoing Deed of conveyance.

WITNESS my hand and notarial seal, this 1st day of April, A. D. 1980. My commission expires January 30, 1982. Notary Public (Signature)

STATE OF NORTH CAROLINA, COUNTY OF

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

personally appeared before me this day and acknowledged the due execution by of the foregoing Deed of conveyance.

WITNESS my hand and notarial seal, this day of A. D. 19. My commission expires Notary Public

WARRANTY DEED

KENNETH ARDRON, WIDOWER

ERNEST O. PETERSON and wife,

JERI J. PETERSON

NORTH CAROLINA, HENDERSON COUNTY

The foregoing certificate(s) of

Marilyn G. Ghandour

Notary Public (Notarize-Public) is/are certified to be correct. This instrument presented for registration and recorded in this office this day of

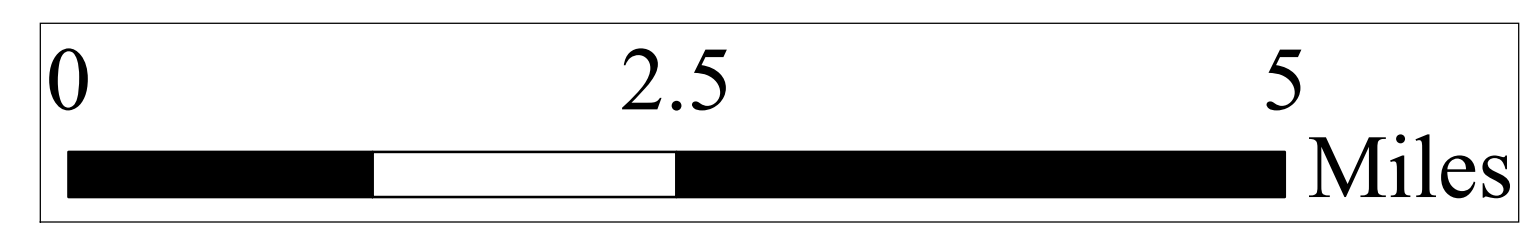
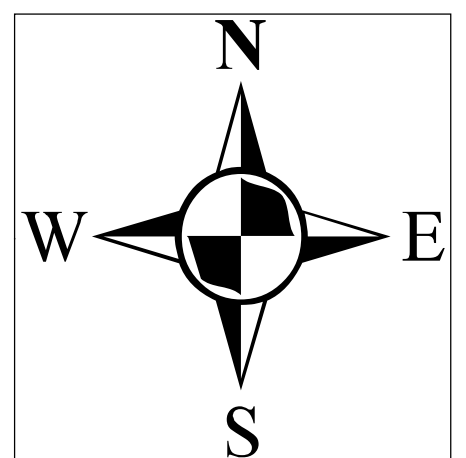
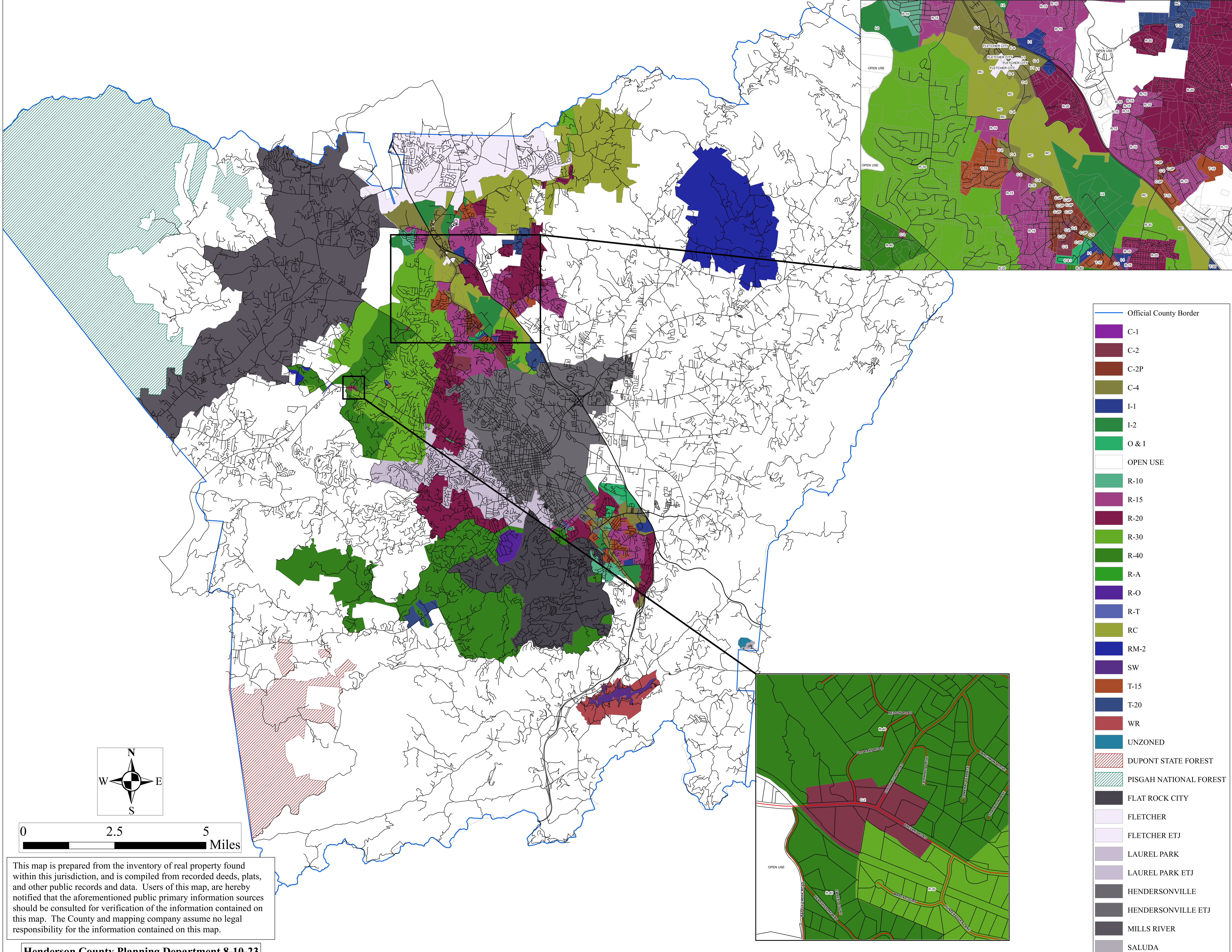
APRIL 1 19 80 at 11:25 A.M. in Book 587 Page 857 and verified

Ruby J. Maxwell Register of Deeds by Norma M. Ligon (Deputy)

PREPARED BY DON H. ELKINS, ATTORNEY AT LAW 110 North Main Street Hendersonville, North Carolina

Printed and For Sale By FLANAGAN PRINTING COMPANY Hendersonville, N. C.

7500



This map is prepared from the inventory of real property found within this jurisdiction, and is compiled from recorded deeds, plats, and other public records and data. Users of this map, are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map. The County and mapping company assume no legal responsibility for the information contained on this map.