

REQUEST FOR COMMITTEE ACTION
HENDERSON COUNTY
Zoning Board of Adjustment

MEETING DATE: January 7, 2015

SUBJECT: Variance Application (V-14-01) located at 2206 Hilltop Lane

PRESENTER: Toby Linville, Code Enforcement Director

ATTACHMENTS:

1. Staff Report
2. Photographs
3. Site Plan

SUMMARY OF REQUEST:

The applicants are requesting a variance to have the setbacks for the property be set less than 10 feet so that the existing property lines can be realigned.

Staff requests the Board of Adjustment take action to approve, approve with modifications, table, or deny Variance-13-01.

Suggested Motion:

I move that the Board of Adjustment approval/deny variance application V-14-01 because it meets the requirements of the Land Development Code to grant a variance.

There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

- 1. The fact that, if the *applicant* complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable *use* of, the property.**
- 2. The hardship of which the *applicant* complains results from unique circumstances related to the *applicant's* land.**
- 3. The hardship is not the result of the *applicant's* own action.**
- b. The *Variance* is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.**
- c. The *Variance* will secure the *public safety* and welfare and will do substantial justice.**
- d. The *Variance* shall not be based on the existence of a *nonconforming use* of neighboring land or *structures* in the same district, or permitted *nonconforming uses* in other districts, and shall in no way constitute a reason for the requested *Variance*.**
- e. The *Variance* shall not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or *subdivision* regulations.**



Henderson County, North Carolina Code Enforcement Services

1 Committee Request

- 1.1. **Applicant:** Sam Riddle
- 1.2. **Request:** Variance Request
- 1.3. **PIN:** 9567172441
- 1.4. **Size:** 0.84 acres +/-
- 1.5. **Location:** The subject area is off Kanuga Rd and Price Rd
- 1.6. **Variance Requirements:**

G. Quasi-Judicial Proceeding. The concurring vote of four-fifths (4/5) of the *ZBA* shall be necessary to grant a *Variance*. Any approval or denial of the request must be in writing and permanently filed with the office of the *ZBA* and with the Administrator as public record.

(1) Standards of Review. The *ZBA* shall not grant a *Variance* the effect of which would be to: (1) allow the establishment of a *use* not otherwise permitted in a general *use district*, (2) extend physically a *nonconforming use* of land or (3) change the district boundaries shown on the Official Zoning Map. No *Variance* shall be granted or considered where the fact that the property could be used more profitably is the reason for the request for the *Variance*. The following written findings must be made in order for the *ZBA* to grant a *Variance*:

a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the *applicant* complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable *use* of, the property.
2. The hardship of which the *applicant* complains results from unique circumstances related to the *applicant's* land.
3. The hardship is not the result of the *applicant's* own action.

b. The *Variance* is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.

c. The *Variance* will secure the *public safety* and welfare and will do substantial justice.

d. The *Variance* shall not be based on the existence of a *nonconforming use* of neighboring land or *structures* in the same district, or permitted *nonconforming uses* in other districts, and shall in no way constitute a reason for the requested *Variance*.

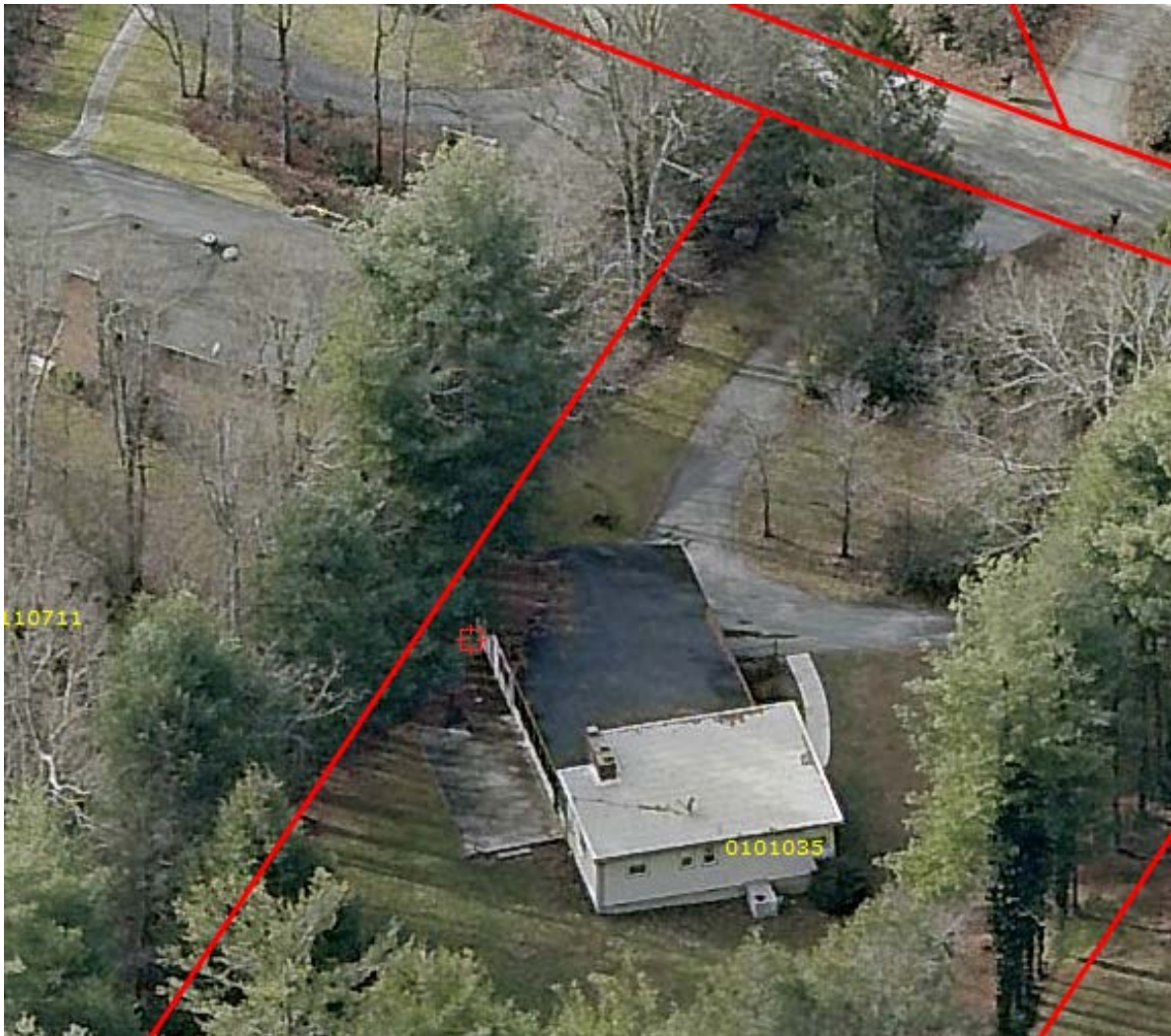
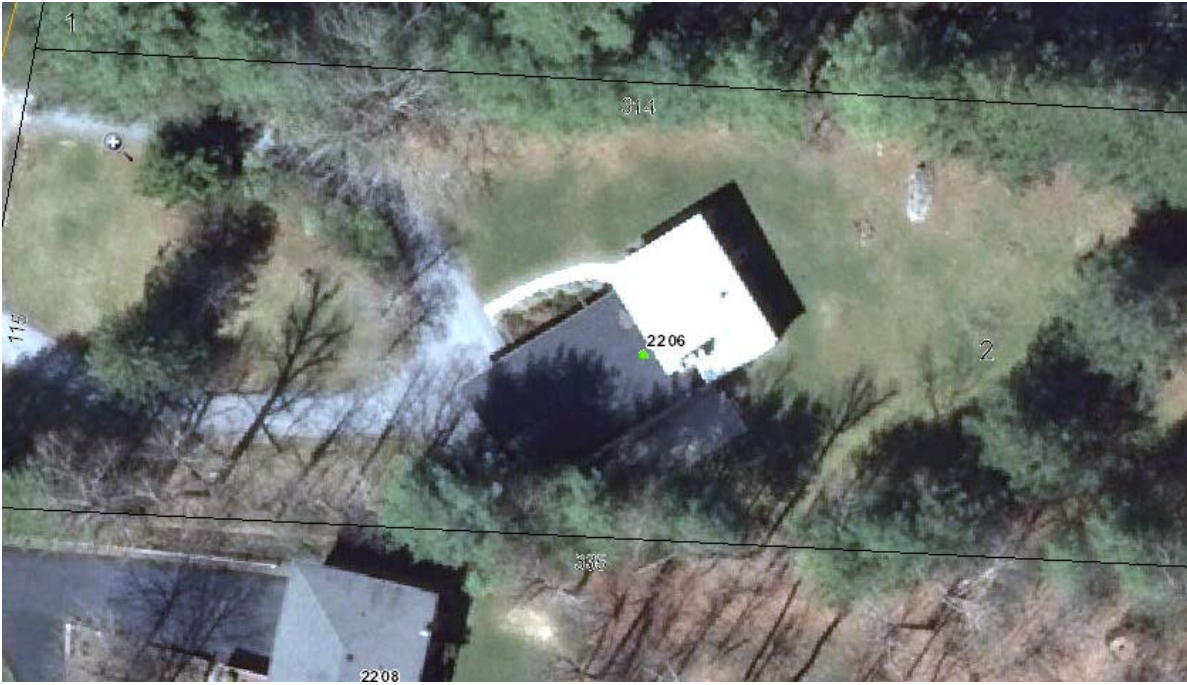
e. The *Variance* shall not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or *subdivision* regulations.

(2) Conditions. The *ZBA* may, in granting a *Variance*, prescribe: (1) additional conditions; (2) additional safeguards; (3) a time limit within which the action for which a *Variance* is sought shall be begun; (4) a time limit within which the action for a *Variance* is sought shall be completed; and (5) a time duration within which construction, operation or installation shall commence on the project for which the *Variance* was obtained.

H. Variance Validity. Upon issuance of a *Variance*, the *applicant* shall have 12 months within which (unless otherwise specified by the *ZBA*) to commence construction, operation or installation. If construction, operation or installation is commenced within the specified time period the *Variance* shall continue in force as long as the *structure*, operations or installation remains.

(1) Variance Revocation. If construction or operation is not commenced within 12 months (or other specified time period), the *Variance* shall no longer be valid.

Map A: Aerial Photo/ Pictometry



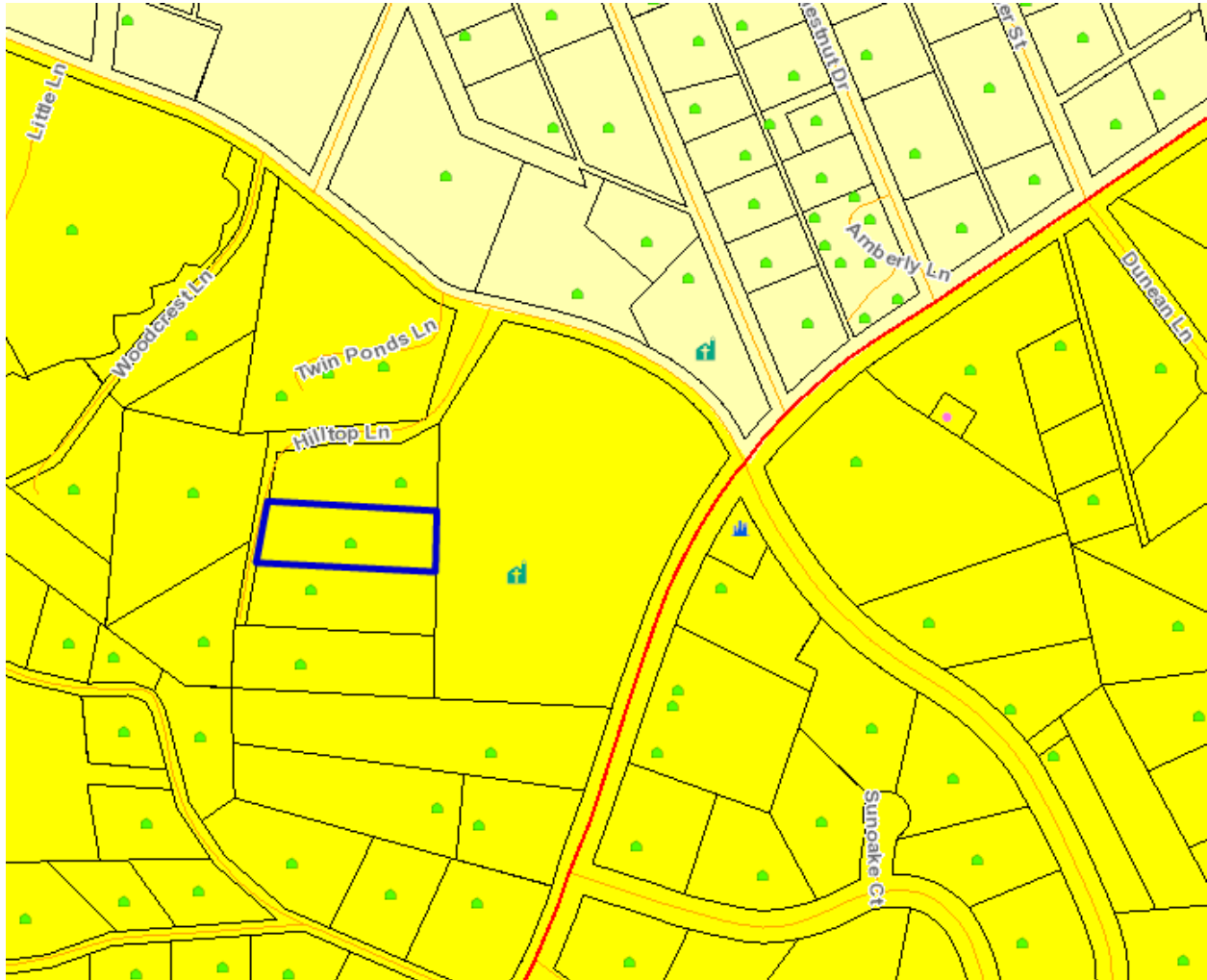
2. Current Conditions

2.1 Current Use: The parcel has a single family dwelling that was built in 1960

2.2 Adjacent Area Uses: The surrounding properties are residential.

2.3 Zoning: The subject property and surrounding properties are R-40. Nearby parcels to the North are Residential-2.

Map B: Current Zoning



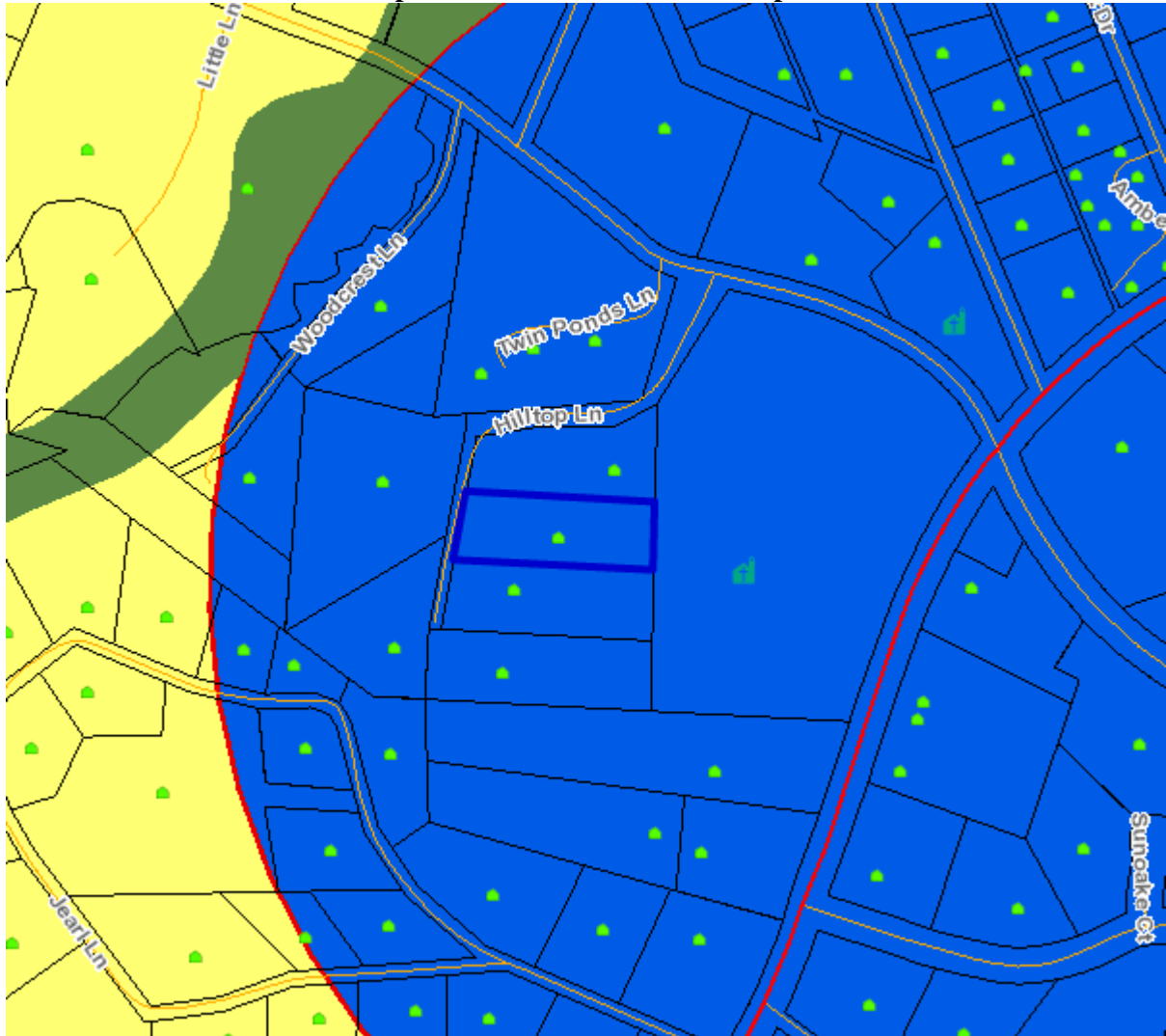
3. Floodplain /Watershed Protection: The property is not located in a Special Flood Hazard Area. The property is not in a Water Supply Watershed district.

4. Water and Sewer: This property is served by public water and private septic system.

Public Water: N/A

Public Sewer: N/A

Map C: CCP Future Land Use Map



5. Staff Comments

The 2020 CCP: The CCP Future Land Use Map places the Subject Area in the “Community Service Center” classification. The text and map of the 2020 CCP suggest that the Subject Area would be more suitable for the following:

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 area in question; residential uses of varying densities depending upon available services; 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.

Community Service Centers should also be properly controlled by appropriate aesthetic standards, access management standards, and other appropriate development control measures.

6. Staff Recommendations

Staff's position at this time, under the guidelines of current plans, policies and studies, is that they support the application. The owner faces a hardship in that the current setbacks were not in place when the home was built. The County instituted zoning in 1981 and this home was built in 1960.

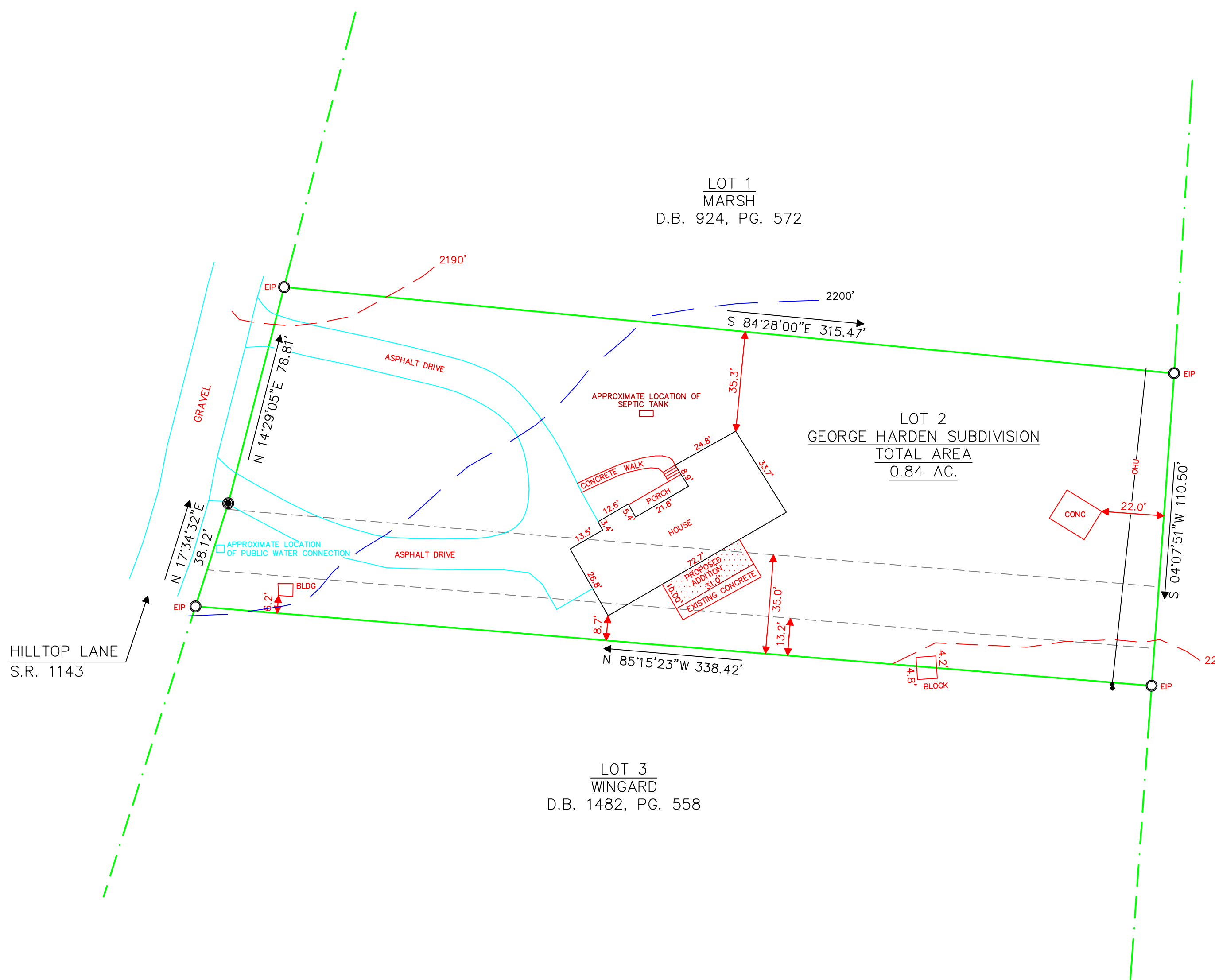
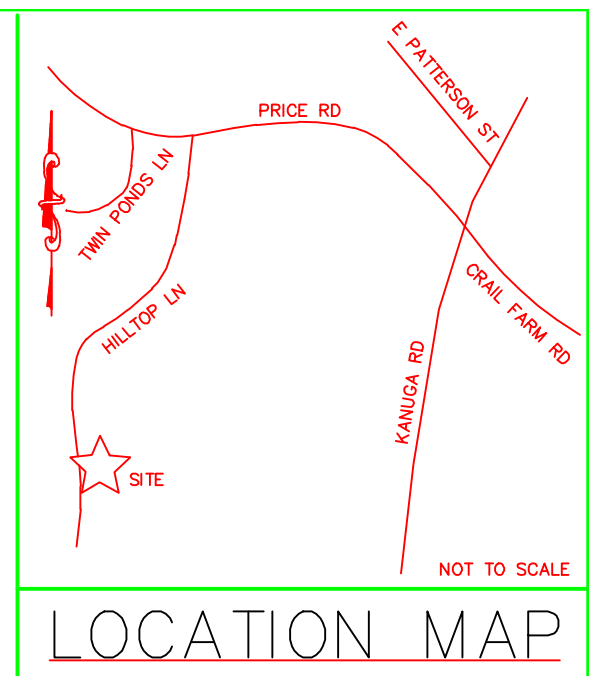








PLAT NORTH (CAB. C, SLIDE 39)



TRUSTEES OF COVENANT PRESBYTERIAN CHURCH
D.B. 587, PG. 299

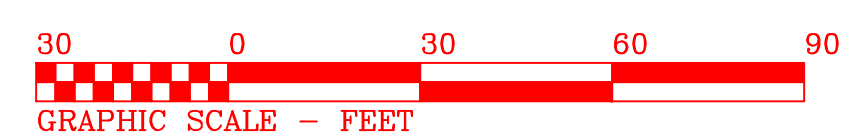
DEED REF:
D.B. 1363, PG. 173

PLAT REF:
CAB. C, SLIDE 39

TAX MAP #9567.09-17-2441

CURRENT OWNERS: TRUSTEES OF COVENANT PRESBYTERIAN CHURCH
OF HENDERSONVILLE, NC:
SAMUEL RIDDLE (828-243-3605)
MILDRED S. REESE
DAVID K. FOX

THIS PROPERTY IS LOCATED IN THE R-40 ZONING DISTRICT
PROPOSED ADDITION OF 31' X 10' WILL BE CONSTRUCTED
ON EXISTING CONCRETE SLAB

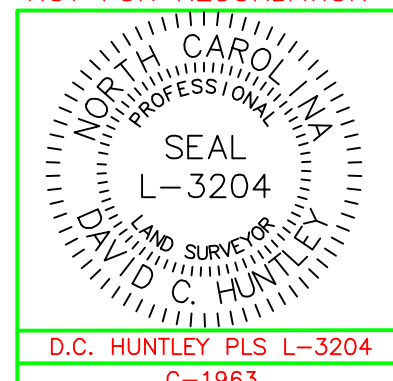


- LEGEND**
- EIP EXISTING IRON PIN
 - NIP NEW IRON PIN
 - PT UNMARKED POINT
 - CONC. MON. CONCRETE MONUMENT
 - PP POWER POLE
 - LP LIGHT POLE
 - CL CENTER LINE
 - R/W RIGHT OF WAY
 - CONC. CONCRETE
 - REF. REFERENCE
 - OHU OVERHEAD UTILITIES

I, David C. Huntley, certify that this plat was drawn under my supervision from an actual survey made under my supervision (Deed description recorded in Bk. 1363, Pg. 173); that the boundaries not surveyed are clearly indicated as drawn from information found in Bk. N/A, Pg. N/A; that the ratio of precision as calculated is 1:10,000; that this plat meets the requirements of The Standards of Practice for Land Surveying in North Carolina. This 17th day of November, 2014.

David C. Huntley PLS L-3204

NOT FOR RECORDATION



STATE OF NORTH CAROLINA
HENDERSON COUNTY
HENDERSONVILLE TOWNSHIP

LOT 2, GEORGE HARDEN SUBD.
SURVEY FOR
TRUSTEES OF
COVENANT PRESBYTERIAN CHURCH

DAVID C. HUNTLEY & ASSOCIATES, INC.
675 MAPLE STREET
HENDERSONVILLE, NC 28792
(828) 693-8077

SURVEY DCH
DRAWN KMC
SCALE 1" = 30 FT.
DATE: 11/14/14
DWG. NO. H-6744