

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS

CASE NUMBER	: ZPH2014-00027
PROPOSED ZONING CHANGE	: R-1 TO CS
LOCATION	: French Broad Overlook/Brevard Road
PINs	: 9635.22.7407 (property south of Brevard Road)
ACREAGE	: 14.86 acres minus the property on the north : side of Brevard Road

APPLICANT/OWNER: Jack Ohlhaber
5810 Balao Way South
St. Pete Beach, FL 33706

DEPARTMENT RECOMMENDATION: **DENIAL**

BOARD CONSIDERATIONS: The Board must determine if there is a reasonable basis for the requested change. An applicant's showing of reasonableness must address the totality of the circumstances and must demonstrate that the change is reasonable in light of its effect on all involved. Good Neighbors of South Davidson v. Town of Denton, 355 N.C. 254, 559 S.E.2d 768 (2002). Determination must be, the "product of a complex of factors." Chrismon v. Guilford County, 322 N.C. 611, 370 S.E.2d 579 (1988). Among the factors relevant to this analysis are the size of the tract in question; the compatibility of the disputed zoning action with an existing comprehensive zoning plan; the benefits and detriments resulting from the zoning action for the owner of the newly zoned property, his neighbors, and the surrounding community; and the relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts. Id.

REZONING SUMMARY: The applicant requests rezoning of property on the south side of Brevard Road from R-1 (Single Family Residential District) to CS (Commercial Service District). The subject property is located on the south side of Brevard Road, and contains French Broad Overlook Road. The property is currently undeveloped except for the existing subdivision road. The surrounding area is comprised of large tracts of undeveloped land and residentially developed property. The area surrounding the subject property is zoned R-1 and R-LD, and it does not border property zoned CS on any side. The application does not include a large amount of land in relation to the surrounding area and does not include a large number of property owners and could be viewed as a spot zoning by the courts.

The proposed map amendment is not consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 update show the following regarding the subject property:

- Does not have reasonable proximity to public utilities
- Not outside of slopes greater than 25% slope
- Not outside of areas of high or moderate slope stability hazards
- Not outside flood hazard areas.

Therefore, the proposed map amendment would not be suitable for commercial development as indicated on the suitability matrix within the update.

The subject property is not adjacent to property zoned commercially, is surrounded by property zoned R-1 and R-LD, and could be considered a spot zoning given the size of the tract. The proposed CS zoning

would be detrimental to the owner, adjacent neighbors, and surrounding community as it is not consistent with the Buncombe County Land Use Plan. Therefore the Buncombe County Department of Planning and Development recommends **DENIAL** of the request.

LAND USE PLAN CONSISTENCY STATEMENTS

NOT CONSISTENT: The proposed map amendment is not consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 update shows the following regarding the subject property:

- Does not have reasonable proximity to public utilities
- Not outside of slopes greater than 25% slope
- Not outside of areas of high or moderate slope stability hazards
- Not outside flood hazard areas.

Therefore, the proposed map amendment would not be suitable for commercial development as indicated on the suitability matrix within the update. The subject property is not adjacent to property zoned commercially, is surrounded by property zoned R-1 and R-LD, and could be considered a spot zoning given the size of the tract, therefore it is not reasonable and in the interest of the public.

CONSISTENT: The proposed map amendment request is consistent with the Buncombe County Comprehensive Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update show the following regarding the subject property:

- Near a transportation corridor

Therefore, the proposed map amendment would be suitable for commercial development as indicated on the suitability matrix within the update. The proposed CS zoning would not be detrimental to the owner, adjacent neighbors, and surrounding community. Therefore, the requested zoning would be reasonable and in the interest of the public.