

ORDINANCE NO. _____

ORDINANCE AMENDING THE TEXT OF CHAPTER 78, ARTICLE VI OF THE BUNCOMBE COUNTY CODE OF ORDINANCES, THE ZONING ORDINANCE OF BUNCOMBE COUNTY

WHEREAS, pursuant to N.C. Gen. Stat. §153A-340, the County may adopt a zoning ordinance to regulate development within its territorial jurisdiction;

WHEREAS, on December 1, 2009, the Buncombe County Commissioners enacted Buncombe County Ordinance No. 09-12-01 which established a comprehensive zoning plan for the properties located in Buncombe County outside of the boundaries of incorporated municipalities and their zoning jurisdictions;

WHEREAS, pursuant to N.C. Gen. Stat. §153A-323, the County may amend its zoning ordinance after giving proper public notice and holding a public hearing;

WHEREAS, in accordance with the procedures set forth in the Buncombe County Zoning Ordinance, the Buncombe County Planning Board met to consider the proposed amendments and recommended in a vote of 8 to 0 on January 27, 2014 that the amendments regarding planned unit development standards are consistent with the Buncombe County Comprehensive Land Use Plan and Updates thereto, and are reasonable and in the public interest, and further recommended that the Board of Commissioners approve the proposed amendments;

WHEREAS, this Board has reviewed these written recommendations of the Buncombe County Planning Board dated January 27, 2014; and

WHEREAS, in accordance with North Carolina General Statutes and with the provisions set forth in Division 8 of Chapter 78, Article VI of the Buncombe County Code of Ordinances, the Board of Commissioners duly advertised and held a public hearing to consider the proposed amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS THAT:

Section 1. This Board finds that, pursuant to N.C. Gen Stat. §153A-341, the proposed amendments to The Zoning Ordinance are consistent with the Buncombe County Land Use Plan and updates and are reasonable and in the public interest based upon the reasons set forth by the Planning Board in their resolution dated January 27, 2014;

Section 2. That this Board does hereby approve the following amendments to The Zoning Ordinance of Buncombe County:

Sec. 78-581. Definitions.

Planned unit development (PUD) means more than two principal buildings or uses proposed to be constructed on a single lot, any building with a gross floor area of 35,000 square feet or more, or any residential complex of five or more units. Residential units within a planned unit development may include single-family detached or attached units, townhouse developments, garden apartments, patio homes, and other types of residential units, excluding mobile homes and mobile home parks. For purposes of the Steep Slope/High Elevation Overlay District only, planned unit development means more than two principal buildings or uses proposed to be constructed on a single lot, any building with a gross floor area of 10,000 square feet or more, or any residential complex of three or more units. A planned unit development also refers to developments which contain structures which exceed the maximum height allowed within the zoning district; such planned unit developments are prohibited within the Steep Slope/High Elevation and Blue Ridge Parkway Overlay Districts.

Sec. 78-678. Conditional use standards.

(9) *Planned unit developments.* Planned unit development standards shall be as follows:

- a. *Purpose.* The purpose of this section is to afford substantial advantages for greater flexibility and improved marketability through the benefits of efficiency which permit flexibility in building siting, mixtures of housing types, and land use. Residential densities are calculated on a project basis, thus allowing the clustering of buildings in order to create useful open spaces and preserve natural site features.
- b. *Land development standards.* The following land development standards shall apply for all planned unit developments. Planned unit developments may be located in the R-2, R-3, NS, CS, EMP, and PS relevant districts as conditional uses, subject to a finding by the board of adjustment that the following conditions are met:
 1. *Ownership control.* The land in a planned unit development shall be under single ownership or management by the applicant before final approval and/or construction, or proper assurances (legal title or execution of a binding sales agreement) shall be provided that the development can be successfully completed by the applicant.
 2. *Density requirements.* There are no density requirements for nonresidential uses as long as the proposed project does not violate the intent of the district in which it is located. The proposed residential density of the planned unit development (dwelling units per acre as shown in section 78-642) shall conform to that permitted in the district in which the development is located. If the planned unit development lies in more than one district, the number of allowable dwelling units

must be separately calculated for each portion of the planned unit development that is in a separate district, and must then be combined to determine the number of dwelling units allowable in the entire planned unit development.

3. *Frontage requirements.* Planned unit developments shall have access to a highway or road suitable for the scale and density of development being proposed.
4. *Land uses.* A mixture of land uses shall be allowed in any planned unit development. However, within residential districts, nonresidential uses shall not constitute the primary use in the planned unit development, and nonresidential uses shall be carefully designed to complement the residential uses within the planned unit development. All planned unit developments must be compatible with and not violate the intent of the zoning district; however, said uses may include uses not permitted under Sec. 78-641 within the zoning district(s) within which the project is located, provided that the board of adjustment finds that nonresidential uses do not disrupt the character of the community.
5. *Minimum requirements.* Minimum requirements for land development are as follows:
 - The normal minimum lot size and requirements for interior setbacks are hereby waived for the planned unit development, provided that the spirit and intent of this section are complied with in a total development plan, as determined by the board of adjustment. The board of adjustment shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this section.
 - Height limitations. No building or structure shall exceed the height limitations of the district in which it is located. The normal maximum structure height may be waived for the planned unit development, provided that unique elements of the development impose requirements for additional height that are not universal throughout the zoning district. Additionally, planned unit developments in excess of the normal maximum height require that the spirit and intent of this section are complied with in a total development plan, as determined by the board of adjustment. The board of adjustment shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this section.
 - Required distance between buildings. The minimum distance between buildings shall be 20 feet or as otherwise specified by the board of adjustment to ensure adequate air, light, privacy, and space for emergency vehicles.
 - Every dwelling unit shall have access to a public or private

street, walkway or other area dedicated to common use, and there shall be provision for adequate vehicular circulation to all development properties, in order to ensure acceptable levels of access for emergency vehicles.

6. *Privacy.* Each development shall provide reasonable visual and acoustical privacy for all dwelling units. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise. Multilevel buildings shall be located within a planned unit development in such a way as to dissipate any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings.
7. *Perimeter requirements.* Perimeter requirements are as follows:
 - Structures located on the perimeter of the development must be set back from property lines and rights-of-way of abutting streets in accordance with the provisions of the zoning ordinance controlling the district within which the property is situated.
 - Structures other than single-family detached units located on the perimeter of the development may require screening in a manner which is approved by the board of adjustment.
8. *Water and sewer systems.* Plans and accompanying documentation to ensure that the water and sewer systems proposed for the planned unit development have been approved by the appropriate local and state agencies and submitted as part of the application.
9. *Parking.* Preliminary plans shall include parking provisions for all proposed uses within the planned unit development in accordance with section 78-658. When more than one use is located in the planned unit development, the minimum required parking shall be the sum of the required parking for each use within the development. Parking requirements may be waived for the planned unit development, provided that the spirit and intent of this section are complied with in a total development plan, as determined by the board of adjustment. The board of adjustment shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this section.
10. *Pedestrians and bicycles.* Any pedestrian and bicycle path circulation system and its related walkways shall be designed to minimize conflicts between vehicle and pedestrian traffic.
11. *Layout.* Layout of parking areas, service areas, entrances, exits, yards, courts and landscaping, and control of signs, lighting, noise or other potentially adverse influences shall be such as to protect the residential character within the PUD district and desirable character in any adjoining district.

12. *Conveyance and maintenance mechanisms.* Conveyance and maintenance of open space, recreational areas and communally owned facilities shall be in accordance with G.S. 47-1 et seq. the Unit Ownership Act and/or any other appropriate mechanisms acceptable to the board of adjustment.

Section 3. That if any section, subsection, clause or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and

Section 4. That all ordinances and clauses of ordinances in conflict herewith be and are hereby repealed to the extent of such conflict.

Section 5. This ordinance is effective upon adoption.

Read, approved and adopted this 19th day of August, 2014.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

Kathy Hughes, Clerk

BY _____
David Gantt, Chairman

APPROVED AS TO FORM

County Attorney