

RESOLUTION OF PLANNING BOARD RECOMMENDING THAT THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS AMEND THE TEXT OF CHAPTER 78 OF THE BUNCOMBE COUNTY CODE OF ORDINANCES, THE ZONING ORDINANCE OF BUNCOMBE COUNTY, and STATEMENT OF CONSISTENCY

---

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, the provisions set forth in Division 8 of Article VI of the Buncombe County Code of Ordinances were met prior to the public hearing at which this recommendation was considered;

WHEREAS, pursuant N.C. Gen. Stat. §153A-344 and §78-719 of the Buncombe County Code of Ordinances, the Planning Board is charged with making a recommendation to the Board of Commissioners and to comment on whether the proposed amendments are consistent or inconsistent with the Comprehensive Land Use Plan;

WHEREAS, the Buncombe County Planning Board reviewed proposed amendments to the text of The Zoning Ordinance of Buncombe County, North Carolina at a regular meeting prior to January 27, 2014 with public input, and at the public hearing held during the January 27, 2014 regular meeting of the Planning Board;

WHEREAS, the Zoning Administrator certified that notices of the meeting of the Buncombe County Planning Board at which this amendment was considered have been properly mailed to members of the Planning Board, at least ten (10) days prior to the meeting and public notice of the meeting has been properly published in a newspaper having general circulation in the County as required; and

WHEREAS, the Planning Board has reviewed the proposed amendments, has heard public comment, and consulted with planning staff, and, after careful review, has determined that it is in order to approve these proposed amendments and make recommendation to the Board of Commissioners for Buncombe County that the proposed amendments be approved.

NOW THEREFORE, BE IT RESOLVED, Based on the facts as set forth above the Buncombe County Planning Board hereby finds and concludes as follows pertaining to the proposed amendments to the Zoning Ordinance of Buncombe County:

1. The proposed amendments regarding planned unit development standards are **consistent with the Buncombe County Comprehensive Land Use Plan and updates**, as the 2013 update (Section 6) indicates the following objectives:

“Given that there is a demand for structures which exceed the current height limitations in commercial districts, commercial districts should allow a specific height by right, where requests for additional height would be regulated as

Planned Unit Development/Conditional Use Permit... In addition, heights which require a Planned Unit Development/Conditional Use Permit should be subject to specific conditions which protect residential properties, viewsheds, transportation corridors, and regulated airspace. Use of the Planned Unit Development/Conditional Use Permit will allow the Board of Adjustment to specifically address the merits of each site without requiring the applicant to prove a hardship, which is difficult to do in relation to height standards;" and

"Buncombe County review processes should begin to incorporate an assessment of a project's interconnectivity potential including opportunities for coordination with other scheduled projects. Such review should be integrated with existing administrative reviews... Interconnectivity can present other desirable solutions for shared parking..."

2. The proposed amendments to the text are reasonable and in the public interest as they provide clarity within the text of the Zoning Ordinance and promote site specific, public review with regard to flexible height limitations and parking requirements for Planned Unit Developments.
3. This Planning Board hereby recommends that the Board of Commissioners amend Chapter 78 of the Buncombe County Code of Ordinances as follows:

#### **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.

4. This resolution is approved by a vote of 8 to 0 and shall be effective upon its adoption.

This the 27<sup>th</sup> day of January, 2014.

BUNCOMBE COUNTY PLANNING BOARD  
By:   
Tom Alexander, Chairman

Consented to:

Planning Board Members:

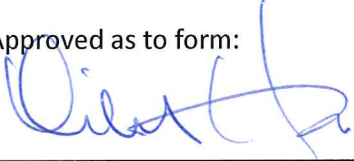
Jim Young  
Bernie Kessel  
Joe Sechler  
Josh Holmes  
Bud Sales



Josh O'Conner, Zoning Administrator

Tom Alexander  
Michelle Wood (ABSENT)  
Greg Phillips  
Catherine Martin

Approved as to form:



Michael C. Frue, Senior Staff Attorney