

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, ARTICLE VI, 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 (Amendments) 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 the proposed amendment to the text of The Zoning Ordinance of Buncombe County, North Carolina, in order to provide clarification on Board procedures and to bring consistency to certain provisions based on recent changes to the North Carolina General Statutes at a regular meeting prior to October 3, 2016, and at the public hearing held during the October 3, 2016 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 amendment, has heard public comment, and consulted with planning staff, and, after careful review, has determined that it is in order to approve the proposed amendment and make a recommendation to the Board of Commissioners for Buncombe County that the proposed amendment 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 amendment to the Zoning Ordinance of Buncombe County:

1. The proposed text amendment to modify the zoning ordinance in order to comply with recent changes enacted by the North Carolina General Assembly regarding the filing of decisions by the Board of Adjustment, is consistent with the Buncombe County Comprehensive Land Use Plan and updates, as:

The 2013 update (Section II. Plan Framework) indicates that the Land Use Plan update should facilitate the following: the adjustment of land use policies to account for changes within the regulatory environment; the streamlining of existing regulations and policies in a manner that accounts for lessons learned since the last update; the clarification of existing ambiguities in land use policies and regulations, and implementation of new policies that address land use in an integrated and comprehensive manner, and

2. The proposed amendment to the text is reasonable and in the public interest as it would provide further clarity within the regulatory framework and maintain consistency with state adopted general statutes.
3. This Planning Board hereby recommends that the Board of Commissioners amend Chapter 78 of the Buncombe County Code of Ordinances as follows:

Sec. 78-623. Appeals and applications.

(a) *Appeals and Hearings.* The board of adjustment shall hear and decide all appeals from any order, requirement, decision, or determination made by the zoning administrator as well as appeals and requests for variances pursuant to any Chapter or Article of the Code of Ordinances for Buncombe County indicating that such appeals or requests for variances shall be heard by the board of adjustment, in which cases the requests for variances shall be treated as and may be referred to as appeals as set forth herein. In deciding appeals, it may hear both those based upon an allegedly improper or erroneous interpretation of this article and those based upon alleged hardship resulting from strict interpretation of this article.

(b) *Procedure for Filing Appeals.* All statute of limitations and procedures for filing an appeal to the Board of Adjustment are set forth in N.C. Gen. Stat. §153A-345.1 or as amended.

(c) *Hearings.* All board of adjustment hearings shall be conducted in accordance with N.C. Gen. Stat. §153A-345.1 or as amended.

(d) *Decisions.* All board of adjustment decisions shall be made in accordance with N.C. Gen. Stat. §153A-345.1 or as amended.

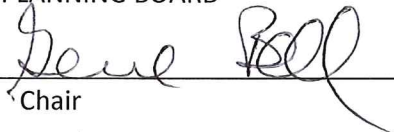
(e) *Filing of Decisions.* Decisions of the board of adjustment are effective upon filing the written decision with the Zoning Administrator or his/her designee following delivery of such decision by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy. The person required to provide notice of the decision shall certify that proper notice has been made.

~~(e)~~ (f) *Expiration of Approval.* Unless otherwise specified, an order or decision of the board of adjustment granting a conditional use permit or variance shall expire if a building permit or certificate of occupancy for such use is not obtained within two years from the date of the signed order.

4. This resolution is approved by a vote of 6 to 0 and shall be effective upon its adoption.

This the 3rd day of October, 2016.

BUNCOMBE COUNTY PLANNING BOARD

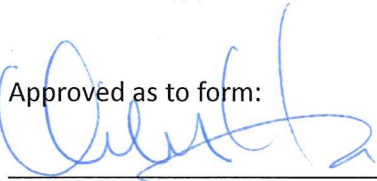
By: 
Chair

Consented to:

Planning Board Members:

- Nancy Waldrop
- David Rittenberg
- Thad B. Lewis
- Dusty Pless
- Joan M. Walker
- Robert J. Martin
- Gene Bell
- Parker Sloan
- Bob Taylor


Debbie Truempy, Zoning Administrator by Gillian Phillips

Approved as to form:

Michael Frue, Senior Staff Attorney

Consistency with the Comprehensive Land Use Plan

Planning Department Recommendation of Approval:

- The proposed text amendment to modify the zoning ordinance in order to comply with recent changes enacted by the North Carolina General Assembly regarding the filing of decisions by the Board of Adjustment, **is consistent with the Buncombe County Comprehensive Land Use Plan and updates, as:**
 - **The 2013 update (Section II. Plan Framework) indicates that the Land Use Plan update should facilitate the following: the adjustment of land use policies to account for changes within the regulatory environment; the streamlining of existing regulations and policies in a manner that accounts for lessons learned since the last update; the clarification of existing ambiguities in land use policies and regulations, and implementation of new policies that address land use in an integrated and comprehensive manner.**
- The proposed text amendment is **reasonable and in the public interest** as it would provide further clarity within the regulatory framework and maintain consistency with state adopted general statutes.

