

**BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER : ZPH2017-00012
 PROPOSED ZONING CHANGE : R-3 to EMP
 LOCATION : Properties located at and in the vicinity of 89
 Aberdeen Dr; 96, 150, 167 & 168 New
 Rockwood Rd
 PIN(s) : 9644-63-3144, 9644-62-3696, 9644-63-0052, 9644-42-
 8177, 9644-51-3806, 9644-51-4870, 9644-51-1258,
 9644-51-2424, 9644-51-3500, & 9644-51-4518
 APPLICANT : Duke Energy Progress, LLC
 OWNER(S) : Duke Energy Progress, LLC

DEPARTMENT RECOMMENDATION: **APPROVAL**

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 ANALYSIS: The applicant is requesting the rezoning of ten (10) parcels comprising approximately 23.59 acres located at and in the vicinity of 89 Aberdeen Drive, 96, 150, and 167-168 New Rockwood Road which are currently zoned Residential District (R-3) to Employment District (EMP). The subject properties are mostly vacant, with the exception of three (3) single-family homes that are remaining along New Rockwood Road. The subject properties are located in clusters to the north of New Rockwood Road at the intersection of Fisher Mill Road (3 properties – “Cluster A”) and to the north of New Rockwood Road and east of I-26 (7 properties – “Cluster B”). Both clusters of properties form contiguous connections to the existing Duke Energy coal fired power plant parcel. Access to the subject properties is largely accomplished through the existing power plant parcel to the north; however, there is direct access/frontage along some of the properties along New Rockwood Road (NCDOT maintained) and Aberdeen Drive which is a residential/privately maintained street providing access to the Lake Julian Trails subdivision. Property to the immediate north of the subject parcels is part of the Duke Energy power plant and zoned EMP while properties to the south are comprised of single-family neighborhoods mostly separated by New Rockwood Road with the exception of the Lake Julian Trails subdivision (north side of New Rockwood Road – majority zoned EMP, and minority R-3) and zoned almost exclusively R-3. Properties to the east of “Cluster A”, nearest the intersection of Fisher Mill Road, are zoned R-3 and contain a manufactured home park and a few single-family homes. Property to the west of “Cluster B” is right-of-way and is part of the I-26 interstate corridor. The applicant is seeking to rezone the subject parcels in order to facilitate the future conversion of the existing coal fired power plant to a new gas fired plant and the removal of coal ash ponds. The parcels would be specifically used to temporarily stage/store construction materials. The aforementioned use is not a permitted use in the R-3 zoning district, but would be permitted in the EMP district thus the reason for the rezoning request.

The proposed map amendment is consistent with Section 78-640(g) Employment District (EMP) of the Zoning Ordinance of Buncombe County which states, “The EMP Employment District is primarily intended to provide appropriately located sites for employment concentrations primarily for office uses, industrial uses, storage and warehousing, and wholesale trade. Such locations should currently have public water and sewer services available or be expected to have these services in the future. Only those manufacturing uses will be allowed which meet all local, state and federal environmental standards, and do not involve obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards, or other objectionable conditions which would be detrimental to the health, safety, and general welfare of the community. These areas will also include sites suitable for supportive activities such as community service, commercial service, and residential uses.”

The Land Use Constraint maps contained within the Buncombe County Comprehensive Land Use Plan 2013 Update illustrate the following conclusions regarding the subject property:

- The subject properties are contiguous to the Duke Energy power plant parcel which is directly served by Long Shoals Road (NC 146) an identified major transportation corridor.
- The subject properties are located inside of the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water and sewer currently serve the Duke Energy power plant site and residential developments and properties along New Rockwood Road.
- The subject properties are predominately located outside of areas identified as steep slope (greater than 25%); however, the northwestern portion of subject parcel ending in PIN #3806 (located in “Cluster B”) contains a small pocket of downslope area that likely exceeds the 25% threshold.
- The subject properties are located outside of high elevations greater than 2500 feet.
- The property ending in PIN #3806 contains a small area of moderate slope stability hazard concentrated within the northwest portion of the parcel – see above.
- The subject properties are not located within a FEMA Flood Hazard Area.
- Future commercial uses will likely be separated from existing low-density residential uses in the area. After construction activities associated with the new coal to gas plant conversion cease, Duke Energy plans to restore temporary materials storage and staging areas to vegetated areas and incorporate buffers and berms into the overall restoration plan which will provide a visual barrier between the Lake Julian Trails subdivision and Duke Energy owned properties.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies commercial/industrial development as “highly suggested” within reasonable proximity to major transportation corridors and “highly suggested” within combined water/sewer service areas. The Plan “highly suggests” that commercial/industrial development be located outside of steep slope areas (greater than 25%), outside of high elevations (greater than 2,500 feet) and outside of moderate and high hazard slope stability areas. Only one parcel contains a small pocket of downslope that exceeds the 25% threshold and is identified as a moderate hazard slope stability area. This area will likely be altered through grading activity which will mitigate any potential slope stability hazards. Further, the Plan “highly suggests” commercial/industrial development be separated from low-density residential uses which can be achieved by incorporating vegetated buffers and berms into future development plans as described above. The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it meets a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update. Therefore, the Buncombe County Department of Planning and Development recommends **approval** of the rezoning request as it is compatible with surrounding commercial/industrial development, adjacent EMP zoning and is readily accessed by an identified transportation corridor that is maintained by the NCDOT, and can be served by public water and sewer.

LAND USE PLAN CONSISTENCY STATEMENTS

Consistent: The proposed map amendment is consistent with the Buncombe County Land Use Plan and the associated Land Use Constraint maps contained within the Buncombe County Comprehensive Land Use Plan 2013 Update. The following information is relevant to the subject property:

- The subject properties are contiguous to the Duke Energy power plant parcel which is directly served by Long Shoals Road (NC 146) an identified major transportation corridor.
- The subject properties are located inside of the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water and sewer currently serve the Duke Energy power plant site and residential developments and properties along New Rockwood Road.
- The subject properties are predominately located outside of areas identified as steep slope (greater than 25%); however, the northwestern portion of subject parcel ending in PIN #3806 (located in “Cluster B”) contains a small pocket of downslope area that likely exceeds the 25% threshold.
- The subject properties are located outside of high elevations greater than 2500 feet.
- The property ending in PIN #3806 contains a small area of moderate slope stability hazard concentrated within the northwest portion of the parcel – see above.
- The subject properties are not located within a FEMA Flood Hazard Area.
- Future commercial uses will likely be separated from existing low-density residential uses in the area. After construction activities associated with the new coal to gas plant conversion cease, Duke Energy plans to restore temporary materials storage and staging areas to vegetated areas and incorporate buffers and berms into the overall restoration plan which will provide a visual barrier between the Lake Julian Trails subdivision and Duke Energy owned properties.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies commercial/industrial development as “highly suggested” within reasonable proximity to major transportation corridors and “highly suggested” within combined water/sewer service areas. The Plan “highly suggests” that commercial/industrial development be located outside of steep slope areas (greater than 25%), outside of high elevations (greater than 2,500 feet) and outside of moderate and high hazard slope stability areas. Only one parcel contains a small pocket of downslope that exceeds the 25% threshold and is identified as a moderate hazard slope stability area. This area will likely be altered through grading activity which will mitigate any potential slope stability hazards. Further, the Plan “highly suggests” commercial/industrial development be separated from low-density residential uses which can be achieved by incorporating vegetated buffers and berms into future development plans as described above. The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it meets a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update. Therefore, the requested zoning would **be reasonable and in the public interest** as it is compatible with surrounding commercial/industrial development, adjacent EMP zoning and is readily accessed by an identified transportation corridor that is maintained by the NCDOT, and can be served by public water and sewer. Further, incompatibility concerns between residential and commercial/industrial uses can be mitigated through the installation of vegetated buffers and berms as described above.

Inconsistent: The proposed map amendment is inconsistent with the Buncombe County Land Use Plan and the associated Land Use Constraint maps contained within the Buncombe County Comprehensive Land Use Plan 2013 Update. The following information is relevant to the subject property:

- The subject properties are predominately located outside of areas identified as steep slope (greater than 25%); however, the northwestern portion of subject parcel ending in PIN #3806 (located in “Cluster B”) contains a small pocket of downslope area that likely exceeds the 25% threshold.
- The property ending in PIN #3806 contains a small area of moderate slope stability hazard concentrated within the northwest portion of the parcel – see above.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies commercial/industrial development as “highly suggested” outside of steep slope areas greater than 25% with moderate slope stability hazards potentially present. Therefore the proposed map amendment would be inconsistent as one of the subject properties contains an area that likely exceeds the 25% slope threshold and may be prone to slope stability hazards. Therefore, the requested zoning would **not be reasonable and in the public interest.**