

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

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- 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 amendments to the text of The Zoning Ordinance of Buncombe County, North Carolina, in order to modify §78-719, Purposes in View to add clarifying language that ties adoption or rejection of zoning amendments to the comprehensive plan based on recent changes to state law adopted by the NCGA; modify §78-645(e)(3) and (4), Protected Ridge Overlay District to add clarifying language that removes references to the orientation of structures in relationship to the crest of the ridge to assist in the application of the Protected Ridge Overlay District's goals of regulating height and width of structures; and modify §78-650(c)(1)(a), Community Oriented Development to clarify and add language to the methodology for which density is calculated for Community Oriented Developments, at a public hearing held during the October 2, 2017 regular meeting of the Planning Board;
- WHEREAS, the Zoning Administrator certified that notices of the meeting of the Buncombe County Planning Board at which these amendments were 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 the proposed amendments and make recommendations 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 text amendments to modify §78-719, Purposes in View to add clarifying language that ties adoption or rejection of zoning amendments to the comprehensive plan based on recent changes to state law adopted by the NCGA; modify §78-645(e)(3) and (4), Protected Ridge Overlay District to add clarifying language that removes references to the orientation of structures in relationship to the crest of the ridge to assist in the application of the Protected Ridge Overlay District's goals of regulating height and width of structures; and modify §78-650(c)(1)(a), Community Oriented Development to clarify and add language to the methodology for which density is calculated for Community Oriented Developments are consistent with the Buncombe County Comprehensive Land Use Plan and updates, as:
  - The 2013 Update (Section 2. Plan Framework) indicates the following objectives: the adjustment of land use policies to account for changes within the regulatory environment and clarification of existing ambiguities in land use policies and regulations, and
2. The proposed amendments to the text are reasonable and in the public interest as they would meet objectives identified in the Buncombe County Comprehensive Land Use Plan Update.
3. This Planning Board hereby recommends that the Board of Commissioners amend Chapter 78 of the Buncombe County Code of Ordinances as follows:

**Sec. 78-719. Purposes in view.**

Prior to consideration by the board of commissioners of a proposed zoning amendment, the ~~The~~ planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the board of county commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the board of commissioners.

If no written report is received from the planning board within 30 days of referral of the amendment to that board, the board of county commissioners may proceed in its consideration of the amendment without the planning board report at a public hearing as provided below. The board of commissioners is not bound by the recommendations, if any, of the planning board.

Prior to adopting or rejecting any zoning amendment, the board of commissioners shall adopt a statement one of the following statements which shall not be subject to judicial review:

1. A statement approving the zoning amendment and ~~describing whether its action is~~ consistent its consistency with an adopted comprehensive plan and explaining why the

- ~~board of commissioners considers~~ the action taken ~~to be is~~ reasonable and in the public interest. ~~That statement is not subject to judicial review.~~
2. ~~A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.~~
  3. ~~A statement approving the zoning amendment and containing at least all of the following:~~
    - a. ~~A declaration that the approval is also deemed an amendment to the comprehensive plan. The board of commissioners shall not require any additional request or application for amendment to the comprehensive plan.~~
    - b. ~~An explanation of the change in conditions the board of commissioners took into account in amending the zoning ordinance to meet the development needs of the community.~~
    - c. ~~Why the action was reasonable and in the public interest.~~

#### Sec. 78-645. Protected Ridge Overlay District

(e) *Development standards.*

- (3) Height standards. The maximum building height in the Protected Ridge Overlay District shall be 25 feet when the structure is 50 or fewer vertical feet from the crest of the ridge. The maximum building height in the Protected Ridge Overlay District shall be 35 feet when the structure is more ~~then than~~ 50 vertical feet from the crest of the ridge. The vertical distance between the structure and the crest shall be the difference between the elevation (above sea level) of the highest ground level at the structure foundation and the lowest elevation of the crest of the ridge ~~perpendicular to the structure.~~
- (4) Building width standards. Building width in the Protected Ridge Overlay District shall not exceed 30 percent of the lot width as measured at the face(s) of the building oriented to the downhill section of the lot or adjacent topography ~~and parallel to the crest of the ridge.~~

#### Sec. 78-650. Community Oriented Development

(c) Development Standards

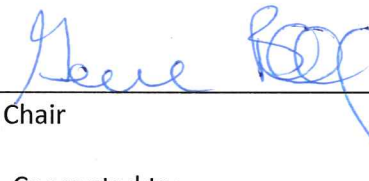
- (1)(a) *Community Oriented Development Density Table.* Density may be increased up to 250 percent of that allowed in section 78-642, according to the following table. In order to obtain any bonus in density, points must be obtained from at least two of the three principal categories within the table (Community, Environment/Transit, Economy); additional points may be obtained through providing Added Amenities. ~~For every point earned according to the density table below, project density may be increased by one (1) percent.~~ Project density will be calculated as follows: the number

of points earned will be converted to a percentage which will be the density bonus multiplier. For example, an application that earns 159 points will result in a density bonus multiplier of 159% and the density earned will be 159% of that allowed in Sec. 78-642. In the case of a fractional unit, a fraction of one-half or more will be considered a whole unit and a fraction of less than one-half will be disregarded.

4. This resolution is approved by a vote of 7 to 0 and shall be effective upon its adoption.

This the 2<sup>nd</sup> day of October, 2017.

BUNCOMBE COUNTY PLANNING BOARD

By:   
Chair

Consented to:

Planning Board Members:

Nancy Waldrop

David Rittenberg

Thad B. Lewis (ABSENT)

Dusty Pless

Joan M. Walker

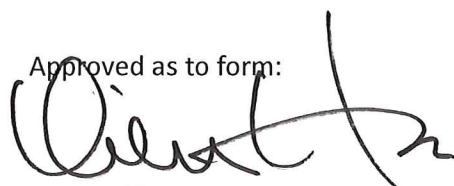
Robert J. Martin

Gene Bell

Parker Sloan (ABSENT)

Billy Taylor

  
Debbie Truempy, Zoning Administrator

Approved as to form:  
  
Michael Frue, Senior Staff Attorney