

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

CASE NUMBER:	ZPH2017-00089
PROPOSED ZONING CHANGE:	R-LD to CS
LOCATION:	1648 Brevard Rd.
PIN(s):	9635-14-5473
APPLICANT:	Heath White of Zen Tubing
OWNER:	James Goode

DEPARTMENT RECOMMENDATION: **DENIAL**

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 one (1) parcel comprising approximately 4.06 acres located at 1648 Brevard Road and currently zoned Residential Low-Density District (R-LD) to Commercial Service District (CS). The northern portion of the subject property is within the Blue Ridge Parkway Overlay District. The property is the former location of the Sandy Bottoms Park and is currently vacant. The property is used seasonally by Zen Tubing as a temporary use. No permanent structure can be located on the property as it is entirely within a FEMA designated floodway. The properties to the West, across Brevard Road, are all vacant, zoned R-LD, and protected as permanent open space by conservation easements. The property to the East, across the French Broad River, is also vacant and zoned R-LD, as is the property to the South. The Blue Ridge Parkway and the French Broad River are located to the North of the subject property. The applicant is seeking the rezoning in order to seasonally locate a shipping container on the property to serve as a bar for alcohol sales.

Staff’s main concerns with this rezoning request are that it represents a potential “spot-zoning” and that the alcohol sales would represent an intensification of a commercial use completely surrounded by a rural undeveloped area zoned residentially.

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 property is located on an identified transportation corridor.
- The subject property is located within the combined water/sewer service area.
- The subject property does contain a small amount of land identified as steep slope (greater than 25%) located adjacent to the French Broad River.
- The subject property is located outside of high elevations greater than 2500 feet.
- The subject property does contain a small amount of moderate slope stability hazard area located adjacent to the French Broad River.

- The subject property is located entirely within a FEMA Flood Hazard Area (floodway).

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies moderate commercial development as “highly suggested” within reasonable proximity to major transportation corridors, within combined water/sewer service areas, 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. The Update further “suggests” moderate commercial development be located outside of FEMA flood hazard areas.

The proposed map amendment would be detrimental to the owners, adjacent neighbors, and surrounding community as it **does not** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update. Moderate commercial development is incompatible with the surrounding rural area and the requested map amendment has a high potential to be challenged as a “spot-zoning.” Therefore, the Buncombe County Department of Planning and Development recommends **denial** of the rezoning request as it is incompatible with the surrounding area, is located entirely within a FEMA Flood Hazard Area (floodway), contains areas identified as steep slope (greater than 25%), contains moderate slope stability hazard areas, and represents the potential for a “spot zoning.”

LAND USE PLAN CONSISTENCY STATEMENTS

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 property contains areas identified as steep slope (greater than 25%).
- The subject property contains moderate slope stability hazard areas.
- The subject property is located entirely within a FEMA Flood Hazard Area (floodway).

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies moderate commercial development as “highly suggested” outside of steep slope areas (greater than 25%) and outside of moderate and high hazard slope stability areas. The Update further “suggests” moderate commercial development be located outside of FEMA flood hazard areas. The proposed map amendment would be detrimental to the owners, adjacent neighbors, and surrounding community as it **does not** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update. Moderate commercial development is incompatible with the surrounding rural area and the requested map amendment has a high potential to be challenged as a “spot-zoning.” Therefore, the requested zoning would **not be reasonable and in the public interest** as it is incompatible with the surrounding area, is located entirely within a FEMA Flood Hazard Area (floodway), contains areas identified as steep slope (greater than 25%), contains moderate slope stability hazard areas, and represents the potential for a “spot zoning.”

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 property is located on an identified transportation corridor.
- The subject property is located within the combined water/sewer service area.
- The subject property is located outside of high elevations greater than 2500 feet.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies moderate commercial development as “highly suggested” within reasonable proximity to major transportation corridors, within combined water/sewer service areas, and outside of high elevations (greater than 2,500 feet). The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it **does** meet 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**.