

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS

CASE NUMBER : ZPH2015-000079
 PROPOSED ZONING CHANGE : R-1 TO R-2
 LOCATION : 15 DIXON DRIVE
 PIN(s) : 0629.86.0726

APPLICANT/OWNER : FIRST CITIZENS BANK & TRUST
 P.O. BOX 27131/ RWN-15
 RALEIGH, NC 27611

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 one (1) parcel comprising approximately 0.49 acres from R-1 (Single Family Residential District) to R-2 (Residential District). The subject property is located between Dixon Drive and Florida Avenue and is situated within a residential neighborhood to the south of the Ridgecrest Conference Center and Interstate 40. The neighborhood contains a mix of single-family residences, mobile homes, multi-family structures and seasonal residences all zoned R-1. The subject parcel contains an existing structure that was built in 1959 and continuously operated as a 10 unit motel and restaurant. The motel/restaurant use of the property abruptly ceased operation in July, 2014 due to foreclosure. Hotels and motels are not a permitted use within the R-1 zoning district and therefore the use of the property as such has operated as an existing nonconforming use since the inception of county wide zoning in 2009. Pursuant to Section 78-657(5)d. of the Zoning Ordinance of Buncombe County, when any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. As of the writing of this report, the nonconforming use of the property has now been ceased for approximately 1.5 years but has been actively marketed as a motel and restaurant. Therefore, any further use of the property must conform to the underlying zoning requirements of the R-1 zoning district of which the allowable uses are residential in nature.

Because the structure was originally constructed as a motel and restaurant, it is materially different in size, scale and building type than the rest of the surrounding neighborhood; however, it has co-existed with the surrounding neighborhood since 1959. The use of the property as a motel existed well before the property was initially zoned R-1 in 2009. The current property owner is seeking to utilize the property as a bed and breakfast which is reviewed as a conditional use permit (CUP) in the R-2 zoning district. The use of the property for a bed and breakfast (rather than a motel and restaurant) will limit the number of allowable guests and provide a more compatible fit with the surrounding neighborhood.

The proposed map amendment is consistent with Section 78-640(c) Residential District (R-2) of the Zoning Ordinance of Buncombe County which states that the R-2 residential district is primarily intended to provide locations for residential development and supporting recreational, community service and educational uses in areas where public water and sewer services are available or will likely be provided in the future. 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 not directly adjacent to a transportation corridor but is directly accessed by Dixon Drive and Florida Avenue which are NCDOT maintained roads. The property is located within 1/4 mile of Old US 70 which is also maintained by the NCDOT.
- The subject property is not located within the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps; however the area is served by MSD sewer and Black Mountain water.
- The subject property is located outside of areas identified as steep slope (greater than 25%).
- The subject property is located in an area containing high elevations (greater than 2,500 feet), but is not located within a steep slope overlay or moderate or high slope stability hazard area.
- The subject property is **not** located within a FEMA Flood Hazard Area.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies mixed use development as “highly suggested” within reasonable proximity to major transportation corridors and within combined water/sewer service areas. While the subject property is not directly adjacent to an identified transportation corridor, it is adjacent to a paved NCDOT road (Dixon Drive) and within 1/4 mile of Old US 70 which directly accesses the Interstate 40 corridor. Further, the plan “highly suggests” that mixed use development be located outside of slope stability and flood hazard areas and “highly suggests” that this type of development be located outside of steep slope areas. 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 and adaptively reuses an existing structure that was built for the specific purpose of a lodging facility. Therefore, the Buncombe County Department of Planning and Development recommends approval of the request.

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 property is not directly adjacent to a transportation corridor but is directly accessed by Dixon Drive and Florida Avenue which are NCDOT maintained roads. The property is located within 1/4 mile of Old US 70 which is also maintained by the NCDOT.
- The subject property is not located within the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps; however the area is served by MSD sewer and Black Mountain water.
- The subject property is located outside of areas identified as steep slope (greater than 25%).
- The subject property is located in an area containing high elevations (greater than 2,500 feet), but is not located within a steep slope overlay or moderate or high slope stability hazard area.
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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 is located outside of an identified transportation corridor.
- The subject property is located in a high elevation area of greater than 2500 feet.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies mixed use development as “highly suggested” within reasonable proximity to a major transportation corridor and located outside of high elevation areas of greater than 2500 feet. Therefore the proposed map amendment would be inconsistent as the subject property is located outside of an identified transportation corridor and within an area identified as high elevation of greater than 2500 feet. Therefore, the requested zoning would **not be reasonable and in the public interest**.