

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

CASE NUMBER : ZPH2017-00008  
 PROPOSED ZONING CHANGE : R-1 TO R-3  
 LOCATION : 227 BENT CREEK RANCH ROAD  
 PIN(s) : 9625-79-5257  
 APPLICANT : JAMES AND LISA HALL  
 OWNERS : JAMES AND LISA HALL

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 applicants are requesting the rezoning of one (1) parcel comprising approximately 2.58 acres and located at 227 Bent Creek Ranch Road from R-1 (Residential District) to R-3 (Residential District). The subject property currently consists of two (2) manufactured homes clustered towards the front and southern portion of the property and served by two (2) individual driveways with direct access to Bent Creek Ranch Road. A detached garage is located behind the home closest to South Oaks Drive along the western property line. Properties to the north and west of the subject parcel have been developed as single-family homes and located primarily within the South Oaks residential subdivision and zoned R-1. Property to the east is currently vacant and zoned R-1, and properties to the south contain single-family residences and at least one existing manufactured home separated by Bent Creek Ranch Road and zoned R-1. The applicants have previously applied for a zoning permit to site an additional manufactured home on the subject property in August of 2016, but were informed by staff that manufactured homes are not permitted in the R-1 zoning district. Therefore, the applicants are now seeking a rezoning in order to place an additional manufactured home on the property. The addition of another manufactured home on the subject property would constitute a manufactured home park pursuant to the Zoning Ordinance of Buncombe County. Manufactured home parks are prohibited in the R-1 zoning district.

While there are a few examples of existing manufactured homes located within the surrounding Bent Creek Ranch Road neighborhood, the vast majority of the area consists of single-family site built homes. The closest grouping of R-3 properties is approximately 400 feet from the northern extent of the subject property and is part of the Hidden Acres Manufactured Home Park which is accessed from Pole Creasman Road. Therefore, planning staff is concerned of the potential precedent for a “spot zoning” that this request may present. “Spot zoning occurs when a relatively small tract of land is zoned differently from the surrounding area<sup>1</sup>.” Further, in order for “spot zonings” to be upheld if they are challenged, a reasonable basis for approval must be established.

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<sup>1</sup> David W. Owens, *Land Use Law in North Carolina*, Chapter 12, Spot Zoning, 115 (UNC Chapel Hill, 2011).

The proposed map amendment is **inconsistent** with the predominant development pattern of established single-family homes within the surrounding neighborhood, and while manufactured home parks and higher density developments are permissible within the R-3 zoning district, the R-1 district does not allow manufactured home parks and higher density developments. Additionally, a key recommendation of the Comprehensive Land Use Plan suggests ways to allow manufactured home placement while still respecting the character of the surrounding neighborhood.

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 approximately ½ mile from an identified major transportation corridor – Brevard Road (NC 191).
- The subject property is located slightly outside of the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water serves the subject property, but wastewater is managed through a septic system.
- The subject property is located outside of areas identified as steep slope (greater than 25%).
- The subject property is located outside of high elevations greater than 2500 feet.
- The property does not contain any areas identified as moderate or high slope stability hazards.
- 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 infill/higher density development as “suggested” within reasonable proximity to major transportation corridors and “highly suggested” within combined water/sewer service areas. The Plan “highly suggests” that infill/higher density 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 slope stability areas. Infill/higher density development is suggested outside of flood hazard areas.

The proposed map amendment would be detrimental to the adjacent neighbors, and surrounding community as it negatively impacts a number of stated goals as identified in the Buncombe County Comprehensive Land Use Plan Update and is inconsistent with the overall intent of the existing R-1 Zoning District as noted in the Zoning Ordinance of Buncombe County. Therefore, the Buncombe County Department of Planning and Development recommends **denial** of the rezoning request as it is incompatible with the surrounding residential single-family nature of the area and may constitute a “spot zoning” as described above.

**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 is located approximately ½ mile from an identified major transportation corridor – Brevard Road (NC 191).
- The subject property is located slightly outside of the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water serves the subject property, but wastewater is managed through a septic system.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies infill/higher density development as “suggested” within reasonable proximity to major transportation corridors and “highly suggested” within combined water/sewer service areas. The proposed map amendment would be detrimental to the adjacent neighbors, and surrounding community as it negatively impacts a number of stated goals as identified in the Buncombe County Comprehensive Land Use Plan Update and is inconsistent with the overall intent of the existing R-1 Zoning District as noted in the Zoning Ordinance of Buncombe County. Therefore, the requested zoning would **not be reasonable and in the public interest** as it is incompatible with the surrounding residential single-family nature of the area and may constitute a “spot zoning” as described in the staff analysis.

**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 outside of areas identified as steep slope (greater than 25%).
- The subject property is located outside of high elevations greater than 2500 feet.
- The property does not contain any areas identified as moderate or high slope stability hazards.
- The subject property is not located within a FEMA Flood Hazard Area.

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