

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

CASE NUMBER:	ZPH2018-00044
PROPOSED ZONING CHANGE:	R-3 Residential to Commercial Service CS
LOCATION:	38 Dry Ferry Road
PIN(s):	962690335500000
APPLICANT:	Jesse Gardner, Civil Design Concepts
OWNER:	Sarah & Peter Haile

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:

Jesse Gardner (applicant), on behalf of Sarah and Peter Haile (owners), has applied to rezone one (1) parcel identified as tax lot PIN 9626-90-3355, which is currently zoned R-3 Residential, to CS-Commercial Service. The subject property is located along Ferry and Dry Ferry Roads and is approximately 1.9 acres in size.

Statements of District Intent

<i>Residential District (R-3).</i> The R-3 Residential District is primarily intended to provide locations for a variety of residential development depending upon the availability of public water and sewer services. Some areas within the R-3 Residential District will have no public water and sewer services available and will thus be suitable primarily for single-family residential units on individual lots and mobile homes on individual lots. Other areas within the district will have public water and/or sewer service available and will thus be suitable for higher density uses such as multifamily residential units, planned unit developments, and mobile home parks. The R-3 district also provides for various recreational, community service and educational uses that will complement the residential development.	<i>Commercial Service District (CS).</i> The CS Commercial Service District is primarily intended to provide suitable locations for clustered commercial development to encourage the concentration of commercial activity in those specified areas with access to major traffic arteries, to discourage strip commercial development, and to allow for suitable noncommercial land uses. Such locations should currently have water and sewer services or be expected to have such services available in the future. This CS Commercial Service District may be applied to suitable areas adjacent to existing commercial concentration to allow for their expansion.
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Staff has no concerns with spot zoning, given that the property is contiguous to existing CS zoning along its eastern and western boundaries. However, note that if approved, this rezoning would break the

current R-3 district in which the subject property is located, into two small and disconnected R-3 districts.

The subject property is currently developed as a low-density, single-family residence. It abuts R-3 zoning along its northern and southern boundaries, and CS zoning along its eastern and western boundaries. Adjacent land uses are low-density residential to the north and south, vacant / undeveloped to the east, and commercial (automobile dealership) to the west.

The proposed rezoning is supported by the following considerations, as outlined in Figure 20. Appropriate Development Types, of the Buncombe County Comprehensive Land Use Plan 2013 Update:

- The subject property is located within the combined water/sewer service area.
- The subject property is not identified as steep slope (greater than 25%).
- The subject property is not located in an area of high elevation greater than 2,500 feet.
- The subject property is not located within high or moderate slope stability hazard area.
- The subject property is located outside a FEMA Flood Hazard Area.

The proposed rezoning is not supported by the following considerations, as outlined in Figure 20. Appropriate Development Types, of the Buncombe County Comprehensive Land Use Plan 2013 Update:

- The subject property is not separated from low-density residential uses.
- The subject property is not located on an identified major transportation corridor, although it lies within 200 feet of NC Highway 191 (Brevard Road), and is located off Dry Ferry Road (SR 3481), which is an NCDOT-maintained Road

BUNCOMBE COUNTY COMPREHENSIVE LAND USE PLAN 2013				SECTION 6: ISSUES AND RECOMMENDATIONS			
— Not Required 👉 Suggested ★ Highly Suggested	Reasonable proximity to major transportation corridors	Reasonable proximity to infrastructure (combined water/sewer service area)	Outside of steep slope areas (25% +)	Outside of high elevations (2500' +)	Outside of moderate and high slope stability hazards	Outside of flood hazard areas	Separation from low-density residential uses
OTHER							
Institutional	★	★	★	★	★	👉	👉
Public Service	★	★	★	★	★	👉	👉
COMMERCIAL							
Neighborhood-Scale Commercial	👉	👉	★	★	★	👉	👉
Moderate Commercial	★	★	★	★	★	👉	★
Intense Commercial	★	★	★	★	★	👉	★
INDUSTRIAL							
Manufacturing	★	★	★	★	★	👉	👉
Mining/Extracting/Refining	★	★	★	★	★	👉	★
Other Intense Uses	👉	👉	★	★	★	👉	★

Figure 20. Appropriate Development Types

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The proposed zoning map amendment would **not** be detrimental to the owners, adjacent neighbors, and surrounding community as it does adhere to the aforementioned guidance from the Buncombe County Comprehensive Land Use Plan Update. Staff recommends **approval** of the proposed zoning map amendment.

LAND USE PLAN CONSISTENCY STATEMENTS

The following consistency statements are provided to support the Board’s findings to approve or deny an application.

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, specifically:

- The subject property is located within the combined water/sewer service area.
- The subject property is not identified as steep slope (greater than 25%).
- The subject property is not located in an area of high elevation greater than 2500 feet.
- The subject property is not located within the moderate slope stability hazard area.
- The subject property is located entirely outside a FEMA Flood Hazard Area.

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

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, specifically:

- The subject property is not separated from low-density residential uses.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update, identifies commercial uses as “suggested” and “highly suggested” when separated from low-density residential uses. The proposed map amendment would be detrimental to the owners, adjacent neighbors, and surrounding community as it **does not** meet a goal as identified in the Buncombe County Comprehensive Land Use Plan Update. Therefore, the requested zoning would **not be reasonable and in the public interest** as it is not separated from low-density residential uses.

RESOLUTION OF PLANNING BOARD RECOMMENDATION TO THE BUNCOMBE COUNTY BOARD OF
COMMISSIONERS ON APPLICATION FOR PROPOSED ZONING MAP AMENDMENT

WHEREAS, the Zoning Administrator for Buncombe County has received an application (ZPH2018-00044) requesting an amendment to The Official Zoning Map of Buncombe County on the parcel identified as follows and as shown in Figure A attached:

Tax Lot PIN 9626-90-3355-00000 (38 Dry Ferry Road);

The applicant is requesting that the zoning designation of this parcel be changed from Residential District (R-3) to Commercial Service (CS);

WHEREAS, the Zoning Administrator certified that notices of the meeting of the Buncombe County Planning Board at which this application was considered have been properly mailed to members of the Planning Board, the applicant(s), owner(s), and all adjoining property owners at least ten (10) days prior to the meeting; public notice of the meeting has been properly published in a newspaper having general circulation in the County; and notices of the public hearing concerning this zoning map amendment have been prominently posted as required;

WHEREAS, pursuant to 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 requested zoning change is consistent or inconsistent with the Buncombe County Comprehensive Land Use Plan and Updates and on whether the requested zoning change is reasonable and in the public interest; and

That based upon the facts as set forth above and having reviewed the application, heard public comment, and consulted with planning staff, the Buncombe County Planning Board hereby finds and concludes as follows pertaining to the proposed amendment to the Zoning Map as set forth in said application:

1. That said zoning change is **consistent** with the Buncombe County Comprehensive Land Use Plan and Updates because the 2013 Update (Figure 20. Appropriate Development Types) identifies commercial development as “highly suggested” within reasonable proximity to major transportation corridors; within the combined water/sewer service area; outside of steep slope areas; outside of high elevations; outside of moderate and high slope stability hazard areas; and further, “suggests” commercial development be located outside of FEMA flood hazard areas;
2. 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.
3. Therefore said zoning change would **be reasonable and in the public interest**.

NOW, THEREFORE, BE IT RESOLVED that upon motion and second, the Buncombe County Planning Board hereby recommends as follows:

1. That the Board of Commissioners **approve** this application for a zoning change to tax lot PIN 9626-90-3355-00000 (38 Dry Ferry Road);

as shown in Figure A, from Residential District (R-3) to Commercial Service (CS).

Adopted by a vote of 7 to 0.

This the 5th day of November, 2018.

BUNCOMBE COUNTY PLANNING BOARD

By: _____

Chair

Consented to:

Planning Board Members:

Gene Bell

Thad B. Lewis

Robert J. Martin

Dusty Pless

David Rittenberg

Parker Sloan

Billy Taylor **ABSENT**

Nancy Waldrop

Joan M. Walker **ABSENT**

Debbie Truempy, Zoning Administrator

Approved as to form:

Brandon Freeman, Staff Attorney

Figure A

