



**ZONING MAP AMENDMENT**  
**STAFF ANALYSIS**  
*Legislative Hearing*

**LOCATION MAP**



**CASE NUMBER:** ZPH2019-00004

**PROPERTY INFORMATION**

**PIN(s):** 9639-21-7137; 9639-21-7245  
**Addresses:** 7 & 9 Arbor St., & No Address  
**Owner(s):** Luis and Guillermo Hernandez

**REZONING REQUEST**

**Applicant:** Laura Smith, Mountain Movers, LLC  
**Existing Zoning:** CS Commercial Service  
**Proposed Zoning:** R-3 Residential

**PUBLIC NOTICE**

Notice in AVL Citizen Times legal ad: 2/20/19  
Notice mailed to owners within 1,000 ft: 2/22/19  
Notice on BC Website: 2/22/19

**STAFF RECOMMENDATION**

**APPROVAL**

**SUMMARY OF REQUEST**

Laura Smith of Mountain Movers, LLC (applicant), on behalf of Luis and Guillermo Hernandez (owners), has applied to rezone two (2) parcels of land identified as tax lot PINs 9639-21-7245 and 9639-21-7137, which are currently zoned CS-Commercial Service, to R-3 Residential. The subject properties are located on Arbor Street and Emma Road and are approximately 0.44 acres in size.

**A. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT**

**EXISTING ZONING DISTRICT:**

*Commercial Service District (CS).*

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.

**PROPOSED ZONING DISTRICT:**

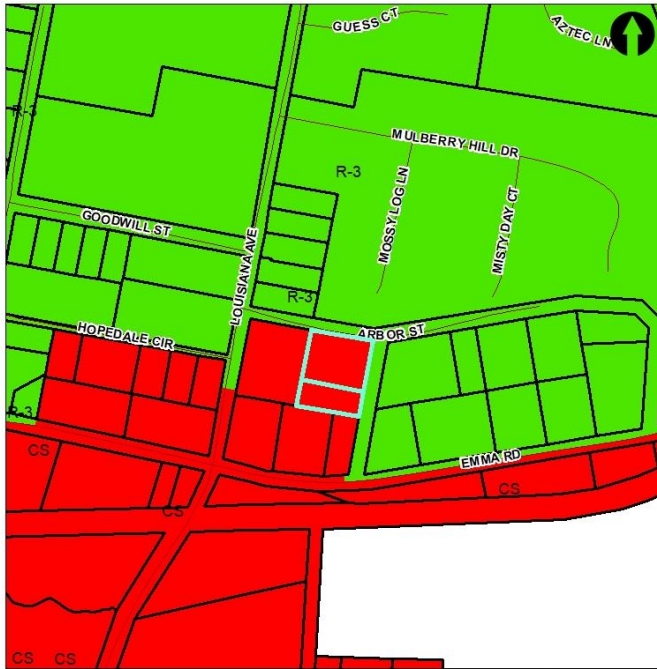
*Residential District (R-3).*

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.

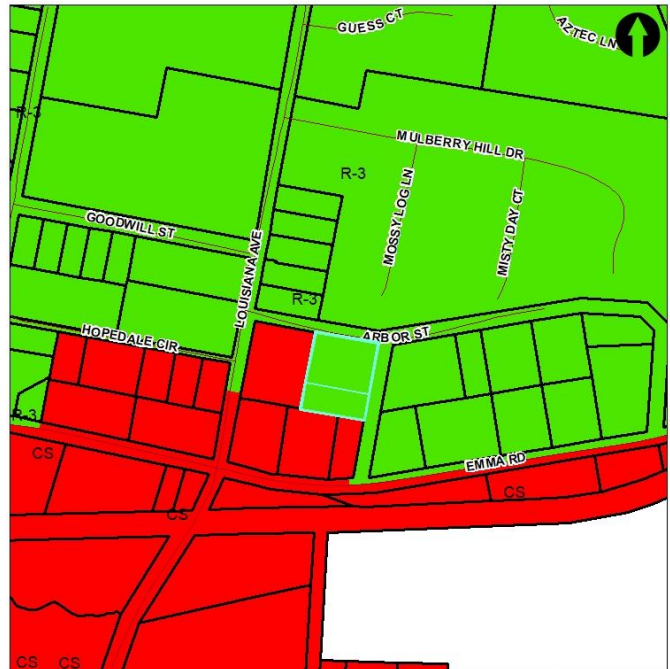
## B. SPOT ZONING ANALYSIS

Staff has no concerns with spot zoning, given that the properties are contiguous to existing R-3 zoning along the north and east boundaries. The parcels abut CS zoning along the west and south boundaries.

### EXISTING ZONING DISTRICT



### PROPOSED ZONING DISTRICT



## C. COMPREHENSIVE LAND USE PLAN CONSISTENCY (See Figure 20 on page 4)

1. **CONSISTENT:** The change is consistent with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:

- 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 not located within a FEMA Flood Hazard Area.
- The subject property is within a reasonable proximity to major transportation corridors: it is within  $\frac{3}{4}$  of a mile from Patton Avenue, and within 150 feet of N Louisiana Ave. (SR 1332), a state-maintained Road.
- The subject property is not located near low-density residential uses.

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.

2. **INCONSISTENT:** The change is inconsistent with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:

- None Identified

## D. OTHER COMPATIBILITY

### BC Strategic Plan Priorities:

Buncombe County lists Affordable Housing as one of its Strategic Priorities. The current CS zoning district does not allow manufactured housing as a permitted use, though other types of single and multi-family housing are allowed in the CS District. Rezoning the parcel to R-3 would allow the full spectrum of housing choice types, including manufactured homes which may be considered an affordable housing option for some.

## E. NEIGHBORHOOD CONSISTENCY

### 1. CURRENT DEVELOPMENT TYPES:

The subject properties are currently developed as single family residences and a vacant parcel. Adjacent land uses include single family residential to the west and south, vacant/undeveloped land to the south, and individual manufactured homes and a manufactured home park to the north and east. Non-adjacent parcels to the south along Emma Road consist of some commercial businesses.

### 2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from CS to R-3 zoning would reduce the types of uses allowed under the current zoning, which currently includes both commercial and residential uses, to primarily residential uses. This change would also allow manufactured housing as a permitted use which is currently prohibited in the existing CS district.

### 3. NEIGHBORHOOD CONSISTENCY:

Residential development of the lots, including for manufactured housing, would be consistent with the existing neighborhood character. The requested change would result in a reduction in the maximum height allowed for new structures, and an increase in the setback requirements compared to the existing CS zoning.

Additionally, the lots are accessed from Arbor Street (private), and an unopened right-of-way, and do not have direct frontage on a state maintained road. The existing road access quality may indicate greater compatibility with residential uses than with commercial development.

## F. DISTRICT DIMENSIONAL STANDARD COMPARISON

	Existing District:	Proposed District:
	CS- Commercial	R-3 Residential
Minimum Lot Size	5,000 SF (Public water/sewer) 30,000 SF (Septic system)	6,000 SF (Public water/sewer) 30,000 SF (Septic system)
Max dwelling units per acre	12	12
Setbacks (Front/Side/Rear)	10/10/10 (Water/sewer) 10/10/10 (Septic)	10/7/15 (Water/sewer) 20/10/10 (Septic)
Max height	50 feet	35 feet

Figure 20. Buncombe County Comprehensive Land Use Plan, Section 6: Issues and Recommendations Page

	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
— Not Required							
👉 Suggested							
★ Highly Suggested							
<b>RESIDENTIAL</b>							
Low-Density Residential	—	—	—	—	—	★	N/A
Single-Family/Duplex	👉	👉	👉	👉	★	★	N/A
Multi-Family	★	★	👉	👉	★	★	👉
<b>PLANNED COMMUNITY OR DEVELOPMENT</b>							
Mixed Use Development	★	★	★	★	★	👉	👉
Infill/ Higher Density	👉	★	★	★	★	★	—
Large Lot/Lower Density	👉	👉	👉	👉	★	★	N/A
Commercial/Industrial	★	★	★	★	★	★	★
<b>RECREATIONAL</b>							
Resort	👉	👉	👉	👉	👉	★	—
Conference Centers	👉	👉	👉	👉	👉	★	—
Outdoor Recreation	—	—	—	—	—	👉	★
<b>OTHER</b>							
Institutional	★	★	★	★	★	👉	👉
Public Service	★	★	★	★	★	👉	👉
<b>COMMERCIAL</b>							
Neighborhood-Scale Commercial	👉	👉	★	★	★	👉	👉
Moderate Commercial	★	★	★	★	★	👉	★
Intense Commercial	★	★	★	★	★	👉	★
<b>INDUSTRIAL</b>							
Manufacturing	★	★	★	★	★	👉	👉
Mining/Extracting/Refining	★	★	★	★	★	👉	★
Other Intense Uses	👉	👉	★	★	★	👉	★



## BOARD BASIS FOR DECISION MAKING

The Board must determine if there is a reasonable basis for the requested change in light of its effect on all involved including the following considerations:

- The requested change does not directly or indirectly result in the creation of spot zoning
- Size of the tract in question
- Compatibility of the change with existing Comprehensive Land Use Plan
- Benefits and detriments resulting from the change for the owner of the newly zoned property, his neighbors, and the surrounding community
- Relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts

*References: Good Neighbors of South Davidson v. Town of Denton, 355 N.C. 254, 559 S.E.2d 768 (2002); Chrismon v. Guilford County, 322 N.C. 611, 370 S.E.2d 579 (1988)*

## 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:

- Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update* lists single-family residential development as "suggested" within reasonable proximity to major transportation corridors; within the combined water/sewer service area; outside of steep slope areas; outside of high elevations; and further "highly suggests" that it be located outside of moderate and high slope stability hazard areas; and 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:

- None identified
- 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.
- Therefore, the requested zoning **would not be reasonable and in the public interest**.