



<b>LOCATION MAP</b>	<b>CASE NUMBER: ZPH2019-00024</b>
	<b>A. PROPERTY INFORMATION</b> <b>PIN(s):</b> 9688-29-9384-00000 9688-29-8360-00000 <b>Addresses:</b> 2121 US Highway 70 <b>Owner(s):</b> Brenda Henning / Henning Rental Properties Buncombe LLC
	<b>B. REZONING REQUEST</b> <b>Applicant:</b> Brenda Henning / Henning Rental Properties Bunc LLC <b>Existing Zoning:</b> R-3 Residential <b>Proposed Zoning:</b> NS Neighborhood Service
	<b>C. PUBLIC NOTICE</b> PB Notice in AVL Citizen Times legal ad: 5/8/19 PB Notice mailed to owners within 1,000 ft: 5/8/19 PB Physical posting: 5/10/19 PB Notice on BC Website: 5/6/19 PB Hearing: 5/20/19 BOC Notice in AVL Citizen Times legal ad: 6/7/19 & 6/14/19 BOC Notice mailed to owners within 1,000 ft: 6/5/19 BOC Physical posting: 6/6/19 BOC Notice on BC Website: 6/5/19 BOC Hearing: 6/18/19
<b>D. RECOMMENDATION</b> Buncombe County Planning Board recommends <u>approval as submitted</u> by unanimous vote on May 20, 2019. Staff recommends approval; see Section K, below.	

<b>E. SUMMARY OF REQUEST</b> Brenda Henning of Henning Rental Properties Buncombe LLC has applied to rezone two (2) parcels of land identified as tax lot PINs 9688-29-9384 and 9688-29-8360 (2121 US 70 Hwy and 1 Old Buckeye Cove Rd), which are currently zoned R-3 Residential, to NS- Neighborhood Service. Basic Property Information: <ul style="list-style-type: none"> <li>• PIN 9688-29-8360-00000, 0.29 acres, 8.88% average natural slope, fronting along US Highway 70 and Old Buckeye Cove Road (SR 2743).</li> <li>• PIN 9688-29-9384-00000, 0.23 acres, 7.81% average natural slope, fronting along US Highway 70.</li> </ul> The subject properties are serviceable by public water & wastewater utilities.
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**F. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT**

**EXISTING 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.

**PROPOSED ZONING DISTRICT:**

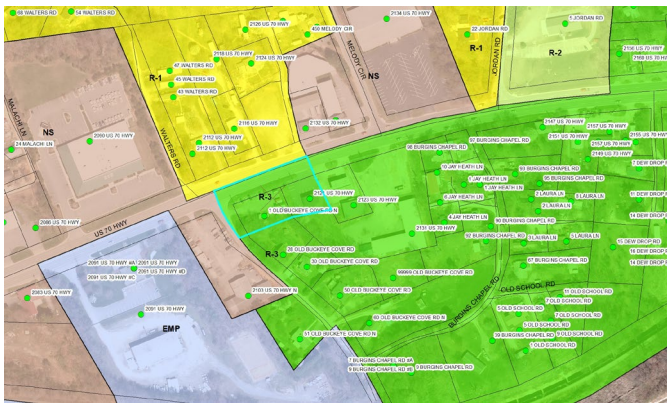
*Neighborhood Services (NS).*

The NS Neighborhood Service District is primarily intended to provide suitable locations for limited, neighborhood-oriented, commercial, business, and service activities in close proximity to major residential neighborhoods. The NS Neighborhood Service District is designed to allow for a mix of residential, commercial, business and service uses in limited areas along major traffic arteries and at key intersections leading to residential neighborhoods in order to provide such service to the residents of that particular neighborhood. As such, the type of uses allowed and the standards established for development in this NS neighborhood service district should be compatible with the residential character of the area and should neither add to traffic congestion; nor cause obnoxious noise, dust, odors, fire hazards, or lighting objectionable to surrounding residences; nor should they visually detract from the overall appearance of the neighborhood. The NS Neighborhood Service District should currently have water and sewer services or be expected to have such services in the foreseeable future.

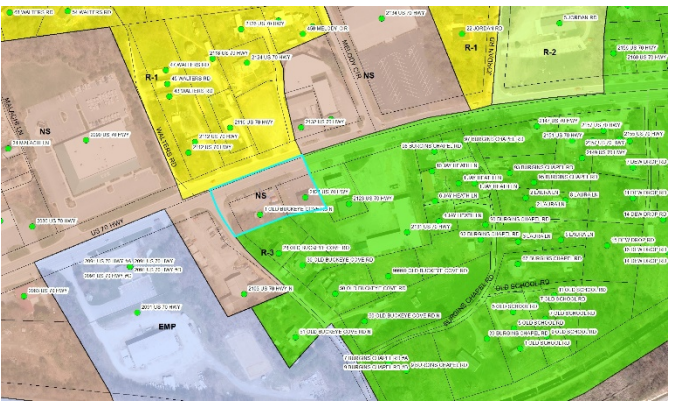
**G. SPOT ZONING ANALYSIS**

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

**EXISTING ZONING DISTRICT**



**PROPOSED ZONING DISTRICT**



## H. 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:
  - The subject property fronts upon US Highway 70.
- The subject property is not located near low-density residential uses
  - The subject property is within an R-3 Residential zoning district at the present time, and abuts (south) a medium density residential district off Old Buckeye Cove and Burgins Chapel roads.

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.

## I. OTHER COMPATIBILITY

Objective: Increase the number of new jobs in Buncombe County. <sup>1</sup>

<sup>1</sup> [Buncombe County Sustainability Plan Update](#). Economy section; Robust Local Economy goal, Objectives. Adopted March, 2017. Page 40.

## J. NEIGHBORHOOD CONSISTENCY

### 1. CURRENT DEVELOPMENT TYPES:

The subject property is currently used for commercial purposes that predate zoning in this area of Buncombe County. It abuts (south) a medium density residential district off Old Buckeye Cove and Burgins Chapel roads. Adjacent and nearby properties abutting US Highway 70 are currently developed for commercial uses, and a number of properties in close proximity to the subject property have recently received permits for new commercial uses and commercial redevelopment.



2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from R-3 to NS zoning would significantly expand the range of non-residential land uses that could be permitted upon the subject property.

See allowable use table excerpt, attached.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

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

4. NEIGHBORHOOD CONSISTENCY:

Commercial / industrial development upon the subject property would be consistent with the majority of properties fronting along US Highway 70.

**K. STAFF RECOMMENDATION COMMENTS**

The subject properties, and other properties fronting on US Highway 70 in proximity of the subject property, are currently developed for commercial uses; many of these uses predate zoning.

Staff recommends application of CS zoning upon the subject property.

**ARTICLE VI. - BUNCOMBE COUNTY ZONING ORDINANCE** [\[5\]](#)

**Sec. 78-641. - Permitted uses.**

**(a) Permitted use table. Uses are permitted in the various zoning districts pursuant to Table 1.**

**EXCERPT**

<b>Table 1—Permitted Use Table</b>		
<b>P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted</b>		
<b>Land Use</b>	<b>Districts</b>	
	<b>R-3</b>	<b>NS</b>
Single-family residential dwelling, including modular	P	P
Two residential dwelling units (attached or detached)	P	P
Community oriented developments	P	P
Multifamily residential dwelling units (no more than eight units in no more than four buildings)	P	P
HUD-labeled manufactured homes—Residential	P	
Manufactured home parks (8 units or fewer)	P	
Manufactured home parks (more than 8 units)	C	
Planned unit developments, residential or mixed use	C	C
Planned unit developments, commercial		
Subdivisions	P	P
Subdivisions, alternative path hillside development	P	P
Subdivisions, conservation development	P	P
Accessory buildings	P	P
Adult entertainment establishments		
Airports		
Amusement parks		
Animal hospitals and veterinarian clinics		P
Asphalt plants		
Aviation-related services and facilities		
Banks and other financial institutions		P
Bed and breakfast inns (10 occupants or less)	P	P
Bed and breakfast inns (more than 10 occupants)	P	P
Cargo/freight terminals, operations and activities		
Cemetery	P	
Chip mills		
Clubs or lodges	P	P
Concrete plants		
Day nursery and private kindergarten (up to 8 students)	SR	P
Day nursery and private kindergarten (more than 8 students)	C	P
Family care home	P	
Funeral homes		
Government protective services	P	P
Greenhouses, commercial (nursery, lawn and garden products)		P
Group homes	P	P

Hazardous waste facilities		
Health care facilities	C	
Home occupations	P	P
Hotels and motels		
Incinerators		
Junkyards		
Kennels	C	P
Laundry and dry cleaning services		P
Libraries	P	P
Manufacturing and processing operations		
Medical clinics	C	P
Mining and extraction operations		
Motor sport facilities		
Motor vehicles impoundment lot or tow yard		
Motor vehicles maintenance and repair		C
Motor vehicles sales and rental		
Motor vehicles service stations (fueling stations)		P
National guard and reserve armories		
Nightclubs, bars and pubs		P
Personal landing strips	C	
Physical fitness centers	C	P
Places of worship	P	P
Postal and parcel delivery services		P
Printing and lithography		
Professional and business offices and services		P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	P	P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	C	P
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C
Radio, TV and telecommunications towers	C	
Recreation use, governmental	P	P
Recreation use, non-governmental	C	C
Repair services (electrical and appliances)		P
Restaurants, eating establishments and cafés		P
Retail trade, commercial services, sales and rental of merchandise and equipment (inside building with no outside sales storage)		P
Retail trade, commercial services, sales and rental of merchandise and equipment		
Rooming house	P	P
Schools, public and private	C	C
Schools—Vocational, business and special schools		

Shooting ranges—Outdoor Commercial		
Slaughtering plants		
Solid waste facilities—Landfills, transfer stations, materials recovery		
Storage and warehousing		
Theaters		
Travel trailers (no more than 180 days per calendar year)	P	
Travel trailer parks	C	
Vacation rentals	P	P
Vacation rental complex	C	C
Wholesale sales		

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 commercial development as “suggested” and “highly suggested” within reasonable proximity to major transportation corridors and the combined water/sewer service area; “highly suggested” outside areas of steep slope, high elevations, and moderate and high slope stability hazard; “suggested” outside of outside of FEMA flood hazard areas; and “suggested” and “highly suggested” when separated from low-density residential 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 requested zoning **would not be reasonable and in the public interest** for the following reason(s):

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