



LOCATION MAP	CASE NUMBER: ZPH2019-00023
	A. PROPERTY INFORMATION
	PIN(s): 9607-94-626-000000 Addresses: 67 Rutherford Rd Owner(s): Carolyn Johannessen / Advanced Properties NC LLC
	B. REZONING REQUEST
	Applicant: Carolyn Johannessen / Advanced Properties NC LLC Existing Zoning: R-3 Residential Proposed Zoning: CS Commercial Service
	C. PUBLIC NOTICE
	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: 6/18/19/19
D. RECOMMENDATION	
Buncombe County Planning Board recommends <u>approval as submitted</u> by unanimous vote on May 20, 2019. Staff recommends approval; see Section K, below.	

E. SUMMARY OF REQUEST
<p>Carolyn Johannessen of Advanced Properties NC LLC has applied to rezone one (1) parcel of land identified as tax lot PIN 9607-94-6260 (67 Rutherford Rd) which is currently zoned R-3 to CS-Commercial Service.</p> <p>The subject property is approximately 1.53 acres in size, and is currently vacant.</p> <p>The topography of the subject property is gently sloping, with an average natural slope of 5.93.</p> <p>The subject property is serviceable by public water & wastewater utilities.</p> <p>The subject property is located along Rutherford Road, an improved NCDOT street that currently receives commercial / industrial vehicle traffic. It lies 1,265 feet / 0.24 miles from Smokey Park Highway / US Highway 19.</p>

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:

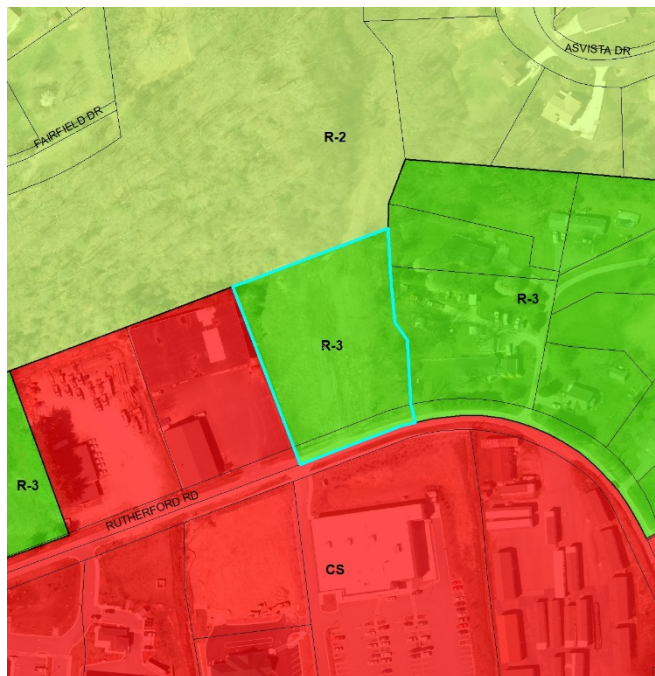
Commercial Service District (CS).

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.

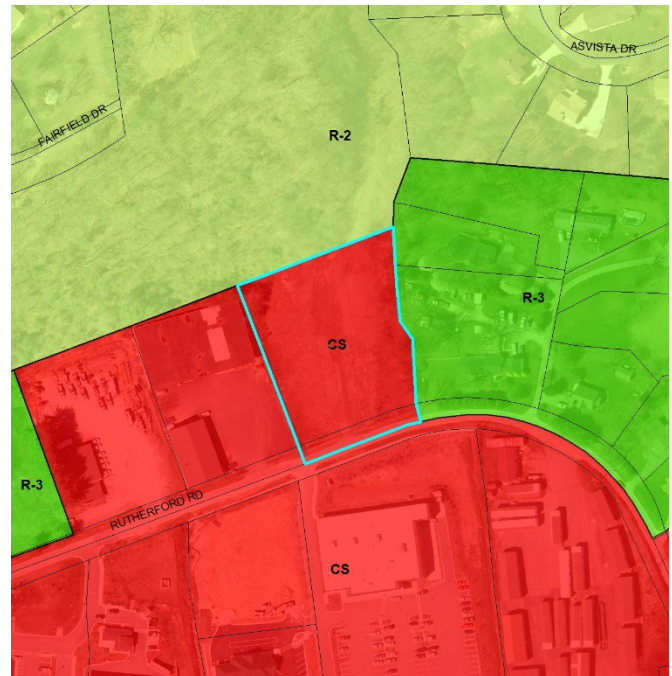
G. SPOT ZONING ANALYSIS

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 is within 1,265 feet / 0.24 miles from Smokey Park Highway / US Highway 19.
- The subject property is not located near low-density residential uses
 - The subject property is located within an R-3 zoning district (extending eastward), which, along with R-2, is the County's highest density residential zoning district. The R-3 zoned area in proximity to the subject property (20 acre area), currently contains 34 dwelling units at a density of 1.7 dwellings per acre. Maximum "by right" development potential in this district is 240 dwellings at a density of 12 dwellings per acre.
 - The subject property abuts R-2 zoning along its northern boundary. The R-2 zoned area in proximity to the subject property (22 acre area), currently contains 12 dwelling units at a density of 0.5 dwellings per acre. Maximum "by right" development potential in this district is 264 dwellings at a density of 12 dwellings per acre.

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. ¹

¹ 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 vacant. It abuts CS zoning and commercial / industrial uses along its western boundary; R-2 zoning and residential / undeveloped uses along its northern boundary; R-3 zoning and residential / undeveloped uses along its eastern boundary; and CS zoning and commercial / industrial uses along its southern boundary (across Rutherford Road).

Of the 20 properties that front upon Rutherford Road, the subject property is one of six R-3 zoned properties, all located on the north side of Rutherford Road. The remaining 14 properties are zoned CS, and are currently developed for commercial and industrial uses.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from R-3 to CS 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:

	Proposed District:	Existing 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

4. NEIGHBORHOOD CONSISTENCY:

Commercial / industrial development upon the subject property would be consistent with the majority of properties fronting along Rutherford Road.

However, the majority of commercial / industrial development is located on the south side of Rutherford Road, and the predominant land use type on the north side of Rutherford Road is single-family residential.

K. STAFF RECOMMENDATION

The subject property and other properties fronting the north side of Rutherford Road are appropriately situated (in terms of utility access, proximity to Smokey Park Highway, and topography) for nonresidential development.

However, these parcels function as a transitional area between residential (north) and nonresidential (south) development types. If not for the fact that four properties fronting the north side of Rutherford Road are currently zoned CS and developed for commercial / industrial use, Neighborhood Services (NS) would be the most appropriate zoning district for properties fronting the north side of Rutherford Road.

In the absence of a broader evaluation of zoning along Rutherford Road, 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.

Table 1—Permitted Use Table – EXCERPT –

P = Permitted
 C = Allowed as Conditional Use
 SR = Permitted with Special Requirements
 Blank Space = Not Permitted

Uses	Districts	
	R-3	CS
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		C
Subdivisions	P	P
Subdivisions, alternative path hillside development	P	P
Subdivisions, conservation development	P	P
Accessory buildings	P	P
Adult entertainment establishments		C
Airports		
Amusement parks		C
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		P
Cemetery	P	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		P

Government protective services	P	P
Greenhouses, commercial (nursery, lawn and garden products)		P
Group homes	P	P
Hazardous waste facilities		
Health care facilities	C	P
Home occupations	P	P
Hotels and motels		P
Incinerators		
Junkyards		
Kennels	C	P
Laundry and dry cleaning services		P
Libraries	P	P
Manufacturing and processing operations		P
Medical clinics	C	P
Mining and extraction operations		
Motor sport facilities		
Motor vehicles impoundment lot or tow yard		SR
Motor vehicles maintenance and repair		P
Motor vehicles sales and rental		P
Motor vehicles service stations (fueling stations)		P
National guard and reserve armories		P
Nightclubs, bars and pubs		P
Personal landing strips	C	C
Physical fitness centers	C	P
Places of worship	P	P
Postal and parcel delivery services		P
Printing and lithography		P
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	C
Recreation use, governmental	P	P

Recreation use, non-governmental	C	P
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		P
Rooming house	P	P
Schools, public and private	C	P
Schools—Vocational, business and special schools		P
Shooting ranges—Outdoor Commercial		
Slaughtering plants		
Solid waste facilities—Landfills, transfer stations, materials recovery		
Storage and warehousing		P
Theaters		P
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		P

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							
RESIDENTIAL							
Low-Density Residential	—	—	—	—	—	★	N/A
Single-Family/Duplex	🍷	🍷	🍷	🍷	★	★	N/A
Multi-Family	★	★	🍷	🍷	★	★	🍷
PLANNED COMMUNITY OR DEVELOPMENT							
Mixed Use Development	★	★	★	★	★	🍷	🍷
Infill/ Higher Density	🍷	★	★	★	★	★	—
Large Lot/Lower Density	🍷	🍷	🍷	🍷	★	★	N/A
Commercial/Industrial	★	★	★	★	★	★	★
RECREATIONAL							
Resort	🍷	🍷	🍷	🍷	🍷	★	—
Conference Centers	🍷	🍷	🍷	🍷	🍷	★	—
Outdoor Recreation	—	—	—	—	—	🍷	★
OTHER							
Institutional	★	★	★	★	★	🍷	🍷
Public Service	★	★	★	★	★	🍷	🍷
COMMERCIAL							
Neighborhood-Scale Commercial	🍷	🍷	★	★	★	🍷	🍷
Moderate Commercial	★	★	★	★	★	🍷	★
Intense Commercial	★	★	★	★	★	🍷	★
INDUSTRIAL							
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 and industrial 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):
