


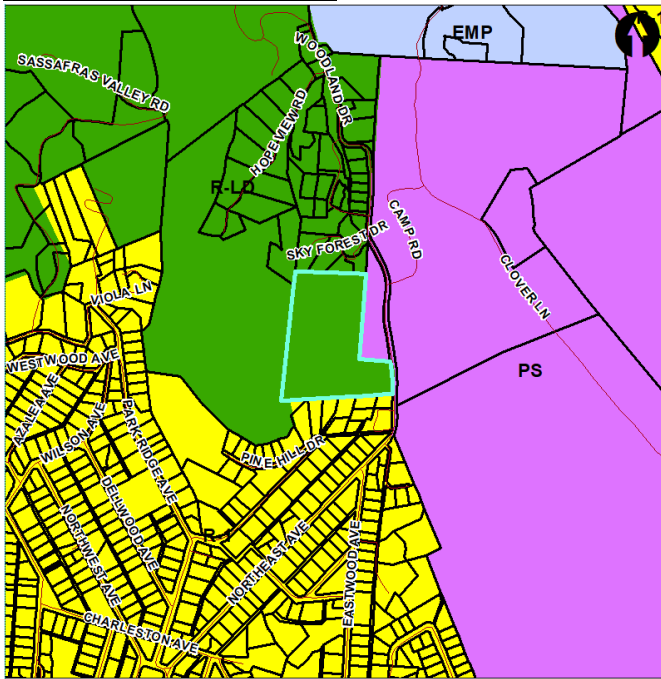


<p style="text-align: center;">LOCATION MAP</p> 	<p>CASE NUMBER: ZPH2019-00022</p> <p>A. PROPERTY INFORMATION PIN(s): 9699-56-2219 Addresses: 119 Woodland Dr., Swannanoa Owner(s): Robert and Laura Uherka</p> <p>B. REZONING REQUEST Applicant: Robert and Laura Uherka Existing Zoning: R-LD, Residential Low Density Proposed Zoning: R-1, Residential</p> <p>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</p>
<p>D. RECOMMENDATION</p>	
<p>Buncombe County Planning Board recommends <u>denial</u> as submitted by 6/1 vote on May 20, 2019. Staff recommends denial; see Section K, below.</p>	
<p>E. SUMMARY OF REQUEST</p>	
<p>Robert and Laura Uherka of RuLu LLC have applied to rezone one (1) parcel of land identified as tax lot PIN 9699-56-2219, which is currently zoned R-LD Residential Low Density, to R-1 Residential. The subject property is located at 119 Woodland Drive, Swannanoa and is approximately 14.07 acres in size.</p>	
<p>F. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT</p>	
<p>EXISTING ZONING DISTRICT: <i>Residential Low Density (R-LD)</i> <i>Low-Density Residential District (R-LD).</i> The R-LD Low-Density Residential District is primarily intended to provide locations for low-density residential and related-type development in areas where topographic or other constraints preclude intense urban development. These areas are not likely to have public water and sewer services available, and the minimum required lot area will be one acre unless additional land area is required for adequate sewage disposal. These are environmentally sensitive areas that are characterized by one or more of the following conditions: Steep slopes, fragile soils, or flooding.</p>	<p>PROPOSED ZONING DISTRICT: <i>Residential District (R-1).</i> The R-1 Residential District is primarily intended to provide locations for single-family and two-family residential development and supporting recreational, community service, and educational uses in areas where public water and sewer services are available or will likely be provided in the future. This district is further intended to protect existing subdivisions from encroachment of incompatible land uses, and this district does not allow manufactured home parks.</p>

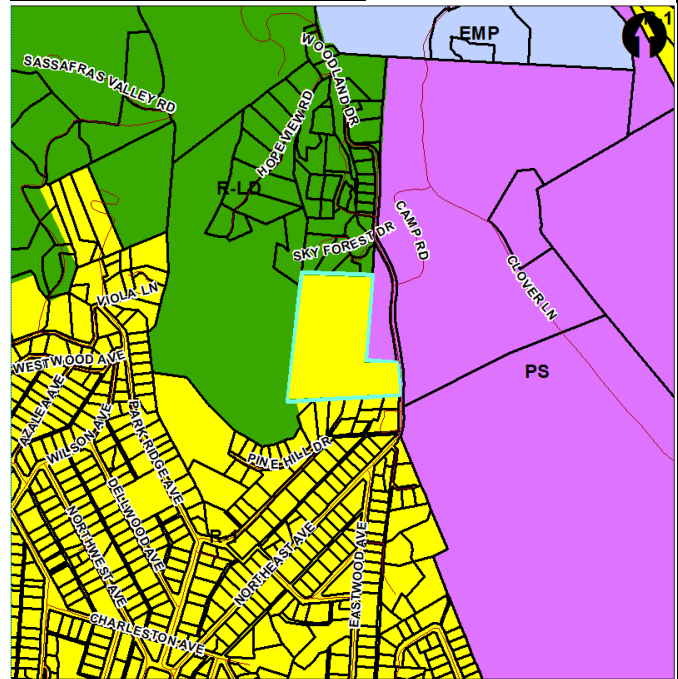
G. SPOT ZONING ANALYSIS

Staff has no concerns with spot zoning, given that the property is contiguous to existing R-1 zoning along the southern boundary.

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 located within a FEMA Flood Hazard Area.

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

- The subject property is identified as containing steep slope areas (greater than 25%).
- The subject property is located in an area of high elevation greater than 2,500 feet.
- The subject property contains high and moderate slope stability hazard areas.
- The subject property is not within a reasonable proximity to major transportation corridors: it is within roughly 1.45 miles from US 70 Hwy.

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

I. OTHER COMPATIBILITY

BC Strategic Priorities ¹:

Buncombe County lists Affordable Housing as one of its Strategic Priorities. The current R-LD zoning district limits all development to 1 acre minimum lot sizes. Rezoning the parcel to R-1 would allow lot sizes as small as 8,000 square feet for lots on public water and sewer, or 30,000 square feet for lots on septic systems. This could increase the number of lots available on the site, and potentially reduce allowable lot sizes, which may correlate to more affordable land prices. Lots containing areas located within the steep slope/high elevation overlay district would still be limited to 1.5 acre minimum lot sizes. However, affordable housing opportunities on the site may be offset by the cost of construction in a steep slope environment.

¹ <https://www.buncombecounty.org/common/commissioners/strategic-priorities/Affordable-Housing.pdf>

J. NEIGHBORHOOD CONSISTENCY

1. CURRENT DEVELOPMENT TYPES:

The subject property is currently developed as a single family residence. Adjacent and nearby land uses include single family residential homes, and vacant/undeveloped land. Non-adjacent parcels to the east include a Correctional Center.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from R-LD to R-1 zoning would continue to allow single family and duplex development while also continuing to prohibit multi-family residential units. The change would allow for the creation of Community Oriented Developments, and Level 1 Planned Unit Developments. In addition, the change would eliminate the ability to create a Bed and Breakfast Inn, Cemetery, or locate radio, tv, or telecommunication towers on the land.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

The change would reduce the minimum lot size from 1 acre to 30,000 square feet for septic, or as low as 8,000 square feet for lots on public water and sewer.

	Existing District:	Proposed District:
	R-LD Residential	R-1 Residential
Minimum Lot Size	43,560 SF	8,000 SF (Public water/sewer) 30,000 SF (Septic system)
Max dwelling units per acre	2	10
Setbacks (Front/Side/Rear)	10/10/20	10/7/15 (Water/sewer) 20/10/10 (Septic)
Max height	35 feet	35 feet

4. NEIGHBORHOOD CONSISTENCY:

In terms of land use types, density and lot sizes, single-family / duplex residential development of the subject property would be consistent with the neighborhood character of the adjacent R-1 zoned area located south of the subject property; however, the topography of the subject property is generally steeper, and higher in elevation than much of the existing R-1 zoned areas to the south. In terms of density and lot sizes, R-1 zoning would be inconsistent with development patterns north and west of the subject property, within the R-LD district in which the subject property is currently located. *See Figure A, B, and C.*

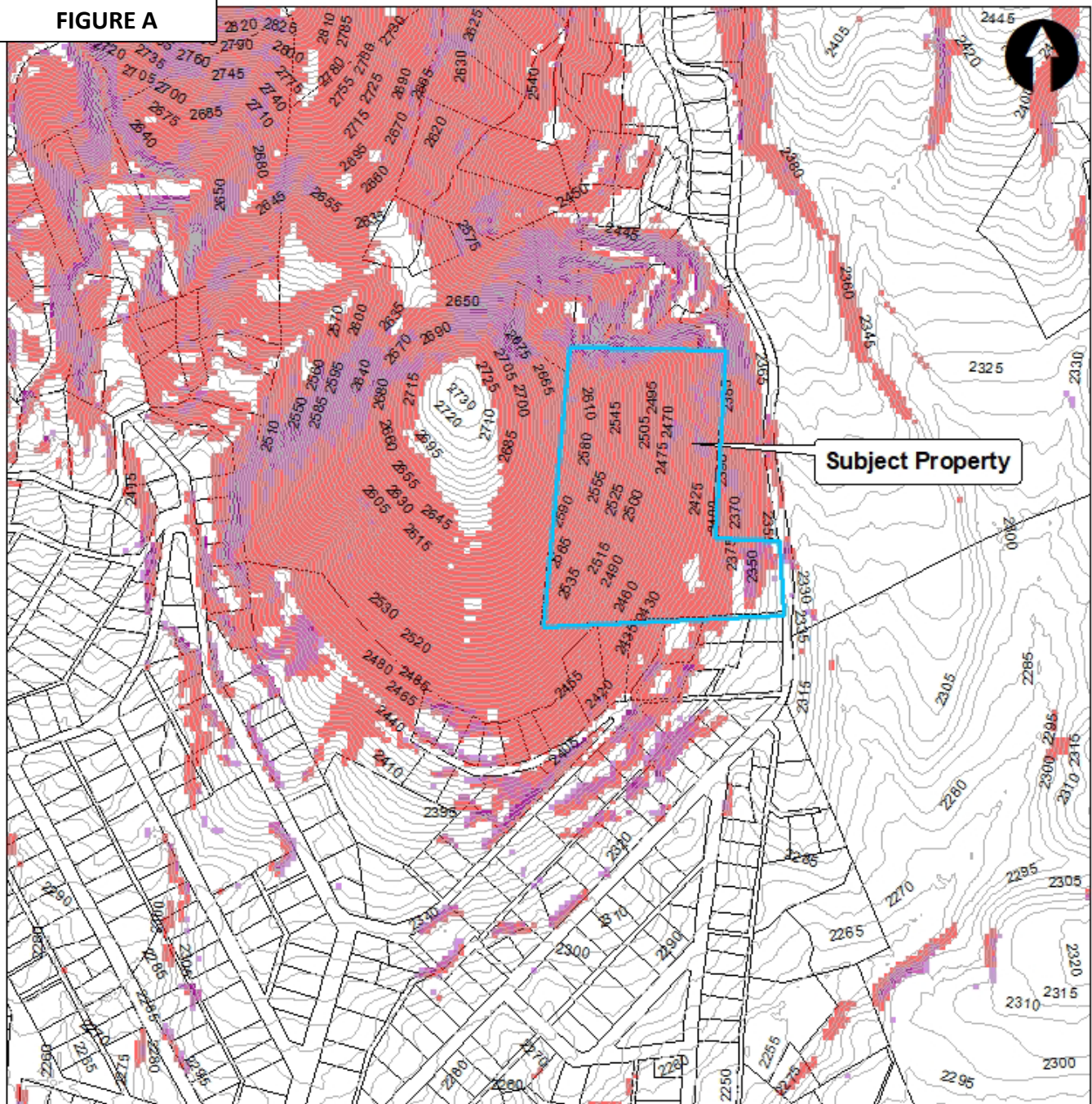
K. STAFF RECOMMENDATION COMMENTS:

The subject property contains steep slope areas, is located in an area of high elevation greater than 2,500 feet, and contains high and moderate slope stability hazard areas. Rezoning the subject property to R-1 would expose these sensitive areas to greater risks from the impacts of erosion and stormwater runoff, and would expose future development upon the subject property to elevated risk from landslides.

The potential use of the subject property for affordable housing may be offset by the cost of construction in a steep slope environment.

The existing boundary between R-1 and R-LD is generally drawn along a transition between gently sloping and steeply sloping lands; in terms of density and lot sizes, R-1 zoning would be inconsistent with development patterns north and west of the subject property, within the R-LD district in which the subject property is currently located.

FIGURE A



0 0.05 0.1 0.2 Miles

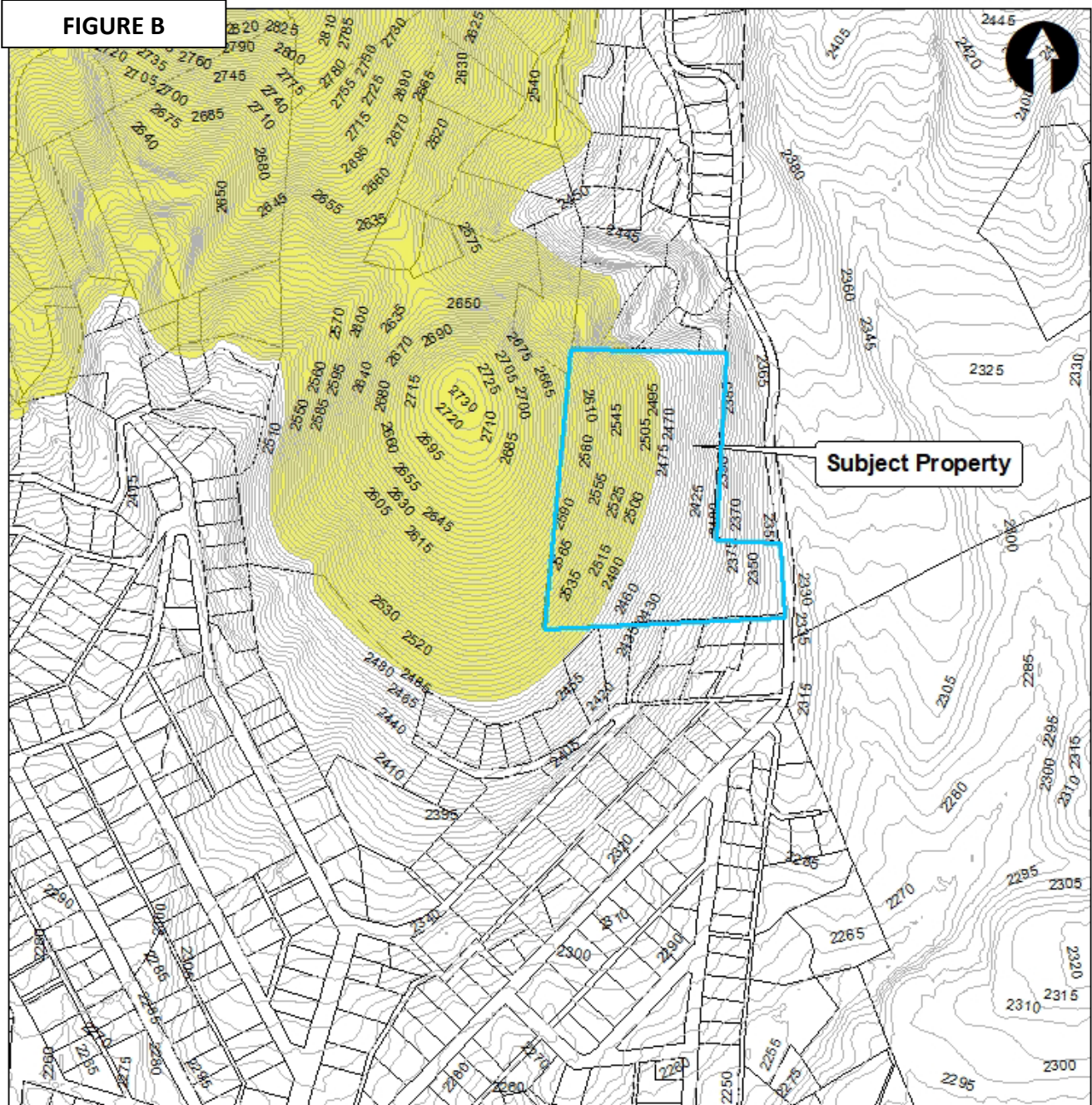
Uherka Map Amendment

Case Number: ZPH2019-00022
PIN Number: 9699-56-2219
Approximate Property Size: 14.07 acres
Application Date: April 11, 2019
Hearing Date: May 20, 2019

Created By: Buncombe Co. Planning
Date: 5/9/2019

- | | |
|-----------------|------------------------|
| High Hazard | 5 Foot Contours |
| Moderate Hazard | 0 - 25 % Slope |
| Low Hazard | Greater than 25% Slope |
| | Property Boundaries |

FIGURE B



0 0.05 0.1 0.2 Miles

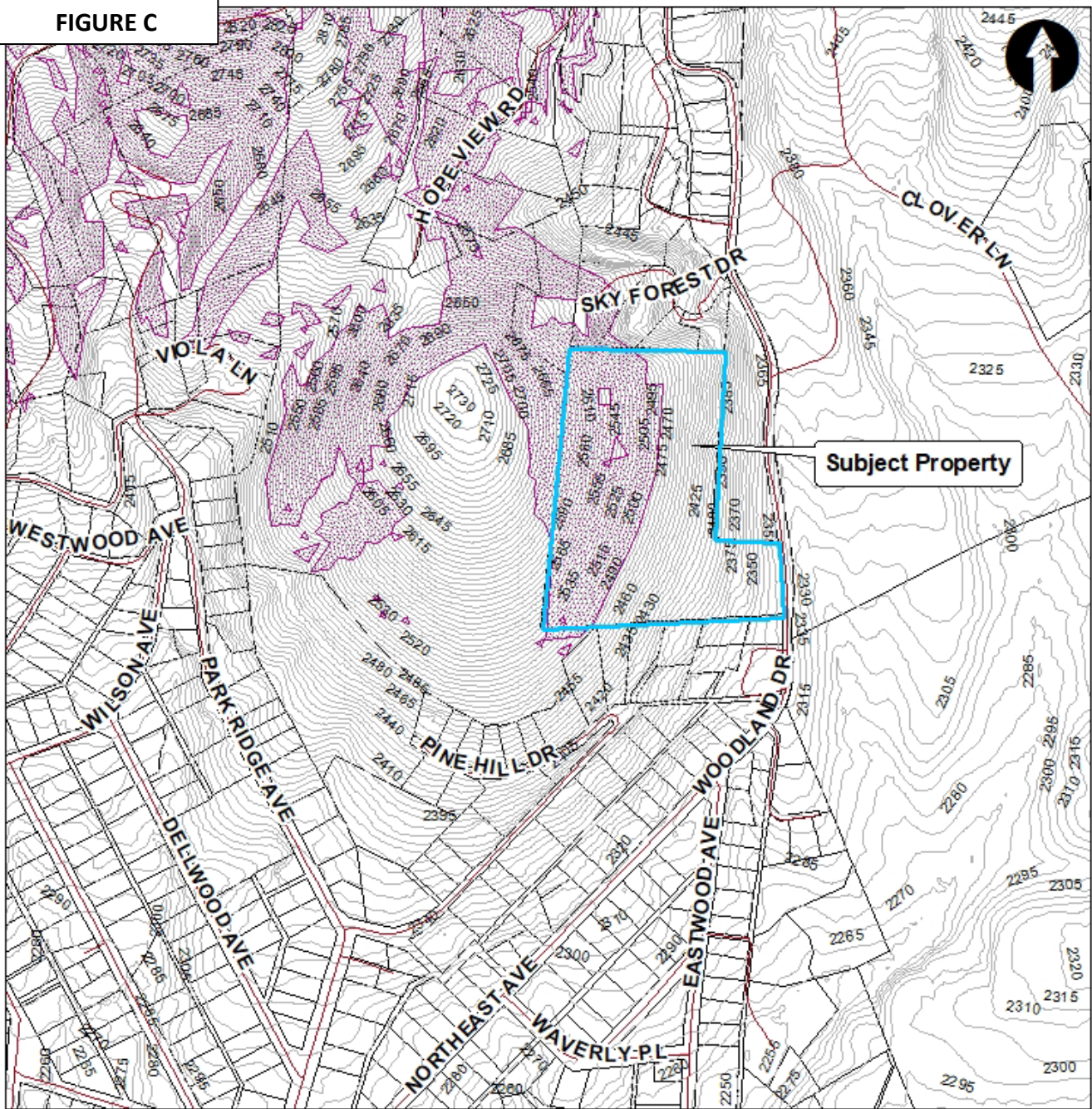
Uherka Map Amendment

Case Number: ZPH2019-00022
PIN Number: 9699-56-2219
Approximate Property Size: 14.07 acres
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Hearing Date: May 20, 2019

Created By: Buncombe Co. Planning
Date: 5/9/2019

- 5 Foot Contours
- Greater than 2500'
- Property Boundaries

FIGURE C



0 0.05 0.1 0.2 Miles

Uherka Map Amendment

Case Number: ZPH2019-00022
PIN Number: 9699-56-2219
Approximate Property Size: 14.07 acres
Application Date: April 11, 2019
Hearing Date: May 20, 2019

Created By: Buncombe Co. Planning
Date: 5/9/2019

- 5 Foot Contours
- Steep Slope/High Elevation
- Property Boundaries

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
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 single-family / duplex residential development as "suggested" within the combined water/sewer service area; and further "highly suggests" that it 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:

- Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update* lists single-family / duplex residential development as "suggested" within a reasonable proximity to major transportation corridors; outside of steep slope areas; outside of high elevation areas greater than 2,500 feet; and further "highly suggests" that it be located outside of high and moderate slope stability hazard areas.
- 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**.