



<p><b>LOCATION MAP</b></p>	<p><b>CASE NUMBER:</b> ZPH2020-00030</p> <p><b>A. PROPERTY INFORMATION</b></p> <p><b>PIN(s):</b> 9634.65.9882, 9634.65.6752, 9634.76.0293  <b>Addresses:</b> 569, 571 &amp; 585 Long Shoals Road  <b>Owner(s):</b> James Craig Keith, Thomas Haberstock, Andrew McDonald</p> <p><b>B. REZONING REQUEST</b></p> <p><b>Applicant / Agent:</b> James Craig Keith, et al.  <b>Existing Zoning:</b> NS (Neighborhood Service), R-2 (Residential District)  <b>Proposed Zoning:</b> CS (Commercial Service)  <b>Total Parcels &amp; Acreage:</b> Three (3), +/- 10.14 acres</p> <p><b>C. PUBLIC NOTICE</b></p> <p>Planning Board Notice in AVL Citizen Times legal ad: 10/21/2020        Planning Board Notice mailed to owners within 1,000 ft: 10/21/2020        Planning Board Physical posting: 10/23/2020        Planning Board Notice on BC Website: 10/21/2020        Planning Board Hearing # 1: 11/02/2020        Planning Board Comment Period Deadline: 24 hrs. from 11/02/2020        Planning Board Hearing # 2: 11/16/2020        Board of Commissioners Notice in AVL Citizen Times legal ad: 11/25/2020, 12/2        Board of Commissioners Notice mailed to owners within 1,000 ft: 11/25/2020        Board of Commissioners Physical posting: 11/25/2020        Board of Commissioners Notice on BC Website: 12/04/2020        Board of Commissioners Hearing: 12/07/2020</p>
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<p><b>D. SUMMARY OF REQUEST</b></p>
<p>James Craig Keith, on behalf of Carolina Towing &amp; Transport of N.C., Thomas Haberstock and Andrew McDonald have requested to rezone three (3) parcels of land from NS and R-2 to CS.</p>
<p><b>E. RECOMMENDATION</b></p>
<p>APPROVAL (see Section J, below)</p>

<p><b>F. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT</b></p>	
<p><b>EXISTING ZONING DISTRICT(S):</b>  <i>Residential District (R-2)</i>        The R-2 Residential District is primarily intended to provide locations for 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. These areas will usually be adjacent to R-1 Residential Districts, will provide suitable areas for residential subdivisions requiring public water and sewer services, and in order to help maintain the present character of R-1 districts, will not allow manufactured home parks.</p>	<p><b>PROPOSED ZONING DISTRICT:</b>  <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.</p>

*Neighborhood Service District (NS)*

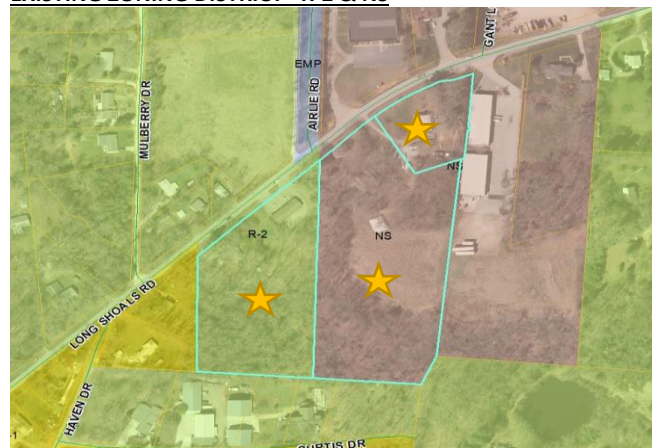
The NS Neighborhood Service District is primarily intended to provide suitable locations for limited, neighborhood-oriented, commercial, business, and service activities in close proximity to major residential neighborhoods. The NS Neighborhood Service District is designed to allow for a mix of residential, 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**

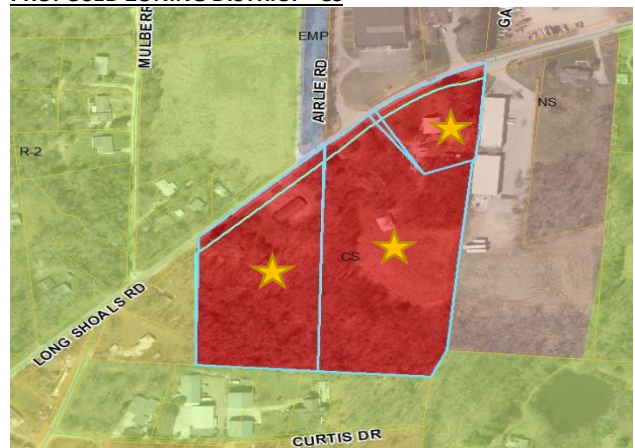
The map amendment request represents a collection of properties with three (3) unique owners. Two (2) of the subject parcels were already zoned commercially (NS) and a change to CS does not represent a significant departure from their existing commercial status and/or use given the nature of the surrounding neighborhood – more detail provided in Section I. below. The additional lot to the west contains an existing car wash – zone R-2. The owner of this lot is seeking to bring compliance to the existing use onsite. One recent example of upheld case law in North Carolina was the *Good Neighbors of Oregon Hill* which upheld a spot zoning challenge due to the fact that multiple property owners were involved. Further, one of the more famous cases in North Carolina, *Chrismon*, in 1988 focused on the “consideration of whether a newly permitted use is significantly different from prevailing land uses in area, the size of the area and whether the changes benefits a few at the expense of surrounding owners or the public.”

*Owens, David, W., Land Use Law in North Carolina, 3<sup>rd</sup> Edition, UNC School of Government, 2020.*

**EXISTING ZONING DISTRICT –R-2 & NS**



**PROPOSED ZONING DISTRICT - CS**



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

1. **LAND USE PLAN RECOMMENDATIONS:** The following is an analysis of the rezoning proposal in context of Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013:*

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
<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	☺	☺	★	★	★	☺	★

Figure 20. Appropriate Development Types

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

“Reasonable proximity to major transportation corridors” [suggested / highly suggested] – **the properties have direct access to Long Shoals Road and are less than ½ mile from Brevard Road. Both Long Shoals Road and Brevard Road are NCDOT maintained roads and are identified as transportation corridors.**

“Reasonable proximity to infrastructure (combined water / sewer service area)” [suggested / highly suggested] – **Public water via the City of Asheville is located along Long Shoals Road. The properties are currently served by septic systems. However, public sewer is located adjacent to two (2) of the subject properties and currently serves the existing strip commercial center located at 565 Long Shoals Road.**

“Outside of steep slope areas (25%+)” [highly suggested] **In compliance with suggestion.**

“Outside of high elevations (2500'+)” [highly suggested] **In compliance with suggestion.**

“Outside of moderate and high slope stability hazards” [highly suggested] **In compliance with suggestion.**

“Outside of flood hazard areas” [suggested] **In compliance with suggestion. See below for more detail.**

	<p>"Separation from low-density residential uses" [suggested / highly suggested] <b><u>Separation is achieved through natural topographical changes in some areas. Additionally, the Zoning Ordinance includes a buffering provision that requires the installation of vegetative screening and/or a solid fence between new commercial uses adjacent to low-density residential uses.</u></b></p>
<p><b>3. INCONSISTENT:</b> The change is <u>inconsistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:</p>	<p>None noted.</p>
<p><b>4. OTHER COMMENT:</b></p>	<p>The subject property meets the Land Use Plan criteria for both residential and commercial future land use categories.</p> <p>The Board should consider the need to evaluate this map amendment based on changes in land use patterns/demands in the area and the transitional and evolving nature of the Long Shoals Road corridor.</p>

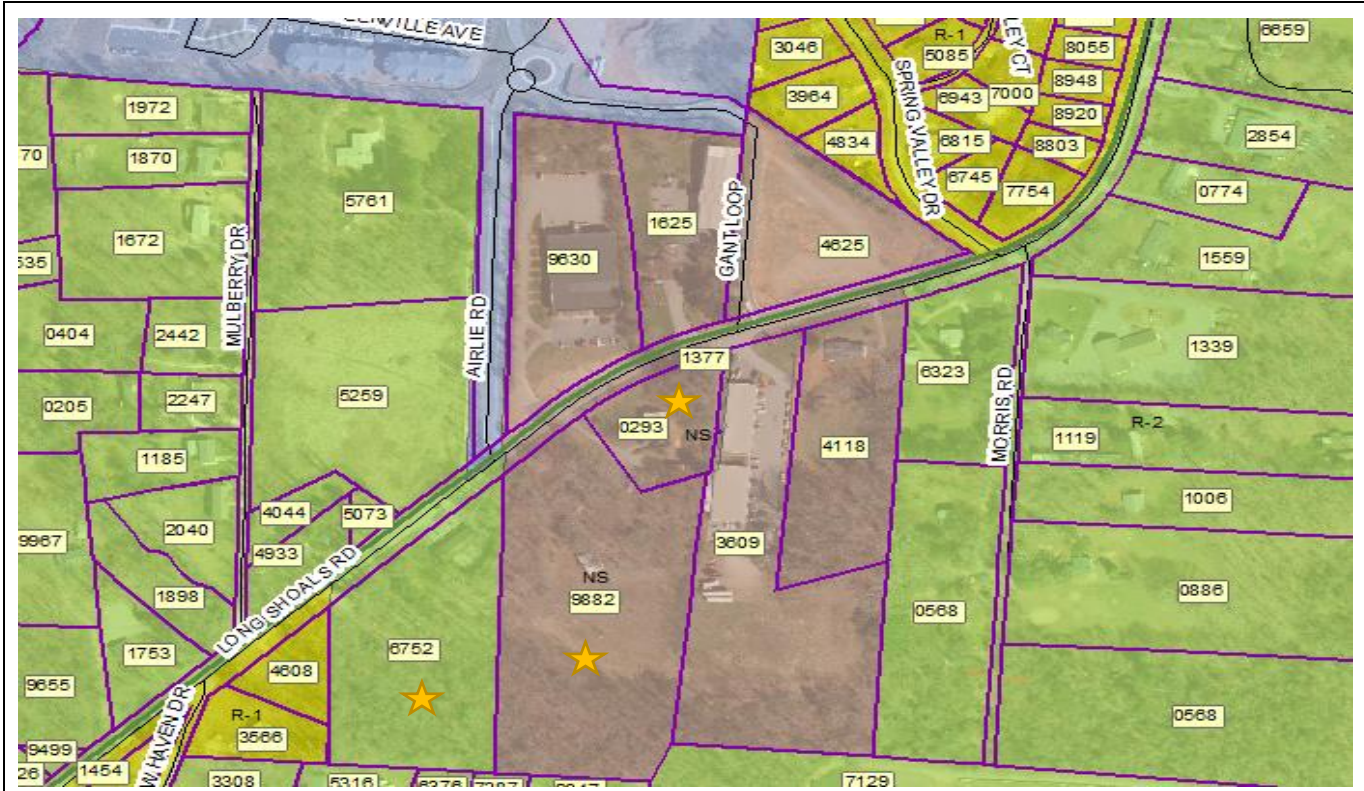
**I. NEIGHBORHOOD CONSISTENCY**

1. CURRENT DEVELOPMENT TYPES:

The subject properties consists of three (3) individual parcels. The Haberstock parcel currently contains a multi-bay functioning car wash that was constructed in the late 1980's zoned R-2. The Keith parcel directly to the east (Carolina Towing) contains an existing single-family home built in the 1950's along with various accessory structures and zoned NS. To the northeast is the smaller McDonald parcel which contains a single-family home (vacant) and is zoned NS.

This section of Long Shoals Road provides a linkage to the busy commercial corridors of both Brevard Road and Long Shoals Road – near and across the French Broad River. This area contains a patchwork of various land uses which is indicative of a transportation corridor that has been transitioning to more intensive density and commercial uses over the years. This section of Long Shoals Road contains a number of warehouse/storage, manufacturing, multi-family, strip centers and lower density residential uses.

Within the immediate area of the subject properties, the following land use patterns exist – to the north (and across Long Shoals Road) are a mix of single-family and manufactured homes, vacant property, warehousing/storage businesses and the main entrance to the recently constructed Riverstone Apartments zoned R-2, NS and EMP respectively. To the east is the Long Shoals Business Park which includes a veterinary hospital, pet boarding facility and other uses zoned NS, to the south and separated by varying distances of 300-500 feet are vacant properties, single-family homes and the Medic Ambulance Facility along Curtis Drive all zoned R-2. Finally to the west of the car wash facility are single-family homes zoned R-1.



**Surrounding Land Uses and Zoning**

**2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:**

The proposed rezoning would allow additional uses in the CS district that are not currently allowed in the NS district. Further, the rezoning would legitimize and convert an existing nonconforming car wash that has been in existence since the 1980's to a conforming use if the map amendment is approved.

One of the primary differences between NS and CS is the provision for outdoor sales storage and motor vehicle impoundment lots. While NS does not allow these uses, CS does. Further, the Zoning Ordinance provides for special requirements that must be met in order to establish impound lots including a designated and fenced storage area and buffering.

**3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:**

	<b>Existing District: R-2 Residential</b>	<b>Existing District: NS Neighborhood Service</b>	<b>Proposed District: CS Commercial Service</b>
Minimum Lot Size	30,000 SF (Septic System) 10,000 SF (Public Sewer, No Water) 6,000 (Public Water and Sewer)	30,000 SF (Septic System) 10,000 SF (Public Sewer, No Water) 5,000 SF (Public Water and Sewer)	30,000 SF (Septic System) 10,000 SF (Public Sewer, No Water) 5,000 SF (Public Water and Sewer)
Max dwelling units per acre	12	12	12
Setbacks (Front/Side/Rear)	10/7/15 (Sewer) 20/10/20 (Septic)	10/7/15 (Sewer) 20/10/20 (Septic)	10/10/10 (Sewer or Septic)
Max height	35 feet	35 feet	50 feet

4. PREVIOUS ZONING ACTIONS/INFRASTRUCTURE/FUTURE LAND USE:

**Site History** - A request to rezone two of the subject properties (PIN #'s ending in 9882 and 0271) from R-2 to NS was approved by the Board of Commissioners in August of 2019.

In November of 2019, Mr. Keith purchased the property ending in PIN #9882 with the understanding from a real estate professional that he could establish an impound lot on said property. Mr. Keith learned from Planning Staff upon the submittal of a building permit that the property was not zoned appropriately for this use. Mr. Keith worked with Staff and the neighboring property owners to establish a block of properties and made application for a map amendment from R-2, NS to CS.

**Access** – Ingress and egress to the subject properties is readily available along Long Shoals Road through a series of existing cuts and driveways. Long Shoals Road as mentioned above is an NCDOT maintained Road and an identified transportation corridor as noted in the Buncombe County Comprehensive Land Use Plan, 2013 Update.

**Utilities** – As discussed above in the comprehensive plan consistency section, public water via the City of Asheville is located along Long Shoals Road. The properties are currently served by septic systems. However, public sewer is located adjacent to two (2) of the subject properties and currently serves the existing strip commercial center located at 565 Long Shoals Road.

**Future Development** – While specific site development plans cannot be considered as part of a zoning map amendment, the parcel ending in PIN #0293 is currently being marketed as a commercial property and is wedged between an existing strip center and the Keith parcel ending in PIN #9882. The parcel ending in PIN# 6752 contains the active car wash use, and future development on the Keith parcel for an impound lot will require that special requirements are met including the specific designation of the storage area and buffering if the map amendment is approved.

**J. STAFF RECOMMENDATION COMMENTS:**

Staff recommends approval of the rezoning request as submitted.

**K. PLANNING BOARD RECOMMENDATION**

1. 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, their 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)*

1. BOARD OPTIONS

The following options are available to the Board:

- a. Recommend approval of the proposed rezoning, as presented.
- b. Recommend denial of the proposed rezoning, as presented.

**2. ATTACHMENTS**

- Application
- Maps
- Power Point Presentation