



LOCATION MAP		CASE NUMBER: ZPH2022-00016	
		A. PROPERTY INFORMATION	
		PIN(s): 9667.64.4509 Addresses: 19 Staak Drive Owner(s): BLT Enterprises, LLC	
		B. REZONING REQUEST	
		Applicant / Agent: Gracefund1, LLC (Ward Griffin, Agent) Existing Zoning: R-1 Proposed Zoning: NS Total # Parcels: One (1) Acreeage: 4.47	
C. PUBLIC NOTICE			
Planning Board: Citizen Times legal ad and BC website: June 1, 2022 Mailed to owners within 1,000 ft: June 1, 2022 Physical posting: June 2, 2022 Hearing Date: June 20, 2022	BOC: Citizen Times legal ad and BC website: July 1, 2022 Mailed to owners within 1,000 ft: July 1, 2022 Physical posting: July 1, 2022 BOC Hearing: July 1, 2022		
D. SUMMARY OF REQUEST			
Ward Griffin on behalf of Gracefund1, LLC, has requested to rezone one (1) parcel of land from R-1 (Residential District) to NS (Neighborhood Service District).			
E. RECOMMENDATION			
APPROVAL			

F. SPOT ZONING ANALYSIS

Spot Zoning Defined:

A zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to impose upon the smaller tract greater restrictions than those imposed upon the larger area, or so as to relieve the small tract from restrictions to which the rest of the area is subjected, is called "spot zoning."

Spot Zoning, David W. Owens, April, 2020, quoting Blades v. City of Raleigh, 280 N.C. 531, 547, 187 S.E.2d 35, 45 (1972).

The map amendment has been requested for one (1) parcel comprised of 4.47 acres. The subject parcel is adjacent to property currently zoned NS along the Charlotte Highway commercial corridor. Based on the nature of the request, Staff does not have concerns related to spot zoning.

References:

*Walker v. Town of Elkin, 254 N.C. 85, 89, 118 S.E. 2d 1, 4 (1961)

**Blades v. City of Raleigh, 280 N.C., 534, 546, 187 S.E. 2d 35, 43 (1972)

Owens, David W., Land Use Law in North Carolina, UNC – Chapel Hill School of Government, 2020.

G. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT

EXISTING ZONING DISTRICT – R-1

Residential District (R-1). 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.

PROPOSED ZONING DISTRICT – NS

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.

H. PLAN CONSISTENCY

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:*

<https://www.buncombecounty.org/common/planning/land-use-plan-update-2013.pdf>

	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							
COMMERCIAL							
Neighborhood-Scale Commercial	👉	👉	★	★	★	👉	👉
Moderate Commercial	★	★	★	★	★	👉	★

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

- a) “Reasonable proximity to major transportation corridors” [suggested]:
The subject property is located adjacent to other parcels along the Charlotte Highway commercial corridor with direct access to Staak Drive. In compliance with suggestion.
- b) “Reasonable proximity to infrastructure (combined water / sewer service area)” [suggested]:
Both public water and sewer can be provided to serve future development of the site. In compliance with suggestion.
- c) “Outside of steep slope area (25%+)” [highly suggested]:
The area under consideration for rezoning is largely outside of areas greater than 25% slope. In compliance with suggestion.
- d) “Outside of high elevations (2500'+)” [highly suggested]:
The area under consideration for rezoning is located outside of areas of high elevation in excess of 2500 feet. In compliance with suggestion.
- e) “Outside of moderate and high slope stability hazards” [highly suggested]:
Largely in compliance with suggestion, some de Minimis pockets present on site.
- f) “Outside of flood hazard areas” [suggested]:
In compliance with suggestion.
- g) “Separation from low-density residential uses” [suggested]:
Largely in compliance with suggestion. The Zoning Ordinance requires that commercial developments be buffered from residential uses.

The Buncombe County Comprehensive Land Use Plan Update, 2013:

Both Sections 5. and 6. of the Plan recommend that denser development be directed to areas with existing infrastructure. Both mixed use development and neighborhood-scale commercial development are supported in the NS zoning district and the application of the district allows for a transition from residential to neighborhood scale commercial uses.

I. NEIGHBORHOOD CONSISTENCY

1. CURRENT DEVELOPMENT TYPES:

The subject property is located directly behind an existing mixed use commercial building (offices, retail, etc) and zoned NS. Property to the east is vacant and zoned R-3, to the north is a mix of residential properties zoned R-1, and to the west is the Winterwind residential neighborhood zoned R-1.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

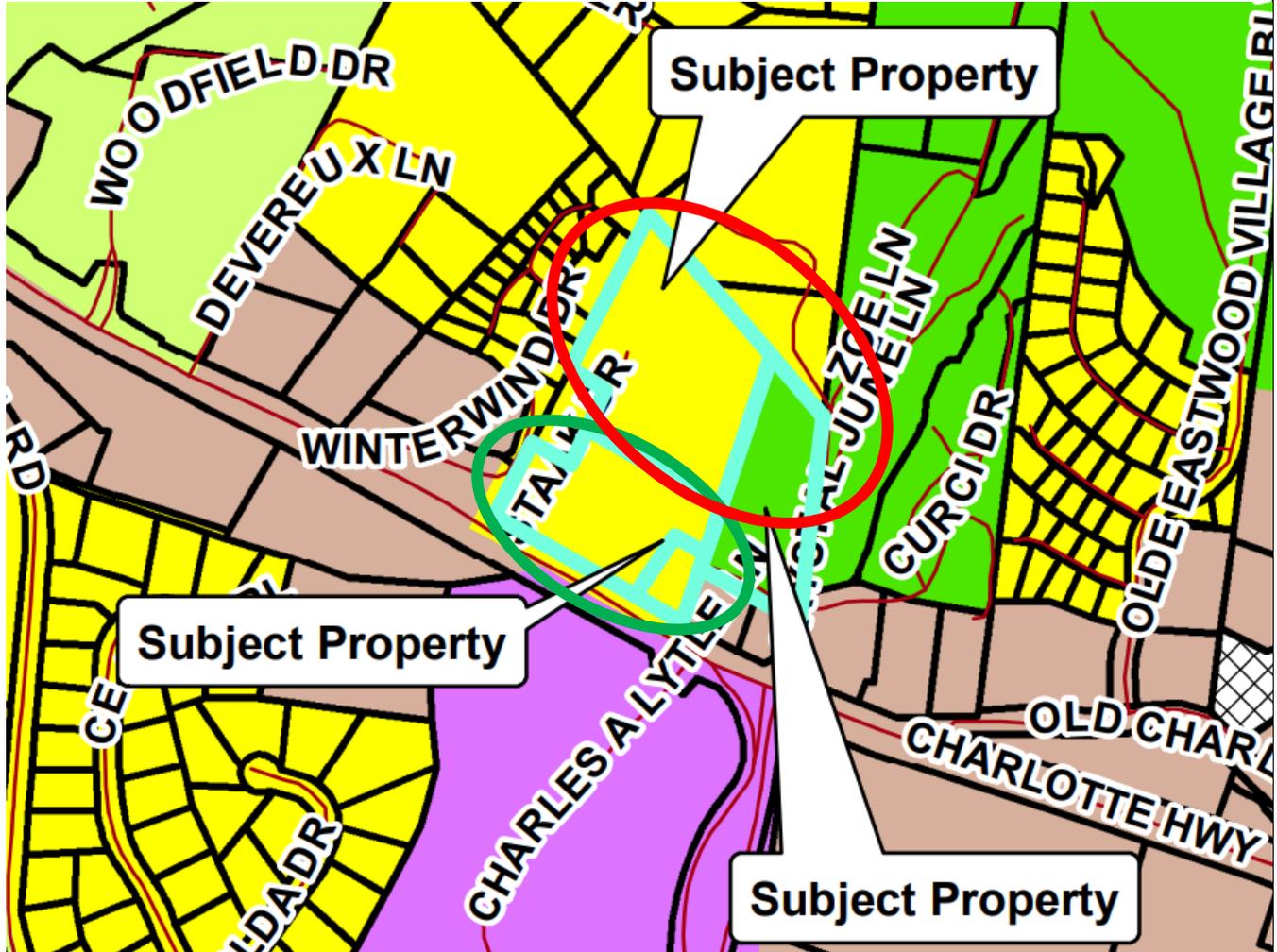
The proposed rezoning would allow additional uses in the NS district that are not currently allowed in the R-1 district. While specific development cannot be evaluated as part of the rezoning process, the rezoning would allow for more flexibility in mixed use options that are not currently afforded in the R-1 zoning district.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

	Existing Districts:	Proposed District:
	R-1 Residential	NS
Minimum Lot Size (SF)	30,000 SF No Public Sewer 12,000 SF Public Sewer/No Public Water 8,000 SF Public Water and Sewer	30,000 SF No Public Sewer 10,000 Public Sewer/No Public Water 5,000 SF Public Water/Sewer
Max dwelling units per acre	10 units, no more than 2 units per lot	12
Setbacks (Front/Side/Rear)	10/7/15 w/sewer, 20/10/20 no sewer	10/7/15 w/sewer, 20/10/20 no sewer
Max height	35 feet	35 feet

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

Site History – In split decisions in 2017, the BOC approved the rezoning of two parcels along Charlotte Highway from R-1 to NS, but denied the rezoning of the subject parcel along with the parcel to the east from R-1 and R-3 to NS. See below – the green ellipse denotes parcels that were approved and the red ellipse denotes the parcels that were denied.



Access – Access to the property is provided from Stak Drive which directly intersects Charlotte Highway.

Utilities – Adjacent developments are currently served by both public water and sewer.

Future Development – See above under Section 2.

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)*

2. BOARD OPTIONS

The following options are available to the Board:

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

L. ATTACHMENTS

- Application
- Maps
- Power Point Presentation