



<b>LOCATION MAP</b>		<b>CASE NUMBER:</b> ZPH2022-00040 Mount Carmel Rezoning	
		<b>A. PROPERTY INFORMATION</b>  <b>PIN(s):</b> 961999872000000 <b>Addresses:</b> 31 Mount Carmel Pl, Asheville 28806 <b>Owner(s):</b> Locust Grove MHP LLC	
		<b>B. REZONING REQUEST</b>  <b>Applicant:</b> Clyde Motley on behalf of Locust Grove MHP LLC <b>Existing Zoning:</b> R-1 Residential <b>Proposed Zoning:</b> R-3 Residential <b>Total # Parcels:</b> 1 <b>Acreage:</b> 1.1 acres	
<b>C. PUBLIC NOTICE</b>			
Planning Board:	Citizen Times and BC website: 1/11/23 Mailed to owners within 1,000 ft: 1/11/23 Physical posting on site: 1/13/23 Hearing Date: 1/23/23	BOC:	Citizen Times and BC website: 2/24/2023, 3/3/2023 Mailed to owners within 1,000 ft: 2/22/2023 Physical posting on site: 2/24/2023 BOC Hearing: 3/7/2023
<b>D. SUMMARY OF REQUEST</b>			
Clyde Motley of Locust Grove MHP, LLC has requested to rezone one (1) parcel of land from R-1 (Residential District) to R-3 (Residential).			
<b>E. STAFF RECOMMENDATION</b>			
<b>APPROVAL</b>			

## 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).*

### Staff Analysis:

The map amendment has been requested for one (1) parcel comprised of 1.11 total acres. The subject parcel is adjacent to property currently zoned R-3 off Mount Carmel Place. 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

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 – 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.

## 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:* [www.buncombecounty.org/common/planning/land-use-plan-update-2013.pdf](http://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							
<b>RESIDENTIAL</b>							
Low-Density Residential	—	—	—	—	—	★	N/A
Single-Family/Duplex	👉	👉	👉	👉	★	★	N/A
Multi-Family	★	★	👉	👉	★	★	👉

<p><b>1. CONSISTENT:</b> The change is <u>consistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update:</p>	<p>a) “Reasonable proximity to major transportation corridors” [Highly suggested]: <b><u>The subject property is located within a half mile of New Leicester Hwy, which was identified as a major transportation corridor in the 2013 Land Use Plan.</u></b></p> <p>b) “Reasonable proximity to infrastructure (combined water / sewer service area)” [Highly suggested]: <b><u>Both public water and sewer can be provided to serve future development of the site. In compliance with suggestion.</u></b></p> <p>c) “Outside of steep slope area (25%+)” [Suggested]: <b><u>The parcel is outside of areas greater than 25% slope. In compliance with suggestion.</u></b></p> <p>d) “Outside of high elevations (2500'+)” [Suggested]: <b><u>The parcel is located outside of areas of high elevation in excess of 2500 feet. In compliance with suggestion.</u></b></p> <p>e) “Outside of moderate and high slope stability hazards” [Highly suggested]: <b><u>In compliance with suggestion.</u></b></p> <p>f) “Outside of flood hazard areas” [Highly suggested]: <b><u>In compliance with suggestion.</u></b></p>
<p><b>2. NOT CONSISTENT:</b> The change is <u>not consistent</u> with the following recommendations of the Land Use Plan 2013 Update:</p>	<p>(a) “Separation from low-density residential uses” [Suggested]: <b><u>Some existing low density residential uses are adjacent to this parcel; however, 2 of those properties are also currently adjacent to manufactured home parks zoned R-3. This is not applicable to low-density and single-family/duplex uses.</u></b></p>

**The Buncombe County Comprehensive Land Use Plan Update, 2013:**

Sections 5 and 6 of the Land Use Plan recommend that denser residential development be directed to areas with existing infrastructure, away from steeper topography and higher elevations, and out of hazard-prone sites. A key finding of the plan (found under Housing Status and Needs in Section 5) was to “increase the allowable development densities close to major employment and activity centers and along transportation corridors to reduce housing costs.”

**I. NEIGHBORHOOD CONSISTENCY**

1. CURRENT DEVELOPMENT TYPES:

The subject property is located at the end of a shared private drive in a mixed residential area. Adjacent properties have the following characteristics:

- North: Zoned R-1 Residential. Adjacent use includes low density residential.
- East: Zoned R-3 Residential. Adjacent use includes manufactured home park.
- South: Zoned R-3 Residential. Adjacent use includes manufactured home park.
- West: Zoned R-1 Residential. Adjacent use includes low density residential.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

The proposed rezoning would allow additional uses in the R-3 district that are not currently allowed in the R-1 district. Examples of uses that would be allowed after the rezoning include multifamily dwellings, manufactured home parks, bed and breakfast inns, cemeteries, clubs or lodges, libraries, rooming houses, travel trailers, etc.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

	Existing Districts:	Proposed District:
	R-1 Residential	R3 Residential
Minimum Lot Size (SF)	30,000 SF No Public Sewer 12,000 SF Public Sewer/No Water 8,000 SF Public Water and Sewer	30,000 SF No Public Sewer 10,000 SF Public Sewer/No Water 6,000 SF Public Water and Sewer
Max dwelling units per acre	10	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** – According to property tax records, the subject parcel contain single-family residences built in 1959. There is no recent major development in the vicinity of the subject property.

**Access** – Access to the property is provided from Mount Carmel PL, a privately maintained road, with an intersection at Mount Carmel Road - an NCDOT maintained road.

**Utilities** – The applicant stated that the subject property has access to sewer and public water.

**Future Development** – See above under Section 2.



## **J. 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.

## **K. ATTACHMENTS**

- Application
- Maps
- Power Point Presentation