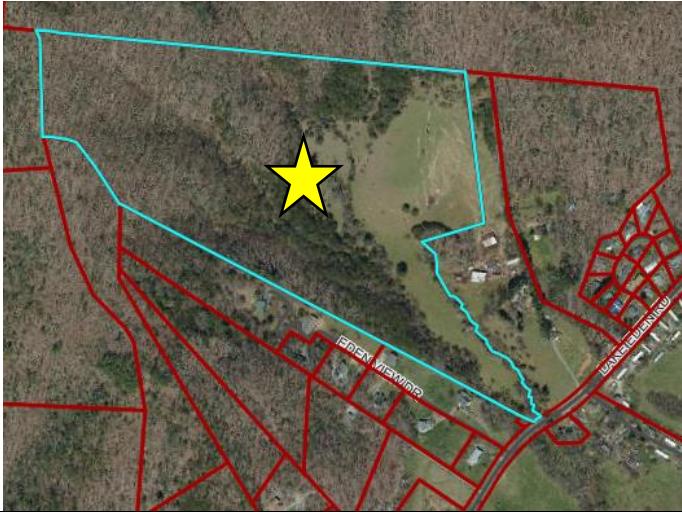




<p>LOCATION MAP</p> 		<p>CASE NUMBER: ZPH2023-00010 Lake Eden Rezoning</p>	
<p>A. PROPERTY INFORMATION</p>			
<p>PIN(s): 9699-89-2403 Addresses: Unaddressed off Lake Eden Road Owner(s): CON-ONLAULA FARMS LLLP</p>			
<p>B. REZONING REQUEST</p>			
<p>Applicant: Lake Eden Preserve, LLC Existing Zoning: R-2 Residential Proposed Zoning: CR – Conference Resort Total # Parcels: 1 parcel Acreage: 48.67 acres</p>			
<p>C. PUBLIC NOTICE</p>			
<p>Planning Board:</p>	<p>Citizen Times and BC website: 4/5/23 Mailed to owners within 1,000 ft: 4/5/23 Physical posting on site: 4/7/23 Hearing Date: 4/17/23</p>	<p>BOC:</p>	<p>Citizen Times and BC website: TBD Mailed to owners within 1,000 ft: TBD Physical posting on site: TBD BOC Hearing: 5/16/23</p>
<p>D. SUMMARY OF REQUEST</p>			
<p>Lake Eden Preserve, LLC has requested to rezone one (1) parcel of land from R-2 (Residential District) to CR (Conference Resort).</p>			
<p>E. STAFF RECOMMENDATION</p>			
<p>APPROVAL</p>			

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 subject parcel is adjacent to property currently zoned CR along Lake Eden Road. 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-2

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.

PROPOSED ZONING DISTRICT – CR

The CR Conference Center/Resort District is intended to be a district that includes, but is not limited to large tourist-related facilities, summer/day camp properties, and conference centers held in single ownership or held collectively by related entities.

Facilities within this district may include housing, hotels, retail shops, religious or secular retreats, and associated accessory uses. Such uses should currently have public water and sewer services available or have a provision for internal supply of appropriate utilities.

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

— 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
RECREATIONAL							
Resort	👉	👉	👉	👉	👉	★	—
Conference Centers	👉	👉	👉	👉	👉	★	—
Outdoor Recreation	—	—	—	—	—	👉	★

1. CONSISTENT:

The change is consistent with the following recommendations of the Land Use Plan:

- a) “Reasonable proximity to major transportation corridors” [Suggested]:

The subject property is located roughly 3 miles to US Hwy 70, which is a designated transportation corridor in the Land Use Plan. In compliance with suggestion.

- b) “Reasonable proximity to infrastructure (combined water / sewer service area)” [Suggested]:

The site is within the combined water and sewer service area. In compliance with suggestion.

- c) “Outside of steep slope area (25%+)” [Suggested]:

The majority of the site is outside of the Steep Slope Overlay district. Overlay areas are located to the rear of the property at the point furthest from the road access. Largely in compliance with suggestion.

- d) “Outside of moderate and high slope stability hazards” [Suggested]:

Some topography is encountered in the rear of the property, farthest from the road access. Largely in compliance with suggestion.

- e) “Outside of flood hazard areas” [Highly Suggested]:

In compliance with suggestion.

2. NOT CONSISTENT:

The change is not consistent with the following recommendations of the Land Use Plan:

- f) “Outside of high elevations (2500'+)” [Suggested]:

The parcel is partially within areas over 2,500 feet in elevation. These areas are primarily located to the rear of the property at the point furthest from the road access. The lowest elevation, most accessible portions of the parcel are below 2,500 feet. Many CR properties include large swaths of Steep Slope areas and High Elevations given the size of their parcels, but also seek to cluster lodging, camp facilities, and other features outside of these areas. Partially in compliance with suggestion.

- a) “Separation from low-density residential uses” [Not Required for Resort/Conference Centers, but Highly Suggested for Outdoor Recreation]:

The parcel is adjacent to multiple single-family homes on three properties. Partially in compliance with suggestion.

The Buncombe County Comprehensive Land Use Plan Update, 2013:

The Land Use Plan recommends that Recreational Uses, such as Conference Centers, Resorts, and Outdoor Recreation, be directed to areas with existing infrastructure, and away from steeper topography and flood areas. It highly suggests that low density residential uses have separation from outdoor recreation uses, which is assured through Zoning Ordinance buffering and screening standards.

(Section 6, Figure 20)

I. NEIGHBORHOOD CONSISTENCY

1. CURRENT DEVELOPMENT TYPES:

The subject property is located along a mixed-use corridor. Adjacent properties have the following characteristics:

- North: Zoned CR Conference Resort. Adjacent uses include a campground.
- East: Zoned R-2 Residential. Adjacent use includes low density residential.
- South: Zoned R-1 Residential. Adjacent use includes low density residential.
- West: Zoned PS Public Service. Adjacent use includes vacant land and a group home.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

The proposed rezoning would allow additional uses in the CR district that are not currently allowed in the R-2 district. Examples of uses that would be allowed after the rezoning include Commercial Planned Unit Developments, Banks, Commercial greenhouses, Hotels, Medical clinics, Fitness centers, Business offices, telecommunication towers, restaurants, retail trade, Vocational school, storage and warehousing, vacation rental complex, etc.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

	Existing Districts:	Proposed District:
	R-2 Residential	CR Conference Resort
Minimum Lot Size (SF)	30,000 SF No Public Sewer 10,000 SF Public Sewer/No Water 6,000 SF Public Water and Sewer	30,000 SF No Public Sewer 12,000 Public Sewer/No Water 8,000 SF Public Water/Sewer
Max dwelling units per acre	12	12
Setbacks (Front/Side/Rear)	10/7/15 w/sewer 20/10/20 no sewer	20/10/20
Max height	35 feet	50 feet (Plus 1 foot each additional 5 feet setback from property lines. Up to 100 ft total.)

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

Site History – According to property tax records, the subject parcel is undeveloped vacant land.

Access – Access to the property is provided from Lake Eden Road.

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

Future Development – See above under Section 2.



J. EQUITY ANALYSIS

5. Buncombe County Government is utilizing an Equity Analysis Tool for certain types of planning-related development decisions. Staff will analyze projects that are required to go through a legislative process for approval using the following questions:
- What is being proposed and what does it seek to address?
 - **The proposal is for a rezoning of land from R-2 to CR. The applicant is seeking to address a disconnect between the existing zoning district designation and the current use of the land as part of their camp related activities. The implication being that an existing non-conforming use would become conforming with the zoning change.**
 - Who does the project affect and to what degree?
 - **A rezoning of land would allow the current owner or potential future owners of the land to develop the site based on the Permitted Uses in the Zoning Ordinance. A rezoning of land does not include a review of a specific project, but looks at all potential allowable uses that could occur under the new zoning district. Affected parties could include adjacent residential homes, or residents and businesses located along Lake Eden Road.**
 - Are historically marginalized groups consulted and involved from the early stages of the development of this project?
 - **As there are no development plans reviewed as part of a rezoning, a community meeting is not required prior to submitting an application. General notification is required to the community about the public hearing.**
 - Which plan goal(s) or policies does this project advance and how?
 - **The rezoning supports several recommendations from the Buncombe County Land Use Plan of 2013, such as locating Resort, Conference, and Outdoor recreation within reasonable proximity to major transportation corridors and infrastructure, and outside of Flood Hazard areas. The majority of the parcel is outside of Overlay areas and High Slope Stability Hazard areas.**
 - What are the anticipated positive outcomes of the project and how will success be measured?
 - **While there are no specific projects being reviewed, an anticipated positive outcome will be that an existing non-conforming use will become conforming with the rezoning.**
 - What negative consequences would persist if this were not implemented?
 - **Without the rezoning the current use of the property for camp activities will remain legally non-conforming.**
 - Are there sufficient population-level data to understand whether this would positively address or create any disparities?
 - **It is unclear whether a rezoning to CR- Conference Resort would create disparities as adjacent large parcels are currently also zoned CR, PS, and EMP.**

- Are there other counties or jurisdictions that have reviewed similar development projects and created similar solutions? How do they address the issue? Were their actions made utilizing an equity lens?
 - **Not applicable for a rezoning.**

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 Land Use Plan 2013
- 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