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|--|--|---|-------------------------------|
| <b>LOCATION MAP</b>  |  | <b>A. CASE</b>  |                               |
|  |  | ZPH2023-00031   |                               |
|  |  | Justice Ridge Farm Rd Rezoning  |                               |
| <b>B. PROPERTY INFORMATION</b>   |  | <ul style="list-style-type: none"> <li><b>PIN(s):</b> 8697-85-0315, 8697-85-1233, and 8697-84-1531, 8697-84-1538</li> <li><b>Addresses:</b> 215 and Unaddressed Justice Ridge Rd, and 1 and 5 Clara Parker Dr.</li> <li><b>Owner(s):</b> Myron and Beverly Gottfried and Justice Ridge Farm LLC.</li> <li><b>Acreage:</b> 6.46 total acres</li> <li><b>Utilities:</b> Public water and sewer</li> <li><b>Access Road:</b> Justice Ridge Rd. and Clara Parker Dr.</li> </ul> |                               |
| <b>C. REZONING REQUEST</b>   |  |   |                               |
| <p><b>Summary:</b> Myron Gottfried of Justice Ridge Farm LLC has requested to rezone four parcels of land from R-1 and R-2 (Residential) to CS (Commercial Service).</p> |  | <p><b>Existing:</b> R-1 and R-2 Residential</p>   |                               |
|  |  | <p><b>Proposed:</b> CS – Commercial Service</p>   |                               |
| <b>D. PUBLIC NOTICE</b>  |  | <b>Planning Board</b>   | <b>Board of Commissioners</b> |
| Citizen Times and BC website:  |  | 10/6/23   | 10/27/23 & 11/3/23            |
| Mailed to owners within 1,000 ft:  |  | 10/6/23   | 10/27/23                      |
| Physical posting on site:  |  | 10/6/23   | 10/27/23                      |
| Hearing Date:  |  | 10/16/23  | 11/7/23                       |
| <b>E. RECOMMENDATION &amp; SUMMARY OF CONSISTENCY REVIEW</b>   |  |   |                               |
| <p><b>STAFF: APPROVAL</b></p> <p><b>PLANNING BOARD: APPROVAL</b></p>   |  | <p>Staff recommends that the rezoning of the four parcels be approved as it conforms to the recommendations from the Comprehensive Plan’s GEC Character Map, the Plan Policies and Actions, and is currently being used for a commercial use.</p>   |                               |

**F. SPOT ZONING ANALYSIS**

|  |                          |   |
|--|--------------------------|---|
| <p><b>Spot Zoning:</b> 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." <i>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).</i></p> | <p><u>CONSISTENT</u></p> | <p><u>POTENTIAL<br/>SPOT<br/>ZONING</u></p> |
| <p><b>1. Staff Analysis of spot zoning:</b><br/>The subject acreage is adjacent to property currently zoned CS. Based on the nature of the request, Staff does not have concerns related to spot zoning.</p>   | <p><b>X</b></p>          |   |

**G. 2043 COMPREHENSIVE PLAN CONSISTENCY**

**PLEASE NOTE:** If a rezoning request is approved that is not consistent with the adopted comprehensive plan, the zoning amendment shall have the effect of also amending any future land use map (e.g., the Growth, Equity, and Conservation Map) in the approved plan. No additional request or application for a plan amendment shall be required per the statute.

| <b>GEC CHARACTER FRAMEWORK (FUTURE LAND USE MAP):</b>   | <u>CONSISTENT</u> | <u>NOT<br/>CONSISTENT</u> |
|---|-------------------|---------------------------|
| <p><b>1. FLUM CATEGORY DESCRIPTION</b><br/>The proposed rezoning is consistent with the Character area description of 'Mixed Use II' where this parcel is located.</p>  | <p><b>X</b></p>   |                           |
| <p><b>2. WASTEWATER &amp; POTABLE WATER TYPE</b><br/>The parcel has access to public water and sewer.</p>   | <p><b>X</b></p>   |                           |
| <p><b>3. DENSITY</b><br/>The proposed zoning district has a maximum density of up to 12 units an acre which is consistent with the Character area recommendations.</p>  | <p><b>X</b></p>   |                           |
| <p><b>4. PRIMARY AND SECONDARY LAND USES</b><br/>The uses allowed in the proposed zoning district match those recommended in the Character Framework for this area.</p>   | <p><b>X</b></p>   |                           |
| <b>PLAN POLICIES AND ACTIONS:</b>   | <u>CONSISTENT</u> | <u>NOT<br/>CONSISTENT</u> |
| <p><b>5. Proximity to Transportation Corridor (Transportation Action 4)</b><br/>All parcels are less than 0.5 miles from a major transportation corridor, Smokey Park Highway.</p>  | <p><b>X</b></p>   |                           |
| <p><b>6. Support higher density residential development near job centers and amenities (Transportation Action 4)</b><br/>The proposed rezoning would increase the amount of residential density allowed in the R-1 zoned parcels (currently allows 10 units/acre) to allow up to 12 units per acre. The parcels to be rezoned from R-2 to CS would have no change in density.</p> | <p><b>X</b></p>   |                           |

|   |  |                       |
|---|--|-----------------------|
| <p>7. <b>Prioritize environmental conservation of other natural lands (such as intact forest lands, wetlands, and other unique habitats) to protect and increase the capacity to sustain the county’s existing biodiversity</b> (<i>Env. Conserv. Action 3</i>)<br/> The parcels are currently in use as a Vacation Rental Complex and for an event center.</p>   | X  |                       |
| <p>8. <b>Prioritize the conservation of physical connections between natural landscapes to avoid fragmentation of large forest blocks in order to benefit wildlife migration</b> (<i>Env. Conserv. Action 3</i>)<br/> This rezoning would not cause the fragmentation of a large forest block.</p>  | X  |                       |
| <p>9. <b>Using the guidance of the GEC Map, work with private development partners to bring new sites to market that have promising transportation access, proximity to current and future economic corridors, a robust utility service, labor draw, community synergies, etc.</b> (<i>Economic Dev. Action 2</i>)<br/> The rezoning of these parcels will increase the land use options for the existing and future property owners.</p>   | X  |                       |
| <p>10. <b>Support the creation of place-based community gathering destinations at Walkable Destination Centers, Mixed Use Areas, and Rural Centers identified on the GEC Map</b> (<i>Economic Dev. Action 3</i>)<br/> Parcels are not within one of the listed Character Areas.</p>   | N/A  |                       |
| <p>11. <b>Integrate equity considerations into projects that improve air, water, and land quality by utilizing tools including redlining maps of Asheville and other municipalities and EPA’s Environmental Justice Screening Tool</b> (<i>Health Action 7</i>)<br/> The parcels are not in an area identified on the red lining map of Asheville. They are within a higher Equity Index Rank on the Community Index Map and will be further analyzed in the Equity Analysis Section.</p> | <b>Equity Analysis is recommended for these parcels.</b> |                       |
| <b>ENVIRONMENTAL:</b>   | <u>CONSISTENT</u>  | <u>NOT CONSISTENT</u> |
| <p>12. <b>Steep Slope/High Elevation and Protected Ridge Overlay Districts</b><br/> The parcel is not within an Overlay District.</p>   | X  |                       |
| <p>13. <b>Regulated Flood Hazard Areas</b><br/> The parcel is not located within a regulated flood hazard area.</p>   | X  |                       |
| <p>14. <b>High or Moderate Hazard Stability Areas</b><br/> The parcel does not contain hazard stability areas.</p>  | X  |                       |

| <b>H. NEIGHBORHOOD CONSISTENCY</b>  |                       |   | <u>CONSISTENT</u> | <u>NOT<br/>CONSISTENT</u> |
|---|-----------------------|---|-------------------|---------------------------|
| <b>1. CURRENT DEVELOPMENT TYPES – PARCELS -0315 &amp; -1233 (NORTH):</b><br>Subject acreage has the following adjacent zonings and uses:  |                       |   | <b>X</b>          |                           |
| DIRECTION   | ZONING                | ADJACENT USES                                       |                   |                           |
| NORTH   | OU Open Use           | Vacant residential land                             |                   |                           |
| EAST  | R-1 Residential       | Single family residential                           |                   |                           |
| SOUTH   | CS Commercial Service | Commercial clubhouse                                |                   |                           |
| WEST  | R-1 Residential       | Single family residential                           |                   |                           |
| <b>2. CURRENT DEVELOPMENT TYPES – PARCELS 1538 &amp; 1531 (SOUTH):</b><br>Subject acreage has the following adjacent zonings and uses:  |                       |   |                   | <b>X</b>                  |
| DIRECTION   | ZONING                | ADJACENT USES                                       |                   |                           |
| NORTH   | CS Commercial Service | Single family residential / vacation rental complex |                   |                           |
| EAST  | R-2 Residential       | Single family common open space                     |                   |                           |
| SOUTH   | R-2 Residential       | Single family residential                           |                   |                           |
| WEST  | CS Commercial Service | Single family residential                           |                   |                           |
| <b>3. Does the proposed rezoning allow for any transition between higher density or intensity uses and lower density or intensity uses?</b> <i>(Examples include medium intensity zoning between a low and high intensity district, topographic separations, other natural features to ensure a transition or buffer.)</i><br><br>The rezoning of the property from R-1 / R-2 to CS will cause an increase in the types and intensity of uses allowed on the properties. However, the property is currently part of an events facility, which is a lower intensity use than what is allowed in the CS zoning district. There will be no transition between the high intensity zoning of CS and the low to medium intensity residential zoning of R-1 and R-2. |                       |   |                   | <b>X</b>                  |
| <b>4. Are the uses allowed in the proposed zoning district compatible with the existing uses in the area?</b><br><br>The proposed zoning district allows a variety of uses from residential to commercial and light industrial. The existing uses in the area includes single-family residential and vacation rentals.  |                       |   |                   | <b>X</b>                  |
| <b>5. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:</b><br>The proposed rezoning would allow additional uses in the CS district that are not currently allowed in the R-1 or R-2 districts. Examples of uses that would be allowed after the rezoning include multi-family residential, commercial planned unit developments, veterinary clinics, banks, cargo terminals, commercial greenhouses, hotels or motels, manufacturing facilities, restaurants, retail, warehousing, vacation rental complexes, and more.  |                       |   |                   |                           |

**6. DENSITY & DIMENSIONAL STANDARDS COMPARISON:**

|                              |                       | Existing District:                                  |                 | Proposed District: |
|------------------------------|-----------------------|---|-----------------|--------------------|
|                              |                       | R-2 Residential                                     | R-1 Residential | CS Commercial      |
| Min. Lot Size                | No Public Sewer       | 30,000 SF   | 30,000 SF       | 30,000 SF          |
|                              | Public Sewer/No Water | 10,000 SF   | 12,000 SF       | 10,000 SF          |
|                              | Public Water & Sewer  | 6,000 SF  | 8,000 SF        | 5,000 SF           |
| Max. dwelling units per acre |                       | 12  | 10              | 12                 |
| Setbacks (Front/Side/Rear)   |                       | 10/7/15 with public sewer<br>20/10/20 septic system |                 | 10/10/10           |
| Max. height                  |                       | 35 feet   |                 | 50 feet            |

**7. PREVIOUS ZONING ACTIONS & RELEVANT SITE HISTORY:**

The parcels are part of a larger group of properties operating under an existing business on lot PINs 8697-84-1942 and 8697-74-9782. The current use is an event center. The second use is for a vacation rental complex of multiple short term rentals. The business has not received permits to operate the vacation rental complex and requires the rezoning as part of several steps to correct the zoning violation.

**I. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT**

**EXISTING ZONING DISTRICT – R-1 & R-2**

The R-1 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.

The R-2 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 – CS**

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.

## J. EQUITY ANALYSIS

### 1. Buncombe County Government is utilizing an Equity Analysis Tool for certain types of planning-related development decisions. The following is Staff's Equity Analysis for this rezoning:

These parcels are in an area of the county (Census tract 25.03, Block 1) that is ranked higher on the Equity Index of the Community Index Map, meaning that it is a potential Equity Opportunity Area (EOA) where BIPOC or other historically disadvantaged communities live or work. The Block group where these parcels are located has the following notable demographics:

- population with no high school diploma is higher than for the zip code
- gross rent as a percent of income is higher than for the zip code
- median household income is 16% lower than for the county average
- % Hispanic or Latino is 15.7% of the population, which is the second highest for the zip code

A rezoning of land does not include a specific development proposal to consider, therefore the Board might consider how all of the types of uses allowed in the proposed district could impact any historically disadvantaged communities within the area.

The Board may also want to consider how rezoning the two single-family homes to Commercial Service may impact the availability of housing and affordability in the area. However, these two homes are currently fenced in within the event facility as a whole and are being used for lodging on the site.

## 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 the adopted 2043 Comprehensive 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)*

## L. 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.

## M. ATTACHMENTS

- Application
- Power Point Presentation
- Maps