



LOCATION MAP		A. CASE	
		ZPH2023-00027 Biltmore Farms -Frederick Law Olmsted Way	
		B. PROPERTY INFORMATION	
		<ul style="list-style-type: none"> • PIN(s): 9635-37-0439, 9635-54-4215 • Addresses: 179 E. Frederick Law Olmsted Way; unaddressed parcel on Brevard Rd. • Owner(s): Biltmore Farms LLC • Acreage: 764.52 total acres • Utilities: Public water and sewer • Access Road: Frederick Law Olmsted Way and Brevard Road 	
C. REZONING REQUEST			
Summary: Biltmore Farms LLC has requested to rezone two parcels of land from R-3, NS and CS to EMP (Employment) and R-LD. The applicant is requesting that the portion of the property ending in PIN 4215 that is currently zoned R-LD remain so.		Existing: R-3, R-LD, NS, and CS; Blue Ridge Parkway Overlay	
		Proposed: EMP – Employment (with the portion of the PIN ending in 4215 remains R-LD).	
D. PUBLIC NOTICE		Planning Board	Board of Commissioners
Citizen Times and BC website:		10/6/23	11/24/23 AND 11/30/23
Mailed to owners within 1,000 ft:		10/6/23	11/22/23
Physical posting on site:		10/6/23	11/23/23
Hearing Date:		10/16/23 AND 11/20/23	12/5/23
E. RECOMMENDATION & SUMMARY OF CONSISTENCY REVIEW			
STAFF: APPROVAL PLANNING BOARD: APPROVAL	Staff recommends that the rezoning of the two parcels be approved as it conforms to the recommendations from the Comprehensive Plan’s GEC Character Map, the Plan Policies and Actions, an analysis of neighborhood consistency, and the equity analysis.		

F. SPOT ZONING ANALYSIS		
<p><i>Spot Zoning: 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 <u>Blades v. City of Raleigh</u>, 280 N.C. 531, 547, 187 S.E.2d 35, 45 (1972).</i></p>	<u>CONSISTENT</u>	<u>POTENTIAL SPOT ZONING</u>
<p>1. Staff Analysis of spot zoning: The subject acreage is adjacent to property currently zoned EMP, and is additional an extremally large parcel. Based on the nature of the request, Staff does not have concerns related to spot zoning.</p>	X	

G. 2043 COMPREHENSIVE PLAN CONSISTENCY		
<p>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.</p>		
GEC CHARACTER FRAMEWORK (FUTURE LAND USE MAP):	<u>CONSISTENT</u>	<u>NOT CONSISTENT</u>
<p>1. FLUM CATEGORY DESCRIPTION The proposed rezoning is consistent with the Character area description of 'Mixed Use II' where this parcel is located.</p>	X	
<p>2. WASTEWATER & POTABLE WATER TYPE/OTHER INFRASTRUCTURE The parcel has access to public water and sewer. Duke Energy recently constructed a new substation in support of and adjacent to the newly built Pratt & Whitney plant.</p>	X	
<p>3. DENSITY The proposed zoning district has a maximum density of up to 12 units an acre which is consistent with the Character area recommendations.</p>	X	
<p>4. PRIMARY AND SECONDARY LAND USES The uses allowed in the proposed zoning district match those recommended in the Character Framework for this area.</p>	X	
PLAN POLICIES AND ACTIONS:	<u>CONSISTENT</u>	<u>NOT CONSISTENT</u>
<p>5. Proximity to Transportation Corridor (Transportation Action 4) All parcels are less than 0.5 miles from a major transportation corridor, Brevard Road. A newly constructed bridge (Fredrick Law Olmsted Way and Brevard Road intersection) now provides a means to cross the French Broad River and provide access directly to the Pratt and Whitney plant and future development opportunities. NCDOT was recently funded to construct a new I-26 interchange. Once built this will provide interstate access from I-26 to Brevard Road via Fredrick Law Olmsted Way.</p>	X	

<p>6. Support higher density residential development near job centers and amenities (<i>Transportation Action 4</i>) The proposed rezoning would not increase the amount of residential density allowed for the majority of the property.</p>	X	
<p>7. 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 (<i>Env. Conserv. Action 3</i>) The property is currently vacant, with a sewer easement running through it. A small portion of the property which borders the French Broad River is within the floodway and floodplain, but the majority of the property is not.</p>	X	
<p>8. Prioritize the conservation of physical connections between natural landscapes to avoid fragmentation of large forest blocks in order to benefit wildlife migration (<i>Env. Conserv. Action 3</i>) This rezoning would not cause the fragmentation of a large forest block. The property is currently divided by the Blue Ridge Parkway.</p>	x	
<p>9. 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. (<i>Economic Dev. Action 2</i>) The rezoning of these parcels will increase the land use options for the existing and future property owners.</p>	X	
<p>10. Support the creation of place-based community gathering destinations at Walkable Destination Centers, Mixed Use Areas, and Rural Centers identified on the GEC Map (<i>Economic Dev. Action 3</i>) Parcels are not within one of the listed Character Areas.</p>	N/A	
<p>11. 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 (<i>Health Action 7</i>) The parcels are not in an area identified on the red lining map of Asheville. They are within a low Equity Index Rank on the Community Index Map.</p>	Equity Analysis is recommended for these parcels.	
ENVIRONMENTAL:	<u>CONSISTENT</u>	<u>NOT CONSISTENT</u>
<p>12. Steep Slope/High Elevation and Protected Ridge Overlay Districts The parcel is not in the overlays.</p>	X	
<p>13. Regulated Flood Hazard Areas The portion of the property that is remaining zoned R-LD is located within a regulated flood hazard area, however, the proposed EMP area is not.</p>	X	
<p>14. High or Moderate Hazard Stability Areas The parcel does not contain hazard stability areas.</p>		X

H. NEIGHBORHOOD CONSISTENCY			<u>CONSISTENT</u>	<u>NOT CONSISTENT</u>
1. CURRENT DEVELOPMENT TYPES Subject acreage has the following adjacent zonings and uses:				
DIRECTION	ZONING	ADJACENT USES		
NORTH	CR Confrence Center Resort	Biltmore Estate		
EAST	CR; CS Commercial; R1 Residential	Biltmore Estate; Residential Development; Commercial Development	X	
SOUTH	R1; EMP; PS Public Service; R3 Residential;	Residential, Office, Industrial, Institutional		
WEST	EMP; NS: CS OU Open Use: City of Asheville Zoning	French Broad River, Pisgah National Forest; Undeveloped land owned by Buncombe County; Residential Development		
2. Does the proposed rezoning allow for any transition between higher density or intensity uses and lower density or intensity uses? <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> The rezoning of the property will cause an increase in the types and intensity of uses allowed on the properties. However, the property is surrounded by a mix of uses, including residential, commercial, and office/industrial. Additionally, the Blue Ridge Parkway, French Broad River, and I-26 Cooridor create natural transition areas.			X	
3. Are the uses allowed in the proposed zoning district compatible with the existing uses in the area? The proposed zoning district allows a variety of uses but is primarily intended for employment-related uses such as office and industrial sites. The area currently contains a mix of uses and zoning districts, but the Blue Ridge Parkway, French Broad River, and I-26 Corridor create natural transition areas.			X	
4. ALLOWED DEVELOPMENT TYPES AFTER CHANGE: The proposed rezoning would allow additional uses in the EMP district that are not currently allowed in the underlying zoning district. The most notiable use not allowed in the underlying zoning district is industrial uses.				

5. DENSITY & DIMENSIONAL STANDARDS COMPARISON:

		Existing Districts:			
		R-LD (Residential)	R-3 (Residential)	NS (Neighborhood Service)	CS (Commercial Service)
Min. Lot Size	No Public Sewer	43,560 SF	30,000 SF	30,000 SF	30,000 SF
	Public Sewer/No Water		10,000 SF	10,000 SF	10,000 SF
	Public Water & Sewer		5,000 SF	5,000 SF	5,000 SF
Max. dwelling units per acre		12			
Setbacks (Front/Side/Rear)		10/10/20	10/7/15 with public sewer	10/7/15 with public sewer	10/10/10
Max. height		35 feet			50 feet

Proposed District:

EMP (Employment)

Min. Lot Size	30,000 SF (No Public Sewer); 10,000 SF (Public Sewer/No Water); 5,000 SF (Public Water and Sewer)
Max. Dwelling units per acre	12
Setbacks (Front/Side/Rear)	20/10/20
Max. height	90

6. PREVIOUS/FUTURE ZONING ACTIONS & RELEVANT SITE HISTORY:

The properties are currently undeveloped, a tract surrounded by the parcel ending in 0439 is the site of the Pratt and Whitney plant. AB-Tech and Buncombe County are partnering to build a new satellite campus providing specialized manufacturing instruction in support of the Pratt and Whitney and future spin-off industry workforce.

I. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT

EXISTING ZONING DISTRICT – R-3, R-LD, N-S, and C-S

The R-LD Low-Density Residential District is primarily intended to provide locations for low-density residential and related-type development in areas where topographic or other constraints preclude intense urban development. These areas are not likely to have public water and sewer services available, and the minimum required lot area will be one acre unless additional land area is required for adequate sewage disposal. These are environmentally sensitive areas that are characterized by one or

PROPOSED ZONING DISTRICT – EMP

The EMP Employment District is primarily intended to provide appropriately located sites for employment concentrations primarily for office uses, industrial uses, storage and warehousing, and wholesale trade. Such locations should currently have public water and sewer services available or be expected to have these

more of the following conditions: Steep slopes, fragile soils, or flooding.

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.

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.

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.

services in the future. Only those manufacturing uses will be allowed which meet all local, state and federal environmental standards, and do not involve obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards, or other objectionable conditions which would be detrimental to the health, safety, and general welfare of the community. These areas will also include sites suitable for supportive activities such as community service, commercial service, and residential uses.

--	--

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 tracts 21.01 and 22.04) that has a low Equity Index Rank of the Community Index Map, meaning that this is not identified as an Equity Opportunity Area (EOA) where BIPOC or other historically disadvantaged communities live or work.

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
- Maps
- Power Point Presentation