



McGUIRE
WOOD &
BISSETTE
LAW FIRM

September 1, 2023

Ms. Gillian Phillips
Buncombe County Planning and Development Department
46 Valley Street
Asheville, NC 28801

RE: Application for Rezoning/Biltmore Farms, LLC

Dear Gillian:

Attached to this letter please find the Application for a Zoning map Amendment, by Biltmore Farms, LLC, for the rezoning of its property located off of E. Frederick Law Olmsted Way and Brevard Road (parts of PINs 9635-37-0439 and 9635-54-4215). We appreciate the assistance provided by you and Shannon Capezzali in the preparation of the Application, and the process for submittal. Also attached is an Owner's Affidavit authorizing Lou Bissette and me, of McGuire, Wood & Bissette, to act as authorized representatives of Biltmore Farms in this matter. We can provide the signed originals of the Application and the Owner's Authorization if needed.

It is our understanding that this matter will be scheduled for the October 16, 2023 meeting of the Buncombe County Planning Board.

We also understand that you will let us know what the fee for filing this application is, and we will make payment promptly. If anything else is needed in order to complete this Application, or if you have any questions or need any further information, please let me know.

Again, thank you for your assistance; we look forward to working with you on this matter.

Sincerely,

Robert W. Oast, Jr.

CC: Ben Teague, Vice President, Biltmore Farms LLC

PHONE 828.254.8800 / FAX 828.252.2438

PHYSICAL ADDRESS Drhumor Building / 48 Patton Avenue / Asheville, NC 28801

MAILING ADDRESS P.O. Box 3180 / Asheville, NC 28802

mwblawyers.com



BUNCOMBE COUNTY
 PLANNING & DEVELOPMENT
 (828) 250-4830 - PlanningInfo@BuncombeCounty.org
 www.buncombecounty.org/planning

**Application for a Zoning
 MAP AMENDMENT
 (Rezoning)**

A PRE-SUBMITTAL CONFERENCE WITH THE PLANNING DEPARTMENT
 IS REQUIRED PRIOR TO SUBMITTAL.

A. Property Information

Application is hereby made to the Board of Commissioners of Buncombe County to amend the Official Zoning Map of Buncombe County as it pertains to the following properties:

PIN(s): 9635-37-0439 (partial) Tract #1

Address(es): 176 E. Frederick Law Olmsted Way

Acres: 108 Available Utilities: Public water Private well
 Public MSD Sewer Private septic

B. Zoning Classification

Current zoning district(s): R-3/CS Requested zoning district(s)*: EMP

**If only a portion of the property is requested to be rezoned, or a rezoning to include more than one zoning district is proposed, please enclose a map indicating the area(s) of the property to be considered for rezoning.*

C. Applicant Contact Information

Property Owner Contact Information (If different)

Biltmore Farms, LLC
 Company/Corporate Name (if applicable)

Biltmore Farms, LLC
 Applicant's Name

Post Office Box 5355
 Mailing Address
Asheville, NC 28813

City, State, and Zip Code

(828) 209-2000
 Telephone

bteague@biltmorefarms.org
 Email

Owner's Name

Mailing Address

City, State, and Zip Code

()
 Telephone

Email

OFFICE USE ONLY:

Date Received: _____

Pre-Submittal meeting with: _____

Case Number: ZPH _____

Owner's Affidavit Submitted: Yes No

Planning Board Hearing Date: _____



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**Application for a Zoning
 MAP AMENDMENT
 (Rezoning)**

A PRE-SUBMITTAL CONFERENCE WITH THE PLANNING DEPARTMENT
 IS REQUIRED PRIOR TO SUBMITTAL.

A. Property Information

Application is hereby made to the Board of Commissioners of Buncombe County to amend the Official Zoning Map of Buncombe County as it pertains to the following properties:

PIN(s): 9635-54-4215 (partial) Tract #2

Address(es): 99999 Brevard Road

Acreage: 343 **Available Utilities:** Public water Private well
 Public MSD Sewer Private septic

B. Zoning Classification

Current zoning district(s): R-3/NS Requested zoning district(s)*: EMP

**If only a portion of the property is requested to be rezoned, or a rezoning to include more than one zoning district is proposed, please enclose a map indicating the area(s) of the property to be considered for rezoning.*

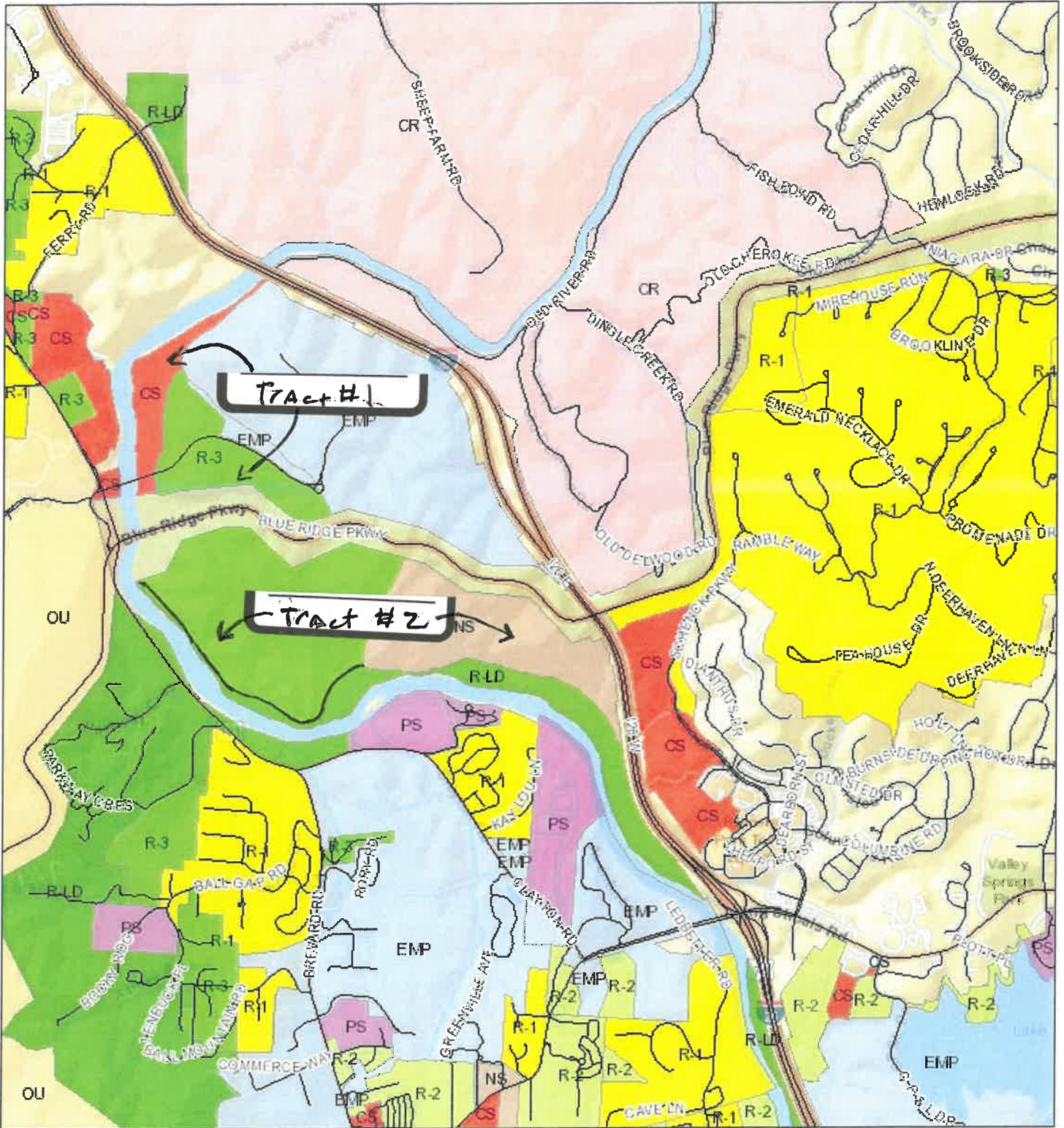
See Attached Map

C. Applicant Contact Information Property Owner Contact Information (If different)

<p><u>Biltmore Farms, LLC</u> Company/Corporate Name (if applicable)</p> <p><u>Biltmore Farms, LLC</u> Applicant's Name</p> <p><u>Post Office Box 5355</u> Mailing Address</p> <p><u>Asheville, NC 28813</u> City, State, and Zip Code</p> <p><u>(828) 209-2000</u> Telephone</p> <p><u>bteague@biltmorefarms.org</u> Email</p>	<p>_____ Owner's Name</p> <p>_____ Mailing Address</p> <p>_____ City, State, and Zip Code</p> <p><u>()</u> Telephone</p> <p>_____ Email</p>
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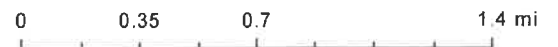
<p>OFFICE USE ONLY:</p> <p>Date Received: _____</p> <p>Pre-Submittal meeting with: _____</p>	<p>Case Number: ZPH _____ - _____</p> <p>Owner's Affidavit Submitted: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Planning Board Hearing Date: _____</p>
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Buncombe County



August 28, 2023

1:36,112



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

D. MAP AMENDMENT CONSISTENCY & APPROPRIATENESS

Please answer the following questions (if necessary attach a separate sheet of paper):

1. Describe how the size of the tract proposed for rezoning in reference to surrounding properties makes it suitable for the proposed zoning classification:

See Attached

2. Describe how the proposed rezoning is consistent with the Growth, Equity, and Conservation Framework from Buncombe County's 2043 Comprehensive Plan (*available on the BC Planning Department website, section starts on page 46 in the Plan*).

See Attached

3. Describe how the proposed rezoning would be reasonable and in the public interest, with specific attention to the zoning and existing land uses of surrounding properties, and the potential effects of the proposed rezoning on property owners, adjacent neighbors, and the surrounding community.

See Attached

D. MAP AMENDMENT CONSISTENCY & APPROPRIATENESS

Please answer the following questions (if necessary attach a separate sheet of paper):

1. Describe how the size of the tract proposed for rezoning in reference to surrounding properties makes it suitable for the proposed zoning classification:

The area proposed for rezoning (“Subject Area”) encompasses 2 larger tracts of land, separated from each other by the Blue Ridge Parkway, as it runs East to West. These 2 tracts are further delineated and separated from other tracts in the area by the French Broad River along the southern/western/northern boundaries and I-26 to the East. This proposed rezoning does not include any part of the Blue Ridge Parkway, or the right of way on either side of it, which is owned by the federal government. The northern tract (Tract 1) consists of approximately 108 acres, and is part of a larger tract of 345 acres (PIN 9635-37-0439), owned by the Applicant, of which a substantial part is already zoned EMP. Rezoning is requested for the parts of Tract 1 that are currently zoned R-3 and CS.

The southern tract, Tract 2, consists of 343 acres and is currently zoned R-3 on the West, and NS on the East. This tract is also part of a larger tract of 419 acres (PIN 9635-54-4215), owned by the Applicant. There is a strip along the northern bank of the French Broad River that is zoned R-LD, which will remain. Rezoning is requested for the part of this property zoned R-3 or NS, but not for the R-LD strip. Together Tracts 1 and 2 comprising the Subject Area, total 451 acres in size.

The Subject Area is surrounded by properties of various sizes including the 100 acre parcel on which the Pratt and Whitney facility is located. While there are some smaller residential lots in the area, none of these lots directly abuts the Subject Area. In addition, all other properties in the larger geographic area are separated from the subject property by I-26 or the French Broad River. There should be no concern about spot zoning arising from the size of the Subject Area.

2. Describe how the proposed rezoning is consistent with the growth, equity, and conservation framework from Buncombe County’s 2043 Comprehensive Plan.

The proposed rezoning is consistent with the growth, equity and conservation framework in the 2043 Comprehensive Plan in several ways:

1. Growth: As discussed in more detail below the Subject Area is designated in the 2043 Comp Plan as Mixed-Use Area II, which signifies that it has been found suitable for more intensive land uses, such as industrial and industrial/office flex uses, offices, other commercial, and medium density residential uses. The Subject Area is also well served by transportation facilities, electricity and natural gas, and water and sewer facilities (existing and proposed). Tract I of the Subject Area is currently accessible from Brevard Road via a bridge across the French Broad River, and an interchange (proposed exit 35) is currently under construction that will provide direct access from I-26. Access to Tract 2 is via Schenck Parkway through Biltmore Park. Moreover, many economic development prospects are looking for larger tracts of land. Due to the size of the Subject Area, the potential for these tracts to be created, and

the range of uses allowed in the EMP zoning classification, the potential for major economic development is greatly increased.

2. Equity: The Subject Area is not currently developed and is not in use for residential purposes. No historically disadvantaged groups will be displaced by development of the Subject Area, and no housing will be lost. Rather, the rezoning from R-3 to EMP will substantially increase the residential density, and will reduce the potential for large lot single family zoning, allowing for a mixture of housing types. This will facilitate the provision of “missing middle” housing, and provide multiple housing opportunities for those households working within this proposed EMP area. In addition, zoning the Subject Area to allow for the types of development contemplated by the Mixed-Use Area II Comp Plan designation will increase the potential for higher than average wage employment opportunities in the area, including jobs in the STEM fields.

3. Conservation: The proposed rezoning would not affect the Blue Ridge Parkway or its right of way, which traverses the Subject Area. The proposed rezoning would also not affect the Blue Ridge Parkway Overlay, which would remain in effect, limiting development within a quarter of a mile on either side of the Parkway. The proposed rezoning also does not include the strip along the northern Bank of the French Broad River, which will remain zoned R-LD.

3. Describe how the proposed rezoning would be reasonable and in the public interest, with specific attention to the zoning and existing land uses of surrounding properties, and the potential effects of the proposed rezoning on property owners, adjacent neighbors, and the surrounding community.

The proposed rezoning is reasonable and consistent with the public interest in several ways. As noted above, the Subject Area is designated in the 2043 Comp Plan as Mixed-Use Development II, which signifies its suitability for growth-oriented land use; and it identifies and supports such development as the preferred outcome. The Subject Area and the adjoining areas are separated from other properties in the area by the French Broad River and I-26, both of which are major geographical features that limit the impact of any development within the Subject Area to that of the larger geographic area surrounding the Subject Area. Moreover, where residential uses come closest to the Subject Area, along the French Broad River, the R-LD strip will provide additional protection.

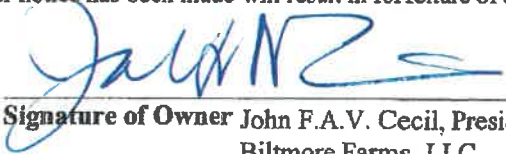
4. Is/are the applicant(s) listed below the owner(s) of the property? Yes No

If the applicant(s) listed herein are not the owner(s) as listed within the Buncombe County Tax Records, North Carolina General Statutes require the applicant to certify that the owner(s) received notice for each public hearing. An owner's affidavit must be submitted with this application, and certification of notice must be provided by the applicant once notice has been made for each public hearing 5 days prior to the hearing date; sample documents for both items can be obtained from the Planning Department.

E. CERTIFICATION

- I hereby certify that I am the owner, authorized agent of the owner, or have provided legal notification to the owner, and the above information is correct to the best of my knowledge and hereby make application for a Zoning Map Amendment. Any information given that is incorrect will cause this application to become null and void.
- I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application.

Signature of Applicant



Signature of Owner John F.A.V. Cecil, President
Biltmore Farms, LLC

Signature of Applicant

Signature of Owner

Signature of Applicant

Signature of Owner

Signature of Applicant

Signature of Owner

Signature of Applicant

Signature of Owner

Signature of Applicant

Signature of Owner

E.1.2. Contact Information and Certification of All Owners of Above-Referenced Property or Properties.

By signing this document I hereby certify that I am the owner of the property or properties referenced herein, and that any information given that is incorrect will cause this application to become null and void. I hereby authorize Swain County Staff to enter upon the property referenced below for the purpose of processing this rezoning request. I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application. I hereby authorize the Applicant referenced below, to act as my representative for the purposes of this rezoning request.

	Owner Name	Corporate Title (if applicable)	Mailing Address Street number, name, city, state, zip code	Telephone Number	Email Address
1	Biltmore Farms, LLC c/o Jack Cecil	President	Post Office Box 5355 Asheville, NC 28813	828-209-2000	jcecil@biltmorefarms.org
	Owner Signature: <i>[Signature]</i> Date: 8/31/2023		Applicant/ Designated Representative - Name: Robert W. Oast, Jr. Signature: <i>[Signature]</i> Date: 8/31/2023		
2					
	Owner Signature: Date:		Applicant/ Designated Representative - Name: Signature: Date:		
3					
	Owner Signature: Date:		Applicant/ Designated Representative - Name: Signature: Date:		
4					
	Owner Signature: Date:		Applicant/ Designated Representative - Name: Signature: Date:		



Application to Amend the Buncombe County Zoning Map: Owners' Affidavit

Planning and Development
www.buncombecounty.org

46 Valley Street
Asheville, NC 28801
Telephone (828) 250-4830
Fax (828) 250-6086

OWNERS' AFFIDAVIT

The persons listed below do hereby appear before a Notary Public and affirm that they are the legal owners of the property located at:

176 E. Frederick Law Olmsted Way and 99999 Brevard Road, Asheville, NC
PIN(s) # 9635-37-0439, 9635-54-4215


The persons listed below do hereby give authorization and permission to:

W. Louis Bissette, Jr. and Robert W. Oast, Jr. of McGuire Wood & Bissette, PA
(Name of Representative/Agent) (Name of Organization)

to submit to Buncombe County a request to amend the zoning map for the above listed properties from:

Current zoning district: R-3/NS/CS Requested zoning district: EMP

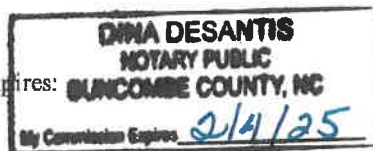
This application will be submitted to be heard by the Planning Board in a public hearing on October 2, 2023 and to be subsequently heard by the Commissioners.

<u>Owner's Name (Print)</u>	<u>Owner's Signature</u>	<u>Date</u>
<u>John F.A.V. Cecil, President</u>		<u>8/2/23</u>
<u>Biltmore Farms, LLC</u>		

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Dina Desantis a Notary Public of the County and State aforesaid, certify that John F.A.V. Cecil, PROPERTY OWNER, personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the 31st day of August, 2023




Notary Public

My Commission Expires: