



|   |  |  |                               |
|---|--|--|-------------------------------|
| <b>LOCATION MAP</b>   |  | <b>A. CASE</b>   |                               |
|   |  | ZPH2023-00040<br>East Valley LLC Rezoning  |                               |
|   |  | <b>B. PROPERTY INFORMATION</b>   |                               |
|   |  | <ul style="list-style-type: none"> <li>• <b>PIN(s):</b> 9678470815</li> <li>• <b>Addresses:</b> 1700 &amp; 1702 Tunnel Rd.</li> <li>• <b>Owner(s):</b> East Valley LLC</li> <li>• <b>Acreage:</b> .99 total acres</li> <li>• <b>Utilities:</b> Public water and sewer</li> <li>• <b>Access Road:</b> Tunnel Rd.</li> </ul> |                               |
| <b>C. REZONING REQUEST</b>  |  |  |                               |
| <p><b>Summary:</b> Marc Wright of East Valley LLC has requested to rezone one parcel of land from R-2(Residential) to EMP (Employment).</p> |  | <p><b>Existing:</b> R-2 Residential</p>  |                               |
|   |  | <p><b>Proposed:</b> EMP – Employment</p>   |                               |
| <b>D. PUBLIC NOTICE</b>   |  |  |                               |
|   |  | <b>Planning Board</b>  | <b>Board of Commissioners</b> |
| Citizen Times and BC website:   |  | 1/10/24 & 1/11/24  | 2/9/24                        |
| Mailed to owners within 1,000 ft:   |  | 1/11/24  | 2/6/24                        |
| Physical posting on site:   |  | 1/12/24  | 2/9/24                        |
| Hearing Date:   |  | 1/22/24  | 2/20/24                       |
| <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 parcel be approved as it conforms to the recommendations from the Comprehensive Plan’s GEC Character Map, the Plan Policies and Actions, and neighborhood consistency.</p>  |                               |

## F. SPOT ZONING ANALYSIS

**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 Blades v. City of Raleigh, 280 N.C. 531, 547, 187 S.E.2d 35, 45 (1972).*

CONSISTENT

POTENTIAL  
SPOT  
ZONING

### 1. Staff Analysis of spot zoning:

The subject acreage is adjacent to property currently zoned EMP. Based on the nature of the request, Staff does not have concerns related to spot zoning.

X

## 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.

### GEC CHARACTER FRAMEWORK (FUTURE LAND USE MAP):

CONSISTENT

NOT  
CONSISTENT

#### 1. FLUM CATEGORY DESCRIPTION

The proposed rezoning is consistent with the Character area description of 'Mixed Use I' where this parcel is located.

X

#### 2. WASTEWATER & POTABLE WATER TYPE

The parcel has access to public water and sewer.

X

#### 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.

X

#### 4. PRIMARY AND SECONDARY LAND USES

The uses allowed in the proposed zoning district match those recommended in the Character Framework for this area.

X

### PLAN POLICIES AND ACTIONS:

CONSISTENT

NOT  
CONSISTENT

#### 5. Proximity to Transportation Corridor (*Transportation Action 4*)

The parcel is located on a major transportation corridor, Tunnel Rd., which turns into US HWY 70.

X

#### 6. Support higher density residential development near job centers and amenities (*Transportation Action 4*)

The rezoning from R-2 to EMP will not result in any change to the allowable density.

X

|   |   |                       |
|---|---|-----------------------|
| <p><b>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 (Env. Conserv. Action 3)</b><br/> This parcel is in the Mixed Use I area on the GEC Map. This is a growth area and so this question does not apply.</p>   | N/A   |                       |
| <p><b>8. Prioritize the conservation of physical connections between natural landscapes to avoid fragmentation of large forest blocks in order to benefit wildlife migration (Env. Conserv. Action 3)</b><br/> This rezoning would not cause the fragmentation of a large forest block.</p>   | X   |                       |
| <p><b>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. (Economic Dev. Action 2)</b><br/> The rezoning of this parcel will increase the land use options for the existing and future property owners. It is located on Tunnel Rd., a major transportation corridor.</p>  | X   |                       |
| <p><b>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 (Economic Dev. Action 3)</b><br/> The EMP Employment District is primarily intended to concentrate sites for office uses, industrial uses, storage and warehousing, and wholesale trade. Rezoning the subject parcel to EMP would not necessarily result in the creation of more place-based community gathering destinations in the Mixed Use I area where it is located.</p> | N/A   |                       |
| <p><b>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 (Health Action 7)</b><br/> The parcel is not in an area identified on the red lining map of Asheville and does not score high on the Buncombe County Community Index Map Equity Index.</p>   | Equity Analysis is not recommended for this parcel. |                       |
| <b>ENVIRONMENTAL:</b>   | <u>CONSISTENT</u>                                   | <u>NOT CONSISTENT</u> |
| <p><b>12. Steep Slope/High Elevation and Protected Ridge Overlay Districts</b><br/> The parcel is not within an Overlay District.</p>   | X   |                       |
| <p><b>13. Regulated Flood Hazard Areas</b><br/> The parcel is not located within a regulated flood hazard area.</p>   | X   |                       |
| <p><b>14. 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 CONSISTENT</u> |
|--|-----------------|--------------------------------------|-------------------|-----------------------|
| <b>1. CURRENT DEVELOPMENT TYPES:</b><br>Subject acreage has the following adjacent zonings and uses:   |                 |                                      | <b>X</b>          |                       |
| DIRECTION  | ZONING          | ADJACENT USES                        |                   |                       |
| NORTH  | R-2 Residential | Residential Building Lot             |                   |                       |
| EAST   | R-2 Residential | Residential Building Lot             |                   |                       |
| SOUTH  | EMP Employment  | Multiple Residence and Manufacturing |                   |                       |
| WEST   | EMP Employment  | Medical Office                       |                   |                       |
| <b>2. 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-2 to EMP will cause an increase in the types and intensity of uses allowed on the property. The properties to the north and east of the subject parcel are zoned R-2. While there would not be a zoning district transition between them and the proposed EMP zoning district there is currently a wooded area buffering these parcels from the subject parcel and buffering is required for any commercial development adjacent to a residential use. |                 |                                      | <b>X</b>          |                       |
| <b>3. 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, storage, and industrial. The existing uses in the area includes single-family residential, warehouse storage, and medical office. Tunnel Road is a major transportation corridor and the EMP zoning district is well suited for this location.  |                 |                                      | <b>X</b>          |                       |
| <b>4. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:</b><br>The proposed rezoning would allow additional uses in the EMP district that are not currently allowed in the R-2 districts. Examples of uses that would be allowed after the rezoning include commercial planned unit developments, adult entertainment establishments, asphalt plants, concrete plants, motor vehicle maintenance and repair, nightclubs, bars, veterinary clinics, banks, cargo terminals, hotels or motels, manufacturing facilities, restaurants, retail, warehousing, vacation rental complexes, and more.  |                 |                                      |                   |                       |

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

|                                     |                       | Existing District:                                  | Proposed District: |
|-------------------------------------|-----------------------|---|--------------------|
|                                     |                       | R-2 Residential                                     | EMP Employment     |
| <b>Min. Lot Size</b>                | No Public Sewer       | 30,000 SF   | 30,000 SF          |
|                                     | Public Sewer/No Water | 10,000 SF   | 10,000 SF          |
|                                     | Public Water & Sewer  | 6,000 SF  | 5,000 SF           |
| <b>Max. dwelling units per acre</b> |                       | 12  | 12                 |
| <b>Setbacks (Front/Side/Rear)</b>   |                       | 10/7/15 with public sewer<br>20/10/20 septic system | 20/10/20           |
| <b>Max. height</b>                  |                       | 35 feet   | 90 feet            |

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

There are currently two structures on the property that appear to have been there since before 1998. There does not seem to be any record of previous zoning actions for this parcel.

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

**EXISTING ZONING DISTRICT – R-2**

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 – 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 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:

Based on this parcel's ranking on the Community Index Map, this parcel is not located in an equity opportunity area.

## 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