

RESOLUTION OF PLANNING BOARD RECOMMENDING THAT THE BUNCOMBE COUNTY BOARD OF
COMMISSIONERS AMEND THE TEXT OF CHAPTER 78 OF THE BUNCOMBE COUNTY CODE OF
ORDINANCES, THE ZONING ORDINANCE OF BUNCOMBE COUNTY, and STATEMENT OF
CONSISTENCY

- WHEREAS, on December 1, 2009, the Buncombe County Commissioners enacted Buncombe County Ordinance No. 09-12-01 which established a comprehensive zoning plan for the properties located in Buncombe County outside of the boundaries of incorporated municipalities and their zoning jurisdictions;
- WHEREAS, the provisions set forth in Division 8 of Article VI of the Buncombe County Code of Ordinances were met prior to the public hearing at which this recommendation was considered;
- WHEREAS, the Buncombe County Planning Board reviewed proposed amendments to the text of The Zoning Ordinance of Buncombe County, North Carolina at a number of regular meetings prior to February 7, 2011 with considerable public input, and at the February 7, 2011 regular meeting of the Planning Board;
- WHEREAS, the proposed amendments regarding: the definition of "subdivision;" penalties for violations; the scheduling of hearings; the clarification of the Beaverdam Zoning District dimensional requirements table for lots with water and sewer; and the generation and signature of orders which indicate the final decision of the Board of Adjustment were necessary to provide remedies within the existing ordinance standards as well as clarification, and as such are consistent with and do not contradict the Buncombe County Comprehensive Land Use Plan or updates;
- WHEREAS, the Planning Board found that the proposed amendments to the text are reasonable and in the public interest as said amendments will provide for better administration of the Ordinance; and
- WHEREAS, it is the recommendation of the Planning Board that The Zoning Ordinance of Buncombe County be amended as follows:

Amend Sec. 78-581. Definitions.

Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development, ~~(whether immediate or future),~~ and includes all division of land involving the dedication of a new ~~road~~ street or a change in existing ~~roads~~ street.

Delete Section 78-583 in its entirety and replace with the following:

Section 78-583. Penalties for violations.

- (a) No penalty under this section shall be issued prior to issuing a Notice of Violation except for civil penalties issued in accordance with Sec. 78-583(d). The Notice of Violation shall be served by certified or registered mail to the person's last known address, or by personal service or by posting the violation conspicuously on the property.
- (b) Any owner or occupant who has received a notice of violation may appeal the decision of the Zoning Administrator in accordance with Sec. 78-623.
- (c) Any person violating this Article of this Chapter shall be subject to the remedies as set forth in Code Sec. 1-7.
- (d) The County may assess a \$ 100.00 per day civil penalty for each day that the property is in violation of this Article. The civil penalty shall be effective upon receipt of the Notice of Violation but shall be waived if the Zoning Administrator determines the person remedied the violation within thirty (30) days of receipt of the Notice of Violation.
- (e) If the person issued the civil penalty fails to pay the penalty, the County may seek to recover the civil penalty by filing a civil action in the nature of a debt and/or refer the debt to the State Debt Setoff program for collection.
- (f) The Zoning Administrator may reduce the civil penalty upon a determination that the person responsible for the violation acted in good faith and cooperated with the Planning Department to remedy the violation.
- (g) The County may enforce this Article by using one or any combination of the foregoing remedies. Nothing in this section shall limit any other remedy provided by law or this Chapter.

Amend Section 78-623 (c)(1) *Hearings*.

- (1) *Time*. After receipt of notice of appeal, the ~~board-chairperson~~ zoning administrator or his designee shall schedule the time for a hearing, which

shall be at ~~a the next available~~ regular ~~or special~~ meeting of the board of adjustment ~~within 31 days from the filing of such notice of appeal.~~

Delete Section 78-642, Footnote 5, (1) Single-family residential with public water and sewer in its entirety and replace with the following:

(1) Single-family residential with public water and sewer:

<u>% Natural Slope</u>	<u>Lot Frontage (Feet)*</u>	<u>Minimum Lot Size (Acres)</u>	<u>Maximum Disturbed</u>	<u>Maximum Impervious Cover (Acres)</u>
<u>0-9.99</u>	<u>100</u>	<u>0.5</u>	<u>If lot is < 0.75 Acres: 80% of lot</u> <u>If lot is 0.75 - 1 Acres: 75% of lot</u> <u>If lot is >1 Acre: 0.75 acres</u>	<u>0.375</u>
<u>10-14.99</u>	<u>100</u>	<u>1.1</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>15-19.99</u>	<u>100</u>	<u>1.5</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>20-24.99</u>	<u>150</u>	<u>2</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>25-29.99</u>	<u>150</u>	<u>2</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>30-34.99</u>	<u>175</u>	<u>2.5</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>35-39.99</u>	<u>175</u>	<u>3</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>40+</u>	<u>200</u>	<u>5</u>	<u>0.75 Acres</u>	<u>0.375</u>
<u>*Minimum lot frontage shall be 75 feet where adjoining a cul-de-sac.</u>				

Sec. 78-677. Procedure for obtaining a conditional use permit.

(h) *Decisions.* Decisions shall be made as follows:

(2) *Form.* Written notice of the decision in a case shall be given by certified or registered mail to the applicant by the zoning administrator as soon as practicable after the case is decided. Also, written notice shall be given to owners of the subject property, if not the applicant, and to other persons who have made written request for such notice. ~~The final decision of the board of adjustment shall be shown in the record of the case as entered in the minutes of the board of adjustment and signed by the zoning administrator and the chairperson upon approval of the minutes by the board of adjustment.~~ Such record shall show the reasons for the determination, with a summary of evidence introduced and the findings of fact made by the board of adjustment. The record shall state in detail any facts supporting findings required to be made prior to the issuance of such permit. The record shall state in detail what, if any, conditions and safeguards are imposed by the board of adjustment in connection with the granting of a conditional use permit. The record shall be

signed by the zoning administrator and the chairperson of the Board of Adjustment.

NOW, THEREFORE, BE IT RESOLVED that upon motion and second, the Buncombe County Planning Board hereby finds and concludes as follows:

1. This Planning Board hereby recommends that the Board of Commissioners amend Chapter 78 of the Buncombe County Code of Ordinances to incorporate these amendments.
2. This resolution is approved by unanimous vote and shall be effective upon its adoption.

This the 7th day of February, 2011.

BUNCOMBE COUNTY PLANNING BOARD

By: _____

Tom Alexander, Chairman

Consented to:

Planning Board Members:

Les Mitchell
Scott Hughes
Joe Sechler
Greg Phillips
Josh Holmes
Michelle Pace Wood
Tom Alexander
Bernie Kessel
Rod Hudgins

Jon E. Creighton, Zoning Administrator

Approved as to form:

Michael C. Frue, County Attorney