

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS

CASE NUMBER : ZPH2012-00004
 PROPOSED ZONING CHANGE : R-2 TO CS
 LOCATION : 1501 TUNNEL ROAD
 PIN NUMBER : 9678.15.4614
 ACREAGE : 1.78

APPLICANT/OWNER: H.P. PATEL
 1435 TUNNEL ROAD
 ASHEVILLE NC 28805

DEPARTMENT RECOMMENDATION: **APPROVAL**

BOARD CONSIDERATIONS: The Board must determine if there is a reasonable basis for the requested change. An applicant's showing of reasonableness must address the totality of the circumstances and must demonstrate that the change is reasonable in light of its effect on all involved. Good Neighbors of South Davidson v. Town of Denton, 355 N.C. 254, 559 S.E.2d 768 (2002). Determination must be, the "product of a complex of factors." Chrismon v. Guilford County, 322 N.C. 611, 370 S.E.2d 579 (1988). Among the factors relevant to this analysis are the size of the tract in question; the compatibility of the disputed zoning action with an existing comprehensive zoning plan; the benefits and detriments resulting from the zoning action for the owner of the newly zoned property, his neighbors, and the surrounding community; and the relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts. Id.

REZONING ANALYSIS: The applicant requests the rezoning of approximately 1.78 acres from R-2 (Residential District) to CS (Commercial Service District). The subject property is located on the south side of Tunnel Road, east of the intersection of Porters Cove Intersection and Tunnel Road. The tract is currently vacant. The surrounding area is comprised of residential development and commercial development to the west within the City of Asheville's Highway Business zoning district. The requested zoning is consistent with the Buncombe County Comprehensive Land Use Plan as the Buncombe County Comprehensive Land Use Plan 2006 Update indicates that CS is "primarily intended to provide suitable locations for clustered commercial development to encourage concentration of commercial activity in those specified areas with access to major traffic arterials, to discourage strip commercial development, and to allow for suitable noncommercial land uses" (Buncombe County Comprehensive Land Use Plan Update, VII-4). The subject property is within the vicinity of a mix of commercial uses along Tunnel Road. The requested zoning would not be detrimental to the owner, adjacent neighbors, and surrounding community as it is consistent with the commercial area to the west in the City of Asheville and is located on Tunnel Road near access to I-40. Additionally, the applicant has a vested right to construct a hotel on the property as after they received a Condition Use Permit in 2008 (under the previous Zoning Ordinance that was overturned by the North Carolina Court of Appeals) and then received a valid building permit. The applicant wishes to rezone the property to CS to allow for a wider variety of use and not just be limited to a hotel. Therefore the Buncombe County Department of Planning and Development recommends APPROVAL of the request.

LAND USE PLAN CONSISTENCY STATEMENTS

CONSISTENT: The map amendment is consistent with the Buncombe County Comprehensive Land Use Plan as the Buncombe County Comprehensive Land Use Plan 2006 Update indicates that CS is “primarily intended to provide suitable locations for clustered commercial development to encourage concentration of commercial activity in those specified areas with access to major traffic arterials, to discourage strip commercial development, and to allow for suitable noncommercial land uses” (Buncombe County Comprehensive Land Use Plan 2006 Update, VII-4). The proposed map amendment would be consistent as the area to the west is a concentration of commercial activity along a major traffic arterial. The requested zoning would be reasonable and in the public interest as the area to the west of the property is a concentration of commercial activity along a major traffic arterial.

NOT CONSISTENT: The map amendment is not consistent with the Buncombe County Comprehensive Land Use Plan as the Buncombe County Comprehensive Land Use Plan 2006 Update indicates that CS is “primarily intended to provide suitable locations for clustered commercial development to encourage concentration of commercial activity in those specified areas” and “discourage strip commercial development” (Buncombe County Comprehensive Land Use Plan 2006 Update, VII-4). The proposed map amendment could lead to strip commercial development along the Tunnel Road/US 70 Corridor. The requested zoning would not be reasonable nor in the public interest and would be detrimental to the adjacent neighbors and surrounding community as it might lead to strip commercial development.