

Buncombe County Planning Board
December 2, 2013

The Buncombe County Planning Board met December 2, 2013 in the meeting room at 30 Valley Street. Members present were Josh Holmes, Chairman Tom Alexander, Michelle Wood, Bernie Kessel, Joe Sechler and Jim Young. Also present was Josh O'Conner, Zoning Administrator; Jon Creighton, Assistant County Manager/Planning Director; Michael Frue, Staff Attorney; and Gillian Phillips and Debbie Truempy, Planning staff.

Call to Order

Chairman Alexander called the meeting to order at 9:35 am.

Approval of Agenda

Mr. O'Conner asked the Board to modify the agenda to add item 6A to discuss proposed changes to the Zoning Ordinance regarding setbacks, Planned Unit Development standards, and changes to update the Board of Adjustment section of the Ordinance. Mr. O'Conner provided the Board with a handout regarding the proposed changes (Attachment A). Mr. Kessel made a motion to approve the agenda as revised. Ms. Woods seconded the motion, and the motion passed unanimously.

Approval of Minutes (November 18, 2013)

Mr. Kessel made a motion to approve the minutes as submitted. Ms. Wood seconded the motion and the motion passed unanimously.

Public Hearing

ZPH2013-00049: Amendments to the Zoning Ordinance of Buncombe County regarding Public Utilities and Energy Generation Facilities

The Board received the proposed language (Attachment B) and proposed consistency statement (Attachment C) prior to the meeting. Chairman Alexander asked the Board if there was any discussion and there being none opened the public hearing. There being no one wishing to speak, he closed the public hearing. Mr. Kessel made a motion to recommend approval of the proposed language with the provided consistency statement. Mr. Young seconded the motion and the motion passed unanimously.

Continued discussion of zoning language regarding the creation of a Resort District and related standards (ZPH2013-00050).

The Board continued to discuss the proposed Resort District language. They were provided with the language prior to the meeting (Attachment D). Mr. O'Conner asked if any of the Board members had questions regarding the language. Ms. Wood asked if any of the organizations that would be affected had provided the Department with feedback.

Mr. O'Conner indicated that he had been provided with specific feedback from the Biltmore Estate, but that he would let Patsy Brison provide the Board with the Biltmore Estate's feedback.

Patsy Brison, with the law firm Roberts and Stevens, indicated that the Biltmore Estate would like the following things clarified:

- Revision of the district intent to indicate that the ownership of the facility could be held within single ownership and related entities;
- Clarify definitions of recreation uses; and
- Clarify definition of restaurant to make sure cafes were included.

There was discussion regarding other uses on the Biltmore Estate and if they would be permitted uses or existing non-conforming uses. The Board and Mr. O'Conner discussed what would classify as allowed recreational uses. Chairman Alexander polled the Board and it was decided the language, with the changes discussed, could move forward to be advertised.

Additional Changes to the Zoning Ordinance

Mr. O'Conner indicated that staff was providing these changes to the Board in order to give them time to review (Attachment A) and they would be placed on a future agenda for them to discuss. Mr. O'Conner indicated that the language included the following:

- Changes to the Board of Adjustment procedure in order for it to align with new requirements of the North Carolina General Statutes;
- Revisions to the dimensional requirements within the Ordinance;
- Changes to the Planned Unit Development standards in order to reduce the number of variances requested; and
- Changes to the Planned Unit Development standards in order to clarify mixed use developments and what type of uses were allowed.

Adjournment

There being no one wishing to make public comment, Mr. Kessel made a motion to adjourn the meeting. Mr. Young seconded the motion, and the motion passed unanimously and the meeting was adjourned at 9:57 am.

ATTACHMENT A

Table 2. Dimensional Requirements

Districts	Minimum Lot Area (Square Feet)	Density	Minimum Yard Setback Requirements in Feet						Maximum Height (Feet)
		Maximum Number Dwelling Units Per Acre	Front Yard Public Sewer	Side Yard Public Sewer	Rear Yard Public Sewer	Front Yard	Side Yard	Rear Yard	
R-LD Residential	43,560	2 per lot. No acreage based density requirement.	10	10	20	10	10	20	35
R-1 Residential	30,000 (no water or sewer) 12,000 (public sewer only) 8,000 (public water and sewer)	2 per lot. No acreage based density requirement.	10	7	15	20	10	20	35
R-2 Residential	30,000 (no water or sewer) 10,000 (public sewer only) 6,000 (public water and sewer)	12	10	7	15	20	10	20	35
R-3 Residential	Same as R-2	12	10	7	15	20	10	20	35
NS Neighborhood Service	30,000 (no water or sewer) 10,000 (sewer only) 5,000 (water and sewer)	12	10	7	15	20	10	20	35
CS Commercial Service	Same as NS	13	10	10	10	10	10	10	50
EMP Employment	Same as NS	12	20	10	20	20	10	20	90
PS Public Service	Same as NS	12	20	10	20	20	10	20	50
BDM Beaverdam	See Footnote 5 and 7	See Footnote 5 and 7	See Footnote 6 and 7	15	25	See Footnote 6 and 7	15	25	35
OU Open Use	No dimensional requirements except as applied to conditional uses.								

Sec. 78-663. Accessory structures and buildings.

~~Accessory buildings shall not be erected in any front yard building setback; or side yard setback; within 20 feet of any side street or highway right-of-way line; or within ten feet of any rear lot line.~~

~~Accessory uses or structures shall not involve any use or structure otherwise prohibited by this division or requiring a conditional use permit. Accessory uses or structures shall meet the following standards:~~

- ~~(1) Front yard setback, 20 feet;~~
- ~~(2) Side yard setback, ten feet; and~~
- ~~(3) Rear yard setback, ten feet.~~

~~Accessory uses or structures shall not involve any use or structure otherwise prohibited by this division or requiring a conditional use permit. Accessory uses or structures with a building footprint of less than 320 square feet and a height of less than 15 feet shall meet the following standards:~~

- ~~(1) Front yard, set forth per relevant zoning district under Sec. 78-642;~~
- ~~(4) Side yard setback, seven feet; and~~
- ~~(5) Rear yard setback, seven feet.~~

~~Accessory uses or structures with a building footprint of greater than 320 square feet or a height of more than 15 feet shall meet the following standards:~~

- ~~(1) Front yard, set forth per relevant zoning district under Sec. 78-642;~~
- ~~(6) Side yard setback, ten feet; and~~
- ~~(7) Rear yard setback, ten feet.~~

~~The front yard setback requirements of this section shall not apply to accessory structures on lots where the existing primary structure is a legal nonconformance with respect to the front setbacks set forth under Sec. 78-642. In such cases, the setback shall be that of the aforementioned existing buildings.~~

Sec. 78-581. Definitions.

Planned unit development (PUD) means more than two principal buildings or uses proposed to be constructed on a single lot, any building with a gross floor area of 35,000 square feet or more, or any residential complex of five or more units. Residential units within a planned unit development may include single-family detached or attached units, townhouse developments, garden apartments, patio homes, and other types of residential units, excluding mobile homes and mobile home parks. For purposes of the Steep Slope/High Elevation Overlay District only, planned unit development means more than two principal buildings or uses proposed to be constructed on a single lot, any building with a gross floor area of 10,000 square feet or more, or any residential complex of three or more units. A planned unit development also refers to developments which contain structures which exceed the maximum height allowed within the zoning district; such planned unit developments are prohibited within the overlay districts.

Sec. 78-678. Conditional use standards.

Planned unit developments. Planned unit development standards shall be as follows:

- a. *Purpose.* The purpose of this section is to afford substantial advantages for greater flexibility and improved marketability through the benefits of efficiency which permit flexibility in building siting, mixtures of housing types, and land use. Residential densities are calculated on a project basis, thus allowing the clustering of buildings in order to create useful open spaces and preserve natural site features.
- b. *Land development standards.* The following land development standards shall apply for all planned unit developments. Planned unit developments may be located in the R-2, R-3, NS, GS, EMP, and PS relevant districts as conditional uses, subject to a finding by the board of adjustment that the following conditions are met:
 1. *Ownership control.* The land in a planned unit development shall be under single ownership or management by the applicant before final approval and/or construction, or proper assurances (legal title or execution of a binding sales agreement) shall be provided that the development can be successfully completed by the applicant.
 2. *Density requirements.* There are no density requirements for nonresidential uses as long as the proposed project does not violate the intent of the district in which it is located. The proposed residential density of the planned unit development (dwelling units per acre as shown in section 78-642) shall conform to that permitted in the district in which the development is located. If the planned unit development lies in more than one district, the number of allowable dwelling units must be separately calculated for each portion of the planned unit development that is in a separate district, and must then be combined to determine the number of dwelling units allowable in the entire planned unit development.

3. *Frontage requirements.* Planned unit developments shall have access to a highway or road suitable for the scale and density of development being proposed.
4. *Land uses.* A mixture of land uses shall be allowed in any planned unit development. However, within residential districts, nonresidential uses shall not constitute the primary use in the planned unit development, and nonresidential uses shall be carefully designed to complement the residential uses within the planned unit development. All planned unit developments must be compatible with and not violate the intent of the zoning district; however, said uses may include uses not permitted under Sec. 78-641 within the zoning district(s) within which the project is located, provided that the board of adjustment finds that nonresidential uses do not disrupt the character of the community.
5. *Minimum requirements.* Minimum requirements for land development are as follows:
 - The normal minimum lot size and requirements for interior setbacks are hereby waived for the planned unit development, provided that the spirit and intent of this section are complied with in a total development plan, as determined by the board of adjustment. The board of adjustment shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this section.
 - Height limitations. No building or structure shall exceed the height limitations of the district in which it is located. The normal maximum structure height may be waived for the planned unit development, provided that unique elements of the development impose requirements for additional height that are not universal throughout the zoning district. Additionally, planned unit developments in excess of the normal maximum height require that the spirit and intent of this section are complied with in a total development plan, as determined by the board of adjustment. The board of adjustment shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this section.
 - Required distance between buildings. The minimum distance between buildings shall be 20 feet or as otherwise specified by the board of adjustment to ensure adequate air, light, privacy, and space for emergency vehicles.
 - Every dwelling unit shall have access to a public or private street, walkway or other area dedicated to common use, and there shall be provision for adequate vehicular circulation to all development properties, in order to ensure acceptable levels of access for emergency vehicles.
6. *Privacy.* Each development shall provide reasonable visual and acoustical privacy for all dwelling units. Fences, insulation, walks,

barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise. Multilevel buildings shall be located within a planned unit development in such a way as to dissipate any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings.

7. *Perimeter requirements.* Perimeter requirements are as follows:
 - Structures located on the perimeter of the development must be set back from property lines and rights-of-way of abutting streets in accordance with the provisions of the zoning ordinance controlling the district within which the property is situated.
 - Structures other than single-family detached units located on the perimeter of the development may require screening in a manner which is approved by the board of adjustment.
8. *Water and sewer systems.* Plans and accompanying documentation to ensure that the water and sewer systems proposed for the planned unit development have been approved by the appropriate local and state agencies and submitted as part of the application.
9. *Parking.* Preliminary plans shall include parking provisions for all proposed uses within the planned unit development in accordance with section 78-658. When more than one use is located in the planned unit development, the minimum required parking shall be the sum of the required parking for each use within the development. Parking requirements may be waived for the planned unit development, provided that the spirit and intent of this section are complied with in a total development plan, as determined by the board of adjustment. The board of adjustment shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this section.
10. *Pedestrians and bicycles.* Any pedestrian and bicycle path circulation system and its related walkways shall be designed to minimize conflicts between vehicle and pedestrian traffic.
11. *Layout.* Layout of parking areas, service areas, entrances, exits, yards, courts and landscaping, and control of signs, lighting, noise or other potentially adverse influences shall be such as to protect the residential character within the PUD district and desirable character in any adjoining district.
12. *Conveyance and maintenance mechanisms.* Conveyance and maintenance of open space, recreational areas and communally owned facilities shall be in accordance with G.S. 47-1 et seq. the Unit Ownership Act and/or any other appropriate mechanisms acceptable to the board of adjustment.

Amend Sec. 78-621 by deleting subsection (2) and replacing it with the following:

(2) *Administrative review.* The board of adjustment shall hear and decide appeals from any order, requirement, decision or determination made by the zoning administrator in the enforcement of this article, as provided in section 78-603 as well as appeals and requests for variances pursuant to any Chapter or Article of the Code of Ordinances for Buncombe County indicating that such appeals or requests for variances shall be heard by the board of adjustment. Such appeals and requests for variances shall be conducted in accordance with Sec. 78-623, Appeals and applications, below. Further, in all cases in which requests for variances are heard by the Board of Adjustment references to this article or chapter shall be deemed to be references to such Chapter or Article from which the appeal or request for variance is made, as appropriate, and references to appeals under this article or chapter shall be deemed to be references to requests for variances, as appropriate. The concurring vote of four-fifths of the members of the board of adjustment shall be necessary grant any variance. A majority vote of the members of the board of adjustment is necessary to reverse any order, requirement, decision, or determination of the zoning administrator, or to decide in favor of the applicant any matter which it is required to pass under this article or to effect any variation in this article.

Amend Sec. 78-621 by deleting subsection (4) and replacing it with the following:

(4) *Variances.* When unnecessary hardships would result from carrying out the strict letter of the zoning ordinance, the board of adjustment shall vary any of the provisions of the zoning ordinance upon a showing of all of the following:

- (a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

In granting a variance, the board of adjustment shall make findings that the requirements of this article have been met. The board of adjustment shall make a finding, and written notice of the decision shall be prepared as prescribed in subsection 78-623(d). In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this article. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this article and punishable as described under section 78-583.

Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

A nonconforming use of neighboring land, structures or buildings in the same district, and permitted uses of land, structures or buildings in other districts will not be considered grounds for the issuance of a variance.

Amend Sec. 78-623 by deleting subsection (b) and replacing it with the following:

(b) *Procedure for Filing Appeals.* All statute of limitations and procedures for filing an appeal to the Board of Adjustment are set forth in N.C. Gen. Stat. §153A-345.1 or as amended.

Amend Sec. 78-622 by deleting subsection (c) and replacing it with the following:

(c) *Hearings.* All board of adjustment hearings shall be conducted in accordance with N.C. Gen. Stat. §153A-345.1 or as amended.

ATTACHMENT B

Add to Section 78-581. Definitions.

Private utilities and related facilities means utility structures including, but not limited to, pumping stations, electricity generation facilities, transformers, utility poles, transmission lines, and pipelines that require a specific location to provide service. These facilities are considered to be private facilities if they are accessories to the facility or development upon which they are located and do not provide service to exterior properties or customers. This definition does not include telecommunications towers or public safety communications towers as defined by this Ordinance or their related infrastructure. Private utilities intended to serve up to two, single-family residential units are considered a permitted accessory use to the residential structure provided that the footprint does not exceed 10,000 square feet.

Public utilities and related facilities means utility structures including, but not limited to, pumping stations, electricity generation facilities, transformers, utility poles, transmission lines, and pipelines that require a specific location to provide service. This definition does not include telecommunications towers or public safety communications towers as defined by this Ordinance or their related infrastructure.

Public or private utilities and related facilities footprint means the cumulative area occupied by a utility operated by a single entity. For the purposes of this article, the footprint shall include any areas disturbed, altered from natural conditions, or made impervious during the installation of the utility, any area occupied by equipment pertaining to the facility, and any area fenced or secured against access to the facility, or any buffer or easement area required to surround the facility. The footprint calculation does not apply to utilities which are contained entirely underground and which do not include any structures as defined by this ordinance or any energy collection devices. For the purposes of footprint calculation, any facilities owned or operated by the applicant shall be included if said facilities lie within 1,320 feet of the proposed facility.

Modify Sec. 78-645. Steep Slope/High Elevation Overlay District

- (c) *Permitted uses.* Uses are permitted in the Protected Ridge Overlay District pursuant to the following table. All uses not listed are not allowed.
- (d) *Conditional uses.* All conditional uses shall be administered in accordance with Division VI of this chapter.

Table 1 – Permitted Use Table										
Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted									
	Districts									
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	BDM	OU
<u>Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks</u>	C	C	C	C	C	C	C	C	C	C
<u>Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks</u>	C	C	C	C	C	C	C	C	C	C

Modify Sec. 78-646. Protected Ridge Overlay District

- (c) *Permitted uses.* Uses are permitted in the Protected Ridge Overlay District pursuant to the following table. All uses not listed are not allowed.
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	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	BDM	OU
<u>Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks</u>	C	C	C	C	C	C	C	C	<u>C</u>	C

Modify Sec. 78-678. Conditional use standards.

- (3) *Public or Private utility stations; radio and TV towers; water and sewer plants; water storage tanks.* Standards for public or private utility stations, radio and TV towers, water and sewer plants, and water storage tanks shall be as follows:
- a. Structures shall be enclosed by a woven wire fence at least eight feet high. This does not apply to photovoltaic cells which are incorporated as structural elements of other facilities.
 - b. The lot shall be suitably landscaped, including a buffer strip at least four feet wide and planted with evergreen shrubs or trees which at maturity will be between eight and 12 feet high along the side and rear property lines. This planting requirement may be modified by the board of adjustment where adequate buffering exists in the form of vegetation and/or terrain.
 - c. Entrances and exits shall be designed so as to promote public safety.
 - d. Emergency contact information for the owner/manager of the facility shall be prominently posted at the site.
 - e. A plan for decommissioning of the facility should the facility become non-operational for a period of more than 365 consecutive days shall be presented to the board of adjustment. The plan shall describe how the site will be returned to its pre-development condition and shall present a mechanism for funding the decommissioning.
 - f. Facilities using wind as a means of electricity generation must be appropriately separated from existing residential communities and structures. The applicant must present an area map which depicts the proposed facility and the closest residential structures. The map shall be to scale and shall also show publicly maintained roads within the area.
 - g. At locations where the facility will exist alongside other uses, the applicant must include a description of the other uses which will occur on the site and how public safety will be guaranteed.
 - h. For facilities located within 5 linear miles of any aviation facility, the applicant must provide a solar glare analysis (such as the Solar Glare Hazard Analysis

Tool available through Sandia National Laboratories) that demonstrates that the installation does not pose an imminent threat to flight operations. Additionally, the applicant must demonstrate that the proposed structures do not interfere with flight operations. The applicant must also provide proof that a copy of their analysis has been submitted to the aviation facility operator.

- i. For facilities located within 1,320 feet of a NC or US highway (inclusive of Interstates) or within the Blue Ridge Parkway Overlay, the applicant must provide proof from a qualified professional, which may include the highway operator, that the facility does not pose an imminent threat to users of the highway.
- j. For facilities located within the Steep Slope/High Elevation or Protected Ridge Overlay Districts, the applicant must quantify and provide documentation of the tree coverage and species removed. When development is to occur within either Overlay District listed above, the limitations on disturbed and impervious area shall be applied to the parcel as a whole.
- k. All facilities must provide certification from an engineer or the manufacturer of the equipment that equipment to be utilized will not create electromagnetic interference (or other signal interference) with any radio communication or telecommunication system, aircraft navigation system, or radar system. Facilities utilizing wind as a means of electricity generation must submit a microwave path analysis performed by a Federal Communications Commission recognized frequency coordinator.
- l. All facilities must register with other state and federal agencies as required; proof of this registration (including applicable submissions for analysis by the Federal Communications Commission or Federal Aviation Administration) must be provided to the board of adjustment.

ATTACHMENT C

Consistency with the Comprehensive Land Use Plan

Recommendation of Approval

- The proposed amendments regarding the establishment of conditional use standards for public and private utilities and energy generation facilities and the separation of uses within permitted use tables **are consistent with the Buncombe County Comprehensive Land Use Plan and updates, as the 2013 update (Section 6, page 77) recommended that:**

“the Zoning Ordinance should be modified in a manner that separates public utility stations and energy generation facilities according to their impact on the surrounding neighborhoods. Energy generation facilities of all types which sell electrical energy back to the grid should be regulated as public utilities (this does not include facilities at a single-family residence scale). Public utility stations and energy generation facilities which sell directly back to the grid should continue to be a conditional use within residential districts and environmentally sensitive areas, and should also be considered conditional in all districts if the collective footprint of the facility is greater than two acres.

Those private generating facilities which can fit within the context of the community with minimal impact (less than a two acre site footprint) should be permitted as a use by right (or as conditional uses in more environmentally sensitive areas).”

- The proposed amendments to the text are **reasonable and in the public interest** as they promote a balance between the public safety interests, community interests, and the need for the development of utility infrastructure and energy generation facilities.

ATTACHMENT D

Amend Sec. 78-636. Use districts; enumeration.

For the purpose of this article, the zoning districts of Buncombe County as delineated on the official zoning map of Buncombe County, adopted by the board of commissioners, shall be divided into the following designated use districts:

R-LD	Low-Density Residential District
R-1	Single-Family Residential District
R-2	Residential District
R-3	Residential District
CS	Commercial Service District
EMP	Employment District
PS	Public Service District
CR	Conference Center/Resort District
NS	Neighborhood Service District
BDM	Beaverdam Low-Density Residential District
OU	Open Use District

Amend Sec. 78-640. Statement of district intent.

(h) *Public Service District (PS)*. The PS Public Service District is intended to be a district that includes, but is not limited to, governmentally owned properties; schools and large college properties; recreation parks and facilities; emergency services; and community clubs ~~and conference centers with mixed uses which may include housing, hotels, retail shops, religious or secular retreats, and associated accessory uses~~. Such uses should currently have public water and sewer services available or have a provision for internal supply of appropriate utilities.

Add Subsection 78-640(i) and renumber the following subsections accordingly.

(i) *Conference Center/Resort District (CR)*. The CR Conference Center/Resort District is intended to be a district that includes, but is not limited to large tourist-related facilities held in single ownership, summer/day camp properties, and conference centers. Facilities within this district may include housing, hotels, retail shops, religious or secular retreats, and associated accessory uses. Such uses should currently have public water and sewer services available or have a provision for internal supply of appropriate utilities.

~~(j)~~**(i)** *Beaverdam Low-Density Residential District (BDM)*. It is the purpose and intent of the Beaverdam Low-Density Residential District to protect existing development in Beaverdam Valley from incompatible use; to provide for low-density residential and agricultural uses; and, to set certain standards for such uses based upon an analysis of existing and future conditions of topography, access, public water and sewer utilities, and community facilities, as well as health, safety and general welfare considerations.

~~(k)~~**(k)** *Open Use District (OU)*. The OU Open Use District is established as a district in which all uses are allowed by right, except for certain uses that are regulated as conditional uses so as to

ensure that neighborhood impact is mitigated. The neighborhood impact from conditional uses will be mitigated through the use of minimum specific site standards combined with general standards which provide the flexibility to impose a higher level of specific site standards dependent upon the degree of neighborhood impact. No zoning permit shall be required for permitted uses in the OU Open Use District.

Amend Sec. 78-641. Permitted uses.

(a) *Permitted use table.* Uses are permitted in the various zoning districts pursuant to Table 1.

Table 1 – Permitted Use Table											
Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	<u>CR</u>	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Duplex/Two-family residential dwelling			P	P	P	P	P	P	<u>P</u>		P
Multifamily residential dwelling units (only one building)			P	P	P	P	P	P	<u>P</u>		
Open-Use Multifamily dwelling (less than six units on single lot)											P
Open-Use Multifamily dwelling (six or more units on single lot)											C
Manufactured/mobile homes-Residential	P			P			P				P
Manufactured/mobile home parks				C							P
Planned unit developments			C	C	C	C	C	C	<u>C</u>		P
Subdivisions	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Accessory buildings	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Adult Entertainment Establishments						C	C				C
Amusement Parks						C	C	C	<u>C</u>		C
Animal hospitals and veterinarian clinics					P	P	P				P
Asphalt Plants							C				C

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	<u>CR</u>	BDM	OU
Banks and other financial institutions					P	P	P	C	<u>C</u>		P
Bed and breakfast inns	P		C	P	P	P	P	P	<u>P</u>		P
Campus office use			C		P			P	<u>P</u>		P
Cemetery	P		P	P		P		P	<u>P</u>		P
Chip Mills											C
Churches	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Clubs or lodges				P	C	P	P	P	<u>P</u>		P
Concrete Plants							C				C
Day nursery and private kindergarten	C	C	C	C	P	P	P	P	<u>P</u>		P
Family care home	P	P	P	P				P	<u>P</u>	P	P
Funeral homes						P	C	P	<u>P</u>		P
Government protective services			P	P	P	P	P	P	<u>P</u>		P
Greenhouses, commercial (nursery, lawn and garden products)					P	P	P	P	<u>P</u>		P
Hazardous Waste Facilities											C
Home occupations	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Hospitals, nursing homes, assisted living facilities, retirement communities				C		P	P	P	<u>P</u>		P
Hotels and motels						P	C	P	<u>P</u>		P
Incinerators											C
Junkyards							C				C
Kennels				C	P	P	P				P
Landing Strips				C		C	C	C	<u>C</u>		C
Laundry and dry cleaning services					P	P	C	P	<u>P</u>		P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	<u>CR</u>	BDM	OU
Libraries			P	P	P	P	P	P	<u>P</u>		P
Manufacturing and processing operations						P	P				P
Mining and Extraction Operations							C				C
Motor Sport Facilities											C
Motor vehicles maintenance and repair					C	P	P	P	<u>P</u>		P
Motor vehicles sales and rental						P	P				P
Motor vehicles service stations (fueling stations)					P	P	P	P	<u>P</u>		P
National Guard and Reserve Armories						P	P	P			P
Nightclubs, bars and pubs					P	P	P		<u>P</u>		P
Physical fitness centers					P	P	C	P	<u>P</u>		P
Postal and parcel delivery services					C	P	P	P	<u>P</u>		P
Printing and lithography						P	P				P
Private recreation facilities profit (bowling alleys, skating rinks, country clubs, etc.)			C	C	C	P	C	P	<u>P</u>		P
Professional and business offices and services					P	P	P	P	<u>P</u>		P
Public or private nonprofit recreational facilities (parks, playgrounds, etc.)	C	C	C	C	P	P	P	P	<u>P</u>		P
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks	C	C	C	C	P	P	P	P	<u>P</u>		P
Radio, TV and telecommunications towers	C			C		C	C	C	<u>C</u>		P
Repair services (electrical and appliances)					P	P	P				P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	<u>CR</u>	BDM	OU
Restaurants					P	P	P	P	<u>P</u>		P
Retail trade, commercial services, sales and rental of merchandise and equipment (inside building with no outside sales storage)					P	P	C	C	<u>P</u>		P
Retail trade, commercial services, sales and rental of merchandise and equipment						P	C		<u>P</u>		P
Rooming house			C	P	P	P	C	P	<u>P</u>		P
Schools, public and private		C	C	C		P		P	<u>P</u>		P
Schools--Vocational, business and special schools						P	P	P	<u>P</u>		P
Shooting Ranges – Outdoor Commercial									<u>C</u>		C
Slaughtering Plants											C
Solid Waste Facilities – Landfills, Transfer Stations, Materials Recovery							C	C			C
Storage and warehousing					C	P	P	P	<u>C</u>		P
Theaters						P		P	<u>P</u>		P
Travel trailers				C					<u>P</u>		P
Travel trailer parks				C					<u>C</u>		P
Vacation rentals	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Vacation rental complex				C	C	C	C	C	<u>C</u>	C	C
Wholesale sales						P	P		<u>C</u>		P

Amend Sec. 78-642. Dimensional requirements.

The dimensional requirements for structures and land in the various zoning districts shall be

in accordance with Table 2.

Table 2. Dimensional Requirements							
Districts	Minimum Lot Area (Square Feet)	Density		Minimum Yard Setback Requirements in Feet			Maximum Height (Feet)
		Minimum Land Area ^{1,2} Per Dwelling Unit (Square Feet)	Maximum Number Dwelling Units Per Acre	Front Yard (From Right-of-Way)	Side Yard	Rear Yard	
R-LD Residential	43,560	43,560 Plus: 0 for one additional detached unit	2	10	10	20	35
R-1 Residential	30,000 (no water or sewer) 15,000 (water only) 10,000 (water and sewer)	30,000 (no water or sewer) 15,000 (water only) 10,000 (water and sewer) Plus: 0 for one additional detached unit	8	20	10	20	35
R-2 Residential	Same as R-1	Same as R-1 Plus: 0 for first additional unit Plus: 3,000 for each additional unit	12	20	10	20	35
R-3 Residential	Same as R-1	Same as R-2	12	20	10	20	35
NS Neighborhood Service	Same as R-1	Same as R-2	12	20	10	20	35
CS Commercial Service	30,000 (no water or sewer) 15,000 (water only) 5,000 (water and sewer)	Same as R-1, except 5,000 with water and sewer Plus: 0 for first additional unit Plus: 3,000 for each additional unit	13	10	10	10	50
EMP Employment	Same as R-1	Same as R-2	12	20	10	20	90
<u>CR Conference Center/Resort</u>	<u>Same as R-1</u>	<u>Same as R-2</u>	<u>12</u>	<u>20</u>	<u>10</u>	<u>20</u>	<u>50 (plus 1ft additional for each additional 5 feet of setback from all property lines up to 100ft total).</u>
PS Public Service	Same as R-1	Same as R-2	12	20	10	20	50

Table 2. Dimensional Requirements							
Districts	Minimum Lot Area (Square Feet)	Density		Minimum Yard Setback Requirements in Feet			Maximum Height (Feet)
		Minimum Land Area ^{1,2} Per Dwelling Unit (Square Feet)	Maximum Number Dwelling Units Per Acre	Front Yard (From Right-of-Way)	Side Yard	Rear Yard	
BDM Beaverdam	See Footnote 5 and 7	See Footnote 5 and 7	See Footnote 5 and 7	See Footnote 6 and 7	15	25	35
OU Open Use	No dimensional requirements except as applied to conditional uses.						

Delete Sec. 78-644. Biltmore Estate Historic Property Overlay District in its entirety.

~~(a) Purpose. The Biltmore Estate Historic Property Overlay District is established to provide an area for the development of the historic Biltmore Estate oriented uses and associated facilities. The creation of this special overlay district recognizes the significance of the estate and the National Historic Landmark status and historic boundary designations as being unique to the area. The Biltmore Estate Historic Property Overlay District shall provide additional regulations that take precedent over the underlying Commercial Service District (CS) zoning designation by Buncombe County.~~

~~Given this basis for establishment of a special overlay district, this district will apply only to the boundaries of the Biltmore Estate and to no other properties within the City of Asheville and will provide areas for the development and expansion of facilities which serve primarily tourists and vacationers, but also serve the necessary operational needs of the estate. Development standards are established to protect adjacent land uses from the adverse impacts of development within the boundaries of the Biltmore Estate while recognizing the existing development activities on the estate grounds and the needs of the estate to expand services to meet the needs of the local community.~~

~~(b) Defined boundaries. The Biltmore Estate Historic Property Overlay District shall encompass and apply to all lands identified to be within the jurisdiction of Buncombe County and specifically within the boundaries of the Historic Landmark Designation for Biltmore Estate, excluding those areas within the town boundaries of the Town of Biltmore Forest and any lands within the Biltmore Village Historic District.~~

~~(c) Permitted uses. In addition to including all existing uses at the time of acceptance of this Zoning Overlay District text, the following are permitted uses, by right:~~

~~Residential~~

~~Dwellings, multi-family~~

~~Dwellings, single-family detached~~

~~Recreational~~

~~Camps, campgrounds~~

~~Golf courses~~

~~Passive parks, lakes and ponds~~

~~*Public/semi-public*~~

~~Convention and conference centers~~

~~Fire/police stations~~

~~*Accessory uses*~~

~~Barber shops and salons when an accessory to the principal use~~

~~Bed and breakfast inns~~

~~Bookstores when an accessory to the permitted use~~

~~Candy, pastry, ice cream and snack shops when an accessory to the principal use~~

~~Florists when an accessory to the principal use~~

~~Gift shops when an accessory to the principal use~~

~~Health and fitness facilities when an accessory to the principal use~~

~~Restaurants and associated food services (including beverages)~~

~~Studios, galleries, and workshops for artists, craftspeople, designers, photographers~~

~~Equipment repair~~

~~Manufacturing when accessory to the principal use~~

~~Transportation systems operation and repair~~

~~Recycling collection centers~~

~~(d) *Conditional uses.* The following are conditional uses:~~

~~Fishing, including guided fishing and clinics~~

~~Shooting, skeet, clay, target, sporting clay/gun club facilities~~

~~Driving/training schools~~

~~Lodging facilities~~

~~Public utilities and related facilities~~

~~Antenna~~

~~Bars, nightclubs, brew pubs~~

~~(e) *Development standards.*~~

~~(1) *Density standards.* The maximum average gross residential density per acre within a prescribed lot in the Biltmore Estate Historic Property Overlay District shall be 12 dwelling units for residential and 100 units per acre for lodging.~~

~~(2) *Structure size standards.* None.~~

~~(3) *Lot size standards.* The minimum lot size for all uses in the Biltmore Estate Historic~~

~~Property Overlay District shall be 10,000 square feet.~~

- ~~(4) *Yard setback requirements.* The following shall be the minimum yard requirements for uses in the Biltmore Estate Historic Property Overlay District.~~

~~*Front:* 35 feet, except that the minimum setback may be reduced to five feet in pedestrian-oriented areas where road widening is not anticipated provided that all parking is located to the side or rear and not closer to the street than the facade of the principal structure, and where pedestrian-oriented design features are incorporated in building and site design.~~

~~*Side:* Ten feet.~~

~~*Rear:* 20 feet.~~

~~The minimum spacing between structures shall, in addition, be as per the City of Asheville Fire Prevention Code.~~

- ~~(5) *Impervious surface standards.* The maximum impervious surface coverage in the Biltmore Estate Historic Property Overlay District for any single, defined lot shall be 80 percent.~~

- ~~(6) *Height standards.* The maximum height of structures in the Biltmore Estate Historic Property Overlay District shall be 35 feet for detached and attached residential structures, 80 feet for lodging uses, and 45 feet for all other uses, except in the transition area described below in subsection (8).~~

~~The permitted height of buildings and structures in the Biltmore Estate Historic Property Overlay District may be increased by one foot for each two feet of additional front, side, and rear setbacks up to a maximum height of 100 feet.~~

- ~~(7) *Recreational/open space standards.* It is understood that any requisite open space and recreation standards imposed by the county are off-set by the amount of continuously preserved open space that makes up the larger portion of the existing estate. No other additional open space/recreational standards/requirements shall apply within the boundaries of the Biltmore Estate Historic Property Overlay District.~~

- ~~(8) *Design and operation standards.*~~

~~*Exterior lighting:* All exterior lighting shall be shielded such that light is not directed toward adjacent residential property and such that no light sources are visible.~~

~~*Outdoor sound systems:* Outdoor sound systems shall be directed away from internal and adjacent residential areas and shall not operate between the hours of 11:00 p.m. and 9:00 a.m.~~

~~*Transition area:* Within 300 feet of an adjacent residentially zoned area, restrictions shall be placed on the height and location of uses other than those permitted in the adjacent residential zone. Height of buildings and structures located in this area shall be subject to the height limitations established in the least restrictive adjacent residential zone. Primary entrances of buildings and structures located in the transition area shall be directed away from residential uses. Restaurants, bars and nightclubs, facilities for animals (stables), mechanical equipment, and maintenance facilities shall not be located in the transition area.~~

Renumber and Amend Sec. 78-6445. Steep Slope/High Elevation Overlay District

(a) *Purpose.* The Steep Slope/High Elevation Overlay District is established in recognition that the development of land in steep, mountainous areas involves special considerations and requires unique development standards. This section is intended to limit the intensity of development, preserve the viewshed and protect the natural resources of Buncombe County's mountains and hillsides at elevations of 2,500 feet above sea level and higher, consistent with the recommendations of the 1998 Buncombe County Land Use Plan.

(b) *Applicability.* This section shall apply to the portion of Buncombe County at elevations of 2,500 feet above sea level and higher and having a natural slope of 35 percent or greater as specifically identified and delineated on the zoning map entitled "The Official Zoning Map of Buncombe County, North Carolina."

(c) *Permitted uses.* Uses are permitted in the High Elevation/Steep Slope Overlay District pursuant to the following table. All uses not listed are not allowed.

(d) *Conditional uses.* All conditional uses shall be administered in accordance with Division VI of this chapter.

Steep Slope/High Elevation Overlay Permitted Use Table											
Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	<u>CR</u>	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Duplex/Two-family residential dwelling			P	P	P	P	P	P	<u>P</u>		P
Multifamily residential dwelling units (3 or more units)			C	C	C	C	C	C	<u>C</u>		C
Townhomes (3 or more units)			C	C	C	C	C	C	<u>C</u>		C
Manufactured/mobile homes-Residential	P			P			P				P
Manufactured/mobile home parks				C							C
Planned unit developments			C	C	C	C	C	C	<u>C</u>		C
Subdivisions	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Accessory buildings	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Bed and breakfast inns, gross floor area less than 5,000 sq. ft.	P		C	P	P	P	P	P	<u>P</u>		P

Step Slope/High Elevation Overlay Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	<u>CR</u>	BDM	OU
Bed and breakfast inns, gross floor area 5,000 sq. ft. or more	C		C	C	C	C	C	C	<u>C</u>		C
Cemetery	P		P	P		P		P	<u>P</u>		P
Churches	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Clubs or lodges, gross floor area less than 5,000 sq. ft.				C	C	C	C	C	<u>C</u>		C
Day nursery and private kindergarten	C	C	C	C	C	C	C	C	<u>P</u>		C
Family care home	P	P	P	P				P	<u>P</u>	P	P
Government protective services			P	P	P	P	P	P	<u>P</u>		P
Home occupations	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Hospitals, nursing homes, assisted living facilities, retirement communities				C		C	C	C	<u>C</u>		C
Libraries								C	<u>C</u>		C
Mining and Extraction Operations							C				C
National Guard and Reserve Armories						P	P	P			P
Private recreation facilities for profit, outdoor (parks, playgrounds, tennis courts, etc.)			C	C	C	C	C	C	<u>C</u>		C
Private recreation facilities for profit, gross floor area less than 5,000 sq. ft. (bowling alleys, skating rinks, country clubs, etc.)			C	C	C	C	C	C	<u>C</u>		C
Professional and business offices and services, gross floor area less than 5,000 sq. ft.					P	P	P	P	<u>P</u>		P
Public or private nonprofit recreational facilities, outdoor (parks, playgrounds, tennis courts, etc.)	C	C	C	C	P	P	P	P	<u>P</u>		P

Step Slope/High Elevation Overlay Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	<u>CR</u>	BDM	OU
Public or private nonprofit recreational facilities, indoor, gross floor area less than 5,000 sq. ft. (bowling alleys, skating rinks, gymnasiums, etc.)	C	C	C	C	P	P	P	P	<u>P</u>		P
Public or private nonprofit recreational facilities, indoor, gross floor area 5,000 sq. ft. or more (bowling alleys, skating rinks, gymnasiums etc.)					C	C	C	C	<u>C</u>		C
Utility stations and substations, pumping stations, water and sewer plants, water storage tanks	C	C	C	C	C	C	C	C	<u>C</u>		C
Radio, TV and telecommunications towers	C			C		C	C	C	<u>C</u>		C
Repair services, gross floor area less than 5,000 sq. ft. (electrical and appliances)					P	P	P				P
Restaurants, gross floor area less than 5,000 sq. ft.					P	P	P	P	<u>P</u>		P
Retail trade, commercial services, sales and rental of merchandise and equipment, gross floor area less than 5,000 sq. ft. (inside building with no outside sales storage)					P	P	C	C	<u>C</u>		P
Schools, public and private		C	C	C		C		C	<u>C</u>		C
Schools--Vocational, business and special schools						C	C	C	<u>C</u>		C

Steep Slope/High Elevation Overlay Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	<u>CR</u>	BDM	OU
Travel trailers				P					<u>P</u>		P
Travel trailer parks				C					<u>C</u>		C
Vacation rentals	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Vacation rental complex; less than 11 units				C	C	C	C	C	<u>C</u>	C	C

Renumber and Amend Sec. 78-6456. Protected Ridge Overlay District

(a) *Purpose.* The Protected Ridge Overlay District is established in recognition that the development of land in steep, mountainous areas involves special considerations and requires unique development standards. This section is intended to limit the density of development, preserve the viewshed and protect the natural resources of Buncombe County’s protected mountain ridges, consistent with the recommendations of the 1998 Buncombe County Land Use Plan and supplemental to the provisions of the Mountain Ridge Protection Act of 1983. Further, in accordance with North Carolina General Statutes §153A-342, this Protected Ridge Overlay District provides for additional requirements on properties within one or more underlying general districts related to the erection, construction, reconstruction, alteration, repair, or use of buildings, or structures within the Protected Ridge Overlay District in addition to the general underlying zoning regulations including, but not limited to, height, number of stories and size of buildings and other structures.

(b) *Applicability.* This section shall apply to all Buncombe County mountain “ridges” whose elevation is at least 3,000 feet and whose elevation is 500 or more feet above the elevation of an adjacent valley floor and including 500 foot buffers, measured horizontally from the center line of the ridge as specifically identified and delineated on the zoning map entitled “The Official Zoning Map of Buncombe County, North Carolina.”

(c) *Permitted uses.* Uses are permitted in the Protected Ridge Overlay District pursuant to the following table. All uses not listed are not allowed.

(d) *Conditional uses.* All conditional uses shall be administered in accordance with Division VI of this chapter.

Protected Ridge Overlay Permitted Use Table											
Uses	P = Permitted C = Allowed as Conditional Use Blank Space = Not Permitted										
	Districts										
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	<u>CR</u>	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Manufactured/mobile homes-Residential	P			P			P				P
Subdivisions	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Accessory buildings	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Cemetery	P		P	P		P		P	<u>P</u>		P
Churches	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Family care home	P	P	P	P				P	<u>P</u>	P	P
Government protective services			P	P	P	P	P	P	<u>P</u>		P
Home occupations	P	P	P	P	P	P	P	P	<u>P</u>	P	P
Public or private nonprofit recreational facilities, outdoor (parks, playgrounds, tennis courts, etc.)	C	C	C	C	P	P	P	P	<u>P</u>		P
Utility stations and substations, pumping stations, water and sewer plants, water storage tanks	C	C	C	C	C	C	C	C	<u>C</u>		C
Vacation rentals	P	P	P	P	P	P	P	P	<u>P</u>	P	P