

Buncombe County Planning Board
January 6, 2014

The Buncombe County Planning Board met January 6, 2014 in the meeting room at 30 Valley Street. Members present were Josh Holmes, Bud Sales, Bernie Kessel, Greg Phillips, Joe Sechler, Catherine Martin (arrived at 9:40 am), 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

Vice Chairman Kessel called the meeting to order at 9:38 am.

Approval of Agenda

Vice Chairman Kessel indicated to those present that the two map amendments on Sweeten Creek Road had been withdrawn by the applicant. Mr. Phillips made a motion to approve the agenda. Mr. Holmes seconded the motion and the motion passed unanimously. Ms. Martin was not present for the vote.

Approval of Minutes (December 16, 2013)

Mr. Holmes made a motion to approve the minutes as submitted. Mr. Sales seconded the motion and the motion passed unanimously. Ms. Martin was not present for the vote.

Public Hearings (Zoning Map Amendments)

ZPH2013-00053: Nelson B. Allison applied to rezone tax lot PIN 9635-62-9935 (55 Parkway Lane), which is currently zoned Single Family Residential District R-1 to Residential District R-3.

The Board was provided with the staff recommendation (Attachment A) and GIS maps (Attachment B) prior to the meeting. Ms. Truempy presented the case to the Board.

Nelson Allison was present to represent the case. He indicated that there were seven cabins currently on the property that were leased to tourists visiting the Asheville area. He indicated that he wished to place three more cabins on the property. The Board then discussed with staff why the development could not be expanded under the Zoning Ordinance’s nonconforming use standards. Mr. Allison then went on to describe to the Board the importance of tourism in the Asheville area. Mr. Allison indicated that he would place the three cabins outside the floodplain areas located on the property. There was discussion between the applicant and the Board regarding the proposed units being park model homes.

The following individual made public comment:

- James Vann, who lived within the adjoining, Rivercrest subdivision, indicated that he had concerns regarding noise increasing on the property, and a mobile home park going there in the future.

Nelson Allison indicated that the shooting, which created noise, did not occur on his property, but an adjoining property.

There being no one else wishing to speak, Vice Chairman Kessel closed the public hearing. The Board discussed the proposal and the issues with it possibly being considered a spot zoning. Mr. Holmes made a motion to recommend denial of the request and accept the staff's consistency statement provided on Attachment A. Mr. Sechler seconded the motion, and the motion passed five to one with Vice Chairman Kessel voting against it.

ZPH2013-00054: Lee Thomason applied on behalf of Biltmore Farms to rezone a portion of tax lot PIN 9635-08-1175 (located on Brevard Road across from the intersection with Bent Creek Ranch Road) from Residential District R-3 to Commercial Service District (CS).

The Board was provided with the staff recommendation (Attachment C) and GIS maps (Attachment D) prior to the meeting. Ms. Truempy presented the case to the Board. Mr. Thomason indicated he had nothing to add. Vice Chairman Kessel closed the public hearing as no one wished to make public comment. The Board discussed the proposal with Mr. Thomason. Mr. Holmes made a motion to recommend approval of the request and accepted the staff's consistency statement provided on Attachment C. Vice Chairman Kessel seconded the motion and the motion passed unanimously.

ZPH2013-00065: Jesse Gardner has applied to rezone tax lot PIN 9643-75-9542 (441 Airport Road) which is currently zoned Employment District (EMP) to Commercial Service District (CS).

The Board was provided with the staff recommendation (Attachment E) and GIS maps (Attachment F) prior to the meeting. Ms. Truempy presented the case to the Board. Jesse Gardner indicated that they wished to redevelop the site as a pawn shop, which was an allowed use in the CS zoning district. Vice Chairman Kessel closed the public hearing as no one wished to make public comment. Mr. Sechler made a motion to recommend approval of the request and accept the staff's consistency statement provided on Attachment F. Mr. Holmes seconded the motion and the motion passed unanimously.

Public Hearings (Zoning Text Amendments)

Zoning language regarding the creation of a Conference Center/Resort District and related standards (ZPH2013-00050)

The Board was provided with a proposed consistency statement prior to the meeting (Attachment G). Mr. O'Conner reviewed the changes that had been made to the proposed language. Vice Chairman Kessel closed the public hearing as no one wished to make public comment. Vice Chairman Kessel made a motion to recommend approval of the language and accept the staff's consistency statement provided on Attachment G. Mr. Holmes seconded the motion and the motion passed unanimously.

Zoning language regarding changes required by SL 2013-126 (ZPH2013-00059)

The Board was provided with a proposed consistency statement prior to the meeting (Attachment H). Mr. O’Conner reviewed the proposed language. Vice Chairman Kessel closed the public hearing as no one wished to make public comment. Vice Chairman Kessel made a motion to recommend approval of the language and accepted the staff’s consistency statement provided on Attachment H. Mr. Phillips seconded the motion and the motion passed unanimously.

Discussion of Proposed Language

Continued discussion of zoning language regarding dimensional requirements (ZPH2013-00060)

The Board was provided with the proposed language prior to the meeting (Attachment I). Mr. O’Conner described the proposed changes to the Board, and polled the Board to see if the language was ready to move forward for public hearing. The Board indicated that they were ready to move forward with the language. Mr. O’Conner indicated that it would be scheduled as soon as possible.

Continued discussion of zoning language regarding setbacks for accessory uses (ZPH2013-00061)

The Board was provided with the proposed language prior to the meeting (Attachment J). Mr. O’Conner described the proposed changes to the Board, and polled the Board to see if the language was ready to move forward for public hearing. The Board indicated that they were ready to move forward with the language. Mr. O’Conner indicated that it would be scheduled as soon as possible.

Continued discussion of zoning language regarding Planned Unit Development standards (ZPH2013-00062).

The Board was provided with the proposed language prior to the meeting (Attachment K). Mr. O’Conner described the proposed changes to the Board, and polled the Board to see if the language was ready to move forward for public hearing. The Board indicated that they were ready to move forward with the language. Mr. O’Conner indicated that it would be scheduled as soon as possible.

Adjournment

There being no public comment, Mr. Sales made a motion to adjourn the meeting. Mr. Holmes seconded the motion and the motion passed unanimously. The meeting was adjourned at 10:39 am.

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS

CASE NUMBER : ZPH2013-00053
PROPOSED ZONING CHANGE : R-1 TO R-3
LOCATION : 55 PARKWAY LANE
PIN NUMBER : 9635-62-9935
ACREAGE :8.64 ACRES

APPLICANT/OWNER: NELSON B. ALLISON
55 PARKWAY LANE
ARDEN, NC 28704

DEPARTMENT RECOMMENDATION: **DENIAL**

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 SUMMARY: The applicant requests the rezoning of 8.64 acres from R-1 (Single Family Residential District) to R-3 (Residential District). The subject property (previously located within the City of Asheville’s ETJ) is located adjacent to the French Broad River, to the north of the Rivercrest Subdivision, which contains single family homes. To the west of the subject is larger tracts zoned R-1 containing single family site-built homes zoned R-1. To the east is the Asheville Firefighters Association campground (zoned Public Service District (PS)). The property currently contains the Parkway Manufactured Home Park. The surrounding area does not contain property zoned R-3 and the subject property is under single ownership. Therefore, the requested zoning may constitute a spot zoning. The proposed map amendment is also inconsistent with the Buncombe County Comprehensive Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update show the following regarding the subject property:

- Not outside of steep slope areas
- A large portion of the property is within a flood hazard area
- Does not have reasonable proximity to a major transportation corridor
- Not outside moderate and high slope stability hazards

Therefore, the proposed map amendment would not be suitable for higher density development and multifamily development allowed within the R-3 zoning district as indicated on the suitability matrix within the update. Additionally, the matrix suggests resorts and outdoor recreation be outside flood hazard areas. As the property is adjacent to property zoned R-1 and PS, and does not border property zoned R-3, the proposed map amendment would be detrimental to the owner, adjacent neighbors, and surrounding community as it is not consistent with the surrounding zoned property. Therefore, the requested zoning would not be reasonable and in the interest of the public. The proposed R-3 zoning may be considered a spot zoning given it is in single ownership, and is not adjacent to property zoned R-3. Additionally it would allow for uses currently not allowed in the surrounding area such as manufactured homes, manufactured home parks, multi-family uses, and travel trailer parks. The requested zoning would be detrimental to the adjacent neighbors and surrounding community as it may lead to the encroachment of property zoned R-3 into the area. Therefore the Buncombe County Department of Planning and Development recommends **DENIAL** of the request.

LAND USE PLAN CONSISTENCY STATEMENTS

NOT CONSISTENT: The proposed map amendment is inconsistent with the Buncombe County Comprehensive Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update shows the following regarding the subject property:

- Not outside of steep slope areas
- A large portion of the property is within a flood hazard area
- Does not have reasonable proximity to a major transportation corridor
- Not outside moderate and high slope stability hazards

Therefore, the proposed map amendment would not be suitable for higher density development and multifamily development allowed within the R-3 zoning district as indicated on the suitability matrix within the update. Additionally, the matrix suggests resorts and outdoor recreation be outside flood hazard areas.

As the property is not adjacent to property zoned R-3, the proposed map amendment would be detrimental to the owner, adjacent neighbors, and surrounding community as it is not consistent with the surrounding low-density residentially zoned property. Therefore, the requested zoning would not be reasonable and in the interest of the public.

CONSISTENT: The proposed map amendment is consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update show the following regarding the subject property:

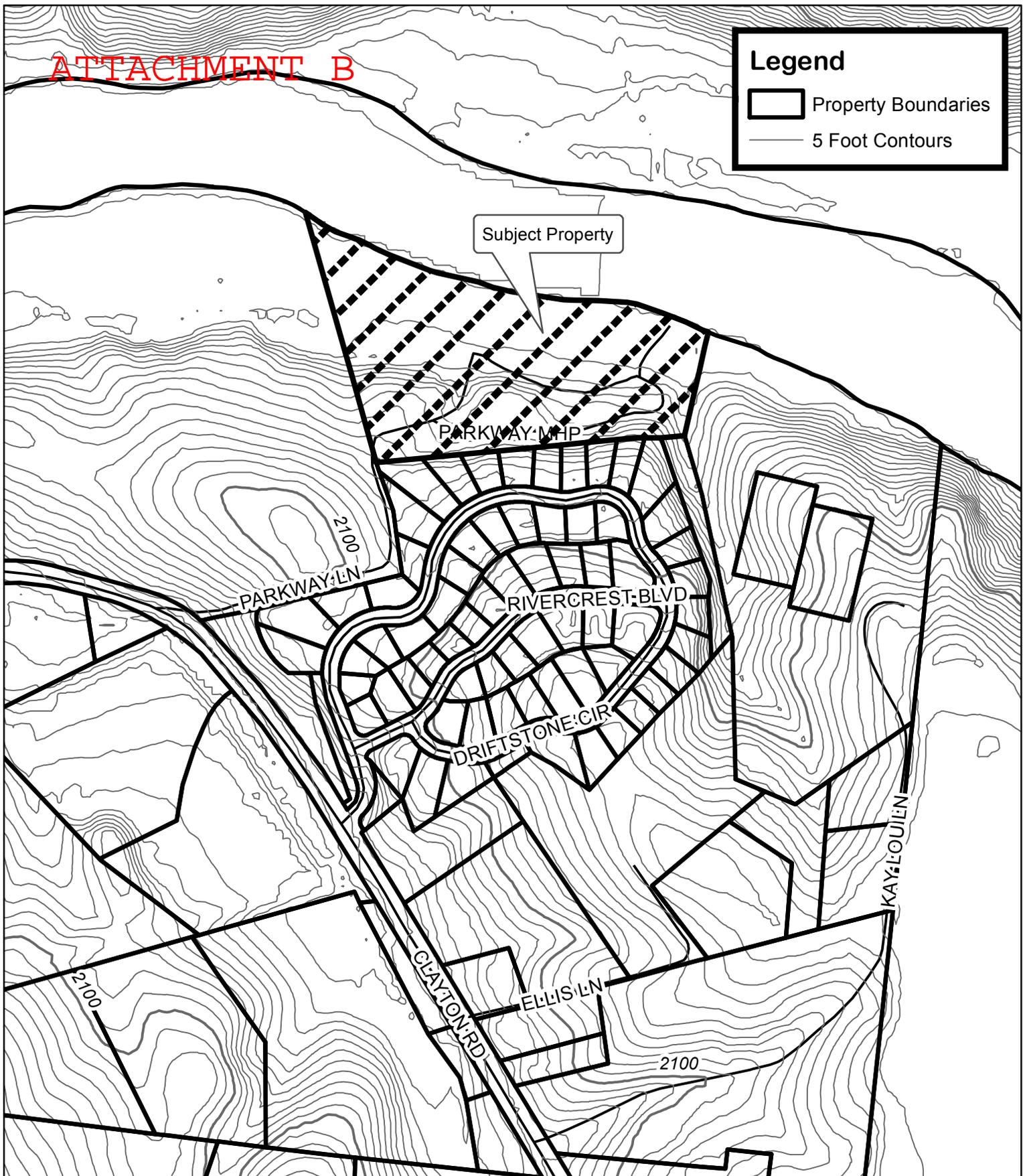
- Has proximity to public utilities

Therefore, the proposed map amendment may be suitable for higher density development and multifamily development allowed within the R-3 zoning district as indicated on the suitability matrix within the update. As the property is adjacent to an institutional use (Asheville Fire Fighters Association Property) the proposed map amendment may be appropriate for higher intensity uses and is therefore reasonable and in the interest of the public.

ATTACHMENT B

Legend

- Property Boundaries
- 5 Foot Contours



Nelson B. Allison Map Amendment

Case Number: ZPH2013-00053
Approximate Property Size: 8.64 acres
Application Date: November 21, 2013
Planning Board Hearing Date: January 6, 2014

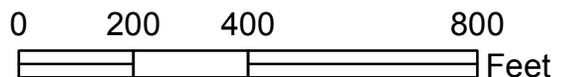


Created By: Buncombe County Planning
Date: December 10, 2013



Nelson B. Allison
Map Amendment

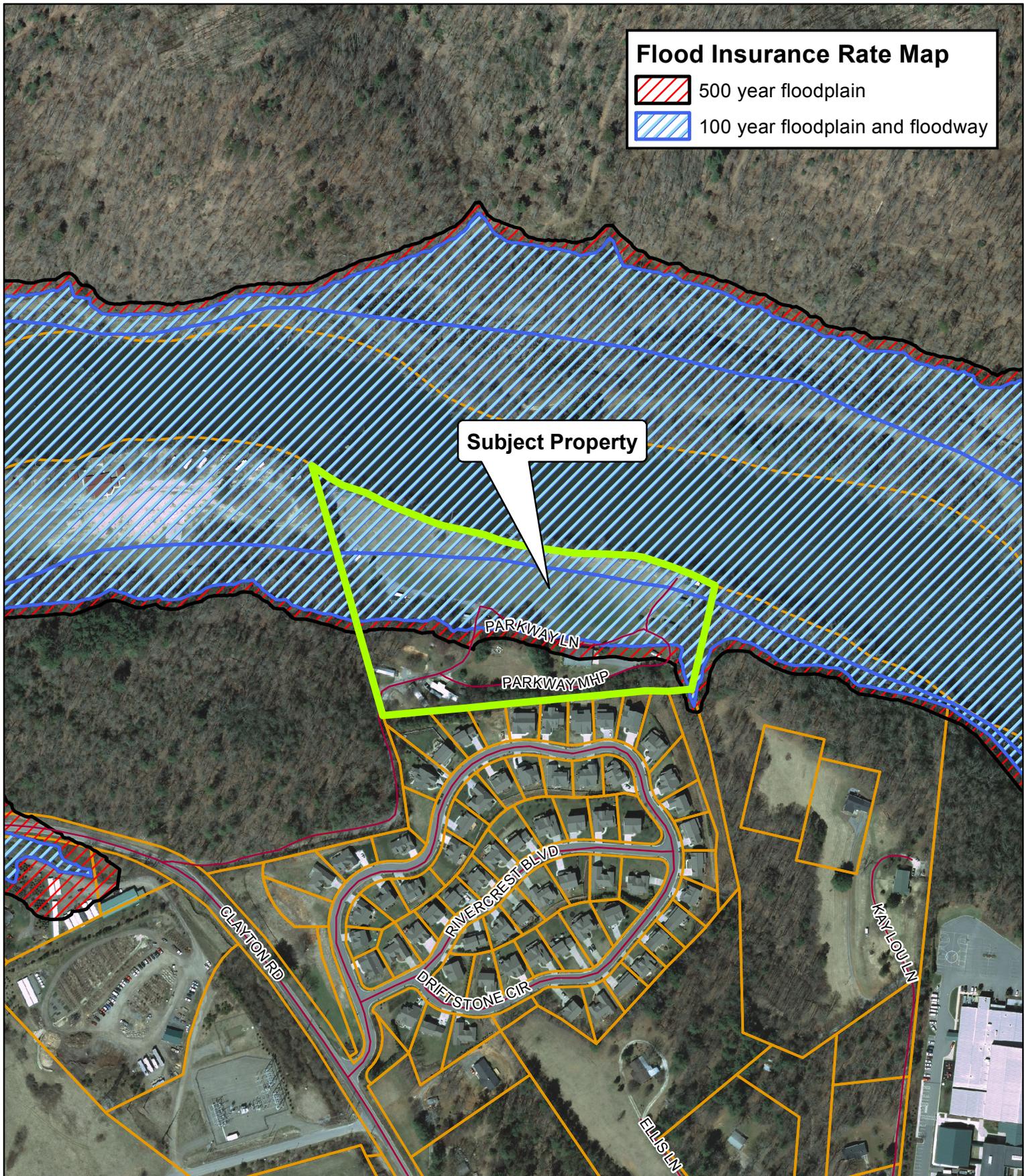
Case Number: ZPH2013-00053
Approximate Property Size: 8.64 acres
Application Date: November 21, 2013
Planning Board Hearing Date: January 6, 2014



Created By: Buncombe County Planning
Date: December 10, 2013

Flood Insurance Rate Map

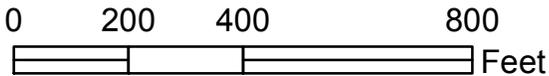
-  500 year floodplain
-  100 year floodplain and floodway



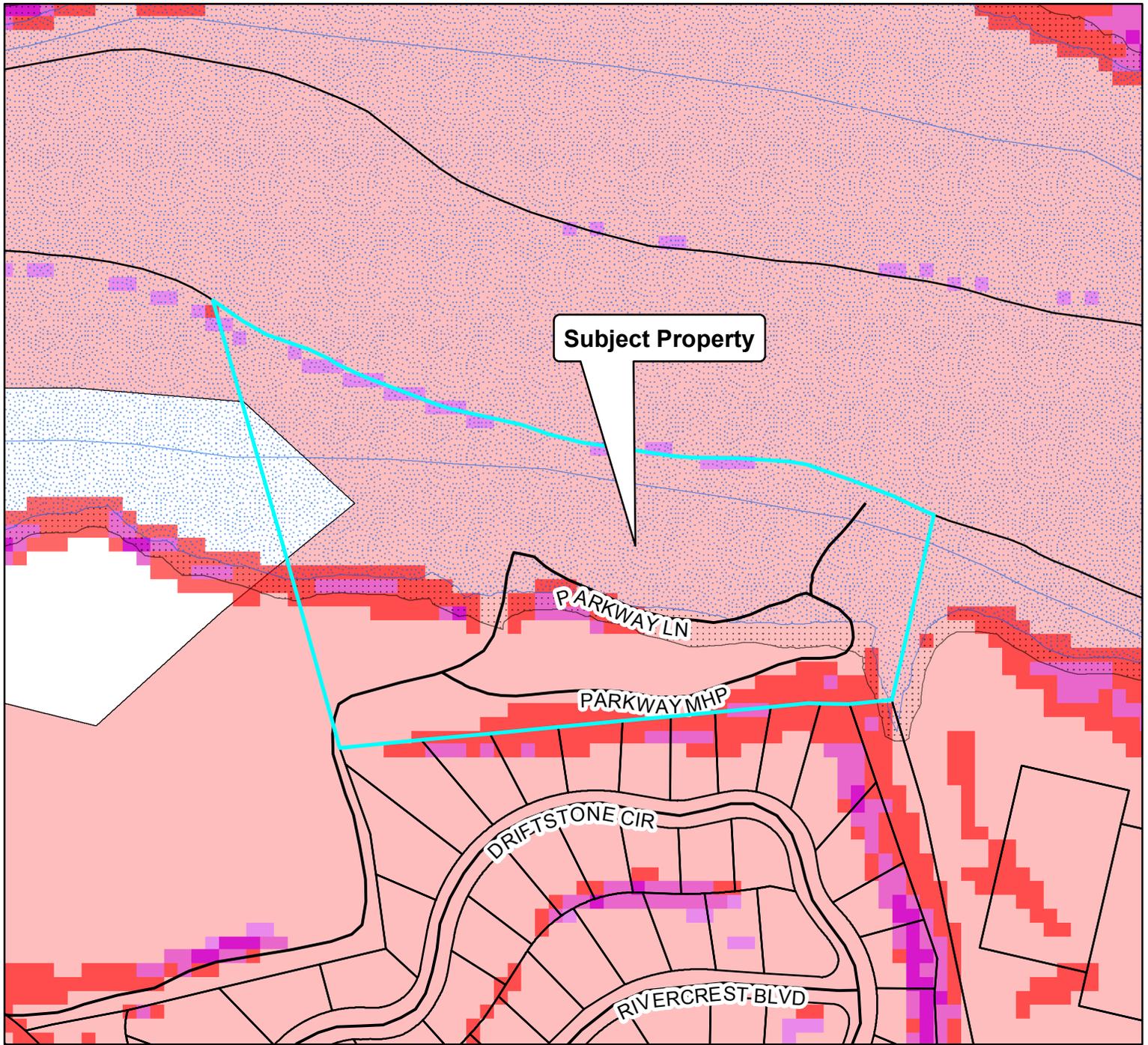
Subject Property

**Nelson B. Allison
Map Amendment**

Case Number: ZPH2013-00053
Approximate Property Size: 8.64 acres
Application Date: November 21, 2013
Planning Board Hearing Date: January 6, 2014



Created By: Buncombe County Planning
Date: December 10, 2013

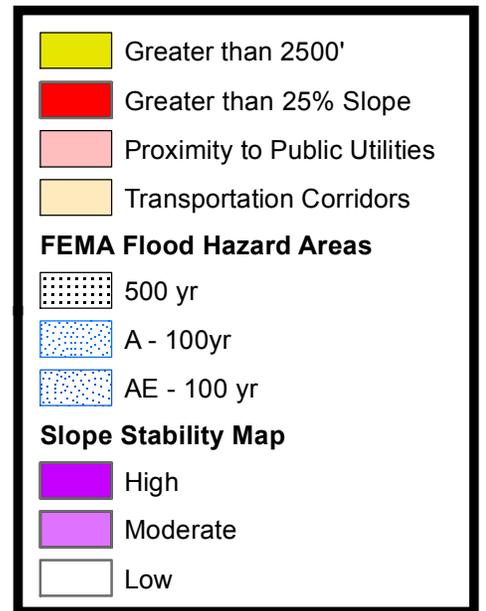


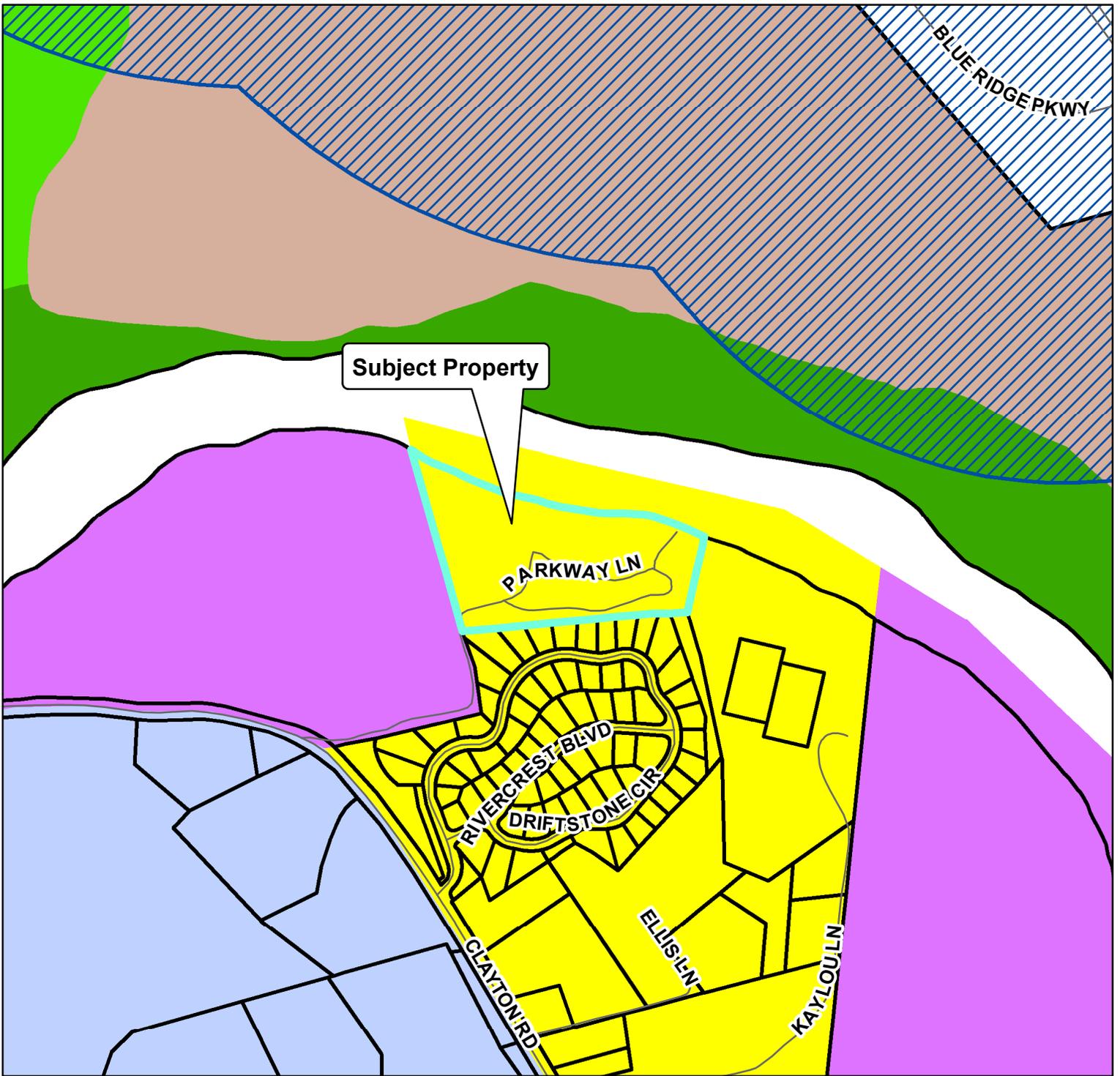
**Nelson B. Allison
Map Amendment**



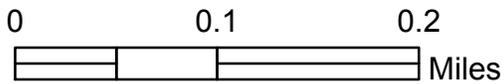
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 Planning Board Hearing Date: January 6, 2014

Created By: Buncombe County Planning
 Date: December 10, 2013





Nelson B. Allison Map Amendment



Zoning Districts		Zoning Overlays	
	BDM		PS
	CS		R-1
	EMP		R-2
	NS		R-3
	OU		R-LD
			Blue Ridge Parkway Overlay
			Protected Ridge Overlay
			Protected Ridge & Parkway
			Steep Slope/High Elev.
			Steep Slope/High Elev. & Pkwy

Case Number: ZPH2013-00053
 Approximate Property Size: 8.64 acres
 Application Date: November 21, 2013
 Planning Board Hearing Date: January 6, 2014



Created By: Buncombe County Planning
 Date: December 10, 2013

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS

CASE NUMBER : ZPH2013-00054
 PROPOSED ZONING CHANGE : R-3 and CS to CS
 LOCATION : Brevard Road
 PIN : 9635.08.1175
 ACREAGE : 42.60 acres

APPLICANT/OWNER: BILTMORE FARMS INC
 PO BOX 5355
 ASHEVILLE, NC 28813

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 42.60 acres from R-3 (Residential District) and CS (Commercial Service District) to CS (Commercial Service District). The subject property is located on the east side of Brevard Road, to the north of the intersection of Brevard Road and the Blue Ridge Parkway. The property also contains a small portion of the Blue Ridge Parkway Overlay. The property is currently undeveloped. To the east, the property is adjacent to property within the City of Asheville zoned for industrial uses, owned by Henderson County. Additionally, the subject property surrounds Bent Creek Baptist Church. There is an established commercial corridor along Brevard Road to the north of the subject property.

The proposed map amendment is consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update show the following regarding the subject property:

- Reasonable proximity to a transportation corridor
- Reasonable proximity to public utilities
- Outside of high elevations.
- Separated from low-density residential uses

Therefore, the proposed map amendment would be suitable for commercial development as indicated on the suitability matrix within the update.

The subject property is adjacent to property zoned for industrial development, the property is partially zoned CS, and there is an established commercial corridor along Brevard Road. The proposed CS zoning would not be detrimental to the owner, adjacent neighbors, and surrounding community as it is consistent

with the surrounding properties and supported by the Buncombe County Land Use Plan. Therefore the Buncombe County Department of Planning and Development recommends **APPROVAL** of the request.

LAND USE PLAN CONSISTENCY STATEMENTS

CONSISTENT: The proposed map amendment is consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update shows the following regarding the subject property:

- Reasonable proximity to a transportation corridor
- Reasonable proximity to public utilities
- Outside of high elevations.
- Separated from low-density residential uses

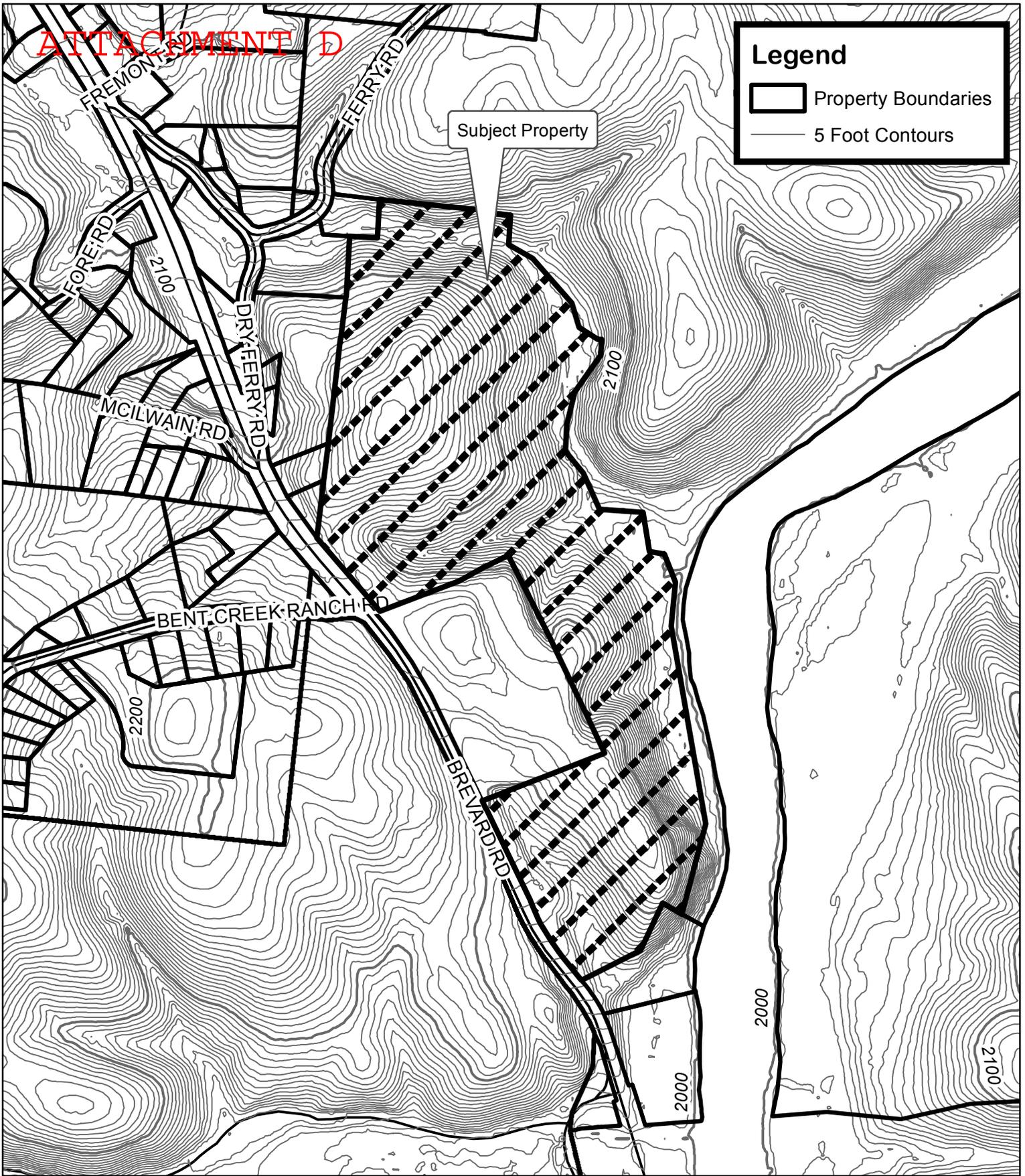
Therefore, the proposed map amendment would be suitable for commercial development as indicated on the suitability matrix within the update. As the property is partially zoned CS and is near an established commercial corridor on Brevard Road, the proposed map amendment is appropriate and is therefore reasonable and in the interest of the public.

NOT CONSISTENT: The map amendment is not consistent with the Buncombe County Comprehensive Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update show the following regarding the subject property:

- Not outside of steep slope areas
- Not outside of moderate and high slope stability hazards
- Not outside of flood hazard areas

Therefore, the proposed map amendment would not be suitable for commercial development as indicated on the suitability matrix within the update. As the property is adjacent to property zoned for low density residential uses, the proposed CS zoning would be detrimental to the owner, adjacent neighbors, and surrounding community as it is not consistent with the surrounding area. Therefore, the requested zoning would not be reasonable and in the interest of the public.

ATTACHMENT D

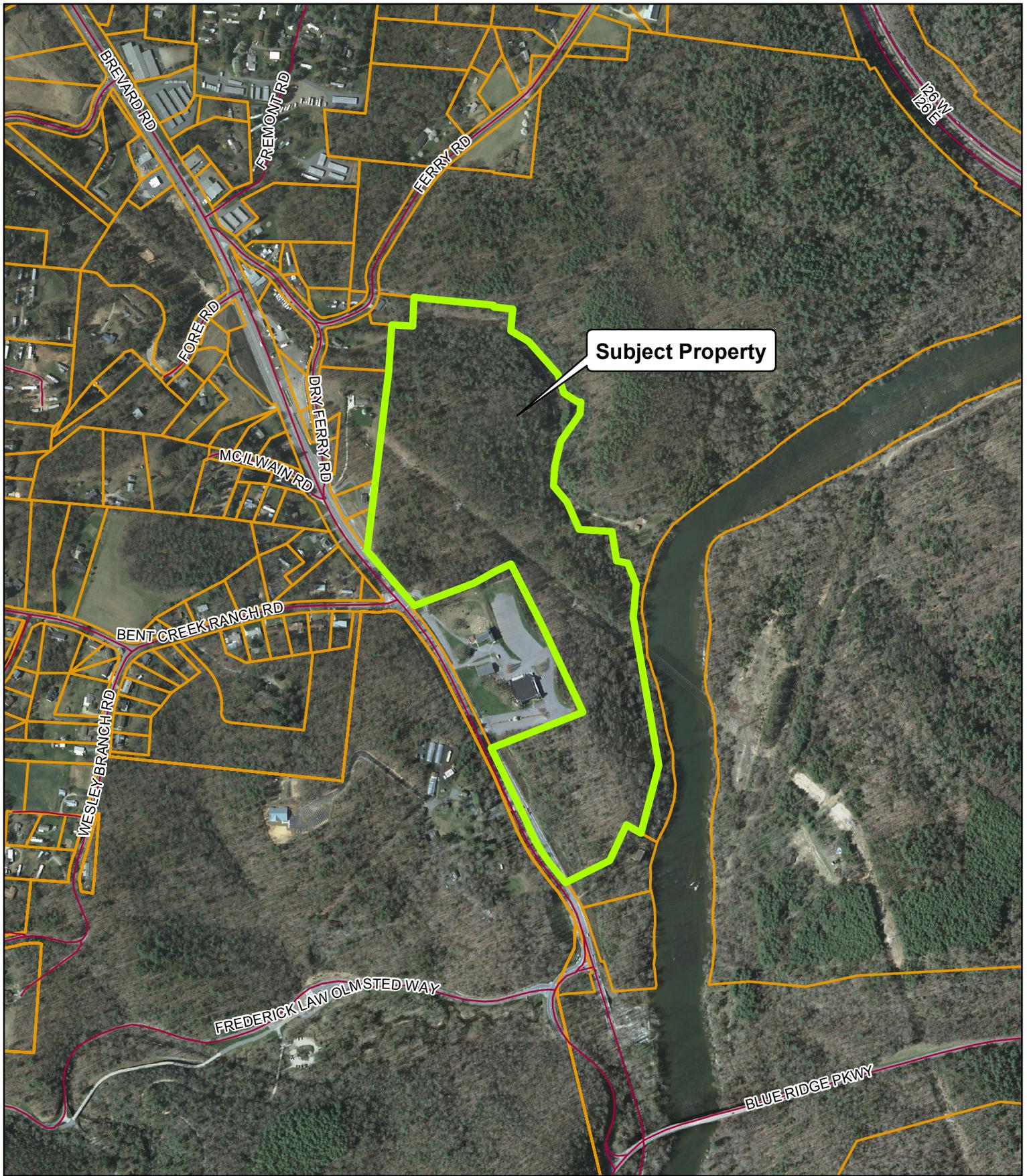


**Biltmore Farms
Map Amendment**

Case Number: ZPH2013-00054
Approximate Property Size: 42.6 acres
Application Date: November 21, 2013
Planning Board Hearing Date: January 6, 2014

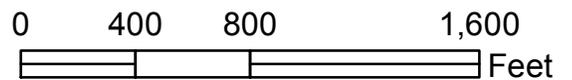


Created By: Buncombe County Planning
Date: December 11, 2013

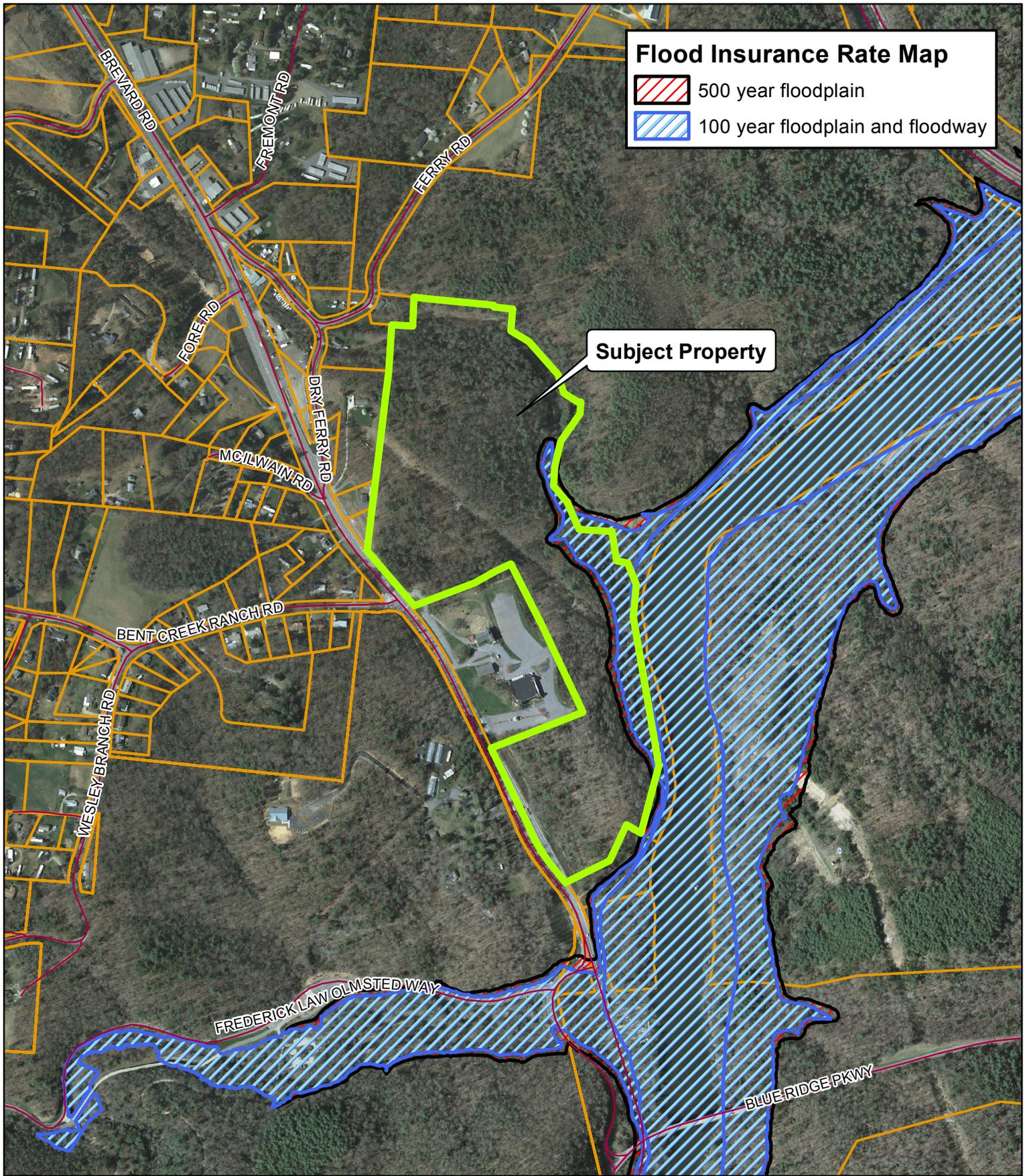


**Biltmore Farms
Map Amendment**

Case Number: ZPH2013-00054
 Approximate Property Size: 42.6 acres
 Application Date: November 21, 2013
 Planning Board Hearing Date: January 6, 2014

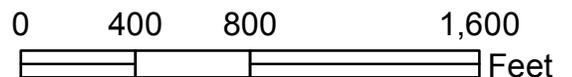


Created By: Buncombe County Planning
 Date: December 11, 2013

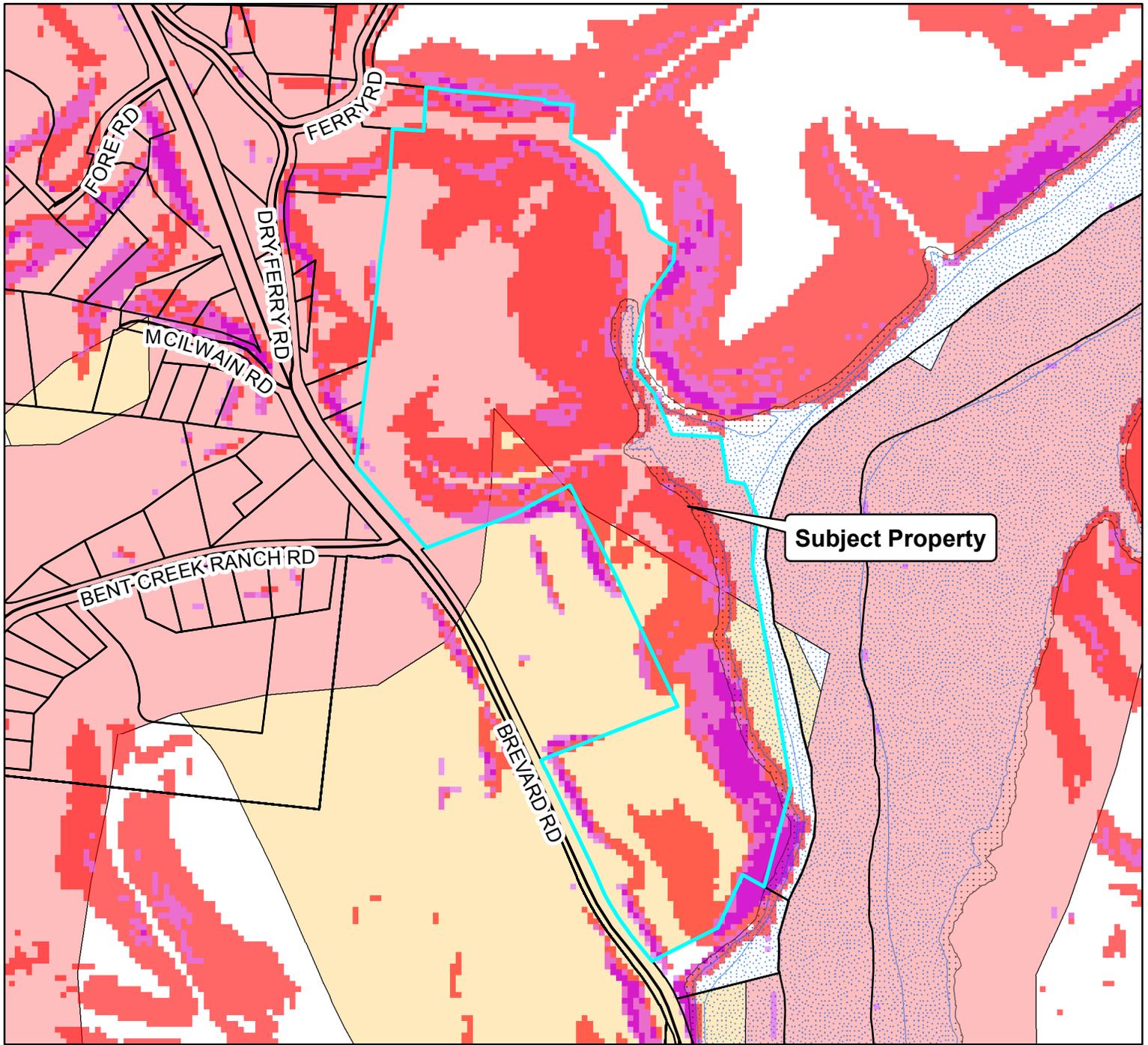


**Biltmore Farms
Map Amendment**

Case Number: ZPH2013-00054
 Approximate Property Size: 42.6 acres
 Application Date: November 21, 2013
 Planning Board Hearing Date: January 6, 2014



Created By: Buncombe County Planning
 Date: December 11, 2013



Subject Property

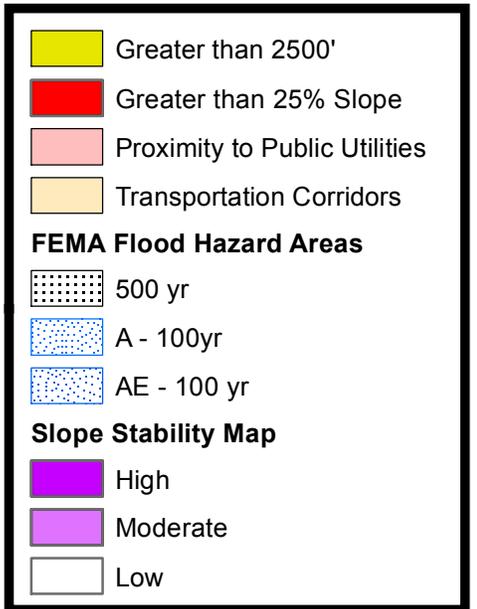


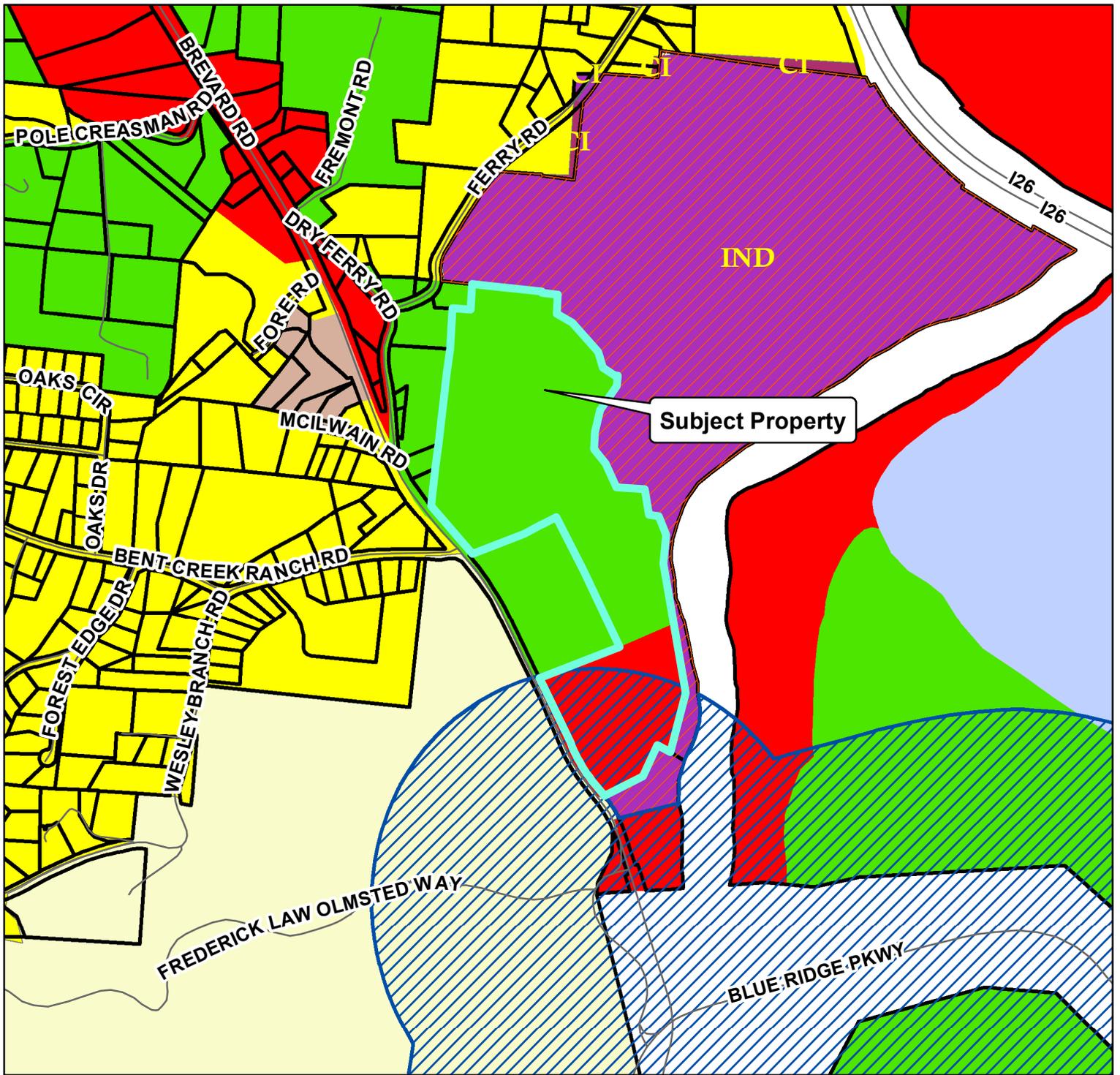
**Biltmore Farms
Map Amendment**



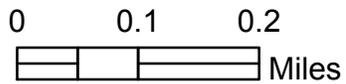
Case Number: ZPH2013-00054
 Approximate Property Size: 42.6 acres
 Application Date: November 21, 2013
 Planning Board Hearing Date: January 6, 2014

Created By: Buncombe County Planning
 Date: December 11, 2013





Biltmore Farms Map Amendment



Zoning Districts		Zoning Overlays	
BDM	R-1	Blue Ridge Parkway Overlay	Protected Ridge Overlay
CS	R-2	Protected Ridge & Parkway	Steep Slope/High Elev.
EMP	R-3	Steep Slope/High Elev. & Pkwy	
NS	R-LD		
	PS		
	OU		

Case Number: ZPH2013-00054
 Approximate Property Size: 42.6 acres
 Application Date: November 21, 2013
 Planning Board Hearing Date: January 6, 2014



Created By: Buncombe County Planning
 Date: December 11, 2013

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS

CASE NUMBER : ZPH2013-00065
PROPOSED ZONING CHANGE : EMP TO CS
LOCATION : 441 Airport Road
PIN : 9643.75.9542
ACREAGE : 1.34 acres

APPLICANT/OWNER: JESSE GARDNER
CIVIL DESIGN CONCEPTS
200 SWANNANOA RIVER 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 1.34 acres from EMP (Employment District) to CS (Commercial Service District). The subject property is located on the northeast corner of Airport Road and Brian Blvd. The property currently contains a gas station and convenience store, which is an allowed use in the CS zoning district. The area is characterized by commercial development zoned EMP within the County and HB (Highway Business) within the City of Asheville. While the property is not adjacent to property within the County zoned CS, it is adjacent to HB within the City of Asheville, which is very similar to CS zoning. To the south of the subject property is additional commercial development within Henderson County.

The proposed map amendment is consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update show the following regarding the subject property:

- Reasonable proximity to a transportation corridor
- Reasonable proximity to public utilities
- Outside of high elevations.
- Outside of slopes greater than 25% slope
- Outside of areas or high or moderate slope stability hazards
- Outside of flood hazard areas

Therefore, the proposed map amendment would be suitable for commercial development as indicated on the suitability matrix within the update.

The subject property is adjacent to property zoned for commercial development with the City of Asheville and there is an established commercial corridor along Airport Road. The proposed CS zoning would not be detrimental to the owner, adjacent neighbors, and surrounding community as it is consistent with the surrounding properties and supported by the Buncombe County Land Use Plan. Therefore the Buncombe County Department of Planning and Development recommends **APPROVAL** of the request.

LAND USE PLAN CONSISTENCY STATEMENTS

CONSISTENT: The proposed map amendment is consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update show the following regarding the subject property:

- Reasonable proximity to a transportation corridor
- Reasonable proximity to public utilities
- Outside of high elevations.
- Separated from low-density residential uses
- Outside of slopes greater than 25% slope
- Outside of areas or high or moderate slope stability hazards
- Outside of flood hazard areas

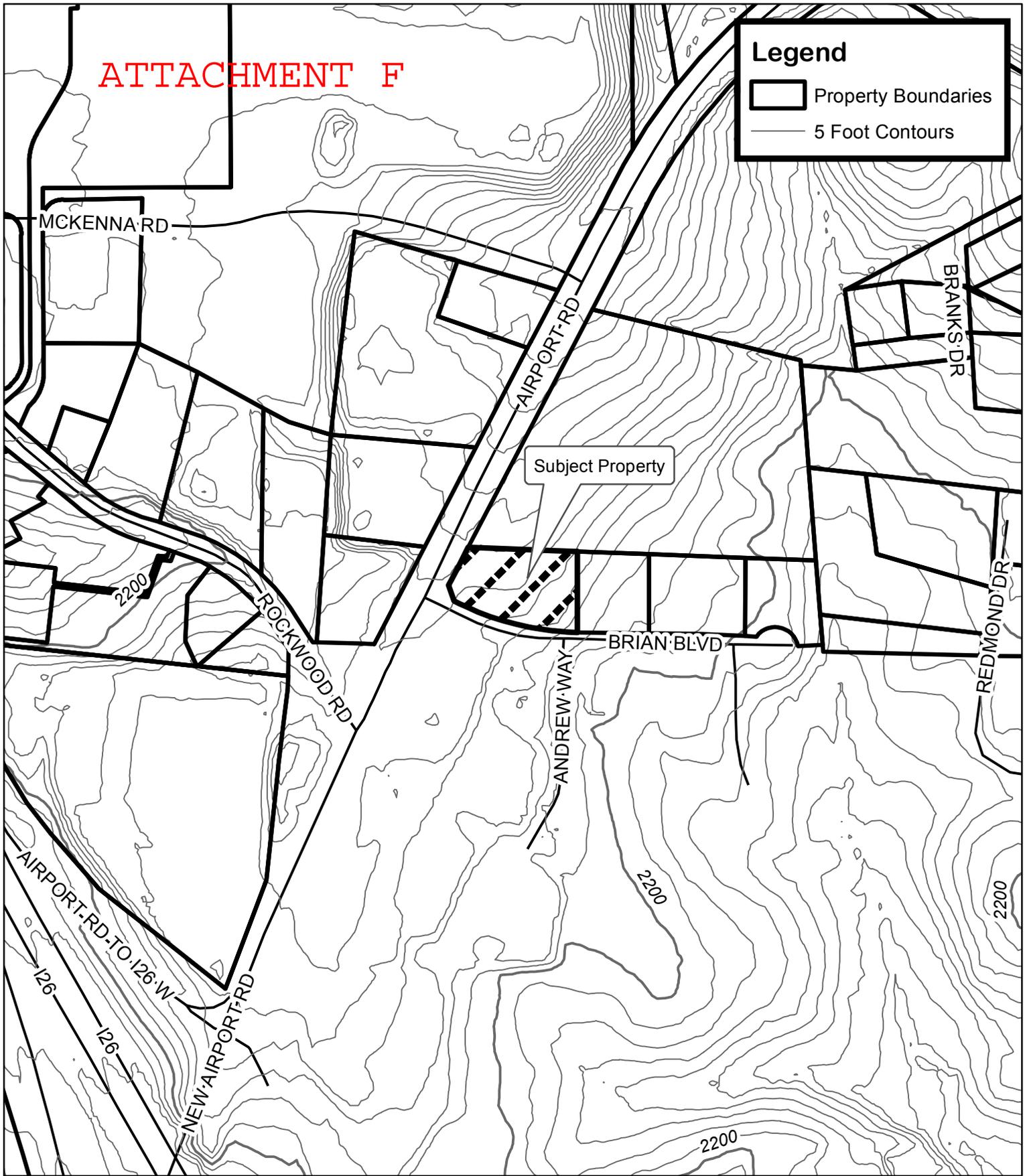
Therefore, the proposed map amendment would be suitable for commercial development as indicated on the suitability matrix within the update. As the subject property is adjacent to property zoned for commercial development with the City of Asheville and there is an established commercial corridor along Airport Road the proposed map amendment is appropriate and is therefore reasonable and in the interest of the public.

NOT CONSISTENT: The map amendment is not consistent with the Buncombe County Comprehensive Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update show the following regarding the subject property:

- Near moderate and high slope stability hazards
- Not separated from low density residential uses

Therefore, the proposed map amendment would not be suitable for commercial development as indicated on the suitability matrix within the update. The proposed CS zoning would be detrimental to the owner, adjacent neighbors, and surrounding community as it is not consistent with the surrounding area. Therefore, the requested zoning would not be reasonable and in the interest of the public.

ATTACHMENT F



Jesse Gardner Map Amendment

Case Number: ZPH2013-00065
Approximate Property Size: 1.34 acres
Application Date: December 6, 2013
Planning Board Hearing Date: January 6, 2014

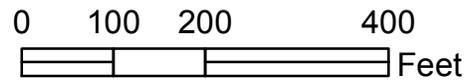


Created By: Buncombe County Planning
Date: December 12, 2013

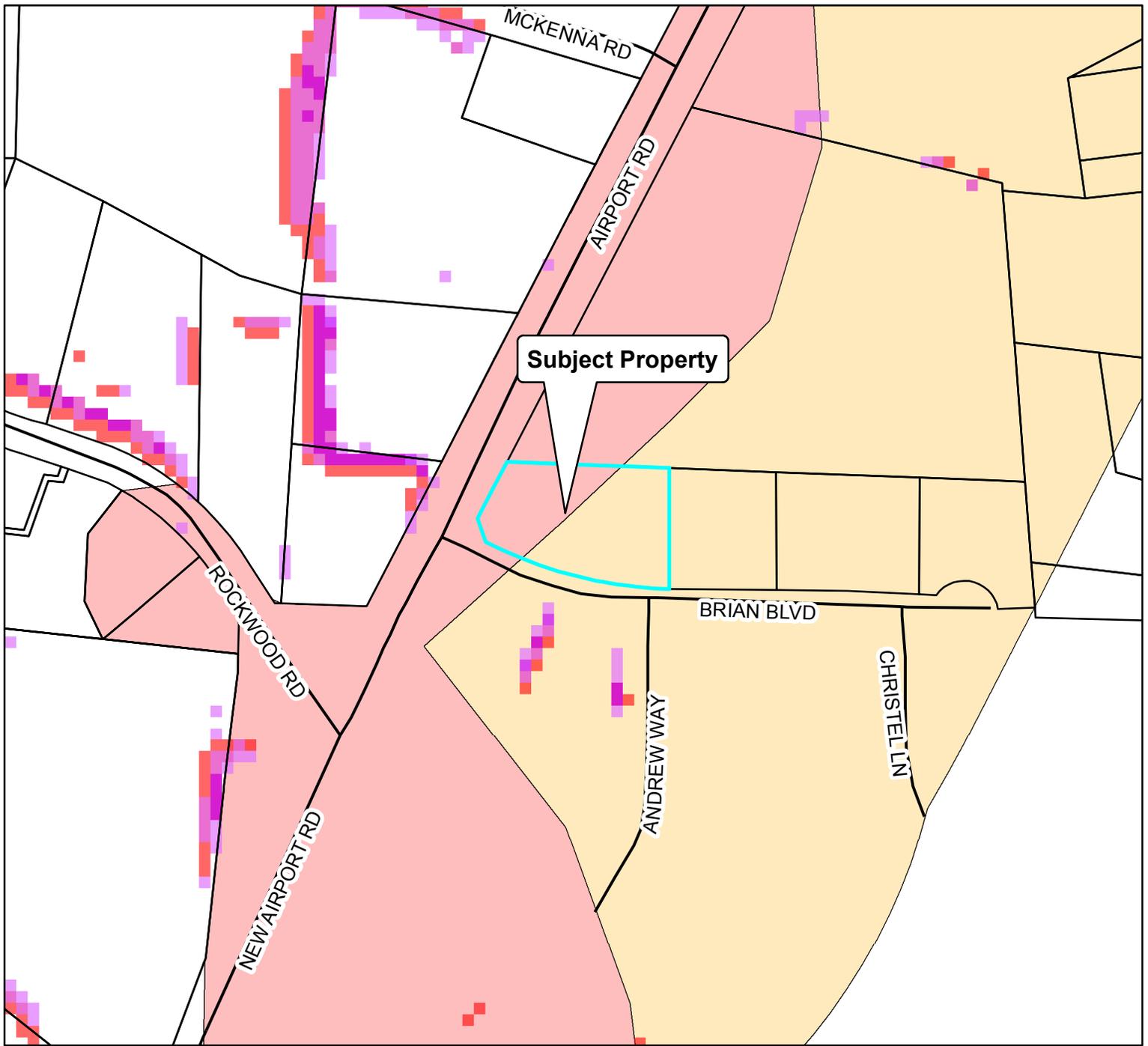


Jesse Gardner
Map Amendment

Case Number: ZPH2013-00065
Approximate Property Size: 1.34 acres
Application Date: December 6, 2013
Planning Board Hearing Date: January 6, 2014



Created By: Buncombe County Planning
Date: December 12, 2013

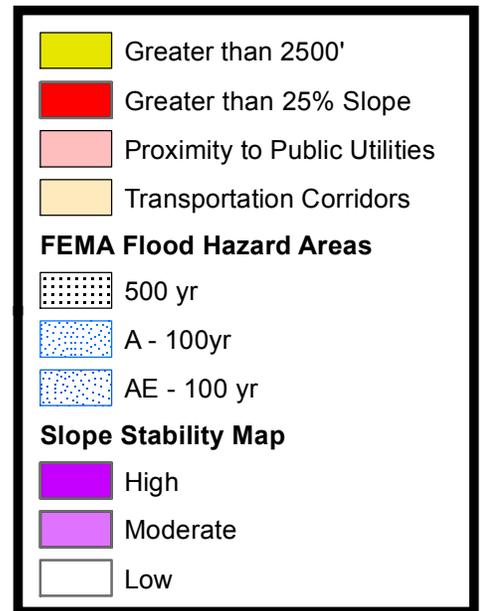


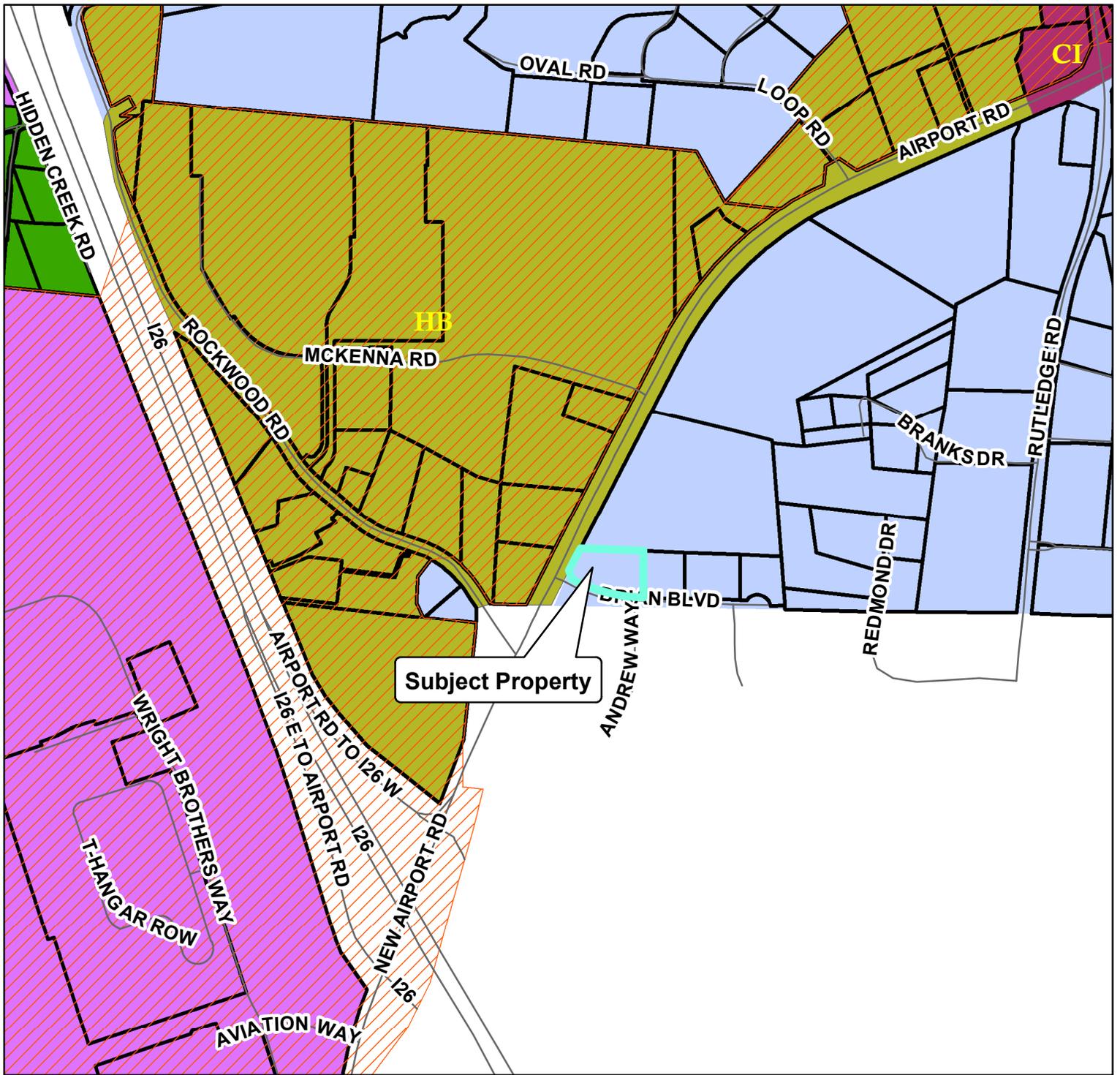
**Jesse Gardner
Map Amendment**



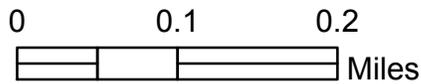
Case Number: ZPH2013-00065
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 Planning Board Hearing Date: January 6, 2014

Created By: Buncombe County Planning
 Date: December 12, 2013





Jesse Gardner Map Amendment



Zoning Districts		Zoning Overlays	
CITY OF ASHEVILLE	OU	Blue Ridge Parkway Overlay	Protected Ridge Overlay
BDM	PS	Protected Ridge & Parkway	Steep Slope/High Elev.
CS	R-1	Steep Slope/High Elev. & Pkwy	
EMP	R-2		
NS	R-3		
	R-LD		

Case Number: ZPH2013-00065
 Approximate Property Size: 1.34 acres
 Application Date: December 6, 2013
 Planning Board Hearing Date: January 6, 2014



Created By: Buncombe County Planning
 Date: December 12, 2013

Consistency with the Comprehensive Land Use Plan

Recommendation of Approval

- The proposed amendments regarding the creation of a Conference Center/Resort District and related standards **are consistent with the Buncombe County Comprehensive Land Use Plan and updates, as the 2013 update (Section 6) recommended that:**
 - “A Resort/Conference Center Zoning District should be developed in order to accommodate large-scale resort, retreat, or conference facilities. This District should be targeted toward those facilities which are 100 acres and more (referring to the total collection of adjacent properties) and managed through a common entity. The District should account for the unique needs of conference centers and resorts providing flexibility while still ensuring the protection of surrounding residential properties.”
- 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 unique type of development encompassed by the proposed District.

ATTACHMENT H

Add to Section 78-581. Definitions.

Recreational facilities are those facilities, not otherwise categorized on the permitted use table, utilized for one (1) or more sports or recreation activities such as, but not limited to, bowling, skating, water sports, baseball, basketball, tennis, golf, riding, hiking, fishing or similar sports or recreational uses.

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
<u>CR</u>	<u>Conference Center/Resort District</u>
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 held in single ownership or held collectively by related entities. 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.

~~(i)~~ (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)~~ *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

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
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
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

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
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
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
<u>Private recreation facilities, profit (bowling alleys, skating rinks, country clubs, etc.)</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>P</u>		<u>P</u>
Professional and business offices and services					P	P	P	P			P
<u>Public or private nonprofit recreational facilities (parks, playgrounds, etc.)</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>
Private utility stations and substations, pumping stations, water and sewer	P	P	P	P	P	P	P	P	<u>P</u>	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
plants, water storage tanks (less than 2 acres in total footprint)											
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C	C	C	C	C	C	C	<u>C</u>	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	C	C	C	C	P	P	P	P	<u>P</u>	C	P
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C	C	C	C	C	C	C	<u>C</u>	C	C
Radio, TV and telecommunications towers	C			C		C	C	C	<u>C</u>		P
<u>Recreation use, nonprofit</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Recreation use, profit</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>P</u>		<u>P</u>
Repair services (electrical and appliances)					P	P	P				P
Restaurants, <u>eating establishments and cafes</u>					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						P	P	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
schools											
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

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-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
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. 78-64~~45~~. 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.

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	CR	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	P	P	P
Duplex/Two-family residential dwelling			P	P	P	P	P	P	P		P
Multifamily residential dwelling units (3 or more units)			C	C	C	C	C	C	C		C
Townhomes (3 or more units)			C	C	C	C	C	C	C		C
Manufactured/mobile homes-Residential	P			P			P				P
Manufactured/mobile home parks				C							C
Planned unit developments			C	C	C	C	C	C	C		C
Subdivisions	P	P	P	P	P	P	P	P	P	P	P
Accessory buildings	P	P	P	P	P	P	P	P	P	P	P
Bed and breakfast inns, gross floor area less than 5,000 sq. ft.	P		C	P	P	P	P	P	P		P
Bed and breakfast inns, gross floor area 5,000 sq. ft. or more	C		C	C	C	C	C	C	C		C
Cemetery	P		P	P		P		P	P		P
Churches	P	P	P	P	P	P	P	P	P	P	P
Clubs or lodges, gross floor area less than 5,000 sq. ft.				C	C	C	C	C	C		C
Day nursery and private kindergarten	C	C	C	C	C	C	C	C	C		C
Family care home	P	P	P	P				P	P	P	P
Government protective services			P	P	P	P	P	P	P		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
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
<u>Private recreation facilities for profit, outdoor (parks, playgrounds, tennis courts, etc.)</u>			<u>C</u>		<u>C</u>						
<u>Private recreation facilities for profit, gross floor area less than 5,000 sq. ft. (bowling alleys, skating rinks, country clubs, etc.)</u>			<u>C</u>		<u>C</u>						
Professional and business offices and services, gross floor area less than 5,000 sq. ft.					P	P	P	P	<u>P</u>		P
<u>Public or private nonprofit recreational facilities, outdoor (parks, playgrounds, tennis courts, etc.)</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Public or private nonprofit recreational facilities, indoor, gross floor area less than 5,000 sq. ft. (bowling alleys, skating rinks, gymnasiums, etc.)</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Public or private nonprofit recreational facilities, indoor, gross floor area 5,000 sq. ft. or more (bowling alleys, skating rinks, gymnasiums etc.)</u>					<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
Private 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	C

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 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	C
Radio, TV and telecommunications towers	C			C		C	C	C	<u>C</u>		C
<u>Recreation facilities, nonprofit, indoor, gross floor area less than 5,000 sq. ft.</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Recreation facilities, nonprofit, indoor, gross floor area 5,000 sq. ft. or more</u>					<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>
<u>Recreation facilities, nonprofit, outdoor</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
<u>Recreation facilities, profit, outdoor</u>			<u>C</u>		<u>C</u>						
<u>Recreation facilities, profit, indoor gross floor area less than 5,000 sq. ft.</u>			<u>C</u>		<u>C</u>						
Repair services, gross floor area less than 5,000 sq. ft. (electrical and appliances)					P	P	P				P
Restaurants, <u>eating establishments and cafés</u> , 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

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
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
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. 78-64~~56~~. 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		<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.)	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
Private 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	C

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
Public 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	C
<u>Recreational facilities, nonprofit, outdoor</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>
Vacation rentals	P	P	P	P	P	P	P	P	<u>P</u>	P	P

DRAFT

Consistency with the Comprehensive Land Use Plan

Recommendation of Approval

- The proposed administrative amendments regarding procedure for amendments to the Zoning Ordinance, Conditional Use Permits, Variances, and the like **are consistent with the Buncombe County Comprehensive Land Use Plan and updates**, as the 2013 update (Section 7) indicates the following objectives:
 - “Adjust land use policies to account for changes within the regulatory environment; and
 - Clarify existing ambiguities in land use policies and regulations.”
- The proposed amendments to the text are **reasonable and in the public interest** as they bring the Zoning Ordinance of Buncombe County in line with the North Carolina General Statutes, as amended, and as they work to clarify the public hearing process for land use approvals.

ATTACHMENT J

Amend Sec. 78-717 as follows:

Proposed changes or amendments to this article may be initiated by the Buncombe County Board of Commissioners, Buncombe County Planning Board, board of adjustment, zoning administrator or one or more owners of property within the area proposed to be changed. The board of commissioners, the planning board, ~~and the~~ board of adjustment, ~~and the~~ zoning administrator shall not be required to make application to the zoning administrator in order to initiate a change or amendment to this article. All proposed amendments to this Article or zoning map shall be submitted to the planning board for review and comment; however, neither the planning board nor the board of commissioners will consider a proposed change or amendment initiated by one or more property owners that was denied within the preceding 12 months by the board of commissioners.

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 to 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. 78-622 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.

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

(d) *Decisions.* All board of adjustment decisions shall be made in accordance with N.C. Gen. Stat. §153A-345.1 or as amended.

Amend Sec. 78-677 by deleting subsection (c) and replacing it with the following:

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

Amend Sec. 78-677 by deleting subsection (h) and replacing it with the following:

(h) *Decisions.* All board of adjustment decisions shall be made in accordance with N.C. Gen. Stat. §153A-345.1 or as amended.

Amend Sec. 78-677 by deleting subsection (k) and replacing it with the following:

(k) *Lack of development; effect on permit.* Conditional use permits shall retain vesting in accordance with N.C. Gen. Stat. §153A-344.1 or as amended.

ATTACHMENT K

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	<u>2 per lot. No acreage based density requirement.</u>	10	10	20	10	10	20	35
R-1 Residential	30,000 (no water or sewer) <u>12,000 (public sewer only)</u> <u>8,000 (public water and sewer)</u>	<u>2 per lot. No acreage based density requirement.</u>	<u>10</u>	<u>7</u>	<u>15</u>	20	10	20	35
R-2 Residential	30,000 (no water or sewer) <u>10,000 (public sewer only)</u> <u>6,000 (public water and sewer)</u>	12	<u>10</u>	<u>7</u>	<u>15</u>	20	10	20	35
R-3 Residential	<u>Same as R-2</u>	12	<u>10</u>	<u>7</u>	<u>15</u>	20	10	20	35
NS Neighborhood Service	30,000 (no water or sewer) <u>10,000 (sewer only)</u> <u>5,000 (water and sewer)</u>	12	<u>10</u>	<u>7</u>	<u>15</u>	20	10	20	35
CS Commercial Service	<u>Same as NS</u>	13	10	10	10	10	10	10	50
EMP Employment	<u>Same as NS</u>	12	20	10	20	20	10	20	90
PS Public Service	<u>Same as NS</u>	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.								

ATTACHMENT L

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.~~

ATTACHMENT M

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.