

Buncombe County Planning Board
January 27, 2014
9:30 a.m.

The Buncombe County Planning Board met January 27, 2014 in the meeting room at 30 Valley Street. Members present were Josh Holmes, Bud Sales, Bernie Kessel, Tom Alexander, Greg Phillips, Joe Sechler, Catherine Martin, 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. Kessel made a motion to approve the agenda. Mr. Sales seconded the motion and the motion passed unanimously.

Approval of Minutes (January 6, 2014)

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

Public Hearings (Zoning Text Amendments)

ZPH2013-00060: Zoning language regarding dimensional requirements

The Board was provided with a proposed consistency statement (Attachment A) and proposed language (Attachment B) prior to the meeting. Mr. O'Conner reviewed the changes that had been made to the proposed language. Chairman Alexander closed the public hearing as no one wished to make public comment. Mr. Holmes asked questions regarding where the maximum height restrictions within the dimensional requirements had come from. Staff provided clarification regarding the standards. Mr. Kessel made a motion to recommend approval of the language and accept the staff's consistency statement provided on Attachment A. Mr. Young seconded the motion and the motion passed unanimously.

ZPH2013-00061: Zoning language regarding accessory use setbacks

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

ZPH2013-00062: Zoning language regarding planned unit development standards

The Board was provided with a proposed consistency statement (Attachment E) and proposed language (Attachment F) prior to the meeting. Mr. O'Conner reviewed the changes that had been made to the proposed language. Mr. Sechler asked questions regarding how the language

would affect the Steep Slope-High Elevation Overlay and the Protected Ridge Overlay. Mr. O'Conner reviewed how the language would affect the overlay district. Chairman Alexander closed the public hearing as no one wished to make public comment. Mr. Kessel made a motion to recommend approval of the language and accept the staff's consistency statement provided on Attachment E. Mr. Sechler seconded the motion and the motion passed unanimously.

Mr. O'Conner passed out draft language (Attachment G) regarding ADA requirements and the Board of Adjustment making reference to the Buncombe County Comprehensive Land Use Plan when making decisions. Chairman Alexander and the Board directed staff to advertise the language at a later time for public hearing.

Adjournment

There being no public comment, Mr. Kessel made a motion to adjourn the meeting. Mr. Holmes seconded the motion and the motion passed unanimously. The meeting was adjourned at 9:54 am.

*No meeting was held on **February 3, 2014**, as a quorum could not be reached.*

Consistency with the Comprehensive Land Use Plan

Recommendation of Approval

- The proposed amendments regarding revisions to the dimensional requirement standards **are consistent with the Buncombe County Comprehensive Land Use Plan and updates, as the 2013 update (Section 6) recommended that:**
 - “Efforts should be made to align lot sizes to the surrounding land use context including the availability of infrastructure. In areas where public sewer is not available, lot size should be adjusted to allow adequate space for septic facilities. Setbacks should be adjusted to allow for greater flexibility in areas with access to urban infrastructure. Both setbacks and lot size should be adjusted to more accurately reflect the density limitations provided in each district.”
- The proposed amendments to the text are **reasonable and in the public interest** as they promote a connection between the density of development and the availability of public utilities, which may serve to increase access to housing in areas of high opportunity and decrease development pressures in more rural areas.

ATTACHMENT B

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 Same as R-1	8	20	10	20	35
R-2 Residential	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
PS Public Service	Same as R-1	Same as R-2	12	20	10	20	50
BDM Beavordam	See Footnote 5 and 7	See Footnote 5 and 7	See Footnote 5	See Footnote 6	15	25	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	
			and 7	and 7			
OU Open Use	No dimensional requirements except as applied to conditional uses.						

Table 2. Dimensional Requirements									
Districts	Minimum Lot Area^{1,2} (Square Feet)	Density	Minimum Yard Setback Requirements in Feet³						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 public 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 public 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 public water or sewer)	12	10	7	15	20	10	20	35

Table 2. Dimensional Requirements

<u>Districts</u>	<u>Minimum Lot Area</u>^{1,2} (Square Feet)	<u>Density</u>	<u>Minimum Yard Setback Requirements in Feet</u>³						<u>Maximum Height</u> (Feet)
		<u>Maximum Number Dwelling Units Per Acre</u>	<u>Front Yard</u> <u>Public Sewer</u>	<u>Side Yard</u> <u>Public Sewer</u>	<u>Rear Yard</u> <u>Public Sewer</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	
	10,000 (public sewer only) 5,000 (public water and sewer)								
<u>CS Commercial Service</u>	Same as NS	13	10	10	10	10	10	10	50
<u>EMP Employment</u>	Same as NS	12	20	10	20	20	10	20	90
<u>PS Public Service</u>	Same as NS	12	20	10	20	20	10	20	50
<u>BDM Beaverdam</u>	See Footnote 54 and 76	See Footnote 54 and 76	See Footnote 65 and 76	15	25	See Footnote 65 and 76	15	25	35
<u>OU Open Use</u>	No dimensional requirements except as applied to conditional uses.								

Footnote 1--The minimum land area for lots not served by public water and/or sewer shall be subject to approval by the county health department to ensure the proper operation of septic tanks and wells. In no case shall minimum lot areas be less than those specified in this table.

Footnote 2--The minimum land area shall be calculated based on that portion of the lot which is under control of and deeded to the property owner, exclusive of road rights-of-way.

~~Footnote 3--R-LD and R-1 Districts allow no more than two dwelling units per lot of record.~~

Footnote 43—All above ground portions of the structure, including but not limited to decks, stairs, overhangs which extend 24 inches or greater outside of the footprint of the structure, and other attached heated or unheated spaces must meet the dimensional requirements as set forth in this Chapter. Any structure abutting two or more highways, roads, or streets shall maintain minimum “front yard” setbacks on any side of the structure which abuts a street, road, or highway in accordance with the provisions of the district in which the property is situated. The location of the primary entrance of the structure, as determined by the Zoning Administrator, shall be considered the front, and shall also maintain minimum “front yard” setbacks.

Footnotes 5-74-6: Applicable to Beaverdam Low-Density Residential District (BDM) Only

Footnote 54--Beaverdam Only Development standards:

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

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

(2) Single-family residential (no public water and sewer):

% Natural Slope	Lot Frontage (Feet)*	Min. Lot Size (Acres)	Maximum Disturbed (Acres)	Maximum Impervious Cover (Acres)
0-14.99	100	1.10	0.75	0.375
15-19.99	100	1.50	0.75	0.375
20-24.99	150	2.00	0.75	0.375
25-29.99	150	2.00	0.75	0.375
30-34.99	175	2.50	0.75	0.375
35-39.99	175	3.00	0.75	0.375
40+	200	5.00	0.75	0.375
*Minimum lot frontage shall be 75 feet where adjoining a cul-de-sac.				

Footnote 65--Beaverdam Only

% Natural Slope	Minimum Yard Setback Requirements		
	Front Yard From Edge of Road (Feet)	Side Yard (Feet)	Rear Yard (Feet)

0-39.99	35	15	25
40+	15	15	25

Footnote [76](#)--Beaverdam Only

- a. The natural slope is calculated using the following formula:

$$S\% = \frac{0.0023 \times I \times L}{A}$$

Where:

S = Average natural slope of parcel in percent

I = Contour interval of map in feet, with said intervals to be five feet or less

L = Total length of the contour lines within the parcel in feet

A = Area of the parcel in acres

0.0023 = Constant which converts square feet into acres

- b. In addition, applicants may submit an alternate method of slope calculation for consideration. These methods may include, but are not limited to, the following methods: weighted average, slope mapping, other field based techniques, etc.

Consistency with the Comprehensive Land Use Plan

Recommendation of Approval

- The proposed amendments regarding revisions to the accessory use setback standards **are consistent with the Buncombe County Comprehensive Land Use Plan and updates, as the 2013 update (Section 6) recommended that:**
 - “Efforts should be made to align lot sizes to the surrounding land use context including the availability of infrastructure. In areas where public sewer is not available, lot size should be adjusted to allow adequate space for septic facilities. Setbacks should be adjusted to allow for greater flexibility in areas with access to urban infrastructure. Both setbacks and lot size should be adjusted to more accurately reflect the density limitations provided in each district.”
- The proposed amendments to the text are **reasonable and in the public interest** as they promote a connection between the density of development and the availability of public utilities, which may serve to increase access to housing in areas of high opportunity and decrease development pressures in more rural areas.

ATTACHMENT D

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.~~
- (1) ~~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 no more than 320 square feet and a height of less than no more than 15 feet shall meet the following standards:~~
- ~~(a) Front yard: set forth per relevant zoning district under Sec. 78-642;~~
 - ~~(b) Side yard setback: seven feet; and~~
 - ~~(c) Rear yard setback: seven feet.~~
- (2) ~~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:~~
- ~~(a) Front yard, set forth per relevant zoning district under Sec. 78-642;~~
 - ~~(b) Side yard setback, no public sewer: ten feet;~~
 - ~~(c) Side yard setback, public sewer: seven feet; and~~
 - ~~(d) 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.~~

Consistency with the Comprehensive Land Use Plan

Recommendation of Approval

- The proposed amendments regarding revisions to the planned unit development standards **are consistent with the Buncombe County Comprehensive Land Use Plan and updates, as the 2013 update (Section 6) recommended that:**

“Given that there is a demand for structures which exceed the current height limitations in commercial districts, commercial districts should allow a specific height by right, where requests for additional height would be regulated as Planned Unit Development/Conditional Use Permit... In addition, heights which require a Planned Unit Development/Conditional Use Permit should be subject to specific conditions which protect residential properties, viewsheds, transportation corridors, and regulated airspace. Use of the Planned Unit Development/Conditional Use Permit will allow the Board of Adjustment to specifically address the merits of each site without requiring the applicant to prove a hardship, which is difficult to do in relation to height standards;” and

“Buncombe County review processes should begin to incorporate an assessment of a project’s interconnectivity potential including opportunities for coordination with other scheduled projects. Such review should be integrated with existing administrative reviews... Interconnectivity can present other desirable solutions for shared parking...”

- The proposed amendments to the text are **reasonable and in the public interest** as they provide clarity within the text of the Zoning Ordinance and promote site specific, public review with regard to flexible height limitations and parking requirements for Planned Unit Developments.

ATTACHMENT F

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 Steep Slope/High Elevation and Blue Ridge Parkway Overlay Districts.

Sec. 78-678. Conditional use standards.

(9) *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, CS, 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.

ATTACHMENT G

Sec. 78-580. Exemptions.

This article shall in no way regulate, prohibit, or otherwise deter any bona fide farm and its related uses, except that any use of such property for non-farm purposes shall be subject to the provisions of this article.

This article shall in no way regulate, prohibit, or otherwise deter any public safety communications tower except that written notice by certified mail of the intent to erect a public safety communications tower shall be sent to all adjoining landowners of the proposed facility and to all owners of property within 500 feet of the proposed facility. No building permit shall be issued for a period of 30 days after sending the notice, unless written statements are received from all parties required to be notified indicating that they have no objection to the facility.

This article shall not deter building modifications or retrofit interventions which are necessary to accommodate the Americans with Disability Act (ADA). The Zoning Administration shall be granted authority to make necessary exemptions regarding ADA specific retrofits which do not comply with this article; except that if the decision involves mitigating factors, a larger community impact, or the need for the retrofit is unclear, the Zoning Administration may defer decisions to the Board of Adjustment.

Sec. 78-619. General proceedings.

The board of adjustment shall annually elect a chairperson and a vice-chairperson from among its members. The chairperson, or in his absence the vice-chairperson, may administer oaths and request the attendance of witnesses in accordance with G.S. 153A-345. The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and also keep records of its examinations and other official actions. The Board of Adjustment shall make reference to the Comprehensive Land Use Plan, specifically the section titled "Directing Growth and Development / Topographic Constraints" in their formal decisions.