Buncombe County Planning Board  
July 20, 2015

The Buncombe County Planning Board met on July 20, 2015 in the meeting room at 30 Valley Street. Members present were Gene Bell, Nancy Waldrop, David Rittenberg, Thad Lewis, Joan Walker, Parker Sloan, and Bob Taylor. Also present were Michael Frue, Staff Attorney; Jon Creighton, Planning Director/Assistant County Manager; Debbie Truempy, Zoning Administrator; and Gillian Phillips, Planning staff.

Call to Order
The meeting was called to order at 9:34 am. The Board and staff discussed the procedure for a quasi-judicial public hearing.

Public Comment
No one wished to make public comment.

Minutes (July 6, 2015)
Ms. Waldrop made a motion to approve the minutes as submitted. Mr. Rittenberg seconded the motion and the motion passed unanimously.

Approval of Agenda
Mr. Sloan made a motion to approve the agenda as amended by Mr. Rittenberg to include discussion regarding North Carolina Fire Code. Ms. Walker seconded the motion and the motion passed unanimously.

SUB2015-00218: Bruce Alexander was seeking preliminary approval for The Pinnacle at Arabella Heights Subdivision, which is located on tax lot PINs 9634-85-9115 (located at the end of Waightstill Dr) and 9634-94-5909 (located between Springhead Ct and the end of Welbourn Way). Mr. Alexander also sought variances from the following sections of the Buncombe County Land Development and Subdivision Ordinance:

a. §70-66(g) Lot frontage, to waive the minimum street frontage requirements for the proposed lots.

b. §70-68(a)(3)(b)(1)(a) Hillside Development Standards Drastic Variation Hillside Development Subdivision, to allow greater than 10% of the phase in Development Area A to be greater than 25% slope as Development Area B is not proposed to be developed.

The Board was provided with the submitted development plan (Attachment A), the proposed staff conditions (Attachment B), the findings of fact worksheet (Attachment C), and the variance applications (Attachment D). Ms. Truempy indicated that this site had previously been graded by a different developer, but had remained in a graded but un-stabilized condition for the past
few years. Ms. Truempy indicated that the applicant was constructing 65 homes including a clubhouse, and had received approval from the Buncombe County Board of Adjustment for a Planned Unit Development. Ms. Truempy reviewed the proposal with the Board, and the requested variances. Bruce Alexander was present and described the proposed project to the Board. John Kinnaird, the project engineer, was present and described the proposal including erosion control and stormwater issues, the status of the infrastructure, and the reasoning for requesting the variances. There was discussion regarding the drastic variation hillside development standards and how the requested variance related to those standards. The Board and Mr. Kinnaird discussed how the site was currently graded and the location of steeper slopes that were due to grading and not the natural slope of the land. The Board and applicant discussed how parking would be handled and the applicant’s stormwater plans. There was discussion regarding the Board of Adjustment approval and the proposed lots in relation to the footprint of the proposed homes. The Board, Applicant, and staff discussed the standards for granting a variance for each of the proposed variances.

Public comment

- Al Gumpert raised concerns regarding allowing the development without meeting the requirements of the Drastic Variation Hillside Development.
- Dede Stiles seconded Mr. Gumpert’s concerns regarding the Hillside Development Standards.
- One of the members of the Waighstill Mountain Homeowners Association Board was present and indicated that the Homeowner’s Association supported the proposed project.

The Board further discussed the application. Chairman Bell closed the public hearing. The Board voted on the variance from §70-66(g) Lot frontage, to waive the minimum street frontage requirements for the proposed lots. Mr. Sloan made a motion to approve the findings of fact provided in Attachment C. Ms. Waldrop seconded the motion and the motion passed unanimously. Mr. Sloan made a motion to approve the variance. Ms. Waldrop seconded the motion and the motion passed unanimously. The Board voted on the variance from §70-68(a)(3)(b)(1)(a) Hillside Development Standards Drastic Variation Hillside Development Subdivision, to allow greater than 10% of the phase in Development Area A to be greater than 25% slope as Development Area B is not proposed to be developed. Ms. Walker made a motion to approve the findings of fact provided in Attachment C. Mr. Rittenberg seconded the motion and the motion passed unanimously. Ms. Walker made a motion to approve the variance. Mr. Sloan seconded the motion and the motion passed unanimously. Ms. Walker made a motion to grant preliminary approval with the proposed staff conditions. Mr. Rittenberg seconded the motion and the motion passed unanimously.

Public Hearing (Zoning Map Amendment) ZPH2015-00031: Jeremy and Charles Arthur applied to rezone tax lot PINs 9634-12-9736 (South of 131 Avery Creek Rd), 9634-12-9938 (131 Avery Creek Rd), 9634-13-9128 (133 Avery Creek Rd), and 9634-13-9325 (North of 133 Avery Creek Rd), which are currently zoned Low-Density Residential District R-LD to Residential District R-2.
The Board was provided with GIS maps (Attachment E) and the staff’s recommendation (Attachment F) prior to the hearing. Ms. Truempy reviewed the application, and staff’s recommendation to the Board.

Public comment
- Sally Sparks raised concerns regarding traffic.
- Maryland Hoshasemen also raised concerns regarding traffic.

David Rittenberg raised general concerns regarding traffic in the county. There was discussion regarding how the North Carolina Department of Transportation regulated and upgraded roads.

- Dede Stiles again raised concerns regarding how traffic affects development, and indicated that the Planning Board should bring that into consideration when reviewing a proposed development.

Chairman Bell closed the public hearing. Mr. Lewis made a motion to recommend approval of the proposed map amendment with the proposed consistency statement provided within Attachment F. Ms. Waldrup seconded the motion and the motion passed unanimously.

**ZPH2015-00021: Continued discussion of possible revisions to the text of the Blue Ridge Parkway Zoning Overlay District**

The Board was provided with draft language for the Blue Ridge Parkway Overlay (Attachment G). There was discussion regarding Mr. Martin’s proposed screening requirements, and the proposal that subdivision roads within the overlay be screened. The Board discussed further changes that they would like to make to the proposed language with staff.

**Discussion of Fire Code**
Mr. Rittenberg provided the Board with a portion of the North Carolina Fire Code (Attachment H) that had not been adopted by Buncombe County. Mr. Frue and staff indicated to the Board the County Commissioners and Fire Marshal’s Office reasoning at that time for not adopting that section of the code. There was discussion regarding how Terry Gentry, the deputy County Fire Marshal, reviewed development projects. The Board discussed the NCDOT’s review process in granting driveway permits for developments. There was discussion regarding infrastructure cost and how requiring additional infrastructure raised the cost of development.

The Board further discussed proposed training by the North Carolina School of Government.

**Adjournment**
The meeting was adjourned at 11:45 am.
ATTACHMENT A

THE PINNACLE AT ARABELLA HEIGHTS
CONDITIONAL USE DOCUMENTS

BUNCOMBE COUNTY, NORTH CAROLINA

NOTES

PROJECT INFORMATION:
1. PROJECT ADDRESS: LINCOLN ROAD, ARDEN, NC 28704
2. TOTAL ACREAGE: 18.60 ACRES
3. DEVELOPED ACREAGE: 14.12 ACRES
4. PROJECT PHASE A: SUBDIVISION, Stages: 1, 2, 3
5. EXISTING TOPOGRAPHICAL INFORMATION SHOWN AND PRODUCED BY ED HOLMES AND ASSO., LAND SURVEYORS, P.A.
6. EXISTING ROOD INFORMATION SHOWN AND PRODUCED BY ED HOLMES AND ASSO., LAND SURVEYORS, P.A.
7. PROPERTY ZONING: RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT (R-1).

GENERAL NOTES:
1. CONTRACTOR SHALL PROJECT ADJOIN PROPERTIES, THE GENERAL PUBLIC, AND ALL OWNERS INVOLVED AND SHALL BE RESPONSIBLE FOR THE WORK OF ALL SUBCONTRACTORS WHO OCCUR DURING CONSTRUCTION OF THE UTILITIES AS SHOWN HEREIN. ANY APPROACHING OR BEING BUILT ON THE PROPERTY TO BE USED TO VERIFY THE TYPE, SIZE AND LOCATION OF ALL UTILITIES AND OTHER FACILITIES WHICH MAY AFFECT CONSTRUCTION OR THE INTERSECTION FUNCTION. CONTRACTORS SHALL NOTIFY DESIGNED PRIOR TO 1) CONSTRUCTION IF EXISTING CONDITIONS DIFFER FROM THAT INDICATED IN THE PLANS.
2. CONTRACTOR TO PROVIDE INLET PROTECTION AT EACH PIPE INLET AS STORM SYSTEM IS CONSTRUCTED.
3. INLET PROTECTION, LEGENDS, LEGENDS, AND TOPMAPS AND INSTALLATIONS MUST BE DONE IN ACCORDANCE WITH BUNCOMBE COUNTY STANDARDS SPECIFICATIONS AND REGULATIONS.
4. NO SOURCE OF WASTE DEPOSIT ON PROPERTY SHALL OCCUR WITHOUT A COMPLIANCE PERMIT.
5. Owner or owner's agent is responsible for ensuring that the construction is conducted in accordance with any construction permits issued by the local authority.
6. The violation of any provision of this permit or the construction of any building, structure, or object other than that shown in these plans or drawings, shall be a violation of such permits and shall be subject to all applicable laws and regulations.

ENGINEER:
BROOKS ENGINEERING ASSOCIATES, PA
CONTACT INFO:
JOHN KINNARD, PE
110 BURLINGTON STREET
ASHEVILLE, NC 28801
P: 828-254-4236
EMAIL: johnn@brookes.com

SURVEYOR:
ED HOLMES & ASSO. LAND SURVEYORS, PA
CONTACT INFO:
ED HOLMES, PLLC
200 RIDGEWOOD CT, #135
ASHEVILLE, NC 28806
P: 828-275-5367

DEVELOPER:
LIFESTYLE HOMES OF DISTRICT, LLC
BRUCE ALEXANDER
2 WELDON RIDGE DR
ASHEVILLE, NC 28803
P: 828-274-1004

OWNER:
SAN JUAN PROFESSIONAL CENTER, LLC
840 EDGEMOOR AVE S
JACKSONVILLE, FL 32205
P: 828-688-4213

INSPECTION SCHEDULE:
1. NO CONSTRUCTION SHALL COMMENCE PRIOR TO A PRECONSTRUCTION MEETING WITH THE PROJECT ENGINEER, THE CONTRACTOR, AND A REPRESENTATIVE OF BUNCOMBE COUNTY.
2. NO CONSTRUCTION SHAL WASTE WITHOUT MANUFACTURER(S) AND PROJECT ENGINEER APPROVAL.
3. FINAL INSPECTION SHALL COMMENCE AFTER SITE STABILIZATION.

VICTORY MAPP

SHEET INDEX

C-0 COVER SHEET
M-1 MASTER PLAN WITH SLOPE ANALYSIS
C-1.0 EXISTING CONDITIONS & DEMOLITION PLAN
C-2.0 SITE LAYOUT PLAN
C-3.0 GRADING AND STORMWATER PLAN
C-4.0 ROAD PROFILES
C-5.0 EROSION CONTROL PLAN
C-6.0 UTILITY PLAN
C-7.0 SITE AND LANDSCAPING DETAILS
C-7.1 STORMWATER DETAILS
C-7.3 UPLIFT-RECTION
C-7.4 EROSION CONTROL DETAILS
L-1.0 LANDSCAPE PLAN

SUB 2015 - C-0 02 13
Development Area A:
12.68 acres
17.9% Slope
28.8% over 25% in slope

Development Area B:
5.87 acres
38.7% Slope
The applicant is requesting the following variances:

- **§70-66(g) Lot frontage**, to waive the minimum street frontage requirements for the proposed lots.

- **§70-68(a)(3)(b)(1)(a) Hillside Development Standards Drastic Variation Hillside Development Subdivision**, to allow greater than 10% of the phase in Development Area A to be greater than 25% slope as Development Area B is not proposed to be developed.

If approved by the Buncombe County Planning Board, the applicant shall provide the following information on a revised set of plans (if necessary) submitted to the Buncombe County Department of Planning and Development:

1. Provide a written statement from the Buncombe County Erosion Control Officer stating that an Erosion Control Plan has been submitted and approved for the project. *No grading shall occur on the site until an approved Buncombe County Erosion Control permit is obtained.*

2. Indicate all property owners on the submitted plans.

3. Indicate township on the submitted plans.

4. Indicate on the submitted plans that corridor height shall not exceed 60 feet.

5. Indicate material private driveways will be constructed on submitted plans.

6. Provide a written statement from the Buncombe County Stormwater Ordinance Administrator stating that a Stormwater Plan has been submitted and approved for the project. *No grading shall occur on the site until an approved Buncombe County Stormwater Control permit is obtained.*

7. An Engineer’s certification that the water system is complete and built to the North Carolina Department of Environment and Natural Resources standards will be required prior to recordation of a final plat or release of a financial guarantee.

8. Proof of acceptance of the MSD lines into the MSD system will be required prior to recordation of a final plat or release of a financial guarantee.

9. Provide proof of approval of E-911 addressing or indicate approved addresses and road names on final plat.
HEARING ON REQUEST FOR A VARIANCE BEFORE THE BUNCOMBE COUNTY PLANNING BOARD

Subdivision Name: The Pinnacle at Arabella Heights (SUB2015-00218)
Address: Springhead Court
Hearing Date: July 20, 2015

MOTION TO ADOPT FINDINGS OF FACT

Mr. Chair, based upon the evidence presented to this Board, including the following exhibits: the petitioner’s application, the submitted development plan, the findings of fact worksheet _____________________, and _____________________;

I move that this Board adopt the following FINDINGS OF FACT:

1. The applicant is requesting a variance from the Buncombe County Land Development and Subdivision Ordinance for a 65 unit single family subdivision.

2. The applicant is requesting a variance from §70-68(a)(3)(b)(1)(a) Hillside Development Standards Drastic Variation Hillside Development Subdivision, to allow greater than 10% of the phase in Development Area A to be greater than 25% slope as Development Area B is not proposed to be developed.

3. That §70-10 of the Buncombe County Land Development and Subdivision Ordinance was used to evaluate this request.

4A. This application does meet the requirements for granting a variance by demonstrating an unnecessary hardship on the owner for the following reasons:

a. That a strict or literal interpretation and enforcement of the specified standard or requirement would result in practical difficulty, unnecessary hardship or adverse environmental impact, as:

   Having to meet the standards would have to remove large portions of the site that were intended to be used for homes with walk out basements. These areas have already been graded out by a previous developer.

b. That the granting of the variance will not be detrimental to the public health, safety or welfare, as:
Any construction in these steeper areas will be in accordance with state and local ordinances and practices that will not be detrimental to health, safety, or welfare.

c. That the granting of the variance would support general objectives contained within this chapter, as:

This development will be in keeping with the underlying zoning district it is located in terms of density and aesthetics. The development seeks to utilize flatter areas and leave steeper areas undeveloped.

4B. This application does not meet the requirements for granting a variance by demonstrating an unnecessary hardship on the owner for the following reasons:

a. That a strict or literal interpretation and enforcement of the specified standard or requirement would not result in practical difficulty, unnecessary hardship or adverse environmental impact and the applicant should be required to meet the requirements of the Ordinance.

b. That the granting of the variance would not support the general objectives contained within this Chapter.

MOTION OF ACCEPTANCE OF FINDINGS OF FACT

Motion by: _____________________
Seconded by: ___________________
Vote for: ______________________
Vote against: ___________________

MOTION TO APPROVE/DENY THE VARIANCE

Based upon the foregoing FINDINGS OF FACT and for the reasons set forth therein, I move that the requested variance be approved/denied.

Motion by: _____________________
Seconded by: ___________________
Vote for: ______________________
Vote against: ___________________
HEARING ON REQUEST FOR A VARIANCE BEFORE THE BUNCOMBE COUNTY PLANNING BOARD

Subdivision Name: The Pinnacle at Arabella Heights (SUB2015-00218)
Address: Springhead Court
Hearing Date: July 20, 2015

MOTION TO ADOPT FINDINGS OF FACT

Mr. Chair, based upon the evidence presented to this Board, including the following exhibits: the petitioner’s application, the submitted development plan, the findings of fact worksheet _________________, and _________________;

I move that this Board adopt the following FINDINGS OF FACT:

1. The applicant is requesting a variance from the Buncombe County Land Development and Subdivision Ordinance for a 65 unit single family subdivision.

2. The applicant is requesting a variance from §70-66(g) Lot frontage, to waive the minimum street frontage requirements for the proposed lots.

3. That §70-10 of the Buncombe County Land Development and Subdivision Ordinance was used to evaluate this request.

4A. This application does meet the requirements for granting a variance by demonstrating an unnecessary hardship on the owner for the following reasons:

   a. That a strict or literal interpretation and enforcement of the specified standard or requirement would result in practical difficulty, unnecessary hardship or adverse environmental impact, as:

      Since the project will be permitted as a PUD and lot lines will follow the building footprints, following this section would increase lot widths outside of the desired footprint on some locations.

   b. That the granting of the variance will not be detrimental to the public health, safety or welfare, as:

      All lots will have adequate access and very flat front yards. The steeper areas are to the rear and allow for walk-out basements and will not be in highly traversed areas.
c. That the granting of the variance would support general objectives contained within this chapter, as:

This layout is in keeping with the intentions of the Ordinance because each lot will still have easy access and a buildable footprint.

4B. This application does not meet the requirements for granting a variance by demonstrating an unnecessary hardship on the owner for the following reasons:

a. That a strict or literal interpretation and enforcement of the specified standard or requirement would not result in practical difficulty, unnecessary hardship or adverse environmental impact and the applicant should be required to meet the requirements of the Ordinance.

b. That the granting of the variance would not support the general objectives contained within this Chapter.

MOTION OF ACCEPTANCE OF FINDINGS OF FACT

Motion by: _____________________
Seconded by: ___________________
Vote for: ______________________
Vote against: ___________________

MOTION TO APPROVE/DENY THE VARIANCE

Based upon the foregoing FINDINGS OF FACT and for the reasons set forth therein, I move that the requested variance be approved/denied.

Motion by: _____________________
Seconded by: ___________________
Vote for: ______________________
Vote against: ___________________
Please complete all sections of the application.

A. CONTACT INFORMATION

Date: 6/11/2015

PROPERTY INFORMATION

Subdivision Name: The Pinnacle at Arabella Heights

Phase # and/or Name of Phase (if part of a Master Plan for Phased Development):

Address/Street Location of Property: Ledbetter Rd, Arden NC 28704

PIN Number(s) of Property to be Subdivided:

7634 - 85 - 9115 7634 - 74 - 5909

CONTACT INFORMATION

Owner Name: San Juan Professional Center, LLC

Address: 840 Edgewood Ave S - Suite 220, Jacksonville, FL 32205

Phone: 828 - 606 - 4313

Surveyor/Engineer/Landscape Architect Name and Company Name:

John Kinnaird, PE - Brooks Engineering Associate, PA

Address: 17 Arlington St, Asheville NC 28801

Phone: 828 - 232 - 4700

Email: jkinnaird @ brooksea.com

Primary Contact for Submission: Bruce Alexander

Address: 2 Walden Ridge Dr - Suite 90, Asheville, NC 28803

Phone: 828 - 274 - 1004

Email: bruce @ lifestyle homes.net
B. APPLICATION FOR VARIANCE

Application is hereby made to the Buncombe County Planning Board for a VARIANCE from the literal provisions of the Buncombe County Land Development and Subdivision Ordinance, because, under the interpretation given to me by the Subdivision Administrator, I am prohibited from using the parcel of land indicated above in a manner shown by the submitted preliminary subdivision plans (please attach one copy of the submitted preliminary plans to this application). The preliminary plans I have submitted include the following:

[ ] a note regarding the type of variance I am seeking
[ ] location of the variance I am seeking shown on the submitted plans (if applicable)

I request a variance from the following provisions of the ordinance:

Section number: 70-6.6  
Section title: General Requirements

Subsection letters and/or number: (g)  
Subsection title(s): Lot Frontage
C. FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Planning Board does not have unlimited discretion in deciding whether to grant a variance. In the spaces provided below, indicate the factors you intend to show and the arguments you intend to make to convince the Board that it can properly grant the variance as provided for in §70-10. Variances of the Land Development and Subdivision Ordinance of Buncombe County (if necessary please provide the information on a separate sheet of paper).

(a) Indicate how a strict or literal interpretation and enforcement of the specified standard or requirement would result in practical difficulty, unnecessary hardship or adverse environmental impact:

Since the project will be permitted as a PUD, and lot lines will follow the building footprint. Following this section would increase lot widths outside of the desired footprint in some locations.

(b) Indicate how granting the variance will not be detrimental to the public health, safety, or welfare; and All lots will have adequate access and very flat front yards. The steeper areas are to the rear to allow for walk-out basements and will not be in highly traveled areas.

(c) Indicate how granting the variance would support the general objectives contained within the Land Development and Subdivision Ordinance of Buncombe County.

We believe this layout is in keeping with the intentions of the ordinance because each lot will still have easy access and a buildable footprint.

D. CERTIFICATION AND SIGNATURE

I certify that all of the information presented by me on this application is accurate to the best of my knowledge, information and belief.

Signature of Petitioner

June 19 2015
Month Day Year

OFFICE USE ONLY:

Date received: ______________________
Case number: ________________________
Scheduled Planning Board meeting: ________________________
June 18, 2015

Gillian Phillips
Planning and Development Department
Buncombe County
46 Valley Street
Asheville, NC 28801

Re: The Pinnacle at Arabella Heights Subdivision

Dear Gillian:

Brooks Engineering Associates is assisting with the permitting of a proposed subdivision of an 18.55 acre parcel of land located in Buncombe County. The proposed development tract is located at 9999 Ledbetter Road, Arden, NC 28704, and is identified by Parcel Identification Numbers 9634-85-9115 and 9634-94-5909. The developer is requesting a variance to the Lot Frontage requirements, specifically subsection 70-66 (g) which states that “Lot frontage shall be regulated when the average land slope perpendicular to the street exceeds 18 percent. Any residential subdivision lot where the side slope of the land, at a right angle to the frontage street, is in excess of 18 percent slope shall have a minimum of 50 feet street frontage, and the lot street frontage shall be increased four feet for each side slope percentage point over the 18 percent base for such calculations”. The developer requests that the variance allow smaller lot frontages throughout the community regardless of the side slope as defined above. This development is permitted as a Planned Unit Development and the lots as proposed actually follow the building footprint.

We believe the intent of this subsection is to ensure that each lot is “buildable” and has adequate driveway access. As is shown on the plans, all units will have flat driveways and areas in front of the house. The lots do tend to slope away from the road somewhere around the middle of each unit. This was done intentionally to allow walk-out basements on all units.

Sincerely,

[Signature]

John Kinnaird, P.E.
Partner,
Brooks Engineering Associates, PA
Please complete all sections of the application.

A. CONTACT INFORMATION

Date: 6/19/2015

PROPERTY INFORMATION

Subdivision Name: The Pinnacle at Arabella Heights
Phase # and/or Name of Phase (if part of a Master Plan for Phased Development):

Address/Street Location of Property: Ledbetter Rd, Arden, NC 28704
PIN Number(s) of Property to be Subdivided:
9634-85-9115, 9634-94-5909

CONTACT INFORMATION

Owner Name: San Juan Professional Center, LLC
Address: 840 Edgewood Ave S - Suite 220, Jacksonville, FL 32205
Phone: 828-606-4313

Surveyor/Engineer/Landscape Architect Name and Company Name:
John Kinnaird PE - Brooks Engineering Associates, PA
Address: 17 Arlington St., Asheville, NC 28801
Phone: 828-232-4700
Email: jkinnaird@brookesca.com

Primary Contact for Submission: Bruce Alexander
Address: 2 Walden Ridge Dr - Suite 90, Asheville, NC 28803
Phone: 828-274-1004
Email: bruce@lifestylehomes.net

SUB 2015 - 0 0 2 1 8
B. APPLICATION FOR VARIANCE

Application is hereby made to the Buncombe County Planning Board for a VARIANCE from the literal provisions of the Buncombe County Land Development and Subdivision Ordinance, because, under the interpretation given to me by the Subdivision Administrator, I am prohibited from using the parcel of land indicated above in a manner shown by the submitted preliminary subdivision plans (please attach one copy of the submitted preliminary plans to this application). The preliminary plans I have submitted include the following:

[ ] a note regarding the type of variance I am seeking
[ ] location of the variance I am seeking shown on the submitted plans (if applicable)

I request a variance from the following provisions of the ordinance:

Section number: 70-68
Section title: Hillside Development Standards

Subsection letters and/or number: (a)(b)(c)
Subsection title(s): Development Subdivision
C. FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Planning Board does not have unlimited discretion in deciding whether to grant a variance. In the spaces provided below, indicate the factors you intend to show and the arguments that you intend to make to convince the Board that it can properly grant the variance as provided for in §70-10. Variances of the Land Development and Subdivision Ordinance of Buncombe County (if necessary please provide the information on a separate sheet of paper).

(a) Indicate how a strict or literal interpretation and enforcement of the specified standard or requirement would result in practical difficulty, unnecessary hardship or adverse environmental impact:

This would remove large portions of the site that were intended to be used for homes with walk-out basements. These areas have already been graded by a previous developer.

(b) Indicate how granting the variance will not be detrimental to the public health, safety, or welfare; and

Any construction in these steeper areas will be in accordance with state and local ordinances and practices and will not be detrimental to health, safety or welfare.

(c) Indicate how granting the variance would support the general objectives contained within the Land Development and Subdivision Ordinance of Buncombe County.

We believe the development will be in keeping with zoning district it is located in in terms of density and aesthetics. The development seeks to utilize flatter areas and leave steeper areas undeveloped.

D. CERTIFICATION AND SIGNATURE

I certify that all of the information presented by me on this application is accurate to the best of my knowledge, information and belief.

[Signature]

Signature of Petitioner

June 19 2015

Month Day Year

OFFICE USE ONLY:

Date received: ________________
Case number: ________________
Scheduled Planning Board meeting: ________________
June 18, 2015

Gillian Phillips
Planning and Development Department
Buncombe County
46 Valley Street
Asheville, NC 28801

Re: The Pinnacle at Arabella Heights Subdivision

Dear Gillian:

Brooks Engineering Associates is assisting with the permitting of a proposed subdivision of an 18.55 acre parcel of land located in Buncombe County. The proposed development tract is located at 9999 Ledbetter Road, Arden, NC 28704, and is identified by Parcel Identification Numbers 9634-85-9115 and 9634-94-5909. The developer is requesting a variance to the Drastic Variation Hillside Development Ordinance, specifically subsection 70-68 (a)(3)(b)(1)a. which states the “90% of the phase shall be in areas less than or equal to 25% slope as shown on the submitted slope analysis”. The developer requests that the variance allow up to 30% of “Development Area A” to consist of areas over 25% slope. The majority of the areas over 25% in Development Area A are man-made slopes intentionally designed to allow the placement of buildings with walk-out basements.

This development was done by a previous developer and actually caused this development to come under the Drastic Variation Hillside Development Ordinance. Strict interpretation of this ordinance would remove large portions of the site that were always intended for development, and indeed have already been cleared and graded

Sincerely,

[Signature]

John Kinnaird, P.E.
Partner,
Brooks Engineering Associates, PA
Charles and Jeremy Arthur
Map Amendment
Case Number: ZPH2015-00031
Approximate Property Size: 3.89 acres
Application Date: June 3, 3015
Planning Board Hearing Date: July 20, 2015

Created By: Buncombe County Planning
Date: July 1, 2015
Charles and Jeremy Arthur
Map Amendment

Case Number: ZPH2015-00031
Approximate Property Size: 3.89 acres
Application Date: June 3, 2015
Planning Board Hearing Date: July 20, 2015

Created By: Buncombe County Planning
Date: July 1, 2015
Charles and Jeremy Arthur
Map Amendment
Case Number: ZPH2015-00031
Approximate Property Size: 3.89 acres
Application Date: June 3, 2015
Planning Board Hearing Date: July 20, 2015

Created By: Buncombe County Planning
Date: July 1, 2015
Charles and Jeremy Arthur
Map Amendment

Case Number: ZPH2015-00031
Approximate Property Size: 3.89 acres
Application Date: June 3, 2015
Planning Board Hearing Date: July 20, 2015

Created By: Buncombe County Planning
Date: July 1, 2015
BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS

CASE NUMBER: ZPH2015-00031
PROPOSED ZONING CHANGE: R-LD TO R-2
LOCATION: 131-133 AVERY CREEK ROAD
PIN(s): 9634.12.9938; 9634.12.9736
9634.13.9128; 9634.13.9325

APPLICANT/OWNER: CHARLES AND JEREMY ARTHUR
P.O. BOX 223 & P.O. BOX 1002
ARDEN, NC  28704

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 is requesting the rezoning of four (4) parcels comprising approximately 4.89 acres from R-LD (Low-Density Residential District) to R-2 (Residential District). The subject properties are located to the north of Avery Creek Road and are directly accessed via a shared driveway that connects to Avery Creek Road. Two of the lots (PIN #'s 9128 and 9938) each contain an existing single-family residence and the remaining two parcels (PIN #'s 9325 & 9736) are currently vacant. The subject properties are largely surrounded by vacant pasture land, wooded areas and sparse single-family residential development. Surrounding property is zoned R-2 to the north, south and east. Property to the west of the subject parcels is zoned R-LD.

The proposed map amendment is consistent with Section 78-640(c) Residential District (R-2) of the Zoning Ordinance of Buncombe County which states that the R-2 residential district is primarily intended to provide locations for residential development and supporting recreational, community service and educational uses in areas where public water and sewer services are available or will likely be provided in the future. The Land Use Constraint maps contained within the Buncombe County Comprehensive Land Use Plan 2013 Update illustrate the following conclusions regarding the subject property:

- The subject property is not directly adjacent to a transportation corridor but is adjacent to an NCDOT road and is located within ¼ mile from Brevard Road (NC 191) which is an identified transportation corridor.
- The subject property is located outside of areas identified as steep slope (greater than 25%) and only a negligible amount of land falls within a moderate hazard slope stability area.
- The subject property lies outside of areas containing high elevations (greater than 2,500 feet).
- The subject property is not located within a FEMA Flood Hazard Area.
The subject property is partially located within the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water is available along Avery Creek Road, and public sewer extends to the east of the church property along the road frontage.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies higher density residential development as “highly suggested” within reasonable proximity to major transportation corridors and within combined water/sewer service areas. While the subject property is not directly adjacent to an identified transportation corridor, it is adjacent to a paved NCDOT road and within ¾ miles of Brevard Road (NC 191) which is an identified transportation corridor. Further, the plan “highly suggests” that higher density development be located outside of flood and slope stability hazard areas and “suggests” that this type of development be located outside of steep slope and high elevation areas. The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it meets a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update and is adjacent to other properties currently zoned R-2. 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 and the associated Land Use Constraint maps contained within the Buncombe County Comprehensive Land Use Plan 2013 Update. The following information is relevant to the subject property:

- The subject property is not directly adjacent to a transportation corridor but is adjacent to an NCDOT road and is located within ¾ mile from Brevard Road (NC 191) which is an identified transportation corridor.
- The subject property is located outside of areas identified as steep slope (greater than 25%) and only a negligible amount of land falls within a moderate hazard slope stability area.
- The subject property lies outside of areas containing high elevations (greater than 2,500 feet).
- The subject property is **not** located within a FEMA Flood Hazard Area.
- The subject property is partially located within the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water is available along Avery Creek Road, and public sewer extends to the east of the church property along the road frontage.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies higher density residential development as “highly suggested” within reasonable proximity to major transportation corridors and within combined water/sewer service areas. While the subject property is not directly adjacent to an identified transportation corridor, it is adjacent to a paved NCDOT road and within ¾ miles of Brevard Road (NC 191) which is an identified transportation corridor. Further, the plan “highly suggests” that higher density development be located outside of flood and slope stability hazard areas and “suggests” that this type of development be located outside of steep slope and high elevation areas. The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it meets a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update and is adjacent to other properties currently zoned R-2. Therefore, the requested zoning would **be reasonable and in the public interest**.

**Inconsistent:** The proposed map amendment is inconsistent with the Buncombe County Land Use Plan and the associated Land Use Constraint maps contained within the Buncombe County Comprehensive Land Use Plan 2013 Update. The following information is relevant to the subject property:

- The subject property is located slightly outside of an identified transportation corridor.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies higher density residential development as “highly suggested” within reasonable proximity to a major transportation corridor. Therefore the proposed map amendment would be inconsistent as the subject property is located slightly outside of an identified transportation corridor. Therefore, the requested zoning would **not be reasonable and in the public interest**.
Blue Ridge Parkway Overlay Draft

Sec. 78-643. Blue Ridge Parkway Overlay District.

(a) Purpose. Realizing the importance of the Blue Ridge Parkway to the economy of Asheville, Buncombe County, and western North Carolina, the Blue Ridge Parkway Overlay District is created to protect and preserve the unique features of this asset to the city, the county, and the region. The standards established in this district will protect the scenic quality of the Blue Ridge Parkway and reduce encroachment on its rural setting.

(b) Applicability. The provisions set forth in this section for the Blue Ridge Parkway Overlay District shall apply to all properties within 1,320 feet of the centerline of the Blue Ridge Parkway located within Buncombe County's zoning jurisdiction. Both privately and publicly owned property shall be subject to the requirements set forth herein.

(c) Development standards.

(1) Setback requirements.

a. Principal buildings. Principal buildings and structures to be located adjacent to the Blue Ridge Parkway shall have a minimum setback of 50 feet from the boundary of property owned by the United States government and designated as the Blue Ridge Parkway if the buildings and structures are visible from the Blue Ridge Parkway roadway.

b. Accessory buildings. Accessory buildings and structures to be located adjacent to the Blue Ridge Parkway shall have a minimum setback of 30 feet from the boundary of property owned by the United States government and designated as the Blue Ridge Parkway if the buildings and structures are visible from the Blue Ridge Parkway roadway.

(2) Building heights. No building or structure shall be constructed with a height in excess of 40 feet within 1,000 feet of the centerline of the Blue Ridge Parkway, if visible from the centerline of the Blue Ridge Parkway roadway.

(3) Buffering requirements. A buffer for development of any type, other than single-family residential, which is to be located adjacent to the Blue Ridge Parkway within 1,000 feet of the centerline of the Blue Ridge Parkway and which will be visible between April and October from the Blue Ridge Parkway roadway, shall be provided according to the following specifications:

a. A minimum buffer yard width of 30 feet measured from the property line is required and shall be located within the required setback.

b. Total number of plants: Ten plants per 100 linear feet are required, of which five should be evergreen trees (min. six feet at planting), three should be large deciduous trees (min. two-inch caliper, ten to 12 feet at planting), and two should be small deciduous trees (min. 1.5-inch caliper, eight to ten feet at planting). The preservation of existing trees within the buffer yard is encouraged.

(3) Screening standards.

a. The following screening regulations shall be required within the Blue
Ridge Parkway Overlay District for all new structures and any modification to an existing structure exceeding 50 percent of the appraised value of the structure, if the buildings and structures are visible from the Blue Ridge Parkway roadway, as viewed from the closest point on the roadway perpendicular to the proposed structure.

The surfaces of the structure which are visible and oriented to the Blue Ridge Parkway must be screened by one overstory species for each 15 linear feet and one understory species for each 10 linear feet of the structure according to Sec. 78-584 (c). No single species shall comprise more than 50 percent of the overstory or understory species planted. Overstory species shall be planted no less than 10 feet apart and no more than 20 feet apart. Understory species shall be planted no less than five feet apart and no more than 15 feet apart. Overstory and understory species shall not be planted in a row, shall not be evenly spaced, and shall be positioned no more than 100 feet from the structure to be screened.

Existing trees within 100 feet of the structure to be screened which are left intact and that appear in good health can be credited toward the screening requirement. Existing overstory species may only receive credit for the overstory requirement and existing understory species may only receive credit for the understory requirement. The following credit system will be observed:

<table>
<thead>
<tr>
<th>Tree Dimensions</th>
<th>Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.5” to 4” DBH (minimum 8’ tall)</td>
<td>1 tree</td>
</tr>
<tr>
<td>4” to 8” DBH (minimum 15’ tall)</td>
<td>1.5 trees</td>
</tr>
<tr>
<td>8” or greater DBH (minimum 20’ tall)</td>
<td>2 trees</td>
</tr>
</tbody>
</table>

Trees to be credited shall be marked using flagging tape prior to site disturbance in order to ensure their health throughout site development.

b. The following screening regulations shall be required within the Blue Ridge Parkway Overlay District for any minor or major subdivision road located adjacent to the Blue Ridge Parkway boundary, if the subdivision road is visible from the Blue Ridge Parkway roadway, as viewed from the closest point on the Blue Ridge Parkway roadway to the proposed subdivision road.

The portion(s) of the subdivision road which is visible and oriented to the Blue Ridge Parkway must be screened by one understory species for
each 10 linear feet according the Sec. 78-584 (c). No single species shall comprise more than 50 percent of the understory species planted. Understory species shall be planted no less than five feet apart and no more than 15 feet apart. Understory species shall not be planted in a row, shall not be evenly spaced, and shall be positioned no more than 20 feet from the road to be screened.

Existing trees within 50 feet of the road to be screened which are left intact and that appear in good health can be credited toward the understory screening requirement. The credit system in subsection 78-643(c)(3)(a) will be observed.

(d) Notice of proposed development. The planning department shall assure that the National Park Service is notified and given an opportunity to make recommendations concerning major subdivisions, rezonings, conditional uses, and variances proposed within the Blue Ridge Parkway Overlay District.
Recommended Adoption of 2012 NC Fire Code - Appendix D, Section D106.1 & D104.3

Access for emergency service vehicles to any multi-family residential development is a life-safety issue, especially if a road or bridge is completely compromised.

The 2012 NC Fire Code Section D106.1 states:

“Projects having more than 100 dwelling units. Multi-family residential projects having more than 100 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads.

Exception: Projects having up to 200 dwelling units may have a single approved fire apparatus access road when all buildings, including nonresidential occupancies, are equipped throughout with approved automatic sprinkler systems installed in accordance with Section 903.3.1.1 or 903.3.1.2.”

Section D104.3 states:

“Remoteness. Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.”

Unfortunately, provisions contained in this appendix are not mandatory unless specifically referenced in the adopting Buncombe County ordinance, which they are not.

I suggest the Planning Board and the Planning Department Staff recommend to the Buncombe County Commissioners that the fire code, and consequent life-safety issues, be strengthened by adopting and making mandatory the language of the 2012 NC Fire Code, Section D106.1 & D104.3.

This amendment would support the general objectives contained in the Fire Code and improve life-safety for residents in new large developments. This amendment would also be reasonable and in the public interest.