

Buncombe County Planning Board
December 21, 2015

The Buncombe County Planning Board met on December 21, 2015 in the meeting room at 30 Valley Street. Members present were David Rittenburg, Robert Martin, Dusty Pless, Nancy Waldrop, and Thad Lewis. Also present were Michael Frue, County Attorney; Jon Creighton, Assistant County Manager/Planning Director; Debbie Truempy, Zoning Administrator; and Gillian Phillips, Planning staff.

Call to Order

Vice Chairman Waldrop called the meeting to order at 9:30 am.

Approval of Agenda

Mr. Pless made a motion to approve the agenda as submitted. Mr. Rittenburg seconded the motion, and the motion passed unanimously.

Approval of Minutes (December 7, 2015)

Mr. Martin made a motion to approve the minutes as submitted. Mr. Rittenburg seconded a motion, and the motion passed unanimous.

Public Comment

There was no one wishing to make public comment.

ZPH2015-00079: *First Citizens Bank and Trust applied to rezone property identified as tax lot PIN 0629-86-0726 and located at 15 Dixon Drive which is currently zoned Single-Family Residential District R-1 to Residential District R-2.*

The Board was provided the GIS maps (Attachment A) and staff recommendation (Attachment B) prior to the hearing. Ms. Truempy reviewed the case for the Board. Daniel Summerland was present to represent the application. Mr. Summerland indicated the bank was not aware the non-conforming use status had expired. There was discussion regarding the state of the property. The Board discussed the other uses that were allowed in R-2 in addition to a Bed and Breakfast. The Board asked questions regarding whether or not conditions could be placed on the proposed map amendment. Harry Petrequin raised concerns regarding allowing the proposed R-2 zoning district in an area characterized by single family residential uses. He provided the Board with written comments (Attachment C). The Board asked questions regarding what would happen to the structure if it was not zoned R-2, what the previous use was, and why the property was originally zoned R-1. Mr. Rittenburg raised concerns regarding the additional uses allowed in the R-2 zoning district. Mr. Rittenburg made a motion to deny the proposed request with the consistency statement indicating inconsistency with the Buncombe County Land Use Plan provided in Attachment B. Mr. Martin asked how it was not considered spot zoning. Ms. Truempy indicated that the property was significantly different than the surrounding area. Mr. Martin seconded the motion. The Board discussed the proposal. There was discussion regarding allowing the bank to continue the non-conforming use. Mr. Lewis indicated that the County made the mistake originally by zoning incorrectly. There was further discussion regarding the proposal, and how many multi-family units could be placed on the property. Mr. Summerland addressed the Board's concerns regarding the state of the property. Mr. Summerland indicated that it would be very difficult to convert the structure to single family home. The structure has never been to a single family home. Mr. Summerland indicated that the owner would have to tear it down as conversion to a multi-family use was unlikely since it was originally constructed as a lodging facility and restaurant. There was discussion

regarding why it was originally zoned R-1. The Board further discussed what other uses are permitted in R-2. Ms. Waldrop raised concerns regarding the property continuing to deteriorate. The Board asked Mr. Summerland questions about potential buyers who have been interested in this property. Mr. Petrequin raised concerns regarding multi-family use on the property, and the establishment of a precedent. Mr. Rittenburg's motion to deny failed, with Mr. Rittenburg and Mr. Martin voting for it, and the rest of the Board members voting against it. Mr. Lewis made a motion to recommend approval of the proposed map amendment with the consistency statement provided in Attachment B. Mr. Pless seconded the motion and the motion passed with Mr. Rittenburg and Mr. Martin voting against it. Mr. Rittenburg and Mr. Martin raised concerns regarding the structure turning into a multi-family dwelling.

ZPH2015-00081: Text changes to subdivision and zoning ordinances required by recent legislative changes to the North Carolina General Statutes.

The Board was provided with the language prior to the hearing (Attachment D). Ms. Truempy reviewed the language for the Board. The Board indicated that the proposed language was appropriate as written. Ms. Truempy indicated that Staff would advertise the language for a hearing.

Mr. Creighton indicated that the Board would revisit allowing duplexes in Beaverdam in January.

Adjournment

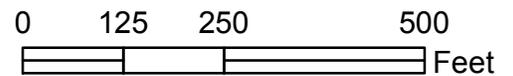
There being no further business Mr. Pless made a motion to adjourn the meeting. Mr. Rittenburg seconded the motion. The meeting was adjourned at 10:21 am.



Property Boundaries

First Citizens Bank & Trust Map Amendment

Case Number: ZPH2015-00079
 Approximate Property Size: 0.49 acres
 Application Date: November 20, 2015
 Planning Board Hearing Date: December 21, 2015



Created By: Buncombe Co. Planning
 Date: December 1, 2015

FEMA Flood Hazard Areas		0 - 25 % Slope	Slope Stability Map		Proximity to Public Utilities
500 yr	Greater than 25% Slope	High Hazard			Transportation Corridors
A - 100yr	Greater than 2500'	Moderate Hazard			
AE - 100 yr		Low Hazard			

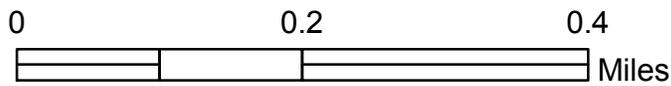
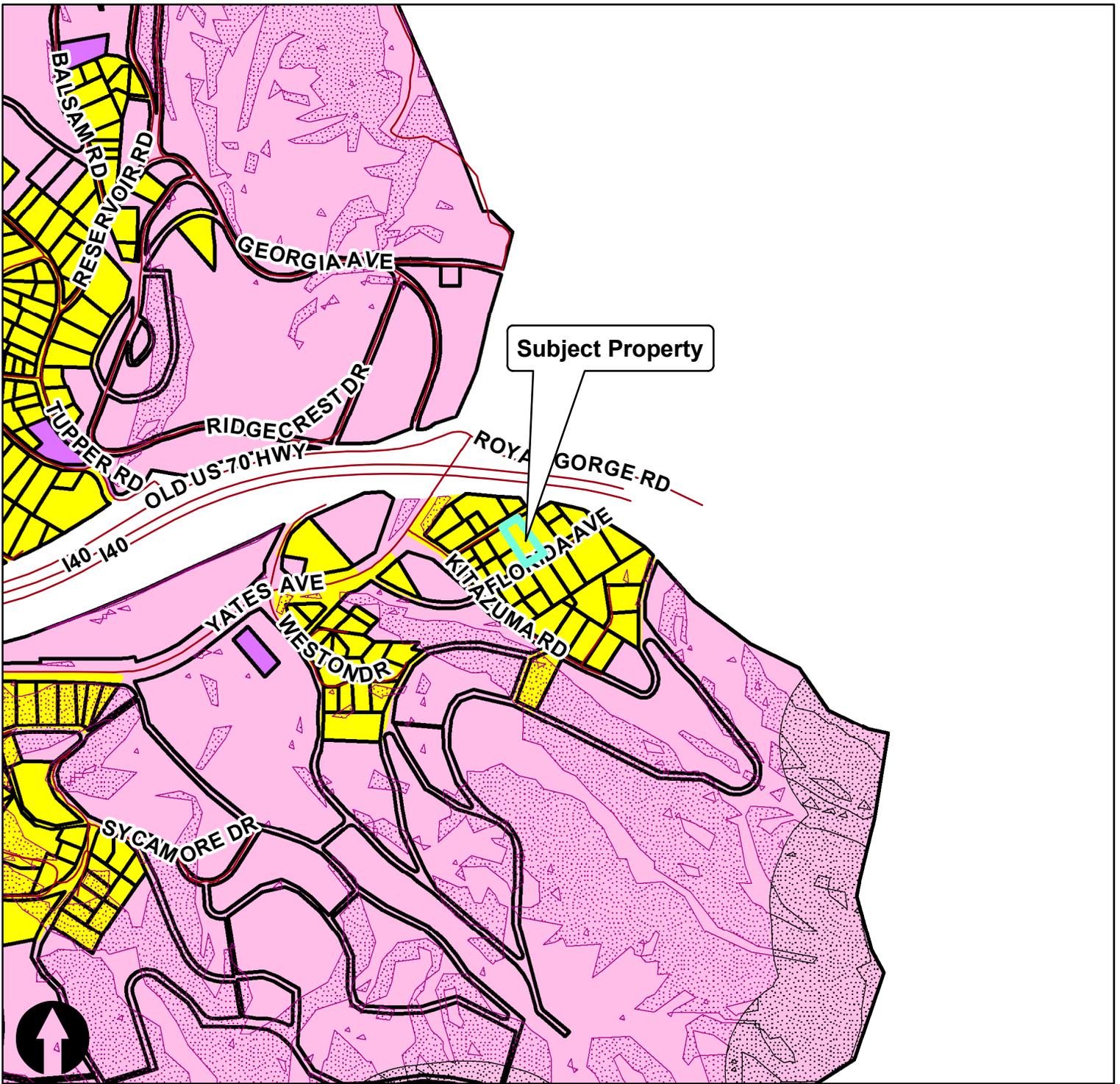


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	AI		EMP		R-1
	BDM		NS		R-2
	CR		OU		R-3
	CS		PS		R-LD
	Blue Ridge Parkway Overlay				
	Protected Ridge Overlay				
	Protected Ridge & Parkway				
	Steep Slope/High Elevation				
	Steep Slope/High Elev. & Pkwy				

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS

CASE NUMBER	: ZPH2015-000079
PROPOSED ZONING CHANGE	: R-1 TO R-2
LOCATION	: 15 DIXON DRIVE
PIN(s)	: 0629.86.0726
 APPLICANT/OWNER	 : FIRST CITIZENS BANK & TRUST P.O. BOX 27131/ RWN-15 RALEIGH, NC 27611

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 one (1) parcel comprising approximately 0.49 acres from R-1 (Single Family Residential District) to R-2 (Residential District). The subject property is located between Dixon Drive and Florida Avenue and is situated within a residential neighborhood to the south of the Ridgecrest Conference Center and Interstate 40. The neighborhood contains a mix of single-family residences, mobile homes, multi-family structures and seasonal residences all zoned R-1. The subject parcel contains an existing structure that was built in 1959 and continuously operated as a 10 unit motel and restaurant. The motel/restaurant use of the property abruptly ceased operation in July, 2014 due to foreclosure. Hotels and motels are not a permitted use within the R-1 zoning district and therefore the use of the property as such has operated as an existing nonconforming use since the inception of county wide zoning in 2009. Pursuant to Section 78-657(5)d. of the Zoning Ordinance of Buncombe County, when any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. As of the writing of this report, the nonconforming use of the property has now been ceased for approximately 1.5 years but has been actively marketed as a motel and restaurant. Therefore, any further use of the property must conform to the underlying zoning requirements of the R-1 zoning district of which the allowable uses are residential in nature.

Because the structure was originally constructed as a motel and restaurant, it is materially different in size, scale and building type than the rest of the surrounding neighborhood; however, it has co-existed with the surrounding neighborhood since 1959. The use of the property as a motel existed well before the property was initially zoned R-1 in 2009. The current property owner is seeking to utilize the property as a bed and breakfast which is reviewed as a conditional use permit (CUP) in the R-2 zoning district. The use of the property for a bed and breakfast (rather than a motel and restaurant) will limit the number of allowable guests and provide a more compatible fit with the surrounding neighborhood.

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 directly accessed by Dixon Drive and Florida Avenue which are NCDOT maintained roads. The property is located within 1/4 mile of Old US 70 which is also maintained by the NCDOT.
- The subject property is not located within the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps; however the area is served by MSD sewer and Black Mountain water.
- The subject property is located outside of areas identified as steep slope (greater than 25%).
- The subject property is located in an area containing high elevations (greater than 2,500 feet), but is not located within a steep slope overlay or moderate or high slope stability hazard area.
- The subject property is **not** located within a FEMA Flood Hazard Area.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies mixed use 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 (Dixon Drive) and within 1/4 mile of Old US 70 which directly accesses the Interstate 40 corridor. Further, the plan “highly suggests” that mixed use development be located outside of slope stability and flood hazard areas and “highly suggests” that this type of development be located outside of steep slope 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 adaptively reuses an existing structure that was built for the specific purpose of a lodging facility. 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 directly accessed by Dixon Drive and Florida Avenue which are NCDOT maintained roads. The property is located within 1/4 mile of Old US 70 which is also maintained by the NCDOT.
- The subject property is not located within the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps; however the area is served by MSD sewer and Black Mountain water.
- The subject property is located outside of areas identified as steep slope (greater than 25%).
- The subject property is located in an area containing high elevations (greater than 2,500 feet), but is not located within a steep slope overlay or moderate or high slope stability hazard area.
- The subject property is **not** located within a FEMA Flood Hazard Area.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies mixed use 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 (Dixon Drive) and within 1/4 mile of Old US 70 which directly accesses the Interstate 40 corridor. Further, the plan “highly suggests” that mixed use development be located outside of slope stability and flood hazard areas and “highly suggests” that this type of development be located outside of steep slope 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 adaptively reuses an existing structure that was built for the specific purpose of a lodging facility. 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 outside of an identified transportation corridor.
- The subject property is located in a high elevation area of greater than 2500 feet.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies mixed use development as “highly suggested” within reasonable proximity to a major transportation corridor and located outside of high elevation areas of greater than 2500 feet. Therefore the proposed map amendment would be inconsistent as the subject property is located outside of an identified transportation corridor and within an area identified as high elevation of greater than 2500 feet. Therefore, the requested zoning would **not be reasonable and in the public interest**.

GOOD MORNING.

I AM HARRY PETREQUIN, RESIDING AT 100 POPLAR STREET IN BLACK MOUNTAIN.

I AM ALSO THE OWNER OF A RESIDENCE AT 15 FLORIDA AVE., RIDGECREST, WHICH I ACQUIRED IN 1998, WHERE MY WIFE AND I INTEND TO RETIRE EVENTUALLY. IT IS LOCATED DIRECTLY ACROSS THE STREET FACING THE REAR OF THE PROPERTY IN QUESTION.

THE LOT ON WHICH MY HOUSE IS LOCATED, AS WELL AS THE OTHER LOTS IN THIS SECTION OF RIDGECREST ARE DESIGNATED R-1, A DESIGNATION WHICH HAS ASSURED THE ATTRACTIVENESS OF THIS COMMUNITY OF SINGLE FAMILY RESIDENTIAL DWELLINGS. THERE ARE MANY LONG-TIME RESIDENTS WHO HAVE RAISED THEIR FAMILIES IN THIS NEIGHBORHOOD AND MAINTAINED ITS INTEGRITY. CHANGING THE DESIGNATION OF ANY LOT FROM THE EXISTING R-1 SINGLE FAMILY RESIDENTIAL TO R-2 WHICH WOULD ALLOW MULTIFAMILY RESIDENTIAL UNITS WOULD CHANGE THE CHARACTER OF THE NEIGHBORHOOD.

THE DESIRABILITY OF THIS COMMUNITY IS EVIDENCED BY THE CONSTRUCTION OF SEVERAL NEW SINGLE FAMILY RESIDENCES, AS WELL AS A NUMBER OF UPGRADES OF EXISTING SINGLE FAMILY RESIDENCES. PEOPLE WANT TO DWELL IN A HARMONIOUS SINGLE FAMILY RESIDENTIAL LOCALE SUCH AS WE NOW ENJOY IN THIS SECTION OF RIDGECREST.

I BELIEVE THE ATTRACTIVENESS OF THIS NEIGHBORHOOD FOR FUTURE FAMILIES WILL BE GREATLY DIMINISHED BY THE RECLASSIFICATION OF THE PROPERTY IN QUESTION FROM R-1 TO R-2. SUCH A RECLASSIFICATION WILL PROBABLY HAVE A CORRESPONDING ADVERSE EFFECT ON PROPERTY VALUES.

THEREFORE I RESPECTFULLY REQUEST THAT THE APPLICATION NOW BEFORE THE BOARD TO REZONE THE PROPERTY AT 15 DIXON DRIVE FROM SINGLE FAMILY RESIDENTIAL DISTRICT R-1 TO RESIDENTIAL DISTRICT R-2 BE DENIED.

I THANK YOU FOR ALLOWING ME TO SPEAK ON THIS ISSUE WHICH IS OF GREAT CONCERN TO MY WIFE AND ME.

Sec. 78-620. Meetings.

(a) *Monthly; special; notice of meetings; according to state law.* The board of adjustment shall hold regular monthly meetings at a specified time and place. Special meetings of the board of adjustment may be called at any time by the chairperson or by request of three or more members of the board of adjustment. At least 48 hours' written notice of the time and place of meeting shall be given, by the chairperson, to each member of the board of adjustment. All board of adjustment meetings are to be held in accordance with G.S. 143-318.9 et seq., commonly referred to as the Open Meeting Law.

(b) *Cancellation of meetings.* Whenever there are no appeals, applications for conditional uses or variances, or other business for the board of adjustment, or whenever so many regular and alternate members notify the zoning administrator of their inability to attend that a quorum will not be available, the chairperson may dispense with a meeting by giving written or oral notice to all members.

(c) *Quorum.* A quorum shall consist of four members of the board of adjustment, but the board of adjustment shall not pass upon ~~any questions relating to an appeal from a decision, order, requirement, or determination of the zoning administrator, or~~ an application for a variance ~~or conditional use permit~~ when there are less than six members present.

DIVISION 8. AMENDMENTS**Sec. 78-716. Board of commissioners to amend article.**

This article, including the zoning map, may be amended by action of the Buncombe County Board of Commissioners in accordance with the provisions of this division.

Sec. 78-717. Initiation of amendments.

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 ~~other applicant one or more owners of property within the area proposed to be changed~~. The board of commissioners, the planning board, 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.

Sec. 78-718. Application and Planning Board Notice and Hearing.

(a) Before any action on a proposed change or amendment ~~initiated by one or more property owners within the area proposed to be changed~~, an application shall be submitted to the office of the zoning administrator at least 30 days prior to the planning board's meeting at which the application is to be considered. The application shall contain the name(s) and address(es) of the owner (s) of the property in question, the location of the property, and a description and/or statement of the present and proposed zoning regulation or district. All applications requesting a change in the zoning map shall include a description of the property

in question.

(b) Before taking any action to recommend a change or amend this Article, the planning board shall hold a public hearing on the proposed change or amendment. The county shall cause notice of the hearing to be published once not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(c) Whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. Except for a county-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the planning board that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons mailing such notices shall certify to the planning board that fact, and such certificate shall be deemed conclusive in the absence of fraud.

(d) The first class mail notice required under the preceding paragraph of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county elects to use the expanded published notice provided for in this subsection. In this instance, the county may elect to either make the mailed notice provided for in the preceding paragraph or may as an alternative elect to publish notice of the hearing as required by 78-718(b), but provided that such advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of Sec. 78-718(c) above.

(e) When a zoning map amendment is proposed, the county shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.

Sec. 78-719. Purposes in view.

The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the board of county commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the board of commissioners.

If no written report is received from the planning board within 30 days of referral of the

amendment to that board, the board of county commissioners may proceed in its consideration of the amendment without the planning board report at a public hearing as provided below. The board of commissioners is not bound by the recommendations, if any, of the planning board.

Prior to adopting or rejecting any zoning amendment, the board of commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board of commissioners considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

Sec. 78-720. Public hearing before the board of commissioners.

(a) Before taking any action to adopt, amend, or repeal any part or portion of this Article, the board of commissioners shall hold a public hearing on the proposed adoption, amendment or repeal of any part or portion of this Article. The board of commissioners shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Further, before taking any action on a proposed adoption, amendment, or repeal of this Article, the board of commissioners shall consider the planning board's recommendations, if any, on each such proposed action.

(b) Whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. Except for a county-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the board of commissioners that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons mailing such notices shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.

(c) The first class mail notice required under the preceding paragraph shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county elects to use the expanded published notice provided for in this subsection. In this instance, the county may elect to either make the mailed notice provided for in the preceding paragraph of this section or may as an alternative elect to publish notice of the hearing required by Sec. 78-720(a), but provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of Sec. 78-720(b) above.

(d) When a zoning map amendment is proposed, the county shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.

Planning Board Draft 12-18-2015

Sec. 70-94. Guarantee of improvements.

Where the required roadbed, utility improvements, or erosion control devices indicated on the construction documents have not been completed prior to submission of the final plat, the incomplete elements are to be itemized in an attachment to the guarantee of improvements. The approval of the plat shall be subject to the owner/developer guaranteeing the installation of all required improvements within a specified time. The construction elements, cost and anticipated construction schedule for ~~the~~ all work must be itemized and certified by a licensed professional consultant and submitted to the planning department for approval. The guarantee of improvements shall be secured in one of the following forms acceptable to the planning department:

- (1) ~~A surety performance bond made by a surety bonding company licensed and authorized to do business in North Carolina. A surety bond issued by any company authorized to do business in North Carolina.~~
- (2) ~~A bond of the owner/developer with an assignment to the county of a certificate of deposit with an institution licensed and authorized to do business in North Carolina as security for the bond. A letter of credit issued by any financial institution licensed to do business in North Carolina.~~
- (3) ~~A bond of the owner/developer by an official bank check drawn in favor of the county and deposited with the county. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.~~
- (4) ~~Cash or an irrevocable letter of credit from an institution licensed and authorized to do business in North Carolina deposited with the county.~~

Such guarantee shall be in the amount equal to 125 percent of the remaining identified cost of the planned improvements and the continuing maintenance until completion as estimated by the licensed professional consultant retained by the owner/developer. The guarantee will remain in full force and effect until all obligations have been faithfully performed.

If the cost estimate for improvements, and maintenance or the schedule for installation is deemed inadequate by the planning department, the planning board reserves the right to require an independent construction appraisal, at the owner/developer's expense, as a condition of final plat approval.

All guarantees of improvements shall contractually stipulate a completion date that is at least 180 days past the stipulated completion date as stated in the approved construction schedule. The owner/developer must submit a signed and sealed statement by a ~~registered land surveyor or~~ civil engineer licensed in North Carolina certifying that all work has been completed to the standards of this article before the planning department will determine satisfactory completion of all guaranteed work. Work not completed within 90 consecutive days following the stipulated completion date will be considered in default. The planning department will proceed immediately with a claim against the guarantee of improvements for all work in default.

An extension of time required for completion may be granted by the planning board planning department if ~~extenuating circumstances are deemed a justifiable cause for such revision~~ the developer demonstrates reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension.