

**Buncombe County Planning Board
January 23, 2017**

The Buncombe County Planning Board met on January 23, 2017 in the meeting room at 30 Valley Street. Members present were Gene Bell, Parker Sloan, Nancy Waldrop, Thad Lewis, Bob Taylor, David Rittenberg, Robert Martin, and Dusty Pless. Also present were Michael Frue, Staff Attorney; Jon Creighton, Planning Director; and Debbie Truempy and Shannon Capezzali, Planning staff.

Call to Order

Gene Bell called the meeting to order at 9:30 am.

Approval of Agenda

David Rittenberg made a motion to approve the agenda. The motion was seconded by Nancy Waldrop and passed unanimously.

Approval of Minutes (December 19, 2016)

Bob Taylor made a motion to approve the December 19, 2016 meeting minutes. The motion was seconded by Dusty Pless and passed unanimously.

Public Hearing (Zoning Map Amendment)

ZPH2016-00064: Ron Moore applied to rezone one parcel identified as tax lot PIN 9626-65-6320 (233 Oak Terrace Road) which is currently zoned Residential District (R-2) to Commercial Service District (CS).

Debbie Truempy presented the rezoning analysis and staff recommendation. Staff recommended denial of the rezoning request as it was inconsistent with the Comprehensive Land Use Plan. The applicant, Ron Moore, provided information about his business, the surrounding area, the rezoning request, and answered questions from the Planning Board. Board members discussed the issue of spot zoning, the applicant's affidavits from adjoining neighbors, and future commercial development in the area. There was discussion about continuing the hearing so that adjoining properties could also apply for rezoning to CS. Ron Moore requested that the hearing be continued to the next meeting. David Rittenberg made a motion to continue the hearing to the February 20, 2017 meeting. There was further discussion regarding the commercial uses in the area and whether the hearing should be continued. The applicant withdrew his request to continue the hearing and David Rittenberg withdrew his motion to continue. Dusty Pless made a motion to approve the application as it is consistent with the Land Use Plan. The motion was seconded by Thad Lewis and passed by a vote of five to three (Robert Martin, Parker Sloan, and David Rittenberg opposed).

Public Comment

Daniel Dewitt, of a local eco-responsible concrete business, expressed his desire to participate in the green-building industry. He said he would like a mentor/advocate connection so that his business develops within the laws and rules of the County.

Dede Styles of Swannanoa said she would like a clear explanation of spot zoning and how it's determined. She would like that information made clearer for the public and for rezoning applicants.

Adjourn

The meeting was adjourned at 10:08 a.m.

**BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS**

CASE NUMBER : ZPH2016-00064
 PROPOSED ZONING CHANGE : R-2 TO CS
 LOCATION : 233 OAK TERRACE ROAD
 PIN(s) : 9626-65-6320
 APPLICANT : RON MOORE
 OWNERS : DUSTIN DEBRUHL

DEPARTMENT RECOMMENDATION: **DENIAL**

BOARD CONSIDERATIONS: The Board must determine if there is a reasonable basis for the requested change. An applicant's showing of reasonableness must address the totality of the circumstances and must demonstrate that the change is reasonable in light of its effect on all involved. Good Neighbors of South Davidson v. Town of Denton, 355 N.C. 254, 559 S.E.2d 768 (2002). Determination must be, the “product of a complex of factors.” Chrismon v. Guilford County, 322 N.C. 611, 370 S.E.2d 579 (1988). Among the factors relevant to this analysis are the size of the tract in question; the compatibility of the disputed zoning action with an existing comprehensive zoning plan; the benefits and detriments resulting from the zoning action for the owner of the newly zoned property, his neighbors, and the surrounding community; and the relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts. Id.

REZONING ANALYSIS: The applicant is requesting the rezoning of one (1) parcel comprising approximately .80 acres (233 Oak Terrace Road) from R-2 (Residential District) to CS (Commercial Service District). The property currently contains an existing single-family residence and a detached garage with frontage and direct access to Oak Terrace Road. Properties to the north, west and south of the subject parcel contain a mix of single-family residences and associated accessory structures and are all zoned R-2. Properties to the east of the subject property and across Oak Terrace Road are located in the City of Asheville and zoned CB-II (a City of Asheville transitional commercial zoning designation). The applicant’s business (4 x 4 Country & Cub Cadet) is located at 1039 Brevard Road and is directly across Oak Terrace Road from the parcel which is the subject of the rezoning request. The applicant’s business is proposing a renovation and expansion and the business is quickly outpacing its space needs at the 1039 Brevard Road location. A large component of the business involves the outdoor storage and display of lawn care and agricultural machinery. The rezoning request represents a commercial intrusion into an established residential neighborhood which is separated from the existing commercial corridor along Brevard Road.

The proposed map amendment is **inconsistent** with Section 78-640(f) Commercial Service District (CS) of the Zoning Ordinance of Buncombe County which states, “The Commercial Service District is primarily intended to provide suitable locations for clustered commercial development to encourage the concentration of commercial activity in those specified areas with access to major traffic arteries, to discourage strip commercial development, and to allow for suitable noncommercial land uses. Such locations should currently have water and sewer services or be expected to have such services available 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 located along Oak Terrace Road which is to the west of and behind adjacent parcels along a major transportation corridor – Brevard Road (NC 191).
- The subject property is located inside of the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water is available to the subject property; however, sewer does not appear to be available along Oak Terrace Road.
- The subject property is primarily located outside of areas identified as steep slope (greater than 25%); however, a small amount of property located in the northwest corner of the parcel may exceed the 25% threshold.
- The subject property is located outside of high elevations greater than 2500 feet.
- The property does not contain any areas of moderate to high slope stability hazards.
- The subject property is not located within a FEMA Flood Hazard Area.
- The subject property is not separated from low-density residential uses.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies moderate/intense commercial development as “highly suggested” within reasonable proximity to major transportation corridors and “highly suggested” within combined water/sewer service areas. The Plan “highly suggests” that moderate/intense commercial development be located outside of steep slope areas (greater than 25%), outside of high elevations (greater than 2,500 feet) and outside of moderate and high slope stability areas. Moderate/intense commercial development is suggested outside of flood hazard areas. Further, the Plan “highly suggests” moderate/intense commercial development be separated from low-density residential uses which is a Staff concern given the request to further encroach into a residential area located along a secondary street and behind an established commercial corridor. Future commercial uses (especially those that are moderate or intense in nature) may negatively impact adjacent lower density residential uses if the rezoning request is approved. Although, any commercial development may be required to be buffered from adjacent residential uses. The proposed map amendment would be detrimental to the adjacent neighbors, and surrounding community as it negatively impacts a number of stated goals as identified in the Buncombe County Comprehensive Land Use Plan Update and is inconsistent with the overall intent of the Commercial Service District as noted in the Zoning Ordinance of Buncombe County. Therefore, the Buncombe County Department of Planning and Development recommends **denial** of the rezoning request as it is incompatible with the surrounding residential nature of the area and is separated from the established commercial corridor along Brevard Road (NC 191).

LAND USE PLAN CONSISTENCY STATEMENT

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 along Oak Terrace Road which is to the west of and behind adjacent parcels along a major transportation corridor – Brevard Road (NC 191).
- The subject property is located inside of the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water is available to the subject property; however, sewer does not appear to be available along Oak Terrace Road.
- The subject property is primarily located outside of areas identified as steep slope (greater than 25%); however, a small amount of property located in the northwest corner of the parcel may exceed the 25% threshold.
- The subject property is not separated from low-density residential uses.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies moderate/intense commercial development as “highly suggested” within reasonable proximity to major transportation corridors, “highly suggested” within combined water/sewer service areas, and “highly suggested” outside of steep slope areas (greater than 25%). Further, the Plan “highly suggests” moderate/intense commercial development be separated from low-density residential uses which is a Staff concern given the request to further encroach into a residential area located along a secondary street and behind an established commercial corridor. Future commercial uses (especially those that are moderate or intense in nature) may negatively impact adjacent lower density residential uses if the rezoning request is approved. Although, any commercial development may be required to be buffered from adjacent residential uses. The proposed map amendment would be detrimental to the adjacent neighbors, and surrounding community as it negatively impacts a number of stated goals as identified in the Buncombe County Comprehensive Land Use Plan Update and is inconsistent with the overall intent of the Commercial Service District as noted in the Zoning Ordinance of Buncombe County. Therefore, the requested zoning would **not be reasonable and in the public interest** as it is incompatible with the surrounding area by representing a commercial intrusion into an established residential neighborhood which is separated from the existing commercial corridor along Brevard Road.

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 located outside of high elevations greater than 2500 feet.
- The property does not contain any areas of moderate to high slope stability hazards.
- 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 “highly suggests” that moderate/intense commercial development be located outside of high elevations (greater than 2,500 feet) and outside of moderate and high slope stability areas. Moderate/intense commercial development is suggested outside of flood hazard areas. Therefore, the requested zoning would **be reasonable and in the public interest**.