

**Buncombe County Planning Board
July 15, 2019
Minutes**

The Buncombe County Planning Board met on July 15, 2019 in the meeting room at 30 Valley Street.

Planning Board members present were Robert Martin, Nancy Waldrop, Parker Sloan, Dusty Pless, David Rittenberg, and Billy Taylor. Also present were Josh Freeman, Zoning Administrator, Gillian Philips, Subdivision Administrator, Savannah Gibson, Clerk to the Board, and Brandon Freeman, County Attorney.

Call to Order

Vice Chair Ms. Waldrop called the meeting to order at 9:30 A.M.

Approval of Agenda

Ms. Waldrop made a motion to approve the agenda as submitted. The motion was seconded by Mr. Rittenberg and passed unanimously.

Approval of Minutes (May 20, 2019)

Mr. Rittenberg made a motion to approve the 6/17/2019 and 7/1/2019 meeting minutes. The motion was seconded by Mr. Sloan and passed unanimously.

Planning Director Updates

Mr. Joshua Freeman presented new public notice signs to the board.

Subdivision Review - Preliminary Plat

SUB2019-00354: Mike Lovoy of Advantage Civil Engineering, PA, on behalf of BP Fairview, LLC sought major subdivision approval for 35 lots for the project identified as BP Fairview and located on tax lot PIN 9686-14-8503 (1168 Charlotte Hwy).

Ms. Phillips presented information about the application and staff conditions (Attachment A). Mr. Lovoy and Brad Howell were present to answer board questions. The Fire Marshal approved access to this subdivision, making the associated condition unnecessary. The applicant must submit a geotechnical report, which must be certified prior to release of the guarantee of improvements and final plat approval. All other conditions of approval must be met by 9/27/2019.

Ms. Waldrop opened the floor to public comment. There was no public comment.

Mr. Rittenberg made a motion to grant preliminary approval. The motion was seconded by Mr. Sloan and passed unanimously.

Public Hearings – Zoning Map Amendments

ZPH2019-00022: Robert and Laura Uherka of RuLu LLC requested rezoning of a portion of one (1) parcel of land identified as tax lot PIN(s) 9699-56-2219 (119 Woodland Dr), which is currently zoned R-LD, to R-1 Residential. This item was first considered by the Planning Board on 5/20/2019 and recommended for denial; was considered by the Board of Commissioners on 6/18/2019 and, after a modification to the

original proposal by the Applicant, was returned the application to the Planning Board for additional review; and was continued from the 7/1/2019 Planning Board meeting due to a lack of quorum.

Ms. Waldrop opened the public hearing. Mr. Joshua Freeman presented information about the application and staff analysis (Attachment B). Staff recommended approval of the rezoning as revised. Mr. and Mrs. Uherka were present to represent the application and answer questions from the Board.

Public Comment

Pam Tegge of Swannanoa expressed concerns about water runoff, erosion, and ingress/egress issues from the development, and submitted site pictures to the board (Exhibit A). She articulated frustration about the public notice sign being moved further down the property, and the process by which this development came back to the Planning Board after the 6/18/2019 Board of Commissioners meeting. Mr. Joshua Freeman clarified that the Board of Commissioners meeting was executed in the appropriate manner and that the case has followed the proper procedures. Ms. Tegge brought to the board's attention a possible site layout, and asked if the board should see this. Mr. Brandon Freeman stated that, while the board is allowed to look at other evidence, the board must consider all potential, future uses rather than the applicants' stated intentions for the property.

Scott Sawyer of Swannanoa stated that he represents other concerned neighbors and expressed concerns about potential issues with ingress/egress and runoff.

Ms. Waldrop closed the public hearing.

Board Discussion

Mr. Rittenberg expressed concern about the amount of steep slope on the property and building on steep slopes. He reiterated that the board must consider all possible uses of the land that could occur after a rezoning.

Mr. Sloan questioned access into the property and whether it would come off of the existing driveway. Mr. Joshua Freeman stated that the private driveway has no right-of-way attached to it and if multiple units were to be established on the property, the applicants would need to establish some type of right-of-way.

Ms. Waldrop sought clarification on how a rezoning would affect the number of allowable units on the rezoned part of the property. Mr. Joshua Freeman stated the rezoning would theoretically allow 9 units in the rezoning area, and that the applicant would retain the right to develop a limited number of units within the portion of the property that is proposed to remain zoned R-LD.

Mr. Taylor made a motion that the revised application is consistent with the Comprehensive Land Use plan as described in the staff report. The motion was seconded by Mr. Sloan and passed 5 to 1, with Mr. Martin voting against. Mr. Sloan made a motion to recommend approval of the map amendment. The motion was seconded by Mr. Taylor and denied in a vote of 3 to 3, with Mr. Rittenberg, Mr. Martin and Ms. Waldrop voting against. Ms. Waldrop wanted the record to reflect that she is concerned about steep slope on the property.

ZPH2019-00027: *Peter Radichshin of Freedom in Christ, Inc. proposed to rezone a portion of one (1) parcel of land identified as tax lot PIN(s) 9618-06-6464 (off Holcombe Cove Rd and Propst Rd), which is currently zoned R-LD, to R-3 Residential. This item was first considered at the Planning Board's 6/17/2019 meet, at which time the applicant proposed a modification, and the item was continued. The item was continued from the 7/1/2019 Planning Board meeting due to a lack of quorum;*

Ms. Waldrop opened the public hearing, and Mr. Joshua Freeman presented information about the application and staff analysis (Attachment C). Staff recommended approval of the rezoning as revised. Mr. Lovoy was present to represent the application and answer questions from the Board as well as provide clarification of the revised rezoning boundary.

Mr. Lovoy explained that the original rezoning included 14 acres, the boundary of which followed an old logging road, and explained that the revised rezoning area includes 9.45 acres, all of which is located within the above-referenced PIN. The revised rezoning would preserve a 200 foot buffer between the applicant's property and adjacent properties currently zoned R-LD. There are no High Hazard Slopes within the revised rezoning area, and few Moderate Hazard Slope areas. Water is available at the site. Ms. Waldrop opened the floor to public comment

Public Comment

Deedee Styles of Swannanoa is concerned about erosion and runoff from the property into streams, and traffic. Ms. Styles also stated that, if the board uses property tax value and neighborhood change as a standard for judgement in other cases, then it should be used as a standard for every rezoning case.

Andrew Driggers lives on Mountainside Trail, close to the property in question. Mr. Driggers has concerns about drainage issues from the property and the lack of communication, despite reaching out, between himself and the applicant.

Amy Tesner was present to represent her parents, who live adjacent to the subject property. Ms. Tesner is concerned about lack of communication between herself/parents and the applicant, despite reaching out, as well as traffic and rain runoff due to future development.

Misty Leatherwood lives in the general area near the property. Ms. Leatherwood expressed concern about the increase in traffic given current road conditions, dust from traffic, building on steep slopes, the lack of access to sewer and water, and how bringing it into the area may affect the surrounding community's well water.

Jeff Barcelona lives near the property in question. Mr. Barcelona stated that he has already seen, and is concerned about, a significant amount of runoff from development in the area. Mr. Barcelona also wanted to speak on behalf of Ms. Gretchen Bieber, who owns property adjacent to the subject property. Mr. Barcelona stated that while Ms. Bieber has been working with the applicant to improve future plans for the subject property, she remains concerned about parking lot runoff and contaminating water sources, noise pollution, and disturbance of the natural environment. Ms. Bieber was not present at the meeting.

Ms. Waldrop closed the public hearing.

Board Discussion

Mr. Rittenberg is concerned about steep slope in the area, potential density increases, as well as lack of access to public water and sewer. Mr. Sloan and Mr. Taylor agreed with this sentiment.

Mr. Sloan made a motion that the application is inconsistent with the Comprehensive Land Use plan as described in the staff report. The motion was seconded by Mr. Rittenberg and passed unanimously. Mr. Sloan made a motion to recommend denial of the map amendment. The motion was seconded by Mr. Rittenberg and passed 5 to 1, with Mr. Pless voting against.

ZPH2019-00029: McDonald, Lois I., Gary S., Ila V., Janet T., and Sharon L., proposed to rezone two (2) parcels of land identified as tax lot PINs 9634-76-0271 and 9634-65-9882 (569 and 571 Long Shoals Rd), which are currently zoned R-2 Residential, to NS-Neighborhood Service. This item was continued from the 7/1/ 2019 Planning Board meeting due to a lack of quorum;

Ms. Waldrop opened the public hearing, and Mr. Joshua Freeman presented information about the application and staff analysis (Attachment D). Staff recommended approval of the rezoning as presented. Dave Couch and Janet McDonald were present to represent the application and answer questions from the Board.

Public Comment

None

Ms. Waldrop closed the public hearing.

Board Discussion

Mr. Sloan made a motion that the application is consistent with the Comprehensive Land Use Plan as described in the staff report. The motion was seconded by Mr. Taylor and passed unanimously. Mr. Sloan made a motion to recommend approval of the map amendment. The motion was seconded by Mr. Martin and passed unanimously.

ZPH2019-00031: Rebecca Regal, on behalf of Glen and Debra Higgins, proposed to rezone two (2) parcels of land identified as tax lot PINs 9634465356 and 9634466346 (1854 Brevard Rd), which are currently zoned R-2 Residential, to EMP Employment Services.

Ms. Waldrop opened the public hearing, and Mr. Joshua Freeman presented information about the application and staff analysis (Attachment E). Staff recommended approval of the rezoning. Rebecca Regal, on behalf of the property owner, was present to represent the application and answer questions from the Board.

Public Comment

Ms. Styles of Swannanoa reiterated her comment from the preceding hearing that the board needs to be consistent when reviewing projects and have the same standards for each; if negative changes to the character of a neighborhood is the standard for reviewing a rezoning, then such standard should be applied to protect everyone and not just to protect rich people from poor people.

Ms. Waldrop closed the public hearing.

Board Discussion

Mr. Rittenberg expressed a desire to have height restrictions and limitations in the zoning ordinance discussed in the comprehensive plan.

Mr. Taylor made a motion that the application is consistent with the Comprehensive Land Use plan as described in the staff report. The motion was seconded by Mr. Sloan and passed unanimously. Mr. Taylor made a motion to recommend approval of the map amendment. The motion was seconded by Mr. Sloan and passed unanimously.

Adjourn

The meeting was adjourned at 11:04 A.M.



BUNCOMBE COUNTY
NORTH CAROLINA
PLANNING & DEVELOPMENT
(828) 250-4830 - PlanningInfo@BuncombeCounty.org
www.buncombecounty.org/planning

SUBDIVISION PLAT REVIEW MINOR & MAJOR

Subdivision

Reviewed by: Gillian Phillips

Submittal Date: 5/31/2019 Due Date: 7/15/2019 Case Number: SUB2019-00354

Subdivision Name: Cascade Ridge (Formerly known as BP Fairview)

Primary Contact: Brad Howell

Primary Contact Telephone & Email: bhowell@aceasheville.com 828-545-5393

Submittal Type

- ☐ Pre-review Plans prior to submittal
- ☒ Proposed Staff Conditions
- ☐ Preliminary Plat – Planning Board
- ☐ Preliminary Plat – Staff Approval

- ☐ Revised Plan – Planning Board
- ☐ Revised Plan – Staff Approval

- ☐ As-Built
- ☐ Draft Final Plat

Approvals

☐ Approved

☐ Approved with conditions

☐ Revision Required

Conditions of Approval

1. *Provide proof of approval of E-911 addressing E-911 addressing shall be required on the final plat and the draft final plat shall be reviewed and approved by the Buncombe County E-911 addressing coordinator.*
2. *Provide a written statement from Buncombe County Erosion Control 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. The draft final plat shall be reviewed and approved by Buncombe County Erosion Control prior to approval*
3. *If necessary, provide a written statement from the Buncombe County Stormwater Administrator stating that the approved 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. The draft final plat shall be reviewed and approved by Buncombe County Stormwater Management prior to approval.*
4. *Provide copy of approved NCDOT driveway permit.*
5. *Provide proof of approval of system design for City of Asheville water lines. Proof of acceptance of the waterlines into the City of Asheville water system will be required prior to recordation of a final plat or release of a financial guarantee.*
6. *Provide draft of mechanism of road maintenance for the subdivision.*
7. *Provide a notarized statement of financial responsibility.*
- ~~8. *Provide proof of approval of Buncombe County Fire Marshal.*~~
9. *Certification from the geotechnical engineer that recommendations of the geotechnical evaluation were followed must be provided prior to recordation of the final plat or release of the guarantee of improvements.*

Conditions of Approval - Continued

If approved by the Buncombe County Planning Board, the applicant shall submit the following information/revisions on a revised set of plans by September 27, 2019:

- 1. Indicate linear feet of road.**
- 2. Indicate lot slope perpendicular to the road for each individual lot or indicate that no lot slope perpendicular to the road exceeds 18%.**
- 3. Indicate location of street lights or indicate that no street lights are provided.**
- 4. Indicate approximate delineation of wooded and open space area.**
- 5. Indicate location of retaining walls, or indicate no retaining walls will be provided.**
- 6. Provide location of cluster box unit for mail delivery. It is the responsibility of the developer to coordinate review, approval, and construction of the cluster box unit through the servicing post office of the United States Postal Service.**
- 7. Revise road design so the grade between stations 200 and 1000 is less than 18% grade.**

Plan Revisions

Any revision to the approved plans must be reviewed by Buncombe County Planning staff, and if they are deemed a substantial change, the plans must be submitted for approval to the Buncombe County Planning Board.

Communal Infrastructure

Once communal infrastructure improvements are completed, a letter signed and sealed by a licensed engineer must be provided to the Buncombe County Planning and Development Department stating that all infrastructure is complete (including but not limited to roads, waste disposal systems, and water systems). Once the letter has been received, Buncombe County Planning staff will conduct an inspection.


No final plat will be signed and no guarantee of improvements will be released prior to the submittal of the letter and passage of a road inspection or the roads are taken over by the North Carolina Department of Transportation.



ZONING MAP AMENDMENT

STAFF ANALYSIS

Legislative Hearing

<p style="text-align: center;">LOCATION MAP</p> 	<p>CASE NUMBER: ZPH2019-00022 <u>REVISED</u></p> <p>A. PROPERTY INFORMATION</p> <p>PIN(s): 9699-56-2219 Addresses: 119 Woodland Dr., Swannanoa Owner(s): Robert and Laura Uherka</p> <p>B. REZONING REQUEST</p> <p>Applicant: Robert and Laura Uherka Existing Zoning: R-LD Residential Low Density Proposed Zoning: R-1 Residential</p> <p>C. PUBLIC NOTICE</p> <p>PB Notice in AVL Citizen Times legal ad: 7/5/19 PB Notice mailed to owners within 1,000 ft: 7/3/19 PB Physical posting: 7/2/19 PB Notice on BC Website: 7/2/19 PB Hearing: 07/15/2019 BOC Notice in AVL Citizen Times legal ad: TBD BOC Notice mailed to owners within 1,000 ft: TBD BOC Physical posting: TBD BOC Notice on BC Website: TBD BOC Hearing: TBD</p>
<p>NOTE TO THE BOARD: The Planning Board first considered the original version of the proposed rezoning at its May 20, 2019 meeting, at which meeting the Board recommended denial on the basis of noncompliance with the <i>Buncombe County Comprehensive Land Use Plan 2013 Update</i>. The Board of Commissioners then considered the original proposed rezoning on June 18, 2019, at which time the Applicant proposed a revised rezoning area that was considerably reduced in size as compared to the original. The Board of Commissioners then remanded the Case to the Planning Board for additional review of the revised rezoning proposal.</p>	
<p>D. STAFF RECOMMENDATION</p> <p>APPROVAL (see Section K, below)</p>	
<p>E. SUMMARY OF REQUEST</p> <p>Robert and Laura Uherka of RuLu LLC have applied to rezone <u>a 1.7 acre portion of</u> one, <u>14.07+ acre</u> parcel of land identified as tax lot PIN 9699-56-2219, which is currently zoned R-LD Residential Low Density, to R-1 Residential. The subject property <u>and rezoning area</u> are located at 119 Woodland Drive, Swannanoa. and is approximately 14.07 acres in size.</p>	

F. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT

EXISTING ZONING DISTRICT:

Residential Low Density (R-LD)

Low-Density Residential District (R-LD). The R-LD Low-Density Residential District is primarily intended to provide locations for low-density residential and related-type development in areas where topographic or other constraints preclude intense urban development. These areas are not likely to have public water and sewer services available, and the minimum required lot area will be one acre unless additional land area is required for adequate sewage disposal. These are environmentally sensitive areas that are characterized by one or more of the following conditions: Steep slopes, fragile soils, or flooding.

PROPOSED ZONING DISTRICT:

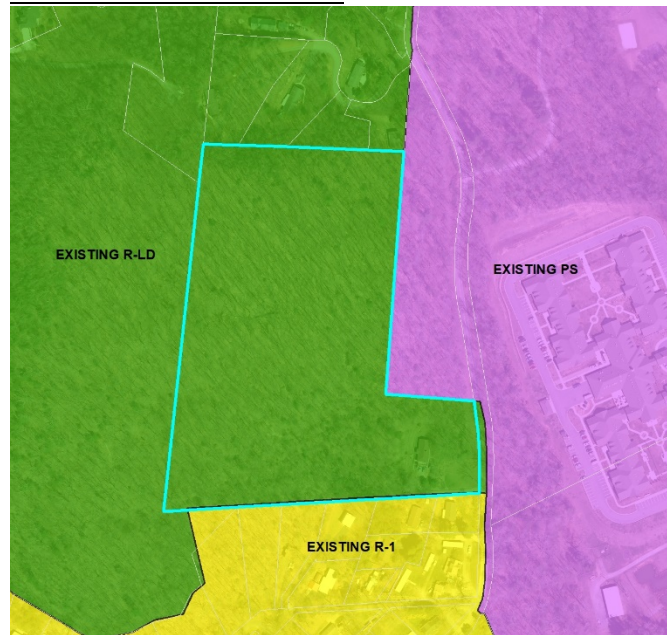
Residential District (R-1).

The R-1 Residential District is primarily intended to provide locations for single-family and two-family 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. This district is further intended to protect existing subdivisions from encroachment of incompatible land uses, and this district does not allow manufactured home parks.

G. SPOT ZONING ANALYSIS

Staff has no concerns with spot zoning, given that the property is contiguous to existing R-1 zoning along the southern boundary.

EXISTING ZONING DISTRICT



PROPOSED ZONING DISTRICT



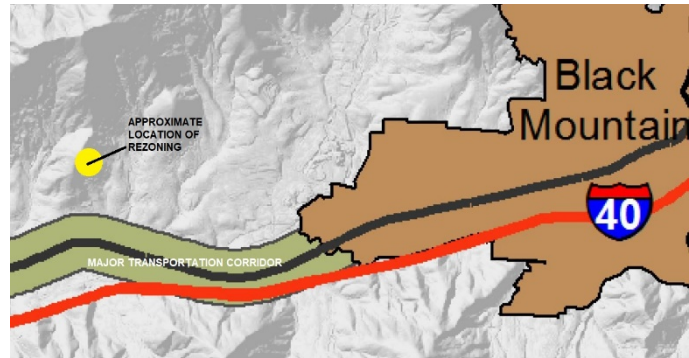
H. COMPREHENSIVE LAND USE PLAN CONSISTENCY (See Figure 20 on page 4)

1. LAND USE PLAN RECOMMENDATIONS: The following is an analysis of the rezoning proposal in context of Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update:*

Within Reasonable proximity to major transportation corridors

Single-family development: "Suggested"

The rezoning area is approximately 1 miles from major transportation corridors

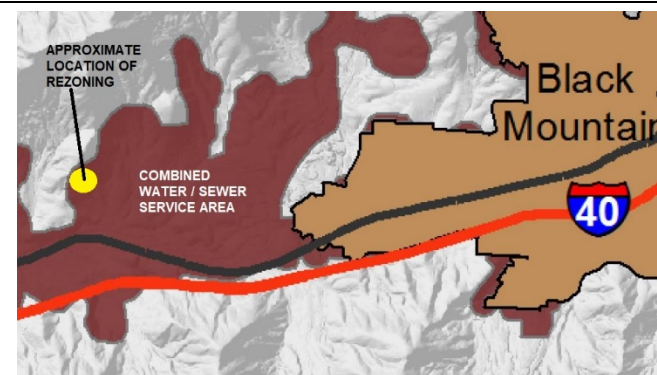


Within Reasonable proximity to infrastructure (combined water / sewer service area)

Single-family development: "Suggested"

The revised rezoning area is located within the Combined Water / Sewer Service Area.

Water & sewer services are adjacent to the rezoning area.



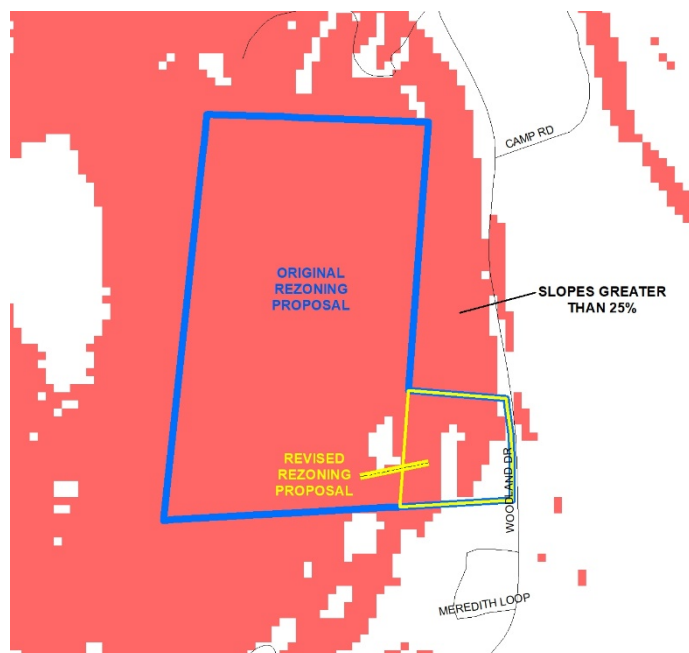
Outside of steep slope areas (25% +)

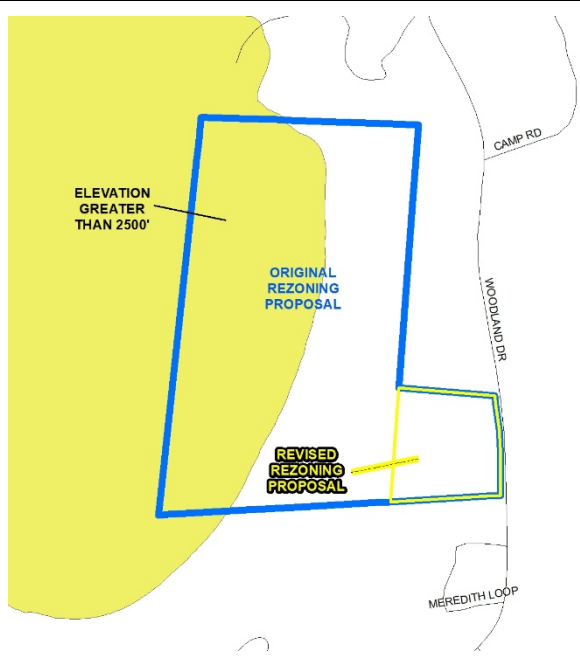
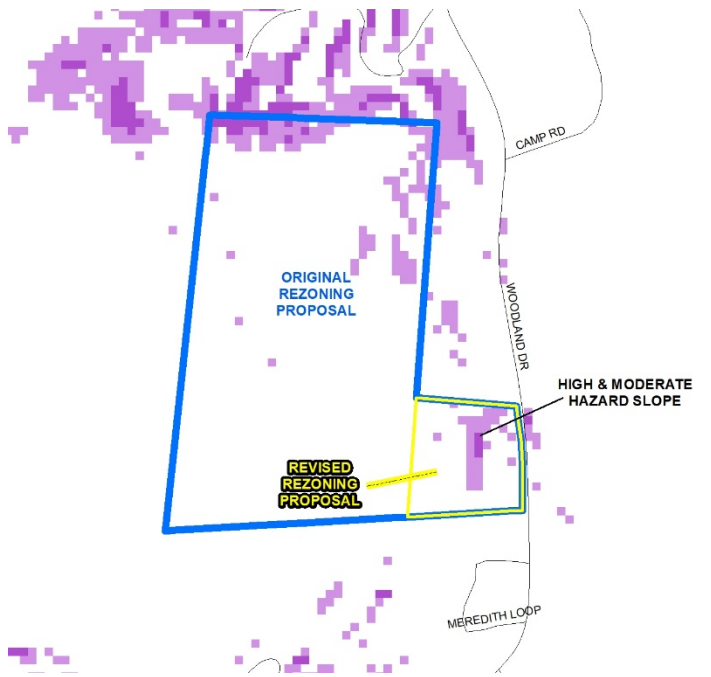
Single-family development: "Suggested"

The revised rezoning area is located completely outside of the Steep Slope Overlay District (slopes greater than 35%).

Approximately 2/3 of the rezoning area contains slopes greater than 25%.

The revised zoning area is smaller and is situated at a lower elevation than was the original rezoning proposal. Potential impacts to slopes greater than 25% are greatly reduced.



<p>Outside of high elevations (2500' +)</p> <p>Single-family development: "Suggested"</p> <p>Approximately ½ of the rezoning area is over 2,500' above sea level.</p> <p>The revised zoning area is smaller and is situated at a lower elevation than was the original rezoning proposal. Potential impacts to slopes above 2,500' are eliminated.</p>	
<p>Outside of moderate and high slope stability hazards</p> <p>Single-family development: "Highly Suggested"</p> <p>The revised zoning area contains a small, 1- acre area of High & Moderate Hazard Slope.</p> <p>It is Staff's perspective that this area is <i>de minimis</i>, and landslide hazards on this small area can be effectively addressed in the grading and foundation design of future structures.</p> <p>Furthermore, the majority of the hazardous slope area is situated in the front yard of the existing home and would be incorporated into the front yard setbacks in the event of a future subdivision.</p>	
<p>Outside of flood hazard areas</p> <p>Single-family development: "Highly Suggested"</p>	<p>The revised rezoning area is completely outside of any Special Flood Hazard Area.</p>
<p>Separation from low-density residential uses</p> <p>Single-family development: "N/A"</p>	<p>Not applicable.</p>

<p>2. CONSISTENT: The change is <u>consistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:</p>	<p>Single-family development “Within Reasonable proximity to major transportation corridors” is “Suggested.”</p> <p>Single-family development “Within Reasonable proximity to infrastructure (combined water / sewer service area)” is “Suggested.”</p> <p>Single-family development “Outside of steep slope areas (25% +)” is “Suggested.”</p> <p>Single-family development “Outside of high elevations (2500’ +)” is “Suggested.”</p> <p>Single-family development “Outside of flood hazard areas” is “Highly Suggested.”</p> <p>Single-family development Outside of moderate and high slope stability hazards “Highly Suggested.” [It is Staff’s perspective that the slope hazard area within the revised rezoning area is <i>de minimis</i>.]</p>
<p>3. INCONSISTENT: The change is <u>inconsistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:</p>	<p>Not applicable.</p>

I. OTHER COMPATIBILITY

BC Strategic Priorities ¹:

Buncombe County lists Affordable Housing as one of its Strategic Priorities. The current R-LD zoning district limits all development to 1 acre minimum lot sizes. Rezoning the parcel to R-1 would allow lot sizes as small as 8,000 square feet for lots on public water and sewer, or 30,000 square feet for lots on septic systems. This could increase the number of lots available on the site, and potentially reduce allowable lot sizes, which may correlate to more affordable land prices. Lots containing areas located within the steep slope/high elevation overlay district would still be limited to 1.5 acre minimum lot sizes. However, affordable housing opportunities on the site may be offset by the cost of construction in a steep slope environment.

¹ <https://www.buncombecounty.org/common/commissioners/strategic-priorities/Affordable-Housing.pdf>

J. NEIGHBORHOOD CONSISTENCY

1. CURRENT DEVELOPMENT TYPES:

The rezoning area currently contains a single family residence. Adjacent and nearby land uses include single family residential homes, and vacant/undeveloped land. Non-adjacent parcels to the east include a Correctional Center. R-1 is primarily intended for single-family uses. The revised rezoning area removes the preponderance of the steeper slopes from the R-1 proposal, thus maintaining consistency with properties to the west of the subject parcel.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from R-LD to R-1 zoning would continue to allow single family and duplex development while also continuing to prohibit multi-family residential units. The change would allow for the creation of Community Oriented Developments, and Level 1 Planned Unit Developments. In addition, the change would eliminate the ability to create a Bed and Breakfast Inn, Cemetery, or locate radio, tv, or telecommunication towers on the land.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

The change would reduce the minimum lot size from 1 acre to 30,000 square feet for septic, or as low as 8,000 square feet for lots on public water and sewer.

	Existing District: R-LD Residential	Proposed District: R-1 Residential
Minimum Lot Size	43,560 SF	8,000 SF (Public water/sewer) 30,000 SF (Septic system)
Max dwelling units per acre	2	10
Setbacks (Front/Side/Rear)	10/10/20	10/7/15 (Water/sewer) 20/10/10 (Septic)
Max height	35 feet	35 feet

4. NEIGHBORHOOD CONSISTENCY:

In terms of land use types, density and lot sizes, single-family / duplex residential development of the revised rezoning area would be consistent with the neighborhood character of the adjacent R-1 zoned area located south of the subject property.

K. STAFF RECOMMENDATION COMMENTS:

The revised rezoning area represents a good-faith effort to address the concerns of the Planning Board and Staff. Staff recommends approval as presented.

Sec. 78-641. Permitted uses.

(a) *Permitted use table.* Uses are permitted in the various zoning districts pursuant to Table 1.

Table 1 – Permitted Use Table												
Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	P		P	P
Two residential dwelling units (attached or detached)	P	P	P	P	P	P	P	P	P			P
Community oriented developments		P	P	P	P	P	P	P	P			
Multifamily residential dwelling units (no more than eight units in no more than four buildings)			P	P	P	P	P	P	P			P
HUD-labeled manufactured homes-Residential	P			P			P					P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Manufactured home parks (8 units or fewer)				P								P
Manufactured home parks (more than 8 units)				C								P
Planned unit developments, level I		C	C	C	C	C	C	C	C			C
Planned unit developments, level II						C	C	C	C	C		C
Subdivisions	P	P	P	P	P	P	P	P	P	P	P	P
Subdivisions, alternative path hillside development	P	P	P	P	P	P	P	P	P			P
Subdivisions, conservation development	P	P	P	P	P	P	P	P	P			P
Accessory buildings	P	P	P	P	P	P	P	P	P	P	P	P
Adult Entertainment Establishments						C	C					C
Airports										C		
Amusement Parks						C	C	C	C			C
Animal hospitals and veterinarian clinics					P	P	P			P		P
Asphalt Plants							C					C
Aviation-related services and facilities										P		
Banks and other financial institutions					P	P	P	P	P	P		P
Bed and breakfast inns (10 occupants or	SR		SR	P	P	P	P	P	P			P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
less)												
Bed and breakfast inns (more than 10 occupants)	C		C	P	P	P	P	P	P			P
Cargo/freight terminals, operations and activities						P	P			P		P
Cemetery	P		P	P		P		P	P			P
Chip Mills												C
Places of worship Church	P	P	P	P	P	P	P	P	P		P	P
Clubs or lodges				P	P	P	P	P	P	P		P
Concrete Plants							C					C
Day nursery and private kindergarten (up to 8 students)	SR	SR	SR	SR	P	P	P	P	P	P		P
Day nursery and private kindergarten (more than 8 students)			C	C	P	P	P	P	P	P		P
Family care home	P	P	P	P				P	P		P	P
Funeral homes						P	P	P	P			P
Government protective services			P	P	P	P	P	P	P	P		P
Greenhouses, commercial (nursery, lawn and garden products)					P	P	P	P	P	P		P
Group homes			C	P	P	P	P	P	P			P
Hazardous Waste Facilities												C

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Health care facilities			C	C		P	P	P	P			P
Home occupations	P	P	P	P	P	P	P	P	P		P	P
Hotels and motels						P	P	P	P	P		P
Incinerators											15:23:40	C
Junkyards							C					
Kennels				C	P	P	P			P		P
Laundry and dry cleaning services					P	P	P	P	P	P		P
Libraries			P	P	P	P	P	P	P			P
Manufacturing and processing operations						P	P			P		P
Medical Clinics				C	P	P	P	P	P	P		P
Mining and Extraction Operations							C					C
Motor Sport Facilities												C
Motor vehicles maintenance and repair					C	P	P	P	P	P		P
Motor vehicles impoundment lot or tow yard						SR	SR	SR				SR
Motor vehicles sales and rental						P	P			P		P
Motor vehicles service stations (fueling stations)					P	P	P	P	P	P		P
National Guard and Reserve Armories						P	P	P		P		P
Nightclubs, bars and					P	P	P		P	P		P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
pubs												
Personal Landing Strips				C		C	C	C	C	C		C
Physical fitness centers				C	P	P	P	P	P	P		P
Postal and parcel delivery services					P	P	P	P	P	P		P
Printing and lithography						P	P			P		P
Professional and business offices and services					P	P	P	P	P	P		P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	P	P	P	P	P	P	P	P	P	P	P	P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C	C	C	C	C	C	C	C	C	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	C	C	C	C	P	P	P	P	P	P	C	P
Public utility stations and substations, pumping stations, water and sewer	C	C	C	C	C	C	C	C	C	C	C	C

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
plants, water storage tanks (2 acres or greater in total footprint)												
Radio, TV and telecommunications towers	C			C		C	C	C	C	P		P
Recreation use, governmental	P	P	P	P	P	P	P	P	P	P	P	P
Recreation use, non-governmental	C	C	C	C	C	P	P	P	P	P	C	P
Repair services (electrical and appliances)					P	P	P			P		P
Restaurants, eating establishments and cafés					P	P	P	P	P	P		P
Retail trade, commercial services, sales and rental of merchandise and equipment (inside building with no outside sales storage)					P	P	P	C	P	P		P
Retail trade, commercial services, sales and rental of merchandise and equipment						P	P		P	P		P
Rooming house			C	P	P	P	P	P	P			P
Schools, public and private			C	C	C	P		P	P			P
Schools--Vocational, business and special schools						P	P	P	P	P		P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Shooting Ranges – Outdoor Commercial									C			C
Slaughtering Plants												C
Solid Waste Facilities – Landfills, Transfer Stations, Materials Recovery							C	C		C		C
Storage and warehousing						P	P	P	P	P		P
Theaters						P		P	P			P
Travel trailers (no more than 180 days per calendar year)				P				P	P			P
Travel trailer parks				C				SR	SR			SR
Vacation rentals	P	P	P	P	P	P	P	P	P		P	P
Vacation rental complex				C	C	C	C	C	C		C	C
Wholesale sales						P	P		C	P		P

BOARD BASIS FOR DECISION MAKING

The Board must determine if there is a reasonable basis for the requested change in light of its effect on all involved including the following considerations:

- The requested change does not directly or indirectly result in the creation of spot zoning
- Size of the tract in question
- Compatibility of the change with existing Comprehensive Land Use Plan
- Benefits and detriments resulting from the change for the owner of the newly zoned property, his neighbors, and the surrounding community
- Relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts

References: Good Neighbors of South Davidson v. Town of Denton, 355 N.C. 254, 559 S.E.2d 768 (2002); Chrismon v. Guilford County, 322 N.C. 611, 370 S.E.2d 579 (1988)

LAND USE PLAN CONSISTENCY STATEMENTS

The following consistency statements are provided to support the Board's findings to approve or deny an application.

Consistent:

The proposed map amendment is consistent with Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update*, specifically:

- Single-family development "Within Reasonable proximity to major transportation corridors" is "Suggested."
- Single-family development "Within Reasonable proximity to infrastructure (combined water / sewer service area)" is "Suggested."
- Single-family development "Outside of steep slope areas (25% +)" is "Suggested."
- Single-family development "Outside of high elevations (2500'+)" is "Suggested."
- Single-family development "Outside of flood hazard areas" is "Highly Suggested."
- Single-family development Outside of moderate and high slope stability hazards "Highly Suggested." [The slope hazard area within the revised rezoning area is *de minimis*.]
- The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it **does** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.

Therefore, the requested zoning would **be reasonable and in the public interest**.

Inconsistent:

The proposed map amendment is inconsistent with Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update*, specifically:

- Single-family development Outside of moderate and high slope stability hazards "Highly Suggested."
- The proposed map amendment would be detrimental to the owners, adjacent neighbors, and surrounding community as it **does not** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.

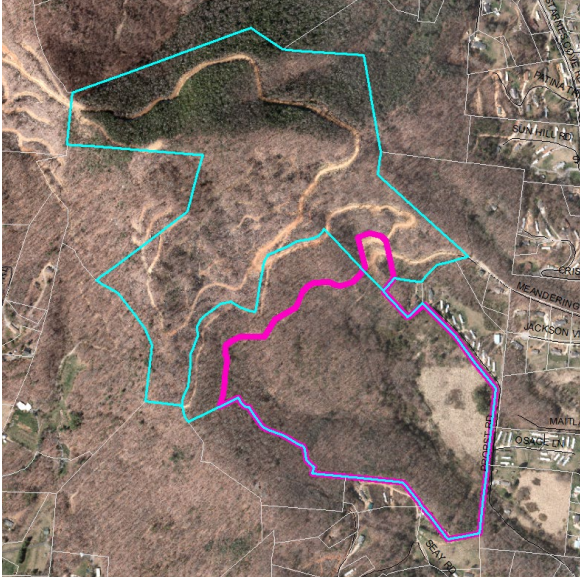
Therefore, the requested zoning **would not be reasonable and in the public interest**.



ZONING MAP AMENDMENT

STAFF ANALYSIS

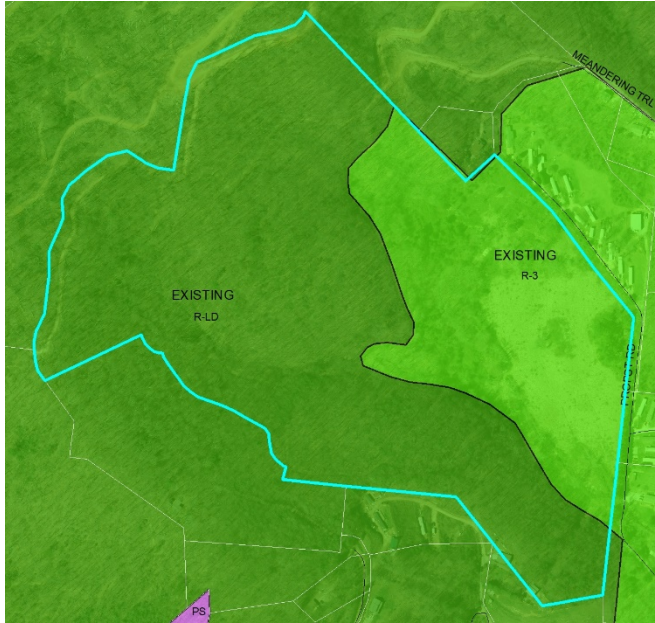
Legislative Hearing

<p style="text-align: center;">LOCATION MAP</p> 	<p>CASE NUMBER: ZPH2019-00027 <u>REVISED</u></p> <p>A. PROPERTY INFORMATION</p> <p>PIN(s): 9608-97-8911 & 9618-06-6464</p> <p>Addresses: Off Propst Road</p> <p>Owner(s): Freedom in Christ, Inc.</p> <p>B. REZONING REQUEST</p> <p>Applicant: Peter Radichshin</p> <p>Existing Zoning: R-LD Residential Low Density & R-3 Residential</p> <p>Proposed Zoning: R-3 Residential</p> <p>C. PUBLIC NOTICE</p> <p>PB Notice in AVL Citizen Times legal ad: 7/5/19 PB Notice mailed to owners within 1,000 ft: 7/3/19 PB Physical posting: 7/2/19 PB Notice on BC Website: 7/2/19 PB Hearing: 07/15/2019 BOC Notice in AVL Citizen Times legal ad: TBD BOC Notice mailed to owners within 1,000 ft: TBD BOC Physical posting: TBD BOC Notice on BC Website: TBD BOC Hearing: TBD</p>
D. RECOMMENDATION	
<p>APPROVAL (see Section K, below)</p>	
E. SUMMARY OF REQUEST	
<p>Peter Radichshin, on behalf of Freedom in Christ, Inc., requests to rezone <u>a portion of one (1) parcel</u> portions of two (2) parcels of land from R-LD Residential Low Density, to R-3 Residential.</p>	
F. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT	
<p>EXISTING ZONING DISTRICT:</p> <p><i>Residential Low Density (R-LD)</i> <i>Low-Density Residential District (R-LD).</i> The R-LD Low-Density Residential District is primarily intended to provide locations for low-density residential and related-type development in areas where topographic or other constraints preclude intense urban development. These areas are not likely to have public water and sewer services available, and the minimum required lot area will be one acre unless additional land area is required for adequate sewage disposal. These are environmentally sensitive areas that are characterized by one or more of the following conditions: Steep slopes, fragile soils, or flooding.</p>	<p>PROPOSED ZONING DISTRICT:</p> <p><i>Residential District (R-3).</i> The R-3 Residential District is primarily intended to provide locations for a variety of residential development depending upon the availability of public water and sewer services. Some areas within the R-3 Residential District will have no public water and sewer services available and will thus be suitable primarily for single-family residential units on individual lots and mobile homes on individual lots. Other areas within the district will have public water and/or sewer service available and will thus be suitable for higher density uses such as multifamily residential units, planned unit developments, and mobile home parks. The R-3 district also provides for various recreational, community service and educational uses that will complement the residential development.</p>

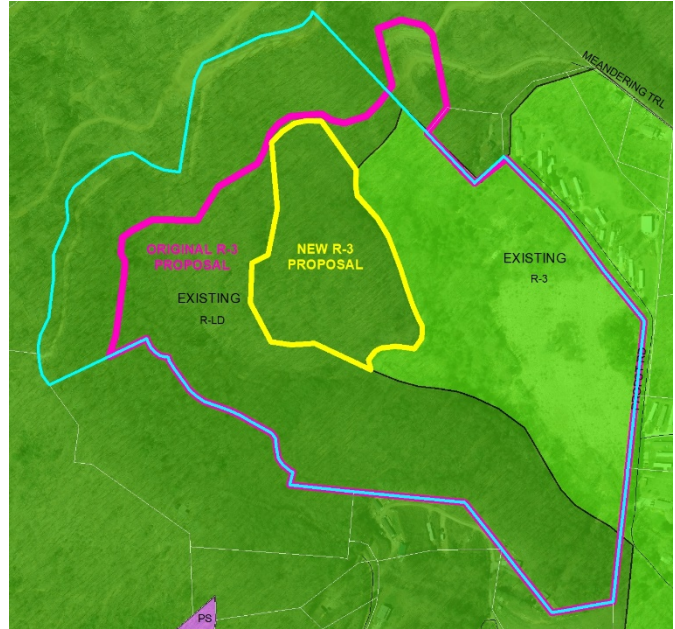
G. SPOT ZONING ANALYSIS

Staff has no concerns with spot zoning, given that the property is contiguous to existing R-1 zoning along the southern boundary.

EXISTING ZONING DISTRICT



PROPOSED ZONING DISTRICT



H. COMPREHENSIVE LAND USE PLAN CONSISTENCY (See Figure 20 on page 4)

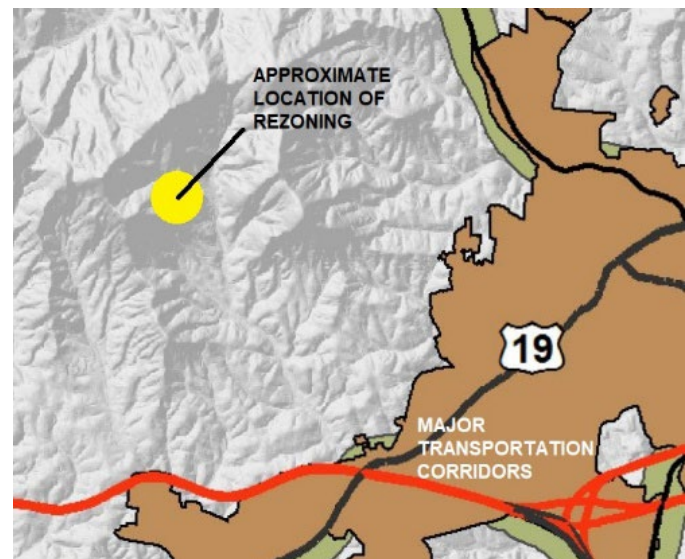
1. **LAND USE PLAN RECOMMENDATIONS:** The following is an analysis of the rezoning proposal in context of Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013:*

Within Reasonable proximity to major transportation corridors

Single-family development: "Suggested"

Multi-family development: "Highly Suggested"

Rezoning area is approximately 1.5 miles from major transportation corridors

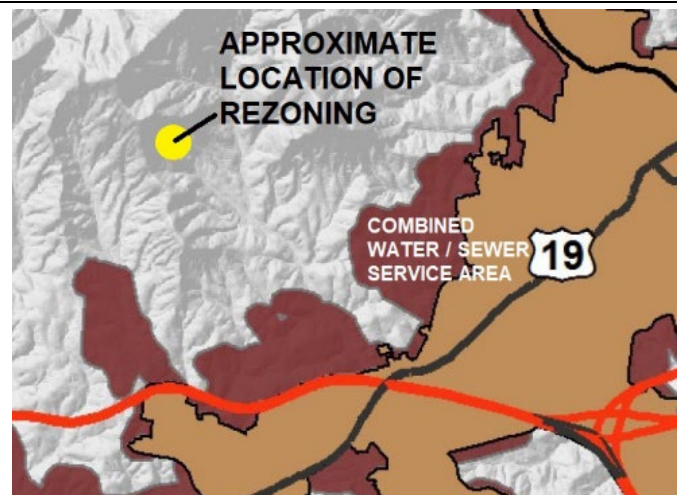


**Within Reasonable proximity to infrastructure
(combined water / sewer service area)**

Single-family development: "Suggested"

Multi-family development: "Highly Suggested"

The revised rezoning area is outside Combined
Water / Sewer Service Area



Outside of steep slope areas (25% +)

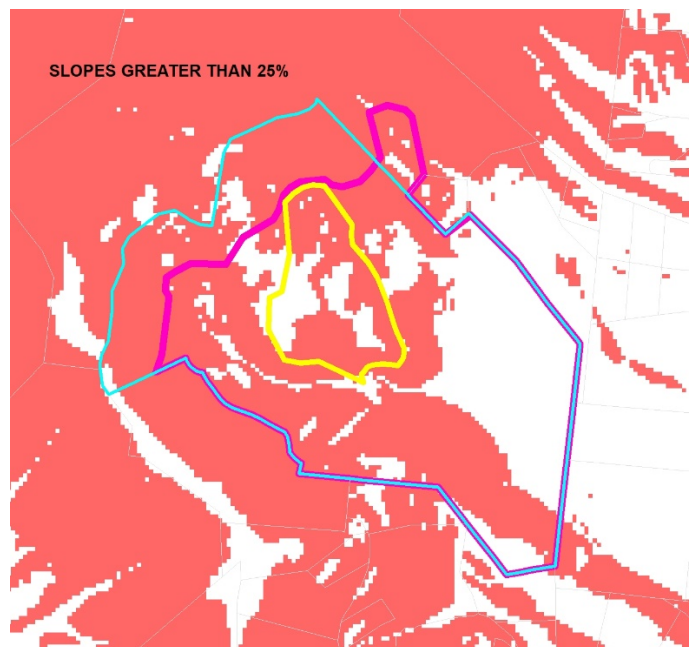
Single-family development: "Suggested"


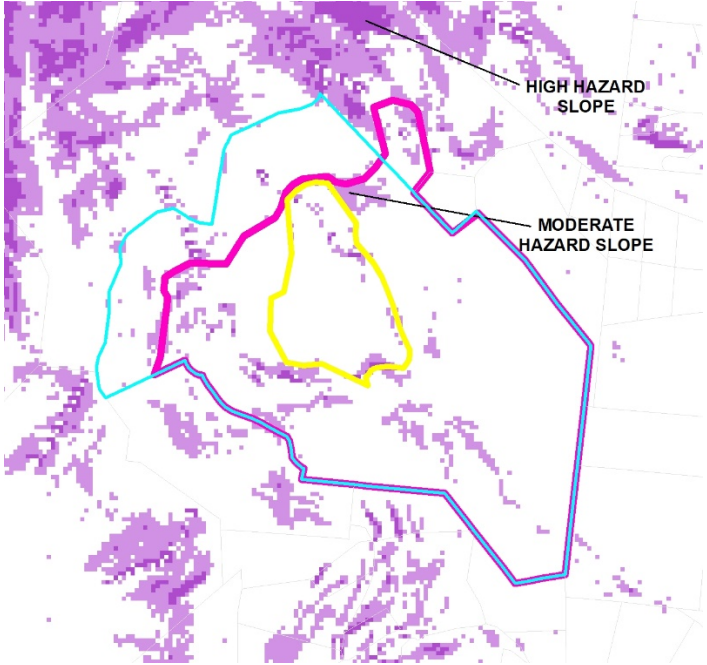
Multi-family development: "Suggested"

Approximately ½ of the rezoning area contains
slopes greater than 25%.

The revised zoning area is smaller and is situated
at a lower elevation than was the original rezoning
proposal. Potential impacts to steep slopes are
greatly reduced.

The current need to utilize private well and septic
systems will significantly limit the development
potential of the rezoning area.



<p>Outside of high elevations (2500' +)</p> <p>Single-family development: “Suggested”</p> <p>Multi-family development: “Suggested”</p> <p>Approximately ½ of the rezoning area is over 2,500' above sea level.</p> <p>The revised zoning area is smaller and is situated at a lower elevation than was the original rezoning proposal. Potential impacts to slopes above 2,500' are greatly reduced.</p> <p>The current need to utilize private well and septic systems will significantly limit the development potential of the rezoning area.</p>	
<p>Outside of moderate and high slope stability hazards</p> <p>Single-family development: “Highly Suggested”</p> <p>Multi-family development: “Highly Suggested”</p> <p>The revised zoning area is largely devoid of High and Moderate Hazard Slopes.</p> <p>The current need to utilize private well and septic systems will significantly limit the development potential of the rezoning area.</p>	
<p>2. CONSISTENT: The change is <u>consistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:</p>	<p>Location of single-family & Multi-family development is “Suggested” outside of steep slope areas (25% +).</p> <p>Location of single-family & Multi-family development is “Suggested” outside of high elevations (2500' +)</p> <p>Location of single-family & Multi-family development is “Highly Suggested” outside of moderate and high slope stability hazards.</p> <p>Location of single-family development is “Suggested” within reasonable proximity to major transportation corridors.</p>

	Location of single-family development is “Suggested” within reasonable proximity to infrastructure (combined water / sewer service area).
3. INCONSISTENT: The change is inconsistent with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:	<p>Location of multi-family development is “Highly Suggested” within reasonable proximity to major transportation corridors.</p> <p>Location of multi-family development is “Highly Suggested” within reasonable proximity to infrastructure (combined water / sewer service area).</p>

I. OTHER COMPATIBILITY

BC Strategic Priorities ¹:

Buncombe County lists Affordable Housing as one of its Strategic Priorities. The current R-LD zoning district limits all development to 1 acre minimum lot sizes. Rezoning the parcel to R-1 would allow lot sizes as small as 8,000 square feet for lots on public water and sewer, or 30,000 square feet for lots on septic systems. This could increase the number of lots available on the site, and potentially reduce allowable lot sizes, which may correlate to more affordable land prices. However, affordable housing opportunities on the site may be offset by the cost of construction in a steep slope environment and the absence of water and sewer infrastructure within reasonable proximity of the rezoning area.

¹ <https://www.buncombecounty.org/common/commissioners/strategic-priorities/Affordable-Housing.pdf>

J. NEIGHBORHOOD CONSISTENCY

1. CURRENT DEVELOPMENT TYPES:

The rezoning area is currently vacant. Adjacent and nearby land uses include single family residential homes, and vacant/undeveloped land in a medium-density development pattern.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from R-LD to R-3 zoning would continue to allow single family homes. The change would allow for the creation of multi-family residential and planned unit development projects by CUP, bed and breakfasts by right, vacation rental complexes by CUP, family care and group homes by right, and a range of other “light institutional” uses. See allowable use table, below.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

The change would reduce the minimum lot size from 1 acre, to 30,000 square feet for septic, or as low as 6,000 square feet for lots on public water and sewer.

	Existing District:	Proposed District:
	R-LD Residential	R-3 Residential
Minimum Lot Size	43,560 SF	30,000 (no public sewer) 10,000 (public sewer no public water) 6,000 (public water & sewer)
Max dwelling units per acre	2	12
Setbacks (Front/Side/Rear)	10/10/20	10/7/15 (Water/sewer) 20/10/10 (Septic)
Max height	35 feet	35 feet

4. NEIGHBORHOOD CONSISTENCY:

In terms of land use types, R-3 development patterns within the rezoning area would be consistent with the neighborhood character of the adjacent R-3 zoned area located east of the subject property.

In terms of density and lot sizes, R-3 zoning would be inconsistent with development patterns north and west of the subject property, within the R-LD district in which the subject property is currently located. However, the revised proposed rezoning is greatly reduced in size and is situated at a lower elevation, as compared to the original proposal, and future development enabled by the proposed rezoning would be isolated from R-LD land uses located north & west of the subject property.

K. STAFF RECOMMENDATION COMMENTS:

The revised rezoning area contains areas of slope greater than 25% and elevations greater than 2,500'. However, the revised proposed rezoning is greatly reduced in size and is situated at a lower elevation, as compared to the original proposal, and future development enabled by the proposed rezoning would be isolated from R-LD land uses located north & west of the subject property.

The revised rezoning area represents a good-faith effort on the part of the applicant to respond to Staff & the Planning Board's concerns with respect to the original proposal.

Staff recommends approval of the revised, proposed rezoning area as presented.

COMPARISON OF ALLOWABLE USES

Sec. 78-641. - Permitted uses.

(a) *Permitted use table.* Uses are permitted in the various zoning districts pursuant to Table 1.

P = Permitted

C = Allowed as Conditional Use

SR = Permitted with Special Requirements

Blank Space = Not Permitted

Table 1—Permitted Use Table

Uses	R-LD	R-3
Single-family residential dwelling, including modular	P	P
Two residential dwelling units (attached or detached)	P	P

Uses	R-LD	R-3
Community oriented developments		P
Multifamily residential dwelling units (no more than eight units in no more than four buildings)		P
HUD-labeled manufactured homes—Residential	P	P
Manufactured home parks (8 units or fewer)		P
Manufactured home parks (more than 8 units)		C
Planned unit developments, residential or mixed use		C
Planned unit developments, commercial		
Subdivisions	P	P
Subdivisions, alternative path hillside development	P	P
Subdivisions, conservation development	P	P
Accessory buildings	P	P
Adult entertainment establishments		
Airports		
Amusement parks		
Animal hospitals and veterinarian clinics		
Asphalt plants		
Aviation-related services and facilities		
Banks and other financial institutions		
Bed and breakfast inns (10 occupants or less)	SR	P
Bed and breakfast inns (more than 10 occupants)	C	P
Cargo/freight terminals, operations and activities		
Cemetery	P	P
Chip mills		
Clubs or lodges		P
Concrete plants		
Day nursery and private kindergarten (up to 8 students)	SR	SR
Day nursery and private kindergarten (more than 8 students)		C
Family care home	P	P
Funeral homes		
Government protective services		P
Greenhouses, commercial (nursery, lawn and garden products)		
Group homes		P
Hazardous waste facilities		
Health care facilities		C
Home occupations	P	P
Hotels and motels		

Uses	R-LD	R-3
Incinerators		
Junkyards		
Kennels		C
Laundry and dry cleaning services		
Libraries		P
Manufacturing and processing operations		
Medical clinics		C
Mining and extraction operations		
Motor sport facilities		
Motor vehicles impoundment lot or tow yard		
Motor vehicles maintenance and repair		
Motor vehicles sales and rental		
Motor vehicles service stations (fueling stations)		
National guard and reserve armories		
Nightclubs, bars and pubs		
Personal landing strips		C
Physical fitness centers		C
Places of worship	P	P
Postal and parcel delivery services		
Printing and lithography		
Professional and business offices and services		
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	P	P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C
Radio, TV and telecommunications towers	C	C
Recreation use, governmental	P	P
Recreation use, non-governmental	C	C
Repair services (electrical and appliances)		
Restaurants, eating establishments and cafés		
Retail trade, commercial services, sales and rental of merchandise and equipment (inside building with no outside sales storage)		
Retail trade, commercial services, sales and rental of merchandise and equipment		

Uses	R-LD	R-3
Rooming house		P
Schools, public and private		C
Schools—Vocational, business and special schools		
Shooting ranges—Outdoor Commercial		
Slaughtering plants		
Solid waste facilities—Landfills, transfer stations, materials recovery		
Storage and warehousing		
Theaters		
Travel trailers (no more than 180 days per calendar year)		P
Travel trailer parks		C
Vacation rentals	P	P
Vacation rental complex		C
Wholesale sales		

BOARD BASIS FOR DECISION MAKING

The Board must determine if there is a reasonable basis for the requested change in light of its effect on all involved including the following considerations:

- The requested change does not directly or indirectly result in the creation of spot zoning
- Size of the tract in question
- Compatibility of the change with existing Comprehensive Land Use Plan
- Benefits and detriments resulting from the change for the owner of the newly zoned property, his neighbors, and the surrounding community
- Relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts

References: *Good Neighbors of South Davidson v. Town of Denton*, 355 N.C. 254, 559 S.E.2d 768 (2002); *Chrismon v. Guilford County*, 322 N.C. 611, 370 S.E.2d 579 (1988)

LAND USE PLAN CONSISTENCY STATEMENTS

The following consistency statements are provided to support the Board's findings to approve or deny an application.

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, specifically:

- Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update* lists single-family / duplex residential development as "suggested" when separated from low-density residential uses; and "highly suggested" outside of flood hazard areas.
- Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update* lists multi-family development as "suggested" when separated from low-density residential uses and outside of flood hazard areas.
- The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it does meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.
- 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, specifically:

- Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update* lists single-family / duplex residential development as "suggested" within reasonable proximity to major transportation corridors, within the combined water / sewer service area, and outside of steep slope areas; and "highly suggested" outside of moderate / high slope stability hazard areas.
- Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update* lists multi-family development as "suggested" when outside of steep slope areas and areas of high elevations; and "highly suggested" when within reasonable proximity to major transportation corridors, within the combined water / sewer service area, and outside of moderate / high slope stability hazard areas.

- The proposed map amendment would be detrimental to the owners, adjacent neighbors, and surrounding community as it **does not** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.
- Therefore, the requested zoning **would not be reasonable and in the public interest.**



BUNCOMBE COUNTY
NORTH CAROLINA
PLANNING & DEVELOPMENT
 (828) 250-4830 - PlanningInfo@BuncombeCounty.org
 www.buncombecounty.org/planning

ZONING MAP AMENDMENT

STAFF ANALYSIS

Legislative Hearing

<p style="text-align: center;">LOCATION MAP</p>	<p>CASE NUMBER: ZPH2019-00029</p> <p>A. PROPERTY INFORMATION</p> <p>PIN(s): 963476027100000 & 963465988200000</p> <p>Addresses: 569 & 571 Long Shoals Road, Arden</p> <p>Owner(s): GARY S & LOIS INGLE MCDONALD</p> <p>B. REZONING REQUEST</p> <p>Applicant: McDonald, Lois I., Gary S., Ila V., Janet T., & Sharon L.</p> <p>Existing Zoning: R-2 Residential</p> <p>Proposed Zoning: NS Neighborhood Service</p> <p>C. PUBLIC NOTICE</p> <p>PB Notice in AVL Citizen Times legal ad: 7/5/19 PB Notice mailed to owners within 1,000 ft: 7/3/19 PB Physical posting: 7/2/19 PB Notice on BC Website: 7/2/19 PB Hearing: 07/15/2019 BOC Notice in AVL Citizen Times legal ad: TBD BOC Notice mailed to owners within 1,000 ft: TBD BOC Physical posting: TBD BOC Notice on BC Website: TBD BOC Hearing: TBD</p>
<p>NOTE TO THE BOARD: N/A</p>	

D. STAFF RECOMMENDATION

APPROVAL (see Section K, below)

E. SUMMARY OF REQUEST

ZPH2019-00029: McDonald, Lois I., Gary S., Ila V., Janet T., and Sharon L., have applied to rezone two (2) parcels of land identified as tax lot PINs 9634-76-0271 and 9634-65-9882 (569 and 571 Long Shoals Rd) which are currently zoned R-2 Residential to NS-Neighborhood Service.

F. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT

EXISTING ZONING DISTRICT:

Residential District (R-2)

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. These areas will usually be adjacent to R-1 Residential Districts, will provide suitable areas for residential subdivisions requiring public water and sewer services, and in order to help maintain the present character of R-1 districts, will not allow manufactured home parks.

PROPOSED ZONING DISTRICT:

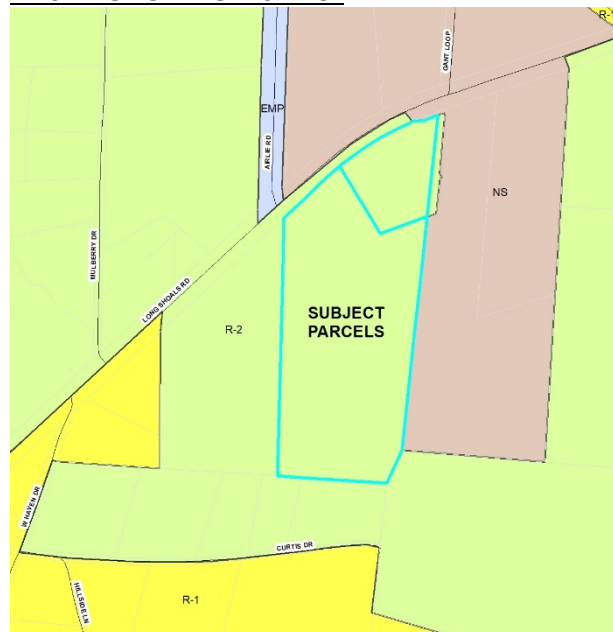
Neighborhood Service District (NS)

The NS Neighborhood Service District is primarily intended to provide suitable locations for limited, neighborhood-oriented, commercial, business, and service activities in close proximity to major residential neighborhoods. The NS Neighborhood Service District is designed to allow for a mix of residential, commercial, business and service uses in limited areas along major traffic arteries and at key intersections leading to residential neighborhoods in order to provide such service to the residents of that particular neighborhood. As such, the type of uses allowed and the standards established for development in this NS neighborhood service district should be compatible with the residential character of the area and should neither add to traffic congestion; nor cause obnoxious noise, dust, odors, fire hazards, or lighting objectionable to surrounding residences; nor should they visually detract from the overall appearance of the neighborhood. The NS Neighborhood Service District should currently have water and sewer services or be expected to have such services in the foreseeable future.

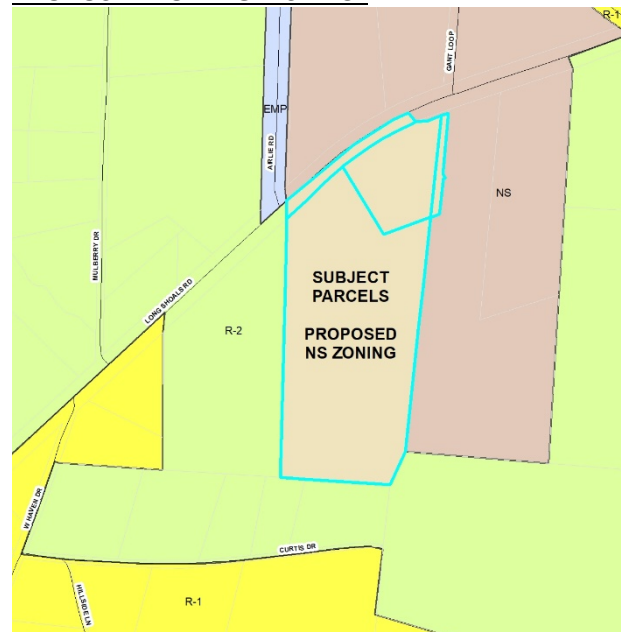
G. SPOT ZONING ANALYSIS

Staff has no concerns with spot zoning, given that the property is contiguous to existing NS zoning along the southern boundary.

EXISTING ZONING DISTRICT

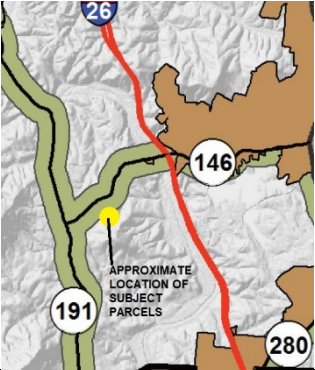
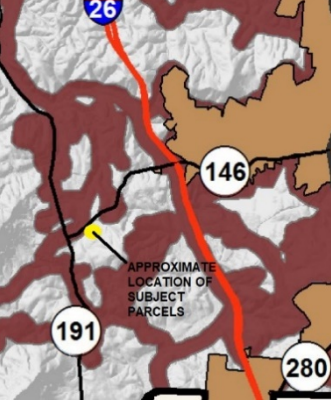


PROPOSED ZONING DISTRICT



H. COMPREHENSIVE LAND USE PLAN CONSISTENCY (See Figure 20 on page 4)

1. LAND USE PLAN RECOMMENDATIONS: The following is an analysis of the rezoning proposal in context of Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update:*

<p>Within Reasonable proximity to major transportation corridors</p> <p>Neighborhood-Scale Commercial: “Suggested”</p> <p>The subject parcels are adjacent to adjacent to a major transportation corridors</p>	
<p>Within Reasonable proximity to infrastructure (combined water / sewer service area)</p> <p>Neighborhood-Scale Commercial: “Suggested”</p> <p>The subject parcels are within the Combined Water / Sewer Service Area.</p> <p>Water & sewer services are adjacent & / or proximate to the subject parcels.</p>	
<p>Outside of steep slope areas (25% +)</p> <p>Neighborhood-Scale Commercial: “Highly Suggested”</p>	<p>The subject parcels are located completely outside of the Steep Slope Overlay District (slopes greater than 35%), and steep slopes greater than 25%.</p>
<p>Outside of high elevations (2500' +)</p> <p>Neighborhood-Scale Commercial: “Highly Suggested”</p>	<p>The subject parcels are located completely outside of areas of elevation 2,500' or greater.</p>
<p>Outside of moderate and high slope stability hazards</p>	<p>The subject parcels are located completely outside of areas of moderate and high slope stability hazards.</p>

Neighborhood-Scale Commercial: “Highly Suggested”	
Outside of flood hazard areas Neighborhood-Scale Commercial: “Suggested”	The subject parcels are completely outside of any Special Flood Hazard Area.
Separation from low-density residential uses Neighborhood-Scale Commercial: “Suggested”	The subject parcels abut low-density development on the west and south sides thereof.
2. CONSISTENT: The change is <u>consistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:	<p>Within Reasonable proximity to major transportation corridors “Suggested.”</p> <p>Within Reasonable proximity to infrastructure (combined water / sewer service area) “Suggested.”</p> <p>Outside of steep slope areas (25% +) “Highly Suggested.”</p> <p>Outside of high elevations (2500’ +) “Highly Suggested.”</p> <p>Outside of moderate and high slope stability hazards “Highly Suggested.”</p> <p>Outside of flood hazard areas “Suggested.”</p>
3. INCONSISTENT: The change is <u>inconsistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:	Separation from low-density residential uses “Suggested.” [The subject parcels abut low-density development on the west and south sides thereof.]

I. OTHER COMPATIBILITY

BC Strategic Priorities ¹:

Buncombe County lists Affordable Housing as one of its Strategic Priorities. The current R-2 zoning district limits all development to 30,000 square foot minimum lot sizes. Rezoning the parcel to NS would allow lot sizes as small as 5,000 square feet for lots on public water and sewer, and would permit a broad range of multi-family options.

¹ <https://www.buncombecounty.org/common/commissioners/strategic-priorities/Affordable-Housing.pdf>

J. NEIGHBORHOOD CONSISTENCY

1. CURRENT DEVELOPMENT TYPES:

The subject properties contain one, non-residential business. Adjacent and nearby land uses include single family residential homes, and vacant/undeveloped land to the south and west, and commercial uses to the east.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from R-2 to NS zoning would continue to allow single family and duplex development while also allowing a broad range of multi-family and light commercial uses. See the allowable use table, below.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

See below for district comparison:

	Existing District:	Proposed District:
	R-2 Residential	NS Neighborhood Service
Minimum Lot Size	30,000 SF well & septic 10,000 SF public water / septic 6,000 SF public water & sewer	30,000 SF well & septic 10,000 SF public water / septic 5,000 SF public water & sewer
Max dwelling units per acre	12	12
Setbacks (Front/Side/Rear)	20/10/20 well & septic 10/7/15 public water & sewer	20/10/20 well & septic 10/7/15 public water & sewer
Max height	35 feet	35 feet

4. NEIGHBORHOOD CONSISTENCY:

NS allowances for residential development are very similar to those of R-2. However, NS allows a broad range of nonresidential uses that are not currently permissible in R-2. However, there are a number of nonresidential uses adjacent to, and in close proximity to, the subject parcels. The rezoning would constitute a substantial addition to an existing cluster of nonresidential uses and NS zoning at the intersection of Long Shoals Road, Morris Road, and Spring Valley Drive.

K. STAFF RECOMMENDATION COMMENTS:

Staff recommends approval as presented.

Sec. 78-641. Permitted uses.

(a) *Permitted use table.* Uses are permitted in the various zoning districts pursuant to Table 1.

Table 1 – Permitted Use Table												
Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	P		P	P
Two residential dwelling units (attached or detached)	P	P	P	P	P	P	P	P	P			P
Community oriented developments		P	P	P	P	P	P	P	P			
Multifamily residential dwelling units (no more than eight units in no more than four buildings)			P	P	P	P	P	P	P			P
HUD-labeled manufactured homes-Residential	P			P			P					P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Manufactured home parks (8 units or fewer)				P								P
Manufactured home parks (more than 8 units)				C								P
Planned unit developments, level I		C	C	C	C	C	C	C	C			C
Planned unit developments, level II						C	C	C	C	C		C
Subdivisions	P	P	P	P	P	P	P	P	P	P	P	P
Subdivisions, alternative path hillside development	P	P	P	P	P	P	P	P	P			P
Subdivisions, conservation development	P	P	P	P	P	P	P	P	P			P
Accessory buildings	P	P	P	P	P	P	P	P	P	P	P	P
Adult Entertainment Establishments						C	C					C
Airports										C		
Amusement Parks						C	C	C	C			C
Animal hospitals and veterinarian clinics					P	P	P			P		P
Asphalt Plants							C					C
Aviation-related services and facilities										P		
Banks and other financial institutions					P	P	P	P	P	P		P
Bed and breakfast inns (10 occupants or	SR		SR	P	P	P	P	P	P			P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
less)												
Bed and breakfast inns (more than 10 occupants)	C		C	P	P	P	P	P	P			P
Cargo/freight terminals, operations and activities						P	P			P		P
Cemetery	P		P	P		P		P	P			P
Chip Mills												C
Places of worship Church	P	P	P	P	P	P	P	P	P		P	P
Clubs or lodges				P	P	P	P	P	P	P		P
Concrete Plants							C					C
Day nursery and private kindergarten (up to 8 students)	SR	SR	SR	SR	P	P	P	P	P	P		P
Day nursery and private kindergarten (more than 8 students)			C	C	P	P	P	P	P	P		P
Family care home	P	P	P	P				P	P		P	P
Funeral homes						P	P	P	P			P
Government protective services			P	P	P	P	P	P	P	P		P
Greenhouses, commercial (nursery, lawn and garden products)					P	P	P	P	P	P		P
Group homes			C	P	P	P	P	P	P			P
Hazardous Waste Facilities												C

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Health care facilities			C	C		P	P	P	P			P
Home occupations	P	P	P	P	P	P	P	P	P		P	P
Hotels and motels						P	P	P	P	P		P
Incinerators											15:23:40	C
Junkyards							C					
Kennels				C	P	P	P			P		P
Laundry and dry cleaning services					P	P	P	P	P	P		P
Libraries			P	P	P	P	P	P	P			P
Manufacturing and processing operations						P	P			P		P
Medical Clinics				C	P	P	P	P	P	P		P
Mining and Extraction Operations							C					C
Motor Sport Facilities												C
Motor vehicles maintenance and repair					C	P	P	P	P	P		P
Motor vehicles impoundment lot or tow yard						SR	SR	SR				SR
Motor vehicles sales and rental						P	P			P		P
Motor vehicles service stations (fueling stations)					P	P	P	P	P	P		P
National Guard and Reserve Armories						P	P	P		P		P
Nightclubs, bars and					P	P	P		P	P		P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
pubs												
Personal Landing Strips				C		C	C	C	C	C		C
Physical fitness centers				C	P	P	P	P	P	P		P
Postal and parcel delivery services					P	P	P	P	P	P		P
Printing and lithography						P	P			P		P
Professional and business offices and services					P	P	P	P	P	P		P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	P	P	P	P	P	P	P	P	P	P	P	P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C	C	C	C	C	C	C	C	C	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	C	C	C	C	P	P	P	P	P	P	C	P
Public utility stations and substations, pumping stations, water and sewer	C	C	C	C	C	C	C	C	C	C	C	C

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
plants, water storage tanks (2 acres or greater in total footprint)												
Radio, TV and telecommunications towers	C			C		C	C	C	C	P		P
Recreation use, governmental	P	P	P	P	P	P	P	P	P	P	P	P
Recreation use, non-governmental	C	C	C	C	C	P	P	P	P	P	C	P
Repair services (electrical and appliances)					P	P	P			P		P
Restaurants, eating establishments and cafés					P	P	P	P	P	P		P
Retail trade, commercial services, sales and rental of merchandise and equipment (inside building with no outside sales storage)					P	P	P	C	P	P		P
Retail trade, commercial services, sales and rental of merchandise and equipment						P	P		P	P		P
Rooming house			C	P	P	P	P	P	P			P
Schools, public and private			C	C	C	P		P	P			P
Schools--Vocational, business and special schools						P	P	P	P	P		P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Shooting Ranges – Outdoor Commercial									C			C
Slaughtering Plants												C
Solid Waste Facilities – Landfills, Transfer Stations, Materials Recovery							C	C		C		C
Storage and warehousing						P	P	P	P	P		P
Theaters						P		P	P			P
Travel trailers (no more than 180 days per calendar year)				P				P	P			P
Travel trailer parks				C				SR	SR			SR
Vacation rentals	P	P	P	P	P	P	P	P	P		P	P
Vacation rental complex				C	C	C	C	C	C		C	C
Wholesale sales						P	P		C	P		P

BOARD BASIS FOR DECISION MAKING

The Board must determine if there is a reasonable basis for the requested change in light of its effect on all involved including the following considerations:

- The requested change does not directly or indirectly result in the creation of spot zoning
- Size of the tract in question
- Compatibility of the change with existing Comprehensive Land Use Plan
- Benefits and detriments resulting from the change for the owner of the newly zoned property, his neighbors, and the surrounding community
- Relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts

References: Good Neighbors of South Davidson v. Town of Denton, 355 N.C. 254, 559 S.E.2d 768 (2002); Chrismon v. Guilford County, 322 N.C. 611, 370 S.E.2d 579 (1988)

LAND USE PLAN CONSISTENCY STATEMENTS

The following consistency statements are provided to support the Board's findings to approve or deny an application.

Consistent:

The proposed map amendment is consistent with Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update*, specifically:

- Neighborhood-Scale Commercial is "Suggested" within reasonable proximity to major transportation corridors.
- Neighborhood-Scale Commercial is "Suggested" reasonable proximity to infrastructure (combined water / sewer service area).
- Neighborhood-Scale Commercial is "Highly Suggested" outside of steep slope areas (25% +).
- Neighborhood-Scale Commercial is "Highly Suggested" outside of high elevations (2500' +).
- Neighborhood-Scale Commercial is "Highly Suggested" outside of moderate and high slope stability hazards.
- Neighborhood-Scale Commercial is "Suggested" outside of flood hazard areas.
- The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it **does** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.

Therefore, the requested zoning would **be reasonable and in the public interest**.

Inconsistent:

The proposed map amendment is inconsistent with Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update*, specifically:

- Neighborhood-Scale Commercial separation from low-density residential uses is "Suggested."
- The proposed map amendment would be detrimental to the owners, adjacent neighbors, and surrounding community as it **does not** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.

Therefore, the requested zoning **would not be reasonable and in the public interest.**



ZONING MAP AMENDMENT

STAFF ANALYSIS

Legislative Hearing

LOCATION MAP															
	<p>CASE NUMBER: ZPH2019-00031</p> <tr> <td colspan="2" style="background-color: black; color: white; padding: 2px;">A. PROPERTY INFORMATION</td> </tr> <tr> <td colspan="2" style="padding: 2px;"> PIN(s): 963446535600000 & 963446634600000 Addresses: 1854 Brevard Road Owner(s): Glen Higgins </td> </tr> <tr> <td colspan="2" style="background-color: black; color: white; padding: 2px;">B. REZONING REQUEST</td> </tr> <tr> <td colspan="2" style="padding: 2px;"> Applicant: Rebecca Regal, Novellife LLC Existing Zoning: R-2 Residential Proposed Zoning: EMP Employment </td> </tr> <tr> <td colspan="2" style="background-color: black; color: white; padding: 2px;">C. PUBLIC NOTICE</td> </tr> <tr> <td colspan="2" style="padding: 2px;"> PB Notice in AVL Citizen Times legal ad: 7/5/19 PB Notice mailed to owners within 1,000 ft: 7/3/19 PB Physical posting: 7/2/19 PB Notice on BC Website: 7/2/19 PB Hearing: 07/15/2019 BOC Notice in AVL Citizen Times legal ad: TBD BOC Notice mailed to owners within 1,000 ft: TBD BOC Physical posting: TBD BOC Notice on BC Website: TBD BOC Hearing: TBD </td> </tr> <tr> <td colspan="2" style="background-color: #f2f2f2; padding: 5px;"> NOTE TO THE BOARD: N/A </td> </tr>	A. PROPERTY INFORMATION		PIN(s): 963446535600000 & 963446634600000 Addresses: 1854 Brevard Road Owner(s): Glen Higgins		B. REZONING REQUEST		Applicant: Rebecca Regal, Novellife LLC Existing Zoning: R-2 Residential Proposed Zoning: EMP Employment		C. PUBLIC NOTICE		PB Notice in AVL Citizen Times legal ad: 7/5/19 PB Notice mailed to owners within 1,000 ft: 7/3/19 PB Physical posting: 7/2/19 PB Notice on BC Website: 7/2/19 PB Hearing: 07/15/2019 BOC Notice in AVL Citizen Times legal ad: TBD BOC Notice mailed to owners within 1,000 ft: TBD BOC Physical posting: TBD BOC Notice on BC Website: TBD BOC Hearing: TBD		NOTE TO THE BOARD: N/A	
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NOTE TO THE BOARD: N/A															

D. STAFF RECOMMENDATION

APPROVAL (see Section K, below)

E. SUMMARY OF REQUEST

ZPH2019-00031: Applicant requests rezoning of two parcels from R-2 to EMP.

F. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT

EXISTING ZONING DISTRICT:

Sec. 78-640 (c) Residential District (R-2)

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. These areas will usually be adjacent to R-1 Residential Districts, will provide suitable areas for residential subdivisions requiring public water and sewer services, and in order to help maintain the present character of R-1 districts, will not allow manufactured home parks.

PROPOSED ZONING DISTRICT:

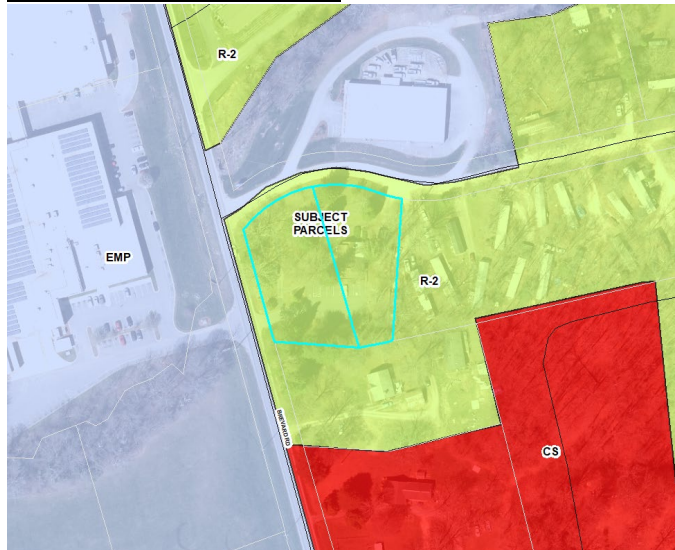
Sec. 78-640 (g) Employment District (EMP)

The EMP Employment District is primarily intended to provide appropriately located sites for employment concentrations primarily for office uses, industrial uses, storage and warehousing, and wholesale trade. Such locations should currently have public water and sewer services available or be expected to have these services in the future. Only those manufacturing uses will be allowed which meet all local, state and federal environmental standards, and do not involve obnoxious noise, vibrations, smoke, gas, fumes, odor, dust, fire hazards, or other objectionable conditions which would be detrimental to the health, safety, and general welfare of the community. These areas will also include sites suitable for supportive activities such as community service, commercial service, and residential uses.

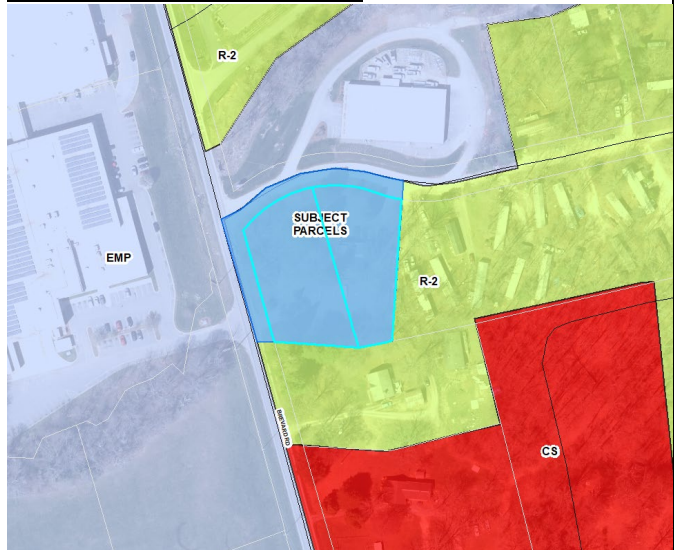
G. SPOT ZONING ANALYSIS

Staff has no concerns with spot zoning, given that the property is contiguous to existing NS zoning along the southern boundary.

EXISTING ZONING DISTRICT

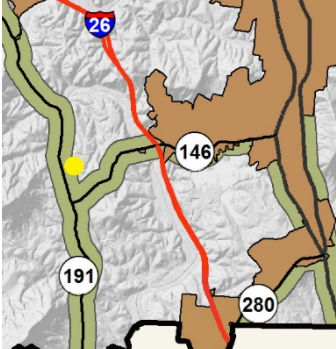
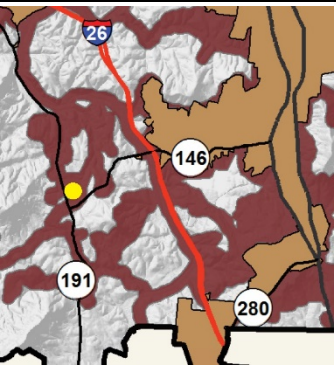


PROPOSED ZONING DISTRICT



H. COMPREHENSIVE LAND USE PLAN CONSISTENCY (See Figure 20 on page 4)

1. LAND USE PLAN RECOMMENDATIONS: The following is an analysis of the rezoning proposal in context of Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update:*

<p>Within Reasonable proximity to major transportation corridors</p> <p>Intense Commercial: “Highly Suggested”</p> <p>Manufacturing: “Highly Suggested”</p> <p>The subject parcels are adjacent to adjacent to a major transportation corridors</p>	
<p>Within Reasonable proximity to infrastructure (combined water / sewer service area)</p> <p>Intense Commercial: “Highly Suggested”</p> <p>Manufacturing: “Highly Suggested”</p> <p>The subject parcels are within the Combined Water / Sewer Service Area.</p> <p>Water & sewer services are adjacent & / or proximate to the subject parcels.</p>	
<p>Outside of steep slope areas (25% +)</p> <p>Intense Commercial: “Highly Suggested”</p> <p>Manufacturing: “Highly Suggested”</p>	<p>The subject parcels are located completely outside of the Steep Slope Overlay District (slopes greater than 35%), and steep slopes greater than 25%.</p>
<p>Outside of high elevations (2500' +)</p> <p>Intense Commercial: “Highly Suggested”</p> <p>Manufacturing: “Highly Suggested”</p>	<p>The subject parcels are located completely outside of areas of elevation 2,500' or greater.</p>
<p>Outside of moderate and high slope stability hazards</p> <p>Intense Commercial: “Highly Suggested”</p> <p>Manufacturing: “Highly Suggested”</p>	<p>The subject parcels are located completely outside of areas of moderate and high slope stability hazards.</p>
<p>Outside of flood hazard areas</p> <p>Intense Commercial: “Suggested”</p> <p>Manufacturing: “Suggested”</p>	<p>The subject parcels are completely outside of any Special Flood Hazard Area.</p>

Separation from low-density residential uses Intense Commercial: “Highly Suggested” Manufacturing: “Suggested”	The subject parcels abut medium and high-density zoning and land uses to the south and east.
2. CONSISTENT: The change is <u>consistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:	<p>Intense Commercial and Manufacturing land uses...</p> <p>“Within Reasonable proximity to major transportation corridors” is “Highly Suggested” [<i>The subject parcels are adjacent to adjacent to a major transportation corridors</i>].</p> <p>“Within Reasonable proximity to infrastructure (combined water / sewer service area)” is “Highly Suggested” [<i>The subject parcels are within the Combined Water / Sewer Service Area</i>].</p> <p>“Outside of steep slope areas (25% +)” is “Highly Suggested” [<i>The subject parcels are located completely outside of the Steep Slope Overlay District (slopes greater than 35%), and steep slopes greater than 25%</i>].</p> <p>“Outside of high elevations (2500’ +)” is “Highly Suggested” [<i>The subject parcels are located completely outside of areas of elevation 2,500’ or greater</i>].</p> <p>“Outside of moderate and high slope stability hazards” is “Highly Suggested” [<i>The subject parcels are located completely outside of areas of moderate and high slope stability hazards</i>].</p> <p>“Outside of flood hazard areas” is “Suggested” [<i>The subject parcels are completely outside of any Special Flood Hazard Area</i>].</p> <p>“[Separated] from low-density residential uses” is “Highly Suggested” [Intense Commercial]; and “Suggested” [Manufacturing] [<i>The subject parcels abut medium and high-density zoning and land uses to the south and east</i>].</p>
3. INCONSISTENT: The change is <u>inconsistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update as outlined below:	Not Applicable.

I. OTHER COMPATIBILITY

BC Strategic Priorities:

Not Applicable.

J. NEIGHBORHOOD CONSISTENCY

1. CURRENT DEVELOPMENT TYPES:

The subject properties contain one, single-family residential structure. Adjacent and nearby land uses include single family residential homes, apartments, and commercial / industrial land uses.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

Rezoning the parcels from R-2 to EM zoning would continue to allow single family, duplex, and multi-family development while also allowing a broad range of intense commercial and manufacturing land uses. See the allowable use table, below.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

See below for district comparison:

	Existing District:	Proposed District:
	R-2 Residential	NS Neighborhood Service
Minimum Lot Size	30,000 SF well & septic 10,000 SF public water / septic 6,000 SF public water & sewer	30,000 SF well & septic 10,000 SF public water / septic 5,000 SF public water & sewer
Max dwelling units per acre	12	12
Setbacks (Front/Side/Rear)	20/10/20 well & septic 10/7/15 public water & sewer	20/10/20 well & septic 10/7/15 public water & sewer
Max height	35 feet	90 feet

4. NEIGHBORHOOD CONSISTENCY:

The subject parcels are located at a distinct transition point between medium / high-density residential uses, and commercial / industrial uses. The proposed rezoning would continue the ongoing evolution of the immediate area from a residential area to one dominated by commercial / industrial land uses.

K. STAFF RECOMMENDATION COMMENTS:

Staff recommends approval as presented.

BOARD BASIS FOR DECISION MAKING

The Board must determine if there is a reasonable basis for the requested change in light of its effect on all involved including the following considerations:

- The requested change does not directly or indirectly result in the creation of spot zoning
- Size of the tract in question
- Compatibility of the change with existing Comprehensive Land Use Plan
- Benefits and detriments resulting from the change for the owner of the newly zoned property, his neighbors, and the surrounding community
- Relationship between the uses envisioned under the new zoning and the uses currently present in adjacent tracts

References: *Good Neighbors of South Davidson v. Town of Denton*, 355 N.C. 254, 559 S.E.2d 768 (2002); *Chrismon v. Guilford County*, 322 N.C. 611, 370 S.E.2d 579 (1988)

LAND USE PLAN CONSISTENCY STATEMENTS

The following consistency statements are provided to support the Board's findings to approve or deny an application.

Consistent:

The proposed map amendment is consistent with Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update*, specifically:

- Intense Commercial and Manufacturing land uses "Within Reasonable proximity to major transportation corridors" is "Highly Suggested" [*The subject parcels are adjacent to adjacent to a major transportation corridors*].
- Intense Commercial and Manufacturing land uses "Within Reasonable proximity to infrastructure (combined water / sewer service area)" is "Highly Suggested" [*The subject parcels are within the Combined Water / Sewer Service Area*].
- Intense Commercial and Manufacturing land uses "Outside of steep slope areas (25% +)" is "Highly Suggested" [*The subject parcels are located completely outside of the Steep Slope Overlay District (slopes greater than 35%), and steep slopes greater than 25%*].
- Intense Commercial and Manufacturing land uses "Outside of high elevations (2500' +)" is "Highly Suggested" [*The subject parcels are located completely outside of areas of elevation 2,500' or greater*].
- Intense Commercial and Manufacturing land uses "Outside of moderate and high slope stability hazards" is "Highly Suggested" [*The subject parcels are located completely outside of areas of moderate and high slope stability hazards*].
- Intense Commercial and Manufacturing land uses "Outside of flood hazard areas" is "Suggested" [*The subject parcels are completely outside of any Special Flood Hazard Area*].
- Intense Commercial land uses "[Separated] from low-density residential uses" is "Highly Suggested"; and Manufacturing land uses "[Separated] from low-density residential uses" is "Suggested" [*The subject parcels abut medium and high-density zoning and land uses to the south and east*].
- The proposed map amendment would not be detrimental to the owners, adjacent neighbors, and surrounding community as it **does** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.

Therefore, the requested zoning would **be reasonable and in the public interest**.

Inconsistent:

The proposed map amendment is inconsistent with Figure 20. *Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update*, specifically:

Staff has identified no policy basis for denial of the proposed rezoning. If the Planning Board elects to recommend denial, it should articulate its basis for doing so.

The proposed map amendment **would be** detrimental to the owners, adjacent neighbors, and surrounding community as it **does not** meet a number of goals as identified in the Buncombe County Comprehensive Land Use Plan Update.

Therefore, the requested zoning **would not be reasonable and in the public interest.**

The Zoning Ordinance of Buncombe County, North Carolina



- EXCERPT -

Initially Adopted December 1, 2009

As Amended May 1, 2018

Sec. 78-641. Permitted uses.

(a) *Permitted use table.* Uses are permitted in the various zoning districts pursuant to Table 1.

Table 1 – Permitted Use Table												
Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Single-family residential dwelling, including modular	P	P	P	P	P	P	P	P	P		P	P
Two residential dwelling units (attached or detached)	P	P	P	P	P	P	P	P	P			P
Community oriented developments		P	P	P	P	P	P	P	P			
Multifamily residential dwelling units (no more than eight units in no more than four buildings)			P	P	P	P	P	P	P			P
HUD-labeled manufactured homes-Residential	P			P			P					P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Manufactured home parks (8 units or fewer)				P								P
Manufactured home parks (more than 8 units)				C								P
Planned unit developments, level I		C	C	C	C	C	C	C	C			C
Planned unit developments, level II						C	C	C	C	C		C
Subdivisions	P	P	P	P	P	P	P	P	P	P	P	P
Subdivisions, alternative path hillside development	P	P	P	P	P	P	P	P	P			P
Subdivisions, conservation development	P	P	P	P	P	P	P	P	P			P
Accessory buildings	P	P	P	P	P	P	P	P	P	P	P	P
Adult Entertainment Establishments						C	C					C
Airports										C		
Amusement Parks						C	C	C	C			C
Animal hospitals and veterinarian clinics					P	P	P			P		P
Asphalt Plants							C					C
Aviation-related services and facilities										P		
Banks and other financial institutions					P	P	P	P	P	P		P
Bed and breakfast inns (10 occupants or	SR		SR	P	P	P	P	P	P			P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
less)												
Bed and breakfast inns (more than 10 occupants)	C		C	P	P	P	P	P	P			P
Cargo/freight terminals, operations and activities						P	P			P		P
Cemetery	P		P	P		P		P	P			P
Chip Mills												C
Places of worship Church	P	P	P	P	P	P	P	P	P		P	P
Clubs or lodges				P	P	P	P	P	P	P		P
Concrete Plants							C					C
Day nursery and private kindergarten (up to 8 students)	SR	SR	SR	SR	P	P	P	P	P	P		P
Day nursery and private kindergarten (more than 8 students)			C	C	P	P	P	P	P	P		P
Family care home	P	P	P	P				P	P		P	P
Funeral homes						P	P	P	P			P
Government protective services			P	P	P	P	P	P	P	P		P
Greenhouses, commercial (nursery, lawn and garden products)					P	P	P	P	P	P		P
Group homes			C	P	P	P	P	P	P			P
Hazardous Waste Facilities												C

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Health care facilities			C	C		P	P	P	P			P
Home occupations	P	P	P	P	P	P	P	P	P		P	P
Hotels and motels						P	P	P	P	P		P
Incinerators												C
Junkyards							C					C
Kennels				C	P	P	P			P		P
Laundry and dry cleaning services					P	P	P	P	P	P		P
Libraries			P	P	P	P	P	P	P			P
Manufacturing and processing operations						P	P			P		P
Medical Clinics				C	P	P	P	P	P	P		P
Mining and Extraction Operations							C					C
Motor Sport Facilities												C
Motor vehicles maintenance and repair					C	P	P	P	P	P		P
Motor vehicles impoundment lot or tow yard						SR	SR	SR				SR
Motor vehicles sales and rental						P	P			P		P
Motor vehicles service stations (fueling stations)					P	P	P	P	P	P		P
National Guard and Reserve Armories						P	P	P		P		P
Nightclubs, bars and					P	P	P		P	P		P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
pubs												
Personal Landing Strips				C		C	C	C	C	C		C
Physical fitness centers				C	P	P	P	P	P	P		P
Postal and parcel delivery services					P	P	P	P	P	P		P
Printing and lithography						P	P			P		P
Professional and business offices and services					P	P	P	P	P	P		P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	P	P	P	P	P	P	P	P	P	P	P	P
Private utility stations and substations, pumping stations, water and sewer plants, water storage tanks (2 acres or greater in total footprint)	C	C	C	C	C	C	C	C	C	C	C	C
Public utility stations and substations, pumping stations, water and sewer plants, water storage tanks (less than 2 acres in total footprint)	C	C	C	C	P	P	P	P	P	P	C	P
Public utility stations and substations, pumping stations, water and sewer	C	C	C	C	C	C	C	C	C	C	C	C



Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
plants, water storage tanks (2 acres or greater in total footprint)												
Radio, TV and telecommunications towers	C			C		C	C	C	C	P		P
Recreation use, governmental	P	P	P	P	P	P	P	P	P	P	P	P
Recreation use, non-governmental	C	C	C	C	C	P	P	P	P	P	C	P
Repair services (electrical and appliances)					P	P	P			P		P
Restaurants, eating establishments and cafés					P	P	P	P	P	P		P
Retail trade, commercial services, sales and rental of merchandise and equipment (inside building with no outside sales storage)					P	P	P	C	P	P		P
Retail trade, commercial services, sales and rental of merchandise and equipment						P	P		P	P		P
Rooming house			C	P	P	P	P	P	P			P
Schools, public and private			C	C	C	P		P	P			P
Schools--Vocational, business and special schools						P	P	P	P	P		P

Table 1 – Permitted Use Table

Uses	P = Permitted C = Allowed as Conditional Use SR = Permitted with Special Requirements Blank Space = Not Permitted											
	Districts											
	R-LD	R-1	R-2	R-3	NS	CS	EMP	PS	CR	AI	BDM	OU
Shooting Ranges – Outdoor Commercial									C			C
Slaughtering Plants												C
Solid Waste Facilities – Landfills, Transfer Stations, Materials Recovery							C	C		C		C
Storage and warehousing						P	P	P	P	P		P
Theaters						P		P	P			P
Travel trailers (no more than 180 days per calendar year)				P				P	P			P
Travel trailer parks				C				SR	SR			SR
Vacation rentals	P	P	P	P	P	P	P	P	P		P	P
Vacation rental complex				C	C	C	C	C	C		C	C
Wholesale sales						P	P		C	P		P

(b) *Uses governed by other ordinances.* The following uses may be allowed but also will be governed by the specified ordinances adopted by the board of commissioners:

- (1) Adult entertainment establishments: Subject to compliance with section 14-121 et seq. of this Code, as may be amended;
- (2) Communication towers: Subject to compliance with chapter 72 of this Code, as may be amended;
- (3) Junkyards: Subject to compliance with chapter 26, article III of this Code, as may be amended;
- (4) Manufactured home parks: Subject to compliance with chapter 46, article III, of this Code, as may be amended;

- (5) Off-premise signs: Subject to compliance with chapter 78, article V, of this Code, as may be amended.
- (6) Subdivisions: Subject to compliance with chapter 70 of this Code, as may be amended.

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 Size 1,2,4,5 (Square Feet)	Density^{2,4}		Minimum Yard Setback Requirements in Feet ^{3,4}						Maximum Height (Feet)
		Minimum Land Area Per Dwelling Unit (multiple units on a single lot) (square 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	No more than 2 units per lot	2 (no more than 2 units per lot)	10	10	20	10	10	20	35
R-1 Residential	30,000 (no public sewer) 12,000 (public sewer no public water) 8,000 (public water and sewer)	No more than 2 units per lot	10 (no more than 2 units per lot)	10	7	15	20	10	20	35
R-2 Residential	30,000 (no public sewer) 10,000 (public sewer no public water) 6,000 (public water and sewer)	Minimum lot size shown in column two plus 0 for first additional unit Plus: 3,600 for each additional unit	12	10	7	15	20	10	20	35
R-3 Residential	Same as R-2	Same as R-2	12	10	7	15	20	10	20	35
NS Neighborhood Service	30,000 (no public sewer) 10,000 (public sewer no public water)	Minimum lot size shown in column two plus 0 for first additional unit Plus: 3,600 for	12	10	7	15	20	10	20	35

Table 2. Dimensional Requirements

Districts	Minimum Lot Size 1,2,4,5 (Square Feet)	Density ^{2,4}		Minimum Yard Setback Requirements in Feet ^{3,4}						Maximum Height (Feet)
		Minimum Land Area Per Dwelling Unit (multiple units on a single lot) (square 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	
	5,000 (public water and sewer)	each additional unit								
CS Commercial Service	Same as NS	Same as NS	12	10	10	10	10	10	10	50
EMP Employment	Same as NS	Same as NS	12	20	10	20	20	10	20	90
CR Conference Center/Resort	30,000 (no public sewer) 12,000 (public sewer no public water) 8,000 (public water and sewer)	Minimum lot size shown in column two plus 0 for first additional unit Plus: 3,500 for each additional unit	12	20	10	20	20	10	20	50 (plus 1ft additional for each additional 5 feet of setback from all property lines up to 100ft total).
PS Public Service	Same as NS	Same as NS	12	20	10	20	20	10	20	50
AI Airport Industry	Same as NS	NA	NA	20	10	20	20	10	20	50
BDM Beaverdam	See Footnote 6 and 8	See Footnote 6 and 8 No more than 1 unit per lot	See Footnote 6 and 8 No more than 1 unit per lot	See Footnote 7 and 8	15	25	See Footnote 7 and 8	15	25	35
OU Open Use		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—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.

Exhibit A

