



LOCATION MAP		CASE NUMBER: ZPH2021-00048	
		A. PROPERTY INFORMATION	
		<p>PIN(s): 9655.87.3857 Addresses: Unaddressed Parcel – Pinners Cove Road Owner(s): KLP Pinners EAT LLC</p>	
		B. REZONING REQUEST	
		<p>Applicant / Agent: KLP Pinners EAT LLC (Derek Allen, Agent) Existing Zoning: R-LD & R-2 Proposed Zoning: R-2 (73 Acres) Total # Parcels: One (1) Acreeage: 175.279 Total Site, 73 Acres Rezone</p>	
C. PUBLIC NOTICE			
Planning Board:	Citizen Times legal ad and BC website: January 5, 2022 Mailed to owners within 1,000 ft: January 3, 2022 Physical posting: January 3 2022 Hearing Date: January 24, 2022	BOC:	Citizen Times legal ad and BC website: TBD Mailed to owners within 1,000 ft: TBD Physical posting: TBD BOC Hearing: February 15, 2022
D. SUMMARY OF REQUEST			
KLP Pinners EAT, LLC represented by Derek Allen, has requested to rezone a portion of one (1) parcel of land from R-LD (Residential Low-Density) to R-2 (Residential District).			
E. RECOMMENDATION			
APPROVAL			

F. SPOT ZONING ANALYSIS

Spot Zoning Defined:

A zoning ordinance, or amendment, which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to impose upon the smaller tract greater restrictions than those imposed upon the larger area, or so as to relieve the small tract from restrictions to which the rest of the area is subjected, is called "spot zoning."

Spot Zoning, David W. Owens, April, 2020, quoting *Blades v. City of Raleigh*, 280 N.C. 531, 547, 187 S.E.2d 35, 45 (1972).

The map amendment has been requested for approximately 73 acres of a 175.279 acre tract. The portion of property requested for consideration is largely concentrated in an area adjacent to surrounding parcels that are zoned R-2 and outside of R-LD areas containing the Steep Slope Overlay. Based on the nature of the request, Staff does not have concerns related to spot zoning.

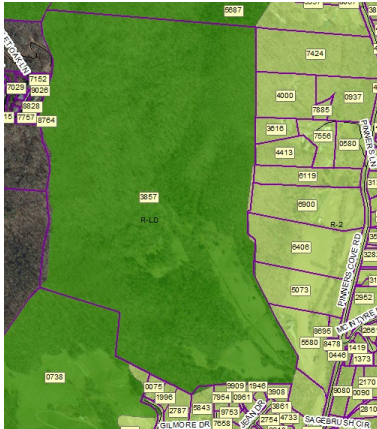
References:

*Walker v. Town of Elkin, 254 N.C. 85, 89, 118 S.E. 2d 1, 4 (1961)

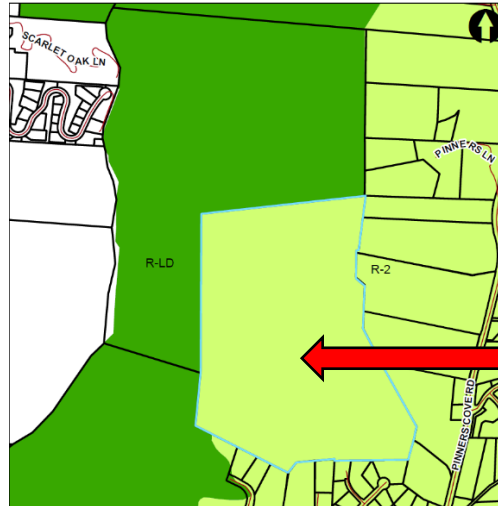
**Blades v. City of Raleigh, 280 N.C., 534, 546, 187 S.E. 2d 35, 43 (1972)

Owens, David W., *Land Use Law in North Carolina*, UNC – Chapel Hill School of Government, 2020.

Existing Zoning District-R-LD



Proposed Zoning District- R-2



G. COMPARISON OF ZONING ORDINANCE DISTRICT STATEMENT OF INTENT

EXISTING ZONING DISTRICT – 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 – R-2

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.

H. PLAN CONSISTENCY

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:*

<https://www.buncombecounty.org/common/planning/land-use-plan-update-2013.pdf>

BUNCOMBE COUNTY COMPREHENSIVE LAND USE PLAN 2013		SECTION 6: ISSUES AND RECOMMENDATIONS					
	Reasonable proximity to major transportation corridors	Reasonable proximity to infrastructure (combined water/ sewer service area)	Outside of steep slope areas (25% +)	Outside of high elevations (2500' +)	Outside of moderate and high slope stability hazards	Outside of flood hazard areas	Separation from low-density residential uses
— Not Required							
👉 Suggested							
★ Highly Suggested							
RESIDENTIAL							
Low-Density Residential	—	—	—	—	—	★	N/A
Single-Family/Duplex	👉	👉	👉	👉	★	★	N/A
Multi-Family	★	★	👉	👉	★	★	👉

<p>1. CONSISTENT: The change is <u>consistent</u> with the following recommendations of the Comprehensive Land Use Plan 2013 Update:</p>	<p>a) “Reasonable proximity to major transportation corridors” [suggested]: <u>The subject property is adjacent to Pinnars Cove Road which is an NCDOT maintained road and is approximately ¾ of a mile from Mills Gap Road. In compliance with suggestion.</u></p> <p>b) “Reasonable proximity to infrastructure (combined water / sewer service area)” [suggested]: <u>Both public water and sewer can be provided to serve future development of the site. In compliance with suggestion.</u></p> <p>c) “Outside of steep slope area (25%+)” [suggested]:</p>
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	<p><u>The area under consideration for rezoning is largely outside of areas greater than 25% slope. In compliance with suggestion.</u></p> <p>d) “Outside of high elevations (2500’+)” [suggested]:</p> <p><u>The area under consideration for rezoning is largely outside of areas of high elevation in excess of 2500 feet. In compliance with suggestion.</u></p> <p>e) “Outside of moderate and high slope stability hazards” [highly suggested]:</p> <p><u>In compliance with suggestion.</u></p> <p>f) “Outside of flood hazard areas” [highly suggested]:</p> <p><u>In compliance with suggestion.</u></p>
<p>2. CONSISTENT: The change is <u>consistent</u> with the following recommendations:</p>	<p>a) “Separation from low-density residential uses” [suggested]:</p> <p><u>Not applicable to low-density and single-family/duplex residential developments.</u></p>

The Buncombe County Comprehensive Land Use Plan Update, 2013:
Staff is in concurrence with the applicant’s rationale which indicates the following: The application speaks to the facilitation of Strategy #15 which (if approved), the applicant would be able to apply for a Planned Unit Development under a Special Use Permit allowing for the clustering of residential development on the least environmentally sensitive portions of the property and allowing for a significant portion of open space and steep slopes to be preserved. Further, the application highlights the need to coordinate housing and make efficient use of available land and infrastructure while allowing for the diversification of housing stock.

I. NEIGHBORHOOD CONSISTENCY

1. CURRENT DEVELOPMENT TYPES:

The subject property is a former estate tract which consists of the lower portion of the property (which is the subject of this application – 73 acres) which is currently wooded and a series of mowed pasture lands, and the upper portion of the property (approximately 102.279 acres) which is entirely wooded and contains areas of the steep slope overlay and not under consideration for rezoning. The subject property is bordered to the north and east by a mix of vacant land and single-family homes, to the south by a single family neighborhood and to the west by a mix of uses including the Givens Estate and single-family neighborhoods on the other side of the ridgeline along Sweeten Creek Road and located in the City of Asheville.

2. ALLOWED DEVELOPMENT TYPES AFTER CHANGE:

The proposed rezoning would allow additional uses in the R-2 district that are not currently allowed in the R-LD district. The most significant difference is the ability to allow residential planned unit developments as a Special Use Permit which are evaluated by the Board of Adjustment. While specific development cannot be evaluated as part of the rezoning process, the applicant intends to present future plans that are substantially similar to single-family development patterns.

3. ALLOWABLE DENSITY / DIMENSIONAL STANDARDS AFTER CHANGE:

	Existing Districts:	Proposed District:
	R-LD Residential	R-2
Minimum Lot Size (SF)	43,560 SF	6,000 SF Public Water/ Sewer 10,000 Public Sewer/No Public Water 30,000 SF No Public Sewer
Max dwelling units per acre	2 units per lot	12
Setbacks (Front/Side/Rear)	10/10/20	10/7/15 w/sewer, 20/10/20 no sewer
Max height	35 feet	35 feet

4. PREVIOUS ZONING ACTIONS/INFRASTRUCTURE/FUTURE LAND USE:

Site History – The subject property was likely part of a larger farm/estate tract. Existing structures on the site consist of a barn and a few smaller accessory structures.

Access – Access to the property is located directly on Pinners Cove Road via an existing gravel driveway.

Utilities – The applicant has secured letters of availability for the provision of public water and sewer from both the City of Asheville and the Metropolitan Sewerage District.

Future Development – See above under Section 2.

J. STAFF RECOMMENDATION COMMENTS:

Staff recommends **APPROVAL** of the rezoning request as submitted.

K. PLANNING BOARD RECOMMENDATION

1. 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, their 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)*

2. BOARD OPTIONS

The following options are available to the Board:

- a. Recommend approval of the proposed rezoning, as presented.
- b. Recommend approval of a portion of the proposed rezoning.
- c. Recommend denial of the proposed rezoning, as presented.

L. ATTACHMENTS

- Application
- Maps
- Power Point Presentation