

## Buncombe County Planning Board

The Buncombe County Planning Board met March 16, 2015 in the meeting room at 30 Valley Street. Members present were Bernie Kessel, Jim Young, Josh Holmes, Michelle Wood, and Greg Phillips. Also present were Michael Frue, Staff Attorney; Jon Creighton, Assistant County Manager/Planning Director; Gillian Phillips, Planning staff and Debbie Truempy, Zoning Administrator.

### **Call to Order**

Vice-Chairman Kessel called the meeting to order at 9:39 am.

### **Approval of Revised Agenda**

Ms. Wood made a motion to approve the agenda as revised. Mr. Holmes seconded the motion and the motion was approved by unanimous vote.

### **Approval of Minutes (February 16, 2015)**

Ms. Wood made a motion to approve the minutes as submitted. Mr. Holmes seconded the motion and the motion passed unanimously.

### **Public Comment**

There was no one wishing to make public comment.

**SUB2015-00031:** *George Escaravage applied for a variance for Town Mountain Preserve (formerly known as Bartram's Walk) Subdivision from §70-67(2)(h), Road and Design Standards, Maximum Grades for Both Minor & Major Subdivisions, of the Buncombe County Land Development and Subdivision Ordinance to allow 265 contiguous feet of the existing roadway (Bartram's Walk Drive) to remain at 17.33% grade.*

The Board was provided with the development plan (Attachment A) prior to the meeting, and the application (Attachment B), and Findings of Fact Worksheet (Attachment C) at the meeting. Lynn Mann was present and reviewed the proposed variance for the Board. Ms. Mann indicated that the original developer had gone into receivership and that Mr. Escaravage had purchased the property and worked to bring it into compliance. Ms. Truempy reviewed the case for the Board. Vice-Chairman Kessel asked if anyone would like to speak regarding the case. Al Gumpert indicated that he lived in the Beaverdam area and that his neighborhood had originally fought the proposed development. He indicated that the neighbors were happy with the work Mr. Escaravage had done to bring the development into compliance. Vice-Chairman Kessel closed the public hearing. Ms. Wood made a motion to accept the findings of facts 1-4A provided in Attachment C, and Mr. Kessel seconded the motion. Ms. Wood made a motion to approve the variance as submitted. Mr. Young seconded the motion and the motion passed unanimously.

**SUB2015-00047:** Steve Rowlinson of Steady Aim, Inc. applied for a variance for Haiku Hill Subdivision from §70-67(2)(c)(1), Road and Design Standards, Private Use, to allow a reduction in the required road right-of-way for a portion of Turtle dove Trail.

The Board was provided with the development plan prior to the meeting (Attachment D). The Board was provided with a timeline of the notice of violation associated with the case (Attachment E), the submitted application (Attachment F), and the Finding of Fact Worksheet (Attachment G) at the meeting. Mr. Rowlinson was present to represent the case. He described the difficulty he had experienced in obtaining the right-of-way from the property owners in the subdivision. He indicated that he was placing the majority of the proposed right-of-way on his property. Ms. Truempy reviewed the case for the Board and reviewed the proposed timeline of events that led Mr. Rowlinson to request the variance. Thad Lewis, the Chief of the Riceville Fire Department was present and described the issues regarding emergency service access on the existing road. Vice-Chairman Kessel asked if anyone would like to make public comment.

The following property owners within the subdivision made public comment:

- John Barnard (3 Turtle dove Trail) was present and described the difficulty that he and his wife had had dealing with Mr. Rowlinson. Mr. Barnard asked Board members to place a condition on the variance not allowing construction of the road on their property. Mr. Barnard provided the Board with pictures of the road in question (Attachment H).
- Igor Melnychuk (6 Turtle dove Trail) was present and described the difficulty the he and his significant other had when dealing with Mr. Rowlinson. Mr. Melnychuk discussed his concerns with a fence he had constructed on his property within the right-of-way.
- Carla Barnard (3 Turtle dove Trail) was present and described the issues the Barnards had with Mr. Rowlinson removing the existing drainage ditch on their property.
- Kathy Kerins (6 Turtle dove Trail) had concerns in regard to the construction of the proposed turnaround and how it would affect her property.
- Rachel Rowlinson, Mr. Rowlinson's spouse, was present and described the deed restrictions placed on the properties within the subdivision. She also indicated that the Barnard's had been told that they would access their property from Turtle dove Trail.

Vice-Chairman Kessel closed the public hearing. The Board discussed the proposal. Mr. Kessel indicated that any improvements a property owner made in right-of-way were done at their own risk.

Mr. Holmes made the motion to approve the finding of fact 1-4a provided in Attachment G. Ms. Wood seconded the motion and the motion passed unanimously. Mr. Holmes made a motion to approve the variance with the conditions provided in Attachment G, and the following additional conditions:

1. Mr. Rowlinson shall provide adequate drainage as to prevent erosion within the existing right-of-way on the property of Mr. John Barnard and Ms. Carla Barnard (PIN 9760.72.9978). The County shall reserve the right to require inspection and approval of

said drainage by the Buncombe County Stormwater Ordinance Administrator and/or a Buncombe County Erosion Control Officer.

2. Mr. Rowlinson shall repair any damage sustained to the fence located on Mr. Melnychuk's property (PIN 9760.82.1704) within the existing right-of-way due to construction of the proposed t-turnaround. The County shall reserve the right to review and approve of any repairs that are done on said fence.

Ms. Wood seconded the motion and the motion was approved unanimously.

**Public Hearings (Zoning Map Amendments)**

**ZPH2014-00082:** *Bruce C. Jones applied on behalf of the Ada E. Gibbs Estate to rezone a portion of tax lot PIN 9743-13-7520 (31 Monticello Rd), which is currently zoned Residential District R-3 to Commercial Service District CS.*

The Board was provided with the application (Attachment J), GIS maps (Attachment K), and the staff recommendation (Attachment L) prior to the meeting.

Bruce Jones was present to represent the case. He indicated the Planning Board had suggested he ask to partially zone the property, and described why he felt the property could not remain residentially zoned. Ms. Truempy reviewed the case for the board. Vice Chairman Kessel asked for public comment, and the following individuals made public comment:

- Robert Hensley was concerned regarding what kind of commercial development would occur on the property.
- Diane Haverlin raised concerns regarding the property being adjacent to hers and being zoned commercially.

There being no one else wishing to make public comment, Vice-Chairman Kessel closed the public hearing. Mr. Holmes made a motion to approve the map amendment request with the provided statement of consistency. Mr. Young seconded the motion and the motion passed unanimously.

**ZPH2015-00007:** *Matthew R. King applied to rezone tax lot PIN 9634-14-6580 (located on the North side of Avery Creek Rd across from Comer Dr and crossing over Cliffsridge Pkwy), which is currently zoned Low-Density Residential District R-LD to Residential District R-2.*

**ZPH2015-00008:** *Josh O'Conner, Buncombe County Zoning Administrator, initiated a proposal to rezone tax lot PIN 9634-23-4768 (located within the Southeast portion of the above tax lot PIN for ZPH2015-00007), which is currently zoned Low-Density Residential District R-LD to Residential District R-2.*

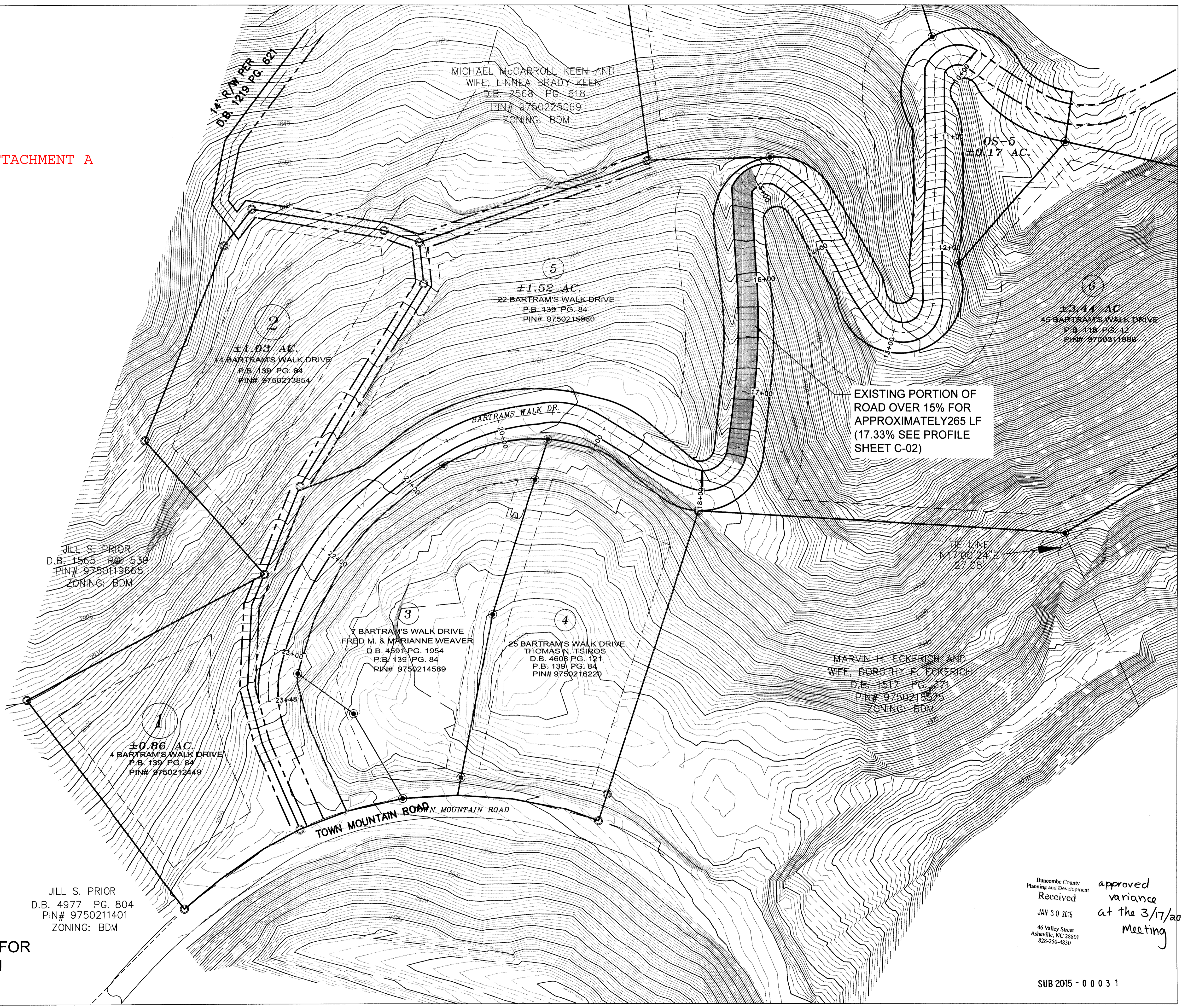
The Board was provided with the application (Attachment M), GIS maps (Attachment N), and the staff recommendation (Attachment O) prior to the meeting. Matt King was present to

represent the case. Mr. King indicated that he did not plan to develop the steeper portion of the property, but only the relatively flat portion. He described the development he proposed to build. Ms. Truempy reviewed the case for the Board. She indicated that the Staff recommended denial of the request. The Board discussed the option of split zoning the property with Mr. King as they felt they could not support the entire property being rezoned. After further discussion with the Board, Mr. King indicated that he would withdraw the application. Staff withdrew ZPH2015-00008. Vice-Chairman Kessel asked if anyone would like to speak even though the case had been withdrawn. A citizen raised concerns regarding the proposal that Mr. King split the property and indicated that he would not support a partial rezoning of the property.

#### Adjournment

The meeting was adjourned at 11:00 am.

ATTACHMENT A



PRELIMINARY; NOT FOR CONSTRUCTION

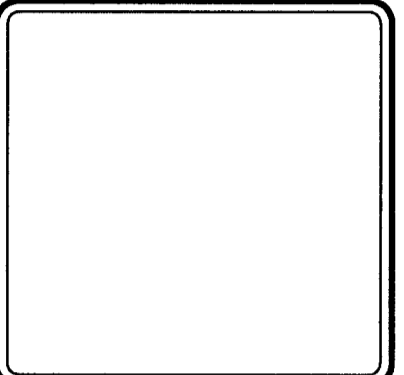
JILL S. PRIOR  
D.B. 4977 PG. 804  
PIN# 9750211401  
ZONING: BDM

Buncombe County  
Planning and Development  
Received  
JAN 30 2015  
46 Valley Street  
Asheville, NC 28801  
828-250-4830

approved  
variance  
at the 3/17/2015  
meeting

SUB 2015 - 00031

NO.	DATE	REVISIONS DESCRIPTION



**BARTRAM'S WALK**  
BUNCOMBE COUNTY, BEAVERDAM DISTRICT

**V&M**  
Vaughan & Melton  
Firm License # 3540  
2154 N. Center St.  
Suite A-101  
N. Charleston, SC  
843-560-0085

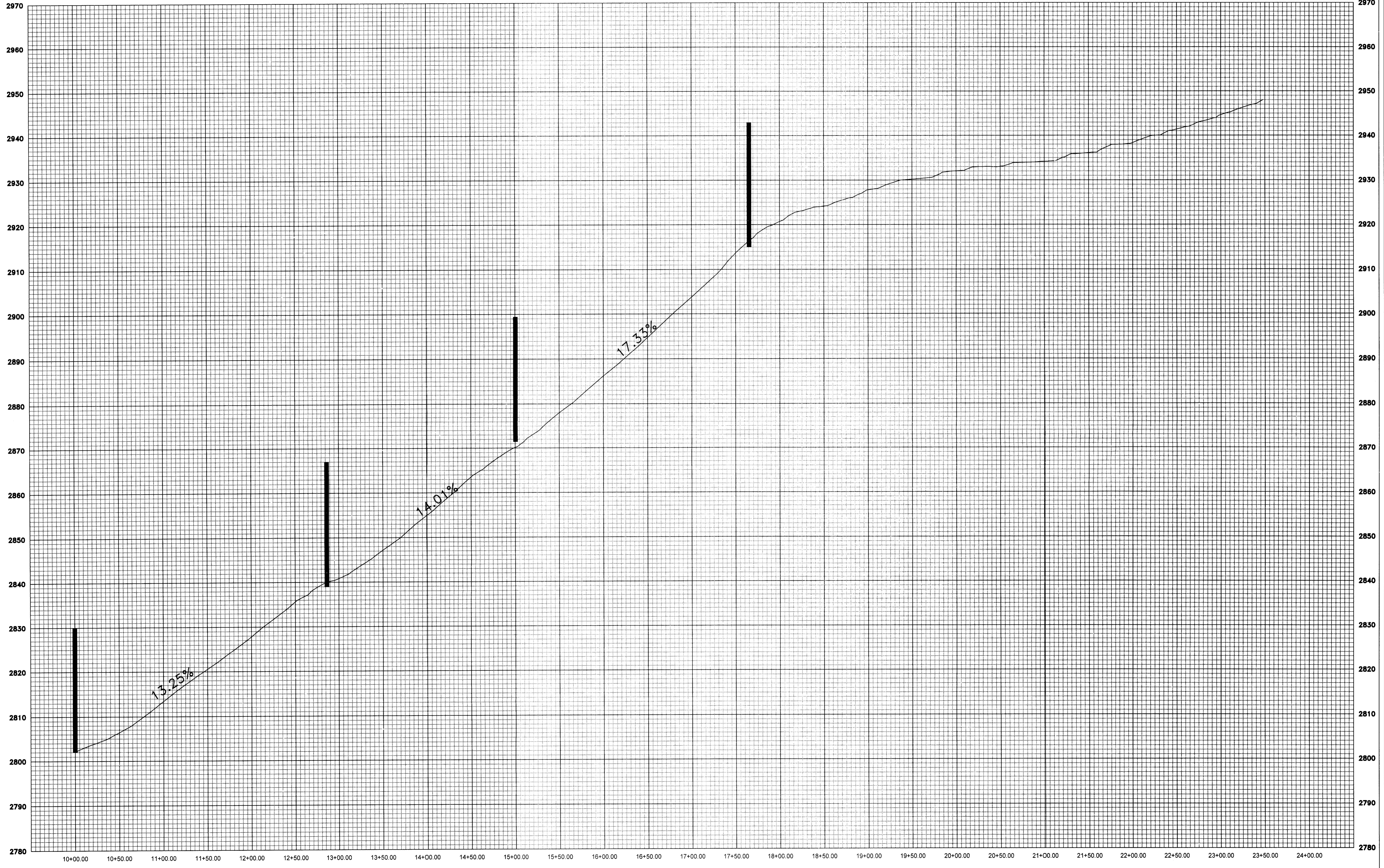
- Charlotte, NC  
704-357-0488
- Asheville, NC  
828-525-2796
- Knoxville, TN  
865-546-5800
- Boone, NC  
828-355-9933
- Middlesboro, KY  
606-248-6600
- Spartanburg, SC  
864-574-4775

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DRAWN:	MGC
CHECKED:	MGC
JOB NO.:	3141025
SCALE:	1:40
DATE:	JANUARY 2015
FILE NAME:	
DRAWING TITLE:	VARIANCE REQUEST FOR ROAD SLOPE
DRAWING NO.:	C-01

SCALE  
 VERTICAL 1" = 10'  
 HORIZONTAL 1" = 50'

PRELIMINARY; NOT FOR  
 CONSTRUCTION



BARTRAMS WALK DRIVE  
 PROFILE

REVISIONS	
NO.	DESCRIPTION

NO.	DATE

**BARTRAMS WALK**  
 BUNCOMBE COUNTY, BEAVERDAM DISTRICT

**V&M**  
**Vaughn & Melton**  
 Firm License # 3540  
 2154 N. Center St.  
 Suite A-101  
 N. Charleston, SC  
 843-560-0085

- Charlotte, NC  
704-357-0488
- Asheville, NC  
828-525-2796
- Knoxville, TN  
865-546-5800
- Boone, NC  
828-355-9933
- Middlesboro, KY  
606-248-6600
- Spartanburg, SC  
864-574-4775

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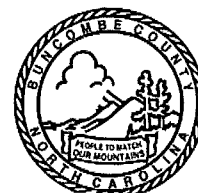
DRAWN:	MGC
CHECKED:	MGC
JOB NO:	3141025
SCALE:	SEE SHEET
DATE:	JAN 2015

FILE NAME:  
 DRAWING TITLE:  
**PROFILE**

DRAWING NO:  
**C-02**



# BUNCOMBE COUNTY PLANNING AND DEVELOPMENT



## APPLICATION AND CHECKLIST FOR SUBMISSION OF REVISED PRELIMINARY SUBDIVISION PLANS

*Any person seeking to develop a subdivision must comply with the Land Development and Subdivision Ordinance of Buncombe County. Please read the ordinance before completing the items included in the application. All items required in the ordinance should be completed prior to submittal of plans to the County. A copy of the COMPLETED application form must be submitted with your plans.*

### Submission Information

SUB 2015 - 0 0 0 3 1

Buncombe County  
Planning and Development

Received

JAN 30 2015

Date: January 2, 2015

46 Valley Street  
Asheville, NC 28801  
828-250-4830

### PROPERTY INFORMATION

Subdivision Name: Bertram's Walk

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

Phase 1

Address/Street Location of Property: Closest to road - 22 Bertram's Walk Drive

PIN Number(s) of Property to be Subdivided:

9750-21-5960

### CONTACT INFORMATION

Owner Name: George Escaravage

Address: P. O. Box 54, 93 Lombard Street Waynesville, NC 28786

Phone: 828-400-0901

Surveyor/Engineer/Landscape Architect Name and Company Name:

DeWayne Brown, PE - Vaughn & Melton Consulting Engineers, Inc.

Address: 1318-F Patton Avenue Asheville, NC 28806

Phone: 828-253-2796

Email: ldbrown@vaughnmelton.com

Primary Contact for Submission: Michael Clark

Address: 1318-F Patton Avenue Asheville, NC 28806

Phone: 828-253-2796

Email: mgclark@vaughnmelton.com

**B. APPLICATION FOR VARIANCE**

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

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

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

**Section number:** 70-67

**Section title:** Road and Design Standards

**Subsection letters and/or number:** H.2

**Subsection title(s):** Maximum Grades for Both  
Minor & Major Subdivisions



**C. FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:**

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

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

The roadway is existing and constructed at 17.33% for 265 feet. Reconstructing the roadway to comply with ordinance will substantially increase the disturbed area and potentially adversely affect the stability of the surrounding fill slopes.

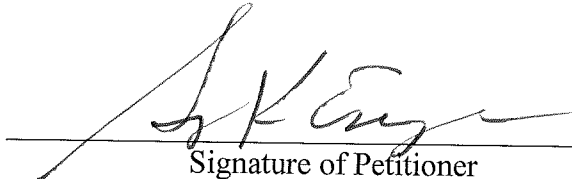
(b) Indicate how granting the variance will not be detrimental to the public health, safety, or welfare; and  
The slope of the road is less than the required 18% but over 15% for approximately 65 feet. All emergency vehicles can access the road with no problem.

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

Although not in compliance, the existing road will not be detrimental to public health, safety, or welfare. By reconstructing this roadway, potential and unsafe adverse conditions are possible such as slope failures.

**D. CERTIFICATION AND SIGNATURE**

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

  
\_\_\_\_\_  
Signature of Petitioner

1                      22                      2015  
Month                      Day                      Year

**OFFICE USE ONLY:**

Date recieved: 1/30/15

Case number: SUB2015-00031

Scheduled Planning Board meeting: 3/2/15

# ATTACHMENT C

## HEARING ON REQUEST FOR A VARIANCE TO ALLOW 265 CONTIGUOUS FEET OF THE EXISTING ROADWAY TO REMAIN AT 17.33% GRADE BEFORE THE BUNCOMBE COUNTY PLANNING BOARD

Subdivision Name: TOWN MOUNTAIN PRESERVE (SUB2015-00031)  
Old Case Number: SUB2007-00196  
Design Professional: DEWAYNE BROWN  
Address: BARTRAM'S WALK DRIVE  
Hearing Date: MARCH 2, 2015

### MOTION TO ADOPT FINDINGS OF FACT

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

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

1. The applicant is requesting a variance from the Buncombe County Land Development and Subdivision Ordinance for 265 feet of the existing roadway Bartram's Walk Drive located between PINs 9750-21-5960 and 9750-31-1888.
2. The applicant is requesting a variance from §70-67 (h) (2), Road and Design Standards, Maximum Grades for Both Minor & Major Subdivisions, of the Buncombe County Land Development and Subdivision Ordinance to allow 265 contiguous feet of the existing roadway (Bartram's Walk Drive) to remain at 17.33% grade.
3. That §70-10 of the Buncombe County Land Development and Subdivision Ordinance was used to evaluate this request.

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

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

*The roadway is existing and constructed at 17.33% for 265 feet. Reconstructing the roadway to comply with the ordinance requirement will substantially increase the disturbed area and potentially adversely affect the stability of the surrounding fill slopes.*

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

*The slope of the road is less than the required 18% but over 15% for approximately 65 feet. All emergency vehicles can access the road with no problem.*

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

*Although not in compliance, the existing road will not be detrimental to public health, safety, or welfare. By reconstructing this roadway, potential and unsafe adverse conditions are possible such as slope failures.*

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

- a. *That a strict or literal interpretation and enforcement of the specified standard or requirement would not result in practical difficulty, unnecessary hardship or adverse environmental impact and the applicant should be required to meet the requirements of the Ordinance.*
- b. *That the granting of the variance would not support the general objectives contained within this Chapter.*

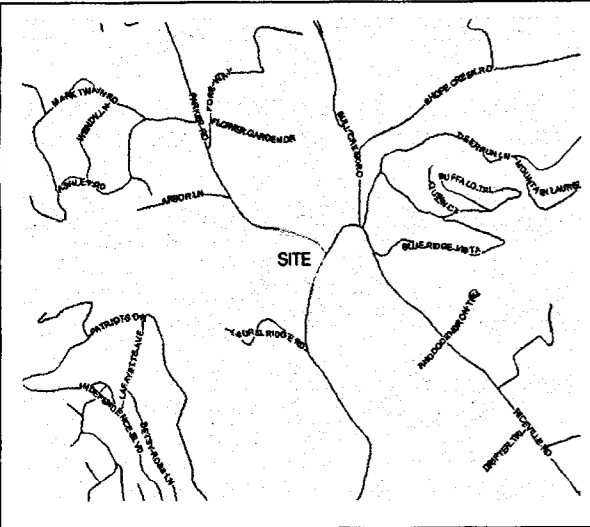
**MOTION OF ACCEPTANCE OF FINDINGS OF FACT**

Motion by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_  
Vote for: \_\_\_\_\_  
Vote against: \_\_\_\_\_

**MOTION TO APPROVE/DENY THE VARIANCE**

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

Motion by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_  
Vote for: \_\_\_\_\_  
Vote against: \_\_\_\_\_



Id	Bearing	Distance
L1	S 79°52'01" E	14.60'
L2	S 77°41'51" E	40.03'
L3	S 75°06'29" E	40.12'
L4	S 73°13'46" E	41.88'
L5	S 73°08'41" E	143.72'
L6	S 73°28'09" E	46.25'
L7	S 71°42'13" E	47.94'
L8	S 68°33'25" E	40.87'
L9	S 61°08'21" E	47.35'
L10	S 49°06'27" E	47.97'
L11	S 37°20'39" E	43.31'
L12	S 32°13'27" E	72.96'
L13	S 32°37'27" W	46.52'
L14	S 29°43'31" W	60.81'
L15	S 29°26'11" W	66.57'
L16	S 28°22'20" W	59.41'
L17	S 24°25'13" W	60.79'
L18	S 19°17'32" W	38.33'
L19	S 14°29'13" W	26.54'

I, James E. Ellis, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description found in Book SEE, Page PLAT, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book SEE, Page PLAT; that the ratio of precision as calculated is 1:10,000; that this plat was prepared in accordance with G. S. 47-30 as amended.

I further certify that this survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land per N.C.G.S. 47-30(1)(11)a.

I further certify that the newly constructed or proposed road grades and slopes were calculated under my supervision from an actual survey made under my supervision and do not exceed eighteen percent (18%). Witness my original signature, license number, and seal this the 17th day of November, A.D. 2014.

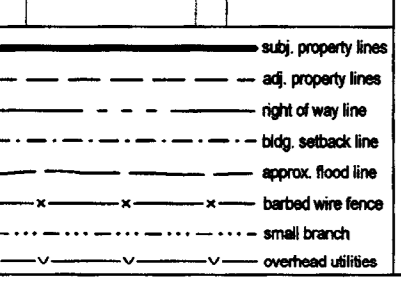
*James E. Ellis*  
James E. Ellis, Professional Land Surveyor  
License number: L-3115



- NOTES**
- All distances shown on this plat are horizontal ground measurements unless otherwise noted.
  - All bearings shown on this plat are referenced to Plat Book 165, Page 28.
  - Area determined by coordinate calculation.
  - This property is subject to all applicable easements and rights of way of record as of the date of this plat.
  - A small portion of subject property is located within the flood zone AE as determined by information provided by F. E. M. A. The floodline as shown was taken from Buncombe County GIS information. FIRM 3700976000 J EFF: 1/6/2014
  - ZONING CLASSIFICATION: R-1 Residential**  
Building Setbacks as shown:  
Front = 20 ft. from R/W Side = 20 ft. (10 ft. min.) Rear = 20 ft.
  - This plat is prepared for the person(s) or corporation(s) as shown in the title block of this plat and is not intended for use by any other party unless permission is given by said person(s) or corporation(s).
  - The surveyor was not provided with a legal/current title examination. There may exist easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title examination may disclose that are not shown on this plat.
  - There were no recoverable U. S. or state horizontal control monuments found within 2000 feet of the surveyed area.
  - Riceville Road and Parker Road are subject to the right of way as per N. C. D. O. T.
  - This subdivision is not considered a Drastic Variation Hillside Development.
  - Current land use within and abutting the subdivision is considered residential.
  - Private drive (TurtleDove Trail) not to exceed 18% grade. Road width will be 18 ft. wide with additional 2 ft. of gravel for a total of 20 ft. riding surface (1 ft. each side).
  - The main purpose of this new plat is to widen existing 30 foot right of way as shown on existing subdivision plat (P. B. 165, Pg. 28) to 45 foot right of way as shown hereon.

**LEGEND**

● calculated point	⊗ utility pole
⊙ iron pin set	⊙ light pole
⊕ existing iron pin/pipe	⊕ well
△ mag. nail set	⊕ water meter box
⊕ existing mag. nail	⊕ fire hydrant
⊕ locust fence post	⊕ water valve
⊕ exist. conc. monument	⊕ sewer manhole
⊕ NCDOT R/W mon.	⊕ clean-out
⊕ railroad spike set	⊕ electric riser
⊕ existing railroad spike	⊕ telephone pedestal
⊕ existing stone	⊕ Bell South marker
⊕ tree (as noted)	⊕ elec. transformer



Approved as a Minor Subdivision according to the Buncombe County Land Development and Subdivision Ordinance.

Date \_\_\_\_\_ County Planner \_\_\_\_\_



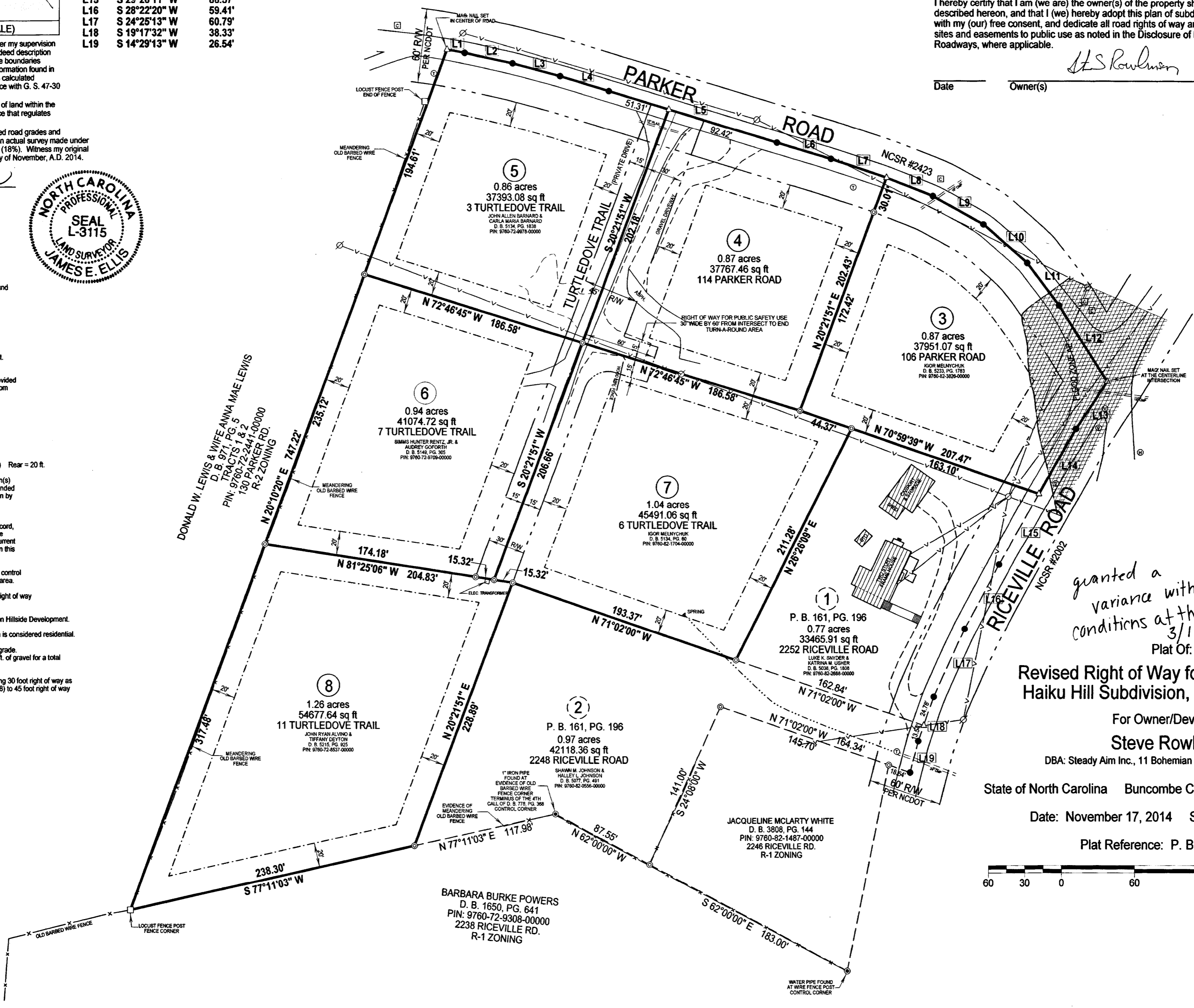
I, \_\_\_\_\_ Review Officer of Buncombe County certify that the plat to which this certification is affixed meets all statutory requirements for recording.

Date \_\_\_\_\_ Review Officer \_\_\_\_\_

Registered this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ m. Recorded in Book \_\_\_\_\_, Page \_\_\_\_\_ Register of Deeds By: \_\_\_\_\_ Deputy / Assistant

I hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all road rights of way and other sites and easements to public use as noted in the Disclosure of Private Roadways, where applicable.

Date \_\_\_\_\_ Owner(s) *HS Rowlinson*



*granted a variance with conditions at the 3/17 PB meeting*

Buncombe County Planning and Development Received  
FEB 11 2015  
46 Valley Street Asheville, NC 28801 828-250-4830

Revised Right of Way for TurtleDove Trail  
Haiku Hill Subdivision, P. B. 165, Pg. 28

For Owner/Developer:  
**Steve Rowlinson**  
DBA: Steady Aim Inc., 11 Bohemian Lane, Asheville, NC 28805

State of North Carolina Buncombe County Swannanoa Township

Date: November 17, 2014 Scale: 1 inch = 60 feet

Plat Reference: P. B. 165, Pg. 28



James E. Ellis, P.L.S.  
525 Old Fort Rd.  
Fairview, NC 28730  
Office: (828) 628-4267  
Email: kenneth@jeesurvey.com

File Number: 1207-007

# ATTACHMENT E

## HAIKU HILLS MINOR SUBDIVISION

- 9/19/2012 Haiku Hills Minor Subdivision was submitted for review and approval.
- 9/24/2012 Preliminary subdivision approval was granted.
- 11/27/2012 An inspection on the shared private driveway (Turtledove Trail) to serve three lots was done by County staff. The driveway appeared to meet the Buncombe County Land Development and Subdivision Ordinance standards and was approved.
- County staff was made aware that Mr. Rowlinson had paved said shared driveway and was now accessing the five lots in the subdivision from the shared driveway.
- 6/27/2014 Mr. Rowlinson was sent a certified letter that he received on 7/1/2014 indicating that he had violated the Subdivision Ordinance, and that he had 30 days to address the situation.
- The Building Permit for the home Mr. Rowlinson had constructed but not been given a Certificate of Occupancy for was frozen (PIN 9760.82.1943)
- 7/21/2014 Mr. Rowlinson was sent a letter through email regarding the ordinance violation.
- 11/13/2014 After approval by staff, a plan for improvement of Turtledove Trail was sent by certified mail to the property owners within the subdivision by Mr. Rowlinson.
- 2/5/2015 A Notice of Violation was sent to Mr. Rowlinson regarding the violation, and Mr. Rowlinson was given 120 days from receipt of this letter to bring the subdivision into compliance. The letter indicated that Mr. Rowlinson would be assessed a \$100.00 per day penalty 120 days from the date of receipt of the Notice of Violation. Mr. Rowlinson received the letter on 2/9/2015. The County will start assessing a fine on 6/9/2015.

# ATTACHMENT F



Buncombe County Government  
Application for a variance from the Land Development and  
Subdivision Ordinance of Buncombe County

SUB2015-00047  
rcvd 2/11/2015

Planning and Development  
www.buncombecounty.org

46 Valley Street  
Asheville, NC 28801  
Telephone (828) 250-4830  
Fax (828) 250-6086

Please complete all sections of the application.

## A. CONTACT INFORMATION

Date: 2/6/15

## PROPERTY INFORMATION

Subdivision Name: Haiku Hill

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

N/A

Address/Street Location of Property: 14120 Parker Rd, Asheville 28805

PIN Number(s) of Property to be Subdivided:

N/A

## CONTACT INFORMATION

Owner/Developer Name: Steady Aim, Inc.

Address: 11 Bohemian Lane Asheville, NC 28805

Phone: 828-298-1770

Surveyor/Engineer/Landscape Architect Name and Company Name:

James E. Ellis, PLS

Address: 525 Old Fort Road, Fairview 28730

Phone: (828) 628-4267

Email: kenneth@jeesurvey.com

Primary Contact for Submission: Steve Rowlinson

Address: 11 Bohemian Lane, Asheville 28805

Phone: 828-582-6097

Email: steadyaim1@yahoo.com

**B. APPLICATION FOR VARIANCE**

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

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

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

Section number: 70-67                      Section title: Road & Design Standards  
Subsection letters and/or number: 2(c) 1                      Subsection title(s): Private Use

**Buncombe County**

**Application for a variance from the Land Development and Subdivision Ordinance of  
Buncombe County**

B. Application for Variance

2/11/15 - Note about variance I am seeking:

I am seeking a variance from the Buncombe County Ordinance that requires a 45 feet Right-of-Way for Minor Subdivision Roads; specifically the section of 60 feet past the Safety Vehicle Use Turn-around along Turtledove Trail between Lots 6 and 7. I would like Buncombe County Planning to approve the existing 30 foot Right-of-Way as shown on the attached proposed plan, by Surveyor James Ellis.

I received a letter dated June 27, 2014 from Buncombe County Planning, and Buncombe County Fire Marshall, advising me that my property at Lot 4, 114 Parker Road, and Lot 5, 120 Parker Road (owned by Mr. & Mrs. John Barnard) were out of compliance with the approved shared private driveway (Turtledove Trail) for the Haiku Hill Subdivision.

After changing the access on Lot 4 (the lot owned by my construction company, Steady Aim, Inc.), the owners of Lot 5 would not agree to change their driveway access, so Buncombe County Planning told me, that as the developer, I must improve Turtledove Trail to Minor Subdivision Road Standards so their driveway would be in compliance.

James Ellis, surveyor, drew up a proposed plan with the additional Right-of-Way evenly along Turtledove Trail between the 4 lots (Lots 4, 5, 6 & 7) that access the private drive. The owners of Lot 5 expressed concerns about the setbacks for their permitted (as yet unbuilt) carport—they worried that when they built the carport, County Planning would then tell them they were out of compliance again.

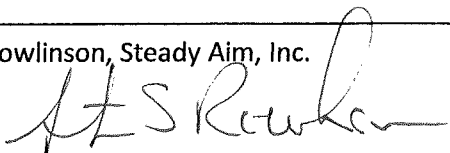
The owner of Lot 7 also had setback issues because his house sits very close to the existing 30 foot Right-of-Way setbacks. The proposed plan did ask for a small sliver of Right-of-Way on his lot, and he has refused to give us any additional Right-of-Way.

To accommodate the concerns of the owners of Lots 5 and 7, James Ellis drew up another plan with the Right-of-Way showing 15 feet added to Lot 4 (my lot), and 15 feet added to Lot 6. The owner of Lot 6 has not accepted our monetary offers for this Right-of-Way. Plus, our attorney has advised us it could take additional months to get his mortgage holder to give permission and/or waive the due on sale clause.

I am asking Buncombe County Planning and Development for a variance to allow the existing 30 foot Right-of-Way for the section of 60 feet past the Safety Vehicle Use Turn-around along Turtledove Trail between Lots 6 and 7 to satisfy the County requirements for Minor Subdivision Road Standards, as shown on the proposed plan by surveyor James Ellis.

---

Steve Rowlinson, Steady Aim, Inc.



Date

2.11.15



**C. Factors Relevant to the Issuance of a Variance:**

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

*It has proven to not only be 'practically difficult', but actually impossible to get the existing Lot owners to grant us the Right-of-Way necessary to comply with the Minor Subdivision Road standard.*

*Strict enforcement of the Minor Subdivision Road standard in this situation has caused economic hardship on my small building company, Steady Aim, Inc. By freezing my permit, I was not allowed to get power/heat to my new construction spec home on Lot 4. Having it sit unheated and vacant through winter has reduced the value of this home.*

*The costs associated with proposing multiple plans that both County Planning and the affected homeowners approve of has caused a financial burden.*

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

*Granting the variance to reduce the Right-of-Way from the required 45 feet down to 30 feet on this 60 foot stretch of road for this subdivision will have no public health, safety or welfare impact.*

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

*The general objective of Buncombe County Land Development and Subdivision Ordinances is to*

*“. . . provide for the orderly growth and adequate provision of streets . . . “ according to the Buncombe County Planning website.*

*The granting of this variance for 60 feet of road to have a 30 foot Right-of-Way instead of a 45 foot Right-of-Way will not be an impediment to the County's objectives in providing adequate streets.*

**C. FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:**

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

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

\_\_\_\_\_  
\_\_\_\_\_

*See attached*

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

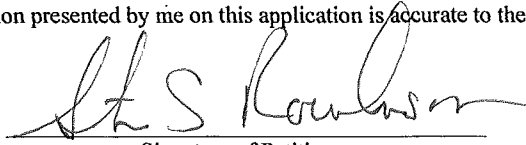
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

**D. CERTIFICATION AND SIGNATURE**

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



Signature of Petitioner

February 11 2015  
Month Day Year

**OFFICE USE ONLY:**

Date received: \_\_\_\_\_

Case number: \_\_\_\_\_

Scheduled Planning Board meeting: \_\_\_\_\_

# ATTACHMENT G

## HEARING ON REQUEST FOR A VARIANCE TO REDUCE REQUIRED RIGHT OF WAY BEFORE THE BUNCOMBE COUNTY PLANNING BOARD

Subdivision Name: HAIKU HILLS (SUB2015-00047)  
Complaint Case Number: PCP2014-00016  
Original Case Number: SUB2012-00204  
Address: Turtledove Trail  
Hearing Date: March 16, 2015

### MOTION TO ADOPT FINDINGS OF FACT

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

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

1. The applicant is requesting a variance from the Buncombe County Land Development and Subdivision Ordinance for the Haiku Hills Minor Subdivision Plat Book 165 Page 28.
2. The applicant is requesting a variance from §70-67(2)(c)(1), Road and Design Standards, Private Use, to allow a reduction in the required road right-of-way for a portion of Turtledove Trail as shown on the submitted site plan.
3. Mr. Rowlinson has been issued a Notice of Violation for serving five lots off of a shared private driveway. Said Notice of Violation was received by Mr. Rowlinson on February 9, 2015. Mr. Rowlinson has until June 9, 2015 to remedy said violation.
4. That §70-10 of the Buncombe County Land Development and Subdivision Ordinance was used to evaluate this request.

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

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

*Mr. Rowlinson has had difficulty securing right-of-way from the affected property owners. Without the variance the road as it currently exists would not be upgraded to the standards within*

*the Buncombe County Land Development and Subdivision Ordinance.*

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

*As granting the variance would allow improvement of a road that currently does not meet the standards of the Buncombe County Land Development and Subdivision Ordinance, and County Emergency Service Staff have reviewed the road and found it to be subpar in regards to the ability of emergency vehicle access, granting the variance would not be detrimental in regards to public health, safety, and welfare.*

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

*The granting of the variance would allow for construction of a road that meets the requirements of the Buncombe County Land Development and Subdivision Ordinance, which will provide safe access for emergency service vehicles to the existing residences, therefore meeting the general objectives of the Buncombe County Land Development and Subdivision Ordinance.*

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

- a. *That a strict or literal interpretation and enforcement of the specified standard or requirement would not result in practical difficulty, unnecessary hardship or adverse environmental impact and the applicant should be required to meet the requirements of the Ordinance.*
- b. *That the granting of the variance would not support the general objectives contained within this Chapter.*

**REQUESTED/ PROPOSED CONDITIONS**

- 1. Mr. Rowlinson shall at all times during the construction of improvements to Turtledove Trail provide adequate access on Turtledove Trail to the residences of Haiku Hills and Emergency Service vehicles.**
- 2. At all times during the construction of improvement to Turtledove Trail, Mr. Rowlinson shall have the existing right-of-way clearly marked, and shall not work outside of said right-of-**

way without explicit agreement of the property owner on who's land construction is occurring.

3. Any disturbance that occurs during improvements to the road shall be re-stabilized per the standards set forth in the Buncombe Erosion and Sedimentation Control Ordinance. The County reserves the right to have a Erosion Control Officer review and approve said re-stabilization.

**MOTION OF ACCEPTANCE OF FINDINGS OF FACT**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Vote for: \_\_\_\_\_

Vote against: \_\_\_\_\_

**MOTION TO APPROVE/DENY THE VARIANCE**

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

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Vote for: \_\_\_\_\_

Vote against: \_\_\_\_\_

ATTACHMENT H







Buncombe County Government **ATTACHMENT J**  
Application for Amending the Buncombe County Zoning

Planning and Development  
www.buncombecounty.org

46 Valley Street  
Asheville, NC 28801  
Telephone (828) 250-4830  
Fax (828) 250-6086

Application is hereby made to the Board of Commissioners of Buncombe County to amend:

- the Zoning Map (complete sections A and C below)  
 the text of the Zoning Ordinance (complete sections B and C below)

A. If the application to amend the Zoning Map, provide the following:

1. Property description:

- (a) Property Identification Number(s): 9743-13-7520  
(b) Address of Property(s): 31 MONTICELLO ROAD  
(c) Acreage of Property: 5.639 AC.

2. Zoning Classification:

Current zoning district: R3 Requested zoning district: C5

3. Please answer the following questions (if necessary attach a separate sheet of paper):

- (a) Describe how the size of the tract proposed for rezoning in reference to surrounding properties makes it suitable for the proposed zoning classification:

NEIGHBORING PROPERTIES ON MONTICELLO ROAD ARE CURRENTLY ZONED COMMERCIAL OR INTEND TO APPLY FOR REZONING TO COMMERCIAL.

- (b) Describe how the proposed re-zoning is consistent with Buncombe County's Comprehensive Land Use Plan (available on the County website):

MONTICELLO ROAD BETWEEN US 25/70 AND I-26 IS CURRENTLY ZONED LARGELY AS A COMMERCIAL CORRIDOR CONSISTING MAINLY OF INDUSTRIAL AND COMMERCIAL BUSINESSES.

- (c) Describe how the proposed re-zoning would affect surrounding properties and uses:

NO CHANGE AS RESIDENTIAL NEIGHBORS TO NORTH ARE CURRENTLY BORDERED BY COMMERCIAL BUSINESSES ON MONTICELLO ROAD TO SOUTH.

- (d) Describe the benefits and/or detriments of the proposed re-zoning to the following groups:

o Owner(s):

ALLOWS FOR DEVELOPMENT AS MIXED OR COMMERCIAL USE, WHICH IS HIGHEST AND BEST USE OF PROPERTY.



o Adjacent Neighbors:

COMMERCIAL DEVELOPMENT OF THE PROPOSED PROPERTIES IS CONSISTANT WITH EXISTING USES ALONG  
2 MONTICELLO ROAD.

o Surrounding Community:

COMMERCIAL DEVELOPMENT WOULD BE CONSISTANT WITH THIS COMMERCIAL CORRIDOR, ESPECIALLY AS IT IS ADJACENT TO THE I-26 EXIT 18 ON RAMP.

B. If the application is to amend the text of the Zoning Ordinance, provide the following (if necessary attach a separate sheet of paper):

1. Specific section(s) of the Zoning Ordinance affected:

2. Description of requested change (including proposed changes to text):

3. Reason(s) for the requested amendment(s):

C. Contact information

Bruce C. Jones

Ada F. Gibbs Estate - 3522 Blue Cypress Cove Gainesville, GA  
Owner's/Applicant's Name Mailing Address (including town/city, state, and zip) 30504

770-287-0971  
Telephone

BCS-MCS@yahoo.com  
Email Address

[Signature]  
Signature of Owner/Applicant

Withdrawal of an application after notice has been made will result in forfeiture of any application fees associated with said application.

OFFICE USE ONLY:

Date received: 23-Dec-14  
Case number: 2042014-00082  
Scheduled Planning Board Hearing Date: 26-Jan-14  
Scheduled Board of Commissioners Hearing Date: \_\_\_\_\_

Staff Recommendation

approval

denial

2/1/15

Buncombe County Planning & Development  
46 Valley Street  
Asheville, N.C. 28801  
ATTN: Josh O'Connor

Dear Mr. O'Connor:

Please find enclosed the revised Plat of The Ada E Gibbs Estate.

This plot was redrawn according to the Board's desires as was explained to me.

If there are any questions or comments please call me at 770-287-0971 if not at home please leave a message and I will get back with you.

Thanks for all your help.

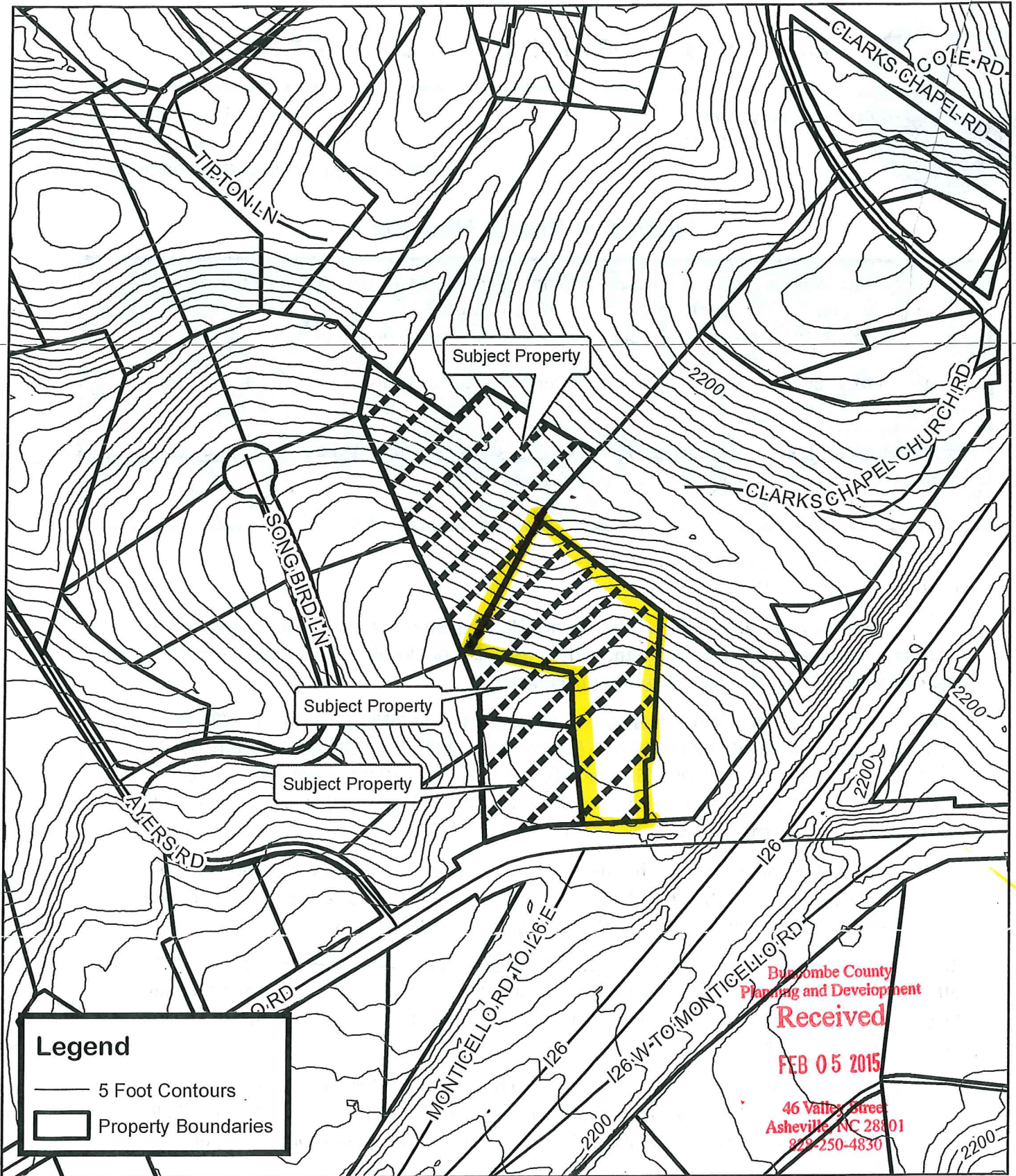
Sincerely,  
Bruce C Jones

3522 Blue Cypress Cove  
Gainesville, GA 30501

Buncombe County  
Planning and Development  
Received

FEB 05 2015

46 Valley Street  
Asheville, NC 28801  
828-250-4830



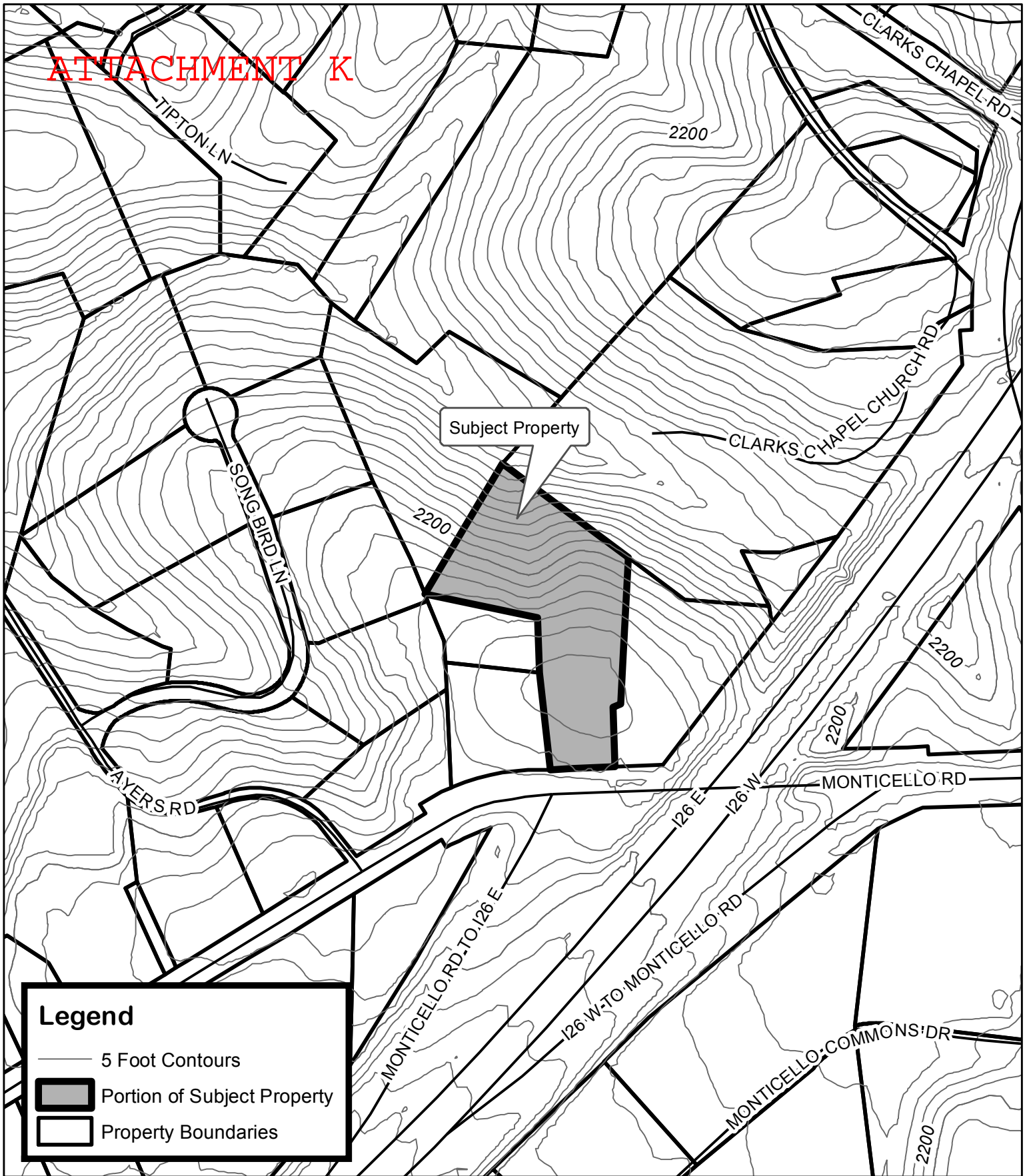
**Songbird Development Group, LLC & Bruce C. Jones  
 Map Amendment**

Case Number: ZPH2014-00079 & -00082  
 Approximate Property Size: 6.95 acres  
 Application Date: December 15 & 23, 2014  
 Planning Board Hearing Date: January 26, 2015



Created By: Buncombe County Planning  
 Date: December 30, 2014

# ATTACHMENT K



## Bruce C. Jones Map Amendment

Case Number: ZPH2014-00082

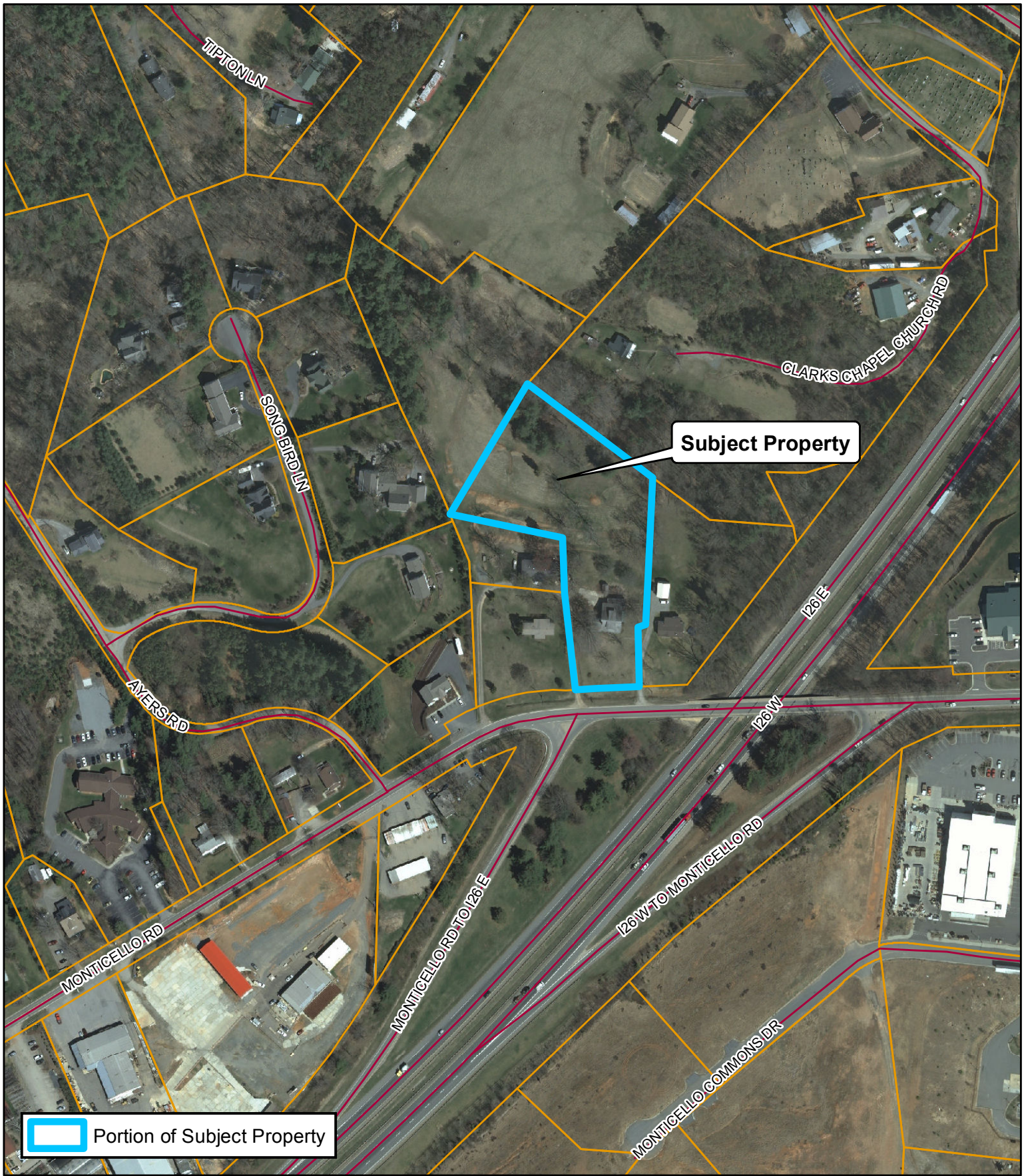
Approximate Property Size: 2.67 acres

Application Date: February 5, 2015

Planning Board Hearing Date: March 16, 2015

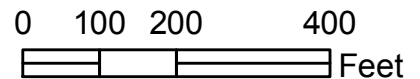


Created By: Buncombe County Planning  
Date: February 25, 2015

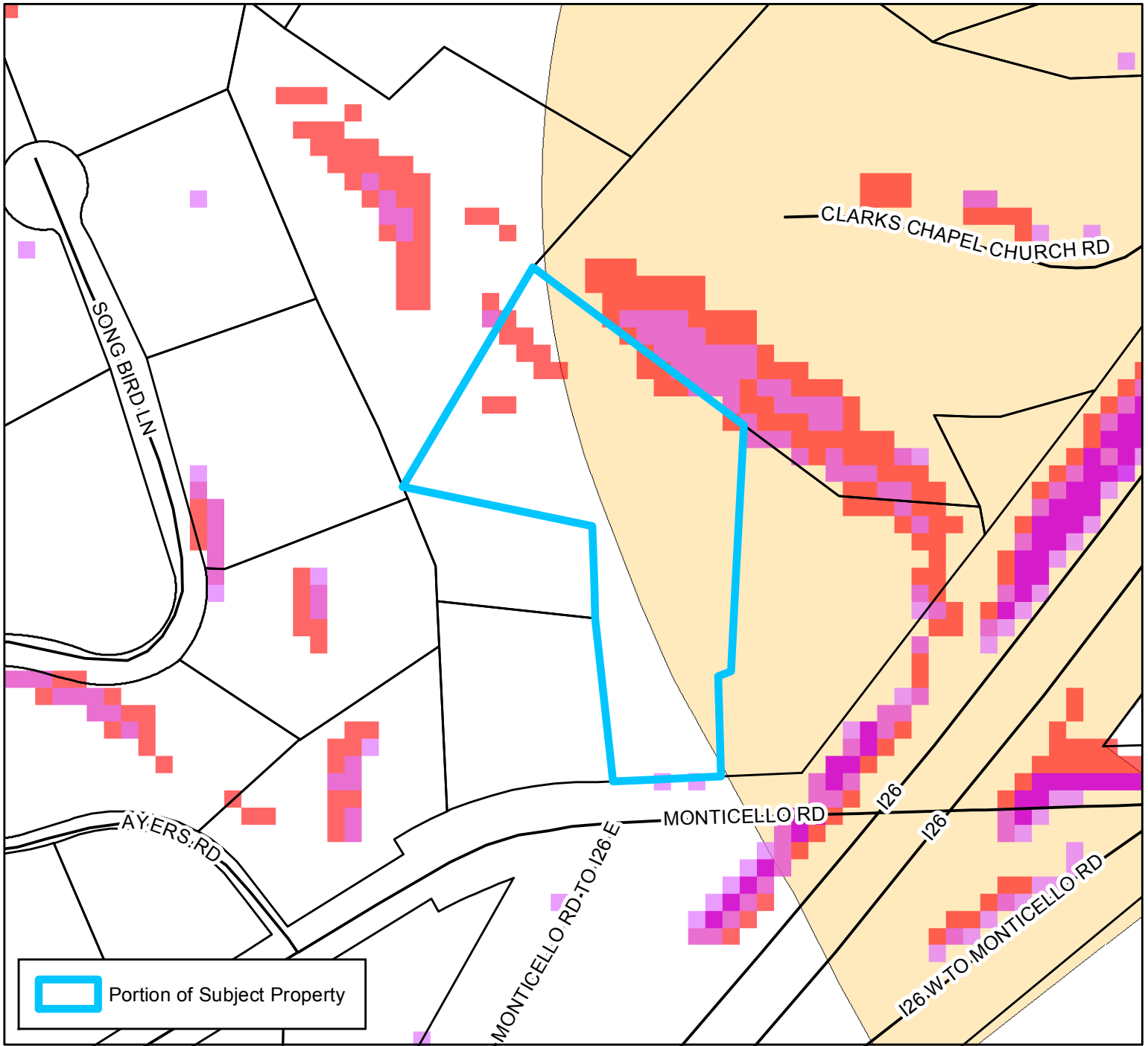


**Bruce C. Jones**  
**Map Amendment**

Case Number: ZPH2014-00082  
 Approximate Property Size: 2.67 acres  
 Application Date: February 5, 2015  
 Planning Board Hearing Date: March 16, 2015

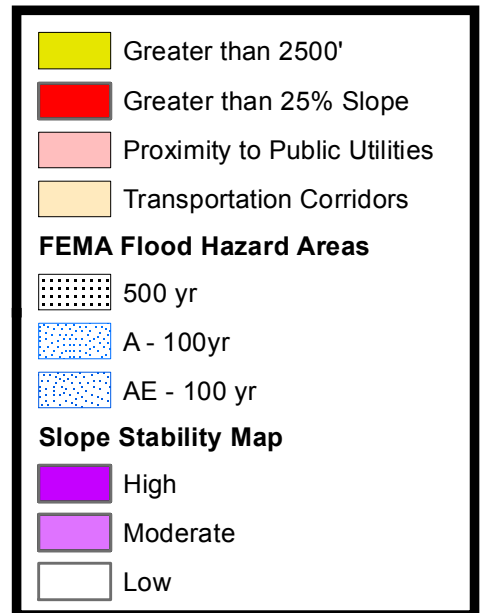


Created By: Buncombe County Planning  
 Date: February 25, 2015

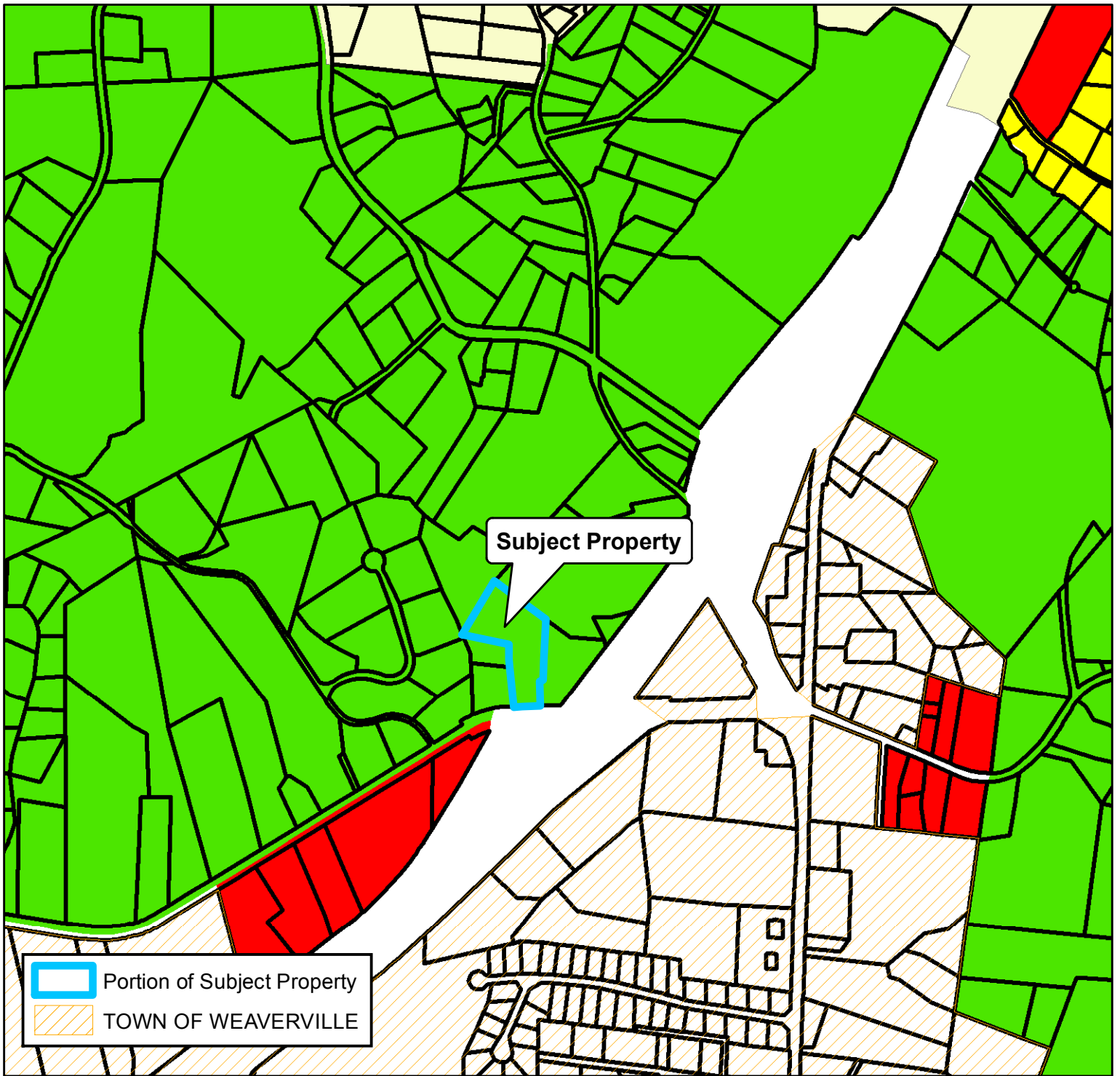


**Bruce C. Jones  
Map Amendment**

Case Number: ZPH2014-00082  
 Approximate Property Size: 2.67 acres  
 Application Date: February 5, 2015  
 Planning Board Hearing Date: March 16, 2015

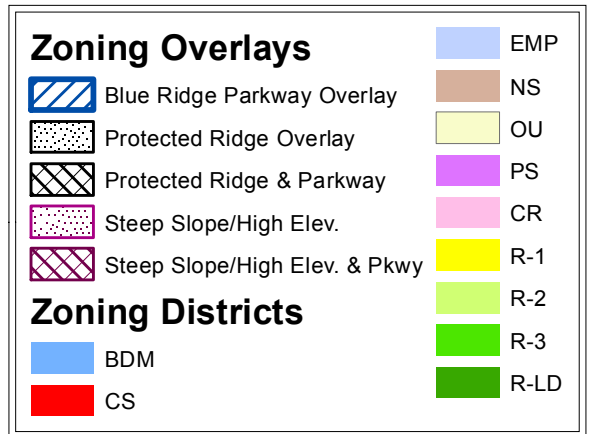


Created By: Buncombe County Planning  
 Date: February 25, 2015



# Bruce C. Jones Map Amendment

Case Number: ZPH2014-00082  
 Approximate Property Size: 2.67 acres  
 Application Date: February 5, 2015  
 Planning Board Hearing Date: March 16, 2015



Created By: Buncombe County Planning  
 Date: February 25, 2015

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT  
REZONING ANALYSIS

CASE NUMBER : ZPH2014-00082  
PROPOSED ZONING CHANGE : R-3 TO CS  
LOCATION : 31 MONTICELLO ROAD  
PINS : A PORTION OF 9743-13-7520

APPLICANT: BRUCE C JONES FOR ADA F GIBBS ESTATE

OWNER: RUDENA G LIGON  
1121 OAKLAND ROAD  
FOREST CITY, NC 28403

DEPARTMENT RECOMMENDATION: **APPROVAL**

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

**REZONING ANALYSIS:** The applicant is requesting the rezoning of approximately 2.67 acres of a parcel from R-3 (Residential District) to CS (Commercial Service District). The subject property is located on the north side of Monticello Road near its intersection with I-26. The property is currently vacant. The area is characterized by residential development to the north with commercial development zoned R-3 and CS along Monticello Road.

The proposed map amendment is consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan 2013 Update show the following regarding the subject property:

- The property is within a transportation corridor.
- The property is not within high elevations (2,500'+).
- The property is not within a flood hazard area.

As Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update recommends that the commercial uses allowed in the CS zoning district be within a transportation corridor, located outside of the flood hazard area, and outside high elevations. Therefore, the proposed map amendment could be appropriate. Additionally, the property is near a commercial area adjacent to I-26. The proposed map amendment would also not be detrimental to the owners, adjacent neighbors, and surrounding community as it is consistent with the surrounding properties. Therefore, the Buncombe County Department of Planning and Development recommends approval of the request.



**LAND USE PLAN CONSISTENCY STATEMENTS**

**Consistent:** The proposed map amendment is consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan 2013 Update show the following regarding the subject property:

- The property is within a transportation corridor.
- The property is not within high elevations (2,500'+).
- The property is not within a flood hazard area.

As Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update recommends that the commercial uses allowed in the CS zoning district be within a transportation corridor, located outside of the flood hazard area, and outside high elevations. Therefore, the proposed map amendment could be appropriate. Additionally, the property is near a commercial area adjacent to I-26. The proposed map amendment would also not be detrimental to the owners, adjacent neighbors, and surrounding community as it is consistent with the surrounding properties. Therefore, the requested zoning would be **reasonable and in the public interest**.

**Not Consistent:** The proposed map amendment is **not consistent with the Buncombe County Land Use Plan** as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan 2013 Update show the following regarding the subject property:

- The property does not have reasonable proximity to infrastructure (combined water/sewer service area).
- The property is adjacent to lower-density residential uses.

As Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update recommends commercial uses allowed in the CS zoning district have proximity to infrastructure, be outside moderate and high slope stability hazards, and be separated from low density residential uses, the proposed map amendment would not be appropriate. It would also be detrimental to the owners, adjacent neighbors, and surrounding community as it is not consistent with the surrounding residential properties. Therefore, the requested zoning would be **neither reasonable nor in the public interest**.



Buncombe County Government  
Application for Amending the Buncombe County Zoning

Planning and Development  
www.buncombecounty.org

46 Valley Street  
Asheville, NC 28801  
Telephone (828) 250-4830  
Fax (828) 250-6086

Application is hereby made to the Board of Commissioners of Buncombe County to amend:

- the Zoning Map (complete sections A and C below)
- the text of the Zoning Ordinance (complete sections B and C below)

A. If the application to amend the Zoning Map, provide the following:

1. Property description:

- (a) Property Identification Number(s): 9634-14-6580
- (b) Address of Property(s): 1863 BREVARO RD
- (c) Acreage of Property: 52.06

2. Zoning Classification:

Current zoning district: R-LD Requested zoning district: RZ

3. Please answer the following questions (if necessary attach a separate sheet of paper):

- (a) Describe how the size of the tract proposed for rezoning in reference to surrounding properties makes it suitable for the proposed zoning classification:

ZONING CHANGE IS COMPATIBLE WITH ADJACENT PROPERTIES

- (b) Describe how the proposed re-zoning is consistent with Buncombe County's Comprehensive Land Use Plan (available on the County website):

THIS WOULD ALLOW SITE TO BE DEVELOPED MORE AFFORDABLY, AND MEETS GOALS OF LAND USE PLAN, CLOSE TO ROADS LATER AND SPUR A SITE

- (c) Describe how the proposed re-zoning would affect surrounding properties and uses:

LITTLE EFFECT, OTHER SUBDIVISIONS IN AREA.

- (d) Describe the benefits and/or detriments of the proposed re-zoning to the following groups:

o Owner(s):

ALLOWS DEVELOPMENT TO BE SPREAD OUT OVER MORE UNITS

o Adjacent Neighbors:

ONLY DETRIEMENT - INCREASED TRAFFIC

o Surrounding Community:

MORE HOMES FOR PEOPLE WHO LIVE AND WORK IN BUNCOMBE COUNTY

B. If the application is to amend the text of the Zoning Ordinance, provide the following (if necessary attach a separate sheet of paper):

1. Specific section(s) of the Zoning Ordinance affected:

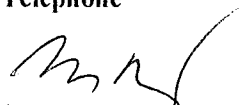
2. Description of requested change (including proposed changes to text):

3. Reason(s) for the requested amendment(s):

C. Contact information

MATT HEW R. KING 106 WILLIAMS RD FITCHMERE NC  
Owner's/Applicant's Name Mailing Address (including town/city, state, and zip) 28732

828-242-0087 MR KING 1969@HOTMAIL.COM  
Telephone Email Address

  
Signature of Owner/Applicant

Withdrawal of an application after notice has been made will result in forfeiture of any application fees associated with said application.

OFFICE USE ONLY:

Date received: 13-Feb-15

Staff Recommendation

Case number: 2PH 2015-00007

approval

Scheduled Planning Board Hearing Date: 16-Mar-15

denial

Scheduled Board of Commissioners Hearing Date: \_\_\_\_\_

ZP4/2015. 00008

## Leigh DeForth

---

**From:** Joshua OConner  
**Sent:** Thursday, February 26, 2015 9:16 AM  
**To:** Leigh DeForth  
**Subject:** RE: matt king rezoning

Please add the aforementioned spot zoning to the same hearing as a ZA application.

---

**From:** Leigh DeForth  
**Sent:** Wednesday, February 25, 2015 1:04 PM  
**To:** Debbie Truempy; Joshua OConner  
**Subject:** matt king rezoning

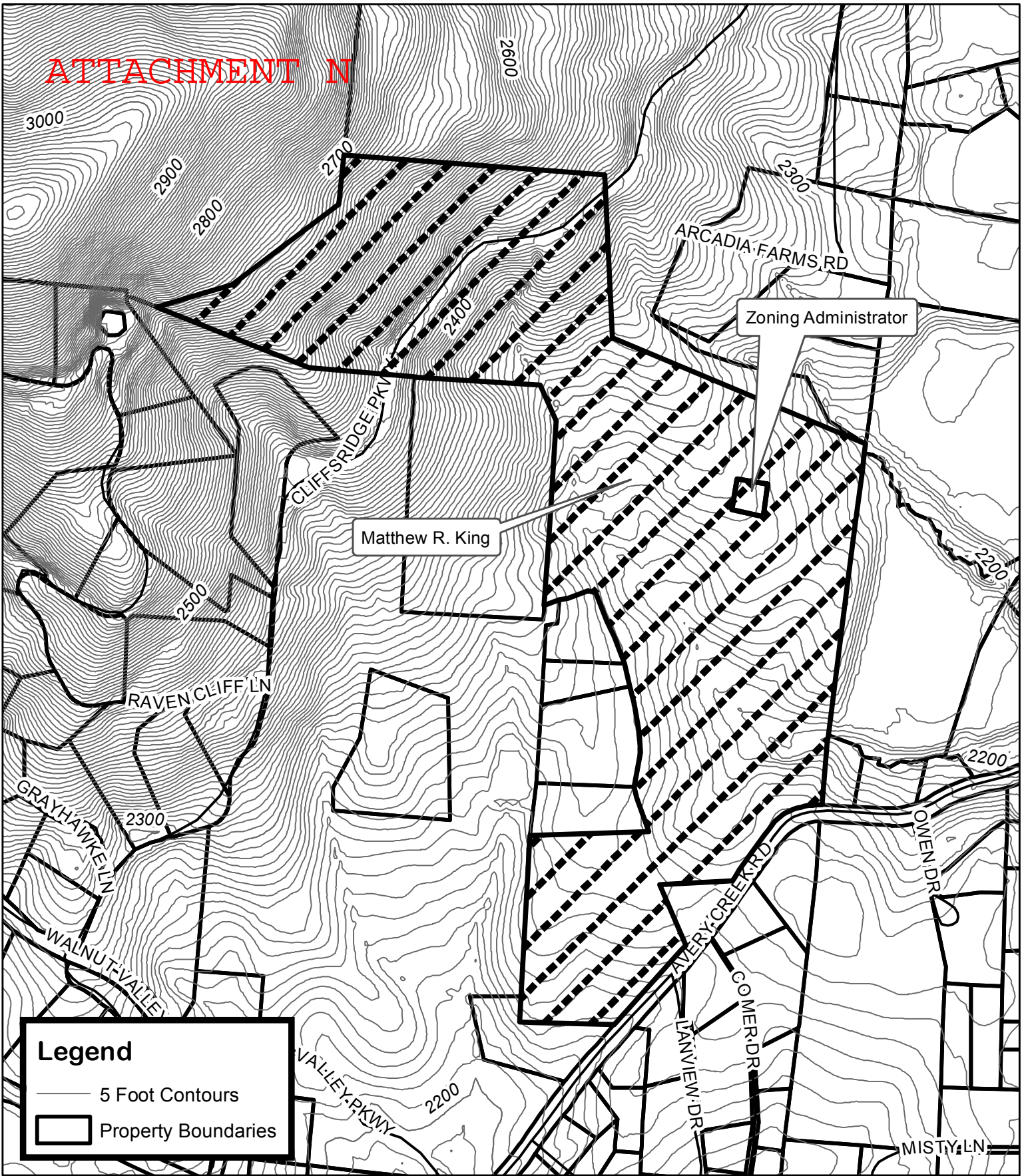
Just wanted to make sure, not sure which one of you took this, but rezoning it would create a spot zoning, because there is an inparcel held by longview land company. Does matt king also intend to purchase this parcel? Pin applied for is 9634-14-6580, pin that would be a spot would be 9634-23-4768.

Just would be good to know before making maps, if I need to include both PINs.

Thanks

Leigh DeForth, AICP  
Planner  
Buncombe County Planning Department  
46 Valley Street  
Asheville, NC 28801  
(828) 250-4832  
[leigh.deforth@buncombecounty.org](mailto:leigh.deforth@buncombecounty.org)

# ATTACHMENT N



## Matthew R. King & Zoning Administrator Map Amendments

Case Number: ZPH2015-00007 & -00008

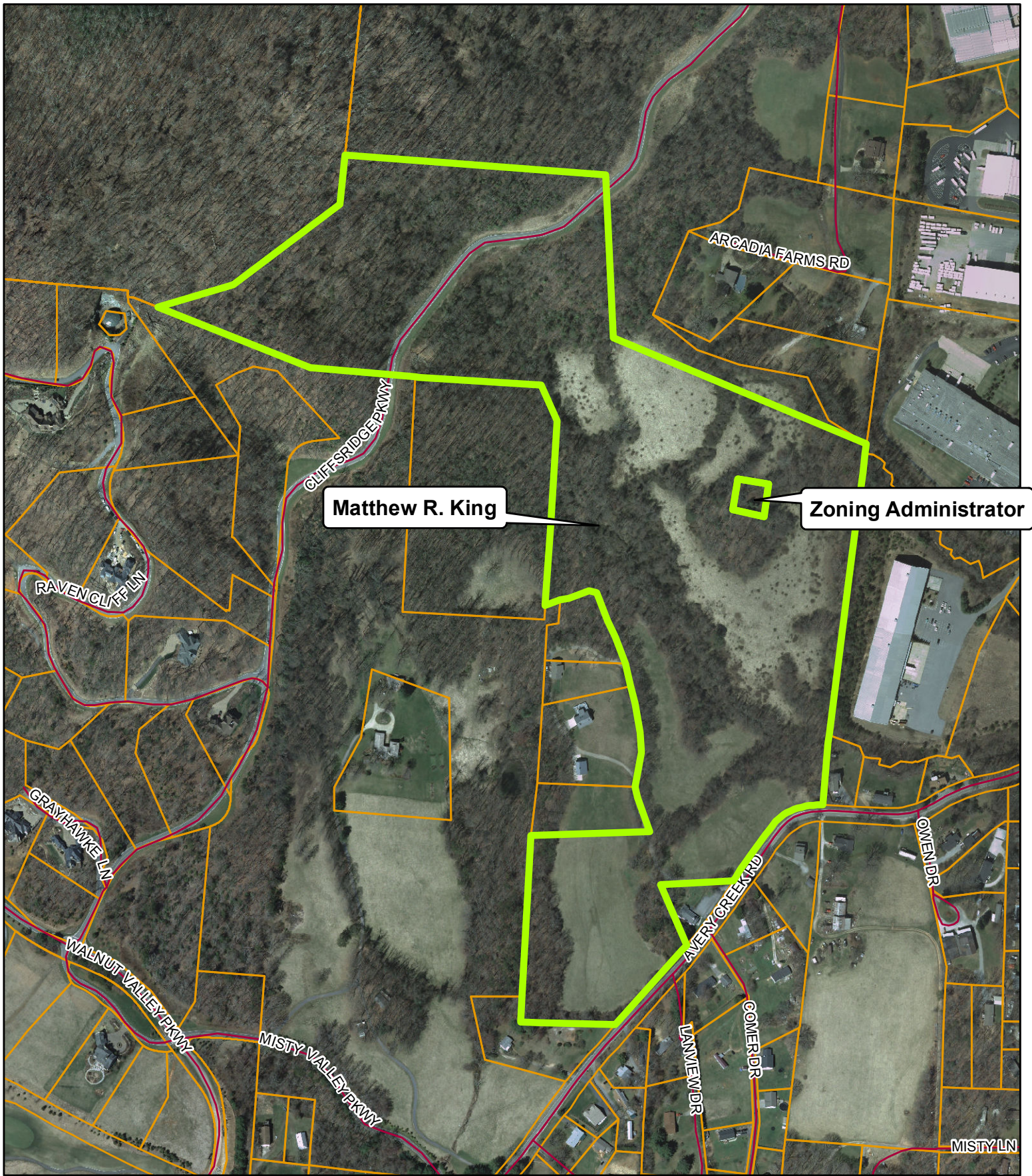
Approximate Property Size: 52.31 acres

Application Date: February 3 & 25, 2015

Planning Board Hearing Date: March 16, 2015

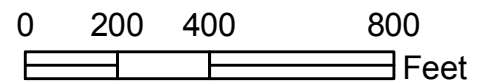


Created By: Buncombe County Planning  
Date: February 26, 2015

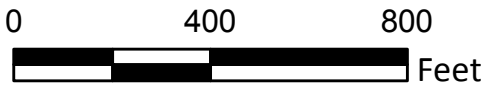
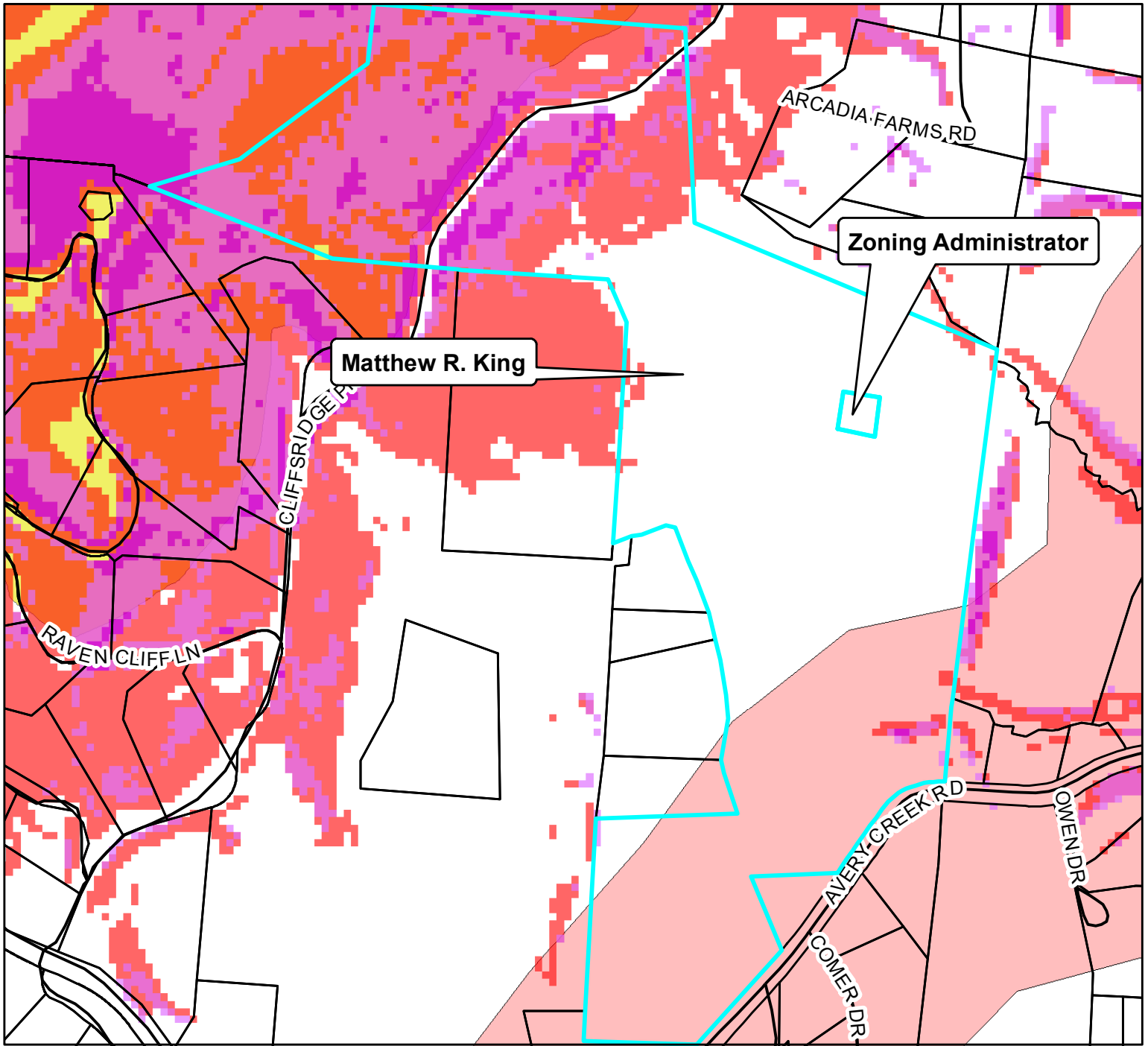


**Matthew R. King & Zoning Administrator  
Map Amendments**

Case Number: ZPH2015-00007 & -00008  
 Approximate Property Size: 52.31 acres  
 Application Date: February 3 & 25, 2015  
 Planning Board Hearing Date: March 16, 2015

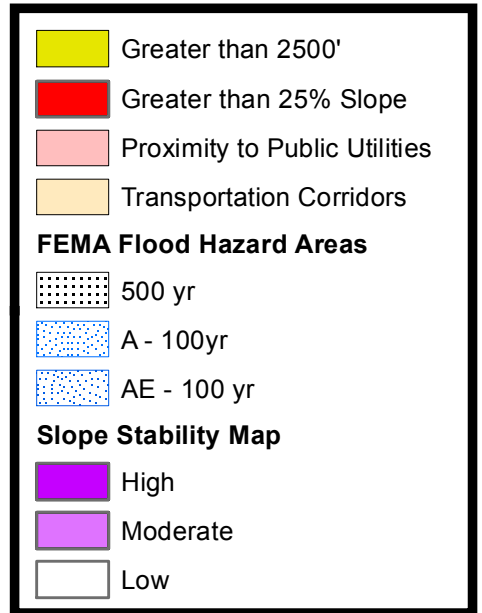


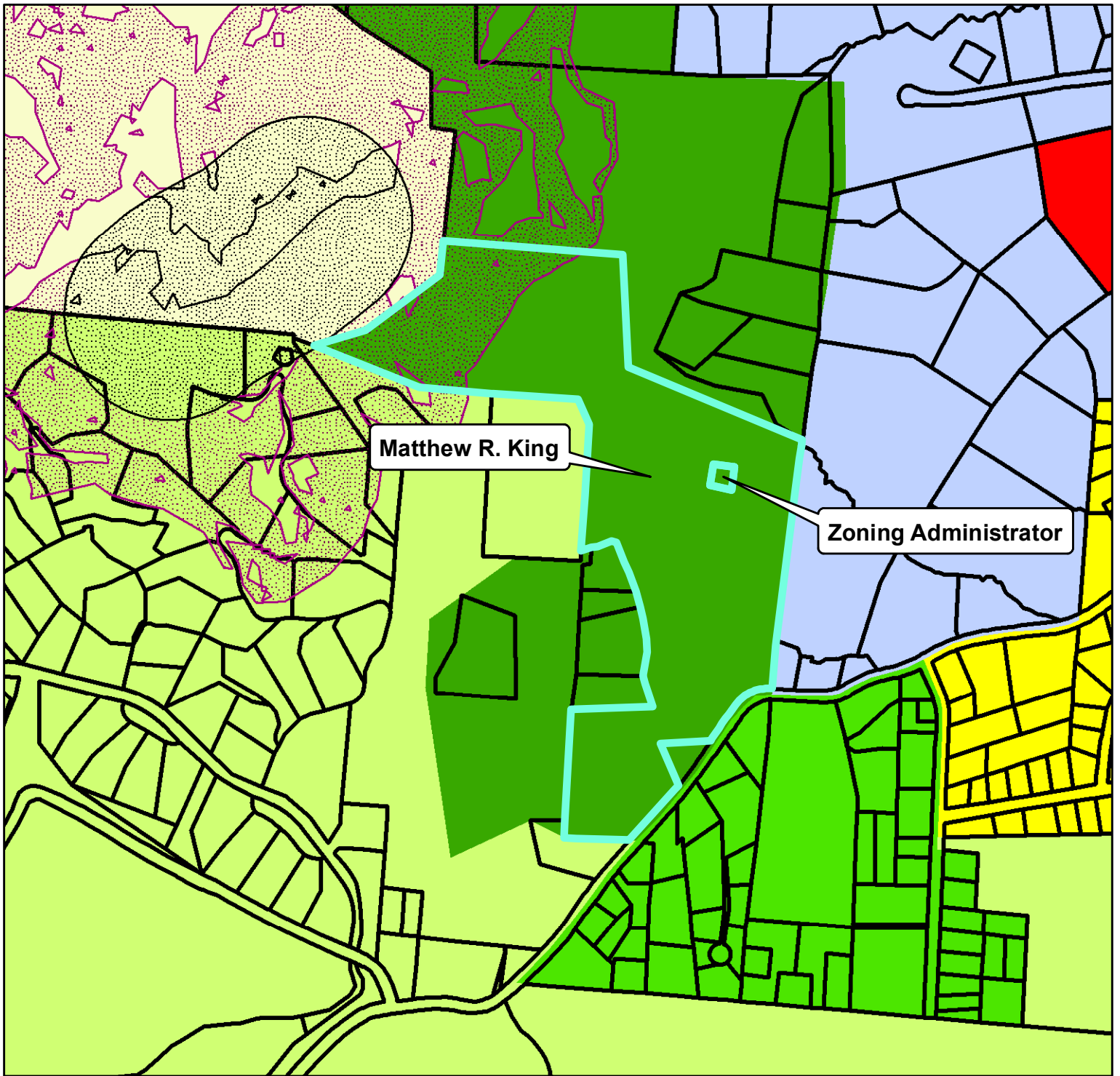
Created By: Buncombe County Planning  
 Date: February 26, 2015



## Matthew R. King & Zoning Administrator Map Amendments

Case Number: ZPH2015-00007 & -00008  
 Approximate Property Size: 52.31 acres  
 Application Date: February 3 & 25, 2015  
 Planning Board Hearing Date: March 16, 2015





# Matthew R. King & Zoning Administrator Map Amendments



Case Number: ZPH2015-00007 & -00008  
 Approximate Property Size: 52.31 acres  
 Application Date: February 3 & 25, 2015  
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Zoning Overlays		Zoning Districts	
	Blue Ridge Parkway Overlay		EMP
	Protected Ridge Overlay		NS
	Protected Ridge & Parkway		OU
	Steep Slope/High Elev.		PS
	Steep Slope/High Elev. & Pkwy		CR
			R-1
			R-2
			R-3
			R-LD
	BDM		CS

Created By: Buncombe County Planning  
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BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT  
REZONING ANALYSIS

CASE NUMBER : ZPH2015-00007 AND ZPH2015-00008  
PROPOSED ZONING CHANGE : R-LD to R-2  
LOCATION : 1863 BREVARD ROAD  
PINs : 9634-14-6580 (ZPH2015-00007)  
AND 9634-23-4768 (ZPH2015-00008)

APPLICANT: MATHEW R. KING (ZPH2015-00007)  
106 WILLIAMS ROAD  
FLETCHER, NC 28232

ZONING ADMINSTRATOR (ZPH2015-00008)

OWNER: JANICE ARTHUR LANCASTER (ZPH2015-00007)  
CECIL EDWARD ARTHUR  
275 BALL GAP ROAD  
ARDEN, NC 28704

LONGVIEW LAND COMPANY (ZPH2015-00008)  
PO BOX 1549  
TRAVELERS REST, SC 29690

DEPARTMENT RECOMMENDATION: **DENIAL**

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

**REZONING ANALYSIS:** The applicant is requesting the rezoning from R-LD (Low-Density Residential District) to R-2 (Residential District). A portion of the property in ZPH2015-00007 falls within the Steep Slope/High Elevation Overlay District. The property is currently undeveloped. The property is located on the North side of Averys Creek Road. To the East is industrial development zoned EMP (Employment District). To the North is property within the Cliffs at Walnut Cove zoned R-LD and OU (Open Use District). To the West is property zoned R-2 which includes a large tract of undeveloped property and the Cliffs at Walnut Cove subdivision.

The proposed map amendment is not consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan, 2013 Update show the following regarding the subject property:

- The property contains high elevations (2,500'+)
- The property contains areas of slope greater than 25%.
- The property contains areas of moderate and high slope stability hazards

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update recommends that the higher density single family residential development allowed within the R-2 zoning district be located outside high elevations (2,500'+), slopes greater than 25%, and moderate and high slope stability hazards. The proposed map amendment would be detrimental to the owners, adjacent neighbors, and surrounding community. Therefore, the Buncombe County Department of Planning and Development recommends denial of the request.

**LAND USE PLAN CONSISTENCY STATEMENTS**

**Not Consistent:** The proposed map amendment is not consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan 2013 Update show the following regarding the subject property:

- The property contains high elevations (2,500'+)
- The property contains areas of slope greater than 25%.
- The property contains areas of moderate and high slope stability hazards

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update recommends that the higher density single family residential development allowed within the R-2 zoning district be located outside high elevations (2,500'+), slopes greater than 25%, and moderate and high slope stability hazards. The proposed map amendment would be detrimental to the owners, adjacent neighbors, and surrounding community. Therefore, the requested zoning would **not be reasonable and in the public interest**.

**Consistent:** The proposed map amendment is consistent with the Buncombe County Land Use Plan as the Land Use Constraint maps within the Buncombe County Comprehensive Land Use Plan 2013 Update show the following regarding the subject property:

- The area has reasonable proximity to public utilities

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update recommends that the higher density single family residential development allowed within the R-2 zoning district have proximity to public utilities. Therefore the proposed map amendment could be appropriate. The proposed map amendment would also not be detrimental to the owners, adjacent neighbors, and surrounding community. Therefore, the requested zoning would be **reasonable and in the public interest**.