

**Buncombe County Planning Board
January 22, 2018**

The Buncombe County Planning Board met on January 22, 2018 in the meeting room at 30 Valley Street. Members present were Gene Bell, Nancy Waldrop, David Rittenberg, Thad Lewis, Robert Martin, Dusty Pless, and Joan Walker. Also present were Brandon Freeman, Staff Attorney; and Nathan Pennington, Gillian Phillips, and Shannon Capezzali, Planning staff.

Call to Order

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

Approval of Agenda

Gene Bell requested that the stormwater and erosion discussion be moved to the front of the agenda. Thad Lewis made a motion to amend the agenda. The motion was seconded by Joan Walker and passed unanimously.

Approval of Minutes (December 18, 2017)

Joan Walker made a motion to approve the December 18, 2017 meeting minutes. The motion was seconded by Dusty Pless and passed unanimously.

Discussion

Mike Goodson with the Buncombe County Stormwater Department provided information about the Stormwater Ordinance and answered questions from the Board. Doug Sharp, Erosion Control Officer, provided information about the Erosion Control Ordinance and answered questions from the Board.

Public Hearing – Zoning Map Amendment:

ZPH2017-00089: Heath White of Zen Tubing applied to rezone one (1) parcel identified as tax lot PIN 9635-14-5473 (1648 Brevard Rd) which is currently zoned Residential Low-Density (R-LD) to Commercial Service (CS).

Nathan Pennington presented the rezoning application (Attachment A) and staff recommendations (Attachment B). The Planning Department recommended denial of the rezoning request as it represents a spot zoning and is inconsistent with the Comprehensive Land Use Plan. Heath White, the owner of Zen Tubing, presented the application and answered questions from the Board. Gene Bell opened the meeting to public comment. Melissa Ager, a representative from UNCA which owns property across Brevard Road from the subject property, provided information about the Sandy Bottom Nature Preserve, its ecological importance, and the impact that increased commercial activity in the area would cause.

Gene Bell closed the public comment period. Joan Walker made a motion to deny the request as it is inconsistent with the Buncombe County Land Use Plan, contains steep slope areas, represents a spot zoning, and is within the Floodway. The motion to recommend denial was seconded by Robert Martin. The denial recommendation was approved 4 to 3. The following members voted to recommend denial: Robert Martin, Joan Walker, Gene Bell, and Nancy Waldrop. The following members voted to recommend approval: Thad Lewis, Dusty Pless, and David Rittenberg.

Public Hearing – Subdivision Variance:

SUB2017-00578: Dan Fiore of Sleppy LLC applied for a variance from Section 70-67(2)(e)(1) Minimum pavement width of the Buncombe County Land Development and Subdivision Ordinance to allow for a

reduction in pavement width in order to develop one additional lot in Fernstone Village Subdivision on tax lot PIN 9689-84-5080 (19 Viera Dr).

Thad Lewis made a motion to continue the variance request to the February 5 Planning Board meeting as four-fifths of the Board was not present. The motion was seconded by David Rittenberg and passed unanimously.

Subdivision Review:

SUB2017-00577: Dan Fiore of Sleppy LLC applied for major subdivision approval for one additional lot in the major subdivision identified as Fernstone Village and located on tax lot PIN 9689-84-5080 (19 Viera Dr).

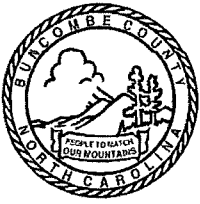
The subdivision review was continued to the February 5 Planning Board meeting.

Public Comment

Brandon Freeman, County attorney, clarified information about staff's communications with Mr. Finkle, which was discussed at a previous meeting regarding the recombination of previously platted subdivisions. Gillian Phillips provided information about the Subdivision Ordinance and State Statutes and the exemption from subdivision regulations.

Adjourn

The meeting was adjourned at 10:57 a.m.



Buncombe County Government
Application to Amend the Buncombe County Zoning Map

Planning and Development
 www.buncombecounty.org

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

OFFICE USE ONLY:

Case Number: ZPH 2017 - 00089 Date Received: 12/22/17
 Scheduled Planning Board Hearing Date: 1/22/18

Application is hereby made to the Board of Commissioners of Buncombe County to amend the Official Zoning Map of Buncombe County as pertains to the following properties:

Property description:

- Property Identification Number(s): 9635-14-5473
- Address(es) of Property: 1648 Brevard Road / Sandy Bottom Park Property
- Total Acreage of Property: 7 acres

Zoning Classification(s):

Current zoning district(s): R-LD Requested zoning district(s)*:

**If only a portion of the property is requested to be rezoned, or a rezoning to include more than one zoning district is proposed, please enclose a map indicating the area(s) of the property to be considered for rezoning.*

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

1. Describe how the size of the tract proposed for rezoning in reference to surrounding properties makes it suitable for the proposed zoning classification:

Proposed "bar" will use 1/2 an acre from the 7 acre tract. This will not affect any surrounding businesses or create an increase in the traffic pattern as customers are already coming to existing business. (Zen Tubing Inc.)

2. Describe how the proposed rezoning is consistent with Buncombe County's Comprehensive Land Use Plan (available at www.buncombecounty.org/planning):

With the recent popularity of the French Broad River with locals and tourists this business will fall in line with the direction that both Buncombe County and Asheville City are moving in to help people enjoy the great resource that the French Broad River offers. As a seasonal (May - October) establishment with a temporary structure this falls in line Buncombe County's Comprehensive Land Use Plan.

3. Describe how the proposed rezoning would be reasonable and in the public interest, with specific attention to the zoning and existing land uses of surrounding properties, and the potential effects of the proposed rezoning on property owners, adjacent neighbors, and the surrounding community.

- Not close to schools or churches
- It will enhance the business that is already on the property (Zen Tubing Inc.) as there is no other service provider near by.
- Customer base is already set by existing business.
- Business plan includes using a removable shipping container that will be removed at the end of October each year. (May - October)

4. Is/are the applicant(s) listed below the owner(s) of the property? Yes No

If the applicant(s) listed below are not the owner(s) as listed within the Buncombe County Tax Records, North Carolina General Statutes require the applicant to certify that the owner(s) received notice for each public hearing. An owner's affidavit should be submitted with this application, and certification of notice must be provided by the applicant once notice has been made for each public hearing 5 days prior to the hearing date; sample documents for both items can be obtained from the Planning Department.

Contact information:

Heath White

Applicant Name(s) (please print)

14 Holly Lane Asheville, NC 28806

Mailing Address (including town/city, state, and zip)

828 230 9380

Telephone

zentubing2012@gmail.com

Email Address



Signature of Applicant

Signature of Applicant

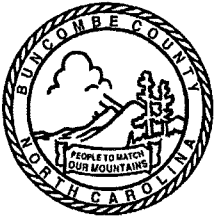
Signature of Applicant

Signature of Applicant

Signature of Applicant

Signature of Applicant

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



Application to Amend the Buncombe County Zoning Map: Owners' Affidavit

Planning and Development
www.buncombecounty.org

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

OWNERS' AFFIDAVIT

The persons listed below do hereby appear before a Notary Public and affirm that they are the legal owners of the property located at:

1648 Brevard Road/Sandy Bottom Park Property
PIN(s) # ~~06600~~ 9635-14-5473

The persons listed below do hereby give authorization and permission to:

Heath Anthony White of Zen Tubing
(Name of Representative/Agent) (Name of Organization)

to submit to Buncombe County a request to amend the zoning map for the above listed properties from:

Current zoning district: Light Ind Requested zoning district: Per Sailing Clubs Only

This application will be submitted to be heard by the Planning Board in a public hearing on 1/22, 2018 and to be subsequently heard by the Commissioners.

<u>Owner's Name (Print)</u>	<u>Owner's Signature</u>	<u>Date</u>
<u>James Goode</u>	<u>James Goode</u>	<u>12/19/2017</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

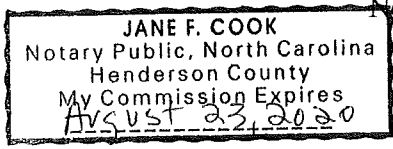
STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Jane F. Cook, a Notary Public of the County and State aforesaid, certify that James Goode, PROPERTY OWNER, personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the 19th day of December, 2017.

Jane F. Cook
Notary Public

My Commission Expires:
8-23-2020



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

CASE NUMBER:
PROPOSED ZONING CHANGE:
LOCATION:
PIN(s):
APPLICANT:
OWNER:

ZPH2017-00089
R-LD to CS
1648 Brevard Rd. (1)
9635-14-5473
Heath White of Zen Tubing → applicant
James Goode (2)

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.

(3)

REZONING ANALYSIS: The applicant is requesting the rezoning of one (1) parcel comprising approximately 4.06 acres located at 1648 Brevard Road and currently zoned Residential Low-Density District (R-LD) to Commercial Service District (CS). The northern portion of the subject property is within the Blue Ridge Parkway Overlay District. The property is the former location of the Sandy Bottoms Park and is currently vacant. The property is used seasonally by Zen Tubing as a temporary use. No permanent structure can be located on the property as it is entirely within a FEMA designated floodway. The properties to the West, across Brevard Road, are all vacant, zoned R-LD, and protected as permanent open space by conservation easements. The property to the East, across the French Broad River, is also vacant and zoned R-LD, as is the property to the South. The Blue Ridge Parkway and the French Broad River are located to the North of the subject property. The applicant is seeking the rezoning in order to seasonally locate a shipping container on the property to serve as a bar for alcohol sales.

2001 purchase from David Boone Council

(4)

Staff's main concerns with this rezoning request are that it represents a potential "spot-zoning" and that the alcohol sales would represent an intensification of a commercial use completely surrounded by a rural undeveloped area zoned residentially.

The Land Use Constraint maps contained within the Buncombe County Comprehensive Land Use Plan 2013 Update illustrate the following conclusions regarding the subject property:

- The subject property is located on an identified transportation corridor.
- The subject property is located within the combined water/sewer service area.
- The subject property does contain a small amount of land identified as steep slope (greater than 25%) located adjacent to the French Broad River.
- The subject property is located outside of high elevations greater than 2500 feet.
- The subject property does contain a small amount of moderate slope stability hazard area located adjacent to the French Broad River.

BRP 1320' from E

LAND USE PLAN CONSISTENCY STATEMENTS

Inconsistent: The proposed map amendment is inconsistent with the Buncombe County Land Use Plan and the associated Land Use Constraint maps contained within the Buncombe County Comprehensive Land Use Plan 2013 Update. The following information is relevant to the subject property:

- The subject property contains areas identified as steep slope (greater than 25%).
- The subject property contains moderate slope stability hazard areas.
- The subject property is located entirely within a FEMA Flood Hazard Area (floodway).

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies moderate commercial development as “highly suggested” outside of steep slope areas (greater than 25%) and outside of moderate and high hazard slope stability areas. The Update further “suggests” moderate commercial development be located outside of FEMA flood 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. Moderate commercial development is incompatible with the surrounding rural area and the requested map amendment has a high potential to be challenged as a “spot-zoning.” Therefore, the requested zoning would **not be reasonable and in the public interest** as it is incompatible with the surrounding area, is located entirely within a FEMA Flood Hazard Area (floodway), contains areas identified as steep slope (greater than 25%), contains moderate slope stability hazard areas, and represents the potential for a “spot zoning.”

Consistent: The proposed map amendment is consistent with the Buncombe County Land Use Plan and the associated Land Use Constraint maps contained within the Buncombe County Comprehensive Land Use Plan 2013 Update. The following information is relevant to the subject property:

- The subject property is located on an identified transportation corridor.
- The subject property is located within the combined water/sewer service area.
- The subject property is located outside of high elevations greater than 2500 feet.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies moderate commercial development as “highly suggested” within reasonable proximity to major transportation corridors, within combined water/sewer service areas, and outside of high elevations (greater than 2,500 feet). 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**.

Heath White - owner of Zen Tubing

Motion to deny

Joan Walker

Robert Martin 2nd

Rittenberg

Against Press, Lewis

(43)

- French Broad is a clean river
- parking is a constraint
- shipping containers are used to mitigate flood concerns
- signed contract w/ company to remove containers during flood event. Canned beer sales only are envisioned, food truck possibly.
- land historically leased by Boy Scouts to BC
- Melissa Acker UNCA, environmental sensitivity of UNCA properties

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Zen Tubing – Rezoning

Map 4: Zoning

Requested Zoning:

- Commercial Service CS

Current Zoning:

- Residential District R-LD

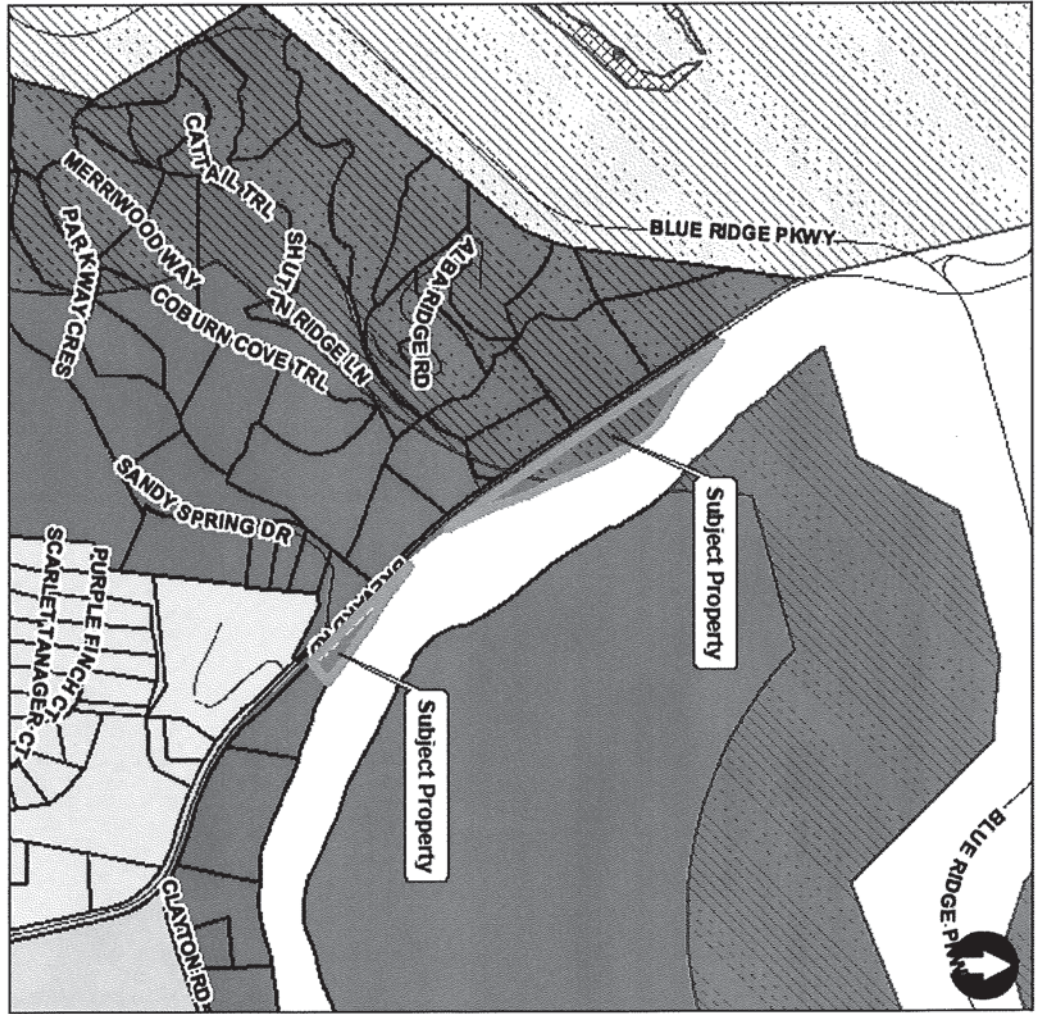
Staff Recommendation:

- Denial

Planning Board

Recommendation:

- Denial



Zen Tubing Map Amendment Application

Case Number: ZPH2017-00089
 PIN Number: 9635-14-5473
 Approximate Property Size: 7 acres
 Application Date: December 22, 2017
 PB Hearing Date: January 22, 2018
 Created By: Buncombe Co. Planning
 Date: 1/22/2018

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

Zen Tubing – Rezoning

Map 1: Topography

Requested Zoning:

- Commercial Service CS

Current Zoning:

- Residential District R-LD

Staff Recommendation:

- Denial

Planning Board

Recommendation:

- Denial

