

Buncombe County Planning Board  
February 4, 2013

The Buncombe County Planning Board met February 4, 2013 in the meeting room at 30 Valley Street. Members present were Jim Young, Bud Sales, Joe Sechler, Josh Holmes, Bernie Kessel, Catherine Martin, Michelle Wood, Greg Phillips, and Chairman Tom Alexander. Also present were Debbie Truempy and Gillian Phillips, Planning staff; Josh O'Conner, Zoning Administrator; Jon Creighton, Planning Director/Assistant County Manager; and Michael Frue, County Attorney.

**Call to Order**

Chairman Alexander called the meeting to order at 9:34 am. Chairman Alexander indicated that Ravenmont subdivision had been removed from the agenda.

**Approval of Agenda**

Ms. Wood made a motion to approve the agenda. Ms. Martin seconded the motion and the motion passed unanimously.

**Approval of Minutes (January 28, 2013)**

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

**Public Hearing (Zoning Map Amendments)**

*ZPH2013-00001: Matthew Lyerly applied to rezone a portion of tax lot PIN 9629-15-7269 (located between 432 New Leicester Highway and behind 384 Old County Home Road), which is currently zoned Low Density Residential District (R-LD) and Single Family Residential District (R-1) to Commercial Service District (CS); and tax lot PIN 9629-24-1922 (374 Old County Home Road), which is currently zoned Single Family Residential District (R-1) to Commercial Service District (CS).*

The Board was provided with the applications (Attachment A), GIS maps (Attachment B), and staff recommendation prior to the meeting (Attachment C). Ms. Truempy described the proposed zoning map amendment to the Board.

James Lyerly was present to represent the case. He indicated that he and his brother, Matthew Lyerly, owned a landscaping and grading business that was currently located near the Madison County line. Mr. Lyerly indicated that they planned to locate their business on the subject property. Mr. Sechler asked Mr. Lyerly if he had spoken to the adjacent property owners. Mr. Lyerly indicated that he had spoken to two of the three adjacent property owners. There was discussion regarding the current R-LD zoning. Mr. Lyerly described why they were only rezoning a portion of property, as they wished to stay out of the steeper portions of the property. The Board discussed runoff on the property and proposed screening with the applicant. Chairman Alexander asked the applicant to show on Attachment B where the proposed buffer was going to be.

Charles and Sheryl Donaldson were present and wished to comment. Ms. Donaldson indicated that she had concerns regarding what traffic issues a commercial use on the property would create. Mr. Donaldson raised concerns regarding traffic and the possibility of having a storage facility on the property. Mr. Donaldson showed the Board the property they owned on Attachment B. Linda and Jack Spivey were present and wished to comment. They raised concerns as the driveway to two of their rental properties was adjacent to the subject property, and they had concerns regarding the conversion of the land to commercial disrupting the tenants in their rental properties. They also raised concerns regarding erosion control on the property. Ms. Truempy described the regulations the County had regarding buffering, stormwater control, and erosion control.

Chairman Alexander asked if anyone else would like to make public comment and there being no one closed the public portion of the hearing. Mr. Sechler asked if the Board could place conditions on the property. Ms. Truempy indicated that you could not place conditions on a map amendment. There was discussion regarding traffic, and the DOT's role in reviewing the proposed access to the property. The applicant also discussed the site development considerations in placing the driveway where it was proposed. Mr. Holmes made a motion to recommend approval of the map amendment and indicated that it was consistent with the Land Use Plan as provided for in Attachment C. Mr. Kessel seconded the motion and the motion passed on a vote of eight to one with Ms. Martin voting against it.

#### **Further discussion of the Comprehensive Land Use Plan Update**

The Board was provided with information regarding the Land Use Plan Topics prior to the meeting.

#### **Resort/Conference Center District**

The Board was provided with an information sheet regarding this concept (Attachment D). Mr. O'Conner introduced the concept to the Board. He indicated that the proposed district would address some of the issues with the large conference centers and resorts in the County, and allow these organizations more flexibility and a more efficient development process. Mr. O'Conner indicated that staff would be targeting larger tracts with the proposed zoning that were under the control of one central entity. Mr. O'Conner indicated that staff had already talked to Ridgecrest, the Biltmore Estate, The Cove, Blue Ridge Assembly, and Lutheridge regarding the proposed zoning district. Patsy Brison, representing the Biltmore Estate; and Doug VanWurt and Justin Arnart representing the Cove. After a few comments from those present the Board further discussed the proposed idea for the district with staff. Bruce Hazard, also representing the Biltmore Estate, described the current difficulties within the Zoning Ordinance in regards to getting large additions to these institutions approved. Mary Sanders, a resident of Ridgecrest, raised concerns regarding a solar farm that was being proposed in Ridgecrest. The Board expressed their support for this concept. There was some discussion about what concepts that were discussed at the last Planning Board meeting in regards to the Land Use Plan.

Residential Planned Unit Development and Commercial and Mixed-Use Planned Unit Development

The Board was provided with an information sheet regarding these concepts (Attachment E and Attachment F). Mr. O’Conner introduced the concept to the Board. Mr. O’Conner indicated that staff wished to make the Planned Unit Development process more efficient by splitting Planned Unit Developments into different categories. He then proceeded to describe those categories. The Board expressed their support for this concept.

Lot Size and Setback Regulations

The Board was provided with an information sheet regarding this concept (Attachment G). Mr. O’Conner introduced the concept to the Board. Mr. O’Conner indicated that the staff had discussed revising the lot size where water and sewer or just sewer were available, and revising the setbacks and required lot sizes based on current real estate market trends staff had been witnessing. Additionally, there was some discussion regarding increasing lot size where septic tanks were needed to utilize a lot for development. Ms. Wood raised concerns regarding raising lot size requirements for septic tank lots.

Site Suitability and Administrative Approval

The Board was provided with an information sheet regarding this concept (Attachment H). Mr. O’Conner introduced the concept to the Board. Mr. O’Conner indicated that he would just be briefly going over this topic and would provide further details at a later meeting. He indicated that the staff was proposing the update to the Land Use Plan look at site suitability in context of different environmental factors as to whether or not a proposed zoning map amendment or Conditional Use Permit would be suitable at specific locations in the County.

**Public Comment**

Al Gumpert raised concerns regarding taking away the audio video system within the meeting room.

**Adjournment**

Ms. Wood then made a motion to adjourn the meeting at 10:39 am. Mr. Sales seconded the motion and the motion passed unanimously.



Buncombe County Government ATTACHMENT A
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:

- (X) 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): 9629-15-7269 9629-24-1922
9629-15-6391, 9629-14-9993
(b) Address of Property(s): 374 Old County Home Rd; Asheville, NC 28806
(c) Acreage of Property: ~ 11

2. Zoning Classification:

Current zoning district: R-LD + R1 Requested zoning district: CS

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:

The front portion of the tract is relatively level and is bordered by commercial properties one side. Also a car lot zoned R-1 was grandfathered in during the original zoning process.

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

The proposed plan retains the most sensitive areas in R-1 zoning while allowing the rezoning and responsible development of the easily accessible and less sensitive lands into commercial property.

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

The affects would be minimized by both an internal R-1 zone along the western border and a privacy border consisting of both fencing and planting

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

o Owner(s):

The proposed rezoning could increase property resale value, while owners are taxed according how the property is being utilized rather than how it is zoned. This could mean an increase in future revenue generated by a sale with no increase in current taxes. Also it would allow for great flexibility in generating income on a month to month bases.

o Adjacent Neighbors:

The R-1 area would see a small increase in traffic at the beginning of Old County Home Rd, but when compared to the current traffic

o Surrounding Community:

lead, it would be relatively insignificant. Allow the area to expanded the goods and services that it can provide, improving the communities appeal

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

Matthew Lyerly  
Owner's/Applicant's Name

374 Old County Home Rd, Asheville, NC, 28806  
Mailing Address (including town/city, state, and zip)

910-584-1922  
Telephone

lyerly@gmail.com  
Email Address

Buncombe County  
Planning and Development  
Received

  
Signature of Owner/Applicant

JAN - 4 2012 2013

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

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

OFFICE USE ONLY:

Date received: 4-JAN-2013

Staff Recommendation

Case number: ZPH2013-00001

approval




Scheduled Planning Board Hearing Date: 4-Feb-2013

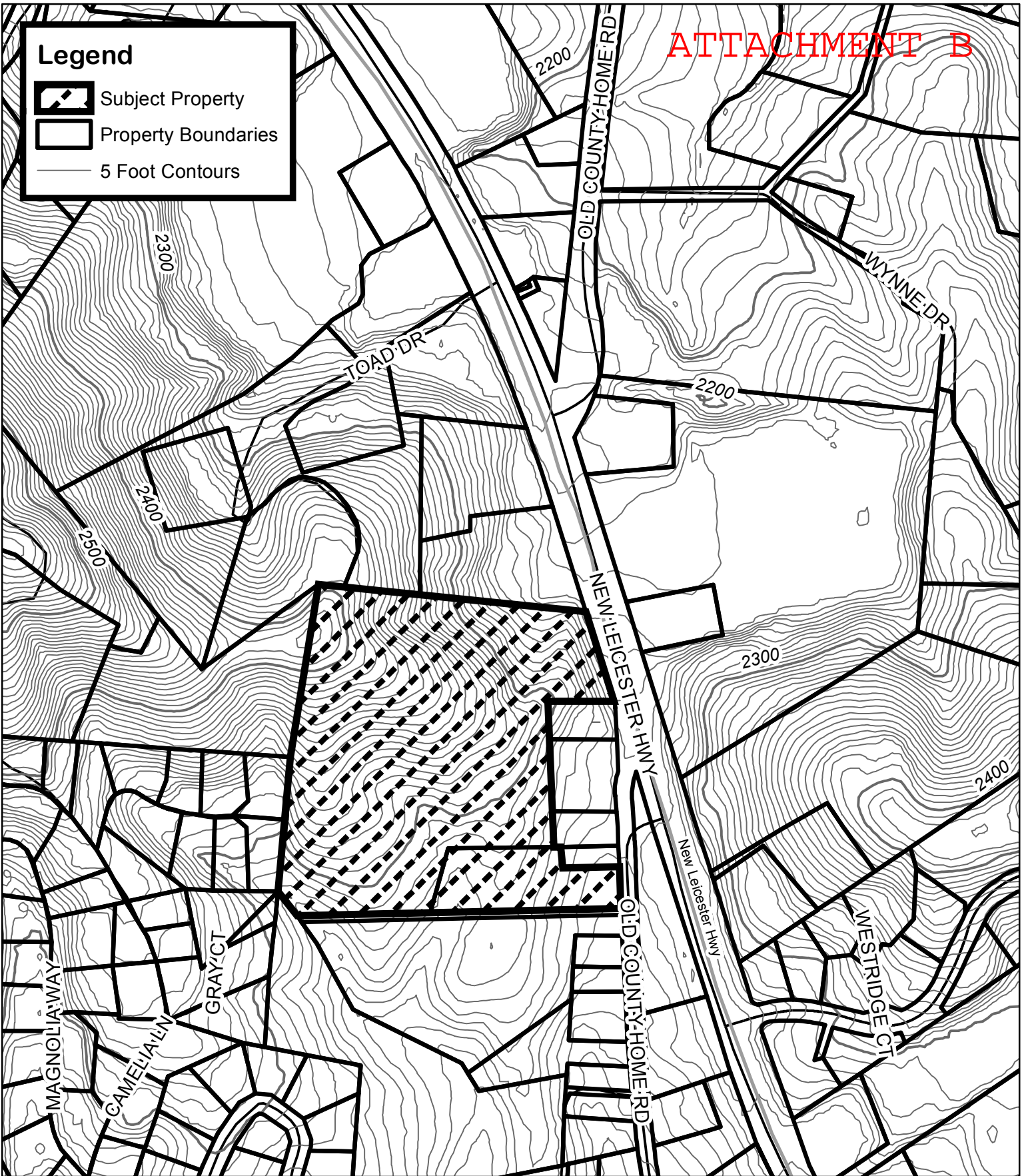
denial

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



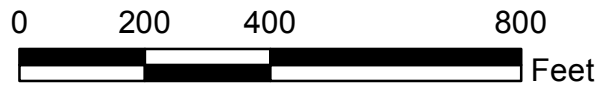
**Legend**

-  Subject Property
-  Property Boundaries
-  5 Foot Contours



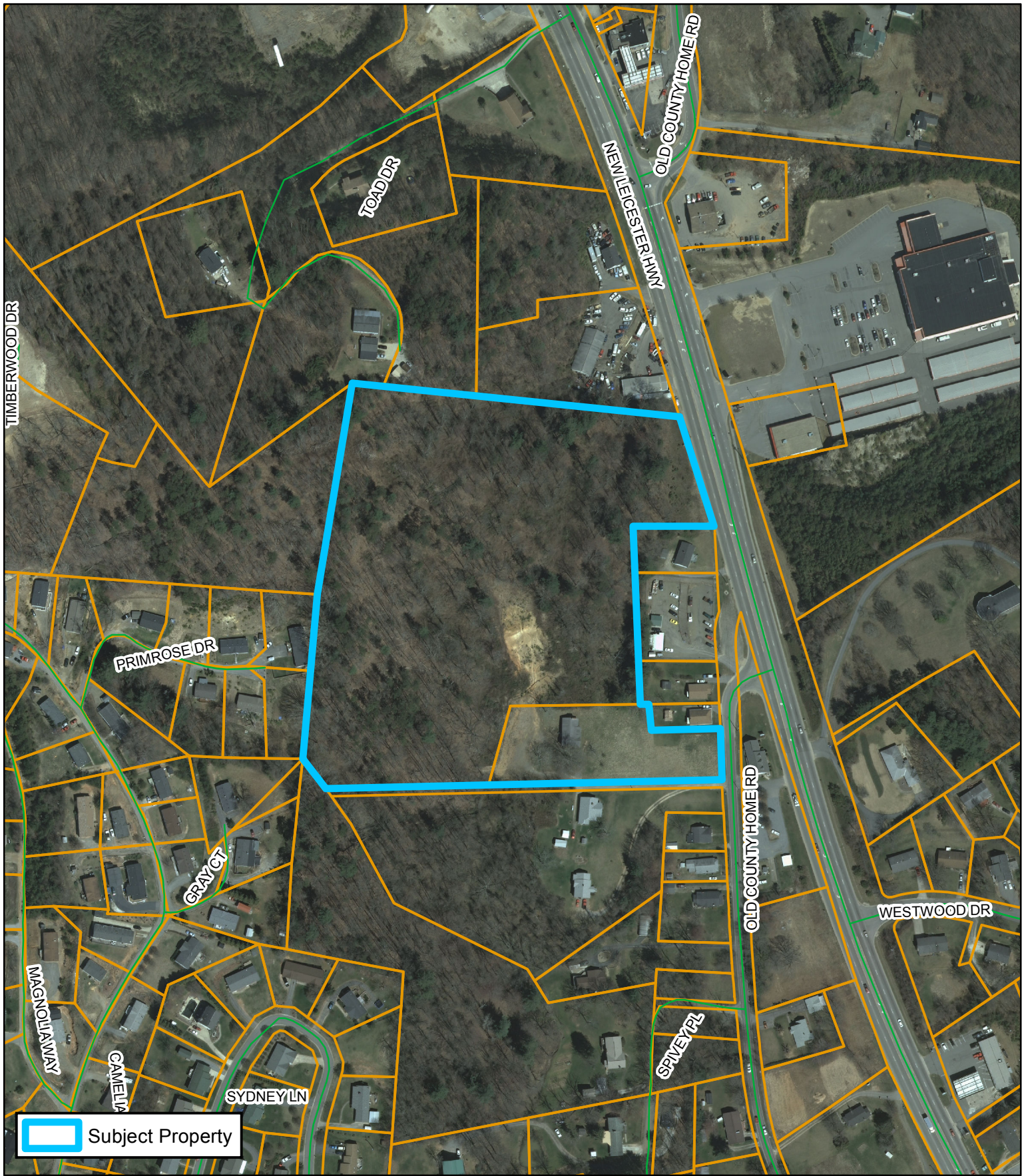
**Matthew Lyerly**  
**Map Amendment**

Case Number: ZPH2013-00001  
Total Property Size: Approximately 11.7 acres  
Application Date: January 4, 2013  
Planning Board Hearing Date: February 4, 2013



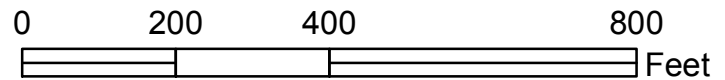
Created By: Buncombe County Planning  
Date: January 10, 2013





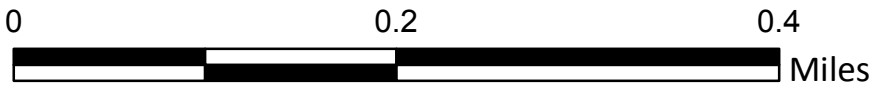
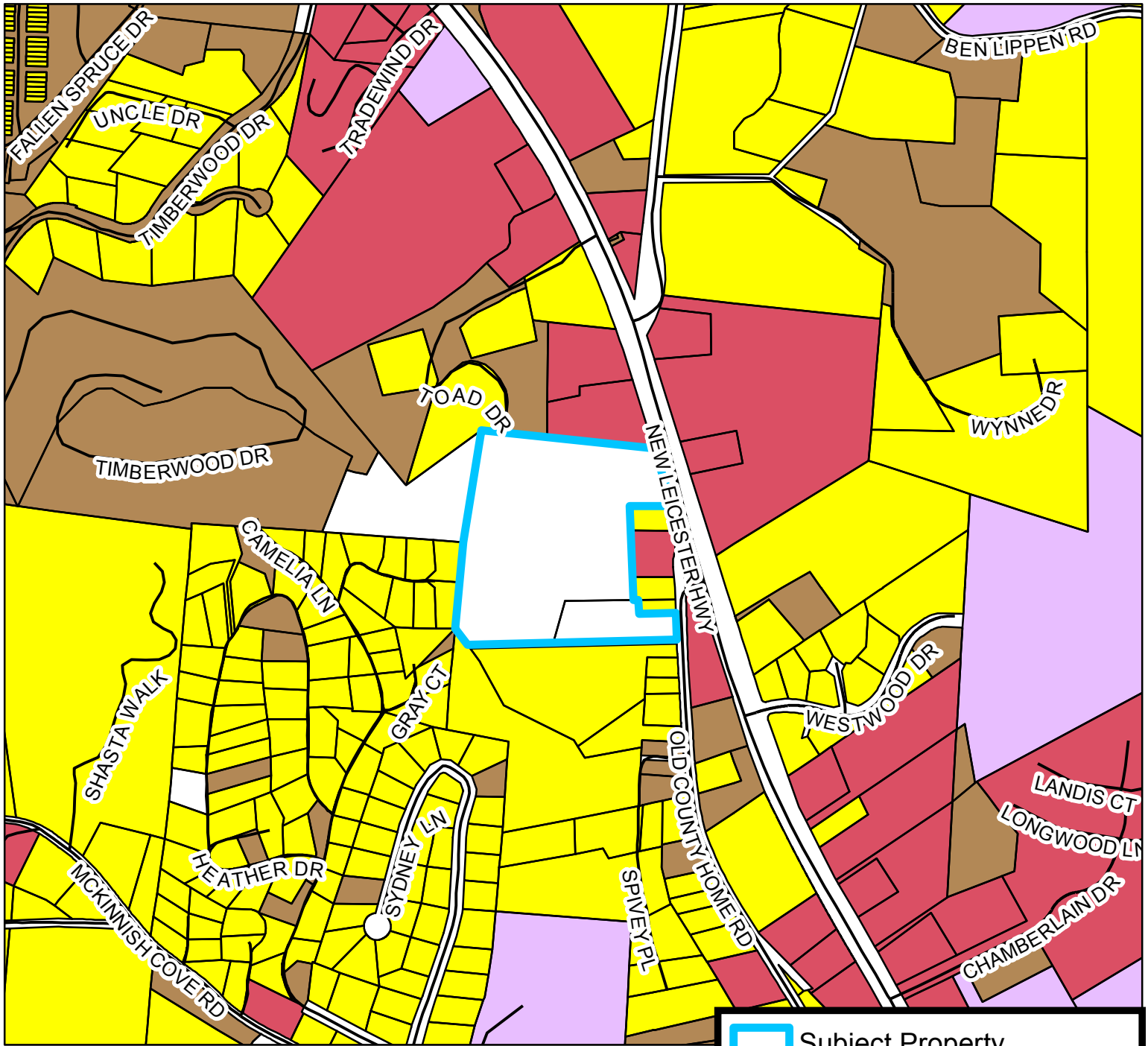
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**Matthew Lyerly  
Map Amendment**



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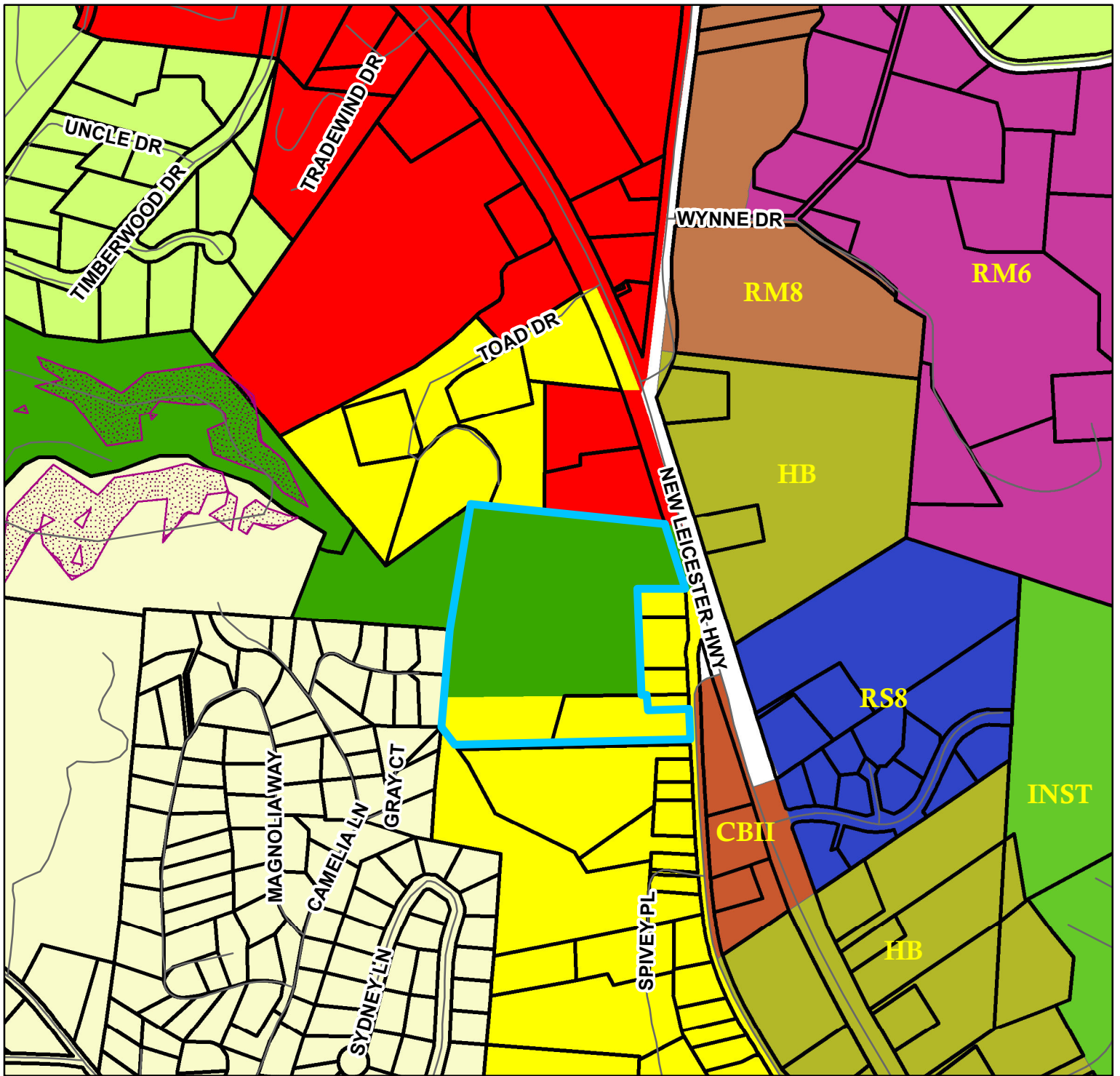
Created By: Buncombe County Planning  
 Date: January 10, 2013

**Subject Property**

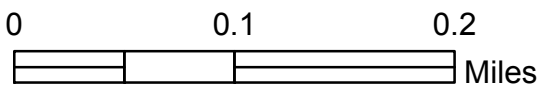
**Assessed Use**

- Forestry, Conservator, Parks
- Agricultural
- Public Services
- Community Services
- Recreational, Entertainment
- Industry
- Commercial
- Vacant Land
- Residential





# Matthew Lyerly Map Amendment



Subject Property	OU	<b>Zoning Overlays</b>	Blue Ridge Parkway Overlay
<b>Zoning Districts</b>	PS		Protected Ridge Overlay
BDM	R-1	Protected Ridge & Parkway	Steep Slope/High Elev.
CS	R-2	Steep Slope/High Elev. & Pkwy	
EMP	R-3		
NS	R-LD		

Case Number: ZPH2013-00001  
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Created By: Buncombe County Planning  
 Date: January 10, 2013

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT  
REZONING ANALYSIS

CASE NUMBER : ZPH2013-00001  
PROPOSED ZONING CHANGE : R-LD & R-1 to CS  
LOCATION : 374 OLD COUNTY HOME ROAD  
PINs : 9629.15.7269 AND 9629.24.1922  
ACREAGE : APPROX. 11.7 ACRES

APPLICANT/OWNER: MATTHEW LYERLY  
374 OLD COUNTY HOME ROAD  
ASHEVILLE, NC 28806

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 requests the rezoning of approximately 11.7 acres from R-LD (Low-Density Residential District) and R-1 (Single-Family Residential District) to CS (Commercial Service District). The subject property is located at the intersection of Old County Home Road and New Leicester Highway. The tract currently contains a single family home and undeveloped property. The surrounding area within i the City and the County is comprised of residential development and commercial development along New Leicester Highway. The requested zoning is consistent with the Buncombe County Comprehensive Land Use Plan as the Buncombe County Comprehensive Land Use Plan 2006 Update indicates that CS is "primarily intended to provide suitable locations for clustered commercial development to encourage concentration of commercial activity in those specified areas with access to major traffic arterials, to discourage strip commercial development, and to allow for suitable noncommercial land uses" (Buncombe County Comprehensive Land Use Plan Update, VII-4). The requested zoning would not be detrimental to the owner, adjacent neighbors, and surrounding community as it is consistent with the commercially zoned property adjacent to the subject property and surrounding property. Therefore the Buncombe County Department of Planning and Development recommends **APPROVAL** of the request.



**LAND USE PLAN CONSISTENCY STATEMENTS**

**CONSISTENT:** The map amendment is consistent with the Buncombe County Comprehensive Land Use Plan as the Buncombe County Comprehensive Land Use Plan 2006 Update indicates that CS is “primarily intended to provide suitable locations for clustered commercial development to encourage concentration of commercial activity in those specified areas with access to major traffic arterials, to discourage strip commercial development, and to allow for suitable noncommercial land uses” (Buncombe County Comprehensive Land Use Plan 2006 Update, VII-4). The proposed map amendment would be consistent with the surrounding commercial development along New Leicester Highway. The requested zoning would be reasonable and in the public interest as commercial development exists along New Leicester Highway.

**NOT CONSISTENT:** The map amendment is not consistent with the Buncombe County Comprehensive Land Use Plan as the Buncombe County Comprehensive Land Use Plan 2006 Update indicates that CS is “primarily intended to provide suitable locations for clustered commercial development to encourage concentration of commercial activity in those specified areas” and “discourage strip commercial development” (Buncombe County Comprehensive Land Use Plan 2006 Update, VII-4). The proposed map amendment could lead to strip commercial development along the New Leicester Highway Corridor. The requested zoning would not be reasonable nor in the public interest and would be detrimental to the adjacent neighbors and surrounding community as it might lead to strip commercial development.

# ATTACHMENT D

February 4, 2013  
Buncombe County Planning Board  
Land Use Plan Discussion

## **Resort/Conference Center District**

**Issue:** Buncombe County is situated in a unique natural environment which makes it attractive to resorts (including seasonal camps) as well as large scale conference centers and recreation facilities. Current land use policies do not address the unique characteristics of large-scale resort and conference center type facilities. The current disjunction between the current zoning designations of these facilities imposes limitations on expansions and improvements. In addition the current land use policies fail to adequately accommodate the uses which currently occur on these facilities as well as the unique patterns of development.

**Recommendation:** A Resort/Conference Center zoning district should be developed in order to accommodate large-scale resort, retreat, or conference facilities. This district should be targeted toward those facilities which are 100 acres and more (referring to the total collection of adjacent properties) and managed through a common entity. The district should account for the unique needs of conference centers and resorts providing flexibility while still ensuring the protection of surrounding residential properties.

### **Key Points:**

- Many of our current conference centers are zoned inappropriately (i.e. residential dwellings).
- While public service could be applied to such districts, it does not provide the necessary distinction between an institutional-type use and a resort/conference center type use.
- The current zoning districts have created difficulties in addressing the needs of expansions for our current conference centers and resorts.



February 4, 2013  
Buncombe County Planning Board  
Land Use Plan Discussion

## **Residential Planned Unit Development**

**Issue:** Under Buncombe County's current Zoning Ordinance, applicants are only provided a single type of Planned Unit Development as an option to develop complex residential or commercial sites. Due to the lack of a tailored process, each applicant must undergo the same process regardless of the nature of their development. The generic process which is currently in use results in applications that may not address the specific concerns associated with each type of development. In the case of residential development, the threshold for a Planned Unit Development may not align with community impacts.

**Recommendation:** In order to facilitate a better tailored process, a new class of Planned Unit Developments should be created specifically associated with residential development. This Planned Unit Development should be designed to capture proposed land uses which are solely residential in character and which create a significant enough community impact to trigger a higher level of review (beyond the staff level).

### **Key Points:**

- Residential developments should be addressed in a manner that focuses on residential requirements rather than a generic process.
- The threshold for residential developments should be tuned specifically to address the types of concerns that occur at a residential scale.
- The Residential PUD would eliminate unnecessary requirements under the current PUD process by requiring only the information relevant to a residential application.

### **Commercial and Mixed-Use Planned Unit Development**

**Issue:** Under Buncombe County's current Zoning Ordinance, applicants are only provided a single type of Planned Unit Development as an option to develop complex residential or commercial sites. Due to the lack of a tailored process, each applicant must undergo the same process regardless of the nature of their development. The generic process which is currently in use, results in applications that may not address the specific concerns associated with each type of development. With respect to commercial developments, the current standards do not adequately reflect the review needs of a commercial application. Under the current mixed-use type developments there is not a wide enough degree of latitude to allow uses that would complement the proposed development.

**Recommendation:** In order to facilitate a better tailored process, new classes of Planned Unit Developments should be created specifically associated with Commercial and Mixed-Use Developments. The Commercial Planned Unit development would be broad enough to incorporate a range of commercial and industrial applications while focusing on the specific criteria relevant to those sites. These Planned Unit Developments would streamline the application process to require information pertinent to the application at hand and would create submittals that spoke to key community concerns without providing extraneous information. The creation of a Commercial Planned Unit Development would also provide some degree of latitude which would allow planning staff to advance projects on existing commercial sites needed to enhance the functionality of the site (without an impact to the surrounding neighborhood).

#### **Key Points:**

- The relevant advantages would be similar to those presented by the Residential PUD.
- Through presenting categories of PUDs, staff would be enabled to communicate more clearly about the submission requirements of applications.
- A tailored PUD process would enable the Board of Adjustment to expedite review and to create more sound findings of facts based on complete applications.



### **Lot Size and Setback Reductions**

**Issue:** Since the adoption of County-wide zoning, the planning department has received numerous requests for reductions in setbacks and lot size through the variance process. In addition, development patterns appear to indicate that reductions in setbacks and lot size are necessary to promote the availability of workforce and affordable housing. The current lot size parameters (allowing for reduction in lot sizes in areas where utilities are available) do not align with realistic infrastructure requirements. Dramatic lot size reductions are allowed on lots where public water is available and where public water and sewer are available, however, such reductions are not allowed in scenarios where only public sewer is available. In areas where both public water and public sewer are available, the minimum lot size and setbacks are more stringent than one would expect.

**Recommendation:** Efforts should be made to align lot sizes to the surrounding land use context including the availability of infrastructure. In areas where public sewer is not available, lot size should be adjusted to allow adequate space for septic facilities. Setbacks should be adjusted to allow for greater flexibility in areas with access to urban infrastructure. Both setbacks and lot size should be adjusted to more accurately reflect the densities limitations provided in each district.

### **Key Points:**

- Currently setbacks and lot sizes do not align with patterns of development.
- Setbacks, lot size, and maximum densities are divergent under the current ordinances.
- In areas where public sewer is unavailable, lots sizes do not provide adequate space for septic fields and septic repair fields.

### Site Suitability and Administrative Approval

**Issue:** Under the current administrative approval process (including conditional uses and rezonings), there are few tools available to the Planning Board and Board of Adjustment to make sound decisions based on the qualitative characteristics of the site. In addition, applicants are provided few tools to be able to effectively articulate the rationale for their application. Given the current application process, staff, applicants, and appointed boards are not given criteria on which to base decisions.

**Recommendation:** The land use plan should create an opportunity to incorporate the concepts and suitability characteristics identified through the land use planning process into administrative approvals. Applicants should be offered an opportunity to present the specific merits of each project or rezoning request based on factors known to influence the suitability of a site for particular uses. The suitability characteristics developed should represent a “best case” scenario while still providing sufficient leeway for applicants to justify their case depending on the specific characteristics of each site. In addition, the characteristics should also allow appointed boards to understand how each site conforms with the land use plan in an objective manner.

#### Key Points:

- Administrative approvals currently lack any specific connection with land use guidance. Applicants must attempt to justify their case on generic criteria which are not tied to specific, tangible characteristics of the land.
- The Board of Adjustment currently only considers community character as it pertains to land use patterns and does not have a mechanism to evaluate the compatibility of projects with land qualities.
- The subjective nature of applications creates situations where appointed boards lack any concrete information upon which to base their conclusions.