

**Buncombe County Planning Board
March 20, 2017**

The Buncombe County Planning Board met on March 20, 2017 in the meeting room at 30 Valley Street. Members present were Nancy Waldrop, David Rittenberg, Joan Walker, Bob Taylor, Thad Lewis, Parker Sloan, and Dusty Pless. Also present were Michael Frue, Staff Attorney; Jon Creighton, Planning Director; and Debbie Truempy and Shannon Capezzali, Planning staff.

Call to Order

Nancy Waldrop called the meeting to order at 9:32 am.

Approval of Agenda

Dusty Pless made a motion to approve the agenda. The motion was seconded by Joan Walker and passed unanimously.

Approval of Minutes (March 6, 2017)

Parker Sloan made a motion to approve the March 6, 2017 meeting minutes. The motion was seconded by Dusty Pless and passed unanimously.

Public Hearing (Zoning Map Amendment)

ZPH2017-00008: *James and Lisa Hall applied to rezone one (1) parcel further identified as tax lot PIN # 9625-79-5257 (227 Bent Creek Ranch Road) which is currently zoned Residential District (R-1) to Residential District (R-3).*

Debbie Truempy presented the rezoning analysis and staff recommendation. Staff recommended denial of the rezoning request as it was not consistent with the Comprehensive Land Use Plan and would be an unreasonable spot zoning. The applicant, James Hall, provided information about the rezoning request and his proposed use of the site. The Board considered the legal requirements for spot zoning requests, and options for rezoning to R-3 or R-LD as an alternative. Debbie Truempy clarified that any rezoning would still be spot zoning.

The following public comment was offered:

- Dolly Force, resident of South Oaks Circle, provided information about the negative visual impact of the existing property with tool sheds, junk cars, and other items on the site. She stated her concern was that the rezoning would affect property values and that her home is the only real asset that she has to pass on to her children.
- Josh Werts, resident of South Oaks, stated that the applicants' property is respectfully maintained, however he is concerned about future development in an R-3 zoned site. He would like the applicant to be able to have the proposed manufactured home without having to rezone the property.
- Robert Howard, resident of South Oaks Circle, stated that he does not support the rezoning request due to the types of development allowed in R-3. He expressed support for grandmother-suites and other options that would allow the manufactured home without the rezoning.
- Diana Ramsey, resident of the community, stated she also does not support the rezoning to R-3, but may support R-LD zoning.
- Leonard Dinardo, resident of the community, stated that the current manufactured homes are visible to the neighborhood and he does not support the placement of another manufactured

home on the site. He would support a modular or other home constructed on the site which would be more compatible with the existing neighborhood.

- Terese Christian, resident of South Oaks Circle, stated that she does not support rezoning the site to R-3, but does support their need to take care of their mother, and would be in favor of rezoning the property to R-LD.
- Kim Melvin, resident of Forest Edge, stated that she does not support rezoning the property to R-3 because future development of the site could include anything allowed in that zoning district.
- Clyde Motley, owner of an existing manufactured home in the neighborhood, stated that the cost to construct a modular or stick built home is the real issue preventing the owner from using the property.
- Craig Dewitt, resident of Leicester, expressed concern with R-3 rezoning being a permanent change. He proposed a recreational vehicle. Debbie Truempy clarified that no RVs or travel trailers are allowed in R-1.
- Jonathan Scott, a resident of the community, stated that his family chose to move to the neighborhood to avoid the manufactured homes in the nearby area. The existing entrance to the community does not provide views of the manufactured homes in the area, therefore creating a different perception of the neighborhood.
- Amanda Werts, resident of the neighborhood, requested that other options be explored to help the applicants achieve their goal of housing their mother on the site.
- Emma Howard, resident of South Oaks, expressed her sympathy for the applicant, but stated her concern for property values if the lot was rezoned. She suggested the applicants add an addition to their current home.
- Brian Good, resident of Forest Edge, stated that he purchased his home due to the protections of the existing zoning in the neighborhood.
- DeDe Styles, resident of Swannanoa, stated that the public comments are from people living in better housing who are only concerned about how manufactured homes look and who do not want to see people who are less well-off than they are. She expressed concern that this was discrimination against the poor.

James Hall, the applicant, stated that he purchased the land before zoning existed in order to do what he wanted with it, but since zoning was adopted he is now limited in what he can do. He described the location of the access points for the proposed home and any potential subdivision of the property in the future. Debbie Truempy provided information about the Board of Commissioners meeting which will hear the application on April 18, and provided a definition of spot zoning. Parker Sloan stated that the Board may not be able to legally justify the spot zoning request, but also wished the Board could find a solution for the applicant. David Rittenberg expressed appreciation for the applicant's desire to help his family, and for the community's attempts to find a compromise. Dusty Pless stated that he does not agree that the County should prevent the property owner from developing his property as desired and stated that he supports private property rights.

David Rittenberg made a motion to deny the application on the basis that it is inconsistent with the Comprehensive Land Use Plan. The motion was seconded by Bob Taylor and passed unanimously.

Discussion

The Planning Board had a discussion about zoning restrictions on manufactured homes, potential changes to the Zoning Ordinance to allow more housing options, and the creation of Conditional Zoning

in the County. Joan Walker asked for suggestions to assist the applicant, and to provide recommendations to the Board of Commissioners for potential ordinance changes. Buncombe County Planning staff will provide the Planning Board with information about Conditional Zoning options, including administrative requirements, and the costs and benefits. Jon Creighton will also invite Commissioner Brownie Newman to attend a future Planning Board meeting.

Public Comment

None

Adjourn

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

ZPH2017-00008

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

CASE NUMBER	: ZPH2017-00008
PROPOSED ZONING CHANGE	: R-1 TO R-3
LOCATION	: 227 BENT CREEK RANCH ROAD
PIN(s)	: 9625-79-5257
APPLICANT	: JAMES AND LISA HALL
OWNERS	: JAMES AND LISA HALL

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 applicants are requesting the rezoning of one (1) parcel comprising approximately 2.58 acres and located at 227 Bent Creek Ranch Road from R-1 (Residential District) to R-3 (Residential District). The subject property currently consists of two (2) manufactured homes clustered towards the front and southern portion of the property and served by two (2) individual driveways with direct access to Bent Creek Ranch Road. A detached garage is located behind the home closest to South Oaks Drive along the western property line. Properties to the north and west of the subject parcel have been developed as single-family homes and located primarily within the South Oaks residential subdivision and zoned R-1. Property to the east is currently vacant and zoned R-1, and properties to the south contain single-family residences and at least one existing manufactured home separated by Bent Creek Ranch Road and zoned R-1. The applicants have previously applied for a zoning permit to site an additional manufactured home on the subject property in August of 2016, but were informed by staff that manufactured homes are not permitted in the R-1 zoning district. Therefore, the applicants are now seeking a rezoning in order to place an additional manufactured home on the property. The addition of another manufactured home on the subject property would constitute a manufactured home park pursuant to the Zoning Ordinance of Buncombe County. Manufactured home parks are prohibited in the R-1 zoning district.

While there are a few examples of existing manufactured homes located within the surrounding Bent Creek Ranch Road neighborhood, the vast majority of the area consists of single-family site built homes. The closest grouping of R-3 properties is approximately 400 feet from the northern extent of the subject property and is part of the Hidden Acres Manufactured Home Park which is accessed from Pole Creasman Road. Therefore, planning staff is concerned of the potential precedent for a "spot zoning" that this request may present. "Spot zoning occurs when a relatively small tract of land is zoned differently from the surrounding area¹." Further, in order for "spot zonings" to be upheld if they are challenged, a reasonable basis for approval must be established.

¹ David W. Owens, *Land Use Law in North Carolina*, Chapter 12, Spot Zoning, 115 (UNC Chapel Hill, 2011).

The proposed map amendment is **inconsistent** with the predominant development pattern of established single-family homes within the surrounding neighborhood, and while manufactured home parks and higher density developments are permissible within the R-3 zoning district, the R-1 district does not allow manufactured home parks and higher density developments. Additionally, a key recommendation of the Comprehensive Land Use Plan suggests ways to allow manufactured home placement while still respecting the character of the surrounding neighborhood.

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 approximately ½ mile from an identified major transportation corridor – Brevard Road (NC 191).
- The subject property is located slightly outside of the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water serves the subject property, but wastewater is managed through a septic system.
- The subject property is located outside of areas identified as steep slope (greater than 25%).
- The subject property is located outside of high elevations greater than 2500 feet.
- The property does not contain any areas identified as moderate or high slope stability hazards.
- The subject property is not located within a FEMA Flood Hazard Area.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies infill/higher density development as “suggested” within reasonable proximity to major transportation corridors and “highly suggested” within combined water/sewer service areas. The Plan “highly suggests” that infill/higher density development be located outside of steep slope areas (greater than 25%), outside of high elevations (greater than 2,500 feet) and outside of moderate and high slope stability areas. Infill/higher density development is suggested outside of flood hazard areas.

The proposed map amendment would be detrimental to the adjacent neighbors, and surrounding community as it negatively impacts a number of stated goals as identified in the Buncombe County Comprehensive Land Use Plan Update and is inconsistent with the overall intent of the existing R-1 Zoning District as noted in the Zoning Ordinance of Buncombe County. Therefore, the Buncombe County Department of Planning and Development recommends **denial** of the rezoning request as it is incompatible with the surrounding residential single-family nature of the area and may constitute a “spot zoning” as described above.

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 is located approximately ½ mile from an identified major transportation corridor – Brevard Road (NC 191).
- The subject property is located slightly outside of the combined water/sewer service area as indicated on the applicable Land Use Constraint Maps. Public water serves the subject property, but wastewater is managed through a septic system.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies infill/higher density development as “suggested” within reasonable proximity to major transportation corridors and “highly suggested” within combined water/sewer service areas. The proposed map amendment would be detrimental to the adjacent neighbors, and surrounding community as it negatively impacts a number of stated goals as identified in the Buncombe County Comprehensive Land Use Plan Update and is inconsistent with the overall intent of the existing R-1 Zoning District as noted in the Zoning Ordinance of Buncombe County. Therefore, the requested zoning would **not be reasonable and in the public interest** as it is incompatible with the surrounding residential single-family nature of the area and may constitute a “spot zoning” as described in the staff analysis.

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 outside of areas identified as steep slope (greater than 25%).
- The subject property is located outside of high elevations greater than 2500 feet.
- The property does not contain any areas identified as moderate or high slope stability hazards.
- The subject property is not located within a FEMA Flood Hazard Area.

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