

BUNCOMBE COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
REZONING ANALYSIS

CASE NUMBER : ZPH2011-00065
 PROPOSED ZONING CHANGE : R-3 TO NS
 LOCATION : 596 and 606 Old US 70 Hwy
 PIN NUMBER : 9699.31.7744 and 9699.41.2317
 ACREAGE : 5.53

APPLICANT/OWNER: RICHARD KUBICA
 PO BOX 487
 BLACK MOUNTAIN NC 28711

OWNER: BART JONES
 PO BOX 238
 SWANNANOVA, NC 28778

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 5.23 acres from R-3 (Residential District) to NS (Neighborhood Service District). The subject property is located on the south side of Old US 70 Highway, west of the intersection of Cavalier Lane and Old US 70 Hwy. The portion of the property owned by Mr. Kubica contains an existing commercial structure which he is operating a business from and is currently non-conforming with the existing residential zoning. Mr. Kubica's business involves the construction of formed concrete walls. Mr. Kubica plans to purchase a portion of Mr. Jones' property for expansion of his business. The portion of the tract currently owned by Bart Jones includes the Carolina Ready Mix concrete company. Rezoning Mr. Jones' property would make the concrete company less non-conforming than the currently existing R-3 zoning. The surrounding area is comprised of residential uses and various commercial and industrial uses. The requested zoning is consistent with the Buncombe County Comprehensive Land Use Plan as the Buncombe County Comprehensive Land Use Plan Update indicates that NS "is designed to allow for a mix of residential, commercial, business and service uses in limited areas at key intersections leading to residential neighborhoods" (Buncombe County Comprehensive Land Use Plan Update, VII-4). The requested zoning would be consistent with surrounding uses. The requested zoning would not be detrimental to the owner, adjacent neighbors, and surrounding community as it is consistent with the developing commercial area along this section of Old US 70 Highway. Therefore the Buncombe County Department of Planning and Development recommends APPROVAL of the request.

LAND USE PLAN COMPLIANCE STATEMENTS

CONSISTENT:

The requested zoning is consistent with the Buncombe County Comprehensive Land Use Plan as the 2006 Buncombe County Comprehensive Land Use Plan Update indicates that NS “is designed to allow for a mix of residential, commercial, business and service uses in limited areas at key intersections leading to residential neighborhoods” (VII-4). The requested zoning would be reasonable and in the public interest as it would allow for a commercial business in an area that allows a wide variety of commercial uses.

NOT CONSISTENT:

The map amendment is not consistent with the Buncombe County Comprehensive Land Use Plan as the 2006 Buncombe County Comprehensive Land Use Plan Update indicates that “the type of uses allowed and the standards established for development in this NS district should be compatible with the residential character of the area and should neither add to traffic congestion; cause obnoxious noise, dust, odors, fire hazards or lighting objectionable to surrounding residences; nor visually detract from overall appearance of the neighborhood” (VII-4). The requested zoning would not be reasonable or in the public interest as it would allow for a commercial business in an area that includes a large amount of residential development.