

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

CASE NUMBER:	ZPH2018-00043
PROPOSED ZONING CHANGE:	R-2 to EMP
LOCATION:	U.S. Hwy 70
PIN(s):	967847395200000
APPLICANT:	John R. Brake
OWNER:	Ruth Brake (Deceased)

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:**

John R. Brake, Executor/Trustee, on behalf of Ruth Brake (Deceased), has applied to rezone one (1) parcel identified as tax lot PIN 9678-47-3952 (U.S. Hwy 70), totaling approximately 0.99 acres and which is currently zoned R-2 Residential, to EMP-Employment. The subject property is located on Tunnel Road (US Highway 70) at / east of the intersection of Tunnel Road and Robert Clayton Drive.

Staff has no concerns with spot zoning, given that the property is contiguous to existing EMP zoning on the south side of Tunnel Road.

The subject property abuts R-2 zoning and low-to-medium (Holly Tree Apartments) density residential land uses on its west, north and east boundaries. It abuts EMP zoning and commercial (East Storage) and industrial (Wright Tool Co.) land uses to the south, across US Highway 70 and the Norfolk Southern rail line. The subject property is separated from commercial land uses by a distance of approximately 300 feet on both the east (Wright’s Carpet) and west (Gentle Family Dentistry) sides, on the same side (north) of US Highway 70.

The proposed rezoning is supported by the following considerations, as outlined in Figure 20. Appropriate Development Types, of the Buncombe County Comprehensive Land Use Plan 2013 Update:

- The subject property is located on an identified major transportation corridor.
- The subject property is located within the combined water/sewer service area.
- The subject property is not identified as steep slope (greater than 25%).
- The subject property is not located in an area of high elevation greater than 2500 feet.

- The subject property is not located within high or moderate slope stability hazard area.
- The subject property is located outside a FEMA Flood Hazard Area.

The proposed rezoning is not supported by the following consideration, as outlined in Figure 20. Appropriate Development Types, of the Buncombe County Comprehensive Land Use Plan 2013 Update:

- The subject property is not separated from low-density residential uses.

BUNCOMBE COUNTY COMPREHENSIVE LAND USE PLAN 2013		SECTION 6: ISSUES AND RECOMMENDATIONS					
— Not Required 👉 Suggested ★ Highly Suggested	Reasonable proximity to major transportation corridors	Reasonable proximity to infrastructure (combined water/sewer service area)	Outside of steep slope areas (25% +)	Outside of high elevations (2500' +)	Outside of moderate and high slope stability hazards	Outside of flood hazard areas	Separation from low-density residential uses
<b>OTHER</b>							
Institutional	★	★	★	★	★	👉	👉
Public Service	★	★	★	★	★	👉	👉
<b>COMMERCIAL</b>							
Neighborhood-Scale Commercial	👉	👉	★	★	★	👉	👉
Moderate Commercial	★	★	★	★	★	👉	★
Intense Commercial	★	★	★	★	★	👉	★
<b>INDUSTRIAL</b>							
Manufacturing	★	★	★	★	★	👉	👉
Mining/Extracting/Refining	★	★	★	★	★	👉	★
Other Intense Uses	👉	👉	★	★	★	👉	★

Figure 20. Appropriate Development Types

Staff has come concern with respect to the potential introduction of industrial uses in proximity to nearby, residential properties and neighborhoods. However, based upon the close proximity of EMP and CS zoning on the same side of the road, as well the preponderance of supporting factors listed above, Staff recommends **approval** of the proposed zoning map amendment.

The zoning proposed map amendment would **not** be detrimental to the owners, adjacent neighbors, and surrounding community as it does adhere to guidance from the Buncombe County Comprehensive Land Use Plan Update, which advises the following with respect to industrial and commercial land uses:

- The subject property is located on an identified major transportation corridor.
- The subject property is located within the combined water/sewer service area.
- The subject property is not identified as steep slope (greater than 25%).
- The subject property is not located in an area of high elevation greater than 2500 feet.
- The subject property is not located within high or moderate slope stability hazard area.
- The subject property is located outside a FEMA Flood Hazard Area.

**LAND USE PLAN CONSISTENCY STATEMENTS**

**The following consistency statements are provided to support the Board’s findings to approve or deny an application.**

**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, specifically:

- The subject property is located on an identified major transportation corridor.
- The subject property is located within the combined water/sewer service area.
- The subject property is not identified as steep slope (greater than 25%).
- The subject property is not located in an area of high elevation greater than 2500 feet.
- The subject property is not located within the moderate slope stability hazard area.
- The subject property is located entirely outside a FEMA Flood Hazard Area.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update identifies industrial and commercial development as “highly suggested” within reasonable proximity to major transportation corridors; within the combined water/sewer service area; outside of steep slope areas; outside of high elevations; outside of moderate and high slope stability hazard areas; and further, “suggests” industrial and commercial development be located outside of FEMA flood hazard areas. 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**.

**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, specifically:

- The subject property is not separated from low-density residential uses.

Figure 20. Appropriate Development Types of the Buncombe County Comprehensive Land Use Plan 2013 Update, identifies industrial and commercial uses as “suggested” and “highly suggested” when separated from low-density residential uses. The proposed map amendment would be detrimental to the owners, adjacent neighbors, and surrounding community as it **does not** meet a goal as identified in the Buncombe County Comprehensive Land Use Plan Update. Therefore, the requested zoning would **not be reasonable and in the public interest** as it is not separated from low-density residential uses.

RESOLUTION OF PLANNING BOARD RECOMMENDATION TO THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS ON APPLICATION FOR PROPOSED ZONING MAP AMENDMENT

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WHEREAS, the Zoning Administrator for Buncombe County has received an application (ZPH2018-00043) requesting an amendment to The Official Zoning Map of Buncombe County on the parcel identified as follows and as shown in Figure A attached:

Tax Lot PIN 9678-47-3952-00000 (US Highway 70);

The applicant is requesting that the zoning designation of this parcel be changed from Residential District (R-2) to Employment District (EMP);

WHEREAS, the Zoning Administrator certified that notices of the meeting of the Buncombe County Planning Board at which this application was considered have been properly mailed to members of the Planning Board, the applicant(s), owner(s), and all adjoining property owners at least ten (10) days prior to the meeting; public notice of the meeting has been properly published in a newspaper having general circulation in the County; and notices of the public hearing concerning this zoning map amendment have been prominently posted as required;

WHEREAS, pursuant to N.C. Gen. Stat. §153A-344 and §78-719 of the Buncombe County Code of Ordinances, the Planning Board is charged with making a recommendation to the Board of Commissioners and to comment on whether the requested zoning change is consistent or inconsistent with the Buncombe County Comprehensive Land Use Plan and Updates and on whether the requested zoning change is reasonable and in the public interest; and

That based upon the facts as set forth above and having reviewed the application, heard public comment, and consulted with planning staff, the Buncombe County Planning Board hereby finds and concludes as follows pertaining to the proposed amendment to the Zoning Map as set forth in said application:

1. That said zoning change is **consistent** with the Buncombe County Comprehensive Land Use Plan and Updates because the 2013 Update (Figure 20. Appropriate Development Types) identifies commercial and industrial development as “suggested” and “highly suggested” on an identified major transportation corridor, and within the combined water/sewer service area. Further, the Plan Update identifies commercial and industrial development as “suggested” and “highly suggested” when located outside of areas identified as steep slope (greater than 25%), areas of high elevation greater than 2500 feet, high or moderate slope stability hazard areas, and FEMA Flood Hazard Areas;
2. Therefore said zoning change is reasonable and in the public interest.

NOW, THEREFORE, BE IT RESOLVED that upon motion and second, the Buncombe County Planning Board hereby recommends as follows:

1. That the Board of Commissioners **approve** this application for a zoning change to tax lot PIN 9678-47-3952-00000 (US Highway 70);

as shown in Figure A, from Residential District (R-2) to Employment District (EMP).

Adopted by a vote of 5 to 1.

This the 15<sup>th</sup> day of October, 2018.

BUNCOMBE COUNTY PLANNING BOARD

By:   
Chair

Consented to:

Planning Board Members:

Nancy Waldrop

David Rittenberg

Thad B. Lewis **ABSENT**

Billy Taylor

Dusty Pless **ABSENT**

Joan M. Walker **ABSENT**

Robert J. Martin

Gene Bell

Parker Sloan

  
Debbie Truempy, Zoning Administrator

Approved as to form:

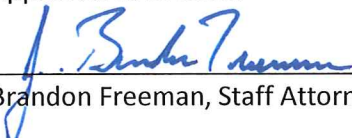
  
Brandon Freeman, Staff Attorney

Figure A

