TOWN OF FLETCHER

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Standard Rezoning & Special Use Permit Birkshire Trace (26-01-SUP)

Planning Department Staff Report

Tyler Morrow, Planning and Zoning Director

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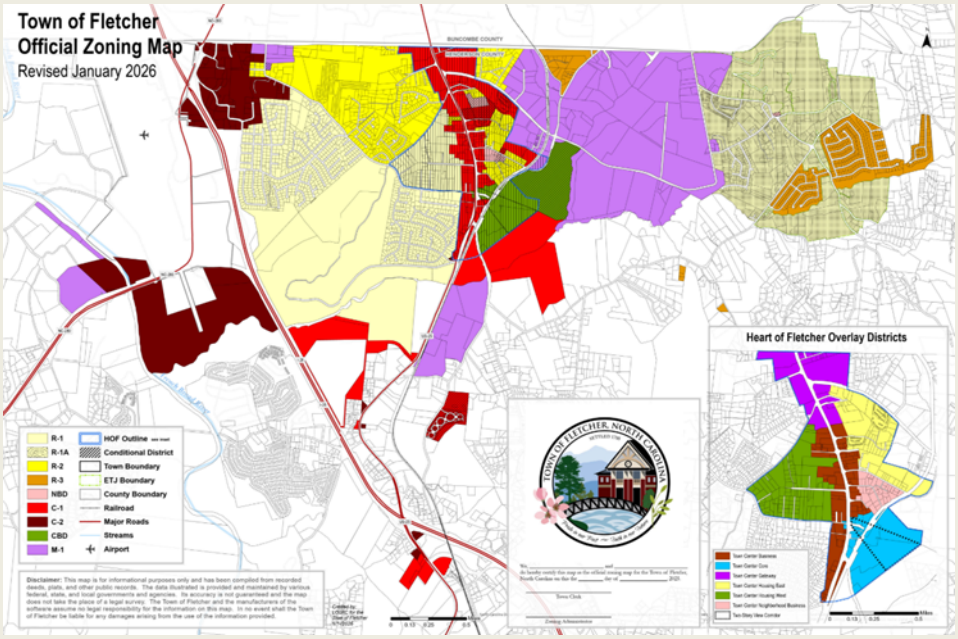
Project Summary



- **Project Name & Case #:**
  - Birkshire Trace
  - 26-01-SUP
- **Applicant:**
  - Dustin Mills of Taft Mills Group LLC
- **Property Owners:**
  - AVL Holdings LLC (PIN: 9643-73-8923)
  - Arden Hospitality, LLC (PINs 9643-84-1236, 9643-84-3220, & 9643-84-4274
- **Property Address:**
  - 196 Underwood Road
- **Project Acreage:**
  - 7.71 Acres
- **Project overview**
  - 115 Unit Low Income Housing Tax Credit Multi-Family Project. (14.92 units per acre)

- **Parcel Identification (PIN):**
  - 9643-73-8923
  - 9643-84-1236
  - 9643-84-3220
  - 9643-84-4274
- **Current Parcel Zoning:**
  - C-2, Interstate Commercial District
- **Requested Zoning:**
  - NBD, Neighborhood Business District
- **Land Use Plan Designation:**
  - Mixed Use Residential (PIN 9643-73-8923)
  - Single Family Detached (PIN 9643-84-1236 & 9643-84-3220)
  - Not in Use (PIN 9643-84-4274)
- **Requested Uses:**
  - Dwelling-Multifamily more than 4 units in a building

Map Amendment Process:



As stated previously in this report, the subject property is currently zoned C-2 Interstate Business District. This zoning classification does not permit multi-family residential development. In 2017, Town Council approved amendments to the Land Development Code that removed targeted residential uses from the C-1 and C-2 zoning districts. The Land Use Plan was subsequently amended to reflect these changes.

Because the C-2 district does not allow multi-family residential development, the subject property must first be rezoned to a district where such use is permitted. Accordingly, the applicant has requested that the property be rezoned to NBD (Neighborhood Business District). Within the NBD district, multi-family residential development is permitted only with the approval of a Special Use Permit. Multi-family development is not permitted by right in this district and cannot be constructed without receiving Special Use Permit approval.

Therefore, the applications before the Planning Board and Town Council include two separate requests. The first is a standard rezoning request. If the rezoning request is approved, consideration would then move to the Special Use Permit application for the multi-family residential development in accordance with the standards of the Land Development Code and the site plan submitted by the applicant.

If the rezoning request is not approved, the Special Use Permit application would no longer be applicable and would become moot. However, it is possible for the rezoning request to be approved while the Special Use Permit is denied. In that scenario, the property would still be rezoned to NBD, and any use permitted within that zoning district could be developed on the property, provided the proposal complies with all other applicable review processes and requirements of the Land Development Code.

Special Use Permit Process:

Upon application, the Town Council, following a recommendation from the Planning Board, may grant special use permits in specific cases. Such permits may be approved subject to appropriate conditions and safeguards, as authorized by this ordinance and identified as special uses within the applicable zoning districts.

All Special Use Permit Applications are Quasi-Judicial Proceedings. A quasi-judicial decision is a formal, court-like process used by local governments to apply specific zoning or development ordinances to individual situations. It requires finding facts, holding evidentiary hearings, and basing decisions on evidence rather than political discretion.

For the Town Council to approve a Special Use Permit, the following findings must be made:

1. A complete application has been submitted in accordance with the requirements of the Town Code.
2. The Town Council must determine that the proposed use will not negatively impact the health or safety of nearby residents or employees, will not harm the public welfare, and will not be detrimental to surrounding properties or public improvements. As part of its approval, the Town Council may impose reasonable conditions to ensure the proposed use complies with the intent and requirements of the Code.
3. Prior to issuing the Special Use Permit, the Town Council must adopt written findings confirming that the proposal complies with the specific standards for the requested special use as outlined in Article 3, and that appropriate provisions and arrangements have been made for all applicable requirements.

    1. Satisfactory ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow, and control.

    2. Provision of off-street parking and loading areas where required, with particular attention to the items listed above, and the economic, noise, glare and odor effects of the special use on adjoining properties in the area.

    3. Adequate and proper utilities, with reference to locations, availability, and compatibility.

    4. Buffering, with reference to type, location, and dimensions.

    5. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmonies with properties in the district.

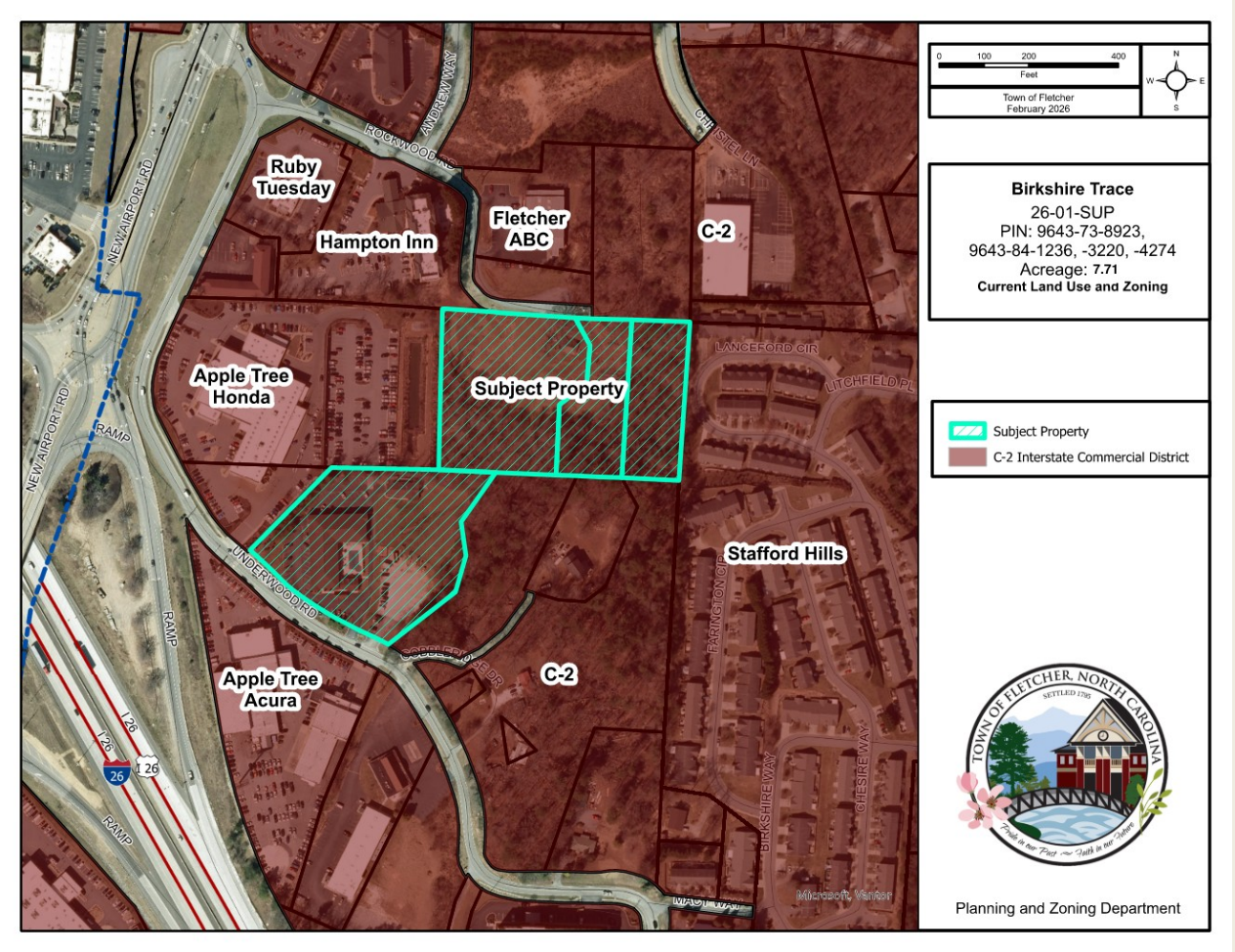
    6. Playgrounds, open spaces, yards, landscaping, access ways, pedestrian ways, with reference to location, size, and suitability.

    7. Buildings and structures, with reference to location, size, and use.

    8. Hours of operation, with particular reference to protecting and maintaining the character of the neighborhood.

    9. A site plan/preliminary plat has been submitted, as required in Article 16.3.

Existing Zoning & Land Use Map and Description



The subject property is zoned C-2, Interstate Commercial District, and all surrounding parcels carry the same C-2 zoning designation. The area is characterized by a mix of commercial uses, with car dealerships and hotels/motels being the most prominent. The subject site is currently developed with and operating as a Quality Inn. If the proposed project is approved, the existing motel use would cease and the building would be demolished. To the east of the subject property is the Stafford Hills development. According to Henderson County address data, this development consists of approximately 184 units on 16.82 acres, resulting in a density of 10.94 units per acre. Under the ordinance, Stafford Hills is classified as multi-family due to the number of units per building (C-2 no longer allows residential uses).

The subject property is within close proximity to the Airport Road commercial corridor. If approved, the proposed development would place future residents within walking distance of restaurants, retail establishments, a grocery retailer, and urgent care services. This proximity is particularly significant given that the project is proposed as an affordable housing development. Residents within this community may have limited access to personal vehicles, making walkability and access to nearby goods and services an important consideration. “ART”- Asheville Rides Transit’s south bus route 3 serves Airport Road.

Site Images



This site photograph depicts the existing motel currently in operation on Underwood Road. If the proposed development is approved, the motel use would cease, and the structure would be demolished to accommodate the new project.



This photograph shows an existing single-family home located to the rear of the motel property. It is unclear whether the structure is currently occupied as a single-family residence; however, based on visual observations made during the site inspection, it appears that it may still be in use.



This photograph illustrates the typical conditions within the wooded portion of the site. The wooded area is generally located in the central portion of the property, situated between the two previously developed areas.



This photograph depicts the area identified as a stream on the most recent USGS quadrangle maps. At this time, staff has not been provided with documentation from the U.S. Army Corps of Engineers confirming whether the feature qualifies as a “Waters of the United States.” If it is determined to meet that designation, it would be required to be protected in accordance with the Town’s Land Development Code.



This photograph shows the second existing home located on the subject property. This residence currently has access from Rockwood Road.



This photograph illustrates the change in elevation between the existing motel site and the adjacent Apple Tree Honda development. As shown, the car dealership is situated at a significantly higher elevation than the motel property.



This photograph shows the existing cul-de-sac on Rockwood Drive in its current condition. According to mapping from North Carolina Department of Transportation, state maintenance of Rockwood Road terminates prior to this cul-de-sac, and the turnaround area is privately maintained.



This photograph shows the subject property as viewed from Rockwood Drive, looking south toward Underwood Road.

Site Plan Summary:

Site:

Gross Floor Area

- All Buildings- 140,740 SF

Individual footprints

- Building A-9,630 SF
- Building B-11,060 SF
- Building C- 9,630 SF
- Building D- 9,630 SF
- Building E- 9,630 SF

Building Design

- The project meets the design requirements for developments in NBD per Article 5 of the LDC.

Density

- Proposed: 14.92 units per acre
- Allowed: 16 units per acre

Height

- All Buildings-3 stories.
  - 32' in height per the LDC.
  - 44' 6" to the top of the roof.

Amenities

- Community Room
- Covered Picnic Area
- Playground
- Computer Center
- Exercise Room
- Outdoor Sitting Area with Benches
- Tot Lot

Landscaping:

Landscaping provided for the site:

- Street trees
- Interior parking lot landscaping

Existing Trees

- Existing vegetation is proposed to be preserved along much of the eastern property boundary to provide a buffer to the adjacent residential properties. However, the entire boundary is not buffered, particularly along the southeastern portion of the site.

Transportation:

Transportation

- The site plan shows two access points onto the subject property.
- One access will be off of Rockwood Road (NCDOT maintained), and the other will be off Underwood Road (Town maintained).
-

Sidewalks

- Sidewalks are proposed along all property frontages with a minimum width of five feet. The sidewalks will continue through the driveway crossings in accordance with the design standards of the Land Development Code.

Bike Parking

- The development is providing 10 bike spaces making it multi-modal friendly for residents who may not have a car.

TRC:

The project was reviewed by the Town's Technical Review Committee (TRC). During the meeting, no major concerns were raised regarding the ability to serve the site. Most comments were minor in nature and have either been addressed or can be resolved during the final site plan approval process. The TRC includes representatives from Fletcher Planning and Zoning, Fletcher Public Works, the Fletcher Fire Department, NCDOT, Henderson County Site Development, Buncombe County MSD, and the City of Hendersonville Water Department.

Parking:

Parking: 2 Spaces per 1 Bedroom Unit or 1 Space Per Bedroom

- Total required- 247
- Total provided- 247
  - 18 Handicap spaces provided

Land Use Plan Consistency:



Under North Carolina GS 160D-605, a land use plan consistency statement is a mandatory, board-approved document for zoning amendments that briefly explains how a proposed action aligns (or conflicts) with adopted comprehensive plans. It must be approved by the governing board during the vote and may include a statement of reasonableness.

The proposed development is inconsistent with the Land Use Plan's 10th goal of "Carefully manage allowances for higher density residential development, with the intent of limiting it to the center of Fletcher in a manner supportive of future Town Center growth, while at the same time preserving commercially zoned land for commercial uses".

The Plan states "2018 Update – In the five years since the 2013 Plan, Fletcher (and the region in general) has seen a rise in high density apartment style development. This update seeks to clarify the Town's intent to steer such development to the core center of Town in the immediate vicinity of the future Town Center, and to potentially further limit higher density residential in commercial zoning districts so as to preserve them for commercial growth and to aid in limiting the region wide sprawl being observed."

An inconsistency between a proposed map amendment and the Land Use Plan does not automatically prohibit approval. Rezoning requests that are inconsistent with the Land Use Plan may still be approved, provided the Town Council follows the applicable North Carolina General Statutes and adopts the required statements regarding plan consistency and reasonableness.

G.S. 160D-605 clarifies how to handle inconsistencies between plans and approved zoning actions. 160D clarifies (in G.S. 160D-605(a)) that if a zoning amendment is made that is inconsistent with the jurisdiction's duly adopted future land use map, then that future land use map is deemed to be amended. Note that this amendment is limited to the future land use map (and not other parts of a comprehensive plan), and it is only to conform the future land use map to the zoning amendment. As under previous law, no separate application for a plan amendment may be required in this situation.

G.S. 160D-501(c) requires that if the future land use map is deemed amended by adoption of an inconsistent zoning action, then that amendment must be noted in the plan itself, helping to ensure that the plan itself is updated for those consulting it after the zoning amendment is made.

G.S. 160D-605(a) also specifically allows concurrent consideration of requests for plan amendments and zoning amendments. This reflects the practice in some jurisdictions to require anyone proposing a zoning amendment that is inconsistent with the plan to also submit a plan amendment so both can be considered at the same time.

Planning Board Summary and Recommendation:

The Planning Board voted 5-1 to recommend denial of the standard rezoning and voted 5-1 to recommend denial of the Special Use Permit.

Motions:

Standard Rezoning for Recommending Denial

Motion made by-Doug Ferguson Second Robyn Mondin
For: Robyn Mondin, Mike Franklin, Doug Ferguson, Julia Fogel, Bryan Gilbert
Against: Lee Bowser

Special Use Permit for Recommending Denial

Motion made by- Robyn Mondin Second Doug Ferguson
For: Robyn Mondin, Mike Franklin, Doug Ferguson, Julia Fogel, Bryan Gilbert
Against: Lee Bowser

Overview Of The Developers Presentation From Meeting Minutes:

Mr. Folks (Developer) said Taft Mills Group is a real estate development company that specializes in building affordable multi-family housing. The company has been established for over 12 years and is based out of Greenville, North Carolina. They develop in North Carolina, South Carolina, Virginia, and Maryland, and have been consistently ranked one of the top 50 affordable housing developers in the country. They've received the highest housing honor from the North Carolina Housing Finance Agency. They build both family affordable housing and senior affordable housing. They build complexes from 48 units up to 180-200. The Low-Income Housing Tax Credit Program is a program that incentivizes and encourages private investment for the creation of affordable housing. Taft Mills Group is a for-profit company that will develop and own this property long-term. If a developer is awarded the tax credits, through the North Carolina Housing Finance Agency, that serves as a big funding source into development. It helps pay for the construction, which then allows a smaller mortgage on the property than would otherwise be possible. This keeps rents lower for a 30-year period. He said the amenities that are in close proximity to the site is part of the reason why this site was chosen. There's grocery, parks, shopping, and a transit stop in close proximity. He said 115 affordable housing units are proposed which would involve redeveloping what's currently an aging motel on the site and developing the undeveloped land. As stated, all of the units will be serving households at 60% of the area's median income. In Henderson County, for a family of three, this would be a little over $50,000. One-, two-, and three-bedroom units will be available to serve a mix of housing sizes. Each building would be a three-story building. Mr. Folks added that the site plan is designed to create as much buffer as possible and preserve as much land as possible. In addition to the amenities around the site, they will also provide amenities on-site for the residents, with a community center, indoor exercise facility, business center, covered picnic areas throughout the site, playgrounds, top lots, and open green space for enjoyment. Onsite property management as well as on-site maintenance staff will be there every day. He said the proposed development will provide much needed affordable housing for working families in the Fletcher community.

Public Comments:

Wes Stroupe of 86 Lanceford Circle, said Lanceford Cir. is at the low point of the proposed development. He said there's a significant stormwater problem that comes off the subject property that regularly causes flooding in the Lanceford Circle portion of Stafford Hills. He said there have been multiple units flooded resulting in people spending a lot of money to fix their homes because that area's not in the floodplain, therefore they can't get flood insurance.

Jenifer Bubenik of 29 Farrington Circle addressed the board. She entered her opposition into the public record regarding the proposed rezoning of the property located at 196 Underwood Road from C2 Interstate Commercial to NBD Neighborhood Business District for the purpose of a multi-use housing development. Ms. Bubenik's opposition is based on the following critical factors. The current C-2 zoning supports regional commercial uses that contribute significantly to the tax base. Rezoning to NBD could displace these uses and reduce long term economic value. The site is heavily impacted by I-26 traffic, with high vehicle volumes, existing congestion, and limited road capacity on Underwood Road. Adding residential traffic without a traffic impact study raises serious concerns. The area is not suitable for walkability. There are no continuous sidewalks or bike lanes, and pedestrian conditions are unsafe, conflicting with the intent of the NBD district. Proximity to the interstate raises health and safety concerns, including air quality, noise, and exposure to pollutants, making the site less appropriate for residential use. The surrounding infrastructure is designed for high speed, high volume traffic, not residential or pedestrian activity, creating inherent safety conflicts. Rezoning would introduce residential use into a predominantly commercial corridor, creating an isolated residential area that may lead to conflicts with adjacent uses and is inconsistent with adopted plans.

Dawn Harris of 14 Yorktown Circle, (Stafford Hills), gave her opposition to the board. She said as a former property manager of Perry Lane Apartments, for five years, her concern is safety. From her experience she says affordable housing complexes bring crime, drugs, and convicted felons. She dealt with crime, drug activity and the death of an individual by overdose while at Perry Lane Apts.

Stormy Ellis, who resides at 21 S. Wildwood Ln spoke in opposition. She is an assistant district attorney in Buncombe County. Ms. Ellis once lived at 48 Lanceford Circle. She said the proposed retention pond for the apartments is higher than the properties on Lanceford Circle. Concrete berms were constructed, but the water continues to flow through the concrete blocks. It is her opinion that:

- New development will exacerbate the water drainage problem.
- The additional residents in the proposed 115 apartments will impact the existing traffic problem on Underwood Rd.
- The project will increase crime.
- There will be an issue for emergency vehicles to get in and out due to limited access.
- The ABC store in conjunction with low-income housing (is a cause of concern).