

CONDITIONAL USE PERMIT INFORMATION

What is a Conditional Use?

The Buncombe County Zoning Ordinance provides a list of land use types that may be permitted in each Zoning District within the County. Most allowable land uses can be approved administratively, by Planning Department Staff. However, the Buncombe County Board of Commissioners has determined that, due to potential impacts on the surrounding neighborhood, certain land uses must undergo a higher level of permitting review; these are “Conditional Uses.” To determine whether a use requires a Conditional Use Permit, please reference *Section 78-641(a) - Permitted Uses* table of the Zoning Ordinance for a complete list.

Who decides if I will get a Conditional Use Permit?

The decision is made by the Buncombe County Board of Adjustment. No conditional use shall be granted by the Board of Adjustment unless all standards for specific uses are followed according to the requirements in the Zoning Ordinance. Standards have been established to ensure that the use will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare. The full list of conditions for granting approval can be found in *Sections 78-678(b)*.

When will my Conditional Use Permit be decided?

The Board of Adjustment meets the second Wednesday of every month at 12 noon. Staff will confirm your meeting date upon submittal of your application. The applicant or their chosen representative **should be present** at the meeting in order to receive a review by the Board. Applications must be received by the Planning Department 30 days prior to the scheduled Board of Adjustment meeting.

What is the process for obtaining a Conditional Use Permit?

1. **Pre-Conference:** Complete a pre-submittal conference with the Zoning Administrator to review the information of the proposed development.
2. **Submit Application:** At least 30 days prior to the public hearing date.
3. **Public Notice:** Public notice procedures for the public hearing will be conducted by County staff. Staff must notify all property owners within 1,000 feet of the property in addition to online and newspaper legal advertisements of the public hearing.
4. **Public Hearing:** The Board of Adjustment will hear a summary of the application by Staff, information presented by the applicant, statements by the public, and will approve or deny the application. In some cases the application may be continued to the next meeting.
5. **Building Permit:** After approval of the CUP, apply for your regular building, zoning, and other required permits.
6. **Inspections:** Inspections may be made during construction and a final inspection after construction is complete will be made to ensure that the CUP has been constructed according to the approved plan.

Is the Board’s decision the final step?

No. Approval of a CUP application grants permission for Staff of the Planning Department to administratively review a proposed land use. Board approval does not waive applicable building, zoning, and other ordinance standards.

What else should I know?

Sometimes an application is continued to another meeting due to a lack of a quorum, insufficient information, or for other reasons. If this occurs, you will be notified of the new meeting date. Conditional Use Permit proposals which have been denied by the Board of Adjustment may not be resubmitted for additional review, unless the proposal is substantially different from that which was previously denied.



Application for a CONDITIONAL USE

PLEASE NOTE:

A PRE-SUBMITTAL CONFERENCE WITH THE ZONING ADMINISTRATOR IS REQUIRED PRIOR TO SUBMITTING THIS APPLICATION FOR A CONDITIONAL USE PERMIT

Please complete all sections of the application.

A. Property Information

PIN(s): 9656-42-9538

Address(es): Sweeten Creek Road

Project Name: Busbee

Acreage: 330.73 acres +/- (Project area is approximately 132.90 acres)

B. Application for Conditional Use Permit

Application is hereby made to the Board of Adjustment to issue a Conditional Use Permit for use of the property described above as a *(please provide a brief description of the use)*:

This project involves the development of residential apartments, age targeted units (55+) and single family lots developed over multiple phases.

C. Applicant Contact Information

Flournoy Development Group, LLC

Company/Corporate Name (if applicable)

Ryan Foster

Applicant's Name

1100 Brookstone Centre Parkway

Mailing Address

Columbus, GA 31904

City, State, and Zip Code

(706) 324-4000

Telephone

ryan.foster@flournoydev.com

Email

D. Owner Contact Information (If different)

Biltmore Farms, LLC

Owner's Name

PO Box 5355

Mailing Address

Asheville, NC 28813

City, State, and Zip Code

(828) 209-2000

Telephone

Email

OFFICE USE ONLY:

Date received: _____

Pre-Submittal Conference with: Josh Freeman & Gillian Phillips (6/22/20)

Scheduled BOA Hearing: _____

Case Number: ZPH _____ - _____

Application fee paid: Yes No

RECEIVED: Full size site plan

14 copies of reduced size site plan

Digital copy of development plan

E. CONDITIONAL USE PERMIT APPLICATION CHECKLIST

I, the petitioner, submit a site-specific development plan containing the following information (Please mark 'NA' by any requirement that is not applicable and provide a brief statement as to why it is not applicable. Failure to submit a complete application will result in removal from the Board of Adjustment agenda):

Development Plans:

- One full sized copy of the development plan to scale and dated.
- 14 copies of the development plan reduced to either 11"x 17" or 8.5"x 11".
- A digital version of the development plan in pdf format.
- A statement of present and proposed ownership.
- Development schedule indicating approximate beginning and completion dates of the development, including any proposed stages.
- Statement of the applicant's intentions regarding future sales and/or leasing of all or portions of the development.
- Quantitative data for the following: proposed total number and type of residential dwelling units, parcel size, gross residential densities, and the total amount of open space.
- Plan for maintenance of common areas, recreation areas, open spaces, streets and utilities.
- N/A For commercial structures in PUDs, architectural renderings of all principal buildings, drawn to a known scale. Elevation renderings of the site, to scale, for any retaining wall system proposed to provide a cumulative vertical relief in excess of 10' in height showing landscaping, vegetative screening, and the top and bottom of the wall at grade.
- For developments of more than 75 residential units, a traffic impact study meeting the guidelines for traffic impact studies provided in the North Carolina Department of Transportation's "Policy on Street and Driveway Access to North Carolina Highways."

Site Conditions:

- Existing site conditions including the following if applicable: contours, watercourses, identified flood hazard areas, and any unique natural or manmade features.
- Boundary lines of the proposed development, lot lines, and plot design.
- Proposed location and use of all existing and proposed structures, including the location of any proposed retaining walls. The maximum height of any retaining wall shall be shown on the proposed site plan.
- Location and size of all areas to be conveyed, dedicated, or reserved as common open space, parks, recreational areas, school sites, and similar public and semipublic uses.
- Locations and/or notation of existing and proposed easements and rights-of-way.
- Zoning district in which the project is located.

Infrastructure:

- Existing and proposed street system, including the location and number of off-street parking spaces, service areas, loading areas, and major points of access to the public right-of-way.
- Notation of the proposed ownership of the street system (*public or private*).
- Documentation from the Buncombe County Fire Marshal indicating the adequacy of the development's facilities for emergency medical and fire services.
- Approximate location of proposed utility systems, including documentation of water and sewer availability.
- Documentation of pre-application conferences with the Sedimentation and Erosion Control and Stormwater Management offices (*where required*).

Perimeter and Adjacent Uses:

- Proposed treatment of the development's perimeter including materials/techniques (*ex: screens, fences, walls*).
- Information on adjacent lands: land use, zoning classifications, public facilities, and any unique natural features.

F. CONDITIONAL USE PERMIT BURDEN OF PROOF

In the spaces provided below, indicate **the facts you intend to demonstrate** and **the arguments that you intend to make** to demonstrate to the Board that it can properly grant the Conditional Use Permit as provided for in §78-677(g) *Procedures for obtaining a Conditional Use Permit, Conditions for granting approval*. The Board of Adjustment has limited discretion in deciding whether to grant a Conditional Use Permit.

If necessary please provide the information on a separate sheet of paper. Where applicable, indicate if a requirement does not apply and why. If this is a revision to a previously approved Conditional Use Permit and the answers to the statements below have not changed, indicate 'no change from previous approval' in the space provided.

1. Indicate how the proposed CUP will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed CUP:

The project will cluster development in the lower portions of the property adjacent to Sweeten Creek Road while preserving the steeper slopes and stream corridors for open space. Permanent stormwater controls will be established for each phase of development. A traffic study completed for the project has identified improvements, which will mitigate traffic impacts. NCDOT plans to widen Sweeten Creek Road. A NCDOT driveway permit will be obtained. Project will meet all applicable fire codes. Grading will be regulated by Buncombe County through an erosion control permit.

2. Indicate how the proposed CUP will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood of the proposed CUP:

By clustering development, a large percentage of the property including steep slopes and stream corridors will remain undisturbed and conserved permanently. This also limits any development in zoning overlay areas such as the Blue Ridge Parkway overlay, steep slope areas, etc. Buffers to the adjacent properties will be maintained and supplemented as necessary. Any necessary traffic improvements will be designed to mitigate any impact on traffic flow. Project will meet zoning development standards without a variance.

3. Indicate how the proposed CUP will not cause or have adverse effects on surrounding properties due to noise, vibration, odor, or glare effects:

Existing vegetative buffers and open space will be maintained to to minimize the visual impact of the project on surrounding properties and to protect these properties from noise, vibration, odor or glare effects from the project. All project lighting will be designed with dark sky technology and will meet Buncombe County's lighting ordinance requirements. Trash and recycling areas are located appropriately within the development to minimize any noise impact on surrounding properties.

4. Indicate how satisfactory ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control have been provided or how the items listed are not applicable to the proposed CUP:

Multiple points of access will be provided into the development of Sweeten Creek Road. The main entrance is directly across from the access to the Carolina Day School sports complex and will be controlled by NCDOT approved traffic control measures. Internal to the project, sidewalks and walkways will be provided for pedestrians to safely move about the property.

5. Indicate how off-street parking and loading areas are proposed to be provided, with particular attention to the items in §78-658 of the Buncombe County Zoning Ordinance or how the items listed are not applicable to the proposed CUP:

Adequate off street parking and loading areas are provided for each phase of the project. These areas are shown on the preliminary site plan for the project.

6. Indicate how adequate and proper utilities, with reference to locations, availability, and compatibility are to be provided or how the items listed are not applicable to the proposed CUP:

Public water and sewer lines are located adjacent to the property. Water availability and wastewater allocations have been issued for the project by the City of Asheville and MSD.

7. Indicate how buffering, with reference to type, locations, and dimensions will be provided or how it is not applicable to the proposed CUP:

In most areas, existing vegetation will be maintained to provide significant buffers to adjacent properties. In most areas, an undisturbed buffer will be maintained. In areas where vegetation has to be removed for construction, new landscaping and plantings will be provided to supplement the buffer in these areas.

8. Indicate how signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and economic effect will be compatible and harmonious with properties in the area or how the items listed are not applicable to the proposed CUP:

Location and directional signage will be provided at the proposed entrances to the project. Lighting for the project will meet the Buncombe County ordinance standards (Section 78-688(e)) and will provide for safe vehicular and pedestrian traffic. The improvements for access to the development will be coordinated with NCDOT. All fixtures will provide downward lighting which along with vegetative buffers will reduce/eliminate any light trespass onto surrounding properties.

9. Indicate what playgrounds, open spaces, yards, landscaping, access ways, and pedestrian ways are proposed, with reference to location, size, and suitability in relation to the proposed CUP or how the items listed are not applicable to the proposed CUP:

Open space and amenity areas including playgrounds and pools, landscape areas and other amenities will be provided for each phase of the development. These amenities will include outdoor fire pits, grilling areas and social gathering spaces.

10. Describe building(s) and structure(s) with reference to location, size, and use and how the proposed buildings would be compatible with the surrounding neighborhood or how the items listed are not applicable to the proposed CUP:

The proposed multifamily buildings will be 4/5 split buildings with a maximum height as shown on the architects building elevations. By clustering more units into these buildings, larger, undisturbed buffers and more open space is being preserved for the project.

11. Describe the hours of operation of the proposed use and how those hours will protect and maintain the character of the surrounding neighborhood or how the hours of operation are not applicable to the proposed CUP:

The project will be residential in nature which is similar to the surrounding area.

G. ADDITIONAL CONDITIONAL USE STANDARDS

Before issuance of a conditional use permit for one of the specific uses listed in §78-678(b) *Conditional Use Standards* of the Buncombe County Zoning Ordinance, additional standards must be met.

The petitioner shall be required to submit an additional form specific to the use, in order to assure these conditions are met. An application for a use listed in §78-678(b) shall not be deemed complete without the additional form.

Failure to submit the complete additional form(s) required for specific conditional uses will result in removal from the Board of Adjustment agenda.

H. CERTIFICATION

- I hereby certify that I am the owner, contractor, or authorized agent of the owner, and the above information is correct to the best of my knowledge and hereby make application for a conditional use permit. Any information given that is incorrect will cause this application to become null and void.
- I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application.


Signature of Petitioner

August 10th 2020
Month Day Year



Applicant / Owner Signatures for CUP's / PUD's

Multiple Applicants & / or Owners

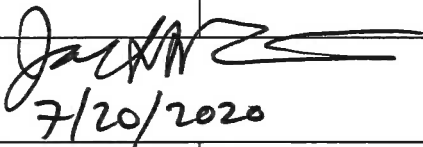
Required Information: Each property owner who is participating in this CUP / PUD application must complete this form. Use additional forms if necessary.

NOTE TO USER: THIS SECTION IS FOR USE IN CASES WHERE MULTIPLE PROPERTIES, OWNED BY MORE THAN ONE PROPERTY OWNER, ARE INVOLVED IN THE CUP / PUD APPLICATION.

Location of Properties Proposed for CUP / PUD		
	Physical E-911 Address <i>Street number, name, city, state, zip code.</i> <i>You may verify your E911 Address at</i> https://discover.buncombecounty.org/	PIN Number <i>15-digit unique identifier for each parcel. PIN numbers can be found on your tax bill or online at</i> https://gis.buncombecounty.org/buncomap/ . <i>Example: 965415728000000 or 9654-15-7280</i>
1	99999 Sweeten Creek Road Biltmore Farms, LLC Asheville, NC 28803	9656-42-9538
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3		
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Contact Information and Certification of All Owners of Above-Referenced Property or Properties.

By signing this document I hereby certify that I am the owner of the property or properties referenced herein, and that any information given that is incorrect will cause this application to become null and void. I hereby authorize Buncombe County Staff to enter upon the property referenced below for the purpose of processing this application request. I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application. I hereby authorize the Applicant referenced below, to act as my representative for the purposes of this application.

	Owner Name	Corporate Title (if applicable)	Mailing Address <i>Street number, name, city, state, zip code</i>	Telephone Number	Email Address
1	Biltmore Farms, LLC		PO Box 5355 Asheville, NC 28813	828-209-2000	
	Owner Signature:  Date: 7/20/2020		Applicant/ Designated Representative - Name: Signature: _____ Date: _____		
2					
	Owner Signature: Date:		Applicant/ Designated Representative - Name: Signature: _____ Date: _____		
3					
	Owner Signature: Date:		Applicant/ Designated Representative - Name: Signature: _____ Date: _____		
4					
	Owner Signature: Date:		Applicant/ Designated Representative - Name: Signature: _____ Date: _____		

E. ADDITIONAL SITE PLAN REQUIREMENTS

1. Indicate location of cluster mail box unit for mail delivery. Developer is responsible for coordinating the review, approval, and construction of the cluster box unit through the servicing post office of the USPS.

F. LEVEL I PLANNED UNIT DEVELOPMENT BURDEN OF PROOF

Before issuance of a conditional use permit for one of the specific uses listed in §78-678(b) *Conditional Use Standards* of the Buncombe County Zoning Ordinance, additional standards must be met. In the spaces provided below, indicate **the facts you intend to demonstrate** and **the arguments that you intend to make** to demonstrate to the Board that it can properly grant the Conditional Use Permit as provided for in §78-678(b)(6) *Conditional Use Standards, Planned Unit Developments, Level I (PUDI)*. The Board of Adjustment has limited discretion in deciding whether to grant a Conditional Use Permit for a PUDI.

If necessary provide the information on a separate sheet of paper. Where applicable, indicate if a requirement does not apply and why. If this is a revision to a previously approved Conditional Use Permit for a PUDI and the answers to the statements below have not changed, indicate "no change from previous approval" in the space provided.

1. Indicate ownership of the subject property. The land in a PUDI shall be under single ownership or management by the applicant before final approval and/or construction, or proper assurances (legal title or execution of a binding sales agreement) shall be provided that the development can be successfully completed by the applicant.

The applicant is under contract with Biltmore Farms to purchase approximately 132.90 acres of the total property.

Flournoy will construct and operate the proposed development.

2. Indicate the total number of residential dwelling units and dwelling units per acre. There are no density requirements for nonresidential uses as long as the proposed project does not violate the intent of the district in which it is located. The proposed residential density of the PUDI (dwelling units per acre as shown in Section 78-642) shall conform to that permitted in the district in which the development is located. If the PUDI lies in more than one district, the number of allowable dwelling units must be separately calculated for each portion of the PUDI that is in a separate district, and must then be combined to determine the number of dwelling units allowable in the entire PUDI. When the PUDI is a community oriented development, the allowed density shall be in accordance with Sec. 78-650.

The total number of residential dwelling units proposed for the property is 852 units. The project area is divided between R2 and RLD zoning. Following is a calculation of the allowable density: R2 - 75.13 acres x 12 units/ac = 902 units plus RLD - 57.76 AC x 2 units/acre - 116 units for a total of 1,018. The total density of the project is 6.41 units per acre.

3. Indicate all proposed uses. A mixture of land uses shall be allowed in any PUDI. However, within residential districts, nonresidential uses shall be carefully designed to complement the residential uses within the PUDI. All PUDIs must be compatible with and not violate the intent of the zoning district; however, said uses may include uses not permitted under Sec. 78-641 within the zoning district(s) within which the project is located, provided that the Board of Adjustment finds that nonresidential uses do not disrupt the character of the community.

Only residential uses are proposed for the property.

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4. Lot size and setbacks shall be shown on the submitted site plan. The normal minimum lot size and requirements for interior setbacks are hereby waived for the PUDI, provided that the spirit and intent of this section are complied with in a total development plan, as determined by the Board of Adjustment.

The proposed buildings are located so that maximum, undisturbed buffers can be maintained on the project as shown on the site plan. The setbacks for the proposed single family lots will comply with the R-LD zoning.

5. Indicate the height of all structures. The normal maximum structure height may be waived for the PUDI, provided that unique elements of the development impose requirements for additional height that are not universal throughout the zoning district. Additionally, PUDIs in excess of the normal maximum height require that the spirit and intent of this section are complied with in a total development plan, as determined by the Board of Adjustment. PUDIs within the Blue Ridge Parkway Overlay District may not contain structures which exceed the maximum height allowed within the overlay district.

The maximum building heights are shown on the architects building elevations. These heights do not exceed the allowable height for the R2 zoning. By clustering units in 4/5 split buildings, more undistrubed buffers and open space is being preserved on the property. No buidings are proposed or planned in the Blue Ridge Parkway Overlay District or other overlay Districts. Only single family lots are planned for areas in the R-LD zoning.

6. Indicate distances between buildings. The minimum distance between buildings shall be 20 feet or as otherwise specified by the Board of Adjustment to ensure adequate air, light, privacy, and space for emergency vehicles.

The mimimum distance between any building is 20'; however most buildings are proposed with a larger separation.

7. Indicate how the development provides reasonable visual and acoustical privacy for all dwelling units. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise. Multilevel buildings shall be located within a PUDI in such a way as to dissipate any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings.

The project will preserve significant areas of existing vegetation for buffers and open space while supplementing landscaping in areas to be graded. Retaining walls are proposed in many areas to protect and preserve stream buffers and vegetation on the site. The clustering of units into larger buildings allows for greater setbacks from adjacent properties.

8. Indicate conformance with perimeter setbacks. Structures located on the perimeter of the development must be set back from property lines and rights-of-way of abutting streets in accordance with the provisions of the zoning ordinance controlling the district within which the property is situated.

As shown on the site plan, the project exceeds the minimum perimeter setback standards. The closest building to the property line is 132 feet +/-.

9. Indicate the number of parking spaces proposed. Parking requirements may be waived for the PUDI, provided that the spirit and intent of this section are complied with in a total development plan, as determined by the Board of Adjustment.

Adequate parking will be provided for each phase of development as shown on the preliminary site plans.

10. Indicate proposed conveyance and maintenance mechanisms. Conveyance and maintenance of open space, recreational areas and communally owned facilities shall be in accordance with G.S. 47-1 et seq. the Unit Ownership Act and/or any other appropriate mechanisms acceptable to the Board of Adjustment.

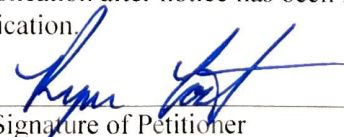
The proposed multifamily units will be leased units that will be owned and maintained by Flournoy. They will maintain all open space, amenities, landscaping and all other portions of the tract including frontage along any public and private roads. The proposed single family lots will be sold to individuals who will be responsible for maintenance on their lot. Operation and maintenance of any common infrastructure and landscaping will be the responsibility of a property owners association or by individual lot owners via separate agreement between all lot owners.

11. Building envelopes shall be shown on the submitted site plan. Where flexibility in design of residential units is desired, the building envelope shall indicate the maximum expanse of the proposed footprint of the structure.

The attached site plan shows the proposed limits of the development.

G. CERTIFICATION

- I hereby certify that I am the owner, contractor, or authorized agent of the owner, and the above information is correct to the best of my knowledge and hereby make application for a Conditional Use Permit for a PUDI. Any incorrect information will cause this application to become null and void.
- I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application.


Signature of Petitioner

August 10th, 2020
Month Day Year

