

MEMORANDUM

TO: Board of Adjustment Members

FROM: Community Development Department

DATE: October 14th, 2025

RE: Special Use Application – City of Hendersonville – 322 Killarney Street.

SUMMARY: The Community Development Department has received an application from Catherine Nason for a Special Use Permit to operate a Bed and Breakfast. The subject property is currently zoned R-6 High Density Residential. A Bed and Breakfast is considered a special use per section 5-2-2 of the zoning ordinance, and therefore, requires a hearing before the Board of Adjustment to determine if all the applicable standards are met.

SPECIAL USE REQUEST: The Special Use Permit is requested for Bed and Breakfast use under Section 5-2-2 of the Zoning Ordinance.

PROPOSED FINDINGS OF FACT:

- Based on Henderson County records, the subject property possesses a PIN of 9569-71-1600 and is zoned R-6 High Density Residential.
- Based on Henderson County records, the lot size is approximately 1.13 acres.
- Based on Henderson County records, a North Carolina General Warranty Deed between Hunter and Suzanne Hale (Grantor) to Berkeley's Edge Properties, LLC.
- *Section 5-2-2* of the zoning ordinance requires a Special Use Permit for Bed and Breakfast in the R-6 Zoning District.

CODE REFERENCE:

5-2-2. Special uses.

The following uses shall be permitted in the R-6 High Density Residential Zoning District Classification only upon issuance of a special use permit pursuant to article X and shall be subject to special use requirements contained in section 16-4, below:

Bed and breakfast facilities

Public utility facilities

Residential care facilities

Schools, primary and secondary, containing no more than 50,000 square feet of gross floor area

Sec. 16-4. Standards.

As stated herein, the following standards apply to the indicated use when such use is either a conditional zoning district, special use or a permitted use subject to supplementary standards. These standards are in addition to other applicable development standards contained in this ordinance.

16-4-5 - Bed and breakfast facilities.

- a) The facility shall be located in a structure originally constructed as a single-family dwelling or as an inn.
- b) The facility shall be limited in the number of guest rooms it contains. Bed and breakfast facilities in residential districts shall contain no more than six guest rooms. Bed and breakfast facilities in other zoning districts shall contain no more than eight guest rooms.
 - Limited to six in R-6 High Density Residential district.
- c) The owner of the bed and breakfast or a resident manager shall live on the premises.
- d) There shall be no exterior advertising except a sign not to exceed four square feet in area in a residential district. Bed and breakfasts in other districts shall conform with the sign requirements for the district in which they are located.
- e) The facility shall meet all building and fire codes, as well as all applicable requirements, including any regulations adopted under authority of the G.S.
- f) There shall be a buffer strip meeting the specifications of article XV of the zoning ordinance along any property adjoining a residential use or district.
 - A 10-foot Type B Buffer is Required Per Article XV of the zoning ordinance.
- g) No cooking facilities shall be allowed in the lodging units.
- h) Off-street parking meeting the requirements of section 6-5, above, shall be provided. Parking area(s) in or adjacent to residential use districts shall be screened by vegetation, fencing or walls so that vehicles are not visible from the street or from adjacent properties. The applicant shall submit a site plan which shall indicate where the parking is to be located and the manner in which it is to be screened.
 - 2 per the dwelling unit and 1 per each lodging unit (8 required)

Sec. 10-8. Special use permits.

A special use permit from the board of adjustment is required for all special uses.

10-8-1 Application.

When a special use permit is required by the terms of this ordinance, application for such permit, along with a fee established by resolution of city council, shall accompany the application for a building permit.

10-8-2 Preliminary site plan.

The application for a special use permit shall be accompanied by seven copies of a preliminary site plan showing the following:

- a) The proposed title of the project and the name of the engineer, architect, designer, landscape architect, planner and/or licensed surveyor, developer and owner of record;
- b) The north arrow point, scale at not greater than one inch equals 40 feet, and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property;
- c) Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet;
- d) Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way;
- e) City limits line;
- f) Names of adjacent property owners;
- g) Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments;
- h) Existing topography and proposed finished contours at not more than five feet intervals, with project bench mark clearly identified. Location of the 100-year floodplain, if applicable. Other significant natural features affecting the site including but not limited to marshes, major rock outcrops and lakes or streams;
- i) All proposed streets with proposed names, pavement widths and rights-of-ways. All alleys, drive-ways, curb cuts for public streets and handicap ramps, loading areas, and provisions for off-street parking spaces and sidewalks; calculations indicating the number of parking spaces required and the number provided. All streets shall be clearly identified as public or private; a typical cross-section of the public or private street shall be included;
- j) Preliminary utility layout including location and size of existing and proposed water, sanitary and storm sewer lines; proposed location of electrical transmission lines, gas pipelines, street lights, fire hydrants and the location of garbage disposal facilities or a note indicating arrangements for these facilities;
- k) Location and size of all entrances and exits to the site showing sight distances and their relationship to all street and driveway intersections within 25 feet for driveways and 200 feet for street intersections;

- l) A landscape plan showing wood line before site preparation with species and average diameter of trees indicated and areas to be screened, fenced, walled and/or landscaped; also location of buffer strips, if required;
- m) Proposed location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above lowest ground point of each building;
- n) Notations to include the total project area, the amount and percentage of the site to be covered by buildings, open space, streets and parking;
- o) General location, size, height, orientation, and appearance of proposed signs.

As a matter of discretion, the administrative officer may require additional items for preliminary site plans, which would be necessitated by conditions such as topography, location and anticipated traffic volumes on or near the site. The requirements may include but not be limited to traffic, noise, visual or fiscal impact studies, architect's models, renderings and other studies or data. In addition, if the administrative officer determines that one or more of the above submittal requirements is not applicable to the proposed project, it may be waived.

Upon receipt of an application and site plan, the administrative officer shall review same to determine if all required information has been provided or if additional information is needed. If the site plan is insufficient, the administrative officer shall notify the applicant in writing of such deficiencies. An application for a special use permit will not be scheduled for evidentiary hearing until such time as the board of adjustment is in receipt of a complete application and site plan, that is, an application and site plan containing all the information required under this ordinance.

10-8-3 Evidentiary hearings on applications for special use permits.

Once the administrative officer is in receipt of a complete application and seven copies of a complete site plan, the administrative officer will schedule the application for an evidentiary hearing before the board of adjustment.

The administrative officer shall mail or deliver written notice of the public hearing to the person or entity whose application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

The board of adjustment shall conduct an evidentiary hearing (quasi-judicial hearing) on the application. Per G.S. 160D-406(d), the applicant, the local government, and any person who would have standing under G.S. 160D-1402(c), shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

10-8-4 Board of adjustment action on applications for special use permits.

After the evidentiary hearing, and on consideration of the record, the board of adjustment shall take action on the application, either (1) denying it, (2) approving it, or (3) approving it subject to one or more reasonable and appropriate conditions. The board of adjustment shall not approve an application for a special use permit, with or without conditions, unless it makes each of the following findings of fact:

- a) The proposed use complies with the standards for such use contained in article XVI;
- b) The proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of such proposed use; and
- c) The proposed use will not be detrimental or injurious to property or public improvements in the neighborhood of such proposed use.

Sec. 15-6. Bufferyards.

Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. A bufferyard is a permanent unit of land together with plantings and structure(s), if any, which is designed to ameliorate such adverse impacts. Bufferyards, as required in this section, shall be depicted on any site plans reviewed under this ordinance and shall be depicted and described on drawings submitted for the purpose of zoning compliance review. Unless deferred pursuant to a letter of compliance issued under section 15-8, below, buffers shall be emplaced and approved prior to issuance of any certificate of occupancy for the development.

- a) **Location of buffers.** Buffers shall be located on lot or parcel boundary lines. Buffers shall not be located on any portion of an existing public or private street or right-of-way, whether opened or unopened.
- b) **Determination of buffer requirements.** To determine a buffer required between two adjacent parcels or between a parcel and a street, the following procedure shall be followed:
 - 1) Identify the proposed land use;
 - 2) Identify the use or, if vacant, the zoning district classification, of land adjacent to the proposed use;
 - 3) Determine the buffer required on each boundary (or segment thereof) of the subject parcel by referring to the following Table of Buffer Requirements. This specifies the buffer required between proposed land uses and existing adjacent land uses or zoning districts.

TABLE OF BUFFER REQUIREMENTS

Proposed Land Use	Existing Land Use/Zoning District ¹					
	Residential ²	Residential, Multi-family ³	Mobile Home Park ⁴	Institutional & Cultural ⁵	Commercial ⁶	Industrial ⁷
Residential	X	X	X	X	X	X
Residential, multi-family	8-foot A	X	X	X	X	X
Mobile home park	10-foot B	10-foot B	X	8-foot A	10-foot B	X
Institutional & cultural	10-foot B	10-foot B	8-foot A	X	X	X

Commercial	10-foot B	10-foot B	10-foot B	8-foot A	X	X
Industrial	25-foot C	25-foot C	25-foot C	15-foot B	15-foot B	X

Notes for Table of Buffer Requirements:

- 1 Buffering is required if adjacent parcel of land is used or zoned for the category noted regardless whether adjacent parcel is located in the city, the city's extraterritorial jurisdiction (ETJ), or the planning jurisdiction of another governmental entity. Existing adjacent land use takes precedence over zoning district. Buffer requirement for the district will be used if adjacent land is vacant.
- 2 Includes the following use districts: R-40, R-20, R-15, R-10, R-6, RCT, PRD.
- 3 Includes only those sites developed as multi-family.
- 4 Includes the PMH district or an existing mobile/manufactured home park.
- 5 This category includes religious, recreational, child care and educational uses and the following use districts: MIC and PID.
- 6 Includes the following use districts: C-1, C-2, C-3, C-4, PCD, CMU, GHMU, HMU, UV, UR and CHMU.
- 7 Includes the following use districts: I-1, PMD.
- c) **Buffer specifications.**
 - 1) The following schedule sets forth the specifications of each of the buffers included in the Table of Buffer Requirements. Unless noted differently, the column entitled planting requirements refers to number of individual plants required per 100 linear feet of the buffer. The column entitled size requirements refers to the minimum size of individual plants at the time of planting. Unless otherwise noted, dimensions refer to height.

Type of Buffer	Planting Requirements per 100 Linear Feet	Size Requirements
A	3 broadleaf canopy trees 20 evergreen shrubs (4-foot centers) 25 flowering shrubs	5—6 feet 18—24 inches 12—18 inches
B	4 broadleaf canopy tree 25 evergreen shrubs (4-foot centers) 33 flowering shrubs	1½—1¾ inch caliper 18—24 inches 18—24 inches
C	4 broadleaf canopy tree 10 understory trees 33 flowering shrubs Berm Fence or wall on top of berm	1¾—2 inch caliper 5—6 feet 18—24 inches 6 feet 8 feet
X	No buffer required	Not applicable

- 2) For type A and B buffers, the developer may, at their option, substitute a masonry wall for the evergreen shrubs. A wooden fence may be incorporated into a buffer but shall not be allowed to substitute for evergreen shrubs.

- d) **Use of buffer.** If approved by the planning department, a buffer may be used for passive recreation; however, no plant material may be removed and such use shall not be a nuisance.
- e) **Buffers part of required yards.** Where front, side and rear yards are required by this ordinance, buffers may be established within such required yards.
- f) **Buffer requirements when a street separates incompatible uses.** If a street with right-of-way of less than 30 feet lies between two land uses which would require a bufferyard between them, a buffer shall be required along the affected side or rear property lines of the developing use. No bufferyard is required along the front property line.
- g) **Bufferyards in the Central Business District.** In order to preserve and promote existing development patterns within the Central Business District, the bufferyard requirements of article XV shall not apply within the Central Business District.

(Ord. No. O-24-08, § 3, 4-4-24)