

LAKE LURE TOWN COUNCIL RECONVENED MEETING PACKET

Tuesday, May 11, 2021



**Mayor Carol C. Pritchett
Mayor Pro Tem John Moore
Commissioner Patrick Bryant
Commissioner David DiOrio
Commissioner John Kilby**

TOWN OF LAKE LURE

Reconvened Meeting of the Lake Lure Town Council

Tuesday, May 11, 2021 – 5:00 PM

Meeting held virtually via Zoom



Agenda

Zoom Link: <https://us02web.zoom.us/j/85457608526>

Phone Number: 1-312-626-6799

Meeting ID: 854 5760 8526

I. Call to Order

II. Public Hearing

Reconvened from the April 13, 2021 Town Council Meeting.

- A. Request from David and Marcia Baker to Rezone Property Located at 0 Memorial Hwy, Parcel No. 219390, from CG Commercial General to R-1 Residential

III. Adjournment

LAKE LURE TOWN COUNCIL REQUEST FOR BOARD ACTION

Meeting Date: April 13, 2021

SUBJECT: RZ_2021001, Rezoning Request from CG Zoning District to R-1 Residential

AGENDA INFORMATION:

Agenda Location: Public Hearing
Item Number: A
Department: Community Development
Contact: Mitchell Anderson, Community Development Director
Presenter: Mitchell Anderson, Community Development Director

BRIEF SUMMARY:

A request to rezone a 0.05 acre parcel from CG Commercial General to R-1 Residential District. The parcel is located at 0 Memorial Hwy, owned by David and Marcia Baker, and is identified with Tax PIN 219390.

Decisions on zoning map amendments are based on the potential impacts of all permitted and conditional uses within the proposed zoning district. The intended use of the parcel by the applicant should not be considered in the rezoning determination.

RECOMMENDED MOTION AND REQUESTED ACTIONS:

Option 1:

I move Town Council deny the rezoning request RZ_2021001 as recommended. I further move that Council adopt the Zoning and Planning Board's Statement of Reasonableness and Comprehensive Plan Consistency as presented.

Option 2:

I move Town Council adopt Ordinance No. 21-04-13. I further move that Council finds this amendment consistent with the adopted Policy LU-1-1.2 and Figure 8, the Future Land Use Map, as included and also adopted in the Town of Lake Lure 2007-2027 Comprehensive Plan.

Town Council must provide written comment on whether the proposed action is or is not consistent with the 2007 -2027 Comprehensive Plan and Future Land Use map is required.

Further, a statement of reasonableness needs to be provided when approving or denying this rezoning request. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment

FUNDING SOURCE: n/a

ATTACHMENTS:

A: Application RZ_2021001

B: Staff Presentation and Documentation

C: Zoning and Planning Board Recommendation

D: Ord. No. 21-04-13- Amending Zoning Map

STAFF'S COMMENTS AND RECOMMENDATIONS:

Town Council must wait a minimum of 24 hours to vote on a decision to allow adequate time for written public comment.

This matter came before the Lake Lure Planning and Zoning Board on March 16, 2021 on the application of David and Marcia Baker.

The Lake Lure Planning and Zoning Board has provided a Statement of Reasonableness and Comprehensive Plan Consistency enclosed as Attachment C.

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TOWN OF LAKE LURE PETITION FOR REZONING

Rec'd 3/3/21
Application Fee: \$510.00 (see attached)

03 2021
Petition No. RZ - RZ2024001

Z & P Board Recommendation: Date: _____	Action by Town Council: Ord. No. _____ Date: _____
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APPLICANT:

(Check one) Owner: ☒ Agent: _____ (If applicant is not the owner, attach authorization to act as agent)

Name: David Lee Baker, Marcia Thompson Baker Date of Application: 2-19-21

PROPERTY:

Property located at: 0 Memorial Hwy, Lake Lure, NC. 28746

Legal Description (attach if necessary) Survey Attached

Map Page 502 Block 1 Lot Parcel 36 Tax PIN 219390

THE PETITION:

To rezone the above described property from the CG zone district to the R-1 district

This property is designated for R-1 use on the future land use map in the Town of Lake Lure 2007-2027 Comprehensive Plan.

<u>David Lee Baker</u> Signature of applicant	<u>Marcia Thompson Baker</u> Signature of owner if not applicant
<u>3736 Verbena Way</u> Street or P.O. Box	<u>3736 Verbena Way</u> Street or P.O. Box
<u>Clemmons, NC. 27012</u> City, State, Zip	<u>Clemmons, NC 27012</u> City, State, Zip
<u>336-813-0299</u> Daytime telephone number	<u>336-778-9156</u> Daytime telephone number

See attached for information regarding rezoning process.

David & Marcia Baker

Location: O Memorial Hwy, US Hwy 64/74 A (old Hwy 20)
Next door to Lake Lore Adventure Co and
the old clam marina.

Existing Structures: Boat Docks & Small Storage building on
top of the boat docks.

Existing Roads: Fronts US Hwy 64/74 A - Memorial Hwy

All Setbacks: None that I know of except DOT
right of way for Hwy 64/74 A 15' lake
side SB's

Complete Description of
Proposed Zoning District: R-1

Adjacent Property

Owners: North - John J & Ruby Hunt 686/37 & 1067/814
South - Brian & Jenny Lail - Parcel # 227629-506 Memorial
East - Hwy 64/74 A / Clifton & Sandra Craig #220948 - 56 Hwy
West - LAKE - L-1 15' lake
side SB's



TOWN OF LAKE LURE
Community Development Department

STAFF REPORT

TO: Lake Lure Town Council

FROM: Community Development Department

DATE: April 5, 2021

RE: RZ-2021001: Rezoning Request from CG to R-1 Zoning District

APPLICANT/ OWNER: David and Marcia Baker

REQUEST:

A request to rezone a 0.05 acre parcel from CG Commercial General to R-1 Residential District. The parcel is located at 0 Memorial Hwy, owned by David and Marcia Baker, and is identified with Tax Pin 219390.

PROJECT DESCRIPTION:

Address: 0 Memorial Hwy

Existing Zoning: CG Commercial General

Land Use Designation per the Future Land Use Map: R-1 Residential

Existing Use: Access structure leading to lake structure with storage building

Adjacent Zoning Districts:

East: CG Commercial General

West: L-1 Lake, CG Commercial General

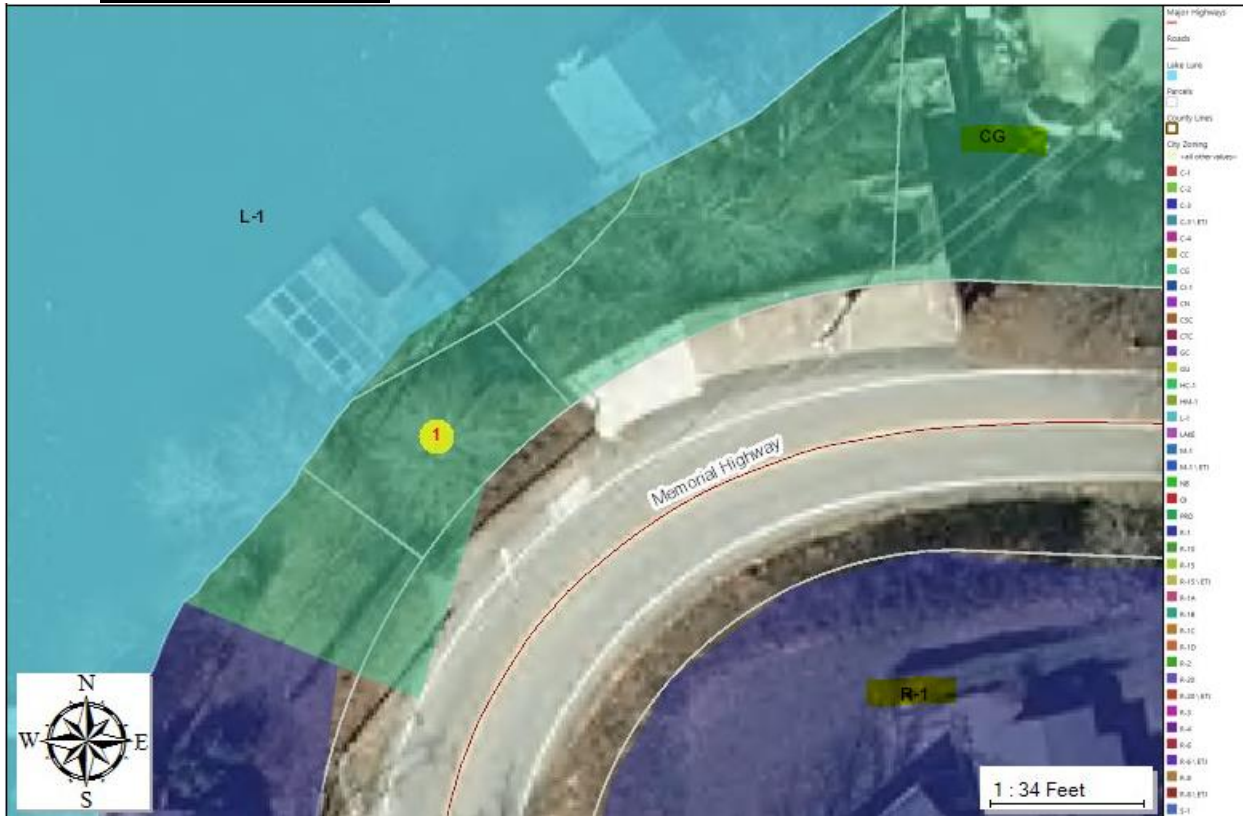
North: L-1 Lake

South: CG Commercial General, R-1 Residential

SUMMARY

The applicant is requesting the parcel 219390 zoned CG Commercial General be rezoned to R-1 Residential.

Current Zoning Map



Town of Lake Lure Comprehensive Plan/ Future Land use Map

https://www.egovlink.com/public_documents300/lakelure/published_documents/Departments/Community_Development/2007-2027%20Comprehensive%20Plan/Maps/Figure%208%20-%20Future%20Land%20Use%20Map.pdf



Staff Comments/ Recommendation

Staff have observed that the current zoning map identifies this parcel as zoned CG, Commercial General District. Rezoning this parcel as R-1 Residential may be considered “spot zoning” and should be avoided unless a clear showing of a reasonable basis supports the validity of spot zoning. Attached below is the UNC School of Government’s articles on spot zoning. (<https://www.sog.unc.edu/resources/legal-summaries/spot-zoning>) (<https://canons.sog.unc.edu/is-this-spot-legal/>)

Rezoning the entire parcel to R-1 Residential district will change the permitted and conditional uses for this parcel.

The current use of the structure on this parcel is a residential access to a lake structure. This use is also permitted within the R-1 Residential zoning district.

Parcel dimensions:

Lot Area: approximately 2,178 sf
 Lot Width at Building Site: approximately 30 ft
 Shoreline Length: 55.13 ft

Minimum Dimensional Requirements for R-1 zoning district:

Lot Area: 10,000 sf
 Lot Width at Building Site: 100 ft
 Front Yard Setback: 40 ft from the centerline of the street (no closer than 10 ft to a right-of-way)
 Lake Front Yard Setback: 35 ft
 Side Yard Setback: 10 ft

Minimum Dimensional Requirements for CG zoning district:

Lot Area: 21,780 sf
 Lot Width at Building Site: 100 ft
 Front Yard Setback: 10 ft measured from right-of-way or 25ft from the centerline of the street
 Lake Front Yard Setback: 35 ft
 Side Yard Setback: 12 ft

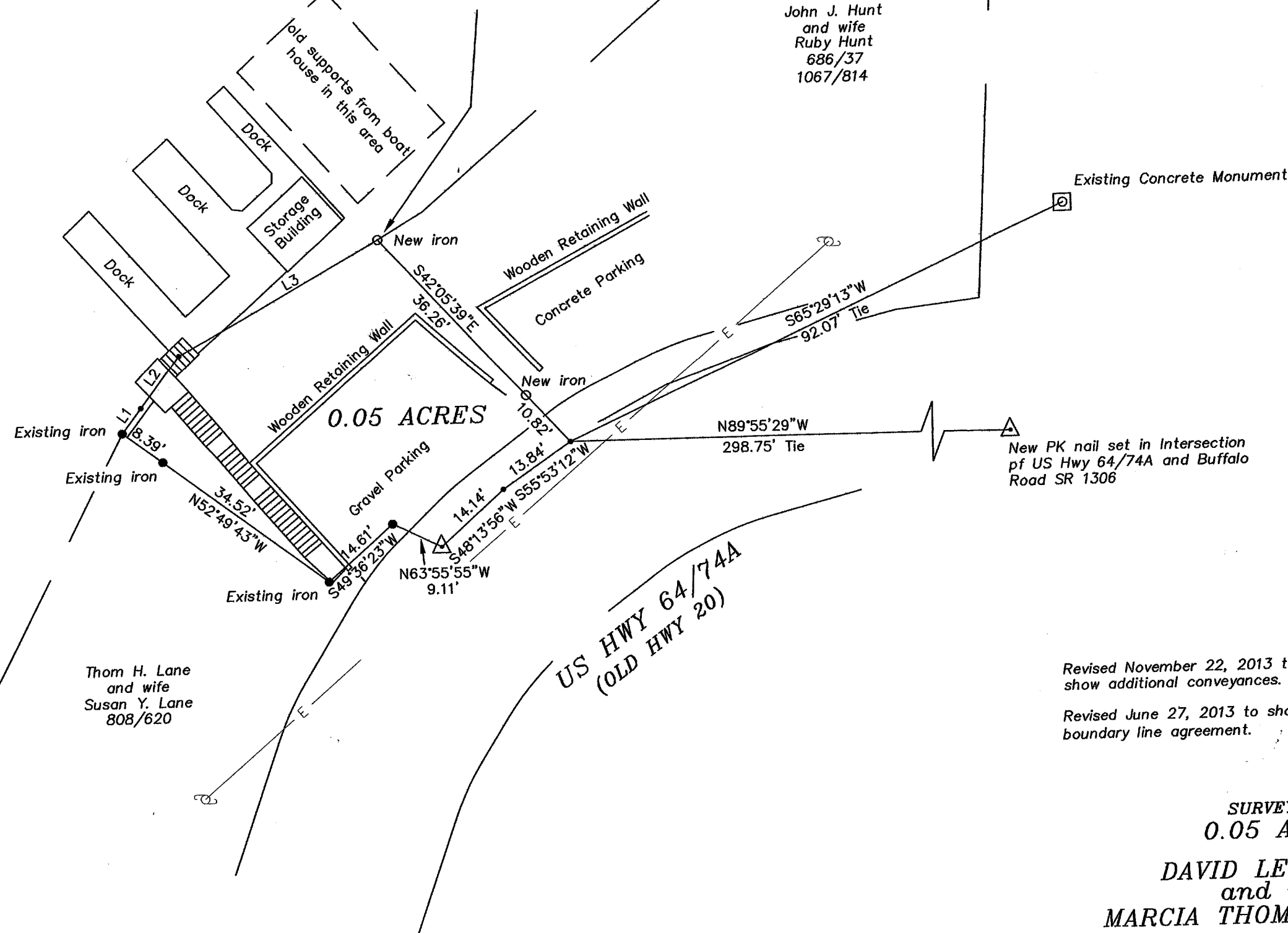
The current lake structure and parcel are legal non-conformities that existed before the Town’s current regulations. The current lake structure encroaches into the 15 foot side yard setback. The parcel does not meet the lot width at building site required by the R-1 or CG zoning district. The required front yard setbacks overlap as the parcel is narrow.

If this parcel is rezoned to R-1, the current structures and parcel will still be considered legal non-conforming. The structure will still encroach into the 15 foot side yard setback, and the front yard setbacks will still overlap. The parcel will not meet the lot width at site requirement for the R-1 district.

Waters of Lake Lure to the 992'

John J. Hunt
and wife
Ruby Hunt
686/37
1067/814

Waters of Lake Lure



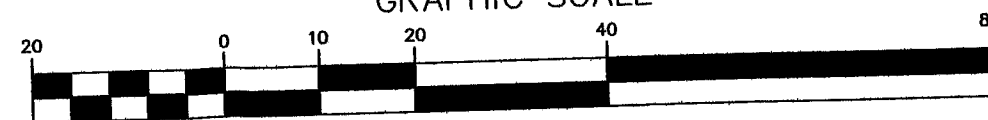
Revised November 22, 2013 to change names on plat and show additional conveyances.
Revised June 27, 2013 to show agreed line for proposed boundary line agreement.

**SURVEY OF
0.05 ACRES
DAVID LEE BAKER
and wife
MARCIA THOMPSON BAKER**

DEED BOOK 1068/196, 1067/817
TAX MAP 502 BLOCK 1 PARCEL 36
TAX PIN: 219390
PLAT BOOK 34 PAGE 95

CHIMNEY ROCK TOWNSHIP RUTHERFORD COUNTY, NC
FIELD: DM,EM,BE MAP: D. McENTIRE
DATE: NOVEMBER 19, 2012 MAP#: 12-0081

GRAPHIC SCALE



1 INCH = 20 FEET
DONALD McENTIRE SURVEYING
108 ISHAM DRIVE
RUTHERFORDTON, NC 28139
PHONE: (828) 287-0439

Reference plat of survey by Professional Surveying Services for
Clifton M. Craig dated September 6, 1996 and revised
October 30, 1999 map# 18173 L.

Reference plat of survey by Professional Surveying Services for
John J. Hunt dated September 10, 2007 map# 21927B.



STATE OF NORTH CAROLINA
RUTHERFORD COUNTY

BEFORE THE LAKE LURE
TOWN COUNCIL
CASE NO. RZ-2021001

IN RE THE APPLICATION OF DAVID AND MARCIA BAKER FOR A PETITION OF REZONING

CERTIFICATE OF SERVICE

I certify that I have on this date notified, in addition to the applicant and/or the property owner, the following persons of the hearing before Town Council in the above referenced case by means of first class mail:

Parcel Number	Owner Name	Owner Mailing Address	Owner Mailing City	Owner Mailing State	Owner Mailing Zip	Property Address
227629	LAIL, BRIAN L; LAIL, JENNIFER K	150 NEIGHBORLY DR	LAKE LURE	NC	28746	506 MEMORIAL HWY
220948	CRAIG, CLIFTON M JR; CRAIG, SANDRA E	1132 S CENTER RD	DARLINGTON	SC	29532	156 SLEEPY HILL
230389	CORNETT, MELISSA D TRUSTEE FOR; MOORE, CHLOE CORNET	1133 WIMBLEDON RD	CHARLOTTE	NC	28209	119 BUFFALO SHOALS RD
226758	HUNT, JOHN J; HUNT, RUBY	BOX 277	LATTIMORE	NC	28089	470 MEMORIAL HWY
219390	BAKER, DAVID L; BAKER, MARCIA T	3736 VERBENA WAY	CLEMMONS	NC	27012	0 MEMORIAL HWY



Mitchell Anderson, CZO

Assistant Community Development Director

Town of Lake Lure

828-625-9983 Ext. 107

manderson@townoflakelure.com

2948 Memorial Highway Lake Lure, NC 28764

March 29, 2021

STATE OF NORTH CAROLINA
RUTHERFORD COUNTY

BEFORE THE LAKE LURE
ZONING AND PLANNING BOARD
CASE NO. RV-2021001

IN RE THE REQUEST OF DAVID AND MARCIA BAKER,
FOR DETERMINATION OF ZONING CONSISTENCY AND RECOMMENDATION
TO TOWN COUNCIL

STATEMENT OF THE CASE

This matter came before the Lake Lure Zoning and Planning Board on March 16, 2021 on the application of David and Marcia Baker. The Bakers have requested a rezoning of their parcel, located at 0 Memorial Hwy (Tax Pin 219390), currently zoned CG Commercial General (Section 92.031C of the Town of Lake Lure Zoning Regulations) to R-1 Residential (Section 92.026 of the Town of Lake Lure Zoning Regulations).

Statement of Reasonableness and Comprehensive Plan Consistency

The Lake Lure Zoning and Planning Board has provided the following Statement of Reasonableness and Comprehensive Plan Consistency:

The rezoning of the Baker's property from CG Commercial General to R-1 Residential is consistent with the 2007-2027 Comprehensive Plan, as the Future Land Use Map indicates the Baker's parcel to be zoned for future residential use. The rezoning of the parcel from CG Commercial General to R-1 Residential would not align with the current neighborhood character in this area, which is primarily commercial.

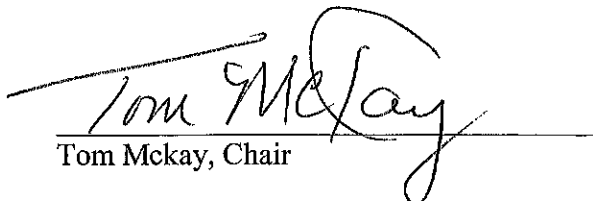
Rezoning this property to residential will disconnect the adjoining properties that are currently zoned CG Commercial General.

Further, the board desires to remain consistent with prior zoning action.

Recommendation

Accordingly, the Lake Lure Zoning and Planning Board hereby recommends to the Lake Lure Town Council that the request for a map amendment to rezone the above parcel be denied based on the above Statement of Reasonableness and Comprehensive Plan Consistency.

Done this 16th day of March, 2021


Tom McKay, Chair



March 29, 2021

Regarding: Meeting for Proposed Rezoning from CG Commercial General to R-1 Residential District

RZ-2021001 David and Marcia Baker
Property Location: 0 Memorial Hwy

Dear Mr. and Mrs. Baker:

This letter is to inform you that the meeting for consideration of the proposed rezoning application – RZ-2021001 has been scheduled for Tuesday April 13, 2021 at 5:00 PM. The Lake Lure Town Council will hold a public hearing on this rezoning request at their virtual regular meeting on Tuesday April 13, 2021. Please utilize the meeting link below to attend this virtual meeting:

Join the Zoom Meeting:

<https://us02web.zoom.us/j/89968410121>

OR dial in with a landline:

1-929-436-2866

Meeting ID: 899 6841 0121

The purpose of this meeting is to allow neighboring citizens to educate themselves on the proposed rezoning, to ask questions of you and town staff, and to offer testimony on the proposed rezoning.

You are required to attend this meeting. Failure to attend shall lead to an automatic annulment of the application. If you have any questions, please feel free to call me at (828) 625-9983 ext. 107 or email me at manderson@townoflakelure.com.

Sincerely,

Mitchell Anderson, CZO

Assistant Community Development Director

Town of Lake Lure

828-625-9983 Ext. 107

manderson@townoflakelure.com

2948 Memorial Highway Lake Lure, NC 28764

File RZ-2021001



March 29, 2021

Regarding: Meeting for Proposed Rezoning from CG Commercial General to R-1 Residential District

RZ-2021001 David and Marcia Baker
Property Location: 0 Memorial Hwy

Dear Adjacent Property Owner:

As the adjacent property owner to 0 Memorial Hwy (Owned by David and Marcia Baker - Tax Pin 219390), you are hereby notified by first class mail that the Town is considering rezoning this parcel from CG Commercial General (Section 92.031C of the Town of Lake Lure Zoning Regulations) to R-1 Residential (Section 92.026 of the Town of Lake Lure Zoning Regulations). The Lake Lure Town Council will hold a public hearing on this rezoning request at their virtual regular meeting on Tuesday April 13, 2021.

Should you have any pertinent facts to offer as testimony regarding this matter, please appear before Town Council on Tuesday April 13, 2021 at 5:00 p.m. or shortly thereafter at the following Zoom link.

Join the Zoom Meeting:

<https://us02web.zoom.us/j/89968410121>

OR dial in with a landline:

1-929-436-2866

Meeting ID: 899 6841 0121

If you have any questions or concerns, please feel free to contact me.

Sincerely,

Mitchell Anderson, CZO

Assistant Community Development Director

Town of Lake Lure

828-625-9983 Ext. 107

manderson@townoflakelure.com

2948 Memorial Highway Lake Lure, NC 28764

File RZ-2021001

TOWN OF LAKE LURE

PUBLIC NOTICE

A HEARING WILL BE HELD BY:

Lake Lure Town Council

To consider: RZ-2021001

Join Zoom Meeting:

<https://us02web.zoom.us/j/89968410121>

OR

Dial in with a landline:

1-929-436-2866

Meeting ID: 899 6841 0121

Date: Tuesday, April 13, 2021

Time: 5:00 PM

Location: DIGITAL MEETING (ZOOM)

**For more information, contact the
Community Development
Department at:
(828)625-9983 ext. 117**

**NOTICE OF HEARING
TOWN COUNCIL PUBLIC HEARING
Town of Lake Lure**

The Lake Lure Town Council will hold a digital public hearing on Tuesday, April 13, 2021 at 5:00 p.m., or shortly thereafter, to consider the following:

RZ-2021001, consideration of rezoning a parcel from CG Commercial General to R-1 Residential. This parcel is located at 0 Memorial Hwy. Lake Lure NC 28746 (Owned by David and Marcia Baker- Tax Pin 219390).

The digital hearing web link is shown below:

***Topic: 4-13-2021 Regular Town Council Meeting
Time: Apr 13, 2021 05:00 PM Eastern Time (US and Canada)***

Join Zoom Meeting:

<https://us02web.zoom.us/j/89968410121>

OR

Dial in with a landline:

1-929-436-2866

Meeting ID: 899 6841 0121

Insertion Order: Please publish the above ad in *The Daily Courier* on the following dates:

- 1) Friday, April 2, 2021**
- 2) Friday, April 9, 2021**

Please provide an affidavit of publication to the Town of Lake Lure. Please mark the affidavit to the attention of Ms. Michelle Jolley Town Clerk.

ORDINANCE NUMBER 21-04-13**AN ORDINANCE AMENDING THE ZONING MAP OF THE TOWN OF LAKE LURE BY REZONING PARCEL NUMBER 219390 FROM CG TO R-1, AS REQUESTED BY REZONING PETITION RZ-2021001.**

WHEREAS, David and Marcia Baker are the owners of the parcel identified by tax Parcel Identification Numbers (PIN) 219390, Map 502/Block 1/Lot 36 on the Rutherford County Tax Map; and,

WHEREAS, the current zoning of the above referenced parcel is CG Commercial General District; and,

WHEREAS, David and Marcia Baker have petitioned to have this parcel rezoned to R-1 Residential District, as described with petition numbers RZ-2021001; and,

WHEREAS, the Lake Lure Zoning and Planning Board, after due consideration on the 16th of March, 2021 found the request to be consistent with the Lake Lure 2007-2027 Comprehensive Plan does not recommend approval of this petition; and,

WHEREAS, the Lake Lure Town Council, after due public notice, conducted a public hearing on the 13th day of April, 2021, on the question of amending the zoning map in this respect and, after further consideration, determined that the rezoning is in the best interests of the Town of Lake Lure;

NOW THEREFORE, be it ordained by the town council of the Town of Lake Lure, North Carolina, meeting in regular session and with a majority of councilmen voting in the affirmative:

SECTION ONE: The zoning map referenced in Chapter 92 of the Lake Lure Code of Ordinances is hereby amended to change the lot having County tax PIN 219390, from CG Commercial General District to R-1 Residential District.

SECTION TWO: The Zoning Administrator shall make all the necessary corrections to the zoning map so as to implement the provisions of this ordinance and shall henceforth enforce the zoning regulations as hereby amended.

SECTION THREE: This ordinance shall be effective upon its adoption.

Adopted this 13th day of April, 2021.

ORDINANCE NO. 21-04-13
Rezoning Petition RZ-2021001
April 13, 2020
Page 2

Attest:

Michelle Jolley
Town Clerk

Carol Pritchett
Mayor

Approved as to Form:

William C. Morgan, Jr.
Town Attorney