

DEPARTMENT OF PLANNING & DEVELOPMENT

DATE: 02/11/2022

STAFF CONTACT: AARON POPLIN



REZONING PETITION: Z 01-21 AMENDMENT

REQUEST: RA and CBI-CD to
CBI-CD

PARCEL ID: 140 242 and
140 007

LOCATION: 1600 block
Bostian Rd.

ACERAGE: 6.17

CURRENT LAND USE:
Vacant

OWNER: West Avenue
Holdings

APPLICANT: Raymond
McMillan Jr., West Avenue
Holdings

BACKGROUND

Back in 2021 Raymond McMillan Jr., on behalf of West Avenue Holdings rezoned their property at approximately the 1000 block of Old Beatty Ford Rd. from Rural Agricultural (RA) to Commercial Business Industrial with a Conditional District (CBI-CD) to allow the placement of a mini-warehouse storage facility. The Board of Commissioners approved the rezoning request Z 01-21 on April 19th 2021.

Since the rezoning the applicant discovered that the site layout would not work as proposed in the approved conditional district due to the location of a stream on the site. West Avenue Holdings has redesigned their site plan to avoid the existing stream. The change in site plan also brought about locating the mini-warehouse storage facility on both parcel 140 242 and the original parcel 140 007. Conditional districts are site specific so any change in site plan requires amending the zoning district. The requested amendment to Z 01-21 would rezone both parcels to a new CBI-CD district that accommodates the new layout of the proposed mini-storage facility.

Relationship with any plans and policies

This property is located in Area 3 of the Eastern Area Land Use Plan, and is located within the I-85, US 29 Corridor Overlay. The I-85, US 29 Corridor Overlay encourages commercial and

industrial uses. The property falls close to a recognized regional node which extends one mile out from the new interchange of Old Beatty Ford Rd and I-85.

The property is also identified in the I-85 South Corridor Plan. The plan calls for the new alignment of Old Beatty Ford Rd to serve as frontage for commercial and mixed use developments as well as some industry. The plan recommends considering design guidelines for commercial development which include things such as architectural standards, screening, landscaping, and signs.

Z 04-20 was a rezoning request from RA to CBI-CD for the use of a water well drilling contractor business located across the street from this request. Z 04-20 was approved by the Board of Commissioners on November 16 2020 with no additional requirements other than the design presented on the site plan.

Consistency with the requested zoning district's purpose and intent

Commercial, Business, Industrial, CBI. This zone allows for a wide range of commercial, business and light to medium industrial activities which support both the local and/or regional economies. The CBI district is generally appropriate in areas identified by an adopted land use plan that recommend "highway business" along identified NC and US highways; community/regional/potential development nodes; commercial corridors; and existing commercial areas. Areas served by public water/sewer represent significant public investment to foster tax base growth and employment opportunities for the citizens, which could be served through CBI designation. The CBI district may also exist or be created in an area other than listed in this subsection if the existing or proposed development is compatible with the surrounding area and the overall public good is served.

The request falls within the Cold Water Creek water supply watershed which is a WS-IV. At 35.94% built upon area the proposed development is below the maximum built upon area of 36% of the lot, and will not require getting a Special Non-Residential Intensity Allocation (SNIA) permit from the board of commissioners. The original Z 01-21 request was granted a SNIA permit by the Board of Commissioners; since the new request now meets the low density standards staff will recommend that the Board of Commissioners revoke the SNIA permit and return the removed acreage to the County's allotment. If the SNIA permit is revoked 3.84 acres will be returned to the County's allotment bringing the total acreage available for SNIA permits in the Cold Water Creek Watershed to 488.84 acres.

Compatibility of all uses within the proposed district classification with other properties

Compatibility of Uses: the CBI district offers a wide variety of uses of varying intensities, however this request only allows for Mini-warehouse storage (4225).

MAJOR GROUP	INDUSTRY GROUP	RA	CBI-CD
Residential		Permitted	Not Permitted
Construction		Permitted with SR	Not Permitted
Manufacturing		Permitted with SR	Not Permitted
	"Heavy Impact Uses"	Not Permitted	Not Permitted
Transp., Com., Elec. / Gas, & Sanitary Svc.		Some Permitted with SR	Mini-Warehouses
Wholesale Trade		Most Permitted with SR	Not Permitted
Retail Trade		Permitted with SR	Not Permitted
Finance, Ins., & Real Est.		Permitted with SR	Not Permitted
Services		Most Permitted with SR	Not Permitted
	Misc. Amusement & Rec.	Not Permitted	Not Permitted
Public Admin.		Not Permitted	Not Permitted

Generalized Groupings:

Permitted: 100-75% Most: 75-50% Some: 50-25% Not Permitted: 25-

Source: Section 21-113 Table of Uses

Conditions within the vicinity (see enclosed map): Area around the intersection of Old Beatty Ford Rd and Bostian Rd is mostly zoned RA with one CBI-CD zoned lot for a well drilling contractor business. Most the other uses in the area are residential aside from the Landis Church of God and the Kannapolis Lodge both located off of Bositan Rd.

Potential impact on facilities such as roads, utilities and schools

Roads: The NC DOT has already issued a driveway permit D091-080-21-00080 for the new entrance off of Bostian Rd.

Utilities: N/A

Schools: N/A

Decision making and procedures

Decision Making: In addition to the above criteria, sec. 21-362 (c) of the Zoning Ordinance indicates the primary question before the Planning Board / Board of Commissioners in a rezoning decision is "whether the proposed change advances the public health, safety, or welfare as well as the intent and spirit of the ordinance." Additionally, the boards "shall not

regard as controlling any advantages or disadvantages to the individual requesting the change but shall consider the impact of the proposed zoning change on the public at large.”

Procedures: The Board must develop a statement of consistency describing whether its action is consistent with any adopted comprehensive plans and indicate why their action is reasonable and in the public interest [sec. 21-362 (j)]. A statement analyzing the reasonableness of the decision is also necessary. See enclosed checklist as a guide in developing these statements.

A statement of reasonableness is necessary to substantiate a small-scale zoning decision and ensure the decision is “reasonable”. While spot zoning in North Carolina is considered legal, it must be determined as reasonable based on a number of factors including the following established by the courts:

- Size and nature of the tract;
- Compatibility with existing plans;
- The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community; and
- The relationship between the newly allowed uses in a spot rezoning and the previously allowed uses.

Planning Board Meeting January 24, 2022

The Rowan County Planning Board held a courtesy hearing for the amendment to Z 01-21 at their January meeting. The Board did not have many comments for the amendment. No one spoke during the courtesy hearing and the Board had no questions for the applicant. Staff brought up repealing the SNIA permit that was originally given to the project and the applicant did not object since it is not necessary for the new site design.

The Board approved the request with the condition that the parcels be combined, and adopted the following statements.

Statement of Consistency – The proposed use is consistent with the Eastern Land Use Plan; the I-85 Corridor and US Hwy 29 overlays. The same type of zoning was approved on the site across the road for a well drilling facility. The CBI-CD is specific and any changes would require board approval. The use is needed in a growing community and is non- detrimental.

Statement of Reasonableness – Z 01-21 is reasonable based on size and conditions of the property and the other utilizations in the area and that storage buildings will not be detrimental to the surrounding land owners.

Staff Comments

- Only the use shown in the site plan should be considered when making a decision.
- The owners plan to combine tax parcels 140 242 and 140 007 into one parcel. Staff recommends that a condition of approval be that the lots be combined.
- Staff would like the Board to consider the condition that an as-built survey is done to ensure that the site will meet it's built-upon area requirements.
- The Board can consider adding other mutually agreed upon conditions to the request.

Attachments

- GIS Map
- Site Plan
- Application
- Statement worksheet