

DEPARTMENT OF PLANNING & DEVELOPMENT
DATE: 04/08/2022
STAFF CONTACT: AARON POPLIN



REZONING PETITION: Z 03-22

REQUEST: RR to 85-ED-2

PARCEL ID: 406 010 and
406 126

LOCATION: 1505 Peach
Orchard Rd

ACERAGE: 20

CURRENT LAND USE: Single
Family Dwelling

OWNER: Diane Brandon

APPLICANT: Connie Merrell

BACKGROUND

Connie Merrell on behalf of Merrell Partners is petitioning to rezone two parcels at 1505 Peach Orchard Rd, owned by Diane Brandon, from Rural Residential (RR) to 85-ED-2. These properties can be further referenced as county tax parcels 406 010 and 406 126. A majority of parcel 406 126 is currently zoned 85-ED-2 the front of parcel 406 126 is zoned RR and all of 406 010 is zoned RR. The road frontage for these properties is all on parcel 406 126.

Relationship with any plans and policies

This property is located in Area 2 of the Eastern Area Land Use Plan areas adjacent to municipalities and within the US-29/ I-85 Highway corridor overlay Area 2 discourages industrial development except when they

are located within the highway corridor. The plan encourages uses to consider the scale and density of new projects connecting to utilities.

Consistency with the requested zoning district's purpose and intent

Economic development districts established for I-85. The following district are hereby established to preserve, encourage and enhance the economic development opportunities in areas adjacent and near I-85 in accordance to plans adopted by the county board of commissioners. It is recognized that I-85 is uniquely important the future of the county because of the great potential for development of all types that exist along this corridor. Development

within these districts shall be of types which maximize the economic benefits to the county while minimizing the potential impacts. The district are designed to accommodate, as appropriate, uses such as manufacturing, distribution, retail, service industries, corporate parks. Certain individual uses may be allowed as uses by right in some districts, while other more intensive uses may require a higher level of review and approval by the county. The districts encourage and allow more creative design of land development than may be provided on other general zoning districts. This flexibility is provided for planned unit developments. In areas where existing conditions such as surrounding development, access etc. may make the area less marketable for uses listed exclusively in the 85-ED-1 district then the 85-ED-2 district may be appropriate. The primary additions to this district are distribution and wholesaling operations.

The benefit of the 85-ED zones over a traditional commercial or industrial zoning district such as CBI or IND is that the uses allowed are not quite as broad. By narrowing the uses the County can be assured that the investment in utilities along with the access to I-85 is not wasted by a use that would not need them.

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

Compatibility of Uses: the 85-ED-2 district allows for a limited amount of uses by right with more uses allowed with SUPs and in PUDs.

MAJOR GROUP	INDUSTRY GROUP	RR	CBI-CD
Residential		Permitted	Not Permitted
Construction		Permitted with SR	Permitted
Manufacturing		Permitted with SR	Most Permitted
	"Heavy Impact Uses"	Not Permitted	Most Permitted with SUP
Transp., Com., Elec. / Gas, & Sanitary Svc.		Some Permitted with SR	Some Permitted
Wholesale Trade		Most Permitted with SR	Some Permitted with SUP
Retail Trade		Permitted with SR	Some Permitted in PUD
Finance, Ins., & Real Est.		Permitted with SR	Not Permitted
Services		Most Permitted with SR	Some Permitted in a PUD
	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):

East: Performance Technology park. 85-ED-2 zoned business park with Toyota Racing Development

West: Dillard's distribution center.

South: Southeast Middle School.

North: Orchard Hills Subdivision.

Potential impact on facilities such as roads, utilities and schools

Roads: Peach Orchard Rd has a capacity of 11,400 vehicles per day. The most recent traffic count on Peach Orchard Rd was 3,500 vehicles per day in 2014. It should be noted that this data was taken on the western side of I-85 and not on the section between I-85 and Old Concord Rd.

Utilities: The property will utilize existing SRU water and sewer.

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 February 28, 2022

The Rowan County Planning Board conducted a courtesy hearing for Z 03-22 at their February meeting. No one spoke in favor or against the rezoning. The Planning Board approved the rezoning, including the portions of parcels 406 020 and 406 127, with the following statement:

Statement of Consistency and Reasonableness- Z 03-22 is consistent with area 2 of the Eastern Area Land Use Plan, the Hwy 29 and I 85 corridor and it is consistent with the 85-ED-2 standards and is reasonable based on the fact that it aligns with the intent and spirit of the ordinance, it is surrounded to the east by CBI and 85-ED-2 districts.

Staff Comments

- This is a straight rezoning so all uses in the 85-ED-2 district should be considered.
- There can be no conditions of approval.
- Staff recommend the rezoning a portion of parcel 406 020 and parcel 406 127 from RR to CBI to remove the rest of the remaining RR zone on the southern side of Peach Orchard Rd.

Attachments

- GIS Map
- Application
- Statement worksheet