

DEPARTMENT OF PLANNING & DEVELOPMENT
DATE: 11/05/2020
STAFF CONTACT: AARON POPLIN



REZONING PETITION: Z 03-20

REQUEST: RR to CBI

PARCEL ID: 465A-(043, 044, 045, 046, 047)

LOCATION: Corner of Briggs Rd and Mooresville Rd.

ACERAGE: 5.28

CURRENT LAND USE:
Vacant

OWNER: Greer N Goodman
Trustee

APPLICANT: Daniel Almazan
Allen Tate Realtors

BACKGROUND

Daniel Almazan is requesting the rezoning of his client's property at the corner of Briggs Rd and Mooresville Rd. to increase the value to potential commercial buyers.

The request involves the rezoning of lots one (1) through five (5) of the Goodman's Corner subdivision platted in 1996, (reference attached plat). Since its recordation, none of the lots have been developed.

Relationship with any plans and policies

This property is located on the border of Area 1 and 2 of the Western Area Land Use Plan, and is notably located within one of the two recognized Regional Nodes. The plan encourages commercial uses in the community commercial nodes that support existing and future population's needs for retail goods and services. Mixed use developments that incorporate small businesses, retail and housing to reduce reliance on municipal services are also encouraged at regional nodes. When

commercial development is outside of commercial nodes they should be allowed as conditional uses to encourage nodal development and access management.

The plan suggests the Technical Review Committee (TRC) play an increased role in review of commercial uses and their potential impacts on surrounding uses within the rural area. The TRC should consider building appearance, design elements and landscaping for new businesses.

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 Back Creek/ Sloans Creek water supply watershed which is a WS-II. The parcels in the request currently conform to the watershed's standards for residential parcels. Commercial development of these parcels would either need to meet the 12% built upon requirements or obtain a Special Non-residential Intensity Allocation (SNIA) permit from the Board of Commissioners. Currently Back Creek/ Sloans Creek has 3143.82 acres left that can be removed from the watershed through the SNIA permit process.

Phase II storm water management of non-residential development on these parcels would be subject to further review from the North Carolina Department of Environmental Quality.

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. All uses allowed in the CBI district need to be considered with this request.

MAJOR GROUP	INDUSTRY GROUP	RR	CBI
Residential		Permitted	Permitted
Construction		Permitted with SR	Permitted
Manufacturing		Permitted with SR	Permitted
	"Heavy Impact Uses"	Not Permitted	Not Permitted
Transp., Com., Elec. / Gas, & Sanitary Svc.		Some Permitted with SR	Most Permitted
Wholesale Trade		Most Permitted with SR	Most Permitted
Retail Trade		Permitted with SR	Permitted
Finance, Ins., & Real Est.		Permitted with SR	Permitted
Services		Most Permitted with SR	Permitted
	Misc. Amusement & Rec.	Not Permitted	Permitted
Public Admin.		Permitted	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): Most of the adjoining properties in the area are zoned RA or RR and with the primary uses being single family dwellings and agriculture. Locke VFD is located across the street at 5405 Mooresville Rd. There is an adjacent 17.4 acre CBI district with one active commercial use Adam's Automotive (Auto Repair Shop) at 5325 Mooresville Rd. and some vacant commercial properties. There is also a stand alone 1.79 acre CBI district approximately 600' west of the request that has a vacant commercial building at 5510 Mooresville Rd. All of the commercial buildings in this area were built before zoning came into effect in 1998.

Potential impact on facilities such as roads, utilities and schools

Roads: Mooresville Rd. has a design capacity of 13,600 vehicles per day and as of 2019 the average daily traffic was 7,200 vehicles per day. Briggs Rd. has a design capacity of 12,500 vehicles per day and as of 2018 the average daily traffic was 4,200 vehicles per day. According to the Institute of Transportation Engineers Trip Generation Volume 7, a single family detached house generates approximately 9.57 trips per day on weekdays which may create an average 48 trips per day on weekdays. For comparison, a gasoline/service station with a convenience market with 6 fueling stations will generate approximately 976 trips per day on weekdays.

According to 911 records, this section of Mooresville Road has had approximately 32 vehicle crashes since 2015.

Mooresville Rd. has an observed Right of Way of 100' east of the intersection with Briggs road to accommodate a future widening to four lanes. Both Mooresville Rd. and Briggs Rd. are recognized as major thoroughfares.

Staff talked with Eric Goldston, Assistant District Engineer with the NC DOT District 9, about any concerns for commercial access onto Briggs / Mooresville Roads. Access onto Mooresville road would likely be denied, but access from Briggs Road seemed feasible. There is a good possibility that road improvements would be necessary for a commercial access, but that can not be confirmed without having a specific use.

Utilities: The property would use private well and septic.

Schools: Both CBI and RR allow the same types of residential development.

Planning Board Meeting September 28, 2020

The Rowan County Planning Board held a curtesy hearing for the request at their September meeting. There were a few people who spoke in opposition to the request the main point

brought up was a concern about the potential traffic impact a commercial use would have. The Planning Board approved the request and adopted the following statements.

Statement of Reasonableness: The request is in line with Areas 1 and 2 of the Western Land Use Plan; it is located within a community node; the property is adjacent to other CBI zoned properties and is along a major thoroughfare.

Statement of Consistency: The request is consistent with the Western Land Use Plan; Area 1 and 2; the property is located in a community node which promotes and encourages business growth; it is located along a major thoroughfare and in the community's best interest.

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 of Commissioners 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.

Staff Comments

- All uses allowed in the CBI district should be taken into consideration when evaluating this request.
- The examples given about trip generation are for comparison only. There are no requests for either use at this time.
- Since this is a straight rezoning, no conditions can be applied.
- There were discussions with the applicant about the potential for a Conditional District Rezoning. However, the applicant does not have a specific use in mind, so they couldn't apply for such a district at this time.
- The Board may want to encourage a site specific rezoning if they feel that certain uses in the district would not be appropriate or if they feel that performance standards should be higher than what would be required otherwise.
- Given this tract's prominence in the Western Area Land Use Plan is a "Regional Node" and recommendations suggest oversight and review by TRC, a detailed development presented as a Conditional District rezoning for this six acres seems warranted as opposed to a general rezoning request to a CBI district.
- Assignment of the Rural Residential (RR) zoning to the property in 1998 was likely created as a "holding district" to ensure development of the property is complimentary to the area and is of a quality and character to enhance the tax base. Likewise, this notion was continued in the Western Area Land Use Plan in the designation as a regional node

Attachments

- GIS Map
- Application