



RESOLUTION TO ZONE

City of Kannapolis C-2-CZ (Originally called “CU-C2” Conditional Use – General Commercial) to City of Kannapolis C-2-CZ (Amended) General Commercial - Conditional Zoning District.

WHEREAS, Section 3.3.4.1 of the City of Kannapolis Unified Development Ordinance specifically delegates authority to the Planning and Zoning Commission to take final action on a rezoning petition; and

WHEREAS, whereas, Section 3.3.4.2.2 of the City of Kannapolis Unified Development Ordinance allows the Planning and Zoning Commission to render a final decision regarding a zoning amendment by an affirmative vote of at least three-fourths of the member of the Commission. If the vote is by less than three-fourths of the Commission, then only the City Council shall have the authority to make a final decision; and

WHEREAS, the Planning and Zoning Commission conducted a Public Hearing on November 4, 2015 for consideration of a rezoning petition (Case Z-2015-05) as submitted to the City of Kannapolis Planning Department; and

WHEREAS, the request was to rezone approximately 4.09 acres from C-2-CZ (Originally called “CU-C2” Conditional Use – General Commercial) to City of Kannapolis C-2-CZ (Amended) General Commercial - Conditional Zoning District. The property is described as Cabarrus County #5622-69-3764; and

WHEREAS, the Planning and Zoning Commission approved the request to rezone by a vote of 4-2, representing less than the required three-fourths vote to qualify as final; and

WHEREAS, since approval by the Planning and Zoning Commission was by less than a three-fourths vote, then only the City Council shall have the authority to make a final decision on the requested rezoning; and

WHEREAS, the City Council conducted a Public Hearing on January 25, 2016 for consideration of a rezoning petition (Case Z-2015-05) as submitted to the City of Kannapolis Planning Department; and

WHEREAS, the City Council has found the rezoning request consistent with the Unified Development Ordinance and consistent with the City’s 2015 Land Use Plan; and

WHEREAS, the City Council has found the rezoning request consistent with the long range goals and growth strategies of the City of Kannapolis, consistent with the adopted 2015 Land Use Plan and reasonable; and

WHEREAS, per Section 3.3.5 of the Kannapolis UDO, the City Council makes the following findings in support of and in analysis of the rezoning:

1. The size of the tract in question.

The size of the subject tract is approximately 4.09 acres.

2. Does the proposal conform with and further the goals and policies of the Land Use Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance? The subject property is located in the "South Kannapolis Growth Area" as designated in the City of Kannapolis 2015 Land Use Plan (LUP). The LUP identifies this property as being in a Light Commercial Future (Recommended) Land Use category and recommends a change to C-1. LUP text states;

The current O-I, Office-Institutional, is not necessarily inappropriate, however, the C-1, Light Commercial, is recommended as it appears to be more appropriate given the trend for concentrated retail/heavy commercial along this portion of the DE Blvd. It is likely that projects to be considered for development along these tracts should be considered for the conditional use rezoning process due to the proximity of established single-family developments along the rear.

The LUP also recognizes the proximity of residential uses on multiple occasions and encourages a conditioned-flexible approach to rezoning, presumably to protect the adjoining residential neighborhood.

The proposed preliminary major site plan shows a site which slopes down to the north and needs to be graded with retaining walls and a higher than current elevation facing neighboring properties. Substantially larger buffer areas are to be provided along the northern/northeastern boundaries and will include landscaping, fencing and a retaining wall. With the elevated grade at this corner, the building may be visible through any existing and/or proposed trees on the applicant and neighbor properties. However, parking will be located over 100' feet from the northern property line and the loading area will be located over 65' from the property line. The applicant is requesting a use recommended within the LUP and has made efforts to minimize impacts on the neighboring properties. In addition, the building does conform to the standards set forth in the UDO and specifically with the Dale Earnhardt Boulevard Overlay (Article 15), Standards for Shopping Centers and Superstores (Article 11) as well as the Watershed Overlay District (Article 4).

Therefore, the proposal can be considered to be in conformance with the LUP and the UDO.

3. Is the proposed rezoning compatible with the surrounding area?

The property is located within the Dale Earnhardt Boulevard Thoroughfare Protection (DEBTP) Overlay District (measured 300' from the DE Blvd. right-of-way line) and is subject to use, site and building design requirements. The project meets and, in some cases, exceeds these architectural and site standards as well as the Landscaping Requirements in Article 7.

Located in the DEBTP Overlay District, the property is subject to the requirements of Building Design standards, including the General Form and Exterior Building Material specifications in Section 15.2.8 of the UDO. The elevations, as submitted, show a building with a barrel roof and building elevations which include articulation, recesses, awnings, fenestration and/or change of acceptable materials (depending upon the elevation) which meet the standards set forth in Section 15.2.8 of the UDO.

The property is also subject to Section 11.3, Standards for Shopping Centers and Superstores. This section includes Outdoor Space and Design Feature requirements, which are to be provided for by landscaped outdoor space along Windingbrook Drive. Sidewalks will be

installed along DE Blvd., as well as a transit stop, if needed, and pedestrian connections will be made once need/location of a transit stop is determined. Building setbacks meet the 75' standard for the Windingbrook Dr. and DE Blvd. facades. These facades also meet the architectural requirements.

Access to the site will be gained through DE Blvd., with no connection to Windingbrook Dr., and no parking, other than loading, will be located between the building and neighboring parcels. Site elevations/cross-sections show the building roof to slope to its lowest point along the Northwest boundary, with minimal building exposure and no pedestrian or vehicular activity. The loading area is expected to incur minimal use with limited deliveries. Building visibility will be dependent upon landscaping, however, even with the proposed landscaping; some visual impact can be expected.

Therefore, the proposed rezoning can be considered compatible with the surrounding area.

4. Will there be adverse effects on the capacity or safety of the portion of street network influenced by the rezoning?

The proposed site plan calls for a shared entrance which aligns with Coldwater Ridge, with access currently being negotiated with the adjacent parcel owner. The applicant has submitted a Traffic Impact Study (TIS). The TIS shows the need for a traffic signal at this intersection and the North Carolina Department of Transportation (NCDOT) concurs that a signal at this intersection is warranted.

5. Will there be parking problems?

No parking problems are anticipated. The proposed grocery store use for 36,200 sq. ft. will require 120 spaces, with 141 proposed.

6. Will there be environmental impacts that the new use will generate, such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances?

Located in the Lake Concord Watershed Critical Area Overlay District, the property is limited to 24% impervious coverage. The applicant will need to have the Critical Area Overlay boundary adjusted so that the site is no longer regulated by Article 4.16. The applicant will need to alter the site to have stormwater runoff diverted from the Critical Area and then apply to the Board of Adjustment to adjust the boundary.

7. Has there been any change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, and development? Dale Earnhardt Boulevard was re-aligned before the 2003 rezoning but since then no major public facilities have been installed. In addition, since 2003, while there have been some minor access improvements and limited commercial development, the character of the area has remained essentially the same.

8. Is there compliance with the adequate public facilities criteria?

Water and sewer facilities and capacity to serve the project have been confirmed by the Department of Public Works. The developer is responsible for the extension of those utilities to the subject property. The Traffic Impact Study (TIS) shows the need for striping Coldwater Ridge Dr., re-striping DE Blvd., and installation of a traffic signal. The traffic signal will need to be approved by NCDOT and is currently under review. Without approval, a new entrance configuration will need to be considered.

- 9. What are the zoning districts and existing land uses of the surrounding properties?**
Properties to the North are zoned RE (Residential Estate) and host residential land uses. Properties to the South are zoned C-2 (General Commercial) and host various commercial land uses. Properties to the East are zoned C-2 as well and host a bank and other commercial land uses. Property to the West is Zoned O-I (Office-Institutional) and is occupied by a church.

- 10. Is the subject property suitable for the uses to which it has been restricted under the existing zoning classification?**

The current zoning, "CU-C2", currently allows for a mix of uses, including office to the rear of the property and retail to the front and is tied to a specific site plan. Office and commercial markets can be assumed to have changed since 2003 and any potential developer can be assumed to have a specific tenant/use mix in mind for this site which will most likely not match the current site plan. Also, the current site plan has expired and would, therefore, not be a legal basis for obtaining development permits, unless re-approved. Finally, the current zoning does not reflect the need to adjust the Lake Concord Watershed Overlay Critical Area District boundary line.

Therefore, the subject property is not considered suitable for the uses to which it has been restricted.

- 11. Is the rezoning compatible with the adjacent neighborhood, especially residential neighborhood stability and character?** The requested rezoning to permit a grocery store would require modification of the rezoning approval granted in 2003. The proposed screening, landscaping and architectural design and layout of the building is intended to mitigate impacts on the adjacent residential neighborhood.

- 12. What length of time has the subject property remained vacant as zoned?**

The subject property has been vacant since it was rezoned in 2003.

- 13. Is there an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs?**

There is a considerable amount of vacant property zoned C-2 along Dale Earnhardt Blvd., on the other side of the street and to the north of the property, which could accommodate the zoning and community needs for the proposed project.

- 14. Was the existing zoning in error at the time of adoption?**

No.

NOW, THEREFORE BE IT RESOLVED by the City of Kannapolis City Council that the above referenced property be zoned C-2-CZ (Amended) General Commercial - Conditional Zoning District.

Adopted this the 25th day of January, 2016

Milton D, Hinnant, Mayor

Attest:

Bridgette Bell, MCC, NCCMC
City Clerk