



DATE FILED 3/4/2011  
APPLICATION NUMBER 2011-567  
For office use only

APPLICATION FOR CHANGE IN ZONING CLASSIFICATION  
OR CHANGE IN CONDITIONS  
(SEE FILING INSTRUCTIONS)

TO: Town of Matthews Board of Commissioners  
Town of Matthews Planning Board  
232 Matthews Station Street  
Matthews, North Carolina 28105-6713

Ladies and Gentlemen:

Your consideration of this petition is requested for:

- A change in zoning classification of the property hereinafter described; or
- A change in conditions to an existing conditional zoning plan.

Tax parcel number(s): 19323123

Address of property: 9700 E. INDEPENDENCE BLVD, MATTHEWS NC 28105

Location of property: SW Side of US HWY 74 APPROXIMATELY 390FT NW OF THE INTERSECTION OF WINDSOR SQUARE DR AND US HWY 74 TO THE CENTER OF OUR SITE

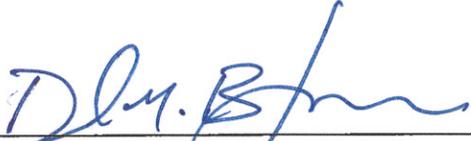
Title to the property was acquired on OCTOBER 30, 2006  
and was recorded in the name of MORNINGSTAR OFFICE LLC  
whose mailing address is 725 PARK CENTER DRIVE, MATTHEWS NC 28105

The deed is recorded in Book 21278 and Page 379 in the office of the Register of Deeds for Mecklenburg County.

Present zoning classification: I-1CD - Industrial Requested zoning classification: B-1CD

List reason(s) why zoning should be changed (use separate sheet if necessary):

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3/4/2011  
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Signature of property owner (must be original)  
DAVID M. BENSON for  
MATTHEWS OFFICE, LLC

Print name of property owner  
725 PARK CENTER DRIVE

Property owner's mailing address  
MATTHEWS, NC 28105  
Property owner's mailing address, continued

Property owner's mailing address, continued

704.846.6495  
Property owner's phone number/email address  
dbenson@mstarproperties.com

Signature of agent (if any)

Print name of agent

Agent's mailing address

Agent's mailing address, continued

Agent's mailing address, continued

Agent's phone number/email address

Signature of property owner (must be original)

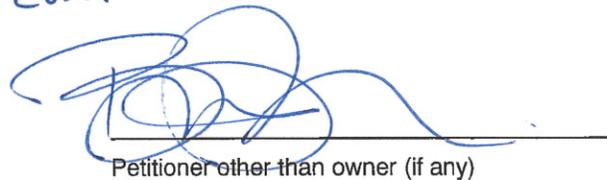
Print name of property owner

Property owner's mailing address

Property owner's mailing address, continued

Property owner's mailing address, continued

Property owner's phone number/email address

  
Petitioner other than owner (if any)

BRETT MASHCHAK - GMRI, INC.

Print name of petitioner

1000 DARDEN CENTER DR.

Petitioner's mailing address

ORLANDO, FL 32837

Petitioner's mailing address, continued

Petitioner's mailing address, continued

407-245-6971

Petitioner's phone number/email address

bmashchak@darden.com

Mecklenburg County, North Carolina

# POLARIS

Property Ownership Land Records Information System

Date Printed: Thu Mar 3 15:55:03 EST 2011

## 9700 E. Independence Zoning Map



This map is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

List all tax parcel numbers, names, and mailing addresses of all property owners subject to notification of this zoning application. Attach additional sheets if necessary.

See item #7 in instruction sheet titled "Instructions for Filing an Application for a Change in Zoning Classification or Change in Conditions for Property located in the Town of Matthews."

Application number

2011-567

3/12/2011  
For Office Use Only

19323125

TAX PARCEL

BEFREIT, INC.

PROPERTY OWNER NAME(S)

3776 S. HIGH ST

OWNER MAILING ADDRESS

COLUMBUS, OH 43207-4012

OWNER MAILING ADDRESS, CONTINUED

19330307

TAX PARCEL

OM SHERA LLC

PROPERTY OWNER NAME(S)

9701 E. INDEPENDENCE BVD

OWNER MAILING ADDRESS

MATTHEWS, NC 28105

OWNER MAILING ADDRESS, CONTINUED

19330304

TAX PARCEL

PMPJL, LLC.

PROPERTY OWNER NAME(S)

112 EAST WILLIAM DAVID PKWY

OWNER MAILING ADDRESS

METAIRIE LA 70005

OWNER MAILING ADDRESS, CONTINUED

19330309

TAX PARCEL

SC WINDSOR ASSOCIATES LP

PROPERTY OWNER NAME(S)

340 ROYAL POINCIANA WAY # 316

OWNER MAILING ADDRESS

PALM BEACH FL 33480

OWNER MAILING ADDRESS, CONTINUED

19330310

TAX PARCEL

REBPAT LEASING

PROPERTY OWNER NAME(S)

P.O. BOX 240525

OWNER MAILING ADDRESS

CHARLOTTE NC 28224

OWNER MAILING ADDRESS, CONTINUED

19323127

TAX PARCEL

CAPEL REAL ESTATE AND DEV. CORP.

PROPERTY OWNER NAME(S)

831 N. MAIN ST

OWNER MAILING ADDRESS

TROY, NC 27371

OWNER MAILING ADDRESS, CONTINUED

19330308

TAX PARCEL

LOS TRES AMIGOS, INC.

PROPERTY OWNER NAME(S)

116 E. WOODLAWN RD

OWNER MAILING ADDRESS

CHARLOTTE NC 28217

OWNER MAILING ADDRESS, CONTINUED

19323131

TAX PARCEL

CITY OF CHARLOTTE

PROPERTY OWNER NAME(S)

600 EAST 4<sup>th</sup> ST

OWNER MAILING ADDRESS

CHARLOTTE, NC 28202

OWNER MAILING ADDRESS, CONTINUED

List all tax parcel numbers, names, and mailing addresses of all property owners subject to notification of this zoning application. Attach additional sheets if necessary.

See item #7 in instruction sheet titled "Instructions for Filing an Application for a Change in Zoning Classification or Change in Conditions for Property located in the Town of Matthews."

Application number

2011-567

3/14/2011  
For Office Use Only

19323135

TAX PARCEL

MECKLENBURG COUNTY

PROPERTY OWNER NAME(S)

600 E 4<sup>th</sup> ST 11<sup>th</sup> FLOOR

OWNER MAILING ADDRESS

CHARLOTTE, NC 28202

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

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TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

**SUMMARY OF THE REZONING PROCESS**

**PETITIONER:** Fill in dates for each action below before filing application. Refer to the current Planning Department rezoning schedule for correct dates.

**PROPERTY OWNERS:** These dates are assumed to be correct at the time of zoning application submittal but are subject to revision. Contact the Planning Department (704-847-4411, extension 224) for verification.

Application submitted to and accepted by the Town of Matthews \_\_\_\_\_ 3/4/2011

Town Board of Commissioners formally accepts application and sets Public Hearing date \_\_\_\_\_ 3/14/2011

Notices sent via mail to affected/adjacent property owners on or before \_\_\_\_\_ 4/25/2011

Protest petition filed with Planning Department by 5:00 pm on \_\_\_\_\_ 5/4/2011

Public hearing: petitioner may give explanation of why s/he wishes to have property rezoned and neighboring owners may ask questions and voice opinions on the proposed zoning \_\_\_\_\_ 5/9/2011

Town Planning Board reviews petition, information, and comments from the public hearing, then makes a recommendation to the Board of Commissioners on whether to approve or deny the request \_\_\_\_\_ 5/24/2011

Town Board of Commissioners approves or denies application \_\_\_\_\_ 6/13/2011

**GENERAL STATUTE 160A-385: CHANGES.**

- (a) Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the city council. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite supermajority. To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right of way shall not be considered in computing the 100-foot buffer area as long as that street right of way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.
- (b) Amendments in zoning ordinances shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either (i) building permits have been issued pursuant to GS 160A-417 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to GS 160A-418 and unrevoked pursuant to GS 160A-422 or (ii) a vested right has been established pursuant to GS 160A-385.1 and such vested right remains valid and unexpired pursuant to GS 160A-385.1



Red Lobster ■ Olive Garden ■ LongHorn Steakhouse ■ The Capital Grille ■ Bahama Breeze ■ Seasons 52

**CONFIDENTIAL**

January 11, 2011

Ms. Kathi Ingrish  
Planning Director  
Town of Matthews  
Department of Planning & Development  
232 Matthews Station Street  
Matthews, NC 28105

**Re: Darden Restaurants, Inc. Economic Development Project**

Dear Ms. Ingrish:

We are writing this letter on behalf of Darden Restaurants, Inc. ("Darden") to provide you with Darden's plan for potential economic expansion in the Town of Matthews, North Carolina ("Matthews") and to request that the Department of Planning and Development assist Darden in its economic expansion by allowing Darden to waive the mandatory traffic study imposed by the Department.

The Darden family of restaurants features some of the most recognizable and successful brands in full-service dining: Red Lobster, Olive Garden, LongHorn Steakhouse, The Capital Grille, Bahama Breeze and Seasons 52. There are more than 1,800 Darden owned and operated restaurants across the United States, and these locations employ more than 180,000 workers. Darden is a Fortune 400 public company dedicated to delivering the highest quality food and customer service. Additionally, Darden is very dedicated to giving back to the community.

The proposed site for the project is at 9700 East Independence Boulevard. This area of Independence Boulevard has a concentration of retail and restaurant locations including Sam's Club, Kohl's, Ross, Office Depot, PetSmart, Harris Teeter, Home Depot, Big Lots, Stein Mart, Office Max, Outback Steakhouse, Bonefish Grill, Hops, Applebee's, Cracker Barrel, Carrabba's and Bob Evans all within .5 miles of the proposed site. According to the North Carolina Department of Transportation, the 2010 Average Daily Traffic (ADT) along US 74 (Independence Boulevard) is estimated to range from 52,100 to 64,700 vehicles per day. As a result of the existing well established concentration of development in this area along with the significant amount of vehicles per day, it is Darden's view that a traffic study to measure changes due to one restaurant in a high traffic area would provide insignificant data when measured against the cost of such study.

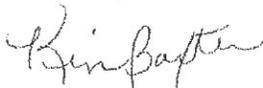
Additionally, per the North Carolina Department of Transportation, a study of the traffic along US 74 (Independence Boulevard) from I-485 to Idlewild Road, which encompasses our project

site, was conducted on October 12, 2010 as part of a feasibility study regarding the proposed widening of Independence Boulevard to improve traffic safety and operations. It seems logical that if Independence Boulevard is being considered, and likely slated for expansion, an additional traffic study based on changes due to one retail operation would be nullified by the expansion plans. One further point to consider is that the widening of Independence Boulevard would have a significant impact on our site due to the following: (a) only South bound traffic would have direct access to the site with North bound traffic accessing the site via a rear service drive and (2) during the construction phase of the expansion, our project site visibility and ease of access will be dramatically decreased. However, even in light of these factors, Darden still seeks to build one of its most popular concepts in this area and bring with it the corresponding jobs, capital investment and tax dollars to Matthews.

The above project undertaken by Darden will involve new construction of a Red Lobster at an estimated cost of \$3 million dollars (including furniture, fixtures and equipment). Matthews' Departments of Economic Development and Planning & Development strive to attract new businesses to invest in the community, provide means for its citizens to earn income and promote a goal of community wealth creation and improved quality of life. We believe Darden's restaurant will exceed these objectives, and for the reasons stated above, we request a waiver of the traffic study requirement.

On behalf of Darden Restaurants, Inc., thank you for your time and consideration. We look forward to working with you to help make Darden's next restaurant development in Matthews a reality. Please contact me at (407) 245-5635 or Allea Newbold with True Partners Consulting at (813) 434-4022 for any questions or concerns.

Sincerely,



Kim Baxter

cc: Susan Connelly, Darden Restaurants, Inc.



Red Lobster ■ Olive Garden ■ LongHorn Steakhouse ■ The Capital Grille ■ Bahama Breeze ■ Seasons 52

March 3, 2011

Town of Matthews Board of Commissioners  
Town of Matthews Planning Board  
232 Matthews Station Street  
Matthews, NC 28105-6713

Re: Application for Change in Zoning Classification  
9700 E. Independence Blvd

Ladies and Gentlemen:

It is Darden's belief that this proposed change in zoning classification for this lot does not go against the planned development of this corridor because of the surrounding existing conditions. The proposed parcel is bordered on all sides by either existing B-1(CD) or B-2(CD) commercial development. These designations will allow for a restaurant and we are only asking to change the existing zoning to be more in line with our surrounding neighbors.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brett Mashchak', written over a blue circular stamp or seal.

Brett Mashchak  
Site Development Manager  
Darden Restaurants

