

Staff Analysis

Rezoning Petition 2011-567

Date 7/6/11 Revision 1 [] Revision 2 []

Public Hearing 7/11/11



232 Matthews Station Street
Matthews NC 28105

REQUEST The petition seeks to change the zoning on the property from I-1 (CD) to B-1 (CD) to allow for the construction of a Red Lobster restaurant. The property is currently occupied by an office building and was most recently rezoned for indoor climate controlled storage.

LOCATION 9700 East Independence Blvd

PROPERTY OWNER Morningstar, LLC

PETITIONER GMRI, INC

**AGENT/
REPRESENTATIVE** Brett Mashchak

PLANNING STAFF REVIEW

Elements of the Request

The existing conditional zoning plan for the site allows for a 4-story climate controlled mini storage facility with provisions for future office space in conjunction with the development of a transit line. Red Lobster proposes a single +/- 5,800 square foot freestanding restaurant and associated parking.

Does Request Support Adopted Plans and Policies? Yes No
(If no, see unresolved and outstanding issues)

Are any Zoning Variances needed? Yes No

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Previous Action on this Property

Morningstar Mini Storage, Petition 542, approved 3/9/09

Existing Improvements on Parcel

A single, 13,000 sq ft office building and parking.

PLANNING STAFF REVIEW CONT'D

Requirement	Meets Requirement?		Staff Recommended Changes?		Changes Made?	
Setbacks and Yards	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Parking	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Landscaping	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Off Site Improvements	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Fire Access	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Connectivity	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Signage	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

PUBLIC INFRASTRUCTURE

Report Received From: _____ **Issues Identified?** _____ **If yes, see outstanding issues**

- Matthews Fire Department** Yes No
- LUESA** Yes No
- CMS** Yes No
- Matthews P&R** Yes No

Is project subject to PCO concept plan approval before zoning decision? Yes No

Traffic impact study received? Yes No

What Improvements are recommended and/or committed to?

Construction of sidewalk connecting Independence Blvd, Independence Pointe and the restaurant. Closure of 2nd driveway and replacement with new curb, gutter and sidewalk.

UNRESOLVED OR OUTSTANDING ISSUES

PCO Concept Plan approval is required and anticipated by the Applicant.
 Required neighborhood meeting not held in time for submittal deadline. Anticipate having minutes prior to Public Hearing.
 Required tree canopy inventory not received
 Required explanation of compliance with Land Use Plan not received.

STAFF COMMENTS AND RECOMMENDATION

The development concept is appropriate for the location and is consistent with Land Use Plan recommendations for this area. No space has been reserved for future TOD development along Independence Pointe Parkway. A storm drainage easement, underground detention/rain gardens and topography limit the availability of land for future use along Independence Pointe. Staff recommends approval of this zoning request following submission of missing documents and upon approval of PCO Concept Plans (PCO-1) by Mecklenburg County LUESA.

ZONING PETITION STAFF CHECKLIST

IDENTIFYING DATA

Name of Owner Morningstar Offices, LLC
Address of Property 9700 East Independence
Tax Parcel Number(s) 19323123
Date 7/6/11

GENERAL BACKGROUND DATA

Current Zoning I-1 (CD) Proposed Zoning B-1 (CD)
Current Use Office (vacant) Proposed Use Restaurant

Property Dimensions
Lot Width +/- 416' Lot Area 3.22 acres

Established front setback, if structure present 27' from future ROW on US 74, 100' from Independence Pointe Parkway

DIMENSIONAL REQUIREMENTS

Current Zoning I-1 (CD) Proposed Zoning B-1 (CD)
Lot Area 3.22 acres Proposed Lot Area 3.22 acres
Lot Width +/- 416' Proposed Lot Width +/- 416'
Front Setback 40' Proposed Front Setback 40'
Side Yards 10' Proposed Side Yards 6'
Rear Yards 20' Proposed Rear Yards 10'
Max. Height 35' Proposed Max. Height 40'
Open Space None Proposed Open Space Not given
Comments: None

MISCELLANEOUS PROVISIONS

If considered necessary, has a copy of the petition been sent by the applicant to the property's fire department for their review? Yes

Date sent 3/15/11

Is any portion of this property in floodplain? No

Are there any known zoning violations on this site? No

If so, explain:

Tax records indicate the owner(s) as: Morningstar Office, LLC

This application is submitted by: X the owner listed above
X an agent for the owner
other

If agent or other, what documentation has been provided from owner or is none required?
na

LAND USE PLAN CONFORMANCE

Is there a discrepancy between current or proposed zoning and the Land Use Plan? If so, what is the discrepancy? none

Land Use Plan elements that impact the subject property: Page 42: The remaining vacant land in the Matthews Park and Eastwalk developments (between Sam Newell Road and Duke Power) should be developed with uses that are complementary to those already there, and should not include more retail.

ADDITIONAL CRITERIA FOR CONSIDERATION

1. What changes have, or are, occurring in the area to justify a change in zoning?
The site and adjacent building are both currently vacant.

2. What are adjacent properties zoned, and what are adjacent land uses?

Direction	Zoning	Land Use
North	C	Retail, Restaurant
Northeast	C	Retail, Restaurant, Hotel
East	B-1 (CD)	Restaurant
Southeast	B-1 (CD)	Restaurant
South	B-1 (CD)	Restaurant
Southwest	B-2 (CD)	Vacant/Floodplain
West	B-2 (CD)	Vacant/Floodplain
Northwest	B-1 (CD)	Transit Stop (Park and Ride)

3. What are development plans in the area – roads, schools, future commercial development, etc.? Rapid transit service is planned along the Independence Pointe frontage of the property

4. Is there a reason the current land use cannot continue to be feasible as it now exists?
NA - Currently vacant

5. List some potential uses under existing zoning. Mini-storage

6. List some potential uses under proposed zoning. Restaurant

7. Are any of these uses inappropriate for this location, and if so, why? No

8. (A) What is applicant's stated reason for requesting rezoning? To amend the existing conditional zoning plan to build a restaurant

(B) Comments:

9. (A) What will be the benefits to the surrounding properties? Construction of a complementary land use and business

(B) What will be the detriments to the surrounding properties? Not a transit supportive design

10. Is a traffic study required for this petition? A waiver has been requested

If so, what are the recommendations of the study?

11. What does the purpose statement of the proposed zoning district say? "To create and protect business centers for the retailing of merchandise such as groceries, drugs, and household items."

12. Will this proposal meet the intent of the above purpose statement? Yes

OUR TOWN – *Our Vision*

3. Walkable and Bikeable Community Matthews continues to work toward becoming a very walkable and bikeable community. New streets, as well as improvements to existing streets, are designed for multiple users (motorists, bicyclists, and pedestrians) -according to the level of traffic intended. Most streets have sidewalks on both sides; many larger streets have bike lanes. Designated crosswalks are evident throughout Matthews, especially in the downtown area. In general, there is a high level of connectivity between streets, sidewalks, bikeways, walking trails, and greenway trails. Parking lots are also connected to allow shoppers to go from store to store without entering the highway. This continuous system provides for a multitude of driving, walking and bicycling alternatives. Cul de sacs are employed sparingly, in favor of fully connected neighborhood streets.

7. Healthy Town Financial Footing By facilitating compact growth and efficient development patterns, Matthews has continued to deliver quality municipal services for a tax rate below regional averages. In addition, the Town has been able to maintain a healthy balance of quality residential development and compatible commercial development—thereby affording the Town a favorable tax base. Impact fees and infrastructure improvements, paid for by developers, have been successful in offsetting the costs of additional infrastructure and services brought about by growth-induced demand. This has lessened reliance upon existing property tax payers to pay for growth.

9. Balanced, Compatible Commercial Development Town leaders have navigated a careful course, balancing the need for sustained economic development against the potential threats to the community from over-commercialization. Small, locally owned shops have been especially encouraged by a zoning and regulatory environment conducive to small business. Both small and large businesses alike have been required to take on development forms that blend easily into a small town setting and image. Previously vacant commercial and industrial buildings have been renovated and adapted for use as cultural facilities, retail enterprises, office and institutional use, innovative housing, and as small business development centers. Policies have been implemented to prevent indiscriminate abandonment and prolonged vacancies of "big boxes" left behind for "bigger boxes".

12. Healthy, Sustainable Environment In managing its growth, Matthews has worked to minimize adverse impacts to the region's air and water quality. The Town's growth policies and development standards have reduced automobile dependency; many residents of Matthews are able to walk or bicycle to most daily activities. Matthews' walkable neighborhoods and nearby services are designed to generate less traffic and require shorter distances to shop or work. Streams and drainage ways passing through Matthews receive less storm water runoff and pollution due, in part, to policies on tree preservation, landscaped parking areas, and vegetated buffer strips adjoining stream channels and roadsides. Solid waste levels have been substantially reduced through area-wide recycling efforts.

CONDITIONAL DISTRICT ZONING PETITION STAFF CHECKLIST

Attach to:

ZONING PETITION STAFF CHECKLIST IF A CHANGE IN ZONING DISTRICT

Name of Petitioner: Brett Mashchak, GMRI, INC.
Address of Property: 9700 East Independence Blvd
Tax Parcel Number(s): 193-23-123
Name/Address of Owner if Different: David Benson, 725 Park Center Drive Matthews, NC

DIMENSIONS

Actual property dimensions from site plan:

Lot width	416' +/- along Independence
Lot area	3.22 acres
Front setback	40'
Side yards	None
Rear yards	40'
Max height	40'
Open Space	Not given

DESCRIPTION OF REQUEST

The petitioner seeks to replace the existing I-1 (CD) plan for a mini storage center to allow for a restaurant to be zoned B-1 (CD)

SITE PLAN DATA

- What existing structures are on this property?** A single 13,000 sq ft office building
- What is current land use?** Office

3. **Does this plan show:**

A. _____ **specific lots with buildings.**

Will additional site plan review by the Town be required? No

B. _____ **a generalized development plan.**

Will individual site plan approval by Town Board be necessary on a lot-by-lot basis? No

C. _____ **a change in conditions to earlier zoning site plan.**

What previous approved plan(s) will this amend, if approved?

- What changes or expansions of land use are proposed?** The proposed plan would replace indoor mini storage and office with restaurant without drive-thru as the only allowed use.

5. **What new structures or additions are proposed?** An approximately 5,880 sq ft restaurant will replace the 13,000 sq ft office building as the only structure onsite.

CURBCUTS

Number of curbcuts on site plan: 2 - existing, 1- proposed.

Distance between closest curbcuts on property and/or adjacent property: 40'

Are curb cuts connecting to:

- NCDOT maintained road.
- Town maintained road.
- Private street.
- Thoroughfare designated on MUMPO Thoroughfare Plan.

Zoning conditions for curbcuts: All lots or parcels are entitled to at least one driveway per street frontage on any street except those where access is otherwise limited or controlled.

Are zoning conditions being met? Yes

PARKING AND LOADING

Proposed land use: Restaurant

How is parking calculated for this use in the Zoning Ordinance? One space per each three seats plus one space per each two employees on greatest shift

Number of parking spaces required? 92

Number of parking spaces proposed? 148

Square footage of structure(s): 5880

Number of employees on shift of greatest employment: Not given

Will this use require a loading dock or zone? No

If so, is it designed so it will not interfere with parking areas, driveways, streets or sidewalks?

SIGNS

Number of signs proposed attached: 2 **detached:** 2

Size(s) of attached signs: Not given

Which way do attached signs face? North, East, South, West

Location of detached signs: One each on Independence/Independence Pointe

Size(s) of detached signs: Not given

Zoning conditions for signs: Must conform to Ordinance standards

LANDSCAPING AND OVERLAY REQUIREMENTS FOR SUBSEQUENT STAFF REVIEW

This property is subject to landscaping provisions as found in:

153.075

 X Landscaping Chapter of Zoning Ordinance

____ Highway Overlay

____ Downtown Overlay

____ Screening Requirements for lots with rear yards or side yards abutting a thoroughfare. This property is exempt from landscape requirements.

Have any plans been provided with sufficient detail to determine that landscaping or overlay provisions appear in general to be met? No

If so, what deviations or deficiencies should be noted here?

NEIGHBORHOOD MEETING

Has the required neighborhood/community informational meeting been held? No (Scheduled for 7/6/11)
If yes, date of meeting:

What, if any, changes are proposed by the petitioner as a result of the meeting?

LAND USE PLANS

Has the applicant provided an explanation of how the petition will comply with adopted land use plans covering the geographical location of the Conditional Petition? No

Is the explanation consistent with adopted plans?

If not, what is the discrepancy?

ADDITIONAL REQUIREMENTS OR COMMENTS:

1. A vegetation survey and tree canopy preservation requirement of at least 20% is required.
2. A statement from applicant explaining how this request meets Matthews Land Use Plan goals is required
3. The application should state what the reason is for the zoning change.
3. Two signs are shown on the elevation, however, total square footage of the proposed signs is not given.
4. PCO-1 approval will be required prior to a decision by the Matthews Town Board
5. Existing approved plan accommodated future increased intensity of use to be transit supportive. Proposal does not show how this design will support mass transit in future. Rain garden area between building and Independence Pointe could serve as focal point however more detail is needed.