

## **Agenda Item: Rezoning 2014-614 Part of East Point Development**

**DATE: October 13, 2014**

**FROM: Jim King, Planner II**

### **Background/Issue:**

The applicant is requesting to rezone three parcels of East Point. The East Point Development was originally zoned in 1988 to Conditional as a mixed use development. Conditional notes were amended in 1994. To remain consistent with the zoning plans and allowed uses today, the applicant has requested the following:

1. Childcare/vacant land is proposed to be rezoned to MUD (Parcel A on Site Plan)
2. Movie theater is proposed to be rezoned to MUD (Parcel B on Site Plan)
3. Matthews Towing is proposed to be rezoned to B-H (CD) (Parcel C on Site Plan)

### **Public Hearing:**

There were no concerns at the public hearing for this request, however, the Town Board asked the applicant if they would be willing to fund a portion of the cost to extend Rice Road to Sam Newell Road. The applicant stated that they had no funds to contribute.

### **Planning Board Recommendation**

The Planning Board recommended approval with the revised conditions

### **Changes since the Public Hearing:**

Staff has been working with the applicant to carry forward the 1988 and 1994 approved conditions to the East Point Development. Many of these conditions have either been met or are no longer applicable. Staff and the applicant have updated the prior conditions as follows:

1. The original East Point Conditional plan proposed a mix of business, commercial and service uses that were allowed in the B-1, B-2 and O-9 districts. Some conditions were revised in July 1994. Individual site plans were approved for buildings within the development as they were constructed. As parcels within the original East Point Development Conditional Zoning are converted to contemporary zoning classifications, they will continue to be considered as part of the overall multi-use development site.
2. All road and access points as exist today met design and location standards at time of construction.
3. Any new construction or redevelopment which changes the footprint or site plan elements will be subject to site plan approval by the Town Board of Commissioners.
4. Additional right-of-way up to 50 feet from the existing center line of Sam Newell Road for the future parallel collector road, Northeast Parkway has been dedicated through a subdivision plat. No additional curb cuts will be allowed, with the exception of the existing platted Rice Road, or as individual approvals through a rezoning action.
5. Formerly, the East Point Development conditions only allowed Rice Road to be open at one end at any time. Rice Road may now become a through street and access to Independence Blvd is not required to be closed as a zoning condition once connected to Sam Newell Road.
6. Rice Road shall not be opened to Sam Newell Road until such time the Town and N.C.D.O.T. allow construction.
7. A berm between nonresidential uses in East Point and residential properties across Sam Newell Road was required by prior zoning conditions. A combination of this berm and landscaping to a height of 10

- ft. continues to be a requirement along the Sam Newell Road edge. The berm and landscaping must be maintained by the owners at all times to retain a 10 ft. visual buffer.
8. The 50 ft. landscape buffer along unopened Clair Drive must continue to be maintained and preserved. Any new construction shall maintain a 50 ft. setback from the edge of the 50 ft. landscape buffer.
  9. In order to reduce potential emergency response confusion, the given name "Eastpointe Drive" will be changed so it does not duplicate or closely match the name of any other street within Mecklenburg County.
  10. While Northeast Court remains a town street all intersecting curb cuts shall have stop signs.
  11. As stated in Note 1 above, the original intent of the multi-parcel development site continues to be brought forward. The following properties are part of the multi-parcel development and may pursue a Master Sign Plan which could allow for joint identification signage and bonus sign area. The parcels are as follows:
    - A. 193-191-09, Sam Newell Road, Town of Matthews Property
    - B. 193-191-02, 1935 Rice Road, Former La Petite and vacant land
    - C. 193-191-23, 1905 Rice Road, East Village Shopping Center
    - D. 193-192-23, 9508 Northeast Court, Movie Theater
    - E. 193-192-18, 9331 E. Independence Blvd., Car Wash
    - F. 193-192-11, 9405 E. Independence Blvd., Plaza Appliance Store
    - G. 193-192-06, 9415 E. Independence Blvd., Pep Boys
    - H. 193-192-07, 9507 E. Independence Blvd., Advanced Auto
    - I. 193-192-08, 9512 Northeast Court, Matthews Towing and Automotive
    - J. 193-192-10, 9518 Northeast Court, Cleaners
  12. Existing street trees may be replaced pursuant to the approved Street Tree replanting plan filed at the Matthews Planning Department, on a schedule to be approved by the Town Planning office.
  13. Conversion to contemporary zoning classifications will not create zoning violations for existing buildings now located within the transitional right-of-way and/or transitional setback, as outlined in Section 155.401.1.I. Revisions to existing on-site improvements or redevelopment shall follow the provisions of 155.401.1.I.2. Setbacks shall be measured from the transitional right-of-way for new development and redevelopment. No required parking is allowed in the transitional right-of-way.

The applicant has also amended their additional conditions presented at the public hearing as follows:

1. Adding limitations to specific uses in the MUD district for daycare and adjacent vacant land (Attachment C in Pre Public Hearing Staff Analysis),
2. Allowing the movie theater to continue operation and should that use cease operation only uses in MUD district shall be allowed.
3. Allowing Matthews Towing and Auto Repair to continue operations with no outside storage and all inventory must be parked in marked spaces. Should the existing business cease, uses allowed in the B-H district with the exception of restaurants with a drive through would be allowed. Permitted uses must meet required parking.

**Related Town Goal:**

Economic Development / Land Use Planning