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: ___-1CD - Industrial ___ Requested zoning classification: ___-1CD ___

APPLICATION FOR CHANGE IN ZONING CLASSIFICATION OR CONDITION, PAGE 1
List reason(s) why zoning should be changed (use separate sheet if necessary):

Signature of property owner (must be original)

DAVID M. BENSON FOR
MATTHEWS OFFICE, LLC

Print name of property owner

725 PARK CENTRE DRIVE

Property owner’s mailing address

MATTHEWS, NC 28105

Property owner’s mailing address, continued

Property owner’s mailing address, continued

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

Print name of petitioner

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

Petitioner’s phone number/email address

bmashchak@darden.com
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.”

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 BLVD
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)
PO 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 4TH 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.”

19323135
TAX PARCEL
MECKLENBURG COUNTY
PROPERTY OWNER NAME(S)
600 E 4th St 11th 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)
OWNER MAILING ADDRESS
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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_________________________ 3/4/11
Town Board of Commissioners formally accepts application and sets Public Hearing date__________ 3/4/11
Notices sent via mail to affected/adjacent property owners on or before_________________________ 4/25/11
Protest petition filed with Planning Department by 5:00 pm on______________________________ 5/4/11
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______________________________ 5/9/11
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______________________________ 5/24/11
Town Board of Commissioners approves or denies application_______________________________ 6/13/11

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 issues 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
CONFIDENTIAL

January 11, 2011

Ms. Kathi Ingrish  
Planning Director  
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.
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,

[Signature]

Brett Mashchak
Site Development Manager
Darden Restaurants