Request Analysis

Rezoning Petition 2011-568

Date 05/02/11  Revision 1  Revision 2  05/09/11

REQUEST
This petition seeks to rezone the existing outdated Conditional Zoning District (C) to B-1 (CD) the appropriate zoning district for neighborhood business in today's zoning ordinance.

LOCATION
1898 Windsor Square Drive

PROPERTY OWNER  RWTJR, LLC
PETITIONER  RWTJR, LLC
AGENT/REPRESENTATIVE  None

PLANNING STAFF REVIEW

Elements of the Request
To rezone the existing outdated Conditional District (C) zoned property to B-1 (CD) the appropriate zoning district for neighborhood business in today's zoning ordinance. No changes in structure or existing uses are proposed by this conversion.

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

Are any Zoning Variances needed?  Yes  No
In order to meet minimum parking requirements in today's zoning ordinance for existing uses a zoning variance will be required. See unresolved or outstanding issues and staff recommendation.

Previous Action on this Property
Ordinance 357 approve July 23, 1986.

Existing Improvements on Parcel
One 20,302 sf commercial building
### PLANNING STAFF REVIEW CONT'D

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Meets Requirement?</th>
<th>Staff Recommended Changes?</th>
<th>Changes Made?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setbacks and Yards</td>
<td>☒ Yes ☐ No</td>
<td>☒ Yes ☒ No</td>
<td>☒ Yes ☐ No</td>
</tr>
<tr>
<td>Parking</td>
<td>☐ Yes ☒ No</td>
<td>☒ Yes ☒ No</td>
<td>☒ Yes ☒ No</td>
</tr>
<tr>
<td>Landscaping</td>
<td>☒ Yes ☐ No</td>
<td>☒ Yes ☒ No</td>
<td>☒ Yes ☒ No</td>
</tr>
<tr>
<td>Off Site Improvements</td>
<td>☒ Yes ☐ No</td>
<td>☒ Yes ☒ No</td>
<td>☒ Yes ☒ No</td>
</tr>
<tr>
<td>Fire Access</td>
<td>☒ Yes ☐ No</td>
<td>☒ Yes ☒ No</td>
<td>☒ Yes ☒ No</td>
</tr>
<tr>
<td>Connectivity</td>
<td>☒ Yes ☐ No</td>
<td>☒ Yes ☒ No</td>
<td>☒ Yes ☒ No</td>
</tr>
<tr>
<td>Signage</td>
<td>☒ Yes ☐ No</td>
<td>☒ Yes ☒ No</td>
<td>☒ Yes ☒ No</td>
</tr>
</tbody>
</table>

### PUBLIC INFRASTRUCTURE

<table>
<thead>
<tr>
<th>Report Received From:</th>
<th>Issues Identified?</th>
<th>If yes, see outstanding issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matthews Fire Department</td>
<td>☐ ☒ Yes ☒ No</td>
<td></td>
</tr>
<tr>
<td>LUESA</td>
<td>☐ ☒ Yes ☒ No</td>
<td></td>
</tr>
<tr>
<td>CMS</td>
<td>☐ ☒ Yes ☒ No</td>
<td></td>
</tr>
<tr>
<td>Matthews P&amp;R</td>
<td>☐ ☒ Yes ☒ No</td>
<td></td>
</tr>
</tbody>
</table>

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? None.

### UNRESOLVED OR OUTSTANDING ISSUES

The existing outdated Conditional Zoning District (follows the zoning ordinance in effect in 1986) requires 51 parking spaces for the existing uses located on the property. The zoning ordinance in effect today requires a minimum of 86 spaces for these uses. There are 56 existing parking spaces on site. Because the parking requirements for the proposed zoning exceeds the 10% deficiency allowed by Section 153.272 of the Zoning Ordinance for the conversion of properties from an outdated zoning classification to the appropriate district in the current ordinance a zoning variance will be required. The zoning variance must be in place prior to a decision on the rezoning request.

### STAFF COMMENTS AND RECOMMENDATION

Staff recommends approval of this zoning request contingent on approval of a zoning variance for minimum parking requirements.
# ZONING PETITION STAFF CHECKLIST

## IDENTIFYING DATA

<table>
<thead>
<tr>
<th>Name of Owner</th>
<th>RWTJR LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address of Property</td>
<td>1898 Windsor Square Drive</td>
</tr>
<tr>
<td>Tax Parcel Number(s)</td>
<td>193-302-01</td>
</tr>
<tr>
<td>Date</td>
<td>04/21/11</td>
</tr>
</tbody>
</table>

## GENERAL BACKGROUND DATA

<table>
<thead>
<tr>
<th>Current Zoning</th>
<th>Conditional</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Zoning</td>
<td>B-1 (CD)</td>
</tr>
<tr>
<td>Current Use</td>
<td>Neighborhood Business</td>
</tr>
<tr>
<td>Proposed Use</td>
<td>Neighborhood Business</td>
</tr>
<tr>
<td>Property Dimensions</td>
<td></td>
</tr>
<tr>
<td>Lot Width</td>
<td>200' +/- along Windsor Square Drive</td>
</tr>
<tr>
<td>Lot Area</td>
<td>1.54 acres</td>
</tr>
</tbody>
</table>

### Established front setback, if structure present

- 40'

## DIMENSIONAL REQUIREMENTS

<table>
<thead>
<tr>
<th>Current Zoning</th>
<th>CONDITIONAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Zoning</td>
<td>B-1 (CD)</td>
</tr>
<tr>
<td>Lot Area</td>
<td>none</td>
</tr>
<tr>
<td>Proposed Lot Area</td>
<td>none</td>
</tr>
<tr>
<td>Lot Width</td>
<td>none</td>
</tr>
<tr>
<td>Proposed Lot Width</td>
<td>none</td>
</tr>
<tr>
<td>Front Setback</td>
<td>40'</td>
</tr>
<tr>
<td>Proposed Front Setback</td>
<td>40'</td>
</tr>
<tr>
<td>Side Yards</td>
<td>10'</td>
</tr>
<tr>
<td>Proposed Side Yards</td>
<td>4'/35'</td>
</tr>
<tr>
<td>Rear Yards</td>
<td>none</td>
</tr>
<tr>
<td>Proposed Rear Yards</td>
<td>10'</td>
</tr>
<tr>
<td>Max. Height</td>
<td>35'</td>
</tr>
<tr>
<td>Proposed Max. Height</td>
<td>40'</td>
</tr>
<tr>
<td>Open Space</td>
<td>none</td>
</tr>
<tr>
<td>Proposed Open Space</td>
<td>none</td>
</tr>
<tr>
<td>Comments:</td>
<td>none</td>
</tr>
</tbody>
</table>

## 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?  
  - Na – developed property
- Date sent: na
- Is any portion of this property in floodplain?  
  - no
- Are there any known zoning violations on this site?  
  - no
- If so, explain: na
Tax records indicate the owner(s) as: RWTJR LLC

This application is submitted by: X the owner listed above
   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? Yes 9Current zoning is a defunct zoning category)

Land Use Plan elements that impact the subject property: Commercial/retail Objectives and Recommendations (pages 20-21 of the Land Use Plan).

ADDITIONAL CRITERIA FOR CONSIDERATION

1. What changes have, or are, occurring in the area to justify a change in zoning?
   Ongoing conversion of all “old Conditional” zoned properties to appropriate zoning categories in today’s zoning ordinance.

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

<table>
<thead>
<tr>
<th>Direction</th>
<th>Zoning</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Conditional</td>
<td>Retail/Petsmart</td>
</tr>
<tr>
<td>Northeast</td>
<td>Conditional</td>
<td>Apartment Community</td>
</tr>
<tr>
<td>East</td>
<td>Conditional</td>
<td>Apartment Community</td>
</tr>
<tr>
<td>Southeast</td>
<td>Conditional</td>
<td>Apartment Community</td>
</tr>
<tr>
<td>South</td>
<td>Conditional</td>
<td>Windsor Square SC</td>
</tr>
<tr>
<td>Southwest</td>
<td>Conditional</td>
<td>Windsor Square SC</td>
</tr>
<tr>
<td>West</td>
<td>Conditional</td>
<td>Windsor Square SC</td>
</tr>
<tr>
<td>Northwest</td>
<td>Conditional</td>
<td>Retail/Sam’s Club</td>
</tr>
</tbody>
</table>

3. What are development plans in the area – roads, schools, future commercial development, etc.? Recently approved new driveway access to Windsor Square Shopping Center.

4. Is there a reason the current land use cannot continue to be feasible as it now exists? no

5. List some potential uses under existing zoning. B-1 list of uses from the zoning ordinance in effect at time “old Conditional” zoning was approved for Windsor Square.

6. List some potential uses under proposed zoning. B-1 list of uses from current zoning ordinance (lists of uses are similar with current B-1 uses more restrictive).

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? “This zoning request seeks to convert this property from the defunct "old conditional" zoning district to an appropriate category for neighborhood business, B-1 (CD), in today’s zoning ordinance.”

   (B) Comments: none

9. (A) What will be the benefits to the surrounding properties? add
from regional governance to town governance. As part of this trend toward smaller, community-oriented schools, oversight of public schools in Matthews has shifted to the local area, providing meeting space for community gatherings, recreational events and other functions. Rather than functioning as single purpose "factories to educate children", schools in Matthews, whether public or private, serve as true neighborhood centers, providing meeting space for community gatherings, recreational events and other functions.

5. Extensive Park and Open Space System As the community has grown, Matthews has steadily added to its system of parks and open space. Several larger park and open space areas have come about, through advanced planning and property acquisition by the Town. Many smaller park and open space areas have been created as part of the Town’s routine development approval process. Tools such as cluster development, open space incentives, conservation easements, and land dedication (or fees in lieu of land dedication) have ensured that new developments provide for their fair share of park and open space areas. In addition, an extensive system of greenway trails, primarily adjoining area streams, connects many schools, parks, open spaces, and neighborhoods in Matthews.

6. Locally Controlled, Neighborhood Schools Schools in Matthews have been planned well in advance of growth to avoid overcrowding and the need for mobile classrooms. Instead of building large, impersonal schools, new smaller schools have been located and designed to serve and be accessible to the local areas around them. Rather than functioning as single purpose “factories to educate children”, schools in Matthews, whether public or private, serve as true neighborhood centers, providing meeting space for community gatherings, recreational events and other functions. As part of this trend toward smaller, community-oriented schools, oversight of public schools in Matthews has shifted from regional governance to town governance.
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.

The Conversion of “old Conditional” zoned properties to appropriate zoning categories supports this vision statement.

8. Firm and Fair Growth and Development Process  The town government of Matthews has continued to advance a firm and fair process for managing growth and development. Through its land use plan and development ordinances, the Town has set clear policies and standards to assure quality development. The Town enforces these standards diligently and consistently. The Town’s development review process emphasizes effective communication and consensus among all parties, including the Town Council, the Planning Board, the Town staff, the developer, other Town advisory boards, and the public. The Town requires that necessary infrastructure, including especially adequate roads, schools, open space and greenways, sidewalks, and drainage, must be in place prior to the occupancy of the new development it serves.

Two existing small business will benefit from the conversion to an appropriate zoning category.

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”.

10. Quality Residential Development  Matthews has remained mostly a low density, single-family residential community. Within this context, housing innovations have evolved to address two key issues: (1) traffic congestion and (2) quality affordable housing. To cut down on the growth in traffic, walkable neighborhoods convenient to appropriate, pedestrian-scaled areas, as well as transit services, have been favored over automobile-dependent, cookie-cutter subdivisions. The affordable housing needs of service workers, senior citizens, young couples, and others have been met through a variety of housing forms compatible with single family neighborhoods (rather than typical large complexes of apartments, condominiums or institutional housing). New and old neighborhoods alike are well maintained, having benefited from the town’s strategic location, sustained economic prosperity, and overall quality of life.

11. Destination for Arts and Culture  Matthews has solidified its position as a major destination for arts and culture in the Charlotte region. Appreciation for the arts and culture begins with value placed on the unique heritage of the area, exemplified by the preservation of historic buildings and landmarks throughout the community. Cultural activities include a broad selection of traditional and contemporary art forms, festivals, concerts, plays, movies, sporting venues, and cross-cultural events. Young and old, as well as people from many ethnic backgrounds, are drawn to a constantly changing array of indoor and outdoor events. It is this great variety of offerings that has given Matthews an outstanding reputation in the cultural and social landscape of the region.

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: RWTJR, LLC
Address of Property: 1898 Windsor Square Drive
Tax Parcel Number(s): 193-302-01
Name/Address of Owner if Different:

DIMENSIONS

Actual property dimensions from site plan:

- Lot width: 200ft +/- along Windsor Square Drive
- Lot area: 1.54 acres
- Front setback: 40ft
- Side yards: 4ft/35ft
- Rear yards: 10ft
- Max height: 40ft
- Open Space: not given

DESCRIPTION OF REQUEST

This petition seeks to rezone the existing defunct Conditional Zoning District to B-1 (CD) the appropriate zoning district within today's zoning ordinance

SITE PLAN DATA

1. What existing structures are on this property? 1 existing 20,302sf commercial structure
2. What is current land use? restaurant/pool hall and dance studio
3. Does this plan show:
   A. ___ specific lots with buildings.
   B. ___ a generalized development plan.
   C. ___ a change in conditions to earlier zoning site plan.
4. Will additional site plan review by the Town be required? When?
5. Will individual site plan approval by Town Board be necessary on a lot-by-lot basis?
6. What previous approved plan(s) will this amend, if approved?
7. What changes or expansions of land use are proposed? none
8. What new structures or additions are proposed? none

CURBCUTS
Number of curbcuts on site plan: 1 - existing (site has additional access from Windsor Square Shopping Center).

Distance between closest curbcuts on property and/or adjacent property: 120ft +/-

Are curb cuts connecting to:
____ NCDOT maintained road.
__X__ 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 construction per street frontage on any street, except those along which access is otherwise limited or controlled.

Are zoning conditions being met? yes

**PARKING AND LOADING**

Proposed land use: restaurant/indoor recreation

How is parking calculated for this use in the Zoning Ordinance? 1 space for each 3 seating accommodations plus 1 space for each 2 employees for restaurant use and 1 space per 150 square feet of gross floor area for the dance studio.

Number of parking spaces required? 86

Number of parking spaces proposed? 56 existing spaces (see additional requirements/comments)

Square footage of structure(s): 20,302

Number of employees on shift of greatest employment: 4 (Rackem location)

Will this use require a loading dock or zone? yes

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

**SIGNS**

Number of signs proposed attached: not given

Size(s) of attached signs: na

Which way do attached signs face? na

Location of detached signs: na

Size(s) of detached signs: na

Zoning conditions for signs: 1 freestanding sign, 100 square feet maximum and 3 attached signs, 80 square feet total per establishment.

**LANDSCAPING AND OVERLAY REQUIREMENTS FOR SUBSEQUENT STAFF REVIEW**

This property is subject to landscaping provisions as found in:

__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? The existing landscaping on site meets the requirements for the rezoning of the property from an outdated zoning category to B-1 (CD).

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

NEIGHBORHOOD MEETING
Has the required neighborhood/community informational meeting been held? yes
If yes, date of meeting: 04/28/11

What, if any, changes are proposed by the petitioner as a result of the meeting? none

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? Na. (no changes in structure or existing permitted uses are proposed by this conversion from an outdated zoning category to B-1 (CD)). The existing structure and permitted used are consistent with adopted land use plans.

Is the explanation consistent with adopted plans? Na.

If not, what is the discrepancy? Na.

ADDITIONAL REQUIREMENTS OR COMMENTS:
The existing Conditional Zoning District (follows the zoning ordinance in effect in 1986) requies 1 parking space per 4 seats for restaurants (102 seats / 4 seats = 26 spaces for Rackem location) and 1 space for each 300 square feet of gross floor area for other uses (7440 sf / 300 sf = 25 space for the dance studio), for a total of 51 required parking spaces. The proposed B-1 zoning would require 1 space for each 3 seating accommodations plus one space for each 2 employees on shift of greatest employment (for a total of 36 spaces for the Rackem location) and 1 space per 150 square feet of gross floor area for the dance studio (50 spaces), for a total of 86 required spaces. Because the parking requirements of the proposed B-1 (CD) zoning district exceeds the 10% deficiency allowed by Section 153.272 of the Zoning Ordinance for the conversion of properties from an outdated zoning classification to the appropriate district in the current ordinance a zoning variance will be required. The zoning variance must be in place prior to a decision on the rezoning request.