

**Variance Approval for Board of Adjustment Case 2011-10
Parcel ID 193-303-10**

At the Thursday, January 5th, 2012 Board of Adjustment Meeting, a variance was granted to allow the three existing Captain D's signs to remain on the building at 9715 East Independence Blvd. More specifically, the variance allows the pending rezoning application (#578) to rezone the property to B-2 (CD) to move forward on the scheduled decision date on Monday, January 9th. The conditions of the variance state that the existing signs may remain until such time that they are removed. The signs may be shifted to new locations on the building if the property owner deems such a change necessary. Normal repair and maintenance is also allowed. However, any new signage or replacement signage placed on the building must adhere to the current maximum of 80 sq ft of total attached signage.



APPROVED
TOWN OF MATTHEWS
Date 1/6/12
By Jay Camp



232 Matthews Station Street
Matthews NC 28105

Staff Analysis

Rezoning Petition
Date Revision 1 Revision 2
Public Hearing

REQUEST This petition combines 3 conditionally zoned properties on US 74 and proposes appropriate zonings based on the current buildings and land uses there today. No additions to structures or changes to site plans will be allowed without further action by the Town Board should these rezonings be approved.

LOCATION 9715 & 9721 E. Independence & 1725 Windsor Square

PROPERTY OWNER PMPJL LLC, Rebpat Leasing, TMB Ventures

PETITIONER Same

**AGENT/
REPRESENTATIVE** Town Planning Staff

PLANNING STAFF REVIEW

Elements of the Request

As part of the Town's ongoing process to remove old Conditional designations and convert to existing categories, 3 of the 6 parcels on the site plan agreed to move forward with the process. The existing Leslie's Pools building (Former Verizon/Bell Atlantic store) and Woodcraft will be zoned B-1 (CD). Since it currently operates as a drive thru restaurant, Captain D's is proposed as a B-2 (CD). Should this request be approved, the site plan, location of these 3 buildings and maximum square footage allowed on each site become conditions and cannot be altered without further action by the Town Board.

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

Are any Zoning Variances needed? Yes No

The Captain D's sign measures 135 sq ft (Sign was granted by Town Board in 1994) and will require a variance due to its size.

Previous Action on this Property

Parcel B - Petition 237 11/14/94 (Captain D's allowed up to 135 sq ft of signs)
Parcel C - Petition 224 2/14/94 for Bell Atlantic Mobile

Existing Improvements on Parcel

Three existing buildings to remain

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 checked="" 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 checked="" 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 checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Connectivity	<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
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	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
LUESA	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
CMS	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Matthews P&R	<input type="checkbox"/>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Is project subject to PCO concept plan approval before zoning decision?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Traffic impact study received?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
What Improvements are recommended and/or committed to?	<div style="border: 1px solid black; padding: 5px;"> No proposed changes at any of the parcels included in this petition. </div>		

UNRESOLVED OR OUTSTANDING ISSUES

A neighborhood informational meeting is scheduled for Thursday, December 8th at 4pm.

STAFF COMMENTS AND RECOMMENDATION

Staff recommends approval of these three zoning petitions based on the Town's policy of converting old conditional zonings to current categories.

ZONING PETITION STAFF CHECKLIST

(Entries are entered based on Parcels B, C, and E)

IDENTIFYING DATA

Name of Owner PMPJL LLC,Rebpat Leasing, TMB Ventures

Address of Property 9715 & 9721 E. Independence & 1725 Windsor Square

Tax Parcel Number(s) 193-303-04,193-303-10, 193-303-14

Date 11/5/11

GENERAL BACKGROUND DATA

Current Zoning **C (Conditional)** **Proposed Zoning** B-2 (CD) on Parcel "B", B-1 (CD) on parcels "C" and "E".

Current Use Restaurant & Retail **Proposed Use** Restaurant & Retail

Property Dimensions

Lot Width 90', 117', 131'

Lot Area 36,868 sq ft, 37,950 sq ft, 27,114 sq ft

Established front setback, if structure present 60', 50', 60'

DIMENSIONAL REQUIREMENTS

Current Zoning CONDITIONAL **Proposed Zoning** B-1 (CD) & B-2 (CD) ON PARCEL C

Lot Area None **Proposed Lot Area** None

Lot Width None **Proposed Lot Width** None

Front Setback 50' **Proposed Front Setback** 50'

Side Yards None **Proposed Side Yards** None

Rear Yards 10' **Proposed Rear Yards** 10'

Max. Height 40' **Proposed Max. Height** 40'

Open Space None **Proposed Open Space** None

Comments: No square footage additions are proposed or allowed with this rezoning however increases in square footage are possible with future Town Board site plan approval.

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? **No**

Date sent

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: PMPJL LLC, Rebpat Leasing, TMB Ventures

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?

Signatures

LAND USE PLAN CONFORMANCE

Is there a discrepancy between current or proposed zoning and the Land Use Plan? If so, what is the discrepancy? **No. The proposed B-2 (CD) zoning for the Captain D's is in keeping with the Town policy of drive thru establishments being located primarily on US 74.**

Land Use Plan elements that impact the subject property: **None**

ADDITIONAL CRITERIA FOR CONSIDERATION

1. **What changes have, or are, occurring in the area to justify a change in zoning?**
The Conditional category is being removed from all parcels in the Town with the consent of each property owner

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

Direction	Zoning	Land Use
North	C	Retail Restaurant
Northeast	C	Retail Restaurant
East	C	Retail Restaurant
Southeast	C	Retail Restaurant
South	B-1 and B-2	Restaurant
Southwest	B-1	Restaurant
West	B-1	Retail
Northwest	C	Hotel/Retail

3. **What are development plans in the area – roads, schools, future commercial development, etc.?** **The area is primarily built out; long term conversion of Independence to limited access highway, which may impact Windsor Square Dr.**

4. **Is there a reason the current land use cannot continue to be feasible as it now exists?**
N/A

5. **List some potential uses under existing zoning.** **Retail/Restaurant**

6. **List some potential uses under proposed zoning.** **Same**

7. **Are any of these uses inappropriate for this location, and if so, why? Of note, the drive thru restaurant is appropriate on US 74**
8. **(A) What is applicant's stated reason for requesting rezoning? Conversion of the Conditional districts to appropriate categories in accordance with Town policy**
(B) Comments: none
9. **(A) What will be the benefits to the surrounding properties? N/A**
(B) What will be the detriments to the surrounding properties? N/A
10. **Is a traffic study required for this petition? No**
If so, what are the recommendations of the study?

What does the purpose statement of the proposed zoning district say?

Neighborhood Business District: B-1. The purpose of this district is to create and protect business centers for the retailing of merchandise such as groceries, drugs, and household items and for the provision of professional services for the convenience of dwellers of nearby residential areas. Standards are so designed that uses within this district may be soundly and permanently developed and maintained in such a way as not to be harmful to adjacent properties.

General Business District: B-2. The purpose of this district is to create and protect business areas for the retailing of merchandise and for carrying on professional and business services, and in some cases, wholesaling services for a large population. This type of district will be located generally adjacent to major thoroughfares.

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

OUR TOWN – *Our Vision*

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.

573 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".

CONDITIONAL DISTRICT ZONING PETITION STAFF CHECKLIST

Attach to:

ZONING PETITION STAFF CHECKLIST IF A CHANGE IN ZONING DISTRICT

Name of Petitioner: PMPJL LLC, Rebpat Leasing, TMB Ventures
Address of Property: 9715 & 9721 E. Independence & 1725 Windsor Square
Tax Parcel Number(s): 193-303-04, 193-303-10, 193-303-14
Name/Address of Owner if Different:

DIMENSIONS

Approximate property dimensions from site plan: (All entries are for Parcels B, C and E, respectively)

Lot width	90', 117', 131'
Lot area	36,868 sq ft, 37,950 sq ft, 27,114 sq ft
Front setback	50' for all three parcels
Side yards	None
Rear yards	10' for all three parcels
Max height	40' for all three parcels
Open Space	Not given

DESCRIPTION OF REQUEST

The applicants seek to replace the existing Conditional zoning category with B-2 (CD) on Parcel "B" and B-1 (CD) on parcels "C" and "E".

SITE PLAN DATA

- What existing structures are on this property?** 3 existing commercial buildings
- What is current land use?** Retail, Drive-thru restaurant
- 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?

Original zoning action approved on 6/5/87

Parcel B - Petition 237 11/14/94 (Captain D's allowed up to 135 sq ft of signs)

Parcel C - Petition 224 2/14/94 for Bell Atlantic Mobile

What changes or expansions of land use are proposed? There are no proposed changes to the land uses on these parcels. All buildings are to remain.

4. **What new structures or additions are proposed?** None

CURBCUTS

Number of curbcuts on site plan: None

Distance between closest curbcuts on property and/or adjacent property: N/A

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, Retail

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, 1 space per 200 sq ft floor area for retail

Number of parking spaces required? 34, 40, 39

Number of parking spaces proposed? 47, 56, 43

Square footage of structure(s): 2,624, 8302, 8,197

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: 3 per building allowed **detached:** Shared monument allowed

Size(s) of attached signs: All signs except Captain D's appear to meet standard

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

Location of detached signs: N/A

Size(s) of detached signs: Not given

Zoning conditions for signs: Common shared monument sign allowed for parcels A-F

LANDSCAPING AND OVERLAY REQUIREMENTS FOR SUBSEQUENT STAFF REVIEW

This property is subject to landscaping provisions as found in: 153.075

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? Yes

If so, what deviations or deficiencies should be noted here? No

NEIGHBORHOOD MEETING

Has the required neighborhood/community informational meeting been held? Scheduled for 12/8/11

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

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? Yes

Is the explanation consistent with adopted plans? Yes

If not, what is the discrepancy?

ADDITIONAL REQUIREMENTS OR COMMENTS:

The joint monument sign will only be allowed with successful rezoning of all 6 parcels included in the development plan.