



REZONING PETITION: Z 08-19

REQUEST: Rezone from CBI-CUD to CBI-CD for a restaurant, marina, event center, and kayak rental totaling 10,000 sq.ft. plus outdoor seating / deck area.

Parcel ID: 606H-001

Location: 6700 Blk. Goodman Lake Rd

Acreage: 4.82 AC.

Watershed: N/A

Floodplain: Part in SFHA

Property Owner: Sharp Real Estate One LLC

Applicants: Eric Littleton & Mikey Wetzel

Existing Improvements: Vacant, partially wooded.

SITE HISTORY On January 18, 2005, the Board of Commissioners (BoC) approved PDS 01-04 and Z 21-04 to accommodate a Planned Development Subdivision (PDS) and

The applicants indicated they would have more information available at the meeting but not in time for the mailing. Refer to <https://www.rowancountync.gov/1272/Planning-Board> to view the previous site plan and GIS map from the September meeting.

a Multi-family Residential (MFR) rezoning for the proposed Sunset Pointe development. The project included single and multi-family uses, residential clustering for patio homes, a recreation area, and commercial uses along Goodman Lake Road. Due to concerns from adjoining land owners, the applicant decided to withdraw the commercial rezoning request until specific plans were developed. On October 2, 2006, the BoC approved PCUR 03-06, which rezoned the property along Goodman Lake Road from Rural Agricultural (RA) to Commercial Business Industrial with a Conditional Use District (CBI-CUD) for two (2) restaurants, marina, gas station, and dry boat storage. Although the property is currently zoned

CBI-CUD, conditional zoning districts

expire if a zoning permit is not issued for construction within two (2) years of approval.

REQUEST DETAILS Site plan details propose a two (2) story structure totaling 10,000 sq.ft. enclosed with the first



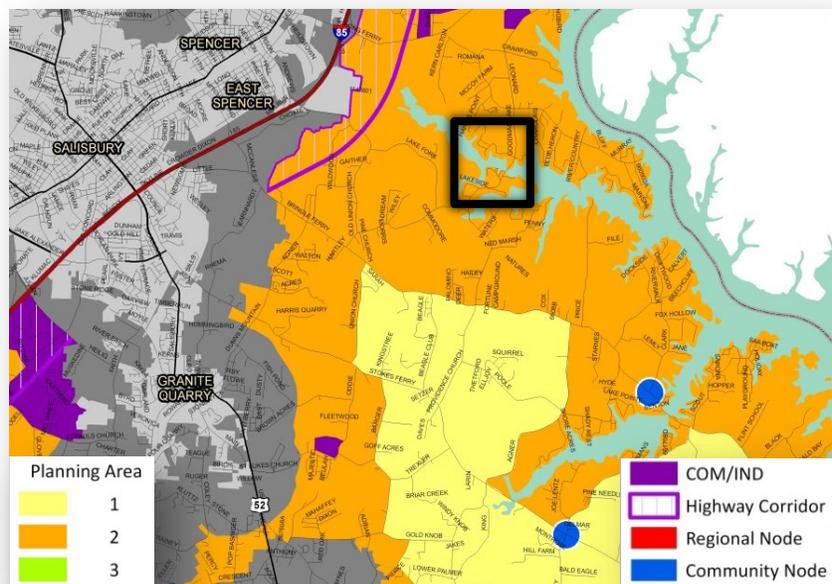
floor used as a restaurant with outdoor dining and kayak rental and the second floor used as an event space. Operations will also include a marina with gas facilities for boaters, multiple boat slips, a relocated boat ramp (currently used as a certified water point source for fire protection), and truck / trailer parking. Applicants propose seven (7) day a week operation between the hours of 8 AM to 2 AM (see enclosed site plan and applicant checklist).

CONDITIONAL DISTRICTS

According to section 21-61 of the Zoning Ordinance, “There are instances where certain uses may have significant impacts on the surrounding area and the county which cannot be predetermined and controlled by general district standards. As a result, a general zoning district designation is clearly inappropriate for a property, but a specific use or uses permitted as a conditional district subject to development requirements to address the anticipated impacts would be consistent with the spirit and intent of this chapter. This voluntary procedure is intended for firm development proposals, and is neither intended nor suited for securing early zoning for tentative uses which may not be undertaken for a long period of time”.

CONFORMITY WITH ADOPTED PLANS / POLICIES

- Located in Area 2, which includes Future Land Use Recommendation A stating “A mix of uses and service-oriented development is appropriate for the Planning Area. This may include commercial components within residential development to serve proposed and surrounding neighborhoods”.



- Neighborhood Business (NB) is generally considered appropriate along identified thoroughfares.
- Consider appearance standards and setbacks.

CONSISTENCY WITH THE DISTRICTS PURPOSE / INTENT

CBI – “This zone allows for a wide range of commercial, business and light to medium industrial activities which support both the local and / or regional economies. The CBI district is generally appropriate in areas

identified by an adopted land use plan that recommend “highway business” along identified NC and US highways; community / regional / potential development nodes; commercial corridors; and existing commercial areas. Areas served by public water / sewer represent significant public investment to foster tax base growth and employment opportunities for the citizens, which could be served through CBI designation. The CBI district may also exist or be created in an area other than listed in this subsection if the existing or proposed development is compatible with the surrounding area and the overall public good is served.”

Due to the land use plan recommendation and CBI district’s purpose and intent, NB is a more appropriate designation choice. However, the NB district limits the hours of operation to 11 PM, which would not accommodate the applicant’s proposed hours of 8 AM to 2 AM. Although this location does not meet the typical standards for designation, the last sentence of the purpose and intent provides an option for consideration commonly assumed through a conditional district (i.e. site specific development plan).

**COMPATIBILITY
OF USES**

Unlike a “straight” rezoning where all of the allowed uses in the proposed district must be considered, conditional districts only permit specific uses identified in the application. To address compatibility, previous plans included a detailed landscaping plan, lighting plan, and building façade details. While the previous plan included a gas station for passenger vehicles and a large dry dock facility, staff encouraged the submittal of the same level of detail in this application to address the associated impacts.

CONDITIONS IN THE VICINITY

See enclosed map for surrounding land use.

**POTENTIAL IMPACT
ON UTILITIES**

The site is proposed to either be serviced by an on-site septic system or connection to the Sunset Pointe private sewer system. Potable water will be supplied by an on-site well. The underground storage tank containing gasoline for the marina is subject standards of the North Carolina Department of Environmental Quality (NCDEQ) and the Rowan County Flood Damage Prevention Ordinance (FDPO) if located within the Special Flood Hazard Area (SFHA).

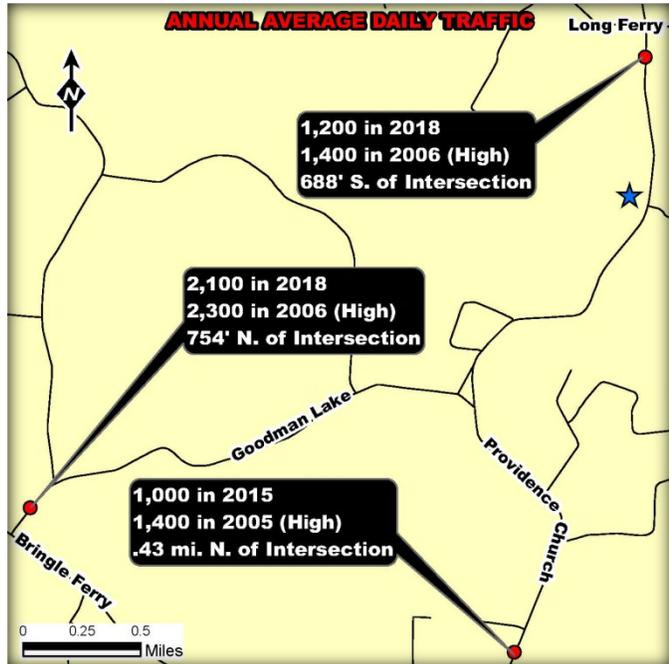
**POTENTIAL IMPACT
ON ROADS**

Goodman Lake Road – Classified as a minor thoroughfare by the Cabarrus-Rowan MPO Thoroughfare Map.

- Annual Average Daily Traffic for this segment is 1,200 (2018).
- The Comprehensive Transportation Plan (CTP) suggests this segment has a design capacity of 14,100 vehicles per day.

- Since the estimated capacity is primarily based on pavement width and speed limit, it should only be used as basic information regarding the volume to capacity ratio rather than the single measure in assessing the road's operational capability.

- Using the 2003 ITE Trip Generation manual (7th edition), marinas typically generate three (3) trips per berth and a quality restaurant generates 89.95 trips per 1,000 sq.ft. gross floor area on weekdays or 2.86 trips per seat including outdoor seating areas (NOTE: a customer arriving to the site is considered one "trip" while leaving the site is calculated as a second "trip"). Event spaces uses are not included in the 7th edition manual. Since some of these details are unknown, it is difficult to predict the number of additional trips created by the proposed plan. Assuming 60 boat slips and using only the restaurant floor area, the use would generate 630 trips per weekday. This does not include trips created by the event center.



- According to the applicant, Marina Pointe Road is a private road that cannot be used for the development.

POTENTIAL IMPACT ON SCHOOLS N/A. No residential use proposed.

DECISION MAKING In addition to the above criteria, sec. 21-362 (c) of the Zoning Ordinance indicates the primary question before the Planning Board / Board of Commissioners in a rezoning decision is “whether the proposed change advances the public health, safety, or welfare as well as the intent and spirit of the ordinance.” Additionally, the boards “shall not regard as controlling any advantages or disadvantages to the individual requesting the change but shall consider the impact of the proposed zoning change on the public at large.”

PROCEDURES The Planning Board must develop a statement of consistency describing whether its action is consistent with any adopted comprehensive plans and indicate why their action is reasonable and in the public interest. A statement analyzing the reasonableness of the decision is also necessary. **See enclosed worksheets for statement development.**

PUBLIC NOTICE September 10, 2019 – Letters sent to 19 adjacent property owners (within 100 feet of subject property).

September 10, 2019 – Sign posted on property.

September 13, 2019 – Request posted on Planning & Development Department website.

October 11, 2019 – Letters mailed to adjacent property owners reminding them of the tabled meeting.

October 18, 2019 – Requested posted on Planning & Development Department website.



STAFF COMMENTS

Since its inception, the Sunset Pointe project included a commercial component for the subject property, which included a restaurant and marina. Previous plans approved contained necessary project details addressing potential impacts on adjacent properties. A primary point of discussion should be the hours of operation and noise impacts associated with outdoor activities and the event center. The Rowan County Noise Ordinance does prohibit "...any sound amplification equipment emitting sound that is unreasonable, frequent and continues with such a volume...which may annoy or disturb the quiet, comfort, or repose of the general public...when the source of the noise is plainly audible to the responding law enforcement officer within 100 feet of the source."

Section 21-61 (e) indicates the mutually agreed upon conditions and site-specific standards may be imposed to address conformity to applicable ordinances, officially adopted comprehensive plans, and those that address impacts reasonably expected to be generated by the development.

SITE PLAN CHECKLIST

Rowan County Zoning Ordinance, Article III Section 21-52

Project Name: Marina Pointe Restaurant at Sunset Pointe

Project Owners: Todd Littleton and Mikey Wetzel

Date: September 3, 2019

1: Zone Lot with Dimensions and Development Setbacks

See the PDF file submitted alongside this checklist.

2: Tax Parcel Number

Parcel ID: 606H001, currently zoned as CBI CUD.

This parcel is referred to as the “marina parcel” in all references below.

3: Property Address

Listed on the tax map as “0 Sunset Pointe Dr”

More accurately, this is the 6700 block of Goodman Lake Rd. Road frontage and public access is on Goodman Lake Rd, and there will be no access along Sunset Pointe Dr, which is a private road within a gated community.

4. Adjoining Deeded Properties and Their Uses

No properties are adjoined in the sense of “joined with”, but the following is complete list of neighboring properties.

606D001-606D007 – These are single-family residential homes on the other side of Goodman Lake Road.

606H076 – This property is within the Sunset Pointe residential community and is currently used for one condo building with 6 deeded properties. Those parcels are 606J001 through 606J006. This property is behind the marina parcel, and is only accessible through the gated entrance to the Sunset Pointe residential community.

606H078 – This parcel is part of the common areas owned by the Sunset Pointe residential community, used for landscaping near that community’s front entrance.

600 0360000001 – This parcel is the land under High Rock Lake, and is currently owned by Cube Yadkin Generation LLC. This parcel neighbors the waterfront shoreline of the marina parcel. Property belonging to the marina parcel, specifically piers with boat slips, will extend into this parcel, permitted by and subject to the rules and restrictions by Cube Yadkin under their Shoreline Management Plan.

5. Existing structures

There are no existing structures on the parcel, nor near the parcel that are affected by the proposed development of the marina parcel.

There is an existing, concrete boat ramp, but current plans are to remove it (and put in a new boat ramp per the submitted plans).

6. Proposed Structure with Size

See the PDF file submitted alongside this checklist.

7. Proposed Use

The lot will be developed into a 10,000 sqft, two-story, waterfront restaurant, bar, event space, and kayak rentals. The footprint will be 5,000 sqft, with the ground level occupied by the restaurant and kitchen, plus a kayak rental shop. The second story will be event space and ADA accessible via elevator.

Outdoor features including decking for outdoor dining, pier and boat slips, boat gas facilities, boat ramp, truck and trailer parking, vehicle parking lot, and added landscaping.

If determined to be needed, construction will be on pilings or raised foundation to situate nearer the shoreline, as permissible.

8. Number of Employees

Anticipated payroll is 49 employees.

9. Hours of Operation

The restaurant will be open 7 days a week, with hours from 8am to 2am.

10. Off-street Parking, Loading and Unloading, Access to Existing Streets

No off-street parking is required. At nearly 5 acres, the parcel is large enough such that ample parking, and loading zones, will be on-site.

Access to existing streets is not an issue, as the property has 815' of road frontage along Goodman Lake Rd.

11. Easements and Rights-of-Way

There are negotiations in progress with the Sunset Pointe community regarding the following easements and rights-of-way:

- (1) The Sunset Pointe entrance monument is currently located on the northern end of the marina parcel. Although no easement is mentioned in the marina parcel's deed, current talks are to provide a deeded easement.
- (2) The Sunset Pointe community is interested in guaranteed access to the boat ramp on the marina parcel. The community currently leases the boat ramp from the existing owner, but that lease will not apply to the new owners (the applicants for this zoning change request). There are talks for the new owners to provide deeded access, or otherwise guarantee access.
- (3) The new owners are interested in tying into community sewer system owned by the Sunset Pointe community.

Note that a question has been raised stemming from how the marina parcel was deeded. That question is whether or not the marina parcel is officially part of the Sunset Pointe development and, therefore, whether it is subject to the CC&Rs that apply to the rest of Sunset Pointe. Clearly, the undisputed intent for the marina parcel to be a commercially-operating marina is well-established, so neither side argues against its commercial use. In fact, zoning for the marina was previously approved (circa 2008), and numerous permits from various agencies were granted. The issue becomes that the CC&Rs were never written to address commercial property, so the path forward is either to better formalize the separation of the marina parcel from the Sunset Pointe community, or to formalize its inclusion and define the CC&Rs. Both parties are actively discussing resolution.

The intent of mentioning the deed situation here is that the easements and rights-of-way will be part of the negotiations.

12. All Pertinent Development Requirements of this Chapter

The applicant is unaware that this item requires additional materials. Please let the applicant know if additional materials are required here.

13. Any Additional Information Required by the Zoning Administrator

Plans for the marina parcel were previously approved, circa 2008. Traffic impact and environmental analysis was previously submitted. The applicant understands that those materials have since expired and most of the various processes will need to be redone. However, applicant is confident that most of the previous findings, and subsequent requirements, will turn out to be the same. Therefore, the applicant is using previous information such as DOT road access and entrance road radii, landscaping, traffic lot sizing and lighting, flood zone, etc. in the current submitted plans.

The DOT driveway permit previously associated with the marina parcel is # 06-009-RD.

14. Floodplains

See the PDF file submitted alongside this checklist.

15. Name, Location and Dimension of Any Proposed Streets, Drainage facilities, Parking Areas, Etc.

See the PDF file submitted alongside this checklist.

16. Screening and Buffering

See the PDF file submitted alongside this checklist.

The applicant understands the need for ample screening between a commercially operating restaurant and neighboring residential parcels. Plans include to construct a 4-6' berm with 4-15' high shrubs and trees along Marina Pointe Dr and Goodman Lake Rd. Note that Goodman Lake Rd has overhead powerlines that affect the species (and height) of what can be planted. Plans also include a row of taller privacy trees, such as Arbor Vitae, to shield the restaurant from the condos.

17. Zoning District

Current zoning for the marina parcel is CBI CUD. The neighboring residential parcel(s) are zoned MFR, RS, and RA.

18. Proposed Phasing, if any

The only thoughts of phasing at this time are

- (1) Starting with a smaller number of piers and boat slips than permissible. Specifically, to request permission of the maximum allowable, but constructing them as needed.
- (2) Adding additional boat and trailer parking, including long term storage, on the far side (far from the waterfront operations) of the lot.

19. Required Detail of the Site Plan

See the PDF file submitted alongside this checklist.



CONSISTENCY WORKSHEET

ROWAN COUNTY PLANNING BOARD

CONSISTENCY QUESTION — *"Is the proposed amendment consistent with any adopted plan..." & "Why action is reasonable & in the public interest"*

REFERENCE SOURCES

YES NO Is the request consistent with applicable plans?

Example: _____

Example: _____

Item #1 of the Staff Report

YES NO N/A Is the request consistent with any other adopted plans?

If applicable, refer to Item #1 of Staff Report

YES NO Is the request consistent with the zoning districts purpose and intent?

Example: _____

Example: _____

Item #2 and #3 of the Staff Report

YES NO Is the request reasonable and in the public interest?

Example: _____

Example: _____

Staff Report, Land Use Plans, Ordinances, Public Comment

STATEMENT DEVELOPMENT — *"Prior to adopting or rejecting any rezoning request, one of the following statements shall be adopted:"*

- "Z _____ is consistent with the _____ Land Use Plan(s) based on the following...". "Furthermore, the adoption of Z _____ is reasonable and in the public interest based on the following..." (use blanks below).
- "Z _____ is not consistent with the _____ Land Use Plan(s) based on the following...". "Furthermore, the denial of Z _____ is reasonable and in the public interest based on the following..." (use blanks below).
- "Z _____ is appropriate and necessary to meet the development needs of Rowan County for the following reasons not previously envisioned by the _____ Land Use Plan(s)...". "Furthermore, the adoption of Z _____ is deemed an amendment to the _____ Land Use Plan(s) and is reasonable and in the public interest based on the following..." (use blanks below).



REASONABLENESS WORKSHEET

ROWAN COUNTY PLANNING BOARD

REASONABLENESS DETERMINATION: *"Is there a reasonable basis for the change in zoning districts"*

REFERENCE SOURCES

**NOTE: Reasonableness statements should focus on spot zoning claims.*

_____ acres

Size of the tract
Relationship to adjacent or surrounding properties

Zoning Application and Background / Request portion of Staff Report

YES NO

Compatibility with Land Use Plan

Refer to Consistency Worksheet

YES NO

Compatibility with Future Land Use Map

Page 1 of ERLUP and Page 38 of WRLUP

Reference Map in Staff Report

YES NO

Benefits and Detriments

General summary from Staff Report and comments from courtesy hearing

Is there a benefit to the owner at the expense of the neighbors or community?

YES NO

Relationship of Uses

Item #3 of the Staff Report ; Inset of zoning map; Section 21-113 Table of Uses

Proposed Uses compared to existing uses

Suggested Statement

In accordance with Section 21-362(j) of the Rowan County Zoning Ordinance and after due consideration the Planning Board advises the Z_____ request [is] or [is not] reasonable and in the public interest based on the following:

1 _____

2 _____

3 _____



Rowan County Department of
 Planning & Development
 402 N. Main Street Suite 204
 Salisbury, NC 28144
 Phone (704) 216-8588
 Fax (704) 638-3130
 www.rowancountync.gov

Case # 208-19
 Date Filed 08.30.19
 Received By SAB
 Amount Paid \$300.00 cash
Office Use Only

REZONING APPLICATION

OWNERSHIP INFORMATION:

Name: SHARP REAL ESTATE ONE, LLC
 Signature: [Signature]
 Phone: 704-245-9047 Email: SKIP.WOOD@SHARPTRANSIT.COM
 Address: 1355 LONG FERRY RD SALISBURY NC 28146

APPLICANT / AGENT INFORMATION: Complete affidavit on back if non-owner

Name: ERIC TODD LITTLETON / MIKEY WETZEL
 Signature: [Signature]
 Phone: 704-239-0538 Email: todd.littleton@gmail.com
 Address: 525 PEBBLE POINT SALISBURY NC 28146

PROPERTY DETAILS:

Tax Parcel(s): 60064001 Size (sq.ft. or acres): 4.8
 Property Location: 0 Sunset Pointe Dr Salisbury NC 28146
 Current Land Use: VACANT PROPERTY
 Date Acquired: 1/19/2011 Deed Reference: Book 1174 Page 77

REQUEST DETAILS:

Existing Zoning District CBI-CUD Requested Zoning District CBI-CD

If requesting a conditional zoning district, list proposed use or uses:

SEE NARRATIVE - Restaurant / Marina

Additional information enclosed restricting the conditional use district? Yes No

Site plan containing information from sec. 21-52 enclosed? Yes No

AFFADAVIT OF OWNER

To be completed if applicant is not the property owner

I (We), SHARP REAL ESTATE ONE, LLC, owner(s) of the within described property do hereby request the proposed rezoning and hereby authorize the person listed below to act as my (our) duly authorized agent in this matter.

Signature(s): [Signature]

Date: 7/20/19

Name of Applicant / Agent: Eric Todd Littleton and Mikey Wetzel

Address: _____

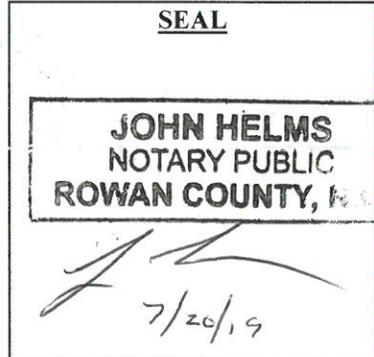
Phone Number: 704-239-0538

IT IS UNDERSTOOD BY ALL PARTIES HERETO INCLUDING OWNER(S) & APPLICANT(S) / AGENT(S) THAT WHILE THIS APPLICATION WILL BE CAREFULLY CONSIDERED AND REVIEWED, THE BURDEN OF PROVIDING ITS NEED RESTS WITH THE ABOVE NAMED APPLICANT WHETHER OWNER, NON-OWNERS, OR OWNER'S AGENT.

STATE OF NORTH CAROLINA COUNTY OF ROWAN

I, JOHN HELMS, a Notary Public for said County and State, do hereby certify that WILLIAM REED WOOD III personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

My commission expires APRIL 15, 2023.



OFFICIAL USE ONLY

- 1. Signature of Rezoning Coordinator: [Signature]
- 2. Planning Board Courtesy Hearing: 09/23/19
- 3. Notifications Mailed: 09/10/19
- 4. Property Posted: _____
- 5. Planning Board Action: Approved _____ Denied _____
- 6. Board of Commissioners Public Hearing: 09/10/19
- 7. Notifications Mailed: / /
- 8. Property Posted: / /
- 9. Dates Advertised: 1st / / 2nd / /
- 10. BOC Action: Approved _____ Denied _____
- 11. Date Applicant Notified: / /