



## REZONING PETITION: Z 09-19

**REQUEST:** CBI-CUD and RA to CBI-CD for auto sales, auto repair and used tire sales.

**PARCEL ID:** 542- 030, 044, 045

**LOCATION:** 15185 US 52 HWY Gold Hill NC 28071

**ACERAGE:** 2.29

**CURRENT LAND USE:** Used Car Dealership

**OWNER:** Daniel Gomez and Karen Mendieta

**APPLICANT:** Daniel Gomez and Karen Mendieta

### Background

Daniel Gomez and Karen Mendieta are requesting a rezoning of their properties off of US 52 HWY to expand their business operations to include Auto Repair and Used Tire Sales. Currently, they operate a used car dealership off of parcel 542 045.

Back in 2013 parcels 542 045 and 542 044 were rezoned from RA to a CBI-CUD with the only allowed use being auto sales. There were no extra conditions attached to the zoning district, and the parcels still have this zoning classification. Parcel 542 030 is zoned RA and has been vacant since approximately 2013; the last use of the property was for a mobile home, which was removed around 2013.

### Relationship with any plans and policies

These properties are located in the off US 52 HWY in the COM/IND area of the Eastern Area Land Use Plan, and within the US 52 Corridor. The Plan encourages commercial and industrial uses that have a need for rail and US Highway access in this area.

### Consistency with the requested zoning district's purpose and intent

**Commercial, Business, Industrial, 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.

While US 52 is not identified as an area that recommends “highway business”, the CBI conditional district may be appropriate if the proposed development is compatible with the surrounding area.

### Compatibility of all uses within the proposed district classification with other properties

Compatibility of uses: All three proposed uses (Auto Sales, Auto Repair, Used Tire Sales) are uses that would be allowed in the RA as a Rural Home occupation. However, the uses can not be permitted on the RA zoned property now because the owners do not live on the property. The existing auto sales business is over 300’ from the nearest residence which exceeds the need for screening. The proposed use will come within 200’ of a residence, which will require Type A Screening.

Conditions within the vicinity (see enclosed map): The general area around the properties is mostly forested. There are two homes adjacent to the property. The next closest structures are a house approximately 1000’ further south on US 52 and the Carolina Perlite company approximately 2000’ north on US 52. US 52 has a 110’ observed right of way in this area.

### Potential impact on facilities such as roads, utilities and schools

Roads: US 52 HWY has a design capacity of 15,100 vehicles per and as of 2018 the average daily traffic was at 7,300 cars per day. Using Trip estimates found in the Institute of Transportation Engineers manual (7<sup>th</sup> edition) both new uses together will approximately produce around 64 trips a day.

Utilities: The properties would use private well and septic.

Schools: N/A

### Decision making and procedures

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 [sec. 21-362 (j)]. A statement analyzing the reasonableness of the decision is also necessary. See enclosed checklist as a guide in developing these statements.

A statement of reasonableness is necessary to substantiate a small-scale zoning decision and ensure the decision is “reasonable”. While spot zoning in North Carolina is considered legal, it must be determined as reasonable based on a number of factors including the following established by the courts:

- Size and nature of the tract;
- Compatibility with existing plans;
- The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community; and
- The relationship between the newly allowed uses in a spot rezoning and the previously allowed uses.

### Staff Comments

- Since this request is a conditional district, the Board may want to suggest mutually agreed upon conditions to the request.
- With a conditional district rezoning only the uses and buildings shown on the site plan will be allowed. Changes to the buildings or uses will require another rezoning process.
- There is a 110’ observed right of way on US 52 HWY which will move the new buildings back at least 25’.

### Attachments

- GIS Map
- Z 09-19 Site Plan
- PCUR 01-13 Site Plan
- Statement worksheet