

STAFF REPORT

TO: Board of Aldermen

DATE: November 28, 2017

PROJECT: Boer Brothers Heating and Cooling CUP

APPLICANT
And OWNERS: Milton & Jean Saffelle
105 David Miller Court
Chapel Hill, NC 27517

PURPOSE: To acquire a Conditional Use Permit allowing construction of a business headquarters with associated warehouse and office facilities.

EXISTING ZONING: WM-3 (Watershed Manufacturing-3).

TAX MAP NUMBER: 9769219629, 9769217639,

LOCATION: 626 & 630 Hwy NC 54 West

TRACT SIZE: 2.63 acres (approximately 114,354 sf)

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Use #4.100 *Manufacturing* located in three buildings (2 warehouses, 1 office):

SURROUNDING
LAND USES: North: Rural Residential (RR) (Camellia Forest nursery);
South: B-5 (Watershed Business);
West: WR (Watershed Residential), single-family residential,
East: WM-3, Cabinet manufacturing.

ZONING HISTORY: WM-3 since 1983

ANALYSIS

Background

Boer Brothers Heating and Cooling as represented by Pennoni Associates, have submitted an application for the construction of a business headquarters with associated warehouse and office facilities located at 626 & 630 Hwy NC 54. For the permit application and vicinity map see Attachment B.

The Conditional Use Permit, if approved, would allow the creation a total of 13,773 sf of floor area within three buildings (2 warehouse, 1 office). Associated infrastructure such as parking, paving and drainage structures are also part of this application. The existing site contains the hard surface remains of the past warehouse that burned down in 2004. The conditional use permit for this project will be new and not a modification of the existing permit that regulated the prior use (Attachment C).

The subject property is zoned Watershed Manufacturing- 3 (WM-3) and contains four parcels for a combined acreage of about 2.63 acres. These parcels are identified by Orange County PINs 9769219629, & 9769217639.

Watershed Manufacturing- 3 (WM-3)

The purpose of this district is to allow areas within the University Lake Watershed that have been zoned M-1 prior to the 12/7/1983 to be used and developed for light industrial and related purposes, subject to certain restrictions designed to protect the watershed.

Use sought

The applicant is seeking use #4.100 which is permissible with the WR-3 district pursuant to the issuance of the CUP. This use is define as “*Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise and Equipment; All operations conducted entirely within fully enclosed buildings*”

Boer Brothers Heating and Cooling Company will use the two warehouses for equipment storage (such as HVAC pumps) and associated support equipment necessary for their fleet vehicles and crews. See Attachment D for a more detailed description of the manner in which this business is expected to operate. The third building will serve as office space.

Traffic Analysis, Greenway Easement, Sidewalks, Transit, Parking, Bicycle Parking, Loading Areas

Traffic Analysis

See the applicants attached statement (Attachment D). The project has been reviewed and approved by NCDOT.

Because NCDOT has reviewed but not formally approved the project for construction, the following condition is recommended:

- That prior to construction plan approval, the applicant receive a driveway permit from NCDOT in accordance with any conditions imposed by such agency including but not limited to encroachment / maintenance agreements for installation of necessary infrastructure.

Greenways, Sidewalks, Transit

The location of the project does not activate any requirements pertaining to greenways, sidewalks or public transit.

Parking:

The 4.100 use requires 1 space for every two employees on the maximum shift. To this end they are providing 25 parking spaces. Some of these will be reserved for fleet vehicles. Again, see Attachment D for further clarification about the use of these spaces.

Bicycle Parking

Bicycle parking is not required for the 4.100 use classification.

Loading Areas

Section 15-300 requires of commercial projects that sufficient off-street loading and unloading area(s) are provided to accommodate delivery operations in a safe and convenient manner. Due to the proposed size of the project, one loading area is required. The site plan shows a 14' x 55' loading area located in between the warehouses and the office building thereby satisfying the Town's requirements.

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to Traffic Analysis, Greenway Easements, Sidewalks, Transit, Parking, Bicycle Parking and Loading Areas subject to the conditions mentioned above.

Tree Protection, Landscape Plans, Screening, Shade Trees in Parking Areas

Tree Protection

Large trees as defined by the LUO have a diameter of 18 inches or greater and are to be retained whenever possible (15-316). There are three such trees in this project and two of them require removal to accommodate this site plan. Six additional trees in the 14-15" diameter range also require removal due to the site plan. The remaining existing trees will be preserved and protected by tree protection fencing during construction. As required, the applicant has provided a tree removal justification letter (Attachment E).

Landscape Plans

The landscape plan proposes 49 canopy trees, 16 understory trees and shrubs. These deciduous and evergreen plants are distributed along the perimeter and in the planting islands of the proposed parking areas. The combination of plant types satisfies the Town policy requiring 1/3rd of all trees be evergreen. None of the proposed plantings are on the Town's List of Invasive Plant Species on Appendix E-17 of the LUO.

Screening

Per Section 15-308, screening is required between the components in this project and the surrounding street right-of-way and lots. In areas where the commercial building is adjacent to residential or residentially-zoned property, an opaque, Type A screen is required. A Type C screen is required adjacent to the highway. The proposed screening includes plantings and fencing to address these requirements. The plans as presented satisfy the screening requirements of the LUO.

Shade Trees in Parking Areas

Section 15-317(b) of the LUO requires that parking lots provide shading over at least 35% of the vehicle accommodation area. The applicant has surpassed this requirement by the provision of 26 shade trees that can be credited toward the requirement (35.6%). The base requirement is calculated per the provisions of Appendix E-3 of the LUO.

Tree Canopy coverage 15-319

Section 15-319 requires that projects within the WM-3 zoning district provide 30% tree canopy coverage. For 2.63 acres (114,354 sf) this amounts to a canopy coverage area requirement of 34,306 sf. The existing and proposed trees in the project exceed this requirement by providing a total canopy coverage of 51,535 sf (45%)

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to Tree Protection, Landscape Plans, Screening, Shade Trees, and Canopy Trees.

**Drainage and Water Quality, Grading, House Relocation, Stream Buffers,
Erosion Control and Phasing**

Drainage and Water Quality

Section 15-263 of the LUO establishes stormwater management criteria that must be met for any project requiring a CUP. In particular the applicant must meet stormwater runoff standards with respect to water quality, quantity and volume.

In the WM-3 zoning district, not more than twenty-four percent (24%) of the land on any lot may be covered by an impervious surface such as a street, drive, sidewalk, parking lot, building, or other roofed structure. In the event that the area of impervious surface is greater than six percent (6%) of the total lot, stormwater management techniques must be employed that would retain the first one inch of rainfall running off of all impervious surfaces on a lot.

The subject project has an existing impervious surface of 38.4% resulting from the remains of the former warehouse and parking area. The proposed development will reduce this amount to 35.4%. In light of this, and based upon recent state law, which grandfathers existing impervious surface, the applicant is requesting that the existing non-conforming amount of impervious surface be allowed to remain. While under the state law, they are not required to provide a stormwater BMP in excess of what currently exists, they intend to provide an infiltration and storage basin to provide water quality and quantity benefits for up to the 25 year storms. See Attachment F for their summary.

To this end, the grading and drainage plan shows a system of inlets and pipes, swales and grading that gather water and direct most of the sites water toward an infiltration basin. This is a significant improvement over the existing situation. The infiltration basin provides both treatment and storage.

Because they are requesting that the Board allow the existing non-conforming situation with regards to impervious surface in excess of 24% the following condition is recommended:

- That the Board hereby allows the existing non-conforming situation to remain with regard to impervious surfaces in excess of 24% within the WM-3 zoning district. This finding is based upon the applicant's plans that demonstrate 1) a reduction in impervious surfaces from the existing situation and 2) an updated and improved stormwater management system that gathers and treats more of the runoff from the impervious surface than before.

Relative to the Town satisfying state requirements pertaining to the National Pollutant Discharge Elimination System (NPDES) Phase II permit, the following conditions are required:

- That the applicant shall provide to the Zoning Division, prior to the recordation of the final plat for the project or before the release of a bond if some features are not yet in place at the time of the recording of the final plat, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features will be clearly delineated in a data table. The data will be tied to horizontal controls.
- That the developer shall include a detailed stormwater system maintenance plan, specifying responsible entity and schedule. The plan shall include scheduled maintenance activities for each stormwater BMP in the development, performance evaluation protocol, and frequency of self-reporting requirements (including a proposed self-reporting form) on maintenance and performance. The plan and supporting documentation shall be submitted to Town engineer and Environmental Planner for approval prior to construction plan approval. Upon approval, the plans shall be included in the homeowners' association documentation.

Construction Plan Review

The project was submitted as combined CUP/Construction Plans. At the time of this publication, additional comments pertaining specifically to construction plan review are pending correction. Construction Plans require an additional level of detail not required for CUP reviews.

The basic arrangement of the stormwater system and the parameters of function as presented by the plans and described by the applicant's calculations demonstrate that the

project, as presented to Joint Review, will not require significant alteration. In order to make this clear the following condition is recommended.

- That the project address the Town Engineer's remaining construction plan comments prior to construction plan approval. Should addressing these comments cause a significant deviation from the plans as presented, the applicant will be required to bring the project back to the Board of Aldermen for a permit modification.

Grading

The existing grading pattern that remains of the prior use will be slightly modified to accommodate the new buildings and parking areas.

Stream Buffers

There are no stream buffers on the assembled properties.

Erosion Control

An erosion control plan has been provided which is provisionally satisfactory to Orange County Erosion Control. Additional details will be provided as part of the Construction Plan review process. The plan, as it stands uses a single sediment basin and a skimmer, along with silt fences to capture sediment.

Phasing

The project is not phased.

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to Drainage, Grading and Erosion Control and Phasing subject to the conditions mentioned above.

Utilities, Fire Safety, Lighting, Refuse Collection

Utilities

The project will use an existing well and septic system. The project has been reviewed and given provisional approval by Orange County Environmental Health. The site has a primary and repair site as required by regulations. These areas are will be protected from damage by temporary fencing during construction.

Regarding electric, gas, telephone and cable television utilities, the applicant has submitted letters by the respective providers indicating that they can serve the development.

Per Section 15-246 of the LUO, the plans specify that all electric, gas, telephone, and cable television lines are to be located underground in accordance with the specifications and policies of the respective utility companies.

Fire Safety

The CUP plans have been reviewed and approved by the Fire Department subject to further review during building permit review.

Lighting

Section 15-242 requires adequate lighting of buildings and facilities to assure public safety. Section 15-243 requires that all such lighting to be controlled in height and intensity. Fixtures located out of a public R/W are to be no more than 15' in height and the illumination level must not exceed .2 footcandles at the property line in the areas adjacent to *residentially-used* or *residentially-zoned* properties. In addition, the total illumination from the outdoor lighting must not exceed 70,000 lumens/acre.

The illumination levels from these fixtures do not exceed the Town's .2 footcandle limit at the property line for both the residentially and non-residentially used or zoned properties. Nor is the total illumination level on the property in excess of 70,000 lumens/acre.

The proposed lighting plan for the project includes six (6) pole-mounted full-cutoff LED fixtures four of which are mounted on 25' poles and the remaining two on 18' poles. In addition, the plan shows twelve (12) full-cutoff LED "wall-pak" fixtures.

Note that the pole height they proposed exceeds the Town's 15 foot standard thus the applicant is seeking a deviation based upon the justification proposed in the attached letter (Attachment G). Section 15-15-142.5 (f) allows the Board to make findings that allow variations in this standard based upon findings that *"the inflexible application of a height maximum for lighting fixtures may result in a development with excessive energy consumption or light fixtures that are incompatible with the scale or style of a development. These situations can result in a waste of money that could more desirably be used for valuable development amenities or environmentally useful features."*

If the Board finds the applicant's justification acceptable, the following condition is recommended:

- That the Board hereby grants a deviation from the 15' pole height requirements of Section 15-242.5(f) be waived based upon the applicant's written justification that the higher poles allow fewer fixtures for more uniform lighting consistent with the commercial needs of the property and the safety and security of its occupants.

Refuse Collection

The project's waste arrangements have been satisfactorily reviewed by both Public Works and Orange County. Two dumpsters will be provided within a screened enclosure.

Waste management during construction requires from Orange County an approved Solid Waste Management Plan as well as a permit. The Solid Waste Management Plans has been received and approved and a permit will be obtained prior to construction.

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to Utilities, Fire Safety, Lighting and Refuse Collection subject to the conditions mentioned above.

Miscellaneous

Construction Management Plan

Per Section 15-49 (c1) projects that would likely have a significant impact on adjoining or nearby streets, sidewalks, or properties during the construction process must provide a construction management plan. Because of the relatively remote location of the project, the construction efficiency of the building type and the large site (which affords ample machine and material storage) the construction impacts on the adjoining areas are expected to be low. The applicant has provided the attached construction schedule to better describe the stages of the project (Attachment H).

Sign Permit

The project plans do not include sign information at this time. Because of this, the applicant will need to apply for a sign permit separately after approval.

Good Neighbor Performance Standards

The property and its uses are required to satisfy the Good Neighbor Performance Standards of Article XI of the LUO. These standards regulate noise, fumes, vibration, and other environmental factors for commercial and industrial uses. Regarding these standards see the attached letter from the applicant (Attachment I). Satisfying these standards are a continuing obligation of the permit. Because of this the following condition permit is recommended.

- A continuing obligation of this permit is compliance with the “Good Neighbor” Performance standards for Non-Residential Uses as described in Article XI of the LUO.

Hazardous Substances in the WM-3 District

Section 15-158 regulates the possession, storage, maintenance or use of any quantity of hazardous substance within the WM-3 zoning district. In response to this, the applicant has provided the attached letter (Attachment J). Compliance with this section will be a continuing condition of the permit. Because of this, the following condition is recommended.

- That the applicant continue to demonstrate compliance with the applicable provisions of Section 15-158 of the Land Use Ordinance which regulate hazardous substances in the WM-3 zoning district.

Town Planning Documents

The applicant has provided written responses to applicable sections of *Vision 2020*, one of the Town’s long-range planning documents (Attachment K).

Neighborhood Information Meeting

The applicant choose not to conduct a neighborhood information meeting.

Joint Review:

The project was presented to the Joint Review Boards on November 2, 2017. The advisory board's summary sheet and recommendations are attached (Attachment L)

Concept Plan

Before formal plans were submitted, the applicant presented a concept plan to Joint Review on August 4th, 2016 (as required by Section 15-48.1 of the LUO). None of the Advisory Boards had substantive comments about the concept plans.

Building Performance

See the attached statement regarding the environmental performance of the building from the architect (Attachment M)

CONCLUSION – The project meets all the requirements of the Land Use Ordinance pertaining to categories listed above subject to the aforementioned conditions.

STAFF RECOMMENDATIONS:

Town staff recommends that the Board of Aldermen review the Boer Brothers Conditional Use Permit proposal with the following staff conditions and prepare recommendations. The CUP Worksheet is attached (Attachment N):

1. That prior to construction plan approval, the applicant receive a driveway permit from NCDOT in accordance with any conditions imposed by such agency including but not limited to encroachment / maintenance agreements for installation of necessary infrastructure.
2. That the Board hereby allows the existing non-conforming situation to remain with regard to impervious surfaces in excess of 24% within the WM-3 zoning district. This finding is based upon the applicant's plans and calculations that demonstrate 1) a reduction in impervious surfaces from the existing situation and 2) an updated and improved stormwater management system that gathers and treats more of the runoff from the impervious surface than before.
3. That the applicant shall provide to the Zoning Division, prior to the recordation of the final plat for the project or before the release of a bond if some features are not yet in place at the time of the recording of the final plat, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features will be clearly delineated in a data table. The data will be tied to horizontal controls.
4. That the developer shall include a detailed stormwater system maintenance plan, specifying responsible entity and schedule. The plan shall include scheduled maintenance activities for each stormwater BMP in the development, performance evaluation protocol, and frequency of self-reporting requirements (including a proposed self-reporting form) on maintenance and performance. The plan and supporting documentation shall be submitted to

Town engineer and Environmental Planner for approval prior to construction plan approval. Upon approval, the plans shall be included in the homeowners' association documentation.

5. That the project address the Town Engineer's remaining construction plan comments prior to construction plan approval. Should addressing these comments cause a significant deviation from the plans as presented, the applicant will be required to bring the project back to the Board of Aldermen for a permit modification.
6. That the Board hereby grants a deviation from the 15' pole height requirements of Section 15-242.5(f) be waived based upon the applicant's written justification that the higher poles allow fewer fixtures for more uniform lighting consistent with the commercial needs of the property and the safety and security of its occupants.
7. A continuing obligation of this permit is compliance with the "Good Neighbor" Performance standards for Non-Residential Uses as described in Article XI of the LUO.
8. That the applicant demonstrate continued compliance with the applicable provisions of Section 15-158 of the Land Use Ordinance which regulate hazardous substances in the WM-3 zoning district.