

STAFF REPORT

TO: Town Council

DATE: September 14th, 2021

PROJECT: Conditional Use Permit Extension Request for Lloyd Farm, Phase 1 at 700 & 706 Old Fayetteville Road

APPLICANT/OWNER: Harris Teeter
Attention: Jacob Phares
PO Box 10100
Matthews, NC 28106-0100

PURPOSE: Request for an extension of date when Conditional Use Permit would otherwise expire for Lloyd Farm, Phase 1. This CUP permit expires on October 22nd, 2021.

EXISTING ZONING: B-4-CZ

PIN: 9778-09-7922 & 9778-19-6618

LOCATION: 700 & 706 Old Fayetteville Road

TRACT SIZE: 35.4 acres (1,542,024 square feet)

EXISTING LAND USE: Vacant

PROPOSED LAND USE: High-volume retail- use# 2.110, 2.250, Restaurant- use# 8.100, 8.200, Dry cleaner/laundromat- use# 16.200, Gas station- use# 9.300, Amphitheater- use# 6.210 etc.

SURROUNDING LAND USES: North: R-20, single-family residences (Plantation Acres Subdivision)
South: B-4, commercial building (Carrboro Plaza)
West: WR, single-family residences
East: R-20, single-family residences (Plantation Acres Subdivision)

RELEVANT ORDINANCE SECTIONS: Section 15-62 Expiration of Permits

BACKGROUND

The applicant/property owner, Harris Teeter, has requested that the date on which a previously issued Conditional Use Permit (CUP) that expires on October 22nd, 2021 be re-established to an expiration date of October 22nd, 2023.

The Town Council originally granted the Conditional Use Permit on October 22nd, 2019. The CUP allowed for the construction of Lloyd Farm, Phase 1 entailing a Harris Teeter grocery store, out buildings and related infrastructure (ie. roads, sidewalks etc).

APPLICABLE LUO PROVISIONS

Extensions to the date on which a permit would otherwise expire must be granted in accordance with Section 15-62 (Expiration of Permits) of the LUO. Specifically, please note that Section 15-62(a) of the LUO dictates that the CUP would expire on October 22nd, 2021 in this case because less than ten percent (10%) of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on the development authorized by the permit has been completed on the site.

Section 15-62(c) gives the permit-issuing authority (Town Council) the authority to grant an extension to the date on which the permit would otherwise expire. Section 15-62(c) reads as follows:

“(c) The permit-issuing authority may extend for a period up to two years the date when a permit would otherwise expire pursuant to subsections (a) and (b) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to two years upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.”

Staff offers the following information related to the conditions outlined in Section 15-62(c):

1. The permit has not yet expired.

COMPLIANCE: *No, the permit has not expired. The permit is set to expire on October 22nd, 2021.*

2. The permit recipient has proceeded with due diligence and in good faith.

COMPLIANCE: *Yes, the permit recipient has proceeded with due diligence and in good faith. VHB Engineering, consulting engineer is close to having Construction Plan approval for Phase 1 of Lloyd Farm.*

3. Conditions have not changed so substantially as to warrant a new application.

COMPLIANCE: *Yes, it is true that conditions have not changed so substantially as to warrant a new application. No changes to the property have taken place since the permit was originally approved.*

RECOMMENDATION

The Town Staff recommends that the Town Council adopt the attached resolution approving the permit extension request. The new expiration date for the permit would be October 22nd, 2023.