



## Legislation Text

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**File #:** 15-0141, **Version:** 1

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### **TITLE:**

Continuation of Public Hearing on the Conditional Use District Rezoning and Conditional Use Permit for 501 South Greensboro Street

**PURPOSE:** Continuation of the public hearing on applications for an M-3-conditional use rezoning (M-3-CU) and a conditional use permit (CUP) to allow for the construction of a three- to four- building commercial development on property located at 501 South Greensboro Street, also known the former Rogers-Triem site.

**DEPARTMENT:** Planning

**CONTACT INFORMATION:** Christina Moon - 919-918-7325, Jeff Kleaveland - 919-918-7332; Marty Roupe - 919-918-7333, Patricia McGuire - 919-918-7327, Mike Brough - 919-929-3905

**INFORMATION:** At the April 28, 2015 Board of Aldermen meeting, the Board opened a public hearing on a request for a conditional use rezoning/conditional use permit for property located at 501 South Greensboro Street, specifically to rezone the property M-3-CU, a newly established conditional use district. The Board voted to continue the public hearing to May 5<sup>th</sup>.

Twelve citizens spoke to the design of the development project with particular interest in the potential road connection between Rand Road which extends through the subject property, and Purple Leaf Place, which serves the adjacent residential subdivision, Roberson Place. Discussion also focused on stormwater implications relating to the proposed development and the use of a roundabout at the entrance of the project to create a safe option for left hand turns exiting the development and heading south and to serve as a traffic calming device for South Greensboro Road.

During the public hearing, revised and supplementary materials were provided to the Board. Included therein are 1) a revised page to the TIA, 2) an updated offsite impacts summary from the project engineer and 3) a revised design detail associated with the sidewalk connection to Purple Leaf Place (see “Continuation -” Attachments).

Also provided at this meeting are 1) handouts from some of the speakers, 2) a response from the applicant to the advisory board recommendations and 3) additional citizen comments that did not make it into the original agenda packet (see “Continuation -” Attachments).

### Process

Section 15-141.3 of the Land Use Ordinance, Conditional Use Zoning Districts, describes the procedure for the Board to consider the rezoning and conditional use permit concurrently, with the specific steps outlined in subsection 15-141.3(e). The Board shall simultaneously conduct a public hearing on the rezoning and conditional use permits in accordance with the procedures applicable to conditional use permits. Consideration of a CUP follows a quasi-judicial procedure. As usual this agenda item includes comments and information

provided by citizens ahead of the hearing, but the Board should base their decision only on acceptable information and evidence entered into the record during the hearing itself. Questions about what constitutes acceptable information and evidence should be directed to the Town Attorney.

**FISCAL & STAFF IMPACT:** The petitioner has submitted fees and materials for reviewing and processing this request, which includes public hearing notice and advisory board evaluation. Staff time necessary for public notice and public hearing agenda preparation, included sending mailed notice twice to ensure that property owners were aware of the joint review meetings at the beginning of April and public hearing proposed for April 28<sup>th</sup> and continued to May 5<sup>th</sup>.

**RECOMMENDATION:** Part I. M-3-Conditional Use Zoning: Town staff recommends that the Board of Aldermen receive public comment and consider if the proposed rezoning is consistent with Town plans and policies as well as the advancement of the public health, safety and welfare of the Town. Approval would be subject to the conditions specified in association with the conditional use permit application for development of three to four buildings for commercial uses, including restaurants.

Part II. Conditional Use Permit Application: If the rezoning is found to be appropriate, Town staff recommends that the Board of Aldermen review the Conditional Use allow the removal of the existing buildings and the construction of three or four buildings.

Town staff recommends that the Board of Aldermen approve the Conditional Use Permit subject to the following conditions:

1. That prior to approval of construction plans, if all necessary additional street right-of-way needed for the construction of the roundabout is not obtained by the developer and recorded in a final plat, that the location of the roundabout be shifted as needed so as to not require this additional property. Should the roundabout location be shifted, the construction plans will be re-reviewed as necessary to assure they remain in compliance with the permit. If the shift causes substantial changes to the plans it will require approval by the Board of Aldermen.
2. That prior to construction plan approval, the applicant pursue relocating the Purple Leaf Place sidewalk extension onto the eastern side of the road instead of the western side as shown in the CUP plans and that this revised connection will include the corresponding revisions to the crosswalks and HC ramps on the plans in the vicinity of these changes.
3. That prior to construction plan approval, all necessary encroachment agreements be obtained to allow work within the existing Rand Road public right-of-way and that prior to the approval of a final plat showing the new Rand Road public right-of-way alignment that the existing Rand Road right-of-way be formally abandoned per Town procedure.
4. That, regardless of the status of the right-of-way abandonment or dedication, the applicant will provide emergency access (meeting Town Fire Department standards) through the property to Purple Leaf Place throughout the construction process.
5. 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 lighting and sidewalks.
6. That an appropriately sized public easement be provided for the sections of the proposed 10' bicycle path/greenway facility that are not located within the public street R/W.
7. That, in the construction plans the greenway trails be designed to meet or exceed the specifications

identified in the AASHTO Guide for the Development of Bicycle Facilities, and that the proposed greenway be constructed to the Type IV AASHTO standard.

8. That at least one accessible parking space be provided in close proximity to the main entrance of Building 3 in the Option A site plan proposal.
9. That the applicant must obtain approval from the Town (either at a staff or Board level), if changes to the allocation of uses in the commercial buildings or the hours of operation of the businesses result in parking requirements that exceed the parking amount approved by the permit.
10. That the Board of Aldermen hereby finds that parking spaces shown on Option A (180 spaces) and Option B (179 spaces) are sufficient to serve the proposed development based on the applicant's justification statement regarding joint use of the proposed parking spaces and the site's proximity to residential neighborhoods, bus lines, bicycle lanes and existing pedestrian facilities. This justification also includes the accommodation for allowing the parking area behind Building 2 to be used for outdoor inventory storage. Should the use of these spaces for storage contribute to a parking problem for the development, the storage shall be removed sufficiently to restore the needed parking spaces for use.
11. Should the installation of HC spaces to serve Building 3 in the Option A site plan be required, that these parking total numbers be allowed to be reduced by one or two spaces if necessary to allow the installation of the HC spaces.
12. That the Board of Aldermen hereby finds that that the loading and unloading areas shown on the plans are sufficient to accommodate delivery operations in a safe and convenient manner based on information provided by the applicant.
13. That the construction plans demonstrate compliance with the tree canopy coverage standards of Section 15-319 prior to construction plan approval.
14. That the proposed NCDOT drainage improvements for S. Greensboro Street be coordinated and installed in advance-of or concurrent-with the installation of the South Green drainage improvements.
15. 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.
16. Per Section 15-263.1, 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.
17. That, prior to issuance of a CO, a final plat, or the certification of a stormwater BMP, the Town may require a performance security to be posted for a period of two years per the provisions of Section 15-263 (i).
18. That all temporary and permanent easements be obtained prior to construction plan approval. Easements shall also be shown on a recorded final plat.
19. That the developer provide a written statement from the electrical utility stating that electric service can be provided to all locations shown on the construction plans prior to the approval of the construction plans.
20. Prior to construction plan approval, all proposed lighting within public rights-of-way must satisfy the Public Works street lighting policy.
21. That fire flow calculations and building-sprinkler design (as required) must be submitted and approved by the Town Engineer and Town Fire Department prior to construction plan approval.
22. That the Board of Aldermen hereby finds acceptable the deviations from the architectural requirements

of Section 15-178 of the LUO per the elevations and information presented at the public hearing.

23. That prior to construction plan approval, the applicant submit materials to satisfy the Construction Management Plan provisions of Section 15-49(c1).
24. That prior to issuance of a certificate of occupancy, a final plat will be recorded including the newly established public right-of-way.