

**REGULAR MEETING OF
THE VILLAGE OF CLEMMONS PLANNING BOARD
April 16, 2019 Minutes**

The Village of Clemmons Planning Board met on Tuesday, April 16, 2019 at 6:00 p.m. at Village Hall, Clemmons, North Carolina. Members present were: Rob Cockrum, Brad Hunter, Martin Majorel, David Orrell, Chad Plass, Gail Pritchard and Edee Wilcox. Member Bobby Patterson was absent.

CALL TO ORDER

The regular meeting was called to order at 6:00 p.m. by Chair Gail Pritchard.

APPROVAL OF MINUTES

David Orrell made a motion to approve the March 19, 2019 minutes as written. Martin Majorel seconded the motion which was unanimously approved.

ANNOUNCEMENTS

There were no announcements.

PUBLIC COMMENTS

There were no public comments and nine citizens in attendance.

BUSINESS

- A. Public Hearing for Rezoning request for Clemmons AAA Storage from LO-S to GB-S (General Business – Special Use) (Storage Services, Retail) for property located at 2225 Lewisville-Clemmons Road, PIN 5893-07-2544, consisting of approximately 2.67 +/- acres as shown on a site plan located in the Village of Clemmons Planning Department. (Zoning Docket C-230)**

Planner Ledbetter reviewed the rezoning request and the site plan for Clemmons AAA Storage. The land is currently zoned LO-S and the petitioner is requesting GB-S (General Business – Special Use) for storage services. The current Land Use Plan calls for Mixed Use – Residential which includes a variety of residential uses and ancillary small service-related uses. Staff advised this requested use of storage services does not meet the intent of the land use definition. The Planner did comment the storage units would provide additional tax base to the Village and a nominal amount of traffic generation. Based on the design of the site the petitioner did not provide an opportunity for cross access or future stub connection. There is not a proposed dumpster onsite.

Staff recommends Denial of the zoning request due to not meeting the requirements of the land use plan.

Chair Gail Pritchard opened the public hearing.

Proponents:

Chad Hockaday, 7622 Bentley Road, Greensboro, NC 27409 and Tim Shaw of 1915 Independence Road, Greensboro, NC 27408 representing the petitioner were present to answer questions. Mr. Hockaday advised they had met with the neighbors on Sedalia and received a good response.

The Board asked several questions of the petitioner.

- Why no dumpster? Dumpster is not provided because they tend to be misused and get filled with miscellaneous items from storage. If they are not available the patrons haul off all their belongings.
- Is there an on-site manager? Yes, six days a week.
- Can a stub street be provided? Would have to stub into business center next door but would do so if requested.
- Are there elevators? No, bottom level of building is accessible from the rear and top of the building is accessible from the front entrance. No elevators are necessary.
- Are outdoor parking spaces rented for storage of boats, RVs, etc.? No outdoor rental spaces allowed.
- Can a berm be placed between Sedalia neighborhood and petitioner's proposed business? Petitioner would be willing to put in a berm if necessary.

Opponents:

Fabio Almeida, 3601 Edgemoor Court, Clemmons, NC 27012, owner of one of the properties in the business center next door. Mr. Almeida is afraid the proposed site will take away from the family atmosphere. He commented that it may bring tax money to the Village but the property around the proposed site would be decreased in value.

Christa Neuhauser, 3601 Edgemoor Court, Clemmons, NC 27012, owner of one of the properties in the business center next door. Ms. Neuhauser is concerned that property values will decrease if the proposed site is built. She doesn't want the stub street coming through the business center parking lot. She also questioned whether five parking spaces would be enough to handle the customers at the proposed location.

Jonathan Lee, 2235-C Lewisville-Clemmons Road, Clemmons, NC 27012 and Matthew Kostelic, 2265 Lewisville-Clemmons Road, Clemmons, NC 27012 are the HOA representatives for the twenty-one owners in the business center. They believe the current zoning is the best use of the land as stated in the Comprehensive Plan for the Village of Clemmons and requested the Planning Board to uphold that land use. They also read a letter from one of the owners that could not be present, John Bachman, 2255 Lewisville-Clemmons Road, Clemmons, NC 27012, stating that he did not think Lewisville-Clemmons was the best location for this type of business.

There being no further discussion Chair Gail Pritchard closing the public hearing.

The Board held a lengthy discussion.

Brad Hunter advised the Board that he had actually gone to visit the Kernersville location and found it to be a nice-looking facility and very well maintained. He also talked with several of the land owners in the adjoining properties and none of them had any objections to the facility.

David Orrell stated the proposed plan was not in conformity with the Community Compass, does not conform to the look of the business center and he does not think it should be approved.

Rob Cockrum remarked that the building stands too high for the location. He questioned if the façade could be changed. The petitioner replied that due to the lay of the land the front facing Lewisville-Clemmons Road will only look like a one-story building while the back entrance will be two story. The petitioner was requested to look at the peak of the front and try to lower it to blend in with the business center.

Martin Majorel was concerned that the allotted five parking spaces would be used for storage. The Planner advised that could not happen due to fire access restrictions for drive aisle as well as unified development ordinance requirements.

David Orrell made a motion to adopt the statement of conformity as stated in the Staff Report and recommend denial of the rezoning request for C-230. Martin Majorel seconded the motion. The vote failed with a count of 3-4. David Orrell, Martin Majorel and Edee Wilcox were the nay votes.

Brad Hunter made a motion to adopt the statement of conformity as stated in the Staff Report and recommend approval of the rezoning request for C-230. (Attached hereto as Exhibit A and incorporated into the minutes.) Chad Plass seconded the motion which passed with a count of 4-3. David Orrell, Martin Majorel and Edee Wilcox were the nay votes. Chair Gail Pritchard abstained which allowed the motion to carry.

Brad Hunter approved the site plan as presented adding a condition for the elevation to be lowered to be more consistent with the business center. Rob Cockrum seconded the motion which was approved by a vote of 5-2 with David Orrell and Martin Majorel casting the nay votes.

Conditions for Zoning Docket C-230:

The following proposed conditions are from interdepartmental review comments and are proposed in order to meet codes or established standards, or to reduce negative off-site impacts.

PRIOR TO THE ISSUANCE OF ANY PERMITS:

- a. The Developer shall obtain a stormwater management permit from the Village of Clemmons Stormwater Administrator.
- b. The Developer shall obtain a grading permit if 10,000 square feet or more is disturbed.

PRIOR TO THE ISSUANCE OF GRADING PERMITS:

- a. The Developer shall obtain a driveway a driveway permits from the Village of Clemmons and NCDOT.

PRIOR TO THE ISSUANCE OF BUILDING PERMITS

- a. The Developer shall submit a utility plan for review
- b. The Village of Clemmons Planning Department shall review and approve building elevations. *The parapet tower shall be lowered to provide building massing that is complementary to office complex to the south.*
- c. Developer shall have internal infrastructure in place and it shall support 90,000 pounds for fire apparatus movement.

PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:

- a. Developer shall obtain a stormwater occupancy permit from the Village of Clemmons Stormwater Administrator
- b. Developer shall verify there is a fire hydrant within 400' of the proposed structure.

OTHER CONDITIONS:

- a. All on site lighting shall be a maximum of 25 feet tall and shall be of the full cut off type or otherwise designated not to cast direct light on adjacent properties. Lighting shall be in conformance with the submitted Photometric Plan with light levels not to exceed the 0.5 foot-candle limit at the property line.
- b. All proposed utilities shall be underground.
- c. If a compactor is constructed it shall be screened on three sides with masonry material/construction with an approved gate at the opening.
- d. The proposed use shall not allow for habitation onsite.

B. Public Hearing for Text Amendment of an ordinance amending the Unified Development Ordinances to revise the Electronic Sweepstakes operation use. (Docket C-UDO-81).

Planner Ledbetter advised the electronic sweepstakes ordinance being proposed is developed after the Winston-Salem modification that was approved late 2018. Winston-Salem developed an amendment to the Unified Development Ordinance in 2014 to establish the use electronic sweepstakes and limited them to Highway Business Special Use zoning districts. The Village determined at that time due to state law not to allow sweepstakes within the municipal boundaries. Since that time the State has taken different stances over the year regarding the legality of such uses. Currently the Village has three electronic sweepstakes that were permitted under the personal services A. The City of Winston-Salem recently has taken steps to define electronic sweepstakes in more detail.

The rationale from the Winston-Salem's Attorney office is as follows *"In order to align the Unified Development Ordinance with the City's practice and current state criminal law, the proposed ordinance change would clarify that permits will not be issued to sweepstakes operations which award cash prizes. If, on the other hand, a business wished to award prizes in the form of merchandise with a value of ten dollars or less, the business would be classified as Recreation Services, Indoor. Staff believes the proposed amendment will help clarify the current rules for such operations."*

There is a slight difference between the Winston-Salem Ordinance and the Village of Clemmons proposal is is a six-month amortization period for any existing sweepstakes. Legal advice tells the Village in this instance that removing the amortization could help as those uses would become legal non-conforming and the amendment would only apply to new sweepstakes businesses. The would give the Village some additional time prior to the amendment being challenged.

The Planner advised the Board of the three choices for text amendment C-UDO-81:

- recommend approval to use the six-month amortization schedule to close all electronic sweepstakes locations;
- recommend removing the six-month amortization schedule from the text amendment and state that no new locations can be permitted but all existing permitted locations may remain;
- recommend denial of the text amendment and do nothing to prevent new locations from opening.

It is the recommendation of staff to follow legal counsel's advice and remove the six-month amortization schedule.

Chair Gail Pritchard opened the public hearing. There being no citizen in attendance the public hearing was closed.

There was a short discussion on why the existing locations should be allowed to remain. Attorney David Kasper advised that he would not recommend proceeding to revoke an existing permitted business that has not violated the conditions of their permit.

Martin Majorel made a motion to recommend approval of text amendment C-UDO-81 to revise the electronic sweepstakes operation use after removing Section 3. 2-5.25.2(B) and Section 4. (B). (Attached hereto as Exhibit B and incorporated into the minutes.) This revision would allow the existing permitted electronic sweepstakes locations to remain open but no permits for new locations will be issued. If the existing permitted locations should close for at least a six-month period that permit would no longer be valid. David Orrell seconded the motion which was unanimously approved.

C. Staff Report – next scheduled meeting May 21, 2019

ADJOURNMENT

Chair Gail Pritchard adjourned the meeting at 7:20 p.m.

Respectfully submitted:

Patricia A. Fife, Sr. Admin. Assistant

Interim Secretary Brad Hunter