

## **Rezoning Decision: Application 2019-702, BAPS Charlotte, LLC**

TO: Mayor and Board of Commissioners

FROM: Jay Camp, Planning Director

DATE: November 6, 2019

### **Background/Issue**

- On 10/22, Planning Board recommended approval of the rezoning in a 5-2 vote.
- The following noteworthy changes were made since the Public Hearing. Most updates relate to tree save and construction sequencing and staging. The attached conditional notes with text highlighted in blue contain the most recent changes.
- Two construction entrances will be provided and located where the permanent driveways are planned.
- Off-duty officers will be provided at each entrance for any weekday event exceeding 200 guests. No off-duty officers are required for weekend events.
- Independence Commerce Drive will be inspected prior to construction. Any damage caused by construction activities will be repaired.
- On-street parking will be prohibited in the vicinity of the neighboring business park driveway and in the cul de sac (Subject to Town approval).
- The applicant seeks to reduce the amount of retaining wall on the property and requests an approximately .50-acre reduction in tree save via the fee in lieu allowance in the UDO. The estimated fee in lieu to be deposited in the tree fund is approximately \$50,000. The areas on the site plan that are cross hatched in green indicate where additional trees are to be removed.

### **Proposal/Solution**

Staff has requested clarification regarding plans for revegetation of the areas planned for tree removal. An update will be provided on Monday.

### **Financial Impact**

None

### **Related Town Goal**

Quality of Life and Economic Development/Land Use Planning

### **Recommended Action**

Approve Application 2019-702 pending resolution of all outstanding questions or concerns.

**DRAFT---FOR APPROVAL**

**STATEMENT OF CONSISTENCY WITH LOCAL ADOPTED GROWTH POLICIES  
Final Decisions on Zoning-Related Issues**

ZONING APPLICATION # 2019-702

ZONING MOTION # \_\_\_\_\_

ADMINISTRATIVE AMENDMENT \_\_\_\_\_

Matthews Board of Commissioners adopts the checked statement below:

A) X The requested zoning action, as most currently amended, is **approved**, and has been found to be **CONSISTENT** with the Matthews Land Use Plan (or other document(s)), and to be **REASONABLE**, as follows:

**CONSISTENT: with Matthews Land Use Plan as it allows an institutional use to be developed in the vicinity of the I-485/US74 intersection. The Land Use Plan calls out institutional uses as appropriate in this area of the Town**

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**REASONABLE: The rezoning is reasonable because it establishes a place of worship in a area of Town that is evolving with a mix of both residential and institutional uses.**

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OR

**DRAFT – FOR DENIAL**

B) \_\_\_\_\_ The requested zoning action, as most currently amended, is **not approved**, and has been found to be **INCONSISTENT** with the Matthews Land Use Plan (or other document(s)), and **NOT REASONABLE**, as follows:

**INCONSISTENT: The rezoning is inconsistent with the Land Use Plan as it allows institutional, not commercial uses to be located near the US74 corridor**

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**NOT REASONABLE: The rezoning is not reasonable as it will create heavy peak time traffic congestion and will result in the loss of significant tree canopy in the neighborhood.**

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*(In each case, the Statement must explain why the Board deems the action reasonable and in the public interest (more than one sentence). Reasons given for a zoning request being “consistent” or “not consistent” are not subject to judicial review.)*

Date: *November 11, 2019*

## DEVELOPMENT STANDARDS

October 230, 2019

### **1. GENERAL PROVISIONS**

- A. These Development Standards form a part of the Rezoning Plan associated with the Rezoning Application filed by BAPS Charlotte, LLC (the “Applicant”) for an approximately 16.31 acre site located along Independence Commerce Drive between Mt. Harmony Church Road and Stevens Mill Road in Matthews, North Carolina, which site is more particularly depicted on the Rezoning Plan (hereinafter referred to as the “Site”). The Site is comprised of Tax Parcel Nos. 215-094-02 and 215-094-06.
- B. The development and use of the Site will be governed by the Rezoning Plan, these Development Standards and the applicable provisions of the Town of Matthews Unified Development Ordinance (the “Ordinance”). Unless the Rezoning Plan or these Development Standards establish more stringent standards, the regulations established under the Ordinance for the R/I zoning district shall govern the use and development of the Site.
- C. The location and layout of the principal building to be constructed on the Site and the associated parking lots and drive aisles are conceptual in nature and may be altered or modified during design development and construction phases subject to the requirements of the Ordinance.
- D. The parcels of land that comprise the Site may be recombined or further subdivided provided that any such recombination or subdivision meets the requirements of the Ordinance.
- E. The development of the Site proposed under this Rezoning Plan shall be considered to be a planned/unified development. Therefore, side and rear yards, buffers, building height separation requirements and other similar zoning standards shall not be required internally between improvements, uses and other site elements located on the Site, provided, however, that the development of the Site shall be required to meet any applicable setback, side yard, rear yard, buffer and building height separation requirements with respect to the exterior boundaries of the Site.
- F. Future amendments to the Rezoning Plan and/or these Development Standards may be applied for by the then owner or owners of the Site in accordance with the provisions of Chapter 4 of the Ordinance. Minor alterations or changes to the Rezoning Plan and/or these Development Standards are subject to Section 155.401.5 of the Ordinance.

### **2. PERMITTED USES**

- A. The Site may only be devoted to a church and place of worship without size restrictions and to any incidental and accessory uses associated therewith that are allowed in the R/I zoning district including, without limitation, a cafeteria, classrooms, recreation facilities-

~~and~~, fellowship/assembly areas and dormitories/residential accommodations for visiting priests.

### 3. MAXIMUM GROSS FLOOR AREA; PHASED DEVELOPMENT

- A. The principal building to be constructed on the Site may contain a maximum of 90,000 square feet of gross floor area.
- B. The principal building to be constructed on the Site may be built in multiple phases, at the Applicant's discretion, provided, however, that each phase shall be substantially similar in architectural style and character.

### 4. DIMENSIONAL STANDARDS

- A. The development of the Site shall comply with the applicable dimensional standards of the R/I zoning district.

### 5. ARCHITECTURAL STANDARDS

- A. The maximum height of the principal building to be constructed on the Site shall be 40 feet, provided, however, that any structures permitted under Section 155.601.8 of the Ordinance may exceed this height limit consistent with the provisions of the Ordinance.
- B. Attached to the Rezoning Plan are a series of conceptual, architectural perspectives and elevations of the principal building to be constructed on the Site, intended to depict the general conceptual architectural style and character of the building. Accordingly, such building shall be designed and constructed so that it is substantially similar in appearance to the attached relevant conceptual, architectural perspectives and elevations with respect to architectural style, design and character. Notwithstanding the foregoing, changes and alterations to the exterior of the building that do not materially change the overall conceptual architectural style and character shall be permitted.

- C. The principal building constructed on the Site may use a variety of building materials. The building materials used ~~for buildings~~ will be a combination of the following:

- Cast Stone
- FRP/GFRC
- Stucco (traditional cementitious)
- Stucco Textured Metal Panel
- Smooth Metal Panel
- Masonry (Brick and or CMU - ~~integral~~integral color and/or ground face)
- Exposed Structural Steel (painted)
- Perforated Metal Panel Screening
- Aluminum Storefront windows and doors

### 6. SCREENING, LANDSCAPING AND BUFFERS

- A. Screening and landscaping shall conform to the standards of the Ordinance.

~~B.~~

B. Tree preservation areas will meet the intent of the Ordinance and may occur in areas generally depicted on the Rezoning Plan. Notwithstanding the foregoing, in accordance with the requirements and standards of the Ordinance, the Applicant may pursue a reduction in the amount of tree preservation areas and reserves the right to mitigate the reduction of tree preservation areas by paying into the Town of Matthews Tree Canopy Fund in lieu of meeting the on-site tree canopy requirements, and/or through revegetation as agreed upon by the Applicant and Town of Matthews Planning Staff.

C. The Site Applicant shall ~~comply~~work with and obtain the ~~tree-save requirements~~approval of the ~~Ordinance~~Town Arborist regarding appropriate, non-invasive species for streetscape and interior plantings.

## 7. TRANSPORTATION AND PARKING

A. Vehicular access shall be as generally depicted on the Rezoning Plan. The placement and configuration of the access points are subject to any minor modifications required by the Town of Matthews and/or the North Carolina Department of Transportation (“NCDOT”).

B. Vehicular parking shall be provided on the Site in accordance with the requirements of the Ordinance.

C. The alignments of the internal drives and parking areas to be located on the Site are subject to any minor modifications or alterations required during the design development and construction permitting processes.

D. The Applicant shall be permitted to install a gate across the Site’s access point located on Stevens Mill Road, and shall be permitted to control access to the same; provided, however, that said access point shall be available for ingress and egress during any event for which more than 200 guests are expected.

E. Streetscape improvements shall be installed along all road frontages in accordance with the requirements of the Ordinance.

F. The Applicant shall engage at least one off-duty police officer to direct traffic on Independence Commerce Drive, and at least one off-duty police officer to direct traffic at the Site’s access point located on Stevens Mill Road, for any weekday event for which more than 200 guests are expected.

G. Subject to the approval of the Town of Matthews, the Applicant shall stripe a “no parking” area measuring 131 feet along the northwest side of Independence Commerce Drive, directly across from the lower entrance to the neighboring business park, in the location more generally depicted on the Rezoning Plan, and on-street parking shall not be permitted in that area.

H. Subject to the approval of the Town of Matthews, on-street parking shall not be permitted in the cul-de-sac at the terminus of Independence Commerce Drive.

## **8. CONSTRUCTION AND DEVELOPMENT OF THE SITE**

A. Following the completion of site grading, but prior to installation of stone, ABC and/or crushed aggregate, all construction activities, including parking, stacking and staging, shall take place on the Site.

B. During construction and development of the Site, the Applicant shall instruct its construction and site development contractors (“Contractors”) to manage and direct traffic on Independence Commerce Drive as necessary to maintain access to and from Independence Commerce Drive to the neighboring business park. The Applicant further shall instruct its Contractors that they are prohibited from using the driveways into the neighboring business park for access or for turnaround.

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C. Prior to commencement of construction and development of the Site, the Applicant and Town of Matthews shall document the then-existing condition of Independence Commerce Drive. Following completion of construction and development of the Site, the Town of Matthews shall inspect Independence Commerce Drive and determine whether the Applicant’s Contractors have caused any damage to Independence Commerce Drive and, if any such damage has occurred, the Applicant agrees that it shall be responsible for repairing Independence Commerce Drive to the condition existing prior to commencement of construction and development of the Site.

D. Construction vehicles with metal tracks shall not be permitted to utilize public streets, but rather must be transported to the Site by trailer.

## **9. LIGHTING**

A. All lighting installed on the Site shall comply with the requirements of the Ordinance.

## **910. SIGNS**

A. All signs installed on the Site shall comply with the requirements of the Ordinance.

## **1011. STORM WATER**

A. The development of the Site shall comply with Chapter 8 of the Ordinance.

## **1112. TRASH REMOVAL**

A. Trash and recycling service/pick-up may only occur between the hours of 7:00 A.M. and 7:00 P.M. Accordingly, trash and recycling service/pick-up may not occur prior to 7:00 A.M. or after 7:00 P.M.

**1213. BINDING EFFECT OF THE REZONING APPLICATION**

- A. If this Rezoning Application is approved, all conditions applicable to the development and/or use of the Site imposed under this Rezoning Plan will, unless amended in the manner provided under the Ordinance, be binding upon and inure to the benefit of Applicant and the current and subsequent owners of the Site and their respective successors in interest and assigns. Throughout these Development Standards, the terms, “Applicant” and “owner” or “owners” shall be deemed to include the heirs, devisees, personal representatives, successors in interest and assigns of Applicant or the owner or owners of the Site from time to time who may be involved in any future development thereof.

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