

AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE TOWN OF PITTSBORO

WHEREAS, the Board of Commissioners of the Town of Pittsboro has considered the Application REZ-2013-01 by Randolph Development Group LLC to amend the zoning map of the Town of Pittsboro to rezone the property described on Exhibit A attached hereto and incorporated herein by reference from C2-CU (Highway Commercial Conditional Use District) and C-2 (Highway Commercial) to C-2 CZ (Highway Commercial, Conditional Zoning District) pursuant to the provisions of NCGS 160A-385 and Article X of the Town of Pittsboro Zoning Ordinance and finds that the amendment is consistent with the Land Use Plan of the Town of Pittsboro and other applicable adopted plans, policies and documents; and

WHEREAS, the Board of Commissioners of the Town of Pittsboro has also considered the Site Plan proposed by Randolph Development Group LLC as a part of its rezoning application, revised as of June 18, 2013; and

WHEREAS, the Town Planning Board has reviewed the application in detail, considered public comment and forwarded the request to the Town Board of Commissioners with a positive recommendation for approval; and

WHEREAS a Public Hearing was held on June 24, 2013 to solicit comments and concerns which were duly considered and acknowledged; and

WHEREAS, the area proposed to be rezoned is located in the vicinity of the US 64 / 15-501 interchange and is an area that is adjacent and/or within close proximity to C-2 zoned property; and

WHEREAS, the area proposed to be rezoned is a reasonable location for commercial uses and would be suitable for the uses permitted herein; and

WHEREAS, the proposed rezoning is reasonable considering the size and location of the tract and the potential impact to the surrounding community subject to the Stipulations and Conditions attached hereto as Exhibit B; and

WHEREAS, the location is subject to a relative high traffic volume compared to other locations within the community; and

WHEREAS, the proposed rezoning advances the public interest of the Town if developed according to the Stipulations and Conditions and Site Plan as modified as hereinafter set forth and approved hereby;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF PITTSBORO as follows:

1. That for the reasons hereinabove stated and subject to the Stipulations and Conditions attached hereto as Exhibit B, the property described on Exhibit A attached hereto and more particularly described in Application REZ-2013-01 by Randolph Development Group LLC as amended and modified herein, be rezoned from C2-CU and C-2 to C-2-CZ.

2. That development of the property described on Exhibit A in accordance with the Stipulations and Conditions and the Site Plan of Randolph Development Group, LLC attached and incorporated by reference be, and it hereby is, approved.

3. That the Site Plan revised as of June 18, 2013, a copy of which is attached hereto as Exhibit C, is approved pursuant to Articles X and XV of the Town of Pittsboro Zoning Ordinance.

4. That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

Adopted this day of _____, 2013.

TOWN OF PITTSBORO

By: _____
Mayor

ATTEST:

Clerk

EXHIBIT A

PROPERTY DESCRIPTION

EXHIBIT B

Stipulations Specific to the Development.

1. Construction Deadlines. This ordinance shall automatically expire on the first anniversary of its issuance unless (a) construction of required project-related infrastructure improvements has commenced; or (b) a timely filed application for an extension of time has been approved by the Town. This ordinance shall automatically expire on the third anniversary of its issuance unless (a) the construction of all required project-related infrastructure improvements has been completed; or (b) a timely filed application for an extension of time has been approved by the Town.

2. Land Use. This conditional zoning ordinance approves:

Gross Land Area	2.452 acres
Minimum Lot Size	No minimum
Minimum Street frontage	No minimum

Commercial Standards:

Maximum Area	
Restaurant	3,808 SF
Retail	8,000 SF

Maximum Building Height	50 feet
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Maximum Impervious Surface	53%
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Building Setbacks

US 15-501	50'
Russett Run	50'
Suttles Road	25'

Parking:	Restaurant: Minimum of 28 spaces
	Retail: Minimum of 5 spaces per 1,000 square feet of gross floor area

Prohibited Uses:

- Boarding and Rooming Houses
- Cemetery or mausoleums
- Correctional, penal institutions, jails
- Outside storage of used, wrecked, inoperable or dismantled automobiles
- Funeral home or crematorium
- Theater, outdoor
- Adult bookstore, adult entertainment club, adult theater

- Automobile sales, new and used
- Flea markets
- Fuel oil sales
- Manufactured home sales
- Massage Parlors (Massage uses to be allowed as accessory uses to Day Spas or other such businesses)
- RV, boat, agricultural implement, heavy machinery sales, rental storage
- Flammable liquids or gases, bulk storage, <100,000 gallons
- Manufacture and assembly of electric and neon signs, billboards, light sheet metal products, etc.
- Public utilities; with service and storage yards
- Transportation terminals, freight
- Carwash, self-service (self-service carwash uses to be allowed as accessory uses to convenience stores, automobile service stations or other such businesses)
- LP gas refueling station (small gas tank exchange operations to be allowed as accessory uses to convenience stores or other retail businesses)
- Telephone exchanges with towers over 50 feet in height

Allowed Uses: All other uses permitted as a matter of right in the C-2 Zoning District.

3. Watershed Management. A detailed watershed protection plan which shall include impervious surface calculations and a monitoring plan to assure compliance with the maximum impervious surface area allowed herein shall be approved by the Town Planner prior to issuance of a zoning compliance certificate. The High Density Option proposed by the Applicant may be utilized for all of the property subject to this ordinance and all of the land uses allowed by this ordinance provided it is constructed in compliance with all applicable provisions of the Town of Pittsboro zoning ordinance in effect as of the date of filing of the Applicant's application for this conditional zoning ordinance, and Sections 5.5.10 through 5.5.13 in particular, including, but not necessarily limited to, engineered watershed protection control measures as depicted upon the approved site plan and that the built-upon impervious surface shall not exceed the maximum permitted herein for the project. Plans for such control measures sufficient to serve all the property subject to this ordinance and all of the land uses allowed by this ordinance shall be approved by the Town Planner prior to issuance of a zoning compliance certificate and no certificate of occupancy for any portion of the project shall be authorized prior to approval by the Town of the control structures for that portion of the project after construction and compliance with the financial assurances required. All such control measures sufficient to serve each portion of the project shall be constructed by the Applicant prior to issuance of a certificate of occupancy for that portion of the project.

4. Storm Water Management. A storm water management plan sufficient to collect and detain runoff from the first one inch of rainfall from the entire project area shall be approved by the Town Engineer prior to issuance of a Zoning Compliance Certificate, and the Applicant is required to provide the Town Engineer with final plans and an impervious surface calculation

sheet. The Applicant shall construct storm water management control measures sufficient to serve all of the property subject to this ordinance and all of the land uses allowed by this ordinance in compliance with all applicable provisions of the Town of Pittsboro zoning ordinance in effect as of the date of filing of the Applicant's application for this conditional zoning and Sections 5.5.10 through 5.5.13 in particular as well as any stormwater regulations adopted pursuant to the Jordan Lake Rules. The Applicant shall construct storm water management control measures sufficient to serve each portion of the project area prior to issuance of a certificate of occupancy for that portion of the project. The plan shall include low-impact stormwater management solutions and best management practices as defined in the North Carolina Department of Environment and Natural Resources Best Management Practices Manual, where practical, to be included into the design at the time of construction drawings are presented to the Town.

5. Fire flow. A fire flow report indicating adequate design shall be approved by the Chatham County Fire Marshal and Town Utilities Director prior to issuance of a zoning compliance certificate. Adequate fire flow shall be demonstrated prior to issuance of a certificate of occupancy. The final plans shall indicate adequate access for pumper trucks.

6. Lighting Plan Approval. Site lighting shall be pedestrian scale lighting along the storefronts and proposed streets within the development. The pedestrian scale lighting shall be capped to direct light downward. Parking lot lighting within the parking lot areas shall not exceed thirty (30) feet in height. All parking lot lighting and lighting in the rear of the buildings shall be designed such that direct illumination does not extend beyond the property line. Wall pack light fixtures will not be allowed on any structures. However, directive light fixtures will be permitted. All street lighting and parking lot lighting shall meet Town lighting standards in effect as of the date of filing of the Applicant's application for this conditional zoning ordinance.

7. Utility and Access Easements. Documents establishing easements as required by the Town for infrastructure required for each portion of the project shall be recorded prior to issuance of a Zoning Compliance Certificate for that portion of the project.

8. Signage. All signage located upon the property shall comply with town standards.

Stipulations Regarding State and Federal Government Approvals

9. Ordinances. A commercial driveway permit from the North Carolina Department of Transportation (NCDOT) for each entrance to the project, including a right-turn in / right-turn out access to Russet Run and a full-motion access to Suttles Road shall be obtained and copies submitted to the Town prior to issuance of a Zoning Compliance Certificate for any portion of the project served by each entrance. For all work authorized by NCDOT for each portion of the project, the Applicant shall provide an encroachment agreement, approved by the NCDOT, for any work proposed in the NCDOT right-of-way, including improvements, utilities, sidewalks, driveways, landscaping, and the like, subject to Town approval, prior to issuance of a certificate of occupancy for that portion of the project. An approved Soil Erosion, Sediment Control Plan for each portion of the project shall be submitted to the Town Planner prior to the issuance of a Zoning Compliance Certificate for that portion of the project. Any other required State or Federal

ordinances or encroachment agreements shall be obtained and copies submitted to the Town prior to issuance of a certificate of occupancy.

10. Improvements. Off-site improvements required by NCDOT or any other agency with jurisdiction shall be constructed at no cost to the Town.

Stipulations Regarding Required Improvements

11. Parking areas, Sidewalks and Walkways. Pedestrian conveyances shall be installed in accordance with the ordinances and policies of the Town in effect as of the date of filing of the Applicant's application for this conditional zoning ordinance. The Applicant shall provide a Town standard 5-foot wide sidewalk with 30-inch curb and gutter along Russet Run and Suttles Road, as follows:

Approximately 358 linear feet of curb and gutter on the south side of Russet Run;
Approximately 283 linear feet of sidewalk on the south side of Russet Run; and
Approximately 225 linear feet of curb and gutter on the west side of Suttles Road,

subject to Town Planner approval of each section of sidewalk and curb and gutter prior to issuance of a certificate of occupancy for any portion of the project that is immediately adjacent to that section of sidewalk and curb and gutter. Parking areas and roof treatments shall incorporate low impact development applications as defined in the DENR BMP Manual where practicable.

Parking and off-street loading areas shall be installed in accordance with the ordinances and policies of the Town in effect as of the date of filing of the Applicant's application for this conditional zoning ordinance unless specified otherwise herein.

12. Streets. Driveways and improvements to existing public roads shall be designed and constructed to NCDOT standards.

13. Utilities.

(a) The Applicant shall demonstrate availability of adequate water and wastewater supplies to serve each portion of the property and plans for provision of the same shall be approved by the Town Engineer prior to issuance of a zoning compliance certificate for that portion of the project. Such plans shall be in conformity with any Town policies then in effect and the Applicant shall pay all fees and charges associated with the project, including then current utility acreage and capital reserve fees, review and inspection charges prior to issuance of a certificate of zoning compliance. The entire cost of extending such utility services shall be borne by the Applicant.

Water and wastewater facilities shall be offered to the Town for acceptance for maintenance upon completion in accordance with the approved plans and policies of the Town. Acceptance shall be conditioned upon provision of adequate security to warrant the construction for a period of not less than one year.

(b) Adequate wastewater service shall include provision of a gravity collection line of sufficient size to accommodate current and projected demand of the project in the applicable drainage basin to the Town's existing or planned collection system to be constructed at no cost to the Town.

(c) All plans for underground water distribution and wastewater collection utilities for any portion of the project shall be approved by the Town and other applicable regulatory agencies prior to issuance of a certificate of zoning compliance for that portion of the project. All plans for other underground utilities including gas, electric distribution, communications and cable television for any portion of the project shall be approved by the respective utilities involved prior to issuance of a certificate of occupancy for that portion of the project. Upon completion the Town shall be provided as-built plans for all utilities to be accepted by the Town for maintenance.

Stipulations Related to Landscape Elements

14. Landscaping/Screening. All required screening and buffers for any portion of the project as shown on the approved Landscape Plan (Sheet C1.1) shall be in place prior to issuance of a certificate of occupancy for that portion of the project. Existing vegetation may be used to fully or partially fulfill the landscaping and buffer requirements of the Town. Proposed street trees along U.S. Highway 15-501 are to be a minimum of 4-inch caliper and 16-18 feet in height at time of planting. Proposed shrubs along U.S. Highway 15-501 are to be a minimum of 7 gallons and 30 inches in height at time of planting. Detailed specifications of the proposed plantings appear on the Landscape Plan (Sheet C-1.1).

15. Landscape Protection Plan: Along the frontage of U.S. Highway 15-501, eight significant mature trees will be preserved as referenced on the Landscape Plan (Sheet C-1.1). Applicant shall present details on preservation of these trees and supplemental landscaping at the time construction drawings are presented to the Town. Applicant will explore opportunities to preserve additional existing trees along project frontage where practical dependent upon proposed infrastructure, buildings, vehicular use areas, and further detailed topographic information. The approved site and landscape plan, including parking and other elements, may be modified in the future with the approval of the Planning Director to accommodate efforts to preserve existing trees.

Miscellaneous Stipulations

16. Solid Waste Management Plan. A detailed solid waste management plan for each portion of the project, including recycling and management for construction debris, shall be approved by the Town Planner prior to the issuance of a Zoning Compliance Certificate for that portion of the project. The final plans shall include a detail of proposed service areas and respective access drives. This plan shall include the location and proposed use of containers for refuse and recyclables.

17. Site Plan Modifications. Minor changes in the detail of the approved site plan which will not alter the basic relationship of the proposed development to surrounding properties or the standards and requirements of the Town zoning ordinance or any conditions contained herein, may be approved by the Town Planning Director without going through the standard ordinance review process or a public hearing.

18. Erosion Control. A detailed erosion and sedimentation control plan for each portion of the project including provisions for monitoring and maintenance of facilities and modifications of the plan if necessary shall be approved by the North Carolina Department of Environment and Natural Resources and submitted to the Town Planner prior to the issuance of a Zoning Compliance Certificate for that portion of the project.

19. Silt Control. The Applicant shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.

20. Construction Management Plan. A Construction Management Plan for each portion of the Project, indicating how construction vehicle traffic will be managed, shall be approved by the Planning Department prior to the issuance of a Zoning Compliance Certificate for improvements in that phase. No Certificates of Occupancy shall be issued for a portion of the project until all required public improvements for that portion of the project are complete; no Certificates of Zoning Compliance or Building permits for any portion of the project shall be issued until all public improvements required in previous portions of the project are completed to a point adjacent to the new portion, and if applicable a note to this effect shall be placed on the final plan and/or plat.

21. As-Built Plans. As-built plans in DWF binary format using State plane coordinates, shall be provided for all public improvements and all other existing or proposed impervious surfaces within each portion of the project within sixty (60) days after completion of the public improvements in that portion of the project.

22. Appeal. The Town shall be under no obligation to defend any action, cause of action, claim, or appeal involving the decision taken herein. In the event a response is authorized by the Town concerning this resolution, or any action to enforce the provisions hereof, the Applicant, its successors or assigns shall indemnify and hold the Town harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all actions, causes of action, claims, demands, damages, costs, loss, expenses, compensation, and all consequential damages on account of, either known and unknown, resulting to or from this decision; provided, however, that the Town shall cooperate with the Applicant, its successors or assigns to coordinate efforts and minimize duplicative effort and unnecessary expense in the defense of or response to any and all such actions, causes of action, claims and demands.

23. Fees. Applicant shall pay to the Town all required fees and charges attributable to the development of its project in a timely manner in accordance with the Town's ordinances and regulations, including, but not limited to, utility, subdivision, zoning, recreation and impact fees established from time to time.

24. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed herein.

25. Non-Severability. If any of the above conditions is held to be invalid, this approval in its entirety shall be void.

26. Non-Waiver. Nothing contained herein shall be deemed to waive any discretion on the part of the Town as to further development of the Applicant's property and this ordinance shall

not give the Applicant any vested right to develop its property in any other manner than as set forth herein.

27. Noise Provision: Noise limits shall be between 50 and 55 dBA in the evening (8:00 p.m. to 8:00 a.m.) and 60 dBA in the daytime (8:00 a.m. to 8:00 p.m.). Outdoor loudspeakers shall be avoided, except that restaurant drive-through speaker systems shall be allowed.

28. Ordinance Controls. Consistent with the objectives and purposes of conditional zoning ordinances as described in Section 10.7 of the Town's zoning ordinance, in the event of a conflict between the particular requirements of the Town's ordinances and the approved site plan and these stipulations and conditions, the site plan and these stipulations and conditions shall prevail.

29. Annexation. This ordinance shall automatically expire and the property shall revert to its previous zoning classifications unless an irrevocable petition to voluntarily annex the property affected hereby into the Town of Pittsboro is executed and filed by the property owner within 20 days of the adoption hereof.

30. Future Development. Future development of the property for a second structure shall not be undertaken, nor a certificate of zoning compliance be issued, until such time as: (a) the Town's zoning ordinance shall be amended to allow more than one structure on the same lot as the first structure to be constructed in a conditional zoning district; or (b) the Major Transportation Corridor overlay restrictions are removed from the property affected by this ordinance and the property is recombined to create one lot for each structure proposed to be constructed on the property.