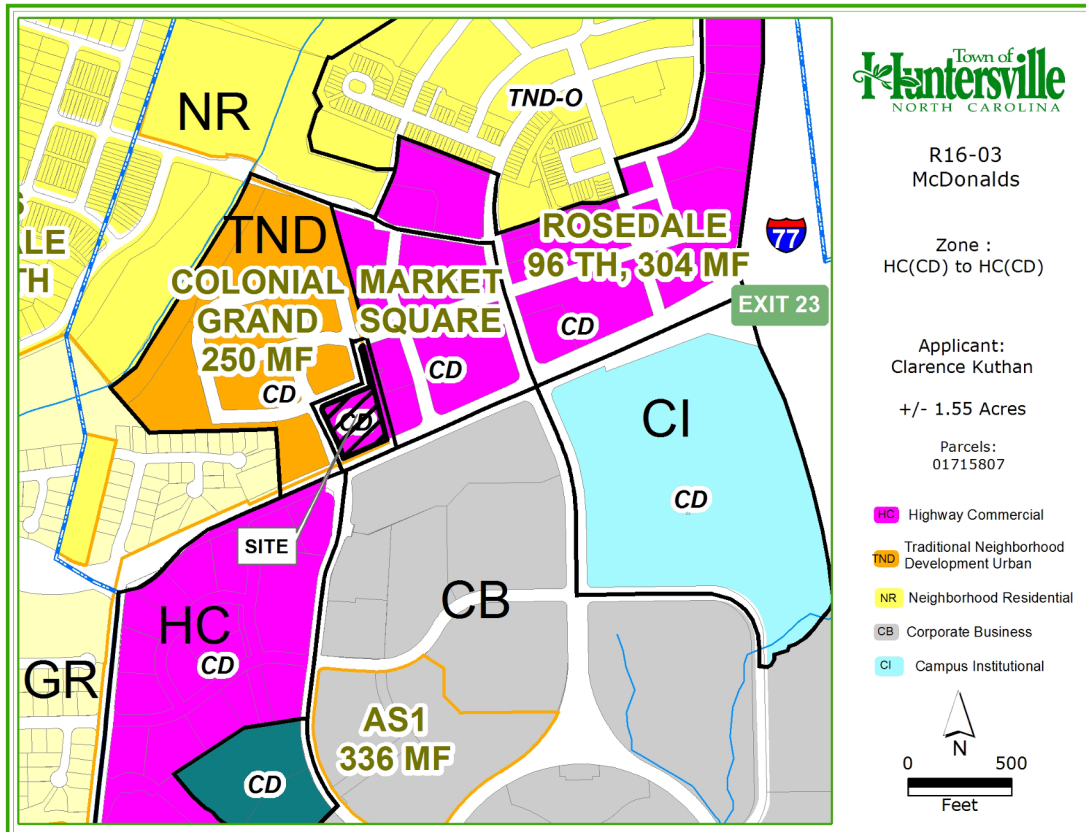


## Petition R16-03 – Boren Street McDonalds

### PART 1: PROJECT SUMMARY



**Applicant:** Jeff Mullins

**Property Owner:** JV Bailey Road, LLC

**Property Address:** 14230 Boren Street

**Project Size:** 1.56 acres

**Parcel Numbers:** 01715807

**Current Zoning:** Highway Commercial Conditional District (HC-CD)

**Current Land Use:** Fast food drive through restaurant

**Proposed Zoning:** Highway Commercial Conditional District (HC-CD)

#### Application Summary:

1. The property owner of the McDonald's restaurant at 14230 Boren Street has requested to amend the approved conditional rezoning plan which limits the hours of operation of the facility. The proposed modification would allow the drive through window to be open 24 hours a day.

2. Adjoining Zoning and Land Uses

North: Traditional Neighborhood Development Conditional District (TND-CD), Colonial Grand multi-family apartment complex.

South: Corporate Business (CB), Torrance Village commercial and retail development (part of the Huntersville Business Park)

East: Highway Commercial Conditional District (HC-CD): Market Square commercial and retail development.

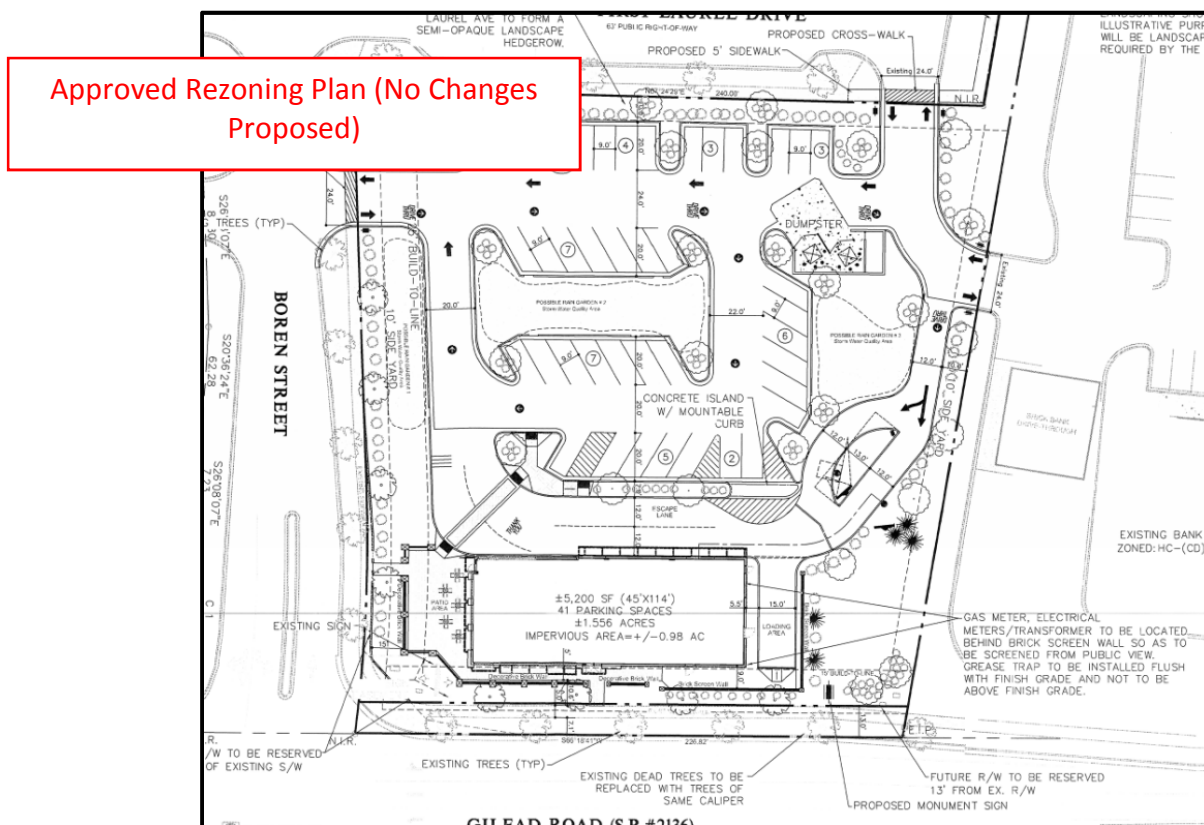
West: Traditional Neighborhood Development Conditional District (TND-CD), General Residential (GR): bank and single family residential neighborhood (Melbourne).

3. The subject property was rezoned by the Town Board from Traditional Neighborhood Development Conditional District (TND-CD) to Highway Commercial Conditional District (HC-CD) on April 20, 2009 (R08-14). The rezoning allowed the development of a free standing drive through restaurant on the property.
4. During the rezoning process, the applicant had ongoing discussions with the adjacent property owners on how to address their concerns about increased traffic and development intensity near the Melbourne neighborhood.

**Proposed Land Use:** Fast food drive through restaurant with 24 hour operation drive through window.

There was a separate agreement discussed between the applicant and McDonald's in regard to installing speed humps within the Melbourne neighborhood. It was clarified at the final action meeting however that this agreement was separate of the rezoning decision and not enforceable by the Town of Huntersville. A copy of the Town Board final action minutes from April 20, 2009 is included in your agenda packet for reference.

5. Seemingly as part of that discussion with the adjacent property owners, an hours of operation condition was offered by the applicant at the final action meeting that would limit the hours of operation for the facility from 5 am to midnight. The Town Board approved that condition and made it part of the rezoning requirements of the site.
6. The proposed rezoning amendment would allow an hours of operation extension for the drive through window only. The dine-in hours of operation restriction is proposed to remain. Please find attached in your agenda packet an email from Police Chief Spruill to the applicant in regard to the overnight hours of operation extension. No further development is proposed with this application.



**Proposed Condition Amendment:**

OWNER RESERVES THE RIGHT TO MODIFY THE ZONING PETITION IN ACCORDANCE WITH N.C. GENERAL STATUTES. MODIFICATIONS TO THIS PETITION/ZONING PLAN MAY INCLUDE THE INSTANCE THAT THIS PETITION/ZONING PLAN LACKS CLARITY. THE ORDINANCE PLAN MAY REQUIRE APPROVAL FROM THE TOWN BOARD.

**SITE LIGHTING:** ALL SITE LIGHTING SHALL COMPLY WITH ARTICLE 8.26 OF THE HUNTERSVILLE ORDINANCE.

**STORE INTERIOR** THE INTERIOR OF THE STORE SHALL BE INITIALLY CONSTRUCTED IN A STYLE SIMILAR TO THE PHOTOGRAPHS OF INTERIORS SHOWN AT THE PUBLIC HEARING; HOWEVER, SPECIFIC FABRICS AND MATERIALS SHALL BE DETERMINED BY THE FRANCHISEE OR STORE OWNER DURING THE PERMITTING PROCESS.

**OPERATING HOURS** OPERATING HOURS OF THE DINING AREA SHALL BE NO EARLIER THAN 5:00 A.M. AND NO LATER THAN MIDNIGHT; HOWEVER THE DRIVE THROUGH SERVICE MAY BE OPERATED 24 HOURS A DAY, SEVEN DAYS A WEEK. NOISE ORDINANCE SHALL BE CONFORMED WITH AT ALL TIMES.

## **PART 2: REZONING/SITE PLAN ISSUES**

- Staff has no site plan issues with the proposed rezoning amendment. Constructed in 2009, the commercial site was developed under current zoning code standards. No new development is proposed with this rezoning amendment application.

## **PART 3: TRANSPORTATION ISSUES**

- The hours of operation change will not significantly affect the number of vehicle trips produced at the site and thus no Traffic Impact Analysis (TIA) is required. Transportation staff has no issues with the proposed rezoning amendment.

## **PART 4: REZONING CRITERIA**

**Article 11.4.7(d) of the Zoning Ordinance states that “in considering any petition to reclassify property, the Planning Board in its recommendation and the Town Board in its decision shall take into consideration any identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents”.**

STAFF COMMENT – Planning staff has no indication that the proposed hours of operation extension will either conflict with or advance any long range plans of the Town of Huntersville.

**Article 11 Section 11.4.7(e) of the Zoning Ordinance states that: “in considering any petition to reclassify property the Planning Board in its recommendation and the Town Board in its decision should consider:**

- 1. Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property.**

**STAFF COMMENT:**

Planning Staff and the Planning Board recommended denial of the original rezoning due to its opinion that the drive through use was out of character with the commercial development on the west side of I-77, as there were no drive through uses constructed or allowed in that area prior to this rezoning (R08-14).

However, it is staff’s opinion that now that the use has been approved and established, the extension of the hours of operation of that use has little impact on the character of adjacent properties.

- 2. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, transit service, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, storm water drainage systems, water supplies, and wastewater and refuse disposal.**

**STAFF COMMENT:**

- In regard to traffic, the proposed change does not create enough vehicle trips to warrant the requirement of a TIA to be submitted. In regard to the increase in police calls, please find Police Chief Spruill’s email included in the packet. The concern is mainly in regard to the “lounge” or walk-in area being open 24 hours

that could cause a potential increase in nuisance activity at the site. There is no concern however with the drive through being open 24 hours as proposed.

- The Adequate Public Facilities Ordinance (APFO) does not apply to this project as there is no new commercial building over 10,000 sqft being proposed.

**3. Whether the proposed reclassification will adversely affect a known archeological, environmental, historical or cultural resource.”**

**STAFF COMMENT:**

Planning staff has no indication that the request will adversely affect known archeological, environmental resources.

**PART 5: PUBLIC HEARING**

The Public Hearing is scheduled for May 2, 2016

**PART 6: STAFF RECOMMENDATION**

The Huntersville Zoning Ordinance does not regulate the hours of operation for a drive through restaurant use. It is believed that the condition of the restricted hours of operation came about in discussion between the applicant and the adjacent property owners during the original rezoning. Staff had no input on the added condition. Therefore staff has no opposition to the condition being removed.

**PART 7: PLANNING BOARD RECOMMENDATION**

The Planning Board meeting is scheduled for May 24, 2016.

**PART 8: CONSISTENCY STATEMENT - R 16-03: Boren Street McDonalds.**

Planning Department	Planning Board	Board of Commissioners
<p><b>Approval:</b> In considering the proposed rezoning of Petition R16-03, the Boren Street McDonalds, the <b>Planning Staff</b> finds that the rezoning is consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. Staff recommends approval of the conditional rezoning plan for the Boren Street McDonalds as shown in Rezoning Petition R16-03. It is reasonable and in the public interest to rezone this property <i>because the amendment to the hours of operation is only for the drive through window, and will have little impact on adjacent properties.</i></p>	<p><b>APPROVAL:</b> In considering the proposed rezoning of Petition R16-03, the Boren Street McDonalds, the <b>Planning Board</b> finds that the rezoning is consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. The Planning Board recommends approving the conditional rezoning plan for the Boren Street McDonalds as shown in Rezoning Petition R16-03. It is reasonable and in the public interest to rezone this property because...(explain)</p>	<p><b>APPROVAL:</b> In considering the proposed rezoning of Petition R16-03, the Boren Street McDonalds, the <b>Town Board</b> finds that the rezoning is consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. We recommend approving the conditional rezoning plan for the Lake Boren Street McDonalds as shown in Rezoning Petition R16-03. It is reasonable and in the public interest to rezone this property because... (Explain)</p>
<p><b>DENIAL.</b></p>	<p><b>DENIAL:</b> In considering the proposed rezoning of Petition R16-03, the Boren Street McDonalds, the <b>Planning Board</b> finds that the rezoning is not consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. We recommend denial of Rezoning Petition R16-03. It is not reasonable and not in the public interest to rezone this property because..... (Explain)</p>	<p><b>DENIAL:</b> In considering the proposed rezoning of Petition R16-03, the Boren Street McDonalds, the <b>Town Board</b> finds that the rezoning is not consistent with the Town of Huntersville 2030 Community Plan and other applicable long range plans. We recommend denial of Rezoning Petition R16-03. It is not reasonable and not in the public interest to rezone this property because..... (Explain)</p>