

STAFF REPORT

Rezoning #23CZ17 0 Herbert Street

February 27, 2024 Town Council Meeting



All property owners, tenants, and neighborhood associations within 300 feet of this rezoning have been notified per UDO Sec. 2.2.11 *Public Notification*.

BACKGROUND INFORMATION:

Location: 0 Herbert Street
Applicant: Russell Copersito, Salem Street Realty, LLC
Owner: RV International Properties, LLC

PROJECT DESCRIPTION:

Acreage: ±.27 acres
PIN: 0741397109
Current Zoning: Medium Density Residential (MD)/Small Town Character Overlay District
Proposed Zoning: Neighborhood Business-Conditional Zoning (B1-CZ)/
Small Town Character Overlay District
Current 2045 Land Use Map: Medium Density Residential
If rezoned as proposed, the 2045 Land Use Map Designation will change to: Commercial Services
Town Limits: Inside Town Limits

Adjacent Zoning & Land Uses:

	Zoning	Land Use
North:	Neighborhood Business (B1)	Vacant
South:	Medium Density Residential (MD)	Single-family detached
East:	Neighborhood Business (B1)	Vacant
West:	Neighborhood Business (B1)	Herbert St.; Railroad; Single-family detached

Existing Conditions:

The property to be rezoned is vacant and located on the west side of Herbert St, which has a paved width of approximately 10 feet and no curb or gutter.

Neighborhood Meeting:

The applicant conducted the first neighborhood meeting on July 21, 2023 and the second on August 28, 2023. The neighborhood meeting reports are attached.

2045 Land Use Map:

The 2045 Land Use Map designates the property as Medium Density Residential. The proposed rezoning to B1-CZ is not consistent with the Land Use Map designation. If the property is rezoned as proposed, the 2045 Land Use Map will automatically be amended to Commercial Services per NCGS 160D-605(a). This

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classification is consistent with the Office Employment/Commercial Services land use classification of the properties to the north and east.

Permitted Uses:

The Rezoned Lands may be used for, and only for, the uses listed immediately below. The permitted uses are subject to the limitations and regulations stated in the UDO and any additional limitations or regulations stated below. For convenience, some relevant sections of the UDO may be referenced; such references do not imply that other sections of the UDO do not apply.

The applicant is proposing the following uses (SUP=Special Use Permit):

- | | |
|--|----------------------------------|
| 1. Government service | 17. Book store |
| 2. Veterinary clinic or hospital | 18. Convenience store |
| 3. Vocational school | 19. Farmer's market |
| 4. Utility, minor | 20. Financial institution |
| 5. Wireless support structure | 21. Floral shop |
| 6. Wireless communication facility | 22. Grocery, general |
| 7. Botanical garden | 23. Grocery, specialty |
| 8. Entertainment, indoor | 24. Health/fitness center or spa |
| 9. Greenway | 25. Newsstand or gift shop |
| 10. Park, active | 26. Personal service |
| 11. Park, passive | 27. Pharmacy |
| 12. Restaurant, general | 28. Printing and copying service |
| 13. Medical or dental office or clinic | 29. Real estate sales |
| 14. Office, business or professional | 30. Retail sales, general |
| 15. Artisan studio (SUP) | 31. Tailor shop |
| 16. Barber and beauty shop | |

PROPOSED ZONING CONDITIONS:

1. The predominant exterior building materials shall be high quality materials, including: brick masonry, decorative concrete block, stone accents, aluminum storefronts with anodized or pre-finished colors, EIFS cornices and parapet trim, precast concrete, or other similar materials as defined in UDO Section 9.3.
2. The main entrance should be emphasized and the exterior shall be more than one color.
3. A privacy fence will be erected between the commercial development and the residential lots. The privacy fence will be at a minimum 6 feet tall.
4. No vehicular access will be allowed from Herbert Street, except for emergency vehicles.

ENVIROMENTAL ADVISORY BOARD:

This rezoning was exempt from meeting with the Apex Environmental Advisory Board (EAB) per Unified Development Ordinance (UDO) Section 2.1.9.A.2.c. The proposed rezoning is in the Small Town Character Overlay District.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of Rezoning #23CZ17 with the conditions as offered by the applicant.

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PLANNING BOARD RECOMMENDATION:

The Planning Board held a public hearing on February 12, 2024 and unanimously recommended approval with the conditions as proposed by the applicant.

ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING:

This Statement will address consistency with the Town's comprehensive and other applicable plans, reasonableness, and effect on public interest:

The 2045 Land Use Map classifies the subject properties as Medium Density Residential. This designation does not include the non-residential uses proposed by this rezoning. If the property is to be rezoned as proposed, the 2045 Land Use Map will automatically be amended to Commercial Services per NCGS 160D-505(a). The proposed rezoning to Neighborhood Business-Conditional Zoning (B1-CZ) will maintain the character and appearance of the area and provide the flexibility to accommodate the growth in population, economy, and infrastructure consistent with that contemplated by the 2045 Land Use Map.

The proposed rezoning is reasonable and in the public interest because it will expand the area available for non-residential development, restrict vehicular access on Herbert Street, and provide a 6' tall privacy fence between the commercial development and residential lots.

CONDITIONAL ZONING STANDARDS:

The Town Council shall find the Neighborhood Business-Conditional Zoning (B1-CZ) designation demonstrates compliance with the following standards. 2.3.3.F:

Legislative Considerations

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

- 1) *Consistency with 2045 Land Use Map.* The proposed Conditional Zoning District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2045 Land Use Map.
- 2) *Compatibility.* The proposed Conditional Zoning District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
- 3) *Zoning district supplemental standards.* The proposed Conditional Zoning District use's compliance with Sec 4.4 *Supplemental Standards*, if applicable.
- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

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- 6) *Impact on public facilities.* The proposed Conditional Zoning District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
- 7) *Health, safety, and welfare.* The proposed Conditional Zoning District use's effect on the health, safety, or welfare of the residents of the Town or its ETJ.
- 8) *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning District use is substantially detrimental to adjacent properties.
- 9) *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
- 10) *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.