

Jones Sausage Road Assemblage

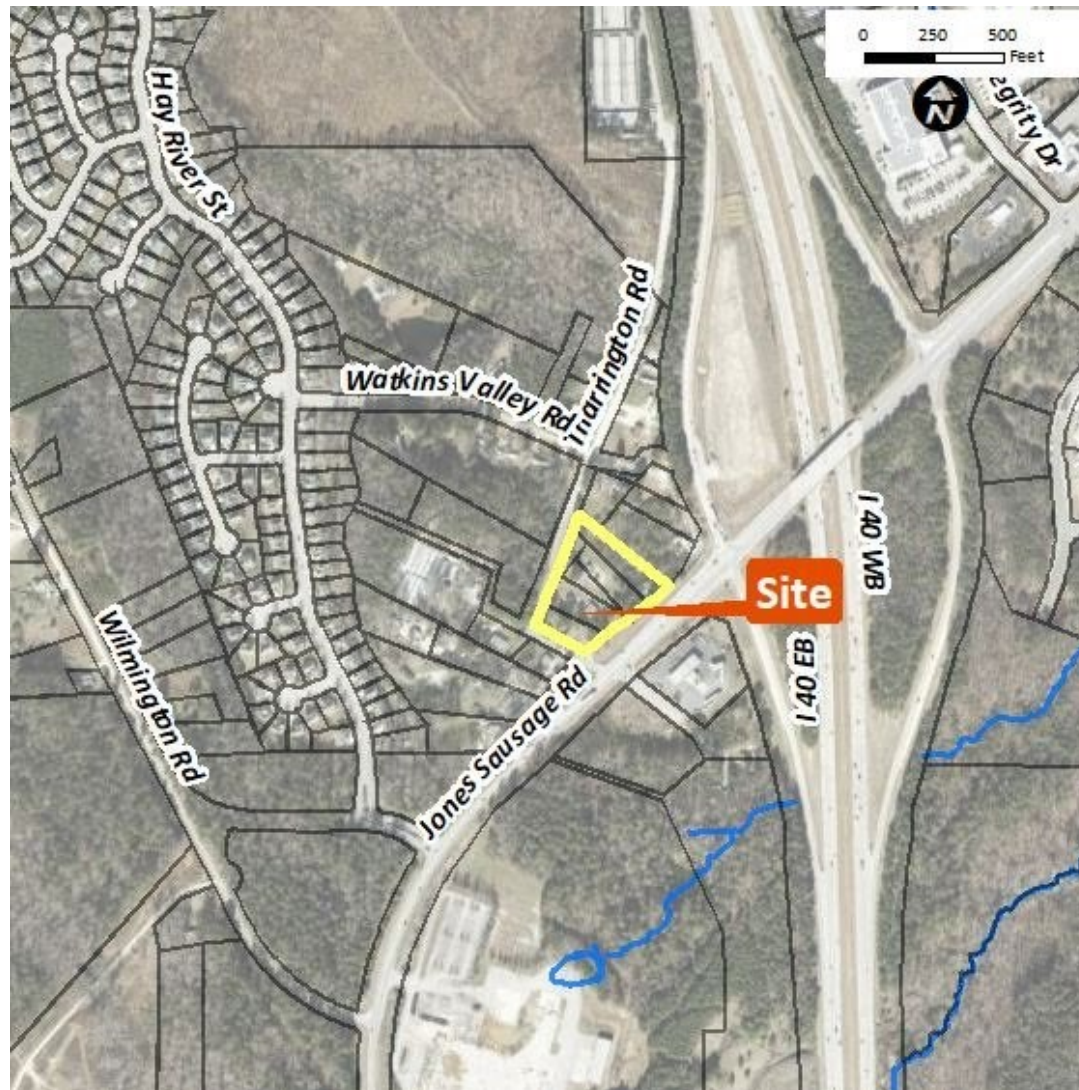
Conditional Zoning Amendment
CZ-23-01

Town Council
December 5, 2023

General Case Information

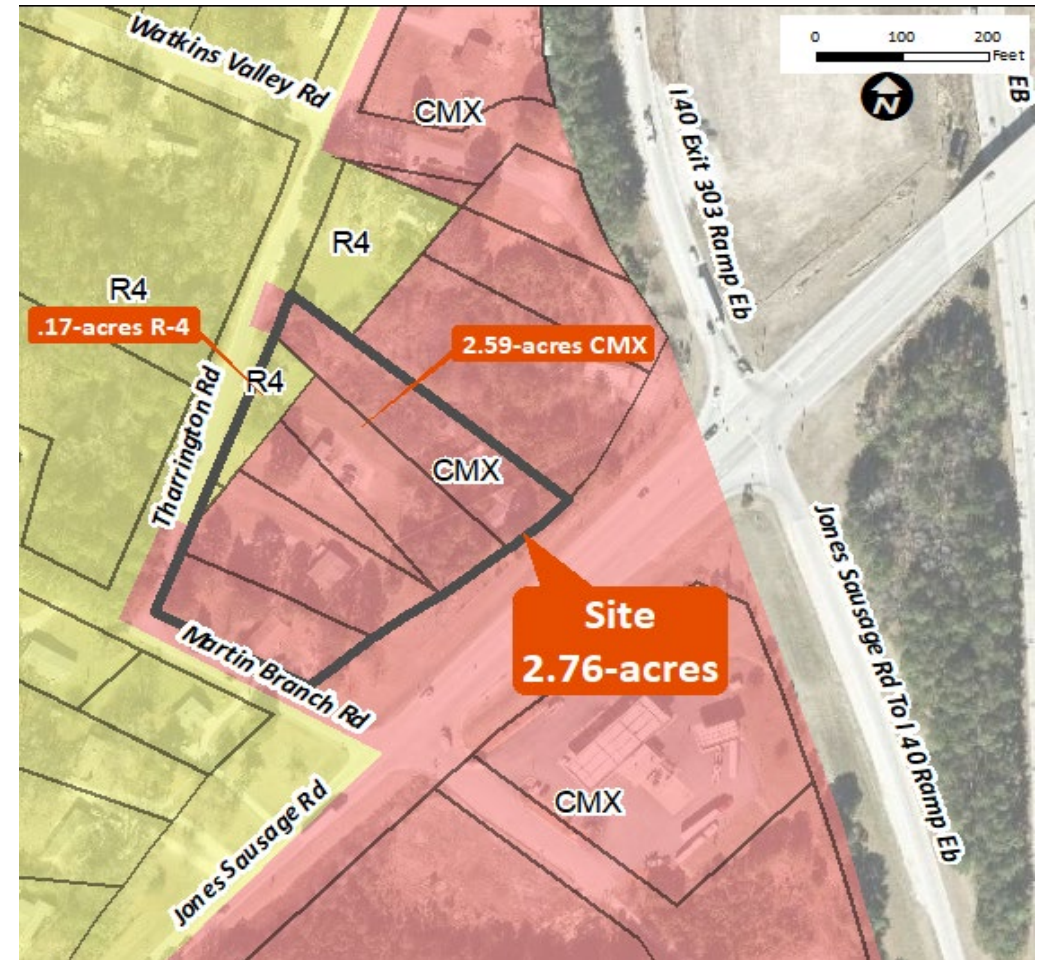
- Applicant:** Garner (Jones Sausage 2) PBX LLC
- Owners:** Garner (Jones Sausage 2) PBX LLC
- Location:** Jones Sausage, Martin Branch and Tharrington Roads
- Tract Size:** 2.76 +/- acres
- Request:** Tier 1 conditional district rezoning request (CZ-23-01) submitted by Garner (Jones Sausage 2) PBX LLC to rezone approximately 0.17 +/- acres from Residential 4 (R4) and 2.59 +/- acres from Commercial Mixed Use (CMX) to Commercial Mixed Use (CMX C270) Conditional.
- Note:** This is a Tier 1 conditional district rezoning request which means there is no site plan or specific development proposal at this time. The 2.76-acre site is currently split between two zoning districts. The reason for this request is to allow for commercial development and include an adjacent total of 0.17 +/- residentially-zoned acres with the already commercially zoned balance of the project site.

Site Location



Adjacent Zoning & Land Use

North:	CMX Residential (and vacant)
South:	R4 Vacant and Residential
East:	CMX Commercial (Fuel Station)
West:	R4 Residential



Proposed Commercial Mixed Use (CMX 270) Conditional

1. Permitted Use Table (15 selected from the generally permitted list of 60):

Use Category	Specific Use	CMX
Overnight Accommodation	Hotel/Motel	P
Commercial, Office, Retail, Service	Medical Office	P
	Other Office Uses Not Listed	P
	Restaurant, Sit-down Establishment	P
	Restaurant, with Drive-In or Outdoor Curb Service	P
	Convenience Store, without Fuel Sales	P
	Convenience Store, with Fuel Sales	P
	Personal or Professional Services (up to 5,000 sqft ground floor footprint)	P
	Personal or Professional Services (> 5,000 sqft ground floor footprint)	P
	Banks or Financial Institution	P
	Banks or Financial Institution, with Drive-thru or Vehicular ATM	P
	Sales / Retail (no outdoor operations)	P
Industrial, Manufacturing, Warehousing, Waste Services and Transportation	Microbrewery / Microdistillery	P
	Minor Utility	P
	Concealed Telecommunication Facility	P

Proposed Commercial Mixed Use (CMX 270) Conditional

2. At the discretion of the Town of Garner Engineering Department, prior to issuance of a building permit and/or recordation of a subdivision plat (whichever is earlier), the property owner shall dedicate a sign easement adjacent to the Jones Sausage Road right of way of sufficient size for a 60-square-foot community service sign. The location of the easement to be granted to the Town under this condition shall be determined by the property owner. The easement granted to the Town pursuant to this condition may prohibit the Town from constructing a sign within the easement area that (a) is taller than other permitted freestanding signs on the property, or (b) would limit the property Owner's ability to place a freestanding sign along the property's Jones Sausage Road frontage.
3. Tractor units and semitrailer trucks shall not be permitted to park between the primary building(s) and Jones Sausage Road except when loading or unloading goods or equipment or refueling on site. To the extent that tractor units or semitrailer trucks are permitted to park elsewhere on the property, the parking area shall be screened from adjoining properties by a combination of evergreen trees and shrubs. Tractor units and semitrailer trucks permitted to park on the property shall be required to shut off their engines while parked.

Proposed Commercial Mixed Use (CMX 270) Conditional

4. The following uses shall provide two (2) electric vehicle charging stations: Hotel/Motel, Office Uses (including Medical Office), regardless of building size.
5. Exterior building materials for principal buildings shall be limited to brick, simulated brick, stone, simulated stone, concrete masonry, cementitious siding, wood, metal, and/or glass. Corrugated metal panels and vinyl siding shall not be installed on any building exterior.
6. Each principal structure shall have a stone or simulated stone wainscoting along the base of the building at least (36") in height.
7. Metal poles or supports for canopy structures and freestanding signs shall be boxed or otherwise screened.
8. The front façade of any primary building shall include at least one tower or similar feature that extends vertically at **least 30 inches above** the roofline. For the purposes of this condition, the roofline shall mean the top of the parapet or at the eave.

Was 18" minimum. Agreed to offer increase to 30" since staff report finalized.

Overlay Notes

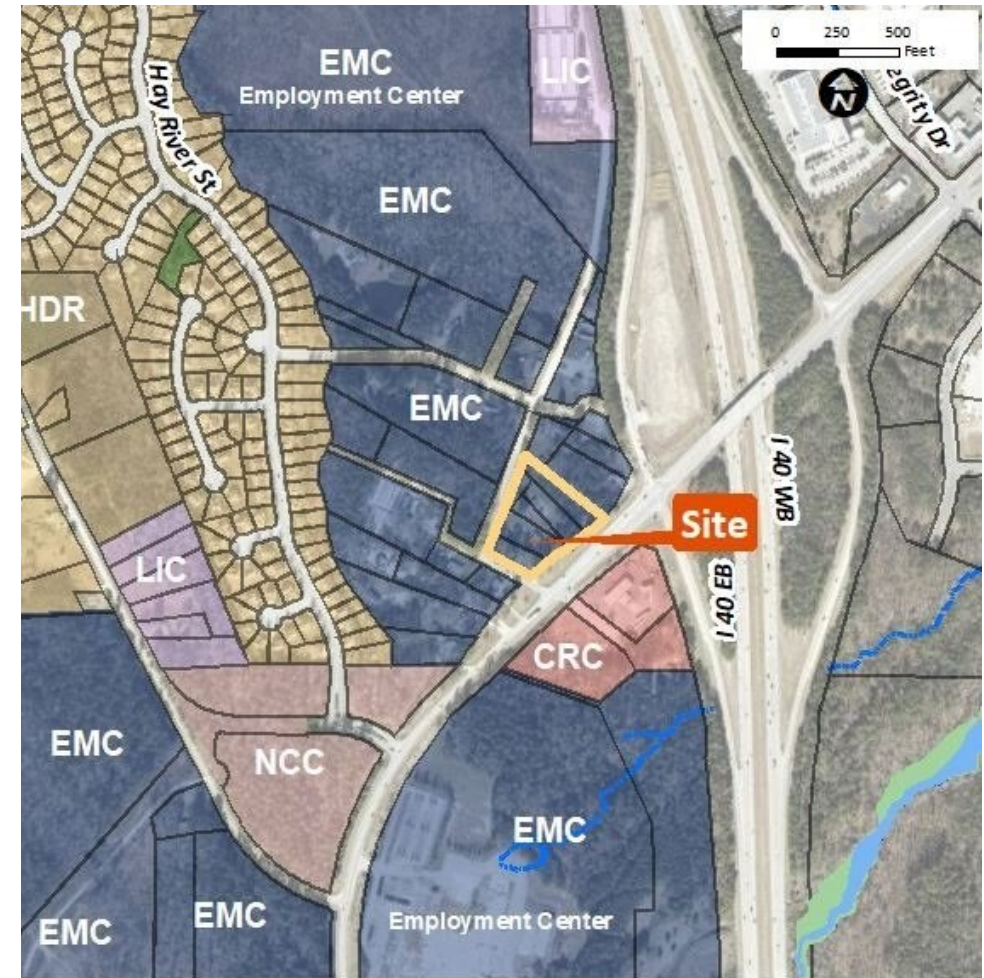
The Limited Access Highway Overlay applies to either side of I-40 within the Garner zoning jurisdiction, as well as to all future interstate development including the future I-540 and is measured from the outside right-of-way line of the roadway at its farthest point (including access ramps and interchanges and rights-of-way for those same areas) a distance of 1,250 feet, as shown on the Official Zoning Map.

In cases where any portion of a building or parking area falls within the boundaries of the overlay district, the LHO's provisions (Section 5.14.3) shall apply to any and all other buildings and parking areas within the site.

Consistency of Request (PC Meeting)

2018 Garner Forward Plan – **INCONSISTENT:**

The site of the request is designated as an Employment Campus (EMC). The Employment Campus land use category is a master-planned employment center sharing parking areas, common access points, and managed oversight of tenants. The EMC tract may include support functions common to the businesses such as transportation/loading, meeting/office spaces, and warehousing facilities. Uses would be similar to the diversity of those found in the LIC category: light manufacturing, assembly, distribution, warehousing, offices, and so forth. While many of the proposed uses in the applicant's proffered conditions would be consistent with this land use designation, staff would note that those highlighted in red in the staff report are likely not.



Consistency of Request (PC Meeting)

The Planning Commission conducted a consistency review of the case at their meeting on Monday, November 13, 2023.

Questions and comments from the Planning Commission revolved around:

- clarifying the current land use status of the properties,
- clarifying the rezoning status of an adjacent parcel at the southeast corner of Tharrington Road and Watkins Farm Road,
- verifying that there are no buildings currently on the 0.17-acre tract zoned R4 that is part of this request,
- clarifying the relationship of the timeline of this rezoning request and the GEDC's small area plan,
- obtaining the applicant's perspective on the GEDC's small area planning process to date,
- obtaining the applicant's and staff's thoughts on the conditions of this rezoning related to future requests in the area – including the adjacent CMX zoned property right at the interchange,

Consistency of Request (PC Meeting)

- inquiring of the applicant about the possible removal of “convenience store with fuel sales” as a permitted use due to Council discussions of that particular issue,
- clarifying with staff that all uses are permitted by right versus needing additional review beyond TRC,
- commenting that this case might inadvertently move contrary to comprehensive plan intents,
- clarifying that the 0.17-acre tract zoned R4 is critical to being part of the whole development site for various reasons (access, setbacks, etc.),
- clarifying that Tharrington Road will need to be improved with any future development,
- commenting that this case will likely set some precedent for the other R4 tract east of Tharrington Road but also noting that it is significantly larger than the 0.17-acre R4 tract that is part of this request, and
- clarifying current ownership of the subject and surrounding parcels.

Consistency Statement

On a unanimous vote of 5-0, the Planning Commission voted to accept the following consistency statement drafted by staff and recommended approval of CZ-23-01 to the Town Council:

“We, the Planning Commission, accept the staff’s consistency analysis and find this request to rezone approximately 0.17 +/- acres from Residential 4 (R4) and 2.59 +/- acres from Commercial Mixed Use (CMX) to Commercial Mixed Use (CMX C270) Conditional is inconsistent with the Future Land Use Map’s designation of Employment Campus due to the presence of retail/commercial uses proposed in the zoning conditions, recommend approval of CZ-23-01 to the Town Council because the zoning change would apply to a very small portion of the site and it appears that the GEDC’s visual plans for a gateway appears likely to be positively negotiated.”

Reasonableness (TC Action Meeting)

In addition to approving a statement regarding plan consistency upon the advice of the Planning Commission, the Town Council must also approve a statement of reasonableness when making their decision. Sources of reasonableness may include other sections of the 2018 *Garner Forward Comprehensive Plan* providing guidance on keeping the Town's character, living spaces, working places, recreation opportunities and transportation. Other adopted Town plans and policies providing guidance on parks, greenways, cultural resources and more may serve as sources as well.

Reasonableness – Staff Commentary

While the request is inconsistent with the land use recommendations of the Garner Forward Comprehensive Plan, staff would offer that a reasonable case might be made for supporting the overall request. Reasons the Council may wish to discuss (in addition to their own) as part of their deliberations:

1. The majority of the site is already zoned as Commercial Mixed Use (CMX) which would allow all of the proposed uses, and the area effectively being changed would be an extremely minor extension of that existing zoning.
2. The proffered conditions providing for additional screening, a welcome sign easement, and elevated architectural standards aim to support the GEDC's small area plan as a "back door" to Garner.

Recommended Motion

3. INCONSISTENT YET REASONABLE

“I move that the Town Council accept the Planning Commission’s written statement regarding consistency of the zoning amendment request with adopted land use plans, detailed in Section V of the staff report, and find the request inconsistent due to (cite and insert land use plan evidence _____); yet, I also move that the Town Council adopt Ordinance No. (2022) _____ approving rezoning **CZ-23-01**, as the request is still reasonable and in the public interest because it will likely (select all applicable reasonableness options on next page and/or provide your own reasoning).”

4. INCONSISTENT NOR REASONABLE

“I move that the Town Council accept the Planning Commission’s written statement regarding consistency of the zoning amendment request with adopted land use plans, detailed in Section V of the staff report, and find the request inconsistent due to (cite and insert land use plan evidence _____); and I further move that the Town Council deny rezoning **CZ-23-01**, as the request is not reasonable nor in the public interest because it will likely not (select all applicable reasonableness options next page and/or provide your own reasoning).”

