

# CITY OF SMYRNA

## COMMUNITY DEVELOPMENT DEPARTMENT

### MEMORANDUM

To: Mayor and Council

From: Russell Martin, AICP, Community Development Director  
Joey Staubes, AICP, Planner II

Date: January 24, 2023

CC: Joe Bennett, City Administrator  
Planning and Zoning Board

RE: REZONING CASE Z21-015 – 2986 King Street

**Applicant:** Antiques, Wood & Rustics LLC

**Existing Zoning:** R-15

**Titleholder:** Antiques, Wood & Rustics LLC

**Proposed Zoning:** CBD

**Size of Tract:** 0.6 Acres

**Location:** 2986 King Street

**Contiguous Zoning:**

**Land Lot:** 522

North R-15

South GC

East OI

West R-15

**Ward:** 3

**Access:** King Street

**Hearing Dates:**

**Existing Improvements:** 1 Single-Family Home

P&Z April 11, 2022

Mayor and Council May 16, 2022

February 6, 2023

**Proposed Use:**

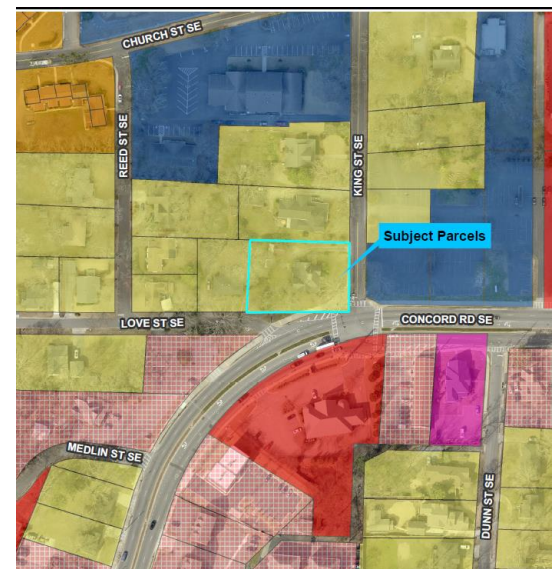
The applicant is requesting a rezoning from R-15 to CBD for the operation of antique sales. The land use will remain Mixed Use (MU) on the Future Land Use Map.

**Staff Recommendation:**

**Approval** of the rezoning from R-15 to CBD for antique sales.

**Planning & Zoning Board Recommendation: Approval**

By a vote of 4-2 at the April 11, 2022, meeting.



**Urban Design Commission Recommendation:** Approval at the April 26, 2022, meeting.

**Mayor & City Council Decision:** Denied by a vote of 5-0 at the May 16, 2022, meeting.

The court has ordered the city to hold an additional public hearing for settlement of litigation. The zoning conditions have been amended to include additional prohibited uses as well as a deed restriction on 1261 Love Street to maintain a residential zoning category.

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Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a rezoning request. The following provides the nine factors followed by an analysis of each factor in italics. Both the Applicant's response as well as Staff's analysis to each factor are listed. It is hoped that providing both responses results in a better understanding of what is actually being proposed.

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

*Applicant Response:*

*"The proposal will permit a use which suitable within the context of existing development regarding adjacent and nearby properties."*

*Staff Analysis:*

*The proposal would rezone a property from R-15 to CBD for antique sales. The adjoining property to the north is zoned R-15 and is occupied with a single-family home. The property to the south across Concord Road is zoned GC and is occupied with a commercial use. The property to the east is zoned OI and is occupied with church. The property to the west is zoned R-15 and is occupied with a single-family home. The proposed rezoning would be consistent with the use and development of adjacent and nearby properties.*

2. Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property.

*Applicant Response:*

*"The proposed rezoning will not adversely impact the existing use or usability of adjacent or nearby properties. The applicant is proposing to use the existing single-family house on the property. There are no plans to expand the existing footprint of the building. This area of Concord Road has seen the conversion and re-purposing of single-family houses converted to low-intensity office and small retail use properties."*

*Staff Analysis:*

*The proposed rezoning should not have an adverse impact upon the existing use or usability of nearby properties. The zoning proposal is compatible with the adjacent properties which are occupied with a mixture of residential, commercial, and institutional uses.*

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

Applicant Response:

*"The proposed rezoning will allow the conversion, retrofitting and rehabbing of the existing single-family house to an antiques shop. The building which will be utilized for the antiques shop lies within the confines of an area designated as Mixed Use (MU) on the City's Future Land Use Map. The applicant is requesting a change in the Land Use Map from MU to NAC along with the requested rezoning to NS to allow for the small-scale antiques shop."*

Staff Analysis:

*The subject parcel has a reasonable economic use as currently zoned.*

4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

Applicant Response:

*"The proposed rezoning will not result in a use that will have an adverse impact upon the existing City of Smyrna's infrastructure and constitutes a proposed use which comports with the trend of development along this section of King Street and Concord Road. Utilization of the single-family house as an antiques shop will generate less traffic and will be a similar use compared to other converted single-family houses in this area along Concord Road."*

Staff Analysis:

*Based upon information provided by the City Engineer, the development is not expected to cause an excessive or burdensome use of existing streets and transportation systems.*

*Based upon information provided by the Water/Sewer Supervisor, adequate water and sewer capacities are available in the area to accommodate the rezoning. Sewer tap locations and elevations are the responsibility of the builder/developer.*

5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

Applicant Response:

*"The proposal is to utilize the existing single-family house for the purpose of an antiques shop which will permit a use that will be less intense than other uses that could be allowed through rezoning based on the City's Future Land Use Map. The applicant is requesting rezoning to the NS Zoning District for this use only which constitutes a use which is allowed within the requested Zoning District of NS and the requested NAC land use category."*

Staff Analysis:

*The proposed rezoning from R-15 to CBD on 0.6 acres for antique sales. The 2040 Future Land Use plan identifies the property as Mixed Use. Community Development is recommending no change to the Future Land Use Map, as CBD is a compatible zoning district within the MU land use category.*

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Applicant Response:

*"There are existing and changing conditions affecting the use and development of the subject property. The subject property is located in an area primarily consisting of commercial, retail, office and residential uses. The applicant proposes the conversion of the single-family house to an antiques shop, with no expansion of the footprint of the building."*

Staff Analysis:

*The subject property is currently zoned R-15 and is occupied with a single-family home; however, the Future Land Use of the general area is Mixed Use and Public-Institutional. The residential properties in proximity to the subject property on King Street and Love Street will be separated by a 10' landscape buffer. Rezoning the subject property to CBD for an antique shop would be consistent with the general area.*

7. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.

Applicant Response:

*"The proposed use will occupy an existing single-family house and will continue to enhance architectural standards and aesthetics in accordance with the as-built photographs depicting the architectural style and composition of the building."*

Staff Analysis:

*The proposed rezoning will maintain the existing architectural features of the residential structure. The scale of the structure will not change and will be compatible with the existing homes in the immediate areas. The zoning change will require landscape buffers that meet the requirements of the City of Smyrna's Tree Ordinance.*

8. Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area.

Applicant Response:

*"The proposed rezoning will not create a nuisance as defined by local and/or state law and is compatible with existing uses in the area."*

Staff Analysis:

*The proposed use for an antique shop will be compatible with the existing uses being adjacent to other residential, commercial, and institutional uses. The change to a commercial use will require 10' landscape buffers between the residential properties.*

9. Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

Applicant Response:

*"The proposed use will positively affect this area by utilizing an existing building to accommodate a small-scale antiques shop. No new construction/development will be required."*

Staff Analysis:

*Factors associated with the size of the proposed use, in either land area or building height, should have a minimal effect upon adjacent properties.*

## **Project Analysis**

Antique, Woods & Rustics LLC is seeking approval of a rezoning for 2986 King Street from R-15 to CBD for the ability to use the existing structure for antique sales. The existing home will remain, and parking area will be added to the property. The applicant is proposing 10 parking spaces for the proposed business at the rear of the property behind the existing structure. The current site plan shows 10-foot landscape buffers to the north and west adjacent to the residential properties.

### **Engineering Review**

The zoning proposal will not require stormwater management unless there is more than 5,000 sq. ft. of impervious coverage. The proposal as shown on the site plan is below 5,000 sq. ft. of impervious coverage. If impervious coverage exceeds 5,000 sq. ft. then the applicant shall meet the requirements of the Georgia Stormwater Management Manual (Blue Book). There is no stream located on the subject property.

### **Transportation Review**

The City Engineer believes the aisle width of 24 feet behind the parking stalls as well as a driveway entrance of 24 feet are sufficient to access the 90 degree parking spaces and to access the site.

### **Fire Marshal Review**

The Fire Marshal's office has reviewed the site plan and believes the zoning plan meets the Fire Code requirements for fire truck access and building separation requirements.

### Planning Review

The proposed rezoning would allow the existing 1,807 sq. ft. structure to be used for antique sales. The subject property is located in an area where the surrounding properties have a future land use designation of Mixed Use. The adjacent properties to the north and west are zoned R-15 and are occupied with residential structures, and the adjacent properties to the south and east are occupied with commercial and institutional uses.

Community Development has reviewed the proposed rezoning to CBD and found it to be compatible with the adjacent properties and is in compliance with the City's 2040 Comprehensive Plan.

Community Development considers the rezoning to be reasonable and compatible with the Mixed Use future land use designation. The proposed rezoning will not require any variances. The subject property is located within the Urban Design District. Therefore, the zoning request is required to go before the Urban Design Commission (UDC). The UDC reviewed the site design and architectural improvements at the April 26, 2022, meeting and recommended approval with the recommendation that the driveway provide decorative brick or stone accents.

The Mayor and City Council voted to deny the rezoning request at the May 16, 2022, meeting by a vote of 5-0. The court has ordered the city to hold an additional public hearing for settlement of litigation. The zoning conditions have been amended to include additional prohibited uses as well as a deed restriction on 1261 Love Street to maintain a residential zoning category.

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### **STAFF RECOMMENDATION**

Community Development recommends **approval** of the rezoning from R-15 to CBD to allow antique sales with the following conditions:

#### **Standard Conditions**

**Requirements # 2, 3, 4, 5, 8, 9, 10, 12, and 17 from Section 1201 of the Zoning Code are not applicable. The following requirements remain applicable.**

1. The developer shall be responsible for any traffic improvements (including additional right-of-way dedications) deemed necessary by either the City or the County during construction plan review. Sidewalks shall be provided by the developer inside the subdivision and outside the subdivision adjacent to any public right-of-way consistent with city's requirements for the extent of the development. A grass buffer with a minimum width of two feet shall be provided between the back of curb and sidewalk.
2. No debris may be buried on any lot or common area.
3. The developer will comply with the City's current tree ordinance. All required tree protection measures shall be adhered to by the developer during construction.

4. All yards and common areas are to be sodded, and landscaped. Irrigate as appropriate.

**Special Conditions**

5. The development shall maintain the CBD setbacks:  
Front – 12' (King Street)  
Front – 12' (Concord Road)  
Side – 0'  
Rear – 0'
6. All structures will be built to a maximum height of 35' as measured from the sidewalk along the front elevation.
7. The subject property shall provide a 10-foot landscape buffer along the northern and western property lines that adjoin single-family residential zoning.
8. The developer shall meet all fire access requirements deemed necessary by the Fire Marshal during construction plan review.
9. The developer shall be responsible for any water and sewer improvements deemed necessary by the Public Works Director during construction plan review.
10. The developer shall be responsible for any stormwater improvements deemed necessary by the City Engineer.
11. The outside storage of goods or merchandise shall be prohibited.
12. Approval of the subject property for the CBD zoning district shall be conditioned upon the development of the property in substantial compliance with the site plan submitted March 22, 2022, and created by Surveys Plus, Inc. and all zoning stipulations above.
13. The additional stipulations agreed upon by the applicant in the letter submitted and dated on March 22, 2022. If there should be a discrepancy between the stipulations in the March 22, 2022, letter and the stipulations stated above, the stipulations stated above shall apply.
14. The applicant shall provide decorative brick or stone pavers at the entrance subject to approval by the Community Development Director.
15. There shall be a recorded deed restriction for 1251 Love Street that maintains a residential zoning category. The deed restriction shall be recorded prior to the issuance of a land disturbance permit.
16. The following additional uses shall be prohibited:
  - Motor Vehicle sales, leasing, rental, service, wash, or broker businesses.

- Service stations.
- Hotels, motels.
- Bus passenger stations.
- Animal hospitals and veterinary clinics.
- Automobile parts or tire stores.
- Billiard and pool halls. (Shall not preclude a brewery/restaurant/brew pub from having billiard tables provided that the billiard tables shall not exceed 35% of the gross floor area of the establishment)
- Boarding and breeding kennels.
- Carnivals and/or circuses.
- Drive-in theater.
- Landing areas for rotary wing aircraft.
- Mobile home or travel trailer sales and rental establishments.
- Radio and television broadcasting stations.
- Stations and terminals for bus or rail passenger service.
- Taxi stands and dispatching agencies.
- Archery or gun range
- Adult Novelty Shops
- Adult Entertainment Establishments including but not limited to, Adult bookstore, Adult dancing establishment, Adult mini motion picture theater, Adult motion picture arcade, Adult motion picture theater, Adult video store, Erotic dance establishment and Escort bureau, as defined by the City of Smyrna's Code of Ordinances.
- Gun Shops
- Pawnshops and Check Cashing Establishments
- Tattoo and Body Piercing Parlors
- Massage Parlors
- No Billboard or Cellular tower shall be placed upon the property.
- Fast Food Restaurants with drive through windows.



**Figure 1 - Subject Property**



**Figure 2 – Adjacent Property**



**Figure 3 – Adjacent Property**



**Figure 4 – Adjacent Property**

