

ORDINANCE NUMBER 3201

**AN ORDINANCE GRANTING A CONDITIONAL USE APPROVAL
FOR A INDOOR/OUTDOOR PLANT NURSERY BUSINESS**

WHEREAS, on June 27, 2022, the City Council of the City of Vestavia Hills, Alabama approved and adopted Ordinance Number 3099, re-establishing a Zoning Code for the City of Vestavia Hills, Alabama; and

WHEREAS, Wade Lowery, Engineering Design Group, LLC, on behalf of Patchwork Retail Venture, LLC, owner of the property located at 3010 Healthy Way, Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat, has submitted application for conditional use approval for construction and operation of a plan nursery to be located on said property, Alabama; and

WHEREAS, it was indicated in the application for conditional use approval to allow the construction and operation of an enclosed and/or unenclosed retail plant nursery for retail and/or wholesale trade; and

WHEREAS, a copy of said application dated September 7, 2023 is attached and hereby incorporated into this Ordinance Number 3201.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

1. Conditional Use Approval is hereby approved for a the construction and operation of an enclosed and/or unenclosed retail plant nursery for retail and/or wholesale trade to be located at 3010 Healthy Way, Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat; and
 - (1) A City of Vestavia Hills Business License shall be issued upon application and payment by the proposed nursery pursuant to the rules and regulations outlined in the Vestavia Hills Business License Code and shall be renewed each year that the business is operated from the location at 3010 Healthy Way, Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat, Vestavia Hills, Alabama; and
 - (2) At any time should the tenant vacate the premises, discontinue or relocate the business and the use is removed from the property for 12-

months, this conditional use approval shall be nullified and said Ordinance Number 3201 shall be automatically repealed.

ADOPTED and APPROVED this the 27th day of November, 2023.


Ashley C. Curry
Mayor


ATTESTED BY:


Rebecca Leavings
City Clerk

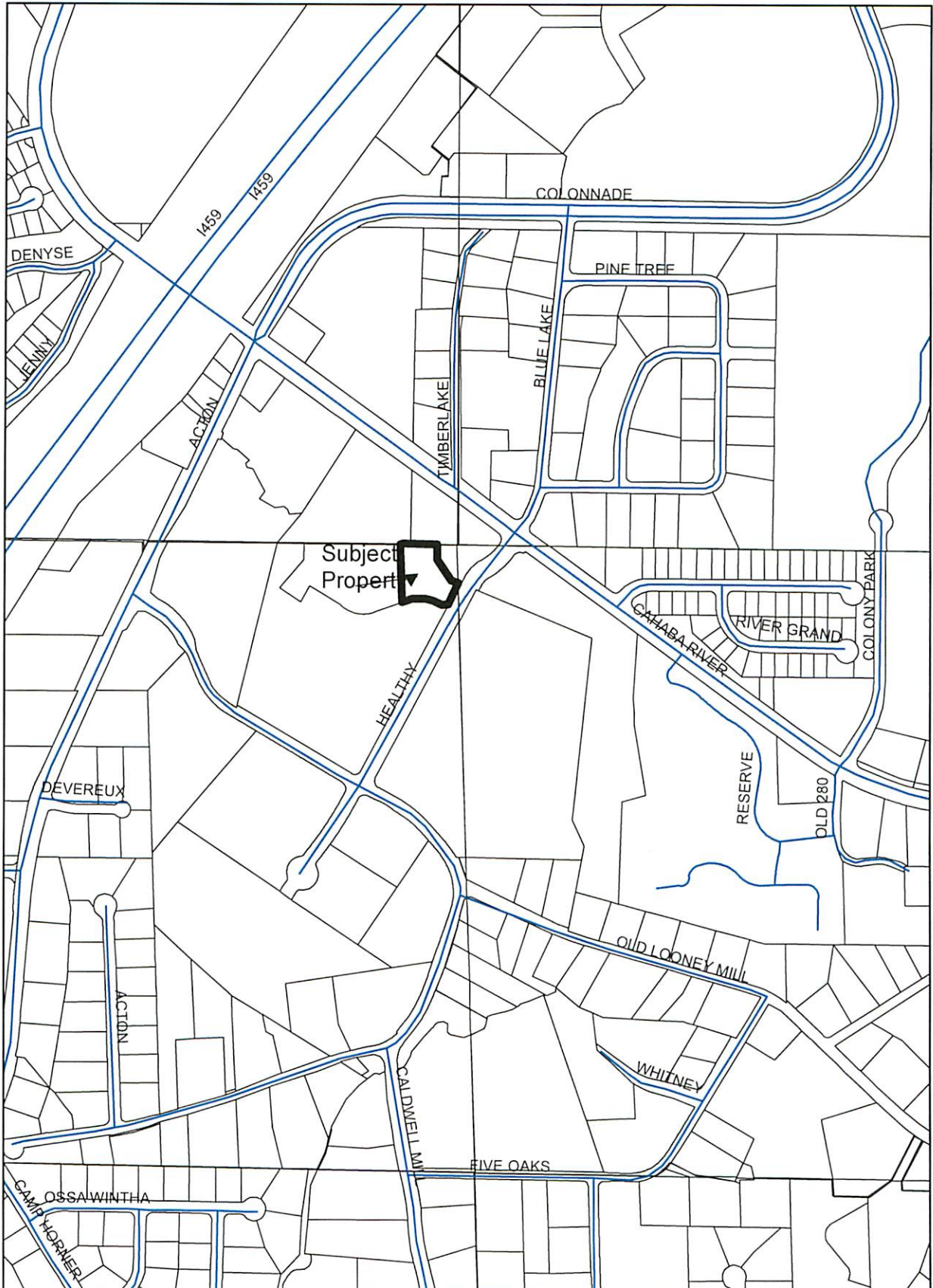
CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 3201 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 27th day of November, 2023 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal, Vestavia Hills Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the 27th day of Nov, 2023.


Rebecca Leavings
City Clerk

3010 Healthy Way





City of Vestavia Hills

Planning and Zoning Commission Review and Recommendation
of Conditional Use



Case Number: CU-23-2 Representative: Engineering Design Group, LLC
 Owner Name: Patchwork Retail Venture, LLC Rep. Address: 120 Bishop Circle, Pelham, AL 35214
 Owner Address: 700 Montgomery Highway, Suite 186, Vestavia Hills, AL 35216

Project Address: 3010 Healthy Way, Vestavia Hill, AL 35243
 Legal Description: LOT 1 PATCHWORK FARMS RETAIL VENTURE RESURVEY OF LOT 1D PATCHWORK FARMS FINAL PLAT PB 242 PG 100
 Parcel ID Number: 28 00 34 2 000 001.009
 Current Zoning: PUD
 Request Conditional Use: Construction of a plant nursery (retail sale of plants). See uploaded attachments accompanying this application.

Date of P&Z Meeting: 10/12/23
MOTION Mr. Weaver made a motion to recommend Conditional Use Approval for a plant nursery at 3010 Healthy Way. Second was by Mr. Romeo. Motion was carried on a roll call; vote as follows:

P&Z Recommendation: Mr. Maloof – yes Mr. Farrell – yes
 Mr. Weaver – yes Mr. Romeo – yes
 Mr. Sykes – yes Mrs. Honeycutt – yes
 Mr. Barnes – yes Motion carried.

Authorized by: Vestavia Hills Planning and Zoning Commission, Michael Vercher, Chair
 Issued by: Conrad Garrison, City Planner

Conditional Use Application

CU-23-2

Submitted On: Sep 7, 2023

Applicant

👤 Wade Lowery
☎ 2054039158
@ wade@edgalabama.com

Primary Location

3010 HEALTHY WAY
VESTAVIA HILLS, AL 35243

Owner Information

A notarized Owner's Affidavit must be submitted with this Conditional Use Application before it can be processed. Please prepare this affidavit prior to submission or it will not be properly filed. All documents must be filed prior to the application date to be considered on the next meeting date. If any required information is received after the application date, the application will be held until the next month.

Property Owner Telephone Number:
205-969-1000

Property Owner:

Patchwork Retail Venture, LLC

Mailing Address of Property Owner Including City, State, Zip Code:

700 Montgomery Highway, Suite 186, Vestavia Hills, AL 35216

Property Owner Email:

luke@blackwaterresources.com

Check Below if Property Owner is Responsible for Postage Costs

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Representing/Responsible Party

Representing Agent:

Engineering Design Group, LLC

Representing Agent Email:

wade@edgalabama.com

Mailing Address of Representing Agent Including City, State, Zip:

120 Bishop Circle, Pelham, AL 35214

Representing Agent Telephone No.:

205-403-915

Check Below if Representing Agent is Responsible for Postage Charges

true

Property Information

Property Address:

3010 Healthy Way, Vestavia Hill, AL 35243

County Parcel ID Number:

28 00 34 2 000 001.009

Legal Description of Subject Property:

LOT 1 PATCHWORK FARMS RETAIL VENTURE RESURVEY OF LOT 1D PATCHWORK FARMS FINAL PLAT PB 242 PG 100

Current Zoning Classification of Subject Property:

PUD

Requested Conditional Use Including Intended Use, Citing Appropriate Section of the Zoning Code, etc.:

Construction of a plant nursery (retail sale of plants). See uploaded attachments accompanying this application.

Explanation of Reasons for Conditional Use

Upon acceptance of an application, the Commission shall consider the application during a public hearing. The Commission shall, after the public hearing, make a recommendation to the Council. Following the recommendation by the Commission, the Council shall hold a public hearing regarding the application and upon completion of said hearing, shall approve with conditions or deny the request within the time limit required by law. The recommendation by the Commission may be to approve or deny the application, which said recommendation shall be advisory only. Zoning is a legislative matter decided by the Council. The Council shall not be bound by the recommendation of the Commission. A Conditional Use approval shall lapse and be of no effect if, after the expiration of one (1) year from the date of Council approval, no construction or change in use pursuant to such Conditional Use has taken place, provided that the Council may, for good cause shown, specify a longer period of time in conjunction with its action to approve a Conditional Use.

Determination. Conditional Uses shall only be approved upon a finding by the Governing Body that all of the following criteria are satisfied. Please FULLY explain each of these conditions relative to this Conditional Use Request.

1. The use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area:

Correct. The use will include the retail sale of household plants and various related items.

2. The use is necessary or desirable and provides a service or facility that contributes to the general well-being of the surrounding area:

Yes. The proposed use is in concert with the surrounding area.

3. The request is consistent with all applicable provisions of the Comprehensive Plan:

Yes. The request is related to a retail establishment well suited for the intended use as described in the comprehensive plan.

4. The request shall not adversely affect adjacent properties:

Correct. No adverse effects will be placed on adjacent properties.

5. The request is compatible with the existing or allowable uses of adjacent properties:

Correct. The request is related to a retail establishment and is compatible with adjacent properties and their uses.

6. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed:

Correct. The request is related to an outparcel of land within the Patchwork Farms development. All utilities area available to the site.

7. The request can demonstrate adequate provision for maintenance of the use and associated structures:

Correct. As with other retail establishments within the development, maintenance of the facility/structure will be performed.

8. The request has minimized, to the degree possible, adverse effects on the natural environment:

Yes. The use includes a plant nursery, and the enclosed conceptual site plan illustrates mitigation of storm water runoff. The proposed improvements will cause no additional adverse effects to the natural environmenta as the land is part of a developed retail center.

9. The request will not create undue traffic congestion:

Correct. The commercial development was designed with the anticipated development of the outparcel. the intended use develops very little traffic when compared to other uses (fast food, etc.).

That such development will comply with all applicable regulations and conditions specified within this Ordinance:

Correct. The enclosed conceptual site plan illustrates how the improvements will comply with the ordinance.

Conditional Use Application

CU-23-2

Submitted On: Sep 7, 2023

Applicant

Wade Lowery
2054039158
@ wade@edgalabama.com

Primary Location

3010 HEALTHY WAY
VESTAVIA HILLS, AL 35243

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Correct. The enclosed conceptual site plan illustrates how the improvements will comply with the ordinance.



September 7, 2023

City of Vestavia Hills
Planning and Zoning Commission

Re: Conditional Use Application-Trellis at Patchwork Farms

Dear Planning Commission,

Engineering Design Group, LLC (EDG) has been retained by Marci Hollingsworth to provide professional services associated with proposed improvements to a parcel of land within the Patchwork Farms PUD. More specifically, the site is identified as 3010 Healthy Way, Vestavia Hills, AL 35243 (Parcel Identification Number 28 00 34 2 000 001.009). The parcel is currently un-developed/vacant land, and it is zoned PUD.

Proposed improvements include the construction of a retail plant nursery (approximately 1,200SF), necessary parking/access, and other appurtenances. The improvements are illustrated on the attached Conceptual Site Plan.

Per feedback received during a meeting with the City's staff, it is understood that the development of a plant nursery is not an expressly prohibited use within the current PUD. Conversely, a plant nursery is not specifically allowed/permitted by the PUD. Staff recommended a conditional use application for consideration by the Planning Commission.

Please accept this letter as our explanation/rationale for the request.

Respectfully submitted,
Engineering Design Group, LLC




Wade H. Lowery, P.E., AL Reg. No. 27002

Cc: Marci Hollingsworth

enclosure

5. Planned Business (PB).

a. Permitted Uses. Those permitted uses allowed by PR-1 and PNC; schools; retail establishments, including but not limited to, shopping centers; veterinary clinics (no outside kennels); auto dealerships; auto parts stores; building material sales; department stores; radio and TV stations; domestic equipment rental, furniture stores; motels or hotels; in-door motion picture theatres and/or auditoriums; hospitals; automotive gasoline service establishments which may also serve auto functions such as muffler, tire, battery, brake and transmission shops; establishments for the design and distribution of printed material, coin-operated laundromats; car washes; card/gift shops; cosmetic studios; craft or hobby shops; dance studios; photographic studios; duplicating or copying service; health food stores; interior decorating stores; opticians, medical clinics; shoe repair, audio video; tanning salons; assisted living care facilities; hardware stores; jewelry stores; sporting goods stores; sales showrooms for appliances, furniture, carpet, lighting fixtures, medical and office equipment; toy stores; indoor sports facilities (bowling, health club or spa, racquet club, skating rink); and factory outlet stores, and accessory structures and uses customarily incidental to such permitted uses.

 b. Conditional Uses. Those conditional uses allowed by PNC; commercial recreation and amusement facilities; self-service storage facilities; telecommunications facilities; and other uses not listed in this §6.9.5.5 as may be approved by the Council following recommendation by the Commission.

6. Planned Light Industrial (PI).

a. Permitted Uses. Those permitted uses allowed by PB; major auto repair or renovation facilities not housed in the same structure or accessory structure to an auto sales establishment; bottling plants; construction yards; distribution yards for gasoline and fuel or tanks; domestic animal kennels; farm machinery and farm supply sales; heavy equipment sales and service; highway maintenance yards and buildings; janitorial and maintenance service; laundry and dry cleaning plants; printing establishments; light industrial, fabricating, processing, assembling and manufacturing uses; sanitary sewage and/or waste water treatment facilities; research and development laboratory facilities; warehouses; water or liquid storage tanks; wood working shops; and self-service storage facilities and accessory structures and uses customarily incidental to such permitted uses.

b. Conditional Uses. Those conditional uses allowed by PB, except multi-family; live entertainment; telecommunications facilities; and other uses not listed in this §6.9.5.6, all as may be approved by the Council following recommendation by the Commission.

6.9.6. Requirements for Accessory Structures, Fences, Signs, Off-street Parking, Loading Areas, Landscaping, and Buffer Strips

It is intended that the development criteria submitted with the application for the PUD will set forth requirements for accessory structures, fences, landscaping, buffer strips, signs, off-street parking, and loading areas. If the application does not contain such information, then the provisions of [§4.4](#) Accessory Structures,

longer period of time in conjunction with its action to approve a Conditional Use.

2. When such use is abandoned or discontinued for a period of one (1) year, it shall not be reestablished, unless authorized by the Council. Conditional Use approval shall be revoked when the applicant fails to comply with the conditions imposed by the Council.

→ 13.3.4. Determination. Conditional Uses shall only be approved upon a finding that all of the following criteria are satisfied:



1. The use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area.
2. The use is necessary or desirable and provides a service or facility that contributes to the general well-being of the surrounding area.
3. The request is consistent with all applicable provisions of the Comprehensive Plan.
4. The request shall not adversely affect adjacent properties.
5. The request is compatible with the existing or allowable uses of adjacent properties.
6. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
7. The request can demonstrate adequate provision for maintenance of the use and associated structures.
8. The request has minimized, to the degree possible, adverse effects on the natural environment.
9. The request will not create undue traffic congestion.

10. That such development will comply with all applicable regulations and conditions specified within this Ordinance.

The Council shall describe and have recorded in the minutes, the conditions imposed on the development to assure satisfaction of these criteria.


§13.4. Amendments

The provisions of this Ordinance, including the Zoning map, may from time to time be amended, supplemented, changed, modified, or repealed by the Council in accordance with Alabama Law.

- 13.4.1. Petition to Amend. Petitions to amend this Ordinance with respect to rezoning land may be initiated only upon filing of an application with the Commission by the owner of the land or the owner's authorized agent, in which case a notarized letter is required. Any member of the Council may initiate the rezoning of any land by introduction of a resolution for such purpose. An application for any change of zoning shall be filed in the office of the Commission at least twenty-five (25) working days prior to the next regularly scheduled meeting of the Commission. The petition shall state the nature of the proposed amendment, and a legal description of the property involved and the names and addresses of the owner(s) of the property. No application shall be taken out without descriptive information as to how the petitioner proposes to utilize the parcel of land (plot plan, drawings, sketches, et cetera).
- 13.4.2. Action on Petition. The Commission shall consider the petition at the first regularly scheduled meeting following the proper filing of the petition. The Commission shall, after the public hearing, make recommendations to the Council. The recommendations of the

5. Planned Business (PB).

a. Permitted Uses. Those permitted uses allowed by PR-1 and PNC; schools; retail establishments, including but not limited to, shopping centers; veterinary clinics (no outside kennels); auto dealerships; auto parts stores; building material sales; department stores; radio and TV stations; domestic equipment rental, furniture stores; motels or hotels; in-door motion picture theatres and/or auditoriums; hospitals; automotive gasoline service establishments which may also serve auto functions such as muffler, tire, battery, brake and transmission shops; establishments for the design and distribution of printed material, coin-operated laundromats; car washes; card/gift shops; cosmetic studios; craft or hobby shops; dance studios; photographic studios; duplicating or copying service; health food stores; interior decorating stores; opticians, medical clinics; shoe repair, audio video; tanning salons; assisted living care facilities; hardware stores; jewelry stores; sporting goods stores; sales showrooms for appliances, furniture, carpet, lighting fixtures, medical and office equipment; toy stores; indoor sports facilities (bowling, health club or spa, racquet club, skating rink); and factory outlet stores, and accessory structures and uses customarily incidental to such permitted uses.

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6.9.6. Requirements for Accessory Structures, Fences, Signs, Off-street Parking, Loading Areas, Landscaping, and Buffer Strips

It is intended that the development criteria submitted with the application for the PUD will set forth requirements for accessory structures, fences, landscaping, buffer strips, signs, off-street parking, and loading areas. If the application does not contain such information, then the provisions of [§4.4](#) Accessory Structures,

longer period of time in conjunction with its action to approve a Conditional Use.

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3. The request is consistent with all applicable provisions of the Comprehensive Plan.
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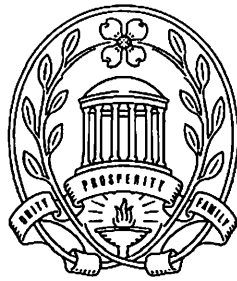
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**CITY OF VESTAVIA HILLS
PLANNING & ZONING
INTER-DEPARTMENT MEMO**

November 27, 2023

To: Jeff Downes, City Manager

Cc:

From: Rebecca Leavings, City Clerk

RE: Ordinance Number 3201 - Conditional Use Approval - 3010 Healthy Way; Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat; Conditional Use to allow construction and operation of an indoor/outdoor plant nursery; Patchwork Retail Venture LLC, Owner

Background:

Patchwork Farms was developed under the City's PUD Ordinance. The Ordinance defines the permitted uses in a PUD PB (planned business) and doesn't list an indoor/outdoor plant nursery as a permitted use. However, a provision in the code does allow an owner to request conditional use approval for any use not expressly permitted. A company wishes to construct and operate an indoor/outdoor plant nursery on the property located at 3010 Healthy Way. This conditional use approval would be to allow that use on the property.

Recommendation:

The Planning and Zoning Commission at its regularly scheduled meeting of October 2023 unanimously voted to recommend approval of the conditional use request as presented (see certificate attached).

Fiscal Impact:

n/a

Attachments:

1. Ordinance 3201