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Susan Burgess Don Lochman
Nancy Carter James E. Mitchell, Jr
Malcolm Graham Patrick Mumford
Patsy Kinsey John H. Tabor, AIA
John W. Lassiter Warren Turner

CITY COUNCIL ZONING AGENDA
Monday, December 20, 2004

**5:00PM – Council/Manager Dinner
Meeting Chamber Conference Room**

**6:00PM – Zoning Decisions/Hearings
Meeting Chamber**

DINNER MEETING

Rezoning Update – December 2004, January & February 2005
Debra D. Campbell, Planning Director

DECISIONS

1. **Petition No. 2004-20 (decision)** by *S&R Development Co., LLC* for a change in zoning of approximately 1.54 acres located on the north side of Mallard Creek Road, between Driwood Court and Prosperity Church Road from R-12MF to B-1(CD).

The Zoning Committee voted 6-1 to recommend **APPROVAL** of this petition.

Attachment No. 1

2. **Petition No. 2004-123 (decision)** by *S&R Development Co., LLC* for a change in zoning of approximately 4 acres located on the northeast intersection of Driwood Court and Mallard Creek Road from R-12MF and R-3 to NS.

A protest petition has been filed and is not sufficient to invoke the ¾ majority-voting rule.

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition, with the following modification:

- The decisions of Petitions 2004-20 and 2004-123 will be conditioned upon each other such that if Petition 2004-20 is not approved, the current Northeast District Plan land use recommendation would apply to Petition 2004-123, rendering it inappropriate for non-residential development.

Attachment No. 2

3. **Petition No. 2004-83B (decision)** by *Don Green* for adoption of a text amendment to the City of Charlotte Zoning Ordinance to allow funeral homes, with accessory embalming, as a use permitted under prescribed conditions in the Institutional zoning district.

The Zoning Committee voted unanimously to recommend a **DEFERRAL** of this petition for 60 days.

Attachment 3

4. **Petition No. 2004-94 (decision)** by *Claude E. Long* for a change in zoning of approximately .66 acres located east of Sharon Road north of Hazelton Drive from R-3 to MUDD(CD).

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition with the following modifications:

- The developer is committed to implementing a tree preservation plan on and near the site.
- The drive-thru window is only for the dry cleaners.
- Bike racks have been added.
- Under any circumstances at least 15 residential units must be built concurrent with the non-residential uses.
- Turning radii have been increased to satisfy Fire Department standards.
- A minimum of 40 parking spaces will be provided.

Attachment No. 4

5. **Petition No. 2004-99 (decision)** by *City of Charlotte, Charlotte Area Transit System* for a change in zoning of approximately 6.934 acres located west of South Boulevard across from Sharon Road West from I-2 to TOD-M(O).

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition.

Attachment No. 5

6. **Petition No. 2004-100 (decision)** by *City of Charlotte, Charlotte Area Transit System* for a change in zoning of approximately 9.32 acres located to the east of Old Pineville Road, south of Tyvola Road and west of South Boulevard from I-2 and B-2 to TOD-M(O).

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition.

Attachment No. 6

7. **Petition No. 2004-108 (decision)** by *George Breisacher, Louise Barden, and Theaury Green* for a change in zoning of approximately 1.8 acres located on the southwest corner of Central Avenue and Progress Lane from R-17MF to R-8.

A protest petition has been filed and is sufficient to invoke the ¾ majority-voting rule.

The Zoning Committee voted 5-1 to recommend **DENIAL** of this petition.

Attachment No. 7

8. **Petition No. 2004-119 (decision)** by *Charlotte-Mecklenburg Planning Commission* for adoption of a text amendment to the City of Charlotte Zoning Ordinance to This text amendment eliminates some uses permitted in the Mixed Use Development (MUDD) zoning districts by right and under prescribed conditions. The uses eliminated are 1) uses which cannot be easily integrated into a mixed-use development, or 2) uses allowed, but with size restrictions, or 3) uses which are inappropriately located in the MUDD zoning district.

Other uses have been added in the Mixed Use Development (MUDD) zoning districts.

This amendment also contains new text language for Section 9.8506(6), “Canopies and other Building Entrances”. This new language replaces the existing language to provide consistency across other zoning districts. The new text also amends how far a canopy may extend from the building by changing the language from “any such facility may extend from the building up to one half of the width of the sidewalk area...” to “any facility may extend from the building up; to one half of the width of the setback area...”.

The Zoning Committee voted 6 to 1 to recommend **APPROVAL** of this petition to update the uses permitted in the Mixed-Use Development (MUDD) zoning districts and to update the language for canopies.

Attachment No. 8

9. **Petition No. 2004-120 (decision)** by *Eastwood Development Corporation* for a change in zoning of approximately 41.24 acres located on the west side of Clifton Meadow Drive, east of Margaret Wallace Road from R-9MF(CD) to MX-1 (Innovative).

A protest petition has been filed and is sufficient to invoke the ¾ majority-voting rule.

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition (Commissioner Johnson was recused due to a conflict of interest).

Attachment No. 9

10. **Petition No. 2004-122 (decision)** by *KB Homes* for a change in zoning of approximately 39.8 acres located east of Lancaster Highway, west of Marvin Road from MX-2 to MX-2 S.P.A.

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition.

Attachment No. 10

11. **Petition No. 2004-124 (decision)** by *Patrick Sutherland* for a change in zoning of approximately .26 acres located on the southwest corner of North Davidson Street and Faison Avenue from R-5 to MUDD-O.

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition.

Attachment No. 11

12. **Petition No. 2004-127 (decision)** by *Marc H. Silverman and Lorin Silverman Stiefel* for a change in zoning of approximately .24 acres located on the northwest corner of the intersection of East 3rd Street and the 3rd/4th Street Connector from B-2 to MUDD(CD).

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition.

Attachment No. 12

13. **Petition No. 2004-128 (decision)** by *Charlotte-Mecklenburg Planning Commission* for adoption of a text amendment to the City of Charlotte Zoning Ordinance to create a fourth transit zoning district, this one being an overlay district which will 1) introduce transit supportive and pedestrian oriented development regulations and uses to the immediate area planned for a rapid transit station, and 2) encourage properties to transition to more transit supportive development and uses. This zoning district will be applied to select transit station areas in the north, west, east, and southeast transit corridors. The advantage of using an overlay district is that the uses will generally remain conforming uses in their underlying zoning district.

The new Transit Supportive Overlay zoning district contains a set of additional standards designed to accommodate the continued existence and minor expansion of existing uses while the area transitions to a more compact, high intensity, transit supportive mix of uses that complement adjacent neighborhoods.

This text amendment also amends other sections of the Zoning Ordinance to include references to the TS zoning district, and removes automobile and motorcycle sales from the TOD-E and TOD-M zoning districts, as agreed to by the Transit Oriented Development Review Committee, once a fourth transit district was created and adopted.

Several other text amendments modify the screening standards for parking lots, service areas, loading docks, and dumpster areas to make them safer and secure.

The Zoning Committee voted unanimously to recommend a **DEFERRAL** of this petition for 30 days.

Attachment No. 13

14. **Petition No. 2004-131 (decision)** by *Land Use and Environmental Services Agency* for adoption of a text amendment to the City of Charlotte Zoning Ordinance to replace the term “dumpster” with the currently used term of “solid waste container”. A dumpster is a type of solid waste container, as are the roll-out garbage containers.

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition.

Attachment No. 14

15. **Petition No. 2004-132 (decision)** by *South 49 Partners, LLC* for change in zoning of approximately 5.06 acres located on the east side of John Price Road, north of South Tryon Road from CC to CC S.P.A.

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition, with the following modifications:

- A note will be added to the site plan that the buildings will incorporate four-sided architecture.
- A corrected metes and bounds description will be provided.
- The loading dock will be removed from its present location to address CDOT comments.
- The petitioner will add a note to the plan to address Stormwater Services comments.

Attachment No. 15

16. **Petition No. 2004-133 (decision)** by *NSP Queens Road, LLC* for a change in zoning of approximately .45 acres located on the southeast corner of East 3rd Street and Queens Road from O-2 to MUDD(CD).

A protest petition has been filed and is sufficient to invoke the ¾ majority-voting rule.

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition.

Attachment No. 16

HEARINGS

17. **Petition No. 2002-122 (hearing).** Consideration of a text amendment to the City of Charlotte Zoning Ordinance to complement the Parking on Front Lawn Ordinance, which became effective 4-1-04. ***Petitioner: City Attorney's Office***

Staff is requesting a deferral of this petition to January 18, 2005.

Attachment No. 17

18. **Petition No. 2004-65 (hearing).** Change in zoning from R-3 LW-PA to MX-1 (Innovative) LW-PA for approximately 18.03 acres located on the eastside of Suzanna Drive north of Hart Road. ***Petitioner: Liberty Oaks***

A protest petition has been filed and is sufficient to invoke the ¾ majority-voting rule.

Attachment No. 18

19. **Petition No. 2004-68 (hearing).** Change in zoning from R-3 to R-4(CD) for approximately 46 acres located southwest of the intersection of Interstate-485 and Caldwell Road. ***Petitioner: H. James Stafford***

Staff is requesting deferral of this petition until land use recommendations of the Rocky River Road area plan are available.

Attachment No. 19

20. **Petition No. 2004-106 (hearing).** Change in zoning from O-2 to MUDD(CD) for approximately 1.34 acres located on the southwest corner of Park Road and Heather Lane. ***Petitioner: The Reservoir Company, LLC***

Attachment No. 20

21. **Petition No. 2004-116 (hearing).** Change in zoning from R-3 LLW-PA to R-4 LLW-PA for approximately 27.5 acres located on the south side of Shopton Road West, east of Steele Creek Road. ***Petitioner: The McAlpine Company***

Petitioner is requesting that this petition be withdrawn.

Attachment No. 21

22. **Petition No. 2004-126 (hearing).** Change in zoning from BP to NS for approximately 3.133 acres located northeast of the intersection of John J. Delaney Dr. and Ballantyne Commons Parkway. *Petitioner: Habitant Capital*

Attachment No. 22

23. **Petition No. 2004-134 (hearing).** Change in zoning from O-1(CD) and R-3 to NS for approximately 9.48 acres located on the west side of Providence Road south of Allison Woods Drive. *Petitioner: Real Estate Development Partners, LLC*

Petitioner is requesting a deferral to address transportation issues.

Attachment No. 23

24. **Petition No. 2004-135 (hearing).** Consideration of a text amendment to the City of Charlotte Zoning Ordinance to This text amendment adds three new sections to the Zoning Ordinance:

Outdoor Sales – This section would allow outdoor sales as an accessory use to a retail establishment in the Commercial Center (CC) and Mixed-Use Development (MUDD) zoning districts, with eleven prescribed conditions. It addresses when, where and how such sales may occur on the property and under what conditions. [An example of outdoor sales as an accessory use is a retail establishment with outdoor play equipment, bicycles, plants, landscape materials, or displays outdoors either in the parking lot or on the sidewalks near the retail establishment.]

Temporary Retail Sales Events, Off-Premise – This section would permit off-premise temporary retail sales events in Urban Residential-Commercial (UR-C), Business (B-1 and B-2), Transit Oriented Development (TOD), Mixed-Use Development (MUDD), Uptown Mixed-Use Development (UMUD), and Industrial (I-1 and I-2) zoning districts. Temporary sales events would also be permitted in the B-1SCD, B-1(CD), B-2(CD), MX-2, MX-3, NS, and CC zoning districts as part of a retail center, unless noted otherwise on the site plan or conditional plan that the use is restricted.

These events would feature merchandise for sale or auction on property not owned or leased by the person, firm, or corporation. This text amendment address when, where and how such sales may occur on property, and under what conditions. [An example of temporary retail sales events is a weekend display of merchandise in a shopping center parking lot, where the retail merchandise is not sold within an enclosed building in the shopping center. Such an event may include attractions, such as a live radio station broadcast, or play equipment for children, and may move from location to location]

Temporary Retail Sales Events, On-Premise – This section would permit on-premise temporary retail sales events, such as grand openings or re-openings, temporary tent sales, or other special events sponsored by a business operating from a permanent structure or building on the premise. This amendment includes several requirements related to where the event can take place, for how long, and that adequate parking shall be provided, and that the operator is responsible for removal of all trash or refuse.

This text amendment also amends the section on “Outdoor Seasonal Sales” to distinguish this type of sales from the new definitions of uses allowed above. “Outdoor Seasonal Sales” is considered temporary seasonal uses, which include Christmas tree sales, pumpkin sales, plant sales, fresh produce sales, not the sale of retail or manufactured items such as furniture, bedding, automobile parts, spas, pools, etc. The duration of Outdoor Seasonal Sales is being changed from a duration of 45 days to a duration of 90 days.

No more than one Temporary Retail Sales Event, either on-premise or off-premise, or one Outdoor Seasonal Sales event shall be permitted on a tax parcel at any one time.

Petitioner: Charlotte-Mecklenburg Planning Commission

Attachment No. 24

25. **Petition No. 2004-137 (hearing).** Consideration of a text amendment to the City of Charlotte Zoning Ordinance to delete the current Section 13.106(7) titled “Flags on permanent poles” located under Section 13.106, “Signs not requiring a permit”. A flag is not a sign, and flag regulations should be located in a more appropriate chapter of the Zoning Ordinance.

A new section, Section 12.418, is being created to regulate public flags on permanent poles in Chapter 12, “Development Standards of General Applicability”. The term “public flags” includes national, state, and city flags, as well as fraternal, religious, and civic organization flags.

Definitions are proposed for “banner”, “decorative sign”, “pennant”, “public flag”, “flagpole”, and “halyard”, as well as a new definition for “flag”.

The proposal will allow up to three (3) public flags per permanent flagpole, and no more than one (1) flagpole per street front. The maximum height of flagpoles remains the same at 70’, and the maximum flag size is proportional to the flagpole height. This amendment also adds a number of additional requirements for public flags displayed on non-residential property.

Petitioner: Charlotte-Mecklenburg Planning Commission

Attachment No. 25

26. **Petition No. 2004-138 (hearing).** Change in zoning from NS to NS S.P.A. for approximately 8.03 acres located southeast of the intersection of Prosperity Church Road and Johnston Oehler Road. *Petitioner: Prosperity Park, LLC*

Attachment No. 26

27. **Petition No. 2004-139 (hearing).** Change in zoning from R-3 to R-8MF(CD) for approximately 7 acres located on the east side of Marvin Road, south of Providence Road West. *Petitioner: LandMark Llewellyn Holdings, LLC*

Attachment No. 27

28. **Petition No. 2004-140 (hearing).** Change in zoning from R-3 to MX-2 for approximately 12.6 acres located on the southeast side of Eastfield Road, north of Rocky Ford Club Drive. *Petitioner: Cambridge-Eastfield, LLC*

Attachment No. 28

29. **Petition No. 2004-141 (hearing).** Change in zoning from R-12MF LLW-PA to I-1(CD) LLW-PA for approximately 32.76 acres located northwest of the future overpass of Interstate 85 and future Interstate 485. *Petitioner: Robert Eric Lanier*

Attachment No. 29

30. **Petition No. 2004-142 (hearing).** Change in zoning from O-1 and MUDD-O to MUDD-O and MUDD-O S.P.A. for approximately 19 acres located on the northwest corner of Fairview Road and Assembly Street. *Petitioner: Crescent Resources, LLC and Lincoln Harris*

Attachment No. 30

31. **Petition No. 2004-145 (hearing).** Change in zoning from R-12 MF(CD) to CC for approximately 5.497 acres located on the southeast side of Berkley Place Drive, west of Mallard Creek Church Road. *Petitioner: Pinnacle Point, LLC*

Attachment No. 31

32. **Petition No. 2004-146 (hearing).** Change in zoning from I-1(CD) LLW-PA and R-3 LLW-PA to I-1(CD) LLW-PA and I-1(CD) S.P.A. LLW-PA for approximately 92.3 acres located east of Sam Wilson Road, north of West Pointe Drive. ***Petitioner: ProLogis***

Attachment No. 32

33. **Petition No. 2004-147 (hearing).** Change in zoning from R-3 and R-8(CD) to R-12MF(CD) for approximately 11.8 acres located on the southside of Tryon Street across from Erwin Road. ***Petitioner: Crosland, Inc.***

A protest petition has been filed and is not sufficient to invoke the ¾ majority-voting rule.

Attachment No. 33

34. **Petition No. 2004-148 (hearing).** Change in zoning from R-3 to MX-2(Innovative) for approximately 55.5 acres located south of Wade Ardrey Road, west of Marvin Road. ***Petitioner: Crosland, Inc.***

Attachment No. 34

35. **Petition No. 2004-149 (hearing).** Change in zoning from R-3 to NS for approximately 5.8 acres located on the northeast corner at the intersection of Marvin Road and Ardrey Kell Road. ***Petitioner: Rudolph Moore Properties***

Attachment No. 35

36. **Petition No. 2004-150 (hearing).** Change in zoning from R-8MF(CD) to INST(CD) for approximately 1.96 acres located on the northeast corner of South Tryon Street and Erwin Road. ***Petitioner: Sunshine House Daycare***

Staff is requesting a deferral to allow petitioner to submit revised site plans.

Attachment No. 36

37. **Petition No. 2004-151 (hearing).** Change in zoning from I-2 to TOD-MO for approximately .9884 acres located on the northwest side of South Tryon Street, north of West Bland Street. ***Petitioner: Packard Tryon, LLC***

Attachment No. 37

Appendix: Residential Location and Design Assessment Matrix (G.D.P.)