

Mayor Patrick L. McCrory Mayor Pro Tem Patrick De'Angelo Cannon
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, July 19, 2004

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

6:00PM – Zoning Decisions/Hearings
Meeting Chamber

DINNER MEETING

Rezoning Update – July and September 2004
Debra D. Campbell, Planning Director

2005 Preliminary Annexation Report
Jonathan Wells

DECISIONS

1. **Deferral from June 28, 2004 City Council Meeting – Seventh and McDowell Street Project**

Attachment 1

2. **Deferral from June 28, 2004 City Council Meeting – South Corridor Light Rail Transit Project (Parcel No. 237)**

Attachment 2

3. **Petition No. 2003-97 (decision)** by *Independence Capital Realty, LLC* for a change in zoning of approximately 16.3 acres located south of Amity Place and east of Independence Boulevard from R-4 to R-12MF(CD).

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

The Zoning Committee voted 5-0 to recommend **APPROVAL** of this petition contingent on the following (Commissioner Chiu was excused due to a conflict of interest):

- Documentation will be provided for review and approval that ensures the easement to Independence Boulevard does not have a sunset provision or any other conditions that would prohibit access.

And with the following modifications:

- The buffer along commercial property should be amended to ½ of a Class B buffer (28' with fence).
- The following should be added: “The 60' private easement that provides access from the site to Independence Boulevard will be connected to the public street on the site, said public street to be constructed or bonded prior to the issuance of building permits for the site.”
- A note will be added to the site plan that states the floor area sizes for the two types of units (1100 sq. ft. and 1400 sq. ft.) and the unit count (smaller units = 39+/- 5, larger units = 114+/- 5) and that the units will be ‘for sale’.

Attachment No. 3

4. **Petition No. 2004-27 (decision)** by *Raley Miller Properties and B.L. Patch & Associates, Inc.* for a change in zoning of approximately 11.97 acres located between Ardrey Kell Road and Tom Short Road from B-1(CD) to B-1(CD) S.P.A.

Two protest petitions have been filed and are sufficient to invoke the 3/4 majority-voting rule.

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition, based upon the following modifications made since last month's Zoning Committee recommendations:

- The total square footage has been reduced from 115,000 square feet to 95,000 square feet – 40,000 square feet of retail and 55,000 square feet of office space.
- The setbacks along Ardrey Kell Road and Tom Short Road have been increased to 40 feet in width and now contain a six-foot landscaped berm.
- The interior 15 feet of the rear yard along the southern property line will have only underground utilities, not overhead.
- The site plan will show the correct cross-sections for Tom Short Road and Ardrey Kell Road.

Attachment No. 4

5. **Petition No. 2004-39 (decision)** by *Charlotte-Mecklenburg Planning Commission* for adoption of a text amendment to the City of Charlotte Zoning Ordinance to amend the following chapters in relationship to creating a definition and standards for donation drop-off facilities:

- Chapter 2: Definitions and Rules of Construction, Part 2: Definitions;
- Chapter 9: General Districts, Part 1: Table of Uses and Hierarchy of Districts; and
- Chapter 12: Development Standards of General Applicability, Part 5: Special Requirements for Certain Uses.

The Zoning Committee voted unanimously to recommend a **DEFERRAL** of this petition until July 28, 2004.

Attachment No. 5

6. **Petition No. 2004-43 (decision)** by *Eugene Bodycott* for a change in zoning for approximately 23.6 acres located east of South Tryon Street, north of Westinghouse Blvd. from I-1 to MUDD-CD and MUDD-O.

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

- The plan incorporates the planning of a public roadway connection from Lenox Pointe Drive to NC Highway 49 at the intersection of Sandy Porter Road. This proposed roadway is shown in its general location on the plan, which is subject to change based on the considerations of the detailed design of the roadway.

During the phase of preliminary subdivision review that includes the extension of Lenox Pointe Drive from its current terminus, the proposed collector roadway (60' right-of-way) stub from Lenox Pointe to the adjacent property, that is intended to form part of the public roadway connection described above, will be included in the plans. Design work sufficient to establish design parameters for this stub, compatible with a design completing the connection to NC Highway 49 acceptable to CDOT and the NCDOT, shall have been completed. The Developer commits to the construction of this stub with that phase of the development, per normal subdivision requirements. The Developer will not submit more than 50% of the area of this plan for preliminary subdivision approval without including the extension of Lenox Pointe Drive and this stub.

- Should a third party cause the connecting roadway between the stub described in Note 1 and NC Highway 49 to be constructed, the developer will assist in the funding of required intersection modifications to elements at the intersection of NC Highway 49 and Sandy Porter Road, that are contained within the right-of-way of those roads, such as signal, median or channelizing island modifications, in an amount of 50% of those costs, not to exceed \$20,000.00.

Attachment No. 6

7. **Petition No. 2004-46 (decision)** by *John Tallent* for a change in zoning for approximately 2.65 acres located on the east corner of the intersection of Rama Road and Sardis Road from R-3 to O-1(CD).

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

The Zoning Committee voted 5-1 to recommend **APPROVAL** of this petition **CONTINGENT** upon the following:

- The petitioner must provide written documentation of a long term agreement allowing vehicles to be parked at a nearby church for overflow parking situations.

This documentation must be provided seven days prior to the scheduled decision on this petition.

- CDOT needs to be satisfied with the internal circulation by the same date.

The Zoning Committee's recommendation is based upon the following modifications:

- The Zoning Administrator has determined that overflow parking for the proposed use at nearby institutional sites (in residential districts) on an infrequent basis would not be a violation of the Zoning Ordinance.
- No visitations will be scheduled before 6:30 pm.
- A note will be added to the site to provide pedestrian lighting.
- A detail of the screening fence will be added to the site plan and such detail will be submitted to the Historic Landmarks Commission for advice and recommendations

Attachment No. 7

8. **Petition No. 2004-56 (decision)** by *Tuscan Development* for a change in zoning for approximately 1.44 acres located south of Parkwood Ave. between 15th Street and 16th Street from B-2 and R-22MF to UR-2(CD).

The Zoning Committee voted 5-0 to recommend **APPROVAL** of this petition, with the following modifications:

- A note will be added to allow the height of the buildings on Parcel B to be increased to 50 feet per Section 9.406(2) but not to exceed four (4) stories.
- The proposed uses will be amended to reflect townhome style condominiums.

Attachment No. 8

9. **Petition No. 2004-59 (decision)** by *Eastwood Development* for a change in zoning for approximately 7.9 acres located north of Wallace Cabin Drive and south of Barcliff Dr. from R-12MF(CD) to R-6(CD).

The Zoning Committee voted unanimously to recommend an **APPROVAL** of this petition, **CONTINGENT** upon the following (W. Johnson excused for potential conflict of interest):

- A drainage study must be conducted by the petitioner and Storm Water Services must be satisfied with the petitioner's response to the study. This needs to be completed one week prior to the scheduled decision date of this petition.
- The petitioner must identify acceptable amenities to be constructed in the common open space for the project.

Attachment No. 9

10. **Petition No. 2004-62 (decision)** by *Charlotte-Mecklenburg Schools, Board of Education* for a change in zoning for approximately 34.87 acres located between Bank Street and Interstate-77, south of Griffith Street from I-1, I-2, R-22MF and R-4 to MUDD-O.

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

- The petitioner will provide elevations that provide articulation for blank wall areas fronting along public streets.
- Bike parking for up to 150 percent of the actual bicycle users will be provided but not less than 40 spaces.
- Optional Request #1 will reflect two detached signs at a total of 112 square feet; 56 square feet per sign.
- A bulb-out will be provided on Bank Street for on-street parking.
- Amend Optional Request #4 to reflect the total square footage of all attached signs not to exceed 400 square feet.
- Optional Request #3, requesting leniency concerning street walls will be eliminated.
- The total building area is 210,346 square feet, consisting of 100,000 square feet of new construction in Phase I and 52,000 square feet of new construction in Phase II, as well as 57,942 square feet of existing building area.
- Along the street frontage of abutting parcels 145-051-02 and 145-051-03 the existing curb location will be retained and the sidewalk will be constructed from the back of curb to one-foot from the property easement.
- The Storm Water comments will be added verbatim as noted in the staff analysis.

Attachment No. 10

11. **Petition No. 2004-63 (decision)** by *Tuscan Development* for a change in zoning for approximately .47 acres located north of North Davidson Street between 15th and 16th Streets from I-2 to MUDD.

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition. (Julie Chiu was excused due to a potential conflict of interest.)

Attachment No. 11

12. **Petition No. 2004-67 (decision)** by *Charlotte-Mecklenburg Planning Commission* for adoption of a text amendment to the City of Charlotte Zoning Ordinance to amend Section 9.603 by adding vehicle leasing offices and associated accessory and transitional automobile parking to the list of uses permitted under prescribed conditions in the RE-2 and RE-3 zoning districts.

The Zoning Committee voted 5-1 to recommend **APPROVAL** of the text amendment.

Attachment No. 12

HEARINGS

13. **Petition No. 2004-15 (hearing)**. Change in zoning from MUDD-O and R-17MF to MUDD-O S.P.A. and MUDD-O for approximately 24 acres located on the northwest intersection of Sharon Road and Colony. ***Petitioner: Grubb Properties, Inc.***

Attachment No. 13

14. **Petition No. 2004-48 (hearing)**. Change in zoning from R-3 to UR-C(CD) for approximately 1.8 acres located on the northeast corner of East Lake Forest Road and Albemarle Road. ***Petitioner: T.A. Baucom and Anthony V. Hunt***

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

Attachment No. 14

15. **Petition No. 2004-64 (hearing)**. Change in zoning from CC, R-17MF(CD), R-3 and R-3(CD) to CC, NS and CC S.P.A. for approximately 86 acres located southeast of the intersection of York Rd. and Steele Creek Road. ***Petitioner: Childress Klein Properties, Inc.***

Attachment No. 15

16. **Petition No. 2004-65 (hearing).** Change in zoning from R-3 LW-PA to MX-1 (Innovative) LW-PA for approximately 16.1 acres located on the eastside of Suzanna Drive north of Hart Road. *Petitioner: Michael J. Lucas and Jill R. Lucas*

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

Petitioner is requesting that this petition be **DEFERRED** for three months for an October public hearing.

Attachment No. 16

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

Staff is requesting that this petition be **DEFERRED** until the preliminary land use recommendations are available from the Rocky River Road Area Plan currently underway.

Attachment No. 17

18. **Petition No. 2004-70 (hearing).** Change in zoning from B-2 LLWPA, I-1 LLWPA, I-2 LLWPA and R-4 to I-1(CD) LLWPA for approximately 58.54 acres located west of Future I-485, south of Wilkinson Blvd. at Berryhill Rd. *Petitioner: Lord Baltimore Properties*

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

Attachment No. 18

19. **Petition No. 2004-71 (hearing).** Change in zoning from R-3 to R-12MF(CD) for approximately 40.25 acres located south of Alexanderana Road, east of Mt. Holly-Huntersville Road. *Petitioner: State Street Companies c/o Mr. Jim Grdich*

Attachment No. 19

20. **Petition No. 2004-72 (hearing).** Change in zoning from CC to CC S.P.A. for approximately 2.96 acres located southwest of the intersection of Pavilion Blvd. and North Tryon Street (US Highway 29). *Petitioner: Ark Ventures, Inc. c/o Mr. Noah Lazes*

Attachment No. 20

21. **Petition No. 2004-73 (hearing).** Change in zoning from MX-2 to NS for approximately 1.5 acres located west of Rocky Ford Club Dr. on both sides of Arbor Creek Dr. **Petitioner: Cambridge-Eastfield, LLC**

Attachment No. 21

22. **Petition No. 2004-74 (hearing).** Change in zoning from CC to CC S.P.A. for approximately 27.5 acres located west of the intersection of North Tryon Street (US Hwy 29) and Mallard Creek Church Road. **Petitioner: RealtiCorp/Cambridge Properties**

Attachment No. 22

23. **Petition No. 2004-75 (hearing).** Change in zoning from R-3 to INST for approximately 9.73 acres located west of W.T. Harris Blvd. south of Trysting Road. **Petitioner: Hickory Grove Baptist Church**

Attachment No. 23

24. **Petition No. 2004-77 (hearing).** Consideration of a text amendment to the City of Charlotte Zoning Ordinance to recognize previously developed sites that are a 'unified development', such as an office, business, or industrial park that may have been developed prior to the 1988 text amendment that required the application of the subdivision ordinance to such site. This amendment would allow for the division of such properties into separate ownership parcels even if the parcels so created do not abut a public street and provide for the modification of the requirements for yards and screening between previously developed sites along lot lines that may be created through the division of the larger unified development if the development on the parcel so created would not comply with existing standards for yards and screening due to the nature of the existing development of the site. **Petitioner: Charlotte-Mecklenburg Planning Commission**

Attachment No. 24

25. **Petition No. 2004-78 (hearing).** Change in zoning from R-5 to UR-1 for approximately .25 acres located east of the intersection of Clemson Ave. and Wesley Ave. **Petitioner: Mondrian Enterprises, Inc.**

Attachment No. 25

26. **Petition No. 2004-79 (hearing).** Change in zoning from I-2 to MUDD(CD) and MUDD-O for approximately 1.44 acres located on both sides of Seigle Ave., between Belmont Ave. and Van Every St. *Petitioner: The Charlotte-Mecklenburg Planning Commission*

Attachment No. 26

27. **Petition No. 2004-80 (hearing).** Change in zoning from O-2 to MUDD(CD) for approximately .45 acres located on the west side of East Morehead Street north of Arosa Avenue. *Petitioner: James L. Blane*

Attachment No. 27

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

Attachment No. 28