

Mayor Patrick L. McCrory Mayor Pro Tem Susan Burgess
Michael Barnes John W. Lassiter
Nancy Carter Don Lochman
Andy Dulin James E. Mitchell, Jr.
Anthony Foxx Patrick Mumford
Patsy Kinsey Warren Turner

CITY COUNCIL ZONING AGENDA
Monday, April 16, 2007

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

6:00PM – Zoning Decisions/Hearings
Meeting Chamber

DINNER MEETING

- ***Review of Agenda – Keith MacVean***

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DECISIONS

1. **Petition No. 2006-136 (decision) by Richard T. Wynn** for a change in zoning for approximately 3.8 acres located on Coatbridge Lane south of McLaughlin Drive from R-3 to R-8(CD).

**Protest
(sufficient)**

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

The Zoning Committee found this petition to be consistent with the *General Development Policies*, and therefore, to be reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition with the following modifications:

- A solid fence has been added at the rear of the homes on the east side of Coatbridge Lane.
- A tree save area larger than minimum ordinance requirements has been preserved.
- The existing cul-de-sac will be removed and curb and gutter re-installed.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 1

2. **Petition No. 2007-18 (decision) by Robert Spivey** for a change in zoning for approximately 5.48 acres located on the northwest corner of Brookshire Boulevard and Oakdale Road from R-4 and I-1 to B-2(CD).

The Zoning Committee found this petition to be inconsistent with the *North West District Plan*, but reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition with the following modification:

- The buffer fence note should be modified to say that the finished side of the fence will face the adjoining property line.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 2

3. **Petition No. 2007-19 (decision) by Etalon, LLC** for a change in zoning for approximately 24.59 acres located on the west side of Strawberry Lane, south of Pineville-Matthews Road from R-3 to MX-1.

The Zoning Committee found this petition to be consistent with the *South District Plan* and therefore, to be reasonable and in the public interest and unanimously recommended **APPROVAL** of this petition.

Staff disagrees with the recommendation of the Zoning Committee. The subdivision ordinance requires a second access point “where feasible.” Staff maintains that a second access is feasible and the note reserving the right to seek a variance to remove the access should be removed from the site plan. The petitioner should also continue to work with Storm Water Services to address water quality and water quantity concerns.

Attachment 3

4. **Petition No. 2007-21 (decision) by Thomas B. Henson** for a change in zoning for approximately 87.35 acres located on Ayrley Town Boulevard east of South Tryon Street and west of Interstate 485 from MUDD-O to MUDD-O SPA.

The Zoning Committee found this petition to be consistent with the *Southwest District Plan*, and therefore, to be reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition with the following modification:

- All CDOT issues have been addressed.
- The petitioner has limited the location of any LED, video display, and marquee signs to the interior of the site.
- The petitioner has shown the location of the proposed parking decks that will have a modified screening treatment.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 4

5. **Petition No. 2007-22 (decision) by Diamond Point Properties** for a change in zoning for approximately 1.27 acres located on the west side of South Tryon Street between Yancey Road and Orchard Circle.

The Zoning Committee found this petition to be consistent with the *Central District Plan* and therefore reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition with the following modification:

- All Storm Water comments will be addressed.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 5

6. **Petition No. 2007-25 (decision) by Tribek Properties** for a change in zoning for approximately 0.71 acres located on the northeast corner of South Tryon Street and West Arrowood Road from B-1SCD to B-1.

The Zoning Committee found this petition to be consistent with the *Southwest District Plan*, and therefore, to be reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 6

7. **Petition No. 2007-26 (decision) by Hickory Grove Baptist Church** for a change in zoning of approximately 29.11 acres located on the west side of East W.T. Harris Boulevard, south of Hickory Gove Road from R-1 and R-3 to INST.

The Zoning Committee found this petition to be consistent with the *East Side Strategic Plan*, and therefore, to be reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 7

8. **Petition No. 2007-27 (decision) by Charlotte-Mecklenburg Planning Commission** for the adoption of a text amendment to the City of Charlotte Zoning Ordinance to modify the Administrative Amendment process by adding authorization for the Planning Commission to hear appeals to such amendments.

Modifications also include a list of 9 types of significant changes to an approved site plan that can not be considered through an administrative amendment process.

Changes have also been made on how approvals are handled based upon whether the original petition had a valid protest petition filed or not. If an administrative amendment is approved to a site plan that had a valid protest petition filed on the original petition, then written notification of the decision shall be sent to adjacent property owners (within 300'), neighborhood organizations (within one mile), and a sign shall be posted on the property announcing the approval. Adjacent property owners within 100' have the right to file an appeal within 21 days from the date of the written notification.

If an administrative amendment is approved without a valid protest petition, then no written notice will be sent, but adjacent property owners within 100' shall have the right to file an appeal within 21 days of the date of the decision.

And if an administrative amendment is denied, then the applicant may appeal the decision within 21 days of the decision. Planning staff shall send written notice of the denial to adjacent property owners within 300' of the site.

The Planning Committee found this petition to be consistent with City Council policy and local zoning authority and consistent with the purpose of adopted plans and policies and, therefore, recommended **APPROVAL** of this text amendment by a vote of 5:1, with the following modifications:

- The text language of Section 6.207(c)(i)(2) should be changed to read as follows: “Send written notification of the approval to neighborhood leaders, as listed by the Planning Department, within one mile of the subject site”.
- Change the second Section 6.207(c)(ii) to 6.207(c)(iii), for the heading “Denial”.

Staff agrees with the recommendation of the Planning Committee.

Attachment 8

9. **Petition No. 2007-29 (decision) by CentDev Northlake, LLC** for a change in zoning of approximately 14.63 acres located on Smith Corners Boulevard, northeast of the West W.T. Harris Boulevard / Interstate 77 Interchange from CC to CC SPA.

The Zoning Committee found this petition to be consistent with the *North East District Plan*, and therefore, to be reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 9

10. **Petition No. 2007-32 (decision) by Beazer Homes Corporation** for a change in zoning of approximately 8.85 acres located on the northeast corner of West Mallard Creek Church Road and Senator Royall Drive from MUDD-O to R-12MF(CD).

The Zoning Committee found this petition to be consistent with the *North East District Plan*, and therefore, to be reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition with the following modifications:

- Petitioner will add note to plan stating that fence may be installed within the buffer, but buffer width may not be reduced.
- Petitioner will add private street off Senator Royall Drive for use by the development and the adjacent church.
- Petitioner will designate all of the 30 setback from Mallard Creek Church Road as a tree save area, except for those portions of the 30 foot setback that would have to be disturbed or graded to install the sidewalk and stairs.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 10

11. **Petition No. 2007-33 (decision) by Crosland, Inc.** for a change in zoning of approximately 15.80 acres located on the northeast corner of Ardrey Kell Road and Rea Road from CC to CC SPA.

The Zoning Committee found this petition to be consistent with the *Southwest District Plan*, and therefore, to be reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition with the noted modifications:

- The buffer width has been corrected to 75-feet.
- Circulation and parking will not be allowed between buildings and Ardrey Kell and Rea Roads.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 11

12. **Petition No. 2007-36 (decision) by Cindy Lane Associated Limited Partnership** for a change in zoning of approximately 15.92 acres located on the southwest corner of Cindy Lane and Hutchison-McDonald Road from I-1(CD) and R-4 to I-1(CD) and I-1(CD) SPA.

The Zoning Committee found this petition to be consistent with the *North East District Plan*, and therefore, to be reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition with the following modifications:

- 11.74% tree save area will be provided.
- The office portion of the new building will be oriented toward Hutchinson-McDonald Road.
- The buffers along Cindy Lane and I-77 as per rezoning petition 1990-59 are shown on the site plan.
- Storm Water and CDOT issues should be resolved.
- 8-foot planting strips and 6-foot sidewalks will be constructed on both Cindy Lane and Hutchinson-McDonald Road when the existing building is expanded.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 12

13. **Petition No. 2007-39 (decision) by The Charlotte-Mecklenburg Board of Education** for a change in zoning of approximately 50.01 acres located south of Belmeade Drive, about one mile south of Mount Holly Road from MX-3(Innovative)(LWPA) to MX-3(Innovative)SPA (LWPA).

The Zoning Committee found this petition to be consistent with the *North West District Plan*, and therefore, to be reasonable and in the public interest, and unanimously recommended **APPROVAL** of this petition.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 13

HEARINGS

14. Approve a resolution setting a public hearing for May 21, 2007 at 6:00 PM on the question of historic designation of the “Myrtle Square Apartments” and land as an Historic Landmark.

Attachment 14

15. Approve a resolution setting a public hearing for May 21, 2007 at 6:00 PM on the question of historic designation of the “N.S. Alexander House and Land” and land as an Historic Landmark.

Attachment 15

16. Approve a resolution setting a public hearing for May 21, 2007 at 6:00 PM on the question of historic designation of the “Woodlawn Avenue Duplex” and land as an Historic Landmark.

Attachment 16

17. Approve a resolution setting a public hearing for May 21, 2007 at 6:00 PM to amend the current ordinance of the “The Home Federal Savings and Loan” and land.

Attachment 17

Deferral

18. **Petition No. 2006-142 (hearing).** Change in zoning from INST(CD) to INST(CD)SPA of

(one month)

approximately 19.3 acres located on the south side of Choate Circle west of Moss Road.

Petitioner: Gordon-Conwell Theological Seminary

Petitioner is requesting a one-month deferral of this petition to address site plan issues.

Staff recommends a one-month deferral of this petition.

Attachment 18

19. **Petition No. 2006-155 (hearing).** Change in zoning from I-1 and RE-1 to MUDD-O of approximately 37.31 acres located at the northeast quadrant of the I-85 / City Boulevard interchange. ***Petitioner: Crescent Resources / IKEA Property, Inc.***

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 19

20. **Petition No. 2007-01 (hearing).** Change in zoning from R-3 to R-4 of approximately 17.77 acres located on both sides of Sherbrooke Drive west of Sharon Road. ***Petitioner: The Boulevard Company***

Staff recommends denial of this petition.

Attachment 20

21. **Petition No. 2007-11 (hearing).** Change in zoning from R-3 to INST(CD) and MX-1 of approximately 24.30 acres located on the south side of Eastfield Road north of Foggy Meadow Road. ***Petitioner: Coastal Ventures, LLC***

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 21

22. **Petition No. 2007-17 (hearing).** Change in zoning from R-3 to MX-2 of approximately 18.43 acres located on the southeast corner of Providence Road West and Old Ardrey Kell Road. ***Petitioner: The McAlpine Group, LLC***

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 22

23. **Petition No. 2007-24 (hearing).** Change in zoning from R-3 to NS of approximately 3.72

acres located on the southwest corner of South Tryon Street and Moss Road. *Petitioner: York Development Group, Inc.*

Staff recommends denial of this petition because it is inconsistent with the area plans.

Attachment 23

24. **Petition No. 2007-30 (hearing).** Change in zoning from R-5 to MUDD-O of approximately 0.29 acres located on the north side of Woodcrest Avenue between South Tryon Street and South Mint Street. *Petitioner: Adam Rappaport and Louise F. Shackelford*

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 24

25. **Petition No. 2007-31 (hearing).** Change in zoning from R-17MF to NS of approximately 4.40 acres located on the northeast corner of West Sugar Creek Road and Mineral Springs Road. *Petitioner: Tribek Properties*

Staff recommends denial of this petition because it is inconsistent with the area plans.

Attachment 25

26. **Petition No. 2007-34 (hearing).** Change in zoning from R-3 to R-5(CD) of approximately 0.81 acres located on the northwest corner of Park South Drive and Old Reid Road. *Petitioner: Simonini Builders*

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 26

27. **Petition No. 2007-35 (hearing).** Change in zoning from O-1 to B-1(CD) of approximately 6.78 acres located on the north side of Albemarle Road between North Sharon Amity Road and Central Avenue. *Petitioner: June Allen*

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 27

28. **Petition No. 2007-37 (hearing).** Change in zoning from CC to INST(CD) of approximately

12.87 acres located on the west side of Salome Church Road, south of Mallard Creek Road.

Petitioner: *The Charlotte-Mecklenburg Board of Education*

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 28

29. **Petition No. 2007-38 (hearing).** Change in zoning from CC to BD(CD) and CC SPA of approximately 6.28 acres located on the west side of Plaza Road Extension, south of Rocky River Road. **Petitioner: *Rocky River Deacon Devilcat, LLC***

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 29

**Deferral
(two months)**

30. **Petition No. 2007-40 (hearing).** Change in zoning from UR-2 to MUDD of approximately 0.44 acres located on the west side of North Cedar Street between West 5th Street and Cates Street. **Petitioner: *The Boulevard Company***

Petitioner is requesting a two-month deferral.

Staff recommends denial of this petition in its current form.

Attachment 30

31. **Petition No. 2007-42 (hearing).** Change in zoning from I-2 to R-6 of approximately 0.37 acres located on the west side of North McDowell Street, north of East 37th Street. **Petitioner: *Gerald Hebert and Justin Hansen***

Staff recommends approval of this petition.

Attachment 31

32. **Petition No. 2007-43 (hearing).** Change in zoning from R-3 to UR-2(CD) of approximately 15.99 acres located on the east side of Lancaster Highway, north of Ardrey Kell Road. **Petitioner: *Bo Buchanan***

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 32

33. **Petition No. 2007-44 (hearing).** Change in zoning from B-2 and B-2(CD) to BD(CD) of

approximately 4.42 acres located on the northeast corner of East Independence Boulevard and Wallace Lane. *Petitioner: James Bennett – ENSI Development Company*

Staff recommends denial of this petition because it is inconsistent with the area plans.

Attachment 33

34. **Petition No. 2007-46 (hearing)**. Change in zoning from I-2 to MUDD(CD) of approximately 21.94 acres located on the west side of North Brevard Street between the Matheson Avenue Bridge and East 36th Street. *Petitioner: Dave Ransenberg, Gateway Homes, LLC*

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 34

35. **Petition No. 2007-47 (hearing)**. Change in zoning from B-1 and R-12 MF to NS of approximately 2.94 acres located on the northeast corner of North Tryon Street and Pavilion Boulevard. *Petitioner: Dave Ransenberg, Gateway Homes, LLC*

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 35

36. **Petition No. 2007-48 (hearing)**. Change in zoning from R-5(LWCA) to MX-2(Innovative) (LWCA) of approximately 2.14 acres located on the northeast side of Amos Smith Road between Bright Road and Beatty Drive. *Petitioner: Provident Development Group, Inc.*

Staff recommends approval of this petition.

Attachment 36

**Deferral
(one month)**

37. **Petition No. 2007-49 (hearing)**. Change in zoning from R-5 to UR-1(CD) of approximately 0.47 acres located on the south side of Spencer Street between Herrin Avenue and Academy Street. *Petitioner: Greenleaf Development LLC*

Staff recommends a one-month deferral of this petition to allow time for submittal of a revised site plan.

Attachment 37

38. **Petition No. 2007-50 (hearing)**. Change in zoning from R-MH(LLWCA) and R-MH(LLWPA) to MX-2 Innovative (LLWCA) and MX-2 Innovative (LLWPA) of

approximately 52.70 acres located on the south side of Old Dowd Road and on the east side of Amos Smith Road. *Petitioner: Provident Development Group, Inc.*

Staff recommends approval of this petition upon resolution of outstanding site plan issues.

Attachment 38

39. **Petition No. 2007-51 (hearing).** Change in zoning from MUDD(CD) to MUDD(CD) SPA of approximately 6.41 acres located on the northeast corner of Seigle Avenue and East 10th Street. *Petitioner: Victoria Land Co., LLC*

Staff recommends denial of this petition.

Attachment 39

40. **Petition No. 2007-02 (hearing).** Change in zoning from R-22MF to R-8 of approximately 7.1 acres located on both sides of Brookside Avenue and 6.6 acres located on Park Road north of Ideal Way. *Petitioner: Charlotte-Mecklenburg Planning Commission*

Staff recommends approval of this petition.

Attachment 40

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