AGENDA

Meeting Type:	S
Date:	09-06-1991
SUBJECT	Wilmont Road 28.822 acres between Byrum Drive and Beam Road – Realty Buyers Group

City of Charlotte, City Clerk's Office

#5

CHARLOTTE

September 6, 1991

Realty Buyers Group
6201 Fairview Road
Suite 330
Charlotte, North Carolina 28210

Re: 28.822 acre site located on the west side of Wilmont Road between Byrum Drive and Beam Road

Gentlemen:

This will confirm our recent discussions of your plans for developing the above referenced property for industrial uses and your concerns that these plans are not in conflict with what the Airport envisioned for the area.

Since the property will be less than 3000 feet from the end of Runway 36R once it has been extended, and will lie directly under the glide path for that runway (with most of the property falling within the noise contour of greater than 75Ldn), we concur with your view that the most logical zoning category for the property is I-2.

The above referenced property lies adjacent to and east of the Whippoorwill Hills subdivision. Acquisition of this entire subdivision and relocation of the homeowners under the Airport's Part 150 Noise Compatibility Program was approved by City Council in 1988. To date, we have acquired approximately 40 of the 70 properties involved with the balance scheduled for acquisition within the next twelve months.

The draft Southwest District Plan recommends industrial, office and business park development for both Whippoorwill Hills and your property. The Airport plans to develop Whippoorwill Hills into an air cargo support center that will include a foreign trade zone, air cargo buildings and support operations and manufacturing that needs to be in close proximity to the Airport. Heavy industrial development is appropriate closer to the ends of the runway. This type of development is more intense in nature and would permit outdoor storage

We are pleased with your dedication of additional right-of-way along Wilmont Road as well as your commitment to a planning program designed to beautify the streetscape. The additional right-of-way and streetscape program is consistent with the Airport's plans for Terminal Drive Extension which ties into Wilmont Road.

Please advise me if you have additional questions or need further assistance.

Very truly yours,

T J. Orr
Aviation Director

PETITIONER'S
WRITTEN STATEMENT IN RESPONSE
TO THE STAFF'S PRE-HEARING ANALYSIS
OF
REZONING PETITION (NO. 91-57)

PETITIONER: Realty Buyers Group

PROPERTY INVOLVED: A 28.822 acre site situated 3,000± feet south of the proposed extension of the Airport's Runway 36 Right and located on the southern side of Byrum Drive, the western side of Wilmount Road, the eastern side of Whippoorwill Drive and the northern side of Beam Road (the "Property")

REQUEST: Change from R-15 to I-2(CD)

Petitioner seeks by this Rezoning Petition to rezone 8 parcels which it has assembled in the area formed by Byrum Drive, Wilmount Road, the Whippoorwill Hills Subdivision and the northern side of Beam Road from R-15 to I-2(CD). The attached Exhibit A depicts the Property, the zoning districts assigned to adjacent properties and the Property's close proximity to the end of the proposed extension of Runway 36 Right.

The I-2 General Industrial District is a district which allows for general commercial and industrial land uses, including manufacturing, processing and assembling of parts and products, distribution of products at wholesale, transportation terminals and a broad variety of specialized commercial and industrial operations. Note (a) of the Development Standards established under Petitioner's Rezoning Plan prohibits the use of the Property for abattoirs, foundries, junkyards and billboards.

BP/gb/(824-5)

In its Pre-Hearing Analysis, Staff has expressed the opinion that from a land use viewpoint the I-2(CD) zoning sought by Petitioner is in conflict with the Draft Southwest Mecklenburg District Plan's recommendations in that it recommends I-1 zoning for the Property and has further concluded that the Petition is not appropriate for approval from a site plan standpoint because "nothing extra" has been provided on Petitioner's CD Rezoning Plan "to minimize the impact of the proposed I-2 use on the surrounding properties" which would warrant this intensification of use.

The Petitioner respectfully disagrees with both of these conclusions and submits that its Petition should be approved for the following reasons:

THE LAND USE ISSUE

As will appear from Exhibit A, the subject Property is just 3,000 feet south of the proposed extension of the Airport's Runway 36 R and lies directly under the glide path for that runway. Moreover, most of the Property falls within airport noise zones of 75 Ldns or greater.

Admittedly, the subject Property as depicted on the Land Use and Transportation Plan Map which is attached to the Draft (as yet not approved by the City Council or the County Commission) Southwest District Plan falls within an area that is recommended for a combination of light industrial and office uses. However, a careful reading of the text of the Draft Plan clearly indicates that the basis for differentiating between I-2 and I-1 uses for properties near the Airport is the noise

zone within which the property falls, with properties associated with the Ldn 75 or higher noise zones being suitable for I-2 zoning.

As noted at page 30 of the Draft Southwest District Plan, the Airport Master Plan identified strategies to address noise within the Ldn noise zones and made the following suggestion with respect to the Ldn 75 noise zone:

> Acquisition - acquire property in areas recommended for airport development. Virtually all of the areas within the 75+ Ldn noise zone should be considered for acquisition if not already developed to a compatible use. It is recommended that the Airport eventually be in control of most of the land surrounding the airport to insure proper land use and airport development." (Emphasis added)

The Draft Southwest District Plan adopts this recommendation at page 39 by establishing as the policy for the Ldn 75+ noise zone to limit development to compatible land uses such as commercial, industrial or open spaces.

Representatives of the Petitioner have met with Jerry Orr, the Aviation Director for Charlotte/Douglas International Airport. Mr. Orr confirmed that the subject Property had been identified for acquisition by the City due to the high noise zones associated with it, but that the Airport would not object to the Petitioner's acquiring the subject Property.

Mr. Orr further advised the Petitioner that the City was in the process of acquiring all of the Whippoorwill Hills subdivision which adjoins the Subject Property (see Exhibit A) as a part of its Home Buyout Program that is designed to allow 100% of the private residences situated within the 75 Ldn noise

zone to relocate and that his Department intended to seek I-2 zoning for the Whippoorwill Hills properties.

Moreover, the Southwest District Plan, at page 52, contains the following recommendation (with which Mr. Orr concurs) for the "area immediately south of Airport:"

> "This area is contiguous to the Airport and is recommended in the Airport Master Plan for acquisition by 1990. The Southwest District Plan recommends heavy industrial development which can accommodate Airport's expansion needs and related businesses."

For the foregoing reasons, the Petitioner submits that a strong case can be made that the Draft Southwest District Plan has adopted a policy of approving I-2 zoning for the subject Property. Moreover, the Property's close proximity to Runway 36 R, its 75 Ldn noise zone, its adjacency to the acquired or to be acquired Whippoorwill Hills property and the fact that it lies within the glide path for the runway substantiates this interpretation.

It should be noted that the noise zone for the Lake Point Business Park (Law Engineering, Belks, etc.) which is located southeast of the subject Property across Wilmount Road is less than Ldn 65 and is therefore subject to much less of a noise impact than is the subject Property. Were the subject Property's uses to be limited to light industrial, business and office park uses, as recommended by Staff, it would be placed in a serious competitive disadvantage with the industrial and office parks to the east which have much lower Ldn noise zones.

TRAFFIC ISSUE

Examination of R. D. Gillis's Memoranda of July 29, 1991 and August 27, 1991, reveal that the trips per day generated by

the proposed zoning for the Property would not have a significant impact on the surrounding thoroughfare system.

SITE PLAN ISSUES

In assessing the Staff's contention that the Petitioner has provided "nothing extra" by way of conditional notes to warrant an intensification of use from residential to I-2, the following factors need to be taken into consideration:

1. All of the property surrounding the subject Property is either currently zoned I-1 or O-15 or will be zoned I-1 or I-2 in the very near future. Neither the Airport Master Plan nor the Draft Southwest District Plan recommends continued residential uses adjacent to the Property because all of these areas are experiencing high levels of aircraft noise and will continue to do so in the future with airport expansion.

2. With respect to the streetscape along Byrum Drive and Wilmount Road:

   - In January of 1991, rezoning [Petition No. 91-2(c)] was approved for the Byrum Industrial Park which lies on the north side of Byrum Drive between Bell Oaks Drive and Timberly Place just west of the subject Property (see Exhibit A). Examination of the conditional site plan indicates that a building setback of 20 feet was approved for this property and that the only planting commitment the petitioner was required to make was to plant trees at 50 foot intervals.

3. Petitioner met with Staff in advance of filing its Petition and Staff, in addition to opposing I-2 zoning, identified several site plan concerns, namely:

   - Right of Way Dedication;

- Landscaping Along Wilmount Road, and
- Buffers.

Petitioner also met with representatives of the Charlotte Department of Transportation with respect to accesses for the site and the additional right-of-way it would seek for improving Wilmount Road and Byrum Drive, two minor thoroughfares.

Petitioner responded to each and every concern raised by Staff but for economic reasons and reasons of fairness was unable to go quite as far as Staff had requested insofar as setbacks and buffers were concerned.

4. It would appear that the Staff's Pre-Hearing Analysis was based on Petitioner's Rezoning Plan, as revised on July 12, 1991, because several issues which the analysis says have not been responded to by the Petitioner have indeed been responded to in its Revised Rezoning Plan dated August 13, 1991.

Specifically, Staff's report raises concerns that Petitioner's "plan calls for nothing above and beyond the minimum zoning ordinance requirements to minimize the impact of an intensification of use from surrounding residentially zoned property or to create a high quality streetscape along Wilmount Road, and that existing trees in the setback and right-of-way which are required to be saved along Byrum Drive and Wilmount Road were not taken into consideration in the proposed tree planting shown on the site plan."

In response to the Staff's request, the Petitioner's Rezoning Plan commits it to abide by the provisions of the

Charlotte Tree Ordinance relating to the saving of existing trees in its most recent site plan.

The Ordinance does not require the planting of any shrubs along thoroughfares nor does it currently provide any floor area ratio restrictions on development taking place within an I-1 or an I-2 district. Moreover, the current ordinance allows parking in setbacks in both the I-1 and the I-2 Districts.

Under the Petitioner's Rezoning Plan, as revised August 13, 1991, it makes the following commitments which are above and beyond the minimum zoning ordinance requirements:

- Establishes a floor area ratio of .80 which is equal to the floor area ratio established under the proposed new zoning ordinance for the I-1 District and less than the 1.0 floor area ratio established under the proposed new zoning ordinance for the I-2 District.

- As previously noted, the Rezoning Plan restricts the Property from any of the following uses:

  abattoirs;

  foundries;

  junk yards or

  outdoor billboards.

- In addition, the Rezoning Plan requires the planting of 2½ inch caliper trees along the thoroughfares at 40 foot intervals, commits to planting a staggered row of evergreen shrubs between 24 and 30 inches in height along Wilmount Road, Byrum Drive and Beam Road within the 20 foot setback areas at a minimum of 5 feet on center.

- Restricts parking such that no parking will be allowed within the setback areas.

- Commits to dedicate to the City of Charlotte the additional right-of-way on the Property requested by CDOT for improvements needed to Wilmount Road and Beam Road.

- Restricts the use of outside storage within a distance of 200 feet from Byrum Drive, Wilmount Road and Beam Road.

Petitioner's treatment of the streetscapes along Byrum Drive, Wilmount Road and Beam Road compares most favorably with the 1991 I-1(CD) zoning approved for the site on the north side of Byrum Drive just west of the Property which only called for trees at 50 foot intervals and no shrubs.

Moreover, all of the property across Wilmount Road from the subject property has "by right" I-1 zoning and therefore is not subject to any commitments with respect to setbacks or streetscapes or right-of-way.

In view of the foregoing, the Staff's request that Petitioner provide a 50 foot landscape strip along Wilmount Road rather than a 20 foot setback and a 50 foot buffer along the southerly edge adjacent to residential property rather than a 20 foot yard is simply not reasonable.

Petitioner's are acquiring the subject Property at industrial market prices and the additional 30 foot strip requested would translate into a market price of approximately $170,000.00. The 50 foot buffer along the southerly edge sought by Staff will not be adjacent to residential property in the long term, but industrial. Indeed, the City of Charlotte has already acquired some of this property. Thus, there is no need to buffer "residential" property.

In conclusion, it should be noted that the Petitioner has written or visited with every adjoining property owner except

Emory Express whose home office is in California and no one has opposed the I-2(CD) zoning sought by Petitioner or its site plan except for one adjoining property owner (Dwight C. Holland) who does not oppose the Petition so long as his property is given an industrial classification as well.

For the foregoing reasons, Petitioner is most hopeful that the Zoning Committee and the City Council will approve its Petition.

Respectfully submitted this 3rd day of September, 1991.

Bailey Patrick, Jr.

EXHIBIT A

I-2

RUNWAY 36R

R-12

38 22 AC

PROPOSED EXTENSION

CHARLOTTE

57 AC

NC 160

PAUL BROWN BLVD

HOPESMORE

SIRUS

LANMOORE CT

R-12

I-1 (CD)

BYRUM DR

WHIPPOORWILL HILLS

R-15

RU (CD)

WILMOUNT

I-1

SUBJECT

BEING ACQUIRED BY CITY

O-15 (CD)

MATCH TO SHEET NO 105