AGENDA

Meeting Type:	Z
Date:	03/15/99

City of Charlotte, City Clerk's Office

OFFICE COPY

Mayor Patrick McCrory *Mayor Pro Tem Lynn Wheeler*

Rod Autrey
Charles Baker
Patrick Cannon
Malachi Greene
Mike Jackson
Nasif Rashad Majeed
Don Reid
Al Rousso
Tim Sellers
Sara Spencer

Council Agenda

Monday, March 15, 1999

5:00 p.m. - Council-Manager Dinner
Meeting Chamber Conference Room

6:00 p.m. - ZONING HEARINGS
Meeting Chamber

ITEM NO.

PUBLIC HEARINGS

1. (98-110) Hearing on Petition No. 98-110 by Debra Grier for a change in zoning for approximately .272 acres located on the west side of Mulberry Avenue north of Oaklawn Avenue from R-5 to R-8MF(CD).

   Attachment No. 1

2. (99-08) Hearing on Petition No. 99-08 by The Mathisen Company for a change in zoning for approximately 5.1 acres located on the east side of Faires Farm Road across from Jeffrey Bryan Drive from R-12(CD) to R-4(CD).

   Attachment No. 2

3. (99-10) Hearing on Petition No. 99-10 by Triven Properties, LLC for a change in zoning for approximately 10.2 acres located on the north side of Tom Hunter Road south of Interstate 85 from R-4 to R-8(CD).

   A protest petition has been filed and is sufficient to invoke the 3/4 rule.

   Attachment No. 3

4. (99-22) Hearing on Petition No. 99-22 by Tribek Properties for a change in zoning for approximately 3.74 acres located on the southeast corner of Mallard Creek Road and W. T. Harris Boulevard from O-1(CD) to B-1(CD).

Attachment No. 4

5. (99-26) Hearing on Petition No. 99-26 by MB and Frances Wallace and the Estate of Alma Wallace for a change in zoning for approximately 17.39 acres located on the north side of Johnston Oehler Road south of Ridge Road and west of Jimmy Oehler Road from R-3 to R-4.

Attachment No. 5

6. (99-27) Hearing on Petition No. 99-27 by Diamond Oak Development, Inc. for a change in zoning for approximately 9 acres located on Muddy Pond Lane east of Pineville Road (U.S. Hwy. 521) from R-4 to R-8(CD).

A protest petition has been filed and is sufficient to invoke the 3/4 rule.

Attachment No. 6

7. (99-28) Hearing on Petition No. 99-28 by J. Michael and Dianna J. Horney for a change in zoning for approximately 3.2 acres located on the west side of Mallard Creek Road across from Governor Hunt Road from R-3 and R-15MF(CD) to INST(CD).

Attachment No. 7

8. (99-29) Hearing on Petition No. 99-29 by Edwin R. McCoy, III et.al and Quick Fuel Inc. for a change in zoning for approximately 7.5 acres located south of Dalecrest Drive north of Interstate 85 from R-12MF to I-1(CD).

Attachment No. 8

9. (99-30) Hearing on Petition No. 99-30 by East End Development, LLC for a change in zoning for approximately 3.45 acres located between Park Drive and Elizabeth Avenue south of E. Independence Boulevard from O-2, B-1 and B-2 to MUDD-O.

Attachment No. 9

10. (99-31) Hearing on Petition No. 99-31 by School Workers Federal Credit Union for a change in zoning for approximately 0.29 acres located on the southeast corner of French Street and Campus Street west of Beatties Ford Road from R-22MF to B-1(CD).

Attachment No. 10

11. (99-32) Hearing on Petition No. 99-32 by Patrick Pham for a change in zoning for approximately .42 acres located on the east side of North Sharon Amity Road south of Central Avenue from R-17MF to O-1(CD).

Attachment No. 11

12. (99-33) Hearing on Petition No. 99-33 by Centex Homes for a change in zoning for approximately 48 acres located along I-485 south of McKee Road from R-3 to R-3(CD) and R-5(CD).

Attachment No. 12

13. (99-34) Hearing on Petition No. 99-34 by Park Selwyn LLC for a change in zoning for approximately 1.2 acres located on the north side of Woodlawn Road west of Selwyn Avenue from R-5 to UR-2(CD).

A protest petition has been filed and is sufficient to invoke the 3/4 rule.

Attachment No. 13

14. (99-35) Hearing on Petition No. 99-35 by City of Charlotte for a change in zoning for approximately 3.8 acres located on the east side of Myers Street between Eleventh Street and Eighth Street from UR-2 and B-2 to UR-2(CD).

Attachment No. 14

15. (99-36) Hearing on Petition No. 99-36 by St. Luke's Village, LLC for a change in zoning for approximately 4.95 acres located on the south side of Marsh Road west of Park Road from R-4 to R-17MF(CD).

Attachment No. 15

16. (99-37) Hearing on Petition No. 99-37 by Provident Development Group, Inc. for approximately 18.6 acres located between Valleydale Road and Bellhaven Boulevard south of McClure Circle from R-4 LW/PA to R-8MF(CD) LW/PA.

Attachment No. 16

17. (99-38) Hearing on Petition No. 99-38 by Portman Holdings and City of Charlotte for approximately 3.9 acres located on the southeast corner of S. College Street and East Stonewall Street from UMUD to UMUD-O.

Attachment No. 17

DECISIONS

18. (98-91) Decision on Petition No. 98-91 by The Hanover Company for a change in zoning for approximately 22 acres located on the northwest corner of East W. T. Harris Boulevard and Old Concord Road from R-3 to R-17MF(CD).

This petition was deferred for 30 days on November 16, 1998, 30 days on December 21, 1998, 30 days on January 20, 1999 and 30 days on February 15, 1999.

Zoning Committee voted to recommend a one month deferral of this petition.

Attachment No. 18

19. (98-116) Decision on Petition No. 98-116 by Hargett, LLC for a change in zoning for approximately 5.9 acres located on the west side of Providence Road (NC 16) north of the East-West Circumferential Road from R-3 to O-1(CD).

The Zoning Committee voted to recommend a two month deferral of this petition.

Attachment No. 19

20. (98-117) Decision on Petition No. 98-117 by John B. Abernethy for a change in zoning for approximately 73.5 acres located on the north side of North Tryon Street opposite the intersection with Eastway Drive from R-9(CD), R-12MF(CD) B-2 and B-2(CD) to R-4(CD), R-12MF(CD) and B-2(CD) S.P.A.

This petition was deferred for 60 days on January 20, 1999.

The Zoning Committee voted to recommend a one month deferral of this petition.

Attachment No. 20

21. (98-122) Decision on Petition No. 98-122 by Brian Speas for a change in zoning for approximately 0.88 acres located on the west side of Park Road across from Salem Drive and south of McDonald Avenue from INST(CD) to R-17MF(CD).

A protest petition has been filed and is sufficient to invoke the 3/4 vote.

The Zoning Committee voted to recommend approval of this petition, with the following modifications:

- The number of proposed condominium units is reduced to 14.
- The requested district is modified from R-22MF(CD) to R-17MF(CD).
- Note #7 on the plan is modified to reflect that, should this condominium proposal not be developed, the property may be developed under the R-4 district standards.

Attachment No. 21

22. (99-04) Decision on Petition No. 99-04 by Robert and Carrie Alexander for a change in zoning for approximately 1.2 acres located on the northwest corner of US 29 and Heritage Pointe Drive from R-3 to R-12MF(CD).

The petition was deferred for 30 days on February 15, 1999.

Zoning Committee voted to recommend a one month deferral of this petition.

Attachment 22

23. (99-09) Decision on Petition No. 99-09 by Heritage Communities, Inc. for a change in zoning for approximately 31.4 acres located on the north side of East W. T. Harris Boulevard west of Old Concord Road from R-3 to R-17MF(CD).

The petition was deferred for 30 days on February 15, 1999.

Zoning Committee voted to recommend a two month deferral of this petition.

Attachment No. 23

24. (99-14) Decision on Petition No. 99-14 by John R. West for a change in zoning for approximately 3.6 acres located on the south side of Freedom Drive east of Elmwood Circle from R-3 to R-4.

Zoning Committee voted to recommend approval of this petition.
Attachment No. 24

25. (99-15) Decision on Petition No. 99-15 by Ms. Nga Troung for approximately .19 acres located on the north side of Rozzelles Ferry Road east of Hoskins Road from R-22MF to B-1.

Zoning Committee voted to recommend approval of this petition

Attachment No. 25

26. (99-16) Decision on Petition No. 99-16 by Triven Properties, LLC for a change in zoning for approximately 16.7 acres located on Hewitt Drive west of West Sugar Creek Road from R-3 to R-5.

Zoning Committee voted to recommend approval of this petition.

Attachment No. 26

27. (99-17) Decision on Petition No. 99-17 by Lincoln Property Company for a change in zoning for approximately 1.9 acres located on the northeast corner of College Street and East Carson Boulevard from I-2 and UMUD(CD) to UMUD(CD) and UMUD(CD) S.P.A.

Zoning Committee voted to recommend approval of this petition.

Attachment No. 27

28. (99-18) Decision on Petition No. 99-18 by LandCraft Properties, Inc. for a change in zoning for approximately 74 acres located on the west side of Old Concord Road south of East W. T. Harris Boulevard and north of West Rocky River Road from R-3 to MX-1.

Zoning Committee voted to recommend approval of this petition, with the following modification:

- The petitioner will work with transportation officials to accommodate the potential realignment of Rocky River Road due to the improved crossing of the high-speed rail line.

Attachment No. 28

29. (99-19) Decision on Petition No. 99-19 by Childress Klein Properties Inc. for a change in zoning for approximately 5.3 acres located on the southeast corner of York Road (NC 49) and Arrowood Road from R-4 and R-17MF to B-1(CD).

Zoning Committee voted to recommend a one month deferral of this petition.

Attachment No. 29

30. (99-20) Decision on Petition No. 99-20 by Pace/Dowd Properties for a change in zoning for approximately 10.3 acres located on the east side of Providence Road West, south of Elm Lane and north of Blakeney Heath Road from R-12MF(CD) to UR-2(CD).

Zoning Committee voted to recommend approval of this petition.

Attachment No. 30

31. (99-21) Decision on Petition No. 99-21 by The Charlotte-Mecklenburg Board of Education for a change in zoning for approximately 51.8 acres located on the south side of Freedom Drive and the north and south sides of Alleghany Street east of Ashley Road from B-1 S.C.D., BD(CD) and I-1(CD) to INST.

Zoning Committee voted to recommend approval of this petition.

Attachment No. 31

32. (99-24) Decision on Petition No. 99-24 Dr. Walter C. Gwin, Sr. for a change in zoning for approximately 0.63 acres located on the northeast corner of Interstate 85 and Tennessee Avenue from R-17MF to O-1(CD).

Zoning Committee voted to recommend approval of this petition, with the following modifications:

- A note will be added to the site plan committing to preserve existing trees within required setbacks and buffers.
- Buffer width shall not be reduced by the installation of a fence, wall, or berm.
- Sight distance triangles at the driveway will be revised to comply with CDOT standards.

Attachment No. 32

33. (99-25) Decision on Petition No. 99-25 by David S. Reynolds for a change in zoning for approximately 6.2 acres located on the south side of Monroe Road east of Sharon Amity Road and west of Rama Road from R-4 to O-1(CD).

Zoning Committee voted to recommend approval of this petition.

Attachment No. 33

34. Resolution calling for public hearings on Monday, April 19, 1999 at 6:00 p.m. in the Meeting Chamber of the Charlotte-Mecklenburg Government Center for Petitions Nos. 99-23, 99-39 through 99-45, and 99-47 through 99-50.

ANNOUNCEMENTS

On Monday, April 12, 1999, City Council will make nominations to fill vacant positions on the following boards:

1. AUDITORIUM-COLISEUM-CONVENTION CENTER AUTHORITY
   One three year appointment beginning May, 1999. Anthony Hunt is eligible for reappointment.

2. CERTIFIED DEVELOPMENT CORPORATION
   Six three year appointments beginning May, 1999. In the business organization category, William McCullough is not eligible for reappointment, and David Thompson is eligible to be reappointed. In the community organization category, Sally Wood did not meet Council's attendance requirements. In the local government category, Richard Bargoil is eligible to be reappointed. In the private lending category, Jerry McMurray did not meet attendance requirements, and Thad Downs is eligible to be reappointed.

3. CHARLOTTE-MECKLENBURG DEVELOPMENT CORPORATION
   One appointment beginning immediately and ending November, 2000 to replace Henry Hicks, who has resigned.

4. CIVIL SERVICE BOARD
   One position beginning May, 1999 to serve for three years. Valerie Woodard is eligible for reappointment.

5. CLEAN CITY COMMITTEE
   One position beginning immediately to fill an unexpired term ending June 30, 1999, and the next full three year appointment. Jean Humiski has resigned. One position beginning immediately to fill an unexpired term ending June 30, 2000. Alex Holloman has resigned. Four three year positions beginning July 1, 1999. Jill Bietel is not eligible to be reappointed; Minnie Mitchell does not wish to be reappointed. Dennis Warfle are eligible and would like to be reappointed.

6. CMUD ADVISORY COMMITTEE
   One three year appointment beginning July 1, 1999, representing a water/sewer contractor. Richard Glassen is eligible to be reappointed.

7. COMMUNITY RELATIONS COMMITTEE
   One appointment beginning immediately and ending June 30, 2001. Michael Nguyen did not meet attendance requirements. Two appointments for three year terms beginning July, 1999. Wanda Davis is eligible and would like to be reappointed; Leroy Miller does not want to be reappointed.

8. HISTORIC DISTRICT COMMISSION
   One three year positions beginning July 1, 1999, representing a business owner-operator in Dilworth. Damon Rumsch is not eligible to be reappointed.

9. **HISTORIC LANDMARKS COMMISSION**
Two appointments beginning July, 1999 for three years. David Martin and Scott Hirsch are eligible and would like to be reappointed.

10. **HOUSING AUTHORITY**
One appointment beginning immediately to fill an unexpired term ending December, 2000. Mialinda Hedgepath has resigned.

11. **MINORITY/WOMEN'S BUSINESS DEVELOPMENT**
One appointment beginning immediately and ending August, 2000. Troy Watson did not meet attendance requirements.

12. **NEIGHBORHOOD MATCHING GRANTS COMMITTEE**
Two appointments to serve two year terms beginning May, 1999. Lillie Gilchrist and Bridgette Welton are eligible and want to be reappointed.

13. **PAROLE ACCOUNTABILITY COMMITTEE**
Two appointments beginning June, 1999 for three years. Charles Spell and Robert Washington are eligible and want to be reappointed.

14. **PLANNING COMMISSION**
One three year appointment beginning July 1, 1999. Wayne Johnson is eligible and would like to be reappointed.

15. **SISTER CITIES COMMITTEE**
Two appointments beginning immediately and ending April, 2000. Pamela Gibson and Suzanne Johnson have resigned.

16. **STORM WATER SERVICES ADVISORY**
One appointment for three years beginning April, 1999. Shay Baird, representing the land development category, is eligible and wants to be reappointed.

17. **TREE ADVISORY COMMITTEE**
One appointment beginning immediately to fill an unexpired term ending December, 2000. Franches Choice did not meet attendance requirements.

18. **ZONING BOARD OF ADJUSTMENT**
One appointment beginning immediately for three years. Jerry McMurray declined the appointment.

Applications are available from the Office of the City Clerk, 600 East 4th Street, 336-7493, or you may fax it to yourself via the City's Fast Fax Service. Dial 336-8600, and immediately enter number 1 to access the Fast Fax system. The document number is 3320. All applications must be received by April 5, 1999 at 5:00 p.m.

A RESOLUTION PROVIDING FOR PUBLIC HEARING
ON PETITIONS FOR ZONING CHANGES

WHEREAS, the City Council has received petitions for zoning changes, which petitions, numbered 98-110, 99-08, 99-10, 99-22 and 99-26 through 99-38 are on record in the Office of the City Clerk, and

WHEREAS, the City Council deems it in the public interest that hearings be held on said petitions,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, that public hearings will be held in the Meeting Chamber located in the Charlotte-Mecklenburg Government Center, Lobby Level, at 600 East Fourth Street beginning at six o=clock P.M. on Monday the 15th day of March, 1999 on petitions for zoning changes numbered 98-110, 99-08, 99-10, 99-22, and 99-26 through 99-38.

BE IT FURTHER RESOLVED that notice of said hearings be published as required by law.

NOTICE OF PUBLIC HEARINGS ON PETITIONS
FOR ZONING CHANGES BY CITY COUNCIL
OF THE CITY OF CHARLOTTE, N.C.

NOTICE is hereby given that public hearings will be held by the City Council in the Meeting Chamber located in the Charlotte-Mecklenburg Government Center, 600 East Fourth Street beginning at 6:00 P.M. on Monday, the 15th day of March, 1999 on the following petitions proposing changes on the Official Zoning Maps of the City of Charlotte, North Carolina:

Petition No. 98-110. Change from R-5 to R-8MF(CD) for approximately .272 acres located on the west side of Mulberry Avenue north of Oaklawn Avenue. Petitioner: Debra Grier.

Petition No. 99-08. Change from R-12(CD) to R-4(CD) for approximately 5.09 acres located on the east side of Faires Farm Road across from Jeffrey Bryan Drive. Petitioner: The Mathisen Company.

Petition No. 99-10. Change from R-4 to R-8(CD) and R-22MF(CD) for approximately 10.2 acres located on the north side of Tom Hunter Road south of Interstate 85. Petitioner: Triven Properties.

Petition No. 99-22. Change from O-1(CD) to B-1(CD) for approximately 3.7 acres located on the southeast corner of Mallard Creek Road and W. T. Harris Boulevard. Petitioner: Tribek Properites.

Petition No. 99-26. Change from R-3 to R-4 for approximately 17.4 acres located on the north side of Johnston Oehler Road southof Ridge Road and west of Jimmy Oehler Road. Petitioner: M. B.and frances Wallace & Estate of Alma Wallace.

Petition No. 99-27. Change from R-4 to R-8(CD) for approximately 9 acres located on Muddy Pond Lane east of Pineville Road (U.S. Hwy. 521). Petitioner: Diamond Oak Development, Inc.

Petition No. 99-28. Change from R-3 and R-15MF(CD) to INST(CD) for approximately 3.2 acres located on the west side of Mallard

Creek Road across from Governor Hunt Road. Petitioner: J. Michael and Diana Horney.

Petition No. 99-29. Change from R-12MF to I-1(CD) for approximately 7.5 acres located south of Dalecrest Drive north of Interstate 85. Petitioner: Edwin R. McCoy, III. Et. al, and Quick Fuel Inc.

Petition No. 99-30. Change from O-1, B-1 and B-2 to MUDD-O for approximately 3.45 acres located between Park Drive and Elizabeth Avenue south of E. Independence Boulevard. Petitioner: East End Development, LLC.

Petition No. 99-31. Change from R-22MF to B-1(CD) for approximately .292 acres located on the southeast corner of French Street and Campus Street west of Beatties Ford Road. Petitioner: School Workers Federal Credit Union.

Petition No. 99-32. Change from R-17MF to O-1(CD) for approximately .42 acres located on the east side of North Sharon Amity Road south of Central Avenue. Petitioner: Patrick Pham.

Petition No. 99-33. Change from R-3 to R-3(CD) and R-5(CD) for approximately 48 acres located along I-485 south of McKee Road. Petitioner: Centex Homes.

Petition No. 99-34. Change from R-5 to UR-2(CD) for approximately 1.2 acres located on the north side of Woodlawn Road west of Selwyn Avenue. Petitioner: Park Selwyn LLC.

Petition No. 99-35. Change from UR-2 and B-2 to UR-2(CD) for approximately 3.8 acres located on the east side of Myers Street between Eleventh Street and Eighth Street. Petitioner: City of Charlotte.

Petition No. 99-36. Change from R-4 to R-17MF(CD) for approximately 4.9 acres located on the south side of Marsh Road west of Park Road. Petitioner: St. Luke's Village, LLC.

Petition No. 99-37. Change from R-4 LW/PA to R-8MF(CD) LW/PA for approximately 19.6 acres located between Valleydale Road and

Bellhaven Boulevard south of McClure Circle.
Petitioner: Provident Development Group, Inc., Tom Waters.

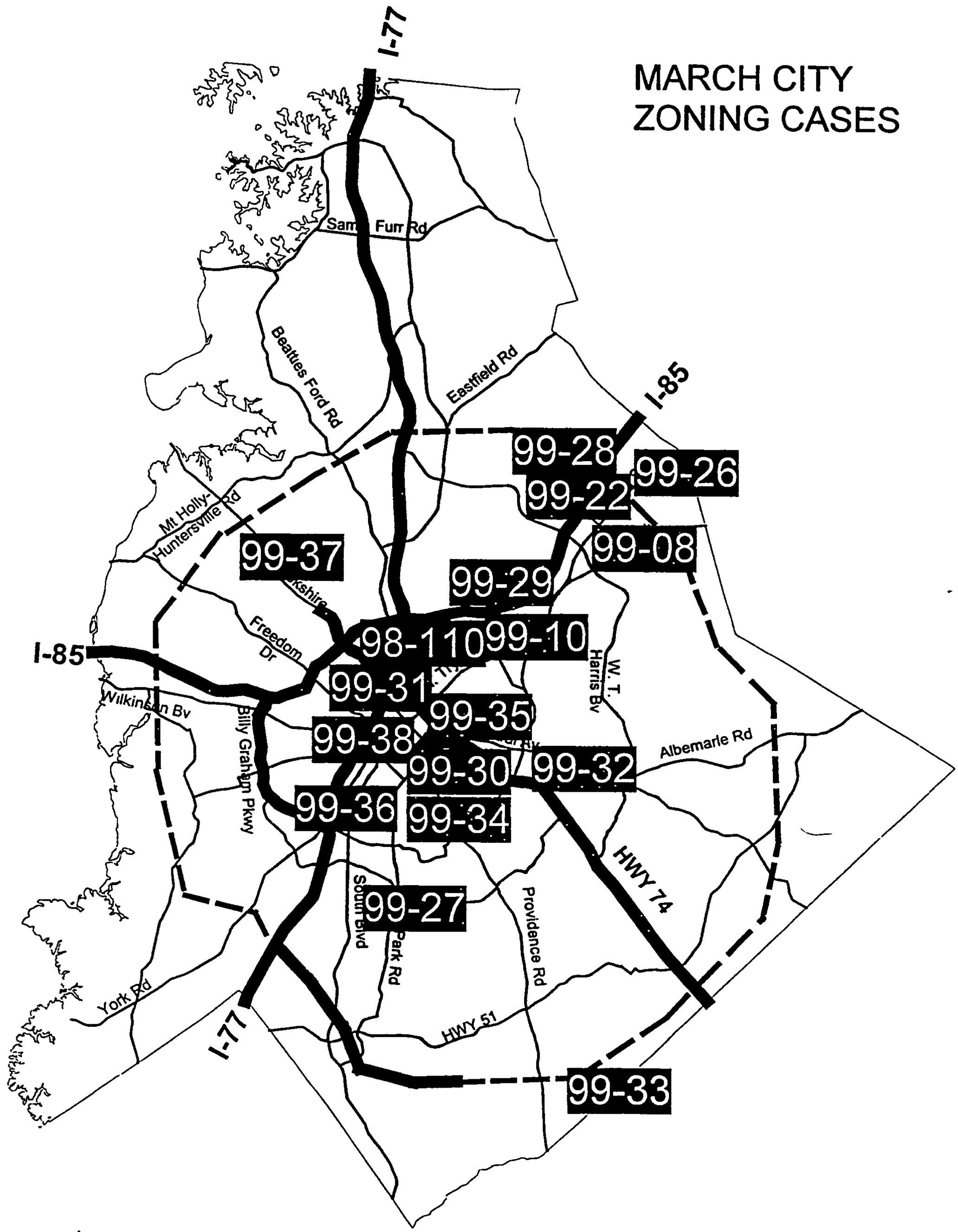
Petition No. 99-38. Change from UMUD to UMUD-O for approximately 3.9 acres located on the southeast corner of S. College Street and East Stonewall Street. Petitioner: Portman Holdings and City of Charlotte.

The City Council may change the existing zoning classification of the entire area covered by each petition, or any part or parts of such area, to the classification requested, or to a higher classification or classifications without the necessity of withdrawal or modification of the petition.

Parties in interest and citizens shall have an opportunity to be heard and may obtain further information on the proposed changes from the Charlotte-Mecklenburg Planning Commission Office, Charlotte-Mecklenburg Government Center, 600 East Fourth Street.

Anyone desiring to file a written petition of protest intended to invoke the 3/4 majority vote rule as specified in G.S. 160A-385 must file such petition in the Office of the City Clerk no later than the close of business on Wednesday, March 10, 1999.

MARCH CITY ZONING CASES



PRE-HEARING STAFF ANALYSIS

Rezoning Petition No. 98-110

Petitioner: Debra Grier

Location: Approximately .27 acres located on the west side of Mulberry Avenue north of Oaklawn Avenue.

Request: R-5 to R-8MF(CD)

Summary of Request: This petition proposes a rezoning to allow conversion of an existing single family home to a day care center. **THE PETITIONER HAS REQUESTED WITHDRAWAL OF THIS PETITION.**

BACKGROUND

1. **Existing Zoning.** The petitioned property and all of the surrounding properties are zoned R-5.

2. **Existing Land Use.** The petitioned site is occupied by a daycare home. The properties to the north, west and south are occupied by single family residences. The properties to the east across Mulberry Avenue are occupied by single family and multi family residential and a school.

3. **Public Plans and Policies**

   a. **Central District Plan (adopted 1993).** The Central District Plan recommends single family residential uses for this site and the surrounding area. It recognizes the nearby public school and church, as well as Oaklawn Cemetery. It promotes a neighborhood convenience retail center at the intersection of Beatties Ford Road and Oaklawn Avenue. The plan recommends continued support and implementation of the Beatties Ford Small Area Plan.

   b. **Beatties Ford Road Small Area Plan (1985).** This area plan finds that the Oaklawn Park neighborhood is a predominantly single family neighborhood which should be "maintained and protected."

   c. **Transportation Improvement Program.** Oaklwn Avenue is a minor thoroughfare with no improvements planned. The widening of Beatties Ford Road from Oaklawn Avenue to Russel Avenue is a funded project. Construction is scheduled to commence in 1999.

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4. **Site Plan.** The original site plan submitted with this petition had numerous deficiencies. **A revised site plan was never submitted.**

5. **School Information.** This request will not impact the school system.

OUTSTANDING ISSUES

1. **Land Use.** There are no publicly adopted policies regarding the locations of day care centers. A day care center may be considered compatible with a single family neighborhood if it is accompanied by a site plan sensitive to the surrounding single family homes and neighborhood.

2. **Site Plan.** The original site plan submitted with this petition had numerous deficiencies. **A revised site plan was never submitted and the petitioner has requested withdrawal of this petition.**

CONCLUSION

Withdrawal of this petition has been requested. There is no protest petition filed. Staff recommends allowing this petition to be withdrawn.

*Subject to further refinement following public hearing.