

Mayor Patrick L. McCrory  
Nancy G. Carter  
Harold Cogdell, Jr.  
Malcolm Graham  
Don Lochman  
James E. Mitchell, Jr.

Mayor Pro Tem Patrick De'Angelo Cannon  
Patrick Mumford  
Sara S. Spencer  
John Tabor  
Lynn Wheeler  
Joe White

## **CITY COUNCIL ZONING AGENDA**

**Monday, February 17, 2003**

**4:00PM - Special Briefing/Arena**  
Room 267

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

**Dinner Meeting**  
Rezoning Update: February, March,  
and April Public Hearings  
Attachment No. 1

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

## **DECISIONS**

- 2. Petition No. 1999-129 (decision) by Hand and Choate Investments, LLC** for a change in zoning for approximately 1.47 acres located on the northeast corner of Selwyn Avenue and Colony Road from O-2 and B-1 to MUDD-O.

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

- The off-site parking lot controlled by the petitioner(s) will be tied to meeting the parking requirements on this site.
- A parking formula has been agreed to between the staff and the petitioner. It provides for:
  - One parking space for every 125 square feet of restaurant space
  - One parking space for every 175 square feet of coffee shop-type use
  - One parking space for every 600 square feet of retail use, and
  - One parking space for every 600 square feet of outdoor dining/patio area

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

Attachment No. 2

- 3. Petition No. 2002-112 (decision) by Portrait Homes Construction Company** for a change in zoning for approximately 156.3 acres located between Old Concord Road and Back Creek Church Road, south of University City Boulevard from R-3 and B-1 to MX-2.

The Zoning Committee voted to recommend a one-month **DEFERRAL** of this petition.

Attachment No. 3

- 4. Petition No. 2002-116 (decision) by Barry LaVigne, Paul Sires, and Ruth Lyons** for a change in zoning for approximately 1.03 acres located at the northwest corner of the intersection of East 35<sup>th</sup> Street and Yadkin Avenue from R-5 to MUDD-O.

The Zoning Committee voted unanimously to **DENY** this petition.

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

Attachment No. 4

- 5. Petition No. 2002-121 (decision) by City Attorney Office** for adoption of a text amendment to Chapter 12: Development Standards of General Applicability, Part 1: Supplemental Development Standards, Section 12.106. Uses and structures prohibited and allowed in required setbacks and yards, (2).

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

- In no case shall the structure be closer than ten feet to the back of curb or edge of pavement.
- Any structure larger than 4' x 4' x 3' must be ten feet behind the proposed road right-of-way so as not to create a sight distance problem.

**Staff is requesting a one -month deferral to allow discussion of changes with utility companies.**

Attachment No. 5

- 6. Petition No. 2002-142 (decision) by Crescent Resources, Inc.** for a change in zoning for approximately 144.5 acres between Mallard Creek Church Road and Galloway Road, east of Mallard Creek Road from RE-3(CD) and R-3 to MUDD-O and MX-1 Innovative.

The Zoning Committee voted to recommend a one-month **DEFERRAL** of this petition to allow the staff to work with the petitioner regarding site plan and transportation issues.

Attachment No. 6

7. **Petition No. 2003-06 (decision) by Asele A. Carlisle** for a change in zoning for approximately 31.3 acres on the north side of Central Avenue, between Hawthorne Lane and The Plaza from R-8, R-22MF, and O-2 to R-5.

The Zoning Committee vote on this petition resulted in a 3-3 tie. Therefore, the petition is **AUTOMATICALLY DEFERRED** for one-month.

The petition has been modified as follows:

- The Barnhardt parcels (currently zoned R-8 and R-22MF) have been deleted from the petition. The associated valid protest petition has been removed.
- The three parcels on the southeast corner of Clement Avenue and Hamorton Place (currently zoned O-2) have been deleted from the petition.
- The condominiums on the southeast corner of Kennon Street and Hawthorne Lane (currently zoned R-22MF) are now proposed for R-17MF instead of R-5 zoning. This reflects the existing use of the property.

**Protest petitions have been withdrawn.**

Attachment No. 7

8. **Petition No. 2003-07 (decision) by Forty-Niner Development, LLC** for a change in zoning for approximately 27.38 acres located on the east and west sides of the proposed Mallard Creek Church Road Relocation from Institutional and B-1 to R-12MF(CD).

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

Attachment No. 8

9. **Petition No. 2003-08 (decision) by Charlotte-Mecklenburg Planning Commission** for adoption of a text amendment to several sections to revise the existing child care regulations in order to lessen the impact of child care homes and child care centers on residential neighborhoods, to establish a distance requirement between such uses permitted in single family/residential neighborhoods, to develop proper access by locating centers on streets designed to carry the traffic volumes generated by such uses and to coordinate local and state regulations by aligning ordinance definitions.

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

- Definition of child-care center amended to between thirteen (13) and seventy-nine (79) children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.
- Definition of child-care center in a residence amended to six (6) to twelve (12) pre-school children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult. A child-care center in a Residence must be licensed by the North Carolina Department of Health and Human Services.
- Definition of Shift (for a Family Child-care Home or Center) amended as follows:

First shift: Operating between the hours of 6:00 A.M. and 6:30 P.M.  
Second shift: Operating between the hours of 4:00 P.M. and 12:00 P.M.  
Third shift: Operating between the hours of 10:00 P. M. and 6:00 A.M.

- For family child-care homes, child-care centers in a residence, child-care centers located in residential districts and large child-care centers, outdoor play space and play equipment must be located in the required or established rear yard but outside of any required buffers.
- For family child-care homes and child-care centers in a residence, a maximum of eight (8) children are permitted during the first shift, and a maximum of five (5) children are permitted during one other shift. No more than two (2) shifts are permitted within a 24-hour period.
- Under Child-care Centers, land may be set aside for a child-care center without rezoning the property in single family subdivisions with a minimum of 250 lots when planned and developed on land that is internal to and as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved preliminary subdivision plan. The child-care centers must be located on a lot that fronts a collector street or a minor or major thoroughfare. Primary vehicular access may be provided by way of a local residential street. The center must meet all of the standards and requirements for childcare centers and be separated by a Class C buffer from any abutting residential use or residential zoning.
- Add a new subsection 12.502(6) that states all of the uses listed in this section, Section 12.502, that are existing before or after these regulations become effective shall not be subject to these regulations if only a change of ownership occurs.

Attachment No. 9

- 10. Petition No. 2003-09 (decision) by Land Use and Environmental Services Agency** for adoption of a text amendment to Chapter 13: Signs.

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

Attachment No. 10

- 11. Petition No. 2003-10 (decision) by Charlotte Apartment Association** for adoption of a text amendment to Chapter 13: Signs, Off-Premises directional development signs.

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

Attachment No. 11

- 12. Petition No. 2003-11 (decision) by Citiline, LLC** for adoption of a text amendment to Chapter 2, Definitions by adding Showroom, Chapter 9, General Districts and Chapter 12 Parking.

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

Attachment No. 12

## HEARINGS

- 13. Petition No. 99-105 (hearing).** Change in zoning from R-5 to R-8MF (CD) for approximately 1.08 acres located on the east side of East 36<sup>th</sup> Street and south of Spencer Avenue. **Petitioner: Victor N. and Lilian Ibekwere**

Attachment No. 13

- 14. Petition No. 2002-140 (hearing).** Change in zoning from R-8 to B-1 for approximately 0.585 acres located at the southwest corner of Badger Court and Statesville Avenue (U.S. Hwy. 21). **Petitioner: Donald and Linda Anderton**

**A protest petition was filed and is sufficient to invoke the  $\frac{3}{4}$  majority-voting rule.**

Attachment No. 14

- 15. Petition No. 2002-143 (hearing).** Change in zoning from R-5 and O-2 to UR-2(CD) for approximately 1.2 acres located at the northwest corner of Selwyn Road and Hassell Place. **Petitioner: The Boulevard 2000, LLC.**

**Two protest petitions were filed and both are sufficient to invoke the  $\frac{3}{4}$  majority-voting rule.**

**Petitioner is requesting a one-month deferral to continue to work on site plans issues and meet with adjoining property owners.**

Attachment No. 15

- 16. Petition No. 2002-146 (hearing).** Change in zoning from INST to NS for approximately 7.64 acres located on the north side of University City Boulevard (U.S. Hwy 49), west of the proposed Mallard Creek Church Road realignment. **Petitioner: MarkPiercePoole Properties, Inc.**

Attachment No. 16

- 17. Petition No. 2003-02 (hearing).** Change in zoning from R-4 to R-5(CD), R-6(CD) and R-8(CD) for approximately 4.62 acres located on the south side of Polk and White Road, west of Mallard Creek Road. **Petitioner: Ray L. Wilson**

**A protest petition was filed and is sufficient to invoke the  $\frac{3}{4}$  majority-voting rule.**

Attachment No. 17

- 18. Petition No. 2003-03 (hearing).** Change in zoning from O-1(CD) to O-1(CD) Site Plan Amendment for approximately 8 acres located on the south side of Hampton Church Road, east of South Tryon Street. **Petitioner: Diangikes Grier and George Fields**

**A protest petition was filed and is sufficient to invoke the  $\frac{3}{4}$  majority-voting rule.**

**Petitioner has requested a one-month deferral of this petition.**

Attachment No. 18

- 19. Petition No. 2003-05 (hearing).** Change in zoning from R-4 to R-8MF(CD) for approximately 1.8 acres located on the north side of Sofley Road, west of Northaven Drive. **Petitioner: Catherine C. Harrington**

**Staff has requested a one-month deferral of this petition.**

Attachment No. 19

- 20. Petition No. 2003-13 (hearing).** Change in zoning from R-3 to R-8MF(CD) for approximately 6.9 acres located on the south side of Providence Road West, east of Marvin Road. **Petitioner: First LandMark USA**

Attachment No. 20

- 21. Petition No. 2003-14 (hearing).** Change in zoning from R-17MF to O-1(CD) for approximately 3.84 acres located on the north side of Township Road, west of South Tryon Street (NC Hwy 49). **Petitioner: SonShine Construction, Inc.**

Attachment No. 21

- 22. Petition No. 2003-15 (hearing).** Change in zoning from O-15(CD) to B-1(CD) for approximately 2.9 acres located on the northwest corner of North Tryon Street (NC Hwy 29) and McCullough Drive. **Petitioner: Ale House Management, Inc.**

Attachment No. 22

- 23. Petition No. 2003-16 (hearing).** Change in zoning from R-4 to R-8MF (CD) for approximately 8.22 acres located on the north side of Sofley Road between Sugar Creek and Northaven Drive. **Petitioner: Vincent James**

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

**Staff has requested a two-month deferral of this petition.**

Attachment No. 23

- 24. Petition No. 2003-17 (hearing).** Change in zoning from B-1 S.C.D. to B-1(CD) for approximately 2.6 acres located on the northeast corner of West W.T. Harris Boulevard and the old alignment of West Sugar Creek Road. **Petitioner: New South Properties of the Carolinas, LLC**

Attachment No. 24

**25. Petition No. 2003-19 (hearing).** Text Amendment to the City of Charlotte Zoning Ordinance to clarify that Section 12.513 applies to non-CATS bus shelters and not CATS shelters and to delete the text regarding a moratorium on the establishment or the expansion of certain land uses in Section 4.105. **Petitioner: Charlotte-Mecklenburg Commission**

Attachment No. 25