
REQUEST	Current Zoning: RE-1 (research), RE-3(CD) (research, conditional), and R-3 (single family residential) Proposed Zoning: MUDD-O (mixed use development, optional) and R-12MF(CD) (multi-family residential, conditional), with five-year vested rights
LOCATION	Approximately 65.7 acres located on the northwest corner at the intersection of West Mallard Creek Church Road and Interstate 85. (Council District 4 - Phipps)
SUMMARY OF PETITION	The petition proposes to allow up to 395 multi-family residential units and up to 160,000 square feet of uses as allowed in MUDD. The site is generally surrounded by a mix of single family residential neighborhoods, institutional, and retail uses and vacant land.
PROPERTY OWNER PETITIONER	Jill H. Garrison, et al Charter Properties, Inc. Browder Group Real Estate, LLC
AGENT/REPRESENTATIVE	John Carmichael, Robinson Bradshaw & Hinson, P.A.
COMMUNITY MEETING	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 16
STATEMENT OF CONSISTENCY	<ul style="list-style-type: none">• The Zoning Committee found a portion of the site proposed for a mix of commercial uses to be consistent with the <i>Northeast Area Plan</i> and the portion of the site proposed for multi-family use inconsistent with the adopted plan, based on information from the staff analysis and the public hearing, and because:<ul style="list-style-type: none">• The portion of the site proposed for a mix of commercial uses is consistent with the <i>Northeast Area Plan</i> recommendation for office/research/retail uses. However, the portion of the site proposed for multi-family use is inconsistent with the <i>Northeast Area Plan</i> recommendation for office/research/retail uses for part of the area, and residential use up to four dwelling units per acre for the remainder of the area.• Therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because:<ul style="list-style-type: none">• The subject property is located in an Interstate 85 interchange area which was identified in the <i>Northeast District Plan</i> (which preceded the <i>Northeast Area Plan</i>) for an expansion of research uses outside of the University Research Park; and• The <i>Northeast Area Plan</i> updated that land use recommendation to include a range of commercial uses (office/research/retail), along with a recommendation for improved connectivity in the area and an integrated site plan; and• The proposed development has been designed to provide the integrated and interconnected development recommended by the area plan. Commercial development is proposed for the part of the site closest to West Mallard Creek Church Road and Interstate 85; and• While the proposed retail square footage exceeds the 100,000 maximum recommended by the adopted plan, the proposal still retains a range of uses as intended by the plan; and• Multi-family development is requested for the remainder of the site, instead of the non-residential uses identified by the plan. The addition of multi-family results in a greater mix of uses, instead of more isolated commercial development; and• The requested development has been designed to respond to

the transportation context by placing the most auto-oriented uses which will require high levels of vehicular access, specifically the outparcels, closest to the interstate interchange; and

- The site plan provides a transition from the auto-oriented area to a walkable commercial street which will connect to the multi-family development in the northern portion of the site; and
- The area that the plan recommends for single family development is proposed to be used for a 75-foot buffer area abutting existing single family homes, and a segment of the public street which will connect Mallard Creek Church Road and Galloway Road; and
- In addition to the new street connecting to Galloway Road, the proposed development will provide a number of transportation improvements. These include reservation of right-of-way for a future east-west crossing of I-85 at Galloway Road, and a new signalized intersection to create site access and set up for a potential new connection in the adjacent University Research Park;

By a 6-0 vote of the Zoning Committee (motion by McClung seconded by Sullivan).

<p>ZONING COMMITTEE ACTION</p>	<p>The Zoning Committee voted 6-0 to recommend APPROVAL of this petition with the following modifications:</p> <ol style="list-style-type: none"> 1. Petitioners' revised site plan shows the multi-use path along the west side of the continuous north-south street. Additionally, Note 6.E. of the Development Standards provides that the multi-use path shall be installed along the west side of the continuous north-south street, and this note provides that the width of the multi-use path may be reduced at certain pinch points. This note further provides that the Petitioners will work with CDOT during the permitting process to reduce the width of the multi-use path as needed. 2. The petitioners have revised Note 4.W of the Development Standards by inserting the requested language. 3. Petitioner has amended Note 3.D(1) to state that a maximum of 145,000 square feet of the 160,000 square feet of gross floor area may be devoted to retail sales use. As defined under the ordinance, retail sales shall mean the sale of goods, products or merchandise directly to the consumer. An eating drinking and entertainment establishment shall not be considered to be a retail sales use. Further Note 3.D(3) has been amended to state that in the event that a hotel is located on Development Area B or Development Area C, a total maximum of 142,000 square feet of retail sales uses may be developed on Development Areas B, C and D combined. 4. Petitioners' revised site plan delineates limits of cemetery on Sheet RZ 1.0. 5. The Petitioners have added Note 3.B(7) that states a TopGolf or similar facility (i.e. an eating drinking and entertainment establishment with an associated golfing outdoor entertainment use) shall not be permitted on Development Area B or Development Area C. 6. The Petitioners have added Note 3.C(10) that states a TopGolf or similar facility (i.e. an eating drinking and entertainment establishment with an associated golfing outdoor entertainment use) shall not be permitted on Development Area D. 7. Petitioners have agreed to reduce the maximum height in stories of the two multi-family buildings on Development Area A that front and are adjacent to the new internal public street connecting West Mallard Creek Church Road and Galloway Road
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- Prohibits the establishment of a TopGolf or similar facility (i.e. an eating drinking and entertainment establishment with an associated golfing outdoor entertainment use) from being permitted on Development Area A or Development Area B.
 - Allows the following uses on Areas B and C:
 - Eating, drinking and entertainment establishments (Type 1), and eating, drinking and entertainment establishments (Type 2) subject to the applicable regulations of Section 12.546 of the Ordinance;
 - Breweries, subject to the regulations of Section 12.544 of the Ordinance;
 - Hotels;
 - Indoor recreation;
 - Pet services indoor;
 - Professional business and general offices such as banks, clinics, medical, dental and doctor's offices, veterinary clinics, government, post offices, optician's offices and similar uses;
 - Retail sales and shopping center;
 - Services, including, without limitation, beauty shops and barbershops, spas and fitness centers; and
 - Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry.
 - Uses located on Development Area B or Development Area C may not have drive-in and drive-through service lanes/windows as an accessory use.
 - A convenience store with or without gasoline sales may not be located on Development Area B or Development Area C.
 - An automotive service station may not be located on Development Area B or Development Area C.
 - Allows a maximum of 110 hotel rooms to be developed on Development Area B and Development Area C combined.
 - In the event that a hotel is located on Development Area B or Development Area C, a total maximum of 142,000 square feet of gross floor area devoted to the uses described above (excluding a hotel and its accessory uses) may be developed on Development Area B, Development Area C and Development Area D combined. In this event, a maximum of 142,000 square feet of gross floor area may be devoted to retail sales uses.
 - Proposes a maximum building height of 80 feet in Area B and 60 feet in Area C.
 - Proposes the following optional provisions for Area B:
 - Allow parking, vehicular circulation and vehicular maneuvering space to be located between the building and structures located on Development Area B and the required setbacks from the adjacent public and private streets.
 - Proposes the following optional provisions for Area C:
 - Allow a minimum five-foot wide sidewalk located back of curb (without a planting strip) to be located along the western or northern edge of the Connector Road adjacent and in proximity to the cemetery as generally depicted on the Rezoning Plan to avoid any conflicts with the cemetery.
 - Allow installation of an eight-foot planting strip and a five-foot sidewalk along the western side of the Connector Road generally from the southern edge of the cemetery to West Mallard Creek Church Road as generally depicted on the Rezoning Plan.
 - Commits to the following architectural standards for Area C:
 - Allows a maximum height of any building located on Development Area C to be 40 feet. Notwithstanding the foregoing, the maximum height of that building located on Development Area C that is designated as Building 1 on the Rezoning Plan shall be 60 feet.
 - Places buildings so as to present a front or side facade to all streets.
 - Facades fronting streets shall include a combination of windows and operable doors for a minimum of 60% of each frontage elevation with transparent glass between two feet and 10 feet on the first floor.
 - Incorporates a minimum of 30% masonry materials such as brick or stone on facades of the first/ground floor of the buildings along streets.
 - Provides a direct pedestrian connection between street facing doors and corner entrance features to sidewalks on adjacent streets.
 - Prohibits building elevations from having expanses of blank walls greater than 20 feet in all directions and architectural features.
 - Designs building elevations with vertical bays or articulated architectural features which shall include a combination of at least three of the following: a combination of exterior wall offsets (projections and recesses), columns, pilasters, change in materials or colors, awnings, arcades or other architectural elements.
 - Prohibits surface parking and vehicular maneuvering and circulation areas from being

located between the buildings located on Development Area C and the Connector Road.

Area D

- Allows a maximum building height of 40 feet on Area D.
- Consists of three outparcels with frontage along West Mallard Creek Church Road (Outparcels 1, 2, and 3). Outparcel 1 may be subdivided into two outparcels.
- Proposes the following uses as permitted in MUDD (mixed use development):
 - Eating/drinking/entertainment establishments (Types 1 and 2);
 - Breweries;
 - A convenience store with or without gasoline sales (maximum one);
 - An automotive service station (maximum one);
 - Professional business and general offices, such as banks, clinics, medical, dental and doctor's offices, veterinary clinics, government, post offices, optician's offices and similar uses;
 - Retail sales;
 - Services, including, without limitation, beauty shops and barbershops, spas and fitness centers;
 - Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry;
 - Drive-in and drive-through service lanes/windows as an accessory use.
 - In the event that a convenience store with or without gasoline sales is located on Development Area D, a maximum of 2 uses located on Development Area D may have accessory drive-in and drive-through service lanes/windows.
 - In the event that a convenience store with or without gasoline sales is not located on Development Area D, a maximum of 3 uses located on Development Area D may have accessory drive-in and drive-through service lanes/windows.
 - Any drive-in and drive-through service lanes/windows located on Outparcel 2 shall be located on the facade of the building that faces Interstate 85.
 - A building edge proximity line is depicted on the northern portion of Outparcel 1. Neither a drive aisle nor vehicular parking shall be permitted between the building edge proximity line and the adjacent Connector Road (as defined below) and roundabout.
 - A building edge proximity line is depicted on the northern portion of Outparcel 2. A drive aisle and vehicular parking shall be permitted between the building edge proximity line and the roundabout.
- Proposes the following optional provisions for Development Area D:
 - Allow drive-in and drive-through service lanes/windows as an accessory use.
 - Allow vehicular parking, circulation and maneuvering area to be located between buildings and public and private streets.
 - Allow uses on Outparcel 1 to have a ground mounted monument sign with up to 60 square feet of sign area and up to six feet in height.
 - Allow uses on Outparcels 2 and 3 each to have a ground mounted monument sign with up to 36 square feet of sign area and up to five feet in height.
 - Allow wall signs on each building located on Development Area D to have up to 200 square feet of sign surface area per wall or 10% of the wall area to which they are attached, whichever is less.
- Commits to the following transportation improvements:
 - Dedication and conveyance of 40 feet of right-of-way from existing centerline of Galloway Road, transitioning from 40 feet to 36 feet from existing centerline of Galloway Road as depicting on the rezoning plan.
 - Provision of a new public street with on-street parking within the site providing vehicular connection from West Mallard Creek Road to Galloway Road.
 - Reserves future right-of-way for a potential new public street to be constructed by others that may ultimately connect to Creekmere Lane.
 - At the intersection of West Mallard Creek Church Road and the I-85 Southbound Ramps:
 - A minimum 550 foot right-turn lane on the southbound Interstate 85 off-ramp; and
 - A minimum 500 foot receiving lane on the southbound Interstate 85 on-ramp.
 - Intersection of West Mallard Creek Church Road and Site Access #2:
 - A westbound 300-foot channelized right-turn lane on West Mallard Creek Church Road at its intersection with Site Access #2.
 - Intersection of West Mallard Creek Church Road and Site Access # 1/Legranger Road:
 - An eastbound right-turn lane on West Mallard Creek Church Road at its intersection with Legranger Road with 100 feet of storage.
 - Two eastbound left-turn lanes on West Mallard Creek Church Road at its intersection with Site Access #1, each with 150 feet of storage. The southernmost turn lane is an

- existing lane and it shall be re-striped to provide the required storage.
- A westbound right-turn lane on West Mallard Creek Church Road at its intersection with Site Access #1 with 125 feet of storage.
 - Two westbound left-turn lanes on West Mallard Creek Church Road at its intersection with Legranger Road. The southernmost left-turn lane shall have a minimum of 200 feet of storage and the northernmost left-turn lane shall have a minimum of 600 feet of storage. The northernmost left-turn lane is an existing lane and this left-turn lane shall be re-striped to provide the required 600 feet of storage.
 - Two channelized right-turn lanes on northbound Legranger Road at its intersection with West Mallard Creek Church Road each with 525 feet of storage.
 - A left-turn lane on northbound Legranger Road at its intersection with West Mallard Creek Church Road with 150 feet of storage.
 - A six-lane cross section on the southbound connector road at its intersection with West Mallard Creek Church Road (at Site Access #1) as follows and as depicted on the Rezoning Plan:
 - Two ingress lanes;
 - A right-turn lane with 350 feet of storage;
 - A single through lane; and
 - Dual left-turn lanes, each with 625 feet of storage.
 - Construction of the realignment of Legranger Road at the intersection of Legranger Road and West Mallard Creek Church Road as generally depicted on the Rezoning Plan.
 - Intersection of Mallard Creek Road and Galloway Road
 - On northbound Mallard Creek Road at its intersection with Galloway Road, re-striping of the existing right-turn lane to a through-right turn lane.
 - Subject to the approval of NCDOT, CDOT, and any other governmental agencies and the availability of existing right-of-way to accommodate such improvement, construction of a drop-right turn lane with a width of 10 feet on northbound Mallard Creek Road from the intersection of Mallard Creek Road and Galloway Road to the intersection of Mallard Creek Road and Lexington Approach Drive.
 - The traffic signal shall be modified to provide a left-turn arrow (i.e., flashing yellow) for the southbound approach on Mallard Creek Road.
 - Intersection of Galloway Road and Site Access #3:
 - A two lane cross section on the northbound connector road, with one ingress lane and one egress lane. The egress lane shall be a full movement lane.
 - A minimum 100-foot internal protected stem.
 - A westbound left-turn lane on Galloway Road at its intersection with Site Access #3 with 150 feet of storage when requested by CDOT.
 - Proposes a future vehicular connection to Mallard Creek Presbyterian Church parking lot.
 - Subject to approval of NCDOT, CDOT, and any other governmental agencies and the availability of existing right-of-way to accommodate such improvement, commits to constructing a waiting pad for a new bus stop on West Mallard Creek Church Road.
 - Installs a minimum eight-foot wide planting strip and a minimum six-foot wide sidewalk along the Site's frontage on Galloway Road.
 - Installs a six-foot sidewalk and eight-foot planting strip on the south side of Galloway Road to be extended to Garrison Road.
 - Installs an eight-foot wide planting strip and a 12-foot wide multi-use path along the Site's frontage on West Mallard Creek Church Road.
 - Installs a 10-foot multi-use path adjacent to the new public street extending from Galloway Road to West Mallard Creek Church Road.
 - Pedestrian connections between proposed residential development and non-residential uses.
 - Proposes a 75-foot wide "Class B" buffer (reduced to 56.25 feet with wood fence) along portion of west property line abutting parcel developed with a religious institution.
 - Proposes a 75-foot wide buffer along remaining portion of west property line abutting properties zoned R-3 (single family residential) and developed with single family homes.
 - Provides 35-foot evergreen and deciduous tree screening between proposed retail and multi-family uses.
 - Commits to the following with respect to the portion of an existing cemetery on the site:
 - Establishes the boundaries of the cemetery on the site and depicts on the site plan.
 - Preserves existing cemetery on the site.
 - Prior to the commencement of any construction activities on the Site, petitioner commits to installing a temporary construction barrier around those portions of the perimeter of the cemetery that are located on the Site to ensure that the construction activities do not encroach into the cemetery. The temporary construction barrier will remain in place until such time that the construction of the Connector Road and the vehicular connection from

- the Connector Road to the Mallard Creek Presbyterian Church parking lot are completed.
- Prior to the issuance of a certificate of occupancy for the first building to be constructed on the Site, petitioner commits to donating the sum of \$10,000 to either Mallard Creek Presbyterian Church or to a non-profit organization that is involved with the preservation of cemeteries. The \$10,000 payment may be used by the receiving entity to secure the cemetery, memorialize the cemetery through signage or other means, provide educational opportunities relating to the cemetery and/or other matters that will benefit the cemetery.
 - Identifies 50-foot SWIM (Surface Water Improvement Management) buffer, and 50-foot and 100-foot undisturbed PCSO (Post Construction Stormwater Ordinance) buffers.
 - Identifies jurisdictional wetlands on site.
 - Proposes BMP (best management practices) areas and tree save areas.
 - Limits maximum height of lighting on Area A to 21 feet.
 - Limits maximum height of lighting on Area B, Area C, or Area D to 31 feet.
- **Public Plans and Policies**
 - The adopted future land use for the majority of the site is research/office/retail as per the *Northeast Area Plan* (2000). The plan recommends a mixture of uses with retail not to exceed 100,000 square feet and an integrated site plan that addresses connectivity issues.
 - The long parcel to the west adjacent to single family homes south of Galloway Road is recommended for residential use up to four dwelling units per acre, per the *Northeast Area Plan*.
 - **TRANSPORTATION CONSIDERATIONS**

This site is located in the northwest quadrant of an interchange for I-85 and a major thoroughfare. The current site plan commits to several transportation improvements to provide site access as well as enhance the existing and future transportation system including, constructing a new street through the site that creates a new connection between a thoroughfare and a collector; realigning, widening, and signalizing an existing intersection to create site access and set up for a potential new connection in the adjacent University Research Park; offsite widening at the I-85 southbound on- and off-ramps and the Mallard Creek and Galloway intersection; reservation for a future east-west street connection; construction of the Galloway extension; site design to accommodate a future overcrossing of Galloway at I-85; and correcting an existing offsite condition with a minor intersection modification.

 - **Vehicle Trip Generation:**
 - Current Zoning:
 - Existing Use: 30 trips per day (based on three dwellings/vacant).
 - Entitlement: 7,170 trips per day (based on 107 single family dwellings, and 600,000 square feet office).
 - Proposed Zoning: 21,500 trips per day (130,000 square foot supermarket; 100-room hotel; 6,500 square feet of fast food drive-thru; 395 apartments; 2,000 square feet of coffee/donut drive-thru).

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No issues.
- **Charlotte Department of Housing and Neighborhood Services:** No issues.
- **Charlotte Fire Department:** No issues.
- **Charlotte-Mecklenburg Schools:** The development allowed under the existing zoning would generate 53 students, while the development allowed under the proposed zoning will produce 53 students. Therefore, the net change in the number of students generated from existing zoning to proposed zoning is 0 students.
 - The proposed development is projected to increase the school utilization (without mobile classroom units) over existing conditions as follows:
 - Mallard Creek Elementary from 99% to 102%;
 - Ridge Road Middle to remain at 110%; and
 - Mallard Creek High from 127% to 128%.
- **Charlotte Water:** Charlotte Water has water system availability for the rezoning boundary via an existing six-inch water distribution main located along Galloway Drive. Charlotte Water has sewer system availability for the rezoning boundary via an existing eight-inch gravity sewer main located on parcel 029-02-121 and an existing 12-inch gravity sewer main located on parcels 029-02-124 and 029-02-133. After an analysis of the sanitary sewer associated with the proposed project through the Willingness to Service application process, it was determined that there was sufficient capacity to accommodate the proposed flow at the time of the application. Please note that the

availability of flow is subject to change, and that the Willingness to Serve review was in no way guaranteeing capacity for this project. In order to ensure capacity, further review of this project is required through the Charlotte Water Capacity Assurance Program. Applications are required prior to acceptance of the proposed flows and connectivity to the sanitary sewer system. Please contact Charlotte Water New Services Group for official submittal guidelines to the Capacity Assurance Program.

- **Engineering and Property Management:**

- **Arborist:** No trees can be removed from or planted in the right-of-way on I-85, I-85 exit ramp, or West Mallard Creek Church Road without permission of NC Department of Transportation and the City Arborist's office. Trees must be planted to meet NCDOT planting guidelines. Contact Lewis Hatfield (704-336-4265) at the City Arborist's office for a tree planting permit before planting trees in the NCDOT right-of-way once plans have been approved by the City.
- **Erosion Control:** No issues.
- **Land Development:** No issues.
- **Storm Water Services:** No issues.
- **Urban Forestry:** No issues.

- **Mecklenburg County Land Use and Environmental Services Agency:** No comments received.
 - **Mecklenburg County Parks and Recreation Department:** No issues.
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Attachments Online at www.rezoning.org

- Application
- Pre-Hearing Staff Analysis
- Locator Map
- Site Plan
- Community Meeting Report
- Department Comments
 - Charlotte Area Transit System Review
 - Charlotte Department of Housing and Neighborhood Services Review
 - Charlotte Fire Department Review
 - Charlotte-Mecklenburg Schools Review
 - Charlotte-Mecklenburg Storm Water Services Review
 - Charlotte Water Review
 - Engineering and Property Management Review
 - City Arborist
 - Erosion Control
 - Land Development
 - Storm Water
 - Urban Forestry
 - Mecklenburg County Parks and Recreation Review
 - Transportation Review

Planner: Claire Lyte-Graham (704) 336-3782