

**ZONING COMMITTEE  
RECOMMENDATION  
September 26, 2007**

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**Rezoning Petition No. 2007-031**

**Property Owner:** Blanche W. Hunter, Shirley H. Hines and Mary H. Wilkinson,  
Betty Overcash Hunter and Brent K. Roland

**Petitioner:** Tribek Properties

**Location:** Approximately 4.40 acres located on the northeast corner of W.  
Sugar Creek Road and Mineral Springs Road.

**Request:** R-17 MF, multi-family residential to NS, neighborhood services

**Action:** The Zoning Committee voted unanimously to recommend  
**APPROVAL** of this petition upon resolution of the outstanding  
issues to staff's satisfaction and with the following additional  
modifications:

- The width of the landscaped area will range from  
approximately 8 feet at its narrowest point to approximately 80  
feet at its widest point. These dimensions will be noted on the  
Petitioner's revised conditional rezoning plan.
- If a driveway permit for a full access point is granted, the  
Petitioner will construct an eastbound left turn lane on Mineral  
Springs Road (future Mallard Creek Road Extension).
- One of two options for providing 100 feet of internal  
channelization from W. Sugar Creek Road will be used.

**Vote:**

Yeas:	Howard, Johnson, Lipton, Loflin, Rosenburgh, and Sheild
Recused:	Randolph
Nays:	None
Absent:	None

**Summary of Petition**

The site plan associated with this petition includes the exclusion of 26 uses that are normally permitted within the NS district. The maximum square footage is limited to 25,000 and may be located within two buildings. One access will be located on W. Sugar Creek Road and one on

Mineral Springs Road. A gated access for the adjoining church will be located in the northeast corner of the site.

### **Zoning Committee Discussion/Rationale**

Keith MacVean reviewed the petition and noted that staff had two remaining site plan issues concerning buffer/landscaped area and tree save. All outstanding CDOT issues were resolved pending the modifications noted above. The request is inconsistent with the North East District Plan and staff is not recommending approval.

The Commission suspended the rules and asked John Carmichael, the petitioner's agent, if he had any concerns satisfying staff's concerns on the two outstanding issues. Mr. Carmichael stated that they will show the dimensions of the landscaped area on the site plan. It is possible that the 10% trees save area cannot be met but the petitioner is going to have his engineering investigate this and get back with staff. Staff was asked if they felt they could get comfortable with the tree save area. Mr. MacVean said that they understood that the area would probably be less than 10% and where it will be.

One Commissioner noted that since the traffic flow, the turn lanes, and the traffic signals have changed so much that the future use originally contemplated on the property is now rendered functionally obsolete. The property is too small for a residential component. It has five lanes of traffic on each side and to expect it to be developed as residential is not reasonable.

Do we need to note that the Committee verified that the site is not within a ½ mile of a proposed transit station? I think this is what led to the 4-2 split on the consistency statement.

### **Statement of Consistency**

Upon a motion made by Commissioner Johnson and seconded by Commissioner Lipton the Zoning Committee found this petition to be inconsistent with the *Northeast District Plan* but reasonable and in the public interest by a vote of 4-2.

### **Vote**

**Upon a motion made by Commissioner Sheild and seconded by Commissioner Loflin the Zoning Committee voted unanimously to recommend approval of this petition upon resolution of the outstanding issues to staff's satisfaction and with the noted modifications.**

### **Staff Opinion**

Staff disagrees with the recommendation of the Zoning Committee as this petition is inconsistent with the adopted land use plan.