Mayor Patrick L. McCrory Mayor Pro Tem Susan Burgess
Michael D. Barnes Nancy Carter
Warren Cooksey Andy Dulin
Anthony Foxx Patsy Kinsey
John W. Lassiter James E. Mitchell, Jr.
Edwin B. Peacock III Warren Turner

## CITY COUNCIL ZONING AGENDA Monday, January 26, 2009

5:00PM - Council/Manager Dinner **Room 267** 

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

## **DINNER MEETING**

Review of Agenda - Tammie Keplinger / Tom Drake

ALL REZONING PETITIONS MAY BE VIEWED ON THE WEB AT www.rezoning.org

### REZONING ACRONYMS

#### **Zoning Districts**

B-1 - neighborhood business district

B-2 - general business district

**B-1SCD** – business shopping center district

BD - distributive business district

BP - business park district

CC - commercial center district

I-1 - light industrial district

I-2 – general industrial district

INST - institutional district

MUDD - mixed use development district

MX-1 - mixed use district

MX-2 - mixed use district

MX-3 - mixed use district

NS - neighborhood services district

O-1 - office district

O-2 - office district

O-3 - office district

R-3 – single-family residential – up to 3 dwelling units per acre (dua)

R-4 - single-family residential - up to 4 dua

R-5 – single-family residential – up to 5 dua

R-6 - single-family residential - up to 6 dua

R-8 - single-family residential - up to 8 dua

R-8MF - multi-family residential - up to 8 dua

R-12MF - multi-family residential - up to 12 dua

R-17MF - multi-family residential - up to 17 dua

R-22MF - multi-family residential - up to 22 dua R-43MF - multi-family residential - up to 43 dua

**R-MH** – residential manufactured housing

RE-1 - research district RE-2 - research district

RE-3 - research district

**TOD** – transit oriented development

TOD-E - transit oriented development - employment

TOD-EO - transit oriented development - employment optional

TOD-M - transit oriented development - mixed use

TOD-MO - transit oriented development - mixed use optional

TOD-R - transit oriented development - residential

TOD-RO - transit oriented development - residential - optional

U-I - urban industrial district

**UMUD** – uptown mixed use district

UMUD-O - uptown mixed use district - optional

UR-1 - urban residential

UR-2 - urban residential

UR-3 - urban residential

UR-C - urban residential - commercial

#### **Overlay Districts**

CR/LWW - Catawba River / Lake Wylie watershed

CR/LWWCA - Catawba River / Lake Wylie watershed - critical area

CR/LWWPA - Catawba River / Lake Wylie watershed - protected area

HD-O - historic district overlay

HW - hazardous waste overlay

**LNW** - Lake Norman watershed

LNWCA - Lake Norman watershed - critical area

LNWPA - Lake Norman watershed - protected area

**LLWW** – Lower Lake Wylie watershed

LLWWCA - Lower Lake Wylie watershed - critical area

LLWWPA - Lower Lake Wylie watershed- protected area

MILW - Mountain Island Lake watershed

MILWCA - Mountain Island Lake watershed - critical area

MILWPA - Mountain Island Lake watershed - protected area

MH- - manufactured home overlay

PED - pedestrian overlay district

PED-O - pedestrian overlay district - optional

TS - transit supportive overlay district

#### Miscellaneous Acronyms

CD - conditional

SPA - site plan amendment

### **DECISIONS**

01. **Petition No. 2008-057 (decision) by Michelle Strause** for a change in zoning of approximately 0.30 acres located on the south side of East 36<sup>th</sup> Street between North Davidson Street and the Norfolk and Southern Railroad from B-1 to NS.

This petition is found to be consistent with the *North Charlotte Plan* and the *Northeast LRT Transit Station Area Concept* and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend **APPROVAL** of this petition with the following modifications:

- 1. A note has been added under "Zoning" that restaurant parking will meet the minimum parking requirements of one space per 150 square feet, but no more than a maximum of one parking space per 75 square feet.
- 2. A note has been added that the maximum height of freestanding light poles will be 25'.
- 3. The text on the site plan that states, "5' setback from centerline of alley" has been corrected to read: "10' rear yard from centerline of alley".

Staff agrees with the recommendation of the Zoning Committee.

Attachment 01

02. **Petition No. 2008-117 (decision) by Medical Facilities of North Carolina, Inc.** for a change in zoning of approximately 9.05 acres located on the east side of Toddville Road between Paw Creek Road and Freedom Drive from R-3(LLWPA), R-9MF(CD)(LLWPA) and R-17MF(LLWPA) to INST(CD)(LLWPA).

This petition is found to be consistent with the *Northwest District Plan* and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend **APPROVAL** of this petition with the following modifications:

- 1. The site plan clearly delineates the boundaries of the rezoning in a heavy dark line on the site plan.
- 2. The site plan has been redrawn with the north part of the site at the top.
- 3. A note was added to include a 24-foot buffer along those portions of the site's "northern boundary line that are adjacent to the adjoining religious institution.
- 4. Notes # 3 and # 4 have been amended to reflect that only "required" sidewalks are permitted in the buffer and have eliminated the use of a berm to reduce buffer width.
- 5. Notes #5 and #6 have been amended to indicate that parking, maneuvering and detention/water quality facilities may not be located within any buffer or setback.
- 6. Staff has determined that right-of-way for the unnamed 60-foot street along the site's southern boundary already exists.
- 7. A minimum five-foot sidewalk and eight-foot planting strip along all street frontages will be provided.
- 8. A note has been added that the petitioner will submit a Solid Waste Management Plan prior to initiating land clearing, demolition and/ or construction activities.
- A note has been added that the unnamed public street will be constructed to the office/commercial narrow street cross section.
- 10. The site plan now reflects proposed zoning of Institutional CD.
- 11. Elevations have been submitted.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 02

03. Petition No. 2008-128 (decision) by Sherpa Land Company, LLC for a change in zoning of approximately 4.40 acres located on the west side of Statesville Road between Twin Lakes Parkway and Future I-485 from R-17MF, I-1 and NCDOT Right-of-way to be Abandoned to B-D(CD). This petition is found to be consistent with the Northlake Area Plan and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition with the following modifications: Setbacks along Interstate 485 and the new alignment of Statesville Road have been Dumpster location is shown. Total site area is reflected as 4.18 acres. The maximum square footage is listed as 90,000 square feet. The floor area ratio (F.A.R.) depicted on the plan is 0.37. Total building area will not exceed a F.A.R. of .50. A note has been added that the petitioner will submit a Solid Waste Management Plan prior to initiating land clearing, demolition and/or construction activities. Sidewalk widths have been labeled. All streets have been labeled. An access easement will be provided for the property to the west. Staff agrees with the recommendation of the Zoning Committee. Attachment 03 04. Petition No. 2008-148 (decision) by The Charlotte-Mecklenburg Planning Commission for a change in zoning of approximately 3.49 acres located on the south side of Remount Road between South Boulevard and South Tryon Street from B-2 and I-1 to TOD-M. This petition is found to be consistent with the New Bern Transit Station Area Plan and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition. Staff agrees with the recommendation of the Zoning Committee. Attachment 04 05. Petition No. 2008-149 (decision) by The Charlotte-Mecklenburg Planning Commission for a change in zoning of approximately 0.59 acres located on the east side South Tryon Street between Remount Road and Basin Street from I-1 to TOD-M. This petition is found to be consistent with the New Bern Transit Station Area Plan and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition. Staff agrees with the recommendation of the Zoning Committee. Attachment 05 06. Petition No. 2008-150 (decision) by Kennington Family, LLC for a change in zoning of approximately 1.44 acres located on the northeast corner of Rodman Street and Sam Drenan Road from R-22MF to I-1. This petition is found to be inconsistent with the Central District Plan but reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend **APPROVAL** of this petition. Staff agrees with the recommendation of the Zoning Committee. Attachment 06

07. **Petition No. 2008-151 (decision) by Steve Smoak** for a change in zoning of approximately 3.60 acres located on east side of South Tryon Street between East Palmer Street and East Catherine Street from MUDD-O to MUDD-O SPA.

This petition is found to be consistent with the *South End Transit Station Area Plan* and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend **APPROVAL** of this petition with the following modification:

1. Note 3 has been amended to state that the columns are in the setback and right-of-way and will remain.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 07

08. **Petition No. 2008-152 (decision) by Friendship Missionary Baptist Church** for a change in zoning of approximately 1.13 acres located on the southwest corner of Beatties Ford Road and Fairdale Drive from O-2 to B-2(CD).

This petition is found to be consistent with the *Northwest District Plan* and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend **APPROVAL** of this petition.

- 1. A note has been added that the existing drive aisle will be removed.
- 2. The width of sidewalk and planting strip along Beatties Ford Road has been labeled.
- 3. A note has been added confirming that there is not a group home within 800 feet of the site.
- 4. Note 4 under General Provisions has been amended to allow up to 30 women to be housed overnight.
- 5. Note 1 under Access Points has been amended to specify only one access off Beatties Ford Road.
- 6. A note has been added to the site plan that parking will be screened from abutting properties and from public streets.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 08

09. **Petition No. 2008-153 (decision) by Sam's Mart, LLC** for a change in zoning of approximately 2.09 acres located on the northeast corner of University City Boulevard and Sams Lane from B-1(CD) to B-2(CD).

This petition is found to be consistent with the *Northeast District Plan* and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend **APPROVAL** of this petition with the following modifications:

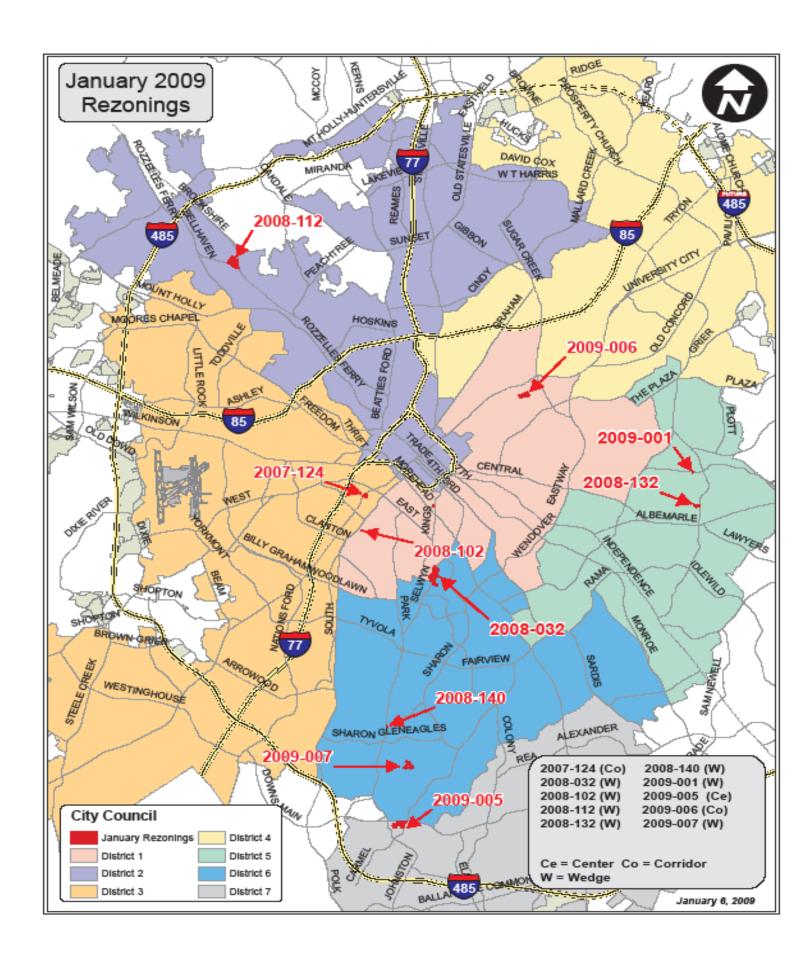
- 1. Site plan has been amended to correctly label *Class "B" Buffer with Berm* along the north property line.
- 2. Existing building and parking on the west side of Sams Lane has been added to the site plan and parking meets the requirements of the ordinance.
- 3. A long term parking lease will be provided for parking on the adjacent site that is actually on this site.
- 4. Site plan has been amended to correctly identify side and rear yards, including required widths.
- 5. Required sidewalks and planting strips along Sams Lane and University City Boulevard have been labeled on the site plan.

- Note has been added to site plan agreeing to provide a Solid Waste Management Plan prior to initiating land clearing, demolition and/or construction activities. 7. Note has been added to site plan agreeing to CATS request for a waiting/bench pad. Maximum building height of 35-feet has been added to site plan. Lighting will be shielded with full cut-off fixtures. 10. An easement for sidewalks along Sam's Lane will be provided. 11. Parking area between first driveway and convenience has been modified to address CDOT concern with respect to circulation. 12. Proposed two-way drive aisle has been converted to one-way to address CDOT concern with respect to two-way drive aisles and angled parking. 13. Note has been added agreeing to provision of an easement for sidewalk along Sams Lane in right-of-way, per CDOT's request. Staff agrees with the recommendation of the Zoning Committee. Attachment 09 10. Petition No. 2008-154 (decision) by Robert Nixon for a change in zoning of Deferral (one-month) approximately 0.19 acres located at the intersection of Pecan Avenue and Gordon Street from MUDD-O (PED) to MUDD-O (PED) SPA. The Zoning Committee voted 5 to 2 to recommend DEFERRAL of this petition to February 2, 2009. Staff agrees with the recommendation of the majority of the Zoning Committee. Attachment 10 11. Petition No. 2008-155 (decision) by JDR Communities for a change in zoning of approximately 24.61 acres located on the east side of South Tryon Street between Yorkdale Drive and Thornfield Road from R-3 to R-17MF(CD). This petition is found to be inconsistent with the General Development Policies but reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted 4 to 3 to recommend **DENIAL** of this petition. The applicant submitted the following modifications: 1. The petitioner agreed to provide a solid waste plan as described in a document entitled Solid Waste Management Plan Guidance" dated 10/22/08. The site plan includes a note describing proposed materials for fencing along South Tryon and around the remainder of the site. 3. A note has been added regarding design elements and building materials for building elevations. 4. Notes have been added as requested by LUESA in relation to the existing water supply wells and septic tanks. 5. A note has been added indicating that the petitioner will work with CATS on the location of a waiting pad along South Tryon Street. 6. Tree save areas have been identified and calculated.
  - 7. The narrow strip of land extending to the southeast and abutting single family residential lots has been removed from the rezoning petition, resulting in a decrease in the project total acreage from approximately 24.98 acres to approximately 24.607 acres.
  - 8. Add a note to the site plan stating that in the event the engineering analysis is unable to find a reasonable solution for a vehicular connection to the existing stub street then a gated pedestrian access point will be provided.

Staff agrees with the recommendation of the majority of the Zoning Committee.

Attachment 11

12. Petition No. 2008-157 (decision) by Michael Berglass, DDS for a change in zoning of approximately 0.44 acres located on the south side of Central Avenue between Crystal Road and Cyrus Drive from R-22MF to NS. This petition is found to be inconsistent with the Briar Creek/Woodland and Merry Oaks Small Area Plan but to be reasonable and in the public interest, by a 5 to 2 vote of the Zoning Committee. The Committee voted 4 to 3 to recommend DENI AL of this petition. The following modifications have been made to the petition: 1. The proposed district has been amended to UR-C (CD). 2. A rendering of the proposed detached sign has been added. 3. The back of curb on Central Avenue has been labeled. 4. A Class C buffer is shown at the rear of the property. 5. The location of the solid waste and recycling facilities are shown on the site. Staff agrees with the recommendation of the majority of the Zoning Committee. Attachment 12 Deferral 13. Petition No. 2008-158 (decision) by Greater Galilee Baptist Church for a change (one-month) in zoning of approximately 0.15 acres located on the northwest corner of South Mint Street and West Park Avenue from R-5 to UR-C. The Zoning Committee recommended deferral of this petition. **Protest** (sufficient) Staff agrees with the recommendation of the Zoning Committee. Attachment 13 14. Petition No. 2009-002 (decision) by Bellsouth Telecommunications, Inc. for a change in zoning of approximately 4.80 acres located on the south side of Erwin Road between South Tryon Street and Moss Road from R-3 to I-1(CD). This petition is found to be inconsistent with the Southwest District Plan but to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition with the following modifications: 1. Variances from the Zoning Board of Adjustments have been secured to allow reduced buffers in areas where the driveway will be located and where existing detention exists. 2. It has been noted that the 35-foot setback along Erwin Road will be planted to Class "A" buffer standards. 3. The proposed square footage has been corrected to a maximum of 20,000 square feet, which includes 1,700 square feet for future additions. 4. A note has been added indicating a Solid Waste Management Plan will be submitted to Mecklenburg County Solid Waste prior to initiating any demolition and/or construction Staff agrees with the recommendation of the Zoning Committee. Attachment 14



# **HEARINGS**

Deferral (one-month)	Petition No. 2008-032 (hearing) Myers Park Homeowners Association for a change in zoning of approximately 40.09 acres located on both sides of Selwyn Avenue and Roswell Avenue from Lorene Avenue from R-22MF to R-8MF.		
Protests	Petitioner is requesting a one-month deferral of this petition.		
(sufficient)	Staff recommends approval of this petition.		
	Attachment 08		
Deferral (indefinite)	<b>Petition No. 2008-102 (hearing) by The Drakeford Company</b> for a change in zoning of approximately 0.82 acres located on the north side of Marsh Road between South Boulevard and Melbourne Court from R-4 to UR-2(CD).		
	Petitioner is requesting an indefinite deferral of this petition		
Protest (sufficient)	Staff does not recommend approval of this petition.		
	Attachment 09		
Deferral (one-month)	17. Petition No. 2008-112 (hearing) by Westlake Holdings, LLC for a change in zo of approximately 24.81 acres located on the southwest corner of Brookshire Boule and Old Plank Road from R-3(LWPA) and B-1SCD(LWPA) to B-1(CD)(LWPA).		
	Petitioner is requesting a one-month deferral of this petition		
	Staff recommends approval of this petition upon resolution of outstanding issues.		
	Attachment 17		
	18. Petition No. 2008-132 (hearing) by VSL Construction, Inc. for a change in zoning of approximately 4.50 acres located on the west side of East W.T. Harris Boulevard between Wallace Avenue and Delta Crossing Lane from R-12MF(CD) to R-12MF(CD)SPA.		
	Staff recommends approval of this petition upon resolution of outstanding issues.		
	Attachment 18		
Hearing Continued *	19. Petition No. 2008-140 (hearing) by David Thompson for a change in zoning of approximately 1.00 acres located on the east side of Park Road between Sharon Road and Wolfe Ridge Road from R-3 to UR-3(CD).		
Continuance (indefinite)	* The public hearing for this petition was opened in December 2008 and continued to Janu 26, 2009.		
Dretoot	Petitioner is requesting an indefinite continuation of this petition since his agent is recovering from surgery.	g	
Protest (sufficient)	Staff does not recommend approval of this petition in its current form.		
	Attachment 19		

20. <b>Petition No. 2009-001 (hearing) by Janice White</b> for a change approximately 0.45 acres located on the southwest corner of Hickory (Lawrence Orr Road from R-3 to INST(CD).	
Staff recommends approval of this petition upon resolution of outstanding	issues.
Attachment 20	
21. <b>Petition No. 2009-005 (hearing) by Regency Centers, Inc.</b> for a confunction of approximately 21.75 acres located on the southwest corner of Canal Pineville-Matthews Road from B-1SCD to MUDD-O.	hange in zoning irmel Road and
Staff recommends approval of this petition upon resolution of outstanding	issues.
Attachment 21	
22. <b>Petition No. 2009-006 (hearing) by NoDa Tidewater Developm</b> change in zoning of approximately 13.57 acres located on the southwes Craighead Road and Philemon Avenue from I-1 and I-2(CD) to UR-2(CD)	t corner of East
Staff recommends approval of this petition upon resolution of outstanding	issues.
Attachment 22	
23. <b>Petition No. 2009-007 (hearing) by Heydon Hall, LLC</b> for a char approximately 14.07 acres located near the southwest corner of Quail Club and east of Heydon Hall Circle from R-3 and MX-1 to MX-1 and MX	Hollow Country
Staff recommends approval of this petition upon resolution of outstanding	issues.
Attachment 23	
24. Petition No. 2007-124 (hearing) by The Charlotte-Mecklent Commission for a change in zoning of approximately 4.59 acres northeast corner of South Tryon Street and West Tremont Avenue from I to TOD-M(CD).	located on the
Staff recommends approval of this petition upon resolution of outstanding	issues.
Attachment 24	
25. Petition No. 2009-010 (hearing) by The Charlotte-Mecklenk Commission for the adoption of a text amendment to the City of C Ordinance to allow the Zoning Board of Adjustment to hear variances t for bed and breakfast establishments and to clear up inconsistencies in	harlotte Zoning o the standards
Staff recommends approval of this petition.	
Attachment 25	
26. Petition No. 2009-011 (hearing) by The Charlotte-Mecklent Commission for the adoption of a text amendment to the City of C Ordinance to modify the screening and streetscape requirements of I modify the applicability section requirements.	harlotte Zoning
Staff recommends approval of this petition.	
Attachment 26	

27. Petition No. 2009-012 (hearing) by The Charlotte-Mecklenburg Planning Commission for the adoption of a text amendment to the City of Charlotte Zoning Ordinance to modify certain regulations in TOD to protect the character of adjacent single family neighborhoods, particularly where TOD is across the street from, or on the same side of the street as single family development and to make minor revisions such as clarifying text, etc.

Staff recommends approval of this petition.

Attachment 27

28. Petition No. 2009-013 (hearing) by The Charlotte-Mecklenburg Planning Commission for the adoption of a text amendment to the City of Charlotte Zoning Ordinance to modify certain regulations in TS to protect the character of adjacent single family neighborhoods, particularly where TS is across the street from, or on the same side of the street as single family development and to make minor revisions such as clarifying text, etc.

Staff recommends approval of this petition.