

# **City of Charlotte**

*Charlotte-Mecklenburg Government Center  
600 East 4th Street  
Charlotte, NC 28202*



## **Zoning Agenda**

**Tuesday, May 2, 2017**

**CMGC Room 280**

### **Zoning Committee Work Session**

***Tony Lathrop, Chairperson  
Cozzie Watkins, Vice-Chairperson  
John Fryday  
Nasif Majeed  
Bolyn McClung  
Sam Spencer  
Nancy Wiggins***

## Deferrals

### 1. Rezoning Petition: 2017-037 by Pulte Home Company, LLC

***Update: Petitioner Requesting Deferral (to June 29, 2017)***

**Agent:** John Carmichael - Robinson Bradshaw

**Staff Resource:** John Kinley

**Location:** Approximately 9.14 acres located on the east end of Starmount Cove Lane between Thorncliff Drive and South Boulevard. (Council District 6 - Smith)

**Current Zoning:** R-8(CD) (single family residential, conditional)

**Proposed Zoning:** UR-2(CD) (urban residential, conditional)

**Public Hearing Held:** April 17, 2017 Item #26

### 2. Rezoning Petition: 2017-038 by Childress Klein Properties, Inc.

***Update: Petitioner Requesting Deferral (to June 29, 2017)***

**Agents:** Collin Brown & Bailey Patrick, Jr.

**Staff Resource:** Solomon Fortune

**Location:** Approximately 2.12 acres located on the east side of West Tyvola Road between Billy Graham Parkway and Cascade Pointe Boulevard. (Council District 3 - Mayfield)

**Current Zoning:** I-1(CD) (light industrial, conditional)

**Proposed Zoning:** I-1(CD) SPA (light industrial, conditional, site plan amendment)

**Public Hearing Held:** April 17, 2017 Item #27

## Zoning Items

### 3. Rezoning Petition: 2016-077 by Innkeeper Motor Lodge, Inc.

**Agent:** Jeff McCluskey - Mc2 Engineering, Inc.

**Staff Resource:** Solomon Fortune

**Location:** Approximately 5.52 acres located south of Interstate 485, near the intersection of WT Harris Boulevard, Treyburn Drive and Interstate 485. (Council District 2 - Austin)

**Current Zoning:** B-1(CD) (neighborhood business, conditional)

**Proposed Zoning:** B-2(CD) (general business, conditional)

**Public Hearing Held:** March 20, 2017 Item #17

**Staff Recommendation:** Staff does not recommend approval of this petition.

The following issues have been addressed:

Site and Building Design

1. A line of screening shrubs along the property line adjacent to I-485 has been shown on the site plan.
2. Building elevations of the proposed hotel with conditional notes for the building materials and architectural elements have been provided.
3. Staff has rescinded this request for pedestrian light spacing.

Transportation

4. The petitioner revised the site plan's "Transportation" Note 3 to remove the reference to "stamped asphalt" and added ", upon CDOT approval."
5. The petitioner should revise the site plan to add a note specifying dedication and fee simple conveyance of all rights-of-way to the City before the site's first building certificate of occupancy is issued. CDOT requests right-of-way set at two feet behind back of sidewalk.
6. Petitioner revised "Transportation" Note 4 to add ", upon NCDOT approval." and added a commitment that all transportation improvements will be approved and constructed before the site's first building certificate of occupancy is issued.

Environment

7. Petitioner has provided wetlands letter.

The following item have been added since the public hearing:

1. Amended application has been submitted.
2. Hours of operation have been limited for waste removal for the dumpster from the hours of 7:00 A.M. to 7:00 P.M.

The following items remain outstanding:

Land Use

1. Proposed hotel use is inconsistent with the surrounding residential context of the area and not appropriate in this location.
2. The proposed hotel is a regional/highway use and does not provide neighborhood retail services to the existing developed neighborhood as previously approved under petition 1993-024(C).

Site and Building Design

3. Petitioner should reduce the height of the proposed hotel to three stories and 40 feet.
4. Petitioner should label and provide the building height of the proposed hotel structure in feet.

Transportation

5. The petitioner should revise the site plan to replace the existing four-foot wide planting strip and four-foot wide sidewalk and provide an eight-foot wide planting strip and six-foot wide sidewalk along the site's Treyburn frontage.

## **4. Rezoning Petition: 2016-095 by Fairview Plaza Buildings, LLC**

**Agent:** John Carmichael - Robinson Bradshaw

**Staff Resource:** John Kinley

**Location:** Approximately 1.621 acres located on the east side of Park South Drive between Fairview Road and Pine Valley Road. (Council District 6 - Smith)

**Current Zoning:** O-3(CD) (office)

**Proposed Zoning:** MUDD-O (mixed use development, optional) with five-year vested rights

**Public Hearing Held:** *April 17, 2017*

**Staff Recommendation:**

Staff recommends approval of this petition.

The following items have been addressed:

Site and Building Design

1. Amended note 6L to remove the first three sentences related to exterior dumpster enclosures and changed the word "may" to "shall" related to dumpster locations in the parking structure or within the interior of a building.

Land Use

2. Added a note 4D, instead of amending note 4C, to specify a maximum of 10,000 square feet for retail and EDEE uses associated with the hotel, not to include ballrooms, conference rooms and meeting facilities.

Transportation

3. Provided a Technical Traffic Memorandum that includes the revised trip generation, trip distribution, and mitigation measures associated with the revised plan.
4. Reserved 18 feet (eight-foot planting strip, eight-foot sidewalk and two-foot maintenance buffer) for future public right-of-way along the site's southern property line from Piedmont Row Drive South to Park South Drive to provide space for a portion of a planned east-west public connection street along the site's southern property line. The conditional notes state that the petitioner will retain the reserved property until such time the City requests this property for public use. When future right-of-way is requested the petitioner shall dedicate this reservation to the City.
5. Staff rescinded the request to reserve a local commercial narrow half-street section along the site's western boundary for a future north-south private street because the petitioner added a note 5F that says that a two-way vehicular connection the private street to the northern drive will be provided, the exact route will be determined during permitting and may be through the parking structure. The petitioner also added a note 5G that says that a pedestrian connection from the private street to the northern drive will be located on the top level of the parking structured and the access may include stairs.
6. Staff rescinded the request to construct/convert the drive-aisle along the site's northern boundary to a local office commercial wide half-section with recessed parallel on-street parking along the site's northern boundary because this connection functions as a driveway and the petitioner has committed to provide a minimum four-foot planting strip and minimum six-foot sidewalk along the northern boundary line and the driveway.
7. Clarified that the petitioner will construct an eight-foot planting strip and six-foot sidewalk behind the existing Piedmont Row Drive South westerly curbline, north of the site to the next drive aisle.
8. Revised the site plan (cross section A-A) and conditional note 5.C.1 to local office/commercial "narrow" street section.

**REQUESTED TECHNICAL REVISIONS**

Site and Building Design

9. Deleted the existing conditions survey sheet.

The following items were added or amended after the public hearing:

1. Added two sheets to the rezoning plan including conceptual building rendering and plan and section details for the "green ribbon" area.
2. Change "site" to "rezoning site" throughout the rezoning plan.
3. Removed reference to Park South Drive under the zoning code summary for setbacks as the rezoning site does not front Park South Drive.
4. Clarified that optional provisions 2B and 2C related to the motor court and valet service only applies to building A.

5. Added knee walls to list of possible elements within the "green ribbon" area along Piedmont Row Drive South.
6. Added a note 6J under architectural standards related to the provided conceptual building rendering.
7. Added a note 7C under setback and yards/ streetscape related to the provided "green ribbon" plan and section details.

## **5. Rezoning Petition: 2017-041 by Charlotte Tryon Hills Partners, LLC**

**Agents:** Keith MacVean & Jeff Brown - Moore & Van Allen, PLLC

**Staff Resource:** Sonja Sanders

**Location:** Approximately 12.67 acres located on the northeast corner at the intersection of Catalina Avenue and West 24th Street, south of West 26th Street and west of North Poplar Street. (Council District 1 - Kinsey)

**Current Zoning:** R-5 (single family residential), R-22MF (multi-family residential), and I-1(light industrial)

**Proposed Zoning:** UR-2(CD) (urban residential, conditional)

**Public Hearing Held:** April 17, 2017 Item #21

**Staff Recommendation:**

Staff recommends approval of this petition upon resolution of outstanding issues related to transportation, land use, site and building design, and infrastructure.

The following items have been addressed:

Land Use

1. Amended Note 2(a)(ii) to allow up to four detached dwelling units in Area B1.

Site and Building Design

2. Added Note 7A under "Solid Waste" to state that solid waste and recycling containers will be provided within Development Areas A, B, C, and D as required by the ordinance.
3. Amended Note 4(H)(1) to state that windows and doors shall be provided for at least 20% of the total façade area along the proposed streets, with each floor calculated independently. The maximum contiguous area without windows or doors on any floor facing a public street shall not exceed 20 feet in height and 20 feet in length in any direction. Changes in materials and other treatments may be used to break up walls where windows are not possible due to building layout (e.g. stairwells and/or mechanical/utility rooms).
4. Amended Note 3G to refer to right-of-way adjacent to tax parcel 079-099-05.
5. Amended Note 4I as follows: Ground floor units facing the public streets will have an entrance that is designed as a main entrance from the street.
6. Amended Note 4B to refer to future back of curb instead of existing back of curb.

Infrastructure

7. Added Note 3M as follows: On-street parking will not be allowed on streets with less than 26 feet clear width.

The following items were added or amended after the public hearing:

1. Maximum number of residential dwelling units permitted lowered from 314 to 313 units.
2. Amended Note 4C to state that along N. Pine Street, in order to preserve the existing trees along N. Pine Street, a minimum setback of 30 feet as measured from the existing back of curb will be provided.
3. Amended Note 3f under "Access, Buffers, Screening, Open Space and Pedestrian Circulation" to add a note

specifying that the right-of-way dedication and construction of the roadway will occur as required by the subdivision regulations and prior to the issuance of the first certificate of occupancy for Development Areas A, B, C or D. The petitioner may post a bond for any improvements not completed at the time a certificate of occupancy is issued.

4. Amended Note 3G as follows: Catalina Avenue will extend to W. 24th Street as a public street as part of the development to the portion of the site that abuts Catalina Avenue (Development Area C.1) or as part of the Development Areas B and C. The right-of-way dedication and the construction of the roadway will occur as required by the subdivision regulations and prior to the issuance of the first certificate of occupancy for Development Area C.1, or Development Area B and C if constructed as part of the development of these Development Areas. The petitioner may post a bond for any improvements not completed at the time a certificate of occupancy is issued. The extension of Catalina Avenue will be constructed to meet a minor collector street cross-section except that along the western edge of the extension (adjacent to tax parcel 079-099-05) a sidewalk will not be constructed due to insufficient right-of-way.

The following items are outstanding:

Transportation

1. CDOT requests that the petitioner revise the site plan to extend 2.5-foot curb/gutter and a seven-foot wide back of curb sidewalk along 24th Street (across tax parcels 07909904 and 07909905, approximately 125 feet). This improvement would fill the existing sidewalk gap on the north side of 24th Street and provide a contiguous sidewalk to N. Graham Street.
2. Revise the site plan to add a note specifying all transportation improvements will be approved and constructed before the site's first building certificate of occupancy is issued or phased per the site's development plan.
  - a. The petitioner needs to revise conditional note 3.g. to state 25th Street will be extended to Catalina Avenue prior to the site's first building certificate of occupancy is issued.
  - b. The petitioner needs to revise conditional note 3.h. to state Catalina Avenue will be extended and connect to 24th Street prior to the sites first building CO is issued within development areas B or C.

## **6. Rezoning Petition: 2017-004 by Trinity Episcopal School**

**Agents:** Bridget Grant and Jeff Brown - Moore & Van Allen, PLLC

**Staff Resource:** Solomon Fortune

**Location:** Approximately 6.16 acres generally surrounded by East 9th Street, North Myers Street, East 8th Street, M Street, and Brookshire Boulevard. (Council District 1 - Kinsey)

**Current Zoning:** UR-1 & UR-2(CD) (urban residential) and (urban residential, conditional)

**Proposed Zoning:** UR-3(CD) (urban residential, conditional)

**Public Hearing Held:** April 17, 2017 Item #22

**Staff Recommendation:**

Staff recommends approval of this petition upon resolution of outstanding issues related to site design and requested technical revisions.

The following items have been addressed:

1. A note has been provided listing building materials and intent of the proposed new addition.
2. Element of the proposed building have been labeled on the site plan.

Transportation

3. A note has been added stating that an easement will be granted for the current pathway for expansion.

Site and Building Design

4. The lighting height has been increased from 20 feet to 21 feet to match industry standards.

The following notes have been added after the public hearing:

1. A note has been added that the playing ground equipment will be relocated no later than August 15th, 2017.
2. A detail drawing has been provided showing the proposed phases of the addition development.

## **7. Rezoning Petition: 2017-012 by The Drakeford Company**

**Agent:** Anthony Fox & Mac McCarley - Parker, Poe, Adams, & Bernstein

**Staff Resource:** Sonja Sanders

**Location:** Approximately 0.683 acres located on the north side of McClintock Road between Nandina Street and St. Julien Street. (Council District 1 - Kinsey)

**Current Zoning:** R-5 (single family residential)

**Proposed Zoning:** MUDD (CD) (mixed use development, conditional) with five-year vested rights.

**Public Hearing Held:** April 17, 2017 Item #23

**Staff Recommendation:**

Staff recommends approval upon resolution of outstanding issues.

The following items have been addressed:

Site and Building Design

1. Removed the parking space located between the building and the street.
2. Deleted the "Elevation Note" from Sheet A1.

Land Use

3. Amended Note 3B to include only the enforceable items pertaining to designated units, square footage, and reference to inclusion of conditions in homeowner's association restrictive covenants and bylaws, as follows: Proposed nonresidential use ground conditions shall include one ground floor unit in Buildings 1 and 3, with retail or office use limited to 500 square feet. Detailed conditions of the rules and guidelines for the nonresidential uses will be included in homeowner's association restrictive covenants and bylaws.

**REQUESTED TECHNICAL REVISIONS**

Land Use

4. Amend Note 3B, clarify that the live/work areas are included in the total number of units, and are not in addition to the 12 units being requested. Staff has rescinded this request as it has been addressed adequately via amended Note 3B.

Site and Building Design

5. Amended Note 5C under "Architectural Standards" to replace Chatham Avenue with St. Julien Street.
6. Amended Note 5B to align with the site plan by stating the first floor of Building 1 and Building 3 shall be developed to accommodate 500 square feet of nonresidential office or retail uses.

Infrastructure

7. Amended Sheet RZ1 to reflect width of proposed sidewalk along the site's frontage on St. Julien Street as six feet.

The following items were added or amended after the public hearing:

1. Amended building height from 2 and 2.5 stories, to 2.5 stories.
2. Added Note 5D under "Architectural Standards" as follows: attached to the rezoning plan are conceptual architectural renderings of the single family attached quadraplex homes that are intended to depict the general conceptual architectural style, design treatment and character to be constructed on site. Accordingly, each elevation shall be designed and constructed so they are substantially similar in appearance to the relevant conceptual architectural renderings of this submittal with respect to architectural style, design treatment and character. Notwithstanding the foregoing changes and alterations, which do not materially change the overall conceptual architectural style and character, shall be permitted.
3. Amended Note 6F to add the following: "A six-foot wood screen fence will be located in place of wall if construction easement/approval cannot be obtained from abutting property owners."
4. Amended Sheet RZ-1 of the site plan to label the following: (a) a 12-foot heated living space setback from St. Julien existing right-of-way 19'6" from St. Julien future back of curb; (b) Future back of curb to taper from 12'6" to 17'6" from existing St. Julien centerline; (c) 30-foot front heating living space setback from McClintock Road existing right-of-way 37' 5" from McClintock future back of curb; (d) porch/deck to be located within the first three feet of twelve-foot side setback along St. Julien Street; (e) Porch/deck to be located within the first five feet of 30-foot front setback on McClintock Road.

The following items are outstanding:

1. Annotate building elevations to indicate building materials, and design elements.
2. Amend Note 3B as follows: "Office Square Footage allowed as part of live/work units limited to a maximum of 500 square feet." Also, eliminate language related to retail sales, as retail sales considered accessory to the office use would be allowed.
3. Amend Note 5B as follows: "The first floor of buildings 1 and 2 shall be developed to accommodate 500 square feet of office uses permitted in the MUDD district."
4. Amend Note 3B to delete all reference to commercial uses prior to development, associated hours and signage.

## **8. Rezoning Petition: 2017-013 by Tim Frye**

**Agent:** The Isaacs Group, P.C.

**Staff Resource:** Claire Lyte-Graham

**Location:** Approximately 38.16 acres located at the end of Melynda Road, north of Piedmont and Northern Railroad between Toddville Road and Windy Valley Drive. (Council District 2 - Austin)

**Current Zoning:** R-5 (single family residential), I-1 (light industrial) and I-2 (general industrial)

**Proposed Zoning:** I-2(CD) (general industrial, conditional) with five-year vested rights

**Public Hearing Held:** April 17, 2017 Item #24

**Staff Recommendation:**

Staff recommends approval of this petition.

The following items have been addressed:

1. Petitioner has corrected both site plan sheets and clarified hours of operation will be from 7:00 a.m. to 6:00 p.m.
2. Lighting Note B has been amended to note the maximum height of freestanding lighting fixture from base will be 31 feet.
3. Petitioner has clarified that the required 100-foot Class A buffer will be provided along all property lines adjacent to residential uses and residentially zoned properties.



**9. Rezoning Petition: 2017-040 by White Point Partners, LLC**

**Agents:** Collin Brown & Bailey Patrick, Jr.

**Staff Resource:** Solomon Fortune

**Location:** Approximately 0.33 acres on the northwest corner at the intersection of West Catherine Street and South Tryon Street. (Council District 3 - Mayfield)

**Current Zoning:** I-2 (general industrial)

**Proposed Zoning:** TOD-M (transit oriented development - mixed-use)

**Public Hearing Held:** April 17, 2017 Item #28

**Staff Recommendation:**

Staff recommends approval of this conventional petition.

**10. Rezoning Petition: 2017-045 by Judson Stringfellow**

**Agent:** None listed

**Staff Resource:** Claire Lyte-Graham

**Location:** Approximately 2.968 acres located on the north side of Hewitt Drive east of Faircreek Court. (Council District 4 - Phipps)

**Current Zoning:** R-15MF (CD) (multi-family residential, conditional)

**Proposed Zoning:** R-5 (single family residential)

**Public Hearing Held:** April 17, 2017 Item #29

**Staff Recommendation:**

Staff recommends approval of this conventional petition.

**11. Rezoning Petition: 2017-046 by Mecklenburg County**

**Agent:** N/A

**Staff Resource:** Solomon Fortune

**Location:** Approximately 2.82 acres located on the south side of Baxter Street between South McDowell Street and Kenilworth Avenue. (Council District 1 - Kinsey)

**Current Zoning:** B-2 (PED) (general business, pedestrian overlay)

**Proposed Zoning:** MUDD (PED) (mixed use development, pedestrian overlay)

**Public Hearing Held:** April 17, 2017 Item #30

**Staff Recommendation:**

Staff recommends approval of this conventional petition.

**12. Rezoning Petition: 2017-047 by Scott Land Investments, LLC**

**Agents:** Collin Brown & Bailey Patrick, K&L Gates LLP

**Staff Resource:** John Kinley

**Location:** Approximately 6.63 acres located at the southwest intersection of Tyvola Road and Westpark Drive and east of Interstate 77. (Council District 3 - Mayfield)

**Current Zoning:** I-2 (general industrial)

**Proposed Zoning:** B-2 (general business)

**Public Hearing Held:** April 17, 2017

**Staff Recommendation:**

Staff recommends approval of this conventional petition.

### **13. Rezoning Petition: 2017-056 by Glen Nocik**

**Agent:** Brian Dey

**Staff Resource:** Solomon Fortune

**Location:** Approximately 1.33 acres located on the east side of Distribution Street between Remount Road and Dunavant Street. (Council District 3 - Mayfield)

**Current Zoning:** I-2 (general industrial)

**Proposed Zoning:** TOD-M (transit oriented development- mixed use)

**Public Hearing Held:** April 17, 2017 #32

**Staff Recommendation:**

Staff recommends approval of this conventional petition.

### **14. Rezoning Petition: 2017-021 by RED Partners**

**Agent:** Walter Fields

**Staff Resource:** John Kinley

**Location:** Approximately 7.0 acres north of Little Avenue on the west side of Carmel Road. (Council District 6 - Smith)

**Current Zoning:** O-1 (office)

**Proposed Zoning:** MUDD-O (mixed use development, optional) with five-year vested rights)

**Public Hearing Held:** April 17, 2017 Item #33

**Staff Recommendation:**

Staff recommends approval of this petition with the resolution of the remaining outstanding issues.

The following items have been addressed:

1. Added the following language to the end of note 3 Permitted Uses: "Except that new buildings constructed on the site shall be oriented to the private streets and no off-street parking will be permitted between the buildings and the private street, as generally depicted and except as allowed in the Optional Requests."
2. Amended the first optional provision related to ground floor uses for the self-storage facility to specify that for the façade of Building 2, facing private street segment 1, 50% of the ground floor façade will include building entry and office space associated with the storage facility.

3. Amended the rendering of the building elevation to provide a pattern of architectural glazing systems and sun shading devices along upper floors of the west elevation internal to the future proposed building similar to what is provided on the north elevation.
4. Added an optional provision requesting the elimination of ground floor uses in Buildings 2 and 3 along the facades facing street segment 4.
5. Removed the last optional provision requesting relief from 50% doors and windows along street fronts for storage buildings.
6. Modified the building envelope to align with the buildings as shown on the site plan.

Transportation

7. Modified all private street cross-sections to provide a minimum six-foot sidewalk on both sides according to the local office/commercial wide standard. A seven-foot sidewalk will be provided with on-street parking and eight-foot planting strip consistent with MUDD District.
8. Added a note to the Transportation Section that states: "Private streets shown are network required per the Subdivision Ordinance and shall be built to the local office/commercial wide standard (as modified on detail included). Streets may be public or private. A public access easement shall be recorded providing public ingress/egress use of the private streets."

**REQUESTED TECHNICAL REVISIONS**

Site and Building Design

9. Enumerated the "Optional Provisions."
10. Labeled and provided the dimensions of the planting strips and sidewalks along all four private street segments, as shown on the modified detail.

Transportation

11. Provided a modified cross-section detail on the site plan in order to inform reviewers during permitting.
12. Amended notes 5e and 5g under Transportation to clarify the improvements will be completed with Phase 1.

The following items were amended after the public hearing:

1. Revised the site plan to clarify where building six could be located.
2. Provided a conceptual landscaping plan with corresponding streetscape and landscaping note 7b.
3. Provided clarification of improvements and buildings to be constructed or to remain in the phasing note 13.
4. Added a note 6j to say that any financial institution that may locate a drive-through service window on the site will have to be situated so that the service window is located on the side of the building that faces away from Carmel Road.

The following items are outstanding as a result of the revised site plan:

Site and Building Design

1. Amend the note 6b under Architectural Standards related to building height to change the last sentence to change "three stories or 65 feet" to "three stories and not to exceed 65 feet."
2. Amend the site plan to show a sidewalk utility easement two feet behind the proposed sidewalk along Carmel Road.
3. Remove the second part of the first sentence of optional provision 4a and the last sentence of optional provision 4c and combine them into a new optional provision 4d that states "The petitioner seeks optional approval to allow parking and circulation between the existing building and internal streets and Carmel Road, between proposed Building 2 and Carmel Road and between proposed Buildings 4, 5, and 6 and Carmel Road."
4. Delete note 6j related to drive-through service windows for financial institutions because an optional provision is required in MUDD to allow drive-through service windows.
5. Amend optional provision 4a to clarify that Building 3 will comply with the MUDD requirements for ground floor uses for the façade facing street segment 3.

