

**ZONING COMMITTEE  
RECOMMENDATION  
February 6, 2006**

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**Rezoning Petition No. 2006-13**

**Property Owner:** Alice McGinn Bingham by Entirety (Sherry Murphey, Lesley McCarley, Joseph McCarley)

**Petitioner:** The McAlpine Company

**Location:** Approximately 22.9 acres west of US 521 (Lancaster Highway) and north of Ardrey Kell Road

**Request:** Change from R-3 (single family residential) to MX-2 (Innovative Mixed-Use)

**Action:** The Zoning Committee voted to recommend **APPROVAL** of this petition **contingent upon the streets shown on the site plan as being “built to public street standards” actually being public streets but allowing the 40-foot width as an innovative standard.**

**Vote:**

Yeas:	Carter, Cooksey, Farman, Howard, Ratcliffe, and Sheild
Nays:	None
Absent:	Hughes

**Summary of Petition**

This petition seeks approval for 170 townhomes, with a resulting density of 7.1 dwellings per acre.

**Zoning Committee Discussion/Rationale**

**Special Zoning Committee meeting February 6, 2006** - Staff noted that the connectivity issue was the lone outstanding issue. Staff is comfortable with the proposed land use. Staff is seeking a connection to Bridgemount Avenue via public streets on this site. Staff is recommending that the petition go forward and staff continue to work with the petitioner on the connectivity/street issue. A Zoning Committee member expressed the opinion that this proposal was consistent with adopted plans and policies. **Upon a motion by Mr. Sheild, seconded by Mr. Howard, the Zoning Committee voted unanimously that the proposal was consistent with adopted land use plans.** The Committee waived its rules to ask the petitioner’s representative about the public versus private street issue. The petitioner’s representative stated that they wanted the streets to be private since they weren’t sure they could meet public street standards such as minimum curve radius, etc. Another Committee member asked what the developer would lose if the streets were public. The petitioner’s representative restated the curve radius issue and that they would not be able to terminate streets with hammerheads. Also, terminating Bridgemount Avenue with a cul-de-sac indicates to drivers that they are entering a different environment, encouraging them to slow down. Staff indicated that possibly a public roundabout would accomplish the same thing. A member of the Committee inquired as to what the GDPs had to say about public versus private streets.

Staff responded that the multi-family GDPs called for connecting streets that could be public or private. A motion was made to recommend approval of the petition subject to the street issues being resolved. That motion was withdrawn after some discussion. **Upon a motion by Mr. Sheild, seconded by Mr. Howard, the Zoning Committee voted unanimously to recommend approval of the petition subject to the roads on the site plan shown as being “built to public standards” being made public streets.** Discussion of the motion clarified that the 40-foot width shown on the site plan was acceptable as an innovative standard. The Zoning Committee also noted that while they could not require a petitioner to include any provision on a site plan, their intent on this petition was that if the petitioner did not incorporate their contingency into the site plan the Zoning Committee then had no recommendation on this petition.

**Staff Opinion** Staff agrees with the recommendation of the Zoning Committee.

**First Zoning Committee meeting January 25, 2006** - The staff reported on changes made to the site plan since the public hearing. The petitioner agreed to remove the ability to delete open space amenities the “Alice Bingham Garden” due to “market conditions” and tree save area has been designated as 17.5%, but this includes the area needed for water quality BMPs. The petitioner has also agreed to comply with tree save requirements approved by the City Council in effect at the time of engineering plan submittal and review. Petitioner has agreed to protect wetlands on the site. Petitioner will provide a bus shelter pad and easement per CATS request. The extension of Bridgemount Avenue remains the major issue with this petition. Staff stated that they were recommending deferral of this petition until a subdivision variance not extending the street was approved.

One Zoning Committee member stated that he did not understand the “cut-through” issue from the neighbors; it appeared that any “cut-through” would be in the opposite direction. He was also interested in the petitioner’s view of a deferral and the petitioner’s view of the connectivity in this petition. The petitioner then responded that he was against any deferral; that he wanted the Council to decide if a deferral was appropriate. He was also opposed to the connection to Bridgemount Avenue for several reasons. The connection would require removal of trees needed for the tree save area, it was a market issue for his intended age 55 and older buyers, and that when the stub street was built nobody had planned for multi-family development on this site.

Another Committee member identified a recent similar connectivity issue in the northeast portion of the Charlotte area and reminded the Committee that the connection ended up being required in that petition. She saw no reason to defer but saw reasons to make the connection. A Committee member asked the neighborhood to identify where the “cut-through” traffic was currently coming from. A representative of the neighborhood indicated traffic was on Audrey Kell Road. A Committee member asked the staff how this petition was affected by the GDPs. Staff responded that without the connection it did not meet the residential design criteria and therefore did not meet the criteria for increased density. It was suggested that instead of a deferral, the petition be recommended for approval contingent upon the connection being added. The next suggestion was that the petition be deferred until February 6<sup>th</sup>, when the Committee was already scheduled to meet as part of the full Planning Commission.

**Upon a motion by Mr. Howard, seconded by Ms. Carter, the Zoning Committee voted unanimously to defer the petition until February 6<sup>th</sup>.**