

**ZONING COMMITTEE
RECOMMENDATION
January 24, 2007**

Rezoning Petition No. 2006-157

Property Owner:	BVB Properties
Petitioner:	Harris, Murr and Vermillion, LLC
Location:	Approximately 42.5 acres located on the south side of Sunset Road between Millhaven Lane and Statesville Road
Request:	B-1, neighborhood business, B-1 SCD, shopping center district, B-2, general business and R-4, single family residential to CC, commercial center
Action:	<p>The Zoning Committee voted unanimously to recommend APPROVAL of this petition with the following modifications:</p> <ul style="list-style-type: none">• The developer will contribute funds to the City towards the construction of the planned sidewalk along Millhaven if the sidewalk has not already been constructed by the City by time the shopping center is expanded. The sidewalk will be upgraded to a six-foot sidewalk and the funds adjusted accordingly.• A 50 foot Class B buffer will be provided along the Millhaven frontage in the area south of the proposed main driveway entrance and extend that to connect with the 75 buffer in the rear. An alternative would extend the width to 75 feet by maintaining the existing tree cover and leaving this 75 foot width undisturbed. The open space area north of the Millhaven driveway will be a tree save area, which would include saving trees 4" or greater in caliper.• The use of the B-2 area will be clarified and a potential vehicular connection will be provided if it can be worked out with the adjoining use.• The internal sidewalk associated with out parcel 3 will be extended to connect with the perimeter sidewalk along Sunset Rd.• The buildings on out parcels 3, 4 and 5 will orient towards the internal side of the shopping center (and the associated parking generally oriented to the outer side of the parcel) and will also depict the general relationship accordingly with a building/parking boundary/envelope.• A noted will be added committing to four-sided architecture on out parcels 3, 4 and 5.

- A note indicating compliance with the bicycle ordinance will be provided.
- The height of the proposed berms shown at the rear of the site will be a minimum of 5 feet in height with the further commitment to landscape/screen the top of the berms.
- Retail buildings 1-4 will include some outdoor plazas, open space, outdoor/bench seating, etc.

Vote: Yeas: Carter, Chiu, Loflin, Ratcliffe, Sheild and Simmons

 Nays: Randolph

 Absent: None

Summary of Petition

This petition proposes to expand the existing shopping center by adding land and redesigning the previously approved shopping center layout. The site plan associated with this petition indicates the size of the existing center to be 65,000 square feet with 220,000 square feet approved. The proposed request will add 86,400 square feet to the previously approved 222,000 square feet for a maximum of 308,400 square feet.

Zoning Committee Discussion/Rationale

Keith MacVean reviewed the petition. The proposed increase in square footage exceeds that recommended for a community size center however staff is willing to support the increase based on a plan that meets the guideline of the GDPs. This has been accomplished by adding notes relating to the architecture of the proposed buildings, building orientation toward a common courtyard, outdoor seating, class B buffer along Millhaven, architectural treatments along the rear of the buildings, extending the main street appearance, realign driveway to get further away from the signal at Millhaven. All site plan issues have been addressed. The petitioner is still working with CATS on the location of a shelter and park and ride facility.

A concern was raised the increase in size of the center. Mr. MacVean explained that the center is already approved for 220,000 square feet so the net increase is about 86,400 square feet. Although it goes beyond the recommended center size however in an area where retail is suffering allowing an increase in size allows for better landscaping, access, design and better building arrangement staff is comfortable with this.

Statement of Consistency

Upon a motion made by Ratcliffe and seconded by Sheild the Zoning Committee unanimously found this petition to be consistent with the North East District Plan and General Development Policies and to be reasonable and in the public interest.

Vote

Upon a motion made by Ratcliffe and seconded by Sheild the Zoning Committee voted 6-1 to recommend approval of this petition with the noted modifications. Additional discussion ensued.

The commission discussed the buffer and suspended the rules to ask the petitioner if the existing hard woods would remain in place or would new materials be installed. Mr. Robert Young stated that the 75-foot buffer would remain undisturbed. The buffer has been extended around the wetland areas and the detention areas.

The Commission discussed the GDP and how new commercial centers are evaluated. Mr. MacVean noted that if this were a new center staff would look for 75,000 square feet of office use and the retail would be limited to 225,000 square feet. The rules were suspended to ask the petitioner about the phasing of the project. Steve Vermillion stated that in order to make the center work they needed to add square footage to the site. No more sites are available in the mall area and this will be the next location for development. He also responded the site would be developed in one phase.

Staff was asked about the future of the site. Mr. MacVean stated that staff had in the past asked petitioners to maintain the property (building, parking lot, landscaping) in case the site goes dark and add some language that would not prohibit a similar competing business from locating on the property. The rules were suspended to ask the petitioner if he is comfortable asking his tenant to sign such agreements? Mr. Vermillion stated that he would need to see the exact language but he thought he would be amenable to it.

Commission Sheild amended the motion and Randolph seconded to include language that petition will reach an agreement with staff on;

- 1) Continued maintenance of the building and facilities and**
- 2) Non-exclusion of similar uses**

The Zoning Committee voted 6-1 to recommend approval of this petition with the noted modifications.

Minority Opinion

The minority of the Commission was concerned about the size of the big box as well as the overall size of the center.

Staff Opinion

Staff agrees with the majority of the Zoning Committee.