

**ZONING COMMITTEE
RECOMMENDATION
June 27, 2007**

Rezoning Petition No. 2007- 064

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| Property Owner: | Mt. Holly Huntersville Medical I and II and Mountain Island (E and A), LLC |
| Petitioner: | Mountain Island (E and A), LLC |
| Location: | Approximately 27.8 acres located on the southwest corner of Brookshire Boulevard and Mount Holly-Huntersville Road |
| Center, Corridor or Wedge: | Center |
| Request: | CC SPA (LWPA), commercial center site plan amendment within the Lake Wylie Protected Area |
| Action: | <p>The Zoning Committee voted unanimously to recommend APPROVAL of this petition with the following modifications:</p> <ul style="list-style-type: none">• A note regarding lighting will be added to the site plan.• Building elevations will be made part of the site plan.• The layout of the drive through service on the site plan will be clarified.• Sidewalk connections will be installed as requested.• Note #5 will indicate that dumpsters will be enclosed with a solid enclosure with gates.• Note #10 references the County Fire Marshall, and will be corrected to reference the City Fire Marshall• Water quality notes will be added to the site plan.• Note #6 and 14 will be consolidated.• 5 drawings showing buffers, internal streets, elevations, and trees have been submitted as a part of the rezoning petition.• The full movement driveway on Brookshire will be modified to either a right-in/right-out or leftover based on input from NCDOT. If a left over is used the maximum amount of allowable retail will be reduced from 275,000 square feet to 200,000 square feet.• 50 feet of right-of-way from centerline along property frontage and 70 feet from centerline for a distance of 500 feet from the Brookshire Boulevard right-of-way will be dedicated. |

Vote: Yeas: Chiu, Lipton, Loflin, Ratcliffe, Sheild and Simmons
Nays: None
Absent: Rosenburgh

Summary of Petition

The requested rezoning will still allow 375,000 square feet of development with a maximum of 275,000 square feet of retail. The proposed amendment involves a change to the buffer along Brookshire Boulevard. The request proposes to reduce the buffer from 100-feet to 60-feet. It also indicates two areas with 35-foot landscaped area as previously approved “tree clear areas.”

Zoning Committee Discussion/Rationale

Keith MacVean reviewed the petition and noted that the petitioner had addressed many of the site plan issues (noted above) however the main issue concerning the setback along Brookshire Boulevard has not been resolved.

The approved plan calls for a 100-foot landscaped setback along Brookshire Boulevard. The current petition proposes to reduce the setback to 60-feet to allow the proposed buildings to be closer to Brookshire Boulevard. The plan also proposes some additional tree removal for dead and dying trees. There is also an additional building pad for office uses. The latest site plan shows a pedestrian area, seating, pedestrian connections, generous planting areas and details on the landscaping that will be removed and added. The building elevations are shown from a parking area view, from Brookshire and from the building sides.

Staff is still opposed to the request for a reduction in the setback along Brookshire Boulevard from 100-feet to 60-feet. Mr. MacVean explained that the 100-foot setback is still appropriate for the area and that there is plenty of room on the site for new buildings and to have the correct parking ratio. From a land use perspective the rezoning request is appropriate however; staff cannot support it because of the reduction in the setback.

One Commissioner stated that there is a lot of commercial at this intersection, what is the relativity of the 100-foot setback in relation to the other properties? Mr. MacVean explained that some of the properties were rezoned during the time that the City of Charlotte could not do conditional rezonings. In addition, the Wal-Mart site and the others were all done about the same time and have unusable areas because of the Duke Power right-of-way.

Another Commissioner asked if the petitioner treating the trees in the 60-foot buffer the same as the property across the street? Staff has worked with the petitioner to limb up and remove trees on an as needed basis. The conditions for the site across the street are more restrictive because they are only allowed to remove trees smaller than 3 inches.

The Commission continued the discussion. This center seems out of place compared to the other centers in the area. From a competitive standpoint requiring the setback might be hindering this shopping center in the long term by not allowing them to have visibility. Mr. MacVean noted the setbacks along Brookshire are fairly consistent. He further noted that moving buildings

closer to Brookshire, which is not pedestrian oriented, does not have the same effect as moving the buildings closer to Mount Holly Huntersville which is pedestrian oriented. A discussion ensued concerning whether there is a policy on the 100-foot setback.

The Zoning Committee stated that the site plan is well thought out and will do something positive in the area. The Committee noted the following facts leading up to their decision:

- The proposed 60-foot setback is 300% of the setback on the adjacent property and should be sufficient.
- There appears to be no purpose for the setback as there will be no harm to adjacent properties and visibility to the street will be a positive outcome.
- Without a policy document the setback is out of character with the rest of the area.
- The proposed 60-feet will not be significantly different from the original 100-feet.

Statement of Consistency

Upon a motion made by Commissioner Ratcliffe and seconded by Commissioner Sheild the Zoning Committee unanimously found this petition to be consistent with the *Brookshire / I-485 Area Plan* and reasonable and in the public interest.

Vote

Upon a motion made by Commissioner Sheild and seconded by Commissioner Ratcliffe the Zoning Committee voted unanimously to recommend APPROVAL of this petition as modified.

Staff Opinion

Staff disagrees with the recommendation of the Zoning Committee. Moving the buildings closer to a non-pedestrian oriented street such as Brookshire Boulevard is contrary to the development policies. Staff believes that the 100-foot setback is still appropriate for the area. Additionally buildings and required parking may be added to the site without the reduction in the setback.