

**ZONING COMMITTEE
RECOMMENDATION
December 19, 2007**

Rezoning Petition No. 2007-127

Property Owner: Mary B. Killian, Jane Straughn, Daniel Walters

Petitioner: Charlex Development Corp., LLC

Location: Approximately 1.2 acres on the southwest corner of Park Road and Drexel Place

Center, Corridor, Or Wedge Center

Request: R-4, single family residential, R-43MF, multi-family residential, and O-2, office, to MUDD(CD), conditional mixed-use development district

Action: The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition, based upon the following modifications:

- An elevation from the west side of the building will be added to the site plan that will be similar to the east elevation.
- The building's maximum height will be 54 feet except for the cupolas, which will be up to 59 feet high.

Vote: Yeas: Howard, Johnson, Lipton, Loflin, Randolph, and Rosenburgh

Nays: None

Absent: Sheild

Summary of Petition

This petition seeks approval for 9,900 square feet of office/commercial uses and up to 25 residential units in a vertically integrated mixed-use project. The residential density would be 20.8 units per acre. The site plan accompanying this petition contains the following provisions:

- The building will be set back 16 feet from the curb on Park Road and 14 feet from the curb along Drexel Place.
- The building is limited to four stories in height.
- Residential units are all for sale condominium units.
- Restaurants are not allowed uses in the building.
- The developers have agreed to undertake water quality and quantity improvements.
- Petitioners have agreed to dedicate and convey right-of-way up to 50 feet from the centerline of Park Road.

Zoning Committee Discussion/Rationale

One member of the Zoning Committee asked the staff about a previous lawsuit involving the rezoning of this site. Staff replied that that lawsuit had been successful in getting a previous rezoning voided because it came at a time when our rezoning process had been invalidated by the courts. A discussion ensued regarding trees that would remain on the site. It was decided that the trees in question were right on the exterior property line and were to be preserved, although they will be very close to the screening wall to be constructed. A follow-up question was asked regarding possible single family deed restrictions on the property. The petitioner's agent responded that their attorney had looked into the issue and advised them that the single family deed restrictions appeared to have already been violated and therefore were no longer enforceable. A member of the Committee noted that the elevations appeared to be different in the two versions they had seen. The petitioner's agent assured them that nothing had changed and agreed to provide the elevations from the west (neighborhood) side of the building that were similar to the eastern elevations. After a question on building height the petitioner's agent committed to a maximum height of 54 feet except for the cupolas, which could be up to 59 feet. A Committee member asked if the staff had told neighbors that by increasing the building height, reducing the building footprint, and finding the right mix of tenants that this project could be done without the single family lot. The staff had actually said that those things, combined with a loss of square footage, might make it possible to remove the single family lot. Details such as how the site would then be accessed were not discussed. The petitioner's agent was asked if they could do the project [as proposed] without the single family lot and he replied that they could not. Staff noted that the City Attorney had not responded to the issue of the single family deed restrictions.

Consistency Statement

A motion was made by Commissioner Loflin, seconded by Commissioner Johnson, to find this proposal to be consistent with the *Central District Plan* and the *Park Road Corridor Plan* and to be reasonable and in the public interest. The motion passed unanimously.

Vote

Upon a motion by Commissioner Loflin, seconded by Commissioner Randolph, the Zoning Committee voted unanimously to recommend APPROVAL of this petition, incorporating the modifications noted above.

Staff Opinion

Staff agrees with the recommendation of the Zoning Committee.