

## **\*PRE-HEARING STAFF ANALYSIS\***

### **Rezoning Petition No. 2006-22**

**Property Owner:** Live Oak Development Partnership, LLC

**Petitioner:** Live Oak Development Partnership, LLC

**Location:** Approximately 4.9 acres east of Sharon Road and south of Fairview Road

**Request:** Change from R-15MF(CD) (conditional multi-family residential) to MUDD-O (mixed-use development district with optional provisions)

### **Summary**

This petition seeks approval for 290 multi-family residential units and 12,000 square feet of retail space. One building would contain up to 50 senior citizen residential units, a second would have 45 units and the main building would contain up to 195 residential units. The retail space would be on the ground floor of the second and third buildings. The overall residential density would be approximately 59.2 units per acre.

### **Background**

This petition has been so significantly revised since the first public that staff decided a new public hearing was necessary. However, the petitioner has legitimate time constraints so this petition is requesting a decision the same night as the re-hearing. Concluding that a same-night hearing and recommendation on a petition this complicated was problematic for the Zoning Committee, the staff took the revised petition to the Zoning Committee for information only on March 29<sup>th</sup>.

### **Consistency and Conclusion**

While the *South Park Small Area Plan* (2000) recommends residential uses for this site, the basic General Development Policies (GDPs) (2003) do not support the proposed density. However, this is a redevelopment / revitalization project with an affordable senior citizen housing component in an area of significantly higher intensity. Using the Opportunities and Constraints portion of the GDPs, staff believes this petition to be consistent with publicly adopted policies.

Upon correction of the site plan deficiencies noted below, this petition would be appropriate for approval.

## **Existing Zoning and Land Use**

The subject property is a portion of an 8.95-acre tract occupied by 32 multi-family housing units operated by the Charlotte Housing Authority, constructed about 1980. To the north are office and commercial properties fronting Fairview Road. Directly to the east is the hotel element of the Phillips Place center. To the south and southeast are multi-family condominium properties recently developed in UR-2 (CD) zoning.

## **Rezoning History in Area**

There have been several infill residential projects in this immediate area. The most recent, approved in 2004, placed a four-story, 55-foot high condominium building just southwest of the petitioned site with an approximate density of 30 units per acre. There is a pending rezoning to redevelop the property immediately to the west of the petitioned property with a mixture of uses.

## **Public Plans and Policies**

The *South Park Small Area Plan* (2000) shows the subject property as Multi-family / Single-family attached. This is the currently applicable plan for the area. The plan references the residential location criteria in the *General Development Policies* as the determinant of appropriate density.

The *South District Plan* (1993) shows the subject property as Multi-family / Single-family attached. The *South Park Small Area Plan* superseded this plan.

The Residential Location and Design section of the *General Development Policies* (2003) (GDP) provides criteria for determining appropriate locations for higher density development. The assessment consists of a point system used to evaluate individual sites. Included in the GDP criteria are Design Guidelines for Multi-family and Attached Single-family Development. In order to gain the four points from the Design Guidelines item, all of the standards must be met. The site's score is as follows:

<b>Assessment Criteria</b>	<b>Density Category - &gt;17 dua</b>
Meeting with Staff	1 (Yes)
Sewer and Water Availability	2 (CMUD)
Land Use Accessibility	3 (High)
Connectivity Analysis	2 (Med-low)
Road Network Evaluation	0 (No)
Design Guidelines	4 (Yes)
Other Opportunities or Constraints	NA
<b>Minimum Points Needed: 14</b>	<b>Total Points: 12</b>

- Based on this score, the site is appropriate for development up to 12 dwelling units per acre, under a design that complies with the Design Guidelines.

## **Proposed Request Details**

This petition seeks approval for 290 multi-family residential units and 12,000 square feet of retail space. One building would contain up to 50 senior citizen residential units, a second would have 45 units and the main building would contain up to 195 residential units. The retail space would be on the ground floor of the second and third buildings. The overall residential density would be approximately 59.2 units per acre. The site plan accompanying this petition contains these additional provisions:

- The petitioner is seeking Optional provisions to allow: diagonal parking, reduction of the front setback from 14 to 10 feet, use of a hammerhead turnaround instead of a cul-de-sac, allow off-premise signage, and to allow a subdivision of the property with no public street frontage.
- Retail uses will be primarily along the ground floor frontage of a reconstructed Savings Place.
- Maximum building height is 65 feet.
- The petitioner agrees to provide water quality improvements but those devices do not meet the pollutant removal levels requested by Storm Water Services.
- Vehicular access will be provided to the site to the west and hence to Sharon Road. A potential vehicular connection is proposed to Phillips Place.
- Building elevations are provided as part of the site plan.

## **Public Infrastructure**

**Traffic Impact / CDOT Comments.** CDOT estimates that trips generated from the site will increase from 820 to 3200, having a significant impact on the nearby thoroughfare system. A TIS is underway. Without an approved termination of Savings Place CDOT will not support the abandonment of the existing Savings Place. CDOT will not support diagonal parking nor the 10-foot setback. A pedestrian connection to Phillips Place is needed. See attached memo for detailed comments.

**CATS.** CATS requested pedestrian access to Sharon Road and it is being provided.

**Connectivity.** Adequate connectivity is being provided in conjunction with the pending rezoning to the west and the potential connection to Phillips Place.

**Storm Water.** Storm Water originally requested its standard water quality improvements. The petitioner has agreed only to undertake water quality improvements using “proprietary devices” since the ultra-urban nature of the site leaves no usable ground area to install “normal” water quality facilities like bio-retention and wet ponds. These proprietary devices are generally concrete structures that either use swirling movement or multiple chambers to settle out pollutants. These devices are not approved by DENR in the forthcoming rewrite of their Best Management Practices for storm water. Used alone they would not meet the federal minimum standard of removal of 85% of Total Suspended Solids (TSS). They are also very deficient in nutrient removal. Multiple devices will be needed to serve the site.

Storm Water Services has proposed to allow the proprietary devices but only as part of their ongoing pilot project to evaluate these types of devices for future acceptance. That pilot project contains measures and protocols that the petitioner is unwilling to undertake. Storm Water Services has serious concerns that whatever is used on this site will become the standard until federal NPDES Phase II regulations or a local post-construction ordinance become effective. That could be some time and a number of inadequate facilities could be constructed in ultra-urban sites.

**School Information.** CMS is revising its analysis based on the revised site plan. Their comments will be available at the public hearing.

### **Outstanding Issues**

**Land Use.** Staff believes this proposal is consistent with adopted plans and policies. See “Consistency and Conclusion” for additional details.

**Site plan.** The site plan accompanying this petition contains the following deficiencies:

- The Tree Preservation areas contain trees that are only 14 feet from proposed buildings. A note needs to be added to the plan that a certified arborist will be engaged to prepare a tree preservation plan for these most “at risk” trees. The plan must provide for a reasonable expectation of long term survival of the trees and the note must commit to implementation of the tree preservation plan, with confirmation from the City’s urban forestry personnel.
- CDOT is requesting 50-foot minimum radii for the two curves leading to the eastern property line.
- Water quality and detention issues need to be satisfactorily resolved.