

**ZONING COMMITTEE  
RECOMMENDATION  
December 3, 2007**

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**Rezoning Petition No. 2007-052**

**Property Owner:** Tyvola Crossing Associates, Ltd.

**Petitioner:** The Ghazi Company

**Location:** Approximately 13.072 acres located on the northeast corner of S. Tryon Street and W. Tyvola Road.

**Center, Corridor, or Wedge** Wedge

**Request:** B-1 (CD), neighborhood business, conditional to CC, commercial center and BD (CD), business district, conditional

**Action:** The Zoning Committee recommended **APPROVAL** of this petition at the December 3, 2007 Zoning Committee special work session.

**Vote:**

Yeas:	Johnson, Lipton, Loflin, Randolph, and Sheild
Nays:	Howard
Absent:	Rosenburgh

**Summary of Petition**

This petition proposes to rezone approximately 12.246 acres located on the northeast corner of S. Tryon Street and W. Tyvola Road from B-1(CD) to CC and BD (CD) as part of a newly planned retail-oriented mixed use center. Since its initial submittal, the site plan associated with this rezoning petition has undergone several changes to address concerns related to proposed uses, building orientation, access, buffering, and impacts on adjacent neighborhoods. The proposal is as follows:

- The area proposed to be rezoned to CC consists of approximately 8.96 acres and is intended to accommodate up to 110,000 square feet of retail uses and up to 30,000 square feet of office. The maximum ground floor area of a single tenant use may be 50,000 square feet with an expansion area of up to 10,000 square feet. The site plan shows several building envelopes that could be developed with drive thru businesses. The construction of a gas station is also an option as part of the development proposal. The petitioner has added language to the site plan stating gas station hours of operation may be up to 24 hours.
- The portion to be rezoned to BD(CD) consists of approximately 3.28 acres and is intended to accommodate the construction of a four-story, climate controlled storage facility. The climate controlled facility has decreased in size from 110,000 square feet (27,500 square feet per floor) to 100,000 square feet (25,000 square feet per floor) and a Floor Area Ratio (FAR) of 0.7. The

maximum height of the building is 40 feet, with a maximum 8-foot high parapet to screen rooftop equipment. The petitioner has added language noting that the facility will be closed every night from 10:00 p.m. to 6:00 a.m.

### **Zoning Committee Discussion/Rationale**

Keith MacVean discussed the petition, noting the existing and proposed zoning districts and identifying the surrounding land uses, including proposed office and retail uses, and the climate controlled storage facility. Mr. MacVean reviewed the site plan, noting the location of the climate controlled storage facility, orientation of retail buildings to the street, and the possibility of drive-thru uses and a gas station on the site. He also noted the existing Duke Power easement and indicated that the petitioner had secured an approved alternate landscape buffer by Duke Power and the City's Engineering Department. Mr. MacVean briefly discussed the elevations for the climate controlled storage facility and mentioned staff's request for more cornicing, pilasters, and enhanced differentiation between the first floor and higher floors.

Mr. MacVean stated that the *Southwest District Plan* does recognize retail uses, but not climate controlled storage facilities. He noted that such facilities are reviewed for compatibility with the surrounding land uses. Mr. MacVean concluded by saying that this request could be supported subject to the petitioner addressing the above outstanding elevation issues prior to City Council's scheduled decision on December 17, 2007.

Commissioner Randolph inquired about building materials, location of garage/service doors, buffer treatment, the difference between this petition and the prior approval for this site, and the feelings of the neighborhood about this petition. Mr. MacVean noted utilization of either stucco or pre cast concrete, or a combination of building materials. Mr. MacVean noted that there would be no rear vehicular/loading access to any of the buildings adjacent to residentially zoned properties to assist in mitigating impacts on the neighborhoods. Mr. MacVean also reviewed the provided Class B buffer with fence adjacent to R-4 zoned properties. Mr. MacVean stated that the previous site plan approval for this site allowed up to 99,000 square feet of retail uses. He indicated that the neighborhood was not supportive of this petition, particularly with the potential establishment of both a climate controlled storage facility and gas station. Mr. MacVean stated there is a valid protest petition on this request, and that staff met with the petitioner and neighbors on November 5, 2007 to discuss the site plan/proposal.

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Commissioner Lipton expressed concern that the site plan has significantly changed since the Zoning Committee last reviewed this request. Commissioner Lipton also asked about storm water issues, pedestrian accessibility, hours of operation of the climate controlled storage facility, and a cross-section of the storage facility from the neighborhood. Mr. MacVean acknowledged the plan had changed significantly in an on-going effort to mitigate impacts to the neighborhood and make the site plan more functional. He indicated that storm water issues had been addressed, and that buildings were moved up to the street to enhance pedestrian accessibility. Mr. MacVean noted the climate controlled storage facility would be closed every night from 10:00 p.m. until 6:00 a.m. Mr. MacVean stated that the petitioner did not submit a cross-section of the storage facility from the neighborhood.

With respect to the changes in the site plan since last review by the Zoning Committee, Commissioner Sheild stated that staff had not deviated from the usual procedure of continuing to work with the petitioner on addressing outstanding site plan issues. Commissioner Sheild noted

the neighbors' concerns over the use and height, as well as staff's initial recommendation of denial and inquired into what site plan changes occurred to move the staff to change the recommendation to support of the petition. Mr. MacVean noted the changes regarding reorientation of the building, buffer treatment, and access (per CDOT). Commissioner Sheild expressed understanding of the neighborhood's issues with the request, but noted that this is a high traffic volume intersection and that the property was already zoned to allow retail uses. He also indicated that similar projects had been constructed in other parts of the city, including the development at Stonecrest. Commissioner Sheild stated that a climate controlled storage facility is a low impact use, thus the low parking ratio.

Commissioner Howard stated his concerns over the height of the buildings and proximity to residential areas.

### **Statement of Consistency**

Upon a motion made by Commissioner Sheild and seconded by Commissioner Johnson, the Zoning Committee unanimously found this petition to be consistent with *Southwest District Plan* (1991) and reasonable in the public interest.

### **Vote**

**Upon a motion made by Commissioner Sheild and seconded by Commissioner Johnson, the Zoning Committee voted 5-1 to recommend approval of this petition subject to the petitioner adequately addressing outstanding elevation issues prior to the December 17, 2007 City Council meeting.**

### **Minority Opinion**

The minority of the Committee was not comfortable with the height of the storage facility and its relationship to the adjacent properties.

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### **Staff Opinion**

Staff concurs with the decision of the Zoning Committee to ~~approve~~ this petition.

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