

**ZONING COMMITTEE  
RECOMMENDATION  
March 26, 2008**

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**Rezoning Petition No. 2008-031**

**Property Owner:** Ronald J. Withrow, Withrow Capital Investments, LLC, Metrolina Properties LLP, Morris Field Associations, Mountain Island Promenade, LLC

**Petitioner:** Kimberly Young, Mountain Island Promenade, LLC

**Location:** Approximately 116.4 acres located north of the intersection of Brookshire Boulevard and Interstate 485.

**Center, Corridor, or Wedge:** Wedge

**Request:** NS, neighborhood service and B-D (CD) distributive business, conditional district, LW-PA, Lake Wylie Protected Area to NS, neighborhood service and B-D (CD) distributive business, conditional district, LW-PA, Lake Wylie Protected Area, site plan amendment

**Action:** The Zoning Committee unanimously voted to recommend **DEFERRAL** of this petition for 30 days.

**Vote:**

Yeas:	Howard, Lipton, Loflin, Randolph, and Sheild
Nays:	None
Absent:	Johnson
Recused:	Rosenburgh

**Summary of Petition**

This site plan amendment will allow an additional 55,500 square feet of retail and a potential reduction of 36,000 square feet of office. It also proposes several site plan changes including the reallocation of multi-family residential; alternate retail building locations and numbers; transportation modifications; and changes to the width of the buffer. The property is located in the Lake Wylie Watershed Protected Area. The petition is requesting a five (5) year vesting of this petition.

**Zoning Committee Discussion/Rationale**

Ms. Tammie Keplinger reviewed the site plan amendment request and noted that at the public hearing the petitioner addressed a number of the outstanding comments. The petitioner has since worked with CATS and has addressed their concerns. They have also worked with the Chastain Parc neighborhood by committing to provide a black aluminum fence at the minimum 90' buffer line. Ms. Keplinger concluded by stating that the site plan amendment is inconsistent with the *Brookshire Boulevard/I-485 Area Plan* and staff is recommending denial.

A Commissioner asked staff why a denial is recommended. Ms. Keplinger stated that staff is uncomfortable with another big box on the site, and the fact that the walkable, pedestrian village center concept was being eroded. A big box is any retailer that is over 25,000 to 30,000 square feet. A big box retailer of this amount is considered a junior anchor. Ms. Keplinger noted that the square foot ratio of total retail to other uses on the site has exceeded the 1:3 ratio recommended in the *Brookshire Boulevard/I-485 Area Plan*. The size of the additional big box on Parcel D-1 could be up to 98,000 square feet, depending which of three options they utilize. However, the retail square footage may not be solely in one retailer.

Ms. Keplinger was asked about the buffer. She stated that the negotiations with the buffer took place between the neighborhood and the petitioner.

A Commissioner asked about the traffic concerns raised by the neighborhood. Would this site plan amendment significantly impact traffic? Mr. Putnam stated that a traffic impact study was not needed because the increase in trips generated by this site plan amendment does not reach a threshold warranting a new study. CDOT is looking at evaluating the intersection again with NCDOT. However, CDOT will accept responsibility for these improvements.

Ms. Campbell clarified staff's position to the Commissioners. Staff, 1999, when the I-485 Interchange Analysis was adopted, it was planned that interchanges along I-485 would have unique characteristics, and different predominant land uses, that would create a sense of place at each interchange. With two big box retailers already approved at this interchange where the *Brookshire Boulevard/I-485 Area Plan* recommends a mixed use, vibrant pedestrian oriented center, the additional big box further erodes the efforts made in the *Brookshire Boulevard/I-485 Area Plan* by allowing more single-tenant retail buildings over 25,000 square feet. Ms. Campbell stated staff would be less opposed to the site plan amendment if the additional retail square footage was broken into smaller single-tenant retail buildings.

Ms. Campbell added that staff is also concerned about what happens when the big box tenant leaves. What replaces it? There are plenty of examples in Charlotte where empty big box retailers have vacated structures, and the buildings have gone dark. One Commissioner noted that the *Big Box Study* suggested that one solution is to design the building in such a way that could easily accommodate multiple tenants in the future. Would this solution help here with different facades? Ms. Campbell stated that the intent here is to accommodate one tenant. She implored the Commissioners to think about a recommendation asking the petitioner to make every attempt to create facades that would break up the massing of the building and allow more flexibility in the future. That could achieve the goals of the *Brookshire Boulevard/I-485 Area Plan*.

Ms. Keplinger noted that the *Big Box Study* recommended a vacancy mitigation plan, and the development notes here do include a vacancy mitigation plan, but do not address architectural façade treatments.

A Commissioner asked if the original rezoning was the result of an agreement between the petitioner and the neighborhood that only the one big box retailer would be included in the site plan. Ms. Keplinger said, yes, that was the representation made by the petitioner at the time, and it reflected the recommendations in the *Brookshire Boulevard/I-485 Area Plan*.

The Commissioner's agreed to suspend the rules to ask questions of the petitioner and staff. Staff was asked if they had received a memo from Withrow Capital today addressing what commitments they are willing to make based on staff's outstanding site plan comments. Ms. Keplinger acknowledged receiving the memo, but noted staff had not had time to review it, since it was just received.

Ms. Campbell stated she briefly reviewed the memo. She has some concerns with this recent memo. One of the items in the memo states that the petitioner is committed to having “upscale retail uses”, but that was not further explained, or defined. The petitioner is also proposing to use translucent glass display windows along the rear of the building, facing Street #1 to break up the facade somewhat, but a rendering or elevation would help everyone understand what it would look like. The main issue with this site plan amendment is the size of the big box and how can this structure be brought to scale so it doesn’t read as a big box.

The Chairman noted that this memo was just provided to staff today, and would the petitioner be agreeable to a 30 day deferral so that the architecture of this building can evolve? The petitioner is agreeable to continue working with staff through this period.

The Commission went back in session.

One Commissioner complimented staff’s desire to create a vibrant village center on this site. However, people need the services that these big box retailers offer. The “one size fits all” concept doesn’t work everywhere. This is a 116 acre site, that has a true mix of uses, including a possible school site. There are small shop retail uses here as well as a CATS Park and Ride lot. There is a way to accommodate this big box retailer in this large site.

The Chairman asked staff to work with the petitioner on addressing the remaining big box retail concerns. The other commitments made by the petitioner will be finalized in the development notes and site plan.

### **Statement of Consistency**

A motion was made by Commissioner Rosenburgh, that the site plan amendment was consistent with the *Brookshire Boulevard/I-485 Area Plan* but not in the public interest. There was no second, and the motion died.

Upon another motion by Commissioner Sheild, and seconded by Commissioner Randolph, the Zoning Committee voted 5:1 that this site plan amendment was consistent with the *Brookshire Boulevard/I-485 Area Plan*, and reasonable and in the public interest. The minority opinion is that the size of the big box retailer is not in the public interest and does not have staff support.

### **Vote**

**Upon a motion made by Commissioner Sheild and seconded by Commissioner Randolph the Zoning Committee voted unanimously to recommend a 30 day DEFERRAL of this petition.**

### **Staff Opinion**

Staff agrees with the recommendation of the Zoning Committee.