



Zoning Committee

REQUEST

Current Zoning: NS (neighborhood services)
Proposed Zoning: NS SPA (neighborhood services, site plan amendment)

LOCATION

Approximately 0.89 acres located on the east side of Driwood Court, north of Mallard Creek Road and south of Prosperity Church Road.
(Council District 4 –Johnson)

PETITIONER

Darren Vincent

**ZONING COMMITTEE
ACTION/ STATEMENT
OF CONSISTENCY**

The Zoning Committee voted 7-0 to recommend APPROVAL of this petition and adopt the consistency statement as follows:

This petition is found to be **consistent** with the *University Research Park Plan* based on the information from the staff analysis and the public hearing and because:

- The plan recommends office and retail uses.

Therefore, we find this petition to be reasonable and in the public interest based on information from the staff analysis and the public hearing and because:

- This petition covers a portion of a larger existing commercial development. The larger development is comprised of similar, compatible uses.
- The plan notes that due to the site's strategic location "between many residential communities and the University Research Park, the area should continue to grow and serve the community."
- The intent of the Neighborhood Service District is to provide for uses that directly serve the neighborhood in which they are located. The Neighborhood Service District is considered compatible with the adjacent commercial and multi-family development. The petition's addition of retail and restaurant uses on this parcel will offer additional goods and services to the neighborhood.
- The area's high visibility and easy access from the highly traveled Mallard Creek Church Road, lends itself to retail, office and service uses – all of which would be permitted upon the approval of this petition.
- The petition's ban on drive through uses respects the community's wishes and increases walkability.

Motion/Second: McClung / Wiggins
 Yeas: Gussman, Ham, McClung, Nwasike, Spencer, Watkins, and Wiggins
 Nays: None
 Absent: None
 Recused: None

ZONING COMMITTEE DISCUSSION

Staff provided a summary of the petition and noted that it is consistent with the adopted area plan.

The commission chair noted that committee members had received a lot of correspondence on is application.

A commissioner had visited the current site of the tenant at night and found nothing objectionable and not representative of some of the emails received. The commissioner then went to the proposed site and noted similar uses to the proposed EDEE (eating, dining, entertainment establishment), and a street separation from residential uses.

Another commissioner acknowledged that there was a lot of public opposition but stated that the North Carolina *General Statutes* states that we cannot prohibit a land use based on the tenant of the property. It was also noted that the expected tenant and use is but one of many uses allowed per the proposed zoning; the zoning ordinance does not get into what kind of EDEE it could be or the end use of a tenant. Another commissioner expressed concern about the hours of operation and recognized that other establishments in the area closed earlier than the expected occupant might do. Staff noted that hours of operation could be a subject in a conditional plan.

The committee suspended the rules to ask the applicant if they would consider a limitation on hours. The applicant and its representative noted that no other uses in the center had limits on their allowed hours, and although they would prefer no restrictions, they would be open to negotiation. One commissioner strongly objected to a limitation of hours.

There was no further discussion of this petition.

PLANNER

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