



Zoning Committee

REQUEST	Current Zoning: B-2 (general business) Proposed Zoning: MUDD-O (mixed use development, optional)
LOCATION	Approximately 2.11 acres located on the north side of Independence Boulevard bounded by Pierson Drive, Bamboo Street and Wilshire Place. Council District 5 - Newton
PETITIONER	Beaver Creek CRE, LLC

ZONING COMMITTEE ACTION VOTE	The Zoning Committee vote 7-0 to recommend APPROVAL of this petition. Motion/Second: Majeed / Sullivan Yeas: Fryday, Majeed, McClung, McMillan, Nelson, Spencer, and Sullivan Nays: None Absent: None Recused: None
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ZONING COMMITTEE DISCUSSION

Staff provided a summary of the petition and noted that it is inconsistent with the adopted area plan. Staff pointed out that there are remaining outstanding issues, and staff does not support the petition in its current form due to the requested attached LED and video signage increases, and building height.

A committee member stated that the E. Independence Boulevard corridor is downtrodden and it will take extraordinary remedies to bring the corridor back to life. As such, there is a need to be creative to make it work. Creative signage will face E. Independence Boulevard instead of the neighborhood and the neighbors have expressed support for the petition. Another member agreed that the proposal is a new way to revitalize the area and noted the project will be innovative as it was when originally planned in 1950.

A committee member expressed concerns that the requested specialty signage will be visible on three sides from adjacent residential zoning/uses, while not visible from the neighborhood it will be visible, will use a lot of electricity, and it will set a precedent with signage and the use of MUDD zoning in the area. The member added that the existing building is not guaranteed to remain.

Staff noted that the petitioner commits to explore the incorporation of solar panels onto the roof of the building in Development Area A to support efficient power supply for the

specialty signage, and to incorporate some level of such alternative energy source. In addition, the petition commits that specialty signage will not become operable until issuance of the certificate of occupancy for the building located or to be located on Development Area A.

A committee member requested clarification of the outstanding issues. Staff noted that the existing building height is very tall abutting residential uses. Staff stated that the large size of the proposed LED signs is a major concern, and there is a dispute over what constitutes a billboard, noting that the Zoning Administrator has said the average size of a billboard is 380 feet per side. The proposed LED specialty signs are almost double the size of the average billboard, which will set a precedent if approved.

The petitioner's agent was asked to clarify the height of the existing building on Development Area A. The petitioner's agent, Jeff Brown, stated that the existing building is 110 feet in height, with a request to add 13 feet to the top for rooftop uses; any new building on Development Area A will be limited to 106 feet in height and moved closer to Independence Boulevard. The building on Development Area B will have a maximum height of 50 feet along Bamboo Street, and step up to 86 feet.

A committee member stated that each rezoning must be considered on its own merits based on land use and questioned the how approval of this petition will set a precedent for signage. Staff responded that signs may be over 380 square feet in area but the current ordinance allows 380 square feet per side for billboards. Staff explained that outstanding issue #9 pertaining to detached signage has been rescinded as the detached signage requested has been reduced to the level allowed per the zoning ordinance. The committee member expressed the need to sometimes do something different, noting that the 13-foot height increase is not a deal breaker, and that while the LED specialty lighting poses a little risk, the petition is supported in the context of trying it to see what works; also noted that the neighbors support the petition.

One member stated the building and signage could serve as an icon or beacon for East Charlotte. Another member asked if the three proposed specialty signage devices are defined as signage? Staff responded they are considered LED signs. Staff was asked if an exception to the ordinance was made for signage associated with the first Top Golf rezoning. Staff pointed out that there is similar verbiage in both petitions but the Top Golf petition agreed to integrate the signage into the building design, and it doesn't have a constantly changing message. A member questioned where LED signs would be acceptable. Staff responded that there are LED signs located in town but the size of the ones proposed for this petition is too large, and the content of signs cannot be regulated due to federal court rulings.

A committee member stated that the proposed signage

constitutes three billboards located 100 feet in the air that will be seen from one mile away. The committee member also questioned the light impact. Staff referred to a handout provided by the petitioner that referred to a light study, which confirms almost no impact during day and very modest impact at night, in addition commits to the use of photo-sensors that will automatically dim the signs based on ambient conditions.

A member of the committee expressed concern about the use of power and carbon, noting that he could support the petition if there was a commitment to renewable energy. The petitioner's agent, Jeff Brown, responded by referring to the aforementioned commitment to incorporate an alternative energy source. Mr. Brown pointed out that petitioner cannot commit to specific content, as pointed out by staff. A committee member asked if the petitioner's commitment to explore incorporation of solar panels will lock the petition into only one type of alternative energy. Staff responded that the petitioner has only committed to explore solar panels but the note could be amended via an administrative amendment if a better source of alternative energy is found.

There was no further discussion of this petition.

ZONING COMMITTEE STATEMENT OF CONSISTENCY

The Zoning Committee voted 7-0 (motion by Majeed Seconded by Nelson) to adopt the following statement of consistency:

The proposed rezoning is inconsistent with the *Independence Boulevard Plan*, based on the information from the staff analysis and the public hearing, and because:

- The plan recommends transit oriented residential development.

However this petition was found to be reasonable and in the public interest based on information from the staff analysis and the public hearing and because:

- The building would be an innovative centerpiece along the Independence Boulevard corridor; and
- The building heights are appropriate to the location; and
- The proposal allows for reuse of a building vacant for an extended period of time; and
- The project will provide a unique entrance for the east side of Charlotte.

Planner

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