



Zoning Committee

REQUEST

Current Zoning: INST(CD) (institutional, conditional) and R-3 (single family residential)

Proposed Zoning: INST (CD) SPA (institutional, conditional, site plan amendment), MUDD-O (mixed use development, optional), and R-3(CD) (single family residential, conditional) with five-year vested rights.

LOCATION

Approximately 8.025 acres located on the west side of Sharon Road, west of the intersection of Sharon View Road.
(Council District 6 - Bokhari)

PETITIONER

Sharon Towers

**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 *South District Plan* for the portion of the site proposed for age-restricted residential and institutional uses (Development Areas A, C, and D) and the portion of the site proposed for open space (Development Area E). However, petition is inconsistent with the *Plan* for the portion of the site proposed for a mix of office, retail and commercial uses (Development Area B) based on the information from the staff analysis and the public hearing, and because:

- The plan calls for institutional uses on the southern portion of the site and single family residential uses on the northern portion of the site.

However, 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:

- The development plan creates a well-integrated mixed use place in a pedestrian-oriented and walkable environment that supports the goal of building neighborhoods with housing options and access to daily needs and services; and
- The age-restricted residential uses represent an expansion of the existing and long-standing principal use of senior housing and associated senior care facilities; and
- The mix of office, personal service and commercial uses provides access for residential needs and services within a pedestrian-oriented walkable environment; and

- The proposed and restricted office, personal service and commercial uses ensures that the mixed use development will operate as an integrated part of the senior care facility and not as a standalone commercial development; and
- The open space provides needed public space within the SouthPark area and serves as a transition and buffer between the development and the adjacent single family neighborhood to the north; and
- The landscaped buffers, side yards and building height transitions adjacent to existing single family uses provide appropriate protection of the adjoining single family neighborhoods similar to institutional standards.

Motion/Second: McClung / Watkins
 Yeas: Fryday, Gussman, Ham, McClung, McMillan, Samuel, and Watkins
 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 for the portion of the site proposed for age-restricted residential and institutional uses (Development Areas A, C, and D) and the portion of the site proposed for open space (Development Area E). However, the petition is inconsistent with the adopted plan for the portion of the site proposed for a mix of office, retail and commercial uses (Development Area B).

Staff noted that outstanding issues have been addressed as requested and show in the attached document, and a number of changes have been made in response to neighborhood concerns.

There was no further discussion of this petition.

PLANNER

John Kinley (704) 336-8311

2018-027 Attachment

The petitioner has added a number of commitments to the rezoning as a result of their negotiations with the neighborhood representatives. Staff has indicated a concern regarding the ability of Zoning staff to enforce some of these additions. The petitioner's agent and planning staff have discussed these concerns (in **bold**) and propose the following changes (in **red**), in addition to the minor requested revisions the petitioner has committed to make via email.

Commitment to maintain open space (Section 3.c. of Development Standards):

Once the open space area is created on Development Area E, the Petitioner shall ensure that the open space area is maintained in a quality manner to include regular and appropriate lawn care, landscaping maintenance, sidewalk maintenance and repair.

Petitioner should move this to the MOU. The subjectivity of this provision is a concern for staff.

Commitment to extend Saussy Streetscape Improvements along north side of Hazelton Drive (Section 5.b.(ii) of Development Standards):

Reference is made to the commitments of Saussy Burbank, as Petitioner under Rezoning Petition # 2017-131 (the "Saussy Rezoning"), to install an eight (8) foot planting strip and a six (6) foot sidewalk along Hazelton Drive extending from Sharon Road to the end of the property subject to the Saussy Rezoning (the "Saussy Streetscape Improvements"). Subject to the conditions set forth below, Petitioner agrees to extend the Saussy Streetscape Improvements from their terminus along the frontage of Tax Parcel #179-01-162 and potentially a portion of Tax Parcel 179-01-161 contingent upon coordination with the Laurelwood representatives, prior to the Hazelton Open Space Delivery Date (the "Extended Saussy Streetscape Improvements"). The Petitioner's commitment to install the Extended Saussy Streetscape Improvements shall be subject to: (A) the existence in a timely manner prior to the Hazelton Open Space Delivery Date of the Saussy Streetscape Improvements (or if the Saussy Streetscape Improvements are not in place by such time but anticipated to be in place within twelve (12) months of the Hazelton Open Space Delivery Date, Petitioner shall install the Extended Saussy Streetscape Improvements upon completion of the Saussy Streetscape Improvements if so completed within such twelve (12) month period); (B) valid and binding easements in recordable form from the owners of the above-referenced parcels permitting the installation and maintenance of the Extended Saussy Streetscape Improvements, or sufficient right of way availability to allow the full cross-section of the Extended Saussy Streetscape Improvements or the reduced such cross-section described below, each being in place in a timely manner prior to the Hazelton Open Space Delivery Date; and (C) Petitioner shall not be required to acquire or pay for and such easements or consents if required, and Laurelwood neighborhood representatives shall assist in seeking such easements/consents except **that Petitioner will bear the cost of the preparation of the easements/consents documents.**

The above-referenced easements/consents may be facilitated, with Petitioner's good faith cooperation, by the reduction of the width of the Extended Saussy Streetscape Improvements as permitted by CDOT/City (for instance a reduction to a six (6) foot width planting strip and a five (5) foot width sidewalk). It is contemplated that the Extended Saussy Streetscape Improvements if installed shall taper down and connect with Hazelton Drive at the curb rather than stop in a dead end fashion into the next property down.

Petitioner shall be relieved of its obligations to install the Extended Saussy Streetscape Improvements if the conditions set out above are not met within the applicable times set forth or Petitioner is otherwise unable to provide for such improvements for reasons beyond its reasonable control; in such event, Petitioner shall redirect funds contemplated for such Extended Saussy Streetscape Improvements in support of enhanced improvements to the Hazelton open space described in Section 3.c. above up to the sum of \$15,000.

Petitioner should move the section (last paragraph) related to redirecting money for the streetscape extension to the open space improvements to the MOU. If money is redirected the amount would be subject to construction cost estimates that are outside of Zoning's purview.

The petitioner should commit to provide written certification for items such as bearing the cost of the creation of easement documents.

Commitment to install a Laurelwood Neighborhood Identification Sign (Section 11.B. of Development Standards):

a. Prior to the Hazelton Open Space Delivery Date (as defined in Section 3.c. as may be extended as to the Extended Saussy Streetscape Improvements as described in Section 5.b.(ii)), Petitioner shall install, at its expense, a sign identifying the Laurelwood neighborhood (the "Laurelwood Sign") in accordance with the following standards: (i) the Laurelwood Sign shall not exceed 24 square feet in size and shall not be taller at grade than 3-1/2 feet, or in the event of an agreed upon column-based or pier-based sign shall not be taller at grade than 6 feet; unless Petitioner otherwise agrees in writing to a different size suggested by Laurelwood representatives; (ii) if the Extended Saussy Streetscape Improvements are in place in a timely manner then the Laurelwood Sign shall be located on the western edge of the Hazelton open space immediately behind the sidewalk improvements where practical in alignment with a landmark sign to be located on the northern side of Hazelton Drive by others; (iii) if the Extended Saussy Streetscape Improvements are not installed in a timely manner as described above, then the Laurelwood Sign shall be installed within the 8' planting strip portion of the streetscape improvements along the Hazelton open space, unless Petitioner otherwise agrees in writing to alterations suggested by Laurelwood representatives; and **(iv) such other design aspects mutually acceptable to Petitioner and Laurelwood representatives.**

b. **Petitioner shall bear the cost of the initial Laurelwood Sign and its installation, and the cost of installation of appropriate electrical and irrigation related utilities, but it shall not bear the cost of repairs or replacements of the Laurelwood Sign, unless caused by Petitioner (including its agents performing landscaping or other work on Development Area E). Petitioner will bear the cost of on-going electrical and irrigation utilities associated with the Laurelwood Sign.**

c. **If the Laurelwood Sign suffers material damage (excluding ordinary wear and tear and minor damage) and is not repaired or replaced as needed by Laurelwood residents or parties other than Petitioner, Petitioner may notify Laurelwood neighborhood leadership of the failure to repair or replace the Laurelwood Sign and if such failure is not remedied within 90 days of delivery of notice Laurelwood neighborhood leadership, Petitioner may remove, at Petitioner's expense, the Laurelwood Sign in order to ensure a quality presentation of the Hazelton open space area. If the Laurelwood Sign is removed per the foregoing, at a later date Laurelwood neighborhood leadership may replace the removed sign with a new one that is in compliance with the provisions of this Section 11.B.**

Petitioner should delete (iv) in Section 11B.a. and move section 11B.b. and c. to the MOU. Zoning staff can't mediate discussions between the Petitioner and the neighborhood representative. Zoning staff doesn't have the ability to control who bears the cost of sign replacements and on-going maintenance.

Commitment to for construction and miscellaneous provisions (Section 13 of Development Standards):

a. **Notwithstanding any other provision contained herein, all construction vehicles, including, without limitation vehicles transporting construction workers serving the Site, shall be prohibited from parking or idling on any streets located in the adjacent Fairmeadows subdivision or the adjacent Laurelwood subdivision, except when such construction parking and activity relates directly to the Hazelton open space area or related streetscape improvements or improvements to Sharon Road along the Hazelton open space area.**

Petitioner should move 13.a to the MOU and could commit to posting instructional signage for contractors at the construction site entrances; A sign should also be posted at the site entrance containing the construction project manager's contact information to provide an avenue for complaints.

b. Petitioner shall refrain from closing lanes on Hazelton Drive or Sharon Road during construction related to the Rezoning except as may be reasonably required in connection with the street and streetscape improvements to the Sharon Road and Sharon View Road intersections per the requirements of Section 4 herein and in connection with construction related to the Hazelton open space area or related streetscape improvements, provided that such lane closings may take place per City regulations or as required by the City in connection with project construction and utility construction in the public rights of way may be undertaken by the City and/or utilities companies, and in such event Petitioner shall not have control of which lanes may be closed nor for which periods of time in connection with such work; in such event, **Petitioner will work with the City and such utility companies to minimize the time necessary for completion of any such work.**

Petitioner should clarify this section will be subject to City and CDOT approval.

c. Except as otherwise set forth in this subsection, **outdoor construction activities (collectively "outdoor construction and delivery activities") utilizing backhoes,; dump trucks,; pavers; heavy materials delivery trucks; other similar heavy equipment; air compressors; extended outdoor hammering, banging, foundation drilling, blasting or other outdoor activities that create material vibrations felt or heard off-site, may not be conducted on the Site on Sundays. Such activities are limited to 7:00 AM to 7:00 PM Monday through Saturday.** Provided however, such outdoor construction and delivery activities for tasks that require more than 12 hours to complete, such as a major concrete pour or when specific hours are required by the City or the ability of the supplier to deliver materials, **may exceed the above- referenced time limits up to five (5) times during the construction of each building.**

Petitioner could commit to providing instructional signage to contractors regarding the limits of the outdoor delivery and construction activities and hours. A sign should also be posted at the site entrance containing the construction project manager's contact information to provide an avenue for complaints.

Petitioner should commit to keeping written records for the five time exception for the construction of each building.

d. **The contractor(s) shall keep the construction Site in a clean and orderly condition and shall promptly clean the adjacent roads and sidewalks as reasonably needed but in all cases as otherwise required by applicable regulations.**

Petitioner should move 13.d to the MOU. The petitioner could commit to providing instructional signage to contractors regarding industry standards for clean and orderly construction sites. A sign should also be posted at the site entrance containing the construction project manager's contact information to provide an avenue for complaints. The subjectivity of this provision is a concern for staff.

e. Development Area E shall not be used for parking nor as a staging ground for construction on the Site except as solely relates to construction on Development Area E or adjacent sidewalks/streetscape/hardscape/landscape/utilities, except as required by local regulations or the City.

f. Petitioner shall abide by all applicable noise ordinances throughout the construction process related to work contemplated by the Rezoning, but in the event of a conflict between the construction related time limitations set forth above in subsection c. above and the noise ordinance, the more restrictive provisions shall control.

g. Petitioner shall refrain from using construction lights after dusk and prior to dawn that intrude into nearby residents' properties except where required by law or ordinance for safety purposes or otherwise required by laws, regulations or Ordinance, in which cases Petitioner shall take reasonable efforts to work with the affected residents to minimize the impact of any lighting.

Petitioner should move 13.g to the MOU. The subjectivity of this provision is a concern for staff

h. Except as set forth in this Section, Petitioner shall take reasonable efforts to maintain the adjacent roadways during construction of the work contemplated by the Rezoning to allow their continued use in accordance with this Rezoning Plan.

Petitioner should remove the reasonable efforts language and state that the roadways will be maintained according the CDOT and other applicable construction standards.

i. Petitioner shall take reasonable efforts to contain dust and construction debris from entering the Laurelwood or Fairmeadows neighborhoods and being deposited on vehicles and personal property as a result of work contemplated by the Rezoning and such efforts shall include installation of construction fencing with appropriate screening during construction of the portions of the Rezoning Site.

Petitioner should move 13i to the MOU and could keep the commitment to installing construction fencing with screening during construction. The subjectivity of this provision is a concern for staff.

j. It is agreed that Petitioner is not responsible for taking any actions under this Section or otherwise that are unrelated to the work on the Site.

k. The construction management commitments of Petitioner described in this Section relate to the work associated contemplated by the Rezoning, and such commitments shall no longer apply upon final completion of construction of such work evidenced by the issuance of the last certificate of occupancy for the last building constructed as part of such work.

l. It is understood that many of the construction management commitments of the Petitioner describe in this Section are by their nature subject to human error or misunderstanding so that the standard of review for such commitments shall be a reasonable efforts standard that takes into consideration a level of violations beyond isolated instances.

Petitioner should remove the reasonable efforts language. Petitioner should add an acknowledgement that by their nature some items may be difficult for Zoning staff to enforce.