



Zoning Committee

Zoning Committee Recommendation

Rezoning Petition 2022-238

August 30, 2022

REQUEST

Current Zoning: I-2 (general industrial)
Proposed Zoning: MUDD-O (mixed use development district, optional)

LOCATION

Approximately 5.12 acres on the south side of NC Music Factory Boulevard, adjacent to Elmwood Cemetery and near the NC Music Factory entertainment complex.

(Council District 2 - Graham)

PETITIONER

Lennar Carolinas, LLC

**ZONING COMMITTEE
ACTION/ STATEMENT
OF CONSISTENCY**

The Zoning Committee voted 4-2 to recommend DENIAL of this petition and adopt the consistency statement as follows:

To Deny:

This petition is found to be **consistent** with the *2040 Policy Map* based on the information from the staff analysis and the public hearing, and because:

- The plan recommends Regional Activity Center place type for the site.

However, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- The proposal would introduce residential use beside industrial use which would be incompatible.
- The residential use would be subject to negative environmental impacts from the adjacent industrial use in the form of dust and noise.

Motion/Second: Samuel / Russell
Yeas: Samuel, Russell, Gussman, Harvey
Nays: Gaston, Welton
Absent: Rhodes
Recused: None

**ZONING COMMITTEE
DISCUSSION**

Staff provided a summary of the petition and noted that it is consistent with the *2040 Policy Map*.

Commissioner Russell inquired about the maintenance of Johnson St and 9th St as a pedestrian and bicycle only facility. Staff replied that if the right-of-way abandonment is approved the owner of the property would be responsible for maintenance. Commissioner Russell stated that he appreciates the contribution to the Urban Arboretum Trail but that he remains concerned about the access limited by the railroad and the proximity to the flour mill.

Commissioner Welton inquired about buffer requirements between industrial and residential uses. Staff responded that it would depend on the zoning district. In this case the requested zoning district of MUDD-O does not require a buffer. However, there is 50' of railroad right-of-way between the mill building and property line and the petitioner is proposing a 6' tall aluminum fence and 10' landscape buffer on their site. Commissioner also inquired about the distance between the mill and residential properties on Smith St. Staff replied that a rezoning for residential was approved in 2020 roughly 68' from the mill.

Commissioner Gaston stated that she lives near the site and is familiar with many locations where residential and industrial uses are adjacent. She also stated that she believed the petitioner had made efforts to address concerns, particularly by replacing the units closest to the mill with open space.

Chairperson Gussman stated that he is intent on not introducing uses to the detriment of adjacent uses. He also acknowledged efforts made by the petitioner to address concerns.

Commissioner Samuel stated that a site visit gave her angst regarding the introduction of residential adjacent to both an active railroad and the mill. She also stated that she recognizes the need for additional housing in the city. However, she believes that the role of Zoning Committee is to make sure petitions align with policy and to determine what is good for the city and neighborhood.

Commissioner Welton commented that one of the positives of the latest plan is the contribution to the Urban Arboretum Trail, which could help activate this area.

Commissioner Samuel acknowledged the benefit of the Urban Arboretum Trail but stated the contribution was too minute.

Commissioner Russell stated that it seems like the city is so desperate for housing that we're willing to put it anywhere. He stated that he doesn't believe this is an appropriate location for housing.

Commissioner Samuel stated that if residential were to go on this site that it should be much more dense, maybe 10 stories, with ground floor retail.

Commissioner Welton asked the committee how this area is different than Fourth Ward, where most properties are single family with a mix of townhomes and apartments sprinkled in.

Commissioner Samuel asked Commissioner Gaston in which neighborhood does this site belong. Commissioner Gaston stated that it is a no man's land. However, she believes that residential is a good use of the site and that the Urban Arboretum Trail will provide an amenity for residents.

Commissioner Harvey stated concerns with potential turnover of the units and short term rentals. He also expressed concerns about introducing residential next to the mill and then the city having to respond to noise complaints.

Commissioner Gaston made a motion to recommend approval of the petition, seconded by Welton. The motion failed 2-4. A subsequent motion to recommend denial of the petition, noted above, passed.

MINORITY OPINION

Commissioner Gaston stated that there is precedent in the surrounding neighborhoods for residential use adjacent to industrial use. Commissioner Welton stated that it is essential that the city be consistent with how it approaches residential and industrial use adjacency because there will be decisions to be made regarding similar situations in the future.

PLANNER

Joe Mangum (704) 353-1908