



## Zoning Committee

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### REQUEST

Current Zoning: ML-1 (Manufacturing & Logistics 1), N1-A (Neighborhood 1-A), I-1(CD) Light Industrial, Conditional), B-2(CD) (General Business, Conditional)  
Proposed Zoning: ML-2(CD) (Manufacturing & Logistics 2, Conditional)

### LOCATION

Approximately 31.17 acres located on the north side of Pence Road, west of Harrisburg Road, and east of Bandy Drive.  
(Council District 5 - Mazuera-Arias)

### PETITIONER

Pence Road Development LLC

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### 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* (2022) based on the information from the staff analysis and the public hearing, and because:

- The *2040 Policy Map* recommends the Manufacturing & Logistics Place Type.

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 petition requests to expand industrial uses on a property that abuts residential and recreational uses. The property is adjacent to single family residential to the north and a Mecklenburg County owned golf course to the east.
- The majority of the site is currently zoned ML-1, allowing for a variety of light industrial uses. Staff does not support expanding the permitted uses to include those allowed in the ML-2 district, and more specifically, a rail freight terminal. Such a use may be incompatible and impactful to the adjacent Neighborhood 1 and Parks and Preserves Places, and more information is needed on mitigation measures for noise and air pollution as applicable.
- The request to expand industrial uses adjacent to

residential uses is in conflict with the *2040 Comprehensive Plan's* goals for environmental justice.

- The petition proposes to reserve right-of-way for the future Pence Road realignment project.
- The petition could facilitate the following *2040 Comprehensive Plan Goals*:
  - 8: Diverse & Resilient Economic Opportunity may be facilitated by creating a rail freight terminal that would allow for the transfer of goods between railcars and trucks.

Motion/Second: Millen / Gaston  
 Yeas: Caprioli, Gaston, Millen, Stuart  
 Nays: Shaw, Welton  
 Absent: McDonald  
 Recused: None

## ZONING COMMITTEE DISCUSSION

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

Commissioner Stuart asked why specifically staff is opposed to the petition. Staff replied that the opposition was specifically to the rail freight terminal use proposed adjacent to residential uses to the north as well as parks and preserves uses to the east.

Commissioner Stuart asked if the rail line was currently in use. Staff replied that it is active.

Chairperson Welton asked if staff is opposed to all industrial use expansion next to residential. Staff replied that each petition is different. Staff considers the adjacent uses, the uses proposed, and how the proposed use might impact the existing and entitled adjacent uses.

Chairperson Welton highlighted the 100' Class A landscape yard along the northern property boundary and asked if the residential uses to the north were required to install any buffering. Staff replied that the residential uses to the north have already been entitled and would not be required to install the same buffer as the proposed industrial use.

Staff added that they have policy guidance that discourages the expansion of industrial uses next to residential uses.

Chairperson Welton referenced the petitioner's notion during the public hearing that the railroad was exempt from local zoning in certain cases and asked if staff had clarification on the matter. Staff replied that the petitioner would be better able to address the question. The committee moved to suspend the rules and ask the petitioner for an explanation.

Brittany Lins, agent for the petitioner, shared that railroads have authority under federal law to establish a freight terminal if the railroad is the owner and operator of the terminal. However, if a third party is the operator, the third party must seek local zoning approval.

Zoning Committee then returned to session. Chairperson Welton asked if there was a path to staff approval. Staff replied that there are no outstanding issues, but that staff is not able to support the requested use.

Chairperson Welton asked if the policy of not supporting industrial expansion next to residential would inform other similar petitions. Staff replied that it would. The adoption of the community area plans will likely strengthen that effort.

Commissioner Shaw asked how staff develops their recommendations. Staff replied that there is a general position shared during the pre-submittal meeting, but it can change over time. Staff's recommendation is determined by rezoning planners, rezoning leadership, as well as department leadership.

Commissioner Caprioli asked if Class A and Class B landscape yards include trees. Staff replied that there are specific planting requirements, but developers may also choose to maintain existing vegetation in some cases.

Commissioner Millen recalled that there is a third party who will operate the rail freight terminal, but that third party has not been disclosed. Staff confirmed. Commissioner Millen asked if the use might entail the use of tractor trailers coming to and from the site. Staff confirmed that is a possibility, but that all traffic would use the existing Pence Road.

#### **MINORITY OPINION**

Chairperson Welton stated that he is uncomfortable with the fact that the property could be developed with the same use and intensity if no third party was involved according to the petitioner. He added that he does not believe that the community will be served well in the future if the right to develop industrial uses is constrained.

#### **PLANNER**

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