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# City of Charlotte – Planning Dept. Scanning Rezoning Files

Petition # \_\_\_\_\_

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- Site Plans



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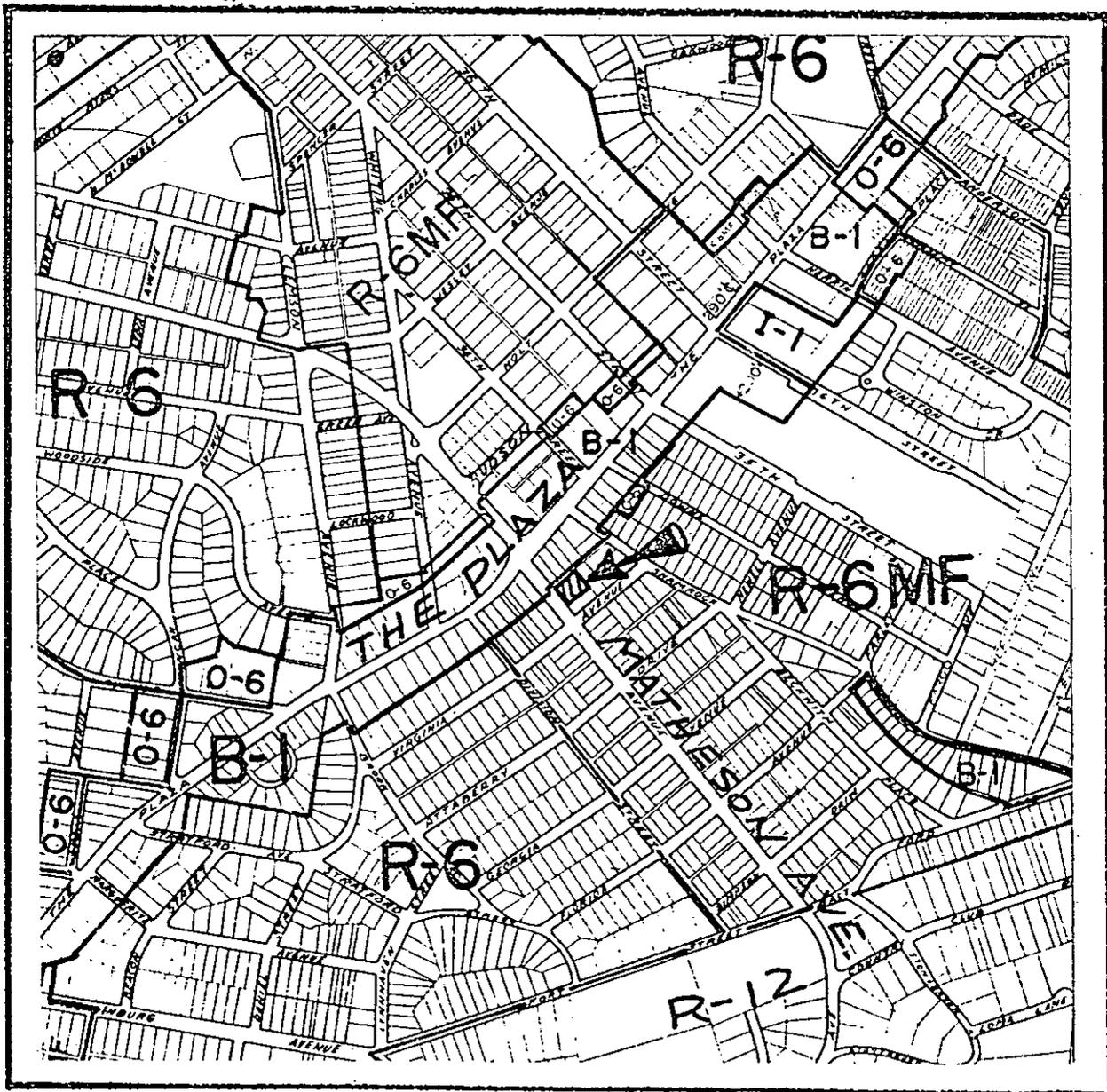
PETITIONER Beacon Brokers, Inc.

PETITION NO. 79-4 HEARING DATE 2/20

ZONING CLASSIFICATION, EXISTING R-6MF REQUESTED O-6

LOCATION A .36 acre lot fronting 113 feet on the easterly side of Matheson Avenue located approximately 150 feet south from The Plaza

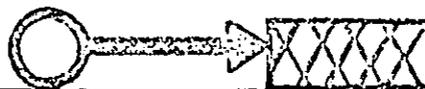
Acreage: .36



ZONING MAP NO. 6

SCALE 1" = 800'

PROPERTY PROPOSED FOR CHANGE



HEARING ON PETITION NO. 79-3 BY TURNPIKE PROPERTIES, INC. TO CONSIDER A CHANGE IN ZONING FROM O-6 TO B-2 OF A 2.3 ACRE PARCEL FRONTING 248 FEET ON THE NORTHERLY SIDE OF ARCHDALE DRIVE LOCATED ABOUT 890 FEET EAST FROM I-77.

The scheduled public hearing was held on the subject petition.

Mr. Bob Landers, Principle Planner, described the location of the property under consideration, locating it on the map. He stated this particular parcel of land still sits up very high with respect to the interstate facility. Around the interstate interchange there is an aggregation of commercial uses, although Nations Ford Road is principally a residential thoroughfare passing through the area, with churches, day care centers, etc.

The zoning pattern for the area does provide for a very large amount of office use. There is a large pattern of office zoning which actually is developed with Tree Tops Apartments. Then around the interchange is B-1 zoning and then the B-2, or neighborhood business activities. It is his understanding that the petitioner's desire for the B-2 zoning is more for an activity that may well be permitted - a motel facility. He stated that by way of information for Council, motels are permitted within office districts by the ordinance. Motels with restaurants are permitted within office districts provided that the restaurants are pretty much enclosed within the facility. There are significant limitations.

Councilmember Gantt asked if the reason the petitioner sought the B-2 category was by implication that they are not going to conform to the motel requirements with restaurants that are enclosed. Mr. Landers replied that he thinks the petitioner would like to speak to that, but stated that the type of restaurant which is in the Executive Building across the street from City Hall is the kind of restaurant that is permitted in an office district - very much enclosed and very much a minor part of the operation.

Councilmember Selden stated that as he understands it, under the existing zoning, he has a use by right of a motel with a restaurant internally. Mr. Landers replied that is right - under the existing category, those are some of the things that can be placed in an office district. That obviously they do not want to focus too closely on one specific use within a zoning application, but he thinks it is appropriate that in discussing the types of things that can go on in an office district, that the Council and the Commission be aware of certain things that can happen.

Mr. Richard Port, Vice-President of Turnpike Properties, Inc., stated they acquired this piece of property in October of 1973 from the Ervin Company. When they bought it they were told simply that the property was zoned "for a motel." This was their purpose in buying it - they own and operate a number of motels in the South. Subsequent to that, they had a feasibility study prepared and in that study there was a notation that the property was zoned B-1. They had never specifically asked about the zoning; they assumed what they had been told was gospel and had the plans drawn for a motel with a free-standing restaurant, which is their format - a restaurant that would cater to the general public along with the guests of the motel.

He stated they finally got all of the plans drawn, and got into discussions on the specific problem of the zoning, and lo and behold, the property was zoned O-6. The initial representation had been partly true - that they could, in fact, build a motel but they could not have a free-standing separate restaurant; that if they did have the restaurant it would have to be enclosed in the building and access to it would have to be through the principal access to the motel, and any commercial representation, signage, etc. would be restricted. When they told all of these pretty little things to the lenders, although they tried hard, they could not get financing on it. They tried for a couple of years and finally gave up and put the property up for sale.

Subsequent to that, they have had some opportunity to sell it, but others have run into the same problem. The area has offices that are not yet filled and were built as late as 1973. It occurred to them that perhaps

a solution would be to request a rezoning of the property. That here again it is perhaps naive on his part - he was advised that B-2 was just a dandy, general commercial category and that is what he should ask for. But he believes that B-1 would satisfy them if they can have a motel with a commercially oriented restaurant, whether it is located in or outside the building. They can at least advertise it off the property as a commercial restaurant.

Councilmember Leeper asked if Mr. Port's company owns other property there? Mr. Port replied no, they only have the 2.3 acres on which they are asking the rezoning. Mr. Leeper asked if they have considered alternate use of the property and Mr. Port replied they had not. That could always be a possibility; they have owned the land for six years, have been cheerfully paying taxes on it and would like to at least put the property to some use. The motel situation, as far as commercial loans is concerned, has not been particularly bright. If that route is not open to them, conceivably they could consider an office or something there.

Councilmember Leeper stated that some time back in considering a petition in relationship to that property area out there, the people who live in that area were concerned about the zoning that was taking place, the traffic and that kind of problem. He asked Mr. Landers if a study has been initiated of that area? Mr. Landers replied not to his knowledge. Mr. Leeper stated he knows that certain kinds of questions can be raised, and maybe should not be raised, but the bottom line he is trying to get to is that when he passed that petition in, Mr. Bryant or someone told him that any kind of zoning request for change taking place out in that area would be taken under consideration during the time of the consideration of a petition. That he needs to at least raise that question now.

Mr. Landers replied that quite frankly he cannot answer that; he is not familiar with the petition of which he speaks, or of a moratorium on petitions within the area. Mr. Leeper stated it was not by way of a moratorium, but it was consideration of the impact of traffic and other kinds of things that would relate to the different zonings that would be requested in that area. Mr. Landers replied he would certainly look into it.

Councilmember Selden asked Mr. Port if he has plans drawn and Mr. Port replied yes. Mr. Selden asked if the entrance to the motel is off of Archdale Drive and the answer was yes. He then asked if there would be an entrance-way off of the access to I-77? Mr. Port replied the majority of the traffic for the motel, as they envision it, would come off of the interstate into the motel by way of a back alley, as opposed to traffic flowing through the existing built-up area on Archdale.

Councilmember Selden asked if this had been referred to the Traffic Department and Mr. Landers replied we have had some informal conversation with the Traffic Engineering Department with respect to a broad use though; this is a very difficult thing to do in relationship to a general category. That staff did not want to specify a specific use and say this is what the projected volume would be and this is where it would go from the standpoint of not being able to assure that that would be the same.

Councilmember Short stated he thinks there is a right substantial difference between a restaurant which is intended and open basically only to those who are spending the night in a motel as opposed to a restaurant which has a sign and is out on the side of the turnpike or the expressway and is just drawing in casual riders amongst the hundreds and thousands of cars that go by on the expressway. He stated on the other side of the coin there is the fact that he is next door to B-1 zoning where a restaurant could be, but he thinks there is a restaurant in the area already available to the general riding public. Mr. Port replied yes, it is about 400 feet away.

Councilmember Short asked if it could be a possibility in this situation, just speaking in general terms, that perhaps the existing B-1 zoning could be extended slightly northward enough to accommodate the restaurant and the rest of it could remain O-6 and Mr. Port replied the property is very narrow and the way the building is laid out with two rooms in width, there

would not be enough room, in his opinion, to get a restaurant directly beside the motel; the way it is currently placed is on the front, or putting it on the back, it is actually in line with the motel. He stated if the property were somewhat wider he would say yes, this would be a very valid suggestion, but he does not think there is enough in that location, at least on the same plan they have there.

Councilmember Short stated so basically the restaurant is not going to be positioned in such a way that it, in effect, would just be an extension of the available B-1 that is already there and Mr. Port replied in their opinion the food operation is vital to any motel operations and to any lenders; if you have a food operation that you cannot promote or advertise or represent as a restaurant it is just not acceptable.

Councilmember Gantt stated there are several questions that come to his mind; that he is trying to focus on the fact that Mr. Port has a specific use. It seems to him the question is whether B-1 zoning allows him to do what he wants to do; and ultimately the question Council has to consider is whether B-1 zoning needs to be extended at all, given the amount of B-1 zoning already in the area and the amount of vacant B-1 zoning already existing. That the question that Councilmember Leeper asked in regard to traffic seems to be very important only if you consider that they may be talking about additional business in the area, because the motel itself is certainly not the question at all. He could build that and Council could not do anything about it. That the issue of the traffic volume still needs to be addressed before a final decision is made. If there is a study being made of that, Council needs to look at that because they have heard from a number of Archdale residents, even four years ago, complaining about what is happening with traffic there. Would they be putting another generator in there by extending that zoning one way or the other?

Mr. George Evans, 1031 Rocky Ridge Drive, stated that as a homeowner in the Archdale area - Montclare South - he is opposed to this rezoning for the reason which has already been mentioned - the tremendous amount of traffic on Archdale. This will increase the amount of traffic and will make the problem that much greater.

Mr. Harold Rudd, 710 Archdale Drive, stated that Archdale Drive is a unique street, beginning at its intersection with Park Road all the way to its ill conceived intersection with Nations Ford and I-77 - it crosses three Council districts. Zoning requests present particular problems in that they usually signify an opportunity for the community to increase its tax base and make the City a better place in which to live. However, he thinks they will find that the citizens of Montclare South are opposed to such positive methods because the negative factors greatly outweigh what can be achieved by the building of a motel. In his opinion, zoning laws were established to protect the prior investors, and to insure that our city grows with a planned design. This is most important, since the fact that Montclare South originally - in the late 60's - was designed as a total community, by the same people who sold this property to the petitioner - the Ervin Company. It was planned as a total community with homes, apartments, two office complexes and small business operations, to serve the needs of the development. This was a good move; it was out of the city limits, yet at the same time it was only six miles from downtown. The developer is gone, but the people who bought in Montclare South still have that dream of having that type of community. They are the prior investors and they do not want any development not consistent with the original concept. They feel that Turnpike is so motivated with a corporate bottom line - profits. The neighborhood asks Council's help, not only as their representatives in local government, but as neighbors and fellow citizens. They do not want a repeat of the mistakes and lack of foresight that have created the problem that Council has been considering on Woodlawn and Tyvola.

He filed a petition of 78 names with the Clerk.

Mr. Spencer Thompson, 710 Braxfield Drive, stated that as a resident of Montclare South, he is concerned about this rezoning on Archdale Drive. The rezoning of this property to B-2 would allow property owners to develop various businesses that would increase traffic on Archdale. The Montclare

South area is heavily surrounded by industrialization and apartment complexes. They have already petitioned the Planning Commission about their concerns. Now they are here to appeal to this government body to protect their neighborhood and stop the rezoning of Archdale. - keep the property on Archdale zoned O-6.

Mr. G. E. Reynolds, 830 Archdale Drive, stated he is an eleven-year resident of Montclare South - he and many of his neighbors bought homes in the area from very fast-talking Ervin salesmen. One of the biggest selling points was that they were buying into a nice little residential neighborhood that would have only one opening back to South Boulevard. They represented this to be true because Ervin owned all of the surrounding land and no more openings would ever go through the area, and he bought with visions of a beautiful little neighborhood with very small offices and apartments included in the plan.

He stated that as soon as all the lots were sold and I-77 came along, Archdale was taken through to the interchange at Nations Ford and since then it has been all downhill as far as their little dreams for a neighborhood went. They carried the brunt of the crosstown traffic to the interstate until they got some relief with the southern part of the beltway being completed in the widening of Tyvola and the brunt of things shifted over there. Still Archdale carries six blocks of back-up traffic during rush hours. Anything added from this point on is going to do nothing but make their situation worse in Montclare South, especially in regard to the traffic situation. The handwriting is on the wall; increase the traffic volume on Archdale and the City will start talking about a four-lane road through there and the neighborhood will be completely divided and broken up. He hates to see those kinds of possibilities exist, but with a two-lane road they cannot handle any more traffic. A huge motel and restaurant could bring that. They have kept quiet through a lot of what has happened in the past, but they have reached the point now where most of the residents of Montclare South are saying they have to draw the line and say this is it, they have become commercial enough, they want to stay as residential as they are now.

Mr. Larry Wilson, 701 Braxfield Drive, stated that as a concerned resident of the Montclare South neighborhood he is seriously opposed to the proposed rezoning of this section of Archdale. Traffic on Archdale has already become a problem, so much so that the concerned neighbors have petitioned that something be done about the problem. As a homeowner, he is opposed to the rezoning as it will add to the already congested traffic on Archdale and will adversely affect property values in Montclare South.

Mr. Port was given an opportunity for rebuttal, but he stated he had no further comments.

Replying to a question from Councilmember Trosch, Mr. Landers stated the usage has occurred independent of the zoning; there have been several zoning requests within the area, centered on Archdale Drive itself. All of the Tree Tops area has been developed since the zoning was established. He pointed out on the map where the office pattern extends. Ms. Trosch stated it looks as though the zoning as far as the usage is concerned, needs to be looked at.

Councilmember Gantt stated that the problem, in listening to the opposition of the neighborhood residents, seems to be that the zoning ordinance allows a certain amount of flexibility in the office category. He keeps hearing these descriptions of nice little office and neighborhood business complexes associated with Montclare South development. In truth, they are sitting on top of the opportunity for Holiday Inns to locate on that site, not with a free-standing restaurant but with the same amount of ability to advertise from I-77 and get the same amount, if not more, traffic in that area, simply because O-6 zoning allows the use by right. If they look at the substantial amount of O-15 left there, you have just that many more opportunities for the kinds of things that could happen. It may be a quirk in the zoning ordinance that allows the zoning to have that kind of flexibility. It is possible to put a motel there - he thinks the residents understand that - and there is nothing that Council can do about that unless they change the zoning requirements.

MAYOR'S SCHEDULE  
TUESDAY, FEBRUARY 20, 1979  
ZONING HEARINGS

2:00 P.M. - ZONING HEARINGS

1. Invocation.
2. Have agenda presented.
3. The following requests to speak to agenda items have been received:

(a) Agenda Item No. 3 - Zoning Petition No. 78-35 - Woodlawn Road  
*1. Tom Ray, Attorney*  
1.) Mike Misenheimer, 4443 Halstead Drive - opposition.

*Defer* (b) Agenda Item No. 6 - Zoning Petition No. 79-3 - Archdale Drive

- about*
- 1.) Lonnie McBride, 719 Chetwood Place - opposition.
  - 2.) George Evans, 1031 Rocky Ridge Drive - opposition.
  - 3.) Harold Rudd, 710 Archdale Drive - opposition.
  - 4.) Spencer Thompson, 710 Braxfield Drive - opposition.
  - 5.) G. E. Reynolds, 830 Archdale Drive - opposition.
  - 6.) Larry Wilson, 701 Braxfield Drive - opposition.

*Bob L.*  
*Bob Smith*  
*Almond Robinson*  
*Bredaker + Hanson*  
*2500 Jeff. 15th Min in Plaza 28282*

(c) Agenda Item No. 8 - Zoning Petition No. 79-5 - E. Morehead & Euclid.  
*Robt. Huff, Attorney for petitioner*  
1.) Sarah Spencer, 528 E. Kingston Avenue - opposition.

*Defer* (d) Agenda Item No. 7 - Petition 79-4 -

- 1) Dan Ruckling - for the petition
- 2) Jim Lowrance - petition
- 3) Jim Todd - for the petition

*X* (e) Agenda Item No. 9 - Petition 79-6  
1) Charles King - Attorney for the petitioner