MEMORANDUM

TO: Chapel Hill Planning Board

FROM: Gene Poveromo, Development Manager
Judy Johnson, Senior Planner

SUBJECT: Charterwood at 1641 Martin Luther King Jr. Boulevard - Application for a Zoning Atlas Amendment (File No. 9880-24-4842)

DATE: March 1, 2011

PURPOSE

We have scheduled a public hearing for April 18, 2011 for consideration of an application from WCA Partners, LLC. to rezone 6.4 acres of a 14.3-acre site located at 1641 Martin Luther King Jr. Boulevard. The application proposes to rezone the site from Residential-2 (R-2) to Mixed Use-Village (MU-V). The Planning Board is asked to make a recommendation to the Council on this application.

Accompanying this application is a request from WCA Partners, LLC for a Special Use Permit. Please see the accompanying memorandum for additional information.

The purpose of this cover memorandum is to request that the Planning Board review the proposed rezoning application and forward a recommendation to be included as part of the record being considered by the Town Council at the public hearing. Attached is the Manager’s draft memorandum to the Council regarding this rezoning request.

RECOMMENDATION

That the Planning Board recommend that the Council enact the attached Ordinance, rezoning the site to Mixed Use-Village (MU-V). We believe that the rezoning could be justified based on a finding regarding achievement of the purposes of the Comprehensive Plan.
DRAFT MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: J.B. Culpepper, Planning Director
       Gene Poveromo, Development Manager
       Judy Johnson, Senior Planner

SUBJECT: Charterwood at 1641 Martin Luther King Jr. Boulevard – Application for a Zoning Atlas Amendment (File No. 9880-24-4842)

DATE: April 18, 2011

INTRODUCTION

Tonight’s public hearing has been called to consider an application from WCA Partners, LLC to rezone 6.4 acres located at 1641 Martin Luther King Jr. Boulevard.

We recommend that the Council open the public hearing, received comments and consider the attachments associated with this application.

DESCRIPTION OF THE APPLICATION

The application proposes rezoning 6.4 acres of a 14.3-acre property currently zoned Residential-2 (R-2) to Mixed Use-Village (MU-V). The site is located at 1641 Martin Luther King Jr. Boulevard and is identified as Orange County Parcel Identifier Numbers 9880-24-4842 and 9880-24-6787.

Zoning determines the type and intensity of uses and development that are allowed on a piece of land. An application for a Zoning Atlas Amendment for rezoning involves a change to the current zoning, and thus the permitted types and intensity of land uses. The Mixed Use-Village (MU-V) zoning district allows mixed use development at a maximum floor area ratio of 1.2 with consideration of a Special Use Permit application. A minimum of 25 percent of the development must be devoted to residential uses and a minimum of 25 percent of the development devoted to commercial/office uses.

REZONING REQUEST

Zoning determines the type and intensity of uses and development that are allowed on a piece of land. A Zoning Atlas Amendment involves a change to the current zoning, and thus the permitted types and intensity of land uses. In Chapel Hill, a rezoning may be requested in two ways: general use and conditional use rezoning requests. A general use rezoning request is to change the zoning to a different zoning district in which any of several kinds of developments and uses are permissible. A conditional use rezoning request is to allow development and uses only with approval of a Special Use Permit. This rezoning application is a general use rezoning request (although it is accompanied by a Special Use Permit application).
The zoning designation of a property determines the range of land uses and development intensities permitted on the property. Article 4.4 of the Land Use Management Ordinance establishes the intent of Zoning Atlas Amendments by stating that, “In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that this chapter shall not be amended except:

a) to correct a manifest error in the chapter; or
b) because of changed or changing conditions in a particular area or in the jurisdiction generally; or
c) to achieve the purposes of the Comprehensive Plan.

Article 4.4 further indicates:

It is further intended that, if amended, this chapter be amended only as reasonably necessary to the promotion of the public health, safety, or general welfare, and in conformance with the Comprehensive Plan.

The Council has discretionary authority to approve or deny a rezoning request. As with a conditional use rezoning request, the specific proposal in the accompanying Special Use Permit application is related to the rezoning request. We believe it is appropriate for the Council to consider a specific Special Use Permit proposal on that application, in tandem with a rezoning hearing. If the Council does not find the Special Use Permit proposal to be an acceptable use of the property, we would recommend that the Council not approve the rezoning request.

As stated above, the Planning Board is asked to make a recommendation to the Council on its action regarding this rezoning request.

PROTEST PETITION

Opportunity for a protest petition to a proposed amendment to the Zoning Atlas is provided for under North Carolina Statutes. If a sufficient protest petition is filed with the Town Clerk at least 2 business days prior to the date of the public hearing, the proposed rezoning shall not become effective except by favorable vote of not less than three-fourths of the Town Council. Copies of protest petition forms and additional information are available from the Planning Department, the Town Clerk, or on the Town’s Web page: 

ANALYSIS OF THE APPLICATION

The zoning designation of a property determines the range of land uses and development intensities permitted on the property. Article 4.4 of the Land Use Management Ordinance establishes the intent of Zoning Atlas Amendments by stating that, “In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that this chapter shall not be amended except:

a) to correct a manifest error in the chapter; or
b) because of change or changing conditions in a particular area in the jurisdiction generally; or
c) to achieve the purposes of the Comprehensive Plan.

Each of these requirements, with respect to this proposed rezoning application, is discussed below:

A) to correct a manifest error in the chapter.

Staff Comment: We believe the information in the record to date can be summarized as follows:

- **Argument in Support:** The applicant has not offered arguments to support this circumstance. We were unable to identify any arguments in support of a manifest error.

- **Argument in Opposition:** To date no arguments in opposition have been submitted.

B) because of changed or changing conditions in a particular area or in the jurisdiction generally.

Staff Comment: We believe the information in the record thus far can be summarized as follows:

- **Argument in Support:** The applicant has offered the following statement in support of changed or changing conditions.

  “The existing zoning of the site, R-2, predates the adoption of the NATF Report as part of the Comprehensive Plan. That report identifies this site as one no longer appropriate for single-family development, but one that should be developed with a combination of residential and non-residential uses that are pedestrian and transit friendly. The increases in automobile traffic and Chapel Hill Transit service along MLK Jr. Boulevard further emphasize the changed conditions in this corridor (such as the widening of Airport Road and its renaming as MLK Jr. Blvd.). These are changes to (1) the conditions in place at the time the property was placed in the R-2 Residential District and (2) the Comprehensive Plan’s newly stated expectation for development at this time.”

  [*Applicant’s Statement*]

- **Argument in Opposition:** To date no arguments in opposition have been submitted.

C) to achieve the purposes of the Comprehensive Plan.

Staff Comment: We believe the information in the record thus far can be summarized as follows:

- **Arguments in Support:** Arguments in support of this finding are offered in the applicant’s statement of justification, which references several themes in the Comprehensive Plan:

  The proposed development program achieves multiple goals of the Town’s Comprehensive Planning documents, including complementing adjoining development, providing diversity of housing types, and preserving clusters of significant trees. Thus, while the Northern Area Task Force Report does discuss achieving transit-oriented
development with a minimum density of 15+ units/acre for residential development in this area, we believe that the ability to accomplish other important competing Comprehensive Plan goals while still achieving the minimum density (8-15 units per acre) that is identified as necessary to support bus transit service in the Northern Area Task Force Report, best supports the overall range of goals discussed in the Town’s Comprehensive Planning documents.” [Applicant’s Statement]

Please refer to the applicant’s Statement of Justification for more detail.

- **Arguments in Opposition:** To date, no arguments have been submitted indicating that this development would not be consistent with the Comprehensive Plan.

**RECOMMENDATION**

We note that the Land Use Plan, another component of the Comprehensive Plan, amended January 14, 2008, identifies this area as “Town/Village Center.” The area is identified as part of Focus Area 3 within the Northern Area Task Force Report. The Report states the area should include:

- transit supportive development;
- mixed-use;
- 8-15 DU/acre minimum gross density for residential developments;
- retain and reuse the Altemueller farmhouse and tree group as an active focus space for the community;
- protect the natural and cultural heritage of the site.

The report also states that because of the environmental constraints impacting the property, it will be developed at a lower density than the adjoining property on the east site of Martin Luther King Jr. Boulevard.

We believe that the proposed development achieves several of the goals and objectives outlined in the Town’s Comprehensive Plan and the Northern Area Task Force Report, which is an adopted component of the Comprehensive Plan.

On balance, when the variety of goals and objectives are considered, we believe that the finding can be made that the rezoning request is generally consistent with the Comprehensive Plan and the Northern Area Task Force Report. Accordingly, we recommend approval of Ordinance A, which would approve the requested rezoning. On the other hand, if the Council believes the accompanying Special Use Permit application proposal does not achieve the desired objectives for this site, then we recommend adoption of the attached Resolution, which would deny the requested rezoning.

We recommend that the Council open the public hearing, receive comments and consider the attachments associated with this application.

The attached Ordinance would approve the rezoning application. The attached Resolution would deny the rezoning request.
ATTACHMENTS

1. Ordinance – Approving the Rezoning Application
2. Resolution – Denying the Rezoning Application
3. Applicant’s Statement of Justification
4. Legal Description of proposed rezoning
5. Area Map
AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS FOR THE CHARTERWOOD AT 1641 MARTIN LUTHER KING JR. BOULEVARD (Orange County Parcel Identifier Numbers:  9880-24-4842 and 9880-24-6787

WHEREAS, the Council of the Town of Chapel Hill has considered the application from WCA Partners, LLC to amend the Zoning Atlas to rezone property described below from Residential-2 (R-2) to Mixed Use-Village (MU-V), and finds that the amendment is warranted, in order to achieve the purposes of the Comprehensive Plan including:

- Encouragement of development of selected opportunity areas; and
- Encouragement of neighborhood-scale commercial centers.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as follows:

SECTION I

Being all that certain tract of land containing approximately 278,333 square feet or 6.4 acres more or less, located in Chapel Hill Township, Orange County, North Carolina, and being more particularly described as follows:

INSERT LEGAL DESCRIPTION

SECTION II

That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the ________day of _____________, 2011.
A RESOLUTION DENYING AN APPLICATION FOR A ZONING ATLAS FOR THE
CHARTERWOOD AT 1641 MARTIN LUTHER KING JR BOULEVARD (Orange
County Parcel Identifier Numbers: 9880-24-4842 and 9880-24-6787

WHEREAS, the Council of the Town of Chapel Hill has considered the application from WCA Partners, LLC, to amend the Zoning Atlas to rezone property described below from Residential-2 (R-2) to Mixed Use-Village (MU-V), and fails to find that the amendment;

a) corrects a manifest error in the chapter, or 
b) is justified because of changed or changing conditions in the area of the rezoning site or the community in general; or  
c) achieves the purposes of the Comprehensive Plan.

For the reasons that:

[INSERT REASONS FOR DENIAL]

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby denies the application by WCA Partners, LLC to rezone the site, identified as a portion of now or formerly as Orange County Parcel Identifier Numbers 9880-24-4842 and 9880-24-6787 that are currently zoned Residential-2 (R-2) located at 1641 Martin Luther King Jr. Boulevard.

This the _______ day of _____________, 2011.
Charterwood

Rezoning Statement of Justification

WCA Partners

January 2011
The Charterwood property is a 14.32-acre parcel with more than 1,300 feet of road frontage on Martin Luther King, Jr. Boulevard. This property was highlighted in the town’s Northern Area Task Force (NATF) study that was recently completed as a prime development opportunity site. The NATF report was adopted by the Chapel Hill Town Council as part of the Comprehensive Plan in January 2008. The study took approximately 18 months to complete, during which time a moratorium on building in this area was imposed. This allowed a citizen-based task force to consider land uses, intensities, and styles of development along the MLK Jr. Boulevard entryway to Chapel Hill.

The Council adoption of the Northern Area Task Force’s recommendation for this property accepted the goal of creating a mixed use village, with a combination of housing, retail, office and other uses that would take advantage of existing infrastructure, including the bus, cycling and walking transportation alternatives that exist in the MLK Corridor. This Corridor is a primary connector to the emergent Carolina North Campus of UNC, as well as the UNC Main Campus and UNC Hospital, the three largest employment destinations in Chapel Hill.

This property is currently zoned R-2, which allows only residential land uses. In order to develop the land uses and density that is prescribed in the Comprehensive Plan’s mixed use recommendations for the property, the current zoning must be replaced by a new zoning classification. We have selected the Mixed Use Village – Arterial (MUV-A) zoning as the requested district under which to develop the property. This district classification will allow for the mix of uses that are proposed. We are requesting this zoning for only the portion of the property that is generally at the edge of MLK Boulevard, 6.39 acres, or about 45% of the total land area. On the western portion of the property, the portion in proximity to the existing neighborhood development, we are not requesting any rezoning. We will develop this portion of the property under the existing R-2 (Residential 2) district classification. We have made this choice in respect of the neighboring property owners’ rights. In addition, we will increase the allowable setback under the existing R-2 zoning from the 11 foot requirement, and expand it to 25 feet. Furthermore, within this 25 foot zone, we will do enhanced privacy plantings on the Charterwood property and, if requested, on the neighboring property owner’s land. We have made these additional efforts in respect of the neighbor’s privacy and to ensure the neighbors’ full use of their properties.

Under the existing R-2 zoning the property could be developed with up to 54 units of housing. We are requesting rezoning for the portion of the property, 6.39 acres, at the edge of MLK Jr. Boulevard to achieve the following proposed program of mixed uses.

- 87 housing units, including 12 units of affordable workforce housing (this would be higher if the hotel site was alternatively developed as residential or partly residential)
- 20,000 square feet of retail
- 35,000 square feet of office
- 100 room hotel, or alternative uses allowed in the zoning
- 3-acre park and greenway in the Resource Conservation District
- Renovation/Adaptive re-use of the Altemueller farm house (approximately 1,500 s/f)
Charterwood Permitted Uses

This Statement of Justification establishes the following permitted and prohibited uses for the Charterwood Mixed Use Village. It provides for a mixture of complementary uses and intensities that support transit as well as alternative modes of transportation including primarily walking and cycling.

Permitted Uses
Uses within the "Residential" land use category include the following:
- Dwelling units, single family,
- Dwelling units, two-family with accessory apartments,
- Dwelling units, duplex,
- Dwelling units, multifamily, three to seven dwelling units,
- Dwelling units, multifamily, over seven dwelling units,

Uses within the "Non-Residential" land use category include the following:
- Business, office-type,
- Child/adult day care facility (See section 3.6),
- Clinic,
- College or university,
- Fine arts educational institution,
- Hotel or motel,
- Research activities,
- Bank, including drive-through
- Barber shop/beauty salon,
- Business—convenience,
- Business—general,
- Business—wholesale,
- Manufacturing, light,
- Personal services,
- Places of worship,
- Public service facility,
- Publishing and/or printing,
- Recreation facility: Commercial.
In addition to responding to the recommendations made by the Task Force in the Northern Area Study, we have also been responsive to the major themes of the Chapel Hill Comprehensive Plan in our approach and philosophy in planning the Charterwood community.

The Comprehensive Plan identifies twelve major themes for the “further balanced development of Chapel Hill, as well as the preservation and safeguarding of existing neighborhoods that have become a hallmark of the quality of life in Chapel Hill”. The Northern Area Task Force report and recommendations were developed as part of a more refined look at a specific area of Chapel Hill in the same manner as previous small area plans and neighborhood protection plans. The following discussion addresses how the proposed Charterwood community plan will achieve the goals and expectations of both the Northern Area Task Force plan and the Chapel Hill Comprehensive Plan.

- **Identify areas where there are creative development opportunities**
  The Charterwood development proposal/concept addresses all the recommendations that were made for this property in the Northern Area Task Force Study. These recommendations included the opportunity for a mixed use transit-oriented village, the saving of the Altemueller farm house, protection of the site’s heritage, retention of specimen trees, and the creation of housing opportunities along the high volume MLK transit corridor. Our proposal is a creative and excellent example of transit-related smart growth that respects and will enhance the adjacent neighborhood.

- **Encourage desirable forms of non-residential development**
  This property, located on the MLK transit corridor, in proximity to UNC’s Carolina North Campus and an existing concentration of retail at Timberlyne and Chapel Hill North shopping centers, offers a unique opportunity for mixed use development, to further the “walkability” of an area where shopping, employment and housing in combination with transit are already present. Our proposals for non-residential development comprise retail, office, health care, hotel and other uses that will add to the availability of retail, and professional and personal services in the area. This development will also add to the economic base potential of the town.

- **Conserve and protect existing neighborhoods**
  A significant effort has been and will continue to be community outreach, and working collectively and individually with Charterwood’s neighbors. We have held community meetings and one-on-one in home meetings with several neighbors, and intend to ensure that the neighbors’ full enjoyment of their properties will be maintained. An important element in all new development in Chapel Hill is the protection of existing neighborhoods and our efforts will continue to focus on this. We also have committed to the preservation and adaptive re-use of the old Altemueller farm house located on the property. This will be an ongoing process involving the Preservation Society, preservation experts and potential future users of the building.

- **Conserve and protect the natural setting of Chapel Hill**
  More than thirty five percent of Charterwood’s land use will be open space, including the proposed 3-acre Charterwood Park. In addition, careful planning and tree protection efforts will be incorporated in our process to preserve significant trees where feasible.
♦ *Maintain the Urban Services/Rural Buffer Boundary*  
This development/property is located in the urban services district where development-supporting infrastructure is in place. There will be no encroachment on the rural buffer.

♦ *Participate in the regional planning process*  
This property is located in the MLK transit corridor less than ½-mile from Interstate 40. Development in this location will be accessible to local and regional (TTA) transit service, which is an important objective of the Triangle’s regional planning. This will result in fewer local and regional auto trips.

♦ *Work toward a balanced transportation system*  
This project is based on alternative transportation options coupled to smart land use. By building housing where transportation options exist, residents will avail themselves of auto-alternative modes of accessing destinations in Chapel Hill. In this location a household with a member employed in Chapel Hill (e.g. at a University job) could reduce their ownership of an auto. Recent transportation research shows this to be the case. (The recently published (2008) study, “Effects of TOD on Housing, Parking and Travel”, by the Transit Cooperative Research Program, is an excellent study on this subject)

♦ *Cooperatively plan with the University of North Carolina at Chapel Hill*  
This property is located less than one mile from the new Carolina North Campus of the University of North Carolina at Chapel Hill. Charterwood’s housing, retail, office and other development components will be complementary to the University and growth initiatives. A key linkage between this project and the University is the potential to offer housing opportunities to university employees in a location where these employees could walk, cycle, or ride a bus to work. By using alternatives to the auto the University could reduce the amount of parking required on campus as well as significantly reduce employee commuting costs. A hotel at this location would also serve the lodging needs of tourists attending UNC events as well as business visitors to UNC, particularly as the Carolina North Campus is built out.

♦ *Develop strategies to address fiscal issues*  
This development would have significant positive impacts for the Town in terms of tax revenues. Based on the proposed development program, which includes 87 housing units, a hotel, retail and office development, there would be property, sales and occupancy taxes that would be generated in significant amounts. The following approximate tax revenue stream is projected to flow to the Town of Chapel Hill in the first year after build out:

<table>
<thead>
<tr>
<th>Tax Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property taxes</td>
<td>$700,000</td>
</tr>
<tr>
<td>Sales taxes</td>
<td>$250,000</td>
</tr>
<tr>
<td>Occupancy taxes</td>
<td>$100,000</td>
</tr>
<tr>
<td><strong>Total taxes to Town Annually</strong></td>
<td><strong>$1,050,000</strong></td>
</tr>
</tbody>
</table>

Because much of the housing in the community will be small lot detached and attached housing, and primarily attractive to singles, empty nesters, and retirees, mostly without children, it is anticipated that
there will be a proportionately lower number of school children residing in this community. This will result in a high public revenue to cost ratio.

- **Create and preserve affordable housing opportunities**
The developer will work with the Town of Chapel Hill and the Orange Community Housing and Land Trust to bring affordable housing opportunities to this community. We are particularly interested in providing workforce housing targeted to households at the 80% to 120% of median household income level.

- **Complete the bikeway/greenway/sidewalk systems**
A 10 foot greenway trail through the Chartwood Park has been proposed that would connect to and be part of the Town’s future greenway system. A total length of approximately 2,500 feet of greenway trail is proposed. This trail will accommodate pedestrians and cyclists. The park will serve as an amenity for not only this community but also neighboring communities. In the process of developing this community the developer desires to work with the Town in improving walking and cycling travel alternatives to induce this activity.

- **Provide quality community facilities and services**
In coordination with developers in this area, the Town can improve its services and facilities in the area by targeting intelligent strategic investments.

**Concluding Note**

In the Overview to the “Major Themes” section of the Town’s Comprehensive Plan it is stated that “the plan (also) strives to create initiatives to enhance a community that is already exceptional. In this sense the plan aims not merely to “hold the line” on community character, but also to “raise the bar” of expectations for such characteristics as pedestrian and bicycle friendliness, the diversity of activity downtown, and the integration of greenways and open space into the fabric of the community. This proposed plan will create a community and a “place” that will be among the best in Chapel Hill.
Preliminary
Legal Description of Proposed Charterwood Rezoning

Beginning at a point in the western Right-of-Way of Martin Luther King Junior Boulevard (NC 86), said point being the northeast corner of the property owned by WCA Partnership LLC, having a north coordinate of 806,535.62 and an east coordinate of 1,982,724.05 as surveyed by Ballentine and Associates; Thence in a southerly direction along and with the western Right-of-Way of NC86 175.60 ft to the point and place of beginning; Thence with the western Right-of-Way in a southerly direction 890.20 ft; Thence S14°02’00”W, 93.30 ft to a point; Thence S85°53’21”W, 140.03 ft to a point; Thence S01°02’38”E, 127.94 ft to a point; Thence N87°34’12”E, 84.41 ft to a point; Thence S01°43’24”W, 45.27 ft to a point in the common property line between WCA Partnership LLC, and TMJPC, LLC; Thence along and with the subject property line in a westerly direction 140.67 ft to a point; Thence N00°18’24”E, 48.00 ft to a point; Thence N89°41’36”W, 40.62 ft to a point in the eastern Right-of-Way line of (Yet to be named) Street; Thence along and with the eastern Right-of-Way of said road in a northerly direction for 369.74 ft to a point of intersection between the eastern Right-of-Way of (Yet to be named) Street and the southern Right-of-Way of Westminster Drive; Thence along and with the southern Right-of-Way of Westminster Drive in an easterly direction, 90.27 ft to a point; Thence N10°27’43”W, 117.05 ft to a point; Thence S82°35’32”W, 16.95 ft to a point; Thence S06°30’10”W, 9.27 ft to a point in the western Right-of-Way of Westminster Drive; Thence along and with the northern Right-of-way in a westerly direction, 82.02 ft to a point; Thence N10°25’40”W, 293.63 ft to a point; Thence N10°42’12”W, 102.38 ft to a point; Thence N10°08’17”W, 101.47 ft to a point; Thence N78°59’46”W, 83.05 ft to a point; Thence N14°42’40”E, 20.70 ft to a point; Thence N78°52’17”E, 180.57 ft to the place and point of beginning.