

DINNER BRIEFING

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Tuesday, January 19, 2010, at 5:25 p.m. in Room CH-14 of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Councilmembers present were: Susan Burgess, Patrick Cannon, Nancy Carter, Warren Cooksey, Andy Dulin, David Howard, Patsy Kinsey, James Mitchell, Edwin Peacock III

ABSENT UNTIL NOTED: Councilmember Michael Barnes

ABSENT: Mayor Anthony Foxx, Councilmember Warren Turner

Tammie Keplinger, Planning, reviewed the deferred items on tonight's agenda.

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The briefing was recessed at 5:55 p.m. for the Council to move to the Council Meeting Chambers.

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ZONING MEETING

The Council reconvened at 6:05 p.m. in the Council Meeting Chambers of the Charlotte-Mecklenburg Government Center with Mayor Pro Tem Susan Burgess presiding.

Mayor Pro Tem Burgess said Mayor Foxx is traveling tonight. I'm Susan Burgess, Mayor Pro Tem, and I'll be presiding on his behalf tonight.

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INVOCATION AND PLEDGE

Mayor Pro Tem Burgess gave the Invocation and led the Council in the Pledge of Allegiance to the Flag.

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Mayor Pro Tem said without our full complement of members here tonight some of the rezoning cases particularly those which are protested will automatically be deferred to our next Business Meeting next Monday on January 25th unless the petitioner has requested that a decision be made tonight. Also, those petitions can be deferred for one month. The protested petitions require nine votes to pass. She explained the Zoning Meeting rules and procedures. She recognized the chairman of the Zoning Committee, Steven Rosenboro, who introduced his committee.

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DEFERRALS

Mayor Pro Tem Burgess said we have had several petitions for decisions that have asked for a deferral. We have some also for hearing. I am now going to read those numbers and also the petitioners. A six-month deferral has been requested by Petition 2008-032 by the Myers Park Homeowners Association. Agenda Item 3, a one-month deferral has been requested, Petition 2009-039 by Charlotte Area Transit Systems. Agenda Item 6, Petition No. 2009-067, by Stacy Mitchell and Janet McMillen has requested a one-week deferral. Actually, that is an automatic one-week deferral because it is protested. A one-month deferral has been requested for Agenda Item No. 7, Petition No. 2009-068, by Apprise Holdings. Agenda Item 8 is a protested petition. There is an automatic one-week deferral for 2009-070 by McAlpine-North Lake Landing. Agenda Item 15, also a protest petition, is going to be deferred for one week, Petition No. 2009-

082 by Gina and Dean Collias. Agenda Item No. 17, Petition No. 2009-084 by YM Management, has a protest sufficient, and that will be an automatic one-week deferral.

Councilmember Mitchell said on Item 17, 2009-084, may the petitioner request a deferral or do we automatically defer it because of our rule?

Tom Drake, Planning, said 84 is automatic because of the protest.

Mayor Pro Tem Burgess said the petitioner also agreed.

Councilmember Mitchell said did the petitioner agree?

Mr. Drake said yes.

Mayor Pro Tem Burgess said that just happened. That completes the deferrals for decisions, and I'll continue with hearings, and then would entertain a motion for all of these. No. 19, Petition 2009-074 by Sycamore I, for a one-month deferral. Petition 2010-009 by St. Paul Baptist Church, one-month deferral. There is a speaker signed up, so we will not be hearing that one. That is the completed list.

[Motion was made by Councilmember Howard and seconded by Councilmember Mitchell]
[and carried unanimously to defer the following decisions: Item No. 1, Petition No. 2008-]
[032, for six months; Item No. 3, Petition No. 2009-039, for one month; Item No. 6,]
[Petition No. 2009-067, for one week; Item No. 7, Petition No. 2009-068 for one month;]
[Item No. 8, Petition No. 2009-070 for one week; Item No. 15, Petition No. 2009-082, for]
[one week; and Item No. 17, Petition No. 2009-084, for one week. The following hearings]
[were deferred: Item No. 19, Petition No. 2009-074, one month; Item No. 23, and Petition]
[No. 2010-009, for one month.]

DECISIONS

ITEM NO. 2: ORDINANCE NO. 4333-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 0.19 ACRES LOCATED AT THE INTERSECTION OF PECAN AVENUE AND GORDON STREET

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be consistent with the Plaza Central Pedscape Plan and reasonable and in the public interest.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Peacock, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2008-154 for]
[the above rezoning by Robert Nixon, as recommended by the Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Pages 479-480.

ITEM NO. 4: ORDINANCE NO. 4334-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 6.87 ACRES LOCATED BETWEEN EAST SEVENTH STREET AND WEDDINGTON AVENUE FROM R-22MF TO MUDD (CD)

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be consistent with the Central District Plan and reasonable and in the public interest.

[Motion was made by Councilmember Kinsey and seconded by Councilmember Mitchell to]
[approve the Statement of Consistency and Petition No. 2009-048 for the above rezoning by]
[Winter Elizabeth, LLC as modified and as recommended by the Zoning Committee.]

bvj

The modifications are:

1. A note has been added agreeing to place the pedestrian “mews” between the buildings in a public access easement.
2. The development will comply with the Post Construction Controls Ordinance.

The ordinance is recorded in Ordinance Book 56 at Pages 481-482.

ITEM NO. 5: ORDINANCE NO. 4335-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 0.50 ACRES LOCATED ON THE EAST CORNER OF EAST 36TH STREET AND NORTH McDOWELL STREET FROM R-5 TO UR-2(CD)

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be inconsistent with the North Charlotte Plan but to be reasonable and in the public interest.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Howard, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2009-061]
[for the above rezoning by Lat Purser & Associates, Inc. as modified and as recommended]
[by the Zoning Committee.]

The modifications are:

1. Proposed zoning has been amended to UR-2(CD).
2. Rear yard measured from the centerline of the abutting alley.
3. Building footprints clearly delineated.
4. Note 7 amended to state multifamily residential units.
5. Note 8 amended to state that either one parking space will be provided at a minimum of 22 feet in length or two parking spaces at a minimum of 40 feet in length.
6. Note 13 amended to state that a tree preservation plan by a certified arborist will be submitted prior to a building permit for the single family dwelling.
7. Transferred building height information from Note 19 to Note 3.
8. Removed references to on-street parking.
9. CATS has withdrawn their request for a waiting pad.
10. Provided definitive proposed building setbacks in Notes 15 and 16 and where referenced on the site plan.
11. Deleted Note 19.
12. Deleted Notes 5, 12, 18, 29, and 21.
13. Deleted portion of Note 13 which stated that if it is determined that the tree preservation would not be possible petitioner reserves the right to work with the City Arborist and find a resolution.
14. Provided pedestrian access from the front of Building Two that connects to the public sidewalk along North McDowell Street by relocating handicap parking spaces and providing a crosswalk through the drive aisle.

The ordinance is recorded in Ordinance Book 56 at Pages 483-484.

ITEM NO. 9: PETITION NO. 2009-061 BY DONA PATTERSON FOR A CHANGE IN ZONING OF APPROXIMATELY 0.64 ACRES LOCATED ON THE EAST SIDE OF WEST SUGAR CREEK ROAD BETWEEN NORTH TRYON STREET AND PENNY WAY FROM R-12MF TO O-1

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be inconsistent with the Northeast Area Plan, not reasonable, and not in the public interest. The Zoning Committee voted unanimously to deny this petition, and the staff agrees with that.

Tom Drake, Planning, said may I make a correction to the consistency statement. That is actually the Northeast District Plan instead of the Area Plan.

Councilmember Barnes said, Mr. Drake, I thought this had been deferred. I guess it hasn't been. I reached out to the petitioner last week and wasn't able to meet with her or talk to her. Have you talked to them today about whether they are interested in deferring it?

Mr. Drake said I have no information that we have had any contact with the petitioner about a deferral.

Councilmember Barnes said I see that she is here. Would you be interested in deferring it?

Unidentified Speaker said yes.

Councilmember Barnes said can I make a motion at this point to defer it for a month? One of the concerns is there is no site plan. It's just a straight up rezoning, and you have these inconsistency issues with respect to the area plan, so I move to defer it and at least give an opportunity to see if there is a way to work the problems out.

Mayor Pro Tem Burgess said for one week, one month?

Councilmember Barnes said a month.

Mr. Drake said may I make a suggestion that it be two months. The deadline for site plans for next month has already passed.

Mayor Pro Tem Burgess said two-month deferral?

Mr. Drake said I hope two months is agreeable.

Councilmember Barnes said would that be acceptable? Okay, so two months.

[Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and]
[carried unanimously to defer the decision for two months.]

ITEM NO. 10: ORDINANCE NO. 4336-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 7.23 ACRES LOCATED ON THE WEST SIDE OF WEDDINGTON ROAD BETWEEN SIMFIELD CHURCH ROAD AND PORTSTEWART LANE FROM R-3 TO INST(CD)

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be inconsistent with the South District Plan but to be reasonable and in the public interest.

[Motion was made by Councilmember Cooksey and seconded by Councilmember Dulin to]
[approve the Statement of Consistency and Petition No. 2009-077 for the above rezoning by]
[Parks Hunter as modified and as recommended by the Zoning Committee.]

Councilmember Cooksey said I just would like to point out that the inconsistency regarding the area plan is due to our general policy of not having institutional uses in the area plan, so the fact this is going to an institutional use every institutional rezoning is inconsistent with the plan when you look at it technically.

The vote was taken on the motion and recorded as unanimous.

bvj

The modifications are:

1. A note has been added that storm water detention will be located underground.
2. The total square footage allowed has been amended to 29,000 square feet.
3. A photograph of the proposed wall has been provided along with a note that prohibits chain link fences.
4. A note has been added that play equipment will not be allowed in required buffer.

The ordinance is recorded in Ordinance Book 56 at Pages 485-486.

ITEM NO. 11: ORDINANCE NO. 4337-X FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO IMPLEMENT ZONING ORDINANCE MODIFICATIONS RECOMMENDED IN THE BREVARD STREET LAND USE AND URBAN DESIGN PLAN ADOPTED IN 2008

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be consistent with adopted policies and reasonable and in the public interest

[Motion was made by Councilmember Kinsey and seconded by Councilmember Barnes,]
[to approve the Statement of Consistency and Petition No. 2009-078 for the above rezoning]
[by Charlotte-Mecklenburg Planning Commission as recommended by the Zoning Committee.]

The vote was taken on the motion and recorded as follows:

AYES: Councilmembers Barnes, Burgess, Cooksey, Dulin, Howard, Kinsey, Mitchell, Peacock

NAYS: Councilmember Carter, Cannon, Turner

The ordinance is recorded in Ordinance Book 56 at Pages 487-495.

ITEM NO. 12: ORDINANCE NO. 4338-X FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO CLARIFY THE MAXIMUM ALLOWABLE SIZE OF AN ACCESSORY BUILDING BASED ON THE SIZE OF THE PRINCIPLE STRUCTURE LOCATED ON A LOT

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be consistent with adopted policies and reasonable and in the public interest

[Motion was made by Councilmember Barnes, seconded by Councilmember Peacock, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2009-079 for]
[the above rezoning by Charlotte-Mecklenburg Planning Commission as recommended by the]
[Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Pages 496-497.

ITEM NO. 13: ORDINANCE NO. 4339-X FOR AN NS SITE PLAN AMENDMENT FOR APPROXIMATELY 6.62 ACRES LOCATED ON THE NORTHEAST CORNER OF NORTH COMMUNITY HOUSE ROAD AND BALLANTYNE COMMONS PARKWAY

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be consistent with the South District Plan and to be reasonable and in the public interest.

bvj

[Motion was made by Councilmember Cooksey, seconded by Councilmember Dulin, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2009-080]
[for the above site plan amendment by York Development Group as modified and as]
[recommended by the Zoning Committee.]

The modifications are:

1. A note has been added agreeing to close the median in North Community House Road.
2. The Fire Department has agreed to accept the entrance configuration shown on the site plan.
3. Increased parking from 175 to 204 vehicles.
4. Additional open space has been provided and staff is satisfied.

The ordinance is recorded in Ordinance Book 56 at Page 498-499.

ITEM NO. 14: ORDINANCE NO. 4340-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 2.84 ACRES LOCATED AT ON THE EAST SIDE OF STEELE CREEK ROAD BETWEEN WEST BOULEVARD AND DORCAS LANE FROM R-3 TO I-2

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be consistent with the Southwest District Plan and reasonable and in the public interest.

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2009-081]
[for the above rezoning by Charlotte Douglas International Airport as recommended by the]
[Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Pages 500-501.

ITEM NO. 16: ORDINANCE NO. 4341-X FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO DELETE THE LIST OF “ACCEPTABLE PLANT SPECIES” FROM THE ZONING ORDINANCE SINCE THE LIST WAS UPDATED, RENAMED, AND ADDED TO THE CHARLOTTE LAND DEVELOPMENT STANDARDS MANUAL EFFECTIVE JULY 1, 2009

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be consistent with adopted policies and reasonable and in the public interest.

Councilmember Carter said this, to me, is a very interesting proposal, and I’m wondering if there could be some preference noted in the content of this proposal regarding, number one, native plants, and, number two, those that are drought resistant – perhaps an asterisk to denote those that are preferred, and I think that could address some of our environmental concerns.

Mayor Pro Tem Burgess said was that not in our land development standards manual – indigenous plants and drought resistant?

Tom Drake, Planning, said, no, it’s been in the zoning ordinance, and it’s a preferred list which did not highlight those characteristics.

Councilmember Carter said I’m proposing something new for study.

Mr. Drake said that's fine, and I don't think there will be any problem. I think they are already – when they redid the list they took those into consideration, but we'll confirm that.

Mayor Pro Tem Burgess said is that a friendly amended motion that be added or just an aside?

Councilmember Carter said it's an aside.

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2009-083 for]
[the above rezoning by Charlotte-Mecklenburg Planning Commission as recommended by the]
[Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Pages 502-508.

ITEM NO. 18: ORDINANCE NO. 4342-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 1.95 ACRES LOCATED BETWEEN ARDREY KELL ROAD AND PROVIDENCE COUNTRY CLUB DRIVE FROM R-3 TO INST (CD)

Mayor Pro Tem Burgess said the Zoning Committee found this petition to be inconsistent with the Providence Road/I-485 Area Plan Update but reasonable and in the public interest.

[Motion was made by Councilmember Cooksey, seconded by Councilmember Howard, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2009-081]
[for the above rezoning by Charlotte Douglas International Airport as modified and as]
[recommended by the Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Pages 509-511.

HEARINGS

ITEM NO. 20: HEARING ON PETITION NO. 2010-001 BY PRIME SOLUTIONS, LLC FOR A CHANGE IN ZONING OF APPROXIMATELY 0.20 ACRES LOCATED ALONG THE WEST SIDE OF HARDING PLACE NEAR THE INTERSECTION OF KENILWORTH AVENUE AND HARDING PLACE FROM MUDD-O TO O-2

The scheduled public hearing was held on the subject petition.

Lindsey McAlpine, 1329 E. Morehead St., said I'm just here to answer any questions. This is a rezoning back to the original zoning of O-2. There was a master plan office project at this intersection of Harding and Kenilworth that ultimately did not happen, so this is a small parcel that was part of that master plan that will be zoned back to O-2, and I'm simply here to answer any questions.

Mayor Pro Tem Burgess said are there questions for Mr. McAlpine.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Cooksey, and]
[carried unanimously to close the public hearing.]

ITEM NO. 21: HEARING ON PETITION NO. 2010-002 BY DELTAS OF CHARLOTTE FOUNDATION FOR AN R-8MF(CD) SITE PLAN AMENDMENT FOR APPROXIMATELY 2.0 ACRES LOCATED ON THE EAST SIDE OF BEATTIES FORD ROAD BETWEEN PAULINE LANE AND KITTY DRIVE

The scheduled public hearing was held on the subject petition.

Ellen D. W. Flamer, 6529 Ashdale Pl., said I would like to give you just a little bit of information about the Deltas of Charlotte Foundation, but first I would like to tell you about our sorority, Delta Sigma Theta Sorority, Inc. Delta Sigma Theta Sorority, Inc. is a private, nonprofit organization whose purpose is to provide assistance and support through established programs in local communities throughout the world. A sisterhood of more than 200,000 predominantly black, college educated women, the sorority currently has over 900 chapters located in the United States, England, Japan, Germany, the Virgin Islands, Bermuda, the Bahamas, and the Republic of Korea. The major programs of the sorority are based upon the organization's five-point programmatic thrust: economic development, educational development, international awareness and involvement, physical and mental health, and political awareness. The Deltas of Charlotte Foundation is a nonprofit organization that is the fundraising affiliate of the Charlotte Alumni Chapter of Delta Sigma Theta sorority. The organization is committed to public service and scholarship programs, and we are asking that you approve our rezoning so that we can enlarge our current facility to accommodate the chapter's programs throughout the community.

Councilmember Carter said on the outstanding issues there is a statement, "Modify the proposed detention area to be a possible detention area." I'm curious at the difference and what it implies.

Tammie Keplinger, Planning, said I'm sorry, Ms. Carter, your question was about the note to change the –

Councilmember Carter said the detention area from proposed to possible.

Ms. Keplinger said the reason for that is just a technicality so that if the rezoning is approved that when they go for their building permits that it's not set in stone that is where they have to have their detention. If it were, it could be that they would have to come back to you and ask to move it to another location, so this allows them a little bit of flexibility. They will have to meet the PCCO, but it just allows some design flex.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Carter, and]
[carried unanimously to close the public hearing.]

ITEM NO. 22: HEARING ON PETITION NO. 2010-007 BY ROBERT ELLIS FOR A CHANGE IN ZONING OF APPROXIMATELY 3.0 ACRES LOCATED ON THE NORTH SIDE OF BYRUM DRIVE AT THE INTERSECTION OF LARKMOORE COURT AND SIRUS LANE FROM I-2(CD) TO I-2

The scheduled public hearing was held on the subject petition.

[There being no speakers either for or against, motion was made by Councilmember Mitchell,]
[seconded by Councilmember Carter, and carried unanimously to close the public hearing.]

ITEM NO. 24: HEARING ON PETITION NO. 2010-003 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR A CHANGE IN ZONING OF APPROXIMATELY 6.76 ACRES LOCATED ON THE WEST SIDE OF BALTIMORE AVENUE AND ON BOTH SIDES OF MILLER STREET AND CHICAGO AVENUE FROM R-22MF TO R-8

The scheduled public hearing was held on the subject petition.

Councilmember Barnes said are you all going to combine the presentations for 24, 25, 26, and 27 into one, or are they individualized?

Tammie Keplinger, Planning, said they are somewhat individualized because I would like to go through the maps, but I will be very quick.

Councilmember Barnes said that will be fine.

Ms. Keplinger said if I could get the maps. The first rezoning, 2010-003, is for 6.76 acres from R-22 to R-8MF. The area proposed to be rezoned is shown on the map that you can see on your monitors or above on the screen. I want to move to the land use map. This is the existing land use for the site. I wanted to show you what type of land use is within this area. We have a small institutional use. All of the yellow or the white is single family residential or vacant, and there are a couple of spots that have duplexes or quadraplexes or triplexes in this area, and another one back in this corner. The proposal for this property is R-22 to R-8MF. The R-8MF still allows the triplexes and the duplexes to remain, so there will be no change in terms of the allowed uses. This rezoning is a result of the recently adopted New Bern Station Area Plan. As a part of that plan that was adopted in 2008, the implementation section identifies this as one of the corrective rezoning.

I'll take a minute, if I could, and tell you about the notification process for this rezoning and the three other rezoning that are coming up afterwards. With all of our rezoning, we notify every property owner within the area to be rezoned by mail and also anyone within 300 feet and any neighborhood organization that is registered with the Planning Department within one mile. In addition to that since these are in areas where newly adopted transit station area plans have been adopted, there was at least a year's study and stakeholders process that each of these areas went through, so there were additional notifications and meetings through that process. In terms of this being consistent, it is consistent with the newly adopted New Bern Transit Station Area Plan, and the staff is recommending approval.

Mayor Pro Tem Burgess said are there questions?

Councilmember Carter said this is more of a general question, and it deals with past practice. First, I need to say to the Planning staff thank you all very much for taking on additional efforts at improving our planning process and improving what we do within our city during this relatively quiet time. You all have done an outstanding job, and I do want to recognize that. Number two, in the East Side Area Strategic Plan, the Eastland Area Strategic Plan, the Albemarle Road/I-485 Plan, the Newell-Hickory Grove Plan, and the study that is going on on Independence, there are some down zonings proposed. Now, the East Side Area Strategic Plan has been in place for ten years, and we have one run at some down zoning. Some was successful; some were not, and I'm wondering if the staff will consider, please, the down zonings that are proposed in those area plans. It is crucial, I believe, to stability in the area. This has been considered by the residents and proposed through a very formal process and I hope we can move forward on this because it is a very important point.

Ms. Keplinger said we will go back and look at those area plans that you specifically mentioned and give you a report hopefully in our follow-up report or maybe in another to let you know where we stand on those issues.

Councilmember Carter said thank you very much, and that is for the eastsiders as well.

Councilmember Kinsey said, Tammie, on this particular petition, it's surrounded by R-22MF. Do you anticipate this will be down zoned at some future time?

Ms. Keplinger said, no, ma'am. We believe the R-22MF that is around it will remain multifamily residential, but most of the properties in this area in this particular pocket are already divided into single family lots and they fell well within the characteristics of the R-8 zoning classification.

Councilmember Kinsey said is the R-22MF vacant land right now? I don't see any little houses on it.

Ms. Keplinger said I do not know to be honest with you. It's the Southside Homes.

Councilmember Kinsey said I know that, but I meant the R-22MF above.

Ms. Keplinger said between Remount Road and Chicago Avenue?

Councilmember Kinsey said exactly.

Mayor Pro Tem Burgess said that's a public park.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Kinsey, and]
[carried unanimously to close the public hearing.]

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ITEM NO. 25: HEARING ON PETITION NO. 2010-004 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR A CHANGE IN ZONING OF APPROXIMATELY 24.55 ACRES LOCATED ON THE WEST SIDE OF SARAH DRIVE SOUTH OF WEST CAMA STREET AND ON BOTH SIDES OF ORCHARD CIRCLE FROM R-22MF TO R-8

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this petition is of similar circumstance except it is consistent with the Scaleybark Transit Station Area Plan. In terms of land use, these properties are a little bit different. We have a lot more open space. As you can see, there are yellow and white areas that are residential in here or vacant, and then there is property that is owned by a church that is mostly vacant to the north. Again, this plan was recently adopted in 2008, and staff is recommending approval of these corrective rezoning.

Mayor Pro Tem Burgess said we do have a speaker signed up against.

Michael Anderson, 107 Sapphire Dr., Mooresville, said one of the questions I had has already been answered. I own a duplex on Orchard Circle, and as far as I understand, it's grandfathered; that won't be an issue. Does this new rezoning make it so you can't build anymore duplexes? It has to be single family from this point on?

Mayor Pro Tem Burgess said, Ms. Keplinger, would you answer his question?

Ms. Keplinger said, yes, ma'am. You can still build a duplex if you meet all the requirements of the R-8 zoning district. Duplexes are considered single family in our zoning ordinance, so it will be a mixture of single family and other duplexes, but it would not allow multifamily, which would be higher density.

Mr. Anderson said the other question I had the area next to it where West Cama Street is and all, that is actually zoned R-5. I was curious why you were going for zone R-8 instead of R-5. It seems to be a little more crowded. If you were going to be building or developing that area, I don't know what the intentions of this zoning change is.

Ms. Keplinger said the reason we went with R-8 instead of R-5 is one reason we are trying to minimize the nonconformities, and the duplexes would be nonconforming in the R-5, so you would not be allowed to have any more of those, and the R-8 seemed to just fit the neighborhood and the standards that are there currently.

Mr. Anderson said are duplexes the maximum allowed under the R-5? There is a vacant spot of land behind my duplex. I'm just curious what is put there after this is passed, if it gets passed.

bvj

Ms. Keplinger said I'm not sure exactly where your property is – if you back up to Orchard or you back up to – there is some industrial property.

Mr. Anderson said I'm on the back loop of Orchard facing I-77. There is a big vacant lot behind me. I think it's owned by either BellSouth or Duke Energy or something like that. One of the utility companies owns it.

Ms. Keplinger said we would have to look at it to be able to tell you, but if it's rezoned to R-8 then the maximum they would be able to do is eight units per acre, and it's only duplexes. It does allow triplexes and quadraplexes, so that would be the highest that anyone could have.

Mr. Anderson said on the rezoning application it says the attached list for property owners. I'm actually listed as somebody applying for this. I was curious as to how this all ends up this way. It shows a list of everybody who lives out here. I didn't personally apply for this. I'm just curious of why it comes up like that.

Ms. Keplinger said when the application is done by the Planning Commission, the staff does it, and we want to list all the people that are subject to the rezoning, so it's applicant or petition, and in this case, the applicant is actually the Planning Commission, but those that are affected are the affected property owners, and that is how that really should be correctly identified is affected property owners.

Mr. Anderson said my most important question was whether I am to be grandfathered in. That was the most important issue. Thank you.

Mayor Pro Tem Burgess said why don't you go to the microphone and you can fill that out later if you would just give us your name.

Unidentified Speaker (inaudible), said I own the property at 116 Archer Circle, and we were never at this meeting today, and we saw the sign, and we try to follow up and find out what is going on today in the Chamber. We bought this property in 2007 for the purpose of knowing it's zoning R-22. (Inaudible) 2008. The way the economy is it's still going down. We just put a hold on it, and now it is going to R-8 and will have a bad impact on our financial investment we have for the future. I don't know what the purpose is of rezoning it because no traffic in that area as far as we can see, and we just want to have time to maybe do what we can do to stay on R-22. We just bought this in 2007, three years ago.

Councilmember Howard said how big is your parcel?

Unidentified Speaker said 1.6 acres, and we are right behind the car wash. I don't know if you can show that. Our property is vacant.

Mayor Pro Tem Burgess said I don't know how he was not informed about this hearing tonight with your long list of people that you did mail to. I don't know how that happened. Maybe the address is wrong, but at any rate, you should have –

Unidentified Speaker said we saw the sign actually on the street.

Ms. Keplinger said we'll certainly go back and check to see if the address – sometimes when properties change over the tax database is not updated. We started the transit area plan process in March 2008, and then, of course, our notification has been more recent than that, but we will go back and make sure that we do pick this gentleman up as the correct property owner.

Mayor Pro Tem Burgess said to answer your question about why we are doing this down zoning it's to align it with an adopted plan, a station area plan, that the Council adopted earlier, so the staff is just getting the zoning in line with what the Council has adopted.

Unidentified Speaker said what can we do? What should I do?

Mayor Pro Tem Burgess said you are doing it to let us know your opposition and why.

Unidentified Speaker said do we need to talk to the gentleman in the corner to find out why?

Mayor Pro Tem Burgess said I beg your pardon.

Unidentified Speaker said what can we do?

Mayor Pro Tem Burgess said the Zoning Committee will be deliberating later about that, and you might want to get in contact with them as well.

Steven Rosenboro, Zoning Committee, said our contact information is on the government Web site. We're happy to speak with you thereafter and give you the time.

Ms. Keplinger said staff will also reach out to contact this gentleman to talk to him about the plan and about his property to see if we can help him.

Councilmember Carter said to be a little more specific so that we get an idea of where your site is located could that be indicated on the map for us – perhaps projected for us and the site located. I'm not sure where the Auto Bell is, I'm sorry.

Unidentified Speaker said this property all the way here.

Councilmember Carter said where is the Auto Bell, please?

Unidentified Speaker said South Tryon, right there. Right behind the car wash.

Councilmember Barnes said how many acres?

Unidentified Speaker said 1.6.

Councilmember Barnes said you live there?

Unidentified Speaker said no. We just bought as an investment because the zoning was R-22 to develop in 2008, but the way the economy was –

Councilmember Barnes said I see what you are saying. You bought it to do a high density development.

Unidentified Speaker said yes. That is going to make a very bad impact on our financial.

Councilmember Barnes said I understand.

Councilmember Howard said just an idea, and maybe we'll get this when you come back. The ideas you had for developing the property? You say you had a plan already?

Unidentified Speaker said yes. I mean we just can't do anything right now.

Councilmember Howard said what were you – hypothetically what were you planning?

Unidentified Speaker said we hope in the next couple of years – about two or three years.

Councilmember Howard said apartments?

Unidentified Speaker said yes.

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously to close the public hearing.]

Mayor Pro Tem Burgess said that sign really worked.

Item No. 25 was reopened at the end of Item No. 26.

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ITEM NO. 26: HEARING ON PETITION NO. 2010-005 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR A CHANGE IN ZONING OF APPROXIMATELY 7.95 ACRES LOCATED ON THE WEST SIDE OF CHINA GROVE CHURCH ROAD, THE SOUTH SIDE OF ERVIN LANE, BOTH SIDES OF DENDY LANE, AND BOTH SIDES OF PACKARD STREET FROM R-17MF TO R-8

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said very briefly this rezoning is part of the Sharon and I-485 Transit Station Area Plan. All of the properties within this area are either already developed as single family residential or subdivided that way and are vacant, so we have no duplexes and no nonconforming uses that we know of for this area. Again, it's consistent with the Sharon and I-485 Transit Station Area Plan that was recently adopted, and staff is recommending approval.

Mayor Pro Tem Burgess said there are no speakers signed up for or against.

Councilmember Carter said, Ms. Keplinger, if it is within half a mile of a transit station and the object is our density within that area, why are we reducing the density?

Ms. Keplinger said because these are pre-existing, pre-established neighborhoods that when we went through the transit station area planning process were pointed out as areas that should be protected and remain single family residential.

[Motion was made by Councilmember Howard, seconded by Councilmember Mitchell, and]
[carried unanimously to close the public hearing.]

Item No. 25, Petition No. 2010-004 Continued

Stephanie Kelly, City Clerk, said I know you have already closed the public hearing on Item 2010-04, but this gentleman didn't understand the process and wanted to make comments concerning it.

Mayor Pro Tem Burgess said is there a motion to reopen?

[Motion was made by Councilmember Barnes, seconded by Councilmember Dulin, and]
[carried unanimously to reopen the public hearing for Item No. 25, Petition No. 2010-004.]

Mayor Pro Tem Burgess said has he signed up with you?

Ms. Kelly said, no, he has not, but I will get his name afterwards.

Mayor Pro Tem Burgess said for the record would you state your name.

Jack Hawes, Orchard Circle, said I attended all of the sessions in the course of this to where we have gotten to this point, and a lot of the things that bore upon whether or not that property should be R-22 or even commercial or something had to do with the size of the street, the access, the water run-off, all kinds of things that entered into that, and I'm wanting to know if those kind of things are still on the table to be discussed or whether that is just going to be put aside and it's just going to be a matter of whether it should be R-8 or M-22 or R-5 or whatever. In other words, there seems to have been a lot that went into this. What is the board going to do from here on out on this?

Mayor Pro Tem Burgess said actually we don't have a full report in our book, but a full report is available on line with public infrastructure, responses from our staff about storm water, and some

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other items I believe are concerns that you mentioned. But the process after this hearing is that the information gathered by the staff and from the public at this hearing will be considered by the Zoning Committee, and they will deliberate and make a recommendation to the Council as well as staff will recommend, and then in one month we will vote it up or down. That's our process. Does that answer your question?

Mr. Haas said will we still then have access to talk to the Zoning Committee prior to the vote?

Mayor Pro Tem Burgess said, Mr. Rosenboro, would you explain your process at your meeting?

Steven Rosenboro, Chair, Zoning Committee, said what we do is we will hold a Zoning Committee meeting Wednesday the 27th. We will review comments made tonight. We will review the staff report. As a committee, we will then vote on information before us to make a recommendation which will come back to Council next month. While that meeting is not an extension of this public hearing, you are welcome to attend to listen to that discussion.

Mayor Pro Tem Burgess said I might also say that you are free to communicate with members of the Council as well. You can call us or email us or write us letters, meet with us, with further input as the process develops.

Councilmember Dulin said thank you for being involved.

Mayor Pro Tem Burgess said is there a motion to re-close.

Ms. Kelly said there is another speaker.

Jennievee Holbrook, Orchard Circle, said when you closed that you did it so quick we just missed it. We didn't realize you were closing it, or we would have said something sooner. One thing I wanted to bring to everybody's attention is in 2005 this was already looked at, and you can't have access on Orchard Circle. The street is too narrow. There are a lot of notes. There was a petition from the church that owns this largest amount of land there, and it is definitely deferred because they don't have access to that land to put apartments or anything large. The gentleman that spoke earlier the property does have a residence on it and has had people living there until recently. I don't think it really should be R-22. I think it should be what you guys are trying to rezone it to.

Mayor Pro Tem Burgess said so you are speaking in favor of the petition.

Ms. Holbrook said right.

Councilmember Carter said several mentions have been made of the narrowness of the street.

Ms. Holbrook said it's extremely narrow.

Councilmember Carter said does that meet the dimensions of a city street?

Ms. Keplinger said it does meet city street dimensions but just barely.

Councilmember Carter said but it is still accessible for emergency vehicles such as our fire trucks?

Ms. Holbrook said yes. A school bus and a car have a hard time passing, but you can do it if you kind of be careful. It happens every day.

[Motion was made by Councilmember Barnes, seconded by Councilmember Carter, and]
[carried unanimously to close the public hearing.]

ITEM NO. 27: HEARING ON PETITION NO. 2010-006 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR A CHANGE IN ZONING OF APPROXIMATELY 57.70 ACRES LOCATED ON BOTH SIDES OF LONGLEAF DRIVE, LOBLOLLY LANE, LODGEPOLE PLACE, AND SPRUCE PINE PLACE, BIG CONE PLACE, TIMBERLINE ROAD, AND GREYLEAF PLACE FROM R-17MF TO R-5

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this is the largest of the corrective rezonings. I would like to point out to you that many years ago when this property was developed it was part of a Housing Authority development. The multifamily portion was developed in this area, and the single family here, and it was all under the same zoning of R-17MF. All of the properties that are in this development are currently used for single family residential purposes. I don't believe there is even a vacant lot. There is a lot of green space, as you can see, but it is fully developed and has been so for many, many years. The proposed request from R-17 to R-5 will protect the single family nature of this area and is recommended through the Sharon and I-485 Transit Station Area Plan.

Frances Huntley-Christopher, 9424 Lodgepole Pl., said I'm the secretary of the Pine Valley Homeowners Association. On behalf of the Pine Valley community, I come before you today to simply ask that you allow the appropriate classification to be given to our neighborhood. Currently we are single family community zoned under multifamily classification. We are asking that you rezone our neighborhood to the appropriate single family classification, which we believe should be R-5 residential. On behalf of the Pine Valley community, we thank you for your time and consideration.

Councilmember Dulin said I represent Pine Valley, and I'm tickled every time I get to go in there and see the residents in Pine Valley. The back to school fry we had, it was fabulous. They love their neighborhood. They are unified behind this rezoning, and it's a pleasure to sit up here and present all the fine folks. Y'all are nice to come down tonight, and representing y'all on the City Council is a big deal to me, so thank you very much for coming down.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously to close the public hearing.]

MAYOR AND COUNCIL TOPICS

Councilmember Mitchell said the Intelligent Leadership Conference is this Saturday from 9:00 a.m. to 2:00 p.m. Please come. It's free. Call Kim Pearson-Brown at 704-336-2180. Please, Council members, please come by at my favorite time, lunch, to mingle with citizens in District 2. This Saturday Room 267, free.

Councilmember Peacock said, Council members, and I want to follow up from Mayor Foxx's meeting that he had last Friday regarding the subject of homelessness. I know several of us were there. It was a thoughtful presentation with a lot of people from the homeless community that we are serving their needs as well as those in the faith community and a lot of very interested citizens. One of the subjects that did come up relates to something that we constantly deal with here, which is when a rezoning petition comes up that has something to do with special housing needs of the type for homeless the subject of locational policy came up, and I was seeking a referral to the Housing and Neighborhood Development Committee on that subject.

Councilmember Mitchell said we already did that last meeting.

Councilmember Barnes said it's with the Transportation and Planning Committee right now.

Councilmember Peacock said I did not know where that was, so I wanted to see.

Councilmember Howard said special needs housing right now.

Councilmember Mitchell said we referred it at the last meeting, the locational policy.

Councilmember Peacock said when will we be expecting to hear back?

Councilmember Mitchell said by the City Manager looking at me saying after the Retreat.

Curt Walton, City Manager, said we don't have a timeline yet.

Mayor Pro Tem Burgess said thank you for bringing that up. It was an outstanding meeting. When I walked in there and saw standing room only, I just really felt great about the leadership and the initiative.

Councilmember Carter said I just heard a very poignant statement about special needs housing for those who are hearing impaired. Apparently there is a real deficit of housing for those who have no capacity to hear or very little capacity to hear, so if we could look at that as well as we go through this special needs housing I would be grateful.

ADJOURNMENT

The meeting was adjourned 6:55 p.m.

Stephanie C. Kelly, CMC, City Clerk

Length of Meeting: 1 Hour, 20 Minutes
Minutes Completed: February 17, 2010