

DINNER BRIEFING

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Monday, February 15, 2010, at 5:17 p.m. in Room CH-14 of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Councilmembers present were: Michael Barnes, Susan Burgess, Warren Cooksey, Andy Dulin, Patsy Kinsey, Edwin Peacock III

ABSENT UNTIL NOTED: Councilmembers Patrick Cannon, David Howard, James Mitchell, Warren Turner

* * * * *

Tammie Keplinger, Planning, reviewed the zoning petitions recommended for deferral. Item No. 2, Petition No. 2009-067 is protested. Item No. 3, Petition No. 2009-068, will require a vote by Council. Councilmember Burgess requested a deferral for Item No. 1, Petition No. 2009-039.

Councilmember Cannon arrived at 5:21 p.m.

Councilmember Mitchell arrived at 5:26 p.m.

Councilmember Howard arrived at 5:31 p.m.

Councilmember Turner arrived at 5:32 p.m.

The briefing was recessed at 6:02 p.m. for the Council to move to the Council Meeting Chambers.

* * * * *

ZONING MEETING

The Council reconvened at 6:10 p.m. in the Council Meeting Chambers of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding.

* * * * *

INVOCATION AND PLEDGE

Councilmember Burgess gave the Invocation and led the Council in the Pledge of Allegiance to the Flag.

* * * * *

Mayor Foxx explained the Zoning Meeting rules and procedures. He recognized the chairman of the Zoning Committee, Steven Rosenboro, who introduced his committee.

* * * * *

DEFERRALS

Mayor Foxx said there are at least a couple of deferrals that are on tap, within that Nos. 7 and 8 within the decision portion, and then Items 12 and 13 on the hearings.

Councilmember Burgess said, Mr. Mayor, I would like to add that we also defer Petitions 2010-003, 2010-004, 2010-005 by the Charlotte-Mecklenburg Planning Commission for two months to allow the Zoning Committee to receive additional information on corrective rezoning and provide a recommendation to the City Council.

Mayor Foxx said that would be adding Item 6 to Items 7, 8, 12, and 13.

bvj

Councilmember Cannon said I would respectfully ask that we divide the question on that.

Mayor Foxx said how would you like it divided?

Councilmember Cannon said where we just vote simply on 2010-003 and allow the others to be inclusive of what has been made mention of.

Mayor Foxx said there has been a motion made – there hasn't been a second on the first motion made.

[Motion was made by Councilmember Burgess and seconded by Councilmember Howard to]
[defer decision Item Nos. 7 and 8 and hearing Item Nos. 6, 12, and 13.]

Mayor Foxx said, now, Mr. Cannon, you have made a request to divide the question. Ms. Burgess?

Councilmember Burgess said that's fine.

Mayor Foxx said so we'll divide the question. All in favor of deferring No. 6 by itself raise your hand and say "aye".

Councilmember Howard said question -- a little more on Item 6.

Mayor Foxx said Petition 2010-003. It's one of the three we talked about at the Dinner Meeting where there were some questions about the down zoning issues on that petition. The Zoning Committee voted to deny that petition, and subsequently voted to defer two other petitions, and the question is whether they really meant to deny that petition or whether they simply would have deferred it had they had the opportunity to do so beforehand.

Councilmember Burgess said they did ask us, as you recall, in our Dinner Meeting that we include that in the deferral, so this is really a request of the Zoning Committee to defer all three of those.

Councilmember Cannon said, no, point of order. The issue here was really – or at least one of the things I pulled out and asked a question to staff was with regard to whether or not notifications had been sent out accordingly. Apparently there was an issue about someone or at least it was suggested that there was a problem with notifications, but what we found out was that actually the notifications did go out accordingly, and certainly this just is a corrective rezoning. There isn't anything special about this, so I will again ask that we allow this to move forward as it is.

Mayor Foxx said there is a question as to deferring this one item.

The vote was taken on the motion to defer Petition No. 2010-003 and recorded as follows:

AYES: Councilmembers Burgess, Cooksey, Howard, Kinsey, Turner

NAYS: Councilmembers Barnes, Cannon, Carter, Dulin Mitchell, Peacock

Mayor Foxx so that will not be deferred.

The vote was taken to defer Items 7, 8, 12, and 13, and recorded as unanimous.

Councilmember Cooksey said given how many people had signed up for 12 that perhaps special attention was made that in fact we just deferred it. I do see people leaving at this point.

DECISIONS

ITEM NO. 1: ORDINANCE NO. 4377-X BY CHARLOTTE AREA TRANSIT SYSTEMS FOR A CHANGE IN ZONING OF APPROXIMATELY 3.65 ACRES LOCATED SOUTHEAST OF NORTH ALEXANDER STREET FROM O-2 TO B-2(CD)

Mayor Foxx said the Zoning Committee found this petition to be inconsistent with the Belmont Revitalization Plan but 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. 2009-039 for the above rezoning by]
[Charlotte Area Transit System as modified and as recommended by the Zoning Committee.]

Councilmember Burgess said I do have a question. I was told earlier today that we would have a map of what part of this petition is in the flood plain. Did we get that? I haven't seen it.

Tom Drake, Planning, said, yes, ma'am, we have it in a slide show. If we could get the booth to bring up the slides? This slide is the best indicator we have. If the booth will follow me, as you can see these are the two buildings, and if you will follow me. This is the flood plain fringe line that comes along through here. It does pass through the buildings. The other flood lines of importance, and I will show you these two lines, which are parallel, is the FEMA flood line and the community encroachment line. Those two lines are more meaningful in terms of development. My understanding from the county flood folks is that filling between this line and the fringe line is not that big of a deal. What you have to do is raise the floor elevation at least one foot above the 100-year flood level, otherwise filling is permitted and normal in that area, however, when you get closer to the creek, then this line, that's a whole different deal. But, as you can see, all they have proposed is the ball field and open space within the encroachment line.

Councilmember Burgess said if a private developer brought a petition that built in the floodplain, would that give you pause?

Mr. Drake said not anymore. In the old days before the floodplain ordinance was revised and we got new maps and everything, it would have, but these days it would not. From the Planning Department's point of view, we rely on the floodway ordinance, and this is the result of the ordinance.

Councilmember Burgess said is FEMA going to come out with new maps soon?

Mr. Drake said I'm not really qualified to say whether it's soon or not. They are always updating, but I couldn't say how soon.

Councilmember Burgess said I want to commend you for improving this plan since the hearing several months ago. It's much, much better than it was. In my opinion, and I think I may be in a very tiny minority here, it still leaves some issue for me that I cannot support it. We have gotten many, many emails from citizens about this petition. Not one of them supports it. There is a lot of concern in the community, not only in Villa Heights that was mentioned earlier, but from people all over Charlotte, and, as I mentioned at the Dinner Meeting, by an unfortunate mistake there was a memo from Mecklenburg County Park and Recreation Department that was not shared with the Zoning Committee Meeting to make their decision and was not shared with the Council at all until today even though the staff had it before the Zoning Committee Meeting and they have had it for five weeks. My preference is to defer it so that we can continue to work with the County Commission and Park and Rec to see how they may use this property and leave an open space – something that we certainly need uptown. I don't think that very many people agree with me on that issue, so I will be voting against it.

Councilmember Howard said just to go on the record with some comments I made in the back. I would ask if it is possible if CATS, while they are going through their final design on this one, if they would make sure that as much as possible – and I understand there is still some design that needs to happen – that they do as much as they can to free up open space, to free up green space,

and to make the building more complimentary to the green space that it fronts onto so it is a good neighbor and a good partner with the parks area that will be left there.

Councilmember Dulin said I do need to make a comment or two. I have been over to the site – a number of us have been over to the site. We have gotten a lot of feedback from constituents that they want to add to our green space downtown, not subtract from our green space. This area – it's a hilly area where the current CATS facility is and this new proposed CATS facility. It's a proposed CATS facility that is needed. It is needed today – not three or four or five years from now when we can deliver it. It will house special transportation buses and vans that go and pick up folks who cannot deliver themselves to and from doctors' appointments, to and from places they need to be. It is not a free taxicab, as some people have said. It is a needed service that we provide to our citizens.

To do that, we need a facility to house those vans in off hours and for those administrative folks to do their work and go back and forth to work. This hill – I was there today – this hill is steep. It is not a hill that you could go to with your dog and your children and throw a Frisbee. It would be a heck of a community sledding if we had a community sledding hill, if we needed one, but we don't, so I'm going to support the motion to rezone this so that we can build this facility that our CATS folks need today, again, as I said. It's a hard decision. We have gotten tons of feedback and input from our citizens, which is every single word of it I have listened to, and I appreciate it. It is with a lot of thought that I support this, and it's a facility that we need, and I'm looking forward – I do not want to defer it. I would like to go ahead and get it voted on and get it moving.

Councilmember Kinsey said this isn't an easy decision as the District 1 rep, of course, but I am going to support obviously the rezoning. I want to thank staff for working as hard as they have worked with the neighborhood, with several neighborhoods, and with others in the area to make this plan a really good plan. The building itself is not only attractive but they are striving to make it a green building, perhaps getting LEED certification. We don't know; it's too early to know about that. They are saving some major oak trees, they are planting others, there will be a great deal of landscaping. It is really a good plan, and I think once it's done it will certainly compliment the area very nicely. I'm sorry that we don't have a picture to show you, but it is really an attractive building. I think it's a good use of our land. The City already owns it. It will save the taxpayers millions of dollars. They just flashed it up. It's a really attractive building, and that is the site facing the greenway and the existing part or the façade facing, but it does save the taxpayers millions of dollars over a period of time in operations but also in capital expenses, so I'm hoping we can go ahead and support this petition and get started on something that is very needed in our community.

Mayor Foxx said I'm just going to be real brief. First of all, I want to say that our staff has worked exceedingly hard over the last several years to try to create as close to a win-win scenario as they can, and I know that personally because I met with members of the Trinity Episcopal School and been involved in a lot of conversations about how this property could be utilized. I want to say, first of all, that I have a lot of respect for the work that has been done to get to this stage. At the same time, as a neighbor, it is part of my neighborhood, but also as a person who cares deeply about land uses and the future of the entire community, I have expressed concern not only in this case but in other cases about the fact that we continue to put industrial type uses into our urban core which constrains the ability of those neighborhoods to revitalize in the way we want to do it. So from that perspective, were I voting tonight, I probably would be voting no, but I did want to say on the record what my opinion of this is. With that, I don't think we have any more commentary. There is a motion on the table to approve.

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

AYES: Councilmembers Barnes, Carter, Cooksey, Dulin, Howard, Kinsey, Mitchell, Turner

NAYS: Councilmembers Burgess, Cannon, Peacock

The modifications are:

1. The buildings have been “flipped” to place the office building facing the park and open space.
2. A 36-inch oak tree will be preserved.
3. A 30-foot buffer will be required once North Myers Street is abandoned.
4. The existing asphalt walkway to the greenway will be maintained.
5. The building will be limited to 100,000 square feet.
6. Elevations of the building from the park/open space have been provided.
7. A note has been added to the site plan which states, “Any changes shall be subject to the terms and conditions set out by and in accordance with Section 6.207 of the Ordinance.”
8. A note has been added to the site plan which states, “Development on the site shall comply with the setback, height, and yard requirements of the B-2 zoning district.”
9. A note has been added to the site plan which states, “Landscaping and screening shall, at minimum, satisfy the requirements of Section 12.302, 12.303, and 12.304 of the Ordinance.”
10. A note has been added to the site plan which states, “All exterior lighting fixtures (except street lights) shall be capped and fully shielded with full cutoff and the illumination downwardly directed so that direct illumination does not extend beyond the City-owned property.”
11. The existing five-foot sidewalk along North Alexander Street has been shown and labeled on the site plan addressing CDOT’s comments.
12. Sight triangles will be added on the site plan addressing CDOT’s comments.
13. Elevations have been provided showing that large expanses of wall will be avoided through the introduction of articulated facades using various materials such as brick and other masonry products, stone, different colors of paint and glass windows.

The ordinance is recorded in Ordinance Book 56 at Pages 548-549.

ITEM NO. 2: PETITION NO. 2009-067 BY STACY MITCHELL AND JANET McMILLAN FOR A CHANGE IN ZONING OF APPROXIMATELY 0.85 ACRES LOCATED ON THE SOUTH SIDE OF SOUTH TRYON STREET BETWEEN MOSS ROAD AND LIONS MANE STREET FROM R-3 TO O-1(CD)

Mayor Foxx said the Zoning Committee found this petition to be inconsistent with the Southwest District Plan and not reasonable and in the public interest.

A protest petition has been filed and is sufficient to invoke the 20% voting rule requiring affirmative votes of ¾ of the Mayor and Council members not excused from voting in order to rezone the property.

[Motion was made by Councilmember Cannon and seconded by Councilmember Howard to]
[deny the petition.]

Councilmember Burgess said I have a couple of questions for the staff on this one. Basically as a home occupation, this owner could have their business in this home improved.

Tammie Keplinger, Planning, said, yes, ma’am. The use they are proposing is an allowable home occupation use. The reason the request came through to us is because of signage because the home occupation signage is only one and a half square feet, and the property owner wanted to have a sign larger than that to advertise their business.

Councilmember Burgess said a trade-off for the sign then is what outstanding issues prior have been addressed, and I was going through this to see what advantages the City would have. If you could help me, but it looks like No. 11, a note has been added that the existing detached structure would be removed from the buffer; is that correct?

Ms. Keplinger said, yes, ma’am.

bvj

Councilmember Burgess said if we deny this then that structure can remain?

Ms. Keplinger said it would be able to remain because the buffer would not be required.

Councilmember Burgess said so that's an advantage to the City that we grant the petition.

Ms. Keplinger said it is difficult to say it's an advantage because the setbacks change between the residential district and the office district and because there are not buffer requirements between the residential districts.

Councilmember Burgess said also No. 12 I notice they added committing the extension of the five-foot sidewalk; is that correct?

Ms. Keplinger said, yes, ma'am.

Councilmember Burgess said and without the rezoning they would not have to continue the sidewalk.

Ms. Keplinger said that is correct.

Councilmember Burgess said are there other advantages of passing this to the City?

Ms. Keplinger said all City codes and ordinances the property would have to be brought up to comply with all the City codes and ordinances, and there are many of those, of course. However, because this is a land use issue, the land use plan does not recommend anything but residential development for this property, so in terms of staff's recommendation we feel the land use recommendation is more important than the benefits that we would get through any of the infrastructure improvements.

Councilmember Burgess said it seems to me like the trade-off is we get these improvements but they get a sign, and, otherwise they will have their home occupation with a smaller sign, so I guess it's just a matter of judgment which is more to the advantage of the City. The other thing is that we have just recently allowed conditional rezonings for home occupation – two on Central Avenue, I believe, for a dentist's office and an accountant's office; is that correct. Lawyers and dentists. Well, whatever. We have a history of doing this, and, of course, the Collias rezoning – was that last week. It seems like it, but anyway, it's not without precedent that we do allow these, and I don't see what the big deal is. I don't think we should deny it.

Councilmember Cooksey said in light of the fact that this is a protested petition just to make the vote count easier to track I would offer a substitute motion to approve because it takes nine to approve it with a protest. It's kind of easier to keep track of it that way.

[Substitute motion was made by Councilmember Cooksey and seconded by Councilmember]
[Burgess to approve the Statement of Consistency and Petition No. 2009-067 for the above]
[rezoning by Stacy Mitchell and Janet McMillen.]

Councilmember Carter said to me the difference in our approach to this rezoning is there is no identification in the notes that this building is to maintain its residential appearance, and that, to me, is a crucial factor when the other four rezonings had that one identifying note. So this structure can be transformed into something that does not appear to be a residence maintaining that residential quality in this certain area where it is and has been determined as appropriate. I did try to understand the parallels and the benefits, and I appreciate you, Ms. Burgess, for going through that, but given the fact that this can look very much office and incongruous, I'm going to be supporting the denial.

Councilmember Turner said, first of all, I received a letter and I think some of the other Council members received from the petitioner. I just want to make sure that everyone knows that this is not about race. It's about the current Southwest District Plan and the consistency about this. There are a couple of things I think are important here. You have a condominium development right beside it – Savannah Gardens – and you have a single family dwelling on the opposite side

of it with single family housing behind it. It is obviously very inconsistent with our current plan use for this area, and for us to allow this to happen you change the integrity of Moss Road literally all the way down South Tryon Street until you reach Rivergate where we have office, multiple use there, and we have other zonings.

But from my perspective, you know, there is nothing there that is going to keep this gentleman from utilizing this facility as a home business. This is about a sign, and the sign is not consistent, and it will definitely change the landscape here, and we are much against that and not against the business but against the signage, and I would ask this Council to support the denial of this request.

Councilmember Burgess said I have a question about Ms. Carter's comment about the residential, and the minority opinion on the Planning Commission was the proposed building has a residential look and feel and is in scale with the surrounding property. I think we have all seen a rendering of it, I guess, at the hearing, and it did look like it. Is there not a note that would require that? Is the rendering part of the record that would require it?

Tammie Keplinger, Planning, said the rendering – the notes that I see under the request says a new office addition could be added to the existing residential structure. The renderings that are shown are a part of that, so if any new development occurs they would have to comply with that because it is part of the site plan.

Councilmember Burgess said what I see is residential looking; is that correct?

Ms. Keplinger said I think it's a judgment call, but I think when staff looked at these we did agree that these appear to be residential in nature.

Councilmember Howard said this is for Councilmember Cooksey to make clear what he –

Mayor Foxx said he is moving to approve so that if you vote to approve – it's a protested petition. If there are nine votes to approve, it passes. If there are fewer than nine votes to approve, it does not pass.

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

AYES: Councilmember Burgess

NAYS: Councilmembers Barnes, Cannon, Carter, Cooksey, Dulin, Howard, Kinsey, Mitchell, Peacock, Turner

Mayor Foxx said 1-11. That does not pass.

* * * * *

ITEM NO. 3: PETITION NO. 2009-068 BY APPRISE HOLDINGS, LLC FOR A CHANGE IN ZONING OF APPROXIMATELY 13.98 ACRES LOCATED ON THE SOUTH SIDE OF MALLARD CREEK ROAD ACROSS FROM MASON DRIVE AND BESIDE PENNINGER CIRCLE FROM R-3 TO R-17MF(CD)

Mayor Foxx said the Zoning Committee found this petition to be inconsistent with the Northeast District Plan but reasonable and in the public interest.

Mayor Foxx said this is one in which, as I understand, Ms. Keplinger, the petitioner has made an agreement to change the site plan. Can you elaborate on that?

Tammie Keplinger, Planning, said, yes, sir. The petitioner has added a note as of today stating that the siding material to be used on the buildings will not be vinyl. Because this is a change after the Zoning Committee Meeting, the Council is required to vote whether to send it back to the Zoning Committee. Due to the changes, you have to determine if they are significant or not, and it must be by a three-quarters vote.

[Motion was made by Councilmember Burgess and seconded by Councilmember Kinsey that]
[the changes are not significant enough to send it back to the Zoning Committee and that the]
[Council vote on this petition tonight.]

Councilmember Mitchell said, Mayor, I would like to make a motion for denial of this protest petition.

Mayor Foxx said we have to vote on this.

Councilmember Mitchell said go ahead.

Mayor Foxx said let's get to this issue of whether to send it back to the Zoning Committee. It's been moved and seconded to not go back to the Zoning Committee. Any discussion?

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

Mayor Foxx said now it's in our lap to make a decision on this. Is there a motion?

[Motion was made by Councilmember Mitchell and seconded by Councilmember Howard to]
[deny Petition No. 2009-068 by Apprise Holdings, LLC.]

Mayor Foxx it is not protested, so this will be a simple majority vote.

Councilmember Barnes said I wanted to make a couple of points about my feelings on this petition and some other related petitions. The proposal here is for an apartment development, R-17(MF). The area plan calls for R-8 density, and I have had a concern since I have been on this Council about what I consider to be saturation of northeast Charlotte with apartment complexes. I realize this one is targeted to seniors. There have been three senior developments in that part of the city in the last three years, two of them on Prosperity Church Road, and one off of Highway 49 near I-485.

What I have discovered as I have talked to developers, and there are a number of them here tonight who could probably attest to this, is they build what is in the area, and I have heard that explanation regarding a number of types of residential development and other development, and the concern that I have and have had is that as we continue to develop northeast Charlotte into a for rent apartment type community we are setting ourselves up for the same sorts of problems that Councilmember Carter and Councilmember Kinsey are dealing with in parts of east Charlotte. We have talked about building communities in this city. We have talked about providing people with good, strong family atmospheres and environments, and I don't believe that this focus and concentration we have on apartment development is in the long term best interest of that part of the city, so I won't be supporting the petition.

Again, I'm concerned about what we are doing to our city especially in that area. We have done a really good job thanks to Manager Walton and Debra Campbell in working with UNC-C to determine where their needs are and how to go about meeting those needs in terms of providing for – and I realize I'm getting a little close to the line – but providing for multifamily development that is student-oriented. This project is not of that variety, and many of the others that come before us are not as well. There is currently, as I understand it, a fairly healthy number of vacancies in this part of the city, and that gives me some concern as well. We heard during the public hearing last month comments from citizens who represent neighbors in that area about their concerns. Now, just for point of clarification, this area is just across the street from my district. It's in Councilmember Mitchell's district, but he appreciates my passion and has welcomed my comments, and I have respect for Mr. Rushing, who is the petitioner, and it's nothing personal to you. It is a concern that I have for the future of that part of the city.

Councilmember Cooksey said I just want to make sure I heard the motion correctly. Was the motion in full that the Council finds the petition inconsistent with the Northeast District Plan and not reasonable and in the public interest, and, therefore would deny it?

Councilmember Mitchell said very well said.

bvj

Councilmember Cooksey said I thought that's what I heard.

Councilmember Carter said I would definitely concur with what my fellow colleague is saying in District 4. Thank you very much for your sentiments and your passion, and I do understand and predict the same outcome that you are seeing for your district in 20 to 30 years. My point is this is the wedge, and we are scored on how we deal with placing things appropriately, and this is not on a transit corridor, this is not in transit-oriented development; this is in the wedge.

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

AYES: Councilmembers Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell, Peacock, Turner

NAYS: Councilmember Dulin

Mayor Foxx said 10-1. That fails.

ITEM NO. 4: ORDINANCE NO. 4378-X 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

Mayor Foxx 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 Barnes and seconded by Councilmember Cannon to]
[approve the Statement of Consistency and Petition No. 2010-001 for the above rezoning as]
[recommended by the Zoning Committee.]

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

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

NAYS: Councilmember Carter

The ordinance is recorded in Ordinance Book 56 at Pages 550-551.

ITEM NO. 5: ORDINANCE NO. 4379-X BY DELTAS OF CHARLOTTE FOUNDATION FOR A CHANGE IN ZONING OF APPROXIMATELY 2.0 ACRES LOCATED ON THE EAST SIDE OF BEATTIES FORD ROAD BETWEEN PAULINE LANE AND KITTY DRIVE

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Northwest District Plan and reasonable and in the public interest.

[Motion was made by Councilmember Cannon and seconded by Councilmember Howard to]
[approve the Statement of Consistency and Petition No. 2010-002 for the above rezoning as]
[modified and as recommended by the Zoning Committee.]

Councilmember Mitchell said thank you and to the Deltas of Charlotte. I just want to say sometimes when people want to expand and build bigger and better things they have a tendency to relocate. I thank you for staying on Beatties Ford Road in District 2 as you continue to serve our community, and there's a special treat. You have got two other mega-men up here --

bvj

Councilmember Turner and Councilmember Cannon say at the grand opening they would do a step show. I'll hold them to that.

Councilmember Dulin said, Councilmember Mitchell, do you not want me to step?

Mayor Foxx said, Mr. Dulin, I'm not going to answer that.

Councilmember Carter said the indication here is this is in a wedge. This is Beatties Ford Road, which is a corridor.

Councilmember Mitchell said it's way down Beatties Ford.

Tammie Keplinger, Planning, said I believe you are correct.

Councilmember Carter said thank you very much.

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

The modifications are:

1. No parking between the buildings and street.
2. If a metal building is used the exterior will be masonry materials for sides of building in public view.
3. Wall pack lighting is not permitted and detached lighting will be full cutoff.
4. A new tree will be planted in the established setback to replace the tree to be removed.
5. The total square footage has been clarified to be 13,250 square feet.

The ordinance is recorded in Ordinance Book 56 at Pages 552-553.

ITEM NO. 6: ORDINANCE NO. 4380-X 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

Mayor Foxx said the Zoning Committee found this petition to be consistent with the New Bern Transit Station Area Plan and reasonable and in the public interest.

[Motion was made by Councilmember Cannon and seconded by Councilmember Barnes to]
[approve the Statement of Consistency and Petition No. 2010-002 for the above rezoning as]
[recommended by the Zoning Committee.]

Councilmember Barnes said I want to just clarify. We have clarified that the necessary parties were notified; right? Thank you, Mr. Mayor.

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

AYES: Councilmembers Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell, Peacock, Turner

NAYS: Councilmember Dulin

The ordinance is recorded in Ordinance Book 56 at Pages 554-555.

ITEM NO. 9: ORDINANCE NO. 4381-X 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, SPRUCE PINE PLACE, BIG CONE PLACE, TIMBERLINE ROAD, AND GREYLEAF PLACE FROM R-17MF TO R-5

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Sharon & I-485 Transit Station Area Plan and reasonable and in the public interest.

[Motion was made by Councilmember Barnes, seconded by Councilmember Burgess, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2010-006 for]
[the above rezoning as recommended by the Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Pages 556-557.

* * * * *

ITEM NO. 10: ORDINANCE NO. 4382-X 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-1(CD) TO I-2

Mayor Foxx 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 Cannon, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2010-007]
[for the above rezoning as recommended by the Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Pages 558-559.

* * * * *

HEARINGS

ITEM NO. 11: HEARING ON PETITION NO. 2009-050 BY MT. TABOR COMMUNITY DEVELOPMENT CORPORATION FOR A CHANGE IN ZONING OF APPROXIMATELY 1.89 ACRES LOCATED ON SARDIS ROAD ACROSS FROM WILBY DRIVE FROM R-3 TO INST(CD)

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this request is from R-3 to INST(CD) for an adult daycare center. It's inconsistent with the South District Plan in terms that the district plans frequently do not specify the locations for institutional type uses. The staff feels this use is compatible with the adjacent properties and it is along the major thoroughfare. The daycare will have up to 80 clients. It will have 7,500 square feet of floor area within a first and second floor, will have pedestrian connections to Sardis Road and to the greenway and building elevations are included. Staff is recommending approval upon resolution of outstanding issues.

Paul Woody, 7301 Westcott Ter., said I am representing the petitioner, the executive director of the Mt. Tabor House, and we request a favorable vote for the rezoning of this property. The Mt. Tabor House is an adult daycare facility. It will be licensed through the North Carolina Department of Health and Human Services. The objective of this facility is to provide a safe place for our senior citizens, the somewhat frail citizens who may be staying at home. It will provide a place for them to stay during the day to give a respite to their caregivers, people such as ourselves. It will create a safe place for them to go. It will create an environment for a sense of belong, social interaction, provide a place for them to exercise. It will provide for their nutritional needs during the day.

From a planning perspective, it is located on Sardis Road. It is part of the Sardis Hills neighborhood. Originally when the neighborhood was developed in 1955 that plot of land is separated from that neighborhood by a four-lane road – Sardis Road – as you see on the map. Just north of Sardis Road there is a Piedmont Natural Gas lift station. Further north there is Charlotte Christian School. To the south, there is an air structure that covers a swimming school and tennis court, and further to the south down Sardis Road, there is the Fletcher School. We believe that this rezoning is consistent with what is happening along Sardis Road. The design of the facility is intended to be compatible – you can see on this slide – it has somewhat of a residential look. It will have a brick veneer, be a scale somewhat residential. It has residential type features. It has a covered drop-off area, so we believe it will be an asset to the community.

We have worked with the Parks and Rec Department. We are granting a right-of-way, a 40-foot swath of land to the back side of the property that will eventually connect I think it's parcels of land that the Parks and Rec Department are accumulating to connect with the greenway. That is on the back side of that property. There is a branch of the greenway associated –

Mayor Foxx said that is your time.

Councilmember Kinsey said I'm not sure if I'm looking at this correctly, but it looks to me like this building would be built completely in the floodplain.

Mr. Woody said it's partially in the floodplain, yes, but the elevations have been raised up over the past five years to where it falls within the flood fringe district, but down the hillside it's raised up pretty high. But, in fact, I think part of Sardis Road is in the floodplain as well.

Councilmember Kinsey said just wanted to make sure I was looking at it correctly.

Councilmember Dulin said, Ms. Kinsey, I can help with that a little bit. I'm very familiar with this piece of property, and it's street level, Sardis Road street level. It might at one time have been low, but I assume that is accurate. I have never seen that floodplain map before, but in these heavy rains this property does not flood, so safety-wise for the seniors and so forth. We had a neighborhood meeting, and we had nice attendance. We had ten folks there – ten couples so 20 folks – and folks were agreeable to listening to the plan and so forth.

Councilmember Cannon said real quickly. I'm looking at the trip generation here, and, by the way, thank you for bringing this to us. I think there is a real need for this type of facility, but I do have a question with regard to the trip generation. It's almost four times what it currently is. Is there no real concern about that?

Ms. Keplinger said I think when you look at the number of trips originally on the property it was 66, and the trip generation is 251. I'm speaking out of school for CDOT here. I think 251 trips a day from a piece of property this size would not be of a concern.

Councilmember Cannon said so it's okay from what you think.

Ms. Keplinger said, yes, sir.

Councilmember Cannon said without being a CDOT representative.

Ms. Keplinger said without being a CDOT rep.

Councilmember Carter said following up on that reference to traffic, Mr. Cannon, are the hours of operation respectful of the school site that is very close to this?

Mr. Woody said it would be basically during working hours – 7:00 til 6:00, somewhere in that range. Basically it's intended – one scenario is as folks are going to work they may drop their loved one off, so the hours have not been established per se, but they are intended to be during the working hours, say, roughly between 7:00 and 6:00, around that range.

Councilmember Carter said I'm trying to determine if there is a turn lane there. I know there is one for the Sardis Road North area. Is it extended to that point because I think that is a crucial point for safe service to your site.

Unidentified Speaker said I may or may not be able to help. Was your question whether or not there is a turn lane there presently?

Councilmember Carter said there is a turn lane that goes to Sardis Road North, but is it extended to this property?

Unidentified Speaker said there is no turn lane in front of this property. It's basically just two lanes in each direction with no median at this point.

Councilmember Carter said is it sufficient to widen it?

Unidentified Speaker said I'm not aware that there is anything in the way that would prevent widening, and it's not uncommon for CDOT to ask developers in situations where we think left-turn lanes are needed to incorporate that in their plans. The trip generation on a site like this just isn't to the extent we would feel that is needed.

Councilmember Carter said perhaps in the future that might be something you would like to consider for a safety aspect.

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

* * * * *

ITEM NO. 14: HEARING ON PETITION NO. 2010-011 BY STEELE CREEK (1997) LIMITED PARTNERSHIP FOR A CHANGE IN ZONING OF APPROXIMATELY 82.60 ACRES LOCATED ON THE SOUTH SIDE OF DIXIE RIVER ROAD AND NORTH OF STEELE CREEK ROAD FROM R-3, BP(CD), CC, AND O-2(CD) ALL IN THE (LLWPA) TO CC SPA, CC AND I-1(CD) ALL IN THE (LLWPA)

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this petition is to rezone approximately 82.6 acres to CC and I-1(CD). All of these properties are located in the lower Lake Wylie Protected Area. The proposal includes four different components. If you will, there is a Parcel A, which allows up to 20,000 square feet of retail space including gasoline stations and retail and restaurants. Then component B will allow up to 55,000 square feet of general office and medical uses, which includes hotels, civic uses, banks, and personal services. Parcel C, which is the largest component in here will include up to 620,000 square feet of general office, medical office, retail, residential, personal service, civic, and indoor recreation but also will allow one, 10,000 square foot standalone retail use. Finally, Parcel D to the north of the property is the I-1(CD), which will allow up to 40,000 square feet of light manufacturing, warehousing, retailing, distribution, restaurant, personal services, and general office, and medical office. The proposed request is consistent with the Dixie-Berryhill Strategic Plan, which recommends mixed use, employment center, light manufacturing, and office and service retail. Once the outstanding issues have been resolved, staff is recommending approval of this petition.

Keith MacVean, 227 West Trade St., said I'm going to try and go ahead and do the presentation on my own. The others are available for questions if need be. I am with King and Spaulding. Jeff Brown of our firm and I are assisting Steele Creek (1997) limited partnership with this rezoning petition. The principle partner in Steele Creek (1997) limited partnership is Ms. Sarah Belk Gambrell, who is with us here tonight here in the audience. As you might know, Ms. Gambrell has been a long-time property owner in the Steele Creek community. She has also been one of its largest or strongest proponents. Also assisting us tonight or assisting Steele Creek (1997) with this petition is Mr. Chris Thomas with Childress Klein Properties, Ed Switzer with Land Design, and Ms. Trish Henry with the Kublins Transportation Group. First, I would

like to thank Tammie and the Planning staff for their assistance with this petition as well as the Department of Transportation for helping us work out the issues. We have met with the staff. We are happy that they are recommending approval. We have resolved the remaining site plan issues. We will be submitting a revised plan later this week that has all the changes incorporated into the plan to address the remaining concerns.

As Tammie mentioned, this is about 82 acres located in the northwest quadrant of the interchange of I-485 and Steele Creek Road that is currently vacant. As Tammie mentioned, the petition is consistent with the Dixie-Berryhill Strategic Plan, which calls for an employment center at this location. We feel the plan we have submitted is consistent with that vision and implements that vision for an employment concentration. We have also met with the Steele Creek Land Use Committee and have incorporated their changes into the plan. They are not opposed to the petition. Our petition was also well received at the community meeting. Be glad to answer any additional questions. I can also give you a more detailed presentation, if you would like, and thank you for your time in allowing me to speak tonight.

Councilmember Turner said I want to say thank you, Keith and Chris and Jeff and most definitely Ms. Belk Gambrell for all that you have done and your leadership down in Steele Creek. I have personally appreciated just working with you over the last six years, and this is a wonderful project, and, Keith, I really appreciate your time that we spent together going over some concerns that I had, but it appears already that we have got those worked out and they will be on the new plan that you will be submitting. I look forward to this coming back to us so we can approve this and allow the citizens in the Steele Creek area to have another opportunity at a great project.

Councilmember Carter said it looks like a real quality development from this perspective, but I have two questions about the cross-hatched section and the bottom perpendicular striped section. There are remainders on either side of the streets. Would the zoning for those remainders be what is proposed, or will they stay the same?

Ms. Keplinger said they are not included as a part of the petition, so it will remain as it is.

Councilmember Burgess said I just want to say how nice it is to have a petition with 715,000 square feet of development and 82.6 acres. In this economy, this is a really a welcome site.

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

* * * * *

ITEM NO. 15: HEARING ON PETITION NO. 2010-012 BY SREE HOTELS, LLC FOR A CHANGE IN ZONING OF APPROXIMATELY 0.32 ACRES LOCATED ON THE WEST SIDE OF LITTLE ROCK ROAD BETWEEN INTERSTATE 85 AND KEETER DRIVE FROM I-2 TO I-1

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this is a conventional petition from I-2 to I-1. There is no associated site plan. It is consistent with the West Side Strategic Plan, which calls for industrial and office uses, and staff is recommending approval.

Councilmember Carter said is this in the noise boundary area for the Airport?

Ms. Keplinger said I am not sure, but we will check into that and get you a definite answer on that before it comes back to you.

Councilmember Carter said either currently or in the long-range planning for the Airport because we have had to relocate some sites.

Ms. Keplinger said in the I-1 district residential uses aren't permitted anyway, so if it were, it could not be a residential use.

Councilmember Carter said it seems like there are a lot of beds here.

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

* * * * *

ITEM NO. 16: HEARING ON PETITION NO. 2010-013 BY ROGER AND PERINA STEWART FOR A CHANGE IN ZONING OF APPROXIMATELY 0.68 ACRES LOCATED AT THE NORTH INTERSECTION OF BELMONT AVENUE AND ALLEN STREET

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this petition was before you in July 2009 when it was approved. The request allowed 16 duplex flats or townhomes for people that are age 55 and over, and it also allowed 5,600 square feet of retail or office uses within a two-story building. This is the location of the two-story building. The proposed request is a site plan amendment, and it does not intensify the development. What it does is it is a request to take the second floor office space and move it from this building, put it in this building where the residential was, take the residential and put it on the second floor of the retail. The request is consistent with the Belmont Area Revitalization Plan, which was amended by the previous petition, and staff is recommending approval upon the resolution of outstanding issues.

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

* * * * *

ITEM NO. 17: HEARING ON PETITION NO. 2010-024 BY FREEDOM DRIVE DEVELOPMENT ASSOCIATION FOR A CHANGE IN ZONING OF APPROXIMATELY 0.28 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF FREEDOM DRIVE AND WEST MOREHEAD STREET FROM B-1(PED) TO B-1(PED-O)

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this petition is for a PED optional to allow the VW Volkswagen Bug on the top of the existing building to remain, so it is for a sign. The proposed uses include restaurants and all other uses that are allowed in the B-1 district. The optional provision will allow the existing roof sign, the Volkswagen Beetle to remain, and the existing freestanding sign along Freedom Drive to remain. The car may not contain any advertising for the building located on the site, but it may contain text that relates to the larger community. This is consistent with the West Morehead Land Use Plan, and staff is recommending approval upon resolution of outstanding issues.

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

Councilmember Dulin said I'm sorry, Mr. Mayor.

Mayor Foxx said we just closed the hearing on Item 17.

Councilmember Dulin said but I do have a question.

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

Councilmember Dulin said about the bug, I mean the bug is beat up. Are they going to be able to get up on the roof and clean the bug and repaint the bug, or does it have to stay in its natural stars and stripes state?

Ms. Keplinger said repair of the bug would be fine. What cannot occur is any text or advertising on it that is not related to the larger community, so repair and improvement would be –

Councilmember Dulin said it says something on it now, I think.

Ms. Keplinger said I believe it is red, white, and blue at this point.

Councilmember Dulin said I know it is red, white, and blue. I thought for some reason it had – maybe it doesn't, but it really is in need of repair. You guys plan on fixing it up a little bit, aren't you? Thank you very much, Mr. Mayor. I just was concerned.

Unidentified Speaker said (inaudible) writing that was on the back side of the bug.

Mayor Foxx said this is really important stuff.

Councilmember Burgess said I don't want to overdo this kind of thing, but since it's been there, I think it adds fun and character to our city, and I'm glad they are restoring it and keeping it.

Mayor Foxx said is it a bug or a Beetle?

Councilmember Burgess said a Beetle is a bug. If you were old enough, you would know that.

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

* * * * *

ITEM NO. 18: HEARING ON PETITION NO. 2010-014 BY CITY OF CHARLOTTE FOR A CHANGE IN ZONING OF APPROXIMATELY 1.05 ACRES LOCATED ON THE SOUTH SIDE OF THE INTERSECTION AT NORTH TRYON STREET AND EAST 5TH STREET FROM UMUD-O TO UMUD-O SPA

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this petition along with the next four petitions relate to the cultural arts facilities and signage. What you are going to see in these next petitions is an attempt to update to reflect the latest trends and technologies for these facilities. The first public hearing is for the Blumenthal Center. As you can see above you, the signs that we are showing are bulletin board type signs that are proposed for this facility -- in addition, the video boards on the top of the slide and also the banners. In addition, this sign is a unique sign because it does cover existing windows. There is a proposal within this request. The zoning ordinance allows up to 50% coverage of windows within any zoning district, and the proposal for Blumenthal is to allow 100% coverage for windows with video boards and LED screens along Fifth and College Street. All the other windows within the Blumenthal facility will have only up to 50% coverage, which is allowed by the ordinance. The example you see here is of a wall sign for the Blumenthal. This petition is consistent with the Central City Plan, and staff is recommending approval.

Tom Gabbard, 130 N. Tryon St., said I just wanted to briefly speak about our interest. This came out of a review several months ago that you may recall for our new cultural facilities at the Wells Fargo Cultural Center. In that process, we realized that we needed to go back to our Blumenthal area zoning and check to make sure that was up to date, so tonight we are coming forward with a few tweaks to that to bring that up to date. Let me say the signage here has two

major goals. First is to inform the public so they are well aware of the variety of cultural entertainment activities are available to them. We hear regularly from the public that they want more information about what is available to them. Secondly we see the signage as being part of our mission to enliven the uptown area so this is an attractive, energetic place for people to come and enjoy these events. The signage is a part of that whole process of animating uptown and making it an exciting destination for residents and tourists. We have included areas to include video, which is something that was not envisioned originally and is an example of tweaking this to bring it up to date to current standards of technology in advertising.

Councilmember Carter said on the proposed request details No. 6 addresses the windows, and I understand in the Blumenthal there are special window that are faux windows that have no vision into the interior of the building, and these are the ones in question.

Mr. Gabbard said correct. Along Fifth Street and College Street, there are windows that look into the back stage areas that have curtains in front of them, so without the signage we have proposed to be allowed, there are curtains there that prevent anybody from looking through. We see the signage frankly as a way to enliven windows that otherwise would just be a curtain.

Councilmember Carter said this is a specific rezoning for one building; is that correct?

Ms. Keplinger said, yes, ma'am. This is only for the Blumenthal.

Councilmember Carter said thank you. Now I understand that portion.

Councilmember Dulin said, Tom, good to see you again. I have had to work to come around to this, but I'm where I think I can be comfortable with it. I'm going to ask you somewhat light-heartedly, when is Spamelot going to roll back through? Your visit with the Spamelot actors was great.

Mayor Foxx said is this a land use question?

Councilmember Dulin said, no, sir, thank you. I will get back on point. This will be all right. I'm going to support it, but thanks for coming down with it. It's important.

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

* * * * *

ITEM NO. 19: HEARING ON PETITION NO. 2010-015 BY CITY OF CHARLOTTE FOR A CHANGE IN ZONING OF APPROXIMATELY 2.74 ACRES LOCATED ON THE NORTH CORNER OF THE INTERSECTION AT NORTH TRYON STREET AND WEST 6TH STREET FROM UMUD-O TO UMUD-O SPA

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said, again, this is specifically for Discovery Place. Some examples of the sign that would be allowed is the wall signage that you see above and the one that you see here also. With Discovery Place, they are asking for up to 70% window coverage along Sixth Street, and all the other street fronts and window panes will have 50% coverage as with the ordinance. Again, staff is recommending approval. It is consistent with the Center City 2010 Vision Plan.

Councilmember Carter said now this is 60% of windows in which you can see into the interior of the building; is that correct?

Ms. Keplinger said, I'm sorry, it's 70% of any of the windows.

Councilmember Carter said so those are windows that are interactive.

Ms. Keplinger said, yes, ma'am.

Councilmember Carter said, in other words, people can see in and people can see out.

Ms. Keplinger said, yes, ma'am.

Councilmember Carter said this is where I'm beginning to have problems because it's 70% versus 50% that is allowed; is that correct?

Ms. Keplinger said, yes, ma'am, and it is only along one street, along Sixth Street.

Councilmember Carter said but that is the entrance to IMAX. IMAX has a wraparound that feeds into that area, so you can see pedestrians outside. I have environmental questions about that. Is this allowable in land use?

Ms. Keplinger said, yes, ma'am.

Councilmember Dulin said I didn't get that last question.

Mayor Foxx said she hasn't asked it yet. She asked about environmental issues.

Councilmember Carter said workplace issues. Environmental workplaces are focused on having natural light in the workplace situation, and that includes people who use that area as visitors. So when you are waiting in line and not having the visibility out, there is a real problem for me. Number two, it's crime prevention – looking at people on the streets. It's septet. It's that whole interactive play that our police have looked at saying that it is easier to have eyes on the street and that makes it safer, so I have a problem there. So it's environmental and public safety wise that I would object to an increase in 50% allowable.

Councilmember Burgess said I assume that this would be the kind of film that you cannot see in but you can see out; do we know if that's the case?

Ms. Keplinger said, no, ma'am, I do not believe that has been specified.

Councilmember Kinsey said someone is here from Discovery Place, being reared here, and I'm sure he can answer some of those questions for us.

Councilmember Burgess said I have another question he might address.

Dean Briere, 1810 Tamworth Dr., said I'm vice president of strategic enterprises at Discovery Place. I want to just say how grateful Discovery Place is for the support from the City of Charlotte for the renovations that have gone on in there and the exhibits that we have developed. Everything that we have put in from the City support has gone inside to exhibits and to making the building more creature comfortable, so at the end what we needed to do was let people know that the renovation was complete and the exhibits that we have to offer. And that is what this plan is actually moving towards to come up with signage that can let people know that Discovery Place is new, it's been renovated, changing out our logos, and just adding some signage for the new exhibits that are coming or that will be there within the next few months. So with that being said, we have already taken quite a few steps to make that happen. All the windows along Tryon Street have been removed and replaced so that it lowers the glare so that people walking by can actually see into Discovery Place and see what is happening in there instead of getting the reflection as they walk by. New doors have been added from Tryon Street so that you can access Discovery Place, so the signage plan is just the last step in letting people know the changes that have taken place and what has gone on inside and what is happening inside. I will leave it at that so I can actually answer some of your questions.

Councilmember Burgess said I have a couple of questions. One, is the film you are going to put on the windows the kind that you can see out but not see in?

Mr. Briere said that is correct. If you look at the image behind you here, this is actually the area that was being referenced for the 70%. It was these bank of three windows right there just on

bvj

that corner of Sixth Street so that it could provide a vehicular view but be off from the pedestrian side as you are walking down Tryon being able to see in on the Tryon Street side.

Councilmember Burgess said my second question has to do with signage on the overstreet walkway and parking garage because I know I have seen other signage there that is very effective and I think adds a lot of color and vitality to our Center City. I didn't see it mentioned in here. Is that included?

Mr. Briere said actually the parking garage and the overstreet would fall in the general ordinance, which would allow us to continue doing what we have been doing. We would not be taking that away, but it is separate building, so it was considered separately.

Councilmember Barnes said I wanted to ask a question regarding the 70% on Sixth Street, which has been covered, and also to make a general comment about this petition, the next couple of petitions, and the one before regarding the Blumenthal. Part of what I appreciate about the effort is that people are trying to create a buzz in uptown and add to the flavor to the arts that exist, so some of these types of what I call minimal efforts are very much acceptable from the perspective of us trying to make the places attractive for visitors.

Ms. Keplinger said just a point of clarification. I don't believe I was very clear that the request for the 70% is only for this wall on Sixth Street, so this is the only area that would have 70% coverage.

Councilmember Turner said my question is to staff. The concern I have here – well, let me ask you this. Does this, in fact, compromise our current signage use, and how are we going to protect ourselves from someone else wanting to have the same opportunity. I'm looking at the Bobcats Arena. I mean we put a lot of restrictions on that facility, and when you have businesses now on the ground floor of that arena and we are building a hotel there, are we looking at a trend here now?

Ms. Keplinger said especially in the uptown area –

Councilmember Turner said Center City.

Ms. Keplinger said, excuse me, Center City area, we have some unique opportunities, and we have gone through the MUDD-O plans for many other facilities, like you said the arena. We feel like these are appropriate for the area, and since we are going through the conditional rezoning process that we can look to see if they meet the standards we would like to see for the uptown area, and we are comfortable with that.

Councilmember Carter said to me the wording is not clear about limiting it to that one section of windows. It says, "Allow coverage of up to 70% of the total contiguous window panes per wall elevation along the Sixth Street façade." To me, there are two sections – the one further down where you enter into the IMAX area as well as this one. By passing this, we are taking both sections and saying it's permissible to do 70%, and as much as I support the arts, and you know I do, I'm very concerned about having that interactivity of having people see what is going on and be drawn in by a magnet of the activity going on inside as well as having that advertised. I think 50%, which is allowed, is a very dynamic section, but it also allows you to see what is going on inside. I would love to see that further defined, and I would like to ask if when we vote on this proposal can we divide the motion?

Mayor Foxx said divide the motion into?

Councilmember Carter said to separate out what is allowable, and that would be the seventh item regarding window signage.

Terri Hagler-Gray, Assistant City Attorney, said you may fashion the motion in any way you like.

Councilmember Carter said next month. Thank you very much.

Councilmember Kinsey said I probably should know the answer to this, but I don't. The back windows at the corner of Sixth – you know, the circular part – those are not to be covered.

Mr. Briere said those are absolutely not to be covered. I can state that. I can understand the confusion in the way it is worded here. The only thing I can say to that is the true intent was this bank of windows right here. The circular part actually is on two elevations and not something we would intend to cover.

Ms. Keplinger said we'll work on that wording.

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

* * * * *

ITEM NO. 20: HEARING ON PETITION NO. 2010-016 BY PUBLIC LIBRARY OF CHARLOTTE AND MECKLENBURG COUNTY FOR A CHANGE IN ZONING OF APPROXIMATELY 2.79 ACRES LOCATED AT THE WESTERN CORNER OF THE INTERSECTION OF EAST 7TH STREET AND NORTH BREVARD STREET FROM UMUD TO UMUD-O

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this is a similar request. It is for the ImagiNon. The ImagiNon is proposing just 50% window coverage with signage. They are asking for up to 500 square feet per elevation for bulletin boards, and there are some other details listed in your agenda that I will be glad to go through if you would like for me to, but, again, this is for the cultural arts facility, and it's consistent with the Center City 2010 Vision Plan.

Jacqueline McNeil, 3205 Freedom Dr., Ste. 101, said I'm here on behalf of Mecklenburg County and the Public Library. I'm actually speaking for Petitions 16, 17, and 18, ImagiNon, the Main Library, and Spirit Square. Approval of these petitions like the similar petitions that you have heard tonight would allow us to enhance our signage option at those facilities. At this particular time, we have no plans to update that signage on those facilities, but approval of this petition will allow us increased options should we decide to make those updates at a future date considering the changes that are in the marketplace for signage today.

Councilmember Carter said it's sort of a comment. I just want to say thank you to the Public Library for the Hickory Grove new public library. It's absolutely astonishing, and you all need to see it.

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

* * * * *

ITEM NO. 21: HEARING ON PETITION NO. 2010-017 BY PUBLIC LIBRARY OF CHARLOTTE AND MECKLENBURG COUNTY FOR A CHANGE IN ZONING OF APPROXIMATELY 1.31 ACRES LOCATED ALONG THE SOUTH SIDE OF NORTH TRYON STREET BETWEEN EAST 6TH STREET AND EAST 7TH STREET FROM UMUD TO UMUD-O

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said I have a couple of examples of wall signage that are part of the library's proposal. This is for the main library, and they are asking for wall signage, which is up to 500 square feet per elevation, and that excludes their bulletin boards. These are some of the examples of some of the signage that is proposed. On all of these petitions, there is a note about advertising and how much advertising may be included for each sign, and it's 10% of any

of the banners up to 30 square feet, whichever is less, so you can see the Duke Energy symbol here, and that would qualify for that. Again, this is consistent with the Center City 2010 Vision Plan.

Jacqueline McNeil, 3205 Freedom Dr., Ste. 101, said like our other petitions before you tonight this would allow us greater signage options should we decide to update our signage package.

Councilmember Burgess said I had a question about the 10% for advertising. So you are planning to allow businesses to buy advertising on your banners?

Ms. McNeil said I think that should they decide to have a banner no more than 10% of it would be allowed for sponsorships of certain programs that may come to the library or to any of our facilities. When we have sponsorship of programs or exhibits, sometimes we list those.

Councilmember Burgess said I would have a greater degree of comfort if it were listed that way, that it would be a corporate sponsor for the event rather than just blanket advertising because we could get into advertising for companies that we may not want to put on our public library. Do you understand what I'm trying to say?

Ms. McNeil said we will consider that and look into it for greater details and make any changes that are necessary.

Councilmember Turner said I'm sorry, but that one really kicks me back to our arena issue we used to have. We restricted them when Time Warner purchased that, and this is to me very, very close in regards to one of the things we were talking about in their advertising – what they offer, and we put a very difficult restriction on them that they did not want. How close are we based on what she just said now?

Ms. Keplinger said I believe that this request, although I have not compared the two – we will do so and follow up with that – but I believe this is much more restricted than what we had on the arena because this is only 10% or 30 square feet of any banner.

Councilmember Turner said what about the advertisement piece?

Ms. Keplinger said that's all that can be or up to 30 square feet. If I may, the advertisement, one of the things they have agreed to for the main library is the advertisement identifies the sponsor by name, address, or logo, crest, insignia, trademark, or emblem, and it's the sponsor of the event provided on the premises. Again, it has the limitation, so that is already in there.

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

* * * * *

ITEM NO. 22: HEARING ON PETITION NO. 2010-018 BY MECKLENBURG COUNTY FOR A CHANGE IN ZONING OF APPROXIMATELY 1.55 ACRES LOCATED ALONG NORTH COLLEGE STREET BETWEEN EAST 6TH STREET AND EAST 7TH STREET FROM UMUD TO UMUD-O

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this request is for Spirit Square, and one of the unique features of it is that it is asking for 100% coverage, window coverage, with video boards or LED screens along 7th Street, and it could allow other signage other than video boards and LED. The other windows will be required to meet the 50% requirement of the ordinance. Again, staff feels like this is acceptable, and we are recommending approval.

Councilmember Burgess said does the WFAE have their studio that we like to watch as we walk by on Seventh Street and Spirit Square?

Jacqueline McNeil, 3205 Freedom Dr., Ste. 101, said, yes, it is.

Councilmember Burgess said we wouldn't want to cover that up. Are you proposing to cover that up?

Ms. McNeil said, no, that proposal was just for the bank of windows along Seventh Street.

Councilmember Burgess said we don't have that on our screen.

Ms. McNeil said it is the previous one.

Councilmember Burgess said it's not in our write-up that way. If we could clarify it that it would not cover up WFAE studio uptown that would be helpful.

Tom Gabbard said I was just prepared to answer questions.

Councilmember Carter said is that the gallery then?

Ms. McNeil said Tom may want to answer that. I think it's just a bank of windows.

Mr. Gabbard said I think what has been pointed out on the 100% the intention was to focus on just this set of windows which is backed by wood in back, so I think separating out WFAE where those studios are, separating that out would be great. I think that was the intention. As far as the gallery goes, are you referring to the Knight Gallery?

Councilmember Carter said yes.

Mr. Gabbard said that's along College Street, so if we want to amend this to have the 100% just focus on the windows you are seeing on this screen that was really all we were intending.

Councilmember Carter said there is an intent here that is not as apparent as it should be I think to us that they are blind windows when we are talking about 100% or somewhat less coverage, and it would have helped me a great deal to know that these were windows that led nowhere. Thank you. I really do appreciate that.

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

* * * * *

MAYOR AND COUNCIL TOPICS

Councilmember Turner said can anybody give us an update what is the status of the service center out at Wilkinson Boulevard in regards to paying their water bill and other facilities? It's been closed for the last week or so, and I was told it would be opened today, and it was closed again today, and no one has been able to give us an explanation of why it's closed.

Curt Walton, City Manager, said I thought it was going to be open today, too, so I'll find out and send you an email.

Councilmember Howard said to continue what I have been doing for a while just to share with the citizens the importance of the census coming up. I will just read a little here. What we have done tonight is provided some nice dandy hats for everybody at the dais, and, of course, I messed up because I forgot about my good friends at the Zoning Committee, and they have reminded me of that already.

Just a few things about the census. I have already shared the important stuff – the fact that we only do this every ten years, and over \$400 billion a year is distributed to states and local governments as a result of it. Just a couple of other points. Organizations use the census data to

bvj

apply for grants and for funds and for programs and initiatives that are important to this community including the City. Businesses use the data to make critical decisions about where they are going to place new offices as well as stores, which is important to the economic development we do as a community.

Lastly, I just want to touch on the confidentiality, which is always one of those things that is very sensitive to the community. The information that you provide on your census form, and I actually have a copy of a sample, and ten questions. The information you provide is confidential. By law, the Census Bureau cannot share response answers with anyone including all local, state, and federal agencies and law enforcement entities. All Census Bureau employees take an oath of nondisclosure and are sworn for life to protect the confidentiality of the data. A penalty for unlawful disclosure of this information is a fine of \$250,000 and up to five years of imprisonment. The point is that this information is extremely confidential, so the public should feel comfortable sharing this information because it goes for a lot of other reasons that I already outlined. If you have more questions and would like more information, you can visit the Census Bureau's Web site at 2010census.gov.

* * * * *

ADJOURNMENT

The meeting was adjourned at 7:38 p.m.

Stephanie C. Kelly, CMC, City Clerk

Length of Meeting: 2 Hours, 13 Minutes
Minutes Completed: March 10, 2010