

### **DINNER BRIEFING**

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Thursday, March 18, 2010, at 5:23 p.m. in Room CH-14 of the Charlotte-Mecklenburg Government Center with Mayor Pro Tem Susan Burgess presiding. Councilmembers present were: Michael Barnes, Nancy Carter, Warren Cooksey, Andy Dulin, Patsy Kinsey, James Mitchell, Edwin Peacock III

**ABSENT UNTIL NOTED:** Mayor Anthony Foxx, Councilmember David Howard

**ABSENT:** Councilmembers Patrick Cannon, Warren Turner

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**Tammie Keplinger, Planning**, reviewed the list of deferrals and staff presentation and went over the follow-up report for the February 15, 2010, Zoning meeting. Ms. Keplinger answered Council's questions on Petitions Nos. 2010-014, 2010-015, 2010-016, 2010-017, and 2010-018 regarding signage and corporate sponsorships for the cultural arts facilities.

**Mayor Foxx arrived at 5:25 p.m.**

**Debra Campbell, Planning**, alerted Council to a case coming April 19, 2010, with a request from Greater Galilee Church to re-file a zoning petition.

Council also discussed an email sent by Mayor Foxx regarding City Council conduct.

The briefing was recessed at 5:57 p.m. for the Council to move to the Council Meeting Chamber.

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### **ZONING MEETING**

The Council reconvened at 6:06 p.m. in the Council Meeting Chamber of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding

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### **INVOCATION AND PLEDGE**

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

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Mayor Foxx explained the Zoning Meeting rules and procedures. He recognized the chairman of the Zoning Committee, Steven Rosenboro, who introduced his committee and said their next meeting would be Wednesday, March 24, 2010.

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### **DECISIONS**

**ITEM NO. 1: ORDINANCE NO. 4387-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 1.89 ACRES LOCATED ON SARDIS ROAD ACROSS FROM WILBY DRIVE FROM R-3 TO INST (CD)**

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

[ Motion was made by Councilmember Burgess, seconded by Councilmember Dulin, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2009-050 ]  
[ for the above rezoning by Mt. Tabor Community Development Corporation as modified ]  
[ and as recommended by the Zoning Committee. ]

The modifications are:

1. The petitioner added a note stating the dedication of the property for greenway purposes will occur prior to issuance of building permits.
2. In light of there being no set timeframe for design and construction of the greenway or available funding, the petitioner has responded to the request for information about how the open space, greenway, greenway access and elevation near what appears to be the creek line will co-exist by providing the following language on the site plan (with input from the Mecklenburg Parks and Recreation Department staff):
  - (a) The petitioner and county agree to allow a connection from the petitioner's property to the greenway access trail in the future. Construction of the petitioner's private access trail will occur at the same time or after the county's construction of the greenway access trail. The construction of the private access trail will be designed and built in strict accordance with ADA and ANSI codes and standards.
  - (b) The county will build the greenway access trail at some point in the future as funding allows.
  - (c) The petitioner would be provided a point to connect onto the county trail that would enable the clients of the petitioner access.
  - (d) The petitioner agrees to work with the county for this future connection.
  - (e) Any necessary cooperative agreements required by the county will be pursued when design and construction is anticipated.
3. The petitioner added language to the site plan stating that the purpose of the 120foot gravel drive for dry land access is to provide for the ability to access a habitable building during a flood condition and that the ordinance requires that a site provide a dry land access point at the highest point on the property when flood conditions prevent the driveway from being used.
4. The petitioner revised the site plan to show the drainage easement (per deed) and to show that the parking area appears to be outside of the drainage easement. The petitioner has provided language on the site that clarifies what the adjacent note regarding "future conditions flood fringe elevation" means and states that it is the elevation by which the parking and building need to be referenced. The parking and building have minimum criteria that use this elevation (a completed and approved flood study established the elevation).
5. The petitioner added a note to the site plan stating that any modifications to the site plan will be in accordance with Section 6.2 of the City of Charlotte Zoning Ordinance.
6. The petitioner amended Note 8.1 to read "...shielded with full cut off fixtures..."
7. The petitioner confirmed with staff that no structures are associated with the proposed water quality features.

The ordinance is recorded in Ordinance Book 56 at Pages 564-565.

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**ITEM NO. 3: ORDINANCE NO. 4388-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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)**

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

[ Motion was made by Councilmember Barnes, seconded by Councilmember Dulin, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-011 ]  
[ for the above rezoning by Steele Creek (1997) Limited Partnership as modified and as ]  
[ recommended by the Zoning Committee. ]

The modifications are:

1. The internal private roadway has been modified to include a six-foot wide sidewalk separated from the curb by an eight-foot wide planting strip on both sides of portions of the private roadway that intersects with New Dixie River Road. They will be provided on one side of the remaining private roadways.
2. The petitioner noted an internal sidewalk network will be constructed that connects each use via a five-foot wide sidewalk to the sidewalk along private roadways and public streets.
3. The petitioner provided through lane transition on New Dixie River Drive at Access "C".
4. The petitioner added a northbound left-turn lane on Trojan Drive with 150 feet storage with appropriate tapers at Access "A".
5. Petitioner provided two egress lanes exiting the site at the future signalized Access "C", location.
6. The language in the conditional notes has been modified as follows: "When traffic signal control is justified by CDOT, all associated costs will be either shared between the petitioner and others or solely the responsibility of the petitioner if others are not ready to develop". The petitioner at their discretion may elect to construct the signal with steel posts and mast arms at no additional costs to others.
7. The petitioner reduced the construction phasing of New Dixie River to two phases versus three.
8. A note has been added stating the New Dixie River roadway construction from Berewick Commons Parkway to Sandhaven Way and the installation of a new traffic signal at New Dixie River Road and Sandhaven Way will occur and be in place prior to issuance of a final certificate of occupancy for more than 420,000 Parcels C and D.
9. A note has been included indicating that when the petitioner designs and constructs the extension of Berewick Commons Parkway through Parcel C including stubbing the street to tax parcel 199-241-22, the stub street to tax parcel 199-241-22 will be designed and constructed as is customary through the City of Charlotte's subdivision process. The petitioner will design the stub street during the subdivision process in plan and profile using the latest city topography available from Berewick Commons Parkway to Trojan Drive to determine the most cost effective street connection. In addition, the petitioner will cooperate with the City during the final design of the extension of the stub street by others from Parcel C to Trojan Drive.
10. A note has been added that the petitioner will construct the westbound approach at Access "F" with one ingress lane and two egress lanes as exclusive left- and right-hand turn lanes.
11. A note has been added that the petitioner will construct the northbound approach at Access "T" with one ingress lane and two egress lanes as exclusive left- and right-turn lanes.
12. The petitioner included the Right of Way Acquisition paragraph to align with the City's current real estate acquisition policy to read as follows: It is possible that the Petitioner will have to acquire off-site right-of-way to complete some of these roadway improvements. If after three reasonable efforts have been made by the Petitioner to acquire such right-of-way on market rate terms, such efforts to be expended for a period of 60 days, the Petitioner has not been successful, the City of Charlotte will assist in the acquisition of right-of-way in accordance with its standard policies. In such event, the Petitioner will reimburse the City for costs associated with this right-of-way acquisition.
13. The petitioner will remove the dimensions on street cross-sections that must comply with CDOT and subdivision standards.
14. The petitioner reflected proposed zoning in Parcels A and B as CC.

The ordinance is recorded in Ordinance Book 56 at Pages 566-567.

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**ITEM NO. 4: ORDINANCE NO. 4389-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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(LLWPA) TO I-1(LLWPA)**

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 Mitchell, seconded by Councilmember Carter, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-012 ]  
[ for the above rezoning by Sree Hotels, LLC as recommended by the Zoning Committee. ]

The ordinance is recorded in Ordinance Book 56 at Pages 568-569.

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**DEFERRALS**

Mayor Foxx said I apologize, folks. I neglected to pull out the items that have been deferred. Can we have those itemized for us?

Councilmember Dulin said Item 2 and Item 15 are the two deferrals.

[ Motion was made by Councilmember Burgess, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to defer Item No. 2, Petition No. 2009-075 for three months, and to ]  
[ defer Item No. 15, Petition No. 2010-023 for one month. ]

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**DECISIONS (CONTINUED)**

**ITEM NO. 5: ORDINANCE NO. 4390-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 0.68 ACRES LOCATED AT THE NORTH INTERSECTION OF BELMONT AVENUE AND ALLEN STREET**

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

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Mitchell, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-013 ]  
[ for the above rezoning by Roger and Perina Stewart as modified and as recommended by ]  
[ the Zoning Committee. ]

The modification is:

1. The petitioner removed the asterisks shown by the proposed maximum building height.

The ordinance is recorded in Ordinance Book 56 at Pages 570-571.

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**ITEM NO. 6: ORDINANCE NO. 4391-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 1.05 ACRES LOCATED ON THE SOUTH SIDE OF THE INTERSECTION AT NORTH TRYON STREET AND EAST 5<sup>TH</sup> STREET**

Mayor Foxx said the Zoning Committee found this petition to be consistent with The Center City 2010 Vision Plan and reasonable and in the public interest.

[ Motion was made by Councilmember Howard, seconded by Councilmember Burgess, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-014 ]  
[ for the above rezoning by City of Charlotte as modified and as recommended by the Zoning ]  
[ Committee. ]

The modifications are:

1. The petitioner amended Note 1 to allow a maximum of three banners per wall elevation. Deleted reference to “multiple banners per establishment”.
2. The petitioner amended Note 5 to allow a maximum of 14 bulletin boards for the sole purpose of posting notices of upcoming events consisting of 12 existing bulletin boards on the North Tryon Street façade and two proposed bulletin board displays on the College Street façade. The proposed bulletin boards total 65 square feet in area. In addition, provided a reference to an accompanying labeled attachment that specifies the location of the existing bulletin boards.
3. The petitioner amended Note 6 to specify that window signage is for the sole purpose of posting notice of upcoming events and referenced accompanying attachments that specify the location of window signage along the Fifth Street and College Street facades for which 100 percent coverage is requested.

The ordinance is recorded in Ordinance Book 56 at Pages 572-573.

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**ITEM NO. 7: ORDINANCE NO. 4392-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 2.74 ACRES LOCATED ON THE NORTH CORNER OF THE INTERSECTION AT NORTH TRYON STREET AND WEST 6<sup>TH</sup> STREET**

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Center City 2010 Vision Plan and reasonable and in the public interest.

[ Motion was made by Councilmember Burgess, seconded by Councilmember Howard, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-015 ]  
[ for the above rezoning by City of Charlotte as modified and as recommended by the Zoning ]  
[ Committee. ]

The modifications are:

1. The petitioner added a note that approval for any additional attached signage on the parking deck will be obtained from the Historic District Commission.
2. The petitioner amended Note 1 to allow a maximum of three banners per wall elevation. Deleted reference to multiple banners per establishment.
3. The petitioner specified that window signage may be in the form of video or LED screens.
4. The petitioner amended Note 7 to reference an accompanying attachment that specifies the location of window signage along the Sixth Street and North Tryon Street facades for which 70 percent coverage is requested.

The ordinance is recorded in Ordinance Book 56 at Pages 574-575.

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**ITEM NO. 8: ORDINANCE NO. 4393-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 2.79 ACRES LOCATED AT THE WESTERN CORNER AT THE INTERSECTION OF EAST 7<sup>TH</sup> STREET AND NORTH BREVARD STREET FROM UMUD TO UMUD-O**

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Center City 2010 Vision Plan and reasonable and in the public interest.

[ Motion was made by Councilmember Howard, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-016 ]  
[ for the above rezoning by Public Library of Charlotte & Mecklenburg County as modified ]  
[ and as recommended by the Zoning Committee. ]

The modifications are:

1. The petitioner amended Note 1 to allow a maximum of three banners and deleted references to “multiple banners per establishment”.
2. The petitioner amended Note 4 to allow for five existing bulletin boards and referenced attachment 2010-016A, B, C, D, E containing pictures.
3. The petitioner specified that window signage may be either video or LED screens.
4. The petitioner amended Note 7 to specify that video screens are permitted at a maximum size of 200 square feet per operating unit.

The ordinance is recorded in Ordinance Book 56 at Pages 576-577.

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**ITEM NO. 9: ORDINANCE NO. 4394-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 1.31 ACRES LOCATED ALONG THE SOUTH SIDE OF NORTH TRYON STREET BETWEEN EAST 6<sup>TH</sup> STREET AND EAST 7<sup>TH</sup> STREET FROM UMUD TO UMUD-O**

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Center City 2010 Vision Plan and 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. 2010-017 ]  
[ for the above rezoning by Public Library of Charlotte & Mecklenburg County as modified ]  
[ and as recommended by the Zoning Committee. ]

The modifications are:

1. The petitioner amended Note 1 to allow a maximum of three banners. Deleted reference to multiple banners.
2. The petitioner amended Note 4 to allow a maximum of eight bulletin boards at a maximum of 161.6 square feet along the Sixth Street façade and a maximum of 97 square feet along the North Tryon elevation.
3. The petitioner specified that window signage may be in the form of video or LED screens in addition to traditional signage.
4. The petitioner amended Note 7 to specify that video screens are permitted at a maximum size of 200 square feet per operating unit.

The ordinance is recorded in Ordinance Book 56 at Pages 578-579.

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**ITEM NO. 10: ORDINANCE NO. 4395-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 1.55 ACRES LOCATED ALONG NORTH COLLEGE STREET BETWEEN EAST 6<sup>TH</sup> STREET AND EAST 7<sup>TH</sup> STREET FROM UMUD TO UMUD-0**

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Center City 2010 Vision Plan and reasonable and in the public interest.

[ Motion was made by Councilmember Howard, seconded by Councilmember Burgess, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-018 ]  
[ for the above rezoning by Mecklenburg County as modified and as recommended by the ]  
[ Zoning Committee. ]

The modifications are:

1. The petitioner amended Note 1 and deleted the language “multiple banners per establishment”. The petitioner has added “Allow a maximum of three banners per wall elevation that may not be attached to the building wall or canopy on a permanent basis.
2. The petitioner amended Note 4 to allow the five existing exterior bulletin boards located on the N. Tryon Street elevations (identifying Attachments) for the sole purpose of posting notices of tenant names or upcoming events.
3. The petitioner added a note to state that video screens are permitted at a maximum size of 200 square feet per operating unit and limit to a maximum of one video screen per elevation.

The ordinance is recorded in Ordinance Book 56 at Pages 580-581.

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**ITEM NO. 11: ORDINANCE NO. 4396-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 0.28 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTIN OF FREEDOM DRIVE AND WEST MOREHEAD STREET FROM B-1(PED) TO B-1(PED-O)**

Mayor Foxx said the Zoning Committee found this petition to be consistent with the West Morehead Land Use and Pedscape Plan and reasonable and in the public interest.

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Howard, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-024 ]  
[ for the above rezoning by Freedom Drive Development Association as modified and as ]  
[ recommended by the Zoning Committee. ]

The modifications are:

1. Clarification that the requested optional provisions are to allow the existing roof sign (Volkswagen Beetle) to remain and to allow the existing detached sign to remain.
2. Clarification that the existing detached sign is out of the public right-of-way and is a maximum of 16 feet high and 24 square feet in size.

The ordinance is recorded in Ordinance Book 56 at Pages 582-583.

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**HEARINGS**

**ITEM NO. 12: HEARING ON PETITION NO. 2009-074 BY SYCAMORE I, LLC FOR A CHANGE IN ZONING OF APPROXIMATELY 4.71 ACRES LOCATED ALONG WEST 6<sup>TH</sup> STREET AND NORTH SYCAMORE STREET FROM UR-2 AND UR-3 TO UMUD(CD) WITH FIVE-YEAR VESTED RIGHTS**

The scheduled public hearing was held on the subject petition.

**Tom Drake, Planning**, used a slide presentation to illustrate his comments and said this is a rezoning petition in Third Ward rezoning from UR-2 and UR-3 to a UMUD(CD) with five-year vesting. As you can see, the location is at about Fifth Street and I-77. The proposed use is 416 multifamily units in several buildings – six, 12, and 20 stories in height. The 20-story building is up to 275 feet in height. The petition also includes 112,000 square feet of nonresidential space of which 12,000 may be retail or restaurant.

The petition is inconsistent with the Third Ward Land Use and Urban Design Plan, however, the staff is supporting the petition. The plan calls for open space/park on this location. This location is vacant land adjacent to Irwin Elementary School and Ray's Splash Planet. It's publicly owned. The site plan contains some elements that we believe make it worth supporting despite the fact that it is not consistent with the plan. It does provide for the continuation and improvement of the Irwin Creek Greenway, thereby fulfilling partially the park open space intentions in the plan. The petition also contains workforce housing, and there has been considerable high intensity development in this portion of the city since the governing plan was adopted in 1997. If you look at the current zoning map up there, you will see that the purple area is already UMUD, and there is a bunch of it in close proximity to this site. So, in conclusion, we have some technical issues remaining on the site plan, but we are confident that with those worked out we will be able to support this petition.

**John Carmichael, 214 N. Tryon St.**, said I represent the petitioner, Sycamore I, LLC. With me tonight are John Arciero and Vincent James of Sycamore I, LLC and Bob Lauer of ADW Architects, the petitioner's architect on the project. These gentlemen are available to answer any questions you may have tonight. The site is about 4.71 acres. It's located at the intersection of West Sixth Street and North Sycamore Street. It's essentially right next to Ray's Splash Planet and Irwin Elementary and next to the Elmwood Cemetery and Irwin Creek.

The existing zoning, as Tom indicated, is UR-2 and UR-3. Under this petition, the petitioner seeks to rezone the site to UMUD(CD) to accommodate the development of a mixed use sustainable project that could contain up to 112,000 square feet of non-residential uses such as office, retail, service, and restaurant uses and up to 416 multifamily residential units. The multifamily residential units could be a for-sale product or a rental product depending upon market conditions. Under the petition, the site could be devoted to any use allowed in the UMUD district except for certain uses, which have been prohibited under the conditional rezoning plan. These uses are adult establishments, lounges, nightclubs, bars, taverns, and cabarets, gasoline sales facilities, pest control services, funeral homes, building material sales, car washes, commercial rooming houses, and equipment rental and leasing, however, a restaurant that serves alcoholic beverages could be located on the site as well as an alternative fueling station provided that the alternative fueling station was located within a parking deck.

As I mentioned before, up to 112,000 square feet could be nonresidential uses. Of that 112,000, only 12,000 square feet could be devoted to retail uses, and it's anticipated that the remaining 100,000 square feet would be devoted to office uses. It is anticipated that Charlotte-Mecklenburg Schools would occupy 25,000 of the office space. CMS is an owner of a portion of this site and has been working with the petitioner from the outset. As Mr. Drake mentioned workforce dwelling units, 32 of the 416 multifamily dwelling units would be required to be workforce dwelling units. Workforce is defined on the zoning plan as multifamily dwelling units designed to serve households with an income range of 50% to 200% of the area median income. The current plans do not call for publicly funded workforce housing, however, the petitioner has reserved the right in the plan to pursue a waiver from the City of Charlotte to permit publicly funded workforce housing to be located in the development in the future. CMS is supportive of the workforce housing component of this proposed project.



At full build-out, there would be three buildings located on the site. Building A is here. It would be a maximum six-story mixed-use building that would contain office, retail, and some residential uses. This is designated as Building B on the site plan. That would be a maximum 12-story building that would also be a mixed-use building, and the majority of that building would be office space but would have some retail and residential uses, and finally Building C would be a maximum 20-story and 275-foot tall building that would contain primarily the residential uses I spoke of previously.

The way the project was designed the shortest building is immediately adjacent to North Sycamore Street, and then the buildings increase in height as you move away from the street towards Irwin Creek and to Interstate 77. This was done to be somewhat sensitive to the surrounding areas towards the Center City side.

Mayor Foxx said can you kind of orient us to where Ray's Splash Planet is?

Mr. Carmichael said be happy to, Mr. Mayor. Ray's is right there, and then this is Irwin Elementary. Irwin Avenue is down here, Mr. Mayor, and 77 is right there, and this is Fifth. That's Elmwood Cemetery. There would be abundant open space on the site. There would be improved open space that meets the requirements of the ordinance. In addition to the urban open space, a minimum of 100,000 square feet or 2.3 acres of the site would be devoted to common open space. An earthen terraced amphitheater would be constructed for community events. A fountain would be installed in the roundabout. This would be an improved hardscape and greenway plaza area. A grand stairway would be located here connecting the existing activities field for Ray's Splash Planet to the greenway plaza. There would also be a greenway plaza here, a hardscape greenway plaza here that would lead down to the Irwin Creek Greenway. The site at full build-out would have structured parking facilities. The structured parking would be located under Building A, Building B, Building C, and under the plaza and hardscape area between these buildings. Ten-foot sidewalk with a six-foot planting strip would be installed along North Sycamore Street as shown on the plan.

The greenway, as Mr. Drake mentioned, would be improved. The greenway improvements would include right now opening up this perennial stream here. Right now that water is piped in a 72-inch pipe that is buried underground, and it currently dumps dirty water into Irwin Creek. Under this project, the petitioner would open up the stream and restore the stream, and the design and installation would be done in conjunction with the Army Corps of Engineers. It would actually also have not only an aesthetic component but a cleaning component. It would clean the water prior to being – I'm not going to use the word "dumped" – prior to it flowing into Irwin Creek.

The petitioner would also improve and widen the greenway path adjacent between the site and Irwin Creek. It would have a minimum width of ten feet except it would have a minimum width of 12 feet next to the retaining walls. There would be stone or simulated stone retaining walls. Pedestrian lighting would be installed along the greenway. The greenway path would also be extended to the existing gate and path in the Elmwood Cemetery. A bridge would need to be constructed here across the restored stream or creek, which would be done, and then the path, as I mentioned, would be extended to Elmwood Cemetery. There would also be a ten-foot wide handicapped accessible path to the greenway from the site, and there would also be a path connecting the greenway to the front of Ray's Splash Planet, and that would also be handicapped accessible. There would be a canopy here connecting Ray's Splash Planet to the structured parking facility underneath Building A because under the petition petitioner is required to provide at least 59 parking spaces in the parking structure to serve the employees, guests, and invitees of Ray's Splash Planet.

The site also would incorporate sustainable development features. These include a green vegetative roof on Building A, a green vegetative roof on Building C. Other sustainable features include the abundance of open space, 2.3 acres at a minimum. At full build-out, if it were built out in full, you would have a green plaza over the structured parking facility. There would be natural daylight. The mixture of uses, as you know, is a sustainable feature, and then as I previously mentioned the creek restoration.

Architectural perspectives have been submitted with a plan, and the petitioner is tied to these architectural renderings. They illustrate the architectural character of the building. As you can see, this is facing – this is what you would see from North Sycamore Street. This is Building A, the six-story building; Building B, the 12-story building, and then back adjacent to the creek is the maximum 20-story building. A combination of materials would be incorporated into the building. They would include brick, precast cast stone, or other synthetic or composite materials, glass-coated metal as well as prefabricated awnings. Each building top shaft and base would be clearly delineated as individually identifiable components. As I said, these are part of the petition, and they depict the conceptual architectural style and character of the buildings proposed to be constructed on the site.

CDOT did not require a traffic impact analysis to be submitted in connection with the petition. It did require a technical transportation memorandum, which is not as detailed or as extensive as a traffic impact analysis, but the result of that memorandum was the requirement that the petitioner install certain transportation improvements. These are 16 recessed on-street parking spaces located on the north side of West Sixth Street and then a ten-foot wide westbound right-turn lane on North Sycamore Street onto West Fifth Street. What's interesting about this is the turn lane would function as a right-turn lane during the peak hours. During the non-peak hours, it would not function as a turn lane and would accommodate I think four recessed on-street parking spaces. But those were the transportation improvements that were the result of the Transportation Technical Memorandum, and under the rezoning plan they are required to be completed prior to the first CO for any building on the site. So if the project is phased, they would be installed in Phase 1.

Speaking of phasing, when we were meeting with some of the area residents, they had a concern that if only one building was constructed here what would the remainder of the site look like, and that's a reasonable question. Is that ten minutes? This is the first time I ever miscalculated my presentation to my knowledge.

Councilmember Carter said, Mr. Mayor, I think we interrupted, and I think there might be some time on the clock that could be allocated if we ask if there is any future plan for phasing.

**Councilmember Turner arrived at 6:26 p.m.**

Mayor Foxx said can we hold that until we hear from the other side and then also the rebuttal, and then we can ask questions. We have a number of folks who have signed up to speak against, and I hope they have coordinated their time because they have a combined ten minutes.

**Virginia Woolard, 638 Hempstead Pl.**, said thank you for allowing us to come tonight and share our thoughts about this very, very special place in Third Ward. I have the privilege to serve as the president of the Committee to Restore and Preserve Third Ward. We have been in existence since 1981 under the leadership initially of Dr. Mildred Baxter Davis, and it is our hope that in everything that we do we try to follow her spirit and her caring for the neighborhood. I'm not very a very good arguer, but I would have a different perspective, if I may. We are against the petition. I would have a different perspective on our land use plan, a Third Ward future. I do not see from my knowledge of that plan that there have been any large buildings built that were not foreseen in that plan. We have the Gateway, we have the apartment houses, we have Johnson Wales, but we do not have any very large buildings of the sort that are suggested tonight.

Our plan suggests, recommends, and was approved by City Council in 1997 that this land would be open space. It is just as important to have open space as it is to have tall buildings. Our neighborhood is – these two facilities, Ray's Splash Planet and Irwin Avenue School, serve the entire community, and to place this large complex there to me is a suffocating type of experience for that spot, for that site. Also, this land, of course, is owned by the School Board. You hear the zoning category UR-3, well, it had that from the very beginning as a part of the school's property. That is what it was when there was just a school there before Ray's Splash Planet came, but in the year 2000 the School Board, who owns this land, established a contract with the Park and Recreation Department so they could have this land as open space until the year 2060, which goes right along with the plan which the City Council Adopted.

To have this change at this point in time just seems so unfair when we need open space so dramatically particularly in that neighborhood because the land has been given over to a dog park, part of our open space now is used for a dog park. The other parts of our Frazier Park they are taken basically, so as you will remember Third Ward was the place for the gold mines. Gold was a very special part of our history. We don't have that any more, but I hope in your minds you will think about these 4.6 acres to us is gold. It is so special it cannot be replaced. Thank you for your kindness in listening.

Mayor Foxx said thank you, and you have got three and a half minutes in.

**John Schwaller, 245 Victoria Ave.**, said I a resident of Third Ward and also the president of the Third Ward Neighborhood Association. I am also speaking this evening in opposition to Rezoning Petition 2009-074 for the proposed Sycamore at Gateway project. The nine member board of the Third Ward Neighborhood Association has moved to oppose this petition because the proposal is inconsistent with the development guidelines created by the Planning Department in partnership with the neighborhood and adopted by City Council. That is in the Third Ward Future Document that Ginny just referenced, and as she noted and as noted in Planning's presentation, that plan calls for preservation of open space on this site.

When we took a look at the plan, we even considered what guidelines should be in place if development were even allowed on this site, which is not recommended. These guidelines emphasize consistency with historic bungalows on Irwin Avenue with Irwin Avenue Elementary School and the pastoral nature of Elmwood-Pinewood Cemetery, which is directly adjacent to the site. It happens there is also brand new development across from the site as well. These are three-story townhomes. It is not a large, massive, mixed-use development -- three story townhomes, which are under construction now and which observe the development guidelines of the planning document.

The Third Ward Area Plan and other planning documents specifically recommend that high intensity mixed-use development be located along high traffic West Trade Street corridor; not among single family homes and townhomes. You might also note that the draft version of the Center City Vision Plan, the 2020 Vision Plan, of which I'm a steering committee member, makes the same recommendations, which are consistent with these guidelines. I have photographs of this area that is around the site and actually some aerial photographs as well. I will put a link to these on [thirdward.org](http://thirdward.org). That's our neighborhood Web site. I encourage you to take a look at them.

Before I conclude, I want to be certain that one point is clear. Third Ward is not generally opposed to new development. In recent years, we have welcomed an NFL stadium and thousands of students at Johnson and Wales University, and in coming years, we hope to see the construction of Romare Bearden Park, Gateway Station, and a brand new baseball stadium. We don't seek to stop development in Third Ward, but we do seek that it be appropriate for its context. There are numerous sites in Third Ward along West Trade Street and elsewhere that would be an excellent location for a major mixed-use development and would observe the guidelines set down in the planning documents and adopted by the City Council. Locating this massive development among bungalows and townhomes of an historic neighborhood would be a mistake. Thank you for your consideration.

Mayor Foxx said is there a third speaker?

Mr. Schwaller said the representatives of Fourth Ward are not yet here.

Mayor Foxx said we don't have the ability to unring the bell once we close this portion of the hearing. You have three and a half minutes.

Mr. Carmichael said I understand Ms. Woolard's comments and Mr. Schwaller's comments. The developer tried to be sensitive to the adjoining properties by stepping back the development in terms of height – the lowest building on North Sycamore and increasing in height as you move away from the site towards Irwin Creek and 77, and there is an elevation change as well from North Sycamore Street down to 77. In terms of open space, there is a loss of open space. There is no question about that. I don't have the figures with me and I'm not aware that they have been

calculated, but I don't think the net loss in open space is that dramatic because a portion of the site now is a paved parking lot, but there is definitely a loss of open space. As I mentioned before, we are preserving an excessive – about 2.3 acres of open space under this petition, and that's the extent of my rebuttal.

Councilmember Carter said I think Mr. Carmichael has had his chance to make a statement, and have you finished your statement?

Mr. Carmichael said, yes, I have, Ms. Carter.

Councilmember Peacock said, Mr. Carmichael, I was going to ask you on the drawings that we see elevations I was curious about – looks like there is an atrium that hangs out that this Ray's Splash Planet. I don't understand that connectivity between the site and how you get to Ray's Splash Planet – how they are bridging the two.

Mr. Carmichael said, Mr. Peacock, you are talking about right here where the school bus is located?

Councilmember Peacock said yes.

Mr. Carmichael said the question is how would you get to – you would drive down here and into the parking deck – if that's your question, Mr. Peacock. Drive down North Sycamore, enter the parking deck, and then exit the parking deck and walk under the canopy to Ray's Splash Planet.

Councilmember Peacock said so you are not preventing connectivity to Ray's Splash Planet through the project, so you can still see Ray's Splash Planet, you can still get access to it.

Mr. Carmichael said exactly and providing an access from and maintaining access from the greenway to Ray's Splash Planet as well. There is a path that goes from the greenway path to right here to the entrance of Ray's Splash Planet. Also sidewalks here and then here allow you to walk to Ray's Splash Planet from a different direction.

Councilmember Burgess said I have three questions, and the first one is that some place, and I don't know where I got the idea because it's not in the write-up and I didn't hear you say this. I thought the office space would be used by the Charlotte-Mecklenburg Schools for administrative office space; is that correct?

Mr. Carmichael said CMS is an owner of a portion of the site, and under the dealings with CMS they would occupy 25,000 square feet of the 100,000 square feet for administrative space. Now, there is a draft agreement going back between the parties – I will not tell you it has been finalized, but I believe there is an option to take another 75,000 square feet. So, 25,000 square feet for CMS, and then they would have the option to go above that.

Councilmember Burgess said is the plan for CMS to use this as one of the regional offices or the central office or where are they going with 100,000 square feet?

Mr. Carmichael said I have no idea, Ms. Burgess, about their plans.

Councilmember Burgess said so we don't have anybody from the –

Mr. Carmichael said Mr. Raible couldn't be here tonight. All I can tell you is they would take 25,000 square feet. I can't tell you the specific use to which they would put that square footage.

Councilmember Burgess said I know that CMS are very careful about safety of their children, and I'm sure they have an answer for this that I would like to get sometime before we vote, but it seems like an awful lot of automobile traffic around children and very close to children, and I would like their response to how they are planning to do that. Then my third question has to do with – I need some assurance. I know the developer is getting donated land, and, of course, the School system will get some much needed support, but I need some assurance that you are not planning to come to the City of Charlotte for more partnership or contribution or TIF or

infrastructure. This is your project, and you are not going to ask the City for any of that; is that correct?

Mr. Carmichael said I'm not going to answer that question because I'm going to let the person who is the developer answer that question; if that's okay, Ms. Burgess?

Councilmember Burgess said sure.

Mr. Carmichael said it should come from him frankly.

**John Arciero, 6201 Fairview Rd.**, said I was hoping I could ask a question in return. Are we precluded from –

Councilmember Burgess said I want the answer to my question first. Are you planning to come to the City of Charlotte to ask for a contribution, financial contribution for a TIF or infrastructure construction?

Mr. Arciero said possibly.

Councilmember Burgess said I think you should make that clear now.

Mr. Arciero said the answer would be yes in the context that we feel that we are making some improvements to infrastructure that is either City or County owned, and also in cooperation with CMS we feel that those programs should still be on the table.

Councilmember Burgess said could I ask our attorney if it's legal for us to know what the developer is going to ask of the City of Charlotte, or is that outside the rules and law of zoning?

**Bob Hagemann, Deputy City Attorney**, said it's certainly legal for you to know that.

Councilmember Burgess said, all right, I would like to know that before we vote.

Mr. Arciero said will we pursue TIF?

Councilmember Burgess said I want to know what is the higher limit of what you would ask from the City of Charlotte for your development – and not now but when you calculate that before we vote in a month I would like that information.

Mr. Arciero said, yes, ma'am.

Councilmember Burgess said thank you.

Councilmember Kinsey said I have several concerns. I'm not sure I have a real question, but I think you need to know my concerns. One is the storm water. I would want to make sure that if this project went ahead that the storm water issues were addressed adequately. I'm also concerned about the greenway. I would certainly want to make sure that Park and Rec is satisfied with whatever improvements you make there if the project goes ahead. I'm also concerned or maybe would like a little more information, and this, I guess, would come from Neighborhood Services about the waiver that might be requested for the 32 dwelling units provided to households with the income range of 50 to 200% of AMI. That is a prohibited area, and I would be concerned about that. I guess my concern is if this project hinges on a waiver from City Council we need to know that now and not be sort of put in a bind later after the vote, if indeed it's approved, and then the developer coming back and saying, well, we have got to have the waiver. It's a chicken and egg situation, I know, but I think we really should know whether or not that waiver is going to be requested.

Mr. Carmichael said it doesn't hinge on it, but we'll certainly answer that question.

Councilmember Kinsey said also I had one question of Mr. Schwaller, I guess. When the third spokesperson did not arrive, did I understand you to say that he was from Fourth Ward?

Mr. Schwaller said, yes, that's correct.

Councilmember Kinsey said he's from Fourth Ward.

Mr. Schwaller said that's correct. There were actually two other Fourth Ward speakers scheduled: Rob Cummings, who is a resident and former president of Friends of Fourth Ward, and Christy Vannetta, who is the current president of Fourth Ward. They were also speaking in opposition, and their former president, Jay Biles, sent a letter to Planning last fall in opposition to this petition.

Councilmember Kinsey said so that neighborhood opposes this as well.

Mr. Schwaller said that's correct.

Councilmember Kinsey said thank you. I just wanted to make sure I heard correctly.

Councilmember Carter said Ms. Burgess voiced some concern about the students in the area, and I'm wondering about a business that would sell alcohol beverages in proximity. I'm wondering if this is permitted. I don't know whether the distance is within the allowable, and I'm very concerned about that.

Mr. Drake said the distant is shortened in the MUD district, and I am drawing a blank on the distance requirement in UMUD.

Councilmember Carter said so if we could have that answer before next month that would be good. Thank you. Then three other questions about parking. On our write-up in outstanding issues, it says, "Delete Note 4 under parking, which does not meet minimum standards." I'm not sure I understand that, and if we could address that before the vote, please.

Mr. Drake said I'm sorry. I was writing down the last one. Could you repeat that concern?

Councilmember Carter said this is an issue on outstanding issues about deleting Note 4 under parking, which does not meet minimum standards. I'm not sure what that indicates. The other two questions deal with parking as well. If it's a phased development, how do we address the parking for the Splash Planet? Will it be affected by the construction, and is there a provision for parking in the interim? Then if the structure is to provide 59 spaces for the Splash Planet, how long are these designated for – the Splash Planet – and when will that be renegotiated? If we could get the information later. Thank you very much.

Mayor Foxx said you are asking those questions to be answered to you?

Councilmember Carter said, yes, please.

Councilmember Dulin said these are for John and the developer. Actually since he is standing there, I can go ahead and ask you something. Your name is John, too, isn't it?

Mr. Schwaller said, yes, John Schwaller.

Councilmember Dulin said welcome. I'm a little bit confused – Third Ward and Fourth Ward. I thought Trade Street was sort of the divider between Third Ward and Fourth Ward, and this would be more of a Fourth Ward issue. Can you fill me in a little more on that?

Mr. Schwaller said sure. As I mentioned, both Third Ward and Fourth Ward do oppose this. The Third Ward lines, as I understand it, were drawn according to the original political district, and if you look at the Neighborhood Services map, Third Ward actually extends on the west side of the railroad tracks. It actually extends north up to and including Elmwood and Pinewood Cemetery. I think you are right. In the conventional wisdom, it's just an easy quadrant, but it really goes back to the history of the neighborhoods at the time of their development. And, if you walk among Third Ward today among the single family homes here in this region of the neighborhood and then over toward Victoria Avenue, Westbrook Drive, they are very consistent

with one another and sort of dissimilar from the Victorian homes that are common in Fourth Ward.

Councilmember Dulin said I was down on Victoria just last week. For John Carmichael, I'm having some déjà vu tonight. Have we talked about this or seen this project a couple of years ago?

Mr. Carmichael said not to my knowledge.

Councilmember Dulin said for some reason when we started about uncapping the creek, and was there something similar that was going to go down there, David?

Councilmember Howard said I'm just remembering a project that Chris Branch brought a couple of years ago. I don't know if that's the same property or not, but it was a pretty tall building that way.

Ms. Woolard said that was not the same.

Councilmember Dulin said do you have this bad boy financed?

Mayor Foxx said can we ask that question?

Mr. Hagemann said for conditional zoning you can ask that question.

Mr. Arciero said our prospective investors have told us that they do have financing lined up if we can get it rezoned.

Councilmember Dulin said how long do you think you are going to start building it – obviously in stages? You can crank it up pretty quick and get something open in 15 months, two years?

Mr. Arciero said we believe it will take approximately a year for due diligence, design, to get to the permitting process, so you are talking about approximately mid-2011 before we think about putting a shovel in the ground for Phase 1.

Councilmember Dulin said it goes to show it's interesting the lag time getting a big project going. I know where Fourth Ward is, and then given the sad news about the libraries today coming out of our County colleagues, it would seem to me as they start trimming the park system that Ray's Splash Planet might be on that list. Have you given a thought at all to the scenario of Ray's going dark and not being there? Maybe it can be reopened by then.

Mr. Carmichael said in the preliminary discussions on the exchange agreement, which is a cooperative agreement between CMS, Park and Rec, and us, the developer, which we have been in discussions for almost two years now, part of that discussion includes a revenue stream to Ray's Splash Planet, to the County, as part of memberships that we bring through the 416 residents and the some-odd 30 or so office workers that would be in the facility. We feel by default that it would make sense to couple that.

Mayor Foxx said but you haven't had a discussion about them going dark.

Mr. Carmichael said no.

Councilmember Dulin said they might just shut it down.

Mr. Carmichael said true, and we haven't actually considered that. We have only considered how we can help keep them open.

Councilmember Dulin said, well, that's positive.

Councilmember Burgess said I just can't let go the children at Irwin Avenue Open Elementary and the fact the Board of Education would initiate a rezoning that would increase the traffic count more than five and a half times to 5,270 trips a day right by those children. The thought

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occurred to me that maybe in their long-range plan that they plan to close Irwin Avenue as an elementary school or as a school. I know you can't answer that tonight, but if you could get that information later, I would appreciate it.

Mr. Carmichael said we'll get all the information you requested from Mr. Raible.

Councilmember Dulin said along those lines, Susan and Nancy, I see your thoughts about the traffic in Irwin Elementary and so forth, and we might end up okaying this and we might not, but this type of development, if you look at it, it's exactly what we, as a Council, have been trying to push in our urban core. It's dense, it's somewhat well planned, it takes a piece of property that has been vacant forever, it takes a piece of property that is literally bordered by an interstate highway, which is somewhat not the greatest piece of dirt, you know, and we have got some guys that want to looking at this project go spend a couple of hundred million dollars and help us build out our inner city core with the type of development – infill for residential high housing, low-income housing, retail. Apparently now they are going to sell some memberships to 400 residents to Ray's Splash Planet as part of their residency. I think we need to take a real hard look at it. It might be too big. When you look at it, it's massive. (Tape change). I think it's the kind of high density development that we have been looking for, and we need to take a hard look at it.

Councilmember Burgess said will this property go on the property tax rolls of Mecklenburg County?

Mr. Carmichael said, yes, it would. Under the agreement, the title to the property would be transferred to the developer.

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

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**ITEM NO. 13: HEARING ON PETITION NO. 2010-019 BY BETTY S. TRIECE AND PAMELA TRIECE RHYNES, POA FOR A CHANGE IN ZONING OF APPROXIMATELY 0.60 ACRES LOCATED ON THE EAST SIDE OF EASTWAY DRIVE NEAR THE INTERSECTION OF WELDON AVENUE AND CITISIDE DRIVE FROM R-22MF TO O-2**

The scheduled public hearing was held on the subject petition.

**Tom Drake, Planning**, used slides to illustrate his comments and said this petition would take the property from R-22MF to O-2. This is a conventional petition with no site plan. The conventional O-2 would allow uses such as barber, beauty shops, motel, parking as a primary use. You can see the existing zoning pattern here. This property is on the line, would extend the office line further north in this case. I would like to point out this lot right here was in for a rezoning in 2004 for office use, and that petition was denied by the Council. Let's get out here to the corner – this lot here. Staff is opposing this petition on a land use basis. These are the existing land uses – residential in many locations, office immediately to the south. The plan is for continued residential. In fact, the plan calls for the office on this side of the street to actually convert. That's all I have got. Thank you.

Councilmember Dulin said can we ask them to go back to that slide while she's talking so I can study it a little bit – the map – the overhead picture, the aerial picture.

**Pam Rhynes, 5818 McBride St.**, said I appreciate you letting me speak tonight on behalf of my family as we request a rezoning of this property at my parents' home. I think earlier this week you received a letter from me that explained why we are requesting rezoning. What I would like to do tonight is just show you in photo what I have explained in the letter. This is my parents' house at 811 Eastway Drive. This house was built in 1954 by my dad, who also built 16 other houses along the strip from The Plaza to the railroad tracks on Eastway Drive.



When we moved to Charlotte into this house in 1954, it was a very middle class, residential neighborhood where families were raising children. Immediately to the north boundary of my parents is this apartment complex that was built in 1985. When this apartment was built – and these are other shots – you can see that it faces my parents' house, and, in fact, the parking lot is probably no more than 15 or 20 feet from the side door of my parents' home, and you now have people living in seven units of those nine that see every coming and going out of that house. There is absolutely no privacy. There is an increased noise volume. There is a lot of traffic in and out, and a lot of trash. In the back, you will see the brick house. When we moved there in 1954, that was a single family home that has been converted into two of the units.

Immediately to the south of my parents' property is 819 Eastway Drive, and this is now a State Farm Insurance Office. This is zoned O-2. My parents house is zoned residential multifamily, but this is zoned O-2 as are the other houses going up the rest of the way down the street toward the railroad track. When this was converted into an office, it also decreased the privacy for my parents' home or anyone else that might live there. It increased traffic, and we don't have much of a problem with trash, but it obviously took away from the pleasure of living in a home.

Right behind my parents' house is now Citiside. This backs up to their back boundary. This was once a golf course when we moved to Charlotte. It was a beautiful view. Now, all they can see is apartments. Directly across the street, you see three of the five houses in that block -- all three of these houses are now rental houses. The fourth house is a rental house. I don't have a photo of it. This is the fifth house. It is zoned O-2, and there is an eye exam office in that particular house. This is the residence that this gentleman over here talked about requested rezoning and was rejected. You can see I took a picture of the side of the house. Regardless of what was decided on the rezoning, it operated as a tax office for many years. The house is now sitting empty though. I guess they got the word after you rejected their request for rezoning. But this house is surrounded all around by houses that people are living in, so I can understand that.

Mayor Foxx said I'm sorry. That's your time. If you had another 30 seconds, what would you say?

Ms. Rhynes said I was just going to say these are all surrounded by houses that people are living in as opposed to my parents' home, which is already surrounded by office and apartment complex.

Councilmember Kinsey said I really don't have a question, but I'm very familiar with this. It's in District 1, and I would encourage you to ride by there if you have a chance because at one point – and, of course, I remember because I grew up on Central Avenue. I remember when Eastway Drive was the city limits, and it was all vacant property, and also when these houses were nice, middle class houses. With the widening of Eastway Drive, a lot of that has been destroyed. I know Nancy knows because she goes down that way a lot, and I really think we ought to look very carefully at this. We have done this on other thoroughfares when requested. I hope you will take a look at it very seriously because I can't imagine somebody else coming in and living in that area, to tell you the truth.

Ms. Rhynes said may I make one more statement, just one sentence?

Councilmember Burgess said I have a question for her. If you had one more thing to say, what would it be?

Ms. Rhynes said that one thing is that we wouldn't be here making this request tonight if it weren't for the fact that the property immediately to the south of my parents' property is already zoned O-2. My parents' home is the only one in that entire block that is not O-2 or an apartment complex.

Councilmember Howard said, Tom, it says no meeting required. Why is that?

Mr. Drake said I'm sorry.

Councilmember Howard said why is there not a meeting required? Because it's straight up? Okay.

bvj

Councilmember Burgess said what is the maximum that could be built there under O-2?

Mr. Drake said the maximum that could be built there? Well, for instance, residential. The O-2 allows 22 units an acre, so probably something like the picture that she showed next door, although the zoning already would allow that. It's already zoned R-22MF. Barber, beauty shops, most likely it's a conversion of the house to something like that. As she said, there was a tax office illegally occupying the other one that came in for a rezoning.

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

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**ITEM NO. 14: HEARING ON PETITION NO. 2010-020 BY DUKE ENERGY CORPORATION FOR A CHANGE IN ZONING OF APPROXIMATELY 1.32 ACRES LOCATED ON THE NORTH SIDE OF PINEVILLE-MATTHEWS ROAD BETWEEN CARMEL EXECUTIVE PARK AND BANNINGTON ROAD FROM R-3 TO O-1(CD)**

The scheduled public hearing was held on the subject petition.

**Bob Young, 1300 S. Mint St., #30E**, said it's certainly a pleasure to speak on behalf of Duke Energy this evening. Approval of this case will allow Duke to enhance or highlight a prototype project that is presently underway at one of their substations, which is located on Highway 51. In the limited time I have got that's what I want to focus on is that message to you. Very briefly, first, about the rezoning. It is a change to office conditional. We have addressed all of the site plan issues including the one that was noted in the report. We haven't had any opposition, and, as you know if you have read the report, the staff is in favor of what is being proposed, so I think that is pretty and straightforward.

The proposal here by Duke, as I say, is the real story. A while back, Duke installed a large area of solar panels on a portion of this property, and those panels are part of a pilot project that will be producing power. Some power is being produced now – not much but some. It's stored on the property, and it is sort of a peek towards the future in terms of alternative energy sources and obviously solar in particular in this case. When we approached staff about this, it was felt like that what Duke wants to do here, which is going to be a public awareness and an educational opportunity, maybe stretch the boundary of the zoning and the substation activity just enough to require a rezoning. So that's why we are here.

Specifically what Duke wants to do is to install a walking path along the solar panel area, and along that path in addition to landscaping and park benches and the like to erect various informational displays, informational kiosks, maybe even some interactive sort of displays so the public will have access to this portion of the property and be able to come here and learn about solar power and solar energy and things that are going to be taking place more and more and more in the future. That really is what is solely driving the rezoning -- the opportunity that Duke sees here to highlight this project and to bring those new elements and those new kinds of uses to the site. It's pretty simple and straightforward, but it's an opportunity that Duke thinks is real important for not only their mission, but again an opportunity for citizens to come here and take a look. They are very anxious. I know I'm running out of time. We weren't anticipating a rezoning, but we certainly look forward to Council's approval on this and for us to get this up and running.

Councilmember Carter said there's an area designated as R-3 just behind the shaded area, and it looks like there is no access to that land, and I'm wondering, and as I say, it's designated R-3. Is there a possibility that will be developed as residential area?

Mr. Young said I'm not looking at a map, but I'm thinking that is probably the balance of the entire substation site. We are only rezoning, as you can see, just the frontage portion along Highway 51, and the area right behind it, Ms. Carter, is the balance of the substation itself.

Councilmember Carter said so it's controlled by Duke Energy.

Mr. Young said Duke still will maintain their own access there.

Councilmember Dulin said comment for the Council. I'm on the section of Highway 51 pretty regularly, and just last week while driving my son to the orthodontist we looked over there and saw the solar panels that are already there, and a 16-year-old son of mine and I had a conversation about solar power and solar energy and how by the time he is older it will be more prevalent. So the teaching moments you never can tell when they are going to come up. I will support this in a month to help Duke expand their educational outreach, so thank you.

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

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**ITEM NO. 16: HEARING ON PETITION NO. 2010-029 BY JAMES SMALL FOR A CHANGE IN ZONING OF APPROXIMATELY 0.54 ACRES LOCATED ON THE NORTHERN CORNER AT THE INTERSECTION OF SOUTH CALDWELL AND EAST 3<sup>RD</sup> STREET**

The scheduled public hearing was held on the subject petition.

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

Councilmember Burgess said before we close it this is really good news because this is the building right across the street from us, right? That building has been a rusting carcass, so I'm happy to see some activity on it, and hopefully the Small Brothers Charlotte, LLC will get us a completed building and when we look out our windows we'll have something good to look at. I'm surprised nobody is here because this is really, really good news.

Councilmember Carter said I did have a question for this one. I was wondering if the construction was safe. It has been exposed to the elements so long, and I am concerned about its safety.

**Tom Drake, Planning**, said from a land use zoning point of view, I couldn't comment on the structural aspects of this building.

**Jim Schumacher, Assistant City Manager**, said I can let you know the County Building Standards and Building Code officials have been involved with looking at the building and will be involved with the developers as they review what has to be taken out and replaced and then expanded to complete the building.

**The vote was taken on the motion to close and carried unanimously.**

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**ITEM NO. 17: HEARING ON PETITION NO. 2010-026 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR THE ADOPTION OF A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD SPECIAL EVENT OFF-STREET PARKING OR NON-CONSTRUCTION STAGING AS A PRINCIPAL USE ALLOWED WITH PRESCRIBED CONDITIONS IN THE UMUD ZONING DISTRICT**

The scheduled public hearing was held on the subject petition.

**Tom Drake, Planning**, said a couple of years ago there was an amendment made to the UMUD district that disallowed surface parking as a principle use in the UMUD district. What we also

have are a number of special events uptown that use vacant lots for staging or parking for these special events. To ensure that this is done legally, we are looking for a text amendment that would allow a one-time, seven-day window for these vacant lots, primarily vacant, to be used as staging or parking for special events. There are some prescribed conditions that limit the distance from residential and restricts the commercial parking. You could use it for VIP parking but not for commercial paid parking. There are a couple of other prescribed conditions, but this is one that the staff is supporting. The number of special events we have is ongoing.

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

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## **ADJOURNMENT**

The meeting was adjourned at 7:10 p.m.

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Melissa T. Johnson, Deputy City Clerk

Length of Meeting: 1 Hour, 38 Minutes  
Minutes Completed: April 22, 2010