

**DINNER BRIEFING**

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Monday, June 21, 2010, at 5:32 p.m. in Room CH-14 of the Charlotte-Mecklenburg Government Center with Mayor Pro Tem Patrick Cannon presiding. Councilmembers present were: Michael Barnes, Jason Burgess, Nancy Carter, Warren Cooksey, Andy Dulin, Patsy Kinsey, Edwin Peacock III

**ABSENT:** Mayor Anthony Foxx, Councilmembers David Howard, James Mitchell, Warren Turner

Council engaged in discussion regarding the agenda. Following the Council's discussion, Mayor Pro Tem Cannon welcomed Councilmember Jason Burgess to the Council.

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The briefing was recessed at 5:59 p.m. for the Council to move to the Council Meeting Chamber.

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**ZONING MEETING**

The Council reconvened at 6:02 p.m. in the Council Meeting Chamber of the Charlotte-Mecklenburg Government Center with Mayor Pro Tem Patrick Cannon presiding.

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**INVOCATION AND PLEDGE**

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

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Mayor Pro Tem Cannon explained the Zoning Meeting rules and procedures. He recognized the chairman of the Zoning Committee, Steven Rosenboro, who introduced his committee. Mr. Rosenboro said I wanted to thank Council for those that had the time to do our intercity visit last week. I really think that visits like this allow this city to be the greatest city in America and to be able to work together with Council and the business community to look at what others are doing. I just want to compliment those that were able to take time away from their busy schedule. Just a wonderful opportunity to plan this city.

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**DEFERRALS**

[ Motion was made by Councilmember Barnes, seconded by Councilmember Peacock, and ]  
[ carried unanimously to defer Item No. 3, Petition No. 2009-075 indefinitely. ]

Mayor Pro Tem Cannon said No. 4, Petition No. 2010-030, and let me yield for a moment to Mr. Barnes.

Councilmember Barnes said I had a conversation with the design planner just before the meeting began, and all of the issues that I was concerned about have been addressed, so I'm actually prepared to vote on this tonight. The design issues have been resolved and answered, and the drive-thru issue.

Mayor Pro Tem Cannon said any other questions or responses to that? Hearing none. The next item is Item No. 7, Petition 2009-076, and there is a request here for a three-month deferral.

Councilmember Kinsey said I would request we not defer this tonight. We did have a very short discussion at the Dinner Meeting, but it appears the petitioner is already in violation of the zoning ordinance. They have gone to the ZBA for a variance and was not given a variance, and I think that if we give a three-month deferral it just gives the petitioner more time to use a parking lot that is out of compliance with zoning, and I would appreciate going on and hearing it tonight so we can make a decision in July.

[ Motion was made by Councilmember Kinsey and seconded by Councilmember Barnes to ]  
[ deny deferral of Petition No. 2009-076. ]

Councilmember Carter said I tremendously respect the representative from District 1 where this is located. Is there someone here representing the petitioner?

Mayor Pro Tem Cannon said is there someone here from the Asian (Korean) Herald who is represented this evening? Mr. Brandon is here. Do you have a question for Mr. Brandon?

Councilmember Carter said just to make sure that someone is here in order to speak for them. Sometimes those who request a deferral are not present, so I want to make sure we are covered by the petitioner.

**Mr. Robert Brandon** said I am the agent for Dr. Chung. He is requesting a deferral, and he had planned to be here if we were going to proceed, but he was under the impression that he would be able to have an opportunity to speak before the board to explain why he wants to get this petition approved. His primary reason was that he was made aware that there is an area plan, the MidTown Area Plan is coming on-line in September.

Mayor Pro Tem Cannon said I would hate to interrupt you, but we are basically at this point speaking to the deferral right now, and so what I think Ms. Carter's question really is about whether or not the petitioner would care to have this deferred for three months or heard this evening.

Mr. Brandon said he is requesting deferral just to look at the proposed area plan.

Mayor Pro Tem Cannon said anything else. Hearing none, there is a motion on the floor and a second to that motion.

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

**AYES:** Councilmembers Barnes, Burgess, Carter, Cooksey, Dulin, Kinsey, Peacock

**NAYS:** Councilmember Carter

Mayor Pro Tem Cannon said next item is Item No. 10, Petition No. 2010-034.

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and ]  
[ carried unanimously to defer Item No. 10, Petition No. 2010-034 for one month. ]

Mayor Pro Tem Cannon said the next item is Petition No. 2010-022, Item No. 15.

Councilmember Kinsey said I would certainly make the motion to defer but also would like to speak to it very briefly. This is a very important project that has been worked on for some time now. The neighborhood and the petitioner are beginning to work on coming to an agreement. This is a huge project. It is very important to the neighborhood, it is very important to the

community and to South Boulevard. I have requested one-month deferral to make sure that the neighborhood and the Housing Authority will continue to work together and resolve some of their differences and come back in July hopefully united so we can look at a very good project. I would certainly challenge them to do that. I really appreciate the fact that they have worked very closely together up to this point and hope that will continue and come back in July for a hearing, so I move to defer for one month.

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Carter, and ]  
[ carried unanimously to defer Item No. 15, Petition No. 2010-022 for one month. ]

Mayor Pro Tem Cannon said that will conclude all the deferrals that we have before us today.

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### HISTORIC LANDMARKS

#### **ITEM NO. 1: PUBLIC HEARING TO CONSIDER HISTORIC LANDMARK DESIGNATION OF THE PROPERTY KNOWN AS THE “THRIFT DEPOT OF THE PIEDMONT AND NORTHERN RAILROAD COMPANY”**

The scheduled public hearing was held on the subject item.

**Dr. Dan Morrill, Historic Landmarks Commission**, said the purpose of the Historic Landmarks Commission is to bring to you properties for prospective historic landmark designation which provides the highest protection available under North Carolina law. In the case of this particular building, both the state and the National Parks Service, which has declared the property eligible for the National Register of Historic Places, affirm its special historic significance. James B. Duke was a major figure in the transformation of this region. Believe me, we wouldn't be here as the community we are without his vision for harnessing the Catawba River. He also had the dream to have an all-electric railroad running from Winston-Salem to Atlanta to stimulate industrialization. Unfortunately, the Interstate Commerce Commission blocked him, and he only got two portions of the railroad constructed. The portion in North Carolina ran from Gastonia to Charlotte. The Thrift Depot, which served the Thrift Cotton Mill Village, is the only passenger depot remaining of the P&N in Mecklenburg County, therefore, it is an important artifact of our history. The owner of the station, CSX Railroad, has by letter expressed its opposition to historic landmark designation, however the Commission believes that it has the requisite significance and it deserves the protection which landmark designation can give. One of the consequences of historic landmark designation is the ability of the owner to apply for a deferral of 50% of local property taxes. The Mecklenburg County Tax Office has estimated that the station and one acre of land, which is being recommended for designation, the potential deferred taxes for the City of Charlotte is \$188.13; potential deferred tax for Mecklenburg County is \$344.06. Mecklenburg County, both staff and the members of the Mecklenburg County Commission were informed by letter of the Historic Landmarks Commission's recommendation, and no response was received by the County, so the Historic Landmarks Commission is happy to recommend this for designation, and I will be happy to respond to any questions that anyone might have.

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

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#### **ITEM NO. 2: PUBLIC HEARING TO CONSIDER HISTORIC LANDMARK DESIGNATION OF THE PROPERTY KNOWN AS THE “W.P.A. DOUGLAS AIRPORT HANGER”**

**Dr. Dan Morrill, Historic Landmarks Commission**, said it's amazing to me as I go around Charlotte how many people do not know why it's called Douglas International Airport. It's called Douglas International Airport because of the actions of a visionary mayor of this city

named Ben Douglas, who in the very darkest days of the Great Depression recognized that in order for Charlotte to be economically vigorous it would benefit from having a regional airport. Can you imagine what Charlotte would be like today if it did not have the Airport, which Mr. Douglas envisioned? Initially the Airport was constructed by the Works Progress Administration of the Franklin D. Roosevelt administration. The money was provided by the federal government, and the terminal was built and the facilities were built. The only portion of that hangar or that airport that is left is the hangar, the WPA hangar at Douglas Airport. It really is a marvelous structure and currently houses the North Carolina Aviation Museum. The City of Charlotte and the Airport Authority and Jerry Orr specifically endorses this designation, and the reason is very pragmatic. The plans are to move the hangar, which has to move because of improvements which have to be made to the adjacent runway. One of the things that gives greater viability under the building code, the North Carolina Building Code for certain technical issues that have to be done with the hangar is to have it declared an historic landmark, therefore, this request came from the Airport Authority for it to be processed for historic landmark designation.

Councilmember Carter said this preservation does not include the site – simply the structure.

Dr. Morrill said correct.

Councilmember Carter said if I might take a point of personal privilege to thank Dr. Morrill for your help in saving the sign on the old Cannon Cathedral. Thank you so much for preserving the history for us.

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

Mayor Pro Tem Cannon said before we go a step further I do want to make sure that the viewing audience and those of you represented here in the Chambers this day understand that the mayor, Mayor Anthony Foxx, could not be with us because he is traveling right now, but, of course, sends his regards and to let you know he would be back soon and very soon. We have some other members of the body that are not represented here tonight – Councilmember Mitchell, who is traveling, and Councilmember Howard, who is a little bit under the weather, so, David, we hope you get better. Of course, Mr. Turner, I think he is in route. I think it is a little bit behind, so we'll look to expect him at some point this evening.

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## DECISIONS

### **ITEM NO. 4: ORDINANCE NO. 4451-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 1.11 ACRES LOCATED AT THE NORTHEAST CORNER OF PROSPERITY CHURCH ROAD AND JOHNSTON-OEHLER ROAD**

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Prosperity Church Road Village Plan and inconsistent with the Plan's design guidelines, but 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. 2010-030 ]  
[ for the above rezoning by Prosperity Shopping Plaza, LLC as modified and as recommended ]  
[ by the Zoning Committee. ]

The modifications are:

1. The required 35 parking spaces are shown on the site plan.
2. The site plan shows the closing of the driveway along Johnston-Oehler Road as per CDOT's request. It further notes that if a traffic circle is constructed the driveway may be reopened as a right-in, right-out driveway.

bvj

- 3. The site plan shows a 14-foot setback with a six-foot sidewalk along Johnston-Oehler Road and Prosperity Church Road. Planting strips will be in accordance with the Charlotte Tree Ordinance.
- 4. A note has been added to the site plan that the petitioner will retain the services of a certified arborist to develop a site-specific tree save plan and make every effort to save the existing trees.

The ordinance is recorded in Ordinance Book 56 at Pages 658-659.

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**ITEM NO. 5: ORDINANCE NO. 4452-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 0.49 ACRES LOCATED ALONG WEST W.T. HARRIS BOULEVARD BETWEEN MEDICAL PLAZA DRIVE AND TECHNOLOGY DRIVE**

[ Motion was made by Councilmember Dulin, seconded by Councilmember Carter, and ]  
[ carried unanimously to recuse Councilmember Barnes. ]

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

[ Motion was made by Councilmember Dulin, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-031 ]  
[ for the above rezoning by The Carolina Group as recommended by the Zoning Committee. ]

The ordinance is recorded in Ordinance Book 56 at Pages 660-661.

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**ITEM NO. 6: ORDINANCE NO. 4453-X FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD NEW REGULATIONS MAKING PARKING DECKS CONSTRUCTED AS AN ACCESSORY USE TO AN INSTITUTIONAL USE EXEMPT FROM THE FLOOR AREA RATIO (far) STANDARDS WHEN LOCATED IN THE SINGLE FAMILY AND MULTIFAMILY ZONING DISTRICTS PROVIDED CERTAIN REQUIREMENTS ARE MET AND TO REORGANIZE SECTION 12.212 FOR CLARITY**

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

[ Motion was made by Councilmember Barnes, seconded by Councilmember Peacock, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-033 ]  
[ for the above rezoning by Charlotte-Mecklenburg Planning Commission as recommended ]  
[ by the Zoning Committee. ]

The ordinance is recorded in Ordinance Book 56 at Pages 662-663.

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**HEARINGS**

**ITEM NO. 7: HEARING ON PETITION NO. 2009-076 BY THE ASIAN (KOREAN) HERALD FOR A CHANGE IN ZONING OF APPROXIMATELY 0.64 ACRES LOCATED ON THE WEST SIDE OF CHERRY STREET BETWEEN BAXTER STREET AND LUTHER STREET FROM R-8 TO O-2(CD)**

The scheduled public hearing was held on the subject item.

**Laura Harmon, Planning**, used a map to illustrate her comments and said just briefly this is the site shown here off of Kings Drive and Charlottetown Avenue. As Mayor Pro Tem Cannon said, it's approximately .64 acres at the edge of the Cherry neighborhood from R-8 to O-2(CD). The petitioner is requesting approval for an off-street parking lot containing 29 spaces. They have also committed to providing a concrete pad at the existing bus stop, an eight-foot planting strip and six-foot sidewalk along Cherry Street. Staff does not recommend approval of this petition as it's inconsistent with the Cherry Small Area Plan, which recommends mixed residential uses up to eight dwelling units per acre. This is also a site where we currently have a zoning violation as the parking lot – at least a portion of it has already been constructed.

Councilmember Cooksey said given apparently the petitioner's presumption of deferral may I suggest is there is anyone who wants the ten minutes in favor before we go into the against speeches.

Mayor Pro Tem Cannon said you absolutely may make that ask, and you just did, I believe. Is there anyone here in favor of this? If you are in favor, you would need to come down. I think, Mr. Brandon, we already have you. I don't know if you have signed up or not, but if not, we will need to get you to do that after you make your comments.

**Mr. Robert Brandon** said I would like for Dr. Chung to be here to speak. He was anticipating to speak before Council, but I guess he had anticipated that he would obtain his request of deferral, and the reason why he requested deferral was due to the fact that the Cherry Small Area Plan is about 18 years old, and we did find out there is a midtown area plan that is scheduled to come on-line – at least do the research to develop that plan – this coming September. I know the midtown area has gone through tremendous transformation over the years with the expectation that what Dr. Chung is proposing is a minor, small parking lot to provide off-street parking for a Myers AME Zion Church, which is directly across the street from the site. He wants to also provide a community park and maybe some other incidental uses for his office use which abuts that property that is zoned O-2 as well. His office use already meets this required parking, so he doesn't really need any required parking. The parking is primarily used for the church across the street, which does not have any on-street parking, and he has graciously provided that off-street parking for that institutional use to keep the cars from parking on the street to have a place to park cars off street. That was his request, and, of course, we wanted to meet with Planning staff to look at the actually midtown plan that is proposed to see how we can make the plan more inviting to improve it where it could comply and be consistent with the area plan. That was his request, and I think he is not here today to provide his wish.

Mayor Pro Tem Cannon said what we will do is hear from the other speakers and then allow for you to have a rebuttal if you care to take advantage of that.

**Sylvia Bittle-Patton, 1623 Luther St.**, said I'm a resident of the Cherry neighborhood. Thank you, first of all, for agreeing to hear the petition tonight. We are here tonight in opposition to this petition. We have several Cherry residents and community stakeholders here with us to show their opposition to this request as well. I would like to acknowledge them at this point. They can just raise their hands. In addition, over the last three days, we have obtained signatures from approximately 350 residents and community supporters, stakeholders who are also opposed to this rezoning request. Because we have others who would like to speak to this request, I would like to quickly provide you with some additional context for our opposition to this request. First, as the Planning staff has already noted, this request is inconsistent with the Cherry Small Area Plan that was approved by the Council in 1993. It would permit further nonresidential encroachment into the Cherry community and erode the residential character and integrity of our neighborhood.

The petitioner is already in violation of the City zoning ordinance and has been for quite some time now. He continued to demolish affordable housing units and replace them with a parking lot even after being cited by City staff for violating the current zoning classification. The houses have been demolished, and the parking lot is now completed and in use, so why wasn't the rezoning request completed before the work began. At a time when this city is challenged with finding adequate options for affordable housing, it's almost unthinkable that the petitioner would

demolish affordable housing units for the purpose of building a parking lot, yet that is exactly what happened in this instance.

Fourth, the petitioner has already requested a variance from the Zoning Board of Adjustments and was denied as Councilmember Kinsey so stated. I would like to show some pictures at this time just to give it some additional context. Other options with current zoning that would permit parking lots were and are still available to the petitioner, and we can go ahead and pull up the pictures. This is the petitioner's current property, Kings Tower. So if you look the front of the property, it fronts on Cecil Street. Right across is ample parking that if the petitioner wished he could have obtained permission to park there. That property is sitting vacant most of the time between Cecil Street or Kings Tower and then the Metropolitan condominiums that have just been built.

The second photo, please. This is the Kings Cleaners and Shoe Repair that sits adjacent to Kings Tower. This is also owned by the property owner. He could have very well demolished that. It also has ample parking. The next photo, please. This is the side that shows ample parking. This is also on the petitioner's property. Next photo, please. Once again, ample parking in front of the petitioner's property – sits right across from Metropolitan, in between Metropolitan and the petitioner's property. Next photo. This is a side shot of the petitioner's property. You will see parking there as well. Next photo, please. This is also a building that is right across the street from the petitioner that used to be a medical facility that has been abandoned or actually vacant for the last ten to 15 years. It is currently zoned for parking. Why not acquire that, tear down the building, use that parking.

Next photo, please. Side shot of that particular building where parking is available. Next photo. This is the back of the property that the petitioner owns. He has already torn down the houses. You already see the parking lot has been constructed. He has already reconfigured the sidewalk without proper certification, so the work is already completed. Next photo, please. This is the shot from the street here where we see all of the houses that have been demolished for the purpose of putting in the parking lot, and you see across we have residential property up until the very end where you will see Myers Tabernacle AME Zion Church. Next photo. That's another shot of the property from the rear.

Next photo, please. Once again, on the other side of Cherry Street, you will see all residential property. Next photo, and that's a shot of Myers Tabernacle, one of the historic institutions in the city. Next photo, please. That's one of the houses that is currently in code violation because the petitioner is rehabbing it without the property permits, so he is continuing to do these kinds of things without proper certifications and permits. So there are other options that are available to this petitioner. The petitioner has stated that the petition will benefit the entire community because it would provide a parking lot of Myers Tabernacle AME Zion Church and a private neighborhood park. Now, with all due respect to Myers Tabernacle AME Zion Church, it's a long standing institution in our community, but for over 80 years the Cherry community has embraced and accommodated the church. Many of the current and former Cherry residents who currently attend Myers are, in fact, opposed to this rezoning petition.

Further regarding the benefit of a private park, why would our community, who already has an historic neighborhood park, need a "private" park. We already have a park. So we are asking you to help protect the residential character of Cherry neighborhood. We have actually been in this community for over 119 years. Finally, this property was sold by the Cherry Community Organization to StoneHunt less than four years ago in 2006. The community and officers of CCO were always led to believe that this property would be used for residential purposes. Never could we have imagined that two years later the property would be swapped or sold, depending on who you are asking or who you are talking to, for nonresidential purposes. The community was only made aware of the transaction when the bulldozer showed up and the elderly residents were told that they would have to move from their homes. For all the reasons stated and others that you will hear later, we ask that you uphold the recommendation of the Planning staff and the many residents and stakeholders of the Cherry neighborhood by denying the zoning request.

**Barbara Rainey, 317 Baldwin Ave.**, said I bring you greetings from the Cherry community where I have resided my entire life. I have made Cherry my home because that has been my choice, and besides there is no other place I would rather be. Cherry has been in the boxing ring

for decades – so many times I don't even know what round this is. We have come against developers, the City, and individuals with PMS – power money status. Cherry has been chopped, peeled, diced, and sliced. It is all about want and take, take and want, using whatever strategies needed to get it even if it means deceiving those they are claiming they are helping. Mrs. Ella McCloud and Mr. Ernest Rose houses were torn down for a parking lot, a parking lot that should have been built. You don't hear of a parking lot being torn up to building houses. I know what you are thinking. Oh, they just don't like change. Well, take a look around Cherry. Change is everywhere. They even changed the name of a street. I just happened to look up one day, and it was Charlottetown Avenue, and I have been there all my life, so that is how change is made.

Usually those kinds of comments are made by those who don't live in Cherry or may live in Cherry but are not connected. They are on the outside looking in. Cherry has a story, and someone needs to listen. We live in a society where laws and rules are broken you make new ones, and those are broken. Then you make new ones, so the cycle continues. This is not about black and white; it's about wrong and right. That's why Cherry keeps showing up to let City Council know that we love living in Cherry and the amenities our neighborhood affords us. We actually know our neighbors and look out for each other. So tonight when you drive home to a place that you have chosen to call home for you and your family, kiss your spouse and kids, relax a minute, and freshen up before you call it a night. You will probably go right on off to sleep. After all, your neighborhood is not being sliced away like a Honey Baked ham. Cherry can only wonder what's next – who is plotting and planning. Enough is enough. It's time for us to put up the boxing gloves and enjoy the view.

**Chuck Degraffenreid, 501 Cherry St.**, said I currently reside at 501 Cherry Street directly across the street from the zoning request property and right next door to the Myers AME Church. I have lived in Cherry now medium term, not like these beautiful ladies here, but I have been there about nine years now owning the property, and I have seen a lot of changes. People have welcomed me even though I was not traditionally part of the community or even the City of Charlotte and have welcomed me in a way that were it reversed it may not go that same way. My neighbors are wonderful, beautiful people, and I have two that I have lost recently in the last year when their properties were torn down. May McCloud was given notice – whether it be 30- or 60-day notice that she had to be out of the property because it was to be torn down. That was the prerogative of the landowner at the time, and she had to real quick find a place to be, which she did and is now doing well.

My other neighbor across the street has been written up in *The Charlotte Observer*. His name is Ernest Rose. We don't quite know his age. He was unable to read or write. He was a fixture in Cherry. He lived in the property that was built in 1903 by the Myers family. All of those properties were across from me in what is now the blacktop parking lot where historic older properties that could have been renovated or could have been beautified for those tenants that were there. Mr. Rose had a beautiful garden. He loved gardening. Approximately eight months ago, I imagine, a bulldozer went out and was parked outside of his place, and he was told his place was going to be next to be demolished. He had seen three other properties torn down and those tenants removed. We want Cherry to remain residential.

Mr. Brandon said I would like to respond to some of the issues that were brought up concerning the variance request. That request was withdrawn – not denied, so they realized that they needed to seek a rezoning. That is the reason that was withdrawn rather than being denied. The other issue concerning the proposed use of the site I think Dr. Chung – again, I'm trying to speak for Dr. Chung, and, of course, I wish he was here to do so, but I request that he submitted as a conditional where he would place conditions on that property where he would not be in any way construed as a commercial development as much as possible. His intended use was to use it as a parking lot for institutional use. The parking lots for insufficient use are permitted throughout the City of Charlotte, but in this case, it's directly across the street from the church, therefore, it couldn't be allowed in a residential district, and you have to go through a rezoning process as a parking lot. That's the issue that he is faced with, and he is wanting to provide a little private park. He wants to beautify the site. He is wanting to work with the neighbors as much as he possibly can to provide something that can give back to the neighborhood. That's his request. The existing house that is remaining he has taken it upon himself to just sort of go in and rehab,



and I'm not sure he was aware that he was in code violation by just changing the exterior-interior, but that is a possibility, yes. That's all I have.

Mayor Pro Tem Cannon asked are there any questions?

Councilmember Peacock said, Mr. Brandon, how many community meetings have you hosted for the citizens to come visit with you?

Mr. Brandon said we had one meeting scheduled, and I understand that Dr. Chung advised me that he did meet with most of the neighborhoods right in that area, and they proposed to him that they leave one of those structures there, and they would provide a guarding of some sort in that area, which he has revised his plans to reflect that.

Councilmember Peacock said you realize obviously that in four weeks we will be making a decision on this at the end of the public hearing. Do you have any meetings planned or scheduled to meet with the community residents to talk about this?

Mr. Brandon said I would love to be able to do that, yes.

Councilmember Dulin said, Mr. Brandon, I actually have a comment. I'm sorry your petitioner wasn't here tonight. I know he anticipated the Council deferring, but it is at the Council's discretion to defer a matter or not to defer a matter, so it's really up to the petitioner to be here to make sure of that. That being said, I understand you are a little bit behind the eight ball about where his thoughts would be.

Mr. Brandon said that's correct.

Councilmember Dulin said but the neighborhood showed up with their game face on tonight, and they did a great job of reminding this Council what a great neighborhood Cherry is, and most of us on Council have worked very hard over the years in all sorts of different proposals. By the way, y'all, I think the senior building is good looking. I was there just the other day. I'm proud of my role on that. On this matter though, sir, unless Dr. Chung and you and whoever else is on the petitioner's side meets with these folks you are going to get rolled in one month. You might get rolled anyway. I'm telling you to now roll your sleeves up and go see these folks and say, hey, and they will welcome you, and they will discuss it with you, and let's see if we can't get some middle ground on it. I'm just giving you a big old heads up, sir. Please, before you leave tonight, go ahead and do the prelim work on the neighborhood about when you are going to get together with them and get those things planned.

Mr. Brandon said if I could mention –

Mayor Pro Tem Cannon said, Mr. Brandon, I'm sorry, we can't allow you to speak unless there is a direct question from the Council.

Councilmember Dulin said I don't have any other questions. You know what you need to do.

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

Mayor Pro Tem Cannon said Mayor Foxx just sent me a text saying you all are welcome to stay.

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**ITEM NO. 8: HEARING ON PETITION NO. 2010-009 BY ST. PAUL MISSIONARY BAPTIST CHURCH, INC. FOR A CHANGE IN ZONING OF APPROXIMATELY 9.06 ACRES LOCATED WITHIN HARRILL STREET, EAST 16<sup>TH</sup> STREET, PEGRAM STREET, AND EAST 18<sup>TH</sup> STREET FROM R-5 AND O-2(CD) TO MUDD-O AND UR-C(CD)**

The scheduled public hearing was held on the subject item.

bvj

**Laura Harmon, Planning**, said over all this is a proposal to retain the existing church, the St. Paul Missionary Baptist Church – the gym, playground – and to add multifamily residential, a recreation center, childcare center, and associated parking to the church within a five-block area, so to create a campus setting for the church. She used slides to illustrate her comments and said if you look at this you can see there are a number of blocks here – maybe not so well – but the breakdown on what is recommended for these different blocks is on Block A located in the upper left-hand corner of the blocks. This is recommended for 60 elderly, multifamily housing units and up to three stories maximum building height. In fact, all of the new development is capped at three stories maximum building height, 52 on-site parking spaces, some of which will serve the existing church sanctuary, and 21 on-street parking spaces.

With Block B located here, 20 townhomes and 185 on-site parking spaces. Block C, 25 for-rent efficiency multifamily units. This is where the church is actually expanding its facilities as well with a 9,900 square foot recreation center, accessory to the church, a 14,400 square foot child development center for up to 100 children, and, again, parking spaces – 106 on-site parking spaces. Block D looking at nine townhomes and 35 on-site parking spaces; again, a portion in both of those previous blocks to serve the sanctuary, and Block E to retain – this is the existing facility – to retain the existing church, gym, and playground with no new development proposed, and this is where their optional requests come in, and they are asking to retain the existing nonconforming streetscape for that block. Staff does recommend approval of this petition upon resolution of the outstanding issues. We feel that the bulk of the higher density that is clustered around the church and most of it is located within a low impact elderly building, and this development provides a mix of uses in a campus setting that will enhance the appearance of the area. The existing church and playground are consistent with the Belmont Area Revitalization Plan. The new residential component and a portion of the associated parking are not consistent with the plan, but for the reasons I mentioned previously, we do support this upon resolution of outstanding issues.

**Dr. Gregory Moss, 7526 Aldbury Ln., Huntersville**, said I would like to start by saying that we are going to miss Susan Burgess, and we certainly thank her for the tremendous leadership that she provided the City of Charlotte, and we thank all of you for what you do. You have a difficult job. For 110 years, St. Paul has been a part of the Charlotte community. Some of you may not know before urban renewal not far from Cherry, St. Paul was located where the old Adams Mark where the Blake Hotel is now and relocated in the early '70s over to the Belmont community, and has since served as a stakeholder and an anchor to that community.

To give you an idea about our church, we are a very mission- and ministry-focused congregation. We supply food on a regular basis to the community, we supply clothing on a regular basis to the community, and we have opened up our doors to just about anybody in the Charlotte community – not only just the Belmont community. Just to name a few: NACA is basically a permanent resident of St. Paul. We have partnered and still partner with the Hawthorne High School. We house Helping Empower Local People. We work in partnership with the Charlotte-Mecklenburg Police Department. We also house the NA and AA on a daily basis. We hold PTA meetings at the church for parents who have a difficult time making their way to PTAs around our Charlotte-Mecklenburg School System. We hold medical clinics. In fact, I'm very proud in one. We had 109 men show up for prostate examinations. Two of them were found positive and we possibly helped save their lives.

We house Family Promise basically on a quarterly basis where several homeless families sleep in our church from Sunday to Sunday. We house Rooms in the Inn, which starts in November and goes through March. We participate in neighborhood cleanups. Very proud of the relationship we have had with the Mecklenburg County Park and Rec Service, which has recently downsized, but for more than 11 years, we assisted them in providing recreation and other services for the entire Belmont community, which does not have a public facility, and we wish they could have stayed and wish they were still there, but because of downsizing, they had to move out. We have a tremendous benevolence program not only for our church members, but people in the Belmont community come, and we help them oftentimes to stay in their homes, to pay their light bills, to pay their gas bills, to make sure they have food and clothing.

We have festivals. We have all types of festivals – everything from Western Day to movies outside, and the thing I'm most proud of is that everybody in the community can participate in anything at St. Paul except come to church meeting and vote if they are not a disciple of the church. We provided a daycare center that was located in the basement of our church, and we made a conscious decision to cease that center because we wanted to move it out of the basement and use some of the other properties that we have that as you looked at that map you see they are adjacent and contiguous to the property where our sanctuary is located and our administration building is located. We wanted to have a new and improved childcare center that can also serve to assist with adult daycare.

The multifamily senior housing, which would be right across the street from our administration building on the 17<sup>th</sup> Street side in between 16<sup>th</sup> Street would provide affordable housing for seniors, and we are very proud. Also, we are in line, as the young lady stated, with the Belmont Plan. This is our mission to be in line but also to continue to provide a tremendous service. We want to have some market housing that is right there in the area, which is in line with the Belmont Revitalization Plan, and basically we want to continue to be an anchor to also provide service. We are not expanding all over the neighborhood. We already serve the neighborhood. We just want to do it a little better.

We have held two community meetings, and they have been good meetings, and by and large, we have gotten the support of most of the community – those who showed up. There are some who have opposition, but we love them, too. But we want to continue to be of service to this community, and we hope that you will see it the way we do.

Mayor Foxx said I got a note from a Council member suggesting, and I agree with this, that we wish Tom Drake and Tammie Keplinger, who are of our City staff, who are a little bit under the weather today, both of them, but I know you are watching at home. You are supposed to be sick. But we wish you well and hope you can get back to work soon.

**Wanda McNeil, 1508 Harrill St.**, said I'm a resident of Belmont. I have been in Belmont for quite a few years. I moved into my home on Harrill Street back in 1990. First of all, I want to commend St. Paul for all the wonderful program and their good work they have done to the community, but I have to say that is the first time I have heard about any of those things they have done or offered to the community. The reason I oppose this rezoning is because there was not a lot of communication. That first meeting that they gave the mailings only went out to a select few. The second mailing that they sent out there were only two people in attendance. That one letter that they sent out it was sent to me, and then I informed Kathleen, so I was told that the reason they didn't send mailings out to everybody in the neighborhood was because there were not within that 300 yard area that was going to be affected.

The community is going to be affected either way because on Sunday those cars range from one end of Harrill to the other end of Harrill, 18<sup>th</sup>, 17<sup>th</sup> Street, 16<sup>th</sup> Street, and Allen. It's everywhere. So, I felt like, you know, St. Paul should have everybody involved in this should have involved us. We were excluded. I want the City, the Council to know that we are perceived as uneducated, drug dealers in that neighborhood, cast down as the lowest possible people, but I'm here as their voice. We may not have much, but what we do have we are willing to take care of it. We are here to let you know we will not stand by and just be trampled on and say this is what you have got to do, and we want this to work.

We want this thing to work, but we can't make it work if we don't know what's going on, and we just found out about this revitalization plan concerning Belmont and all these codes you are talking about – CD and MUDD – what is that? I have no idea what it is. Nobody has taken the time to explain that to us. Any time we ask a question, and they are all willing, but we can't seem to get in touch with anybody. I talked with Mr. Lewis today, and I talked with Chris Oregandi, and he said if you wanted to meet with us, you know, we'll meet with you. I set it up, and he says, oh, well, if you want to meet with me, I will do it because I have already done it. I can't keep up with that. The thing is they haven't talked with us. We don't have any clarity, and nobody is willing to sign a petition when they don't have a clue what is going on. All I'm asking is that this be deferred until the community itself knows what is going on.

I went knocking door to door Saturday because I don't know their venue for contacting the neighborhood, so what I did on my own is I just printed up a flyer and put the date of this hearing by St. Paul, and if you had an opinion, you could voice your opinion yea, nay, or just come to get some facts, so that way I know I have done my very best to get people out so they would know what is going on. So I'm just concerned about the traffic and the cars because if you approve this zoning, the schools are going to be affected with overcrowding as well – Hawthorne. And, in the revitalization program, it says if part of that plan is to repair the tracks and recreational facilities at Hawthorne, then St. Paul could be a bigger resource to the community. That's in the plan.

**Kathleen Nixon, 1517 Harrill St.**, said I am a resident of the Belmont community. I have been there for 17 years, and I have been through five break-ins and windshields knocked out of my car, but I'm still there, so I'm not planning on going anywhere any time soon. I would like to voice my concerns with the rezoning in regards to the traffic it will bring in our community. With the present problem with parking, as we speak, on Harrill Street on Sundays, we now will have to add a steady flow of traffic on a daily basis. My concern is overcrowding, the amount of traffic this project is going to bring to our community. I am a grandmother of six grandchildren, and one of my grands visit me on a daily basis whether I want him to or not. He hollers across the street to our neighbors, and he had his driver's license revoked recently because he shot across the street in front of a car. He is only three-years-old. I was in attendance watching him. As soon as I looked down, there he went – zoom. I am really concerned about the residents in the community not being aware of the future changes that are about to embark us. I keep hearing people say we had it announced in church. Well, I'm not a member of St. Paul's congregation and was told about the plans almost eight weeks ago from my neighbor, Wanda. On this Saturday, I began also to hand out flyers and let the community be informed. One neighbor said she was not aware and had problems with parking. Her mother just celebrated her birthday on Saturday, and she appears to be well in age. Her concern was the handicapped ramp that the people blocked. If she didn't park her car on Saturday nights, then her mother was blocked from getting out of the ramp to her car, so she had to hurry up on Saturday night and park her car and put it in place. I am for the growth in this community, but I am opposed to the lack of notification that has not been given the residents. Is this an adventure for the community's welfare? Is it ministry or is it a money producing endeavor?

**Vicki Jones** said I moved into the Belmont neighborhood in August 2007. Since January of this year, I have been working with other residents to try to redevelop our neighborhood association. Since we are in the formation stage, I'm not here to speak on behalf of the neighborhood as a whole, but I'm here to advise that there has been discussion about this project, and there are concerns and mixed feelings about it. There is a desire for more information, as you have heard from our two prior speakers, so there is some hesitation to fully support the plan without additional knowledge. Tim Lewis with the St. Paul CDC did attend a meeting in April, one of our monthly meetings, and these are the key concerns he heard. You have already heard about parking. Church activities – parking is really difficult within the neighborhood. Access for emergency vehicles; it's very difficult to get through the streets. There were questions about the restrictions on elderly housing. Are there age restrictions on who can live there, and what types of services and retail could potentially be provided by the project. In other monthly meetings, community members have also expressed concern that this does set a precedent for not following the Belmont Area Revitalization Plan, and our neighborhood is currently well below the city average for homeownership, so the concern about additional rental units being provided through this development was key. Since the April meeting, Mr. Lewis has stated that ongoing dialogue with the community will be important for this project to move forward with their more detailed plans, so my hope is that the St. Paul CDC will become engaged in our community organization. We want to hope that they will fully hear the community member concerns and work toward resolution. I think you have heard from the other two speakers were not fully opposed, but we do have issues with the communication and gaining more knowledge.

Mayor Pro Tem Cannon said we'll now have a two-minute rebuttal from Dr. Moss.

Dr. Moss said in terms of communication we follow the standard mailing list that was given to us by the Planning Commission, and all homeowners were contacted and received mailings from us, so we cannot be responsible for people who choose not to come to meetings. The first meeting we had we had good attendance; the second meeting was not quite as good, but we

followed the same procedure. We also have particularly on Sundays we do have a lot of people, but we also have security that goes up and down the streets in about a five- to six-block area to make sure that none of our parishioners are blocking driveways. Also, the senior housing will be rental. Rental will be capped at 30%. But I do want to say this. I have been at St. Paul 11 and a half years, and I have had conversations with at least one of the people who presented themselves today, and I offered and asked if you have any problems whatsoever, please make sure you contact me personally as the senior pastor, and I will make sure that whatever your problem is we will help you to solve it. To this day, I have yet to receive a call. To this day, I have not heard the same complaints, any of the complaints that I have heard here today. So I urge you, if you will, to please support us, let us continue to do our service in this area, and, remember, we have been there since the '70s. We have been an anchor, and we want to continue to be so and be a part of the growth of Belmont community.

Councilmember Kinsey said I do have a question because I have worshipped with you from time to time. I know parking is a problem. Will this alleviate some of that parking situation? When I see buildings going up, I'm wondering if that's taking place of parking. How are you going to continue to provide parking?

Dr. Moss said it will help us readjust parking because we will be parking in different areas, and it will be mixed use parking. It will help us. And, again, we still have the security that goes up and down the streets to make sure that we are neighbor friendly.

Councilmember Carter said this is an exciting plan. I understand concerns about scale. You are in a neighborhood, and I think you all have addressed this by limiting your height to three stories, and that's really impressive and something the way you have oriented these buildings to each other rather than out into the neighborhoods and left the green structured landscape close to the neighborhoods. I only have one concern about that, and I do have three questions; I hope you don't mind. Section D at Allen Street, there are six attached dwelling units, and I think it's the north there is a structure that is indicated beside it. Is that buffer sufficient between what I think is a dwelling and the units?

Dr. Moss said may I ask somebody else to answer because I don't have my glasses on, and I can't see that. Fifteen feet.

Councilmember Carter said does that step down, or is that a shorter height than the others, or is it three stories as well?

**Unidentified Speaker** said the townhomes are parked underneath each unit, and they are three stories.

Councilmember Carter said I'm looking at our Planning director, Ms. Campbell, to see if that's appropriate for that height and then coming down to a residential area.

Ms. Harmon said it is appropriate.

Councilmember Carter said thank you. It looked at little close to me. That's why I was asking, and I really do appreciate that. Ms. Jones indicated that she is expecting retail from you all in this area.

Unidentified Speaker said Planning would not support retail in this section of the neighborhood. Just not enough traffic count to do that. As a matter of fact, the church wanted retail, and we just couldn't make it work at that section.

Councilmember Carter said the other question I have is for our Planning folks. As we get into our institutions taking on projects such as these, which are so admirable, I'm wondering if these are nonprofit or are they for-profit. If they are for-profit, are they taxable? What is the relationship between our government and our churches at this point when we are looking at development such as this?

Ms. Harmon said frankly from the land use perspective we don't look at that, but I do believe if they are nonprofit that they do not pay taxes on their property.

Councilmember Carter said so they are completely nonprofit – not for profit.

Ms. Harmon said right.

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

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**ITEM NO. 9: HEARING ON PETITION NO. 2010-032 BY THE ROCK WORSHIP CENTER FOR A CHANGE IN ZONING OF APPROXIMATELY 1.59 ACRES LOCATED AT THE INTERSECTIN OF FORDHAM ROAD AND WEST BOULEVARD FROM R-4 TO O1(CD)**

The scheduled public hearing was held on the subject item.

**Laura Harmon, Planning**, used slides to illustrate her comments and said this is the site on Fordham at West Boulevard. It is just off of I-77, and the proposal is for 104-foot space asphalt parking lot with sidewalk and handicap ramp to the public sidewalk system. The parking lot is existing and does not comply currently with the zoning ordinance, and thus the need for a rezoning. This will also include on three sides of the property on the residential sides of the property a 13.5-foot wide buffer with the use of a fence to supplement that buffer, and the site will also include two vehicular access drives; one to Fordham Road and one to West Boulevard. The petition is inconsistent with the Central District Plan, however, our district plans typically do not specify location for institutional uses especially when we are looking at some type of expansion for those institutional uses. Staff does recommend approval of this petition upon resolution of outstanding issues.

**Kim Jacobs, 1113 Fordham Rd.**, said my husband is Pastor Frank Jacobs. First of all, God bless you all to everybody. My husband is the vice president of a pharmaceutical company and was a pastor in the Pittsburgh area. We relocated here to Charlotte, and five years ago we started the church where we started out with approximately eight people, and now we have over 1,200 members at The Rock Worship Center, so God has truly blessed our ministry. It's growing. We are getting ready to open up a second location as well, but we have done everything – I'm going to give my husband's notes that he texted me. To not have a parking lot is not an option as we have over 1,000 church members who are Charlotte residents that have personally paid \$400,000 at least to be able to purchase this parking lot. The reason we went this route is because the ladies – our heels were getting sunk down into the mud, and it's not that we created a new parking lot. Westover Hills Presbyterian Church actually had this parking lot for 56 years. All we did was turn it into a paved situation, so it's not that it was some newly created situation. We went through all of the steps that were outlined to build the parking lot, and each step was approved along the way. We were told a month after completion that we were out of order and now had to rezone. That is unbelievable to us, so obviously we have met on numerous occasions with the Rezoning Committee, and we followed everything: met with the community, served dinner. We love the community, so I knew there would be no against. I would be totally surprised. We love our community, go door-to-door, we give them letters to notify them about this. The Rock Worship Center, some of the members and some of the community members, thank you all community members that showed up as well, are here, and we are willing to do whatever we have to do to make sure we are in compliance, so we are not here kicking and screaming or anything, but we just want to make sure we do we take our accountability on whatever level we need to but also the City takes their level of accountability and we work together. But getting this dug up or cut down or whatever cannot happen.

**Charles Cooley, 311 Skyland Ave.**, said I would first like to personally give my testimony in terms of the parking lot. I have been involved in it since day one from the inception with Pastor Jacob's vision. We have done the necessary steps in terms of submitting plans, paying our fees. We have worked with the City Engineering, and we look for favor concerning your approval on this matter.

**Hollice Ellis, 410 Oakmeads, Crescent, VA**, said we prepared the site plan that is associated with this application, and we would like to go on record to note that we will be working with staff within the next month between now and July to mitigate these issues that were brought up and listed in the staff report.

**Unidentified Speaker** said I would just like to say how much of an improvement this parking lot made to the community and just a visual fact of what it's done to that area. It's really made a great improvement to the area. Also, on another level –

Mayor Pro Tem Cannon said I have got to wrap you up, I'm sorry, but well said.

Councilmember Dulin said congratulations on your success.

Councilmember Kinsey said, well, I'm reading a number of issues here – urban forestry, storm water. How is that going to be reconciled on a lot that is already there, paved over?

Ms. Harmon said we will continue to work very closely both internally amongst departments and with the petitioner to try to find some kind of common ground in some way to make this happen. We are very committed to that. We know there are a number of outstanding issues, but we will work with the petitioner to the best of our ability to get this done.

Councilmember Kinsey said how did it happen that Engineering said this was okay and all these permits were given?

Ms. Harmon said what happened in this circumstance, and my understanding is it has since been rectified, is there was a grading permit that was given on this property. In the past, we had not been necessarily always looking at the zoning aspect of the site because grading typically was not going to give us the end product. Then the zoning would be looked at later on with the construction of buildings, and in this case, this simply slipped through the cracks. My understanding though is Engineering and Property Management has changed their processes so that with all grading permits we are now looking at zoning and getting a better understanding of the end product of that grading.

Councilmember Turner said Councilmember Kinsey basically asked the question I was going to pose of how did we end up at this point, so obviously you just answered that question. Let me first apologize to you, Sister Jacobs, and your husband because I know we have continued to miss each other in trying to get together on this particular issue here. I hope we can get together, and I think we are going to have to do that and do that soon just looking at the concerns I have about the permitting process. We have just changed that process, but I hate to think that we would punish someone that had good intentions that set out and followed our instructions, and we missed the ball here. Let's hope we can move forward and try to work this out, and I want to be of assistance to you any way I can to help you do that, and I hope that staff would also help us do that.

Councilmember Cooksey said, Laura, quick question. From a staff recommendation land use evaluation perspective, what's the difference between this petition and the petition in Cherry?

Ms. Harmon said the previous petition?

Councilmember Cooksey said yes.

Ms. Harmon said one is for an institutional use.

Councilmember Cooksey said it says O-1(CD).

Ms. Harmon said it is, but it is actually parking for a church, so we look at that as different criteria, and we also don't see this as something that is proliferating along the edge of a neighborhood with commercial encroachment after commercial encroachment, and we really have a great concern with Cherry of needing to draw the line, whereas, in this case we think this is one facility that needs parking that is going to better the neighborhood.

Councilmember Cooksey said the Cherry one said something about church parking, too, but I'll consider that later.

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

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**ITEM NO. 11: HEARING ON PETITION NO. 2010-035 BY LICHTIN CORPORATION FOR A CHANGE IN ZONING OF APPROXIMATELY 37.3 ACRES LOCATED AT THE INTERSECTION OF JOHNSTON ROAD AND TORINGDON WAY SURROUNDED ON THE SOUTH SIDE BY INTERSTATE 485**

The scheduled public hearing was held on the subject item.

**Laura Harmon, Planning**, said this will be brief. This is a property that was part of a larger rezoning or a number of rezoning, the first of which was a larger rezoning in 1999 that incorporated 172 acres and three subsequent rezoning that have impacted this property with the most recent being a site plan amendment in 2008 allowing for the development of 685,000 square feet of office, 64,000 square feet of retail, and 260 residential units. This proposal is really looking at tweaking those numbers and the locations of some of the uses with the relocation of 240 multifamily units out of the 260, adding 120-room hotel, and 40,000 square feet of office space for a total of 725,000 square of office, but the retail is being reduced from 64,000 square feet of retail to 11,500. Really much of this is occurring in order to deal with market conditions I'm sure the petitioner will tell you about. Parking requirements are being met partially by shared parking on the site, and they are also offering to add a new CATS bus pad with 50 non-exclusive parking spaces, and the rezoned area will comply with the post-construction control regulations. Staff recommends approval of this petition. It is consistent with the South District Plan.

**Keith MacVean, 227 W. Trade St.**, said I am with King and Spalding. Jeff Brown of our firm and I are representing Lichtin Corporation on this site plan amendment for Toringdon. With me here tonight representing Lichtin is Jeff Smith and Susanne Marie with the Lichtin Corporation. As Laura mentioned, this is 37 acres located at the intersection of Johnston Road and Toringdon Way just north of 485. The proposed site plan amendment proposes several modifications to the currently approved plan for Toringdon. As Laura mentioned, originally approved in 1999 for a larger area, 172 acres, both sides of Johnston Road before Johnston Road was actually there. Toringdon is currently developed with several office buildings totaling up to just slightly over 500,000 square feet of office and a small amount of retail space.

Laura mentioned what the proposed modifications were, again, just a slight increase in the amount of office, reduction in the amount of retail space, a modification to the location of the proposed residential units with a minor reduction of three units, and the addition of a 120-room hotel. There are several roadway improvements that will be made in the area as part of this additional development at Toringdon. We are anticipating that the first phase of development will either be the residential units or the proposed hotel. I will be glad to answer any questions.

Councilmember Carter said if I remember correctly, and this was 11 years ago, there was access to the greenway from this property.

Mr. MacVean said the access to the greenway is from the property on the west side of Johnston Road where Pike's Marketplace is. It was in the process of being done. This property actually does not have frontage on the greenway itself.

Councilmember Carter said there was a little pocket on our vicinity map that made me think that there might be some existing greenway there. It doesn't look like it's preserved for the larger building at the intersection of I think that's the northwest corner.

Mr. MacVean said we do have several pockets of open space, but they would be more urban open space areas. The rezoning that is across Community House for the residential did have



access to the greenway, and there are sidewalks from within the site. Via the sidewalk network, you eventually can get to the greenway, but the site itself does not have access to it.

Mayor Pro Tem Cannon said there are some questions from the Zoning Committee.

**Steven Rosenboro, Chair, Zoning Committee**, said we approved a hotel here not too long ago, and we have had a lot of issue from the community with respect to the architectural aesthetics don't fit that particular community. We would like to ask the petitioner what is the type of hotel that is being considered and will this time the architectural skin be more fitting with Ballantyne and what is in that area?

Mr. MacVean said first response the architectural question or portion of that question – the architecture of all the buildings will match the existing architecture of Toringdon. Brick, I believe, is the primary material. Lichten Corporation is very concerned about the appearance of the buildings including the proposed hotel. It will match the existing buildings that are on the site. I'm not sure who the operator is at this time. There has been a lot of interest in the hotel at this location, and that's probably why it's being added to the petition. A lot of interest from hotel operators at being at this location to serve the existing office development and the community. A hundred twenty rooms will not be a meeting type hotel but really a hotel to service office users in the area.

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

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**ITEM NO. 12: HEARING ON PETITION NO. 2010-036 BY GRIER FUNERAL SERVICE, INC, FOR A CHANGE IN ZONING OF APPROXIMATELY 1.60 ACRES LOCATED AT THE NORTH CORNER OF ROZZELLES FERRY ROAD AND JOHN McCARROLL AVENUE FROM R-22MF AND O-2(CD) TO O-2(CD) AND O-2(CD) SITE PLAN AMENDMENT**

The scheduled public hearing was held on the subject item.

**Laura Harmon, Planning**, said this is a proposal for a detached 1,800 square foot accessory parking garage, and included in the rezoning is also the existing office and funeral home and associated parking. There will be an 18-foot buffer along the residential portion of the site, and building access from John McCarroll Avenue for this property. Staff recommends approval of the petition upon resolution of outstanding issues. The existing office and funeral home is consistent with the Thomasboro/Hoskins Plan. The remaining portion of the petition is inconsistent with the plan, however, the rezoning would allow the addition of accessory to an existing business, and we also feel that accessory use is compatible in scale and placement to both the existing funeral home and adjoining residential property.

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

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**ITEM NO. 13: HEARING ON PETITION NO. 2010-037 BY BOXMAN STUDIOS, LLC FOR THE ADOPTION OF A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO EXPAND THE TYPE OF STRUCTURES ACCEPTABLE FOR USE UNDER THE MOBILE FOOD VENDING SERVICES DEFINITION AND TO ADD ADDITIONAL STANDARDS FOR THEIR USE**

The scheduled public hearing was held on the subject item.

**Laura Harmon, Planning**, said I think you all might remember there was a mobile food vendor stakeholder group that was convened in 2007 to assist staff with development of updated zoning

regulations for mobile food vendors. That stakeholder group was comprised of representatives from the mobile food vending industry, neighborhood leaders, Mecklenburg County Health, Charlotte-Mecklenburg Police, and staff from other City and County departments. A text amendment was developed to provide a new definition and prescribe conditions for mobile food vending service and was adopted by Council in November 2008. The 2008 text amendment defined a mobile food vending service as a service establishment operated from a licensed and movable vehicle -- that could be a vehicle that was a trailer or was simply a full vehicle -- that sells or vends food and/or drink, processed or prepared on site to walk-up customers.

Staff has the following concerns about the proposed text amendment. First, we see it as broadening the definition of mobile food vending service that was arrived at through that extensive stakeholder process. Staff has researched mobile food vendor regulations in other communities across the country. We did not find any community that permitted intermodal shipping containers to be used for mobile food vending services. We do not believe they will qualify as licensed or movable vehicles under the current definition of mobile food vending service.

Finally, probably most pragmatic concern, is in talking with folks at the County found that any structure that is located on a lot for commercial purposes must meet the North Carolina Building Code, and the point at which an intermodal shipping container is taken off the back of the truck and placed on the ground as shown in this picture that would be defined as a structure, and according to Land Use and Environmental Services Agency of Mecklenburg County would be required to meet North Carolina Building Code and be certified as such by a structural engineer in order to receive a permit. Our understanding is that would have to occur every time this facility is taken off the back of a truck. We do have, if you have any more questions about that, representatives here from Mecklenburg County who could answer additional questions.

Mayor Pro Tem Cannon said because there is opposition from staff you will have ten minutes to make your presentation.

**David Campbell, 122 Cherokee Rd.**, said shipping containers. When you were elected and appointed to City Council how many of you thought you would be discussing them. My name is David Campbell from Boxman Studios, and up to a year and a half ago I would have thought I wouldn't be speaking about them either. But in the last year, Boxman Studios has created and are creating restaurants, retail space, housing, and urban markets for clients ranging from Anheiser Busch to Knox Energy to the Charlotte Center City Partners in cities from Florida to Connecticut and as far away as Texas and Washington -- we are even working in Haiti -- all created through innovation and labor of Charlotteans and all utilizing shipping containers.

We have done this under the mission statement of "to find innovative ways to engage in environmentally responsible commercial endeavors that provide competitive alternatives to traditional real estate". So what does our mission statement mean to us? It means working in Haiti with charitable organizations and the government trying to answer the great need for not only housing but development of commercial centers. It means migratory restaurants for a client who has restaurants that move from the marinas in Connecticut to the marinas in Florida depending on the season. It means using shipping containers along with more typical facades to create high density housing for urban areas in Haiti and elsewhere around the country. It means creating temporary retail centers like the one we are working on in San Antonio, Texas, to create what we call a micro-mall or even urban markets we design for center cities and we have actually talked to Center City Partners about here in Charlotte.

So all this brings us to six months ago when we decided to try and expand the mobile food unit category in Charlotte with an organic high-end fare at a reasonable price created by one of Charlotte's great chefs, Chris Zion. In order to do this, we needed to expand the definition of what a mobile food unit in Charlotte can be and to include shipping containers with our goal of providing an alternative to quality food that you have to drive to pick up by delivering gourmet, organic fare grown on local farms directly to the lunch crowds of Charlotte.

So, if approved, how does this work? We would transport our units every day to a predetermined and zoning approved site by truck. We would off-load, open up in about five minutes, and within 20 minutes we are ready to serve food. Please note the way the current

regulations are written if we left our units on the truck we could serve the public today, but by putting it on the ground and increasing accessibility, we do not fulfill the definition required of a motorized vehicle. As you heard earlier, staff has voiced their concerns on a couple of fronts. First, the extensive process that many parties underwent in 2008 to limit the mobile food unit category of the zoning code does not allow them to revisit this part of the zoning code without having the same parties at the discussion table. To this, we greatly appreciate the respect staff has for the efforts and discussions that it took to get the current codes in place and for that we have no interest in altering any of the previously discussed rules of operation. But since this is a new and innovative concept that did not exist at the time of past discussions, we ask for leeway on only our expansion of the definition to include shipping containers in the mobile food unit category. But realizing this is a new concept, we have taken input from interested citizens and further restricted our abilities under the current operating rules to address their concerns.

Second is their concern about us creating a quasi-permanent structure that once these units are offloaded ultimately needing to pull a building permit every time. We have talked both with Building Standards and the North Carolina Department of Insurance and have had good reception that we can find a way to handle any permitting concerns expeditiously and efficiently for all parties. Currently there is a significant industry that utilizes shipping containers for storage at local construction sites without building permits, and we see it is no difference barring that we are on site a much shorter time. I understand and respect the language on which the current zoning regulations are written. Unfortunately, it makes no fiscal or environmental sense for us to recycle shipping containers to have four wheels and an engine, but innovation rarely appears to restriction and functionality. Innovation expands on it. Our goal is to foster innovation to make existing ideas more easily accessible to the public, and I firmly believe the Boxman Studios and our mobile restaurant do that.

I'm sorry that the concept is so new that it doesn't fit into the rules or regulations originally designed for traditional concepts, and, of course, we wanted to stay within the regulations. Like all of our Boxman concepts, we are not looking to break the rules for the sake of being different. Our goal is to foster innovation to try and better existing ideas, and that kind of thinking requires pliability and regulation. We sincerely hope that we can work with the City Council, the staff, and the community to find a way for Charlotte to embrace this innovative way to operate under the mobile food unit category.

**Jack Brosch, 3502 Marionwood Pl.**, said I stand before you representing the Northeast Coalition and the Derita-Statesville Road Community Organization. When David Campbell originally approached us with this petition, we had some questions about several aspects of it, and from conversations with Mr. Campbell being very open as well as a tour of his facility off of Statesville Boulevard, in conversation among our representatives, we stand before you supporting this petition. We think that the revised amendment dated 6/4 covers the main issue that was expressed by most of the people in the community and that being the verbiage of extending the definition of a mobile food vendor to include shipping containers. In the City's representation and presentation, she mentioned this is not available in any other communities in the United States, and I would honestly question how many other cities in the United States have the number of recycled containers that we have here in Charlotte, and I commend Mr. Campbell on his forward thinking to think outside the box in utilizing these structure as do other members of the community.

One of the other issues that we did have with this as well is the mobility of the structure, and Mr. Campbell has expressed to us his investment in a vehicle that will allow him to move these and comply with the requirement to move the unit every 24 hours. We were also talking a little bit about extending some of the definition of mobile food vendor; perhaps use some current technology of radio frequency identification and GPS to allow zoning enforcement to confirm the movement of these vehicles without requiring staff time to go out and investigate them. I think it would also allow staff time. One of the other concerns that people had expressed to me was the ability to inspect these units for health and safety regulations. I also believe that this technology would facilitate this as well allowing the inspectors to know exactly where the units are when and make sure that their time is best utilized in their inspection routine as they go throughout the city.

One of the other things I would like to say is that seeing these mobile food units be approved I think would be a great thing during these economic times allowing people that may be looking outside the box to try ideas of small business and entrepreneurship in opening restaurants allowing them to test market an idea not only by vertical in the food industry but as well as geographically by perhaps trying it in different areas previous to signing a long-term lease to adapt some of the overflowing vacancy in the restaurant industry that we have here in Charlotte and throughout Mecklenburg and North Carolina. It is for these reasons that I strongly urge you to support the dynamic, forward thinking capitalism that is represented by this petition and vote yes on 2010-037.

Councilmember Peacock said I think we have a staff member here who held the stakeholders committee meeting for that. Would you come forward to the mike? I have a couple of questions for you. It seems like yesterday we had a long, long fight about mobile food vendors, and this is perhaps the most creative idea I could even possibly have imagined. It is definitely outside of what I was thinking about, and I know when Councilmember Turner and we were deliberating over this in the Public Safety Committee we were mainly concerned in the mobile food vendor ordinance is trying to prevent obviously a lot of them coagulating of one area. In this case, it was frequenting neighborhoods and causing all types of noise ordinance type issues, and people didn't want to see that many mobile food vendors come together. So when you see this, was this ever contemplated at any of the stakeholder meetings? Did we ever discuss something like a container of this nature?

**Katrina Young, Zoning**, said we did not because at the time the issue was with the vehicles and the mobility of the vehicles. They were there, and then they were leaving, and it was creating problems. The neighborhoods were very much opposed to the vehicles, so we had the stakeholders group, and they by consensus agreed to what we came up with, and that's why we are somewhat opposed because it was a lengthy process, and we want the citizens to understand that we do take their opinions seriously, and when we agree to something that we are going to uphold it. We just don't believe that by now changing it so quickly after we approved it would be fair to them.

Councilmember Peacock said I can understand that. Can you tell me since we did change our mobile food vendor ordinance the other major issue is the time, the time in which they were operating, and I know we had a lot of coordination with Mr. Abernethy as far as code enforcement. That has improved; is that correct?

Ms. Young said absolutely.

Councilmember Peacock said so the trust has been restored, I would say. At least I haven't heard from people like I did before.

Ms. Young said, yes, absolutely. Right now we think we have a handle on it. We think it's working for everybody, so we do think the code we currently have is good. One of the concerns is if we open it back up and not only allow the vehicles but you allow storage containers what other uses then will also be allowed to come under the mobile food vendor? Just like we didn't envision this – it could be something totally different, and we just don't believe that is what we want to see in the city right now all over.

Councilmember Peacock said one question for Mr. Campbell. Can you explain again how this concept works? Where are you planning on going in this city? Where are your target markets? Why Charlotte? Are you a Charlotte based company?

Mr. Campbell said we are a Charlotte based company. All my employees are Charlotte based, and we are doing this work all over the country. When we started this concept, in order to have the density that we would need to do what we want to and be economically viable, we would have to be in major urban areas for the most part. When we started this process, we didn't even think about it, we had business parks call us or people who work in business parks call us and say that the majority of their opportunities for eating at lunch are fast food or fast casual type dining, and they would love it if we would come one day a week or two days a week to their type venues as well. But in no way, shape, or form are we trying to go into a neighborhood and do what we do there. We are looking for high density areas. I'm not sure if you are familiar with

what's going on in LA and New York. There is a large social media campaign that goes on associated with a lot of mobile food vendors that helps keep people involved through Twitter and Facebook and things of that nature, so everything we do will be forecasted weeks prior to us being there so people know where we are going to be at any given day at any given time.

Councilmember Peacock said how long would one of these containers stay in a location ideally if it's social media driven? You mentioned office parks. Are we going to imagine you in the west side over near the former old Coliseum, or are we talking in uptown Charlotte off of Graham Street?

Mr. Campbell said currently we are focused in downtown Charlotte or uptown Charlotte, and we have talked – the inquiries have been from an office park off of 77/Arrowood. We are focused on downtown period. We have had inquiries from other places though. To answer your question about the timing, we are looking at ourselves as a lunch establishment. We would like to be there from 11:00 to 11:15, 11:30 to 2:30, 3:00 at the latest.

Councilmember Peacock said my comments, Mayor Pro Tem, are to the rest of the Council. If everyone here will recall, too, one of the protests we had from those that were speaking to not change the mobile food vendor ordinance was that they thought this was going to dampen creativity and we were not going to have cultural diversity in our districts, and it was going to somehow thwart the effort to bring culture to certain districts particularly east Charlotte. We heard a lot from people in that area. This is a very creative idea, and I look forward to studying it further between now and when we make a decision on that. Katrina, I guess I have to ask you one question. Is it possible for our stakeholders to be reconvened to talk about this because this is, number one, looks like a job creator; number two, I do tend to agree with you in the sense that – I like his idea, but I don't know very much about the other fellow out there who is thinking about using a container in this manner, and that candidly, Mr. Campbell, would be my only reservation. What is the other guy going to do with it because your idea is very business focused, it's very oriented towards certain types of food and a certain demographic that many would agree is probably going to be very much a driver to bringing people to certain areas. Your marketing plan sounds great, but what about the guy that maybe just simply wants to park a container in Park Road Shopping Center for four months?

Mr. Campbell said I agree completely, and staff had raised that question to me as well. Keith MacVean drafted our text amendment for us to help address some of those things as well, and we are open to additions to that as well. We tried to make sure that there were windows on certain sides, awnings, and certain aesthetic features that make it not look like a shipping container. I mean beauty is in the eye of the beholder there. Some people appreciate it as a modern structure; some people say not in my neighborhood or not in my backyard. Those are all things that we are willing to be open to and make sure we are protecting y'all and staff as best we can.

Ms. Young said to answer your question, yes, we could reconvene the mobile food vendor, but, again, the purpose was for mobile food. What Mr. Campbell is proposing is actually a commercial business. If he can get the structure approved and certified, he can put it down on a site, and it can remain there permanently as long as it's meeting all the commercial codes, so there would be no need to pick it up and move it if it's going to have to meet building code, which it will have to do. The mobile food vendor –

Councilmember Peacock said you do see the nature of what he is asking. It's very mobile in what he is doing. His customers – he travels to where the business is, and he creates a buzz around the concept of what he is doing restaurant wise, so if he brings a great chef and the food is there, then you are able to instantly insert great food into an area where you don't have it then that could be obviously the basis for his business. You can see where his business plan is driven from. If you recall, many of the Council members when we first started approaching this idea that summer, we were saying are you going to treat a mobile food vendor at 485 out towards Pineville the same way you are going to treat somebody off Central Avenue because at first many of us, and I remember the Council at the time was worried that we were not going to be equal in how we were treating people. Now we are at this very intersection where you all are trying to obviously honor what they have done, and at the same time, you have got something that is definitely out of the box here. I'm wondering while he is not your traditional mobile food vendor that we saw on the stakeholders committee, he is certainly a small business like them, and

he's trying to bring an idea that looks to be something that could help some of our corridors – whether it be Beatties Ford or North Tryon or it could be uptown.

Ms. Young said we did look at it. We gave it an honest look. Based on the building code, it's not going to meet. Once he picks it up, he is going to have to get another permit. It will have to be reinspected on a daily basis. It was just bringing a lot of challenges that we just didn't believe fell under mobile food vendor. It may fall under another category, and we may need to look at something different, but as far as the mobile food vendor, we just couldn't make it fit.

Councilmember Turner said I'm glad I'm not the chairman this year. You are right, Katrina. I must agree with you. This leaves me with a lot of concerns especially the fact that it can become a permanent fixture as a commercial fixture, but under these tough economic times when businesses are going out of business that are trying to keep their doors open, and to think that we would be having this conversation about a storage unit possibly becoming a movable restaurant that will require us to monitor them picking it up, issuing permits every time they drop this scares the daylights out of me. Now, I tell you something else. I will get even more creative. They are already building nice little storage houses, so what happens next. I can turn one of those into a restaurant and put it on a flatbed and move it somewhere and drop it, pick it up and move it elsewhere.

I just think, again, this is going to be very interesting. I hope it doesn't make it that far. With all due respect, Mr. Peacock, I hope it doesn't make it that far. I tell you what, I like the idea. Kind of like it more as housing. I saw a great article during Katrina about they was going to use it for housing, and I think that's a great idea, but as a food vendor movable and a possibility of it becoming a permanent fixture because at some point as a business owner you are going to figure out that it's costing you more money to pick it up and move and get a permit in the hassle. So once it meets the requirements, I can just leave it there. So, that's my point.

Councilmember Dulin said, Mr. Campbell, in your mission statement, you use the term innovative, and sure enough, you are innovative in your approach to this. That doesn't mean I agree with it. Council needs to think back about how hard we worked on the mobile food vendor and the whooping we took on the mobile food vendors, and we stood there, and we stood our ground, and we made this community safer by limiting those mobile food vendors, and we worked through that thing hard. Sir, you have a different concept clearly, and you have thought through it. I have got a question for your business plan though. One of the problems I see with it is clearly the guy who drives the truck and dumps the box off isn't your cook.

Mr. Campbell said no.

Councilmember Dulin said I hope he is not your cook.

Mr. Campbell said no.

Councilmember Dulin said so he is going to drop the box off and spend 20 minutes setting up so the cook can come in and do his or her magic. That truck has to go somewhere. You have got to sell a whole bunch of something to cover the overhead of those trucks running around. I am actually making more of a statement than asking a question, but I'm going to have a really hard time undoing work that I did two years ago to go to do this. That thing has to be leveled. I can see the buzz, and I have to disagree with Councilmember Peacock tonight. I'm not real excited about hearing more about it. I'm perfectly willing to do my homework and read. Maybe I'm not able to think outside your box. I'm in your box and not outside your box.

Mr. Campbell said come eat at the box.

Councilmember Dulin said that's right, but anyway I wish you luck.

Mayor Pro Tem Cannon said let's box this up a little bit.

Councilmember Dulin said we need to box it up a little bit and move on. Innovation – you are certainly innovative.

Mr. Campbell said is there a question you want me to answer?

Councilmember Dulin said, no, sir.

Councilmember Cooksey said let me make sure I understand the staff presentation on this. Setting aside the business plan, if the storage unit stayed on the truck, we wouldn't need to have this conversation because it would fit under the current ordinance. When the storage unit is placed down, I see the write-up about the building code. What do we have definitive about the building code in terms of a letter or something like that saying this is the way it is? The instance it sets down and somebody is in it then it is a building and has to pass inspection each time? Where is that?

Ms. Harmon said we actually have Lon McSwain if you are okay with him coming up. He is the building code administrator for Mecklenburg County.

Councilmember Cooksey said I would love to hear from him, please, on this subject.

**Lon McSwain, Mecklenburg County Building Code Administrator**, said once the structure leaves a licensed vehicle and is set on the ground it becomes a building or a structure under the building code, and that structure as an occupancy based on a business, mercantile, storage, so once he takes it off the truck, we have a problem with it, and it has to be permitted, and it has to meet the building code. Now, there are ways of doing that. There are ways of meeting the building code. But the problem becomes then under the general statutes that says any time you move a structure you have to obtain a permit, so that means you would have to have a permit to move it on the lot, and you would have to have a permit to move it off the lot every time he does it the way the general statutes are written now.

Councilmember Cooksey said forgive my ignorance here. Is there something similar that I can make an analogy here? I'm thinking in particular of say a backyard storage unit. Is that similar? Is that governed by similar statute?

Mr. McSwain said, yes, sir, that's under the residential building code, and that's considered an accessory structure to a residence. This would be a commercial structure.

Councilmember Cooksey said I'm presuming, but I want to make sure that those portable storage units, PODS, or what not that get dropped off for a couple of days and then picked up for folks to use as storage. That's not one of these type of structures; is that correct?

Mr. McSwain said correct. That is being dropped off to be loaded for transportation.

Councilmember Cooksey said no one is setting up a shop in there for a bit.

Mr. McSwain said if that was set off on a lot somewhere to be used as storage and not to be moved again then it would fall under the building code.

Councilmember Cooksey said what kind of lead time does it usually take between applying for all the paperwork necessary to get the permitting and the actual permits being issued?

Mr. McSwain said, first of all, we would have to go through the approval process, which means he would have to submit plans to have the unit approved as a structure, and actually the permit process for this particular item would have to be worked out because we don't have a thing right now in place to handle a situation like this.

Councilmember Cooksey said is a 24-hour turnaround the kind of thing you work on, or is it longer than that?

Mr. McSwain said for the first initial approval of the structure itself it would probably take at least a five-day turnaround time because it's a small structure. Also it depends on which way he wants to go. If he wants to go through our approval process here where we actually review the plans and issue the permit, or he can go through a third party in Raleigh where he gets his unit approved by a third party. Then all we have to do is look at the setup and the sticker on the unit.

Councilmember Cooksey said my last question just to confirm it and get it into the record of the discussion. If Council were to pass the proposed amendment as worded would that have any impact on the state building code requirements or is that – I’m presuming we can’t trump them, but I don’t want to lead the question.

Mr. McSwain said he would still have to go through the process of getting either a code amendment to address this unit through the Building Code Council or through the legislature.

Councilmember Cannon said I will say that intermodal shipping containers are designed for freight, for freight handling. This would look a little bit odd, I think, just being sat down in any portion of this community whether it is inside the loop or outside the loop. I like the innovativeness that we are talking about here, and, mind you, I can’t make my decision on this, Madam Attorney, with regard to something being aesthetically pleasing to the eye or not, but I can tell you it wouldn’t fit into the character as presented I don’t think anywhere throughout this community. What I don’t know if there are any public safety related issues that came up the last time this was presented to the last Council, but I would be interested in getting some information back about if there is any level of concern about public safety issues just to be brought up to speed with regard to that given that a previous Council had that discussion for a long period of time trying to get at a point where it made sense or not to this community. This is totally different. It’s not on wheels, and I think that’s the bottom line. It’s not on wheels; it doesn’t fit the definition. You probably have to find another classification in my opinion and look at some other options, but this is just a hearing. We’ll continue the dialogue, but Councilmember Carter I think had a point she would like to make before we conclude this hearing.

Councilmember Carter said did we not pass a regulation about mobile units having to have a brick veneer around the bottom? I think I remember this on a discussion on a trailer park.

Ms. Harmon said that would be a mobile home; not a mobile food vending –

Councilmember Carter said mobile unit, mobile home versus a mobile unit.

Ms. Harmon said yes.

Councilmember Carter said interesting distinction.

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

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**ITEM NO. 14: HEARING ON PETITION NO. 2010-043 BY VALLEY DEVELOPMENT, INC. FOR A UR-2(CD) SITE PLAN AMENDMENT OF APPROXIMATELY 4.27 ACRES LOCATED ALONG WENDWOOD LANE OFF RANDOLPH ROAD**

**Laura Harmon, Planning**, said this is a site plan amendment for a site that has three properties that have three townhomes that have already been constructed. They are actually the hole in the doughnut in this rezoning. This is for the land surrounding those three townhome units to allow 34 additional townhome units or a total of 37 in all. That would increase the number of units allowed from 22 to 37 in this development. The proposal for this provided eight-foot planting strip and sidewalk along Wendwood Lane, elevations that they have committed for the proposed units, internal sidewalk connections to the public streets, and an internal street network that is a private street network.

A little bit of history on this site. The subject property was first rezoned by Petition 2005-140, which allowed up to 41 townhome units at a density of just over nine units per acre, and then that site went through a site plan amendment in 2006, which reduced the total number of units from 41 to 22 at a density of 4.87 units per acre. In this situation, we are supporting this because although it’s higher than the currently adopted plan as amended by that 2006 petition it is considerably less than what the original South District Plan recommended for the site, which is



development at 25 units per acre, and we do believe that the new development can be blended with the existing townhomes that exist.

**Mike Lunsford, President, Valley Development**, said to my left is Ed Hickman, the architect that is working with us on this project. It goes without saying that I wouldn't have guessed in a million years that I would be back in front of this body talking about a project that we started back in 2006 with 22 townhomes making up the entire project. The background that was just given I won't go back into that because that was very accurate. After the infrastructure was completed, the builder moved on site to begin selling, and shortly thereafter the bottom fell out of the residential market across the country. This builder built a three-unit building as stated and sold them quickly at a greatly reduced price and then left the project.

We have been holding on to this property as we have all of our projects in the area hoping the worst of the market decline was behind us only to realize that this residential downturn is probably the worst the country has ever seen. A large percentage of the companies like ours no longer exist. They have given the properties back to the banks and moved on. This has exasperated the situation in that for the past year and a half or so we have not only been fighting a slow residential market that has reset itself from a price point perspective but also fighting the foreclosed projects that are being purchased for 30, 40, maybe even 50 cents on the dollar.

What we are asking to do has nothing to do with profitability and everything to do with survivability. If approved, this request will allow us to pay off our current debt and finish the project. We have consulted real estate professionals for the best price point in today's market and are working with Mr. Hickman to build a great product. We are not asking to change any exterior building materials, and we intend to build to the same quality inside and out of the existing three units only smaller.

This increase in density request is still less than what has previously been approved for this property, and we are not moving the existing pads that we originally built at all. One thing we would like to ask for tonight, however, is the flexibility to shift the interior walls to accommodate larger units if the market dictates that after we get started. The 22-foot width that we are asking for tonight is basically the smallest unit that will accommodate a garage. Again, if the market is there, we could possibly see some of the buildings being designed with 24-, 26-, even 28-foot wide units, which will reduce the overall final density once we are through. Thank you for your time tonight. I will be happy to answer any questions.

**Alan Stonewall, 716 English Tutor Ln.**, said I understand it is never good to speak before a body right before a meal, cocktails, or adjournment, and we are right before adjournment, so we will try to keep our comments on track. We are not here to oppose the rezoning per se. We recognize economics as well as the developer recognizes economics. We are actually glad to see our neighborhood finally being finished. By the way, I think you understand that Eric and I and the third owner of the townhouses are all here and have some concerns. The concerns really come into two areas. Again, not density – it has to do with what I consider impracticality and maybe the market will handle the impracticality, but at a personal level, I'm worried about safety.

If you look at the site plan, you will see we are wedged in. It's referred to as a wedge. There is one access road in. These are 20-foot wide roads, and that includes some of the margin. The blacktop is like 18 feet, and it includes two dead-ends. We already have issues with trucks like garbage trucks getting in and backing out in this area, and the concern is you are going to add 34 units with one car each. None of those cars, none of those units, none of those families will have any access to overflow parking. That means no birthday parties, no barbeques, no get-togethers, no dinners because there is no place, not one place for a visitor to park. You look at this wedge and we are surrounded by Randolph Road, we are surrounded by wetlands, we are surrounded by commercial properties, we are surrounded by other developments, and there is no off-street parking, on-street parking anywhere near our development. So from a very practical point of view, is it practical to expect that nobody is going to park on the street even though they are not supposed to?

What I'm worried about is that the developer is creating a problem and is going to dump it on the homeowners association to try and enforce no on-street parking when it is totally impractical.

I'm not being facetious when I am saying is it really fair to ask these people to not have get-togethers, not have anybody come over to their place because the two spots that satisfy the code, and I understand the code is met with this, is the garage and the driveway in front of the garage, which has room for one car, so most of these units are going to have two cars, and they are going to be taken up by the people who live in those units. So where do the visitors park?

My wife and I drove around. We looked at 12 different similar units in Charlotte, and similar varies in size somewhat, but in the general area. But all of it, all 12, not 11, but all 12 had some overflow parking. I could give you the names. Some had 24 units with ten overflow spots. I won't go through all the details because of the time, but all of them have some overflow parking, and this proposal has none. Now, again, maybe the marketplace will deal with that somewhat and these units won't sell as expected because there is no place. You can't just say I'll go park on the street, across the street, unless you want to park across Randolph, and I think you are aware how busy Randolph is. There is simply nowhere else to park. We did notice when we were looking at these other townhouse communities that even though there were streets that were marked "fire lane, no parking" there were still cars parked where it said "fire lane, no parking". I assume some are parked for five or ten minutes, but I assume sometimes people park overnight just because they can get away with it. The homeowners association will give them a warning once or twice, but if you live in the unit where I live and think about one or two cars parking in this fire lane and an emergency vehicle having to get to me, it can't get there. Two cars now passing on this street, one car will stop while the other passes. Emergency vehicles are wider than cars. You are not going to be able to get an emergency vehicle to my townhouse if there is a car parked on the street, and there is only one way in, and these are dead-end streets.

Again, if there was some place for these people to park and I thought it wasn't adequate parking, I think I would have a shallower argument, but, in fact, there is no off-street parking provided with this development. I think that really does place those of us who live near these dead-ends in a dangerous situation. It's coming down if the proposal as presented complies with code, then I'm asking for some common sense because it may comply with code, but it doesn't make common sense to have no off-street parking and endanger the residents with emergency vehicles not being able to get through.

I don't know that it's a matter of this might happen. Eventually emergency vehicles will need to get through, and hopefully it will be at a time when there is nobody parked on the street, but it's going to do me no good; it's going to do no one any good to say I told you so because that five minutes it takes is that much longer a unit burns, the five minutes it takes for somebody to get help with their heart attack can be all the difference in the world. So we are asking not that the development not be approved but that it not be approved without adequate off-street parking.

**Eric Hatley** said I also am one of the homeowners in the three units that are existing, and my concerns were exactly with Alan's on the parking and also my concern was the drastic change in size. The current townhomes exist at 3,200 square feet. From what I have seen proposed, everything is almost exactly half. It's going to be – I'm not saying it can't be blended, but it's going to be almost impossible to mask. You are basically going to ask two of the new townhomes to look like one of the existing, and I just don't think it's possible. Being a real estate professional in the past, I see the values declining just as you approve and build so much less units in comparison.

Mr. Lunsford said I don't have a whole lot to add other than we obviously do meet the parking requirements for the project. Fire Department, CDOT, nobody had any comments concerning the parking, so that's really all I have to say and answer any questions you may have.

Councilmember Dulin said a couple of questions about parking in the road. I have come up to a couple of neighborhoods that I represent in District 6 that have some narrow roads and some parking issues, so my sensitivity to the residents that have come down and spoken tonight and I sort of get that for you, so my questions will be about that. I'm familiar with your project only in that I voted for it in 2006 for you to be able to build it, and then I watched you make the pads, watched the three units go up, and nada, and I do drive Randolph Road pretty often, and I do know it's there in the elbow, etc. I would be supportive of trying to get some activity going back over there. I mean you all are still paying on that dirt, but I hear loud and clear the three residents that you do have. Talk Council through this a little bit about the width of those roads. I

have learned that the Fire Marshal can check off on something if it fits, but what the Fire Marshal can check off of and what is practical for a family, even if it's just a two-car family, those are two different things, and it can be very – they really butt heads. Then if a kid comes home from college to visit or whatever might be, so tell me about the width of your roads and your thinking about that and where you want to go with it.

Mr. Lunsford said the widths on the roads vary from 20 to 22 feet. We do have two emergency access pads to meet the original site plan approval for the maximum pull for a fire truck. The first one is on the left as you come in, and the second one is on the back row of buildings on the left side of that as well. I don't have a pointer. But we do have accommodations for that. The units will be designed if they end up being all 22 footers that will be a single car garage plus enough space for another vehicle to pull into the driveway and not block the sidewalks, so you will have between 18 and 20 feet of driveway depth plus the garage, so two cars parking.

Councilmember Dulin said 18 to 20 feet from the road to the front of the house or from the interior of the sidewalk?

Mr. Lunsford said from the interior of the sidewalk.

Councilmember Dulin said the house side of the sidewalk.

Mr. Lunsford said that's correct, so you would have two full vehicles – the ability to park two vehicles at each unit. The site is obviously very tight as you know. All the infrastructure is in, and at this point, I really do not see the ability – any room to push off-site parking – not off site, but excess parking other than the garages and the driveways for these units.

Councilmember Dulin said that's a problem, and I mean he probably ought to try to look into that a little bit. I can't speak for everybody. I'm not even going to speak for myself tonight as far as where I'm going to vote in a month, but I do have real life experience with neighborhoods in Charlotte that have these problems, and the solutions with them have been to work with the neighbors and try to get some parking because things do come up. People come in for Thanksgiving, in-laws come home for Christmas. You have to be able to park people.

Mr. Lunsford said obviously that would be a lot easier if I didn't have 100% of the infrastructure already in for this site, and that's where the difficulty comes in.

Councilmember Dulin said good luck with it. I know you are trying to make lemonade.

Mr. Lunsford said I'm trying to get it finished up.

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

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## **MAYOR AND COUNCIL TOPICS**

Mayor Pro Tem Cannon said are there any Mayor and Council topics? One real quick. There is a request for a variance near the Wesley Heights neighborhood for what would be an adult entertainment establishment, and I believe it's to come up one day next week for the request to approve or not to approve this variance, and I just want to simply say inasmuch as we have fought along Wilkinson Boulevard and other areas that are close by to prevent that kind of thing from occurring and especially as close as it will be to this neighborhood I would hope for any level of influence that we might have that we might make our position public or at least present it to the board over there about if we are for something like that or against it. I can tell you publicly I do not support anything like that, but I just want to say that we need to be conscious about all the hard work that the Frances Harkey's of the world and several other neighborhood leaders have invested on that side to make it what it is today, so that's all I'll say about that.

Councilmember Cooksey said I don't want to be too presumptuous, but I would not want to risk the impartiality of the quasi-judicial process before the ZBA by actually providing any advice to them, but thank you.

Mayor Pro Tem Cannon said I'm not giving them any advice. I'm just raising a point. We have worked very hard to make that community stable, and we don't need anything to take it down to a fragile state. That said, anything else.

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**ADJOURNMENT**

The meeting was adjourned at 8:27 p.m.

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Stephanie C. Kelly, CMC, City Clerk

Length of Meeting: 2 Hour, 52 Minutes  
Minutes Completed: July 23, 2010