

**DINNER BRIEFING**

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

**ABSENT UNTIL NOTED:** Councilmembers James Mitchell, Warren Turner

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**Tammie Keplinger, Planning**, answered Council's questions as they pertained to the agenda. Katrina Young presented a Zoning Board of Adjustments overview for Council and responded to questions.

**Councilmember Mitchell arrived at 5:34 p.m.**  
**Councilmember Turner arrived at 5:47 p.m.**

The briefing was recessed at 5:52 p.m. for the Council to move to the Council Meeting Chambers.

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**ZONING MEETING**

The Council reconvened at 6:01 p.m. in the Council Meeting Chambers of the Charlotte-Mecklenburg Government Center with Mayor Foxx 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 Foxx explained the Zoning Meeting rules and procedures. He recognized the chairman of the Zoning Committee, Steven Rosenboro, who introduced his committee.

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**DEFERRALS AND WITHDRAWALS**

- [ Motion was made by Councilmember Cooksey, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to defer the following decisions: Item No. 3, Petition No. 2008-032, ]  
[ for five months until December; Item No. 6, Petition No. 2010-032, two months until ]  
[ September; Item No. 9, Petition No. 2010- 037, two months until September. ]
  
- [ Motion was made by Councilmember Kinsey, seconded by Councilmember Carter, and ]  
[ carried unanimously to withdraw Item No. 4, Petition No. 2009-076. ]
  
- [ Motion was made by Councilmember Cooksey, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to defer Item No. 19, Petition No. 2010-045 for four months until ]  
[ November. ]

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### HISTORIC LANDMARKS

#### **ITEM NO. 1: ORDINANCE NO. 4464-Z DESIGNATING THE “THRIFT DEPOT OF THE PIEDMONT AND NORTHERN RAILROAD COMPANY” AS AN HISTORIC LANDMARK**

[ Motion was made by Councilmember Cannon, seconded by Councilmember Dulin, and ]  
[ carried unanimously to adopt an ordinance designating the property known as “Thrift Depot ]  
[ of the Piedmont and Northern Railroad Company” as an historic landmark. ]

The ordinance is recorded in Ordinance Book 56 at Pages 685-690.

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#### **ITEM NO. 2: ORDINANCE NO. 4465-Z DESIGNATING THE PROPERTY KNOWN AS “W.P.A. DOUGLAS AIRPORT HANGER” AS AN HISTORIC LANDMARK**

[ Motion was made by Councilmember Howard, seconded by Councilmember Kinsey, and ]  
[ and carried unanimously to adopt an ordinance designating the property known as “W.P.A. ]  
[ Douglas Airport Hanger” as an historic landmark. ]

The ordinance is recorded in Ordinance Book 56 at Pages 691-695.

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### DECISIONS

#### **ITEM NO. 5: ORDINANCE NO. 4466-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR 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)**

Mayor Foxx said the Zoning Committee found the existing church and playground for this petition to be consistent with the Belmont Area Revitalization Plan and the new residential component and a portion of the associated parking to be inconsistent with the plan but reasonable and in the public interest.

[ Motion was made by Councilmember Cannon, seconded by Councilmember Mitchell, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-009 ]  
[ for the above rezoning by St. Paul Missionary Baptist Church, Inc. as modified and as ]  
[ recommended by the Zoning Committee. ]

The modifications are:

1. The petitioner has renamed the “elderly housing” component to “senior housing”.
2. The petitioner has revised the site plan to state the maximum building height is not to exceed three stories and 40 feet.
3. The petitioner has provided a notarized letter from Charlotte-Mecklenburg Schools (CMS) that states St. Paul’s Church allows Hawthorne High School use of their facilities including their parking lots for special events. And in return, St. Paul’s Baptist Church may have exclusive use of the Hawthorne High School parking facilities from 7:00 a.m. to 3:00 p.m. on Saturdays and Sundays.
4. The petitioner has revised the site plan to identify off-street parking spaces in Blocks A, B, C, and D that are being used for the church facility in Block E.
5. The petitioner has added a note that identifies on-street parking available for Block E (properties to be zoned MUDD).

6. The petitioner has modified the internal parking row, increased a side yard, added a tree in the parking lot, and added a tree adjacent to the proposed garden area in Block A; increased the planting strip and added trees within the planting strip, and converted parking spaces to compact to accommodate the increased planting strip and buffers within Block C; and added a street tree and a tree internal to the site within Block D.
7. The petitioner has added language to Development Note J6 to provide more specificity on exterior building materials. The added language states: "Only non-vinyl and non-metal siding are allowed. Fiber cement siding such as hardie plank, is allowed. Vinyl trim and shutters are allowed."
8. The petitioner has added a table to the site plan that identifies dwelling unit per acre calculation for Blocks A-D.
9. The petitioner corrected the site plan to note that there are 14 spaces in the northernmost parking row of parking within Block C.

The ordinance is recorded in Ordinance Book 56 at Pages 696-697.

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**ITEM NO. 7: ORDINANCE NO. 4467-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CC SITE PLAN AMENDMENT OF APPROXIMATELY 37.3 ACRES LOCATED AT THE INTERSECTION OF JOHNSTON ROAD AND TORINGDON WAY SURROUNDED ON THE SOUTH SIDE BY INTERSTATE 485**

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

[ Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-035 ]  
[ for the above rezoning by Lichtin Corporation as modified and as recommended by the ]  
[ Zoning Committee. ]

The modification is:

1. The following note has been added: "In order to continue to quality and architectural theme established for Toringdon by the existing building, the Petitioner will provide that new buildings constructed on the site will be architecturally compatible to the existing buildings. This may be accomplished by the use of similar building materials and colors as well as similar or complementary architectural styles.

The ordinance is recorded in Ordinance Book 56 at Pages 698-699.

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**ITEM NO. 8: ORDINANCE NO. 4468-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR 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) SITE PLAN AMENDMENT**

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

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-036 ]  
[ for the above rezoning by Grier Funeral Service, Inc. as modified and as recommended by ]  
[ the Zoning Committee. ]

The modifications are:

bvj

1. The previously submitted elevations for the proposed garage, which showed a one-story, four-bay garage have been submitted.
2. A note has been added that states two trees will be provided to break up the blank wall facing Rozzelles Ferry Road.
3. The existing zoning has been amended to reflect R-22MF and O-2(CD).
4. The area proposed to be rezoned has been clearly delineated.
5. A note has been added that states signage will comply with Chapter 13 of the Charlotte Zoning Ordinance.
6. The existing four-foot sidewalk along John McCarroll Avenue has been shown and labeled.
7. A note has been added that states the sidewalk along John McCarroll Avenue will be connected around the utility poles to provide pedestrian access.
8. The reference to an existing sign has been removed.
9. A note has been added that states the attached garage elevations are conceptual.
10. Commitments regarding architectural standards for the proposed garage such as roof pitch and exterior building materials have been provided.

The ordinance is recorded in Ordinance Book 56 at Pages 700-701.

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**ITEM NO. 10: ORDINANCE NO. 4469-Z FOR A UR-2(CD) SITE PLAN AMENDMENT OF APPROXIMATELY 4.27 ACRES LOCATED ALONG WENDWOOD LANE OFF RANDOLPH ROAD**

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

Councilmember Carter said if I could make a statement about the consistency of the design in this issue I think it could help people with their decision. The plan is as presented in two prior rezonings, and I think it is incumbent upon us to recognize the fact there will be consistency within the development, and I think that is a very important issue.

[ Motion was made by Councilmember Carter, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2010-043 ]  
[ for the above rezoning by Valley Development, Inc. as modified and as recommended by ]  
[ the Zoning Committee. ]

The modifications are:

1. A note has been added committing to the 60% use of masonry material on each unit, consistent with the two previous rezonings and the three constructed townhomes.
2. Location of dumpster and recycling pad has been shown on the site plan and will be modified to allow the movement for Solid Waste Services vehicle to access dumpster.

The ordinance is recorded in Ordinance Book 56 at Pages 702-703.

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**HEARINGS**

**ITEM NO. 11: HEARING ON PETITION NO. 2010-034 BY RED PARTNERS FOR A CHANGE IN ZONING OF APPROXIMATELY 0.36 ACRES LOCATED ALONG THE EAST SIDE OF NORTH DAVIDSON STREET BETWEEN CHARLES AVENUE AND EAST 32<sup>ND</sup> STREET FROM R-5 TO UR-2(CD)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this is a petition to rezone approximately 0.36 acres along the east side of North Davidson Street from R-5 to UR-2(CD). As you can see on the map above, it is surrounded by residential and industrial zoning. In terms of the land use, the properties adjacent to the site are vacant with a mixture of residential and industrial land uses. The adopted future land use plan calls for residential for the subject property. Here's the aerial and the site plan. The proposed site shows six residential units at a density of 16.6 dwelling units per acre. The uses listed on the petition are all uses in the UR-2 including any of the nonresidential uses. The site plan shows one building with six units. Elevations are also included. The maximum building height is 50 feet. There are architectural and building material commitments also. The proposed plan is inconsistent with the North Charlotte Plan, which recommends single family residential for the property, however, the GDP supports up to 17 dwelling units per acre, so in terms of residential density, staff is willing to support the six units per acre. However, staff is not supportive of the nonresidential uses that are proposed for the development. The petition in its current form does not restrict the uses – only to residential and all accessory uses, and, therefore, we cannot support this petition in its current form.

Councilmember Howard said just to clarify what other uses could happen in this space?

Ms. Keplinger said in the UR-2 district I'm going to have to consult the zoning ordinance to tell you that. I apologize.

Councilmember Howard said so the petitioner is not willing to limit that use to just residential?

Ms. Keplinger said there are other uses. I believe you can have office uses. I believe there may be some minor retail type uses that are also permitted in that district, and the petitioner was not willing to restrict out those uses.

Councilmember Howard said that's really what I wanted to know.

Councilmember Peacock said, Mr. Mayor, did you say we did not have any speakers for this or to speak to it?

Mayor Foxx said Item 11, no, we don't.

Councilmember Peacock said has staff been in touch with them?

Ms. Keplinger said, oh, absolutely. This petition was deferred last month, and the petitioner was aware we were not supporting it, but we have been in contact with them to tell them of our issues, and I'm not sure what their situation is tonight.

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

Councilmember Dulin said does that mean that after it was deferred last month until this month the petitioner has basically walked away from it?

Ms. Keplinger said, no, sir, it means that the petitioner did not agree with staff's recommendation to eliminate all of the uses except residential and residential accessory uses and did not amend the application. We have had no contact with them – they have not contacted us to say they were wanting to withdraw the petition, so we assumed they want to move forward.

Councilmember Dulin said it's generally not good to leave us in the dark by not contacting folks, but, okay.

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

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**ITEM NO. 12: HEARING ON PETITION NO. 2010-042 BY DAVID R. KRUG ASSOCIATES, INC. FOR A CHANGE IN ZONING OF APPROXIMATELY 18.20 ACRES LOCATED OFF MONROE ROAD AND GENERALLY BOUNDED BY SHADE VALLEY ROAD, CATERET STREET, AND CHIPPENDALE ROAD FROM I-2, R-17MF, AND R-5 TO NS WITH FIVE-YEAR VESTED RIGHTS**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this petition is for approximately 18.20 acres located off of Monroe Road. The proposed request is from I-2, R-17MF, and R-5 to NS, and the petitioner is requesting the five-year vesting of rights. The petition, if you look at the zoning for the property, you can see the I-2 zoning, the multifamily around it. There is some commercial across the street and some office. In terms of land use in the area, the property is currently vacant. It used to be an industrial site, and, again, the adjoining land uses are consistent with the zoning. In terms of the future land use for this property, the East District Plan recommends industrial for the majority of the property, and that recommendation is based on its previous use.

The site plan for this petition shows up to 250 residential units in this area and 75,000 square feet of retail within this area. Within the 75,000 square feet of retail, the commercial uses are limited in terms of drive-thru. There can be one drive-thru use with up to four drive-thru stations, so, for example, one bank could have four drive-thru's. In terms of the development standards for this piece of property and for this rezoning, the petition has incorporated several of the development standards from the PED requirements, the pedestrian overlay district, which are consistent with the recommendations of the draft Independence Boulevard Area Plan.

The property is divided in five parcels with a street network that will be internal streets that will be open to the public whether they are public or private streets. The buildings will comply with urban design standards including the first floors of all buildings to be designed to encourage complimentary pedestrian access and architectural compatibility in appearance for all of the buildings.

As I stated, the East District Plan recommends industrial land uses for this property based on its previous use. The Independence Boulevard Draft Area Plan recommends a combination of integrated residential, office, or retail development for this location to create a neighborhood node at Monroe, Richland, and Chippendale. Now, the petition is inconsistent with the 1990 East District Plan, but it is consistent with the Draft Independence Boulevard Area Plan, and staff is recommending approval upon resolution of outstanding issues.

**David Krug, 223 N. Graham St.**, said I represent the petitioner. We have been working on this project for about five years. As you know, it was previously the Woonsocket Milling site. Our plan is to rezone it to NS, neighborhood service district. It will be pedestrian friendly. It will be urban in design. It will have connectivity between the retail and the residential, and it will bring badly needed services to this area not to mention employment to the area. It will replace an I-2 industrial zoning for three-fourths of the site, which certainly appears to be more appropriate. As was mentioned, it complies with the Independence Boulevard Area Plan, it complies with NS, and it also aligns with the PED Overlay Plan. The densities also comply. It's 22 units to the acre, which is what Independence Plan recommends, and we are limiting the retail to 75,000 square feet. A grocery store would take probably 50 to 60% of that, somewhere between 36,000 and 45,000 square feet, so the balance would be retail, local services.

We also as a part of this are going to realign the intersection where Chippendale now dead-ends into Monroe Road. Just west of that intersection is Richland Drive, which is signalized but only goes into the Oakhurst Elementary School, so our plan is to reorient Chippendale into Richland, create a signalized intersection with dedicated turn lanes both there as well as the entrance into the development site. Heath Kendrick is with LandDesign, and he will talk with you in more detail both about the site plan and development standards.

**Heath Kendrick, 223 Graham St.**, said, as David said, the intent of the site plan is to create a mixed use walkable neighborhood center. That was one thing we heard from the community meeting was the area was really lacking some neighborhood services, hence the neighborhood services zoning, but a simple thing such as a grocery store. We heard comments and questions,

well, what happens when Wal-Mart comes into the community. Can a grocery store survive, and David's response to that was sure. If the homes are there and the need is there and the want is there, the intent is to create a walkable area where people from the existing Oakhurst community as well as the multifamily residential units that David is proposing can walk to this center and live and work and play kind of in the same place. The site plan does comply with the Urban Street Design Guidelines from a walkable block length – nothing longer than 500 feet. There is one block, if you look at the plan kind of on the top right side. It is called Tract E or Parcel E where we can't comply with that. We have dedicated a pedestrian walkway, a pedestrian easement, so you can at least have that pedestrian experience that connects you over to Shade Valley. We had a meeting last week with Tammie and Laura on a few site issues or notes really that staff wanted us to work out – related to building height, related to signage. We have taken care of all that. With an update that will be sent out on Friday, all of that is taken care of. We have accepted all their comments. The other thing was CDOT had some comments about traffic, turn lanes, things like that. We are taking care of that as well. So there is really no issue that I'm aware of from staff that we can't resolve in the next week for Friday submittal. The two things from the community we heard at the meeting were we need a grocery store and we need that traffic light, and this plan takes care of both of those. I welcome any feedback, and I will let the lady from the community speak.

**Elizabeth Bradford, 4414 Carteret St.**, said I'm proud to be an Okie from Oakhurst. My husband and I are first-time homeowners there since December of '02. I would say the residents of Oakhurst are a varied bunch of folks, who would like to see the area upgrade, not degraded. We heard mentioned earlier of Mr. Krug and his associates talking about delivering rooftops to maybe a Food Lion, and I would like them to examine the median income of these homes, look at young families, young professionals. A number of these people choose to drive to other areas such as Cotswold, Trader Joe's, Bloom's. I think our neighborhood deserves a bistro or family restaurant rather than more Mickey D's or cell phone joints. Parts of Monroe Road are kind of worn down and shabby, and Mr. Krug's development could go a long way towards renewing the look and feel of the stretch between Commonwealth and Sharon-Amity. When I got recent notice of this petition, I cried for two days mostly out of fear. I feared transient people living in apartments looking down into my backyard, I feared the noise and other hassles of traffic on our little secondary road that I live on, and I still have some fears of whatever unknowns this development might bring. Mr. Krug doesn't live in the area. Does he want customers to just drop by and keep moving? I just really hope all the active participants in the project would consider catering to the locals, not just with window-dressing, but actual neighborhood services. I am in favor of the petition with reservations.

**Greg Evangelist, 1518 Chippendale Rd.**, said here's the things I like about this. I like the realignment of Chippendale, although we will end up with another road that you go across the intersection and it changes names, but that's Charlotte. I like the new retail redevelopment and opportunity for the area there. I don't like the density. Currently it's R-17MF on seven acres, which is 119 units. On the 18-acre site, they are looking at 250 units, which works out to be 14 per unit, but half of it is going to be office, so really if they use ten acres, that's 25 multifamily. Although I did see that it was 22 DUA – that's what they are limited to, but it says a possibility of a 60-foot building, which in there it says four stories, but isn't 60 foot more like five stories at 12 foot a story? Also, at 250 units, the number of cars will explode. CDOT thinks that the car trips will go from 1,000, which is what it is now, to 7,500 attributed to the 18.2 acres of car trips. Can Monroe Road handle that considering it hasn't been repaired since at least 1984 when I came back here to start working in Charlotte. Nearby is Anthem, and it was zoned R-8, and it's 29 acres, and it has 224 units. It's a nice little neighborhood, but we are looking at putting the same amount just about on a third of the size of the property. There are already eight parcels on this side of Monroe Road between Eastway and Oakhurst Baptist Church, which already are R-17. Currently Lake Hill and Brittany Woods apartment complex border this property, and Lake Hill is 184 while Brittany Woods is 84 units. That makes 268 units. So when you bring in this new 250 unit possibility, you are looking at a 90% increase in possible rental properties in the area. Are we trying to make this into an Eastway like between Central and Kilborne where it's nothing but apartments? I would think we wouldn't want to do that. I feel the size of the units should be reduced to 125 and the building height should be put down to about 30 feet or a three-story building. That would be more usable in my opinion, but other than that, I do like the road realignment. I think that's good, and we do need something like that in the neighborhood.

Mr. Krug said regarding the density, the density is 22 dwelling units per acre, which is exactly what the Independence Plan calls for. With regard to the height, because Laura and Tammie recently spoke with Heath, I would rather he discuss that issue.

Mr. Kendrick said building height has been taken care of. He mentioned 60 feet. It's no longer 60 feet. It's 40 feet. That will be on Friday's re-submittal. We are adhering to the NS zoning – 40 feet, and then we can increase for one foot for every ten feet of extra side yard we provide. The reason we were asking for 60 feet is there is so much topography change to this site. We wanted to make sure we weren't going to get into trouble with one side of the building being four stories and the other side being almost a five, so we asked for 60 with the anticipation there is going to be a lot of grading to the site.

The other thing Mr. Evangelist spoke of was traffic. We have been working with CDOT ever since we started the process. We are adding additional turn lanes on Monroe Road so cars can get out of the travel lanes to make a dedicated left onto Chippendale from Monroe as well as left-turn lanes at Shade Valley Road, so we are anticipating there will be some traffic, but through the TIS we have taken care of that as best we can.

Mayor Foxx said, Mr. Evangelist, I think there is a question for you that is coming up, so I thought I would do that.

Councilmember Carter said I have several. The retail you indicated on this property we don't have a detail setup of what you are proposing, so is the retail oriented to Monroe Road?

Mr. Krug said, yes, it will be, and it's all urban design, so the buildings will be pushed up to the street as opposed to a more suburban design.

Councilmember Carter said with entries there as well as to the back?

Mr. Krug said that is correct.

Councilmember Carter said you are respecting the wetlands I saw from your plan. There is a community garden, and thank you very much for respecting that as well. I do appreciate that. That is quite a gathering spot. You have Area E divided by that pedestrian walkway, and you say it will connect with Shade Valley. I don't see that entry.

Mr. Krug said there will be an easement to allow that connection. There was no way to physically have a road connection because of the dramatic topography change.

Councilmember Carter said but you are not developing that pedestrian walkway yourselves?

Mr. Krug said no. Well, actually we don't even have the property that would go all the way out to the street. We only abut to the Lake Hills property.

Councilmember Carter said but that is provided for if and when there is a proposal that will connect.

Mr. Krug said that's correct.

Councilmember Carter said that appeals to me very much because I think you will have traffic there. The height I was concerned about, and you are now stepping it back when you have residences backing up to you all; is that correct?

Mr. Krug said that's correct.

Councilmember Carter said that's a very important point for the neighborhood, for maintaining that quality of life that we cherish in that area.

Mr. Krug said when we originally thought about 60 feet, as Heath said, it wasn't for that area. It was when you get to the easterly property line where it drops off dramatically, but through their design they feel like they can do it within that 40 feet.



Councilmember Carter said the other point I would like to make is that we cherish homeownership, so if you could consider ownership for these 250 units, that would be a plus for the neighborhood.

Councilmember Dulin said when we were picking up on this during our reading over the weekend, Mayor and Council, in my lifetime, I don't remember new development in this section of Monroe Road. I mean there has been some mini-warehouses put in, and you change a White Horse Restaurant into a gas station or something over there. There has been a small building here and a small building there. This is a major project, and thinking big and able to come through on it I think, David, I recall you doing in the past in your career, so I was glad to see your name on this when I was doing my reading. That gave me a little bit of comfort level.

The other thing, Ms. Bradford and Mr. Evangelist, many times during zoning meetings down here when we see on our paperwork for and against, and then we go back to our reading, it's right here, and we are looking up your address on our – you know, we have a site map, and your street and your street are both there. You are neighbors, and you are for and against, and that happens a lot, but then after you spoke, Mr. Evangelist, you went up and sat down next to Ms. Bradford, and we don't see that all the time when you are for and against. That told me a lot – that you are neighbors. You just wanted to come down here and have your say and do it in a respectful manner, respectful to each other, and I picked up on that, and I'm sure the others did, too, that you did a very good job of coming down on different sides of this thing. I think staff is working really well. These guys apparently are backing down to where they need to be to get staff support, and I think when we are done we are going to have a good project and everybody is going to be happy. I'm sure both of you have neighbors that feel the same way each of you do, so thank you for coming down tonight. I'm looking forward to watching this progress a little bit. David, good to see you again. It's been a lot of years.

Mr. Evangelist said could I say one thing?

Councilmember Dulin said, I'm sorry, I need to ask you a question. Mr. Evangelist, if you had another 60 seconds, what would you like to tell me?

Mr. Evangelist said the commercial part of the project is going to have a buffer from the neighborhood, but the multifamily part there is no set, other than the normal set of offsets you have on that piece of property, and I didn't see anything in all the reading that I did that said anything about it.

Councilmember Dulin said I can answer that for you. These guys are going to work on some fencing for you, Mr. Evangelist.

Mr. Evangelist said four-story building.

Councilmember Dulin said okay.

Mr. Evangelist said ten feet off the property line.

Councilmember Dulin said I think it's moving in the right direction, sir, thank you.

Councilmember Cannon said that was about 12 seconds, Mr. Evangelist, very good. To the petitioner, a quick question. Are you certain about your 40 feet?

Mr. Kendrick said we agreed to limit ourselves to 40 feet.

Councilmember Cannon said the reason I asked that question is because when you initially went to look at the topography in the area I'm wondering about your assessment. I understand that you were looking at it in a way that you were looking at 60 just to give yourselves I guess some wiggle room, if you will, and so I'm wanting to make sure that 40 feet is exactly where you are in this process, and you will not go back and reassess the topography and it comes out to be something else. That's question one.

Mr. Kendrick said the 60 came about because of the way the topo falls down to the creek. We were anticipating maybe a three-four split building where you would have three stories on one and four on the other, 12 feet per floor. That's 48 feet plus the pitch of a roof got us to 60. We were also thinking about tree-save, how many of those trees can we save. That was a comment we got back from urban forestry. We haven't done a mass grading study, to be honest with you, because you can see the plan. It's just basically a schematic diagram, but because staff had the comment and because we know we are working hard to come to common terms, we are going to commit to the 40 feet. And, then to Mr. Evangelist's point, if we need to go above that 40 feet, we do have the flexibility in the ordinance for one foot for every ten feet we increase the side or rear yards, so we can go up to 44 feet, but now we are 40 feet away from the single family. So if it needs to go higher, there is flexibility in the ordinance to allow us to do that, but we do get further away from the single family.

Councilmember Cannon said, Mr. Evangelist, how do you respond to the 40 feet.

Mr. Evangelist said that looks a lot better than 60, but that's a three-story building. That is very consistent with the other apartments in the area. I would be okay with that – more okay with that. It's just the more apartments and doubling the number of apartments basically is the possibility.

Councilmember Cannon said the other question I had for the petitioner would simply be this. Will there be assisted housing provided in this development?

Mr. Krug said we don't have any plans for affordable housing.

Councilmember Cannon said the only reason I was asking is largely in part because I notice in our write-up that we would – that is the City Council would have to approve a waiver for the housing locational policy if we moved in that direction, so I just had that question for you, and I appreciate your answer.

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

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**ITEM NO. 13: HEARING ON PETITION NO. 2010-046 BY JNC PROPERTIES, LLC FOR A CHANGE IN ZONING OF APPROXIMATELY 1.01 ACRES LOCATED AT THE WEST CORNER OF THE INTERSECTION OF SCOTT AVENUE AND EAST BOULEVARD FROM NS TO B-1(PED-O)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this petition is to rezone, as the Mayor said, from NS to B-1(PED-O). This is a conditional district, therefore, only what is approved, if it's approved, on the site plan is allowed, and any future redevelopment at the site would require an additional rezoning. I'm going to scroll through the land use. The petition proposes a stand-alone parking lot for neighborhood businesses. It has 85 parking spaces, access from East Boulevard and from Scott Avenue. Screening and buffers will be in accordance with the zoning ordinance.

There is an optional request on this petition for setbacks and streetscape improvements along both East Boulevard and Scott Avenue. The petition is inconsistent with the East Boulevard Pedscape Plan, which recommends a mix of uses, multifamily and/or retail, based upon the rezoning for this site that was approved in 1997. Staff sees the proposed petition as finding middle ground between the current situation with the property, which is a vacant lot that has been used in violation of the conditional district plan as a parking lot. We see this as an interim use where we can acquire and gain some streetscape improvements, screening, and buffering. It is consistent with the PED-O, and we have no outstanding issues.

**Ann Castanas, 3537 Dilworth Heights Ln.**, said I am Nicole Castanas. I am representing my family, landowners of JNC Properties, 1312/1318/1324 East Boulevard. We are the petitioners

for the rezoning of this property from NS to B-1(PED-O). The purpose of our request is to provide much needed additional parking to area businesses within the Kenilworth, Scott Avenue, East Boulevard block that choose to lease spaces on this site. The need for this parking lot would enable patrons more availability to secure parking rather than risking towing. The East Boulevard community as well as other Charlotte neighborhoods have experienced towing issues far too long. With the passing of this rezoning, it will allow us to make a site transformation. Landscape beautification will include over 100 shrubs used for fencing and approximately 17 trees bordering the property. In closing, I would like to add that this land site transformation will be the sole financial responsibility of JNC Properties. I thank you for giving us the opportunity to present our petition to rezone as the urgent need for parking remains.

**Chris Carlser, 1315 East Blvd.**, said I represent the property owner across the street as part of the 1513 East Boulevard Condominium – Latta Pavilion. On a corner unit there, we are very grateful to have 131 Main Restaurant in that location. Along with all the other restaurants and businesses in that area on East Boulevard, there certainly is a desperate need for additional parking. Street parking is not adequate. What availability of lots are full, and there is an obvious problem with fulfilling the needs of the citizens and the patrons of all the businesses up and down East Boulevard. This would create a nice area, a very attractive area for which to park during the daylight and early evening hours. Some say that is not a good use for that property, but I would like to submit that the use of it now as in a vacant lot that is very unattractive is not necessarily a good thing. Staff, I think, sees that this is a good middle ground for improvement of the community, and any time a landowner wants to invest money to improve property, I, as an adjacent property owner, would applaud that. This would also allow for additional customers, which means more sales, more sales tax, and it certainly would derive the landowner a chance to recoup some of the property taxes they are currently paying and will continue to pay. In my conclusion, which is unprepared, but it certainly is a benefit to have an improved property with the money they are going to put into it. With the hedges and the landscaping, it will be a vast improvement to what it is now. If you have been by it, you will know there is not much there to look at or be proud of.

**Sis Kaplan, 1320 Fillmore Ave.**, said I am on the board of and am here tonight representing the Latta Pavilion Condominium Association at 1320 Fillmore Avenue, and our board voted to oppose this rezoning. I will also change hats and will represent my daughter, Leslie Kaplan Schlernitzauer, who is out of town, and she is the owner of the property at 1520 East Boulevard where Porcupine Provisions is located and The Deck Restaurant. She asked me to convey her concerns regarding the rezoning, but let me start on behalf of Latta Pavilion by saying that I see no reason that this petition should be fast-tracked as is the request of the property owner. This is not an emergency situation. This property has been left vacant and uncared for for a good number of years. I understand the economy today is not good for development, but this property was leveled when the economy was booming, and it was not developed as planned. It should not now be turned into a parking lot, which will say neglect your property and we will rezone it for you. I also believe the community meeting report that I read on-line was misleading in regard to the maintenance and security of the property as stated by the owner at the meeting that was held June 28<sup>th</sup>. A parking lot on this location, which is on East Boulevard, the main corridor of Dilworth, is not in keeping with the pedscape plan, a pedestrian friendly plan that so many worked so hard to get in place. This plan is working, so let's not help to destroy it. As my friend, Lenore Deutsch, a long-time resident of Dilworth and community activist wrote in her email to all of you, "This plan can only be detrimental to our streetscape for many years," and if you approve this rezoning, there is no incentive to the owners to seek a more positive use for the property. Now, I'm going to switch hats and represent my daughter. She wanted me to express her concern that this rezoning has all the probabilities to create a slippery slope on East Boulevard and in Dilworth generally. There are other locations that are vacant and still others that have nonproductive buildings on the property that will also want rezoning for parking. If you allow this, why not their property next month? Also, she was one of the individuals that developed a number of years ago the pedscape plan. She feels this is not in keeping with the plan. Above all, I urge you not to fast track this tonight. Thanks for allowing me to speak.

**Mary Hopper, 825 Lexington Ave.**, said I speak to you tonight with a considerable history on this property dating back to how closely we worked with the family when I was DCDA president in the early '90s. I know I don't look that old. Not only did we meet with them to help them with the rezoning, but thanks to Sara Spencer we interceded on their behalf when CDOT

considered widening East Boulevard in front of their property. The fact that neither the property owners nor the petitioners took this petition before DCDA, a group that has a long history of helping them repeatedly in the past, suggests they have little interest in seeking the community input a petition like this that is so horribly at odds with the pedestrian aspirations of this area clearly deserves. I find that troubling. I showed up tonight in part because I had heard that there was a request for an expedited decision. I gather that has been withdrawn at this point, but I also found that terribly troubling and wanted to call it to your attention that a procedure that John Tabor and I developed years ago said that you would only expedite a decision if there was no controversy -- clearly this has controversy -- and if there were dire financial obligations or considerations. Clearly that is not true since the family has owned this property for several generations. Finally, in the spirit of Mr. Cooksey, I have a policy wonk's quibble. The community report, while meeting the letter of the law, fails to answer any attendee questions, and, furthermore, gives some misleading information. It suggests as well that by simply asking people to give their names, no contact information, there was no interest whatsoever and further clarifying any of the issues that were brought before the group at that Monday night meeting. In closing, please do not reward bad behavior to people who are illegally operating a parking lot by hurrying a decision. Ask them to meet with DCDA and with impacted neighbors. Do not let them get away with the travesty of a community meeting. Until clarity is achieved on outstanding concerns and there is real acknowledgement of the pedscape issues, this petition simply doesn't warrant approval.

**Wes Kenney, 1920 Dilworth Rd. E.**, said I'm the president of the Dilworth Community Development Association. The Planning Department has said that this petition is inconsistent with the East Boulevard Pedscape Plan but supports it due to its short term usage. This land has been vacant for 12 years during the largest real estate boom in the past century. So now we are in the largest real estate bust that any of us can recall, and we should expect a parking lot on this site for at least another 12 years. The East Boulevard Pedscape Plan was adopted by the City Council in 2002. The Dilworth Land Use and Streetscape Plan, which is about six inches thick, was adopted and approved by the City Council in 2006. Both of these plans set very clear design guidelines for the streets and sidewalks in Dilworth, which have made it a pedestrian haven. Rezoning Petition 2010-046 is to place a surface parking lot in the heart of our community on East Boulevard at Scott Avenue. The infrastructure guideline outlined in these two plans call for 12-foot sidewalks and tree wells to be planted along this location. As a neighborhood, Dilworth expects the improvements to this infrastructure as outlined in these plans to be a part of all rezoning petitions by the Planning Department with the approval of the City Council. Parking is an issue in our community as it is in every urban community. Our restaurants and businesses are thriving. I'm sure they would like more parking, but putting a surface lot on East Boulevard is not the right place for this. Currently I can think of two other property owners who have put out feelers to us about whether we would support parking on their properties if they tore down their buildings. We have been clear with them that we would not. Approving this petition would send a terrible message to the community that surface parking lots are a desirable amenity in our community.

**George Castanas, 4212 Windwood Cir.**, said I'm the owner of the property along with my family. It's very hard to debate issues on this rezoning when the petitioner has no idea of what the folks just told everyone about. So I'm just going to be off-the-cuff. Yes, the property has been vacant for a number of years. Yes, it's been NS for a long time. We could not execute a loan back in 2000 to put that building up that we wanted under the NS, so we had to scrap the plans. Over the course of that ten years, there have been several things that the family allowed folks to do. Number one, the contractor that built the Latta Pavilion needed space to continue and to finish Latta Pavilion. We allowed them to stay there. They had offices on there, trailers. They had their people using the property, and it took about two years to complete that. No one in the community disagreed with that or complained. Also parking was allowed on a one-day basis on two different occasions for some commercials that were done by Picasso. The hospital asked to use the lot for parking for a large gathering they were having. They didn't have adequate parking at the time. A restaurant down the street --

Mayor Foxx said, Mr. Castanas, I'm sorry, that concludes the rebuttal time, but there may be questions that come up that may give you a chance to expound a little bit more.

Councilmember Dulin said, Mr. Castanas, that site as a developable site for all intents and purposes is dead, dormant.

Mr. Castanas said for the time being, sir.

Councilmember Dulin said not sellable – for the time being, correct. I’m sure – I mean we have all been looking at the empty lot, torn down building – wonderful restaurant, sir. But we have been looking at that empty lot and sort of wondering why all these years, and you have just given us a couple of examples why. We look at folks trying to create businesses and do other things all the time up here, guys and ladies. They are trying to figure out how they can create a little bit of income out of a lot. Personally, I would rather see activity over there than a dust bowl, and maybe they are going to pick it up a little bit and spend some money fixing it up. I mean that’s just my opinion. Clearly I’m one of 11 folks, but I’m going to support. We have moved it here. If there were temperament around Council tonight to vote on this up or down tonight, I would be amicable to that if we have more discussion. But it’s more than likely going to get pushed out to September, and that might not be all bad, sir. We did another one with this Boxman Studios tonight where we are going to wait until September so that among other people than myself can get more information and learn a little more about it.

Mr. Castanas said the reason why we asked for a decision tonight –

Councilmember Dulin said, I’m sorry, this is a question. I just wanted to make a little statement. I see a family that own that property and are paying taxes on that property every year, so I would sort of like to help a family out now. Ms. Kaplan and neighbors, I tried to listen to you all very closely, too. I mean you live across the street from the thing, and Dilworth, you all have done a good job of protecting your interest over the years. I just wanted to make that statement, Mayor.

Councilmember Cannon said what is the hurry for a decision tonight?

Mr. Castanas said the hurry, sir, is the over 100 plants and the 17 trees that we want to plant, and it takes time to get that done, to get the dirt dug up, planted. We also have some concrete to extend the driveway in. That has to be done. If you do not pass it tonight, all you are doing is delaying it two months because you don’t meet in August, so then if we come back in September, you vote yes or not, and if it’s yes, then it’s making the property – we are not beautifying it until that point. So that is the reason to get a decision tonight. Staff analysis there are no complaints other than these three folks over here that I have heard.

Mayor Foxx said, sir, I’m going to have to confine it to the question.

Councilmember Cannon said you answered the question. I understand that clearly. My concern though is that at no level has there been any conversation with neighbors and others that may be concerned. At least that’s the report that we have gotten, and I would ask that you all meet with them because they may very well get on board with whatever it is you are talking about in terms of the architectural pieces that you are trying to cover there or landscaping, if you will, but then again maybe not, but the point is you still have to afford them an opportunity to be able to sit down with you to have some level of discussion, and that has not taken place. The other thing is there is an ordinance that exists currently, and the ordinance right now is being violated. I would wonder why City staff or a member of the body, City Council, or the Mayor had not been approached about what is going on with operating under any legal use. So, I would ask you the question in terms of why – strike that. I will keep it germane to the discussion here. Lastly, Mr. Mayor, if I may continue, sir. Staff, I heard from Mr. Carson tonight that staff sees this as a middle ground for the community.

Ms. Keplinger said, yes, sir.

Councilmember Cannon said that’s your position.

Ms. Keplinger said, yes, sir, we feel that at some point this property is going to redevelop, and it will have to go through the rezoning process again to do that. In the interim, we feel like the enhancements that will be provided for the parking lot in terms of the landscaping, the buffers, the street trees will be an improvement, and it is a middle ground.

Councilmember Cannon said, thank you, Mr. Mayor. I do understand both sides of the issue.

Mr. Castanas said may I answer a question, Mr. Cannon?

Councilmember Cannon said I haven't asked a question. I don't know what –

Mayor Foxx said at this point because we have done all the fixed time we have to confine your responses to questions that are put to you, so if there is not a question put to you, we can't have you jump in and answer.

Mr. Castanas said there has been an incorrect –

Mayor Foxx said, I'm sorry, Mr. Castanas, I really apologize.

Councilmember Cannon said, Mr. Castanas, said is it with regard to the hurry up and a decision?

Mr. Castanas said it's in regard to the community meeting that we had. We let everyone speak.

Councilmember Cannon said, Mr. Mayor, if it's okay, given I have asked a question about the community meeting being held, I would like to ask him a question with regard to that. Would you be so kind as to comment on meeting or not meeting with the community, sir.

Mr. Castanas said we did meet with the community. We had a community meeting, and we have minutes on that, and they are on-line. That is just the opposite of what one of these ladies are saying over there – they didn't get anything out of the meeting.

Councilmember Cannon said I will park my questions there, if you will, and yield because I think, Mr. Mayor, you have someone else who wants to speak.

Councilmember Peacock said, Mr. Castanas, the East Boulevard Pedscape Plan is extensive. It is looking long term. It is trying to create a new vision for that community, and that is clearly what we are hearing from DCDA and what they want to have addressed. What are your comments about your long-term vision for the property and where do you see this going? Do you agree with staff that this is a mid-point, and can you just fast forward and tell this Council where we are going to be ten years from now?

Mr. Castanas said hopefully it's mid-term. It's for the current conditions that parking is needed, and I'm not making a future commitment on a financial situation in the future right now because banks do not give out loans. We tried to do that back in year 2000. We had those plans all the way up to the permit stage, and we could not get a loan, and that's why we had to shelve the project. Going forward, hopefully we can do something on the property. We don't like it any more than anyone else as far as it being vacant. It doesn't look good, but with what staff is suggesting certainly we agree with the screening or the shrubs and the trees. It's going to be a whole lot better, and the most important thing, Mr. Peacock, is that it's helping the community as far as parking. That's our main focus.

Councilmember Kinsey said I just want to make a point of clarification. There was a community meeting held, but it was not with the neighborhood association. When I first spoke with Mr. Castanas, he asked me to expedite the hearing – put it on the July meeting – which we did. I encouraged him to meet with the homeowners association, the DCDA, and to my knowledge that has not been done as yet, and that does concern me because they are very active in the area, and just as we heard from Ms. Hopper that they have worked together in the past, so that does concern me. I do not support expediting the vote tonight. I think we need to follow our process and vote on it in September. With that, if I may, I would move to close the public hearing.

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

Mayor Foxx said we'll pick it back up in September, and that may give the parties time to sit down and talk. Thank you very much on both sides.

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**ITEM NO. 14: HEARING ON PETITION NO. 2010-047 BY TREVI PARTNERS, LLC FOR A CHANGE IN ZONING OF APPROXIMATELY 68.90 ACRES LOCATED ON THE SOUTH SIDE OF US HIGHWAY 29 ACROSS FROM THE INTERSECTIN OF CAPRINGTON AVENUE AND US HIGHWAY 29 FROM CC TO CC(SPA) AND INST(CD) WITH FIVE-YEAR VESTED RIGHTS**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this petition is to rezone approximately 69.8 acres from CC – well, it’s actually a site plan amendment – CC(SPA) and INST(CD) with a five-year vesting of rights. This property was originally rezoned in 2006. The petition at that time, and you do have a site plan from that petition in your agenda, allowed 110,000 square feet of commercial uses, 30,000 square feet of office, a 90-room motel, and 480 for sale attached residential units. The proposed request tonight maintains the 110,000 square feet of retail, it increases the allowable office from 30,000 square feet to 80,000 square feet, increases the number of hotel rooms from 90 to 170, adds 25,000 square foot wellness center, and a 14,000 square foot adult daycare, and it adds an independent and assisted living facility, which will have up to 350 independent units and 100 skilled nursing beds. It deletes or takes away the 480 previously approved for sale residential units. This property, if you look back at the aerial, you can see that there is a road through the property to the City’s wastewater treatment facility. Part of the site plan proposes a relocation of this road to the western side of the property. The maximum height on the buildings for this proposal is 67 feet. There is a potential for an overhead pedestrian bridge between the nursing home and the medical office area.

The Northwest District Plan as amended by the 2006 rezoning recommends the 480 for sale attached residential units, the 110,000 square feet of retail, and the 30,000 square feet of office, and 90-room hotel. With that in mind, staff recommends approval of the petition upon the resolution of the outstanding issues even though it is inconsistent with the Northeast District Plan. The changes from the previously approved plan for this site as a replacement of the multifamily with institutional uses, and the district plans generally do not indicate locations for institutional uses, but we feel this is an appropriate location. There are multiple outstanding issues in your analysis in your package. We have met with the petitioner. We believe that none of these issues will result in this petition not being approvable, and, again, we are recommending approval.

**Brian Jenest, 200 S. Tryon St.**, said I’m from Cole, Jenest and Stone. These folks are actually here as backup if I need them, so they are not actually going to speak, so you can sit down. This is actually a re-rezoning because part of this group actually rezoned this four years ago, so I’m going to be comparing this petition to the petition that we looked at earlier. As Tammie said, you all, I think, know where the site is. It is about 70 acres. It’s bound by Withrow Downs Neighborhood I and II to the north, Harris Houston to the sort of southwest, the Mallard Creek Treatment Plant to the south, and then this is a vacant tract, and then, of course, it’s right at the county line, and then Lowe’s Motor Speedway to the east.

We have attempted to meet with the neighbors. Actually I did get an email from Harris Houston. We sent information to all of them. The Harris Houston folks responded and were okay with it and support it. The other two we didn’t hear from. Ms. Fallon, I apologize, I did send some information to you. It bounced back to me today, so I will be happy to meet with you as a representative from the Northeast Coalition.

I wanted to quickly show you what is presently rezoned or on file so you have an understanding again of the relevance of this one to the new one. This is all zoned commercial along the front – 110,000 square feet. As Tammie has said, there is a hotel, there is an office – 30,000 square feet of office – and then this is all attached residential. There is a proposed street that runs down through the middle of this. Our plan, as you can see, has that same street that comes through that lines up with Caprington across the street. There is also a CMUD road that is proposed again in a similar location. This time we removed the development along the west side because there are

challenges crossing a creek, but we do still have the commercial that runs along the front. As Tammie said, the hotel has gone from 90,000 to 170,000 square feet, and the office, which is located here and is primarily anticipated to be medical office as it relates to the retirement, there is 80,000 square feet planned here, and the rest of it is the 450 retirement units from independent living, which is here, and assisted living to the nursing. You can see the comparison between the two again. They look fairly similar.

Just some architectural information for you. Again, materials have to be brick, solid materials, stone, solid roof materials. These are some examples of what the architecture might look like for the retail, the hotel, and then this is the architecture for the retirement. It looks a little large from this view, but the buildings in the back actually step down the hill a little bit, but there is some height along the back of the site. You can see there will be porte cocheres. The windows would not be blue. Sort of the main spine of this development calls for kind of a main street as we see an integration of the residential with the office and the wellness, so you can see in this shot this is the main street coming through with retirement here on the right, the office, and also the wellness or, excuse me, the nursing in the back, and then this is the main street that then veers left and will eventually cross over a creek. Finally here is a site plan of it from the air. So, I'm assuming there will be some questions, so in a nutshell, that's the plan. Also, I did meet with Councilmember Barnes three times to review this.

**Diane Kirschner** said I'm the president of Withrow Downs II and representing our community as opposed to this. We were never contacted in any way to know what was going on with this. It was only after I called from the signs on the street and spoke to Tom Drake that I was approached by somebody. We are severely concerned with the institution wording. Our fear is that it's going to escalate into who knows what institution is classified as. They can say they want to put up a nursing home, skilled facilities, but we are worried about the whole umbrella of institution such as being a jail, juvenile detention, etc.

We have where they are proposing on Caprington to put up a traffic light it is now going to make that a major intersection. That road is very little traveled as it is now. We have our pool and our clubhouse on Caprington just a few hundred feet down from North Tryon. It's very secluded, and we are worried about the excess traffic. We are worried about vandalism because now it will be more traffic, it will be more people becoming aware that is where our pool and facilities are.

When you come out of Caprington, whether you are making a right or a left onto North Tryon, there is an incline in the street. You cannot see without a traffic light whether you want to turn either way. The cars are basically right on top of you, so a traffic light is not going to change that situation because the cars coming from the north aren't going to see the traffic light until they are on top of it anyway. We also are proposing to put up a children's playground at our pool facility, which is now going to change the safety for our children because now we are going to have traffic on that street regardless. We already endure major traffic from the race track coming in the back entrances to our community to cut through to get to North Tryon, and people are going to become educated to get to their facility cutting through, so now we are going to have endure that, and we have already got issues with speeding through our neighborhoods, and now you are going to add that on top of the race, and it's just going to be a traffic nightmare with a major intersection. Our pool is in jeopardy. Our children will be in jeopardy because they will be on Caprington to get to that proposed playground that we want to put up.

This facility does not compliment our single family homes. It is not going to increase the value of our homes in any way because you are dealing with people that don't have a vested interest in where they are, they don't own anything, and they don't have the incomes that support a single family homeowner. This has already been rezoned. We have no problem with the facilities of the shopping center, the hotel, the restaurants. We need that in the area, but in speaking to the person that kept trying to contact me, there is no proposed date for this shopping area. All that is proposed is what I have been told just get these facilities up, and it seems to me like it is just going to be a never-ending battle. Is it going to be rezoned over and over to just now take away the shopping centers and just keep increasing the assisted living, keep increasing the medical. None of us bought our homes with that knowing that we were going to have that across the street. We all bought our homes knowing we were going to have shopping, we were going to have similar to a Birkdale Village, which we all are for. We are not in any way for this medical facility, institution, whatever you want to call it, and we are going to have a serious problem at



the intersection of Caprington and North Tryon and the security to our community pool, clubhouse, and projected children with the playground.

I also have a number of signatures from the neighborhood that signed protesting this opposing it. There is nobody that we approached that was for this, so on behalf of the entire Withrow Downs II community, we are opposing this.

Mr. Jenest said this is the first time I have learned you are the president of the homeowners association. We did attempt to reach the homeowners association with the names that are registered at the Planning Commission. Those folks obviously are not in power anymore. Because we couldn't reach that person, we went ahead and contacted the management company, who would not give us the name of the homeowners' president but offered to send the information, so they sent the information. I did attempt to touch base with Ms. Kirschner on Friday. I didn't hear back. So, we are happy to meet with the neighborhood, but frankly we have had a real hard time getting in touch with them, so we do not plan a jail with institutional. Obviously this is a CD. What we are proposing is what is shown on the plan. It will only be retirement. There was a traffic light planned as part of the original plan, so in terms of the traffic flow, that is going to be very similar to what is proposed here. We think it's a better use. You know, the market has changed. We are basically removing the residential and putting in retirement. The mixed use aspect of this is going to remain the same; the retail is the same as they suggested they want, so, again, we are happy to meet with them at any point.

Councilmember Barnes said just to speak briefly to a couple of issues. I believe there is a difference between Withrow Downs and Withrow Downs II, and when Mr. Jenest and I initially met, he asked me about neighborhoods that he should contact, and we went through a list that included Withrow Downs II. There are not many neighborhoods near this site. It is literally right at the county line, and going south down 29 you essentially have a couple of apartment complexes and the amphitheatre is in the area, so there aren't many single family residential areas nor many homeowner associations in the area. I say all that to say that I think that he made a good faith effort to reach out to neighborhoods, and I'm certain that he will be happy to meet with you and your neighbors to talk about your concerns.

Now as for some of the issues you raised, ma'am, there is not a chance that there will be a jail built there. The proposal that he and I discussed involves a skilled nursing facility, an assisted living facility, an independent living facility, so it's intended for seniors. I spent a lot of time working with the previous petitioner on the plan that you referenced that existed before this one, and Mr. Jenest and I and his clients have been looking to make sure that whatever happens on this site is of the same quality as you would have seen if the other petition had been completed to its fruition or brought to fruition.

So, I want to assure you that there will be no intent by them or by me to allow something to take place over there that would harm your neighborhood in that type of way. In terms of the term "institutional use", it is for the purpose of the assisted living, independent living, and skilled nursing facility. Before we had negotiated a project that would have involved for sale housing across there, and their petition obviously differs. I hope that you all will have an opportunity to meet. I have talked to Ms. Campbell's staff, and there are some other issues we are going to be clarifying over the next few weeks because as I approach my colleagues about the petition I want it to look like a great product, and I want it to add value to the area.

As I told Mr. Jenest, because that property is right at the county line, it will essentially set the tone for everything going south into town, and I want to make sure that it actually sets the tone in a positive way. There is a lot of stuff up there that happened before I got on this Council that shouldn't have happened, and if I had been on the Council, it wouldn't have happened. But in terms of the things I can impact, this is one of them, and if that petition is going to move forward, it will be something that you will be comfortable with and will be something that will add value, not detract. The one thing I have learned a lesson about, and I think we have all learned a lesson about is supporting developing that actually hurts existing development, which is what we are trying – what I'm trying not to do, so I don't want that to happen to you. As I said, I'm sure he will be happy to meet with you.

Councilmember Carter said two questions, please. I think I saw an overwalk – a walkover. Is that permitted at this point? I know that in some places in the city they are discouraged.

Ms. Keplinger said, yes, ma'am, it is something that is permitted, and it is an optional on this petition, so it may or may not occur.

Councilmember Carter said the other question is there a certificate of need necessary from the state for skilled nursing beds?

Mr. Jenest said yes.

Councilmember Carter said has that been obtained for this proposal?

Mr. Jenest said I'll ask Larry Stansberry, who is from St. Margaret's, who would be the operator. He can speak to that.

**Larry Stansberry, St. Margaret's**, said, Ms. Carter, there is a certificate of need that is required for nursing home services, however, if you license as CCRC, continuous care retirement community, and do that through the Department of Insurance, then you can acquire that certificate of need that is necessary for the nursing home.

Councilmember Carter said have you all started that process? Has it been indicated it is a need in this area?

Mr. Stansberry said we have reached out, and it is a multiphase application process, and I know we have returned the first step in that process, yes, ma'am.

Councilmember Carter said have you been encouraged in that process?

Mr. Stansberry said I don't know that we have been encouraged or discouraged in the process. The first step is to gather the information that would be used to establish the need.

Councilmember Carter said I would be grateful for any updates on that situation.

Mr. Stansberry said we'll gladly keep you updated.

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

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**ITEM NO. 15: HEARING ON PETITION NO. 2010-022 BY THE HOUSING AUTHORITY OF THE CITY OF CHARLOTTE FOR A CHANGE IN ZONING OF APPROXIMATELY 16.70 ACRES LOCATED SOUTH OF THE INTERSECTION OF SOUTH BOULEVARD AND SOUTH CALDWELL STREET AND BOUNDED BY TEMPLETON AVENUE AND EUCLID AVENUE FROM TOD-M(CD) AND R-22MF TO TOD-MO AND TOD-RO**

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

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said the property in question is located off of South Boulevard between South Boulevard and Euclid. The property is currently zoned a mix of TOD-M(CD) and R-22MF. Land use for the area is multifamily. We have some church uses, office uses, commercial, just a broad mix. In terms of the future land use plan, I'm going to come back to this map, if you will allow me – this aerial for the site. This is one of the renderings that the petitioner has submitted to show the development. This is South Boulevard, and this is Euclid.

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I'm going to talk the most about the site plan tonight. In terms of background on this piece of property, in 2009 the western portion of the site was rezoned from R-22MF to TOD-M(CD) to allow the redevelopment under the TOD standards for the rehabilitation of the existing 12-story residential tower known as the Strawn Tower. A protest petition has been filed for this petition, and it is sufficient. This petition proposes to allow a transit-oriented, mixed-use development within a transit station area with an option to exceed the maximum height for specific parcels. Generally in terms of the development standards, the building and site renderings have been included, as you have seen. All lighting will be shielded with full cut-off fixtures. Existing Butternut Court and an unnamed street, right-of-ways off of Euclid, are to be abandoned, and a new street grid network that disbursts trips in several directions will be established.

In terms of the proposal development, Parcel A is for TOD-RO development. They included townhomes or condominiums and are facing Euclid. The development for Parcel B is proposed for TOD-RO, which is to the south of the zoning line and TOD-MO to the north and proposes a mixed-use development that complies with all the TOD standards, 20-foot rear yard and ten-foot buffers adjoining single family residential zoning. For Parcel C in the middle of the development, this is designated open space that will be publicly accessible. Parcel D-1 and its perimeter – if you look closely you can see the perimeter that is labeled B-2 – proposes to have a mixed-use development with 10% ground floor area being retail. There is an optional provision to allow heights not to exceed 100 feet within 50% of the area of D-1. So, within this area only 50% of the area can exceed 100 feet. The rest of the building will be limited to 65 feet, which will be four to five stories. Parcel D-2 and its perimeter, which is shown as B-2, proposes TOD-MO and includes mixed-use development with a minimum 10% of ground floor uses being retail, an optional provision to allow heights not to exceed 120 feet within the D-2 area. The building height is limited to 65 feet or four to five stories along the perimeter B-2.

Parcel E and its perimeter, B-3, is to be zoned TOD-MO, which includes the mixture of development with 80% of the ground floor area being retail and 50% of the tower uses being office. The optional provision is to allow the height not to exceed 160 feet within 50% of area E. Outside the perimeter area, B-3, would be limited to 65 feet or four to five stories. Parcel F is the existing towers and proposed to be rezoned to TOD-MO for elderly and low- and moderate-income residential units. The optional provision is to allow height for future development not to exceed the existing height of the Strawn Tower, which is 120 feet. There is also an optional provision to allow parking for elderly housing at one space per four units.

The petition is consistent with the South End Transit Station Area Plan Land Use Recommendations, but the proposed heights for some of the sites are higher than what the TOD standards actually allow; however, the site is appropriate for buildings of greater height. It's located within several blocks of I-277, and the site design meets key factors for transit-oriented development objectives such as providing a mix of uses, office, and retail, and a centralized public open space.

A frequent optional request that we have is to exceed the 120 feet height limit in the TOD district. When Planning staff evaluates these requests with respect to the potential development, the criteria that the staff uses to consider these are: location at least 100 feet from single family or vacant land use in a single family district, location within a quarter mile of a walk-up station; location within a half mile of the I-277 Freeway Loop, a mixture of uses on the site including a significant office component, active ground floor uses – especially retail, along with a majority of public rights-of-way, publicly accessible open space, additional setback for upper floors or treatments of ground level treatment to produce perceived building heights for pedestrians, and a commitment to a detailed site plan and lower floor elevations. We feel like this site plan in this development proposal meets those criteria, and staff is recommending approval.

**David Furman, 333 West Trade St.**, said I'm here tonight representing Axiom Architecture. We were engaged by the Housing Authority about a year ago to envision the future of this incredible 17 acres that we show you here. It was a great presentation. You took most of my slides, but I'll pop through them anyway. This is a quick proximity of the site. You can see South Boulevard. Across the street from South Boulevard is the Lance or the Factory South Circle Apartments, Pinkie – The Arlington is right here, Pritchard Memorial Church. This is the Harris site that you guys rezoned last year and titled up to I think 250 feet. This is Euclid, and

this block right here is zoned office right now and is entitled for office, but as we back up into Euclid into Dilworth, you can see the houses that back up from Rensselaer and Euclid into the site. This is all business right here.

We were engaged to do the Housing Authority mission. This is what they gave us when we started, and it's really pretty simple. They wanted to return all of the affordable units that are there now back to the site, which is I think 311. They wanted to put some more there if it was possible, if financing could be obtained, etc, and the rest of the mission was to create an urban village where we created as much value to the Housing Authority as they could get so they could further their mission to build affordable housing in our community.

Two years ago the Housing Authority reached out to the Urban Land Institute, and they brought a special panel to town, and that panel concluded and gave a report. These are some of the highlights of that report. Whatever the plan was, it needed to be based on connectivity. There should be pedestrian connectivity from Dilworth through the site to South Boulevard linking the community to the businesses on South Boulevard. There should be pedestrian access to the transit station. We will show you a plan that shows the transit stations, two stations that are very close to the site. And, there should be vehicular connection through the site. Now there are streets that kind of dead-end into the site but do not go through it. It should be mixed use. There should be a variety of housing types from affordable to market rate, and there also should be a variety of uses from retail, office, and to animate the streets. They would like to see a major open space and the transition of density because we do touch on the Dilworth community, and there is a transition from one site to the other – from extreme density on one side to neighborhood friendly on the other side. They also recommended that the tower should stay if possible. In those two years, the Housing Authority has looked into that. They have done a study on it, plans have been drawn, and the renovation of that tower will start this fall.

I think we were engaged because we have developer experience. We are not only an architectural firm, but we have done a lot of development, and our process was to create a plan that was real; that wasn't just an academic exercise, that was based on what a real market could absorb – obviously in better times than today – but a plan that could be built, and we wanted to end up with a generic plan because we are not the developers and there is not a developer lined up to do the site, but the generic plan needed to reflect a real plan that you could actually see how it would work and see how it would respond to the context of the site.

So this is the plan we have created. Again, South Boulevard at the top, Euclid at the bottom. It starts with a transition of townhouse and low density. Actually the density we are prescribing along Euclid is much lower than the density that is entitled today. The back half of this site is zoned for 22 units to the acre now. The yellow buildings that we are showing through here are actually TOD, whatever is allowed in TOD zoning. The transition of those from single family has a height limit that increases as you get away from the single family. We wanted to connect the site through, so we connected the Caldwell Street that actually loops through the site very awkwardly now, connected it to Cleveland on the other side so there would be linkage through the site actually connecting Morehead Street to Tremont. Bland Street on South Boulevard, we wanted to extend into the site and through the site as well as the Arlington Street on the other side. We wanted it to extend through the site into the open space. Coming from Dilworth, Mt. Vernon, dead-ends at Euclid now. We wanted to extend it into the site. In the middle, all of this surrounds a major open space, which is actually over six times larger than the open space that would be prescribed under standard TOD zoning.

That left us with these three sites that were pointed out during the previous presentation. Those sites we felt they touched the institutional church property. This whole block is zoned office. They touch that, and the intensity of South Boulevard. We thought there was precedent to ask for more height on those sites. Here's the scheme that we proposed that you saw. Again, along Euclid, the townhouses, the transition of heights and intensity through the site from the low density side to the high density side, and the major open space in the middle. This site, this site, and this site are the ones with the optional height being requested.

This plan shows you the transit stops. That "T" and that "T" are LYNX line stops. There's a CATS line along South Boulevard, there's a CATS line along Euclid, and basically almost the

entire site is within a quarter mile of two transit stops, which really makes it a unique position for higher density development.

As we spoke about the criteria that would be considered to even ask for an option were these. Was it within a quarter mile of transit, was it within half mile of I-277, which it is right there, a mixture of uses, active ground floors, publicly accessible open space, and upper floor building setbacks. These are some sketches we have done based on the plan that we generated. This is the intersection of Templeton and the new Cleveland extension where we are showing a building that would be four to five stories on the edge, and then there would be a setback. There would be an edge where the tall part of the building would have to set back at least 20 feet, and then the upper pieces of the building could only occupy up to 50% of that footprint. I know this is a complex formula, but it really makes a lot of sense.

This is a sketch of what the project could look like from South Boulevard with wider, broader sidewalks, retail uses, mixture of uses, a setback on the outside façade, and then the extended height of the building. There is the existing tower in the background. This is an animated vision of how South Boulevard could look – quite the transition from what is there now.

This is the generic plan that we have created. As we went through, the A sites are for townhouses, the lower density; the B sites are more for the straight up TOD type of zoning; the C is a commitment to approximately two acres of open space, again, way more than is required under standard TOD zoning. The D-1 corner, we are showing that setback where there is a 20 foot offset before the building could get taller, and then to make sure this building doesn't occupy that whole block, we are limiting it to only 50% of that which could exceed the height. The same on the D-2 site and the same on the E site. On D-1 now under straight TOD zoning, by the time you got to that corner we would be at about 90 feet that we could do. We are asking for 100 feet, but we are asking for it to be within this footprint. The D-2 site could be about 100 feet now. The existing tower is about 120 feet, so we are thinking it makes sense for those to be approximately the same. The E front, again, because it is across the street from much higher density on South Boulevard, we think maintaining that offset as well as limiting that footprint to 50% is a decent criteria for allowing more height.

Here again is the site plan we talked about. This is a plan if it were done under strict TOD zoning where you can see that these sites, the open space site would be full. This building could go straight to the edge. The big building could go straight to the edge, although they couldn't be as tall as we are asking for. The bottom line is we are asking for a plan that we think is actually better than TOD, and we are guaranteeing this open space that again will be six times as much. We are guaranteeing that the edge of the streets will be limited to 65 feet in height and that the footprint above that edge will be limited to 50% of that footprint in order to go higher. In exchange for that, we are asking for the additional height.

The irony, I think, is that what we are asking for on these four sites is actually about 35% less building envelope than you could have under straight TOD zoning. So we are actually not asking for more building envelope. We are asking permission to do a better plan.

**Cynthia Schwartz, 409 Rensselaer Ave.**, said I am here on behalf of the protest petitioners, the 18 protest petitioners. We have worked in earnest with the CHA to develop a revised set of development standards to replace those on the site plan that is submitted to you. The revised development standards have been received and are being reviewed by the protest petitioners. With approval of the neighbors from the review still being circulated and attachment of the agreed upon conditions to the site plan in time for City Council's vote, we expect the protest petition to be dropped before the vote in September.

The following are the agreed upon changes. One, guidelines outlining the expected design and function of the open space available to the general public on Parcel C including its use for the purpose of storm water management; off-site traffic calming devices along Euclid Avenue, Rensselaer Avenue, and Cleveland Avenue. There are 40-foot building setbacks where the property abuts residential zoning including a 15-foot undisturbed buffer and preservation of mature trees within the entire 40-foot buffer zone. Four, 100-foot buffer zone limiting the placement and transportation of trash as well as loading docks and movement of large trucks including moving vans. Fifth, limitations on the flow of construction traffic during all phases of

the property's development. This would prohibit construction traffic on Euclid Avenue and Rensselaer Avenue. Finally, a limitation on the total development exceeding 1.2 million square feet. Thank you for your time and consideration.

**Wes Kenney, 1920 Dilworth Rd. E.**, said I'm the president of the Dilworth Community Development Association. I would like to say that the drawings that Mr. Furman showed are very good and they are very impressive, however there is no developer behind these plans. They are strictly entitlement rights, and that has been a point of contention and disagreement and discussion between Dilworth and the Housing Authority for the last year. Dilworth has been a neighbor and a partner with the Charlotte Housing Authority for over 40 years. We are actively involved with them with the initial planning and development of the Strawn Apartment site. In fact, the word development, which is in our name, came from that project. So, let me be clear. Any disagreement about this rezoning is not about affordable or public housing in Dilworth. It's been a part of our community for 40 years. This is strictly about land use – the scale, density, height, and transition zones for our historic community. As is currently cited, only a small corner of that property actually would meet the TOD max for the distance from single family homes. The conditions that are used for options are measured from the City side – not from the neighborhood side. The neighborhood side you have to get away from the single family, and all the homes on Euclid and Rensselaer are single family in the historic district. The Housing Authority has reached out to us over the last two years to participate in the Urban Land Institute study, the initial rezoning in 2009 for the Strawn Tower, and now in developing the plans for this new site. Needless to say, there has been a difference of opinion regarding the appropriateness of their initial rezoning application as to proposed, scale, height in that transition zone. This has led to the neighbor's protest petition. Councilmember Kinsey has hosted two meetings recently since we had our first deferral in April to try to bring us to a point where we could come to an agreement on moving forward. The conditions that Cynthia read to you are what has been proposed to be the new site plan for this project. We worked with the Charlotte Housing Authority to develop these standards to replace the ones you have seen tonight. In the past week, we have received them and reviewed them and are still working through the details. So let me be clear. Any disagreement about this rezoning proposal is not about affordable or public housing because it has been a part of our community for 40 years. In fact, we voiced a concern to the Housing Authority about the residents at that site and if they would be returned, and the president did send us a letter committing to that return of the 311 units as well as following the recommendation of the Urban Land Institute to look at housing another 50 units at that site, which, of course, would have to come to City Council for the housing locational policy. We would like to express our appreciation to the Housing Authority for that commitment, and we look forward to continuing to work with them.

**Tim Mattox, 315 Arlington Ave.**, said I'm the president of the condominium association for the Arlington. Contrary to Mr. Furman's reference, we are better known as the "pink building" on South Boulevard. Our 24-story high-rise was completed in 2002, and for almost seven years most of the properties surrounding the Arlington remain undeveloped with the exception of Factory South, a small complex to our south and Camden SouthEnd, an apartment complex located just northwest of the Arlington. For that same seven-year period, the Arlington did not experience a single incident of excessive water accumulation or flooding at any point during that period. Just after the introduction of the rail two years ago, the City approved the development of six major complexes within two blocks of the Arlington, four of which have been fully developed. These include a 196-unit complex two blocks to our west, a 120-unit project one block to our west, a 269-unit project immediately to our west, and a 360-unit complex one block to our south. Additionally, the City has already approved the addition of 200 units in the complex that is to our west and the development of 250,000 commercial square feet and 450 units on the property to our north. As required, I'm sure that all of these completed projects included storm water drainage strategies approved by City Planning. All of these approvals both by the Planning Department and City Council were made on the belief that the increase in impervious ground cover could be controlled by the water drainage strategies as presented and approved. I'm here to tell you that those drainage strategies did not work. The ground level at the Arlington has flooded four times in the last 12 months in spite of never flooding in the previous seven years. We are talking about what the City considers a one- to two-year flood event as described by Storm Water Services. Over the last nine months, we have worked with the City to address blocked storm drains, inspect existing drain pipes, and to identify options for expanding the current City system, yet we have continued to experience significant flooding, and

now we have been told by City personnel that a critical drainage pipe that is to the east of our property that needs to be enlarged to accept the increased water runoff that is occurring in South End has hit a dead-end, namely, a state-owned water pipe, and they are not sure when or if the system can be expanded. Now, we are not opposed to development. We are not opposed to growth. In fact, we are not really directly to the development of this project. However, we are opposed to uncontrolled development that creates these types of issues. We are opposed to the City continuing to approve new projects when they are unable to handle the current storm water runoff of existing projects with an undersized system. My guess is you will be told that this issue has been addressed in the current project under construction, but my guess is that this fact was also stated in the last six projects approved by this Council, and yet we continue to flood. Until this City can fully account for the water runoff of existing development in the area by expanding the currently inadequate storm water drainage system that exists today, it is irresponsible to be considering additional development in the area. Thank you for your time. I have passed a handout that will show you the initial floods. You can also go on You Tube and see water that was in the Arlington that was about two and a half feet on the ground level. This was one of four floods that we have experienced in the last 12 months.

Mayor Foxx said thank you very much. By the way, I don't know where we'll land on this petition, but I do want to ask staff for more information on this Arlington flooding problem. Is that independently in the petition? That seems like something we should be helping with.

**Julie Burch, Assistant City Manager**, said we'll look into that and bring back information to you all.

Mr. Furman said I would like to reemphasize what Wes was saying. We have been meeting with the Dilworth Community for over a year. The whole notion of whether affordable housing is in their neighborhood has not been an issue, has not been part of the debate. They are all for that. We have just focused the conversation on intensity and density and use, etc., and I commend them for that. We have also met with the Arlington Homeowners Association, and I think we had a good meeting with them, and we didn't hear about these issues they have. I don't doubt they are having them. I think we are downstream.

Back to where I was with this. What we are showing is that we are committing to these offsets, but the last slide I wanted to show was the additional commitments we have made during this debate. As you can see over on the back of the Rensselaer and Euclid houses, we are committing to a 40-foot setback there, which is what it would be under existing entitlement with the R-22 we have along Euclid, and it's probably four times as much as a side yard would be over here. So, we are making that commitment of the additional setback. This red line is a 100-foot line. We are also committing to not putting large dumpsters and garbage, so trucks would not circulate in there doing collections, etc. We are committing to a traffic calming at the intersection of Bland and Cleveland that you are seeing as a traffic table at that point. And, over here – we can hardly read that – but we created a generic plan, so we are reluctant to talk about numbers of units, etc., but we are committing to the 1.2 million square feet maximum of leasable space that was referenced, and we are working on all of those other issues that Dilworth talked about to try and come to resolution. We'll be glad to engage in any questions you have.

Councilmember Turner said I know this is no fault of your own at this point, but I think the question that was posed in regard to the flooding, are you all at least looking at other avenues in controlling the runoff such as rain barrels, catch basins that we use today? I notice that you have on one of your photos here that appears to be a pond, and then all of a sudden it looks like it was a fountain. So, is it a fountain or is it a pond?

Mr. Furman said that's just a pretty picture basically. We had a generic drawing. We foresee detention being underground. The City came back to us and asked us if we would limit the amount of the open space to one-third of that open space if we did do above-ground detention. We don't visualize doing that. We have not done exhaustive engineering studies at this point. It's a big deal, but we have done enough to know what the implication of dealing with the storm issues, as we are required to do, is.

There is a bigger problem on this site, and we have worked with CMUD. We have had several meetings with CMUD trying to figure out could this site help in solving that. There are big

problems downstream, and there have been under the existing conditions that are on the site. Our plan would be to continue to work with them to try to see if we can assist in making those things better downstream.

Councilmember Turner said I appreciate your comments in regards to that because as I stated earlier I'm not blaming you. They are dealing with that all the time even on the South Boulevard corridor, but we have that issue just about everywhere throughout our city where development has taken place and our old storm water drain system. I kind of use the illustration of you look at 85 North when you pass Lowe's Motor Speedway is where we built this great new system to catch this run-off water, and we funnel it through a nice, new system into a small system, and it's not going to work unless we come up with a more innovative way to catch this water and release it in a proper manner so that it won't cause future flooding issues but also will help us on our current issues because we know for a fact we do have a problem over there, but it would only be more impact or greatly impacted with any new development because it only makes sense when you remove the pervious. I would ask hopefully that you will continue to work with CMUD and make sure that this Council gets back any new suggestions or ideas.

Mr. Furman said we will make sure that what we do does not add to that by dealing with it through the existing requirements, but we will go farther than that and continue our dialogue with them to see if we can resolve some of the existing issues there.

Councilmember Barnes said my question, I believe, has been answered, so thank you.

Councilmember Dulin said question for the protest petition, the Arlington Homeowner Association gentleman. You have given us some pictures of water coming through a parking deck. Is that parking deck below grade?

Mr. Mattox said I believe it is. What they tell us is the downstream water blocks the water from running out from the Simpson's Lighting that also filters into ours and two other projects that are on each side of us, and then it comes and spews out of – that's from the garage. It spews out like a geyser out of the garage.

Councilmember Dulin said it's coming up – not down.

Mr. Mattox said because all of those are coming down – it's going up, yes. It's like a fountain.

Councilmember Dulin said one other thing. When you flooded, what's the name of that great sushi restaurant over there?

Mr. Mattox said Nikko's.

Councilmember Dulin said does that flood as well?

Mr. Mattox said it has been in their kitchen several times now going through because the back alley to the Arlington – that whole loading dock area, the trash area, everything in the back side of that completely fills up, and then it goes into their back door occasionally. It has done it twice.

Councilmember Dulin said, Mr. Mayor, isn't that what we have storm water folks for?

Mayor Foxx said that's what I asked for the report for. I think that's an independent issue.

Councilmember Dulin said the report for the Arlington and the new development we have pushed so hard. You don't deserve to take everybody's water. You just deserve to get your own.

Councilmember Cannon said I want to commend both sides for working together through the process. It seems like – at least there was a thought that you were so far away, but it looks like you are very close to maybe coming to somewhere in the middle to satisfy all interested parties, and I just want to commend you for doing so because that is, of course, what we need. We saw that earlier by way of comments that Mr. Dulin made about another neighborhood per se. But

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it's always good to see you all working in collaboration to try to get to a means that will be good for the area overall. Secondly, I'm glad to hear that it is really about land use issues and not anything surrounding what obviously has been portrayed in other places to be something where people are for or against affordable housing in their community. That is not what this seems to be about. It does seem to be about trying to work to a solution to bring about a quality development in a quality location, so thank you again so much for that.

Councilmember Kinsey said I have sort of several questions, and I will probably go back and forth. First of all, I know we are renovating the tower. How many citizens will be able to live there, and where will the rest of the 311 and more perhaps be located on the new site?

**Matt Majors, Axiom Architecture**, said currently there are 196 tenants in Strawn Tower, and the renovation will bring back 170, and the balance of that 311 will be housed in a new development adjacent to the tower. The plans shown do not designate specific site, but more than likely it will be an immediate adjacency so they can connect to services associated with the tower as well.

Councilmember Kinsey said, David, you mentioned in your presentation, and I don't know if this was at the corner of Cleveland or the Cleveland Extension, a building which will be four or five stories. Which is it?

Mr. Furman said we have a generic plan. We are saying that the edge of that, rather than being what TOD would allow, which would be at that particular corner 90 feet, we are limiting it to 65 feet. We visualize it being four or five stories, but we are committing to the height – to 65 feet.

Councilmember Kinsey said 65 feet is probably five stories, right?

Mr. Furman said could be. If there was a developer that, for instance, did wood frame development on that corner, it might limit it to four just for whatever their building practices were. We are also limiting that 65 not only to that corner but to all of the edges of sites where there would be taller buildings.

Councilmember Kinsey said CDOT – is there an updated plan? I understand maybe there are two different plans or there is some concern about the plan that was presented. Do we have a comment on that?

**Mike Davis, Charlotte Department of Transportation**, said your question was whether or not CDOT has concerns about two plans? Not currently. We have been involved in an ongoing transportation technical memorandum trying to make sure we understand the impacts of the site, and there has been some back and forth discussion about what all assumptions go into that traffic analysis, but officially what we are doing is just working with the plans we have got in front of us. I think we are eager to see, and we heard some development standards discussed tonight, and we are eager to see how those get written and react to those, but so far we are just responding to the one plan.

Councilmember Kinsey said so what we have before us is okay with CDOT.

Mr. Davis said, yes, ma'am.

Councilmember Kinsey said going back and forth about TOD. Is this entire 17 acres, is all that in TOD, or is a portion of it in TOD?

Ms. Keplinger said currently?

Councilmember Kinsey said yes.

Ms. Keplinger said currently part of it is in TOD.

Councilmember Kinsey said already zoned TOD.

Ms. Keplinger said right. I can't get the maps back up there, but if you look at the map that is in your agenda, it clearly shows you that the back portion – this portion is already zoned TOD-M, and this portion is R-22MF. There may be a little fudge lines along the zoning boundary, but that's basically it.

Councilmember Kinsey said but all of it is within the TOD area that can be rezoned TOD.

Ms. Keplinger said, yes, ma'am.

Councilmember Kinsey said if it were rezoned TOD then the height of every building could be 100 feet.

Ms. Keplinger said the height limitations in the TOD district are based on a height plane. So it would vary based on their distance from residential development.

Councilmember Kinsey said but they could all be tall.

Ms. Keplinger said they could be tall. They could not be as tall as some of the ones they are proposing in D-1, D-2, and E.

Councilmember Kinsey said I understand that. I am just trying to get the comparisons here.

Councilmember Burgess said can you show us where the quarter mile is?

Mr. Furman said I had a slide in there that had the radius. Here it is. You can hardly read it, but there's the transit. There's a circle drawn there. Here's the other station. There is a circle around it. That's a quarter mile circle. You can see that all of the tall sites, the intense sites, and most of the whole 17 acres is within the quarter mile walk except for the townhouses and the first layer back along Euclid.

[ Motion was made by Councilmember Cannon and seconded by Councilmember Kinsey to ]  
[ close the public hearing. ]

Mayor Foxx said I will just say this is an incredibly complex issue for the developer and for the community. I really want to applaud you for taking this issue on the merits of the land use question and helping not only your community but our city work through issues related to affordable housing and development and how we integrate it into our community. I just want to say that to DCDA and to others, so thank you.

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

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**ITEM NO. 16: HEARING ON PETITION NO. 2010-039 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR A CHANGE IN ZONING OF APPROXIMATELY 0.056 ACRES LOCATED ON THE NORTHEAST CORNER OF WEST BLAND STREET AND WINNIFRED STREET FROM I-2 TO TOD-M**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said very briefly this will allow all uses that are allowed in the TOD-M district. It's consistent with the South End Transit Station Area Plan, and staff is recommending approval.

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

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**ITEM NO. 17: HEARING ON PETITION NO. 2010-041 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR A CHANGE IN ZONING OF APPROXIMATELY 0.31 ACRES: ONE LOCATED AT THE INTERSECTION OF SOUTH TRYON STREET AND CAMDEN ROAD AND THE SECOND LOCATED ALONG CAMDEN ROAD BETWEEN SOUTH TRYON STREET AND PARK AVENUE FROM I-2 TO TOD-M**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said again very briefly. This is a rezoning for two parcels of land that are not contiguous but are within the same block. The proposal is for all uses in the TOD-M district. It is consistent with the South End Transit Station Area Plan, and we are recommending approval.

**Carol Mueller, 8246 Tradd Ct.** said I am rather new to this petition, which is 041, and it involves a small parcel on Camden Road. My issue here is parking that I will give you a little bit of history. My name is Carol Mueller. I am a studio artist as well as past president and board member of the Charlotte Art League, hereafter referred to as CAL. CAL is a nonprofit organization, which leased a building at 1517 Camden road in 1996, a dangerous area at that time. CAL helped develop and improve Camden. Last year a beautiful 23-panel mosaic, a two-year community project, was mounted on the building. Our neighbor to the south is the Charlotte Post, to the north the trolley museum. CAL has at least 20 working artists in the building, a big problem being that we only have seven parking spaces. CAL also has a large gallery. CAL has an outreach program that teaches art to Goodwill consumers and also to visually impaired students with Mecklenburg Association for the Blind and presents a show of their work yearly. Ms. Kinsey presented a certificate at one of our events. CAL offers educational seminars, but because of parking issues, we have limited attendance. This block suffers from lack of parking. Others on the block include Fat Burrito, a hair salon, framing shop, Niche, Black Sheet Skateboard Shop, plus other non-retail businesses. American Apparel is leaving, and I'm sure parking is an issue. However, the vote against this petition is not directly self-serving to CAL. The question parcel of land provides minimum parking for several of the businesses listed above – not CAL. Parking is and has been an ongoing problem for the South End. Dented fenders and parking tickets are common. Any reduction of parking would be devastating to this area. Thank you.

Councilmember Carter said tonight we have seen the redirection of several industrial parcels, and at one point we were keeping up with how much industrially zoned land we had within our city limits with the intention of keeping as much as we could. I was wondering if sometime in the near future we could have a report from staff about how much we have seen in attrition – to see how much we have lost, to see how much we have created, to see how much we have guarded – and I would love to see that trend, if we could.

Mayor Foxx said I think I recall that presentation not too long ago, so it shouldn't be that difficult to update, so I think that has been noted by staff.

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

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**ITEM NO. 18: HEARING ON PETITION NO. 2010-044 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR THE ADOPTION OF A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE REGULATIONS RELATED TO HOUSEHOLD PET SERVICES AND THE ZONING DISTRICTS IN WHICH THEY ARE PERMITTED**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this petition proposes to take a lot of our pet-related uses and put them into two new categories, which we are calling pet services indoor and pet services

indoor/outdoor. We also propose to expand the number of districts that these uses are allowed in and add prescribed conditions for the pet services with indoor and outdoor facilities. Pet services indoors will be required to be totally within a building, may include retail sales, pet day cares, veterinary clinics, etc., and they are allowed in most of our districts from UR up to NS. Pet services indoor/outdoor include the following regulations: outdoor activities are permitted. It can include the retail sales, veterinary services, dog parks, etc. It is permitted in the same districts – UR-2, UR-3, all the way up to NS but with prescribed conditions, and the conditions are that all outdoor uses must be located at least 300 feet away from any lot in a residential zoning district or a residential use and all outdoor uses must be completely fenced. The zoning ordinance currently has definitions for commercial kennels. These are incorporated. This commercial kennel definition will go away, and it is incorporated into these two new categories. Veterinary clinics are included in the two new categories but will remain a use by itself in the zoning ordinance. Staff recommends approval of this petition.

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

Councilmember Howard said is there an ongoing issue that this came out of, or is this just something that staff recognized?

Ms. Keplinger said I think this has been some issue for us in the past several years with the invention of the doggie day cares. Our ordinance just didn't have a way to deal with these, and we looked at the ordinance as a whole to see if we needed to adjust all pet services and found that we should.

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

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## **MAYOR AND COUNCIL TOPICS**

Councilmember Barnes said I am pleased to give you all an update on the District 4 document shredding event this past Saturday. We shredded five and a half tons of paper, so it was an excellent turnout. People from all over the city – in fact, I see a couple of ladies from south Charlotte who came. People from all over the city showed up, and it was a great opportunity for folks to have sensitive information destroyed. I'm happy once again. Kim Brown from our staff was very helpful in helping me get it organized, and I appreciate her help, but just wanted to let you all know it was a success and a valuable community service.

Councilmember Howard said I just need to ask Council to take some direction on an issue. Several months ago the issue of how SROs are sited in our community – where they are placed – was referred to the TAP Committee, and during our discussions, we realized that Councilmember Mitchell's committee is also dealing with the locational policy and some other housing issues, and it would make sense for that issue to be part of what they are talking about, and staff would feel a lot more comfortable if we officially referred that issue from the TAP over to the HAND Committee, so without objection, I would like for that to be so.

Mayor Foxx said is there an objection to that? Sounds perfectly reasonable.

Councilmember Turner said I want to let citizens that I will be holding the District 3 town meeting this Saturday from 10:00 to 1:00 at the School of Law, and I think as moving forward in the 21<sup>st</sup> Century we will cover public safety, we will cover economic development, land use trends with planning in our district, so we hope all of you will come out and enjoy and help us and hear your ideas as we move forward in District 3.

Councilmember Carter said I would like to remind the citizens of the east side that we'll be holding a housing locational policy meeting at Hickory Grove Recreation Center from 6:30 to 8:30, and Councilmember Mitchell will be there as chair of the HAND Committee, and you all are invited. Please come. We want a good turnout.

Councilmember Peacock said summer is flying by. I had a good time watching the World Cup, and as I was watching the World Cup, I recalled when we looked at the 2018 FIFA World Cup contract. It couldn't help but have me asking you a question, and first I'll tell you I'm very excited about the opportunity for business with the DNC coming here, but things have been really flying by, and I wonder, if you could tell us about tomorrow's meeting and then –

Mayor Foxx said I will make an announcement today. I will not play in the 2018 World Cup.

Councilmember Peacock said seriously I just wanted to hear from you because this Council has been moving – we have been doing our other things through the summer, and I just wanted to hear from you as to where do we stand with this? Are we going to see the same information that we saw from FIFA, the contract, the prices, the factors, and what is going to happen as it relates to cost impact on the city, the state – either actual cost or in-kind cost? What are we looking at here?

Mayor Foxx said it's really premature on a lot of different levels because there really isn't a contract. It's not a model or anything at this point. What we are in right now is pursuit mode, and at the point in time at which that ends and we are actually talking about a specific set of obligations and things like we will talk a whole lot about that, but the purpose of the meeting on Wednesday, which all elected officials – state and local – have been invited to is to give you an opportunity to understand what the process is and to ask whatever questions you want to ask, but right now there isn't a framework or anything at this point.

Councilmember Peacock said I would just summarize my concern in two-fold, and one would simply be there ultimately will be a contract and there will be costs involved, and the sooner that this Council can understand what those costs look on something of this size. I know from reading the FIFA World Cup our legal counsel not only found it onerous but I realize – I believe it was Bank of America had a number of concerns as well, too, about their takeover of the stadium and what it did possibly to the city. The second component to it is just timing and how that would stage out. First part would be you are saying a proposal and an understanding of what is going on here as far as the pursuit for it, and then when would we anticipate – what is the timeline?

Mayor Foxx said you will have an opportunity to ask those questions on Wednesday, but I will put it this way. We have not had an event occur in the city that has the potential economic impact of this convention, and frankly whether it was a Republican or a Democratic convention, there would be significant economic upsides to it. Those will be described in further detail on Wednesday. It's not a secret, but that's essentially what it is. Any outlays we would make we would anticipate making up for it based on the economic impact, and frankly that doesn't include the longer term impacts to the city in terms of being able to be on the international stage not only for a week but actually probably three or four months leading up to that week. I hope you will support it, and we were asking people from all sides of the political aisle to support this effort because it's really at the bottom line about economic development and advancing the city. I hope you will support it and understand that unlike some other things like a World Cup where there may be a cookie-cutter kind of relationship between the cities that bid for that, and it's actually many cities across the United States would have to bid on the World Cup piece, but the framework for that is actually something that is more cookie cutter than this is. It's an iterative process, and we'll just keep working through that.

Councilmember Peacock said I can't make it Wednesday, so I was hoping to get some inside information early.

Mayor Foxx said I didn't bring my PowerPoint with me but happy to talk to you any time.

Councilmember Howard said on that same note I would like to just maybe go a step further than my colleague and congratulate you as well as Mr. Rogers on taking the step. The Web site is exciting. All the press that has been generated so far has been exciting. To even be in this position is something that is not only attributed to you guys but also to the great work of my colleague – his mother – who really stepped forward to really get the attention of DNC to even make this happen. I have already said to you anything I can do, and I can't speak for the rest of my colleagues, but I'm excited about it, and good work.

Councilmember Cooksey said I'll jump in on this point, too, because I realize that such things are generally ceremonial, but to the extent – on the subject of general support, I remember 12 years ago for the Carolinas 2000 effort we had Council, Board of County Commissioners, and it's too late now for the General Assembly, but we also had the General Assembly pass resolutions of support, and I'm seeing nods from some of my colleagues who were on Council in '98. Well, actually Cannon was there. He was involved in that one, so we had those again largely ceremonial, but they do demonstrate that it is the voice of the Council, the voice of the Board of County Commissioners encouraging this sort of thing, so perhaps something like that could be whipped up for the 26<sup>th</sup> as part of Charlotte's response to this effort.

Mayor Foxx said I appreciate that. It's a very good point, and maybe we'll work on that between now and next week for the City Council. I think that the process as it plays out is going to give us ample time to round up those types of support resolutions and so forth, but, again, it's big for the city, for the state, and everything else. We just need to put the full force of our community behind it.

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**ADJOURNMENT**

The meeting was adjourned 8:27 p.m.

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Stephanie C. Kelly, CMC, City Clerk

Length of Meeting: 2 Hours, 59 Minutes  
Minutes Completed: August 19, 2010