

**DINNER BRIEFING**

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Monday, March 21, 2011, at 5:26 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, Patsy Kinsey, Edwin Peacock III, Warren Turner

**ABSENT UNTIL NOTED:** Councilmembers David Howard, James Mitchell

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**Tammie Keplinger, Planning**, provided a review of the agenda highlighting the deferrals requested.

Council members asked for clarification specifically on Petition No. 2008-032 and Petition No. 2010-067.

**Councilmember Mitchell arrived at 5:30 p.m.**

**Debra Campbell, Director, Planning**, presented an overview of the “Single Room Occupancy Residence” text amendment. She explained that the text amendment gives an affordable housing option.

**Councilmember Howard arrived at 5:57 p.m.**

As Ms. Campbell concluded her summary, Council members expressed no objection to staff continuing their efforts to draft a text amendment for eventual consideration.

The briefing was recessed at 6:05 p.m. for the Council to move to the Council Meeting Chambers.

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**ZONING MEETING**

The Council reconvened at 6:09 p.m. in the Council Meeting Chambers of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Council members present were: Michael Barnes, Jason Burgess, Patrick Cannon, Nancy Carter, Warren Cooksey, Andy Dulin, Patsy Kinsey, James Mitchell, Warren Turner

**ABSENT UNTIL NOTED:** Councilmembers David Howard, Edwin Peacock III

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**INVOCATION AND PLEDGE**

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

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

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## DEFERRALS

[ Motion was made by Councilmember Dulin, seconded by Councilmember Mitchell, and ]  
[ carried unanimously to defer Decision Item No. 2, Petition No. 2010-045, No. 5, Petition ]  
[ No. 2010-072, and Item No. 7, Petition 2010-080 for one month; Item No. 6, Petition No. ]  
[ 2010-079 for two months, and Item No. 1, Petition No. 2008-032 for seven months; and to ]  
[ defer Public Hearing Item No. 14, Petition No. 2011-008, for three months. ]

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## DECISIONS

### **ITEM NO. 3: ORDINANCE NO. 4621-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.64 ACRES LOCATED ON THE SOUTH SIDE OF BEVINGTON PLACE BETWEEN ELM LANE AND REA ROAD FROM R-15(CD) TO NS**

Councilmember Cooksey said I'll start with the motion. We'll see if there is a second and then dive right in. I move the Council find the petition to be inconsistent with the South District Plan but reasonable and in the public interest, and, furthermore, that Council approve the petition as modified.

[ Motion was made by Councilmember Cooksey and seconded by Councilmember Dulin ]  
[ to approve the Statement of Consistency and Petition No. 2010-067 for the above rezoning ]  
[ by Mecklenburg County Park & Recreation Department as modified but not recommended ]  
[ by the Zoning Committee. ]

Councilmember Cooksey said this isn't an easy one. We heard in the back of the room that the Charlotte Department of Transportation has spent more time on this petition than pretty much any one they have dealt with in quite a while. I have got to stress that in my opinion there is no good solution here. We have a very busy corner at Bevington and Rea with neighborhood center shopping, with a greenway, with residential single family homes and multifamily. I can appreciate Park and Recs' point of view that it is a good problem to have that there is high demand, but if you travel in the area, it doesn't necessarily come across as a good problem to have. So I view all the options before us as being not very good given what we have.

The petition, however, I think is worth approving for a number of reasons. To begin with, and a couple of emailers pointed this out to me, as the motion stated, this petition is inconsistent with our adopted land use plan. The South District Plan calls for retail uses on this corner, the southwest corner of Bevington and Rea. I would hope that if anyone came before us with a petition for retail uses across Bevington at this corner of Bevington and Rea we would laugh it out of this chamber because that is far more retail than we would anticipate on that corner. So our adopted land use plan doesn't provide good guidance.

The zoning on the ground does permit a parking lot as an accessory use for the greenway already, however, it does so with a 40-foot setback. To set the parking back that far from the street will compress the parking and also encroach more into the Four Mile Creek area than I think we would probably be comfortable with. So we are left with this petition in front of us – a petition for 40 parking spaces, closer to the street, further away from Four Mile Creek. In light of that reality that our plan isn't something we want to see, the zoning on the ground is not something I think we want to see, I think we should approve the zoning petition.

Councilmember Howard said I actually agree with you, Mr. Cooksey. I have questions about the pedestrian flow from the actual greenway around the parking. I have some concerns about people actually crossing where this new driveway would be. Anything to address that, Tammie?

**Tammie Keplinger, Planning**, said I'm sorry – the question again?

Councilmember Howard said I have some concern about the pedestrian flow across the street where the new driveway comes in. I mean it's always tempting to cross right there to go across the street to the shopping center if you are parking across the street. Any thought about pedestrian flow around this parking?

Ms. Keplinger said I think that is something that Mike and CDOT would be best suited to address because they have looked at those issues when they discussed the U-turn and the driveway entrance.

**Mike Davis, Charlotte Department of Transportation**, said your question was about pedestrians crossing at the driveway. That is actually one location where we have discussed the possibility of what would be called a raised crosswalk. There are some reasons why we may not want to pursue that as the solution, but if this petition is approved and the driveway is located as depicted on the plan, we think that would be a logical place where pedestrians would cross. Before we would install that kind of a treatment, we would want to conduct some field observation and make sure that is actually a logical place that people are using that parking lot and crossing at that location.

Councilmember Howard said and it's also signage, I think, because what you want people to do is to go down to the light and cross there. I don't know if you encourage it with a light, with a crosswalk, but one way or the other, you don't want people jaywalking back and forth across that street.

Mr. Davis said that crossing would be about 500 feet away – four to 500 feet away from the driveway. We would prefer. That would be a better place for pedestrians to cross, but we understand that people probably will not choose to do that. If the observations can confirm that people are trying to cross at that location and we think we can concentrate them at a point that is convenient that would be why we would do a raised crosswalk to try to moderate those speeds and get them crossing at least one visible location. We think that is the best way to do it.

Councilmember Howard said what about down towards where the end of the parking lot is, and I don't know how to do this other than hold it up – closer to Rea Road. Could it just connect closer to the intersection? Could there be a pedestrian flow around the parking lot so it at least tries to tend to attempt to send people down towards the intersection?

Mr. Davis said from a design perspective that may be possible, but in terms of looking at where – what is going to drive people to cross where, I still don't think that would be a reason people would cross. Since the greenway goes westward and the signal that you are describing would be the eastern terminus, I think once people get into sort of the clearing that is roughly in front of the retail development that is the point at which people want to start crossing and part because vehicles parked on the street along Bevington are on the north side, so it's one more reason why we are not sure these would be concentrated crossings. Many of them would be happening as people see a gap in traffic and want to cross.

Councilmember Howard said I'm concerned about the pedestrians. So when you guys finish flushing out the design – my friends at Park and Rec, too, if you guys would think about that I would appreciate it.

Councilmember Cannon said, Ms. Keplinger, it looks like the biggest thing has to do with the setback. It looks like under the proposed use they are able to do what they want to do already; is that correct?

Ms. Keplinger said, yes, sir. Under the current zoning, they could establish a parking lot for the greenway. The purpose of the rezoning was to allow them to reduce the setback along Bevington so they could get additional parking in there. The site is constrained by floodway and SWIM buffers, so they needed that additional footage to get some parking.

Councilmember Cannon said the approval of this basically allows for that setback to occur.

Ms. Keplinger said that's correct.

Councilmember Carter said I do have great concerns about U-turns in that area to further complicate the traffic flow, and I think that is a real traffic issue of safety. The other one that is concerning me is the pedestrian access that is connected here. I think our Park and Rec friends could perhaps help us in their Web site if they publicize where parking is available and where alternative parking, use of a buddy system to get to the park, looking where you can perhaps use Elm Lane, the sidewalk there, to access. There are other alternatives out there that I don't think are being well publicized, and I think if we can get those messages out to the public, and that does take just the Web site use then I think that would be very positive for us as well as a map there at the park that highlights parking specifically, so that once you visit the park you will see there are other alternatives.

Councilmember Peacock said, Mike, I wondered if you could elaborate on the conversation we were having before. What we are asked to do here tonight is make a land use decision. The second part of this, which I don't believe – is clearly articulated. I think Mr. Cooksey was touching on it when he was speaking earlier to why he is in support of this decision by the Zoning staff is where does your communication go from here, how do we work to address the problems. This is a very tough decision to make, and that's why you all have spent so much time on it, but where do you go from here depending on which way the land use decision goes tonight?

Mr. Davis said sure. Just to quickly set that in context, CDOT has been studying this site before this became a rezoning petition because we knew there was work to be done around the issues of transportation and pedestrian safety. Much of that work was suspended – not suspended but altered when we began considering this rezoning petition, and the thinking was that depending on whether parking is introduced in the location that is proposed if that occurred it would greatly alter the way in which people use Bevington to such an extent that we think that the best decisions we are going to be able to come to would be after we observe conditions on the ground if the parking is installed.

So the answer to your question would be if the parking lot is approved, we would reach out and do sort of a community based traffic calming effort. If it's not approved, we would probably still do that. Either way that work needs to be done. I think the answers we get to will be very different based on whether or not the parking lot is approved because it will have a lot to do with where people are crossing the street.

Councilmember Peacock said the only comment I would make, Mr. Mayor, would be for the district representative, Mr. Cooksey, and I think that is what you were alluding to; wasn't it? We have two parts to this. I think you see that those in District 7 are going to have a problem solved here if we make a land use decision tonight. That would be the next part to follow through on CDOT; is that correct?

Councilmember Cooksey said I don't think there is a solution to this problem. I think there are only ways to manage it better, and this manages it better. In closing, there were a couple of things I mentioned in the motion as modified, and there are two things I want to make sure folks know because it was arrived at later. There had been concerns about the lighting issue. The note regarding lighting has been modified to say "lighting may be installed in the future if security concerns or significant requests by greenway users make the lighting of the parking lot advisable". There was some disconnect on folks. I'm just saying the lighting issue. Lighting is a by-right usage anyway. There were legitimate questions raised, well, if the greenway closes at dusk, why would you need lighting? I think this note clarifies the lighting issue a bit better. Secondly, just to confirm everything has been said with Mr. Davis in CDOT, we do have an additional note committing to work with Park and Rec for future planning efforts on traffic calming and lights, so that is in the site plan as well that we can hold folks accountable to.

Mayor Foxx said also as I understand the base zoning – I think, Mr. Cooksey, you made this point as well – they could actually put a parking lot in this space today. It's just a question of the alignment of the property, which is why the rezoning is coming before us.

Councilmember Dulin said one question for CDOT. If this passes tonight, then we are going to start our study of how you will get pedestrians to and from and across. I assume that you all are

smart enough to coordinate any construction we do with when they do the parking lot so it gets torn up once and not twice.

Mr. Davis said we would continue the study really immediately based on the decision. We would coordinate it to the extent there shouldn't be any tear out and replacement, but I think they would be separate. Work going on in the parking lot probably wouldn't have anything to do with solutions we have come up with for the greater Bevington Street.

Councilmember Dulin said it would, in my opinion, be good to have those things done at the same time rather than three months worth of construction for the parking lot and then two weeks' worth of construction for us.

Mr. Davis said again I think what we think will work best is if we can see observations after it's in place – actually understand who is using that lot and where they are crossing, so it would be a delay.

Councilmember Howard said the vote from the Zoning Committee was pretty clear on this, but I was wondering if the chairman could add anything before we move forward with this; if that's okay.

**Steven Roseboro, Chair, Zoning Committee**, said this was something that the Zoning Committee studied at great length, and while the committee in the whole were not opposed to a parking lot the issue really became had all of the options been examined that would provide for representation that the community was after and the safety issues with respect to crossing the street. The committee did not, as you see from our recommendation, give clear direction, and I apologize for that. We always like to try to do that, but, again, I think with respect to Council's decision tonight the committee was looking at a parking lot as the best viable option. The question was had CDOT examined all options as to where to put it and the issues of how to get people back and forth and the concerns outlined by the community. I felt, as chairman, that we had, and that's why I took the stand that Mr. Peacock referred to earlier.

Mayor Foxx said we have had lots of good dialogue here. Are you ready to vote?

**The vote was taken on the motion and recorded as follows.**

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

**NAYS:** Councilmembers Carter, Turner

The modifications are:

1. Note 7 has been modified to state "Lighting may be installed in the future if security concerns or significant requests by greenway users make the lighting of the parking lot advisable". The modification to this note also reduced the maximum height of the potential lighting from 30 feet to 25 feet and indicates it will be shielded or capped.
2. An additional note has been provided which states "The petitioner will collaborate with the Charlotte Department of Transportation in future planning efforts concerning any traffic calming or pedestrian improvements between Rea Road and Elm Lane".

The ordinance is recorded in Ordinance Book 57 at Pages 20-21.

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**ITEM NO. 4: ORDINANCE NO. 4622-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 13.98 ACRES LOCATED ON THE EAST SIDE OF THE INTERSECTION OF MALLARD CREEK ROAD AND PENNINGER CIRCLE AND LOCATED ACROSS FROM MASON DRIVE FROM R-3 TO INST(CD)**

Councilmember Barnes said I move to approve this petition with all the modifications including those arrived at today. I appreciate staff's energy and time and the energy and time of the petitioner.

Mayor Foxx said are you saying that the motion to adopt the statement of consistency by the Zoning Committee and to approve this petition?

Councilmember Barnes said I am, yes, sir.

**Tammie Keplinger, Planning**, said the Council needs to vote not to send this item back to the Zoning Committee since these changes, the four changes mentioned earlier, were made after the Zoning Committee recommendation.

Councilmember Barnes said I further move to adopt the modifications that have been made since the last Zoning meeting and not require the Zoning Committee to re-review them.

[ Motion was made by Councilmember Barnes and seconded by Councilmember Howard to ]  
[ to approve the Statement of Consistency and Petition No. 2010-069 for the above rezoning ]  
[ by Patrick N. Dillon as modified and as recommended by the Zoning Committee and not ]  
[ require the Zoning Committee to re-review them. ]

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

The modifications are:

1. The site plan has been modified to reflect compliance with the Tree Ordinance.
2. A minimum age of 60 has been established for the independent living units in the development.
3. The setback on Penninger Circle is measured from the existing right-of-way.
4. The recycling center has been noted.
5. The buffer class has been noted.
6. The fence details have been noted.
7. The colored elevation has been attached and labeled "for illustrative purposes only".
8. As indicated in the building elevations, exterior building materials shall be a mix of architectural masonry (brick, stone, etc.) and cement fiber board trim, siding, and paneling.
9. The architectural masonry shall be no less than 30% of the building facades.
10. Stucco may be an alternative to the cement fiberboard however synthetic stucco will not be used.
11. The building elevations shall be articulated with the façade being periodically forward and/or recessed as depicted in the illustrative elevation.
12. The buildings will consist of four-sided architecture with no expanses of blank walls more than 40 feet.
13. Windows will be of similar quality, appropriate in size to the interior room use.
14. Exterior detailing may have vinyl elements such as porch columns and railings, soffits, and windows.
15. Asphalt shingle roofs shall have a minimum pitch of 6:12 and roof shall have periodic decorative vents and/or dormers, etc. to break up the roof line. Metal roofing material or other similar material to be approved by planning staff will be used on entrance roofs (where the cupola and chimney are located).
16. Trim work and general millwork as depicted on the illustrative elevation will include but not be limited to: cupola, decorative gable vents, raised seem metal roofing, fenestration, windows and mullions/mullets, clerestory, lintels, horizontal banding, porches, railings, columns and capitals, and ornamentation.
17. Lighting should be limited to 25 feet in height.
18. The following note should be added to the detention areas: "Potential location for storm water management facility. Actual location of such facilities shall be determined through the site plan review and permitting process".
19. The class "C" buffer will be maintained next to the existing multifamily. As a class "B" buffer is not possible due to a proposed detention location, additional buffer plantings to meet the planting requirements of the class "B" buffer will be installed.

Other changes to the site plan

1. Decorative fence to be metal picket style fence, 6'0" max. height. See detail this sheet. Privacy fence to be 6'-0" high. See detail this sheet. Decorative fence to be along Mallard Creek and Penninger Circle. Privacy to be along south and east property lines.
2. The height of the freestanding lighting fixtures shall be limited to 20 feet.
3. The buildings will consist of four-sided architecture with no expanses of blank walls more than 20 feet.
4. Planning staff is required to review final elevations and confirm consistency with the conditional notes prior to the issuance of building permits.

The ordinance is recorded in Ordinance Book 57 at Pages 22-23.

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**ITEM NO. 8: ORDINANCE NO. 4623-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 6.078 ACRES LOCATED ON THE SOUTH SIDE OF PARKWAY PLAZA BOULEVARD NEAR COURTNEY COMMONS LANE FROM I-1(CD) TO O-1**

Mayor Foxx said the petition is found to be consistent with the Westside Strategic Plan and to be reasonable and in the public interest.

Councilmember Carter said I have two questions to ask. If there is room for playing fields and parking for school events incorporated in this plan.

Tammie Keplinger, Planning Department, said this is a conventional petition, so any use in the O-1 district is permitted. We do not have a site plan, so we do not know which out of all of the O-1 uses will be put on this site, so we cannot answer those questions.

[ Motion was made by Councilmember Dulin, seconded by Councilmember Barnes, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-006 ]  
[ for the above rezoning by Dore Academy as recommended by the Zoning Committee ]

The ordinance is recorded in Ordinance Book 57 at Pages 24-25.

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**ITEM NO. 9: ORDINANCE NO. 4624-X FOR AN INST(CD)(LLWA) SITE PLAN AMENDMENT FOR APPROXIMATELY 9.05 ACRES LOCATED ON THE EAST SIDE OF TODDVILLE ROAD BETWEEN FREEDOM DRIVE AND LEWHAVEN DRIVE**

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

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Barnes, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-006 ]  
[ for the above rezoning by Dore Academy as recommended by the Zoning Committee ]

The ordinance is recorded in Ordinance Book 57 at Pages 26-27.

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**ITEM NO. 10: ORDINANCE NO. 4625-X FOR A B-2(CD) SITE PLAN AMENDMENT FOR APPROXIMATELY 8.08 ACRES LOCATED ON THE WEST SIDE OF EAST INDEPENDENCE BOULEVARD ACROSS FROM EAST W.T. HARRIS BOULEVARD**

Mayor Foxx said the petition is found to be consistent with the East District Plan and to be reasonable and in the public interest.

[ Motion was made by Councilmember Barnes, seconded by Councilmember Mitchell, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-010 ]  
[ for the above rezoning by Hendrick Automotive Group as modified and as recommended by ]  
[ the Zoning Committee ]

The modification is:

1. The double row of Leyland Cypress or Eastern Red Cedar is shown on the site plan (as per Rezoning Petition 1997-087), and language has been added to clarify that in the event the existing ball field is abandoned that area will be landscaped to meet the required 75' Class B buffer requirement.

The ordinance is recorded in Ordinance Book 57 at Pages 28-28.

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**ITEM NO. 11: ORDINANCE NO. 4626 FOR THE ADOPTION OF A TEXT AMENDMENT TO THE CITY OF CHARLOTTE SUBDIVISION ORDINANCE TO ELIMINATE THE TRANSITIONAL SETBACK ALONG IDENTIFIED SECTIONS OF US HWY. 74 UPON COMPLETION OF NCDOT RIGHT-OF-WAY ACQUISITION PROGRAM**

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

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Barnes, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-013SUB ]  
[ for the above rezoning by Charlotte-Mecklenburg Planning Commission as recommended ]  
[ by the Zoning Committee. ]

The ordinance is recorded in Ordinance Book 57 at Pages 30-31.

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**ITEM NO. 12: ORDINANCE NO. 4627 FOR THE ADOPTION OF A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ELIMINATE THE TRANSITIONAL SETBACK ALONG IDENTIFIED SECTIONS OF US HWY. 74 UPON COMPLETION OF NCDOT RIGHT-OF-WAY ACQUISITION PROGRAM**

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

[ Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-014 ]  
[ for the above rezoning by Charlotte-Mecklenburg Planning Commission as recommended ]  
[ by the Zoning Committee. ]

The ordinance is recorded in Ordinance Book 57 at Pages 32-34.

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**HEARINGS**

**ITEM NO. 13: HEARING ON PETITION NO. 2011-002 BY 521 PARTNERS, LLC FOR A SITE PLAN AMENDMENT FOR APPROXIMATELY 12.54 ACRES LOCATED ON**



**THE SOUTHWEST CORNER AT THE INTERSECTION OF PROVIDENCE ROAD WEST AND JOHNSTON ROAD**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this petition is a proposal to rezone 12.54 acres to O-1(CD). It's actually a site plan amendment. This property has been through rezoning two times before. One the total of the property, and one just a portion of the property. In terms of adjacent land use, we have multifamily, institutional, and single family, as well as some vacant land. The property, as you can see from the aerial, is currently vacant. The proposal for this petition increases the proposed office and bank uses of 52,500 square feet for a total of 120,000 square feet. It also allows a hotel, and the hotel is not figured into the 125,000 square feet. They have increased the number of buildings on the site from three to four. They provide a greenway overland connector along Ballencroft, and the petition amends the proposed building layout to orient the buildings towards Johnston Road as opposed to Ballencroft Parkway.

The South District Plan from 1993 calls for office land uses including a financial institution for this site. The proposed office and bank uses are consistent with the South District Plan, however the hotel is not. Staff currently does not support this rezoning petition. Although we are supportive of the proposed uses, the building orientation should be along Ballencroft Parkway to promote pedestrian connectivity associated with the overland connector for the greenway. In addition, there are several outstanding site plan issues with the maximum square footage and the layout of the buildings as well.

**Stephen Overcash, 2010 S. Tryon St.**, said as was mentioned, we are down to just a couple of small issues. We do strongly for two reasons that the building orientation is correct. If you drive down 521, it seems like you don't see a lot of parking lots. We were involved with a petition recently where staff demanded – that was no option – that we front the buildings directly onto 521, and it's down at Old Lancaster and Highway 521, so in that case we didn't have an option. The second reason we went to our neighborhood meeting. We didn't have all the buildings fronting onto 521, and the neighbors were adamant that we do not want to drive down 521 and see a lot of parking; please put all your buildings up on the 521 as close as you can get. We would rather see buildings than parking, so we listened to the neighbors. We promised them that we would do it to get their support, and that's the big issue.

The thing about the square footage is the last rezoning was only half the site, and I think it was maybe 80,000 square feet proposed. We are at twice the site. We are at 12,000, so proportionately we are about the same square footage. We did ask in a letter if we could not acquire the hotel brand that we would drop that building back to a two-story office of 30,000 square feet. That's it.

Councilmember Howard said, Tammie, the only thing I see that you guys – the square footage is somewhat of an issue, but orientation of the buildings is one of your main things?

Ms. Keplinger said, yes, sir, it is.

Councilmember Howard said given what the speaker just talked about along 521 the only other building I can think about is actually at the corner of Ballantyne Parkway and Ballantyne Village where actually they did anchor the corner but they also made it so that you had some smaller shops in the interior as well. Is that what you guys are thinking – more of a horse shoe design?

Ms. Keplinger said I'm not sure the petition that Mr. Overcash is referring to, but in this particular petition, we do have the internal driveway or internal street network here, and we also have the overland connector to the greenway, which makes staff feel that we really need to have those buildings facing along that street as opposed to 521. This will encourage pedestrian activity along this street, along Ballancroft, and we feel that is necessary and needed to encourage people to use the greenway and for the development as a whole

Councilmember Howard said any thoughts on that, Mr. Overcash?

Mr. Overcash said that is a stub street. We have met with the people who that own the institutional property. They came to the neighborhood meeting. They currently have no plans. The other reason is that we don't own the property across the street and part of it is being used by a retention pond, so that's not going to be good edge there. That's not going to be cute shops and restaurants along there, so we just feel for that short of a street that dead-ends in the institutional that we feel like the orientation is correct, and we did want to adhere to what the neighbors – we were asked to go to the neighborhood and listen to them, and we want to respond to their concerns.

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

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**ITEM NO. 15: HEARING ON PETITION NO. 2011-009 BY CRESCENT RESOURCES, LLC FOR A SITE PLAN AMENDMENT FOR APPROXIMATELY 7.81 ACRES LOCATED ON CARNEGIE BOULEVARD AND WEST OF THE INTERSECTION BETWEEN ASSEMBLY STREET AND CARNEGIE BOULEVARD**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this petition is for a portion of Piedmont Town Center. It's a MUDD-O site plan amendment for 7.81 acres. You can see the zoning in the area is a mix of office, residential, and MUDD. In terms of the land use, there is a lot of office in this area as well as single family. The property that is proposed for rezoning tonight is vacant. To give you a little history on this, in 2005 Rezoning Petition 2004-041 and 042 was rezoned for the Piedmont Town Center development. Part of that development has already been constructed. There are 283 residential units that have not been constructed and which are allotted for the subject site.

The proposed site plan adds 67 residential units to that 283 for a total of 350 residential units. It allows incidental, nonresidential uses on the ground floor. The previous petition also allowed that. There is a maximum of four buildings within the proposed building envelope. The 100-foot no-building buffer along the property line abutting the single family residential properties, which was on the original petition from 2005 remains. The outer 75 feet will remained undisturbed. There is proposed right-of-way dedication for a segment of a future public street, which will link Carnegie Boulevard and Fairview Road. There are architectural controls with four-sided architecture. The parking structure, which faces Carnegie, will be wrapped with residential and/or enclosed by corridors or hallways. The petition does have several optional requests. They are related to detached signage limits. Modification to the streetscape plan along the future public street, again, along this street, and also to reduce the setbacks along the sides of the future public street so we can actually get that street in place.

In terms of the SouthPark Small Area Plan, it was amended by the rezoning petition in 2004, and it recommends highrise residential uses as well as retail, office, and restaurant uses, which would be on the ground floor, so staff is working with the petitioner to resolve the outstanding issues that are listed in your agenda, and we feel that we will be able to accomplish by the time of the Zoning Committee meeting next week, and we are recommending approval.

**Keith MacVean, King & Spaulding, 100 N. Tryon St.**, said Jeff Brown of our firm and I are assisting Crescent Resources with this rezoning petition. With me here tonight representing Crescent Resources is Tim Dison and Ben Collins, and then with Cole Jenest & Stone is Chris Todd and Sue Freyler. They are doing the engineering work and site layout for the site. I want to thank Tammie and CDOT for working with us on this petition. There have been several issues as there are listed in your agenda, most notably the issue of the future public street, and we met with CDOT last week, and we have resolved that. We have agreed to dedicate that right-of-way for that public street and post the bond for its construction. That satisfies CDOT's issues with how that public street was going to be dealt with. We also sent the staff an email agreeing to solve the other issues and how that would be done, and, again, as Tammie mentioned, we hope to

have that to the staff by the end of the week and have that before the Zoning Committee for next week's Zoning Committee meeting.

As Tammie mentioned, the site is currently zoned MUDD-O approved in 2004. This is a MUDD-O site plan amendment. The plan is consistent with the SouthPark Area Plan. The changes are fairly modest changes. They are not use changes. We are not changing the use of the site. It was zoned for residential with ground floor retail and office. That's the same proposal we have before you. There is an increase in the number of units, as Tammie mentioned, from 283 to 350. But the other changes are to lower the building height from 180 feet to a maximum of 100 feet, change the site design from two buildings to one building. There is an option in the plan to allow four buildings. If for some reason Building Standards requires some separation, we didn't want to have to go back to the rezoning process to create a 20-foot separation between buildings. That cannot be done administratively anymore, so we need to build that into the plan, and that's why there is an allowance for up to four buildings. Basically it would sit in the same building envelope where the building sits now.

As I mentioned, the new road is a huge improvement for connectivity for this site. The location and design of the road we have worked with CDOT on this for numerous months. It's in the right location to guarantee or to at least help guarantee that road does get extended to Fairview Road. It misses the building that is actually developed on the site between our site and Fairview Road. It can skirt that, and as I mentioned, we posted a bond for its construction or will post a bond – Crescent will – and the right-of-way will be dedicated. That facilitates that road and that connectivity, a very important part of the SouthPark Plan in terms of connectivity and helping alleviate the traffic concerns in this area.

As Tammie mentioned, the previous commitments that were on the original plan or the plan that is approved now are kept in place -- the 75-foot undisturbed buffer at the rear of the site adjoining the Picardy neighborhood, a 100-foot no-build zone, water quality for the 50-year storm because there are downstream flooding issues within the neighborhood. That detention pond is sized to accommodate a larger storm event so we don't exacerbate the downstream flooding issues. We have also agreed to improve the buffer by cleaning out vines and invasive species of plants and taking out dead and dying trees. There is also a commitment to put a chain link fence. Something that was optional before is now a commitment to do that. The open space, the pond at the back of the site will be improved with a walking trail, landscaping, and low landscape lighting.

The proposed building, as Tammie mentioned, will front Carnegie Boulevard. There is a rendering of the plan of the architecture that is being proposed that has been included with the petition. That is exactly what it looks like, what we think it will look like. As I mentioned, the plan also has interior courtyards for open space and then the open space at the rear of the site. There is a six-foot sidewalk that will lead you from Carnegie to the rear of the site to access the walking trail at the detention pond.

In terms of outreach, early on before we filed this rezoning petition we met with the Picardy Homeowners Association at Ms. Strickland's house. Several of her neighbors were there, and we outlined the request to go from two buildings to one, lower the height, talked about no other changes to the rear of the site in terms of water quality, buffers, and so forth. The folks that were at that meeting understood the request, and we felt they were receptive to it. Following that, we held our required community meeting. At the community meeting we had attendance also of folks from Picardy as well as residents of the Piedmont Town Center condominiums were at our meeting. We also met with the Carnegie Property Owners Association. There is an association of the commercial owners that front Carnegie Boulevard. We met with them to show them the plan. We had a conference call meeting with the condominium association for Piedmont Town Center. We met with the commercial owners of the property at Piedmont Town Center. It's a company out of Indiana, I believe – Des Moines. Principal is the name. They own the commercial piece. We met with those folks, so I think we have done a good job of reaching out to everybody at least who we were aware of. We also met with Childress Klein Properties early in the process as they were undergoing the rezoning process for their site across the street, and we also met with them after their petition.

Last month we were originally scheduled for a public hearing, and we actually deferred the petition for a month because the week prior to the petition we had learned that a protest petition had been filed. We were unaware of that opposition until that protest petition was filed. The protest petition was filed by four property owners that abut the side in the Picard neighborhood along Wintercrest Drive. We deferred so we could get a little bit of time to try to meet with them but also help us resolve issues with CDOT regarding the road. Due to busy schedules, we were unfortunately not able to meet with representatives of the protest petition until this past Saturday, but we were able to meet and we did discuss their concerns that are listed in the protest petition. Unfortunately, we were not able to find any common ground to try to alleviate some of their issues they have. They have asked for a larger undisturbed buffer, a smaller water quality pond, lower building height, have asked that we remove the road at the rear of the site and possibly also remove the road at the front of the site. Those are large changes to the plan and are not doable at this point. It would really render the site economically undevelopable if all those things are done.

In conclusion, we feel this is a good plan, has benefits – has an economic development benefit. It represents a \$45 to \$50 million investment by Crescent Resources, furthers the goals of the SouthPark Plan for connectivity by dedicating a right-of-way and posting a bond for a road connection. The staff is supporting the request, consistent with the plan, and, again, the modifications that we are requesting are minor – lowering the height, including the road. We have added additional landscaping along this edge and along this edge of the pond, committed to doing improvements to the open space in terms of trail and landscaping in this area, so, again, modest changes with improvements. Be glad to answer any questions.

**Dr. Elliott Cauble, 5801 Wintercrest Ln.**, said I'm an internal medicine resident physician at Carolinas Medical Center. My mother is Glenda Cauble, and she has lived on Wintercrest Lane for the last 27 years. She has served this county as a teacher in the Charlotte-Mecklenburg School System for the past 19 years. My mother's entire life savings are invested in her home. For Crescent, this is just another deal. The property owners who live directly on Fairview or already abut commercial developments have been extremely vocal in their support of this and every other development. You need to be aware that they do not have in common the same interest as the rest of the neighborhood. Ms. Hiltz, Mr. and Mrs. Burlos, and Ms. Collias have actively sought to commercially develop their own properties. Ms. Strickland, who has a five-story office building directly behind her property, has publicly endorsed every development proposal for this particular parcel for the past ten years and has even requested that the developer take down more trees.

Every rezoning petition is a package that has many parts – some good and some bad. It is the responsibility of City Council to weigh the good and the bad aspects and approve a total package when the good clearly outweighs the bad. This is not to say that approval of a rezoning petition should be interpreted as the City Council's endorsement of each and every detail of that proposal as being good. I have spoken with the representatives of Crescent Resources repeatedly, and they have always expressed the view that they can cherry-pick certain aspects from prior plans. They feel that a past approval entitles them to any part of a prior plan even if the context of their new plan is entirely different.

Given that every proposal has to be evaluated on its own merits, why is this rezoning petition a bad idea? It's a bad idea because it will entirely change the character of the whole neighborhood by removing the critical tree buffer, increasing traffic, and increasing crime. Number one, the single greatest reason that my mother and many other residents chose to move to Picardy was because of the forest. This wooded area contains magnificent, irreplaceable heritage trees, some of which are hundreds of years old. There is a wealth of wildlife that many are surprised to learn is in the middle of the busy SouthPark area including deer and birds of prey. The forest gently slopes down to a natural spring and creek. This area is also a vital watershed.

On the other side of the creek, there is a large blank field that was cleared in 2005 with the construction of Piedmont Town Center. The remaining depth of the wooded area, approximately 200 feet, is just large enough to block most of Piedmont Town Center's noise and lights from our homes. Crescent Resources current proposal is to cut down all but 75 feet of this forest in order to build a retention culvert for their new development. One of the many problems with this idea is that a large number of the oaks and heritage trees are located at approximately 150 to 175 feet

from the property line, and, therefore, would not fall within the 75-foot area that Crescent is proposing in its buffer. They use language like “undisturbed” to refer to this strip of trees they are offering to leave, however the details of the site plan state that they reserve the right to cut and clear trees and ground cover at their discretion even within this narrow strip. This forest is a unique place, and it is wrong to cut down those priceless, virgin hardwood trees in order to build a branch culvert for an apartment complex.

Number two, the proposed plan creates a new street that connects Fairview Road with Carnegie Boulevard. In terms of traffic flow, this road will serve as a future shortcut that will reduce the distance and number of stop lights between the Fairview Road/Park South Drive intersection and the Morrison Boulevard/Sharon Road intersection from five to two stop lights. Between this road’s advantages as a shortcut and the fact the new development would itself generate approximately 2,000 more car trips daily it is obvious this will quickly become a road with constant traffic levels akin to that of Barclay Downs Drive. Furthermore, Crescent insists on adding another access road behind the buildings thus bringing traffic even closer to our homes. The removal of the tree buffer will make the noise, light, and air pollution from this traffic all the more perceptible to Picardy residents.

Number three, the combination of buffer destruction, clear visibility, apartments, and road access is an equation for increased burglary and other property crime for our neighborhood. The fact that Crescent is planning on constructing a chain link fence is a clear admission on their part that they recognize that their changes will come with security problems for the neighborhood. The fact that they have chosen a chain link fence, the ugliest and least effective remedy to this problem, speaks volumes to their disregard for the people who live here. How would you like to wake up, go into your backyard and look at an apartment building with a chain link fence? Clearly all the problems with aesthetics, pollution, and security stem from Crescent’s insistence to cut down the forest. We have always respected their right to develop their property, but we want them to do it in a responsible way that does not harm the neighborhood. The developer would get a very different response from the Picard neighborhood if the plan was reworked to use the stream as a natural boundary and remove the access road behind the buildings. In return, we would be more than happy to accept building heights of 200 feet or whatever is necessary to preserve the existing boundaries of the forest. Crescent must find some other alternative for ground water run-off from its proposed apartment building. Many Picardy residents are in danger of losing their entire life savings because Crescent wants to develop every last foot of this property. I am only asking you to look at the entirety of this proposal in its current context and ask yourself is it fair or unfair to the neighborhood.

**Thomas Golen, President, Piedmont Row HOA, 4625 Piedmont Row Dr. #511E,** said tonight once again we are offering up potential solutions for your serious consideration to mitigate past development mistakes and avoid exacerbating these mistakes with sub-optimal decisions going forward. You have the opportunity in addressing this rezoning petition to mitigate the unintended consequences of past mistakes. Alternatively you may exacerbate the problems further by ignoring the issues raised tonight. I have heard on more than one occasion that the option to building this plan is to build the plan presented in 2004-142. We all know this is a fallacy and is no longer feasible for several practical if not legal reasons, so let’s not even entertain this red herring anymore. I strongly encourage you to view this rezoning petition as a plan to develop seven acres of virgin dirt and trees within but on the edge of the SouthPark Small Area Plan boundaries. As such, I encourage you to have this development design redone so that it may satisfy the ideas of the SouthPark Small Area Plan.

You have all heard this before, but I want to re-emphasize four points this evening. Several SouthPark Small Area Plan guidelines have been ignored in all three of these contiguous developments. You have received my citations under separate cover. Piedmont Row Drive has proven to be an extremely bad choice for connecting Fairview to Carnegie and Carnegie to Fairview as the Barclay Downs bypass of choice. I think all of you would agree that WSOC’s Jason Stugenki’s news report succinctly summarized the problem and the solution. You all have the link to the story in your email inboxes. Please, if you haven’t already done so, take two minutes to watch it. We strongly support the Carnegie/Fairview connector road, and with the momentum and wisdom of CDOT, I hope you will see it through to fruition starting with this rezoning petition by requiring that the stub be paved.

Finally, an architectural feature in the form of a roundabout can add beauty as a coordinating architectural feature for this area and between these three developments while also functionally serving to calm traffic. These you received under separate cover – bicyclists and pedestrians are not accommodated by roadway improvements in SouthPark. Have you ever tried to bicycle or walk from Piedmont Town Center to Phillips Place or to the Park Road Park? What better way to define dangerous. Andy, you could attest to this. Also, green space connecting and within developments in this area are rapidly disappearing. Architectural elements are nonexistent. This was the plan that came before you previously. This is a nice greenway, reflecting pond, parkway, gazebo. This has all been eliminated. Green space has disappeared. Poof. Why is this permitted?

We would like to see the cut-through traffic taken off of Piedmont Row Drive. I haven't seen a traffic study. We are estimating a five- to ten-fold increase in traffic – 179 residents going to 1,120 residents, two additional high rise office buildings, all expected to be that traffic on Piedmont Row Drive. Widening Fairview for 500 feet between Barclay Downs and Assembly Street is not the solution. It just exacerbates it and moves it 500 feet, and we cannot lose these grand trees.

Let's eliminate this dangerous curve with a harmonizing architectural feature. A roundabout is traffic calming and architecturally and aesthetically pleasing, and according to CDOT, it fits. The road to nowhere is truly the road to somewhere. The green in this rendering, which also appeared in last week's *Charlotte Business Review*, is a fiction. This, in fact, is the property that Childress-Klein presented. This is across the street. There is no greenway, no green offered by this plan. For illustration, let's compare and contrast along Assembly Street. That's a Crescent built property. That's the setback. On the other side of Assembly Street that's the setback from several years ago. Our building heights are increasing, our green spaces decreasing, and also one last thing – 3:00 a.m. to 4:00 a.m. loitering. This is a nuisance, not a desired town center attribute. Let's take a lesson from 4:00 a.m. on January 1, 2000, in Buckhead, and the Buckhead Coalition's response. We do not support commercial or retail development –

Mayor Foxx said, Mr. Golen, thank you. I'm sorry. We have time limits. Why don't we have the rebuttal time, and there may be questions, Mr. Golen, and may get you into what you were going to say at the end.

Mr. MacVean said I'll try to address some of those issues. In terms of the bigger buffer, saving all the trees, I think due to the prior commitments that have been made for an enhanced water quality detention to alleviate downstream flooding, the detention pond on this site also takes into account not only storm water detention and water quality requirements for this site but also has to take into account the water quality and storm water detention of Phase 1 and also takes off-site water and holds it from across Fairview Road is also held in the pond. The road that is being requested, the half-acre road that will eventually hopefully connect to Fairview Road, also creates a constraint on the property and doesn't allow the building to go forward anymore.

In terms of open space, this site does have a different configuration of open space than the original petition but does still provide approximately four acres of open space when you take into account the two courtyards that are proposed in the building, the pond water quality area in the back, and the undisturbed buffer. It does have a 30-foot setback from Carnegie Boulevard. It is not, as in the picture Tom showed, where it is right up on the street. It is 30 feet back from the curb, so it's further back than that picture illustrates.

In terms of consistency with the SouthPark Plan, it does propose residential on a parcel that was originally zoned for office and mixes uses into the SouthPark area, brings the building up to the street, addresses the street, entrances on the street, parking deck hidden behind buildings. Also it has open space, which the plan called for. It didn't talk about how much open space or where, but it does have, as I mentioned, a sufficient amount of open space – approximately four acres.

In terms of the fence – the reason the chain link fence is on there is that is left over from the previous plan, and when we met with the folks at the community meeting, they said that was an option in the past. They said we don't want that to be an option; we want that to be –

Mayor Foxx said I apologize, but I have got to be consistent.

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Mr. MacVean said but we are willing to make a change to that.

Mayor Foxx said everyone seems to want to talk a little longer. We have an opportunity for people to ask questions.

Councilmember Cannon said, Mr. MacVean, you were about to say that you are willing to make a change to the fence.

Mr. MacVean said, yes, we didn't understand there was a concern about the chain link fence. Again, we heard at the community meeting that is what the residents there wanted, but if a better fence is something the neighbors would like – Mr. Cauble would like us to consider, we will be glad to do that – we will be glad to discuss that.

Councilmember Cannon said with regard to the outstanding 13 issues that staff has noted would you be able to comply with seeing those through, or is there anything in there that might give you some heartburn?

Mr. MacVean said we can comply with all of those. In fact, I sent an email earlier today that says exactly how we will do that, so we will not have a problem with that and will be glad to forward that to Council members as well.

Councilmember Cannon said would love to have it. Thank you.

Councilmember Howard said, Keith, I have a number of questions. The buffer from the old plan to this plan changes from what to what?

Mr. MacVean said it does not change. The original commitment was 75 feet, and this plan holds to that 75-foot undisturbed buffer. We did agree to clean out invasive shrubs and vines from the buffer to enhance its appearance and to remove dead and/or dying trees. It does not allow us to clear it, but it does allow us to improve the appearance.

Councilmember Howard said so the difference before is that you counted your open space. That was not part of your buffer. You still had a buffer, but that open space I saw on the drawing that he put up was just open space, but you still had a buffer beyond that.

Mr. MacVean said original plan had the 75-foot buffer, the water quality pond, and that was also part of the open space, but also between the two buildings there were two driveways, and then in the middle of the plan there was an open space courtyard. The new plan just internalizes one courtyard and has another courtyard that is surrounded by buildings – slightly different configuration because it's one building instead of two. I hope that answers your question.

Councilmember Howard said it does. That's a great segue to the next one. Why the one building? Essentially what you are doing is getting rid of the space between the buildings and filling that in. Is that so you can share parking costs? What is that?

Mr. MacVean said it allows us to put the parking deck in the middle, but it also lets us lower the building height. Primarily the original plan was for 280-foot tall residential towers. The plan is to lower the building height to no more than 100 feet. In order to get the units back, we need to consolidate it all into one building.

Councilmember Howard said so you go from what could have been about 17 or 18 stories down to –

Mr. MacVean said five story residential.

Councilmember Howard said did I say that right?

Mr. MacVean said there is 180 feet, which would have been 16, 17 residential probably to a maximum of 100. The reason it's the 100 on the proposed plan the petitioner is allowed to put ground floor retail, office uses, and if that is done, the height, the five stories of residential,

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would increase slightly, so that's why there is 100 feet. If it's only five stories of residential, the height would not get to 100 feet.

Councilmember Howard said the trails – were they in the old plan as well?

Mr. MacVean said, no, there was not a commitment for a trail, so that is an enhancement. There was an option for a trail within the actual 75-foot buffer. The residents asked us to remove that – the residents that came to our community meeting.

Councilmember Howard said so you would take that out in the buffer.

Mr. MacVean said we took that out of the buffer and included it around the detention water quality pond.

Councilmember Howard said the chain link fence was that in the buffer or around the retention pond?

Mr. MacVean said in the buffer no closer than ten feet to the property line. Again, that was something that was agreed to in the previous plan and was an option. The developer had the option to put it in. The residents at our community meeting asked that be a commitment versus an option, so that was added, but, again, we are willing to upgrade that fence from chain link if folks can agree to do that.

Councilmember Howard said the statement he made about going from I think 129 to 1,100 residents what is that about?

Mr. MacVean said that is Mr. Golen. We are only doing 350 units. I think Tom is adding the residential units that are part of the Childress Klein petition.

Councilmember Howard said the last thing. The pond being bigger – explain that to me again. So the pond actually should be smaller, or is somebody requiring you to take in the water from upstream?

Mr. MacVean said, well, the pond has grown. The pond was big to begin with, and it is only as a result of additional PCCO standards. The pond was fairly large, but because it has become larger because it takes care of Phase 1 and Phase 2, which was originally part of the plan – water quality and detention – but it also does – Typically you would only do a 25-year storm water detention. This pond holds 50-year storm water detention because there are downstream flooding issues, so the pond has to hold more water. In order to do that, it also takes water from across Fairview Road that is not currently being detained and has to accommodate the capacity for that water in the pond itself.

Councilmember Howard said so you are being required.

Mr. MacVean said, well, it was agreed upon originally. In 2004, the 50-year storm water detention was agreed upon so the folks that live in the cul-de-sac below the site don't get flooded out, and we are agreeing to do that and have no issues with doing that, but that and the PCCO requirements, water quality requirements, require the pond to be that size, and at that location, that's the low point of the site. That's where the water wants to be.

Councilmember Dulin said most of my stuff is for staff, Tammie and/or Mike. There has been talk, Council, about whether the road should just be permanent easements and green until we punch it through, and the group that owns the office building that fronts Fairview he is not involved in the conversations as of yet, I don't think.

Mr. MacVean said the folks that do own the building between us and Fairview Road did come to our open house forum and we met with the lady that manages the site. We showed her our site plan, talked about the road, so she's aware of it.

Councilmember Dulin said so the question is still whether it's going to be easements and grass and maintained as a little bit of a green space that will go away when we can punch that road



through there or not. That's one question. But where that road would come and connect with Carnegie Boulevard in that odd corner is very odd. I mean it just doesn't seem – you know, they are either going to make that through and then make it a stop and a left onto Carnegie. The idea of a roundabout there, Mike, seems to be expensive but seems to make a lot of sense, and it would be a traffic calming device. Because Carnegie Boulevard is so large, it would be a large roundabout. How much time have we spent studying that because I have spent quite a bit of time over there looking at it and thinking about it. Fill me in a little bit about where the pros are on that, please.

**Mike Davis, Charlotte Department of Transportation**, said sure. I will just start by comparing it to what is in the inset in the lower left of the picture. That is a little small to see necessarily on the screen, but you can tell that we did contemplate what the geometry would be like for that intersection without a roundabout, and I will credit Mr. Golen for having the idea of could a roundabout work. So, your question was how much time we spent studying that. Only enough to know that for the amount of traffic that we could reasonably expect on a street like this and the space that exists to construct a roundabout that it is possible, and it could work, but coming from a staff perspective, we have not advocated for a roundabout. It could work, but I would not describe it as necessary.

Councilmember Dulin said, Keith, it's your money – I'm sorry, it's your client's money, but that makes a lot of sense, and Mr. Golen and I have talked about it before on the phone, and he and I were on site and talked about it last week and looked at it and walked it. We looked at it some more and talked and talked and talked and talked. Is that something you can come and help talk to them about possibly?

Mr. MacVean said we haven't actually looked at the drawing that shows how it would fit in. We need to study that and see how it would fit because that affects the property.

Councilmember Dulin said I'm going to give you some real good feedback. I would suggest you take a real hard look at that because that is a big deal y'all, Council members, and might be the solution, a big solution there. The other thing I made a note here. Doctor, I didn't know that there was a problem with the fence. That's easy. Those guys will fix that fence. Just tell them what color you want it.

Dr. Cauble said can I respond to that, Councilmember Dulin?

Councilmember Dulin said, yes, sir.

Dr. Cauble said I thinking focusing on the fence really neglects the fact that the real issue is the buffer, and the fence itself symbolizes all the problems they are already anticipating will happen for the neighborhood.

Councilmember Dulin said the fence is something also. The buffer at 75 feet. I have been over there. I walked those woods on Thursday after I left you, Tom. I went over there parked and walked through them all and walked down to the swamp that is down there. It's a swamp, and, yes, sir, I was in it. You can trust that. I was in it. There is dead wood down there. It looked like beaver could live down there if they wanted to. So, I mean if you lose some buffer and it goes to 75 feet it almost looked to me like what those folks would – that retention pond has got to be better than that swamp down there. We'll find out. There are still some discussions.

Interestingly enough the people we haven't heard from are the people that live downstream from where the retention pond will be, and my guess is that they are tired of living with a swamp in their backyard upstream from their homes. Keith, if you will get with them, please. You need to work on this buffer, you need to work on the trees, you need to work on the roundabout big time, and you need to find out some kind of fencing mechanism that they can do and see if you can't work this thing out. Tom, your input was great the other day. Thank you for spending that time with me. The road, Mike, two lanes or four lanes?

Mr. Davis said two.

Councilmember Dulin said just two lanes. Do we have any idea how much traffic that two-lane road can handle?

Mr. Davis said not with any precision, but we think it's probably around 10,000 a day.

Councilmember Dulin said we are going to do something to calm that traffic if we should build it, too?

Mr. Davis said the intersection would be a big part of it if it's a roundabout that had some traffic calming advantages. If it were not, it would be operated probably – in the long term, it would be a four-way stop, which would add some traffic calming as well. It's a pretty short block.

Councilmember Dulin said thank you, Council, for letting me ask some questions.

Councilmember Barnes said I just want to add a brief comment, and that is in the past when similar infrastructure improvements have been requested in Districts 2 and 4 they were referred to as shakedowns, and I guess it kind of goes around the loop now.

Councilmember Dulin said, Mr. Mayor, I would like to publicly say I don't appreciate that, Mr. Barnes.

Councilmember Barnes said you accused me of a shakedown for asking for a stoplight, and you are making them build a roundabout.

Councilmember Dulin said, Mr. Mayor, I would like to tell Mr. Barnes I don't appreciate that on the record. Thank you very much. This is good work that we are doing with these people, and I don't appreciate that.

Councilmember Barnes said I did not appreciate it when you did it to me, Andy.

Mayor Foxx said, gentlemen, Mr. Turner was waiting patiently.

Councilmember Turner said I have a couple of questions, Keith, for you as well as staff and also for the protest. I'm sorry, sir, I don't have my sheet before me to tell me what your name is. Doctor –

Dr. Cauble said Cauble.

Councilmember Turner said, sir, could you come to the podium for a second. I guess I have heard you indicate a lot of things, and I have had an opportunity to continue to read over this document. If there was one thing you could change about this that you think would be satisfactory because it seems to me your focus was really bearing down on the tree area, save area to be increased.

Dr. Cauble said, yes, sir, and I would also like to state on the record it's an open invitation. I will provide my contact information to anyone who would like to walk this property with me. A 12-foot diameter oak tree is not dead wood and this is not a swamp, and Mr. Dulin must have looked at a small fraction of the site because that is not a correct characterization of the site.

Councilmember Turner said I would define that somewhat as a wetland. I heard you mention that, and I just wanted to make sure I had some clarification, and I thought also it was alluded to you were concerned about the fence. I got from that you were really telling us it would be more appealing to save more of the trees in the nature area than worrying about what kind of fence they put up there.

Dr. Cauble said, yes, sir. Every single thing that will save more trees we are all for. We don't want them to thin out for appearance sake. We don't want them to cut down trees in order to put a fence in there. Anything we can do to save more trees that's really what we have asked. I have met with Mr. MacVean. I spoke with him at least three times and said that each time. They did not offer a single square inch more of buffer any of those times.

Councilmember Turner said, Keith, can you answer? There was another photo that was put up there, I guess, or one of the previous options that kind of disappeared as the doctor indicated that it no longer was an option or appeared to go away. Can you tell us or this Council what was it that changed about that direction, and is there any possibility to save any more of the trees in this area?

Mr. MacVean said I think in order to – the problems with increasing the buffer width to save more trees is that it just pushes the whole site toward Carnegie Boulevard. You can see between the water quality pond the future road off of Carnegie there is really not a lot of room to move everything forward.

Councilmember Turner said, Keith, which one are you looking at because I have several.

Mr. MacVean said this plan is the plan that is currently approved. It's not the proposed plan.

Councilmember Turner said I have that. Go ahead.

Mr. MacVean said this plan has the same 75-foot buffer, the water quality ponds depicted here. The connection that would get you from Carnegie to Fairview is actually what would occur here using this road. The biggest difference between this plan and our plan is that this proposed two buildings, two 280-foot tall buildings, separated by this courtyard in the middle. Our proposal is for one building up on Carnegie Boulevard with a future connection in this location. This basically remains the same. This is now gone from the open space area and the buffer area in the back – whatever you want to call it. This is now gone. The development is basically from here forward. The problem with making this bigger is the pond has to go this way. The pond cannot go very far that way because the creek is here, the low point is here. We have to tie in to where the water leaves the site, so the pond can't move substantially in one direction. We have a SWIM buffer or PCCO buffer we cannot disturb in this area. That wasn't a constraint on this old plan – PCCO wasn't in effect at the time. That has been added. That, again, creates a constraint in moving things this way, and then ultimately the road for future connectivity. The site is tight. It's almost an eight-acre site. Less than half of it is actually developable due to the buffer, water quality area, so all the development really needs to happen at the front.

Councilmember Turner said, staff, could you make a comment in regards to that. I read your report as well. What Mr. MacVean told us just now is that, in fact, accurate to other options we looked at to help resolve this matter to try to satisfy both customers here by providing them with more opportunity to save more green space or to create more space. I think the issue here is whether it's illusion or the square footage may support it based on acreage. The previous site that you just went over with me, Keith, appears to have more green space, and I think – I don't know. You didn't really say that. You told me it's pretty much the same.

Mr. MacVean said if you look at the portion in the rear this plan and the old plan are almost the same. There are minimal differences.

Councilmember Turner said let me ask you, Keith. I'm might help you here. I'm going to try to. Is it our requirements that make this even a more difficult project based on our detention ponds?

Mr. MacVean said the water quality, storm water detention, and they are all needed things, create constraints, yes. The size of the pond is dictated by those requirements and commitments for a 50-year storm, so that creates constraints on making the buffer bigger. Then the road for connectivity, and we support the road. We think it's an important connection, and we are doing our part by dedicating the right-of-way and posting a bond for it. That also creates some constraints because the building – there is that area, that half acre of road, that can't be used.

Councilmember Turner said you indicated there are wetlands south of that you said we could not disturb. My question would be if there somewhat of a pond in a natural setting already could we not improve that and use that as part of one of the detention ponds or make it better to improve it to do the same thing and still make it natural?

Mr. MacVean said the stream starts here. It starts from under Fairview Road and comes through here and goes out this way. This is a new water quality buffer and both sides of that stream have

to be maintained, and then this area here is where the creek outlets. This is a wet pond. It will have water in it 24/7. When it rains, the water goes up and the level comes back down, but it will be a wet pond. The portion at the front here is a four-bay that will have vegetation and landscaping, and we have agreed to add landscaping at the base of the first retaining wall that is at the edge of the 75-foot buffer, and we are also adding additional landscaping at the base of the other retaining wall that holds up the building itself. We also have to provide access to the pond for maintenance, so there is a road.

Councilmember Turner said in saying all that we can't take that and make them satisfy your needs and meet the City requirements.

Mr. MacVean said I don't think so.

Councilmember Turner said, staff?

Ms. Keplinger said I could not dispute any of the information that Mr. MacVean has given you. A lot of the information is based on PCCO and the storm water requirements. Unfortunately, we don't have anyone here to speak to that tonight, but in commenting on this petition they did not have any issues with what is proposed, which tells me they are complying with the ordinance as they are required.

Councilmember Turner said I get that part. I was trying to find a way to keep from having to create another pond that takes up even more usable space. You have a natural setting somewhat, and you have one that is already created. Could we not expand the one that is already there to do the very same thing you are talking about creating another one based on our requirements. That's the question I have, and I don't know if you know the answer to that tonight.

Ms. Keplinger said I do not know the answer to that, but we can work with our Storm Water Services group to see if we can provide an answer to that question.

Councilmember Turner said, Mr. MacVean, would you be interested in hearing that from us?

Mr. MacVean said we'll be glad to talk to Storm Water Services and see if they have some suggestions for how we can consolidate areas or minimize sizes. We have done as much as we felt we could.

Councilmember Turner said right now that is one of my outstanding issues. I would hope we could get together with staff as well as protesters here to see if that is in fact an option and is it a legal option we can pursue based on the natural of it and to look at whether or not you can expand that to satisfy your needs. Personally, I think if that could happen it benefits you because it gives you more usable space.

Councilmember Cannon said I probably have forgotten my question now, so as a point of observation. Dr. Cauble had made reference to the potential for crime to escalate relative to burglaries and property crime. Have you done some sort of analysis, sir?

Dr. Cauble said, no, sir, that's all anecdotal, and that's almost a logical argument thinking that if you have an area that is not crossable, if you cut that down, if you think that out, and if you put an easily scalable barrier there it only makes sense that will happen, and there have been problems with burglary and property crime then in the past, and we only expect them to get worse with this just based on ease of access and proximity.

Councilmember Cannon said, Mr. Manager and Ms. Campbell, one of the things by way of observation I happened to be looking at in our material happens to be the different reviews from, say, Fire and CATS and so forth and so on, but there is no type of assessment or review that comes back from CMPD. It would be nice to have that kind of material to refer to at some point to get perspective on what they say may or may not be the case that can be logged into the [www.rezoning.org](http://www.rezoning.org) information; okay? Thank you all for your consideration on that.

Ms. Keplinger said, Mr. Cannon, if I may, the Police Department does receive this information, however, they did not comment on this petition.

bvj

Councilmember Cannon said the thing about that, Tammie, is you have all the other departments here listed, and I would assume that if I go to [www.rezoning.org](http://www.rezoning.org) that it would probably tell me some of the issues there or not; right?

Ms. Keplinger said it will show you –

Councilmember Cannon said do I assume that because everyone is listed here that there is something there they have a comment on; is that what you are saying?

Ms. Keplinger said that's correct.

Councilmember Cannon said so if CMPD is not reflected here there are no problems.

Ms. Keplinger said I understand your comment.

Councilmember Cannon said, no, I'm asking a question. Are you saying there are no crime-related issues if I don't see or if we don't see –

Ms. Keplinger said, no, sir, we are telling you that CMPD did not comment on this rezoning petition.

Mayor Foxx said I want to apologize to the speakers for the time limitations, but that is just part of the nature of the beast.

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

Councilmember Howard said could I clarify with staff that this is a legitimate protest petition.

Ms. Keplinger said, yes, sir, there is a protest petition, and it is sufficient.

\* \* \* \* \*

**ITEM NO. 16: HEARING ON PETITION NO. 2011-012 BY STEVE MCGIRT FOR AN I-2(CD) SITE PLAN AMENDMENT FOR APPROXIMATELY 5.61 ACRES LOCATED ON ALONG CENTER PARK DRIVE NEAR BEAM ROAD**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this is a proposed request for I-2(CD) site plan amendment for 5.61 acres. The zoning surrounding this property is a mix of institutional, residential, industrial, and business. In terms of land use, we have also a mix of land uses from industrial, residential. We have the Police and Fire Academy, which is also close by. From the aerial perspective, you can see the site highlighted in yellow. The site is currently vacant.

In 1990, this site was part of a 456-acre rezoning for an industrial park. As a part of that, the rezoning included a 100-foot buffer along the perimeter of the overall site, and that is along this edge. This property was subsequently rezoned to B-2(CD). The conditions on that site allow the only use to be an auto repair shop, therefore, under our current ordinance standards, you would not be required to have a buffer. However, because the buffer is listed on the conditional plan, staff cannot remove it, and a variance cannot be requested. For that reason, the petitioner is now requesting that this 100-foot buffer be eliminated. They have also asked that if at any time the use on the B-2(CD) site changes to one that would require a buffer that they would provide a buffer in compliance with the zoning ordinance.

There is also an added note that says the remaining 100-foot buffer on the site on the southern and western property lines would allow to be eliminated or removed if the adjacent property is changed or zoned to a way which a buffer is no longer required and that 50 feet of the remaining 100-foot buffer will remain undisturbed. The Southwest District Plan recommends office land

bvj

uses for the site, however, the proposed request does not change the land use, therefore, staff is recommending approval.

Councilmember Howard said if you go back to the current zoning where that property abuts to R-3 on the side and where it abuts to R-3 on the back what are you saying those conditions are now that this petition is asking for?

Ms. Keplinger said the 100-foot buffer will remain. If those properties are ever rezoned or used for a use that does not require a buffer as per the zoning ordinance –

Councilmember Howard said another commercial use.

Ms. Keplinger said correct or if they come back through the rezoning process then that buffer could be eliminated without having to come back through the rezoning process for this piece of property.

Councilmember Howard said so we are adding a condition to that original plan or changing a condition.

Ms. Keplinger said yes. It basically allows a modification that under the zoning ordinance we are not allowed to make administrative approval modifications on buffers, so this would allow that to occur.

Councilmember Howard said but you are not changing it where it abuts to our R property right now.

Ms. Keplinger said will not change there unless the use changes.

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

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**ITEM NO. 17: HEARING ON PETITION NO. 2011-015 BY LONG ANIMAL HOSPITAL FOR A MUDD-O SITE PLAN AMENDMENT FOR APPROXIMATELY 1.19 ACRES LOCATED ON THE EASTERN CORNER OF THE INTERSECTION AT SOUTH BOULEVARD, IDEAL WAY, AND REMOUNT ROAD**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this is a MUDD-O site plan amendment request for 1.19 acres. There is a mixture of land uses in this area including commercial and a lot of TOD and some residential. In terms of the existing land use as opposed to the zoning, we have residential, commercial, office, and some industrial. The site is currently vacant. The proposed request is for a 31,200 square foot veterinary clinic with animal hospital and associated uses. All nonresidential uses within the MUDD zoning district would also be permitted for this site.

The development is two stories with a basement. They are agreeing to dedicate additional right-of-way on South Boulevard, Ideal Way, and Euclid Avenue. They have the building elevations as shown with the predominant exterior building material being brick. There are two optional requests associated with this petition. One is to reduce the number of required parking spaces from 52 to 45 and the other is to permit vehicular maneuvering and parking between the building and the setback along Euclid and that is to access a generator-transformer utility area. This rezoning is in the New Bern Transit Station Area Plan from 2008, which proposes a mix of transit-oriented development. Staff is recommending approval upon the resolution of the outstanding issues.

**Bob Young, 226 Sloane Square Way**, said Long Animal Hospital has operated in this immediate vicinity for a long time – many decades as a matter of fact – and more recently it is owned and operated by the Killo family, which has joined me here this evening, and as I have

learned over the last several months, they have a very large and loyal following of clients that regularly have used their services over the years. This rezoning obviously will enable them to pick up and move just slightly -- just a few doors away -- to this site and enable them to build a brand new building that is bigger and better, state of the art, and I'm very happy to stand here and tell you that everybody is happy about that -- not only their clients and the people that they service but the neighbors that we have been in touch with have been very enthused and very receptive and happy to hear that Long is going to be the owner and developer of this piece of property.

Representatives from the Sedgefield neighborhood and Dilworth have attended meetings, and, as I say, they have enthusiastically endorsed what we have talked about and what we have shown them, and to the best of my knowledge, there is no opposition whatsoever from anyone that has looked at this. The staff is in favor. As Tammie said, they gave us a very nice, positive reception with their report. They did mention three or four site plan issues, and quite candidly, each and every one of those are merely housekeeping matters. There is nothing substantive whatsoever that we need to do to the site plan. It's just literally almost crossing "T's" and dotting "I's". We'll take care of those obviously in due time.

The site plan itself is basically is good to go. So, long story made short and to say again everyone is happy with this; everyone is enthused about what is being proposed here. In my many years of being a consultant, this is one of the smoothest rezonings that has come across my desk, and it's been a pleasure to work with these people and to see how much they are appreciated in the Sedgefield and Dilworth neighborhoods.

Mayor Foxx said maybe it's the smooth presentation that is responsible for the smooth --

Mr. Young said I will concur with that as well.

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

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**ITEM NO. 18: HEARING ON PETITION NO. 2011-016 BY ZULA EXPRESS INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.26 ACRES LOCATED ON THE WEST SIDE OF MARGARET WALLACE ROAD NEAR THE INTERSECTION OF MARGARET WALLACE ROAD AND IDLEWILD ROAD FROM B-1 TO NS**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said this is a rezoning request from B-1 to NS for a property that is about a quarter of an acre. As you can see on the map, it's a very small portion of property. In terms of the zoning, it is surrounded by properties that are zoned NS. In terms of land use, it is surrounded by commercial with residential across Margaret Wallace Road. The property has a structure on it currently, but that structure is to be removed.

A little bit of history on this site. In December of 2010, the Zoning Board of Adjustment granted two variances for this property, and both of those variances are contingent upon the City Council approving the rezoning to NS. The first variance deals with the setback for the building. They granted a ten-foot setback for the rear of the building, and they granted a five-foot setback for the parking and maneuvering areas. The proposal is for a building that is approximately 1,800 square feet. It's a one-story building, which is to accommodate a convenience store. The building will be complimentary to the adjacent shopping center in terms of construction. It will be brick and stucco. All the uses in B-1 will be permitted. There are adequate parking spaces. There are no gasoline sales shown on this site plan.

In terms of the future land use, this property is located in the East Side Strategy Plan, which was adopted in 2001. That plan does recommend retail uses for this site. Because of that, staff is recommending approval upon the resolution of outstanding issues.

**Paul Lorenz, 101 Cabarrus Ave. E., Ste. 200**, said I really don't have anything to add. The site is completely vacant right now. Nothing is on it except dirt and gravel, and what we are proposing is going to be an architectural element that will be definitely in keeping with the adjacent development. As we show here, the building is not going to be on the property line. It will be setback. We have concerns and structural issues, so the building will be set back from the property line. I don't have anything to add to Tammie's testimony.

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

Councilmember Carter said this is District 5, and I was wondering if you had connected with Mint Hill and Matthews to discuss this issue?

Ms. Keplinger said I believe that is a procedure issue that we normally do. I will double check that, Ms. Carter, and we will get back with you on that, but we normally do that.

Councilmember Carter said there is a location of subsidized housing in that development just behind the Harris Teeter, the Springfield Gardens, and I'm hoping that we can negotiate with the proposer of this development that there would be no ABC permit on this premises.

Councilmember Howard said actually I want to direct that question to the petitioner about contacting Mint Hill and Matthews. They both have Planning personnel. I would really appreciate it if you made contact with them and get their input on this as well.

Mr. Lorenz said, Council member, who do you say to reach out to?

Councilmember Howard said you sit on the corner of Mecklenburg County – sorry, Charlotte, Mint Hill, and Matthews, so reaching out to both Mint Hill and Matthews Planning Departments would be important for me.

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

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**ITEM NO. 19: HEARING ON PETITION NO. 2011-019 BY CHARLOTTE-MECKLENBURG STORM WATER SERVICES FOR THE ADOPTION OF A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO REFLECT CHANGES IN THE ENFORCEMENT OF BUFFERS FROM MECKLENBURG COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION TO CHARLOTTE-MECKLENBURG STORM WATER SERVICES AND TO UPDATE REFERENCES TO THE CHARLOTTE LAND DEVELOPMENT STANDARDS MANUAL AND CHARLOTTE-MECKLENBURG BMP DESIGN MANUAL**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning**, said in the 1990s the SWIM ordinance and the watershed overlay districts were adopted. At that time, Mecklenburg County was the responsible agent for the development of the review plans outside the city limits. Since that time, the City extended its extraterritorial jurisdiction. One of the things that did not happen when the ETJ was extended is we did not update the zoning ordinance to reflect the County agencies no longer being responsible and the City agencies now being responsible. So this text amendment, the intent of it is to update the references in the zoning ordinance. Those are listed in the text amendment. I can go through them if you would like for me to. I can simply just say that staff is recommending. This is some housekeeping.

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

Councilmember Carter said there is a discussion in here about stream reconstruction restoration and conservation. I don't know about the rest of the Council, but it would be very helpful to me



to have a workshop or some discussion on the procedures of stream restoration and reconstruction. Councilmember Howard and I had a very interesting conversation in Washington, DC, about the principles of stream restoration and conservation of woods and preservation of natural land, and I think it would be helpful for Council to work through this.

Mayor Foxx said that's a suggestion.

Councilmember Howard said what she is referring to is I actually had a chance to go out with the folks from Storm Water, and they walked me through one of them and explained kind of what the principles are and what the whole point is to it, even talking about what we talk about a lot up here, the pond restoration, how all that plays into storm water and how we deal with it across the county. So having that conversation is probably good. Seeing is even better, but if we could, a lot of pictures so we understand how important it is that all water quality would be.

Mayor Foxx said is there an objection to trying to schedule something like that. Is that sufficient, Mr. City Manager?

**Curt Walton, City Manager**, said yes.

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

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#### **MAYOR AND COUNCIL TOPICS**

Councilmember Cooksey said apologies – got to do it quick (inaudible) with parliamentary procedure for a moment. I want to second a motion from Mr. Peacock that he doesn't quite know the wording of, so he is asking me to actually word the motion that I'm seconding. Here goes. More than 60 days having passed since Councilmember Peacock referred the matter of a citizens' advisory committee on the environment to the Restructuring Government Committee Mr. Peacock moves that matter be pulled from Restructuring Government and rerouted to the Environment Committee for further discussion.

Councilmember Peacock said that's exactly what I wanted to say. Thank you very much.

Mayor Foxx said that's a first – someone making a motion for another Council member and seconding the motion himself.

[ Motion was made by Councilmember Peacock and seconded by Councilmember Cooksey to ]  
[ pull the matter of the citizens' advisory committee from the Restructuring Government Com- ]  
[ mittee and send it to the Environment Committee for further discussion. ]

Councilmember Barnes said from staff perhaps if there is an explanation as to why the matter hasn't gotten to or through Restructuring Government I would appreciate hearing that.

Councilmember Cooksey said I'll do that. We have been working on other matters, and the more that we were looking at this particular referral the more we realized we don't know what the Environment Committee wants in a citizens' advisory committee. The Environment Committee should know what it wants, so let's send it back over there. Since the Environment Committee has a meeting on Monday, if we do it tonight, we can go on and give them something to talk about.

Mayor Foxx said even though you serve on the Environment Committee.

Councilmember Cooksey said, no, I do not.

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

Councilmember Carter said I have been informed that there is a SB 183 that discusses our tree save in essence. It limits our potential to enact our tree save. Then also SB 22 is a bill that will

not allow any development that would cost more than \$1 more in procedure. In other words, our environmental regulations are suspect. A word of warning.

Councilmember Barnes said are we on Mayor and Council topics?

Mayor Foxx said we actually don't have that on the agenda, but we are kind of allowing them anyway.

Councilmember Barnes said there is also a bill, Councilmember Carter, to have North Carolina issue its own currency, so there are a number of interesting bills moving through the State Legislature at this moment. What I wanted to talk about in all seriousness was the week we had or the few days we had in DC last week. Mayor, you alluded to it earlier. I was very proud of Councilmember Mitchell's leadership. He would have made all of Charlotte proud in the way he dealt with the NLC meeting. The first lady, Michelle Obama, was there. A number of other dignitaries were there, and I thought he handled himself very well. I wanted the citizens of the city to know that we had an opportunity to meet with our Congressional delegation and had a very good set of conversations regarding the northeast corridor, regarding the McAlpine relief sewer project and other key projects including Gang of One in this community. So it was a very good meeting, I thought, and I'm proud to have been a part of it and congratulate everybody for their hard work.

In closing, now that we are being streamed around the world I want to wish the Carolina Tar Heels the very best in Newark, New Jersey, this coming weekend as we attempt to get through the Sweet 16. If you had told me in December we would have been to the Sweet 16, I would have never believed it, so go Heels.

Councilmember Cannon said kind of around the same topic of discussion that Mr. Barnes laid out about what took place in Washington. I want to really commend our City Manager, Mr. Curt Walton, along with Dana Fenton, who helps us in the area of government relations and/or affairs, and Carolyn Flowers, who heads CATS, and some people who came with her to Washington, DC, along with the members of the Charlotte City Council. Mayor, you would have been really, really pleased with all of the presentations that were made on Capitol Hill coming from Councilmembers Dulin, Barnes, Peacock, Howard, Carter, Kinsey, and Cooksey.

The message, I think, was well received by the Senators, well received by the Congressmen and women, and I think we have the proper infrastructure knowing the climate is changing from earmarks basically to competition. While we are in a good seat in terms of the kind of staff support we have to make the case for us and then for those of us that are here and can articulate the message that needs to be made – Mayor, many of the things you have been doing also because, mind you, you were there just a week before and probably the week before that and the week before that. But all of Council got there, Mayor, and made excellent presentations, and I just want to commend them for a job well done and also to thank Holland & Knight for their ability to help us with the process as well.

Mayor Foxx said, by the way, I have already gotten some very positive feedback from some of you as well as folks on the other end about the way the meetings went. They were very well received.

Councilmember Howard said just on a sentimental note for Jason to know, we also recognize that last year at this time we had Susan at the table with us when we got together for dinner, and we took a moment and recognized that she was missing and a moment of silence and a toast in her honor. I just want to let you know as well as there was an award given out by one of the Democratic organizations up there as well as people in the hall just recognizing the fact that she was sorely missed, so just sharing that with you.

Mayor Foxx said we had a little situation a little while ago about this shake-down thing, and I want to come back to that because I think we have done an exceptional job not only this year but over many, many years of keeping the decorum of the Council. I think that is something we have to zealously guard to protect. I'm not exactly clear on the recollection of all the comments that have come before, but I take folks at their word about those, but here's what I want to say is that when we say things that are off of the issues those words can come back and bite us later. It

can come and bite us from the standpoint of what the public sees from us. It can come and bite us from the standpoint of creating more tension on this body than we need during the difficult issues we have in front of us. So my hope is if there are issues that come up from time to time we just figure out a way to talk about them and do it behind the scenes. Mr. Cannon is pulling out his belt, but anyway I'm only saying this to say I know the two of you guys are friends, and whatever came up tonight was just something that flared up. Let's try to keep things going in a positive way.

Councilmember Turner said I wanted to thank staff. We had our District 3 town meeting in the southwest area this past weekend on Saturday, and I want to thank them all for their time and their professionalism. They did a great job providing information for those citizens in that area as well as throughout the district. I wanted the City Manager to know that all were there. They were the chief of police, Ms. Campbell and her staff did an excellent, Chief Hannan with the Fire Department. It was a great meeting, very productive meeting, and a very informative meeting, and I think it's important where our citizens can understand what it is that we do and the folks that they often don't get to see that are behind the wheels that make the wheel turn and help us accomplish the things that we set out to do as a Council and set our priorities and goals not only from our Retreat but also for setting our priorities as a Council and also throughout our district. They did an excellent job doing that and letting the citizens know how we spend their tax dollars.

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#### **ADJOURNMENT**

The meeting was adjourned 7:52 p.m.



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Stephanie C. Kelly, CMC, City Clerk

Length of Meeting: 2 Hours, 22 Minutes  
Minutes Completed: May 3, 2011