

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing at 5:00 p.m. on Monday, July 18, 2011 in Room Ch-14 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, David Howard, Patsy Kinsey, James Mitchell, Edwin Peacock and Warren Turner.

Tammie Keplinger, Planning Department, went over the deferrals to the evening's agenda.

The briefing was recessed at 5:50 p.m. for the Council to move to the Meeting Chamber for the Zoning Meeting .

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ZONING MEETING

The Council reconvened at 6:09 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Anthony Foxx presiding.

INVOCATION AND PLEDGE

Councilmember Barnes gave the Invocation and the Council recited the Pledge of Allegiance to the Flag.

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Mayor Foxx explained the Zoning process and Steven Rosenberg, Chair of the Zoning Committee, introduced the Committee.

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DEFERRALS

Mayor Foxx said the following items would be deferred to the October meeting: Item No. 2, Petition No. 2010-080; Item No. 4, Petition No. 2011-024.

[Motion was made by Council Member Barnes, seconded by Council Member Cannon, and]
[carried unanimously, to defer Item Nos. 2 and 4 until October.]

Mayor Foxx said there are a couple of petitions that have been requested for expedited consideration, Item No. 14, Petition No. 2011-031. There is a request to have expedited decision on our August 22th City Council meeting, and not tonight.

[Motion was made by Council Member Barnes, seconded by Council Member Howard, to]
[defer Item No. 14, Petition No. 2011-031 until August 22, 2011.]

The vote was recorded as follows:

YEAS: Council Members Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell, Peacock and Turner.

NAYS: Council Member Dulin.

Mayor Foxx said there is also a request for expedited consideration of Item No. 24, Petition No. 2011-047 for a decision tonight.

Council Member Mitchell said Item No. 24 is by Time Warner Cable to waive the 60-day and I think this is great for they are building a new Data Center. I hope we can move to make a decision for them tonight. Staff is supportive of this petition.

Tammie Keplinger, Planning, said it is a Text Amendment related to telecommunication and data storage satellite dishes and satellite dish farms.

[Motion was made by Council Member Mitchell, seconded by Council Member Carter, to hold]
[the Public Hearing tonight and also made the decision tonight.]

The vote was recorded as follows:

YEAS: Council Members Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell, Peacock and Turner.

NAYS: Council Member Dulin.

Mayor Foxx said on Item No. 15, Petition No. 2011-033, it has been requested for a deferral until September.

[Motion was made by Council Member Cannon, seconded by Council Member Kinsey, and]
[carried unanimously, to defer Item No. 15, Petition No. 2011-033 until September.]

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ITEM NO. 1: RESOLUTIONS RELATED TO THE REFUNDING OF A PORTION OF THE 2001 WATER SEWER REVENUE BONDS; APPROVE THE BOND ORDER FOR THE ISSUANCE OF WATER/SEWER REVENUE REFUNDING BONDS NOT TO EXCEED \$107,000,000.; APPROVE THE FINAL EXECUTION OF DOCUMENTS RELATED TO ISSUANCE, DELIVERY AND EXECUTION RELATING TO THE 2011 REFUNDING BONDS.

Council Member Barnes said this is an item to essentially refund \$107 million in water and sewer bonds and we are going to be refinancing those bonds in such a fashion as to create an annual savings of \$1.3 million for the people of this City. Is that correct Mr. Schumacher?

Assistant City Manager, Jim Schumacher, said yes it is.

Mr. Barnes said in light of the fact that our City Manager and staff have taken advantage of this opportunity I would gladly approve Items A and B.

[Motion was made by Council Member Barnes, seconded by Council Member Cannon, and]
[carried unanimously, to approve the subject resolutions.]

The resolutions are recorded in full in Resolution Book 43, at Page 37-39 and 40-44.

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DECISIONS

ITEM NO. 3: ORDINANCE NO. 4692-Z FOR AN 0-1(CD) SITE PLAN AMENDMENT FOR APPROXIMATELY 12.54 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF PROVIDENCE ROAD WEST AND JOHNSTON ROAD BY 521 PARTNERS, LLC.

[Motion was made by Council Member Cooksey, seconded by Council Member Dulin, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-002 for]
[above site plan amendment by 521 Partners, LLC as recommended by the Zoning Committee.]

The ordinance is recorded in full in Ordinance book 57, at Page 171-172.

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ITEM NO. 5: ORDINANCE NO. 4693-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 17.29 ACRES GENERALLY FRONTING MOUNT HOLLY ROAD, CHATTAROY DRIVE, LAYTON RIDGE LANE, AND TAFTNALE COURT FROM R-17MF(LWPA) AND R-3(LWPA) TO R-8(LWPA).

[Motion was made by Council Member Mitchell, seconded by Council Member Barnes, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-028 for]
[the above rezoning by Charlotte Mecklenburg Planning Commission, as recommended by the]
[Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 173-174.

ITEM. NO. 6: ORDINANCE NO. 4694-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.27 ACRES LOCATED ON THE EAST SIDE OF PROVIDENCE ROAD BETWEEN SOUTH SHARON AMITY ROAD AND WESTBURY ROAD FROM R-3 TO INST(CD) 5-YEAR VESTED RIGHTS.

[Motion was made by Council Member Dulin, seconded by Council Member Barnes, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-030,]
[with modifications, for the above rezoning by Urban Properties, LLC, as recommended by]
[the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 175-176.

The modifications are:

1. Notes have been added to "Lighting" to indicate maximum height of any new freestanding lighting fixtures (including base) will be the lesser of 25 feet or the maximum height permitted in the zoning ordinance; that any lighting attached to the new building will be decorative capped and downwardly directed; and that "wall-pak lighting will not be permitted.
2. The previous two site plans showing a site design layout with Bermuda Road and a site plan without Bermuda Road (in the event of its proposed withdrawal) have been combined into one overall site plan in order to show Bermuda Road as withdrawn and a 20' rear yard.
3. The site plans previously showing site design layouts with and without Bermuda Road have been combined into one site plan. Withdrawal of the subject portion of Bermuda Road is scheduled for consideration at the June 27, 2011 City Council meeting.
4. The site plan has been revised to show the proposed driveway and turn lane locations per NCDOT and CDOT recommendations.
5. A note has been added to the site plan stating the proposed brick privacy wall will be six feet in height where it borders the play area and no shorter than four feet in other locations.
6. The storm water note under "Environmental Features" has been amended and language provided regarding the review process for location, size, and type of storm water management systems.

ITEM NO. 7: ORDINANCE NO. 4695-Z FOR AN MX-2 SITE PLAN AMENDMENT FOR APPROXIMATELY 20.16 ACRES LOCATED ON THE EAST AND WEST SIDE OF PARK SOUTH STATION BOULEVARD, SOUTH OF ARCHDALE DRIVE, AND GENERALLY BOUNDED BY DELCHESTER DRIVE, MONTPELIER ROAD AND EDGEWATER DRIVE.

Tammie Keplinger, Planning, said I will read the Statement of Consistency for you. This petition is found to be consistent with the South District Plan and to be reasonable in the public interest by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend approval of this petition with the noted modifications.

[Motion was made by Council Member Dulin, seconded by Council Member Cannon, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-032]
[for the above site plan amendment, as modified, by Robert W. Burkett, as recommended]
[by the Zoning Committee.]

The ordinance is recorded in full in Ordinance book 57, at Page 177-178.

The Modifications are:

1. Renumbered the rezoning areas. Eliminated all references to rezoning area one and the portion of rezoning area two from the first submittal. "Rezoning Area 2" has been renumbered as "Rezoning Area 1" and "Rezoning Area 3" has been renumbered as "Rezoning Area 2."
2. Eliminated "to allow single family" from the title block for the table on Sheet #1.
3. Modified the tax parcel numbers listed on Sheet #1 to identify only those properties within the subject rezoning [eliminated 173-067-(66, 68, 74, 77, and 78) and 173-068-95 and indicated 173-067-57 as a portion of].
4. Indicated the number of units under "Development Data" on Sheet #1 as "73 single family lots or 71 single family attached units".
5. Provide areas for additional parking.
6. Included all applicable conditional notes from rezoning petition 2004-121 into this subject conditional rezoning site plan.
7. Indicated a five-foot sidewalk along the western side of Park South Station Boulevard between Sunchaster Lane and Royal Gorge Avenue on Sheet #2.
8. Extended the five-foot sidewalk along Park South Station Boulevard from Lot #37 to the intersection with Milwaukee Road and provided a crosswalk at the intersection to connect across the street.
9. Modified the setback shown on Sheets #1 and #2 so they match the 20-foot setback indicated within the notes on Sheet #3.
10. Indicated that the single family lots will comply with five-foot side yards.
11. Indicated that the single family homes will comply with the following.
 - a. Single family homes with garages that extend beyond the main entry façade must have a second floor building façade that is not recessed more than seven (7) feet from the first floor garage façade.
 - b. No more than two single family homes shall be allowed side by side which have garages that extend beyond ten (10) feet from the main entry façade.
 - c. Single family homes shall utilize garage doors with architectural features that distinguish them from standard metal garage doors. Such architectural features may include windows, carriage door elements, arches, decorative lighting, decorative hardware, etc.

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ITEM NO. 8: ORDINANCE NO. 4696-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.25 ACRES LOCATED ON THE SOUTHWEST CORNER OF PARK ROAD AND HEATHER LANE FROM MUDD(CD) TO MUDD-O.

[Motion was made by Council Member Peacock, seconded by Council Member Kinsey, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-034, as]
[modified, for the above rezoning by Bank of the Ozarks, as recommended by the Zoning]
[Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 179-180.

The modifications are:

1. Modified No. #2 under "Optional Provisions: to eliminate "Park Road". There is technically no parking or maneuvering between the building and Park Road.
2. Changed the note under "Optional Provisions" to indicate that the Petitioner is requesting the following variations as part of this MUDD-O Application:
3. Provided a cross-walk across the internal drive-aisle out to the sidewalk along Heather Lane.
4. Clarified Note #3 under "Optional Provisions" to indicate only one detached identification sign will be allowed and such sign shall have a maximum height of 5 feet and a maximum sign face area of 50 square feet. All other signs (i.e. wall, directional, etc.) shall comply with the MUDD signage regulations.

5. Provided a note indicating the petitioner agrees to fund upgrading pedestrian traffic signalization located on the northeast corner of the site at the intersection of Park Road and Heather Lane, not to exceed \$2,500.00.

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ITEM NO. 9: ORDINANCE NO. 4697, TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE SINGLE ROOM OCCUPANCY RESIDENCE REGULATIONS AND DEFINITION AND EXPAND THE ZONING DISTRICTS IN WHICH THEY ARE PERMITTED WITH PRESCRIBED CONDITIONS.

[Motion was made by Council Member Barnes, seconded by Council Member Howard, to]
[approve the Statement of Consistency and Petition No. 2011-037 by Charlotte Mecklenburg]
[Planning Commission, as recommended by the Zoning Committee.]

Council Member Carter said there was a minority opinion on this expressing a concern that the Text Amendment should not require support services without providing a mechanism to assess the appropriateness, effectiveness and adequacy of the support services. I think that is an adequate concern and I would like to ask that this be reviewed in a year, please.

Mayor Foxx said you are asking that once it is passed, that it be reviewed in a year?

Ms. Carter said that is correct.

Mayor Foxx said would the maker of the motion have any objection to that?

Mr. Barnes said I would not. I support that and it is a good idea. I would say that the way the committee addressed that issue of essentially determining whether or not the support services were being provided was to require the operators of the SRO's to submit information to the Planning Department that would be potentially vetted through the Planning Department to determine whether or not the services were being provided. We chose not to essentially get into the business of SRO management, but Ms. Campbell has a very good explanation as well.

Planning Director, Debra Campbell, said Mr. Barnes is correct in terms of the discussion at the committee. The committee decided that what was important is that support services be a part of this Text Amendment. It is what we, from a City perspective and from zoning enforcement is able to enforce. We would ask that an SRO, on an annual basis submit a letter to Neighborhood and Business Services verifying that support services are being provided. Single Room Occupancy, the business case is they do case management so every individual has a different type of array of social services. When we start trying to access, which I would image that Neighborhood and Business Services would not feel adequate to suggest that they can determine the adequacy of the support services. What we can do from a zoning and land use perspective is document that services are being provided. From the case management perspective, every individual will have a different array of support services and that is why we were very concerned about adequacy of the services. We don't do that for Group Homes, we don't do that for Shelter, we don't do that for a number of similar type uses.

Ms. Carter said it would be a question for me as a frequency availability, and as you said, adequacy that these services are presented. This is one thing that I've heard consistently from Eastside residents that when there is support available in supported homes there is a very great difference in the interaction with the community.

Ms. Campbell said there will be support services. That is a requirement. If this Text Amendment is approved there will be a requirement that support services are provided. The issue at Zoning Committee was the adequacy of the services. I don't know that we are able to determine adequacy.

Ms. Carter said there may be a possibility for companionship with Mecklenburg County Social Services to evaluate that. It is just a question, I think, of seeing if this ordinance works correctly.

If there is something that we can do to extend the reach or the effectiveness of the ordinance that is my concern because I think people deserve services.

Ms. Campbell said we totally agree with you and the committee agrees with you in terms of requiring that services be provided. The way that the services are provided, some of them are provided on site, some are through referrals to a variety of different social service organizations in a community, and again they are tailored to the specific needs of the occupant. The only single room occupancy development that we have in this community is McCreech Place. There is no requirement for supportive services. This community has had zero complaints about that particular facility and that facility has been a great neighbor and we want to replicate that use for future SROs.

Ms. Carter said I thoroughly agree and I want that model to continue. That was my concern and I withdraw my request.

Mayor Foxx said you are withdrawing your request?

Ms. Carter said yes.

Mr. Barnes said I believe the request is still useful because I think there may be one more coming on line within a year.

Mayor Foxx said so the one year look back is still in?

Mr. Barnes said yes, I think it is fine.

Mayor Foxx said the motion is as it is plus a year look back after some time.

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

The ordinance is recorded in full in Ordinance Book 57, at Page 181-186.

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ITEM NO. 10: ORDINANCE NO. 4698, TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY HEIGHT REGULATIONS IN RESIDENTIAL ZONING DISTRICTS.

[Motion was made by Council Member Barnes, seconded by Council Member Kinsey, to]
[approve the Statement of Consistency and Petition No. 2011-038 by Charlotte-Mecklenburg]
[Planning Commission.]

Mayor Foxx said does the motion contain the following language: The City Council finds this petition to be consistent with the adopted policies and to be reasonably and in the public interest?

Mr. Barnes said yes sir.

Council Member Dulin said my original substitute was going to be to support the Planning Commission's idea and a no vote on this, but we've had good conversation amongst ourselves and this is a good time for us to talk about this a little bit. I'm not sure why we are in such a rush on this. We are talking about a generation of change here with this vote tonight and it is very rare that staff and the Planning Commission don't get along on a recommendation to us, one way or the other. I can't remember it happening before, but maybe it has in my couple of years. I would like to make a substitute motion to defer this until we can get everybody more on the same page. The Planning Commission, staff and us are all on different pages in some fashion and I'd like to make that motion to defer.

Mayor Foxx said how many days is that?

Mr. Dulin said I don't know, you guys have been working on it for three years.

Ms. Campbell said you are correct, we have been working on this for a long time. This is the work and product of a lot of citizen's comment from a variety of groups, from average John Q. Citizen and homeowner all the way to the development community. We think we have provided to Council the best recommendation that we could and stayed consistent with the conversations that we had with our Citizen's Advisory Group. This was a lot of hard work, a lot of give and take on behalf of staff as well as the participants in the Citizen's Advisory Group. We've done our best and we actually brought something to the Planning Commission last year and they asked us to go back and do some more work and we did. It may be a question for the Zoning Committee as to whether they think there is any room for additional compromise.

Mr. Dulin said we've appointed the Planning Commission and we've appointed them because they have expertise in different things, obviously not that our great Planning staff aren't experts Ms. Campbell, but I put a lot of weight, and always have into what our citizens are telling us. I don't mind voting it up or down tonight but I'm going to vote no to Mr. Barnes' motion if it passes.

[Substitute motion was made by Council Member Dulin, to deny Petition No. 2011-038.]
[Council Member Cooksey seconded the motion.]

Mayor Foxx said does that substitute motion include the following language: The City Council finds this petition to be inconsistent with adopted policies and not reasonable in the public interest.

Mr. Dulin said from what I can tell from our paper, yes sir.

Mr. Barnes said I initially had feelings similar to those of Mr. Dulin, but for the folks that don't know, this concerns the height of buildings in residential districts, and during our dinner meeting Ms. Campbell explained to us that essentially we will be capping the home that could be built next to your home at 100 feet. If people need to go beyond that they can get a rezoning. I had some concerns about the fact that there have been people who bought land and bought it under the understanding they would have particular zoning rights, but what we are trying to do is avoid something that actually started in Myers Park and the people of Myers Park asked us to do this so we asked staff to do what they are doing tonight and to make the recommendations that they have made. The fact of the matter is that but for the community's very articulate and passionate display of concern a couple years ago, and by the way this started two years ago so I don't think there is a rush, we wouldn't be going down this road likely. As Ms. Campbell explained we actually could allow a person who had some concerns about height restrictions to go through the rezoning process. I'm not as concerned as I was and that is why I made the motion to approve. I'm comfortable with my original motion and I'm going to vote against the substitute because I think this is the culmination of the work we asked staff to do. The people in Myers Park are apparently happy and comfortable with the recommendation of staff and I recognize that this is one of the few times that our Zoning Committee and staff have bumped heads on one of these issues, but in this case I tend to agree with staff so I'm going to vote against the substitute.

Council Member Howard said I wanted to talk about the original motion so if we make it back to that I'd like to talk to that.

Council Member Cooksey said Ms. Campbell, if this were to pass, how many non-conforming residential structures would there be in Charlotte?

Katrina Young, Planning Department, said we don't know how many there would be, but they would be legal non-conforming, so the only impact would be if they wanted to go higher, they would not be allowed to go any higher.

Mr. Cooksey said I'm not at all thrilled with the notion of this ordinance because we do have height restrictions currently. We have restrictions that say you have to go in one foot for every foot height you go above 40 feet. Eventually that comes to a limit. It depends on the width of a lot but I would contend that when you are designing a house the width of a lot is a factor in what kind of design you come up with. Basically my concern is based on two things, one, we have height restrictions, they are just worded differently and they are worded that are variable based on the width of the lot and I think that is a sensible way of doing it. Secondly, we are talking
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about a citywide ordinance that will make an unknown number of property owners in legal non-conforming uses. Now granted, legal non-conforming rather than illegal non-conforming, but to wake up one morning and discover that my house that was completely legal under zoning ordinances last night is now cannot be rebuilt unless I do it within a specific amount of time as per ordinance, and we don't know how many there are in this city of 730,000 people, I think is not a good way of making policy.

Council Member Kinsey said I'm going to support the original motion, but I want to make sure that we understand that this really applies to single family neighborhoods with the probability of some properties within that area being able to build by right and not having to come in for a rezoning. Not necessarily, but probably would be a multifamily high rise. That is really what we are worried about, multifamily high rise buildings in a single family neighborhood with one and two-story homes. I think that is what we need to focus on and a by right zoning, not anything that they would have to necessarily come in and get rezoned. The Myers Park neighborhood does support it and we did get a letter. I've heard no objections from any of the other single family neighborhoods within District 1 where this could be a problem. There are a lot of single family neighborhoods within District 1 and I've heard that no-one is against it. I do know that we had a Citizen's Advisory Committee that does support this. I know there was compromise made and while I think it has been noted that this may not be the most perfect ordinance, but it is the best we can do right now to protect our very important single family neighborhoods. I will have to tell you, the City of Charlotte is blessed with our single family neighborhoods and they are some of our greatest assets.

Council Member Turner said I think Mr. Cooksey made some excellent points and a lot of good points have been made tonight and over the timeframe that we have discussed this matter. My question is to staff and I know for a fact that when we started down this road, you are right, it started in Myers Park but it had a bigger effect in many other neighborhoods other than Myers Park. We had the same concern in Wilmore, same concern in Wesley Heights, Smallwood, and Biddleville. I want to know did we get the support of those communities, where they involved in this process?

Ms. Young said we had a great variety of stakeholders, not only the citizens, but we also had developers, so we had everybody at the table and this is what everybody came to a consensus on.

Mr. Turner said the reason I'm going to support it is because I did not get those phone calls in an alarming manner. I think once we started out in this process we all were alarmed, but as we move down the process people appreciated what we have come up with and I think without a doubt we are heading down the right road. I think we are where we should be because there are great concerns about what was going to happen if we didn't do something with the current policy, so I'm going to support it.

Mayor Foxx said we have two motions, one to deny, which we will vote on first, and if that fails we will go back to the original motion which was to approve.

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

YEAS: Council Members Cooksey and Dulin

NAYS: Council Members Barnes, Burgess, Cannon, Carter, Howard, Kinsey, Mitchell, Peacock and Turner.

The substitute motion failed and a vote was taken on the original motion to approve and recorded as follows:

YEAS: Council Members Barnes, Burgess, Cannon, Carter, Howard, Kinsey, Mitchell, Peacock and Turner.

NAYS: Council Members Cooksey and Dulin

The ordinance is recorded in full in Ordinance Book 57, at Page 187-201.

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ITEM NO. 11: ORDINANCE NO. 4699 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE URBAN DEVELOPMENT AND DESIGN STANDARDS AND REORGANIZE THE REGULATIONS OF THE PEDESTRIAN OVERLAY DISTRICT (PED).

[Motion was made by Council Member Barnes, seconded by Council Member Cannon, to]
[approve the Statement of Consistency and Petition No. 2011-039 for the subject Text]
[Amendment by Charlotte-Mecklenburg Planning Commission as recommended by the Zoning]
[Committee.]

Council Member Barnes said I wanted to ask a question which springs from a letter I'm sure we all received from a local constituency group regarding what happens if someone goes into a shopping center and decides to refurbish a space, would they have to add sidewalks and trees in addition to the parking spaces. I wanted you to explain if you could briefly, Ms. Keplinger what happens in the various reuse type scenarios as opposed to brand new construction.

Ms. Keplinger said this is related to something that is in the PED District?

Mr. Barnes said yes.

Ms. Keplinger said I'm going to ask John Howard to come up and address your question because he works with the PED District a lot.

Mr. Barnes said the e-mail that we received from REBIC, did you all get that?

John Howard, said are you asking about major improvements such as façade improvements or additions?

Mr. Barnes said are you familiar with the e-mail that I'm talking about from REBIC?

Mr. Howard said I believe I am. We took out the façade improvement language so if you want to improve your building based on adding windows or any kind of ornamentation it would not require you to put in any infrastructure or parking improvements, so that part came out completely in terms of beautification of your building. If you are expanding beyond 25% of your building area then you have to put in streetscape or if you triggered more than five parking spaces, you have to put in streetscape improvements.

Mr. Barnes said I think that is where a lot of the concern came from. Once you add the parking spaces, then having to add sidewalks, trees, etc. I wanted to know if there is some way to be sensitive to the needs of building owners and business owners in the application of the amendment?

Mr. Howard said we did build in one more provision in that if you have a challenging parcel based on size or location or topography, you could come in administratively and basically get out of that regulation.

Council Member Carter said there is a provision for the extension of that ordinance when you have 25% increase in area. Is there also for 25% increase in value?

Mr. Howard said no. It is not value based at all. It is all based on building volume and building area.

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

The ordinance is recorded in full in Ordinance Book 57, at Page 202-219.

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ITEM NO. 12: ORDINANCE NO. 4700-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.30 ACRES LOCATED ON THE NORTH SIDE OF SOUTH MINT STREET AND SOUTH SIDE OF SPRUCE STREET NEAR THE INTERSECTION OF SOUTH MINT STREET AND SPRUCE STREET FROM MUDD-O TO UR-C(CD).

[Motion was made by Council Member Barnes, seconded by Council Member Kinsey, to]
[approve the Statement of Consistency and Petition No. 2011-048, as modified, for the above]
[rezoning by Greater Galilee Baptist Church, as recommended by the Zoning Committee.]

Council Member Dulin said we've all been working on this a long time and normally when I go through our book I make notes and write yes or no, but this time I just put a happy face because I'm excited about getting to vote for this and helping that wonderful church move forward. We've all worked hard and have got some blood, sweat and tears in it.

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

The ordinance is recorded in full in Ordinance Book 57, at page 220-221.

The modifications are:

1. The proposed zoning has been amended to read UR-C(CD) on the site plan.
2. The site plan has been amended to show 16 off-street parking spaces.
3. The existing sidewalk conditions along Spruce Street have been shown on the site plan.
4. Parking has been specified on the site plan as the allowed use.
5. The site plan shows screening from all public rights-of-way.

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ITEM NO. 13: ORDINANCE NO. 4701-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 9.78 ACRES LOCATED NORTH OF THE PLAZA, EAST OF GLENFIDDICH DRIVE AND AT THE END OF WILANN DRIVE FROM R-4 TO INST(CD).

[Motion was made by Council Member Cannon, seconded by Council Member Dulin, to]
[approve the Statement of Consistency and Petition No. 2011-049 for the above zoning, by]
[Melange Health Solutions.]

Council Member Carter said I do have a difficulty with this proposal because it is changing the R-4 to institutional and it is in direct opposition to what the neighbors had requested earlier in the original zoning. I understand and appreciate the services being offered, it is simply what can happen to that property after KIPP. KIPP knows that I support them completely and I'm just heart broker over this one.

Council Member Howard said Ms. Keplinger could you remind us about the whole condition on this one particular use.

Keplinger, Planning Department, said this is one of the petitions that the Zoning Committee considered today at 4:30 and the conditions that were added to the site plan state that they can have OGG uses in the R-4 District, which is what they are currently zoned, plus the accessory use of a Counseling Center in association with the school. It is very limited but their site plan does show areas where they could have future buildings, but the only use beyond what they can have currently in the R-4 District is the accessory Counseling Center and it is accessory specifically to a school.

Mr. Howard said in the past uses they have tried to put here are a group home or those types of uses, wouldn't be allowed?

Ms. Keplinger said a group home by federal law, we cannot eliminate those in any zoning district, however, I know there was a request for multifamily on this site before and that would

not be allowed and would be restricted to R-4 single family. I would like to read the Statement of Consistency when we get to that point.

Council Member Cannon said as it relates to the thereafter which is what was spoken to earlier, because clearly the neighbors support the rezoning and they've said that. But they do have concerns about what happens thereafter when KIPP is no longer there. I wonder about the idea though when we see a piece of property out here that might be in question in terms of future development that would not be consistent with the area relative to corrective rezoning and things of that nature. Would or could that be something that would still be on the table per se?

Ms. Keplinger said a possible corrective for this site in the future, I think anything is possible. We feel that the institutional use with the restrictions that they are proposing are consistent with the land use plan, however things do change and if that land use plan changed then we would recommend the appropriate action.

Mr. Cannon said staff is recommending approval of this, correct?

Ms. Keplinger said yes sir.

Mr. Cannon said the Zoning Committee I take is also recommending approval of it?

Ms. Keplinger said yes sir.

Mayor Foxx said to elaborate on the Statement of Consistency, let me read this for the record. The Zoning Committee has found the petition to be consistent with the Northeast Area Plan and to be reasonable in the public interest and by unanimous vote the Zoning Committee has approved it. The Zoning Committee voted unanimously to recommend approval of this petition with the following modifications and the modifications are listed Items 1-13.

Mr. Cannon said that helps a great deal and what we don't want to do is to handicap an opportunity for children. Obviously, that is what we could be doing if we don't allow for this particular use and allow for an office to be added because there is really nothing happening outside of that per se.

Ms. Carter said if this is a tight definition I could support it. It could be changed by variance, it could be changed by rezoning, it could be changed by court action. Is that correct?

Ms. Keplinger said it could not be change by variance because you cannot ask for a variance on a conditional zoned piece of property. Rezoning is always a possibility, but it would have to go back through the process that we have and court action, I'm not sure. I'll have to refer to Terrie to respond to that.

Terri Hagler-Gray, Assistant City Attorney, said I suppose someone could challenge the adoption of this petition if that is what you mean.

Ms. Carter said or to transform it later on.

Ms. Hagler-Gray said no, it would have to be a challenge to the adoption of this petition tonight.

Ms. Carter said thank you, that sounds a lot more tightly restricted than I had realized. Council Member Barnes said would it help Ms. Carter, and would it be possible Ms. Hagler-Gray to say that if this new approved use ceases to be in existence that the property would revert back to R-4. Would that help Ms. Carter?

Ms. Carter said that would help.

Ms. Keplinger said we cannot do that. Any rezoning action takes an action of the City Council because it is legislative in nature. The petitioner originally put a note on the site plan to that affect.

The vote was taken on the motion to approve and was recorded as unanimously.

mpl

The ordinance is recorded in full in Ordinance Book 57, at Page 222-223.

The modifications are:

1. The required front setback of 40 feet is labeled on the site plan.
2. The required side and rear yards of 20 feet are labeled on the site plan.
3. The proposed zoning on site plan is noted as INST(CD).
4. The existing R-4 zoning is identified on the site plan.
5. All existing and proposed buildings and square footage on the site are labeled on the site plan.
6. The adjacent property owner(s) and current zoning are identified on the site plan.
7. The adjacent property zoning classification is labeled on the site plan.
8. The parking spaces are shown on the site plan.
9. The total acreage and tax parcel ID number on the site are noted on the site plan.
10. The lower right hand corner with the petition number is identified as 2011-049.
11. The previous plan required a Class C buffer abutting residential zoning and land use. The revised plan does not require the buffer.
12. The previous site plan requested a 6-foot sidewalk and 8-foot planting strip. The revised plan does not require a 6-foot sidewalk and 8-foot planting strip.
13. Permitted uses are listed correctly on site plan.

* * * * *

HEARINGS

Mayor Foxx said perhaps a sign that the economy is continuing to move forward we actually have about 11 petitions tonight for hearings, which is good. We do have some request for rearranging the order here. Mr. Mitchell has requested that we move Item No. 24 up to the top of the hearing agenda and we also have someone here on Item No. 17 who has a flight to catch back to DC and wanted to speak on that. Is there any objection to moving Item Nos. 24 and 17 up on the agenda?

Council Member Turner said are we going to take Item No. 17 first? Is that okay with you Mr. Mitchell?

Council Member Mitchell said yes sir.

ITEM NO. 17: HEARING ON PETITION NO. 2011-040 BY THE UNITED HOUSE OF PRAYER FOR A CHANGE IN ZONING FOR APPROXIMATELY 36 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF PEGRAM AND 18TH STREET FROM R-5 TO UR-2(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Department said this is a request to rezone the property from R-5 to UR-2(CD). The property is located at the corner of Pegram and 18th Street, and as you can see the existing zoning is a mix. We have St. Paul's Church which was rezoned several years ago to UR-C(CD) and then multifamily residential and single family residential. In terms of land use, we have a school, St. Paul's, a parking lot for St. Paul's and multifamily and single family. Multifamily is shown in orange and single family in yellow. The future land use map represents a school again, the church and the bright yellow is single family residential. You can see from the aerial that a church is currently located on the property, the church and the associated parking. The proposal that is before us is for a six unit multifamily development. Parking is to the rear. All of the buildings have porches and stoops and patios. The access is off of Pegram Street. The Belmont Area Revitalization Plan recommends institutional uses for this property because a church was located on it, however the Belmont Plan also calls for a need for infill housing opportunities in the area. When we look at the General Development Policies, this property scores very high, up to 17 dwelling units per acre. The proposal is actually 16.5 dwelling units per acre. Staff is recommending that the petition be approved upon resolution of the outstanding issues. Some of those include some comments that we had on the elevation of the building, we said they need to be a little more compatible with the neighborhood and we are

working with the petitioner to alleviate and eliminate those issues. I'll be happy to answer any questions that you may have.

Erin Waskom, 1312 8th Street NW, Washington, DC 20001 said I am here representing the petitioner, United House of Prayer as well Suzane Reatig Architecture and we are proposing the six two bed room, 1 ½ bath townhomes in the neighborhood as opposed to the allowed two single family dwelling units. We are very excited to be working in the Belmont Neighborhood and extremely excited to be able to contribute to the Belmont Revitalization Plan. I am here to answer any questions you may have about our proposal.

Council Member Kinsey said I am from the south and I listen very slowly. Who did you say the Architect was?

Ms. Waskom said Suzane Reatig Architecture in Washington, DC.

Ms. Kinsey said so it is not a local?

Ms. Waskom said no.

Ms. Kinsey said I would reiterate what Ms. Keplinger said about the design. This does not fit into the neighborhood at all and I would like to see some work done on it. It is a very nice design, but it just does not fit into the Belmont Neighborhood. Also who will be the developer?

Ms. Waskom said the United House of Prayer.

Ms. Kinsey said, and the Manager of the facility?

Ms. Waskom said the United House of Prayer.

Ms. Kinsey where does the funding come from? Do we have to look at the locational policy?

Ms. Keplinger said I believe that Neighborhood and Business Services did not have any comments on this petition.

Ms. Kinsey said I looked for them and I would like to know for sure if this is going to have any kind of public funding, the locational policy would have to kick in.

Council Member Howard said is this property going to fit into some mission of the church to service a constituency of some sort?

Ms. Waskom said they will be rental properties. The United House of Prayer does in the various cities where they have parishes, they do develop many residential projects so I would assume that it would fall into a similar type of system as their other residential properties.

Council Member Turner said the only concern I have that I want to talk about tonight is, without a doubt the design, the elevations and pitch, it appears that we are talking about basically a flat roof and I would hope that they would go back and look at the design of the facility and see if they can do a little better. I respect what they do in the community and I'm very familiar with the House of Prayer and how they serve their constituents, but I think this is a little too inconsistent with what you are seeing the trend now occurring in the Belmont community.

Ms. Waskom said we have received notes back from the Planning Department and we are currently working to change the elevation of the building and those will be sent by noon on Friday I believe.

Council Member Carter said to move a little further on Mr. Howard's question, if these are non-profit situations could it not be zoned institutional?

Ms. Waskom said I don't think I would be the correct person to speak to that. I work at the Architecture firm and I don't work for the United House of Prayer specifically, so I don't think I could answer that question adequately.

Ms. Keplinger said typically in order for multifamily to be in an institutional district, multifamily is not allowed as a permitted use in an institutional district unless there are some services that are provide congregate areas, some support services or something of that nature. Clearly from the elevations, this is six units and it does not have any of those congregate areas, no common areas and no spaces for services. We felt the best district is what is proposed.

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

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ITEM NO. 24: HEARING ON PETITION NO 2011-047 BY NEIGHBORHOOD AND BUSINESS SERVICES FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD REGULATIONS AND DEFINITION FOR “DATA CENTER”.

The scheduled public hearing was held on the subject petition.

Sandy Montgomery, Planning Staff, said I am going to give you a brief overview of the Text Amendment. The purpose is to add some new definition for telecommunication and a data storage facility, satellite dishes and a satellite dish farm. We propose to add telecommunication and data storage facility to a list of uses permitted by right in the institutional, office, business, RE-1 and RE-2, MUDD, U-MUD and the industrial zoning districts. There is a proposal to add satellite dish farms as a new permitted use with prescribed conditions in the I-2 zoning district and also to add satellite dish farms as an accessory use with prescribed conditions in the same zoning districts I just mentioned when associated with either a telecommunication and data storage facility or a radio and television station. The Text Amendment also adds associated parking requirements for telecommunication and data storage. That was originally considered to be an office use and we are now adding the use with some reduced parking as opposed to the office regulation. Satellite dish farms do have several prescribed conditions which I will just briefly summarize. The dishes can't be located in the setback or within the street side yard of corner lot. Ground mounted satellite dishes can't be closer than 400 feet to a residential use. The total area of an accessory satellite dish farm shall be less than the ground floor area of the principle buildings on the site. That doesn't apply if the satellite dish farm is a use allowed by right in I-2. Ground mounted satellite dishes also have to have a solid wall to block the view of the dishes from the public street right-of-way and that wall would need to be constructed of materials and colors compatible with the nearby buildings, either on the site or in surrounding properties. The wall would be the height of the tallest satellite dish at its highest vertical configuration. Landscaping with trees and shrubs would be provided on the outside of the wall on the street side. The walls and landscaping would be reviewed and approved by the Planning Director or designee. Expansions are allowed to satellite dish farms which exist currently as of the date of adoption, but any satellite dish added would have to meet the wall and screening requirements for any new dishes added to the site after the adoption date.

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

Mayor Foxx said we need the Zoning Committee to consider this item fairly quickly because we are planning to vote on this tonight.

The Council recessed the meeting for the Zoning Committee to consider the above item.

The Council reconvened and Mr. Rosenberg, Chair of the Zoning Committee gave Council their decision on the above item.

Steven Rosenberg, Chair of Zoning Committee, said after great deliberation of all the facts, the Zoning Committee, with the staff amendment and another amendment, that the parking is per 7,000 square feet, that they unanimously recommend approval of Petition No. 2011-047.

ITEM NO. 24: ORDINANCE NO. 4705-Z, TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD REGULATIONS AND DEFINITIONS FOR “DATA CENTER”.

Ms. Keplinger said we need the Statement of Consistency that this petition is consistent with adopted policies and reasonable and in the public interest.

[Motion was made by Council Member Mitchell, seconded by Council member Cannon, and]
[carried unanimously, to approve the Statement of Interest and Petition No. 2011-047, as]
[modified, for the subject Text Amendment as recommended by the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 321-329.

The Modifications are:

1. Modify the vehicle parking ratio for telecommunications and data storage facilities from one space per 4,000 square feet of area used to house computer systems/components, to one space per 7,000 square feet of area used to house computer systems/components. The addition of one space per 300 square feet for accessory office uses that exceed ten percent of the total gross floor area remains unchanged. No parking is required for the accessory office use if it does not exceed ten percent.

* * * * *

ITEM NO. 14: PETITION NO. 2011-031 FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.66 ACRES LOCATED ON THE NORTH SIDE OF IDLEWILD ROAD AND BETWEEN EAST W. T. HARRIS BOULEVARD AND LYNMONT DRIVE FROM R-4 TO INST(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Department, said this is a rezoning request for property that is located at the corner of intersection of Idlewild Road and East W. T. Harris Boulevard. We have commercial zoning at the corner and then mostly residential surrounding the site. In terms of land use, New Hope Baptist Church occupies the area in the bluish purple, again commercial, a couple vacant properties in white, another institutional use across Idlewild Road and single family residential. The future land use for the property shows institutional for the corner where New Hope Baptist Church is located, commercial, a little bit of multifamily mixed in with the single family. The proposed request is to allow the single family home that is located on this site to be converted to medical office use. It will be part of the out-reach program of New Hope Baptist Church. They are looking to rezone the area that is shown within the yellow so they can use the common driveways and common parking for the structure. The existing driveway to the house will be removed. In terms of the land use, this request is consistent with the Eastland Area Plan and staff is recommending approval upon the resolution of outstanding issues. I would also like to mention this is the petition where the petitioners are requesting the August 22nd decision.

Jeff Smith, 7628 Cedar Tree Lane, said we are here to answer any questions and to tell you what the project is about. Since 2002 a group of volunteers have been meeting once a month with the Youth of the North Carolina Baptist Men’s Mobile Dentist Unit and been providing free dental services for low income people and people who cannot afford dental services or dental insurance. We have seen over 4,420 patients in that period and with the New Hope Baptist Church allowing the ministry to use the house, we will become a permanent stop so more patients will be able to be seen. That is the basis of what the request is all about.

Council Member Carter said I just wanted to express appreciation to the Church and to the members who are participating and those who are providing the service. With the cuts from Smart Start that have to go Biddle Dental Clinic, we are really challenged in our area, so you all are providing crucial services and thank you very much.

Council Member Cannon said staff had made mention of some outstanding issues. They don’t seem to be very significant, but will you have any problem with the nine outstanding issues that are represented here in terms of coming into compliance with them.

Mr. Smith said I am an engineer that is working with the Church and with the Agape Dental Ministry in putting together a zoning plan. There are nine issues and most of them are just clarifying plans, not a major issue. There is one, Item No. 4 which is requesting 50 feet of dedicated right-of-way and 50 feet of dedicated right-of-way would place the new right-of-way into the old Sanctuary into the existing structure, about the third of fourth pew in the A-Men Corner so with that we are working with staff to resolve that issue and hopefully we can get this approved without providing the 50 feet of right-of-way.

Mr. Cannon said so that is the only real challenge for you.

Mr. Smith said yes, the rest of them are very workable.

[Motion was made by Council Member Turner, seconded by Council Member Barnes, and]
[carried unanimously, to close the public hearing.]

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ITEM NO. 16: HEARING ON PETITION NO. 2011-035 BY CAH HOLDINGS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.82 ACRES LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF PARK ROAD AND TYVOLA ROAD AND FAIRVIEW ROAD FROM R-22MF TO B-2(CD).

The scheduled public hearing was held on the subject petition.

A protest petition has been filed and has been deemed invalid because of ownership issues.

[Motion was made by Council Member Barnes, seconded by Council Member Peacock, and]
[carried unanimously, to recuse Council Member Dulin from participating in this item due to]
[conflict of interest.]

Tammie Keplinger, Planning Department, said the request is to rezone 1.82 acres from R-22MF to B-2(CD). If you look at the Zoning Map you can see the orange that represents the multifamily at the intersection of Park Road and Tyvola Road and Woodlawn Road. You can also see that there is a great deal of single family residential. In terms of the land use, we have the Wastewater Treatment Plant, the Park Road Park and again the multifamily and single family represented by the yellow and the orange. The future land use map for this area shows a lot of park area, a lot of single family residential. What is off this map to the north along the Selwyn Avenue intersection of Park Road is an area for retail development and to the south along Glen Eagles and Sharon Road, we also have another section of commercial development. The plan calls for this section of Park Road to be residential in character and if you look at the land use map the property in question is slated to be park or open space. In terms of the request before you, it is to rezone the property to B-2(CD) for uses that include a car wash, institutional uses and office uses. There are multiple conditions as you can see from the site plan associated with this application. Staff does not believe this is the appropriate location for auto oriented uses that are proposed for this site. It is inconsistent with residential character of the area and it is also inconsistent with the South District Plan.

Council Member Peacock asked what are the uses that the Area Plan would recommend?

Ms. Keplinger said it actually recommends park and open space. There might be some other uses that would be considered for that site other than park and open space, but auto oriented uses such as a car wash is not one that we would recommend.

Mr. Peacock said it abutted behind a Water Treatment Plant and a Duke Power Sub-station. There is a park right near there and I understand that could be one possibility but it strikes me that that wouldn't be that interesting of a place to take families and children. Is the only other choice just residential housing?

Ms. Keplinger said I don't think that is the only other choice. I think it is really hard to say and I think we have to be creative because the site does have its challenges, but from a staff perspective we don't feel like the auto oriented type use of this particular proposal is what we

would like to see there. There may be other uses and it is hard to go on record. There are so many possibilities out there of something that possibly could go on the site that would fit in better with the residential character of the area.

Jeff Brown, King & Spaulding, 100 North Tryon Street, said I'm pleased to be assisting Autobell and Chuck and Carl Howard, the owners of Autobell on this rezoning. As you know Autobell are great operators of the car wash facilities, great corporate citizens and employ a number of our young people in their businesses. I appreciate your consideration of what I feel is an interesting and unique rezoning. Some of these come before you and they are fairly routine, but a lot of the interesting and unique features I want to highlight, one of which is the very irregular shaped parcel located next to a Treatment Plant and sub-station at a busy intersection that is a remnant from the punching through of Park Road and Tyvola Road. This zoning was not done with intentionality for this multifamily to stay with this site. I also talk about the concerted efforts to work with Transportation and we've done so successfully. It is a busy intersection, a lot of lanes and we provided for no gasoline will be a part of this Autobell facility. There will be a lot of internal storage to insure that cars are not back out into the street. We've got turn lanes and the Transportation numbers show that in fact the number of trips will be less than the prior day care use on the site. One thing I want to highlight and the images I'm going to show you is a remarkable car wash facility. I know you will think, Oh my goodness, a car wash. This is not my father's 1970's car wash or gasoline. In fact we've got a green roof, we've got screen walls, we've got fountains, we've got remarkable landscaping. This is similar to what you may see in Sea Pines of Hilton Head where you have the commercial uses, because of their incredible design features, elevate the area, not detract from it. Finally, I want to talk about the degree to which we have been able to have remarkable support from an outreach with the community. We are pleased that Martin Doss, President of the Madison Park is here to speak in favor. We are pleased to have Ms. Eury who will be speaking on behalf of Picardy and there are several residents from Picardy and Madison Park. We want to continue reaching out to the condominium boards that will be speaking in opposition. We had early meetings and we haven't been able to get follow-up meetings as much as we would like.

This is a unique site. When we talk about the residential, if you look at it, we've got a Treatment Plant that goes way on down Tyvola Road and we've also got a park. It is a unique site to call this best for residential I think is a stretch with the Duke Power Sub-Station behind it. I want to point out there has been a lot of talk about this being zoned residential. It is a remnant. This is 1975, the broader zoning was the equivalent of R-22MF and you can see the dark piece is the Autobell proposed site. It did not exist separately until Park Road and Tyvola Road were punched through. It is a remnant and the fact that it is open space and park use frankly is a little tough on the land owner to think that is the use that would be there. This is the Autobell site that would be on the facility as we see it. I note that it is residential across the street in both locations, but folks, this is not single family residential, these are condominiums at a high traffic intersection. I want to talk about the features and this highlights some of those. You will note that we have the green roof so that from the condominium buildings, I think until just recently it was found that this is the second, if not the first, green roof car wash. We've got screening and landscaping, wall treatments that will be in these locations, a fountain treatment. We've worked hard on the Transportation and flow. Here are some of the quick images, this is from across Park Road and is pretty remarkable. This is from the intersection, seating and fountain and you can note the residential design of the buildings, columns features that nature. I point out in this location is the enclosed portion where the vacuum equipment, which is a special equipment that is very quiet will be in housed inside the building. We are screening this so that you will not see the drying from the street. Giving you a flavor of the scale, much shorter and smaller building than if you were to have a residential apartments in that location. Frankly we think would be more value driven, given the proximity of the Sub-Station and the Sewage Plant behind it. This is a view from across the street with the landscaping that would be there and we plan to install much higher caliber landscaping than would normally be involved.

This is a busy slide, but the punch line is these are the Transportation numbers, essentially showing that this Autobell without the gasoline sales, and is relatively small and will have plenty of stacking, but will also provide fewer trips to the site than the prior day care use that you know is abandoned and not a whole lot more trips than if this was built for by right for the apartments. We are providing for significant internal storage. We are providing turn lanes. We have worked with Transportation officials to provide not only a turn lane that would help folks get into the

Closeburn community, but also there would be a turn lane provided in that location to help folks get into SouthPark Corners. We think this is an exceptional design and it is a unique site. To call it residential zoning and call it appropriate for residential, we think is a stretch given the proximities and we hope you will keep consideration in that regard.

Martin Doss, 5223 Londonderry Road, said most of you know me as the President of the Madison Park Homeowners Association's 2,350 homes. You might also be thinking this is the first time you've seen me come down to actually speak for or against something. You would be correct. Not that you don't hear from me by e-mail, phone or in person. A few weeks ago even I would not have thought I would be standing here saying what I am about to say. The reason is that when I was first told that Autobell wished to build at the corner of Park Road and Tyvola by a board member calling me from Southgate, I was like, No Way. We discussed this at our May 2011 HOA meeting and I told the community at that time about the June 6th public meeting. I even contacted Mr. Carl Howard with Autobell with my concerns and he responded thoughtfully to each of my concerns. One I had was what would happen to the current store up on South Boulevard that borders the west boundary of Madison Park. He told me that they would never close the store. He said they only re-located one once which happened to be the store on our border when the lease ran out due to the property owner wanting to build something different. They just moved down the street, almost next door. That was just the beginning of a long list of concerns that I had been wiped out by Auto Bell. I attended the public meeting in June, along with some of my board members and neighbors from Madison Park to see the plans. I can tell you that everyone of us walked in 100% against this rezoning for Madison Park. We had communicated the meeting in our minutes and on our website, sent e-mails directly to several hundred residents with more than 6,000 visits to our website in both June and again in July. It even became a discussion post on our website. What I didn't expect was that every one of my board members walked out impressed with what we saw and our minds changed to now being in favor. We have discussed this at three HOA meetings now and I had to go back and show the members why I personally, as well as other residents and board members, had changed our minds at our June HOA meeting. Then on July 11th, I brought in large plans to show members and guest in attendance at our HOA meeting so they could see for themselves the plan. We really heard no negative comments at our meeting to the large plans. People in attendance were impressed. Not since we changed our minds has anyone contacted me directly outside of one person that has concerns about the left-turn lane from Fairview to south bound Park. I even showed the plans to some of the neighbors not in attendance at the HOA meeting and they signed this petition in favor of the rezoning. My mind being changed came from everything from Autobell willingness to make changes to please the immediate neighbor, to the design of the buildings down to the fountain on the corner of Park and Tyvola. It was a green roof, the larger trees and the fact that they planned to keep the rear buffer of trees. It was the fact that Autobell told us that their business does not come during rush peak hours and the fact that they said they can speed up the car wash line to move cars in and out and prevent back-ups. My list of reasons for changing my mind could go on for a lengthy period. The plans have been shown at our meetings and several of our board members and many residents of Madison Park have seen the plans and support this rezoning. Knowing that Autobell has always been a good neighbor to Madison Park, and seeing with my eyes, the plans that came up with certainly fit in with the SouthPark address and the image, I strongly urge the City Council, the Planning Department to recommend this rezoning to allow Autobell to build and lease this unique corner for the next 40 years in my NSA. I frequently travel through that intersection on my way to SouthPark.

Maddlyn Baer, 5617 Fairview, Unit #7, said I am representing you as a property owner and resident in the immediate vicinity of the parcel that is in subject to rezoning Petition No. 2011-035. I speak for myself, but believe I echo the feelings of several others who are either not aware of this citizen participation opportunity or are unavailable this evening. I strongly oppose the approval of this petition to allow for the establishment of an Autobell Car Wash for several reasons, however before I outline my reasons, I would like to remind the Mayor and Council Members that they initially received my comments by e-mail on May 17. I would like to thank Council for the hard work of managing urban growth, the Zoning Department for clarifying several points and the Petitioner and their agents for their willingness to engage in respectful and civil community dialogue over the last couple of months. These are examples of what makes our City a great place to live and why I care about it deeply. The Zoning Department has recommended denial of this petition for the over arching reason that it is inconsistent with the Area Plan. I would like to highlight several characteristics of this particular intersection that

reinforce why the proposed use is ill suited and counter several of the points that were previously made. This intersection is currently characterized by established residential neighborhoods as well as newer residential development on all four sides. In addition to Park Road Park and the recycling facility they failed to mention the Queens University Recreational Facility that is just slightly further to the west. It is heavily traveled and already plagued by disruption of flow by frequent U-turns. It is along a bus route which always causes congestion from the starts and stops since the buses do not have the much needed dedicated lane or a turn-out. It is in close proximity to the Queens University Athletic complex and the Park Road Park and they together generate substantial foot and bicycle traffic, much of which occurs during the proposed car wash hours. This is a location where noise travels a significant distance to the surrounding areas. I frequently am able to hear activities at Park Road Park. It also serves as a major Police, Fire, ambulance and other emergency vehicle and equipment access route and is in close proximity to the Water Treatment Plant and the future Briar Creek Greenway. In addition to being inconsistent with the City's plan the establishment of a car wash poses the following concerns: Vehicles turning in and out of the car wash would further impede the traffic flow caused by bus traffic, especially the peak volume hours. Additional vehicles entering and leaving the property endanger the safety of the pedestrians and cyclists using the Queens Athletic Facility, the Park and the tennis courts. Concentration of equipment, vehicles and employees will increase the noise during operating and maintenance hours. Given the proximity to the future greenway, I have concerns about the environmental impact of the Waste Water as well as the flow of additional water into a known floodplain. In addition, pollution from exhaust from autos while they are waiting into an area that already has high o-zone problems and is a heat plate, gives me further cause for concern. Additionally, CDOT has not yet approved the referred to changes in the Transportation, and I have several other concerns that relate specifically to a car wash. As a primarily cash based retail operation, it is a target for theft. It seems to me to be a potential gathering place for unwanted and illegal commerce and while the design plan is lovely, I wonder if it might not create a shelter for this type of activity. I leave it to CMPD to address these concerns but know they will confirm the patrol activity in this area, which already requires the coordination amongst three different CMPD Divisions, is already keeping them way too busy. They don't need another operation to monitor. Finally, a large Autobell operation already exist on South Boulevard between Tyvola and Woodlawn and a new car wash operation, Wiki Wiki recently opened at Tyvola and Old Pineville Road intersection. Do we really need another one? I appreciate you taking the time to listen to me and I appreciate your careful consideration prior to voting on this matter.

Robert Dortch, 301 South McDowell Street, said my law firm represents the two homeowners associations here. Southgate on Fairview and SouthPark Corners. The Board of Directors, many of which are here, are unanimous in their opposition to this rezoning request. They urge the Council not to create this commercial island in an area that is zoned residential, but instead to follow the South District Plan that is in place and was in place when these condominiums were developed and when these good folks purchased their property. That would cluster retail further north on Selwyn for the South District Plan and further south toward Glen Eagles and Sharon Road West. This comes down to a site plan versus a land use issue. The site plan is beautiful. ColeJenest & Stone does great work and nobody disputes that. We've all used Autobell and we don't dispute that either, but this car wash does not belong on this R-22MF piece of property that has been zoned that for many, many years. These good folks behind me are the ones directly across the street from planned rezoned area, not the folks down the street on Tyvola who have an Autobell down on South Boulevard that they can go to. These are the folks who are going to be right there and be the most impact who have the most at risk and that is why they should be listened to. As the staff pointed out this plan is inconsistent with the South District Plan. It is supposed to be recreation or open space, which my folks enthusiastically endorse if the developer doesn't want to construct residences that are consistent with the R-22 zoning. This is a parameter between the Treatment Plant and the Duke Power facility and it needs to remain a residential parameter to actually shield these folks from those areas. They don't need any more commercial development and it does not need to be a commercial island right there. It is my understanding that the developer recognizes and would admit that the R-22 would make money for the developer if the rezoning request is not granted. It just won't make as much money. As the staff analysis points out, this is supposed to be park or open space. Clustered retail is supposed to be further north or further south and everything else between Selwyn and the Glen Eagles area is residential and it should remain that way. We urge you not to grant this petition, but to abide by the staff's recommendation.

Charles Newsome, 5425 Closeburn Road, I can tell you this is a bad deal. It is a bad deal for the residents in that area. When we purchased our home at Southgate, we purchased in a residential community. We knew the Sewage Treatment Plant and the Duke Power facility was there. They are challenges for the community and this will add to that challenge. To pile on challenges for the benefit of two people doesn't seem to be very fair to me. This is a bad deal for the residents, for the city, for the county and you can put lipstick on a bad deal, but it is still a bad deal. I don't have anything against Autobell or the owner of the land, but this is the wrong place. I urge the Council and the Mayor to listen to the residents, the people that live there, the people that will live across the street. I'm not against any of the parties, I'm against rezoning it. We bought our unit there based on the zoning that was in place. I hope the City Council will be fair about it and do its duty.

In rebuttal Mr. Brown said we appreciate the concerns that have been expressed. We have had early meetings with the condominium association board at the very beginning and frankly, we have not been able to have them come to other meetings. We have invited the residents there and I'm afraid that in our view there has been sort of a making up of their minds and we would love to have an opportunity to talk further with them about some of these concerns. The issue about planning consistency, respectfully as I mentioned early, this is a remnant parcel that was created when roads were punched through. This didn't go through a study like our normal plans would go through. There was not a study as to say this is a great site for multifamily or a great site frankly for open space and otherwise. It is near the park, but it is a difficult multifamily site, can be developed, but is very challenging. We do not agree that there will be any stripping of retail in other locations as a result of a small site that backs up to the Treatment Plant and backs up to the Sub-Station. The manner in which it is being treated, we think it will elevate. We would love an opportunity to talk further with the residents across the street. We do have Picardy, which is also across the street that is in strong support and we have other residential communities also in support. We think this is something we would like for Council to take a strong look at because we think there is an opportunity for something that will actually elevate the nature because of the remarkable way in which this facility is being created. We ask that you consider that and we also ask that you also be mindful of the property owner who is trying to do the best he can. We think this site at this location will actually generate fewer trips than other potential facilities that Ms. Keplinger was eluding to that might be coming on other zonings and we believe that this is a great facility for that reason.

Council Member Howard said do you know when Park Road got punched through that you keep talking about? My memory says it happened in the last 15 years. Is that right?

Mr. Brown said my memory is also hazy on that, but I think it may be a little bit longer than that. We were able to locate the 1975 photo and I think it was more of the 1980's when it got extended, but Park and Tyvola has shown by the slides we've shown.

Mr. Howard said I want to talk about the South District Plan in 1993. prior to us talking about centers, corridors and wedges for one thing and I would think this is on the edge of a center. Is the outer edge of a center and does this fall into the SouthPark Center?

Ms. Keplinger said I believe it does, yes sir.

Mr. Howard said what would be appropriate on the edge of a center? It seems like we want density and mixed uses.

Ms. Keplinger said multifamily residential of course is what it is zoned now and there is nothing saying that properties couldn't be combined. I know it is a small site, but other than multifamily, there is potential for some other type of institutional uses on the site, and maybe some low impact office under certain conditions. Again, it is a matter of what is presented and how it is presented and how it fits in with the residential character of the surrounding property.

Mr. Howard said this was mentioned that this is somewhat of an island and it is. You have some real challenging uses behind it. I'm wondering if all commercial uses would be something that you guys would be against? Are there other commercial uses that would be acceptable? I just think this is going to be a challenging site no matter what. Mr. Brown knows and I have admitted to him that I have some doubts about this from traffic and some other things we've

talked about and I'm going to keep talking about, but I'm a little concerned about this little remnant and what the reality of what it could really be so it is just not a vacant boarded up building for the next 15 years.

Ms. Keplinger said when you look at hierarchy of uses and automobile oriented uses, this is really one of the most auto oriented uses you can have so looking for more than institutional use or low impact office would seem to be more suitable for this site. Even though it would be contrary to what the South District Plan called for, which is park and open space, I think that is something that under the right circumstances that we could examine. It is very hard to say what we definitely would recommend approval of because they are just some suggestions of what we could entertain.

Mr. Howard said is there any thought to doing an update to this plan anytime soon?

Ms. Keplinger said this plan was originally adopted in 1993 and the road plans for Park Road and Tyvola go back to the 1960s. The interchange was definitely considered in the 1993 South District Plan and it called for it to be park and open space. I don't know if there are any plans in the future and I have to look to Ms. Campbell for an answer with that, but there is none that I'm aware of.

Mr. Howard said if I remember right Southgate had to go through a rezoning as well. It was recommended for lower density of some sort. What I'm getting at is the nature of that whole area has changed since 1993. What a center is and what we expect from it is different and I think it would be worth examining what we would say should happen on the edge of this center now that that is what it is.

Debra Campbell, Planning Director, said this particular site is outside of the SouthPark Center as defined. As Ms. Keplinger said, in terms of other uses, all of the uses that she said, office and possibly some small scale retail, I just think there is a character here that is not highway commercial and I don't think we would look at this as being neighborhood serving in terms of the market is more regional. That is why staff is not supporting this particular location for this particular use. We applaud everything they have done from a design perspective, but in terms of this use in this location, we don't think it is appropriate.

Council Member Cannon said I believe that particular location for anything is almost challenged just because of where it is located. Mr. Brown, the hours of operation 7:00 a.m. to 8:00 p.m. Is that six or seven days per week?

Mr. Brown said I know that is the hours during the six days of the week and fewer hours on Sunday. Those are the maximum hours that would be involved for the site. I think that is very relevant to some of the concerns about crime and loitering.

Mr. Cannon said that is why I wanted to get that response, so it is 7:00 a.m. to 8:00 p.m. except on Sunday the hours would be reduced going into the evening. Would you start later going into the morning?

Mr. Brown said it would start at 7:00 a.m. but they don't actually gear up their operations until a little bit later and 8:00 p.m. is earlier in the winter time. Those are the longest hours that includes the summer.

Carl Howard, Autobell Car Wash, said on Sunday we open later as well, after 8:30.

Mr. Cannon said relative to the current zoning, it is about a 100 trip per day difference. Right now it is 400 trips per day and the proposed rezoning would reduce that to 300. Is that pretty accurate?

Mike Davis, CDOT, said with regards to the question about trip generation, we think it is very close. It is certainly comparable in terms of number of trips. One thing that is worth pointing out about this use is that there is not very good national data on this. One of the reasons we did require the petitioner to submit a study, and I think it was noted in the presentation you saw earlier that the data for that trip generation comes from actual Autobell data. We've talked about

it in terms of it being possibly low, but if it is low it is very comparable to the previous use and when we evaluate a study like this, we are generally not concerned with the order of magnitude of trips on a site like this. We are more concerned about the access. We are confident that if it is 300, 400, 500 and it probably is in that range, it still gives us the same answers basically.

Mr. Cannon said are these the City of Charlotte numbers or would they be Autobell's numbers or a combination thereof.

Mr. Davis said we generally don't produce City of Charlotte numbers. We rely on national data. The proposed trip generation comes from Auto Bell. The existing comes from national data.

Mr. Cannon said relative to the proposed driveway to Park Road, it seems to be a little bit too close to Closeburn Drive. Would you concur with that Mr. Brown, and if so would you look at relocating the driveway?

Mr. Brown said the driveway location is actually shifted closer to the intersection and we've been back and forth with CDOT to try to find the right location. This strikes the balance between wanting to insure that there is enough distance from the intersection, but not too close to the intersection of Closeburn or the Park. You will also note that there is a left-turn lane that we are going to install and we are trying to insure that there is enough room for stacking, which I think CDOT has looked at from the design and is comfortable with, and also with the installation of the left turn lane we think it is going to improve the flow both to the driveway and the overall intersection flow. That left-turn lane won't occur under a by right rezoning. That is part of the plan that is being proposed.

Mr. Cannon said does City staff have an opinion on that?

Mr. Davis said or concerns on this petition really relate entirely to access, the presence of the medians and the way the intersections are configured we are confident where the drive-way has been located. They have actually moved it and we have the same concern about its proximity to Closeburn. The proposal for the left-turn lane that Mr. Brown refers to will be helpful, we think, for existing trips. We are not sure it necessarily plays into how Autobell would depend on it for access, but we think it is something that makes that intersection better and we are grateful that is happening.

Mr. Cannon said what is the proximity of feet that it was adjusted by?

Mr. Davis said I'm guessing a width and a half of the drive-way.

Mr. Brown said it was 25 to 30 feet in which it was moved closer to the intersection to accommodate the engineering work and CDOT's input.

Council Member Peacock said I wonder if staff might have before and after pictures that might be available of the current site right now. One of the comments received from one of the lawyers representing the condo association referenced that this petition itself constitutes a commercial intrusion into this long established residential area, but isn't there a commercial business that has recently closed on the site right now? I note the petitioner moved through rather quickly and maybe the petitioner has it, but I would like to see what this property looks like currently and what is the improvement that they are proposing that we clearly know is inconsistent with what the South District Plan is, but if this Council is going to go against something that is already set as a plan, I need to know where we are going and how much better it is going to be.

Ms. Keplinger said the site does have a building on it. I believe it was a Kinder Care Day Care facility years ago and I believe Mr. Brown has that area up on the slides now.

Mr. Brown pointed out the current building on the slide as well as the new facility. It is essentially in the same location.

Mr. Peacock said Mr. Brown, can you talk to the process that you all used, the collaboration with the neighborhoods? I'll be frank when Martin Doss did come up I was a little bit surprised to see

that you all had received his support. Tell me about some of the change the petitioner made to accommodate the requests of the neighbors.

Mr. Brown said in this instance, prior to filing the petition we reached out to the Southgate Community and were in the process of reaching out to the SouthPark Corners, the two condominium associations. We had an initial meeting with Southgate and our goal was to obtain input. We had not created a plan in all of its glory, and in fact we had not filled the plan at that point, but to get input. We tried to do the same with SouthPark Corners. They had decided with the Board to engage the Laney/Sellers Firm to help them on their matters and we continued to reach out to that group. We did have a meeting a number of weeks later after we filled the petition with a small group of the board and then a larger group. Within that larger group meeting also with Picardy we had residents from the Closeburn Community and also Madison Park as part of the larger group meeting. We probably have had 4 or 5 community based meetings in which we have tried to reach out to residents. It is a story that takes time for people to get and to come and hear the story.

Mr. Peacock said just to summarize what you have indicated, Southgate and SouthPark Corners have not been in great attendance yet in the community meetings. Do you think they are now just getting a change to engage in it?

Mr. Brown said we don't want to cast any aspersions on SouthPark Corners or Southgate in terms of their approach to this. We would like to have a greater dialogue to the process. I think there may have been a feeling early on about the use. We think that this use and the way in which it is done is worth a strong consideration. We have not had recent meetings with either one of the condominium boards despite our request, but we would be delighted to do so.

Mr. Peacock said my last comment relates to the trees on the site. Again, looking at the before, what it looks like right now is what I would say a beat-up commercial site that clearly looks like a business has closed down there. It doesn't look like the prospect of having anything immediate coming there, particularly in the residential market. You seem to be putting a lot of emphasis on trees. I see the fountain. How many trees do you plan on adding to the site? As Chair of the Environmental Committee, we talk about our 15% commercial tree save that we just passed and one of those options was to use a green roof to offset that if you didn't meet the 15% commercial tree save. You are adding a green roof and you are adding trees. Am I correct on that?

Mr. Brown said that is correct. The planting of the trees and the landscaping along Tyvola and Park Road will be significantly greater than what the minimum standards are and I think you can see in the photographs we have provided, will actually go beyond what we believe the minimum standards would be for a by right zoning. We will be saving the large trees at the rear. The nature of the facility is small enough and the parking is small enough that we are confident that we will be exceeding what a by right development would do regarding the trees in the rear. In fact we think that is a great benefit because it will provide the continued screening at the rear of the site from the substation and the plant as much as possible, as those trees continue to grow.

Council Member Turner said my concern here is two things. I will give the benefit of doubt because it looks like these photos were taken in the winter so I won't say the trees are beat up. I want to talk about the left hand turns and I want to talk about the safety. I know this intersection to be a very, very busy intersection and I think that is a wonderful place for any opportunity for a business to be where you expect a lot of traffic. You are going to get that, but when I look at it from a safety standpoint it doesn't make a lot of sense to me to put anything there, this or multifamily or anything. Obviously, the land is zoned for something and there is a request to rezone it. I don't understand the left hand turn. Can you talk to us a little bit about that because we are basically doing U-turns and I think one of our busiest intersections in this City and a very huge intersection by the way.

Mr. Brown said I appreciate your question and the concern because as I said early on, individuals would say we are having a facility here at a busy intersection and we are mindful of that and started our discussions with CDOT very, very early on. In talking about the left turn lane, it is important to note that this facility, unlike a convenience store or another type of retail, and the staff mentioned highway retail, the car wash facility does not generate the type of traffic that you would have from a gas station or convenience store or other types of retail store and the traffic is

off hours. It is not a peak hour because they are not doing gasoline sales. Most people go on the week-ends or during the middle of the day, not during the p.m. peak. As to the left turn lanes, if you will see this location, one of the things we heard at our first meeting, the pre-filing of the zoning petition meeting with the Southgate Community and Closeburn residents later echoed, is that being able to make the left turn into Closeburn is very challenging because of what you described, Mr. Turner, which is the intersection of Park and Tyvola. We heard that and the left turn we believe does allow cars to move, make the left turn and get into this left turn lane and make that turn there, getting them out of the flow of traffic, but perhaps as important or more so, is providing support for the community nearby. That is not going to happen in our respectful opinion under a by right zoning whether it is for open space or for multifamily. Unfortunately this drawing does not show that the similar offer that we've made, not in response to the SouthPark Corners residents and Board, but one that we thought made sense and explored on our own with CDOT, was a left turn lane and we can get another drawing that is in this location, a little further back I believe, that goes into the driveway of SouthPark Corners. That is probably not as helpful for the flow of the intersection, but we think it is helpful for the residents there because it allows them to enter into the SouthPark Corners community as opposed to going to the intersection so we are trying to improve the flow. Those are the turn lane movements I think you were seeking some input on. With regard to the flow, I note the stacking here in this location of the cars behind the wall will be screened that provides 13 cars to stack and there is also the ability for the conveyor belt to move cars through quicker. In fact the estimate is that in the highest peak hour of the day there will be 48 cars that typically come during the highest peak hour of the day, which is not the p. m. peak. This would have 13 cars that would be there to be able to receive those and again, there is no gasoline sales like you might find in some other locations. Thank you for the opportunity to describe a little bit of the flow because it is very important at this intersection that flow be explored and we feel like we've done a good job with CDOT in that regard.

Council Member Cooksey said as I'm looking at the South District Area Plan map, what is the rationale for putting in a plan, park and open space is the recommended future use for privately owned property?

Ms. Keplinger said to be honest with you, that is a question that I may have to do some research on to answer. I know that we have done that in other cases when we have parks that are close by. In this particular case, I will be happy to research it.

Mr. Cooksey said I would appreciate it because for the Park Road Park, we've got, not only the remnant we're talking about, but an entire line of single family residential north of Archdale Drive, that according to plan is park and open space which suggest to me, either that our intention is for a private owner to somehow pay taxes on it without having any revenue or without having any use of it, or projecting some sort of intent for a government agency to purchase it for that purpose at some point in the future. Let me get off my speculations and I would love to hear exactly why we do that.

Ms. Keplinger said we will look into that for you.

Mr. Peacock said this is referenced about noise and I was curious about the elements you are doing to mitigate the noise and about how many employees would be involved, since this doesn't have gas sales. About how many people does Autobel employ right now?

Mr. Howard said our vacuuming equipment which will be specifically muffled, and it actually has a muffling device on the output of the vacuum, it will also be indoors. With those two elements in place there will be no vacuum noise at this facility. With our drying our equipment, of course inside the bay and it is the quietest equipment on the market. The street noise will be louder and you will not hear the equipment.

Mr. Peacock said there was mention of waste water and about the use of how the water is treated at Auto Bell. Can you comment on that as well?

Mr. Howard said in the technology that we have today, we actually have a water treatment facility in the basement of this building so that literally we can treat all of that water and reuse all of the water and have the ability to use only about five gallons per car to rinse the car and all of

the other water, including the water that we use to mix our soaps and everything can be recycled on that site. It is extremely efficient and we capture all of that water, we recycle as much as possible and then only discharge the minimal amount that we need for rinse water. We employ over 2,000 employees currently in our 63 car washes. Those employees are 16 to 25 years of age average, which is the highest unemployment rate in the country right now. Most numbers I'm hearing are 25% among that age category. Our average facility employs about 25 full and part time people so we feel we will provide about 25 jobs, maybe a few more.

Council Member Carter said Mr. Peacock you covered the question I was interest in about water quality and then my question to you all is water detention. There was a request to put in possible sites but I don't see them located on the map with this large area of pavement.

Mr. Brown pointed out the area where they will be providing for water detention and there will also be compliance with post construction control ordinance in full.

Mr. Howard said the area shown on the site plan are for water quality and we propose to underground detain the water.

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

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ITEM NO. 18: HEARING ON PETITION NO. 2011-014 BY LIBERTY HEALTHCARE OF MECKLENBURG COUNTRY FOR A CHANGE IN ZONING FOR APPROXIMATELY 17.48 ACRES LOCATED ON THE SOUTH SIDE OF PROVIDENCE ROAD WEST BETWEEN COMMUNITY HOUSE ROAD AND OLD ARDREY KELL ROAD FROM MX-2 TO INST(CD).

The scheduled public hearing was held on the subject petition.

A protest petition has been filed and is sufficient to invoke the 20% rule requiring affirmative votes of ¾ of the Mayor and Council to rezoning this property.

Tammie Keplinger, Planning Department, said just for the record the protest petition on this case is sufficient. The property that is up for rezoning from MX-2 to INST(CD) is surrounded by R-3 zoning. A little bit of R-4 to the west with institutional and URC to the east along Community House Road and then the north corner you can see there is a residential planned unit development and then institutional site. In terms of land use there is quite a bit of institutional uses out in the area as well as residential and vacant land. The future land use map reflects the zoning of this property for MX-2. You can see the light yellow is single family residential, a little higher density in this area. In terms of the proposed request, this is for a Senior Living Development that will have 271,000 square feet of building area. The height will be between one and four stories. There will be an undisturbed Class C buffer along the southern property line that will be 50 feet in width. The building materials that are proposed are brick, stone and cementitious lap siding, vinyl siding will not be allowed. The building elevations for the buildings are shown. In terms of the South District Plan, it does reflect the rezoning that was approved in 2007 for the site, which approved 116 multifamily units. Those multifamily units had a height restriction of up to 40 feet. The South District Plan, because of that petition, recommends multifamily residential at the rate of 6.4 dwelling units per acre. As we know, most of our districts do not tell us how we should look at institutional zoning districts. They let us look at them on a case by case basis and in this case, staff feels that with the elevations, the proposed layout that it is generally consistent with the intent of the South District Plan, and we are recommending approval upon the resolutions of outstanding issues.

John Carmichael, 101 North Tryon Street, said I'm here on behalf of the petitioner Liberty Healthcare of Mecklenburg County and with me are Doug Whitman of Liberty Healthcare, Scott Rasner, the Petitioner's Architect, and Phillip Hobbs, the Petitioner's Landscape Architect. The property contains about 17.5 acres, is located on the southeastern corner of the intersection of Old Ardrey Kell Road and Providence Road West. It is currently zoned MX-2, having been rezoned by Council on May 21, 2007. The current zoning of the site, up to 116 townhomes

could be developed on the site and the site under the current plan would be accessed by a driveway from Old Ardrey Kell Road and one driveway from Providence Road West, pursuant to this petition, the petitioner is seeking to rezone the site to the INST(CD) district to accommodate the development of a Senior Living Community that would be comprised of a maximum of 120 bed skilled nursing facility with a maximum of 168 independent living units. The skilled nursing facility would be located in the eastern most portion of the site. As you can see with that number one designation there, it would be limited in height to one story. The Senior Independent Living Component would be located in the building located on the western portion of the site and would range in height from one to four stories and the elements of the buildings that are one, two, three and four stories are noted with numbers on the plan. The petitioner felt that having the Independent Living unit building step up from one to two to three to four stories as you move from the edge of the building toward the center of the building, and therefore the center of the site would not only be more esthetically pleasing for the eye, but would also be more sensitive to adjoining and nearby property owners. A 50-foot Class C buffer that would be undisturbed would be located along the southern portion of the site. It is undisturbed except for two elements, one additional and supplemental plantings would be planted in certain portions of the buffer you can see here because it is not heavily vegetated and there would be a 6 to 8-foot berm in this and I believe a 4 to 6-foot berm in this area just to help supplement those areas and provide additional screening. Access into the site would be by way of three driveways. The eastern most driveway from Providence Road West would serve the Skilled Nursing Facility primarily. The western most driveway from Providence Road West could serve either the Skilled Nursing Facility or the Senior Independent Living building, but it would be the service and delivery entrance into the site. The access point from Old Ardrey Kell Road would primarily serve the Independent Living Facility, but obviously, you could drive around the site to access other components, but the service area would be located between the two buildings. There would be a screen wall located to the southern edge of the service and delivery area as well as two metal gates that would remain closed. Those gates would only be opened and utilized in the event there was a fire and a fire truck needed to access this portion of the site. The screen wall and the gates at the southern end of the service and delivery area are there to provide additional screening to nearby properties and to help mute any noise that might be generated in the service and delivery area. The petitioner would install 8-foot planting strips, 8-foot sidewalks along the frontage of the site on Providence Road West and Old Ardrey Kell Road. Mr. Rasner will tell you a little more about the architectural design of the buildings, but I did want to reiterate what Ms. Keplinger did that there will not be vinyl siding except you can use vinyl on the soffits and the windows can be single hung vinyl windows, but the rest of the exterior materials will be a combination of cementitious siding, face brick and stone.

We've had several meetings with area residents. We've met with the Allison HOA Board, once by phone, once in person and we had two neighborhood meetings, one being the official community meeting and then one prior in time to that meeting. We recently met with more residents of Allison Park over the past week-end. In our response to our more recent meeting with the folks at Allison Park at their community pool on Saturday, we are committing to add additional requirements to the rezoning plan, one the petitioner would install evergreen shrubs along the entire inner line of this 50-foot Class C buffer along the entire length of that. The evergreen shrubs would be planted five feet on center, have a minimum height of three feet at the time of installation and grow to a height of six feet at maturation so there would be a continuous vegetative screen there. The rezoning plan will specify that this screen wall will be 10-feet in height and will be a masonry wall. Dumpsters can only be emptied by the trucks between hours of 8:00 a.m. and 6:00 p.m. With respect to the lighting in this area of the site, basically that portion of the site south of the two buildings, only pedestrian scale lights having a maximum height of 14 feet could be installed in this location. Signage will be installed here to identify that as the service and delivery entrance so our vendors would know where to enter the service and delivery areas. Of course over time they would understand that as well. There are several minor outstanding site plan issues which will be resolved prior to the Friday, which is the date we need to submit a revised plan. CDOT has looked at this and determined that the proposed zoning generates less traffic than the current zoning. The current zoning according to CDOT would generate 950 daily trips and this proposed zoning would generate 550 daily trips. Given the age of the folks that would live here, many of those would not be peak hour trips. Nevertheless the petitioner has committed to improve the intersection of Old Ardrey Kell Road and Providence Road West and they are going to change the configuration of that to create a safe condition in a

condition that is not currently safe. They are going to “T” that intersection at their costs and expense.

Scott Rasner, 1927 South Tryon Street, said we are a national firm that specializes in Senior Housing and Retirement Communities. We currently have work in 18 states as that is our specialty. The section put up here was to show that the current zoning actually provides less glamorous site use than what ours does. We are stepping back our four-story portion about 267 feet, approaching a football field length where as the current zoning had a three-story right on the buffer line. As we made suggestions on how to mass the buildings, we looked at different massing studies, we went from a three-story, which essentially the forty feet was already approved and like Mr. Carmichael said, we concluded through our massing studies that we were much more sensitive to the neighbors with the one, two and three story step-ups to the small four-story section.

I want to talk about the amenities. The Independent Living housing on the left hand side are 70-year old plus residents who will have multiple dining venues and the one-story section on the right hand side, there will be a Wellness Center up on Providence Road West. We have libraries, multipurpose rooms and all the amenities of a first class retirement community. Just to reiterate we have come up with a real quality exterior design. My firm has taken 400 plus pictures of the Ballentyne and South Charlotte area and also recognize Myers Park, Dilworth and Eastover influence. The architecture is classic in nature, brick that anchors the building to the ground, three stories of cementitious siding. At the four-story and the one to two levels of siding at the other two, you will see that we are going to have stone at the entrance and a signature component and balconies for the residents.

Doug Whitman, Development Director for Liberty Healthcare, 2334 South 41st, Street, Wilmington, North Carolina, said Liberty is a company whose roots go back over 100 years as a healthcare provider in North Carolina. In fact I think we operate the oldest family pharmacy in the State, out of Whiteville, North Carolina. In the 80’s and 90’s the two brothers that currently own the company, part of the same McNeill Family, Ron and Sandy McNeill branched from pharmacy into medical equipment, home health, hospice, nursing homes, assisted living and senior living communities. Several years ago we entered Mecklenburg County with several of these businesses and about 8 years ago we acquired a nursing home from Presbyterian Hospital, which is a large institutional size building and we currently have a state issued certificate of need build two smaller, more intimate nursing homes, one of which we would like to place on this property in South Charlotte. We intend and hope to be a good neighbor.

James Wu, 15016 Capricorn Lane, said I am representing 37 homeowners in Allison Park who are against Petition No. 2011-041 for the development of the Senior Living Community complex with a limit of 168 independent living units. Another one is a maximum of 120 bed Skilled Nursing Facility. As a homeowner near the site we strongly oppose this site plan. The site is in a residential area and the proposed buildings will be too tall in comparison to this residential area and it will not be harmonious with the surrounding area. We ask Liberty Healthcare to change the plan to limit the maximum height of the proposed building to be no more than two stories. We are also concerned about the volume of traffic on Old Ardrey Kell Road and ask that you limit it to the entry of Old Ardrey Kell Road to avoid excess traffic. I also presented the protest petition and the majority of the homeowners signed this petition.

George Chen, said basically this is a residential area and most of the surrounding area is all residential and suddenly we have this commercial building with 24 hours intensive care facility means a lot of people could come and take care of families at mid-night or anytime. Sirens can run anytime, right. We are okay with commercial, but not too much commercial. It is going to bother, not only us in our community, but other communities surrounding this area. The buildings are really too high. In our community we have almost 30 acres of land with 147 homes and this is 17 acres with 288 units. It is six times more density than our normal community. It is too much.

Anthony Demico, said I am a resident of Allison Park and I would like to start by acknowledging the outreach for the folks that represent Liberty Healthcare. I would also like to highlight the fact that over 25% of the residents of Allison Park have signed in support of Mr. Wu’s letter in opposition to this proposed use. The question at hand is not about landscaping and

buffer and lighting, while there are concerns, and I truly believe are being represented and discussed in good faith, it is really about maximum height of 52 to 54 feet in a single family residential area. Four stories, 52 to 54 feet maximum height is what the developer has represented to us and the associated density. The request here tonight, at the risk of sounding redundant, is really to defer further consideration of this petition until all outstanding issues have been resolved. I would like to point out that some of the issues were highlighted a moment ago, there are others that were talked about this past Saturday that were not highlighted. One of which was a request to reconsider a maximum height of three stories which would bring it down to a maximum of 40 feet elevation and much more palatable to the 25 to 26 residents that were in attendance on Saturday. While that may or may not be feasible, the request was to consider that as well as other open issues like lighting, buffer, the type of landscaping and things of that nature.

In rebuttal Mr. Carmichael said when we are talking about, at least in my opinion, one aspect of density is the impact on the infrastructure. That is one thing to consider. Here we have less of an impact on traffic, according to CDOT, and the petitioner is going to improve a dangerous intersection to make it a "T" intersection such that Providence Road West will be a through movement and as you are heading north on Old Ardrey Kell Road, you come to a stop sign. I think everybody would nod that that is a real safety improvement. Another thing in terms of infrastructure, this has absolutely no impact on schools and Ardrey Kell High School is a school that has grown by leaps and bounds each year. I don't live up there but that is what I hear from Mr. Rasner in terms of student population. The impact on infrastructure I would say is reduced compared to the currently approved 116 townhome units. It is an institutional use I would say more than a commercial use. The 168 units are residential units to be occupied by senior folks. There is common dining and there is a rehab center and a wellness center, but I would say that is primarily a residential use. The Skilled Nursing Facility is more of a hospital like setting, but that is a much smaller component in terms of the size of the building of this proposal.

Mr. Rasner said I will argue with you about the hospital like environment and skilled care. If you have been in a contemporary skilled care environment it is like a home and we are going to have a home like environment and we are going to have neighborhoods, we going to have little dining rooms as opposed to a mess hall so I want to clarify that. It is definitely residential. You go into a continuing care retirement community and it is no different from the finest apartment complexes in town and the amenities rival anything. It is a place where as we age in place, we are going to the adult down the road and then we are going to go to the continuing care. To me it is a way to stay in the neighborhood and I think it will be a great neighbor.

Council Member Cooksey said because it was brought up in the opposition, would someone on the Petitioner's side address the two-story and three-story requests that has been made instead of the four-story height that you have been asking for.

Mr. Rasner said obviously, the owner has to have a certain number of units to make the project work. We had an original skein that was a more monolithic two and three-story. We truly, in working with Planning Staff and in with quite a few neighbors, they found that superior. As you look at this section there is your three-story approved townhomes, 40-foot townhomes and we just used Mr. Wu's property, which is where the section is cut and you can see that it was 104 feet from the house to the building, whereas on the top section, where is says proposed plan, where we have the step down, two, three and four-story, the four-story portion is 264 feet and with the plantings and berms that are intended, we think the view will be superior. It boiled down to the fact that we could go more three-story, but we really thought the architecture, the look and the appearance to the neighborhood would be better.

Council Member Kinsey said just a little bit out of curiosity is this facility that you have purchased from Presbyterian Hospital at the corner of Hawthorne Lane and Park Drive?

Mr. Whitman said no, it is on Shamrock Drive.

Ms. Kinsey said that is Aldersgate.

Mr. Whitman said it is right in front of Aldersgate.

Ms. Kinsey said so you do not own the one on Hawthorne Lane?

Mr. Whitman said no.

Ms. Kinsey said did you own it at one time, to which Mr. Whitman said no.

Council Member Cannon said I haven't had an opportunity to sit down with you and have discussion with you, but I would like to do so, being that I'm pretty close in the area and do have some other outstanding questions. If you would be in contact with me I would appreciate it.

Mr. Whitman said I would be happy to do that.

[Motion was made by Council Member Cannon, seconded by Council Member Cooksey and]
[carried unanimously, to close the public hearing.]

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ITEM NO. 19: HEARING ON PETITION NO. 2011-042 BY WP EAST DEVELOPMENT ENTERPRISES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 10.63 ACRES LOCATED ON THE EAST SIDE OF PERIMETER PARKWAY BETWEEN WEST W. T. HARRIS BOULEVARD AND PERIMETER WOODS DRIVE AND BOUNDED BY INTERSTATE 77 ON THE EAST FROM CC TO UR-2(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Department, said the proposed request is to rezone from CC to UR-2(CD) for the property shown. She pointed out NorthLake Mall, W. T. Harris Boulevard and Reames Road and I-77, and The Perimeter Woods Shopping Center. In terms of this property it was originally zoned CC and is part of the NorthLake Area Plan and is actually within what is called the center area of that plan and in that plan study area the plan recommended a mixture of uses, in particular they mentioned the inclusion of multifamily, which is within a pedestrian environment. There is existing multifamily residential in the area across the street, there is some industrial to the south, as well as commercial and big box. The proposal is for a maximum of 275 multifamily units. We do have building elevations that are provided and they include carriages houses and some garages. It is consistent with the NorthLake Area Plan and we are recommending approval upon the resolution of the outstanding issues.

Carter Siegel, Wood Partner, said we are an apartment development company with a national footprint. Our East Coast Division has been based here in Charlotte since the mid 80s. The proposal we have before you is a change from the existing zoning which would allow up to 250,000 square feet of office that could be developed between two separate towers and an adjoining structure parking deck. What we are proposing is to change that zoning to multifamily to build up to 270 Class A apartments. The apartments will be well landscaped and will have a mix of amenities consistent with the Class A property to landscaped courtyard, a saltwater pool, a private club house which will be about 6,000 square feet. The architecture of the buildings we feel is consistent with the adjacent office tower and we developed the project across the street which has been very successful and well received. We are excited about this opportunity and will welcome any questions.

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

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ITEM NO. 20: HEARING ON PETITION NO. 2011-043 BY LOUIS RATCLIFFE, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.23 ACRES LOCATE ON THE WEST SIDE OF THE INTERSECTION OF WEST SUGAR CREEK ROAD, NORTH GRAHAM STREET, AND MINERAL SPRINGS ROAD FROM B-2 TO MUDD-0.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Department, said this petition proposes to rezone 3.23 acres located at intersection of the West Sugar Creek Road and Mineral Springs Road from B-2 to MUDD-O. In looking at the zoning for the area there is a commercial corridor, there is an area of R-17MF multifamily residential and industrial surrounded by single family residential. In terms of land use for this area, we have some commercial along the North Graham Street and West Sugar Creek corridor and again with the single family residential out along the boundaries. The future land use map is pretty consistent with what is out there now in terms of the commercial and residential and even the industrial. The request is to take an existing shopping center and rezone it from its existing B-2 to MUDD-O. This is consistent with the Northeast District Plan in terms of the recommended land use, however the request for the MUDD-O district is not consistent with the pedestrian oriented intend of the MUDD district. To give you a little bit of background on this property, in January of this year the Zoning Board of Adjustment denied two variances for this property to reduce the 400-foot separation for a night club, bar or lounge to residential use or district. The request would allow the facility to have a community theatre and lounge in the MUDD district while not having to meet the 400-foot requirement. It reduced to 100-feet in the MUDD district. Staff does not have an issue with the proposed use, we do have an issue with the fact that the petitioner is requesting optional from pretty much all of the MUDD district requirements. For example, they want to allow the existing building and façade improvements to remain under the current conditions. If they have any future improvements to the façade they don't want to be required to construct recessed entrances. They want to be allowed to keep the existing parking, waiting and circulation and existing elements to remain. They want to allow parking between the building and the street and the list goes on a little longer. Staff does not support the petition in its current form, the proposed land uses are consistent, but we feel that the design of the existing shopping center as well as the requested optional provisions to the development, and the design standards contained in the MUDD district are not consistent with the urban pedestrian oriented intend of the MUDD-O district.

Suzanne Todd, 1065 East Morehead Street, said I'm with the law firm of Johnson, Allison and Hoard and we represent David Ratcliffe, the property owner. I would like to introduce several people who are in the room tonight, community leaders, including Ms. Teresa Elder, former Council Member Malachi Greene, Jack Brosch, who will speak to you later, Doris Chiasm, and Hattie Anthony, all community leaders in favor of this rezoning. Senator Charlie Dannelly was at our community meeting, but was unable to attend tonight. Essentially, we understand that this is not a MUDD improvement under the current MUDD standards. We do recognize that. It is a shopping center that currently has a sporting goods equipment store in it, it has a tax office and a barber shop. There is a vacant space and this vacant tenant space is something that has been vacant for a year. The property owner, David Ratcliffe has had numerous offers from establishments such as Check Cashing, gambling, things that he does not believe are beneficial to the community. He has met Mr. Curtis Chiasm who is an established play write and author and Mr. Chiasm would like to use this space for a community theatre in order to introduce a variety of cultural events to the Derita neighborhood community as a whole and he would like to use this as a private club for fund raising and also fellowship. The property is currently zoned to permit a theatre. The property is currently zoned to permit a restaurant that would offer alcohol. What you can't do is have a theatre that serves alcohol. Even though the closest resident is over 400 feet from this property, the separation requirements for B-2 from any entertainment establishment that also sells alcohol is 400 feet, measured from the residential district, which is typically from the center line of a road. We did not comply with that and that is why we requested a variance and that was denied. City staff suggested we pursue a MUDD zoning as the MUDD zoning buffer requirements are 100 feet as measured from the residential use. We could comply with that.

Council Member Cannon said Mr. Brosch if you had 60 seconds to speak, what would you say to us?

Jack Brosch, said we met, we like, we support.

Mr. Cannon said since Mr. Brosch took only 3 seconds, Ms. Frazier, if you had 57 seconds, what would you say?

Doris Frazier, 812 Woodruff Place, said I would say that this is a great opportunity for our children, our youth that the Charlotte community values the arts and anytime we have an

opportunity, we cannot let that go when it comes to young people having an opportunity to fly on the arts, and also having it be a life-long lesson as well as the arts because I have experienced that in my line of work. The theatre creates a life-long lesson for children.

Council Member Howard said I just want to get some clarity on a point that the agent stated. She said staff suggested they do MUDD. Was there nothing else that would accommodate what they were trying to do?

Ms. Keplinger said no sir, there is not another district that has the distance requirements of 100 feet, which they can meet, however we didn't anticipate all of the optional request being requested.

Mr. Howard said how far are you away from being able to support? That is what is confusing me, you told them to do it and now you are not supporting it. What are you not supporting?

Ms. Keplinger said if we could go back and work on some of the optional requirements we might be able to get there. I think at this point, there is nothing. They are not meeting any of the MUDD requirements and are asking for optional on all of them. Again, we don't have a problem with the youth, but in order to take advantage of that district we feel like they also need to meet some of the requirements for the district.

Mr. Howard said could you help me a little bit so that they are clear? What types of things are we talking about?

Ms. Keplinger said I think there are things to do with the façade, when the façade improvements will be made and how they will look. They asked for optional on the existing signage. Those are two that we could actually work with.

Mr. Howard said the only point I'm trying to make is I know about this case going back some months before they went the various route. I know there is some neighborhood support and I think you even have some support from staff. I think it is smart to get with staff and figure out they are trying to help and I hope before next month we can figure out these optional things so we can have a successful project. People are trying to help I think. I would ask that you get with staff and figure those things out before next month because I don't think it is a case of staff being against what you are trying to do.

Ms. Todd ???? said thank you Council Member Howard, and we are working Design Resource Group and we will meet and work on some of those optional requests.

Council Member Dulin said Ms. Keplinger, how does out tree ordinance and the façade ordinance kick in, as well as Post Construct Guidelines?

Ms. Keplinger said they do have a proposed addition and some of those things would kick in when the addition is built and some of them would not so it varies from ordinance to ordinance.

Mr. Dulin said are they going to have to designate tree save here at this site. Obviously, there is no tree save there.

Ms. Keplinger said the ordinance allows you to plant trees if you don't have any tree save area and we will work through all of that with them.

Mr. Dulin said I would like for the petitioner to go in with eyes wide open that those things need to be covered and covered fully.

[Motion was made by Council Member Peacock, seconded by Council Member Cannon, and]
[carried unanimously, to close the public hearing.]

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ITEM NO. 21: HEARING ON PETITION NO. 2011-044 BY THE BISSELL COMPANIES, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 520 ACRES GENERALLY BOUNDED BY I-485 TO THE NORTH, BALLANTYNE COMMONS PARKWAY TO THE SOUTH, AND RUSHMORE STREET AND NORTH COMMUNITY HOUSE ROAD TO THE WEST AND EAST, RESPECTIVELY, FROM R-3 AND BP(CD) TO BP(CD), O-3(CD) AND BP(CD) SPA, 5-YEAR VESTED RIGHTS.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Department, said this petition proposed to rezone 520 acres which are bounded by I-485, Ballantyne Commons Parkway, Rushmore and Community House Road. The petitioner is requesting R-3 and BP(CD) to BP(CD), O-3(CD) and BP(CD) SPA as well as the five-year vesting of right. The property is currently developed with multiple non-residential uses or vacant land. As you can see from the existing zoning map we have commercial development, MX-1 which is a lot of residential. We have residential to the east and surrounding, across I-485 is more commercial development. In terms of the existing land use it follows the zoning pattern and there is a large area of green which is the existing golf course for Ballantyne. In terms of the future land use map the South District Plan actually calls for office, business park land uses for the subject property. In terms of the proposed rezoning request the provisions will allow an increase in retail, office, hotel rooms and residential units. There are provisions within the conditional use permit to allow the transfer of elements from one corporate part to the other. There are provisions to allow the conversions of one use to another. Open spaces will be provided and they have designated 25% for Corporate Park West and 32% for Corporate Park East. They have phased transportation improvements, both on the threshold of development and Mike Davis of CDOT will talk about those. In terms of the recommendations for the proposed request, staff is recommending approval of the petition. We do have several outstanding site plan issues as you can imagine with 520 acres. We are working through those and we feel comfortable that we will be able to accomplish our goal of meeting all those issues. The proposed uses are consistent with the South District Plan, with exception of the residential component, but staff did ask the petitioner to include the residential component to make this more of a mixed use development.

Mike Davis, CDOT, said this is basically in recognition that this is a large scope rezoning with a lot of transportation commitment. I thought it might be appropriate to take a high level view and let folks know what is coming with this proposal in terms of transportation. From our perspective, of course with a project of this size we did request a traffic study. Kimley-Horn and Associates was retained by the petitioner and the scope was determined by CDOT and NCDOT. The scope of that study, for reference that blue line is the rezoning petition and the scope of the study went beyond that. It picked up 16 signalized intersections and it did include the assumption that I-485 would be widened and include a fly over to serve movements from north bound to west bound I-485. From perspective trip generation, this is a big generator. If you look at what is entitled under the existing zoning, you can expect another 15,000 trips per day. If built out to that existing zoning it basically doubles with the proposed uses. What this study is trying to do is understand what are conditions like today to then evaluate what happens under the existing zoning, the proposed zoning and then look about years in the future to evaluate that as well. Basically what that study tells us is you do need many improvements, and actually everything I'm about to show you end up being commitments on the conditional zoning plan, but it begins by recognizing that Community House Road would need to be widened, a bridge built over I-485 and then extended to existing Community House Road on the north and tied into Endhaven. On the west side there is a project that has been defined that would realign John J. Delaney with Brixham Hill Avenue. This is part of a safety project, but it was committed as part of this plan. Then there are several lane improvements that are proposed at the existing signalized intersections as well as commitment to fund three traffic signals once they are warranted in the needed locations.

Our thought about cars from the perspective of pedestrian and bicycle design, we do know this is a challenged area and from a staff perspective and from the perspective of the petitioner, I think we are all trying to make this a little more multi-modal, but we are realistic in recognizing that the interchange is pretty well constrained in terms of ever really being a viable choice for pedestrians or bicyclists so with the development of Community House Road and the link to the north, it gives us a good opportunity, which in part means we need to make sure we get the

bridge designed right so what we are really locking in here is making sure that in addition to providing connectivity for vehicle that we've got adequate space for pedestrians and bicyclists on the outside and with good dimensions. Lastly, as we are making some of these incremental improvements we want to try to do that in a way that can actually facilitate pedestrians and not make it that much more difficult. When can do these kinds of concepts that incorporate strategically placed medians that can enable pedestrian crossings to happen in multiple stages instead of just one stage, making that crossing really much more applicable for pedestrians. From the big picture perspective, we are very comfortable with the package of improvements that are proposed with the zoning. We are still talking to the petitioner about some of the detail, some of the notes and it is all just variations on questions of timing. We know long-term it is the right package of improvements based on the proposal, but we are still working through the manner in which they things could show up and in what order with respect to the improvements.

Jeff Brown, 100 North Tryon Street, said it is a pleasure to be assisting the Bissell Companies on this rezoning. With me is Ned Curran who is President and CEO of the Bissell Companies and also Ray Escher who is President of the Ballantyne Breakfast Club and we had a very positive meeting, very well attended and we thank Ray for his great work in getting that attendance. Ray is supportive of the rezoning petition and the overall plan. Ballantyne has been a remarkable success story. It has been a tremendous engine of economic growth and development in our community and this rezoning allows that to continue. The rezoning together with the transportation improvements, and we applaud CDOT and staff for working tirelessly with us on both planning aspects and the transportation. We thought Mr. Davis did a great job tonight in giving you a flavor of the substantial improvements that will be accompanying this rezoning. We will be talking about a public/private partnership aspect on a parallel path, but the zoning will have different elements of staging of various transportation improvements as part of the additional entitlement. Since the hour is late, we had some slides, but I think we will dispense with those and be available to answer questions and we thank you again for the opportunity to be here tonight.

Mayor Foxx said this is a real exciting project and we look forward to having some conversation at the vote.

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

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ITEM NO. 22: HEARING ON PETITION NO. 2011-045 BY CATHOLIC DIOCESE OF CHARLOTTE HOUSING CORPORATION FOR A CHANGE IN ZONING FOR APPROXIMATELY 20.6 ACRES LOCATED ON THE NORTH SIDE OF SOUTH TRYON STREET AND ACROSS FROM SAVANNAH CLUB DRIVE, FROM R-3 AND R-12(CD) TO INST(CD) 5-YEAR VESTED RIGHT.

[Motion was made by Council Member Cannon, seconded by Council Member Kinsey, and]
[carried unanimously, to recuse Council Member Turner from participating on this item due]
[to a conflict of interest.]

The scheduled public hearing was held on the subject petition.

A protest petition has been filed and is sufficient to invoke the 20% rule requiring ¾ of the Mayor and Council's affirmative vote in order to rezone this property.

Tammie Keplinger, Planning Department, said this rezoning is to rezone 20.6 acres located on the north side of South Tryon Street from R-3 and R-12(CD) to INST(CD) and five year vesting. The property is currently vacant and if you look at the zoning around the property, you can see the bright orange as the multifamily and the single family in the yellow. There is a little bit of commercial and office in the purple. In terms of land use there is quite a hodge podge, we have institutional uses as well as multifamily and some of the commercial that is called for by the zoning. The future land use map, and this is the adopted land use map which is from the Southwest District Plan, shows the adjacent property as single family residential. We have some industrial and mostly single family residential in the area that is white. In terms of the land use,

the Southwest District Plan recommends single family residential for this site and it recommends three dwelling units per acre. As you are aware we have been working on the Steele Creek Area Plan and that draft Area Plan recommends up to eight dwelling units per acre for this site. The petition that is currently before you proposes 200 multifamily elderly dwelling units with an option to allow 40 additional units, adult day care center and the 40 additional units would go in if the adult date care center does not. There is a maximum of 13 multifamily disabled units. There is a 25,000 square foot adult care center and a 100 seat chapel. The building materials will consist of stone, precast concrete, brick, fiber cement siding, stucco and wood and they have also provided some building elevations. Staff is recommending approval of this petition, upon a resolution of the outstanding issues. As we have talked about before, the institutional districts are really not noted in our District Plan so we look at them on a case by case basis. There are a few outstanding issues associated with this plan and we feel we will get those worked out before the Zoning Committee next week.

Keith McVean, 100 North Tryon Street, said Jeff Brown of our firm and I are assisting the Catholic Diocese of Charlotte with this rezoning petition. With me tonight is Jerry Widelski with the Catholic Diocese as well as Lori Gougeon with InReach and Dez MacSorely with Design Resource Group. I want to thank Ms. Keplinger and the City's Department of Transportation for helping us with this petition. I agree with Ms. Keplinger, we can resolve the remaining outstanding issue which are very few and minor. We have a meeting set up tomorrow to go over that. At this point I would like to turn it over to Mr. Widelski and Ms. Gougeon to talk a little bit about their organizations and their missions and their vision for this site.

Jerry Widelski, Director of Catholic Diocese of Charlotte Housing Corp, 1123 North Church Street, said I'm a one-man operation and we are a little department of the Catholic Diocese of Charlotte which probably know covers 46 counties. About ten years ago we developed an idea and a mission of trying to get into the affordable senior and special needs housing development and after much research and we are very diligent in our research, we looked at tools that are available for such and our first project that came into fruition was our project in Mooresville, which is 40 units of senior housing. I think you have pamphlets of our corporation and pamphlets of our Mooresville project and I just wanted to mention that in this campus that we are seeking rezoning, the Catholic Diocese plans to be in total control of the campus forever. It is not going to be a development and then get out of the business. We will have lease control if we do go to an adult care center arrangement. The security issues that have been raised have been addressed in our handouts. We have talked a potential peace officer being solicited to live in the apartments when the senior apartments are developed. We plan on being accommodative and assistive landlords for all the folks living there, whether disabled or seniors. The campus is open to all and the chapel will be non-denominational. We do have an application in process right now for the 13 units of disabled housing.

Council Member Cannon said relative to the meeting that was held with the community, I would like to know the outcome of the meeting that was held. What was the perspective that you all gained, whether you had people for and/or against and what were the reasons they were for and what were the reasons they were against?

Mr. McVean said we did have a community meeting and we did meet with other folks in the area, the Steele Creek Land Use Committee, the Boards of several organizations and at our community meeting we had a good turn out from the residents directly behind us in the Crossings neighborhood in the single family homes. Their concerns were the number of units, building heights, amount of open space, security as Jerry talked about. We modified the plan as a result of that community meeting and reduced the number of units from 273 to a maximum of 240 or 200 if the adult care center is built. We increased the building separation for three-story buildings up to 400 feet from the property line, so any three-story building now has to be 400 feet from that rear property line where the single family homes are. That is more than a football field away. We increased the width of the buffer from a 50-foot buffer to a 75-foot undisturbed buffer and agreed to plant that buffer with the first phase of development, which we anticipate being the 13 disabled units at the front of the property. It is a very small amount of development triggers the buffer planting at the rear. We wanted to make sure there was an appropriate transition between this development and the existing single family homes. There is also a 200-foot building separation for two-story buildings and a 100-foot no build zone. We also increased the amount of tree save area from 15% to 20%, so we've made a lot of changes to help

address the concerns of the neighbors, as well agreeing to transportation improvements along South Tryon Street, a right decel lane and a left-turn lane which directly benefits the development but also the Garden Oaks Townhomes next door.

Mr. Cannon said relative to the height?

Mr. McVean said we lowered the buildings closest to the site. He pointed out the buildings that are limited to two-story and any building that is 400 feet or further away has been limited to three-stories. The buildings closest to the single family homes will be a maximum of two-story and have to be 200-feet away. There is one small portion of the building that is a one-story element, a drop-off area. There is an accessory chapel proposed and it is one story and there is two possible locations for that.

Mr. Cannon said I would imagine the security would be for the 13 disabled dwelling units.

Mr. McVean said the 13 disabled units will have a live-in manager, etc. and the elderly units, will have a unit offered to a police officer so there will be a police officer on site living there. They will have secured entrances as well as other features to make sure that the residents of the community are safe.

Mr. Cannon said relative to the overall feedback in terms of positive or negative.

Mr. McVean said since the community meeting we sent to the neighbors the revised plan and a letter outlining all the change we had made to the plan to try to address their concerns. Unfortunately we have not heard back from them as to whether that satisfied them or not. We have reached out with calls and e-mails, but we still have not had any communication back to us regarding whether they liked what we did or didn't like what we did. We have not been able to continue the dialogue.

Mr. Cannon said if you would keep us apprised of that feedback when you do receive it. I would like to have it.

Mr. McVean said in terms of building elevations and locations, there are no other communities like this in this area.

Council Member Barnes said I understand this is a protested petition. Is there anyone signed up to speak against?

Mayor Foxx said no.

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

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ITEM NO. 23: HEARING ON PETITION NO. 2011-046 BY HARRIS TEETER FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.2 ACRES LOCATED ON THE SOUTH SIDE OF CENTRAL AVENUE AND BOUNDED BY THE PLAZA, MCCLINTOCK ROAD, AND NANDINA STREET FROM B-2(PED) TO B-2(PED-O)

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Department, said this petition is to rezone 3.2 acres located on the south side of Central Avenue, bounded by The Plaza, McClintock and Nandina Street. In terms of zoning, along Central Avenue we have a lot of commercial zoning with some office and institutional and some single family residential. In terms of land use we have a good mixture of land use with the commercial components along Central Avenue and the future land use reflects a lot of the existing land uses in the area, commercial along Central Avenue, residential back in off of Commonwealth Avenue and south of Independence Boulevard. The proposed request is for what most of us know as the Harris Teeter site on Central Avenue. They are requesting to go from B-2(PED) to B-2(PED-O) for the development of the new grocery store. The Plaza
mpl

Central Plan recommends the mixture of retail and office uses for the site and multifamily also. The site plan they have presented is consistent with the Plaza Central PEDScape Plan. They are proposing a maximum of 51,000 square feet of building area, the maximum building height is 60 feet. They have some elevations that they have shown and have committed to the building materials, green roof, four-sided architecture and the optional provisions that they are asking for related to the streetscape and screening requirements and architectural features and signage for the building. Staff does have some outstanding issues with this petition, but we feel comfortable we will get those addressed by the time this gets to the Zoning Committee next week.

Keith McVean, 100 North Tryon Street, said we have had a very good process in going through this rezoning process. The reason we are here is because it is B-2 and zoned PED and because it is a four-sided site, four roads, PED does not allow parking between the building and the street so we need a PED-O for that. Before we filed we started a process with meetings with the neighborhood association near the facility, starting out with the Plaza/Midwood Neighborhood Association. Nicole Storey is here from the Plaza/Midwood and is available to answer questions. We met with the Central Avenue and Plaza/Midwood Merchants Association. Commonwealth/Morningside Neighborhood Association as well as their Board, attended Midwood Mania at the request of the Plaza/Midwood folks, which was a great idea. It got us a chance to get out in front of all the folks in Plaza/Midwood, show them the proposed plans for the Harris Teeter. As Ms. Keplinger mentioned 51,000 square feet, has a green roof, a second story element with outdoor dining which gives the opportunity for folks to see the uptown skylines. That is the second-story element at the corner of Central and The Plaza. Two entrances, one at the intersection and one more typical entrance located off the parking lot side near the back of the site. It is a well received plan by the folks that came to our meetings and to the Midwood Mania. We also attended the block party for the Country Club Heights Neighborhood and again a good reception. A lot of people wanting this store to be redeveloped like their current store, but really would like to see an updated store, which is really what Harris Teeter wants to do here to update this store to better serve the customers in the neighborhood.

Council Member Kinsey said I noticed on the material that we have, the proposed request is up to two principle buildings. Would you explain that to me?

Mr. McVean said the way zoning plans are these days, because you are held to the number of buildings shown on the plan, we didn't want to always lock in the site to only having one building if 50 years from now they wanted to have another building on the site. If we don't put that note on there we are back in front of you because we need to add another small building, so that is a safety measure.

Ms. Kinsey said what other building would you put on that property? It is all we can do to have the building and the parking.

Mr. McVean said that is just it, you don't, but you never know.

Council Member Peacock said before we get to the decision on this I wonder if you could send it to me. I notice in the architects notes it says that four of the required bike racks will be of unique design created by local artist in addition to Mosaic celebrating the history of Harris Teeter on Central Avenue and the history of the adjoining neighborhoods. It would be interesting to see what that looks like. It sounds like some innovative ideas coming through the community process on this.

Mr. McVean said I don't think the artist has been chosen yet, but as soon as we have those designs we will be glad to send them to you.

Council Member Howard said I would be interested in the screening of the loading dock, the truck traffic in and out, if it will go through the neighborhood or if will circle back around. I think that sign is probably approaching in the right-of-way that sticks out on the corner.

Mr. McVean said a little bit into the setback, but not into the right-of-way.

Mr. Howard said the setback is what I'm talking about. Then the relationship to that corner of Central and Plaza, is that an entrance?

Mr. McVean said it is. There are two entrances to the store and that entrance at the corner, which is this corner here is a two-story entrance with an entrance at the lower level and then an outdoor seating area above it. There will also be seating and dining area below so that is the secondary entrance, open during normal business hours. They do reserve the right to close it late at night and only use the one entrance that is fairly common with grocery stores.

Mr. Howard said is the green roof going to be usable or is it just for?

Mr. McVean said it is visual. This green roof is not meant to be walked on, but it will be visible to the folks that go to the second floor café and look out on it.

Ms. Kinsey said this is my grocery store and the area in which I grew up. I really want to compliment the architect in incorporating many of the designs. The front of it, that is literally taken from the old Plaza Theater and when I first saw it I was just taken back in time to when I was growing up, so I really want to compliment the architect and Harris Teeter. This is a gold mine for them. You go any time and it is crowded, even on Thursday morning to get senior citizen discount.

Mr. McVean said they are looking forward to having this store open. The marquee sign suggestion came to us from one of our neighborhood meetings.

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

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Mayor Foxx said as a matter of personal privilege, I do want to wish my daughter a Happy 7th Birthday tonight.

Council Member Dulin said there is an article in the paper, and I saw it on line this afternoon, that we had a rather rocky start to our cab situation at the Airport this morning. I'm very concerned that we get that thing fixed quick so I just wanted to say publicly to the Council that we all need to be watching that because I don't know what the vote was, but from my chair I voted to limit that competition out there and to raise the customer service up to where it has never been before. We missed the mark today, our first day so I'm going to be tracking that as we move forward and I just wanted to let the Council know.

Mayor Foxx said it was an 8 to 2 vote.

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ADJOURNMENT

The meeting was adjourned at 9:25 p.m.

Ashleigh Martin, Deputy City Clerk

Length of Meeting: 4 Hours, 25 Minutes
Minutes Completed: September 23, 2011