

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, March 19, 2012 at 5:18 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Anthony Foxx presiding. Councilmember present were John Autry, Michael Barnes, Patrick Cannon, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell and Beth Pickering.

**ABSENT UNTIL NOTED:** Councilmember Warren Cooksey

Tammie Keplinger, Planning, reviewed the public hearings, decisions and deferrals on the agenda and responded to questions. Planning Director, Debra Campbell, reviewed the area plan status and text amendment update.

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Howard, to place ]  
[ petition number 2012-042 on the May zoning agenda. The vote was recorded as unanimous. ]

**Councilmember Cooksey arrived at 5:49 p.m.**

[ Motion was made by Councilmember Dulin, seconded by Councilmember Barnes, to approve ]  
[ the City Manager's recommended changes to the City Council meeting schedule. The vote ]  
[ was recorded as unanimous. ]

The meeting was recessed at 6:00 p.m. to move to the Council Chamber for the regularly scheduled Zoning Meeting.

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## **ZONING MEETING**

The Council reconvened at 6:05 p.m. in the Council Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Anthony Foxx presiding and all Councilmembers were present.

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## **INVOCATION AND PLEDGE**

Mayor Foxx recognized Sue Myrick, our Congressional Representative from District 9 who has a group of young people that form a Council who are with us tonight. He asked them to come down and lead the Council in the Pledge of Allegiance to the Flag.

Councilmember James Mitchell gave the Invocation.

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Mayor Foxx explained the zoning process and asked Steve Rosenberg, Chair of the Planning Commission and Zoning Committee to introduce members of the Zoning Committee.

Mayor Foxx said a one-month deferral has been requested for Item No. 3, Petition No. 2011-065. Item No. 4 Petition No. 2011-068 has also requested a one-month deferral. Councilmember Kinsey has also requested a one-month deferral for Item No. 11, Petition No. 2012-007.

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, to defer ]  
[ the above three items for one month. The vote was recorded as unanimous. ]

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## **HISTORIC LANDMARKS**

**ITEM NO. 1: RESOLUTION CALLING FOR PUBLIC HEARING TO BE HELD APRIL 16, 2012 BY THE CITY COUNCIL ON THE QUESTION OF AMENDING THE**

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**ORDINANCE FOR THE HISTORIC LANDMARK KNOWN AS THE DR. GEORGE E. DAVIS HOUSE, ORIGINALLY ADOPTED BY THE CHARLOTTE CITY COUNCIL ON JANUARY 21, 1985. THE ORDINANCE WOULD BE AMENDED TO INCLUDE .365 ACRES OF LAND IN THE TAX PARCEL 06901220. THE DR. GEORGE E. DAVIS HOUSE IS LOCATED AT 301 CAMPUS STREET, CHARLOTTE, NORTH CAROLINA AND IS OWNED BY JOHNSON C. SMITH.**

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Kinsey, and ]  
[ carried unanimously, to adopt the subject resolution. ]

The resolution is recorded in full in Resolution Book 43, at Page 652.

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**ITEM NO. 2: RESOLUTION CALLING FOR A PUBLIC HEARING TO BE HELD ON APRIL 16, 2012 BY THE CITY COUNCIL ON THE QUESTION OF AMENDING THE ORDINANCE FOR THE HISTORIC LANDMARK KNOWN AS FIRE STATION NO. 2, ORIGINALLY ADOPTED BY THE CHARLOTTE CITY COUNCIL ON JANUARY 19, 1976. THE ORDINANCE WOULD BE AMENDED TO INCLUDE ALL OF THE .17 ACRES OF LAND LISTED UNDER TAX PARCEL 12303612 AS OF MARCH 1, 2012. FIRE STATION NO. 2 IS LOCATED AT 301 CAMPUS STREET, CHARLOTTE, NORTH CAROLINA AND IS OWNED BY CRAM HOLDINGS GROUP LLC.**

[ Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, to adopt ]  
[ the subject resolution. ]

Councilmember Kinsey said the information we've gotten about the tax deferment, I'm not quite sure, but I would like to know what the new total to the City is if this request is approved.

**Mr. Gray, Tax Office** said I think the total tax for 2011 reflects what it would be if you do not amend the ordinance.

Ms. Kinsey said right, but what is deferred?

Mr. Gray said the Tax Office has calculated a deferred tax on this property. I may not be able to answer your question. The Tax Office calculated the tax for 2011 which is roughly 20% versus 50% which is what would happen if the ordinance were amended.

Ms. Kinsey said could we get this clarified before the hearing?

Mr. Gray said yes ma'am.

The vote was taken on the motion to adopt the subject resolution and was recorded as unanimous.

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## DECISIONS

**ITEM NO. 5: ORDINANCE NO. 4838-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 6.0 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF UNIVERSITY CITY BOULEVARD AND EAST MALLARD CREEK CHURCH ROAD FROM NS TO MUDD(CD).**

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

[ Motion was made by Councilmember Dulin, seconded by Councilmember Howard, to approve ]  
[ the Statement of Consistency and Petition No. 2011-072 by University Investment Group LLC ]

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[ for the above zoning as modified and as recommended by the Planning Staff. ]

**Tammie Keplinger, Planning** said there have been some changes between the Dinner Briefing and the televised Council Meeting. The Petitioner has agreed to limit the number of beds to 750. They have agreed to limit the parking to 25 parking spaces less than the maximum number of beds. They have agreed to four-sided architecture because the Zoning Ordinance says that this change was made after the Zoning Committee made their vote and their recommendation, this will need a special vote, not to go back to the Zoning Committee.

[ Motion was made by Councilmember Barnes, seconded by Councilmember Dulin, and ]  
[ carried unanimously, for this petition not to go back to the Zoning Committee ]

Councilmember Barnes said I wanted to briefly talk about what we discussed at dinner, which is the issue of parking requirements for developments like this. One of the concerns that I expressed is that when you have these fairly dense student housing developments with a lot of parking it tends to create additional traffic pressures on the infrastructure in the area. The Petitioner and I had a fairly spirited exchange a couple of hours ago about that issue and I can appreciate that not everybody who lives there will drive all at the same time, but because these projects appear to be on the immediate horizon for the area around UNC-Charlotte, I believe that we should explore the issue, as a Council, and I would like to make a referral to the Transportation and Planning Committee to analyze and I may not be as artful as Ms. Campbell or Ms. Keplinger would be with the terminology, but to analyze the amount of parking that is allowed, required advisable around these higher density student developments that are around University Campuses and part of the issue from my perspective is that we are investing in transit and we are investing in the light rail system, we are investing in the bus system and we are trying to provide opportunities for people to use something other than drive their car. That is bicycle facilities, pedestrian facilities and again transit and I'm hopeful that at some point as we introduce these urban type uses into suburban areas that we have a healthier balance in terms of the number of cars allowed and the nature of the parking that is provided for construction of this type.

Councilmember Cannon said I need a point of clarification. If my memory serves me correctly, at the last zoning meeting we actually brought this issue up because we were dealing with the per bed, per car scenario. If I'm not mistaken this is already in a cue in terms of staff's attention toward the idea to begin working on something. Is that correct or incorrect?

Ms. Keplinger said since I was not at the last Council meeting I'll ask Ms. Campbell to address that.

Mr. Cannon said you may not be working on it right now per se, and nor did we give you a direct charge other than to say we need some policy on this particular matter. What I'm trying to figure out is if we should take Mr. Barnes' request and tie that into what you all will be looking at. If there is no real direction that you have and that we need to give, then obviously his request will be in order.

**Planning Director, Debra Campbell** said I believe that Mr. Barnes' concern about the number of petitions that are being proposed in District 4 and around the University, considering our work load and we give you all information about how many things we are juggling on a monthly basis. If we get a request from Council to work on something that is where our resources are going to go and I believe Mr. Barnes is saying this is something that you feel is important and we need staff resources directed to addressing it sooner than later.

Mr. Barnes said I would respectfully say so because one of the concerns I have is it is much like the garden apartment development that Mr. Autry, Ms. Kinsey and I have had some issues with 20 years ago when people were developing a lot of that stuff. They thought it would be a good idea to provide that type of housing for the University Research Park or people near Eastland Mall and now we are seeing some of the negative effects and what I'm worried about is that if we don't pay some attention to this issue, and there is a petition coming up and I believe it is Item No. 11, that concerns this issue as well. I'm concerned that in another 10, 15, 20 years we will look back and say you've got another set of problems that were developed in 2012 and I  
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want to make sure that if there are things that we should be recommending and requiring that will help us avoid some of the problems that could or could not be there, I think they are there, I think we should pay attention to it now rather than later. Now, my suggestion that your department begin work on this tomorrow and wrap it up by next Friday, no, but you've been very good at how you schedule work and I can appreciate and respect the way you have been able to handle our requests.

Ms. Campbell said Mr. Cannon was I able to respond directly to your question in terms of was staff working on something. We were not specifically working on something, but we certainly realize that parking in general is an issue in our community, particularly as Mr. Barnes has discussed, when it is associated with some of our urban districts, we seem to have too much.

Mr. Cannon said I think the point is, and I respectfully can appreciate where he is coming from, but from where I sit I'm looking at it in a macro sense. Obviously, he is looking at it in a micro sense because he is streamlining it to his District, but where there might be other universities in this community that could be subjected to the same thing, you've got Johnson C. Smith, Queens, and I could go on and on and so I'd be looking at it more broadly for us to be able to say to you, yes this is something we'd like for you to pursue, but do it across the board rather than just streamlining it to one particular area throughout the City or within the City.

Ms. Campbell said we can certainly do that.

Mayor Foxx said Mr. Barnes is asking for Council direction on that point.

Councilmember Howard said I think I just heard two different things. Ms. Campbell just talked about an effort of looking at the number of multifamily units in your District which I think is ongoing conversation. Is that separate and apart from looking at the parking ratio for apartments around the University?

Mr. Barnes said yes sir. There are these student only projects that are being proposed now and that carries a whole host of issues with respect to the neighboring communities. You will hear from College Downs maybe within the next few hours. There are some issues that are fairly unique to student oriented development and I wanted to have an analysis of those issues.

Mr. Howard said I'm just trying to understand what is coming to the Committee, so we are talking about parking ratios for housing in and around university areas and I will say that is two tier, there is the one at UNC-Charlotte because of the Blue Line, which may be different and at Queens which wouldn't have mass transit coming to it directly.

Mr. Barnes said I think that is fine. I will tell you one of the things that we've learned, especially in the budget committee last year, you frequently get into these things and discover that there are many other issues you hadn't anticipated that are worth exploring and with Council's permission and indulgence, I think the committee should be free to work with staff, not without restraint, but fairly broadly on the issue because to Mr. Cannon's point, what may be good around UNC-Charlotte may not necessarily work so well around Queens or Johnson C. Smith, but it could. If I may turn slightly again here, the Manager and I had a conversation about a potential overlay review for the area and I haven't talked to him since that time, but because of the unique issues that Mr. Cannon raised I'm wondering if we might fold all of this into that overlay. It is a bit of a different animal. What do you think?

**City Manager, Curt Walton** said Debra and I have had conversation about that. I don't know if you would fold the two together and you could, but I guess we wouldn't need to understand more fully what the objective of the overlay would be so why don't we try that separately. There may be other paths to getting there than an overlay.

Mr. Barnes said I would stick with the original request Mr. Mayor.

Ms. Campbell said I think we are looking at a narrow scope of parking related to universities, institutional uses. Mr. Barnes is that close? I'm just trying to clarify the assignment to staff and to the committee.

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Mr. Barnes said I think it would be.

Mayor Foxx said I would support looking at this issue, but I'm increasingly hearing conversations about dividing between urban style growth and suburban style growth. In this community you can go back into some parts of the Route 4 area that were suburban at one point in time and they are now urban. I think when we plan we need to plan for not only the growth that is there, but the growth that is coming so that the footprints of the developments are appropriate and that the layout of the development is also appropriate. I'm not uncomfortable if you take a broader look even beyond universities, whether we are going about this in the right way.

[ Motion was made by Councilmember Barnes, seconded by Councilmember Cannon and ]  
[ carried unanimously, to send this matter to the Transportation and Planning Committee. ]

The vote was taken on the motion to adopt the subject ordinance and was recorded as unanimous.

**The modifications were:**

1. The building has been modified to show breaks with various architectural materials and open space.
2. The height has been identified as having a maximum of five stories and a total of 90 feet.
3. The overall height is now specified on the site plan.
4. The site plan has been revised to show building elevations with the residential units now wrapping around the structured parking deck.
5. The elevations are now labeled.
6. The storm water note has been addressed.
7. The areas of possible storm water detention and the note relating to storm water have been removed from the site plan as this is a minimum ordinance requirement.
8. The 55-foot building setback is now labeled on the site plan. A note that building setback may be reduced upon written agreement of MUMPO, NCDOT and CDOT has been added to the site plan.
9. The petitioner has agreed to the dedication and reservation of right-of-way along University City Boulevard and East Mallard Creek Church Road.

The ordinance is recorded in full in Ordinance Book 57, at Page 524-525.

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**ITEM NO. 6: ORDINANCE NO. 4839-Z FOR A B-1(CD) (LLWPA) SITE PLAN AMENDMENT FOR APPROXIMATELY 1.21 ACRES LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION AT TUCKASEEGEE ROAD AND LITTLE ROCK ROAD.**

[ Motion was made by Councilmember Mayfield, seconded by Councilmember Cannon, and ]  
[ carried unanimously, to approve the Statement of Consistency and Petition No. 2011-079 by ]  
[ Sami Nafisi, as modified and as recommended by the Planning Staff. ]

**The Modifications were:**

1. Rezoning petition 2011-079 is now labeled on the site plan.
2. The correct conditional notes in standard form are now provided on the site plan.
3. The site plan now notes a 20-foot maximum height of detached freestanding lighting and states that no wall pak lighting will be allowed.
4. The proposed building material will consist of cement board panels, and is now noted on the site plan.
5. The petitioner has added pertinent notes from the previous site plan (rezoning petition 1999-040) relating to the required Class B buffer and dedication of right-of-way along Tuckaseegee Road and Little Rock Road.
6. The current and proposed zoning are now correctly identified on the site plan.

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7. The maximum height of the building is now stated on the site plan as 15'.
8. The petitioner has provided building elevations that includes the proposed expansion.
9. The zoning of adjacent properties and those across the streets are now labeled on the site plan.
10. The petitioner had addressed CDOT's comments by:
  - a) adding a note relating to dedication of right-of-way along Tuckaseegee and Little Rock Roads.
  - b) Changing "Install Median per CDOT" to "Install median per NCDOT"
  - c) Showing sight triangles on the site plan.

The ordinance is recorded in full in Ordinance Book 57, at Page 526-527.

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**ITEM NO. 7: ORDINANCE NO. 4840-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 11.0 ACRES LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH TRYON STREET AND STEELE CREEK ROAD FROM R-17MF(CD) AND CC TO CC AND CC SPA.**

[ Motion was made by Councilmember Mayfield, seconded by Councilmember Kinsey, and ]  
[ carried unanimously, to adopt the Statement of Consistency and Petition No. 2011-082 for ]  
[ the above rezoning change by Steele Creek 1997 Limited Partnership, as modified and as ]  
[ recommended by staff. ]

**The Modifications Were:**

1. Modified Note 2d on Sheet RZ-3 pertaining to "Building Edge" to commit to both building edges within building/parking envelopes C and D.
2. Provided sidewalk connections out to the abutting public/private streets to facilitate a better sidewalk network.
3. Addressed the following CDOT issues:
  - a. The petitioner complied with the Traffic Impact Study's mitigation proposal.
  - b. The revised TIS addressed NC 49/NC 160 traffic impacts caused by the proposed development by restriping the existing dedicated NB/SB NC 160 right-turn lanes to thru/right turn lanes.
  - c. The NC 160 continuous raised median CDOT issue was addressed with a revision in the conditional notes, received Monday, February 27, 2012.

The ordinance is recorded in full in Ordinance Book 57, at Page 528-529.

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**ITEM NO. 8: ORDINANCE NO. 4841-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 22.0 ACRES LOCATED ON THE SOUTHERN CORNER OF THE INTERSECTION OF STEELE CREEK ROAD AND WALKER BRANCH DRIVE FROM R-17MF(CD) TO CC.**

[ Motion was made by Councilmember Mayfield, seconded by Councilmember Cannon, and ]  
[ carried unanimously, to approve the Statement of Consistency and Petition No. 2011-083, ]  
[ for the above rezoning by Steele Creek 1997 Limited Partnership, as modified, and as ]  
[ recommended by the Zoning Committee. ]

**The Modifications were:**

1. Increased the height of the screen wall shown on Cross-Section D on Sheet RZ-2 and indicated the minimum height to be 2 to 2.5 feet high.
2. Provided a note under "Streetscape and Landscaping" on Sheet RZ-3 that walls and/or plantings will be used to screen the loading dock/service area from the open space/plaza areas.

3. Modified Note 2e on Sheet RZ-3 as follows: "...the drive-through window and its associated drive lane may be located between the building and Steele Creek Road or between the building and Private Street B. In such event, the Petition will provide a low wall 2 to 2.5 feet high and low accent planting..."
4. Modified Note 2g on Sheet RZ-3 to commit to all building edges identified on the site plan.
5. Removed the last sentence within Note 6g on Sheet RZ-3 which read: "In areas where the multi-use trail is more than five (5) feet below the grade of the service area the trees and shrubs may be omitted".
6. Modified Note 8b on Sheet RZ-3 to indicate the petitioner will initiate the procedure to convey land for greenway prior to the issuance of the certificate of occupancy for the first building located adjacent to the 100-foot SWIM buffer.
7. Addressed the following CDOT issues:
  - a. The petitioner complied with the Traffic Impact Study's mitigation proposal.
  - b. The revised TIS addressed NC 49/NC 160 traffic impacts caused by the proposed development by restriping the existing dedicated NB/SB NC 160 right-turn lanes to thru/right turn lanes.
  - c. The NC 160 continuous raised median CDOT issue was addressed with a revision to the conditional notes, received Monday, February 27, 2012.

The ordinance is recorded in full in Ordinance Book 57, at Page 530-531.

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**ITEM NO. 9: ORDINANCE NO. 4842-Z FOR A MUDD-O SITE PLAN AMENDMENT AND 5-YEAR VESTED RIGHTS, FOR APPROXIMATELY 3.87 ACRES LOCATED ON THE NORTHEAST CORNER OF NORTH DAVIDSON STREET AND EAST 36<sup>TH</sup> STREET.**

A protest petition has been filed and is sufficient to invoke the 20% rule requiring affirmative votes of  $\frac{3}{4}$  of the Mayor and Councilmembers, not excused from voting in order to rezone the property.

[ Motion was made by Councilmember Fallon, seconded by Councilmember Pickering, and ]  
[ carried unanimously, to adopt the Statement of Consistency and Petition No. 2012-001 for ]  
[ the above site plan amendment, by Mercury NoDa, LLC, as modified and as recommended ]  
[ by the Zoning Committee. ]

**The Modifications were:**

1. Provided a more detailed Mercury Street building elevation and committed to masonry materials along the first two stories.
2. Reduced the height of the building along Mercury Street from four stories to three stories.
3. Added a note which indicates the possibility of a larger parking structure if the City of Charlotte elects to participate and fund construction of additional public parking.
4. Provided a note which indicates that roll our dumpsters will be contained inside the building at all times except on trash pickup days.
5. Added a note that states "the project will contain a minimum allowance of \$30,000 for the purpose of installation and purchase of public art".

The ordinance is recorded in full in Ordinance Book 57, at Page 532-533.

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**ITEM NO. 10: ORDINANCE NO. 4843-Z FOR A MUDD-O SITE PLAN AMENDMENT FOR APPROXIMATELY 5.75 ACRES LOCATED ON THE NORTH SIDE OF MILLERTON AVENUE NEAR THE INTERSECTION OF WEST MOREHEAD STREET.**

[ Motion was made by Councilmember Mayfield, seconded by Councilmember Cannon, and ]  
[ carried unanimously, to adopt the Statement of Consistency and Petition No. 2012-006 for ]

[ the above site plan amendment by Lomax Properties, as modified and as recommended by ]  
[ the Zoning Committee. ]

Councilmember Mayfield said I just wanted to reach out for the developers for this piece at Lomax Properties. I did have some concerns on behalf of some of the citizens and thinking about some of the conversation that Councilmember Barnes had, in the future when we are looking at multifamily development and would just like to publicly say thank you for the accommodations they were able to make along with Planning and the amazing work that Debra Campbell and her Department did to try to pull this together for me.

**The Modifications were:**

1. Delineated a six-foot sidewalk along Millerton Avenue rather than a five-foot sidewalk.
2. Indicated internal sidewalks abutting parking areas will have a minimum width of seven feet.
3. Eliminated the proposed sign. Signage will meet ordinance minimums.
4. Provide an internal streetscape containing a minimum five-foot sidewalk and eight-foot planting strip on both sides of the internal private drive connecting Millerton Avenue to buildings #1 and #2.
5. Reorganized and consolidated the site plan notes within the standardized form. Placed the following Development Data Summary notes under the appropriate headings:
  - a. Notes #1 and #6 under “General Provisions.”
  - b. Eliminated Notes #2 through #5, #9 and #10.
  - c. Notes #7 and #14 under “Transportation. Corrected typos in Note #14.
  - d. Note #8 under “Fire Protection”.
  - e. Note #11 under “lighting”.
  - f. The last sentence of Note #12 modified and placed under “Architectural Standards” to read “Direct sidewalk connections will be provided from the buildings that abut Millerton Avenue out to the public sidewalk”.
  - g. Note #13 under “Streetscape”.
  - h. Notes #15 and #16 under “Environmental Features”.
  - i. Notes #17 and #18 under “Other”.
  - j. Notes #19 under “Parks, Greenways, and Open Space”.
  - k. Notes #20 and #21 under “Architectural Standards”.
  - l. Note 22 under “Optional Provisions”.
  - m. Placed “CDOT Notes” under “Transportation”.
6. Eliminated the reference of “total parking shown: 279”.
7. Eliminated the note under “Permitted Uses” and provided the following note “Up to 270 multifamily residential units and associates accessory uses”.
8. Relocated Note b under “Other” to “Architectural Standards”. Modified the note to indicate the solid waste enclosure will have a roof.
9. Provided typical building elevations of the proposed buildings to illustrate the scale and massing.
10. Provided a note under “Streetscape” to state “The petitioner will provide a CATS concrete passenger waiting pad along Millerton Avenue per CATS standards”.
11. Addressed Mecklenburg County Parks and Recreation Department’s comment by identifying a greenway easement at the northern corner of the subject site, next to the future Stewart Creek Greenway, to allow an entrance plaza to the greenway trail.

The ordinance is recorded in full in Ordinance Book 57, at Page 534 -535.

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**ITEM NO. 12: ORDINANCE NO. 4844-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 30.21 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF REAMES ROAD AND BAYVIEW PARKWAY FROM R-3 AND R-8MF(CD) TO R-8MF(CD) AND R-8MF(CD) SITE PLAN AMENDMENT.**



[ Motion was made Councilmember Mitchell seconded by Councilmember Cannon, to approve ]  
[ the Statement of Consistency and Petition No. 2012-008 for the above zoning by NLCM LLC ]  
[ as modified, and as recommended by the Zoning Committee. ]

Councilmember Fallon said I just want to commend the developer and the builder. They gave us 7 acres of virgin land that will not be touched. I hope every other builder and developer takes note of this. It is never to be used except as an open forest with maybe walking trails and maybe benches and it will be an ... to this project and to Charlotte.

Councilmember Mitchell said I just want to say thank you to the developer who has put together a great community for Reames Road and for District 2, but also I think he paid close attention with what the neighborhood wanted for this area. Thanks for the Bahama Park citizens for sending a support letter and for attending the community meeting and I hope we have set the standard now, when new developers come to Charlotte they will be sure to get input from the citizens first so everyone will be clear on the vision. Thank you to the developer and to Collin Brown and the Law firm for helping me so much.

**The modifications were:**

1. Provided a six-foot wide bike/pedestrian connection from the end of Malvina Lane to the public sidewalk along Reames Road.
2. Modified Note 4(b) to state "...The streetscape treatment along new public streets and along Reames Road will meet or exceed the standards of the ordinance...".
3. Provided a note to indicate the streetscape for internal private streets will include a minimum of a five-foot wide sidewalk and a two-foot wide planting strip along both sides of the street.
4. Modified the site plan to indicate the street trees will be located within the eight-foot planting strips.
5. Graphically depicted the internal sidewalk network from the building out to the public sidewalks.
6. Indicated a minimum 20-foot dimension from the face of the garages to the back of sidewalks along the private streets.
7. Modified Note 3(E) to eliminate "cementitious siding" from the list of masonry materials.
8. Provide a note under "Buffers and Open Space" to indicate a 50-foot landscape setback will be provided along the future Fred D. Alexander Boulevard and will be improved according to the requirements of Section 12.308(1)(a thru f) of the Zoning Ordinance.
9. Provided a note to clarify the petitioner will provide a concrete CATS passenger waiting pad along Reames Road.
10. Modified the "Maximum Building Height" to state "Maximum allowed by ordinance. However, not to exceed three stories".
11. Labeled Reames Road.
12. Modified Note 3(E) to change the percentage of masonry material on the exterior walls from 50 percent to 25 percent to reflect the building elevations presented at the public hearing.

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 536-537.

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**ITEM NO. 13: ORDINANCE NO. 4845-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 8.44 ACRES LOCATED ON THE EAST SIDE OF RANDOLPH ROAD BETWEEN WONDERWOOD DRIVE AND SHASTA LANE FROM UR-2(CD) TO INST(CD).**

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, and ]  
[ carried unanimously, to approve the Statement of Consistency and Petition No. 2012-011 for ]  
[ the above zoning, by Singh Development, as modified and as recommended by the Zoning ]

[ Committee. ]

Councilmember Dulin said this is a piece of property that is on Randolph Road, it has been vacant and we've had flooding problems downstream from this area. The developer wants to build a high end Alzheimer's facility here. They have been very open, met with the neighbors, met with myself and Mr. Autry, they met with Ms. Carter while she was still on Council and Ms. Carter is still interested in this project as I discussed it with her last week. This piece of property would be developed at some point. They've gone from a 30-year flood retention system to a 100-year flood retention system. I went over there the other night when we got the hard rain to see if the water was coming up and it had not come up when I was there. It is now on my list of places I go when it rains hard in my district. I've gotten comfortable with this development and we still will be working with the neighbors that are downstream that have had some flooding issues over the years. I plan to vote yes and expect this to be a nice addition to Randolph Road.

**The modifications were:**

1. Clarified the three-story portions of the proposed building.
2. Labeled side property line and 100-foot greenway dedication area.
3. Referenced proposed units as nursing home/dependent care units.
4. Added note that site will comply with Post Construction Controls Ordinance.
5. Provision of a compacting dumpster that will be housed in a four-sided structure with a pitched roof and an all brick façade.
6. The northernmost driveway will prohibit left-turn movements to and from Randolph Road subject to review and approval by CDOT.
7. Site will provide on-site storm water management facilities sufficient to control the peak flow of the 100-year storm event.

The ordinance is recorded in full in Ordinance Book 57, at Page 538-539.

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**ITEM NO. 14: ORDINANCE NO. 4846 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO UPDATE THE ZONING DISTRICTS IN WHICH CREMATORY FACILITIES ARE ALLOWED AND THE PRESCRIBED CONDITIONS.**

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Mayfield, and ]  
[ carried unanimously, to approve the Statement of Consistency and Petition No. 2012-012 by ]  
[ Charlotte-Mecklenburg Planning Department for the subject text amendment as recommended ]  
[ by the Zoning Committee. ]

The ordinance is recorded in full in Ordinance Book 57, at Page 540-547.

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**PUBLIC HEARINGS**

**ITEM NO. 15: HEARING ON PETITION NO. 2012-010 BY CRESCENT RESOURCES FOR A CHANGE IN ZONING FOR APPROXIMATELY 4.70 ACRES LOCATED ON THE SOUTH SIDE OF UNIVERSITY CITY BOULEVARD BETWEEN MARK TWAIN ROAD AND SUTHER ROAD FROM R-17MF TO MUDD-O 5-YEAR VESTED RIGHTS.**

A protest petition has been filed and is sufficient to invoke the 20% rule requiring affirmative votes of  $\frac{3}{4}$  of the Mayor and Councilmembers, not excused from voting in order to rezone the property.

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning,** said this petition is to rezone approximately 4.70 acres, currently zoned R-17MF and the request is for MUDD-O with 5-year Vested Rights. The property to the north is the UNCC campus which is zoned institutional, to the south we have residential multifamily and single family. Along University City Boulevard we have  
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commercial, office, institutional and multifamily zoning. In terms of land use it pretty much follows what the zoning is for the area, as you can see the institutional and multifamily. In terms of the adopted future land use, the UNCC area is to remain institutional. The area on University City Boulevard up to Mark Train Road is to be residential, office and retail. The property that fronts along University City Boulevard past Mark Twain is residential up to 17 units per acre. There is an area of institutional along Suther Road where there are two churches and the remaining portion of land between University City Boulevard and Old Concord Road is residential, single family and multifamily. In terms of the area you can see that the property in question currently has a multifamily complex located on it. It has been there for some 35 plus years and it is across the street from the main entrance to UNCC. The columns at the entrance of UNCC are brick columns that the petitioner is asking for an optional request to do something very similar to this along the front of their development. The proposed request is for 250 multifamily units which is about 54 dwelling units per acre. You can see the multifamily units in Buildings A, B, C, D, E and F. Building D will have to be built prior to the construction of the parking deck. The building heights are limited to four stories or 70 feet. There is a commercial component of 25,000 square feet that is located on the ground floor of this area and is restricted to the B-1 uses that are allowed in the MUDD District. The four-story parking deck is in the middle of the site to the rear. Along University City Boulevard there is an area of urban open space and to the rear of the property is screening provided to the adjacent residential properties. The screening consist of three different types of screening. The area circled in red shows where there is a road that is adjacent to the property line. There will be an 8-foot masonry wall, a 5-foot planting strip which is located within a 20-foot Duke Energy Utility Easement. The petitioner is working with Duke Energy to make sure the plantings are in compliance with their policies. That is the buffer plan for the areas in red.

For the area immediately adjacent to the parking deck, you can see the parking deck and then you have 5-feet of planting strip within the 20-foot right-of-way and then the single family properties. The third and final area is where the residential development actually comes very close to the property line. There is a 5-foot buffer that is located within the 20-foot utility easement. This picture shows the parking deck and if you look you can see the green screens that are proposed along certain heights of the deck. I think it will go to the second and third floor, it will not work on a fourth level. I wanted to show you this diagram to show you what the buildings would look like from University City Boulevard. You can see the slope in the land down to Mark Twain Road. The buildings on this end are three-story and as the elevation goes down the buildings go up to four-stories. Staff does recommend approval of this petition upon resolution of the outstanding issues. The density is inconsistent with the University City Area Plan, however the proposal is consistent with University City Boulevard design guidelines that were developed by staff. Those design guidelines gives us ways and things that we should look for to allow higher density within this corridor. This petition provides additional housing options within a walking distance of UNCC and there are no major outstanding staff issues associated with the petition.

**Tim Dison, Crescent Resources** said I am representing the petitioner for this rezoning request. This petition approval will enable us to redevelop a dated existing apartment community that is currently on Highway 49 into a premier, best of class student housing community at UNCC's main entrance. This redevelopment opportunity is a result of the consistent growth the University and the general area has experienced over the past several years and will continue to experience. This would be a signature community for Crescent Resources and one that we've been working on for well over a year prior to submitting for rezoning last November. Tonight we would like to present our plan, a response to numerous meetings with city staff, meetings with the community and all other stakeholders in the area. You can see the site that is highlighted directly across the street from UNCC's main entrance on Highway 49 and slide #3 has depiction of the site's location which provides a true walkable connection to campus at a signalized intersection which will reduce traffic in commuting to campus. You can see the existing apartment community which was built about 50 years ago. It was certainly designed and built to a more of a suburban model which is dated and in disparate need of redevelopment. This would be a high quality student housing development to support the University's growth. We have continuously worked with Planning and other staff members during the process, reacting to their analysis and questions. We feel we have Planning staff's support on this petition. We've had numerous meetings with UNCC officials and feel we have satisfied their exterior visions for  
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the area and believe that they are excited about the redevelopment at their front door. We have a letter of support from University City Partners and as mentioned this site is in close proximity to campus and allows for true walk ability and promotes the reduction of traffic in commuting students to the area. We also feel that the development will provide an aesthetic compliment to UNCC's main entrance.

**Nate Doolittle, Land Design** said I'm going to walk through some plan revisions that are going to be submitted and are changes to the plan from what was currently submitted on our last round, then I'm going to go into what we have been through with the community and some of the changes that have occurred as a result of all our meetings with the community. Generally when you look at the plan as Ms. Keplinger went through it, the changes I want to point out is that we have attempted to pull the buildings specifically A, B, and the parking deck farther off the rear property line. Building A and B previously was 10-feet off the property line. We are now recommending a transition all the way to 25 feet. We have also reduced the amount of frontage adjacent to that setback to provide additional setback for the parking deck. We've also reduced the overall height of the project and are now proposing a majority of buildings on the project to be four stories, maximum 55 feet high and then directly adjacent to the property line we are proposing three-stories maximum and 40 foot height, which is the base height in most zoning districts. In terms of density, we are reducing our multifamily residential from 250 units to 200. We are also reducing our commercial retail square footage from 25,000 to 5,000. In terms of our summary of efforts with the community, we've had numerous meetings, three well attended community meetings and we've also had meeting with members of specific communities, dating back to last November. We deferred the public hearing upon their requests last month to continue to have another meeting and address issues. We've made numerous compromises we believe to the plan in an attempt to transition to their neighborhood.

This will go through the progression of our meetings and what we presented each time. In terms of density we went from 250 all the way down to 200 that we are currently proposing. We've gone through the commercial from 25,000 square feet to 5,000 square feet. We've also limited those types of uses. I've already explained the building height changes down to 40 and 55 feet maximum. One of the major items the community was concerned about was the break in access at Mark Twain. After many meetings with the community, we are willing to not cut the median subject to CDOT approval. That is important to them for a variety of reasons, including concerns of back traffic through the neighborhood. We are also removing our 5-year vesting rights to again show our support that this project will move forward immediately. In terms of the rear buffer edge, it was already presented the type of buffer and landscaping we've presented and in addition to what was presented previously at our last meeting with the community, we recognized that we had provided on site landscaping, buffer walls, reduction in height, building setbacks. We have also presented the adjacent homeowners supplemental landscaping on their property to be administered by a third party landscape company. This would be separate from the rezoning to provide one additional layer of screening from our project. Along with those other items we are working with CDOT in the community on parking needs for the area, potentially looking at residential permit parking because of some parking concerns that they have in the area. That is our summary of the community meetings and our support.

**Ken Burrows, 9136 Joyce Kilmer Drive,** said I oppose the subject rezoning petition and thank you for the opportunity to say why. I'm proud of and fond of College Downs and I'm not a NIMBY and I've struggled to sympathize with this proposal. The fate of communities like ours bordering growing universities is well documented. For all of its well meaning promises this project hastens the demise of a neighborhood already threatened with its proximity to an institution that is intense on growing. It is uncaring about the consequence for neighborhoods like ours. For 30 plus years I walked to work along Sandburg Avenue, greeted Bonnie Cone among her roses but now I negotiated barriers of cars and dodge breakneck drivers whose disrespect for community and residents reflect their stake in the neighborhood. Now Sandburg homeowners must suffer a car barrier in front and welcome a concrete wall at the back. College Downs is the 49ers front door. We who staked our claim long ago have tried despite numeral nuisance factors which I don't need to list here to welcome students, but we fear that their and the University's disregard of community values and culture will lead to a mess at the University's front door that we will all be trying to clean up a few years from now. The proposed project is not in the public's interest. You can only exacerbate current nuisances,

hasten the degradation of the neighborhood and increase resentment against the University. Saying no now may give time for the community, University, government and business partners to develop for the University's front door a fitting vision with due respect to all, the subject project is far from that vision.

**Sylvia Nance, P. O. Box 31432** said I am President of the College Downs Community Association. I have been President of the Association for 10 years and I've lived in College Downs for 33 years. We object to this rezoning petition because it seeks to rezone an area that is currently R-17 to MUDD-O with five-year vesting. The five-year vesting is still the officially filed petition. Ms. Bonnie Cone from UNCC had the original idea for College Downs. The first subdivision in UNCC, she wanted convenient housing for University faculty and staff and although she is gone, her former residents and many UNCC faculty and staff still remain in College Downs. Anyone who recommends approval of this rezoning is overlooking the fact that 5,000 or 10,000 square feet of commercial development is too much for this site, especially when no market study has been submitted to determine what, if any commercial development would be appropriate for the site. Within a few blocks of this site, University already has tens of thousands of vacant commercial square footage, World Market, RJ Gators, Men's Warehouse, Circuit City, vacancies in University Professional Park, University East Professional Center, University Commons, just to name a few. Anyone who recommends approval of this rezoning is overlooking the fact that the University City Area Plan repeatedly states the need for protecting existing single family neighborhood and recommends that that this particular site remain at R-17 multifamily, which is inconsistent with the current rezoning petition which seeks to raise the density to 43 for 54 dwelling units per acre. Anyone who recommends approval of this rezoning is overlooking the fact that College Downs residents can barely get out of the neighborhood now between 4:00 p.m. and 6:00 p.m. Monday through Friday because Highway 49 around UNCC is usually at a standstill at Mark Twain. Adding even 200 dwelling units with three beds each and all of their closest friends is not student housing as the petitioner has stated, it is multifamily with commercial and according to the City Department of Transportation could increase the daily vehicular trips to 4,200 per day. Digging up Mark Twain median which has been proposed off and on, would only further deface our entrance. We have been maintaining that entrance for decades. While Crescent Resources was maneuvering through its bankruptcy proceedings two years ago they were requesting million dollar bonuses for their upper management but only paying their creditors 40 cents on the dollar. College Downs Community Association believes that allowing such a company to have five-year vesting rights, phased in construction, and no bonding with the City of Charlotte could leave taxpayers to complete this project. It also gives Crescent the opportunity to come back at a later date and increase the density the way it has done at the Cove at Mountain Island Lake. No-one who knows this area or these facts could support this rezoning petition. We the College Downs Community Association ask that you deny this request for rezoning, choose what is best for the many over what is best for the elite few and protect the investments that we have in our current property of the investment and value that the developers want to have.

**Sean Riley, 9223 Sandburg Avenue,** said I teach at UNCC in the Philosophy Department, I am also a resident along Sandburg Avenue. I would like to speak specifically to the issue of height and density along the Sandburg Avenue side. The proposed building of four-stories and 70-foot tall is way too high for the backyards of the current residents. We feel that those buildings with only a 10-foot setback despite any revised plan talk would be too close, too high, too tall for our neighborhood, for our backyards overlooking our properties. We seek a reduction and we would like the houses, the parking structure to follow the city recommendations to be lowered two stories. We are not against the development per se as the owners along the street, however we want responsible growth in the area. We want responsible building in the area. Too close, too high, too big. The Building AB stretches over three properties including my backyard. It would block out essentially the setting sun over my yard. It is just too high. As for density, I agree with my colleagues, we would like to see the density reduced or to remain the R-17 level right now.

**Anne Marie Allison, 9309 Sandburg Avenue,** said I'm a Chicagoan by birth and a Charlottean by choice. I want to remind you, 60 dwelling units replaced with 225, some with up to four residents per dwelling would overwhelm us. Do the math. We now have 60 families and we are going to have 225 dwellings plus up to four cars. I would like for you to close your eyes

and try to remember pictures you've seen of the extinguished extinct single family neighborhoods in Cleveland and Detroit. Please let's not let that happen here. Our quality of life and our economics is linked to our little houses. We are the little people, we are an icon for diversity age. We've lived in ethnicity, race, we're everybody. We have families from India with their unique faith, we have four Christian churches, we're the little guys. We look forward to growth and we welcome change, but you can think of a half-dozen wonderful opportunities that could go. We need to move beyond the tired development that is there, but there has got to be something other than this invasion, this occupation, which is not good for the University, for us or for Charlotte and we are grateful for your time.

**Theron Hobbs, 9233 Sandburg Avenue**, said thank you for allowing us this time to express our deep felt concerns regarding this project. I am a resident of College Downs. My property backs up to this project and I will say the issue they said about changing the fact that this thing sits 10 feet off the property line, all they did was take the building and angled it. On my property it is still 10-feet off the line. I'm also not only a resident of the community, but also Pastor of Cross Point Worship Center and we are located directly across from the main entrance on University City Boulevard. We just finished a building program of our own and we recognize that we are on the same type piece of land that they are, which is a very narrow piece of land. It is a very narrow strip and we had to observe setbacks off of the right-of-way of 30 feet. Off the rear we had a setback of 40-feet and we observed that. We are actually 60-feet off the rear property line. That is respectful to the community, but we are talking about a company coming in here and dropping a tall building 10-feet off the property line and if you put a 10-foot wall, it is still going to exceed that. Please take this into consideration.

In rebuttal Mr. Doolittle said in terms of the neighborhood transition that was mentioned, I believe what we are trying to do is get away from the suburban model that we've talked about tonight in these meetings and transition to what is in the University City Design Guidelines in terms of growth and correct transition to the neighborhood. With regards to the market study, we have reduced the commercial square footage to 5,000 square feet. We believe this is to support the community. It more the sundries type of use that will be supportive of our specific project and that is things we've heard from the University and other members of the community that they want to see small amounts of retail in these projects. Density, we are down to 43 dwelling units per acre as previously suggested. That is the same DUA that was approved down the street tonight with the development that is in close proximity to the University. The Mark Twain median, we have no interest in breaking that median. It is going to be a traffic safety issue. If we do we have already committed to replanting any of the landscaped areas that will be disturbed and not impacting the sign that is located there. I've already gone through the four-story, 70-foot high and we've changed that and reduced that to three-stories and a 40-foot base height which is the base height allowed today on site in the R-17 District. We've attempted to make that transition and this is a site that is going to be redeveloped. It has hit its life cycle. We believe this is the best use of this site to transition into the community and to support the front door of the University.

Councilmember Howard said I have a few questions for the petitioner as well as staff. I heard a statement from staff about the need to build the front building before you build the deck. Why is that necessary?

Mr. Dison said I don't believe that is an accurate statement. I think both of those buildings would be built at the same time.

Mr. Howard said the front building and the deck at one time?

Mr. Dison said yes sir.

Mr. Howard said a 10-foot setback in the back doesn't sound right when you start stepping back from the height of the houses. Is that correct?

Ms. Keplinger said yes sir it is correct for this district and in the staff analysis we did mention that we were concerned about the relationship of the adjacent properties and we recommended

several options, either increasing the setback or lowering the building height, something to protect the residential character of the neighborhood.

Mr. Howard said, but where it stands right now it is correct from the back of the property line, whatever it needs to be, that two-foot thing that needs to happen, does that come into play here?

Ms. Keplinger said as long as they are under the minimum height requirement that doesn't come into play. It is when they get above the minimum height requirement that that step back comes into play.

Mr. Howard said what is the height of the deck, building A, B, E and F? I guess that would be an average of two-story houses on that back street with some slope to the roof. I'm not sure what that is compared to what these are.

Ms. Keplinger said since that has changed a little bit since our last site plan came in, I think it is appropriate for the petitioner to address that question.

Mr. Doolittle said the parking deck, building AB are both proposed at 40-foot maximum height. That would be to the parafit of the roof. Building E is set back approximately 50 feet off the property line and that is a proposed 55-foot max height which is consistent with the height plan.

Mr. Howard said did you analyze that to the houses in the back to see how high they are?

Mr. Doolittle said it varies in terms of the topography of the houses across the rear yard. Some are a few feet above and some are a few feet below. Generally those houses are one-story. Some of them are set back a fair distance off of our property line and some of them are closer to our property line.

Mr. Howard said so this is a three-story product?

Mr. Doolittle said yes, on the real property line. Building AB and the parking deck are both three-story. The parking deck is three-story above grade. Building AB is three-story on the rear property line. Building E, F, D and C are four-story. Every building except AB and the parking deck are four-stories. Building AB and the parking deck are three-stories, maximum 40-foot high.

Mr. Howard said how tall are the four-story buildings?

Mr. Doolittle said we are saying maximum 55-foot height. There is a lot of grade challenge on the site so we need some flexibility for the way average grade is calculated. If it was strictly four stories with a flat site we would be less than that, but we are at 55-foot max height right now.

Mr. Howard said is this flat roof or are you putting a pitch roof?

Mr. Doolittle said the original proposal was for flat roof along the urban edge of the frontage and then a pitched roof on the rear property line to transition to the single family.

Mr. Howard said is that part of the height calculations as well?

Mr. Doolittle said yes it is.

Mr. Howard said is the commercial uses a requirement of MUDD?

Mr. Doolittle said we wanted a small amount of commercial to support the students living there, whether it be a small coffee shop or sundries. We are down to 5,000 square feet and it was to support the project and that is also what we've heard from other stakeholders through the process.

Mr. Howard said why MUDD? Did you suggest MUDD for what they were doing or did you just go with MUDD?

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Ms. Keplinger said I believe after our original conversation with the petitioner they needed some optionals. One of them was to do the brick columns along the front and another one is for some streetscape changes that they wanted to make. In addition they wanted an urban development which allowed them to get closer to the edges and the MUDD district suited them for what they were doing.

Mr. Howard said what restrictions are we limited for MUDD. This acts like a CD so are there anything else we need to worry about or that we need to restrict? The setback is allowed because this is MUDD I'm sure and that doesn't concern anybody at all?

Ms. Keplinger said everything on the site plan of course is conditional and the site can only be developed in accordance with that. There are a lot of notes that goes along with this. We hit the highlights, but it is very detailed. There are details on the type of materials, there are also building elevations and things of that nature. Those things are included in the notes so it is a comprehensive site plan.

Mr. Howard said I know this is going to sound somewhat contrary to my vote on an earlier petition, but it kind of goes with what the Mayor was saying about the fact that we need to be looking to the future. A lot of what people thought would happen inside of Route 4 went way beyond that. I'm concerned a little bit about the fact that transition to a more urban community as it relates to the neighborhoods around this area. I hear the University calling to be more of a center and to be more dense as a center, but we are going to keep running into the edges of the University where neighborhoods are already established and we are going to keep having this problem over and over and over again. I don't know how we transition so it is more respectful of what they already and at the same time of trying to figure out how we combine the housing for the thousands of students that are coming and we want it to grow.

Ms. Keplinger said this area is unique because of the University and the staff did the University City Boulevard Design Guidelines to help show us when we should consider higher density development. In looking at this petition as well as the petition earlier tonight, 2011-072, we took those guidelines to see how the petition fit in with those and if they were meeting those guidelines and both of these petitions met the majority of those guidelines. Their suggestion is that that is not an adopted plan, it is something that staff developed but it was developed to help guide us.

Mr. Howard said I would be interested before next month to get a detail of what those suggestions were and how this lines up with those suggestions.

Ms. Keplinger said I will get that for all of you.

Councilmember Barnes said I had an opportunity to attend a rather spirited meeting on this petition a few weeks ago at the neighboring church. Last week I drove along Sandburg Avenue, kind of sat around and looked and analyzed the area to get my own perspective on what people were dealing with and also along Mark Twain. One of the things I wanted to put out there for consideration is that with regards to the median on Mark Twain, if it remains as is and their petition is approved, do you worry about people driving down Mark Twain to make a U-turn to get to that development?

Ms. Nance said that actually already do the U-turns. Our concern mostly is if they cut it in the middle and we've increased the volume to 4,200 additional cars that is going to be a dangerous intersection at that point. Right now with the church on one side and ... on the other I'm sure people are driving down the wrong side of the street. We know to look out for them but our concern is once you increase the density so high and perhaps even put a cut through there will be more U-turns.

Mr. Barnes said I think the 4,200 is trips per day, not necessarily individual cars. I appreciate your response on that. I noted in one of the slides that the petitioner presented there was a series of adjustments they've made throughout time from 250 units to 225 units to 200 units and other



varying adjustments, no five-year vested rights, etc. I believe he indicated that those were in response to concerns that they had heard from the community.

Ms. Nance said they are in response to community meetings. The 200 unit piece is not an official position at this point. The last number that we had was 225 and that is three beds per unit which is almost 700 additional individuals.

Mr. Riley said I find that the concessions that were made over the length of that chart fell directly in line with the with City Planning or staff recommendations for change or staff concern, not so much with us, but fell in line point by point down that list. While they couch it as a concession and we agree that it is smaller in scope, it is not small enough. The problem is that they have just not met what we have spoken to.

Mr. Barnes said Mr. Dison you don't have all the background on the discussion we had with Mr. McAlpine about parking, but I hope you were sensitive to what he was willing to consider and that you would consider the same. It doesn't make sense Ms. Keplinger will clarify.

Mr. Doolittle said what we have tried to do and we will consider that going back this month is this is much different transition to the single family community around us and the parking issues they have. They are in support for us to provide sufficient parking for the residents and visitors and we've tried to make that part of our negotiations with the community. In addition we hope that this becomes a place where they store the cars more than they drive them to campus with its location and can have an alternative use in the future potentially that we were looking at with staff.

Mr. Barnes said did you all do any graphics that would indicate the view from the top floor of Building AB or the top floor of Building E if you lived in one of the houses along Sandburg behind either of those two buildings?

Mr. Doolittle said we did and it is not in our PowerPoint, but we presented that at the last community meeting. It was a cross section from their single family home all the way through our building and it showed that transition.

Mr. Barnes said what was the view from the top floor of E or AB relative to the homes on the back side?

Mr. Doolittle said there is a significant amount of existing tree canopy in their yards as well as all the screening and buffers we are presenting so it would be typical for a 40-foot height which is again what could be built in a residential zoning district as it. We felt that the supplemental landscaping that we offered for each homeowners provided for one more layer of screening for that transition.

Councilmember Fallon said I give kudos to the University for its growth, but I am really very concerned with student housing pushing out old residents and their neighborhoods and overpowering and overshadowing. The traffic there is terrible to begin with where it connects. You are going to put in so many more cars and crowds and even the little bit of retail you are going to put in, there are empty stores down the block. There are empty restaurants, empty stores, a whole shopping area that is empty. Why are you going to put more retail in?

Mr. Doolittle said our proposal was to support the people living inside of the development and the community.

Ms. Fallon said those people have managed all these years. You mean student support? You cannot overwhelm communities because they are students. I understand that and I understand the building and I understand all of this, you have to be mindful there are existing communities and you are going to push these people out.

Mr. Dison said I think it is more of a reaction to, again it is not a specific model that we have that shows a certain level of retail. It is a result of all the input, not just the community, because there are a fair number of community members there that would like some level of retail. Is it 25,000 square feet – no. I think our reduction to 5,000 is certainly more appropriate, but it all depends

on who you poll for what the correct response is. All the stakeholders that we met with throughout this process, the majority of the stakeholders would look forward to a certain level of retail to go in there.

Ms. Fallon said sir, respectively you want to bring in a transit population to overshadow and overpower a stable population that has been there for many, many years and that troubles me.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

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**ITEM NO. 16: HEARING ON PETITION NO. 2012-013 BY MARC H. SILVERMAN FOR A CHANGE IN ZONING FOR APPROXIMATELY 21.38 ACRES LOCATED AT THE INTERSECTION OF WESTINGHOUSE BOULEVARD AND D. DUCKS LANE BETWEEN STOCKPORT PLACE AND SOUTH TRYON STREET FROM I-1 AND I-1(CD) TO I-2(CD).**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said this rezoning is for I-1(CD) to I-2(CD). The property is located on the north side of Westinghouse Boulevard. There is industrial on almost all sides of this property. There is residential to the north with multifamily to the northeast. In terms of the land use we have a mixture of industrial shown in brown, the red is commercial, the purples and blues are office and institutional uses. The green area is actually a pond. The future land use shows industrial in the areas in brown. It shows residential in the areas in yellow and orange. We have a little bit of office and a little bit of commercial along South Tryon Street. In 1990 this property was originally rezoned that allowed 250,000 square feet of office, light manufacturing, retail and flex space. The property is actually developed now and the petitioner is requesting a rezoning to the I-2(CD) to allow them additional uses. They want to have all uses in the I-1 District which are allowed in the I-2, plus the I-2 uses which are specifically listed on their site plan. In terms of this petition, staff is recommending approval upon resolution of the outstanding issues. It is consistent with the Steele Creek Area Plan. We have limited square footage and this provides additional business opportunities by increasing the allowed uses.

**Marc Silverman, 6707-C Fairview Road,** said I am manager and owner of M. David Properties and I want to state a few reasons why I think it is good to support this petition for the Silver Lake rezoning from I-1 and I-1(CD) to I-2(CD). Since the spring of 2011 we have met regularly with the Planning Commission to establish the I-2(CD) uses that they thought would be compatible with the area. The reason for the requested rezoning is to allow some clean and light manufacturing. We currently have an international company that has requested this change from us. This modification, if allowed, will be very good economically for the City of Charlotte and Mecklenburg County for the following reasons: First, they will bring up to 25 additional jobs in three years and maybe up to 50 jobs in five years. Second, they have told me they plan to invest over a period of time up to \$5 million in new machinery if this rezoning is granted. They are not asking for any incentives from the city, county, or state. Fourth, there will be no negative impact to the environment of the area. We are not increasing any area or doing anything to the outside of the property. Lastly, I think if they don't get this change they will probably move out of our area which economically is not good for the city.

Councilmember Mayfield said can you give us an idea of the industry that you are referring to and when they might be breaking ground?

Mr. Silverman said they distribute plastic and the plastic is imported from Israel in 40-foot sheets. They want to buy the plastic pellets in the United States and extrude it at this facility so it would be taking the plastic pellets that they buy, pressurizing it and sending it through a dye to the length of product that their client wants. Most of their product goes to Lowe's and Home Depot.

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Ms. Mayfield said do you have an idea when they will be breaking ground?

Mr. Silverman said they won't be breaking ground. All they are doing is changing the use inside the facility.

Ms. Mayfield said do they have a timeline of when they would like to get started?

Mr. Silverman said within the next year if they can get this.

Ms. Mayfield said so between now and 2013?

Mr. Silverman said yes, that is what they have told me.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

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**ITEM NO. 17: HEARING ON PETITION NO. 2012-021 BY COLONIAL REALTY LIMITED PARTNERSHIP FOR A O-2(CD) SITE PLAN AMENDMENT, FOR APPROXIMATELY 5.1 ACRES LOCATED ON THE WEST SIDE OF UNIVERSITY EXECUTIVE PARK DRIVE OFF WEST W. T. HARRIS BOULEVARD.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning,** said this petition is to rezone approximately 5.1 acres from O-2(CD) to O-2(CD) Site Plan Amendment. The property is located in the University area. You can see from the zoning map there is a lot of commercial in this area shown in red. The office is indicated in the purple and the institutional, which is the University Hospital and some Drs. Offices are also shown in the purple. In terms of land use all of the land use pretty much runs in sync with the zoning. There is an area of multifamily which is between I-85 and the subject property. That is in the NS and O-2 District which that is a permitted use. In terms of the adopted land use, we have residential, office and retail between McCullough Drive and I-85. The purple area is transit oriented development, mixed use and I want to point out where the transit station is proposed in this area. It is right in the middle of North Tryon Street, just north of McCullough Drive. The property is currently undeveloped. This is actually a phase II of the Colonial Grand University Center Apartments development. The properties together were originally rezoned in 1996 and then we had a plan amendment in 1998. The proposal today is for 96 multifamily units in five buildings shown on the site plan. About 18.8 dwelling units per acre. They are committing to 35% brick, stone or masonry. The rest of the material will be cementitious type material and the only vinyl will be windows and soffits. They have a unique entry way featured that they are proposing along University Executive Park Drive. On each side of the road they will have a feature which will be a wall with a pedestrian opening to encourage pedestrians into the facility and show it as the main entrance door. The site plan also commits to additional landscaping features along Phase I. This is a rendering of what those improvements may look like. They do have some plantings along that frontage already. They have a fence and they plan to add brick columns to it. Staff is recommending approval of this petition upon the resolution of the outstanding issues. It is consistent with the University City Area Plan which recommends transit oriented mixed use development, including multifamily. This allows the expansion of an existing development. It is within ½ mile of a proposed transit station and we have no major outstanding staff issues.

**Jeff Brown, 100 North Tryon Street,** said I have the pleasure of assisting Colonial Properties Trust on this matter. Before I get into the detail I would like to introduce Ed Wright, Executive Vice President of Colonial Properties Trust to talk a little bit about their approach to projects and about Colonial.

**Ed Wright, Executive Vice President, Colonial Properties Trust,** said Colonial Properties Trust is a publically traded company. We are a real estate investment trust and have about \$4 billion in assets, primarily multifamily properties as well as mixed use development properties. You may be familiar with Metropolitan Properties in Charlotte. We joint venture that property with Peter Pappas and that is one of the properties that we manage and have ownership in. Charlotte is the significant City for us, the large portion of our income and assets we own are in Charlotte. It is one of the top two cities that we have investment in. I joined the company about 15 years and I manage all of our development and construction of multifamily properties. Since I have been with the company we've developed about 35 properties and have sold 8. We are not a merchant builder, we build to own and we grow the company consistently year by year by developing apartments. We are very well funded and are a publically traded company with a strong balance sheet. There are no issues with completing projects. Every site we've started we've always finished. One additional piece which I think is very important, we own and manage our properties ourselves. We don't hire out third part management and our two regional offices, one in Dallas and one in Charlotte and we have an Executive Vice President that operates in Charlotte so this is really our backyard. We have a lot of pride of ownership here and it is well maintained, well managed properties.

Mr. Brown said it is a pleasure to be representing Colonial on this matter. Ms. Keplinger did a great job of actually going through a good bit of the presentation. Some of the background, as you can see Phase I was acquired a few years ago. It was an existing apartment community and the plan at that point was to try to go into the location, which is the rezoning site. This site is currently zoned for up to 150 hotel rooms so by nature it would be a limited service hotel and the location is very tucked in as you can see. Primarily in this location or by way of University Executive Park Drive. The entire area is commercial in nature or the multifamily as Ms. Keplinger pointed to across the street. It was built with the idea of expanding by 96 units and try and take both communities and make them high quality. We will talk about the high quality of this expansion phase. Ms. Keplinger also mentioned the transit station location so we are dealing with only 96 more units of an expansion phase of an existing apartment and we are talking about it being located in a commercial area, no single family homes in sight, at that transit station location. The land use is supported by the staff and again we believe the residential uses are far preferred over what would be a limited service hotel use that is clearly going to be more automobile and again trying to plan for the future. Hearing a lot of your discussion earlier tonight we think this is very important. Ms. Keplinger showed this earlier, but one of the things we tried to do, we recognize concerns about the degree of multifamily in certain parts of our community and including the northeast. We don't take on cases very often that are multifamily unless there is a compelling reason for doing that. In this instance we feel like that is the case. One of the examples is that we will be taking a Phase I and bringing on a Phase II out of taking out the hotel rooms, adding in a Phase II and we will talk about quality material and it will be an integrated project. It will ultimately have significant enhancements along McCullough Drive that is in Phase I and is not part of the rezoning petition. We think that is a very important aspect. This will allow some increased opportunity for moving the rental stream up so we think the combination of the phased expansion will actually help the overall apartment community. I know that is part of Colonial's plan for this site. We are not adding a new apartment community to the rolls and we think that is important and hope the Council will bear that in mind.

We've already talked about the elevation and the commitments to quality, commitments to brick and we've got a company here that is a publicly traded company that has a great history, Metropolitan being an example of doing high quality work, no vinyl will be a part of this and we will do all the screening and there will be other aspects we will be talking about as well. We think this is actually going to elevate the Phase I by the quality of materials on Phase II.

We recognize that there is a concern with multifamily. A lot of discussion earlier tonight directing staff to determine the amount of multifamily in this part of town, perhaps in other districts. We don't take these cases on lightly. We think there needs to be a compelling reason for doing so when there are some concerns with where we are. We reject a number of projects recently that are solid projects because we didn't think it met the compelling test that we think is important for Council in this instances. In this case we think it does. The rezoning will enhance the existing apartments. It will improve the McCullough Drive streetscape, it will improve the entrance, there will be a commitment to quality in Phase II because it is a conditional rezoning

that we think will elevate the overall community. Hotel zoning, we do not believe is a preferred site in a transit location. We need to be able to have some housing in this location. This site is in a commercial mode. There is not a single family home in sight. It is bounded between I-85, Harris Boulevard and Highway 49 near the transit station, so if we are going to do it, we feel like it makes sense here. We are not talking about a lot of units, we are talking about 96 units to an existing project so at some point, despite objections and concerns about apartments, in various parts of town, we certainly hope we will make some exceptions along the way and we think this is a powerful example of that.

I mentioned earlier Colonial, a remarkably well regarded company with a commitment to quality and ability to manage and own and build their own projects, we think this project makes a great deal of sense. We have met with the Northeast Coalition members and they did file a letter in opposition. We believe that is principally as a result of concerns at the macro level on the apartments. We think this is a worthy exception to some of those concerns with 96 units at a transit corridor and we thank you for giving this your best consideration.

**Jack Brosch, 3502 Marionwood Place**, said the Northeast Coalition looks forward to appearing before you many, many times in the coming months as the economy appears to be rebounding and the process will go forward. On the current rezoning petition that is front of us, we'd like to thank Jeff and Keith MacVean for meeting with us to discuss the development that is proposed. I have conversations with them and many of the features of the development, we definitely look forward to and agree with. We think this is a high end property with some good development and some architectural and material upgrades that we've been fighting for in the University City and through the Northeast Coalition for years and would love to see this come forward to this property. The property is also rather uniquely situated that it does not have any frontage to any of the thoroughfares. It would be a very difficult property to develop as a hotel when you have rough visibility to tourism and people that are traveling through the area and we understand that and appreciate it that it is also an upgrade to an existing property as well as an expansion to that property. Unfortunately we have suffered in the University area with as high 18% vacancy rate in multifamily. We think perhaps as the economy comes back around we will start to see a lot of the by right inventory that has been previously approved for the University area come on line and we have a concern that adding to that inventory may depress the market and the economy in the University area and it is from that approach that we do resist this development and would like to encourage you to vote no because of the inventory that is currently on the books in the University area.

In rebuttal Mr. Brown said there is only one thing to rebut. There is a lot of what Jack said and to his credit, this is the way he approaches these things and he tells it like it is and he said a lot of the things I said about why this project makes a great deal of sense. The concerns that I think he expressed was the amount of apartments in this particular node. Frankly, reasonable people may be able to disagree on terms of those markets that the absorption rates and vacancy rates. Figures that have been given to us are that the vacancy rates aren't as great, but we are not here to argue that. What we are here to talk about is the public policy and in this instance it talks about this being appropriate land use, better than the current land use, being the hotel use and that at a transit node we need to be willing to look long-term and look at some of the concerns we are talking about. For a quality project that Jack admitted we were bringing to this spot, and a relative modest number of units, but still close to transit, we think it makes a great deal of sense that we make some exceptions to what has become a little bit more of a blanket concern about multifamily and the district. We appreciate very much the comments that he made, the complimentary ones in terms of the market, we think in many respects we are still right on target and for an existing apartment community, just adding 96 units that we think will support transit. We strongly hope the Council will see that public policy and work with a great company to make this happen. It will be about a \$9 million to \$10 million investment. We can't ignore those facts during budgetary times. As you move into your budget times, that is a cash flow stream that we think is something to be considered as well.

Councilmember Barnes said I appreciate the zealous and passionate advocacy of my fellow member at the bar, Mr. Brown. He knows how much I passionately and strongly disagree with this petition and with a lot of what he said tonight. I will say for the record, Mr. Brown, we provided a 750 bed exception for the apartment argument tonight, so it is not that we never do it.

We did it an hour ago. The issue to my colleagues that concerns me the most is this slow drip, drip of apartment development. I told you all on numerous occasions that I am very much concerned about a number of the challenges that Mr. Autry is trying to deal with and that Ms. Carter dealt with essentially coming down Harris Boulevard. There was a rezoning that we approved for some for sale townhomes down at Harris and The Plaza and there is an effort underway to turn those into apartments so there is just this massive amount of energy and urgency to some extent put behind developing apartments from east Charlotte all the way down to Mr. Mitchell in NorthLake. Another reason it concerns me is that what I've been hoping to do and I think Mr. Dulin and I talked about this, is create a greater sense of community in my part of this city and parts that I share with other of my colleagues. I don't believe that this general apartment development assist us in that effort. You all are aware that I didn't vote for it, but the 800 apartments were approved near IKEA, the Phillips development was approved which is just across the street from this. A couple months ago we approved a Crescent petition over in the University Research Park. There is currently a by right multifamily development and apartment complex being built across from the K & W on Mallard Creek Church Road and there is an effort to expand an apartment complex off of J. W. Clay Boulevard. He is correct, this is not a large number of units, but in my opinion it is just essentially another nail in the coffin so to speak. I told Ms. Campbell at some point I have I actually question when anybody will ever build anything else that is for sale in northeast Charlotte. Developers have always said we build what is in the area and if all you are building are apartments then at what point do you get something that is not an apartment, which again, with all due respect to my colleague, Mr. Autry, is the problem he is dealing with on Central Avenue and Albemarle Road and Farm Pond Lane. That is the problem so what I'm worried about is the deterioration of northeast Charlotte. UNC-Charlotte and the University Research Park are very strong economic development nodes for the city, but the problem I'm having is that people work up there, but don't live up there. When you go to talk to the folks at Electrolux, yeah they work there but they live in Cabarrus County, northern Mecklenburg County, south Charlotte. They don't live in northeast Charlotte. The schools are part of that issue, but just to stick to this major point, you heard last week that ... is moving people to IBM Drive, to the campus up there. Most of them won't live up there, they already live some place around here and they are just moving the job, but the ultimate point is that a lot of people work up there. Harris Boulevard is a nightmare in the mornings around I-85 and it is because folks are coming into the area off of I-85 or from I-77 from some other part of the county or the city, or the surrounding counties. As a matter of principle I can't support the petition. I really wish I could go and stand up there and speak to you as a resident of northeast Charlotte and not as the elected official representing that part of Charlotte. I do appreciate the type of work that Colonial does. You all may remember a few years we were having some issues with respect to apartment properties, not just in northeast Charlotte, but in this instance, particularly up there, not screening their tenants and they were moving in whoever would sign up and Colonial was very responsive in helping us deal with that and I appreciate that. There are a number of properties that you guys bought and you started screening and that really helped a lot and I appreciate you all doing that. In this case I can't be supportive and I wish that I could be. If you look at the map that Ms. Keplinger showed earlier that area in purple will be TODD at some point and I think there would be a higher and better use for it than this type of product and in interest for what is in the public interest, I don't think this is it.

Councilmember Howard said Jack when you guys were looking at this, the way I always think about rezoning is what is permitted now and what is being asked to be changed. Right now it is zoned for a limited service hotel. Did you look at it as we'd rather have the hotel than this or just that we don't want the apartments.

Mr. Brosch said we did look at that as well and one of the things that I would strongly encourage is any developers that may be listening to this that may be looking at longer term hotels. My mom came out a couple years ago and we had a hard time find her a place to stay because she was coming for a month and it wasn't feasible for her to stay with us. I would like to see some more long term and I don't know what the hotel vacancy rate is along W. T. Harris, but we have a lot of existing hotels over there as well. If we could build it by right we would love to have a developer come to town.

Councilmember Dulin said this is the hearing tonight so we've obviously got a month. Can we find some middle ground between the developer and the neighbors and the Northeast Coalition? Is there something we can do?

Mr. Barnes said don't build them.

Mr. Brown said we are always open to continuing discussions to see if there are opportunities. We've had good dialogue with Jack already on this and we would love to keep that dialogue if possible. It is hard when we have a lot of compliments about what we are doing and yet they don't want what we are doing. That is the kind of challenge we've got right now.

Councilmember Fallon said Jeff we talked about this and if you didn't have so many of what is across the street that Mr. Barnes and I worked on and disappointed us in the end, but there are so many of them it is a problem. We've talked about this. Apartments are going to strangle us up there. We have so much open and empty, why put some more there? I don't deny that this is a very nice looking project and you will include the ones that you own in front with trees or whatever. Isn't there something else you could find to put there?

Mr. Brown said Colonial owns Phase I. They don't own the land on which the hotel use is permitted. I presume there is an opportunity for someone to come in and maybe go to a different product other than hotel. I will tell you other than multifamily or hotel it is a tucked away site, doesn't have that great a visibility and that is why we thought the companion of Phase II with the existing apartments makes sense. I can't even really speculate what would go there beyond that and I think we've described that.

Mr. Brosch said I completely agree and I can address that a little bit. If you take a look at that area Ms. Fallon knows as well as the members of the Northeast Coalition, we have several vacant restaurants up there already. Because this is set off the thoroughfare roads, I don't know that retail would be an option. We also have some office space up there that has just converted it to executive office space because they couldn't get it rented to office so I'm not sure what an alternative use might be for that property. I would love to entertain some suggestions.

Mr. Wright said we've been in conversations with the current owner for a number of years now and his idea was to have a limited service hotel and we said the best use would be to build a phase to the apartments. We've had conversations back and forth. It wasn't until near the end of last year that we kind of came to terms and he realized his best opportunity was to sell to somebody who could put in production now. Our apartments in this submarket in east Charlotte are as full as they've ever been. There is not a large vacancy there at all. I think the best use of the site currently is to expand the existing property. I think if that doesn't happen this site could be vacant for quite a long time. We do apartments primarily. It is suited to be a second phase to the existing property and it kind of fits that so I really don't know what else we could propose to do with it. The current owner can't figure it out either.

Ms. Fallon said as I said to Jeff that restaurant is always empty. People come in for a few months, but we discussed today and I don't know if it was the Business Journal of the Times, apartments now are going by the wayside. It was a fad because people went into them because they were afraid to buy. The interest rates are so low, there is much housing available down from the prices that they were that people are now buying. If we put more apartments up there they are going to be empty. You build to a fad for the minute, you don't think ahead of the consequences to a community where we are going to have lots of empty apartments, which we had until 2 or 3 years ago Mr. Barnes. All up and down W T. Harris large amounts of unoccupied and this is what is going to happen again.

Mr. Wright said I can speak to the property that we own, we never really have the large vacancy rate. Maybe it is the guys who are professionally owned.

Ms. Fallon said come to West W. T. Harris where there are apartments on both sides and there are a lot of empty apartments again.

Mr. Barnes said I would submit this to my colleagues who are natives of Charlotte, who have been here a minute longer than I have. If you think about when the Radbourne Community was developed, when Governor's Village was in its hay day, there were not very many apartment communities in northeast Charlotte and whether it is related or unrelated the one thing that I have noticed is that as we've had an accelerated number of apartments develop in northeast Charlotte a certain slide has begun. I think it will only accelerate the more we continue down this path because as you have older apartment complexes empty out in favor of newer complexes, they drop their rents, again the issue that Mr. Autry is dealing with. They drop their rents and people move to the newer product and you just have a cycle of problems. That is the concern I have and I can put it no simpler than that. I'm worried about the future of the city.

Mayor Foxx said I think there will be plenty of opportunities for us to revisit this over the next 30 days. I appreciate folks on both sides presenting their cases and we will obviously have to think through this. I will say that one of the struggles we will continue to have is that the market sort of goes where it goes and we get these petitions and we have to make a decision about whether it is a good land use or not. It is sometimes a tough call in a situation like this where you do see some challenges today and in the future. Part of the way we deal with that is through our efforts, through our capital budget and some of the other steps we take to try to enhance communities to maybe encourage market forces to move in directions that are more diverse.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

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**ITEM NO. 18: HEARING ON PETITION NO. 2008-039 BY CHARLOTTE MECKLENBURG HISTORIC LANDMARKS COMMISSION FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.55 ACRES LOCATED ON THE SOUTHEAST CORNER OF PROVIDENCE ROAD AND ALEXANDER ROAD FROM R-3 TO O-1(CD) 5-YEAR VESTED RIGHTS.**

The scheduled public hearing was held on the subject petition.

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

**Tammie Keplinger, Planning** said this is a rezoning from R-3 to O-1(CD) with 5-year vested rights. It is for the Grier Rae House that is located at the intersection of Rea Road/Alexander Road and Providence Road. Everything in the area is pretty much residential. We have some different densities with R-4 and UR-1, but most of the properties are single family in nature. In terms of the land use we have some institutional uses shown in blue. The green areas are actually open space that is associated with neighborhoods. In terms of the future land use the light yellow is single family residential. The property requested for rezoning is proposed to be single family residential. I will show you a picture of the property from Providence Road and you can see this is right at the road, the sidewalk is at the bottom of the picture frame. You can see the Grier Rea House in the background and this is a picture from Alexander Road and you can see the driveway that serves the site. The proposal is to reuse the existing Grier Rae House with the possibility of two additions, a 750 square foot addition in this location and 2000 square feet in this location. Both of those additions would be under the control of the Historic Landmarks Commission so they would have to go through architectural design and review approvals. The façade materials of those additions would be brick, stone and synthetic stone, hardy plank and wood. There is an 18-foot buffer that is along the adjacent property lines. We have quite a bit of buffer along Providence Road and if you look at the aerial you can see the trees that are on the site. When you look at the site the driveway for the development will come in here with parking and then exit back out in this direction. Staff is recommending approval upon the resolution of outstanding issues. It is inconsistent with the South District Plan, but it reserves the existing historic structure by allowing low intensity office uses.

**Brent Stough, 2459 Wilkinson Boulevard**, said I'm a landscape architect with Design Resource Group. We are seeking to add 2,000 square feet of office use and an additional 750 square feet



to the existing Grier Rea House. I have with me Stuart Gray with the Historic Landmarks Commission to also speak. Some of the things we have accommodated in our site plan, a non-disturbed buffer, 18 feet on the back side, additional right-of-way is needed to provide for an 8-foot planting strip and 6-foot sidewalk along Alexander Road, pedestrian access to both the street frontages and new architectural character of the expansions will be in keeping with the Grier Rea House and it will be approved by the Historic Landmarks Commission.

**Mr. Gray, Historic Landmarks Commission** said the Landmarks Commission is endeavoring to have the property rezoned. We met with neighbors back in 2008 when we initially filed the rezoning petition for the property and at that point the plan was to have it rezoned to allow for more residential uses. It is a 1.5 acre site. Originally we were hoping to find it to be a successful single family property, but the market didn't respond well so we came with a rezoning petition to add additional housing. We had the community meeting and the result was that we found the community was not in favor of additional residential units. We've got it in the minutes from the community meeting, they said they had rather see it turned into an office if it was just going to be the house. We took that information, finished the restoration on the house, we've got a seal on the house and we put it on the market as a single family home and all the feedback from the realtor was, this would make a wonderful single use office. It would be a wonderful attorney's office, a wonderful real estate office and the Landmarks Commission, because we want to preserve the historical integrity of the property we would like to see as little as possible in terms of additional buildings on the site. We would like the house to remain the most prominent and most important component of the site. We believe after working with Design Resources Group that having this rezoned as office with the ability to add 1,000 square foot footprint auxiliary building to the rear of the building and add up to 750 square feet addition to the house, that that would be the best preservation solution for the property. That is how we got to this point.

**Brant Biggers, 6723 Alexandria Lane**, said I am the President of the Alexandria Neighborhood Homeowners Association. We represent 28 homes that border this property. I've lived here since the 80's and I have a love affair with this neighborhood as I moved in when the house was first built. We were the third house in the neighborhood and I feel like this love affair is in jeopardy and we are going to talk a little bit about why. The fact of the matter is the Historic Landmarks Commission is deeply rooted in a failed business venture relative to this property, so the intent as stated was originally an individual primary resident, then it moved to rezoning for additional residents and now we are moving to some type of office or business use and it goes on and on and on. Ultimately, it is our belief and as he speaks about community, I represent the 28 homes that borders this property and we've had several meetings in the neighborhood and it is unanimous and our stance against this rezoning. This has been a residential area for as long as I have lived there and I think that was just commented to and the impacts that this could have on our neighborhood are significant. Just to name a few because we really believe this is a transfer of issues and negative impact over to all of our homes and our neighbors, based on the business deal that has gone south. As we look at this there are a couple issues, one the map of the street probably didn't show the actual picture of the street. There is a safety issue we have ourselves. Coming off of Rea Road onto Alexander if you do the top shot of the street, if you look in the far right, coming across Rea Road cars go 40 miles per hour and cars come from this side doing 35 to 40 miles per hour through this intersection and you can see it starts to bend up. Where this drive is, is a very short distance. We have wrecks already in this intersection, and here is an entrance for a business, you are going to have rear-end collisions and there is going to be some safety issues there. Beyond that we already have traffic challenges coming out of our neighborhood and peak traffic hours, it is very tough to gain access to take a left to go up Providence Road. The traffic is already very congested in that immediate area. This home that is about 4 or 5 years old is not part of our neighborhood, however we have communicated with them and they did not know this was going on and they said they are going to stand in opposition as well.

The traffic and the public safety are one issue, however the bigger issue for our neighborhood is the impact to our home values. As we look at this, again it has been a residential area for as long as it has been there on all four corners and now all of a sudden we are going to rezone and look to have business where there is going to be lighting impacts, possible business hours, noise and as you can see our neighborhoods and homes are right here so if you build an addition for more office and you have parking lots or whatever is going to grow there, our homes are going to be

impacted by that. The other piece is turnaround traffic. This is a tough access point. Providence Road, the speed limit is 45 MPH, this is a short access once you come through this intersection so we get a lot of turnaround traffic already and that is going to increase if you put a place of business there. Zoning is supposed to protect the value of our homes. We feel like rezoning this for business, which will be the second round, is going to decrease our values, and we are the buffer to the next neighborhoods that go up Alexander Road so we are really not comfortable with that. The other piece, whether it would be agreed as relevant or not, years ago we battled some zoning on this corner and now there are single tenant homes on this corner. We have a concern that the precedent being set here for commercial will then translate to this corner, which is 1 ½ acres by owner and over here there is a 4 acre piece of property that is owned by owner who attended one of the meetings, and to neighborhood it was clear they were waiting for the precedent to determine what they were going to do with their 4 ½ acres. If this starts and this is where it begins, zoning starts to go commercial on these corners this entire area is residential space with the Arboretum 1.3 miles up this road and then other businesses down this way. It will start to impede so the Arboretum is up here about a mile and then you go towards town, all of this is residential and as you start to plant business, high traffic and it could translate to gas stations on this corner. You are going to impede our property values in this neighborhood which will then impact everything else going in towards the neighborhoods. So for this reason and a couple of others, we are adamantly opposed to the rezoning for business purposes. We respect and identify that they have a bad property and a property that they have lost money in and made a bad decision, but we've got friends and family who are in the same boat and they've got to live by it so we do not believe this should be rezoned just to then transfer the issue back to the communities that surround this property.

In rebuttal, Mr. Gray said as to being a bad business decision, the Landmarks Commission is charged solely with preservation of the city and the county's historic resources. We looked at this as an 1804 house that was in danger and had to be saved. We had to act quickly because the bulldozers were waiting to destroy the house and this site was available so we moved it to the site. Sometimes you have to make decisions and move ahead when you are charged with saving something that you have to act quickly. That said, we need to back up a little bit. This is a conditional zoning that would preserve one 1804 farm house and make it a very simple office use. We are not talking about any significant additional development on the property. As a matter of fact, it is currently zoned R-3 and my calculation would be that if we were to not get this conditionally zoned to allow the office, the neighborhood could see under the allowed zoning significant development on the corner. We could have three additional units I believe. I don't know where this opposition was when we had our two community meetings but at the community meeting which happened to include the large house that neighbors us, they were at the community meeting and they did express their concerns and we did have long conversations. We left that meeting without any opposition for this plan. They thought it was the lesser of two evils. We are looking for a conditional rezoning to allow preservation of the house and we believe it is going to be less development overall than it could be. If we were not to receive the conditional zoning we could perhaps hold the house, get a tenant and someone could live there for ten years. When the residential market does return I can see us being forced at that time because we do plan on holding the property forever, we could be forced to develop the rest of the property and you could see three additional units on the property. We do not like that and that would be less sensitive to the historic landmark that is on the property now, having additional houses or units on the property. But we would be forced to do that.

Councilmember Mayfield said am I reading correctly that the request is insistent with the South District Plan?

Ms. Keplinger said yes ma'am it is.

Ms. Mayfield said we are looking at an increase of almost 3 to 4 times the traffic going from 38 per day to potentially over 100.

Ms. Keplinger said I would have to ask CDOT to speak to that.

**Rick Rohaski, CDOT** said would you repeat your question?

Ms. Mayfield said are we looking at this increase of 3 to almost 4 times the traffic going from an estimated 38 trips per day to over 100 trips per day?

Mr. Rohaski said through our Institute of Transportation Engineers, that is what it calculates to be for this business use.

Ms. Mayfield said I'm really trying to get a picture of the impact on the quality of life, notwithstanding the arrows that we were just looking at and the fact that this is right off of a curve and I'm only seeing one entrance. I'm really trying to get an idea of what the quality of life of the current homeowners, how that can be affected negatively or positively if we were to move forward with this, of something that you can bring within the next 30 days to help me get this.

Ms. Keplinger said we can certainly look at that. I think anytime you have a piece of property that is residential and on a corner that it does have it challenges, but I am personally not a believer that that means it should be rezoned. I think there are some options here with the preservation and one of the options is to go through the conditional rezoning and still maintain that house and the historic nature of that structure. We can provide you a little more information on that before the next meeting if you would like.

Ms. Mayfield said this location has already been moved once and it wasn't designated as a historic building on the original site for whatever I'm foreseeing instances at that particular time. Has there been any discussion as far as identifying either a space closer to the original because I'm having a difficult time trying to see the structure without it being in the original location to be designated for this particular request. Has there been any conversation about possibly moving the structure back closer so it can fall under that category of historic?

Mr. Gray said no, moving the house again would not be feasible. We've got limited budget in terms of preservation that needs to be used throughout the county and we've committed significant resources to this project. Moving it again is not in the works. I want to make one clarification, the site plan proposes two entrances, one off Providence Road which would be a right turn only into the property, so there are two entrances and not one entrance into the property.

Councilmember Howard said why this site as opposed to somewhere else? Was this donated for this house?

Mr. Gray said it was available. The house was originally located on Rea Road 1 1/2 mile away and this was a feasible site. In that part of Charlotte a number of available sites was extremely limited.

Mr. Howard said the goal was to keep it close to the site.

Mr. Gray said and it was a 1.5 acre site which best replicated the rural setting that would be historically associated with the house.

Mr. Howard said I would hope the neighbors know that a historic house is a good thing and not a bad thing. I kind of heard that it was maybe a pull down but if it is done right it can be a great amenity. I'm looking at the other corner and you are right, they did put some very tight single family houses on the other side and then there is another one that seems to be a big pool in the back so I guess that corner won't be going away. The one across the street that you said was 4 acres, I guess it is kind of sparsely developed and it could so it made me think why the option of developing the rest of the land as residential. Has that been brought up at all?

Mr. Gray said we did consider that and we came with the rezoning initiated in 2008 with the idea that we would rezone the property to allow for four additional units, two houses and one duplex because R-6 would allow for that. We got a very negative reaction from the neighbors.

M. Howard said even at R-3 you could five houses.

Mr. Gray said maybe because of the way it lays, as it is zoned now we could add three additional houses. But at our neighborhood meeting we proposed that as the alternate to single use conditional zoning for one historic house converted to an office. Our feedback from the neighbors, they'd rather have this as an attorney's office or a real estate office than having three additional houses on what the neighbors considered to be an asset for the neighborhood because now they've got a 1.5 acre green space on the corner. Even if we build out according to the CD with 1,000 square foot addition and a 750 square feet addition to the house, it is still going to be large green space.

Mr. Howard said I would like to hear the person closest to it, did you go to any of the meetings he is talking about?

Mr. Stough said I think we went back in 2008 when the R-6 was up and we adamantly battled that. We didn't want stacked up residences on the corner and then it moved to an R-3 which was stated they could add three residences. At that point it was obvious they could not sell the property as it was.

Mr. Howard said I was talking about the meetings regarding this petition.

Mr. Stough said no we were not at the meeting he is referring to. I speak on behalf of the 28 homes that back up to the property and we are unanimously not for this rezoning.

Mr. Howard said and you heard this from folks that came out that night?

Mr. Gray said no sir, we had consensus at the meeting and I'm sure the notes are with Ms. Keplinger from the neighbors that they preferred the conditional rezoning for a single office as opposed to more intensive residential, even the intensive residential three additional units which is allowed. Again I'm worried that we are going to be holding this place for ten years probably leasing it and probably doing fine in terms of maintaining the property, but then at the end of it we will be forced to sell it to someone who will wish to subdivide it for three additional units.

Mr. Howard said let's be clear, you guys live in a really good area of Charlotte and that is a piece of property that is sitting there. There is going to be something and it is either going to be office or it is going to be residential. You've had both options now. Two years ago it was residential and you said no.

Mr. Stough said no, we said no to the R-6 which was stacking 6 or 7 residences so they move to an R-3 with less homes on it and we were in support of the idea if they could sell it and develop three additional homes on the 1.5 acres which in that area of Charlotte, that size lots is pretty uniform with what you would see in that area.

Councilmember Dulin said I appreciate the work you do on Historic Landmarks and this is tough stuff and this is particularly tough, but I've got a unique perspective on this home in that I visited with Mr. Rea when I was a kid and I sat is that home and rocked on the side porch with Mr. Rea and I recall when the historic folks bought it and moved it. I thought that Mr. Rea would think that was sort of funny. I understand it is a very old house and I thought it was odd when you all moved it to that site. Earlier you mentioned it was a historic site where the house is and it is not a historic site. It is an old house that sits on a corner lot on Providence Road and now you are sort of stuck with it in a way. When it was it moved to the current location? In 2006. I drive by there all the time and you've had it on the market to sell as a single family home. Is that correct?

Mr. Gray said that is correct.

Mr. Dulin said so it has been sitting vacant since 2006. I think that the graphic that the neighbors showed of the closeness of the entrance off of Alexander when you cross Rea Road, that entrance there and if you catch that light green, the cars are flying through there. That is something the City Council can do to slow those cars down some and that would be our responsibility. I think that entrance off Alexander into that is way too short on the intersection, cars coming in and out of there would be at peril and the same thing would apply unless they move the entrance if they developed it into single family homes like you guys have suggested

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you might be for. Moving the house from the Rea site to that site was a chore and you mentioned that you didn't think you could afford to move it again and at this point of course finding a site to move it to would be difficult. If you moved it again that site wouldn't be historic either and you would have an old house sitting on a new piece of dirt, but you could fund the move of the house by selling the site to somebody that would come in and build some appropriate houses that these neighbors who are unified 100% would find appropriate. If this thing moves forward we are going to have to want something, but when you said it was a failed business model sir, I wrote that down because at the time the historic folks had to do something quickly with this house and if they wanted it to be moved that is fine, but I think in the end it was a bad business deal for you all because your job is not to buy and hold, your job is to buy, fix and sell and move on to something else. I still don't know what you did with that bus that we made historic a couple years ago.

Mr. Gray said I believe it may be going to the North Carolina Transportation Museum at some point.

Mr. Dulin said Mr. Rea would find this very interesting and I've got a unique perspective as being the one guy in town that visited that home on the site. We were farm people and here I sit worrying about Mr. Rea's house again and I think the historic folks have got a problem on your hands and you folks have got a pretty strong position so have at it, but try to get together with them as best you can. I appreciate you coming down.

Councilmember Kinsey said I think it would have helped Mr. Gray and I know the house is historic and it might have helped if maybe we could have seen the original reason as to why it was designated. I think that would help. It is historic and we really don't like to move houses, but sometimes we have to do it. I think the best use of this house is for someone to want to live there and keep it up. I know we have used some historic houses for office and I think it has to be done very, very carefully and someone has to want to do that because it is not easy to keep up an old house believe me. I just can't sit here and have my colleague say it is not historic because it is and that whole area has history involved, whether or not it is on the original Rea property or not, the whole area out there has a lot of history. I hope some resolution can be reached because I would hate to see the house destroyed. Quite frankly, I would hate to see other structure built on that property. I think that would take away from it as well.

Councilmember Cooksey said Mr. Gray, how many people were at the community meeting?

Mr. Gray said about 12.

Mr. Cooksey said how many residents of the general area?

Mr. Gray said they were all residents of the surrounding area.

Mr. Cooksey said did you keep track of where in the area they lived?

Mr. Gray said at the public meeting, everyone signs in and gives us their address.

Mr. Cooksey said I'm looking at your community report and I've got four addresses here of people in attendance, from the copy that is on line. Of those four, two don't have to go to the Alexander/Providence Road intersection from Alexander. One lives up Providence Road and the other lives down Providence Road and they are not at this intersection. On the other hand I have five people here talking about representing 28 homes there in the Alexandria Lane, Hunter Pine Lane and Kristina Court area. You have one person from the Kristina Court at your meeting and you've got one person signed against it from Kristina Court so the weight of the evidence here is suggesting that there is not neighborhood satisfaction with this proposal. Could you send us the list of people you mailed to. Sometimes that is part of the community meeting report and sometimes it isn't, but if we could get that list of who you mailed to and match it up against who attended I'd be interested in having that.

Mr. Gray said I would be glad to. I will say the folks from Kristina Court came to the meeting and again we are representing it truthfully, they preferred the site plan you see here to what an alternative could be in the future.

Mr. Cooksey said the note on the agenda said Protest Petition insufficient. What was driving anything insufficient?

Ms. Keplinger said the property owner that protested is on the opposite corner and it is the single family home. There is a state law that says if the protester is more than 100 feet of street right-of-way away from the property being rezoned then they are not eligible to sign a protest petition.

Mr. Cooksey said could you send me a list of the folks who would have been eligible to sign the protest petition. I presume if you have analyzed it you know what the acceptable properties are.

Ms. Keplinger said we can do that. We don't actually have a list, but we can get that.

Mr. Cooksey said what can you tell us about the list that the petitioners would have mailed to for the committee meeting?

Ms. Keplinger said that is a list that is provided to him by staff. It is something that we generate and it is the same list based on the Council's notification policy and we did give it to them. They can add additional people to that if they wish, but that did come from us.

Mr. Cooksey said we will be talking about this over the course of the next month.

Councilmember Barnes said I wanted to share a thought on a point this gentlemen made earlier regarding what will happen on the other corners if this is approved. I understand exactly what he is talking about related to the issues I was discussing earlier so I appreciate you making that point.

Mayor Foxx said I know we will have a lot more conversation about this over the next 30 days and I want to thank both sides for presenting your views. It is very helpful.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

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**ITEM NO. 19: HEARING ON PETITION NO. 2012-014 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.48 ACRES LOCATED ON THE EAST AND WEST SIDE OF LOUISE AVENUE BETWEEN EAST INDEPENDENCE BOULEVARD AND EAST 8<sup>TH</sup> STREET FROM B-1 AND O-2 TO R-5 AND R-12MF.**

**ITEM NO. 20: HEARING ON PETITION NO. 2012-15 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.65 ACRES LOCATED SOUTH OF INDEPENDENCE BOULEVARD AND BETWEEN HAWTHORNE LAND AND LAMAR AVENUE FROM B-1 AND O-2 TO R-12MF.**

**ITEM NO. 22: HEARING ON PETITION NO. 2015-017 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.67 ACRES LOCATED SOUTH OF INDEPENDENCE BOULEVARD ALONG THE EAST AND WEST SIDE OF CLEMENT AVENUE FROM B-1 AND I-2 TO R-5.**

The scheduled public hearings were held on the subject petitions.

Councilmember Barnes said are the next six items these corrective items that we talked about?

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**Tammie Keplinger, Planning** said yes sir, and we are going to combine those as much as we can if the Council will allow us to do that. I was going to ask you if you would indulge me for a few minutes and let me draw your attention to the map at your dais. This shows the next five rezoning petitions, 2012-014, 2012-015, 2012-17 are along Independence Boulevard and then 2012-016 and 2012-018 are both within the Elizabeth Neighborhood. If I could I would like to take 2012-014, 2012-015 and 2012-17 together and tell you a little bit about those petitions. All of those petitions are zoned either multifamily, office, business and there is one little part of industrial. None of these properties are developed for non-residential uses. All of the properties used to be accessed through Independence Boulevard and now what you see along these properties are a brick wall and the access is actually through the Elizabeth neighborhood, and if you closely you can see the brick wall and how the streets just end now.

For petitions 2012-014, 2012-015 and 2012-017, staff does recommend approval. They are consistent with the Elizabeth Area Plan. They preserve and protect the residential character of the neighborhood.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

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**ITEM NO. 21: HEARING ON PETITION NO. 2012-016 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.79 ACRES LOCATED ON THE NORTH SIDE OF CLEMENT AVENUE ACROSS FROM EAST 9<sup>TH</sup> STREET AND GENERALLY BOUNDED BY BAY STREET, LAMAR AVENUE AND EAST 8<sup>TH</sup> STREET FROM R-22MF TO R-5.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said this is in the interior of the Elizabeth neighborhood, R-22 to R-5, the three parcels that are zoned single family. There are multifamily units around these properties, but we are trying to preserve the residential character and we are recommending approval.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

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**ITEM NO. 23: HEARING ON PETITION NO. 2012-018 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.26 ACES LOCATED ON THE NORTH SIDE OF HAWTHORNE LAND BETWEEN EAST 7<sup>TH</sup> STREET AND EAST 8<sup>TH</sup> STREET FROM R-22MF AND O-2 TO R-5.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said this is a rezoning for approximately 0.26 acres R-22MF and O-2 to R-5. It is located in the center of the Elizabeth Neighborhood. The plan recommends rezoning these properties to align the current zoning with the current land use. There is an alley that is located between these properties and the commercial property along 7<sup>th</sup> Street will serve as a good buffer for these properties. It is consistent the area plan.

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

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Council's decision was deferred pending a recommendation from the Zoning Committee.

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**ITEM NO. 24: HEARING ON PETITION NO. 2012-019 BY THE CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.47 ACRES LOCATED ON THE SOUTH SIDE OF WEST KINGSTON AVENUE BETWEEN CAMDEN ROAD AND HAWKINS STREET FROM B-1 TO TOD-M.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said this is a request to rezone approximately 0.47 acres from B-1 to TOD-M. You can see it is located right off of Camden Road and West Boulevard. We have multiple types of zoning and land use in this area, a mixture from everything from single family residential, industrial to commercial and office. The land use plan calls for transit oriented mixed use development. It is within ½ mile of the station location and we are recommending approval.  
[ Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and ]  
[ carried unanimously, to close the public hearing. ]

Council's decision was deferred pending a recommendation from the Zoning Committee.

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**ITEM NO. 25: HEARING ON PETITION ON. 2012-020 BY THE CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO REPLACE THE TERM, "PLANNING COMMISSION" WITH "PLANNING DEPARTMENT", WHEN REFERRING TO THE CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT STAFF.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said this is a petition to clean up the zoning ordinance. There are many places where it refers to the Planning Department Staff as the Planning Commission Staff. We changed that terminology several years ago and this is just a clean-up text amendment.  
[ Motion was made by Councilmember Cannon, seconded by Councilmember Mayfield, and ]  
[ carried unanimously, to close the public hearing. ]

Council's decision was deferred pending a recommendation from the Zoning Committee.

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**MAYOR AND COUNCIL TOPICS**

Councilmember Mayfield said I want to make sure the community, especially those that live and reside within District 3, know that we will be hosting my first town hall meeting this Saturday morning, March 24<sup>th</sup> from 9:30 a.m. until 12:00 at the Southwest Service Center which is located at 4150 Wilkinson Boulevard. I will have snacks so come early and be prepared.

Councilmember Cooksey said this is a request for an agenda item for next week. I spoke with Chairman Cogdell and Commissioner Bentley about it today. Several of us have gotten calls from constituents concerned about revaluation and think just like I did, revolved beautifully and move them over to the Board of County Commissioners since that is their Chain of Command. However, earlier this month the town of Cornelius was successful in getting additional review from the Tax Assessor by asking for it so I think in light of the requests and concerns that have come to us, I'd like to put that on the agenda for next month. Basically a place holder item for the agenda will get the wording worked out between now and next week for a better review by

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the Board of County Commissioners for revaluation. As an additional item on that the Board will be taking up the subject that a rather extensive review tomorrow night that may wipe out the need for this discussion, but given the difference in our meeting schedules, next Monday would be the appropriate time for us to weigh in if we chose to do so.

[ Motion was made by Councilmember Cooksey, seconded by Councilmember Kinsey, to put ]  
[ on next week's agenda an item regarding revaluation review. ]

Mayor Foxx said because it is coming up on the County Commission's agenda tomorrow and because I know there is energy around the community for there to be some consideration of that, whatever you all want to do is fine. I'm just as willing to sort of table this discussion, let them have their discussion and then put it on the agenda next week if there is not a resolution to it tomorrow. Either I or the Manager can do that so either way it will get to the same place. Curt do you have any view one way or the other?

**City Manager, Curt Walton** said relative to process whether to do it now or later? No, I guess one thing is how do we interpret whether what they do tomorrow night is satisfactory or not. That is the only issue and we will be glad to follow up with them on Wednesday and make that call. We could send the item out on Friday if it doesn't appear to be satisfactory.

Mayor Foxx said is it fair to say that whatever consideration is given to other municipalities be reflected?

Mr. Cooksey said exactly, that is the fair base line.

Mayor Foxx said that can be communicated to them in advance of tomorrow I suppose if there is unanimity around that and if we are not satisfied we can obviously take it up on Monday.

Mr. Walton said I don't think that will happen without a Council nudge because ordinarily I would defer to Mr. Jones on this, but they kind of prized the lid off Pandora's Box. It seems now that they have done that they are going to have to look at everything. I don't know that they are going to be inclined to do that.

Mayor Foxx said should we make a push tonight?

Mr. Cooksey said again in speaking with the Chairman and with Karen Bentley whose has been working a great deal with this with the northern towns, their recommendation was if we want to have an influence in the process see what happens tomorrow night and respond accordingly. I replied back that our 26<sup>th</sup> meeting, given our meeting schedule and their meeting schedule is the best time for us to do so. I didn't want them to be caught unaware that we were potentially going to put a comment about their process on our agenda. Personally, it is a matter of timing and going ahead and making sure there is a place holder there. A request for an agenda item of course is not a consent to the item itself, it is just consent for consideration and if we come to it next Monday and everything is happy and we are all getting e-mails from constituents saying no, this is great, we are all looking forward to this change, then the matter falls. If not, then we have the item to take up.

Mayor Foxx said I understand the point. I have not had that conversation that you had with Ms. Bentley, but what I can say to you is, that if they are going to talk about it tomorrow night it is much harder to have them re-talk about it later. If we are inclined to weigh it, it seems to me that we ought just make a decision.

Mr. Walton said if it is agreeable we can monitor what they do tomorrow night and then talk with Mr. Cooksey and you Mayor and either one of us could put it on late Friday for next Monday.

Councilmember Howard said I just want to make sure I understand what is being asked to be on the agenda. I think I would like to have a conversation about the whole process, not about whether or not we want to join that. There is a lot of information I would like to have about this whole thing. For instance what would it do to our budget projections, if it is a discussion about

all of it, yes but if it is just a discussion about whether or not we want to request the same thing, I don't know if I could do that next week without a full presentation about what is going on, what has been considered, how many appeals we've had where people are not satisfied. There is a lot of information we need to have if we do that conversation.

Mayor Foxx said let me suggest this. Because it is being done for one municipality in the county, I think it is at least fair for us to express that we have similar concerns about the process within the City of Charlotte and we would ask them to take that into account in their conversations tomorrow. I think maybe that is one way to start and then if we are not satisfied with what happens Tuesday, we can obviously, put it on the agenda later this week. Is that acceptable?

Mr. Cooksey said if there is something going to the Board. Tonight was more than I would have expected because I agree with Mr. Howard that some discussion needs to take place. I'm just going for the procedure of, we talk about something when it is on the agenda and if it is not on the agenda we are not talking about it. That is where I was going with the agenda item.

Mayor Foxx said we could ask the Manager to prepare a letter that would get there before tomorrow.

Mr. Cooksey said I wasn't sure I could get a unanimous vote by the Council to make any kind of comment tonight without further detail.

Mayor Foxx said I would like to suggest to you that what you've seen tonight is how democracy can work.

[ Mr. Cooksey said I will amend the motion to say that this Council tonight request that the ]  
[ Board of County Commissioners give the same consideration to Charlotte as it has to ]  
[ Cornelius in terms of reviewing revaluation. Ms. Kinsey concurred with amending the ]  
[ motion. ]

Mr. Walton said I will send the letter tomorrow.

Mayor Foxx said if necessary we can put it on the agenda for Monday later this week.

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

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## **ADJOURNMENT**

The meeting was adjourned at 8:45 p.m.

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Ashleigh Price, Deputy City Clerk

Length of Meeting: 3 Hours, 27 Minutes  
Minutes Completed: May 4, 2012