

The City Council of the City of Charlotte, North Carolina convened for a Combined Business and Zoning Meeting on September 24, 2012, at 4:09 in the Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Foxx presiding. Councilmembers present were John Autry, Michael Barnes, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell and Beth Pickering.

ABSENT: Councilmember Patrick Cannon

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Mayor Foxx said before we go into our session as a point of personal privilege. This is the first meeting we've had since the Democratic National Convention in 2012 and I want to say a word of thanks to our entire City staff. Our staff performed at a level that just made the entire City proud. And Curt, to your whole team we want to give you a round of applause.

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INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Foxx gave the Invocation followed by the Pledge of Allegiance.

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ITEM NO. 1: MAYOR AND CONSENT ITEM QUESTIONS

Mayor Foxx said today we have a very interesting meeting. It is a combined Business and Zoning meeting and we're going to start today with the business part of our agenda and in typical fashion we will ask Council members if they wish to pull consent items.

Mr. Barnes said I have two items, the first one is Item No. 8, the second is Item No. 18 and I pulled them both because of the SBE component. They both handsomely exceeded the established goal and that grabbed my attention and I did a little research on the SBE's and I was left with a question of precisely how they qualify to be SBE's and I think based upon the agreement we made some of our staff people have been working on that. Mr. Manager I don't know if they've resolved or arrived at an answer to those questions but that would be helpful.

City Manager, Curt Walton said is the question as to why the actuals were higher?

Mr. Barnes said no sir it is actually concerning how it is that those winning entities were in fact qualified as SBE's. I think Ms. Rosado is working on it.

SBE Program Manager, Nancy Rosado said they followed our certification process. There are quite a bit of criteria that they have to meet in order to be eligible. First of all the business has to be for profit. We look at the eligible owners. We look at their personal net worth; we looked to make sure that they hold the appropriate professional licenses for the industry or trade. They have to be located in one of the geographic restriction areas. So we certify only in eight counties so that business has to be headquartered in one of those eight counties. We also look to make sure they don't exceed our size standard. So we look at a quarter of the SBE size standards. So those are some of the criteria. In addition they have to be actively in business for one year.

Mr. Barnes said okay, I appreciate that.

Ms. Mayfield said I pulled Item No. 13, Item No. 21, Item No. 28, Item No. 29, Item No. 31-D and Item No. 31-E.

Motion was made by Councilmember Howard seconded by Councilmember Mitchell and carried unanimously to approve the Consent Agenda as presented with the exception of Item Nos. 13, 21, 28, 29, 30-B, 31-D and 31-E.
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The following items were approved:

Item No. 7: Tryon Hills Neighborhood Improvement Project

Award the low bid contract of \$3,239,928.35 to United Construction, Inc. for the Tryon Hills Neighborhood Improvement Project.

Summary of Bids

United Construction, Inc.	\$3,239,928.35
Bullseye Construction, Inc.	\$3,328,185.68
Triangle Grading and Paving	\$3,376,328.13
Sealand Contractors	\$3,494,530.88
Showalter Construction Company	\$3,703,869.98
Blythe Construction, Inc.	\$3,800,876.50
Blythe Development Company	\$3,938,800.72

Item No. 8: Charlotte Convention Center Complex Mechanical Improvements

Award the low bid contract of \$1,053,579.00 to Catawba Mechanical Services, Inc. for the Charlotte Convention Center Complex Mechanical Improvements.

Summary of Bids

Catawba Mechanical Services, Inc.	\$1,053,579.00
Acorn Industrial, Inc.	\$1,557,509.90
Johnson Controls, Inc.	\$1,848,125.50

Item No. 9: CMS-South Park Campus Watershed Enhancement Project

Award the low bid contract of \$1,448,907.50 to Onsite Development, LLC for the CMS-South Park Campus Watershed Enhancement project in the Briar Creek watershed.

Summary of Bids

OnSite Development, LLC	\$1,448,907.50
Sealand Contractors Corp.	\$1,567,168.88
Blythe Development Company	\$1,589,512.50
Showalter Construction Company	\$1,592,019.00
Blythe Construction, Inc.	\$2,077,371.74
Eagle Wood, Inc.	\$2,127,577.86

Item No. 10: Governor's Highway Safety Program Grant Application

(A) Adopt a resolution authorizing the Charlotte-Mecklenburg Police Department to apply for \$20,000 in grant funds from the Governor's Highway Safety Program, and (B) Budget Ordinance No. 4963-X appropriating \$20,000 in grant funds from the Governor's Highway Safety Program.

The resolution is recorded in full in Resolution Book 43 at Page 852.

The ordinance is recorded in full in Ordinance Book 57 at Page 853.

Item No. 11: DNA Analysis Grant

(A) Accept a grant from the U.S. Department of Justice, in the amount of \$268,405, for DNA analysis, and (B) Budget Ordinance No. 4964-X appropriating \$268,405 in grant funds from the U.S. Department of Justice.

The ordinance is recorded in full in Ordinance Book 57 at Page 854.

Item No. 12: Police Vests and Rifle Plates

(A) Approve a unit price contract with Lawmen's Safety and Supply, for an initial term of two years for the purchase of tactical vests and rifle plates, and (B) Authorize the City Manager to approve up to three, one-year renewal options with possible price adjustments as authorized by the contract.

Item No. 14: Juvenile Offender Diversion Program Grant

(A) Accept a grant from the Mecklenburg County Juvenile Crime Prevention Council, in the amount of \$95,739, to fund a Juvenile Offender Diversion Program, and (B) Budget Ordinance No. 4965-X appropriating \$95,739 in grant funds from Mecklenburg County.

The ordinance is recorded in full in Ordinance Book 57 at Page 855.

Item No. 15: Fire Department Computer Aided Dispatch System

Approve a contract with Tritech Software Systems for a term of one year to provide maintenance on Fire Department's Computer Aided Dispatch System up to \$120,000.

Item No. 16: Traffic Signal Cabinets

(A) Award the low bid unit price contract to Naztec, Inc., for traffic signal cabinets for one year, and (B) Authorize the City Manager to extend up to two additional one-year terms with possible price adjustments as authorized by the contract.

Summary of Bids

Edison Foard, Inc.	\$611,600.00
Momentum Construction	\$639,000.00
Myers & Chapman	\$654,000.00
Morlando Construction	\$655,000.00
PCL Construction Services	\$674,000.00
Liles Construction Company	\$679,900.00
Maple Leaf Design & Build	\$928,000.00

Item No. 17: Airport Terminal Curbfront Roadway Design Contract

Approve a contract with HNTB North Carolina, P.C. in the amount of \$1,695,615 for the design of the private occupancy vehicle lanes for the terminal curbfront.

Item No. 18: Airport East Terminal Office Upfit and Lease

(A) Approve a low-bid contract with Edison Foard, Inc. in the amount of \$611,600 for the construction of the East Terminal Office upfit, and (B) Approve a five-year lease with General Services Administration/Transportation Security Administration in the amount of \$1,901,812.60.

Item No. 19: Utilities Uniforms

Approve a unit price contract with Aria Apparel, for the purchase of work uniforms for the term of two years.

Item No. 20: Utilities Field Operations Hauling Services

Approve a unit price contract with McGirt Trucking Co. for hauling of topsoil and spoils for the term of one year.

Item No. 22: Utility Management System Software Technical Maintenance and Support Contract

(A) Approve the contract renewal of \$423,941 for software maintenance and support to Ventyx for the Ventyx Customer Suite/Service Suite Utility Billing System, and (B) Authorize the City Manager to approve two additional annual renewals with possible price adjustments as stipulated in the contract.

Item No. 23: Storm Water Refunding Bonds

Adopt the resolution and bond order necessary for the issuance of debt to refund outstanding 2002 Storm Water Revenue Bonds.

The resolutions are recorded in Resolution Book 43 at Page 853-857 and 858-886.

Item No. 24: Transit Bus Stop Improvements, FY2013

(A) Award the low bid contract of \$87,066 to BidKon, LLC for the Bus Stop Improvements, FY2013 project, and (B) Authorize the City Manager to approve one renewal in an amount up to the original contract amount.

Summary of Bids

BidKon, LLC	\$ 87,066.00
Carolina Cajun Concrete, Inc.	\$ 88,530.75
W. C. Construction Company, LLC	\$ 99,130.00
W. M. Warr & Son, Inc.	\$ 99,865.50
Eagle Wood, Inc.	\$187,892.78

Item No. 25: Blue Line Extension Condemnation Legal Services

Authorize the City Manager to negotiate and execute the following contracts for condemnation legal services at the listed up to amounts for a term of five years:

1. Horack, Talley, Pharr, & Lowndes - \$320,000
2. Hamilton, Stephens, Steele & Martin, PLLC, - \$320,000
3. Parker, Poe, Adams & Bernstein, LLP, - \$320,000

Item No. 26: Blue Line Extension Insurance Broker Services

(A) Approve a contract with McGriff, Seibels and Williams, Inc. for an Insurance Broker Services Feasibility study for an initial term of up to one year for \$25,000, (B) Authorize the City Manager to approve a go-forward amendment with McGriff, Seibels and Williams, Inc. for Insurance Broker Services for four years in an annual amount up to \$215,000, (C) Authorize the City Manager to approve one one-year renewal option for Insurance Broker Services as authorized by the contract, and contingent upon the company's satisfactory performance, and (D) Authorize six years of consulting services following the completion of Insurance Broker Services, at no additional cost to the City.

Item No. 27: Refund of Property and Business Privilege License Taxes

(A) Adopt a resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$2,546,776.74, and (B) Adopt a resolution authorizing the refund of business privilege license payments made in the amount of \$14,741.98.

The resolutions are recorded in Resolution Book 43 at Page 887-895 and 894-898.

Item No. 30-A: 1729 Finchley Drive

Ordinance No. 4966-X authorizing the use of In Rem Remedy to demolish and remove the structure at 1729 Finchley Drive (Neighborhood Statistical Area 142 – Shannon Park Neighborhood).

The Ordinance is recorded in full in Ordinance Book 57, at Page 856.

Item No. 30-C: 6109 Grove Park Blvd.

Ordinance No. 4968-X authorizing the use of In Rem Remedy to demolish and remove the structure at 6109 Grove Park Blvd. (Neighborhood Statistical Area 144 – Hickory Grove Neighborhood).

The Ordinance is recorded in full in Ordinance Book 57, at Page 858.

Item No. 30-D: 1301 Marble Street

Ordinance No. 4969-X authorizing the use of In Rem Remedy to demolish and remove the structure at 1301 Marble Street (Neighborhood Statistical Area 19 – Thomasboro/Hoskins Neighborhood).

The Ordinance is recorded in full in Ordinance Book 57, at Page 859.

Item No. 31-A: 8524 Cedarbrook Drive

Acquisition of 3,067 sq. ft. (.070 ac.) in Sanitary Sewer Easement, plus 2,045 sq. ft. (.047 ac.) in Temporary Construction Easement at 8524 Cedarbrook Drive from John Kimsey Hedrick and Wife, Teresa Love Hedrick for \$10,875 for 2011 Annexation: Tukulake Drive/Salamander Court Trunk Sewer, Parcel # 6

Item No. 31-B: 3600-Philemon Avenue

Acquisition of 13,795 sq. ft. (.317 ac.) in Fee Simple, plus 26,854 sq. ft. (.616 ac.) in Existing Right-of-way at 3600 Philemon Avenue from Frances T. Hilton for \$50,450 for Blue Line Extension, Parcel # 1273.

Item No. 31-C: 332 St. Anne Place

Acquisition of 1,622 sq. ft. (.037 ac.) in Temporary Construction Easement at 332 St. Anne Place from Vincent Curcio A/K/A Vincent D. Curcio for \$13,700 for Blue Line Extension, Parcel # 1325.

Item No. 31-F: 2533 Wilkinson Boulevard

Acquisition of 2,930 sq. ft. (.067 ac.) in Storm Drainage Easement, plus 1,006 sq. ft. (.023 ac.) in Temporary Construction Easement at 2533 Wilkinson Boulevard from Heirs of Mary A. Funderburk for \$16,225 for Brentwood Place, Parcel # 67.

Item No. 31-G: Perrin Place

Acquisition of 6,003 sq. ft. (.138 ac.) in Storm Drainage Easement, plus 984 sq. ft. (.023 ac.) in Temporary Construction Easement at Perrin Place from Perrin Place Townhouses for \$46,625 for Cherokee/Scotland Storm Drainage Improvement Project, Parcel # 39

Item No. 31-H: 6330 Wilkinson Boulevard

Acquisition of .389 acres plus commercial building at 6330 Wilkinson Boulevard from M & D Bass LLC for \$248,200. For Airport Master Plan Acquisition.

Item No. 31-I: 5511 S I-85 Hwy

Acquisition of .135 acres at 5511 S I-85 Hwy from Calvin G and Martha Haigler for \$9,800.00 for Airport Master Plan Land Acquisition.

Item No. 31-J: 6421 and 6403 Virginia Avenue

Acquisition of .95 acres at 6421 and 6403 Virginia Avenue from William P Ridout Jr. for \$200,000.00 for Airport Master Plan Land Acquisition.

Item No. 31-K: 9512 Gwynne Hill Road

Resolution of condemnation of 1,784 sq. ft. (.041 ac.) in Sanitary Sewer Easement, plus 1,714 sq. ft. (.039 ac.) in Temporary Construction Easement at 9512 Gwynne Hill Road from Baranko Enterprise, Inc. And Any Other Parties Of Interest for \$275 for 2011 Annexation: 8" 9511 and 9515 Gwynne Circle, Parcel # 1

The resolution is recorded in Resolution Book 43 at Page 900.

Item No. 31-L: 7703 Denbur Drive

Resolution of condemnation of 24 sq. ft. (.001 ac.) in Sanitary Sewer Easement, plus 1,356 sq. ft. (.031 ac.) in Temporary Construction Easement at 7703 Denbur Drive from Tracey L. Cothran and Any Other Parties of Interest for \$75 for 2011 Annexation: 8" Sanitary Sewer 6900-7500 Cedarbrook Drive, Parcel # 9

The resolution is recorded in Resolution Book 43 at Page 901.

Item No. 31-M: 8411 Denbur Drive

Resolution of condemnation of 4,514 sq. ft. (.104 ac.) in Sanitary Sewer Easement, plus 3,012 sq. ft. (.069 ac.) in Temporary Construction Easement at 8411 Denbur Drive from Augustin Cervantes and Wife, Maria Isabel Cervantes and Any Other Parties of Interest for \$1,000 for 2011 Annexation: Tukulake Drive/Salamander Court Trunk Sewer, Parcel # 5

The resolution is recorded in Resolution Book 43 at Page 902.

Item No. 31-N: 11230 Elm Lane

Resolution of condemnation of 207 sq. ft. (.005 ac.) in Sidewalk and Utility Easement, plus 1,916 sq. ft. (.044 ac.) in Utility Easement, plus 4,520 sq. ft. (.104 ac.) in Temporary Construction Easement at 11230 Elm Lane from Wells Fargo, National Association and Any Other Parties of Interest for \$57,100 for Ballantyne Commons Parkway/ Elm Lane Intersection Improvements, Parcel # 3

The resolution is recorded in Resolution Book 43 at Page 903.

Item No. 31-O: 7828 Rea Road

Resolution of condemnation of 14,560 sq. ft. (.334 ac.) in Fee Simple, plus 622 sq. ft. (.014 ac.) in Storm Drainage Easement, plus 3,368 sq. ft. (.077 ac.) in Sidewalk and Utility Easement, plus 6,978 sq. ft. (.160 ac.) in Utility Easement, plus 18,536 sq. ft. (.426 ac.) in Temporary Construction Easement at 7828 Rea Road from Zenith Investment Grantor Trust, Summit De Corporation, Trustee and Any Other Parties of Interest for \$206,050 for Ballantyne Commons Parkway/ Elm Lane Intersection Improvements, Parcel # 5

The resolution is recorded in Resolution Book 43 at Page 904.

Item No. 31-P: 7860 Rea Road

Resolution of condemnation of 16,680 sq. ft. (.383 ac.) in Fee Simple, plus 48 sq. ft. (.001 ac.) in Utility Easement, plus 15,773 sq. ft. (.362 ac.) in Temporary Construction Easement at 7860 Rea Road from Target Corporation (Successor By Merger Of Marshall Field Stores) And Any Other Parties of Interest for \$229,350 for Ballantyne Commons Parkway/Elm Lane Intersection Improvements, Parcel # 9

The resolution is recorded in Resolution Book 43 at Page 905.

Item No. 31-Q: 734 Cherokee Road

Resolution of condemnation of 137 sq. ft. (.003 ac.) in Storm Drainage Easement, plus 48 sq. ft. (.001 ac.) in Temporary Construction Easement at 734 Cherokee Road from Michael C. Loeffler and Wife, Holly H. Loeffler and Any Other Parties of Interest for \$2,725 for Cherokee/Scotland Storm Drainage Improvement Project, Parcel # 24.

The resolution is recorded in Resolution Book 43 at Page 906.

Item No. 31-R: 201 Huntley Place

Resolution of condemnation of 4,165 sq. ft. (.096 ac.) in Storm Drainage Easement, plus 444 sq. ft. (.010 ac.) in Temporary Construction Easement at 201 Huntley Place from Michael S. Weiss and Wife, Patricia W. Weiss and Any Other Parties of Interest for \$46,350 for Cherokee/Scotland Storm Drainage Improvement Project, Parcel # 34.

The resolution is recorded in Resolution Book 43 at Page 907

Item No. 32: Meeting Minutes

Approve the titles, motions and votes reflected in the Clerk's record as the minutes of:
June 25, 2012 Special Budget Meeting
June 25, 2012 Business Meeting
June 27, 2012 Special Housing Meeting
July 16, 2012 Zoning Meeting

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Item No. 13-Police Helicopter Maintenance Services and Fuel

Councilmember Mayfield said regarding Item No. 13-Police Helicopter Maintenance Services and Fuel; I have a question regarding C and D of this proposal with looking at the total amount, I was just wondering. We are approving a three-year contract for the general helicopter repair

maintenance services and approving a three year contract for the training services. If when we were negotiating this, basically looking at not necessarily consolidation but looking at how the negotiation was since we broke out each item, A-E, when we break down C and D, to me it seems as if they would go together as oppose to be broken out for the repair maintenance and the training services. So I just had a question on clarification on why we broke them out.

CSS Director, Chuck Robinson said in the past we've actually done one year contracts but in this particular case we moved to a three-year with two-year extension. And that is the best price from Bell Helicopter-Textron, Inc. and Aero Standard. We actually train at their facilities we use their helicopter when we have to do certain training maneuvers and that reduces the liability on us, plus we're using their equipment and not our equipment so it all is basically the best price that we can get from Bell Helicopter.

Ms. Mayfield said o.k. thank you.

Motion was made by Councilmember Howard, seconded by Councilmember Mayfield and carried unanimously to (A) Approve a three-year contract with Hiller Group for helicopter fuel as authorized by the Gas, Fuel, and Oil exemption of G.S.143-129 (e) (5), (B) Approve a three-year contract with Standard Aero for turbine engine and maintenance services, (C) Approve a three-year contract with Bell Helicopter Textron, Inc. for general helicopter repair and maintenance services, (D) Approve a three-year contract with Bell Helicopter Textron, Inc. for training services, and E. Authorize the City Manager to negotiate and approve up to two, one-year renewal options with Hiller Group, Standard Aero, and Bell Helicopter Textron, Inc.

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Item No. 21 –Steele Creek Pumping Station Replacement Project

Ms. Mayfield said Item No. 21 –Steele Creek Pumping Station Replacement Project. The question I have for this one is if we identified the original design contract amount and looking at this amendment and this being Amendment 1, I wanted to try to identify if there was a possibility or why weren't they able to financially adjust this on their end. But also the percentage of the increase total with these amendments. Where does that take the new total to and if we are looking at this being the only amendment or are we looking at potentially additional amendments?

Utilities Key Business Executive, Barry Gullet said this is the second amendment. The first amendment was for some additional survey work. This second amendment is because of the need to relocate the original design layout. Because you know there's a rock quarry in that area and we've been negotiating with the rock quarry for a location that doesn't affect their operation. They changed their mind, their operations basically as we've gone through the negotiations and we're going to have to extend the line further to get it further away from their active operations and that relocation of the line is the reason for the need for the amendment.

Ms. Mayfield said so when we first received the bid, did we not have a conversation regarding Plan B, if we needed to extend this location without their consisting of additional funding request.

Mr. Gullet said this contract is for design and surveying, it's not for construction and so part of the charge to the consulting engineer was to determine a route layout. We told them where we thought it should go; then it couldn't go there. So it's a change of scope of what we originally contracted with the consultant to do. It's an increased amount of work on their part that wasn't their fault.

Ms. Mayfield said and I'm not sure if you will be able to get the answer to this one right now, but I hope so. If this is Amendment 2, what is the percentage so far of this increase request for additional funding because I am concerned that an Amendment 3 and 4 be closely followed.

Mr. Gullet said I don't think there will be an Amendment 3 and 4. I can't promise you that but I don't think there will because we are pretty far along now with the design. We are actually acquiring right-of-way out there so I think we are far enough along that we are pretty sure that this will be the last amendment related to the design work. And as far as the percentage goes, the original design contract was \$2.7 million and I haven't done the math to see what the \$656,000 is percentage wise but that would be the percentage.

Ms. Mayfield said well because that's almost \$700,000 when you look at this as Amendment 2 so that's why I was inquiring. But we don't have and we're not looking to have anything in writing to account, to try and ensure that we don't have an Amendment 3?

Mr. Gullet said we have a contract with the consultant that lays out the scope. If the scope changes again, for no reason, no fault of the consultant, then we would expect to pay for the work that they are doing. But we don't expect that the scope will change. We expect that we are far enough along in the project now that we've got it nailed.

Ms. Mayfield said thank you.

Motion was made by Councilmember Mayfield, seconded by Councilmember Kinsey and carried unanimously to approve contract amendment #2 for \$656,328 with Brown and Caldwell for additional engineering services for the Steele Creek Pumping Station Replacement Project.

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Item No. 28 –Donation of Surplus Computers and Related Equipment to Goodwill

Councilmember Mayfield said Item No. 28 –Donation of Surplus Computers and Related Equipment to Goodwill; this is more of a question, more than anything else just for clarification sake as a newly councilmember. When we have our opportunity to donate goods and services to non-profits, is that after we've attempted to sell the products to recoup any costs that we can to come back to the City? Or do we have a certain limit if its three years old, five years old, what is our criteria to determine what is donated to our local non-profits oppose to the items that we seek to try to compensate some type of income on?

CSS Director, Chuck Robinson said this particular instance; this is a contract that we have with Goodwill Industries that we entered into with them about two years ago. What we were running into was we were having to ensure the proper disposal both from a federal regulation and state regulation of electronic equipment and there was no way in our current disposal process to ensure that because we were selling computers and TV's and things of this nature by the pallet and there wasn't a necessary chain to make sure that they were being disposed of properly. By entering into the contract with Goodwill Industries, what we got was a certified electronics disposal firm to dispose of electronics that could be disposed of and then those that they might be able to do something with, as far as resale or selling parts within them, then they would take that as their costs for doing business. So this it's a donation of the property but it is through a contractual agreement with Goodwill Enterprises. There are jobs involved and job training involved in this, it really does a lot of great things for the community.

Motion was made by Councilmember Mayfield seconded by Councilmember Pickering and carried unanimously to adopt a resolution approving the donation of surplus computers and related equipment to Goodwill Industries of the Southern Piedmont.

The resolution is recorded in Resolution Book 43 at Page 899.

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Item No. 29 – State Contract Vehicle Purchase

Councilmember Mayfield said Item No. 29 – State Contract Vehicle Purchase is on a similar line regarding our state vehicle purchase . What I want to know is the current vehicles, what is the disposal process? Are we selling those? Because I'm trying to make sure that I understand how we are able to recoup as much funding as possible from our previous purchases when we are looking to invest in new.

CSS Director, Chuck Robinson said we take a lot of pride in our disposal process. Of course the vehicles are evaluated each year for how they are performing and assets that are costing us more money to maintain than it would be to get new assets in, that's when we start making the exchange. They all go to our Asset & Recovery facility where they are sold by live auction or electronic auction. We do a lot of different things to try and drive up the bid price on those things. One of the new things we are real proud of that we're doing now is that we're doing simultaneously live and web based auction so that web bidders are bidding at the same time that live bidders are. It's really helping us to maximum the return value of the asset.

Ms. Mayfield said so the answer to my question is the current inventory we do take through auction first?

Mr. Robinson said yes, in fact we just had one last weekend.

Ms. Mayfield said thank you.

Motion was made by Councilmember Mayfield seconded by Councilmember Howard and carried unanimously to (A) Approve the purchase of light-duty pickup trucks, as authorized by the State contract exception of G.S. 143-129(e) (9), and (B) Approve a unit price contract with Capital Ford, Inc. for the purchase of light-duty pickup trucks per State Contract 070G.

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Item No. 31-D: 6507 North Tryon Street and Item No. 31-E: 6515 North Tryon Street

Councilmember Mayfield said 31-D and 31-E are basically the same question. What I'm trying to understand is our difference in the total parcel tax value and our purchase price. So I'm looking at the purchase price of D in comparison to the tax value as well as E and want to get a little background as to how it was determined, the dollar amount?

Real Estate Division, Laura Rushing said I'm with the Real Estate Division. For these two parcels we did have an administrative settlement with them and reached an agreement. We also had to take these agreements to FTA for the FTA federally funded projects with property acquisition. If it's over a certain amount it has to be approved by them before we can actually extend and finalize the agreement. So part of that is that reason. The actual appraised value for D was \$510,000 and for E it was \$185,950.

Ms. Mayfield said and just for clarification sake cause I still I don't think I necessarily heard the answer as far as if it was, if D was appraised at \$510,000 still trying to understand how we came up to \$589,000. Most times when we look at these, even going up to B and C, there's a considerable difference but that difference is definitely on the lower end as far as purchase price.

Ms. Rushing said the property owner in this case actually cited some recent sales in the area that were not used in the appraisal in which we actually agreed that they had some merit to them, which allowed us to actually come to the conclusion that we were okay with the counter-offer that they submitted. Once we came to that amount then we sent it to FTA for their concurrence.

Ms. Mayfield said so we adjusted to account for the current sales prices?

Ms. Rushing said correct.

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard and carried unanimously, to approve the acquisition of Item 31-D, 6507 North Tryon Street and Item No. 31-E, 6515 North Tryon Street.

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Item No. 30-B: 2520 Rachel Street

Ronald Belton, 2520 Rachel Street, said I'm the owner of the property at 2520 Rachel Street. I have two concerns. My first concern is that I was cited for the ceiling height of not being the proper ceiling height. This is an older home and this house has been inspected several other times and the ceiling height has been grandfathered. It's always been grandfathered and this last inspection, the inspector decided that it wouldn't be grandfathered. I'm asking that it be grandfathered and I'm about 75% complete on the other repairs. I wasn't able to complete all the repairs in the timely manner because I've been sick. I was out with prostate cancer for over a year and I'm asking for an extension to be able to finish this project.

Ben Krise, Code Enforcement Manager said we've been involved in the property at 2520 Rachel Street for approximately 15 months now. The owner Mr. Belton has been granted three extensions of time. Our cost estimates to repair, currently as of the re-inspection this morning still exceeds 93% of the structure value according to tax records. There are some major concerns, one of which is the illegal ceiling height. There is no grandfathering of ceiling height under 1177. It is required that all ceiling heights in habitual spaces are at least 7 ft. The ceiling height is 6'3" in various locations and is not utilizable at this location. So again we would maintain that the unit is in very poor condition and remains substandard and what I ask is that Council uphold and issue an order to demolish.

Motion was made by Councilmember Kinsey, seconded by Councilmember Dulin, to adopt Ordinance No. 4967-X authorizing the use of In Rem Remedy to demolish and remove the structure at 2520 Rachel Street (Neighborhood Statistical Area 37 – Druid Hills South Neighborhood).

Councilmember Mitchell said sir there was something you wanted to share with us. Can you share that very briefly?

Mr. Belton said on the ceiling height I had written a letter to take it to the housing appeals board but the inspector decided o.k. we won't take this to the Housing Appeals Board, we'll grandfather it. Like you said the 15 months they were working with me, I was out sick. I had a bad case of prostate cancer.

Mayor Foxx said I'm sorry to hear that sir.

Councilmember Mayfield said are you currently residing at this residence.

Mr. Belton said no.

Ms. Mayfield said how old are these pictures?

Mr. Krise said Ms. Mayfield I do not know the date of the pictures in the packet. I do have current pictures taken this morning if Council would like to see them. I don't have an electronic version. I just have hard copies here if you want to see those.

Ms. Mayfield said has any work been attempted in the 15 months that you said that you have been having a conversation with the resident, with the homeowner?

Mr. Krise said there has been creditable work towards one percent. The original cost estimates to repair was somewhere around \$27,000 right now we are still around \$22,000 give or take. So it's been reduced from 94% of the structure value to 93. Mr. Belton has, to his credit, pulled a permit which understates the cost estimates to repair. He pulled a permit totaling both electrical and building permit for \$900 and \$100 respectively, estimating his costs for repairs. We believe that understates it. The work that has been done, a lot of it is not in a standard condition, is not very workman like. Again, we would contend that this is in very substandard condition.

Mayor Foxx said will you go ahead and pass those photos around; we've had some requests around the Dais to see them.

Mr. Krise said again these are from 8/24 and 9/24.

Mr. Mitchell said Mr. Belton is it your goal to bring it up to standard and rent out the house or is it your plan to actually move back in? What is your goal?

Mr. Belton said bring it up to standard and rent out the house.

Councilmember Dulin said I'd like to see the pictures.

Councilmember Kinsey said Mr. Krise usually there's a gap of time between the time we approve and it's actually demolished. If substantial repair work is done bringing it up to minimum code; I know in the past we've said o.k. there is work being done, we will not demolish it right now. If that's the case with this and it has to be substantial work. Do you still agree to that?

Mr. Krise said yes ma'am and the conceptualization of substantial is always argumentative. However we would if someone made substantial progress and brought it out of the demolition criteria we would always work with citizens. We contend that any progress that has been made in the past 15 months has been minimal at best. And the permits that have been pulled are not accurate and the work is not workman like. I want to be realistic but optimistic and yes we would give anybody an opportunity.

Mr. Dulin said have we had reports of drug activity around the house? Have there been any nuisance calls? Are there vagrants living around in the house?

Mr. Krise said we have issued notices of violation for health and sanitation violations as well.

Mr. Dulin said what does that mean?

Mr. Krise said weeds and grass violation. Trash and junk accumulated on the property. It has been unsecure.

Mr. Dulin said do we have communication from neighbors or the nearby church or whomever it might be about the house? Sometimes it gets to where we get ready to save one of these things and all of a sudden we find out about drugs and crime.

Mr. Krise the case originated via petition so it came from citizens within that area. We received the case via petition, five citizens of Charlotte petitioned us in order to conduct the inspection originally.

Councilmember Pickering said Mr. Belton did you want to say something right then?

Mr. Belton said yes. There has been a substantial amount of work done to the house. His cost estimate and my cost estimate varies in which you may call contractor or repairman cost. There

has been quite a substantial amount of work done. More than, he says 1%. I'm saying there's at least 75%. If I had my pictures I could show you where we went in and put new floor tiles in. Repainted it, new doors up. On the front porch somebody came and must have backed the truck up and pulled all of the whole front rail front porch structure off. It was wrought iron posters and fence and we went back and rebuilt the whole front porch.

Councilmember Fallon did you have a licensed person doing these repairs.

Mr. Belton said no. It wasn't required that we have a licensed person. Only electrical. We had an electrical licensed person. That's what was required.

Ms. Fallon said do you think that the work that was done would pass codes?

Mr. Belton said yes, if it was fully completed. The snapshots that they took, they were snapshots of areas that were incomplete. They were not true snapshots of the whole actual work that has been done. They came in and they nick picked, found areas that were incomplete and took a picture of that. Not taking a picture of the full amount of work that has been done to give me credit for what is already done.

Ms. Fallon said Ben when were the pictures taken?

Mr. Krise said both of those packets are dated. One of them was August 24 and one of them was this morning, September 24.

Mayor Foxx said let me just say this that we understand your circumstances and this is one of the hardest types of decisions we make as a Council is taking down other people's property. It's a hard hard decision and we do have a motion on the table to go forward, after Mr. Howard asks his question.

Councilmember Howard said how long have you owned the property?

Mr. Belton said about 15 years.

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

The Ordinance is recorded in full in Ordinance Book 57 at Page 857.

Mayor Foxx said I'm sorry sir. We do appreciate you coming down but the Council has decided to move on this. Thank you.

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ITEM NO. 2: CITY MANAGER'S REPORT

City Manager, Curt Walton said there is no City Manager's Report.

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ITEM NO. 3: MECKLENBURG MILLS FUNDING REQUEST

Mayor Foxx said I'm going to ask the Chair of the Housing Neighborhood Development Committee, Patsy Kinsey to start us off and give us kind of an update of the issue and what the Council Committee talked about.

Councilmember Kinsey said actually you have a very very good report in your Agenda packet. I hope you have read that and also the back-up information. Certainly there will be time for some questions perhaps during this meeting. The manager did refer this request that was made by Community Builders for an additional \$2.35 million in GAP Funding for the Mecklenburg Mill

property. They ran into significant structural damage once they were able to gut the building. On September 12 the Committee and Staff had a very good meeting talking about this. We researched it. The Committee Builder's people were there and talked with us about it. We did vote and a 3-2 vote has recommended that we bring this to Council for consideration.

Motion was made by Councilmember Kinsey seconded by Councilmember Mitchell to (A) Approve the Housing & Neighborhood Development Committee's recommendation to grant up to \$2.4 million of Community Development Block Grant funds to The Community Builders, Inc. (TCB) for the redevelopment of the Mecklenburg Mills properties, and (B) Grant a waiver to the existing Assisted Multi-Family Housing at Transit Station Areas Policy.

Paul Manley, 8212 Beardsley Drive said I'm a local restaurateur. Two of my businesses are located in NoDa. My partners and I own Crepe Cellar and Growler's Pour House. They are both located at 35th and Davidson. The restaurant industry is two main very distinct categories; passion and business. They both are essential for success but in their own very separate ways. Passion is the fun side, discovering new foods, designing their own building space. Growing great teams and most importantly creating memorable dining experiences for your guest.

The business side is more arduous. It requires great foresight, risk analysis, discipline, diligence and some luck. We've been in business in NoDa for almost four years. We picked NoDa as our future restaurant site because it spoke to both elements that I've mentioned. The passion was already there. We just had to capture the vibe and beat of the neighborhood. It was an open canvass for us to be as creative as we dared to be. The business part was made sense to us as well. We believed that if we invested in NoDa and were committed to being here for the long haul we would be fulfilled both in project and passion and our ability to build and have a successful business.

Today I'm speaking to you, Councilmembers, who must also face the same challenge as we did when deciding to invest in NoDa. The passion part is already there. This neighborhood is an essential part of the DNA that makes up the City of Charlotte. The dilemma for you must be is the investment worth it for the City you are entrusted to represent. Will the risk bring reward. As a business owner, my answer is yes. The NoDa Mills can be the center piece of this neighborhood. This property will be the first thing that people see and feel when they step off the light rail into NoDa. It will set the stage for the first timers and tourists who have heard and read some much about this groovy and unique part of town. Another important aspect to address is TCB. Community Builders are now business partners with NoDa and the City of Charlotte. Business partnerships are a lot like marriages. They can either be incredibly fulfilling or completely draining. I know from experience that healthy partnerships are vital to business success. We are incredible lucky to have a partner like TCB involved in this project. With their mission and success rate in past projects, we will never again be in the position that we are today to get these incredible buildings rehabilitated. Remember they are risking a lot here as well. They are the right business partner for NoDa and these two mills. Let's put ourselves in a position to look back on this financial decision in five years with great pride and see a vibrant, prospering NoDa increased tax revenue and a neighborhood that has hung on to its history. This project for passion makes perfect business sense. The risk is worth the reward.

Jay Privette, 22206 Knight Castel Drive said I want to make sure I make this clear that a public-private partnership called the Community Builders out of Washington, D.C. used tax payer dollars to outbid several other, a couple of other developers on two 100 year old plus buildings in the NoDa area of Charlotte in order to convert them to low cost apartments. Their bid was originally \$1.2 million and now they are asking for a total of \$2.3 million I think I just heard \$2.4 million of public money. What is alarming is that the City of Charlotte is actually considering this request because Charlotte has already invested \$6.7 million in these buildings to convert them into apartments from 1990 to when they went out of business in 2006 for a variety of problems. One was left vacant and vagrants cut the copper piping out of it without cutting off the water, resulting in a lot of water damage. The other one was termite infested. The occupants

had to be moved out for fear of their falling through the floor. I understand they couldn't even go back to the building to collect their possessions.

The buildings have since been gutted and what makes anybody believe that \$2.4 million is going to restore these buildings to full restoration when the City of Charlotte spent \$6.7 million into failed effort. This is just going to be one of many more requests for monies to come down the road. What evidence is there that Community Builders are doing any more good in making this apartment complex successful than the City of Charlotte was? NoDa is one of the slowest growing and shrinking areas in population in Mecklenburg and there are three complexes with apartments to rent within ½ mile of those buildings. It is way past time for the Council to curb the spending binge and take greater stewardship of taxpayers' money. As of last February, Charlotte's debt was \$4.24 billion. In September of last year, the County serving Birmingham, AL declared the largest municipal debt in U.S. History. That was \$3.14 billion or more than a billion dollars less than Charlotte's debt. I can't keep track of this Council's wasteful spending projects anymore; which included an offer to upgrade Bank of American Stadium even though the Panthers haven't asked for any money. This Council just doesn't get it; we're in dire financial trouble. Money and jobs are leaving Charlotte. There is little wonder why Union County is the fastest growing County in North Carolina. It is true, Charlotte's population grew about 65% from 2000 to 2010, but it grew in land area by 70%.

Ed Toney, 13712 Kensal Green Drive said Mr. Mayor, Council, whenever I come before the City Council, I feel as though I'm here to defend my family, neighbors and friends against your fiscal irresponsibility. Tonight you are scheduled to respond to a request of \$2.3 million dollars for the Johnson Mecklenburg Mills proposed housing project. Not long ago in 2006, the site was declared unfit for habitation due to termite infestation and the tenants who were living there were forced to move out immediately. Now another contractor wants \$2.3 million dollars to renovate because the deterioration is far worse than what they expected. Did the contractor not inspect the property before his request for public funds? Since 1990 the City has already dumped, not invested, \$6.7 million into these mills within an investor going bankrupt leaving the citizens of Charlotte holding a note for what appears to be a dead-end project. Even Mayor Foxx was quoted as saying the in the April 2010 Charlotte Magazine that the City is not a real estate developer and it never will be. With the citizens of Charlotte, North Carolina enduring even higher unemployment numbers, we don't need to be incurring more debt that is questionable at best as to the return on our dollar. If any investments are to be made, it should start in the suburbs where the infrastructure is breaking down; becoming overcrowded on the streets that commerce and school buses used daily. The narrow roads of southwest Charlotte desperately need widening to at least four lanes and sidewalks with adequate lighting. This could have possibly prevented the pedestrian fatality Friday night in Steele Creek.

Again the lack of sidewalks is an issue. As you as Councilmembers ponder whether or not to increase the amount to \$9 million dumped in these termite infested run down mills that have seen better times, I say it's time to cut our losses and leave these mills to a private contractor and his investors. The citizens of Charlotte are not investment bankers and City Councilmembers need to realize they work for the taxpayers and they should not be trying to enhance their resumes by rejuvenating old arenas that have seen better days or investing in multi-million upgrades to stadiums that allow millionaires to play out their professional sports. A \$9 million investment in infrastructure would help a lot more citizens than trying to rebuild these old mills. The bottom line is a \$9 million pig, is still a pig.

Chad Maupin, 1109 East 35th Street, Vice-President of NoDa Neighborhood Association said I previously served on the Johnson and Mecklenburg Mills RFP Committee from 2005-2007. My request from Council is that if you're considering voting no tonight and will not release these federal funds, please let us know how this problem will be solved. The Community Builders is a non-profit development corporation whose mission includes providing affordable housing, strengthening communities and rehabbing historic structures. They will not tear down these Mills. More importantly due to their purchase contract with the City they cannot tear down these mills. As a National Historic Landmarks, the HLC will protect the Mills also. As Neighborhood Treasures, NoDa will protect these Mills. Unwinding all these incompetence's if it could be done would take many, many years. NoDa cannot afford any more delay. It's just

not that the Mill should stay it's that there is no alternative. If you do not release these funds, we at NoDa anticipate that TCB will spend the next 30 months searching for financing solution until their purchase contract expires. Their contract with the City gives them little other option. At that point if TCB would have to pull from the project, the City would have to repay the initial \$1.2 million or over \$2 million in total expenses to date from the general fund. The City would then, now that they own the mills for a fourth time, spend months establishing either a new RFP or sitting up a bidding process. We'd be back either at square 1 or at square 3.

We strongly believe that any other developers years down the line would hit the exact same rehabilitation roadblock. Let me say that again, we will still have to solve this exact same problem that we face today. Except that the mills will rot for more years, light rail will disembark onto a crime hotspot and the federal grant solution will likely be gone. And other development plans in NoDa will still be on hold or gone for good. We feel strongly that no other developer could solve this problem. Regardless of what they may hypothesize today from afar, we have actually seen the damage uncovered in the mills. There is massive unforeseen costs. We are not talking about tweaking a business model or a new innovative design plan. TCB is a large company, financially sound enough that they were able to allocate an additional \$2.4 million of their own funds to help close the financing gap. TCB's plan already maximizes new development on the site, that's the cost effective portion that pays for the rehab. They are also veterans of state and federal subsidies. They have pursued them all and they will bring those monies to Charlotte. Most importantly, they have an extremely low \$500K in project development fees and 0 profits to attend to Mecklenburg Mills. The only way that any "for profit" developer could compete is by reducing the affordable housing component to the minimum and put those costs towards profit.

Releasing the CDBG to TCB today solves the problem of Johnson and Mecklenburg Mills once and for all, with no local money. Rejecting the allegation with no alternative in place is only kicking the can down the road for you. You will have to find a new solution in worse circumstances, and all the while NoDa suffers more. While we understand that this plan and this request is not ideal in the minds of many on Council; voting against with no plan in place is callous disregard for the plan of our community. Thank you for your time.

Hollis Nixon, 3409 Ritch Avenue, President of NoDa Neighborhood Association, said thank you for allowing me to speak today. For the past six years Johnson and Mecklenburg Mills have been a critical concern for the City and for NoDa. There are complicated timelines and start-stops. Criteria was finalized by the hand committee and approved by Council. That criteria included a minimum requirement of affordable housing as well as preservation of the Mills. Thus all bidders bid, based on the same criteria. TCB had the highest and winning bid. Where we stand today, TCB is asking for \$2.4 million from federal CDBG funds after they found a deficit in financing of over \$5 million. Half of which they are willing to invest themselves. CDBG funds do not affect the local tax payer. There are over \$4 million in funds sitting right now. Since 1976, the City, through different Presidential Offices has yearly received these funds. NoDa believes that this is a fair request. We also understand that no other projects are slated or have asked for these funds, let alone are shovel ready as the mills are. This project would also leverage an additional \$12 million in outside monies to Charlotte. The damage to Mecklenburg could not have been predicted. TCB tripled the budget for expected structural damage from city and independent reports that still wasn't enough. Having an engineering background for over a decade I can say that tripling a budget is more than conservative. If TCB would have to pull from this project the City would have to repay the initial purchase price. I don't know about TCB but if it were me I would certainly ask for repayment of over \$1 million in costs to date and that would come from general funds which would affect the local tax payer. I would also like to comment on the many times we have heard we are not investing any more money because we invested over \$6 million 1995. We would not consider handing money to thieves an investment. After personally touring Mecklenburg after remediation of demo I can state that the 1995 developer should be jailed for the damage most of which they did. The \$6 million was simply given to the wrong people with almost 0 oversight.

So let's release federal CDBG money to the right people who are trying to do right by this City and NoDa. I know the Mills seem a headache, trust me no entity is more fatigued by these buildings than those in NoDa, but these buildings are posed to be a catalyst of economic growth and opportunity. To that point, lending institutions are withholding financing to many of our other developers and projects, until they know the direction of the mills and the light rail. We do not want another developer. TCB has the most experience and they are slated to provide the most affordable housing integral in the City at a transit station. They are after 100% affordable housing. How many neighborhoods stand in front of you for six years and ask if not beg for affordable housing. I urge the City to correct the problems of the past. The solution is not to tear down our mill history and no to other comments you cannot just reuse bricks. The derelict and crime ridden buildings that have plagued NoDa for six years are due for a facelift and a new beginning. I urge each of you to help us in a way that we haven't been helped before. Please approve the release the CDBG funds that are sitting in an account doing nothing so that these buildings may become beacons of light for a neighborhood that not only deserves it but needs it more than you can imagine.

Rob Fossi, 1602 L Street NW, Washington, DC Vice-President of Community Builders, said I am Vice President with the Community Builders. TCB is the leading non-profit urban housing developer in the Country. We've delivered over 25,000 units and half a million square feet of commercial retail in 14 states and the District of Columbia. We've assembled over \$2 billion to complete those developments. Those numbers are not withstanding, I want to be clear, we're not just in the housing business or the real estate business. We're in the community development business. We are only successful if we help the neighborhoods and families that we serve fulfill their vision and true potential. We bid on this project because of the prospect of bringing our capacity for large mixed income, mixed used development to this great City; to contribute to the vibrancy and progress of the fabulous NoDa neighborhood and bring those irreplaceable historic components of NoDa back to their rightful position as the centerpiece of the neighborhood.

After closing on the property, in July of 2011, we launched an intensive master planning process to ensure that we were considering the full potential of this site's, community development potential and reconnecting it and integrating it into the community. We worked with CATS to dramatically redesign the station entrance. We appeared before this Council to seek a zoning change which takes into account the imminent arrival of the rail station. We are determined to honor the site's passed by bringing these iconic buildings back to their rightful place while also preparing it for an appropriate and long viable future as a destination along the light rail line. And while all the work described above was unfolding, we checked in regularly with the community to ensure they had an opportunity to comment, review and reshape if necessary, these concepts. The support of the NoDa community is evidence by the remarks and attendance here tonight has been heartwarming. And we're still working everyday with interior demo on Johnston now perceiving and design development nearly complete on Mecklenburg. By November, we would have invested \$2.7 million in this venture. TCB respectfully seek support tonight because the City's investment of up to \$2.4 million will leverage nearly \$13 million in additional funding to make possible a project providing 100% workforce housing which is for 60% of median income at a transit stop. This generous mix of resources will likely not be available again. This is a moment in time to make NoDa Mills renovation a reality after years of failed efforts. It would also return the property to the City's tax rolls by 2014. This investment of federal funds will kick start a multi-phase development. Development has been stalled here and throughout NoDa for several years. This will be a catalyst and the economic activity to follow will create a manifold return on your investment. We've acted in good faith and are only coming to Council now after having exhausted every conceivable option.

Lance Williams, 12027 Morning Dove Laney, Stuart Engineering, said I'm actually the structural engineer who performed the assessment to the property. The damage discovered to the historic structure at Mecklenburg Mills was not possible until the interior demolition of the building was performed. So this damage was not visible during the initial bid process. The full structural assessment was only performed after that interior demolition was completed and that was the work that was done during the 1990's. The extent of damage discovered to the existing framing was substantial. Significant damage was observed to the historic structure on the wood

beams, the wood columns and the decking. The extent of damage was greater than could be assumed during the initial walk. Very little of the historic structure was able to be observed before the demolition occurred.

The damage to the underlying and hidden structure was only apparent after that demolition was performed and that included removing the existing gypsum flooring which was in place covering a large portion of the structure from the top side. The damage discovered was caused by termite damage, water intrusion to the building and lack of maintenance of the building since it had been condemned and closed in 2006. We were on site several times, myself personally, and have reviewed and accessed the existing structure. It can be repaired and replaced as necessary.

Tom Goodwin, 2151 Hawkins Street, said I'm an architect and I work for TCB, I'm with Shook Kelly. We were hired by TCB first to do the initial master planning and then also to do a preliminary assessment of the building. I had a team of architects and we spent weeks inside the buildings. As most of you know the windows are ply wooded up and it's dark inside. Even during two weeks full inside the building, we were not able to see some of the damage until some of the interior demolition was started. Even when the walls came down we couldn't see the damage to the flooring until, as Lance said, the gypsum flooring came up. At that time we saw beams actually fall to the floor, and columns disintegrate, once the existing construction from the 1990's was taken down. So I just want to concur with Lance that even though we had time in the building after the purchase of the building, we couldn't see the damage until some of the interior demolition was done.

Councilmember Mitchell said Pamela Wideman I think you have a presentation. I think it might be helpful to us if you could share that with Mayor and Council please.

Pamela Wideman, Neighborhood & Business Services, said I do have a brief presentation for you tonight that might clarify a few things for you. I want to speak to you about the request for Council action; provide you some background on the property, discuss the 2011 upset bid process, let you see the pre and post interior conditions of the buildings that you've heard about. Discuss a little bit of the funding gap and the proposed funding source. You've already met Mr. Fossi he's happy to answer any questions that you might have related to the conditions of the building and the funding request. Talk to you about why there's a need to grant a waiver to the assistant multi-family housing at transit station areas policy and then discuss the development timeline with you and the next steps.

Again you're being asked to approve a grant for \$2.3 million dollars of Community Development Block Grant funding to the Community Builders Group for the redevelopment of the Mecklenburg Mills property. I want to point out that your request for Council actions says \$2.4 but we want to be specific with you here on the exact amount of the request. Also talk to you specifically about why you need to approve a waiver to the existing Assisted Multi-Family Housing at Transit Station Area policy. By way of background, the Mills property is a 7.8 acre parcel. It's located at the intersection of N. Davidson and E. 36th Streets. The property is currently zoned, transit oriented development residential. You all approved this new rezoning in May of this year. In January of 2007, the estimated as is value of the mills property and that's the entire site was \$3.1 million. In January of 2011, the appraised value of the mills property, the entire site, was \$990,000.

The purpose of this slide is just to illustrate the proximity of the mills to the 36th Street station. Since 1990, the Council has invested \$6.7 million dollars in the property. In January of 2006, the owners defaulted on a city loan and filed bankruptcy. The city foreclosed and took possession of the property to protect its investment. In May of 2006, City Council released a request for proposal to dispose of the property based on an approved RFP process that included neighborhood representation. In November 2007, City Council selected NoDa Mills, LLC as a developer for the mills properties and authorized staff to negotiate a sales agreement. In December of 2010 because NoDa Mills could not live up to their agreement, NoDa Mills dissolved and the City continued to secure and maintain the mills property. In April of 2011, City Council approved the sale of the Mills to TCB in the amount of \$1.2 million dollars through an upset bid process with two conditions; 1) it was historic preservation and 2) the development

of affordable housing. If you decide to grant this approval tonight and the approval of the waiver, that will speak to one of the restricted covenants that was in the April approval. And that was to allow the affordable development to occur in each of the mills property so it would be 10 units in Johnston and 10 units in Mecklenburg. But this would allow for them to occur in one building. That's a technicality but I did just want to point that out to you all.

The initial bids were received in February of 2011. There were five rounds of bidding that occurred which resulted in TCB being the highest bidder. You can see that we had four development groups to participate. I would point out that the difference between Merrifield Patrick Vermillion and the Community Builders, those highest bids were worth about \$112,000. From April 2011 until today, TCB has completed additional development work in the form of interior demolition, they've had the property rezoned, they submitted a tax credit application to the Housing Finance Agency and they've completed a master plan for the site. This is just to show you what the interior of the building looked like at the time the walk-through occurred. This is to show you the work that TCB has done. These are the post demo conditions that show you what the building actually is today. If you have specific questions related to this, again Mr. Fossi is here.

The original project cost prior to the demo work was \$10.8 million. After full evaluation and interior demolition, the project cost is now \$15.7 million. You can see that that's a \$4.9 million gap. So the request of the City is \$2.3 million TCB will cover the remaining portion of that gap.

Let's talk about the CDBG Funding for which we recommend that if you decide to fund this that you use that funding source. This is current CDB carry over. We have a current carry over balance of \$4.6 million. This doesn't include the current grant allocation and this is a result of two things. We've retooled the relocation program. I will remind you that you guys approved a new relocation program and also we have it because we've gained efficiencies through the City's Single Family Rehab program, primarily through our partnership that we have with Habitat for Humanity.

Councilmember Kinsey said I want to make sure that we understand that the CDBG Funds that are being recommended, if we so choose, are from prior years. It's not 2012 money?

Ms. Wideman said yes ma'am these are carry over funds from previous years CDBG's awards.

Ms. Kinsey said and they're not programmed?

Ms. Wideman said they are not programmed to anything right now, so we are not taking from one project to add to another. The dispersal of our funds will be contingent on the following; successful award and expenditure of the other funding. You see that outlined in your request for Council action, that's about \$13 million of other federal funding sources that you would bring to this community. TCB understands that this is the maximum city contribution that will be made to the redevelopment of the Mills properties. Impacts if the grant isn't approved; TCB's ability to obtain the federal low income housing tax credit is compromised due to the upcoming expiration of the census tract for where the Mills are located. I will point out that in your RCA it says that that expiration is December of 2013. It's actually December of 2012. So they have to have all of their financing secured by December of 2012 to take advantage of that. TCB loses the ability to leverage other federal funds which is about \$13 million and TCB's progress to develop the site would be delayed resulting in continued community blight.

The waiver to the Assisted Multi-Family Housing at Transit Stations Area policy is required because your current policy suggests that at least 30% of the assisted multifamily housing units developed at a particular site, must be developed for households earning 30% and below the area median income. The plan here is to do 90% of the units for families earning 60% and 10% for families earning 50%. So it's the higher end of that spectrum. The assisted multi-family housing shall be scattered throughout the development and not concentrated in one area. That language is also in your current policy. This would allow the affordable units to be developed in one building and that's because that's the way the North Carolina Housing Finance Agency awards

tax credits today. As far as the development timeline, for the Mecklenburg Mills, the developer will secure all funding by January 2013. Those are the sources of funding that's outlined in your request for Council action. The construction will start in May of 2013. The construction will be completed in April of 2014. And the building will be substantially leased in July of 2014. For the Johnston Mills, they project securing all funding by January of 2014. Starting the construction in June of 2014, completing the construction in June of 2015 and substantially leasing the building by September of 2015.

The next two slides are just to show you some work that TCB has done on similar mills properties in other parts of the U.S. This is the Atlas Mill in Chelsea, MA. This is a before and after picture. The next slide provides you an illustration of a before of the interior and after of the interior. Again I would just remind you that you are being requested to approve a grant up to \$2.3 million of Community Development Block Grant funds to the Community Builders Group for the redevelopment of Mecklenburg Mills and to approve a waiver to the existing Assisted Multi-Family Housing at Transit Station Area policy. Thank you for your time and I will answer any questions.

Councilmember Fallon said may I speak to the developer. Was this property bought as is?

Mr. Fossi said yes it was.

Ms. Fallon said how much of your actual own money, not grants, notes, do you have in it?

Mr. Fossi said our equity base is made up of fees, retained earnings on past projects and other resources that we were able to gather through various investment vehicles including government grants, so, I'm not trying to evade your question but we have invested \$1.2 million in the purchase price through a combination of resources. A lot of which is the Neighborhood Stabilization Program 2, NSP2 award that we received in February of 2013.

Ms. Fallon said so basically you really have very little of your own money in it. I mean your corporation's money. You're talking about notes and federal grants and other money. Now I have a question are you going to pay this money back to the City?

Mr. Fossi said the request that the City has presented you today is for a grant of Community Development Block Grant funds.

Ms. Fallon said are you aware that that's it. There's no more to come?

Mr. Fossi said yes ma'am.

Ms. Fallon said what happens if you don't get the funding?

Mr. Fossi said well it is not part of our sort of corporate DNA to give up. So we will soldier on and try to identify additional resources, but as of October 12th, when the application is due to the North Carolina Housing Finance Agency, that is our last attempt to secure the tax credits under the census tract which has a basis boost, so we're bringing 30% additional equity by virtue of the census tracts qualifications that will be lost if this request is not granted. The gap that we are presenting to you tonight actually grows by \$900,000 if this request is not approved.

Ms. Fallon said I'm sure you have some kind of contingency plan. What would you do if you don't get this and the federal funds? What would you do with the property?

Mr. Fossi said in all honesty, we are focusing all efforts on being successful in this endeavor. Because the amount of leverage that this investment brings is so substantial that we really need to focus on delivering success in this endeavor because it will be much more difficult if not impossible to find these replacement funds in the future. In all honesty we don't really have a contingency plan as of tonight.

Councilmember Mayfield said just for clarification sake since you started this conversation with Mecklenburg Mills and Johnston Mills, this amount request of \$2.4 million, is this the total amount for both Mecklenburg Mill and Johnston Mill or are we only talking about Mecklenburg right now?

Mr. Fossi said this request is solely for Mecklenburg, but as Ms. Wideman's presentation indicated the City has been clear that that is the only request that they expect to see in regards to the entire site's development.

Ms. Mayfield said so that leads me to wonder if there was an approval tonight, and let's say the federal grants that you are applying for, you do not receive them since you just noted to Councilmember Fallon that we are really putting all of the energy in Plan A. What if any, has been a conversation around Plan B. So let's say we move forward and we support and allocate these funds that are based on you receiving these tax credits. If those tax credits do not come through, what is the option?

Mr. Fossi said these credits are different than the 9% credits than the Council may be more familiar with. There really is a requirement to meet a threshold versus the competitive applications that you are more used to seeing. So we have already determined that we are almost certain to meet those thresholds and then the equity. I want to clarify a remark that was made earlier. This is really private equity. It's \$13 million in private equity that is coming into this deal, not government funds. It's \$13 million in private equity that are being achieved through 4% credit, The North Carolina Mill credit and the Federal Historic tax credit.

Ms. Mayfield said what happens, again, if you're not able to identify the funding based on challenges that you may run against when it's time to develop Johnston Mill. So let's just say we moved forward with this, what is the plan because we cannot have the opportunity of one piece being developed with the uncertainty of what's going to happen with the additional piece.

Mr. Fossi said we have begun working on a development plan for Johnston Mills. It is, believe it or not since this looks like it's on the same site; it's actually a better location. It has frontage on N. Davidson. It provides the opportunity to look at doing a mixed-use development that Mecklenburg does not and there are a series of other resources including new market tax credit which TCB has a \$25 million allocation of and other creative vehicles that we have already been working to identify to bring into Johnston, along with, if I might add, some program income from our NSP Award that would mirror what you're seeing at Mecklenburg.

Ms. Mayfield said with noting the response you just gave why not move to Johnston Mill and work on that project. Then come back to the Mecklenburg Mills if that project is in a better location and you may not run into as many obstacles. And that way recoup, use some of those funds to help offset this.

Mr. Fossi said so Mecklenburg is the trickier, the harder to solve puzzle of the two. Because of the basis, it really is in large measure because it's \$900,000 in additional equity that's available now that will not be available in any future iteration. That and the notion that what we do at Mecklenburg will create a real economic engine in that community that we have seen time and again generate investor enthusiasm. It will actually help the financial packaging of Johnston to have Mecklenburg complete and operational. So that's why we made that decision.

Councilmember Barnes said first I want to thank Mr. Fossi for coming down. He was at our committee meeting a week or so ago and I appreciate you being there. I have a couple of questions for you. I want to be clear, I do support Item B. I have concerns about Item A and I want to ask you a couple of questions if I can. You indicated earlier, Mr. Fossi, that you got about \$2.7 million invested there now. Is that right?

Mr. Fossi said as of November that will be the number, yes sir.

Mr. Barnes said is that inclusive of the \$1.2 million?

Mr. Fossi said it is.

Mr. Barnes said is it also inclusive of the \$2.35 million that you had put into it?

Mr. Fossi said partially. The acquisition price, part of the acquisition price will be applied toward Mecklenburg when we do the financing package on that. Part of the master planning that we've expended for the entire site will be applied to Mecklenburg. All of the interior demolition which is about \$500,000 on Mecklenburg will be recaptured in the construction financing. I'm not trying to make it more complicated, but some substantial portion of that \$2.7 million you would see remain in Mecklenburg but other portions of it would be applied towards other phases of the development.

Mr. Barnes said so if you decided to sell the buildings, this may be a question for our staff but the preservation piece and the affordability piece would remain on the property do you know or could Ms. Wideman answer that? Just a headshake would be fine. Yes? She answered yes to that question.

Mr. Barnes said what sources of funding did you approach before you approached the City Mr. Fossi?

Mr. Fossi said first and foremost the approach to the City was only reciprocated by the findings that were alluded to by our structural and architect that you heard presenting a moment ago. Those findings only came to light in June of this year. So we haven't had the luxury of a lot of time to put that package together. Certainly we looked for state resources that might be available and investor interests. We are hamstrung by some larger issues in the investment community around the tax credit. Had we been allowed to do what many developers have done in the past and do a master lease on this project for instance, we would have generated considerable more equity which would have resulted in a larger, potentially the entire gap being closed. So there are just certain realities that have sort of hamstrung us.

Mr. Barnes said I understand. During the committee meeting I mentioned to you that there was never a secret among any of us that the buildings were in horrific condition that's why we vacated them. As I recall the reports that we were briefed on clearly indicated that there was extensive termite damage and water damage, so I don't think there was ever any secret that there was quite a bit of damage with the properties. And as I told you during the committee meeting, I think that you guys made a bad deal. One of the concerns I have is that the other bidders may have bid differently had that known that a year later would give them twice their money back. So that's a serious concern for me because I'm concerned about the precedence sitting nature of it, I mentioned this to Ms. Kinsey. If we did not grant your request, you said you would find a way to move forward?

Mr. Fossi said I said we would not give up.

Mr. Barnes said that means you would find a way to move forward?

Mr. Fossi said it is a very open question as to whether the resources could be identified that would close a gap that would then be \$2.3 million plus \$900,000. So you're looking at a \$3.2 million gap.

Mr. Barnes said I understand, you know the thing is we don't own the property anymore. My whole goal was to get rid of the property and we did. We used the RFP process, you guys won and as far as I was concerned we were done. I struggle here tonight to tell you that I could vote to give you more money. I'm not sure it would be the end of the requests just because there may be other things that you might discover once you get inside the buildings, but I can't support the request today.

Councilmember Pickering thank you to all of the speakers who've come down and spoken regarding this issue and thank you Mr. Fossi. You mentioned that you are aware that we would

not welcome another request in the future. What assurances can you give us that there won't be one.

Mr. Fossi said I mean the assurances that the Council and the City staff have spoken with one very clear voice on how such a request would be perceived, number one and number two; our commitment to complete development of the site which again, we believe will be dramatically enhanced by delivering this first building and really jump starting economic development within NoDa which has stalled. Not just for this property, but throughout the community for the past five or six years.

Ms. Pickering said obviously this was not a welcome request, that's no secret. And I've struggled with this decision but on balance, I don't think that we can let that property languish. I do think that you are a unique builder, uniquely qualified to handle this particular project. And I've been struck by how the NoDa neighbors seem to have a lot of confidence in you that we don't often see up here on Council. In fact often you see exactly the opposite. I also think that the funds are a grant as you say and not our local Charlotte taxpayer funds, that makes a difference to me. So all things considered I am going to support this. We certainly wouldn't welcome another request in the future. And I'd just like to say this to the neighbors which is that I look forward to the day when this project is complete and the light rail is up and running and NoDa is thriving the way we know it should be and will be.

Councilmember Cannon arrived at 5:29 p.m.

Councilmember Howard said let me kind of explain where I am on this one. It actually is really simple for me. Ever since I first heard about this request, I'm kind of where Mr. Barnes is and that is the fact that we went through a process for this very reason so we wouldn't be back here again. And I feel somewhat and out of respect to, a lot of you guys know that I'm in industry so I get the affordable housing part of this. So I have a lot of respect for this, but at the same time the whole point in doing a bid was to get out of having to come do this very thing. And there were a couple of others well respected developers in this community that said that they would do the exact same thing and I will let you know tonight, if they were here tonight I'd feel the exact same way. And everybody I've spoken to I've said the same thing. To me we had a clean process. There was a winner and I expected that to be the last that we heard of it, other than you know we have this great new building that opened.

To the neighborhood, I see you guys and I've gotten all your emails. I think the only thing that I would say is it's kind of unfair to say that the City Council and I'm talking about not just this City Council but City Council going back years has not tried hard on this one. There's already \$6.7 million that didn't come back. It was already money that we used when we got the property back, debt we won't get back. The question is kind of what is the cost to the City? At what point do we say that's enough. And at this point I'm kind of like Mr. Barnes, I don't see an end in sight. I'll be honest with you until tonight I thought this was a request for both of the mills. I'm glad Ms. Mayfield asked her question because I think what we're finding out tonight is that Mecklenburg Mills for 48 units is a budget of \$15 million. Even you guys would have to admit that's a pretty big budget for 48 units of affordable housing. Now what I think I would be open to is changing the deal. Mr. Barnes I would like to divide the question or whatever else we do tonight. The affordable housing part is important to me, but if it means, at the cost of like \$76,000 a unit, I'd rather vote just to not have affordable be one of the requirements if that helps. I'm open to changing the deal. That's what I'm open too because at just any costs, I don't think that that's a smart deal for the taxpayers. And at what point do we start to change that? We just had baseball come down here. Let them come back, when do we stop people from coming back when they know clearly what the deal is from the beginning. Fundamentally my problem is the fact that we went through a bid process. We had a winner, and I would be in this same position if one of the other bidders came back. I've said that to all my friends that called me and I had a good number of friends that called me on it. But basically I just wanted to explain where I was on it because at this point I don't think I could support it either.

Councilmember Autry said I said this in committee and I've struggled with this ever since that meeting. You know I want to support affordable housing, but I have affordable housing in my

district that is in serious disrepair. This kind of money could help those people who are living in those facilities the way they are, because there's not a lot of other options. And we voted to demolish properties this evening that are not that dissimilar in the way they are being maintained in their present condition either. So it's a real struggle for me to try to find ways to continue supporting TCB and their efforts with this particular property. It's a real struggle for me and I'll be conflicted until it comes time to raise my hand I'm sure.

Ms. Fallon said I'm going to tell you very honestly what bothers me most, you don't have any skin in the game its federal funds, it's this funds, it's that funds. I would be happier and feel that you were more inclined not to come back to us if you had money in it. I just can support it on this basis.

Councilmember Kinsey said I feel as the person elected from District 1 and the fact that the Mills sit right there in District 1, I do want to make a statement. And I know that all of you know that I have a really strong historic preservation vent. But I also hope that you see me as someone who supports affordable housing. Obviously because of those two passions of mine I support the City providing Gap funding for the Mecklenburg Mill project.

When I first heard of the request back in June from the Community Builders, I'll be honest with you I was not sure that I would be comfortable coming back to council to ask for the additional funds. However, after giving it a great deal of thought and doing a little research, I am convinced that it is something that we should do. First it would save a historic structure that is very important. Yes it has to be gutted, but the exterior is a very fine exterior. It's done all over the State and probably all over the South to save these mills. They've done one in Carrboro, they've just finished one in Mebane. You cannot reproduce that shell, that outer structure. It is indeed a landmark in the NoDa neighborhood. According to Historian Tom Hachett, construction on the Mill was begun on 1903 and it opened in 1905. There were three shareholders; Robert L. Tate, S. B. Alexander, Jr. and B. Lawrence Duke, the nephew of James B. Duke. In 1904 the Charlotte Observer wrote an article stating that in a few months North Charlotte, which is what we used to call NoDa would become the most populist and busiest part of the City or suburbs and noted that the new Highland Mill #3 and the Mecklenburg Mill would soon be starting up. Textile Mills played a huge part in making Charlotte what it is today, just as transportation and banking has done since then. Second it would provide affordable housing at a transit station area for working families who earn 60% AMI. These individuals and family certainly deserve an opportunity to live along a transit line. I would also point out that this is a unique opportunity because we often experience neighborhoods in oppositions to affordable housing in their area.

In this case we have incredible support from the NoDa neighborhood for this development. It's noted in your back-up material, the money would be taken from CDBG funds that are not allocated for any other project. Providing affordable housing is one of the stated uses and goals of CDBG funding. Let me assure you that city funds will not be expended until all other funds have been awarded and spent. The developer understands that as he mentioned, if awarded, this would be the final contribution that would be made by the City for the redevelopment of the mills properties. The Community Builders is a proven developer. They have done historic preservation projects by using low income tax credits in other parts of the United States and I am confident that they will do a very good job on the Mecklenburg Mill. I sincerely request your support for the motion to approve both the funding and the granting of the waiver.

Mayor Foxx said there is a motion and a second pending. First of all I want to thank the Council for some really good discussions about this issue. I think everyone gets the historic preservation element, everyone gets the affordable housing element and everyone gets the fact that we've sold the building already and that we are now being asked to provide Gap financing to get the building redone. My question is to staff, I would like to know when you sell the property, even when you sell it as is, typically you allow for some type of inspection to occur. I'm trying to understand to what extent did we make the property available such that some of these issues could have been discovered prior to the sale.

Ms. Wideman said we did allow for a walk-thru for the developers who were interested. I would point out to you that they had a limited amount of time that they could stay in the building. The access to the building was limited and the building was dark. So that's one of the main reasons that I wanted you all to see the pre-condition of the building as was pointed out in your slideshow.

Mayor Foxx said so do you believe that these conditions were reasonably discoverable by the purchaser?

Ms. Wideman said Mr. Mayor I will be honest with you and tell you that I would be out of my league. I'm not a developer, nor did I participate in the walk-thru, my colleague Peter Zeiler arranged that. I'm not passing the bulk, but he and I have conferred throughout this process and he has assured me that they had a limited amount of time, the building was dark and they had limited access to the building.

Mayor Foxx said I need an answer to that question because it's material to my thought process.

Peter Zeiler, Neighborhood & Business Services, said the inspections again, was a two-hour walk thru hosted by Neighborhood & Business Services for all interested parties wishing to bid on the property. We wanted to move quickly with this disposition in response to an unsolicited bid on the property that we had been given. The Economic Development Committee and the council voted on this process to move it quickly. In the interest of time in moving the property as quickly and getting through the process as quickly as possible, we limited the developers to the two-hour walk thru.

Mayor Foxx said so let me ask my question again, were the state of affairs within this facility reasonably discoverable by the purchaser within that two hour walk thru or not?

Mr. Zeiler said in my personal opinion, I'm not sure it was discoverable.

Mayor Foxx said typically when a property is sold, even in an "as is" condition, what is the typical inspection allowed? Or is there a commercially reasonable standard?

Mr. Zeiler said each contract in each transaction varies. In the case of this particular transaction we did not allow for an inspection afterwards. We went straight to closing.

Mayor Foxx said here's the thing. I think that we've obviously got a physical problem with this facility. It cost us to have to vacate it. We have a purchaser who now owns it and is looking for \$2.4 million to get the property done and frankly as I listen around the dais I'm not seeing or hearing an avalanche of interest in trying to help close that gap and yet I think the neighbors are right when they ask us, folks if you say no to this, what is your ultimate answer? Now one could argue that's not our problem because it's in private hands, but it's sitting on a transit station, it's sitting in the middle of a neighborhood that's densely populated and so I think we could use some additional time on this subject and ask the staff to go back with some guidance from this council. So Mr. Mitchell I think you've been doing some thinking about that.

Mr. Mitchell said I'd like to make a substitute motion that we defer this item, let staff come back to us on October 8th. We're going to be very sensitive to your deadline of October 12th, but this gives us more time and staff more time to come back with what will be a better proposal for us.

Substitute Motion was made by Councilmember Mitchell seconded by Councilmember Barnes and carried unanimously to defer Item No. 3: Mecklenburg Mills Funding Request for two weeks.

Mayor Foxx said a couple of things to be considered if this motion is carried. First of all looking at the amount that's being requested, trying to figure out whether there's a way to bring that amount down to a lower level; secondly timing, looks like we are being asked to be in the first position to try to help.

Mr. Fossi said actually City funds will be last in.

Mayor Foxx said maybe with that proviso then in the course of discussing this with staff you can perhaps figure out whether we need to have this conversation at the end of the next couple of years or whether we need to figure it out now. I think there's some question around the council as to whether we want to be in the position of making a decision about this now. Third, the affordable housing issue, quite frankly we have more need for affordable housing in this community than we have units. The point that one of the neighbors made I think is exactly right which is how many neighborhoods actually ask for affordable housing to be placed in their communities. Between that, the historic preservation element and the fact that this is something that is sitting on one of our transit lines, those are the reasons why I think we need to maybe drill at this another couple of weeks and figure out whether there's a better deal out there for us. Those are some thoughts about how we get there.

Councilmember Dulin said I want to try and get the numbers right, sir. We're talking about 48 units in Mecklenburg Mills. You've requested \$2,353,783 for council to vote on tonight. You put that into these other seller no tax exempt bonding, federal low income housing tax credit, federal historic tax credit, NC mill credit, then our gap, that comes to \$15,714,965. That's what you're going to use on the 48 units?

Mr. Fossi said that's correct sir.

Mr. Dulin said sir that comes to \$327,395.10 per unit. That is not affordable housing. Those numbers are just nuts when you look at it, \$327,395.10 per unit. I don't know how we're going to be able to get that down much sir, but if I can, can I make a third motion?

Mayor Foxx said let's consider the one on the table and then if it fails we can come back to it.

Councilmember Barnes said I wanted to express some concern about moving the vote to October 8. During the HAND Committee meeting we were told we have to get it done by the 24th because we are approaching October 12th. My concern is if we get a report back on the 8th and there's some information in that that raises questions among councilmembers, we won't have an opportunity to respond or an opportunity to get the information we need before we make a vote on the 8th or certainly before the 12th because we won't meet before the 12th, after the 8th. I'm concerned about us putting ourselves in a position where we are forced to make a decision we may not agree with on the 8th because of their time crunch. Which I appreciate, but they asked us to make a decision tonight because we were approaching October 12th.

Mr. Zeiler said actually City funds will be last in.

Ms. Kinsey said I just want to respond, you're right, we did want to go ahead and make a decision tonight if possible, because of the deadline. We now have most of the information. I think it's up to us to drill down a little bit. I don't think there's going to be a lot of new information coming. I would support delaying until the 8th and make sure all of us have all of the information we want. Just sitting here I can tell there is some information there, it's there, it's just that maybe we haven't done a very good job of letting everybody see it or hear it. So rather than doing something tonight that maybe somebody would feel forced to raise their hand one way or the other, if we could delay it two weeks and still meet that 12th deadline, then I think that's probably, in my opinion its preferred. I believe we can do that.

Mayor Foxx said o.k. we've got a substitute motion on the table.

The vote was taken on the substitute motion to defer for two weeks and recorded as follows:

YEAS: Councilmembers Autry, Barnes, Cannon, Cooksey, Dulin, Fallon, Howard, Kinsey, Mayfield, Mitchell and Pickering
NAYS: Councilmembers Cooksey, Barnes, Dulin and Mayfield

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ITEM NO. 4: BLUE LINE EXTENSION LIGHT RAIL VEHICLES

Motion was made by Councilmember Barnes seconded by Councilmember Cannon to (A) Waive the formal bid procedure for the purchase of Light Rail Vehicles (LRVs) as authorized by the Charlotte City Charter §8.87 and G.S. 143-129(g); (B) Authorize City Manager to negotiate and execute a purchase contract for 22 Light Rail Vehicles (LRVs) from Siemens Transportation for an amount up to \$87,000,000, subject to the inclusion in the contract of: A City right of termination and limit of liability at \$500,000 if exercised by November 30, 2012 due to the non-availability of a Federal Full Funding Grant Agreement (FFGA); and (C) Approve the payment schedule as outlined below.

Mayor Foxx said I believe these are the vehicles that are being purchased at a lower price point than our initial vehicles which were purchased in 2007.

City Manager, Curt Walton said at the same price I believe which is still a considerable saving.

Mayor Foxx said I just want to give kudos to CATS because what they've done is negotiated price terms for the Blue Line Extension rail vehicles that are at or below the 2007 cost. And that's a pretty good deal for us.

Mr. Howard said I especially want to thank Ms. Flowers who is staying now and her staff as well.

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

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ITEM NO. 5: CONCLUSION OF CONSENT AGENDA

These items were handled earlier in the meeting.

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ITEM NO. 6: MAYOR AND COUNCIL TOPICS

Mayor Foxx said we will save this until the end of the zoning discussions.

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CITIZENS' FORUM

Transportation Support for disabled Adults

Nate Huggins, CEO at Blessed Assurance Adult Day Care, said the purpose of talking to you this evening is to share with you and our community that hundreds of our Charlotte Disabled Veterans, Senior Adults and special needs adults are being denied special transportation services to adult day care programs, doctor's offices, dentist offices and many other life sustaining programs in our community each year. This problem also puts their caregivers, your constituents, at risk of losing jobs. CATS, who runs the special transportation service states that they are restricted by ADA regulations to serving only community residents, whose pick up and drop off locations are within three quarter of a mile of a bus stop. Consequently if our community residents meet only one half of this criteria, they are deemed disqualified.

To CATS credit, they have transported these disqualified residents to their destinations as space or capacity is deemed available by their scheduling computer. Herein lies the problem. The CATS computer tells the CATS operators that their buses are full. Yet hundreds of local residents watch these same 16 passenger buses go up and down the streets of their neighborhoods almost hourly, with no more than two to six people on them. Consequently our needed adults are not being served. The computer is wrong and the CATS staff member who manages this computer is not allowed to fix the problem. Ironically now hundreds of our physically fit and mentally stable adults have no problem getting special transportation services to a night club, red dot liquor store or any place of leisure because both their pick up points and their destinations are within three quarter of a mile of a bus stop. Yet our old, disabled and destitute adults who meet only one half the ADA criteria, who need to go to a place to be fed, a place to receive clothing, a place to get medicine, a place to get a bath, or a daily safe haven are denied STS service. On behalf of our disabled veterans, senior and special needs adults, their caregivers and your constituents; I ask that you relook at the transportation schedule process, relook at the transportation capacity issue, and relook at making life sustaining needs a greater priority than leisurely needs. Lastly, devise a permanent solution for getting our disabled veterans, seniors and special needs adults who meet at least one half the ADA criteria, to adult day care centers, doctor's offices and other life sustaining places without interruption daily.

You have been provided a copy of a list of the people at least in my program, who are in your district that are been affected. I ask that you simply help these good people, thank you and are there any questions?

Mayor Foxx said thank you very much. We will share this information and ask CATS to respond to you sir.

Charlotte Inn

Allison Billings 3136 Commonwealth Avenue, Charlotte, N.C. said I'm here tonight as a resident. I live on Commonwealth Avenue and I also serve on the Commonwealth Park Neighborhood Association Board of Directors. I'm here to talk about the Charlotte Inn and the last of the run down motels that backs up to our neighborhood and plagues our neighborhood. Since I've been involved in the Neighborhood Association and long before I got involved, our number one goal as a neighborhood has been to eliminate the blithe that remains. Nowhere is that more evident than at the Charlotte Inn. This run down motel that you guys are aware of, it's an eye sore, it's a crime magnet and it has to go. We are in constant communication with the police department. There were 28,000 minutes spent by CMPD last year simply responding to calls for service. Now that's not even the time that they are just patrolling because they know that there's criminal activity. Those are calls for service coming from the folks that are there and that live nearby. Not only is it an eye sore, it's really an impediment to the revitalization of our neighborhood and the neighborhoods that surround us. It's not just undesirable, it's unsafe. You all have heard from our neighbors in terms of the types of things that we have seen and you've heard from the police about what they have found there. Like I said as a mom of two young kids and there are more and more people having children in our neighborhood. It's just one of those places that you start to wonder whether it's safe to be as a family.

I'm here tonight to thank you for your support so far and to really encourage you and urge you to please exercise the option for the purchase and demolition of the motel and the conversion of this land to those uses that are in the adopted Independence Area Plan so we're not talking about anything new it's just a matter of implementing that plan. The removal of the Charlotte Inn is a top priority for my family. It's a top priority for our neighborhood and we have the strong support of the neighbors in our neighborhood and that surround us. We delivered you a petition signed by 600 Charlotte residents. It's time for the motel to go. Thank you so much for your support so far and I look forward to working together.

Mayor Foxx said thank you very much.

Follow Up on Request to amend Public Consumption Code of Ordinances 15-3

Tract Sabcegez, Party Peddler Owner, said I am the owner of the Party Peddler, and I was here about a month ago. We spoke about granting a public consumption ordinance waiver for the Party Peddler for our tourist attraction. We were asked to contact the City Attorney's office for a recommendation and if there was any concerns for liability for the City of Charlotte. That has since been sent over to you, the City Council, with a recommendation that you guys can go to committee and vote for the waiver and that the liability on the City should not be considered as something that would weigh heavily to be concerned. I just want to reiterate that there are other cities that are doing party bikes in and around the area, most recently Raleigh, and they've been also granted a waiver. There are a lot of other cities that are operating just like we are that have asked for a waiver and have been granted. I just wanted to come and hopefully get you guys to go to Committee and vote and hopefully gain the waivers that we can proceed on with our business.

Mayor Foxx said thank you very much. Can you describe a party bike?

Ms. Sanchez said I bought a packet last time I don't believe you were here, Mayor Foxx. It's a 14 person bicycle, 10 pedaling seats and 4 riding seats. We've had over 2500 people through the Party Peddler since we started our business in March that we've brought into Center City, Uptown, Music Factory, SouthEnd, NoDa, Plaza-Midwood. We have a lot of people that come in on the Party Peddler and say oh, I went to Europe I saw it there, I went to Asheville and they have one there and I'm so glad that Charlotte has one. The only thing we're missing is the waiver so that we can have beer and wine on the bike.

Mayor Foxx said so people peddle and they drink at the same time.

Ms. Sanchez said very slowly, but it's a really great way for people to see the City and enjoy a beverage. It's just like a limousine, myself and a few other drivers who are in control of the bike, we drive, steer and brake. And the people in the back enjoy themselves. There has not been an incident throughout the U.S. on these bikes that everyone is pretty much running with beer and wine.

Mayor Foxx said alright we will consider that. I think it's in one of our committee's right now, Community Safety. Maybe the Mayor Pro Tem can go on a fact-finding mission.

Ms. Sanchez said I would love to have you.

City Manager, Curt Walton said it has not been referred. You asked for the report.

Motion was made by Councilmember Cannon seconded by Councilmember Barnes to refer Granting a Public Consumption Ordinance Waiver for the Party Peddler to the Community Safety Committee.

The vote was taken and recorded as follows:

YEAS: Councilmembers Autry, Barnes, Cannon, Fallon, Howard, Kinsey, Mitchell and Pickering.

NAYS: Councilmembers Barnes, Cooksey, Dulin and Mayfield.

Councilmember Howard said I actually had an opportunity to do one of these in Europe this summer, without the drinking. So it is kind of an interesting thing to add to the energy of the streets. I don't, so I didn't do that.

Sanitation Working Conditions

Al Locklear, City Employee, said I'm here tonight to speak about being recognized. You know all of us have a job to do and it's good to be recognized sometime on our jobs from the

higher ups about what a good job we do. We work in all kinds of weather out there picking up that garbage and it seems like the only thing people care about is getting that garbage up, that's the only thing that matters. It sure would feel good if we would have yall to sometime come down and speak to us and tell us how yall appreciate us getting it up. Because if that garbage was left everybody would be hollering, where they at, where are the people that get the garbage up? But you know even though we don't get out there and save lives, you know if that garbage was left, people would be getting sick. We would sure appreciate it Mayor if yall would come by and let us know and tell us how yall appreciate the job that we do. All of our jobs are important. I know you have a job to do and we do too when yall put it out there, then we get out there and work in all kinds of weather to get that job done. Also too Mayor regarding our payroll deduction and Meet & Confer, we'd like to know where you all are at with that.

Mayor Foxx said thank you very much.

Councilmember Pickering said Mr. Locklear thank you for coming down again. I Just wanted to mention briefly that during the DNC, one thing we heard over and over and over again, is how clean the City is. So thank you.

Councilmember Mayfield said actually I had a question for Mr. Walker, to your knowledge has there been an invitation to any of Council to either come down, because personally I would definitely come down to see you all just to thank you. I thank the workers in my neighborhood and on my street but I don't necessarily know if we know when there is a good time of morning, or afternoon or day when a lot of you would be there. So I would just like to suggest that if there hasn't been an official invitation outside of the verbal, that I would appreciate maybe receiving some dates or times where people would be available. Because I'm quite sure my colleagues also would enjoy the opportunity, just to come by and say hi if their schedule allows. I just want to make sure that the suggestion is made, that you can send us either call us and leave a voice mail or send an email just to give some dates and times that may be good to actually come and speak with any of you.

Mr. Locklear said well we start at 6:30 every morning and we'd be glad for you to come out! We hear that all the time why yall don't come out and show your face and let us know how you appreciate it. Like I said 6:30 any morning, we start. But we will send you something and let you know.

Mayor Foxx said thank you very much.

The meeting was recessed at 6:04 p.m. for dinner.

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ZONING MEETING

The Council reconvened at 6:43 p.m. in the Meeting Chamber of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Councilmembers present were John Autry, Michael Barnes, Patrick Cannon, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell, and Beth Pickering.

Mayor Foxx explained the Zoning process and asked Ms. Yolanda Johnson, Chairperson of the Zoning/Planning Committee to introduce the members of the Zoning Committee.

Ms. Johnson stated that the Zoning Committee will meet on Wednesday, October 3, 2012 at 4:30 p.m. at the Government Center. At that meeting, the Zoning Committee will meet to discuss and make recommendations on the petitions that have public hearings tonight. The public is welcome at the meeting, but please note it is not a continuation of the Public Hearing that is being held here tonight. Prior to that meeting, you are welcome to contact us to provide input. You can find contact information and information on each petition on the City's website at charlotteplanning.org.

* * * * *

DEFERRALS

Tammie Keplinger, Planning announced the items requested to be deferred as follows:

Item No. 34-Petition No. 2008-039 requests one month deferral; Item No. 39- Petition No. 2012-067B Text Amendment deferred for one month; Item No. 40-Petition No. 2012-068 requests one month deferral. Item No. 42-Petition No. 2012-57 requests withdrawal; Item No. 43-Petition No. 2012-58 Text Amendment requests withdrawal.

Motion was made by Councilmember Mayfield seconded by Councilmember Mitchell and carried unanimously to defer Item Nos. 34, 39, 40, and to withdraw Item Nos. 42 and 43.

* * * * *

DECISIONS

Mayor Foxx said we now proceed to Item No. 35; this one will require two votes, one on whether or not to send this back to Zoning Committee and then potentially a motion on the final matter.

ITEM NO. 35: ORDINANCE NO. 4970 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 3.20 ACRES LOCATED ON THE NORTHEAST CORNER OF BARCLAY DOWNS DRIVE AND MORRISON BOULEVARD ACROSS FROM CARNEGIE BOULEVARD FROM 0-2(CD) TO MUDD-O.

Motion was made by Councilmember Howard, seconded by Councilmember Cannon, not to send Item No. 34 back to the Zoning Committee.

Tammie Keplinger, Planning said the modification is to allow encroachments into the 36-foot tree save area from the Barclay Downs Swim and Racquet Club for tennis courts and other accessory structures. It also reserves the right to request modifications to the landscape treatment for the 36-foot tree safe area to accommodate the encroachment areas. It also allows for the modification of the placement of a black vinyl chain link fence and it notes that then changes will be submitted to the Planning Department for approval. Also we'd like to clarify that the cap on the transportation improvements that are agreed to with the Barclay Downs HOA is \$120,000 not \$100,000 as reported in the Zoning Committee recommendation.

Councilmember Howard said all I wanted to do was to thank both parties for working together. We asked the developer along with the swim club in the neighborhood to keep working. I know we didn't get everybody to support it but I do understand that the swim club and the developer were able to come to a happy medium. So I just wanted to thank you guys for doing that.

Councilmember Cannon said that was basically it. I asked for a compromise here in the meeting and both sides went for it and it seemed like they were very far apart and you came together and that's a good thing so.

Councilmember Dulin said folks have come down here now twice and folks that might be watching on TV and there more of those folks out there than folks really know. I mean it's pretty neat. But this has been a complicated deal and it has been a very interesting deal too. We live in a community that has grown over the years. We've been in a recession just like everybody else has. As this Council sees week in and week out when we come down here to do the work, we see the Community growing and we see where it has retreated some too. This particular site has been an empty site forever. It's never been built on but it's been graded and empty for 20 years or so maybe 15 years. There's an opportunity to build something there. The problem with it is what the developer wanted to build and what the next door neighbors either

thought they were going to get or wanted to get weren't anywhere close to each other. Matter of fact they were way apart. One of the things I can say about this process though is those neighbors primarily were talking about the Barclay Downs Swim Club, which is the adjacent non-office use right next door. What I can say is that crowd and the Barclay Downs Homeowners Association and the developers did a good job of staying up with each other and meeting. And they met and met and met. I've met and met and met, heck I was over there on site with a lady yesterday afternoon. We talked about yesterday the subjects was sidewalks and what would happen if this passed and how the sidewalks might get improved for kid access and pedestrian access. That was an interesting conversation. So it goes on and on and then all of a sudden as negotiations will do, sometimes it will drift back apart.

And what Mayor Pro Tem Cannon just mentioned, Mr. Howard and others on this dais a month ago and I'm sure that those folks have been communicating with all of us as they have with me, then things started coming together a little bit. What we asked was for there to be compromise and for the two groups to get together. Actually this worked out to where we are now with government staying out of the way for the most part. Now we had some City staff time in it with traffic studies and other different sidewalk studies and that sort of thing. But for the most part, government stayed out of the way. The developers, the private entity and the neighbors; both the Homeowners Association and heck we met at hotels, we met at AJ Middle School, we met in people's homes and the neighbors got together. I was at four or five of the meetings but I wasn't at all of them and I was there as an observer most of the time. I had some input towards the developers from the one side and some input from the developers toward the other side. But most of the time I'm pretty pleased with the way government stayed out of it.

By staying out of it it probably got to a resolution. Government usually screws things up and so this wasn't screwed up and in the end, over the weekend without input from me, the developers and the swim club folks have been able to come to a resolution. I don't know there might be folks in the audience from those two groups that didn't see or hear about an email that was sent out, but the resolution has been made and the swim club folks today or sometime yesterday, must have been today since it's a workday; lifted their protest petition and actually sent an email out to Council saying that they do now support this project. They've come a long way and the developers have come a long way and they cut a hard business deal. We're talking about a swim club but they are in the business of taking care of their members and their property. And to that extent they flat stuck it to these developer guys. But the guys did it willingly. This has been very difficult. I'm a neighbor, I'm not a member of the swim club but I live in and around these folks and I'm glad that they were able to come to a resolution.

<p>Motion was made by Councilmember Dulin, seconded by Councilmember Cannon, and carried unanimously, to approve the Statement of Consistency and petition No. 2012-045 by Woodfield Acquisitions, LLC for the above zoning change, as modified and as recommended by the Zoning Committee.</p>

Mayor Foxx said this was a very, very tough issue and it proves over and over again that everything that is hard isn't necessarily bad in the end.

The ordinance is recorded in full in Ordinance Book 57, at Page 860-861.

The modifications are:

1. Amended Sheet RZ 1.0 to reflect a 30-foot setback on Morrison Boulevard.
2. Amended Note 5a to state that the setback along Barclay Downs Drive will be measured from the back of curb and will transition from 65 feet along the northern portion of Barclay Downs Drive to a minimum of 30 feet closer to the intersection of Morrison Boulevard.
3. Amended Sheet RZ 1.0. to reflect the setback along Barclay Downs Drive, which ranges from 30 feet to 65 feet measured from the back of curb.
4. Amended Note 5a to indicate that portions of the setback area along Barclay Downs Drive where the existing trees cannot be saved will be replanted with new landscaping materials to create an attractive landscape treatment.

5. Removed the call out for 40-foot building setback from Sheet RZ 2.0.
6. Construct curb extensions on the southern portion of the intersection of Barclay Downs Drive and Sayre/Scofield Road;
7. Install standard painted cross-walks on the southern and western legs of the intersection of Barclay Downs Drive and Sayre/Scofield Road;
8. Reconstruct the four existing speed humps long Barclay Downs Drive to City standards;
9. Construct a sidewalk and planting strip with street trees (if the width of the planting strip will accommodate street trees) along the eastern edge of Barclay Downs Drive from the Site to the intersection of Barclay Downs Drive and Sayre/Scofield Road. The location and width of the sidewalk to be determined by the City based on available right-of-way, the location of existing trees and topography constraints (the property owner located on the SE quadrant of the intersection of Barclay Downs Drive and Sayre/Scofield Road will be consulted prior to the submittal of the proposed improvement plans to the City) to ensure a cost effective and suitable solution to the installation of these improvements, in light of challenges with the topography along portions of the edge and a desire to accommodate the input of corner property owner.
10. Amended Sheet RZ 1.0 to reflect a 30-foot setback on Morrison Boulevard.
11. Amended Note 5a to state that a the setback along Barclay Downs Drive will be measured from the back of curb and will transition from 65 feet along the northern portion of Barclay Downs Drive to a minimum of 30 feet closer to the intersection of Morrison Boulevard.
12. Amended Sheet RZ 1.0. to reflect the setback along Barclay Downs Drive, which ranges from 30 feet to 65 feet measured from the back of curb.
13. Amended Note 5a to indicate that portions of the setback area along Barclay Downs Drive where the existing trees cannot be saved will be replanted with new landscaping materials to create an attractive landscape treatment.
14. Removed the call out for 40-foot building setback from Sheet RZ 2.0.
15. Addressed CDOT comments by incorporating the transportation improvements mutually agreed upon with the Barclay Downs Home Owners Association. The petitioner's cost to implement the improvements will be capped at \$120,000. The improvements are as follows:
 - a. Construct curb extensions on the southern portion of the intersection of Barclay Downs Drive and Sayre/Scofield Road;
 - b. Install standard painted cross-walks on the southern and western legs of the intersection of Barclay Downs Drive and Sayre/Scofield Road;
 - c. construct the four existing speed humps long Barclay Downs Drive to City standards;
 - d. Construct a sidewalk and planting strip with street trees (if the width of the planting strip will accommodate street trees) along the eastern edge of Barclay Downs Drive from the Site to the intersection of Barclay Downs Drive and Sayre/Scofield Road. The location and width of the sidewalk to be determined by the City based on available right-of-way, the location of existing trees and topography constraints (the property owner located on the SE quadrant of the intersection of Barclay Downs Drive and Sayre/Scofield Road will be consulted prior to the submittal of the proposed improvement plans to the City) to ensure a cost effective and suitable solution to the installation of these improvements, in light of challenges with the topography along portions of the edge and a desire to accommodate the input of corner property owner.
 - e. The improvement Cost assumes that the Improvements can be accommodated within the existing right-of-way of Barclay Downs Drive, and adjustments in the scope of the Improvements shall be made if this is not the case. As part of Urban Review for the Site by the City, the Petitioner will
 - f. submit to CDOT plans and cost estimates for the Improvements. If the actual cost of the proposed Improvements exceeds the Improvements Cost, CDOT will determine which of the proposed Improvements must be eliminated or modified to bring the cost of the Improvements within the Improvements Cost (CDOT as part of its due-diligence to determine how to modify the proposed improvements will consult with the Barclay Downs Homeowners Association President).
 - g. CDOT will review and comment on the Improvements in a timely manner. Once the final scope of the Improvements are determined by CDOT, the Petitioner shall have 12 months to complete the installation of the Improvements (subject to force majeure).
16. Reduced the maximum number of multi-family dwelling units from 300 to 280.

17. Amended Note 4C under the heading of “Architectural Standards” to state that the screening used along the rear of the parking garage (abutting the Barclay Downs Swim and Racquet Club) will be designed so as to allow only minimal light to emit from such facility.
18. Amended Note 5E under the heading of “Streetscape, Buffers, Landscaping and Utility Structure Setbacks” to indicate that the 36-foot wide tree save area along the northern property line will be supplemented to the standards of a Class A buffer (a minimum of nine trees and 60 shrubs per 100 linear feet).
19. Added new note under the heading or “Lighting” to state that lighting at grade along the common boundary with the Barclay Downs Swim and Racquet Club will be limited to patio lights and any necessary lighting as required by code.
20. Amend Note 3C under the heading of “Access and Traffic/Pedestrian Safety Improvements” along Barclay Downs Drive as follows: The Petitioner has agreed to provide certain off-site traffic/pedestrian safety improvements along Barclay Downs Drive as further described below (the “Improvements”).
21. Amend Note 5E under the heading of “Streetscape, Buffers, Landscaping and Utility Structure Setbacks” to specify the requirements of a Class A buffer as a minimum of 10 trees and 60 shrubs per 100 linear feet.
22. Amend Note 3A under the heading of “Permitted Uses & Development Area Limitation” to indicate that the Site may be developed with up to 280 multi-family dwelling units.

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ITEM NO. 36: ORDINANCE NO. 4971-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 16.20 ACRES LOCATED ON THE WEST SIDE OF LANCASTER HIGHWAY BETWEEN SPRINGWELL STREET AND JOHNSTON ROAD FROM MX-2 TO R-17MF(CD).

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 Council, not excused from voting, in order to rezone this property.

Motion was made by Councilmember Barnes, seconded by Councilmember Hoad, to approve the Statement of Consistency and Petition No. 2012-48 for the above rezoning by GCI Acquisitions, LLC, as modified and as recommended by the Zoning Committee.
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Councilmember Cooksey said this one didn't quite have the attention that Woodfield did but virtue of the fact that it's got a protest on it clearly is one to raise some great concerns for folks as well. I think for Council's consideration some items to reflect upon are that we do have a district plan that calls for residential on this parcel and general development policies that support the density being proposed for this parcel. We get criticized in my opinion unfairly oftentimes and from time to time deviating from adopted plans and policies when we approve rezoning, statistically we are about 92-95% of the time over the past 10 years or so. So when we have an opportunity to pass a petition that adheres to the plans we've adopted, I think that goes a long way in speaking for a petition.

The protestors did bring up reasonable concerns that are worth mentioned and deserve mentioning. They did have concern about school over-crowding. This is across from an elementary school and you have very popular middle and high school in this district. But when you look at the CMS report, we're talking essentially for the elementary school, 2 percentage point differences and one percentage point differences in the middle and high levels. So it's not a tide of children coming into the school system based on this rezoning. And the CMS numbers have been pretty consistent over the years. The protestors raised a reasonable concern about traffic and safety, and I'd like to point out that in this petition, there is provision for a stop light at the entrance of the proposed apartment development that will help with safety or help with pedestrians trying to cross Lancaster Highway to get to Ballantyne Elementary. Once you've got

a stop signal there, you've got protected crossings which I think is an improvement to the area. Finally a particular note, we all know that when we see a long list of notes that there's been lots of negotiating going on, but in case you missed it, I draw your attention to that last one.

Another item that opponents of this petition brought up that I thought was quite reasonably to be concerned with is that the parcel kind of south, southwest of this one is already zoned for multi-family development for several hundred units that haven't been built yet. So they raised a concern about what the overall potential long term density would be. But if you look at that last note, you will see that the petitioners for Petition 48 GCI and their representatives went to the owners of that parcel, and got a note basically an administrative change to that petition to lower the number of units by 100. If that development occurs as it was rezoned back in 2000, it will occur with 100 fewer units which reduces the overall impact of this proposal to be constructive now.

Again, reasonable concerns, but I think overall the traffic improvements, the density reduction by southwest and the reasonably minimal impact on the school system, tied in with the fact this does follow what our adopted plans and policies are for the area. I suggest that voting "for it" is the reasonable course of action.

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

The ordinance is recorded in full in Ordinance Book 57, at Page 862-863.

The modifications are:

1. Proposed back of curb along the property frontage on Lancaster Highway reflected as 37 feet from the existing center line.
2. Indicated sidewalk/utility easements from any sidewalk outside of the public right-of-way along any proposed public street.
3. Removed the marked crosswalk locations from the proposed internal intersections along Landing Place Lane. Note B under the heading of Transportation can remain.
4. Added a note stating that the proposed Landing Place Lane southbound intersection approach needs to be properly aligned with the existing Clems Branch northbound approach at Lancaster Highway so as to not affect operations of a future traffic signal.
5. Provided enough pavement width on the southbound Landing Place Lane to support three travel lanes.
6. Specified that if additional right-of-way and/or easements are required at the proposed intersection the acquisition of this property will be the petitioner's responsibility.
7. Amended the rezoning plan to reflect the design of a left-turn lane necessary to serve the traffic using the proposed public street driveway connections prior to submittal/approval of the public street connections. The left-turn lane is designed using NCDOT standards with a minimum 150 feet of storage.
8. Provided enough width along the public street (Landing Place Lane) connection to Lancaster Highway for three (3) travel lanes between Lancaster Highway and the site's first internal driveway connection to parking. Added a note that the intersection of Landing Place Lane and Lancaster Highway will be designed so that the eastbound intersection approach for Landing Place is aligned with the westbound approach of Clems Branch Drive so as to not affect operations of a future traffic signal. The Petitioner will be responsible for any of the modifications required to properly align existing Clems Branch Drive with the extension of Landing Place Lane.
9. Maximum number of multi-family units has been reduced from 252 to 248, with a resultant density of 15.3 dwelling units per acre.
10. Addition of a six bay garage.
11. Added a new Note 3.B. under the heading of "Access", which states that the Petitioner will contribute to CDOT or NCDOT up to half the cost but not to exceed \$50,000 for the installation of a traffic signal at the intersection of Landing Place Lane and Lancaster Highway when the signal is warranted and the funds are requested by CDOT or NCDOT. This commitment to provide funds toward the future signalization of the

intersection of Landing Place Lane and Lancaster Highway is valid for a period of 10 years from the date of approval of this petition.

12. Added a new Note 3.C. under the heading of "Access", which states that prior to the issuance of a building permit for the site the petitioner, will commission a Signal Warrant Analysis for the intersection of Landing Place Lane and Lancaster Highway. The petitioner will work with CDOT on the preparation of the Signal Warrant Analysis and will submit the result of the analysis to CDOT for review and for its use.
13. Added a Note 3.D. under the heading of "Access" that as a part of the extension of Landing Place Lane and Lancaster Highway the petitioner will install a choker lane within Landing Place Lane. The final location and design of the choker lane will be determined by CDOT and the Planning Department during the subdivision review process.
14. Added a note under the heading of "Architectural Standards" that the petitioner will provide as part of the developments' club house amenity package an indoor basketball half-court.
15. Added a note under the heading of "Architectural Standards" that the petitioner will construct three buildings that will include garages as generally depicted on the site plan. In addition, the petitioner will construct three detached garage structures throughout the site as generally depicted, the location of which may be modified.
16. Amended Note 5.G. under the heading of "Streetscape, Buffers and Landscaping" to specify that 14 trees and 20 evergreen shrubs per 100 linear feet will be planted within the 50-foot buffer and 35 percent of the new trees will be evergreen. At a minimum, the combination of existing vegetation, the new vegetation to be planted and the proposed fence when taken together must meet or exceed the requirements of a Class B buffer.
17. Added a note 5.H. under the heading of "Streetscape, Buffers and Landscaping" that a six-foot tall solid wooden fence will be installed within the 50-foot buffer. The fence will be located at the edge of the undisturbed portion of the buffer.
18. Amended Note 3.B. under the heading of "Access" to read as follows: "The petitioner will contribute to CDOT a lump sum amount not to exceed \$50,000 for the installation of a traffic signal at the intersection of Landing Place Lane and Lancaster Highway. The \$50,000 shall be received by CDOT prior to the issuance of the first building's certificate of occupancy and deposited in a CDOT account specifically for this use. Should a traffic signal at this location not be installed three years after the last building's certificate of occupancy is issued, the \$50,000 shall be returned to the petitioner. A Developer/CDOT Traffic Signal Agreement documenting these conditions shall be executed before the first building's certificate of occupancy is issued."
19. Amended Note 3.C. under the heading of "Access" to read as follows: "Six months prior to the issuance of a building permit for the Site the Petitioner will commission a Signal Warrant Analysis for the intersection of Landing Place Lane and Lancaster Highway. The Petitioner will work with CDOT/NCDOT on the preparation of the Signal Warrant Analysis and will submit the result of the Signal Warrant Analysis to CDOT/NCDOT for review and for its use."
20. Amended Note 3.E. under the heading of "Access" as follows: "The intersection of Landing Place Lane and Lancaster Highway will be designed so that the eastbound intersection approach for Landing Place Lane is aligned with the westbound approach of Clems Branch Drive so as to not affect operations of a future traffic signal. Both the Landing Place Lane and Clems Branch Drive approaches shall have three travel lanes (i.e. one receiving lane, a left-turn lane and a thru/right turn lane). The Petitioner will be responsible for any of the roadway geometric modifications requirements to properly align and signalized existing Lancaster Hwy/Clems Branch Drive with the extension of Landing Place Lane. The final Lancaster Hwy/Landing Place/Clems Branch Drive intersection geometric will be determined by CDOT/NCDOT during the subdivision review process. The Petitioner shall be responsible to acquire any additional right-of-way and/or public easements needed to properly align the intersection, accommodate truck/school bus turning movements, and to provide efficient traffic signal operations at this intersection."
21. Amended Note 3.G. under the heading of "Access" as follows: "The Petitioner will construct a 150 feet northbound left turn lane with an appropriate taper length on Lancaster Hwy. to the extension Landing Place Lane per NCDOT and CDOT standards, pavement widening, milling/overlaying may be required."
22. Amended Note 5.J. under the heading of "Access" to state the Petitioner will dedicate in fee-

simple to the City of Charlotte 50 feet of right-of-way from the center line of Lancaster Highway. This right-of-way dedication will occur at the time the right-of-way for Landing Place Lane is recorded.

23. Amended Note 5.K. under the heading of "Access" as follows: "The placements and configurations of vehicular access points are subject to any minor modifications, as approved by CDOT, required to accommodate final site and construction plans and designs and to any adjustments required for approval by the CDOT/NCDOT. This includes adjustments required for approval by CDOT in accordance with published standards."
24. Amended Note 3.E. under the heading of "Access" to state that the intersection of Landing Place Lane and Lancaster Highway will be designed so that the intersection approach for Landing Place is aligned with the approach of Clems Branch Drive so as to not affect operations of a future traffic signal. The petitioner will be responsible for any of the required modifications.
25. Added the following note: "Prior to the decision by the City Council on Rezoning Petition 2012-048, the Petitioner and the owner of the property covered by Rezoning Petition 2000-02C will file an administrative amendment for Rezoning Petition 2000-02C that will reduce the allowed number of units on that petition by 100 units. The administrative amendment will indicate that if Petition 2012-048 is approved by the City Council the reduction of 100 units in the number of allowed units on Rezoning Petition 2000-02C will be binding and may not be added back to the petition through the administrative amendment process. If Petition 2012-048 is not approved by the City Council the administrative site plan amendment will be null and void.

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ITEM NO. 37: ORDINANCE NO. 4972-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 34.0 ACRES LOCATED ON THE WEST SIDE OF CARMEL ROAD BETWEEN QUAIL HOLLOW ROAD AND BRIDGEWOOD LANE FROM MX-2(INNOV) TO R-12MF(CD).

Motion was made by Councilmember Dulin seconded by Councilmember Barnes to approve the Statement of Consistency and Petition No. 2012-49 for the above rezoning by Faison-Hollow, LLC, as modified and as recommended by the Zoning Committee.

Councilmember Dulin said this is an apartment complex on Carmel Road that when I got home from college it was already old then in the mid 80's. So this is going to be a renewal of an area that is well needed and looking forward to it.

A vote was taken on the motion and carried unanimously to approve.

The ordinance is recorded in full in Ordinance Book 57, page 864-865.

The modifications are:

1. Amended "Site Development Data" on Sheet RZ-1 and RZ-2 to indicate that podium type buildings are limited to three stories and 48 feet in the front and four stories and 60 feet along the rear of the building (three residential stories over one level of parking) for the "Podium" type buildings.
2. Amended Note 5B under the heading of "Streetscape, Buffers and Landscaping" to indicate that planting strip width may vary but will be a minimum of eight feet in width unless the Planning Department, in conjunction with City Engineering, determines that a narrower planting strip should be allowed to save existing trees.
3. Staff replaced the request to amend Note 7A under the heading of "Open Space/Tree Save Areas" to indicate that greenway trails are not permitted in delineated tree save areas with a request to add the following: "Tree save areas may include Mecklenburg County Park and

Recreating Greenways. The greenway trail placement within the save areas must be coordinated with the city so that the affected tree save area required is maintained.”

4. Amended Note 7C under the heading of “Open Space/Tree Save Areas” to specify that approximately 2.80 acres will be conveyed to Mecklenburg County Park and Recreation.
5. Note 8A under the heading of “Signage” remains as written. Staff understands it is a commitment to the neighborhood.
6. Amended Note 10(v)(a) under the heading of “Other” to specify that solid waste and recycling pick-up will be provided by a private hauler.
7. Note 2F and 10V(f) are acceptable as written. Though staff has concerns regarding enforceability it is understood they are listed as commitments to the neighborhood.
8. Deleted Notes 4D, 5G and 6D, which are minimum ordinance requirements.
9. Addressed Park and Recreation comments by specifying location of easements.
10. Addressed Transportation comments by (1) adding a note committing to provide a raised landscape median (approximately 8’ x 50’ and planted with ground cover only, no trees), which will include a pedestrian refuse island and any required accessible ramps, needed to be constructed to allow pedestrians to cross Carmel Road, as depicted on the rezoning plan; and (2) adding a note committing to construct in the NW quadrant of the intersection of Carmel Road and Quail Hollow Road a raised concrete pedestrian refuge right-turn island with associated accessible ramps. The petitioner will also reconstruct the existing accessible ramp on the NW quadrant of the intersection to align with the proposed pedestrian refuge island.

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ITEM NO. 38: ORDINANCE NO. 4973-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.46 ACRES LOCATED ON THE EAST SIDE OF STEELE CREEK ROAD AT THE INTERSECTION OF DIXIE RIVER ROAD AND STEELE CREEK ROAD FROM R-3 TO NS.

Motion was made by Councilmember Mayfield seconded by Councilmember Barnes and carried unanimously to approve the Statement of Consistency and Petition No. 2012-59 for the above change in zoning by SBG Properties, Inc. as modified and as recommended by the Zoning Committee.
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The ordinance is recorded in full in Ordinance Book 57, page 866-867.

The modifications are:

1. Reduced the overall development to a maximum of 30,000 square feet.
2. Indicated no drive-through windows will be allowed on Lots B and C.
3. Provided a “Parking Ratio” heading within the site data table.
4. Modified the second sentence of the parking ratio to read: “However, Lot D shall provide one space per 100 square feet if developed as a restaurant”.
5. Provided two open space areas along the north side of Dixie River Road. One is an active open space area located between Lots A and B behind the sidewalk along Dixie River Road. The second is an outdoor seating area located between the building on Lot A and Dixie River Road. The active open space areas shall include landscaping, hardscape, and outdoor seating.
6. Indicated the pedestrian crossing within the parking/maneuvering areas will be delineated by using stamped asphalt and/or pavers. Provided a raised pedestrian connection from the active open space along Dixie River Road to the building on Lot A.
7. Indicated a minimum eight-foot wide planting strip will be provided along Steele Creek Road on Lot A rather than a six-foot wide planting strip.
8. Indicated the existing planting strip and a sidewalk may remain along Steele Creek Road on Lot D.
9. Eliminated the word “sketch” in the first paragraph under “Transportation”.
10. Added the following note to the second paragraph under “Transportation”: “Subdivision approved for Dixie River Road is required prior to building permits being issued”.

11. Added the following note to the first paragraph under “Architectural Standards”: “All buildings shall be designed so that the first floor along both Dixie River Road and Steele Creek Road will not have blank walls that exceed 20 continuous feet in length. Doors, windows, and/or a combination of design elements shall be used on the building façade to animate and enliven the streetscape”.
12. Modified the second paragraph under “Architectural Standards” to read: “Buildings located within Lots A and D shall be required to provide pitched roofs and shall follow the general guidelines of the elevations submitted with the rezoning”.
13. Modified the third paragraph under “Architectural Standards” to read: “Buildings located within Lots B and C may shall be subject to providing designed to be residential in character and have pitched roofs, but is not necessarily required”.
14. Provided a note under “Parking” to read: “No parking will be allowed between the building and Dixie River Road for Lot A. However, maneuvering with an access drive is permitted”.
15. Provided a note under “Parking” to read: “No parking and/or maneuvering shall be allowed between the building and Dixie River Road for Lot B. Any parking to the side of the principal building for Lot B will be located in a minimum of 30 feet behind the sidewalk with an outdoor seating/open space area located between the parking and the street.
16. Provided a note under “Parking” to read: “No parking and/or maneuvering shall be allowed between the building and Dixie River Road for Lot C. Parking and driveways may be located to the sides of the principal building along the street frontage but may not exceed 50 percent of the lot width.
17. Provide a note under “Parking” to read: “No parking will be allowed between Dixie River Road or Steele Creek Road and the principal building for Lot D. However, maneuvering for a drive-through is allowed between the building and the streets”.
18. Added the following note in the second paragraph under “Streetscape and Landscaping” on Sheet 3 and under Note #12 on Sheet 4: “The w all shall be a minimum of three feet behind the sidewalk”.
19. Provided elevations of the canopy over the gas pumps associated with Lot A to indicate brick columns that match the brick used in the construction of the building.
20. Addressed all CDOT issues.
21. Added “Neighborhood food and beverage service” as a use permitted on Lots B and C.
22. Eliminated residential uses from the permitted uses.
23. Added outdoor seating area on Lots B and C.
24. Provided a note indicating the landscape wall may be eliminated directly in front of the buildings located on Dixie River Road for Lots B and C.
25. Indicated both a permanent and temporary construction easement along the Steele Creek Road frontage of Lot D for the construction of a future right turn lane including an eight-foot planting strip and six-foot sidewalk.

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ITEM NO. 41: ORDINANCE NO. 4974-Z FOR AN MX-2 SITE PLAN AMENDMENT, FOR APPROXIMATELY 7.08 ACRES GENERALLY LOCATED ALONG ROCKEFELLER LANE, KENSINGTON STATION PARKWAY, KATY FLYER AVENUE, AND MOUNT CLARE LANE.

<p>Motion was made by Councilmember Kinsey seconded by Councilmember Barnes and carried unanimously to approve the Statement of Consistency and Petition No. 2012-69 for the above site plan amendment by Joe Murphy, as modified and as recommended by the Zoning Committee.</p>

The ordinance is recorded in full in Ordinance Book 57, page 868-869.

The modifications are:

1. Modified the “Development Data” heading on Sheet 1 to read “Overall Development Data for Park South Station”.

2. Modified the “2012-069 Rezoning” heading on Sheet 1 to read “2012-069 Rezoning Area Development Data”.
3. Corrected the number of units proposed under “Development Data”.
4. Indicated on Sheet 1 that the tax parcels included in the rezoning are “portions of 173-061-01, portions of 173-331-13, 173,331-95 and 173-331-98”.
5. Indicated rezoning Areas 1 & 2 will include a buffer treatment along the rear portion of the reverse frontage lots that include a minimum five-foot high wall/fence and supplemental plantings. Provided a detail of the wall/fence.
6. Eliminated the designation of Kensington Station Parkway as being a one-way street.
7. Provided recessed parallel on-street parking along Kensington Station Parkway.
8. Indicated the existing angled parking along Rockefeller Lane is to remain.
9. Indicate the existing parking lot off Central Pacific Avenue is to remain.
10. Indicated that the single family lots will comply with five-foot side yards.

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HEARINGS

ITEM NO. 46: HEARING ON PETITION 2012-72 BY E&A CUSTOM BUILDERS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.53 ACRES LOCATED ON THE SOUTH SIDE OF WARP STREET BETWEEN DONATELLO AVENUE AND HERRIN AVENUE FROM R-5 TO UR-1(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Manager, Rezoning Section, said this petition is to rezone approximately a 5.3 acres from R-5 to UR-1 (CD). The property is located on Warp Street right at the Intersection of Herrin and north of Card. In terms of the future land use you can see by the mount that it is showing in yellow, which in this case is for residential. In terms of the zoning in the area I wanted to show you this map specifically so that you could see all the areas that have actually been zoned to you are in some form or fashion within the North Davidson area closer to this property. We have had quite a few of the most recent one right across the street. As you can see the property in the area, there is a single family home located on one portion of the site. The proposal is to allow four single family lots with sidewalks along Warp Street. There are elevations that they are proposing. The houses will be similar to these that they have built in other parts of the community. They have a list of materials that they are proposing. The petition is consistent with the North Carolina plan recommendation for single family. We are recommending approval. One of the reasons is because it is consistent with the plan and it is development of in fill property. I'll be happy to answer any questions.

Claire Refaey E&A Custom Builders, LLC Representative, said I'm representing E&A Custom Builders. I presented the sheet in front of you tonight, the two pager, we just went over quite a few of the highlights. Initially we had to request a rezoning R-8 but just to clarify why we choose UR-1, it's because the properties on either side are R-5 but are only 23' away from the street. In order to align with those adjacent properties, which were also the request of the NoDa Neighborhood Association, we wanted to assure that we were going to align with them so that's the request for UR-1.

One other request that NoDa requested, and we wanted to bring to you tonight, was that we will be completing the curb, gutter and sidewalk in front of our property and would like you to consider the continuation for the remainder three parcels on Warp Street as well. We're NoDa residents, we love it there and we just ask that you approve this.

Motion was made by Councilmember Howard 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. 44: HEARING ON PETITION NO. 2012-65 BY CITY OF CHARLOTTE FOR A CHANGE IN ZONING FOR APPROXIMATELY 4.02 ACRES LOCATED ON THE NORTH SIDE OF CENTRAL AVENUE BETWEEN MERRY OAKS ROAD AND SAINT ANDREWS HOME PLACE FROM R-4 AND R-22MF TO NS.

The schedule public hearing was held on the subject petition.

Planning Manager, Rezoning Section, Tammie Keplinger said this petition is for approximately 4.02 acres. It is located on the north side of Central Avenue at the corner of Merry Oaks Road. The future land use map as you can see on the overhead shows the properties basically along Central Avenue as being slighted for multi-family. The yellow, back behind them is single family residential, then down toward Eastway we get towards more commercial development.

The subject property is actually divided into two zoning classifications. We have R-4 to the rear of the property and R-22-MF to the front of the property. This proposal, from the aerial, you can see a couple of houses that are located on the site and it is located next to an existing church. In terms of the site plan this rezoning would allow the development of a 16,500 sq. ft. building for police and other government services. There is no parking or maneuvering between the building and the street frontages. There are limits on lighting. There are buffers that are not required by the Zoning Ordinance these are being established, a 22' buffer and a 20' buffer. The NS District does not require these but because we have adjacent properties that are residential in nature we have requested them and the petitioner has agreed. The main building sits to the corner with a canopy to the rear that will cover police cars. The public's parking space is right off Central Avenue. There is a security fence you can see the detail on the right corner that goes around the property lines. The Briar Creek, Woodlawn and Merry Oaks small area plan recommends single family and multi-family for the petition site. But as we've talked about many times before, our area plans really don't tell us where we can put institutional uses. I'm going to show you the elevation from the different views while I'm completing this.

The plan does have a community safety objective and in that objective, one of the things it recommends is that a great police presence be provided within the Merry Oaks and Briar Creek Communities. Allowing this rezoning would support that objective although it is not consistent with the area plan itself. Again, many times we do not look at institutional uses for specific locations. There are no outstanding issues with this petition and I'll be happy to answer any questions.

Brian Jenest, ColeJenest & Stone, said I'm just going to hit the highlights in terms of our meetings with the neighborhood which actually started as early as February 2011. There are about six or seven issues and I'm going to start with the building. The neighborhood requested that we put the building on the corner and that the building be L-shaped, seemed to make sense to us. Hold the corner, create a nice presence. Obviously you can see that we've accommodated that. There was a concern that we provide sidewalks. Well you do that in every project anyway. You can see we provided a sidewalk along Merry Oaks and Central Avenue. There was discussion about providing an adequate buffer especially along this property line. You can see there's a house here. As Tammie said there is no buffer required, but we have accommodated a Class C 22' landscape buffer which is a mix of evergreens and deciduous trees as well as a wrought iron, aluminum fence with brick columns which is a security issue for Charlotte Mecklenburg Police Department.

There was a request that we also provide documentation for the neighborhood. This is where the documentation will be located. That was a request by the neighborhood. There was discussion about parking. You can see by this plan it looks like there are more parking spaces than you would need for a building of this size. The issue is there are 40 spaces for the police cars and then the police officers also park here. During shift changes there is overlap. So we need 120

cars at a minimum in addition to some of the administrative staff and the Neighborhood Services folk who park here. So that's why there are so many cars. There will be screening here and along here per the City ordinance.

Lighting, Tammie mentioned, we've taken care of that and she showed you the images which I just flipped through quickly. The last thing I wanted to mention was the tree save. There was a request that we save as many trees as possible. The dark green trees which you can see up here in the corner will be saved. The light green trees, we will do our best to save which you can see there are considerable trees along the periphery and the pink ones will be removed. Several of those large trees were reviewed by the City arborist as well as the Urban Forestry, they've determined that they need to go. They're either dead or have been hit by lightning. The trees in the middle that look like they're great are really not so great. That's really where we are. We probably have a few more issues to work out as far as the buffer is concerned, but I think overall we're in pretty good shape.

Nancy Pierce, 1637 Flynnwood Drive said I'm on the Board of Merry Oaks Neighborhood Association, the Land Use Committee and I live one block from the project and I must tell you that we supported this project from the very beginning on the board and as individuals. And after the community meeting in May, we came to a consensus that we would support this rezoning. Up until late last week, we did indeed feel that we would support the rezoning and we looked forward to it. We want this facility for our police officers. And I have to tell you this is a little bit convoluted because I made a call to City Staff to ask to clarify some details and apparently I was given some incorrect information. We were told that the buffer that we still insists that we need between the Civic project and the adjacent single family homes would not occur and we really believe that that is important. There is a very small house that is right up next to the property line and 22 foot buffer which Planning is actually requiring them to do is simply not enough of a buffer.

We were also told there would be some extra tree save and I was told late last week that none of this would occur but the biggest thing I was told is that there would be a new site plan presented tonight and I would see it for the first time tonight and we just kind of went ballistic over the weekend to tell the truth and we decided we had to oppose the rezoning. Because we felt like we had been taken out of the process. Today was an interesting day a lot of phone calls a lot of meetings, I think the documentation that they are now going to provide was sort of, we never really asked for that; but that was brought in today which will be okay but we still want the brick buffer. But we understand now that we were given incorrect information, but we can't change our stance on the issue because our Board, by our by-laws we cannot change our stand without consensus and we can't get consensus today, so this is kind of weird. We do want the police station, but we oppose this rezoning until or unless we are assured that we are getting what we need in particular a buffer for the single family homes on the upper side of the property that is impervious to sight and sound. It's very important to us. We need that, we're a fragile neighborhood. This is a huge encroachment into our neighborhood, it's taken away several single family homes and we have very few. We need to protect our boundaries so that is the really important thing that we need.

Russell Ferguson, 2254 Farmington Lane, said please bear with me I've been sick all week so I will keep it short. We've been very open with this project as Nancy discussed. We sought to work with the City and we have. That was going well for a long time. It was our hope to stand here and support this petition. Unfortunately in what seems like kind of a minor argument is that the issue of the lights from headlights as you can see in the upper left hand corner of that parking lot, and you notice the nearest house and we have residents of our neighborhood that live there. Their bedrooms are on that side of the house and they are going to get a wrought iron pattern headlight flash into their bedroom every time there's a shift change. We're talking about 40 police cars and 40 police officers and other 40 police officers coming in to replace them. That's an awful lot of light in the middle of the night and the current existing landscaping right there is about as real as the street car stop that I think was listed on the one of the plans shown earlier. It's going to take a long time for that to grow and to protect them from lights. So right now we have a wrought iron fence that's not stopping the headlights. So we felt it was important to bring this matter to you guys. We would like to support this but we cannot because of this matter

particular, and one more you're going to hear about so we ask that the City reverse its position and come up with a fix that puts a wall in a long enough space to block the light from hitting their bedroom window or that it not be approved.

Peggy Porter said I live about two blocks away from where this project is proposed to go. I'm not a member of the Merry Oaks Board because I don't technically live in Merry Oaks but unlike Russell and Nancy I've been against this all along because there are so many more appropriate sites to build it. I'm especially distressed to see what tree saved is planned; yes it's true that some of the ones that are on the private, what was private property in the middle are diseased. But the ones on Central Avenue, not diseased. The ones on Merry Oaks, not diseased. They belong to the City and always have. These trees are as old as the trees on Queens Road; it's distressing to me that the City would be in the business of tearing them down. There are so many other sites in the neighborhood that would be more appropriate. There's Morningside and Commonwealth which is 32 acres of cleared land for a project that never was finished and it's distressing to me that the City would be in the business of instead of taking care of trees which mitigates storm water run-off that the City would be tearing them down. That's really what my point was going to be. Again, I wouldn't support it no matter what I don't think and I really wish the City would rethink this particular site and if they're not going to do that, make more of an effort to preserve trees on that site and to incorporate neighborhood input.

Mr. Jenest said I'm not sure of the communication concern, but we will meet with the petitioners and I'm confident we can work through some of these issues, specifically regarding the lights in the window of this unit. Part of what I talked about in creating some documentation signage is that there would be a low wall which would help resolve some of that. We also talked about beefing up the landscaping specifically along the side of their house so we will get back with them and hopefully get it all resolved.

Councilmember Cannon said would you be so kind as to describe this wall that you are proposing.

Mr. Jenest said it would need to be tall enough, ideally it would be a documentation that would serve as a sign to the neighborhood which is what we heard was requested, but I would think it would need to be about 4 feet to at least block the lights. I think the concern is as cars turn into this drive you can see lights would have a tendency to shine that way, so adding landscaping as well as a wall here I hope would do that.

Mr. Cannon said and relative to additional tree save, what about that?

Mr. Jenest said there are a couple of trees here which we might be able to look at and all of these yellow trees, the reason they're not showing in dark green is because they don't technically meet the City's tree save requirements which means you have to keep an area a certain width and distance from existing trees and because we haven't graded it we didn't want to commit to them, but we feel pretty confident we can save most if not all of them. I also want to point out that these green trees, there are over 35 of them; they are all new trees that will be planted on the site.

Mr. Cannon said do you have a copy of the new site plan that can be shared with the community?

Mr. Jenest said certainly we do.

Mr. Cannon said relative to the amount of traffic, looks like this is going to go up another 600, I think in count. You've got about 400 right now that are proposed staff and this looks like it would generate at least 1000 or more cars, any thoughts on that?

Ms. Keplinger said that is something that certainly we took into consideration. I'd like to refer that over to Mike Davis with CDOT.

Mike Davis, CDOT, said I'm happy to answer any questions you may have. The numbers you site are correct.

Mr. Cannon said any concern from staff about the amount of generation that will be coming that proposed if this is approved?

Mr. Davis said no.

Mr. Cannon said none whatsoever?

Mr. Davis said no.

Mr. Cannon said you must be kin to Jerry Orr a little bit! Thank you for that. I wanted to make certain that, Nancy you had made reference to the amount of tree save. You had mentioned that, if you don't mind coming down just for half a second please Nancy. I'd like to know if what has been suggested in terms of the number of suggested trees being saved is what you were told?

Ms. Pierce said we were told in May that there were some extra trees that they didn't need to save that they would save, and then the information I got on Friday which again may or may not have been accurate was that they would decide at construction what to save and we kind of knew what that meant. So we're not really sure what will be saved.

Mr. Cannon said right and that's the way it came across to me, so let me ask this last question, Mayor, and I will conclude with this. Relative to a protest petition, have you all thought about seeking that or what?

Ms. Pierce said well up until Thursday afternoon about 4:00; we intended to support it and so we couldn't do a protest petition because that must be filed two business days before the hearing. We really think we can probably resolve this.

Mr. Cannon said I hope you can thank you so much.

Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and carried unanimously, to close the public hearing.
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Council's decision was deferred pending a recommendation from the Zoning Committee.

ITEM NO. 45: HEARING ON 4970-Z PETITION NO. 2012-071 BY LINCOLN HARRIS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.08 ACRES LOCATED ON THE NORTHWEST CORNER OF EAST MOREHEAD STREET AND KENILWORTH AVENUE FROM O-2 TO MUDD-O.

The scheduled public hearing was held on the subject petition.

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

Tammie Keplinger, Planning Manager, Rezoning Section, said this Petition is by Lincoln-Harris, LLC for 2.0 acres located at the corner of E. Morehead and Kenilworth. The map up above us tonight is the future land use map. If you will look the yellow line depicts the PED overlay that was recently adopted by the Midtown-Morehead-Cherry Area Plan. The land use is reflective of what was adopted in that plan which calls for a mix of office, medical office residential uses and it says that retail to serve the immediate population may also be appropriate.

In terms of this request, you can see from the aerial the CMC site across the street, the development along Morehead, Kenilworth and then the Dilworth neighborhood to the rear. In terms of the site plan, the proposal is for a 16,000 sq. ft. retail space on the corner and then a 14,000 sq. ft. office space that is two stories. There is private open space for the office

development and then a public open space on the corner of Morehead and Kenilworth. The zoning district does not require a buffer to the adjacent residential properties, but the petitioner is providing a 10 foot buffer.

Additional conditions that go along with this petition are that the building height will be limited to 46-foot. There are limitations on the lighting, the hours of operation, the hours for trash pickup and service deliveries. There are two optional requests also with this petition. One is for the drive-thru facility and the other is for entrance stoops with steps to encroach within 8-foot of the 22-foot setback along Kenilworth in this area.

Staff does have some outstanding issues that were listed in the staff analysis. They mostly relate to the building design which we believe should be more urban to fit in with the character and the scale of the Dilworth neighborhood. We also suggested redesigning the location of the drive-thru to be more accommodating. The MMC as I mentioned earlier, does recommend office, residential, medical office and institutional uses for this site. It also says retail to serve the immediate population may be appropriate. Staff feels that once the outstanding issues are resolved, that this petition is appropriate. I will show you briefly the elevations that have been submitted, but I do understand that the petitioner is going to show you new elevations tonight. So I don't want to spend a lot of time on these.

Staff is recommending approval upon resolution of outstanding issues. This petition provides elevations, buffers and restrictions on operation hours, heights and lighting which are not required by the Zoning Ordinance. It includes the pedestrian features like no parking and maneuvering in front of the buildings, public open space and vision glass along Kenilworth. Staff believes that this petition is consistent with the Midtown-Morehead-Cherry Area Plan.

Walter Fields, 1919 South Boulevard said I'm representing Lincoln Harris and the property owner in this case, Mr. Ed Springs. We appreciate your time because we know that you have heard a lot about this case and we want to be sure and try to be available to answer any questions that you might have. I'm going to walk through a power point presentation. At the end of my presentation I have a document that I'm going to leave with you which includes a lot of this information plus some additional information and hopefully if there are any questions that come up, if they are not in there please feel free to contact us.

The site involved with this as Tammie says is at the corner of Morehead Street and Kenilworth Avenue. It's a site that is along the edge of the Dilworth Community which you can see on the right. It's closely associated with Midtown and a little bit to my right you will also see other neighborhoods; the Cherry community and the Myers Park community it's obviously close to the center city. Looking at it in more detail with Morehead Street on the upper right hand corner of the slide, the properties about two acres and it's got five buildings on it and each of those buildings have driveways today. As I've said all of this is under a single ownership and all of these buildings will be removed no matter what the outcome of this zoning is. This property is for sale and the owner has indicated to us that he plans to remove these buildings.

A summary of the case is it's a little over two acres so it's not a very big piece. It's currently zoned straight up 0-2 which is sort of the mid-level office district. The PED overlay district does apply to this property both along the Morehead frontage and the Kenilworth frontage from the Midtown-Morehead-Cherry small area plan. As I said there are currently five structures there. They were developed long before any sort of storm water management. They are not historically significant structures and this property is not in the Dilworth historic district. It's out along the edge along Kenilworth and Morehead which are both major thoroughfares in the City's thoroughfare plan. Well if it's already a zoned office why do we need this rezoning? Well number one is we are requesting the ability to have free-standing retail and number two, because of the PED Overlay District, we are requesting the ability to have a drive-thru service window as part of the pharmacy. The ordinance permits a drive-thru window for an office use in the PED overlay but not for a retail use. So that's why we're going through this process.

It's a little unusual to be starting with a piece of property that's not zoned residential. We normally bring in a piece where there's a very few development rights and try to add it. This property already has a lot of development rights. This is a plan that can be built over the existing

zoning on the right of the image up there is what would be a 60,000 sq. ft. four level office building, the branch bank on the ground floor potentially with a drive thru small amount of retail and restaurant space which is allowed in an office building. And the other large building is a five level parking structure that would be needed to serve the office building. And because of the PED overlay, it's also required to have activation of the street scape. Some sort of retailer or office use along the street scape. And all of that can go there with the existing zoning. If you will look at that in cross section, what you see on the upper right hand side, the yellow area represents the profile of the pharmacy building that we are proposing. What you see behind it would be the profile of the office building that's currently permitted by the existing zoning. On the left of the drawing is the profile of the two story office building that we are proposing and around it you see the profile of a five level parking deck. Just at the closest point, our plant is 102' away from the property line of the closest residential structure, but the parking deck because of the way the zoning works could be as close as 27' and the lower illustration gives you a shot of what the office building would look like with three levels of office potentially a restaurant, and a bank on the ground floor. If you were standing on that adjoining residential piece, this is the scale of building that we are talking about. They are large buildings and in certain locations that might be entirely appropriate. Right across the street we have the very large hospital complex. We felt that something of this scale was just inappropriate along this edge of the community.

What we're proposing is a site plan that looks like this, again on the corner a 14,000 sq. ft pharmacy building. I think on Tammie's drawings the floor area numbers were reversed, that's called Building B and then Building A is a two story 16,000 sq. ft office building. Just a little over 30,000 ft. That's barely more than the floor area that's on the site today if you added up all the buildings. The parking is all behind the buildings. I will show you a cross section in a minute. This has two access points one to Morehead and one to Kenilworth. They're both right in and right out. And no matter how this property is developed when it's sold, those are the source of access limitations that anybody will have to live with and so we're doing it as well. Architecture is important in this neighborhood and we've gone through a whole series of iterations. We never showed the community the first ones at the top that's just not appropriate. We walked through a series of iterations and we've come tonight with a change in the plan to try to be more reflective of what we've heard at recent meetings. This is as if you were standing in the intersection at Morehead Street and looking down Kenilworth. The pharmacy is on your right. The office building is on your left. This is as if you were standing on Kenilworth looking back towards Morehead with the office building and the foreground and the pharmacy in the background.

A close up of the office building and these are close up of the pharmacy walls and I want to call your attention to the corner element because this is where a lot of energy has gone. Instead of using a large diamond of architectural feature with a display window or signage, we've gone completely away from that and what you see there is actually a living wall, a green wall. Those are live plants embedded in a matrix that will be part of that wall. It flows down into the fountain that is about 27 feet long, surrounded by benches and pedestrian spaces; water fountain for joggers and walkers; a little bit of a rest bit from the noisy intersection of Morehead and Kenilworth. So we've taken what would have otherwise been a commercial space and turned it into a public space and pedestrian space. These are examples that you might see in other cities of this very same thing. We think this may be the first one in Charlotte on the exterior of the building. And the scale of our buildings looks like this from that same view we looked at a while ago, which looked like that, this is what our plans would look like in terms of a scale. Now as we go forward in this process, we have submitted these revised drawings. This is part of our resubmission including this improved architecture. This reveals four sided architecture so all the sides of the building are treated. There's not like a good side and a bad side. This is the office building. This is the pharmacy building. We are in the process of providing some additional language that staff has asked us to provide in terms of how we deal with window treatments. We've been communicating with Tammie extensively on that and I believe we have, my emails suggest that we have resolved the unresolved issues with staff.

We've got a comparison here between what we're starting with and what we're proposing. We are talking about a two-story office building and a one-story pharmacy, about 30,000 ft. The site can accommodate a 4-story office building and a five level parking deck with today's existing O-2 zoning. That's a significant piece of development. We think that's out of scale. We think what we're proposing is a better scale for that portion of town. It's only about 20% of what could be built under the existing zoning. Again this is a little unusual situation to start with zoning that has development rights and then be asking for something different. We've got significantly more separation between the closest residential structure and any development on our site. I will show you a cross section in a minute and you will be able to see that the parking and everything is actually depressed and it creates even more of a screen than you might otherwise think. This generates significantly less traffic than the by-right zoning would generate and it creates a one of a kind feature at the Gateway corner to the community which we think will be an asset. This gives you the comparison and sort of an overhead view. The yellow lines represent the outlines of our buildings and the red lines are the outlines of what you might build under the existing zoning. So you can see the difference in the scale. These show you the distances from the various points of the building to the adjoining single family homes and in particular down there on the bottom part of that drawing on the left, you will see this cross section. And that's what it looks like in cross section. The parking lot and our site are actually significantly below the adjoining residential home. The lights there that we are putting in are very short and downwardly focused to make sure there's no light spillover.

We've already done a photometric study to demonstrate that we've stopped the light creeping off the property. We really do think that this makes a lot of sense. It's a site that fits the location; restricted hours, smaller buildings than the zoning allows; consistent with the City's adopted plan and comes to you with the staff's approval. As I use up my last few moments, this is a segment from the plan that Tammie talked about. As we talk about the community while a lot of the conversations have been about Dilworth, this shows you a little bit better picture. There's a lot of Myers Park and a lot of Cherry that are closer to this site than a lot of Dilworth is. So we've been working with the Dilworth community and we respect their views, but this really is a location that the plan calls for it being appropriate to serve the immediate area. That doesn't mean one block or two blocks; it means like what you see on this plan. There are multiple neighborhoods that would benefit and we'd ask for your consideration.

Cynthia Schwartz, 1235 East Boulevard, said I co-chair the Dilworth Community Association's Land Use Committee. The DCDA has been in discussions with the Petitioner for several months. And although we appreciate all the time and effort put forth to propose a site plan and design in keeping with the character of the Dilworth neighborhood, the DCDA opposes the proposed rezoning due to the use which is incongruent with the Midtown-Morehead area plan and the newly adopted PED overlay district. Further a grass root effort started by a Dilworth resident included the creation of an E petition which the DCDA distributed broadly after our board voted to oppose this rezoning. In the six days since DCDA's distribution the number of signatures on the E-Petition quadrupled. It now includes nearly 1100 signatures evidencing the neighborhood's united opposition to this rezoning. The rezoning's lack of compliance with the area plan is centered on three items. One the anchored convenience retail use of the site which the City's plans indicate is not a recommended use at this location. Two, the inclusion of a drive-thru and three, its non- reuse of the existing structures of historical characters and context.

The plan recommends a mix of residential office, medical office and institutional uses on E. Morehead. The plan also indicates that retail to serve the immediate population may be appropriate. The developer has made no attempt to suggest that the anchor convenience retail use is intended to serve the immediate population before tonight. Quite the contrary, the petitioner maintains that the use is intended to serve those using the adjacent arteries for commuting hospital patrons and other nearby neighborhoods. It is not intended to be a Dilworth amenity and it does not meet the area plan criteria. Thus the sustainability of this anchor convenience retail use is in question. Further the Midtown-Morehead-Cherry plan discourages tearing down historical or architectural significant structures. Four of the five structures slated for demolition by this rezoning were built between 1900 and 1927. If the City is going to allow rezoning requiring these historic buildings to be demolished, it should only be done for a project

that represents the highest and best use for the site which the City's plans clearly indicate is not an anchored convenience retail use or any retail use with a drive-thru window. Allowed uses in the PED overlay district exclude drive-thru windows for restaurants and retail establishments. Allowing a retail use for the drive-thru will create a precedent increasing demand from developers to build additional such projects on Morehead Street, when the recently adopted PED overlay district portion of the Charlotte code clearly states they are not allowed, the precedent affects more than just Dilworth. The Cherry and Midtown neighborhoods will also be effected. And to be sure, these uses will encroach upon the historic Dilworth residential areas which do not have the infrastructure to support them.

Traffic on Kenilworth and Morehead is already in need of remediation. Increased traffic will push overflow traffic and parking onto our narrow neighborhood streets. Further, crime statistics within 1000 ft. of properties of similar use on South Blvd. indicates that crime associated with the proposed convenience retail use is greater than four times that within 1000 ft. of the current use, including drug offenses and armed robbery. The DCDA and the purchased petitioners gave the plan a fair hearing over a number of months. We planned and attended meetings in good faith. We reviewed the designs as committee members, as adjoining property owners and as Dilworth residents. The more we learned the more it became apparent that our very first instincts in the very first meeting were correct, the use, inappropriate. The opposition to this use should therefore come as no surprise to the petitioner. We have gone through a time consuming and collaborative process with the petitioner on a number of issues but at the end of the day, the bottom line is the same and our objections remain the same. We have come full circle. The use has not changed and from day 1 we have opposed the use as we believe each of you should as well. With that we respectfully ask that you support the City's area plans in the Dilworth Community and vote no to Significant Retail on Morehead Street.

John Fryday, 1119 Belgrave Place said I'm past DCDA President, past Land Use Chair, Protest Petition Member and in addition I was on the Stakeholders Group for the Morehead-Midtown-Cherry plan and I attended every meeting. Regardless of what you had heard tonight, this project is not in keeping with the spirit or details of that plan discussed over many months in which you adopted just a few months ago, not a previous Council, but you. You adopted the plan and then you go to the PED overlay on top of that. This proposal would allow an intense Suburban style anchor drive thru, retail in violation of both the area plan and the PED overlay. This development is certain to create tremendous pressure for additional retail development along this fragile edge of the Dilworth neighborhood. I have five points to make.

Point number one, it's simply inappropriate. You've all driven that area have you ever once thought wouldn't it be great to have a one story suburban style retail store on that corner with right-in and right-out in both ways because the traffic is so congested it won't work any other way? Even without reference to the carefully drafted plan you just adopted, it's apparent that such development is completely inconsistent with existing uses and it's hostile to our neighborhood.

Point two, it violates the spirit and vision of the plans you just voted into existence. Hundreds of man-hours were spent by staff and neighbors, dozens of us. The plan calls for shrinking the pedestrian character of the Morehead Corridor. It calls for preserving the historic character as it should. This is one of the few great streets left in Charlotte. The plan states that appropriate uses are a mix of residential and office and "some retail to serve the immediate population." A Walgreen's with a drive-thru meets none of those standards. It's the antithesis of that description and it's in the front of those of us involved in the planning process. We have a letter that's coming to you attested by 11 active neighborhood members of the Stakeholders Committee agreeing that this project is completely inconsistent with the vision that we intend to discuss. And the Cherry Neighborhood Association Board of Directors voted to support us on this.

Point three, the City paid an out of town Economic Consultant to show you the economic viability within this area plan, an idea erected by Council I think, Mr. Barnes. We don't know how much was spent on that effort but you told our committee and Planning that the retail described would only succeed at Morehead and around McDowell and near College. In the plan, retail was expected to support the neighborhood. As Walgreen's told us, their stores are

successful anywhere they go because they draw from the City's arteries, not the surrounding neighborhood. Again it's precisely the opposite of what the plan intends. At this point I was going to ask for the slide, but it's been up the whole time.

Point four, we're told this project has been carefully thought about and crafted for this site. You may not have heard that but you will. For this position is the gateway to Dilworth, a gateway I can assure you we do not seek. It is in fact just a re-skinned Walgreen's with a different face. The image on the screen is existing Walgreen's in the heart of SouthPark retail area, a very dense retail area. For Dilworth they say they've located the loading bays out of site, but SouthPark has that. Dilworth is being given a diagonal corner face that is not an entrance but looks like one, it's dressed up, South Park has that. The real entrance is at the rear corner, just like South Park. We're told the drive-thru is low volume like 14 visits an hour. Well this Goggle Earth shot of the SouthPark location shows 8 cars lined up at the instant of this photograph and you can also see the U-turn there is blocking the entrance. Think how well that actually will work on Morehead Street with only two lanes of traffic.

Not that the design is even relevant to this discussion, with such an inappropriate use; but the design of this building does not really address the site, the neighborhood or the street in a way that is in any sense special, it's just been wrapped in different wallpaper, a green wall for Walgreens, how clever.

Point five and this is the final one, on behalf of the DCDA and the protest petitioners, I've been asked to be very clear and tonight you've talked about neighborhood negotiated. I'll make it simple. There are no details needed to discuss after tonight. We have met six times already and in each meeting the propose use remains intolerable and they've been told that. No architecture, no plantings, no signage, no buffer, no developer concessions will change that simple fact. The intense retail land use at the gateway to one of the City's treasure street car neighborhoods is unacceptable to the neighborhood and we will not participate in a disingenuous process further with a developer. Council is often asked to defer a vote so the developer can work out the details, but not this time. Dilworth has nothing more to say other than no to Walgreens at Kenilworth and Morehead. Please honor the unprecedented unanimity of opposition to the project among Dilworth residents, some of whom are here tonight.

Mr. Fields said we appreciate and respect the folks that we've been working with in this process for these many months and we just have a difference of opinion. Fortunately for us at least in this case our difference of opinion is shared with the Planning Staff who worked with these very same people. I was in a lot of those meetings with John and Jill and watched that process unfold for the plan as well. There is a difference in what you want to be in a plan and what ends up in the plan. I reviewed the Economic Study as well, this is not an anchor use, John's right those large uses are supposed to be at some great distance away, but this is a small use, this is a neighborhood use. In fact originally we were thinking about neighborhood zoning and the staff asked us to consider the MUD Zoning because it's got a higher standard, a higher expectation for the architectural and the review process. We have gone through a process with the folks standing right here with me. We respect them and I hope that they respect us. But community plans don't dictate who the tenant is in a building. Community plans specify general concepts and development order. What this plan says is that the Morehead corridor is a location where it is appropriate to look at retail in certain selective circumstances. There are no connections in the community, there is no parking on the neighborhood streets as Cynthia mentioned. There is a drive-thru and it is limited to the hours of operation of the building and it's only a pharmacy drive-thru you can't get a two liter coke through the drive-thru window, it's there for the people who need a prescription with kids or elderly or infirmed in the car, there's nothing unusual about that. What's unusual here is we are at the edge of a neighborhood that is very, very clever and very, very smart and I respect them and I've worked with John and with everybody in that community for years and years. I wish that there were a simple solution that we could come to. They have made it very clear that they simply don't want the Walgreen's and their justification wraps around that. We believe it's an appropriate location for this sort of use and the plan and the Planning Staff recommends your approval.

Councilmember Kinsey said before Mr. Fryday leaves I'd like to ask him something. I just want to clarify that I made sure I heard correctly that you don't feel that there's any room for further negotiations.

Mr. Fryday said it's not about design, it's about the use. We've had six meetings, we've talked design till we're blue in the face and every meeting comes back and it's the same thing wrapped in a different version. That's not acceptable.

Ms. Kinsey said what do you think would be a good use for that corner?

Mr. Fryday said well the City's own plans, Walter showed you in his presentation what is allowed. I'm sure there were some gasps at what could be in our backyards, but that's what the City's plan allows. That's what PED calls for is to have no more than 40 feet high near a residential. I think we should follow the PED and this is inappropriate and as I've said, it's a suburban use that's really not intense enough. It's just not appropriate for that site.

Mayor Foxx said let me ask a question of both Mr. Fryday and of staff, because the question of consistency with the Midtown-Morehead-Cherry plan has been raised. The staff in their write-up says that the petition is consistent with the plan; DCDA says it's not consistent so I want to press firmly on that point. So staff, can you respond and then Mr. Fryday I want to hear your response.

Ms. Keplinger said the Midtown-Morehead-Cherry area plan talks about the office use, medical office, institution and residential. I think the real point here is the statement that comes after that that says the plan also indicates retail to serve the immediate population may be appropriate. I think from our perspective serving the immediate population that this use meets that criteria. The plan also says that the vision for the overall Morehead area is to become more pedestrian friendly and John read this to you in sections; and strengthens its mix of uses while preserving the historic character and sensitivity to the scale of the Dilworth neighborhood. I understand that the neighborhood is not interested in talking further about design, but we feel like this use, with proper design can achieve the goals, it does achieve the goals of the MMC.

Mr. Fryday said I think what happens with these plans is that you get people in a room night after night and they take magic markers and they draw out what they think should occur in different areas. Then you have word smith who put together a plan who writes them in a way that they are very, they're not terribly specific, they allow room for this interpretation and if Walter thinks we're clever he's certainly proven tonight that he's clever. But I think if you will go back to Tammie's first slide that shows the land use and shows two colors on that land use; one of those colors is not retail. It's office and residential. Retail is shown elsewhere in the plan. Those are the kind of discussions that neighbors in a room can understand. That's the kind of thing that we discussed as a stakeholders group. So while the words of the plan may allow loop holes and ways to come in, I feel like if you look at that first plan there's no indication of retail but elsewhere on Morehead that right there, elsewhere on Morehead it is. Is that not right Tammie, that that does not have the retail colors on it?

Ms. Keplinger said it does not have the retail colors and that's because it was noted in the notes that it was to serve the immediate population so we wouldn't have put the retail color in that.

Mr. Fryday said but the retail colors are further up Morehead Street in other areas correct?

Mayor Foxx said thank you are there other questions from anyone?

Councilmember Howard said the Mayor covered some of what I wanted to ask you Tammie and that was definitely about the nature of what your interpretation was as to whether or not it met the plan or not. The next thing is that we heard from a couple of people, friends from Dilworth that several of the buildings are older and I guess that means they could be deemed historic. Is there a reason why they haven't been that we know of?

Ms. Keplinger said Mr. Howard I do not know the petitioner may be aware of that since they have more experience with the actual existing homes.

Mr. Howard said fair enough. Walter do you know why they haven't been designated?

Mr. Fields said Mr. Howard I don't know why those particular structures were not individually looked at. I know that they are outside of the historic district and that there was a lot of study that went into determining the boundaries of the historic district, including the appropriateness and how much individual structures contributed towards historic district. But I don't know why these structures were not included. I really couldn't tell you. All I know is they are not designated and to our knowledge they are not significant in any way and are not in the historic district.

Mr. Howard said o.k. and while I have you right there, you made it clear that the owner fully intends to tear the buildings down regardless?

Mr. Fields said yes sir, that's what I've been told and keep in mind that Mr. Springs has assembled this property and owned it for years and years, in fact lives on the property, has his business on the property. All four of the parcels are for sale as a single track. If you're right across the street from Carolinas Medical Center you're at the intersection of two major thoroughfares, somebody's going to come along and think there's an appropriate use that can go there. Older buildings standing on a piece of property actually are a little bit of a detriment to the sale because there's a cost in removing them and what Mr. Springs has told my client is that those buildings are going to be removed in either case so the conversation about keeping and reusing those buildings, assuming they were even re-useable and not functionally obsolete, you couldn't put a 14,000 ft. pharmacy spread over two or three existing buildings, it simply would not work.

Mr. Howard said Tammie will you address that part from what I understand from Mr. Fryday's comments there is a part of the plan that actually called for encouragement or reuse of older buildings. Can you explain what the intent was with that and if that applies to this property?

Ms. Keplinger said I believe the intent from that portion of the MMC plan was just simply that; to encourage the reuse of existing buildings that have historic significance. There is no requirement that they be preserved and it is certainly a right of anyone that is in the MMC, unless they have historical designation on their buildings of some type that demolition is an option unfortunately.

Mr. Howard said I'm sorry questions are coming up while people are talking. Mr. Fryday do you know, do either one of you guys know why this was outside of the historic district area.

Mr. Fryday said actually I don't know about that part but I had a discussion today with someone from the Historic Properties Commission. Typically very few have ever been put in that if the landowner does not wish it to be done.

Mr. Howard said but do you know why, is that one of the reasons, o.k. so no one really knows why it was never included in the district?

Mr. Friday said in the historic part that I was referring to, the PED overlay district, one of its part's is to.

Mr. Howard said I got that, I was just wondering why the historic district didn't come up. You guys are very specific about issues.

Mr. Fryday said that was in the mid 80's, 83. It may be that the commercial property on Morehead Street between the Morehead Inn which is in the historic district and the properties behind, that there was too much of a disconnect and that often happens where you don't have little pieces that stick out so that might be why it was done that way, don't know.

Mr. Howard said could you go to that slide that Walter had that showed the massing of what it could be?

Ms. Keplinger said it will take a minute for them to load the slides Mr. Howard.

Mr. Howard said well that's good enough. Tammie I'd like for you to respond to that and I think I'm just looking for confirmation. I have no reason not to think that Walter and his team are correct. Is that your understanding about what the massing could be, that it could be well over 140,000 sq. ft. of space the way it's zoned today and with PED?

Ms. Keplinger said Mr. Howard this is the first time I've seen this slide so it's hard for me to say whether this fits in with the current zoning on the property.

Mr. Howard said could you get back to me on that one.

Ms. Keplinger said if Mr. Fields can provide us with the slides we can look into that.

Mr. Howard said because that's one of the things I'm struggling with. When I first sat down with Walter he will tell you something about that apartment building on the corner has always kind of stood out to me and I thought it was a special building for sure. The more we got into this, I think what's really driving my thought process right now is what they can do by right. That's why I'm asking so many questions about whether or not they're going to tear it down or if there's a reason why they won't be torn down. Because if in fact they can just tear it down like any property owner can do, now we're talking about what could be developed. That's what I'm going to judge my decision by. I'm going to judge how much it can be compared to what they are talking about developing on the property now. That's why that question is really important for me to know.

Ms. Keplinger said well with all development there are different development scenarios but we certainly can check this one and see if it meets the criteria.

Mr. Howard said there was also a note from Mr. Fryday about urban design. I'm not sure what the plan is. You said that the PED scape plan or the area plan talked about the fact that this should follow an urban design? Did I write that down right?

Mr. Fryday said no sir I don't believe I said that.

Mr. Howard said o.k.

Ms. Schwartz said I think actually the staff analysis indicates that they're trying to encourage urban design and to be honest we did meet, we had a meeting with the developer including several architects within the City and folks from the historic district. Many of the items that they have requested including glass so that you can see through the building and ways to make it more pedestrian oriented, we also recommended and they came back and said that they could not do. Also re-orienting the building so that where that art project would be would actually be the entrance so that it would be right there on the corner.

Mr. Howard said o.k. so its elements of urban design, like really having an entrance on the corner and stuff like that you're talking about? Not necessarily the design that's behind you?

Ms. Schwartz said correct.

Mr. Howard said and then the drive-thru Walter, the drive-thru is a requirement? I know CVS got away with that doing one on S. Blvd. is that a requirement for Walgreens?

Mr. Fields said you're talking about the CVS that was built about 20 years ago?

Mr. Howard said I'm just asking a question.

Mr. Fields said I don't believe that one has a drive-thru that's correct. But it is a functioning component of a Walgreen's or a conventional pharmacy that you'd find today. It's not there for the pharmacy's benefit, it's there for the benefit of the people that will want to come there and not get the kids out of the seat and do the whole nine yards.

Mr. Howard said I got that. I was just wondering if it was definitely a requirement or if that was negotiable at all.

Mayor Foxx said just a second, what's the answer to that question?

Mr. Fields said the answer is yes. Yes the Walgreen's would need the drive-thru as part of their pharmacy operation.

Mr. Howard said I thought about it hard, I'm not sure what use would go there that wouldn't require right-in only at a corner. No matter what it was, if they do 140,00 sq. ft. it's going to be right in and right out just because it's on the corner anyway. I'm not sure that's one of the things that we should look at. I can't think of what else you would put there that would require a right-in /right-out, just because it's at the intersection of two thoroughfares.

Mr. Fields said the statement that I made about that was that whatever the use is that goes there, if this never happens. Something's going to happen and they will have the same sort of access that we are restricted to.

Mr. Howard said if you could help me with those questions Tammie that would be great, thank you.

Councilmember Cannon said I would concur that something will happen and this almost reminds me of when I was a District Rep in midwest and southwest Charlotte City Council District 3 and Debra you will recall a lot of the things we went through were corrective rezoning and making sure that what type of use would come to the area, would be within the right character and help to blend with the fabric of the community. I'm hearing that again a little bit today in terms of if we hypothetically speaking if this is not approved, then I think there needs to be some level of thinking about what does work at that particular location so that it is not a mammoth of something that's towering over the people that reside within that community and does blend with the character of that area.

Ms. Keplinger you made mention because I want to make sure I'm clear on this, I heard Councilmember Howard delving deep into this, but I want to make sure I'm clear. I did hear you say that there needed to be a proper design and you know I like trying to define things or understand the definitions of them and you mentioned a proper design and of course in the write up as pointed out, it does suggest to modify the design of the buildings so that they are more urban in nature and better reflect the character and scale of the Dilworth neighborhood. I'm trying to get my arms around one, this question to you first Walter, is this in terms of what you've showed us this evening, your final design?

Mr. Fields said yes sir this is and this is something that we presented to the Dilworth Land Use Committee just last week after having sent it to them a couple of weeks in advance.

Mr. Cannon said and Ms. Keplinger does this design fit in with what staff is driving at in terms of what you all would consider more "urban" in nature and better reflect the character?

Ms. Keplinger said technically we have not had an opportunity to thoroughly look at this design because it has not been submitted. The zoning ordinance does not allow a petitioner to submit a revised site plan less than four weeks prior to the public hearing. So what you have in your agenda are the elevations that our site plan was based on. We have looked at these, the proposed and we have given some comments. We think that we are getting closer to a design that we can support. But we need to look at them thoroughly.

Mr. Cannon said and just jar my memory again on the redesign and/or the relocation of the drive-thru service window to enhance the traffic flow, to minimize vehicular conflicts. Is where it's being proposed now, the place where it should be in staff's view?

Ms. Keplinger said I think that we have all looked at that from a planning and from a CDOT perspective, but I think Mike Davis would like to address that issue.

Mr. Davis said when we first met with the petitioner on this site that was one of the immediate concerns we had and we actually pulled up that same area imagery and had exactly the same reaction that we were concerned that the drive-thru placement was too close to the driveway. So our position at the time was we would not be able to support that design unless we could kind of do some analysis on the SouthPark Walgreen's and what we found, one, the zoning ordinance actually has provisions about how much slack you should have at a drive-thru? Does this meet that requirement? Second is, there's not a whole lot of national data on this, what we found was this is consistent with nationally drive-thru's and pharmacies and what you would kind of expect. Third is we sort of zoomed in on the SouthPark site in particular, there's no accident data to suggest that there's any kind of problems at that driveway. We also have not received any kind of calls for complaints as we sometimes do with drive-thru's that stick out in the thoroughfare/streets. And the last thing we did was conduct some video surveillance at that location at that drive-way and over a 24 hour period, what we observed is what you saw in that aerial photo does go on, but it's pretty rare. It happens about three times per day and occurs for less than about a minute where you would see vehicles extending where they might become a conflict with a sidewalk and never did they extend out into the street. What we took from that is clearly what the aerial legendry suggests, it's close but we can't find any reason to say that it can't work in this location and I would just add that the staff analysis does list it as an outstanding point, that we'd still like to see that drive-thru re-positioned if possible, but again from all that analysis suggests that if it cannot be, it should be fine.

Mr. Cannon said thank you so much.

Motion was made by Councilmember Dulin seconded by Councilmember Cannon to close the public hearing.

Mayor Foxx said I don't usually offer opinions on these things before we get to the actual vote, but giving that the Zoning Committee is going to have this in their hands I think one real question that is nagging at me on this petition is the interpretation of the plan. Because I do think that there was an understanding or at least the belief on the part of the neighborhood that when you talk about retail services being available for immediate use, that there's an argument that means immediate use not immediate plus everybody that's passing through. I think that's some of what's going on here with this issue of the drive-thru, the context of the building and so forth and I'm going to be listening very carefully to what the Zoning Committee has to say on that issue as I try to reconcile what is there on paper versus what is now presented to us. The design, is a beautiful design that I could envision being in lots of parts of our City. Hopefully if we ever come up with a capital plan that helps to get more of our areas repositioned, maybe Walgreens will want to put one of those facilities in some of those places. But I think the question for us is whether this is the right place for that type of facility.

The vote was taken on the motion and carried unanimously to close the public hearing.

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

ITEM NO. 47: HEARING ON PETITION NO. 2012-075 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEX AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD A NEW DEFINITION FOR "ELECTRONIC GAME OPERATIONS", AND ALLOW IT AS A NEW USE WITH

PESCRIBED CONDITIONS IN THE UR-C, B-21, B-2, NS, MUDD, UMUD, CC, TOD-E, TOD-M, AND I-1 ZONING DISTRICTS.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Manager, Rezoning Section, said I'd like to introduce Barry Mosley with our office. Mr. Mosley will provide the presentation on this item.

Barry Mosley, Planning Department, said tonight I will present to you the Text Amendment for Electronic Game Operations. The purpose of this Text amendment is to one, add new definition for a new use which is electronic game operations and two, allow electronic game operations as a permitted use with prescribed conditions in the UR-C, B-1, B-2, NS, MUDD, UMUDD, CC, TOD-E, TOD-M and I-1 zoning districts and prescribe conditions for electronic game operations.

The definition is as follows:

“A retail use where computer devices or software are provided by the business or Patron to access games or similar sites, whether free or by purchase and where cash, merchandise or other items of value are redeemed or otherwise distributed. And whether or not, the distribution is determined by games played or are pre-determined. The term includes but are not limited to; internet sweepstakes, video sweepstakes or cyber cafes. This definition does not include any lottery endorsed, approved or sponsored by the State of North Carolina arcade games of skill or other games, activities prohibited by the State of North Carolina.”

Again those zoning classifications or zoning districts that we are proposing are; UR-C, B-1, B-2, NS, MUDD, UMUDD, CC, TOD-E, TOD-M and I-1. The proposal is to allow electronic game operations only as a principal use, not allowed as an accessory use to any other use including a convenience store, restaurants, nightclubs, bar or lounge. Some of the prescribed conditions that are set with this particular text amendment are separation requirements.

One, 400 ft. from any other electronic game operation use, no more than one electronic game operation located within the same structure, shopping center or commercial retail strip center. If alcohol beverages are provided or allowed, the establishment shall meet the separation distance requirements for nightclubs based on the zoning district in which the use is located. The distance shall be measured as the shortest distance from property line to property line.

Maximum size 3500 sq. ft. The buffer, landscape and sign provisions provided in Chapters 12 and 13 shall apply. Vehicular parking provisions; provisions of Chapter 12 apply unless the use is located in one of the following zoning districts; UR-C, MUDD, UMUDD; PED and TOD. In the UR-C, MUDD, UMUDD and PED zoning districts, the minimum of one space per 200 sq. ft. In the TOD zoning district, the minimum of one space per 250 sq. ft. and a maximum of 20 spaces.

Mayor Foxx said Mr. Mosley, hang on one second. We value your efforts. I think we would be best positioned if you could just give us a synopsis of this and then let us ask questions. Could you do that for us?

Councilmember Barnes said can I interject something along with that suggestion Mr. Mayor. Mr. Mosley it would help me if you could tell, and I'll site some of my colleagues me, Mr. Autry, Ms. Mayfield and Mr. Mitchell how N. Tryon Street, Albemarle Road, S. Tryon Street, Freedom Drive, Sunset, and Statesville would look different under the proposals that you're describing because as I sit here listening to you it seems like nothing will change except maybe they will be further apart and you won't be able to sell booze. So help me to understand how things will be different because what I was hoping was that we would limit them more, not just make sure that they are 400 ft. apart.

Mr. Mosley said I understand your point. That's what we have and we've presented it at this particular time is a staff proposal is that 400 ft. separation requirement, as well as the night club and bar lounges requirements if alcohol is served.

Mr. Barnes said what about 1000 ft. or 2000 ft.?

Laura Harmon, Assistant Director of Planning, said we also think that by adding the parking requirements you might find that a lot of these are in older structures on these business corridors that don't have a lot of parking and they tend to be overflowing. By adding these parking requirements we're going to eliminate a lot of the sites that have been previously used. That will also help us to reduce the number, really of sites that are appropriate for this. They are going to probably typically have to go into shopping centers in the future because that's where you're going to be able to find enough parking and then we're limiting to one per shopping center.

Mayor Foxx said I just want to make sure, have we gone through the Amendment and sort of just highlighted what it does?

Ms. Harmon said we have and we did want to also go back and let you all know that we did go through a stakeholder process with a number of citizens as well as operators and tried to find a balance between the desire of the operators and the citizens. We actually found the operators were quite favorable with the separation agreement. They wanted them to be further apart to reduce their competition.

Mayor Foxx said so we have several questions, Mr. Barnes did you get yours answered?

Mr. Barnes said I think he was going to explain an answer to my question. But as I said it seems that they are being allowed in so many zoning districts that I'm not sure how things will be any different.

Mr. Mosley said I wanted to also make note that these establishments now as a principal use would be in standalone buildings. Now they are allowed to be more or less not standalone.

Mr. Barnes said right but the last thing I want to see is one of those 5000 sq. ft. car dealerships on Tryon Street turn into a 5000 sq. ft. sweepstakes parlor.

Mr. Mosley said exactly and that's why staff looked at that and set that minimum of 3500 sq. ft. We also didn't want to look at the casino type style establishments.

Councilmember Cannon said I just want to know if we can maybe come back to this item. We can still leave it open for discussion but I want to make sure that we are getting all in which we need in the proper order that the Council expects it in. I'd like to see us bring it back in a way that's a little bit more free-flowing with information coming the way that it should. Right now I'm not so certain that we're getting the information in the order that Council has been looking to receive it.

Mayor Foxx said I think what you're saying is we've got a very, what sounds like a pretty complex topic on which there are going to be likely a lot of questions, and that we may need a little more time on this one. Can we hold this over to next time, is there any problem with waiting another month to take this up?

City Manager, Curt Walton said just leave the hearing open.

Councilmember Howard said to me, I feel like we are going in the wrong direction. I was hoping we were going to join the fight to stop it all together. Now if we actually allow it, if it is stopped, what do we do now that we are allowing it? I'm hoping that we are fighting to stop it altogether.

Mayor Foxx said without taking a side one way or the other on whether for or against, I think that we need to give staff some time to be really prepared on this topic to address the questions

that council will have. So that's the purpose of giving more time. Now unless the Planning Director tells me differently that's what I think we should do.

Planning Director, Debra Campbell said we would greatly appreciate if you all would give us adequate time to prepare you the background and history of this issue and to provide you an appropriate rationale for why we're moving in this direction. Our biggest challenge is from a land-use perspective, how do we distinguish this use from many of the other retail uses so if you would give us that amount of time we would greatly appreciate it.

Mayor Foxx said let me just settle this question and then if you have comments on the topic we can take those up. Does anyone have an objection to leaving this open and taking it up next time? Okay so I have Ms. Mayfield who has been waiting very patiently, Ms. Fallon and Mr. Autry on the general topic of the issue that we're going to discuss next time.

Councilmember Mayfield said basically the question I want to find out, wouldn't it be feasible for us to give staff the concerns that we have now so that they can come back opposed to waiting till later?

Mayor Foxx said that's fine.

Ms. Mayfield said with that in mind I would like to get an idea of one of these many uses, one of them being B-1, to my understanding an example Wadsworth House is zoned B-1 even though it's in the middle of a residential neighborhood. I want to make sure that we have the provisions in place so that what's currently a vacant home can't later be turned into a sweepstakes parlor in the middle of a neighborhood. So that's going to be one of the questions that I would like to have answered as well as the opportunity of reducing that maximum 3500 down, keeping in mind in support of my colleague Mr. Barnes that opposed to increasing space, reducing as much as possible and if there's a possibility that that distance can be created greater than that 400 ft. since I'm of the understanding if we are trying to grow a stronger community, at this point, I'm not personally, speaking with my constituents, seeing a true value of this particular business in the communities in which they sit. So if I can get an answer to those questions that would be helpful for me.

Mayor Foxx said o.k. we're going to do a speed round just to get everyone's points in that would be Ms. Fallon, Mr. Autry and Mr. Mitchell.

Councilmember Fallon said my only question is how is this going to affect the fact that they are in service stations, 3500 ft.? You've got to put something in there that they can't be in service stations, because they won't comply with your 3500 ft. there are spaces for cars.

Councilmember Autry said in preparing for bringing back to council, I'll be glad to spend some time with you and traveling around District 5 with you and let you witness firsthand the situation.

Councilmember Mitchell said Barry this is a tough one but we applaud you for taking this tough issue, Debra thank you because I think one thing Council needs to understand is that our City is doing more than our State Government is able to accomplish. So we need to applaud them on taking on this tough issue and we are looking forward to it coming back to us. I agree with Councilmember Barnes the more we can try to take the ones that are in challenging areas now and reduce the numbers, that's our expectations. Thank you staff I know this is a tough one.

Councilmember Cooksey said I didn't want to delve too much into this, but I will provide this perspective that at the North Carolina League of Municipalities level and General Government Legislature Advocacy committee, the major conversation around these has actually been how to tax them or regulate them to earn revenue out of them rather than banning them because based on the way things work in Raleigh and the way things have been working in the Court system, outright banning them doesn't seem to be a legal option. So the alternative is I believe a member of the Wilson City Council referred to them as "cash cows" that we should be pleased with

because such things don't come along often, that facet of the conversation, courtesy of the North Carolina League of Municipalities.

Mr. Howard said you mentioned that you were allowing these to be in standalone buildings? I was just over off Freedom Drive off Alleghany, somebody just stuck up a trailer and put a parking lot in front of it. I hope that's not the intent of what we mean when we say standalone buildings. It looks horrible. I mean that's what they did, a trailer, they put sweepstakes on the front of it and paved the parking lot.

Councilmember Dulin said I can't make a motion to close because we're going to keep it open so what are my options.

Mayor Foxx said we are just going to move on, no motion needed.

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ITEM NO. 48: HEARING ON PETITION NO. 2012-076 BY CHRIST EVANGELICAL LUTHERAN CHURCH OF CHARLOTE FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.66 ACRES LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF PROVIDENCE ROAD AND MAMMOTH OAKS DRIVE FROM INST(CD) TO B-1(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Manager, Rezoning Section, said several years ago Christ Evangelical Lutheran Church purchased the property adjacent to them on Mammoth Oaks Drive. They rezoned the property successfully to Institutional CD. At that time they were proposing to use the house that is currently located on the site for religious purposes and also to develop the site with parking. Now they are requesting B-1(CD) and the purpose of the request is to basically remove the house and have free standalone parking. We've seen several cases like this, the Greater Galilee case and The Rock on W. Blvd. where we've had to go to a different zoning classification because the parking is across the street. In this case it's 1.66 acres, it is a freestanding parking lot, and they're adjacent to multi-family residential. They will have a 22.5 foot buffer with a fence along the northern property line and along the eastern property line. They will be providing the 8 foot planning strip and 6 foot sidewalk along Mammoth Oaks Drive and the existing sidewalk which meanders along Providence Road will remain. This petition is inconsistent with the South District plan but it is an institutional use and we consider those individually so staff does recommend 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 49: HEARING ON PETITION NO. 2012-077 BY JOHNSON C. SMITH UNIVERSITY FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.11 ACRES LOCATED ON THE EAST SIDE OF BEATTIES FORD ROAD NEAR THE INTERSECTION OF ROZZELLES FERRY ROAD, WEST TRADE STREET AND BEATTIES FORD ROAD FROM R-22MF(PED) TO R-22MF(PED-O).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Manager, Rezoning Section, said this petition is proposing to go from R-22 MF PED to R-22MF PED-Optional as the basic premise of this is that it is part of the Johnson C. Smith University Campus as you will see from the aerial picture. When you look at this property you see the Duke Memorial Library, the proposal for a new science center that is

located between the Duke Library and Smith Memorial. Parking will be located between the Science Center and Beatties Ford Road. The reason this petition is before you tonight is because they need optional provisions from the PED standards in order to complete this project. The optional is dealing with the parking being located between the building and the street, dealing with the landscaping and street scape along Beatties Ford Road, the minimum requirements for vehicle and bike parking and for the building height.

The West End land use plan and PED scape plan calls for institutional uses for this site. So in terms of land use it is consistent. However, the optional provisions regarding the building orientation, and the street scape are not consistent with the Community Design recommendations of the PED. However this petition covers only a small portion of the Johnson C. Smith University campus as you can see and staff feels that this is appropriate for approval. Johnson C. Smith is working on an overall master plan and looking into that master plan they will have to take into consideration the issue with the PED dealing with Urban Design and pedestrian access. That's something that they will be looking into in the future.

Mayor Foxx said thank you so much and we do have two speakers and staff of course, recommends approval on this.

Stefan Pienkny, 500 North Tryon Street, said I'm representing Johnson C. Smith University with Gantt Huberman Architects and we're here to answer any questions that Council may have. Councilmember Dulin said thank you I don't have any problem at all with your plan it's fine. One of the interesting things though that I've been excited about this for 10 years or more, and we're working on it now with the Mosaic Village and so forth, is trying to lower that gate on the corner. Lower the fence and let the kids come back and forth and the community come back and forth. I mean the fence went up years ago for security of course, but one of these days, Five points is going to be cleaned up. The bookstore's going to be over there and kids will be coming in and out right there at that corner. Is this plan going to inhibit that movement at all?

Mr. Pienkney said actually this plan is going to enhance the movement. Currently the gate is closed because of security concerns. But we expect a very, very strong presence of the Science building on the corner with great presence of faculty and students and great interest. There's actually an atrium sort of an outline of a walkway through the atrium to the corner. We're going to encourage the University to open the gate so that students from Mosaic Village and across Beatties Ford Road can access the site from the side and increase the pedestrian presence on the site with access to the new Science Center. The Historic Gateway that you mentioned is actually historic so we are very limited as to what modifications we can have. But opening it is definitely something that the President of Johnson C. Smith is very interested in. I'm sure that the Council is aware that he is very interested in making Johnson C. Smith the premiere urban university and would like to have it opened to the community rather than closed.

Councilmember Kinsey said I've been looking at these maps and I just want to make sure I know where the new Science Center, I know that's not what we're talking about tonight but is that next to the church?

Mr. Pienkney said it is adjacent to the church. It's located in an infield piece between the church and the Duke Memorial Library. So it's actually separated from the church by about, starts from about 20 ft. and goes to about 30-45 feet separation because we certainly didn't want to encroach on the historic church.

Ms. Kinsey said I'm very glad because another university that we know and love in Charlotte has done that to their church and their chapel and I didn't like it.

Councilmember Mitchell said Mayor Gantt thank you and your architect firm for continuing to be the visionary for the Historic West End and to Dr. Carter, thank you so much for allowing him as Andy says to remove the barriers and make it more of a source of energy for our corridor. If you all didn't know on a lighter note, they did win their football game on Saturday, so go Bulls!!

Motion was made by Councilmember Mitchell 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. 50: HEARING ON PETITION NO. 2012-078 BY QUEEN CITY HEALTH INVESTORS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 9.02 ACRES LOCATED ON THE NORTH SIDE OF SOUTH TRYON STREET BETWEEN WRIGHTS FERRY ROAD AND GREYBRIAR FOREST LANE FROM R-3 TO INST(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Manager, Rezoning Section, said this request is for a dependent care facility that has 110 beds. If you can see on the future land use map, everything basically around this property is residential or slated for residential in some shape or form. In terms of land use there are properties around Greybriar Forest and Wrights Ferry Road leads into a neighborhood. There's actually a little sliver of land adjacent to the subject site that is owned by the Wrights Ferry HOA. In terms of the site plan the petitioner is showing an undisturbed tree save area to the rear of the property and a 40-foot buffer to the western side. The building is going to be a maximum of 45 feet in height. They have also provided building elevations and elevations of what the ... will look like. The exterior building materials will be a mix of masonry and siding. There are two driveways onto Tryon Street. They are right-in/right-out only. The petitioner is prohibited by that little strip of land owned by the Wrights Ferry HOA from accessing that road. There are lighting limitations that are associated with this rezoning also to protect the adjacent properties. It's inconsistent with the Steele Creek area plan, but only because area plans don't usually tell us where institutional uses should go, but let's just evaluate those individually and staff is recommending approval.

Will Holmes, said I am Senior Vice President of Development and Construction with Smith Packet. We are a senior housing development company from Roanoke, VA. This is an assisted living retirement community that we are proposing to develop here. This is for seniors, the average age will be around 83. They need assistance with daily living such as bathing, grooming, dressing, and medication reminders. We will provide three meals a day to these residents. They do not drive. The traffic will be generated by our staff and by visitors. We will have in the facility an area designated for folks that have memory loss illnesses and it's especially secured for them. We have met with the Steele Creek Neighborhood Association and with the Steele Croft Land Use Council. All indications that we've received is that they find this to be a good use for this location. We're happy to answer any questions that you may have.

Councilmember Mayfield said I need to get an idea of the total number of similar facilities including approvals so far in the eight months of this year, that's similar to this particular facility in the area. Also do you remember the date of the public hearing because what I have in my records show that there was a public meeting to discuss this particular project. But unfortunately what was noted on line was today's date. So I need to verify exactly what date did we have this meeting for the community.

Mr. Holmes said July 31st.

Ms. Mayfield said so we had a public meeting on July 31st, cause on line we have today's date as the meeting date?

Mr. Holmes said July 31st was the date.

Ms. Keplinger said Ms. Mayfield today is actually the public hearing and that's the date that is noted on line. The community meeting date, we usually do not put those on line because the petitioner many times does not provide us when those dates are but they are noted in the community meeting reports that are on line and we have two on line for this petition. One was dated July 30th and one was dated September 5th.

Ms. Mayfield said so the latest one was dated September 5th?

Ms. Keplinger said yes ma'am.

Ms. Mayfield said if I can get that information as far as what is proposed and what is currently in the community in the surrounding area and when I'm looking at the surrounding area, I'm thinking I need at least within a 10-15 mile radius of this proposed facility.

Motion was made by Councilmember Barnes 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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ITEM NO. 51: HEARING ON PETITION NO. 2012-079 BY TAG VENTURES, LLC FOR AMUDD-O SITE PLAN AMENDMENT, FOR APPROXIMATELY 0.96 ACRES LOCATED ON THE NORTH SIDE OF WEST MALLARD CREEK CHURCH ROAD BETWEEN CLAUDE FREEMAN DRIVE AND DAVID TAYLOR DRIVE.

The scheduled public hearing was held on the subject petition.

Planning Manager, Rezoning Section, Tammie Keplinger said this is a parcel that is located in the Arbors development off Mallard Creek Church Road. The proposal is for a MUDD-Optional site plan amendment. You can see the rest of the Arbors development surrounding the site off Claude Freeman Drive with the residential portion behind. In terms of the aerial you can see the development on either side. The site plan shows a 6,000 sq. ft. drycleaners that has a double drive-thru. They will have a 6 foot sidewalk and 8 foot planting strip along the private street and along Mallard Creek Church Road and they will continue the 3 foot brick wall which is along the front of the entire Arbors development. The building will have four sided architectural you can see from the elevations. The original notes from the 2002 rezoning that are still applicable will apply. The optional request is for the accessory service window for the drycleaners and to allow the drycleaners to exceed 4500 sq. ft. They are asking for 6,000 sq. ft. so it's a 1500 sq. ft. above what is normally allowed in the MUDD district.

The University Research Park area plan recommends office and retail. This is consistent with that plan upon the resolution of the outstanding issues.

Councilmember Barnes said I have a question for you regarding the square footage of the BB&T that's next to the site, number one. Then perhaps this is for the petitioner, a question regarding the limitation on the drive-thrus or screening of the drive-thrus because the drive-thrus are on the Mallard Creek Church side of the store and I think that's the same way that the BB&T is designed, but anyway could you talk to me about the square footage of the BB&T, since it's next door.

Ms. Keplinger said Mr. Barnes I honestly have no idea. We will have to check it out and find out that square footage.

Mr. Barnes said in other words would this store be substantially larger than the BB&T or noticeably larger?

Ms. Keplinger said I believe that it is going to be compatible with the BB&T just from the foot print. But to really verify that I need to go back and look at that site plan and see what square footage was approved for the BB&T.

Mr. Barnes said o.k. and then again perhaps this is for the gentlemen who are proponents of the petition. Explain to us please the need for the drive-thru and then explain whether there are any screening methodologies that you can use.

Mr. Brian Upton, 8270 Red Oak Boulevard said I appreciate the opportunity to speak to the council tonight and yes, with the drive-thru there will be the screen wall that runs along Mallard Creek Church Road. It will be at least 3 feet in height and there are also these screening shrubs and as far as the great differential this site sits a little below Mallard Creek as well. It's not your typical drive-thru; it's sort of like a valet where when the cars pull up they can either drop off or pick up their cleaning, an employee in the store will come out and pick up the dry-cleaning or bring it to you. There is not a window or speakers or anything of that nature and what we are requesting is also that only the drycleaner's be allowed the drive-thru. No other use would be permitted if they were to ever become a different use. They would not be allowed a drive-thru just the drycleaners.

Mr. Barnes said and so would people be encouraged to turn their vehicles off while they wait for their clothes?

Mr. Upton said I guess if it was going to take a long time.

Mr. Henry Atkins said I'm with the petitioner. It typically operates pretty quickly it's like a valet service where somebody comes to your car. They would drive in there's usually not more than, this is a new concept there's only about a dozen in the country right now so, not a lot of data. It doesn't back up very heavily. They would come in and most likely keep their car running because it's in the morning or whenever they drop clothes off, it's very quick. Drop it in a bag and then move on. And when you come back, typically you hopefully will know the customer and you will be able to move out of there quickly too so. That's how it should operate.

Mr. Barnes said and in regard to that size issue that I raised about the 6,000 for this site as oppose to 4500 max. How does it compare with the BB&T?

Mr. Atkins said I don't know the exact square footage of BB&T. I would concur it is fairly compatible it looks like.

Motion was made by Councilmember Barnes seconded by Councilmember Cannon to close the public hearing.

Councilmember Autry said let me just make sure I understand this. You've got two rows of vehicles coming through your drive-thru that will be sitting there with idling engines while someone comes out to take the laundry from them back to the store or vice-versa picking up their clean laundry and taking it out to the car to them?

Mr. Atkins said yes, from the ones we visited around the country, not very frequently is there more than one car in there and they come in and you service the car and they move on. It's fairly quickly.

Mr. Autry said it's not like at the schools where you would have a whole row of cars lined up with idling engines for extended periods of time.

Mr. Atkins said we hope that we're busy but we haven't seen that in other ones that we've looked at. The valet area is open air, so if a car pulls in there it's not a space where the smoke would gather.

The vote was taken on the motion 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 Foxx said we need to go back to the Petition No. 2012-78.

Motion was made by Councilmember Barnes seconded by Councilmember Mayfield and carried unanimously to reopen Petition No. 2012-078.

ITEM NO. 50: PETITION NO. 2012-078 BY QUEEN CITY HEALTH INVESTORS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 9.02 ACRES LOCATED ON THE NORTH SIDE OF SOUTH TRYON STREET BETWEEN WRIGHTS FERRY ROAD AND GREYBRIAR FOREST LANE FROM R-3 TO INST(CD).

Mayor Foxx said you have 1 minute and 44 seconds sir to speak.

Warren Drye, 15000 Shopton Road said my first wife Barbara, of 62 years now, and I owned the corner property of 13600 S. Tryon Street that is part of the property under rezoning Petition 2012-078, by Queen City Health Investors, LLC to establish a retirement center on this property. We senior citizens are running out of aces. In the time allotted I cannot tell you all of the reasons we believe why, but retirement homes and nursing homes any way that we can help build them is part of a trump card. Land is for sale all over Mecklenburg County but the criteria for retirement centers and nursing homes are they must be within a certain distance of medical facilities, shopping centers and other amenities and only a limited number of land sites provide this necessity. This property rezoned does that explicitly. Personally we may think so much of this type of development that we usually make an annual financial donation to several facilities, those owned by churches and other institutions. The next best thing I can do is to provide a place for one to be built. Over the years we have had several opportunities to sell this property for investment purposes that we didn't like some of the intended plans for the use. Except one for an older established church in Charlotte that wanted to move out to that area but could never get the board together enough to do it.

Mr. Howard said sir if you had another minute or so did you have more questions or are there a few more things you would like to share with us before you leave.

Mr. Drye said over the years, we have had several opportunities to sell this property for investment purposes but didn't like some of the intended plans for use except for one, an established church which I told you about. Since age 27, having served five 3-year terms as an elder or equivalent in several churches, elected twice more but turned it down; I can appreciate such problems. I also belong to a men's glee club and twice a year Easter and Christmas after practicing for months, we'd sing and put on programs four days each time at three or four of these facilities each year, each day. With locations for such things declining it is vitality important that we can take advantage of every opportunity to avail ourselves whenever possible to assist and even determine, in your case a vote and the final factors that will make it possible. One of today's front page stories in the Charlotte Observer indicates you have an interest in these facilities becoming a reality.

In summary I take this opportunity to ask for your vital assistance in approving this re-zoning petition so this much needed project may proceed and I might add totally at the expense of private enterprise please vote for this re-zoning. Thank you sincerely, Warren and Barbara Drye.

Motion was made by Councilmember Mayfield, 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. 52: HEARING ON PETITION NO. 2012-080 BY H. HEATH & ELIZABETH B. ALEXANDER FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.29 ACRES LOCATED ALONG NORTH ALEXANDER STREET BETWEEN EAST 34TH STREET AND EAST 35TH STREET FROM R-5 TO R-8(CD).

The scheduled public hearing was held on the subject petition .

Tammie Keplinger, Planning Manager, Rezoning Section, said this is a request to go from R-5 to R-8 (CD) to allow the current single family lot to be subdivided into two single family lots as you can see from the site plan. It shows how the proposed house will be constructed. They will have a shared driveway. The new home will be similar in character and style to the existing homes in the neighborhood and have a maximum height of 40 feet. The north Charlotte plan recommends single family residential for this property. The transit station area principals, supports, the preservations and protection of existing stable neighborhoods which this also provides. Staff is recommending approval and we'd be happy to answer any questions.

Chad Maupin, 1109 East 35th Street, said I'm vice president of the NoDa Neighborhood Association, the petitioner on the project we are strongly in favor of it and the reason being is that they are looking to preserve the house that is already on the site and they are going to move another old home onto site. We can't think of a better use for urban development in our neighborhood. We had some suggestions for improvements for them. One of which is this, we think this would be better served as UR-1 land but we are happy with the R designation that they are seeking because they are trying to preserve trees and that would move the house back. We like UR-1 usually because our old neighborhood has very limited setbacks for homes and by using UR-1 we can have the same setback to keep the fill of the neighborhood. But in this particular case we find that their request is acceptable.

We have one other suggestion for the City, both this one and 2012-072 which came up earlier, I'm sorry I missed that one. C-DOT is requesting that they have the 4 foot planting strip and 5 foot sidewalk which is kind of a standard approach that they have for our entire residential neighborhood. It doesn't exactly match the neighborhood. On this particular site there will be sidewalk to nowhere on both ends and we don't anticipate other re-zonings to come and fill in the sidewalk any time soon. So our request to you guys, we have the TOD-Overlay district coming up with our light rail station and we would request that C-DOT specifically look at the proper sidewalk cross sections for each street in our neighborhood, because the historic streets sometimes just do not fit this. In this particular case, perhaps no sidewalk, perhaps a 2 foot planting strip with a 4 foot sidewalk would be more appropriate.

Councilmember Kinsey said I was wondering why the new house was sat back so far but you say it's tree save?

Mr. Maupin said yeah they're trying to save some old growth trees that are forth front on the lot and that's why we understand the request.

Ms. Kinsey said I'd like to see us have more flexibility when we requiring sidewalks because you're right in an older neighborhood like NoDa you need to match up your sidewalks. In fact any of the older neighborhoods I think you need to match up the sidewalks. So I'll keep pushing.

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. 53: HEARING ON PETITION NO. 2012-981 BY NRI COMMUNITIES/CHARLOTTE, LLC FOR A CC SITE PLAN AMENDMENT FOR APPROXIMATELY 7.55 ACRES LOCATED ON THE WEST SIDE OF JOHNSTON ROAD BETWEEN NORTH COMMUNITY HOUES ROAD AND PORTERFIELD ROAD.

The scheduled public hearing was held on the subject petition.

Planning Manager, Rezoning Section, Tammie Keplinger said this is a part of the Torrington Development. It is zoned CC SPA . The rezoning is for 7.55 acres at the very northern tip of the Torrington Development, showing you on this site plan the entire development plus this site which is located in the bottom right corner. The proposed request is to allow an 8,000 sq. ft. of permitted uses within a new building. A hotel that was previously approved on this site will remain. The rights to develop that will remain, it's for 120 rooms. There's no parking between the building and Johnston Road the exterior building will be brick stucco or a combination of those other materials. It will be architecturally compatible with other existing buildings in the center with review by the Planning Department and it will have internal sidewalk connections and detached lighting will be limited to 20 feet. The south district plan does recommend a mix of residential office and retail uses for this property and upon the resolution of outstanding issues, staff is recommending approval.

Mr. Keith MacVean, 100 North Tryon Street said I'm with King and Spalding. Jeff Brown and I are assisting NRI Communities of Charlotte with this zoning request. With me tonight are Hash Patel and Robert Ruffo also working with the petitioner. Hash Patel with Tara Investments and Robert Ruffo with Stewart Engineering. I want to thank the staff for helping us with this petition. We are pleased that the Planning Staff is recommending approval upon resolution of the outstanding issues.

As Tammie mentioned it's a fairly simple request, adding an 8,000 sq. ft. building along Johnston Road and allowing some flexibility for the existing hotel to go from four stories to five stories, if site constraints demand that. We will be providing the County Parks and Rec the greenway easement they have requested and will be also making the other changes to the site plan the staff has requested.

Motion was made by Councilmember Howard seconded by Councilmember Kinsey 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. 54: HEARING ON PETITION 2012-083 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEX AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO 1) CLARIFY THAT OUTDOOR FRESH PRODUCE STANDS ARE ALLOWED AS A PRINCIPAL USE IN ALL ZONING DISTRICTS EXCEPT RESIDENTIAL, OFFICE AND INSTITUTIONAL AND 2) ADD PRESCRIBED CONDITIONS IF A PERMANENT STRUCTURE IS UTILIZED FOR OUTDOOR FRESH PRODUCE STANDS WHEN THEY ARE THE PRINCIPAL USE IN ALL ZONING DISTRICTS, EXCEPT RESIDENTIAL, OFFICE AND INSTITUTIONAL.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning Manager, Rezoning Section. said Mayor I'd like to introduce Sandy Montgomery of our staff to present this.

Sandy Montgomery, Planning Staff, said this is a text amendment to clarify the outdoor fresh produce stand Text Amendment that was adopted several months ago. This is just to clarify that an outdoor produce stand is allowed as a principal use in all zoning districts except the residential office and institutional as long as they meet the underlying zoning district standards. It also adds some prescribed conditions when the outdoor produce stand is a principal use and if a permanent structure is not utilized. So if they are not utilizing any kind of structure maybe just using some tables, it's a principal use on say a vacant lot, and of course they would need a permit would be valid for up to a year. Written permission would be needed. A zoning use placard would need to be posted. Any temporary fabric covered canopies or tents are permitted if they are removed daily. If they have a more permanent type of tent then that needs a separate zoning permit.

The vendor is responsible for removing all trash and debris at the end of the day and at the end of the season or the permit and all other federal, state and local codes do apply. Staff is recommending approval.

Councilmember Barnes said I have a question for you and I know we've been dealing with this one for quite a while. My goal has been to figure out how people in what we've talked about as food deserts can get access to fresh fruits and vegetables. And if I've got a pickup truck and on a Saturday morning I can load it up with fruits and vegetables that are fresh and take them to one of the communities in the City that lacks access to food like that; can I just drive my truck in there, stop and sell the food?

Ms. Montgomery said yes there will need to be a zoning permit if it's an accessory use say to a church or an institutional use, you will still need the zoning permit for the year. But they could come in, drive the truck in on whatever days they want and they would have that zoning placard just so in case there are any inspectors that come by. Or it could be just on a vacant lot.

Mr. Barnes said right I was going to say suppose it's just a vacant lot in a neighborhood, get a zoning permit and a person could sit up shop. Would the person have to put skirting or other structures on the truck? Any of that kind of stuff?

Ms. Montgomery said no. They can sell from tables, the back of a pickup truck.

Mr. Barnes said I noticed that the materials indicate that the outdoor fresh produce stands would be allowed in all zoning districts except residential, office and institutional. Help me to understand, it's getting a little late here maybe I'm not quite grasping that, but why would we not want the people to sell those fruits and vegetables in those three in particular?

Ms. Montgomery said in those three districts we don't allow retail sales now as an accessory. That's why those three districts are excluded.

Mr. Barnes said principal or accessory?

Ms. Montgomery said as an accessory use.

Mr. Barnes said so if is a principal use I can do it?

Ms. Montgomery said as a principal use you could do it in all the districts except residential.

Mr. Barnes said except those three? And again that is where we need it, so I'm trying to figure out why we wouldn't want to encourage people to do it again, in the residential areas with restrictions I get that piece, but in terms of meeting the food deserts needs, why not do it that way?

Ms. Montgomery said I'm going to let Katrina Young, the Zoning Administrator address that question.

Katrina Young, Zoning Administrator, said we did start there but the feedback we got from, in instances where they would be adjacent to a residence, is how do you protect that residential use? So what we said was in the residential districts you have institutional uses, you have schools and you have churches, so if you could locate it on a school site or a church site then it already has the buffer requirement, it already has the parking and it is in the neighborhood so that way you're still protected as oppose to having it on a vacant lot in-between two houses.

Mr. Barnes said right and some of our newer neighborhoods that don't have churches and schools in them. Okay I may be calling you.

Ms. Young said point taken; we were trying to protect the residents.

Councilmember Fallon said how do we handle as Councilmember Barnes said a guy comes in with a truck with watermelons and sweet potatoes and stuff. He parks on the street you see them all the time. How do you treat them?

Ms. Young said in the residential district it's not a permitted use. If the property is zoned business or industrial or commercial then we treat it like any other retail use. If you go to a Lowes or a Home Depot or Wal-Mart sometimes they will items outside for sale. So if the property owner has agreed to allow that vendor to sell as a part of their retail.

Ms. Fallon said it doesn't have to be a property owner, they park on the street.

Ms. Young, that's C-DOT.

Ms. Fallon said what happens to kids with the lemonade stand?

Ms. Young said well we don't consider that to be a retail use we just consider that to be a personal use, similar to a yard sale, we would allow that.

Ms. Fallon said yeah but generally those panel trucks go into neighborhoods where there aren't stores. So you're really shutting out fresh foods and vegetables for neighborhoods that do need it.

Ms. Young said now what we are doing is for land use. But if it's on the street then it's not being regulated by Zoning. So I think there are a different set of standards just like an ice cream truck or some other type of vehicle. I don't know what the regulations are or for how long they can stay at one location, but those are different requirements then if it was on the property.

Motion was made by Councilmember Cannon 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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CITIZEN'S FORUM CONTINUED

Mayor Foxx said now, Mr. Joseph Lee was on the agenda for the Citizen's Forum, he came after we finished it and has been waiting very patiently to comment and so Mr. Lee we apologize but you are welcome to take your place now. Mr. Lee welcome.

Joseph Lee, 4419 Tuckasegee Road, said I was here before and I'm still having the same problem. I was staying at the Charlotte Express Motel they have all kinds of problems there. So I moved to the Southern Comfort and the same problems are still going on. They going around causing trouble saying stuff that I'm evil and stuff like that and talking about family members, they doing stuff to me, stuff like that and I'm not involved with no organization or nothing like that. They just say, like I say, people been going around with letters and stuff like that I don't think they're doing that no more, so I'm just you know. I have stuff here and I have a DB-214. I didn't do no important jobs you know I've just worked as a stock clerk and stuff like that. They have managers and stuff over me and stuff like that so I don't run nothing or nothing like that. I'm not doing important stuff so I don't understand what all of this is about. They have religious, a Pope here, and the President of the United States; I don't have nothing to do with nobody like that. So what I'm trying to do is get this problem solved here and try to, cause I went up a few days ago I went up to your office and I talked to your assistant. The Mayor's assistant I was still trying to explain the problem to her but it's still going on so I decided to come here again and see if you know you could probably make some calls or something like that and try to find out the problem because I'm not getting, I talked to the FBI I talked to the police and they said I don't have no proof or nothing like that. So I'm just saying that you know all these problems and stuff like that I'm trying to get them solved like that. And uh I'm on social security disability and with all these problems and stuff like that they don't cut it down my social security and stuff like that. So I'm trying to get to the bottom of this and try to find out who do I go to talk to about this problem besides the law enforcement or the Council or something like that. Who can I talk to about this problem. That's what I'm trying to get to the bottom of it because I don't want to be involved with none of this no more. You know all this stuff going on I just don't want to be involved with it. So that's what I'm coming to, to get to the end of it.

Mayor Foxx said okay why don't we have someone from Neighborhood & Business Services reach out to you. Sounds like you've got some issues with the location where you are and why don't you just come down to Alvin Burney right there, he can help you.

Mr. Lee said oh can I leave some stuff here?

Mayor Foxx said absolutely you can leave it with the Clerk, Ms. Kelly, and thank you so much for coming down and thanks for your patience as well too sir.

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MAYOR AND COUNCIL TOPICS

Councilmember Cooksey said I do these so rarely but this one I have to do. Just to make the announcement that October 6th is the 2nd Annual Ballantyne Festival and 4th Annual Ballantyne Chili Cook-off at the Morrison YMCA. It will be occurring that morning, afternoon, I'm getting a thumbs up from Ray Asher that I'm doing this right, so it's a great community activity that we are working on building. We've also of course got a political connection to it being October 6th. Candidates on the ballot have been invited. We don't do speeches, we don't do Q&A's, we just have candidates roaming around talking to people and folks seem to like that so, October 6th Morrison YMCA, Ballantyne Festival please come out.

Councilmember Pickering said Mr. Mitchell may want to speak to this as well. Mosaic Village was mentioned earlier. We just wanted to mention it, encourage folks to come out and acknowledge Dr. Carter for his vision, not only for the University, but for the surrounding area.

Councilmember Cannon said I think we've all received some information kindly from the Manager with regards to dues check offs. We had inquired about trying to get more information on it and we did receive some information I believe it came out in our packets. What I'd like to do at this juncture is to kind of get this thing off our plate one way or the other and make a suggestion that it goes to the Government Relations Committee for some level of discussion and to give the full mayor and council some level of direction about how we should be proceeding with that. If that's o.k. Mr. Mayor, I'd like to make that referral and I think Mr. Dulin is the Chair.

Councilmember Dulin said that will be fine.

Mayor Foxx said I do want to point out that we've already referred that matter to the City Manager's Evaluation. We're going to do quarterly reviews with the City Manager. And the idea being that because it does involve staff policy to have the manager at least have an opportunity to share with council what the staff's prospective on this is, so we had done that previously. I have no objection to housing that issue within the Government Relations Committee but I do think that we are in a better position to hear from the City Manager first on that issue before we go through.

Mr. Cannon said Mr. Mayor it would not be my intention to put the cart before the horse and if it would make sense to get with the manager first and get that information I'm o.k. with that. It might do the public some good to understand what kind of timetable we're talking about though in terms of when that evaluation piece is and/or will be. I don't know that date right off.

Mayor Foxx said I would expect it would be in the latter part of October or early November.

Mr. Cannon said o.k. that helps in the way of anybody in the community that might be watching. If the chair's alright with that then at some point I would like to maybe see us refer that.

Mayor Foxx said again I have no objections; sometimes we placed issues in places to park them when we know we're going to be doing something in advance so I have no objections if that's what you want to do.

Mr. Cannon said I would at some point; I just don't want to put the cart before the horse.

Mayor Foxx said why don't we just house it in Government Relations but we know that we're going to have a conversation with the manager about it.

Mr. Cannon said very good.

Councilmember Howard said just a couple of things. I mentioned this at dinner. I just wanted to recognize Mr. Mitchell along with the National League of Cities for doing a fantastic job with having their annual national leadership training here in Charlotte over the weekend. We actually had our own Nicholas Beaman who's been one of our facilitators at our retreats, do one of the sessions and then we had another young man I don't remember his name, who did a fantastic job on talking about building trust. Then Mr. Mitchell took us all out to a cornfield, but it was a maze, and it was a great leadership experience and I wanted to thank him and I think of my colleagues were actually there. Towards the end we actually brought in leaders from our High School as well and did a "handing off of the baton" that's what these gavels are all about. A couple of our youth including my daughter got a chance to participate so thank you Mr. Mitchell.

The second thing is that Mayor you mentioned the fact that this was our first meeting since the convention. I do not think it would be right not to recognize your hard work. You along with Mr. Rogers, Mayor Gantt, Steve Carrington and Dan Murray, you guys should be really proud of what happened here and all the great reviews that we've received. A lot of hard work and I

know that you did a lot more than what we did thank you for that and I wanted to say that publicly.

Councilmember Mitchell said I have four but they will be very brief. The first one is we're going to recognize Dr. Spurgeon Webber, a longtime business owner. We are having a rededication of his street. It used to be Keller Avenue, now it will be called Dr. Webber Avenue. I'm inviting all of City Council and all the citizens to attend this Saturday, September 28th from 3 p.m.-- 5 p.m. at his dentist office on which is now Dr. Spurgeon Webber Avenue. Please join us.

Secondly, Beth touched on this earlier; we are having a grand opening at Mosaic Village. City Council contributed \$2.4 million dollars to that project, W. Trade Street. That's 10:00 a.m. Thursday, October 4, 2012. The third thing is regarding Mt. Holly-Huntersville residents, we are having a public meeting on Thursday, October 4th from 6:30 p.m. – 8:30 p.m. I'd like to thank Mike Davis for working hard and spotting road improvements that will be done on Brookshire Blvd. It will be at Christ United Methodist Church, 8010 Belhaven Blvd. on Thursday October 4, 2012 from 6:30 p.m. – 8:30 p.m. Last, but not least David mentioned it, but I have to thank Councilmembers Mayfield, Howard, Pickering, Kinsey and Mayor Foxx all for making the 20th Leadership Summit a success. Your presence there really meant a lot to the participants and to Terry Bradley, Curt thank you. Terry really made that a great four-day event and even to Ron Kimble in his absence. Ron was still there because he helped me to raise all the money for the great times, so thank you everyone for making it a success.

Councilmember Dulin said I've got a follow-up question for staff from our conversations a couple of weeks ago about the alcohol advertising wraps on buses and we've got some answers on one of our yellow pages. One of the things that I was curious about that day that irritated me during our conversation was we knew that the contracts had been "let" with an advertising agency. The answers we got back were yes they were going to be on all the routes and yes we could stop those contracts. But I'm still curious as to why we never found out how many buses they were actually contracted to wrap.

City Manager, Curt Walton said that issue is on the MTC Agenda for Wednesday night. At this point the contracts have been stopped and so it doesn't relate to any specific number of buses or any specific routes. So after the MTC, I believe it's just an informational briefing on Wednesday night and then they will reconsider in October if they choose too. So it will be more information after Wednesday.

Mr. Dulin said if we indeed had contracts out, then there had to be a number of wraps. I'd just be curious because there were two contracts sold. Then there had to be somebody along the chain who had to know how many we were getting ready to wrap and I'm just interested in that number.

Councilmember Mayfield said I actually have a couple of things. One I want to congratulate staff and especially our CMPD Officers and Chief Monroe and my colleagues to thank all of you for the forward thinking that took place years ago with identifying funding for our new police station that opened up last Wednesday. We were able to celebrate the ribbon cutting for our Steele Creek Station which is an amazing facility right on the corner which is going to make a major impression in the community.

I also want to actually congratulate and thank Tony Marciano. Because yesterday we had the opportunity to ribbon cut Dove's Nest and thank you Councilmember Pickering for being in attendance. It was a beautiful ceremony and welcoming to a facility that's going to provide housing for not only a number of women, but to keep the families together. A lot of people don't realize that if a woman has children and she has to go through any type of rehabilitation whether it's for drugs or alcohol a lot of times she needs a family member of a close friend to take charge and be in care of her children, and you may have small children that might end up in the foster care system. Thanks to Dove's Nest and the work that Tony and all of the staff have been doing, now that family can stay together and receive counseling.

Also I've had a busy district in the last few days because on the 20th, the Art Institute had their creative showcase and that was just an amazing opportunity for the recent graduates to highlight and showcase the work that they've been doing. And for all of the constituents that are watching since the dais already knows; this coming Thursday from 12-2, the Mayor is leading a conversation regarding our budget and it is going to be in District 3 at the West Service Center, which is our police station that is on Wilkinson Blvd., 4150 Wilkinson Blvd. Again from 12-2 and my last piece is a congratulations and the fact that I'm rather excited that Thursday I have an opportunity to speak at ITT Tech's graduation ceremony to help encourage our young people for whatever the future may hold for them so for all the students and the parents of the ITT Tech students that may be watching, congratulations on the upcoming ceremony and I look forward to seeing you Thursday evening. Thank you Mr. Mayor.

Councilmember Autry said thank you sir. Thursday evening, October 4th, Taste of the World, you want to be there. Don't miss it.

Mayor Foxx said Friday at the Chamber of Commerce retreat I had an opportunity to talk to the business community about our capital investment plan and wanted to thank the Chamber of Commerce for giving us that time. I thought the presentation was well received and the work now is up to us to figure that out and I look forward to speaking with you all this week. I do want to emphasize to this community that the budget belongs to the Council. Somehow that's gotten misconstrued but this is a Council Budget. I will make that more clear on Thursday.

The second thing is that we were invited to attend a conference over the weekend in Dallas for the US Conference of Mayors to highlight the work of our Workforce Development Board and actually to present a best practice to the Workforce Development Board on job retraining. The linkage between our Central Piedmont Community College; our K-12 and so forth and so I wanted to raise that up because there's a lot of work going on behind the scenes that a lot of people don't know about to try to connect our workforce to jobs. One of the main best practices we talked about was the fact that in Charlotte, we actually go to the employers first and ask them what kinds of skills they need and then we build programs around that. That's been one of the reasons why the Siemens Partnership has been so successful; which is one of those partnerships that was highlighted.

While we were there, the conference released their latest US Metro Economies Employment Growth the next decade report. It's a third party report and I wanted to let you know that the City of Charlotte, they are expecting 8.6% job growth across all metros over the next decade or the next five years. Charlotte, according to these projections, actually out performs, in fact we're the top, we're the second highest performing Metro in the country based on these projections. I imagine there's a host of data that is used to develop those but I thought that was good news because we have been talking a long time about repositioning our City for job growth. And at least those who know this issue very well are projecting that we will achieve our objectives. So still not done, we've got a lot of work to do but that's a good indication.

The last thing is that I will be hosting a town hall meeting on October 2nd. I've done these in East Charlotte, South Charlotte and West Charlotte, now I am coming to North Carolina. It's going to be at Mallard Creek. It will be on October 2nd, at 7 p.m. Mallard Creek High School and I look forward to enjoying the interchange with our citizens. With that we will stand in adjournment until our meeting on Thursday. And for those of you who want to talk about this alcohol thing or hear the conversation with MTC, that's going to be at 5:30 Wednesday afternoon.

The meeting was adjourned at 9:28 p.m.

Ashleigh Price, Deputy City Clerk

Length of Meeting: 5 Hours, 19 Minutes
Minutes Completed: December 17, 2012