

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Tuesday, January 22, 2013 at 5:13 p.m. in Room CH-14 of the Charlotte-Mecklenburg Government Center with Mayor Pro Tem Patrick Cannon presiding. Councilmembers present were John Autry; Michael Barnes, Andy Dulin, David Howard, Patsy Kinsey, James Mitchell and Beth Pickering.

Absent Until Noted: Councilmembers David Howard and James Mitchell

Absent: Mayor Anthony Foxx, Councilmembers Warren Cooksey, Claire Fallon, and LaWana Mayfield.

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Planning Manager, Rezoning Section, Tammie Keplinger reviewed the agenda, hearings and deferrals, as well as answered questions for Council.

Mike Davis reviewed Item No. 16 in terms of timeline for Councilmember Andy Dulin.

Ms. Keplinger said there was no motion needed for Item Nos. 16 and 17 because no community meeting reported was submitted which makes it an automatic deferral.

Zoning Chair, Yolanda Johnson provided the handout on the FY13 Midyear Review for the Planning Commission. Emma Allen, Vice-Chair also made a presentation on the Midyear Review. Ms. Allen discussed industrial uses and development for the City of Charlotte.

Ms. Johnson continued with a PowerPoint presentation regarding the Planning Commission. Meg Nealon continued the review and presentation.

Councilmember Mitchell arrived at 5:35 p.m.

Lucia Zapata-Griffith answered questions pertaining to future Planning series in the community.

Councilmember Barnes stated concerns that the outreach series is within the scope but unsure about budget/funding.

Ms. Johnson responded to Mr. Barnes concerns.

Councilmember Dulin said this is not an Economic Development initiative.

Councilmember Howard arrived at 5:45 p.m.

Planning Director, Debra Campbell reviewed the update document.

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

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ZONING MEETING

The City Council reconvened at 6:10 p.m. in the Council Meeting Chambers of the Charlotte-Mecklenburg Government Center with Mayor Pro Tem Patrick Cannon presiding. Councilmembers present were: John Autry; Michael Barnes; Andy Dulin; David Howard; Patsy Kinsey; James Mitchell and Beth Pickering.

Absent Until Noted: Councilmember Warren Cooksey

Absent: Mayor Anthony Foxx, Councilmembers Claire Fallon, and LaWana Mayfield.

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INVOCATION AND PLEDGE

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

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Mayor Pro Tem Cannon explained that Mayor Foxx was away on business but would be returning at his earliest. Mayor Pro Tem Cannon then explained the Zoning Meeting rules and procedures. He recognized the Vice-Chairperson of the Zoning Committee of the Planning Commission, Ms. Emma Allen, who introduced the committee.

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DEFERRALS

Mayor Pro Tem announced the items requested to be deferred as follows:

Item No. 5, Petition No. 2012-067B requests deferral indefinitely; Item No. 6, Petition No. 2012-087, Item No. 10, Petition No. 2012-103 and Item 14, Petition No. 2012-090 requests a deferral for one month

Motion was made by Councilmember Howard, seconded by Councilmember Barnes, and carried unanimously to defer Item No. 5, Petition No. 2012-067B indefinitely; Item No. 6, Petition No. 2012-087; Item No. 10, Petition No. 2012-103, and Item 14, Petition No. 2012-090 for one month.

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HISTORIC LANDMARKS

ITEM NO. 1: ORDINANCE NO. 5027-X DESIGNATING THE “PAUL AND WILKIE BEATTY HOUSE” AS A HISTORIC LANDMARK.

Motion was made by Councilmember Mitchell, seconded by Councilmember Dulin to adopt the subject ordinance.

Councilmember Barnes said I just wanted to make a brief statement; I alluded to it in our Public Hearing on this. The concerns I have for this item and for the next two are as follows: The first item has about \$1,100 per year in taxes, the second one has about \$1,900 per year in City/County taxes and the third one has about \$1,100 per year in City/County taxes. And as I looked at the property, the second one and the third one, I struggled to see how we would not set a precedent to allow people in Districts 1, 2, 3 and 5 to approach us for similar treatment of their properties and take them off the tax role. So for those reasons I support the first one but I can't support the second and third one.

Mayor Pro Tem Cannon said okay we will be taking these one at a time. So there's been a motion made and properly seconded on the first one.

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

The Ordinance is recorded in full in Ordinance Book 57, at Page(s) 29-33.

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ITEM NO. 2: ORDINANCE NO. 5028-X DESIGNATING THE “STRATTON HOUSE” AS A HISTORIC LANDMARK.

Motion was made by Councilmember Mitchell, seconded by Councilmember Autry to adopt the subject ordinance.

A vote was taken on the motion and was recorded as follows:

YEAS: Councilmembers Cannon; Cooksey; Howard; Kinsey; Mitchell and Pickering.
NAYS: Councilmembers Barnes and Dulin

The Ordinance is recorded in full in Ordinance Book 57, at Page(s) 34-38.

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ITEM NO. 3: DECISION ON THE ADOPTION OF AN ORDINANCE DESIGNATING THE “WOODLAWN BUNGALOW” AS A HISTORIC LANDMARK.

Motion was made by Councilmember Mitchell, seconded by Councilmember Autry to adopt the subject ordinance.

A vote was taken on the motion and was recorded as follows:

YEAS: Mayor Pro Tem Cannon; Councilmembers Autry, Howard; Mitchell and Pickering.
NAYS: Councilmembers Barnes, Dulin, and Kinsey

City Attorney, Terrie Hagler-Gray said Mayor Pro Tem I don't think that passes if there are only five votes.

Mayor Pro Tem Cannon said so do we hold this over until the next meeting?

Ms. Hagler-Gray said it doesn't pass.

Mayor Pro Tem Cannon said it just doesn't pass there are seven of us.

Ms. Hagler-Gray said I think there are eight of you and three voted no, so you don't have the six votes necessary to pass the ordinance.

Councilmember Mitchell said so it doesn't go by the majority of those sitting here it applies to the entire Council regardless if there are eight of us here?

Ms. Hagler-Gray said it takes a majority to approve.

Mr. Mitchell said the majority that are sitting here or the majority of the full Council? Since there are eight of us here, I would think that five is the majority of eight.

Ms. Hagler-Gray said we only reduce the number if there are persons excused from voting.

Ms. Mitchell said I think if the Petitioner was aware of that I don't think they would have brought this forward tonight. I don't know what the ruling is on deferring if the Council is sitting here; but I'm quite sure if they were aware of that ruling, this would not have been on our docket tonight.

Ms. Hagler-Gray said do you want to defer this until we can do some research regarding this?

Mayor Pro Tem Cannon said the chair would entertain a motion for deferral.

Ms. Hagler-Gray said you would have to reconsider the vote. Someone who voted with the prevailing side can ask for reconsideration.

Mr. Mitchell said there is no prevailing side; do you mean one of the five?

Ms. Hagler-Gray said yes.

Motion was made by Councilmember Mitchell, seconded by Councilmember Autry to reconsider the vote for a potential deferral until January 28, 2013, when full Council is in attendance, adopting the subject ordinance designating the “Woodlawn Bungalow” as a Historic Landmark.

A vote was taken on the motion and was recorded as follows:

YEAS: Mayor Pro Tem Cannon; Councilmembers Autry, Howard; Kinsey; and Pickering.
NAYS: Councilmembers Barnes, Dulin, and Mitchell

Ms. Hagler-Gray said if you could give me a little bit of time to research. This is a little unusual since you only have eight.

Councilmember Howard said on matters that are usually this contentious we would wait and have the full Council, could I not appeal to my colleagues to wait until we have a full Council on this one, since it's this contentious?

Councilmember Dulin said no sir. I whole heartedly think that the Paul & Wilkie Beatty House is historic and should have reduced taxes. These other houses, the Stratton House and the Woodlawn Bungalow are fine homes and they've done a good job of preserving these homes but we all try to preserve our homes. Some are younger than others but heck my house is 50 years old too. I was a good firm yes, a positive yes on the Paul & Wilkie Beatty home; but these others I'm opposed to and if can work to do that, I'd do that.

Mr. Mitchell said I'm not asking you to change your vote. I'm just asking since the full Council is not here to allow the full Council to weigh on this decision. Even if we vote on January 28th I'm not asking you to change, I'm just saying to make it fair and have all the Councilmembers present.

Councilmember Cooksey arrived at 6:22 p.m.

Mr. Mitchell said I don't know how the others are going to vote, they may vote no. Trust me ladies and gentlemen if the Petitioner would have called in and asked if I could vote tonight and the City Attorney would have told them that it's based on the 11 people on City Council, I don't think they would want to proceed with the vote tonight. So from one aspect we haven't educated the citizen's on our process, that is, even if there are eight people here the guidelines apply to a full sitting Council. That's all I'm saying it's a little unfair to the citizens.

Mayor Pro Tem said thank you Councilmember Mitchell and we have had an arrival of another councilmember; Councilmember Cooksey welcome to the meeting sir.

Councilmember Cooksey said thank you and apologies for my delay.

Mayor Pro Tem said that's okay we understand and we are on Item No. 3, I think Councilmember Barnes may have been telling you a little bit about that. Are you familiar with where we are now in the process? There's been a motion on the floor to reconsider the item at this juncture and I guess with him coming in at this stage, Ms. Hagler-Gray, would we go back to that or does that motion stand now that we've made that decision?

Ms. Hagler-Gray said I'm sorry,

Mayor Pro Tem said since Mr. Cooksey has arrived.

Ms. Hagler-Gray said yes, there can be a motion to reconsider the motion so that you can either vote again or vote on a deferral.

Mayor Pro Tem Cannon said let me do this if I might, Mr. Cooksey regarding the Woodlawn Bungalow do you have a point of interest in this in terms of how you feel about this in terms of a Yea or Nay vote?

Mr. Cooksey said I don't feel strongly I was planning to vote yes.

Mayor Pro Tem Cannon said you were planning to vote yes, okay.

Motion was made by Councilmember Dulin to leave the vote as is.

Ms. Hagler-Gray said I would like to confirm that it will take six votes to pass an Action. Your rules state that six affirmative votes are necessary to make any action, regardless of the number of councilmembers present.

Mr. Cooksey said I am curious since I have walked in on a motion to reconsider, what was the prevailing side on the previous vote?

Mayor Pro Tem Cannon said the prevailing side was that we didn't have enough votes to allow it to move forward because you needed six. We only had five.

Mr. Cooksey said what was the vote?

Mayor Pro Tem Cannon said it was 5-3; but you needed 6 votes as I understand it. Correct Ms. Hagler-Gray?

Ms. Hagler-Gray said that's correct.

Mr. Cooksey said just to check with our City Attorney, the negative prevailed on that right?

Ms. Hagler-Gray said Mr. Cooksey is in fact, correct. The prevailing side would be those who voted against the vote.

Mayor Pro Tem Cannon said so okay Council we are then where we are. The vote as of right now does not pass.

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DECISIONS

ITEM NO. 4: ORDINANCE NO. 5029 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO 1) ADD NEW DEFINITIONS FOR PASSENGER RAIL STATION, PASSENGER RAIL PLATFORM, AND ADVERTISING SIGNS ON PASSENGER RAIL PLATFORMS, 2) ALLOW ADVERTISING SIGNS ON PASSENGER RAIL PLATFORMS WITH PRESCRIBED CONDITIONS.

Planning Manager, Rezoning Section, Tammie Keplinger said this petition is found to be consistent with adopted plans and to be reasonable and in the public interest.

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey to approve the Statement of Consistency and Petition No. 2012-064 for a Text Amendment to the City of Charlotte Zoning Ordinance with the clarification that the contract contains a restriction on alcohol being placed at the bus station stops, by Charlotte Area Transit System as recommended by the Zoning Committee.

Councilmember Barnes said Mayor Pro Tem I move to approve the item but I want to clarify that the contract contains a restriction on alcohol ads being placed at the station stops.

Mayor Pro Tem Cannon said let me if I might, so that the general public is aware. The petition proposes to add new definitions for passenger rail stations and passenger rail platforms and advertising signs on passenger rail platforms, and to allow advertising signs as a permitted use on passenger rail platforms with prescribed conditions. Council you probably noted in Tab 4, you may have seen some Zoning Committee discussion there and I want to bring your attention to the second paragraph where staff, from CATS, addressed the question stating the advertising policy is approved by the Metropolitan Transit Commission. That basically it allows for for-profit, commercial advertising, government speech and alcoholic beverages to be advertised. Additionally staff noted that CATS is prepared to amend the contract to restrict alcohol advertising on these advertising signs located at the passenger rail stations. So that I believe Councilmember Barnes is where you were going and what you were speaking to.

Mr. Barnes said and Mr. Kinard I believe is going to confirm that alcohol ads are prohibited in the contract.

Olaf Kinard, Marketing and Communications Manager, said if this is passed tonight as it is, I have the contract in hand ready to send out tomorrow morning to the advertiser for them to sign for renewal and to exclude advertising on the passenger station signage of alcohol products.

Councilmember Howard said Olaf that is from the time I enter the parking lot to the time I get on the train, no alcohol advertising?

Mr. Kinard said these signs are only on the platform. The contract will have a provision in there saying no alcohol on these particular signs and outside of that we don't have any other signage

available.

Mr. Howard said if for some reason you did advertise somewhere else that would have to come back to Council as well right?

Mr. Kinard said yes it would be an Ordinance change.

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

The Ordinance is recorded in full in Ordinance Book 57, at Page(s) 39-41.

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ITEM NO. 7: ORDINANCE NO. 5030-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.14 ACRES LOCATED ON THE EAST SIDE OF LITTLE ROCK ROAD BETWEEN SCOTT FURTRELL DRIVE AND I-85 FROM I-2 TO I-1.

Mayor Pro Tem Cannon said the Zoning Committee found the petition to be consistent with the Southwest District Plan and to be reasonable and in the public interest.

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and carried unanimously to approve the Statement of Consistency and Petition No. 2012-099 by John G. Blackman and David E. Fuller, Sr. for the above zoning change as recommended by the Zoning Committee.

The Ordinance is recorded in full in Ordinance Book 57, at Page(s) 42-43.

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ITEM NO. 8: ORDINANCE NO. 5031-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.34 ACRES LOCATED ALONG THE SOUTH SIDE OF WEST CATHERINE STREET BETWEEN SOUTH TRYON STREET AND WINNIFRED STREET FROM I-2 TO TOD-M.

Mayor Pro Tem Cannon said the Zoning Committee found the petition to be consistent with the South End Transit Station Area Plan and to be reasonable and in the public interest

Motion was made by Councilmember Howard, seconded by Councilmember Kinsey, and carried unanimously to approve the Statement of Consistency and Petition No. 2012-100 by the Charlotte-Mecklenburg Planning Department for the above zoning change as recommended by the Zoning Committee.

The Ordinance is recorded in full in Ordinance Book 57, at Page(s) 44-45.

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ITEM NO. 9: ORDINANCE NO. 5032-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 4.63 ACRES LOCATED ON THE WEST SIDE OF STEELE CREEK ROAD BETWEEN DIXIE RIVER ROAD AND SHOPTON ROAD WEST FROM R-3 LLWPA TO CC LLWPA.

Mayor Pro Tem Cannon said the Zoning Committee found the petition to be inconsistent with the Steele Creek Area Plan but consistent with the Plan's policy to consider a mixture of residential/office/retail land uses along Steele Creek Road and to be reasonable and in the public interest.

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and carried unanimously to approve the Statement of Consistency and Petition No. 2012-101 by Dixie River Land Company for the above zoning change as modified and as recommended by the Zoning Committee.

The modifications are:

1. The petitioner has removed the portion of the last sentence from *Development Standards* (Purpose) that allowed unused floor area approved with this site plan to be used elsewhere in the Berewick Town Center.
2. The petitioner has modified the language under *Permitted Uses* to allow non-residential uses that are permitted in the CC district. The petitioner has also added the following language in order to address the portion of the outstanding issue regarding the number of permitted uses with a drive through service window: “Uses will be limited to one service station or convenience store and one other use with a drive through service window. If no service station or convenience store is constructed, two sites with drive through service windows will be allowed. A third site will be permitted to accommodate a use with a drive through service window if permission for the service window is transferred from the previously approved portion of the Berewick Town Center (2010-011) by virtue of an administrative site plan amendment that would have to be approved before any such transfer could take place.”
3. The petitioner has modified *Transportation Note C* by adding language that clarifies how pedestrian walkability and safety between freestanding buildings and minimizing conflicts with automobiles will be addressed. The modified language is as follows: “This will be accomplished with any combination of sidewalks, pathways or plazas between buildings. In those circumstances where a pedestrian pathway or sidewalk would cross a public street, the crosswalk will be clearly marked, or will include a stop sign, or be raised to calm traffic and to increase awareness of the pedestrian crossing. All such facilities installed in a public street will be subject to review and approval by CDOT.”
4. Under *Transportation Note D*, the petitioner has replaced “abandoned” with “removed”.
5. The petitioner has removed the language Under *Architectural Standards Note A*, that stated: “The development of the site will be governed by the district regulations of the zoning ordinance for the CC district.” The petitioner has provided the following new language: “All of the uses will be developed as part of the overall Berewick Town Center Plan with common architectural elements, materials, rooflines, and landscape themes.”
6. Under *Architectural Standards Note B*, the petitioner has modified language to refer to “decorative *wooden* gates”.
7. Under *Lighting* the petitioner has removed language stating: “Architectural lighting on the exterior of buildings will be permitted.”
8. The petitioner has listed the existing use as single family residential under *Development Summary*.
9. The tax parcel identification numbers have been added to the *Development Summary*.
10. LLWPA (Lower Lake Wylie Protected Area) has been added to existing zoning and proposed zoning under *Development Summary*.
11. A note similar to Note G5 under “Setbacks/Required Yards, and Streetscapes” as contained in the approved site plan for rezoning petition 2010-011 regarding provision of building edges has been added that states: “Buildings that are located on sites that include “building edges” must be constructed so that no parking, maneuvering, or circulation will occur between the buildings and the building edges.”
12. The north/south drive running adjacent to the proposed restaurant/retail building and due to connect to the property to the north has been removed from the site plan.

13. Section B on Sheet RZ-1.1 has been amended to reference to the berm proposed along Steele Creek Road as 4 feet in height.
14. Proposed sign locations have been removed from the site plan.
15. The petitioner has addressed CDOT and Storm Water Services comments as follows:
 - a. Per CDOT's request, a note has been added to the site plan that states the old residential driveways will be removed as the redevelopment of the site progresses, but that old driveways may be used as temporary construction entrances until other more permanent construction entrances are permitted and established. Petitioner also notes on site plan that the type of any proposed commercial driveways onto Shopton Road will be determined during the permitting phase.
 - b. Per CDOT's request (and in anticipation that NCDOT will make the request), a note has been added stating the petitioner will install a right turn lane on Steele Creek Road if required to do so by NCDOT.
 - c. The petitioner has modified the Storm Water language provided under Environmental Features to read as follows: "The petitioner shall comply with the Charlotte City Council approved and adopted Post Construction Controls Ordinance. In complying with the PCCO and as allowed by provisions of the PCCO, the development of this site may utilize the special water quality features, including natural areas, previously approved for the larger Berewick community. The petitioner will demonstrate that the features and facilities for the maintenance of water quality are adequately sized and where necessary, the appropriate easements for storm water and water quality management will be established.

The Ordinance is recorded in full in Ordinance Book 57, at Page(s) 46-47.

ITEM NO. 11: ORDINANCE NO. 5033 FOR A VOLUNTARY INCENTIVE BASED DENSITY BONUS TEXT AMENDMENT TO ADD "MIXED INCOME HOUSING DEVELOPMENT" AS A PERMITTED DEVELOPMENT TYPE WITHIN THE R-3, R-4, R-5, AND R-6 SINGLE FAMILY ZONING DISTRICTS WITH DESIGN AND LOCATIONAL CRITERIA. THE AMENDMENT WOULD PROVIDE AN INCENTIVE FOR DEVELOPERS TO INCORPORATE HOUSING FOR INDIVIDUALS WITH INCOMES AT OR BELOW 80% OF THE AREA MEDIAN INCOME WITHIN NEW DEVELOPMENTS BY 1) ALLOWING FOR A DENSITY BONUS OF UP TO THREE UNITS ABOVE THE BASE DENSITY, 2) ALLOWING A MIX OF HOUSING TYPES TO BE BUILT THAT WOULD INCLUDE SINGLE FAMILY, DUPLEX, TRIPLEX AND QUADRAPLEX DWELLINGS, AND 3) MODIFYING DEVELOPMENT STANDARDS SUCH AS LOT SIZES, SETBACKS/YARDS, LOT WIDTHS, ETC.

Mayor Pro Tem Cannon said the Zoning Committee found the petition to be consistent with the City Council approved action plan for incentive based inclusionary housing policies and to be reasonable and in the public interest.

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and carried unanimously to approve the Statement of Consistency and Petition No. 2012-104 by Charlotte Mecklenburg Planning Department for a voluntary incentive based density bonus text amendment as recommended by the Zoning Committee.
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The Ordinance is recorded in full in Ordinance Book 57, at Page(s) 48-53.

HEARINGS

ITEM NO. 12: HEARING OF PETITION NO. 2012-070 BY PULTE HOME CORPORATION FOR A CHANGE IN ZONING FOR APPROXIMATELY 6.96 ACRES LOCATED ON THE WEST SIDE OF WADE ARDREY ROAD BETWEEN TURKEY HILL ROAD AND ARDREY CREST DRIVE FROM R-3 TO R-6(CD) AND 5-YEAR VESTED RIGHTS.

The scheduled public hearing was held on the subject petition.

Planning Manager, Rezoning Section, Tammie Keplinger said this petition as you can see on the map is at the corner where Wade Ardrey turns from heading north and south to going east and west. If you look at the existing zoning we have R-3 and MX-2, some of it innovative around the subject property. Most of this development consists of all single family residential. In terms of the future land use map you can barely see the light yellow or the white which indicates single family residential. The property to the northwest is part of the MX-2 district that we previously saw and although the long range plan does call for some different densities, most of that property is single family residential. This is the location of the property and from an aerial there is a single family house that is located on the site. The request is to rezone from R-3 to R-6 (CD) and to request 5-year vested rights. This is a single family subdivision for 27 single family units. The overall density would be 3.88 dwelling units per acre so it is just a slight increase over the R-3 that we found in the surrounding areas.

The site plan shows a connection to Wheat Field Road to the north to an existing subdivision. A future road connection to the west, this property is zoned R-3 and has a single family home on it and the main connection to Wade Ardrey Road. If you look at the site you can see that most of the development is to the northern part of the site with the storm water detention and tree save area to the south. There is a large area that is proposed for a site distance triangle and the petitioner is going to be working with CDOT and with our tree foresters to work on clearing in this area so that the site distances improve. The petitioner has agreed to some primary building materials which consist of vinyl siding, brick, stone, shake, hardi-plank or cementitious siding. They have notes regarding the position of the garages so that the garages are not the primary element of the front façade. They have lighting limitations and again I wanted to mention the site distance triangle that they are proposing along Wade Ardrey.

Staff is recommending approval of this petition. It is consistent with the south district plan. The general development policies recommend up to six dwelling units per acre so it's also consistent with the GDP.

Matt Levesque, P.O. Box 7030 said I'm with ESP Associates and we are here representing Pulte Homes and Cisco Garcia with Pulte Homes is here as well to answer questions that you may have. The site itself is 6.96 acres and as Tammie mentioned it is located on curve in Wade Ardrey Road. The proposed zoning is going to R-6 (CD) for the conditional district to allow up to 27 single family homes. If you will look at the current zoning under R-3 you are allowed to do up to 20 homes so it's an increase of 7 homes, not a dramatic increase for the area. As you can see this is an exhibit for the adjacent zoning in the area. As Tammie mentioned a lot of MX-2 zoning, as well as densities, around 5 to 6 units per acre as well as lot sizes and attached product. That's a lot smaller than the 40 foot lot size that is being proposed. So overall it's very consistent with the area and what's been established as well as being well under some of the densities in some of the adjacent zoning districts.

This is the site plan itself and what we've done is we've added some color to it to help it read a little bit better. As you can see we have outlined some of the tree save areas and with trying to save 10% of the site in tree save, most of the tree cover was located on the southern portion around the curve in the road. So that's where we are proposing large areas of open space. We are also going to do our storm water there and I know some of the residents were excited about that being located on the southern side of the property to help keep the water going south rather than heading north on the property and then connecting to Wade Ardrey Road. And then the site distance line that was mentioned; because of that curve we have to basically increase the site distance a little bit further back. So with that being some of the primary areas of the trees we've added a note in there that we can work with urban forestry to "limb up" the trees a little bit so that you will be able to see through some of those tree canopies, mainly closer to the ground.

Just so you can see the traffic as it is coming around that curve. This does help preserve the look and the feel and the open nature of this existing farmland along the Wade Ardrey curved road.

Another element that came up in the neighborhood meeting was the landscaping along Wade Ardrey Road. This will be treated in discussions with staff, as a 30 foot reverse frontage buffer along the frontage there so it will be consistent with what was done in some of the adjacent communities with their 30-foot buffers and the landscape that is provided along Wade Ardrey Road. So it will continue that look at that feel along the road frontage there. Also that will help form a visual barrier for pedestrian and vehicles travelling Wade Ardrey Road looking into the community. Regarding architectural, we are proposing a mixture of elements that was mentioned including brick, stone, hardi-plank, the vinyl siding, cementitious siding and the intent there is just to provide a unique mixture of elements and not try to pinpoint exactly one or the other, just to provide a little bit of variation. Staff is recommending approval with addressing the comments and we are intending to work with staff and resubmit this week and try to address all of their comments. We thank you for your time today and we are available for comment.

Dianne Ezell, 9536 Cotton Stand Rd., 28277 said I live in the Ardrey Neighborhood which is across the street from the parcel of land seeking rezoning. Across the street from that parcel is Ardrey and then Ardrey Commons is just to the north of that parcel and they are all R-3 and have a particular style of homes built to look like it's semi-rural or charming or homey. I went to the neighborhood meeting and I was just not convinced that this new neighborhood across the street from us, that the style would be in accordance with the Ardrey style or even blend in with it because I was a little confused about the materials to be used. Would they all be used on one house? I'm not so sure if that would work. It would be better if the character would blend in with the neighborhood around it. Would they be comparable in price and by changing the zoning and building another style of home would that reduce our property value in Ardrey and Ardrey Commons. There are many trees on this parcel and there is a curve that concerns me. The people coming out of the proposed parcel would not have a clear view of traffic coming around the curve. So my interest is I would not like for this to reduce the property value of the homes that we have now or take away from the charm that they try to project there. I have been concerned about this particular project for those reasons and I appreciate your hearing me tonight and I'd appreciate your consideration. I appreciate your hearing us, there are many people who would like to have come but could not.

Mr. Levesque said thank you Diane for your comments. To answer some of those questions the first one being that the neighborhood won't blend into the Ardrey style. I think what's being proposed in the architectural elements are all elements that are used in the area and some of the surrounding neighborhoods. So we feel like with those elements all working together it will help blend and kind of feel like the Ardrey style that was mentioned. Also dealing with the property values and comparable in price; I can't really speak to that. Outside of that Pulte is planning on building and developing in a quality neighborhood in the area. The curve in the road being kind of a visual barrier or safety hazard and really in working with staff that seems to be kind of the best location for this site with its limited areas of access because of that curve, locating it there as far north as we could while still being able to develop some lots on it. That seemed to be the best location and then being able to work with the site distance line through that area and kind of helping with urban forestry limbing its trees up, we feel like all those items are addressing it and we feel that with all these things working together it should hopefully be very safe.

Councilmember Kinsey said I was concerned when I read this about the vinyl siding. I don't see that used very much anymore or don't hear about it sitting around this dais. I always bequeath that with the lower cost product so I don't know how you're planning to use it but I do have some concerns about that.

Cisco Garcia, Pulte Homes said I would like to address that comment. Pulte has had success in the past in this area building many communities, developing communities and building homes in this area. Some have been vinyl some have been a mixture some are all brick, some are all vinyl. Our plans are not finalized yet so we can't present to you what it's going to look like. We will build honestly something the consumer is going to purchase, that's our ultimate goal. So at the end of the day the product will be something that is going to complement the area just like Matt mentioned and something that consumers will want to purchase so that's our ultimate goal.

Ms. Kinsey said do you have any idea of the price point?

Mr. Garcia said we don't. Without having the product finalized we don't have a price point target for that area.

Councilmember Pickering said what is the reason that you'd like to build 27 homes instead of 20?

Mr. Levesque said just density; the property value is very high. It's a very expensive land so it is density.

Ms. Pickering said so it's more profitable?

Mr. Levesque said it's having the best use for the property and I think the property owners would agree to that. We're on a contract to purchase so we don't own it currently.

Councilmember Barnes said gentlemen I heard Ms. Ezell raise some issues regarding the compatibility of this community with her community and the area photographs that we have don't provide me with any advantage in terms of being able to see what her neighborhood looks like and you just indicated that you don't have any renderings for what you're planning to build. But I would like for you to respond very briefly to this compatibility issue that she raised.

Mr. Garcia said we don't have architectural product that is compatible to that neighborhood. The neighborhood has homes that are rear-loaded with garages detached from the home and we aren't planning on building anything like that here. So it won't be compatible in that sense, it's the surrounding neighbors that it will be compatible too.

Mr. Barnes said right and tonight is your opportunity to convince me to vote for you and it's her opportunity to convince you to vote against me. I'm trying to help you help yourselves if I might and help educate me about the similarities or dissimilarities between the two communities and have you, if you can and maybe you can't address this lady's concerns because I think they are very valid concerns and putting myself in her shoes I would kind of want to know what's going to be built there to.

Mr. Garcia said I understand one hundred percent, and again we'd like to have a product to show what we're rendering and we don't have that yet. We're here to try to get zoning for the property or rezone the property for sub-division of the property. As far as product goes compatible to that specific neighborhood we don't plan on building something specific to that neighborhood.

Mr. Barnes said I don't know what that looks like I've never seen any of it so I'm at a disadvantage.

Councilmember Dulin said ma'am I appreciate your comments and coming down tonight. Pulte is coming down here tonight but you don't have your act together yet. You are a big company, you got to be able to show Council what it's going to look like. We've zeroed in over the last seven years since I've been down here on materials, site lines and compatibility with your neighbors and we pass most of this stuff, I'm not saying yours won't pass. But if I had to vote tonight I'm a "no". Because you can't tell me what it's going to look like and you can't tell your neighbors what it's going to look like. So I highly recommend and the district representative, Mr. Cooksey, might have some comments on this too. But I highly recommend as Mr. Barnes said it is your opportunity to get our vote tonight. You don't have mine and so I'm not saying you can't get it but we have to get compatible with the neighbors. You've got to get that lady happy and then you've got to get these people at the dais happy that we know what you're going to build. Because I'm not prepared to give you a carte blanche of going to do whatever you want.

Councilmember Howard said I'm not sure I can say anything much different from what Mr. Dulin said so I'm going to pass and let you move on.

Councilmember Cooksey said just so it's clear on the conversation question for our Senior Assistant City Attorney, is price point a legal topic of discussion for this council in a rezoning case.

Ms. Hagler-Gray said Mr. Cooksey the Council should be considering land use considerations and it would be my suggestion and advice not to consider price point.

Mr. Cooksey said thank you madam Senior Assistant City Attorney it is about land use. Gentlemen since this compatibility issue has come up would you say your proposal will be more compatible with the neighborhood to the East represented by Ms. Ezell here, or the neighborhood to the west or the townhomes to the North? Which would it look more like?

Mr. Garcia said it won't be the townhomes. We don't have a product that representative of the east, I'm trying to see, I don't remember what's on the west side I apologize. I can assure you the property will be compatible with area of south Ballantyne area, it will be compatible with that I can assure you of that.

Mr. Cooksey said there also look to be some rather compact units single family but very close together south of this property as well.

Mr. Garcia said yeah also the east; those homes are a minimal setback.

Mr. Cooksey said I think Council for those for whom neighborhood compatibility is an issue I do encourage an in-person visit to the area to see the variety of product that is available at this very location.

Ms. Kinsey said the proposed zoning is R6-(CD) conditional? Correct?

Ms. Keplinger said yes ma'am.

Ms. Kinsey said don't we usually get more information when we're looking at a conditional plan. Because whatever we look at is what is going to be built.

Ms. Keplinger said it depends on the applicant sometimes we do, sometimes we handle the elevation issues through notes. As I mentioned in our presentation they do have some notes about architecture here mostly related to how the front of the buildings are going to look in terms of the garages. With single family residential development we have a tendency to get some general elevations as to what some of the houses may look like. But in this case we did not receive that.

Ms. Kinsey said I'd like to have something to look at to tell you the truth and when it's written on these 8 ½ x 11; there's absolutely no way to read any of the details. You can't see them without a magnifying glass. So we really need pictures.

Mr. Howard said let me push a little bit on what Ms. Kinsey was just asking. When you're doing a (CD) and I know a (CD) is normally whatever conditions staff feels like we need to put on the site. But since it's open to (CD) can't we ask for more information as well or are we limited in what we can ask for?

Ms. Keplinger said absolutely staff can ask for additional information. The City Council can and so can the Zoning Committee. The petitioner, after this hearing can consider whether they want to provide additional information, they can submit elevations at this point in time; and those could go to the Zoning Committee for consideration. We had some discussions with the petitioner about building design and elevations today so that is something that is certainly in our viewfinder.

Mr. Howard said so right now it is zoned for 20 houses I heard?

Ms. Keplinger said right now its R-3 and it would allow about 20-21 houses currently.

Mr. Howard said is that a straight up zoning or is that just R-3? What could be done then right now without us doing anything?

Ms. Keplinger said about 20 or 21 houses.

Mr. Howard said with no design criteria?

Ms. Keplinger said correct. Let me say with no design criteria in terms of elevation and things like that they would have to meet all of the other city standards and ordinances that would apply for any other R-3 development. But in terms of finding out information on where the lots will be, what the building design will look like, things of that nature you would not get that information.

Mr. Howard said I'm clearly aware that you can go with 20 houses now but I share the same sentiments as everyone else, I would at least like to have some idea about what that product is going to be even if you had examples. And I think nailing down the materials is going to be important to me as well. I've eliminated some of those options that I saw so it fits in better and can't we make the decision Ms. Hagler-Gray based on compatibility of the area? Isn't that something that we're doing, that is permissible?

Ms. Hagler-Gray said yes sir.

Mr. Howard said and the size of the house is that permissible?

Ms. Hagler-Gray said the character of the neighborhood and the suitability of the site for the neighborhood?

Mr. Howard said we just can't ask about price points?

Ms. Hagler-Gray said yes sir.

Mr. Howard said alright I just want to make sure we stay clear.

Councilmember Mitchell said they said a meeting was required and was held, how many people attended the meeting?

Mr. Levesque said we did have five neighbors show up. Three different addresses or property owners and five residents.

Mr. Mitchell said only five neighbors showed up? How many were in the total mailings to the neighbors?

Mr. Levesque said total mailing, working with staff I think it was over 40-50 letters that were sent out.

Mr. Mitchell said what did you show at the community meeting?

Mr. Levesque said we showed site plans, the images you saw tonight and then spoke with each resident that attended about the intent of the neighborhood and also the look and the feel of what they were trying to do what the product is as well as preserving the open space and the trees as they are and just kind of walked them through.

Mr. Mitchell said staff, there were 50 addresses do we know if they were good address because only five people attended.

Ms. Keplinger said all of our petitioners get their addresses from us. It is based on the current tax rolls. We give them everyone within 300 feet and any neighborhood organization within one mile. Granted there probably are a few addresses that are not correct in there just due to timing and change of housing and sales. But that's how the state requires us to notify legally, so that's how we give the notices to them.

Mayor Pro Tem Cannon said I'm going to make a suggestion that you either go to Charmeck.Org or call 704-336-7600 and see if you can get on some of the members of the body's calendar, it might make good to have them, including me as well, to know and see and understand more of what it is you're proposing okay.

Motion was made by Councilmember Mitchell, seconded by Councilmember Kinsey to close the public hearing.

Mr. Cooksey said I would simply like to reinforce to the extent that neighborhood compatibility is a concern of individuals sitting around here I thoroughly encourage you to visit the site in person and see the neighborhoods in the area.

Mr. Dulin said Mr. Cooksey thank you for that and I am out that way pretty often and I will come by. Ms. Ezell thank you for coming, but I'm not buying until I see what I'm buying. And I'm not about to raise my hand up and say yes until this Pulte Company, which is a national company, they've got to cash to show us what the heck they want us to buy. I've wasted half an hour tonight talking about something that we don't have any idea what we're talking about, to me.

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

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

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ITEM NO. 13: HEARING ON PETITION NO. 2012-082 FOR AN O-1(CD) SITE PLAN AMENDMENT, FOR APPROXIMATELY 1.20 ACRES LOCATED ON THE EAST SIDE OF BAUCOM ROAD BETWEEN MALLARD CREEK ROAD AND BRATHAY COURT.

The scheduled public hearing was held on the subject petition.

Planning Manager, Rezoning Section, Tammie Keplinger said this property is located off Baucom Road. It's a zoning mixture of single family multi-family and office. In terms of the future land use map it pretty much rides along with the existing zoning multi-family and office and some mixed use. The site that is in question tonight is located in this area. There is a single family house located on the site. I know that this map is going to be very hard to see but there is an outline of a building right here it's the existing 2800 sq. ft. single family residential structure. The proposal is an O-1(CD) site plan amendment. The uses that would be allowed would be civic social service, fraternal organizations, general office, medical office, dental office and optical clinics. Currently there is an existing ADA approved driveway which is proposed to be kept because it does meet the requirements for accessibility. There is a new driveway to a gravel parking lot which is proposed. There are limits on the height of the lighting which will be 25 feet for any free-standing structure with full cutoff fixtures. The petitioner has basically two developments in the area for this site. One is just to use the existing house for the uses that are shown above, but the second one is to allow a redevelopment with a new structure that will be residential in character, that will have a minimum of 50% masonry material along each building elevation and will be limited to a 40 foot building height for up to two stories. Staff felt that they needed to add an additional condition to this site and that would be that they could expand the existing house up to 1000 square feet before they actually did the redevelopment. This would allow them a small area of expansion if they needed to do that in the future without having to come up through the rezoning process.

Staff is recommending approval of this petition upon the resolution of outstanding issues. It is consistent with the Northeast District Plan which recommends office.

Councilmember Howard said the R-3 that is right beside that are those single family homes occupied?

Ms. Keplinger said we will need to go to our land use map. I do know that the petitioner is proposing a Class C buffer along that property edge.

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Mr. Howard said I what I want to know is, you're changing the nature of that little street and I guess there's nothing left but this. But are there any concerns about that transition and what's proposed for that R-3?

Ms. Keplinger said the site that we're looking at now is already zoned office. So there's already been some transition and like I said the site plan shows a Class C buffer along this property line. I think it calls for multi-family for those two single family lots in the future. So the intent would be for those to eventually develop for multi-family purposes.

Mr. Howard would you let me know if they are actually occupied?

Ms. Keplinger said I will.

Councilmember Kinsey said what they are really wanting to do is keep the building that's there and use it?

Ms. Keplinger said yes ma'am.

Ms. Kinsey said because it seems to me there was another picture that was proposed.

Ms. Keplinger said there will be two scenarios. One is using the existing building with up to 1000 square foot addition which staff is asking them to add and then the second one would be a total redevelopment of the site.

Ms. Kinsey said so if this is approved next month or whenever we do it, they can do either one without coming back?

Ms. Keplinger said yes ma'am that would be correct. Ms. Kinsey said okay, not sure I like that.

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

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ITEM NO. 15: PETITION 2012-105 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A VOLUNTARY INCENTIVE BASED DENSITY BONUS TEXT AMENDMENT TO ADD "MIXED INCOME HOUSING DEVELOPMENT" AS A PERMITTED DEVELOPMENT TYPE WITHIN THE R-8MF AND R-12MF ZONING DISTRICTS WITH DESIGN AND LOCATIONAL CRITERIA. THE AMENDMENT WOULD PROVIDE AN INCENTIVE FOR DEVELOPERS TO INCORPORATE HOUSING FOR INDIVIDUALS WITH INCOMES AT OR BELOW 80% OF THE AREA MEDIAN INCOME WITHIN NEW DEVELOPMENTS BY 1) ALLOWING FOR A DENSITY BONUS OF UP TO TWO UNITS ABOVE THE BASE DENSITY IN THE R-8MF DISTRICT AND UP TO THREE UNITS ABOVE THE BASE DENSITY IN THE R-12MF DISTRICT. IN ADDITION, IF THE SITE IS LOCATED WITHIN A ¼ MILE OF TRANSIT (RAPID TRANSIT, LOCAL BUS SERVICE, OR AN EXPRESS BUS SERVICE PARK AND RIDE LOT) AN ADDITIONAL TWO UNITS ABOVE THE BASE DENSITY WOULD BE ALLOWED.

The scheduled public hearing was held on the subject petition.

Planning Coordinator, Shad Spenser said the purpose of this text amendment is to permit mixed income housing development through a voluntary incentive based density bonus within the R-8MF and the R-12MF Zoning districts. This is kind of a sibling to the text amendment that was approved earlier tonight for the single family portion that dealt with mixed income housing. The goal of this text amendment is to encourage private sector development of mixed income housing in targeted locations. Some background on this was back in June of 2011 City Council adopted an action plan requesting staff to pursue five regulatory and six financial strategies to

incent private sector development of affordable housing and listed here are the five regulatory strategies. So the single family density bonus was adopted tonight so we're talking about the multi-family density bonus currently. We've already dealt with fee waivers, expedited review, the duplexes we will bring back to you in a few months and then the accessory dwelling units to include non-relatives was approved mid-year last year.

In order to study these regulatory strategies a citizen's advisory group was formed and as you see listed here, there is a wide array of folks who participated; development communities, neighborhood leaders from all over Charlotte, there were 16 meetings held within a year and we worked extensively with Council's Housing & Neighborhood Development Committee on this text amendment. Again, the purpose is to permit mixed income housing development through a voluntary incentive based density bonus within the R-8MF and R-12MF Zoning districts. The mixed income housing's definition is a planned single development that has a percentage of the dwelling's unit targeted to income levels at or below 80% of area median income and develop according to an approved preliminary site plan.

I will go over some of the development regulations that are associated with this text amendment. First, participation is voluntary so it's not requirement. Next the density bonus would allow up to two additional dwelling units per acre above the base density in the R-8MF zoning district so the base density and R-8MF is eight; so you add two and it ends up giving you 10 dwelling units per acre. Then in the R-12MF district it will allow an additional 3 dwelling units above the base density so that will get you up to 15 dwelling units per acre; and then the set aside would be 50% of the additional units that are achieved by the density bonus, must be affordable at or at least 80% of area median income which is currently \$54,800. Then of those affordable units listed above, half of those, 50% must be affordable at or below 60% area median income, which is currently \$41,400. The total number of affordable units in the development could not exceed 20% of the total units within that development. So there would be a cap of how many affordable units you could have. Other incentives would be to allow an additional two dwelling units per acre if located within a quarter mile of transit and that would be a rapid transit line, a local bus line or within a quarter mile of an express bus park and ride lot. The locational criteria is identical to the locational criteria for the single family density bonus which is census block groups that are at or above the median home value according to five year estimates from the American Community survey which is currently \$153,000. This map identifies those areas that qualify for this program. The areas in green are the geographies that are in a median home value of \$153,000 or greater. There are also design guidelines associated with this text amendment. Buildings within the development must externally blend in architecturally with other units to include materials and style such as the building materials, the roof pitch, the window types and the foundation of the structure.

Councilmember Howard said when you go back to the design is there anything that prohibits these units from being set off to the side by themselves, anything that says they need to be mixed in with everything else?

Mr. Spenser said being mixed in and the building materials and all the architectural elements would be similar to all the other buildings and units. They could not look different than the market rate.

I will briefly go over an example. Say there is a 10-acre site zoned R12-MF; and they are within the qualifying area and they are located within a quarter of a mile of transit. They would be given a three dwelling unit per acre increase so you'd go from 12 dwelling units per acre to 15 dwelling units per acre since they are located in the qualifying area and they will receive an additional two dwelling units per acre for being located within a quarter mile of transit; so that takes you from 15 to 17 dwelling units per acre. So that increases under the base zoning of 120 units to 170 units. Of those additional 50 units that are achieved, half of those or 25 must be set aside for targeting folks with 80% or below of area median income. So 25 units would be 14.7% of the overall development. Here are some illustrations or some photos of some developments. The first one is Oak Leaf at Madison that has a density of 12 dwelling units per acre and the next example is Elizabeth Place which has a density of 17 dwelling units per acre.

So in conclusion the proposed text amendment would create a new tool to disburse housing for individuals with a range of incomes and encourage private sector development of mixed income housing.

Mary Klenz, 7404 Sherwood Forest Dr., 28226 said I'm Chair of the Mixed Income Housing Coalition and I'm here to speak in favor of your adoption of the petition. Members of the Coalition came together more than five years ago to gain support for policies that create and sustain mixed income housing throughout our community. This petition moves us closer to these goals. It wisely includes design guidelines and development standards that enhance the products and increase the mix of housing choices for individuals at income levels more in line with workforce housing needs. I want to thank you and the staff for your support you have shown for community engagement and I urge you to support this petition. Thank you very much and we ask for your vote.

Ken Szymanski, 4139 Sulkirk Road, 28210 said I represent the Greater Charlotte Apartment Association. Our members house over 200,000 folks in every income strategy, every ethnicity and every Council district of this City. The association does not oppose the proposed change for the Zoning Ordinance but we wonder how many apartment developers will opt to pursue the density bonus since the stated objectives will not lower the cost of delivering incremental dwelling units in a material way. Thus we believe that the stated incentives will not motivate most apartment developers to act in a way that the ordinance amendment envisions. Also we note that the amendment is only applicable to R-8 and R-12 districts. Most apartments being permitted today have higher densities. Zoning classifications and the proposal is only applicable in targeted locations with a limited amount of multi-family zoned tracks. The motivations and interests of developers residents and neighbors are all complex and different. If the will of the community is to incent more mixed income housing, we suggest more significant incentives such as water, sewer, tap fee, waiver of property tax abatement thus facilitating a real lowering of developing costs and a far greater feasibility of delivering affordable set aside dwelling units.

Councilmember Barnes said I believe Mr. Szymanski just encouraged a mandatory program.

Dionne Neslon, 1300 Baxter St. Ste 370 28204 said I'm President/CEO of Laurel Street Residential. We are an affordable developer here in Charlotte. I'm speaking on behalf of the development community and asking you to support the proposed amendment. We believe that it will encourage developers as one more tool in which we can use to develop mixed income housing. Allowing us to structure the financing and the deal relative to the site and what is appropriate for that particular community. We believe that it creates greater flexibility for developers across the City with respect to and including affordable units within otherwise mostly market rate developments.

Will Russell, 10010 University Park Ln, 28213 said I come before you today to ask for your support on the mixed income housing development density bonus. Your support is important because this text amendment will be the foundation for positive long lasting change in our City. Charlotte, like many other places is filled with housing of all types. Some are large and stately with elegant lawns, others are small urban dwellings.

Mayor Pro Tem Cannon said Mr. Russell if you had a couple more minutes, what would you say?

Mr. Russell said I would say support this text amendment please.

Mayor Pro Tem Cannon said Mr. Padilla if you had about a minute and a half sir what would you say to us?

Joe Padilla, 1201 Greenwood Cliff 28204 said I'm not going to be able to say a whole lot more than has probably been said, I would just say that we do, as REBIC, support the Amendment. We think it is one tool and I think we brought this up during the single family process. There is no one tool, no one silver bullet that is going to allow a lot of these neighborhoods to have an increase of affordable housing but we have a tool kit and I think the tools that we presented to you over the last few months have certainly moved us in the direction of having a more inclusionary community where people can live in areas that are right now getting out of their price range. We do have concerns about the limitation on First Right of Refusal for "For Sale" property. We think that is going to deter equity building and the ability of someone to actually get in one of these homes and build equity but other than that we think it's a tremendous tool and we look forward to its use.

Councilmember Kinsey said many of these people were involved with the Citizens Group and
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have come to the Housing & Neighborhood Development Committee and this was discussed at length in the committee and was reported out in a positive way.

Mayor Pro Tem Cannon said thank you Madam Chair for chairing that committee and all of the other committee members that are a part of that for doing what you do we really appreciate that. We'd like to thank all the speakers for coming down.

Motion was made by Councilmember Howard, 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. 18. PETITION NO. 2013-005 BY CHARLOTTE KNIGHTS FOR A UMUD-O SITE PLAN AMENDMENT, FOR APPROXIMATELY 8.42 ACRES SURROUNDED BY GRAHAM STREET, WEST 4TH STREET, MINT STREET, AND MARTIN LUTHER KING JR. BOULEVARD.

The scheduled public hearing was held on the subject petition.

Planning Manager, Rezoning Section, Tammie Keplinger said this proposal will allow a minor league baseball stadium as well as any other uses that are allowed in the UMUD district. There is an optional provision that is being carried over from 2007 which allows the vehicular maneuvering within the right-of-way of Martin Luther King, Jr. Blvd. There are multiple new optional provisions. There are variations regarding identification, sponsorship and identification signage in terms of size, placement and information contained within the signage. There are signage variations in the form of banners, decorative static artwork murals, static wall advertising graphic panels, historical plaques, LED moving message panels, a 490 square foot LED motion display panel, a 1,776 square foot sponsorship sign at the rear of the batter's eye wall and a 1,711 square foot sponsorship sign at the rear of the scoreboard. The proposal also proposes to relocate two of the street trees in front of the proposed 490 square foot LED motion display panel on Mint Street.

There are about 28 pages of site plans that go along with this to identify the signs, so I'm going to very quickly just go to one that shows a lot of the signage. I know this is very hard for you to see but it is contained in your package and it's also available on our website and I'm sure the petitioner is going to go through some more details on these signs. In terms of this request, staff is recommending approval. We did have some outstanding issues we are concerned about the size of some of the signs and we're working with the petitioner on that issue, as well as others. The proposal is consistent with the Charlotte Center City 2020 Plan in plans of the land use.

Staff is recommending approval upon resolution of those issues.

Gaurav Gupte (Odell Co.), 415 West 8th St. 28202, said I'm the architect on the project and I would like to run you through our proposed amendments to the site plan as we go along this evening. As you can see here we're in a UMUD District and on the exterior of the ballpark this signage is limited by sign ordinance in our UMUD District and what we want to do is try to get a more entertainment district flavor to this ballpark. It's a public project and we want to have as much public messaging within certain guidelines for this. What you see today is the maximum amount of signage that we are proposing to you. We certainly don't want this project to end up like the Epicenter. And what we want to try and do today is show you every piece of sign that could potentially be put on this ballpark in the future so we won't have to come back to you for anything else and there won't be any half hazard application of signage on this ballpark. We feel that all our signage is in flavor with the architecture and dose not overwhelm any of the architecture of the building and it is in compliance with what we see here.

There are three types of signage here. One is ballpark identification signage that tells you that this is BB&T Ballpark. The second type of signage is sponsorship signage in which would have murals, artwork, etc., events that could be possibly sponsored by the founding sponsors for BB&T Ballpark. The last bit of signage which is in the minority is an Advertising Signage on

the ballpark which would have the Knights advertise their services on the exterior of this ballpark. This shows you some of the elevations along Graham Street as we move along we are proposing signage elements along the brick wall here and in the entry, you can see that they are all contained within the architecture. There are also banners along the streets that could be changed out to advertise future signage.

Councilmember Barnes said sir before you move on I want to ask you just a couple of questions while you have this image up. The first question is; are you speaking about advertising on the interior of the ballpark or the exterior?

Mr. Gupte said only the exterior sir. The interior of the ballpark would also have advertising but it will not be seen from the exterior so that's not part of this rezoning petition.

Mr. Barnes said well that's a concern because of what it could turn into. You mentioned not looking like the Epicenter but that's what that will turn into. And then Ms. Keplinger are the entitlements for the Panther's stadium, the Charlotte Panther's stadium or the Charlotte Bobcats, the Time Warner Cable Arena identical to the entitlements that they are seeking? In other words there's no advertising on the outside of Bank of America stadium other than the BofA signs; there's no advertising on the outside of the Arena other than Time Warner, I believe right?

Ms. Keplinger said I'm not sure I would have to go back and check the CD plans to see how that was worded to be very honest and that's something that we can follow up on.

Mr. Barnes said here's what I'm simply seeking. It is consistency from football stadium, basketball arena, baseball stadium, just consistency. The banners, I get, but some of the advertising.

Mr. Gupte said some of the signs on Graham Street are going to be these vintage murals highlighting some of the history of baseball in Charlotte, let me quickly go through slides. You can see in purple are some of the advertising signage that the Knights are proposing. Orange is the BB&T Ballpark signage location to identify the ballpark; as you turn the corner on MLK more banners and plaques to commemorate the history of the Knights. At the main entrance we would have box office signage.

Councilmember Howard said Mr. Gupte if you had another minute or so what would you add? I also have some additional questions Mayor Pro Tem.

Mr. Gupte said I would just take you through the exterior of the ballpark and show you the locations. On the exterior of the ballpark we have the BB&T Ballpark signage which is identify signage for the ballpark. One of the elements is a moving LED message panel above it that would announce future ballpark events, the Durham Bulls are coming to town that would be one of the dynamic signs that we are asking for. Everything else you've seen so far is only static. As we turn the corner this is along Mint Street which would have signage for the retail store, the moving LED signage that you see. There is a restaurant plan that's part of our development which would have some signage allowed on it so that it could operate as a restaurant. And then moving further along Mint Street, this is our second dynamic sign which is an LED sign, completely dynamic similar to what you see on Time Warner Cable Arena as well as some of the Epicenter locations. And then more banners going down Mint Street, our secondary entrances. The pedestrian entrances on the corners of 4th and Graham and 4th and Mint will have again, the BB&T Ballpark, the banners and the Knights logo as well as commemorative plaques on the entrances. And then we have some 3D views to show what those would be.

Mr. Howard said you showed us quite a few slides. Does everything you just showed us need approval or is that just a mixture and several of them will. What's permissible now and what's not. Is that a mixture of that or everything you just showed us needs an Ordinance change?

Ms. Keplinger said because this is a sign package it comes in as permitting all of them under the optional request. The petitioner may have to answer the question as to whether the regular signage under the UMUD district would also apply.

Mr. Howard said that's a good question so given what Mr. Barnes said because I have the exact same concerns. When we passed the rezoning request for the Bobcats stadium, I remember doing that one. Did we change it so that any building could do that or was that just approvals for that building?

Ms. Keplinger said well the Zoning Ordinance allows an optional any time you are in the UMUD or MUD district and one of the things you can opt out of anything, any requirement and you can make your own signage package and we've had multiple facilities in the Center City that have done that. We've had the Arena, NASCAR Hall of Fame, etc.

Mr. Howard said I think I understand what you're saying but because it's optional when they come in for their building what we approve is for their building.

Ms. Keplinger said correct, it's like a conditional plan except they are opting out of requirements and in this case they are asking for the additional signage.

Mr. Howard said this is like a CD for signs or something?

Ms. Keplinger said correct.

Mr. Howard said alright so that means we start over from scratch on this building so the only thing we do have is what precedence has been set on the other buildings. And that's what Mr. Barnes was talking about and in that situation if I remember right sponsors were allowed on the outside. I know that we see Presbyterian and some others on the outside of the Arena. But I think it was limited to sponsorships. I think what I'd like to know in addition to what Mr. Barnes was asking is what are the standards, what would be the team's signs. What are you guys talking about doing, what sponsors and then I heard you say something that was also a third one and that's the historical banners which is not necessarily advertising, as much as it is part of the lure of what you're doing with the design of the building. Are those permanent?

Mr. Gupte said yes they are permanent.

Mr. Howard said so that's more about the history and the design, not about signage?

Mr. Gupte said that's what we feel but the Zoning Staff has made a decision that based on what they are that they fall into the signage package.

Mr. Howard said I think I want to know how they differ from what would be just your regular brands and what would be sponsor and advertising especially on the outside of the building, and what design components that are permanent.

Mr. Gupte said may I have Mr. Rajikowski come and help me answer some of those questions?

Mr. Howard said actually if you will, and actually I'd like the big drawings too you can't see it on these if you don't mind. That's two people that want big drawings.

Councilmember Kinsey said it sounds to me like we're giving if we vote for this, carte blanche, so they can put anything they want to somewhat within these hazy guidelines. Am I incorrect about that?

Ms. Keplinger said well they would not be able to put anything in there unless they showed it in this package. So if they came in and had an additional sign somewhere that didn't show up on this package, it would not be permitted.

Ms. Kinsey said there are an awful lot of things in this package and I too remember when we dealt with the arena and it didn't seem like they came in with anywhere near this package. Besides we're not seeing anything and at least with the arena we saw them. I'm not real happy with this and probably couldn't support it the way it is.

Ms. Keplinger said we will make sure that each councilmember has a copy of the signage package, it will be a little bit easier to understand.

Councilmember Dulin said this is just my initial observation of my reading over the weekend on this just feedback I guess to staff and to the team. And I'm all for it. Signage on the outfield inside a park is part of minor league baseball. Some of it goes away at the majors but it's part of the experience in there. Some of this looks a little junky on the outside to tell you the truth. And if our drawings go like you are planning to do it, you've got more signage on here than I really prefer to see on the outside of this nice, going to be designed and look like an old brick ball yard. That's just feedback from one Councilmember. I just think it looks there's just too much of it. Now listen the profit is in selling signage to your sponsors on the outside of this building I know that and I understand that and you might end up getting your way to do that but I just think it looks a little junky and that's my feedback on that.

The other thing does this include the team being able to put a statute at the entranceway of the ballpark? Or is that a separate issue? Because that's something I am very interested in is having some sort of baseball statue or something outside.

Ms. Keplinger said that is not a part of this package and I'm not sure if the Zoning Administrator would consider that a sign.

Mr. Dulin said so is it the Zoning group that thinks through that?

Ms. Keplinger said yes the Zoning Administrator would have to determine what the statute looked like and whether it's a sign or not.

Mr. Dulin said is there any change we could just go ahead and add that to the work we're doing tonight?

Ms. Keplinger said if it were determined that it were not a sign it probably would not need to be added but that's something that we could investigate.

Mr. Dulin said I've been to a number of minor league baseball stadiums and some of them have a statute of some kids with their hands over their hearts looking at the flag which is real cool and some of them have a kid choking up on a baseball bat and some of them have some local baseball hero. I don't know if enough people know who Herman Kilabrew is around here but I certainly remember him, maybe we can have a statute of the entire Ripken family because they all came through or Eddie Murray I don't know. But I don't want to exclude the team's ability to put something up of good taste, but that's left to the eye of the beholder of course. And then thirdly, the roof top over the ticket area that is blank and I've looked at these things a couple of different ways I think that would be a great area, and you're going to have to design it stronger to have an outside meeting reception area for the upper level, upper deck folks. And I don't know if you've thought through that or not but that seems to me to be wasted space that you could rent to corporations if you engineered it strong enough to hold the weight of a group. That's worth exactly what you paid me for it which is nothing, but I think that's a pretty good capture of open space on the 2nd floor of the building.

Mr. Barnes said I want to be clear about something for you gentlemen. I am not trying to micro manage how you design your facility that's your business. What I'm suggesting to you is that I like the consistency that we currently see between BofA Stadium and Time Warner Cable Arena and I would discourage turning that baseball stadium into a billboard on the outside. I don't care what you do on the inside that's your business. People pay their money and to Mr. Dulin's point when you go into a baseball stadium and you have this in Fort Mill there's typically a lot of signage inside. What I'm suggesting is that if the outside is very busy from a signage prospective and it would be hard for me to support what you're asking as is currently situated.

Councilmember Autry said page 9 I can see in the center image there the LED message display, how often will that message change?

Mr. Gupte said it will be a moving message and will change daily or quarterly or even hourly if there is an event coming up and they want to put new text up there.

Mr. Autry said staff is that in conflict with other LED signs for instance in churches where we say that they can't change that message but every 24 hours?

Ms. Keplinger said well again because this is an optional district they can write their own sign package. I think we probably have some signs that are like this. I don't believe they are associated with churches but we can go back and see exactly where these types of ticker tape type signs are permitted.

Mr. Autry so this is just going to be red LED's over a dark background correct?

Mr. Gupte said red or yellow.

Mr. Autry said and it's going to move from right to left like you would read it?

Mr. Gupte said correct.

Mr. Autry said I would say that a lot of churches do have signs that respond in that same manner.

Ms. Keplinger said Ms. Harmon just clarified for me that the UMUD district does allow that type of signage so any property in the vicinity of UMUD would be allowed to have that.

Motion was made by Councilmember Barnes, seconded by Councilmember Dulin 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 Pro Tem Cannon said there is one other item I just want to make sure that you all are aware that the Attorney has come back on. Item No. 3 - you all will recall the Woodlawn Bungalow, Madam Attorney you made some comment earlier?

City Attorney, Terrie Hagler-Gray said I've had a little time to research that matter that was a source of discussion after the landmark designation vote. I am certain that it takes six affirmative votes for the Council to take action and that includes denying a petition. If a motion fails to get six votes, that does not mean that the petition was denied, it means that no action was taken. You do have in your rules that that motion can come back at a later meeting so I just wanted to make you aware of that. So the motion can come back at a later meeting unless there was a motion to deny the petition or a motion to prevent reconsideration that passed by a vote of six.

Councilmember Dulin said do we have to wait Madam Attorney to another meeting or can we settle that tonight one way or the other?

Ms. Hagler-Gray said actually Mr. Dulin that's Rule 15 and it does say that the motion may be renewed at a later meeting. That's what your rules provide at this time.

Mr. Dulin said okay so for clarification Item No. 1 was passed; Item No. 2 was passed and Item No. 3 is in limbo?

Ms. Hagler-Gray said that's correct no action was taken on Item No. 3.

Councilmember Howard said how does it get added to a future agenda?

Ms. Hagler-Gray said I believe since this was a Zoning meeting and the rules aren't clear about that but I would think that it would be added to another Zoning meeting agenda.

Councilmember Barnes said this is another topic if I might. Earlier this evening one of my colleague's maybe Mr. Howard, mentioned the conditional nature of one of the rezoning petitions that we were talking about the one in Mr. Cooksey's district. I wanted to raise an issue for you all so that you would have an idea about some of the things that are happening. We voted on two petitions in my district they were both conditional. Both petitioner's submitted elevations and renderings to staff that looked nothing like what we approved. One of them denied the existence of brick on what they had submitted and I say that to you to say that District Reps you have to be very vigilant about what you agree to with developers because they

sometimes subsequently reinterpret what they wrote when they called you and what they came into this chamber for a vote. So just a word to the wise, keep your eyes open.

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ADJOURNMENT

The meeting was adjourned at 7:45 p.m.

Stephanie C. Kelly, City Clerk

Length of Meeting: 2 Hours, 32 Minutes
Minutes Completed: May 17, 2013