

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, April 15, 2013 at 5:15 p.m. in Room CH-14 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.

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REVIEW OF AGENDA

Tammie Keplinger, Planning Department reviewed the Agenda with Council and advised Council that River Rock Properties, LLC, the petitioner for Item No 2, Petition No. 2013-004 has requested a deferral of one month. The Planning Department, the petitioner for Item No 8, Petition No. 2013-026 has requested a deferral of one month. Item No. 9, Petition No. 2013-127, the Council needs to vote whether or not to send back to Zoning Committee due to changes that have been made after the Zoning Committee vote. C4 Development, LLC, the Petitioner for Item No. 20, Petition No. 2013-036 is requesting a deferral of one month. The Planning Department, Petitioner for Item No. 22, Petition No. 2012-090 is requesting a deferral of 6 months.

Planning Director, Debra Campbell gave a status report on Area Plans and Text Amendment updates.

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

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ZONING MEETING

Mayor Foxx called the meeting to order at 6:21 p.m. and welcomed everyone to the Zoning Meeting.

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INVOCATION AND PLEDGE

Mayor Foxx gave the Invocation and led the Council in the Pledge of Allegiance.

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Mayor Foxx explained the Zoning Meeting rules and procedures. He recognized Yolanda Johnson, Chair of the Zoning Committee who introduced her committee and announced that they would have a special meeting on Wednesday, April 17th at 4:30 at the Government Center for rezoning Petitions 2013-001 and 2013-002. Council decisions for these petitions are scheduled for Monday, April 22, 2013. For the remaining petitions the Committee will meet at their regular Wednesday meeting April 24, 2013.

DEFERRALS

Mayor Foxx said Item #2, Petition No. 2013-004 requesting a deferral for one month; Item #8, Petition No. 20013-026 requesting a deferral for one month; Item #20, Petition No. 2013-036, requesting deferral for one month and Item #22, Petition No. 2012-090 requesting a deferral for 6 months.

Motion was made by Councilmember Howard, seconded by Councilmember Mayfield, and carried unanimously, to deter the above items for the requested period of time.
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Mayor Foxx said Councilmember Cooksey has suggested that there are three cases in his District that may require some changes from the normal Statement of Consistency so I will take a pause for the cause and let Mr. Cooksey explain those changes.

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DECISIONS

ITEM NO. 1: ORDINANCE NO. 5103-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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 BEST RIGHTS.

Councilmember Cooksey said actually this one is pretty straight forward.

Motion was made by Councilmember Cooksey, seconded by Councilmember Cannon, that the Council find Petition No. 2012-070 by Pulte Homes Corporation consistent with the South District Area Plan and General Development Policies, is reasonable in the public interest, and to approve it as modified and as recommended by the Zoning Committee. The vote was recorded as unanimous.

The modifications are:

1. The site plan is in the proper format.
2. The petitioner has made the following modifications to the language contained in the General Provisions section as follows: "However, any alterations or modifications may only be made in accordance with the provisions of Subsections 6.207(1) or (2) of the Ordinance as applicable."
3. The petitioner has added the following language to the Architectural Standards Section: "Primary exterior building materials for the proposed residential structures that are to be constructed on the Site shall be a combination of a minimum of three of the following materials: vinyl siding, brick, stone, shake, hardi-plank or cementitious siding material."
4. The language under Environmental Features has been modified to state as follows: "Petitioner shall comply with the Post Construction Controls Ordinance."
5. The petitioner has addressed CDOT, Storm Water, and Neighborhood and Business Services comments by providing the following:
 - a. Petitioner has revised the site plan to now show and label proposed curb and gutter along the site's Wade Ardrey Road frontage, measured approximately 18.5 feet from the centerline of Wade Ardrey Road to the face of the curb.
 - b. NCDOT has determined that a left turn lane into the proposed site will not be necessary, and therefore this request is being rescinded by staff.
 - c. The petitioner has addressed Storm Water Services request by revising the note under Environmental Features to state that the petitioner shall comply with the Post Construction Controls Ordinance.
 - d. The petitioner has addressed Neighborhood and Business Services comment by removing the sentence from the site plan that states no more than two single family homes will be allowed side by side which have garages that extend beyond ten feet from the main entry façade.
6. The petitioner has added a statement under Architectural Standards (b) that states the primary exterior building for the proposed residential structures can be one material as long as it is a masonry material.
7. The petition has provided conceptual architectural elevations.

The ordinance is recorded in full in Ordinance Book 58, at Page 159-160.

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ITEM NO. 3: ORDINANCE NO. 5104-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.48 ACRES LOCATED ON THE EAST SIDE OF STATESVILLE ROAD NEAR THE INTERSECTION OF I-85 AND STATESVILLE ROAD BETWEEN BOXMEER DRIVE AND BURCH DRIVE FROM B-2 TO I-2(CD).

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-012 for the above zoning by Kinsale Properties, LLC as modified and as recommended by the Zoning Committee.

The modifications are:

1. An amended rezoning application has been submitted updating the requested zoning district to I-2(CD).
2. The square footage for the proposed future expansion areas has been listed on the site plan.
3. The "at will" language has been removed from the landscaping note on the conditional site plan.
4. A note has been added stating trees and shrubs will be planted for the screening of the outdoor storage area.
5. A note stating accessory drive-thru windows will not be permitted has been added to the site plan.
6. Conditional notes have been placed in the correct format.
7. Charlotte Department of Transportation's comments have been addressed and added to the site plan.
8. Possible areas for outdoor storage have been labeled on the site plan.

The ordinance is recorded in full in Ordinance Book 58, at Page 161-162.

ITEM NO. 4: ORDINANCE NO. 5105-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 9.50 ACRES LOCATED ON THE NORTH SIDE OF PROVIDENCE ROAD WEST AT THE INTERSECTION OF OLD ARDREY KELL ROAD AND PROVIDENCE ROAD WEST FROM R-3 TO R-4.

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 the property.

Motion was made by Councilmember Cooksey, seconded by Councilmember Cannon, that the Council find Petition No. 2013-013 consistent with the General Development Policies and approve the petition and the Statement of Consistency as recommended by the Zoning Committee.

Councilmember Cooksey said there is a protest petition on this petition the general sense I think is important for the record is that the Petition does come in accordance with our General Development Policies and personally I find it difficult to vote no on a petitioner who is following the policies this Council has adopted for land use.

Councilmember Barnes said Mr. Cooksey is kind of going down a new road here because the petition is actually inconsistent with the South District Plan and I'm trying to understand why it is consistent with the criteria of the GDP, but inconsistent with the South District Plan, why made the motion the way you made it.

Mr. Cooksey said because I wanted to stick with consistency and also because the General Development Policies were adopted after the South District Plan and I view them as superseding the density requirement of that plan. The GDP's themselves state that they supersede with the

exception of uptown and SouthPark the GDP's calculation for density supersedes those in District Plans.

Mr. Barnes said to your knowledge have the concerns of the protesters been resolved?

Mr. Cooksey said not to my knowledge. It is my understanding that the protesters don't want the rezoning to happen.

Assistant City Attorney, Terrie-Hagler Gray said I would just like to make sure that we also include the statement that it is reasonable and in the public interest.

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

The ordinance is recorded in full in Ordinance Book 58, at Page 163-164.

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ITEM NO. 5: ORDINANCE NO. 5106-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.04 ACRES LOCATED ON THE SOUTH SIDE OF MILTON ROAD BETWEEN BARRINGTON DRIVE AND NORTH SHARON AMITY ROAD FROM B-1SCD TO NS.

Councilmember Autry said I have a couple of questions about this petition. There were several security issues that were brought up during the public hearing and we received a letter from Mr. Brandon, the representative for the developer and he said they were reconfiguring the store front to be a corner entry piece, but we have Captain Dance from the North Tryon Division with us and I would like to ask him if he felt like the security issues that were brought forth by the community were addressed in an according way that would help insure better safety for the community.

Captain Dance, CMPD said we personally expressed some concerns that we had about the parking to the rear of the proposed Family Dollar. That particular corridor, in 2012 we had increased calls for aggravated assaults with firearms, common-law robberies, violent crimes of that nature and when officers are patrolling that corridor it is critical I believe, as a Captain of the Division, to provide as much security for the patrons using that particular business so officers can see them from the main thoroughfare. That back parking lot backs up to a steel fence that is adjacent to the Barrington Apartments in Timber Ridge. We've expressed that concern with him when we met but the plan still shows the parking to be to the rear. That would be my only concern.

Mr. Autry said what would you recommend, a reconfiguration of that design? What do we have in our toolbox that we can use to help address this?

Captain Dance said we certainly shared with him everything we could as far as lighting and a couple other things when we talked over some CPTED options for the property, but we thought the parking should be in front of the store in a well-lit area so officers patrolling by could see the patrons getting out of their cars and going in and out of the business and there would be no parking to the rear. That particular area has a lot of foot traffic coming from adjacent apartment complexes; two convenient stores in the area and we felt like a parking lot behind the building would be a dangerous place for someone getting out of their car and trying to go into the business.

Mr. Autry said where are you with the discussions with the developer? They have expressed no interest to work anymore with the Police Department?

Captain Dance said no, they certainly expressed an interest to hear our side and came out to the Police Department actually and met with one of the Response Commanders that oversees that particular area and we shared those concerns with him. We never received any kind follow-up

from him regarding any amendments that they were anticipating making. I was asked to come tonight to answer your questions.

Mr. Autry said can I ask Mr. Brandon a question? Is there any interest in this developer to position the building on the property in a manner that helps the Police Department to provide better security for the location?

Robert L. Brandon, said obviously there is interest in doing so. Of course the requested zoning is an NS zoning which requires a 14-foot setback from the curb. We anticipate that most of the actual use of that facility would be from the front and side, very little parking would be using the rear. There will be some spaces in the rear, mostly the actual garbage disposal but there are about 4 or 5 parking spaces that will be in the rear of the building. The majority of the cars would be parked on the side where you would be able to observe it from Milton Road very clearly.

Mr. Autry said Captain Vance do you have any response to that?

Captain Vance said no sir, nothing other than we just wanted to try to get as much in front of the store as possible. The plans that we got, the parking was split from behind the store and to the side and we had a number of things we've tried to do along the Milton corridor to try to improve the quality of life and the safety of the citizens, even installing some cameras there along that corridor to monitor from our camera room and of course that building would take away from our ability to see some of the pedestrian activity and the patrons in the area. That was our only concern sir.

Mr. Autry said that is just a concern that we are going to permit something there that is going to be a good service I think, but is it in the best interest for the safety of the community? Mr. Brandon did you have something else you wanted to say

Mr. Brandon said I was going to say the lighting on the site is vastly improved with this petition. The area will be very well lit from the rear and when there is a lot of light that is being provided that usually deters a lot of criminal activity.

Councilmember Howard said we've been pushing for a number of years to bring buildings up to the street and that is what they have done in this situation. In this particular neighborhood, putting parking in the back is not probably the best thing. I'm just wondering if we need to tinker with the site plan altogether because we are trying to achieve that whole urban up to the street which is requiring parking in the back, but that is not the best thing from a safety standpoint in an area that has seen – this where the officers were shot, that apartment complex behind this so finding the right balance between that is something we should give them more time to look at.

Mayor Foxx said you are saying defer?

Mr. Howard said I would like to hear from staff. Am I wrong on that? They are probably up to the street because that is what staff would like to see.

Tammie Keplinger, Planning said it is an NS District so they do have the 14-foot setback and that is something that we do encourage, but in this case we did try to encourage as much of the parking to be on the side as opposed to the rear of the building, especially with some of the comments that we heard at the public hearing. I'm sorry I didn't bring the slide for you tonight, but it is in your agenda. Most of the parking is actually to the side of the building and they have between 8 and 10 parking spaces and their loading area that will be to the rear of the building.

Mr. Howard said I would like to ask for deferral just to go back and balance those two things, taking the Crime Prevention through Environmental Design (CPTED) issues, but take into consideration what we'd like to see from the design standpoint. I agree with the Police Office, putting those spots in the back right up against the fence to those apartments may not be the best situation.

Motion was made by Councilmember Howard, seconded by Councilmember Cannon, to defer this petition.

Councilmember Barnes said in light of what I heard at the Public Hearing from the neighbors I'm not going to support the petition. I think that it is not in the public interest. You recall after the Public Hearing I asked a question about the unbelievable crime numbers in that corridor and I understand what our Police force is trying to do to resolve the issues, but if you think about what the community said this particular land use won't really help the community or help CMPD so I'm not going to support it.

Councilmember Dulin said I can't hold it against the developers for building citing the building the way this Council's Urban Street Design Guidelines tell them to cite the building. If they had tried to put it in the back nobody would have let them do that either. This is the private sector coming to us with an opportunity for new development, new jobs in an area that could use a little sprucing up and new jobs, trying to do business the way we've told them to do business. You want it up on the street, fine we will put it up on the street. If we'd told them to put it in the back, fine and if we'd told them to jack it up 10 feet on poles they would have done that. They are playing ball the way we asked them to play ball and I don't know – Mr. Brandon do you represent the developer, is that correct?

Mr. Brandon said correct.

Mr. Dulin said I'm not sure, is this time sensitive, will one month make a big difference to you guys? I'm don't plan to support the motion to push it out a month. I had planned to support the motion to approve tonight but I think we've got some folks that – all we are trying to do is get capital back into the market. Here are some folks that are borrowing money and want to put a building up and sell products, and it seems to me they are playing ball the way we've asked them to do by putting the building up on the street. I've counted and there are 22 parking spaces on the visible side and 9 parking space that would be somewhat obstructed. The employees are going to park back in those spots anyway and it is going to be lit. They will light that parking lot up with our new lighting etc. What does a one month deferral do to your plan? You've already borrowed money and you are paying on that I think.

Unidentified speaker said we've been deferred at least two months already. We've been working on this project since last February and to continue to be deferred I think it is unfair. We've done everything we been asked to do site planning wise. We've met the code in every way that the code needs to be met. We've gone over on aboard on every issue and to be continually deferred, to me is just unfair.

Mr. Dulin said is there any chance that the maker of the motion to defer would consider rescinding?

Mr. Howard said yes, I'll be happy to.

Mayor Foxx said are you rescinding your motion?

Mr. Howard said yes.

Councilmember Kinsey said this may be a repeat, but even if the developer went back and redesigned, pushed the building back, you've still got that space back there where people can do things they shouldn't be doing, even if it is brightly lit. I'm not sure that solves the problem of the safety. I don't know because I'm not a police office, but I'm not sure that solves the problem.

Motion was made by Councilmember Cannon, seconded by Councilmember Barnes, to deny Petition No. 230213-020 by Durban Development, LLC.

Mayor Foxx said an affirmative vote on this motion would be a vote against approving the petition. A negative vote would be against denying it.

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Councilmember Mitchell said have you had a chance to speak to the District Representative about this?

Unidentified speaker said I have not. I have sent e-mails but I haven't spoken to them directly. Mr. Howard said what about conversations with the Police Department about their concerns.

Unidentified speaker said we met with them and a lot of the concerns they have, we addressed their concerns. The parking spaces were not an issue. We told them we would move some of the parking spaces. The petition had to be submitted at a certain time and that timeframe didn't allow us to make the modifications. If it is taking off 6 parking spaces in the back we can take those 6 spaces off.

Mr. Howard said that actually wasn't my motion. My motion was to give you another month to try to figure out this balance between the fact that I know that staff has asked you for certain things and then the neighborhoods concerns. I think the way it stands right now is that it may be denied just based on the neighborhood concerns and that is why I was trying to give you another month to work with staff to figure out if there was a way to deal with the neighborhood concerns because there is a lot of violence in that area. I was trying to give you more time so it didn't have to necessarily come down to a denial tonight.

Unidentified speaker said I'm not sure if you all are aware of it, but the property is zoned commercial. Based on the current zoning we can build a Family Dollar. What we are trying to do is give the City a better product by having certain conditions and being in line with the new code.

Mr. Howard said often times all we can do is go on the facts that we have in front of us.

Unidentified speaker said is it going to be based on the zoning code or is going to be based on the fact that there is crime in the area?

Mr. Howard said it is going to be based on neighborhood concerns, it sounds like.

Ms. Kinsey said based on the current zoning, what is on the ground right now by right, they can do a Family Dollar Store or any other type commercial building. Is that correct?

Ms. Keplinger said that is correct. It is currently zoned B-1SCD which is an older zoning classification from prior to 1993. There is a site plan in your agenda that says previous site plan and it basically shows a strip mall with the parking in front and they could go in today and construct in accordance with that plan and develop.

Ms. Kinsey said so it would be rather than a free standing building, a strip mall. It would have to be that rather than a free standing building.

Ms. Keplinger said I'm sorry, that may not be in your agenda, it was in your agenda last month. There are a couple free standing buildings that are associated with that plan, but the majority of it was for a strip mall.

Ms. Kinsey said could they do a free standing building?

Ms. Keplinger said it depends on the size. I would have to go back and verify that with the site plan.

Ms. Kinsey said I want to make sure that we understand they can build something there. What makes the plan better for the citizens along there if we go with the rezoning? What do we all get that makes it better if we go with the rezoning?

Ms. Keplinger said if you go with the rezoning, you are going to know about the architecture of the building which they have submitted the elevations. You are also going to know about where the parking is. They have agreed to do the pedestrian crossing on Milton Road and they are

going to be required to meet any of the City ordinances and standards that have been updated since the time of the rezoning, which was prior to 1993.

Ms. Kinsey said we have in the past ignored what a developer can do by right or we didn't realize or understand what they could do by right so we denied a rezoning and we got something a lot worse than what we would have gotten with a rezoning. That is where I am right now. Are we going to get something worse if we don't go ahead and approve the rezoning?

Mr. Cannon said given Ms. Kinsey is the District Rep for the area, I have made a motion to deny, but I am certainly willing to yield to you, given that you deal in the micros of what goes on in your district. I will tell you looking at the elevations, I'm not really impressed with these elevations, if this is accurate.

Unidentified speaker said they have changed.

Mr. Cannon said Ms. Keplinger why isn't what has changed in our packet?

Ms. Keplinger said we realized this evening that there was a slight change in the elevations. They have improved.

Mr. Cannon said so I'm about to make an uninformed decision?

Ms. Keplinger said I apologize for that sir. The elevations were approved at the Zoning Committee level and they do show a side elevation along Milton Road that does look a little bit different, very slight modifications and the entry way is now a corner entry way.

Mr. Cannon said is there anything else in our agenda packet tonight that is like this that we need to be forewarned about before we made a decision?

Ms. Keplinger said no sir not that I'm aware of.

Mr. Cannon said I'm disappointed by that, but okay, I hear you but with that being said I am now in a position to really want to withdraw my motion because I want to yield to you Ms. Kinsey as the District Representative.

Mr. Barnes said I want to make a suggestion; could we move this matter to the end of the meeting in order to get the new elevations and also hear from Captain Dance about, and you guys have sent us a report before, but I would like to have a better clue about how the public safety issues are going to be addressed. For example, are they going to close earlier, is there going to be any sort of special technology cameras or whatever around the building that might address some of the concerns that members of the body have regarding security issues. In all fairness to us I think it would help to move the item towards the end of the meeting in order to get a look at those new elevations, and also to make sure our concerns are addressed from a public safety perspective. Would the District Rep agree with that?

Ms. Kinsey said I would be fine with that.

Mr. Howard said what I think I heard was the way that the property is zoned now it would put all of the parking in the front.

Ms. Keplinger said yes sir, that is correct.

Mr. Howard said which would actually address what the police are concerned about. Actually the way it is zoned now is probably more desirable by the Police Department. I'm kind of torn to be honest because I know that we have all these things going on with what like for them to do and he has probably done everything, but that doesn't change the fact that in this area, and maybe we need to look at that. In areas where we need to worry about CPTED maybe more than others, we need to worry about the way we site buildings. A lot of things could happen in the back of the building, out of the sight of a lot of people. Interesting enough, I think the Police

would probably prefer us to leave it like it is. Giving some time to think about that would be good for me too.

Mayor Foxx said there is a suggestion that we move this to the end of the meeting. Without objection I will exercise discretion to do that.

Councilmember Cooksey said before that since we have the petitioner and his agent here I do have one other question for them if I may. I need the Attorney to have her heads up because I don't know if there is a problem with this question, you need to intercede really quickly. At the hearing in February we heard as has been referred to, a number of neighbors who oppose this petition, but we didn't hear from the petitioner or his agent. Why wasn't the petitioner or his agent at the public hearing on this petition?

Mr. Brandon said we were here. At the time we didn't realize that there were concerns about the petition other than what was expressed during the neighborhood meeting in which we addressed those issues with e-mails to the individuals. Some of the things we wanted us to do were beyond our control with properties beyond the site. We did everything from a lighting standpoint that would impact that site. Other issues we have addressed that were really concerns and it seemed like the only issue that was outstanding was the crime that is in the area. That was an issue in which we met with the Police Department to see if we could find out what we could do further to assist with the crime in the area. We have worked tirelessly. I have answered every phone call and answered every e-mail to address their concerns and we are seriously concerned about that. Even with the parking in the rear we anticipate that there may be some spaces in the rear, and a lot of the employees would park there, but the majority of those parking spaces would be along the side and with the buffers that are required under the current proposal it would provide a clear area where you wouldn't have so much of a concern. We just hope the petition moves forward.

Mayor Foxx said there is a suggestion that we move the vote to the end of the meeting and we will do that.

Later in the meeting Council completed their discussion on this item.

Mayor Pro Tem Cannon said we had asked staff to have some level of additional conversation about this matter as a couple of questions came up relative to the elevation and also issues around security.

Ms. Keplinger said while we continuing our meeting, Assistant Director Laura Harmon met with the petitioner as well as with Captain Dance and they concluded to add the following language to the rezoning petition to address security concerns: That six parking spaces at the immediate rear of the building will be designated for employee parking only; that strobe light that is activated by after hour motion in the parking lot and in the area surrounding the building will be located on the front parapet; that some of the pole mounted lights will be lit from dusk to dawn and that the remaining exterior lights will come on if triggered by exterior motion detectors. In addition I believe the revised site plan has also been handed out for your review.

Ms. Kinsey said I think the revised elevation is much improved. I want to see what the materials are brick or masonry.

Unidentified speaker said this is stucco.

Ms. Kinsey said real stucco?

Unidentified speaker said yes. It is a combination of brick, split face and EFFIS.

Ms. Kinsey said it is much better looking in my opinion. I also read some of the small print and I just want to say again that what can be built there now is nowhere near as nice as what they are going to do with the streetscape. They are doing a median, a pedestrian refuse in the middle of the street, they are doing the street trees, 8-foot planting strip, 6-foot sidewalk and with the additional information about the lighting I am much more comfortable with this now and I would be happy to move approved.

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Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, to approve, the Statement of Consistency and Petition No. 2013-020, with the added modifications as recommended by the Zoning Committee.

Mr. Howard said I just noticed looking at the site plan again, the driveway in the back is just part, so this is all one piece of property so the back driveway you guys are requiring that as a second entrance in?

Ms. Keplinger said it was part of the previous development and it was to provide access all the way throughout the site. It is something that was on the previous development and we felt like it needed to remain to provide connectivity between the development. The rest of the site is still zoned B-1SCD and it wanted to have interconnectivity.

Mr. Howard said it seems like that driveway dissects the rest of the property. I think you realize earlier that all we are talking about is the area that is being challenged and I think you guys will be neighbors now so you probably want it to be as secure as possible and anybody else in the area. That is all we were talking about. Now that you are a part of it I hope you are part of that solution over there because it is a challenged area.

Mr. Autry said Mr. Brandon and Mr. Tuit, I want to thank you for working with Captain Dance to bring us this addition. I'm comfortable with the efforts that have been made and really do appreciate you taking the time and effort and the extra heft behind this to get this done and get it done as we can see it is just as we can possibly make it while still working with the design guidelines that you have been having to deal with. Thank you for your efforts and I will support this petition.

Mayor Pro Tem Cannon said just for the viewing audience at home, this is what Ms. Kinsey was referencing. This obviously was the old one which has the flat top and this one has more of the pitched type roof on it. It is much better in terms of its elevation and staff thank you, and Captain Dance as well and everyone else involved in this process. We really appreciate it and I think it has gotten us a long way.

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

The ordinance is recorded in full in Ordinance Book 58, at Page 165-166.

ITEM NO. 6: ORDINANCE NO. 5107-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.8172 ACRES LOCATED ON THE WEST SIDE OF SOUTH SUMMIT AVENUE NEAR THE INTERSECTION OF WEST MOREHEAD STREET AND SOUTH SUMMIT AVENUE FROM R-5 TO UR-2(CD).

Motion was made by Councilmember Mitchell, seconded by Councilmember Mayfield, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-022 by Mission Properties, LLC, as modified and as recommended by the Zoning Committee.

Councilmember Mitchell said to the petitioner; thank you for having the additional meetings and thank you for reaching out to the community and making sure they were embracing the project. We really appreciate it.

The modifications are:

1. Modified the "Number of Residential Units" to read: "Up to 35 multifamily units apartments (as allowed by parking)".
2. Indicated "Residential Density" as "43 dwelling units per acre".
3. Deleted Note 1g "Square footage of non-residential uses".

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4. Modified "Maximum Building Height" to indicate a limit of three stories and 50 feet in addition to the UR-2 height requirements.
5. indicated outdoor amenities will be provided for the residents.
6. Modified Note 4a as follows: "Multifamily Residential & Uses Accessory to Residential, Street Level Retail 7 Parking".
7. Rewrote Note 5d as follows: "Parking Location: Parking will be provided on-site to the side and rear of the proposed building and on-street along South Summit Avenue as permitted by CDOT".
8. Modified Note 12a to indicate freestanding lighting will be limited to 20' in height and all lighting shall utilize full cut-off type lighting fixtures.
9. Deleted sheet Z103.
10. Addressed the Transportation comment on removing the pavement marking for on-street parking along South Summit Avenue from the site plan.

The ordinance is recorded in full in ordinance Book 58, at Page 167-168.

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ITEM NO. 7: ORDINANCE NO. 5108-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 20.69 ACRES LOCATED ON THE SOUTH SIDE OF OLD CONCORD ROAD AT THE INTERSECTION OF NORTH TRYON STREET AND OLD CONCORD ROAD FROM B-2 AND I-2 TO TOD-M.

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-025 by Charlotte Mecklenburg Planning Department for the above zoning change as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 169-170.

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ITEM NO. 9: PETITION NO. 2013-027 BY GATEWAY COMMUNITIES FOR A UR-2(CD) (HD-O) SITE PLAN AMENDMENT FOR APPROXIMATELY 1.1 ACRES LOCATED AT THE NORTH CORNER OF THE INTERSECTION OF EAST TREMONT AVENUE AND EUCLID AVENUE.

A protest petition has been filed but is insufficient 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.

Mayor Foxx said the Council is going to be required to vote on whether or not to send this back to the Zoning Committee due to changes to this petition after the Zoning Committee vote.

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and carried unanimously, to send this petition back to the Zoning Committee.

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ITEM NO. 10: ORDINANCE NO. 5109-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.50 ACRES LOCATED ON THE NORTH SIDE OF EAST MOREHEAD STREET BETWEEN QUEENS ROAD AND BROMLEY ROAD FROM R-12MF TO O-2(CD).

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-028 by The Ronald McDonald House of Charlotte for the above zoning change as modified, and as recommended by the Zoning Committee.

The modifications are:

1. The petitioner has amended the Development Data Table to separate the existing and proposed uses and noted the existing use is now vacant.
2. The floor area ratio information in the Development Data Table has been amended to state N/A.
3. Under Permitted uses, the petitioner has removed the last sentence "Temporary out door uses related to the functions of the Ronald McDonald House."
4. Item B has been removed from Permitted Uses.
5. The parking lot has been reconfigured so as not to encroach into the required 5-foot side yard.
6. The petitioner has added information to the site plan to clarify the parking lot will be asphalt.
7. The proposed pedestrian walkway connecting the parking lot to the rear of the Ronald McDonald House and its width is now labeled on the site plan.
8. The existing 5-foot sidewalk along East Morehead Street is now identified on the site plan.
9. A 5-foot walkway connecting the parking lot to the sidewalk along East Morehead Street has been added to the site plan.
10. The petitioner has delineated the 16-foot class "C" buffer along the entire property line to the southeast.
11. The petitioner has added a note that states this project is a "planned development" including the Ronald McDonald House and accessory parking.
12. The E & PM and SWS comments regarding determination of applicability of storm water detention requirements will be added at the permit stage.

The ordinance is recorded in full in Ordinance Book 58, at Page 171-172.

ITEM NO. 11: ORDINANCE NO. 5110-Z FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE DEVELOPMENT REQUIREMENTS IN THE PED, MUDD AND UMUD DISTRICT TO ALLOW BALCONIES TO ENCROACH TWO FEET INTO THE MINIMUM SETBACK.

Motion was made by Councilmember Cannon, seconded by Councilmember Barnes, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-029 by Design Resource Group for the subject text amendment as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 173-175.

ITEM NO. 12: ORDINANCE NO. 5111-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 7.11 ACRES LOCATED ON THE NORTH SIDE OF BALLANTYNE COMMONS PARKWAY BETWEEN REA ROAD AND BRITTANY OAKS DRIVE FROM B-D(CD) ANDO-1(CD) TO R-17MF(CD).

Motion was made by Councilmember Cooksey, seconded by Councilmember Kinsey, and carried unanimously, that the Council find the petition to be consistent with the General Development Policies and reasonable in the public interest and approve the Statement of Consistency and Petition No. 2013-030, as modified, and as recommended by the Zoning Committee.

The modifications are:

1. Addressed Engineering and Property Management comments by removing Notes “a” and “b” from the heading of Environmental Features and placing under the heading of Streetscape and Landscaping.
2. Amended note under the heading of Architectural Standards to delete reference to the Ballantyne Community.
3. Added notes under the heading of Streetscape and Landscaping regarding specifics of buffer plantings and fence materials.
4. Added a street depicting buffer planting and fencing plan.
5. Added a sheet depicting conceptual building styles.

The ordinance is recorded in full in Ordinance Book 58, at Page 176-177.

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ITEM NO. 13; ORDINANCE NO. 5112-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 6.05 ACRES LOCATED ON THE NORTH SIDE OF SAMUEL STREET BETWEEN NEWLAND ROAD AND STATESVILLE AVENUE NEAR THE INTERSECTION OF I-77 AND ATANDO AVENUE FROM R-22MF TO UR-2(CD).

Motion was made by Councilmember Cannon, seconded by Councilmember Mayfield, and carried unanimously, to recuse Councilmember Howard from participating on Item No. 13 and 14, Petition Nos. 2013-031 and 2013-032.

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and carried unanimously to approve the Statement of Consistency and Petition No. 2013-031 by The Housing Partnership for the above zoning change, as modified, and as recommended by the Zoning Committee.

The modifications are:

1. All references and note related to optional requests and list N/A under the Optional Provisions have been removed from the site plan.
2. The proposed development areas have been labeled to comply per the ordinance.
3. A note under Architectural Features has been added stating that the building will be broken up by different material types, windows, and painted to avoid large expanses of blank walls.
4. Tree save areas have been identified and a note provided stating intent to comply with Urban Forestry.
5. A note has been added stating that greenway dedication will take place prior to the first Certificate of Occupancy for any building.
6. The dimension of the area for dedication to Mecklenburg County Park and Recreation is now shown and labeled.
7. Mecklenburg county Park and Recreation comments have been addressed.

8. Urban Forestry's comments have been addressed.
9. Transportation's comments have been addressed.

The ordinance is recorded in full in Ordinance Book 58, at Page 178-179.

ITEM NO. 14: ORDINANCE NO. 5113-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.05 ACRES LOCATED ON THE SOUTH CORNER AT THE INTERSECTION OF DOUBLE OAKS ROAD AND NEWLAND ROAD NEAR STATESVILLE AVENUE FROM R-22MF AND UR-2(CD) TO UR-2(CD) AND UR-2(CD) SPA.

Motion was made by Councilmember Mitchell, seconded by Councilmember Barnes, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-032 for the above zoning change, as modified, and as recommended by the Zoning Committee.

The modifications are:

1. An amended application has been submitted to reflect the existing zoning of R-22MF and UR-2(CD) and the proposed zoning to UR-2(CD) and UR-2(CD) Site Plan amendment.
2. A note has been added under the heading of Architectural Standards that states "the building will be broken up by different materials types, windows, and paint to avoid large expanses of blank walls."
3. A note has been added that a potential connection is required for Tranquil Oaks Drive.
4. Transportation's comments have been addressed.
5. The reference to the privately maintained eighth-foot sidewalk along Double Oaks Drive has been removed from the site plan.
6. Urban Forestry's comments have been addressed.
7. The uses for the 4,000 square-foot community area are now listed on the site plan.
8. The note under 1e has been modified to read "residential", and reference to senior multifamily apartments has been removed.

The ordinance is recorded in full in Ordinance Book 58, at Page 180-181.

ITEM NO. 15: HEARING ON PETITION NO. 2013-001 BY STEELE CREEK 1997 LIMITED PARTNERSHIP FOR A CHANGE IN ZONING FOR APPROXIMATELY 82.0 ACRES LOCATED ON THE WEST SIDE OF I-485 AND SURROUNDED BY SHOPTON ROAD, DIXIE RIVER ROAD, STEELE CREEK ROAD AND TROJAN DRIVE FROM R-3(LLWPA), I-1(CD)(LLWPA), CC(LLWPA), AND CC, SPA(LLWPA) TO CC(LLWPA) AND CC(SPA)(LLWPA AND MUDD-O(LLWPA).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a rezoning from R-3, I-1(CD), CC and CC(SPA), all located in the Lower Lake Wylie Protected Area. The proposed zoning classification is CC, CC(SPA) and MUDD so that is commercial center and the mixed used development district optional. The majority of these properties were rezoning back in 2010, all except about 6 acres. The rezoning allowed office, retail, light manufacturing, distribution warehousing and even a hotel. The proposal before you tonight is to allow 525,000 square feet of retail and office uses for an outlet center and up to 120 motel rooms. There are two portions of the site. The first portion is the MUDD portion. It is for 470 square feet of retail office space, two drive-thrus and one gas station. The second portion is the CC component which will have 55,000 square feet of floor area, a 120 room motel and three drive-thrus.

In terms of the development in the MUDD District there are three pedestrian plazas that are proposed for the development where pedestrians will find entry ways into the center. There are

two acres where the building edges will front along the major street that runs through the property. These are unnamed streets so I can't give you the street name at this point. There is a 35-foot landscaped buffer along I-85. The optional request to the MUDD relate to the parking, maneuvering service areas between the building and the road, drive-thrus, signage and alternate blank wall treatment. These are the elevations which the petitioner has submitted with the site plan. You can see the west elevation is on top, this will be the elevation that faces the parking lot and then the east elevation which will face I-485 and the south elevation.

There are several changes since the first hearing on this request. There is a monitoring station that will be installed to provide assurance of downstream water quality protection and there are enhanced off-site erosion control measures that will be provided. We do have do have people from Storm Water Services and from LUESA to speak on this issues if have any questions. I would like to turn it over to Mike Davis with CDOT to talk to you about Transportation issues.

Mike Davis, Charlotte Department of Transportation said I just wanted to offer you and those watching a brief review of this petition from a Transportation perspective because the improvements are significant. This is the Steele Creek/I-485 interchange. I-485 carries about 67,000 trips per day and Steele Creek carries about 26,000 trips per day so for frame of reference this site is expected to generate something on the order of about 22,000 trips per day. The transportation infrastructure that is being provided as part of this project is significant. The way to sort of simply understand this project from a transportation perspective is to recognize that it is primarily related around the interchange. Trips to and from this site will be using primarily the Steele Creek corridor. The site is fortunate that it has another viable access option to the same interchange which is by Shopton Road and Steele Creek to the north so we just go around the horn and look briefly at what these transportation improvements will include. I will start by mentioning that NC-DOT is preparing to fund and install traffic signals at both of the ramp terminals and in terms of the responsibility of this petition, it would include what you might call a widening. The actually lanes actually come from the median of Dixie River Road, but to create a four-lane, median divided facility from Steele Creek all the way to Shopton Road with signals at all of the major locations, a multi-lane round-about at one of the intermediate locations, left turn lane onto Shopton at that signalized location; an additional left-turn from Shopton Road onto Steele Creek and an additional left-turn from the inter-I-485 ramp terminal; an additional right-turn lane from the I-485 outer ramp terminal; a series of access management and capacity improvements along Steele Creek. All those just highlighted briefly, a left-turn lane from Dixie River Road onto Steele Creek; an additional local street that will be a public street to help disburse that traffic and a northbound right-turn lane from Steele Creek onto Brown Grier Road and lastly I would just mention that all of these improvements are required to be in place the moment one square foot is developed of the Tanger Outlet Mall portion of the property.

Jeff Brown, 100 North Tryon Street said I am working with my colleague, Keith MacVean and am pleased to assist Tanger Outlet Center/Simon Property Group, Childress Klein Properties and a partnership principle of whom is Sarah Belk Gambrel. Tanger and Simon are leading national developers in the retail space and many of you know that Childress Klein is one of the leading premiere developers in the southeast, and of course Ms. Gambrel has been long time one of the great civic leaders in this community and in fact you may have noticed that she turned 95 and is still giving, enjoying and providing a lot of leadership to this date. I mentioned this group and the pleasure it is to be assisting this high caliber group because I think the Council and the Zoning Committee should consider that when we are talking about the caliber of the commitments that are being made on this rezoning petition, not just the planning and the transportation commitments that we've seen but also the commitments to raising the bar we believe on some of the concerns regarding the environmental and soil and erosion control run-off issues that I know folks from the Brown's Cove Community are here to talk about tonight. The Council and the Committee has heard this before and we are happy to be back for another public hearing. You've also heard this through some of the media discussions. We've had a presentation which also included environmental aspects during the tax increment grant discussion. There was a discussion just last week on a parallel path from the sustainability member of the City staff dealing with some of the erosion control issues on a broader historical basis with regards to Brown's Cove. Throughout this effort we feel very pleased that this development group, we feel confident has really raised the bar and done a great job in trying to insure that we address the concerns that have been raised. We are very pleased with the support

we've gotten from the Steele Creek Community and with that in mind I'd like to turn it over to Chris Thomas to talk about some of those efforts.

Chris Thomas 301 South McDowell Street said when I think of this property I think of the incredible partnership that we've enjoyed over the past decade with the adjacent property owners and with the City and the State DOT to create the infrastructure that now exists around this interchange, which is one of the premiere opportunities in our City. I appreciate the partnership that has gone into and I'm also very cognizant of the importance of this project to the City and particularly to the Steele Creek Community where my client has a significant invested interest and has had so for over 40 years. I've been privileged to work with her on it for more than 20 years now. We are committed to provide high level of protection as we develop this property. As a matter of fact the reason that Childress Klein Properties is involved is to develop horizontally this site for the users. I want to assure you that the methods that we've described to you that we will tell you a little bit more tonight are proven, they are costly, but they will protect the vicinity. I'm confident of that and I'm looking forward to moving forward with this project and appreciate your support.

Peter Pappas, said Pappas Properties is the developer of the Berewick Community which is adjacent to the Charlotte Premium Outlets proposal. We have been working with Ms. Gambrel and her representative for over 13 years to create a development framework that would encourage this very type of significant investment in this area of our community. We believe that the land use that is proposed under this rezoning petition is consistent with the vision we had when we first started to work on Berewick and we believe it will help facilitate the development of the first phase of the Berewick Town Center, which is very important to our residents as it will provide much needed services to those already in our community out there. We encourage you to support this petition and thank you for giving me a few minutes to speak on its behalf.

Mr. Brown said I will not go through this presentation slide per slide in great detail. You have the presentation, we've listed also some minor changes since a month ago that we have worked with staff on. We appreciate very much the Planning staff's work, Transportation official's work, Storm Water Services work and LUESA's work in coming to what we think is a very positive petition both from an economic development and for the Steele Creek Community. I point out again that we had a number of speakers in favor as you recall in February from the Steele Creek Community, from Berewick and others. They also came and supported us at the Tax Increment Grant discussion. There was not a charm tonight so we didn't ask them for a third go of that. Essentially this project, as we've said before is already zoned for close to 700,000 square feet of commercial use so we are already dealing with a commercial site. We think in a positive way that it will be developed sooner and in a very positive way. As you can see the location is very positive for a use of this kind. We will not go into the details as Ms. Keplinger and Mr. Davis did a great job in providing the details here. A lot of design work by site as well as quality architecture was put into this. We need to take a little bit of a cue from Mr. Davis on how to present transportation material because he did a great job here, but as you can see in your materials are some of the examples of various extensive transportation improvements we are making. We talked about the community outreach and the support that we've had in the past and continue to have which we are very gratified. This is a project of significance and we have a project of this kind to have strong embrace by the community from the land use perspective, we are very pleased in that regard. We hope you will move this forward and vote on this on the 22nd. We are excited about where this petition stands and we look forward to continuing our efforts.

Dale Stewart, 223 North Graham Street said you have seen my slides before and I know that you have been aware of the fact that what has happened since the first meeting is that we have spent a lot of time listening to the concerns, working with staff, both City and County to try and advance our ideas in terms of the level of protection that we are proposing, what is different about what we are proposing and I think we have built a level of confidence with staff in these ideas. The ideas are in the vein of what can we do in terms of additional capacity, for example, with erosion control basins, instead of building 10-year design storm events in terms of capacity, we are building 25year design storm events. Instead of using a single row of silt fence, and I think the comment was made at the first hearing, I've seen silt fence boiled over, we are talking about a higher level of design, double row of silt fences. In terms of a tiered approach we are

talking about a way that we set a precedent. That is what we are looking for and that is what we've worked with staff, so the elements are designed a very aggressive design, and then construction in terms of looking at it as an assignment of a project manager on site and in addition to that a more accelerated stabilization of the site and finally the monitoring that has been proposed, we've worked with the county and it is actually going before the Board of County Commissioners on May 7th for approval so that we can move forward with the purchase of that equipment as has been agreed to by the petitioner. I would say to you that what we've tried to do as we understand how much of this basin is left to develop, a significant amount, we think this is an opportunity to raise that bar, set a whole new precedent and as we go forward you are going to see this mimicked throughout this watershed because we are going to bring back the proof from the monitoring that we have accomplished what we said we were going to do.

Mr. Brown said to wrap up on the presentation, we do believe that this is a real opportunity for economic development in the Steele Creek Community. We think we are actually going to be raising the bar materially on the environment aspects as it relates to the code concerns. We did meet with Sam Perkins during the process, who spoke at the last hearing to discuss some of these issues and we are hopeful that the staff will look at the recommendation of the land use environmental services and Storm Water and what is being done. This is a substantial elevation over what is often done on projects of this kind.

Jan Beasley, 9418 Windygap Road said I am pretty much going to speak for all of those signed to speak against this petition. First of all we would like to thank the Mayor and Councilmembers for the opportunity to speak to you tonight. We would also like to thank you for taking the time to educate yourselves regarding the issue that we brought before you. We know that you did spend considerable time and we appreciate that as well. Tonight we would like to continue to give you additional information and we feel it is critical in your decision making process.

First we would like to address some of the questions that were raised at the April 8th meeting by Councilmember Mayfield. You questioned why the residents were not held accountable as a financial stakeholder I believe. The answer to that question is the residents have never been cited for a violation. They have also only built single family homes and it is usually a lot easier to control erosion on a single family home and these homes were built many, many years ago. As far as the dock construction goes, construction of docks is not considered a land disturbing activity and therefore it does not fall under erosion control laws. That being said I would like to point out that I have spoken to people about the Erosion Control Measures and the efforts that you all have made to beef those up and strengthen the ones that are going to be proposed for this development. One was the monitoring and there has been monitoring downstream for quite some time. That is not new to us. As far as hiring a manager that is an on-site manager, there was one hired before and I believe his name David Hawks. He was supposed to be the on-site manager in the past which didn't seem to do any good. I have some recommendations about what might work better on that that I will present to you this evening. We have never said this is either or, we are just asking that you do the right thing by the people and the environment of this region. We have never complained about the land use. It is not about the land use. That being said I will turn this on, as there was a change of presentation.

This being the first slide that is up gives you an overall aerial view of the property that was Berewick and we are using Berewick only because we have certain things that we can point out. There were other players or partners that participated in the damage that was done to this cove. You can see here a great deal of land was clear cut at one time and it is never supposed to be unearth hundreds of acres at once. It shows you the proximity to the cove and the developer may have probably pushed forward with clear cutting all of this property and uncovering such a large amount to save money, but it was saving money at the expense of the environment. The first slide after this, you do not have up here, but I will just go ahead with what I currently have and show you this one. This one is from the large uncovering of property. When I first got to Brown's Cove and saw these I absolutely could not be it. It was astonished at the erosion. As you can see – where do you see any control guys? These laws that are in place were in place then. They are not there. Even this doubled and it isn't stopping it coming down that hill. Where is the erosion controls there and these laws were present. This is the wetland, so with that in mind I would like to let you know that the City of Charlotte Soil Erosion and Sediment Control Ordinance, Section 1816, general requirements, says protection of property – persons

conducting land disturbing activities shall take all reasonable measures to protect the public and private property from damage caused by such activity and sediment. I don't know about you all, but what I just saw in those photos certainly didn't look like any reasonable measures to me. Also in the same Ordinance Book for the City of Charlotte, Section 18-26, under Basic Objectives, a plan can be disapproved by you if the plan fails to include adequate erosion control measures to address the following objectives: C: Limit exposed area, all the land disturbing activity to be planned and conducted is to be minimized the side of the area to be exposed. Efforts are to be made to not uncover more than 20 acres at any one time. That is for basic erosion control per your ordinance, yet this plan calls for 82 acres to be cleared and cut. They are in a hurry and it is required by law. When the City and County say the maximum should only be 20 acres in the basic erosion control plan, how can you consider in a critical area allowing in a protected watershed and impaired waterway to allow more than 20 acres? That is just basic. That is not even considering the damage to this environment. Are you justifying it because we are all in a hurry here to get this mall moved forward? This mall can be built. Nobody has said no, but the laws need to be followed. It is just the fact that it does not seem like anybody is hearing and what we are trying to impart to you.

Section 18-32 Fines and Penalties – Violations resulting in off-site sedimentation or sediments in the wetlands, lakes, and waterways will be subject to immediate fines. Section 18-33 repeat violators are subject to immediate and harsher penalties. Section 18-33-C Sediment entering a wetland, lake or water course is subject to \$3,000 per day. Based on Berewick alone and the photos you just saw that seems like it would have generated a significant amount of fines. It doesn't appear that the law applies to certain citizens, and it certainly hasn't seemed to apply to these.

As we stated back in February this cove has become the unofficial sediment dumping site for the development of this area, saving developers money at the expense of our water quality and our recreational use, fisheries and wildlife. The homeowners have now had the damage, experienced what has devalued their property so that others can put money in their pocket. What is fair about that if you want to talk about fair? This very Board agreed to give them millions of dollars in our tax money as incentives when they approved this, but they approved it before they even approved the rezoning. That kind of says out here to the public, this public hearing is nothing but a charade. That is what it feels like. What is the point of my being here if you have already decided and you are not going to make any changes or hear anything we are saying. Again we have never said no. We have never fought your land use. That is not why we are here. We are here because the rezoning gives you an opportunity to require things that maybe would not be required before, like exit #25, the developer had to put in the roadways. They were required to have other additional expenses for that privilege of doing that. You all have within your power to set specific standards and requirements and special requests before you allow this rezoning. You have that power. You don't always. If I am building something and it is permitted and it is already on the books for that zoning that is a done deal, but this is a gift to society, to all of us, to be able to have you come and look at the property. This group of citizens have attempted for over a decade to get the government to stop and to work within the system to get this handled. They want to stop development from breaking the law and damaging their property and the environment. If you are going to do it, can't you at least consider doing it correctly? However, we are adamantly opposed to this project under the current conditions. We don't see that the extra erosion control measures, even though you all have significantly tried, and we appreciate that, they don't look a whole lot different. They have created a lot of damage and we understand there has been no bond money been required up front so if the damage occurs that this project pays for the damage that they do, not to mention the fact that they were players before when all of this took place. Even though we are clearly aware that you could, we also have no signed agreement or concrete proposal for restoration of the cove. In addition it would seem appropriate to us that the permit under Sigh Development Data Section should read maximum build upon space should be no greater than 70%. It states the maximum square footage, but there are multiple stories so that doesn't state the footprint at all. That should be in there according to us. That is how we feel and if this plan is ever approved we feel it should be approved with a performance reservation. That is another thing that is in your toolbox. There are things in your toolbox. We just want you to use them.

In 2002 the City, the County and Pappas Properties adopted a memorandum of understanding an MOU to protect this cove. It has simply amazed us that the City staff is uninformed about the agreement or chooses not to mention....

Mayor Pro Tem Cannon advised Ms. Beasley that her time had expired.

Ms. Beasley said just so you understand we will speak on the next petition and I will continue then with this portion or I can finish now. It is up to you, whichever is your desire.

Mayor Pro Tem Cannon said our rules would say the petitioner has two minutes to rebut but I'm sure there will be some questions for you.

Ms. Beasley said I will finish the presentation during the next petition then.

In rebuttal, Mr. Brown said I want to start from the proposition, and we appreciate the acknowledgement that there isn't opposition tonight to the land use and the proposal before you from the standpoint of traditional land use planning aspects. There is opposition to the environmental concerns and the environmental ingredients. I will say however the professional staff members from Land Use Environmental Services, Storm Water Services have been actively engaged in working with the petitioner in creating the very measures that we have before you tonight. In addition the City actually did ask for one of the environmental sustainability officers to undergo a study on the Brown's Cove situation. We think that is an appropriate endeavor, but to have this particular petition to be caught in the crossfire when we had the professionals telling us that we are doing a very good job of trying to address the environmental concerns at the same time that the Council has asked for a review of the Brown's Cove, to have this project stopped when there is significant community support and support from the professionals from the environmental standards, we think would be a serious error. I do appreciate the concerns and there is a venue that has been established by Council to continue those. The final comment I would make is with regard to the timing of the approval of the tax increment grant versus the rezoning, that is very customary. This project needed the tax increment grant to move forward to rezone the property in advance of that was just not possible and that is very customary. We appreciate the concerns but at the same time we have done everything possible to elevate the bar on the environmental aspects and we believe your professional staff can vouch for that.

Councilmember Fallon said Jeff, isn't all this on the improvements you are going to do and the holding back of your problem into Brown's Cove on the site plan? I do know I met with Keith and I met with Sam Perkins and what happened to the Cove is not your fault, but you are trying, from what I can understand to make sure there is more damage from what you are doing. That is on the site plan, is it not, which means you must conform to it?

Mr. Brown said that is correct. We have as substantial soil erosion control measures on a rezoning plan that I have seen or witnessed in this area and they are embedded into the rezoning plan, including the efforts that have been described that are in your material.

Ms. Fallon said I know in speaking to Sam Perkins, even dredging it is going to bring up other problems that are not going to cure it and that is a problem. This is there from before and I don't know how you can correct what someone else has done and that bothers me. I would love for it to be cleaned up. It is not your problem, it is a City, County and State problem and they have got to come in and solve whatever they can. From what I understand dredging would make it worse.

Councilmember Barnes said I have one question for Ms. Beasley and that is when were those Berewick photographs taken?

Kim Leneave, 9410 Windygap Road said they were taken in 2003 to 2006.

Mr. Barnes said I'm trying to frame something. Have you taken any pictures in the last two years that are representative of what is happening there and are they very similar to what you showed us here tonight?

Ms. Leneave said they have corrected some of the problem, but I will say that my house has been flooded. I've had to have storm drains put in.

Mr. Barnes said Mr. Brown I understand a lot of the frustration that you guys are having. You are in a fairly unique situation and what I was trying to do at the last public hearing was to get the developer and petitioner to agree to some safe guards that would help with some of the issues. I know we can't fix all of them with this one petition, but Mr. Brown has explained and his clients have explained what they are prepared to do from an environmental standpoint. You provided us with a list of things that you are requesting and with some comments tonight. Have you given this to Mr. Brown before tonight?

Ms. Beasley said no.

Mr. Barnes said that would have been a good thing to do because it may be that there are things in this list of 7 items that his clients would be willing to do. Some of them I think are possible, others may not be possible. Some of them they may be addressing anyway and it would help me to have him – if you could give him a copy of this, like right now, and you can have mine, because as I understood in the reports we've gotten back and the feedback that I've gotten from Mr. Brown and his clients, they have been trying to figure out how to guarantee or least create some certainty regarding environmental protections so that the problems in the cove aren't made expedientially worse because of this development. What would help Mr. Brown, is you have on more than one occasion, laid out what you all are trying to do and planning to do. Is there some type of accountability that you all are looking for? For example, and this is just an example, not trying to pin them to anything, if there was a permitting staggered process in place that would hold up their permits as they move along with the project to guarantee that the water quality is maintained, would that help. I'm not suggesting that we do that. I'm wondering what sort of accountability process might be put into place to address your concerns.

Ms. Beasley said considering that the minimum requirement is to not uncover more than 20 acres at a time, we would like at least the minimum requirement honored.

Mr. Barnes said I heard you say that Ms. Beasley and I was thinking about Belgate where IKEA is and they took down so many trees I think the wild life moved to my house and I don't know if you remember that acreage along I-85, clearly more than 20 acres, and I understand what you are saying and I wonder if we are enforcing that ordinance or if I'm misunderstanding the way it is written. What would help me right now would be very briefly, Mr. Brown, if you could detail the top five protections, or your client, the top five protections that you all are preparing to put into place to address some of their concerns.

Mr. Brown said I'm going to have Dale Stewart of Land Design respond to the engineering details. We did have a meeting with Sam Perkins who spoke at the public hearing in February and there has been continued work with the LUESA and Storm Water Services on the various items. In these venues it is very difficult for us to have the time to go item by item so I would appreciate the opportunity for Mr. Stewart to do just that. I would also point out as he does that that this has been a series of meetings with discussions with the engineering professionals who review these types of projects. Let me have Mr. Stewart talk about those. I'm not sure we can do it in the context of the list because we haven't seen it before but we will be glad to talk about what we think are the efforts to try to address the concerns that this project could create if we didn't have these environmental measures in place.

Mr. Barnes said Mr. Stewart please be sensitive to time.

Mr. Stewart said I will try to run through these very quickly and please interrupt me if you have questions. I mentioned that we are using several elements of higher level of protection or enhanced protection. For example if we are going to use silt fence along a perimeter as opposed to what you might think of as a common everyday silt fence, we are talking about a high hazard silt fence, which means it is a stronger silt fence, it is more embedded and in fact what we basically said is that along the creek that runs parallel down to Dixie River Road, along this stream, along our perimeter what we are saying is we have a double row of high hazard silt fence that is sort of that first line of protection. When I talk about multi-tiered protection, you first

have the double row silt fence then you have sediment basin. You've seen sediment basins all over the City and as I mentioned earlier the regulatory requirement would be that we design those basins to handle the run-off from a 10-year storm. What we have basically done on a previous project that I mentioned earlier that is in Mint Hill, along a similar very highly protected watershed, the Goose Creek Watershed, is that we oversized that not just to a 15-year storm or a 20-year storm, but to a 25-year storm, which is for the most part about 95% of the storm events that we see. The idea is that not only the basin having enlarged capacity, but the also the skimmer, and you can see in this photo the reason we use skimmers, and this is common practice now. These are called fair cloth skimmers, we are taking the most clarified affluent off the top of the pond so as a rainfall event happens the pond is empty, it starts filling up with water, the muddiest water comes to the pond first and we are trying to skim the cleanest water off the top so not only the pond oversized, the capacity, the outlet, the floating weir and the outlet structure is also sized for the 25-year storm. Another element, and this is one of the things we talked with Mr. Perkins about, something that he had not seen and I think he was pretty interested in and we've sent him additional information on the design and how these are fabricated. This is actually what we call a silt bag at the outlet of this floating weir we actually filter the affluent through the sediment bag before it is returned to the stream. As we said these are the layers of erosion control. The other thing that we proposed here, it is a little different, in these erosion diversion ditches that convey water from the interior of the site to the perimeter of the site and then to the basin, we are talking about using enhanced settling and by that we mean polyacrylamides can be basically laid in the bottom of these diversion ditches and as the storm water flows across it, dissolves the chemical that is in the bag and it is pretty much like what happens in a water plant. We take water out of the river, we add chemicals to it, it settles the particles out, it creates a way that they bond together and settle out and the sediment stays in the sediment basin instead of exiting and flowing to the stream. These are some of the ideas that we put forward and as we bring plans to the City all of these would be incorporated and of course the mention about the on-site project manager and talking to LUESA as we talked about let's install a water quality monitoring station which is what we did in the case of the bridges in Mint Hill. We had upstream and downstream monitoring stations and it gives real time live data feedback to the county if there is a problem. It is not going on for days – you have an alarm and you have a data response. So far as I know this is not something that has been done in this basin specifically downstream of a project like this so that you can monitor what is going on on this site. The other comment, just about the 20-acre rule. Yes, there is a rule in the ordinance, but there is also an element that says given the way that a site needs to be developed and this applies far greater to a commercial site than it does to a sub-division site where you are developing individual lots. If you are going to look at disturbing more than that, you have to do two things. You have to have significantly enhanced measures for control and you have to agree to a very quick stabilization of areas once you are through grading. In this case 10 days so the most that it can be disturbed once you bring a site to grade is 10 days and it has to be stabilized. All of those are elements that have been committed to in the development conditions.

Mr. Barnes said what on that list of seven things Mr. Brown could you or would you want to add, if anything?

Mr. Brown said we just got the list and I would really prefer if I could to talk to our client, look at the list. I think there are some things on here that we are already doing. There are some things on the list that are not the responsibility of just this project but talk to a much broader question of the whole basin. I think we need to have a chance to absorb that if we could.

Mr. Barnes said I appreciate the time and I think that the petitioner has done a lot to try to respond to the erosion issues and admittedly I don't live where you all live and I can respect your concerns and this man's passion about the issues. I'm just trying to figure out whether there is something reasonable that we can encourage that hasn't been done already and if there are reasonable things that could be added to this list I'd be happy to hear about it and I'm sure Ms. Mayfield would advise us if she hears about any additional items.

Councilmember Pickering said thank you to the neighbors, Ms. Beasley and Ms. Leneave, I know you have been through a time and you are totally frustrated and we understand that and we are trying to help you. I appreciate the fact that you have acknowledged that it isn't an either/or situation that the development is something the neighbors support, but we've got to fix what has

already been done and then make sure it doesn't happen moving forward. For any Councilmembers who haven't had the chance to go down there, I did drive by and Brown's Cove is brown, really brown. Anyone driving by there is no question. Just an average person's eyeball can see just how brown it is. We are really looking at two things. We are looking at cleaning up and we are looking at moving forward. One thing regarding cleaning up we are told by Sustainability Manager, Mr. Rob Phocas that this Department called DENR within the state is scheduled to reconvene a meeting with all stakeholders this month. Does anyone know if that meeting has been scheduled? Okay, we will look into that. Rob Phocas has assured me because I have asked him specifically, that if this zoning petition moves forward that he will keep us on track to move forward with handling a clean-up, a dredging so this issue will not be left behind even if the project moves forward. He has promised me that.

Now, number two regarding moving forward the petitioner mentioned this sediment basin to handle a 25-year storm. I'm wondering if we could improve those protections to handle a 100-year storm since I am convinced that this weather is going to continue to be severe more often than it has been and I'm just interested in that possibility. I'm not sure 25-year storm is strong enough.

Mr. Brown said I'll let Mr. Stewart respond and it may be helpful also to have the staff members talk about that differential, but there are a number of measures that are being done to address the very issue, just not doing it in the 100-year storm.

Mr. Stewart said I guess the way to explain it is that when we look at what our storm events occur and how we handle them, the frequency of the storm events, i.e. was that the 10-year storm or 25-year storm the issue is the smaller storm events that happen more frequently are the ones that do the most damage if you don't contain them. The big storms, once you have a major rainfall event, what is happening on the stream is that the stream is not confined in the channel any longer. We don't have the same stream bank erosion from the velocities because the stream has basically gotten out of the banks. You have created more of a floodplain situation so what we found through studies and through technologies and through research is that the major damage that occurs is in the smaller basins. If you have a major storm event and you actually have a basin that fails then you've got a major problem. The way that we look at that is that we make sure the basin itself can sustain a 100-year storm without failure. By that I mean we don't allow the basin, which is basically created by building a dam, we make sure that we can't overtop that dam in a 100-year storm event. That would be a major catastrophe. The elements of design that we work with commonly are, let's take care of 95% of those storm events and let's not let that big storm event basically collapse the basin. I'm not sure if that helps, but that is the way we look at it. When we are say we are not treating it in the sense of passing it through the elevation, we are basically taking through the outlet structure so we are still containing the 100-year storm. We are not letting it overtop the basin.

Mr. Brown said I would also talk in terms of the measures we've talked in the material and these are just bullet points, but we start with the required measures, we then move to even further enhanced measures and we've added more. We've done that in cooperation and in partnership with the professional staff of both the County and the City. So we are doing all we can from an engineering perspective in a way that I think they think is effective.

Councilmember Mayfield said Tammie I want to know if you have a response to the information that was presented by Ms. Beasley and the Committee regarding our policies and procedures around our fines and penalties. Looking at Section 18-32 and 18-33 regarding our current wording around repeat violators and what penalties should be administered, looking at previous development since that seems to be the biggest conversation we are having today is based on previous development, previous Council, previous discussion. I'm trying to figure out were there any fines that were levied because all that information should be accessible and should have as much transparency as possible.

Ms. Keplinger said that is certainly a good question and I would like to defer to our experts in this area to see if either Doug or Rusty or one of their staff members can come and discuss that with us.

Jay Wilson, Erosion Control Inspector said currently my erosion control territory encompasses the area of the Brown's Cove area. In regards to the question about fine, what was the specific question?

Ms. Mayfield said it was mentioned by Ms. Beasley regarding Section 18-32 under Fines and Penalties and in Section 18-33-E – Repeat violators are subject to immediate and hardship penalties, prior to that violations resulting in offset sedimentation or sediment in wetland, lakes or water courses will be subject to immediate fines. Going down to part 2 of the section – sediment entering a wetland, lake or water course is subject to \$3,000 per day fine. I just wanted to get information again regarding previous development, if we have any record of the fines if so what those fine monies are allocated to.

Mr. Wilson said during the initial rush of construction in the Berewick Subdivision, it was not my inspection territory. We had a lot more development going on and had many more inspectors, but our staff is greatly reduced now and we have fewer inspectors covering a greater area because that is what the work demands. We have gone over those records and I believe there has been around \$29,000 worth of penalties assessed in the Berewick Subdivision or development projects closely associated with that project in the Beaver Dam Creek Watershed since the early 2000's to a couple years ago. Of course in 2008 building activity decreased rapidly and dramatically and there have been fewer penalties since 2008. Most of those penalties would have been levied between the time of start in 2003 or 2004 and 2008.

Ms. Mayfield said so up to this point the record that you would have would go from 2003 to 2008 as far as if any fines were levied?

Mr. Wilson said yes.

Ms. Mayfield said Ms. Beasley I have a question for you please. I want to make sure that I understand the question and of course I have been out to the area multiple times, but I also want to make sure that none of us make a mistake and make any promises that cannot be kept from around this space. When we go back, of which I mentioned in February at the meeting that the state was a part of this conversation that happened years ago and unfortunately when the state pulled out of the conversation and also pulled their dollars out of the conversation that is where we had some concerns as far as how financially we would move forward. I want to make sure that when the information was being presented to us it was noted earlier that the pictures were from previous years of which you also have pictures from the proposed development that shows that we have had concerns with sediment just looking at everyday weather conditions along with development and they have put a number of measures in place. I want to make sure that on your end that there is for you and the residents that have concerns that there is room for discussion as far as what has already been put in place that goes above and beyond our current requirements, and if there is an opportunity to add anything additional based on the paperwork you just received tonight from Ms. Beasley. I want to make sure that there will be a consensus as far as really having a real conversation about the expectations for this particular development without the idea of assuming that this development is supposed to fix all the previous wrongs that have happened. I want to make sure that there is a clear communication where you are communicating with developers since we discovered tonight that what you presented, they had not seen until tonight when it was presented to us. Are there any conversations that you are still having because it seems like this whole conversation is playing out on Council and I want to make sure that the conversation is happening because unfortunately it was on the City and for this part I do want to apologize but we have a staff person that goes out and post notices regarding all the hearings. Unfortunately the individual that was in charge of that did not do their job, but at the same time I attended a number of the hearings and a number of the hearings had large attendance from the immediate residents that were going to be impacted. I definitely don't want it to seem that the developers were doing something where the community wasn't aware of what was happening, but there was a fault on the City's part where postings were not listed and we take full responsibility for that which is why we had to have one part of the discussion and then go back and say we are going to post them again and have yet another meeting to try to make sure voices are heard. I want to make sure that there is a clear opportunity to have a real discussion because personally as the representative for this area, when I look at what our requirements are by the City and what our requirements are by the state, and

I'm looking at a developer that has gone above and beyond those requirements I need to take that into consideration as well. I also need to take into consideration previous development that may have happened, but that may have happened many years ago so the question is what do we do to move forward, but I don't want you to hear a promise being made from this area as far as what the City's responsibility is going to be. What we are in the process of right now with Rob Phocas and others is having the conversation to see if we can get the state back to the table. They have a big part that they play in this also as well as the County, as well as the School Board, as well as other developers and just for clarification sake the question that I asked earlier was, even if we were to dredge this today or within the next six months, these issues are going to reoccur because this is a manmade lake and there is no natural flow of water. Has there ever been any conversation regarding the residents as far as through your Homeowners Association or any form to have any money set aside for the future because this is not something that is going to be corrected in one dredging. Unfortunately this is going to keep happening and I ask the question, do we know anything that might be able to happen that we can help support that will help mitigate this in the future. Just so there is clarity in this and not misinformation out there as far as what my question was, my question was how do we get everyone at the table, what is the part that everyone plays and how do we have a real conversation about trying to fix the current concern and try to avoid it in another 15 to 20 years from now.

Ms. Beasley said to answer your question which is very multilayered I would like to say this, as far as the future goes yes, it will probably happen again because the erosion control laws will not be followed even though they are written on the plan. They were written on the plan before and everybody says we are going to do this, we are going to do this and we are going to do this, but that is not what they do. So yes, it is going to happen again, especially even if you fine them and they do it. If they don't follow the laws it will happen so we have asked in that proposal that we put together tonight, even though we've asked it before, this time we've outlined it one, two, three, four, five, six, seven. It was already in the materials and been mailed to staff, those points before tonight. We just put them in a format to list them. If there were bond money that had to be set aside by every developer that was developing and putting money in their pocket to benefit for developing this area and they had to make certain that they followed those erosion controls because that money was set aside specifically for mitigation of any damage they did in the future then we wouldn't have to worry about setting money aside because everybody who was responsible for any future damage would have a stake in repairing it and if they didn't damage it that money went right back in their pocket if they followed every one of the laws that you requested and they did their best and utmost to hold up the standards way and above, they wouldn't have to worry about that money, it would come back to their pocket and that would handle the future problem. As far as the past problems and promises and you saying they are not the same people, well I'm sorry, if you don't think they are the same people you have self-imposed blinders on and I don't mean that to be hateful or ugly or disrespectful. We have Pappas Properties, we have the same Land Design, and Councilmember Cannon has left the room but he actually made the motion to approve the Memorandum of Understanding and I believe Councilmember Mitchell, who is also absent, they sat on the Board that approved the Memorandum of Understanding with Pappas Properties and the County at the time. This is nothing new to these people. They made an agreement years ago and there is a bunch of books and they paid, and I think it was in that first Memorandum of Agreement, that was asked to be approved by Councilmember Cannon, it said that you all would allocate \$217 to partner with these individuals here to study the Cove. Then there was another one that I believe was \$375,000 that was going to go towards the study in the Cove. There is another one for \$450,000 to study the Cove. I'm just answering multilevel questions and I just want you to know that you have already spent a million dollars of tax payer's money to study the Cove. The Cove could have already been cleaned up.

Ms. Mayfield said I'm not arguing with you about.

Ms. Beasley said but it is not different players.

Ms. Mayfield said what I'm trying to get to is that as you mentioned in this form, as a former elected official yourself you do realize that you have limits of what you are able to address and things that you are not, but also working in the parameters of what we have and knowing that we have a state responsibility that is also a part of this conversation. What was mentioned earlier

this year is that those conversations have not stopped to bring the state back to the table. The conversations have not stopped to bring the business community to the table. I just want to make sure that we clearly have an understanding that we have two different conversations that is going on that have a small linkage to each other, but we do have a different conversation that is happening as far as parts of this proposal that has already moved forward. We have not stopped the conversations on the City's part. Staff has not stopped conversations with trying to bring the partners back together, but as I said earlier I still stand by what I mentioned then and that is that I do not expect as the current elected official for this district for one organization to now be fully responsible for all the previous damage that has been caused, but at the same time I am still supporting and encouraging us to continue to have this conversation to bring all the parties involved back to the table. I as the representative and having spoken with a number of residents that are in the Berewick Community that are in the immediate, and this is looking at the community that is going to be directly affected outside of your area, that is also going to be affected, I am in support of what has been proposed. I am in support of them going above and beyond but I'm also looking at how do we continue this conversation so that we can get the people back to the table. I do not know how long that part is going to take but that conversation has not stopped so I wanted to make sure because it seemed like there was a little bit of misinformation as far as regarding comments that I have made and paraphrasing of comments that I have made. At this point I just wanted to make sure that we have a clear understanding that yes, you have a couple more things that you would like to see done, there is a possibility that they will listen to those concerns, but I am in full support of the fact that we have gone above and beyond.

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

Councilmember Howard said I've been trying to go through your list to get some information from staff about it just to share with my colleagues. From what I understand the reference to 20 acres was, it says "should" not "shall", just so we are clear. Number one about the dredging of the cove, that is not something of course that we can put on the backs of these folks, but that is something is a focus of our Environmental Department along with some other folks. Number two, about setting aside money, I think that horse has already left the barn because there is a lot of development that has already happened, but the part about the six months and final sign off is really about making them responsible and from what I understand the County has to do inspections and if it doesn't meet the whole on not damaging the wetlands they can't get a CO anyway. Is that correct? If for some reason they don't pass inspection by the County when they go out to check all the great things that we've heard about, they can't get a final CO.

Ms. Keplinger said that would be correct.

Mr. Howard said so in a roundabout way that is already taken care of. I don't know if we need a bond in place, they just cannot open. Number three, this whole idea of having an erosion control person, I think they may be calling it something else, but you guys have already agreed to have somebody out that is a daily monitor? And that would be a licensed person? If for some reason they were found to not have done what they were supposed to do, it is the equivalent of the same thing and they could lose their license if they didn't do what they were supposed to do. I am just saying I think some of what you are looking for is already being done. Number four, not build upon greater than 70%, well according to the County folks that is already law. You can't build on more than 70% of it.

Ms. Beasley said it doesn't state that and it states no more than 70%.

Mr. Howard said but it is the law and you don't have to state something when it is a law. When they go in to get plan approval they can't have more.

Ms. Beasley said I can understand your point.

Mr. Howard said number five was the whole thing about a performance reservation and I think the point there is to make sure that you did the same thing you said in number 2, to make sure

that they do what they are supposed to do. I hear there is a monitoring station, a person on site and the inspections by the County folk and probably something else that I missed that would be done on a daily basis so I think that is covered, but I will ask more questions about that over the next month. The next one is about the City addressing the clean-up and we've already said that a couple of times – we are doing that already. The last one is about not being notified if anything happens in the protected area. From what I understand from staff and that is why I was just over there, anything that is already zoned can be done by right. They don't have to come back to us so the only time that something would be a rezoning and you would be notified of that.

Ms. Beasley said we were not notified before because we fall outside of the 300 whatever it is that you have to have to be notified so that is why we've asked to be on the list to be notified.

Mr. Howard said that is the neighborhood list and I don't know how we do that in another way.

Ms. Beasley said if we are notified, it won't matter how it is achieved. We just appreciate you finding some manner.

Mr. Howard said the signs go up.

Ms. Beasley said sometimes.

Mr. Howard said no the signs go up every time.

Ms. Beasley said they didn't.

Mr. Howard said they are up and we are doing this now.

Ms. Beasley said yes, this time they are.

Mr. Howard said I just wanted to tell my colleagues I went down this list. We will talk through this other one about this monitoring thing and that will be part of my vote next month.

Ms. Beasley said thank you for looking into that.

The vote was taken on the motion to close the public hearing and was recorded as unanimous.

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

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ITEM NO. 16: HEARING ON PETITION NO. 2013-002 BY STEELE CREEK (1997) LIMITED PARTNERSHIP FOR A CHANGE IN ZONING FOR APPROXIMATELY 114 ACRES LOCATED ON THE EAST SIDE OF I-485 AT THE INTERSECTION OF SANDY PORTER ROAD AND I-485 FROM R-3 TO O-1(CD) AND I-1(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said you have seen this petition before also. We had the first public hearing back in February and the request is R-3 to O-1(CD) and I-1(CD) with two components. The property is located along Sandy Porter Road north of Arrowood Road and to the northeast of I-485. The O-1 component will allow 120,000 square feet of office. The I-1(CD) component will allow 135,000 square feet of limited uses, and I will show you a list of those limited uses in just a minute, and 100,000 square feet of maximum warehouse space.

In terms of the adjacent properties we do have some single family residential that is located to the east of this site. The proposed access – there will be one access off of Sandy Porter Road with a future possibility of access into the areas shown in the red arrows. There is 100-foot buffer along the R-3 property line. In terms of the area that is zoned I-1(CD) there is a 50-foot landscaped area along I-485. There is no parking or buildings within that area. There are two

outdoor advertising signs that are permitted, one project identification sign and there are strict provisions on grading and clearing within that landscaping area.

These are some of the elevations of the building designs for the buildings that are proposed on the site. This is a list of the uses that will not be allowed in the industrial portion of the site. This list is quite long and it does alleviate most of the heavy intensity industrial uses. In terms of this development the Steele Creek Area Plan recommends residential and office. The proposed office and industrial uses are consistent with the land use pattern in the area. The outstanding issues are basically technical and staff is supporting it upon resolution of the outstanding issues.

Keith MacVean, 100 North Tryon Street, said Jeff Brown and I are assisting Steele Creek (1997) with this petition. Also with me tonight is Chris Thomas and Dale Stewart representing the petitioner. I want to thank the staff for their assistance with this petition. As Tammie mentioned there are two minor issues that are outstanding that were mentioned in the staff analysis. We did submit revised plans tonight to Tammie with those issues addressed.

We were here in February for this petition also, again because the signs were not posted. It is 114 acres currently vacant, located on the east side of I-485 just east of Sandy Porter Road. It could have a future connection to Arrowood Road. The site has been owned by Ms. Gambrel for a period of time. As a result of the retail development this gives us the ability to replace some of the industrial and office space that is lost as a result of that rezoning petition. There was always plans to develop this site and it makes sense to bring these in at the same time. This site also supports some off-site signage to advertise the retail mall that is being developed at the next interchange. It is being zoned for two different zoning categories, office and industrial to allow for predominantly office uses up to 155,000 square feet of office uses and then some limited industrial flex space. There are a number of items that are excluded. Staff is recommending approval of this request. We did meet with Steele Creek Land Use Committee and they are supportive of this. They were here in February and also spoke in favor of this petition. I think you have a letter from them to that effect in one of the packets we gave you.

This is on an expedited approval process due to the issues with signage last month and in terms of will be in front of the Zoning Committee this coming Wednesday and then back in front of the City Council next week for a decision.

Jeff Brown, 100 North Tryon Street said one additional comment I wanted to make and may have Mr. Stewart come back, we wanted to point out that this particular project does not drain into the basin that we had the pleasure of discussing in the earlier petition. Mr. Stewart can confirm that but we wanted to make that clear. I don't think we have the same environmental concerns as it relates to this petition.

Jan Beasley, 9418 Windygap Road said again I would like to thank all of you for your efforts to understand where we are coming from and to do something to correct this very big environmental tragedy. I have covered many of the things we wanted to speak about tonight, but one of the things that I wanted to point out is that DENR Section 1113-A said that local government shall disapprove an erosion control plan upon finding an applicant has had land disturbing activities before and received a plan that they previous did not comply with the notice in specific time. I don't know which one there was, but there have been notices of violations that were given with specific times that were not met. Also Section 113-A Civil Relief- it says a person injured by a violation of an ordinance adopted by the local government for a land disturbing activity, for an erosion control plan is required can bring a civil action against the persons including a local government. They can seek damages and enforcement and actually the court can grant them the cost for the litigation for attorneys and witnesses when it is deemed appropriate. I just wanted to point those out because we've been told that we could sue and we've been told that for quite some time. This group of citizens don't want to do that. They would have already sued if that was their mindset, but they don't want to be left with no recourse either. That is why they are speaking to you tonight and asking you, with the last hope, that you would honor what has been promised before so many times. I do appreciate Ms. Mayfield that you said you didn't want this Board to promise something that was not going to be given once again because that is all these people have heard is promises. I wasn't involved before. I have only come to this in the mid-night hour. I move to Brown's Cove just this past year. I used to be

here and this is where I was born and raised. I lived up on Lake Norman and ended up with a cove issue and ended up spending 6 years in politics up there, being a Commissioner, Mayor Pro Tem and the Mayor of Cornelius. I did that because of the cove issue and when I moved there last year and they heard that they asked for my help. When I learned what they had been through I thought what I fought and ended up running for office for was a spit in the bucket, pardon my language, for what these people have endured and it is really sad. It not only shakes their faith in government, it disappoints them tragically. That being said I see that Councilmember Fallon has left, but she did ask the question on dredging or made a statement on dredging and the statement she made is that she had spoken to Sam Perkins, the River Keeper about that and what I would like to say about that is that dredging has already been done in several of the other coves. Dredging is not something that is that environmentally problematic. Do we wish to dredge, do we wish there was another solution, absolutely? As far as stirring up sediments or toxins or any of that stuff by dredging, every time it rains it is stirred up because it is not removed. Every time a boat goes through it is stirred up because it is still there. So not to dredge it so that these toxins won't come up is absolutely not correct. If she were to come at any time there was a storm and look at that lake, if you think it is brown now, I promise you it will be on steroids when you come back because that is what they live with all the time.

We had a PowerPoint presentation – this one I don't think you can see it that well, but that is after a rain. Do you see all that gunk? So dredging it, not dredging is not going to prevent this and we do appreciate having the stakeholders come back, the state included, because they were a stakeholder in creating this mess. We do feel that the people moving forward were also involved in the culpability of this situation. Were they 100% involved, were they 100% responsible? No, but they were responsible. They are major players in it and when these people feel like they can't get the attention of their government now with this rezoning when you all have the ability to add special requirements, after all the promises that are broken, that there is no recourse left. That is wrong. That is all I have unless you have a question of me. Again we appreciate your time and your efforts and we genuinely hope that everyone can create taking care of this being cleaned up and making this right and putting forth efforts to make sure that if there is future damage that the appropriate parties at that time are held responsible financially.

In rebuttal Mr. Brown said I just have to clarify that the petition we are dealing with in this public hearing drains into the Steele Creek Basin. This petition and this property does not drain into the Beaver Dam Basin. I appreciate the additional discussion, but we are not here to talk about what we were doing in the earlier petition because frankly we don't think it is relevant to a different petition, different basin and a different animal altogether. We think this particular petition makes a great deal of sense. Staff supports it and we've had nothing but positive reaction. It is important to the overall opportunity for the petition we just had with regard to visibility, but we think it also stands on its own merits in terms of appropriate land use and the appropriate aspects we've put into the petition. It is not related to the Brown's cove issue.

Motion was made by Councilmember Mayfield, seconded by Councilmember Barnes, and carried unanimously, to close the public hearing.
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Mayor Pro Tem Cannon said thank you so much to both sides and also to both sides, thank you so much for talking to one another this evening. The camera didn't pick it up so the people at home didn't see it, but we were able to see you having some level of conversation with one another, hopefully talking about how you can come somewhere to meet at the crossroads for a better situation 30 days from now. So again thank you so much for coming.

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

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ITEM NO. 17: HEARING ON PETITION NO. 2013-014 BY LISA HOOVER-KHOJASTEH AND MAK KHOJASTEH FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.26 ACES LOCATED ON THE NORTH SIDE OF BALLANTYNE COMMONS PARKWAY ACROSS FROM WILLIAMS POND LANE FROM R-3 TO O-1(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a rezoning from R-3 to O-1(CD). The property is approximately 1.6 acres. As you can see there is office and residential surrounding this. I would like to point out that the property that I'm pointing to, you rezoned earlier tonight to R-17MF(CD). That is the Piper Glen rezoning that was just approved. In terms of the proposed request, it is to take an existing single family home and rezone it for professional offices. There is an existing concrete drive which will be extended by the use of gravel to meet City code. The existing two-story house will remain on the site. Gravel will be added in these areas and also in the new parking area. There is a Class C buffer with a 6-foot wooden fence to the adjacent residential properties. This is inconsistent with the South District Plan but it does serve as a transition between this site and the adjacent commercial properties to the west and part of Ballantyne. Staff is recommending approval upon resolution of the outstanding issues.

Motion was made by Councilmember Cooksey, 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: HEARING ON PETITION NO. 2013-015 BY PARK SOUTH OF UNION, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 4.99 ACRES LOCATED ON THE WEST SIDE OF PARK SOUTH DRIVE BETWEEN ARCHDALE DRIVE AND TEVERSHAM LANE FROM R-3 TO UR-2(CD).

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

The scheduled public hearing was held on the subject petition.

Shad Spencer, Planning, said there is a sufficient protest petition on this rezoning and if you are looking through your packet you will probably be familiar with this one. You saw this one back in February and the reason it is before you tonight is that in February they were proposing 46 multifamily townhomes and they have significantly changed that plan to be 15 single family lots so that is the need for the second public hearing.

The site is about 5 acres on the west side of Park South Drive, just south of Archdale Drive and proposed future land use calls for single family all surrounding this property. The petition proposes 15 single family lots in a UR-2(CD) zoning district. They are indicating that there would be a private street that would come in off of Park South Drive and serve these 15 single family lots. There is an architectural commitment that the facades would be up to 60% stucco brick or other masonry product and there will be two-car garages. They are also indicating a 10-foot rear yard but this shaded area is a tree save area which scales out to be approximately 30 feet wide. It is consistent with the South District Plan which calls for three dwelling units per acre and this plan call for three dwelling units per acre. The outstanding issues are technical in nature and staff recommends approval of this petition upon resolution of the outstanding issues.

Babak Emadi, 3524 Artists Way said I'm here to present to you the 2013-015 Petition and I also have Bon Terra Builders here who are the developers of the project and Jim Guyton of Design Resource Group who is the landscape architect, civil engineer of the project. This petition was presented to you and you heard it once before when it was for 46 townhomes. We

heard the neighbors and have gone back and substantially changed the proposal to 15 single family home sites. The location is on Park South Drive and we are asking for UR-2 with the exception of a private street accessing the site. The proposal for 15 single family residential home sites are basically R-3 standards. We are asking for a private street, but also are asking for UR-2. The site has many UR's nearby. It is prevalent and within 800 feet you have three sites that are U-R2 identified and another one at the corner of Park South and Park Road which is about ¼ mile away. The reason we are seeking UR-2 is now that we have changed the proposal to 15 single family home sites we may have this as a gated community so the private road allows that and the public road does not. Other than that the setback for UR-2 allows for the homes to be closer to the street. They are further away from the homes on Teversham Lane which the folks wanted. The UR-2 lot sizes are actually larger in size than the minimum lot size of an R-3. There are a number of reasons but actually it is an advantage to have that, but basically the project meets the R-3 standards.

We have addressed the water issues, we have had a community meeting, we have met with the neighbors and answered their questions. We believe we've had a good dialogue. We have changed the proposal substantially. I would like to time to answer and have a dialogue with you since the last presentation. I would like for Jim Guyton to speak on storm water which will improve the existing conditions.

Jim Guyton, 3424 Artists Way said we wanted to note to you that we will be meeting both water quality and water detention requirements of the PCCO. This will result in a better plan than what is currently there. The site is now partially developed, it was left bear and we are going back to the original standards holding and treating our water to what would have been a wooded and grass site at that time. We will be improving the conditions that are there now.

Mr. Emadi said the storm water will be detained underground. The treatment of the water above ground with sand filters so everything will be to City standards and it will improve the existing conditions.

Ed Gagnon, 3427 Teversham Lane said I am a resident on Teversham Lane and we really appreciate several different groups that have been a part of this process. A couple months ago we came and presented to you and you all asked a lot of great questions, made some very good observations about the townhomes and how that was not a really great fit for the area. We really appreciated your interest in that and I know that Solomon Fortune and Tammie have been extremely helpful to us learning the process and really trying to make sure we were doing the right thing. We also appreciate what the builders have done going from 46 townhomes to 15 single family homes is a huge change and we appreciate you listening and communications have been much better since the last meeting so we appreciate everybody's efforts in that.

In terms of what we are looking to do, we had talked about the fact that we had the R-3 that is there currently and I know they are wanting to go to UR-2 conditional and while we greatly appreciate the changes that have occurred to date we understand that the way the conditional plans work is that this particular development group, or any other group that might follow them, if it was set at UR-2 conditional for this particular plan those folks would have to adhere to these plans. I don't know if you recall from the previous meeting, but the plans that were provided were fairly significant, they laid out in multiple graphics and showing elevations and all the different evaluations, storm water run-off and how that particular plot of land is designed. It was very specific and they were able to tell us generally how much they were expecting to charge or list the price for each one of those townhomes. For this particular request that they are making, we do have the form that they are completing at this point and they have listed the 15 different townhomes, but the information comparatively speaking is much more basic, much more scant. When they talked about the storm water run-off there is a certain portion in there that talks about the conceptual location of storm water treatment systems so if these developers or anybody else would have to adhere to these plans, we just want to make sure the plans are specific enough that the storm water concerns that the group has are addressed. Currently, virtually all of the 5 acres is pervious land and even despite that fact when there are heavy rains, although where we live on the east side of Teversham we have that pond on this lot that can absorb a lot of the water. The folks on the west side tend to get part of their back yards flooded so there is still a good bit of storm water run-off even though the vast majority of the land is pervious. If we go to this plan

maybe 50% or more of that land will be impervious and we just want to make sure it is very clear, very specific about how that is going to be addressed. We prefer the R-3 but we definitely would like to see the specificity on how they are going to handle the storm water run-off documented on the plan.

German De Castro, 6337 Park South Drive said I want to thank the members of Council for their service to our community. We are coming back to you again and thank the developer for listening to us and you for having listened to us. We are requesting again the same thing that we requested before. The developer wants 15 single family homes and we really don't see a basis for a need for going to the UR-2 since it has already been rezoned. The original plan for these particular parcels calls for R-3 and 12 homes to be built in that area. The water is a very important concern for us and I don't know if you know anything about the history of that area, but that used to be the ... Farm and that particular place had the pond where all the water from the farm was contained and the pond had been there ever since I've been there and now we are proposing to fill it and are we going to have a plan definitely that is going to tell us that nobody is going to have to come back in five years to try to remedy things that we didn't do this time. We had a meeting with the developers but we haven't been given any specifics. This time we were shown the 15 lots and really nothing else, no price points on the houses and we are afraid that if you get the rezoning, which we don't believe you need to give them, that this thing can be changed. Somebody else can come in there and then we will be back to square one with the new owners of the property because this can happen and you all know that. We are asking you to please take into consideration our thinking and what we think is needed to keep the neighborhood character and flavor and leave the R-3 there. Also not to give any green light to any construction until the water situation is really resolved.

In rebuttal Mr. Emadi said we have tried very hard, we listened and we did change our site plan substantially and in front of you you have 15 residential lots which is really the same as R-3 except that under UR-2 which you have seen prevalent around we can have a private road. A private road is allowed based on a text amendment that was approved unanimously by you for a project just up the street. This text amendment allows for a private street for a residential development and this is just less than a quarter of a mile up the road on Park South. In regards to the information and the explanation of storm water and run-off we have done our best to explain that we will meet the City standards. The run-off will be improved after the development. We have explained the rate of discharge and have gone over that many times with them. I simply don't understand why they don't accept the answers that we have given them. Regarding the elevations, these are custom homes. These are per lot custom homes as folks come and ask for them so there is really no standard elevation that we have. They are all different variety based on your market rate demand that is there. High quality and you can go onto the website of our builders and see the quality work that they do.

We have substantial tree save. We went through great expense of identifying trees and we have a very nice tree save for the property. The specifics that they have requested are there. Simply what I'm hearing is that they don't wish to us exercise any kind of rezoning to create even the single family.

Councilmember Dulin said I appreciate Mr. DeCastro and Mr. Gagnon being here tonight. I really appreciate the way, it didn't get started very clean, but the way that you guys have met with the development team so that is now working the way the community needs to work so thank you on both sides. My first and still main concern is how these guys are going to handle the water and I know the site well, I've been on your street and I've been down there on the site, I've been to the church and I've walked all four corners of it. You are right Mr. DeCastro that the front pond has been taking the water for all these years. Now the houses on Teversham Lane are above that. The pond is below where they are and those guys are going to have to get that water down. Everybody knows water flows down and the back side of the site, those last couple sites and then where their traffic circle is I've really bared down on these guys to make sure they handle that water well. You are correct, they had 46 townhouses and now they are down to 15 and a completely different plan. That is a pretty good deal, that is listening and the price points are going to be where they want. They've told me they want the UR-2 so they can have a private road which is going to make it a little bit nicer. I have to trust them on that and actually quite frankly I think this is a pretty good plan now so I want them to massage it. There is still a

month to go for them together with you. I'll make the commitment to the homeowners on Teversham Lane to continue to meet with them and to meet with you all as needed to make sure the water gets somewhere. If you are going to have some development there this is a pretty good plan. Before we had some discussions and some concerns about the height of the townhouses back there. These houses will indeed be higher than what is there now which is nothing, it is an empty lot, and it is going to be different, but I think they have come a long way from 46 townhouses to 15 single family homes with a private street. Let's work over the next month about the water and make sure they are going to keep that water off of Teversham and then move on. You've got my number and I'll come and walk and talk and do whatever we need to do.

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

Mayor Foxx said I appreciate both sides on this one. The developer has shown some flexibility on this. I understand the concerns the neighborhood has expressed and look forward to continuing to hear from you in the interim and we will see where we hand at the end of the day.

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

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ITEM NO. 19: HEARING ON PETITION NO. 2013-035 BY SUMMIT AVENUE FREEDOM DRIVE, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.49 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF WEST MOREHEAD STREET, FREEDOM DRIVE AND WALNUT AVENUE FROM B-1(PED) TO B-1(PED-O).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a petition to rezone from B-1(PED) to B-1(PED-O). As you can see the site is located at the intersection of West Morehead Street, Freedom Drive and Walnut Avenue. Most of this area is shown as green which is park area because it is designated as such and we have a park that is located immediately adjacent to the site. This is a two-story existing building that the petitioner is proposing to reuse for all the uses that are allowed in the B-1 district. In terms of the site plan they have proposed a drive-thru. The drive-thru is actually existing and is a remnant of the bank that used to be in this location. They are proposing a patio area at the corner of Freedom and Morehead.

In terms of elevations this is what the existing building, once is it is revamped will look like on Freedom Drive. The Morehead elevation, this is a view from the parking lot with the drive-thru and then the back of the building. This is the reuse of an existing building and there are several optional requests because it is a reuse. The options are for drive-thru, for parking ratio, for parking and maneuvering between the building and the setbacks, for the pole sign that is there to remain, to eliminate screening in terms of the adjacent park, the retention of the existing streetscape on Morehead and the reduction of a 3-foot planting strip to a 2 feet along a brick wall along Morehead Street. It is consistent with the West Morehead Land Use and Pedscape Plan and staff is recommending approval upon the resolution of the outstanding issues.

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

Councilmember Mayfield said I am excited about the fact that we are having something like this type of development coming in on Morehead Street, but I do want to mention that I had a conversation earlier today and currently they park over in that location to go to the restaurant that is across the street so there has been some conversation as far as what would that look like and would they still be able to park over there, would it be shared parking or once we move forward with this development would there only be parking available for the patrons of Dunkin Donut? Have you had any conversations with the owners of Pinkey's across the street regarding parking?

mpl

Unidentified speaker said yes, we have had conversations and we actually had several conversations today about it. I'm not sure they knew that the hearing was tonight so they came out today and we talked about it. I think we have come to an informal agreement with them where we are going to do some shared parking there for the remaining term of their existing lease on the parking spaces. We also own the property catty-cornered from this site where we can provide additional parking for them in the future and even overflow onto the property where the Berger Company is now. That is ours as well so we've got an abundance of parking in the area and are going to work with them to figure out a way to keep them happy.

Ms. Mayfield said wonderful and thank you. I have received a number of e-mails and calls from residents in the community that are very supportive of this development.

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

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

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ITEM NO. 21: HEARING ON PETITION NO. 2013-037 BY WENDWOOD PARCEL FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.70 ACRES LOCATED BETWEEN RANDOLPH ROAD AND WENDWOOD LANE NEAR THE INTERSECTION OF RANDOLPH ROAD, NORTH WENDOVER ROAD AND SOUTH WENDOVER ROAD FROM R-3 AND UR-2(CD) TO UR-2(CD) AND UR-2(CD) SPA.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a request to rezone from R-3 and UR-2(CD) to UR-2(CD) and UR-2(CD) SPA. It is for 3.7 acres located off of Randolph Road between Randolph and Wendover right off of Wendwood. We had a recent rezoning for the site in green. The proposed request is for 63 attached dwelling units. There is a maximum of three-stories or 40 feet in height. The units will be for sale. There is a commitment for 35% of the exterior of the buildings being brick, stucco, synthetic stone or precast stone. There is a 40-foot tree protection area along Randolph Road.

In terms of the rezoning and to give you a little bit of history, we had a rezoning on this piece of property, which is a portion of this back in 2008. Since then this property has been added and it is basically just an expansion of that original 2008 approval. The South District Plan recommends 14 dwelling units per acre that is based on the rezoning form 2008, again it is an expansion of that rezoning. The outstanding issues are basically technical in nature and once they have been addressed staff is recommending approval.

Keith MacVean, 100 North Tryon Street said Jeff Brown and I are assisting the petitioner on this request. With me tonight representing the petitioner is Neil Kapadia and Russell Ranson. I want to thank Tammie and the Department of Transportation for their assistance on this request. We have discussed the remaining technical issues and we will be submitting a revised plan this week that addresses those remaining concerns. This site is located just north of the intersection of Wendover and Randolph Road about three miles from uptown and about a mile from Cotswold. The site involves two properties, the majority of the site has been zoned in the past, originally in 1999 for 36 condominiums that were going to be built in two buildings. As you can see that portion of the site actually began to be developed in the early 2000's but due to the economy and the market for condos all that got done was the infrastructure itself and then development stopped. Again in 2008 a new proposal was brought in that proposed to develop that portion of the site with 36 townhomes. It went from 36 condos to 36 townhomes. This petition brings back that site, it doesn't really change it, it is already approved for 36 townhomes but then adds to the request about an acre of property that still remains zoned R-3 and is the lone single family home within the entire quadrant of this intersection. As you can see from the zoning map everything around it has been zoned and developed with other apartments or townhomes for sale. You saw last month another development here or townhomes that are now going single family development. In 2008 that came back in and is zoned for 36 townhomes for

sale. We are bringing back into add 27 additional townhomes to that previous rezoning and then complete the development within the neighborhood.

This proposal adds 27 units to the previously approved 36, allows completion of the neighborhood or the development within the area. Access will be from Wendwood Lane. Buildings will front on Wendwood Lane. The maximum building height is 40 feet and 3 stories. We've made several changes to the petition since we submitted this four weeks ago. We have upped the amount of masonry material from 35% to 65% minimum. We are adding a provision that indicates at the end of the units facing Wendover Heights and Sterling Magnolia Apartments, those will be done with entire of masonry materials and synthetic ephas will not be allowed as a material, it will have to be either real stucco or other masonry materials as defined by the ordinance. Vinyl and aluminum will be used on the soffits and windows. We have agreed to architectural shingles, dark colored and garage doors will have carriage style hardware.

This slide is included to show you that almost 1 ½ acres of the site are actually an open space. That area includes the area long Randolph Road which will be a tree save area, buffered from noise from Randolph Road. The court yard is open space, green space between the units and then additional tree save next to the Sterling Magnolia Apartments. These are the two previous approvals, the condo approval you can see here and the townhome approval here. They are built upon densities that are closer to 20 and our built upon density is about 17 units to the acre. Traffic wise, the site goes from about 300 trips under the current zoning to 430 trips under the proposed zoning. That adds 11 at the a.m. peak and 6 cars in the p.m. peak. No-one will probably notice that increase as it is a very minor increase.

We have worked with the neighbors around the adjoining developments and we've met with them several times earlier in the process. We do have a letter of support which I think we handed out to you from the developers of the apartments. We have made several changes in the petition at their request. We have also worked with the Board of the Wendover Heights Neighborhood and have agreed to make improvements to the buffer area between the two developments. That will be improved as a common amenity area for the two developments. The Board is not opposing this request.

Elaine Trost, 115 Wendover Heights Circle said I am a resident in the Wendover Heights development. They may have spoken many times to the neighborhood, however they never asked to go from 36 units that had been approved up to 67 units which they are now talking about, which is absurd. The density, if you could see that picture they just showed, the bird's eye view, the density of that development is going to be that everybody is going to be backing into each other as they get out of their garages. You have probably never left the development Wendover Heights or Churchill when it is traffic hours because you can count all you count, but you don't know the number of people taking cut-through from Randolph to Wendover. They found it, they are using it and I don't know why so many of them are young women with a telephone and a cup of coffee and in a big SUV they are trying to drive with one hand. They whip around into the whole width of that road. I've been living there 8 ½ years and I've started to be reluctant to go out of the development – which way should I go, which will be safer now. Wendover carries a tremendous number of people coming from the Matthews area in the mornings, all kinds of trucks, workmen in small trucks. Randolph – now they are taking that cut through and it is people going to the Dr. on Randolph, anything to miss that light. The lights in Charlotte compete with the ones in Walnut Creek, California where we lived much of our life and everybody is running them.

First of all the density is ridiculous on this one little piece of land they've got now which one house was on they want to put however many more townhouses – 27 was it. To go from 36 to 63 they are playing with us. They turned the number around 36 to 63. They are playing with us. The second thing is the peril of the way people are using these streets – Churchill comes through now from across, people are trying to get straight across Churchill, they are trying to go straight across Randolph and come especially our way across Randolph when the traffic to uptown in the morning is dense and it is just creating a really dangerous situation. The streets cannot tolerate it and it changes the character of the neighborhood too much. They are saying they think they may charge \$300,000 for these skinny townhouse all squashed together like that. Do you really think they are going to get that? Do you not think they are going to have to rent them so we will have

more rental units in the area, which is not what is needed. How can you allow going from one home to 36 to 63? I have one more sentence about this. Enough is enough and this is too much.

Did you get the petition that our Board did send in? They told me that they told you that they represent everyone in the development and as such they were petitioning against this because they could sign for everybody. We were going to take the petition around. Have you received that?

Mayor Foxx said I do not that we have, but we will check with our staff to make sure.

Ms. Trost said I would very much appreciate it because the President of the Board told me it was sent so I assume that it was. I see no reason to approve this great a density, please, it is not necessary.

In rebuttal Mr. MacVean said I do want to point out that the South District Plan does support residential densities up to 25 units to the acre here. Our density is below that at 17. Also these units will be for sale units. It is up to 63 units. There is a possibility as the market demands that the units will be bigger and less units will be built. I also want to reemphasize that there is almost 1 ½ acres or 40% of the site is an open space and the development is similar to the developments that are already there.

Motion was made by Councilmember Barnes, 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 ON. 23: HEARING ON PETITION NO. 2013-33 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.44 ACRES LOCATED ON THE WEST SIDE OF NORTH TRYON STREET AT THE INTERSECTION OF J. W. CLAY BOULEVARD AND NORTH TRYON STREET FROM B-1(CD) TO TOD-M.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a request from B-2(CD) to TOD-M for 2.44 acres located at the corner of J. W. Clay Boulevard and North Tryon Street. All uses in the TOD-M district will be permitted. This is a conventional request so there is no site plan that is associated with it. In terms of consistency it is consistent with the University City Area Plan which recommends TOD (Transit Oriented Development Mixed Use) so staff is recommending approval.

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. 24: HEARING ON PETITION NO. 2013-038 BY CHARLOTTE AREA TRANSIT SYSTEM FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE INFORMATION AND ADVERTISING PILLAR SIGN REGULATIONS BY REMOVING INFORMATION AND ADVERTISING PILLAR SIGNS ON RAPID TRANSIT PLATFORMS.

The scheduled public hearing was held on the subject petition.

Sandra Montgomery, Planning said this is a Text Amendment sponsored by CATS and the purpose of this Text Amendment is to modify the information and advertising pillar regulations by removing the information and advertising pillar signs currently allowed on rapid transit platforms. In January the City Council did approve a Text Amendment 2012-64 which allowed CATS to place alternative type of signage on rail platforms. The signage allowed as a result of that approval, Petition No. 2012-64, replaces the need for signs then on the information pillar kiosk located at rapid station platforms. The advantages of removing the information pillar signage are as follows: The CATS has said that the advisors that are familiar with and demand more traditional type signage as was approved in the Text Amendment approved in January as opposed to more kiosk signage. CATS have said that advisors are more familiar with the rectangular signage than sort of rounded on kiosk. The traditional type signage does have a lower initial costs for CATS. They don't have to pay for the kiosk signage and they don't have to pay for digital displays within that kiosk. This Text Amendment does provide more flexibility for advertising sign variety, it does allow them more square footage advertising per platform and more revenue opportunities for CATS. CATS has determined that there is no need for both types of advertising on the platforms. The kiosk and digital signage is simply too expensive and there is a low demand for advertising on those kiosk so they have submitted this Text Amendment to remove the language to allow advertising on kiosk they don't need that at their platforms. The alternative advertising that was approved in January is sufficient. Staff is recommending approval and I believe from someone from CATS is here to speak.

Councilmember Cooksey said am I reading this correctly that the proposed Text Amendment doesn't add any language, it simply takes away language?

Ms. Montgomery said correct.

Mr. Cooksey said if CATS doesn't want to do this does the current ordinance require them to use the kind of signage that is being addressed by this Text Amendment?

Ms. Montgomery said no it doesn't require them. They had considered submitting both Text Amendments, the one in January and this at the same time but they felt that they wanted to get your approval for the alternative type of signage before they deleted this type of signage so it was sort of a two-step process.

Mr. Cooksey said why even bother removing that something that you don't have to use and it is your option to use in the first place? Are you predicting the future 10 years from now and you know you won't need it?

Olaf Kinard, CATS said it is a better deal and it is also negotiating so that it is fair for others. We have kind of a secluded monopoly in those areas so we wanted to be fair about what we were doing in relation to what other people in the community do as well. We don't need that particular advertising. The other signage allows us to do it. It doesn't mean that if technology changes and touch screen information about how to ride or things of that nature is not something we want to do, we can still do that, but what we can't do with that is have off-premise advertising on a touch screen type of technology. We still have that even without this ordinance, ability to do the information and use technology for that piece of it, but for the signage off premise the advertisers really prefer the other is what we've seen.

Mr. Cooksey said this Text Amendment is proposing to remove the ability to use something you don't plan to use. Am I summing it up correctly?

Mr. Kinard said now that we have other ordinance that is correct.

Mr. Cooksey said I don't need an ordinance to tell me not to slap myself in the face either, because I just don't do it so I don't need anyone to pass a law saying I shouldn't do it. It strikes me that you would want to maintain as much flexibility as possible over the years and you have gotten a couple of things that you are looking for here so why take away something that you might be able to use in the future, even though you don't want to use it now?

Motion was made by Councilmember Barnes, 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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MAYOR AND COUNCIL TOPICS

Councilmember Barnes said to the millions watching, I have the distinct honor and pleasure of announcing that on May 16, 2013 there will be a Town Hall Meeting in District 4 at 6:30 p.m. in the Community Room, on second floor of IDEA in northeast Charlotte and we will have the three Police Divisions that service District 4, all of which have new Captains and we have invited those Captains and others to be there. There will be a significant presentation regarding the Blue Line. There will be presentations from NC-DOT and from C-DOT regarding all the road projects, particularly I-485 and I-85 in the Prosperity Village area, projects that are taking place so I would welcome people to come on May 16th, Community Room, second floor of IKEA.

Councilmember Dulin said we talked about last week the Second Harvest Food Bank came with expansion plans and I made the comment that it didn't look like to me that they were doing a very good job of looking after their tree save, storm water and Post Construction Design. We have gotten a report back that they are looking into that. The interesting thing when they were in front of us last week they said they would have to have their engineers and architects look at it, but the Council passed years ago the Post Construction Design Guidelines and the tree save design guidelines and it seems to me these architects and engineers ought to know by now what we are going to expect of them. The problem with it is they were way up the design ladder before this thing was caught. I'm concerned for whatever reason there are some folks out there that need to – this was pretty good feedback. The Second Harvest Food Bank needs to expand and unfortunately as Mr. Autry said, too bad business is so good we wish to put them out of business, but there are hungry people in Charlotte. I'm very concerned and I think Council is going to have to hold people accountable. If we make one group do it everybody is going to have to, including the City by the way.

City Manager, Ron Carlee said because of the incidents in Boston tonight I just want to let the Council know you may see a little bit of increased police visibility and activity. Cities around the country are of course in touch with their federal partners and are watching the situation very closely. Liberally every major city is increasing their vigilance a little bit, just in case.

Mayor Pro Tem Cannon said as I stated at the outset of the meeting, you all please keep those individuals and their families lifted up in terms of what has happened, and let us continue to pray that these things will not continue to happen within our great country and quite frankly nowhere else throughout the world if possible.

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey and carried unanimously, to adjourn the meeting at 9:19 p.m.

Stephanie C. Kelly, City Clerk

Length of Meeting:
Minutes Completed: July 15, 2013.

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