

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, January 21, 2014 at 5:13 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Patrick Cannon presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Edmund Driggs, Claire Fallon, David Howard, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

Mayor Cannon called the meeting to order at 5:13 p.m. and recognized City Manager, Ron Carlee.

City Manager, Ron Carlee said I would like to introduce you to the newest members of the City Manager's staff; Ann Wall and Hyong Yi are both starting their job today; also on the Executive Team I have also added Debra Campbell who has been interim Assistant City Manager and Planning Director, she will continue to be the Planning Director.

Mayor Cannon said we certainly welcome all of you and congratulations to all of you for your new posts and we look forward to working with you. I walked in on a meeting today accidentally and you were working very hard. We thank you for your level of service and I'm sure the citizens of Charlotte will get all of what they need out of you.

Tammie Keplinger, Planning said before I go over the agenda I have quite a few things to go through tonight. I wanted to check to see if anybody is using the E-Agenda tonight and is having difficulty. We have Travis Jenkins with us tonight and he can help with any of those technological issues that you may be having, because you really don't want me to help you. Does anybody need any help?

In terms of the Dinner Agenda, first you notice we have the E-Agenda with the Zoning City Council Agenda also and encourage you to look at that. We are going to provide hard copies for a while also and we would like to eventually get a count to see would like hard copies and who would like electronic copies. I've spoken with some of you and know that certainly some of you have preferences already. We will be following up on that with you.

Debra Campbell, Planning Director said I want to take a moment to recognize and acknowledge all the help that we got from the Budget Department on this. Literally on the day that we were going to send it out we needed some help and they helped us so I just want to acknowledge their help.

Ms. Keplinger said in your packet you will see your Dinner Agenda Review and we will start with that.

Councilmember Mayfield said I noticed we got an e-mail this afternoon at 3:38. Is there any chance that we could get those a little bit earlier? Because for some reason I've had a challenge all day getting the internet to work on my I Pad, so I haven't been able to download it. I am happy that we are moving to the E-version, but I'm not sure why I've had a challenge all day to try to get this to download.

Ms. Keplinger said our goal is or we try to get it out before 2:00. A lot of it is last minute information that we are getting in. I don't want to give you an E-Agenda tonight and then also have to do the paperwork when you get here too. I apologize for the lateness, but our goal is 2:00.

Ms. Mayfield said now I know and since we are trying something new I just wanted to get a better understanding.

Ms. Keplinger said we will start with the Dinner Agenda. First is Item No. 2 which is the Ryland Group, Petition No. 2013-069; they have a sufficient protest petition and it has been withdrawn. Item No. 3, Petition No. 2013-071, The Presbyterian Home at Charlotte, Sharon Towers. This is up for a decision and there is a sufficient Protest Petition. Since the Zoning Committee meeting the petitioner had a meeting with the adjacent property owners and they have some additional modifications and conditions on the plan that are to the benefit of the adjacent property owners.

Because these need to be on the site plan and because this is a change after the Zoning Committee vote, we need to do the special $\frac{3}{4}$ vote of the City Council not to send it back to the Zoning Committee for further review. There will be two votes on this one; the first one will be if you decide the changes are not significant and if it should go back to the Zoning Committee. The second would be the decision.

Councilmember Autry said is this request for the vote to not send it back to the Zoning Committee at the request from the Petitioner

Ms. Keplinger said it is part of our normal process. The ordinance requires it. The changes are the number and the size of the trees at the entry to the neighborhood landscaping area; the cleanliness of the area during construction, the location of fences and walls in the streetscape and landscaping area, and also they have worked with adjacent property owners to put a note on the site plan that deals with an emergency fire truck access, and it gives them the right to look into the possibility of having an emergency fire truck access. I don't believe they have time to work all those issues out but they are committing to work to see if that is something they need to do.

Councilmember Phipps said why would that be something that is up for negotiation, whether or not they could have an emergency fire truck access?

Ms. Keplinger said I think in further communications that the petitioner had with adjacent property owners, that was one of the concerns and that is one of the ways that they came up with trying to eliminate the concern was to have the possibility of an emergency access. A lot of times it is not something that the Planning staff would request; it is something comes through negotiations.

Mr. Autry said is there access for emergency vehicles to cross this property at this point?

Ms. Keplinger said yes sir; this would be an additional access.

City Manager, Ron Carlee said I assume that the provision that was negotiated was something beyond what is required by code, so you would have the minimum fire department requirements by code; what would be negotiated would be an addition.

Ms. Keplinger said Item No. 4, Petition No. 2013-072 for Aventine; this was a decision but we are asking for a one month deferral. The petitioner is not ready to move forward. Item No. 10, Petition No. 2013-095; this is the case for the Charlotte Housing Partnership and there is a sufficient Protest Petition. Item No. 14, Petition No. 2013-102 for Syed; they have requested a one month deferral. Item No. 17, Petition No. 2013-085, most of us know this is the Matthews Farm or Waverly Development on Providence Road. They have asked for a one month deferral. Item No. 18, Trotters Builders, Petition No. 2013-098; this is a hearing tonight. We have a Endhaven Protest Petition and its sufficiency has not yet been determined. Item No. 19, Petition No. 2013-099, I wanted to remind you that this is a little bit different. We had a public hearing in December and continued it to tonight. When we have the public hearing tonight I will provide a list of things that have changed. There is a sheet in your agenda to show what was on the list in December and how it has changed to now. Also we received a letter from former County Manager, Jerry Fox saying that he is now willing to support it.

Councilmember Smith said will the petitioner be speaking again tonight to bring everybody up to date?

Ms. Keplinger said he will have that opportunity. Item No. 21, Petition No. 2014-002 for The Rainier Group, this is a hearing tonight and there is a Protest Petition and the sufficiency is to be determined. It's a continuation of the public hearing. In terms of a follow-up report we didn't have one tonight but it's the only question we had related to Mike Whitehead's petition and I'm going to cover that during the presentation tonight. You also have in your packet the Community Meeting Report telling you how many people have attended the Community meeting. There is a Text Amendment Matrix and Debra will go over that in a few minutes. We have a speaker's list. Also in your agenda is something a little bit different than you have probably seen in some time.

It is a matrix on decisions. There are three decisions in our agenda tonight that we thought the Council may need a little help with the motions. These are the ones where the Zoning Committee and/or staff either opposed or had opposing opinion on the cases. The first one is 2013-84 by Charles Davis, Jr. The way you read this chart is if you find the petition to be consistent with the area plan and you want to approve it then you would use the statement of consistency. If you found it consistent but you want to deny, then you would use this one; that is if you want to do something different than what the Zoning Committee did. If you found it inconsistent but approvable use this one and if you find it inconsistent and want to deny then you would use this one. Now I have to tell you about the mistake I made. Item No. 6 it should say that the petition is consistent or inconsistent with the Eastside Strategy Plan, not the South District Plan. On Item No. 9 you have a similar matrix and it is either consistent or inconsistent with the Steele Creek Area Plan. Item No. 10 this one should say South District Plan.

Mr. Autry said the issue of whether a petition is consistent or inconsistent with an area plan is determined. I think you were confusing the element a little bit by having all four pieces in there. I think you should have if you want to approve this petition; if you wish to deny the petition it would be the second choice and having all four of them kind of muddies it for someone as inexperienced as I.

Mayor Cannon said any way to simplify? This seems a little bit confusing.

Ms. Keplinger said we will do our best to do that before we go out front. I will talk with some other staff and we will make sure that those are consistent.

Councilmember Driggs said I think I understand the logic here. We are saying in one case it is inconsistent but; the other case we are saying it is consistent and; so if I understand the grid properly we are basically just trying to clarify the consistency issue and pointing out that an agreement with or contrary to that finding by staff to either recommend it or deny it. It makes sense to me.

Ms. Keplinger said we decided we wanted to give you all of the options the Council has so we will certainly look at that.

Councilmember Lyles said I understood it but it worries me that I understood it.

Mr. Autry said you are going to look here and say okay if I want to deny this plan, let me go back in here and see what the determination was about the consistency with the area plan; okay that is one of the four that I want to move on. That is what I think can be a little confusing.

Councilmember Mayfield said is there a consideration that we are still looking at ways to move this through, to just move this forward so that when the time comes for us to look at approval, because I also see Mr. Autry's point where I'm looking at this on line, but that means I would need to be scrolling back through to find the exact language for consistency sake as opposed to having the language close to that particular rezoning. If we actually had it with the rezoning petition it might have a little more clarity to it as opposed to flipping back through to try to find the correct language.

Ms. Keplinger said let me help – on Item No. 6 the proposal is consistent so you can mark out the right side which says it is inconsistent.

Ms. Mayfield said in the future the way it would be presented to us; it would only be presented with the correct language for either approval or denial.

Ms. Kiplinger said right.

Mr. Phipps said on items No. 6 and No. 9 it is assumed that there was a difference of opinion in that of the staff's opinion and the Zoning Committee. I don't think that I get a clear indication as to why staff would take the position it did. I can't see where it was affirmatively stated as to why in the case of No. 6 that you all recommend approval and in the case of No. 9 you said you

could not recommend approval as opposed to the Zoning Committee; they make their case as to why they thought it was what they thought it should be. I was looking for a little more clarity on your position.

Ms. Keplinger said I will be happy to provide that but I want to clear up the other two because we have three of them tonight. The first one, Item No. 6 we are going to mark off the right hand column.

Ms. Mayfield said just to clarify, still on No. 6, in the deny box, the language; this petition is consistent with the Eastside Strategy Plan and is reasonable and in the public interested based on the information. What we have in the book is this petition is found to be consistent with the Eastside Strategy Plan but not to be reasonable and in the public interest. If we are going to utilize this shouldn't that language mirror because what is stated in the book is that even though it is consistent it is not to be reasonable and in the public interest, but what we are stating in this new form, it is stating that it is reasonable and in the public interest.

Ms. Keplinger said if you are in agreement with what the Zoning Committee did with your motion then you can use the language they have in the agenda. That is the language that I would ask you to use.

Councilmember Barnes said I actually thought if I made a motion on this item for example, I might make a motion that is very consistent with what Ms. Mayfield just said which is, it is consistent with the Eastside Strategy Plan but not in the public interest and not reasonable.

Ms. Keplinger said I think that would be correct.

Mr. Barnes said I love you all, but that just kind of confuses things a little bit, at least on this petition. She is right; you've got part of the language here and part of the language here and it is not matching, but I think what you've got in the book works well.

Ms. Keplinger said Item No. 9, shall we go over it? Item No. 9 we are going to mark out the consistent side because the request is not consistent with the area plan. So the response will be that it is inconsistent and then you go over to deny. Item No. 10 – The Housing Partnership you want to mark off the consistent. This one is found to be inconsistent.

Ms. Keplinger said the intent of this was to help you but it is confusing, so we will make a different effort next time and make it clearer and I apologize for that.

Ms. Keplinger said I would like to talk to you about the upcoming cases. We have heard that Council would like more information on upcoming cases so we've started providing you with this chart and it tells you what cases are going to public hearing in February; what cases are going for decision in February and then those that are going to hearing in March. If there is a format that you would like to see this information in we would like to hear back from you on that. One thing that we are doing on our website currently; when you go to our website all of our cases are listed in numerical order. We are working on a function and you can search that by Council District so it will make it easier for you and there might be some other additional search functions that we can use so that will make it a little easier for you to find cases that are in your District.

Ms. Campbell said I apologize for that little bit of confusion. I want to direct your attention to several pages of a matrix; Text Amendment, Area Plan and Study Update. I'm not going to take a whole lot of time on these because I know you need to get out to the dais. There are about four pages and on Page No. 1 what we want to do is highlight in yellow new information just so you can keep a running tab on the status of these projects, but to highlight the new information with regards to these initiatives. This is only for your information. For the most part these are initiatives that have a Citizens' Advisory Group that either has been formed or will be formed and we are giving you information about those initiatives. Secondly, some may be Text Amendments that have been developed and are either going to hearing or we are contemplating initiating that particular initiative. If we start with Page No. 1, I bring your attention to item No. 2 which is Eating, Drinking and Entertainment Establishments. This initiative is allowing night

clubs, bars and lounges, changing the Zoning Ordinance standards as to where these uses are located. You can see we had a Citizen Advisory Group meeting last week. The public hearing for this Text Amendment will be held February 17th. We also have another Citizen Advisory Group meeting next week on the 28th for people who couldn't make the meeting on the 16th so we are scheduling another meeting. Item No. 3 is a Text Amendment and the hearing has already been held, in fact Ms. Kinsey you asked about unintended consequences of that Text Amendment, so it is a decision.

Now I'm going to Page 2 – Mobile Grocery Stores – we are forming a group of interested parties for a meeting on January 29th.

Ms. Mayfield said Ms. Campbell, how is that, identifying those that are going to be at, the interested parties, how is that identifying them in the community?

Ms. Campbell said we are looking at a number of people who were listed on the fresh produce initiative, the Text Amendment that we just filed about a year ago. We are looking at that effort. We through we had reached out to you in particular to see if there was anyone you wanted to serve on the group.

Unidentified speaker said we have approached some major grocery stores like Harris Teeter; we tried to contact them, but it was difficult because of headquarters. We do have the different food markets that provide farmer's market type things and we have contacted some other people who do produce.

Ms. Mayfield said so I should be looking for an e-mail so I can at least review the list.

Ms. Campbell said give us names as to who you would suggest.

Ms. Lyles said during the Democratic National Convention there was an effort to address food deserts and I did not know that there was a Mecklenburg County Food Council and I would hope that they would be involved as well as the agencies like Friendship Trays, Friendship Gardens because they are making a significant contribution by trying to bring fresh foods to those services that are serving a number of underserved communities. Mecklenburg County spent a number of years studying this food issue.

Ms. Campbell said they have actually attended a couple of the Economic Development Planning Council Committee Meetings so we definitely bring them in.

Item No. 5 is Mobile Food Trucks – this is an issue that staff addressed about 4 years ago and we are going to re-look at it. We may have some concerns by some of the operators as well as some of the neighborhoods again. Four years ago neighborhoods didn't want them and four years later some neighborhoods do want them so we are going back to look and see if there are some changes that may be needed. We will re-invite those folks who participated in that initial effort because we really want to make sure, particularly those neighborhoods that have some strong opinions and concerns about mobile food trucks to make sure that they are engaged again. I think the only other one that I would bring to your attention would be on Page No. 3 – the Zoning Ordinance update, the next steps. As you all know we hired a consultant to look at the Zoning process in relationship to a lot of the policies that have been prepared around land use, urban design and development. As a result of that effort recommendations were made that probably was not a surprise to staff to say we need to do a wholesale comprehensive update of the Zoning Ordinance. Obviously, that is going to be a very, very costly adventure, both from a staff resource perspective as well as financial and monetary, however we still think that we can incrementally and do some things before we take on the major rewrite and major update. We will be working with the same consultant that helped us and prepared the report; Clarion, our zoning assessment document. We will be working with them, looking at some other types of zoning ordinances and also looking at an update that we are doing on our Transit Oriented Development Zoning issues, unless there are questions on any of the other initiatives.

Mr. Barnes said is the Prosperity Hucks meeting tonight?

Ms. Campbell said we had a Planning Committee meeting where there was public comment to go to the Planning Committee related to the Plan and then it will go the Transportation Planning Committee for an update and then go to the Planning Committee vote to put it to a public comment sometime in February.

Mr. Carlee said we have a very high profile case in the City, the Kerrick Case and the young man, Mr. Ferrell who was shot. The Grand Jury heard that case today; there is a variety of things being reported in the media. The Grand Jury did not indict and referred it back to the prosecutor and the Attorney General has issued a statement saying that because there was not a full Grand Jury panel he has decided that he will re-present it to a full panel Grand Jury. The case will be going back to the Grand Jury probably early as next week.

Councilmember Fallon said a different one?

Mr. Carlee said it would be a different one next week. They alternate weeks so it probably would be a different Grand Jury.

The Dinner Briefing was recessed at 5:49 p.m. to move to the Council Chamber for the regularly scheduled monthly Zoning Meeting.

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The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:01 p.m. with Mayor Patrick Cannon presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Edmund Driggs, Claire Fallon, David Howard, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

INVOCATION AND PLEDGE

Councilmember Vi Lyles gave the Invocation and Mayor Cannon led the Council in the Pledge of Allegiance to the Flag.

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EXPLANATION OF ZONING MEETING

Mayor Cannon explained the Zoning process and recognized the Zoning Committee Chair, Tracy Dodson who introduced the Zoning Committee. Ms. Dodson introduced the Zoning Committee members present and said the next Zoning Committee will meet on January 30, 2014 at 4:30 in the CMGC to discuss and make recommendations on the hearings for tonight.

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DEFERRALS

Mayor Cannon said the deferred petitions that you will hear called out will not be heard tonight. That will happen at another time. I will ask Mayor pro Tem Barnes if he would read the items that have been listed for deferral.

Councilmember Barnes said we have deferrals on Items 4, 14 and 17 for one month deferrals.

Motion was made by Councilmember Autry, seconded by Councilmember Kinsey, and carried unanimously, to defer the above mentioned items.
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DECISIONS

Mayor Cannon said what we would like to do for those of you who are anxiously waiting some petitions to be decided upon I will ask the Council if it is okay to move those petitions up to the top of the agenda so we can allow these people to go home early if they so desire. Therefore the first item will be Item No. 3.

(Council District 6- Smith)

ITEM NO. 3: ORDINANCE NO. 5284-Z, PETITION NO 2013-071, BY THE PRESBYTERIAN HOME AT CHARLOTTE, INC. AMENDING THE OFFICIAL ZONING ORDINANCE FOR THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 24.80 ACRES LOCATED ON THE WEST SIDE OF SHARON ROAD BETWEEN EASTBURN ROAD AND HAZELTON DRIVE FROM R-3 (SINGLE FAMILY RESIDENTIAL) AND INST (CD), (INSTITUTIONAL, CONDITIONAL), TO INST (CD) AND INST (CD) SPA. (SITE PLAN AMENDMENT)

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

Mayor Cannon said there are two motions that will have to be made on this petition; one is a motion to find that changes are not significant and to not send this petition back to the Zoning Committee for specific review.

Motion was made by Councilmember Fallon, seconded by Councilmember Lyles, not to send this petition back to the Zoning Committee for further review.

Motion was made by Councilmember Smith, seconded by Councilmember Barnes, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-071 by The Presbyterian Home at Charlotte, as modified and as recommended by the Zoning Committee.

The Modifications are:

1. The maximum building height for the apartment-style independent living structures has been provided on the site plan.
2. The number of existing independent living units and beds have been labeled on the site plan under the site data table. The number of existing and proposed units have been labeled by type on the site plan.
3. A detail of the proposed ornamental fence has been provided.
4. A note has been added that the petitioner will submit plans for the sign, fence, and landscaping to the Fair Meadows Homeowners Association and provide a letter of approval from the Home Owners Association to the Charlotte Mecklenburg Planning department, before submitting for Commercial Plan review.
5. A note has been added that the petitioner will submit landscaping plans for the corner of Sunnybrook Drive and Eastburn Drive to the appropriate Home Owners Association and provide a letter of approval from the Homeowners Association to the Charlotte-Mecklenburg Planning Department, before submitting for Commercial Plan review.
6. A note has been added that an encroachment agreement for the proposed fence in the right-of-way will be sought with the Charlotte Department of Transportation.
7. The site plan has been modified that any proposed fence or landscaping material will comply with the required sight triangles.

The ordinance is recorded in full in Ordinance Book 58, at Page 600-601.

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(Council District 7- Driggs)

ITEM NO. 7: ORDINANCE NO. 5286-Z, PETITION NO. 2013-091 BY SHEA ANNISTON, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 11.38 ACRES LOCATED ON THE NORTH SIDE OF MARVIN ROAD, EAST OF JOHNSTON ROAD, BETWEEN DONNINGTON DRIVE AND WILKEE DRIVE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO MIX-1 (MIXED USE.)

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

Motion was made by Councilmember Lyles, seconded by Councilmember Barnes, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-091 by Shea Anniston, LLC for the above zoning change, as modified and as recommended by the Zoning Committee.

The modifications are:

1. The zoning of abutting parcels are now noted on the site plan.
2. Streetscape and Landscaping Note B has been clarified to indicate a minimum 30-foot rear yard along the site's eastern property boundary.
3. Cross-section for the proposed local residential street has been amended to provide a six-foot sidewalk (instead of five feet wide as previously shown) and a 2'- 6" standard curb and gutter. Other items requested as related to parking width, thru lanes, right-of-way width, and sidewalk/utility easement have been rescinded as the cross-section provided meets the overall intent.
4. The location and width of sidewalks, planting strips and setbacks for new internal public streets are noted on Rezoning Sheet 2 on the typical cluster plan and the local residential street cross-section.
5. The local residential street cross section and the Typical Cluster Plan both shown on Sheet RZ-2 have been modified to reflect consistency with respect to location and width of proposed improvements within the 50-foot right-of-way.
6. Architectural Standards Note 4b has been modified to state that vinyl elements may be used for soffits, windows and other architectural accent materials.
7. Neighborhood and Business Services and Transportation comments have been addressed by providing the following:
 - a. Provided a note on the site plan that states that typical front yard is where building front entry is located, and referring to typical cluster plan on Sheet RZ-2 for typical yard classification. In addition, petitioner modified Innovative Development Standards Item 1b regarding minimum internal rear yard (five feet from back of curb) to now read as minimum front yard (five feet) (Neighborhood and Business Services).
 - b. Eliminated the first recessed on-street parking space closest to the proposed traffic circle on the west side of the proposed public street (Transportation).
 - c. Removed each of the proposed splitter islands on either approach to the proposed traffic circle (Transportation).
8. Modification to Innovative Development Standard 1 (b) from minimum internal rear yard (five feet from back of curb) to now read as minimum front yard (five feet) (Neighborhood and Business Services).
9. An undisturbed buffer ranging in width from 35 feet to 50 feet is now identified along portions of the east and west property lines, and along the northern property line.
10. Development notes have been added to Parks, Greenway and Open Space as follows:
 - a. Petitioner shall provide at least four acres of open space and tree save areas as generally depicted on the proposed plan.
 - b. An undisturbed buffer shall be provided along the perimeter of the northern portion of the site. The location and width is depicted on RZ-1. "Undisturbed" shall mean that the existing vegetation is allowed to remain, and no grading or other improvements shall be allowed. Routine maintenance such as trash

- removal, removal of vines and invasive plant species or dead or dangerous trees will be allowed.
- c. Areas of common open space not included within the undisturbed buffer area may be used for passive recreational activities and may include walking trails, benches, picnic tables, bridges, and a gazebo or picnic shelter. However, no lighting or other permanent structures shall be permitted in open space areas.
 - d. Water quality area shall be screened and fenced as generally depicted on RZ-1. Fencing shall be at least four (4) feet in height and screening plantings shall be evergreens planted six (6) feet on center and shall be expected to reach five (5) feet in height within three (3) years of planting.
 - e. All common areas shall be maintained by a homeowners association which will also be responsible for monitoring and controlling mosquito activity within the water equality feature.
11. In regards to new Parks, Greenways and Open Space development notes identified above, the site plan has been modified to show the following:
- a. An undisturbed buffer ranging in width from 35 feet to 50 feet along portions of the east and west property lines, and along the northern property line in its entirety.
 - b. Evergreen shrubs on berm around water quality area with safety fence.
 - c. Common open space to be developed with passive amenities, including possible gazebo and trail.

The ordinance is recorded in full in Ordinance Book 58, at Page 604-605.

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(Council District 7- Driggs)

ITEM NO. 10: ORDINANCE NO. 5289-Z, PETITION NO. 2013-095 BY THE CHARLOTTE MECKLENBURG HOUSING PARTNERSHIP AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 7.23 ACRES LOCATED ON THE WEST SIDE OF WEDDINGTON ROAD BETWEEN SIMFIELD CHURCH ROAD AND PORTSTEWART LANE FROM INST(CD) (INSTITUTIONAL, CONDITIONAL) TO R-12MF(CD) (MULTI-FAMILY RESIDENTIAL, CONDITIONAL).

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

Motion was made by Councilmember Barnes, seconded by Councilmember Mayfield, and carried unanimously, to recuse Councilmember Howard from participating on Petition No. 2013-095.

Mayor Cannon said we will have discussion now.

Motion was made by Councilmember Autry, seconded by Councilmember Mayfield, to adopt the Statement of Consistency and approve Petition No. 2013-095 by Charlotte Mecklenburg Housing Partnership as modified, and as recommended by the Zoning Committee.

Councilmember Driggs said I believe there has been a lot of attention to this publicly and therefore we should spend a moment to talk about it. I would like to start by acknowledging a few things; one is it has been approved by staff and the Zoning Committee also approved it. I would also like to acknowledge that the Charlotte-Mecklenburg Housing Partnership is a good manager of properties and the design of these buildings is good. Furthermore this proposal does further a city policy seeking to achieve greater dispersion of housing, however there is an inconsistency with the South District Area Plan. Two members of the Zoning Committee voted against it, but most of all area residents are strongly opposed, and I think that is evidenced here tonight, citing a long list of concerns. We therefore had a dilemma; how do we resolve it? I don't believe there is a cut and dried answer on a question like this. I think it is a case to case

issue and we need to look at the costs and the benefits. I would like to point out that over 2,100 people signed the petition opposing this development; 536 people registered at the September 17th information meeting and of those over 500 expressed opposition. I also brought along my book with the correspondence on the subject. I can tell you that just about all of these messages pertain to concerns that were raised by area residents. I did receive messages, as I believe we all did, in support of the petition and there are people present tonight who do support it.

I would like to look at some of the issues that the area residents did raise and I think they can be categorized in two ways; for one there was some that said the costs of this are actually greater than is properly recognized by the petition and the concern cited mainly was the compatibility of a multifamily structure like this with the single family environment in which this site is located. There was discussion about traffic and I know the existing zoning allows for a day-care center with a higher volume of traffic than expected from this, but the fact that it is less bad in terms of traffic doesn't necessarily make it good. The exit from this location is right across from the entrance to a school. One of the most vocal opponents to this proposal is the Principal of that school who has a concern about the safety of the 750 students in her care. The road it is located on is Weddington Road, which is an old farm road. It is narrow and there is congestion there already with the everyday school traffic. The traffic in the turn lane backs up into the main traffic lanes and stops everybody that is trying to get through so we have a traffic situation there that I think needs to be recognized. Safety concerns have also been raised again because of the congestion and the children at the school and the fact that we have a high density site right across the street.

People are concerned about the impact on home values. They are concerned about crime; the storm water level is high. Parking; there is a concern that there might be an overflow from this rather small site into the adjacent school parking lot and then on the school. I just mentioned those briefly; they are typical of the issues that are raised by people here and the fact that they have been raised before doesn't mean that they aren't material. Other concerns that the area residents have raised are that the site is unsuitable in fact for this development even though it passed muster in terms of the basic requirements and they point to the size and shape of the lot. It is not particularly close to shops, offices, and parks. There are no sidewalks nearby. There is no public transportation, it doesn't fit in with its surroundings and there isn't enough parking. There isn't much nearby employment. I don't think we should try to discuss all of these issues tonight. I just raised them and point them out as the things that were brought to my attention here.

My own personal conclusion is the site is acceptable for the purposes of the Housing Partnership but in no way exceptional. I think in view of the opposition that we have here and what we've seen throughout this process is it really ought to be exceptional. I will point out that there is a basic issue in that South Charlotte property is expensive and what the Housing Partnership can afford to buy within the constraints of its financial model is not going to be attractive as other parts of town so there is a necessary compromise if you are trying to do this in South Charlotte and I think that explains why this is not an ideal site. As a general comment I want to explain that I don't think it is okay to dismiss the objections of area residents based on some perception that they are mean spirited NIMBYs (not in my back yard). These are hard working people who live modestly, have mortgages and pay taxes. They are part of the economic backbone that enables Charlotte to adopt an \$800 million Community Investment Plan and approve a \$500 million bond offering for our schools and CPCC. There will certainly be occasions on which the greater good requires that we overrule their objections, but in my view this is not one of them.

Mayor Cannon said are there any other comments?

Councilmember Smith said there is tremendous political pressure to support this petition to promote social policy. I fear we've lost sight that this is a land issue. This is a poor site for the proposed use due to the lack of infrastructure that will put undue demands on the community, storm water runoff, traffic congestion, the lack of public transportation, limited walk-ability and overflow parking are all legitimate neighborhood concerns that we ought to take into consideration. As a body we cannot let the noble intent of the Charlotte Housing Partnership outweigh the valid land use concern presented by the neighbors.

Councilmember Barnes said I think Mr. Driggs make a good point about the amount of energy we have seen regarding this petition. We've all gotten the yea or nay e-mails which is not uncommon or not to be expected in a situation like this. What I would submit to you though is that we are talking about 70 units and as it was described to me the people that live there may not necessarily need public transportation because they could be entry level policemen, entry level firemen, teachers, etc. Also I can't think of any part of South Charlotte that does not have an infrastructure challenge. In fact I would say to you that almost all of this City at this point has some type of infrastructure challenge in terms of road congestion, etc. and this site will add some traffic to it. And as you acknowledged it would not add nearly the amount of traffic that a day-care center would add certainly in the a.m. and p.m. peak times. I'm going to support the petition because I think of all the people who manage and develop this type of property in this City; CMHP certainly has a very strong reputation in terms of management and quality. They build a good quality product and they manage it well and they are going to add turning lanes. There will never be a perfect situation for developments like this and we voted on two in South Charlotte earlier and I think we have hearings for two more. There is going to continue to be petitions to develop land in South Charlotte and there are no perfect sites left for almost anything. Look at Rosewood, who would have picked that for something like that, very few people. I think this site is one of the few sites left, one of the last remaining sites that would even be subject to this type of development in terms of putting a 70-unit building there. I'm going to support the petition, but I understand what you are saying and I think it has been considered.

Councilmember Austin said I have listened closely during the public hearing and I've reviewed all of the e-mails and letters from the residents in the community. Thank you for those. What I've read is a lot of fear; false evidence appearing real. This project and this rezoning is a less intense use of the property. Currently it is zoned for a day-care center which really would impact traffic four times what the intent of the petitioner is. I really feel that the aesthetics, the enhancement that the petitioner is requesting and doing in this particular project will add value to the community. Above all I believe that it achieves many of our overall goals, so the only thing that is left is fear; fear of impact to our home values, fear that our schools be overrun, and fear that traffic will be impossible. I support this project and I think it achieves many of our goals and I hope that Council will as well.

Councilmember Autry said I also appreciate Councilmember Drigg's and Councilmember Smith's input and the input of the community. I met with some stakeholders in the community, the Principal of the school, I've also met with folks who are advocating for this development and as you weigh this back and forth, and as a Councilmember who has been dealing with an apartment complex that is being redeveloped in District 5, I also understand the need for diverse housing options in this City. We are having a bit of difficulty finding housing options for the folks that have to move out of this apartment complex that meets their needs in the vicinity of where they already live. It just highlights to me the lack of diverse housing options that we have for households whose means are challenged. The General Development Policies of this project; we encourage diverse housing and this project certainly meets that, and the design does a good job of providing buffers and fences to protect the single family residents in the area. Because the City has a post construction control ordinance the issues of storm water I believe will be minimal at most, as the post construction control ordinance will actually be holding more water in the detention pond on the site before it is gradually released, so I don't think that is a real concern. I'm also supporting this petition and I would encourage my colleagues to support it also.

Councilmember Fallon said I really do not understand why it is alright for someone to teach your child, to stop a bullet for you, to pull you out of a burning building, but not be able to live near you. Why? Why? These are the people that service you. If maybe we paid them differently they wouldn't need help, but they do need help and it is the obligation of the whole City to help these people. I am voting for it.

Mr. Smith said I would ask the people in the Chamber to try to be respectful of everybody on the dais. I have sat in your seat through some pretty hefty rezoning and please, you may not agree with some of the decisions up here, but try to be respectful. I think it is important to note Mr.

Mayor that the majority of the opposition to this project comes from the immediate stakeholders and the lions share of the support correspondence that I received has been from folks outside of the immediate area and in fact a lot of them have been outside of District 7 and I think that is something that we as a body should take into consideration. The lion's share of opposition comes from immediate stakeholders and the lion's share of support comes from folks that are outside of the immediate area.

Mayor Cannon said keep in mind you are concentrating on land use.

Mr. Driggs said I think the point about the land use is precisely the issue but we have a certain lack of symmetry here in the sense that the impetus behind this is a larger policy into this. The land use questions are local and I really do resist the characterization of the people who are protesting this, many of whom I have met, as people who have no sympathy with public safety workers or who are these NIMBY types. People have concerns about their neighborhood; they have concerns about safety on this street which is very crowded. We have a number of traffic issues we need to address in South Charlotte. They have concerns I think that are valid about whether a multifamily development on that site is going to positively impact the value of their homes. I would like to emphasize we are not talking about Ballantyne here. These are not people who are worried about whether their lawn care company is going to arrive on time, so I hope we can get away from characterizations like that about the people who are a party to this discussion and just focus on the legitimate interest that area residents have and how this will affect them.

Councilmember Phipps said as a Homeowners Association President myself I can understand and appreciate the apprehension of members in the audience today on this petition. In my District we have a plethora of multifamily developments, some not of the best quality, but this is one that I would definitely recommend for my area if they so chose to go there because of the quality of it. I've visited the proposed site of this particular rezoning, spent considerable amount of time there and I'm used to farm to market roads. There are a lot of farm to market roads in my district and I can understand your concern there, but from what I see in looking and reading the different e-mails and correspondence that I received, and I've weighed them all carefully, but in this instance I don't see any compelling need to deny this petition based on those comments. I will also be casting my vote in favor of this petition tonight.

Councilmember Lyles said I want you to realize that this Council has listened very hard and very deeply to every concern expressed here. I feel really, really grateful that we have had this political pressure, this dialogue that is necessary for a community to have an open discussion around issues that are really, really important to the overall health and welfare of our community. So, political pressure isn't always a bad thing. It is actually a good thing in my opinion. It is good to get this kind of dialogue out there in the open. The part that is really important to me about this kind of dialogue is that we have to remember that there are always going to be conflicting interest and we also have to remember is that there is no win/lose in a community, it is always kind of described to us in black and white, but there is a lot of gray in this area. What we sit around this dais and look at today is a land use decision, a land use decision by a developer that has the mission to provide affordable housing for people in this community. If this person or this organization was just providing a development and they were going out and looking at this rezoning, I can't say that any one of you would not be sitting here. I think everyone of you could be sitting here. I think it is particularly important to note that city-wide, when you live next door to a site there is a certain amount of self interest, but the community as a whole, no matter where they live or what district they are in, has the ability to be influenced overall so I don't want to create these false divisions. Well if you live in this district that means you have to be one way; if you live city-wide or in another district you have to be that way. Really, it is about this community as a whole so I'm going to come back, it is a tough decision, but it is not a decision where we should be thinking about what separates us. At some point we have to come to a certain point of agreement. Now the issues that have been raised are traffic, density, and the differences about aesthetics, and all of those things have been addressed and resolved. This vote is going to be very difficult for all us. It is a protested petition and it is going to take 9 votes to support it, but at the end of the day I look at this as a land use decision. It just happens to be a development group that supports affordable housing. All over this community there are places where people would sit just like you would, for or against, but in this case I have

to say that we have come to a place where we have found a site, not perfect but it's a site that works. We've found a site that actually will provide for workforce housing, people that need jobs that have cars that can drive to work and they need this opportunity so I am going to support this petition and I hope at this point that we will really look at it and say no matter what the outcome of the vote tonight, that we will come together as a community and watch this site being built by the Charlotte Mecklenburg Housing Partnership. I hope that you will stay engaged and influence it no matter what the decision, but please let us remember this is about community. It is about the overall goals, it is not about a district, it is about a City.

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

YEAS: Councilmembers Austin, Autry, Barnes, Fallon, Kinsey, Lyles, Mayfield, **Howard**, and Phipps: **and Mayor Cannon. [Council approved an amendment to previously adopted minutes at the July 28th, 2014 Business Meeting; please see minutes of July 28th, 2014 in Minute Book 137].**

NAYS: Councilmembers Driggs and Smith

The Modifications are:

1. Added note and indicated on the site plan that the required curb and gutter along Weddington Road must be located 34 feet from the center line.
2. Amended Note 3(c) to state, "The petitioner will construct a northbound left turn lane into the site from Weddington Road. The left turn lane will be created by remarking the existing painted median on Weddington Road for a northbound left turn lane with 100 feet of storage and a 50-foot bay taper in the manner generally depicted on the Rezoning Plan."
3. Amended Note 4a to amend the list of proposed building materials as follows: The building materials used on the principal buildings constructed on the site will be a combination of portions of the following: brick, stone, precast stone, precast concrete, synthetic stone, cementations siding (such as hardiplank), stucco, EIFS, decorative block and/or wood. Vinyl or aluminum as a building material may only be used on windows, soffits and on handrails/railings.
4. Amended note 4(c) to state "The two ends of the proposed building will be designed to be a maximum of two stories in height as generally illustrated on Sheet TE002 of the Rezoning Plan.
5. Amended Note 5(d) to amend the buffer to be provided along the site's boundaries from a 38-foot Class C buffer to a 50-foot Class A buffer, except where the site's access drive is located, in which case a 38-foot Class A buffer will be provided.
6. Amended Note 5(d) to add that the required buffer will be enhanced by utilizing only evergreen trees to meet the required buffer plantings for trees "and by installing a six-foot fence generally along the interior edge of the buffer, the fence may be located up to three feet into the buffer, as generally depicted on the Rezoning Plan. No more than 25% of the fence surfaces shall be left open and the finished side of the fence shall face the abutting property. The width of the Class A buffer will not be reduced by the installation of this fence as prescribed by the Ordinance."
7. Amended Note 6 to add the following: "The site's storm water detention facility will be designed and constructed to be a wet pond and will be outfitted with a water circulation fountain and will be enclosed by a decorative four-foot metal type picket fence as generally depicted on the rezoning plan."
8. Amended Sheet TSP001 as follows:
 - a. labeled a two-story building element.
 - b. labeled a two-story building element and specify that OMITTED a porte cochere building element will be omitted.
 - c. showed location of and label a six-foot privacy fence along the edge of the 50-foot Class A buffer.
 - d. showed and label the 50-foot Class A buffer to remain disturbed.
 - e. showed approximate location of and label the four-foot high decorative fence around the open space/storm water BMP area.
 - f. labeled wet pond in open space/storm water BMP area.
9. Amended Sheet TE002 as follows:
 - a. omitted a porte cochere on Building 1A

- b. reflect amended roof line on portions of building, an addition of two units, and an increase of the breezeway from two stories to three stories.
 - c. revised three units to remove porches from the west (Willomere) side of the building and relocated porches to the east side.
 - d. revised building height to coordinate with reduced building height on the north end.
 - e. omitted two units and breezeway on building elevations from three stories to two stories on the north end.
10. Amended Note 6(c) under Environmental Features to state “If approved by City Storm Water Services and City Engineering the site’s storm water detention facility will be designed and constructed as a wet pond. If constructed as a wet pond it will be outfitted with a water circulation fountain. The storm water detention facility will be enclosed by a decorative four (4) foot metal type picket fence as generally depicted on the Rezoning Plan.”

The ordinance is recorded in full in Ordinance Book 58, at Page 610-611.

The meeting was recessed at 6:29 p.m. and reconvened at 6:41 p.m.

Mayor Cannon left the meeting at this time and Mayor Pro Tem Barnes presided for the remainder of the meeting.

ITEM NO. 1: ORDINANCE NO. 5282-Z, PETITION NO. 2013-061, BY THE CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD CONFERENCE CENTERS, CONVENTION CENTERS AND HALLS, EXHIBIT HALLS, MERCHANDISE MARTS AND SIMILAR USES AS A USE PERMITTED UNDER PRESCRIBED CONDITIONS IN B-2 (GENEERAL BUSINESS) AND I-1 (LIGHT INDUSTRIAL) ZONING DISTRICTS.

Motion was made by Councilmember Phipps, seconded by Councilmember Austin, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-061 by The Charlotte Mecklenburg Planning Department for the subject text amendment as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 59, at Page 596-597.

(Council District 7- Driggs)

ITEM NO. 2: ORDINANCE NO. 5283-Z, PETITION NO. 2013-069 BY THE RYLAND GROUP, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.0 ACRES LOCATED ON THE NORTH SIDE OF PROVIDENCE ROAD WEST NEAR THE INTERSECTION OF TOLLIVER DRIVE AND PROVIDENCE ROAD WEST FROM R-3, (SINGLE FAMILY RESIDENTIAL) TO UR-1(CD), (URBAN, RESIDENTIAL, CONDITIONAL.)

A Protest Petition was filed, but it has been withdrawn.

Motion was made by Councilmember Kinsey, seconded by Councilmember Smith, and carried unanimously, to adopt the State of Consistency and approve Petition No. 2013-069 by The Ryland Group, Inc. for the above rezoning as modified, and as recommended by the Zoning Committee.

The modifications are:

1. The zoning of abutting parcels are labeled on the site plan.
2. Amendments to Rezoning Plan heading and associated language have been removed from the site plan. General Provisions language has been modified to state future amendments to rezoning plan must be in accordance with the provisions of Section 6.207 of the Zoning Ordinance.
3. A six-foot sidewalk has been added along the proposed local residential medium street. Language under Streetscape and Landscaping has been amended to reflect this requirement.
4. Language has been added under Permitted Uses stating accessory uses to single family residential units are permitted uses.
5. Petitioner has modified paragraph under General Provisions by creating separate sentences, and removing references to Celadon Development LLC and replacing with the Ryland Group, Inc.
6. Petitioner has modified Transportation language as follows:
 - a. Added a note committing to the construction of a left turn lane with 150 feet of storage on Providence Road West to serve the site.
 - b. Added language stating dedication of right-of-way along Providence Road West will occur via quitclaim deed and subject to reservation for any necessary utility easements.
7. Petitioner has modified Architectural Standards with the following:
 - a. New language references a booklet that contains schematic architectural renderings of the front elevations of the proposed single family homes. The petitioner did submit the booklet as part of the revised site plan submittal.
 - b. Added language stating that the permitted exterior building materials for the front elevation of each single family detached home shall be face brick, manufactured stone, architectural block or similar masonry materials, stucco and cementitious siding and shake or a combination thereof.
 - c. Added language stating that vinyl siding shall not be a permitted exterior building material. However, vinyl accents, such as trim components, shall be permitted; vinyl may be utilized on the soffits of the single family detached homes and vinyl windows may be installed on the single family detached homes.
8. The revised site plan now shows a proposed 6-foot shadowbox fence located 5 feet off the property line of proposed lots 9 through 11. Petitioner shows 11 Crepe Myrtle (4 gallon) and 12 Steeds Holly (7 gallon) proposed to be planted within the 5-foot area along rear property lines of Lots 9 and 10. A detail of the proposed shadowbox fence is now shown on the site plan.
9. The petitioner has added language under Streetscape and Landscaping that states prior to issuance of a building permit for construction of a home on Lots 9 – 11, the following must be accomplished:
 - a. The above mentioned shadowbox fence must be installed along the rear property lines of Lots 9 – 11.
 - b. Noted Crepe Myrtle and Steeds Holly must be installed along the rear property lines of Lots 9 and 10.

The ordinance is recorded in full in Ordinance Book 58, at Page 598-599.

Council District 1- Kinsey

ITEM NO. 5: ORDINANCE NO. 5285-Z, PETITION NO. 2013-079 BY JOSEPH AND SYLVIA OKOYE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.59 ACRES LOCATED ON THE WEST SIDE OF EASTWAY DRIVE NEAR THE INTERSECTION OF AUDREY STREET AND EASTWAY DRIVE FROM R-17MF, (MULTI-FAMILY RESIDENTIAL), TO INST(CD), (INSTITUTIONAL, CONDITIONAL.)

Motion was made by Councilmember Kinsey, seconded by Councilmember Howard, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-079 by Joseph Okoye & Sylvia Okoye for the above zoning change, and as recommended by the Zoning Committee.

Councilmember Autry said the petition is inconsistent with the Eastside Strategy Plan and I am always challenged whenever there are inconsistencies like that, but with the staff analysis and the Zoning Committee being unanimous in its approval I will recommend approval of this petition.

The ordinance is recorded in full in Ordinance Book 58 at Page 602-603.

Council District 5- Autrey

ITEM NO. 6: PETITION NO. 2013-084 BY CHARLES C. DAVIS, JR. FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.54 ACRES LOCATED ON THE SOUTH SIDE OF THE PLAZA NEAR THE INTERSECTION OF EAST W. T. HARRIS BOULEVARD AND THE PLAZA FROM R-3, (SINGLE-FAMILY RESIDENTIAL), TO B-1(CD), (NEIGHBORHOOD BUSINESS, CONDITIONAL).

Councilmember Autry said the recommendation from the Zoning Committee is to deny the petition. This petition has also been a challenge in the question of land use. Seeing residential properties being changed to commercial uses on a corridor like The Plaza is troubling. It is troubling to me it is troubling to the neighbors in the area to see one going commercial, then the one across the street, then the one next to that and eventually you lose the character and value of the residences that are in District 5. The petition is found to be consistent with the Eastside Strategy Plan but not to be reasonable and in the public interest, based on the information from staff analysis and the public hearing.

Motion was made by Councilmember Autry, seconded by Councilmember Fallon to deny Petition No. 2013-084 by Charles C. Davis, Jr. for the above rezoning and as recommended by the Zoning Committee.

Mayor Pro Tem Barnes said I want to take a moment to talk about the petition and some issues that I have had when I was a District Rep and continue to see in certain parts of the City. One of the concerns I have with this particular type of land use is that when areas of our City become inundated with certain uses. I won't specify use, but just certain types of uses, you see it along Tryon Street, you see it in various Districts around the City, and the Sweepstakes Parlors for example were an unfortunate use to some people. In my opinion they can have a very negative affect. Councilmember Phipps mentioned some things that he is trying to confront now and what we are trying to avoid is continuing to inundate parts of the City with things that don't necessarily uplift the area. I support Mr. Autry's motion.

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

YEAS: Councilmembers Austin, Autry, Barnes, Driggs, Fallon, Howard, Lyles, Mayfield, Phipps and Smith.

NAYS: Councilmember Kinsey.

Council District 1- Kinsey

ITEM NO. 8: ORDINANCE NO. 5287-Z, PETITION NO. 2013-092 BY FMF MOREHEAD, LLC, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF

CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.65 ACRES LOCATED ON THE NORTH SIDE OF EAST MOREHEAD STREET AND SOUTH SIDE OF KENILWORTH AVENUE, BETWEEN EAST MOREHEAD AND HARDING PLACE FROM MUDD-O (PED), (MIXED USE, OPTIONAL, PEDESTRIAN OVERLAY), MUDD(CD)(PED) (MIXED USE, CONDITIONAL, PEDESTRIAN OVERLAY), AND O-2(PED) (OFFICE, PEDESTRIAN OVERLAY), TO MUDD-O SPA (PED) (MIXED USE, OPTIONAL, SITE PLAN AMENDMENT, PEDESTRIAN OVERLAY), AND MUDD-O (PED) (MIXED USE, OPTIONAL, PEDESTRIAN OVERLAY.)

Motion was made by Councilmember Kinsey, seconded by Councilmember Fallon, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-092 by FMF Morehead, LLC for the above zoning change as modified and as recommended by the Zoning Committee.

The modifications are:

1. Limited the maximum commercial square footage that may be devoted to retail uses to 15,000 square feet, except in the case of a grocery store, up to 25,000 square feet of grocery store uses shall be allowed.
2. Clarified the meaning of the term “commercial uses” by amending Note 3 as follows: “Commercial uses shall include retail, general office, medical office, grocery store, financial institution, pharmacy, and restaurant uses.
3. Provided a definition and examples of proposed residential supportive services and active space as follows: Note 3, “Residential Supportive Uses shall mean nonresidential uses that serve residents living within the site. Residential supportive uses may include, but shall not be limited to laundry rooms, fitness facilities, coffee bars, and pet grooming areas.”
4. Limited drive-through windows as an accessory for pharmacy and financial services uses only.
5. Addressed Transportation comments as follows:
 - a. Amended Note 4a regarding the bicycle lane along Kenilworth Lane to state “the petitioner shall be permitted to provide a four and one half foot bike lane and a two-foot curb and gutter, in order to accommodate a bike lane along Kenilworth Avenue. The contemplated location of the proposed new curb line is generally depicted on Sheet RZ-1.”
6. Addressed Urban Forestry comments by Amending Note 7(a) to note that the petitioner shall construct berm features to establish a tree protection area along Morehead Street as generally depicted on Sheet RZ-1. Construction of said berm feature requires that the sidewalk in that area be less than eight feet along Morehead Street.
7. Reflected existing right-of-way along East Morehead Street as 80 feet, which negates the request for dedication of 40 feet of right-of-way along East Morehead Street.
8. Specified the approximate location of tree location and 2-foot curb and gutter along Kenilworth Avenue.
9. Relabeled bike lane along Kenilworth Avenue as a 4-foot,6-inch bike land instead of a 5-foot bike lane.
10. Amended Note 2(f) to specify that building access features shall include but not be limited to: area drains, guard rails, steps, ramps, and landings, small retaining/cheek walls and footings as necessary to accommodate entry features.
11. Added Note 2(g) to state that reduced parking strip dimension along a portion of Morehead Street, in order to accommodate tree preservation goals as depicted on Sheet RZ-1.
12. Amended Note 3 to note that hours of operation for retail uses shall be limited to 6:00 a.m. to 12:00 a.m. Hours of operation for restaurant uses shall be limited to 6:00 a.m. to 2:00 a.m.
13. Amended Note 6(a) to indicate that an 8-foot planting strip and an 8-foot sidewalk shall be provided along Morehead Street and Kenilworth Avenue except in specific areas shown on Sheet RZ-1 where deviations are necessary for tree preservation or to allow trees to be placed in tree wells to enhance a sense of entry.

The ordinance is recorded in full in Ordinance Book 58, at Page 606-607.

ITEM NO. 9: ORDINANCE NO. 5288-Z, PETITION NO. 2013-093 BY LAUREL OAK FARM, LLC (OUTSIDE CITY LIMITS) AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.23 ACRES LOCATED ON THE SOUTH SIDE OF YOUNGBLOOD ROAD BETWEEN MCKEE ROAD AND WATERMELON LANE FROM R-3 (SINGLE-FAMILY RESIDENTIAL) TO MUDD-O, (MIXED USE, OPTIONAL)

Motion was made by Councilmember Mayfield, seconded by Councilmember Smith, to approve the Statement of Consistency and approve Petition No. 2013-093 by Laurel Oak Farm, LLC for the above zoning change as modified, and as recommended by the Zoning Committee.

Councilmember Autry said this is another one of those petitions that is inconsistent with the Area Plan, but based on the public hearing information and the unanimous vote for approval from the Zoning Committee I will be supporting this petition.

Councilmember Mayfield said this petition is inconsistent with the Steele Creek Area Plan but is reasonable and in the public interest based on the information from the staff analysis and the public hearing.

Councilmember Lyles said this is a petition that I have really struggled with. I think sometimes and maybe it is that I'm learning a lot about mixed use development optional (MUDD-O) I guess. I think it is fairly difficult to carve out a portion of several acres to provide for this MUDD zoning versus having it be consistent on both sides of the street with the R-3. While I have struggled with it I am going to support the petition. I think it is both inconsistent with the Plan, but more importantly I think about Steele Creek as our next economic engine in this community. Some people would say that these services are really required, but I also think the Council needs to pay particular attention to protecting those routes along the way to be consistent with the Plan. With great caution I recommend approval and support for the motion.

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

The modifications are:

1. An optional request to eliminate the requirement for an eight-foot planting strip along Youngblood Road has been added to the site plan.
2. A note has been added that attached lighting will be fully shielded and downwardly directed.
3. The following note has been added, "The allowed pet services shall be conducted within the enclosed building located on the Site except where necessary to adhere to applicable health and safety regulations, including for example the North Carolina Animal Welfare Act and similar regulations, and in connection with the humane care and treatment of animals in sanitary and healthy conditions."

The ordinance is recorded in full in Ordinance Book 58, at Page 608-609.

Council District 2- Austin

ITEM NO. 11: ORDINANCE NO. 5290-Z, PETITION NO. 2013-096 BY SECOND HARVEST FOOD BANK OF METROLINA, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 15.13 ACRES LOCATED ON THE WEST SIDE OF NORTH

GRAHAM STREET AND SPRATT STREET BETWEEN MUSIC FACTORY BOULEVARD AND OLIVER STREET FROM I-1 (LIGHT INDUSTRIAL), AND I-1(CD) (LIGHT INDUSTRIAL, CONDITIONAL), TO I-1(CD) (LIGHT INDUSTRIAL, CONDITIONAL), AND I-1(CD) SPA (LIGHT INDUSTRIAL, CONDITIONAL, SITE PLAN AMENDMENT).

Motion was made by Councilmember Fallon, seconded by Councilmember Austin, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-096 by Second Harvest Food Bank of Metrolina, Inc. for the above zoning change and as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 612-613.

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Council District 1- Kinsey

ITEM NO. 12: ORDINANCE NO. 5291-Z, PETITION NO. 2013-097 BY SUGAR CREEK CHARTER SCHOOL AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 15.16 ACRES LOCATED ON THE SOUTH SIDE OF GLORY STREET AND HUNSLET CIRCLE AND GENERALLY SURROUNDED BY WEST CRAIGHEAD ROAD, GLORY STREET, WEST SUGAR CREEK ROAD, AND NORTH TRYON STREET FROM R-12MF (MULTI-FAMILY, RESIDENTIAL), AND B-2(CD) (GENERAL BUSINESS, CONDITIONAL) TO B-2(CD) (GENERAL BUSINESS, CONDITIONAL), AND B-2(CD) SPA (GENERAL BUSINESS, CONDITIONAL, SITE PLAN AMENDMENT).

Motion was made by Councilmember Kinsey, seconded by Councilmember Austin and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-097 by Sugar Creek Charter School for the above rezoning as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 614-615.

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Council District 5- Autrey

ITEM NO. 13: ORDINANCE NO. 5292-Z, PETITION NO. 2013-100 BY SMA CAROLINA, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.20 ACRES LOCATED ON THE SOUTH SIDE OF CENTRAL AVENUE BETWEEN ROSEHAVEN DRIVE AND WINTERFIELD PLACE FROM R-22MF (MULTI-FAMILY RESIDENTIAL, TO O-1(CD) (OFFICE, CONDITIONAL).

Motion was made by Councilmember Autry, seconded by Councilmember Kinsey and carried unanimously to adopt the Statement of Consistency and approve Petition No. 2013-100 by SMA Carolina, LLC for the above rezoning, as modified, and as recommended by the Zoning Committee.

The modifications are:

1. "Transportation" Note 4 has been modified with the insertion of "bicycle" into the language.
2. "Other" heading and associated language have been removed from the site plan.
3. "Development Data Table" has been modified by replacing "office/dental clinic" with "office and/or medical, dental and optical clinics".
4. "Permitted Uses" Note 1 has been revised to read: "Permitted uses are limited to "office and/or medical, dental and optical clinics."

5. "General Provisions" Note 2 has been removed as it is addressed in note "3" (now note 2).
6. Conceptual Elevations notes have been placed under "Architectural Standards".

The ordinance is recorded in full in Ordinance Book 58, at Page 616-617.

Council District 2- Austin

ITEM NO. 15: ORDINANCE NO. 5393-Z, PETITION NO. 2013-103 BY THOMAS KEITH AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.02 ACRES LOCATED ON THE NORTH SIDE OF OLD STATESVILLE ROAD ACROSS FROM SPRING TRACE DRIVE FROM R-17MF (MULTI-FAMILY RESIDENTIAL), TO I-1 (LIGHT INDUSTRIAL).

Motion was made by Councilmember Austin, seconded by Councilmember Fallon, to adopt the Statement of Consistency and approve Petition No. 2013-103 by Thomas Keith for the above rezoning and as recommended by the Zoning Committee. The vote was recorded as follows:

YEAS: Councilmembers Austin, Autry, Barnes, Driggs, Fallon, Howard, Kinsey, Lyles, Phipps and Smith.

NAY: Councilmember Mayfield.

HEARINGS

Council District 3- Mayfield

ITEM NO. 16: HEARING ON PETITION NO. 2013-017 BY NCDG, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.1 ACRES LOCATED ON THE EAST SIDE OF LITTLE ROCK ROAD AND NORTH OF THE INTERSECTION AT LITTLE ROCK ROAD AND TUCKASEEGEE ROAD FROM R-3 LLW-PA (SINGLE FAMILY RESIDENTIAL, LOWER LAKE WYLIE PROTECTED AREA) TO B-1(CD) LLW-PA (NEIGHBORHOOD BUSINESS, CONDITIONAL, LOWER LAKE WYLIE PROTECTED AREA.)

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said just to locate you this is I-85 on the western part of the county, Little Rock Road, and Tuckaseegee Road and this is the site. If you look at the map you can see a white line running through the middle of the map; that used to be public right-of-way. That ROW has been abandoned by the Council in August 2013. There are two single family homes that are located on the site and those homes are to be removed. In terms of the adjacent uses; there is a church, some single family lots, single family homes, a convenience store, a drug store and this is a shopping center with the out-parcels. There is also a fast food restaurant at that location. I want to show you this map to show a few things about where the site is located. If you look at the pink line, this is the Airport Noise Overlay so anything on this side of that pink line is going to be within that Noise Overlay in an area where we would not recommend residential development. You can see the area to be rezoned is in the yellow so it is within the Airport Noise Overlay. There is a pod of retail as I pointed out on the previous slide in this area, and then in this location is the planned extension of Little Rock Road. You can see the realignment from the current location.

The proposed request is only for a portion of this property. It's to allow a 9,100 square foot retail establishment in the area that is closest to the existing C-store so it is pulled up next to the other retail properties. The storm water facility and buffers are located along the sites perimeter with the adjacent residential properties. There is a portion of the site that will remain R-3 and that is not to be rezoned at this time. The property is in the Lower Lake Wylie Protected Area and what that means is when they develop the site if they have a certain amount of impervious coverage, they will have to take extra protection for the ground water systems management for this site. The elevations for this site, I will breeze through these because I believe the petitioner has some revised elevations to show you as part of their presentation. In terms of this rezoning case it is inconsistent with the Northwest District Plan which recommends single family residential for the property, but it is close proximity to the existing retail as I showed you on the map and it was not anticipated to be residential when the District Plan was adopted. The location is within the Airport Noise Overlay. We have the Little Rock Road Extension which is going to become a significant street and an entrance to Josh Birmingham Parkway. The outstanding issues are technical in nature so staff can support this upon the resolution of the outstanding issues.

Brian Hines, 9815-J Sam Furr Road, Huntersville, NC said I am the petitioner with NCDG. Thank you for allowing us the opportunity to share for about 10 minutes this project. I have been developing for a national retailer for the last 7 years in the State of North Carolina, South Carolina as well as Virginia. With this relationship they have a very extensive market planning department that basically finds areas that they would like to have a store. They look at the demographics, they look at the general area and they located on this area of Charlotte. They would really like to have a new location. This would be a brand new free standing building. This is not a speculative venture. There is already an executed lease for this property. This is a total of 5.5 acres and we've been working with the City of Charlotte and staff for many years now; as well as with the very patient land owner and we've come with the plan that we have before you today.

Of the 5.5 acres we are asking for a rezoning of about 3.1 acres and through that with the buffer requirements of the City of Charlotte, we are only required to have about a 38-foot buffer but we are placing a 49-foot buffer for this area. We feel this is a great area for a rezoning transition. There is commercial across the street, there is commercial beside us and we have a neighbor behind us which happens to be Mulberry Baptist Church that we've worked very closely with over the last couple years and they are in favor of this rezoning. Some of the outstanding issues that the City of Charlotte has presented to us we are more than willing to address every single one of those issues. One of the largest one was about the architectural and the dark green is what is currently wooded right now. A majority of that would continue to stay wooded so you will see there is already a large buffer on top of the 49-foot buffer that we are also proposing. We have shifted the building close to the convenience store so there is a smooth transition of commercial. We worked closely with NC-DOT. We are required to put extensive road improvements in that area, including a left turn lane coming south on Little Rock Road. In conversations with staff in our community meetings, we talked about the architectural standards of this area and what they are trying to get jump started here so we are talking about one of the new urbanism designs. The building is up on the front of the right-of-way so we have a corner entry design. It is an all masonry building. We've looked at couple different renderings, the most recent one here shows mostly a two-toned masonry product, two-tones of brick. We want to break up, based on staff's recommendation, every 20-foot separation; so with that we are proposing the brick pilasters that you will see down both the front and the sides. What we have here, is we put some canopies on the top because if you look at the right side elevation that is the first thing you are going to see when you are heading north on Little Rock Road, so we wanted it to present very well and instead of a big brick wall, even broken up with pilasters, we wanted to put maybe some awnings; basically some shutters, I used on a project I did up in Denver, NC. This is the store in Denver, NC. This is not the corner entry and is not exactly what it is going to look like, but it gives you an example of the awnings as well as the shutters. This has a row of parking on the front; it is not up on the right-of-way. I think that is all the outstanding issues we've addressed and we are willing to do.

Robby McClure, 13724 Thompson Place Drive, Mint Hill, said I'm a commercial real estate broker and I work with Century 21, Murphy and Rudolph. We have the property listed that we

are discussing there today. We listed it on May 6, 2009 so it has been on the market quite awhile and the majority of our inquiries have been for commercial use, not residential. I understand that the properties were listed for quite some time before we got the listing and to the same end, they wanted it for commercial. I think commercial is the best use for the property at this point. The developers I am familiar with; I've done several projects with them. I think you can count on them to do what they say they are going to do and build a product that the neighborhood will be proud of. West Mecklenburg has seen its share of retail going dark and is in need of a little bit of revitalization and I think this project might be one that could give them a little kick start. You need to be able to shop in your neighborhood and there is just not enough of that available over there. I've heard several people say they leave work and shop before they get to West Charlotte in that area. The area must be financially attractive to justify the investment from these investors. I have been involved in real estate and on the west side for quite some time, and I think this project would have a very good opportunity to force other developers to come into the area. These developers are willing, able and are here before you today and I urge you to look favorably upon it.

Mark Myers, 2231 Stallings Road, Harrisburg, said I am the son Ed and Virginia Myers and the nephew of Patricia Mitchell, the property owners. The property was purchased by my grandparents in 1951; they built their home there in 1953. My mom and dad were married in 1954 and were given part of the property where they built their home in 1957. I have fond memories of growing up there. My father was promoted and transferred and we move to Richmond, VA in 1966. My grandparents continued to live there until they died in 1986. At that time my family started the process of selling the property so for the last 26 years the property has been on and off the market and over that time I've lost two uncles who were part of the property and my parents continue to age. They are now in their mid 80's and over that period we have tried to keep the property occupied by renting it with limited success. Over the last several years we have not been able to find good quality renters to stay there and take care of the property. Even though my family is small and we no longer live in the community the Mitchell and Myers roots are there on Little Rock Road. My family strongly believes this proposal before you is a positive change for the future of the community.

Kim Gilmore, 129 Woodlynn Drive said I live 10 minutes north of the area that is being rezoned. I am a deacon at Mulberry Baptist Church which is right around the corner and I can tell you this would be convenient for me because I am usually in that area at least two times a week. It is great to see that a new store might be going in that would allow us to go in grab some milk or bread when we are traveling two and from church. I've been in this area for 30 years and it has been kind of overlooked to be quite honest. I think this might be the spark that could get things going there because there is a lot of people in that area that could use a facility like this. The only other facility similar to this that is there now is a Family Dollar Store and it is a nice store, but the building it is in is pretty old. I think something like this could really help the community and help us all to be able to conduct business on our side of town.

Jeff Watson, P. O. Box 1392 said I'm a broker working with the petitioner and I grew up on this side of town, Highway 16 so I am very familiar with this area. I'm a native Charlottean. We've been dealing with this property since 2011, working closely with staff. I met with Ms. Mayfield a couple times and wanted to let you know that we've been around trying to make this plan work since 2011. You will hear some opposition tonight about the property but rest assured the use from what I know of and what we've talked about numerous times is not an issue. The retail use in a 9,100 square foot building and the design of it and architectural is very pleasing to the neighborhood. We've done everything in our powers to satisfy the community as such. We've got a lot of neighbors here who are in favor of it who are sitting here as well. The immediate neighborhood as it stands is in favor of it. We do have some opposition a few miles up the street.

Sandra Medlin, 6636 Glenmoor Drive, said I'm the Vice President of the Pawtucket Neighborhood Association. We have a handout which I think you have received and thank you for this opportunity to present our opposition to this rezoning petition. I have a lot of passion behind this because I grew up in the Forest Pawtucket Neighborhood and I went to school at West Mecklenburg. My father was employed by Eastern Airlines for 30 plus years and part of the opposition we have as a community is the fact that what they were just saying, they make it

sound like that we don't have any other Food Lion; they did mention the Family Dollar, but right across the street are plenty of places to go shopping to get some bread and milk. It is another Dollar Store and we have too many in the area. We have an existing Dollar General which is on Moore's Chapel Road, which is a little bit closer to my neighborhood. It is in horrible condition. The landlord there does nothing to the property. I actually just found out today that that property is for sale. There are a lot of reasons besides that we opposed this. We don't feel like this is the type of retail we need in our neighborhood. We do not have anything like a copy center where children in the neighborhood that do not have computers or printers can go and make a copy, like a FedEx Copy Center or UPS mail center. We just feel like we are underserved in the community by a mix of different merchants. I have to go shop other places, but Dollar General is not where I need to go shop. I need a variety of shopping and the only things we have in our area are two Food Lions for grocery stores; we have two Family Dollar Stores and we have the Dollar General on Moore's Chapel Road. There is a few pictures in your packet that you will see of the existing store and granted this new store is very nice and appealing, but we are not happy with Dollar General as a merchant because they haven't done anything for our community with allowing a store to stay in existence like the one on Moore's Chapel. If you guys would want to shop there I would like to know.

During the 60's this Forest Pawtucket community was developed and it offered an 18-hole public golf course. It was a beautiful neighborhood. I was a teenager when my parents moved there in 1968 and they moved there because my father's work was at the Airport. It had a swim club and for that part of Charlotte it was a very nice neighborhood. My parents worked very, very hard to have that home. I recently moved back to the neighborhood and moved into their home. I lived in Ballantyne so I'm not too good to move back over to the west side and live. Once I got over there I realized that this neighborhood had a lot of problems and I decided to work with the City. I formed a Neighborhood Association; we are having a great attendance rate; the City has noted that and we also are having a lot of grant processes that we are going through. We got an organizational grant which we are very proud of. We are going to be going for a beautification grant because the neighborhood has declined greatly. Once the golf course left, once the swim club was no longer there, a lot of the attractions that drew people to live there, they no longer wanted to be in that area. We are trying to get back part of our identity as a neighborhood and if anyone has lived in Charlotte for any time, you know that when there was a golf course there, a lot of people were at that public golf course. If you said you live in Forest Pawtucket, they knew where you lived. Now that is not the case. If I tell someone where I live they have never heard of it if they are not a native Charlottean and they haven't live here that long. Our neighborhood is wanting to get more diverse merchants that will provide services that we do not have existing and the reason we do have to make trips from work and after work to go outside of Mecklenburg County to Gaston County is because it is closer for us because we don't have the things that we need and the necessary merchants that would provide the services.

Rosa Mustafa, 8034 Lobilia Lane said of course I live in the Forest Pawtucket area. I've been here for 14 years, but a native of Virginia. We want to talk about the rezoning of Little Rock Road in order for a Dollar General to implement a store. I passed around a booklet, and on the first page it gives you an aerial view of that community. I placed some cut outs to the side where it says Family Dollar. On the side in which Dollar General wants to place their proposed stores is right there are the houses, and then straight across the street is a Family Dollar. As you can see, the middle artery of the City is the main thoroughfare and is identified in the memorandum that is dated by the Charlotte Department of Transportation on October 25, 2013; it is designated as the main thoroughfare. My concern is that it is going to cause a blockage for the community. There are subdivisions that are there, there are day cares that are there; that is the interstate for I-85 and to place a turning lane because right now it is one lane back and forth, but they have also said they want to implement a turning lane but I think it is going to be problematic and it is going to cause accidents. It says the rezoning of Little Rock Road will cause continuous back-up on a single lane residential street. On the eastern portion of Little Rock Road is a curve that does not offer high visibility for vehicles that are traveling west. This problematic and will result in accidents as cars will be pulling in and out of the Dollar General entrance.

This is from the street view and in the center there is a median that has been placed there and you can see the trucks going back and forth, but there is a median there and they want to place their

Dollar General just beyond the light post. It is again going to be problematic because people have to enter and exit Dollar General the same way. There is no back entrance or exit for them, they have to come and go the same way they came in. I think shoppers are going to find this problematic; I think our neighborhood is going to find this problematic.

Will adding a Dollar General to Little Rock Road be a value added initiative? Currently the community has the following merchants, this is a duplication or similar; we have a Dollar General located at 2516 Little Rock Road across from the proposed site. We have a Dollar General located at 8001 Moore's Chapel Road that is 1.08 miles from the proposed site and we have a Family Dollar located at 9115 Samlen Lane, 1.22 miles from the proposed site and on Freedom Drive we have A Dollar Tree that is located 3301 Freedom Drive, 1.8 miles away. We did a survey in the area to find out what the people's opinion was regarding implementing another Dollar Store. The question was, would be you approve or find it beneficial to add a Family Dollar, Dollar General or Dollar Tree to Little Rock Road, with a resounding 98% of the people saying no, they did not find it beneficial. I have supporting documents from 28214 with 50%; zip code 28208 with 28%.

The developers are stating that the Forest Pawtucket Neighborhood, the retailers are reluctant, but according to the UNC-C quality of life study in 2013 our buying strength or purchasing strength is \$49,437 per household. That is a pretty decent household income for any merchant to want to locate in our neighborhood. The next is available space. We have a number of facilities and buildings that are not being utilized, either Winn Dixie that was there previously and they folded because of a national issue or what have you and went out of business; the same thing with Blockbuster. We have a number of buildings that are open. We have also offered this option to the developers but they do not have any interest in pre-existing space. As you can see according to the Quality of Life we have 115,169 square feet. This is one of the shopping centers that is presently vacant. We have one restaurant that is in there now. A lot of trucks park in the parking lot that causes a lot of problems. We would like to find merchants that would go into that area.

Mayor Pro Tem Barnes said to Ms. Mustafa that the booklet is helpful, we all have it and we can finish reviewing it. Thank you so much for being here and your comment. There is a two minute rebuttal for the petitioner.

Brian Hines said in rebuttal, as you can tell Ms. Medlin and Ms. Mustafa have kept me on my toes through this process. We've had two community meetings in the neighborhood; we've had numerous conversations; Ms. Medlin invited us to a neighborhood meeting which went very well. I would like to address a couple of things. Revitalization – I give them complete credit for what they are trying to do in this Little Rock area. Unfortunately it has been kind of pushed to the side in all the growth of Charlotte. The last building that was done there was the gas station in 2000. There was an amended site plan for that same facility in 2011 and before that the Rite Aide across the street was developed in 1998; there is zero development in this area since then when Charlotte has been one of the fastest growing cities in the country. We are willing to invest a lot of money and energy in this area to help start the revitalization. A lot of the centers they are talking about up the road in vacant space happen to be 2 miles away. The neighborhood where they live is about 1.5 miles away so the people that are here in support live right in the general area. Retailer interest in the area is one thing they brought up; we develop for a magnitude of other retailers and I talked to some fast food and some other national retailers, single or stand alone and at this point there is nobody that is expressing an interest other than my tenant has expressed right now with a signed lease for 15 years. Up there, the old tired center where Dollar General is located right now, they are just a tenant; they are not the landlord; they don't control the exterior; they don't control the parking lot, but the one good thing is when everybody else vacates that area they have the staying power to be there. They have been there 15 or 20 years and they are going to be there a lot longer because they've started updating some of their space. We can't fill a space across the street from where they are currently located. This is a different trade area; it is 2 miles away from our other store. There is enough population, enough purchasing power, as they stated, in this area to have two in this one area.

Councilmember Mayfield said it is actually comments and I want to thank both Ms. Medlin and Ms. Mustafa for coming down because we always encourage the citizens to come out and share their ideas and concerns. I have also met with the developers and I definitely know one of the biggest challenges that I have and some of my colleagues have also mentioned is the fact of what we are looking at and the fact that we have to look at not necessarily this specific product, but the type of development and look at what the area may be zoned for if it is a rezoning; what is the area calling for. We are seeing a change in demographics, but unfortunately because of the area changing on the positive because the Airport has grown as much as it has that makes it very difficult and even though I would love as the representative to identify other type of products to come into the area, I've had numerous conversations with diverse companies as well as utilizing the City of Charlotte staff to look at what potential opportunities we may have in the area and unfortunately I have some limitations. I'm not saying whether this particular product is a good or bad product; we are going to go through the process. I encourage all of the residents that are in the Pawtucket area to reach out because this will be your store if it moves forward. If it doesn't move forward then it is going to take the community coming together to help identify a product to come into the area. I just wanted to share mainly for those of you that are at home to please get engaged in the process because we have a number of developments that are going to be coming up in this area of town. Some of them you may like and some of them you may not, but the best part is for you to be engaged in the process and make sure that your voice and your concerns are heard.

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

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

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Council District 7- Driggs

ITEM NO. 18: HEARING ON PETITION NO. 2013-098 BY TROTTER BUILDERS FOR A CHANGE IN ZONING FOR APPROXIMATELY 10.3 ACRES LOCATED ON THE SOUTH SIDE OF ENDAHVEN LANE AND NORTH SIDE OF I-485 NEAR THE INTERSECTION OF ENDAHVEN LANE AND MISTY RIDGE LANE FROM R-3 (SINGLE-FAMILY RESIDENTIAL), TO UR-3(CD), 5-YEAR VESTED RIGHTS, (URBAN, RESIDENTIAL, CONDITIONAL, 5 YR VESTED RIGHTS).

The scheduled public hearing was held on the subject petition.

A Protest Petition has been filed and its sufficiency is to be determined.

Tammie Keplinger, Planning pointed out the location of the property, pointing out I-485, Johnston Road, North Community House Road and Endhaven Lane. This is an aerial and you can see the future road that will go through from North Community House; we have Endhaven Elementary, we have All Saints Catholic School the British School are located on this site. Over here we have the Torrington Development. This is single family residential to urban residential, conditional which does require a site plan. The proposed use is for multifamily apartments with 200 units in two buildings. There is an overall density of 19.4 dwelling units per acre. There are multiple architectural commitments which I will show you in a few minutes. The building height ranges for Building A at 5-stories and Building B at 4-stories and there is the dedication of right-of-way for Community House Road. There is an existing cell tower that is located on this property and it is proposed to be moved to the south closer to I-485. You can see the elevations of the proposed building, this is Building A that will be five-stories and this is how it will look from North Community House Road and then Building B, this is the internal street view and this is from North Community House Road.

I'll tell you a little bit more about the site plan that is associated with this petition. It does have two buildings; there is a pool and a club house in the main building; there is a pedestrian plaza area at the intersection of Endhaven and Community House. There are about 12 or 13 proposed

possible internal garage spaces that may occur in this location and there is underground parking. In terms of the building location, the buildings are pulled up towards Community House Road away from the school with the buffer between the school and the apartments and the parking. This petition is consistent with the South District Plan which recommends residential uses. The General Development Policies, which is the tool that we use to determine density for residential development when it is not called out, recommends up to 8 units per acre for this site. One of the things and the increase in the recommended density is appropriate because of several things that have happened. Because of the adjacency to the Tarringdon development, because of the extension of North Community House Road which will tie this area to Ballantyne, which is a mixed use center to the south, the General Development Policies encourage the range of housing types and densities which this will also meet that goal. There are numerous architectural and design commitments; the outstanding issue are technical in nature and we believe we will have those resolved by the time it comes back for a decision, we are still waiting for information and the sufficiency of the Protest Petition will be available by the time it comes back for a decision.

Peter Tatge, P. O. Box 7030 said I am with ESP Associates and I'm representing the Petitioner, Trotter Properties is the owner, Paul Trotter with Trotter Builders is the petitioner. My address is 2731 Creek Bed Lane, I live in Charlotte right off of Park Road and I appreciate your consideration of this matter. Also with us is Jake Carpenter with Ramey, Kemp and Associates. He is our traffic engineer and he will be available to talk about traffic. I wanted to throw this up to kind of start the conversation; Tammie talked a little bit about the extension of North Community House Road and if you can look at the aerial you can see the little white line which crosses the interstate, which is actually under construction as we speak. They started clearing last week. The site is in red and you can see the connection of the property to the Ballantyne Corporate Business Park, its relationship to across the street with Tarringdon and then surrounded on two sides to the north and to the east by the British/American School. It is a private secondary school and then Endhaven Elementary to the east.

Initially I would like to recognize a couple points, I recognize your staff is recommending approval of this project and they've also mentioned that it is consistent with the South District Plan and also the recognition that the site supports the General Development Policies goal to encourage a range of housing types and densities. I think the fact that this site is located across the interstate from Ballantyne and its correlation to the Tarringdon mixed use center qualifies it for additional density from what the GDP had originally scored it at. This is a copy from the Centers, Corridors and Wedges Policy framework plan, and I will take the blow-up down in the corner No. 16, which is the Ballantyne Corporate Park, which is characterized in the Policy Plan as the Ballantyne Activity Center. Ballantyne actually extends this activity center on both side of I-485 and you can see the relationship, the red star up in the corner which is the North Community House residents site right across the street from the Tarringdon. I think it is important to recognize that this area is growing and there is significant activity with infrastructure and office. This sheet is an aerial from Petition 2011 which was the Ballantyne rezoning that the City Council approved three years ago and it shows the correlation again with North Community House Road to the Ballantyne Pedestrian network, again the area is in purple that are shaded. You can see the site and then the two schools in proximity to our property.

Growth in Ballantyne – one of emphasis and you will hear some more from Mr. Trotter, why is this site suitable for apartments. There is enormous office growth going on in Ballantyne, office being built, over 6.5 million square feet of office has been approved; 4.3 million of that has been constructed. MetLife which is a major employer has relocated in Ballantyne. The apartment complex is anticipated to provide professional housing for folks that are working in Ballantyne as well as in Tarringdon. This is immediately across the street. Tarringdon mixed use; people drive up and down North Community House Road all the time and they see this aerial and they say where is that. Well, this is Tarrington; it is growing, this is where the Earth Fair Center Grocery and retail is, offices, shops, restaurants, the proximity of Trotter Builder's site right across the street as this important major thoroughfare is constructed will provide an opportunity for people to walk to these facilities and amenities. Here is a plan view showing the proximity of our property. You saw the aerial view previously and this is actually a scale drawing, you can see the concentric circles with the thousand foot line going right through the Tarringdon Center; certainly pedestrian friendly environment, accessible by sidewalks which will be put in as part of

the new road construction. A thousand feet is less than two tenths of a mile so it is certainly appropriately positioned in relationship to this mixed use center with shops, restaurants and employment; Torrington, some information from the recent newspaper articles, talking about a planned hotel, a 7-story office building again right across the street from Trotter Builders property going into the future development area.

Pedestrians – pedestrian network, pedestrian mobility; again a plate from the Ballantyne rezoning, the area in yellow is showing what they have committed to from existing and future plans, sidewalk infrastructure which will travel across the bridge, North Community House Road will have bike lanes, 6-foot sidewalks, 8-foot planting strips and we are going to tie into that. Here is a blow-up as you cross the Interstate and the area with the orange demarcation is an example of the pedestrian mobility within Trotter Builders proposed apartment complex. Almost a mile of sidewalks, .8 of a mile of internal sidewalks as well as what is surrounding the property with the new road that is being constructed. How does that relate? Again we are talking about its correlation to Torrington, you can see the purple is the existing infrastructure, how we are going to tie into that so people can walk over to work ideally, restaurants, Earth Fair, it makes sense to put this kind of land use across from a mixed use center like this.

This is the rendered site plan identifying again some of the amenities that Tammie had spoken about and the area is highlighted in orange with the sidewalks that were outlined earlier in orange, sidewalks throughout the property allowing people to get up to the main road, cross at a controlled intersection that is going to be constructed here soon and get access to Torrington and also south into Ballantyne.

Paul Trotter, 1515 Mockingbird Lane said I am President of Trotter Builders. We are a locally owned company and founded by my father William Trotter in 1959. I grew up in Charlotte and I'm raising my kids in Charlotte. We are known for neighborhoods that we have built where we leave the trees, plant trees, for our quality brick construction and for timeless design. Those are elements we plan to bring to the North Community House residences. We do have community spaces that we are building. There is a patio as well as the fountain that is at the corner of North Community House and Endhaven. We feel this will be a real focal point for folks driving down North Community House and effectively this new entrance into Ballantyne.

Some may wonder about the need right now. There is 95% occupancy of apartments in Charlotte. If you move into the sub-market it includes Ballantyne, it is 97.3% and if you look at the Class A apartments which are what we will be building the current occupancy there is 98.4%. So there is clearly a demonstrated need now and industry projections are that there will be a need on into the future. We have the opportunity to part of a historic public/private partnership that is building the North Community House Road well ahead of its previously planned dates. Construction is going on now and we are partnering with the Bissell Companies to buy the donation of over 2.5 acres of land that is helping move that road up. We feel like that is a tremendous opportunity to be proactive and so something about the traffic issues in South Charlotte. We are putting some additional turn lanes in and our traffic engineer has produced this study accepted by C-DOT which says those proposed North Community House residences with the improvements we are making, are not expected to have a significant impact on the intersections.

Alexander Vuchnich, 6801 Red Maple Drive, said I am here at the request of many neighbors to share their concerns regarding this petition. I also have a daughter who will be entering kindergarten this fall so I am speaking as a resident, as a community representative and as a parent who will be affected by this rezoning petition. The community itself consists of about 450 single family homes and there is a private and a public elementary school that adjoins Endhaven Lane. All of these are served by a heavily traveled ½ mile stretch of road that connects two commercial centers and in terms of City Planning the Endhaven Community and the parcel in question sits squarely in a suburban wedge area. Let me start by clarifying that the opposition to the petition is not based on an NIMBY argument. The members of the community understand that this parcel will be developed and that growth and development do have positive impacts and aspects. However, land use policy is predicated on the fact that with growth come challenges and negative impacts to public safety, health and general welfare. Members of Council do not

need me to remind them of the challenges in terms of traffic congestion, crime and loss of community identity that comes along with growth, but there is both good and bad with growth is a given so we should look to our plans, policies and guidelines adopted by the City to provide guidance because absent of these, there is no City planning. With regards to this petition the staff analysis ignores the plans adopted by Council. The staff recommendation states that the proposal does not meet the development policy with regards to density. There are two explanations provided for why the exception is granted, one is the proximity of the parcel to a commercial center and future corridor, the other being the goal encouraging more diverse housing opportunities. To be fair I understand that zoning needs change over time and that exceptions do have to be granted when the zoning prevents the type of development that the City wants to see. However in this case existing zoning policies does not prevent the development of a multifamily housing at a moderate level of density for this parcel. If the petitioner had simply proposed a more moderate level of density, 8 units per acre as provided for by the GDP density matrix, they would fall within that UR-2 zoning classification that is supported by the density matrix, which would also compliment the adjoining commercial center, the future corridor there, as well as diverse housing opportunities. To take that one step further, using that same reason that staff has used, you would reach the absurd conclusion that this parcel would also be appropriate for R-55 zoning because that too would allow for supporting of the commercial center, the future corridor and a more diverse set of housing opportunities. Using this reasoning, staff is using it to justify what amounts to a 560% increase in density from what it is zoned for right now on the ground for that parcel. Here in lies the danger of ignoring the policy. It leaves no criteria for evaluating the impact of negative or positive of the proposal and so the balance shifts to the extreme. Ignoring the policy is the same as having no City planning.

Some of you may feel that the stated goals of City planning are no longer relevant or in need of change and that may be true, but absent any guidance on what the policy should be every rezoning becomes a zoning by exception. In that case everybody loses because zoning by exception is also not having City planning. Staff analysis incorrectly concludes that an exception to the City's general development policy should be granted for this petition. The existing policies allow for the development of the parcel within the guidelines at a much more moderate density while achieving Council's stated GDP goals, its goals of supporting centers and corridors and of supporting a mix of housing options. Blatantly ignoring the policies set by Council is the same as having no City planning. Zoning by exception is also not having City planning. The consequence of not planning is the safety, health and general welfare of what the City residents will suffer. I ask members of Council to please consider voting no with regards to this petition.

Eddie Moore, 6353 Mock Orange Drive, said I am also speaking on behalf of the residents in the Endhaven Community and also do have a daughter that attends Endhaven Elementary School. The two items in Staff's recommendations that I would like to address and other land use item associated with this request. The first point in staff's recommendation states the increase in the recommended density is appropriate because the site is adjacent to the existing Torrington development and located on the future extension of North Community House Road which ties the site directly to the Ballantyne mixed use center. As response this site is located within a wedge location as the five other centers, corridors and wedges growth framework documented. The mixed use portion of the document states centers should be typically surrounded by lower density residential neighborhoods. Proposed density of 19.4 units per acre is not transitional density into existing Endhaven community that was built with 3 units per acre. There are currently three entitled conditional rezonings located adjacent to this site. These entitlements consist of apartments and townhomes totaling 1,286 units. Based on CMS recommendations these entitlements they will add 414 students at Endhaven Elementary if built raising the enrollment over 1,100 students. Endhaven's capacity without utilizing mobile classrooms is 694 students.

The second point within staff's recommendation states the site also supports the GDP goal to encourage a range of housing types and densities. The response to this; there are currently 8 apartment development consisting of 2,713 apartments within 1.4 miles of the site ranging between 5.1 to 13.5 units per acre with an average density of 11 units per acre. While taking the number of existing apartments and entitled units, there are 3,999 non-single family dwellings located within 1.4 miles of the site. These dwelling units far exceed the number of existing

single family dwellings within this area. The density of 19.4 units per acre will create an unfavorable residential density precedent within this wedge location. Of course once the precedent is established for an area it would be difficult for you and staff not to accept what is being proposed for future considerations. If there is such a demand for non-single family dwellings within this area, the adjacent and entitled developments total 1,286 units would currently be under construction or already built.

Meg Bova 10526 Misty Ridge Lane said I live right across the street from where this project is going and this will impact all of our single family homeowners. By the City's survey it will add another thousand more cars per day up and down Endhaven Lane which is less than a mile long. On top of that you put an entrance from this 200 apartment complex being right across the street next to two elementary school entrances, then add a stop light at the corner, it is going to be an accident waiting to happen due to the road rage. It is not safe for the children to walk to school with the traffic we have plus it is going to devalue our home values and it is just going to be overcrowding of the school.

Jacquie Slack, 9904 Laurel Lake Lane said I'm a resident homeowner on Endhaven Lane in the White Oak Community. I have two children at Endhaven and I'm also on the PTA there. Rezoning for the apartments on the east side of North Community House, set a new precedent and attracts from our community. We have had a buffer from this congestion because of the undeveloped property and the buffer of Johnston Road. North Community House would be putting the apartments on the east side and it is setting a new precedent and I'm not saying I'm necessarily against the development of Tarringdon, we don't want it this side of the street. We want to maintain our community of 500 plus homes and enjoy being able to walk, run, and bike along Endhaven Lane. Yes, we have some issues with traffic and speeding, but an increase of 1200 will go unprecedented and be so much more difficult to control, especially when we walk our children to school on a regular basis. This is something you feel when you come home; you feel the joy and the pride of being able to walk around, not just your neighborhood, but those around you because of the happy comfortable ease of a low crime rate. Having the apartments there and having the additional traffic is only going to increase this.

We have a concern about school safety as well and I know and I'm thankful that Trotter is working with Endhaven to put a fence along the apartment side, it is still going to provide issues for crime, trash, debris and the additional traffic along this intersection that is going to come right out in front of Endhaven Elementary and British American School. I also have a concern with the height of the apartments. Mr. Trotter has stated they would not exceed 30 feet higher than the Endhaven roof and I have concerns since there has not been morning sun on this land that he cannot confirm that.

In rebuttal, Mr. Trotter said I would like to speak to a couple of things that were mentioned. First school crowding was mentioned, CMS says that our community will be putting 13 students into Endhaven Elementary. I just wanted to make that clear. One speaker said they were across the street from our community. She lives 500 feet from the nearest building that we will be building and I want to say we have met extensively with various stakeholders, neighbors, principals at both adjoining schools, we are addressing concerns that they have raised. We are working as we can with neighbors and with the adjoining schools.

Mr. Tatge said briefly the commentary about staff's recommendations in the report, we stand by those with staff and we think they are accurate. The point has been brought up about the community engagement; we've met with several of the neighborhood organizations, HOAs, both of the schools. I think it is important to see this graphic that shows the outline of the buildings and how the property is positioned next to Endhaven Elementary. We've had favorable conversations with the Principal and the PTA President. We moved the building away from the property line; we lowered it a story and that would be building B. We've reduced the unit count by 10% and we are working with them on some agreements about fencing, security operation in terms of when construction traffic can occur. We believe we are moving in the right direction. The neighborhood is relatively protected by the two schools in terms of how it sits up and it is right across from a mixed use center.

Councilmember Fallon said are they going to fix that road that is so crazy that goes up and then down?

Mr. Trotter said yes, that is North Community House extension where the road now takes a hard left if you are coming from Johnston Road. North Community House will now continue going straight and across I-485 into Ballantyne right past MetLife. The intersection with Endhaven will be squared off. We are donating land to help make that a straighter angle and there will be a traffic light there.

Councilmember Driggs said I just wanted to make the comment, I think one of the challenges on this is going to be to properly anticipate the traffic that can be expected as a result of the surrounding developments and also the change in the flow of the traffic that will occur as a result of opening up Community House. I'm saying I will be looking closely at the traffic study to make sure we analyze properly what the new flows will be on Endhaven and what the flows will be on Community House other than the ones that are created specifically by this petition.

Mayor Pro Tem Barnes said will there be pedestrian connectivity from your property over to Torringdon?

Mr. Trotter said yes, there will be crosswalks at North Community House and Endhaven intersection so the sidewalks will connect there and there isn't currently, but there will be a new drive-way in Torringdon with sidewalks. The only sidewalks across I-485 in the area will be along the new North Community House connection with Ballantyne.

Mr. Barnes said I believe one of the other speakers indicated there were 2700 apartments planned or under construction with 1/2 mile.

Ms. Keplinger said I do not have that information but that is something that we can take a look at.

Mr. Moore said 2,700 existing apartments and 1,200 that are entitled next to the site.

Councilmember Phipps said will you in fact conduct a traffic study?

Jacob Carpenter said we worked with C-DOT to prepare a traffic assessment for the area. With coordination with them we have an approved study that looked at the adjacent intersection there and the site driveway connections for our site and they have approved that.

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

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

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Council District 6- Smith

ITEM NO. 19: HEARING ON PETITION NO. 2013-099 BY MICHAEL T. WHITEHEAD & ELIZABETH M. WHITEHEAD FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.70 ACRES LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF RAMA ROAD AND SARDIS ROAD FROM INST(CD), (INSTITUTIONAL, CONDITIONAL), TO INST(CD) SPA, (INSTITUTIONAL, CONDITIONAL, SITE PLAN AMENDMENT).

The scheduled public hearing was held on the subject petition.

Mayor Pro Tem Barnes said this is a continuation of the public hearing from December 16, 2013 Zoning Meeting. Ms. Keplinger would you like to update us on any changes that have taken place since December 16th.

mpl

Tammie Keplinger, Planning said yes, the property is located at the intersection of Sardis and Rama Roads. Providence Day School is across the street, Sardis Baptist Church across Rama Road. I am pointing that out to you because that is where part of their parking is going to be located. They are doing a parking agreement with Sardis Baptist. One of the questions that came up at the hearing last month was regarding the sidewalk systems in this area and how the sidewalk system looks in particular to the parking lot that they are going to be leasing spaces for. This map actually shows you in yellow, first the conference center, the area to be rezoned and the red shows you the sidewalk systems in the area and the one right to Sardis Baptist where they are proposing to lease their parking. We actually do have that parking agreement in hand. That is something that will be expedited when they go through the permitting process but we will ask them to record it at that time, but right now we do have a copy of it.

In terms of the changes since the December 16th meeting, the building was 9,600 square feet. It has been reduced from two stories to one story to 6,150 square feet. There was a 20-foot buffer along the southeastern and northeastern property lines and it encroached into a 10-foot telephone easement that was there and we have resolved the issues so that they will be able to put their buffers in. One of the requirements for the buffer adjacent to the condominiums that are to the southeast of the property will involve what we call an alternate buffer approval, but they have submitted for that and we are working on approving that. It is a technicality. The parking spaces that are required were 121, now they are down to 91 because of the reduction in the square footage. On site parking, they have actually gained 5 parking spaces. They had 80 proposed off-site and now there are 50. There were some modifications to the on-site parking layout in order to accommodate fire access and identification of additional plantings to screen the parking from Sardis Road.

I will be happy to go over the site plan with you and hit some of the highlights. This is the proposed one-story building. There are some out buildings, conference area, call out spaces that are in these locations. The existing buildings are all in this area. Staff is recommending approval of this petition upon the resolution of the outstanding issues. If you recall at the December meeting we were not there, we were actually saying we did not recommend approval because the density of the development was too great for the area. Since they have taken off the second floor and reduced the square footage of the building, and addressed the parking and the buffers issues, we have found this petition to be appropriate for the area. It is consistent with the South District Plan and the outstanding issues we have remaining are technical in nature and we feel those will be addressed before it comes back to your for approval.

Mayor Pro Tem Barnes said it seems that a lot of progress has been made.

Mike Whitehead, 5901 Sardis Road said thank you Council for recommending the continuation of this hearing. It was a wise move for us and it gave us time to really work with our neighbors on the issues and it was very beneficial. I'm not going to take much time because I would really like to give the floor to our Honorable Former County Manager, Jerry Fox who is here tonight and I really appreciate him being here as one of our neighbors and we've worked together to resolve these issues.

Jerry Fox 5935 Bridger Court said I'm not going to make it a habit of appearing before you and hopefully this will be the last time for a while. Let me make one correction in my statement that the City Clerk provided to you. We are listed as the Sardis Oaks Homeowners Association and Development. Sardis Oaks is really a rehabilitation center down the street from us and I sometimes feel that is where I should be instead of up here before you. We are Sardis Courts Townhouse Association so if you will make that correction I would appreciate it. Mr. Whitehead indicated we requested a continuance of this hearing from December and you graciously gave us that. Mr. Whitehead and the Homeowners Association have worked together; we've resolved the issues that we thought were very important. The size and the intensity of the development, the parking and we have been provided both a rear and front elevation of the proposed buildings to give us some prospective because our property is right next to the developments. We agree with the amended petition, we request that in your consideration of the final action on the zoning request that the outstanding issues of course be met as the Planning staff has recommended and

that the two elevations, both front and rear be amended with the conditional site amendment that you will consider. Again thank you for your help and I thank Mr. Whitehead and his architect for cooperation and we will agree to approve the proposal.

Mr. Whitehead said I want to thank the staff as well for Claire and Shad and also Tammie for the very responsive. Sometimes I don't think they get acknowledged for all the work they do, but we've been incredibly impressed with how responsive they have been to the needs because we've had to do this in a short period of time and really appreciate the staff's support.

Councilmember Smith said Mr. Whitehead thank you for working so hard over this past month and keeping me fully up to speed on your work and it gives us faith that this process can be done amicably. Ms. Keplinger I just want to make sure that we are all in agreement that the parking agreement that we've referenced several times that the City is okay and comfortable with that.

Ms. Keplinger said yes sir; at this point our staff doesn't approve the parking agreements. That is done through the permitting process, but a preliminary look at it shows that everything is in order.

Mr. Smith said the concern we had at the previous meeting has been ..

Ms. Keplinger said it is no longer a concern.

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

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Council District 1- Kinsey

ITEM NO. 20: HEARING ON PETITION NO. 2014-001 BY WEEKLEY HOMES, LP FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.02 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF IDEAL WAY AND EUCLID AVENUE FROM R-5 (SINGLE-FAMILY RESIDENTIAL), AND MUDD(CD), (MIXED USE, CONDITIONAL), TO UR-2(CD), (URBAN, RESIDENTIAL, CONDITIONAL).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said the property is located off Ideal Way at Marshall Place near South Blvd and Remount Road. Staff does not recommend approval of this petition. I want to point out that the Newbern Transit Station and the property is located within ¼ mile walk of that transit station. Viewing the aerial of the property, she pointed out there are several single family homes located on it. The proposal is go from single family residential to urban residential conditional, it is for sale multifamily residential. The density is 22.05 dwelling units per acre; maximum building height is 40-feet. As you can see from the site plan there are 8 units on each side that run parallel with 7 units along Ideal Way. The parking and the drive are all fed through an alley system and the garages are located to the rear of the buildings. The properties are pulled up to the front and there are covered patios and there is actually a little street park that they have a detail of along Ideal Way. You can see the street park. This is a proposed elevation of the buildings and as with these types of development they have to have a certain amount of private open space, it is 400 square feet and this is a diagram showing how that 400 square feet will be met for each of the townhomes.

The proposed request is actually inconsistent with the Dilworth Land Use and Streetscape Plan. That plan recommends 5 dwelling units per acre for this site and as I mentioned the request is for 22.05 dwelling units per acre. Although it is located within ¼ mile walk of the Newbern Transit Station, it is located on the edge of an existing single family residential neighborhood. There are

outstanding issues that staff has; the density needs to be reduced to be consistent with the adopted plan; there are design and architectural issues that we need to have addressed and several other technical issues, but at this point staff does not recommend approval.

Walter Fields, 1919 South Boulevard said Happy New Year and congratulations to all of you newly elected City Councilmembers and some old friends I see on the Council from way back in the day. I'm going to depart from my usual presentations that involve boards and colored crayons and try to actually operate something like a PowerPoint so Lord knows what is going to happen. Let me also introduce Mark Gibbs with David Weekley Homes, Kennon Boeing, also with David Weekley and Mike Langston as our site planner. We are all here to answer questions. I will tell you that we came in here tonight feeling pretty good because we thought we had done our homework, but we now discover that we do in fact have someone who is going to raise some concerns about this petition so we will be hearing that for the first time.

This site is about an acre site, directly behind the new veterinary clinic on the corner of Ideal Way and Euclid. I'm going to operate this thing; this is an aerial which shows you the South Boulevard Corridor and down into the Dilworth Community. On that aerial everything you see in the tan color or rusty color is either commercial or higher density land development. Where we are is that little green blob down there in the upper right hand corner of the slide and this is our site. As Tammie pointed out it is surrounded by three streets; unlike our Iverson Way project which the City Council approved for David Weekley homes back in November that is only a single street frontage, we have three street fronts here so it has allowed us some more design flexibility. The land uses around that, you can see clearly we are on the back side of the new Long Animal Hospital, we are right behind Max's Speed Shop and we are across the street from Marsh Properties Maintenance facility and storage yard and we do adjoin single family homes along Marshall. From the land use standpoint we are at a transition point. You come from South Boulevard which is high density straight up B-2 zoning and in the future transit oriented zoning with higher densities and more intensity to the Dilworth Plan. We are literally the last four lots in the corner of the Dilworth Land Use Plan and I think that is where the staff came down in their analysis. If you look at how our site relates that map shows you the yellow line that you see running around the boundary defines the boundaries of the Dilworth Small Area Plan and the red arrow points to right in the corner the four properties that we are dealing with so we are right at the corner. If you now look at the Station Area Plan which we just fall just outside of, you see how it relates to the Newbern Street Station which Tammie described in her presentation and again we are right at the edge. Anyway you slice it we are at a point where we are transitioning from one plan to the other and we are also at a point where the plans don't really provide for anything to engage that transition. One plan says high density, the other plan says very low density and there is no transition of any sort.

The land use patterns in Charlotte literally for decades have typically recognized some sort of a transition between different more intense uses and less intense uses. What we think we are providing here is in fact that sort of a transition. As Tammie pointed out we are within the walking distance of the Station Area Plan, but because we are on the corner of the Dilworth Plan we were left out of the Station Area Plan. That is okay, both of those are adopted plans and we are working on the margin between the two. What we are proposing here we think is a transition that will help create a gateway into the Dilworth Community and the Plan has three street frontages so everything is a front door. Everything faces the street. The garages are internal; people have roll-out trash which will be staged in their garages so we don't have the same sorts of stuff that you might expect along the street. This is about the same size piece of property as the Iverson Way site just a couple of blocks away. That site was 22 units and this one is 23 so David Weekley, as I said to you, on that occasion has a commitment to looking for high quality infill housing locations and that is what we believe we have found here. The style of housing here sort of picks up from some of what we see in the SouthEnd corridor in terms of the higher density residential. They are three-story structures, it is four-sided architecture, there are no bad elevations, there are no blank walls and this is the plan that we have shown to the community. We've met with the Dilworth Community Development Association Land Use Committee on three occasions; we had a community meeting that was fairly well attended, including residents from Marshall Avenue. The only real question to us was would we extend the project by buying one more house and demolishing it because apparently it is an eye sore in the community. I

think there is some enthusiasm along the street for this project to come along and remove perhaps some blighted influences but again we are looking to provide that transition from heavy B-2 zoning on South Boulevard to the single family zoning which is more towards the heart of the Dilworth Community.

I sent Tammie an e-mail today and I know she is very busy and hasn't had a chance to read yet, but we have responded to 9 of the 10 site plan issues; all of the things they have asked us to address, 9 of the 10 we have done. The 10th one is to reduce the density and obviously if we reduce the density we wouldn't have that project. As a transition piece we would ask you to consider that we are at the boundary between these two planning areas and as you go forward with your decision process and as the Zoning Committee considers this next week, we've asked that that be taken into account.

Mark Gibbs, 2001 Park Road said I am a resident of Dilworth and proud to be here representing our land owners, Mr. & Mrs. Keller here today and Ms. Stubbs who couldn't be here and my company David Weekley Homes. I just want to share a few things with you. We are a private home building company and have been in Charlotte for 16 years. This past year we built about 150 homes, average price point was a little over \$400,000, and we are a high-end quality builder. We are also fortunate enough to be one of the largest private builders in the country and we probably do more in-town high density housing than any other builder in the country. This is what we've tried to do over the last 18 months in Charlotte, identify areas that we thought would be welcoming to our type of product which is very high end, attached and detached infill product, that is both walk-able and sustainable. Some of the tenants that I think the City of Charlotte are looking for. We identified this area just on the edge of Dilworth, we have studied it over and over and thanks to Mr. Bolings' hard work, we've come up with a second opportunity here to build a community which we think will be a great addition to the community from the standpoint it will provide the opportunity for homeownership in the SouthEnd area and it will do it to the young professional group that are now occupying what is now thousands of high end quality apartments that have been built along the light rail corridor. As we all know the fabric of a community is built by homeownership so we are proposing to do some very high quality, high density of course; infill development, which is I think is where Charlotte needs to go in the future and I think you all believe that as well. This is just a very unique situation for us, we didn't realize until tonight that we had opposition. We don't have any neighborhood opposition, we've canvassed the neighborhood and we don't have any opposition there. As Tammie said we are very close to the Newbern Station, we are right on this boundary, but we do think this provides an excellent transition from the commercial properties along South Boulevard and if you look all the way from East Boulevard down to Ideal Way it is pretty consistent where you see the commercial property along South Boulevard and then high density residential that buffers the single family community of historic Dilworth where I live. We think this will be a great entry into the Dilworth area coming from Remount and becoming Ideal Way as you cross South Boulevard. This will put a really nice face on that corner and provide a great opportunity for us to transition to the single family homes that are in Dilworth and characteristic of the Dilworth area. I appreciate your support of this petition and I look forward to visiting with you in the future about it and look forward to working with our opposition and trying to resolve the differences that have arisen.

Mr. Fields said there was one remaining slide and I know we don't often talk about tax values in terms of residential development. It more often comes up in terms of non-residential, but there would be a significant increase in terms of the value of this land and the buildings that would go on this land and if there is a comparison between the existing taxes and the future taxes we think this demonstrates a significant increase in property values and thus in revenues to the City. I know that is not a land use factor, but it is just a piece of information that we put together and we would be happy to stand and respond to any questions anybody may have.

Cynthia Schwartz, 409 Rensselaer Avenue said I co-chair the Dilworth Community Development Association Land Use Committee. The DCDA has been in discussions with the petitioner for several months as stated and although we appreciate all the time and effort put forth to propose a site plan and design in keeping with the character of the Dilworth Neighborhood, the DCDA concurs with staff's analysis and opposes the proposed rezoning due

to its density, which is incongruent with the Dilworth Land Use and Streetscape Plan. The density is too great at 22.05 dwelling units per acre when the Dilworth Land Use and Streetscape Plan calls for a maximum of 5 dwelling units per acre. With that said and understanding that the density may be allowed, we did work with the petitioner to try to come to a project that would be suitable for the neighborhood and a good neighbor to the adjacent property owners. Within those conversations we only had two outstanding issues, one would be that it is very close to the adjacent single family residential neighbor's property, but we believe that is an issue that could be resolved. Also, there are still some questions regarding the street trees that are being provided. The density is still too great and we respectfully ask that you please support the City's area plan.

In rebuttal Mr. Fields said as we said and I told Ms. Kinsey earlier today, we didn't know we had any opposition and we thought we had worked through all the issues there were not only with DCDA, but any issues that came up from the staff as attested to in our e-mail today. We will continue to work. This is going to be one of those cases where there is going to have to be a decision made about the plan and how it relates and how this particular project fits in this particular location. Nobody quibbles about which side of the line we are on, but that line is like a light switch, it is either on or off. One side is heavy highway commercial and the other side is low density single family. We think it makes sense for there to be a transition that creates more of a residential feel as you leave South Boulevard and drive down Ideal Way into the Dilworth Community. We think this property provides that transition and we think the density is appropriate; it is very much in keeping with the density that was approved just a couple blocks away on a similarly size site. We would ask you to take all of that into consideration as this case comes back to you for a decision and we've asked the Zoning Committee to do as well.

Councilmember Kinsey said I have sort of been blind-sided too because I did meet with the petitioners today and did not realize that there was opposition from the neighborhood and I am sorry to hear that and I hope it can be resolved. It is much easier for us to sit down here and raise our hands when we don't have too much of a controversy so I'm hoping that maybe those issues can be resolved. The Dilworth Neighborhood is very good to work with and hopefully we can come to some agreement. I like the project, but I also understand the density.

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

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

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Council District 1- Kinsey

ITEM NO. 21: HEARING ON PETITION NO. 2014-002 BY THE RAINIER GROUPS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.14 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF EAST WORTHINGTON AVENUE AND CLEVELAND AVENUE FROM TOD-4(CD), (TRANSIT ORIENTED DEVELOPMENT, RESIDENTIAL, CONDITIONAL), TO TOD-MO, (TRANSIT ORIENTED DEVELOPMENT, MIXED, OPTIONAL).

A Protest Petition has been filed and its sufficiency is to be determined.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning pointed out the location of the property as well as East Boulevard, South Boulevard intersection and said the property is located on Cleveland Avenue. The property is within ½ mile walk of the East/West Boulevard Transit Station. You can see from the aerial the property around the site, South Boulevard and East Boulevard. This is a Transit Oriented Development Residential Conditional rezoning to Transit Oriented Development Mixed Optional. The proposed use is for a hotel and accessory uses that are associated with a hotel, which may include a spa, restaurant and things of that nature. The square footage is for a little bit over 111,000 square feet. The building ranges in stories from

one, three and six stories and I will show you that on the building elevations in a minute. There are 130 rooms with 138 parking spaces. The optional request is to allow the valet parking operations between the building and the street along East Worthington Avenue. You can see the valet, the entrance as pulling off the street, turning through and coming out along East Worthington Avenue. In terms of the location of the parking that they are proposing, they will have some surface parking and will also have sub-grade parking and the entrance will still be here. They do have a pool and a courtyard and they have a five-story element with a roof-top terrace and on the 6th floor the proposal is for a restaurant.

This helps to show you a little bit better about the elevations and the proposed building height; one story, this takes it up to three, here we go up to five and here we got up to 6 with the roof-top restaurant. You can see the pool level and then the parking level underneath.

This petition is consistent with the SouthEnd Transit Station Area Plan which recommends mixed transit supportive uses. It is within ½ mile walk of the East/West Boulevard Transit Station. The outstanding issues are technical in nature. We do have a protest petition which the Mayor Pro Tem indicated and we are working on determining sufficiency and we will have that by the time the petition comes back up for a decision. Staff is recommending approval of this petition upon the resolution of the outstanding issues.

Walter Fields, 1919 South Boulevard, said I think it is worth mentioning that the Catellus Group has been before you before with a rezoning a number of years ago that was a very interesting project that was for a 75 room small hotel actually on East Boulevard, literally one block from this site. It went through the HDC approval process; it went through the Dilworth Land Use Committee process and it went through your rezoning process and was approved. Sadly that was at a time right before the bottom fell out of the economy and that prevented that building from ever being constructed and as a practical matter a hotel that size is very difficult to justify because of the limited number of rooms and the facilities that you can have. It is the Catellus tonight that has now found a location and a much better location, a much larger location for a hotel to serve the Dilworth community, so that is why we are standing here. This site has been a number of things. I remember it most as an old taxi stand and taxi services used to operate out here with traffic going all over the place all hours of the day and night and over the years that taxi stand sort of folded up and went away. The property is sort of derelict right now. The parking lot as the area out front is sort of used for a variety of things, including perhaps some less savory things. We heard from one of our adjoiners, the gentleman that owns the automobile shop that fronts on South Boulevard that they have had to come back there and chase people out of the building from time to time so we think this is a proposal which will actually improve some current situations. This is a proposal for a 130 room hotel; it would have a restaurant as most hotels do; most inner city hotels in particular. It has access points to Worthington and access points onto Cleveland. We will talk some more about traffic in a minute and I know you are going to hear about that a little later.

This site plan has gone through a series of modifications. When we originally proposed it we had an entrance coming in off of Worthington that was one way and delivered traffic to that rear parking area which is actually elevated. It is not surface; it is actually the upper level of the structure underneath where the bulk of the parking is located. In conversations with C-DOT and with conversations even more particularly with the Fire Department in terms of their vehicular access and their radii for their trucks and etc.; you reverse the flow of the driveway. Now to get to that upper level parking the entrance is on Cleveland, but the departure point as a one-way drive is onto Worthington. Some of that traffic that had originally been designed to go onto Cleveland has now been reversed and now goes out onto Worthington. Secondly we spent a lot of time with C-DOT and they were generous with the time about how to arrange for our main entrance which is on Worthington, and we had a small port to share and there were some concerns about that and about how it would work. We actually have had to reduce the size of the lobby of the building and create a little indentation there for the drive arrangement that Tammie pointed out in her presentation now which will allow us to have vehicles to turn in at a 90 degree angle which is safer for pedestrians and get completely off the street to do their loading and unloading and then park themselves or have valet parking underneath the building so that has changed.

From the very outset we were respectful about how this building would relate to the community. Now Cleveland Avenue is sort of a usual street in Dilworth in that it is not the edge of anything. Euclid, a block away is really the edge. That is where the zoning and the planning transitions from the South Boulevard commercial corridor to the single family residential community and if you look at the land use map you will see that all of the properties that front along this portion of Cleveland are either zoned for high density housing or residential and in fact there is Transit Oriented Development zoning already in this block of Cleveland Avenue. On the site we are talking about tonight and on a site just a few feet away on the other side of the street on Cleveland. Starting with the premise that the buildings to the east and south are smaller, this building is oriented to Worthington and toward South Boulevard. In a perfect world we would have loved to have had frontage on South Boulevard, but that property simply was not available and in such a fashion that we could include it in this site. We have the Cleveland end of the building is the shortest part of the building; it is roughly three stories, now the road drops off and there is about 15 feet of grade change from Worthington down to the back of the site on Cleveland, but that is the lowest part of the building. Once you turn onto the large face of the building which Tammie showed you in the illustrations, you then get into the larger mass which is on Worthington again directly across from business type uses, not residential type uses. Then the upper level, we call it the 6th level, is what we think is a really exciting opportunity for a restaurant on the roof of the building, which would have spectacular views of the City skyline and the Airport and lots of things that we are very proud of in Charlotte. We are very enthusiastic about that.

As Tammie said we are consistent with the plans for the area which is the SouthEnd Station Area Plan. This site is actually zoned TOD-R today and we discussed with staff the possibility of leaving as the "R" category but in terms of looking at how the regulations worked it was better to go to the "M" category so TOD-M is the mixed use category that we are asking for and that is what is recommended in the South End Transit Station Area Plan. We think that this building creates an opportunity to provide services for the community, but also establish a landmark at the edge of the Dilworth Community. This is not in Dilworth; it is in that transition zone that we were talking about in the last case. Here there is that transition area. There is the heavy highway commercial and then there is the TOD zoning and then there is lower density residential and finally when you get to Euclid you are back into the hard core residential part of the community.

We did respond today in an e-mail to Tammie regarding the staff concerns. There were only 3 and those are easy for us to address. We've had some real good advice from the staff, both C-DOT and Planning about this project because it is a complicated project. Moreover, we've met on three occasions with the Dilworth Land Use Committee and as you've heard from their Chairman tonight. We met with them more recently just last week as a follow-up to our prior meeting because they asked us for some specific information. They wanted us to pin down the height and we have done that and that will be added to the plan. Questions came up at our community meeting about lighting and how that would be handled and where we would put notes on the plan that specify that all the lighting are cut-off luminaires and directed away from Cleveland Avenue, or any of the uses along Cleveland Avenue. We don't have any reason to light the street; we just want to light the area around the building. A question came up about service. All of our service is on the property; it is not out in the street. The dumpster location is all the way up against the back of the automotive garage that we adjoin and the service area that will provide service to the kitchen and to the hotel. It is as far away from Cleveland Avenue as we can get it and it is all off street. We were asked to limit the hours of operation as to when services and dumpsters and things would happen and that we are willing to do. We will limit that from 7:00 in the morning to 7:00 in the evening. From time to time if a florist is delivering flowers to a wedding reception or something and they are in a passenger van we would like to be able to accommodate that, but in terms of when the trash truck comes and when the food truck comes for the restaurant we will limit those hours of operation again, all of that is off-site and as far away from the street as we can get it. We were asked to put a limitation on the floor area of the restaurant. This is difficult for us to do because it hasn't been designed yet, but our best estimate at this point in time, and we are willing to commit to that on the plan, is about 5,000 square feet. We think that is reasonable, considering the location and what it takes to do something like that at that level. We have created an elevation along the parking side of the site

in response to a question from an adjoining land owner that carries the architectural arches from the building plan around and all the way up the parking structure. Finally in response to a concern about traffic in the neighborhood, on the driveway that comes out onto Worthington, we are going to put a sign there that directs people from that driveway to South Boulevard and not into the neighborhood. There is a lot of traffic in that part of town. East Boulevard's reconfiguration has pushed a lot of traffic into the neighborhood. We understand that, but Cleveland Avenue is a commercial street, it is no longer a residential street and we think this use is entirely appropriate for this location and so does the staff.

Lucia Griffin, 329 Worthington Avenue said I live on East Worthington which is the next corner from this development. We moved to Dilworth with complete acknowledgement that we will have already existed commercial uses, mix of houses, mix of ages, we have a great neighborhood. Mr. Fields mentioned Euclid Avenue and that is where our corner is of the residential neighborhood. There are a lot of us that live between Euclid and Cleveland and we support our neighbors on Cleveland that are opposing this project. We were supportive of the project for 75 rooms 300 feet away from this one that was approved in 2008. We supported it because it was appropriate, it was the right size, it had the right service areas, it was smaller, it was on the main street. This one is on Worthington dumping into a street that if you drive through the neighborhood, it is very narrow. All of us have families, kids, elderly that live on Worthington. That is where these building will discharge their traffic into. The hotel is 130 rooms which could be 260 people. Just to give you an example of size the Dunhill downtown has 68 rooms, 60 of those are single rooms, which means your load of people is much smaller, which proves that you can operate a smaller hotel successfully. They also have a restaurant; it is not as large we don't think as the 5,000 square feet but it mentioned wedding receptions. This property is across Bon Terra and Bon Terra has wedding receptions often. All those people arrive at the same time and all those people leave at the same time. We see them all in the neighborhood in front of our porches so if you add the 260 potential guest plus the 300 potential reception attendees we are going to have a lot of people on our street. We are concerned about the traffic mainly.

The other thing that was expressed was the size of the building. We understand that probably something higher would be there and we accept the 4-story office building in our back yard because the Housing Authority is a fairly large building. This one will be 50% taller, bigger, and higher, the tallest building on our side of Dilworth besides the pink building that is further down South Boulevard. We understand the Catellus Group to be a very nice group of business people, neighbors and we are happy with they propose to do along East Boulevard, but we are very concerned with this project. We request that you deny the application.

Mark Blinson, 301 East Tremont Avenue said I am a resident of Tremont Condominiums you see on the diagram there. Like many you have heard tonight we think there is a traffic issue. You see the ramp for our underground parking for our 45 residents and five businesses are traversing Cleveland Avenue there. With the proposal of 140 parking spaces and then 10 service trucks to service the restaurant within 20 to 30 feet there, we see a significant traffic issue. Already you have to wait for two-way traffic on Cleveland Avenue because you have people parking on both sides of the street. We think there is an alternative; we could reconfigure the proposed footprint of the building and we could move it back some to allow the fire truck access, but if you are familiar with Worthington Avenue up on the commercial end, a short hop to South Boulevard, we could put all that hotel traffic, all the cars, all the service trucks up on that end and save the integrity of Cleveland Avenue for us residents and we would meet both needs.

Gary Owenby, 1915 Cleveland Avenue said my residence is 616 Short Hills Drive, owner of the property at 300 East Worthington and Cleveland Avenue, part owner of the business of H & F Upholstering at 1913 Cleveland Avenue, both adjoining the 200 feet directly behind the proposed hotel. We are a small business, a family business and we've been in this location for residential and business for 65 years. We've seen the area grow and well aware of the problems with growing pains. Let in this one and the family owned business we are against, the hotel and access to Cleveland Avenue. As Mark mentioned, the reduction of the traffic - at times it is down to one lane and it is yet just small business and residential and parking there is already strained to say the least. The volume of traffic generated by customers, service vehicles, delivery

vehicles to the hotel is going to be reducing this to little more than a hotel entrance because this volume of traffic will be forcing the small businesses and residents to make concessions even more than we have in the past. We have put forth every effort to utilize every available parking on street, on business and on private dwelling to maintain our business. We are now faced with something that tends to take all available parking and would at the same time put our business, the livelihood of our employees and family members at risk. We ask you to please consider that as you consider the proposal.

James Cole, 1920 Cleveland Avenue, said I represent the ownership group of 1920 Cleveland, the building immediately to the south of this project. At least we are not talking about a Dollar General here. We can all agree on that is a good thing. My main issue with this project is the height of the project, at 91 feet tall that would be the equivalent if I was an oak tree on Worthington Avenue, it would be the equivalent of me standing on this podium and looking down on the surrounding community and at 200 feet of frontage on Cleveland Avenue my building is behind the hotel where it says Susie Films Spa and Office. The height of the building is roughly the same distance away from my site. The previous rezoning that was granted for this site was for a 65-foot building; 4 ½ story residential condominiums and I didn't oppose that. I worked with the petitioner at the time to approve that and I feel like this is a far more massive use for the site. The developer says it is not going to be feasible at less than 130 rooms, but at 500 square feet per room, 130 rooms, that is 65,000 feet and this building is 111,000 square feet. There is 46,000 square feet of something in here that is not hotel rooms. It seems to me there could be some trade-offs worked out here and I would like to see this petition continued so we can continue to work through some of these issues. The sentiment of the community is that this kind of snuck up on us with the holidays in the process so we would like to see some more time to try to work this out. In addition, with regards to the traffic the area plan covering this Worthington and Cleveland identifies Worthington as a transit street enabling it to handle more traffic; Cleveland being a neighborhood street with less traffic, but this is the way traffic is dumped out on this it treats it exactly the opposite that Cleveland is treated as a transition street and Worthington as the neighborhood street. We would ask you to consider these things in supporting the residents and folks around this place who want this petition to be continued and discussed further.

Daniel Dubinski, 301 East Tremont Avenue said I am also a resident of the Tremont Condominiums at 301 East Tremont Avenue and while the proponents of this development have deemed Cleveland Avenue to not be a residential street I can tell you there are residential entrance to our building off of that street and my balcony actually overlooks Cleveland Avenue as well, directly across from the proposed hotel site. As a member of the commercial construction industry I also have several just concerns about the magnitude of a project of this size being constructed in a residential area. First of all I know that they want to develop an underground parking structure and then go six stories on top of that we are talking about the scope of a project that will likely take longer than a year to complete, at which time we are going to have multiple different trucks coming in as far as material delivery, concrete ready mix trucks, heavy excavating equipment pulling things out all of which culminates on it being an actual major, major inconvenience on everyone who lives in that neighborhood. Should any construction project go forward on this site, I would ask that we also consider restrictions on the hours of operations of that construction site. Further as far as putting up a 6-story building it is going to take away the view of my personal condominium.

In rebuttal, Mr. Fields said I do have a couple of observations. Clearly there are different view points about what Cleveland Avenue is. Cleveland Avenue from East Boulevard to Worthington and Worthington from South Boulevard to Cleveland are exactly the same width. They are the same type of street and in fact if you read the SouthEnd Station Area Plan it even suggests that Worthington Avenue is wider than what the City would typically expect to see, but they don't recommend narrowing it. One of the benefits that comes from a development of this sort is the unimproved portion of Cleveland that now starts at Worthington and goes down toward Tremont will actually be improved with curb, gutter, sidewalks, planting strips and landscaping, etc. and you will actually be able to create on-street parking where there isn't any today. It is interesting that there are conversations about service and delivery vehicles. My office is literally just around the corner and adjoins this site and I very often have to dodge the delivery vehicles that are down

at the Tremont because there are businesses that are on the ground floor of that building. It is a really cool development but they don't have off-street loading so they load and unload in the street and that is a problem. Cleveland is a street that has a wide variety of characteristics, it starts on South Boulevard with the well known Leather and Lace landmark facility at the corner and goes past Dilworth Billiards and Bonterra, and out to East Boulevard. So the uses along there include nurseries, multifamily and a wide variety of business activities, so we don't believe it is a residential street like you are accustomed to seeing in the Dilworth Community. This is a street in a transition area and we are not changing that, we are simply recognizing what is already there. As part of this conversation we will continue to communicate with these folks and see if there is anything we can do to address their concerns.

Councilmember Kinsey said I need to think about this for a minute. I am struggling with this one.

Councilmember Smith said what hotel flag is being considered for this site?

Mr. Fields said there is not one being considered at this point in time. The Catellus Group actually operates and develops hotels for their own account and has been in other communities. If that opportunity comes along it certainly would be considered but there is no flag or no specific brand.

Mr. Smith said it was mentioned that there was a possibility of reorienting the site plan to help with the traffic flow and the concern the neighbors had. Have you all explored that?

Mr. Fields said if we can put that back up on the screen I will be happy to address it. The best way to address that is to have a map up where we can all see it. What I believe we heard suggested by Mr. Blinson and others is that if we would simply take the hotel building which is now oriented parallel to Worthington and sort of makes a little turn onto Cleveland and pivot the building all the way around and orient it all to Cleveland, then all the mass of the building is on Cleveland which I think we heard a criticism that there is too much of a mass on Cleveland. All the height would then be on Cleveland which I believe we heard one of the other property owners say he thought it was too tall and at the end of the day it has a single benefit in that it eliminates anybody coming and going on Cleveland directly from the site, but it prevents nobody who is coming and going from the site from using Cleveland to get there. The site falls from Worthington down Cleveland and it makes eminently good sense to be able to put our parking underneath so we work with that grade, but reorienting the building that way, I think actually creates some of the same relationships to some of the other property owners that we heard some people raise some concerns about. I think that would actually exacerbate the situation and doesn't necessarily mean that any fewer cars would use Cleveland Avenue. It is a public street and it is used by people that live in the community, work in the community and cut through the community.

Councilmember Mayfield said this question is actually for Mr. Dubinski, I really wanted to hear the rest of your comment regarding the potential impact from your perspective regarding your residence.

Mr. Dubinski said it is basically due to the construction process. Whenever you are going to have to excavate a site to go at least one story, full depth down, all of the sub-grade and everything that is there is going to have to be removed. That is going to require a lot of heavy excavating equipment, will require dump trucks in and out of that neighborhood and when you actually ready to pour this concrete structure that will go in the ground, it is going to require multiple ready mix trucks because each truck can only hold 9 cubic yards of concrete so those trucks are going to be lined up around the corner trying to go in, one in, one out as soon as they possibly can. We are already talking about a compacted job site; this site is not very big for a 130 room hotel. Then you couple it with some of the reinforcing steel that is going to be required for a structure to stand on itself, you are talking tractor trailer loads, parked out on the street because they won't be able to fit on the job site during the portion of the construction because of various other trades equipment, job site trailers and things that will be there and those items I fear will probably have no other alternative but to be unloaded in the street. It is going to

impact traffic as we discussed. The construction traffic can be awful on job sites because big trucks are not maneuverable, they are not easy to move around and these are narrow streets that residents and business owners within the community alike do depend on for parking.

Ms. Mayfield said Mr. Fields, when we are looking at the potential of this being basically multi-use; most hotels also have a restaurant. Was there consideration of if there is going to be an outdoor type, because in that area where we are looking at, you already have a number of restaurants in the immediate area that has outside eating and what that potential impact would be for the residents that are closest to where this development will be located?

Mr. Fields said we would very much like to have the opportunity to have outdoor seating in conjunction with this restaurant because it would be on the sixth level of the building and it would have some fantastic views of Dilworth and the City of Charlotte and the Airport and the entire area. We are very excited about that opportunity. It is a detail that we haven't worked out yet but we know the opportunity is there and we would like to be able to take advantage of that. You are correct, there are a number of other restaurants in the area, but this is one of the few that actually is going to be in conjunction with a hotel and that reduces vehicle trips. If someone wants to come to Bonterra to have a dinner or 300 East to have lunch, some of us walk because I'm just right there, but most people drive. All the trips of the people that would otherwise be in their cars, if they are in the hotel their trip to the restaurant is in an elevator. The only real comment we had in terms of the whole issue of having that rooftop restaurant was when we were meeting with the Dilworth Land Use Committee and one of the questions was would it be finished in time for us to book our Christmas Party there next year. I think a lot of folks are excited about the potential that that site holds for something, a rather unique facility really anywhere in Charlotte.

Ms. Mayfield said Ms. Keplinger, have we looked at the potential noise impact if there were to be an outside gathering space when you looked at the most recent amendment and the discussions we are having with the impact of restaurant/entertainment in our current ordinance is around 2:00 a.m. as far as the impact on the immediate residents being able to sleep at night and what that could be. Has there been any discussion regarding this proposal?

Ms. Keplinger said actually there has not been with the Planning Staff. The property owner will have to comply with the City Noise Ordinances and those are enforced through CMPD.

Councilmember Lyles said hotels are generally considered full service and limited service. Is this considered a full service hotel or a limited service and can you tell me what the difference might be?

Mr. Fields said that would be a question for Ben to answer since he would be the guy that would build and operate this thing. He is a better person to answer that question than I am.

Ms. Keplinger said Ms. Lyles I will say that in the Zoning Ordinance there is not a difference.

Ben Casilero, said I'm the President of the Catellus Group; my office is at 217 East Tremont. My office is actually right behind this site so I am there every day. I drive the streets, I drive the traffic, I know the area very well, but to answer your question, a limited service hotel is one typically that only provides rooms. They may also provide a continental breakfast in the morning; there may be a small board room, maybe that holds 8 or 10 people, but typically it is just hotel rooms. It would be kin to a Holiday Inn Express or something of that nature. That is a limited service hotel. A full service hotel is typically one that provides a full service restaurant; they also provide full conference space and other services to the hotel guest. There is also an in between which is referred to as a select service hotel which does not provide the full array of services that are offered under a hotel umbrella. This would be considered more of a select service hotel than a full service hotel so it would be sort of an in between a limited service and a full service hotel.

Ms. Lyles said I would also like to comment that I do a lot of business in that area. I love the upholstery shop and I want to say thank you for the quality of work. When you have a business

like that with 65 years of service in Charlotte that is to be complimented for your commitment to employment and being a part of our economic development engine. Thank you to all of those businesses along those corridors and those streets. I really have an appreciation for that.

Councilmember Smith said using Mr. Cole's math that he was provided appears to be an extra 46,000 square feet and the neighbor's concern about size and mass, I didn't hear anything in the rebuttal. I was wondering if you could help walk me through that.

Mr. Fields said Mr. Cole came to our community meeting and asked that question and we specifically commissioned a shadow study to be done since his property is directly adjacent to our and we've done a four season shadow study and that information has been sent to him. What it reveals is since his property is largely south and southeast of our site there is very little impact from the height of the building in terms of sort of the traditional classical zoning light and air type issues. We recognize that it is a building that is much larger than his building next door. We don't dispute that but we have held the height down as best we can. A straight up TOD-M zoning classification, the height is 120 feet so we are committing to a significantly lower building and we have oriented the highest part of that building as far away from Cleveland and as far away from the building on Mr. Cole's property as we can push it and still stay on our site. Somebody asked the question that talked about the size of the rooms. I don't know that that is a good way to calculate floor area because they vary.

Mr. Casilero said I can speak to that specifically and I don't have all of the square footages but what I can tell in a general matter is the room is only a portion of the floor plate. You've got the corridors, you've got the building elevators, you've got the stair cases, you've got all that stuff that takes up square footage. There is not 46,000 square feet of usable square footage. We've got a small lobby, we've got a lobby area, we've got an entrance area that is just sort of a utilitarian type area on the first floor and then a small amount of meeting space. It is not the mass that he alluded to. It is really more unusable or all of that common space that takes the room.

Councilmember Phipps said Mr. Fields you indicated that the hotel would serve the Dilworth Community. Have you done any market analysis for feasibility studies to see what impact the hotel could have on the general population of uptown in terms of a venue for hotel space?

Mr. Casilero said yes, we've done our own internal market analysis in terms of market demand for this type of product and we believe there is a market demand for this type of product. The majority of hotels in this area are uptown, within the I-277 belt. There really aren't any hotels south of I-277 until you get quite some distance away, probably down to Tyvola, 8 or 10 miles away which wouldn't be in this trade area. This area is really void of any hotel services to speak of. There is the Morehead Inn which I believe has 14 rooms on Morehead, but in terms of this type of a product we believe there is the demand and there is a lack of supply. We also believe that the SouthEnd area with its rapid expansion, there is a lot of businesses and residences being created there along with all of the small businesses in the Dilworth area we have a need for temporary lodging. We believe this will be fulfilling part of that need for those businesses.

Mr. Phipps said so it is not something that would be exclusively to serve the needs of the Dilworth Community? It will be a much more, broader impact than that potentially?

Mr. Casilero said we are not going to turn away anybody that wants a room, so I don't really understand the question, but we would accept business from outside of the Dilworth area.

Mr. Phipps said I was just confused about just having a hotel to serve the Dilworth Community. It sort cogitates a certain segment that you exclusively looking to serve but being this close uptown and the venues we have uptown and the different conventions and such, I could see that this would attract a much broader audience potential of people seeking rooms so I just wanted to clarify if that in fact is the case.

Mr. Fields said something this size in this location isn't competing with the Ritz Carlton or the Hilton or any of the huge hotels uptown. It simply can't, but I remember there used to be a hotel way down on Kings Drive and it was about the only thing anywhere around in the Dilworth area

that people could go and stay and it was eventually bought by the hospital and it was eventually torn down. If you go out South Boulevard there may be hotel out near the Woodlawn area but you would probably have to go over to the interstate. We are not trying to compete with interstate hotels. Boutique might not be the right word, but this is certainly not trying to shine a light beam to the moon and attract people traveling by the planet. This is really focused on the site and on the surrounding properties. If people are in town for a convention at the convention center and they want to ride the light rail out here and get off and literally walk right across the street and be able to have access to this facility so much the better.

Councilmember Driggs said I was wondering if you have any sort of meeting room or places like that. Are you looking for groups to host events there?

Mr. Fields said a portion of the ground floor would have some meeting spaces. There would also be a small sort of a private dining room which also might be available for meetings as part of the restaurant on the sixth floor but it is not designed to be a meeting facility per se. The ground floor, the lobby occupies a very significant portion of the ground floor, sort of one end of the building, that ground floor space is meeting space and on the other end of the building is the hotel lobby and check-in area and probably some sort of a spa. The meeting space is fairly limited because it simply is not a big enough hotel to try to attract large meetings. It would be able to provide for a small meeting; would be able to provide for a wedding reception and that sort of thing, but I don't believe it would be set up and marketed to convention groups and large groups; it is simply not a big enough facility.

Councilmember Kinsey most of questions have been answered, but you did say something Walter that is sort of contradictory to me. You say a small meeting area and then you mentioned a wedding reception. The wedding receptions I have been to are in big rooms, so what is it?

Mr. Fields said let Ben respond to that.

Mr. Casilero said this is not designed to be a convention hotel. It is designed to be a small localized meeting space. You are right, there are wedding receptions that are 500 to 700 people and we would not be able to accommodate that large of a wedding. It would be more of a small localized wedding; again, we feel that is a service to the community that we would be able to offer. In fact one of the comments from one of our meetings from a member of the community was my son is getting married and this would be an interesting place to have a wedding reception or a rehearsal dinner of something of that nature, but it is not designed to be a conference hotel. It is designed to satisfy local needs for meeting space.

Ms. Kinsey said how large of a wedding reception would you host?

Mr. Casilero said I haven't done that calculation and I don't know the answer to that; there are people who do, engineers or architects, that do those calculations. I don't know that answer yet. There are preferences as to how many people you want to cram into a space.

Ms. Kinsey said when I referred to you saying a small meeting room, I can't think of a single wedding reception I've been to that was under 100 people. I'm having a hard time wrapping my arms around having a hotel, while I realize and I know the area very well, it is not in the middle of Dilworth, but it is not on a main street and I'm having a difficult time with that. I can't see how it is fitting into that particular part and I go down that street several times a week so it is not unknown to me. I just offer that as where I am right now and I'm quite sure I will be hearing from you Walter.

Mr. Fields said we appreciate that and as I said we would have dearly loved to be able to get frontage all the way out on South Boulevard. It would have changed a lot of things; that is simply not in the cards, but the City's transportation philosophy is to disperse traffic and not concentrate it and Dilworth was always held up as an example of the community that has got this street network that disperses traffic so I hear what you are saying.

Ms. Kinsey said I understand – thank you.

Mayor Pro Tem Barnes said did you say 130 rooms and 138 parking spaces?

Mr. Fields said yes sir.

Mayor Pro Tem Barnes said it will be very difficult to have a wedding reception even if you have half the rooms occupied if you only have 138 parking spaces, unless people are walking.

Motion was made by Councilmember Driggs, 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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Council District 1- Kinsey

ITEM NO. 22: HEARING ON PETITION NO. 2014-004 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.4 ACRES LOCATED ON THE SOUTH SIDE OF RALEIGH STREET BETWEEN EAST SUGAR CREEK ROAD AND GREENSBORO STREET FROM 1-2 (GENERAL, INDUSTRIAL), TO TOD-M (TRANSIT ORIENTED DEVELOPMENT, MIXED).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a conventional request so we can't talk about inconsistent uses.

Mayor Pro Tem Barnes said you can because you are with us and I see Mr. Mock is here and Mr. Mock if you would hang around to talk with me, Mr. Carlee and Mr. Phipps briefly it would be appreciated. Staff recommends approval of this petition because it is their petition.

Ms. Keplinger said yes sir, we are recommending approval. To say it is within ¼ mile walk of the proposed Sugar Creek Transit Station might be too far because it is right there on top of it. The property was actually used for storage at one time, it has been cleared now so it is vacant except for some trees. It is a conventional request, it is consistent with the Blue Line Extension Transit Station Area Plan recommendation for transit supported uses and we are recommending approval.

Motion was made by Councilmember Phipps, seconded by Councilmember Austin, 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 Smith said I was not able to say this during the Sharon Towers rezoning but I did want to compliment both the petitioner and the neighbors in Fair Meadows for showing that collaborative effort and open minds, we can reach consensus often in this process and a lot of parties worked really hard in that. I began work on that the day after my primary before I was even officially elected. Andy Dulin sent me an e-mail and said welcome to the party, but I didn't want to let the night go away without knowing that those groups worked really hard and I want to commend them.

Mayor Pro Tem Barnes said thank you Mr. Smith and consistent with that I thought we had some very good questions from the Council on the last hotel petition so that was good work.

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ADJOURNMENT

Motion was made by Councilmember Kinsey, seconded by Councilmember Phipps and carried unanimously, to adjourn the meeting at 9:18 p.m.



Stephanie C. Kelly, City Clerk

Length of Meeting: 4 Hours, and 5 Minutes
Minutes Completed: February 5, 2014