

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, February 17, 2014 at 5:11 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Patrick Cannon presiding. Councilmembers present were Al Austin, John Autry, Edmund Driggs, Claire Fallon, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

**Absent Until Noted:** Councilmember David Howard

**Absent:** Councilmember Michael Barnes

Mayor Patrick Cannon called the meeting to order at 5:11 p.m. He welcomed everyone on this Monday, February 17, 2014 where it is not snowing. A big thanks to all of those City workers for helping us along the way with a very good coordinated effort by way of the County, School System along with us and even the State, all chipping in and doing what they could. Even the citizens of the City getting out there and shoveling Charlotte, helping their neighbors, so thanks to everybody for their participation and we will talk more about that at the beginning of tonight's meeting at 6:00.

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## **AGENDA REVIEW**

**Tammie Keplinger, Planning** said before I start reviewing the agenda I will review what is in your package as well as what we sent out to you this afternoon at 2:14 by e-mail. You have the Dinner Agenda which we will review in just a minute; you have the Speaker's List; you have an Area Plan Text Amendment Matrix; you have the Upcoming Agenda Cases of Special Interest and you have one letter from a concerned citizen that got delayed because of the weather last week. Are there any questions?

On the agenda we have 8 decisions scheduled for tonight; out of those 8 there are 2 that we are going to actually make decisions on. There are 4 deferrals, but I want to assure you that those deferrals are to improve those cases and to work toward resolving outstanding issues that are related to them. We have two additional cases which we are going to ask for you to consider sending them back for new public hearings. I will go over those in just a minute. First we will talk about:

Item No. 1 Petition No. 2013-017 which is NCDG, LLC; this is a one month deferral and is the petition for the Dollar General on Little Rock Road. They are working with us to improve their elevations and we are hopeful to have that next month.

Item No. 2, Petition No. 2013-072, Aventine Development, Inc. This is a community in Eastfield Rd and Prosperity Church Rd, and in this particular case we had a public hearing on this petition in October and they have significantly changed the site plan since then. The changes are less intensive, but we feel that there still needs to be another public hearing on this from a staff perspective. The Zoning Committee agreed with that and recommended to hold a new public hearing. If the City Council elects to do the same we will have this scheduled for next month and won't have any additional delays on this one.

Mayor Cannon said Council, if it is okay with you, what I will probably do because this is a little different in the way the motion has to be read for these two items, I will probably just put these two in the same motion from the outset and then we will go back and do the other deferrals in one motion as well. Is that okay? Fine.

Ms. Keplinger said Item No. 3 is Petition No. 2013-098; this is the Trotter Builders, Inc. rezoning at Endhaven Lane and Community House. They are requesting a one month deferral. The protest petition on this has been determined to be sufficient and that was not determined by the time we had the public hearing.

Item No. 5, Petition No. 2013-102 by Wajahat & Ferah Syed; this is a decision on Davidson Street and there were two properties that were involved and they were going conditional with one and conventional with the other. There were some concerns from the neighborhood about them not going conditional on both. They have decided to do that, but because the law says that

they will have to have a community meeting prior to the public hearing, we've got to go back and have a new public hearing so this is our second item where we have to vote to have a new public hearing. Again, this one will also be in March.

Councilmember Fallon said that is in NoDa, right?

Ms. Keplinger said yes Ma'am

**Councilmember Howard arrived at 5:22 p.m.**

Item No. 6, Petition No. 2014-001 by Weekley Homes, LP; this is a one month deferral. This was a petition that is off of Cleveland Avenue (Ideal Way and Euclid,) and based on comments of the Zoning Committee they are going to go back and look at their petition to see if they can reduce some of the units they have in multifamily.

Item No. 7, Petition No. 2014-002 by the Rainier Group; they are asking for a deferral of one month. That was the hotel that was on Cleveland and Worthington Avenues.

Item No. 9, Petition No. 2013-085 by Providence Road Farms LLC/Crosland Southeast and Childress Klein Properties. Some of you know this as the Matthews Farm Property; they are requesting a one month deferral for the public hearing to March 17.

Item No. 12, Petition No. 2014-007 by Jeff Tonidandel. This is a hearing. This is on East Boulevard and Charlotte Drive. You may have heard from some of the constituents about it. They are requesting a one month deferral. There is a protest petition that has been submitted. The petitioner has indicated to us an interest to withdraw this petition however, when a protest petition is submitted that protest petition either has to be removed before the City Council can allow the withdrawal or if the protest petition isn't removed, then the City Council could vote yes or no to the rezoning. They are trying to get that removed before they come back next month.

Item No. 17, Petition No. 2014-015 by St. Michael & All Angels, this is a hearing and they are asking for a one month deferral of the public hearing to March 17<sup>th</sup>.

Item No. 20, Petition No. 2013-026 is a Planning Department Text Amendment for the PED Overlay, one month deferral. Item No. 25, Petition No. 2014-021 is a Text Amendment for mobile grocery markets, one month deferral.

That is all the deferrals but I wanted to take a minute to talk about a couple of things. Last month we tried the E-Agenda for the first time for the zoning information. We tried it again this month and we tried to get it out to you before the snow hit. We had some complications and received a lot of e-mails from all of you and we appreciate all the feed-back. The document this month was 110 mega-bites and we are not sure if it was downloadable to a personal computer or just to surf it. Some of the iPads would not be able to handle it, or at least that is our beginning assessment. We are going to be working within the next few months or weeks to see if we can resolve those problems and come up with an alternative and different solution to try to make this easier so you will be able to use the iPad. I mentioned to you last month that we were to add this to our website and this afternoon about 2:00 this went up on our website and I want to show you the functionalities. When you go to [www.rezoning.org](http://www.rezoning.org) and you go to petitions for 2014, this is what you see now. You now have the ability to search; you can search by petition number, you can ascend or descend; you can search by Council district. You can go to Mr. Austin's District and it will list all the cases that are in Mr. Austin's District.

Councilmember Autry said it says 2003.

Ms. Keplinger said it does, but to get back to the regular format you just go back to the petition number and put in the ascending or descending format. You can also look at it by decision date. We don't have the search function ability at this time for proposed zoning and current zoning because there are so many different districts that could be linked to that. Maybe that is

something for the future. This is a baby step; we are working to provide some additional and enhancements next month. You will see some things changed; some additional things added.

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#### **UPDATE ON I-77/I-277 NOISE WALLS**

**Ed McKinney**, said what I want to do tonight is give you an update on where we are with the noise walls. What I would like to do before that because I haven't had the opportunity to share this with you is one of the tools behind the scene on the work we have been doing with the Committee on this. One of the things we realized when we got into this was that it was complicated to understand; the physical implications of these walls. We were looking at two dimensional maps instead of cryptic high graphics. We are working with Gantt Huberman; an architectural firm here in town and they are modeling some data and some information that we were given to put on NC-DOT and were actually able to take the walls, create a full dynamic model and map it in the corner. I will quickly show you a piece of this and give you a sense of how to use this. You can use this in a couple of smaller committee meetings or use it in bigger community meetings. (Mr. McKinney used PowerPoint to show Council the area where the noise walls are proposed. The presentation is available on [charneck.org/planning](http://charneck.org/planning)).

A lot of the issue was what does it look like in the neighborhood; what is the impact on the skyline and we were able to zoom in and back out; go into backyards and show them this example and give them a sense of what it looks like today and what it would look like in the future. This was a tool we built for the whole corridor; we have neighborhood exceptions of it; we worked from the neighborhood perspective and it was obviously very ... in uptown. You will see in a moment the snapshots of the presentation will show different screen captures of that.

Councilmember Fallon said are these mandatory; must we have them?

Mr. McKinney said the way this works is NC-DOT is proposing the project as part of the HOV lane on I-77 from Mooresville to uptown. As they do a design process they are required by federal environmental policy to look at specific noise impacts to neighborhoods. By that policy if they are able to permit a noise wall and have a certain sense of pride decrease in the amount of sound in your backyard, they are required to give that options to the neighborhoods that will be the affected property owners. We talk a lot about the value of the process and what happens is the technical analysis is when we can actually have this benefit, and that is where these wall locations are and they determine through their analysis that they have this benefit. Then they go back to the communities and say do you want the wall. They give a choice to the community as to whether or not to have the wall through a very specific value process.

Ms. Fallon said so basically it is what the neighbors want? So we have to do what the neighbors want.

Mr. McKinney said correct.

Councilmember Driggs said conversely if the neighbors say they want it and the fact that the rest of the City doesn't, does it matter? In this case this has got kind of larger implications than just the abatement. Do you know what the sound abatement is from the wall to the people behind it? How much? How many decibels?

Mr. McKinney said their policy is that if they can reduce the decibels by 5 decibels; which there are different ways to describe that, but it is a very minor decrease as you can imagine. It is only a finite set of properties that get this benefit, so it's got a lot of very specific nuances and they are very focused on particular properties. We have as part of the process that deals better with suburban conditions along a suburban highway where you've got typical backyards back into a freeway where typically and what we found through the community is the neighborhoods on I-77 are definitely in support of having the walls in their backyards, and they see value in that noise reduction. It doesn't deal well with uptown as Center City conditions where the views, the sequence of entry and the percentage of uptown is valuable to a large set of communities so that urban condition, the way their policy is set up does not reflect a broader community concern.

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CDOT recognizes that and we've been working through this process to begin discussions with them to modify their policy going into the future so we could have a better set of metrics by which we would do with the urban condition; like uptown there wouldn't be as specific and have nuance with those. But as it stands today we are following their policy as it sits.

Ms. Fallon said the ones on I-277 are brick and they've been there a long time and they are not hideous like these things are. We would be just adding to the brick, right or are you going to tear them all down again?

Mr. McKinney said I think you are referring to the ones on I-77 and it is really the section from I-85 to about I-277 which is uptown. Those are real brick walls and those are 10 to 15-feet in height; they were never designed to be noise walls. The new walls are in a different location and they are higher. The material they are proposing is essentially concrete and we've got different color and pattern options on that concrete. To your question, in most cases you will have two walls; you will have the existing brick wall that stays and a new noise wall that is adjacent to the freeway. In some cases where there wasn't enough space to use the existing brick wall and the new wall it is replaced, but that is in only a couple of locations.

Ms. Fallon is there some kind where they make a plastic that you could see through it. Because those things are just so ugly and they block the view. If they make such a little difference in noise, which they do, I can't see the point of it.

Mr. McKinney said there are other material options. Getting back to the policy, the way the NCDOT policy is set up is they would pay for equivalent cost of the concrete walls. Anything above that cost would be if a municipality decided would be fair costs. There have been communities around the country that decided they wanted a real brick wall and essentially decided to pay the difference in costs. There are clear panel options and we've done a little bit of investigation into that. They are a little bit more costly than the typical concrete.

Ms. Fallon said how much more costly?

Mr. McKinney said it is debatable. We've been working through that to try to get a better sense of that. I can't put a number out there because of the danger of that, but it is probably 30% to 40% more than a concrete wall. Again it is a matter of how much you use it; if you could just use the clear panel for a portion of the wall. There are lots of different options available if it was desired to investigate that.

Mr. Driggs said it looks to me like we are in danger of doing something kind of genuinely unproductive like blind adherence to certain policies. I really can't believe that anybody who had complete freedom of choice would come down with this. I guess my question is what remedies to do we actually have. What procedures does NCDOT or the State have for on a case to case basis waiving these rules and what can we actually do about it?

Mr. McKinney said kind of what we've done to date which is engage the community, particularly the uptown Fourth Ward Community over the last several months to help them understand the physical implications of the policy and the voting process. Through the discussions it became clear the neighborhoods that we met with the neighbors have seen it both ways. There are residents that are very close to the freeway and see the benefit of the potential noise impact to the walls and there is obviously the broader set that sees the danger and the minimal impact to the walls. We've then brought it back to you and one of the things that came out of our discussion with Transportation and Planning Committee last week was making sure that the specific number of folks that are going to get the uptown vote on the wall understood Council's desire. A letter went out per your direction last week to the specific property owners that are in the bounds of the uptown and encourage them to vote because it was important that their voice was heard, but then also they understood that it was a strong concern and desire from the Council to make it clear that there were serious issues with visual impact to the wall and for them to very seriously consider that. To your point we have been doing everything we can essentially getting within the construct of the NCDOT policy.

Mr. Driggs said I'm talking about an exception to the policy and not trying to solve this within the policy because I don't fully accept that this particular community of people should have the absolute say so on this thing.

Mr. McKinney said we have had those conversations. Where it stands with where we are with NCDOT is we've been working to stay within their deadlines and the process of bidding of this project. Trying to inform the voters as best we can, not yet going to the path that you are suggesting. We've tried to do everything we can not to go to the level that you are discussing which is certainly a choice to be made. What we've tried to do as staff is work with DOT and the communities as much as we could to inform the decision within the policy as it sits.

Councilmember Austin said I've been meeting with the current President and the previous President of Fourth Ward and they are not in support of these walls at all. Efforts were underway to not only knock on doors, but to send out mailers, educate as many people as possible. At these communities which staff conducted meetings many of the folks in Fourth Ward came out and they made it clearly understood that they did not want these walls and how they will affect their visuals for the overall city. Some of our other partners; Center City Partners came out, business owners as well so there was an overwhelming understanding that that would be a good presentation for the City at large and so they have been working hard to try to educate those people who got the ballot. It really goes back again to who got the ballot and the communication went out to those individuals.

Councilmember Lyles said I believe that is a little bit over 100 people that got the ballot.

Councilmember Smith said my understanding, sort of piggybacking on Councilman Driggs that NCDOT's hands are somewhat tied based on the federal policy. Is that a correct understanding and in essence we would need NCDOT to possibly go to bat on our behalf at the federal level. Is that where we are going? If they even pass it. That's yet to be decided.

Ms. Lyles said I think that is a question and I know this might not be a simple way but we need a really simple response on this question because every time I bring it up that is the question. Who actually can make this decision? Is it a required decision and is it a policy or a regulation? Those are very nuance words but we as a Council need to understand. So is it required? By whom, is it a regulation or a policy? You need to help us on this.

Mr. McKinney said they have to have a policy by federal regulations. The policy as they have it now is each State is essentially allowed to shape their policy and every State has a slightly different policy so they can change the policy but they, (NCDOT) would have to get the consent and review of the federal government so there is a timing of that to where we stand now. I think as I described they are willing and understanding of the need to change and adapt this policy for this kind of condition. The question is the timing of it relative to the bid process that they have with this particular project. I guess to try to get a straight answer for you; the two options we have is, one option is to get NCDOT to essentially try to put on ice this decision that needs to get made on the uptown wall relative to their bid process which has implications on that process, where they can make that decision at any time to put that decision on ice to allow potentially a change to the policy and let that new policy play out for the decision on the wall. That is essentially where we stand today. They would have to decide if we are going to hold on this decision on the wall for uptown; we're going to change the policy in the interim and then revisit the decision on the wall in uptown. All of that said it is such a pervading issue of time.

Ms. Lyles said I want to make sure because we used again these words, "implication" and "deadline" or change the policy because change versus exception, deadlines for what; implications for costs. I don't feel like we are getting information that we can use in a concrete way to have this discussion. I'm just very concerned about those kinds of words that don't really give me a way to assess; if it is this then it is that. So is it an implication, is it exception or a change of policy? Policy changes are harder than the exception to a policy.

Mr. McKinney said the immediate issue is the ballots have gone out for the uptown wall and they are due back this week. A letter went out from Council last week, per your direction, so as a staff the clock is sort of ticking on that wall balloting. Now if it was the desire we could have the

conversation with NCDOT and say we need time. The Council does not support the walls in uptown. We need time to create a policy that better reflects how we would make this decision and essentially put on hold the balloting process that is underway right now. That would have to happen if that is the direction and it would have to happen essentially immediately. Where it stands today, by next week they would have all the ballots back and we will know what the vote would be per the policy that is today and NCDOT's intent is to move forward.

Councilmember Kinsey said this is slightly off what we've been talking about, but going back to I-277 walls, we've really talked about Fourth Ward, but if they go down further and I think we have; to be careful, because as I recall they are right at the Alpha Mills Apartments, that's rentals and I don't know how many people in there are affected or how many absentee landlords might be affected and they might not really care. I'm concerned about that.

Mr. McKinney said we've been working with the property owners about these walls. This wall which is the one you are referring to here is I-277 and here is 11<sup>th</sup> Street, so there are those two walls facing Fourth Ward and this is the Alpha Mill project. This wall per the policy votes is dictated by the owners; Alpha Mills the multifamily project. We've had several discussions with them and they are not in support of the wall. They are going to send all the votes saying no and essentially by the policy the way it is described this wall will go away.

Mr. Austin said you had like 32 or so votes didn't you?

Mr. McKinney said yes, if you do the math it is a rather detailed policy but there are 25 properties within this for total points because they were the owners and they control essentially the vote. Part of our property team is working with them and in fact the original vote back in the fall was sent to buyers to make sure they were getting the right information. This wall because it is controlled goes away.

Ms. Lyles said I think that is an assumption based on the conversation and not a result.

Mr. McKinney said correct.

Ms. Fallon said let's see if we can simplify this. If the votes go against having the wall when the ballots come in we go to NCDOT and we say people don't want them. Does that end it with the NCDOT or does that continue it because they want it?

Mr. McKinney said if the vote comes back per the policy and everybody said no, NC-DOT says it won't be built.

Ms. Fallon said so it goes away and that is the end of it and that satisfies the feds too?

Mr. McKinney said correct; they simply have to apply the options.

Mr. Driggs said as I said before I don't really care what the outcome of that vote is. What I want to know is what immediate actions are available to Council and it comes down to who has the authority to grant the extension when we do talk and I have to say one of the things I'm concerned about is we have this kind of strained relationship with Raleigh and I don't want to create a situation where it looks like Charlotte is openly defying NC laws and regulations. We need to know what the due process way is for us to register concerns about this and basically just negotiate for more time. I think if we get more time we can then explore what exceptions or modifications to policy are needed, but the question is how to stop this thing that is going on right now.

Ms. Lyles said what I would kind of like to do is kind of take a gauge of the Council in terms of does anyone on this Council object to the direction that the Council has been taking, which is no wall on I-277. Is there anyone that would say let the process play its way out?

Councilmember Phipps said I'm concerned that if a decision comes back and people say that they want the wall, are we as a City prepared to accept that decision? It sounds like we would want to challenge that decision.

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Ms. Lyles said that is why I'm trying to take a gauge. I think the way the discussion has been going is that we've been willing to say that the number of people that are voting on the wall do not represent the larger community and the impact on the wall. Did I say that correctly?

Ms. Kinsey said impact on the City.

Ms. Lyles said yes, impact on the City.

Mr. Austin said I would probably never say we don't care what the citizens want in terms of this wall because there are citizens that are being highly affected by the noise that that is why the people along I-77 did vote for their walls. I would say definitely as a Councilmember representing my district as well as the Council at large, I don't want the walls either on I-277, but I would not say that we don't care what people want.

Ms. Lyles said I just wanted to do a check in because this is an important discussion about how we move forward if we are going to address the issue of what next. I'm going to go specifically to the I-277, the other ballots are in or underway so what does it mean to I-277?

**Debra Campbell, Planning Director** said two things; one is this has been a really fast paced process because of the manner in which the NC Department of Transportation is undertaking a very novel project of a public/private partnership to add these HOT (High Occupancy Toll) Lanes. That was the first challenge that we had was time and the way they are doing this is because it is a bid process, we are under the gun to make a decision locally. The decision will be made based on their policy by a vote of affected property owners. Is the process fair? Absolutely not! The concern that I truly believe is that the people in Fourth Ward have a bird in the hand which is a noise wall, because the widening will affect their properties so they are trying to ascertain do I take the wall which I know NCDOT will build or do I trust the City somehow further down the line in terms of time that the City will mitigate the impact and to date we have not been able to provide a mitigation strategy from the City's perspective. So what staff recommended was if you vote no then we will work with you to try to figure out a different way to mitigate other than a wall because the conditions are such that they will need to have something done to either mitigate with a noise wall or something else; buffer screening, barriers or something because of the transportation project itself.

Ms. Lyles said I think what Ms. Campbell has stated is very real and the City staff has gotten involved, it has meant that the City is participating; whether that means a financial participation, most likely people would say, well if the City is going to help us you are willing to step up. I'm going to back up and say the question that I have is when the State is in the City process, bids are changed often. There are change orders on a project like this that are numerous so the question that I'm curious about is in terms of the timeframe, our relationships. Has there been a discussion about that being an option in a bid which is done regularly versus a decision because the key thing is that you have people vote then there is an expectation that something is going to happen. If we said today that there ought to be another option that would be clear as we go in. I understand what you are saying long-term but immediately how to address this question.

Ms. Campbell said I think the challenge for us to respond definitively is it is a different process. It is a public/private process and I really don't know and can't say definitively. I am literally kicking myself because Ned Kern who is the Chairman of the North Carolina Department of Transportation said, Debra, do I need to be there tonight and I said of course not Ned, I really wish you would come on the 24<sup>th</sup>. That is the person who could have responded to a lot of the NCDOT questions, is it a policy, or is it a requirement. I believe that it is a requirement to mitigate and the way the State has offered to mitigate is a noise wall. There is another decision before we have to go out that we actually need you all to make on the I-77 part which is related to the Council's recommendation in terms of a color and texture. I know it isn't as significant as the I-277, but it is incumbent upon us to give you our full information that you all have to make a decision on Monday about that issue as well and I-85.

Motion was made by Councilmember Lyles that we ask staff to work with the NCDOT to determine if the walls could be a change order or any other practical way of meeting their bid requirements and yet not committing in the bid that the walls would be done until there is further discussion between the NCDOT and the City.

Mayor Cannon said is there any opposition to that? Do you understand it?

Mr. Phipps said I thought a lot of that was already done. Haven't we approached them in all manner of ways on this particular subject and what would be different with this particular motion that we have not done previously?

**City Manager, Ron Carlee** said here is the guidance that I'm hearing from Council irrespective of motion and we will verify the motion and I always welcome that but the guidance that I am hearing is that regardless of the value the City Council would like to have a full explanation of what alternatives it may have options in looking at either eliminating the walls or modifying them or using some other mitigation process and how that would be done and to communicate with NCDOT that we want to have those discussions before an irrevocable commitment is made to the walls.

Ms. Lyles said irrevocable is an important aspect of this motion. That we try to keep every option available to us that would help make this a better community decision.

Ms. Kinsey said what I'm hearing is we don't want the walls period. We are not talking about options as far as any other kind of wall, we don't want the walls.

Mr. Driggs said I think the point is that if we come out with that position in this short timeframe that doesn't allow for process. What I'm trying to do is establish a legitimate means through which we can make a better determination about whether we need this wall or not and just buy some time. I think otherwise we may be in a situation where we overly confrontational by asking them to just plain quit.

Ms. Kinsey said that is why you don't send me. That is not what I was hearing from Ms. Lyles.

Ms. Lyles said I hate to be in the middle. I'm asking for a request that is not irrevocable so I think that leads us to argue how can we reduce noise at a different way on a different day? I understand what you are saying but I think right now I'm just trying to get to let's not make something happen that we can't live with.

Ms. Kinsey said I heard you say that but that is not what I heard him say.

Mr. Carlee said you want to know what you can do about it. How would you go about that? What are your options and how would you make that happen in working with NCDOT to void the walls?

Mayor Cannon said you don't necessarily need a motion for that, just go ahead and do it unless there is some strict opposition to it and I view Mr. Phipps has sort of been there and done that.

Mr. Carlee said we've had those conversations at a staff level, but what I'm hearing now is what appears to be clear Council guidance that we're not trying to circumvent NCDOT process and we are really concerned about walls and if it looks like they are going go forward with the walls we want to have a conversation about how you don't do that.

Councilmember Howard said I though the motion that we put through last week included a motion that said staff would do exactly that. Am I missing something?

Mr. Carlee said last week's motion was to communicate to the people who are voting the Council's concern about the walls and encourage them to vote no for the walls and that letter did go out.

mpl



Mr. Howard said there were three actions in that.

Ms. Campbell said there were four.

Mr. Howard said we've got the first two covered, the materials. Am I missing something?

Ms. Lyles said I think we took a vote specifically around the letter and did not come forward with more of a Council approval and I think what we are clarifying today is to make sure that everybody on the Council is consistent and that we are asking staff to work to define some additional words. I think there was a conversation and I'm going to say there are implications, what does that mean; their deadlines; what does that mean? Policy, what does it mean? Remedy, what does it mean? We use these words without a definition for them so we are trying to make sure when you go to NCDOT they give us more of the options for what that means and we are able to make an intelligent decision.

Mr. Howard said the key part of what you just said is that we didn't bring the other items to the full Council. Those other items covered everything we said so it was already written up. That is coming to Council on the 24<sup>th</sup> I thought.

Ms. Campbell said there was a fourth option that you all did not take action on at the Committee level which was if there is a yes vote on the walls; if you will direct staff to work with NCDOT; but we wanted to bring that your attention tonight so I'm glad that you brought that up because we were going to bring it up to you to say we've done everything that says if there isn't a wall, but what if the vote from the property owners is a wall. What do you want staff to do and we were going to work with them on mitigating the impact of a wall and looking at potentially different designs or whatever we needed to do to work with them.

Ms. Lyles said I think this discussion here is to try to do this before the vote comes back to talk and get some sense of what this actually means before that vote comes back. I think that if we have a vote the question before us is, well yes, that is the vote, but I don't know what we would do with it; the vote by the property owners; what would that really mean?

Ms. Fallon said the point in fact is if it does come back as a yes, then we've left ourselves open to be able to discuss it with them and what we can do to mitigate it whether it is trees or clear panels or something, but the vote is going to go forward because you've got a week. It is too late to stop it now and I don't know if NCDOT once it is mitigated that we have to do it. The next step is wait to see what the vote is; hopefully it won't be, but if it is then we sit down and say these are your options as homeowners, how do we help you; how do you help us.

Mr. Howard said it has been a long time since we totally agreed on something but I don't believe you want a different set. That is what we said in Committee Vi, if you remember. That is why this whole motion of a letter came up. It was not to send the wrong message to the community by saying anything about what happens if it is a yes. I would still ask us to stay solid, and Claire is right we have time after it closes to still talk about what happens to that section if we need to. It is still going out to contract. The only thing I would say is that we should not send a message out of here tonight saying anything different. They are really planning for us to vote for it, but we've still got another couple days. I said this in Committee so I'm being consistent.

Mr. Austin said I still strongly believe the people and the residents along I-277 will not vote yes for this particular project. I'm very confident of the leadership in both areas, in work the staff has been doing and I do understand as a Council you don't want it; I don't want it. I don't think it will look good, but I do think we need to at least have the due process of having them vote and then we make a decision thereafter because they are the ones that are affected. Unless you live beside the sound; and that is probably why NCDOT comes up with this particular voting process because if you are not affected by the sound why should you be allowed to vote on me when it is affecting me most. That is their policy; I don't have an issue but I do agree I don't want the walls and will stand with not wanting the walls.

Ms. Lyles said I just want to summarize and make sure we are all on the same page. I think that the committee recommendation is work with the ballot; I think what I heard earlier was to try to find out immediately what are our options and some of these definitions that seem to me not be shared understanding with everyone. That is where I am in hearing us talk.

**The Dinner Briefing was recessed at 6:04 p.m. to move the Council Chambers for the regularly scheduled Zoning Meeting.**

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The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:11 p.m. with Mayor Patrick Cannon presiding. Councilmembers present were Al Austin, John Autry, Edmund Driggs, Claire Fallon, David Howard, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

**Absent until Noted:** Councilmember Michael Barnes.

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**INVOCATION AND PLEDGE**

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

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**EXPLANATION OF THE ZONING PROCESS:**

Mayor Cannon explained the Zoning process and asked the Chair of the Zoning Committee, Tracy Dodson to introduce the members of the Zoning Committee.

**Tracy Dodson, Chair of the Zoning Committee** introduced the Zoning Committee of the Planning Commission and announced that the Zoning Committee will meet on Wednesday, February 26<sup>th</sup> at 4:30p in the Government Center. At that time we will make recommendations on petitions that will be heard tonight. The public is invited to this meeting, but this meeting is not an extension of the public hearing. You can get information on how to address your district representative and obtain more information on these petitions on our web site at [charlotteplanning.org](http://charlotteplanning.org)

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**DEFERRALS**

Mayor Cannon read the list of petitions that have been deferred for one month:  
Item No. 1, Petition No. 2013-017; Item No. 3, Petition No. 2013-098; Item No. 6, Petition No. 2014-001; Item No. 7, Petition No. 2014-002; Item No. 9, Petition No. 2013-085; Item No. 12, Petition 2014-007; Item No. 17, Petition No. 2014-015; Item No. 20, Petition No. 2013-026; and Item No. 25, Petition No. 2014-021.

Motion was made by Councilmember Howard, seconded by Councilmember Mayfield, and carried unanimously, to defer the above mentioned petitions for one month.
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Mayor Cannon said Item No. 2, Petition No. 2013-072 needs to set a new public hearing due to significant changes in the site plan.

Motion was made by Councilmember Autry, seconded by Councilmember Austin, and carried unanimously, to set a new public hearing date of March 17, 2014 for Petition No. 2013-072 due to significant changes in the site plan.
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Mayor Cannon said Item No. 5, Petition No. 2013-102 needs a new public hearing date due to a portion of the petition changing from a conventional request to a conditional request.

Motion was made by Councilmember Mayfield, seconded by Councilmember Phipps, and carried unanimously, to set a new public hearing for March 17, 2014 for Petition No. 2013-102.

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## DECISIONS

### Council District 6- Smith

**ITEM NO. 4: ORDINANCE NO. 5301-Z, PETITION NO 2013-099 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT 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,) (CONDITIONAL,) TO INST(CD) SPA, (INSTITUTIONAL, CONDITIONAL, SITE PLAN AMENDMENT.)**

Motion was made by Councilmember Howard, seconded by Councilmember Smith, and to adopt the Statement of Consistency and approve Petition No. 2013-099 by Michael T. Whitehead and Elizabeth M. Whitehead, as modified and as recommended by the Zoning Committee.

The modifications are:

1. The petitioner has clarified the total square footage for the existing and proposed buildings. Staff has rescinded the request to provide the gross square footage for the existing one-story conference center as parking is based upon assembly area.
2. The petitioner has modified the required parking to accurately reflect what is proposed on the site plan. Thus, the total number of required spaces is now 93 (versus required 91 spaces previously noted.)
3. The petitioner is working with Planning Department staff towards the approval of an alternate buffer along the property line that abuts the development zoned R-8MF (CD). The petitioner has added a note on the site plan acknowledging the alternate buffer.
4. The petitioner has added Streetscape and Landscaping Note 6f stating that plantings proposed in the sight triangle are low lying and will not obstruct visibility.
5. Petitioner has amended Architectural Note 5d to state that dumpsters and roll out containers will be screened with gated enclosures.
6. The petitioner has provided front and rear perspectives of the new events building.
7. Staff has rescinded the request regarding the existing storage shed as it is out of the 20-foot buffer required with the 2005 site plan. The petitioner has added a note that states all other improvements (i.e. gravel parking area and other improvements,) will be removed from this buffer area.
8. A note has been added to the site plan that states the parking agreement will be filed in the Register of Deeds prior to issuance of any permits.
9. The Fire Department comment has been addressed regarding access through the gate having a minimum of 16 feet in width for fire apparatus and 20-foot clear access road.

Councilmember Fallon said I have a problem with the cuddling together of the parking. I worry about that because it sets a precedent.

Mayor Cannon said so you are opposed?

The vote was recorded as follows:

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

NAYS: Councilmember Fallon.

The ordinance is recorded in full in Ordinance Book 58, at Page 627 & 628.

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**Council District 1 - Kinsey**

**ITEM NO. 8: ORDINANCE NO. 5302-Z, PETITION NO. 2014-004 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT 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 I-2 (GENERAL INDUSTRIAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT, MIXED.)**

Motion was made by Councilmember Kinsey, seconded by Councilmember Lyles and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-004 by Charlotte Mecklenburg Planning Department for the above zoning change as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book No. 58, at Page 629-630.

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**HEARINGS**

**Council District 1 - Kinsey**

**ITEM NO. 10: HEARING ON PETITION NO. 2014-005 BY GATEWAY COMMUNITIES NC, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.39ACRES LOCATED ON THE NORTH SIDE OF CENTRAL AVENUE BETWEEN ST. JULIEN STREET AND WESTOVER STREET FROM B-1 (NEIGHBORHOOD BUSINESS) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said this property is located on the north side of Central Avenue between The Plaza and Landis Avenue. To show you exactly where you are this is the new Harris Teeter; most people are familiar with that location. In terms of the site there is currently an office building and a single family residential structure on the site. The proposed rezoning is from neighborhood business to mixed use development, optional. This is an architectural rendering of the proposed building. This is a three-story building above ground level parking and you see the elevations that are shown. The one thing I would like to point out about this building is that it does activate from the front of Central Avenue and you can tell from the rendering that this is pedestrian friendly and activated. This is the ground level of the development. Most of it to the rear is parking. This is the front along Central Avenue. You have a lobby area, a lounge area, a coffee lounge area and you have an entrance to the parking area with gates that are far enough back to allow traffic to come in and wait for the gate to open. There is a gallery display area and all of that amounts to about 675 square feet of area that is available for retail or gallery uses so it will activate the front of the street front. The proposal is for 36 multifamily residential units; there are approximately 12 units on each floor above the parking deck. Each unit will have a balcony and the maximum proposed height is 60 feet. When you look at the adopted future land use along Central Avenue you see a lot of red along this area. The future land use calls for retail but the Central District Plan, which regulates this area, says that many of these properties in this area are going to be redeveloping and that other uses could be considered. With this property, it is very close to the PED Overlay which is on this side of Central Avenue going back towards town and we also have the Gold Line which runs all the way out to the former Eastland Mall site. This area is appropriate for the multifamily residential that is proposed. Staff does consider it appropriate for approval and is recommending approval upon resolution of the outstanding issues.

Councilmember Kinsey said I have a question about the building materials to include stucco and metal panel cladding. What is metal panel cladding?

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Ms. Keplinger said I believe that might be a good question to ask the petitioner when he comes up for his presentation.

**Matt Majors, 333 West Trade Street** said I am the architect with ITM Architecture and represent Gateway Communities. To answer the question; metal clad siding could be considered a bond type produce or a composite product. It is basically a little bit more contemporary in keeping with some of the other elements within the corridor. The stucco and other siding elements that are conveyed in the rendering at this point are fairly conceptual. There are some moving pieces and parts to that that could be further addressed or questions answered.

**Dale Trembley, 1813 Hamorton** said the problem with what you have shown up here doesn't show the actual layout of the apartments. They are very small and the issue with that is it is going to have a limited appeal and the life of rental is limited before it starts to degrade. If Councilmember Kinsey knows the area, just on the other side behind where this is being proposed, there are two apartment buildings which have caused some issues with the neighborhood in certain ways. Most of the neighborhood has appreciated tremendously, but the apartments back there in my mind would be similar to what the proposed apartment is going to be. Just basically a money churning, there is not a lot of money being put into the apartment building that is proposed. It is 26 units; they are very small; there are 26 parking spaces and that is one each. There is no other parking adjacent anywhere. I've lived in the neighborhood for 34 years in the same place. I've seen the neighborhood when it was at its worst and I'm seeing it regenerate and revive. There is a lot of infill going on. A lot of it is good. This in my opinion is just quick money poured in to get quick money out, but not long-term viability for the neighborhood. Central Avenue is a very, very busy road now. These apartments although it is supposedly 26 cars, that does make an issue for people getting into the apartments. If you are familiar with Central Avenue and drive a car; try to get on Central Avenue, it is very difficult coming from the side streets. The next street up is Hamorton which is the one that most people in this neighborhood use and you can spend 5 minutes trying to make a left hand turn. The entrance to the apartments that are proposed is very small. They moved the gate in so that maybe another car could pull in, but again it is not resolving any long-term issues. Being a long-term neighbor, I moved to Charlotte in 1980, lived in the neighborhood in the same building since 1990 and purchased it. I don't think this is a good addition to what is going on in the neighborhood. Again I think long-term this is not something that would be good for the neighborhood if you are familiar with the area you would understand why.

**David Ransenberg, 7514 Christopher** said I am Gateway Homes; the owner, developer, builder and we would hold on to this property for a long period of time. Considering it an addition or not an addition to the neighborhood is I think a little bit premature to say that. We are giving up additional right-of-way for the future streetcar and I think to say it is a quick money churning I don't think they understand the amount of money that is going into this to do this. It is not a quick money churning, it is a long-term play and we are not intending to use inexpensive materials; I want to use hard coat stucco; I don't want to use EIFS. I want to use something that is going to stay there for a long period of time.

Ms. Kinsey said first of all I'm a little concerned about the height. I wish it was 3-stories, but I'm going back to the metal paneling because I have seen some things go up with metal paneling that makes it look a little cheap. The rendering you have here in our material is very attractive and yet we are not guaranteed that it is going to look like that because the architect just said there were moving pieces. I'm a little concerned about that. That is my stomping ground. That is where I grew up so obviously I have a little bit of interest. I just want to know more about the metal paneling and the moving pieces. Will the building look like it is pictured in our material or will it not?

Mr. Ransenberg said it will look like that. The reason I'm unsure about the metal paneling, and I would almost guarantee you that it is not going to have the metal paneling, but to give you an idea of what metal paneling is, I believe there is a building right on the square, Trade and Tryon that has ALUCOBOND on it and that is what you are talking about. I believe that is the one that is right across the street from BofA Corporate Center. It is aluminum looking siding panels that

are 4' x 8' or bigger sheets. We were looking to do that and if you notice on that rendering where the blue areas are, because they hold color better.

Mr. Kinsey said we don't have the colored drawings. What worries me is it is going to look like that yellow building down on Central Avenue and that doesn't fit into the area.

Mr. Ransenberg said I agree with you 100%.

Councilmember Lyles said I think Mr. Trembley said 26 but there are 36 units and he said small. Can you just tell us the square footage?

Mr. Ransenberg said they vary from 700 square feet and one with 800 square; all one bed-room.

Mr. Lyles said one bed-room 700 to 800 square feet and think I think he said 26 parking spaces.

Mr. Ransenberg said there are 36 units and 37 or 38 parking spaces.

Ms. Lyles said it is listed in our book as 36 spaces.

Councilmember Phipps said what is your parking plan for the overflow parking in terms of the 36 units? You have 36 units and according to our records you are asking for 36 spaces so are visitors going to be just meandering through the neighborhood trying to find a parking space?

Mr. Ransenberg said first of all I don't know if we are going to have 36 people with 36 cars. I don't know if that is the case; we are on a bus line and I have other properties. One is in Elizabeth and one is in NoDa that I don't have one car per person there. Further, the gate to get in so we have a secured situation so if somebody would want to have access to park there as a guest, which could happen, you would have to call up and ask for permission from the owner who is there. As far as any overflow it is an urban situation, you are going to look for a parking space either across the street or down the street.

Mr. Phipps said I notice on this petition there was one to one parking ratio for the number of units. You get one parking space and on the next petition we are going to be talking about almost the same lot size and we have a two to one parking ratio. I was interested in how did you differentiate between the amount of parking that we allocated for a similar size parcel. This one is .39 and the other one is .40 yet we have two to one parking ratio for that one and one to one parking ratio for this one.

Ms. Keplinger said it is about design. In the MUDD District, the parking requirement is one space for every unit that you have so they are meeting the minimum requirement for the ordinance and for the next petition, it is going to a different district. It is going to a TOD and they are only doing 12 units on that site as opposed to 36 on this one so they have a little more flexibility with their site design and can provide a little more parking.

Councilmember Howard said the real question to ask is why MUDD and not something else in this location? Why are you comfortable with MUDD here as opposed to something that would require more?

Ms. Keplinger said because this is an urban setting; it is along a transit line. This is an area that is very close to the existing PED District. It is an area that we consider appropriate for higher density single family residential and for the ratio of one to one on the parking.

Mr. Howard said have there been other zonings in the area where that was the practice and have we seen problems with it?

Mr. Keplinger said not in this particular block have we had other rezoning's to multifamily with the same type of density as this one, but we have in other parts of town. For the most part when they are a long a transit line most of those issues work themselves out, even using the one to one ratio.

Mr. Howard said the one that comes to mind for me and I know we've had some conversation is over in NoDa, where we are hearing about one of these after another and now they are saying they are going to have parking problems into the future. I'm not saying we should oppose this one because obviously we've set precedent, but we probably should look at that and at least from time to time examine whether or not we are doing okay with it. When you put them all in a great spot and it becomes a really trendy area you have a problem.

Ms. Keplinger said it is really difficult as these areas transition to areas that have transit services and that is something that we do struggle with and I know the Council struggles with those decisions also.

Ms. Kinsey said this is really the ideal area for this type of residence with one parking frankly because the people who live there can walk within a block and there is a grocery store, the library, there are just all sorts of amenities right in the area. The only problem would be with visitors and where they would park and heaven help them if they park at the Harris Teeter because that lot is full almost all of the time, but it is a perfect area for this type of urban living because the people who live there can literally walk almost anywhere they want to go and of course they will be right on the rail line or bus line. It is just the visitors coming in that might have a hard time finding a place to park.

Mr. Howard said I totally agree and I supported this when we were looking at it before. I think we just need to worry about when areas become so popular they come back and say we need to pay for public parking structures. If we could get that right on the front end we don't have to pay for it on the back end.

Mr. Phipps said I notice they said they have one building, single family residents built back in 1925. Is there any kind of historical significance to this building?

Ms. Keplinger said not that I'm aware of; it is not a historic district overlay and we have not received any comments from the Historic Landmarks Commission in terms of it being a historic structure.

Motion was made by Councilmember Howard, seconded by Councilmember Mayfield 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. 11: HEARING ON PETITION NO. 2014-006 BY NEW CAROLINA INCOME PROPERTIES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.40 ACRES LOCATED ON THE NORTH SIDE OF EAST TREMONT AVENUE BETWEEN CLEVELAND AVENUE AND EUCLID AVENUE ACROSS FROM ATHERTON HEIGHTS LANE FROM UR-2(CD), HD-O (URBAN, RESIDENTIAL, CONDITIONAL, HISTORIC DISTRICT OVERLAY) TO TOD-RO HD-O (TRANSIT ORIENTED DEVELOPMENT, RESIDENTIAL, CONDITIONAL, HISTORIC DISTRICT OVERLAY.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said this site is located on East Tremont Avenue; as you can see from the zoning map we have a mixture of zonings for this area from the pinkish red which is some of our business districts to the office in the purples and then the yellows and oranges are for residential. In terms of this site there are two single family structures that are located on this site. You might remember that these two properties were included in two other rezoning's in our recent past; the most recent was in 2013 for Petition No. 2013-27 where we took 52 condominium units and made them 52 multifamily units. These two properties are now pulling out from that development and the proposal is for 12 multifamily units. The top elevation shows the rendering of the project and on the far side you can see the adjacent property to the south and

again the front building elevations and the relationship to the existing building adjacent to it. When you look at the side profile of this building you can see that this building has three stories above grade. You can see they have parking that is below grade and then the three-stories above and they have a garden area in the middle. One of the optional requests that they are asking for is this parking has to meet the rear setback which is 20-feet. They need in order to accomplish this development is a 10-foot setback here instead of 20-feet. Again it is all below grade, but for this portion of the building, just for the parking they are asking for a reduction of 10-foot rear setback.

The building height is limited to 50-feet, no more than three stories above the one level of parking. There are building materials that are specified on the site plan. The property is located in the Dilworth Historic District Overlay; 12 units, the density is 35.2 dwelling units per acre. The maximum height of 50-feet, the optional request is for the rear yard setback. In terms of the future land use plan, the future land use plan actually recommends multifamily for this site and this is based on the previous rezoning. The site is within ½ mile of the East/West Boulevard Station on the Blue Line. Staff is recommending approval of this petition upon the resolution of the outstanding issue. It is consistent with the Transit Station Area Plan which recommends high density multifamily for the site. It is a transit supportive use and it is within ½ mile walk of the transit station and the outstanding issues are technical.

**Frank Martin, 164 Cherokee Road** said I am the managing member of New Carolina Income Properties. I don't think there is much to add to those comments; I did want to introduce Cindy Schwartz who is the land use Committee Member of the Dilworth Community Development Association. She asked to speak for this petition.

**Cynthia Schwartz, 409 Rensselaer Avenue** said I Co-Chair the Land Use Committee for the Dilworth Community Development Association (DCDA). This is not something that we've done, certainly not in recent history so I am very pleased and proud to be able to stand here on behalf of the DCDA and speak in support of this project. The DCDA has been in discussions with the petitioner for several months and we appreciate the developer working with the DCDA from the beginning. The DCDA has seen several projects proposed at this site, including two rezoning's in recent years. Both are much larger projects on a larger site which were both inclusive of the site that is included in this rezoning tonight. Although we do regret the loss of another contributing structure that defines the Historic District, the one-year save demolition has expired. Mindful of that the DCDA recognizes that this project is much improved over the previous site plan and that the scale and massing are much more in keeping with the Historic District and the kind of development we think adds to the Dilworth Community. With that we respectfully ask that you vote yes to the proposed rezoning 2014-006.

Mr. Martin said Matt Majors is the architect so I asked him to come up if there were questions that he could respond to but we have nothing further to add.

Councilmember Kinsey Mr. Martin has already told me this but the Historic District is happy with this plan?

Mr. Martin said we think so. We had a meeting and they voted to approve the scale, massing, materials and landscaping. We thought that was pretty good, but at that point they didn't have the side elevations so we had a meeting last week scheduled that was postponed because of the weather and we were hopeful that at that meeting they would look at the side elevations which had been prepared after the first meeting and responded to the questions or preferences. We were hoping that we would have had an approval by tonight from the HDC and now we are hoping that next Wednesday we will have an approval from the HDC. It is our impression that they think this is suitable.

Motion was made by Councilmember Kinsey, seconded by Councilmember Autry, 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 6- Smith**

**ITEM NO. 13: HEARING ON PETITION NO. 2014-010 BY CENTER FOR HEALTHY LIVING, INC. DBA THE IVEY, FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.08 ACRES LOCATED ON THE WEST SIDE OF PARK SOUTH DRIVE BETWEEN ROYAL CREST DRIVE AND FAIRVIEW ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL,) AND INST(CD) (INSTITUTIONAL, CONDITIONAL,) TO UR-C(CD) (URBAN RESIDENTIAL, COMMERCIAL, CONDITIONAL.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said to orient you this is Park South Drive, this is Fairview Road; South Park Mall is in this area. The property is just outside of the South Park Activity Center. In terms of this site there is an existing adult daycare center known as The Ivey which is located on this property. As you recall probably in 2012 we had a very controversial rezoning for this piece of property for a 108-room motel and it was so controversial it was eventually withdrawn before it even got to the decision process. The proposal now is to take that piece of property where the hotel was proposed and incorporate it into a unified development for elderly people and the aged. There will be two new buildings built on the site; this will be the view from Park South. There is a retaining wall and a privacy fence on the site and these are the elevations of those. There is also a covered walkway that is part of the site for the people that live there to be able to get outside. In terms of the site plan; the existing building is located here. The two new buildings are here and each one will house six patients and these are people that will live in the facility full time whereas this building houses people that are just there basically for adult daycare purposes. There is no new access to Park South Drive except for a pedestrian access that is gated so they will be coming into the existing parking lot and utilizing the existing parking. The covered walkway is located along this area and there is a possible pedestrian connection to the property to the north. We have a series of institutional type uses in this area and this connectivity is a very good thing to connect those institutional uses.

In terms of the South District Plan, the South District Plan recommends institutional uses for the site that already houses the adult daycare and it recommends single family residential for the adjacent site where the two new homes are proposed, but as we've talked about many times in the past the District Area Plans don't tell us when necessarily we should approve institutional type uses. They tell us to look at them on a case by case basis and when you look at this petition on a case by case basis you find that it is inconsistent with the South District Plan recommendation for single family, but it is consistent with the institutional uses that are already in place. It is compatible with the surrounding residential development in terms of the buffers that it is providing and the outstanding issues are all technical in nature. Staff is recommending approval upon the resolution of those issues.

**Bakak Emadi, 725 Clement Avenue** said I would like to ask Lynn Ivey, the Division behind The Ivey Adult Care Center and the proposed Ivey Family Chair Homes to describe the vision and also ask Matt Turner, who will be speaking on behalf of the neighborhood in support of the proposal.

**Lynn Ivey, 6030 Park South Drive** said it is nice to see your smiling faces; two years ago we didn't know what to expect so I'm happy to be here on this fun part. I'm the CEO and founder of The Ivey which is a non-profit organization with a legal name of Center for Healthy Living. For those of you who don't know me, I founded The Ivey as an adult day center for people living with Alzheimer's and I did this based on my personal care giving journey for both of my parents who have had Alzheimer's. The current day center known as The Ivey is 11,000 square feet and offers an integrated program of health and wellness, educational and social connections each day in a lodge style setting, beautiful lifestyle home. Each day our members actually go home and live with their family, very different from any notion you may have of adult day care centers; there is nothing institutional about us. Our mountain lodge setting fits seamlessly in the  
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residential nature of the area. It is set back off the road and you really almost don't know what it is. This rezoning request will enable The Ivey to expand this campus and program offering by adding overnight residential homes, two of them on the adjacent lot. This is going to create an integrated walkable campus with the same look and feel and charm of the current building. Each home at about 4,700 square feet will have six bedrooms, six private baths, a front porch, back porch and gardens and residents of the homes will have access to the same daily programs as people who attend The Ivey today. It is very interesting and I think we all could be very proud, this business model of pairing an adult daycare center with two group homes on the same campus is a pioneering effort and really will put the spotlight on Charlotte as an innovative location for creative long-term care design. I hope you all will be as excited as we are about this opportunity. It certainly fits better than the hotel. Thank you for your time.

**Matt Turner, 3324 Old Closeburn Court** said I live in the house directly behind the proposed rezoning. We've been neighbors with The Ivey's since 2007 and I must say it has been a pleasure getting to know Lynn and her staff. I first toured The Ivey in 2012 and I was quite impressed with the facility and its primary purpose of caring for the elderly and contributing to their quality of life. The Ivey serves a very important role in the Charlotte community by catering to the aging population. The surrounding families in the neighborhood are in support of the proposed rezoning of the lot adjacent to The Ivey.

Mayor Cannon said Mr. Turner, based upon our rules I'm going to have to end your comments there but I'm sure there is a question for you so stand by.

Councilmember Howard said Mr. Turner if you had another minute could you tell me what you would share?

Mr. Turner said we feel that the use of the lot will create no impact on the residential households and our peaceful way of life. We hope the Charlotte City Council will support this rezoning petition.

Councilmember Lyles said Mr. Turner I apologize for not being able to follow the unscripted directions of the Mayor. Ms. Ivey, in terms of the two homes, is this going to be permanent housing or respite care?

Ms. Ivey said primarily it is going to be permanent; we might be able to do some respite. I think there is a need in the community for some respite, but we haven't made that full decision yet. Right now it is focused on permanent.

Councilmember Fallon said we could have saved all of this trouble two years ago. I'm so glad that you are going to do it. It is such a need in this community for that.

Councilmember Howard said Tammie we've heard a few times now that the South Area Plan is not necessarily supporting it because the South Area Plan is older. Can you tell me what year the South Area Plan was approved?

Ms. Keplinger said it was adopted in 1993.

Ms. Howard said I cannot think of any scenario where this should be single family at all this close to Fairview so if we had something that said that spot should be R-3 we need a new plan.

Motion was made by Councilmember Howard, seconded by Councilmember Driggs, 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 2 - Austin**

**ITEM NO. 14: HEARING ON PETITION NO. 2014-011 BY VICTOR KUNG FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.25 ACRES LOCATED ON THE SOUTH SIDE OF MONTANA DRIVE GENERALLY BOUNDED BY I-85, ABELWOOD ROAD, AND BURBANK DRIVE FROM I-2 (GENERAL INDUSTRIAL) TO I-1(CD) (LIGHT INDUSTRIAL, CONDITIONAL.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said just to orient you, this is I-85 and on the south side we have Montana Drive which is the service road and the property is located right in this area. This is actually between Brookshire Boulevard and Beatties Ford Road. We have a lot of industrial zoning in this area shown in the brown, I-1 and I-2. We do have some residential but there is a pretty natural dividing line with a creek and a large flood plain through this area. The property is currently developed with industrial structures and I'm not sure if they are all being used currently, but they have been there for a number of years. In terms of the proposal the petitioner submitted these elevations as a part of their request for a hotel that will be three stories and have approximately 85 rooms. They have indicated to us that they did not have a contract with any particular hotel, but this is a design guideline for them to base their conditional plans on. The site plan shows the proposed hotel with 85 rooms within 39,000 square feet. There is a new zoning boundary that will be developed as a park if this property is rezoned. You can see that they do have screening for the parking; they have an 8-foot planting strip and a 5-foot sidewalk along Montana Drive. In terms of the use the facility will have a swimming pool and it will have a covered porch for drop-off and pick-up area, but it will not have meeting and office rooms that people could rent. The Central District Plan calls for the uses in this area to be industrial related. The rezoning is to an industrial district, but the use is for a non-industrial use and for that reason staff is not supporting the rezoning. It is inconsistent with the Central District Plan; it is not located at an interchange; it is located mid-way between two interchanges and there are other areas at the interchanges that are more appropriate for a hotel use. Heavy industrial uses are appropriate for this site which it's zoned for and other properties in the area could accommodate the lodging without actually going through a rezoning process. Again staff is not recommending approval.

**Moodye Clary, 5723 Lake Providence Lane** said I'm representing Mr. Victor Kung and Pearl Pacific Properties, a subsidiary of Royal Pacific Corporation who is the owner of the three parcels of property identified in Mecklenburg County records at 1016 Montana Drive, 1024 Montana Drive and Abelwood Drive. The Abelwood Drive is the street directly behind the property; separated from the properties in question by the long stretch of property identified as parcel 39, which is a natural barrier because it has a creek running through it and we don't intend to interrupt that whatsoever so the barrier that is presently in place will stay in place and not pose any additional problems to the community whatsoever. The purpose of this request is to better use the property; it is now only being half used as an industrial property and of course improve the appearance along Montana Drive and even along I-85.

Let me describe the present situation if I may; you have that in your packet I know, but I would like to stress certain points. The present zoning of the property is I-2 and the initial building was built in 1962 about 52 years ago. Since that time there have been additions to it, always to serve as an industrial building. It is presently expanded to about 127,000 square feet of building sitting there only by which 40% is being used actively. It was originally built as a warehouse relative to the textile industry and it is not being used that way at all today. The purpose it is being used for is more in the I-1 category which is light industrial as compared to the zoning which is I-2, which is perfectly allowable, but I'm saying it is being under used in so far as the intention of I-2. To give you some idea of the relative income from the property as opposed to what we would recommend, the income for the past year in property tax was about \$30,000, almost \$31,000 which is a nice contribution to the City coffers and we appreciate that. There are only 5 employees in the total facility that is presently there. The prospective use would improve the

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property, not only for the owner, but I believe for the community as well and that is what we are here to present to you tonight. The requested rezoning will only ask for approximately 27% of the total property being changed to I-1(CD). That would mean that the balance of the property that would be left, which is about 74% will remain I-2 and continue to function in that regard because the property that we want to rezone is right at the front of the property. The rear of the property will remain I-2 and continue to operate as an I-2 heavy industrial usage.

The remainder of the property in green on the presentation is serving as a natural buffer. There is a creek there and it has very definite requirements to maintain a creek and not to infringe upon it whatsoever. The residential property behind our property would not be affected whatsoever by the addition of this building. In fact we think it will improve the overall property. We think it will upgrade the appearance of the property from those passing on I-85 and certainly those on Montana Drive. We think it is important to recognize that the employment that will come about because of this motel there will increase it by approximately 400%. As I said there are 5 employees there now in the existing building. That will increase to probably about 25 employees including motel administrative staff and the cleaning staff and those who will maintain the property. Also the property taxes on a motel of 39,000 square feet will increase considerably to approximately \$100,000 per year as opposed to the \$30,000 that was collected last year.

It was our chore to find out how it would be presented to and how it would be received by the community. We think it is reasonable to anticipate that some of the patrons of the motel would need rental cars and there is a rental facility just down the road. Enterprise is within a mile of the property. There are certain businesses already there that will serve those patrons of the motel and by the same token the motel will be served by those patrons. Businesses in the area that would benefit from the presence of this by purchases and patronage of their businesses; such as Sam's Mart, Lorene's Cafeteria, Madison Saints Paradise Senior Citizen Center, Beginning Years Childcare Center, Charlotte Coin Laundry and the Shell Quik Mart. When people come to this motel to stay they will need gasoline for their automobiles, they will need places to go to eat and that type thing. And if they spend time they will need these other services as well. We think the community will well receive it and will benefit from its being there. From the same token there are entities in the area that will benefit from them being there. Johnson C. Smith is just two miles down the road, UNC-C is about 6 miles away and the City of Charlotte itself downtown is about 3 miles away. This is designed in the quality of a Hampton Inn or a Marriott so we are not talking about tourism as much as we are for business usage and that is whom we hope to attract.

We've talked to local people in the neighborhood, those who are in tuned with the request that we are making, the local neighbors personally expressing support for the proposed rezoning include Apostle Howell, Pastor of United House of Prayer for all People, Elder Steven Pass of the Memorial Presbyterian Church and Bishop Walter Wynn of the Spirit of the Word Church just down the road. All of these are within a mile of the property so we know that they know the value of having such a facility in their neighborhood for the general improvement of the neighborhood and also for the service that one can render to the other. As I mentioned other entities that would benefit are Johnson C. Smith and UNC-C. Certainly around graduation there will be those who would want to come and stay nearby and this will serve that purpose.

There has been some opposition expressed by neighborhoods but we think that this will not pose any additional problems that may exist already and we know that the neighborhoods are well posted. They maintain their style of living as it is right now and they have done a good job of keeping that style of living by means of posting their neighborhood and being on the lookout for interlopers that should not be there. We think this will not add to their problems whatsoever and think this will probably help the situation.

**Tammy Hill, 2209 Abelwood Road** said I am President of Stewart Creek Environmental Association. Our mission is to educate our people about environmental issues affecting our community within the Stewart Creek and Irvin Creek watershed. We continue asking why the corridor has numerous environmental disparities such as "brownfield" sites; Ford's Creek contaminated flood water, air quality problems from I-77, the Brookshire and I-85. Yet the State is now adding I-77 HOT lanes without receiving community input from valuable tax payers impacted by the negative air pollutants and without being afforded a choice much like the same that is being afforded the Fourth Ward residents concerning the wall construction. Take notice

Council, the environmental issues still lack being properly addressed. No study beyond 2017 when the project begins have been completed nor being communicated to. Coffee Classic located at 1016 Montana Drive is asking for rezoning petition 2014-011 for a motor lodge motel. We ask that you do not pass this rezoning request. Concerns about this property; it is confirmed brownfield groundwater contamination site. Previously it was a company that made cleaning products and chemicals which was buried underground on this site. This property is less than 50 feet from our community. The brownfield property reuse act executive summary report from October 1, 2012 to September 30, 2013, and we quote "the program must examine the risk to public health and the environmental proposed by the site." The owner of this property was allowed to build a retainer wall from the rear of the building to level the land according to the brownfields project manager, N. C. Department of Environment and Natural Resources. He moved earth on this contaminated site and the community was never notified. He was issued an encroachment permit by Mecklenburg County. We are calling for a protest of the encroachment permit because of not being notified and because a violation occurred to the creek buffer. He was allowed to correct the violation, but there was no permit issued by the City for building those retainer walls. The buffer serves to filter pollutants from storm water and to absorb runoff and reduce the runoff and erosion and pollutants. This retainer wall is now over the creek buffer line so when it rains we can see red mud coming down the hill into Stewart Creek. The soil was disturbed during this project because he was allowed to move earth for this retainer wall to be constructed. Can you tell us what exposure impact to our health occurred with the dirt being disturbed having contaminants? The retainer wall is still over the creek buffer so please help us understand why the polluter is being protected and not the residents. There is a daycare center within a half mile of the site. We do not need 80 bathrooms coming from the site causing more problems to occur to the storm water system or to Stewart Creek. We are calling for a full investigation for the City, County, State and Federal to address this issue in the form of a community town hall meeting with the starting of time of 6:00 p.m. presenting corridor residents opportunity to attend. All entities are responsible for the safety of our community and we hold you accountable for doing so. When the community meeting was held for the rezoning petition, the architect states full quote "the foundation has a crack and before he can add anything they would need to fix the back of the building before it falls into the creek." Council we ask that you please have policies in place to address these issues. If they exist today they need enforcement.

**Thomas Cowans, 9237 Mountain Aire Circle** said I am here on behalf of the Belview Terrace Community and we are requesting a vote of "no" on the rezoning petition 2014-011 on the property on Montana Drive for a motel. I think some of the Councilmembers are new, but I would say that the ones that have been here for a while I'm sure you are not suffering from short-term memory loss because if you think back several years right up on Highway 16 where the motel, the City, CMPD and drug enforcement were there on a regular basis. This was seriously an issue. It had a very negative affect on our community, somewhat of a trickle-down effect, but we had it. I don't think this is what we need and I will say that this project has every opportunity to create or revitalize negative affects to our community. I would ask you to please consider our request because we have lived this experience and we don't want that particular part of history to repeat itself. Thank you for your vote of no.

**Aaron McKeithan, 1332 Plumstead Road** said the University Park Neighborhood and Oak View Terrace Neighborhoods are part of the Historic West End Neighborhood Association; the 15 to 16 neighborhoods down the Beatties Ford Corridor. When I look at this petition I don't see where a motel will be beneficial to each one of these neighborhoods. We talk about unintended consequences. You put a motel on Montana Drive that is not easy accessible, you would have to put a sign on Beatties Ford at Montana to have direction to this motel. If you came in from Highway 16, you would have to put a sign almost at I-85 to get to this motel and that would lead you right through the heart of Oak View Terrace which would create a traffic problem, right through a stable neighborhood. When I talk about unintended consequences what kind of clientele are you going to attract. Think about it. You can't get to it, no signs for it, so what kind of clientele are you going to attract. Would you want this in your neighborhood or near your neighborhood? I don't think so. I would ask that you not consider this petition and you vote no.

**Mary Martin, 3012 Burbank Drive** said my husband Hoyle and I moved into University Park in 1960 which means that we have been there about 50 years and we have a very proud neighborhood and we work hand in hand with Oak View Terrace and all the other neighborhoods

around and we know the effect of a motel because as it has been stated before there was one on Highway 16 and I can tell you if you bought gas anywhere along up there or you stopped anywhere you saw the trafficking that you could see coming from the motel and going back to the motel. I can't say that this would be anywhere as good as that one because it cannot even be seen from a highway. It is I-85 access road and you can't get to it. It would be a great place for hiding of drug dealers, for prostitutes; it would be a great place for all the crime to filtrate down through the neighborhood and we are asking you, please don't vote that in. We do not need that and we are trying to build our neighborhood because like me and my husband, most of the people in University Park are older, their children have moved away and they are trying to come back and rebuild University Park and Oak View Terrace and build up the neighborhood. We don't need any negativity to come to use and we ask you to please vote no.

**Eleanor Washington, 2335 Abelwood Road** said I live in University Park and I'm here to speak against Petition No. 2014-011. I've lived at the same address for more than 50 years. My backyard extends toward Montana Drive less than ½ miles from the site. The petitioner is asking for a rezoning of the property at 2016 Montana Drive, the reason to build an 80 room travel lodge between Oak View Terrace and University Park neighbors with one way in, Beatties Ford Road and one way out. I'm asking you to vote no on this rezoning. Thank you.

**In rebuttal Mr. Clary** said I understand the neighborhood concerns in the way they have presented them and the suggestions they have brought up as to why they would dislike it. Certainly I will tell you that any construction done on that site would have to pass any requirements by the City, County, State and Federal government in so far as present pollution of the site as it has been suggested in the brownfield study so that would take care of that. There would be no construction to perpetuate any kind of soil pollution and certainly not any air pollution from a motel or water pollution. I don't think those are valid reasons why this property should not be considered for this type of building. We think this might have some positive affect on the neighborhoods from the standpoint of employment. People have to be working at this entity from somewhere and what better to have them in the neighborhood if they have in mind to be employed in such a place. We are talking in the neighborhood of about \$8 million of investment, \$3 million of property dedicated to this cause with about a \$5 million construction costs. This is not something that will be put up with any idea of not serving the community and serving the immediate neighborhood there with any kind of downward thrust. It will be a sizeable investment by a company that has its mind to perpetuate that investment and to benefit from it so this will not be thrown up with an idea that it will be dismissed lightly. The last thing, the drugs and the prostitutes, I don't automatically assume that when you build a motel that is what you are going to draw to you or attract. I was asked at the community meeting, do you have a motel in your community.

Mayor Cannon said Mr. Clary your time is up but please stay around the podium in case there are questions for you.

Councilmember Austin said Mr. Clary thank you for coming and it is good to meet you. I'm very curious. You gave a long list of individuals who sounded like they were in support of your particular project. Do you have letters of support from them? I'm particularly interested, you were talking about Johnson C. Smith, where I work, and a few other entities within the community I'm very familiar with so I'm trying to figure out do you have letters of support from them?

Mr. Clary said I do not. I was promised one by Pastor Howell if I sent him my address. I must tell you I failed to do that, but I did have a nice sit down session with him and I can get a letter to that affect. I have a support letter from Bishop Wynn at the Spirit of the Word Church where we had the community meeting and this gentleman named Steven Pass, who is an elder of the Memorial Presbyterian Church and I had a nice visit together. When I say they support it, I asked them specifically would you be opposed to a motel on Montana Drive, approximately a mile from here and they had no opposition to it. They saw it as an attraction to the community. They saw it because of appearance and because of the service it might render to their church if visitors wanted to come and spend the night.

Mr. Austin said I have grave concerns about this particular project in that it is so off the beaten path. It is down in one of our historic communities. How are you going to mitigate the traffic, and yes there are ladies of the evening and other types of things that might be happening within the community and the community clearly does not want to return to something that we had before so how are you going to mitigate that sort of thing?

Mr. Clary said I heard loud and clear at the community meeting the community was against it. I thought it was very forthright and very definite they didn't want it, but I didn't understand all the reasons why they didn't want it. I had the question posed to me. Do you want a motel in your neighborhood? The first thing I thought about was in the South Park neighborhood which has some very nice homes around it not far from South Park. You have several motels there and I don't think motels automatically impose such a bad reputation around it.

Mr. Austin said I keep seeing something that says Hampton Inn. Is it a Hampton Inn?

Mr. Clary said yes this particular rendering was of a typical Hampton Inn. The final arrangements have not been made with them but I present this as the quality that we would seek. We would not seek a mom and pop tourism type of motel. That doesn't warrant a \$5 million investment.

Councilmember Driggs said the area residents who have been there for a long time and are afraid of certain developments. What exactly can you do to stop the things from happening that they are talking about? If the motel starts to become invaded by the elements they are worried about. How do you stop that?

Mr. Clary said I think it would be a difficult time for that to happen because of the quality of the motel. I think that in its self will discourage that kind of happening. As I said earlier we are seeking a four star motel of the Marriott Courtyard category or of the Hampton Inn category. That is the type we are seeking and I don't want to name a motel that would be detrimental, but a lesser type of motel that would attract tourist at bargain prices and the type of clientele that the community has suggested would be there.

Councilmember Smith said have you all had any conversations with national flags in the likelihood that you landing one of the national brands? You have stated a couple times that you want to attract certain type of hotel brands, have you had actual dialogue with any of the national flags, a Hampton Inn, Marriott and what kind of feedback have you received?

Mr. Clary said yes sir, I have talked to the Hampton Inn people located in Virginia to ask them about one and they are hesitant to commit to any site and give you any specific information until they know more about it, where it wants to be, who the investor would be and that type of thing. They are hesitant to go into great detail but I asked about the availability here and again that is a question they have to know too. How close is there presently another Hampton Inn or how close is there another Courtyard. All these questions have to be asked but that is still the quality of people we are seeking that would warrant that kind of investment.

Mr. Smith said regarding an 85-key hotel how does that fit into these national brands typical footprint? It seems a little small and I'm a little curious as to 85 rooms, how does that fit into the Hampton flag, the Marriott flag; where does that fit into their typical hotel?

Mr. Clary said it is at the lower end of their desired quantity and I don't have their average. I know there is one near me that is a Marriott and it is about 124 so about 20 to 30 more room than what we have in mine, but again that would depend on the availability and the location of others around it so all of that has to be worked out.

Mr. Smith said it looks like you are not utilizing the full site. Have you looked at possibly utilizing a little more of the site to up the room count to have a better shot at going after one of the national flags?

Mr. Clary said it may very well demand that Sir. As I said that is at the lower end of their normal capacity and they may say that in order for us to put our franchise here we demand 100 rooms or 120 rooms.

Councilmember Fallon said I'm in a quandary. You said that they would ask questions, you knew where the site would be, you knew how many rooms there were going to be, you knew how the configuration was going to be; didn't you tell them that. Have they given you some kind of an answer?

Mr. Clary I heard you say that I have looked at the size, the quantity and the number of rooms and that type of things but I didn't hear the last part of the question.

Ms. Fallon said I said you know about it and you didn't go to them empty handed. They must have given you some kind of an answer or said we need more rooms, less rooms, it is not a good site or it is a good site. You are not telling us anything about that so we are in a quandary about where is this going.

Mr. Clary said we think this should be a good site for a motel and we've inquired of one chain to ask the question about how to go about acquiring a chain in this area.

Mr. Fallon said so you are speculating; that is exactly what is going on, right?

Mr. Clary said I will use that word.

Mayor Cannon said is Mr. Kung here tonight. I know you are speaking from one angle, but is Mr. Kung here tonight?

Mr. Clary said he is not here, no sir. I understand he is out of the city. He had planned to be here but he is not here tonight.

Councilmember Phipps said Ms. Keplinger, in our packet there was no mention of any potential brownfield issues or clean-up issues. Are you are aware of any such issues related to this site that one of the speakers mentioned?

Ms. Keplinger said no sir, we actually through the rezoning process, we are looking at the use of the land and the environmental issues are handled through other agencies. That is not something that we would be involved with or have the information on.

Mr. Phipps said we did not request any comments from them. Traditionally, we ask for comments.

Ms. Keplinger said I believe that would be a State agency and we do not request information from them, but the State agency that we generally work with is NCDOT.

Councilmember Howard said so you are only rezoning part of the site and there is a building on the whole site, so you are tearing down the whole building? Are you tearing down the part that is on the property that you are not rezoning?

Mr. Clary said no sir. We are only tearing it down on the front. The back of the property will continue to be used by the present owner for the industrial two uses. He has a coffee company there called Classic Coffee Concepts and they package and distribute coffee in small packets with coffee making utilities to motels for that cup of coffee in the morning when you get up. That is the nature of the business that is presently there and only occupies a portion of the building and that will be relegated to the rear of the property in the part of the building that will remain.

Mr. Howard said so you are going to leave part of the building up and there will be trucks coming in and out, cars coming in and out, with a pool that is supposed to attract children. No concern about all of that?



Mr. Clary said there is a road prepared on the right side of the property that will have access to the rear of the property. It will be shielded from the motel, but the traffic coming in and serving the industry that is presently there will be no more than what is being done now.

Mr. Howard said you said it was an \$8 million investment and then you said it was a \$5 million investment.

Mr. Clary said I said the total investment would be about \$3 million for the present land that is designated for this project and about \$5 million worth of construction; a total of \$8 million.

Mr. Howard said Tammie he mentioned the number of rooms. Can that vary like he said it does? Can it go from 85 to 120 if somebody wants more?

Ms. Keplinger said no sir it cannot be more. It could be less, but 85 would be the maximum. If they wanted to do more they would have come back for another rezoning.

Mr. Howard said did you realize that you couldn't do more?

Mr. Clary said my answer was directed to the gentlemen who asked me if that was the size we would normally go for. We have chosen at this point to shoot for the 85 rooms which as I said it is at the lower end of the scale for Marriott or Hampton Inn. We think that is appropriate for the area.

Mr. Howard said going back to what Ms. Fallon said it seems kind of awkward not to have actually talked to them about what you need before you came. That is why it feels more like speculation and gives me a lot of pause as well. You've got some extremely involved neighbors including a member of one of the churches that you mentioned and was very clearly saying she didn't know how you got a letter of support from anybody. Those letters of support would be important for me to see too if you don't mind trying to get those.

Mr. Clary said I would be happy to get a letter from Pastor Howell as I spoke to him about and I will seek the others from the other gentlemen as well. I know Bishop Wynn will be happy to give it to me because we had a very nice meeting about the project. He was very much in favor of it, but I will certainly get that. Do I turn that in to you ma'am?

Ms. Keplinger said yes, you can turn it in to us.

Mayor Cannon said Mr. Clary I hate to break this to you with what Mr. Howard was asking you about with regard to your letters of support. I just spoke with Pastor Howell and he says he is not supportive of this petition.

Mr. Clary said I'm surprised to hear that because he and I had a very good conversation.

Mayor Cannon said I'm going to suggest to you that you make sure you route back with him because now there is a question of credibility and you don't want that to linger out there. You might want to double check that because he says he is not in support of this.

Mr. Clary said I will do that.

Ms. Keplinger said I would like to go back and address the issue that Councilman Phipps asked about the brownfields and the contaminated soil. Doug Lozner with Engineering and Property Management indicated that our environmental group has been in touch with the State EPA on that site and the EPA is aware of the issues associated with it and any remediation for that site will be handled through them.

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

**Councilmember Barnes arrived at 7:39 p.m.**

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**Council District 6 - Smith**

**ITEM NO. 15: HEARING ON PETITION NO. 2014-012 BY LINCOLN HARRIS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 6.1 ACRES LOCATED AT THE INTERSECTION OF CARNEGIE BOULEVARD AND CONGRESS STREET ON THE WEST SIDE OF BARCLAY DOWNS DRIVE FROM MUDD-O (MIXED USE, OPTIONAL) TO MUDD-O SPA (MIXED USE, OPTIONAL, SITE PLAN AMENDMENT.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said the property is located on Carnegie Boulevard which basically encircles the site with Congress Drive being to the east side. South Park mall is located to the right. Just for point of clarification; The Ivey is here, which we talked about earlier this evening so this is two very familiar spots. This is the former US Steele Building that is located on Carnegie Boulevard. It was rezoned in 2010 for a development that had four development tracts; it had approximately 495,000 square feet of commercial uses and 591 multifamily units. One of the reasons I'm showing you this is the previously approved site plan and the reason that this rezoning is in tonight is to take tract A and tract B and a small portion of tract C and tract D, and combine them into one tract, showing a new site plan for them and reallocate some of the development rights. The development rights for the property are actually not increasing but we are actually just changing them and moving them around between the tracts a little bit. This is a mixed use development site plan amendment optional. As I said, it reallocates the square footages so the proposal will have 470,000 square feet of office uses for this new tract. It will have 10,000 square feet of retail and restaurants and there will be an additional 15,000 square feet that can be moved through the administrative process from original tract D onto this new tract, so it will allow up to 25,000 square feet of retail and restaurants.

In terms of the site plan layout, you can see the two office towers that are located on the site with the parking deck in the center. What is unique in this area is the G and F. G is designed to activate Carnegie Boulevard which is supposed to be retail or a restaurant and then it has a component that may allow it to go even further up the muse that was proposed as a part of the original development. This will activate Carnegie and it will shield the service areas of the larger tower area and also provide the activity along the muse that we seek as a part of the overall development. The office on the tower on the north side of the site, building F serves some of the same purposes. It will be for office uses and it will also shield some of the service areas for the big tower. Area C that you are seeing here is going to be an office retail component and there will be some parking. The optional request is to allow parking between the buildings and the street and that is for valet parking and service area so implementing a loading and pick-up area.

These are the building elevations for the office entry and then the east elevation. You can see the west elevation along the muse and the street, the partial west elevation along the muse that shows you more detail of how this is activated. In terms of the future land use plan, the land use plan does recommend a mix of uses for this property; office, retail and residential. The proposed request is consistent with that recommendation and staff is recommending approval upon the resolution of the outstanding issues.

There being no speakers for or against, a motion was made by Councilmember Smith, seconded by Councilmember Austin 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 2 - Austin**

**ITEM NO. 16: HEARING ON PETITION NO. 2014-014 BY SAM'S REAL ESTATE HOLDINGS, GEORGIA, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.90 ACRES LOCATED ON THE NORTH CORNER AT THE INTERSECTION OF NORTHLAKE CENTRE PARKWAY AND POINT O'WOODS DRIVE FROM R-3, (SINGLE FAMILY RESIDENTIAL) TO NS (NEIGHBORHOOD SERVICES.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said to orient everyone this is Northlake Centre Parkway and W. T. Harris Boulevard, Northlake Mall and the Target Center. This is a commercial site that was rezoned several years ago and we will talk about this more in a minute. The CC site which is commercial center but it did have a residential component. In terms of the aerial for the site you can see the Target Center, the out parcels from the Mall and then the beginning of the construction for that CC site that was rezoned in 2008. Currently on this site there is a single family home that was built in 1981.

I want to give you a little history and talk about the CC property that was rezoned in 2008. This is Northlake Centre Parkway, this is Point O'Woods Drive. The proposed site to be rezoned is here and the rezoning I'm talking about from 2008 is this area. It included multifamily residential and it had a 50,000 square foot component of office and retail. The idea behind this development was for a mixed use village center, and there were some residual properties along Northlake Centre Parkway, for all of these to develop and basically in combination with each other. The proposed request tonight is showing a convenience store and some retail and some additional office. This is the building elevation that is proposed. In terms of the site plan and the design of the site, the proposal is for a 2,000 square foot retail building on the corner with a 2,500 square foot office component above, then the convenience store which would be 3,700 square feet. There would be gas pumps to the rear. There is a future driveway access proposed from the adjacent property. That was part of the CC rezoning and if you remember looking at the original rezoning there was a proposed public street that goes through the property and this is the location of that proposed public street.

When you look at the future land use for this area the plan calls for it to be a mix of retail uses, a pedestrian oriented mixed use town center. The uses that are proposed for this development are not inconsistent with what the area plan recommends but what is inconsistent is the design of the site. In looking at this plan there were four issues that staff had concerns about. The uses are not oriented or accessed from the public street, the sidewalk system that abuts the parking lot and the vehicular maneuvering area instead of buildings that are pedestrian friendly. The gas sales component as proposed is not adequately screened from the street right-of-ways and it is not designed so it can be part of that larger component of that larger 2008 CC development that was envisioned for this area. We took our site plan and I want to show you where we feel this site plan needs some improvement. The green area shows the building elevation that you saw earlier. The elevation was taken from a shot that would be coming from this direction and we think that it is somewhat consistent with what the design guidelines are, but what is not consistent is what is happening along these areas in red. That is where we show the storm water detention and the parking facilities and that all can be seen in view from the street and those certainly did not meet the design guidelines for this area. I want to show you what we think it could look like. This is actually the convenience store and you cannot see the pumps they are back in the back. It is a two-story with some offices uses on top and retail and there is actually some street-side eating which is hard to see on that plan. This is something more consistent with what we would envision for this site. Staff is not recommending approval of this petition in its current form. It is consistent with the land use plan for the area in terms of the uses, but not the design so we have the design goals that it is inconsistent with and there are a few technical issues that need to be dealt with also.

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**Walter Fields, 1919 South Boulevard** said before my time starts I would like to express my appreciation to Tammie and her staff who worked from home through the snow to get all this stuff together for this meeting tonight. They don't get enough credit for that.

Mr. Fields said I am representing Sam's Mart and many of you may know Sammy Nafisa who is the founder and owner of Sam's Mart; been in Charlotte for 33 years; graduate of UNC-C, started his business in 1993 and has grown it now to over 200 stores in this area and the Atlanta area and other places. I think what you are going to see here tonight is an example of a new generation. Tammie sort of stole a little bit of my thunder with her presentation. This is a 1.8 acre lot and as she noted in the presentation it is in an area that has got a lot of stuff going on. It is immediately across the street from Northlake Mall. It is in fact at a location where there is a signalized intersection on Northlake Parkway and she also helped me out by describing the history of the site in terms of the public street which other people designed to cross this property at some point in the future, in fact it has moved around a couple of times, but is now settled down. We are dealing with the public policy issues. We are dealing with transportation and we are dealing with public policy issues in terms of land use. I think Tammie made it clear that from a land use standpoint this is not an issue and it now comes down to a matter of opinion. This is in the Northlake Small Area Plan. I worked on that plan years ago with a number of members of the staff. Northlake is really something special to this community because it has a potential to be much bigger, much more diverse and have much better access than even South Park Mall as it grows in the future and as growth in the north and in Gaston County and Lincoln County continues to happen. This is a part of this larger mixed use development. The plan doesn't say that every single use has to be mixed use, but each one is part of the larger mixed use component that make up this entire area. A lot of the comments you heard from staff were about design issues and we just want to make sure that is what it is and not so much of a use issue. The property to the rear was rezoned in 2008 for a number of multifamily units which have been constructed. The Gale family owns the remainder of the land that has zoning on it for 50,000 square feet of office and retail uses directly behind this site, including a free standing single tenant out parcel which could have a drive-thru service window. That would be something that would be behind us. Right around the corner what I hope you can see there is a picture of a much larger area on the right side of that image is I-77 going north and south; on the left side is I-485 and you can see the two interchanges there; that is Harris Boulevard and the yellow triangle there is or course our little site that we are talking about tonight. That first red line is a ¼ mile radius around the site and within that radius there is a huge amount of retail and residential development. Then you go out another ¾ of a mile and that is a one mile radius around the site and within that entire area there is no other convenience store. There is one at the intersection of Harris Boulevard and Mount Holly-Huntersville Road and there is one across I-77, but in the middle of this area right here which has just short of 3 million square feet of office and retail zoning on the ground, there is no place to stop and buy gas.

The more recent development along Harris Boulevard down in this area which was done in 2011; the south side of Harris Boulevard, sort of across from the Target Center also is a relatively new development in this same basic planning area and it has two free standing single tenant uses including the new McDonald's, which I drive by from time to time in the morning. So clearly there is a pattern that in certain circumstances it is appropriate to have some of those auto oriented uses, but in terms of the staff analysis on this plan we do have some concerns. A lot of the things we think can be easily addressed in terms of height issues, the technical issues, there is some need for more documentation on the site plan. We don't have any issues with any of that, but it has been described in the context of the staff analysis as a single tenant use and it is not a single tenant use. It is designed specifically to address the need for there to be mixed uses on the property, even one this small. The building is much larger than you would normally expect for a C-Store, it does have a second floor element which creates both height and a focal point at the intersection of Point O'Woods Drive and Northlake Centre Parkway and we did that intentionally to try to bring in the mixed use that the staff is looking for in this area. There was a comment about pedestrian access and all the red area there is all of the land that is already zoned some sort of higher density commercial or mixed use and again we are that little dot in the middle.

This is our site plan and I have one here that you may be able to see better. The staff commented that sidewalks on the site actually ran along the edge of the parking lot, well they do but they also run along the edge of the building. It is possible to come to this site up Northlake Centre Parkway on the sidewalk, walk up via a connection, get to these buildings, get to the second floor office, go out to a sidewalk connection on Point O' Woods Drive or come out the center of the building down this way. While you can characterize it as the sidewalk is near the parking lot you can also characterize it, as we would, that the sidewalk serves the building and connects it directly to the street. There was a comment about not enough screening on the site. We are interested in finding out what that is about; we did put some screening along Northlake Centre Parkway and we did put some additional screening along the back which I will come back to and talk about in just a second. We do think this building design is rather unique for a C-Store. We look at the architecture in the surrounding areas. Steven Overcash's firm created this design specifically for this location because there is a higher expectation for the quality of architecture at this location and we believe we have risen to that occasion. There is a question in the staff analysis about water quality facility. I'm sort of old fashioned and I figure water runs downhill and the way this site is laid out at this point without doing a significant amount of additional grading which would involve properties that we don't own, this is where the water wants to go. We have the ability to put some of that in conduit underground but we will provide some additional information because that facility is designed to be part of the landscape of the site. There was a comment about the height of the lights and we went back and read the zoning from the property to the rear and saw that it was 25-feet and that is what the staff has asked us to do here and that is what we are more than happy to do.

Tammie touched on four points in her presentation and I will touch on those very briefly; that we are not oriented to the public sidewalk system. We believe we are, we have three connections to the public sidewalk system, but if there needs to be a fourth one or fifth one we can certainly do that. It says the gas sales component is not adequately screened, again please tell us what that will require and we will take a look at it. It says it was not designed to be a part of a larger master planned community. Well yes it is because the key to that larger community is this public street that will go across this portion of the site. Without developing this site you can't make that connection and the note on the plan lets us remove this screening so we can tie into the development that takes places to the rear when it comes on line and perhaps goes through its own rezoning. In summary we believe this is a perfect location for a small use like this. We think that it is an exceptionally well designed site and we've got the building up on the street that orients to the street. We've got the gas sales to the rear screened from the street as best we can do it and again we are all ears in terms of staff's idea. There is nothing like this within a mile of this location. I'm speculating that most of the people that show up at the mall by in large are in their cars. Some of them even have electric cars and we'll get to that in a minute. We think this location works well in terms of the larger community objectives. It fits the design requirements; it can blend in with the use to the rear once it comes in for the final design; we are working with the Gale family even as we speak to tie down the final details about how that can work. I'm authorized to say that this may be a first, certainly for Sam's Mart, but maybe all over the place that this station will actually have a recharging outlet for electric vehicles. So while you are visiting in the neighborhood or shopping on the property to the rear you can plug in your car and charge it up.

**Paul Gale, 482 Powell Road, Mocksville, NC** said he was not in opposition and did not wish to speak.

Councilmember Smith said Mr. Fields how many MPD's (mobile product dispenser) are you going to have at this site?

Mr. Fields said six.

Councilmember Howard said Walter you spoke a lot about what the Planning Department's issues were; what about issues that transportation staff brought up about the connections to the site?

Mr. Fields said we met with the Gale family who are joining us to the rear after we have talked to CDOT about the notion of this public street, as I mentioned in my presentation, this street has  
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already been moved around on this piece of property by the action of others. Mr. Gibson wasn't part of those conversations so in either case we have met with CDOT. We've talked with them about a couple of different alternatives and I'm led to believe, after some conversations tonight, with my client and with the Gales that we are about to reach a conclusion about how to make those connections work and I believe that will satisfy the CDOT concerns.

Mr. Howard said Tammie do you have a problem with use?

Ms. Keplinger said the use is consistent with the area plan.

Mr. Howard said so the opposition from staff is all about design and layout?

Ms. Keplinger said issues about design and layout and activating the front of the buildings.

Mr. Howard said it is kind of awkward because it is a triangle so what is the front? It is that corner or you considering the front to be everything that runs along the Parkway?

Ms. Keplinger said if we can go back to my slides. This slide demonstrates the areas that staff has major concerns. Along these areas there is little screening for the gas pumps and we would also like to activate these a little bit more. This area is okay but it does have some issues within itself. The elevations that were shown, as I said, came from this direction and there is a sidewalk connection here, but there is no promise of these doors or windows that are activated toward the street level. We still have some concerns about that and also further activation, maybe another building or something that could go in this area. There are still some issues with what we would like for them to see and would like to continue to work with them.

Mr. Howard said so the multi-tenant that I kept hearing Walter talk about. Is that part of what you are concerned about?

Ms. Keplinger said no, I think from our standpoint because they have the corner building that has the 2,000 square feet of retail and then the 2,500 square feet of office solves the multi-use along with the convenience store. The more of a mix the better it is but we think a lot of it has to do with the activation.

Mr. Howard said so the single tenant building issue is not that much of an issue, the issue is design and layout, which sounds like they can work that out.

Councilmember Phipps said is there a carwash facility planned for this site?

Mr. Fields said no sir. The site is too small and irregularly shaped to try to fit something like that on it.

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

Mr. Howard said for a couple of months now Walter and I have had this discussion and we actually had it with Debra Campbell not too long ago. It is about these type of rezoning's. The ones that is more auto-oriented. We think about convenience stores, anything that needs a drive-thru, carwash like you just mentioned, because of our push in the community right now kind of away from things that deal with cars, I think we all forget sometimes that we all drive them. I talked with Debra about whether or not it would be appropriate to refer to a committee and it would more than likely be the Transportation and Planning Committee, the idea of just studying when auto oriented land uses and buildings are appropriate and where, so it is kind of clear. We are having this kind of dual conversation right now and it may be appropriate to do that at the end of the meeting, but I wanted to bring it up while Walter was here. That thought just to tell you while we were just talking about one and why I think it is important.

Mayor Cannon said do you want to know if they are appropriate and where?

Mr. Howard said so much of what we do now if you think about it if it comes up a lot of times it kind of gets immunized a lot of times and I think we need to have some clarification about where, what type of zoning classification it would be appropriate; the design standards that we would like to see; just a conversation that we have not had.

Mayor Cannon said is there any opposition to that or does anyone want to speak to it around the dais? Hearing none it will be referred to the Transportation and Planning Committee for further look.

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**Council District 2 - Austin**

**ITEM NO. 18: HEARING ON PETITION NO. 2014-022 BY INGENUITY SUN MEDIA, LLC FOR A CHANGE IN ZONING FOR TWO PARCELS APPROXIMATELY 9.18 ACRES IN TOTAL LOCATED ON HAMILTON STREET NEAR MUSIC FACTORY BOULEVARD FROM MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL) TO MUDD-O SPA (MIXED USE OPTIONAL, SITE PLAN AMENDMENT.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said the name of the petition on this petition is Ingenuity Sun Media but this is actually a site plan amendment for the Music Factory for a portion of the Music Factory. As you can see the Music Factory site is located off of I-277 and I-77. We are talking about just one portion which is the main core of the Music Factory. Music Factory Blvd is right here. The zoning in this area you can see Music Factory, the core is zoned MUDD-O; we have some UR-3 for the cemetery and we have some industrial. This is part of the parking lot area that services the Music Factory and then industrial development up to the east. In the aerial you can see the core of the Music Factory and the cemetery and then the interstates. In terms of this proposal it is actually not a change in land use. It is to allow five signs that are detached digital solar powered signs. They are limited to the actual sign size of 15 square feet on each side, the maximum height of the pole on which they will be mounted on will be 8-feet and there will be a solar array which is affixed to the top of the sign that is 112 square feet. These signs are not currently allowed in our zoning ordinance and that is why this request is for an optional provision to allow this type of sign on this particular property in five locations. The locations are shown on this map and this is Music Factory Boulevard and one, two, three, four and five show the locations of the proposed signs.

When you look at the adopted future land use plan for the Music Factory is shows a mixture of uses; retail and office. In terms of this proposal staff feels that this is a very unique sign opportunity for a very unique venue. It is consistent with the Center City 2020 Vision Plan recommendation in terms of land use. The outstanding issues are technical and staff is supporting it.

**Ralph Olsen, 405 Palmerstone Lane, Waxhaw, NC** said what we are doing here is very consistent with the Music Factory; it is an entertainment venue and our signs are interactive signs. They basically think of it as a 3 by 5 smart phone so you basically have a 60-inch screen that you would have in your home that would also interact with the public that attends there. The screens will be oriented not towards the public right-of-way, but towards the patrons attending the Music Factory so it is consistent with the entertainment venue. We will also be tied into the national weather service amber alerts so heaven forbid if there is a civic emergency that goes on, that can come up on the screen and alert the public which is an increased safety feature. The screens by nature will be in accordance and within code as far as the amount of lumens and brightness that they have and we feel it is a unique opportunity being that we are 100% grid neutral. We are generating more power than we are using and it is consistent with Charlotte and its message of renewal energy and sustainability. Thank you for your consideration and ask you to vote yes.

Councilmember Barnes said I was just curious as to whether you had any graphics you could show us to kind of show us what the sign would look like once it is installed.

Mr. Olsen said what is on the screen right now; that is a replica; that is a 6 panel topper that we have on that on there.

Mr. Barnes said I meant an example of where it is being used in some other city.

Mr. Olsen said this is going to be the first installation in the country. We are a two-year old company with an advertising background and technology background so this will be the first of its kind.

Mr. Barnes said will you be returning power back to the grid?

Mr. Olsen said we will be returning power back to the Music Factory, so yes to the grid, but to the Music Factory itself.

Councilmember Austin said you and I met a couple of weeks ago and we've talked about this. I like this idea. It is edgy, it is new and those types of things. And it uses solar energy. My only concern has been as I shared with you guys is this 6 by 17 very huge kind of thing illuminating over properties. I'm having a little concern about that.

Mr. Olsen said we definitely took that into consideration and we don't want to be a monstrosity on a property. If you look at position three which is on the corner that is actually what is called the small bar. That is actually a 4 panel array which considerably smaller so it does not impede with any of the power lines or any of the line of sight. Position 4 is actually a piece of ground mounted furniture and will not have a solar array on it. Position 5 is offset down in the parking lot and is actually about 7 feet below the street grade where it is mounted. Position 1 is also about 6 to 7 feet below street grade. Position 2 will also be a smaller unit, a 4 panel unit that is not to create a line of sight issue or an object that does not fit in with the property. The way that we are going to make up for that additional power is by doing a small solar array on one of the roofs of the Filmore to generate the power that we need because our goal is to be grid neutral.

Councilmember Kinsey said you just talked about the height and in our material you said the minimum height would be 8 feet.

Mr. Olsen said yes ma'am the clearance to the lower portion of the sign will be 8 feet. As to a pedestrian that might be walking across the grass, you don't want them to hit their head on a lower portion of the screen. The top portion, the maximum height is 16 feet; that is the top of the solar array. The screens themselves will not be any higher than 14 feet. Once again these are recessed down on the property so as to the people attending, it is above their head view so they can see them and the screens are not oriented towards the right-of-way; they are for the entertainment purpose of the patrons that are attending.

Ms. Kinsey said you said the panel would be 16 feet; that is pretty darn tall. It will be seen.

Mr. Olsen said the solar panels will be seen, yes ma'am.

Councilmember Howard said you said two of them won't have a solar panel at all.

Mr. Olsen said one of them sir.

Mr. Howard said some of this is just about signage it is not about this special use of solar.

Mr. Olsen said it is about the signage.

Mr. Howard said tell me what a 4 panel looks like. This is a one panel. Do you have a picture of a 4 panel?



Mr. Olsen said all of them will be one screen. When I refer to panels, those are the solar panels on top of the array which is creating the tree effect. There will only be one screen per location. When I referred to panels I was talking about the solar panels on the top of the units. That creates the size of the canopy on the top. That is the biggest it will be on the property.

Mr. Howard said so some will be small. I thought that whole thing was one. That is really four on the picture we are looking at.

Mr. Olsen said correct, that top part is actually six solar panels.

Mr. Howard said I know this is a bad analogy but I think about our bus shelters. It seems like you could design this to be more of a structure and maybe the sign ordinance won't let you do that, so it doesn't look like you just stuck a big panel on top of a pole. Make it have some other uses.

Ms. Keplinger said that is a good question, but since this is an optional district we can consider those innovative ideas.

Mr. Olsen said we have spoken about opportunities of doing bus shelters and whatnot.

Mr. Howard said something that is more than a panel on top of a pole.

Ms. Kinsey said I totally agree and I would suggest you look if you haven't already, at the solar panels on the parking deck behind Discovery Place. They are beautiful.

Mr. Olsen said this is a rendering that will be aesthetically more pleasing.

Councilmember Driggs said I'm curious to know what the sight lines are to the nearest people who can see from their residences, what these signs look like.

Mr. Olsen said the Greenville Neighborhood is the closest community which is the neighborhood just adjacent to the Music Factory and we actually had Mr. Sadler who is the President of the Community Organization. He attended one of our meetings and he was very supportive of what we were doing.

Mayor Cannon said I don't think it is visible from where the Greenville Neighborhood is but Councilmember Austin can speak to that better than I can.

Mr. Austin said it is not that close.

Councilmember Autry said I would just say that any solar panel is a beautiful solar panel.

Councilmember Phipps said I know as a Planning Commissioner we had considerable debate on the line of sight for signs, particular these digital signs as to the timing of different advertisements. Are there any concerns about whether or not these signs could distract drivers as they pass by these signs?

Ms. Keplinger said one of the outstanding issues that we've noted in the staff analysis is that we want to make sure that these signs are not visible from public streets so that would eliminate that concern. These signs are very small compared to something like you are referring to, outdoor advertising signs; these are 15 square feet so they are significantly smaller.

Motion was made by Councilmember Howard, seconded by Councilmember Driggs 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 4 - Phipps**

**ITEM NO. 19: HEARING ON PETITION NO. 2014-026 BY ABIGAIL JENNINGS; PIONEER SPRINGS COMMUNITY SCHOOL FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.94 ACRES LOCATE ON THE EAST SIDE OF BOB BEATTY ROAD NORTH OF THE INTERSECTION AT REAMES ROAD AND OLD STATESVILLE ROAD FROM B-2(CD), (GENERAL BUSINESS, CONDITIONAL,) O-1(CD) (OFFICE, CONDITIONAL,) AND B-1 (NEIGHBORHOOD, BUSINESS,) TO B-2(CD) SPA (GENERAL BUSINESS, CONDITIONAL, SITE PLAN AMENDMENT,) O-1(CD) SPA (OFFICE, CONDITIONAL, SITE PLAN AMENDMENT,) AND B-1(CD), (NEIGHBORHOOD BUSINESS, CONDITIONAL.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** pointed out Old Statesville Road, Reames Road and Bob Beatty Road to orient the council. In terms of use and zoning in the area we have industrial on the west side of Old Statesville Road and a little bit to the north of the site. We have a significant amount of residential. The properties that are subject for rezoning tonight are actually part of the Historic Croft Neighborhood. One of the sites actually houses the old Historic Croft School House that is located on this site. This is a commercial barn that is being used as a commercial catering kitchen and then there is a single family residential structure that is being used for offices. This is a proposed perspective of what would happen to this property if this rezoning is approved. This is a development that would be phased into two phases. The rendering shows the existing home, the existing school and the changes that would occur between the two to add two new buildings and expand one and add a new one.

I want to go back and show you exactly the rezoning's. I know there were a lot of rezoning names that were given for this. This property is actually zoned neighborhood business and it is proposed to go to neighborhood business conditional. The middle portion is currently general business (CD) and that allows a commercial kitchen in the existing barn and the proposal is to amend the site plan on that portion. Where the single family structure is, it is office (CD) and the proposal is amend that to allow the school on that site also. What we are going to end up with is the proposed reuse of the building to accommodate the expansion of the school that is there and hopefully the eventual operation of a Charter School at this location, the Historic Croft School House will remain, a new building will be built in this area where the existing barn and the commercial kitchen is. Eventually the commercial kitchen will go away and this will be expanded. The house will be turned into classrooms and ball fields and play fields in this area and you can see the parking layout with a drop-off driveway.

In terms of the future land use plan you can see that this area and the future land use plan recommends office institutional for the two properties, the one where the single family house is and the one where the Croft School House is and then it recommends commercial and this is all based on the previous rezoning for the commercial kitchen and the office. The rezoning proposal is inconsistent with the Northlake Area Plan recommendation for residential on a portion of the site, but consistent with the remaining portion. The area plans typically don't tell us about locations for institutional uses and we look at them on a case by case basis. This use supports the Northlake Area Plan goal of encouraging adaptive reuse of historic properties within the Croft Community. The issues that we have are basically technical in nature so we are recommending approval upon the resolution of those issues.

Councilmember Kinsey said I want to make sure that the petitioner is going to be very kind to these old buildings and respectful of the historic nature. That is getting into my neck of the woods history wise, so I'm very interested in that. I know they state this but I would hate for them to do any renovations that might not be sympathetic. I do however notice that they have the preservation architect so that is very good.

Ms. Keplinger said a couple of the buildings are actually historic structure designated through the Landmarks Commission so they will have to comply with the Historic Landmarks Commission rules and regulations for development.

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.

Councilmember Phipps said I would like to thank this body for expediting the request for the petitioner early on to place this on the agenda for the February Zoning Committee meeting and subsequent public hearing. They have some tight deadlines to undertake to be able to get construction moving on the project. I actually visited the site and had a good visit with the staff out there and actually toured the historic site of the private school that is there and it is really a nice facility and I think if we could approve this it could go a long ways in promoting the historic Croft Community area.

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**(CHARLOTTE MECKLENBURG PLANNING DEPARTMENT)**

**ITEM NO. 21: HEARING ON PETITION NO. 2013-090 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO CREATE NEW DEFINITIONS AND REGULATIONS FOR EATING, DRINKING AND ENTERTAINMENT ESTABLISHMENTS BY REPLACING DEFINITIONS AND REGULATIONS FOR RESTAURANTS, NIGHTCLUBS, BARS AND LOUNGES. ALLOWS EATING, DRINKING AND ENTERTAINMENT ESTABLISHMENTS BY RIGHT OR WITH PRESCRIBED CONDITIONS IN THE FOLLOWING ZONING DISTRICTS: MULTIFAMILY, UR-2, URBAN RESIDENTIAL; UR-3, URBAN RESIDENTIAL; UR-C, URBAN RESIDENTIAL, COMMERCIAL, INSTITUTIONAL, RESEARCH, OFFICE, BUSINESS, MX-1, MIXED USE, MX-2, MIXED USE, MX-3, MIXED USE, MUDD, MIXED USE DEVELOPMENT, UMUD, UPTOWN MIXED USE DEVELOPMENT, CC, COMMERCIAL CENTER, NS, NEIGHBORHOOD SERVICES, TOD, TRANSIT ORIENTED DEVELOPMENT, U-I, URBAN INDUSTRIAL, INDUSTRIAL, PED, PEDESTRIAN OVERLAY AND TS, TRANSIT SUPPORTIVE OVERLAY.**

The scheduled public hearing was held on the subject petition.

Mayor Cannon said Council of old will remember this has been going on for some time. Council of new this is something where staff has worked very, very hard with the private sector and I think when it first started out they were this far apart and they've probably come in a whole lot closer at this particular time. But to give more information about this in terms of background and in terms of where we are now I would like to recognize Debra Campbell, Director of our Planning Department.

**Debra Campbell, Planning Director** said I am going to provide you with an update on this proposed text amendment, Petition No. 2013-090. I have several slides to get through so I really indulge your patience and we will try to get through it as quickly as possible. The purpose of this text amendment really is to update the current regulations related to nightclubs, bars, restaurants and lounges. They have not been updated since the 1980s and include some language that we think quite frankly isn't consistent with the vision that we have for the community so therefore are recommending changes be made. The goals literally are as I stated earlier, are to try to simplify and in some cases define some of the uses related to eating, drinking and entertainment establishments. We are trying to develop standards actually to try to minimize the impacts that these uses have in terms of their secondary impacts on residential areas that are nearby and we also want to provide some type of flexibility for some of the uses to meet what we are recommending as some proposed standards. Particularly when those lots are relatively small. In terms of the background and the issues that we are trying to respond to related to nightclubs, bars restaurants and lounges, it is very difficult right now to tell the difference between a nightclub, a bar and a lounge and even a restaurant. The current basis for making a distinction between these uses in terms of our current ordinance is around the word "entertainment". If one

has entertainment then it is not something, but in our current ordinance the term “entertainment” is not even defined.

The definition of a restaurant in our zoning ordinance does not include the word “entertainment” so therefore there have been a number of zoning cases where a use has been maybe determined as a restaurant when it should possibly have been defined as a nightclub. The ordinance includes separation standards for nightclubs and bars but none are required for restaurants when in some cases in the example I was giving earlier they operate very similarly. In terms of the background because we were having some challenges related to zoning code enforcement offices interpreting these types of uses, we started a Citizen Advisory Group process in 2011 and that was stopped because at the same time we were updating the Noise Ordinance and going through both of these processes was creating a lot of confusion for our citizens who were trying to participate in both processes. Our Citizen Advisory Group included a range of a number of people from restaurant and bar owners to neighborhood and business associations. We started the process again in 2013 and we had similar representation, a range of different people. We held six meetings. Staff also felt we had not had enough participation from neighborhood organizations so during the summer of 2013 we made an intentional effort to reach out to a variety of neighborhood organizations to make them aware of the recommendations. We held our final meeting in January of this year. The additional outreach that we held you see the listing starting again during the summer and worked through the summer. We actually were able to coordinate with the Charlotte Mecklenburg Police Department Divisions where they have a coalition of neighborhoods and were actually able to touch a number of neighborhood organizations. I put this up so you could see that our outreach actually extended from the northern part of the community to the east side, to the west side and even down south in terms of Scaleybank.

Now I’m going to transition into some of the proposed details of the text amendment, but before I do, we wanted to make sure that we were not looking at these recommended changes simply as just being something that is regulatory. Regulatory has to end in creating the kind of character that we want for our community so we looked at our centers and corridors and wedges framework. It talks about envisioning a vibrant, well planned and livable urban community and we look at these types of uses, nightclubs, bars, restaurants, lounges that adds to the element of vibrancy. Also in terms of the goal for the actual centers, corridors and wedges document it talks about having choices, including choices related to entertainment which we have circled. Also as part of that document there are guiding principles about things that we value within our community and two of those we’ve highlighted related to this text amendment, protection of established neighborhood and the revitalization of economically challenged business and residential areas. Often times these uses locate within these distressed business corridors and resulting in revitalization and create vibrancy and active uses.

The highlights and this is really highlights and it is going to be a summary. The petition as I said earlier updates the current definitions. It recommends rather than having individual terms, restaurants, bars, lounges and nightclubs, we consolidated them into one name, eating, drinking and entertainment establishments. We are recommending that we create two types, one where food and beverage, excluding alcohol are served, either indoor or outdoor and you can have outdoor entertainment. Type two establishments is where food and beverage are served but it is including alcohol so a type two use includes alcohol and it also can have activity indoor and outdoor. In terms of separation standards and how we looked at the appropriateness of these uses, co-existing residential areas which generally they abut; we looked at kind of a continuum of intensity that things happen inside of the building, the separation requirement is zero or up to 400 so the big red round circle you see is literally the most intense use where we are recommending a greater separation standard. We are looking at separation again from single family uses or a vacant lot that is zoned single family and also the single family use has to be zoned in a single family district. If you have an outdoor activity we are going again from less intense to more intense so as you move outside of the building the use becomes more intense in our minds so the separation distance is greater. In this example and it is a couple of examples, one is an example where there is a use and it is demonstrated 100 feet separation distance from a residential use that is zoned residential. The bottom is a vacant lot where there is a use and there is a 100-foot separation and again these uses are between the hours of 11:00 p.m. to 6:00 a.m. and then on the left where I talked about adding a little bit of flexibility, on a smaller lot where

you cannot meet that 100-foot separation we are recommending that the separation or distance be accomplished with a Class A buffer.

The next one is where you have increased the intensity of the use so you've added not only outdoor seating activity, but you've now added the element of outdoor entertainment and that is where you have the most significant distance which is a distance of 400 feet. Again, that graphic is illustrating the use and then the 400 feet from the nearest single family use that is in a single family district or a vacant lot. Then there is a little flexibility for areas that we know are urbanizing fairly significantly so the zoning classifications that you see, the mixed use development district, the urban mixed use, PED and TOD, we are recommending actually a consistent separation distance because now they vary, some is 100, some may be up to 400 and a plan particularly with PED may reflect a different type of distance. We are trying to make those zoning classifications which are generally urban classifications consistent in terms of the distance requirement.

Lastly, we created a certificate of exemption for some uses that currently exist and their mode of operando may be that they are a restaurant and they cannot meet the separation requirements so we have a process where you can apply for a certificate of exemption to be exempt from the separation requirements. These are generally for the definition I talked about in terms of type two uses. You have to meet and be in compliance with all of the applicable land use and development regulations for whatever that zoning classification is. You must be on a right-of-way that is at least 60 feet or greater or you can be separated by a building that is at least 1,900 square feet that separates the single family use or vacant lot from the business establishment. The continuation of the certificate of exemption; it can be revoked if the owner fails to maintain compliance, if it discontinues a use for over 12 consecutive months, which are very similar to what we have in our grandfathering clause and then the decision to approve, deny or revoke can be appealed to the Zoning Board of Adjustment.

What I wanted to conclude with is what this text amendment does and what it doesn't do because as we have talked with a number of people throughout the community there have been a little bit of misunderstanding about what this actual text amendment tries to achieve and what it can and doesn't regulate. It does make it simpler we think for businesses to know how to comply and more specifically for us from the City's perspective, simpler for us to enforce the rules related to how they should be operated. It identifies and addresses the need to regulate secondary impacts by increasing separation activity as you move outside of the building and that range is from 100 to 400 feet. It creates consistent separation requirements for urban zoning districts and it creates a certificate of exemption so we don't impact those uses that currently exist and cannot meet the requirements. What it doesn't do is it doesn't change the noise ordinance standards and we got a lot that in terms of confusion about what this ordinance could do related to the noise ordinance. It doesn't increase or impact building codes for mixed use or noise attenuation. It does not extent operating hours of the establishments. When we, as part of the text amendment, talk about operating between the hours of 11:00 and 6:00 a.m. that is simply so we can cover all of the possible operating hours and then allow a use that is currently out of compliance with applicable zoning. The certificate of exemption cannot be issued if it doesn't comply with those standards today.

**Russell Ferguson, 2254 Formington** said I'm a lawyer and I also serve on the boards for Plaza Midwood Merchants Association, Merry Oaks Neighborhood Association and their land use committees. Tonight I am just speaking for myself and not speaking for my clients exactly, but all those things influence the way I think about it. I have attended every Citizen Advisory meeting which started back in 2011. It's been a long, long process and the enthusiasm has dwindled because they started off in the 100s I think and there are only two of us talking tonight. I guess throughout the process I have been a thorn in the side of probably half of the Planning Department and hopefully have remedied some of that and surprisingly I stand here in support of the text amendment, albeit with some reservation. You can't overstate the difficulty and the effort and the good work that was put in by Debra Campbell, Jason Kay, Ms. Hagler-Gray and a number of the Planning Department staff that have worked on this for two years trying to find an impossible solution to what is basically an impossible problem. You've got bad precedent, poorly written code at the base of this which is where Debra started, the restaurant definition isn't clear, the nightclub definition isn't clear, the difference between 400 feet and zero feet is a  
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big distance, particularly in a ring of suburb. Angry residents on one hand or we had angry residents and then we had at the very beginning of this a real threat to existing local business that bring in tax revenue, that employ people, that make walkable neighborhoods in our city a pleasant place to be. I think you will find that our talks tonight will be pretty close to the same and you might not know which one of us is for or against this.

I do challenge this Council although I'm tentatively for it, to watch over its enforcement. It is a real danger in the exemption process of existing local businesses that are loved by many residents near them to be impacted by this and it is not a large margin. It is not an industry that has a lot of room to lose profit and the later hours of the evening can be a big part of that. A 400 foot linear distance requirement for almost any use is never going to get us the kind of walkable, sustainable communities that we should have. It is not going to allow for the adaptive reuse that we need to take our neighborhoods that haven't yet become the ones that have, it is not going to expand the property base and it is not going to make happen what a lot of the vision statements have said and hopefully our new City Manager will take on the task of replacing this whole code in the future. It is a big one but it is probably necessary. With all that said I think Debra has put forward what sounds complicated, about as simple as it is going to get, it is as good as it is going to get right now. It is time to have some certainty for people that are opening establishments. You guys passed new brewery laws over the summer I believe; those are waiting for certainty on this too because this going to tie back into that. It touches a number of areas that at some point everybody is willing to give us the perfect in search of having some sort of certain law to follow that is understandable and not up in the air, and no more Citizen Advisory Group meetings for a while. I think the process and I can't say how much the Planning Department took this from a place of anger where it was residents against business owners and turned it into a situation where I think we have reached a point of realizing that it is not residents versus business owners. It's not noise lovers versus non-noise lovers and drinkers versus non-drinkers. The impact of this type of policy can affect how development works and there is plenty of work out there looking at what walkability does to sustainability and the pricing of real estate and neighborhoods that had walkable pubs and restaurants survived the crash well and their property values stayed high and have rebounded. Look at NoDa and Plaza Midwood, Elizabeth and you can see that and encourage us in the future to follow that path and when we make a new code, which hopefully we will; incorporate it.

**Eric Davis, 2200 Greenway Avenue** said I am currently the President of the Elizabeth Community Association and I want to start with, we support the goals of this text amendment to simplify, to protect residential areas from negative impact as well as to provide flexibility. With that the bars, restaurants text amendment really does affect Elizabeth. We are a neighborhood where those eating, drinking and entertaining establishments are very close to our residents and right now the certificate of exemption is the area where we have concerns and we want to make sure that it balances the needs of our residents as well as the businesses in the neighborhood. Unfortunately because of some of the weather that we've had over the past couple weeks, the last meetings for feedback and discussion with Planning were unable to occur and so what we want to make sure is with that certificate of exemption process again that the needs of the business and residents are balanced and to that point we respectfully request that you do not approve the text amendment at this time.

**Cynthia Schwartz, 409 Rensselaer Avenue** said I co-chair the Dilworth Community Development Association Land Use Committee. The DCDA is quite concerned with the separation distance requirement in this text amendment from single family residential within the PED Overlay District which allows music to be played outside from 11:00 p.m. to 6:00 a.m. if there is a 100 foot buffer between the seating area and single family residential zoning which we believe to be specifically conflicting with the recently adopted noise ordinance. We believe this causes enforcement issues for the entire City but PED Overlay Districts are of particular concern. The issue related to this text amendment became of particular concern to DCDA when a recent rezoning petition was filed in January to rezone and allow light retail use to allow a restaurant use with an outdoor patio. The outdoor patio is proposed to be located exactly 100 feet from the rear property line which abuts single family residential zoning. These adjacent homes are positioned 40 to 50 feet from the rear property line, thus with the passing of the proposed text amendment live music would be allowed to be played from 11:00 p.m. to 6:00 a.m. only 150 feet away from their rear bedroom windows every day of the week. I have a couple of those  
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residents who are here with me, one who has owned her home and lived there for 37 years and another who has owned and lived in his home for 20 years and now they have the risk of having live music in their back window. Further we understand that this text amendment would not require any buffer between such establishments and multifamily zoning. The PED Overlay District has many properties that are zoned multifamily residential that the neighborhoods are invested in protecting as well as our single family properties. The DCDA had hoped to express these concerns at a community meeting that was postponed. One due to the weather but after last week's storm it was cancelled. With that said we ask that this text amendment be reexamined with further neighborhood input before a vote be held and if not that you please support the neighborhoods and vote no to Petition 2013-090.

**In rebuttal Mr. Ferguson** said I would totally defer to the lawyers that work for the City in the room. ABC controls when alcohol is sold and when the establishments are open and closed to some degree. The noise ordinance is a policing ordinance which we spent time on right at the beginning of this process. It is a policing ordinance that will apply so the noise ordinance still applies on top of this, but the noise ordinance will control when there is outdoor music.

Councilmember Fallon said Ms. Campbell I cannot get my arms around that 11:00 to 6:00. I've been asked about it and I can't explain it because it does allow; whether we think it is going to solve the problem, it allows them to have music 11:00 to 6:00.

Ms. Campbell said no ma'am actually operating hours for an establishment is established by your business license. It determines specifically what your operating hours are when you are issued the license as well as the Alcoholic Beverage Commission. What we were trying to do with this text amendment by extending the hours was not have to come back in if by chance a business is given the license to operate at 3:00 or 4:00 or 5:00. This zoning ordinance text amendment would cover that time period. That was the intent for this particular recommendation.

Ms. Fallon said how would it cover it?

Ms. Campbell said because these standards would suggest that if you operate at 3:00 and you have outdoor entertainment then you need to establish a 400-foot separation if you are adjacent to a single family use or a vacant lot that is zoned single family.

Ms. Fallon said and before 11:00 it could be different?

Ms. Campbell said yes, if it is before 11:00 and it is outside there is no separation.

Ms. Fallon said what if it is the same place? Before 11:00 it has one set of rules and after 11:00 it has another set of rules. How does it make that 400-foot requirement when it has only got 100?

Ms. Campbell said it cannot. When it goes to the permitting process it has to establish what type of use are you going to be. The same way that when a nightclub gets a permit it has to say I'm going to be a nightclub, or it should say that. Restaurants or whatever does the same thing so once you are going to request your permit, if this were to be approved, you would say I'm either a type one or a type two or the inspector will say describe the operation that you are trying to create and then they will categorize you as a type one or type two. If you are going to close by 11:00 you can have some outdoor entertainment and you don't sell alcoholic beverages then you would be a type one. If you are going to extend your hours and be open after 11:00 and sell alcohol you are a type two. The difference is what you are doing outside. If you are just sitting and eating that is 100-foot separation. If you have outdoor entertainment, that is a 400-foot separation.

Mayor Cannon said does that help?

Ms. Fallon said a little bit. It is not so defined; that is the problem. It is kind of inconsistent and I'm worried that somebody is going to interpret it differently.

Ms. Campbell said our intent was actually to clarify not to confuse and if we did then we will have to work on some of the language.

Councilmember Mayfield said I'm trying to figure out because of the weather that pretty much shut the City down last week, why we wouldn't have extended tonight's conversation to have time for the community to be able to have the meeting since it was cancelled.

Ms. Campbell said we actually have been at this for a year, since January 2013 and we've communicated on a consistent basis, inviting people to participate in the Citizen Advisory Group process. When we got toward the end of this process, January 16<sup>th</sup> was supposed to be our final meeting and we said we will extend the time and unfortunately we extended it twice and twice it snowed and so we have tried to extend the opportunity. This hearing for this petition was actually scheduled in October and then it was rescheduled in December and then was rescheduled for February, so we have provided we thought some flexibility in terms of providing opportunities for people to participate. Don't forget we started this in 2011 as well.

Ms. Mayfield said an example of how this ordinance would come into play. So we have a building right off of uptown that has a rooftop where they are able to rent that space out and that space has both residential and retail in it. If someone comes and rents the rooftop of that space and they have an event, according to if we were to move forward with this text amendment, then we have rules and regulations from 11:00 p.m. to 6:00 a.m. for how they are able to have an event on that rooftop but at the same time our ABC laws are already in place and our noise ordinance is still in place, they would have to keep it down or CMPD would be called out.

Ms. Campbell said yes ma'am and again the separation distance between those uses would depend on what the zoning classification is what district that use it is located in.

Ms. Mayfield said we are also looking at grandfathering in some older facilities where they don't have that space available.

Ms. Campbell said and grandfathering is not the term that we would like to use. We are using a certificate of exemption and that you have to apply for so it is not automatically given like grandfathering is.

Councilmember Howard said Debra you said "they" would determine the hours, who is "they" that does that? When you put in a certificate to open a restaurant and you say "they" determine what your hours are, who is "they"?

Ms. Campbell said whoever is issuing the permit, from our Building Standards Department, the plan reviewers, Neighborhood and Business Services.

Mr. Howard said when they do that what rules do they use to say what your hours are?

Ms. Campbell said depending upon the use.

Mr. Howard said so there are standards; do those standards line up this new category?

Ms. Campbell said yes they do and I failed to mention that we had a team. You know it takes a village for some of these types of initiatives. We had Neighborhood and Business Services, we had our City Attorney staff and I think you heard Mr. Ferguson mention them by name, we had the ABC Commission, and we had Charlotte Mecklenburg Police Department, so we've had a lot of input and eyes on these new zoning regulations.

Mr. Howard said what I'm getting at is when you go in do they still see nightclub, restaurant, bar and lounge when they determine the hours or are they treating them like we do now, just type one and type two?

Ms. Campbell said if this were to be approved they would do the analysis that you just suggested; the type one and type two. Currently they are looking at separate uses and looking at the zoning ordinance the definition of a nightclub and what those development standards are for  
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a nightclub then they are looking restaurants and whatever those development standards are, depending upon whatever zoning classification they are in.

**Katrina Young** said currently when a business owner comes in for a permit they decide what use they are going to be, I'm a nightclub, I'm a restaurant and based on what they say then those regulations are applied. So if it is a restaurant there is no separation when they are issuing the permit they are issuing the permit for a restaurant. If they say they are a nightclub then the staff is looking to make sure there is a 400-foot separation from the use to the residential. Under the new requirement they would come in as a eating, drinking, entertainment establishment but they would state their hours of operation and if they are serving alcohol. It would be almost like a check list: Are you serving alcohol, do you have an outdoor activity area; do you have outdoor entertaining. Based on what they say then these standards would be applied. If they only say we are going to do the outdoor seating, we are not going to have outdoor entertainment, then staff is not going to be looking for the 400-foot separation, they are only going to be looking for 100 foot separation. But if they say they are going to have outdoor entertainment and they are in one of those districts that require that, then staff is looking to make sure that the use is 400-feet from that single family use.

Mr. Howard said who determines the hours? As a business owner I'm telling you I plan to stay open until 3:00; there is nothing to stop in any of this and I can pretty much stay open 24 hours. There is nothing that that says what my hours can be.

Ms. Campbell said correct; essentially though for these type uses, for example Wendy's is open until 2:00 and then you go through the drive-thru and that kind of thing. I think some are even open until 3:00 and that is why we wrote the language the way we wrote it because we wanted to make sure that if a use is after 11:00 and before 6:00 a.m. and had those kinds of activities they would still have to meet these guidelines, even if they are open until 4:00 or 5:00 a. m.

Mr. Howard said some of what you were saying earlier made me think there was some regulation about what your hours could be based on what you were. That is what I was asking.

Ms. Campbell said no, what we were just trying to clarify and establish that this text amendment does not set your hours.

Mr. Howard said you want to cover everybody, so the exemptions, they apply to uses and setbacks now?

Ms. Campbell said they would apply to the use if you were established as prior to January 1, 2013.

Mr. Howard said what about setbacks?

Ms. Campbell said all other development standards have to be adhered to are based on whatever zoning district you are in. The separation is where you...

Mr. Howard said the separation I guess is what I'm talking about. All of that is leading to the real question, have we looked at how many people will become non-conforming uses next month when we vote on this?

Ms. Campbell said yes we have and unfortunately I didn't put it in here but we believe, based upon our analysis and our inventory of Fire Department information, the licensing and permitting, from Neighborhood and Business Services we think there may be right now 7 uses as of an inventory that was ran about last week. We ran it last year in 2013 and we just ran the data again in 2014 so we think there potentially could be 7 businesses and the reason being is because all along this process was iterative. That is we would come up with development standards and we would test it, using GIS and using a lot of other data in order for us to get clearly intelligent about who are we impacting, how are we impacting them and should we adjust any of those standards.

Mr. Howard said I was asking that because I thought we need a public service campaign to tell everybody, but you can just call all 7 of those.

Ms. Campbell said we already have. We've met with every one of those individuals.

Mr. Howard said the non-separation with multifamily; what is that about?

Ms. Campbell said we believe the locational criteria for multifamily and the locational criteria for types of uses wanting to be near major and minor thoroughfares or near collectors are very, very similar in nature. We have seen from a number of real live cases where these types of establishments have wanted to locate in areas where everybody wanted them, but because of that separation standard for multifamily these uses could not be established because separation from residential now, it is for both multifamily and single family is the separation distance.

Mr. Howard said the only thing that comes to mind, I know there is a building downtown at least a couple years ago when we had the Street Festival or had entertainment downtown, they are downtown and they complained about the noise and they were in one of those condo towers. If that is an issue downtown, before we open that door I would hope that we really talk to people who live in multifamily and multifamily developers will really figure that out. I know I'm assuming noise comes with it, but I know that will be regulated by somebody else, but you are kind of asking for Charlotte Police to be called all over the place if we don't really think about this.

Ms. Campbell said we had representation from the Apartment Association.

Councilmember Driggs said Debra the intent of this is to clarify the regulations to make them simpler and to eliminate ambiguities but when you modify rules as complicated as this inevitably you end up allowing some things that maybe weren't allowed before or prohibited some things that weren't before and I assume that is the reason that people are so vocal. Could you come with an example of something that might be permitted now that wouldn't have before, or does this represent a shift for example against area residents? Do they have less protection than they did before? How does it change things?

Ms. Campbell said we believe that the standards that are being recommended today and I think your specific question was related to given an example of something that would not be permitted today?

Mr. Driggs said any way that this represents a change in terms of what is allowed and what isn't from before.

Ms. Campbell said if we look at the standards today a Buffalo Wild Wings, for example, a restaurant, and let's not put it in uptown, let's put it in a suburban location, has a variety of different types of entertainment, but if it were within 400 feet actually it is an illegal use because it shouldn't have entertainment based upon our zoning ordinance. Buffalo Wild Wings would not be able to have an outdoor seating area that has entertainment and it shouldn't have entertainment within it. What we are trying to do is clarify that this is the definition of entertainment and that a restaurant can have that type of use and in fact we are going away from the terminology of restaurants and using eating, drinking and entertainment establishments because again trying to distinguish between what is a nightclub today, what is a bar today, what is a lounge today and what is a restaurant is becoming increasingly difficult. When you are truly trying to enforce some type of standard on these different types of uses it has gotten very difficult for us to do that.

Mr. Driggs said are you confident that you won't have a lot of the same problems you do now when you get into the exemption and certificate and other process; are we going to start having the same conversations on a case to case basis again in the new environment?

Ms. Campbell said what we have found out based upon our research is that there would only be the necessity, the need to have 7 establishments apply for an exemption. That doesn't mean that there would be granted an exemption, but they have the opportunity to apply and we have a fairly  
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detail check list of things that they have to comply with. Which means that if for example that use has had some use tweaked, that is they may have extended their patio or they have done something since they were established, we would look at that and say you can't apply for an exemption because you don't comply with the existing standards for which you were approved earlier. The certificate of exemption is not guaranteed; it is an application process, staff reviews it and it can be revoked and it can actually be appealed back to the Zoning Board of Adjustments even if we think that it should be approved, it still can be appealed.

Councilmember Autry said I know this has been an arduous task for all involved on both sides of this issue. About the exemption, I remember last year during a dinner briefing where I believe it was Councilmember Cooksey asked you the main purpose of this whole exercise was to be able to permit what is already taking place, what is already occurring correct?

Ms. Campbell said yes sir, for the most part.

Mr. Autry said is it really fair to burden these existing businesses with this exemption process when the whole idea is to allow the business to continue already?

Ms. Campbell said we think that it isn't a burden that we will be as fair and objective in terms of assisting them to go through the process and we are only talking about 7 uses and we don't have a way from a legal perspective of legitimizing them because they are not really grandfathered. They were illegal uses and now we are trying to create a process to make them legal.

Mr. Autry said you can't do that?

**Assistant City Attorney, Terri Hagler-Gray** said no you can't grandfather an illegal use.

Ms. Campbell said Mr. Autry that is why we had two attorneys on this particular project.

Mr. Autry said so we are pretty confident that we are not opening ourselves up to any future litigation?

Ms. Campbell said I cannot say that ever.

Ms. Hagler-Gray said we can't say that but we are pretty confident that we would be vulnerable if we were to try to grandfather these uses that currently are not in compliance with the ordinance and would not be in compliance with the new ordinance. They need these exemptions in order to come into compliance with the proposed ordinance.

Ms. Fallon said can I give you a hypothetical – somebody gets a license and they have music, but they are inside until 11:00. They may decide they've got some cement sidewalk they can then put tables on, what happens then? They start playing the same music that is inside outside and they are out there until 3:00 in the morning. What do we do then?

Ms. Campbell said can they meet the separation distance?

Ms. Fallon said no, but they get to somebody for code enforcement; you've made a whole neighborhood uncomfortable because you know how it takes us time to do things. That 11:00 until 6:00 bothers me because there has to be something stronger in there that says you can't.

Ms. Campbell said they can do that today. Any use can start around the room some regulations today and since we are generally a complaint driven type of community because we just don't have the resources to have systematic code enforcement it is complaint driven. Again, they can do that today. We hope again that the rules of engagement, the rules of establishing your businesses are clarified with this type language versus what we have in our zoning ordinance today.

Ms. Fallon said couldn't we put something in there that would say if you do it you lose your license altogether or you can't go apply for an exemption.

Ms. Campbell said we do say that. If you don't meet the standards today all of the other local zoning and regulatory ordinances, we say that you cannot apply for a certificate of exemption. If you did that and you had already received the certificate of exemption, it can be revoked.

Ms. Kinsey said I'm one who hates to repeat things, but I do think we need to make sure we understand. Ms. Schwartz just mentioned the PED Overlay and that would be 100 feet. I just want to make sure that is correct. It is 100 feet because of the PED Overlay.

Ms. Campbell said that is correct.

Ms. Kinsey said the 7 who are eligible for the exemption and you have hammered that in my head, but is there any chance that a new restaurant opening up decides that they want to have music, can they get a variation or an adjustment. Is there any chance that they could do that? In other words these 7 may or may not ask for an exemption, is there any chance that a restaurant coming on board next year would have any opportunity to do that?

Ms. Campbell said they could go through the variance process and obviously we don't know that decision making process, but again what we are trying to do is to clarify today. I would suggest to you that they have more of likelihood now with the way our zoning ordinance defines these uses today than they would with this new language.

Ms. Kinsey said I didn't quite understand what you said.

Ms. Campbell said I believe that the example you gave if a restaurant wanted to fudge or a use wanted to fudge they would have a lot of ammunition because the language is so ambiguous that they could do it more with the existing language than they could with the proposed language. Also for some of these uses if they wanted to go through a rezoning, for your example, that person would probably go through a rezoning and then the use and all; you would know definitively if we are going through a rezoning in order to establish something that may get around what the proposed standards are talking about in terms of separation.

Ms. Kinsey said I'm sorry that last meeting was not held because I have had some neighborhoods comment to me that they were attending.

Ms. Campbell said we are more than willing to go and talk to those neighborhood organizations the same as we talked to those eleven across the community.

Ms. Kinsey said I would appreciate it.

Ms. Campbell said we would be more than happy to do that.

Mr. Autry said the buffer for multifamily is how much?

Ms. Campbell said zero. There is no separation requirement but a buffer is a little different than a separation.

Mr. Autry said what would be the separation for multifamily.

Ms. Campbell said there would not be a separation for multifamily.

Mr. Autry said are duplexes considered multifamily?

Ms. Campbell said no sir. We had some concerns expressed by some folks on the east side that have a lot more duplexes so single family, duplex, triplex and quadruplex would be protected and would be subject to the separation. We would treat it as a single family use because they are allowed in single family zoning districts.

Mr. Driggs said I'm interested in knowing how it works. What is the basis for granting or not granting an exemption? We are not grandfathering so we are not saying cart blanch that existing businesses, and it strikes me that you've got a potential problem in saying to an existing business

what you are doing is illegal now when it wasn't before. That has a pretty major commercial implication for them and at the same time if you are too liberal with exemptions you create a discriminatory barrier between the existing businesses and perspective new businesses, a double standard. I'm seeing two difficulties in the implementation.

Ms. Campbell said Mr. Driggs I think you literally can summarize why we are going through this certificate of exemption process is because we did feel some accountability for not having literally enforced the zoning ordinance regulations particularly related to restaurants where again the definition of a restaurant does not include entertainment. I would hope that you would think that the certificate of exemption is a process to help those uses that were not meeting the standards, not in compliance in the past. We are creating an avenue to allow them to come into compliance without having to meet the specific proposed standards in the separation. I think the second part of your question was what is the criteria from which we would base an exemption. It is you would have to be a type two which sells alcoholic beverages, has entertainment out of doors and has seating activity and selling alcohol beverages. It has to be in compliance with all of the other zoning requirements for that use. It has to be either abutting a public right-of-way that is 60 feet or greater or it could meet it by having a building that separates that use from adjoining residential use that is at least 1,900 square feet. That would part of the way that we would identify the uses that would be eligible and literally we looked at and tried to assess the uses of 7. We went from 11 to 7 and we looked at criteria that we hoped would not be such a high bar to overcome in order to legitimize these uses that would be impacted if these regulations were to be approved.

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

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

Mayor Cannon asked Ms. Campbell to be sure and get back with the neighbors and include them with the information they need to make sure they have all of what they need.

Ms. Campbell said we will do that.

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**Council District 3 - Mayfield**

**ITEM NO. 22: HEARING ON PETITION NO. 2014-017 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.19 ACRES LOCATED ON THE SOUTH CORNER AT THE INTERSECTION OF SOUTH TRYON STREET AND WEST PARK AVENUE FROM B-1 (NEIGHBORHOOD BUSINESS,) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT, MIXED USE.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said this is located at South Tryon Street and Park Avenue. In terms of the site there is an existing multifamily structure located on it. The future land use plan, the South End Transit Station Area Plan specifically recommends mixed use transit supportive uses for this site. The request is for a district that is consistent with that. It is within ¼ mile of the Bland Street Transit Station and staff is recommending approval.

There being no speakers either for or against, a motion was made by Councilmember Barnes, seconded by Councilmember Howard and carried unanimously, to close the public hearing.

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

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**(Outside City Limits)**

**ITEM NO. 23: HEARING ON PETITION NO. 2014-019 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR TWO PARCELS APPROXIMATELY 26.47 ACRES LOCATED ON THE WEST CORNER OF THE INTERSECTION OF MALLARD CREEK ROAD AND SALOME CHURCH ROAD FROM CC (COMMERCIAL CENTER,) TO R-4 (SINGLE FAMILY RESIDENTIAL.)**

The scheduled public hearing was held on the subject petition.

A protest petition has been filed and its sufficiency is yet to be determined.

**Tammie Keplinger, Planning** said I would like to give a quick introduction to the next two items if I could. These are what we refer to as the District 4 rezoning petitions. In 2011 Council requested a study. The study was completed in 2013 and it summarized the amount of existing multifamily development future projections and market demand for multifamily in the District 4 area. This was in relation to a lot of multifamily activity that we had seen. In terms of the Council directive in May of 2013, there were three things that staff was asked to do. These are going to be accomplished in phases and this is the first phase that you are seeing tonight, which is to align the existing undeveloped multifamily developments with current zoning, recommended land use and community design policies for the six properties that were listed in the report. Tonight we are bringing before you two of the six properties.

With regard to Petition 2014-019 is a request to go from CC, Commercial Center to R-4, Single Family Residential. The property is approximately 26.47 acres located on the west corner of the intersection of Mallard Creek Road and Salome Church Road. It is in Council District 4. You can see from the aerial that the property is undeveloped. The site selection was due to the lack of an updated community design standards that were associated with the multifamily component of the rezoning that was previously approved on this site. Prior to staff submitting an application for rezoning of the site two mail notices were sent out to the property owner. The second mail notice was certified and it told the property owner that the staff was interested in talking with them to work on the design guidelines and standards. Staff did not hear back from the property owner as requested. Last week a protest petition was filed on this on behalf of the property owners.

In terms of land use consistency the Northeast District Plan recommends residential and retail uses for this parcel with a density of 8 dwelling units per acre. However, our request tonight is to go to R-4, single family residential. The density difference is due to the GDP. The General Development Policies actually do not support a recommendation for densities higher than 4 for this area. For that reason staff is recommending approval of the R-4 zoning; it is consistent with the Northeast Area Plan. The General Development Policies support up to 4 dwelling units per acre. It is part of the implementation process from the District 4 Multifamily Assessment Report and the protest petition has been submitted and we will determine that sufficiency before the decision.

Mayor Pro Tem Barnes said I want to say thanks for continuing the effort. I believe we asked you all to begin this back in 2011 and we appreciate the work and I'm sure Councilmember Phipps does as well, that you all have gone through.

**Wes Hinson, 309 Post Office Drive, Indian Trail, NC** said I'm an attorney for the land owner. We filed a protest petition because the owner of the property is objecting to the rezoning to residential from the current CC. I'm here tonight to provide a bit of history on this site from my client's perspective which is Craft Holdings. They oppose the Planning Department's application for that change. By way of history, back in 2007 was the first stab at this property owner developing this property for multifamily and they submitted sketch plans to the Planning Department for review which gets disseminated across all the various departments. Shortly after that effort everyone knows what happened in 2007 and 2008 with regards to the housing market

and the national economy, so that plan was scrapped due to non-existent real estate markets. This has always been the goal for this site by the land owner and the reason he purchased it. As markets started to heal in the multifamily sector around 2011 a new sketch plan was submitted to the Planning Department. Through those sketch plans those reviews were submitted to the NCDOT, Parks and Rec, MUMPO, CDOT, Engineering Review, Urban Forest Review and there was some comments back from some of those departments and since then I think that application has gone stale, the primary reason is because the plans at the time were halted because the DOT filed a condemnation action for certain portions of that property for I-85 expansion and that put a chilling effect on the contract on the property for development, a financing pursuit for development. That DOT condemnation was filed in the middle of 2011 and resolved in the middle of 2013. At that point the property owner has reengaged with his engineering and its efforts. Project financing has been obtained and part of that pursuit of financing for the development and one of the criteria for the financing was the owner pay off the current existing debt service on it. That owner paid \$3 million plus to pay that loan off to qualify for the current financing. There is a new construction contract in place that was signed in November of 2013 to go through the full planning board review and resubmit plans and then within 30 days of that the rezoning notice hit so that has again chilled that process. It is still under contract and my client has spent considerable time and effort and money in pursuit of developing that property in that community. It is a multifamily, part townhome, part apartment community. My client feels that those plans adhere to the Northeast Area Plan given that several years of considerable time, effort and money have been spent. We are filing the protest petition in hopes that it really be seriously looked at.

Sort of in response to what you heard from the Planning staff in my experience in handling development throughout the Charlotte Metro region the credit markets, the market studies, the economic pendulum in real estate swings and the need or the demand of the market itself controls whether or not there is a need or a demand for additional multifamily. It is not really the providence for an area that is already designated as such and this is right on I-85 near Concord Mills, to take that use away from a land owner when again finance markets, credit markets and supply and demand tends to control whether or not the market is saturated or not with multifamily and I think that process will be the case here. I also think when they resubmit their formal plans to the extent unit numbers or design criteria come into play then of course the Planning Department and the Council has their say so in that at that time. Respectfully this owner would like to protest that petition.

**Andre Christie, 10503 Greenhead View Road** said I am the HOA President for the neighboring community to this lot of land. We would love for this zoning to go through to change this to single family only zoning. I don't think we would want anything commercial or multifamily built in this area. The big purple area in that map is an elementary school so we think if you keep this zoned with the existing area of single family homes it would be a better use of the property and would stay with the zoning or at least the current aesthetic of the property. Multifamily homes or anything commercial or business being there I think would interfere with the neighborhood, particular commercial, but it if was multifamily homes there has been a lot of multifamily homes built in this area, up Highway 29 which you can't see on that map and further down on Mallard Creek and Ridge Road, new apartment complexes are popping up all over the place. There is a church right across the street from this subdivision so it has been kind of tucked away and members of this community and Mallard Lake Subdivision would like to keep it that way. We don't want too much traffic to come through there. We've been impacted by the I-485 construction which has taken away a large amount of the buffer on the back side or our neighborhood to I-485. There is a great deal of traffic that comes through our area going to the race track which is right down the street and if you build multifamily housing there I just don't think it would be a good use of the land and I don't think it would impact positively on the existing subdivision which I think has already been impacted from the economic downturn of a few years ago. The original price point in those homes was somewhere in the area of \$240,000 starting going to about \$350,000 and now that neighborhood is about to close out, but homes now can be purchased in there for about \$140,000. The neighborhood has already been impacted by the economic downturn of a few years ago and I think by putting a multifamily complex on that property would further degrade the property value in that community which has already been degraded the economic downturn.

Councilmember Barnes said I have a question for the gentlemen representing the land owner. Sir, could you tell us why your client didn't respond to the two letters that staff sent to them?

Mr. Hinson said I think I heard that there was no response to the first letter and there was response to the second letter but I can't speak to that. I don't know.

Councilmember Smith said I just want to make sure I'm following this. We are looking to rezone a private land owner's land that doesn't want it rezoned. Am I over simplifying it? I'm just trying to make sure I'm following that. From where I sit it looks like we are trying to rezone a property owner's land that doesn't want it rezoned.

Ms. Keplinger said it is part of a process that began several years ago to look at multifamily development in this district and there were six properties that were identified and this is one of the six. Yes, the petition tonight is to rezone it from CC, commercial center, which allows multifamily in this case, to R-4 which is single family residential.

Mr. Smith said is it possible to attach a condition that would still allow some other uses within the CC that may be more economically advantageous to the existing land owner?

Ms. Keplinger said no-one can make a rezoning conditional except for the property owner. They have to agree to those conditions. Since this is something that the staff initiated. If the property owner came on board, worked with us and we came to a site plan that took into account our design guidelines and the things that we are looking for in the District 4 area for multifamily then that is something we would definitely take into consideration.

Mr. Smith said I'm going to put a lot more study into this, but on the surface I'm uncomfortable with government coming in and telling a land owner that doesn't want his land rezoned that it needs to be rezoned.

Mr. Barnes said other than to say it is something we do and have done on a regular basis with respect to the Blue Line for example, in terms of setting up the appropriate zoning along that corridor and here I think the goal of staff and the goal of the Council that referred the item to staff was to determine what land uses were best suited for that particular part of the City because there are some inconsistencies in current land use and the area plans so we are trying to figure out how to match up more of that. To the point the gentlemen made there who spoke a few moments ago, there are single family neighborhoods that really are in wedge areas and are being subjected to higher density type uses and there is a lot of sensitivity to that. I understand what you are saying but I just wanted to kind of explain the history of it.

Councilmember Phipps said I guess we really wouldn't be at this point with these six had the property owner responded to the initial request for some communication as to what was going to be the status of the particular property. It is quite possible that had the petitioner responded you all would have been in consultation and come to some mutually agreed consensus on how the property was going to be used and there wouldn't be a need at this point to take this perceived step.

Ms. Keplinger said Mr. Phipps I believe that is a generally consistent saying of what could happen. I know that the other six properties we are working with several of the property owners to go through and design their sites and take into consideration the site design guidelines that we are looking for, for multifamily development. This petitioner did not respond to us so we moved forward with the rezoning.

Ms. Smith said with all due respect, if the government called me and wanted to know what I'm going to do with the property I own, I'm not sure I would respond either. It is my land; I'm going to do whatever the zoning calls for. This one is a little tough for me.

Ms. Keplinger said I'm sorry Mayor, I was wrong. I misunderstood, they did respond the first time that we sent a letter to them, but they did not respond to the second letter as I understand it. We are still very willing to work with them to see if we can come up with something that is in between what they have now and the R-4 that is on the table.



Councilmember Austin said I totally agree with you Mr. Smith. I feel the same way; however I do think this is an opportunity for you to go back to the owner and talk about being a little more flexible with them and broaden their horizon about what could happen with this particular piece of land. I do understand they own it, it is my land, I should be able to do what I want to do, but at this point I would definitely say we probably need to have some dialogue with staff about how we can use it, how we can maximize it. They might find that they can maximize it a lot more than he intended to use it initially.

Mr. Hinson said we will be happy to take that back to the owner.

Mr. Smith said I don't want any of my philosophical comments to be negatively addressed towards staff. I understand that you folks are working hard on an issue. It is a philosophical issue for me, so please don't take it as I was directing any angst toward you. We appreciate all you do.

Ms. Keplinger said we don't but thank you.

Motion was made by Councilmember Barnes, 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 4 - Phipps**

**ITEM NO. 24: HEARING ON PETITION NO. 2014-020 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.35 ACRES LOCATED ON THE SOUTH SIDE OF SPRINGVIEW ROAD BETWEEN MELLOW DRIVE AND KENTBROOK DRIVE FROM R-17MF (MULTI FAMILY RESIDENTIAL) TO R-8MF (MULTI FAMILY RESIDENTIAL.)**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Planning** said this is a rezoning in Hidden Valley and it is also one of the District 4 rezoning's. The property is currently zoned R-17MF; it is developed with multifamily residential; there are 19 units on this property. The density is about 14 units per acre. This site is actually in the middle of a larger single family residential area. When we looked at this particular piece of property, under the current zoning regulations they could not build what they have on this site. They could not build the 19 units and the proposal on this one is to rezone it from multifamily 17 units per acre to multifamily 8 units to the acre. Staff feels this will fit in better with the adjacent neighborhood if this site were ever to develop. For that reason staff is recommending approval of this petition; it is consistent with the Northeast District Area Plan.

Councilmember Phipps said I'm aware that you have been in contact with the owner of the property and I think that person has voiced some concern also in terms of proceeding in this manner. Have you had any other communication to that affect with the person amenable to this downgrade from 17 to 8 or is that something that is still going to be contentious?

Ms. Keplinger said we have had some discussions with the property owners and Alicia Osborne has been talking with her for the majority of the time so I'm going to ask Alicia to come address that for you. I do want to correct something that I just said; I said it was consistent with the Northeast District Plan, but it is inconsistent because the Area Plan recommends 4 dwelling units per acre so we are recommending 8.

Mayor Cannon said let the record show that it is inconsistent with the Northeast Area Plan.

**Alicia Osborne, Planning** said in terms of the communication I've been talking to Jackie Williams who is the property owner for this petition. She has spoken to us probably a dozen times in opposition but she has never expressed here consent or approval of the petition. We

haven't heard anything from her since her last communication at the end of December so we are not sure where she is.

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

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

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## **MAYOR AND COUNCIL TOPICS**

Mayor Cannon said I want to take this opportunity to quickly thank everyone once again for working together to get Charlotte through the snow storm last week. I especially, and I think I can say this for all of us, we are all proud of the hundreds of City staff who worked around the clock from multiple departments, with special kudos to Street Maintenance and for those that made this also to be set up in other forms of languages so that all of our community could be in tune with what was happening where. We had outstanding collaboration between the City and the County and the Schools, the State was involved with us and we certainly appreciate that. Even more noteworthy happened to be the collaboration with the news media, the business community who was engaged and the general public overall. People listened to the warning and they stayed off the streets and prevented a worse challenge that could have found itself to be really bad in our community. Thanks to the citizens for your level of support and engagement and you know Charlotte got through this snow storm, one of the worst we've had in the last 10 years in this community, but by working together we made a very good showing during the snow storm. CNN called and had me on the phone and then they decided they didn't want to do the interview. That was good news because there was no bad news for Charlotte inasmuch as they thought there was going to be. I'm pleased to report that earlier today that I officially signed the document ending the State of Emergency for our City. Kudos to all members of Council! I know the District Reps took care of your districts. You were walking the streets making sure people were okay. I was talking to you also and thank you for doing that and being engaged as best you were able to be. You made the difference; you helped to do that. Mr. Manager, thank you as well for your level of leadership. He hadn't seen snow like this since Virginia. Thank you so much; you engaged very well and made everything click accordingly.

Councilmember Mayfield said three quick points. One I would like to refer to the Transportation and Planning Committee to look at expanding the notifications of rezoning's that we have because currently they go out to a three mile radius and to really look at the total impacted area. That was one of the conversations I've been hearing from community members repeatedly in the last two years and especially this past week-end. It was noted also that going beyond the 3 miles would be more beneficial to look at what is the total impacted area when we are looking at a rezoning and I have spoken with staff and it was suggested that Transportation and Planning Committee would be the best choice of which committees. So if there is not any conflict or opposition to it I would like for us to expand that conversation and look at how we can better represent and make sure that the community's voice is heard at the table when we are looking at rezoning's.

Ms. Mayfield said the second thing I also want to acknowledge and thank you Mayor Cannon for the proclamation that was issued on Sunday. The West Boulevard Neighborhood Coalition had its first ever African Heritage Festival where we really had an opportunity to learn about the history of Reid Park. The fact there was a Mr. Reid. The fact that there was a Mr. Barringer when the Barringer neighborhood and community was created and really talking about what does the assets of the West Boulevard Corridor really look like today in comparison to when the community was first created. So that will become an annual event that will be happening. It really meant a lot to those who helped coordinate the event as well as all of those in attendance to have a proclamation from the Mayor's Office and I had the opportunity to read that on your behalf and on behalf of my colleagues.

Third, I just want to make sure that everyone is aware that this Saturday, the 22<sup>nd</sup> of February will be the 19<sup>th</sup> Annual Human Rights Campaign Gala and this is a gala that brings around 2,000 people consistently to the Charlotte area and has for 19 years been a great asset to the City as well as to an organization that has done amazing work regarding equality and rights for the Lesbian, Gay, Bi and Trans-gender community. I wanted to make sure that everyone was aware that the gala will be happening this Saturday evening at the Westin Crown Ball Room at 6:00 p.m.

Councilmember Lyles said this week Charlotte lost a great business person and a philanthropist and we would like to express our condolences to Pat Rogers on the loss of her husband B. D. and express to her and the family members that we have a lot of respect. He was a great businessman, but often we need to remember he was a great father and husband, so our condolences to Pat Rogers and the entire Rogers Builders family community.

Councilmember Phipps said I would like to remind the community of the rescheduled Blue Line Extension Community Workshop that will be held tomorrow from 4:30 to 6:30 at Oasis Shrine Center on Doug Mayes Boulevard in University City next to the University Sam's Club.

Councilmember Barnes said I just want to privately announce that the Tar Heels were victorious tonight against the Florida State Seminoles and we've got Duke on Thursday night.

Councilmember Fallon said I want to thank the Police who pushed people out of the way in their cars. Who went beyond the call of duty to get cars out of the way on the icy roads and that isn't part of their job. They did it and they were very helpful.

Mayor Cannon said the last thing I have is a reminder to the general public that the Mayor's Working Together Hiring Job Fair will be held this Saturday, February 22<sup>nd</sup> at the Sheraton on South McDowell Street. Registration is still going on if you would like to be a part of that. There is a 10:00 a.m. registration, a 11:00 a.m. registration that will run until 1:00 in the afternoon. There will be a lot of employers there looking for you; those of you would like to have an opportunity for any entry level or supervisory type opportunity. You don't want to miss out on that and if you need more information go to [www.charmeck.org](http://www.charmeck.org). Employers, there are only a few more spaces left, if any at all so if you are interested in that go to that same website and we will be happy to have you.

Councilmember Driggs said I wanted to announce the Ballantyne Breakfast Club Priorities 2014 meeting that was scheduled on Saturday had to be postponed because of inclement weather. The new date is Saturday, March 15 from 8:30 to 10:00 at Ballantyne. This is a great event; it brings together elected officials and staff from the City an opportunity to interact with local citizens and I encourage everybody to attend.

Motion was made by Councilmember Mayfield, seconded by Councilmember Barnes and carried unanimously to adjourn the meeting at 10:00 p.m.
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Stephanie C. Kelly, City Clerk

Length of Meeting: 4 Hours, 49 Minutes  
Minutes completed: March 13, 2014