

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, March 17, 2014 at 5:10 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Pro Tem Michael Barnes 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: Mayor Patrick Cannon

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Mayor Pro Tem Barnes called the meeting to order and said this is the March 17th Zoning Dinner Briefing. I believe Ms. Campbell will be kicking us off.

Planning Director, Debra Campbell said I want to first start out by acknowledging some other Executive Leadership Team Members who don't normally attend our Zoning hearings and they are the table. Ron, do you want to introduce them?

City Manager, Ron Carlee said no, you go right ahead.

Ms. Campbell said all of these are City Managers and Deputy City Manager and Holly who is with the Mayor's Office. We've got lots of new people attending our meeting and this will not be the last time they will be attending these meetings from here on out.

Councilmember Phipps said do they plan to stay for the whole meeting?

Ms. Campbell said I think that is a requirement, isn't it Ron?

Mr. Carlee said there is some flexibility, but what I want to do is to help. If you go back to our retreat where we talked about the different focus areas and how they were all ultimately interconnected. A lot of what we do as we came together in Zoning and Land Use so members of the Executive Teams will begin attending these sessions to get a broader understanding of what is actually done in terms of development and what is happening in our communities to be able to connect that to our other policies and focus areas and into our operational issues. Every one of them won't necessarily be here every night and won't necessarily stay for the entire thing. The idea is to understand what Zoning is and not something that is just something over here on the side but it is land use and is integrated into literally everything else that we do.

Ms. Campbell said I think these folks are going to find our meetings so exciting and so interesting that they will not be able to leave the meeting, especially Carol Jennings. I know she is finding it fascinating. The second thing I wanted to bring to your attention is Bob Hageman is going to be supporting us from the City Attorney's Office. Terri Hagler-Gray will not be here. The third thing I want to mention to you in terms of the presentations; Tammie has been under the weather and we are asking her to not have to cover the entire meeting so Tammie will be doing the Decisions part of the meeting and Laura Harmon will be presenting on the Hearing side of the meeting. That is going to be a little different and would ask that you save all the tough questions for next month when Tammie will be here. No, I was just kidding, Laura will provide you with exceptional service. Those are the three things that I have that are kind of different from our normal process. I will ask Tammie to come up and go over the updated agenda.

Tammie Keplinger, Planning said you all know I hate that podium so I have to come out here in front of you. In your packet tonight you have the first thing which is our Dinner Agenda and that is what we are going to go over first; it is quite long but it is not that bad.

Item #2 on the agenda, Petition No. 2013-090 is a Text Amendment for the eating, drinking and entertainment establishments. Staff is asking for a 2-month deferral of that decision.

Councilmember Autry said do we have any plans to bring this Text Amendment up before Council at a Dinner Briefing or a Workshop before this approval is to be anticipated?

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Ms. Keplinger said I will let Ms. Campbell answer that.

Ms. Campbell said we can do that as part of a workshop but our intent was to actually get to each one of you individually to give you kind of air time, questions that you may have. Of course provide to you with that one on one response and an opportunity to ask your questions.

Mr. Autry said I saw that staff was requesting a one-month deferral for staff to meet with additional neighborhoods because of possible modifications, but if you can add in there to meet with Councilmembers? Great!

Ms. Campbell said absolutely.

Ms. Keplinger said Item #3 is Petition No. 2013-098. This is the rezoning for Trotter Builders at Community House Road and Endhaven Lane. The reason this is on your list is because we did have a sufficient protest petition, but there was one signature that made it sufficient; that has been removed so the protest petition is no longer sufficient. Item #4, Petition # 2014-001, this is for Weekly Homes. The petitioner and staff had a miscommunication last month and when we brought it before you we asked for a one-month deferral. Actually what they wanted was a referral back to the Zoning Committee. They had a Zoning Committee recommendation of denial and they have made some changes to their site plan and they want to go back to the Zoning Committee to let the Zoning Committee look at the changes that they have made and possibly a new vote. The request tonight is to ask you to refer it back to the Zoning Committee. Because of the timing change this is a timing issue that is associated with that, staff is asking that you put this on the April 7th Business Agenda for a decision because otherwise this petitioner is going to have to wait an additional month or it will actually be 5 weeks for a decision because your Zoning Meeting in April is a combined Business and Zoning Meeting on the last Monday of the month. We are asking for that to be on your Agenda for April 7th.

Councilmember Kinsey said I probably wasn't listening as I should have been. They are asking for it to go back to the Zoning Committee and then it will come back to us for a decision?

Ms. Keplinger said yes ma'am instead of coming back on April 28th we are asking for it to come back on April 7th.

Ms. Kinsey said okay good.

Ms. Keplinger said Item #5, Petition No. 2014-002, this is The Rainier Group there was a protest petition and the qualifying signature has been withdrawn so it is no longer sufficient. Item #6, Petition No. 2014-005 is Gateway Communities. This is a rezoning on Central Avenue and at the public hearing last month Councilmember Kinsey asked them about metal siding panels that they proposed to use. They have made a change that excludes that as a use and that change was not mentioned at the Zoning Committee so we need a special vote, a ¾ majority vote not to send it back to the Zoning Committee. Staff feels like this is a minor change and is a positive change for the development.

Mayor Pro Tem Barnes said Ms. Kinsey are you going to make a motion not to send it back to the Zoning Committee?

Ms. Kinsey said if you want me to.

Ms. Keplinger said Item #9, Petition No. 2014-011, this is Victor Kung for the hotel/motel off the I-85 Service Road. There was a protest petition but it was not sufficient and the petitioner is requesting that the rezoning petition be withdrawn. It does take Council action at this point because it's been advertised so he's asking for it to not move forward. Item #11 is Petition 2014-014 is Sam's Real Estate Holdings. This is up close to North Lake Mall and we are still working with the petitioner on this so it is a one-month deferral. Item #13, Petition No. 2014-019 is one of those District 4 Corrective re-zonings that came to public hearing last month and Attorney Wes Hinson spoke for his client. We have talked with Mr. Hinson since then and we are going

to be working with his client the property owner on this issue like we promised Council last month meeting that we would do. So we are asking for a two-month deferral to work with him.

Councilmember Phipps said I think there's some confusion as to 2019-019 in the packet I saw one place where they said that it was outside the City limits then I thought I saw somewhere they said it was in District 4.

Ms. Keplinger said that property is actually outside the City limits.

Ms. Phipps said so it is not in District 4 review?

Ms. Keplinger said no sir.

Mr. Phipps said but it is included in the District 4?

Ms. Keplinger said usually in some of our assessments we will pick up the closest district that is related to it.

Ms. Keplinger said Item #18 this is a change from the information you received at 2:00 this afternoon. Number 18, Petition No. 2013-085 for Providence Farms/Crosland Southeast and Childress Klein. There is a protest petition on this case which is for a hearing tonight. The sufficiency is yet to be determined. Item #20 is Petition No. 2014-003 for George M. Macon who is asking for a one-month deferral. Item #21, Petition No. 2014-007 by Jeff Tonidandel; this was a rezoning that has not gone to hearing yet. It is on East Boulevard and Charlotte Drive; we've had a lot of conversations about this one. The protest petition; all the signatures were withdrawn on the protest petition with the understanding that Mr. Tonidandel would withdraw the petition. He is requesting a withdrawal and it does take Council action for that withdrawal. Item #22, Petition No. 2014-013 is Hawthorn Retirement and this is on Kuykendall Road right across from Charlotte Latin. They have a protest petition and it is sufficient but we will have that determination definitely by the time it comes for decision next month.

Councilmember Driggs said insufficient did you say?

Ms. Keplinger said sufficient. I don't have the percentage yet, but we have determined sufficiency. Item #25, Petition No. 2014-024 is Stonehunt, LLC; this is a hearing tonight and it does have a protest petition also. We have not been able to determine the sufficiency yet as we need some additional information that we are waiting on from the petitioners. Item #27, Petition No. 2012-90; this is a Planning Department Text Amendment for ZBA variances for TOD, PED, MUDD and TS. Staff is asking for a two-month deferral. The last item is Item #28, Petition No. 2013-026 the PED Overlay Text Amendment and we are asking for a two-month deferral of that.

Also in your packet tonight we have the Speaker's List which until this afternoon contained two speakers. We added a few more this afternoon. You have the follow-up report and there were two questions on the follow-up report. One was about the letters of support for Victor Kung's rezoning, but he is withdrawing that rezoning and the second one was about meeting with Dilworth and Elizabeth about the eating, drinking and entertainment establishments and Debra gave you an update on that.

Debra is going to go over the Text Amendment Area Plans with you but before she does that the last item in your notebook is the special cases that are coming up for hearings in April. I just wanted to remind you that the Community Meeting Report that we used to put in your notebook is now part of your staff analysis so if you are looking for how many people attended the Community Meeting you will find it actually in first section of the staff analysis.

Area Plan Status & Text Amendment Update

Debra Campbell, Planning Director said if you are following along, behind the Follow-up Report is the matrix that has the Text Amendment, Area Plan and Study Update. I'm not going to through all of the items like I normally do that have been on the matrix, but I will bring your
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attention to just a couple of them. On Page 1 the first one is Item #2, Eating, Drinking and Entertainment Establishments Text Amendment. This one is to provide an updated note made on that process. We have met with both the Elizabeth and Dilworth Communities. We had probably about 4 residents, including Senator Clodfelter who lives in the Elizabeth Community that attended our meetings. He had some very good comments and we had a lot of good dialogue and we will be making some minor changes based on that input. We also met with the Dilworth Community, had a very good conversation with them and we will be making minor modifications based on the input that we got from that meeting. There will not be, we don't think, anything that is major in terms of changes. The meetings gave us an opportunity for clarification so I think both of those meetings went well. As we said earlier in response to Councilmember Autry's question, we will also be meeting with Councilmembers individually to again provide you with an opportunity to ask us questions about the Text Amendment. As part of this process we are trying to figure out the best way to provide you with information on Text Amendments. We know that we can't have an entire meeting, otherwise it then it becomes a public meeting but we really are trying to work through a way to have you all updated on particularly a Text Amendment where we have a Citizen's Advisory Group. That's item #2 and I'll pause to see if you all have any questions on the Text Amendment?

Councilmember Autry said Ms. Campbell the changes; this is not going to have to go back for another public hearing is it?

Ms. Campbell said no, we don't think that they will be significant enough. We will be going to the Zoning Committee before we come back to Council in terms of a decision. There may be some changes in the separations between some of these but I don't think they will be significant enough to create another public hearing.

Councilmember Kinsey said I appreciate the fact that you don't want do a notice meeting, but if at all possible I think it would be helpful to have more than just one Councilmember in the room. I think a lot of what we are able to do is someone may have a question and the other one wouldn't think of it and sort of play off each other. I think that would be helpful.

Ms. Campbell said maybe doing 2 or

Ms. Kinsey said 3 or 4 up to whatever. You can't do more than 5 I guess and I know it is tough sometimes to get us all together.

Ms. Campbell said that was our biggest challenge.

Ms. Kinsey said I don't want it to be a divide and conquer type thing. I want us all to hear the same thing.

Ms. Campbell said divide and conquer on our part?

Ms. Kinsey said I didn't say that.

Ms. Campbell said I was just hoping that wasn't what you were saying.

Ms. Kinsey said you can just take it the way you want to.

Ms. Campbell said I will just try not to take it negative. Item #3 is the Mobile Farmer's Market. That is going to hearing tonight and we've had a couple of meetings and at the second meeting we didn't get any attendees so we think they are comfortable with what is being recommended and we will have a formal presentation of the Text Amendment out in the Chamber.

Councilmember Mayfield said Ms. Campbell I'm just trying to catch up because I think somewhere in the conversation I might have just missed it because we went from learning Mobile Grocery Store to Mobile Farmer's Market; formerly Mobile Grocery Market. But for consistency sake if someone were to move to the area that already had one. Say if they are moving here from one of the cities or states that already have Mobile Grocery Stores. I'm trying

to figure out how the name change came about where it is now to the Mobile Farmer's Market which is still different than a Mobile Grocery Store.

Ms. Campbell said we will be able to respond to that when we do the formal presentation on the Text Amendment. Item #4 the Mobile Food Trucks. As you all may recall we recently revised and updated our Zoning Ordinance to allow for Mobile Food Vendors and we are again initiating a process to make some additional revisions and we have a stakeholder process underway now and we hope to bring this Text Amendment to Council sometime in June for a public hearing.

Mayor Pro Tem Barnes said so number 4 concerning prepared food trucks, that's the South End prepared food trucks on Friday nights. Are we going to get to the issue Ms. Mayfield raised regarding the Mobile Grocery Stores? Is that coming?

Ms. Campbell said that is actually Item #3 and we called it Mobile Farmer's Market because our emphasis is going to be on produce and we are limiting the amount of items that we are recommending and the items that are sold from the Mobile Farmer's Market be more related to fresh produce and not encompass the broad array of things that a grocery store sells.

Mayor Pro Tem Barnes said let me ask this and Ms. Mayfield, please correct me if I'm wrong. What I thought we talked about was the idea of a lot of seniors being unable to get to a grocery store and having converted CAT'S buses or that type of vehicle traveling through some of our communities that would sell milk, bread, vegetables, fruits, whatever you may find in a grocery store, but on a much smaller scale obviously. I thought that was a great idea just because there are a lot of old people who can't get out to grocery stores. Why did you cut that off?

Ms. Campbell said I was trying not to have a public hearing back here but Sandy do you want to come and respond to some of those questions?

Sandy Montgomery, Planning said the change in name was to provide clarity of the type of products sold. Among the stakeholders there was concern that it was fresh fruits and vegetables sold that the operators didn't sell items which were considered junk food or paper products or things that they make the most money on because we were trying to promote healthy communities and to help put the food assessment to food deserts, lowering the incidents of heart attacks and diabetes that were identified in the food assessment report. That is why the stakeholders all agreed on limiting it to focus on fresh fruits and vegetables and they worked in coming up with a different name so it wasn't confused with Mobile Grocery Stores where you could get all kinds of products so we came up with and agreed with Mobile Farmer's Market which meant more fruits and vegetables and fresh products.

Mayor Pro Tem Barnes well this is new to me and maybe everyone else knew, I did not know. I thought we were still working along the lines of a grocery store so perhaps what I need to understand through the stakeholder's work. I wasn't thinking Skittles and M & M's but again fresh meat, fresh fruits, fresh vegetables, bread, milk, eggs, the basic stuff that people need to survive and maybe toilet paper and paper towels because you do need those things too, right? And maybe cereal, but the idea of just saying it is going to be fruits and vegetables is cool but I don't think it got to where I thought we were trying to get to. Am I the only one that saw it that way?

Ms. Mayfield said that wasn't my original conversation.

Mayor Pro Tem Barnes said which one was not.

Ms. Mayfield said where we are now. This is a more watered down version and it feels like every time we come back with an update on this Text Amendment it is more watered down from the beginning when I gave multiple examples of okay let's keep it simple. Do a Google search on Mobile Grocery Stores; it is not difficult. This is very detailed to the point where it just seems like what started out as a simple idea of making sure that access and equity gets to a part of the community has become something other than. What I'm seeing now does not speak to what I just showed you where if you just type in Mobile Grocery Store, what comes up as examples and staying consistent across the nation. So like I said if someone new moves to the area and they

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are trying to learn what services or they are considering it, if they come to Charlotte they don't know to look up what we just created which is a Mobile Farmer's Market because that that is not the language that is being used and it just seems like where those stakeholders and we had very extensive list; I made suggestions to the stakeholders that were in the room; unfortunately I was not part of the conversation to hear how the conversations went, but looking at it, it seems a lot different than what I anticipated.

Ms. Montgomery said we did do the research. We had a consultant do research and came down with what was happening around the country and we do have other classifications and not to say that this can't be modified in the future. We do have other classifications where that type of thing can be sold.

Councilmember Austin said who were the stakeholders?

Ms. Montgomery said we have Mecklenburg County Food Policy Council, Friendship Gardens, Queen City Mobile Market and Providence Produce were the stakeholders.

Mr. Austin said say that again please.

Ms. Montgomery said Mecklenburg County Food Policy Council, Friendship Gardens, Providence Produce was a farmer's market type of outdoor produce stand and Queen City Mobile Market.

Mr. Austin said just those four?

Ms. Montgomery said those four groups; probably a total of 6 or 7 people from the Food Council came. We also had people from Mecklenburg County Health Department that was our internal departmental team as well as Neighborhood and Business Services and people from our Planning Department.

Councilmember Lyles said I think first the Food Council has a broad representation as a County Task Force that included hundreds of people. The document that they have written for addressing health and food is way thicker than most of us would read but it has a full comprehensive process so that as a stakeholder is really important because they've been working on this issue for more than four or five years. I think one of our dilemmas may be that when you look the intentionality of it is important but I think what Ms. Mayfield and perhaps Mayor Pro Tem is suggesting is that when we look at things sometimes we can make it too Charlotte one way and we need to really think about while it may have been the input that we want to have the ability to be as consistent as possible so that we can get these other groups to look and see best practices of moving immediately to Charlotte. I think if we just look at that and be a little bit more consistent on where we started. The focus is on getting healthy food and a place that is quickly accessible. As much as we can be consistent with what is going on across the country, this isn't new we're just getting on the bus as to how important it is. I hope that we will work really closely and continue to work closely with the Food Policy group because they've done a tremendous amount of work and that we will use benchmarks that are consistent with the national processes in place.

Ms. Campbell said I think through the feedback our intent was definitely not to water it down but actually to respond to what we thought the major issue was which is access to fresh produce. We went in that direction a little more, take the comments under advisement and we did invite the people who were suggested to us to invite them and these are the people who showed up and this was the voice that was in the room. We will definitely go back and take a look at that.

Mayor Pro Tem Barnes said Ms. Campbell did you hear from Harris Teeter, Food Lion, or BI-LO?

Ms. Montgomery said they were invited and they did not choose to come.

Mr. Autry said the last group that you mentioned, what was the name of that again?

Ms. Montgomery said Queen City Mobile; this was a chef that also sold fresh fruits and vegetables.

Mr. Autry said so they would be a potential operator, is that correct?

Ms. Montgomery said yes.

Mr. Autry said did they feel that with the narrow scope of the offerings they can still make it a viable going concern and be profitable?

Ms. Campbell said they actually recommended it, but we will go back and see if we can tweak it we would at least like to still make the presentation so you can hear the scope of the Text Amendment and then we will go back and tweak it if need be.

Ms. Kinsey said I'm probably going to support this 100% anyway but just as different view from what I've heard; I thought when we started this, I guess I had in mind the old trucks that used to park across the street on Central Avenue in front of my house to sell fresh garden vegetables so that is sort of what I had in mind, but I'm open so anything that is going to benefit our citizens I think it is a good idea.

Ms. Mayfield said actually John, Queen City Mobile is who helped start the conversation for me because of the example that they presented is what had us look at is this as something that may work in Charlotte. There are a lot of ways to make this happen. Again, that is why I said the easiest way for everyone is to get themselves to do the research. You'll see juice but the main thing is know what it is not going to have. It is not going to have cigarettes. It is not going to have potato chips, those types of processed foods. It might have juices, milk, canned milk, depending on the type of bus but it is the matter of the current model that we had in place with a vendor the way the food vendors are set up you are in that spot for several hours, you are paying a fee, whereas this is going to move throughout the day and the current fee structure that we had was not really a viable fee structure so now it is a matter of putting in place what type of products can be sold. I just want to make sure we don't get so far down the road that we forget what the purpose of this is five plus years from now. I appreciate all the work the staff has done and I appreciate Ms. Campbell, how quickly we are getting on to try to get this turned around. I just wanted to make sure that I clearly understood where we were with that.

Ms. Campbell said again if we missed in terms of the scope we will certainly go back and look at that.

Councilmember Howard arrived at 5:44 p.m.

Ms. Campbell said Item #4 again was the Mobile Food Trucks and a different user, but if you think about this as a continuum we are trying to create lots of opportunities for people to have access a variety of types of foods. Item #7, Stadiums, Arenas and Coliseums; this is something that I think is new that is showing up on your matrix and what we have found is that our Mixed Use Urban Development matrix does not include the uses of stadiums, arenas and coliseums so this Text Amendment will be about adding this to the Zoning Ordinance. The majority of our other zoning districts like UMUD and Transit Oriented Development does include this as a use so we are adding this into the Mixed Use Development District zoning classification. You will also see another new item and when it is highlighted totally in yellow means it is new information to the matrix. The Wireless Telecommunication Facilities, generally cell towers; we are getting ready to undertake a study of this. This industry is evolving so very, very quickly and we don't think our existing ordinance language addresses the transformation that the industry is making related to cell phones.

The last one I would bring your attention to is on Page 5 and that is Item #14 the North Carolina Department of Transportation I-77 High Occupancy Toll Lanes. You all may recall that last week there was a press release that NCDOT issued with regards to relooking at the balloting process that happened specifically for the proposed noise walls near the Fourth Ward Neighborhood and they have hired an outside contractor to look at the voting process, the actual ballots that were sent out and the addresses and making sure they tally and make the appropriate

call with regards to a building the wall decision based on the ballot process that occurred several weeks ago.

Mr. Austin said do you know when they will finish the process?

Ms. Campbell said they are looking at 2 to 3 weeks. They are taking another look at it and I actually had a conversation with Lewis Mitchell at the Ballantyne Priorities. Meeting to make sure that for example a condominium that was sent a ballot to make sure that it was either unoccupied or rental occupied and there is a lot more, a deeper dive at the composition of the balloting process that they want to do, so it is going to take about 2 or 3 weeks is what I understood.

Mr. Austin said and this is only for the Fourth Ward Community?

Ms. Campbell said it is only for that portion, right. The mill site that went further down, that one was voted as a no deal and I-77/Beatties Ford Road to Sunset is a build a wall so that is the only area we are looking at.

Councilmember Phipps said can you go back to Item #9; I had contact with the neighborhood organization out there just a few minutes ago and they informed me that they want to have that meeting on Thursday, March 27th at 7:00 at Danny Holder's barn right across from the entrance way to Highland Creek.

Ms. Campbell said they actually want to have the meeting?

Mr. Phipps said the Highland Creek Community Organization.

Ms. Lyles said could you repeat the time and the date?

Mr. Phipps said 7:00 p.m. Thursday, March 27th.

Ms. Lyles said do they realize the Transportation Planning Committee meeting is that day, earlier in the day and we are supposed to be reviewing and make a recommendation. That was one of the issues that was brought up that this was something that was brought up and the idea was that just to have this meeting, but we shouldn't be delaying too long the vote since we've gone through the process and they have had 3 to 4 weeks.

Mr. Phipps said I don't know if it has been that long, but they are waiting for Mr. Maine. Is he back yet? He was on I guess vacation and he wanted to be at this meeting.

Ms. Lyles said I understand the need for the constituent input but I think where we are having a meeting like this if one person is on vacation we can brief them and staff can do that or the district person can meet with them but I would really suggest that we have this timeframe and the delay would mean for our committee the inability to have that review. Today is the 17th and I was really expecting to have that meeting prior to our meeting and this is something we have to do for someone off line that could be handled differently versus having to delay our meeting to put a schedule in the timeframe.

Ms. Campbell said just to bring the full Council up to speed; you may recall that this particular area plan was deferred for public comment because there were some citizens that had some concerns. Planning staff said that we would meet with the citizens to understand what their concerns were and so we deferred the public comment period for this particular plan. At the last Transportation and Planning Committee meeting we thought that we would have the meeting before the upcoming one but unfortunately we were unable to, so we'll meet on March 27th.

Councilmember Howard said we delayed the public comments so all we were doing as a Committee was referring it to public comment. We still were going to have the chance to make a recommendation.

Ms. Campbell said correct.

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Mr. Howard said I don't think it matters Vi because as long as they go forward. What we really stopped was the public comment period so us sending the vote of the Committee that day will be what they are sending to Council for public comment, not for final approval. We can do both and it can come in that night and still say the same thing they said at the meeting that day. We still get another chance to make a final recommendation on the plan to Council after the public hearing.

Ms. Campbell said in April and probably in May will be the decision.

Mr. Howard said so it is not one or the other, we can do both. We can still recommend to Council and get public hearing and still get an opportunity to make a final recommendation. An issue of that should be encouraged to come that night if they have issues.

Mr. Phipps said the meeting on the 27th is that night. The meeting around the transportation is in the day.

Mr. Howard said you will have to make sure we get their remarks from that meeting. I don't think we stop either one of them.

Ms. Campbell said I think trying to interpret Ms. Lyles your comment is if it is not done on the 27th in terms of going back to Council, we don't have another meeting of the Committee until mid-April and then it is May before there is a public comment and then probably June or July before a decision.

Ms. Lyles said that is correct and then the other part of it is that we can have singular people that can't make a meeting and that happens to everyone. So not trying to accommodate one person versus the group I think is something to weigh.

Ms. Fallon said on the walls; will that be able to change what they are doing from what supposedly they were going to do?

Ms. Campbell said I think this is more a verification of the balloting process to make sure that the ballots went out to the appropriate property owners and tenants and that the way that they counted because there is a real complicated process; the methodology that they used to count the votes to make sure that those votes were counted accurately.

Ms. Fallon said is there a chance that they would change the way they do that because it is so convoluted.

Ms. Campbell said I think we have given them a lot of comments and we have given them as a test case in an urban area there is existing methodology doesn't work for an urban area so I think that they see that now and I am 100% certain that they will start reconsidering.

Ms. Fallon said revising and revisiting but it won't affect the other part.

Ms. Campbell said that is right.

Ms. Fallon said can we get them to do that, look at the other part again?

Ms. Campbell said I think there was a very clear vote in terms of the people from I-77 to Sunset portion that they actually wanted the walls. Mr. Austin you were a part of this process and I think that is definitely the sentiment of the majority of those neighborhoods.

Mr. Austin said I think they do but I think what is going to happen now Debra with this is it kind of opens up a new can because some of the people in the community are grumbling that we are now treating certain sections of our City differently. We have advocated in terms of making it fair and all those things and this is from NCDOT, but I think what now happens with this is that just opens up another can of worms and people along I-77 are like we need ours validated as well.

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Ms. Campbell said I can certainly carry that message back, but I think the development pattern is so different in uptown than it is in the I-77 portion, I-85 portion and it is much easier to tabulate. The majority of that development pattern is single family development so I think it is a little easier.

Mr. Austin said I do feel that many of the residents will definitely want the walls. I just think it is a matter of how they are treated in the process is going to become the issue and it may become an issue for us.

Mayor Pro Tem Barnes said we are scheduled to start out in about 6 minutes.

Mr. Driggs said just quickly, I think the review that is being done is only to verify that the existing rules were followed, right? So by itself this doesn't constitute a change in procedure. It is just to verify. Is that right?

Ms. Campbell said that is correct.

Mr. Driggs said I'm interested to know who instigated that and why. Who caused the review to happen and what their reason was?

Ms. Campbell said I believe NCDOT once they got the information back and doubled checked, I think they even went out in the field to double check to make sure that if they had an address that it was occupied. I think there was unfortunately one incident where I don't know this for a fact but we saw it as part of an e-mail trail from the Fourth Ward residents who said one of the ballots went to the address of a swimming pool where there was no occupant. They are double checking some of those.

Ms. Lyles said I think it came basically that the Fourth Ward residents began to document some of the addresses and the mailing and there was concern about actual verification of addresses. I agree that we are not changing the rules. We are not changing any rules. I wish we could but NCDOT is trying to look at their process to make sure the process was accurate and correctly done.

Ms. Campbell said I think because the vote was so overwhelmingly against the wall that they really want to make sure that they've got their information accurate even though it wasn't enough under their formula.

Mr. Howard said I think this is also in knowing the situation where the vote was this close so you can consider it was a recount just to make sure it was right; and that is what you tell the residents in the rest of the place. None of the other votes were this close so in this situation you want to make sure that every address makes sense and that it was done fairly.

Mr. Austin said that is the same thing many of my residents are experiencing. Some of them didn't get the ballots; some of the residents didn't get it and they were supposed to get it, so it is the same situation.

Mayor Pro Tem Barnes said I want to make a comment about the Prosperity/Hucks Area Plan. Going back to June of 2012 there were a number of meetings. I attended a couple of them and I think the media even covered one of them so I was actually surprised when people started saying they had no idea about what we were doing. It has been going on almost two years so some of what you are hearing now Mr. Phipps is from people who I don't know where they've been because it has been no secret that we've been working on that area for almost two years, but I understand what you are saying.

Mr. Phipps said I think what the explanation they gave was this is a group that was organized and that are not part of any homeowners association or whatever. They are outside of that notification area.

Mayor Pro Tem Barnes said it was in the media too but I understand. Was that the end Ms. Campbell?

Ms. Campbell said it is.

The Dinner Briefing was recessed at 5:59 p.m.

* * * * *

ZONING MEETING

The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:05 for their regularly scheduled Zoning Meeting with Mayor Pro Tem Michael Barnes 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: Mayor Patrick Cannon

INVOCATION AND PLEDGE

Mayor Pro Tem Barnes gave the Invocation and Girl Scout Troup #569 from Friendship Baptist Church led the Pledge of Allegiance to the Flag.

* * * * *

INTRODUCTION OF ZONING COMMITTEE

Mayor Pro Tem Barnes recognized Debra Rhine and asked her to introduce the members of the Zoning Committee.

Ms. Debra Rhine said she was standing in as a substitute for the Chair of the Zoning Committee, Tracy Dodson, who could not be present. She introduced the members of the Zoning Committee and said the Zoning Committee would meet on Wednesday, March 25th at 4:30 p.m. at the Charlotte Mecklenburg Government Center.

* * * * *

DEFERRALS

Mayor Pro Tem Barnes asked Tammie Keplinger to announce the deferrals.

Tammie Keplinger, Planning said Item No. 2, Petition No. 2013-090, two month deferral until May 19th; Item No. 11, Petition No. 2014-014, one month deferral; Item No. 13, Petition No. 2013-019, two month deferral until May 19th; Item No. 20, Petition No. 2014-003, one month deferral; Item No. 27, Petition No. 2012-90, two month deferral; Item No. 28, and Petition No. 2013-026, two month deferral.

Ms. Keplinger said we also have two withdrawals. The two petitions that the petitioners are requesting a withdrawal of their actual rezoning request are Item No. 9, Petition No. 2014-011 for Victor Kung and Item No. 21, Petition No. 2014-076 for Jeff Tonidandel. Both of these petitions have protest petitions; however, the protest petitions are insufficient or have been removed.

Mayor Pro Tem Barnes said for the sake of the viewing public, Ms. Keplinger, would you talk about where the 2014-011 petition is? I recall at the last meeting there were several residents who showed up and expressed some concerns about that petition. It was a hotel off Montana Drive and I-85.

Ms. Keplinger said during the public hearing process we did have several people who were in opposition. We have a lot of neighborhood opposition and there was a protest petition as I mentioned and that protest petition did not meet the state qualifications to be sufficient, but after listening to the information that was received at the public hearing the petitioner did decide to withdraw.

Motion was made by Councilmember Howard, seconded by Councilmember Kinsey, and carried unanimously, to approve the deferral and/or withdrawal of the above mentioned petitions.

Councilmember Kinsey said we also have Item No. 4, Petition No. 2014-001 by Weekley Homes, LP asking that the petition be referred back to the Zoning Committee.

Mayor Pro Tem Barnes said I was going to get to it and take it in order.

DECISIONS

(Council District 3- Mayfield)

ITEM NO. 1: ORDINANCE NO. 5310-Z, PETITION NO. 2013-017 BY NCDG, LLC AMENDING THE OFFICIAL ZONING ORDINANCE OF THE CITY OF CHARLOTTE TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 3.1 ACRES LOCATED ON THE EAST SIDE OF LITTLE ROCK ROAD AND NORTH OF THE INTERSECTION AT LITTLE ROCK ROAD AND TUCKASEEGEE ROAD FROM R-3, (SINGLE FAMILY RESIDENTIAL) LLW-PA (LOWER LAKE WYLIE - PROTECTED AREA) TO B-1(CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL) LLW-PA. (LOWER LAKE WYLIE - PROTECTED AREA)

Motion was made by Councilmember Mayfield, seconded by Councilmember Kinsey, to approve the Statement of Consistency and approve Petition No. 2013-017 by NCDG, LLC for the above zoning, as modified and as recommended by the Zoning Committee. The vote was recorded as follows:

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

NAYS: Councilmember Howard.

The Modifications are:

1. Amended acreage to reflect reduction in rezoning area from 5.27 acres to 3.1 acres.
2. Specified building materials as brick veneer, metal canopies, and shutters except for the entrance as indicated below.
3. Added a note that no spans of blank walls greater than 20 feet in length will be allowed.
4. Amended elevations to reflect the location of the mechanical equipment at the rear of the building as shown on the site plan.
5. Added note on elevations indicating that signage will be allowed as permitted per the zoning ordinance except as modified below.
6. Removed labeled right-of-way on abutting R-3 (single family, residential) property to the east, as this right-of-way has been abandoned.
7. Removed yard dimensions and yard references on the remaining R-3 (single family, residential) zoned property.
8. Added a note that the property will be recombined into one or more lots that meet the required street frontage for the district to address the fact that the balance of the single family residential zoned property at the rear of the subject property will not have street frontage, as is required by the zoning ordinance.
9. Addressed CDOT comments by delineating 50 feet of right-of-way on Little Rock Road and reflecting a new right-of-way line.
10. Revised building elevations to provide the following enhancements:
 - a. metal, tile or stone materials provided to define the entrance;
 - b. signage at the entrance of the building will consist of individual internally

mpl

- lighted letters;
- c. contrasting colors of metal canopies and shutters; and
- d. full brick exterior consisting of three brick colors to provide architectural interest and define building elements.

The ordinance is provided in Ordinance Book 58, at Page 638-639.

(Council District 7 – Driggs)

ITEM NO. 3: ORDINANCE NO. 5311-Z, PETITION NO. 2013-098 BY TROTTER BUILDERS AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 10.3 ACRES LOCATED ON THE SOUTH SIDE OF ENDAHVEN LANE AND NORTH SIDE OF I-485 NEAR THE INTERSECTION OF ENDAHVEN LANE AND MISTY RIDGE LANE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO UR-3(CD), (URBAN RESIDENTIAL, CONDITIONAL,) FIVE YEAR VESTED RIGHTS.

A protest petition has been filed but is insufficient to invoke the $\frac{3}{4}$ rule requiring the affirmative votes of $\frac{3}{4}$ of Mayor and Councilmembers who are not excused from voting in order for the rezoning change to be approved.

Motion was made by Councilmember Driggs, seconded by Councilmember Lyles, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-098 by Trotter Builders as modified and as recommended by the Zoning Committee.

Councilmember Driggs said there was a lot of discussion about this petition. Area residents expressed concerns and I spent a lot of time talking to them about their issues. The developer also spent a lot of time addressing as many of the issues as he could but I will say the newspaper reports said all of those issues had been dealt with because the protest petition was lifted were not completely accurate. The area residents do have a couple of remaining concerns, one of them is the high density in violation of GDP (General Development Policies) and the second major one I think is the uncertain traffic outlook, and the potential for congestion and safety issues. On the density issue I agree with staff that this particular site is not inappropriate because of its location next to Toringdon and near the Ballantyne offices and stores. Area plans are out of date so we have frequent issues where a GDP eight rating is no longer consistent or applicable. On the traffic issue I think area residents do have a point and I wanted to talk about it just to say I recognize that issue. I think we need to do more generally in our part of town with all the development that is going on to anticipate traffic trends and deal with safety issues that arise. However, my conclusion was that reducing the density at that location would not actually significantly alleviate the overall traffic issues so I'm recommending that we approve this tonight and simply want to underscore to the area residents that we will be doing more to communicate and address their traffic concerns.

The modifications are:

1. The site plan is now revised to show and label 42 feet of right-of-way being dedicated along Endhaven Lane.
2. The proposed tree save area on the site plan has been labeled as a 25-foot undisturbed tree save area.
3. Under Section D "Massing and Scale", note 1 has been modified to read "the building will be articulated through various façade articulations, material changes, windows, porches and balconies."
4. Under Section D "Massing and Scale", note 3 has been modified to read: "No spans of blank unarticulated wall greater than 20 feet shall be permitted on any side of the proposed structures."
5. Under Amenities #6, Open Space", the note has been modified to read that building "A" will provide a minimum of 4,000 square feet of open space.

6. Under "Amenities #6, Open space", the note has been modified to read that building "B" will provide a minimum of 2,700 square feet of open space.
7. Removed notes "a" and "b" in the Transportation section of the Development Standards, and replaced the subject notes with the following: "The access locations will be provided to the site as generally depicted on the conceptual rezoning site plan. All access locations will be subject to the approval of CDOT."
8. A note has been added that underground parking doors for buildings "A" and "B" will not face Endhaven Lane and Community House Road.
9. The access to the one-car garages under building "A" has been shown on the plan.
10. A note has been added that the remaining 50 percent of the building material that will not be brick will be composed of a maximum of ten percent of any one material.
11. The primary and secondary material for the proposed elevations have been labeled and provided in the pattern book.

The ordinance is recorded in full in Ordinance Book 58, at Page 640-641.

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(Council District 1 – Kinsey)

ITEM NO. 4: PETITION NO. 2014-001 BY WEEKLEY HOMES, LP AMENDING THE OFFICIAL ZONING MAPS OF THE CITY OF CHARLOTTE TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.02 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF IDEAL WAY AND EUCLID AVENUE FROM R-5 (SINGLE FAMILY RESIDENTIAL) AND MUDD(CD) (MIXED USE DEVELOPMENT, CONDITIONAL) TO UR-2(CD), (URBAN RESIDENTIAL, CONDITIONAL.)

Mayor Pro Tem Barnes said as Councilmember Kinsey indicated earlier in the dinner briefing the issue tonight is whether we should refer this matter back to the Zoning Committee.

Motion was made by Councilmember Kinsey, seconded by Councilmember Howard and carried unanimously, to refer this back to the Zoning Committee for further reconsideration and then put it on our City Council Business Agenda for April 14 th , 2014.

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(Council District 1 – Kinsey)

ITEM NO. 5: ORDINANCE NO. 5312-Z, PETITION NO. 2014-002 BY THE RAININER GROUP, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.14 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF EAST WORTHINGTON AVENUE AND CLEVELAND AVENUE FROM TOD-R (CD,) TRANSIT ORIENTED DISTRICT, CONDITIONAL TO TOD-MO, (TRANSIT ORIENTED DISTRICT, MIXED, OPTIONAL.)

A protest petition has been filed but is insufficient to invoke the $\frac{3}{4}$ rule requiring the affirmative votes of $\frac{3}{4}$ of Mayor and Councilmembers and who are not excused from voting in order for the rezoning change to be approved.

Councilmember Kinsey said I have not made the motion because I'm not comfortable with this rezoning and I am not going to support it, but I want to make it clear that I have not asked my colleagues on Council to go with me on it. I've asked them to please vote their conscience. This is for a hotel. It is not on a major thoroughfare in the neighborhood and I just don't think it is an appropriate land use and that is why I'm not going to support it.

Motion was made by Councilmember Howard, seconded by Councilmember Lyles, to adopt the Statement of Consistency and approve Petition No. 2014-002 by the Rainier Group, LLC for the above rezoning as modified and as recommended by the Zoning Committee.

Councilmember Howard said I felt the same way and I told the representative that this afternoon. The only thing that makes me a little comfortable with this is that it has staff approval and the Zoning Committee approval and the more I think about the fact that this is an area where we want high density. I just never thought about it being a hotel. I think when I spoke to the petitioner's agent earlier today I admitted that if it were townhouses I probably wouldn't have thought about it twice because it is the kind of massing that you want. In this situation for me it is just a use and I understand the setting and size and because we want a variety of different things in our TOD district, as long as you are saying you are okay with this, voting our conscience tonight I think I'm going to support it. I just wanted to explain to you why and how I got to that point.

Ms. Kinsey said you don't have to explain to me, vote your conscience.

Councilmember Lyles said I am very familiar with this area of town. I tell people I get my hair cut over in that area. I certainly use that upholstery company there which does wonderful work and I appreciate that. There are lots of small businesses in this area but I think it does go to the point that we are trying to create this Transit Oriented Development and as Mr. Howard said the density is right. It is perhaps because it is a hotel. The Council was traveling last week in Washington, DC which is really a beautiful city, a very walkable city and when you looked around the condominiums, the single family residential, there were hotels interspersed, not the huge big ones, but the type that we are talking about here so I certainly expect that this will be perhaps something new for us, but I think an appropriate use and would support the motion for the rezoning.

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

YEAS: Councilmembers Autry, Barnes, Driggs, Howard, Lyles, Phipps and Smith

NAYS: Councilmembers Austin, Fallon, Kinsey and Mayfield.

The Modifications are:

1. The
boundary survey has been revised to correctly show the locations of the existing buildings.
2. CD
OT and Storm Water Services comments have been addressed as follows:
 - a. The
petitioner clarified that portions of the interior of the sidewalk edge are located against required urban open space, and a raised bench feature. Petitioner has better delineated the six-foot sidewalk along the entire frontage of the rezoning site.
 - b. The
petitioner shifted the gate panel and column approximately two feet to provide better clearance for the nearest parking stall located in the middle aisle.
 - c. The
petitioner has removed Note B under Environmental Features in its entirety and replaced with the following: "The petitioner shall comply with the Charlotte City Council approved and adopted Post Construction Controls Ordinance."
3. The
petitioner will be required to obtain an Encroachment Agreement at permit for the "fin" on the building.
4. A
new note has been placed on the site plan that states the petitioner shall provide evergreen shrub or tree plantings at the rear of the building; such plantings will attain a minimum 10 feet in height at maturity. Additionally, the petitioner will provide

plantings up to three large maturing trees on adjacent properties to the rear (Parcel ID #09507733 and #09507732), if requested and agreed to by the owner of those properties.

5. The petitioner removed “metal panels” as a building material. The notes now indicate that primary veneer will consist of stucco and fiber cement paneling and siding.

The ordinance is recorded in full in Ordinance Book 58, at Page 642-643.

(Council District 1 – Kinsey)

ITEM NO. 6: ORDINANCE NO. 5313-Z, PETITION NO. 2014-005 BY GATEWAY COMMUNITIES NC, LLC, AMENDING THE OFFICIAL ZONING ORDINANCE OF THE CITY OF CHARLOTTE TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.39 ACRES LOCATED ON THE NORTH SIDE OF CENTRAL AVENUE BETWEEN ST. JULIAN STREET AND WESTOVER STREET FROM B-1 (NEIGHBORHOOD BUSINESS) TO MUDD-0 (MIXED USE DEVELOPMENT, OPTIONAL.)

Mayor Pro Tem Barnes said the issue tonight at least in part is whether we need to refer this matter back to the Zoning Committee due to a change regarding the removal of metal as an exterior material.

See page 2 of Dinner Briefing: Tammie Keplinger stated in the dinner briefing this change requires a special $\frac{3}{4}$ majority vote of Mayor and Councilmembers not to send it back to the Zoning Committee.

Councilmember Kinsey said there is what I would consider a fairly minor change and for that reason I move that we do not sent this back to the Zoning Committee. Councilmember Driggs seconded the motion and the vote was recorded as unanimous.

Motion was made by Councilmember Fallon, seconded by Councilmember Mayfield and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-005 by Gateway Communities NC, LLC for the above zoning change as modified and as recommended by the Zoning Committee.

The Modifications are:

1. The boundary survey has been revised to correctly show the locations of the existing buildings.
2. CDOT and Storm Water Services comments have been addressed as follows:
 - a. The petitioner clarified that portions of the interior of the sidewalk edge are located against required urban open space, and a raised bench feature. Petitioner has better delineated the six-foot sidewalk along the entire frontage of the rezoning site.
 - b. The petitioner shifted the gate panel and column approximately two feet to provide better clearance for the nearest parking stall located in the middle aisle.
 - c. The petitioner has removed Note B under Environmental Features in its entirety and replaced with the following: “The petitioner shall comply with the Charlotte City Council approval and adopted Post Construction Controls Ordinance.
3. The petitioner will be required to obtain an Encroachment Agreement at permit for the “fin” on the building.
4. A new note has been placed on the site plan that states the petitioner shall provide evergreen shrub or tree plantings at the rear of the building: such plantings will attain a minimum 10 feet in height at maturity. Additionally, the petitioner will provide plantings up to three large maturing trees on adjacent properties to the rear (Parcel ID #09507733 and #09507732), if requested and agreed to by the owner of those properties.

5. The petitioner removed “metal panels” as a building material. The notes now indicate that primary veneer will consist of stucco and fiber cement paneling and siding.

The ordinance is recorded in full in Ordinance Book 58, at Page 644-645.

(Council District 1 – Kinsey)

ITEM NO. 7: ORDINANCE NO. 5314-Z, PETITION NO. 2014-006 BY NEW CAROLINA INCOME PROPERTIES, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT 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), (URBAN, RESIDENTIAL, CONDITIONAL,) HD-O (HISTORIC DISTRICT OVERLAY, CONDITIONAL) TO TOD-RO HD-O, (TRANSIT ORIENTED DEVELOPMENT, RESIDENTIAL, CONDITIONAL, HISTORIC DISTRICT OVERLAY.)

Motion was made by Councilmember Fallon, seconded by Councilmember Kinsey and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-006 by New Carolina Income Properties, as modified and as recommended by the Zoning Committee.

The Modifications are:

1. Added an optional provision to reduce the required 10-foot buffer along the eastern property line from 10-feet to 5-feet 10 inches.
2. Showed and labeled the 10-foot buffer along the rear property line between the proposed development and the adjacent UR-2 (Urban Residential) zoning on the site plan.
3. Showed and labeled the reduced buffer and described what will be provided in the buffer area along the eastern property line on the site plan.
4. Amended Note A under Optional Provisions by removing the language “in keeping with the South End area plan and TOD (Transit Oriented District) overlay”.
5. Amended Note B under Streetscape and Landscaping to describe the provided buffers between the proposed project and the UR-2 zoning.
6. Indicated in the notes and on the site plan drawing the existing 60-foot street right-of-way and an eight-foot planting strip and six-foot sidewalk would be provided within the right-of-way.
7. In consultation with Planning Staff, removed this note: “Improvements within the setbacks will comply with the South End Transit Station Area Plan”.

The ordinance is recorded in full in Ordinance Book 58, at Page 646-647.

(Council District 6 – Smith)

ITEM NO. 8: ORDINANCE NO. 5315-Z, PETITION NO. 2014-010 BY CENTER FOR HEALTHY LIVING, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.08 ACRES LOCATE 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.)**

Motion was made by Councilmember Smith, seconded by Councilmember Howard, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-010 by Center for Healthy Living, Inc. as modified and as recommended by the Zoning Committee.

The Modifications are:

1. Amended proposed zoning site plan to reflect UR-C (CD) (urban residential commercial, conditional).
2. Specified proposed square footage of Building A and B as 4,700 square feet each.
3. Specified the width of existing sidewalk and planting strip proposed to remain along Park South Drive as 4'9" and 4' respectively.
4. Removed the reference to proposed pedestrian gate. Staff has rescinded the request to provide details of the gate.
5. Specified and labeled the existing buffer as 20 feet in width and the proposed buffer as 14 feet in width and meeting Class C buffer standards and provided a planting schedule for the proposed buffer that specifies the number and species of proposed planting material.
6. Amended Note 11b to state that existing signage at Parcel 1 may be modified as allowed per the zoning ordinance.
7. Addressed CDOT comments by removing the on street parking along Park South Drive and amending Note 5c to specify "dedicated" 35 feet of right-of-way along public street frontage measured from the center line of Park South Drive.

The ordinance is recorded in full in Ordinance Book 58, at Page 648-649.

(Council District 6 – Smith)

ITEM NO.10: ORDINANCE NO. 5316-Z, PETITION NO. 2014-012 BY LINCOLN HARRIS, LLC, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT 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 DEVELOPMENT, OPTIONAL) TO MUDD-O SPA, (MIXED USE DEVELOPMENT, OPTIONAL, SITE PLAN AMENDMENT.)

Motion was made by Councilmember Smith, seconded by Councilmember Driggs, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-012 by Lincoln Harris, LLC for the above zoning change, as modified and as recommended by the Zoning Committee.

The Modifications are:

1. Removed sentences four through nine under "General Provisions" and replaced with a note that indicates that changes to the site plan will be in accordance with Section 6.207
2. Amended Note 4B to reference Tract D instead of Tract C.
3. Amended Note 6A to indicate that any changes to the architectural theme must be approved by the Planning Director or his/her designee.
4. Amended Note 8 to replace "eastern" boundary with "western" boundary.
5. Amended Note 5C under Transportation to state "provided any proposed change in alignment is approved in advance by CDOT and the Planning Department."
6. Deleted Note 16 that requests five-year vested rights.

7. Provided Note 6L, which commits that the edge treatment of the parking deck facing the mews will be designed to enable pedestrian activity or future retail use on the first floor of the structure.
8. Ensured that the pedestrian connections through the deck are clearly defined and separated from all vehicular traffic. Entrances from the mews and the Congress Street side are scaled to the pedestrian and separate from the vehicular entrance.
9. Added Note 6M, which states "Petitioner shall provide two separate pedestrian connections through the parking structure in order to provide direct connections between the east and west sides of the parking structure as depicted on Sheet RZ-8. Entrances to these pedestrian connections shall be clearly defined as primary pedestrian entries through the use of architectural details, similar to those used for the primary office entries, such as signage, lighting, sconces, awnings or recesses. Pedestrian connections shall include pedestrian oriented decorative lighting."
10. Defined and labeled proposed property and zoning line five feet from east edge of pedestrian corridor "mews."
11. Provided a legend on Sheet RZ-1.0.
12. Amended acreage from 6.1 acres to 5.8 acres.
13. Amended Note 6A to reference "conceptual elevations" instead of "conceptual perspective rendering".
14. Amended Note 8 to reference "conceptual site plan and conceptual elevations" instead of "technical data sheet and conceptual elevations".

The ordinance is recorded in full in Ordinance Book 58, at Page 650-651.

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(Council District 3 – Mayfield)

ITEM NO. 12: ORDINANCE NO. 5317-Z, PETITION NO. 2014-017 BY THE CHARLOTTE MECKLENBURG PLANNING DEPARTMENT AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT A CHANGE IN ZONING FOR 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.)

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard to adopt the Statement of Consistency and approved Petition No. 2014-017 by Charlotte Mecklenburg Planning Department for the above rezoning as recommended by the Zoning Committee.

Councilmember Howard said Tammie I know this is straight up but do you have any idea what they have in mind?

Ms. Keplinger said no sir I'm sorry we don't. Because it was a straight up petition I would not be able to say.

Mr. Howard said so you would not be able to tell me anyway.

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

The ordinance is recorded in full in Ordinance Book 58, at Page 652-653.

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(Council District 4 – Phipps)

ITEM NO. 14: ORDINANCE NO. 5318-Z, PETITION NO. 2014-020 BY THE CHARLOTTE MECKLENBURG PLANNING DEPARTMENT AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT 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.)

Motion was made by Councilmember Phipps, seconded by Councilmember Kinsey, to adopt the Statement of Consistency and approve Petition No. 2014-020 by Charlotte Mecklenburg Planning Department for the above rezoning as recommended by the Zoning Committee.

Councilmember Smith said this is one that I struggled with and ultimately cannot support. I really feel it is taking away value..... (see note.)

Mayor Pro Tem Barnes said the reason this made sense in my perspective is (see note.)

Note: There was a break in the recording of audio and video at this point for approximately 1 minute and 10 seconds, and the remaining comments from Mr. Smith, Mayor Pro Tem Barnes and Ms. Keplinger were not recorded.

Councilmember Driggs said I think the point I would like to make is the owner of the property opposes this and I think there is probably some measurable impact on the value of the property and we should acknowledge that as a cost of this rezoning and we should look at that cost and decide whether the benefit of doing the rezoning is commensurate with that cost. If we decide that it is we should then consider whether that cost should be borne by the owner. I would argue that in this situation if we are going to impose this it is basically tantamount to a taking. It is equivalent to a taking of a portion of the property and we should consider whether the owner should receive some compensation for it. I think that is the proper procedure for taking an action that basically reduces the value of the property to the owner so I'm going to oppose this.

Mayor Pro Tem Barnes said we don't know that this is true.

Councilmember Howard said I think that is a job for the property owner and their attorney to determine not ours. Ours is land use and in this situation we do this often with area plans; we do corrective re-zonings all the time. What I will ask the staff is how many more of these out of this effort to look at the multifamily in District 4 do we still have to go? Is this the only one or do we have more?

Ms. Keplinger said we had six originally and we brought four forward. We are working with the property owners on the other two and I think this is the only one for decision.

Mr. Howard said so one is coming up soon, that is the one that was deferred, we've got another one right after this one I think so after that set we are done with that conversation about multifamily in District 4.

Ms. Liles said Mr. Howard made my points and addressed my questions.

Ms. Keplinger said after that we go on to other parts of the initiative that were part of the District 4 report.

Councilmember Phipps said in hearing the conversations from my colleagues I guess conceptually I could understand the point that they are trying to make but in this situation what we have here is a use that the property owner could not fulfill under the current zoning so that gives me some pause in really being able to really support this. I appreciate that we will go ahead on and move on with it.

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

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

The ordinance is recorded in full in Ordinance Book 58, at Page 654-655.

(Council District 2 – Austin)

ITEM NO. 15: ORDINANCE NO. 5319-Z, PETITION NO. 2014-022 BY INGENUITY SUN MEDIA, LLC, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT 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, (SITE PLAN AMENDMENT.)

Motion was made by Councilmember Austin, seconded by Councilmember Fallon, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-022 by Ingenuity Sun Media, LLC for the above rezoning as modified, and as recommended by the Zoning Committee.

The Modifications are:

1. A site plan has been submitted with the note that all the previously approved conditional notes from rezoning petitions 2005-043 and 2011-003 still apply to the site.
2. The conditional notes have been placed in the standard format.
3. A note has been added to the site plan that the optional request is for five detached digital advertising signs.
4. A note has been added that the proposed digital sign face area will not be seen from public right-of-way.
5. A note has been added limiting the maximum height of the overall total sign to 17 feet from grade.
6. The maximum screen height of 14 feet has been added to the site plan and the sign diagram.
7. A note has been added that no trees will be removed in order for those signs to be installed.

The ordinance is recorded in full in Ordinance Book 58, at Page 656-657.

(Council District 4 – Phipps)

ITEM NO. 16: ORDINANCE NO. 5320-Z, PETITION NO. 2014-026 BY ABIGAIL JENNINGS: PIONEER SPRINGS COMMUNITY SCHOOL AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.94 ACRES LOCATED 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.)

Motion was made by Councilmember Austin, seconded by Councilmember Kinsey, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-026 by Abigail Jennings: Pioneer Springs Community School, as modified and as recommended by the Zoning Committee.

The Modifications are:

1. Amended Development Data table to correct acreage to reflect 2.94 acres started on amended application provided by petitioner.
2. Amended Development Data table to note existing zoning is B-1, B-2(CD) and O-1(CD) SPA.
3. Amended Development Data table to note proposed zoning is B-1(CD,) B-2(CD) SPA and O-1(CD) SPA.
4. Amended Development Data table to note existing uses as school campus, commercial kitchen, and office.
5. Amended Development Data table to note proposed uses as school campus and accessory uses, and a commercial kitchen.
6. Added a note that indicates that the barn can continue to be used for a commercial kitchen, but that the commercial kitchen use will be discontinued prior to the barn being converted into a classroom.
7. Amended Development Data table to add tax parcel number of property zoned B-1.
8. Amended Development Data table to specify proposed number of parking spaces, including existing, new and total.
9. Amended Development Data table to reflect required setback for the B-1, B-2 and O-1 zoning districts, which is 20 feet.
10. Development Data table notes 20-foot rear yard, but only 10 feet is labeled along a portion of the easternmost property line. Revise accordingly (20 feet is required). Staff has rescinded this request as a 10-foot rear yard is required for the B-1 and B-2(CD) zoned properties.
11. Amended table with building square footages to also note existing square footage of barn (minus addition).
12. Amended table with building square footages to specify maximum building square footage for school facility.
13. Measured the setback from the proposed Bob Beatty Road right-of-way; labeled other required yards as “rear yard” or “side yard.”
14. Specified on site plan school grades K-5.
15. Amended Permitted Uses to state that the site shall be devoted to an elementary school, commercial kitchen and accessory uses as permitted in the Zoning Ordinance.
16. Labeled zoning of abutting parcels on the site plan.
17. Provided ½ of a Class C buffer along northern property line. Petitioner is using the butting residential development’s required buffer to count towards buffer requirement.
18. Labeled 20-foot required setback (taken from proposed property/right-of-way line).
19. Compost area has been removed from rear yard/required buffer.
20. Maximum height of any freestanding lighting has been specified at 20 feet.
21. Addressed CATS and CDOT comments:
 - a. Petitioner has dedicated total of 67 feet of right-of-way as measured from existing Southern Railroad “main line centerline” along the site’s frontage on Bob Beatty Road, to be used for future improvement to Bob Betty Road and the proposed North Corridor Commuter Rail Project. Petitioner has added Transportation Note 4 clarifying this right-of-way dedication on the site plan.
 - b. Petitioner has labeled all existing and proposed property and right-of-way lines on the revised site plan.
22. The petitioner has removed parking out of the setback.

The ordinance is recorded in full in Ordinance Book 58, at Page 658-659.

ZONING HEARINGS

(Council District 4 – Phipps)

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HEARING ON PETITION NO. 2013-072 BY FULL MOON OF UNION, LLC TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.94 ACRES LOCATED AT THE INTERSECTION OF EASTFIELD ROAD AND PROSPERITY CHURCH ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO NS (NEIGHBORHOOD SERVICES.)

The scheduled public hearing was held on the subject petition.

Laura Harmon, Planning said this is a rezoning in the northeast part of town at Eastfield Road and Prosperity Church Road. As you can see this is the property just at the city limits and Huntersville is across the city limit line. The property is currently vacant for the majority of the property and has a single family home on the remainder of it. You can see on their site plan that they are proposing two buildings; both would be allowed to have drive thru windows. We are moving from single family to neighborhood services and would allow 22,000 square feet of commercial uses. We are looking at a site design that moves those buildings up to Eastfield Road to match what is going on across the city limit line. Currently the property is located right here. The adopted future land use is shown on this map and recognizes the zoning that is already in place. While this is inconsistent with the Northeast District Plan which does recommend single family for that property, it is consistent with the draft Prosperity/Hucks Area Plan which recommends a mixture of uses of retail/office. There is a retail center under construction on the north side of Eastfield Road and staff is supporting this upon the resolution of outstanding issues and our outstanding issues are related to site/design intensification.

Keith MacVean, 100 North Tryon Street said I am with Moore & Van Allen. Jeff Brown of our firm and I are assisting Full Moon of Union, LLC, the petitioner, on this rezoning request. With me tonight representing the petitioner are Dennis Moser with the Moser Group and John Ross of Eagle Engineering. As Laura mentioned this is a 6-acre site located in the southwest quadrant of the intersection of Prosperity Church Road and Eastfield; currently vacant and occupied with a single family house. The house is currently vacant. As indicated in the staff analysis, the request is consistent with the draft land use recommendation of the Prosperity/Hucks Area Plan, which I believe will be before you in April for public comment and decision. We are pleased that the Planning Department is recommending approval of this petition upon resolution of the outstanding issues. We will be submitting a revised plan later this week addressing those comments. We want to thank the Planning Staff, CDOT, and NCDOT for working with us on resolutions to various changes to the plan. As you might recall this petition was actually filed last year by Aventine Development; a developer out of California. At that time that petitioner was proposing to develop the site with 67,000 square feet of commercial uses. He ran into some issues with perspective tenants and that petitioner decided not to pursue either the property or the zoning petition on the site. As a result the Moser Group and Full Moon of Union, LLC, which are actually owners of the property decided to go ahead and pick up the petition at that point. They submitted a revised plan to the Planning Department which Laura started to describe to you which proposes up to 22,000 square of development. The buildings have been placed on the site adjacent to the Eastfield Road right-of-way. Parking will be to the rear of the site or behind those buildings. We have also added an open space garden area on Prosperity Church Road as an additional open space green area enhancement. The original plan by Aventine had a private drive along this edge and that road has now been shifted to the middle of the site. There is a 30-foot buffer proposed along the western edge of the property adjacent to the Eastfield Ridge Subdivision. We also want to thank the Eastfield Ridge Subdivision folks who came out to our meeting last week. We had an additional meeting with the residents of the area to show them a revised plan and indicate what we were proposing. They were very receptive to the changes and we actually have two letters of support from that neighborhood which I placed on the dais for you with a copy of our PowerPoint presentation.

Mayor Pro Tem Barnes said thank you for the presentation. I've got a couple questions and I want to allow the District Rep or any other Councilmembers to ask questions as well. Mr. Phipps do you have any questions?

Councilmember Phipps said I met last week with the petitioners and had a good conversation. I like the fact that this corner has been significantly scaled back in terms of development, from the original 67,000 square feet to 22,000 square feet, consisting of two buildings. It's in the
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preliminary stages but it looks as if they are well underway to have both of those buildings spoken for so they are not spec buildings to say the least. From what I can see just from reviewing the plans and such, it looks like that is a nice compliment to that area, especially some of the infrastructure improvements that they are going to be putting around the site, some of the dedicated right-of-way that they are going to be donating to the City for some other road improvements around this site. I think on balance I think the development is appropriate around the site especially considering the fact that another retail development in Huntersville, right across the road, is over there too. I'd be interested in other Councilmember's opinions of it, but right now I view it as favorable.

Mayor Pro Tem Barnes said I want to ask a couple questions of you Mr. MacVean regarding the drive-thru. I always have concern about air quality and our attainment issues and a need for drive-thru's. How many drive-thru's are you talking about on the two buildings?

Mr. MacVean said one of the buildings as currently anticipated would be financial institution so it would have 3 or 4 drive-thru lanes and then the other building is currently contemplated as a pharmacy with one or two lanes there. We did get a comment; just to add too and respond to that question from the residents that they would like to see a drive-thru coffee shop on the site. That would be an allowed use, but it would take the place of one of the other two buildings on the site.

Mayor Pro Tem Barnes said is there any screening along Prosperity Church where the parking lot is?

Mr. MacVean said there is. There is a commitment to a low masonry wall wherever parking abuts a public street right-of-way so you will have buildings, a low masonry wall and then you get to the open space area.

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

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

(Outside City Limits)

ITEM NO. 18: HEARING ON PETITION No. 2013-085 BY PROVIDENCE ROAD FARMS LLC/CROSLAND SOUTHEAST/CHILDRESS KLEIN PROPERTIES TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 89.5 ACRES LOCATED ON THE EAST SIDE OF PROVIDENCE ROAD BETWEEN GOLF LINKS DRIVE AND CHANCELOT LANE FROM R-3 (SINGLE FAMILY RESIDENTIAL,) AND R-3(CD), (SINGLE FAMILY RESIDENTIAL, CONDITIONAL,) TO MUDD-O, (MIXED USE DEVELOPMENT, OPTIONAL) AND MX-2 (MIXED USE,) (INNOVATIVE,) 5 YEAR VESTED RIGHTS.

The scheduled public hearing was held on the subject petition.

A protest petition has been filed, however its sufficiency has not yet been determined.

Shad Spencer, Planning said this petition is 2013-085. The petitioner is Providence Road Farms, LLC/Crosland Southeast/Childress Klein Properties and they are proposing to rezone approximately 90 acres located on the east side of Providence Road just south of I-485, generally located between Golf Links Drive and Providence County Club Drive. The property is currently zoned R-3, which is single family residential and there is another small portion that is zoned R-3(CD) which is single family conditional. They are proposing to rezone the site to MUDD-O, which is Mixed Use Development District Optional and MX-2 which is Mixed Use District. If you look at the zoning map here you can see a majority of the property surrounding it is zoned R-3 which is single family residential. There are two institutional (CD) sites just to the south; one is for a daycare center and the other one is for an assisted living facility. Across Providence Road just north of Audrey Kell is commercial zoned property which has retail and office uses.

Then just south of Audrey Kell on the west side of Providence Road is property zoned UR-2(CD) which is urban, residential, conditional, which has residential townhomes. I want to point out and you can't see it on this plan but there is a dash line that follows along Providence Road that is the city limit boundary. This subject site is located outside the city limits and we do anticipate that the petitioner will submit an application to do a voluntary annexation for this site.

Here is an aerial of the property and you can see the majority of the site is vacant. There are two single family homes on the property today. Across the road you can see Rea Village and then to the south, west of the site is Providence Country Club. This site plan, what it does is to show where the two zoning districts are proposed on the property and the property here bounded by the purple color is proposed for the MX-2 which is the mixed use development district and then the majority of the site surrounded by the gray teal color is proposed for the mixed use district optional which is the MUDD-O. This petition proposes up to 560,000 square feet of commercial uses, of which 330,000 is proposed for office; 230,000 is proposed for non-office commercial uses which would be like retail, restaurants or personal services. They are also proposing a hotel with up to 150 rooms. All these commercial uses would be located within the MUDD-O portion of the site and more specifically on the site plan it would be development area A, B, C, D, E, F and G. The plan also proposes 561 residential dwelling units; the majority of those which is 471 would be located also within the MUDD-O portion of the site and most of those would be located in development area I which is kind of more on the eastern side of the site. The remaining balance of 90 units would be located within the MX-2 piece of the site which is development area H. Those would mainly be single family detached or single family attached homes.

There are several conversion stipulations provided for these uses to allow for some limited flexibility. The building height is limited to 90 feet in the MUDD-O portion of the site and also within the MUDD-O portion of the site on the external boundaries the petitioner is proposing varying width's landscape buffers against the abutting residential. There are optional provisions associated with the MUDD-O rezoning. The major optional provisions deal with allowing parking and maneuvering between the buildings and various streets to allow up to six uses with accessory drive-thru facilities and then to allow for various modifications to the sign regulations. They have also provided some architectural design guidelines that would address portions of the sites and how the buildings would address the street and open space areas. On this plan you can see these dotted black lines and what they indicate are the pedestrian connections that are proposed throughout the site. This plan indicates where the urban open space area are proposed throughout the development and there is a public plaza that is proposed internal to the main commercial area of the site and it will be designed as a significant pedestrian focal point that will include amenities like a water feature and specialty paving fitting artwork and other elements. The area around the water quality pond, they are going to improve that as an amenity with seating, trails and landscaping. This site plan here illustrates the landscape setback along Providence Road which will be a 29-foot wide landscaped area that is measured from the back of curb along Providence Road and will include a meandering 6-foot wide sidewalk with landscaping materials that would include five trees and 25 shrubs per 100 linear feet, a low masonry wall along portions of the site to help screen the parking fields and any maneuvering associated with drive-thru lanes and the area that is next to where the service station would be for the gas tanks.

The Providence Road/I-485 Plan that was approved back in 2000 recommends residential land uses for this site and on the south portion of the site it recommends residential with a density up to 4 dwelling units per acre and on the northern portion of the site, north of Audrey Kell Road it is proposing residential with 8 dwelling units per acre. It also identifies a possibility for a small pedestrian oriented retail center that would be integrated within that residential area. I also want to mention that after that in 2011 there was a developer response memorandum that was drafted and it was for a larger area that included this subject site. It extended and it was everything east of Providence Road, south of I-485 and down to the county line. This was not adopted by Council; it was just a draft document and what it was to determine is whether a consensus on a development framework which included the street network, connectivity and land use was possible and if a broader reconsideration of the existing adopted land use was warranted. During that process there was consensus on the street network and on the open space areas but there was not consensus given on the land use. The land use that was considered during that process

included a mix of retail, office, higher density residential and a walkable pedestrian oriented pattern for this portion of the site.

In closing Staff recommends approval of this petition upon resolution of the outstanding site plan issue. It is inconsistent with the Providence Road/I-485 Plan. The layout and design creates a well-integrated, multi-use community and it also mixes a range of uses and densities with pedestrian oriented form that can serve as a unique town center for this portion of the city. The outstanding issues are technical in nature relating to transportation and design. I also want to mention there was a protest petition filed and we haven't determined if it is valid yet, but that will be done before the decision. Due to there being various transportation improvements required and proposed by this rezoning, we have Mike Davis with the Charlotte Department of Transportation and he will provide a brief presentation on the transportation issues.

Mike Davis, Charlotte Department of Transportation said I'm with CDOT and I don't often come up and give you these kinds of presentations but because this is a large site and because the transportation issues are complex I wanted to give the Council a high level overview of the strategy that we use to try to make sure this development proposal works. This is the Providence Road Corridor below I-485 and the major traffic issues in this area are clearly about the north/south movements along Providence Road. For anybody who commutes in that route you would know that one of the major sticking points along this corridor is at the Providence intersection at Ballantyne Commons and McKee, and also in the interchange of I-485. This is roughly the outline of the development proposal laid on top of that geography so I want to talk about this in two levels. One is what I would call direct mitigations. These are the things that maybe have the immediate impact of mitigating or off setting those impacts due to new traffic from this site and sort of work it from the north at the interchange itself of I-485. This development would propose to make modifications to the east bound I-485 ramp to add capacity primarily to address exiting southbound movements from the ramp. The next thing as you head south would be to rebuild the intersection of Providence Road and Golf Links Drive and it would be a signalized intersection and the reason that is beneficial is because there is commercial development along the west side of Providence Road today and the access for this development is restricted to right in and right out movements only. As a consequence of that egress, movements have to travel south bound on Providence Road, make a U-turn at Audrey Kell and continue north bound back to the north. With this proposal it would allow for immediate and direct access out on Providence Road and cut down on travel in that interval of Providence Road. Lastly, in terms of the direct impacts, it is a little hard to see there, but there is a red arrow that extends from Providence Country Club up to Audrey Kell; that would be an additional north bound travel lane that would join up with existing three lanes of capacity that carry from Audrey Kell all the way to I-485. There would be some additional sort of intersection improvements right around the access of this proposal but those are kind of the key external traffic mitigations.

The other thing I wanted to tell you about as sort of the second part of the strategy is how we deal with this through street connectivity, so if we look again from sort of a big picture perspective, all this area to the east is sort of underserved as it relates to access to I-485. You have to go about 4 or 5 miles to the east to get to John Street or Monroe Road where the nearest interchange is to the east. As a consequence to that the travel that occurs from the east tends to want to get into this interchange; they do that by going through the congested intersection of McKee, so part of what this is trying to do is build incrementally the network that we are going to need to serve this traffic and other traffic in the future, so part of that is the Audrey Kell Road Extension, which is a planned thoroughfare extension. The immediate benefit of that would simply be it allows for alternative access back to that interchange and cuts down some of the traffic through McKee. I also want to point out that this development will incrementally build part of what we need for a Golf Links Drive Extension which will allow for yet another way to access the interchange from the south which is particularly helpful for east bound movements on I-485. The golf course that Golf Links Drive extends towards is likely to redevelop at some point. If that happens we would want to work to extend Golf Links and the benefit of that is that it allows you to have cross access across Providence Road without ever having those vehicles having to travel north/south along Providence.

I wanted to mention to you that as this proceeds if it is approved through the zoning process, Council would see this again as it relates to a thoroughfare amendment so the Mecklenburg
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Union MPO is now CRTPO; they are the holders of a document called a thoroughfare plan. It is the large scale framework for transportation and in this area it proposes that extension of Audrey Kell Road. The way this is being designed through this site is a design that we support, but it does differ from the CRTPO version of the alignment and it will require that CRTPO ultimately approve that change.

Lastly, Shad mentioned the developer response that set the framework for how we wanted to address local streets as part of developments that occur on this part of Providence and I-485 and this kind of gives you that illustrative overview of what that sort of density of street network looks like. Here again is this rezoning petition gives you some sense of how it fits in and I just wanted to emphasize within that there was this concept of having a parallel north/south street to Providence Road again continuing with the long-term strategy of trying to keep traffic as much as we can off of Providence Road where it can be served locally. I will be around after the presentations if you have questions.

Jeff Brown, 100 North Street said with my colleague Keith MacVean we have the pleasure of representing the petitioner on this exciting rezoning and development opportunity known as Waverly. Waverly really does present a tremendous opportunity for place making on this undeveloped land south of I-485 at Providence Road. As you can tell from the presentation, it is a very involved development, but it is an opportunity for creating a real place in this location. It is also an exciting opportunity because it brings together as a joint venture partners two of the leading southeast developers and development companies in Childress Klein Properties and Crosland Southeast. You know that they are based here; they have been involved in some of the most exciting and positive projects and high quality projects in our community over the past several decades. Another reason it is exciting is because I think a lot of the hard work of Mike Davis in Transportation, Tammie Keplinger, Laura Harmon and others in Planning, Shad Spencer, we think is a cooperative and this has provided a really high quality project and we want to thank the staff for a tremendous amount of detail. We've got 19 pages of development standards, you see a very extensive staff analysis; we are pleased that the staff supports this great opportunity for this community. I want to now pass it over to Chris Thomas of Childress Klein who will provide a brief highlight of some of the players at the table.

Chris Thomas 301 South College Street said it is a pleasure for Childress Klein Properties to partner with Crosland Southeast and the Matthews family on this significant project for the City of Charlotte. This is an exciting business opportunity and at the same time it is exciting for me personally because of my relationship with the property owners. The 90- acres of land involved in this petition has been owned by two families for generations, the Matthews family has owned the majority of it and I'm also proud to say that the Green/Ray family has owned part of this site as well and we are glad to be working with them. I've had the pleasure of being a family friend and at the beginning of my career, a work associate with Frank and Gene Matthews. I would like to recognize them and ask them to stand up in the audience please. These gentlemen are long-term residents and leaders in our community as well as in Gaston County and we are very pleased that they will be part of our ownership group going forward. It is a privilege to play a part in creating an exciting vision for this special property, a vision that we call Waverly, a project that we believe will benefit this community for years to come. Now my partner, Peter B. Pappas with Crosland Southeast will continue this presentation.

Peter Pappas, 201 South College Street said Crosland Southeast is also very excited to work with Childress Klein and the Matthews as partners on Waverly. Before reviewing too many projects specifics it is important to note that the 90-acre Waverly Project shown on this slide will lay a positive foundation to the surrounding much larger land area of almost 500 acres. That land is principally south of I-485 and east of Providence Road and is owned by 4 or 5 different land owners. This slide shows how the Waverly Plan fits into the larger area and the desirability that you heard staff and CDOT mention; the desirability of coordinating the street network to serve the overall area. This illustrative plan actually shows the broader street network beyond the boundaries of our project. If you recall we had mentioned earlier about the developer's response that was the planning led development process that got, if you will, residents, developers and planning staff involvement. We at Childress Klein and Crosland Southeast developed a vision and then worked with CDOT and Planning. We worked very closely with both of them to be sensitive to the overall connectivity objectives that you've heard staff and
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CDOT mention. These objectives clearly promote quality of land use and very importantly help address the traffic circulation by simply having a strong street network and providing numerous outlets to Providence. In fact that is five outlets, three of which are signalized.

Lastly we will talk about street network, is clear evidence of staff and CDOT insuring that our street network will promote the future connectivity again promoting land quality. As we get into the site plan here; those that know me well like my cousin, know I could spend a lot of time describing how each component of Waverly fits together, but simply I would suggest that this is an example of where the whole of Waverly is very definitely greater than sum of its parts. Unlike other development proposals, we understand that perhaps we are going to emphasize big box retail. We worked hard to have a balance and a mixture of uses that simply feed each other and promote a true live, work and play setting. If you will look closely at this the extension of Audrey Kell Road that Mike mentioned earlier, you can see there which was designed to handle volume without velocity and then the strong internal street network if you go north and south was intended to seamlessly connect the single family you see and the townhomes as well as the apartments to the east all of which connect towards the office space and the retail what we call our Trade and Tryon, the center of it. Staff also mentioned the public plaza; this leads basically all roads and all uses towards the public plaza.

A key ingredient of this plan for the walkability is how we've used two what we call one story up parking decks. That is just grade plus one level, to support the two five-story office buildings in the blue. Simply these decks allow us to create a much tighter net development plan than if we use surface parking. In fact if we used surface parking we would have almost 11 or 12 acres of surface parking there. In this case we have half that amount, therefore promoting this close knit, very walkable pedestrian friendly environment. Again the residential, office, retail and restaurant uses support each other in the mixed used plan and the balance of these uses help us avoid traffic congestion typically associated with a larger commercial base plan. The last two slides, upper left; that is the public plaza blown up. It is important for us to attract daytime workers and the residents, both of which are critical to this balanced plan. In order to do that we have to create special places; you hear the term place making, this is where folks can gather during or after work or on week-ends with the family. We have done this in several locations throughout Waverly, but most notably in the village retail area that is known as the public plaza, an area that we'll probably brand as The Terrace. This plan commits to a very active open space area with restaurants nearby, with several breaks in the building so it is enticing office workers to walk over, residents in Waverly to walk over and most importantly the broader community residents to use this retail. When people have asked us to describe the scale we would say it is similar in streetscape to Phillips Place with a much larger public plaza for dining and evening. The last slide quite frankly gives more flavor to the active open space where we envisioned that families would come here during the day and early evening as well as later in the evening there would be the ideal for the preverbal date night, emphasizing again that one store up parking deck to serve the office workers during the day and they are available to the restaurants and retailers again during the night.

Mr. Brown said to wrap our presentation this is an attempted summary slide and essentially what we have is a master planned effort for a tremendous area to serve as a basis for really the next decade or longer. We've got significant and attention detail. We've got strong pedestrian features. We are very appreciative of the staff efforts and CDOT's support of our efforts. We will work through the remaining technical issues. We had early outreach with the Providence Country Club Community as well as some of the other key stakeholders and residents there and the fact that we have big petition like this without any notable opposition in terms of large community base I think is significant. We do know that we've been working in earnest with Cranfield Academy and Mr. Pace will be speaking on efforts regarding insuring proper access for the existing daycare center in that location. On the current plan there is a plan to have an access along the boundary of that property eliminating a current access on Providence Road but to pick up two access points at the rear of the Daycare and allow them to get to traffic signals we think improve access. Right now we've been working with Mr. Pace on details on the legal negotiations of an easement document. I believe and I hope he will say that there is a lot of good about this plan and we are very optimistic that we will be work through those details. We are excited about this. This is a tremendous opportunity. As you can imagine it is a great opportunity to bring additional development to this part of the community.

Todd Pace, 11745 Providence Road said my wife and I are owners of Cranfield Academy and we were established in 2000. It is a facility that is adjacent to this petition process and was established in 2010. We currently house about 115 children with a staff of about 20. Mr. Brown is absolutely correct; we are for the overall project. The area that we are protesting is there is one of five connectivity points and that is I currently own that one right. What they are suggesting is that by giving up my direct public access to Providence Road and moving it up about 75 feet that would then become a privately owned road. Well, the road behind us is also privately owned as well so therefore in giving up by driveway permit I'm giving up all my direct to public access. What they are doing is they are requesting me to give up the right, increase my liabilities without guaranteeing me consistent connectivity to those public rights. We have been in negotiations with their team since August 2013 and it has been a long process. I will say once again, we are for the overall project, but as far as the one area where you guys are suggesting that we give or CDOT sayings that we give them cross connectivity, that is an area where we will have to say no. As of a couple weeks ago even their representation said well fine, if you don't go along with agreement we'll actually enforce the easement that is on our property. We do have an easement on our property, that was per the request through our rezoning back in 2009 by the rezoning committee and we want that cross connectivity. If you take a look at the schematics and I don't have any fancy things for you guys to look at; but if you take a look at them, basically the main drive that is going to be going through that cross easement would be a 504 one layer deck parking spot area along with a 79 parking spot just north adjacent to my property with 10 residential. That is 603 traffic counts that could possibly go through my parking lot. My parking lot is a driveway; it is not a private road so I'm asking one of a couple things here; you guys go back and revisit the original intent of that easement which was to be cross connectivity to an R-3. And/or if you guys don't go back to do that and the opposing things we are able to come together; I would ask that you put extra pressure on them so that we could come to an agreement but without increasing my liabilities and without eliminating my public rights to access those roads and without more importantly, eliminating that continuous connectivity to the public access.

Chris Papp, 10537 Paxton Run Road said I too am for the development; what I'm opposed to is the stress on the infrastructure that is being offered. The traffic counts are tremendous here. As you mentioned before it is a 57% increase in traffic on Providence Road which is already at its capacity. Audrey Kell which is just to the west is a single lane farm road that is now a thoroughfare that has an awful taper right across the street and I see no mitigation for that whatsoever. When talking with NCDOT, that road is not even on their radar in terms of the next transportation cycle because it was zoned R-3. That road currently has 17,500 vehicles trips per day so a lot of this infrastructure is going to be put on the taxpayer to pay. The traffic along Audrey Kell Road is not just congestion and the annoyance that goes along with congestion, in many cases it is dangerous. If you drive on the right hand side you will see mud from people who can't get to the storage lanes; people going in the wrong lane to get to the multi-direction. That is just down where Blakeney is at that intersection there. I think you guys should see some additional mitigation before approving this. The other thing I would like to suggest is when the developer comes and they are going to say we think this is sufficient and if it is not sufficient what happens? Again it comes on the taxpayer and I think I would like to see something that says if it doesn't pan out this all this mitigation is going to happen, that there is something in the back end and the City isn't going to have to come to the taxpayers to pay for that.

The other thing I would like to talk about is the schools. I know when you guys hear these things they say there is going to be actually less students, but the relevant question is what is there now. What is there now is nothing so it is not really a net loss of students it is a net gain of 121 students which CMS says is \$2.5 million and then at \$8,500 per year that they say it costs to educate a pupil that is another million per year going forward. As you guys work with the developers, I think it would be nice if you would take that into consideration and make sure that the City is protected from a financial standpoint and the taxpayers don't have to pay for this.

In rebuttal Mr. Brown said I appreciate Mr. Pace's comments regarding the Cranfield Academy. There has been a lot of energy on this and we can pull up the earlier slides. We do think we are very close of working through some of the concern he has with regard to liability issues and protections. We've had a lot of good discussions with his attorney and we are very optimistic

that we will be able to work those through. We do think the end result will be an improved opportunity where the community will be able to access the two locations here and ultimately get out to a traffic signal at Providence Country Club as well as a right in/right out in this location and the easement documents will also provide access ultimately out to Audrey Kell. We do want to continue working with him on this; we think it is related to the zoning only because the transportation officials would prefer to eliminate his current access on to Providence and we think we will be able to provide improved access. As to the other comments regarding traffic counts and others, I would also mention it is a big development. We've had numerous meetings with Providence Country Club leadership which is the largest community nearby and the fact that we don't have folks in opposition I think reflects their view as well of the balance of uses and the professionalism of CDOT as well as NCDOT who've looked at this project very closely. We rely upon our professionals here, the balance of uses, transportation improvements, the traffic signals that will avoid some of the U-turn movements that were referenced earlier by Mr. Davis, we think brings this together in a very positive way. The schools, frankly the current land use which would be purely residential would generate more students per the CMS memo than what we are proposing when you have multifamily you typically have fewer families and that is a response there. We appreciate the comments, this is a place making opportunity that we feel like the vast majority of the community supports and we continue to work with Mr. Pace to work out that important aspect for him.

Councilmember Howard said Mike, can you help me understand the statements about what CDOT is requiring? I'm trying to understand issues that the daycare owner brought up. You guys are asking them to move the drive-way right now that they have out to Providence Road to line up with a new right in/right out that will be to the north of their property?

Mr. Davis asked for the slides to be put back up on the screen and pointed out the location of the driveway that exist to Cranfield Academy now and immediately to the north of that, or to the left on the screen, is a right in/right out access that serves the larger site that is proposed tonight for rezoning. Our interest is to see that those things be consolidated, that we create interconnectivity between the Cranfield Academy site and the larger development and from my conversations prior to tonight, I think there is common interest in achieving that. I think the specifics turn out to matter a lot and so I think probably what we are going to need to, after tonight, is kind of understand why and sort of what is at stake in terms of some of these ownership interests and commitments around recording easements.

Mr. Howard said that drive-way is moving 30-feet, but it is still on the corner of your property so how will you then access into the driveway?

Mr. Brown said I just wanted to mention this; in the context of the overall development you can see where the daycare is located. This gives you a more micro; we didn't get into this in detail, but this gives you a little better sense of what is happening. I'm happy to answer questions if that helps explain.

Mr. Howard said essentially the driveway just moves over a bit and you still get into the property? Mr. Pace, explain to me your issue with that setup. So you don't like giving up the access to Providence because it is a private drive now?

Mr. Pace said currently it is a public road so in the event something happens right outside my driveway I know I have the security of not only Charlotte-Meck but I also have the security of the state jumping in and making sure that they open my business back up immediately because it is a state highway. When we go in there we are surrounded by private roads, now I need to know that I have the continuous support from the developers that I will have those same rights that will run with the land and I don't have that. We are not at that agreement yet. We are working very hard at getting to that agreement, but we are not there yet. We've made some strides today, but we've also been working at it for 7 months.

Mr. Howard said explain to me while you are standing there this easement thing that you were talking about. Could you get the pointer and point to me where you are talking about this easement is?

Mr. Pace said if you look off of that arrow right there it goes to 24-foot wide easement that runs out about this far and then straight down to that drive. That access; if we are looking at that and they choose to exercise that access, then basically what we are looking at is you've got that parking deck which houses 504 parking spots, we've got the parking lot to the north of my property that houses 79 additional parking spots. My business is dealing with children; at the end of the day a mom or dad walks out with a child in hand, the hand of that child slips out and I've got a liability and nobody wants that.

Mr. Howard said so what you are saying is that one or the other could happen, not both? If you did what they suggested you wouldn't have that issue?

Mr. Pace said if we go with what they would like is to give up my access to Providence Road, move that over onto their property, I get the two rears that would be sufficient.

Mr. Howard said then I heard that you actually get access now to a light where your parents kind of have to kind of do U's to get in and out. Is that valuable to you?

Mr. Pace said it is in relation to how it was proposed. Originally it was proposed that we would have access to Audrey Kell. We do not have access to Audrey Kell now because there is a median that would prohibit us from making a left hand turn unless we go all the way up and around, so we would have access to the Providence intersection at Providence Country Club Drive, we will have that and we'll have a right in and a right out to access one of our rear driveways onto a private road.

Mr. Howard said actually you make a good point. Is that Audrey Kell to the north?

Mr. Pace said no, Audrey Kell is right over in this area, right about this area and as I said there is a median that runs past this point up in here so this connectivity road here is not able to make a left hand turn onto Audrey Kell Extension.

Mr. Howard said I just wanted to make sure it was clear, so you get access to two lights though, you do see that happening.

Mr. Pace said I get access to the light at Providence Country Club coming out this side down here from this private road over to a public road and down this private road going to Providence Road. Yes, it is a win/win deal if we can come to the agreement on the liability issues and the consistent connectivity.

Mr. Howard said I'm going to leave the legal up to you. I just wanted to understand. I thought I heard two different things and I wanted to make sure I understood that.

Councilmember Autry said question for staff. I see here that the Providence Road/I-485 Area Plan was approved in 2000 and then another note here that in 2011 the I-485 and Providence Road Development Response Memorandum. Why is that significant to us?

Mr. Spencer said it is just to show that 11 years later staff along with the major property owners in the area and the community leaders in the area and potential developers for that area came together and tried to come up with a proposal to make modifications to the adopted area plan from 2000. Consensus was reached on two items; the street network and the open space but they could not get together on the land use. It is kind of how it has evolved over time and this is where we are today.

Mr. Autry said should the memorandum be considered in the decision making process?

Mr. Spencer said it is just a draft document never adopted by City Council so you would not use it as a consistency statement. It is just for background information.

Councilmember Driggs said looking at the map there is about 360 acres of undeveloped land around the site so I'm wondering if you are able to anticipate what kind of traffic generation would come from that because already some congestion north on Providence Road of I-485. I
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allude to my remarks earlier about concerns that I keep hearing from my constituents about this development and I think this looks like a good development but I still don't have an answer to the question. Are we really anticipating all the growth that is going to take place in terms of our road capacity?

Mr. Davis said there was a traffic study completed for this development and there were updates to that traffic study once we started working with NCDOT and they had their concerns put on the table. As we developed that modeling to support the traffic study with the consultant that was hired for this exercise part of that modeling did look at what we thought would be a reasonable development scenario for some of this undeveloped property. That may have even included property to the west of Providence where the golf course would be. The idea was to make sure that as we size the streets and actually this street that is an example of what is on the screen right now, this is Audrey Kell coming into Providence Road right here, much of the lanes that is included in that intersection is actually not necessarily for this development. It is for this development plus what we expect to happen with additional growth. The other thing I would just add is the strategy remains the same. We don't know what will be the form or intensity of future development but we expect development will occur on the undeveloped property and the strategy continues to be creating the street network, maximize the opportunities for connectivity so that all that traffic is not reliant on Providence Road or I-485 for that matter.

Councilmember Smith said Mr. Pappas this is a project of significant scale and I haven't had a lot of these come down the pipeline recently and I applaud your effort to brevity early and I know that must have been hard for you to adhere to the time limits, but I am interested if I can get into some of your visioning behind the mixed use nature of this process. You didn't touch much on some of those components earlier and I would love to hear your vision of your mixed use nature; if you are able to get into any of the retail uses or perspective uses. Just some other things we can do to get a better feel for the project.

Mr. Pappas said why mixed use? As you know both our companies, Childress Klein and Crosland Southeast, we've had lots of lessons. We've learned from doing projects throughout the Southeast and particular in Southeast Charlotte where you've seen us use retail, office and combine them. The key here on mixed use is the integration of the uses helps us achieve that active community that we are all seeking quite frankly. It is the active community that we believe is more sustainable. I don't necessarily mean a green speaks sense but long-term it is the mixed use project that by nature that creates the walkability. We often debate is it the uses you are using or is it the plan and it is both. Our companies agreed in the very beginning unlike others that it must be mixed use or multi-use quite frankly and that would be the best land use approach to the project. There are some very practical reasons of course. Of course we'd love to use the office parking when the office worker has gone home; so we get to use that parking after 5:30 Monday through Friday. We get to use it on week-ends so there are lessons we are trying to exercise in a suburban location that you learn from an urban setting. We also talked about how the balance of the uses is important. Often a developer will do a mixed or multi-use and truthfully it is driven principally by one use. It is more retail with some residential or it is residential with some office or it is a lot of office with a token amount of residential. In this case we've said balance those uses because it will create a much more genuine authentic place and we believe it is taking lessons you've learned when you look at on Providence, The Manor Theatre Shopping Center where the Harris Teeter is and we've got plenty of good examples. I appreciate you asking and the retail, and in this case because both our companies are known for a lot of retail development. A tip of the hat here was basically saying we are going to do very little retail. We are going to do a Main Street oriented retail center and we have the necessity retail for those that have read the paper. We certainly have Whole Foods committed and that gives us that necessity retail. At the end of the day we are trying to react to what we learned and we participated in the Developer's Response. What we believe we were hearing what the residents were interested in and it wasn't too much retail. It wasn't too much office. It wasn't too much multifamily and we believe that is what we are capturing here; a truly a walkable plan!

Mr. Smith said regarding office is it 100% speculative or do you plan to bring both buildings on line at the same time or more of a phased in development?

Mr. Pappas said currently yes it would be phased. I think it is easier to look at what are we not starting day one. We would wait for the second office building which is an indirect way of saying we would spec the first 125,000 square foot five-story office building and we would wait for our second medical office building. Our intent is to proceed sequentially and also work with our co-developers at Terwilliger-Pappas on the multifamily and David Weekly Homes on the single family. You can appreciate they all want the retail as an amenity.

Councilmember Phipps said I actually have two questions, one of Mr. Pappas and one for staff. Mr. Pappas with regards to the voluntary annexation is this a decision that is a unilateral one by the developer or would the tenants have any say so in it or how does that work?

Mr. Pappas said I would say it is a decision by the developer if you would. Our sub-developers understand that is our intent for the multifamily tract and the single family tract. It is unanimous in that regard. Technically; and Jeff may speak to it, there is a portion of our site that we've been asked to not bring in voluntarily so it doesn't feel like it is an island. I don't know if you want a specific.

Mr. Brown said the annexation is a voluntary annexation. The city line is right up to the property. Obviously it has been undeveloped to date, but with this opportunity to bring it in we think that is frankly exciting for the city in that regard. The medical office in this location however, will not come into the annexation. There is some specific rules we worked with staff on; Jonathan Wells and others, about how you insure that there is connectivity and adjacency for the annexation so we are going to be excluding that small piece, but the rest of the development that we are bringing in tonight we plan to submit the annexation upon approval of the rezoning soon thereafter.

Mayor Pro Tem Barnes said I have a follow-up question on that, could you tell us why you are going to exclude the medical office from the voluntary annexation? We actually like taxable property in the city.

Mr. Brown said we actually offered to bring that in. I think in discussing this with the staff and I'm not fully schooled on annexation discussions, but there was a feeling because we also do not want to immediately bring in some of the adjacent property there. By excluding that piece we are not immediately bringing in the other. Let me quickly say however; the overall development we are planning on here tonight and we don't go into tax values very often; but we are dealing with a very substantial development within a relatively few number of years we are talking about close to \$200 million of opportunity from the tax base here. The medical office will ultimately be coming in. I think it is just a little bit later.

Mr. Phipps said I have a question for staff. Earlier during this meeting we approved not sending a petition back to the Zoning Committee because of a minor adjustment to the petition. This is a very complicated petition here I think Mr. Brown indicated it was 19 pages of development standards that consisted of like 91 separate detailed notes on the plan. Is it inconceivable that we would need any minor adjustment to any of these would have to possibly come before the Zoning Committee. Could that happen? Because if it is; that seems in this instance at least, that could be a very inefficient process. I would be interested in your comments in that regard.

Mr. Spencer said tonight they have presented to staff a revised site plan that would address; we haven't looked at it yet. But I'm assuming address most if not all of the outstanding issues. If that is the case then we go to the Zoning Committee and there are no changes after the Zoning Committee makes their recommendation, then they would not have to come back. I'm assuming the changes have been made; now if they have not and changes are made after the Zoning Committee then yes it would potentially have to come back.

Mr. Phipps said I don't know how my other colleagues feel about this but I would think it will be worth us taking a look at it to see how we could maneuver through something like this as detailed as this. That if subsequent minor revisions would have to come before another body that we will be asked to opine on the significance or relevance to forward it back to the Zoning. I would think that might be a discussion we might want to have at some point.

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.

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(Council District 1 – Kinsey)

ITEM NO. 19: HEARING ON PETITION NO. 2013-102 BY WAJAHAT & FERAH SYED TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.40 ACRES LOCATED ON SOUTH SIDE OF NORTH DAVIDSON STREET BETWEEN EAST 33RD STREET AND EAST 35TH STREET FROM R-5 (SINGLE FAMILY RESIDENTIAL,) AND MUDD-O (MIXED USE, OPTIONAL,) TO TOD-MO (TRANSIT ORIENTED DEVELOPMENT, MIXED, OPTIONAL,) AND MUDD-O SPA, (MIXED USE DEVELOPMENT, OPTIONAL, SITE PLAN AMENDMENT.)

The scheduled public hearing was held on the subject petition.

Laura Harmon, Planning said this may look familiar to you as you heard this case a couple of months ago. What has changed is at that point in time this property that was a conventional rezoning to TOD-M and is now coming back as a conditional rezoning. This is for two properties in the NoDa Neighborhood. There is a .18 acre parcel going from MUDD-O to MUDD-O SPA and there is a second property .22 acre property going from R-5 to TOD-MO, You can see property here and here, this is the NoDa area. The old Main Street Johnson Y is here and you can see some converted historic mills off Davidson Street. Area A; the first property is a former single family home that has previously been used for a pottery studio and is now vacant and this is previously a single family home as well. What they are requesting for Area A is all uses in the mixed used development district with a few exceptions such as automobile service stations, adult establishments, carwashes, drive-thru's, bars and nightclubs with the existing residential building to remain and with expansion area to the rear. The second property is really very similar. This would allow all uses in the transit oriented development mixed use district with the same exceptions as you have for Area A and again with that existing building to remain and an expansion area in the rear.

As you look at the adopted future land use both of these properties are within ½ mile walk of the future Blue Line Extension Transit Station at 36th Street and they are called for to be transit oriented development mixed use category. Staff is recommending approval of this petition upon the resolution of a few outstanding issues. It is consistent with that Blue Line Extension Transit Station Area Plan. It does preserve the residential character of the historic mill home and we have a few outstanding issues that are transportation related and a few minor technical issues.

Warjahat Syed, 10906 Tavernay Parkway said there is a slight presentation. I don't know if there is a specific need to go over the full presentation. This is pretty much the same presentation we did in December. There are two properties as indicated; Area A, which is on the corner of 34th Street and Area B which is further down on Davidson Street, which is 3024 Davidson Street. Here you can see both the properties; Area A being the red house and Area B being the green house. At the last presentation there were concerns raised by the NoDa Business Association, Mr. Chad Moffin was here presenting and we have addressed successfully the concerns that they had raised. From our perspective what was presented by staff is accurate. On the A building we are simply asking for all permitted uses, but that is consistent with our last presentation. With the exception of the minor changes that were presented by staff there are not any changes since the last presentation. I'm going to move on to Area B; 3024 North Davidson Street. At the last hearing we had presented this as a straight TOD zoning request. There were concerns raised by the NoDa Business Association and we were able to come up with a consensus on the TOD-MO. This was presented to the community at the community meeting and I think Councilmember Kinsey was there and basically we were asked to leave the room after we presented and there was a unanimous approval by the residential area and we were very happy to

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hear that. We wanted to thank everyone that was involved here from the Zoning Board; in particular, John Kinley who helped us to navigate through this process. This is just another slide of the plans. This is how some of the houses looked; in particular the one we were talking about, 3024 North Davidson, Area B. This is how we acquired the property and I have some before and after pictures for you. This is how it looks now. As you can see we are preserving the residential nature of the building and we just want to make sure we have the maximum usability out of the premise.

Councilmember Howard said Laura the rezoning that we have right now, there were restrictions put on it and we are basically being asked to take the restrictions off which before were automotive, adult establishments, carwash, restaurants, drive-thru windows, bars and nightclubs. They are asking for all those to be acceptable as well?

Ms. Harmon said actually for the first property, Property A, the previous restrictions were for it to be either a residence or a pottery studio. Now they are asking for that property all uses in the Mixed Use Development District with the exception of the ones that you just mentioned.

Mr. Howard said with the exception of those so that doesn't change? What is permitted? I guess this is straight up as well. City Attorney can I ask what the plans are for the property?

Mr. Hageman said go ahead Ms. Harmon.

Ms. Harmon said while it is a conditional rezoning they are allowed all of the uses in the Mixed Use Development District with the exception of those few uses that have been listed. They are a range of retail. You could still have residential office uses that could go into either of those homes, one going to the Mixed Use Development District and the other one going to Transit Oriented Development Mixed Use. Any of the uses allowed in those districts with the exception of the handful of automobile oriented uses listed.

Mr. Howard said why not both TOD?

Ms. Harmon said the reason, as I understand it, for the first one to go from Mixed Use Development District Optional to having a Site Plan Amendment is because they already had setup up their framework with that initial Mixed Use Development District Optional so it is easier to just add the Site Plan Amendment and make some minor changes than to basically start over with the Transit Oriented Development District.

Mr. Howard said so we are just trying to make something work that you had already planned?

Mr. Syed said yes the previous owner actually had it set up as a pottery studio and when we acquired the property we wanted to maximize the options and expand possible uses that are permitted.

Mr. Howard said anything in mind?

Mr. Syed said not at this point but we are open to ideas.

Councilmember Phipps said parking is a perennial issue in NoDa so conceptually how have you addressed the parking issues associated with this plan?

Ms. Harmon said Mr. Syed I think if you could give them the details on what you would be weighing in.

Ms. Syed said Area A, which is the red house. There is something interesting about NoDa; North Davidson in particular. The street is actually approved for parallel parking on both sides of the street but it seems like for some reason no one uses one side of the street, partly because it is not marked and they just feel like it might narrow the road too much. Ever since I heard about that I have started parking my car every time I visit the property on that site. There is more parking on the street not only on North Davidson Street, but on 34th Street when you turn the corner. In addition to that there is going to be some handicap parking access for the red house

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possibly, we are working with CDOT right now. Possibly in front of the house they are going to possibly create a curb-cut to allow us one handicap parking in the front and then on the side there will be at least three regular conventional parking spaces. Does that answer your question?

Mr. Phipps said yeah for now. I will go with that for now.

Mr. Howard said Debra we were asked some time ago to consider investing in a parking deck over there because of the parking issues and we talked about studying places like I think centers directly to make sure we were addressing parking correctly. Any concerns, I know this is small in nature, but this is how you have problems over time; it is the small ones that add up. Are we doing anything with the whole parking at centers?

Ms. Harmon said I don't think at this point in time we are moving forward with providing parking out there. In looking at this case though they will still have to meet the parking standards of Transit Oriented Development for that property and the Mixed Use Development for the other. To a certain extent it will limit the more parking intense uses out there but with respect to city providing parking out there I don't believe we are moving forward with that.

Mr. Howard said not necessarily the public parking but just addressing the parking ratios in areas like this period. You know like I do that you can say we are going to use on-street parking but if everybody along that street told you they were going to use on-street parking somebody is not going to have parking somewhere. I know there is a shared ratio and I thought we were looking at that.

Debra Campbell, Planning Director said we are in the process of looking at overall what kind of parking issues that we have. I think you are right in terms of looking at some of our urban areas to see what the appropriate parking ratios ought to be. It is interesting when we come upon these kinds of areas where we want them to be very pedestrian friendly. We want them to be very walkable and then we try to shoehorn in a lot of parking and sometimes those things kind of conflict. The way that we add more parking is that we go vertical. We certainly don't want to add any additional surface parking so you are right it is definitely an issue that we are concerned with. We need more study. We need to look at a lot more information before we make a recommendation on parking ratios with these kinds of areas.

Mr. Howard said didn't that get referred to a committee and now we didn't do anything with that at all?

Ms. Campbell said the actual analysis was parking for institutional uses in universities and it wasn't the broader parking issue, but we as staff are looking at that as part of a work program item.

Mr. Howard said the concern Council has is it is death by 1000 cuts. Eventually what happens is that we don't pay attention to the small ones and eventually somebody says we want to keep dollars for the public to now invest in some parking spaces, which is kind of where we were going when we were asked to put money in to that condo building out there. The question in the ED Committee at the time was should we look at the ratios and make sure we park it right so we don't have that emerge in NoDa and South Park and some other places that are emerging right now. I guess I'm not prepared to ask for a referral tonight, but I hope we keep looking at that and this is not about your rezoning necessarily.

Ms. Campbell said I want to assure you again that staff is looking at the broader parking issue, but the actual referral was for universities and institutional uses. I think you also may have asked us to look at some specific districts like the Mixed Use District for adjusting possibly those parking ratios.

Mr. Howard said it will be Plaza/Midwood next with the rezoning we did tonight that had very little parking. We said then well we've got on-street parking and eventually everybody is using on-street parking and you don't have any parking.

Mr. Syed said can I make a quick comment; just a comment with regards to Transit Oriented Development, my understanding was that actually is more pedestrian friendly so there is not as much of a parking requirement for TOD. Am I correct in that? Is that a fair assumption on my part?

Mayor Pro Tem Barnes said we will be happy to have someone from staff speak with you more specifically about TOD entitlements. Ms. Campbell, could you have someone speak with him while we move on because we've got about 10 more of these to go and it will be about mid-night before we finish at this rate.

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

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

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Council District 7 - Driggs

ITEM NO. 22: HEARING ON PETITION NO. 2014-013 BY HAWTHORN RETIREMENT, LLC TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 10.01 ACRES LOCATED ON THE EAST SIDE OF PROVIDENCE ROAD BETWEEN LAKESIDE DRIVE AND KUYKENDALL ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL,) TO INST(CD) (INSTITUTIONAL, CONDITIONAL.)

The scheduled public hearing was held on the subject petition.

Laura Harmon, Planning pointed out the property on the map showing Providence Road and Kuykendall. It is a 10.01 acre site. They are proposing to have a three-story dependent living facility with a total of 134 suites at 120,000 square feet. A dependent living facility, just to clarify, is a nursing home type facility with some independence, but it does have support on site, a central dining area, transportation, medical care and that is how it is differentiated from an independent living facility. You can see it is a fairly large site and you may not be able to see it, but there is a home on this site. It is directly across Providence Road from Charlotte Latin School which is over to the west and otherwise is in a single family community. Looking at the site plan for this, you can see there is a single central building pulled back behind parking off of Providence Road and Kuykendall, to the rear a large wetland, tree saved area as well as storm water facility. This is a little more detail showing the natural buffer and additional plantings on this site; existing trees to be saved, undisturbed natural areas. The site does reserve almost 3 acres of undisturbed tree save; preserving a number of trees and providing a fair amount of additional planting for the site. This is a view from the corner of Providence Road and Kuykendall Road but it is without the landscaping and streetscaping. What it really shows you is what the building would look like but understand that there would be landscaping and streetscaping trees in this area. This is a view from Kuykendall Road with landscaping and with the building back behind and this is a rear elevation view from the stream that runs behind the property and you can see the facility here.

The South District Plan does call for single family on this site. We have classified this as an institutional use and I think as you all know our plans do not identify locations for new institutional uses, though they do recognize institutional uses that already exist such as the Charlotte Latin School. We do look at these on a case by case basis and in looking at this particular petition, although it is inconsistent with the plan, we did think it was designed to fit into a residential setting, particularly because of the low impact with respect to noise and traffic. The concentrated footprint within the middle of the site with significant landscaping and buffering surrounding the building, it is located on Providence Road which is a major thoroughfare and Kuykendall Road which is a minor thoroughfare. Staff is supporting this upon resolution of outstanding issues and the outstanding issues that we have are technical in nature.

Mark Lowen, 3150 Kettle Court, SE Salem, OR said I'm with Lenity Architecture and I'm here on behalf of Hawthorn Retirement. I also have Wes Smith with me; he is our Civil Engineer and the point man on the design for this. Let's talk a little bit about the project and the site. A lot of it was covered in the staff report so I will be able to abbreviate on a few things. The best way to start discussing it is to talk about what the use really is and the best way is to talk about our residents. Our typical resident is about 80 years of age, in good health, they don't require medical assistance and that is where there is a little gray area here. So far as this being a dependent facility, what is dependent is the fact that we don't have kitchens within in our suites. That is why we call them suites and not apartments so all the service that they receive as part of their monthly rent includes meals, linen service, housekeeping, transportation. That is what our residents receive as their services; it is not a medical facility. Just so we are clear it is not medical staff on site. We find that about 80% of our residents live within 10 miles of the site, most are single, about 20% are couples. We find the tipping point for residents is about time to give up the car keys and that is probably one of the biggest features we provide is an on demand van service that takes them to church, to the doctor, to other appointments; wherever they need to be within the area. Van service, they sign up and it gets them there. It is time to give up the car keys and that is why we have such low impact traffic wise. They are moving there as ... and friends but they seek this lifestyle of choice, it is not a medical need. What the lifestyle provides is three meals a day, 7 days a week, served restaurant style in the central dining room, housekeeping, linens, social activities, physical activities. There is on site management 24/7. The management plan that Hawthorn Retirement has done and they've been doing this for about 30 years now, is a manager and co-manager that live on site 24/7 along with the additional staff that comes with different shifts. If there is an issue day or night there is someone on duty, there are pull cords in each room, bedroom and bathroom if there is a medical need of there is a concern they pull that and staff comes and checks on them right away. We've already talked about van service. The other amenities that we provide and I will show you some pictures in a minute. Chapel, beauty salon, exercise room, game room, library, coffee lounge and movie theatre. There are all kinds of amenities; about 30% of the building is what we call a common area where the amenities are. All the services, all the utilities except the phone bill is part of the month to month rent. This is not a buy-in, this is a month to month situation and the emphasis is on keeping our residents happy to keep our residents there.

This is the site plan and we will talk a little bit more detail. We've already talked about the tree save area in the northeast corner, different access points. One of the requests we had just to give you some views, this is inside the site; this is at the corner of Providence and Kuykendall; this is from Kuykendall and this is from the back side over on Lakeside Drive. We've had a really excellent opportunity; we've had two meeting with our neighbors. The first meeting, although there were 75 signed up, we had well over 100 people at the first meeting. The second meeting we had about 50 people at that one; we had a really good dialogue. I know the neighbors still have concerns and you are going to hear that in a few minutes. I want to tell you how we've progressed in regards to those concerns. I know about the three biggest areas that we've got; one is building mass and appearance, traffic impact and road improvements, storm water and environmental. I'm going to talk about building mass and appearance and I'm going to let my civil engineer talk about the other two because he has the expertise in those areas. So far as the building mass, what we do is we design our building to be very residential in nature. We intend to compliment and blend in with the existing area. Impact to the site improvements and mitigate by substantial setbacks and generous landscape and a big natural buffer all the way around the property. Staff alluded to that a little bit. What we have for setbacks from the building right now, 80 feet from Providence Road, 83 feet from Kuykendall, 274 feet from the easterly lot line to the nearest point on that side and 79 feet from the nearest point on the west. This gives you an idea of the setbacks and the distances to the nearest single family residential around the property as well. This also provides the site section to show you the elevation in respect to the surrounding property and the roads. This is the landscape plan based on conversations we had in our first meeting. We've beefed up the landscaping and the buffering substantially so far as generous separation; we added over 250 new trees. We added a lot of evergreen to both tree and shrubbery as well to provide a good buffer year round. The screening around parking, provide dense plants and graded slope areas to help prevent erosion.

Wes Smith, 301 McCullough Drive, said I'm with EMH&T Engineering and as far as the traffic is concerned we've had numerous communications with NCDOT and CDOT in regards to

Kuykendall as well as Providence Road. One of the key points is that we are actually limiting the delivery access for in and out of the site to Providence Road and we are also adding sidewalk along Kuykendall. This is just the image of the improvements that we are actually doing along Kuykendall. Right now along Kuykendall there is no designated left turn lane there and just to let you know, Kuykendall is set to be a minor thoroughfare. What we are providing along Kuykendall is we are actually improving Kuykendall from the center line to our side of the road for the full improvement of the thoroughfare. We are adding a left turn lane at the intersection of Kuykendall and Providence Road as well as a left turn lane into the site off of Kuykendall. Some of the trip generations that this site provides, as the zoning currently exists as an 11-acre site as a whole and I say 11 acres because there is actually 1 acre that is being held out for the current property owners for them to move their home. The current zoning would produce 33 lots for 300 total trips per day, 72 a.m. and p.m. trips. Our site produces approximately 272 trips, 31 a.m. and p.m., so it is approximately 57% less peak trips that are provided by this site so there is less impact to the traffic along Kuykendall and Providence Road. Again all service vehicles are being limited to the entering and exit off of Providence Road.

As far as the environmental and storm water concerns for this particular site I will run through the storm water management, some of the environmental concerns as far as plant life and downstream existing ponds. As far as the storm water management is concerned, the original intent of the design was to take the impervious area of the site and service it in one localized BMP and outlet it to an existing drainage channel which then goes down to two downstream ponds. We looked at the design further and basically revised what needed to be done and what you see in green on the picture to the right; we are going to take that impervious area to the intersection of Kuykendall and Providence Road and into the existing storm system there. We are essentially decreasing the impervious area that was going back to the existing drainage channel by 55%, so a considerable decrease there to help mitigate some of the concerns that the surrounding neighbors had. As far as environmental impact, we actually had a third party environmental scientist go out and do a wild life and habitat assessment as well as an endangered species assessment. Based upon both of these assessments it was concluded that this development would provide little to no impact to the downstream ponds that are existing. This speaks to that there was no endangered species that were found by this assessment. Also in terms of environmental impacts we are essentially saving about 30% of the site for tree preservation, no disturbed areas.

Mr. Logan said I'm going to scroll through these quickly just to give you an idea of what the building looks like. This is one that was recently completed and opened about six months ago. This is in relationship to the wetlands on that property; some of the details of the building. Again we try to be very residential in nature. The last thing we want to do is look institutional; this gives you an idea of what the interior spaces look like. Our seniors are very active; there is one and studio one and two bedroom suites.

Lance McAlister, 9444 Squirrel House Lane said I'm speaking on behalf of a group of concerned citizens and residents regarding rezoning Petition No. 2014-013. The petition is to rezone property at the corner of Providence Road and Kuykendall Road in south Charlotte from R-3 to institutional conditional for the purpose of building and operating a retirement residential living facility as Mr. Lowen just described. Our committee is a grass roots organization of concerned residents who are seeking the optimal outcome of this rezoning petition that maintains the residential look, the feel of our beautiful neighborhood, prevents disruption of the balanced ecosystem and insures any development around our community is appropriate, sustainable and consistent with land use standards and development policies. Our committee is comprised of representation from Providence Plantation, Lakeside Acres and residents along Kuykendall Road including the Country Lane Estates. The Charlotte Mecklenburg Planning Commission South District Plan was created to preserve, protect and enhance the character of existing neighborhoods. We totally agree with that and that brings us to tonight.

Through no fault of the homeowners of Providence Plantation, Lakeside Acres, Country Lane Estates and Kuykendall Road we are now here being asked to define why we think this property should not be allowed to be rezoned to institutional. To approach that ultimate decision we've asked ourselves the same questions that the City Council and Zoning Committee have a responsibility also to ask and answer. Those are; what is the benefit to the surrounding
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residential community in rezoning this land to institutional conditional for the use of building a retirement living facility? Is this proposed development suitable for the targeted residents, neighborhoods and community, and will this development have an irreversible impact on the fragile but stable ecosystem that has flourished in our community? We strongly believe that this property should remain R-3 and while a residential retirement facility may be an acceptable use for the land our only view of this plan is through the site plan and the site plan has been submitted twice and it is still not acceptable based on the following significant concerns. Number one, the structure is still too large and inconsistent with the predominantly one and two-story homes that fill our neighborhood. Traffic congestion will be increased based on a new type of traffic that will be required to support the facility and there will be tremendous impacts to the surrounding environment and ecosystem which are vital to our community. We are in agreement with the South District Usage Plan and Map, the area for proposed rezoning is clearly planned for residential properties as you can see here and as Laura mentioned earlier. Also around those neighborhood covenants explicitly state that buildings be limited to one and two-story residential development such as covenants and restrictions from neighboring Lakeside Acres and the Country Lane Estates. I think this is the bottom line, this is a massive structure; the structure will not be a one or two-story residential structure, it will be three-story, 120,000 square foot structure that is comparable to 134 unit apartment complex with a pitched roof and an additional 6-foot accent tower at the top of the roof structure. The graphic on the right shows the scale of the structure on the property and the scale in relation to the homes that surround the property. This will not be nestled in the landscape, it will be prominent. We've asked that Lenity consider a two-story structure and so far have been told that is not possible. This is one of the largest gaps we see in the current site plan.

Here you can see two aerial views that show the current corner in the top left hand side and you can see Providence Road and Kuykendall Road with the existing Bissell house there. The photo on the right is a very similar Hawthorn facility that is currently built in Summerville, South Carolina that just so happened to be situated on the property almost identically to the scale and position as the proposed site at Providence and Kuykendall Roads so you can see this will be a massive structure. What adds to the consistency of the neighborhood is based on the topography of the proposed rezoned lots. This corner is one of the highest points on Providence Road and definitely the highest point between Queens Road and the Promenade. The structure will be 45-feet high, clearly above two-story homes that surround it and higher in both elevation and stories than Charlotte Latin which has been limited to two-story structures only. Charlotte Latin is nestled nicely into the lots in which it sits. This lot will not be like surrounding homes; there will be cars and service vehicles in sight 24 hours a day surrounding by parking lots and lighting, noise and light pollution are unavoidable. This project as presented in the revised site plan will not resemble homes in our neighborhood no matter how much the developer attempts to incorporate various architectural elements. You can see here a couple of the facilities that are in different locations that Hawthorn has built.

In addition to the structure being too large we believe there will be traffic issues in an already congested intersection. Despite being a signalized intersection, this intersection becomes extensively congested, especially during peak hours. You can see the graphic there of cars that travel intersection at all hours of the day. The graphic from the next three slides illustrate several traffic scenarios that we are specifically concerned with. In this first graphic a left turn into the facility from eastbound Kuykendall when the westbound vehicles are collecting to turn onto Providence will be very difficult or impossible, especially during peak hours even with lane improvements. This next graphic illustrates the potential for congestion and accidents when traffic slows from 45 to 55 miles per hour on northbound Providence to accommodate a vehicle turning right into the property from Providence Road. It is already documented a 266% more traffic accidents at Kuykendall Road over a 5-year period than the closest signalized intersection at Country Lane. That is reflective of the already congested intersection that will only be exacerbated by a new type of traffic in a new type of traffic pattern.

The Lenity site plan states that all service vehicles will be required to use the Providence Road entry to prevent extensive service vehicle traffic on Kuykendall Road and we definitely support this; however this graphic represents the issues with service vehicles trying to make a U-turn on Providence to enter the facility from the Providence Road entrance. Service vehicles and

transportation buses will be too large to make a safe U-turn especially in front of traffic which is approaching at 45 to 55 miles per hour.

A third area of concern is the impact to the wildlife habitats and ecosystem that evolve in and around our neighborhood. We have two private lakes that are home to many unique species of plants and wildlife including 80 species of birds, such as the Peregrine Falcon, Red-tail hawk, Red Shoulder Hawk, Coopers Hawk, Barred Owl, 10 species of frogs including the gray and green tree frog. There is Mollusk, Flying Squirrels, a diversity of Lizards and that is just to name a small amount of those. Our concern is that a structure of this size combined with the removal of natural habitats and irrigation will disrupt a stable but sensitive ecosystem. The site plan has not stated explicitly the extraordinary measures that would be taken to protect the wildlife in habitants during and after construction. Lenity has conducted an independent wildlife assessment that Wes mentioned earlier; our concern is that the wildlife assessment was not comprehensive enough and did not involve any of the members of the neighborhood that actually live around and maintain these private lakes. The natural wildlife that surrounds our homes is an important and unique part of our neighborhood. We can't afford to be wrong about the impact.

Storm water runoff is another concern. We expect that extraordinary measures will be required to man the storm water runoff both during construction and post construction. As of now those extraordinary measures have not been documented in the site plan. We've laid out three significant concerns with the revised site plan and now we rely on the Zoning Committee and City Council to protect our property, to protect our environment and to protect our community. The land use and environmental services agency of Mecklenburg County defines the purpose of institutional zoning as to promote the development of major cultural, education, medical, governmental, religious, athletic and other institutions in a manner that protects adjacent residential uses. The retirement facility may be an acceptable use of the land, but based on the size of the structure, the potential impacts to traffic and the potential impacts to our natural resources that surround our neighborhood we strongly do not believe the current site plan protects adjacent residential uses, therefore we cannot support the rezoning request and we expect the Zoning Committee and City Council would not be able to support that rezoning request as well based on the current site plan. Our Committee has listed on the last page some recommendations of trying to get the look and feel to more of a residential feel of two-stories, providing more coverage of evergreens and designing landscaping that is more suitable for replacement of habitats, also adding a turn and deceleration lane on Providence Road.

In rebuttal Mr. Lowen said I think we all recognize what the concerns are. We are working with the neighbors to address those. We are not addressing them to the total extent that they want to and in fact there is a lot more that really I know should be done with regards to traffic. We are limited to what we can and can't do. Just as a matter of correction, the project in Summerville, South Carolina, in fact Wes and I were intimately involved in that one, comparative we are looking at 10 acres here and that was about 5 or 5 ½ acres so we are not looking at apples to apples on that, just as a matter of clarification. Other than that we are supportive of the findings of staff and we are working on the items that need to be cleared up and we will continue to work with the neighbors.

Councilmember Driggs said I'm interested, looking at the list of concerns that you raised. How far apart are you guys really? I guess the biggest sticking point is the size of the building, would that be right?

Mr. McAlister said I would say that is one of the biggest points, correct. Keep in mind that a lot of the things that are to be addressed are still in that site plan approvals process so some of this stuff, in fact lighting for instance is something that doesn't come until later in the process.

Mr. Driggs said it just seems to me that a number of these shouldn't be too difficult and therefore it does come down to a very fundamental question though and the traffic issues for example are not going to be completely eliminated by virtue of contouring the building or fitting it into the landscape better. It looks to me like you've got a couple of categories and perhaps some of them need to be discussed with the City or with C-DOT as opposed to developers. How much smaller does this building need to be for example in your estimation?

Mr. Lowan said since our neighborhood is one and two-stories we think two-stories is the target so that would be our recommendation. We understand that is not an option yet from Lenity.

Councilmember Howard said what is your parking ratio for your building?

Mr. Lowen said the ratio is about .6 spaces per suite and I think that is a little more than what is required within the code, but we find that number works very, very well and keep in mind that Hawthorn and their developers have been doing this for 30 years and that seems to be a very practical for staff, for residents and for visitors.

Mr. Howard said do you actually have any other developments in Charlotte?

Mr. Smith said Chad's Landing is at the intersection of Prosperity Church and Dearmon.

Mr. Howard said would you share that with us through e-mail; address and location?

Mr. Smith said absolutely.

Mr. Howard you spoke about the trips a little while ago. Can you explain what you were saying the current zoning for 33 houses which is what you are saying, is this really buildable for 33 homes?

Mr. Smith said absolutely. From a 33 home aspect, it doesn't have to be overall 10 acres and you guys have seen as many rezoning's as I have that squeezes down as many homes as you can, multifamily, single family so with retaining walls, absolutely you could develop it with 33 homes.

Mr. Howard said the trip generation was what I was wondering. Give me those numbers again. The way it is laid out right now it can do how many trips and then what are you saying your trips are?

Mr. Smith said for a 33 lot single family subdivision it would produce 380 trips per day, 72 a.m. and p.m. peak hours. This development based on the ITE manual would produce 272 trips per day and 31 a.m. and p.m. peak hours so it is a 57% decrease in a.m. and p.m. traffic.

Mr. Howard said the trees; we saw the drawing where you showed kind of the way it would look without trees and then you added trees. Was that drawing representative of the caliber of the tree or are you thinking about smaller trees and then them growing out?

Mr. Lowen said that is actually a combination of the existing trees there with additional trees added. What happened was when we had our first meeting with the neighbors they said we want to see what the building looks like, so we peeled back the landscaping and provided an opportunity to see what the entire building would look like. That second picture you can see how the trees buffer.

Mr. Howard said I saw it, it is still kind of representative with the way that the building disappeared with a certain caliber of tree and I was wondering if you were committed to that caliber you were committed too or if that was a smaller tree.

Mr. Lowen said if you wanted us to upsize we would work with that, absolutely. I think also along with that, one thing that our landscape architect likes to always emphasize is blending the deciduous and the evergreen because if you have all deciduous you lose four months out of the year where there is no leaves so it is having that balance. In fact we worked with the property directly north in regards to that and that neighbor's concerns we added some additional evergreens for Mr. Bracket to provide him with some extra buffering because his residence is actually the closest one to our property line.

Mr. Howard said I was really talking about the way it looked around Providence Road which is where you are really saying you are going to mass it. I'd love to know more about what you are talking about as far as caliber of tree that is there and what you are talking about adding.

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Mr. Lowen said we are in the process of updating the landscape plan for the submission on Friday and I'll see if we can get that specific information in there.

Mr. Howard said I want to go back to the neighborhood real quick; you mentioned new type of traffic. Tell me what you mean by new type of traffic.

Mr. McAlister said the introduction of the service vehicles and buses; when they mentioned bus on demand, that is not a traffic type that is frequent to our neighborhood and in fact as you go up Kuykendall Road it is prevented to trucks by permit only so we don't get a lot of trucks in our neighborhood; we don't get service vehicles; we don't get courtesy vans that are those 15 to 20 foot vans. That is what I'm mainly talking about.

Mr. Howard said you mentioned the covenants, is this property actually part of the neighborhood covered by those covenants?

Mr. McAlister said we are still looking at that and I believe Mark said no. We are going to keep looking but we haven't proven that they are part of that covenant.

Mr. Howard said that's it for now and if you will send me that information via e-mail that will be great.

Councilmember Smith said this is for the petitioner; question about the service truck delivery and having the entrance on Providence Road. What are your enforcement mechanisms and assurances? I'm trying to read from the site plan to see what are your assurance that there are going to be no trucks going down Kuykendall and I'm trying to figure out where your service area is and I can't read it on this so if you could help walk me through it.

Mr. Lowen said the service area is in the upper left hand side of the building. You can see it if you are looking at the site plan. What we are proposing and what we've done with other facilities in the past is the specific providers and suppliers that we contract with; we limit them as to what hours they can and cannot deliver and where they can make their deliveries. Along with that we've included signage on Kuykendall indicating that service deliveries don't come from that point. Am I going to prevent the mailman from coming in that way, no? Am I going to prevent the UPS driver, we will try to encourage him not to, but for those suppliers and those people who make deliveries to us that we are contracted with that will be part of the management plans, when they can access and where they can access. We've done that in a lot of other facilities too.

Councilmember Driggs said first I'd like to comment Mr. McAlister for his work on behalf of area residents without taking sides at all. It is very helpful to the District Member to have all of the input pulled together this way so thank you for that. My question was the trips that we are talking about, presumably the mix of vehicles is different so are we counting a trip is a trip is a trip whether it is a car or a truck; what does the traffic look like in a facility like this?

Mr. Smith said the traffic memo that was submitted has a detailed breakdown of what service vehicles they provide and the number of trips those provide. The numbers that we provide for the ITE manual, the 272 trips, that is considerably more than what a facility this size from their national numbers that we pulled together over a period of time produce. The national numbers from their similar facilities is about 212 trips, but we went with the ITE manual and if you look at the memo that was submitted with the package the trip generation is similar; retirement residential residents that you are looking at, 18 employees, 4 trips per day at 72 strips; visitors is about 20% of the residents so that is 54 trips; residents less than 25% of the residents actually own and maintain their vehicles on site. Shuttle service is approximately 3 or 4 excursions per day for total trips of 8, deliveries/service trips 5 trips per day.

Councilmember Phipps said this question is for the neighborhood. On page 17 – 19 you detail various environmental impacts associated with potential development under this proposed rezoning. Are you suggesting then that if you retain the R-3 and built single family housing that these environmental impacts would not be a concern?

Mr. McAlister said they would still be our concern but it is the size of the facility and the disruption to those areas that the habitats exist in now that we would be concerned with now. We've got to tackle that at that point in time, but this is what we are tackling now.

Councilmember Lyles said this is for the petitioner; you said your site management, two people for the 24/7.

Mr. Lowen said two management couples that live on site.

Ms. Lyles said four people on site. How many people do you employ?

Mr. Lowen said 18 positions.

Ms. Lyles said all 24/7?

Mr. Lowen said no, other than the four that are on site management, obviously the majority of them are morning shift, lighter in the day shift, typically little to none for the night shift, but keep in mind that what they do is they stagger their work with respect to staff members coming in early. The first thing they do in the morning is food prep and food service then they switch over to housekeeping.

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.

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(Council District 2 – Austin)

ITEM NO. 23: HEARING ON PETITION NO. 2014-015 BY ST. MICHAEL & ALL ANGELS TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.73 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF WEST SUGAR CREEK ROAD AND DAVID COX ROAD FROM NS (NEIGHBORHOOD SERVICES) TO R-3 (SINGLE FAMILY RESIDENTIAL.)

The scheduled public hearing was held on the subject petition.

Laura Harmon, Planning said this is the property that we are looking at here, currently zoned NS. Here is David Cox and West Sugar Creek Road. You can see that the site is currently vacant. The Northeast District Plan was amended by the previous neighborhood services rezoning and reflects that rezoning with a recommendation for retail and office uses. Prior to the rezoning that plan called for single family residential on that site. Staff is recommending approval of this conventional rezoning while it is inconsistent with the Northeast Area Plan, it is consistent with the previous recommendation of that plan. This will allow all uses in the single family residential R-3 District and we have no outstanding issues.

Pamela Hunter, 715 5th Street, Suite 106 said I'm the Senior Warden of St. Michael Episcopal Church and quite frankly we present to you all the fact that we want to build a church. St. Michael and All Angels has a long history in the Charlotte-Mecklenburg Community, having been established in 1882. It is the oldest historical African American Episcopal Church in this area. Closely associated, as some of you may remember, the old Good Samaritan Hospital that was here in Charlotte and was one of the first private hospitals on the eastern seaboard where African Americans could obtain medical treatment. I am here in favor of this petition and there are several members of the congregation of St. Michael and All Angels that are present and I would ask them to stand in support. We envision erecting approximately a 15,000 square foot church piece of property with a 300 person sanctuary, fellowship hall, small chapel, class rooms for outreach purposes. The traffic will enter and exit from Old Sugar Creek Road. We've determined that would be the least invasive with respect to traffic purposes. There is approximately 1.67 acres of property on the site adjacent to Sugar Creek Road which will remain

wooded. We envision placing walking trails on that piece of property, benches etc. for recreational and relaxation purposes. We look forward to this; it has been a long journey of St. Michael and All Angels. Just for historical purposes and a point of information the original St. Michael and All Angels was erected somewhere close to the 50-yard line of the current Panther Stadium. With urban renewal in the 60's the church was torn down, ultimately was relocated to Hovis Road. We sold that property, bought property at the corner of Mallard Creek and Ridge Creek Roads thinking we could relocate there, not knowing the I-485 expansion was coming through. Our property was seized through eminent domain and we were able to take the money from the purchase of that property from the State of North Carolina and purchase this property at its current location. We ask your support in this petition and we thank you for this opportunity and presentation.

Councilmember Fallon said you have an AME Zion Church exactly across from you so you will be on one corner and they will be on the other?

Ms. Hunter said yes, and the way the AME Zion Church is located they would come directly onto David Cox Road going to and leaving their church facility. We would not interfere with them; while our church would be facing David Cox Road, we would be entering and exiting on the side of Old Sugar Creek Road.

Ms. Fallon said have you found out if there is any interest by the state of widening Old Sugar Creek Road since it is a farm to market road?

Ms. Hunter said I don't have that information available to me at this point in time.

Ms. Fallon said are you going to have a facility for the homeless there?

Ms. Hunter said no, we do plan to do outreach but primarily our outreach would entail after school tutoring type facilities; English as a second language course and that type of thing. We don't anticipate having any additional structures such as to house the homeless.

Ms. Fallon said and the parking will be behind the church?

Ms. Hunter said yes ma'am it will be.

Councilmember Mayfield said this question is actually for staff. When the Northwest District Plan was first approved in 1996 there was an anticipation of mixed use, single family, and retail. Do we have anywhere what the anticipated tax generation was going to be for this land so that we have a clear idea of what the potential tax impact that we will not be seeing if we move forward with this particular petition since it is going back to a 1996?

Ms. Harmon said I'm sorry we don't track that information. We look at the appropriateness of the land use for the property, but not the tax value.

Councilmember Lyles said as a person that is a proud heir of the Good Sam Hospital and nurses, Ms. Bootsy and Ms. Elder and all those ladies. I have hanging in my closet the cape that they wore with the gold braids on it and I'm just honored to be a part of any community that was serving. Those women went through a lot to be really great stewards in this community and provide healthcare for people that were under served and thank you for that legacy and thank you for this great memory.

Councilmember Phipps said I have questions for staff. So this is essentially an institutional use?

Ms. Harmon said this is a request for a conventional rezoning so they could develop anything allowed in that R-3 single family residential district which allows a range of institutional uses as well as single family housing.

Mr. Phipps said but that is not currently allowed in neighborhood services?

Ms. Harmon said they have a pretty detailed neighborhood services conditional plan that would not allow most of what is in R-3.

City Attorney, Bob Hagemann said just following up on that I just want to remind Council this is a straight up rezoning so when you vote you have to be satisfied that the property is suitable for all the uses allowed in an R-3 and not just the church that is contemplated.

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

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

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(Council District 1 – Kinsey)

ITEM NO. 24: HEARING ON PETITION NO. 2014-023 BY EDGELINE RESIDENTIAL LLC TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.15 ACRES LOCATED ON THE SOUTH CORNER AT THE INTERSECTION OF NORTH CALDWELL STREET AND EAST 16TH STREET AND GENERALLY SURROUNDED BY EAST 16TH STREET, NORTH DAVIDSON STREET FROM MUDD(CD) (MIXED USE DISTRICT, CONDITIONAL,) TO MUDD(CD) SPA. (SITE PLAN AMEDMENT)

The scheduled public hearing was held on the subject petition.

Laura Harmon, Planning said the property is in the Optimist Park Neighborhood, this is North Caldwell, North Davidson, 16th Street and 15th Street. There was a 2006 rezoning for this property to allow 150 for sale condominium units and 20,000 square feet of retail and office. To date you can see on the aerial that two buildings have been built. We think there are 36 residential units in those two buildings. This rezoning would allow the remainder of the property to be built in a slightly different manner. It would reduce the total number of unit's from 150 to 120. It would allow for rental housing as well as for sale housing. One site plan change is moving on 16th Street from three buildings to two buildings. These are elevations for the additional buildings to be built on the property. One thing that we are going to continue to work with the developer on is the treatment along 16th Street on the ground floor level as this is directly across the street from a single family residential neighborhood. Looking at the land use plan for this area, the property is within ¼ mile walk of the proposed Parkwood Station on the Blue Line Extension and we are calling for transit supportive development through the Blue Line Extension Transit Station Area Plan and staff is recommending approval of this petition upon resolution of the outstanding issues which are design related and some additional minor technical issues.

Chris Needham, said I am with 759 Ventures and we are excited about this property we purchased it last year. We purchased another similar project at Central Avenue and Plaza/Midwood also last year and we are ready to repeat the same success we've had at that project here at Edgeline. That project is called The Vine Apartments on Central Avenue; it was a similar project at Edgeline which is a failed broken condo development. We purchased and what we are proposing here is to make this a more viable apartment project. We had to ask to change the development standards to for rent and we also reduced the number of buildings from three to two, which helped us add additional parking and to add some amenities such as the pool deck. We did have a neighborhood meeting a few folks were in attendance; we had a good meeting. Nothing really arose from that meeting except how could the neighborhood be involved with the community or the community be involved with the neighborhood and we will have on site management and they will be available to get the residents involved in any community activities.

Councilmember Kinsey said that is in District 1 so I have a couple of questions. I go occasionally to the neighborhood meetings when they have them; they don't have them on a regular basis yet. Would you have a place for them to meet?

Mr. Needham said that was one of the questions and we will have a community room available and it is really for the residents, but the on-site property management will be open and receptive to work with the neighborhood to share that meeting room on occasions.

Ms. Kinsey said I didn't understand which apartment complex on Central Avenue.

Mr. Needham said it was the Vine; it was once a condo deal as well and it fell during the downturn in 2008. This project is very similar in nature.

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

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

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(Council District 1 – Kinsey)

ITEM NO. 25: HEARING ON PETITION NO. 2014-024 BY STONEHUNT, LLC TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.71 ACRES LOCATED ON THE WEST SIDE OF LUTHER STREET GENERALLY SURROUNDED BY CHERRY STREET, MAIN STREET, BAXTER STREET AND ELI STREET FROM UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL,) TO UR-2(CD) SPA, (SITE PLAN AMENDMENT.)

The scheduled public hearing was held on the subject petition.

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

Laura Harmon, Planning said this is in the Cherry Neighborhood and I think you went through the specifics. This is Section A of the rezoning and Sections B and C. You can see that it really is fairly central to the Cherry Neighborhood and you can see the housing around it. They are requesting a total of 43 units, 29 single family units and 4 units and 2 duplexes at an overall density of 7.53 units per acre. The current zoning for this property allows 63 townhome units at a density of 9.3 units per acre. You can see the layout they are proposing of primarily single family lots; this is for site A and you can see the single family lots for this area. For site B you have duplexes on either side of Torrence Street and then single family lots for the remainder of the property. These are the proposed elevations for single family homes and we have worked with them on treatment of parking which is really an issue that we have a lot of time in as well as the character of the housing to fit into a historic neighborhood. The adopted future land use reflects that earlier rezoning of residential at less than 10 units per acre. Staff is recommending approval and this is consistent with the Midtown/Morehead/Cherry Area Plan recommendation that while it reflected the previously approved multifamily zoning it did acknowledge that as part of that conditional rezoning did not occur residential at 8 dwelling units per acre or less would be appropriate, which this proposal is. We do see this as being very compatible with adjacent uses in the neighborhood. The issues that staff has at this point in time are minor design issues and other technical issues.

Anthony Hunt, 374 South Torrence Street said I'm Managing Partner of Stonehunt Development and I want to thank God first of all for making it possible for me being here. Thank you all for this opportunity to share with you our Phase 2 plan for the Cherry Community redevelopment. With me tonight I have Robert Brandon which is our Planning and Zoning Consultant. Mr. Tom Wright with NarmourWright Architects representing the architectural perspective and presenting that tonight, then we have Mike Kenny for technical questions as it relates to site plan and engineering. With that I would like to turn it over to Robert Brandon so he can talk with you about the proposal, the rezoning and the small area plan.

Robert Brandon, 9355 Bonnie Briar Circle said the reason we are here is our petition is a site plan amendment from the previous approved plan which is a UR-2(CD) plan. The UR-2(CD) plan primarily was an actual multifamily townhouse development but with the approval of the Cherry Area Plan in February 2012, the actual plan emphasized that the use should be more residential single family rather than multifamily; however that is what we intend to do. This is the overall site for our proposal. This is part of the Cherry Small Area Plan and the primary concern is about Main Street development. The Main Street development is the key to that Cherry Plan. It is the heart and soul of Cherry as it runs through the heart of the Cherry Neighborhood itself. We are proposing rather than a 63 unit multifamily development, we would propose a 39 single family development on individual lots and two duplexes. The duplexes would be scattered throughout the site and it hasn't been identified per se yet, but there will be two duplexes within that development. The other concern we have is the concern of the actual community design. The design we have been sharing with you is we want to make sure that what we are proposing to build will be consistent and blend in with the existing Cherry Community. I have elevation plans that I will provide you showing how those plans are as shown. You will see that those are bungalow type development similar to what you will find in the Cherry neighborhood today. This is the current approved site plan that consists of a multifamily development of 63 units. That is the change. We are changing from this type of multifamily development to a single family individual lots with two duplexes.

Mr. Hunt said a correction; instead of 39 this rezoning petition speaks to 41 lots and 43 units as a correction. Stonehunt initially started with Phase I which was the development of Cherry Gardens. That was a partnership in the leadership of Stonehunt with the affordable housing group and Charlotte Housing Authority; a very successful project. We actually provided housing for 42 seniors and the project won a number of awards and we thank Council for their support for that project. We are now talking about Phase 2 and as Mr. Brandon mentioned, we are shifting from a 63-unit townhome development project to a single family project. That single family project shift is mainly because it is more consistent with the community's desire for single family housing and a variety of other things that we will get into a little bit later.

In an effort to meet Planning staff's requirements and also to meet the requirements and objectives of the community we end up coming up with two plans. The first plan you will see here, we will call that Plan A. Plan A is a 41-lot, 43-unit development project. This plan articulates duplexes as you know on the Torrence Street area, two duplex units with a pass through of Main Street. Our original proposal shut off Main Street, closed it off and also had a throughway to Luther Street. We are now proposing to let that Main Street access road remain and this particular plan shows a throughway to Luther Street. This particular plan provides for two duplex units, connectivity through Main Street from Main Street to Luther, 41 lots, 43 units, and significant tree save area which is located in this area here. This plan has not been well received by the community. The community is not in favor of closing off the street which we all agree that should not happen and would not happen. They are not in favor of this connectivity for several reasons; however this plan is consistent with all zoning ordinances similar to the one you will see in a few seconds. Some of the concerns that we have is there is a Ms. McCloud lives on this lot and if that street goes through it will be within 10-feet of her property. I believe she has a bedroom on that side and I think it would be a hardship on her for this proposal to go through; however we need to present this because this is the plan that meets the ordinance and staff is in support of. However; we have another plan that the community is in support of that doesn't carry this street through which I will show you in a minute. For orientation purposes this is the Senior Center here that we developed 4 years ago; Main Street, Luther Street, Avant Street and Eli Street.

Moving to Option 2, this proposal seems to be favored by the community organizations and the residents for many reasons. One, again this proposal has 41 lots, 43 units and allows for residential access here and this is also a cul-de-sac so all the units have access here without punching through to Luther Street. There is the opportunity for two duplex units that is consistent with what is along Luther Street at this time. It also has significant tree save in this area. It is consistent with the zoning ordinance and it does not negatively impact the residents. We are fine with either one of these approaches. One has staff's support and one has community support. We want your support and we hope that you will find that in one of these decisions.

Tom Wright, 127 West Worthington Avenue said I am the architect and trying to design a product or be in charge of the designs that would be what we thought would meet the Midtown/Morehead/Cherry Area Plan in terms of the intent of the design. That design which we would hope would enhance the pedestrian experience with new sidewalks and street trees. Tony went over the fact that there was a lot of tree save areas, common areas that would allow for that where there is no storm water detention. We want to make sure we have the traditional designs of the neighborhoods like Cherry and Plaza/Midwood and also Dilworth. The intent is for us to have a variety of design, a lot of elements that would be in harmony with the neighborhood. All the homes will have porches or stoops that will be out 8-feet or more. The houses are clad in combination of brick and stone and siding and there will be no vinyl siding. The raised foundations will be brick or stone with no exposed CNU or block. The house elevations as part of the negotiations, has no two-car garages on the front. All the two-car garages will be on the side street.

Sylvia Bittle-Patton, 1623 Luther Street said I am a native resident of the Cherry Neighborhood and I'm here tonight on behalf of the Joint Leadership of Cherry to oppose this petition as submitted by Stonehunt LLC on the grounds that it is inconsistent with and/or violates the spirit and letter of the following: The original rezoning application for this master project, Petitions 2007-007, Petition No. 2007-128 as presented by Stonehunt to the Cherry Leadership and stakeholders and the Charlotte City Council in 2006 and 2007. The Cherry Small Area Plan as presented and adopted by the Charlotte City Council in 1993. The Midtown/Morehead/Cherry Area Plan as adopted unanimously by City Council in 2012. The North Carolina Fair Housing Act as recently amended by the inclusion of the Affordable Housing No Discrimination Act. The Cherry Neighborhood Strategy Area Urban Renewal Plan per the covenant agreements and deed restrictions with the City of Charlotte and the United States Department of Housing and Urban Development. The City of Charlotte 2011 through 2015 Consolidated Plan. The Charlotte Mecklenburg 10-Year Plan to end and prevent homelessness; primarily in relation to the focus area prevention and the Federal Fair Housing Act including Section 109 of Title 1 of the Housing and Community Development Act of 1974. Given the fact that over time all of this property was purchased and/or rehabilitated with financial assistance from HUD's Community Development and Block Grant CDBG Program and executive order 11063, given the fact again that all of this property was obtained and operated using federal funds. We are asking you to show your support for Cherry by standing with us in opposition to this petition and the petitioners.

Some of you around the dais may recognize that many of us who stood with Stonehunt in 2006 and 2007 are standing against them this evening. We want to send a strong message to Mr. Stoney Sellers and Mr. Anthony Hunt the Managing Partners of Stonehunt LLC, that we the long-term stakeholders of Cherry will not stand by silently and allow them to make false promises to our residents, neighborhood leadership and religious leaders. We expect to hold them fully accountable and ask that you; the leadership of this City, do the same. At this time I would like to ask those Cherry Neighborhood Stakeholders, including residents, neighbors, friends and other supporters who are standing with Cherry against this petition to please stand.

In addition we have collected today almost 1,000 signatures opposing this petition and will submit these to you before the decision in April. As many of you already know Cherry was first platted in 1891 by Mr. & Mrs. Myers as a neighborhood to provide homeownership opportunities for working African Americans. It is one of Charlotte's oldest neighborhood and second oldest surviving black neighborhood, second only to Biddleville. This year Cherry proudly celebrates 123 years of history. We are also remembering the wonderful life of our oldest resident Mrs. Ida Rainey who was 102 years old and still lived in Cherry with her family. Mrs. Rainey died on this past Friday, but we will always remember how she always supported Cherry and if she were here tonight she would be standing here with us.

In the interest of time we have organized the presentation to first provide you with some contextual information about the land because we feel that discussing land use without first considering the land for which the rezoning would occur would not allow you to fully be informed about this petition. In the late 1970s the Cherry Community Organization (CCO) with the assistance of legal services of Southern Piedmont became a community development

corporation of CDC. Soon afterwards CCO again, with the assistance of legal services of Southern Piedmont and the City of Charlotte developed what was called the Cherry Neighborhood Strategy Area Urban Renewal Plan that in short would allow CCO through an agreement with HUD and the City of Charlotte to use millions of dollars of federal HUD funds to purchase properties and land from absentee property owners, rehab the properties as needed and rent them out as affordable housing units. Subsequently CCO continued to receive millions of dollars of federal funds including CDBG dollars over the years to rehab and maintain the properties in addition to purchasing additional properties and parcels of land throughout Cherry. All of the properties that are included in the petitioner's site plan were a part of Cherry Strategy Area Urban Renewal Plan and were purchased solely with federal funds. In addition it was an understood agreement between CCO, the City of Charlotte, HUD and the former absentee property owners who sold their land that the properties would always remain as affordable housing. In fact the overall Strategy Plan was touted as a national model and was seen as a positive alternative to the more traditional approaches of urban renewal. In 1992 the City of Charlotte engaged in a small area planning process with the Cherry Community. The City of Charlotte Planning staff designed, implemented and facilitated the process with a study group consisting of Cherry stakeholder's representatives. The Charlotte City Council approved the Cherry Small Area Plan in January 1993. The recurring theme throughout the plan focused on affordability. In fact the plan states that if current trends continue in Cherry the City will lose an important resource, in part because of the role that it has had and should continue to have in providing affordable housing opportunities for low and moderate income families, and the plan further states that one of its primary goals is to upgrade and maintain Cherry as an affordable residential community. The plan also recommends rezoning throughout the community to densities of R-8 or R-6 to reflect a more compatible scale of development, so subsequently corrective re-zonings were done throughout Cherry in accordance with the recommendations of the plan.

In 2011 Cherry participated again in an area planning process. For one year we worked with City staff and stakeholders from Midtown and Dilworth/Morehead area to develop the Midtown/Morehead/Cherry Area Plan. The MMC Area Plan was unanimously adopted by the City Council in 2012. Again, the Midtown/Morehead/Cherry Area Plan in 2012 pretty much said let's preserve Cherry's existing character, let's continue providing viable affordable housing opportunities, let's keep existing homes and infill with compatible homes on vacant lots and it also said that if the Grove at Cherry Development does not move forward future development should be at up to 8 dwelling units per acre. So again back to the corrective zoning classification. Again with this particular plan the theme was affordability and lower densities.

In 2005 and 2006 CCO and Stonehunt LLC established a relationship. Stonehunt acquired the majority of CCO's properties, 12 to 14 acres and 63 units way below market rate. Stonehunt made a commitment to CCO and residents to provide one to one replacement housing in Cherry to all current CCO tenants, approximately 52 to 58 residents. 2007 Cherry Leadership and residents supported Stonehunt rezoning petitions based upon affordability and replacement housing promises. In 2007 – 2008 Stonehunt demolishes and/or sells 40 plus affordable housing units, single family bungalows and duplexes, some of which had been recently rehabbed using federal dollars. In 2014 Stonehunt LLC submitted current rezoning application, Petition 2014-024 and the community noticed that few, if any allowances for replacement of affordable housing was being made and that the remaining affordable housing units, 18 to 20 with former CCO tenants were going to be demolished. It is on that particular property where the single family housing is proposed to go. Stonehunt denies making promise of no displacement of any former CCO residents so what we would like to do is actually help them remember the promise that they made. At the Cherry briefing conducted by Stonehunt as submitted with the Plan to the City of Charlotte 2006-2007 the question was asked during the meeting.

Mr. Hunt said quite a bit was said and I will just go through some notes here and I have some documentation to support what I'm about to say. On December 20, 2004 Stonehunt letter of agreement between Stonehunt and the Cherry Community Organization, Stonehunt committed to a 100% replacement of the current occupied senior housing units. We have the documentation that was signed by their President and board members in attendance of that meeting, so we can furnish that to you. It was a non-disclosure agreement so there is a little twist as to how we can provide you with that. It stated what our commitment to affordable housing was and it was
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100% current occupants of the seniors. When we acquired the properties we also acquired the city condemning a large number of those units that we had to tear down because the City condemned them. Number two, per February 18, 2008 zoning minute meetings, Book 126, Page 933, Stonehunt has remained consistent with all the commitments to affordable housing at 10 to 15% of our project. You can pull that document up and I have a copy here if you would like me to pass it around. Three, Cherry Gardens – Stonehunt developed the 42-unit Cherry Gardens Apartment facility that is a three level structure that has 42 units. All the units are accessible, all the units are available to seniors and all the units are affordable. It has a waiting list now and it has won numerous awards. This facility has administrative spaces, computer rooms, centralized individual storage spaces. Cherry Gardens is a success by all standards and has won several awards. 100% of the units developed in Phase I of Stonehunt's development plans were affordable and are affordable to this day.

Councilmember Howard said Ms. Bittle if I could get you to come back down; we have some real strict rules about how we do this. I'm really interested in you explaining that very last slide that you had up, it went down before I could read it all and I was wondering if you would put that back up and if you would take as little time as possible to explain what you were saying. I want to ask you where is this coming from. Are these minutes from or who kept these minutes?

Ms. Bittle-Patton said Stonehunt.

Mr. Howard said these are official minutes submitted to the Planning?

Ms. Bittle-Patton said to the City Council during the rezoning hearings. These are the notes from the Community meeting. If you notice it says the overall plan proposes 65 units and although the current number of residents varies month to month there is an estimated 54 to 58 residents that we are planning for. What we can't control are the tenants that may be renting from an absentee landlord so yes, there may be displacement, but not our current tenants.

Mr. Howard said are you counting when you say they didn't replace one to one, the 42 in the Cherry Gardens Development?

Ms. Bittle-Patton said not counting that because only 10 people from the community went into Cherry Gardens.

Mr. Howard said normally one to one replacement means that you are replacing the unit, not necessarily providing something for the residents so in this situation you could argue that they did 42 of the 58.

Ms. Bittle-Patton said I understand how they kind of do that math, but if you look at their direct quotes they are saying all current CCO residents at the time of sale would have housing and that has not occurred.

Mr. Howard said Laura right now the current zoning will allow for 63 townhouses, is that right?

Ms. Harmon said yes, that is correct.

Mr. Howard said which is 9.3 units per acre and they are going down to 39 units which is 7.5 units per acre. That sounds like a good thing to me and I just want to say that. As far as the HUD issues, I think our job tonight is to figure out land use. If there are HUD restrictions on that property I think if the City had anything to do with it that is another department and I was wondering if the Neighborhood and Business Services Department has been engaged in this conversation about the appropriateness. Land use I know has nothing to do with that, even if it was affordable and that was a requirement they would just have to make the single family houses affordable. Can we find out anything on this whole HUD thing? Mr. Carlee I guess that would be you since nobody else is here with that Department.

City Manager, Ron Carlee said we will research that and be able to tell you hopefully definitively.

Councilmember Driggs said I had similar concerns to Mr. Howard. I think we've got a land use issue and then we have a lot of disputes on points of fact and potentially legal matters. It would help me, City Attorney, if we could separate which things are properly considered by us as a zoning decision and which issues are perhaps not pertinent to the zoning decision as such and whether we are constrained in any way because of some of the suggested breaches of perhaps legal obligations from making a decision. I don't know whether you can advise tonight on that, but I'm just saying that is something I would like to know before we have to make a decision.

City Attorney, Bob Hagemann said I think it builds on the request just made of the Manager. We will work together to separate those issues and help you through your decision making process on this petition.

Councilmember Smith said the petitioner said there was a petition that was acceptable to the neighbors, but not acceptable to staff. I'm curious as to why it wasn't acceptable to staff.

Ms. Harmon said it really actually relates not so much to our zoning ordinance but our subdivision ordinance and our general policy that has really focused on connectivity and when we know there is a connection that can be made we really have very limited conditions when we are supporting cul-de-sacs. It is really related to the design of that street.

Mr. Smith said what is the plan that the petitioner said was acceptable to the neighborhood? Is that acceptable to the neighborhood?

Ms. Bittle-Patton said no it is not acceptable to the neighborhood. CDOT had come out and actually I have spoken with Planning as well as CDOT and what they said is that if the petitioner were to split the parcels up it would not awaken or force the access or cut-through street rule and that is what would be more acceptable to the neighborhood.

Mr. Smith said the cul-de-sac I assume would be acceptable to the neighborhood or not?

Ms. Bittle-Patton said no, the cul-de-sac is the lesser of two evils.

Mr. Howard said right now it is vacant. I pulled it up and there is nothing on that property now so it will be something and I guess that is what I was saying a little while ago about like the idea that it is less dense than the multifamily that is allowed there now. Follow me; take everything else out, Stonehunt and just the rest of it, land use wise it will be something. Is single family not acceptable or would the neighborhood prefer multifamily?

Ms. Bittle-Patton said the neighborhood would prefer affordable multifamily. That is what was there.

Mr. Howard said not affordable but just multifamily?

Ms. Bittle-Patton said the neighborhood could do single family, but affordable single family. That is what was there, multifamily; so it hasn't always been vacant.

Mr. Howard said I got you on that but land use wise is there a problem with it being single family opposed to multifamily?

Ms. Bittle-Patton said no problem as long as it is affordable.

Mr. Howard said I promise you I'm clear on that one.

Ms. Bittle-Patton said I'm glad because you keep asking the same question. We are fine with single family or multifamily.

Mr. Howard said going along that line the connectivity issue, forget who is developing it, if it is single family and if the connectivity issue popped in, right now the current plan has that street connecting through and I heard it potentially gets really close to a house, so is the neighborhood if you had affordable whatever, do you want the connection?

Mr. Bittle-Patton said we do not want the connection and actually we have submitted a proposal to oppose that with CDOT. Actually we will be submitting over 1000 signatures for that as well. We don't want the connection on that. That actually would run past one of the houses that was a part of the Bank of America affordable program that we did and it was just built in 2000.

Mr. Howard said given the way that property is laid out though, it kind of bows out and the lots get pretty big there so I think the cul-de-sac was created to take advantage of the property, so in that situation you are not okay with the cul-de-sac, you had rather just be lined homes, no connectivity.

Ms. Bittle-Patton said as we said the cul-de-sac would certainly be the lesser of two evils.

Ms. Howard said you are okay with that potentially?

Ms. Bittle-Patton said we are potentially in comparison, exactly.

Councilmember Kinsey said should I say I hate cul-de-sacs? I think they are dangerous. The connectivity, on one of the sheets; the one that is cross-hatched showing the property, it is cross-hatched over the street that is supposed to remain open. That concerns me. I see what staff gives me and I want to make sure it is correct. My understanding is that the street that was going to be closed is no longer going to be closed; I don't want it shown closed on anything that I'm looking at and it is shown closed on this with the cross-hatch.

Ms. Harmon said we actually because the zoning goes to the center line in streets, we shows it from a zoning perspective but no their proposal keeps that open. They would have to come back through you all with another abandonment process because of the way that was set up, it has expired.

Ms. Kinsey said I understand how it goes to the middle of the street, but I wanted to make it clear that it was not going to be closed.

Ms. Harmon said we are very clear on that.

Ms. Kinsey said the other thing, these are very nice looking houses, but in my opinion they don't blend in with the neighborhood. What they are doing is mimicking some of those houses that are being built that are selling for \$400,000 to \$600,000 and that I don't believe is what I envision along Main Street in the Cherry Neighborhood. The new houses, if single family houses are chosen, I'm find with that, but I'm not fine frankly unless they really do fit in with the neighborhood and they must be in my humble opinion affordable. I get different bits of information about whether or not the Cherry Gardens replaced some of the affordable housing that was demolished. I don't know all of that and I realize that is not a land use issue, but it does make a difference to me when I'm making a decision about this petition. I had some other things written down but because they are not exactly land use I'm not going to bring them up now, but I just want to make sure that we are very clear that Main Street remains open. One other thing, if there had to be a connection between Main and Luther is there a possibility that it could just be a pedestrian way? I know we've done that in some other neighborhoods and in my neighborhood it is done in a really long block and that was done years ago. It is much less offensive, it does provide connectivity, it is just something I throw out there for some consideration if there is that really desire to connect the two streets.

Ms. Harmon said really I think we are concerned about compatibility of dropping a cul-de-sac into the neighborhood in design. We will go back and work with them some more and see if there aren't some alternatives that maybe work to meet everyone's objectives. We've looked at some and maybe it is not what they prefer but we think there are some alternatives that could work that could be that connection and/or a pedestrian connection or even some other alternatives that we think maybe would meet both objectives.

Ms. Kinsey said I'm going to make one last comment because I do get to raise my hand in about a month. I really do think that the houses shown are very, very attractive; they are not something that I can be happy about.

Ms. Harmon said we hear you.

Mr. Smith said is it possible to get a copy of the presentation? I don't think I have it so if I'm missing it, petitioner could you send that to us electronically?

Mr. Hunt said yes.

Mr. Howard said that was it, we don't have the site plan showing the cul-de-sac. We have the one showing the street going through.

Councilmember Mayfield said Ms. Bittle can you also send us a copy of the presentation that you presented tonight and even though we've already requested it, I do have just as a statement some concerns for full disclosure was not presented in moving forward. Just so we have a clearer understanding because I think there was a lot of information that was presented that had it not been presented tonight we would not have in order to move the conversation forward, especially when you look at the fact that we constantly have new members around this table that don't necessarily have the history going back to 2007 and being a part of these conversations. I think it will be helpful where we have the possibility of a detailed conversation to give us a little more background than just the standard information because someone 27 months in, I'm going to look at this without having that background on the Cherry Community, the commitment that was made because I have a very real concern about how we move forward with development. Gentrification is a great idea, bleaching is reality and I'm concerned about what that looks like for our community. I would definitely appreciate if you would send that additional information as well so we all can have a comparison.

Councilmember Phipps said my request has already been met through Ms. Mayfield's request for Ms. Bittle's presentation.

Councilmember Fallon said I'm trying to get my hands around why did you design something this grandiose to that neighborhood? Why did you not design something that was in keeping with this neighborhood because you knew the neighborhood wanted it that way and you don't want to change the configuration of what has been there historically I don't think.

Mr. Hunt said architecturally there are several things done that we feel were compatible and consistent with the some of the characters of the existing community. I will let Tom elaborate on those.

Mr. Wright said one of the aspects too is that all the new development is more in this character and what you have to do and these will be bungalow houses; they are relatively small, no designs per se in that so if you are going to go single family there is only a certain size there and as you saw a lot of them were a story, a story and a half and there were some two-stories and I think we even had a slide of a number of homes now being built that are more in this character.

Ms. Fallon said in that community

Mr. Wright said in this community, yes.

Ms. Fallon said how many of that type are being built in the community?

Ms. Bittle-Patton said currently we have all new above market rate housing being built ranging from \$350,000 to \$700,000 for that type over the last 6 months to a year and that is it.

Ms. Fallon said they are much larger aren't they even though they are single family?

Ms. Bittle-Patton some are much larger, but some are the same size. They have really modeled theirs after the project on Waco Street that ranges anywhere from \$400,000 to \$500,000 per house.

Ms. Fallon said talking about gentrification, people affordable.

Ms. Bittle-Patton said talking about gentrification – absolutely.

Ms. Kinsey said I'm going to end with a tidbit of history and that is that the Cherry Neighborhood predates Myers Park. It is the oldest neighborhood in that area and it predates Myers Park and I believe I was told that before Queens Road was Queens Road it was Austin Street.

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

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

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(Council District 7 – Driggs)

ITEM NO. 26: HEARING ON PETITION NO. 2014-025 BY TRINITY CAPITAL ADVISORS, LLC TO EFFECT A CHANGE IN ZONING FOR APPROXIMATELY 8.50 ACRES LOCATED ON THE NORTH SIDE OF I-485 BETWEEN JOHNSTON ROAD, TORINGDON WAY AND NORTH COMMUNITY HOUSE ROAD FROM CC (COMMERCIAL CENTER,) TO CC SPA, (COMMERCIAL CENTER, SITE PLAN AMENDMENT.)

The scheduled public hearing was held on the subject petition.

Laura Harmon, Planning said this site is just north of I-485; it is part of the Toringdon development which is also part of the Ballantyne Major Activity Center. The site is currently vacant as you can see here; also want to point out that it is on the Community House Extension that will be connecting Toringdon on Community House to Ballantyne. This is a site plan amendment with some minor changes and really moving some parts around. I will let Keith talk about the specifics of that. Looking at the land use you can see it is a mixture of office, retail and residential and when Keith goes through the specifics of what they are asking for we trust that you all will find that it is consistent with the South District Plan recommendation for a mix of uses; that it complements the existing development within Toringdon and staff is supporting it upon resolution of some design details and minor outstanding issues.

Keith MacVean, 100 North Tryon Street said I am with Moore & Van Allen; Jeff Brown of our firm and I are assisting Trinity Capital Advisors, the petitioner with this rezoning petition. With me tonight is Walker Collier with Trinity Capital Advisors and Sherri Shafin also with Trinity Capital Advisors. We are pleased that the Planning Department is recommending approval of this petition which is consistent with the South District Plan. We will work with them to resolve the remaining outstanding issues. We are also making some additional changes to the site plan in terms of allowed uses that will address additional trips from the site. This site is located just north of I-485, north of the Ballantyne area, was originally zoned in 1999 as part of a rezoning petition that involved both sides of Johnston Road, 172 acres. Most of that area is now developed; this site is one of the last few remaining sites within the Toringdon area to remain undeveloped. I'm going to turn the presentation over quickly to Walker Collier who is going to talk a little bit about Trinity Capital Advisors.

Walker Collier, Trinity Capital Advisors, said I want to give you a quick background on Trinity Capital. We are local real estate development and investment firm that has been in Charlotte and active for the last 16 years. Some of our signature projects include Allied Bank Center which we developed and still own downtown; the Steel Yard which we acquired two
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years ago on South Boulevard where Sullivan's is; warehouse and distribution facilities, including Shopton Ridge on Shopton Road. Notably is the Toringdon mixed use project which includes about 520,000 square feet of office and some other ancillary uses as well as this vacant land that we are rezoning tonight.

Mr. MacVean said as Laura mentioned this is a site plan amendment; the current approved plan was approved by City Council in 2010. This portion of the site is the 8 ½ acres currently approved for 17 townhomes, a hotel with 120 rooms and an office building with up to 190,000 square feet of office space. The proposed plan makes some minor changes to that; moves the hotel from the interior of the site out to Community House Road; adds 10,000 square feet to the previously approved office in this area and then adds a small 13,000 square foot building at the corner of Community House and the internal private drive that would be used for a bank or coffee shop or additional office and retail uses. The petition also includes various components of transportation improvements, the petitioner has contributed funds for the extension of Community House Road; has also contributed funds for the realignment and signalization of Endhaven and Community House and also this petition provides funds for the future signalization of Endhaven and Elm Lane as well as additional lanes at that intersection so there will be a left turn and a right turn lane added as part of the signalization.

Councilmember Driggs said I think this looks generally uncontroversial. I was curious though with the relatively minor changes in space, 10,000 square feet of office and 13,000 square feet of retail that when we look at the vehicle trip generation we appear to be going from 3,270 to 6,750 and you are right across the street from Endhaven where I was already dealing with sensitivity about traffic. Why has that number gone up so much?

Mr. MacVean said that number went up because primarily for two reasons, one because the petitioner proposes to add a bank with drive-thru windows and also potentially a large coffee shop with potentially a drive-thru window. Both uses would have been allowed on the site. As I mentioned, one of the other changes we are going to make to this petition is limit the uses with drive-thru windows to one, either the bank or the coffee shop and reduce the size of the coffee shop to 1,800 square feet. The coffee shop and the bank would be located in the 13,000 square foot building here and cannot be the initial building built, would not be the drive-thru service facility, or the drive-thru windows would be to the interior of the site. By limiting the use to either or the number of trips will actually come down and the different between the existing zoning and the proposed zoning if the bank is built is only 900 more trips per day. If the coffee shop is built then the increase is only 1,400 more trips per day so the number would drastically be reduced and that was the reason for the increase. We recognized there were some issues with that and that was part of the reason for changing the request.

Ms. Harmon said in all fairness to the petitioner we do have a mistake in the staff analysis and it is not quite as large a jump as it looks. Under the current zoning we are looking at about 3,300 trips and under the proposed zoning with what was presented tonight it would be 4,700. I do apologize but we did have an inaccuracy in the staff analysis.

Mr. MacVean said those changes would reflect the change I just spoke.

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

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

ITEM NO. 29: HEARING ON PETITION NO. 2014-021 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE ADDING A NEW DEFINITION FOR MOBILE FARMER'S MARKETS AND ALLOWING IT WITH PRESCRIBED CONDITIONS IN A VARIETY OF ZONING DISTRICTS.

The scheduled public hearing was held on the subject petition.

Sandra Montgomery, Planning said I'm going to talk about a mobile Farmer's Market Text Amendment which could also be called a mobile grocery store. We are open to suggestions on a name. The purpose of this text amendment is to expand access to fresh fruits and vegetables and dairy products by adding mobile farmer's market as an additional use in the zoning ordinance. The goals of this amendment as we see it, is to define the use, provide flexibility to locate in all zoning districts under prescribed conditions, develop standards to minimize the impacts on nearby residential areas and to provide small business opportunities. The issues and concerns, a little bit of background, the Mecklenburg County Food Assessment, which was prepared in 2010, found that there are food deserts in Mecklenburg County areas that have limited access to affordable and nutritious food, particularly to low income neighborhoods that result in higher health risk, particularly heart disease and diabetes. The regulatory issues that we identified during the process include that we don't have a definition for mobile farmer's markets or mobile grocery stores. What would the zoning permit look like and how would enforcement be done on a use which is moving within the community; what districts would we allow it in; what are the secondary impacts; would the Health Department have to be involved and a commissary involved?

We did have an interdepartmental team that worked on this text amendment that consisted of members of the Planning Department, Neighborhood and Business Services and the Mecklenburg County Health Department's Food and Facility Sanitation Program. These people worked with the Citizen Advisory Group which met on January 29th. We had another scheduled meeting in February and no-one attended that meeting, but we did do outreach to the same stakeholders that we had at the January 29th meeting. The stakeholder groups were the Mecklenburg County Food Policy Council, Friendship Gardens, Providence Produce Stand operator attended and Queen City Mobile Market. To give you a little bit of background on our current land use categories that allow fresh food to be sold; we do allow of course farms are allowed in most non-urban zoning districts where the sales of products grown or raised on the farm can be sold on the farm premises. The next category is local farmer's markets or retail sales such as Hillbilly Produce. This is where fresh fruits and vegetables, baked goods, dairy and meat can be sold. Again this is in most non-residential districts. The sale of these types of products in residential districts is not permitted. We also have state run regional farmer's market out near the Airport. The next category of land use is our outdoor seasonal sales. This category was added in 1994 and modified several times along the way. This is where plants, trees, wreaths and pumpkins can be sold on a vacant lot or again a lot with a non-residential use. It is allowed 90-days out of the year on any one lot and it is allowed in all zoning districts either by right or with conditions. No permanent building is associated with this type of land use.

Open Air Fresh Food Markets were added to the zoning ordinance in 2003. This was to allow the sale of fresh food and plants either on public or private property and we allowed this in the urban districts, the mixed use development, uptown mixed use development district and the transit oriented development districts. Outdoor fresh produce stands, this was the category added in 2005 and modified just recently in 2012. We allow the sale of fruits, vegetables, nuts, jams, jelly, honey, and herbs. This is allowed in all zoning districts except residential as a principle use and is allowed as an accessory use in the residential districts. These can operate all year round, no structures are allowed though in the residential, office or institutional districts. There is a picture there of Providence Produce; one of the stakeholders that did participate in our process.

The new category we are talking about tonight is mobile farmer's market. Here are some photographs of what a mobile market might look like in a converted bus type structure and what it looks like inside with the fresh produce. The definition that the Citizen Advisory Group supported was a commercial mobile vehicle, excluding pick-up trucks, open trailers and boats, licensed by the Department of Motor Vehicles from which commercially prepared and packaged or uncut perishable fruits, vegetables or dairy products are sold, excluding alcoholic beverages, homemade food products and goods. The proposed zoning districts for this use would be allowed as a principle use or an accessory use in a number of zoning districts, urban residential commercial, the research 3, all business districts, commercial center, neighborhood service, the MUDD and U-MUDD districts, the TOD, employment and mixed use district and all the industrial districts. It would also be allowed as an accessory use to a religious institution, school,

college, university, hospital or office in some of the other zoning districts. Here we have single family and multifamily, manufactured housing district, urban residential, the mixed use districts, institutional, office, the research 1 and 2, and the transit oriented development residential districts.

The prescribed conditions and highlights of the conditions are of course property owner permission would be required. The operating hours would be from 8:00 a.m. to 9:00 p.m.; a zoning use permit would be required; it would be issued for 365 consecutive days; there could be a maximum of three locations per permit. Right now the zoning use permits only allow for one location, so this is a new concept for the city and it was agreed on by Neighborhood and Business Services. A display placard is required on the vehicle; five off-street parking spaces shall be provided; they may be shared; one table and one tenant is allowed for shelter of the employee that is working; no products should be displayed off the vehicle or trailer and no portable signs should be allowed. There are some examples of mobile grocery stores where the sides of the unit actually roll up where you can see access to the fruits and vegetables and products.

One last slide on the highlights; not located in any required setback by buffer or sight distance triangle. All local and state codes must be met. Mobile food vending is not allowed as part of the use. Trash, litter and refuse have to be removed at the end of each visit and violations may result in citations and revocation of the permit. There is an exemption for large commercial vehicles; right now they are not allowed to park in a residential district, but this text amendment would allow them to park there when they are accessory to the religious institutional, school, college, university or hospital.

Mayor Pro Tem Barnes said let me ask you a question about that last bullet point. What I had in mind was the idea of someone being able to take a vehicle like the one pictured there into a residential neighborhood, R-3 or R-4, parking it in front of someone's house with permission, and selling food as opposed to them having to park the vehicle on the street as an accessory use tied to a church or a school or a hospital.

Ms. Montgomery said we weren't envisioning them being parked on the street. You are envisioning them being parked on a piece of property.

Mayor Pro Tem Barnes said there are some neighborhoods where you won't necessarily have an empty lot where someone could park a bus type vehicle and again, based upon what I thought I heard when we first brought this up and the way I at least embraced it; the whole idea was to have some entrepreneur be able to start a business or expand a business involving mobile grocery stores. Offer fruit, juice, vegetables, milk, eggs, meat or what have you for sale to a lot of our seniors and other residents who can't get to a main stream grocery store but need food just like you and I do. I know we had a great discussion at dinner about this earlier tonight but as you've gone through this it is so technical and so structured that it defeats the purpose and that is problematic for me.

Ms. Montgomery said Laura just mentioned that we will talk to CDOT more about on-street parking in residential in particular. We have had conversations with them about selling retail in the right-of-way but we will continue those discussions.

Mayor Pro Tem Barnes said I get it, but think of this one as a true community service and if someone is willing to take a risk as a business person to do this and obviously treat the public fairly, it could really help a lot of people who need it.

Councilmember Howard said talk to me about who actually grades these. Is this a Health Department thing; who actually looks at the cleanliness and sanitary conditions of these vehicles?

Ms. Montgomery said for the items that we've said here, the fresh fruits, vegetables and the dairy products the Health Department would not have to do inspections, but my understand is if we expand it into meats and home baked, breads and eggs that then the Health Department has to come out and do inspections. There is a commissary that has to be involved so these regulations

were trying to look at that part where the Health Department would not be involved. We certainly can expand it to a wider range of products, but there would be more permits required like a commissary.

Mr. Howard said so farmer's markets, the way they are now, don't have to be graded by or inspected by anyone?

Ms. Montgomery said for fresh fruits and vegetables, no.

Councilmembers Phipps said is it my understanding that these mobile grocery stores could travel anywhere and not be just confined to places that have food deserts and that type of thing; anywhere in the neighborhood, anywhere in the city?

Ms. Montgomery said each zoning permit would allow up to three locations so you could have multiple zoning permits if you wanted more than three locations. There needs to be a location so that the inspection department will know where they are going to be within certain hours for inspections.

Councilmember Autry said when I was growing up a guy in a pick-up truck grew the vegetables himself and would haul them around on his truck and they would be displayed on the back of the truck in baskets and he would have a scale hanging off the back of the truck and a canvas tarp over the truck bed. I thought that was what we were working towards allowing.

Ms. Montgomery said the Citizens Advisory Group did not want to allow pick-up trucks where the food would be in the open air exposed to the elements, exposed to the sun where it could potentially deteriorate faster. That is why they were excluded as well as boats and open trailers. It was envisioned that it would be more enclosed like the vehicles that are in other communities, but again we can look into expanding it into other types of vehicles if that is your wish.

Mr. Autry said I think it is.

Councilmember Lyles said it is always interesting to me how our backgrounds and what we bring to the table because when I was growing up we had those pick-up trucks, but in my neighborhood they went down to the farmer's market, bought what was left over at 5:00 p.m. and sold to you the next day because it was sitting out in the sun, it wasn't protected, it wasn't quality food and so there is always that balance. I'm really interested in how do we make this easy, but how we can also make it that we are not allowing food trucks that would, in my experience, come to certain neighborhoods with certain caliber of foods versus other neighborhoods. That happens and you would say well the market would take care of it, but in food deserts sometimes the market doesn't take care of it because that is the only thing you have accessible. There is a balance here and I never know how we do these rules and then allow for some time for them to settle out; to see what works. It seems to me like we are going to go from a request to here are the rules and I'm wondering if there is some flexibility that allows us to test this for a while and I know zoning flexibility contradicts return sometimes are mutually exclusive. I wonder if you look at this how do we balance protection so that people have the goals that we have in mind and yet not try to create something that requires an investment of thousands of dollars to get the truck to do it. When we worked on this project with the DNC, we got a used van and they outfitted it and did some work with it, but I understand it is difficult but we need to figure out that balance so we don't let people be exploited at the same time we encourage it. Just a thought.

Ms. Montgomery said I backed up a slide that shows more of an enclosed van that was being used for a mobile grocery store so it is all kinds of vehicles. As you said balance, bringing up your point of being flexible and kind of testing the market which is where this group thought we would start off with fresh fruits and vegetables, not allow it in the open vehicles or being sold from the back of your truck. These are going into residential neighborhoods where retail sales are not permitted now. I know we want to do that but what is the way to protect the neighborhoods. We will be glad to look at that some more.

Councilmember Kinsey said I find it very amusing that I can go to my farmer's market where the fruits and vegetables are out in the open and I can buy whatever I want and yet a truck can't take

those same fruits and vegetables, the same ones, not day old, but the same ones and open the back end of a pick-up truck. It just doesn't make sense to me.

Ms. Montgomery said I'm trying to think of a farmer's market that doesn't have a tent or screen over it.

Ms. Kinsey said the pick-up truck had a tarp over it.

Ms. Montgomery said well, okay; I was just thinking of existing uses in Charlotte where the fruit and vegetables aren't covered, but okay.

Councilmember Austin said I think mine is more of a comment to Council, obviously, there are quite a few food deserts in my district and I was actually very excited about this presentation and having fruits and vegetables and those things delivered to my communities. I do take pause about I guess what was initially Ms. Mayfield's and you guys discussion around grocery and meats and those types of things being delivered to the communities. I would be very much concerned about quality, safety and those types of things. I'm very much on board with these types of things because they are healthy, they are easy, we don't get into salmonella and all those other types of things. I would be very concerned about quality and how we are going to insure for the public interest to make sure those are quality individuals and products that we are delivering to our community, otherwise we are doing something else.

Mr. Phipps said I would also be concerned about given the upfront investment on something that based on the pictorial depictions we see given the initial investments, I would be concerned about the pricing of the items that would be for sale. If convenience coupled with the recovery cost of your investment, if the pricing of some of those items would be such that it would persuade people to just go to their nearest farmer's market or their nearest Food Lion or whatever.

Mayor Pro Tem Barnes said I think the market would dictate that if that occurred.

Councilmember Mayfield said the question that Mr. Phipps just asked triggered a question for staff to insure and is there a way for us to put some parameters in place since the idea of the mobile grocery store is very specific and wanting to make sure that we are not putting the community in a position where the pricing will be a hindrance for the community at large. This isn't just an idea for lower income community, it is a convenience but it is also we have members of the community that are not able physically to get back and forth to the grocery store on public transportation, but I really want to find out is there a way for us to make sure that we are protected so there is no price gouging so that we look at comparable pricing. There has been times in the community now where we have groups that set up at churches and when I've done my personal secret shopper and gone by to check prices, their prices were more than the store or the same price as the store, but I also have the luxury of having a vehicle so I'm able to drive and do a comparison on the shopping opposed to if the community sees this as something as supported by the city, so it is a good thing, making sure that we are protecting as much as we can without micro managing to give the opportunity for the market to determine itself, but not to the point where the market is hurting the community because impact and intent might seem like a great idea is working successfully in other areas. Something we might want to consider here in Charlotte but the question becomes how to make sure we put as much in the forefront of this conversation as far as protections as possible.

City Attorney, Bob Hagemann said Ms. Mayfield, I'm skeptical that we would be able to use the zoning power to control pricing. We will put our heads together and give it some thought and come back with our advice.

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

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

(Council District 3 – Mayfield)

ITEM NO. 30: HEARING ON PETITION NO. 2014-027 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT TO EFFECT A CHANGE IN ZONING FOR TWO PARCELS, APPROXIMATELY 0.81 ACRES LOCATED ON THE WEST SIDE OF DUNAVANT STREET BETWEEN REMOUNT ROAD AND MERVE PLACE FROM I-2 (GENERAL INDUSTRIAL,) TO TOD-M (TRANSIT ORIENTED DISTRICT, MIXED.)

The scheduled public hearing was held on the subject petition.

Laura Harmon, Planning said this is part of our strategy to support Transit Oriented Development by sponsoring TOD, Transit Oriented Development rezoning. This is the property located between the East/West Station which is here and the Newbern Station. The property is currently a warehouse across the street from some recent multifamily that has been developed. The land use supports Transit Oriented Development, is consistent with the Newbern Station Area Plan and staff does recommend approval.

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

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

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ANNOUNCEMENTS

Councilmember Kinsey said I'm sure we all saw it, but I just wanted to say that former County Commissioner Dan Ramirez passed way, I don't know whether it was yesterday or day before yesterday, and I know we all want to extend our deepest sympathy to the family. I'm sure the Mayor or Mayor Pro Tem will write a letter on our behalf.

Councilmember Smith said I just wanted to acknowledge the passing and service of Dan. It is a true loss for our community and our prayers are with the family. He was a gentleman and served his community admirably and he will be sorely missed.

Councilmember Mayfield said I want to make sure that the community is aware that on March 22nd from 10:00 a.m. to 2:00 p.m. we will be having the second job fair. The first one was in December of 2012; we had an Airport job fair. This time we are looking at specific positions so you can go to www.charmeck.org if you have internet access or if you are able to get to the library. The job fair will be at the Police and Fire Station off of Shopton Road and you can contact me or my office if you would like further information call 704-336-3435.

Motion was made by Councilmember Austin, seconded by Councilmember Mayfield, and carried unanimously, to adjourn the meeting.

The meeting was adjourned at 10:11 p.m.



Stephanie C. Kelly, MMC NCCMC, City Clerk

Length of Meeting: 5 hours, 1 Minute
Minutes Completed: April 7, 2014