

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, June 16, 2014 at 5:06 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Dan Clodfelter presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Ed Driggs, Claire Fallon, Vi Lyles and Greg Phipps.

**ABSENT UNTIL NOTED:** Councilmembers David Howard and Patsy Kinsey.

**ABSENT:** Councilmembers LaWana Mayfield and Kenny Smith.

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**ITEM NO. 1: AGENDA REVIEW**

**Mayor Clodfelter** said we are going to start even as folks are getting their dinner and this is wise because we've got to have an Executive Session before 6:00 p.m. Laura is going to try to take us through a preview of what is on at 6:00 p.m. with the zoning decisions and zoning hearings and then we will see if we can get into our Executive Session. We've got something we need to talk about before 6:00 p.m.

**Councilmember Howard arrived at 5:08 p.m.**

**Assistant Planning Director Laura Harmon** said you have at your place an update Dinner Agenda that has one change since what was announced to you previously; the Follow-up Report, Text Amendment and Project Matrix, upcoming cases and to let you know what you have right now, I think we 25 or 26 cases scheduled for hearing, and the Speaker's List from earlier in the afternoon. If you have any questions we are available to answer questions on those, but the one thing that we definitely want to go over before you go into Closed Session are the deferrals and a few other requests and information that we need to make for your meeting tonight. We do have five cases that are requesting a one-month deferral; Item No. 3, Petition No. 2014-021, a Text Amendment for a Mobile Farmer's Market, Item No. 4, Petition No. 2014-027 which is a Planning Department sponsored rezoning on Dunavant Street. Item No. 5, Petition No. 2014-029 a rezoning on Woodlawn Road, Item No. 6, Petition No. 2014-031 a rezoning on Youngblood Road and Shelburne Farms Drive and Item No. 12, Petition No. 2014-003 a rezoning at Audrey Kell and Marvin Road. Each of those is requesting a one-month deferral, so that makes it pretty straight forward if you choose to do that.

We do also have a few other things to point out; Agenda Item No. 2 is a rezoning on North Davidson Street. You all will have to vote as to whether or not the changes were substantial enough to send it back to the Zoning Committee for additional review. That is something in addition that you will have to do this evening.

**Councilmember Phipps** said regarding Item No. 2, does the Planning Commission have any thoughts on it as to whether or not it was significant enough?

Ms. Harmon said I don't know that we've had a chance to talk to the Planning Commission about it. I can tell you from a staff perspective we believe it is very minor changes and would not recommend sending it back to the Zoning Committee.

Item No. 8 is something that the Zoning Committee had a special called meeting at 4:45 and they will provide you their recommendation request to support this rezoning. That is not already in your packet, but Tracy Dodson will read that to you during the hearing. Item No. 15, Petition No. 2014-040 by Sardis Road Land Company, is a hearing tonight. There is a sufficient Protest Petition on this case and wanted to make sure that you all were aware of that. Item No. 16, Petition No. 2014-041, we have a mistake in the Agenda Packet that we sent to you. We failed to let you know that they have held their Community Meeting. I don't think they had any attendees, but they have followed all procedures and offered a community meeting for all interested parties.

**Councilmember Driggs** said what is the new date for the 2014-013 – Kuykendall Road; that has been postponed but it is not tonight.

Ms. Harmon said I will have to get that for you; it is definitely not tonight, but I will send you the new date. I think it is two or three weeks out.

**Mayor Clodfelter** said Ms. Campbell, anything from you?

**Planning Director Debra Campbell** said Tammy Keplinger is not here and Laura Harmon will be providing the presentations tonight.

Mayor Clodfelter said remember tonight is the public hearing on the Eating, Drinking and Entertainment establishments which is the biggest piece of your book. We have a lot of speakers signed up for a number of the hearing items; fortunately there are only about three or four that have opposing sides. Most of them are multiple speakers to tell us the same thing on one side or the other so that is where we will be. Is there anything else for Ms. Harmon, if not I need a motion to go into Closed Session in order to consider pending litigation and to give instruction to the Attorney about a matter that is pending litigation?

Motion was made by Councilmember Driggs, seconded by Councilmember Barnes, and carried unanimously, to go into Closed Session to consider pending litigation and to give instructions to the attorney about a matter that is pending litigation.

The meeting was recessed at 5:12 p.m. to go into closed session.

**Councilmember Kinsey arrived at 5:50 p.m.**

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**ZONING MEETING**

The Council reconvened at 6:08 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center for their regularly scheduled Zoning Meeting with Mayor Pro Tem Michael Barnes presiding. Councilmembers present were Al Austin, John Autry, Ed Driggs, Claire Fallon, David Howard, Patsy Kinsey, Vi Lyles, and Greg Phipps.

**ABSENT UNTIL NOTED:** Mayor Dan Clodfelter

**ABSENT:** Councilmembers LaWana Mayfield and Kenny Smith.

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**INVOCATION AND PLEDGE**

Councilmember Phipps gave the Invocation followed by the Pledge of Allegiance to the Flag.

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**INTRODUCTION OF ZONING COMMITTEE**

**Tracy Dodson, Zoning Committee** introduced the members of the Zoning Committee and said they will meet next Wednesday, June 25<sup>th</sup> at 4:30 p.m. in the Government Center to review and make recommendations on the public hearing petitions that are heard tonight. The public is invited, but it is not a continuation of the public hearing. If you have questions or would like to contact us prior to that you can and you can find our information at [charlotteplanning.org](http://charlotteplanning.org).

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**DEFERRALS**

**Assistant Planning Director Laura Harmon** said actually we have five deferrals; four of them are on decisions and one is for a hearing. They are Item No. 3, Petition No. 2014-021, Item No.

4, Petition No. 2014-027, Item No. 5, Petition No. 2014-029, Item No. 6, Petition No. 2014-031 and then one hearing also requesting a one-month deferral and that is Item No. 12, Petition No. 2014-003.

Motion was made by Councilmember Lyles, seconded by Councilmember Austin, and carried unanimously, to approve the deferral of the above listed petitions.

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## DECISIONS

**ITEM NO. 1: ORDINANCE NO. 5412, PETITION NO. 2013-026 BY THE CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO: 1) CREATE NEW DEFINITIONS; 2) CLARIFY THAT THERE IS NO MAXIMUM RESIDENTIAL DENSITY IN THE PED (PEDESTRIAN OVERLAY) ZONING DISTRICT; 3) MODIFY THE PARKING SPACE REQUIREMENTS FOR MULTIFAMILY UNITS LOCATED IN THE MIDTOWN, MOREHEAD, CHERRY PEDESTRIAN OVERLAY DISTRICT AND THE EAST BOULEVARD PEDESTRIAN OVERLAY DISTRICT; AND 4) CREATE NEW SUPPLEMENTAL DESIGN STANDARDS FOR THE MIDTOWN, MOREHEAD, CHERRY PEDESTRIAN OVERLAY DISTRICT AND THE EAST BOULEVARD PEDESTRIAN OVERLAY DISTRICT.**

Motion was made by Councilmember Lyles, seconded by Councilmember Austin, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-026 by Charlotte-Mecklenburg Planning Department as recommended by the Zoning Committee.

This petition is found to be consistent with the Centers, Corridors and Wedges Growth Framework Plan goal to preserve and enhance existing neighborhoods; create a vibrant economy; support a more urban and pedestrian-oriented form of development; and develop neighborhood-scale commercial uses and to be reasonable and in the public interest, based on information from the staff analysis and the public hearing by a 5-0 vote of the Zoning Committee. The Committee voted 5-0 to recommend approval of this petition.

The ordinance is recorded in full in Ordinance Book 58, at Page 766-781.

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**ITEM NO. 2: ORDINANCE NO. 5413-Z, PETITION NO. 2013-102, BY WAJAHAT AND FERAH SYED AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.40 ACRES LOCATED ON THE SOUTH SIDE OF NORTH DAVIDSON STREET BETWEEN EAST 33<sup>RD</sup> STREET AND EAST 35<sup>TH</sup> STREET FROM R-5 (SINGLE FAMILY RESIDENTIAL) AND MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL) TO TOD-MO (TRANSIT ORIENTED DEVELOPMENT, MIXED-USE OPTIONAL) AND MUDD-O SPA (MIXED USED DEVELOPMENT, OPTIONAL, SITE PLAN AMENDMENT).**

**Mayor Pro Tem Barnes** said I believe there was a discussion as to whether or not we needed to send this item back to the Zoning Committee because of substantial changes that have been made since the Zoning Committee vote. This is in Ms. Kinsey's District; do you have any comments on that?

**Councilmember Kinsey** said I sent you all my comments and I'm fine with going ahead and approving it tonight. I don't know that the changes are significant enough for it to go back.

Motion was made by Councilmember Kinsey, seconded by Councilmember Lyles, and carried unanimously, not to send this matter back to the Zoning Committee.

Motion was made by Councilmember Kinsey, seconded by Councilmember Lyles and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2013-3102 by Wajahat and Ferah Syed for the above zoning change, as modified and as recommended by the Zoning Committee.

This petition is found to be consistent with the Blue Line Extension Transit Station Area Plan and to be reasonable and in the public interest, based on information from the staff analysis and the public hearing by a 5-0 vote of the Zoning Committee. The Committee voted 5-0 to recommend approval of this petition with the following modifications:

Area A:

1. Labeled the possible future expansion area on the plan.
2. Added the words "Area A" under the Petition # in the title block.
3. Removed the two labels stating "14-foot setback not feasible...."
4. Amended Note 6 under General Notes to read: "Possible expansion on the side and behind the existing building will meet setback and yard requirements."
5. Addressed the following C-DOT Issues:
  - a. Removed proposed parallel parking cutout on 34<sup>th</sup> Street to allow the use of the existing curb-line for on-street parking.
6. Revised site plan so that all elements are to scale.
7. Revised the plan so that all parking, including handicap, is the rear of the building which satisfied our request for the following note. "Provided there is not enough space between the house and the west property line for the accessible parking and accessible ramp, all parking shall be located on the portion of the site with direct access to 34<sup>th</sup> Street. No access will be allowed on Davidson Street.
8. Specified that trash and recycling would be roll-out only. Moved the location of the trash and recycling area which demonstrates how trash collection will be handled.
9. Amended Note 6 to specify the total maximum square footage as 2,200 square feet.
10. Specified new 26-foot wide curb cuts.
11. A label that the old driveway on Area A will be closed.

Area B:

1. Added the words "Area B" under the Petition # in the title block.
2. Changed the label for the planting strip from three feet to four feet.
3. Amended Note 6 under General Notes to read: "Possible expansion behind the existing building will meet setback and yard requirements."
4. Amended the word "TOD" in Note 5 under General Notes to "TOD-M."
5. Revised site plan so that all elements are to scale.
6. Amended Note 6 to specify the total maximum square footage as 2,200 square feet.
7. Specified the location of the dumpster and parking.
8. Specified new 26-foot wide curb cuts.

The ordinance is recorded in full in Ordinance Book 58, at Page 782-783.

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**ITEM NO. 7: ORDINANCE NO. 5414-Z, PETITION NO. 2014-033 BY COLONY AT PIPER GLEN, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.72 ACRES LOCATED ON THE EAST SIDE OF REA ROAD BETWEEN PIPER STATION DRIVE AND BALLANTYNE COMMONS PARKWAY FROM NS (NEIGHBORHOOD SERVICES) TO NS SPA (NEIGHBORHOOD SERVICES, SITE PLAN AMENDMENT).**

Motion was made by Councilmember Driggs, seconded by Councilmember Fallon, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-033 by Colony at Piper Glen for the above zoning change, as modified, and as recommended by the Zoning Committee.

This petition is found to be consistent with the South District Plan and to be reasonable and in the public interest, based on information from the staff analysis and the public hearing by a 5-0 vote of the Zoning Committee. The Committee voted 5-0 to recommend approval of this petition with the following modifications:

1. A building material legend for the proposed elevations has been provided on the site plan.
2. Signage has been removed from the site plan. Signage will be allowed per the NS (neighborhood service) standards.
3. Elevations of the building and parking deck have been provided.
4. A note has been added that the parking structure has been limited to two floors.
5. Transportation Department comments in regards to the truck turnaround have been addressed through an easement.
6. A note has been added that the lighting for the parking structure will comply with Illuminated Engineering Society of North America (IESNA) standards as requested by the Charlotte Mecklenburg Police Department.

The ordinance is recorded in full in Ordinance Book 58, at Page 784-785.

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**ITEM NO. 8: ORDINANCE NO. 5415-Z, PETITION NO. 2014-034, BY MASON KAZEL, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.61 ACRES LOCATED ON THE EAST SIDE OF SEIGLE AVENUE BETWEEN EAST 10<sup>TH</sup> STREET AND OTTS STREET ACROSS FROM GREEN TRAIL LANE FROM I-2 (GENERAL INDUSTRIAL) TO MUDD(CD) (MIXED USE DEVELOPMENT, CONDITIONAL).**

Assistant Planning Director Laura Harmon said you will need the Zoning Committee recommendation; they met this afternoon and Tracy Dodson has the recommendation.

Tracy Dodson, Zoning Committee said we found this petition to be inconsistent with the Belmont Area Revitalization Plan, but reasonable and in the public interest based on the information from the staff analysis and public hearing by a 6 – 0 vote of the Zoning Committee and the Committee voted 6 – 0 to recommend approval of this petition.

Motion was made by Councilmember Fallon, seconded by Councilmember Driggs, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-034 by Mason Kazel for the above zoning change as recommended by the Zoning Committee.

This petition is found to be inconsistent with the Belmont Area Revitalization Plan, but reasonable and in the public interest based on the information from the staff analysis and public hearing by a 6-0 vote of the Zoning Committee and the Committee voted 6-0 to recommend approval of this petition.

The ordinance is recorded in full in Ordinance Book 58, at Page 786-787.

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**ITEM NO. 9: ORDINANCE NO. 5416-Z, PETITION NO. 2014-036, BY THE CITY OF CHARLOTTE, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.18 ACRES LOCATED ON THE NORTH SIDE OF WEST BOULEVARD AND GENERALLY SURROUNDED BY OLD STEELE CREEK ROAD, ELMIN STREET, WALTER STREET AND WEST BOULEVARD FROM O-1(CD) (OFFICE CONDITIONAL) AND R-5 (SINGLE FAMILY RESIDENTIAL) TO NS (NEIGHBORHOOD SERVICES).**

Motion was made by Councilmember Howard, seconded by Councilmember Austin, and carried unanimously, to adopt the Statement of Consistency and approve Petition No. 2014-036 by City of Charlotte for the above zoning change, as modified, and as recommended by the Zoning Committee.

A portion of this petition is found to be inconsistent with the Central District Plan and a portion is found to be consistent with the Central District Plan but to be reasonable and in the public interest, based on information from the staff analysis and the public hearing by a 5-0 vote of the Zoning Committee. The Committee voted 5-0 to recommend approval of this petition with the following modifications:

1. Clarified that the height of the black aluminum security fence proposed around the secured parking area and open space/landscape area is eight feet.
2. The petitioner has moved the proposed security fence to enclose the portion of the site near Elmin Street. This acreage will be open space/landscape area for use by the employees.
3. The security fence along Elmin Street will be screened by additional landscaping via a 14-foot wide landscape strip and a new sidewalk will be provided along Elmin Street.
4. A note has been added that states parking/maneuvering will not be allowed between the building and the street.
5. Staff recommended that the parking area be situated so as to be consistent with the proposed building line (of the main structure). Staff is rescinding this request as the parking area meets the minimum requirement.
6. Trees are now shown in the islands around the perimeter of the parking area and in the islands in order to meet the requirement that each parking space be within 40-feet of a tree.
7. The size of the primary building has increased from 16,000 square feet to 17,500 square feet.
8. Added a sidewalk with pedestrian security access gates to connect the rear of the proposed building to the new sidewalk along Elmin Street.

**Councilmember Howard** said in the absence of the District Rep, Ms. Mayfield, who is off getting trained, I thought it would be important to point out to the community along West Boulevard and the west side that this is actually a new Police Station which is another commitment to the west side. An important one and one that we've all worked on and I know Ms. Mayfield would be proud to point out.

The ordinance is recorded in full in Ordinance Book 58, at Page 788-789.

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**ITEM NO. 10: ORDINANCE NO. 5417, PETITION NO. 2014-037, BY THE CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT, FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO CLARIFY THE SCREENING AND BUFFER REQUIREMENTS FOR OUTDOOR RECREATION USES.**

**Assistant Planning Director Laura Harmon** said this is just clarification in the ordinance that was necessary.

Motion was made by Councilmember Howard, seconded by Councilmember Driggs, and carried unanimously, to adopt the Statement of Consistency and approve petition No. 2014-037 by Charlotte-Mecklenburg Planning Department as recommended by the Zoning Committee.

This petition is found to be consistent with the Centers, Corridors, and Wedges Growth Framework Plan goal of preserving and enhancing existing neighborhoods, and to be reasonable and in the public interest, based on information from the staff analysis and the public hearing by a 5-0 vote of the Zoning Committee. The Committee voted 5-0 to recommend APPROVAL of this petition.

The ordinance is recorded in full in Ordinance Book 58, at Page 790-791.

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## HEARINGS

**ITEM NO. 11: HEARING ON PETITION NO. 2013-090 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO CREATE NEW DEFINITIONS AND REGULATIONS FOR EATING, DRINKING AND ENTERTAINMENT ESTABLISHMENTS BY REPLACING DEFINITIONS AND REGULATIONS FOR RESTAURANTS, NIGHTCLUBS, BARS AND LOUNGES. ALLOWS EATING, DRINKING AND ENTERTAINMENT ESTABLISHMENTS BY RIGHT OR WITH PRESCRIBED CONDITIONS IN THE FOLLOWING ZONING DISTRICTS: MULTIFAMILY, UR-2 (URBAN RESIDENTIAL), UR-3 (URBAN RESIDENTIAL), UR-C (URBAN RESIDENTIAL COMMERCIAL), INSTITUTIONAL, RESEARCH, OFFICE, BUSINESS, MIX-1 (MIXED USE), MX-2 (MIXED USE), MX-3 (MIXED USE), MUDD (MIXED USE DEVELOPMENT), U-MUD (UPTOWN MIXED USE), CC (COMMERCIAL CENTER), NS (NEIGHBORHOOD SERVICES), TOD (TRANSIT ORIENTED DEVELOPMENT), U-1 (URBAN INDUSTRIAL), INDUSTRIAL, PED (PEDESTRIAN OVERLAY) AND TS (TRANSIT SUPPORTIVE OVERLAY). AN EXEMPTION PROCESS IS ADDED, INCLUDING CRITERIA TO BE ELIGIBLE TO APPLY FOR A CERTIFICATE OF EXEMPTION WHEN AN EXISTING EATING, DRINKING, AND ENTERTAINMENT ESTABLISHMENT CANNOT MEET THE PROPOSED SEPARATION DISTANCE REQUIREMENT.**

**Planning Director Debra Campbell** said I am going to be presenting on a Text Amendment related to nightclub, bars, restaurants and lounges and I will step through this presentation as quickly as possible, but I wanted to start out with just giving you a little bit of background as it relates to the path that this Text Amendment has taken. We actually had a public hearing on this Text Amendment in February. At that time we had some citizens who came and spoke with regards to some concerns about some separation requirements or recommendations that were a part of the original Text Amendment. Council asked us to go back and speak with those residents; we did and we are going to provide for you some of the changes that have been made since February. Before we go into some of the details of the Text Amendment and its recommendations I just wanted to pull up and talk about really the role that these uses play in our community. These uses, nightclubs, bars, restaurants, lounges have literally become kind of a major gathering place. They are the third place for a lot of people in our community; that is work, home and then there is this third place which is an entertainment area. It adds vibrancy, these uses add vibrancy and energy to our community; it is a place where we all love to go to socialize. Every time you see a presentation about a vibrant city you usually see outdoor cafés and people talking and socializing. This is a growth industry in our community in terms of these types of establishments, and a particular, they are occurring not only in our inner-city neighborhoods as you see on North Davidson and Plaza/Midwood, but they are happening all over the community, including some of our suburban locations like SouthPark and the Ballantyne area. But we are thinking about making changes to our existing Zoning Ordinance that regulates these types of uses. We obviously thought about; we need to make sure that whatever the changes are made that they support and advance the centers, corridors and wedges growth framework and the principles and goals that are included within that document, and they do in terms of providing choices for entertainment, revitalization of business corridors and protection of residential neighborhoods.

The purpose of this particular Text Amendment is to actually address a lot of the definitional issues around nightclubs, bars, restaurants, and lounges and our goal was to really simplify the definition of these particular uses with the goal of making it easier for a person who wants to go into business to make sure that they understand what the standards are and what the regulations are and for our enforcement when there are issues or concerns related to these types of uses, that we have the type of information in our Zoning Ordinance that made it clear in terms of those definitions and the distinctions between the uses. What does this Text Amendment try to do? Its goal is to again try to tell the difference between nightclubs, bars, restaurants and lounges in terms of a definition. These uses have kind of morphed or grown into not really being able to

distinguish one from another; a restaurant from a bar. The current definition in our Zoning Ordinance, particularly related to restaurants does not include the term entertainment which means if you are a restaurant and you have some level of entertainment there are certain standards that are required if you also sell alcoholic beverages, that currently a lot of these restaurants are not really meeting. The definition of restaurant, as I just said, does not include the word entertainment and there are separation distances again that restaurants currently are not complying with. We have taken a long journey with regards to this Text Amendment. We started in 2011, we ended up stopping that process because we were doing the Noise Ordinance at the same time and there was a little bit of confusion as to which Zoning Ordinance or a different municipal code that would address noise. We started this process in 2013 and we've had almost 20 meetings since 2013 with regards to this Text Amendment so I have had a tremendous amount of public input.

Essentially now the details of the petition; the petition updates the current definitions, it recommends rather than having single definitions of what is a nightclub, what is a bar, what is a restaurant, what is a lounge, we consolidate those terms into eating, drinking and entertainment establishments and we are recommending two types; a type one and a type two. You can see the definitions essentially the difference is type ones do not sell alcoholic beverages and they close generally around 11:00 p.m. Type two also has food, beverages, usually sells alcoholic beverages and they have entertainment outside and operate after 11:00 p.m.

We have used this slide on a number of occasions to try to distinguish particularly from a land use perspective the rationale for the recommendations that are being made, and hopefully I will be able to explain the chart and you will be able to understand it once I've completed. The smallest circle where everything is contained within the building there is no separation that is required of uses related to eating, drinking and entertainment establishments. As you go further out in terms of utilizing that land and that building and that use more intensely we recommend a greater separation so if you take things outside of the building we are recommending additional separation. If you also operate after 11:00 p.m., and if you have outdoor activity there is even a greater separation, so as the round circles go up the separation requirement from a single family use, in a single family district or vacant lot that is zoned single family, the separation increases. Again if you sell alcoholic beverages, if you have outdoor activity or if you have outdoor entertainment, the separation to single family uses increase. I'm not going to go into a whole lot of detail because I think I've tried to explain this in terms of, if the use and the outdoor activity is adjacent to single family use, zoned single family or a vacant lot that is zoned single family, there is a distance of, if it is just outdoor activity of 100 feet or you can supplement it with a Class A buffer, particularly if you are an existing use and if you operate your activity after 11:00 p.m.

**Councilmember Howard** said just to clarify that, when you say zoned single family, that would include non-conforming uses on single family lots as well?

Ms. Campbell said if it is used as a single family use.

Mr. Howard said or it if is not used as a single family, but it is non-conforming, but it is still zoned single family. Like somebody has had an office in a house forever and it shouldn't be but they are grandfathered now am I going by the actual use or the zoning?

Ms. Campbell said both; it has to be single family use in a single family district.

Ms. Campbell continued her presentation and said what I just went over was an outdoor activity use, so food and drinks, no entertainment. It is after 11:00 p.m. and now we've moved to it is an outdoor entertainment and it can be playing cards, it can be shuffle board, it is whatever, 400 feet is recommended and these are not however just for clarification, the urban districts which I will get to shortly, there is a 400-foot separation. In the urban districts we are recommending for outdoor entertainment 100-feet so those districts would be like our mixed use urban development district, our U-MUD District, our Transit Oriented Development District. We did have a go back at our February meeting we had for the Pedestrian Overlay District a distance of 100-feet, but based on conversations that we had with some of the residents from Elizabeth and Dilworth we are recommending a 200-foot separation again for outdoor entertainment after 11:00 p.m. if your  
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property is zoned within a Pedestrian Overlay District. We also are recommending so that we do not create non-conforming uses, a process that businesses can go through called Certificate of Exemption and we have established some criteria and again this is simply so that we don't create a whole lot of non-conforming uses based on these recommended changes to the Zoning Ordinance. To date based upon our analysis we think that there could possibly be eight to nine business establishments that may be able to qualify for this Certificate of Exemption.

Some of the summary of the changes, again based upon conversations that we've had with neighborhood organizations and also with the business community with regards to what was presented to you in February and what is recommended to you tonight are the following: We had a timeframe of 11:00 p.m. to 6:00 a.m.; we found out that the Noise Ordinance actually goes to 8:00 a.m. so we are recommending that we be consistent with that recommendation. Our Pedestrian Overlay separation was at 100 feet and we are recommending 250 feet unless there has been a process for Pedestrian Overlay District Plan that has been adopted and we've gone through that public process and people have agreed to something less than that. No notification or comment process for property owners located within the separation distance when a Certificate of Exemption is submitted. We are adding a notification of application and a comment period of appeals. We are clarifying that property owners that are affected within whatever that separation distance is, can appeal the process and we are also clarifying written notification process of approval or denial of the Certificate of Exemption. So just to summarize what this petition does is, again we think it clarifies both for the business operator or potential operator the rules that they need to follow and how they can locate an establishment and we also think it clarifies enforcement. It identifies and addresses, we think, some of the secondary impacts that lots of citizens expressed concern about in terms of the recommended separation distances. It creates some consistency and continuity for the urban zoning districts with the exception of the Pedestrian Overlay and it minimizes the number of non-conforming uses by recommending a Certificate of Exemption process. What it doesn't do; it doesn't change the Noise Ordinance, it doesn't increase or impact building codes related to mixed use or noise attenuation. It does not extend operating hours of establishments and it doesn't allow us to take advantage of a Certificate of Exemption if it does not currently meet all of the existing development standards by which it was approved.

**Mayor Pro Tem Barnes** said Ms. Campbell I do want to say that I think having 20 meetings on an issue, at least in my time, has been something of a record. It that your experience?

Ms. Campbell said it is getting close, yes sir.

**Councilmember Kinsey** said I want to clarify something Ms. Campbell said because I'm getting the comments about the hours between 11:00 and 8:00 and I just want to make sure that I'm understanding correctly so everybody else will understand correctly. The Noise Ordinance takes care of that; this does not trump the Noise Ordinance and it has nothing to do really with the Noise Ordinance, but that has scared people and I just want to make sure because that is what I'm hearing. I just want to make sure everybody understands the Noise Ordinance stands, but the 11:00 to 8:00; that is where the Noise Ordinance kicks in big time.

Ms. Campbell said thank you for that clarification because that is actually why we made a recommendation. Our original recommendation was to 6:00 a.m.; we wanted it to be consistent with the Noise Ordinance such that if a business wants to locate and whatever their operating hours are, we want these standards to be able to cover that particular establishment for whatever the operating hours are. The second thing is if you kind of look at these standards as layers of protection you have a separation by Zoning Ordinance and then you have the Noise Ordinance on top of the separation standards that are recommended with this Text Amendment.

**Chris Goulet, 2237 McClintock Road** said I'm managing partner for Birds on Green Company located in the NoDa neighborhood. We are in favor of this Text Amendment and we really want to point out and I feel very strongly personally that the Planning group has done a very good job, a lot of research; they have clearly put in their homework and their time. This change makes plenty of sense to us. Just a little more background for those of you who don't know, we run a small craft brewery in the NoDa neighborhood. This is our third year in operation and we've grown very rapidly. We started with one employee, we have 14 now and we've grown about  
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300% in the last two years and we have outgrown our space. We really like the NoDa neighborhood and we want to be in the core of the City so in our search for locations we've found a space that we really like, but currently it would not allow us to open a tap room and a brewery. The production side of the business is extremely important; you have to brew the beer before you can sell it and we've looked into industrial zoning and found I-2 space, but the 400-foot proximity rule will impact our ability to open a tap room in that location. The reason why that doesn't make sense to us currently is our tap room is very day time hours oriented; we are closed and our bartenders are in bed by 11:00 let along serving at 11:00. It is a very family friendly place. We have birthday parties and gatherings there, very low key, but in the current zoning we are counted as a nightclub and for us that doesn't make a lot of sense. It is really just a place for friends and family to meet and spend some quality time together and have a pint. We are fans of this change because it really focuses on the time aspect which I think makes a lot of sense and after that the proximity rules take place which is very logical. Speaking as a resident of Plaza/Midwood I also think this is a very reasonable set of rules for residents to understand because not only is there a Noise Ordinance component, but there is a very clear; I might be able to tell you the exact decibels coming out of a bar, but I can tell you that it is after 11:00. I think from a residential perspective it is a simplifying and clarifying change that I personally am a fan of. One last little plug, the brewing industry in Charlotte is growing; we are up to five production breweries, two very successful brew pubs and cities around the country are leveraging the craft brewing movement to really be an attraction for their city. San Diego County estimates that they generate almost \$300 million in economic benefit from their breweries as a mix of tourism and actual employees in that industry. I know that Charlotte is really focused on trying to support businesses that are beneficial for residents, but also jobs and visitors from around the country and I'm quite confident that Craft Breweries fit that mold and we've done a great job with things like the White Water Center and the Knight's Stadium so I think this is in that same theme and this Text Amendment supports us, so we are for it.

**Darren Vincent, 2424 North Davidson** said I own a couple lounges here in Charlotte called Red at 28<sup>th</sup>. This amendment affected both lounges, when I started the first Red at 28<sup>th</sup> it took me almost a year pretty much to get the liquor permit and we suffered for that year. We had two employees during that first year and after we got that permit we went up to 12 employees. So moving forward I opened a different lounge up in the University district and I'm running into the same issue. Now it has been pretty much a waiting game. I was told back in January this would change and it has been going on and again Red at 28<sup>th</sup> is suffering as well as my employees and I love what he said, it is a gathering ground. My place is not a nightclub; it is a socializing place, people come to study, to do their homework, but at the same time I have a bookstore within that market; we have a coffee shop within that market as well as a bakery. So it is an eclectic place that I think brings culture to Charlotte, so I'm for it.

**Todd Ford, 4910 Gaynor Road** said I appreciate your time and your patience on this Text Amendment. I am a co-owner of NoDa Brewing Company here in Charlotte along with my wife. We had the pleasure of starting a business later in life and many of the others around here in Charlotte, but we decided to take our dream of opening up a brewery and we took all our savings including all of our retirement, so I don't necessarily recommend that for most others, but it seemed like the right idea at the time. Invested it all in a business here in the North Davidson neighborhood and thanks to the support of the community, and not only North Davidson, but Plaza/Midwood and all of Charlotte, we've been very successful and very thrilled to be a part of this community. Our success is now to the point where we need to grow and our current location is just not large enough for us to continue to produce beer in the amounts that we need to, to facilitate that growth and we want to move, stay in the North Davidson neighborhood, continue to be good citizens within the community, but have an opportunity to grow. As Mr. Goulet said before our businesses basically have two different uses; we have a production use for our facility, but we actually produce the beer and that beer is moved out to Ballantyne, the University, to Cornelius and such and a secondary use is a little complicated. It was a complicating factor to the City early on in our development and that was the tap room. A tap room provides an opportunity for members to come in have a taste of the beer, take a tour, see the facility and get excited about a local product made by local people. As we grow unfortunately we are going to be restricted by this 400-foot restriction. We want to remain in the North Davidson neighborhood, we want to be a good proctor for the community, we want to continue to be a meeting place for people in the neighborhood, but we need some restrictions

reduced from 400-feet in order to have a place where our friends can come and gather and take tours of the brewery and have taste of beer. In order to continue the growth process that we've been so fortunate to have and to support the community and continue to provide a place for the community to come to we will need some help on this restriction. We appreciate your attention.

**Russell Furgesson, 2254 Farmington Lane** said I'm attorney, also serving on the Board of a neighborhood association in Merry Oaks and the incoming President of Plaza/Midwood Merchants Association which is officially in support of this Text Amendment. I've had the honor of representing the neighborhood association's breweries including some of the speakers today, bars and restaurants and many other small businesses that employ and spend their money locally. I've also had the pleasure of being at almost every one of those 20 meetings that Ms. Campbell mentioned. I was one of three people that spoke in the public hearing in February and urged this Council to move forward because we have a dilemma here. This is currently not being enforced against existing businesses because there are some faults in the current existing code and there is an enforcement issue. I have clients that are not in compliance with the code per the current interpretation of that, but there is no way to enforce it against them and yet new businesses and growing businesses are unable to get permitted to move forward. This City by taking approximately three years to go through this process, which I think they've really whittled this down to a very good framework to move forward with, but in doing so we've created an inequity between existing business and growth. Now for the last couple of years they weren't a lot of people starting businesses and now there is a lot more. You guys are going to hear about this if it delays any further and it is really unfortunate because this type of use, the brewery use is using these old industrial buildings that abut our current denser inner ring of suburb neighborhoods and they are vacant because the rates are going up to the point that there is not an industrial use that can afford to be there anymore. But having this tap room and the consumer use that is attached to it and the neighborhood interaction and events that breweries have, they are able to make the finances and the economics of that work; save some old buildings and help foster some community involvement that is walkable and sustainable. Should there be any nuances, I think someone may be speaking about that tonight, I think if there is a nuance left in here that isn't right then I'd pass this as a framework to move forward with and come back and address the specific nuances because this impacts a lot of people and a lot of neighbors have been at the table for this process. I don't see any of them here now, but they've been there so don't lose the forest for the trees.

**Collin Brown, 214 North Tryon Street** said I'm a Land Use Attorney with K and L Gates here in Charlotte and I am signed up against, however our concern is for a very, very small provision of this ordinance. I think staff has done a great job bringing this along, worked with a lot of clients that have been impacted by the confusion and I think the clarification we are getting is very important and certainly don't want to slow down the process. I will say that when Ms. Campbell put up the slide that showed the changes since February, the third item on that list is one of the changes that I'm specifically concerned with. In our most flexible districts, our most urban districts, MUDD, TOD, U-MUD the separation requirement is 100-feet from essentially the property line of the single family district. The February draft said that in some occasions that could be reduced going through a zoning process and obtaining an optional provision. The current version of the ordinance deletes that flexibility and now says that it cannot be reduced. So as someone who is going to represent a lot of future developers, this is what we do, seeing a situation like that is very concerning that if we create a standard that is absolutely immovable I think that is a major concern and I wanted to bring it Council's attention in hopes that you might be interested in exploring that. I can almost assure you that in the future we will see a scenario where a user comes to us and has some late night outdoor seating within 100-feet of the property line of a residentially zoned use and if unique circumstances are in place, that may be the right thing to do. That adjoining owner may think you know what, that is a nice use to have, but if we take the optional process off the table we are taking that out of your tool box. I have talked with staff and my opinion is we should have that tool in your tool box and I think the optional rezoning process is the best way to have it. If we have a user that has this use, it is not automatic; 100-feet, that is a fine standard, but in these rare occasions I think the optional process is appropriate, the owner could file a rezoning, the joiners would have notice, we would work with staff, the user would have to work with adjoining property owners, who would have the right to protest if they thought that was too close.

There were situations I know where that 100-feet may be too much and not surprisingly I'm here because I happen to have a client that is tinkering with the idea and we have a site that would be I think a great redevelopment opportunity; it is a shallow site so there is just not that much square footage and on the back side they abut residential. The site is just not wide enough for us to be 100-feet from that rear property line, but this residential is unique. These are large lots, they are very deep and if you were to measure our use to the home on that lot, we would be about 350 feet away. I think we will encounter situations like that where the lot is large, the property line is there, but the home is a long way away and I think that should not be approved automatically, but I think it is appropriate to have a tool in your tool box that would allow us to come through a rezoning process, notify the neighbors, work with staff and if we can work to an accommodation where the adjoining owner says you know what, I would be comfortable with 75-feet if you do this to provide a buffer, limit the lighting, whatever accommodations need to be put in place through the conditional zoning, I think that is appropriate, I think that is the most sun lighted way to handle something like this and I think we are doing a disservice if we don't build some mechanism in our ordinance to give you the ability to accommodate these exciting uses that may come along in one of your districts or in some part of town.

I certainly understand the neighborhood concern and I understand we do not want this to be used as a mechanism where we come in and we get an optional provision and then we've got this outdoor use in a neighborhood. As I talked with Ms. Campbell, and I hate to parachute in the last minute but a client raised the issue and I thought it was interesting and had a last minute conversation with Ms. Campbell and said I think if we could keep the optional provision and perhaps we could say, my proposed language if I have it here, was the current provision says minimum required separation distance cannot be reduced as an optional provision through the rezoning process, let's leave that. My proposal for you to consider is that we could add a comma to say unless the outdoor use is separated from existing dwelling located within a single family district by X number of feet. I think we could easily come up with something there that would protect the in town neighborhoods so they know they are not getting this use that close to their house. This is really a situation where the residential zoning nearby, it may be a large lot and the homes on it are actually further from our use than 100-feet and I think we need that mechanism. I would like for you to consider that for our future development business owners and users and give us that option and give you that option. I don't want to slow down the process; I understand it is important, but I think a small tweak would serve the community well.

Mayor Pro Tem Barnes said the gentlemen who spoke in favor of the petition has a two minute rebuttal if they would like to respond to anything Mr. Brown said you are welcome to do that. If you don't want to do it that is fine too.

Mr. Furgesson said I don't need the whole two minutes, but I think if you guys can accomplish what he is asking for without delaying this to another hearing I don't think of any us have an objection to it.

**Councilmember Fallon** said Mr. Brown this is exactly what the calls I'm getting are about. All of a sudden variances, changing the rules, that is what they are concerned about, the homeowners that this is what will happen with this. Someone will come in and say well this doesn't exactly conform so let's change it. That was the big objection for the people that are calling me.

Mr. Brown said I understand that and I think if we put the option in we would be served to put in a provision saying you can be no closer to the home than X number of feet and if this is adopted as is, there are going to be situations where gosh, this is a use we would love to have and then our options to go get a variance which really doesn't fit; you are fitting a square peg into a round hole. This is the most sun lighted way to do it. Those neighbors that are calling you, our only option would be to go through a zoning process and ask for the specific option in which case the neighbors receive notice, they have an opportunity to be heard, they have an opportunity to protest and if it is not appropriate and as you know if the developer can't work it out it doesn't get approved. I understand the concern, I think we can put precautions in there to insure it is not too close, it is 200-feet away rather than 100-feet, but I know there are going to be situations. I can't imagine Charlotte creating an ordinance where there is absolutely no flexibility.

Mayor Pro Tem Barnes said I wanted to ask Ms. Campbell's reaction to your proposal.

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Ms. Campbell said I did actually have the opportunity to meet with Mr. Brown earlier today. I do have a few concerns; one is that as Ms. Fallon said we actually did hear from a lot of neighborhoods that because there is 100-foot separation in some of the urban districts they may be concerned that people are going to actually want to rezone to these districts in order to reduce the separations. Allowing the optional provision to reduce it even further than 100-feet would be a concern, secondly in terms of how we are measuring distance we measure from the outdoor activity area to the property line so this would actually be a different way of measuring the distance because it would be to the actual structure and not to the property line. Those are kind of technical issues as well as again, the process that we've gone through, we've worked with neighborhoods, we've tried to assure them that this is about balance, this is about co-existence and we think that these standards are appropriate as recommended.

Mayor Pro Tem Barnes said any idea of the scope of what I hope would be exceptions?

Ms. Campbell said I think it is; I really do think that it is probably the exception rather than the rule, but I don't think it would be a significant change, but I am concerned about the difference in how we are measuring for all of the other districts and all the other circumstances and I would also be concerned based upon our conversations with a lot of the neighborhood organizations, they were concerned about these urban districts being only at 100-feet and to reduce it may be some concern.

**Councilmember Lyles** said one of the questions I have is after experience sitting around this dais we often hear people come down when there is a rezoning and they say well, when I bought my property or when I got this property nobody told me, so I wonder, but in terms of what Mr. Brown is expressing how do you continue or make sure that any property owner that makes that agreement sells acknowledges that agreement with a new owner? Is there any requirement; I know it is not in the deed and I'm just wondering how you do that.

Ms. Campbell said I don't know if there is a legal way to disclose that other than; you are saying how do we potentially protect another property owner from potentially having this type of condition less than 100-feet of separation from their property?

Ms. Lyles said what I'm saying if the rule is 100-feet and this property has 90 feet or 93 feet, how do we protect that new owner or the next owner?

Ms. Campbell said I would imagine if you all were amenable to this change that there would have to be, even to get staff's support, because it would go through a rezoning that we would want buffers and screening and those kinds of things, but I don't know necessarily other types of things or a fence or something of that nature that would be visual, I don't know that there is a legal way that we could necessarily protect future owners Ms. Hagler-Gray, unless I'm overlooking something.

Ms. Lyles said "buyer beware".

**Senior Assistant City Attorney Terrie Hagler-Gray** said are you talking about just a conditional plan that is transferred to an owner?

Ms. Lyles said I'm talking about the number of people that come down and say I didn't know there was going to be a 12-story building next to my one-story ranch; I didn't know I was going to have a bar 150-feet from my house.

Ms. Hagler-Gray said that would be something that probably would have to be disclosed in the property transfer but I don't think we can legislate that.

Ms. Campbell said especially because in zoning classifications allow a range of different type uses so which use do you protect them from, but I think also with Mr. Brown's recommendation, the most positive part of what he is recommending is that you get to though a rezoning that is as he called it sun lighted way, is that the neighbors as well as the property owner get to have dialogue about the appropriateness and they also get to have dialogue about how do you mitigate

the impacts and that goes through a rezoning process, but the issue again is, it generally would be less than 100-foot separation.

**Councilmember Autry** said Ms. Campbell, it just so happened that that item about the minimum required separation distance cannot be reduced as an optional provision through the rezoning process and as it appears, as I mentioned to Ms. Campbell and Mr. Driggs, I don't think I'd ever seen anything like that before in any ordinances so tell me again about how you would make the measurements from the structure where the outside recreation originates, so if the intended use was a batting cage would we be measuring from where the person hits the ball or where the ball lands up against the netted far end?

Ms. Campbell said we would only measure it if there are also serving alcoholic beverages and it is happening after 11:00 p.m. We would start from probably the cage at the end where the ball is going to land, whatever is closest to the residential area, that is where we measure from.

Mr. Autry said I would just say I have always been a real neighborhood advocate and continues to be, but I also think we should have all the tools available to us to make sure we get the best use for the land at that location and there is all those considerations that we always take into account for them. I'm a little uncomfortable with it.

Ms. Campbell said with that provision Mr. Autry; I just want to make sure I understood that.

Mr. Autry said the required separation cannot be changed during the rezoning process.

Mr. Howard said are you saying you don't like the option or you do like the option?

Mr. Autry said I don't like it the way it is written now.

Mr. Howard said I have not talked with Mr. Brown at all about this, but going back to my days of sitting over there, I used to always like having options so that you can be ready for different situations. That is what optional is in most of our classifications for; is there a reason why you wouldn't do optional because the cost of doing a rezoning for an option can be expensive. Is there a reason why you are drawing the line so hard and not providing if you put up a fence, or if you put up a buffer, is there a reason why you would prefer not to reduce that for other reasons?

Ms. Campbell said we sincerely feel that a 100-foot separation to a single family use is an appropriate spacing and separation between a use as intense as outdoor activity that occurs after 11:00 and could go on until who knows what hours. To reduce that, with exceptions, we think would not respond to the concerns that a lot of the neighborhood people raised during this process which was proximity to these uses and the secondary impacts that these uses can have on a residential area.

Mr. Howard said the only way I can do this and make it make some sense in my head is to go through some places where I think I would ask you how it would work. Central Avenue, the Pecan area, that is an area that has seen a lot of single family houses maintained, hasn't gone multifamily a lot around there, but yet you have that vibrant life that is coming along Central Avenue and around Pecan. Actually I think this is one of the areas that brought this up now that I remember. How about in that situation?

Ms. Campbell said that area is within a PED scape and I actually think that the PED scape plan for Central Avenue is 225 feet, it is actually even larger, but again I hope that we do not lose the sight of what Mr. Brown actually said, which is, he supports 99.9% of this Text Amendment and that there is one concern that he has and it relates to whether there should be the opportunity for someone who wants to rezone their property to any of those urban districts that they can opt out of what is recommended as part of this Text Amendment. There is 100-foot separation for outdoor entertainment and they want to be able to have a lesser separation.

Mr. Howard said I got that and to just finish up where I was going, I just wanted to make sure I was getting my hands around kind of what we were thinking the intent would be when it comes to single family with some real life examples. Maybe I didn't pick the right ones, but that didn't  
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take away the fact that I've always been a supporter of options. When we did TOD I liked the optional thing just so we could do something that may have been a one off and that is the only part that I'm questioning. Mr. Brown would you like to respond to what I'm saying?

Mr. Brown said the only concern I have with Ms. Campbell's response is when she says the residential use, I don't think I disagree with that and when I think of use, we shouldn't be closer than 100-feet from the home but there are going to be situations where you've got big; I was trying to think what are you going to want to do late at night outdoors, it's cool to watch planes land by the Airport and out there, there is a lot of big residentially zoned tracts so if my user is next to 100 acres of R-3 that can be vacant I've got to measure from that property line regardless whether there is a home on there or not. My issue is really the property line. There will be some good examples of a use that we want to have that happens to be 100-feet from the property line and that is the issue. My suggestion would only come into play where the tracts are large and the homes are far from the property line.

Mayor Pro Tem Barnes said there aren't many large tracts left so it may not be a problem.

**Councilmember Austin** said I actually like the way the revision is written. After going through so much with residents and listening to their complaints; Ms. Fallon and I both listen to a number of people about issues with noise and their impact on their quality of life. I think not having the option is a good option for residents who want to live so I actually support it.

Mr. Autry said Ms. Campbell what if the property line of the residential was not on grade with the recreation use. Could that have some impact on how that approval or recommendation would come forward. Say for instance if it was 30-feet up from where the intended recreational use was, how would that play into the measurement?

Ms. Campbell said we would still measure it in the same manner and also there may be the potential with that situation for a variance to go to the Zoning Board of Adjustment process which is Quasi-Judicial. I think I will summarize by saying that this has been a pretty long and arduous and very contentious process. We have tried to balance the interest and the needs of this sector of our economy with the stability of single family residential neighborhoods. I am not adamantly opposed to making this change, but I want us to make this change and we understand essentially this is the change that we are making. We are saying in some instances when we can have a large lot; I would really like for us to constrain the conditions upon which this change can be made, that it responds to the unique circumstances that I think Mr. Brown's client has with regards to being on a shallow lot, but actually being adjacent to residential areas that have very deep lots and you are able to measure from the house, which again would be a change in how we are measuring now, but measure from the structure and that again this has to be defined in a very, very, I think narrow circumstance rather than opening this up. I do think there could be the potential for an encouragement of people to come in and rezone to these urban districts just to get out of that separation and that is what I do not support.

**Councilmember Driggs** said I understand the point that Mr. Brown is making about the possible nonsense outcome of rigid rules. On the other hand I'm a little concerned about the idea that sort of on a case by case basis we set them aside and I think I'm concurring with what you said and that is we should be very clear about the circumstances under which we would do so and have some objective points of reference as to what those would be so that the role of the Zoning Committee is not to say hey, I like this one and I don't like that one, but I'm applying these criteria and interpreting them and that leaves me to agree that this is one instance where the exception is appropriate. Is that something Mr. Brown, you think can be written?

Mr. Brown said I couldn't agree with Ms. Campbell more; what I would hate is for this to be exploited and people take advantage to the neighborhood's harm, but there are going to be rare scenarios where it makes sense and we could find some standards that would protect I think.

Mr. Driggs said I think the critical part of that would be the protest provisions and how they worked because the danger again is the decision is made that overrules the wishes of the neighbors and I think it is our intent to be able to allow this to happen with some sort of concurrence on the part of the neighbors, so the question is about how that would work.

**Councilmember Phipps** said I agree with what Mr. Driggs just said. Since we've had so many meetings on this; the Stakeholders Group has met and I think we would be going down a slippery slope if all of a sudden we go back and change this particular provision and I would be interested if we did change it what would be the procedure; would we go back to the Stakeholders Group and say oh, we decided to make adjustments here. I would think that would just be showing a lack of ...

Ms. Campbell said what we didn't include in terms of our public outreach is the number of times that we have sent e-mail messages to our community advisory group which has been numerous ones. If there was a direction by Council for us to go back and to consider some type of change in working with Mr. Brown, we would certainly e-mail out to all of the participants that this would potentially be a change if there are concerns for them to communicate back to us before the decision date, which we hope will be in July.

Mr. Brown said whatever you do please approve the rest.

Mayor Pro Tem Barnes said as she said you support 99.9% of it; I actually support what staff has proposed.

Motion was made by Councilmember Howard, seconded by Councilmember Kinsey, and carried unanimously, to close the public hearing.
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Ms. Campbell said thank you all for your time; I know we've spent a lot of time on this particular Text Amendment.

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**ITEM NO. 13: HEARING ON PETITION NO. 2014-035 BY ELECTROLUX NORTH AMERICA, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 90 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF DAVID TAYLOR DRIVE AND CLAUDE FREEMAN DRIVE FROM RE-2 (RESEARCH) TO RE-3-O ( RESEARCH OPTIONAL) AND O-1(CD) (OFFICE CONDITIONAL), WITH FIVE YEAR VESTED RIGHTS.**

**Assistant Planning Director Laura Harmon** said we will make a brief presentation and actually because we did not have all of the transportation information at the point of writing up the staff analysis, Dennis Rorie with Charlotte Department of Transportation will also go through what they have learned about the transportation analysis for this area.

This is the Electrolux facility in the University Research Park and is to allow the expansion of that facility and as you can see it is surrounded by properties zoned research. You can see David Taylor Drive here, Senator Royall Drive here, and Mallard Creek so this is well into the Research Park and of course as you look at this, and this is the existing Electrolux facility. They are looking at expanding that facility, again this is a little bit different orientation, the existing facility, the proposed expansion here with parking out in front. Area one retains the existing approximately 275,000 square feet, but area two is a major expansion of close to 900,000 square feet and then area 3, which they are proposing to be rezoned to O-1(CD) could either be parking if needed or 75,000 square feet of office. With this petition there are a number of optional requests because we are dealing with an existing facility that is expanding and because the RE-3 District has been changed significantly we have a little bit of a mismatch, but we think we brought that together pretty well in working with the petitioner and their agent and designers, etc. but we did want to point out that there are some things that they are looking at doing a little bit differently than you might traditionally do in RE-3. Elevations, which I'm sure the Petitioner will be showing you. The adopted future land use for the property is primarily office and residential with a little bit of office, residential and retail in this area. Before we go to our staff conclusions Dennis is going to take you all through the transportation analysis.



**Dennis Rorie, Transportation** said just by way of brief recap in terms of location the site is located in the center of the presentation, it is bounded by W. T. Harris, Mallard Creek Road, Mallard Creek Church Road and I-85. You will also hear me refer to Senator Royall throughout the presentation along with Research Drive and David Taylor Drive as each one of those streets plays an important part in the transportation study. By way of a broad overview the purpose of this presentation is really to introduce you to the traffic study, what we've looked at and ultimately what are the transportation mitigations that the petitioner and staff have agreed to and some things that may still be pending. Large study and a large trip generator around 8,700 trips per day once we count these next intersections up I think we will get close to 14 intersections between signalized intersections and just driveways that access the site. I don't intend to go through every one of those intersections, but I do intend to go through the intersections where some sort of transportation infrastructure will change as a result of the increase in traffic.

Intersection One, that will be W. T. Harris and Research Drive. That was one of the intersections included in the study. Mallard Creek Road and Governor Hunt Road, Mallard Creek Church Road and Prosperity Church Road, Mallard Creek Church Road and David Taylor Drive, Mallard Creek Church Road and Claude Freeman Drive, Senator Royall Drive, Mallard Creek Church Road along with Claude Freeman Drive and David Taylor Drive. This is Andrew Carnegie Boulevard and David Taylor Drive, Research Drive and David Taylor Drive and then we start to get to some of the site access driveways that I referenced. This is actually the intersection of the proposed public street which the petitioner plans to construct with David Taylor Drive, an existing driveway to David Taylor Drive which will be opposite of Governor Hunt along with three of the site access driveways. If you count those up you get close to 14, if not 14 intersections and driveways. By way of improvements at the first intersection of W. T. Harris and Research Drive the petitioner plans to construct a south bound left turn lane on Research Drive onto W. T. Harris. What is a minor detail but has significant transportation benefit is the adjustment in the pavement markings. Today you can see there is one left turn that turns onto W. T. Harris, there is also a shared left turn and through lane; that shared left turn and through lane will actually be converted to an exclusive through lane and the second left turn will be added into the existing landscaped median. This will allow the cars to process from the University Research Park area easier onto to W. T. Harris as anyone who would normally wait to go across to this part of the campus would hold the left turners that wanted to get onto W. T. Harris.

Moving over to Governor Hunt Road and Mallard Creek Road the petitioner intends to construct a second west bound left turn lane from Governor Hunt Road onto Mallard Creek Road and also increase the existing right turn storage from around 100-feet to 175-feet. For Mallard Creek Road and Claude Freeman Drive the petitioner plans to construct an additional west bound left-turn lane on Mallard Creek Church Road onto Claude Freeman Drive and also an additional north bound left-turn lane on Claude Freeman Drive onto Mallard Creek Church Road and the intersection of Mallard Creek Church Road and Senator Royall Drive, I listed this left-turn lane in white which is different than the color you've seen previously mainly to illustrate that this is a left-turn lane where the petitioner, at our request, has done some additional evaluation to determine whether or not that left-turn lane truly is needed as a part of their development. That left-turn lane shows up as a conditional requirement on a different rezoning petition. I think the Crescent Development has that on their rezoning petition as a commitment so it is coming; it will just be coming either with the Crescent Development or with the Electrolux Development once we have evaluated that remaining technical item.

David Taylor Drive and Research Drive, the petitioner is planning to install a right-turn lane on Research Drive to David Taylor Drive. I think the length of that right-turn lane is about 225 feet and there will be a pedestrian island that will be installed as a part of that. In terms of the actual main entrance on David Taylor Drive at the location where the petitioner plans to build their proposed public street, they will be creating both a left-turn lane on David Taylor Drive into the facility and a right-turn lane into the facility. That is all I have by way of a presentation, but I'm available for any questions that anybody may have.

**Mayor Clodfelter arrived at 7:18 p.m.**

**Councilmember Howard** said can you go back to the slide that showed where all the connections were? I'm looking at the rest of the Research Park and there still seems to be a lot of vacant land. I guess I'm a little concerned that we seem to be kind of inching our way towards this one because when the rest of that land gets done are we going to keep requiring more lanes, more lanes? Do you hear what I'm saying because what it feels like to me, and I won't stop them if they want to pay for all of them, but the further you go away from the building they are asking to make improvements to the whole park and there is still a lot of vacant land in the whole park that will be developed and how big will those intersections get? I know that this is the way that we do infrastructure and this is the way we get it done, but there is still a lot of land left. Are those going to get any bigger or have we maxed this out? Is everybody going to add on every time we do this?

Mr. Rorie said ideally no. I think you are absolutely right in the sense of incremental in our approach, but I would offer that it is trying to balance as each use comes in, how do we manage the additional traffic that is created by that use. One of the largest deficiencies that I could identify in the University Research Area is the lack of internal street networks. I think as you have the ability to have more internal street connections occur that allow us to keep the size of any one intersection down. The challenge with getting more street network through a development process is there is a land size component of it, there is really kind of that amount of infrastructure that could get required, balancing that against what is the physical structures that are being put on the ground, there has to be some sort of reasonable relationship between the two so in the interim, I think what we've done is try to kind of look for some of those connections internally. I think Electrolux on their own has created or proposing a public street which will be helpful in that longer term vision as you kind of think about what Crescent is already committed to do by way of some street network. What that again allows us to do is to keep any one intersection from getting too big.

Mr. Howard said I actually understand exactly how we do it, I guess when I see it on a map like this and I think how many jobs they are bringing with them.

Ms. Harmon said 800 jobs.

Mr. Howard said 800 jobs and I look at the rest of that land out there, if we do this by 800 job increments, I thank Electrolux for taking this on and making all of these and I understand how traffic studies work, but it seems like they should be responsible for a little less for some reason. I'm just trying to figure out what policy statement we make when you have to make improvements that far away for 800 jobs when you have that much green space still left. At this rate we are going to have really big intersections, but I understand why we are doing it. I'm surprised that they had to go that far away.

Mr. Rorie said not to mislead anybody with the graphic; of these 14 intersections, about five intersections are actually going to get modified so there was that fault that we put into it and kind of tried to exercise some discretion that we thought was reasonable. I think by way of a specific example, the intersection of Mallard Creek Church Road and Prosperity Church Road is an intersection that is challenged today and there is not really a good fix for that intersection outside of widening it much more than what it is today and that is an intersection that has dual left-turn lanes on each approach; right-turn lanes on each approach so then the question becomes what is next and I think the what is next starts getting to around uncomfortable in terms of adding that additional laneage even though it may some vehicular capacity benefit.

Mr. Howard said I get it, but you understand what I'm saying.

Mr. Rorie said I do and I appreciate the question.

**Councilmember Lyles** said I wanted to follow-up; I read in the Department comments that CATS had suggested adding sidewalks to certain street frontage to encourage the by directional routing of bus service and there was also an outstanding issue of sidewalks so as you are doing these improvements has the petitioner agreed to the appropriate sidewalks for the area that we are in and what we are trying to do is create the ability to not only drive, but bike and walk?

Ms. Rorie said yes ma'am, there are two locations where bus stops have really come up as a high priority item, especially for the Electrolux site that is generally in this location along David Taylor Drive and along Claude Freeman Drive, so ideally what we would have is a condition where we could connect the sidewalks along Claude Freeman Drive to David Taylor Drive and also connect those sidewalks to the facility so there are logical routes from the use to the bus stops. Due to some topography and also some existing trees I think what the petitioner and staff, we chose a little different approach and I think it is a good one where we've done the best we could to preserve some of the existing trees and we've connected proposed sidewalks to existing walking trails back to some proposed sidewalks along David Taylor Drive which kind of creates that pedestrian route to the bus stop. It is just in a manner that is a little bit more creative than what I think we would normally expect, but I do believe it will be effective.

Ms. Lyles said and that is an agreed upon condition?

Mr. Rorie said yes ma'am.

**Councilmember Phipps** said I think it is important to emphasize that there is already bus service on the site, so this would be an enhancement to existing bus service.

**Keith MacVean, 100 North Tryon Street** said I am with Moore & Van Allen and Jeff Brown and Chris Oats of our firm and I am assisting Electrolux North America, the petitioner on this petition. With me tonight from Electrolux is Jacob Burroughs, John McAlister and Edward Corpe, Sue Freyler with ColeJenest & Stone and Randy Goddard with Design Research Group. As Laura mentioned, the site is a 90-acre site in the Research Park currently zoned RE-2 and we are going to RE-3 to allow; primarily the reason for the rezoning is to allow the implementation of the connectivity recommendations of the University Research Park Plan, which is the next slide. As you can see this is a piece of the University Research Park Plan over laid on the Electrolux site which is highlighted in yellow. It recommends several new streets within the site as part of the development of the site. The RE-2 district actually allows the expansion that Electrolux is proposing, however to implement the street connectivity goals of the plan we need some modifications to the setback requirements of RE-2 therefore the rezoning to RE-3 optional which allows the connectivity that the plan looks for and as C-DOT indicated really helps take all the pressure of the traffic or concentrated traffic at one intersection and spreads it out throughout the intersections from the Park. This is the site plan for the site, the existing building which Laura mentioned is there now; Electrolux has been there since 2010, about 275,000 square feet, shown in yellow. It is shown here as the first phase of the expansion roughly about 385,000 square feet. The new public street will connect David Taylor Drive to this property line and then extend from there to Senator Royall Drive. When that property is developed there is also a second public street being constructed in this location which will connect again back to Senator Royall Drive, starting to create that network of streets within the Park to help disburse traffic. There is also a planned future expansion here, another 300,000 square feet and then the small office parcel here which could be developed with additional parking or additional office. There is future development planned here which takes up the bulk of the additional square footage proposed.

We have met with University City Partners as well as the URP Board; they are both endorsing this petition. We've distributed copies of their letters supporting the petition for your use. Here is a picture of the site; this is the existing headquarters building; this is the new building in the background. This is a picture of the front portion of the building and here is a bird's eye view of the site showing the new building and the existing building as well as the proposed roads.

Motion was made by Councilmember Howard, seconded by Councilmember Fallon, and carried unanimously to close the public hearing.
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**ITEM NO. 14: HEARING ON PETITION NO. 2014-039 BY JOHN M. MEYER FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.145 ACRES LOCATED ALONG NORTH DAVIDSON STREET BETWEEN EAST 35<sup>TH</sup> STREET AND EAST 36<sup>TH</sup>**

**STREET FROM B-1 (NEIGHBORHOOD BUSINESS) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).**

**Assistant Planning Director Laura Harmon** said this is a petition to renovate an existing building in the NoDa neighborhood to allow the establishment of a restaurant with outdoor seating. The property is in green on the map and you can see where it is located. This is an aerial view and it is very close to the future light rail stop for the Blue Line Extension, just around the corner. This is Davidson Street and 36<sup>th</sup> Street so you see a very quick walk around the corner and really in the core of the NoDa Business District. I won't go through all the details, but it is an existing building with outdoor seating being requested to be added to both the rear and the front. Some changes to the pedestrian system to make the area more pedestrian friendly by adding a planting area here to separate the sidewalk and to remove parking that pulls in off the street. The land use calls for transit supported uses in this area from the Blue Line Extension Station Area Plan, again looking at the proximity to the station. Staff is recommending approval upon resolution of the outstanding issues. This is consistent with the Station Area Plan with a very short walk of the proposed station that reuses an existing building which will make it more in keeping with what is happening in the Business District in NoDa. It improves the pedestrian environment and any outstanding issues that we have are technical in nature.

**John M. Meyer, 3221 North Davidson Street** said I'm here to answer questions and don't have a whole lot to add to what she has already said.

**Councilmember Phipps** said in reading the Staff Prehearing Analysis I was struck by, and I've read the response of the NoDa Association in support of the plan, but parking is already an issue in NoDa and I'm wondering if we are setting ourselves up for a problem in the future by not providing any parking on the site at all. I know they talk about having bike racks and things like that, but are we just giving up on vehicular parking?

Ms. Harmon said staff has been struggling with this issue in a number of our business districts and we talked about this somewhat with the petitioner as well. What had us comfortable in this case is we thought if there was parking for this use because of its location, the parking demand could be minimized because of the proximity to transit, but also if there is overflow parking this particular site is fairly far away from the neighborhood and so we thought it really became a business decision as to whether or not that would work. We talked to Mr. Meyer about that as to whether he felt comfortable and he did feel comfortable that there were enough walkers and folks from the neighborhood and transit that it would support his business. I think we would have been less comfortable if we had seen the potential for easy neighborhood spillover in a way that we thought would be detrimental to the neighborhood. We absolutely did consider it and struggled with it. We have some sites farther away where they are closer to the neighborhood and we feel less comfortable about the parking. This is a pretty unique site.

Mr. Meyer said we've looked at many, many options and the amount of parking you can get on the site would not help the situation. You can get maybe two spaces and two spaces will not help any kind of parking issues. A lot of the parking issues right now are brought upon ourselves because of growth. There is road construction, building construction, light rail construction which is taking away a ton of our parking. A lot of that will be resolved in the next year and a half and the next two years. We also have a lot of community growth; I think there are 1,000 to 1,500 new residential units being built within a quarter mile of this place. I agree there is a parking issue and it is not fun to go there right now but when all that construction finishes I do believe it will be a much more pedestrian friendly, a biker friendly. The neighborhood and light rail is so close I think it will be a nice pedestrian friendly corridor which is what the North Davidson corridor idea is, if I'm not mistaken.

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

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**ITEM NO. 15: HEARING ON PETITION NO. 2014-040 BY SARDIS ROAD LAND COMPANY FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.05 ACRES ON THE EAST SIDE OF SARDIS ROAD FROM INST(CD) (INSTITUTIONAL CONDITIONAL) TO UR-1(CD) (URBAN RESIDENTIAL CONDITIONAL).**

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

Assistant Planning Director Laura Harmon pointed out the location of the property, this is Sardis Road and continuing on up here you had a while back seen a zoning for a conference event center at the corner of Sardis Road and where Sardis turns the corner and approved that. You can see this is a largely residential area with some institutional uses in the area. The request is going from an institutional use to an urban residential use to allow 15 single family detached dwelling units at a density of three units per acre. You can see the dwellings along either side of the street that for reason of potential cut-through will be gated and an existing home that will remain. There are 14 new structures and an existing home to remain, making a total of 15. These are the proposed elevations for the homes. The adopted future land use does show this as institutional but that was actually reflecting an earlier rezoning to an institutional use. Previously, the South District Plan before that rezoning amended the plan did call for this to be a single family site at three units per acre. Staff is recommending approval of the petition. It is inconsistent with the amended South District Plan, but is consistent with the original recommendation of that plan, consistent with the surrounding land use pattern. The outstanding issues are technical in nature. We did want to point out that there is a sufficient protest petition for this rezoning.

Councilmember Howard said where is the gate?

Ms. Harmon said my understanding is that it looks like there is a gate here and a gate here.

Councilmember Phipps said was the Senior Independence facility ever developed?

Ms. Harmon said I don't believe it was; I think there were plans on how this could be used and incorporated, but it is not like they are removing anything. They are maintaining that existing home and the remainder of the property is vacant.

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

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**ITEM NO. 16: HEARING ON PETITION NO. 2014-041 BY DOMINION INVESTMENTS PROPERTIES, LC FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.92 ACRES LOCATED ON THE NORTH SIDE OF PETE BROWN ROAD AT THE INTERSECTION OF OLD STATESVILLE ROAD AND PETE BROWN ROAD FROM I-1 (LIGHT INDUSTRIAL) TO I-2(CD) GENERAL INDUSTRIAL CONDITIONAL).**

Assistant Planning Director Laura Harmon said the property is circled in red; this is Old Statesville Road between Gibbon Road and W.T. Harris and I also want to point out to you that Pete Brown Road is being realigned and doing some work that will bring it closer to that neighborhood and next to this property and have some impact on this property. That is a City project that I wanted you to be aware of. Here is the property and you can see a lot of undeveloped area here, the Oak Brook Neighborhood and some industrial uses along Old Statesville Road. This is the proposal to allow light industrial uses plus a contractor's office and storage yard, which is the only use in the I-2 District that they are going to which would be added to all of the light industrial or I-1 uses. The site plan shows an existing structure and future areas for outdoor storage and/or parking or new structures. Plenty of landscaping and tree plantings to screen the outdoor storage as well as buffering this and put possible additional access from Pete Brown Road. As you look at the property it is in an area that is planned for

industrial and currently developed with industrial. It is consistent with the Northeast District Plan. We think it is a positive thing allowing an existing business to expand and our outstanding issues are technical in nature.

**Councilmember Howard** said isn't the Red Transit Line right beside it? The track that I see, isn't that the Red Line?

Ms. Harmon said I believe it would be if it is constructed.

Mr. Howard said I know we can't put an overlay on it until we have funding, but kind of setting ourselves up for industrial use when we eventually want something else. I think there is a station in this area somewhere; I can't remember what the station is.

Ms. Harmon said we didn't find that the station was close enough to prohibit this from remaining industrial. We can certainly double check that and get information back to you.

Mr. Howard said the Griffins did a big rezoning over there some years ago if I remember right and there was a station right there.

Ms. Harmon said we will double check that location and make sure we're not missing something.

**Mayor Clodfelter** said following Mr. Howard's question, just to the north of this property there is a fairly large tract that has got MUDD-O zoning. Do you by any change recall what the proposal is for that?

Ms. Harmon said that was a large mixed use development with different densities that would probably be more transit supported than this.

**Walter Fields, 1919 South Boulevard** said I'm representing the land owner petitioner in this matter. I'm glad Laura mentioned the Pete Brown Road project because that is really what brought us here tonight. When the City came out to acquire some property from these owners it was discovered that they had been so successful in their business for over seven years that they had actually grown larger in terms of their storage outdoors than the I-1 zoning permitted. This is what we believe was a fairly simple request to allow them to continue doing what they are doing. I think about 80% of their business is with the City's Utility Department and as Laura said on the site plan, it is a small site; we've got the buffer established to the rear to the north which is where the Griffith Lakes Project is that Mr. Howard was asking about and Mr. Griffith is sitting up here tonight and we've met with him and talked about this issue. I think sort of a long-term view of both these owners and the property to the north is that at some point in time they will outgrow even this site and at that point they will have to simply have to move somewhere else and it would probably make sense for this property to eventually be rolled into that larger mixed use development, but right now it is a viable business there, very successful, they've done quite well. They don't want to move and in fact can't move right now so this is the simplest rezoning we could do to allow them to continue to have the business that they already have established on the site. The staff analysis reflects a handful of small technical issues. I think every single one of those we can address and in fact we were fortunate to be able to get those issues a little bit ahead of time and we've already gone ahead and made some changes to the site plan to reflect those discrepancies pointed out by the staff. We would hope that you would agree that this is a straight forward and fairly simply request to allow a small business to continue to do what they've been doing which is to grow and prosper in the City and the time will come when they will have to go somewhere else and with that time comes this piece of property would be a great candidate to add to the larger Griffith Lakes Development to the north. We have agreed with those owners to put some additional restrictions in terms of uses; in terms of adult establishments, anything that sells, distributes any sort of alcoholic beverages or anything like that so we are mindful that just to our north, at least for the foreseeable future there is zoning on the ground that would permit some residential development but we are taking that into account with the conditions on this plan, so we will stop at that point.

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

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**ITEM NO. 17: HEARING ON PETITION NO. 2014-045 BY PARAG PATEL FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.5 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF JOHNSTON ROAD AND NORTH COMMUNITY HOUSE ROAD FROM CC (COMMERCIAL CENTER) TO CC SPA (COMMERCIAL CENTER, SITE PLAN AMENDMENT).**

Assistant Planning Director Laura Harmon said this is the property here; it is part of the Toringdon Development just north of I-485 and the Ballantyne development. You have recently seen rezoning's in this area and approved a couple of rezoning's in this area. This is the site of a current hotel that is looking to expand. You can see the existing hotel and the parking, the rest of the Toringdon Development. This is the proposal for a hotel addition, relocation of some of the parking and additional parking in this area. Again it is a 40-room expansion so they will have 164 total hotel rooms. As you see the renderings the expansion will look like the existing building; this is new and this is existing so it is continuing with the current architectural design. With respect to adopted future land use we called for in Toringdon overall typically residential, office and retail and we think this is consistent as a retail component of Torrington. It allows an expansion of an existing business and our outstanding issues are technical in nature.

Councilmember Barnes said I'm sure you will address this, but the parking; the way this is written it seems that the building will be on the parking. Will there be additional structured parking?

Ms. Harmon said my understanding, and we may want to ask the petitioner's agent, but that is where existing parking is. That parking would be relocated to another location.

Mr. Barnes said if you could, address that at some point.

Peter Tatge, 3745 Lakemont Boulevard, Fort Mill, SC said I'm with ESP Associates, representing the petitioner, which is SREE Hotels and with me I have Parag Patel, CFO with SREE Hotels and Vana Patel who is the President and CEO. I have our traffic consultant, Andrew Eagle and our architect, Steve Finch. I have handed out a booklet which sort of mirrors some of the slides' I'm going to take you through a pretty quick presentation. I want to thank staff; they have been very thorough and have given you the consistency analysis, some of the facts; I will answer some of the questions on parking. I think the most important aspect of this is its context. It is Spring Hill Suites and Hotel in Ballantyne; it is located within Toringdon. Here is a view of Toringdon looking west; you can see the existing facility there on the northeast corner of Community House Road and Johnston Road and as you zoom in on the site, the operative area within the 5.5 acre site is 1.35 acres; it is the expansion of the existing Spring Hill Suites Hotel, a 40-room expansion. Some reconfiguration of the parking area and to answer your question, there is an existing curb cut that will be eliminated. The parking will be reorganized and pushed a little bit to the north to meet the minimum requirements. There is another curb cut just north of what is there and I guess that was planned is part of the Johnston Road expansion when it was designed. We are going to try to capitalize on that and that will be the new entrance because the building is going to position itself where the existing entrance is. This is the original approval for the Toringdon, which at that time back in 1998 was called Abingdon whose site as you have heard is zoned commercial, a small parcel that was designated for either office or a hotel and then it was purchased and obviously built with 124 rooms. Here is sort of an illustrative drawing of the area and you can see the building expansion there that is kind of taking in place of the existing curb cut and then capitalizing on that new entrance which is approximately 200 feet to the north. This is a blow-up of that existing area, a reconfiguration of that parking, meeting all existing new codes for landscaping, TCCO, ingress and egress. Some slides about the existing configuration in relationship to the existing infrastructure, architecture attractive; I'm sure you are all familiar with this corner. Again I think the most important thing is its context; it is in an

urban area, a center as it is designated by the South Area District Plan and we look forward to your consideration of this item.

**Councilmember Driggs** said I was interested in the traffic analysis; you are showing an increase of 340 trips per day. How much of that is during peak times?

Mr. Tatge said in your packet that I handed out there was a memorandum and a table at the bottom; the a.m. peak is 21 trips and the p.m. peak hour is 24 with a total peak traffic generation of 328 vehicles per day. Fairly low, not considered for a traffic impact analysis and we worked with C-DOT and you can see the highlighted paragraph, the conclusion is it is relatively insignificant based on the 40-room expansion.

Mr. Driggs said I notice that one person attended your community meeting, was that me?

Mr. Tatge said actually there was one other, but we appreciate your participation.

**Councilmember Phipps** said how many total parking spaces are there associated with this hotel?

Mr. Tatge said I would have to say total spaces I think 179; we could look at the plan to see exactly. We are meeting the minimum requirements for not only the existing, but the proposed 40-room expansion.

Mr. Phipps said is there a formula for each room like 1 ½ spaces?

Mr. Tatge said it is.

Mr. Phipps said we are not looking at any decking at this point?

Mr. Tatge said we are not looking for any variances or concessions or deviations from the ordinance for parking.

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

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**ITEM NO. 18: HEARING ON PETITION NO. 2014-046 BY THE HOUSING PARTNERSHIP FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.38 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF STATESVILLE AVENUE AND MORETZ AVENUE ABUTTING MOSS LANE AND TANQUIL OAK PLACE FROM R-22MF (MULTIFAMILY RESIDENTIAL) TO UR-2(CD) (URBAN RESIDENTIAL CONDITIONAL).**

Motion was made by Councilmember Lyles, seconded by Councilmember Driggs, and carried unanimously to recuse Councilmember Howard from Item No. 18.

**Assistant Planning Director Laura Harmon** said this is part of the larger, going to be added to the Brightwalk Development. You've also recently, in the last few years, rezoned this parcel and this parcel as part of Brightwalk. You can see the context and this is a bit out of date as a lot of development has now occurred in here, but these are the two parcels that we are looking at. This is the Druid Hills Neighborhood. The petitioner is looking at 118 additional residential units in Brightwalk and when looking individually at this site it is at a density of 34.9 units per acre. When looking at the larger Brightwalk Development it is a lesser density of 18.9 units per acre. We have looked at this in both ways. This was identified for multifamily in the Central District Plan, but that plan did not recommend a specific density. We did run the General Development Policies as we do for any site that is recommended for multifamily, but is not identified in a plan for specific density. What the General Development Policies, the locational criteria support 17



units per acre so the site is already zoned for 22 units per acre. We thought it made really more sense to look at how this fit into the bigger picture of Brightwalk and seeing by adding this development you would only see a very slight increase from 18.2 to 18.9 units per acre. You would be supporting the residential, the multifamily land use called for in the plan as well as the goals of revitalizing and redeveloping the formerly Double Oaks and Genesis Park Neighborhood and we are supportive of this rezoning. There are some outstanding issues where we would like to see a little bit more in building design and we have some minor transportation issues, but staff is recommending approval upon resolution of outstanding issues.

**Councilmember Austin** said I did notice almost 500 increases in trips per day. Exactly what are we looking at for traffic mitigation because I'm already aware of some concerns and one of the concerns came from myself in driving down Statesville Road. I got behind a bus that stopped and there is a very long median there, and I can't believe I'm talking about medians, but I could not get out nor could I get around and that just blocked traffic back so exactly what are we doing to address this increase. I like the project; I'm concerned about traffic and what we've already done to lessen the number of lanes along Statesville Road.

Ms. Harmon said we will have Dennis Rorie with C-DOT to address that.

**Dennis Rorie, Transportation** said I think what we are doing is really building out that internal street network that I referenced in an earlier petition. By doing so what that allows is some of those internal trips to disburse among different intersections to Statesville Road so that no one intersection is overloaded. You won't see anything formal in terms of mitigation, i.e. laneage increases somewhere; signalized intersection, but we are confident that as the petitioner is building out an internal public street network that will disburse the traffic throughout the site and get it to Statesville Road at that point. Again some of the median treatment that you are referencing, really that was to help one convert what was once a four-lane undivided roadway to a three-lane median divided roadway that kind of helps slow down some of the traffic that was going through there and also create a better pedestrian experience as folks are crossing the street. I think what we've said is that we are okay tolerating some of the congestion that you may see in a unique case like you referenced while trailing a truck and not being able to get around it.

Mr. Phipps said it was a bus that had stopped and it took quite a bit of time for the passengers to get on.

Mr. Rorie said I understand I don't want to minimize that by any means by way of the frustration that can cause, but I think we have kind of said we are okay with those periodic kind of modes of congestion and inconvenience to serve the greater network that we are trying to build out there and trying to create a pedestrian experience that we believe is a valuable point.

Mr. Phipps said from C-DOT we have no future plans for Newland Road and Statesville Road?

Mr. Rorie we do in terms of future plans; I was trying not to take what is happening on this one particular petition and talk future terms, but in terms of the broader, I think Double Oaks Redevelopment, there are future plans once more land uses develop out to have Newland Road realigned. I believe that is north on Statesville Road and then have the existing signalized intersection moved and kind of realigned in a much more conventional manner. Today it is kind of a curved alignment; it would be more of a 90 degree alignment once all is said and done, but that would not happen with this specific petition that is before you tonight.

**Councilmember Lyles** said I wanted to make two notes; in the Department Comments, this project will require a housing locational waiver. Is that correct Ms. Harmon?

Ms. Harmon said that was the comment we got from Neighborhood and Business Services so it depends on what type of housing, whether they are providing what is classified as affordable housing or not. This is just a heads up that they provide when they are in areas that will require waivers if that is what they choose to do.

Ms. Lyles said when you talk will you address whether or not that is going to be requested. The second point that I wanted to make is that I notice under the outstanding issues, the design  
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standards, I just want to note that I think consistently we should approach these projects in a way that we have looked at them to protect the neighborhoods surrounding them in terms of design and we've talked about this twice, or at least in my experience in the last six months, we've had a lot of concerns about design standards. We've invested a great deal of support in Brightwalk; it is successful and the design standards I believe are key to the success. The outstanding issues, when we come back, Ms. Harmon, if we could make sure that we've looked at that in a way that we've been looking at these types of projects to meet the neighborhood requirements.

Ms. Harmon said absolutely, that is our intent.

**Councilmember Fallon** said is this affordable housing or not?

Ms. Harmon said we do not look at that during the rezoning process so I'll have to leave that to the Petitioner's agent to talk through.

**Mayor Clodfelter** said I think that is a question the petitioner is probably going to address for us.

**John Butler, 4601 Charlotte Park Drive** said I'm with the Housing Partnership; I think to some of the earlier questions once Double Oaks Road reopens that should alleviate some of the traffic issues created by the buses as well. With respect to meeting neighborhood requirements both Shook Kelly and Land Design are helping us insure that we do meet those. The proposed zoning change allows the Housing Partnership to continue to expand its single family townhome and multifamily growth in Double Oaks. At this stage it has not been determined whether or not there would be affordable housing there or whether it would be market rate.

Ms. Fallon said I think there is affordable housing in Double Oaks already.

Ms. Butler said there are 216 units in Double Oaks and there is an additional requirement for 84 more units by the City. As currently contemplated it would be a relatively small multifamily development if one went in this section.

Motion was made by Councilmember Austin, seconded by Councilmember Driggs, and carried unanimously to close the public hearing.
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**ITEM NO. 19: HEARING ON PETITION NO. 2014-047 BY HOPPER COMMUNITIES FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.21 ACRES LOCATED ON THE WEST SIDE OF YOUNGBLOOD STREET BETWEEN REMOUNT ROAD AND GRIFFITH STREET AND ACROSS FROM POINDEXTER DRIVE FROM I-2 (GENERAL INDUSTRIAL) AND TOD-M(CD) (TRANSIT ORIENTED DEVELOPMENT, MIXED USE, CONDITIONAL) TO TOD-M O (TRANSIT ORIENTED DEVELOPMENT, MIXED USE, OPTIONAL).**

**Assistant Planning Director Laura Harmon** said this is in the New Bern Transit Station Area Plan and you can see that there is a lot of property in the area that was originally zoned for industrial and then we have had transit oriented development zoning that has been transitioning into that area over time. You can see the boundaries here; this is Youngblood Street, this is Poindexter Drive which is a really important street as we are going to talk about that this evening. This is a project that the City participated jointly with the development community on either sides of the rail line. We worked on the crossing to provide one of the relatively few crossings in this area of the rail line and brought that to Youngblood Street and will be something that will be continuing through this property. This is a request for townhome units at somewhere between 37 and 54 total for sale units at a minimum density of 11.5 units per acre and a maximum of 16.8. The 11.5 units per acre are a bit less than what we typically recommend in a transit station area, but because we are looking for a range of housing types and we haven't seen a lot of this housing type we are supportive of their optional request to go potentially to a little bit lesser density. As I mentioned, Poindexter Drive as it crosses Youngblood would come

into the site here and access would be off of that new Poindexter Street on both sides of the street. You can see the future land use solidly transit oriented development and this is consistent with the New Bern Transit Station Area Plan; the site is within ½ mile walk, it is at the outer edge of the New Bern Transit Station area. We do support the option for potentially a slightly reduced density and the outstanding issues that we have are design related and also technical in nature.

**Councilmember Kinsey** said I notice that the property owner is the Charlotte Housing Authority but the petitioner is Hopper Communities and I realize you don't consider affordable housing when you are talking about land use, but I would be interested in knowing if any of it is affordable. The reason being we've tried to get affordable housing around the transit stations and this of course would be a good thing in my opinion if it were that. I just wondered if anybody is here to speak tonight to that.

**Mayor Clodfelter** said we have a number of speakers for this petition and they may have heard your question and may be prepared to address it.

**John Carmichael, 101 North Tryon Street** said I'm here representing Hopper Communities and with me we have Bart Hopper with Hopper Communities and Clay McCullough of Hopper Communities, Matt Langston, Land Works Design Group, the landscape architectural and engineering firm working on the project. We have Ms. Taylor of the Charlotte Housing Authority and the Charlotte Housing Authority is the owner of the site. As Laura indicates the site subject to the petition contains approximately 3.2 acres, located on the west side of Youngblood Street between Remount Road and Griffith Street. It is currently zoned I-2 and TOD-M (CD). This petition seeks to rezone the site to TOD-MO to accommodate the development of a residential community that would be for sale townhomes units, a minimum of 37 and a maximum of 54. Access into the site would be by way of this public street extension into the site from Youngblood Street. It would terminate essentially at the northwest property line of the site. Vehicular access to the individual townhome units would be by way of 22-foot wide private allies and there would be garages in each unit for the parking of motor vehicles and then there would also be on-street parking along this extension of Poindexter Street. The alignment of the new public street was determined in conjunction with the Planning Department and the Charlotte Department of Transportation. The street is also called for under the New Bern Transit Station Area Plan. An eight-foot sidewalk and an eight-foot planting strip will be installed along the public street extension into the site as well as along the site's frontage on Youngblood Street. There would also be a 10-foot wide landscaped area next to the industrially zoned properties and the properties used for industrial purposes except adjacent to the existing Charlotte Housing Authority site located to the east of the property, where there would be a five-foot wide landscaped strip and then a six-foot tall opaque fence. There are architectural commitments on the conditional rezoning plan; the maximum building height is 50-feet. The exterior finishes of the buildings would be composed of a combination of brick, stone, or similar masonry products and/or hardy plank or fiber cement board. There could be no vinyl use as siding materials, EFIS or Masonite, however you could have vinyl soffits and of course you can install vinyl windows. The development of the site would also be subject to the urban design standards of the TOD zoning district so it is our belief that the architectural commitments together with the urban design standards of the ordinance will insure a quality project on the site. The site is located within ½ mile of the New Bern Transit Station and the zoning request is consistent with the New Bern Transit Station Area Plan as Laura indicated and we are appreciative of the fact that the Planning Department supports the approval of the rezoning request. There are some outstanding site plan issues which we will resolve certainly by the end of the week. We appreciate your consideration and once again we are happy to answer any questions you may have.

**Bart Hopper, 228 East Boulevard** said I will try to be brief; we've been working with the Charlotte Housing Authority in conjunction and we are talking to them and part of our agreement is that we will have 10% of what we call workforce or affordable housing and it is based on a formula of 80% of the local Charlotte median income. So we are addressing that, and just wanted to let you know.

**Councilmember Phipps** said you've got like a 20-unit spread between the minimum proposed number of units and the maximum; 34 minimum and 54 maximum, what criteria are you using?

Mr. Hopper said that is a good question. At this point what this boils down to is this will be for sale product and it will be townhomes, as you can see 4, 5, 6 units together and that kind of thing, so it ranges, based on the product. We work with national and regional home builders and that is what I've been doing for too long to count, but it will range anywhere from 18-foot wide to 24-foot wide and we don't have that buttoned down yet is what I'm trying to say so we need that flexibility. It will be quality and it will comply with all of the architectural; that is the reason.

Ms. Kinsey said when you do have elevations could you send them to me? I would just like to see them.

Mr. Hopper said we will and until you have your builder selected; I do horizontal development. I really stay away from the vertical pretty much so when we have them, it may be later, but I will get them to you at some point. We've worked with a couple of these different builders and it is quality stuff, so we feel good about it.

**Al Allison, P. O. Box 35628** said I am the retired CEO of Allison Fence Company and I own this property over at 2801 South Tryon Street that adjoins the Housing Authority property. Back in 2002 the Crowder's and Allison's moved from Seigle Avenue area, where the Belmont Community Task Force recommended that and we applied for a HOPE VI Grant. Part of that change in our persuasion to move from there was so that the residential community would not have to look at the industrial community that the Crowder's and the Allison's had at the time. My family had owned this property on Seigle Avenue since the 1800's and we'd been there since the 50's. When we moved the whole idea was to improve the community and that was our spirit. In that process the Housing Authority proposed that we move over to Youngblood Street on their 5.5 acres. This was before the envision of the light rail and before we could move I purchased this lot to cause connectivity to the site and before things happened I was encouraged to move somewhere else because the light rail came about and what we've seen out there is just incredible. From 2004 when I bought this lot to 2014 none of what you see out there was there and that is a pretty incredible statement. I support the Hopper's project, but my concern has to do with the road and Poindexter and I could not get a firm location; it is going to go through my property. I think it is important to the project with the Harris Teeter and the project with the Hoppers and the rest of the New Bern Station that that Poindexter connectivity continue, but I certainly didn't want my property to be divided in half and what was left over to have no value. That was my only concern as well as I would like to see the South Tryon Street area to sort of clean up like the spirit the Crowder's and I did at Seigle Avenue and I would like to see some of those industrial uses lighten up a little bit or be encouraged or influenced to sort of make the same change that we did, but I do support and I think their project is viable and fine and it is just this road concern that I had to move forward without an answer on the road I wanted to oppose.

**Mayor Clodfelter** said can anybody talk about the future extension of Poindexter?

Ms. Harmon said I'm going to ask Dennis Rorie to come speak to that, but as we have been working through this I'm not sure that the exact alignment is set yet. We are trying and actually worked through this site to try to split the road between two different property owners to minimize impact and Dennis can talk a little bit more about that because he has been more closely involved in that process.

**Dennis Rorie, Transportation** said a few things, definitely the road alignment, I think it was the petitioner's agent who kind of acknowledged the origins of this street connection that ultimately gets you back over to South Tryon. It would connect Youngblood Street to South Tryon and that was identified in a Station Area Plan. I don't know if we have the existing approved conditional plan available to pull up or if we could pull it up it would show that the alignment that is currently shown on the screen now actually is shown on an existing site plan in generally this location, but it exits the Housing Authority property roughly at the same corner. What is kind of being contemplated by way of an alignment as it exits this property line is very similar to what is already approved. I'm not sure in terms of the specific concerns about the new alignment outside of maybe there are still some concerns with what is already approved by way of this existing

alignment I'm referencing right now. I think the long-term vision for this alignment is really to create an ability for folks to connect from South Tryon Street back to South Boulevard farther down with really limited ways to cross the light rail and I think Laura acknowledged earlier there is an at grade crossing somewhere generally in that location and this would be a connection that would allow for an additional more fluid kind of connection between Tryon and South Boulevard and an at grade crossing with the light rail that is kind of parallel to the one at Remount and Ideal Way as you cross South Boulevard.

Mayor Clodfelter said once this petition is approved that is going to fix the future alignment.

Mr. Rorie said by way of fix the future alignment could you ...

Mayor Clodfelter said if the Council approves this petition it is going to show an alignment and that is going to dictate where the street is going to go when it exits the property.

Mr. Rorie said that is correct and what I would just reiterate is there is an existing approved plan that has an alignment set already that exits the current petitioner's property generally at the same location as where the alignment that is contemplated tonight exits the property. I think that the majority of the change in the alignment is actually on the petitioner's property and not on the properties to the rear. That is what I'm really trying to convey.

**Councilmember Barnes** said just for the sake of having this discussion, it strikes me that even though the alignment existed before, we are creating a cut-through through this townhome community and I think what Mr. Allison is speaking to is an issue of fairness. He was encouraged to move, he moved and now we are essentially splitting his parcel in half or having some substantial effect on it. What is the true value of the cut-through; in other words would the owners of those units experience some level of peace and enjoyment to their homes that might not otherwise be realized if we provide for the cut-through and might we see Mr. Allison have some higher and better use for his site if in fact it remains intact and he is able to develop it or sell it for future development in whole as opposed to in part?

Mr. Rorie said respectfully I would define the connection as an alternative route choice.

Mr. Barnes said not a cut-through? We call it a cut-through.

Mr. Rorie said I would define it as an alternative route choice and respectfully I define it that way. Again I think it provides not only a benefit to I think the proposed townhome community, but there are some global benefits to it. I think long-term, there is nothing set in stone, but we've talked about the potential of maybe signaling South Tryon and what would be this Poindexter Drive Extension, really evaluating that and seeing if that is an appropriate location for a signal at some point in the future. Of course we would have to work with NC-DOT because that particular street is maintained by NC-DOT, but starting to introduce those types of intersection controls really start to shape kind of what type of development is likely to want to get on what is kind of would be redefined I guess is a hard corner in real estate terms. I think there could be some land use benefits; a lot of things have to fall into place to do that, but also I think if you are in this townhome community or if you are on Mr. Allison's property, kind of in the rear, there is opportunities to kind of come again south to north on South Boulevard, make a left onto Poindexter and access either site more directly than they now have to come up to Remount and make a left and kind of create what we call a whole bunch of dog-leg turns to get home. There are benefits I think today.

Mr. Barnes said have we given any thought to some way to minimize the impact on this site because again if there is some way he could develop that to generate even greater property taxes that is good for Charlotte.

Mr. Rorie said we have; we've looked at several different alignments on the Housing Authority's site and kind of how they lead the site and what it does to the balance of land off site. By situating it close to the property line those are indeed places that are generally set up for buffers and things of that nature and so when we introduce, I think if this were to be a public street I think the presence of that right-of-way starts to eliminate the need for that buffer. In terms of

buildable area, without talking to Mr. Allison, I think we were trying to stay along the property line knowing that physical structures are generally not put adjacent or abutting the property line itself. That is how we tried to do that, albeit very kind of localized in our conversation with the petitioner, but we are happy to talk with Mr. Allison as well to see if that starts to address some of his future development needs.

Mr. Barnes said how wide is that right-of-way that runs along the property line?

Mr. Rorie said I do not have that dimension; not easily available.

Mr. Barnes said but it would be fair to say that there would be a substantial portion of the parcel that would be subject to development?

Mr. Rorie said that would be 67 feet of right-of-way, but that 67 feet has the ability to be reduced by roughly 10 to 15 feet or more.

Mr. Barnes said do you need 50-feet of right-of-way for a two-lane road?

Mr. Rorie said you generally do because we tend to want to have the planting strip in particular in the right-of-way. We will reduce that width from 67 feet to bring the right-of-way inside the limits of the sidewalk and accept the sidewalk in an easement so we as a public agency or entity can go and maintain the sidewalk.

**Councilmember Driggs** said I think this is clear now, but that rectangle, is that whole rectangle your property Mr. Allison?

Mr. Allison said the rectangle to the left, an acre and a half.

Mr. Driggs said what percentage of that property is rendered unusable by the road passing through there. I think that may be a question for C-DOT actually; do we know what the percentage of the property is that is actually compromised by virtue of putting the road on it like that.

Mr. Rorie said we don't know directly because where we really think we're most confident is on the alignment across the Housing Authority's property. There is the ability to make some minor modifications to the alignment as it leaves their property to either shift it slightly north or slightly south so any of those tweaks affects the end balance of land that remains. In terms of hard numbers, we don't have those hard numbers and in terms of usability, I think we would want to hear from Mr. Allison about what some of his long-term plans of development are to really define what is usable from his perspective.

Ms. Harmon said also to clarify it is pretty clear that the street wouldn't be going in at this point and time, but it is likely at the point in which this area is redeveloped we would be looking for a street that whoever is developing that property would come in for say a transit oriented development zoning district which does provide greater intensity of development, lesser setbacks, lesser yards so there would probably be an offsetting benefit by going to that TOD even with a street in there. The cost of constructing the street aside which I think we would all have to work on at that point in time, but as far as losing development rights, it probably would increase development rights significantly over the industrial zoning that is there now.

Mr. Driggs said is this the right-of-way that Mr. Allison knew about when he was encouraged to relocate to that property?

Ms. Harmon said I would have to defer to Mr. Allison about that.

Mr. Driggs said were you aware that there was a right-of-way issue that might cause this to happen?

Mr. Allison said not at that time. There was no light rail planned at the time and I was going to use that for access myself to the property so I'm not opposed to the access. I think the  
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community needs that road and I think that is the reason it is there. I didn't want it to cut across diagonally or something like that and just have some assurances that it is fair.

**Councilmember Lyles** said Mr. Allison I think I actually walked with you on your property in 2002 when you were on over on Seigle Avenue and here we are again tonight. One of the questions I have and I'm not quite sure that it is a question that I want an answer to tonight because I'd rather have an answer that you are going to say is definitive and I've heard tonight, well it is kind of we know what we are trying to do, where we are going. This area is going to take Poindexter across the Housing Authority's property, across Mr. Allison's property and then there is Southside Homes and when you look at how it lines up and the use of the property, it seems to me there is a little bit of coordination that needs to go on and that the road plan needs to be designed, both to think about connectivity as well as the transit oriented development. Southside Homes is probably one of the few remaining Housing Authority projects that is open for redevelopment and not likely 10 or 15 years from now, but in conjunction with the work that we are doing on the rail line and the transit oriented development, so what I'm hearing is a lot; I don't hear a lot of clarity around the design of a road if there is going to be one, where it is going to be located, if it is required to be a road that connects there as well as how we are going to look at this entire area and figure out if you've got Poindexter coming over in this block, what do we want to see working with homeowners there and then what are the plans for Southside. You've got, I think an opportunity, perhaps the timing is not right but on a road we generally lay these kinds of plans out and we are able to be a lot more definitive than I hear in this rezoning tonight. That makes me very uncomfortable.

**Councilmember Howard** said the first thing is I want to separate this road conversation from the rezoning. What they want to do land use wise sounds like it is okay with what we are doing in transit. This whole conversation about a road sounds like something there is not a lot we can do about. First of all, is there even right-of-way? Right-of-way implies that there is already a reservation for a road to go through there. Is that actually something that was given to the City or is just on a map somewhere that you would like to make a connection?

Ms. Harmon said for Poindexter beyond this property, we do not have any definitive plans right now. It is in an area plan, it is desiring a connection from Youngblood to South Tryon, but there are no plans currently to put that road through. We would see that happen only in conjunction with new development.

Mr. Howard said let's be clear, there is no right-of-way reserved at all. It seems we've heard that a couple times, so Mr. Allison wouldn't have known that because it was not part of the conversation. The second thing is if you go back out some, we have it on a map; I pulled it up here. The way that Poindexter would have to align when it gets to South Tryon with Benjamin almost requires it to do some jig to get over there some kind of way. If we want connectivity between this street which is Youngblood over to South Tryon it has to go through Mr. Allison's property to line up with Benjamin, which is what we would normally require. We wouldn't let that run across the property line because it wouldn't dump out at an already established street. But that has absolutely nothing at all to do with this rezoning, absolutely nothing to do with this rezoning. The way that this road comes in to here just means that we want it to go on through; it means nothing else. We should just separate these two conversations. If we care about the way it eventually lines up with South Tryon that is something that has nothing to do with Mr. Hopper's rezoning tonight. This is about the rezoning and what the land use will be on this property; where this road lines up with Benjamin is kind of an established policy already with the City. We want it to line up with established streets. When that time comes we can talk about it then, but it has to connect to an established street.

**Councilmember Kinsey** said I don't disagree that it might not have anything to do with the rezoning, but Mr. Allison came down and I do feel like we need to at least ask the questions.

Mr. Howard said just to clarify, I don't disagree with you. I wanted to clarify all the conversation that was going on around the dais; it was going in another direction. That is all.

Mr. Barnes said I disagree with you a bit there Mr. Howard. I do think it is very much related to the land use because what happens with Mr. Allison's property is very much impacted by this  
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infrastructure piece so whether there are townhomes there or not, that is fine, I don't care about that piece, but I do believe there is this inextricable relationship between that road and this rezoning. Because of what we are hearing tonight I am concerned about how he was led to believe that he would have a whole parcel there and now it is going to be potentially cut. Because this right-of-way has not been officially reserved I think what I'm hearing from our C-DOT expert is that, I can't remember the term you used for cut-through, what was it?

Ms. Harmon said alternative connectivity.

Mr. Barnes said regarding your alternative connectivity, which I call a cut-through, I'm not too big on that and a part of that just from my perspective is his expectations when he bought the property and whether there is a higher and better use of the property. I do appreciate the fact that the road would be limited essentially to the area near the property line, which is helpful, and that does still allow some opportunity for development on the remaining part of the site and it will allow Benjamin Street as Mr. Howard indicated. I do think there is some connection. All too often we make these decisions without considering some of these secondary and tertiary impacts and in this case we have an opportunity to do that tonight. I appreciate the dialogue; I appreciate Mr. Allison raising the issue.

In rebuttal Mr. Carmichael said what I would like to do, with your permission, is to ask Mr. Langston to talk just for a minute why the road was designed in that fashion. Here again, that was something the Area Plan called for so we complied with that.

**Matt Langston, 7621 Little Avenue** said when we initially started looking at the site plan here the old rezoning that is currently applied to the site had a road that did not line up with Poindexter. The New Bern Area Plan shows clearly a dotted line connecting from Poindexter generally over to South Tryon Street. The alignment that we are showing for this road provides flexibility because it is coming in sort of at an angle, it can run strictly adjacent to the property line for Mr. Allison, right next to the gas station, or it can shift over more into the site if the site plan of his development calls for that. I don't think we are restricting him; we're definitely not proposing to have the road slice diagonally across his property. It doesn't bisect, it doesn't create remnant pieces of his property. It doesn't answer that question, but it provides for future flexibility in how it is aligned right now.

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

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**ITEM NO. 20: HEARING ON PETITION NO. 2014-048 BY MARSH EUCLID APARTMENTS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.99 ACRES GENERALLY SURROUNDED BY SOUTH CALDWELL STREET, LEXINGTON AVENUE, EUCLID AVENUE AND TEMPLETON AVENUE FROM O-2 (OFFICE) AND TOD-MO (TRANSIT ORIENTED DEVELOPMENT T, MIXED USE, CONDITIONAL) TO TOD-MO SPA (TRANSIT ORIENTED DEVELOPMENT, MIXED USE, OPTIONAL, SITE PLAN AMENDMENT).**

**Assistant Planning Director Laura Harmon** said the majority of the rezoning site was rezoned a couple of years ago to TOD-MO; TOD-M with some optional provisions. There is also some adjacent property that is being added to that and with a few adjustments to the TOD optional provision. This is the site at the edge of the Dilworth neighborhood and you can see the Dilworth neighborhood here; here is South Boulevard, Lexington Avenue and Morehead Street so it really is in the transit station area that really starts to be the transition between Dilworth and SouthEnd. As I mentioned this is the addition of a relatively small area, but really kind of cleans up the development block, some minor optional requests for reduced setbacks along Lexington to have a reduced setback also along Templeton to look at further reducing a setback along Euclid and having a very slight increase in height, maintaining also the other commitments that were made originally during the first rezoning. These are just some drawings of some of the commitments, so where there is an encroachment for a pool and amenity area into what is the



standard setback, it will be screened by the screened wall; also looking at doing some things on Lexington, making some changes to set in place some on-street parking. You probably can't tell this very well from this site, but changing across section on Lexington a little bit to guarantee some on-street parking on this side of the street. Again this is Lexington, Templeton, Caldwell Street; this is the Carson Boulevard Station so it is proximate to that station that is planned for transit oriented development mixed. It is consistent with that plan, again within ½ mile walk; carries over many of the conditions and provisions from the previous rezoning and staff is supporting it upon resolution of some technical outstanding issues.

**Keith MacVean, 100 North Tryon Street** said I'm with Moore & Van Allen, representing Marsh Euclid Apartments, LLC. With me tonight is Jamie McLawhorn with Marsh Properties, Tom Wright with NarmourWright Architects and Jud Little with Chevington Associates. As Laura mentioned this site is consistent with the SouthEnd Station Area Plan, it is a simple rezoning to really add two parcels that were not included in the petition last year. One parcel was not available at that time, but became available after that petition was approved. We are now adding it back into the petition to allow it to be a better development parcel zoned the same way, consistent block. The optional provisions remain; the optional provision applies if the site is zoned residential. If it is not zoned residential then the standards of TOD would apply. We have worked with C-DOT to resolve the issue of Lexington Avenue in terms of the streetscape treatment along Lexington Avenue. We have reduced the width of the bump-outs along Lexington to five feet that allows parking to remain on both sides of the street and two lanes of travel to continue as Lexington functions today. That amended street cross section will be added to the petition and then there is one minor change, a typo in the petition regarding the length of the screen wall along Euclid that is used to screen the pool amenity area from Euclid. It is also a wall that is required by the Health Department whenever you have a pool.

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

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**ITEM NO. 21: HEARING ON PETITION NO. 2014-050 BY COOPER BUILDERS, INC. AND CAMBRIDGE PROPERTIES, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 9.09 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF CARMEL ROAD AND COLONY ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) AND UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL) AND UR-2(CD) SPA (URBAN RESIDENTIAL, CONDITIONAL, SITE PLAN AMENDMENT).**

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

**Assistant Planning Director Laura Harmon** said this is Carmel Road and Colony Road and you can see it is in an area that is largely residential with some institutional uses planted out in the area. The site has an existing pond on the site and it is the site of a former plan that was not fully implemented so it started to be implemented and then during the recession it was not fully implemented so they are coming back to change the concept for the property. This is what is being proposed; this is the street going partially through the site; this is the pond that I just pointed out. They are requesting in two phases to develop 43 single family attached units at a maximum density of 4.7 units per acre. They would have 36 units in Phase I and in a second phase up to seven units would be replacing an existing single family home on the site; again doing this in two phases. These are proposed elevations for what would be built. This is the land use proposed, showing the density currently for the majority of the property being at four plus units per acre and then a little sliver at three units per acre. It is consistent we think with the South District recommendation for residential. We did a little bit of math on this and as you look at the sliver that is still planned for R-4 and add that six units that could be built on that to the remainder of the property, you could build 42 units per the plan. They are requesting 43 attached units. Staff is supporting this upon the resolution of outstanding issues which are technical in nature.

**John Carmichael, 101 North Tryon Street** said I'm here on behalf of the petitioners, Copper Builders and Cambridge Properties. Those folks are here to answer any questions you may have. They are comprised of Mr. Miller from Copper Builders; we have someone here from Cambridge Properties, the architect and the representing of the Engineering firm so if there are any questions we feel we can certainly answer them. This is the subject site located at the southwestern corner of Carmel Road and Colony Road. It is about 9 acres, currently zoned R-3 and UR-2(CD). Under the currently approved conditional rezoning plan you could build up to 36 condominium units in three separate buildings. Development of the site was commenced under the existing approved conditional rezoning plan and what happened was there was a three-unit condominium building built in this location and that was really the only building that was built other than an accessory garage. There was some grading that was done to the site; a portion of the driveway was constructed. That three-unit building has three units obviously, two of which are unoccupied and one of which is occupied by Henry and Sally James. The James have been through a lot as you might imagine since 2006, and they are wonderful folks, but the economy went bad, the developer had legal and financial difficulties so development was halted. The request today is to rezone the site to UR-2(CD) and UR-2(CD) SPA to accommodate the development of up to 43 for sale townhome units. As Laura said it would be in two phases; phase one would be 36 for sale townhomes units, essentially what you see here and one detached single family home right here and that would be the James residence. What would happen is Mr. Miller of Copper Builders would demolish the two units so you would be left with a single family home and that would restore the James back to their prior condition. They would have a separate lot where they could have their garden and their traditional single family home amenities ; so that would be Phase I, 36 townhome units and one single family detached home. Phase II, in the event that the developer ultimately acquires the James parcel, then that residence could be demolished and up to seven for sale townhome units could be developed on the site. Access into the site would be from Colony Road by way of a private street located across from Carmel Crescent Drive. There would be a five-foot sidewalk and an eight-foot planting strip located along this portion of the private street. Portions of the private street would have decorative paving; the private street would terminate here and a vehicular turn-around and then there would be a very nicely landscaped and hard-scaped community open space in this area between the terminus of the private street and Carmel Road. There would be a left-turn lane into the site that the developer would install on Colony Road.

Each townhome unit would have a two-car garage and there would be 22 on street parking spaces located on the internal private street. Access to the garages for each unit would be by way of a private drive and the private drive would be landscaped and there would be a five-foot wide pedestrian path that would go adjacent to the private drive. Each unit would have a private courtyard that would be at least 400 square feet in size. The private courtyards would have walls and gates and then there would be pedestrian paths between some of these private courtyards. As you can see there is a lot of pedestrian connectivity throughout the site. You've got a pedestrian connection here and you've got a pedestrian connection here and then you've got connectivity throughout the site here and as well down here so there is a lot of pedestrian connectivity. The existing pond would be preserved and there would be tree save areas located around these portions of the pond so much of the natural beauty of the site would be preserved. There are architectural commitments and there have been updates to the elevations and we think the architects have done a wonderful job in terms of the notes on the plan. At least 75% of each façade below the roof line would have to be composed of brick, stone or a combination of these materials and the remaining portions of each façade would have to be composed of cementitious siding, miratec trim and stucco or a combination of these materials. Once again vinyl would not be a permitted exterior siding material, but it could be used on soffits and you could have vinyl windows. These elevations will be submitted with our revised plan on Friday. This is a side elevation of each townhome building and there would be a covered porch, windows, varied roof heights and a door, so the side has a lot of the characteristics of a front. These are some of the front elevations; this is the 42-foot wide product. You can see the front loading garage; this is the 40-foot wide product, so once again there is some variation here. This is another front elevation; this is a 40-foot wide product and this is the rear of the units. These are the rear of the units that you would see on the portion of Colony Road, south of the private drive so you would have rear facing units here and rear facing units here, but once again they would have the appearance and characteristics of a front elevation.

This is a detailed landscaping plan that we will be submitting with our revised rezoning plan on Friday. It is a detailed conceptual landscaping plan; among other things it would provide for a continuous row of evergreen shrubs along the frontage of Colony Road and along Carmel Road. There are some minor exceptions to that which I will note and show in a little more detail in a moment. At the community open space, you would not have that continuous row of evergreen shrubs because there would be pedestrian connectivity, likewise here there is pedestrian connectivity so you wouldn't have shrubs blocking that as well as there are some pedestrian connections along Colony Road. The units are a little below the street so when I show you these pedestrian connections, there are actually steps up to the street. On this landscaping plan the petitioner is committing to the form, density and locations of the shrubs and trees to be installed on the site. The plan describes the size of the shrubs, whether they are large, medium or small and whether the shrubs are evergreen or deciduous and they also describe the size of the trees whether they are large maturing or small maturing and whether the trees are evergreen or deciduous or flowering. There is also a detailed landscape plan for the community open space as well. Once again it is a combination of shrubs, trees and hardscape. This is a perspective along Colony Road; this shows the entire frontage along Colony Road and it may be a little difficult to see, but this is the private drive here from Colony Road, these are the rears of those units that I referred to. There are six units that their rears face Colony Road here and these are the side elevations that you will recall. These are all side elevations and as you can see the units sit slightly below Colony Road and then you have the shrubs here and then you also have other supplemental landscaping behind those shrubs. There are some spaces where there are no evergreen shrubs that provide screening and in those locations there will be about an 18-inch seat wall. The point of that was to break up the monotony or the potential monotony of a long row of evergreen shrubs, but also to bring the elevations to the streetscape because they are very attractive and they are nice building materials. Those would be the exceptions of the continuous row of evergreen shrubs. Once again the site sits slightly below the adjacent street so there will be retaining walls and these shrubs will be located essentially on top of the retaining wall and there will be protective rail behind the shrubs to prevent people from falling off the retaining wall down to the ground below. We think it is going to be a very attractive community; we've been working closely with the neighbors and they have been very giving of their time. We were meeting with these folks out front before the public hearing and without putting words into anyone's mouth, I think we are very close to resolving what our issues were and really the issues relate to providing a little more detail. I think they've been comfortable with the concept but they want a little more detail so hopefully when they see the revised plans that we submit on Friday they are going to have that comfort level and once again, they have been very giving of their time and we certainly appreciate that. The Planning staff is recommending approval and for that we are appreciative. There are some outstanding technical issues that we will resolve by Friday.

**Thomas Collins, 2504 Sheffield Crescent Court** said thank you for the opportunity to comment on this; we think it is an exciting project although we are on the protest side for the moment. I'm President of the Carmel Crescent Homeowners Association that is right across the street from the property in questions and it is probably the community that has the biggest exposure if you will to this development. We are clearly interested in a quality product that is consistent with the rest of the surrounding community and I would say we are cautiously optimistic that the plan will deliver that. We have some reservations that caused us to file a protest petition and as Mr. Carmichael alluded, that surrounded detail, what are we going to be seeing from the vantage point of our community since there is no screening wall for example we felt that the landscape plan is particularly important because the landscape becomes the screening. There was in the initial submission that is now before the City, there was no detail and specificity associated with that landscape plan which we thought was very, very important. Things like irrigation of that landscape, so landscape, streetscape, elevations and the details associated just were not there in the submission that we saw and hence we submitted a protest petition pending the development of those specifics. We have been in dialogue with the developers and their Counsel and I would have to say they have been incredibly responsive to all of our input and we think our great expectations will be that when they submit a revised petition that they will address some of the issues that we have discussed with them. We will reserve our final judgment until we see that resubmittal. We are anxiously awaiting it; this has been a long torturous development of this property, long delayed. We are excited about the prospects; it is a wonderful community and in a way it is sort of one of the southern gateways to SouthPark and an important intersection for  
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this community and we certainly like to see it done right. We are prepared to withdraw our petition when we see the revised rezoning petition and we anxiously await that.

**Matthew Karres, 3516 Foxridge Road** said I currently serve as the President of the Montibello Homeowners Association. We are a neighborhood a little farther down Carmel Road. We are about 570 homes and we were interested because of the size of our community and we've had an active homeowners association going back to the late 60's. We've always appreciated the help we've gotten here and we've always tried to get involved in any rezoning up and down Carmel Road. As Mr. Collins said we also wanted to support Carmel Crescent and believe this is a very important gateway. We just want the petitioners to maintain the ambiance of Carmel Road. We appreciate all the time they've spent with us and I came in tonight somewhat concerned because again the same concerns; we just wanted to see details and to make certain that if something happened to these developers that what was actually planned would come through. I guess one of the advantages of being late, we had about an hour and a half out there and I think with the help of Wade Miller, Jay Priester and their consultants and Mr. Carmichael we were able to work things out. So like Mr. Collins I'm very hopeful that we will be supporting this petition going forward. We are just waiting on Mr. Carmichael's confidence to draft the notes we need and I'm sure he will do that.

**Councilmember Driggs** said I just wanted to briefly comment that I assume that this is going to be done properly since the CEO of Cambridge Properties lives in your neighborhood and also I had complaints from Ron Napp who you may know, also from your neighborhood about the overgrown nature of what has been there for the last three years. I'm sure if they get it right you will welcome the change.

Mr. Collins said there is an additional level of confidence given we do have the Carmel Crescents residents that very much has his hand on the tiller here and I want to make sure that this is a quality product.

Mr. Carmichael said we are going to try to get this right and so we will provide them with copies of the plan. As I told them out there if they have further comments we can certainly tweak again after this submission on Friday, but we are going to get it right.

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

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**ITEM NO. 22: HEARING ON PETITION NO. 2014-052 BY SNIDER FLEET SOLUTIONS FOR A CHANGE IN ZONING FOR APPROXIMATELY 6.25 ACRES LOCATED ON THE EAST SIDE OF NORTH GRAHAM STREET AND GENERALLY SURROUNDED BY I-85, REAGAN DRIVE, AND NORTH GRAHAM STREET FROM I-2 ( GENERAL INDUSTRIAL) TO I-1 (LIGHT INDUSTRIAL).**

**Assistant Planning Director Laura Harmon** said this is the property that we are looking at, you can see it is just south of I-85, Graham Street and an area that is zoned pretty consistently, either I-2 or I-1. From an aerial view; the adopted future land use for the property calls for industrial uses. This is consistent with the Central District Plan recommendation for industrial. It is a conventional rezoning so there is no associated site plan or commitment to uses. All uses in the I-1 for the light industrial district will be allowed and we are recommending approval of this petition with no outstanding issues.

**Matt Creswell, 900 Atando Avenue** said really I have nothing to add; I think this is a pretty simple thing, but I just wanted to be available if you had questions.

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

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## MAYOR AND COUNCIL TOPICS

**Councilmember Lyles** said I would like to wish Kwame Alexander Happy Birthday today.

**Councilmember Barnes** said I want to make an observation; tonight we've heard at least two petitions and maybe more, that concerned or involved for sale townhomes and for the last several years we were told that there was no market for condos and townhomes and at least tonight we've heard two proposals where townhomes were being proposed and I hope that the Council will see more of these proposals as opposed to some of the other types of housing, basically apartments that we've seen in certain parts of the City. I'm encouraged by some of the petitions we've heard tonight and I hope we will see more of it. There is an appropriate balance for owner occupied versus rental homes and hopefully we will see a shift in, what I consider a healthier direction.

**Councilmember Howard** said I wanted to public thank the folks that came out to my version of a town hall meeting I had a couple weeks ago and it was called Rethink CLT and we actually had about 115 or so people come out so thank you to the public and I look forward to having future conversations about how we grow Charlotte. I don't want to take away Ms. Kinsey's thunder, but I wanted to say congratulations, so I can't say congratulations?

**Councilmember Kinsey** said no you can't.

Mr. Howard said I will say congratulations to Conner Dulin who graduated today as well. I saw Andy's pictures on Facebook and I wanted to congratulate my colleague and his son and I was going to congratulate somebody else but she won't let me. I wanted to congratulate Cooper Kinsey also, Ms. Kinsey's grandson who is a very fine young man and you should be proud of him and I wanted to say congratulations publicly.

Ms. Kinsey said thank you I appreciate that. All of you know I was at the graduation exercises and I was on stage and I shook 646 hands. It was thrilling and when Cooper crossed the stage he gave me a hug, and some of his friends did to so it was really special.

**Councilmember Phipps** said I just wanted to invite the public to a free community shred event; this has become an annual tradition in District 4, but it is not just for District 4. Anybody can come; we are going to have it on Saturday, July 19<sup>th</sup> from 9:00 a.m. to 12:00 p.m. in the parking lot at IKEA. The letters have already gone out so it is going to be more announcements about it, but we are going to be properly getting rid of your sensitive confidential documents as well as outdated medications that we are going to prevent from getting into the wrong hands. Be on the lookout for it, Saturday, July 19<sup>th</sup> a free community wide shred event.

**Councilmember Driggs** said Mayor I wanted to thank you for coming to Ballantyne last Tuesday and attending the meeting there at the Ballantyne Breakfast Club which was a town hall format. I hope you learned about some of the issues we are dealing with down there and your presence was very welcome and I look forward to working with you on some of those items.

**Mayor Clodfelter** said it was a great meeting, thank you.

Motion was made by Councilmember Barnes, seconded by Councilmember Lyles, and carried unanimously to adjourn the meeting.
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The meeting was adjourned at 9:17 p.m.



Stephanie C. Kelly, MMC, NCCMC, City Clerk

Length of Meeting: 4 Hours, 11 Minutes  
Minutes Completed: July 15, 2013

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