

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, September 15, 2014 at 5:15 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, David Howard, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

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**ITEM NO. 1: AGENDA REVIEW**

**Tammy Keplinger, Planning** said you should have a packet on your desk and in that packet you have your Dinner Meeting Agenda update that includes all of your updates; the second page, we are going to talk about in a little bit an example of the consistency statement. You should have your follow-up report then the rezoning cases of special interest for the next few months and then the Text Amendment, Area Plan Study and Process Enhancement Update. And you should have the Speaker's List for tonight and a letter of support for one of our Text Amendments Petition No. 2014-88.

First I'm going to talk about the meeting tonight and I will go over all the deferrals and you do have one that is not on the agenda because it came in late this afternoon. Item No. 2, Petition No. 2014-019 is a rezoning sponsored by the Charlotte Mecklenburg Planning Department; one of the District 4 rezoning's. This is actually a decision and we have had the public hearing on this case and have been working with the petitioner to see how we can do a conditional site plan for this site. It was part of the District 4 Multifamily Assessment and I'm not sure what is in that. The request tonight is to defer it to December and we anticipate in December that we will be ready to ask for a new public hearing in January so we are moving forward with that and we need a little more time to work on ...

**Councilmember Phipps** said actually I think that property is in the ETJ (Extra Territorial Jurisdiction).

Ms. Keplinger said it may be, but it is still under our zoning jurisdiction. Item No. 3, Petition No. 2014-021 is a Text Amendment and we are asking for a deferral until November. Item No. 21, Petition No. 2014-049; SBBH, LLC, this is for the tower out at SouthPark beside Dillards. There is a sufficient protest petition on this case and the petitioner is asking for a deferral until November. Item No. 25, Petition No. 2014-073 is a Text Amendment and we are asking for a deferral until October. Item No. 26, Petition No. 2014-075, Crossroads Realty Group, this is at Fairview and Closeburn, close to Park South Drive where we have so many other zonings like for the Ivey. They are requesting a deferral until October. Item No. 28, Petition No. 2014-080 for Campus Works; this one is located off of Central Avenue on Hawthorne and they are requesting a one month deferral until October. Item No. 32; Petition No. 2014-085 for New Carolinas Income Properties, they are asking for a deferral until October. There is a protest petition and its sufficiency is to be determined. Item No. 35, Petition No. 2014-001SUB is a Subdivision Text Amendment and we are asking for a one month deferral until October. The one that was added at the last minute is Item No. 20, Petition No. 2014-014 for Mark Patterson. They are requesting a one month deferral.

Mr. Phipps said so the people that have signed up to speak tonight, they are just going to be surprised?

Ms. Keplinger said because we received the request so late, we will try to catch up with those folks in the audience.

**Mayor Clodfelter** said we will announce it at the beginning of the meeting. We've got the list of speakers and I've marked the ones we've had deferral requests on so we will let them know at the beginning of the meeting, especially the late persons.

Mr. Phipps said I have a question about No. 28; this Campus Works, does that have anything to do with any kind of campus housing?

Ms. Keplinger said no, I believe that is the name of the entity that owns the property.

Mayor Clodfelter said Ms. Hagler, it has been a glorious summer as a result of which I have completely suppressed all memory of the zoning process and so I have to ask this question. Can we take up the deferrals here and then just announce them out in the Chamber or do we have to do the deferrals in the Chamber?

**Senior City Attorney Terrie Hagler-Gray** said we typically do them in the Chamber.

Mayor Clodfelter said okay, so it wasn't as good as I thought. I thought when I came back some things would have improved.

Ms. Keplinger said under the Miscellaneous Requests and Information, Item No. 11, Petition No. 2014-063 is a decision tonight for Pulte Homes for the rezoning at Atherton Street between Euclid Avenue and Marshall Place, there is a sufficient protest petition on this case. Item No. 14, Petition No. 2014-067 for Aldersgate United Methodist Retirement Community, this went to public hearing in July; it was approved by the Zoning Committee and then the petitioner decided he wanted to make two small changes and the small changes are listed in your agenda. Because those changes came after the Zoning Committee meeting, the Council will have to make a vote by  $\frac{3}{4}$  majority not to send it back to the Zoning Committee because it is not sufficient and for it not to go back to the Zoning Committee.

**Councilmember Kinsey** said may I ask a question? What does staff think?

Ms. Keplinger said we are fine with it.

Ms. Kinsey said then it should not go back?

Ms. Keplinger said it should not go back; the changes basically amount to a one foot change in the setback so we are fine with that.

Item No. 18, Petition No. 2014-003 for George Mason; this is an item of note, there is an insufficient protest petition on that case. Item No. 19, Petition No. 2014-031, there is a little bit of history with this case. This is Wilkinson Partners and it is out in the Palisades and some of you may recall in April we had a public hearing on this petition and the petitioner at the public hearing submitted a new site plan and staff had not reviewed it. When we reviewed it we found that it was not in compliance with the subdivision ordinance so they had to change the site plan. The site plan changes were significant and we felt like they were, the adjacent property owners felt like they were. It went to the Zoning Committee and the Zoning Committee agreed that the changes were significant, recommended to Council a new public hearing and in July we voted to have a new public hearing. It is back on the agenda tonight for a new public hearing. Item No. 20, Mark Patterson, I have already mentioned that one; he is now requesting a deferral but there is a protest petition on that case. Item No. 31, Petition No. 2014-084 is the 7<sup>th</sup> Street Progression Partners, LLC; there is a protest petition on this case and its sufficiency is yet to be determined. It is a hearing so we will have that information in time for the decision. Item No. 32, Petition No. 2014-085 also requested a late deferral. This is at the corner of East Tremont Avenue and Euclid and there is also a protest petition on that which we will determine sufficiency in time for the decision.

The next item in your packet is an example of a statement of consistency and I have asked Terri if she would like to explain the process for tonight.

Ms. Hagler-Gray said sure, because of the Queens University case, we have modified our process a bit, so that instead of you adopting the Zoning Committee's recommendation, you will adopt your own motion. So, the Mayor will read the language that's in gray on this example. And we just gave you the example so that you wouldn't be confused as to the difference when in the motion tonight.

**Councilmember Howard** said so in the write-ups that came in our packet, I noticed an example of everything except for something that is not consistent with the plan but in the public's best interest, so is that one handled any different?

Ms. Hagler-Gray said if it's inconsistent with the plan, but reasonable and in the public interest, we will still use this language based on the staff analysis, public hearing, Zoning Committee's recommendation and any other materials. We won't have any specific reasons tonight; it would still be the same. So this is essentially the same language that you've been seeing, it's just that the motion is, "is there a motion for you, the City Council, to adopt that the petition is consistent with the particular plan and reasonable and in the public interest."

Mr. Howard said so in the write-up, you guys kind of left us phrasing for us naming the plan.

Ms. Hagler-Gray said right.

Mr. Howard said in this situation, we're just changing the front part that says inconsistent with that same plan? Is that the way we should handle that?

Ms. Hagler-Gray said it can be inconsistent with the plan and but reasonable and in the public interest. But, that was just an example that we gave you in the memo, but tonight we have filled in the blank for any of the applicable plans. Some of the petitions were inconsistent with the plan but they were reasonable and in the public interest and that's all been printed in the Mayor's speech.

Mr. Howard said so we need to let you read the whole thing.

Mayor Clodfelter said yes, unfortunately I have to read the whole thing.

Mr. Phipps said then we can just say "so moved?"

Mayor Clodfelter said I think you probably can.

Mr. Howard said after you read it.

Mayor Clodfelter said now we have one item that the nature of the procedure, or rules require, the motion to be made a certain way but I think I know what I need to ask you on that, so we'll take that in part one.

Ms. Hagler-Gray said there is one protested one and....

Mayor Clodfelter said okay.

**Councilmember Driggs** said I just wanted to clarify the reason for all of this is because we are trying to procedurally maintain the proper distinction between quasi-judicial and, or, I mean I've had some explanations of how we got to this point, can you just tell me again?

Ms. Hagler-Gray said the challenge by the Myers Park Homeowners Association was that our consistency statement was not sufficient, that we didn't provide sufficient explanation. We think that that case is isolated to the FAR text amendment, but we wanted to make sure and just kind of tweak our process a little bit to make sure that we keep insulated from any other challenges.

Mr. Howard said one other thing Terrie, and appropriately so, if we don't nail it, you will stop us and correct us.

Ms. Hagler-Gray said yes. I think that as long as the Mayor is able to read everything in the gray box, we will be fine.

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## **ITEM NO. 2: FOLLOW UP REPORT**

**Tammie Keplinger, Planning Department** said we had a question about Senate Bill 734 last month. The question was what is the status of that bill? Well, you probably know by now that the bill passed the House and the Senate and was sent to the Governor for his final signature.

**Councilmember Howard** said what was the bill? What did it tell us?

**Mayor Clodfelter** said 734.

Ms. Keplinger said 734, there were several environmental issues in the bill and also....

Mr. Howard said what did it cover is what I'm asking?

Mayor Clodfelter said the removal of protest petitions.

**Councilmember Driggs** said also design standards, were they in there?

Mayor Clodfelter said yes.

Mr. Driggs said and the legal fees; were they in there?

Mayor Clodfelter said I don't remember if they were in there.

Ms. Keplinger said I do not recall.

Mr. Driggs said Terrie do you remember? In 734 was the provision related to legal fees and condemnation cases in there, in the bill?

**Senior City Attorney Terrie Hagler-Gray** said yes.

Mayor Clodfelter said was it in the final version that passed?

Mr. Driggs said some stuff was pulled out.

Mayor Clodfelter said a lot of stuff was pulled out.

Mr. Driggs said protest petition was pulled out, design standards were pulled out, I thought this was too, are you saying it was not pulled out?

Ms. Hagler-Gray said I'm sorry, I was actually talking to Laura, so what did I miss?

Mayor Clodfelter said in the final version of 734, as it was passed and sent to the Governor, did it or did it not include the provisions relating to attorneys' fees and condemnation cases.

Ms. Hagler-Gray said, I'm not sure about the attorneys' fees, and I think it did not include the condemnations, but I have my computer and I'll check.

Mayor Clodfelter said we'll get you an answer.

Ms. Keplinger said the part that was concerning for the Planning Department was of course the protest petition and that part of the bill was removed. So we still do have the protest petition.

There was a question on clarification on noise walls; clarification as to what letter was sent to the North Carolina Department of Transportation (NC-DOT) in terms of the comments about landscaping. Staff's response is that the City is currently coordinating with the NC-DOT but ... the design process; there was a letter dated February 11, 2014 to the City Council, to the Fourth Ward Neighborhood residents that states that the City will work with the NC-DOT to identify appropriate screening and offering ... There was a question about Davis Lake and what project is occurring on the northeast corner of Old Statesville Road and David Cox Road. There was a permit for the Interloop North Industrial Park issued on June 30<sup>th</sup> of this year for one tax parcel that is located off of David Cox Road, the parcel is zoned light industrial which is I-1 and the permit allows Phase I construction of about 300,000 square feet of warehouse building along with a future Phase II construction of 100,000 square feet. The grading permit for that project was issued on July 7<sup>th</sup>.

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**Councilmember Fallon** said did anyone have to come to the Zoning Committee for that?

Ms. Keplinger said no.

Ms. Fallon said it was by right? Did anybody go out and look at it?

Ms. Keplinger said that is handled through the Engineering Department and they do go out and look at their sites.

Ms. Fallon said it backs right up to homes and second it is on a hill and drains right into a lake. I wonder if anybody took the time to go and look at it.

Ms. Keplinger said I'm sure that they did; they have project engineers that review each of those cases and they are assigned to them as well as zoning, so I'm sure all those things were taken into consideration.

Ms. Fallon said it didn't have to be advertised to the community did it?

Ms. Keplinger said no it did not because it was by right development. There was a question related to HDC; do the Historic District Commission regulations supersede Homeowners Association's covenants? The response to that is that Historic regulations do not take private restrictions such as Homeowners Association's covenants and deed restrictions into account but they are considered civil matters. That means that they go through the judicial system, any improvements to a property would need to comply with both the deed restrictions and the HDC restrictions and regulations.

Mayor Clodfelter said what if they say opposite things? That was really the issue; the two were in conflict with each other.

Ms. Keplinger said the City's responsibility would be to enforce the Historic District regulations.

Mayor Clodfelter said which prevails?

**Planning Director Debra Campbell** said the most restrictive.

Mayor Clodfelter said the most restrictive prevails?

Ms. Campbell said that is what the Attorney just said.

Ms. Keplinger said there was a question on the Tate/Crosland rezoning in SouthPark for the two hotels about would a variance be needed to allow a fence higher than eight feet behind the seven-story hotel buildings and there would not be a variance required. That is all I have in the follow-up report.

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### **ITEM NO. 3: REZONING CASES OF SPECIAL INTEREST**

The Cases of Special Interest are in the next item in your notebook so you can look at those and I can tell you what is coming up for October and November. That is not all the cases; that is just the ones we picked out that have special concerns. I will turn it over to Ms. Campbell for The Text Amendment, Area Plan Study and Process Enhancement Update.

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### **ITEM NO. 4: TEXT AMENDMENT, AREA PLAN STUDY AND PROCESS ENHANCEMENT UPDATE**

**Planning Director Debra Campbell** said my role is to go over the Text Amendment, Area Plan Study and Process Enhancements and I am just going to refer you all to the document that we have which looks like this, it is a matrix and I'm going to speak to only two items in this report

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this evening. The first one is on Page 3, and it is Item No. 8. You have heard a little bit about this from the City Attorney which has certificated even a change in how you all read your consistency statement. This is the floor area ratio text amendment. I have to be honest with you, when our people talk about this in terms of the Queens University Text Amendment I cringe because you asked Queens University to take advantage of the exemption of a parking ... if you build structured parking. It doesn't count against your floor area ratio. That is what this text amendment was about, was trying to respond to the number of universities and churches and how that will ... particularly within program concepts that needed to expand, but were being penalized if they did structured parking. The floor ratio has generated a lot of interest from a lot of people and I'm sure you all have been contacted by some in particular having one neighborhood organization, but because we are unable to get all of the people around the table who we think need to be engaged in the dialogue about either we ... or making changes to the existing text of the text amendment Item No. 22 and 33; that was the original text amendment that amended the Zoning Ordinance and we would be looking at either taking the exact standards that are in Item 22 and 33 or making revisions because we were unable to get all of the all of the people that we think need to be engaged in a timely manner to make the October hearing deadline, we are going to defer that to November or December, but I will come back in October to give you all a status report on when you think we might be able to move forward with this, whether it be November or December. We need to have a lot of community engagement and we need the time to do that. That is why I was going to ask for that deferral and not do this in October as originally planned.

**Councilmember Howard** said my legal concern with that would be can any case that was decided with that text amendment in mind or one that would be in the hopper now, considering that right now it doesn't exist according to the courts. What do we do between now and December?

Ms. Campbell said the original language that was in the Zoning Ordinance prior to it being amended.

Mr. Howard said are there any projects that it is going to affect that are under construction are being penalized now?

Ms. Campbell said not under construction, but where building permits have been issued, yes.

Mr. Howard said what happens with those? I thought that was why we were moving quickly so we could cover those.

Ms. Campbell said if they have not met their floor ratio max which I think is .50. They can report that if they have then it does cause a problem.

Mr. Howard said any reviews to know that if we've got any that are going to have problems?

Ms. Campbell said we are concerned about one yes, but the property owner understands where we are and understands the need to have more dialogue so they are okay with the deferral.

Mr. Howard said in addition to the ones that are out there now you also have some people considering expansion because churches and a lot of other people that this covers. I guess what I'm saying, are we sure we don't need to do something for the time being; we can always change it later.

Ms. Campbell said I don't know what we could do in the time without having again the same process that we are going through right now, to have broader community dialogue. The floor ratio doesn't change; it was .50 in the previous Zoning Ordinance before it was amended or at least that section is still in our .50. The difference is if you are doing structured parking, you are doing your best in terms of it not counting against your floor ratio. We think that we have a reasonable amount of information about pipeline developments, people that are considering taking advantage of this opportunity and we think is right now limited, but I don't know if we need to drag this out into 2015k, that is the real concern.

Mr. Howard said I don't think that this has anything to do with the issue in Myers Park and what Queens did. This is just not what this is all about. What that is about is something I've asked this Council to do and it came up when we were looking at the Circle Development out at University to be honest. That was the fact that we need to look at how these universities fit in neighborhood; how these centers fit in neighborhoods originally. The same thing out at SouthPark with the neighborhoods around it; how centers and institutions back up and interact with neighborhoods is something I thought we had deferred to somebody. Is that out there?

Ms. Campbell said you referred principally parking and some of those issues to ... I think it may have been how things transition and we tried to address that with parks in residential districts, I think we have done as much due diligence as we can, in terms of trying to inventory the universities and other institutional uses that maybe were going to take advantage of this. We think that a 45 day delay is not probably ---

Mr. Howard interrupted to say you are not going to solve their issue with this and all this is doing is being drug out and you still going to probably come to the conclusion that we need to do something to move forward with the people in the pipeline. I just wanted to make sure we are addressing what is really going on with them and it is not this.

**Mayor Clodfelter** said if it is not this, then what really has to happen is not a text amendment to solve this, but engagement between the institutions and the residential areas around them who have developed long-term master plans. There are examples of that and it can be done successfully but it requires commitment on both sides to undertake that exercise. This is not the first time we have encountered it; both of our hospitals have had a history of that long kind of dialogue and they have successfully worked out long-term arrangements. Our universities need to get on with the same task.

Ms. Campbell said that is the reason for having a little bit of a delay so that we can truly find out what is the technical issue related to floor area ratio text amendments and what is the relationship issue between the universities and the adjoining neighborhoods.

Mr. Howard said that is going to take a lot longer than two months is what I'm saying.

Mayor Clodfelter said but we need to start it.

Mr. Howard said we can't put this off.

**Councilmember Kinsey** said I was going to take a different -- yes, I think we can put it off and I think it affects Queens much more than it does any other university or college in the area and also I think there is some unintended consequences because we can see at Queens. I don't think people realize, and I don't even know what church to use as an example, but let's say Covenant Presbyterian Church to come in and build a five-story parking deck. There is a possibility so I think there are some unintended consequences here that we need to address. I don't disagree however with what you are saying about the colleges and universities need to work with the neighborhood. Queens has always done that in the past; they did not this time.

**Councilmember Fallon** said I think what it was originally was the height of the building was for the parking next to homes where it looked down on it and it infringed on their property rights and I think that is what started that.

Ms. Campbell said I think that there have been issues you made when some of you were on Council when we did Greater Galilee. It affected some lives and again when they are in the context of an urban area we either go out or you go up. There is no other way and we felt from staff's perspective it was better to go up than out because that would have even more detrimental impact on adjoining single family neighborhoods. That is the one I wanted to bring to your attention and if there are any more questions I would be more than happy to entertain them.

**Councilmember Smith** said I want to echo support Councilmember Kinsey; while the university lies in her district half of the homeowners association is in my district and there has been a start of some productive dialogue. I think you are right, I don't think ultimately it is decided in 45

days, I think those 45 days will allow these two groups to have some very productive dialogue that will make this less of a sticky ... and then we can really dive into where you are headed.

Ms. Campbell said I need to give staff the opportunity to test any potential unintended consequences in these recommendations. The next thing I wanted to talk to you about is on Page 7, Item No. 19. We are extremely proud that we have incorporated into our Department a concept called "Children in Planning Career Day" and I just wanted to give you all some brief highlights of what we did and why we are doing it. We are really passionate about planning but we are also equally as passionate about having input from the broader community. We think one of the groups that we don't hear from very often when we have response lessons is our youth. We are making a deliberate attempt at trying to convert the youth to talk about planning, to introduce them to planning and to get some ideas from them about what kind of community do you want Charlotte to be.

On August 15<sup>th</sup> we had a Career Day again asking kids what do they want in terms of their City. We toured some really, really cool places and we took them on the train, went to the Ball Park and we had a grand old time. We had about 26 students and we extended invitations to Bruns Academy, Thomasville Academy, Charlotte Mecklenburg Youth Council and Mayor's Youth Employment Program and we also had two adult representatives and they actually even stayed the entire day to experience what we did. Melanie McCullough, who is right here, is the coordinator and kind of brain child of this effort and I want to give her all the accolades for this successful day that we had. You can see all the kids around the table, they actually allowed me to play with them as well and so I was able to do some introductory remarks about planning and actually facilitated the session about what do you want to see in your community. As a result of this effort I got an e-mail message from Alton Peques. He wrote to me and he said he had participated in this process and that he wanted to have an opportunity, and I know this is a lot of words, but I wanted to put it verbatim from him. That he wanted to have an opportunity to participate, learn more about things and so I kind of highlighted them in a number of the pictures and this one in particular Mayor because it is at your desk. We were allowed access to the 15<sup>th</sup> floor and I wanted to also introduce Alton because he is here tonight. I did tell him he is under no obligation to stay for the entire meeting. We had them at all ages from four years all the way up to 17 I believe and at the Chamber we were able to take pictures and literally the kids were fighting to see where the Mayor sets and where the Mayor Pro Tem sets. By the way the conversation that Alton had which was so important for me to take the time to participate in this effort and I spent the entire day doing it as well as many other staff is because of having that exchange with Alton, he said isn't Councilmember Barnes the Mayor Pro Tem and I said yes and he said I follow him on twitter.

This is when we were at Romaine Bearden Park and honestly we could not have planned it on a better day. We didn't know all these folks were going to be out here but it was good to have a mascot come up and do their little thing and like I said we rode the light rail and they got to sit in the Planning Director's seat, to go to my office, but this was the fun part. Plan your City, so you can see that they are in intense mode I believe if I'm correct Josh Leeper, son and daughter.

**Councilmember Barnes** said Ms. Campbell what did the five-year olds come up with as opposed to older ages?

Ms. Campbell said this is what the five-year olds come up with.

Mr. Howard that is density, I love it.

Ms. Campbell said again we had a great day and I just wanted to let you all know that we are growing planners, we are growing interest in our community and I can't tell you how impactful it is, not just us having an impact on them, but I think they had more of an impact on us because it makes us think much, much broader in terms of when we are doing an area plan and when we are communicating about an area plan and we are talking all that planner jargon, we have to understand that this is the folks that we've really got to be communicating with. I just wanted to provide you all with that bit of information and I appreciate your indulgence.



Mayor Clodfelter said you've got to be careful with how much you let this get out because there are a lot of unhappy developers and unhappy citizens and neighbors in the community who will say let's make this 365 days a year and you guys get to take that so you have to be careful.

Mr. Howard said and at the retreat they ought to let us play with the blocks.

Ms. Hagler-Gray said the final bill did not include provisions about condemnations or attorney fees.

The dinner briefing was recessed at 5:52 p.m. to move to the Chamber for the regularly scheduled Zoning Meeting.

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## ZONING MEETING

The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:04 p.m. with Mayor Dan Clodfelter presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Ed Driggs, Claire Fallon, David Howard, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

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## INTRODUCTION OF THE ZONING COMMITTEE

**Tracy Dodson, Zoning Committee** introduced the members of the Zoning Committee. They will meet Wednesday, September 24, 2014 to make recommendations on the petitions heard in the public hearings tonight. The public is invited, but it is not a continuation of the public hearing. For questions or to contact the Zoning Committee, information can be found at [charlotteplanning.org](http://charlotteplanning.org).

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## INVOCATION AND PLEDGE

Councilmember Barnes gave the invocation followed by the Pledge of Allegiance to the Flag.

**Mayor Clodfelter** said before we start our business I've got a couple announcements, one of them was triggered by the Pledge we all just took. Earlier today we did something we hadn't done in many, many years and we hosted here in the Chamber a Naturalization Ceremony for our new US citizens. It was a remarkable occasion and a very moving occasion and the seats of the Chamber were literally full. We had men and women, old and young from 29 different countries all around the globe and all parts of the world who had decided they wanted to make the United States their country and take that same Pledge that you just took and to call Charlotte their home. It was a very good occasion and I hope we are going to repeat here many more times in the future.

I want to welcome and ask to stand, if you will please, we have with us tonight a group of students from the UNC-Charlotte School of Architecture and they are attending tonight to observe our zoning process. What you need to understand and what you will learn from this process tonight is if we like something and we approve of it, then you are going to get no credit for it, but if we don't like it and we hate it, it is going to be all your fault. That is the role that architecture plays, you understand that.

The last announcement I need to make to you is as many of you know we have been following throughout the day a situation we've got in the eastern side of the county right now in the area that runs from the University down to Mint Hill. I don't have a map that I can project up on the screen for you, but it is generally to the area that is to east of the ridge that separates the eastern side of Mecklenburg County from the rest of the county. We've been having a problem with low water pressure in that area and C-MUD crews have been in the area diligently all day, but at this point they have not been able to determine the cause of the low pressure situation so they are working through the evening on that. What I would ask, and they would ask, is that we are

asking all folks in that more eastern ridge of the county from the University area essentially along the Cabarrus County border and down to Mint Hill if tonight you can be careful about conserving water and avoiding things such as washing cars or filling a pool or watering the lawn tonight and through the day tomorrow while C-MUD is determining the cause of the low pressure situation and trying to get repair crews to where they need to get them. We will be issuing periodic reports about that over the course of the evening and tomorrow, but we would ask for the cooperation of citizens as we go through the next 24-hours and try to figure out what exactly is going on with the water pressure situation there.

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### **EXPLANATION OF ZONING MEETING PROCESS**

Mayor Clodfelter explained the Zoning Meeting rules and procedures.

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### **DEFERRALS**

#### **ITEM NO. 2: PETITION NO. 2014-019**

Motion was made by Councilmember Barnes, seconded by Councilmember Driggs, and carried unanimously to defer Petition No. 2014-019 until December.

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#### **ITEM NO. 3: PETITION NO. 2014-021**

Motion was made by Councilmember Driggs, seconded by Councilmember Fallon, and carried unanimously to defer Petition No. 2014-021 until November.

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#### **ITEM NO 21: PETITION NO. 2014-049**

Motion was made by Councilmember Barnes, seconded by Councilmember Fallon, and carried unanimously to defer Petition No. 2014-049 until November.

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#### **ITEM NO. 25: PETITION NO. 2014-073**

Motion was made by Councilmember Driggs, seconded by Councilmember Austin, and carried unanimously to defer Petition No. 2014-073 until October.

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#### **ITEM NO. 26: PETITION 2014-075**

Motion was made by Councilmember Smith, seconded by Councilmember Driggs, and carried unanimously to defer Petition No. 2014-075 until October.

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#### **ITEM NO. 28: PETITION 2014-080**

Motion was made by Councilmember Barnes, seconded by Councilmember Lyles, and carried unanimously, to defer Petition No. 2014-080 until October.

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**ITEM NO. 32: PETITION 2014-085**

Motion was made by Councilmember Barnes, seconded by Councilmember Lyles, and carried unanimously to defer Petition No. 2014-085 to October.

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**ITEM NO. 35: PETITION NO. 2014-001 SUB**

Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and carried unanimously to defer Petition No. 2014-001SUB to October.

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**ITEM NO. 20: PETITION 2014-043**

Motion was made by Councilmember Howard, seconded by Councilmember Austin, and carried unanimously to defer Petition No. 2014-043 to October.

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**HISTORIC LANDMARKS**

**ITEM NO. 1: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLOTTE CALLING FOR A PUBLIC HEARING TO BE HELD BY THE CITY COUNCIL ON THE QUESTION OF ADOPTING AN ORDINANCE FOR THE HISTORIC LANDMARK KNOWN AS THE JAMES A BLAKENEY HOUSE TO DE-DESIGNATE 7.829 ACRES OF LAND IN TAX PARCEL 22922212, AND DE-DESIGNATE 2.244 ACRES OF LAND IN TAX PARCEL 22908334 AS SHOWN ON THE ATTACHED PLANS. THE PROPERTY ASSOCIATED WITH TAX PARCEL 22922212 IS LOCATED AT 9215 BLAKENEY-HEATH ROAD, CHARLOTTE, NORTH CAROLINA, AND IS OWNED BY MEREITAGE HOMES OF THE CAROLINAS INC. THE PROPERTY ASSOCIATED WITH TAX PARCEL 22908334 IS LOCATED AT 9401 BLAKENEY-HEATH ROAD IN CHARLOTTE, NORTH CAROLINA AND IS OWNED BY CLASSICA HOMES LLC.**

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and carried unanimously to adopt the resolution and hold a public hearing.

The resolution is recorded in full in Resolution Book 46, at Page 337-340.

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**DECISIONS**

**ITEM NO. 4: ORDINANCE NO. 5468-Z, PETITION NO. 2014-027 BY THE CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.81 ACRES LOCATED ON THE WEST SIDE OF DUNAVANT STREET BETWEEN REMOUNT ROAD AND MERVE PLACE FROM I-2(GENERAL INDUSTRIAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT, MIXED USE).**

This petition is found to be consistent with the New Bern 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 7-0 vote of the Zoning Committee. The Zoning Committee voted 7-0 to recommend approval of this petition at their March 26, 2014 meeting.

Motion was made by Councilmember Fallon, seconded by Councilmember Mayfield, and carried unanimously that Petition No. 2014-027 is consistent with the New Bern Transit Station Plan and to be reasonable and in the public interest based on the Staff Analysis, the Public Hearing, the Zoning Committee Recommendation, and any other applicable information and materials.

Motion was made by Councilmember Driggs, seconded by Councilmember Smith, and carried unanimously to approve Petition No. 2014-027 by the Charlotte-Mecklenburg Planning Department.

The ordinance is recorded in full in Ordinance Book 59, at Page 1-2.

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**ITEM NO. 5: ORDINANCE NO. 5469-Z, PETITION NO. 2014-054 BY QUIKTRIP, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.40 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF NORTH SHARON AMITY ROAD AND CENTRAL AVENUE FROM B-1 (NEIGHBORHOOD BUSINESS DISTRICT) AND B-1SCD (BUSINESS SHOPPING CENTER) TO B-1(CD) (NEIGHBORHOOD BUSINESS DISTRICT, CONDITIONAL).**

This petition is found to be consistent with the Eastland 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 Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

1. A note has been added that a building for any uses other than a convenience store with accessory pumps will be placed along the minimum 20-foot setback along Central Avenue and that parking or circulation will not be allowed between the building and the street.
2. A note has been added that only one principal building will be allowed on site.
3. A note has been added that accessory service windows will not be allowed on the site.
4. A note has been added that the petitioner will install the community entrance sign.
5. A note has been added that large expanses of wall exceeding 20-feet in length will be avoided through the introduction of articulated facades, using various materials such as brick and other masonry products, stone, glass windows, water table, and/or soldier course.
6. A detail of the proposed retaining wall has been provided.
7. Note 8A has been removed from the site plan.
8. A note has been added that pole signs will not be allowed on the site and that monument signs will be limited to 14 feet in height.
9. The driveway along Sharon Amity Road has been removed and placed along the internal drive.

Motion was made by Councilmember Autry, seconded by Councilmember Fallon, and carried unanimously that this petition is found to be consistent with the Eastland Area Plan and is reasonable and in the public interest, based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information and materials.

Motion was made by Councilmember Autry, seconded by Councilmember Howard, and carried unanimously to approve Petition No. 2014-054 by QuikTrip as amended.

The ordinance is recorded in full in Ordinance Book 59, at Page 3-4.

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**ITEM NO. 6: ORDINANCE NO. 5470-Z, PETITION NO 2014-056 BY CENTRAL PIEDMONT COMMUNITY COLLEGE, AMENDING THE OFFICIAL ZONING ORDINANCE FOR THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 4.19 ACRES GENERAL SURROUNDED BY EAST 4<sup>th</sup> STREET, CHARLOTTETOWNE AVENUE, SOUTH TORRENCE STREET AND 3<sup>RD</sup>/4<sup>TH</sup> CONNECTOR STREET FROM B-2 (GENERAL BUSINESS) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL) WITH FIVE-YEAR VESTED RIGHTS.**

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

1. Added a note stating “the ground floor of any parking decks along public streets will be wrapped in active uses oriented to the street, provided, however, nothing herein shall prohibit Petitioner from providing ground floor parking “behind” said active uses within parking deck.”
2. Addressed Transportation comment by adding a note stating “If required by C-DOT during the permitting process, the petitioner will conduct a traffic impact study to determine traffic impacts and associated mitigations, if any, caused by the development of the site before the first building permit is issued for any parcel covered under the current rezoning petition.”

Motion was made by Councilmember Fallon, seconded by Councilmember Driggs, and carried unanimously that a portion of this petition is found to be consistent with the Elizabeth Area Plan and to be reasonable and in the public interest while the remainder of the site is found to be inconsistent with the Midtown Morehead Cherry Area Plan but to be reasonable and in the public interest based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information and materials.

Motion was made by Councilmember Austin and seconded by Councilmember Driggs to approve Petition No. 2014-056 by Central Piedmont Community College as amended.

**Councilmember Smith** said I support this petition, but I do have a question. I think a healthy Central Piedmont is very good for our City, but as I was flipping through the text it looks like it says they have not master planned the campus. Tammie did I read that correctly?

**Tammie Keplinger, Planning** said I don't believe they have at this point in time. That is one of the reasons they are asking for the flexibility that they have.

Mr. Smith said as an aside we are getting ready to approve almost a million square feet that will have some residual impact on commuters and whatnot in the community, but I do think CPCC is an outstanding organization and we need them to be healthy there. They are serving a lot of folks; it is just as I read through that; that did leap out at me.

**Mayor Clodfelter** said I think there have been Master Plans over the year; there may just not be a current iteration of one. Good point.

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

The ordinance is recorded in full in Ordinance Book 59, at Page 5-6.

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**ITEM NO. 7: ORDINANCE NO. 5471-Z, PETITION NO. 2014-057 BY CRAIG AND AMY FAILE, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE A CHANGE IN ZONING FOR APPROXIMATELY .229 ACRES LOCATED ON THE SOUTH SIDE OF YORK ROAD AT THE INTERSECTION OF LANGSTON DRIVE AND YORK ROAD FROM R-3 LLWCA (SINGLE FAMILY RESIDENTIAL, LOWER LAKE WYLIE, CRITICAL AREA) TO O-2 LLWCA (OFFICE, LOWER LAKE WYLIE, CRITICAL AREA).**

This petition is found to be consistent with the Steele Creek 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 Zoning Committee voted 5-0 to recommend approval of this petition.

Motion was made by Councilmember Mayfield, seconded by Councilmember Driggs, and carried unanimously that this petition is consistent with the Steele Creek Area Plan and to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, the Zoning Committee recommendation and any other applicable information and materials.

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard, and carried unanimously to approve Petition No. 2014-057 by Craig and Amy Faile.

The ordinance is recorded in full in Ordinance Book 59, at Page 7-8.

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**ITEM NO. 8: ORDINANCE NO. 5472-Z, PETITION NO. 2014-059 BY CROSLAND LLC AND ALLEN TATE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 3.65 ACRES LOCATED ON THE WEST SIDE OF SHARON ROAD BETWEEN FAIRVIEW ROAD AND HAZELTON DRIVE FROM R-17 MF (MULTIFAMILY RESIDENTIAL) TO MUDD-O (MIXED USE DEVELOPMENT OPTIONAL).**

This petition is found to be inconsistent with the SouthPark Area 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 Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

1. Staff has rescinded the request to reduce the maximum height from 70 feet to 55 feet for the portions of the building adjacent to single family, based on the future benefit the internal street provides to the community.
2. Staff has rescinded the request to amend the development data to reflect a reduced height.
3. Staff has rescinded the request to revise the architectural perspectives to reflect the reduced height.
4. Provided a street connection along the petitioner's site running parallel to the northernmost property line.
5. Amended note 4. (d) To specify that the CATS waiting pad will be provided according to standard detail 60.01B.
6. Revised optional provision 2. (c) To clearly explain what is requested by listing the items to be accommodated between the building and public and private streets to include: short term parking, drop off areas, valet parking, service areas for uses such as mail delivery, loading and delivery.
7. Amended optional provision 2. (d) To clearly explain what is meant by "innovative street design" to accommodate a private street connection provided the design standards are acceptable to C-DOT.
8. Amended optional provision 2. (e) To specify that one ground-mounted sign with a maximum sign face area of 30 square feet and a maximum height of seven feet to be allowed near the intersection of Sharon Road and the proposed private street.

9. Amended note 2. (e) By replacing the words “access driveway” with the words “Private Street.”
10. Provided minimum five-foot wide sidewalks and planting strips of varying widths as agreed upon with C-DOT and Planning staff as opposed to eight-foot planting strips and six-foot sidewalks along both sides of the street extension.
11. Staff has rescinded the request for a 14-foot setback along the internal street because the street proposed is private.
12. Provided Type II modified driveways where drives intersect with the proposed internal street.
13. Provided a note 4. (d) Stating that in the event C-DOT is able to provide a vehicular access point connection the site to the adjacent parcel to the north, the petitioner shall allow such a connection to be made to provide public access through the site. The note further commits to allowing the City of Charlotte to install sidewalk improvements in order to link the site’s internal sidewalks to sidewalks on adjoining property.
14. Specified on the conceptual site plan that an eight-foot planting strip and six-foot sidewalk will be provided along Sharon Road from the proposed street to the northern property line.
15. Removed note 4. (c) And provided a note, 4. (b), that allows public access to the private street.
16. Amended note 6. (a) By listing adding additional notes to specify how headlights will be screened from view of the single family homes.
17. Provided a landscape plan the shows the locations of trees and shrubs located in the ten-foot wide buffer described in note 6. (b) and (c).
18. Replaced the words “Technical Data Sheet” with “Conceptual Site Plan” in note 8.
19. Provided a description of the open space to be provided.
20. Removed note 11. (d) As it is repeated.

Motion was made by Councilmember Smith, seconded by Councilmember Howard, and carried unanimously that this petition is inconsistent with the SouthPark Area Plan and to be reasonable and in the public interest, based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information and materials.

Motion was made by Councilmember Smith and seconded by Councilmember Barnes to approve Petition No. 2014-059 by Crosland LLC and Allen Tate as amended.

**Councilmember Smith** said this particular petition last meeting generated some interesting and robust policy dialogue on the dais and I would be remiss if I did not add in a couple thoughts real quickly. I do support this petition; I support it because I think it is good land use and I think while the area plan in the SouthPark area needs to be updated, I would like to take an opportunity to continue to push that. The neighbors that I have spoken with are actually more supportive of this project than the by-right use which is very important to me as their representative. Finally, in today’s world where developers often catch a lot of flak for appeasing staff as opposed to the neighbors, I think the developers here did a good job of moderating that balance and actually working hard to make the neighbors happy with the petition. I would have been remiss if I had not been able to interject that so I just wanted to add that.

**Mayor Clodfelter** said that is a good summary and again for the folks that are watching us at home, please remember that this is the decision time for petitions that have had an awful lot of hearing and public comment and public debate before so this is not the only time. I thank Councilmember Smith for summarizing some of the things that have been discussed on this.

**Councilmember Phipps** said I noticed that the staff rescinded several items here under the presentation that we have and I just wanted to know is this the result of change of heart or negotiation or what precipitated I guess these four items of staff rescinding previous requests.

**Tammie Keplinger, Planning** said a lot of times as we progress through the rezoning process we find answers to our questions indirectly so many of these items have been addressed through other information that has been provided on the site plan. That would be one of the reasons we rescind some of the requests.

**Councilmember Fallon** said I would like to thank Crosland/Tate for doing what I thought was in the interest of the people that have to move. They have been very kind in helping and giving them a credit card to help with their move.

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

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

NAYS: Councilmember Mayfield.

The ordinance is recorded in full in Ordinance Book 59, at Page 9-10.

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**ITEM NO. 10: ORDINANCE NO. 5474-Z, PETITION NO. 2014-061 BY THE ROMAN CATHOLIC DIOCESE OF CHARLOTTE, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 10.0 ACRES LOCATED ON THE SOUTH SIDE OF SUTHER ROAD BETWEEN OLD CONCORD ROAD AND SANDBURG AVENUE FROM INST(CD) (INSTITUTIONAL, CONDITIONAL) TO INST(CD) SPA (INSTITUTIONAL, CONDITIONAL, SITE PLAN AMENDMENT).**

This petition is found to be consistent with the Northeast 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 Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

1. The first sentence under General Provisions Note 1 has been removed.
2. The existing height limits from the previously approved plan have been placed on the site plan.
3. The maximum height of any new building has been limited to two stories.
4. The total number of seats has been limited to 1,116 seats.
5. "Approximate" has been removed from building square footages table.
6. The administrative approval letter has been removed from the site plan.
7. A note has been added referencing the approved variance including the file number and year approved.

Motion was made by Councilmember Phipps, seconded by Councilmember Driggs, and carried unanimously that this petition is consistent with the Northeast District Plan and to be reasonable and in the public interest based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information and materials.

Motion was made by Councilmember Phipps, seconded by Councilmember Austin, and carried unanimously to approve Petition No. 2014-061 by Roman Catholic Diocese of Charlotte as amended.

The ordinance is recorded in full in Ordinance Book 59, at Page 13-14.

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**ITEM NO. 9: ORDINANCE NO. 5473-Z, PETITION NO. 2014-060 BY DAY HIXSON, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.46 ACRES LOCATED ON THE EAST SIDE OF NORTH MCDOWELL STREET BETWEEN EAST 35<sup>TH</sup> STREET AND EAST 36<sup>TH</sup> STREET FROM R-5 (SINGLE FAMILY RESIDENTIAL) TO UR-1(CD) (URBAN RESIDENTIAL, CONDITIONAL).**



This petition is found to be consistent with the Blue Line Extension 36<sup>th</sup> Street 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 Zoning Committee voted 5-0 to recommend approval of this petition with the following modification:

1. A scale (1 inch - 50 feet) has been added to the site plan.

Motion was made by Councilmember Kinsey, seconded by Councilmember Driggs, and carried unanimously that this petition is consistent with the Blue Line Extension 36<sup>th</sup> Street Transit Station Area Plan and to be reasonable and in the public interest, based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information and materials.

Motion was made by Councilmember Kinsey, seconded by Councilmember Howard, and carried unanimously to approve Petition No. 2014-060 by Day Hixson as amended.

The ordinance is recorded in full in Ordinance Book 59, at Page 11-12.

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**ITEM NO. 11: PETITION NO. 2014-063 BY PULTE HOME CORPORATION FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.68 ACRES LOCATED ON THE SOUTH SIDE OF ATHERTON STREET BETWEEN EUCLID AVENUE AND MARSHALL PLACE FROM R-5 (SINGLE FAMILY RESIDENTIAL) AND B-2 (GENERAL BUSINESS) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL).**

This petition is found to be inconsistent with the Dilworth Land Use and Streetscape Plan and the New Bern Transit Station Area Plan and to not 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 Zoning Committee voted 5-0 to recommend denial of this petition. The following modifications have been made to address the outstanding issues:

1. The petitioner has removed the language under Development Data with respect to Proposed Zoning that states "Parcel 12107605 will remain R-5 (single family residential) zoning" as the petitioner has stated the intent is to rezone entire property to UR-2(CD) (urban residential, conditional), and to be consistent with the application. This parcel is designated as possible Tree Save Area on the site plan.
2. The petitioner has added notes under Streetscape and Landscaping, committing to installation of planting strips and sidewalks along Euclid Avenue, Atherton Street, and Marshall Place (including required minimum widths of six-foot for sidewalks and eight-foot for planting strips).
3. The petitioner has specified in the development notes under Streetscape and Landscaping the intent to allow certain sections of the proposed sidewalk along Marshall Place to meander and to be located behind the back of proposed curb in order to preserve existing trees.
4. Petitioner has provided information under Development Data that notes the proposed units will have garages. The petitioner has added a note stating that each residential unit will be provided with a minimum of 400 square feet of private open space. The subplot must be sufficient to accommodate the dwelling unit and 400 square feet of private open space. Further, the petitioner has added a note reserving the right to install ornamental fencing on the site for decoration and to aid in delineating the areas devoted to private open space. Any such fencing will not exceed 4 feet in height and will not be opaque.
5. Staff has rescinded this request to realign units 10-16 to parallel Marshall Place to create a strong street edge.
6. A note has been added under Streetscape and Landscaping stating the private alleys that terminate perpendicular to Marshall Place will be screened with a combination of masonry walls and landscaping.
7. Petitioner has amended site plan to depict all units facing streets (i.e. Euclid Avenue, Marshall Place, and Atherton Street).

8. The elevations provided by the petitioner illustrate that the garage doors have been moved to the rear.
9. The elevations provided windows in place of previous garage doors.
10. Staff has rescinded this request to provide entrance doorways with porches or stoops on end elevations that front onto Euclid Avenue and Marshall Place. Petitioner has added a note under Architectural Standards that states small horizontally aligned windows on all elevations will not be allowed.
11. Petitioner has modified site plan (including typical private open space detail) to better distinguish between patios, porches, and balconies.
12. Petitioner has added a note that states the buildings will contain a minimum of 70% masonry (brick or stone) on all building faces.
13. The petitioner has added notes committing to building materials (to include brick, stone and/or other masonry products and hardy plank or other similar durable siding materials); and no expanses of blank wall exceeding 20 feet in length for end units will be permitted. In addition, a note has been added to state that the units will be offset by two feet to provide articulation along the front of the buildings, and that buildings will be aligned to face the adjacent roadway.
14. A note has been added under Lighting stating that freestanding lighting fixtures will be installed throughout the Site, fully capped and shielded with illumination downwardly directed. Mounting height for light fixtures will not exceed 12 feet.
15. Possible tree save areas are now labeled on the site plan.
16. Addressed all C-DOT and Engineering and Property Management comments.
  - a. City of Charlotte Land Development Standards allows a minimum 16-foot wide alley for double loaded, two-way operation.
  - b. The petitioner has provided cross-sections for Marshall Place and Euclid Avenue on Sheet RZ-3.
  - c. The petitioner has added a note on the site plan that states the petitioner is encouraged to provide on-street parking along the entire length of Euclid Avenue, provided it does not conflict with the private open space requirements for individual residential units. The extent of the on-street parking will be determined by the City staff through the site planning process. Further, the petitioner has provided language that states the petitioner will support the installation of on-street parking along Marshall Place, Atherton Street, and Euclid Avenue.
  - d. With respect to Engineering and Property Management, the petitioner has identified possible tree save areas, including existing trees to remain. Adherence to the Tree Ordinance is a minimum requirement.
17. Locations of solid waste and recycling facilities are shown on the site plan.
18. The petitioner has revised the driveway on Unit 32 so that it is consistent with the City of Charlotte Land Development Standards requiring a minimum of five feet but no greater than seven feet, or a minimum of 20 feet. The petitioner has also added a note to the site plan that states intent to comply with these regulations.

The following items were added/ modified after the public hearing:

The petitioner has increased the number of units from 37 units to 39 units.

1. The petitioner has submitted revised elevations that include a rendering that was provided with the original submittal.
2. The petitioner has added the centerline of Marshall Place and a measurement of 26.5 feet of right-of-way measured from the existing centerline to the new right-of-way line.
3. The petitioner has amended the site plan to reflect the correct zoning district of the abutting parcel to the south.

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

**Mayor Clodfelter** said this petition is protested so under the statutes and rules it will take nine votes of those voting including the Mayor to pass. Before we take the consistency statement, I have conferred with the City Attorney and we believe it is best to know what the likelihood of this is gaining the required nine votes, and then we will adopt the consistency Statement

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accordingly as to whether the petition receives favorable consideration or not favorable consideration. That will change the consistency Statement depending upon what you wish to do with this petition. You will have to make a different set of findings depending upon what you want to do with the petition.

**Councilmember Kinsey** said I would like some clarification on nine votes to do what.

Mayor Clodfelter said the rules of the Council require that on a protest petition that the motion be put before you as a motion to approve the petition. If that motion fails to receive the nine necessary votes then the petition is automatically defeated and you would then adopt a consistency statement that speaks to the action you just took. If on the other hand the motion receives nine affirmative votes then the motion would pass and then you would be required to adopt a consistency statement explaining your reasons in relation to the adopted area plans.

Ms. Kinsey said so we are voting to approve rather than deny?

Mayor Clodfelter said your rules of procedure say that the motion that is put before you on a protest petition is a motion to approve the petition.

**Councilmember Howard** said this is more of a technicality going forward. In the future the likelihood of us approving something that was inconsistent is not something we will be doing in the future.

Mayor Clodfelter said that is for you to decide, but if it is inconsistent you are going to have to make the Court of Appeals says the necessary findings. This is the meeting we've had since the Court of Appeals decision so we are trying to make sure we follow that ruling and the Attorney and I are still conferring on that. I think we are going to have to work out some rules of procedure going forward now that are a little more regularized so we have reached an agreement on how it is to be done at this meeting to comply with the court decision, but we will probably have some more adjustments and tweaks as we go forward. I need a motion to approve the petition and if that gets a second then you vote on the motion. If it does not get a second then you do not take the motion.

Mr. Howard said what happens if you don't get a motion?

Mayor Clodfelter said I do not get a motion then the petition cannot be approved. It would be denied; it would fail.

**Senior City Attorney Terri Hagler-Gray** said you need a motion to take some action on the petition and with protested petitions, because the state statute and your rules require that it take nine votes to approve, we typically ask for a vote to approve.

Mayor Clodfelter said hearing no motion then I will take any other motion Council wishes to make.

Motion was made by Councilmember Kinsey and seconded by Councilmember Fallon to deny Petition No., 2014-063 by Pulte Home Corporation.
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**Councilmember Barnes** said I have a question. There is a lot of back and forth on this particular petition and I understand and appreciate a lot of the concerns expressed by the neighborhood. I understand the positive statements presented by the developers and it appears that the parties were not able to come to a meeting of the minds regarding the details and other necessary items in this petition. Is that your understanding as a district rep. Ms. Kinsey?

Ms. Kinsey said yes.

Mr. Barnes said I understand and I appreciate that and I will take the lead of the District Rep.

Mr. Howard said just to reiterate a little bit on what Mr. Barnes said; I too kind of recognized that this area will become denser in the future, whether or not the time is now is kind of what I  
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wrestle with. Because I didn't feel strongly one way or the other about it right now I think it is getting close, it is kind of coming down South Boulevard and in this direction and I am going to support the District Rep as well.

Ms. Kinsey said I think the district rep. needs to say something. I really struggled with this because I think you are right. I wonder will single family be there, will it come and if not what would be appropriate there as far as multifamily? The two sides just didn't seem to be able to get together so based on the fact that the Planning staff recommended denial, the Zoning Committee 5-0 recommended denial and the neighborhood wanted it denied, I feel like I have to go with what the neighborhood would like to see. That is why I cannot support this.

Mayor Clodfelter said the motion to approve was not made and therefore obviously didn't get a second and therefore obviously didn't get nine votes. Does this motion require any requisite number of votes?

Ms. Hagler-Gray said at least three since it takes nine to approve, so I would say at least three votes.

Mayor Clodfelter said so if this motion gets at least three votes it passes to deny. It is a strange world and we've got to figure this out under the new regime after the Court of Appeals decision so we will figure it out.

**Councilmember Smith** said I would like to ask the district rep. a quick question and this might be for staff as well. In the event this were tabled, no action was taken, do you think the neighbors and the developer could arrive at an agreeable area or do you think it has all been exhausted?

Ms. Kinsey said I know the neighborhood would like to see this settled tonight. I think a lot has been going back and forth.

Ms. Hagler-Gray said I think that the consistency statement in your agenda is appropriate for the motion to deny.

Mayor Clodfelter said we will see if the motion to deny passes and then we will go back to the consistency statement

Ms. Hagler-Gray said I think we are actually supposed to adopt the consistency statement first.

Mayor Clodfelter said since we did not have a motion to approve, I think that is the correct procedure.

<p>Motion was made by Councilmember Kinsey, seconded by Councilmember Autry, and carried unanimously that this petition is inconsistent with the Dilworth Land Use and Streetscape Plan and the New Bern Transit Station Area Plan and to not be reasonable and in the public interest based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information or materials.</p>
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The vote was taken on the principal motion to deny Petition No. 2014-063 by Pulte Home Corporation and recorded as unanimous.

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**ITEM NO. 12: ORDINANCE NO. 5475-Z, PETITION NO. 2014-065 BY NASIR AHMAD, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.91 ACRES LOCATED ON THE EAST SIDE OF I-85 ALONG JOHN ADAMS ROAD NEAR THE INTERSECTION OF GALLOWAY ROAD AND JOHN ADAMS ROAD FROM RE-3 (RESEARCH) TO RE-3 SPA (RESEARCH, SITE PLAN AMENDMENT).**

This petition is found to be consistent with the Northeast 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 Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

The modifications are:

1. The proposed use has been modified to an Eating, Drinking and Entertainment Establishment, Type 2.
2. A note has been added that vinyl siding will be prohibited as an exterior building material.
3. A note has been added that expanses of blank wall will not exceed 20 continuous feet in length.
4. Building elevations have been labeled to correspond with the proposed building.
5. Note number "5" has been removed from the site data table.
6. The possible dumpster location has been shown and labeled on the site plan.
7. A note has been added in the development table that the existing cell tower will remain.
8. Staff has rescinded the request for the petitioner to show and label the required yard as undisturbed area. The required eight-foot planting strip and six-foot sidewalk has been shown and labeled to the property line.
9. The proposed street cross section has been removed from the site plan

Motion was made by Councilmember Phipps, seconded by Councilmember Driggs, and carried unanimously that this petition is consistent with the Northeast District Plan and to be reasonable and in the public interest, based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information or materials.

Motion was made by Councilmember Driggs, seconded by Councilmember Phipps, and carried unanimously to approve Petition No. 2014-065 by Nasir Ahmad as amended.

The ordinance is recorded in full in Ordinance Book 59, at Page 15-16.

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**ITEM NO. 13: ORDINANCE NO. 5476-Z, PETITION NO. 2014-066 BY LEVINE PROPERTIES, INC., AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY .094 ACRES OF EXISTING RIGHT-OF-WAY FOR ST. JULIAN STREET LOCATED BETWEEN COMMONWEALTH AVENUE AND INDEPENDENCE BOULEVARD FROM R-5 (SINGLE FAMILY RESIDENTIAL) TO B-1 (PED) (NEIGHBORHOOD BUSINESS, PEDESTRIAN OVERLAY.**

This petition is found to be consistent with the Plaza Central Pedscape 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 Zoning Committee voted 5-0 to recommend approval of this petition.

Motion was made by Councilmember Kinsey, seconded by Councilmember Fallon, and carried unanimously that this petition is consistent with the Plaza Central Pedscape Plan and is reasonable and in the public interest based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information or materials.

Motion was made by Councilmember Austin, seconded by Councilmember Howard, and carried unanimously to approve Petition No. 2014-066 by Levine Properties, Inc.

The ordinance is recorded in full in Ordinance Book 59, at Page 17-18.

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**ITEM NO. 14: ORDINANCE NO. 5477-Z, PETITION NO. 2014-067 BY ALDERSGATE UNITED METHODIST RETIREMENT COMMUNITY, INC., AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 91.31 ACRES LOCATED ON THE SOUTH SIDE OF SHAMROCK DRIVE ACROSS FROM GLENVILLE AVENUE AND THE EAST SIDE OF EASTWAY DRIVE ACROSS FROM DUNLAVIN WAY FROM R-17MF (MULTIFAMILY RESIDENTIAL) AND INST(CD) (INSTITUTIONAL, CONDITIONAL) TO INST(CD) (INSTITUTIONAL, CONDITIONAL) AND INST(CD) SPA (INSTITUTIONAL, CONDITIONAL, SITE PLAN AMENDMENT).**

**Mayor Clodfelter** said before we can take up this petition and consider it the City Council has to determine by a  $\frac{3}{4}$  vote whether or not the changes to the site plan that were made after the Zoning Committee voted are substantial and if the petition should be referred instead back to the Zoning Committee for review. You have in your materials the two changes that the petitioner made after the Zoning Committee's vote. The item automatically, under your rules of procedure, goes back to the Zoning Committee unless you make a motion now to take the item on tonight's agenda.

Motion was made by Councilmember Howard, seconded by Councilmember Kinsey, and carried unanimously to not send the petition back to the Zoning Committee and keep it on the agenda tonight.

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

1. Amended Development Data Table to only include information on proposed uses.
2. Amended development legend to reflect proposed 125 independent units and 153 dependent units, for a total of 800 existing and proposed units. Deleted reference to amenity services, which are allowed as accessory uses to the principal uses on the site.
3. Deleted Note 1H under Development Area A, which reflected information on existing development.
4. Staff rescinded the request to specify the alternate buffer request.
5. Amended Note 1J under Development Area A to reflect proposed maximum height of dependent and independent units as 72 feet and up to six stories.
6. Amended Note 7b to remove reference to Area B, which proposes no changes to existing entitlements.
7. Addressed Park and Recreation comment by providing a greenway easement within the 100-foot SWIM buffer to Park and Recreation.
8. Deleted the six-foot pedestrian access walk from Shamrock Drive to the existing access walks. The request for the six-foot pedestrian access walk was rescinded by staff due to topographical issues.
9. Labeled existing buffers.

Motion was made by Councilmember Kinsey and seconded by Councilmember Fallon, that a portion of this petition is found to be consistent with the Eastland Area Plan while the remainder is inconsistent with the Eastland Area Plan but is found to be reasonable and in the public interest, based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information or materials.

**Councilmember Phipps** said I have a question to the staff about the need in these instances where the change is considered to be insignificant. On a go forward basis is there any consideration being given to granting staff any flexibility to be able to make that determination without having to come before us with any change whatsoever in matters like this?

**Tammie Keplinger, Planning** said as we look forward to a new Zoning Ordinance, hopefully in the future that may be something that is changed, but currently we are not looking at changing  
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that policy. That is something that is set in the Zoning Ordinance and any time there is a vote, a change to a site plan after the public hearing and after the Zoning Committee votes, the City Council must decide whether it is significant or not and decide whether to send it back or not. At this point there is no change to that proposed.

The vote was taken on the motion recorded as unanimous.

Motion was made by Councilmember Kinsey, seconded by Councilmember Driggs, and carried unanimously to approve Petition No. 2014-067 by Aldersgate United Methodist Retirement Community, Inc. as amended.

The ordinance is recorded in full in Ordinance Book 59, at Page 19-20.

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**ITEM NO. 15: ORDINANCE NO. 5478-Z, PETITION NO. 2014-069 BY NOVANT HEALTH, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 81.75 ACRES LOCATED ON THE NORTHEAST QUADRANT AT THE INTERSECTION OF ALBEMARLE ROAD AND I-485 FROM INST (CD) (INSTITUTIONAL, CONDITIONAL) AND B-1(CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL) TO O-2(CD) (OFFICE, CONDITIONAL) AND B-1(CD) SPA (NEIGHBORHOOD BUSINESS, CONDITIONAL, SITE PLAN AMENDMENT.**

Motion was made by Councilmember Howard, seconded by Councilmember Mayfield, and carried unanimously to recuse Councilmember Lyles from Item No. 15, Petition No. 2014-069 by Novant Health.

The petition is found to be consistent with the Albemarle Road/I-485 Interchange Study and to be reasonable and in the public interest, based on information from the staff analysis and the public hearing as amended by a 5-0 vote of the Zoning Committee. The Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

1. Removed the "Other TBD" under c. Graphics and Alterations.
2. Added a note entitled Alternative Phasing as follows: "Changes to the above referenced phasing can be approved through the administrative amendment process upon the determination and mutual agreement of Petitioner, C-DOT, Planning Director, and as applicable, NC-DOT, provided, however, the proposed alternate phasing provides comparable transportation improvements to the phasing identified in this petition."
3. Added a note requiring, at a minimum, 10,000 square feet of gross floor area of general or medical office uses to be developed within the area zoned B-1(CD) (neighborhood business, conditional). No more than two buildings containing only retail, restaurant or personal service uses may be constructed within the area zoned B-1(CD) (neighborhood business, conditional), prior to the construction of 10,000 square feet of gross floor area of general or medical office uses within the area zoned B-1(CD) (neighborhood business, conditional).
4. Addressed Transportation comments by adding notes under the headings of Transportation Improvements and Access and Right-of-way Dedication as follows:
  - a. (Proposed Improvements) At the intersection of Albemarle Road and the I-485 outer ramps: Extend the westbound right-turn lane on Albemarle Road back to the right-in right-out driveway;
  - b. (Proposed Improvements) Along the Sites frontage on Albemarle Road i) construct a right-in right-out driveway; and ii) construct a westbound right turn lane on Albemarle Road at the right-in right-out driveway with 50 feet of storage and an approximate taper.
  - c. (Standards, Phasing and Other Provisions) Right-in Right-out Driveway: The right in right-out driveway to Albemarle Road will be closed and removed once Public Street #1 is extended to the east and connected to a north/south road that provides the site with full movement access to Albemarle Road.
  - d. (Standards, Phasing and Other Provisions) Contribution to Roadway Improvements: The following provisions shall apply in addition to other commitments of Petitioner and

provisions of this Section 3:

- i) In order to facilitate the construction of the extension of Public Street #1 to the east as a connection (the “Connector Road”) to a north/south road that will provide full movement access to Albemarle Road (the approximate location of the Connector Road portion being shown on Sheet RZ-3.1), the Petitioner shall contribute to the design and construction costs of such Connector Road in an amount of up to the lesser of (A) one-third (1/3) of such design/construction costs evidenced by written bids for such work, or (B) \$360,000 (the “Contribution Amount”).
  - ii) The contribution amount will be paid to the City of Charlotte to be held and then used solely for either (A) the construction of the connector road, or (B) if acceptable to C-DOT and NC-DOT the installation of certain roadway and/or traffic signal improvements to the intersection of Public Street #1 and Albemarle Road (the “Intersection Improvements”), provided however, such intersection improvements must be of the nature that improve the access conditions at such intersection in a manner reasonably acceptable to petitioner and C-DOT.
  - iii) In the event of scenario (A) of subsection c.ii immediately above, the contribution amount will be delivered to the City within 30 days of written notice from the city that (X) subdivision plans have been approved to allow the construction of the connector road and (Y) other parties, whether public sector or private parties, have committed to provide the balance of the funding of the design/construction costs needed above the contribution amount. In the event of scenario (B) of subsection c.ii. immediately above, the contribution amount will be delivered to the City within 30 days of written notice from the City that the City and NC-DOT have decided to use the contribution amount to fund the intersection improvements (as reasonably approved by petitioner as set forth above) and written evidence that the costs of such intersection improvements can be covered by the contribution amount or in concert with other approved funding for such intersection improvements.
  - iv) If (A) the City’s written notice under subscription c.iii. above is not provided to petitioner within seven years of the date of approval of this rezoning petition, or (B) construction earnest of the connected road or the intersection improvements, as the case may be, is not commenced within eight years of the date of such approval, the City will return the contribution amount to the petitioner and petitioner shall have no further obligations to provide for such funding.
- e. (Standards, Phasing and Other Provisions) Alternative Phasing: Changes to the above referenced phasing can be approved through the administrative amendment process upon the determination and mutual agreement of petitioner, C-DOT, Planning Director, and as applicable, NC-DOT, provided, however, the proposed alternate phasing provides comparable transportation improvements to the phasing identified in this petition.
- f. Access and Right-of-Way Dedication
- i) Access to the site will be from Albemarle Road via a new public street and a right-in right-out driveway in the manner generally depicted on the rezoning plan.
  - ii) The right–in right-out driveway to Albemarle Road will be closed and removed once Public Street #1 is extended to the east and connected to a north/south road that provides the site with full movement access to Albemarle Road.
5. Addressed CATS comments by adding a note “the petitioner will provide CATS a public access easement to allow CATS transit service to enter the site and utilize the site’s private streets to turn around. The location and terms of the easement to be determined during the subdivision review process.”
6. Staff rescinded the request to define “personal services.”

Motion was made by Councilmember Howard, seconded by Councilmember Driggs, and carried unanimously that this petition is consistent with the Albemarle Road/I-485 Interchange Study and is reasonable and in the public interest based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information or materials.

Motion was made by Councilmember Howard, seconded by Councilmember Autry, and carried unanimously to approve Petition No. 2014-069 by Novant Health as amended.



The ordinance is recorded in full in Ordinance Book 59, at Page 21-22.

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**ITEM NO. 16: ORDINANCE NO. 5479-Z, PETITION NO. 2014-070 BY THE CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY .063 ACRES LOCATED ON THE EAST SIDE OF SOUTH CHURCH STREET BETWEEN WEST SUMMIT AVENUE AND WEST BLAND STREET FROM I-2 (GENERAL INDUSTRIAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT – MIXED USE).**

This petition is found to be consistent with the South End 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 vote of the Zoning Committee. The Zoning Committee voted 5-0 to recommend approval of this petition.

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard, and carried unanimously that this petition is consistent with the South End Area Plan and to be reasonable and in the public interest based on the Staff Analysis, the Public Hearing, the Zoning Committee recommendation and any other applicable information or materials.

Motion was made by Councilmember Mayfield, seconded by Councilmember Driggs, and carried unanimously to approve Petition No. 2014-070 by the Charlotte-Mecklenburg Planning Department.

The ordinance is recorded in full in Ordinance Book 59, at Page 23-24.

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### PUBLIC HEARINGS

**ITEM NO. 17: HEARING ON PETITION NO. 2013-075 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.214 ACRES LOCATED ON THE WEST SIDE OF SOUTH TRYON STREET BETWEEN WEST CATHERINE STREET AND WEST BLAND STREET FROM I-2 (GENERAL INDUSTRIAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT – MIXED USE).**

**Mayor Clodfelter** declared this hearing open.

**Tammie Keplinger, Planning** said this is a request that is located off South Tryon Street, and I will orient everyone on the map; South Tryon Street is located right here and East Bland is right here. The property that we are talking about tonight within the middle of the yellow circle, it is a small area property that is located within ¼ mile walk of the Bland Street Station and ½ mile walk of the Carson Street Station. If you look at the zoning in this area you can see that we have a lot of industrial and you also see a lot of TOD and MUD optional and this is all developing in accordance with the transit corridor. The site that we are talking about tonight actually has an industrial building located on it with some parking along Tryon Street. The request is to rezone from I-2 to TOD-M; it is a conventional request. The SouthEnd Transit Station Area Plan recommends transit supported development uses for the site. Staff is recommending approval and there are no outstanding issues.

**Councilmember Phipps** said is there an operating enterprise in the building right now?

Ms. Keplinger said I believe that the building is currently vacant. We will confirm that for you.

Mr. Phipps said is it the goal to rezone all the I-2 parcels to TOD mixed use in that general area?

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Ms. Keplinger said when you look at the map, I don't know if it is necessarily the goal to rezone all of the I-2 zoning in that area specifically to transit oriented zoning classifications, but this is on our major transit line so we are looking for higher intensities in terms of residential and office uses. Of course in the industrial districts you cannot have residential uses so that would have a tendency to rezone those properties to something that did allow residential or office.

Mr. Phipps said is there any plan to do any kind of analysis to assess the impact of reduced I-2 zoning for businesses near uptown?

Ms. Keplinger said we did an industrial study about eight years ago and it focused on industrial properties that were throughout the City, not just in the uptown location. It has been a while since I reviewed that study and I think they said we had about a 20 plus year build out for industrial properties in our jurisdiction. Some things have changed since then but I don't believe that we have any plans at this time to update that study.

**Councilmember Howard** said my question is a different twist on what Mr. Phipps just asked you. When I look down Tryon Street and I ride it every day coming in and going back and forth to work, I'm noticing these tiny parcels that are very slowly kind of changing over to something that is more transit oriented. I wanted to make sure that this area is covered completely by a transit plan. Would it be Carson?

Ms. Keplinger said this is actually covered by the SouthEnd Transit Station Area Plan and as you recall we cannot recommend rezoning to a TOD district unless there is a transit station area plan in place.

Mr. Howard said what I'm think now is if you come down Tryon Street I'm wondering if those circles that go around the station actually covers all of Tryon Street. You don't want holes in the middle of this because that close in there would be one or two parcels in between. I'm just making sure that we are treating all of Tryon Street the same way because it all needs to develop with the same type of development.

Ms. Keplinger said our Assistant Director would like to respond to your question so I will turn it over to Laura Harmon.

**Assistant Planning Director Laura Harmon** said in this area of the South Corridor, the LYNX Blue Line corridor it is contiguous up and down South Tryon as being appropriate in the long term for transit oriented development. Hopefully that answers your question. As you get further out South Tryon and the stations get further apart past the SouthEnd and even past New Bern and as South Tryon diverts it is not continuously transit oriented development, but in this area it is transit oriented development.

Mr. Howard said the area that I think would matter from that standpoint would be roughly Morehead Street down to Tremont probably. Just making sure that all of that is covered and it is more leaner than it is kind of circles and leaving pieces of the pie out because we didn't think about that.

Ms. Harmon said yes, and where these stations are so close together it does become more linear. It becomes more circular as you move further out the line where the stations are further apart.

Mr. Howard said would you check it just to make sure we didn't leave any parcels out that probably should be included?

Ms. Harmon said sure, I think we can double check, but I think on that side it pretty much abuts the Wilmore Neighborhood for transit oriented development and then we did try to stay outside of the neighborhood.

Mr. Howard said these parcels are so little you just never know.

Ms. Harmon said we will be glad to check that.

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

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**ITEM NO. 18: HEARING ON PETITION NO. 2014-003 BY GEORGE M. MACON FOR A CHANGE IN ZONING FOR APPROXIMATELY 4.65 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF ARDREY KELL ROAD AND MARVIN ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) AND MX-2 (MIXED USE) TO O-1(CD) (OFFICE CONDITIONAL.**

**Mayor Clodfelter** declared the public hearing open.

**Tammie Keplinger, Planning** said before I begin the presentation I would like to let the Council know that we did have a protest petition submitted on this rezoning case and it was deemed insufficient.

In terms of this request I would like to orient you; this is Ardrey Kell Road and this is Marvin. You can see from the zoning map there is an area of NS which is Neighborhood Services, commercial development that has small shops, retail and a little bit of residential mixed in on the north side of Ardrey Kell. Then you have multifamily and some single and multifamily mixed development and then finally single family out on the outside. There is one little areas of institutional. In terms of this particular site it is a small infill sight; it has no connectivity to the adjacent single family/multifamily development; in fact, all of those properties actually back for the majority of the site. There is a single family residential structure that is currently located on this site. In terms of the proposed request, it is from single family and mixed use to office conditional. It will allow up to 50,000 square feet of office development and retail and a type one eating, drinking and entertainment establishment as an accessory use. There are no drive-thru facilities permitted; there is a maximum of three buildings within the building envelope along Marvin and they are all pulled up to Marvin Road. Their proposed building materials which consist of brick, glass, stone with EIFS accents. In looking at the adopted future land use map you can see the single and multifamily uses that are behind this property, you can see the residential along the north side of Ardrey Kell and then higher density single family, some multifamily and the lower density single family around it. This property is currently slated for single family residential development by the South District Plan so the request is inconsistent with that plan, but the size of the property, its orientation and its isolation from the adjoining properties make developing it with standalone single family residential properties difficult. The proposed office uses, which are restricted, serve as a good transition from the commercial on the north side of Ardrey Kell to the residential. The outstanding issues that are associated with this rezoning are technical in nature and staff does recommend approval upon the resolution of those issues.

**Councilmember Driggs** said this is the petition that was filed some time ago and was postponed a couple of times. Is that right, because they had not had the community hearing?

Ms. Keplinger said partially yes.

Mr. Driggs said the insufficient protest, not enough people signed it, they weren't the right people, what was the –

Ms. Keplinger said it was because there are condominium associations and all around this property, we just did not meet the qualifications for the protest petition.

**Councilmember Howard** said if you look at the other two corners, that looks like that is mixed use. Is that what the strips usually mean? What you just said, there is no other office in this area at all. I would tend to believe that it would probably be more of the restaurant that you just spoke about. Are you worried about that starting to creep down either one of these streets, kind of mixed-use commercial? I guess it could only go down Marvin Road, it couldn't go the way because it is developed already.

Ms. Keplinger said I think when we looked at this Mr. Howard, because the site is so isolated and all of the properties on either side of this corner are actually already developed, we felt this would not propose the creep of any further office or retail type development.

Mr. Howard said are you worried about restaurants at all being that close to the residential?

Ms. Keplinger said they do have some restrictions on the restaurants such as the no drive-through facilities so hopefully that is something that we can look further into.

Mr. Driggs said I wanted to ask about the vehicle trip generation. Is staff comfortable with the increase of almost five times the number of trips? There is a lot of sensitivity about traffic in the district.

Ms. Keplinger said I would like to ask Mike Davis from C-DOT to respond.

**Mike Davis, Transportation** said just too sort of first confirm the traffic is expected to increase with this proposal as compared to what could be done by right. As we talk about trips, there is kind of two ways that we are interested in this, one is what is happening right at the site so that number that we submit in the report really should be thought of as the amount of traffic entering and existing the site through the driveways so it is true that number goes up. Something I've started trying to help explain with these impacts and we think about how they sort of add up to be more than just what is going on on the site. So think about how these uses relate in terms of distance to where the other end of the trip is occurring. What I mean by that is when people are going to and from an office site they are typically coming to or from residential so that is typically the trip attraction that exists between those two uses. Having a higher driveway volume, there is a bit of a tradeoff because it can sometimes be served by the approximate residential uses. Yes, it does all add up, it does build to the overall amount of traffic, but that is sort of one of the hidden benefits in mixing the uses in this way.

Mr. Driggs said do we have a sense, particularly during peak hours (there are a couple places now where that congestion is very severe); does this contribute to that?

Mr. Davis said it certainly could and of course what I just said is sort of abstract and it depends on where people in the end really are coming from, where they live and what this office might serve. I would point out that Ardrey Kell and Marvin are both, in terms of just their traffic volumes are well under their capacity so Ardrey Kell is around 15,000 trips per day; Marvin is around 10,000. They are tending to get constrained at some of the larger intersections that are over capacity but generally no, this is not something that would be of a magnitude that we would be concerned about.

Mr. Driggs said the expectation is that most of the people who work in these offices are going to be from the vicinity as opposed –

Mr. Davis said we have no way of predicting that or guaranteeing who is served by this office. What we do know is that if you took an office use and put it where there were no people living around it, we know those become very long trip lengths where those 400 or 500 trips per day really have a lot more impact.

**Councilmember Phipps** said under outstanding issues, Item No. 6, we have requested that they remove a note and modify it to read that a signed approval letter from the South Hampton Homeowners Association agreeing upon the final locations of a proposed tree save and dumpster areas during the site design will be provided to us prior to submitting for any permit on the site. In view of the fact that I guess it was a protest petition that was proven to insufficient, are we saying here that without this particular signed letter there won't be any permits issued?

Ms. Keplinger said yes sir; that is what this letter is saying. I would like to ask Solomon Fortune who worked on this particular case if he would come down and elaborate for us on what the agreement was related to.

**Solomon Fortune, Planning** said typically what happened, when there are agreements with the neighbor we would like to put those in the form of writing so that way when it goes through the permitting process there is no confusion between staff and the neighbors that staff is being asked to make a request that the neighbors did not see upon that approval. That is why we typically ask for that type of letter from the developer and the neighborhood organization so there is no confusion during the permit process that someone said something got approved and staff made a change without talking to the neighbors. It is not something that we normally like to do, but when the developer does put a note or the petitioner puts a note on the plan that said we have an agreement with the HOA or the adjacent property owners, it is something we like to do to cover ourselves and cover you the Council so that you know what they are getting and it shows up in the right place during that permitting process.

**Councilmember Smith** said I'm not sure which staff member can answer this, but there was a point made earlier that I think, at least for the audience at large, it caught me a little off guard so I would like to ask it just as much for the folks watching at home. Condo owners cannot sign a protest petitions?

Ms. Keplinger said it depends on how the condominium Homeowners Association is established and anytime we have a protest petition from a condominium association we have to go through their rules and regulations and it is something that we work with Ms. Hagler-Gray on to determine who has the ability to sign for them. In some cases condominium associations will submit maybe one of the owners of the condominium will sign, not being aware that they have to get part of the Homeowners Association to sign on behalf of the overall group. It is a legal technicality.

**Councilmember Lyles** said I know we have the drawing in our book where we indicate the parking lot is and there is a buffer space. I see where the tree save area is, how wide is that buffer between the parking lot and the area that backs up to the condominiums?

Ms. Keplinger said I believe it is about 50-feet. It is very hard to read but we certainly will clarify. Just looking at some of the other dimensions on the site that we know of like the dimensions of the parking lot, I would guesstimate that is about 50-feet.

**George Macon, 2310 Charlotte Avenue** said hopefully my presentation will clear up a lot of the questions that you have raised tonight. Part of the reason for the multiple deferrals is that I've been working very closely with the Princeton at South Hampton Homeowners Association on this petition. I've met with the Board three times; I've met with the neighborhood twice and meetings that were well attended by the overall community and then I've met with the neighbors that are located right behind the property, adjacent to the property as a group but outside of those meeting settings. I want to thank them for really working with me over the last almost year on this petition and those are in addition to the formal community meeting that I did hold back in February and we've been deferring it because I've been working with Princeton at South Hampton to make changes to the site plan to try to find some agreement and common ground on it. Just to highlight a couple of what we've worked out on that is this plan is significantly different from the initial plan that I brought to them. I changed the access from Marvin Road through their community. I used to have a common access drive right there; I changed that from a full movement through their association into the project up to a right-in/right-out with a right hand turn lane. I put a 10-foot fence around the perimeter of the community, agreed to leave the tree save where it was and that is a good outcome. Then I worked very closely with them to gain access easement through their Homeowners Association property that is outlined in blue so we worked out an agreement on that and they actually had to sign an amendment to the petition to allow that to be rezoned from MX-2 to O-1(CD). The long and short of it is I've worked very closely with them; very appreciative of the interaction we've had over the last several months and to have the Board's support of this change in zoning.

I would like to bring up the protest petition. I was aware of that and that was way back when I initially filed the petition. It was I think from a member of the community that was located where I had initially proposed to have a full movement intersection on Marvin Road. As a result of the first meeting I had with the community that was not something that they wanted so I changed it and moved it further up closer towards the intersection. My understanding from the  
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Association was that gentleman was satisfied with that outcome and I probably will get the Chairman of the HOA to provide some information on that that would be helpful. I did talk with Mr. Fortune today about some of the outstanding issues we have on the petition. I think they are mostly technically in nature. There is some issue about me providing better elevations about the project and I'm happy to work on that and I feel we can get resolution on the outstanding issues as we work towards the next submittal. I think we've worked closely together to try to resolve the issues and I'm happy to answer any questions.

**Councilmember Barnes** said Mr. Macon did you indicate that on both Ardrey Kell and Marvin there will be right-in/right-out means of ingress and egress?

Mr. Macon said I indicated that on Marvin there would be a right-in/right-out. I think given the proximity to the intersection there and then I think the one on Ardrey Kell right now is a full movement, but that will be subject to the permitting process with NC-DOT and C-DOT.

Mr. Barnes said if someone is approaching the site or if someone wants to go south on Marvin Road how would they go about doing that?

Mr. Macon said I guess they would have to go out and make a U-turn at the signalized intersection there, if I understand your question.

Mr. Barnes said Mr. Davis in our analysis of the traffic patterns if you've done the analysis on the ingress and egress is that type of movement within reason according to acceptance standards in your business?

Mr. Davis said yes sir, the access as proposed is exactly as we had prescribed and requested it be on the plan. There is another trade-off here; when you can provide full movements obviously that reduces the need for things like U-turns. The other way to do this would be to make a left onto Ardrey Kell and left at Marvin. That also can put stress on the intersection which we would otherwise like to avoid, so the reason than that we wouldn't allow that movement is because of safety so that movement that is proposed on Marvin Road to be restricted is was as mentioned, it is just too close to the intersection to really allow that.

Mr. Barnes said so you are saying that the full access on Ardrey Kell would not be too close to the intersection with someone making a left coming out of there?

Mr. Davis said that is true in the near term. I expect conditions will change over time and it is common Ardrey Kell is a major thoroughfare and it will be modified over time and it will always be reevaluated, but under these conditions for the foreseeable future it could operate as a full movement intersection.

Mr. Barnes said fast forward ten years when this area is more developed how would someone – I guess they would take the same dangerous left turn coming out onto Ardrey Kell?

Mr. Davis said no, first of all we would never obviously seek to allow it to get to a condition where we needed to take restrictive measures. We thought that was a real concern we would restrict now. We think it can have full movement again for the foreseeable future. It is likely if and when Ardrey Kell is widened to say a five-lane facility that would be another point at which we would say this is probably not safe, we would evaluate that through that project and may deem that it may need to be restricted at that time. There is an evident plan to do that.

Mr. Barnes said the other question Mr. Davis is fast forwarding the ten years and perhaps to the five-lane Ardrey Kell Road, what would the restriction be?

Mr. Davis said the worst case in terms of the restricted movements would be both of those access points could be right-in/right-out and then to your question how does one get south bound on Marvin Road, it could be the former answer which is that you make a U-turn which is okay or you could make right on Ardrey Kell. What we also don't know about the future is what other street connectivity options may be in place that allow people to find other routes to get south, not

just on Marvin, but just points south. A lot of time what happens is as these areas build out and you get more route choices as more streets get built.

Mr. Barnes said Mr. Mason do you have any idea what the uses will be? I know what the options are, but do you know what the uses will be?

Mr. Macon said primarily I developed the office portion of the Blakeney down the street and it would be similar uses that are in there, medical office, general office, professional and ancillary uses to that type of project.

**Councilmember Smith** said I see that you have a 50,000 square foot proposed building; how is that broken down?

Mr. Macon said primarily it would be on the corner approximately 15,000, two-story building on the corner and then the balance in single story more likely down Marvin Road.

Mr. Smith said is the office product for lease or for sale?

Mr. Macon said it would be a mix.

Mr. Smith said just an appetite for having done a little work out there; can you help on vacancy rates especially for office medical in that sub-market?

Mr. Macon said if you consider Blakeney it is sort of on little sub-market and I guess I've drawn a blank on the other corner. Is it Cedar Walk? I think that project is full and Blakeney – I have one 2,000 square foot unit at Blakeney available out of over 250,000 square feet. It is a very tight market; there is still demand for service hence the desire.

Mr. Driggs said these facilities would provide services generally to area residents; the things that area residents could use for medical services, beauty salons and that type of thing?

Mr. Macon said right, very similar because it is a good comparison to Blakeney; they are all neighborhood type services for the most part.

Ms. Keplinger said a point of clarification to Mr. Howard's question earlier about the restaurants for this type of use, in an office district you have to have 30,000 square feet of office use or primary office use before you can even have retail or an eating and drinking establishment and then there are further restrictions on the size of the retail and eating and drinking establishments so there are some restrictions that would not allow a single restaurant to be located on the site.

**Chris Papp, 10537 Paxton Run Road** said first I want to talk about, and I think you guys eluded a little bit the notice portion of this. I left you guys some pictures because I think it is good to have a picture of what is going on. In terms of use, there has been a sign there for over a year that says it is going to be medical and professional office space and it is coming in 2014. You will also notice what you don't see there is an actual rezoning sign and I can tell you from speaking with residents in my HOA to a person thought that this was already approved. They don't know to write to City Council so that is one thing. The community meetings that were held, I know I called Mr. Macon seven times. I live 2,200 feet to the south and I didn't get a returned call to ask for uses, what was going to go on there. Now in terms of office medical space I was able to find 25,000 square feet last night within three miles of the site. In having some discussion with some other people I found that Mr. Macon was actively recruiting a daycare center to come there, which that intersection can't handle that kind of traffic as well. I have some concerns about whether this was actually properly noticed, whether a new community meeting should have been held, which I think it should have but it wasn't. In terms of the Planning Department's recommendation there is also a picture where you talk about it being kind of isolated; you can go right to a road that goes into the community and there is an access road that can be assessed right through there so I don't understand why putting more traffic there when it is very easy to get to that actual development. In terms of traffic, there is a line of traffic that goes all the way back to Wade Ardrey Road every single morning; that intersection now has gridlock in it in the morning because people going to Elon Park School. I don't understand how  
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you could possibly make a left out of there today, not in the future, today. If you are going to right on Ardrey Kell I'm not sure where you would do a U-turn. As C-DOT said before, there was about a 14,000 count at that intersection but at North Community Houses it is a 22,000 which is over capacity. I'm not sure having people doing U-turns in the middle of Ardrey Kell is a good idea.

In addition to staff's comments it says we don't know what the use is going to be, obviously we don't have any contracts signed for what is going to go in there and in the notes it says that it should include all one uses there so all one uses encompasses a lot more other things besides medical and professional office space; hotels, data centers, funeral homes, day labor services agency stations, kennels, so these are all things that can go there. If you plop an O-1 in the middle of residential which is primary residential you can have a big problem with what goes in there. In terms of the other mixed use, it is all neighborhood services, it looks like houses; they have the angled roofs, asphalt shingles. It is pizza places, there is a couple doctor's offices in there, ice cream shop, nail salon and things like that. The other thing it is all townhomes and it all meld together. Dropping a brick and glass office building in here does not go with the neighborhood, it is not a good use, the traffic cannot withstand any more going in there and I think you guys should deny this.

**Mayor Clodfelter** said Ms. Keplinger will you need to get some follow-up information on the notice issue?

Ms. Keplinger said we do have a staff member that is by that site very often and they said the sign is actually in place now. We will go back and verify that again.

Mayor Clodfelter said let's double check all of our notice procedures on this please.

Mr. Papp said the sign is in place, it is only in front of Ardrey Kell Road; it is not on Marvin Road which is where the property is. For people who care about it who will be coming up Marvin Road they can't see it because it is blocked off by that gigantic sign that says coming soon because the road is angled up. You don't see it in that picture, it is behind the trees.

Mr. Driggs said Mr. Papp do you agree with the staff's assessment that this is not a suitable site for single family development?

Mr. Papp said no, I don't see why. There are four other developments that either come out on Ardrey Kell Road and Marvin; South Hampton, Princeton, Ardrey Kell Villages and Kensington comes out on Marvin or the other side is Providence Road West. I don't understand why that couldn't be residential; there has been some innovative I know Shay Properties did something down Marvin Road where you could put a little more density in with single family homes right down the street so I just failed to see why there is an issue. If you can have 780 trips coming in and out per day why can't you have 120 residential coming in and out every day?

Mr. Driggs said is it your sense that a lot of people that live in the neighborhood share that view? We are getting quite a different account in terms of Mr. Macon's conversations with people in the neighborhood and I'm just curious to know how we reconcile that.

Mr. Papp said I've spoken at length with the President of South Hampton at Princeton and they are actually concerned about what can go there. I don't think they are aware that O-1 has all these other uses. They think these are offices and they are kind of convinced of that and said this is the best we are going to get because we don't know what Council will do going forward. They could put a hotel there or a CVS that would cause even more traffic. They are saying if it is going to be commercial there this is the best that we can get. I can tell you from my neighborhood it is not at all something that we would be interested in. As you can see the traffic there it just doesn't go with the rest of the community.

Mr. Driggs said Ms. Keplinger this is conditional only to the extent of the 30,000 square feet limitation? What are the other limitations?

Ms. Keplinger said there are additional conditions and one of them is on the type of uses that can go on the site. It is restricted to 50,000 square of office development for medical, dental, optical  
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clinics, barber and beauty shops, child care centers, cultural facilities, financial institutions, libraries, office and studios and then retail, eating, and drinking establishments as permitted by the ordinance, which we talked about that previously. In the outstanding issues staff did ask Mr. Macon to narrow that list down further.

Mr. Smith said Mr. Papp when you said there is 25,000 square feet available in a three-mile radius, did that include Torrington, Ballantyne and some other heavy concentrations of offices?

Mr. Papp said yes, and medical too; there is Ballantyne Corporate Park; there is a whole bunch of medical buildings in there. There is some up in Stone Crest; Mr. Macon has some in Blakeney that are still there. There is one actually across Cedar Walk that is still there. It is not difficult. If there was a market for it we wouldn't be having this conversation. He would say these buildings leased out or sold, but that is not the case. I think you are going into an experiment here with allowing these uses and a year from now, oh this didn't work so let's put a hotel there or something else. I just think you need to be very careful with this. Conditional zoning according to the ordinance should have some specific project associated with them if you are going to drop this kind of zoning in the middle of residential and from what I can tell there is no specific project. It is just conditional and maybe we will do this and maybe we will do that, but no-one seems to be able to provide any answers.

**Councilmember Fallon** said Tammie, saying an eating establishment went in there could it have a drive-thru window?

Ms. Keplinger said no name it would not be allowed to according to the conditions that he has placed on plan.

Ms. Fallon said so it is a sit down restaurant?

Ms. Keplinger said yes mame.

Mr. Phipps said so this is essentially a speck space with no pre-leased tenants?

Mr. Papp said as far as I can tell.

In rebuttal Mr. Macon said I would like to apologize if the gentleman tried to reach out to me; I've made significant repeated efforts to meet with the South Hampton Community. We've met over seven or eight times. The two community meetings where the community as a whole showed up were well attended. I don't have the exact numbers but I would say 40 plus people at both meetings. I'm more than happy to meet with the gentleman after the meeting and discuss the project in more detail if he would like to. In terms of the market for the project; I developed Hunter's Crossing around the corner on 521, I developed Blakeney and in my professional opinion there is demand for office space at that location. It has been advertised for a long time, the sign went up and it has been a long time because I've been trying to work through the issues with the Homeowners Association for several months and I feel like Tammie if you could just point out the homes in the back there, I've met right there adjacent to the northern boundary of the property. I've met specifically with these folks about some of the concerns they've had and made changes to the plan to accommodate their needs. I think as far as the childcare center goes, that opportunity did come up and I discussed that with the HOA at one of the meetings and then with the Board subsequent to that and feel like that is a very compatible use the neighbors would utilize in the area. I think it is permitted in the institutional district which would be consistent with this area.

Motion was made by Councilmember Barnes, seconded by Councilmember Phipps, and carried unanimously to close the public hearing.
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Mr. Smith said Mr. Macon would you consider Torrington and/or Ballantyne Medical to be competition?

Mr. Macon said I consider those two separate sub-markets; they just are.

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**ITEM NO. 19: HEARING ON PETITION NO. 2014-031 BY WILKINSON PARTNERS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.9 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF YOUNGBLOOD ROAD AND SHELBURNE FARMS DRIVE FROM MX-3 (LLWCA) (MIXED USE, LOWER LAKE WYLIE CRITICAL AREA) TO MX-3 SPA (LLWCA) MIXED USE, SITE PLAN AMENDMENT, LOWER LAKE WYLIE CRITICAL AREA).**

**Mayor Clodfelter** declared the public hearing open.

**Tammie Keplinger, Planning** said this property is located off of Highway 49, close to the Catawba River; it is part of the Palisades Development. If you look at the Zoning Map you can see everything is in yellow and that is different types of residential development. I want to tell you a little bit of history about this case; in April 2014 a public hearing was held on this property and at that public hearing the petitioner submitted a revised site plan and after staff reviewed that site plan it was not in compliance with the Subdivision Ordinance so the petitioner had to make additional changes prior to the Zoning Committee meeting. The Zoning Committee and staff felt those changes were significant and recommended to City Council that a new public hearing be held. In July the City Council voted to have a new public hearing tonight so that is why we are here tonight.

Since the original request came in a small portion of property has been added to the site and I will tell you what that is for in just a minute. As you can see from the aerial you have single family residential on the north, east and west of this property; to the south you have a recreational facility that includes a pool, club house and tennis courts. In terms of the site plan, the area that was added, this is actually an area for guest parking which will be accessed through the street network for this development. The proposal is a mixed use site plan amendment; it allows 30 attached single family townhomes at a density of 4.81 dwelling units per acre. The building materials have been specified and are a listed in your agenda. There are several innovation requests and the petitioner had provided pedestrian connections throughout the site to adjacent properties and the proposed public street. The elevations are shown here and you can see what the development will look like.

In terms of the future land use for this property the Steele Creek Area Plan recommends four dwelling units per acre for this site. For this portion of the development the existing density is 3.9 dwelling units per acre and the increase for the townhomes will raise that to 4.8 dwelling units per acre. When we look at these types of developments, we look at the overall density for the entire Palisades Development. The entire Palisades Development currently is at the density of 3.87 dwelling units per acre and with this small change the density will be 3.89 units per acre. Staff is recommending approval of this petition upon the resolution of the outstanding issues; it is consistent with the Steele Area Plan with a density of four dwelling per acre which I reviewed just a minute ago. The outstanding issues are technical in nature.

**Jim Haney, 17529 Youngblood Road** said I am definitely for development so I am with the development project, but I do have one concern and that is why I'm here today. I'm a property owner that has 400 linear feet adjacent to the property and I believe that would be on the east side and I'm concerned with the new public road that will be dead-ending to the property. The current plan shows that a guardrail will go up and I will not be able to access my property through a public street. With that I would like to offer another solution or have another solution offered so that I can obtain access to my own property from the public street.

**Marc A. Hoole, P. O. Box 7007** said I'm with Yarborough Williams and I'm here on behalf of Mike Bost and Robert McCloud, the petitioners on this site. As staff said we've been working with them closely subsequent to the last public hearing to resolve the outstanding issues. Tonight I did want to let you know that we did have a new community meeting with the adjacent owners and at that meeting we committed to doing some additional landscaping across the street on Shelburne Farms Drive from our entrance. There was some concern from the adjacent owners with regards to the headlights at that intersection and we agreed to work with them to do some

additional landscaping and I told them I would make note of that at the meeting here this evening. We also agreed to do some temporary signage along Youngblood Road for the construction traffic. Our neighbors next to us on Youngblood Road say that often time's construction traffic gets confused and goes down their road thinking that is Shelburne Farms Drive, so we told them we would be glad to work with them during construction to put up some temperate signage. I wanted to note those two things; those are something we will be adding to the plan and we will continue to work on the stub road issue. I don't know what options there are but we will be glad to deal with Mike and his folks, typically with those stub roads, we are required to put a barricade at the end of them, but we will be glad to work with the owners to figure out a solution.

Mayor Clodfelter said when you work with C-DOT please be sure you include Mr. Haney in the discussions.

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

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**ITEM NO. 22: HEARING ON PETITION NO. 2014-058 BY SWITZENBAUM & ASSOCIATES FOR A CHANGE IN ZONING FOR APPROXIMATELY 30.9 ACRES LOCATED ON THE WEST SIDE OF W. TYVOLA ROAD SOUTH OF SOUTH TRYON STREET FROM BP(CD) (BUSINESS PARK, CONDITIONAL) TO R-12MF(CD) (MULTIFAMILY RESIDENTIAL, CONDITIONAL).**

**Councilmember Clodfelter** declared the public hearing open.

**Tammie Keplinger, Planning** said this property is located off of West Tyvola Road and South Tryon Street. Most of us are familiar with the Resonance Golf Course and the driving range which is located in the area of B-2. As you can see from the existing zoning map there is a little pocket of Business Park that is located to the southwest of this site, multifamily across Tyvola Center Drive and then single family with the exception of the commercial property at the corner of Tyvola and Tryon Street. This is currently mostly undeveloped but there is a self-storage facility on that site. In terms of the multifamily that has developed here the density on this site is 8.1 dwelling units per acre. From an aerial perspective you can see the site is currently undeveloped and again the multifamily across the street and the business park to the southwest and the golf driving range to the north.

The proposal is to go from Business Park conditional to multifamily conditional to allow 295 multifamily residential units at the density of 9.54 units per acre. The site plan shows a lot of tree save area and you can see different parts of the site plan. There is a creek that is located on the site and adjacent to it. There are proposed typical buildings that are shown throughout the site; there are six of those along with an amenity building in the center of the site. These are the proposed elevations and you can see from the unique building layout that they are proposing.

In terms of the future land use map for this site the property was rezoned to Business Park by a 1997 rezoning petition. Since then conditions have changed in this area; we no longer have the Coliseum, the traffic patterns are different and the multifamily to the south has developed. Prior to 1997 the Southwest District Plan actually recommended multifamily for this site and it recommended that we follow the General Development Policies in terms of the number of units per acre. When we ran the General Development Policy it recommends six dwelling units per acre. The property across Tyvola Center Drive developed at 8.1 and the request for this site is 9.54 dwelling units per acre and although that is a little bit higher than the 6 dwelling units per acre that the GDP recommends we feels it is consistent with what has already been approved in the area.

The request is inconsistent with the Southwest District Plan recommendation for business park, the density is inconsistent with the General Development Policies for six dwelling units per acre but the propose use is compatible with the surrounding uses and the outstanding issues; we have

some technical outstanding issues and some transportation related issues and once those are resolved staff will recommend approval of this petition.

**Walter Fields, 1919 South Boulevard** said let me introduce Sam Switzenbaum who is here from Philadelphia tonight be part of this hearing and he has been in and out of Charlotte for a number of years and involved with a number of things that have happened here, not the least of which is he owns the apartment community directly across the street from this site. I would invite you to go out there and ask Barbie, who is the Manager, for a tour because it is a beautiful community. This is sort of an unusual rezoning going from a non-residential category back to a residential category, but if you will look at this site I think you will see why and you look at our site plan, this is a very interesting site in terms of its topography and in terms of its tree cover. What we are trying to do with this community is to create a whole different type of multifamily community, something that is very secluded, right in town and yet still very secluded. The buildings are not oriented out to the street; they are oriented toward the interior of the site. There is a lot of tree preservation around the site which also helps in terms of avoiding steep slopes and some wetlands and other environmentally sensitive areas. What we see today built in the suburbs I think nine units per acre is a fairly moderate density and I'm pleased that the staff is comfortable with that density at this location.

Let me show you one of the unusual features, the actual design of these buildings. These are not your basic rectilinear multifamily buildings. The best way I could describe it would be, and you saw on the site plan, something that looks like a very large dog bone with protrusions at the end it creates more corner units, it creates more windows and more opportunities for people to feel like there literally are out in the woods and with buildings three to four stories back away from the road, there are some high spots here where you may very well be able to see Center City Charlotte and SouthPark and portions of the Airport from the upper floors of these units. These are all elevator buildings; they are very high quality in terms of their concept. We got a comment late Friday from the staff; they want us to provide some more information about building materials and we are more than happy to do that. There are a couple technical issues that we need to work through in terms of a driveway location, but I think all in all we've addressed the majority of the concerns that we've been asked to take a look at. We are very comfortable with this plan and we are very appreciative of the staff's support.

We had a community meeting at the site and two people came to that meeting, both of whom were very impressed, not only with the community that they were in where we had the meeting across the street, but with our plans and with Mr. Switzenbaum and his commitment to this property and this community. At this point I will stop and see if there are any questions that anyone may have for me.

**Councilmember Kinsey** said Mr. Fields, ordinarily we don't like buildings to turn their back on streets and these buildings are proposed to do that. Is there a lot of tree cover there so you really don't see the back door?

Mr. Fields said yes ma'am that is one the characteristics about this site that we are actually trying to take full advantage of. The dark green areas on this site plan are the areas that we think will be completely untouched by anything that we do, no tree removal, no grading, no nothing. We worked through a number of issues with the staff about this design and we are very pleased that they are comfortable with this particular layout. There will be some grading around the entrance so you will be able to see the community building and you will be able to see up into the site, but you see how the buildings are located, they are pushed back up into the site. We are trying to create that very secluded, very almost woodsy environment really in the middle of town, just a couple of blocks from the interstate. We think this is a unique opportunity to do something really special.

**Councilmember Mayfield** said actually this question is for you Tammie with Mr. Fields here. In our notes under outstanding issues we have it noted on here regarding our parks, greenways and open space that there was a commitment, which I know the verbal commitment had been there because I did have opportunity to go out and meet with the current site in regards to discussions for this future development, but I guess I was expecting for these notes to be in place. What is our plan because I know the verbal commitments have been made regarding our  
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greenway space and connectivity and part two of that is conversations that, if any, we are having with CATS regarding public transportation since we are getting ready to increase and we do know more and more people are choosing not to have vehicles today and want more access to public transportation.

Ms. Keplinger said in terms of the question about the parks, greenway and the open space that is an outstanding issue as you indicated and Mr. Fields will have the opportunity to submit a revised site plan by Friday at 12:00 noon for his client and we anticipate that this issue will be addressed in some shape or form or he will talk with us about it between now and then. If not it will more than likely remain an outstanding issue that will come back to you and listed that way when it comes time for decision. In terms of CATS, CATS did not have any particular issues with this petition. We certainly can go back and double check with them, but they did not feel that they needed a waiting pad or anything of that nature and evidentially they have what they need in this area.

Ms. Mayfield said I would like for us to follow-up with them as we are looking at the next three, five or ten years, it will be better for us to have this conversation now opposed to coming back to Council in three years trying to figure out how we are going to add in the waiting stations for CATS. Other than that I have no problem with us moving to close unless there is anything else.

Mayor Clodfelter said would you like to hear from Mr. Fields on that question?

Ms. Mayfield said would you like to respond Mr. Fields?

Mr. Fields said absolutely we will make it clear in the notes on the plan exactly what we intend. It is more like a trail network; it is difficult to draw that on the plan at this scale, but I can put language in the plan which makes it abundantly clear where that will go and what will be accomplished along the way whether it is an exercise trail or something else. Secondly, this is a memo that we got from CATS and you can see they didn't have much to say and I quote, "there are no requests at this time". If they have something else to say we will be glad to hear it.

**Councilmember Phipps** said I read this staff analysis and I was confused as staff has recommended approval for this even though it is inconsistent with the plan, it is inconsistent with the recommended density. I was just confused as to why and what is the compelling reason why you would support something like this. I know the plan is like 23 years old so it looks as if you are looking for reasons outside of what the plan prescribes and you are looking at what the adjacent land is being used for. I don't see how that is really of any – why would that be relevant? It seems like we are trying to attach the uses that are outside of the plan and giving it the same weight as an adopted plan. I'm just confused as to what makes this so compelling a project to deviate from plan prescriptions in terms of the use and the density.

Ms. Keplinger said Mr. Phipps I understand your question. The Southwest District Plan in 1997 was rezoned to change this property to business parking zoning and at that time this scenario and this area of town was very different. We had the Coliseum, we had a lot of things that were happening in that area transportation wise and it seemed like a good opportunity for a business park on that vacant land. Since that time things have changed; the Coliseum is no longer out there, we have had like I said the property adjacent to it did not develop as part of the business park, it developed for multifamily residential. The business park section developed a small amount but did not expand any larger than that and we looked back at what the plan said prior to 1997 and when we looked at that it recommended multifamily. We generated the General Development Policy numbers which recommended six dwelling units per acre so we felt like since things had in a manner reverted back to the way they were prior to 1997 that we could support multifamily. In terms of density, the density on the adjacent property is a little bit higher, it is 8.1 and this request is for 9.54 but we felt that there is not a huge amount of difference between those two numbers especially when we are getting a lot of land area that is going to be undeserved and preserved the way this site plan preserves it. Those are the reasons we became comfortable with this petition and are recommending it.

Mr. Phipps said given your response is there any plans to revisit this Southwest District Plan in the future?

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Ms. Keplinger said we have plans to revisit a lot of our plans; I'm not sure where this one is on the list, but I'm sure it is on the list.

Ms. Mayfield said hopefully this will help a little bit also for my colleague; when we are looking at the development that is happening at the West Tyvola area and we are looking at the most recent, earlier this year we did the groundbreaking on the VA facility that we know is going to generate more than 350 jobs, looking at more housing options. There is a lot of development that is happening around that corner where this is happening; we are going to be seeing something else coming before us in the next month or two so I have already started conversations with staff as well as the neighborhood leaders coming back to the table regarding the Southwest District Plan to start those conversations again because it was first approved back in the early 90's so we are looking at what reality looks like off of West Tyvola Road and off of Nations Ford and that whole corridor moving forward as we go into 2015 and beyond. So we are having those conversations but I had some of the same concerns as far as the amount of development but we are looking at a number of the business and corporate development that is also happening further up Tyvola. This was a particular project, after speaking with staff that I felt comfortable with us moving forward and as far as what Ms. Kinsey mentioned the fact that we really don't like to have buildings facing out the way this particular project is located you are basically going into the neighborhood so you are not really seeing it from the street. That is a difference which is why I also wanted to reiterate the connectivity regarding the park and access because you do have tennis courts as well as golf course and a lot of other amenities in the area so trying to utilize this space as much as possible to make it accessible for those that will be going into the area.

Motion was made by Councilmember Mayfield, seconded by Councilmember Smith, and carried unanimously to close the public hearing.
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**ITEM NO. 23: HEARING ON PETITION NO. 2014-064 BY MARSH PROPERTIES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 59.4 ACRES GENERALLY LOCATED ON THE EAST SIDE OF SOUTH BOULEVARD ON BOTH SIDES OF POINDEXTER DRIVE AND ELMHURST ROAD FROM B-1 (NEIGHBORHOOD BUSINESS), B-2 (GENERAL BUSINESS) O-2 (OFFICE DISTRICT, R-17MF (MULTIFAMILY RESIDENTIAL) AND R-8 (SINGLE FAMILY) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL) AND UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL.**

**Mayor Clodfelter** declared the public hearing open.

**Tammie Keplinger, Planning** said the property is located off of South Boulevard. You can see the red circle kind of identifies the property and a little bit of it is outside of the area. One of the things I would like to point out is there is a property right in the middle of the site which is owned by a church that is not involved in the rezoning. That is not proposed to be rezoned. The site is approximately 59.4 acres and you can see the Sedgefield Neighborhood surrounding the site and in terms of the Blue Line, we are within ¼ mile and in some places ½ mile walk from the New Bern Street Station. In looking at the aerial you can see that there is non-residential development up along South Boulevard to Haverford and then back in this area with the exception of the church, which is not included, we have duplex, triplex and quadruplexes that are on the subject property.

In terms of this rezoning it is a request to go from neighborhood business, general business, office, multifamily residential and single family residential to mixed use development district optional and urban residential, conditional with five-year vested rights. There are numerous site plan conditions that go along with this development and I am going to try to very briefly go through those and highlight those for you. On this map you can see that there is a conservation easement along the creek that abuts single family residential neighborhood and you can see that in this area there are some building envelopes that also show up on some of the other sites. The

property is set up in basically 12 development areas; four development areas, A, B, C and D are to be rezoned to MUD-O, mixed use development district optional. The remaining districts, which there are eight of them, are to be rezoned to urban residential, conditional. In terms of the four MUD-O districts in this area the proposal is for 98,000 square feet of retail personal service uses, 100,000 square feet of office or 150 residential units. For the eight development areas that are for urban residential there are four areas that have limited densities and height restrictions and those are the ones that about the single family residential neighborhoods; L, K, J and I.

There are several optional requests for the MUD district, those I mentioned earlier. They basically involve; there is a whole list of them but I've broken them into categories. They are based around parking, maneuvering between buildings and streets, allowing the existing development and the other site elements to remain until new development occurs. There is one accessory drive-thru window in development area B that is to be permitted and it is restricted to limited service restaurants and there is a definition of what a limited service restaurant is son the site plan. There are also some modifications to the streetscape treatments.

I'm going to quickly slip through some of the elevations that are proposed for the site. Elmhurst, South Boulevard, Poindexter and you have the retail shops on South Boulevard, another South Boulevard perspective and these are all development area A. Then this is development area B with the South Boulevard elevations.

In terms of the consistency with the land use plan the New Bern Station Area Plan was adopted in 2008 and it recommends mixed use transit supported development for the portions of the property along South Boulevard up to Haverford Street. The plan supports residential TOD, transit oriented development for the wedge area that is within the ¼ mile walk of the transit station. Within the wedge which is outside the ½ mile and the ¼ mile walk the plan recommends 17 dwelling units per acre. The request is consistent with the New Bern Transit Station area plan recommendations, however there are significant issues that are related to design and transportation that staff is still working with the petitioner on, so at this point in time staff does not recommend approval of the petition in its current form.

**Jeff Brown, 100 North Tryon Street** said with my colleague Keith MacVean we've had the pleasure of assisting Marsh Properties on this rezoning petition as well as Afton Properties who is involved as a participant in the proposed redevelopment. Jamie McLawhorn is President of Marsh and will speak shortly, is with me. George Dewey, President of Afton Properties, Richard Peterzime and others with Land Design, Randy Goddard, who is the traffic consultant, are all members of the development team and have worked very hard on this for over a year now. We do appreciate the opportunity to continue working with staff and with C-DOT on this. It is a petition with a lot of detail and we are very confident that we will be able to work through those details very shortly and move the staff's position on this to support because we are very pleased with how the plan has evolved over this many, many months.

I'm going to review a few of the details; we appreciate Ms. Keplinger's detailed staff analysis and write-up, but before doing so let me introduce Jamie McLawhorn who will talk about the Marsh Family's long history on this property and also some of the development plans.

**Jamie McLawhorn, 2448 Park Road** said I'm pleased to be here tonight after really months of hard work with Planning and C-DOT as well as the residents and leadership of the Sedgefield neighborhood. It is really an exciting opportunity for us to provide a high quality redevelopment of property that has been in the Marsh Family for over 65 years. Not only did we develop the apartments and the retail that are existing there today, but the single family residences that make up the neighborhood were also part of our original development when Sedgefield was started. The apartments that were built in the early 1950's honestly have seen their better day. We've done our best to keep them up, but they present very costly electrical and plumbing and structural issues and we are at a point where they require extensive investment. As we evaluate our next step with them we also recognize that when Sedgefield was originally development in the 1950's the neighborhood was really a suburb of Charlotte at the time and the development was built for that lifestyle and today Sedgefield is really part of the urban core and we see our redevelopment as an opportunity to provide the amenities that are desired by today's urban dweller that are moving into the neighborhood.

We've got a first rate team to help us create something really special as Jeff mentioned just a few seconds ago and we are really excited about the potential that we can add to the neighborhood. I will emphasize that the redevelopment will likely take eight to ten years. We plan to start with the new retail stores along South Boulevard that were shown on development A and then move further back into the site redeveloping the apartments that are closest to South Boulevard and then deeper into the neighborhood. Here you see some photos of existing street conditions as well as the apartment buildings; they also show the wonderful street trees and the tree canopy that is so important to this neighborhood aesthetics. One of our key goals from the outset has been to do all we can to preserve the existing street network as well as the existing tree canopy as it is a wonderful feature of the property. I will say this approach is very expensive as we will essentially be tearing out old and installing new infrastructure and I won't be shy in telling you that to do this we must do so with more residential units that exist there today.

These photos show the existing really out of date condition of the commercial frontage along South Boulevard. This presents a great opportunity to bring new quality retail and restaurants including the new Harris Teeter which was the original grocery in Sedgefield for over 30 years to serve the nearby communities. Before going back to Jeff I want to assure you that our company with our deep history in Sedgefield will work hard to create a redevelopment that the community can be proud of. There are neighbors here tonight who you will hear speak and they have great pride in Sedgefield and given our long history our company does as well. I also want to assure you that we will continue to be attentive to the needs of our apartment residents during the eight to ten years phased redevelopment. These will include efforts to give residents plenty of advance notice of redevelopment and opportunities to stay within the community.

Mr. Brown said I do want to hit some highlights; again the plan is consistent with the New Bern Station Area Plan and we are likely going to be starting the commercial closer to South Boulevard as Mr. McLawhorn mentioned. This the plan and there is a lot of detail in the rezoning plan as well as the staff analysis, but just to hit the highlights again the development likely first in this commercial area here with the new Harris Teeter Store in this location. We will be also providing for a lot of detail as we go forward into the project. Let me move forward to the retail as we talked about. This is the elevation for the corner at Poindexter and South Boulevard. A lot of pedestrian activity entrance onto the street, something that will be very exciting for the community and we've gotten tremendous positive response. This is an elevation along one of the retail buildings on South Boulevard, potentially for an upstairs dining area that would look out over the downtown to the tremendous views there.

To kind of give you a little flavor of the rest of the project, first of all it will occur over time. This is a long phased development; it will be over an eight to ten year period, starting with the retail on the front. The rest of the development, if we talk about some other areas as Ms. Keplinger indicated, most of the higher intensity multifamily will be in this location which is within close proximity to the transit corridor and away from the single family residential on the boundary. A lot of care has been had to try to do our best to create within the existing streetscape network commitments with regard to the height as well as the distance from the existing residential communities nearby. For example, in this location here and I think one of the speakers may talk about this; we are going to have buildings that are going to be no closer than 30-feet from the boundary and more likely farther than that and no taller than 40-feet from the boundary. Under the existing zoning of R-8 the buildings could be as high as 35-feet and 20-feet from the boundary. We also have reserved the right, because there is more room on this parcel to be able to go a little bit taller than that as long as we are 100-feete from the boundary. In the meantime there will be an opaque fence, there will be buffer treatments and those are the types of commitments we are making.

I do want to talk a little bit about where we stand on the petition. There is a lot of detail. We've had tremendous success I think with C-DOT over the last several weeks. The plan was submitted before the public hearing a month ago and we felt it was a very good plan, but we have made progress on additional detail and we will work vigorously with the staff to resolve the issues and are very confident in doing so. We've also had numerous meetings with Sedgefield's residential leadership as well as a large community meeting with Colonial Village Neighborhood as well as the Sedgefield community. We really appreciate your attention to this rezoning; it is



an important development within the heart of their community and we really thank them for their time and energy and we will continue to work hard. We've made a number of changes to the plan as a result of Planning staff, as well as the community involvement, reducing the number of units, designating locations where we would have only a certain number of units for the residential, commitments on the number of parking in the UR area, strong pedestrian features on South Boulevard.

Transportation wise this doesn't show you a lot but we probably had a combination between Planning and Transportation well over 10 very detailed meetings and we continue to have those. We worked with Mike Davis and Rory and we thank them. We have gotten a number of pedestrian improvements and turn-lane improvements that are reflected here and are going to be incorporated into the zoning plan as well. I do want to address one of the issues that I think led to the staff's position for the public hearing with regards to their position, and that is the Charlotte Mecklenburg Schools memorandum. In the material we provided to you, we provided a response; we've had discussions with CMS to outline in our view their calculation and their formula for the number of children who would be generated from this development. We just have to tell you very directly, grossly overstates the number of residents and I will tell you how. It uses a formula that we believe is probably the worst case scenario for an apartment community within a broader district that has significant more two-bedroom and three-bedroom units than what we will end up having here. That formula creates what we think is almost three times the number of students versus the formula that we've seen for other consistent projects like this. We are going to continue to have discussions with CMS, but we wanted to point that out. In addition this is an eight to ten year development plan and we understand but the memorandum that CMS calls for really does not talk about how development will occur over time. There will be a lot more one-bedroom units than three bedroom units and these are really comparing apples and oranges. I will be happy to entertain further questions on that, but we wanted to make sure the Council was aware of that.

**Councilmember Fallon** said how many apartments are you tearing down and replacing immediately?

Mr. Brown said the total number of residential homes now is a little over 300. The total that we will be building over this eight to ten year period will be 980; immediately what has already occurred in anticipation of the development on the front of the site there are 20 apartment homes within one of the buildings on the first phase. I'll ask Keith MacVean to hand out a little relocation residence relations piece. To answer your question Ms. Fallon, that first building of those 20, each one of them were given about six month notice of the fact that the first phase would be coming.

Ms. Fallon said what I'm asking you is within the first say year or two, how many apartments are you taking down and replacing?

Mr. Brown said in the first year, it is going to take about a year before a lot of the development will occur on the residential.

Mr. McLawhorn said in the first year it is just the commercial and that is the 20 apartments.

Ms. Fallon said when you start the apartments, just 20?

Mr. McLawhorn said in the first year it is just the retail and commercial.

Ms. Fallon said and the second year? You are going to do 980 apartments which is a tremendous amount of apartments and who knows if we will need them in ten years. The point in fact is how many are you going to tear down to build? Are you going to build a lot more than what you are taking away is what I'm asking you?

Mr. McLawhorn said yes, for the entire community there are 303 there today and the 980 is what we will be rebuilding.

Ms. Fallon said so you are tripling it?

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Mr. McLawhorn said yes.

Mr. Fallon said holy cow!

Mr. Brown said a number of units will be built over a long period of time. The first will be the commercial and of those individuals in the piece that we are handing out, many of those individuals have elected to stay within the community. We will point out that the density that we are talking about on the number of residential units over this eight to ten year period is also consistent with the community plan and we will be providing for sensitivity and efforts with the residents in the community, many of whom have known the Marsh Family for many, many years.

Ms. Fallon said but if it is consistent with the plan they are not approving the plan.

Mr. Brown said we are very optimistic that with the efforts we've made in the last several weeks since the plan that was submitted a month ago that we will be in a good position with the staff on this and they've acknowledge the plan consistency as well.

Mayor Clodfelter said I want to ask a follow-up question that I thought was where Ms. Fallon was going, and maybe it was, but if not it is a related question to hers. Let me take you to a different place and that will help you frame the question I want to ask so we go over to Morningside Drive and Commonwealth Avenue where we had a rezoning petition for a very large area that was occupied by older structures and it was to be developed in phases and what we had happen over there was that all of the existing houses were taken down at the same time and we are still waiting on the first phase of replacement housing. I think the question here is are we going to have all of the existing housing demolished at one time and then the phases coming in or are you going to demolish in phases as well?

Mr. Brown said that is exactly the point I would like to make for clarity. The benefit we have here is with the Marsh Family owning the property now and being the property that has relationships with the residents, as this is built over time and buildings are taken out to be replaced this will be a slow steady phased development as opposed to it all going out at one time. It will take over an eight to ten year period for all of the residents to be replaced.

Mayor Clodfelter said I understand but the question is will the demolition of the existing houses be phased. I know the new development will be phased.

Mr. Brown said the demolition will be phased very much.

Mayor Clodfelter said I think that was your question, right?

Ms. Fallon said yes, because I want to make sure that you don't just take it all down and then decide to build it all at the same time.

Mr. Brown said the demolition and the entire development will be phased a much more development area and building by building basis than the example the Mayor made on Morningside Drive.

**Councilmember Kinsey** said this was the question I asked the developers and they are offering within the complex additional housing for those that are displaced so they are not throwing anyone out. That was my question and I knew that there would be concern on Council about that and with all due respect it is a little different from the Morningside because Morningside got hit during the recession and didn't get anything done for a while, but my understanding is, and correct me if I'm wrong, but the whole project is phased, you are not going to in and tearing everything down and the units that you tear down, those individuals will be given the right to stay within the complex within the property.

Mr. Brown said that is correct.

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**Councilmember Smith** said a quick question regarding the development of the retail space; what is the footprint of the Harris Teeter?

Mr. Brown said the footprint of the Harris Teeter in terms of the total square footage, about 53,000.

Mr. Smith said almost half the retail space is dedicated towards that. Tammie, you made a comment earlier about staff not being on board, but that was related to the transportation issue, correct? Or was that related to the proposed use? I understood it was particularly to the connectivity. You said earlier that the staff was recommending not to approve it and I think you subsequently said it was due to transportation and CMS.

Ms. Keplinger said and the design issue.

Mr. Smith said they are currently working on the transportation and with my quick reading has more to do with connectivity.

Ms. Keplinger said I don't know for sure. That would be a good question for Mike Davis, but in terms of design we are working with them on those issues also. I think Mike and his team have been working with them and hopefully they will have all their issues resolved by the time the new site plan is submitted.

**Councilmember Phipps** said this question is for Mr. Brown; you indicated that in your discussions with CMS and you indicated here that their projections for student enrollment were overstated. In your discussions with CMS did they concur with your analysis of student impact?

Mr. Brown said we've had discussions with CMS on how they have calculated. We've also provided information and had discussion on how we calculated it. We have not had a response back from them in terms of the discrepancy at this point. We hope to have a meeting this week on that.

**Councilmember Howard** said I can't remember the last time staff recommended against something because of CMS. When was the last time that happened? That is not something you commonly do. Is there something about this one that makes that stand out so much?

Ms. Keplinger said that we recommended against something because of CMS; there were other issues. Like I stated earlier there are transportation issues and design issues on this site also. One of our outstanding comments was that the petitioner does need to get with CMS and talk with them about the number that were submitted.

Mr. Howard said that is not something that you guys are basing your recommendation on right now. You just want to make sure they are talking to them.

Ms. Keplinger said no, it is not part of our recommendation based on CMS.

**Councilmember Driggs** said when you say you will relocate people to a new apartment does that mean that as vacancies come up with the existing properties that you will hold those and make them available to people that are being relocated.

Mr. McLawhorn said in our retail development which is occurring first, or would occur first pending approval, there are 20 apartments. In November we stopped leasing so there were five vacant. In April when we gave notification there were 15 and 11 of those have already relocated in our community. Four chose to move somewhere else and we've got one we are still working with.

Mr. Driggs said have residents said anything about the fact that this plan means that there will be some kind of construction going on in the area for the next 8 to ten years?

Mr. McLawhorn said apartment residents of neighborhood residents?

Mr. Driggs said the neighbors, just the people in the area.

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Mr. Brown said I think the residents recognize that this is a big endeavor; it is a 60-acre site. Construction will be going in portions; it won't all be happening in one area at the same time, but it will take place over time and part for the very phasing reasons we've been talking about, market driven as well as making sure that the project doesn't all come out at once. That includes the street network and the trees as well so all the streets won't go in at one time so the disruption to individual pockets, while it will take place all over time, individual pockets won't be as disrupted as you might think in terms of a project that would happen that everybody feels the impact of.

**Councilmember Austin** said I noticed there are a number of small businesses along there; are those now gone, are they still there and will they have the opportunity to come back. How do we treat them like your residents?

Mr. McLawhorn said we've had one that did relocate because there are two retail centers there and we've had one that has relocated into the second one. A few of those have moved out; there are three or four that are still operating that will relocate. I think George Dooley is here and he can tell you that our emphasis on the small shop space in addition to the Harris Teeter is on local. We've said that and communicated that to the neighbors because that has been something that has been a point of conversation throughout our planning.

Mr. Phipps said I'm trying to remember and my time on the Planning Commission and on Council, I don't recall any time that we've ever tried to look at a project that was going to have a build out for such a long time as ten years. Can you recall anytime; is this a precedent, have we ever done any projects with a ten-year time horizon associated with it?

Ms. Keplinger said absolutely; Sanctuary, Palisades, Barwick, there are a number of them that have long term build outs.

**Deborah Robinson, 2816 Park Road** said I am President of the Sedgefield Neighborhood Association, joined by Katie Zender our Secretary and Jeanne Woosley, our Vice President. We appreciate the opportunity to be before you tonight and talk about our perspective on this project. Sedgefield has seen amazing growth over the past ten years and in fact we were just recognized as one of the hot neighborhoods in the country and we would love to be able to protect that. We want to be able to continue to improve our neighborhood, manage the quality of life and keep it growing to attract more new families. We think that the Marsh folks have done a great job in working with the community, in talking with us, letting us share our opinion and taking that feedback and making some adjustments in their plans. We think that is a great start, but we come here today as opposed to this project because we feel like there are still questions to be answered. Primarily traffic and what it means to add 980 apartments to our community; that it means for the walkability and how we get around from a pedestrian standpoint, what it means for the schools and also ten-years of construction. We are facing another big development in our neighborhood on Marsh Road for CHA for a senior's complex which will add another 90 units.

We want to look at this altogether and as we've worked with City Planning, C-DOT, Patsy Kinsey and other folks we want to make sure we are all looking at this as a bigger project than just Marsh Properties but what it means to the entire neighborhood in terms of how incorporate all this growth into one fairly small footprint. I would like to turn it over to Katie and Jeanne to talk about some of those points.

**Katie Zender** said I want to talk about impact and details. Currently as Jamie told you Marsh Properties has 303 rental units; the proposal before us now is more than three times that number at a minimum of 980 units with an optional up to 1,050. Our neighborhood, and this is based on quality of life studies, have right now 1,750 housing units. Out of that there is only 700 single family homes so what happens our single family becomes overwhelmed by rental units. Is that okay or not okay, don't know but we are very concerned. Our current population is just under 3,000 people. This will increase our population by at least a third and likely more than that, but we don't know how much due to the scope and the timeframe we are lacking in details about units sizes, number of residents, a lot of details missing for us so far. We do know that no matter what this project means more cars, more congestion and more kids in our schools. Marshes own

traffic study expects the development to generate about three times the number of peak hour trips both morning and afternoon and that doesn't even begin to count the huge amount of projects that are across South Boulevard along the light rail line. If you take five of the new ones together that is almost 1,400 new units basically across the street, so that is another 1,400 people, 1,400 cars and they are not just on South Boulevard, they are going to go through our neighborhood of course to get to other parts of the City. The numbers get scary for us, we are looking at more than a couple thousand additional people and cars in about a half mile distance. I know it is a long-term project; it is hard for us to fathom the changes that this will bring and how you preserve a neighborhood that basically becomes a rental community. In the positive side, I do want to say we've had a fantastic experience working with City Departments and City people; they've been excellent and the Marsh team has worked with us really well over the last few months listening to concerns and making adjustments to their plans and we also of course know Marsh has been a good neighbor to us in these past years, but we currently oppose the rezoning. There are so many details that we would like confirmed prior to an approval and one of them is just to see a revise site map that has final conditional notes and knowing that Planning staff has confirmed that all the negotiations are complete.

**Jeanne Woosley 326 Marsh Road** said while we are talking about an 8 to 10 year project we are all charged with playing the tape to the end right here and right now for what our City is going to look like. Pedestrian safety is a key issue for everyone involved in SouthEnd. We filed a formal petition today with C-DOT to have the sidewalk redone on Marsh Road from South Boulevard to Wriston Place. That is the only portion of Marsh Road that doesn't have a sidewalk on both sides and we are also requesting a bike lane from South Boulevard all the way down Marsh to Park Road. Scott Curry of C-DOT was kind enough to generate his time and go on a walking meeting with us down Marsh. He has personally seen the crumbling concrete on the sidewalk. How frightening it is to walk directly next to such a busy road and how woefully inadequate the current sidewalk is especially for such a corridor of pedestrian and bike activity directly into SouthEnd. We don't believe that Marsh Properties should have to pay for the repair of this crumbling infrastructure on Marsh Road. The City invests millions of dollars every single year in attracting and retaining businesses to our City. Why isn't that approach being used with the developers; maybe give them tax incentives, work on a fee based program so that as they've got the surveyors, the concrete trucks, the laymen out there currently working at the end of Marsh, do the sidewalk repairs and give us the bike lanes that we request. Everyone is talking about pedestrian safety, let's start here. We understand that the land acquisition in order to do the proper sidewalk on Marsh from South Boulevard to Wriston, the land acquisition cost is great. I have three suggestions to overcome that. One, get the homeowners to donate the land; I will assist you in that process. Two, when a building permit is requested, get an easement put into that building permit that says that there will be a new sidewalk at some point in time and you already have that land. Third, and finally, give the homeowner a tax credit; for example, if they pay \$3,000 per year in City property taxes and you value the land at \$6,000 give the homeowner a credit of two years of taxes. I don't think Mecklenburg County will grind to a halt with the lack of that small amount of revenue.

The challenges facing us on the South Boulevard corridor are massive and what we need to do is throw away conventional methods for approaching these problems because they are not working. We need to not only think outside the box, we need to stand on the box and come up with new ideas so that we can achieve good to great in the SouthEnd corridor and let's start on Marsh Road.

**Stan Patterson, 2201 Radcliffe Avenue** said I'm building a house at 2850 Dorchester which is at the Area J which is the furthest area away from South Boulevard. I abut a property that they want to move the height restriction from 40-feet to 50-feet and I would just mention to you this is roughly 100-feet across this room and at the end of this room would be a 50-foot structure. I would just ask you to think about what that would be like to back up your single family home to a structure that is 50-feet tall. On either side of Area J it is a 40-foot restriction. I understand it is a little bit deeper in that particular Area J than the other two, but it still seems like it is overkill of the height. Currently the lots in Area J; there are like seven lots, there are 14 to 15 units within those seven lots. The petition would take it to 72 units, again from 14 to 15 to 72 units. I think what I would like to advise is to do away with the language pertaining to the 100-foot backup of J and if there is going to be the 40-foot restriction that is in I and K which are either  
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side of J that J be held to the same height restriction and I hope I'm somewhat clear in those comments.

Mr. Smith said you know we promote the Blue Line and the growth of the Blue Line in order to have design and growth along the South Boulevard corridor. As you look at the Old Sedgefield Shopping Center and you look at those old apartments if this zoning is not approved what do the neighbors want? You go up and down South Boulevard there are still some areas on the eastern border that look reasonably dilapidated and don't look like the gateway to a neighborhood that would be all that bad appealing. I'm just curious, if you don't get this and they are left with the property they are not able to rezone, what do you want?

Ms. Woosley said I know we have to speak either for or against the project. We are truly not against it; we are against it at the moment until there is more concrete detail, but I did want to address the light rail. There is a couple of issues with the project in general; everything about the light rail originally, the vision was five corridors and you could get on light rail and get out to the Airport, go north to Mooresville, go down to Pineville, go out to UNC-C and go out Independence. That vision has pretty much ended and we will end up with two lines.

**Councilmember Lyles** said we could talk about that a little bit more tonight, but we promise you not ended.

Ms. Woosley said well, good; we very much support it but right now basically unless you work uptown the light rail doesn't get you anywhere. The whole idea of less cars isn't a reality at least today and probably not ten years from now. That is one issue and another one is parking. The current regulations really don't allow for enough parking that is attached to these developments and again that goes back to the fact that light rail isn't fulfilling the dream that we all hoped for. Are we against the project? No, our dream was a deferral until there was really enough time to clarify some of the details.

Mr. Smith said one bit of advice; always be careful what you wish for because you could end up with a dilapidated shopping center and units that are no longer feasible to invest in so be careful what you wish for. Second, regarding the density, I don't think I heard much about density. Is the proposed project within the accepted density for that rezoning district over there?

Ms. Keplinger said it actually is. When you look at the property a lot of it is within the transit station area so we are looking for higher density residential. The area that would be in question would be the area to the rear that is not within the ½ mile or the ¼ mile walk of the station. When we calculated this density it is close to 18 units per acre and the plan recommends 17, so it is right in target.

Mr. Smith said I did not mean to sound girt with you all it is just as you look up and down South Boulevard, landowners get to a point where it is not necessarily feasible to reinvest large sums of money into a project so I was just trying to get clarification of what your vision may be and if it is possibly defeated that you may end up with something that is not as nice.

Ms. Lyles said thank you for all the comments and clarifications on where you are positioning. I think Mr. Brown knows one of the first thing we had was a rezoning that came to me as a new Councilmember and during that first rezoning, I think it was maybe 100 units, we spent weeks and weeks on design and commitment and conditions so I'm just concerned about where do we stand in that we've heard we are willing to work on this and yet we are looking at it today to have the public hearing. I'm just wondering what has gone on that we are not able to bring a more defined agreed upon project between the staff and the petitioner?

Ms. Keplinger said I think the petitioner has worked very diligently with staff as they have with the neighbors. As we see with most of our rezonings we have some outstanding issues when we come to the public hearing process. The larger the development more than likely the larger number of outstanding issues that we have. The petitioner has as per our process until 12:00 noon on Friday to submit a revised site plan for us to review that addresses these issues. If they don't then there are several options that they can ask for a deferral at the Zoning Committee level. The Zoning Committee can just defer if they feel they are not ready to move on. All

throughout this process the citizens still have the opportunity to offer input because they can still talk to staff and they can still talk to the Zoning Committee and additionally to the Council. The goal is by the time we get back to the City Council for a decision is that we do have a final site plan that has all of those issues and all the I's dotted and the T's crossed.

Ms. Lyles said we've been getting e-mails about this petition and I wanted to cover some of those comments while we are on television. One of the questions has been around the idea of it being a ten-year rezoning and how long that rezoning remains in place. I heard you mention when Mr. Howard asked were there ten-year zoning request for development, is that something we've done on infill development inside of our inner city? Is it typical there?

Ms. Keplinger said I would say it is a little more a typical because we don't have the 60-acres of land, large areas of land that are going under development, but we've had some. It is not unheard of for us to have that.

Ms. Lyles said I have a couple other things around the transportation/traffic issue. I went over to the SouthEnd neighborhood meeting where they were talking about walkability and mobility and pedestrian safety in that meeting and I think we talked about it among ourselves as a Council around the idea around how do we do things like this. One of the questions I have is that I've seen the sidewalk designs and layout that was submitted by the petitioner, but I wonder if that is done in a way that reviews it in terms of what we can do for safety and mobility, particularly around the South Boulevard area where we are doing that retail. We've got parking lots and we've got a number of things there. I was told, and this may not be accurate, that we now have approximately 7,000 people projected to live along the rail line in the SouthEnd area. This would increase it by some number again and yet we still have South Boulevard with very little ability to cross the train. I'm just a little bit concerned about the walkability and mobility. I also think this is an opportunity for us to build bike lanes; it may not be something that we are required to do, but I wonder if there is an opportunity for that, but more importantly I'm worried about pedestrian safety.

**Mike Davis, Transportation** said what I would suggest as a way to sort of break this up and think about it, there are three geographies that we may want to consider. One is South Boulevard itself, the second is what is happening internal to the site and the third is the existing single family that is not really part of the site, but has streets that connect with it. If we start with South Boulevard, agreed that probably the biggest challenge we are facing is our own success in terms of the vitality of the area and it is creating pedestrians and the challenges now how do we cross them all along South Boulevard, particularly from this point north through SouthEnd. There are some tools that we have in our tool kit to help with that; part of it is traffic calming and speed moderations, some of which happens when we are able to signalize intersections as we've done recently at South Boulevard and Carson. Around this area we've got some existing signalized intersections that are nearby that will help pedestrians cross South Boulevard to get to the light rail platform. Where they are not and where there are distances get to be a little bit too long we are asking the petitioner and they have agreed this is an example of the type of thing we want to see get on the site plan, but the design would involve pedestrian refuge treatments that can happen on South Boulevard that can occur between the signals. The quality of the walking and biking environment along South Boulevard can get much better in terms of the implementation of the adopted streetscape plan for South Boulevard which does include bike lanes. Some of that can't happen until more development and investment occurs. Internal to the site the streets that are being built do have large planting strips and sidewalks consistent with what you would expect out of new development and we are getting what we think is appropriate for the site itself. That last category how does that relate to the existing neighborhood and I think this shows a lot of community support for things that sometimes people aren't always interested in, but getting existing sub-standard sidewalks, those that are at back of curb that were built probably four-feet wide when we might want six-feet in some case. The challenge is how do we get those approved upon. We agree they are off site from this, they are internal to the neighborhood and it is not something that we sought for the developer to improve upon and will need to be something the City would take up at some point as an infrastructure improvement.

Ms. Lyles said my final request is from the staff. I would like to see what we have currently on the ground compared to what is being proposed for building. I know we have the maps and we  
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have all of that, but it would be particularly helpful for me; retail commercial space comparison, apartments number of units. We've talked about 303 current apartments, 980 new; we've talked about 700 single family compared to what; 3,000 in population compared to what, and I would not want to ignore the schools. When you look at that data that was suggested it says Sedgefield Elementary School has an enrollment this year of 407 and the built classrooms, additional students as a result of this development would be without mobiles 580 kids in just the elementary schools and the numbers really increase for Myers Park High School. I know that you are willing to have a conversation, but I think this is a staff responsibility to get the appropriate information and reconcile between what is going on by the petition and the school system. This is a big impact upon a very limited resource area that we have so I would like to see just what do we have now and what are we going to in this project in a number of indexes.

In rebuttal Mr. Brown said I'll lead with the statement that despite the desire for greater detail and our efforts and our desire to continue working on this, we appreciate the fact that the residents sentiment is I think they like the development and we will commit to do everything we can on the details that have been discussed tonight. I can assure you that. We will work with the staff, C-DOT and the residents to make sure they feel comfortable as I think they have in the way we've handled this thus far in the level of detail they can see on this plan. We had a choice, we've could have gone and zoned just the South Boulevard portion. We believe strongly and I think the staff would say as well to implement community plans it is so much better to do a master plan and that is what we are involved in. By doing a master plan, particularly with a smaller development company, they are not a national development company; it does require it to be phased over time. We think there are some benefits of that phasing over time. We think it is also beneficial the community knows what is happening throughout the plan rather than just South Boulevard and then over time other zonings coming in more of a piecemeal. We look forward to talking further with Mr. Patterson about his concern about the height within 100-feet and we will do that. As to the transportation traffic, we've had a very detailed transportation memo that was submitted and I believe C-DOT will be providing further follow-up and is comfortable with the macro issues. We are dealing with a lot of the design details, but I can assure you, to Council it is a complicated project, it is a project that has great consistency with the community plan, a lot of detail and we will make sure we get that detail worked out and we are confident we can come to a positive resolution.

Mr. Howard said thank you everybody; a couple questions for staff. For the streets we heard the neighbors and they have some of the more creative signs since I've been down here about pedestrian safety and just the walkability of the neighborhood. The way I look at this map I see a lot of streets that will be fronting on development on both sides, Poindexter being one of the longest. How much work are you asking the petitioner to do on those streets?

Mr. Davis said on the existing local streets?

Mr. Howard said yes.

Mr. Davis said a lot of the infrastructure that is there in terms of the local streets are of course streets that have already been built and so I think what this amount to is in those examples primarily just reconstruction of the sidewalks. I know this plan goes to great lengths to try to save trees and that is having an influence on how we design those streets, but it is basically keeping the curb lines the same and reconstructing sidewalks.

Mr. Howard said so you are staying with the curb lines, but behind the curb you are still asking them where they can to do the setback of the sidewalk away maybe on the street now?

Mr. Davis said yes.

Mr. Howard said are you able to get bike lanes in at all while you are doing any of that?

Mr. Davis said we would not seek bike lanes on low volume local streets. We think that would be inappropriate. The idea would be lower speed, lower volumes; it is actually better to be in mixed traffic. I'm guessing what some of this may be about is about Marsh Road in particular



which has some higher volumes and is not part of what is in the confines of what is in this site plan.

Mr. Howard said I just want to make sure my colleagues heard the residents. I think what I heard is there was some City petitioning more than it was about the petitioner and it was asking us to spend some money over in the neighborhood, so we separate kind of what we heard. It wasn't so much whether or not the petitioner was going to do it; it was while you are doing this you all should come spend some money and make it really nice is what I heard. Where some of these streets are redeveloping the Urban Street Guidelines kick in, so we are going to get exactly what our policy would call for where we can get it in these internal streets.

Mr. Davis said yes.

Mr. Howard said CMS; I'll be real careful how I say this because I know this is a real sensitive one. The reason why I'm not saying we discount CMS numbers, but CMS and kids and populations and all that kind of move around. They redraw the lines, they have capacity in schools so it is not that I discount it, I just know that they have capacity, it may not be at these, but they can move things around and make it work. Now where we can have not as big an impact on that I guess we should try. I didn't mean to discount CMS earlier, I just wanted to explain that over the time sitting here and sitting back there I've seen how CMS can get creative and I know they will get creative on this one too. The last thing I will say I've sat here for about five years and I've sat back there for about six and during that time we've developed a lot of these policies around these stations. This plan does exactly what we asked them to do around stations including getting the bonus point of having a grocery store in the areas where we need a grocery store. For that reason I like the plan, I like the density and I think we need to work on some of those things I heard like I'm not understanding Stan pointed out that you guys are asking for high density around J and I'm not sure I understand that. I'm not sure why it is not consistent all the way through so I would like some feedback on that one Jeff, maybe not tonight but if you could help me understand that one.

Ms. Kinsey said he stole my thunder really because what I was going to say I think the neighbors had a message for the City and we heard it, now we just hopefully got to do something about it.

Mayor Clodfelter said Ms. Keplinger, I have a question for you just a general question and I'll take the answer off line, not tonight so I'm looking and been studying the Transit Station Area Plan and this area is actually outside the transit corridor. It is in something you guys are calling a wedge. You call a neighborhood a wedge; that doesn't sound real nice.

Mr. Kinsey said Mr. Mayor they call our neighborhood a wedge.

Mayor Clodfelter said I know and I don't like it. I want to understand this whole concept of a – I know it is not a piece of iceberg lettuce, but it really doesn't inform very well, it doesn't communicate anything, it doesn't tell anybody anything and so when we are trying to make decisions about real property and real lives meaningless words really aren't very helpful. So off line at a later date I want to understand what a wedge is when you label a neighborhood that way.

Motion was made by Councilmember Kinsey, seconded by Councilmember Howard, and carried unanimously to close the public hearing.
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**ITEM NO. 24: HEARING ON PETITION NO. 2014-072 BY TONY A. FEISMSTER FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ALLOW CULTURAL FACILITIES AS A USE ALLOWED BY RIGHT IN I-1 (LIGHT INDUSTRIAL) AND I-2(GENERAL INDUSTRIAL) DISTRICTS AND IN THE U-I (URBAN INDUSTRIAL) DISTRICT.**

**Mayor Clodfelter** declared the public hearing open.

**Tammie Keplinger, Planning** said this is to allow cultural facilities in the industrial district. The definition of cultural districts or facilities – indoor and outdoor theatre, excluding movie theatres, auditoriums, other buildings for use primarily for musical, dance, dramatic or other performances, etc. Currently these facilities are allowed in many of our zoning districts; institutional, research, office, neighborhood services, general business, all the way to the TOD district, the transit oriented development. They are also allowed in some of our urban districts, the urban residential and the mixed use district. Staff is recommending approval of this petition, it is consistent with the centers, corridors and wedges growth framework which has a goal to provide a range of choices of entertainment and employment. Staff is recommending approval.

**Councilmember Kinsey** said how was this Text Amendment initiated? Did someone come and present a situation that needed to be addressed?

Ms. Keplinger said yes, Mr. Feismster approached staff about this time last year with a cultural facility that he wanted to operate in a former warehouse. We realized that these uses were not allowed in industrial districts and this was a perfect opportunity for the reuse of an existing building that was not being used so after through we decided this would be an appropriate text amendment.

Ms. Kinsey said I'm going to assume there are no unintended consequences.

Ms. Keplinger said none that we know of.

**Councilmember Howard** said I just wanted to personally thank staff. I brought this to staff and Tammie thank you for personally staying with this one. We were trying to figure it out; he had done a lot of work in the warehouse already and if you go places up north or if you go to Atlanta, actually if you just go to bigger cities you notice that they take a lot of warehouse areas and convert it to cultural things like this. So it seemed like the right thing and staff really went out of their way trying to figure it out and it seemed to be the best way to accommodate it so I just wanted to thank you Tammie and anybody else who helped you with this.

**Councilmember Phipps** said are you saying that even in strip centers with big box vacant buildings that it could potentially be used as a cultural type thing?

Ms. Keplinger said they could already go there currently based on the neighborhood services or commercial center district so this would just allow them in industrial districts.

Motion was made by Councilmember Kinsey, seconded by Councilmember Howard, and carried unanimously to close the public hearing.
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**ITEM NO. 27: HEARING ON PETITION NO. 2014-076 BY NORTHLAKE HEALTH INVESTORS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 6.94 ACRES LOCATED ON THE EAST SIDE OF REAMES ROAD BETWEEN BAYVIEW PARKWAY AND FINN HALL AVENUE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO INST (CD) (INSTITUTIONAL, CONDITIONAL).**

**Mayor Clodfelter** declared the hearing open.

**Tammie Keplinger, Planning** said this property is located on Reames Road, it is just south of Parameter Parkway and is currently zoned R-3 single family residential. You can tell from the aerial that this property was at one time had a large institutional building on it, which was a nursing home and it has been vacant for some time. In terms of the adjacent properties, go back to the zoning map and you can see there is a lot of multifamily surrounding this site and then some single family out beyond the multifamily and you can see the beginning of the commercial center that is the North Lake Mall area. The institutional site that is immediately to the north/northwest of this property was actually rezoned for a daycare. In terms of the land use you can see how the property has the existing facility that has been abandoned; across the street is the development of a multifamily for 240 units or 7.9 dwelling units per acre. In terms of the request

it is single family residential to institutional conditional for about 24,000 square foot dependent living facility with 50 beds. The maximum building height would be two stories and 40 feet. There are specifications on the building materials and they are providing a CATS waiting pad and a pedestrian refuge island for the development. In terms of elevations this is what we would see along Reames Road, left side/right side and then the rear of the building. In terms of the adopted future land use plans most of the time on an institutional rezoning request our plans don't tell us where institutional zoning should go, but in this case the North Lake Area Plan actually recommends institutional land uses for this property. So in terms of this rezoning the request is consistent with the North Lake Area Plan. We have several outstanding issues that are technical in nature but once they are resolved we are recommending approval.

**Councilmember Phipps** said this dependent living facility requires a certificate of need?

Ms. Keplinger said that is a question that the petitioner may be able to answer. That is something that our department is not involved with.

**Keith MacVean, 100 North Tryon Street** said Jeff Brown of our firm and I are assisting North Lake Health Investors with this rezoning petition. We are pleased that the Planning Department is recommending approval of this petition upon resolution of the outstanding issues. I want to thank them also for their assistance with the petition. We will work with them to resolve the very minor issues that are listed in the staff analysis. As Tammie mentioned the petition is consistent with the North Lake Area Plan, predominantly because the site was at one time an operating dependent living facility. The current owners bought that and they have closed it. There is a certificate of need that is needed for development of a nursing home or dependent living facility. Because there was one there those certificates are available and we are actually coming back with the same number of beds as was in the facility that was previously operating on the site, which was a legally non-conforming use. The site was actually zoned R-3 and nursing homes are no longer allowed in that zoning category. We did have a very well attended community meeting; a lot of representatives from Bahama Park and Havana Park Neighborhoods. They had several questions about the building elevations and again the site is just south of North Lake Mall, the existing facility that is on the site no longer operating. The site plan proposed for the facility, basically the building will sit exactly where the old facility sat; parking along the front with 40-foot setback, 38-foot Class C buffer. Pedestrian Refuge Island along Reames Road was asked by C-DOT that we provide sidewalk connections from the building to the street. We did as a result of the comments we heard at the community meeting modify the building elevation to clarify that vinyl can only be used on windows and soffits and add additional dormers and actually cupolas around the frontage of the building to enhance streetscape treatment and those were changes that were presented at the community meeting. We did receive and I did provide as part of the PowerPoint presentation that I handed out tonight, a letter of support from the Bahama Park and Havana Park Neighborhoods. We appreciate that and we appreciate working with them. Again a very good community meeting with a lot of good questions, pointed questions about how the facility would rerun, etc. and I think they were satisfied with those questions.

**Councilmember Austin** said yes it was very lively conversation and mine is just more of a comment. I'm glad that we were able to address the articulation on the front as that was a major concern. Is there any concern about the volume of traffic that we have now on Reames Road and your residents at all? That came out as well.

Mr. MacVean said from the petitioner's perspective no, most of these folks at the facility, even though they can have a car, don't actually drive. They will be using the services to move them from one location to another if they want to go to the mall or if they want to go to the Dr. they will have services.

Mr. Austin said I think the concern was more around walking and those types of things that came up in the meeting.

Mr. MacVean said you are correct and one of the things that the site is fortunate to have is actually, as Tammie pointed out, there has been a lot of multifamily development and non-residential development on Reames Road and actually I think the City has done some work.

There are actually sidewalks, fairly good wide sidewalks that lead from the site to the north and to some degree to the south so there is good pedestrian access to the site and there is also CATS service that serves the site. With the addition of the pedestrian refuse island, which will facilitate people crossing Reames Road, it is only a two-lane road, but again the pedestrian refuge island will assist with that. We are comfortable with the infrastructure that is in place and we think will actually be a benefit to some of the residents that can walk or go to the mall by themselves.

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

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**ITEM NO. 29: HEARING ON PETITION NO. 2014-082 BY BROOKWOOD CAPITAL PARTNERS FOR A CHANGE IN ZONING FOR APPROXIMATELY 46.34 ACRES LOCATED ON THE NORTH SIDE OF WILKINSON BOULEVARD NEAR THE INTERSECTION OF OLD DOWD ROAD AND WILKINSON BOULEVARD FROM R-3(LWPA) (SINGLE FAMILY RESIDENTIAL, LAKE WYLIE PROTECTED AREA), I-1(LWPA) LIGHT INDUSTRIAL, LAKE WYLIE PROTECTED AREA) AND I-2 (LWPA) (GENERAL INDUSTRIAL, LAKE WYLIE PROTECTED AREA) TO I-2(CD) (LWPA) (GENERAL INDUSTRIAL, CONDITIONAL, LAKE WYLIE PROTECTED AREA.**

**Mayor Clodfelter** declared the hearing open.

**Tammie Keplinger, Planning** said these properties are all located in the Lower Lake Wylie Protected Area. They are located on the north side of Wilkinson Boulevard; the Catawba River is a little bit off the map on this side. The current zoning is R-3 single family residential for this portion; I-1 for this portion which is light industrial and then general industrial for this area. In terms of the adjoining properties and zoning, there is a small portion of residential manufactured housing that is located here and some R-3 to the north of the site. This R-3 is all accessed off of Sam Wilson Road so there is no access from Wilkinson from that section. You can see from the aerial we have industrial development in this area along Wilkinson Boulevard, again the exception would be for the residential manufactured homes which are located in this corner. One of the things you can see in this aerial was there is a Piedmont Natural Gas line that runs through the property and this is a good demarcation of where the property will be developed. When you look at the site plan there is no development back on this end of the property; it is all on this side of the site.

Again this is the Piedmont Natural Gas line and this is the area that would remain undeveloped. It is single family residential, light industrial and general industrial in the Lower Lake Wylie Protected area and the request is to go to general industrial, conditional. It will allow 43,000 square feet of industrial uses; there is a prohibition on certain heavy industrial uses. It restricts outdoor storage along the frontage of Wilkinson Boulevard within 100 feet. There is a maximum of six principle buildings that could be constructed and there is 100-foot class A buffer for the residential uses in the zoning and as you recall the residential properties being in this area, there was actually an even larger buffer on the other side of that pipeline.

When you look at the future land use map for this site the Dixie/Berryhill identifies this as part of a transit oriented community and recommends multifamily, retail and mixed use land uses. This was intended to provide a higher intensity of employment uses in this area. The request is inconsistent with the Dixie/Berryhill Strategic Plan recommendation, but the conditions have changed since that plan was adopted. At that time there were plans for rapid transit along Wilkinson Boulevard which we do not have currently. The use is consistent with the surrounding land uses and it is appropriate for what is called a general corridor, which is defined in the Centers, Corridors and Wedges growth framework. The outstanding issues are technical in nature and staff is recommending approval.

**Walter Fields, 1919 South Boulevard** said let me introduce Lindsey Sowell who is down here from Raleigh to join us tonight for the hearing. As Tammie said, this is a pretty straight forward

petition; we are combining two industrial categories and a small piece of residentially zoned land for a new business park opportunity. There is a lot of stuff happening now on the west side. This is actually beyond the City limit line, but it is in an area where there is a lot of growth along Wilkinson Boulevard. We received the staff's comments in the staff analysis and there are two or three things there we are going to have to spend a little time on between now and Friday with our revised plan, but we have a call in the morning to do that. Our access is to Wilkinson Boulevard; we do have a note on the plan that allows us to have some flexibility on where the driveways go and that is because there is actually a piece of an acceleration lane on Wilkinson Boulevard from a crossover to the east of us and we are probably going to have to move our driveway to accommodate that. NC-DOT has told us that once we get our plans together they will look at that and make some specific comments at that time. We had a pretty well attended community meeting; there were a lot of questions about what was going on, but I think folks were generally satisfied with the plan. As I said we will respond to the few loose ends that we find in the staff analysis about our site plan and have that done by the time it gets to the Zoning Committee next week.

**Councilmember Mayfield** said trying to get an idea of what exactly is being planned out here because unfortunately I missed this particular neighborhood meeting so I haven't been able to hear what the concerns or what the questions were. I want to get an idea of two things, one what is the plan for this area since I along with staff have a clear goal of what the expectation for the Wilkinson Boulevard and the area that is outside of the City limits as well as within the City limits look like. I would also like to get an idea of what some of the outstanding concerns from those that were in attendance were.

Mr. Fields said there were actually no issues that came out of our community meeting. This site is just to the west of where Sam Wilson Road comes down from I-85 up here down to Wilkinson Boulevard and we are just beyond the point where we can see there is an enormous industrial park that has been built here over the years. This is a very large facility that has been built recently. What we are proposing on this property is something that would be comparable, a business park/industrial park, the ability to have distribution, but also to have other types of tenants. Those uses are all focused towards Wilkinson Boulevard and as Tammie pointed out the area in the back there is almost 18 acres that is being permanently set aside as open space to create more than just your average 100-foot buffer type transition to the residential community to the north. This is an area which I think is going to start to see more and more development as the multi-modal facility at the Airport really starts picking up speed. I know there is a lot of activity and a lot of interest along some of the major corridors in the area. As Tammie said when the Dixie/Berryhill Plan was done there was a whole different future in mind and that future has now moved on to other places. The City is reshuffling and rethinking I think how they look at a situation like this. This is an area where you can establish an industrial core that creates lots of jobs and lots of tax base without impacting any nearby residential communities. I think what we are trying to do is build on the good development that has already taken place there and that I believe will encourage other people to look at how they can redevelop their property to higher value assets in the future. As you can see there is land across the street and there is land further to the west. Once you get past the next intersection the topo starts going down to the river and we are pretty much done at that point. This is a very good area; it has got great accessibility, it has great visibility and the plan that we've got here I think has some very sever restriction on uses. There are a lot of things that we can't do here and Tammie may want to address those and if there are other things that people are concerned about we can certainly look at adding those to the plan. The technical issues, I think several of things that we see in the staff analysis are in fact already on the plan and one or two things we have to work out with some comments we received from C-DOT.

Ms. Mayfield said Tammie, can we go over just a quick idea of what the restrictions are of what can't go there?

Ms. Keplinger said yes mame we sure can. The following uses are prohibited: petroleum storage facilities, junk yards, medical waste disposal facilities, adult establishment, railroad freight yards, abattoirs, construction and demolition landfills as a principle use, demolition landfills, foundries, quarries, race ways or drag strips and waste incinerators.

**Councilmember Howard** said explain to me what you said earlier Tammie, about reserving for transit. I never knew that the west line went further than the Airport; did we have something else in mind back in 2003 when you did the Plan?

Ms. Keplinger said back when the Dixie/Berryhill Plan was done there was a proposal to have rapid transit along the Wilkinson Corridor, but there is not a plan for that currently so the land use has changed.

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

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**ITEM NO. 30: HEARING ON PETITION NO. 2014-083 BY CHILDRESS KLEIN PROPERTIES FOR A CHANGE IN ZONING FOR APPROXIMATELY 18.8 ACRES LOCATE ON THE SOUTHWEST CORNER OF THE INTERSECTION OF JOHNSTON ROAD AND MARVIN ROAD FORM UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL) TO UR-2(CD) SPA (URBAN RESIDENTIAL, CONDITIONAL, SITE PLAN AMENDMENT).**

**Mayor Clodfelter** declared the public hearing open.

**Tammie Keplinger, Planning** said I will be as brief as possible for you on this one. This is Marvin Road; this is Johnston Road, there was a rezoning for this property back in 2012 for the development of 281 multifamily units in this area but has not caught up with actually what is happening on the property, but they are actually starting to develop the 281 unit. When they started looking at it, the site plan showed 12 garages in this location. The petitioner now wants to change those garages to garages with carriage houses and we estimate that there will be about nine garages and four carriage house units that are associated with them. There are two different styles for those carriage house facilities. One will have the porte cochere and will not so you can see the elevations of those two. With the addition of these carriage houses the petitioner will not increase the number of units on the site; it will still be 281 because they lost units in another portion of the site. In terms of the land use plan, the South District as amended by the 2012 rezoning recommends residential up to 15 units per acre. The request is consistent with that. The recommendation is an amendment to an existing plan and there is not increase in the number of units and our outstanding issues are technical in nature. Staff is recommending approval.

**Colin Brown, 214 North Tryon Street** said I think it is that straight forward unless you have questions. Fred Klein and I are here to answer them.

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

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**ITEM NO. 31: HEARING ON PETITION NO. 2014-084 BY 7<sup>TH</sup> STREET PROGRESSION PARTNERS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.5 ACRES LOCATED ON THE NORTH SIDE OF EAST 7<sup>TH</sup> STREET BETWEEN CLEMENT AVENUE AND PECAN AVENUE FROM B-1 (NEIGHBORHOOD BUSINESS) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).**

**Mayor Clodfelter** declared the public hearing open.

**Tammie Keplinger, Planning** said before I start the presentation I will tell you there is a protest petition that has been submitted on this case. The sufficiency is yet to be determined and we will have that for you in time for the decision.

The property is located on 7<sup>th</sup> Street as the Mayor indicated. You can see the big circle; it is a little bit hard to see on this map exactly where the property is located, but you can see it is in the Elizabeth Neighborhood. There is a mix of zoning in the areas including business, office, multifamily, and residential. From the aerial you can see that the proposed request encompasses a portion of an existing shopping center and is a residential structure. The remaining portion of the site is vacant. The request is neighborhood business to office conditional, a mixed use development, optional. The proposal is for 95 multifamily units with 2,100 square feet of residential amenity space and 750 square feet for a leasing office. The maximum building height is 40-feet adjacent to the single family residential properties and it expands up to 52-feet along 7<sup>th</sup> Street. There are several optional provisions that are related to the building frontage and the streetscape that the petitioner is requesting. You can see a buffer is provided along the rear adjoining the single family residential on the side. There is urban open space; there is parking with residential units above. There is residential amenity and leasing offices in this location and there is a connection to the adjacent property, which is the remaining portion of the shopping center. I'll show you the elevations; this is the 7<sup>th</sup> Street elevation and this would be the east elevation.

I'll talk briefly about the Elizabeth Area Plan; the Plan recommends a mix of residential, office and retail uses on this site and it states that it also supports a single use, residential development with densities greater than 22 dwelling units per acre. In terms of this rezoning, it is consistent with the Elizabeth Area Plan recommendation; it is inconsistent with recommended height, but it does keep with the 40-foot height restriction next to residential. The outstanding issues that we have are related to design, urban forestry have several issues. The use of the alley for part of the buffer to the adjacent residential and we have several other technical issues. Once those issues are resolved staff is recommending approval of the petition.

**Councilmember Driggs** said I'm interested in the area plan supports densities greater than 22; that is kind of unlimited so where do you draw the line when you've got that sort of reference?

Ms. Keplinger said I think what eventually draws the line is what can be developed on the site because every site does have a maximum capacity and what you feel is at capacity. In this case they are at 63 dwelling units per acre.

**John Carmichael, 101 North Tryon Street** said if this makes you feel better Mr. Mayor a lot of the folks signed up to speak are here to answer questions which would limit the number of speakers.

I'm here on behalf of the petitioner, 7<sup>th</sup> Street Progression Partners, this is Mr. Eric Speckman; Eric will address you shortly. It is a 1 ½ acre site located on the East 7<sup>th</sup> Street and zoned B-1 currently. The request is rezone the site to the MUDD-O district to allow the development of a building that could contain up to 91 multifamily dwelling units. A portion of the building located closest to Clement Avenue and next to a single family home will have a maximum height of three stories. The remaining portion of the building would have a maximum height of four stories. The ground floor of the building would have units that face East 7<sup>th</sup> Street and access directly onto East 7<sup>th</sup> Street which helps the streetscape and activates that street. It would also have approximately 2,100 square foot amenity center and the leasing office. The site would be served by a surface parking lot and the majority of those spaces would be located under the second level of the building. The parking ratio would be one parking space per bedroom. An amenity area would be located on the second level of the building and be screened from the rear property line by the architectural screen wall. There would be urban open space located in the northeast corner of the site. Architectural elevations are a part of the plan and they have been shared with the community. This is looking at the building basically from the Pecan Avenue side of the site. The intent all along of the architect and development team is to design a building that is compatible with the surrounding neighborhood both in scale and design and we think we have accomplished that. The building is broken up into three segments and the Architect; Tripp Beachmam wanted to break it up and to avoid a singular wall along East 7<sup>th</sup> Street. You can see this portion is predominantly brick and I'll show the remaining portions of the building as viewed from 7<sup>th</sup> Street.

Slide two is on the other end basically, looking at the site from the Clement Avenue end of the site. This is the three-level component; once again predominantly brick, and then you can see the change in elevation for each segment or component of the building. The middle portion or the white area would be either a hard coat stucco or a hardi panel and the point of that was to break up the building again in terms of building materials so the building wouldn't be monotonous. In designing this building the development team really did put their best foot forward at the beginning. This wasn't a situation where they came in with what they thought they may be able to get away with and then add on in terms of quality. They did so through quality design and materials and they pulled the building away as far as possible from the single family homes located to the rear of the site on 8<sup>th</sup> Street.

Representatives of the petitioner have had numerous meetings with residents who live in the Elizabeth Community and we appreciate the time these residents have shared with us. As a result of these meetings, the petitioner has committed to making additional revisions to the rezoning plan which include providing rear and side building elevations, committing that all roof mounted mechanical equipment will be screened from view from the second floors of existing single family homes that abut the site, the requirement is screen from view at grade, committing to a minimum size for the stoops or patios at the front of the building, installing an outdoor amenity area in front of the residential amenity center and leasing office that can be enjoyed by the neighborhood and it would contain landscaping, hardscape, seating elements and a drinking fountain, using translucent windows on the third and fourth floors or portions or the rear of the building to increase the privacy of the 8<sup>th</sup> Street neighbors, prohibiting balconies on portions of the rear elevation facing the 8<sup>th</sup> Street neighbors, once again to increase privacy, installing an eight-foot brick screen wall along the sites rear property line adjacent to the alley along portions of the western property line, providing a conceptual landscaping plan for the perimeter landscaped areas and removing the vehicular connection that Tammie showed you to the adjacent shopping center site. The reason that was shown in the first place was to improve circulation. We understand there is some opposition to that so that is going away.

There are restrictive covenants that apply to this site. One of the restrictions says that the building has to be located 25-feet from the street and the façade of our building generally meets this, however there are steps, stoops and patios planned along 7<sup>th</sup> Street that would encroach into the setback as well as some features on the upper levels, such as balconies. Those steps, stoops and patios are going to increase the quality of the development and I don't think there is any question about that. The only way we can do that is to get waivers of the restrictions that have to be signed by two property owners. We are working to get those. If we can't get the waivers then we won't do the steps, we won't do the stoops and we can't do the patios and will have basically a flat façade towards 7<sup>th</sup> Street and the revised plan will reflect that. Once again if we don't get the waivers, we can't encroach into the setback under the restrictive covenants. We know that the Planning staff is supporting the petition; they are recommending approval of the petition and we appreciate that. We note that it is consistent with the area plan and we appreciate your consideration.

**Eric Speckman 601 South Cedar Street** said I am part of the development team along with Bryan Barwick, Bill Neal and Chris Warren. Bill, Chris and I are native Charlotteans and all of us have ties to the Elizabeth Neighborhood which makes this project very exciting for us to be a part of. Chris lives in the Elizabeth Neighborhood; Bryan is the developer of the Palmer Fire School which was a successful redevelopment also on 7<sup>th</sup> Street. As a group we currently have about 1,200 multifamily units under development. Three of those projects are here in Charlotte and we hope to continue to do more high quality projects here in Charlotte. We've been working on this project for a little over a year and a half and it has really been a very positive experience. We've met a lot of great people and gotten a lot of great feedback; a lot of folks have really spent a lot of time with us on their own time and that has meant quite a bit to us. We are very grateful for all the time folks have spent with us and we feel like we have a fantastic project that will indeed positively impact the 7<sup>th</sup> Street Corridor and the Elizabeth Neighborhood.

**Eric Davis, 2200 Greenway Avenue** said I am the current President of the Elizabeth Community Association. As you may have seen on the map the property that is under consideration here is actual central to our neighborhood and any development on the site is going to generate impacts to our neighborhood as well as the adjacent neighbors and those impacts



need to be recognized and addressed. In consideration of the totality of this development the Elizabeth Community Association Board is in support of this petition, subject to the resolution of some items in the rezoning notes. Some of the key reason we had to actually support this petition is the potential to really activate a key portion of the East 7<sup>th</sup> Street Corridor as well as the willingness of the developers to work collaboratively with the neighborhood to come up with creative options as they looked to how this impacts our neighborhood. I want to thank you for your consideration as you evaluate this petition.

**Andy Misiaveg, 2129 East 5<sup>th</sup> Street** said I'm with the Historical Elizabeth Neighborhood Foundation Board and President of the Board Association. We are a local Board that is working to preserve the historical integrity and fabric of the neighborhood, both of the existing structures and future and new development. We are very passionate about this project and the potential that it can bring to the neighborhood and also one of the biggest concerns that we have as a Board is how this project fits in with the Small Area Plan that we worked with local stakeholders, the Elizabeth Community Association as well as staff over a long period of time to develop. There are only two items that the project was deficient from the plan in and those were I believe noted. The first one which was the height situation where the Small Area Plan calls for a 40-foot height maximum and this project does stretch up to 52-feet in height in some areas of it. However we feel like the developer has done a really good job as far as working with the additional grade and slope of the property as well as keeping the height lower when it is closer to existing residential as well as keeping the higher portions of the property in the new buildings close up to 7<sup>th</sup> Street. We feel they have done a good job of trying to preserve that. The only other additional item was the hope in the Small Area Plan that if this property became redeveloped that it would have a mixing of uses, however we've come to understand that there is some historical deed restrictions that prohibit some commercial uses for a large majority of the property and we understand the challenges the developer has faced. We are in support of the project based on the work that they have done.

**Councilmember Smith** said the deed restrictions I believe, is it next to the house on the corner of Clement where it prohibits commercial?

Mr. Carmichael said yes, four of the lots I believe have the restriction that prohibits non-residential uses. I think the restriction actually says use of the lots shall be limited to resident's lots. If you wanted to do commercial you would violate the restrictions. The lot that is part of the existing retail center does not have that restriction, but the others do.

Mr. Smith said this property has been under contract several times and it has been moved down the line; I'm just curious as to what separates this. The uses all seem similar and I know you lightly touched on it, but I know this property very well.

**Melanie Sizemore, 2309 Vail Avenue** said it has come before the Board on a number of occasions with a number of developers; the last one was essential 143 units with 5,000 square feet of retail space. The current proposal knocked off roughly 50% of it; original 143 number down to 95 and eliminates the retail, which would also increase the parking requirement. This seems to fit.

**Councilmember Autry** said why is this request for rezoning using MUDD instead of multifamily if there are no commercial opportunities in the development?

Mr. Carmichael said under the existing zoning you could do multifamily up to 33 units, but the price of the property wouldn't support a development of 33 units so you are right, you wouldn't have to rezone to get multifamily on this site, but to do the urban project with higher density requires the zoning to an urban zoning district.

Mr. Autry said we've approved MUDD all over the place, but it has residential and commercial. I just thought this was kind of unique that we were seeking a MUDD district without any commercial components.

Mayor Clodfelter said you indicated that you were offering several conditions on the elevations with respect to the rear elevations and the side elevations. Are you willing to be bound by those elevations and when are those going to be available for folks to see?

Mr. Carmichael said we have talked about this with the neighbors and we've revised the notes and I've shared them with Ms. Siedmore. We are going to get together with the folks from Land Design, Richard and Adam Martin and do that this week because in order to stay on the current schedule we need to have that turned in by Friday. Our goal is to get it done earlier so we can share the plan with the neighbors. What we would do would be consistent with what we told them we would do at our last meeting. I assure you of that.

Mayor Clodfelter said so your schedule is to have the revised elevations by the end of the week?

Mr. Carmichael said definitely and if not we would have to defer the decision for a month.

**Pam Patterson, 1916 East 5<sup>th</sup> Street** said before my time starts could I have a point of personal privilege?

Mayor Clodfelter said I will allow you that.

Ms. Patterson said Honorable Mayor Clodfelter, Mr. Barnes and all of you who sit here, I'm very proud of the work that you all do and having been there I know the time and effort that goes into it. Heartfelt thanks to all of you and from the questions and discussions that I've heard tonight I feel like the City is still in good hands. So thank you very much.

Mayor Clodfelter said thank you Pam and thank you for your service.

Ms. Patterson said I live at 1916 East 8<sup>th</sup> Street directly behind this development. I've always known that it would be developed at some point and you are correct Mr. Smith, we've seen many projects, but I have decided this is probably one of the best. I applaud 7<sup>th</sup> Street Progression Partners for the work that they have put in with the neighborhood; however there are still several issues that we are concerned about and that is why I should sign the protest petition. In order of importance is the number of units and the traffic impact and the concern about parking. Our concern is similar to what was raised with the Marsh Road properties. We already experience a lot of problems around on Clement Avenue with parking overflow from the businesses and restaurants across the street from this property. The developer has said that they want to try to eliminate if possible or minimize left turns out of this property. We are concerned about that; that is very close to the stop light and inevitably some people are going to want to go left and then make another quick left into what we call the Dollar General Lot to get around the stop light. DOT did not have any concerns but I'm slightly surprised because this is very close to that intersection. Then the amount of parking available because even in a one bedroom unit, probably there is going to be two people and just one parking space per bedroom isn't going to be enough. Where do those people go?

Second, is the continuation of the quibbling or the decoration is around the front top of the building; it is on the top and then the fenestration being continued to the back. Only tonight did I see the written notes that are included in the back elevation, but I still wanted to reiterate it. Third is and has been a concern about the four-story elevation in the back that was the first proposal. There was a second proposal to put three stories and then build it up to four, but that would bring the project much closer to those of us who back up to it. We lean toward having it at four-stories. Finally the treatment and continued maintenance of any planting that would go in the alleyway behind the development. I do want to add that I would encourage the waiver into the 20-foot setback on 7<sup>th</sup> Street. That is consistent with condos that face the park on the corner of Clement Avenue and Park Avenue across from Independence Park. Doing away with that would make the front of the building facing 7<sup>th</sup> Street much blander. Finally, one question I have had of the developers is have they considered using a green roof. Well, it is my understanding that if they did that is not part of planning zoning or maybe utility. It is not appropriate to help handle the water, well to me we ought to be looking at that because this is a flat roof and certainly a big part of it could be a green roof and that would help handle the runoff issue which is a big issue and cleaner water.

**Jim Lowder, 2945 McKee Road** said my sister and I own the building adjacent to this and when they were saying they had one parking space per bedroom my concern is if somebody has a party, has a guest, they do not have a place to park. My parking lot is adjacent to this and they will just fill up my tenant's parking lot, which is Biz Arts, Sub-station or Sandwich Max, Kim's Cleaners and then walk into that. That is my concern with only having one parking space per bedroom.

**Steven Adams** said I live in a complex right beside a complex that is very similar in density to this and they don't have enough parking spaces. It is similar to this, one per unit so they all part on the street and they clog the streets and make it dangerous for the school children that have to wait at the bus stop and walk to the bus stop. I believe it is a safety issue and a parking issue.

**Lexie Longstreet, 1920 East 7<sup>th</sup> Street** said I owned the building across the street from this at 1920 East 7<sup>th</sup> Street where we have Savvy & Company Real Estate. I own that business and we hire quite a number of people. We already have a parking issue and the parking in that area is horrible. They are only allowing 108 parking spaces for 95 apartments, most of these apartments are one-bedroom apartments. The density is way too high to have 68 units per acre is crazy and it is only limited by this MUDD zoning which pushes the setback right up to the line and they are filling up this lot with as much as they can possibly fill it. The traffic is already horrible; Hawthorne and Seventh is the fifth worst intersection in the City in 2013; it was seventh in 2012. We need to get a hold of this; the traffic is going to be terrible to add this many people into 7<sup>th</sup> Street.

**Joe Copley, 400 Clement Avenue** said if you look at the map you see this little appendage there hanging off the neighborhood, well that is me. I'm the lone holdout single family resident on this street. I'm the only one left in the area, a finger in the dike or whatever you want to call it. To add to what you have heard already which includes parking and the traffic level, I would also add trees. There are a lot of big trees, at least 10 or a dozen I think by count over 40-foot tall and those are by my understanding, all going to go and as far as I know nobody in the development has given much thought to what they are going to do about that. Instead what we are going to see is more Crape Myrtles and trust me what Charlotte does not need is more Crape Myrtles. I also am concerned about the water runoff; we are getting rid of about an acre of more of permeable soil. It is not going to be rushed and sent down to the street. In front of my street I have two storm drains and they are continuously filled with silt so whenever there is a serious rain I have a problem and I have every expectation that this is going to make it worse and not better. Finally, the noise, they did mention the dozens and dozens of fans of air conditioning units that are going to be on the roof of this building, a stone's throw from me. I'm glad I won't be able to see them but I'm very very concerned that I'm going to be able to hear them. I can't do much about the people and really I'm okay with people making noise in my neighborhood. I can't do anything about the traffic, but the mechanical noise really ought to be something that we can do something about and having more of it and more of it is just going to make my quality of life a lot worse and other people around me, so that is my issue.

**Ken Davies, 2112 East 7<sup>th</sup> Street** said I will be brief as I only have 40 seconds. I would like to submit a written summary of my opposition to this but I do want to say that we've enjoyed working with the developer. We think it is actually a very good project, but I live on 8<sup>th</sup> Street directly behind the property and I'm appearing tonight as a neighborhood and not as an attorney representing some folks, so this is different for me. The reason I have to rise in opposition is because rather than a 40-foot structure behind my home this proposal calls for a 52-foot structure well in excess of the Small Area Plan. By only losing four units the developers could drop the back side of that property to approximately 40-feet so I would ask you to not vote for this unless the backside is dropped to somewhere near that recommended by the Small Area Plan.

In rebuttal Mr. Carmichael said just to address some of the comments; in terms of the parking if you will look at the code, the multifamily zoning district if you did a by right apartment unit it would require 1.5 parking spaces per unit. We are providing one per bedroom. The Zoning Ordinance doesn't define when it talks about a unit the number of bedrooms in the unit so you could theoretically have three bedrooms in some apartment units and have to provide 1.5 parking spaces for that unit. Actually the density is going to be reduced from 95 to 91 so there will be

additional parking spaces that are available over the one per bedroom. In any event this parking ratio does work in urban settings. The developer does not want to build a project that he can't lease because he can't park and he is going to have on-site management that is going to make sure that the parking spaces on his site are available and used by his tenants and not by patrons of businesses nearby. He is going to protect his parking and he is going to make sure to the best of his ability that the parking needs are met. In terms of landscaping in the alley, what we've done is we've committed to install landscaping in that 25-foot alley. It is an alley that the neighbors wanted us to put landscaping in there and we are doing so we are committing to landscape that. In terms of the traffic, C-DOT had no concerns; the site would generate 650 trips per day, they didn't require a TIA; they haven't required any transportation improvements. We will have a two-way access driveway from East 7<sup>th</sup> Street. In terms of the height, as I mentioned before they did put their best foot forward in designing the building. They have moved it as far away as they possibly can from the 8<sup>th</sup> Street residents, not trying to extend it closer. In consideration of that it does require a little more height.

Mayor Clodfelter said is the reduction from 95 to 91; is that the four unit reduction that Mr. Davies was talking about?

Mr. Carmichael said it is not.

Mayor Clodfelter said so that is not the same thing as the four unit reduction he was needing.

Mr. Carmichael said it is not.

Mayor Clodfelter said I just wanted to be sure I got my four units straight.

Mr. Smith said does the trip generation at 2300 units for the current zoning take into account the deed restrictions?

Ms. Keplinger said it does not but I'm going to ask Mike Davis to come up address that further.

Mr. Davis said we discussed this a little bit, but I learned Friday about deed restrictions possibly having an impact on our predicted trip generation of that existing zoning and given some more information we could produce that estimate but we also sort of recognize in having this conversation that the deed restrictions have nothing to do with the zoning or what Council has any influence over. We could produce actually a third estimate but in the absence of those deed restrictions we do think that is the right trip generation potential.

Mr. Smith said would it not have any impact on the by right use?

Mr. Davis said it would as I understand it. I haven't actually seen a deed restriction on this, but the way we would approach this now is based on what floor ratios can support on the site and so we develop a scenario around that. If you were to consider deed restrictions it is possible that would influence that number. We have not evaluated that but again I would point out it is possible you would retain the zoning as it is, the deed restrictions could go away and that would still be your same answer.

Motion was made by Councilmember Kinsey, seconded by Councilmember Fallon, and carried unanimously to carried unanimously, to close the public hearing.
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**ITEM NO. 33: HEARING ON PETITION NO., 2014-086 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.83 ACRES LOCATED ON THE EAST SIDE OF NORTH TRYON STREET BETWEEN MCCULLOUGH DRIVE AND KEN HOFFMAN DRIVE FROM INST (INSTITUTIONAL) AND I-2(CD)) (GENERAL INDUSTRIAL, CONDITIONAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT – MIXED USE).**

**Mayor Clodfelter** declared the hearing open.

**Tammie Keplinger, Planning** said this is a City sponsored rezoning to take the property that is in question from institutional and I-2(CD), which is general industrial, conditional to TOD-M. The map is a little hard to read but this is East W. T. Harris Boulevard, this is North Tryon Street this is our site and it is located between the Showmars and the DMV if you are familiar with that area. In terms of the aerial you can see that there is a commercial property with associated parking on the site. The University City Area Plan recommends transit oriented development as does the Draft University Area Plan. For those reasons staff is recommending approval of this petition. It is conventional and there are not outstanding issues.

**Councilmember Barnes** said this question is primarily for Mr. Kimble, Deputy City Manager, if you could find out what the state is planning to do with that Highway Patrol facility and the DMV Office. They have been dismantling parts of it and I think the trailer is gone and there are some changes happening there so it would be great to know what they are planning.

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

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**ITEM ON. 34: HEARING ON PETITION NO. 2014-094 BY EASTWAY II HOLDINGS LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.05 ACRES LOCATED ON THE WEST WIDE OF EASTWAY DRIVE AT THE INTERSECTION OF EASTWAY DRIVE AND BISCAVNE DRIVE FROM B-1SCD (SHOPPING CENTER) AND B-D(CD) (DISTRIBUTIVE BUSINESS TO B-D(CD) (DISTRIBUTIVE BUSINESS, CONDITIONAL) AND B-D(CD) SPA (DISTRIBUTIVE BUSINESS, CONDITIONAL, SITE PLAN AMENDMENT.**

**Mayor Clodfelter** declared the hearing open.

**Tammie Keplinger, Planning** said this is the former Wal-Mart site on Eastway at Central Avenue. In 2013 we had a rezoning to B-D (CD) for a portion of the site for a climate controlled self-storage facility. When they started to develop the facility they realized that they needed about 2,800 square feet more so this petition is to come back in and rezoning approximately 2,800 square feet additional space inside the existing building to B-D (CD) It is inconsistent with the area plan that recommends commercial development for this property but it allows for adaptive reuse of a partially vacant big box building and will help maintain the activity within the center so staff is supportive of the petition.

Mayor Clodfelter said no additional building space, it is all inside?

Ms. Keplinger said it is all inside.

**Councilmember Howard** said you actually can have a building that has two different zonings in it?

Ms. Keplinger said yes.

Mr. Howard said is that something we commonly see?

Ms. Keplinger said it does happen here.

Mr. Howard said what happens to the front part of the building? Do you actually go in and try to figure out if they are doing the right use of zoning. Is the Zoning Administrator trying to figure out if this half of the building is being used right and that half is not being used right?

Mayor Clodfelter said when the zoning maps were drawn the first time comprehensive city zoning was done the tools were a little less sophisticated and straight lines were literally drawn

down along boundary of streets and they did indeed cut through buildings very frequently and it took decades to get all of that stuff cleaned up.

Ms. Keplinger said we are still working on it.

**Kevin Ammonds, 1308 Betsy Ross Court** said we really just wanted to say if there are no questions we wanted to thank Councilmember Kinsey for moving the public hearing forward and thank staff for working with us. We are actually very excited about the project. We took a big box retailer and were able to put a US Foods, some local retail and a controlled storage in it so we are pretty proud of that. We think it is a good model, but if there are no questions we have nothing to say.

**Councilmember Kinsey** said if you haven't been to the Chef Store, go.

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

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**ITEM NO. 36: HEARING ON PETITION NO. 2014-087 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO UPDATE THE REGULATIONS FOR THE BOARD OF ADJUSTMENT TO CLARIFY AND MODERNIZE THE LANGUAGE IN ACCORDANCE WITH THE NEW STATE LEGISLATION.**

**Mayor Clodfelter** declared the hearing open.

**Assistant Planning Director Laura Harmon** said this is a Text Amendment that is responding to State Legislation that occurred actually last year in June or 2013. We did at that time immediately change our practices to compliant with the State Legislation and we are not getting around to fixing our technical language in the ordinance. I'll just take you through some quick highlights of what is in the Legislation and be glad to answer any questions. This is related to the Zoning Board of Adjustment and they address appeals of interpretations from the Zoning Administrator and then even more frequently variance requests in a quasi-judicial setting. They did at the state level modify the variance voting requirements from a majority of a five-member board to a 4/5 vote of the board, so previously you needed three members to vote in favor of a variance; that change made that four. They also updated the purpose and intent statement for granting the variance. A lot of technical language and new language with respect to mailing of notification, posting of signage, making that clearer as to what was required and making it more consistent with all these items across the state so that all jurisdictions are doing these things in the same manner. Original language was a bit vaguer; we have a lot more clear direction now. Also updated the Findings of Fact and conditions for granting variances, the conditions under which the Zoning Board of Adjustments should and shouldn't be doing that; regulations with respect to Board decisions and evidence, making sure that all of that was well documented. That was also a bit vague in the past. Even telling us how to provide notice for decisions and the follow-up that is needed after a decision is made so that we were doing that in a timely manner and all jurisdictions were doing that in a timely manner and getting that notice out to the interested parties as well as the applicants. Then setting clearer standards for how someone could appeal if they disagreed with a decision of the Zoning Board of Adjustment.

Staff is recommending approval of the petition based on its consistency with North Carolina General Statutes.

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

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**ITEM NO. 37: HEARING ON PETITION NO. 2014-088 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO CLARIFY AND REVISE THE SETBACK MEASUREMENT REQUIREMENTS FOR SINGLE FAMILY AND MULTIFAMILY ZONING DISTRICTS. SETBACKS WILL BE MEASURED FROM THE "RIGHT-OF-WAY" INSTEAD OF THE BACK OF THE CURB.**

Mayor Clodfelter declared the hearing open.

Shannon Frye, Subdivision Administrator said as you all may recall when we did the USDG back in 2010 we said we would come back if we found anything that didn't work well or that we had unintended consequences so what I'm going to discuss tonight is what we have found resultant from changing. We are going to revise the location where the setbacks are measured, we are going to overview where we've added some footnotes to this zoning ordinance to clarify some cross references to other sections in the Zoning Ordinance that would be applicable and we also had to go back into where we've got reduced setback allowed. If you have a SWIM Buffer on a site we've had to modify those dimensions. As I was stating prior to 2010 the requirement was that the setback would be measured for residential at the right-of-way. When we came through with the new cross sections and streets we tried to establish the setback from the back of the curb which was consistent with what we are doing in the urban districts. We have found from the feedback from the surveying community as well as some folks at Building Standards that is difficult to do. There are existing streets without curb, the variation and the rights-of-way, it is just been a difficult implementation so as you will see on that last bullet we will be reverting the setback measurement to back of right-of-way which was consistent with that previous practice.

The top slide is basically showing where we are currently at the back of curb. You see that arrow doing 32 and 42 prospectively. This proposed modification at the bottom shows that going back to right-of-way and we have prospectively changed those dimensions to 17 and 27. In closing I will say that staff is recommending approval of this petition. You were presented at dinner a letter of support. We have spoken to the surveyors' community and presented this to them; they have responded in favor and we are asking that you would support our recommendation.

Mayor Clodfelter said can you use a wedge as a flotation devise in the SWIM buffer?

Ms. Frye said Mr. Howard is going to help you with the wedge; I heard him say that.

Councilmember Mayfield said how is this going to impact current developments that are coming out of the ground right now?

Ms. Frye said those developments were approved with the previous setback so we've been able to establish that on those plans and delineate it for new development. We have it shown on those plans so there will be no delay in permitting. This is only going to be applicable for something that would be coming in after the effective date of the change and in the interim of how we've applied it on existing lots. We've been able to calculate it; it is just the complexity of the user spending time figuring it out with staff. There will be no impact if something has been previously approved and the setback was recorded.

Mayor Clodfelter said if someone is looking at a previously approved plan they are going to need to know that the setbacks on that plan are not what the current ordinance is.

Ms. Frye said what we've done is added a footnote to the text that said if you had a setback recorded on plat that is where it is applicable.

Mayor Clodfelter said sure but I'm sort of thinking about now I'm an adjoining property owner and I want to know what is going to happen with the property next to me and I pull up a zoning plan and I may be applying the wrong setbacks. How do I get notice that that change has occurred?

Ms. Frye said what you would be doing if you were changing your property or coming in for a permit, then Building Standards would point to the new standard and advise you.

Mayor Clodfelter said I'm going to know the new standard and then I'll look at the plan and I'm not going to know that the old standard applies.

Ms. Frye said if you had that setback recorded on the plat that is what we are going to refer to. In the absence of a setback we would apply the new standard.

Mayor Clodfelter said if it is platted of course I've got reference to the plat.

Ms. Frye said correct.

**Councilmember Phipps** said you indicated that you had gotten considerable feedback from the survey community. Did they write letters in support of it or are they a part of a stakeholders group or how did that work?

Ms. Frye said staff has initiated this text amendment in response to feedback from the external customers, which was the surveyors as well as Building Standards; those guys issuing the permits told us the difficulty they were having applying the standard as well, but no there was no formal stakeholder. This is really, as I said at the beginning, a follow-up when we adopted standards for Urban Street Design Guidelines. Mike Davis and I said we would come back if we needed to make modifications or adjustments with the implementations and this is one of those.

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

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#### MAYOR AND COUNCIL TOPICS

**Mayor Clodfelter** said you guys did some really good work, a lot of attention and a lot of careful thought and we got through this pretty well. I thank you for that; I think you did a really good piece of work tonight.

**Deputy City Manager Ron Kimble** said we are making some progress on the water issue. We don't know exactly, but we think we are making some progress.

Mayor Clodfelter said we are making some progress on the water issue but still we need people to conserve as much as they can until you get the problem resolved.

Mr. Kimble said until we isolate it and get it fixed.

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

The meeting was adjourned at 10:26 p.m.



Stephanie C. Kelly, City Clerk

Length of Meeting: 5 Hours, 11 Minutes  
Minutes completed: October 8, 2014