

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, October 20, 2014 at 5:22 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, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

ABSENT: Councilmember Patsy Kinsey

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NEW PROCEDURES FOR ZONING DECISIONS

Mayor Clodfelter said we've got new procedures we will be following tonight. We are still figuring out the court case and how to respond to the court case so we need to listen up because we will be doing it differently than we've done it before and again this is to try to fit with the Court of Appeals decision. In addition to that we are also going to change the sequence in which we do things so I will turn it over to Tammie and hope you all listen up.

Tammie Keplinger, Planning said what the Mayor is referring to tonight is about the consistency statements on the decision cases. In your agenda you see what the Zoning Committee's motion was and what the consistency statement was and it looks different from what you have been used to. Terrie can cover that; I'm just going to tell you about the process for a minute. What is going to happen when you get to the decisions tonight, you now have a PowerPoint for decisions. It will be displayed up on the screen and it will tell you what the Zoning Committee recommendation was and what it has determined in the consistency statement. The Mayor and the Mayor Pro Tem have a near script language to read to lead you through the process of adopting the consistency statement and also make the motion on the table or denial of the zoning petition. If the case is consistent with the Area Plan and staff is recommending approval and the Zoning Committee recommended approval, then you will see a consistency statement. But if the Council says we find it consistent but we want to recommend denial, then I will have a different slide that will be up there that tells you basically the framework for the consistency statement and the Council will have to make that consistency statement at the dais.

Councilmember Howard said in order to do something like that we still would need to know what pertinent area plans and other things would make it consistent?

Ms. Keplinger said if one of those occurs I will help you fill in the Area Plan information and we are going to have a general slide that we will put up that will have. I will help you with the Area Plans but the reasons that you are recommending denial when something is consistent, just as an example, would be something that you would have to come up with and that would go into the record as your statement of consistency.

Councilmember Lyles said not having the PowerPoint in front of me it is very hard for me to try to figure out what you are trying to do but I'm assuming there is going to be a paragraph about the background, the Area Plan, the Zoning Committee recommendation or whatever the first paragraph says. What would differentiate it would be whether or not we are agreeing with whatever that last statement would be. Am I envisioning this – that is okay, you don't even have to answer it; I'll wait and see how it comes out. I'm not seeing it so it doesn't make sense to me and I don't know what I'm reacting to, except the statement which is going to be on a PowerPoint.

Mayor Clodfelter said you will have some assistance in that because we are going to reverse the order in which we take the motions. We've done some work on this and the state law does not require you to adopt the consistency statement first before you vote on whether to approve the petition. It simply says at the same time, more or less.

Mr. Howard said now you support the decision.

Mayor Clodfelter said that is correct. We are going to change what we've been doing and that also solves the problem of the protested petition we had last month so the first thing I will do is
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call for a motion on whether to approve or deny the petition and after that passes you will know where the Council majority is and you will decide what consistency statement you want to make and why.

Councilmember Mayfield said my question is just for clarification. Because of recent changes now moving forward because there was a time that Council read the full motion so saying it was a rezoning that was coming up for District 2, the District 2 Representative would be the one that would read that so that is done. Now because of how the wording has to be, everything is going to be read either by the Mayor or the Mayor Pro Tem.

Ms. Keplinger said the Mayor will lead the discussion and his script that he has written; it will say do I have a motion to.

Ms. Mayfield said so the Council is only going to be commenting on whether or not there is a motion, so we are no longer going to be reading; before we actually read the motion when it came up, so that is no longer. It is just once the Mayor gets to reading his script, or the Mayor Pro Tem, then when he asks does he have a motion to approve or deny, then whoever just jumps in and says move to approve and second?

Ms. Keplinger said that would be correct if you agree with what the Mayor has said. If you don't agree with what the Zoning Committee has stated then we would move into the process where you develop your own consistency statement and I would put the slide up there to provide you help.

Mr. Howard said the scenario that is kind of interesting to me is one that we denied, but it is consistent. Do we have issues then? We can do that?

Mayor Clodfelter said you can do that. You can find that although consistent with the plan, there are some specific circumstances or reasons why you don't approve.

Mr. Howard said you have to spell those out. That is why I'm getting confused.

Mayor Clodfelter said that is what the court requires; you have to spell out your reasons.

Mr. Howard said do they have to be land use in nature?

Mayor Clodfelter said oh yeah.

Mr. Howard said how far do we have to go down this path?

Mayor Clodfelter said you don't have to get into volumes but you do have to give enough reasons for the people to know why you are doing what you are doing.

Mr. Howard said that is my concern. My concern is I need as much legal help as I can get because those are the ones you are opening yourself up for lawsuits, and you want to get that language right if we have to explain more than we've been explaining.

Ms. Keplinger said on our slides you actually have some examples of that language that you can say, for example, that the request is too intense based on what the Area Plan recommends. There have been other changes in land use configurations or uses in the area that would make this proposed use unacceptable.

Mr. Howard said you get my point; it could be the developer does not want, there are a lot of things I'm thinking I probably shouldn't say, but we need some guidance on if we have to start explaining, is what I'm saying.

Senior Assistant City Attorney Terrie Hagler-Gray said you may have noticed at the dais there has been a sheet that lists available reasons if you choose to disagree with the Zoning Committee's recommendation. That has always been available to you and we've kind of elaborated on that so the slides that Tammie will be offering will have additional information if

we see that you are getting to the point that you are not going to rely on the Zoning Committee's recommendation.

Mr. Howard said forget whether or not we agree with the Zoning Committee; what if they voted to deny and we voted to deny, do they have to go through the same exhausting process of figuring out how to justify why they wouldn't support it?

Ms. Hagler-Gray said they would have done that at their meeting.

Councilmember Phipps said this is only if a majority of us disagree or whatever, not if we have one person who disagrees, but you have a colleague who agree.

Ms. Hagler-Gray said it will take six votes to pass the consistency statement just like six votes to approve a rezoning that is not protested.

Mr. Phipps said this PowerPoint depiction; would that also be available on the Government Channel for the public to see?

Ms. Keplinger said I'm sure it will. I believe anything that is shown on the screen in the Chamber is also available to the public on 16.

Councilmember Driggs said Terrie we are doing this so we can treat this whole thing as legislative rather than quasi-judicial? Is that right? Is that how all this came about?

Ms. Hagler-Gray said no, obviously this process is legislative and we don't want it to be quasi-judicial. It is coming about because of the Queens University case which challenged the process, the way we specifically adopt our consistency statement. The court said we did not provide enough explanation of why you approved that text amendment so that is why I say we think it is isolated to that one text amendment so we want to change our process so we are not challenged on future rezoning and text amendments.

Mr. Driggs the Mayor is going to read something and then is basically going to say, do I hear a motion and somebody is going to say, so moved and the rest of us can also say yea or nay right? We need to listen or read what the Mayor says and then be willing to go along with that. The issue of how we justify is going to be suggested to by the text the Mayor reads.

Ms. Hagler-Gray said right and you do have your Zoning Committee and they have analyzed this and staff has analyzed it and provided a recommendation to them, the Zoning Committee provides a recommendation to you and you can rely on the Zoning Committee's recommendation, however you need to make your own motion as opposed to what we've been doing which has been either a motion to adopt the Zoning Committee's Statement of Consistency and approve the motion. We no longer want you to just make it that succinctly; we need to be more elaborate and the reasons that you as a Council are about in a particular rezoning.

Mr. Howard said Councilmember Cooksey gave us that so we need to think about that.

Mr. Phipps said does that mean that it is no longer appropriate to interrupt the Mayor or Mayor Pro Tem in mid-sentence?

Ms. Hagler-Gray said while they are reading the Consistency Statement you want to make sure you have that on record so please allow him to read the entire statement.

Councilmember Autry said in the example you shared with us moments ago you said that the Council could decide to reject a petition because we felt it was more dense or for whatever reason. That seems to fly in the face of what the recommendation for approval or denial from the Zoning Committee would be because they are considering the best issues. If they have recommended approval they have already considered issues; such uses such as land use or whatever else may weigh upon determination whether that is good use of the land and to allow the rezoning to go forth. For a Council person then to say I think it is too dense; does that get us into murky waters?

Ms. Hagler-Gray said you do not have to accept the recommendation of the Zoning Committee. You get the statement and in that case we decided that we would make available to you, when the staff disagrees with the Zoning Committee, I don't think we have any of those tonight, but there is a situation where the staff has made a recommendation different from the Zoning Committee recommendation, we provide both of those to you so you may find information that staff's recommendation that might be helpful to you if you decide to disagree with the Zoning Committee's recommendation.

Mr. Autry said it can also come down to the point where the community is just in complete disagreement with this petition, and I'm going to support the community and ask my colleagues to vote against it. That is the reason and that is perfectly legal.

Mayor Clodfelter said the community has reasons they don't like the petition; they think it is too dense or it will generate too much traffic and I agree with them. Those are your reasons and those were their reasons. Clear as mud?

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ITEM NO. 1: AGENDA REVIEW

Tammie Keplinger, Planning said let's go over our deferrals; we don't have any withdrawals tonight so it is just deferrals: Item No. 3, Petition No. 2014-003 by George M. Macon at the intersection of Ardrey Kell and Marvin Road. We had the public hearing several months ago; they are asking for deferral because they are still working on some issues that were deferred at the Zoning Committee. They want to defer until November 17th.

Councilmember Driggs said is there a protest petition on this one?

Ms. Keplinger said there is a protest petition on this case but it is insufficient. Item No. 4, Petition No. 2014-031, Wilkinson Partners, LLC; this is the one out at Palisades that we've had the two public hearings on and we are still working on it. They have deferred and I believe they are going to ask for a further deferral after this one. Item No. 6, Petition No. 2014-064 by Marsh Properties, LLC is asking for a deferral of your decision to November. Item No. 11, Petition No. 2014-084 is on both of your tables, on the Special Interest and the deferrals. There is a sufficient Protest Petition; we don't have a full Council here tonight so that would automatically under your policies roll over to your next meeting when there is a full Council. We thought that would be next Monday, but as we understand it, it will not be next Monday. I'm not sure what we are going to do at this point and what the petitioner wants to do in terms of deferring the case. John Carmichael is the petitioner's agent and he is here with us so I want to mention one other thing and why it is on the case of miscellaneous requests and information. There were two changes made to this petition after the Zoning Committee meeting. As you know we have to do the special vote for the Council to determine whether those two changes are significant or not and whether or not it needs to go back to the Zoning Committee for further discussion. Staff does not believe that those issues are significant; they are dealing with parking in relation to the adjacent property and getting it off of their property. It is just kind of a clean-up issue so we are not recommending that be sent back to the Zoning Committee but because whether it is sent back to the Zoning Committee affects how we concur if this petition is deferred we would like to get Council to go ahead and vote on that issue tonight and then take up the issue of the deferral.

Mayor Clodfelter said do we have a Business Meeting on November 3rd?

Ms. Keplinger said I believe it is a Workshop.

Mayor Clodfelter said it is a public meeting and it is publicly noted so could we defer it to that meeting? We know we don't have a full Council on the 27th and I think it is critical that Councilmember Kinsey be here; she is the District Rep on this one. If we don't have a full Council on the 3rd we can carry to another week. Can we do it that way?

Councilmember Howard said the only thing on that is haven't we had issues in the past when people didn't like it because it wasn't on television?

Mayor Clodfelter said you mean it was at the Workshop?

John Carmichael, 101 N. Tryon St., 28246 said could I touch base with my client and then call Ms. Keplinger? It is because Councilmember Kinsey is not here next Monday? I think that would be fine, the 10th but I would need to talk to my client to make sure that is okay.

Mayor Clodfelter said do you think you could do that in time for us to know that tonight?

Mr. Carmichael said I can do it right now.

Councilmember Lyles said before we move on, you said there is a process of whether we refer it back to the Zoning Committee and is that a simple motion or does it require some reason why?

Ms. Keplinger said just a simple motion.

Mr. Howard said in this world now we have to explain ourselves. Do we have to explain why we don't think?

Mayor Clodfelter said no.

Ms. Keplinger said that is only on decisions. This is not a final decision on anything.

Ms. Lyles said it says here we vote that are substantial or insubstantial; that to me is a judgment call and I don't know the answer to that.

Mayor Clodfelter said the statute does not require you to have a statement of reason; it is requiring that you consider it substantial or insubstantial.

Ms. Keplinger said back to our deferrals; Item No. 21, Petition No. 2014-075 for Crossroads Realty; this is down at Closeburn and my understanding is that the petitioner is working on a new type of product for that site, maybe presenting a new site plan so they are asking for deferral until November 17th. Item No. 30, Petition No. 2014-095 for QuickTrip on North Tryon Street between Pavilion Boulevard and Salome Church Road. Staff is not supporting this petition and they have a number of outstanding issues so we suggested they defer for one month and clean up some of the outstanding issues, although they understood that staff is still not going to support it because of the land usages. They are asking for deferral to November 17th. Item No. 32, Petition No. 2014-001Sub, which is the text amendment to the Subdivision Ordinance, will have a one month deferral to November 17th.

Mayor Clodfelter said I just got notified that November 10 for that 7th Street Progression Partners would work.

Ms. Keplinger said in terms of the Miscellaneous Requests and Information, we've talked about Item No. 11. Just to point out that Item No. 16, Petition No. 2013-094 which is the Halvorsen Development rezoning at Prosperity Church Road, we are having the public hearing tonight and there is a sufficient Protest Petition. Item No. 17, Petition No. 2014-043 for Mark Patterson, this is also in the Prosperity area and it is for a daycare; there is a sufficient Protest Petition. Item No. 24, Petition No. 2014-085, New Carolina Income on East Tremont Avenue and Euclid Avenue, there is a Protest Petition and the sufficiency is still to be determined. Item No. 28, Petition No. 2014-092 for Pavilion Development Company at the intersection of Nations Ford Road and Tyvola Road, there is a Protest Petition and it says to be determined, but it is insufficient.

Ms. Lyles said I have a question on the Resolution for Historic Landmark for the Blakeney House; it didn't include any information about community input or who was notified or anything like that. What is the process?

Ms. Keplinger said Stewart Gray is here with Historic Landmarks and I would also like to say we've already passed the resolution so tonight is actually the public hearing.

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Stewart Gray, Charlotte Mecklenburg Historic Landmarks Commission said the public notification for a public hearing for a designation or for amending an ordinance for a designated historic landmark is newspaper ad. We run an ad in the Mecklenburg Times.

Mayor Clodfelter said we have no speakers signed up, at least on the list that I have.

Ms. Lyles said which gave me a little concern about that. I didn't know whether it was because we have sufficient notice or if there was really just acceptance of it and I don't know the answer to that. I do not assume that people in this neighborhood would be reading the Mecklenburg Times.

Councilmember Phipps said so this is going to be a public hearing and not a decision?

Mr. Gray said this is the public hearing, correct.

Ms. Keplinger said the decision will be next month.

Ms. Lyles said I would just suggest to the Landmarks Commission that it is important to have some community involvement especially around the area when you are doing something that is going to involve development. I think that would be something of note.

Mr. Gray said we can adopt that, up to this point this is how we handle ordinances and amend ordinances but we can adopt some sort of community notification.

Mayor Clodfelter said it would be worth talking to your attorney too, there are some statutes that require publication in a newspaper of general circulation in the community and there have been court cases where it has been thrown out because they picked the wrong newspaper so might be worth talking to the Landmarks Commission's Attorney about whether the Mecklenburg Times counts.

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ITEM NO. 2: FOLLOW UP REPORT

Tammie Keplinger, Planning said the follow up report which is in your packet; I'll try to give the highlights of this briefly. On Petition No. 2013-035 there was a question about if there is an operating use in the building located on the west side of South Tryon Street between West Catherine and West Bland Street and the answer to that is there is not. On Petition No. 2014-003 which is the George Macon petition there were several questions; how long is the buffer adjacent to the condominium development. It was properly given to the residents and one of the ... was that ... installed at correct location was the community meeting held. The adjacent buffer is 50-foot wide; proper legal notification was given, mail notice to any property owner within 300 feet, any neighborhood organization within one mile. Rezoning signs were placed along Marvin Road and along Ardrey Kell and staff did verify that those signs were out and the community meeting was held on February 27, 2014. On Item No. 6, Petition No. 2014-064 we were asked to provide a matrix comparison of the square footage of retail and commercial development.

Councilmember Driggs said a quick question on 2014-003, some area residents told me that they will foresee who all got mail notices and that was not on the website. Is that list normally not up there?

Ms. Keplinger said it is usually submitted as a part; we give it to the petitioner and then we submit it as part of their community meeting and sometimes our webmaster takes that particular part off because the community meeting is so long. It is just a phase based on website but we certainly can provide information that we have.

Mr. Driggs said if you could give that to me. There were four people at the meeting I think and several people complained that the notice hadn't been properly given. I would just like to verify the people that supposedly got it actually did.

Ms. Keplinger said I will be glad to do that. A lot of times people because it is based on the tax record and if their tax bills go to their accountant in Atlanta then they don't get the notice. I'll make sure we get that to you. Petition No. 2014-064 was to provide a matrix comparison of the square footage of the retail commercial development and the number of residential and apartment units for the 59.4 acres on the east side of South Boulevard and on both sides of Poindexter and Elmhurst and to reconcile the school student projections from the Charlotte Mecklenburg Schools for the projected levels by the petitioner. We provided a matrix comparing the square footage and the number of residential units that exist and are proposed on the site and included the resulting change and that information is in your report. Also in your packet tonight you have a letter that was sent to CMS regarding the Marsh Properties rezoning petition when it comes back for a decision in November and you have the rezoning cases of special interest for November and upcoming December. Finally you have a Text Amendment Area Plan Study and Process Enhancement Update.

Councilmember Howard said just tell me what this table says at the bottom. You tried to compare square footage to the dwelling units. So these are the existing units and the change so square footage wise it increased by 34,000?

Ms. Keplinger said John Kinley actually did that comparison, may I call on him?

John Kinley, Planning said what you see there is you've got the non-residential use that exist on the site right now, approximately 63,554 square feet that exist in non-residential. What you see in the proposed column is what they are adding so the net change there is an increase of 134,464 square feet and then they have a conversion that allows that they can convert that office building to their parcel B to residential use if they do that conversion and it would be an increase of 34,446 square feet.

Mr. Howard said so they are asking for the right to develop up to 168,000 square feet of additional?

Mr. Kinley said it is 198,000 is what they are asking for but the actual increase is 134,000 because of what is existing on the site.

Councilmember Lyles said and if they decide to build more houses, which would be 34,000 additional square feet.

Mr. Kinley said because that office building is 100,000 square feet.

Ms. Lyles said so we are trading off houses, that is the conversion?

Mr. Kinley said then for the residential units there is 303 existing and they are proposing 980 and the change there is an increase of 677 units. If they do that conversion where they build the residential units; that goes up to 747 residential units.

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ITEM NO. 3: REZONING CASES OF SPECIAL INTEREST

Assistant Planning Director Ed McKinney said Item No. 4 on Page 2 is a hearing tonight on ... Item No. 8 is just for floor area ratio. Staff had a productive meeting last week with representatives from Queens and Myers Park neighborhood. There is going to be a follow up for ...

Councilmember Howard said so that is being deferred until definite conversation...

Mr. McKinney said correct. There is a follow up meeting to the discussions and we are hoping for some productive outcome of that.

Mr. Howard said I actually agree with what you are doing, but a technical question, we have a court case that says what he did was illegal. We have a parking deck that is illegal. Do we not
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need to take care of that even if we keep having the conversations? What I understand is their concerns are really not about the deck. Are we in a legal place by not –

Mayor Clodfelter said I think as long as the conversation is going on nobody is going to court and we don't have to do. They are actually at the table having some productive discussions about this text amendment may turn out to be a non-issue.

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ITEM NO. 4: AREA PLAN STATUS AND TEXT AMENDMENT UPDATE

Assistant Planning Director Ed McKinney said Item No. 12, just to highlight the Prosperity/Hucks Area Plan; we've been in that update process and we've focused on these and we will touch on that a little bit tonight related to the Halvorsen Petition. I want to highlight a number of activities; there has been a productive workshop in the community in the last month and we'll talk about that regarding this petition tonight. Number 16 on Page five, the Zoning Ordinance update, the RFQ is out and we will have consultants submissions actually due this Friday so we are in the process of moving forward on the selection of a consultant and we are close to airing down on candidates for the coordinator position that Council gave us the approval for so we are moving very rapidly and moving to orientation of the ordinance work.

Mr. Howard said how long do you think it is going to take? What is your time table you are actually going to rewrite the ordinance? What is projected to be the delivery date of the draft?

Mr. McKinney said this will be a multi-year process and the approval Council gave us this year was for the first part of that, which is where we are starting at now, the consultant selection and it will be over several years.

Mr. Howard said how long does it take in other places like Raleigh and other places that have done it?

Mr. McKinney said Raleigh as an example, four to five years. By the time you go through all the public process, all the technical changes, mappings and things that go with that it is a several year process.

Last, the Historic District on Item 19 on page 6, again given the direction ... and just highlight again staff position that you authorized and the process of offering that position and hopefully have that person in place next month.

The Dinner Briefing was recessed at 5:58 to move to the Council Chamber for the scheduled Zoning Meeting.

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ZONING MEETING

The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:06 for the regularly scheduled Zoning Meeting with Mayor Dan Clodfelter presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Ed Driggs, Claire Fallon, David Howard, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

ABSENT: Councilmember Patsy Kinsey

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EXPLANATION OF ZONING MEETING PROCESS

Mayor Clodfelter explained the Zoning Meeting rules and procedures.

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INTRODUCTION OF ZONING COMMITTEE

Tracy Dodson, Chair of the Zoning Committee introduced the members of the Zoning Committee. They will meet Wednesday, October 29, 2014 at 4:30 p.m. 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.

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INVOCATION AND PLEDGE

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

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DEFERRALS

ITEM NO. 3: PETITION NO. 2014-003

Motion was made by Councilmember Barnes, seconded by Councilmember Autry, and carried unanimously, to defer Petition No. 2014-003 by George M. Macon to November 17, 2014.

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ITEM NO. 4: PETITION NO. 2014-031

Motion was made by Councilmember Barnes, seconded by Councilmember Fallon, and carried unanimously to defer Petition No., 2014-031 by Wilkison Partners, LLC to November 17, 2014.

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ITEM NO. 6: PETITION NO. 2014-064

Motion was made by Councilmember Barnes, seconded by Councilmember Driggs, and carried unanimously to defer Petition No. 2014-064 by Marsh Properties, LLC to November 17, 2014.

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ITEM NO. 21: PETITION NO. 2014-075

Motion was made by Councilmember Barnes, seconded by Councilmember Driggs, and carried unanimously to defer the public hearing on Petition No. 2014-075 to November 17, 2014.

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ITEM NO. 30: PETITION NO. 2014-095

Motion was made by Councilmember Barnes, seconded by Councilmember Austin, and carried unanimously to defer the public hearing on Petition No., 2014-095 by QuikTrip Corporation to November 17, 2014.

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ITEM NO. 32: PETITION NO. 2014-001SUB

Motion was made by Councilmember Barnes, seconded by Councilmember Fallon, and carried unanimously to defer the public hearing on Petition No. 2014-001Sub, by the Charlotte-Mecklenburg Planning Department to November 17, 2014.

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ITEM NO. 11: PETITION NO. 2014-084

Mayor Clodfelter said because Councilmember Kinsey is not present tonight and this petition has been protested, we will, under Council policy, need to defer that petition and we understand from our petitioner that November 10, 2014 appears to be a date on which we will have a full Council present and would be an appropriate point for a decision. That is the request, but in addition to that, there were two changes made to the petition after the Zoning Committee made its recommendation; and under Council policy you must decide whether to send the petition back to the Zoning Committee for reconsideration or whether you find the changes to be insubstantial and go ahead with the decision. I will take a motion on whether to send the petition back to the Zoning Committee.

Motion was made by Councilmember Howard, seconded by Councilmember Fallon, and carried unanimously not to send Petition No. 2014-084 back to the Zoning Committee.

Motion was made by Councilmember Driggs, seconded by Councilmember Howard, and carried unanimously to defer Petition No. 2014-084 to November 10, 2014.

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HISTORIC LANDMARKS

ITEM NO. 1: PUBLIC HEARING ON THE QUESTION OF ADOPTING AN ORDINANCE FOR THE HISTORIC LANDMARK KNOWN AS THE JAMES A BLAKENEY HOUSE, AND TO DE-DESIGNATE 7.829 ACRES OF LAND TAX PARCEL 22908334 AND DE-DESIGNATED 2.244 ACRES OF LAND IN TAX PARCEL 22908334 LOCATED AT 9215 BLAKENEY-HEATH ROAD, CHARLOTTE, NORTH CAROLINA.

Mayor Clodfelter declared the public hearing open.

Stewart Gray, Charlotte Mecklenburg Historic Landmarks Commission said in 1986 approximately 15 acres to the northeast of Blakeney-Heath Road were included in the local historic designation of the James A. Blakeney House. Through the Certificate of Appropriateness Process, residential development has been approved for portions of the property while leaving a wide historic buffer along Blakeney-Heath Road. The approval process for the development of that property did require neighbor notification and that the neighbors were notified when the approval was applied for and were given an opportunity to comment. The COA process has already occurred and this is essentially a housekeeping matter of basically adopting a new ordinance that fits the current situation on the ground. The Charlotte Mecklenburg Historic Landmarks Commission is recommending that City Council adopt an ordinance that would de-designate approximately ten acres of the property where the bulk of the development will occur.

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

Councilmember Barnes said one point Mr. Mayor; when we typically do the designations of historic landmarks the property taxes on those properties are deferred, so as a result of de-designating, will the County and the City receive the property taxes for the years that it has been classified as historic?

Mr. Stewart said the issue of the recapture of the property tax is an issue of Mecklenburg County Tax Office and I don't want to comment on that, but I do believe that we've got a note in the agenda about the amount of tax deferral that would be affected by this and interestingly enough, the larger parcel, they never applied for the tax deferral because it was an agricultural use which had a lower tax evaluation so again that would be a question for the tax office whether they need to recapture some of those taxes or not.

Mr. Barnes said it was originally designated in 1986; so Mr. Manager could you have someone find out whether we would be getting that?

Mr. Stewart said for a locally designated property the recapture is three years of the taxes plus interest and I believe that would only apply to the lower parcel and I think we do have a calculation of the changes of taxes, but I don't think we've got the recapture amount calculated.

Mayor Clodfelter said we will put that on a follow-up item for next month's agenda if you will get that to Ms. Keplinger.

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DECISIONS

ITEM NO. 2: ORDINANCE NO. 5487-Z, PETITION NO. 2013-075 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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).

The Zoning Committee found this petition to be consistent with the South End Transit Station Area Plan, based on information from the staff analysis and the public hearing and because the proposed use is suitable for the area. Therefore the Zoning Committee found this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because the property is located with a ¼ mile walk of the Bland Street Transit Station and Carson Boulevard Transit Station and there have been multiple rezoning to allow transit oriented development within the area. The Zoning Committee voted 5 -0 to recommend approval of this petition.

Motion was made by Councilmember Lyles, seconded by Councilmember Howard, and carried unanimously to approve Petition No. 2013-075 by the Charlotte-Mecklenburg Planning Department.

Motion was made by Councilmember Mayfield, seconded by Councilmember Lyles, and carried unanimously that this petition is consistent with the South End Transit Station Area Plan based on information from the staff analysis and the public hearing and because the proposed use is suitable for the area; therefore, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing and because the property is located within a ¼ mile walk of the Bland Street Transit Station and the Carson Boulevard Transit Station and because there have been multiple rezoning to allow transit oriented development within the area.

The ordinance is recorded in full in Ordinance Book 59 at Page 40-41.

Mayor Clodfelter said for those of you who watch a lot of these Zoning Meetings you will notice that what we just did is a very different process for adoption and approval than what you have
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seen in the past. We are responding to a decision by the North Carolina Court of Appeals about how we have to make the decisions and state the reason for the decision.

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ITEM NO. 5: ORDINANCE NO. 5488-Z, PETITION NO. 2014-058 BY SWITENBAUM & ASSOCIATES, AMENDING THE OFFICIAL ZONING ORDINANCE MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 30.93 ACRES LOCATED ON THE WEST SIDE OF WEST TYVOLA ROAD, SOUTH OF SOUTH TRYON STREET FROM BP (CD) (BUSINESS PARK, CONDITIONAL) TO R-12MF (CD) (MULTIFAMILY RESIDENTIAL, CONDITIONAL).

The Zoning Committee found this petition to be inconsistent with the Southwest District Plan and the General Development policies, based on information from the staff analysis and the public hearing. The area plan recommends business park uses and the General Development policies recommend six dwelling units per acre; however, the Zoning committee found this petition to be reasonable and in the public interested based on the information from the staff analysis and the public hearing and because the proposed use is compatible with the surrounding single family residential and multifamily residential developments and the proposed density is consistent with other multifamily residential developments in the area. The Zoning Committee voted 4-1 to recommend approval of this petition with the following modifications:

1. The site plan has been revised to show a Class “C” buffer along property lines abutting the R-4 zoning parcel.
2. The widths of the existing sidewalks along Tyvola Centre Drive and West Tyvola Road are now noted on the site plan.
3. Under the Architectural Standards development note, the following language has been removed from the second sentence: “Although the designs for the building have not been completed...”
4. The petitioner has added language under Parks, Greenways, and Open space heading, committing to the following improvements:
 - a. Development of both active and passive recreation facilities including a walking/amenity trail with locations for individual exercise activities.
 - b. Walking/amenity trail will have approximately 1,200 linear feet, with trail to be comprised of wood chips or similar surface, and at least four outdoor exercise stations at intervals along the trail.
 - c. Provision of outdoor seating/conversation areas associated with each building.
 - d. Provision of active recreation amenities, including a pool, meeting spaces, and outdoor cooking facilities.
5. The site plan has been revised to show the correct zoning for parcel 167-081-07 located on the south side of Tyvola Centre Drive, which is zoned R-12 MF (CD).
6. Addressed C-DOT and Engineering and Property Management comments:
 - a. Addressed C-DOT comment pertaining to relocation of the proposed westernmost driveway, and its conversion from exit only to both an ingress and egress driveway.
 - b. C-DOT requests that the petitioner relocate the easternmost main entrance driveway further east and align it with the existing driveway on the south side of it Tyvola Centre Drive. Staff has rescinded this request as it will be contingent upon adequate sight distance at permitting.
 - c. Addressed C-DOT comment pertaining to the provision of a left-turn lane at the westernmost driveway.
 - d. Addressed Engineering and Property Management comment by providing a wetland letter.
7. The following Architectural Standards notes have been added to the site plan:
 - a. At least 20% of the portions of the building exteriors located below the roof line will be composed of a combination of brick, stone, artificial stone, and/or stone or similar masonry products.
 - b. The principal roof pitch will be no less than 5:12.
 - c. Balcony railings, if included, will be of durable material and will not be painted pressured treated lumber.

- d. Roofing materials will be architectural fiberglass composite shingles and roof vents and features will be painted to match the roof color.
- e. Buildings will be designed so that no more than 20 feet of blank wall will be constructed along the frontage of a public street or private street.
- f. Building heights will be limited to four stories.
- g. Buildings will be designed with façade articulation to break up wall mass and to create variety in the character of the façade.
- h. Main windows will be arranged to avoid large masses of glass and will be designed so as to be taller than they are wide. This will not apply to minor windows such as for bathrooms, stairways and architectural accent.
- i. All building entrances will be connected to the on-site sidewalk network subject to grade and ADA standards.
- j. On site directional signage will be designed to reflect the architectural character and materials of the principal buildings.
- k. Building facades will incorporate vertical elements and material changes to break up the mass of the building walls.

Motion was made by Councilmember Phipps and seconded by Councilmember Howard to approve Petition No. 2014-058 by Switenbaum & Associates as amended.

Councilmember Mayfield said I have a question, and I believe the Petitioner is in attendance this evening, regarding the inconsistency and regarding material moving forward on this particular development and there has been a request that has been made and an agreement to that request with moving forward so we were going to address that this evening. My colleague had some concerns on this particular development so that is why we are having this discussion of whether or not this has actually been approved for rezoning or if it is actually a denial or deferral of a rezoning.

Councilmember Howard said I wish to withdraw my second because we need to have some discussion.

Mayor Clodfelter said let's slow down a little bit here; does this need to be deferred? If you have some issues that you want to work on with the Petitioner you might want to consider deferral.

Ms. Mayfield said may I ask for clarification from Tammie? If we were to defer; we are trying not to defer tonight's decision because that would move us to the middle of November. Would it be better to move for deferral or to address the issue this evening and be able to possibly move forward with an amendment?

Tammie Keplinger, Planning said I will ask our Attorney, but I do believe you can make an amendment if the petitioner is willing to do that and then I believe that you would have to do the motion not to send it back to the Zoning Committee to make sure that it is not substantial; it doesn't need their re-review.

Senior Assistant City Attorney Terrie Hagler-Gray said you said there was an agreement by the developer to add a condition?

Ms. Mayfield said by the petitioner yes, was a question from the dais on a specific part so we wanted to actually have an opportunity for the petitioner to come up so that he can be able to answer a couple of questions that came up on this particular development and opposed to deferring, if the response to the questions are adequate then we can move forward this evening with either an approved or denial, but make a decision this evening opposed to a deferral and sending it back to the Zoning Committee.

Mayor Clodfelter said do you perhaps want to postpone this decision until later in tonight's meeting to give you an opportunity to have that discussion?

Ms. Mayfield said yes.

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Mayor Clodfelter said I'm afraid to say, I think this agenda is so long tonight that we may end up taking a short five-minute break; I think it may be required so that may give you an opportunity to address it.

Mayor Clodfelter said with consent of Council, I don't think I need a motion to simply postpone it to later in the meeting. With consent of Council we will simply postpone this item. The Council came back to this item after the decisions were completed.

Mr. Howard said if there is a material change when do we make the vote not to send it back to Planning Commission? Do you want me to make the motion first?

Ms. Keplinger said I would ask our Attorney, but I believe you need to state what the change is and then go to the vote as to whether it is significant or not and whether it needs to go back to the Zoning Committee. Once that vote has occurred you would make your decision.

Motion was made by Councilmember Howard, seconded by Councilmember Mayfield, and carried unanimously to approve Petition No. 2014-058 by Switenbaum & Associates, as amended and with the additional condition that the petitioner will not use vinyl material for siding, but reserves the right to use vinyl for soffits, trim and architectural detail.

Mayor Clodfelter said does everyone on Council understand the proposed modification?

Councilmember Lyles said I don't want to speak for my peers, but I do.

Mayor Clodfelter since this is a conditional petition we cannot impose such a condition without the consent of the petitioner so I will ask if the petitioner's representative is present. This is not a public hearing, it is just a question put to you about whether the petitioner would or would not accept the proposed condition.

Walter Fields, 1919 South Boulevard said on behalf of the petitioner we will accept the condition.

Mayor Clodfelter said I think we need to take the motion to consider whether that is a sufficient substantial change to warrant sending the petition back to the Zoning Committee.

Ms. Hagler-Gray said it is typically done so that the Planning staff makes a recommendation to you about whether it is significant or not, but I think that is a significant enough change that you need to make a determination about whether to send it back to Zoning Committee tonight.

Ms. Keplinger said staff does not believe that is a significant change that would require it to go back to the Zoning Committee.

Councilmember Fallon said does it go on the site plan?

Ms. Keplinger said yes ma'am.

Motion was made by Councilmember Driggs, seconded by Councilmember Barnes, and carried unanimously not to send this petition back to the Zoning Committee.

Ms. Mayfield said I just want to thank the petitioner for hearing the concerns and making the necessary adjustments for us to continue to work towards quality developments on the west side.

Motion was made by Councilmember Mayfield, seconded by Councilmember Fallon, and carried unanimously that this petition is inconsistent with the Southwest District Plan and the General Development policies, based on information from the staff analysis and the public hearing, and because the area plan recommends business park uses; and, the General Development Policies recommend six dwelling units per acre; however, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the proposed use is compatible with the surrounding single family residential and multifamily residential developments; and, the proposed density is consistent with other multifamily residential developments in the area.

Mayor Clodfelter said I did not have a right to vote on the last matter and I thought that I should not say anything before you took your vote because I don't have a right to vote anyway, but I will share with you my view that the imposition of conditions stipulating what color a property has to be painted, whether it is brick, wood, vinyl, stucco or some other exterior building material is flatly impermissible under the North Carolina Zoning Law. The petitioner, however, in this case has consented and so the petitioner is always free to consent to do what they want to do, but I will tell you I do not think that is a proper condition under North Carolina Zoning Law. That is my view of the matter.

Ms. Mayfield said I think one of the biggest concerns that I personally have as a District Representative and what makes local municipalities, in my personal opinion, so much that isn't what I'm seeing from the state is the fact that we have an opportunity to really hear what the concerns are from our constituents. I am clearly seeing a movement throughout my district and some of my colleagues have seen it in their district with the quality of products that are brought in areas that are predominantly minority areas. I'm also seeing the impact of gentrification in some of these areas and how that is changing the complete dynamic of communities, so if we are not in this role to try our best to enforce quality development then whose responsibility is it. Because the decisions that were made 15 plus years ago, five years ago, we are seeing developments now that are in great disrepair in a short period of time and homeowners are not in a position to necessarily go out and write a \$20,000 or \$30,000 check to do repairs on a home that they should not be having certain problems with. If there is an opportunity for us to talk to developers and when we have petitioners and developers that recognize the importance of being quality developers and good neighbors because they also live in this community, then I think it is our responsibility to push as much as we can to protect our citizens and protect our neighbors; that is my personal opinion and I could be wrong, the reason we are elected. If we are not going to have the conversation, who will? For that I am again thankful, but the petitioners do have the ability to say yea or nay just as Council through the matter of six or more votes have the ability to say yea or nay.

Mayor Clodfelter said I think there are legitimate and very valid concerns; I do agree with your concerns, but I would say this though. We exercise the power to zone in North Carolina only as delegated to us and we cannot exceed the powers that are delegated to us. If we believe those powers should be changed and perhaps they should be changed for exactly the reason that you say, it is our obligation to seek those changes through legislative change. I do not believe it is safe for us to go beyond those powers and to ignore the limits on our delegated authority. We have encountered push back when we do things like that from both the courts and from the legislature so I think your policy concerns are right on the money, but unfortunately I think we have to go about it in a little different way. That is a dialogue I suspect we ought to have as we are developing a new Zoning Ordinance and would be very, very useful for Council to talk about what changes in State law we think needs to be made in order to accomplish the kind of zoning and planning that we want to see in the community. That would be a most appropriate thing to do.

Ms. Fallon said when I was a Planning Commissioner that bothered me more than anything. We are put there to guide the way communities look and if we get communities that are going to deteriorate right away it is our responsibility. We did it and to be constricted from doing anything that helps the community and the city from far away to me is really not fair because in the end we are responsible for how this community looks.

Councilmember Barnes said I understand from a legal perspective exactly what you are saying. I have walked in the shoes of Ms. Mayfield and the other District Reps before and understand the struggles that they face as well and I had a conversation a few months ago with a member of the majority party in the General Assembly about some of these issues and was encouraged to approach them regarding building standards and the building code for North Carolina and I have not thought through at this moment how to structure this, but it might be useful for us to use some of your experience there in conjunction with the Transportation Planning Committee or the Housing and Neighborhood Development Committee or the Governmental Affairs Committee, one of our committees to put together a package of items that we would encourage the General Assembly to review. One of the challenges as Ms. Mayfield correctly identified is that people seem to selectively decide where they are going to build nice stuff and I know nice and stuff is always diced up as subjective, I get that, but the point is we are trying to figure out how to create value all over the City and so where we could get some assistance from you and one of our committees, I think we should do that Mr. Manager. I haven't thought through which committee or what to ask the Mayor to do, but he has some knowledge. The design standards that we tried to pass got stuck in Raleigh and that was frustrating for this body, but I think we should at least take advantage of the opportunity, if in fact the door is open in Raleigh to approach them with some suggestions regarding how they might tweak the State Building Code.

Mayor Clodfelter said I think that is a useful suggestion. Again the objective here is to make the decisions that we make on sound solid footings so they can't be challenged and I'm not arguing with the policy objectives that Council has here, I just think we need to be very deliberate about how we go about implementing those so we don't get the kind of backlash that would make it worse than the remedy we are trying to achieve.

Mr. Howard said for me it was just trying to save the deal. It was going to die; there weren't six votes. We were trying to get to what would get us six votes which is just as important as anything else. The alternative is just not have projects if we can't figure out how to make things like we just dealt with come to fruition. If all we have is what is what is put in front of us then we probably get a lot more no's than we get compromises and get projects. There has to be some gray in that area, if not we won't ever get anything done.

Mayor Clodfelter said which I suspect why in this case the petitioner agreed to go along with the condition.

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ITEM NO. 7: ORDINANCE NO. 5489, PETITION NO. 2014-072 BY TONY A FEIMSTER 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), I-2 (GENERAL INDUSTRIAL), AND U-I (URBAN INDUSTRIAL DISTRICTS).

The Zoning Committee found this text amendment to be consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing because it broadens the range of choices for entertainment and employment, therefore the Zoning Committee found this text amendment to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because cultural facilities are located in a wide range of non-residential zoning districts. The Zoning Committee voted 5-0 to recommend approval of this petition.

Motion was made by Councilmember Lyles, seconded by Councilmember Barnes, and carried unanimously to approve Petition No. 2014-072 by Tony A. Feimster.

Motion was made by Councilmember Barnes, seconded by Councilmember Lyles, and carried unanimously that this text amendment is consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing, and because it broadens the range of choices for entertainment and employment; therefore, this text amendment is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because cultural facilities are allowed in a wide range of non-residential zoning districts.

The ordinance is recorded in full in Ordinance Book 59, at Page 44-45.

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ITEM NO. 8: ORDINANCE NO. 5490-Z, PETITION NO. 2014-076 BY NORTHLAKE HEALTH INVESTORS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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).

The Zoning Committee found this petition to be consistent with the Northlake Area Plan, based on information from the staff analysis and the public hearing, and because the site was formerly used as a nursing home. Therefore, the Zoning Committee found this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the site is compatible with the adjacent multi-family residential and the adjoining child care facility, and the use will provide a valuable community resource for the elderly and disabled. The Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

1. Amended the Development Data and Note 2.a. to specifically prohibit jails, prisons, stadiums and arenas.
2. Amended Note 4.a. to indicate a singular principal building. The note should read: "The building materials used on the principal building..."
3. Removed the word "one-story" from the label on the building on Sheet 1.
4. Noted on the site plan that the existing building is to be demolished
5. Specified the width of the existing sidewalk and planting strip to remain.
6. Revised the text from Note 1.e. as follows: "Changes to the Rezoning Plan not permitted by the Rezoning Plan will be reviewed and approved as allowed by Section 6.207 of the Ordinance."
7. Clarified in the "Site Development Data" that the use is limited to 50 beds as noted in Note 2.a.
8. Added the following to the last sentence in Note 3.e.: "... and Planning in accordance with Section 6.207."

Motion was made by Councilmember Austin, seconded by Councilmember Fallon, and carried unanimously to approve Petition No. 2014-076 by Northlake Health Investors, LLC, as modified.

Motion was made by Councilmember Austin, seconded by Councilmember Driggs, and carried unanimously that this petition is consistent with the Northlake Area Plan, based on information and the staff analysis and the public hearing, and because the site was formerly used as a nursing home; therefore, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the site is compatible with the adjacent multifamily residential and the adjoining child care facility and the use will provide valuable community resource for the elderly and disabled.

The ordinance is recorded in full in Ordinance Book 59, at Page 46-47.

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ITEM NO. 9: ORDINANCE NO. 5491-Z, PETITION NO. 2014-082 BY BROOKWOOD CAPITAL PARTNERS, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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-1 (LWPA) (GENERAL INDUSTRIAL, LAKE WYLIE PROTECTED AREA) TO I-2(CD) (LWPA) (GENERAL INDUSTRIAL, CONDITIONAL, LAKE WYLIE PROTECTED AREA).

The Zoning Committee found this petition to be inconsistent with the Dixie Berryhill Strategic Plan, based on information from the staff analysis and the public hearing, and because the plan recommends uses supporting rapid transit along this corridor. However, the Zoning Committee found this petition to be reasonable in the public interest based on the information from the staff analysis and the public hearing, and because the conditions in the area have changed since the plan was approved in that there are currently no plans for rapid transit along this corridor, and the proposed use is consistent the surrounding land uses many of which are industrial. The Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

1. Added language to state that design of this water quality area will not include a detention basin, but may include one or more recognized BMP's including a rain garden, grassed swales, extended detention wetlands, and/or other recognized BMPs that can be designed to be integrated into and maintained as part of the landscaping for the site.
2. Labeled the center line for Wilkinson Boulevard on Sheet Z-2.0 of the site plan.
3. Revised the site plan to show the proper illustration of the reservation of the required right-of-way and the setback along Wilkinson Boulevard.
4. Addressed CDOT comments:
 - a. Petitioner has revised site plan to depict 75-foot maximum right-of-way from the centerline of the existing right-of-way (Wilkinson Boulevard).
 - b. Note G was modified to state: "The exact driveway locations will be determined at the time of permitting."
5. Staff has rescinded the request to amend the Storm Water note as the subject language is necessary to help ensure the water quality area proposed along the Wilkinson Boulevard frontage will be subject to appropriate landscape design and treatment.
6. Addressed City Engineering comments:
 - a. Petitioner provided a wetland letter.
 - b. Add the following note to the site plan: "This Site will comply with the Charlotte Tree Ordinance. Tree save is required." Staff has rescinded this comment, as this is an ordinance requirement. In addition, the site plan commits to exceeding what is required per ordinance.
8. The petitioner has added language to Transportation Note D that states if NCDOT does not allow the sidewalk and planting strip at the edge of the right-of-way, then the sidewalk will be located on the petitioner's property.
9. The petitioner amended Transportation Note F to state that: "The petitioner will provide and construct a concrete bench pad for a new bus stop along Wilkinson Boulevard. The petitioner will work with CATS to determine a mutually agreeable location for a transit pad during the development review and permitting process."
10. CDOT rescinded the request to restrict the easternmost driveway to "trucks only" and the westernmost driveway to passenger vehicles only, as this item will be addressed through the driveway permit process.

Motion was made by Councilmember Mayfield and seconded by Councilmember Lyles to approve Petition No. 2014-082 by Brookwood Capital Partners, as modified.
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Councilmember Barnes said this particular plan is inconsistent with the Dixie Berryhill Strategic Plan which I think we approved a few years ago and I noticed that the plan recommends supporting rapid transit along this corridor as potential uses. Was there any

expectation Ms. Keplinger, that anytime in the near future that there might be a rapid transit along that corridor?

Tammie Keplinger, Planning said no sir, not at this time. From our investigation of this rezoning petition we determined that it was on the horizon at one point in time when the Dixie Berryhill Area Plan was adopted, but it is no longer.

Mr. Barnes said do we adjust, not your department necessarily, but do we adjust the Transit Plans accordingly when we make these types of adjustments?

Ms. Keplinger said I believe that Transit Plan has been adjusted accordingly; we can follow up on that to be positive.

Councilmember Autry said seeing as how this Area Plan was just approved in 2003 I would like to stick with the area plans, but when they are more than 10 years old I am willing to take the Zoning Committee's recommendation so I will be supporting this petition.

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

Motion was made by Councilmember Mayfield, seconded by Councilmember Driggs, and carried unanimously that this petition is inconsistent with the Dixie Berryhill Strategic Plan, based on information from the staff analysis and the public hearing and because the plan recommends uses supporting rapid transit along this corridor. However, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the conditions in the area have changed since the plan was approved in that there are currently no plans for rapid transit along this corridor and the proposed use is consistent with the surrounding land uses many of which are industrial.

Councilmember Mayfield said comment for any of my colleagues and also recognize that with this area since it has been 11 years since it was adopted, the majority of the area around this particular space is all industrial, so this is a very small piece that was being added in because we would not be able to realistically create any multifamily or residential housing in that area without those residents moving within a less than ten-year period. I also like my colleague, Mr. Autry don't like to vote in support of inconsistent plans, but the dynamics have changed so much over the last 11 years that this area really is deemed more inductive to industrial. I just wanted to share that for any of the residents that may be watching this evening.

The ordinance is recorded in full in Ordinance Book 59, at Page 48-49.

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ITEM NO. 10: ORDINANCE NO. 5492-Z, PETITION NO. 2014-093 BY CHILDRESS KLEIN PROPERTIES FOR A CHANGE IN ZONING FOR APPROXIMATELY 18.8 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF JOHNSTON ROAD AND MARVIN ROAD FROM UR-2 (URBAN RESIDENTIAL, CONDITIONAL) TO UR-2 (CD) SPA (URBAN RESIDENTIAL, CONDITIONAL, SITE PLAN AMENDMENT).

The Zoning Committee found this petition to be consistent with the South District Plan, based on information from the staff analysis and the public hearing; and, because the proposed changes in the site plan are minor in nature. Therefore, the Zoning Committee found this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing and because the change allow previously approved garages to be transformed into garages with carriages houses and the number of residential units is not increased. The Zoning Committee voted 5 – 0 to recommend approval of this petition with the following modifications:

1. The height of the proposed carriage units has been placed on the site plan.
2. A note and elevations have been placed on the site plan detailing the options for the garage and carriage units.

Motion was made by Councilmember Driggs, seconded by Councilmember Lyles, and carried unanimously to approve Petition No. 2014-093 by Childress Klein Properties, as amended.

Motion was made by Councilmember Driggs, seconded by Councilmember Austin, and carried unanimously that this petition is consistent with the South District Plan, based on information from the staff analysis and the public hearing and because the proposed changes in the site plan are minor in nature. Therefore, this petition is reasonable and in the public interest based on information from the staff analysis and the public hearing and because the changes allow previously approved garages to be transformed into garages with carriage houses and the number of residential units is not increased.

The ordinance is recorded in full in Ordinance Book 59, at Page 50-51.

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ITEM NO. 12: ORDINANCE NO. 5493-Z, PETITION NO. 2014-086 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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-2CD) (GENERAL INDUSTRIAL, CONDITIONAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT – MIXED USE).

The Zoning Committee found this petition to be consistent with the University City Area Plan based on information from the staff analysis and the public hearing, and because the proposed use is suitable for the area. Therefore, the Zoning Committee found this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the site is located within ¼ mile walk distance of the future McCullough Transit Station location; the property is located in a priority area for transit oriented development and this rezoning will ensure any development on the site is transit oriented. The Zoning Committee voted 5 – 0 to recommend approval of this petition.

Motion was made by Councilmember Phipps, seconded by Councilmember Barnes, and carried unanimously to approve Petition No. 2014-086 by Charlotte Mecklenburg Planning Department.

Motion was made by Councilmember Fallon, seconded by Councilmember Phipps, and carried unanimously that this petition is consistent with the University City Area Plan based on information from the staff analysis and the public hearing and because the proposed use is suitable for the area. Therefore, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the site is located within ¼ mile walk distance of the future McCullough Transit Station location; the property is located in a priority area for transit oriented development and this rezoning will ensure any development on the site is transit oriented.

The ordinance is recorded in full in Ordinance Book 59, at Page 52-53.

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ITEM NO. 13: ORDINANCE NO. 5494, 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 NEW STATE LEGISLATION.

The Zoning Committee found this text amendment to be consistent with the north Carolina general statutes, based on information from the staff analysis and the public hearing, and because cities are required to comply with North Carolina General Statutes. Therefore, the Zoning Committee found this text amendment to be reasonable and in the public interested based on the information from the staff analysis and the public hearing; and because it makes the written regulations in the ordinance consistent with recently updated state legislation. The Zoning Committed vote 5-0 to recommend approval of this petition.

Motion was made by Councilmember Autry, seconded by Councilmember Fallon, and carried unanimously to approve Petition No. 2014-087 by the Charlotte Mecklenburg Planning Department.

Councilmember Phipps said I was wondering if it is appropriate if we could have a caveat in there that says something to the effect of so long as reasonable input is provided by the affected municipality.

Mayor Clodfelter said I'm not quite sure I understand the request there. Ms. Keplinger, do you?

Mr. Phipps said I just wanted to know if we could have a caveat in here that says as long as there is reasonable input from the affected municipality in terms of the statute limitations and such if we have an opportunity to comment or vet a particular statute that might be before us.

Mayor Clodfelter said I think I understand you; this statute was adopted a year or so ago and it is already on the books. It is sort of like the public hearings that are already closed; our time is out to comment. We are out of time to comment on it; it is already law, but we will let you make the effort.

Motion was made by Councilmember Austin, seconded by Councilmember Fallon, and carried unanimously that this text amendment is consistent with the North Carolina General Statutes, based on information from the staff analysis and the public hearing, and because cities are required to comply with North Carolina General Statutes; therefore this text amendment is reasonable and in the public interest based on the information from the staff analysis and the public hearing and because it makes the written regulations in the ordinance consistent with recently adopted legislation.

The ordinance is recorded in full in Ordinance Book 59, at Page 54-61.

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ITEM NO. 14: ORDINANCE NO. 5495, 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. SETBACK WILL BE MEASURED FROM THE "RIGHT-OF-WAY" INSTEAD OF THE BACK OF CURB.

The Zoning Committee found this text amendment to be consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing and because working experience has shown that these items need to be clarified and/or adjusted; therefore the Zoning Committee found this text amendment to be reasonable and in the public interest based on the information from the staff analysis and the public hearing and because it clarifies and simplifies practices relating to locating setbacks and preserves and enhances existing neighborhoods. The Zoning Committee voted 5-0 to recommend approval of this petition.

Motion was made by Councilmember Lyles, seconded by Councilmember Driggs, and carried unanimously to approve Petition No. 2014-088 by the Charlotte Mecklenburg Planning Department.

Motion was made by Councilmember Barnes, seconded by Councilmember Lyles, and carried unanimously that this text amendment is consistent with the Centers, Corridors and Sedges Growth Framework based on the information from the staff analysis and the public hearing and because it clarifies and simplifies practices related to locating setbacks and preserves and enhances existing neighborhoods.

The ordinance is recorded in full in Ordinance Book 59, at Page 62-71.

ITEM NO. 15: ORDINANCE NO. 5496-Z, PETITION NO. 2014-094 BY EASTWAY II HOLDINGS LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 3.05 ACRES LOCATED ON THE WEST SIDE OF EASTWAY DRIVE AT THE INTERSECTION OF EASTWAY DRIVE AND BISCAIYNE DRIVE FROM B-1SCD (SHOPPING CENTER) AND B-D (CD) (DISTRIBUTIVE BUSINESS) TO B-D (CD) (DISTRIBUTIVE BUSINESS, CONDITIONAL) AND B-D (CD) SPA (DISTRIBUTE BUSINESS, CONDITIONAL SITE PLAN AMENDMENT.

The Zoning Committee found a portion of this petition to be consistent with the Central District Plan and a portion of this petition to be inconsistent with the Central District Plan, based on information from the staff analysis and the public hearing, and because a portion of the property was previously rezoned and the remaining portion of the property is recommended for retail land uses; however, the Zoning Committee found this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because the use will help maintain an active retail center. The Zoning Committee voted 5-0 to recommend approval of this petition with the following modification:

1. Amended proposed zoning to reflect B-D (CD) and B-D (CD) SPA.

Motion was made by Councilmember Barnes, seconded by Councilmember Mayfield, and carried unanimously to approve Petition No. 2014-094 by Eastway II Holding, LLC, as amended.

Motion was made by Councilmember Driggs, seconded by Councilmember Austin, and carried unanimously that a portion of this petition is consistent with the Central District Plan and a portion of this petition to be inconsistent with the Central District Plan, based on information from the staff analysis and the public hearing, and because a portion of the property was previously rezoned and the remaining portion of the property is recommended for retail land uses; however, this petition is reasonable and in the public interest, based on information from the staff analysis and the public hearing and because the use will help maintain an active retail center.

The ordinance is recorded in full in Ordinance Book 59, at Page 72-73.

ZONING HEARINGS

ITEM NO. 16: HEARING ON PETITION NO. 2013-094 BY HALVORSEN DEVELOPMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 33.85 ACRES LOCATED ON THE WEST SIDE OF PROSPERITY CHURCH ROAD ACROSS FROM RIDGE ROAD FROM CC (COMMERCIAL CENTER) AND R-3 (SINGLE FAMILY RESIDENTIAL) TO CC (COMMERCIAL CENTER) AND CC SPA
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(COMMERCIAL CENTER SITE PLAN AMENDMENT), WITH FIVE-YEAR VESTED RIGHTS).

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

Mayor Clodfelter declared the hearing open.

Assistant Planning Director Ed McKinney said I will give you a little summary and walk you through the details of the plan. It is approximately a 34 acre site located just north of I-485 interchange with Prosperity Church Road. The site itself sits approximately at the corner of Ridge Road and Prosperity Church Road, highlighted in red is the parcel. A quick summary of the proposed plan; 100,000 square feet of retail commercial, 292 multifamily apartments and a central green open space are the key components of the plan. I will walk you through the zoning and area plans of contacts to give you some of the policy background and context of the site. Currently, the same site here outlined in black; the majority of this site is currently zoned CC (commercial center) with a small portion just to the north is currently a single family lot zoned R-3. The proposal is to rezone the R-3 to commercial center and to do a site plan amendment on the remaining portion of this site to amend the site plan amendment development program.

The adopted land use area plan perspective, the site is highlighted in black is shown for a mix of use adopted in the future land use plan to include single family residential, multifamily residential, office and institutional uses and retail uses. Taking the next step up just to provide the final context of this, from a Centers, Corridors and Wedge Growth Framework perspective, this site does sit within the Prosperity/ Hucks Activity Center which is identified in that plan. The activity center is at that scale; and, again, is identified as places for mixed use, pedestrian oriented including a range of uses that include retail, housing, office and serving the surrounding neighborhood low density residential. One other thing I will mention for the context of this, the Planning staff is in the process of updating the area plan to this area. We have spent the last several months being very focused specifically on the recommendations for the activity center itself. This process is still underway but we've brought some of those recommendations to conclusion this last month through a series of public meetings and workshops. I want to highlight a couple of those related to the activity center in this site specific. We have confirmed again that this is a site that we would recommend for mix and multi-use including multifamily residential. We've heard clearly through that process the desire to see a street-oriented and retail shops and restaurants, the desire to provide a public open space and a central public component to these sites and the need and the desire to make sure we provide a mix of residential building types as development occurs.

I will go back to the site and walk you through the development plan itself. This is a blow up of the area you saw before; there is the I-485 interchange, Prosperity Church Road down the center, some future roads that aren't there yet. This is Benfield Road, this is existing but some portions of it which are being finalized and constructed now, Prosperity Ridge Road; we've highlighted these roads in black and red because a lot of this, as you can tell, is still under construction. The interchange itself will be operational and built by December of this year as will this first piece of Benfield and the extension of Ridge Road. The extension of Benfield will follow a little bit later, about a year after. Essentially in December this framework of the interchange, this connection and Ridge Road will be built and the interchange itself will be operational. I will highlight briefly the plan itself so we've overlaid the site plan. I want to first highlight the connectivity, a big part of this unique interchange, the roads that are being built and constructed are such that development, when it occurs, will connect into it. This plan provides a public street connection from the future Benfield Road to Prosperity Church Road and the extension of Cardinal Point including building a portion of it through their site with a future connection as development occurs. The same thing occurs on the south portion of this site so they have provided stub connections in places that would then provide that connectivity as development occurs around them. A central public street sort of running north/south will extend through the center of this site and connect to both those parallel roads and a series of other streets that form the development blocks. The highlight and importance of this plan the development has connection to the framework of streets surrounding it.

Just to highlight the pattern of development and use, the building form and the colors here represent use, so you see red representing the retail component of this, orange representing the residential multifamily component. In the center you will see that open space and that central defining public space through the center of the site. I will zoom into that to talk about those details at a little bit more specifics. The same sites so here are Ridge Road, Prosperity Church, Benfield and if you are familiar with this pieces of this that have been developed at a Rite Aid at the corner and the Aldi's just next to it. Again that central space, that public street with a set of streets around it forming a public space and sort of central green plaza, retail use that frame on one side oriented to that space, multifamily residential uses on the other side. Those buildings are oriented to that central space; retail anchor here on the north end, a grocery store proposed, about a 49,000 square foot box, retail and a couple of other smaller retail pieces. One here at the corner of Benfield and Ridge, the other one at Ridge where this new street connects and another one oriented to Prosperity Church Road itself.

Highlight here a couple of things about the multifamily, and again this notion the diversity of building types and use here, the pattern here shows development framing and fronting on these new streets and a mix of building types so you will see different scales here. Some of this will be talked about in a little more detail. The multifamily carriage units which are two-store units with garage below and residential units above, the more standard four-story multifamily apartment buildings, these larger blocks here at this corner, one at the corner of the open space another here and another here adjacent to the Public's. The final piece here is the townhome units, the two uses here that front on Ridge Road, these are three-story residential so it provides a multi-diversity of building type within that multifamily project. A lot of attention has gone into the architectural details of this. This is a couple examples of the retail portion so there is the grocery store anchor with the architectural design as proposed note here and lots of detail has gone into things like in this case the drive-through function for the pharmacy that is proposed, the architectural enclosure of that and its incorporation into the design of the building. Then the retail uses that front on that open space; a lot of both in these elevations and then the development details of the submittal included a lot of details that talk about the design and orientation of those uses to the open space.

I want go get back to a little bit of detail here, but two things about this site plan amendment or the plan that I just walked through but also the programmatic elements. I want to briefly compare and bottom line a couple of key numbers here. This represents the existing entitlement of the zoning as it exists today minus some of the retail like the Rite Aid that has developed and minus portions of this that are not in this petition, so compared to what is already entitled and has not been developed to what is being proposed, the 100,000 to the 63 it is a net increase in commercial retail development of 36,700 square feet. On the residential 700 square feet, entitled now minus the number of units that are not in this petition you end up with a total of 474 units. The proposal is for 292 so it is a net decrease of 182 units. I will make note that as you see the diversity of units here have not really been focused on multifamily and the 204 multifamily units that are currently entitled, it is an increase of 88 units on the multifamily side, but a total net decrease in the number of units of 182.

In conclusion I will highlight a couple things; staff recommends approval of this petition upon resolution of a few outstanding issues. It is located within the Prosperity/Hucks Activity Center; it is consistent with the currently adopted plan that proposes this pedestrian oriented mixed use development. It is consistent with the draft recommendations that are occurring in the current area plan updates, specifically issues of building and housing type diversity, the central open space, the street oriented retail. There are a number of outstanding design and transportation issues, all of which are technical and we will continue to work with the petitioner on those.

Keith MacVean, 100 North Tryon Street said we have coordinated our time and we will try to be conscious of the time as we go by. Jeff Brown and I of Moore & Van Allen are assisting Halvorsen Group with this rezoning petition. Halvorsen is the petitioner for the site. With me tonight is Tom Vincent with Halvorsen, Carter Siegel with Wood Partners, Eric Hampton with Kimley Horne and Associates as well as Jim Guiton with Design Resource Group. You will be hearing from a number of them shortly. I want to thank the staff and Mr. McKinney for the great presentation; I think he did a great job telling you exactly where we are, what we are trying to do, what is existing on the site. We are pleased that they are recommending approval of the

petition upon resolution of the remaining issues. We will be working with his staff to get those resolved before the Zoning Committee meeting next week. We also want to thank the residents of the Prosperity/Hucks Area Plan for working with us. We have been working on this petition since September of last year; we've delayed it a number of times. It was originally timed to coincide with the original draft of the Hucks Area Plan that the staff had been working on. As you may recall, that got delayed at the beginning of this year. We delayed our hearing from December to early spring of last year then again to mid-summer and at the mid-summer point we delayed it until today, again to allow the staff and the area residents to work on the draft recommendations of the area plan which Mr. McKinney just quickly presented you tonight, and as you can see we are now consistent with that.

A majority of the site is zoned commercial center; 32 of the 33 acres. We are doing a site plan amendment and it is actually reducing residential, a slight increase in non-residential. At this point I would like to turn it over to Tom and Carter to kind of walk us through the site plan.

Tom Vincent, 1877 S. Federal Hwy, Boca Raton, FL said I am President of Halvorsen Development Corporation and with me tonight is Carter Siegel with Wood Partners. I'm going to be brief; Mr. McKinney covered the lion's share of a lot of technical components of the project. I will say we've been doing retail mixed use developments for almost 30 years throughout the entire southeast United States. We specifically chose Wood Partners to come in to develop the residential component of this property; that is their expertise. For those of you who don't know about Wood they are one of the largest multifamily residential developers in the country, but more specifically they are known for the upscale quality of unit types that they do in these mixed use developments. You are going to hear a lot of discussion about apartments I'm sure, but that is one of the reasons we chose Wood. These are not going to be your garden style generic apartments. We are talking about a true upscale urban/suburban look. We have elevations to show you with that. The only things I wanted to point out on the site plan that is before you now, essentially the same as what Mr. McKinney had showed you, but you can see by the rooftops a lot of variation with the different building types, especially in the residential community amplifying what Mr. McKinney had said about the street lined oriented shops and restaurants. We've done a lot of work with a lot of the homeowners that were interested in getting involved in the process and we took a lot of things into account and over the last almost eight to nine months have arrived at what we think is a tremendous plan something that meets your area plan goals and requirements and that we think can bring a good quality project to this development; more or less kick starting the goals and the visions from your area plan Activity Center and the things that you want to accomplish here.

Carter Siegel, 1001 Morehead Square Drive said I'm with Wood Partners, Regional Director for Wood. Just a couple things I want to point out about the apartments; we have worked very actively with the neighborhood and this plan we have represents many different iterations as we worked back and forth and there was actually some very good feedback from the neighbors. With their help we think we've made this plan a lot better. Many of our communities; this is going to be a rental property, but what I would emphasize here, which is unusual for many of the rental communities in the Charlotte area; this is really more a kin to a community plan. Granted these are all rental houses or units, but it is a combination of manor buildings, townhomes and carriage buildings so from a perspective standpoint this is a picture of the property. The apartments are on the right of the picture; the retail is on the left. That is the community green in the center which we will talk to. This is a picture kind of depicting the different product types I mentioned. Again it is a very different mix of product type; it is not going to feel and read like a typical apartment community because it really is not going to be. The four-store buildings will have elevators in them, interior corridors in the townhomes and carriage units. We think apartments are an appropriate use here; this is a vibrant part of Charlotte and I think apartments are a suitable use with the retail.

Sarah Zdeb, 7329 Avonhurst Lane said I'm a Highland Creek resident and first I would like to state that I'm a realtor in Charlotte and typically you would see realtors being pro homeownership. That would be typical, but I do want to start pointing out the fact that homeownership is not right for everyone. There are different types of people who need different housing needs and that is something I kept in mind as I started doing research. I began with this plan last year with City Planning at the meetings and was originally for the Burkedale style with

more single family in the residential over retail. I researched the original plan which they have already gone over, it had over 470 units; spoke to numerous developers, members of the Planning Committee, City Council and the community. There are community members, including myself, that understand that development is necessary for our growing society. Charlotte is a very popular city. Not all people are meant for homeownership, but the City's desire to increase the number of housing units to upwards of one million over the next few years, it is understood that multifamily in general helps bring that density that is in or surrounds most large cities.

Compared to the original plan they have increased the retail, which is something that Highland Creek area needs significantly. Currently we go to Cabarrus County to spend our disposal income and I would like to see more of that stay within Mecklenburg County. Again, as someone who lives in Mecklenburg County and serves the residents in Mecklenburg County. They increased their green space. We met with the developers numerous times; there were a lot of issues back and forth about the amount of green space, the walkability, the bikeability so that we could have pedestrian friendly atmosphere. There was a lot of communication between the developers and the community between a small core group and there were a lot of issues even within ourselves amongst how we were going to decide on the plan, but I will tell you that this is quality development and one of the things that Councilmembers Mayfield, Fallon and Barnes have all mentioned earlier, one I'm not typically for apartments, but this is going to be a quality development in my opinion. Having been dug in the deep trenches with these developers Wood Partners is technically local to North Carolina, maybe not Charlotte, but local to our State. We must start somewhere with our area plan. The City Planners have been gracious enough to work with us and I believe this is just the first piece of the puzzle in the rest of the area plan.

Theresa Rosa, 6428 Stargaze Lane said a few minutes ago a stack of papers were passed out to all of you and that is comments from the community. Ms. Zdeb and I have been very active in trying to communicate to the community everything that has been going on to the point where my children think I have a second job. Once we figured out that the developer was allowed to develop apartments we decided to work with the developers to make it a much better product and I will tell you that Halvorsen and Woods have not had fun because they have come back to us with different plans, we have said no, the community doesn't like it, go back and redo it. Is it perfect? It is not perfect; it will never be perfect because everybody here has a different idea of perfection.

Brett Kubricht, 10210 Prosperity Park Drive said I chose Charlotte when I moved here from Atlanta. I've lived in Chicago, Denver, Atlanta; I've lived in urban areas and I've lived in suburban areas, I've seen what works and seen what has not worked. Part of the reason I chose the Prosperity/ Hucks area to open up my own practice was I saw the potential for a lot of growth and I saw the potential for a lot of smart growth. I do thank the developers for reaching out to the community and trying to work with us and get feedback about what we want and I know there is a lot of contention about the apartments or not being the apartments. The two things I can't agree with on this thing is the one that the community as a whole for the most part, asked for mixed use. If we are going to have to have apartments we wanted to have apartments above retail so it created more of mixed atmosphere and in this development it is mostly retail on one side and apartments on the other side. That is something I have an issue with. I also have an issue with a huge parking lot. If you want to have a smart growth community, if we want to have biking, if we want to have walking, pedestrian friendly, building large parking lots is not a way to create that community. When you put in the Publix with the large parking lot it is not quite smart growth in my opinion. Those are the two issues that I have.

Ed Gullage, 12233 Eastfield Road, Huntersville said I've also been working with this for quite a while and it is the general opinion of the people that live in this area, and have been since the beginning of this petition and beginning of this plan, we don't want apartments. We wanted a product that showed ownership. I think one of the main reasons that this petition should be voted down is simply; you put the cart before the horse. We have an area plan, as you know, that is under construction. It is called the Prosperity/ Hucks Plan. That has not gone to public hearing, that has not gone out for public approval, it has not gone to you for a vote. We are doing a major portion of that Prosperity/ Hucks property is going in front of you with no plan in place. They keep talking about the area plan that was already in place, it is obvious that area plan doesn't suit

or we wouldn't be here talking about this plan or a Prosperity/ Hucks Area Plan. My question to you is do you vote on a zoning that is over 30 acres of land that is in the middle of the Prosperity/ Hucks Plan where we wanted a town center. We wanted a small town, main street look, a walkable community where you are going to put 292 apartments out there and that big green space they are talking about, I'll point this out to you, is 1/2 of an acre. I don't know how you are going to have very many functions on 1/2 of an acre with streets running up and down both sides of it. Thank God you all are here to represent us instead of the developer; the citizens, the people that pay taxes and vote and live in this area. Most of the people that have spoken for it are making a dollar off of it; I'm not.

Reese Untz, 4902 Ridge Road said I live on Ridge Road, right there on the corner of Prosperity and that new Prosperity Ridge goes in there. I've got 350 apartments right in front of me; I've got another 200 plus on one side. That open area on the right hand side of that big project they are trying to do is about 23 acres right there that is vacant. I live right on the corner of it; got apartments on both sides. We don't want any more multifamily. That whole intersection right there is supposed to be the Prosperity Village. Does that look like a village to you with three-story apartments backing up to the main road? We live here; I pay taxes, I pay your salary and you all are supposed to be representing us. We are asking you to turn down this thing because we don't want that multifamily; we want retail and commercial for the Prosperity Village, we don't want a bunch of apartments. We've been trying to tell them that for the last three or four meetings that we've had. We had 200 people at one meeting, 75 people at another and they didn't even get started good. I stood up and ask them how many of you people are going to be down there and vote this thing down and everybody raised their hand. We said well this meeting is over, we got up and left. We are asking you people to help us; I live there and I don't want to put up with all those apartments. I've already got them all the way around me. I want to have a village in there at that corner where I can walk up there and have a place to eat, have a place to shop and I can't do that with a four-story apartment. You've got four-story apartments right in that corner of Prosperity and Ridge Road. How are you going to have a village right there? I'm asking for your support; turn this thing down because it does not do what we the people that live in the community want. We don't want those apartments; is all we are asking you to do. We are not against the development, we don't mind the grocery store but put us some retail and commercial in there so that we have a place to shop, a place to eat. I'm asking you all to support us, and the thing that really irritates me is, I called every one of your phone number that is listed and not but one of you returned my call. Not but one of you returned my call; all you had to was at least call back and say well I don't really support you or whatever, but you didn't even call back. You didn't even give me the courtesy of calling me back. I'm asking you all to turn this thing down because the people that live there do not want any more multifamily.

Richard Buffone, 6214 Red Clover Lane said I live on Red Clover Lane which is to the west of Publix's and my back yard basically butts up to the parking lot so when I look out my back yard; they say they are going to put some trees and stuff in there or leave trees there, but in the fall I can see right through there anyway. What I'm going to see out my back door is the Publix's and the parking lot. I live in that neighborhood so that area will connect the back or the side of Publix will basically connect to my neighborhood. One other thing I wanted to say is I'm opposed to basically just the Publix. We already have three to four grocery stores in the area; we don't need another one. I know everybody likes Publix, but an extra grocery store, I just don't feel like it is needed.

Mr. Gullage said it used to be part of the ordinance for the development that you could not put commercial or multifamily directly up against a single family residential development. I don't know when they did away with that, but that is exactly what you see. They say we have a street separating it but I've always been under the impression that it had to bleed into another product. They used to call it spot zoning when you put a commercial development right next to a single family development.

In rebuttal Mr. Vincent said just a few comments. We have met with so many people and the room is divided; I don't know what the count would be. Certainly the folks you just heard from represent a portion of the people that just don't want apartments. We have a tremendous amount of support from people that have gotten active, worked with us and understand that apartments are a necessary component, in fact your area plan, at least in its current stage, and even the
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property as it is developed today, or if were developed today, already allows apartments on that property. What we've tried to do was come up with a plan that would be a true mixed used plan, have all the elements that the area plan is looking for. We have almost 100,000 square feet of retail. The major anchor there is a soft use; it is not a Walmart, it is not a home improvement store, we are talking about a neighborhood grocery to help support all of the street shops, all of the restaurants. The open space that is there, proportionate to the acreage we are developing is a huge area. We can have community events there; we've already had people in favor that have asked to be involved in arranging those types of events. We have a product here that will certainly kick start what the area plan is trying to accomplish. It has apartments; there are some people that don't want apartments, but we have plenty of support out there, almost 800 people on face book that they have developed that are following this and when you get a chance to read all the comments I think you will get a different picture as to the support that is out there beyond what you have heard tonight.

Ms. Rosa said we just want to make it clear, they might be working but we don't get paid.

Councilmember Howard said it is probably foolish to jump into this one first, but I will because I need to get clarification from staff. Staff, go over kind of what can be built by right and what the petitioner is asking different. Explain by right please while you are doing that if you could. I want to make sure the audience understands why by right means.

Mr. McKinney I'll walk through this in a little more detail. This first column represents the 2001 rezoning and that is as it exist today. This site today has the ability to do these uses without a rezoning and gain broken down they've got a retail component, office, institutional. Some of that you see in red here we subtracted out; part of that rezoning back in 2001 included things that have developed like the Rite Aid and the Audi's; that totals 35,000 square feet. There is a portion of this that is not included in this petition, a small parcel that is not included so we've subtracted out the entitlement to that site so the petition to compare apples to apples for the commercial side again has the ability to develop 63,000 square feet of retail and commercial. The proposed is 100,000 so the net increase is 37,000.

Mr. Howard said I want to make sure I'm clear on why you said you subtracted out the 34 and the 16; that is because those are vested rights they didn't use?

Mr. McKinney said we were comparing the numbers exactly so the Right Aid and the Audi's for example were a part of this rezoning back in 2001. They have now developed so we were not double counting that square footage, we subtracted it out.

Mr. Howard said really the total development on that parcel would include that too, so apples to apples it is 100 and 100.

Mr. McKinney said if you total it up it is 113,000 square feet in the current zoning that is allowed for retail commercial. I subtracted out the 35,200.

Mr. Howard said I'm talking about additional development now; so now the multifamily residential.

Mr. McKinney said the multifamily the same thing. The current site as it is zoned has the ability to develop 204 apartments, a 200 unit independent living facility, it has the ability to do 16 units of residential above retail, 74 townhomes and 28 single family units and again just not to complicate this too much, but just to subtract or actually compare apples to apples, there is a portion of this site that is not included in this petition that has approximately 48 units of residential entitlements, so the total number to compare that under the current zoning has the 522 units, subtracted out the 48 so you are comparing 474 to what is being proposed, which is 292 so the net decrease in residential units as being proposed is 182 units. Again, to highlight clearly, from this the proposal is to not do this range, the proposal is to do multifamily, 292 so it is an increase of that multifamily component of 88 units so when you add it all up and compare it bottom line, the decrease in residential units is 182.

Mr. Howard said maybe that is clear to the folks that live out there. I know you guys have dealt with a lot but from my standpoint it is actually a down zoning because they are getting rid of residential units. Multifamily is going away with this because they are losing 200; well I guess it is not over 200 because you are adding back 88 in one category. It is a lot less residential than it started out with and it is exactly the same type level of commercial that was proposed from the beginning. It is actually a down zoning because you are actually losing developable area.

Mr. McKinney said this is really for them a site plan amendment so what they are doing is adjusting the site plan itself and then adjusting this programmatic component so they have increased the amount of commercial and decreased the amount of residential and the resulting site plan is the change.

Councilmember Barnes said with due respect to my colleague Mr. Phipps who inherited the situation from me, one of the issues that the neighborhood and the community in that area were struggling with was some of the urbanization issues and they were concerned about proliferation of apartments in that part of the City and where a lot of this started was the Prosperity/Hucks Area Plan because within that plan could have been, depending upon your interpretation, five, six or seven apartment complex. You guys recall a few months ago we asked staff to go back when Ms. Campbell was the Planning Director, to go back and provide some assurance that that wouldn't be recommended because I agree with them that you don't want to have an area that used to be R-3 generally become all of a sudden R-MF-17 everywhere. So that makes sense. In this particular case I think the developer is attempting to, to the point you just made, Mr. McKinney, take advantage of existing zoning, making modification to that zoning to some extent down zone it and create a higher quality product in place. I have not read all the site plan notes, Mr. MacVean knows how I feel about site plan notes so I will read those and talk to you and talk to Mr. Phipps about them as well to make sure that there are some assurances regarding the quality that you have there. I think we are in a situation folks whereas Charlotte has changed we are going in some areas of the city rural to fairly urbanized areas and this is perhaps one of them. I don't know where we will ultimately end up on the petition because there is still some work to be done, I know you all have spent a lot of time working with these folks and some of the other neighbors and working with Mr. MacVean and Mr. Vincent and their colleagues and hopefully if there are any other substantial adjustments to be made you will figure out how to make them. There are a lot of grocery stores in the area, there is a Bi-Lo, a Harris-Teeter, there is another Centro 21 down at Eastfield and then you have this store. To some extent Publix has a reputation like QT for elevating the market and creating very positive competitive pressure. We recognize that as I-485 is built out that there will be more intense development taking place just per the Prosperity Village Plan itself. We are struggling as your representatives, folks, to figure out how to meet every desire and every wish. We are constrained to some extent by some of the things the Mayor mentioned regarding State Law in the City and in the State right now, but we are I think working hard to figure out how to do what the neighbors want and also how to do what developers are seeking to do and do it in a reasonable way. I hope we can resolve all the issues, I don't know whether that will happen, but I hope we can and I'm sure we will talk more next month or later.

Councilmember Phipps said I've been working a lot as the District Rep in trying to forge a way to create better communication and exchange of information and I certainly do appreciate the petitioner's willingness to go along with the deferral of the petition a few months ago so the community could have more time to provide input to this matter. I understand that there was a second community meeting last week as a result of citizen input to certain changes that they recommended to the plan. What I wanted to find out was what substantive changes did you make from the initial plan that you had before us compared to, based on citizen input, of what was provided over the ensuing months, what major things changed from the initial point to this point where we are tonight?

Mr. Vincent said we actually have a couple of slides in your package that we can touch on to show you that. We actually used them at that meeting. That meeting essentially was a follow-up to not only the prior meeting that we had had several months before that with the group, but input that we continued to get between that meeting and this meeting from certain residents that were more intimately involved with the process so we decided it was time to have another meeting to come back and show them what we had worked on for several months to react to the
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comments that they had. This was a plan that we had shown them several months ago at the first area meeting. The buildings, in looking back now, a lot of their comments were the buildings are fairly generic, there is no real mix of building types, unit types, the central park area is too small, it seems like it is just sitting out there orphaned between the residential and the retail side of the project. They wanted further detailing on the community park, the central gathering area if you will and so once we sat down and we started to work on all those types of things we then arrived at this plan. One of the things that this plan highlights, we reorganized a lot of the work was done on the residential side of the property since there is where the lion's share of the comments were focused. On this plan we highlighted on the rooftops different colors of buildings that we modified to talk about and to demonstrate where we now have different building types. The townhome variety, the four-story apartment buildings that now have elevators, interior corridors and the significance of that is that helps introduce another dynamic in the market, folks that might otherwise not have gone to those three-story apartments. You are talking about seniors that may actually come and live in this community. We also added additional carriage units, ground floor units with garage parking. There is a lot of interest, not only in the architecture and the variety of these buildings, but in how they co-exist within the residential element. That is the broad brush on those items.

The next thing we really focused on was what can we really do to redesign and overhaul the whole central park, main street community area. That is what it was now let's go to the rendering. This is what it finally grew into and I will say from some of the input that we had I will be the first one to admit, I didn't have the vision for this, but with some good input from some of the residents on what this space really wanted to be, what they wanted it to become, how they envisioned using it; that is really what drove us to the point that we are at now. You will see at the far end of the gathering area a proposed event that might be taking place with a small band shell. We've got a massive central area of the park, fountain, benches, hardscapes, we've got more green area we haven't even finished developing it, the south end of the Plaza, but you basically have an extraordinary area that community events can take park of. One of the gals was talking about she would like to see us put a large evergreen in one of those places and we can have a Christmas Tree Lighting event, those types of things, Halloween Pumpkin gatherings, all the types of things that local residents and communities might want a spot to do that they don't have right now. We can integrate that into this development where you have restaurants, shops, a very active main street component and I think all of that, like I said before, drives you to what you area plan is trying to accomplish for this mixed use center.

Councilmember Smith said one of the citizens said the green space area was only about ½ acre; that looks bigger than ½ acres, is it a ½ acre or is this photo a little misrepresenting?

Mr. Vincent said it is about ¾ of an acre to be honest with you. The problem is when you throw ½ acre out there or ¾ of an acre it doesn't sound like much, but when you are talking about and that literally is just the green space where you have the green area and the fountain. That doesn't have anything to do with the entire main street that wraps around that. That entire area is probably over 2 1/2, almost three acres that basically we've set aside and conceded this is really necessary in order to make this central park area come alive.

Mr. Smith said this is a site plan amendment so the 200 senior units have already been approved; where do they fit on this site plan. One of the neighbor's complaints had to do with the massing of the apartments out onto the road. Do we know, and if not, can we get a follow-up as to where those units may lie on the existing plan? Since the plan has been approved I assume they have been placed on the existing plan.

Mr. McKinney said the current zoning that exists today, including those units I just described in terms of the numbers; it has a site plan that goes with it. This is Ridge Road which is now running north and south; Prosperity Church Road is not here so this is the site plan that is the current zoning. What you see here at the corner, which is the same location where essentially the multifamily is proposed here; there is an outline of the current proposal so the multifamily here and the current zoning is here, you see townhomes and single family which is approximately where the retail and the Publix are. South of Ridge Road, this group of buildings is where the independent living is located, south of Ridge Road. This portion here, which is cut out, is where

the Rite Aid and Aldi's are and then there is another portion of that office and institutional that was down here.

Mr. Smith said it is hard to include all the materials so I couldn't correspond all the letter tag.

Mr. Phipps said I don't know how much difference it would have made since there is such strong opposition to apartments, but I know there was a movement to try to determine if it was some negotiation away from an additional 88 units of apartments. Could you explain why that was a non-started of this particular project? I know the original plan already calls for 204 but there was an additional 88 apartment units added to it.

Mr. Vincent said that part of the discussion, I'll have to be honest with you, I haven't been a part of; what I can tell you is right now the 292 units that we are seeking for the residential again have a variety of multifamily units, the townhomes, the carriage units and then the vertical units that are the four-story units. Mr. Siegel can probably speak to this better than I can. I think the plan is we are going to attract a different group, a mix of folks; those renters won't be all the same demographic if you will for each of those units. I think we kind of went about it in a different way and essentially a lot of things that drove the plan ultimately to where it go to were positioning of different building types. The retail components, the main street area, the central park; it was almost like working with a Ouija board or puzzle to put it altogether to meet all of the requirements that we at least tried to fulfill from what the area plan was recommending. I don't know if that answers your question, but that is the approach that we took when we were designing the property as an integrated development. We weren't trying to focus on a specific number of units, a specific type whether it might be independent townhomes, apartments whatever, it was more or less a collaboration or a collection of everything that we wanted to get into the plan and still maximize the development.

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

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ITEM NO. 17: HEARING ON PETITION NO. 2014-043 BY MARK PATTERSON FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.71 ACRES ON THE WEST SIDE OF PROSPERITY CHURCH ROAD BETWEEN PROSPERITY POINT LANE AND PINEWOOD LANE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO INST(CD) (INSTITUTIONAL, CONDITIONAL).

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

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said just orient everyone, this is Mallard Creek Road and this is Prosperity Church; Tradition's multifamily development is located here and the portion that we are working with Tradition, which is their Phase II as part of the District 4 rezoning is located right across the street. The subject property is shown with a red circle around it; we have office and then some commercial down at the intersection of Mallard Creek Road and Prosperity Church Road. There are some institutional uses that are also located in this vicinity as you can see and then the yellow represents single family residential. There is a protest petition on this rezoning request and it is sufficient.

When you look at this site you can see that there is a single family home that is oriented in this direction. It is on a large lot and in terms of the proposed request it is for a daycare to allow the reuse of an existing home for up to 60 children. The future additions to this structure would be located in the rear of the existing structure and be limited to 25% of the existing square footage and would be residential in character.

I'll walk you through the site plan; the entrance would be on the northern side of the property. There is employee parking in this area, a drop off area for the children, a guest parking area and then exit. The play area is to the rear of the site and there is a 22-foot buffer around the parameter for all the adjoining residential properties. I'll talk a little bit about the land use; the Northeast District Plan which was adopted in 1996 recommends single family residential for this property and as you know when we talk about institutional uses our area plans typically don't tell us where they should go but let us look at them each on an individual basis. When we look at this particular petition we found that it is inconsistent with the Northeast District Plan which recommends single family, but the site has frontage on a major thoroughfare and the proposed use would serve the needs of the surrounding neighbors and staff is recommending approval upon resolution of the outstanding issues and those issues are all technical in nature.

Mark Patterson, 208 Gilead Road said I appreciate you letting me speak in regards to this petition. I purchased this property nearly two years ago; it was a distressed property and we did what needed to be done to make it habitable. It is currently being rented as a single family and as we've owned the property we've realized that it has potential for a highest and best use of a childcare center. Several months ago we began plans to create that.

It would be a conversion of a 2,114 square foot single family home to allow a commercial childcare center, up to 60 children and seven employees. The parking area is for employees and guest with a drop-off area which you can see. There will be an extension of the existing driveway and the installation of a new curb cut to allow one-way vehicular access onto Prosperity Church Road. There will be a 22-foot Class C buffer along all property lines abutting residential uses and or zoning and a five-foot wide sidewalk connecting from the site to the existing five-foot sidewalk along Prosperity Church Road. As mentioned the petition is inconsistent with the Northeast District Plan however this site has frontage along a major thoroughfare and the proposed use would be serving the needs of nearby neighborhoods. There is so much development going in this area as we just saw the previous proposal Prosperity Village Square and with I-485 coming in and cutting across Prosperity Church Road and with the increase apartments, townhomes, single family homes that are coming into the area, a daycare facility would be needed. We did an analysis of daycares in the area and there are underrepresented so we feel like a daycare facility would be highly useful to the area and would serve the neighborhood well.

The department comments show that there is no issues regarding the transit system, transportation connectivity, and utilities and Engineering and Property Management, land use environmental services agency and Parks and Rec, there are no issues in any of those departments. The only comment made was by Urban Forestry that any existing street trees must be protected during all phases of construction, which would be fine. The outstanding issues that were mentioned that were technical would just be to consider reducing the length of the new internal walkway on the property and to remove the sign from the site plan. Everything else has been recommended to be approved and we appreciate that. There are precedents on Prosperity Church Road for within approximate mile radius of daycare facilities. There is Countryside Montessori School just north of the property that actually backs up to a subdivision called Stone Park and one of the concerns we had at the community meeting was that the property values would decrease if it backed up to a daycare or childcare facility. We did some research on the property values there and compared Stone Park Drive right off of Prosperity Church that backs up to Countryside Montessori School and compared the side of the street that backs up to the daycare facility compared to the other side of the street and didn't find any significant change to the values of the homes. There is another daycare facility called Rainbow Childcare Center that was mentioned; it is nearly right across the street for a childcare facility. We feel that this is in line with the precedent that has been set on this road and we feel like it meets the need for the community. The staff does recommend the approval of this petition upon resolution of the outstanding issues and we are willing to resolve those issues.

Alan McDonald, 10010 Gardendale Court said we understand the urban development and the challenges with developing the area around our community. It is a unique piece of property which is being developed because it does not really fit into the R-3 that is currently there. Our biggest problem is not so much with the fact that they want to change the zoning to INST (CD) as it is with the lack of proving the analysis on the infrastructure. I think what we have to look at

specifically; the access to this particular piece of property has a very narrow driveway, there is no egress into this property and you are on a fast moving four-lane highway, Prosperity Church Road, and any of you that are familiar with that road, the speed limit is 40 mph, but it is not uncommon for cars to be going in excess of 45 to 50 mph at times. Without any prior notification, I think we run into safety issues as a parent, client, and child or children turning in here without any advance notice that they would have to make a full stop and anyone speeding behind them, it creates a situation for a possible accident. I think it is known that CMPD has had several occasions to have to set speed traps along Prosperity Church Road just because of the problem of speeding. The other issue we have with this particular access to this site is traffic congestion; between White Cascade, which is Winchester, and down to Pinewood Lane is two tenths of a mile, of which this site is located in the middle. We currently have three residential communities, three commercial buildings and one existing daycare, being Rainbow Daycare, that all have to travel this particular section of road. Some of the communities and businesses have right access only onto Prosperity and have to use a turn-around in order to go in the other direction. The increased traffic slowdown will become difficult for Prosperity Church, Winchester and possibly Pinewood Lane to access Prosperity Church Road should there be any slowdowns due to the current situation if it is not improved for these folks to be able to get into the site. For example you will get the slowdowns and the stacking occurring heading south, you will then get the stacking occurring during the rush hour coming back as the turn lane will be too much to accommodate all the returning people using that turn lane including Prosperity Point, people and clients going back to the daycare and people turning left into Winchester. This could create a situation where the northbound lanes will also be stacked up and therefore you have additional problems of traffic congestion.

The Transportation Planning sites an additional 180 trips to this particular site without any CDOT issues and the primary concern that I'm talking about here is I don't understand why CDOT doesn't see any issues because it is a short span of space and yet there is nothing to accommodate the alleviation of a possible accident for us to get out of our communities. If the property across from Prosperity Church, which is currently zone R-17 multi-family, is developed then we are looking at a potential gridlock and that is going to become very undesirable for our community and possibly those on Pinewood Lane and maybe even Winchester. There are other minor situations that were addressed in the community report including noise. People work from home and those properties abutting this property; we've got a commercial dumpster in there and the petitioner said he would move to the middle, but that was not in the revised plan. We wonder about the viability of the project itself namely we've got a daycare that was supposed to open approximately 1/2 mile down the road. It has never opened; it has been closed and vacant for five years and then we have the Rainbow which is only 1/8 of a mile away. They are at 70% capacity and they think some of the other daycares in the area are struggling. Currently, I don't know what the projected forecast looks like. Putting all that together and the lack of analysis being done on the traffic situation create negative impact of undesirability for our neighborhood and are not conducive to the coalition plan.

Theresa Rosa, 6428 Stargaze Lane said I got a call a few days ago about looking at the rezoning for this particular property and I wasn't really familiar with where it was and I started to take a look and I realized that where this particular property was, there is actually a lot of traffic there. It is one of the spots where when my teenage daughter started driving I told her to avoid crossing this intersection because it is dangerous. I don't like her trying to cross those many roads and I started paying a little more attention to the traffic that was coming through there and have witnessed two almost accidents from people trying to make a U-turn to turn around into that intersection. I am fortunate enough that I am past the daycare years thankfully, but I can imagine that people from my work coming to that daycare, and I think it is admirable that we have another daycare, but coming to the daycare and having to make a U-turn and when you've got the potential for I don't know if we say 1.5 kids per person, that is about 40 cars potentially making U-turns. That is a little scary. The traffic there is an issue.

Sara Zdeb, 7329 Avonhurst Lane said as you know Theresa and I are kind of like Thelma and Louise up in the Prosperity/ Hucks area so we are always back to back. Just a couple things I wanted to take note; one he has mentioned that there is already a daycare that has not opened. They have struggled with that property for a number of years and that was prior to the recession that we had issues with that property. Rainbow has also had numerous owners to it where it has

struggled significantly. That particular area does get a lot of extra traffic; that side where you see White Cascade that goes down, that connects to another larger neighborhood Wellington, and that actually goes all the way through down to Sugarcreek. So you are talking about a number of cars if they work in the URP are cutting through that area. The number of cars that come out and make the right-hand turn either right before or right after that institutional is extremely heavy during our regular work flow hours and that is mostly when those people would be dropped off. As a mother with three children, making the U-turn to me would be very – it just wouldn't be safe. As a realtor, Stone Park is an extremely small neighborhood to take samples from. I believe there are maybe 40 homes in there so when you are looking at a street that has maybe five to ten homes and you are comparing it to a street that has the majority of 25 homes, I don't think there would be enough of a comparison and I'd like to find some other examples.

Debbie Varn, 10100 Prosperity Point Lane said you guys have a very difficult job and I respect that. I want to thank Councilmember Phipps for his help. I've been doing research on this as I am a scientist type of girl and I've been researching this heavily and what I'm not seeing are the studies on pedestrian traffic and there is a lot of foot traffic there and I'm very concerned about that. If you look back at Prosperity Point there is a senior citizen development there and I counted probably ten near misses where the wheelchairs are crossing four-lanes of traffic. One was two Saturdays ago, her wheelchair stopped; someone put their groceries down and went over and pushed her across. I think your job is tough, but we have to consider in these plans for grocery stores and malls how are these people going to get around and be safe. I'm just not hearing that and with daycare; I've lived near one and you will have all the security in the world, but a child will run across the street and how are you going to prevent that without the proper controls in place. You did a good job of presenting it, but I didn't hear the security controls or the pedestrian traffic controls or any of the controls that are going to make it really safe.

In rebuttal Mr. Patterson said Alan and Debbie it is good to see you both again. I know we can still be friends even though we might disagree on some things. We by all means want to try to create a facility that would be beneficial to your neighborhood, not be detrimental. We want to work within what you are wanting if at all possible. We don't want to be disagreeable; we may disagree but we don't want to be disagreeable so I hope that makes sense. With regards to the traffic, we will be willing to cut in, if the City would allow it, we would be willing to cut in a turn lane. There is a small area where we could cut in a turn lane that would help with the traffic flow; right at the top there is an area of 29 ½ feet that we could cut in to make a turn lane. That is number one; number two the concern about the traffic in general, just to keep in mind this isn't a preschool or elementary school where everything starts at the same time and ends at the same time. When I take my girls to school I know what that is like, you are standing and waiting in traffic because everyone is going in at the exact time. With a daycare facility such as this one, it would open at approximately 6:00 a.m. and close at approximately 6:00 p.m. so there would be people dropping off from 6:00 to 9:00 and then picking up from 4:00 to 6:00. There will be a lot of varied traffic; it wouldn't be all at once so that is something to keep in mind.

Councilmember Barnes said Mr. Patterson, thank you for your time and thank you to everybody who spoke tonight. Mayor, before I hand it back to you I would say that I've seen some faces tonight that I haven't seen since before the recession which indicates that the rezoning business is back and we will probably be here until midnight, at least so thank everybody for coming.

Councilmember Fallon said have you ever run a daycare before?

Mr. Patterson said no.

Ms. Fallon said do you understand what plucking is for parents and they don't all come; they drop them at 6:00 and they take them at 6:00 or 7:00 and the traffic backs up into Prosperity on the road. If you have never run on you don't know what it is like. It is not a school; it doesn't go home at a certain time, it is constantly running. It is a bad place to put something like that.

Councilmember Lyles said Tammie I would like to have some response from C-DOT on the issues around the traffic and the count and how that works in the follow-up report. I don't have to have it tonight, but I saw the no comment, but now that we've heard what the citizens have

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said about it and the petitioner has said about his plans, if we could have a follow-up report that would be appropriate.

Ms. Keplinger said we will be glad to get that to you.

Mr. Barnes said I have some concerns about the land use itself. It is R-3 currently and I think there are some infrastructure deficits in the area that would create some of the safety issues that some of opponents of the petition raised. This will be a struggle for me to support and I wanted you to know that. There is, as someone indicated, a daycare that has been closed for a while west of you and I don't know why, but I think from a safety perspective; my wife and I just stopped stoking a check for three kids on a weekly basis for daycare and thank you God for that. Anybody who has paid tuition to a daycare lately knows what I'm talking about. I respect what you are trying to do Mr. Patterson, but the location for me, that use at that site concerns me.

Mr. Patterson said this is 3811 Prosperity Church Road and my wife and I drove by there and it is bank owned currently and it is in terrible disrepair. It was on the market and it says it was originally built for a daycare center but the listing never states that it ever was. I think one of the main reasons that it never got off the ground so to speak is because if you've driven by there, maybe you have driven up to it, it is up on this huge slope and it scary to drive up it and I imagine driving down as well. You've got little kids in the car and if it is raining you scared of sliding, especially if it is snowing. There is no great turn around area, it is just regular parking; it is just not set up well for a daycare. I don't know the history and all the details, but just in driving up there and looking at it we would never want to send out kids there either. I don't know if that is really – feel free to have your opinion, but I don't see that as being something up our alley at all, I feel like that is kind of an unusual property that isn't a good comparable.

Mr. Barnes said he mentioned that the other property is in disrepair, could we ask the Manager for a report from Code Enforcement regarding the condition of that property please, 3811 Prosperity Church.

Councilmember Phipps said I still have some serious issues from a transportation standpoint. I just met with some constituents in adjacent neighborhoods concerned about existing cut through traffic even without this proposed daycare center. But, what I wanted to know is, I notice this house that you want to use for this facility is about 31 years old right now so what are your plans to retrofit that house for commercial purposes for a facility like this?

Mr. Patterson said we really haven't gotten that far with it yet. We are just trying to get the zoning revised first and then we will consider that.

Mr. Phipps said is this property a part of an HOA?

Mr. Patterson said no.

Mr. Phipps said will you be engaged in transport activities from this center to pick up various kids from schools and such as that? Do you foresee that as a part of your business model?

Mr. Patterson said it is possible, we haven't spent much time on that but it is certainly an option.

Mr. Phipps said you also say that the current capacity right now is 60 but you have potential to add capacity in the future. What would you think would be the maximum capacity for the facility?

Mr. Patterson said we have no plans to add anything larger currently, so 60 would be the max; we don't have any plans for increasing that.

Mr. Phipps said I'm pleased to meet you tonight; this is my first time meeting you and I'm a bit surprised given the petition but I'm sure that before we get to the vote that we will have an opportunity to talk.

Mr. Patterson said okay, I look forward to it.

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Councilmember Howard said in addition to the questions Ms. Lyles had about traffic, the petitioner mentioned something about the potential of doing a curb cut and if I remember right Prosperity Church is a State road so a curb cut would be highly unlikely. As a part of that analysis from CDOT some understanding about whether or not a curb cut is even possible would be something I would like to know. I'm saying it wrong, a median cut, is what I'm talking about.

Mr. Patterson said I was speaking about right before you turn you would turn right; if you are coming from the top of the screen and you were going to turn right, rather than stopping in that second lane you would cut over into a turn lane that would allow the traffic to continue on.

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

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ITEM NO. 18: HEARING ON PETITION NO. 2014-051 BY EASTGROUP PROPERTIES, LP FOR A CHANGE IN ZONING FOR APPROXIMATELY 28 ACRES GENERALLY LOCATED ON THE EAST AND WEST SIDE OF GABLE ROAD BETWEEN SHOPTON ROAD AND I-485 FROM R-3 (SINGLE FAMILY RESIDENTIAL), I-2 (GENERAL INDUSTRIAL), AND I-2(CD) (GENERAL INDUSTRIAL, CONDITIONAL) TO I-2(CD) (GENERAL INDUSTRIAL, CONDITIONAL) AND I-2 (CD) SPA (GENERAL INDUSTRIAL, CONDITIONAL SITE PLAN AMENDMENT).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said I want to orient everyone; this is South I-485, the Tanger Outlets are located just off our map, there is a shopping center here that is not fully developed, it has drug store and some small shops but the major tenant has not yet developed. In 2013 we had a rezoning for this portion of this site; the request that is before you tonight is for the area that is shown in the hatch marketing and it does include a little piece of the property that was rezoned in 2013. On this property there are several single homes and there is vacant property. I will tell you that I believe when the petitioner's agent comes before you in a few minutes that he is going to reduce the size of this rezoning considerably.

I would still like to go through the site plan that we have on file for this petition. It allows up to 600,000 square feet of industrial office distribution and warehouse uses. It is considered a Phase II from this development considered Phase I. It provides buffers along the abutting and across the public rights-of-way from adjacent residential properties. You can see Phase II, again this is the portion that is being incorporated into this site and Phase II-B. The developer has provided elevations for us; the elevations show the gable road frontage, the overall building elevation frontage and this is the enlarged front elevation.

In terms of the land use plan the Steele Creek Area Plan which was adopted in 2012 recommends this property for industrial warehouse and distribution uses due to its proximity to the Airport and to I-485. For that reason staff is recommending approval of this petition upon the resolution of the outstanding issues and those outstanding issues are basically related to some Engineering and Property Management issues and other technical issues.

John Carmichael, 101 North Tryon Street said I am here on behalf of Eastgroup Properties and with me tonight is Mr. John Coleman of Eastgroup. The area labeled as Phase I on the rezoning plan is not part of the rezoning request; that is a 43-acre site that was rezoned in 2013 to I-2(CD) to accommodate the development of Steele Creek Commerce Park which is a Class A office warehouse and distribution park that is being developed by Eastgroup. Under that plan six buildings are to be constructed and four are constructed as we sit here tonight. Because of the success of the park Eastgroup desires to expand a building here that was planned for Phase I and have a second phase that would have a single building, this building here right next to I-485. The petition that is before you tonight encompasses 48 acres and asked for 600,000 square feet

of floor area on the east and west side of Gable Road. We are withdrawing all of the property on the east side of Gable Road from this rezoning request so now the rezoning site is 19 ½ acres approximately that consist of seven of acres in Phase I that is subject to a site plan amendment request and a new site that is about 12 ½ acres that we are seeking to rezone to I-2(CD). The size of the expanded building here would be a maximum of 150,000 square feet; the proposed new building would be a maximum of 160,000 square feet. I do want to clarify the building elevations; we noticed an error today. The rear of building six which faces the berm and Gable Road would be substantially similar in appearance to the elevation that Mr. Coleman is going to point out to you. That is the rear elevation that was approved for building six under the original rezoning back in 2013, so the rear elevation will be consistent with the elevation that was approved about a year and a half ago. The front elevation of building six would actually be the loading area and an elevation was not required for that because that is entirely internal to the site. With respect to the I-485 front of the building in Phase II it would look like this and that is consistent with the elevations that were approved in 2013. Alternatively with respect to building six we would like the option to have vehicular parking in front of building six and if we do then the front of building six facing Gable Road would look like this. We would not have truck circulation between building six and gable road.

I would like to say that we've made three changes or will make three changes to the plan as a result of our neighborhood meeting. The first is construction traffic will be prohibited on Gable Road; construction hours are limited to 7:00 a.m. to 7:00 p.m. except when the slab of the building is poured because that has to be in the cool morning or evening hours. Finally a portion of the berm along Gable Road will be 50-feet in width and trees will be preserved.

Councilmember Phipps said I notice in the notes that Engineering and Property Management had some concerns about a conflict created by Storm Water Management facilities located over sanitary sewer but Charlotte Mecklenburg Storm Water Services had no issues. I was wondering how do we reconcile that, is it that Storm Water Services does not share the concerns of Engineering and Property Management or what?

Ms. Keplinger said Mr. Carmichael has informed me that that conflict is actually on the site that is going to be dropped from the rezoning petition so that will no longer be an issue.

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

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ITEM NO. 19: HEARING ON PETITION NO. 2014-055 BY ANDREW KLENK FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.23 ACRES LOCATED ON THE EAST SIDE OF NORTH DAVIDSON STREET BETWEEN 33RD STREET AND EAST 34TH STREET FROM R-5 (SINGLE FAMILY RESIDENTIAL) TO MUDD-0 (MIXED USE DEVELOPMENT, OPTIONAL).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said this petition is on North Davidson, just south of East 34th Street. The request is to rezone to MUDD-O District; you can see from the aerial there is a single family home located on the site. In terms of the proposal it will allow a 4,500 square foot eating, drinking and entertainment establishment. The proposal is to renovate the existing home which is approximately 1,500 square feet. There is also a creation of a shade garden, a 500 square foot courtyard in this area, outdoor dining area; there will also be a new walk-in cooler and roll-out dumpsters for storage. There are two optional requests that are associated with this petition; it is a reduction for the setbacks from 14-feet to 12-feet and that is for the existing home and to allow the existing four-foot planting strip and 3 ½ sidewalk to remain. Those optional requests are consistent with some of the others that we've had in this area recently. The building additions are to be residential in nature and you can see this is the outdoor dining area and the new addition for the indoor dining area, but there are architectural commitments for building materials, roof pitch and retention of the residential character.

In terms of the future land use plan this is within ½ mile walk of the 36th Street Station; the Blue Line Extension 36th Street Area Plan from 2013 recommends transit oriented development for this site and for those reasons staff is recommending approval upon the resolution of the outstanding issues. There is a parking issue that we are dealing with. I spoke with the petitioner's agent today and we believe that has been resolved so we think everything will be resolved before the Zoning Committee.

Chip Cannon, 1318 Central Avenue said I wanted to follow-up Ms. Keplinger's presentation with a couple of items. I did speak with her this afternoon and I think we can take care of the parking issue and concerns. We are already working through the rest of the comments with staff and internally so we can address all the concerns. We did just receive a letter of support from the neighborhood association and I was copied on that e-mail to all of you guys so if you have any questions we would be happy to answer.

Councilmember Howard said why not TOD and why MUDD

Ms. Keplinger said because they needed the optional districts and we have gone with the MUDD District in this area on several of these types where we have existing single family homes. It is a district that allows them to be less non-conforming.

Mr. Howard said is this something that we should be changing about TOD then to make it so it will do this. I thought that we were doing MUDD up to this point, one because it is NoDa, but because we didn't have a Station Area Plan. Now that we have a Station Area Plan I kind of figured we would start moving to TOD to make it more consistent to what we want for TOD.

Ms. Keplinger said we have seen some TOD in this area, but on a lot of these rezoning where we are trying to preserve the existing single family homes and reuse those, the MUDD District works better.

Mr. Howard said should we be looking at TOD so it does the same thing around transit areas?

Ms. Keplinger said we will follow-up with that on the follow-up report.

Councilmember Lyles said we received a letter from the Neighborhood Business Association earlier today and there were two points specifically around the streetscape design as well as noting when the dumpster pick-ups were and garbage pick-ups were. Have you gotten a copy of this letter or noted it? I will be glad to forward it to you. I think it is generally in support but wanted to pay particular attention to the streetscape vision from the Station Area Plan which I don't know if applies to Mr. Howard's point about TOD versus MUDD, but I think important to the overall continuity of the plan.

Councilmember Phipps said I was just curious about you said you had gained a better comfort level with the parking situation because the notes in my view contain language that is pretty cryptic about the veracity of the parking situation in NoDa and understand reading certain media reports that they even have entered into an agreement with Uber to help with the parking situation. How have you gained a comfort level with the parking situation?

Ms. Keplinger said after my conversation with Mr. Cannon this afternoon I became aware that the petitioner has a contract with the adjacent property owner which is Rasqh Shaiheed who came in not too long ago for a rezoning and they would be renting that entire property or leasing that entire property and have a parking agreement with them. We haven't seen the parking agreement yet, but it is supposed to be a long-term five-year minimum lease and we are hopeful that will meet the qualifications and resolve the parking issues.

Mr. Phipps said what is the exact seating capacity of this proposed facility?

Mr. Cannon said we still haven't nailed down the exact number, but it is around 125 to 130 seats both indoor and outdoor.

Councilmember Mayfield said number 14 on outstanding issues which is the request to provide at least two bike parking spaces that are long-term which means either under a roof or in bike lockers. Last week Councilmembers Lyles, Autry and I were a part of a bike tour and it was noted then the lack of spaces for bikes. I'm trying to figure out if this is even going to be adequate because if you actually drive through this area you see a lot of people are utilizing, not only v-cycle but their own personal bicycle so I am just wondering if this is an actual space or are we talking about that metal bar that is curved that you can put multiple bikes on. If we are looking at our PED Overlay and trying to be friendlier for those that are getting out of vehicles I'm trying to figure out what exactly are we looking at; is it a space or is it that bar?

Ms. Keplinger said the note in the agenda basically says they have to long-term which they either have to be under roof or in bike lockers. There are two types of bike parking, short-term and long-term and Mr. Cannon and I actually had a conversation about this earlier this afternoon and if I may I would like to defer to him to tell you a little bit more about the bike parking.

Mr. Cannon said in keeping with the character and the vibe of the neighborhood we are actually providing eight short-term parking spaces for bikes. I think the neighborhood was very supportive of that and was glad to hear us say that we were far and above exceeding the City standard.

Mr. Mayfield said so the answer is eight short-term and no long-term?

Mr. Cannon said we've got eight short-term and per Ms. Keplinger's request we will add the two long-term for sure.

Ms. Mayfield said so we will have both; okay.

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

Mayor Clodfelter said another gratuitous comment from your Mayor pertinent to Mr. Howard's question; TOD, TOD-E, TOD-M, TOD-R, U-MUDD, U-MUDD-UR, O-MUDD, MUDD, I think it is one of the symptoms of why we need a comprehensive re-write of our Zoning Ordinance because we've got far too many zoning categories and it makes it very difficult for citizens to figure out what the differences are and it is not very transparent. It means they have to hire lawyers. We need to think about simplifying our Zoning Ordinance when we re-write it.

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ITEM NO. 20: HEARING ON PETITION NO. 2014-073 BY BRAZWELLS PREMIUM PUB FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ALLOW OUTDOOR DINING IN THE SETBACK OR YARDS IN A VARIETY OF ZONING DISTRICTS AS AN ACCESSORY USE WHEN ASSOCIATED WITH AN EATING, DRINKING AND ENTERTAINMENT ESTABLISHMENT, WITH PRESCRIBED CONDITIONS.

Mayor Clodfelter declared the hearing open.

Sandra Montgomery said this is actually a Text Amendment that was brought before us from Brazwells Premium Pub. I will give you a brief overview and then I think the petitioner is here also. This Text Amendment would allow outdoor dining as a permitted accessory use on private property when associated with an eating, drinking and entertainment establishment with prescribed conditions. The location for the outdoor dining would be on a patio at grade, no supporting roof structures and it would be on private property, not on the sidewalk, behind the sidewalk and out of the public right-of-way. If there is no sidewalk in a certain area then it would have to be at least 10-feet from the existing or future back of curb. Parking for the outdoor dining area would be calculated in the parking requirements unless there are exceptions noted in the district such as in PED. The outdoor dining could encroach into the setback in yards based on the type of public street frontage along either the front or the side. It could encroach

100% in local streets and collector streets and I've given you some examples of local and collector streets; 75% on minor thoroughfares or arterials and 50% on major arterials. It would also be allowed to encroach in the public right-of-way but only if there is an encroachment agreement with C-DOT approved. All prescribed conditions associated with the eating, drinking and entertainment establishment would have to also be met. That text amendment we did a month or so ago. Staff is recommending approval of this petition and it is consistent with the Centers, Corridors and Wedges Growth Framework to provide a range of choices for entertainment and employment.

Mayor Clodfelter said would this allow any modification of the required separations and distances that were approved just recently?

Ms. Montgomery said no, those would have to be met; it just allows some outdoor dining on private property as an accessory use.

Councilmember Phipps said how would this particular text amendment apply to the hearing that we just closed on that eating establishment or would it apply?

Ms. Montgomery said it is complimentary to it; it is just saying that outdoor dining is a permitted accessory use on private property so it could encroach into the setback where we've said before it can't go into the setback or the side yards. Now we are saying it could go in there on private property under these conditions. I guess just street level; it is at patio at grade.

Mayor Clodfelter said that encroachment could occur even if the establishment bordered a single family residence; it would allow encroachment into the yards and setbacks.

Ms. Montgomery said not single family; it would have to be zoned for eating, drinking and entertainment establishment.

Mayor Clodfelter said not the neighboring property?

Ms. Montgomery said no, it would have to be on the same property as the eating, drinking and entertainment establishment.

Mayor Clodfelter said I understand, but the yard separation separates you from an adjoining single family residence, could you encroach into that yard right next door to the single family residence?

Ms. Montgomery said no, it is only on the side that is adjacent to a thoroughfare or collector street.

Mayor Clodfelter said only on the side adjacent to the public street.

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

ITEM NO. 22: HEARING ON PETITION NO. 2014-080 BY CAMPUS WORKS MALLIE COLAVITA FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.50 ACRES LOCATED ON THE EAST SIDE OF HAWTHORNE LANE AT THE INTERSECTION OF HAWTHORNE LANE AND SEABOARD COAST LINE RAILROAD FROM I-2 (GENERAL INDUSTRIAL) TO B-2(PED) (GENERAL BUSINESS, PEDESTRIAN OVERLAY).

Mayor Clodfelter declared the hearing open.

Tammie Keplinger, Planning said this is a request that is right off of Central Avenue and you can see the railroad runs along this curve and this is our site. It is currently zoned I-2, but it is

separated from the rest of the industrial area by the rail line. The request that is before you tonight is to rezone this area to B-2 (PED); it is a conventional rezoning so there is not a site plan that goes with this petition. In terms of consistency with the land use plan the Belmont Revitalization Plan that was adopted in 2003 does recommend industrial land uses for this site, however staff is recommending approval of the petition although it is inconsistent we feel that it is appropriate for industrial uses, it is separate from the existing industrial land uses by the railroad track as I showed on the map. The requested district is consistent with the zoning that is adjacent and the development pattern that is abutting the property. Of course there are no outstanding issues.

David Malcolm, 11301 Carmel Commons said we just wanted to make sure that we did speak in favor since Councilmember Kinsey is not here tonight; this is in her district. If anyone has questions tonight we are certainly here; myself and Mallie with CW Development to answer those questions. It is a conventional rezoning, as you know a couple things we will point out, it is just ½ acre if you've noticed the tract of property. There is also a railroad easement that is to the northeast of this property which renders almost half of that property undevelopable due to that right-of-way through that property. By capturing this and bringing it into the PED Overlay District B-2 it sort of makes it consistent with the adjacent development and zoning, otherwise if development were to occur in the other portions of that property adjacent it would render that sort of as hard piece to develop overall. I just wanted to point that out.

Councilmember Phipps said what exactly are the plans for the property?

Ms. Keplinger said I'm sorry it is a conventional case so the petitioner is not allowed to indicate what the plans for property are. The Council has to consider all uses that are allowed in the B-2 (PED) District.

Mr. Phipps said some examples of what is allowed because I notice it said to allow all uses, so the Belmont Community not interested in any restrictions on what kind of development that can be there.

Ms. Keplinger said again it is a conventional request and that is how the application was filed, so there are no conditions on the types of uses that could not be. It is just all uses allowed in the B-2 (PED) and B-2 is a general business district which allows office, retail, residential, a multitude of uses. The PED does have restrictions and of course as you know when you are in a PED District you have certain architectural restrictions that you must go by, so there will be the PED review of any development that occurs on the site.

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

ITEM NO. 23: HEARING ON PETITION NO. 2014-081 BY PROVIDENT LAND SERVICES FOR A CHANGE IN ZONING FOR APPROXIMATELY 391 ACRES GENERALLY LOCATED ON THE EAST AND WEST SIDE OF AMOS SMITH ROAD, SOUTH OF OLD DOWD ROAD AND SOUTH OF THE SOUTHERN RAILROAD IN THIS AREA FROM MX-2 (INNOV) (LWCA) (MIXED USE, INNOVATIVE, LAKE WYLIE CRITICAL AREA), MX-2 (INNOV) (LLWCA) (MIXED USE, INNOVATIVE, LOWER LAKE WYLIE CRITICAL AREA) AND NS (LLWCA) (NEIGHBORHOOD SERVICES, LOWER LAKE WYLIE CRITICAL AREA) TO MX-2 (INNOV) (LWCA) SPA (MIXED USE, INNOVATIVE, LAKE WYLIE CRITICAL AREA) TO MX-2 (INNOV)(LWCA) SPA (MIXED USE, INNOVATIVE, LAKE WYLIE CRITICAL AREA, SITE PLAN AMENDMENT), MX-2 (INNOV) (LLWCA) SPA (MIXED USE, INNOVATIVE, LOWER LAKE WYLIE CRITICAL AREA, SITE PLAN AMENDMENT), AND NS (LLWCA) SPA (NEIGHBORHOOD SERVICES, LOWER LAKE WYLIE CRITICAL AREA, SITE PLAN AMENDMENT).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said back in 2005 we had a rezoning for basically this area of land and the rezoning allowed approximately 1,030 residential units, 70,000 square feet of office or school uses and 30,000 square feet of retail. The retail is in this area, the office area was here. I want to point out that this is not part of the site. As you can see some of the development has already occurred in this area, some of the residential development; and the request that is before you tonight is to allow a change in several ways for this rezoning. First of all I want to highlight the areas that are to be rezoned so if you watch the map you can see those are the areas that are to be rezoned. I want to go back and talk about those a little bit. The request will still allow 1,030 residential units, the 70,000 office or school is being removed, there is a reduction specifically in Area A, which the townhome number is going from 262 to a maximum of 90 so most of the residential units that will be in this area will be single family. They have also added common docks for many of these different areas.

The amenity areas and architectural standards are also amended. They are also modifying the transportation improvements; one of the big modifications there is in 2005 there was a bridge, a second bridge that was to cross Amos Smith Road and with this modification, the site plan amendment that bridge is no longer to be part of the rezoning. The request also modifies the innovative for this site which include cross sections for several of the streets, the location of planting strips and sidewalks and a ten-foot multiuse trail.

I want to go back and talk a little bit about the future land use map. The future land use map calls for this area to be residential. As you can the property is all colored in green which is the single family residential category. This is consistent with Dixie/Berryhill Strategic Plan recommendations; there are several outstanding issues that are minor in nature and some are technical, but staff is recommending approval upon the resolution of those issues.

Tom Waters, 6707 Fairview Road said I'm with Provident Land Services, representing this petition. I want to introduce our team that is here with us this evening; we have Jonathon McCall with Provident, Keith MacVean with Moore Van Allen, Shawn Tooley with Land Design, Justin Carroll with STV, Inc., Charlie Carroll with Turnstone Group, Norma Arnold, resident of the Vineyards, David McCord with E. L. Horton. I want to thank the staff and the neighbors for working with us over these past many months. We've made quite a few changes to the petition, basically it is outdated; it was about a 11-year old plan and now with the market we are embracing something with a little less width on some of the lots. We want to eliminate all that heavy density at the front entrance and disburse that back and allowing us to adjust some of the off-site road improvements then lets us bring some of those financial resources much sooner in the project to add some road improvements off-site and do some things within the community that are much needed.

Norma W. Arnold, 9046 Carneros Creek Road said I am here to speak on behalf of the petition of the 2014-081, the rezoning of the 391 acres located east and west of Amos Smith Road. I live in the Vineyards on Lake Wylie in the Nappa Neighborhood. I have been appointed by the Advisory Board of the Vineyards on Lake Wylie Homeowners Association to work with Mr. Waters on the rezoning petition. Mr. Waters and the staff met with representatives of the Catawba Colony, River Walk Plantation and Mrs. Adrian Lunsford and myself for the Vineyards. As a result of these meetings Mr. Waters has taken into account the ... suggested by the various neighborhood associations. The revised rezoning plans have incorporated many of the association's suggestions. One such suggestion is to include a Class C landscape buffer between Phase I and the current homeowners of Nappa Neighborhood. Other suggestions that have been incorporated are the improvements to Amos Smith Road, including a five-foot sidewalk along Amos Smith to Midsummer's Road. Signage to be erected along Amos Smith Road to warn of a dead-end and there is no turning space for large trucks.

Mayor Clodfelter said Ms. Arnold I take it that the suggestions that you and others have made are now been incorporate into the plan. Is that correct Mr. Waters?

Mr. Waters said yes, we've incorporate most all of those and we will be meeting with staff this week in hopes of figuring out the others.

Mayor Clodfelter said I'm sorry your time ran out but I think what we understand is what we see on the paper here is what you all have agreed to. Is that correct?

Mr. Waters said right.

Councilmember Lyles said Mrs. Arnold talked about representation from the Vineyards and we've also gotten letters from the two additional homeowners associations. One of the things that I'm not sure to ask whether or not this is something, but in the petition in 2005 there was a second bridge that was supposedly recommended and approved and included in that and it was noted in the letters from those two neighborhood associations the concern was fire access. In the notes that we received it said no comments by the Fire Department so I think one of the things that I'm looking for is reconciliation between those and I'm not sure if that is your question or the staff's question, but somehow there is some issue around access for equipment for the homes that are going to be built. That is one follow-up question that I would have about the change and I didn't note it; I have your handout here and it didn't note, it says 2005 rezoning and I guess that traffic improvements, but is there a second bridge and why not if not?

Mr. Waters said the second bridge is what we are asking to be removed. We've met with the Fire Department, we've met with representatives of NC-DOT and C-DOT and based on the change in some of the uses within the community we are no longer doing the office building, no longer doing the school site, the traffic generation does not necessitate the second bridge. What we have done is applied to Norfolk-Southern Railroad for an emergency at grade crossing. We are totally at their mercy if they grant that or not, but we've made plans for putting an at grade emergency access only crossing in lieu of the second bridge should Norfolk-Southern grant permission to do that. We met with the Fire Department and they say they basically need a 20-foot wide bridge to be able to access the community; ours is 34-feet wide.

Ms. Lyles said so you have a bridge for the access included in the plan or not?

Mr. Waters said no ma'am; the existing bridge has been there for a number of years, a single bridge 34 feet wide.

Ms. Lyles said so when we talk about bridges and maintenance and equipment versus vehicular traffic versus fire trucks that is something we really need to make sure that we do right and we need to do it right before we build in my opinion. I would like to get some additional information about that. There are a number of other things that are included from the two other neighborhood associations. Instead of taking the time to go over that, since you are meeting with the staff to go through that I'm going to send those notes to the staff so they can have it and walk through it and I would like to see a response in the follow-up as you address those.

Mr. Waters said I will be happy to; those that you have are letter responses from many, many meetings with both of those neighborhood groups so we will be happy to follow-up with that.

Ms. Lyles said I have to note that they do signify the approval overall of the plan and your cooperation with them is very much appreciated and they said that so much in that letter. There are a couple of things that are outstanding and I would like to see a response to those items.

Councilmember Barnes said a couple of issues, one this area is currently served by volunteer fire and not CFD, correct?

Mr. Waters said there is a volunteer fire department.

Mr. Barnes said but it is not served by Charlotte Fire Department generally.

Mr. Waters said right.

Mr. Barnes said one of the issues some of us talked about earlier today are whether this area is within one of the nuclear power plan emergency zones. Do you know whether it is?

Mr. Waters said I do not.

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Mr. Barnes said the issue for me is that if it is should there not be an additional access point to the area, and again I'm not going to – Mr. MacVean and I operate well on exchanging information so if you guys could just coordinate that response back to us that would be fine instead of responding tonight. Just whether there are some concerns about emergency access and the Norfolk-Southern route would be helpful to you but we know how difficult they can sometimes be on issues. Also we had a lot of community concern about silt in the lake itself as a result of development. Give us some feedback regarding the nature of silt fencing or whatever you guys may use to prevent serious run-off into the lake if it is approved and I don't know whether it will be approved or not, but if it is approved, as you get into construction and clearing the land how you would deal with the water quality issues.

Mr. Waters said one of the merits of our cases from nine years ago, the Post Construction Ordinance, was non-existent. We want to bring the community up to standard within the Post Construction Ordinance Storm Water Requirements which require on-site water detention, water quality treatment so we are bringing that forth. This is in a critical water shed so all of the rules that are out there that have worked so well on some of the other water sheds are in place, the twin silt fences, all the different things that are part of that. It is fairly exhaustive, that list, but we would comply with all of those ordinances.

Mr. Barnes said I think one of the concerns we heard from the other group was they thought some of those protections had been in place then too and they didn't work. We need you guys to kind of help us figure out what should be done differently to make sure that we are not having the same problem. It was Brown's Cove, to avoid those issues. We appreciate you giving us some feedback.

Councilmember Mayfield said I do want to acknowledge that since we are looking in an area that is in unincorporated Charlotte, it is closest to District Three so I did attend the neighborhood meetings and heard the discussions from the residents so I do appreciate the fact that you are listening to the concerns. As far as the comments made by colleague, Mr. Barnes, we recently had a fairly large development where we had a lot of those concerns and they actually chose to go a step beyond with their controls and trying to insure that the watershed and that any damage could be mitigated to the greatest ability and you actually had run-off that was clearer than any water that you had seen. We know it can be done and it know it has been done successfully so I appreciate the fact that you are open and willing to figure out how to best develop in a community, but also reduce as much damage as possible and try to figure out how to mitigate that. Those were the biggest concerns that came out of the neighborhood meeting as to how was this going to ultimately impact the community. There is a lot of concerns regarding the traffic, regarding the one way in and out and if the fire trucks have to come in or if there is an emergency evacuation because the reality is in today's society, we don't know what will happen and if we only have one way in and out then there is a possibility that could cause some major concerns. The fact that you are listening to what the community has to say and trying to identify other ways; preferably, I would like to have two different entrances to get in and out. I'm not a fan of one way in or out or being limited to one particular access in case there is an emergency, but I am confident that you are going to work closely with staff and from the conversations that were stated at the neighborhood meeting, I'm pretty confident if we choose to move forward with addressing the outstanding issues that if the community is continuing to support then I will be able to support this project.

Councilmember Phipps said I guess I am the only one probably on this dais tonight that was around in 2005 when the original petition came before us and Councilmember Kinsey was the other Councilmember here and I think Mr. MacVean probably walked us through this original petition in those glory days of 2005 but I know we thoroughly discussed this petition because it was almost 600 acres in a protected watershed so I know these issues were carefully vetted. I'm really at a loss as to why now that we want to remove a lot of these provisions. I see a lot of removals here and I see some put backs by staff under outstanding issues where they requested some items be added back to the notes. I need to get together with possibly Mr. MacVean on a subsequent meeting to get a better understanding as to why all of these things that we thought we had carefully vetted now all of a sudden they are subject to being removed or adjusted. A school, wouldn't that be in the public interest inasmuch as you are going to be adding a lot of

residential dwellings there? I thought a school would be in the public interest, but I guess that is slated for removal and it is just a host of these items that I really don't understand so I have to gain a better comfort level on this too and hopefully we can get that before we come back for a vote on this.

Mr. Waters said we will be happy to spend time with you.

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

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ITEM NO. 24: HEARING ON PETITION NO. 2014-085 BY NEW CAROLINA INCOME PROPERTIES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.75 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF EAST TREMONT AVENUE AND EUCLID AVENUE FROM UR-2(CD) HD (URBAN RESIDENTIAL, CONDITIONAL, HISTORIC DISTRICT OVERLAY) TO TOD-RO HD (TRANSIT ORIENTED DEVELOPMENT - RESIDENTIAL, OPTIONAL, HISTORIC DISTRICT OVERLAY).

Mayor Clodfelter declared the public hearing open.

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

Tammie Keplinger, Planning said first I want to take you on a little history tour. Back in 2007 the property that I'm pointing out in the circle, 1.1 acres was rezoned to allow 52 condominiums. The density was 47.3 dwelling units per acre and that was approved based on the area plan. This property is in the historic district so it went to the Historic District Commission for initial review but it never went for final review, so the property was never developed. In 2013 a site plan amendment for that same 1.1 acres came in and they changed it from ownership to rental properties and they also modified the parking and the building layout. That time the site plan went to the Historic District Commission, but it was denied by the Commission, so in 2014, earlier this year, in February actually, this small portion .35 acres was rezoned to TOD-R(CD) to allow the development of 12 multifamily residential units and that was at a density of 35.2 units per acre. What we have before us tonight is the remaining portion of the site which is approximately .75 acres. The request of this petition is to allow the development of 12 multifamily units. You can see from the aerial there is an office in there; there is a multifamily building on the site that houses 11 multifamily units currently.

The site plan shows that they are asking for 12 multifamily units; there is a maximum height of three-stores but the height is not to exceed two and one-half stories along Euclid. They are providing landscaping and a wood fence within the buffer; they have specified building materials and they are asking for several optional requests. One is to reduce the buffer from 10 feet to five feet along this area of the property line and to increase the maximum allowed parking by 10% which will allow two parking spaces per unit and two guest parking spaces for the overall development.

You can see the elevations that they have provide; this is a view from Tremont/Euclid, this is Euclid and this is from Tremont. In terms of the future land use plan this property is located in the Dilworth Land Use and Streetscape Plan which was adopted in 2006. It was amended by the rezoning petition that was approved in 2013 which allowed 47.3 dwelling units per acre within walking distance of the East/West Boulevard Transit Station.

Staff is recommending approval upon resolution of the outstanding issues; it is consistent with the area plan, it is within a ½ mile walk of the transit station, the density is less than what is called for in the plan, but it also meets the minimum density requirement for the TOD district. The outstanding issues that we have remaining are technical in nature and we feel they will be resolved prior to Zoning Committee.

Frank Martin, 164 Cherokee Road said I'm the Managing Member of New Carolina Properties. After we announced this development I met with a group of Dilworth leaders and they were enthusiastic about this plan. I appreciate their response and I too believe that it is a better suited plan than almost any other that might have been proposed for this site. I based that on several points, first located as it is close to the LYNX Line station, this property is in the Transit Overlay District in which the City policy promotes higher density and less parking. This site is also in an area in which the Dilworth Land Use Plan recommends densities of not less than 15 units per acres nor more than 47 units per acre. At 16 units per acre this plan is at the lowest limit of density that either the Transit Overlay District or the Land Use Plan would support and includes more parking than City policy generally dictates. Secondly, this plan is for owner occupied housing, while I recognize that Charlotte certainly has a need for rental housing, I would as a neighbor prefer the long-term commitment that comes with homeownership. Finally our architects have tried hard to create a distinctive design that is sensitive to the historical neighborhood of which it will become a component. Their success is evident by the fact that on December 8th the Historic District Commission voted unanimously to approve this plan. I ask that you vote favorably for this petition to allow a community that will be low density, amply parked, owner occupied and carefully designed. We believe that this development will be a valuable long-term asset for its immediate neighborhood and for the larger Dilworth Community. I hope that you will agree.

Rick Coltan, 1912 Euclid Avenue said thank you for allowing us to voice our concerns. A lot of our concerns, and I'm curious now because again our petition was put in over two months ago I believe and it is still saying to be determined. Part of our issue was this property has been changed in zoning; I moved in after the initial zoning but when the zoning came in for the rental property we were told, even though there was a public hearing on that, that our protest petition was not applicable because it didn't have any change in density. We were concerned and again we see a change in the zoning to TOD which seems to be something that Planning wants to do all around this neighborhood and we were concerned that another project potentially could fall through and we would be stuck with elevated zoning that we had no right to protest. I agree with the Mayor, we need to clean up this zoning. I've been brought into this arcane world of zoning and have been working on this thing for months and it still doesn't all make sense to me.

I've worked with Mr. Martin and this is a much better project than the project that was previously announced and as neighbors we recognize that in some ways we are going to get something here and this is sort of the best thing we've seen come down the line. There are still a few issues that are not in the current plan and Frank has told me is going to put in the next site plan. By the time we agreed on those changes it was too late to put before the public hearing, but assuming we get issues worked out I think the neighbors can be happy with this plan. I'm hopeful that those changes will come through and we will probably remove our opposition to this plan.

Mayor Clodfelter said so you say it is a work in progress.

Mr. Coltan said yes.

Mr. Martin said I don't have any particular reply to what Mr. Coltan said; tomorrow or the next day we will submit a revision to the site plan that has some language in it that he and I have been discussing that responded to things that were a concern to him. The process has been very positive and I think those refinements slightly improved the plan, so I appreciate working with him and his neighbors on it.

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

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ITEM NO. 25: HEARING ON PETITION NO. 2014-89 BY HOPPER COMMUNITIES FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.69 ACRES LOCATED ON THE NORTH SIDE OF WEST 4TH STREET BETWEEN GRANDIN ROAD AND SOUTH

SUMMIT AVENUE FROM R-8MF(HD) (MULTIFAMILY RESIDENTIAL, HISTORIC DISTRICT OVERLAY) AND R-22MF (HD) (PED) (MULTIFAMILY RESIDENTIAL HISTORIC DISTRICT OVERLAY, PEDESTRIAN OVERLAY) TO UR-2(CD) (HD) (URBAN RESIDENTIAL, HISTORIC DISTRICT OVERLAY) AND UR-2(CD) (HD) (PED) (URBAN RESIDENTIAL, HISTORIC DISTRICT OVERLAY, PEDESTRIAN OVERLAY).

Mayor Clodfelter declared the hearing open.

Tammie Keplinger, Planning said this site is actually located in the Wesley Heights Historic District and the area that I'm pointing to, the R-22 portion, is also in Pedestrian Overlay District. In terms of this petition you can see this is the R-22 area and this is the R-8, there is an existing quadplex that is contributing to the historic district that is located on this site. The remainder of the site is vacant.

In terms of the request before you tonight it is a request to allow 45 attached residential units and the existing quadplex for a total of 49 units and that is a density of 18.2 units per acre. One of the conditions on the site plan is the petitioner wants the historic district's demolition stay which lasts for one year and will expire in June of 2015. If that expires and the petitioner wishes to do so he may replace the quadplex with three new units. The petitioner specifies the building materials; it also allows the sidewalk to meander and portions of the existing sidewalk and planting strip to remain and that is to save some of the existing trees that are significant to the area and to the site.

In terms of the future land use the West End Land Use and Pedscape Plan which was adopted in 2005 recommends multifamily land uses for this site. The Central District Plan from 1993 recommends multifamily land uses for this site and the GDP supports a density of over 17 units per acre. Staff is recommending approval of this petition upon resolution of the outstanding issues; it is consistent with the Central District Plan and the West End Land Use and Pedscape Plan. The density is supported by the General Development Policy; a portion of the site is located in a PED Overlay District which will have special controls in terms of development and have special reviews. The outstanding issues are technical in nature.

John Carmichael, 101 North Tryon Street said I've got Bart Hopper with Hopper Communities with me, Clay McCullough with Hopper Communities and Lucas Shires with ColeJenest & Stone. We are real excited about this project; I will say at least according to our math, I think without even considering the impact of the PED Overlay District, it is a density neutral project and C-DOT has said the traffic that would be generated by the existing zoning would be more than the traffic by the proposed zoning. We are happy to answer any questions you may have with respect to this rezoning request and we really appreciate your consideration.

Councilmember Austin said we had a very positive meeting with the community. Tammie, I just want to make sure, as my community people are looking at tonight's telecast, the historic designation, once we've cleared the zoning and if it is approved in November it goes to the historic district and they will make sure that everything is correct in terms of making sure that it aligns with that historic district, correct?

Ms. Keplinger said yes sir; it will have Historic District Commission review and approval.

Mr. Austin said does the community get to weigh back in on that or see designs or see elevations as a result of that?

Ms. Keplinger said there is a process through the Historic District Commission; they do have meetings that are open to the public and they can attend those meetings.

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

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ITEM NO. 26: HEARING ON PETITION NO. 2014-090 BY HSREI, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 17.66 ACRES LOCATED ON THE EAST SIDE OF MOREHEAD ROAD AT THE INTERSECTION OF STOWE LANE AND MOREHEAD ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) AND I-1(CD) (LIGHT INDUSTRIAL, CONDITIONAL) TO I-1 (CD) (LIGHT INDUSTRIAL, CONDITIONAL) AND I-1(CD) SPA (LIGHT INDUSTRIAL, CONDITIONAL, SIRE PLAN AMENDMENT) WITH FIVE-YEAR VESTED RIGHTS.

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said I want to orient everyone a little bit; this is the Cabarrus County/Mecklenburg County line and Morehead Road as some people know is Union School Road, but for the purpose of this presentation I'm going to go with Morehead Road. The request is to rezone this area mainly from R-3 to I-1(CD) which is single family residential to industrial conditional. This section of the property is already zoned industrial conditional and it is for a site plan amendment for that section with five-year vested rights. The rezoning prior to this allowed the development of this area, the property that is within Mecklenburg County line to have a maximum of 148,000 square feet of warehouse and motor sports related accessory uses and those were rezonings that were approved between 1998 and 2009.

The request that is before us tonight will allow the construction of a 150,000 square foot building in this area. It prohibits a number of the more intense uses that are allowed within the industrial district; it restricts outdoor storage on any portion of the site which fronts within 100 feet of Stowe Lane or Morehead Road, it provides buffers along Morehead Road, Stowe Lane and adjacent residential uses. This is a requirement as per the zoning ordinance when there is residential across the street. In terms of the uses that are prohibited, just to give you a few, petroleum storage facilities, medical waste disposal, rail freight yard, abattoirs, foundries or quarries are just a few of the examples.

In terms of the future land use plan, the Northeast Area Plan from 2000 recommends single family residential for this portion of the property. It recognized the existing I-2(CD) zoning for this portion of the site. The request is consistent with the area plan recommendation for industrial and a mix of retail, office and industrial uses. It is inconsistent with the recommendation for single family residential. The petition will allow for a more cohesive site plan and organization of the space for the existing complex. The outstanding issues are technical in nature and staff is recommending approval upon resolution of those issues.

Walter Fields, 1919 South Boulevard said I am representing the petitioner and I will be very brief. This piece of property is part of an assemblage that has been slowly but surely absorbing the growth and development of the Hendrix Motor Sports Complex which straddles Mecklenburg County and Cabarrus County line. You can see from that photograph where a lot of the older shops and some of the new shops are located. We have done several rezonings out here over the years to try to allow for this growth; this is sort of the last piece of the land as part of the major Motor Sports Complex. This is a building which will be used predominantly for storage; that is the initial purpose of the building. It ties up all the loose ends with the site; there are four teams there now and those operations are growing every day. There is a museum there and there are a lot other things going on. There are two minor issues with the staff; one is a technical question that I need to get them to help me understand and the other one is a jurisdictional issue in terms of application of City ordinance in the ETJ.

Councilmember Phipps said reading the community meeting notes I notice there was some mention of a proposed gathering place at the site. What can you tell us about progress in that regard?

Mr. Fields said when we turn in our revised plan at the end of this week our intention is to develop a small gathering space either on the corner of Stowe Lane down off of Morehead Road or at the corner of Stowe Lane and Morehead Road. This land has been in family ownership for a number of years and many of the family members came to our community meeting and they said we sure would like to have a place where we could go back and maybe just sit around a
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reminisce a little bit about how this part of the county used to be. The Hendrix folks said we will figure out some way to do that so on our revised plan you will see that on the site plan.

Mr. Phipps said will there be any repair facilities on the site?

Mr. Fields said I'm sorry I don't understand your question.

Mr. Phipps said repair facilities like for the cars that are there in storage.

Mr. Fields said the team shops will continue to be in their current location; the engine shop will be in its current location. There will be predominantly storage in this building, whether there is any activity that will take place in there would only be related to moving parts and vehicles in and out. There are no plans for any of the team functions, the chase shop or any of the other development RND areas to move into this building; it is going to be predominantly for storage to support all the other uses which are part of that large Motor Sports Complex.

Mr. Phipps said the comments from Engineering and Property Management speak to certain tree save requirements for city road right-of-way. I was wondering is this portion of Morehead Road city or state maintained.

Mr. Fields said the roads in this area are state maintained roads and it is my understanding that the tree ordinance doesn't apply along these roads nor does it apply to any of the properties in the ETJ. I was speaking with Ms. Hagler-Gray prior to the meeting and I know that Tammie and I have talked about it and I have spoken with the tree people today; I think some folks are trying to run down the answer to that question. It is my belief that the Tree Ordinance doesn't apply in this area, but it is important for the City staff to give us those instructions.

Mr. Phipps said I was wondering if the roads are not our responsibility how can we enforce that on a state road but I wanted to get some clarification on it.

Councilmember Howard said I always worry about when we do properties that spill over into another county whether or not we are doing coordination with that county to make sure that the uses line up, the roads line up, the requirements line up and I would just like to know that that coordination is actually and that conversation has been had.

Mr. Fields said all of this land is in Mecklenburg County so it is in Charlotte's Extra Territorial Jurisdiction. The Stowe Lane alignment is not being changed; it goes from Mecklenburg County into Cabarrus County. The development that has already occurred that straddled the line in our previous rezoning was coordinated between the two jurisdictions, not only for zoning purposes, but for building permit purposes. All of the development that would be permitted by this rezoning is completely on the Mecklenburg County side of the line so there is not anything to coordinate here like there has been in previous cases.

Mr. Howard said it kind of fits as part of the overall campus thought, so just making sure it is altogether. The only thing that came to mind was making sure, and you helped me with that by saying it is storage. I was going to ask you about noise, making sure it was coordinated so we don't get the things on our property that they don't want over in Cabarrus.

Mr. Fields said not at all.

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

ITEM NO. 27: HEARING ON PETITION NO. 2014-091 BY TIME WARNER CABLE FOR A CHANGE IN ZONING FOR APPROXIMATELY 85.3 ACRES LOCATED ON THE NORTH SIDE OF WEST ARROWOOD ROAD BETWEEN WOODKNOLL DRIVE AND RED OAK BOULEVARD FROM B-1(CD) (NEIGHBORHOOD BUSINESS,

CONDITIONAL) AND 0-1(CD) (OFFICE, CONDITIONAL) TO O-1(CD) (OFFICE, CONDITIONAL) AND O-1(CD) SPA (OFFICE, CONDITIONAL, SITE PLAN AMENDMENT).

Mayor Clodfelter declared the hearing open.

Tammie Keplinger, Planning said this is I-77 South, Arrowood Road is located right here. This is our subject property and you can see most of it is zoned O-1(CD) and there is a small portion that is zoned B-1(CD); O-1(CD) being office and B-1(CD) being neighborhood business, both conditional districts. There have been three rezonings on this property between 1987 and 1993 and there have been several administrative approvals done by staff also during that time. Currently there is an allocation for 928,000 square feet of building area for the entire site. If you look at the aerial you can see where development has occurred on this site and you can see where development has not occurred, mainly in this area. In terms of the request that is before you tonight, it is to allow all uses in the office district, the O-1 district; it increases the allowable building square footage by approximately 260,000 square feet so the total building square footage would not be approximately 1.18 million square feet. It allows three new buildings and two new parking decks, it allows the satellite dish farm to be located on parking deck B and that satellite farm must be screened and not visible from the street. The building heights are limited to 78-feet or six stories; Building A, location of Building B and Building C and it has existing buildings in these locations.

Councilmember Howard said the satellite farm will be on which deck?

Ms. Keplinger said on Deck B, but it is required to be screened from public view. This shows a little different perspective of the site plan; it shows the pedestrian pathways that will be incorporated into the site. There are existing buffers for the existing single family residential properties and you will notice that most of the development is far away from the single family residential development, mostly along this section of Green Ridge Road. There are 75 foot and 100 foot wide buffers and there is a 60-foot wide access easement to a future Little Sugar Creek Greenway.

This slide represents some of the architectural details that the petitioner is committing to. I'm not going to go over these, but they are very difficult to read in the small writing, but you can see the different type of architecture and the detail that they are committing to. This is a perspective of the existing campus on Green Ridge Drive and this is a proposal of what Arrowood Road would look like and you can see this is the match line so the building with stretch and then the parking deck.

In terms of the future land use plan the Southwest District Plan that was approved in 1991 recommends office and greenway uses for this site in accordance with the existent zoning. The request is a continuation of the existing suburban employment use and stipulates that future employment uses should not encroach onto the existing residential area. As I mentioned before, most of the development on this site is down closer to Arrowood Road and not close to the single family residential. There are extending issues that are related to transportation, some issues related to Mecklenburg County Land Use and Environmental Services and several other technical issues, but we feel those issues will be addressed prior to the Zoning Committee receiving this case next week. Staff does not recommend approval of this petition in its current form. The main reason for that recommendation was because of the outstanding transportation issues, however the petitioner has been working with our staff and we feel like this will change to a support by next week.

Michael Cole, 200 South Tryon Street said I'm with ColeJenest and Stone; Jay Smith with ... Architects, we've been working together with Time Warner for about a year and a half on the master plan. Tonight I have Mike Daley who is Vice President of Real Estate Facilities, Susie Glass, Director of Project Management, Mike Tank who is Director of Government Affairs, all three of those folks are with Time Warner and they are located here in Charlotte. Randy Goddard is the principle DRG and Jason Dolan is the Senior Project Manager with my firm. I'm the one who goes back to 1987; I've done all the rezonings, been involved in this project which is one of the reasons I'm here so I know all the history. This is a fabulous project; if you've not
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been to Time Warner you need to go out there, it is a jewel. We've done work on about five projects that I like to brag on, Piedmont Town Center, Gateway Village, The Green and this is one of the top five projects that I've worked on in my 30-years working here in Charlotte. They have done a great job of taking what would have been speculative office building with on grade parking and done parking decks and just made a terrific environment, pedestrian connectivity, walkability and the economic viability is incredible. They have 1,400 jobs out there right now and they want to expand so they have the potential of another 1,100 to 1,400 positions out there. It is a beautiful campus. Jay Smith will take a minute to talk about some of the architectural character and then we are available for any questions. We hope you will support it. We are working with DOT and we feel like we are going to get everything straightened out in time for zoning.

Jay Smith, 333 Liggett Street said I have been working with Michael and Time Warner for the past 11 years on the campus to create this cohesive master plan and also oversee the construction of three buildings currently on the north part of the campus. We've worked really hard to create a great sense of place there, a sense of entry into the site as Michael described it and to create a campus feel through arcades and canopies through gardens and water features that bring you to the building. We worked to try to appropriately scale the project and use the architectural materials to provide that sense of scale through stone and glass and some shading devices and also promote a sense of sustainability both through landscape features as well as building elements. I think the intent for any new development would be to maintain the quality and character that they consistently have on the campus so we are looking forward to seeing that happen.

Councilmember Howard said how many jobs did you say the new phase would support?

Mr. Cole said it is hard to nail down exactly Mr. Howard, but right now there about 1,400 employees out there and we are going to add the buildings that Tammie talked about to allow them to double. Some of that would be consolidation because they are in some different locations around Charlotte, but I think it is important, so many time we hear about incentives for people that we are trying to bring into the area, this is an opportunity to do some things that will encourage Time Warner to commit to this area for the long-term and accommodate really basically doubling the size of the campus.

Mr. Howard said is this a part of one of the incentive packages that came along with the capital investment?

Mr. Cole said the existing, nothing that we are doing here.

Mr. Howard said we keep reading in the paper about this potential merger with Comcast and I would take it, since you guys are making this type of investment, they are signed to the type of commitment to Charlotte that –

Mr. Cole said this has nothing to do with the merger; this is something that Time Warner is moving ahead with and there have not been any discussions as related to the merger. This is the master plan, a separate subject altogether.

Mr. Howard said my comments are only, Mike and the rest of my friends at Time Warner, about you guys staying strong and being an even stronger partner to the City. Just kind of worried about empty space potentially and that kind of thing; that is where my questions come from. Hopefully you guys will be around for a really long time and keep buying some more land and keep building.

Councilmember Mayfield said Tammie I think this question is for you regarding the transportation piece because I want to make sure that the conversation that we are having with CATS as well as looking at the public transportation piece that we are also having a conversation with Duke Energy regarding lighting. I'm thinking of a different project that is further up the street where we have a stop and there is absolutely no lighting and I just happen to be out there at 8:30 or 9:00 one evening going through the area and noticed that there were several individuals standing out at the stop and there was absolutely no lighting so as we continue to move forward

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with our public transportation options, making sure that we are having those conversations on the front end. Other than that time as my colleague has already mentioned, Time Warner has been a great partner in the community as far as supporting community events and other things and of course I'm going to be excited because it is in my District so to see expansion and growth that is done the right way if we can adjust the concerns by staff and look at how that PED Overlay looks with the wider sidewalks it makes a difference because we all know we do well with wellness communities; we have a lot of people who may go out walking during break whatever time of day, so making sure that we have safe pathways for them to be able to do that so I'm looking forward to hearing about the continued conversation with staff.

Mr. Phipps said I wanted to ask the petitioner, did you all file your community report for your September meeting; I couldn't find it on line.

Mr. Cole said yes we did. We have a great meeting and we just had some minor questions about the operations but nothing about the facility or plans. To Ms. Mayfield's point we do have a lot of the neighborhood that uses the walking trails and the paths out there so it is a great public/private partnership to a certain extent from that standpoint so I think they are a good neighbor, we had a good meeting with the neighborhood.

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

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ITEM NO. 28: HEARING ON PETITION NO. 2014-092 BY PAVILION DEVELOPMENT COMPANY FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.79 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF NATIONS FORD ROAD AND TYVOLA ROAD FROM CC (COMMERCIAL CENTER) TO CC SPA (COMMERCIAL CENTER, SITE PLAN AMENDMENT).

Mayor Clodfelter declared the public hearing open.

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

Tammie Keplinger, Planning said this petition is a request for a commercial center site plan amendment; the property is located at the corner of Nations Ford Road and West Tyvola Road, I-77 is located here. The property that we are talking about tonight is actually the very corner tip of that property. I would like to give you a little history on this property as a whole. In 1997 it was rezoned to commercial center to allow for office, retail, institutional and eating and drinking establishment and hotel uses. Excluded from that petition were automobile service stations, building material sales and dwellings. There were eight parcels that were developed on this one tract of land; the one that we are talking about tonight is known as parcel four. Parcel four allowed 16,000 square feet of office, 10,500 square feet of retail or 24,000 square feet of eating, drinking and entertainment establishments. I want to show you what is on the site currently from the aerial; there are three hotels on the site, there is an office and also a bank and this is our parcel four that is up for rezoning tonight.

In terms of this request the proposal is to take parcel 4 and divide it into two parcels, 4-A and 4-B and the division line is located here. It will allow possibly 3,000 square feet of automobile service stations and future 2,500 square feet of commercial uses. The service station is on A, the commercial building is on B. It provides landscape buffers along Nations Ford Road, it converts a right-in/ right-out access at this location to full movement and the site plan also specifies the building materials that are allowed for this development. In terms of the future land use plan this plan is located in the Southwest District Plan. Prior to the rezoning in 1997 the plan recommended mixed use development providing housing and employment with hotels and office uses. Other businesses and retail uses were not permitted then in 1997 the rezoning allowed some commercial development when it was rezoned to CC, commercial center while excluding the automobile service station as a permitted use.

Staff is not recommending approval of this petition; we are recommending denial. It is inconsistent with the Southwest District Plan recommendation as amended by the 1997 rezoning which excludes the automobile service station as a permitted use. Since that time there have been no significant land use changes in this area to warrant the introduction of such uses on this site. Outstanding issues on this, if this is considered appropriate for approval, relate to transportation and other technical issues.

George Sheild, 5605 Carnegie Boulevard said I am with Pavilion Development Company; this is Michael McDonald here with me. First I would like to talk a little bit about us and our company. We have five developers in the Charlotte Office of Pavilion with a combined tenure in the business of almost 100 years doing developments in Charlotte and Mecklenburg County. It matters a lot to us to get it right; we've developed property in almost every district in the City and I think are well known for building high quality buildings. This particular property is at West Tyvola and Nations Ford Road as Tammie pointed out. The property was originally zoned 26 years ago for hotels and other related office type uses; 17 years ago the property was zoned again to allow for office, retail, institutional, eating, drinking, entertainment and hotel uses. It was prohibited to have automobile service stations, building material sales and dwellings. Clearly we are not planning on using the property for building materials or sales and dwellings so that puts us in the category of the exclusion of automobile service stations. One thing I would like to point out is, to Mayor Clodfelter's point that he made earlier this evening, we are not doing any automobile service work at this location. I'm sure you are familiar with 7-Eleven Stores; they've been around for 40-years, there are 2,600 of them more or less in the US. I don't think anybody has ever gotten their tires rotated at a 7-Eleven store, at least they didn't go there for that. I would like to point on the site plan it refers to the building as a service station; technically under our zoning code there is no convenience store reveal service stations so while it is technically correct to have service station on that site plan you can tell from the building that we've made numerous modifications to, that there are no service bays in this. I would just like to point out, I would not want anyone to take that slide which reads automobile service station, 3,010 square feet and look at that mark on the plan that says service station and somehow misinterpret what our intended use for the building is. We'd like to locate a retail store for 7-Eleven with gas pumps at the site.

I would like to talk a little bit about the modifications that we've made. We have relocated the building on the site numerous times to accommodate staff recommendations. We have specifically designed a building and a site plan which is one of a kind for 7-Eleven; we are very much interested in making sure that we build a high quality project out there that Ms. Mayfield and the residents in the area can be pleased with so this is a one of a kind 7-Eleven store with glass, with architectural details, with building materials of the highest quality reflective of something of building form that would be attractive really in almost any part of Charlotte. 7-Eleven is a good stakeholder in the community and a good citizen; there will be jobs promoted at this location. 7-Eleven does an outstanding job of being a good corporate citizen in the community. One of the things that are a possibility with this particular location is that corporate would have a local franchisee owning and operating this so there is a positive economic benefit we think to the community with this petition.

Generally the issues that we've heard so far from the neighborhood have focused on the traffic situations out there which are more in keeping with the retail use of the property which is allowed under the existing zoning and not so much specific to our use. We could, without rezoning, develop the property with other retail uses that would maybe have the same issues for the neighborhood, but would not be going through the rezoning process. We don't think there are many concerns with the use of the property for a 7-Eleven Store, at least that wasn't the impression we got from the neighbors and as I said we tried to accommodate their comments in a tastefully designed, well executed, highest possible quality building that we can build and again it will be a one of a kind store. I would also like to point out that there was a comment in the staff analysis about C-DOT and our left turn onto Nations Ford Road. Dennis Rory did support us in this so I think we have overcome whatever the nature of that original comment was; we've overcome that objection.

Finally I would like to say that in the staff analysis which we received last week, there were other questions and comments that the staff made which we would be delighted to work with
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them on to get those issues resolved so that staff can be more comfortable with the plan. One of those was the prohibition of drive-thru restaurant use on the site and we have no intention of doing that with this property. Again it is a retail convenience store with gas pumps and potentially another retail store located on the site. I think we would be happy to accommodate staff's concerns and the concerns of the neighborhood in a restriction relative to this rezoning for drive-thru restaurants on the site. We are available to answer any questions you may have about our project, 7-Eleven, the site plan and anything that you would like to ask about. We appreciate Ms. Mayfield's interaction with us up to this point and the conversations we've had with the neighborhood and we've got a pretty good record and we'd like to keep it that way and build something here that the neighborhood and Ms. Mayfield can be proud of.

Todd Blanton, 6050 Tyvola Glenn Circle said I'm the General Manager of the Wingate by Wyndam Hotel which is right next door to this property. I've been at that location for six years; our owner bought that land in 1999 with the promise that there would be a restaurant in that business district along with office space. I've given a handout there and I want to skip around a little bit. Our concerns are that we have new high traffic business with quick in and out with no additional entrances or exits. Traffic safety hazard; we have one-way entrance into that business park and if you come off of Tyvola it is one entrance into that whole business park and it is one way. We have a lot of people that try to go back out that way and there have been several potential accidents. Tyvola Glenn Circle Business Park is already stressed from the following: it is the only entrance and exit for the following businesses in the business park. It has 312 hotel rooms, 70 office spaces, True Light customers; at that one intersection True Light is a four-way stop, additionally a new cut in the median would create a hazard on turning left. You will have Sleepy Hollow here and here you will have this cut-through. Currently Nations Ford Road is, if you've ever traveled Tyvola or Nations Ford Road the traffic is maxed out and the infrastructure I don't know how it could hold more traffic, but if you did that you are going to have people trying to turn left into Sleepy Hollow, come out of Sleepy Hollow and you are going to have trying to turn out. Our hotel several years ago asked for that cut to be made and we were told that it would be unsafe for that to be done. You have the other information in the handout for you to look at and if you have any questions I'll be glad to answer any questions.

Deandra Newman, 304 Westham Ridge Road said I have been a long time resident in Sleepy Hollow which is right across from the proposed gas station and from our research we see that there are several issues with the proposed rezoning change that will be detrimental to the quality of life of residents. Some of those do deal with traffic. I noticed that Mr. Shield mentioned that at the current zoning by rezoning it wouldn't have any negative affect on the community. Yes, a business could be in this location at this current time however, from the Department of Transportation the current site generation is about 1,600 trips per day and the change will up to that bout 3,300. So while we already have infrastructure and traffic issues this will double the stress for this corridor. Additionally we have many accidents of residents trying to leave Sleepy Hollow and Wilbrown Circle. I myself have gotten into an accident and I've had three neighbors on my street alone that have gotten into accidents and when we mentioned these issues at our community meeting we were told, well I will tell you like I was told, you might need a couple more deaths before something can be done. That is something really alarming to hear when you are trying to negotiate changes and get certain things done. That is not even to touch upon the different effects that living close to a gas station can have on your health. There are certain carcinogens such benzene that are released into the air when you live in a close proximity or perhaps go to a school in a close proximity to a gas station. There is a church which has a school right down the street; there are neighborhoods right across the street and there has not been any mention of enhanced vapor reduction or anything that will help prevent this from having serious detriments for our citizens in this immediate area. There has been a research study in the University of Marcia that says that these carcinogens have been linked to quadruple the risk of leukemia in children. I have a child and I do not want to have to go through something that could have been prevented. Additionally we see that the Zoning Committee at this current time is in denial of this petition so why go forward with something that does not even from in depth analysis have that support. There are many things that are negatively affecting the quality of life and unless they are proposing night patrols because this is a lower income area and there is already crime in the area. To have a 24-hour gas station without a promise of patrols, that is just something that we have to look into. Additional there is increased light pollution for residents, with having a hotel right next door I don't think people are going to want to come to Charlotte

Douglas Airport and go into a hotel room and when they lay their head down on the pillow the next thing they see is a bunch of lights and a gas station that is causing a ruckus.

Shirley Allen, 524 Wilbrow Circle said I'm here representing my neighbors living on Sleepy Hollow Road and Wilbrow Circle, part of the Yorkmont Park Community in Charlotte, North Carolina. Our community does not feel the proposal to build a 7-Eleven Convenience Store located at the corner of Tyvola and Nations Ford Road will be beneficial to the community. There are currently two Kangaroo Convenience Stores serving the community in addition to a community store Snookies and a Shell Station heading south on Nations Ford Road away from the proposed location, both are within one mile of the site as well as less than one mile of proximity of each other. The Kangaroo Stores, one located at 421 Tyvola Road is four tenths of a mile from the proposed 7-Eleven location. The other Kangaroo Store located at 4923 South Tryon Street is located seven tenths of a mile from the proposed store's location. Since the proposed 7-Eleven will be located in the middle of the two stores the community cannot handle the traffic stemming from the 7-Eleven. There are currently 12 school buses traveling throughout Wilbrow Circle during the hours of 6:29 a.m. to 8:35 a.m. and again from 2:47 p.m. to 4:51 p.m. Monday through Friday. There are 24 school buses running routes on Sleepy Hollow during the hours of 6:20 a.m. to 8:30 a.m. and again from 2:50 p.m. to 5:05 p.m. Monday through Friday. Our community has a total of 36 school bus trips transporting hundreds of children that we cannot afford to put at risk of harm, injury or death due to the fact there is an unneeded and inconvenient convenience store located in an already congested area.

Our community feels the proposed store creates an attractive nuisance for our children. Many children are left alone or considered latch-key when school is out. The Kangaroo Stores are located farther away deterring elementary age children from attempting to walk to the stores while their parents are away. Often is the case as well for Junior High children. Our community must take into fact that the reality that if the 7-Eleven store is constructed at such a convenient location across from street from Wilbrow Circle and Sleepy Hollow the risk of death or injury to our children increases from the influx of traffic seeking to enter and exit the store. This is a risk we choose not to gamble with; the lives of our children are precious.

Currently Charlotte Department of Transportation has determined the amount of automobile trips will increase from approximately 1,600 to 3,300 trips per day for the intersection of Tyvola and Nations Ford. The exit from the store will be onto an existing private road leading back out to the right or left or across too Nations Ford leading to Tyvola. This is the same area that suffered a pedestrian fatality earlier this year. This exit will need to accommodate traffic from the store, a bank, three hotels, an office building, all of which are located in the business park. As a community we have looked at the feasibility of this project and come to the conclusion it is not needed to serve the community, will be hazardous to our children and congest our already dangerous streets. I am here on behalf of my neighbors asking the City Council to decline the petitioner's request to construct the 7-Eleven Convenience Store at the corner of Tyvola and Nations Ford.

In rebuttal Mr. Shield said we appreciate the neighbor's comments and concerns. We've had some good talks with them about this in the neighborhood meeting. A couple of things I will point out, Mr. Blanton talked about there are no additional entrances or exits for the property beyond what is there now. We made numerous attempts to add vehicular access points to the property; Tyvola Road is a state controlled highway and we tried several times to make suggestions so that we could pull traffic in from Tyvola and put it back on Tyvola but unfortunately State DOT was not interested in that. Again we attempted to deal with what we could tell was an issue and we are here not to generate more traffic; we are here to take advantage of the traffic that is already there. The reason why this is a hot spot for this type of use is there are so many vehicles trips per day that are already going through this intersection that are having to slow down and sit at the stop light which is why we like this particular corner because we'd like for them to pull in and get a cup of coffee instead of waiting on the light to change. We have looked at those issues; the left turn access does solve a problem in that area where people are making a U-turn currently where there is no left-turn access at Nations Ford and that has created huge traffic issues there. The left turn would actually alleviate the problem of the U-turn that is at the northern access point to the property. I understand trip generation is going to go up; trip generation is always going to go up when you build something new.

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Councilmember Mayfield said what are they able to build by right at this point? What type of development can go on that corner lot?

Ms. Keplinger said they can have most retail uses, office and a hotel. The one thing they cannot have is –

Ms. Mayfield said I was trying to get the answer to what can go there. I have some very clear concerns, one I definitely want to thank the petitioners for reaching out from the beginning and for being willing to meet with the community for the community to share their concerns. I did attend the meeting and there were more than 50 people that were in attendance for the neighborhood meeting and this is a community that hasn't been as active as some others so I also want to thank Ms. ... because as soon as I reached out to her she reached out to all the neighbors. I also utilized the side road so I utilized True Light on a pretty regular basis so I know personally the impact of making that right turn in and you have one or two options where the yellow line is, making that left turn and then making a right to make a U-turn or doing it the right way of going down to the other end of the hotel and pulling out and making a left. I have some clear concerns especially because off of Sleepy Hollow we have had numerous accidents whether they are in a vehicle or on foot traffic have been impacted because of the driving because unfortunately people speed up and down Nations Ford because once you hit a certain spot it is pretty much straightaway going into Steele Creek. I like the brand; I do not think that this is a good location for this particular product. When you look at the hotel space the hotel uses that are already there, the retail usage that is already there with the bank as well as the office space. If it was one of those where you didn't have as much in and out traffic it would be a different conversation. I have some clear concerns on the impact of the community and what this would like.

Even though it is a State road and the State is determining the fact that we are unable to create an additional turn lane to help alleviate some of this traffic, I have some concerns regarding our department comments regarding this petition. The fact that once it is identified what this trip generation is going to be and that it is going to practically more than double, the fact that for connectivity there is no issues. There are clear issues of what connectivity is going to look like for me. I have some concerns with the fact that our Charlotte Area Transit System has no issues when there are some issues because yes, this is a gas station, but you still have employees that have to get to work. What if those employees are utilizing our public transportation system, there is no stop anywhere in that immediate area if they are coming up because that is mainly highway; one way of looking at it, because you have all the individual personal vehicle traffic, so there is no public transportation options right there connecting to that corner. Further up Nations Ford if you are heading back into town there is, but that is a good little distance down so I have concerns with some of our Departments stating that they have no issues when there are some clear issues that have arisen. I need to find out what can go there now, mixed retail. I think this company does a great product; I have a product being built right off of Freedom where that location is a location that is feasible. For this particular location I have some very clear concerns about how it would move forward and at this point I would not be able to support it moving forward.

Councilmember Smith said in all honesty I think you are probably going to stay trip generation without a rezoning because this property has been out there rezoned in the mid to late 80's and hasn't been developed because I'm not sure what demand there is for other product. That is just an editorial comment; two, I think if you look at the access issues, let's say they put something on there by right, none of those access issues seem to disappear so you are still going to have people pulling U-turns and you are going to have some trip generation and my questions would be for the petitioner, it states that you are a service station, can you walk us through sort of the product mix at the 7-Eleven, what all they sell and what sort of community add items may be in there because I think these C-stores are shifting in the direction different than your typical C-store 15 years ago. I would like to hear it from you guys.

Mr. Shield said that was actually what I was about to get to when I ran out of time; this is really a corner store in the true sense, the old sense of the word corner store. We have a slide presentation in your package and we could put it up there, but in general 7-Eleven has fresh vegetables, fresh fruits, fresh sandwiches, and fresh foods. They are really in the business of

being that corner store. The other properties that the neighborhood have talked about are either over on the other side of I-77 or they are way up Nations Ford and this is almost what you would call a food and drink and home waste land right in here in terms of available products. There are no grocery stores, there are no corner stores that have fresh produce, fresh fruits, milk, orange juice, meats, and cheeses right around this area, so one of the reasons why this corner is very attractive to 7-Eleven is the ability for them to have an interactive retail experience with the neighborhood. One of the things we pointed out on our architecture is we have three sides of glass; we've reformatted the store to allow for a different merchandizing plan. On our product mix I will give you some interior shots. This is an example of some of the fresh products that are available in the 7-Eleven store and how well merchandized it is. Sandwiches that are healthy, sandwich alternatives, fresh foods delivered every day to the store so it is reaching out to the community to engage the community on things more than just gasoline pumps.

Councilmember Phipps said I would like to see if we could have the follow-up report from the City Manager on HITS evaluation on the number of vehicular and pedestrian accidents maybe over a three-year period. I don't know if that is appropriate period, but just to get an analysis of those kinds of incidents over a specified term.

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

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ITEM NO. 29: HEARING ON PETITION NO. 2014-93 BY MERRIFIELD PATRICK VERMILLION, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.15 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF PROVIDENCE ROAD, SARDIS ROAD, AND FAIRVIEW ROAD FROM O-15(CD) (OFFICE, CONDITIONAL) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said to orient everybody, this is Sardis Road, this is Providence, this is the Pinehurst Apartments that were rezoned in 2013 and this is what is known as Strawberry Hill. The site that is in question tonight or up for rezoning is the former BB&T site that is right beside Strawberry Hill. Old Sardis Road is located in this area, Sardis Road and Providence and you can see part of Pinehurst Apartments located there. The petitioner will eventually seek the abandonment of that section of Old Sardis Road if the rezoning is approved; that is part of the overall development of the site.

The request will allow 35,000 square feet of commercial uses in five buildings. They have specified building materials. As I said a portion of Old Sardis Road will be petitioned for abandonment. There is an existing CATS Park and Ride site on the property requested for rezoning and that will be relocated over to the Strawberry Hill site. The request will provide pedestrian refuse islands at Sardis Road and Providence Road and there are several optional requests that are associated with the rezoning. They involve parking and maneuvering between the vehicles and exemptions on signage. In terms of the elevations, these are some examples of proposed elevations of the buildings that will be located on the site. They will consist of brick, stone, precast concrete, EIFS and metal panels. In terms of the future land use, this is in the South District Plan that was adopted in 1993; it recommends retail uses on the subject property. Staff is recommending approval upon resolution of outstanding issues. It is consistent with the District Plan, compatible with adjoining uses. It is the redevelopment of an existing commercial site. We have a few outstanding issues, but we think those will be resolved by the time it goes to the Zoning Committee.

Collin Brown, 214 North Tryon Street said I am with K & L Gates, on behalf of the petitioner Merrifield Patrick. I believe that Steve Vermillion with Merrifield Patrick is still here; they are the petitioner and Jamie McLawhorn with Marsh Properties is here also. Marsh is not the petitioner, but Marsh owns and controls what I call the main Strawberry Hill Shopping Center.

The main Strawberry Hill Shopping Center was rezoned in 2007 to allow some redevelopment. We are coming in today with the piece highlighted in yellow which is the BB&T on the corner and the idea is to create an integrated redevelopment of both of those sites. The trick to this is if you see the Old Sardis Road right-of-way remains there and un-abandoned and when we started we through it was just an un-abandoned right-of-way but as it turns out there is a CATS Park and Ride facility there. One of the things we talked about with CATS is that is prime real estate for them. I think we all realize through the process, it hard to tell that is a CATS facility. Most of our negotiation through the process we've worked with CATS. If the rezoning is approved we will then come in for an abandonment of the right-of-way. We've worked out with CATS that Marsh and Merrifield Patrick will work together to provide them with a replacement Park and Ride facility on the main site, so we would have to come in with an administrative for Strawberry Hill, but that seems to kind of be a win/win public/private partnership if you will. We take out the right-of-way; that becomes more useful for the redevelopment and CATS gets a better facility which they call distinct and exclusive; they can tell it is a CATS Park and Ride; they can regulate it better so we think that is a win/win and look forward to working with them to accomplish that. Other than that I am happy to say for a rezoning in this location we've had really no push back from the community. We had one attendee at the community meeting and the other calls we've had are from owners of units in the Essex and they are very pleased with the redevelopment.

Councilmember Lyles said the trip generation as noted in the report is actually more than three times and I'm very familiar with the site; I'm not quite sure it is the same number and how that works. I'm just asking for a better understanding of in and out of the shopping center because it is a lot of cars and the other entrance is in the back and you have to circle through the apartments to come around to the front. I'm curious how we are going to do in and out; it is a little bit, not quite like the 7-Eleven, but again one of those situations where there is not an easy in and out on the site, and you are adding additional retail to the area.

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

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ITEM NO. 31: HEARING ON PETITION NO. 2014-096 BY LENOX DEVELOPMENT GROUP, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 6.09 ACRES LOCATED ON THE NORTH SIDE OF ARDREY KELL ROAD AND BETWEEN BLAKENEY HEATH ROAD AND COMMUNITY HOUSE ROAD ACROSS FROM CARSON WHITLEY AVENUE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO NS (NEIGHBORHOOD SERVICES).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said this is Ardrey Kell Road, Rea Road is located here and the site is here. This is the zoning map that shows the property is zoned R-3 and the proposal is to go to NS which is neighborhood services. One thing I want to mention before we get too far into this; in the Council's agenda notebook you will notice that are two plans for development for this site. That was because of a buffer area that was required by the PCCO; this was one of the plans, it had a 200-foot buffer and the other plan had a 100-foot buffer. The petition requested a variance to get the buffer down to 100-feet and that was approved this past Thursday, October 16th, so for the purposes of this rezoning request we are going to be looking at this site plan and not the one with the 200-foot buffer.

You can see in the aerial, the single family residential properties that are adjoining this site as well as the attached multifamily. In terms of the proposed request it is to allow 3,000 square feet of retail uses, personal service and eating and drinking establishments which will be limited to 5,000 square feet. It prohibits automobile service stations, drive-thru service windows and dwellings. It allows up to four building with a maximum height of 30 feet except a 45-foot tall decorative tower may be incorporated into the design. There are specified building materials and there is no parking between the buildings and Ardrey Kell. Again, this is the site plan that will

be the final site plan for this case. It shows the 100-foot buffer, the buildings along this area and parking. The back of the residential properties are located here and here is a significant buffer for them. These are their proposed perspectives and you can see proposed site plan sections.

In terms of the adopted future land use plan this area is slated for single family residential; the request is inconsistent with the plan which is the South District Plan which recommends three dwellings per acre. The general development policy support up to 8 units per acre at this site if it were appropriate for multifamily. The site location may be conducive for a higher density residential or a small office development with personal service uses that are sensitive to the surrounding residential character of the neighborhood. At this point staff does not recommend support of this petition because it does not meet the form that we believe it needs to meet to be compatible with the surrounding uses. The outstanding issues are related to land use design and other technical issues.

Keith MacVean, 100 North Tryon Street I am with Moore & Van Allen representing Lenox Development Group, the petitioner for the site. With me tonight is Eric Vergosco representing Lenox and Pat Campbell with the Burgess Design Studio, the architect for the site. I want to thank Tammie for her help with the petition. We will continue to work with the staff to see if we can resolve as many of the issues as we can in the staff analysis. There may be some of those that we may not be able to fully address but we will try to limit the number of uses further and look at some of the other technical issues that have been mentioned in the staff analysis.

This is a 6.9 acre site located on Ardrey Kell Road, just east of the Blakeney Shopping Center, just to the east of the site is a bank developed as part of Blakeney and further to the west is North Community House Road and Ardrey Kell High School. As you can see the site is located here in red, Blakeney Heath neighborhood to the rear, High Grove just to the west of us and the Blakeney Preserve across Ardrey Kell Road from the site. We had two good meetings with the neighbors, one before we filed the petition. This is the original petition as we presented back in late May to the adjoining neighborhoods, but you will notice in this plan it actually had four buildings proposed, square footage was about the same, but based on the comments we heard at that meeting the plan we actually submitted was a three building plan, one story buildings limited to a maximum height of 30 feet up along Ardrey Kell Road. There is a possibility of an architectural feature a little tower element to kind of create a distinctive element along Ardrey Kell Road. The site does have a large wooded buffer along the west side where there is an existing creek with a 100-foot undisturbed buffer as required by the Post Construction Control Ordinance. We also have provided a 44-foot class B buffer along the rear of the site adjacent to the Blakeney Heath Neighborhood; that buffer will also include a wooden fence. I will be adding to the petition a note saying that all vegetation in that area will be evergreen trees in addition to the fence and we are restricting the hours of operation of the dumpster that is located on the extreme eastern end of the site.

The next couple of slides give you an idea of how the buildings sit on the site; how they related to Ardrey Kell Road. We tried to move them as far away from the adjacent neighborhoods as possible to create a good separation and a good transition between Ardrey Kell Road and the neighborhoods. This is a view looking east along Ardrey Kell Road; the site does drop from east to west, the buildings still stair step going down the site to follow the topography of the site. This is a view looking from High Grove back at the site and one view looking from the Blakeney Heath Neighborhood back toward the site. We have been working with the residents of Blakeney Heath and we are hopeful to get their support for the petition. They have a few additional questions for us and issues they would like for to address. We look forward to seeing those and hopefully addressing them to their satisfaction so we can gain their support for the site. These are some building elevations that Tammie presented. The architecture does pick up on the Blakeney Heath Shopping Center and try to use that architecture to bring to this in terms of building materials, orientation to the street and again it is a low scale, small neighborhood convenience center, it is really uses that are convenient for the residents in the area that aren't currently there that would be located here hopefully allowing folks not to have to travel as far to get these services.

Tammie mentioned the site plan; this is the site plan that we are proposing, a three building plan. We did go to the Storm Water Advisory Committee last week; there is an inconsistency between
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the Post Construction Control Ordinance and the State's regulations for the Six Mile Creek Basin. The City's ordinance was based on a draft of those recommendations. When the State finally approved the Six Mile Creek Basin regulations it only required a 100-foot buffer along per-annual streams; that is what our plan is showing and that is what the Storm Water Advisory Committee granted us a variance to do instead of the greater 200-foot which was a draft recommendation not implemented by the State.

Just some point as to why we think this is a good site for a low scale non-residential development due to the size and configuration of the site it would be hard to develop this site with quality residential uses. A good quality residential development would have to balance the need for kind of create a good transition to the adjacent single family homes and also not be on top of Ardrey Kell Road. This site we think does create a good balance of uses by moving the buildings up to Ardrey Kell Road away from the residents creates that non-residential edge along Ardrey Kell Road by addressing the street. The mix of uses, a little bit of office, some retail, limited restaurant use, eating and drinking and entertainment establishments give us an opportunity to create a quality project on the site. The uses again are generated for the residents; these aren't destination uses, these are for the neighborhood around the site and we think it creates a good transition between what will eventually be a four-lane divided road and the adjacent neighborhoods and we have wide buffers, good tree save areas for the site.

Chris Papp, 10537 Paxton Run Road said the reason we are not supporting this petition is because the proposed zoning NS is not appropriate for this space. As the map showed, it is surrounded by residential and if you look what NS calls for, it stays that it is to accommodate and develop existing mixed use development which is not present, intermix with high residency, which is not present and pedestrian scale, urban with links to neighborhood and access to transit. Well, it does not have access to the neighborhood; you are going to have to get there by car and there is no transit whatsoever. Normally I know with respect to traffic, I know you guys have heard a lot about traffic, but I will be remiss in not mentioning it in this case. This particular stretch of Ardrey Kell Road has today 22,000 cars per day. By way of comparison that is 39,000 cars go on Johnston Road which is the twice the size. This increase on the proposed proposal would increase not three times, not six times, but eight times the current zoning, the traffic that is already on that road. It is a 7% increase in traffic. I know there was mention at the community meeting of making Ardrey Kell four lanes. That is a state owned road so I asked Louis Mitchell with NC-DOT what the plans were to make that a four-lane road. His response was NC-DOT does not have any plans for this section of Ardrey Kell Road; the City of Charlotte has indicated that this road should be four-lane. There is no funding for this that I'm aware of and NC-DOT does not have it in their plans. I think we are going to have to be careful with traffic here.

There were a few additional concerns that we had at the meeting and I think there was mention of some issues to work out. Again the proposed retail is not really a good transition; it is kind of really out of place. It doesn't go along with the character. Some of the other issues we wanted to see was what happens if the site does not get developed and again when we don't have a proposed use, it is the same discussion on an earlier rezoning and it is up zoned to this, it doesn't get developed or it gets half developed and it doesn't turn out right you are left with back yards with all this either undeveloped or for a use that was not contemplated in this up zoning. We also had some concerns about that. What if it does develop can the developer sell it once it is rezoned to some other use again that is not approved?

I want to talk a little bit about the community and I will just come out and say this because this is the second time I've been here. Councilmember Phipps you asked me a question last time and I am going to more specifically answer it now because it has to do with the community meetings and how much buy in for these kinds of things they get. I have been to two meetings so far; Councilmember Driggs was good enough to meet with five representatives of different neighborhoods around the area. I think from tonight the understatement is people don't care of apartments or at least it is divided. A lot of times people ask in these cases what can you do other than this and they said well, we'll just put apartments so it is kind of used as to bludgeon people into agreeing to some of these rezonings where people really don't want this in their back yard. I know some of the neighbors have indicated that the developer has been very good in terms of offering buffers and things of that nature, but the reality is they don't want this in their backyard. Some reaction has been to actually put the house on the market because they don't

want this in their backyard and it is really not fair when you look at something at a zoning plan and it says it is going to be zoned R-3, you kind expect it is going to be that. There may be a little bit additional density and then have something that is completely inappropriate for that particular parcel is really not fair. One of the things it says it is not, it is not in accordance with the South District Plan and one of the things we hear about that is well, these plans are old, they are outdated, we've grown so much they are no applicable any more. That may be the case for some, but not all. When you go and look at the actual plan, is it really that outdated that it is developed around there so it would be reasonable and in the public interest to change it. In this case no. Actually you will notice there are a lot of mixed-use zonings that actually have developed single family residential around there. It is actually leaning more residential around this area where we are talking about this rezoning.

Again, we are not going to say it should never be rezoned, people in the neighborhood realize we are going to have to have rezoning. We agree with the Planning Department that some more higher density residential, townhomes could go nice there. I think the Planning Department says that piece of land would support that. An interesting little tidbit here for those who are concerned about the government telling them about land uses; this one is interesting because the NC-DOT actually owns this property. I'm not sure why they are getting rid of it if they are going to expand to four-lanes on Ardrey Kell Road. Apparently it is not anytime in their horizon so they are just getting rid of it.

In rebuttal Mr. MacVean said we are using the NS Zoning District; we feel it is appropriate, it does allow us to bring the buildings up toward the street. We are providing buffers as required in a normal business zoning. The NS District does have certain criteria that we are asked to meet; we are near neighborhood, we are on a major thoroughfare, we are creating non-residential uses that support the neighborhood, we do meet that criteria. In terms of traffic this site is proposing to build a left turn lane and a right de-cell lane on Ardrey Kell Road to facilitate in and out movement from the site. The Neighborhood Service District is a conditional district; the use restrictions, the site plan you saw tonight will run with the property and is binding on the site. It is not that we are going to zone it and if we don't do office it can be anything else, it is bound by those zoning restrictions. This is a piece of remnant property that NC-DOT is selling, the widening of Ardrey Kell Road will occur to the south of the site; these are the northern two lanes of Ardrey Kell Road, the widening will actually occur to the south side. This was an old piece of property they bought when the alignment was on a different tract and is no longer needed by NC-DOT.

Councilmember Driggs said this is a question for staff and it has to do specifically with the traffic. Ardrey Kell is this circumferential, we've got Golf Links coming in at one end and other developments going on, do we have any real handle on what the real capacity of that road is and what it is going to look like when the development we know about is complete?

Dennis Rorie, CDOT said the question was with the increase in development occurring along the eastern circumferential, do we have a handle on what we think the traffic will be or if there is existing capacity in the system. Is that your question?

Mr. Driggs said yes, Golf Links, Waverly down at the other end of Ardrey Kell and you go back in the other direction there are a couple of things being developed there and it is not clear to me if we have a plan for the total volume of traffic that is likely to result from that.

Mr. Rorie said I think that the plan comes from broad level, MPO level of planning of thoroughfares so with that kind of planning process there were some volumes and traffic projections that go into how we choose what the appropriate laneage is on minor thoroughfares, major thoroughfares and also how we start to pick intersection conditions. At intersections, that is really where all the metering of all the traffic occurs and that broad level transportation planning through the MPO process is how we start to get a handle or idea of do we have the appropriate laneage on any one or two thoroughfares as you've mentioned.

Mr. Driggs said does that mean that we actually know at this point what kind of volume of traffic to expect on that road based on the already existing rezonings?

Mr. Rorie said not necessarily from the already existing rezonings; there is a level of transportation modeling that occurs, it is on a more regional level and it does capture some of other changes that occur over time with the zoning but it is not as sensitive to each specific land use and how it changes.

Mr. Driggs said do we know what the peak hour trips are for the proposed rezoning?

Mr. Rorie said as a general rule of thumb, 10% of the daily total would be peak hour volume.

Mr. Driggs said for this type of rezoning?

Mr. Rorie said that is correct so I think 1,300 trips per day is the number so peak hour would be about 130 trips within that peak hour and that accounts for in and out traffic.

Mr. Driggs said did you say there is or is not a protest petition for this one?

Ms. Keplinger said there is not a protest petition.

Councilmember Phipps said I noticed the South District Plan is a 21-year old plan. Are there any plans to revisit that plan in the future or are we comfortable that the area is still developing within the context, purpose and intent of that 21-year old plan?

Ms. Keplinger said I think the area is still developing within the context of that plan. In terms of what is on our radar for future plan updates, I am not sure where this district plan stands. Now we do more area plans than we do district plans. I have not heard of one for the Blakeney Heath Area but if that is incorrect I will let you know in the follow-up report.

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

ITEM NO. 33: HEARING ON PETITION NO. 2014-071 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT AND CHARLOTTE MECKLENBURG POLICE DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO: 1) ADD NEW DEFINITIONS FOR “ANIMAL CARE AND CONTROL DIVISION”, “ANIMAL CARE AND CONTROL FOSTERER”, “ANIMAL RESCUE GROUP” AND “ANIMAL RESCUE GROUP FOSTERER”; 2) MODIFY THE DEFINITIONS FOR “COMMERCIAL KENNEL” AND “PRIVATE KENNEL”; 3) MODIFY THE PROHIBITED CUSTOMARY HOME OCCUPATION LIST; AND 4) MODIFY THE PRESCRIBED CONDITIONS FOR PRIVATE KENNELS.

Mayor Clodfelter declared the public hearing open.

Shad Spencer, Planning said next to me is Martin Balustra with Animal Care and Control and as you noted both the Planning Department and the Police Department are co-sponsors of this text amendment. I will go over this Animal Fostering Text Amendment which is rezoning for Petition No. 2014-071. The purpose of this text amendment is to modify the current standards in the zoning ordinance so that it supports and aligns with CMPD Animal Care and Control Division’s goal which is to eliminate healthy adoptable pets from being euthanized and in order to do this we are proposing this text amendment that would indicate and clarify the animal fostering and rescue facilities would be allowed as accessory uses within residential zoning districts and that they would not be categorized as commercial kennels.

About two years ago the City Manager’s Office convened a staff working group to review the zoning ordinance regulations related to animal fostering and rescue groups and to make recommendations. The group included the Animal Care and Control Division within CMPD, the Attorney’s Office, the Planning Department and the Code Enforcement Division of

Neighborhood and Business Services. Some of the issues that were discussed during these meetings revolved around distinguishing animal rescue and fostering uses from those of commercial kennels because fosters define themselves as private kennels since they are non-profit. Since most of these fosters live and operate in residential neighborhoods we also had concerns from some area residents regarding traffic and noise associated with animals and the volunteers that go to some of these locations. Also some of the issues revolving around licensing of the animals because some of the fosterers and rescue groups had issues regarding being required to purchase licenses for the animals even though they are kept on a temporary basis. Animal Care and Control has determined that there is a need for these fostering programs; this Division regulates and approves fostering and rescue groups and what they do is they will go out and do site visits to determine ... and they also handle any complaints regarding such facilities. They have cultivated partnerships with over 100 rescue groups and the rescue groups assist Animal Care and Control by transferring pets from shelters and to homes and fostering networks to maximize adoptability and prevent euthanasia. As you look on the graph you can see that over the past several years the number of animals that have been transferred from Animal Care and Control to these rescuing partners has increased over the years.

In summary of this text amendment it does several things; one thing it adds new definitions and I will briefly go over these. The first one is Animal Care and Control Division which would be the department that enforces the City's animal related policies. The next would be the Animal Care and Control Foster which these are individuals approved and registered with Animal Care and Control that are allowed to take temporary custody of these animals so they can be in a nurturing environment before they are adopted. The next is an Animal Rescue Group which is a non-profit organization registered with Animal Care and Control and they transfer animals from the Animal Shelter and they assist in getting these animals adopted. Finally, there is an Animal Rescue Group Foster which is similar to the other Fosters but these are volunteers with the Animal Rescue Group that has temporary custody of these animals before they are adopted. Some other components is to modify the definition for commercial kennels and private kennels which are currently in the ordinance and basically this would list Animal Care and Control Fosterers and the rescue groups as being a private kennel and not being defined as a commercial kennel and then to modify the private kennel prescribed conditions to indicate that they must comply with Chapter Three of Part Two of the City Code which regulates animals and to clarify that commercial kennels would not be a permitted customary home occupation. Private kennels would be allowed as an accessory use in residential and non-residential districts and they are not for profit. Commercial kennels would be allowed in non-residential districts so they are not allowed in single family and multifamily districts and they could either be an accessory or principle use and it is a commercial business. Staff recommends approval of this petition; it is consistent with Chapter Three of Part Two of the City Code which deals with animals.

Maureen Mahood, 3611 Enfield Road said I am the founder of Rescued Me. We are a non-profit in Charlotte since 2007. I've been actually involved in animal rescue since 2002; I volunteer to Animal Control here in Charlotte and fostered for other groups before making my own group. Basically we are for the proposed changes because it would be very difficult for a rescue group that everyone is a volunteer for us to go and get a commercial license, to get a building. We would not be able to be of service to our community. We pull all breed dogs; the dogs that we pull basically are last chance dogs, puppies, and older dogs, maybe behavior issue dogs, they go into one of our foster homes, they get the back care that they need, they get the training that they need. We spend between \$400 and \$500 on each dog that we take through our system. They get adopted out whether it be locally here in Charlotte or we do long distance adoptions with some of our rescue partners in other states. We probably save between 100 and 125 dogs per year and we have about 15 full-time volunteers and about six full-time foster homes. This is a really important thing; here in North Carolina we euthanize a lot more than we should. If we can't have foster homes our euthanize numbers will go up exponentially.

Gus Thomas, 2500 Taimi Drive said I'm here on behalf of my wife, Rhonda Thomas who is the founder of Project Halo. Since 1998 we are a non-profit 501C-3 based in Charlotte. I'm here in definite support of the text amendment to include all this and rescue. I'm glad there will finally be a clear definition of private versus commercial kennels. The North Carolina Supreme Court has already ruled in this case that Project Halo was in fact a private kennel, but there is one item that the City of Charlotte and the Zoning Department have misinterpreted that I think is very

important to note. Nowhere in the case did any of the courts making a ruling regarding the number of animals allowed in a private kennel; Zoning and the City keep interpreting that fact as a legal conclusion when it is not. This role is aptly handled by the Department of Agriculture and Animal Control. I believe we as a collective group of rescuers are an asset and contribute greatly to our City and its efforts to reduce the pet overpopulation. We help by rescuing pets that would eventually or otherwise end up at Animal Control. We definitely provide a valuable resource for our citizens and companion animals and all of this would put a lot of major cost on the county and taxpayers if we weren't here. Please approve this amendment.

Shelly Moore, 2700 Toomey Avenue said I'm the President and CEO of the Humane Society of Charlotte. We represent a constituency of over 25,000 people in this community that either support us financially or utilize our services here in Charlotte. We are also the only other sheltered animal welfare organization within the City and we are the largest transfer partner for the City of Charlotte. We've worked with a marketing team for many years to decrease the number of animals euthanized here at the City Shelter and last year we transferred in from the City Shelter almost a thousand dogs and cats and this year so far 679 animals. The utilization of foster homes for temporary care for animals that cannot be immediately housed in a shelter or need additional medical care or training is a widely accepted common and best practice for shelters and rescue groups throughout the country. It has been utilized here in this community for decades. As we speak our organization has 143 dogs or cats in foster care and without the passage of this text amendment there would be a drastic impact in the way that we do business and a reduction in the number of animals that we could assist the City with. Ultimately the City would then see an increase in the number of animals euthanized. We ask that you please pass the text amendment and define foster so that temporary sheltering can occur in these situations.

Jennifer Bradford, 2305 Bay Street said I am the Vice President and Foster Family Coordinator for American Pit Bull Foundation. We are a 501C-3 non-profit that operates solely in North and South Carolina and we work very closely with Charlotte Mecklenburg. Our goal as a rescue organization is to find permanent homes for these discarded animals so that they never end up in a shelter system again. The adoption fees we assess when adopting out rescue pets are simply one way to financially qualify a responsible owner who can afford appropriate food and vet care during the lifetime of the animal. American Pit Bull Foundation estimates that we spend an average of \$500 per healthy dog that is taken into our program for vet care, including vaccinations, spay and neuter, heartworm treatment, including heartworm prevention and in some cases we spend \$5,000 and more to rehabilitate an injured or sick pet. The adoption fee that we assess is a negligible \$175. We in no way sell or otherwise make a profit from adopting out our pets; again it is our goal to keep these pets out of the shelter by placing them with individuals or families who are willing to have and have the means to take care of them for the rest of their lives. All of our animals are spayed and neutered; we actively campaign against commercial breeding and the buying and selling of pets when so many are left to die in the shelter. Unlike commercial kennels where animals are housed and maintain similarly to livestock and where issues such as run-off and noise pollution can be a problem, foster homes typically only take in one to several animals at a time and those lucky enough to be placed in foster care benefit greatly from an adjustment period where they learn to live in a home environment, which makes them more adoptable in the long run, decreasing shelter intake. We also hold adoption events off site; American Pit Bull Foundation does not promote adopters coming to the fosters home to meet the animals. We conduct interactions at the home of the potential adopter to insure our dogs will be in a safe and loving home environment.

Margaret Walker, 7412 Balancing Rock Court said I work with Maureen with Rescued Me and I've been fostering for about four years now. One of the things I wanted to point out about fostering, we are kind of the bridge between the dog being in a shelter and getting into a permanent home and sometimes the dogs that come to us are hurt, sometimes deliberately and sometimes just accidentally. A lot of times they are scared and shy but we can give them one on one attention and then we work real carefully to get them placed in the proper environment for them. The thing I wanted to really emphasize is that we save the dogs, but we save people in the community too. There are a lot of studies that have been done that show that having a pet can really help with your physical and emotional wellbeing. A lot of times seniors, people who have emotional issues can benefit from having the dogs and a lot of times it is the question of who

rescued who when a dog is placed with somebody who really was having that dog with them. I would like to encourage passage of this so that we can continue with our good work of fostering.

Diane Kramer, 9604 Mer sham Court said I am a fosterer of a particular breed, miniature pincers. Miniature Pincers have high energy, they are generally considered attractive by people when they look at them, but they get them in their homes and they are not happy; they are not a match for very young children. They don't like commotion. When we get in a rescue for example, it wasn't with the County, it was with Rowan, we got in 16 dogs from an AKC commercial breeder who had discards and she had left them in a home unattended, un-anything. We took in all those dogs; they were all too old, they were all sick and it took thousands of dollars to make them well. At this point we've spent about \$7,000 that is not covered by donations and contributions, everywhere we could get money from. I'm in favor of passing this because when I read through your county ordinance I couldn't tell whether it applied to me. I couldn't tell whether I was in error, I was out of compliance and this made it very clear as to whether I'm a fosterer, my home or my rescue group whatever. I can see from your face I'm running out of time. I'm in support of this with a caveat that the six month provision is a concern to me. Our dogs take longer to rehabilitate behaviorally. The six month timeframe is of concern; it will deprive my foster homes of insurance. We are an insured organization; we insure them for liability where the dog is concerned. I won't be able to raise funds for this anymore; it creates a serious collision with what IRS considers ownership. I can't raise funds and offer tax deductible receipts.

Mayor Clodfelter said if you didn't get to speak and you have written materials that you want to submit that would be wonderful and you are free to do that 24 hours a day.

Amanda Tucker, 2507 Taimi Drive said with this proposed amendment classifying the private kennels, commercial kennels, where I live since 1971, Project Halo which he has already spoken about is across the road from me. It is classified as a private kennel; the traffic on a one-lane road, Taimi Drive, is terrific. Coming in for tending to the animals, feeding, watering, walking them, cleaning; they have quite a bit of traffic. They have quite a few vehicles of their own and along the road there is parked six, eight or ten vehicles on the side of the road or in their front yard. They have all these vehicles parked out there and sometimes it is hard to get in and out. They have a travel trailer parked in their side front yard with people living in it taking care of the animals. This type of kennel is not for residential neighborhoods. They can be a private kennel, but I still feel that it should not be in a private neighborhood.

Kelli Fowler, 449 Bascom Street said I no longer live next to an animal rescue; I'm extremely happy to report that that ended by the rescue moving away between Christmas and New Years of 2013. So bark free for a little bit now and I can tell you it has been quite a relief. My husband and I bought our home in September 2007 and had no idea what we were getting into. Unfortunately we had a pretty bad experience with Animal Care and Control, well I should back up and say the first interaction with Animal Care and Control almost a direct quote was, "oh yeah, you've got a problem, we will see what we can do". It went from there over the course of five years to at one point, "if you keep calling we will ignore you". I was told that by Animal Care and Control. I begged them to come out to my neighborhood and canvass my neighborhood and ask my neighbors if this was a problem because it was. I talked to my neighbors so I knew that they felt like it was. They did finally do that and that was about March 2013 because one person ended up being influx and moving and would have said yes, but had to say no because they were moving. Animal Care and Control declined to issue a citation for barking on the grounds that it was a problem because enough people in the neighborhood said it was. I think out of like, I think they had five and they needed six or something like that. I am concerned about the fact that with this proposed text amendment there really aren't any requirements. There is nothing that says it is restricted to any certain district and apparently it can be just anywhere. There is nothing that says it is subject to other parts of the zoning ordinance. There are no other agencies involved besides Animal Care and Control. There is no change of use permit required; there is no customer at home occupation permit, no business license, even though these organizations do have to register with the Secretary of State because they are a non-profit. We apparently in Charlotte don't need them to do anything except call Animal Care and Control and have them come out for a site visit. I've told you a little bit about my problem with Animal Care and Control and I hate to pick on them but I will tell you that after
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calling zoning and actually I called for dilapidated conditions, I didn't have any idea that Project Halo case that happened or any of that other stuff, but I called because it was something, it was something to get something to change over there. So I called and they came out and zoning came out and after all of that was worked to a resolution, part of that resolution was that Animal Care and Control said that my former neighbor on a .27 acre lot could have as many as 15 dogs. That is a lot of dogs on a quarter of an acre. I just want to say that rescue organizations have repeatedly proven that they will fowl up the rules. Since the 2001 Hodges decision they have continued to charge fees rather than request donations and they have not paid licensing fees which were required, hence the relaxation of this requirement in this proposed text amendment. I would like to ask the Council and the Mayor and the Zoning officials to all take just a second or two and picture yourselves in your home and to imagine living with prolonged barking at any hour of the day or night, being woken up by it both late at night and early in the morning and I also would like to say that Councilmembers Mayfield and Fallon and Mayor Pro Tem Barnes, you are still here, you all expressed concerns earlier about deterioration of homes and impact that that has on communities and I would apply that same concern, although on a different footing on this issue because rescues degrade home value, people's greatest source of wealth, because it is very simple that nobody wants to live next to one.

I'm an owl person, my husband and I don't have children. He refers to our rescue dog that we got from a high kill shelter for \$12 in Whiteville, North Carolina in 2008 as our fur kid. I completely support the preservation and enrichment of dogs lives, animals lives, but as I wrote in my e-mail to all of you, that I'm certain you all read, even though no-one responded, that just because this work is admirable and it is worthwhile it doesn't mean that it can co-exist in a neighborhood. Please consider limiting rescue operations to non-residential districts such as agricultural or one of those MUDD, TOD things you all got going on.

Ed Fickle, 449 Bascom Street said I really appreciate your time and consideration on this issue tonight. We just wanted to make sure that our concerns were heard in terms of the impact that this has on the residential neighborhood. It is well and good to consider the plight of the animals and consider the hard work that these wonderful groups are doing. I certainly agree with the staff recommendation that there is a need for these groups; however, there is also a need to protect the equality of life in our residential neighborhoods.

Councilmember Driggs said I am interested to know why we make a distinction between the commercial and non-commercial sites rather than looking at how many animals, what type of animals, etc.

Martin Balustra, Animal Control said we actually have provisions in the Charlotte Animal Control Law that requires a permit for three or more animals primarily kept outdoors so we do have regulations so somebody really couldn't step in and occupy and have 15 animals on the property without us coming out and conducting inspections. Those inspections also provide a canvas of the neighborhood to try to identify any nuisance related problems. Instead of zoning providing relief for these particular neighbors and while we are sensitive to these quality of life issues, the Charlotte City Code regarding animal regulations can provide relief if we can sustain an identified barking complaints, order complaints and environmental conditions as well.

Mr. Driggs said why make a distinction between commercial and non-commercial?

Mr. Balustra said I think the existing definitions of commercial would say these are businesses or earning profits for doing that and we identify these rescue organizations as 501C-3 non-profit organizations, not really providing businesses such as grooming, overnight boarding or anything for fees of such like that.

Mr. Driggs said I'm not hearing an answer, why is it different if I've got 15 dogs living next door that are being raised commercially versus rescue dogs. By the way I have a cat living in my house that was a rescue, very sympathetic with the idea, but I just don't understand the logic. We are controlling it in the first place because of the potential nuisance value to the people in the surrounding area, why the animals if they are rescues less of a threat that way then if they are being raised commercially?

Mr. Balustra said I don't think they are any less of a threat because they are private kennels. I just think we are creating a relationship difference between commercial kennels which could be actual structures and facilities like that. I think the private kennels for the most part do not actually have structures like a commercial kennel would for breeding purposes, overnight boarding and those purposes. I still don't know if I'm answering your question correctly.

Mr. Driggs said it seems to me like you regulate this because of the potential for an inconvenience to the neighbors and I don't see how in that issue how it makes a difference. It seems to me we ought be counting how many animals are there and what types of animals are there and not focusing on whether they are being raised for money or not.

Mr. Balustra said we count all animals whether they are commercial properties or private kennels so we do go out there and conduct inspections and we do take into consideration all animals that are primarily being maintained outdoors. Even rescues are not exempt or these private kennels, they are not exempt from the three or more permitting clause. If they have an abundant amount of animals, they are still constituting a public nuisance to their neighbors and we are going to regulate and we are going to take an action against them as well even though they are private kennels.

Mayor Clodfelter said is there any number beyond which you will not issue a permit? Is there a maximum number you will not permit?

Mr. Balustra said I don't think we use a number, I think we use the quality of care in making that determination so if someone can responsibly own and they maintain the majority of these animals indoors, then we are going to look at by a case by case situation. If their neighbors don't realize any sort of nuisance issues, if the conditions are clean, sanitary, if there is no barking complaints and no issues I think we are going to be reasonable as well.

Councilmember Mayfield said are we still at the drawing board on this discussion or do you think that this is the final recommendation? I'm asking that question because along with what we've heard from constituents tonight Councilmembers, including myself, well I will speak for myself not my colleagues, but I have received numerous calls regarding Animal Control being called, not responding quickly, not responding consistently, animals barking at 3:00 a.m., animals that are running loose, whether these are private owners, a kennel that is close by where the animal may have gotten out or rescue, because the average citizen doesn't know if there is a rescue until there is multiple dogs. There have consistently been conversations from constituents contacting me regarding the fact that Animal Control has not been responsive. I'm concerned when I hear that there is no maximum and I'm also concerned that we don't have a limit because there is a conversation regarding quality of life. If I am a homeowner and my neighbor moves in after I've been in my home however many years, six months or 20 years, it doesn't matter I have a neighbor that moves in and that neighbor decides they want to have a rescue home there is nothing in here that I see that says, one all neighbors need to be notified so that there is an opportunity for the community to be aware of it nor is there a process for if people have concerns it can be addressed, nor do I see in this wording what the proper channels are and if those channels are not followed by that individual or Animal Control staff, this is your next step. I have concerns about how we move forward. Yes, it is a great idea and it is a great opportunity to help and be of service but we also have to look at the impact of quality of life for residents, not just for the quality of life for the animals. Now for full disclosure, I personally am a fan of protecting people and putting more energy there so I'm not bias one way or the other, but I have some concerns based on multiple calls that I received regarding complaints. How would you address these concerns in this text amendment?

Mr. Balustra said there is a process in place that we actually approve the rescue community so they do have to be a vetted process through Animal Care and Control. If they violate and habitually violate the nuisance laws, that incentive and their relationship with Animal Care and Control can be revoked so they would not receive any of those benefits. For anyone, a rescue, a foster or any citizen of this community that is violating the code we would take civil penalties and civil actions and even criminal actions against them if they are in violation of the code.

Councilmember Smith said help me understand; you said dogs that are primarily raised outdoors, help me understand what primarily raised outdoors means.

Mr. Balustra said I think it is a subjective term; what it means is primarily maintained outdoors so I would say more than half of the time they are maintained outside and not inside the residence because the term is subjective.

Mr. Smith said here is where I struggle with this; I have done some work trying to help Doggie Daycares find spaces to lease and it is nearly impossible. You have to be 300 feet from the closest residential line. To sort of piggy back on what Mr. Driggs was saying, I'm struggling to see if somebody wants to rent space to keep 20 dogs; they have to be 300 feet from the residential zoning, yet, if they want to raise them for free we will let them go into that same area; that is where I'm finding the disconnect on this proposed amendment.

Mayor Clodfelter said Ms. Keplinger the Councilmember's question has prompted a question that I would like to ask; do we differentiate for zoning purposes between for-profit child daycare and not-for-profit child daycare?

Ms. Keplinger said we do not.

Mayor Clodfelter said we do not, we treat them both the same.

Councilmember Phipps said I'm still trying to get some clarification; is there any consistency in the requirements in operating in a residential neighborhood for a dog daycare as opposed to an animal fostering arrangement? Are there any similar situated rules and regulations in terms of how they are situated, how far they have to be? Basically we are saying you could have these activities in a residential area but for like a pet daycare, from what my experience has been they've been in locations specifically designated away from residences. I want to know where is the consistency there in terms of the way those arrangements are structured.

Mr. Balustra said the text amendment; the way it is written currently makes no provisions for Doggie Daycares from what I understand. They would still be deemed a commercial kennel because they are still for profit organization and they advertise for the overnight boarding of those particular animals. They would not be exempted from this text amendment.

Councilmember Lyles said there are a lot of concerns I've heard expressed and I have two to add to the list and you don't have to answer, we can get a report on them. One of the first ones I was wondering about is enforcement. I don't know what your staffing levels are, I know what your responsibilities encompass and I'm a believer in not creating a law that you can't enforce and when you look at this and you talk about all the code enforcement that has to occur, all the zoning in force that has to occur, I've seen situations where it has been very difficult to staff up to actually enforce what we pass. I want to be very careful and not commit us to something that a neighbor would come down and say I need to deal with this or someone says I have the right to do it and we find ourselves in a dilemma. The other point I would like to ask you about is we got this study, but I'm wondering if there are other best practices to dealing with this beside our zoning and text amendment. What are other places doing and other communities doing that actually deal with rescue operations and fostering? Are there other opportunities to look at some things that are occurring nationally because this is an important service; at the same time I think we are basically putting a ton of bricks on something that is going to create more issues of complexity and issues that we are not necessarily capable and ready to enforce and deal with. Those would be my two things; what else is going on and is it enforceable. Is it staffable and enforceable?

Mayor Clodfelter said the question is do you really need this. The definition you've got in the proposal of a private kennel allows breeding operations by private kennels; do you really need that to accomplish what you want to accomplish? A property where animals are bred or kept, do you really need the breeding in the foster homes? Why don't you think about that; do you really need that in order to accomplish what you are trying to do?

Councilmember Barnes said I understand the concerns expressed by the young lady who had the facility next door to her and it eventually left. I understand your concerns and it would concern me as well.

Councilmember Fallon said I understand the humanity of the sweet souls who want to keep all animals from being euthanized, but there is no oversight by law enforcement really. It is not fair to people who buy a lifestyle in a home to be kept from that home with barking dog because I've had it, barking all times of day and night with Highland Terriers which are known for it. It is not fair and I understand wanting to take care of animals but if you are going to put into place rules that allow, without oversight, people to come and take as many dogs as they can, because you do not have real limits because you don't really investigate.

Councilmember Autry said we do have ordinances and laws that regulate barking dogs, about dogs running loose in a neighborhood and I've actually had to engage Animal Care and Control to deal with complaints from constituents in District 5 who've had dogs running up and down the street that were un-kept and my experience was that Animal Care and Control was very responsive. I also appreciate the great work that the animal foster care people do and appreciate what they do in keeping these animals from being euthanized. Regarding the breeding aspects, aren't these animals spayed or neutered at the shelter so I don't think breeding would be an issue, but if it is in the ordinance then it has to be an oversight that can deal with.

Mayor Clodfelter said it doesn't need to be in there.

Mr. Autry said exactly, so I do support the text amendment. I think the service that the animal fosterer has performed is a good service, but I also deal with barking dogs and I myself have had to call and get some relief for that and was successful in doing it, and I did not preface that I was a member of Council when I made that call either, so the system does work. I do plan on supporting the text amendment and I hope my colleagues will also.

Mr. Driggs said I would just comment briefly that I've had experiences too with dogs in the neighborhood and I live in a neighborhood where the houses are pretty far apart. We got good response from Animal Control but the ultimate containment of the problem is just difficult. The dog was there, it was out again the next day, you called again and again and if you have situation that arises I think their ability to contain it would be a real challenge. I do want to acknowledge that I recognize the efforts of people who want to save the animals and I wouldn't want to think that is not appreciated, but we have to weigh that against the participation by the neighbors in the rescue of the animals, possibly involuntary.

Councilmember Austin said I am a dog lover and mostly human; I enjoy my quality of life but what I've experienced many times with my constituents in the community is that dogs are impacting that quality of life. They speak to me about numerous times trying to make calls, trying to get it resolved and so it is like what you experienced as well and what Ms. Mayfield has experienced. I think there is an issue of enforcement here and I think we do as Ms. Lyles indicated; we need to look to other cities that are doing this well. I appreciate all that you guys are doing to help animals but we also have to think about the quality of life of humans. I'm a human and I need to sleep so if I had a choice I come first.

Mayor Clodfelter said I don't want to cut off the discussion, but everybody has been heard and I think maybe there is some more work to be done on the proposed text.

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

ITEM NO. 34: HEARING ON PETITION NO. 2014-098 BY THE CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO CLARIFY THE HEIGHT LIMITATIONS FOR PERMITTED STRUCTURES IN VARIOUS DISTRICTS.

Mayor Clodfelter declared the public hearing open.

Sandra Montgomery, Planning said this text amendment is about height limitations and it is just to clarify some of that information in the Zoning Ordinance. Basically what we are doing in the nine zoning districts that are listed on the slide, we are adding some cross references in each of those zoning districts, cross referencing to Section 12.108 which has additional height limitations and requirements for items such as steeples and water tanks, television and radio towers, wireless communication facilities, amateur radio towers, flag poles, elevators HVAC equipment and we just wanted a little bit of cross reference so everyone knows that there are some additional requirements or exemptions from requirements.

The text amendment also relocates some standards from that section 12.108 into the urban industrial district by adding three new footnotes about heights. In the MX Districts, mixed use districts, and the manufactured housing district we are just adding height into the list of development standards that must be met for non-residential development. In the Business Park Zoning District we are deleting an incorrect cross reference for special height requirements that there is no such cross reference in there. Lastly we are deleting the height provision references in Section 12.108 that were relocated in a previous text amendment in the PED, Urban Industrial Commercial and Uptown Mixed Use Development. Those should have been deleted back at that time and we found that they hadn't so it pretty much a clean-up text amendment, not changing any of the height requirements, just kind of cleaning it up.

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

ITEM NO. 35: HEARING ON PETITION NO. 2014-099 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ALLOW PARKING LOT RECONFIGURATION IN THE U-MUD (UPTOWN MIXED USE) DISTRICT UNDER LIMITED CIRCUMSTANCES.

Mayor Clodfelter declared the public hearing open.

Sandra Montgomery, Planning said basically this is allowing existing parking lot reconfigurations in the Uptown Mixed Use Development District by expanding the parking area onto abutting property if there is also elimination of an equal area in the existing parking. There are several conditions that need to be met, the square footage of the parking lot is not increased, the number of parking spaces is not increased by more than 5%, there is no parking in any required setback and the existing and reconfigured portions of the parking lot have to meet the screening standards for grade level surface parking lots as a principle use. Staff recommends approval of the text amendment and it is consistent with Centers, Corridors and Wedges.

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

Councilmember Driggs said I just wanted to say quickly, further to our earlier conversation about design standards that were in legislation that was considered but not ultimately passed, for the General Assembly; I think it is coming back. I wondered if Council would like the Intergovernmental Relations Committee to report after our next meeting about what the North Carolina League of Municipalities is doing on this because they are drafting some language and just clarify the position and also seek guidance from Council on where we want to put it on our Legislative Agenda.

Mayor Clodfelter said that may be something we ought to talk about maybe at a Dinner Briefing more fully. I think the Legislation you are referring is Legislation that is fairly common

in the General Assembly; it is called we meant it when we said it the first time legislation and all it really does is repeat and copy the existing General Statute.

Mr. Driggs said there is a Legislative Agenda Item that is being considered and the question is whether we want to take that up.

Mayor Clodfelter said I think we might want to discuss it but given the hour what would be best advice is to let the Councilmembers go tonight and then put it on maybe a Dinner Briefing for discussion.

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ADJOURNMENT

Motion was made by Councilmember Howard, seconded by Councilmember Barnes, and carried unanimously to adjourn the meeting.

The meeting was adjourned at 11:44 p.m.



Stephanie C. Kelly, City Clerk

Length of Meeting: 6 Hours, 20 Minutes
Minutes Completed: November 6, 2014