

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, November 17, 2014 at 5:10 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, Claire Fallon, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

ABSENT: Councilmembers Ed Driggs and David Howard

* * * * *

ITEM NO 1: AGENDA REVIEW

Tammie Keplinger, Planning said you all should have an updated Dinner Meeting Agenda in front of you and it is red and green for the Holiday Season. The red indicates the changes that have been made since your agenda went out last week. In term of deferrals and decisions, we have Item No. 4: Petition No. 2014-021, a Text Amendment for the Mobile Farmer's Market, deferred to December. Item No. 5: Petition No. 2014-031 by Wilkison Partners, LLC, deferred to January. Item No. 6: Petition No. 2014-043 by Mark Patterson, a daycare on Prosperity Church Road, they are asking for a one month deferral to December and they do have a sufficient protest petition. Item No. 10: Petition No. 2014-071, Text Amendment related to animal fostering and rescue groups, asking for a deferral on the decision to January. Item No.19: Petition No. 2014-092 by Pavilion Development Company for the convenience store at Tyvola and Nations Ford Road, asking for a one month deferral to December. New on your agenda, Item No. 21: Petition No. 2014-096, Lenox Development Group at Blakeney Heath Road and Community House Road, defer to December. Also new is Item No. 25: Petition No. 2014-042, Moss Road at South Tryon Street, a hearing with a deferral till December. Item No. 26: Petition 2014-049, a hearing for SBBH which is at South Park Mall, deferred to March. Item No. 36: Petition No. 2014-109, which is Midtown Area Partners, LLC at the corner of Baxter Street and South Kings Drive, the request is for a deferral to December. There is a protest petition and we are waiting to find out the sufficiency.

Just to review a couple of things at the bottom under miscellaneous request and information; Item No. 2: Petition No. 2013-094 Halvorsen Development, this was a case at Prosperity Church Road at Ridge Road, it is a decision scheduled for tonight and the Protest Petition is now insufficient. There have been enough names removed so it is no longer sufficient. They have made one change since the Zoning Committee vote and that is actually listed as the first item, and the change in this is that they have agreed on the residential buildings with the brick to be 40% on the public street side and 35% everywhere else. The note also commits to brick versus other masonry materials. Because that change was made after the Zoning Committee vote, you have to do a special vote, to determine by a ¾ vote, whether you feel it is a sufficient change and whether it needs to go back to the Zoning Committee for consideration. Item No. 3: Petition No. 2014-003 for George M. Macon at the southeast corner of Ardrey Kell and Marvin Road. It is a decision; it has a Protest Petition, but it is insufficient. Item No. 14: Petition No. 2014-084 for 7th Street Progression Partners, located on 7th Street at Clement Avenue. It is for decision tonight; there is a protest petition that is sufficient. The petitioner is aware that we have two Councilmembers absent tonight but would like a decision anyway. They do have some changes so the Council will have to vote whether or not this item needs to be sent back to the Zoning Committee for reconsideration. The changes are also noted in your agenda, it is a rather long list and all these changes related to items that the adjacent property owners requested. One in particular that have several notes that caused change was one of the property owners, Mr. Copley did not want the brick wall that was proposed and he wanted to have a black fence, kind of like the black wrought iron fence and shrubs and because of that several notes had to be modified on the site plan and there are other clean up notes that are also involved.

Councilmember Phipps said so then this long list is deceiving, is what you are saying that it just pertains to fencing and the required notes because of that?

Ms. Keplinger said it does and there are several clean-up notes that they have in there that they need to clean up also. Item No. 15: Petition No. 2014-085 New Carolina Income Properties, this is for a decision and the protest petition has been withdrawn. Item No. 16: Petition No. 2014-089 Hopper Communities at West 4th and Grandin, this also had a change after the Zoning
mpl

Committee meeting so we will need to do the special vote on whether to send it back to the Zoning Committee. The note related to the tree save area, the site plan had a note on it that said the tree save area would be nine percent, but the ordinance requires 15% so they have to meet that rate ...

Mayor Clodfelter said let me ask you a question and I'm going to ask the Councilmembers and also the Zoning Committee members; we've got three petitions where changes were made after the Zoning Committee vote. That is the Halvorsen Development, 7th Street Progression Partners and the Hopper Communities petition and so we will have to take a vote in the Chamber about whether or not to send them back or to keep them on the agenda for tonight. Just for discussion purposes here because we can't take the vote in here, is there any sentiment that we might want the Zoning Committee to take a look at any of those three petitions again, in light of the changes. Let me ask the Zoning Committee members if you guys think your recommendations or your conclusion of minor change is a result of any of the changes that were made to the petition. I'm just going to bring it up for discussion on that question on any of those three petitions right now.

Mr. Phipps said I don't think the Halvorsen one, Item No. 2, I don't see a compelling need for that one to go back but inasmuch as we are increasing the quality of the materials that is going to be going into the structure from 35% to 40% on the public street, I would see that as an enhancement. The 40% and the 35% I don't know if we have any diminution trigger or anything like that, but I don't see any reason to send it back.

Councilmember Austin said mine is going to be the Hooper Communities, I see no reason for that to go back.

Councilmember Kinsey said the same thing about 7th Street Progression.

Mayor Clodfelter said I'm hearing the District Reps on those three are not seeing a need to re-refer. Do you guys think your recommendations might change if you had a second look?

Tracy Dodson, Zoning Committee said on those petitions I don't know that we would, based on the changes.

Mayor Clodfelter said unless you guys think you might like to have a second crack at this and it might change the outcome of things; I'm not hearing Ms. Keplinger that any of these might need to go back. If that is the case I will move through those fairly quickly in the Chamber, but again we will have to vote for those to stay on the agenda.

* * * * *

ITEM NO. 2: FOLLOW-UP REPORT

Tammie Keplinger, Planning said last month we had questions about the de-designation of the James A. Blakeney House; if it was approved what taxes we could capture for the past years when the historic designation was in effect and how many year of taxes could we recapture and how is this initiated. North Carolina State Law requires that there would be no tax deferrals on de-designated properties so in this case if the de-designation is approved the deferred taxes for the designated property, which is 2.2 acres, would be recaptured for 2011 through 2013 and the owner would not receive a deferral for the 2014 taxes. If the 2.2 acres are de-designated the owner will owe approximately \$1,916 in combined taxes for the County and the City and he will owe about \$6,658 in deferred taxes and interest for the City and County taxes. The first figure was for 2014.

Councilmember Mayfield said if I'm reading this correctly if this were to move forward then the owner is going to have a combined bill of almost \$8,000 opposed to that being deferred or broken up in some kind of way. I have some concerns about that, especially when Mecklenburg County intends to do a reassessment, not to mention we are not really sure moving forward if it is accurate, the numbers that Mecklenburg County has presented for property. Are there any alternatives or options around this because this seems like it would create an undue burden on an individual if this were to move forward.

Ms. Keplinger said I would like to ask Stewart Gray of the Historic Landmarks Commission to address that question.

Stewart Gray, Historic Landmarks Commission I will be glad to answer that question or any other questions about this particular issue. The property owner is requesting that that property be de-designated. It went through the development process through the certificate of appropriateness process and this is really housekeeping. I understand your concerns and that the taxes are a concern, however this is really clearly laid out in state law that we are just following their procedure. If you've got property that is designated and a portion of it becomes de-designated it simply a calculation of what was the benefit; the tax benefit they received for the past three years, they just have to give it back.

Councilmember Kinsey said they only have to pay back three years and they don't have to go back as far as when the property was designated.

Mr. Gray said yes, and again that is State law, we're just following their procedure.

Ms. Keplinger said the next item was on Petition No. 2014-043, this is the Mark Patterson rezoning on Prosperity Church Road which is being requested for deferral. The question was is the median cut on Prosperity Church Road possible to allow left turns into the proposed childcare center. The turn would be between Prosperity Point Lane and Pinewood Lane. I believe C-DOT responded on this that the median cut would be impossible due to space limitations along that stretch of the road, so the left turn lane would not be possible.

On Petition No. 2014-055, the question is why the property located on North Davidson Street, between East 33rd and East 34th Street, is requesting a MUDD-O which is Mixed Use Optional district instead of a TOD. The response on that is that the additional provisions of the MUDD-O district was 15 specific areas for which optional provisions could be requested and those include things that you are used to seeing; parking, pedestrian circulation, landscaping and things of that nature nearby. Properties close to this one have been rezoned MUDD-O and in this particular case the renovation and the expansion of the existing building in the MUDD district is suited to the needs of the property owner best and to accommodate the changes that they want to have in the existing situation. We were asked to provide details on the streetscape design for that property; there is a MUDD-O request for that property as I mentioned, there is a minimum planting area of four feet; eight feet is normally required, minimum sidewalk width is three and a half feet, six is normally required. That is the reason those numbers are as they are is because those match the existing conditions along the road. Also we were asked to provide the times for the garbage dumpster and the garbage collection. The petitioner has added a note that says the waste pick-up service will be daily and limited to the normal hours of 8:00 a.m. to 6:00 p.m.

Petition No. 2014-081 for Provident Land Company, this is the case that is the Vineyards, the subdivision that is being developed out on the west side of town. There were several questions about the property, particularly about the removal of the parallel bridge to Amos Smith Road. I talked with Scott Hunter who is the Chief of the West Mecklenburg Volunteer Fire Department and he said that from an emergency perspective that they would be able to serve the needs of the community with the existing bridge, even when everything is built out. He did say that he has no dog in this fight but he was concerned about capacity issues with the bridge just from the normal everyday day use, but for emergency service that he had no concerns.

Councilmember Lyles said what did that mean?

Ms. Keplinger said just from someone that was in that area he thought that the traffic was going to be too many.

Ms. Lyles said too many cars driving across the bridge.

Ms. Keplinger said another question was if the properties are located in the nuclear emergency zone and if there could be a second ingress or egress for the properties. It is not located within the Catawba or McGuire Nuclear Power Emergency Evacuation Zones. There was an additional question of what can be done differently to ensure that the silt from the nearby Browns Cove and
mpl

could the petitioner propose higher standards for that from the PCCO ordinance. The site is located in the critical watershed and the City Ordinance has that extra measure when developing that land and those areas have to have double silt fences, and there are other grading and land clearing requirements. As a part of the petition the petitioner has added a note that says that currently the city and county Enhanced Erosion Control Policy limits uncovered areas to 20 acres that may be graded at one-time. The petitioner has said that they will limit that to 12 acres so we do have a reduction in the number of acres that will be graded at one time. Also they said that they would utilize, as specified in the Enhanced Erosion Control Policy surface water draw down devices and pans to reduce turbidity and double silt fences.

Councilmember Fallon said didn't we go through that last year and they put some kind of stake or thing up that filters it?

Ms. Keplinger said we have done several things on different re-zonings. We have done some for the Tanger Outlets and some for other big developments on the west side and I think this is pretty consistent with what we have done in those other cases. The difference between this case and the Tanger case is that the Tanger Outlets are in the protected area while this property is in the critical area so it would have a higher standard that would have to be met. Petition No. 2014-090 has a rezoning on Morehead Road at the intersection of Stowe Lane and Morehead. This is in Cabarrus County and the question that was also asked was can the Tree Ordinance requirements and standards be enforced outside of the City's jurisdiction. We did share this petition information with Cabarrus County and they do not have any covenants and the City Attorney has assured us that the Tree Ordinance does apply in the ETJ.

Mayor Clodfelter said David Owens at the School of Government disagrees.

Ms. Keplinger said Petition No. 2014-092 provided a matrix showing the number of vehicles and pedestrian accidents which have occurred at the intersection of Nations Ford Road and Tyvola Road and this was in relation to the 7-Eleven and that was for the past three years. I'm not going to go through all of this unless you need me to. I think it is pretty self-explanatory when you read through it but that is information that was requested.

Ms. Lyles said I'm having a problem about the question.

Mayor Clodfelter said which question.

Ms. Lyles said the question on the intersection.

Mayor Clodfelter said Ms. Mayfield you asked the question; are you satisfied with the answer?

Councilmember Mayfield said yes.

Ms. Keplinger said in your agenda you also have a letter from a chiropractor related to Petition No. 2014-094; a rebuttal letter and I just wanted to draw that to your attention. You also have your Text Amendment, Area Plan, Study and Process Enhancement Update and I will turn it over to Mr. McKinney to walk you through that.

* * * * *

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

Interim Planning Director Ed McKinney said I will just highlight a couple things on the first couple of pages of Text Amendment, number five on page two, the Subdivision Ordinance that they are preparing on that. Number six, institutional floor area ratio, I recall talking about this last month and had a meeting with representatives in the neighborhood in October and we've got another one scheduled on November 25th so we are continuing the dialogue on that. We've got two other ones for decision tonight, number seven, parking lot reconfiguration and number eight. I think the last thing I will mention is an upcoming hearing in December; number 9, on Page three for our Blue Line Extension station area planning. We've made a pretty big effort on the
mpl

last stations in the University City Area, four stations involved in that planning process for over a year gearing up for a big workshop on December 9th to review the draft recommendations of that effort. That will be a combined meeting with CATS and will be a community open house to review those details. There is a lot going on down there opposite the construction so there will be folks there to answer those questions and talk about the recommendations of the draft station area plans. That is probably the biggest thing coming up for us in December.

Councilmember Barnes said regarding the Blue Line Stations, has the City already incorporated into a planning core the station stops, the leasing and easement. There was a pot of that money approved I believe two weeks ago and more to come out of that \$2 million so does this planning process including programming of that funding?

Mr. McKinney said it does and a number of those projects are obviously already underway in the planning process. They have been flushed out and have been coordinated throughout the specific and exact order of the streetscape work on J. W. Clay and the J. W. Clay Station. We've been working to make sure that the recommendations that come out of our plan are at ... and vice versa on the design and ultimate implementation of those projects.

Mr. Barnes said the next question is whether we are programming money to take advantage of the ½ mile reach that we have been seeking for improvements along the corridor?

Mr. McKinney said yes and certainly through the process that we've been on and as we've been working with engineering staff to refine some of the thoughts that were made and will continue to do that specific to the street connection, looking for opportunities to support added development and connectivity to the station. Now with the approval of those efforts going forward there is opportunity to get more specific once the plans are a little bit more detailed and adopted.

Councilmember Phipps said where are we on perhaps developing or implementing some sort of TOD overlay district along the Blue Line Extension Corridor, especially in District 4 on Tryon because already I see at the corner of Tryon and University City a sign up for a future home for a storage facility. I didn't think that kind of use was something we wanted to be intentional at that important site along the extension. How long would it take for us to get something like that in place so we can prevent other surprises like that?

Mr. McKinney said the issue you bring up is particularly those stations on North Tryon and a lot of those areas have zoning really inconsistent with what we are trying to achieve in the stations. We've been working really on two fronts with the area plan process, one is with the recommendations of the plans some of the implementation of the plan can be collectively identifying key parcels or key development sites that we might recommend for an overlay or using the current tools we have now to implement and obviously that will come back to Council for approval. It is a little more proactive in the plan process and the other thing we've been doing parallel to that through the area plan process has been identifying and talking with some of those key property owners in those station areas and developing a dialogue for example about opportunities to marry the investments that we see in others obviously to a longer term vision for their sites and hopefully finding some common ground and consensus about partnering with them on re-entitlement to some of those sites. We are trying to do it on two fronts, one is identify those key parcels and those key property owners and work with them in partnership, but at the same time know that there are some key ones in addition that we may want to, if we can't get to that partnership, recommend plans that would we be a little bit more proactive with.

Mr. Barnes said what I'm hearing from the Councilman is a concern that we've been wrestling with for a while, so for example when the Auto Mall was approved there was a lot of concern about whether we should have an Auto Mall built within a ½ mile of the light rail line at a station stop and so the storage facility side that he is talking about is easily within a ½ mile of the station stop and there are some entitlements on the ground there for a number of B-1, B-2, I-1, I-2 types uses along the corridor and the whole intent of the corrective re-zonings was that some of the things we've been pushing for a while is to figure out how to persuade those property owners to take advantage of entitlements they would realize under TOD or one of the TOD classifications as opposed to building a storage facility on the other side that someone is thinking about building
mpl

some sort of industrial indoor thing and all of that is happening right near the station stop. We are making a very large investment in the Blue Line and the taxpayers are making an investment with the Northeast Corridor Investment (NECI) money and we have property owners, frequently absentee out of state interest that don't know what we are doing and don't appreciate what we are doing and are kind of doing whatever their economics tells them they should do. Is there some strategy that we could explore to bring a halt to that storage facility?

Mr. Phipps said even if it means going to Cleveland or something, I think that is part of the DDR.

Mr. Barnes said I think it is actually just on the other side of their land.

Mayor Clodfelter said what was done along the original Blue Line to address this issue?

Mr. McKinney said there were a number of proactive re-zonings initiated in the station areas. Part of it was again this finding the balance between partnerships and a little bit of carrot and stick so the challenge we have is kind of trying to pick the right battles and identify where we have some partnerships and see if we can't move those things forward but at the same time I hear you and we need to be ready and keep our eye close to the ones that we don't think ...

Mr. Barnes said yes Mr. McKinney but I'm suggesting that you be more aggressive and for years I've been talking about being extremely aggressive along the extension alignment because for example across the street from that site the owner has the entitlements to build several hundred garden style apartments and two or three car dealerships. So there are just zoning classifications and entitlements along that corridor that are completely out of whack with what the Council has set forth for its vision for the light rail corridors, certainly if you look at the existing South Corridor we intended for something similar to that happening along the extension, not to have used car dealerships and Dollars Generals and stuff like that being developed by people in a position where they want to take advantage of the entitlements they have. I understand some of the political difficulty that you guys have in getting appropriate control of some of the zoning classifications but we have to talk about it as a body, but there are some sites and Mr. Phipps is aware of them where we better do something now or we are going to be embarrassed once the Blue Line Extension opens because there are going to be storage facilities, Dollar Generals, car dealerships, flea marks and all kinds of stuff being built.

Mr. McKinney said we have that absolutely as part of the analysis and work we've done is to identify those disconnects. We are identifying those and we are aware of that and so through the implementation and recommendations of those plans if it is the intent of the Council we can bring those specific ones forward and be much more aggressive.

Mayor Clodfelter said I think the phrase is or it used to be corrective re-zoning and again I would hope our Planning Commission is sort of rolling up their sleeves and doing a deep look at that as to whether it ought to be some publicly initiated petitions on that corridor.

Councilmember Lyles said I agree with the Mayor's comment about the corrective re-zoning. If we are not aware and don't know what is going on I don't feel like we can really adequately address this and we are doing the Blue Line and we are doing the Gold Line and we need to be thinking very clearly about what do we want along that way. You said the Planning Commission coming back with some ideas, I'd like to actually have you share with us what is being done currently and if there is something that the Planning Commission can take on or is there anything that needs our discussion and approval to do. What are our choices and how do we get this moving? I agree with Councilmembers Phipps and Barnes that we are investing a lot of public money and some planned successes that we more than perhaps voluntary partnerships so I'd like to see a report that says where we are and what is coming forward or how it is going to proceed.

Mr. McKinney said absolutely.

Mayor Clodfelter said I think we all would; I hear a good discussion of that. I would observe this is historically the kind of initiatives that the Planning Commission is supposed to take. That is what they are there for.

mpl

Councilmember Fallon said can we get a list of the outstanding parcels that really would need to be changed to keep them away from wholesale type development, the big boxes, Dollar Generals and that kind of thing. That was not our intent when we did the Blue Line to have that kind of thing along that corridor. It was supposed to be good housing, a development of shopping and things like that. The point is why bring it down when we've invested so much and it has made changes already for the benefit of everybody and to continue rather than lower the standards.

Mayor Clodfelter said let me suggest that we have this as a special follow-up item at maybe a December meeting and that we block out more than just a minute or two to talk about it and to give Mr. McKinney and his team a chance to do a more in-depth presentation and more background information focus on this precise question but we treat it as if it were an important follow-up item that we are going to submit some time on our next Dinner Agenda.

Ms. Fallon said can you let us know which is by right and which has got zoning that could be corrected?

Mr. Barnes said a lot of this work has been done; remember that Park Chevrolet voluntarily agreed to a TOD and they are moving to the Auto Mall so part of the reason it was so easy to get them to do that, but they have a very large site on Tryon Street and they have already done TOD and you guys had a year and a half or two years ago mapped out several parcels that would require corrective action.

Councilmember Austin said just some feedback on what Ms. Lyles just said; we need to do the same thing on the LYNX Gold Line.

Mayor Clodfelter said I would think so. I think we have a little more time on that one; we are under construction right now on the Blue Line and we need to get at that.

Mr. Austin said again I just want to start early with the same thing.

Mayor Clodfelter said amen, that will be your next assignment.

The Dinner Briefing was recessed at 5:47 p.m. to move to the Meeting Chamber for the regularly scheduled Zoning Meeting.

* * * * *

ZONING MEETING

The Council reconvened at 6:03 p.m. in the Meeting Chamber of the Charlotte-Mecklenburg Government Center for their regularly scheduled Zoning Meeting with Mayor Dan Clodfelter presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Claire Fallon, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

ABSENT: Councilmembers Ed Driggs and David Howard

* * * * *

INVOCATION AND PLEDGE

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

* * * * *

IN MEMORY OF ROBERT L. DAVIS, JR.

Mayor Clodfelter said before we begin the official agenda tonight I want to take a moment of privilege and mark the passing of a civic legend in Charlotte. Last week we lost Robert L. "Bob" Davis and many of you knew Bob Davis. He was truly a civic pioneer and civic champion and

mpl

all things Charlotte. He had a distinguished career as an educator and provided critical leadership for our school system in the transformations that occurred in the 50's, 60's and 70's and was really a key leader in bringing this community through that important period of change. But he wasn't done when he retired from the school system; he then had his second career in local political affairs. He was one of the founders of the Charlotte-Mecklenburg Black Political Caucus and was the first African-American to chair the Mecklenburg County Democratic Party. He served the City loyally in the Community Relations Committee and was a leader state wide in the Charlotte-Mecklenburg Chapter of the North Carolina Association of Educators. He was a true giant in our community; we all owe him an eternal debt of gratitude and we will miss him greatly. I just wanted to say a word or two to mark his passing.

* * * * *

INTRODUCTION OF ZONING COMMITTEE

Tracy Dodson, Zoning Committee introduced the members of the Zoning Committee. They will meet Monday, December 1st at 2:00 p.m. in the Government Center 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.

* * * * *

EXPLANATION OF ZONING MEETING PROCESS

Mayor Clodfelter explained the Zoning Meeting rules and procedures.

* * * * *

DEFERRALS

ITEM NO. 4: PETITION NO. 2014-021

Motion was made by Councilmember Barnes, seconded by Councilmember Mayfield, and carried unanimously to defer Petition No. 2014-021 by Charlotte Mecklenburg Planning Department to December 2014.

* * * * *

ITEM NO. 5: PETITION NO. 2014-031

Motion was made by Councilmember Phipps, seconded by Councilmember Fallon, and carried unanimously to defer Petition No. 2014-031 by Wilkison Partners to January 2015.

* * * * *

ITEM NO. 6: PETITION NO. 2014-043

Motion was made by Councilmember Autry, seconded by Councilmember Kinsey, and carried unanimously to defer Petition No. 2014-043 by Mark Patterson to December 2014.

* * * * *

ITEM NO. 10: PETITION NO. 2014-071

Motion was made by Councilmember Kinsey, seconded by Councilmember Austin, and carried unanimously to defer Petition No. 2014-071 by Charlotte Mecklenburg Planning Department and the Police Department to January 2015.

* * * * *

ITEM NO. 19: PETITION NO. 2014-092

Motion was made by Councilmember Mayfield, seconded by Councilmember Kinsey, and carried unanimously to defer Petition No. 2014-092 by Pavilion Development Company to December 2014.

* * * * *

ITEM NO. 21: PETITION NO. 2014-096

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and carried unanimously to defer Petition No. 2014-096 by Lenox Development Group to December 2014.

* * * * *

ITEM NO. 25: PETITION NO. 2014-042

Motion was made by Councilmember Fallon, seconded by Councilmember Mayfield, and carried unanimously to defer Petition No. 2014-042 by Moss Road Development Partners to December 2014.

* * * * *

ITEM NO. 26: PETITION ON. 2014-049

Motion was made by Councilmember Smith, seconded by Councilmember Barnes, and carried unanimously to defer Petition No. 2014-049 by SBBH to March 2015.

* * * * *

ITEM NO. 36: PETITION NO. 2014-109

Motion was made by Councilmember Kinsey, seconded by Councilmember Mayfield, and carried unanimously to defer Petition No. 2014-109 by Midtown Area Partners to December.

* * * * *

HISTORIC LANDMARKS

ITEM NO. 1: ORDINANCE NO. 5515 TO DE-DESIGNATE 7.829 ACRES OF LAND IN TAX PARCEL 22922212, AND DE-DESIGNATE 2.244 ACRES OF LAND IN TAX PARCEL 22908334 OF THE HISTORIC LANDMARK KNOWN AS THE "JAMES A. BLAKENEY HOUSE".

Motion was made by Councilmember Barnes, seconded by Councilmember Lyles, and carried unanimously to approve the de-designation of a portion of the historic landmark known as the "James A. Blakeney House".

The ordinance is recorded in full in Ordinance Book 59, at Page 98-103.

* * * * *

DECISIONS

ITEM NO. 2: ORDINANCE NO. 5516-Z, PETITION NO. 2013-094 BY HALVORSEN DEVELOPMENT, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF mpl

CHARLOTTE TO AFFECT 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 (COMMERCIAL CENTER SITE PLAN AMENDMENT), WITH FIVE-YEAR VESTED RIGHTS.

The Zoning Committee found this petition to be consistent with the Prosperity Church Road Villages Plan and the draft Prosperity Hucks Area Plan, based on information from the staff analysis and the public hearing, and because: the proposed development decreases the number of residential units while allowing a slight increase in nonresidential development; and provides an activity center with a mix of uses. Therefore, this petition is found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: The Prosperity Church Road Villages Plan recommends a pedestrian-oriented mixed use activity center with residential, office, retail and/or institutional uses; and the draft Prosperity Hucks Area Plan identifies this area as a pedestrian-oriented mixed use Activity Center intended to create highly integrated and walkable places, with a mix of uses to include retail/service, office, institutional and residential; and the petition proposes a mix of retail and residential uses consistent with the current and draft plans. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

1. Staff rescinded the request to provide a phasing plan that ties the certificates of occupancy for the large box retail to the street-front retail, and the certificate of occupancy for the multi-family units to the large box retail as the existing note is sufficient (Note 2H under Permitted Uses/Development Area Limitation/Transfer and Conversion Rights/and Certain Building Edge Treatment).
2. Removed all proposed signs, as they will be permitted separately.
3. Amended Note 5(O) to state the following: "Petitioner reserves the right to reduce the CC district setback from 35 feet to 14 feet as allowed by the ordinance."
4. Staff rescinded the request to amend Note 2B to state Development Areas A, C, D, F, and H may be developed with up to 100,000 square feet of gross floor area of ~~uses permitted by right and under prescribed conditions~~, office, retail, ~~restaurant~~ eating, drinking and entertainment establishments, and personal service uses, together with accessory uses as allowed in the CC zoning district" due to the addition of prohibited uses.
5. Amended development notes to change "restaurants" to "eating, drinking, and entertainment establishments."
6. Amended Note 5H to read "Charlotte-Mecklenburg Planning Department."
7. Amended Note 5I to remove the unnecessary "s" from Development Areas A.
8. Provided a set of typical elevation drawings for each residential building type (multi-family, townhomes, and carriage units over garages) and the clubhouse building.
9. Amended Note 2E as follows: "...vehicular parking and maneuvering may not be located between the proposed building edge(s) and the street where the building edge(s) is indicated."
10. Amended Note 5C as follows: "At least one building within Development C will include a prominent architectural feature oriented toward the intersection of Ridge Road and Benfield Road. An entrance to the building will be provided from either Ridge Road, Benfield Road or at the corner of the building to complement the prominent architectural feature."
11. Added a note under Architectural Standards as follows: "Any permitted drive-through feature located in Development Area A and Development Area C will be incorporated into the building's design using the same architectural style, detailing, and materials palette as the primary building it serves."
12. Modified Note 5D to state "Retail buildings B and C shall have their primary exterior facades oriented toward proposed Public Street #1. The facades of these buildings facing proposed Public Street #1 must contain a total area of transparency of 60 percent or more of the wall area of the ground floor, measured between two to ten feet above the adjacent grade. The transparency area shall be composed of clear glass windows and doors, which may not be screened by films, decals or opaque materials, glazing finishes, or window treatments for the purpose of screening service area, merchandise, or secondary operational functions to the primary business. Each individual business within Retail Buildings B and C shall have an operable door facing proposed Public Street #1 and this door shall be treated equally as a

- public entrance of the business.”
13. Amended Note 5G and building elevations to specify that Buildings #1, #2 and the townhome buildings within Development Area E will be designed so that the units on the ground floor facing Ridge Road and Public Street #1 will have:
 - a. an entrance from each unit to the abutting street; and
 - b. Vertical shaped windows with a height greater than their width.
 14. Added Note 5R as follows: “The orientation of the building constructed in Development Area H may be adjusted to match the realignment of Prosperity Church Road. The new orientation must be submitted to the Planning Department staff for approval.”
 15. Added Note 6F stipulating that parking areas between Cardinal Point Road and Ridge Road may not occupy more than 35 percent of the total street frontage along each side of proposed Public Street #1 (on-street parking will not be calculated into this percentage).
 16. Amended Note 8A to specify that the community green space shall contain a minimum area of 20,000 square feet of surface area.
 17. Amended Note 11B to specify that the information on how much square footage has been constructed will be provided with each permitting submittal for any of the buildings located within Development Areas C, D, F, and H.
 18. Deleted reference and label for “New Prosperity Church Road” and retained label as “Benfield Road.”
 19. Reflected on-street parking along the frontage on Prosperity Church Road.
 20. Revised notes to provide a consistent reference to Proposed Public Street #1.
 21. Specified that the community green space will be completed prior to the issuance of a final certificate of occupancy for any tenant located within Retail Building A, B, or C.
 22. Amended Note 8C to delete the following verbiage: “The community green space will be located within the right-of-way of Public Street #1. The petitioner will enter into an agreement with the City of Charlotte to maintain the improved open space area once it has been constructed.”
 23. Staff rescinded the request to remove the last paragraph under Note 2B.
 24. Amended note 2G to read as follows: “Prior to the issuance of a final certificate of occupancy for the building labeled “Major #1” on Sheet RZ-2, the three buildings labeled “Retail A, B and C” on sheet RZ-2 must have received a certificate of completion.”
 25. Staff rescinded the request to submit an administrative approval to reduce the development rights for the portion of the property that was included in rezoning 2001-070 but not included in this rezoning request.
 26. Amended Note 4(Ib) as follows: “Petitioner will install pedestrian refuge islands along the site’s frontage on Ridge Road. The pedestrian refuge islands will include landscaping if the median in Ridge Road is of sufficient width.”
 27. The minimum driveway throat lengths have been modified to be 50 feet behind the stop line for minor street connections. Major street connections have 100 to 120-foot driveway throat lengths.
 28. Amended Note 10B to delete the word “site.”
 29. Amended Note 2D to replace “restaurant” with “eating, drinking and entertainment establishment.”
 30. Added a note that the petitioner will be responsible for any traffic signal modification costs and necessary signal equipment easements on Ridge Road at Prosperity Church Road and Benfield Road when the subject site’s final construction plan is approved by the City. Traffic signal modification costs and easements will be determined during the construction plan review process.
 31. Amended Note 4(Ia) to add the following: “The petitioner shall complete the following improvements along the site’s frontage along Ridge Road:
 - a. curb and gutter; and
 - b. 31 feet of base course and surface course for additional improvements (the configuration of the on-street parking and pedestrian refuge islands to be determined in conjunction with C-DOT during the Land Development approval process).”
 32. Amended Note 2E to include the following as prohibited uses: Civic/social service and fraternal facilities, equipment rental and leasing, funeral homes/embalming, gas stations with or without convenience stores, government buildings, hotels and motels, gunsmiths, nurseries/greenhouses, outdoor recreation, religious institutions, repair or servicing of any article the sale of which is permitted in the district except that shoe repair and tailoring will be allowed, telephone booths, vocational schools, adult care centers, child care centers,

donation drop-off facility, public utility structures, and land clearing and inert landfills on-site.

33. Added Note 5B as follows: "The residential buildings constructed within Development Area E will be constructed with at least 35 percent of the exterior of each building, exclusive of windows, doors and roofs, with brick, stone, precast stone or precast concrete."
34. Added new note 3B per staff's request as follows: "The determination of public/private street designation and the location of the proposed right-of-way if a public street, for Public/Private Street # 1 adjacent to the Community Green Space may be made during the subdivision review and approval process for this Street/right of way."

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

Mayor Clodfelter said before the Council can consider this, there were changes made to the rezoning petition after the Zoning Committee had made its recommendation, therefore the Council must decide whether to send this back for reconsideration of the Zoning Committee or keep it on the agenda tonight.

Motion was made by Councilmember Fallon, seconded by Councilmember Kinsey, and carried unanimously not to return Petition No. 2013-094 to the Zoning Committee and to keep it on the agenda for decision tonight.

Councilmember Phipps said this is a petition that we have all been fully vetted on; we've had extensive community meetings, we've had adjustments to the plan, good adjustments and even as late as today we've had the protest petition withdrawn from this particular petition. I think as a result of all of the community input that we've come up with a better plan than even from the initial offering that Halvorsen presented to us and I think it is a better plan and I recognized that there are some members of the community still concerned about multifamily; particularly apartments being constructed on that site but I think with the decrease density and the quality of the particular multifamily that we are talking about I think it will be a good gateway project as we move forward with our evaluation of the Prosperity/Hucks Area Plan later on or early next year and I would encourage my colleagues to give serious consideration for approval of this petition.

Motion was made by Councilmember Phipps, seconded by Councilmember Fallon, and carried unanimously to approve Petition No. 2013-094 by Halvorsen Development, as amended.

Motion was made by Councilmember Barnes, seconded by Councilmember Fallon, and carried unanimously that this petition is consistent with the Prosperity Church Road Villages Plan and the draft Prosperity Hucks Area Plan, based on information from the staff analysis and the public hearing, and because the proposed development decreases the number of residential units while allowing slight increase in nonresidential development and provides an activity center with a mix of uses; therefore, this petition is reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because the Prosperity Church Road Villages Plan recommends a pedestrian-oriented mixed use Activity Center with residential, office, retail and/or institutional uses; and the draft Prosperity Hucks Area Plan identifies this area as a pedestrian-oriented mixed use Activity Center intended to create highly integrated and walkable places, with a mix of uses to include retail/service, office, institutional and residential; and the petition proposes a mix of retail and residential uses consistent with the current and draft plans.

The ordinance is recorded in full in Ordinance Book 59, at Page 104-105.

* * * * *

ITEM NO. 3: ORDINANCE NO. 5517-Z, PETITION NO. 2014-003 BY GEORGE M. MACON, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 4.65 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF ARDREY KELL ROAD AND MARVIN ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) AND MX-2 (MIXED USE) TO O-1(CD) (OFFICE, CONDITIONAL).

The Zoning Committee found this petition to be inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because the Plan recommends single family residential uses for the site. However, this petition is found to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the size of the site, orientation towards thoroughfares and isolation from adjoining parcels make developing stand-alone single family homes difficult; and the proposed office use serves as a transition from the commercial uses. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

1. Note D3 has been modified to read, "No parking will be allowed between the building and the public streets."
2. Staff has rescinded the request to modify and relocate proposed dumpster location to the rear of the site near the proposed tree save area.
3. The proposed uses have been modified to include "clinics, financial institutions, medical, dental and optical laboratories, child care centers, barber and beauty shops, and studios. Restaurants have been modified to "Eating, Drinking, and Entertainment Establishments (Type 1)."
4. Building elevations for the proposed office buildings and childcare center have been provided.
5. The proposed three building footprints have been shown within the building envelope.
6. Note H.2 has been modified to indicate that the dumpster location shown on the plan has been agreed upon with the Southampton Home Owners Association. If there is any modification of the dumpster location, the petitioner will submit and provide to staff a letter from the Southampton HOA agreeing to the changes.
7. Development Conditions have been amended to include the MX-2 district under proposed zoning and the accompanying parcel number.
8. The Class "C" buffer has been show on the plan and the alternative buffer request has been submitted to the City of Charlotte Zoning Administrator.
9. Sidewalk connections from the proposed buildings to Marvin Road along both sides of the proposed driveway have been shown on the plan.
10. Clarified that street trees will be provided along Marvin Road and Ardrey Kell Road.

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

Motion was made by Councilmember Barnes and seconded by Councilmember Smith, to approve Petition No. 2014-003 by George M. Macon, as amended.

The vote was recorded as follows:

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

NAYS: Councilmember Lyles.

Motion was made by Councilmember Barnes and seconded by Councilmember Phipps that this petition is inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because the Plan recommends single family residential uses for the site; 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 size of the site, orientation towards thoroughfares and isolation from adjoining parcels make developing stand-alone single family homes difficult; and the proposed office use serves as a transition from the commercial uses.

Councilmember Barnes said the District Rep, Mr. Driggs is not here tonight, but he expressed to me and I think others that there had been a lot of community work on this petition and that he was very supportive of it which is why I supported it in part; and I support this most recent motion as well.

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

The ordinance is recorded in full in Ordinance Book 59, at Page 106-107.

* * * * *

ITEM NO. 7: ORDINANCE NO. 5519-Z, PETITION NO. 2014-051 BY EASTGROUP PROPERTIES, LP AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 20.3 ACRES LOCATED ON THE 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).

The Zoning Committee found this petition to be consistent with the Steele Creek Area Plan, based on information from the staff analysis and the public hearing, and because the proposal is a second phase of an industrial park; and the property is within close proximity to I-485, the Airport and the Intermodal Yard. Therefore this petition is found to be 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 surround industrial uses; and all outstanding issues have been addressed. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

1. Amended Site Development Data to delete "this site may be developed with 1,400,000 square feet of gross floor area." Noted maximum square footage as 310,000 square feet.
2. Deleted Note C under Architectural Standards.
3. Limited maximum building height to 40 feet.
4. Staff has rescinded the request to address Engineering and Property Management comments as the affected portions of the site have been removed from the rezoning.
5. Amended Note C under General Provisions to state that the administrative amendment will be submitted prior to a decision being made on Petition 2014-51.
6. Amended site plan to remove references to reduction of required buffers with a fence. Site plan correctly reflects a Class "A" buffer along the site's frontage on Gable Road and I-485. Notes specify existing portions that will remain; a 50-foot portion that will remain wooded and undisturbed; and, portions that will be reduced to 37.5 feet in width with a berm.
7. Amended site development data to reflect a reduction in acreage from 43.26 acres to 20.316 acres.
8. Amended Note B under General Provisions to eliminate tax parcels no longer included in the rezoning.
9. Amended Note C under General Provisions to specify that a 7.03-acre portion of the existing I-2(CD) zoned area is included in the I-2(CD) site plan amendment.
10. Amended Note D under General Provisions to clarify that the development proposed under the site plan for this rezoning petition and rezoning plan will be a portion of Phase 1 and Phase 2 of Steele Creek Commerce Park.

11. Amended Note A under Architectural Standards to correctly specify that Sheet RZ-3 reflects a schematic architectural rendering of the rear elevation of the building facing Gable Road identified as Building 6.
12. Correctly labeled building elevations on Sheet RZ-3.
13. Added Note B under Architectural Standards to specify that a front elevation for Building 7 is included with the site plan.
14. Added Note C under Architectural Standards regarding elevations for Building 6 to provide an alternative elevation for Gable Road, which will be provided in the event that vehicular parking and circulation (excluding truck parking and/or circulation) is located between Building 6 and Gable Road.
15. Amended Note D under Streetscape/ Landscaping/Buffers to specify that the undisturbed 50-foot Class "A" buffer may be eliminated or reduced if an adjacent land use is changed to a land use or zoning that eliminates or reduces the buffer requirement.
16. Amended Note B under Streetscape/Landscaping/Buffers to delete "walls and fence."

Motion was made by Councilmember Mayfield and seconded by Councilmember Barnes to approve Petition No. 2014-051 by Eastgroup Properties, LP, as amended.

Councilmember Mayfield said with this particular petition I attended the community meetings; we are looking at a portion that is being rezoned that ties in with a greater development that we have out in the Steele Creek Area, but there was a lot of participation from the residents and citizens that were in the media area and this is supported by the members because there was some changes that were made as far as how we were going to move forward. I just want to thank the citizens that live off of Gable Road as well as the Eastgroup Properties for listening to the concerns of the homeowners.

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

Motion was made by Councilmember Mayfield, seconded by Councilmember Lyles, and carried unanimously that this petition is consistent with the Steele Creek Area Plan, based on information from the staff analysis and the public hearing, and because the proposal is a second phase of an industrial park and the property is within close proximity to I-485, the Airport and the Intermodal Yard; 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 proposed use is compatible with the surrounding industrial uses; and all outstanding issues have been addressed.

The ordinance is recorded in full in Ordinance Book 59, at Page 110-111.

* * * * *

ITEM NO. 8: ORDINANCE NO. 5520-Z, PETITION NO. 2014-055 BY ANDREW KLENK AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.23 ACRES LOCATED ON THE EAST SIDE OF NORTH DAVIDSON STREET BETWEEN EAST 33RD STREET AND EAST 34TH STREET FROM R-5 (SINGLE FAMILY RESIDENTIAL) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).

The Zoning Committee found this petition to be consistent with the Blue Line Extension 36th Street Station Area Plan, based on information from the staff analysis and the public hearing, and because the proposed use is suitable for the area and it provides for the reuse of an existing building. Therefore, this petition is found 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 within ¼ mile walk of the 36th Street Transit Station and there have been several rezoning's in the area to MUDD (mixed use development) and TOD-M (transit oriented development mixed use) in order to accommodate retail, office, and mixed use development. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

1. The petitioner has modified Permitted Uses Note C to state that outdoor eating/activity areas will not be in use after 11:00 p.m.
2. The petitioner has amended the Optional Provision pertaining to streetscape by requesting a minimum four-foot wide planting strip to match the existing planting strip, and a minimum five-foot wide sidewalk along North Davidson Street frontage, with any sidewalk outside the right-of-way placed within a sidewalk easement.
3. Information under Development Site Data has been modified to specify the existing building square footage (approximately 1,580 square feet) and proposed building square footage (4,400 square feet, including the courtyard area).
4. The width of the planting strip (four feet) is now labeled on the site plan.
5. Development Data Table Note I has been modified to identify three spaces for on-street parking.
6. The site plan has been corrected to acknowledge that abutting Parcel Number 08307113 is now zoned TOD-MO (transit oriented development - mixed-use, optional).
7. The petitioner will provide a copy of the draft parking lease agreement prior to City Council decision on the rezoning request. The lease agreement must be recorded with the Register of Deeds upon submittal of plans through the plan review process.
8. Notes on the site plan have been amended to replace “restaurant” with “eating, drinking, and entertainment establishment.”
9. Removed Note A under General Provisions as it is covered by Note B.
10. Added language stating that any additions to the existing structure will be similar in character to the existing residential structure.
11. Renamed “shade garden” to “entry garden” to provide clarity that Note D (formerly Note C) under Architectural Standards is referring to the “shade garden” shown on the site plan and noting that it is not enclosed or covered.
12. Noted on site plan that the material of the trash area enclosure will be a minimum six-foot high wood fence that will complement the character of the building.
13. Noted on site plan that the surface material of the path for roll-out dumpsters will be concrete or pavers.
14. The petitioner has added language to state that at least two long-term bike parking spaces will be provided either under a roof or in bike lockers.
15. A note has been added on the site plan stipulating that trash/recycling will be removed on a daily basis or be stored in a refrigerated enclosure to reduce odors. The note also states that waste pickup service will be limited to normal business hours (8 a.m. through 6 p.m.).

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, to approve Petition No. 2014-055 by Andrew Klenk, as amended.

Councilmember Lyles said I just wanted to follow-up; one of the notes in our agenda said the petitioner would provide a copy of the draft parking lease agreement prior to the Council decision and I wanted to be sure that was accurately done.

Tammie Keplinger, Planning said yes, we do have a draft of that lease agreement.

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

Motion was made by Councilmember Kinsey, seconded by Councilmember Mayfield, and carried unanimously that this petition is consistent with the Blue Line Extension 36th Street Station Area Plan, based on information from the staff analysis and the public hearing, and because the proposed use is suitable for the area and it provides for the reuse of an existing building; 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 36th Street Transit Station and there have been several rezoning’s in the area to MUDD (mixed use development) and TOD-M (transit oriented development – mixed use) in order to accommodate retail, office and mixed use development.

The ordinance is recorded in full in Ordinance Book 59, at Page 112-113.

* * * * *

ITEM NO. 9: ORDINANCE NO. 5521-Z, PETITION NO. 2014-064 BY MARSH PROPERTIES, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 59.4 ACRES GENERALLY LOCATED ON THE EAST SIDE OF SOUTH BOULEVARD ON BOTH SIDES OF POINDEXTER DRIVE AND ELMHURST ROAD FROM B-1 (NEIGHBORHOOD BUSINESS), B-2 (GENERAL BUSINESS), O-2 (OFFICE), R-17MF (MULTIFAMILY RESIDENTIAL) AND R-8 (SINGLE FAMILY RESIDENTIAL) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL) AND UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL) WITH FIVE-YEAR VESTED RIGHTS.

The Zoning Committee found this petition to be consistent with the New Bern Transit Station Area Plan, based on information from the staff analysis and the public hearing, and because the proposed development provides elements of a mixed transit supportive development and the proposed density is consistent with the Plan's recommendation. Therefore this petition is found to be reasonable and in the public interested based on the information from the staff analysis and the public hearing, and because a portion of the site is located within ½ miles of the New Bern Street transit station and usable park/open space is provided; the petition provides a mixture of housing types and existing mature trees are to be preserved and the petition provides site design guidelines and meets the General Development Policies. The Zoning Committee vote 6-0 to recommend approval of this petition with the following modifications:

1. C-DOT clarified that the Subdivision Ordinance would require street D to be public. Subdivision staff has confirmed that the street can be private provided it is built to public street standards with a public access easement. The petitioner provided a note stating that the private street would be constructed to public street standards and a public access easement would be provided.
2. Provided a public street extension of Iverson Way from Poindexter Drive to the edge of the conservation easement. The remaining unopened right-of-way will not be abandoned but the petitioner will not be required to improve it.
3. Provided development phasing in the Development Standards to better match infrastructure mitigation to the construction of the proposed entitlements.
4. C-DOT rescinded the request to design the proposed southbound right-turn lane on South Boulevard and Remount to be channelized with a raised concrete median to provide better pedestrian accessibility and refuge. The intersection capacity is being improved by extending the existing southbound left-turn storage instead adding a right-turn lane.
5. Increased the storage for the "back to back" left-turn lanes on South Boulevard between Poindexter Drive and Ideal Way by reconstructing the monolithic median to compress the bay taper length in Phase I. The petitioner will extend the existing storage on the southbound left-turn lane from 80 feet to 150 feet.
6. Provided a dedicated left-turn lane with a minimum 100 feet of storage on South Boulevard at Elmhurst Road in Phase I.
7. Provided a minimum six-foot wide pedestrian refuge island on the southbound side of the South Boulevard/Elmhurst Road intersection in Phase I.
8. Committed to constructing the "Potential New Public Street" located in the rear of Development Area B during Phase II as a public street.
9. Provided a pedestrian refuge island and crossing midblock between Poindexter Drive and Elmhurst Road. The final location will be determined during permitting.
10. Cross referenced the proposed street cross sections shown on RZ-3.0 with the site plan (RZ-1.1).
11. Provided more detail on the site plan so that C-DOT can better understand the individual access scenarios for each development area, and the overall internal vehicular and pedestrian circulation route.
12. The petitioner held a meeting with CMS staff on October 23rd, 2014 to discuss the student yield calculations. The petitioner shared with CMS staff that the unit count had been reduced to 980. The petitioner also explained that based on their research they feel the total number of students the redevelopment of the site would generate would be closer to 75 students and not 780 predicted by CMS. The petitioner indicated that a yield ratio of .03 to .13 students would be more accurate based on similar developments in CMS Planning Area Three. CMS staff

- indicated they would review the information and consider creating a revised memo that at a minimum took into account the reduced allowed units. A revised memo from CMS has not been received by Planning Department to date.
13. Altered the language of Note 6. f. on sheet RZ-2.0 and Note d. iii. on sheets 3.2, 3.3 and 3.4 to reflect that City Urban Forestry staff will determine the health and condition of City trees and will also determine whether City trees can be removed. A City tree is defined as being wholly or partly within the City right-of-way.
 14. Clarified all language of Note 6. f. on sheet RZ-2.0 and Note d. iii. on sheets 3.2, 3.3 and 3.4 to differentiate between City trees and private trees.
 15. Revised Note 6. f. on sheet RZ-2.0 and Note d. iii. on sheets 3.2, 3.3 and 3.4 to remove the 50% reference to street trees. The notes now read that a minimum of 50% of all trees along each block face located on private property and within 15 feet of the right-of-way of existing public streets will be preserved
 16. Amended Note 7. c., to explain that parts of the easement may be used for tree save if available as a tree save option and conditions of easement area meet minimum tree save standards.
 17. Completed Note 4. I. to provide Transportation improvement details.
 18. Changed all references to restaurants to Eating, Drinking, and Entertainment Establishments (EDEE).
 19. Staff rescinded the request to remove the language in Note 1.c. and replace with the following: "Minor modifications to the plans are allowed per Section 6.207 of the Zoning Ordinance."
 20. Amended Note 2.f. to limit the number of rotating signs to two wall signs and one detached sign.
 21. Removed RZ-6.1.
 22. Staff rescinded the request to modify Note 5.i. on RZ-2.0 and Note d.i. on RZ 3.2, 3.3. and 3.4 which restricts parking and maneuvering between the buildings and public streets to include development areas C and D because the MUDD (mixed use development) standards do not allow this for areas C and D.
 23. Specified that the minimum two acres of open space is in addition to the open space required in each development area.
 24. Labeled the adjacent zoning of neighboring parcels on RZ-2.11.2
 25. Amended Note 3. d. that says "Any additional residential units constructed within development Area B as a result of converting allowed non-residential square footage into residential units will not be counted toward the 1,050 residential dwelling unit limit" to include areas A, C and D.
 26. Changed the word "homes" to "zoning" in Note 6.i.
 27. Provided a statement of Overall Design Intent.
 28. Revised the Poindexter Drive elevation with a combination of landscaping and architectural features to break up blank walls.
 29. Replaced Note 2.l. with two notes allowing specific windows of the building located at the corner of Poindexter Drive and South Boulevard to be covered 100% with non-product, non-tenant specific or tenant identifying graphics. Other windows on the building shall be clear glass.
 30. Eliminated the optional provision to allow detached signs for each building in Development Areas A and B.
 31. Staff rescinded the request to eliminate the optional provision to allow detached signs for each use within Development Areas C and D because MUDD (mixed use development) allows detached signs.
 32. Clarified that the optional request for signs is to allow an increased sign area in C and D from 20 square feet to 25 square feet.
 33. Staff rescinded the request to reduce the size of a wall mounted neighborhood identification sign to 32 square feet.
 34. Removed Note 10.b regarding "sign flex."
 35. Amended Note 1.d. to indicate a total of 12 principle buildings allowed in the MUDD zoning.
 36. Amended Note 2.o. to only allow doors to not be recessed when the sidewalk is 12 feet wide or greater.
 37. Described phasing in Note 4.b.

38. Staff rescinded the request to specify building materials for structured parking facilities because the MUDD (mixed use development) standards address this issue.
39. Provided the following General Design Guidelines:
- a) The Site will include a series of publicly accessible open spaces and plazas as focal points. These focal points will include some combination of landscaping, monumentation, water feature, seating areas and/or art work features.
 - b) Streetscape treatment will be a unifying element through the use of complimentary landscaping and hardscaping materials throughout the Site.
 - c) Specialty pavers, stained and patterned concrete/paving or other similar means will be used to call attention to amenity areas, gathering spaces, plazas and as a method of way finding.
 - d) Windows and doors shall be provided for at least 40% of the total facade area along public streets with each floor calculated independently. The maximum contiguous area without windows or doors on any floor shall not exceed 10 feet in height or 20 feet in length in the UR-2 (urban residential) areas.
 - e) Ground floor elevations shall be treated with a combination of fenestration, clear glass, prominent entrances, porches, stoops, change in materials, building step backs, art work and landscaping in the UR-2 (urban residential) areas. Blank walls cannot be addressed with landscape elements only in the UR-2 (urban residential) areas.
 - f) The petitioner addressed the request for development areas C-I to include a mix of building massing and building heights by indicating in the statement of overall design intent that a variety of residential building styles, types, and materials would be used throughout the site.
 - g) Facades over 75 feet in length shall incorporate wall projections or recesses a minimum of five feet in depth. The combined length of said recesses and projections shall constitute at least 20% of the total facade length in the UR-2 (urban residential) areas.
 - h) End fronting facades shall be articulated and designed to create additional visual interest by varying architectural details, building materials, the roof line, and building offsets in the UR-2 (urban residential) areas.
 - i) Facades shall provide visual divisions between the first and second stories through architectural means such as courses, awnings, or a change in primary facade materials or colors in the UR-2 (urban residential) areas.
 - j) Facades above the first story shall incorporate windows, arches, balconies, or other architectural details in the UR-2 (urban residential) areas.
40. Provided a note stating, "Buildings constructed within Development Area G, that are located within 150 feet of the northeastern property boundary of Development Area G (the common property line with the four lots fronting on Poindexter Drive between Lawndale Road and Elmhurst Road (500, 510, 516 and 520 Poindexter Drive) the 'Northeastern Property Boundary') may not have balconies or decks above the first floor that are oriented toward the "Northeastern Property Boundary."
41. Provided multi-family design guidelines.
42. Decreased the maximum building height in Parcel J from 50 feet and 40 feet within 100 feet of the adjacent single family residential to 40 feet for the entire development parcel.

Motion was made by Councilmember Kinsey and seconded by Councilmember Barnes, to approve Petition No. 2014-064 by Marsh Properties, LLC, as amended.
--

Councilmember Lyles said I really applaud the efforts, the notes and the effort that has gone into this. I think this is probably one of the things that will have the most impact around what we are expecting and looking for as we develop our transit system integrated into our inner city neighborhoods particularly, so I just wanted to say thank you for the work that Councilmember Kinsey did. It was a lot of work in this kind of effort and the Planning staff as well as the developer for putting the energy into this to make it a model development and we are looking forward to seeing it play out appropriately.

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

Motion was made by Councilmember Kinsey, seconded by Councilmember Fallon, and carried unanimously that this petition is consistent with the New Bern Transit Station Area Plan, based on information from the staff analysis and the public hearing and because the proposed development provides elements of a mixed transit supportive development and the proposed density is consistent with the Plan's recommendation; therefore this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because a portion of the site is located with ½ miles of the New Bern Street transit station and usable park/open space is provide, the petition provides a mixture of housing types and existing mature trees are to be preserved and the petition provides site design guidelines and meets the General Development Policies.

The ordinance is recorded in full in Ordinance Book 59, at Page 114-115.

* * * * *

ITEM NO. 11: ORDINANCE NO. 5522, 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.

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 it broaden the choices for entertainment. Therefore, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because outdoor dining encourages a more pedestrian-oriented form of development. The Zoning Committee voted 6-0 to recommend approval of this petition.

Motion was made by Councilmember Smith, seconded by Councilmember Mayfield, and carried unanimously to approve Petition No. 2014-073 by Brazwells Premium Pub.

Motion was made by Councilmember Smith, seconded by Councilmember Austin, 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 choices for entertainment; therefore this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing and because outdoor dining encourage a more pedestrian-oriented form of development.

The ordinance is recorded in full in Ordinance Book 59, at Page 116-125.

* * * * *

ITEM NO. 12: ORDINANCE NO. 5523-Z, PETITION NO. 2014-080 BY CAMPUS WORKS/MALLIE COLAVITA AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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).

The Zoning Committee found this petition to be inconsistent with the Belmont Revitalization Plan, based on information from the staff analysis and the public hearing and because industrial land uses are recommended for this site. 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 property is separated from the existing industrial land uses by the railroad tracks and the requested district is consistent with the zoning and development patterns

of the abutting property to the south. The Zoning Committee voted 6-0 to recommend approval of this petition.

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, to approve Petition No. 2014-080 by Campus Works/ Mallie Colavita.

Councilmember Kinsey said I just want to thank the developers for working with me; they didn't have to, but they did and I really appreciate it and I do support this petition.

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

Motion was made by Councilmember Phipps, seconded by Councilmember Kinsey, and carried unanimously that this petition is inconsistent with the Belmont Revitalization Plan based on information from the staff analysis and the public hearing and because industrial land uses are recommended for this site; 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 property is separated from the existing industrial land uses by the railroad tracks and the requested district is consistent with the zoning and development pattern of the abutting property to the south.

The ordinance is recorded in full in Ordinance Book 59, at Page 126-127.

* * * * *

ITEM NO. 13: ORDINANCE NO. 5524-Z, PETITION NO. 2014-081 BY PROVIDENT LAND SERVICES AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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, 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).

The Zoning Committee found this petition to be consistent with the Dixie Berryhill Strategic Plan, based on information from the staff analysis and the public hearing, and because the proposed use is suitable for the area and the Plan recommends a mix of uses including residential and retail; therefore 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 it eliminates the office/school component and the request allows minor changes to the site plan approved by petition 2005-014. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

1. The number of residential units for the overall site has been provided. The site will be allowed to have 658 dwelling units.
2. A detail of the typical lot has been provided.
3. A note has been added that commits to 6/12 roof pitches.
4. Added a note which requires foundations to be masonry under "Architectural restrictions."
5. A note has been added for Parcel K specifying the spacing of the proposed pedestrian lighting.
6. Proposed open space areas have been show on the plan for the overall site.
7. In lieu of eliminating the note regarding mass grading, the petitioner has agreed to the following:
 - a. To increase the minimum lot width as follows:

mpl

- i. Parcel D minimum lot width will be increased from 65 feet to 70 feet;
 - ii. Parcel G-1 minimum lot width will be increased from 80 feet to 90 feet;
 - iii. Parcel G-2 minimum lot width will be increased from 65 feet to 80 feet;
 - b. To amend note 9.d as follows: Within Parcels G-1, G-2, D and H, grading and clearing will be limited and regulated by the City of Charlotte and Mecklenburg County Enhanced Erosion Control Policy for Sites located in critical watershed areas, with the additional enhancement that the amount of uncovered area at any one time shall be limited to no more than 12 acres, unless approved by City/County Engineer. Enhanced Erosion Control Policy requirements such as but not limited to the following will be utilized as specified in the Enhanced Erosion Control Policy: (i) surface water draw down devices (risers or skimmers); (ii) Polyacrylamides (PAM) to reduce turbidity; (iii) double silt fences; (iv) the amount of uncovered area at any one time shall be limited to no more than 12 acres (as enhanced by the Petitioner), unless approved by City/County Engineer; and (v) other measures as specified by the Enhanced Erosion Control Policy requirements.
8. A note has been added that “play areas and amenity areas will be provided once 480 homes have been permitted.”
 9. A note has been added: “For Parcels G-1 and H, each individual lot with private lake frontage will have a 100-foot undisturbed buffer and the deeds to purchasers of these lots will contain restrictions which require that this buffer remain undisturbed in accordance with the Ordinance’s watershed regulations. This 100-foot buffer will be increased in width to 150 feet in those areas where slopes adjacent to the lake are greater than 50 percent.”
 10. Clarified that the open space in Development Area A is private open space for the overall development.
 11. A wetlands letter for the subject property has been submitted.
 12. A note has been modified to state that one member from the Catawba Community Association will serve in an advisory capacity to the Architectural Review Board of the Vineyards at Lake Wylie.
 13. Modified the new note for the possible emergency at grade crossing across the Norfolk Southern line by removing the following condition: “If the right to provide the emergency at grade crossing is not granted to the Petitioner before the 481st lot is platted the Petitioner will no longer be obligated to construct the emergency at grade crossing.”

Motion was made by Councilmember Mayfield, seconded by Councilmember Austin, and carried unanimously to approve Petition No. 2014-081 by Provident Land Services, as amended.

Motion was made by Councilmember Lyles, seconded by Councilmember Mayfield, and carried unanimously that this petition is consistent with the Dixie Berryhill Strategic Plan, based on information from the staff analysis and the public hearing, and because the proposed use is suitable for the area and the Plan recommends a mix of uses including residential and retail; therefore, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because it eliminates the office/school component and the request allows minor changes to the site plan approved by Petition No. 2005-014.

The ordinance is recorded in full in Ordinance Book 59, at Page 128-129.

* * * * *

ITEM NO. 14: ORDINANCE NO. 5525-Z, PETITION NO. 2014-084 BY 7TH STREET PROGRESSION PARTNERS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.5 ACRES LOCATED ON THE NORTH SIDE OF EAST 7TH STREET BETWEEN CLEMENT AVENUE AND PECAN AVENUE FROM B-1 (NEIGHBORHOOD BUSINESS) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL.)

The Zoning Committee found this petition to be consistent with the Elizabeth Area Plan, based on information from the staff analysis and the public hearing, and because the single use multifamily development is a well-suited land use for the area, therefore this petition is found 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 in a primarily single family residential neighborhood but on a street with a mix of uses that includes entertainment, retail, office and multifamily residential and the site plan is designed to be compatible with the abutting single family residential through limitations on density, height, location of buildings and screening. The Zoning Committee voted 5 – 0 to recommend approval of this petition with the following modifications:

1. Reference to courtyard walls has been removed from Optional Provision B (Optional provision A on revised site plan). The modified note now specifies how far decorative paving, steps, and stoops are proposed to encroach into the setback, as well as the maximum amount of the setback area impacted by the encroachment (up to three feet into the 21-foot zoning setback).
2. Petitioner has moved Option C to Option B, removed the reference to dining and providing new language that proposes an outdoor amenity area containing landscaping, hardscape, seating elements, an outdoor water drinking fountain and possibly tables to be located on the 13-foot wide portion of the sidewalk along the Site's frontage on East 7th Street. The new language further states that the improvements will not obstruct the sidewalk such that an eight-foot wide clear sidewalk zone will be maintained.
3. Removed Architectural Standards Note D as the zoning standards allow balconies to project up to two feet with a minimum clearance of ten feet from grade.
4. Removed references to adopted area plans on Sheet RZ-1.0 of the site plan.
5. Confirmed type of residential product proposed as multi-family under Development Information on Sheet RZ-2.0.
6. Moved the proposed buffer and screening materials out of the abutting alleyway and onto the rezoning site.
7. Addressed Urban Forestry's comments by adding Environmental Features Note D that states tree preservation will be coordinated during land development with City Engineering and Urban Forestry.
8. Under Lighting Note B, maximum height of freestanding lighting is now noted as 25 feet.
9. Note C from the "General Provisions" has been removed from the site plan.
10. The number of proposed units has been reduced from 95 to 91.
11. Reference to Deed Restriction Setback has been removed from Sheets RZ-2.0 and RZ-2.3.
12. Sheet RZ-2.0 has been revised to show planting area in front of eight-foot screen wall along portions of property lines.
13. Sheet RZ-2.0 has been revised to show proposed bicycle parking locations.
14. Sheet RZ-2.0 has been revised to show proposed seat height freestanding walls, potential drinking fountain locations, and potential tree in grate.
15. Sheet RZ-2.0 has been revised to show a new planting area to be extended along a portion of the driveway accessing East 7th Street.
16. Sheet RZ-2.0 has been revised to show a 25-foot deed restriction setback along East 7th Street.
17. Sheet RZ-2.1 has been modified to note opaque screen wall (final height to be determined), include the 21-foot Zoning Setback and 25-foot Deed Restriction Setback, and reference development notes for installation, maintenance, and removal responsibilities with respect to proposed landscaping materials.
18. Sheet RZ-2.1 has been modified to identify "3 story portion of building with maximum 40 feet as measured from average final grade" on "Fourth Level Schematic Architecture" detail.
19. Sheet RZ-2.1 has been modified to identify "4 story portion of building with maximum 52 feet as measured from average final grade" on "Fourth Level Schematic Architecture" detail.
20. Sheet RZ-2.20 has been modified to note locations of proposed building materials on all elevations.
21. A note has been added to Sheet RZ2.2 that states certain designated windows will have translucent glass in window units (50%).
22. New Sheet RZ-2.3 labeled "Schematic Required Planting Plan" identifies proposed plantings to screen new building from adjacent residential development.
23. New General Provisions Note C provides language regarding the zoning setback along 7th

Street, and permissible encroachments up to 3 feet into the zoning setback. No portion of the building to be constructed on the site may encroach into the zoning setback.

24. The Optional Provisions being requested have been renumbered and the wording of some have been modified as follows:
 - a. Optional Provision B is now Optional Provision A and the language regarding building entrances and entry features has been revised to remove “courtyards and “courtyard walls”, and add that “patios and upper level balconies and architectural features may encroach up to 3 feet into the Zoning Setback.”
 - b. Optional Provision C for the width of the sidewalk is now Optional Provision B.
 - c. Optional Provision D regarding outdoor tables, chairs and dining is now Optional Provision C. Language has been modified with the removal of reference to “dining.” Language now proposes “an outdoor amenity area containing landscaping, hardscape, seating elements, an outdoor water drinking fountain, and possibly tables to be located on the 13-foot wide portion of the sidewalk to be installed along the Site’s frontage on East 7th Street. The new language further states that these improvements will not obstruct the sidewalk such that an 8-foot wide clear sidewalk zone will be maintained.
 - d. Optional Provision E pertaining to on-street parking and reduction in the width of the planting strip is now Optional Provision D.
 - e. New Optional Provision E provides language proposing that a free standing seat wall may be constructed on the 13-foot wide portion of the sidewalk located along the Site’s frontage on East 7th Street within the Zoning Setback.
25. The Permitted Uses development note has been amended to reflect a decrease in the number of units from 95 to 91.
26. Transportation Note B has been modified to state a minimum of one parking space per bedroom will be provided on the site.
27. Transportation Note C has been modified to note that the location of the bicycle parking is depicted on the Rezoning Plan.
28. Architectural Standards Note B has been modified to reference the 4-story components of the building and the site adjacent to the relevant portion of the building.
29. Petitioner has added new Architectural Standards notes regarding the following:
 - a. Front corner of the building adjacent to the driveway into the site may be a chamfered corner, or the corner of the building may be at a 90 degree angle at the option of the Petitioner.
 - b. Permitted exterior building materials are designated and labelled on architectural renderings provided. Permitted exterior buildings will include brick, stone and similar architectural masonry products, stucco and hardi-panel (cementitious siding) or a combination thereof.
 - c. Brick to be installed on the exterior of the building will be full-body cavity wall masonry. Use of thin brick or exposed non-architectural CMU masonry will not be allowed.
 - d. Vinyl will not be a permitted exterior cladding material, provided, however, that vinyl may be utilized on the soffits of the building and vinyl windows may be installed on the building.
 - e. EIFS (synthetic stucco), aluminum siding, corrugated metal and CMU block (concrete block) will not be permitted exterior materials for the building to be constructed on the site.
 - f. Translucent windows must be utilized on the third and fourth floors of the portions of the rear elevation of the building that are more particularly designated on the schematic architectural rendering of the rear elevation of the building, with clear windows being allowed on all other portions of the proposed building.
 - g. Installation of balconies limited to only those portions of the rear elevation of the building that are more particularly designated on the schematic architectural rendering of the rear elevation of the building. Balconies may be installed on any portions of the side and front elevations of the building to be constructed on the Site.
 - h. In the event a waiver of the Deed Restriction Setback is obtained, each ground floor dwelling unit facing East 7th Street will have steps and a stoop or patio located at the front entrance into the dwelling unit from East 7th Street, and the entry to the stoop or patio from East 7th Street will not be gated or locked. Each such stoop or patio will have a minimum size of 75 square feet.
30. Modified notes under Setback and Yards/Streetscape and Landscaping/Screening as follow:

- a. Note A has been modified to state that subject to the Optional Provisions, development of the Site will comply with the 21-foot Zoning Setback and the side yard rear requirements of the MUDD zoning district.
 - b. New Note D proposes installation and maintenance of an 8-foot tall brick screen along the rear property line of the Site adjacent to the alley, and along portions of the Site's western property line.
 - c. New Note E provides language regarding the installation of a gate in the 8-foot tall brick screen wall.
 - d. New Note F identifies the conceptual landscaping plan as provided on Sheet RZ-2.3, providing information regarding locations, types, quantities, and minimum height at the time of installation of the trees and shrubs.
 - e. New Note G includes language regarding placement of landscape materials within the alley and approval by Duke Energy. The note states that in the event Duke Energy or the City of Charlotte prohibits the installation of trees, shrubs and landscape materials in the 25-foot alley, the petitioner will not be required to install any trees, shrubs, and landscape materials within the 25-foot alley. Note further states that petitioner will remove any landscape materials it installs in the 25-foot alley in the event that any property owner with a right to use the 25-foot alley for vehicular and pedestrian access seeks to enforce such right and requires the removal of the materials.
 - f. New Note H states petitioner will maintain, at their cost and expense, the perimeter landscaped areas (including landscaping in the alley).
 - g. New Note I provides language stating that prior to issuance of a certificate of occupancy, the petitioner will install irrigation for the perimeter landscaping for the Site pursuant to the conceptual perimeter plan. Irrigation will not be required to be installed within the alley located to the rear of the Site.
 - h. New Note J proposes an outdoor amenity area consisting of landscaping, hardscape, seating elements, an outdoor water drinking fountain, and possibly tables to be located on the 13-foot wide portion of the sidewalk to be installed along the Site's frontage.
31. Provided new language under Urban Open Space heading that states Urban Open Space will be located on the site as shown on the site plan. The Urban Open Space will be a passive area with no programed space, and no outdoor amenities, such as a grill, may be installed within the Urban Open Space.
 32. Modified Lighting Note A to state that all freestanding lighting fixtures installed on the Site (excluding street lights, lower, decorative lighting that may be installed along the driveways, sidewalks and parking areas and landscaping lights) shall be fully capped and shielded and the illumination downwardly directed so that direct illumination does not extend past any property line of the Site.
 33. Added Lighting Note D that states that the lighting to be installed on the Site to illuminate the parking lot located to the rear of the building shall be soft light in the warm spectrum.
 34. Added new heading titled "Construction Activities" with following notes:
 - a. Note A states that construction activities may only be conducted on the Site from 7 a.m. to 6 p.m., and that construction activities conducted entirely within the enclosed building may occur at any time.
 - b. Note B states the contractor(s) will keep the construction site in a clean and orderly condition and will promptly clean the adjacent roads and sidewalks as needed or as otherwise required by applicable regulations.
 35. Added new heading "Trash and Recycling Removal" with language that states in the event that a private trash service is utilized to empty trash and recycling containers located on the Site, such containers may be emptied only between the hours of 7 a.m. and 6 p.m.
 36. Removed all references to deed restrictions and waivers on all sheets of the site plan.
 37. Removed "deed restriction setback" on all applicable sheets of the site plan.
 38. Corrected details on Sheet RZ-2.1 to reflect the proposed screen wall is out of the alley.
 39. Clouded all new notes and revised notes.
 40. Provided details of the proposed seat wall.

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

Motion was made by Councilmember Kinsey and seconded by Councilmember Barnes, to approve Petition No. 2014-084 by 7th Street Progression Partners, LLC, as amended.

Councilmember Kinsey said we do have a protest petition, but I have in front of me an e-mail from the person who signed the protest petition; he is out of town and he has withdrawn it and does support the petition. I would encourage us to vote for this particular rezoning.

Tammie Keplinger, Planning said Mayor this petition had changes after the Zoning Committee meeting so we do need the special vote.

Mayor Clodfelter my apologies to you all; before the Council can consider this petition we must first decide whether or not to send it back to the Zoning Committee for reconsideration of their recommendation.

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and carried unanimously not to return this petition to the Zoning Committee for reconsideration.

Mayor Clodfelter said let me say to the folks in the audience and those watching on these petitions where we are considering whether or not to keep them on the agenda tonight or send them back because of changes, the Council did discuss those changes at the Dinner Meeting before we came into the Chamber so the Council did consider what the changes were and whether they were of a level of sufficiency to warrant going back to the Zoning Committee. They have been discussed and have been reviewed by Council in the Dinner Meeting before coming to the Chamber. Now Councilmember Kinsey renews her motion, seconded by Councilmember Barnes who seconded it last time.

Ms. Kinsey said yes I do.

Mayor Clodfelter said is the protest petition withdrawn or not, Madame Attorney? That will determine whether I vote or not.

Ms. Keplinger said we have not received, unless the City Clerk has, we have not received notification of any other signatures being removed, so to the best of our knowledge it is still sufficient.

Mayor Clodfelter said as a matter of law the protest petition remains, but Councilmember Kinsey says she has an e-mail from the protester; the Councilmembers can consider that for whatever way they wish to give it.

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

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and carried unanimously that this petition is consistent with the Elizabeth Area Plan, based on information from the staff analysis and the public hearing, and because the single use multi-family development is a well-suited land use 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 in a primarily single family residential neighborhood but on a street with a mix of uses that includes entertainment, retail, office and multifamily residential and the site plan is designed to be compatible with the abutting single family residential through limitations on density, height, location of buildings and screening.

The ordinance is recorded in full in Ordinance Book 59, at Page 130-131.

* * * * *

ITEM NO.15: ORDINANCE NO. 5526-Z, PETITION NO. 2014-085 BY NEW CAROLINA INCOME PROPERTIES, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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 OVERLAY) TO TOD-RO HD (TRANSIT ORIENTED DEVELOPMENT – RESIDENTIAL, OPTIONAL, HISTORIC OVERLAY).

A sufficient protest petition was been filed; however, it was withdrawn.

The Zoning Committee found this petition to be consistent with the Dilworth Land Use and Streetscape Plan, based on information from the staff analysis and the public hearing and because the proposed development provides a multifamily residential use at a density of 16 units per acre; 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 a portion of the site is located within ½ mile of the East/West Boulevard transit station and the proposed density is less than what is called for by the updated plan, but meets the minimum density requirement for TOD (transit oriented development) and the proposed use is consistent and compatible with the surrounding land use types. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

1. The petitioner revised the plan to show the five-foot side yard adjacent to the TOD-RO (transit oriented development – residential, optional) zoned parcel to the northwest and the 20-foot rear yard adjacent to the R-22MF (multi-family residential) zoned parcel to the northeast.
2. Clarified under “Optional Provisions” Note a. as follows: “Buffer requirements of 6 trees and 20 shrubs per 100’ will be maintained with the addition of a 6’ high privacy fence rather than a masonry wall.”
3. Extended the five-foot wide buffer along the entire boundary with the adjacent R-22MF (multi-family residential) property. Included a note stating that: “The buffer area within the proposed tree save will be supplemented with additional plantings as necessary to meet the requirements of the Zoning Ordinance.”
4. Deleted “Fire Protection” sections on the site plan.
5. Labeled open space and provided a note specifying improvements/amenities.
6. Under “Parks Greenways and Open Space” deleted Notes a., b., and c.
7. Under “Environmental Features” deleted Note c.
8. Under “Transportation” deleted Notes b., d., and e.
9. Under “Permitted Uses” deleted Note c.
10. Under “Development Data Table” deleted Note h.

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and carried unanimously to approve Petition No. 2014-085 by New Carolina Income Properties, as amended.

Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and carried unanimously that this petition is consistent with the Dilworth Land Use and Streetscape Plan, based on information from the staff analysis and the public hearing and because the proposed development provides a multifamily residential use at a density of 16 units per acres; therefore, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing and because a portion of the site is located within ½ mile of the East/West Boulevard transit station and the proposed density is less than what is called for by the updated Plan, but meets the minimum density requirement for TOD (transit oriented development) and the proposed use is consistent and compatible with the surrounding land use types.

The ordinance is recorded in full in Ordinance Book 59, at Page 132-133.

* * * * *

ITEM NO. 16: ORDINANCE NO. 5527-Z, PETITION NO. 2014-089 BY HOPPER COMMUNITIES AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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 OVERLAY) AND R-22MF (HD) (PED) (MULTIFAMILY RESIDENTIAL, HISTORIC OVERLAY, PEDESTRIAN OVERLAY) TO UR-2(CD) (HD) (URBAN RESIDENTIAL, HISTORIC OVERLAY) AND UR-2(CD) (HD)(PED) (URBAN RESIDENTIAL, HISTORIC OVERLAY, PEDESTRIAN OVERLAY).

The Zoning Committee found this petition to be consistent with the West End Land Use and Pedscape Plan and the Central District Plan, based on information from the staff analysis and the public hearing and because the proposed development provides a multifamily residential use at a density of 17.89 units per acre. 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 entirely within the Wesley Heights Historic District and a portion of the site is located within the Pedestrian Overlay District and the proposed use is consistent and compatible with the surrounding land use types and the petition protects the character of the neighborhood by preserving existing large mature street trees. The Zoning Committee voted 5-1 to recommend approval of this petition with the following modifications:

1. Revised the existing zoning in the Rezoning Summary to include (HD) for the historic district overlay.
2. Corrected the unit count in the Rezoning Summary and the Permitted Uses Notes 1. and 2.
3. Amended the proposed density and floor area ratio in the Rezoning Summary to reflect the revised unit count.
4. Amended the site plan to show dimensions for the width of the tree save/screening area.
5. Provided a conditional note describing the tree save/screening area with a proposed percentage for the area.
6. Clarified where changes to the sidewalks and planting strips are proposed on the site plan. Provided labels showing and a note describing the existing sidewalk and planting strip widths versus the proposed widths along each public street. Clearly identified on the site plan where the provisions in Note 4. under Streetscape and Landscaping are permitted.
7. Amended Note 1. under Architectural Standards to replace “and/or hardi-plank/fiber cement board” with “and wood or other material approved by the Historic District Commission.”
8. Eliminated the following from Note 2. under Architectural Standards, “however, vinyl may be used on the soffits and trim, including window and door trim and vinyl windows may be installed.”
9. Amended Note 8. under Architectural Standards to say, “A minimum of two windows or other architectural details shall...”
10. Staff rescinded the request to provide building elevations.
11. Amended Note 4. under Streetscape and Landscaping to only apply to West 4th Street and Summit Avenue.

Mayor Clodfelter said changes were made after the Zoning Committee recommendation was received; therefore, we will need to consider whether to send this back to the Zoning Committee for reconsideration.

Motion was made by Councilmember Austin, seconded by Councilmember Mayfield, and carried unanimously not to send Petition No. 2014-089 back to the Zoning Committee.

Motion was made by Councilmember Austin, seconded by Councilmember Mayfield, and carried unanimously to approve Petition No. 2014-089 by Hopper Communities, as amended.

Motion was made by Councilmember Austin, seconded by Councilmember Phipps, and carried unanimously that this petition is consistent with the West End Land Use and Pedscape Plan and the Central District Plan, based on information from the staff analysis and the public hearing, and because the proposed development provides a multifamily residential use at a density of 17.89 units per acres; 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 entirely within the Wesley Heights Historic District, and a portion of the site is located within the Pedestrian Overlay District and the proposed use is consistent and compatible with the surrounding land use types and the petition protects the character of the neighborhood by preserving existing large, mature street trees.

The ordinance is recorded in full in Ordinance Book 59, at Page 134-135.

* * * * *

ITEM NO. 17: ORDINANCE NO. 5528-Z, PETITION NO. 2014-090 BY HSREI, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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, SITE PLAN AMENDMENT) WITH FIVE-YEAR VESTED RIGHTS.

The Zoning Committee found this petition to be consistent with the Northeast Area Plan, with the exception of the portion of the site zoned R-3 (single family residential), based on information from the staff analysis and the public hearing and because rezoning the entire site will allow for a more cohesive site plan and organization of space for the expansion of the Hendricks Motorsports complex. 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 proposal will continue to provide a substantial buffer along property lines abutting acreage that is zoned and/or in use for residential purposes and the use and its expansion will continue to provide a valuable regional community resource with respect to employment and recreational opportunities. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

1. The language under heading Permitted Uses has been clarified to state “other related accessory uses and parking.”
2. A note has been added to the site plan as follows: “If the determination is made prior to the vote of the City Council on this petition that the City of Charlotte has the legal authority and has properly adopted an ordinance pursuant to that authority for a tree ordinance that would be applicable in the City’s Extraterritorial Jurisdiction, then the Petitioner will comply with that ordinance when the site development occurs.”
3. The petitioner added a Community Gathering Space on the property at the corner of Morehead Road and Stowe Lane. Language has been added to state, “This space will include landscaping and seating so that members of the community may have a space to gather or visit in the area where they have lived and/or owned property.”

Motion was made by Councilmember Phipps, seconded by Councilmember Lyles, and carried unanimously to approve Petition No. 2014-090 by HSREI, LLC, as amended.

Motion was made by Councilmember Barnes, seconded by Councilmember Lyles, and carried unanimously that this petition is consistent with the Northeast Area Plan, with the exception of the portion of the site zoned R-3 (single family residential), based on information from the staff analysis and the public hearing, and because rezoning the entire site will allow for a more cohesive site plan and organization of space for the expansion of the Hendricks Motorsports complex; 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 proposal will continue to provide a substantial buffer along property lines abutting acreage that is zoned and/or in use for residential purposes and the use and its expansion will continue to provide a valuable regional community resource with respect to employment and recreational opportunities.

The ordinance is recorded in full in Ordinance Book 59, at Page 136-137.

ITEM NO. 18: ORDINANCE NO. 5529-Z, PETITION NO. 2014-091 BY TIME WARNER CABLE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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 O-1(CD) (OFFICE, CONDITIONAL) TO O-1(CD) (OFFICE, CONDITIONAL) AND O-1(CD) SPA (OFFICE, CONDITIONAL, SITE PLAN AMENDMENT).

The Zoning Committee found this petition to be consistent with the Southwest District Plan, based on information from the staff analysis and the public hearing and because the area plan acknowledges the existing land use as amended by rezoning petition No. 1993-009, and recommends continued suburban employment land uses; 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 proposal confines expansion of the existing facility within the southern portion of the site and closer to West Arrowood Road and the proposal maintains previously approved substantial buffers along property lines abutting acreage that is zoned and/or in use for residential purposes and the proposal supports environmental policies and recreational opportunities through development notes committing to air quality initiatives; establishment of a proposed satellite dish farm within a proposed parking structure and provision of an access easement for the future Sugar Creek Greenway. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

1. Added language in Environmental Features Note e that acknowledges the proposed development must comply with tree save requirements.
2. Labeled the width of the sidewalk and planting strip along West Arrowood Road to show 9 feet and 18 feet (east of Crescent Executive Drive, and 5 feet and 4 feet (existing conditions west of Crescent Executive Drive).
3. All buffers (including widths) are properly labeled (and as previously approved) on the site plan.
4. Amended Site Summary on Sheet RZ1.0 to note site area is 85.3 acres.
5. Removed Signage Note 8c regarding moving, rotating, or flashing signs from the site plan.
6. Amended Architectural Standards Note 4a to specify building materials will include but not be limited to the following: aluminum panels and soffits; painted aluminum fins and mullions; low E-Vision glass with ceramic frit; spandrel glass in various colors; and, stone panels in aluminum sub-frame.
7. Addressed C-DOT and LUESA comments with the following:
C-DOT
 - a. Languages describing proposed transportation improvements have been added to Sheet RZ-3.0 in lieu of a Transportation Plan.
 - b. Petitioner will provide a 10-foot multi-use shared path and an 18-foot planting strip from Crescent Executive Drive to the westernmost property line.

- c. Re-worded conditional note i under the Access and Transportation section of the Development Standards to specifically include the proposed infrastructure phasing referenced in the last sentence of note i.
- d. Extended westbound dual left-turn lane storage on Arrowood Road at the intersection of Arrowood Road and South Tryon Street from 220 feet to approximately 345 feet each (within existing median).
- e. As per C-DOT's request, the petitioner will not restripe the existing through lanes on the northern and southern approaches of the Arrowood/Crescent Drive signalized intersection to through-right lanes. Current pavement markings will remain in place.
- f. As per C-DOT's request, the petitioner will not restripe the northernmost outside lane from gore striping to a dedicated right turn-lane on Arrowood Road at Altacrest Place along with the proposed restriping of the adjacent lane from a through-right lane to a through lane. The current pavement markings will remain in place.
- g. The petitioner will extend the existing dual right-turn lanes to a combined 1,500 feet or construct a third right-turn lane on southbound I-77 off-ramp onto Arrowood Road with a combined total storage of approximately 1,500 feet, whichever option is agreed to by both NC-DOT and C-DOT.
- h. The petitioner will extend the eastbound dual left-turn lane storage on Arrowood Road at the intersection of Arrowood Road and Crescent Executive Drive to 310 feet and 430 feet (within the existing median).

LUESA

- a. A note has been added under Environmental Features stating that the project will comply with Mecklenburg County Air Quality Requirements. In addition, a note has been added under Architectural Standards that states: "New parking decks constructed as part of the project will be designed to complement the owner's existing parking initiatives including preferred parking for "clean commuters" (carpool and vanpool spaces) as well as potential consideration for hybrid and electrical vehicle spaces.

Motion was made by Councilmember Mayfield, seconded by Councilmember Smith, and carried unanimously to approve Petition No. 2014-091 by Time Warner Cable, as amended.

Motion was made by Councilmember Smith, seconded by Councilmember Barnes, and carried unanimously this petition is consistent with the Southwest District Plan, based on information from the staff analysis and the public hearing and because the area plan acknowledges the existing land use as amended by rezoning Petition No. 1993-009, and recommends continued suburban employment land uses; 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 proposal confines expansion of the existing facility within the southern portion of the site and closer to West Arrowood Road and the proposal maintains previously approved substantial buffers along property lines abutting acreage that is zoned and/or in use for residential purposes and the proposal supports environmental policies and recreational opportunities through development notes committing to air quality initiatives, establishment of a proposed satellite dish farm within a proposed parking structure and provision of an access easement for the future Sugar Creek Greenway.

The ordinance is recorded in full in Ordinance Book 59, at Page 138-139.

ITEM NO. 20: ORDINANCE NO. 5530-Z, PETITION NO. 2014-093 BY MERRIFIELD PATRICK VERMILLION, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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.)

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 petition is compatible with adjoining land use. 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 proposal allows the redevelopment of an existing commercial site, it provides for a CATS park and ride facility and the uses are compatible with adjoining uses. The Zoning Committee voted 5-1 to recommend approval of this petition with the following modifications:

1. Showed proposed dumpster and recycling location.
2. Provided detail of proposed five-foot masonry that will be used to screen along public streets, and indicated that a portion of the wall may be in a retaining condition. Provided that the wall will match exiting walls, and provided pictures of the existing walls along Sardis Road and Providence Road.
3. Changed “restaurant” to “eating, drinking, and entertainment establishment.”
4. Deleted Note 2(d).
5. Correctly numbered items under Note 2 and Note 4.
6. Deleted Note 12.
7. Amended Note 10 to state, “signage as allowed by the Ordinance will be provided.”
8. Addressed CATS comments by adding the following verbiage to the note under Old Sardis Road Right-of-Way/CATS Park-and-Ride Facility:
 - (a) In order to accommodate the abandonment, it would be necessary for the petitioner to provide an alternate CATS park-and-ride facility within permanent easement to replace the one currently located within the Old Sardis Road Right-of-way.
 - (b) It is understood that no development activity can take place within the Old Sardis Road right-of-way unless and until that, area is abandoned by the City of Charlotte, and a replacement park-and-ride facility is established for CATS.

Motion was made by Councilmember Smith, seconded by Councilmember Mayfield, and carried unanimously to approve Petition No. 2014-093 by Merrifield Patrick Vermillion, LLC, as amended.

Motion was made by Councilmember Smith, seconded by Councilmember Mayfield, 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 petition is compatible with adjoining land uses; 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 proposal allows the redevelopment of an existing commercial site, it provides for a CATS park and ride facility, and the uses are compatible with the adjoining uses.

The ordinance is recorded in full in Ordinance Book 59, at Page 140-141.

* * * * *

ITEM NO. 22: ORDINANCE NO. 5531, 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.

The Zoning Committee found this petition to be consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing and because it creates a vibrant economy and prepares and enhances existing neighborhoods and provide clarifications to the existing regulations. Therefore the Zoning Committee found this petition to be reasonable and in the public interest based on information from the staff analysis and the public hearing and because the petition clarifies the height limitations located in various parts of the Zoning Ordinance. The Zoning Committee voted 6-0 to recommend approval of this petition.

Motion was made by Councilmember Barnes and seconded by Councilmember Smith to approve Petition No. 2014-098 by the Charlotte Mecklenburg Planning Department.

Councilmember Kinsey said I'm going to vote against this because I'm generally skeptical now of text amendments because I never know what the unintended consequence is. I know there was some study done on this and some work done on it, but just as a general practice right now I'm going to be "no" pretty often on text amendments.

Mayor Clodfelter said if I had a vote on these I would be with you Councilmember Kinsey.

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

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

NAYS: Councilmember Kinsey.

Motion was made by Councilmember Mayfield and seconded by Councilmember Autry that this petition is consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing, and because it creates a vibrant economy and preserve and enhances existing neighborhoods, and provides clarification to the existing regulations; therefore, this petition is reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the petition clarifies the height limitations located in various parts of the Zoning Ordinance.

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

NAYS: Councilmember Kinsey.

The ordinance is recorded in full in Ordinance Book 59, at Page 142-148.

* * * * *

ITEM NO. 23: ORDINANCE 5532, PETITION NO. 2014-099 BY THE 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) UNDER LIMITED CIRCUMSTANCES.

The Zoning Committee found this petition to be consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing, and because it creates a vibrant economy. Therefore the Zoning Committee found this petition to be reasonable and in the public interest based on information from the staff analysis and the public hearing and because parking lot reconfiguration that doesn't increase the size or number of parking spaces by more than five percent and that meets ordinance requirements and benefits property owners should be allowed. The Zoning Committee voted 6-0 to recommend approval of this petition.

Motion was made by Councilmember Barnes, seconded by Councilmember Austin, and carried unanimously to approve Petition No. 2014-099 by the Charlotte Mecklenburg Planning Department.

Motion was made by Councilmember Phipps, seconded by Councilmember Barnes, and carried unanimously that this petition is consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing and because it creates a vibrant economy; therefore, this petition is reasonable and in the public interest based on information from the staff analysis and the public hearing and because parking lot reconfiguration that doesn't increase the size or number of parking spaces by more than five percent and meets ordinance requirements and benefits property owners should be allowed.

The ordinance is recorded in full in Ordinance Book 59, at Page 149-150.

* * * * *

HEARINGS

ITEM NO. 24: HEARING ON PETITION NO. 2012-102 BY EASTWAY HOLDINGS FOR A CHANGE IN ZONING FOR APPROXIMATELY 26.32 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF EASTWAY DRIVE AND CENTRAL AVENUE FROM B-1 SCD (BUSINESS SHOPPING CENTER) TO B-1 SCD SPA (BUSINESS SHOPPING CENTER SITE PLAN AMENDMENT).

Mayor Clodfelter said declared the public hearing open.

Tammie Keplinger, Planning said to orient you, this property is located off Central Avenue at Eastway Drive. This is the shopping center that has been here for 25 plus years. Most people know this for the Wal-Mart that relocated from this location. You have had two rezoning here for an indoor storage facility and those are some of the most recent zoning in the area. In terms of the aerial you can see the existing shopping center; these parcels are outparcels that are not part of the rezoning. We are going to focus tonight mainly on the northern portion of this property. The request is to redevelop the northern portion of the property and we had to turn the map a little bit so this is where Wal-Mart was, if you can follow me, this is now south and this Central or north, so we could get the entire site plan on here.

The proposal will allow the reuse and partial redevelopment of the existing shopping center. There is a portion of the existing center that is to be demolished, it is a minimum of 4,500 square feet and then there will be an addition of approximately 17,500 square feet. It will allow two uses with drive-thru windows, only one of those will be allowed to be a restaurant. It removes a note limiting the height to 30 feet and removes three existing driveways and points of access. You can see the existing buildings are located here and these areas are not in the rezoning and this is the location of the new building on the north side. The area of the existing center that will be demolished is in this area.

When we look at the future land use map you can see a lot of red which shows that the area plan recommends retail for this portion of the site. The request is consistent with the Eastside Strategic Plan, it calls for retail uses; it identifies this area as redevelopment and revitalization area. The rezoning will allow the redevelopment of a portion of the existing shopping center; it does not exceed the maximum square footage allowed by the previous petition and the outstanding issues are technical in nature. For those reasons staff is recommending approval of this petition upon the resolution of the outstanding issues.

Councilmember Smith said am I looking at this correctly that a zoning district goes through the middle of a building?

Ms. Keplinger said are you referring to this line?

Mr. Smith said yes.

Ms. Keplinger said it does; that is because of the indoor storage facility that has been approved for reuse for part of the old Wal-Mart building.

mpl

Mayor Clodfelter said didn't we have a rezoning petition on that recently?

Ms. Keplinger said you did about two months ago.

John Turner, P. O. Box 5157 said I am one of the owners of Eastway Crossing Shopping Center and as we've gone through the rezoning process and had community meetings, etc. the technical issue that Ms. Keplinger raised is technical in nature and is related to a request by our neighbors for certain adjustments to the language on the plan with respect to the lighting for the rezoning and given the timing of the request which just came up on Friday, as the owner we do not have any material issues. We are trying to work through the concerns raised by our neighbors and would like to proceed to try to have resolved prior to refiling the plan by this coming Thursday. Generally speaking with that adjustment subject to what Ms. Pierce says I believe we are in agreement to move forward.

Nancy Pierce, 1637 Flywood Drive said I represent the Merry Oaks Neighborhood Association Board and some of our neighbors in Commonwealth Park; we have all discussed this issue at length and as the petitioner just said, we actually support the rezoning change contingent on one added site plan item that will insure that what we believe that City Code requires anyway, but is not being enforced, so therefore we need to have it on the site plan. This is an important enough issue that I would like to describe it to you briefly. With respect to outdoor lighting the site plan now requires simply that "a uniform lighting system be employed throughout the site". We wanted to specify dark sky type fixtures with no floodlights or unshielded wall packs anytime now or in the future. For those of you who may not know exactly what I mean, dark sky type fixture focus light downward, they don't focus light out and up and in your eyes. They are better illumination, safer illumination and uniform illumination. Floodlights glare in your eyes and they create a situation where this property owner erects floodlights and then the next property owner feels like they have to so you have the equivalent of people in a room trying to talk above each other, but it is lighting on a shopping center and we think that is a bad thing. Charlotte's Code of Ordinances, Section 12.402 says all outdoor lighting shall be located, screened or shielded in a manner as not to cause glare or impair the vision of motorists. That to us seems fairly simple. Webster defines glare as harsh uncomfortably bright light.

I really think that somewhere there is a big warehouse where Duke Energy has a whole bunch of industrial style floodlights that they are trying to get rid of quickly before Charlotte gets the point that they need to change their code and outlaw them. When a business calls Duke and says we need some security Duke Energy puts lights on the utility poles in the public right-of-way, and I actually have some questions about that, the big floodlights that light up the front of the building and then they generate monthly income which I'm a shareholder and I want them to do that, but I think things are not only unsafe, but the American Medical Association actually in 2012 declared light pollution a public health hazard, so it is not a light weight issue. This is no less than of an issue than asbestos, lead paint, polluted air and water. Light pollution affects our most vulnerable citizens, older people whose eyes cannot adjust to glare, their mobility is restricted at night, the low income people in low income apartment complexes, that is where they put these kinds of lights and they can't sleep at night, they can't learn, their immune systems are depressed. This is a serious public health issue and Charlotte has to come into the 21st century and join other progressive cities in the United States and say that floodlights are inappropriate in neighborhoods. Until that happens we are going to have to have it written into every site plan because code enforcement is just not enforcing what we believe already says that these cannot be out there and I think the reason they are not enforcing them is because there are so many violations, hundreds and hundreds of them throughout our City and it would be a can of worms or a Pandora's box whatever you want to call it if they started to enforce one they would have to enforce all of them. Based on our recent experience we need to have this in the site plan and we actually are optimistic that it will happen. We want Eastway Crossing to be successful and in order to be so it must be safe and attractive and we will be glad to support the zoning change if the site plan specifies dark sky lighting and prohibits floodlights or unshielded wall packs in order to avoid glare and in order to not impede the vision of motorists as per City Code.

Mayor Clodfelter said Mr. Turner you have a two minutes to reply but I hear you've got it worked out on the specific site. Ms. Keplinger what I'm going to suggest is that this be a follow-up

up report item at our next Zoning Dinner Meeting about the consistency of what we have in the City Code provisions and the interpretations for zoning purposes on this issue so we get the general issue that Ms. Pierce raised, we can get a report on that in our follow-up.

Ms. Keplinger said yes sir.

Councilmember Phipps said was part of this shopping center the Eastway CMPD Division Headquarters?

Ms. Keplinger said they did; I think they moved out when they built their new building over on Central Avenue, but they did have a station there at one time.

Mr. Phipps said is the plan to up-fit that particular building or is there going to be some demolition associated with that?

Ms. Keplinger said it is only on that northern end of the building and I'm not sure where the Police Department was actually located, but if you look at the site plan it is the intersection of Central Avenue and Eastway. That is the area where the demolition is going to occur and where the new construction will occur.

Mr. Phipps said inasmuch as there is going to be some demolition there do you know right now how they are going to comply with the Storm Water Post Control Construction Ordinance? Is that going to be on site or is that going to be a few in lieu?

Ms. Keplinger said they do have to comply with the PCCO which is the Post Construction Controls Ordinance and at this level they have not done the engineering work for the site. They know they are responsible for meeting those requirements and that is something that is usually done through the permitting process.

Mr. Phipps said I would like to recommend on a go forward basis, if it is possible, on any of these staff analysis under the storm water comments, could we get some indication on which way the petitioner will go as far as storm water remediation, if they know they are going to do it on site, if they could put it in there or if they know it is going to be a fee in lieu. Is that something that we might consider on a go forward basis on the staff analysis reports, comments or whatever?

Ms. Keplinger said Mr. Phipps I don't think we would mind providing that information, but if there is something that is actually written on the site plan then the petitioner is held to that and they wouldn't be able to modify or change as they go through the permitting process. There may be some things that we need to think about, but we will certainly go back and consider that.

Mayor Clodfelter said I took it that when it is not even on the site plan I think Mr. Phipps was just wanting to know for information purposes which way the property owner is going to develop whether fee in lieu or on site and given that we still have that policy issue still on the table in front I think that would be useful information to collect if we are able to collect it. Did I understand you correctly?

Mr. Phipps said yes.

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

ITEM NO. 27: HEARING ON PETITION NO. 2014-068 BY CITY OF CHARLOTTE FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.59 ACRES GENERALLY BOUNDED BY STATESVILLE AVENUE, DALTON AVENUE, NORTH GRAHAM STREET AND ARMOUR DRIVE FROM I-1 (GENERAL INDUSTRIAL) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).

mpl

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said this site is located off of Statesville Avenue, North Graham Street and Dalton Avenue. The new Fire Department is located right here at the apex, that is not in the property to be rezoned, but that is just for context; the site is actually right behind it. You can see from the aerial the new Fire Department; there was an existing warehouse mill facility that was located here that has been removed and there is an existing warehouse in this location. Around the site you can see there are some other existing buildings that are industrial in nature.

In terms of this plan the proposal is to allow a four-story government service building in Phase I and then to allow future development and future buildings and a future parking deck. The Phase I building is located here; Phase II here and this would be the surface parking area for Phase I and when Phase II develops a parking deck would be constructed. There is also a new public street that would go through the property. This has an optional request associated with it which allows parking between the building and Graham Street during and until construction of the future building in Phase II.

These are some shots that show you what the site might look like. The property that is highlighted in yellow is the site that we are looking at tonight and considering for rezoning so you can see the four-story governmental building in this case, the warehousing building behind it and of course the Fire Department. This is an elevation of the Phase I building for the government uses and here is Phase II. You will see the government building and then the Phase II new building. In terms of the future land use the area plan actually recommends industrial land uses for the majority of this property and that is in association with the Central District Plan, however the Center City Vision Plan actually calls this part of the Applied Innovation Corridor. That plan was adopted in 2011 so although it is inconsistent with the Central District Plan, it is consistent with the Center City Plan and again it is in the Applied Innovation Corridor. There are some outstanding issues that are mostly technical in nature and once those are resolved, which we think they will be in time for the Zoning Committee, staff will recommend approval.

Mayor Clodfelter said I was thinking about the Applied Innovation Corridor, we are trying to get an awful lot more activity on the street and that point at Dalton, Graham and Statesville is a pretty key point in setting the time for that whole district. You've got an awful lot of surface parking fronting on North Graham Street and Statesville Avenue; it is not a very inviting place for people to be. It is really a suburban looking site plan for that area. That is my comment.

Councilmember Phipps said I was wondering is this a corrective rezoning here?

Ms. Keplinger said no sir it is not a corrective rezoning.

Councilmember Lyles said I'm going to second the Mayor's comments; right across from here you've got the Greenville Neighborhood, you've got houses of worship as well as the Salvation Army and Crisis Assistance and it seems to me that in terms of the ability to walk, have children play, a place that people can congregate; I'm not sure of the distances to the curb but it seems to me there is very little public space in terms of walking, biking and as well a place that people could just comfortably feel like a pedestrian. I'm going to echo the Mayor's comments, this is a part of what we are trying to do and it says consistent with the Center City Vision Plan, but we've got a lot of investment going on in that area and it doesn't seem to me that this really takes into consideration the uses surrounding it or the plan uses that are coming with the North Tryon Plan.

Councilmember Kinsey said I just want to remind everybody, we do have a neighborhood on the other side, Lockwood and Graham Heights. Let me ask Ms. Keplinger, and maybe I misheard you, did you say there was going to be a new public street?

Ms. Keplinger said yes ma'am.

Ms. Kinsey said is that going to be an extension of Halifax Avenue?

Ms. Keplinger said the new public street is located right here so it will be in this location. It will connect Graham Street and Statesville Avenue.

Ms. Kinsey said okay so that is not an extension of Halifax?

Ms. Keplinger said I do not believe so.

Ms. Kinsey said that is the first I've heard of that.

Councilmember Barnes said is this the Joint Communication Center?

Ms. Keplinger said yes sir it is.

Mr. Barnes said I can appreciate what the Mayor and Ms. Lyles are saying but the Fire Department Headquarters is the Joint Communications Center, a fairly high security facility. I'm not sure what type of public activation we would want among facilities like that, but I understand what you are saying. I just wonder if this is the place to do it.

Mayor Clodfelter said this is the signature location for the entire Applied Innovation Corridor and I understand what the needs of that facility are but maybe this is the wrong place.

Mr. Barnes said I view this as the western edge of the Applied Innovation Corridor, the far western edge.

Mayor Clodfelter said it is coming right out of downtown at Graham Street and Statesville Avenue converge right on the north end of downtown.

Ms. Lyles said I think Mr. Barnes makes an excellent point; if there is that kind of security that the building is going to require and have, why would it be located in an area that we are trying to encourage people to come live and work?

Mr. Barnes said because we were trying to help spur redevelopment of the corridor by establishing a government focused set of facilities, the Fire Department Headquarters, the Joint Communications Center which help to remove what was considered to be by some, blight at that area and so this by some people would be measured to help encourage other positive development in Greenville, the Music Factory going towards Lockwood. Again I understand what you are saying but I think a lot of people will say this is a great improvement compared to what was there before.

Ms. Lyles said I don't disagree, but the opportunity; I wonder if we are going in that direction. I just really worry, if you say it has got to be secure, then why it is facing the front and having so much parking? Security, I don't know exactly what that means, but I look at the front of the Fire Department and you've got that front yard entrance. If this is an accessory building wouldn't you want it to be off of the street with security and tunnels underneath?

Mr. Barnes said I think the security pertains more to the Joint Communications Center.

Ms. Lyles said right that is what I'm talking about, the Joint Communications Center, wouldn't it be further in on the property away from the street. Would it have a tunnel underneath? I don't understand very much about it so I'm not arguing the point, but I'm just not sure.

Mayor Clodfelter said I'm worried that putting a lot of government buildings in Second Ward was no kind of good redevelopment plan for Second Ward and I just don't want to do the same thing a generation later in this part of town.

Councilmember Smith said do we have a picture of what is existing on the site as it stands today?

Ms. Keplinger said yes sir; I can show you the aerial today and that is the latest.

Mr. Smith said we don't have the street view?

Ms. Keplinger said no sir I don't, I apologize.

Mr. Smith said I'm inclined to think that a state of the art government command center is going to be a big improvement over what we have sitting right there, but that is just one person's opinion.

Mr. Phipps said could you clarify whether or not at this Joint Communications Center, are there plans to relocate the 311 Communication Center there?

Ms. Keplinger said Mr. Phipps I do not know that information; maybe the Manager can help.

City Manager Ron Carlee said yes sir that is the plan.

Councilmember Austin said so that is going to be the Joint Communications Center, the big box I'm seeing, the other structure we talked about in Phase II, what is going to be there?

Ms. Keplinger said that will allow all uses that are permitted in the MUDD District so it could be a variety of uses from office and retail, multiple uses and there are no specific plans and no use restrictions.

Mr. Austin said are we doing something to Graham Street to help mitigate traffic? Didn't I see a plan or something that we are going to be doing some things, not necessarily with this, but in general? Do you have any idea?

Ms. Keplinger said C-DOT is telling me that no sir they do not have any plans at this time.

Ms. Austin said as I was talking with Mr. Phipps; there is a lot of traffic on Graham Street and I love the project and yes it is an improvement over what is there currently but I am concerned about the traffic along Graham Street in terms of now we are going to be adding on a considerable number of vehicles into this particular site and we are talking about 3,000, so for me that doesn't feel like it creates a walkable community type of environment at all. That is just my comment. I like the fact that we are doing something at this site but I have my concerns about the walkability.

Councilmember Mayfield said we saw this play out on Freedom Drive with the Valarie C. Woodard Center and there were lots of ideas and how it would trigger economic development and growth in that area by investing in a government center on what a lot of people will remember would be the Old Freedom Mall site. That is not necessarily what government buildings do. I like the idea of our center and I still think we have the ability to tweak it a little more as Mr. Austin mentioned for there to be more walkability because you have a lot of people that today for their lunch break; you think of the City of Charlotte, we encourage our employees to be a part of our wellness program so they have plenty of opportunities to go out and try to have opportunities to be a part of group activities that have a healthier lifestyle so if we are going to invest in this and we want it to compliment the community, then it needs to be welcoming to the community, but it also needs to be usable for the staff but I don't see it as being this catalyst for economic development because we've seen it on more than one occasion where government buildings going into communities did not spur retail or any other types of business, but it is a good idea for us to be closer to the community.

Councilmember Fallon alright fine you are not going to put it there so where are you going to put it? The Command Center, it has to be centrally located doesn't it?

Mayor Clodfelter said that question may not be answerable tonight.

Mr. Carlee said I'm very familiar with this project because it has actually been significantly transformed over the past year and I just thought I would share with you a little bit of that history. The Center was actually originally designed as a high security building in the center of the site, surrounding by parking and secured fence line. It was a very suburban kind of facility,
mpl

not only like the FBI facility in Charlotte. We brought together the design team and transformed the project fairly significantly. The most critical things that we did is we moved the integrated Communications Center from the center of the site up to the street so we actually put it on the build to line with an entrance on the street and urban streetscape along Statesville, and then we created the opportunity for another building to frame Graham Street and give it the urban build as well with appropriate urban streetscape there so that you could actually activate both Graham and Statesville whereas the original concept of the building did not activate either street. If you go to the site plan where you can see the building; that is where we've brought it up to Graham. The corner of the building that is closest to Graham is in fact the entrance to the building. If you go to the bottom, Phase I building, right there on that corner where you have the architectural angle coming up, that is actually an entrance to the building that was designed specifically to come up to Graham so that you would have the interactivity with the street and the idea is to give as much transparency along the building there as well to make it a more hospitable environment ultimately for pedestrians as the corridor materializes. Much of the parking that you see between the Fire Station and the Communications Center and the future alternative office building on Graham actually exist today; that was built in conjunction with the Fire Station. What we do get that is different than the original conceptualization is the breakup of that block with the street going through so that you have the passageway and not a huge super block that is a secured fortress.

Mayor Clodfelter said Jim Metze and Dave Powlen, you heard all of that and you have three minutes.

Jim Metze, 5815 West Park Avenue said we are here to answer any questions.

Mayor Clodfelter said then we should just go with what he said.

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

* * * * *

ITEM NO. 28: HEARING ON PETITION NO. 2014-075 BY CROSSROADS REALTY GROUP, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.6 ACRES LOCATED ON THE SOUTHWEST CORNER OF FAIRVIEW ROAD AND CLOSEBURN ROAD BETWEEN PARK ROAD AND PARK SOUTH DRIVE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning Manager said this site is located off Fairview Road between Park Road and Park South Drive. Many of you will remember the Ivey rezoning which is located here and it hasn't been too long ago since we had that petition in front of you. The request is to rezone four parcels of land to allow a townhome for sale product. In terms of what is currently on the site there are single family homes and one unit that is a duplex/triplex. In looking at the site plan you can see that it allows 27 attached residential units for sale. The density is a little bit over 10 units per acre. There is a maximum building height of three stories or 45 feet. There are two parking spaces per unit that are located within garages. The rear and garages will not be oriented towards the public streets and there are building material limitations. They have also provided guest parking and there is a 15-foot landscaped area along Closeburn.

This is some elevations of the site; you can see from Fairview Road, Closeburn and the pedestrian park front elevation. This will be the side elevation and that will be the rear elevation of the homes. In terms of the future land use plan it does recommend residential for the site; it is the South District Plan. When we ran the general development policies it meets the criteria for up to 17 dwelling units per acre. Just as a reminder they are requesting 10. In terms of consistency, it is consistent with the South District Plan. The proposed density is consistent with the GDP recommendation. The outstanding issues are related to storm water and to trees. There

are several other technical issues that we think we will have all of those resolved very quickly and staff is recommending approval upon the resolution of those issues.

Councilmember Lyles said on the Department comments it says Transportation and it has current zoning 80 trips per day and proposed zoning 160 trips per day. We are talking about five housing units for the 80 and 27 units with two-car garages for the new rezoning. I'm not quite sure how that works and I'd like some understanding of that. I am still trying to figure out how people are going to use Fairview and Park Road and we've had the re-zonings out there so numerous and I'm just trying to figure out how we are going to get traffic onto Fairview and out without over utilizing. I'm really struggling with all the re-zonings in the South Park area and not one tips the point; it is not one that you say stop, but we've got a number of these and I wonder how am I to make a decision without having a better understanding of what traffic is supposed to be like in that area, not one by one but all of the ones that we have currently on the table that we know about and I am really struggling with that. You don't have to answer that now; I understand, but when this comes back and maybe I can have a little bit more conversation. I'm still trying to figure out what we are going to do for traffic in this area, just like any other neighborhood we are trying to figure out and I don't see a plan.

Keith MacVean, 100 North Tryon Street said I am with Moore & Van Allen; Jeff Brown of our firm and I are representing Crossroads Realty Group, the petitioner on this rezoning. This is a 2.6 acre site currently zoned R-3 located on Fairview Road. This is the aerial photo and as she indicated there are four parcels here developed with three homes and a duplex. There are several condo projects, one across Fairview Road, one across Closeburn and an additional condo development further west at the corner of Park and Fairview and then you can see South Park Mall just off to the west of the site in close proximity. This is a couple of pictures of the existing duplex at the corner, just to give you a sense of what that looks like. The homes that are there were built in the late 50's, a duplex in 1966. Due to the growth and the changes in the area the area has become attractive for new residents for new townhome development. This is an opportunity to provide folks that want to be in the South Park area an opportunity to live there in a townhome versus a single family house.

This is the proposal for the site, a 27-townhome development for sale; a 24-foot setback along Fairview Road. Each unit will have a two-car garage; there is additional guest parking and also additional parking in the actual driveways behind the homes. There is a tree save area along each southern part of the site and there is a landscaped area along this portion of the site where the site abuts other existing homes in the Closeburn neighborhood. Building elevations; this is a detail of how the townhome components work, the townhome, the garage, porch, access to front doors as you will see in the elevation, each unit has a front door that faces Fairview Road, Closeburn or the internal property lines or internal private street. This is a side elevation and rear elevation of the units. As Tammie mentioned, this is consistent with the area plan; meets the GDP criteria and we will work with the staff to resolve the remaining issues.

Councilmember Smith said Councilmember Lyles, you will be happy to know that the neighborhood of Barkley Downs, which I was a former homeowner association president and also reside has officially requested that the city update and look into updating the South Park Area Plan because we have the same interest in all the traffic concerns that you mentioned. Now it is just a matter of making the government wheels that run through the city and try to get that towards the front of the list and with all the activity coming to South Park I echo your sentiment and the wheels of motion have been put into place. Mr. MacVean, I know that we actually had several meetings with the neighbors and there was one that was a little more heavily attended than the official meeting. I know some of the concerns that have been echoed to me involved run off and there is a drainage ditch that runs along maybe the southern edge of the property. There is a drainage ditch back through there that currently gets a fair amount of use. Can you help me understand how you guys plan to handle that?

Mr. MacVean said I will be glad to and I apologize because I forgot to mention who is here with me tonight; Jeff Mathis with Crossroads Realty Group, Bret Mannerly with Pulte Corp. as well as Matt Levesque with ESP Associates and Cindy Klem with Klem Engineering. In terms of storm water we do have an exhibit and we will be glad to show you. We have met with the neighbors as Mr. Smith mentioned and specifically the neighbors that are just downstream from
mpl

the site, Mr. Mathis and Cindy have met on site to look at the drainage ditch that currently exist on the site. On their property the water comes from this side and passes through that area. They do have some concerns when it rains and some flooding in their yard when it rains. They have also been in touch with Storm Water Services about that and we are meeting with SWS tomorrow to make sure this development, which does have to comply with PCCO and provide onsite storm water detention, something the existing development does not do; again, meeting with SWS to assure them because the neighbors have called Storm Water also to make sure that we are not making matters worse for those folks downstream. We are a small percentage of the drainage area, we are 50% of the total drainage area that leads to that property on Closeburn but again we will be doing on site storm water detention and complying with Post Construct Control Ordinance which should help somewhat with peak flow and velocity in that ditch.

Mr. Smith said I know another concern the neighbors have regarding parking and my colleagues have not seen the previous site plan that you had so can you kind of walk through what has been done to sort of alleviate neighborhood concerns with potential on-street parking?

Mr. MacVean said I'll be glad to and as Mr. Smith mentioned this was originally scheduled for a September public hearing; we deferred it to modify the plan. The original plan had one more townhome; it was a different configuration. It had alleys and was a little tighter on the site. This site, because the garages are under the units and they are three-story buildings versus two-story buildings, it actually has a little more room on the site, a little more separation off the property lines and also as a result is able to provide more parking. Each unit now has a two-car garage and also has a driveway behind the garage that it can also accommodate two additional cars and there are 12 parking spaces on the private streets within the development for a total of about 120 parking spaces available for the residents and guests of the community.

Mr. Smith said we've had this with another development in District 6 and I don't know if needs to be written in the notes or what, make sure that we work with the construction traffic, Closeburn is a narrow street, we want the staging to be contained to the site and do not want the construction traffic kind of winding back through Closeburn to make their way over to Park Road.

Mr. MacVean said we will be glad to address that and add some notes to that affect.

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

* * * * *

ITEM NO. 29: HEARING ON PETITION NO. 2014-079 BY CRESCENT COMMUNITIES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.0 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF SOUTH TRYON STREET AND EAST STONEWALL STREET FROM U-MUD (UPTOWN MIXED USE) TO U-MUD-O (UPTOWN MIXED USE, OPTIONAL).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said to orient everyone and give you some context this is John Belk Freeway, I-277, South Tryon Street, Stonewall Street and College Street. This is the site that we are looking at and the requested zoning is U-MUD-O which is the Uptown Mixed Use District. As you can see from the aerial, there are two commercial office structures that are located on the site as well as some surface parking. The proposed request that we have tonight will allow all uses that are permitted in the U-MUD District. There are multiple optional requests and they relate to signage, setback, tree locations, open space design and standards, specialty pavers on Tryon Street and temporary retail vendor zones. In looking at the site plan you can see there are basically two building envelopes, here and here, applies to the area along Stonewall the proposed park along Hill and then Tryon Street, there is the Tryon Mall continuation.

In terms of this request the 2020 Center City Vision Plan recommends mixed use for this property. As you can see from the station locations it is within ½ mile walk of the Stonewall Street Station. The proposal is consistent with the 2020 Vision Plan which recognized the Center City as a central economic engine for the diversified employment hub for the region. The site contemplates the Tryon Mall on the south side of Tryon Street. We do have some outstanding issues that are related to transportation, to streetscape and some other technical issues, but we feel that we will be able to work those out before the Zoning Committee meeting and we are recommending approval upon resolution of those issues.

Colin Brown, 214 North Tryon Street said I am here on behalf of Crescent Communities; joining me tonight are Lud Hodges, Elizabeth McMillan and Bryan Leary with Crescent. As Tammie mentioned, this is a U-MUD which is pretty unique because there is so much flexibility in the U-MUD district that most of the uses are allowed by right so 95% of this development is already allowed by right. Tammie covered a few of the optional requests and that is the reason we are here and is typical in U-MUD usually those are things that kind of adjoin the public realm and deal with how a site touches the public realm. This is another aerial of the site just for your reference. What I wanted to do tonight is just give you a forecast of how we are addressing the issues that staff brought to light in their pre-hearing staff analysis. We held a community meeting on this and there were no attendees. The stakeholders in this process are very much the City staff who is looking out for the public realm and Charlotte Center City Partners. I'm pleased to say that we met with both staff and Center City Partners last Thursday and came to a consensus on these issues. That has shaped now how we are going to move forward and what our revised plan will look like. As Tammie mentioned, initially in our submission we had a lot of request on Tryon Street, there was a goal of trying to do something different and exciting on Tryon. As we have worked with staff and Center City Partners we understand there is a great interest in maintaining consistency with the current standards so in our revised plan you will see that we are withdrawing our request for unique benches, we are withdrawing our request for unique pavers and we are withdrawing our request from deviation from the tree standards. We did come to a consensus that we want to do some neat benches, but the question is now, we are required to do the prescribed benches and we have agreed that we will request not to do the prescribed benches along Tryon Street. On the signage front we had some requests for some locations and amounts, staff is comfortable with that but asked for us to provide a commitment that would essentially not be advertising, so we have restricted our signage to building and tenant identification as well as messages for civil, cultural and artistic reasons.

Finally, the big issue in this has been the relationship between the site and the setback on Stonewall Street. The driver behind the design on this deal was to create an active open space on Tryon Street, a Plaza that would be at grade with Tryon that would draw people into the site. The issue, if you know the corner, this is the street elevation, Tryon Street here is level and then it drops off fast going downhill, so the issue is there is a big grade separation; staff's request was for us to treat the grade separation, not as art, but essentially work on its form so it doesn't appear to be a blank wall. I think we have reached a consensus.

Councilmember Kinsey said he was starting on something that I shared my concern with him, as you go down Stonewall the wall gets higher and there is nothing that is more deadly than just a plain old brick wall. Could I ask him please to go back to that and tell me once again for the record how you are going to treat, not so much near Tryon Street because I see that is more level, but as you are going down Stonewall, particularly as you get further down, what is the height of the wall, how far back is it and what is in between it so it doesn't look like just a big old tall brick wall.

Mr. Brown said this has been subject of great debate and work by the Crescent design team the last two months. What you see here, this is the Tryon setback and I think I was pointing out to you here where there are steps, that is about a 14-foot difference between the Plaza and the sidewalk grade so the question is how you make that transition without having a blank wall. What we worked with staff and Center City Partners on was creating a transition zone between there so you see in this area there will be at least 14-feet of open space between back of curb and any encroachments do that walk zone and there will be tree planters in that zone. After that there are some points where instead of having an open area and a high wall, how do we transition to it, so you will see the first encroachments into the zone there are about a one or two-foot wall

mpl

behind that is an open space that would be planted. That ranges in width between three and eight feet and then as you move down the hill and once you come through the open space, there may be about eight-feet of height on that second wall, but by that time you have moved further away from the pedestrians, it is buffered by a planter, many things to soften that. One of the things you are seeing there is a concept here to have a cantilevered area that would cantilever over that to create a greater connection between the pedestrian zone and the Plaza. Does that answer your question?

Ms. Kinsey said yes, but I have one more suggestion; I would not call that the Tryon Mall, just in case it gets confused with the other Tryon Mall.

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

* * * * *

ITEM NO. 30: HEARING ON PETITION NO. 2014-095 BY QUIKTRIP CORPORATION FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.08 ACRES LOCATED ON THE NORTH SIDE OF NORTH TRYON STREET BETWEEN WEST PAVILION BOULEVARD AND SALOME CHURCH ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) AND NS (NEIGHBORHOOD SERVICES) TO B-1(CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL.)

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said this site is located off of US Highway 29. This is I-485, Salome Church Road and as a point of reference Pavilion Boulevard is located here. As you can see from looking at this site and this is the current zoning map, you see mostly on the north side of North Tryon Street or Highway 29 we have single family residential, multifamily residential zoning. There is an area of NS that was approved some years ago but it only allows office development on this site. Commercial development is located on the corner of I-485 and North Tryon Street and then there is NS which is neighborhood service center.

There is nothing currently on the site and you can see from the aerial that it is vacant. In terms of this request it is to allow an 8,000 square foot automobile service station, eating and drinking and entertainment establishment. There is a maximum building height of 25-feet, 24-foot maximum for detached lights. They have specified building materials and I will show you the elevation shortly. There is dedication of right-of-way for the future West Pavilion Boulevard Extension which will go through the property here. You can see the elevations; this would be the North Tryon Street perspective and you can see the other various perspectives along the site.

In terms of the adopted future land use plan, the green is showing residential and most of this is slated for multifamily with the exception of the office which is the NS that is currently zoned and a small portion of commercial. The request is inconsistent with the Northeast District Plan which actually recommends residential at 12 dwelling units per acre for this portion of the site and it recommends office for the existing NS portion. The plan limits most retail uses to the opposite side of North Tryon Street, as I pointed out earlier. There is a large amount of undeveloped land that is appropriately zoned for this type of use across the street. The proposed design and layout is inconsistent with our adopted policies and for those reasons staff is recommending denial of this petition. If this petition is considered for approval there are some outstanding issues that we would like to see resolved and they are related to design and transportation and several other technical issues.

Councilmember Smith said looking at the vehicle trip generation and looking at the traffic study, it says the proposed zoning calls for 10,800 trips per day. Is that taking into site specific analysis or is that a general rule of thumb for the proposed zoning because as you look at that section of Highway 29 it is already pretty heavily traveled. I'm assuming that the people who are already heavily traveling there would simply pull off to this gas station as opposed to generating 10,000 new trips. That is a question.

mpl

Mike Davis, Transportation said there are two parts to that question, the trip generation that we give is absolutely specific to what is proposed on the site plan and this site plan has 40 fueling stations so it is a large gas station and that is what is driving the trip generation. It is purely not the site, but then your observation where is that traffic coming from; in most cases that is traffic that was driving on the street anyway and making what are called pass by trips in and out of the site.

Mr. Smith said Tammie you mentioned that it is an existing residential zoning; how developable is the site? I'm reasonably familiar with that and there seems to be some significant topography issues so how realistic is it that you actually maximize what the plan calls for based on existing site conditions?

Ms. Keplinger said Mr. Smith I don't know that I can answer that question. I think that is certainly more of an engineering question than one that we would delve into this for the rezoning process.

John Carmichael, 101 North Tryon Street said I am here on behalf of QuikTrip Corporation, the Petitioner; with me are Chip Cannon of Urban Design Partners, the land planner, John DiBernardo of QuikTrip and Mr. Jake Sutton of QuikTrip. As Ms. Keplinger said it is about a five acre site located on the north side of Highway 29 between Salome Church Road and West Pavilion Boulevard. The site is currently zoned a combination of R-3 and Neighborhood Services and this request is to rezone the site to B-1(CD) to allow the development of a QuikTrip Convenience Store on the site. Vehicular access into the site would be from Salome Church Road and West Pavilion Boulevard; this would be a full movement access and this would be a full movement access until such time as West Pavilion Boulevard, which is here, is extended up to Salome Church Road and that is on the thoroughfare plan. It is major thoroughfare called to be extended from Highway 29 to Salome Church Road. When it is extended to Salome Church Road then this driveway would be converted to a right in/right out and this could be a proposed full movement access in the future when that improvement to West Pavilion Boulevard occurs. Right now West Pavilion Boulevard terminates at Masterson Road. Once again West Pavilion Boulevard is designated as a major thoroughfare on the thoroughfare plan and requires 100-feet of right-of-way. If the petition is approved QuikTrip would dedicate to the City that portion of the right-of-way that would be located on the site for the ultimate extension of West Pavilion Boulevard to Salome Church Road.

QuikTrip has submitted a traffic impact analysis and did some time ago to C-DOT and to NC-DOT and QuikTrip is working with C-DOT to finalize the transportation mitigation improvements. In fact QuikTrip and Mr. Goddard, and I failed to mention Mr. Goddard, the Traffic Engineer that has been hired by QuikTrip; they are meeting with NC-DOT and C-DOT tomorrow morning to discuss this matter. This would be proposed building and would contain the maximum of 8,000 square feet; it would be a one-story building. The proposed fuel pumps would be located between the building and Highway 29. There would be a Class B buffer to the rear of the site as well as a very significant tree save area to the rear of the site as you can see.

Elevations are part of the conditional rezoning plan; Ms. Keplinger showed you the elevations that are currently filed with the City. The rear elevation has been tweaked a little bit and this shows that tweak and this will be filed. I will explain that tweak in a moment, but as you can see it is a one-story commercial building, predominantly brick with tile accents, glass and canopy elements. We think it is a very attractive building and a well-designed building. The front of the building is a store front; the sides of the building are broken up with tile, glass and variations in building height. The rear of the building, we've added some tile elements here to break off that rear façade and once again these elevations will be submitted to the planning staff on or before Thursday of this week. That breaks up the rear elevations as does the variations in building height here.

The next slide shows the interior portion of the QuikTrip store and the purpose of showing this is to show the quality of this operation frankly. It is modern, clean and well merchandized and they offer a variety of fresh food, much of which is prepared on site. In other words, it is not a typical convenience store. QuikTrip is the recognized leader in the convenience store brand and in

quality nationwide according to various surveys. QuikTrip is a good corporate citizen and provides meaningful employment opportunities to the citizens. John DiBernardo and Jake Sutton started in a convenience store and they have worked their way up and in fact all of QuikTrip employees start in the convenience stores and work their way up through the various stages of employment. QuikTrip employee's state of the art security features, so it really is a fine operation and we certainly hope you agree with that statement, but once again it is a clean store, well maintained, well merchandized and it is a place that people can feel comfortable going to.

As Ms. Keplinger stated the Planning staff is recommending denial of the petition because it is inconsistent with the Area Plan which recommends residential uses up to 12 units per acre for the R-3 portion of the site and office uses on the neighborhood services portion of the site. The pre-hearing staff analysis also provides that the area plan limits most of the retail uses to the other side of Highway 29. With respect to the outstanding site plan issues we are going to endeavor to resolve those this week prior to Thursday with two caveats. One is we do want the opportunity to talk with the Planning staff a little more about the signage and two, there is a request to flip the location of the gas pumps from the front of the store to the rear of the store. QuikTrip prefers not to place the pumps behind the building; rather they prefer the scenario that is currently depicted on the rezoning plan. In QuikTrip's opinion placing the fuel pumps in front of the building and having the front entrance facing Highway 29 offers a greater sense of security to its customers, particularly in the evening hours because you can see the activity in the store and you can see the fuel pumps. We understand and respect the Planning staff's position regarding the petition and whether or not it should be approved or denied, but we respectfully offer the following for your consideration and we hope that they support our view that this is an appropriate land use for the site. The Area Plan is about 14 ½ years old; it does have some age on it, once again recommends the residential uses, but Mr. Cannon prepared a land use map and you can see there is a good bit of multifamily already in the site, and in fact there is some to the west and some to the east and more planned across Highway 29 in the Charter Properties development. Highway 29 is a major highway that carries over 30,000 vehicles per day and at the intersection of West Pavilion Boulevard and Highway 29 there are nine lanes if you count the seven through lanes and the two turn lanes so that is a major thoroughfare. We talked a little bit about that when Councilmember Smith was asking about the traffic. The site is also located just to the east of I-485/Highway 29 interchange.

Another thing that we think should be considered is once this major thoroughfare is extended to Salome Church Road the site is going to be surrounded by a major highway and a major thoroughfare and these residentially zoned properties here to the east will be located essentially across 100-foot right-of-way from this site. I can't tell you when that is going to happen because I don't know, but what I can tell you in the interim condition there will be a pretty significant buffer here and a tree save area. But ultimately there will be a major thoroughfare with a 100-foot right-of-way separating these uses from the project site and then you've got Salome Church Road here. We are going to have a site that is essentially surrounded by three roads. There is commercial zoning to the east of the site; this is neighborhood services zoning here. Councilmember Smith talked about how developable is this site and I'm going to let Mr. Cannon answer that specific question, but I will tell you that the shape of the site, the topography and the size make it a challenging situation for someone that wants to develop multifamily here. I would find it hard to believe that anyone would develop R-3 uses here on this site because of the thoroughfare, the major highway and Salome Church Road. I could be wrong about that, but that is just my personal belief.

In short given the location of the property, the adjacent significant public highway and thoroughfare and the site challenges QuikTrip respectfully submits that this site is appropriate for the desired use.

Chip Cannon, Urban Design Partners said as Mr. Carmichael said, Mr. Smith alluded to I believe about 40-feet of fall from the back to the front of the site which is very difficult for any site to work with, but especially when you have multiple buildings and multiple driveways and multiple parking lots. When we have a site such as this it is basically a rectangle, it is a little bit easier to terrace the site and make it work much easier and much more cost effectively. To Mr. Carmichael's point, yes it would be extremely difficult to develop as multifamily. Also the shape of the site, it is essentially a triangle which is a highly inefficient shape in terms of site
mpl

development. Most everything we build in this world is squares or rectangles and what happens when you try to put that inside of a triangle you have more triangles left over that you can't really fit anything into. It is a very inefficient site shape so with the site shape and the 40 plus/minus feet of fall from back to front it is an extremely difficult site to develop for any other use really.

Mr. Smith said how do the 40 MPD's line up with the QT typical plan and then how does the 8,000 square feet retail with their typical plan?

John DiBernardo, QuikTrip said I guess back to the 40 MPD's comment, we've got 10 MPD's so you figure a car would fuel on each side so really we have 20 MPD's and not 40. To the second part of the question, can you repeat that?

Mr. Smith said I was just curious as to how the 8,000 square foot floor plan lines up with the typical; is that a little larger? I don't think it is smaller than a typical QT but how does that line up with your typical store size?

Mr. DiBernardo said for the whole area of the property?

Mr. Smith said the building is 8,000 square feet, is your normal store 3,000 square feet, 4,000 square feet; I'm just trying to get a relationship.

Mr. DiBernardo said the normal store is 8,000 square feet.

Councilmember Phipps said I am concerned about the traffic flow on Salome Church Road. As you probably know that road is probably categorized like a farm to market road. It eventually turns into Ridge Road, but it is an increasingly amount of activity on that road. We just got a new Charter School up there and there is a pretty active church up there. There is a lot of traffic so I would like to see the traffic impact study. That is available to review already?

Mr. Carmichael said it has been filed with the City.

Mr. Phipps said I'm having problems with how that intersection is going to work with one of the primary entry points to the QT facility there, how is that going to flow? I can see major problems there given the configuration of Salome Church Road.

Mr. Carmichael said we will be happy to get that to you.

Mr. Phipps said I would definitely have to overcome that concern and I just have a question, why this site, why not across the street where it is already zoned? Any rationale there?

Jake Sutton, QuikTrip said I'm the Acquisition Manager for QuikTrip; the site across the street had some size challenges for the size of QuikTrip in the store and there are other challenges that we are able to overcome and this site fits our needs better at the end of the day.

Mr. Phipps said I don't know if you are aware of the proposed Wal-Mart small super center facility that is going to be a few feet up from CVS there. Are there any gas pumps associated with that site coming in there?

Mr. Sutton said I'm not aware of the specifics of their site plan. I believe I heard that they have left the option open, but I have not seen their plans.

Mr. Phipps said is that something that staff could follow-up on to see how their plans for a convenience store type gas pumps on that site?

Ms. Keplinger said we can look at the conditional site plan to see if there are any notes and we will follow-up.

Councilmember Barnes said I have a few concerns about this petition; speaking more globally Mr. Carmichael, across Highway 29 is an existing CVS and a soon to come Wal-Mart
mpl

Neighborhood Market Store and then there were the entitlements given to Charter Properties for multifamily there. One of the comments that staff made was they thought it would be more appropriate to have this type of facility on the opposite side of Highway 29 and from approximately Withrow Downs near the county line into Charlotte you don't get to a gas station use or retail use on that side of Tryon Street until you get to the Hess Station which is approaching Mallard Creek Church Road. We frequently say that if we don't do it here where would we do it and QuikTrip as a company, I think they do fine and I have no problem with them as a company and they have been trying for a while to get a store into District 4 so now it is Mr. Phipps problem more directly. They tried at McCullough at one of our Blue Line stops and we said please keep looking and a few years later here we are at this particular site. I'm not telling you what should go there but I have some thoughts about what should not go there. I think this use for me causes a few concerns about trend setting; people in the development business always tell us that they build what is in the area and that is why you have gotten those apartment complexes that are near you there on that site and at least one to come going north on Tryon it is a rest home, assisted living, dependent living facility as you are going towards the track and in between is C-MUD's Waste Water Facility hidden in the woods back there. What I am saying to you ultimately is I think this location for me creates a struggle and I understand what staff is talking about. For once I get it.

Councilmember Lyles said Tammie I would like to ask you if we could get from C-DOT all of the connectivity that we've been talking about; Pavilion and Salome Church Road and we've been saying this so if we can get the schedule from NC-DOT, if that is on their current five year plan, 10-year plan, if you could just find that out and include it with the information.

Mr. Phipps said as part of the traffic impact study, did you all evaluate what is done with race traffic on those big race times in Charlotte, how they configure the traffic going in a one way direction to expedite departures from the track? Have all those things been configured into that traffic analysis?

Randy Goddard, Design Research Group said we did the traffic study for the project and NC-DOT currently has a project for Highway 29 to basically eliminate the reversible lane system. They are actually putting in a median and they are going to set it up like a typical roadway with three lanes in each direction for the most part.

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

* * * * *

Mayor Clodfelter said before we move to the next petition I want to recognize that we've had some visitors join us, up to the left in the gallery is Scout Troop #256 from Quail Hollow Presbyterian Church. We are glad to have you guys with us; thanks for being here.

* * * * *

ITEM NO. 31: HEARING ON PETITION NO. 2014-100 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 15.50 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF WEST 30TH STREET AND CHICK GODLEY ROAD FROM UR-3(CD) (URBAN RESIDENTIAL, CONDITIONAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT-MIXED USE).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning I know it is hard to read on this map so I'm going to help you figure out where we are; this is Matheson Avenue, this is the rail line and this is Chick Godley Road. This is the property that we are looking at tonight; currently zoned UR-3(CD); it was rezoned in 2008 and what is shown on the site plan for this development is 327 townhomes and flats, an option to add 44,000 square feet of ground floor office or retail. The density was at

about 24.5 dwelling units per acre and there was a greenway dedication which included the SWIM buffer and 50% of the FEMA Floodplain was located in this area. When you look at this site, the site mostly is developable only in this area and there is an area here that they can access Chick Godley Road for access.

In terms of the request tonight, it is for a TOD-M, Transit Oriented Development, Mixed Use; the property is currently vacant, it is divided by Little Sugar Creek, located right here. The Blue Line Extension Area Plan, 36th Street Station from 2013 recommends transit supported uses for this site. You can see the eastern portion of the site is within ½ mile walk of the 36th Street Station.

In terms of this proposal, it is a conventional request, it is consistent with the Blue Line Extension Station Area Plan which recommends transit oriented development, it allows all the uses in the TOD-M. Portions of the property are within ½ mile of the 36th Street Station and there are no outstanding issues.

Councilmember Barnes said Ms. Keplinger could you go back to the aerial view; you said this site is within ½ mile of the 36th Street Station. Where is that station here and would people have to cross the railroad at grade to get to it?

Ms. Keplinger said I'm not sure about the exact location; I know it is in here. I'm not sure if they will have to cross the rail line.

Mr. Barnes said could they put the aerial here so we could see it too?

Ms. Keplinger said here will be the station and I'm not sure where the station is actually located and how access will be to that site.

Mr. Barnes said we may find this out in a moment, but I wonder whether the light rail station is on the other side of all those tracks and how people will get to it.

Ms. Keplinger said I honestly don't know. I believe the station is going to be located, as you said, on the other side of the tracks in this location. These buildings have been removed evidently.

Mr. Barnes said our Planning Department is the petitioner?

Ms. Keplinger said this is the case that we supported and the petitioner came to us and asked us if we would support it because it was on the Blue Line Extension and as is our policy we do that and put ourselves as the petitioner.

Councilmember Kinsey said so that means that the petitioner did not have to pay the filing fee?

Ms. Keplinger said no ma'am on all of our TOD cases where it is along one of our transit lines and it is within a station location the City sponsors those cases.

Ms. Kinsey said it seems to me if the petitioner comes and asks us they should be paying the filing fee, just my feeling.

Shane McMehan, 2832 North Brevard Street said I'm a resident of District 1 in the NoDa area. I have been a resident of the Carolinas all my life with the exception of a few years in military deployment. I was educated in the Fort Mill School System, Wake Forest University. I'm a member of MENSA, served with the US Marine Corp. currently a participating member of the NoDa Arts Committee, the History Committee, Crime and Safety Committee, and the Vision Committee which covers rezoning and improvements. I do not speak on behalf of any of those committees.

There was a vote taken at the NoDa Neighborhood and Business Association meeting earlier this month; the members asked the neighborhood board to write a letter to the City requesting a postponement on their vote on this particular petition and I would like to take a moment to
mpl

explain why I voted for that requested postponement. As I am sure the Councilmembers are aware the petitioner for this request is the Charlotte Mecklenburg Planning Department, not the current property owner or the potential developer. As a map of the proposed rezoning shows, this is a very environmentally sensitive area, having been declared a FEMA Floodplain and it is also a part of the upper Little Sugar Creek Watershed that runs down the middle of the property. During the aforementioned NoDa NBA meeting we discussed how the previous positive neighborhood recommendation for rezoning this land to UR-3(CD) had been talked about a great length. The owner of the property had offered the neighborhood concessions that gave deference to the environmentally sensitive nature of the property. My concerns for the current rezoning petition arise from several aspects of this request and the precedent that it sets. First of all Chick Godley Road, that was a proposed road; there is no Chick Godley Road. In front of that is the Shell gas station.

The foremost issue for me is that the potential developer is not the party petitioning for this rezoning; the City is actually the petitioner. This would seem to put the City in a position to rezone by Executive decree, submitting petitions for land they don't own, allowing for almost unrestricted development and then being the voting body that passes and votes on their own requests. Even worse these sorts of petitions seem to require almost no accountability from the developers with regards to a site plan or environmental studies and provide only the most minimal of required discussion opportunities to the residents of the potential affected areas. I have to ask if there is a member on the City Council present tonight that would give such a blank check to developers if the property in question were in their neighborhood and the resulting development were visible from their front porch because that is what I'm facing. In our neighborhood meeting board members stated that the potential developer had no detailed plans that they could share and that they were not available to send anyone to speak with the neighborhood board on the matter. It was also stated that the potential developer had been working on a campaign for a right-of-way from Norfolk Southern so that the City could extend Cullman Avenue across the railroad tracks through the FEMA designated floodplain and over the upper Little Sugar Creek Water Shed out to Matheson Avenue. After that meeting I spoke with several members who pointed me to materials that showed the potential developer's made it simply not needed or wanted input from the NoDa residents. Page one would have been the rezoning area, page two is a blank sheet, but if you go to page three you will see what is called the exchange NoDa from Capstone Apartments. Although there is no petitioner for this land, the very last page outlines this parcel ID for being for this apartment complex and what I find scary about that is this little statement that is on what would be the third page, the second page for capital. The site benefits from a location in the recently approved TOD development district, which affords developers an expeditious rezoning by right entitlement and pre-development process. Before I leave tonight I really would like to have an explanation of this rezoning by right entitlement. Besides that in conjunction with this proposed rezoning and the previous mentioned request for right-of-way and road extension, Cullman Avenue, add to that what was presented at the BOE meeting by Jim Keenan with the City of Charlotte Engineering Property Management Department on October 28th. That will take you to the pages that include the slides from Mr. Keenan. In conjunction with the proposed rezoning and previously mentioned request for right-of-way, Mr. Keenan informed the residents that Craighead will be cut off from North Davidson permanently and that the City wants to extend Philemon Avenue all the way to Cullman Avenue. At that point you have a prospect for a City street running parallel to North Davidson Street between Craighead and Matheson with cross over traffic that would necessitate a four-way intersection with a stop light being installed at the Cullman, Philemon and 36th Street intersections. That would be this page that shows the proposed roads. The areas in purple are areas that could be affected by a precedent of just decreeing areas to TOD-M.

As Mr. Keenan said in his presentation and he provided slides at the BLE meeting of the proposed Philemon extension, this will open additional land for possible future development. The question then becomes what kind of development and just how much of it will be unlimited in height. With all the land in that area to be rezoned TOD-M by executive decree as an expeditious rezoning right entitlement and pre-development process, I don't know, I'm here to find that out. My concern is that our Central NoDa Historic District could be walled off by a row of high rise condominiums seeking a million dollar view of the uptown skyline. Will there be reciprocation in the form of parking or dedicating a portion of the space to arts or other positive neighborhood contributions, the likelihood is no because the neighborhood is not being allowed

any input with potential developers before they are given the keys to the kingdom. I am not adverse to development and not even TOD-M development if it is good for my neighborhood and even in the worst case scenario I don't believe there is anything any developer can build that is going to diminish my love for where I have decided to put down roots. However, if you know that there is a chance for a pepto pink boondoggle to be built in your neighborhood and you don't stand up to ask questions then you might deserve what you get. This is why I voted to ask the Board of the Neighborhood Association to write a letter requesting a postponement on this issue until the potential developer finds the time to address some of the neighborhood's questions.

Councilmember Mayfield said I am just curious how you were able to identify this information.

Mr. McMehan said the third page identifies the parcel ID and simply put with NoDa being the area that it is, we have a lot of architects; they post on a lot of sites, they get renderings of things that are proposed, people have commissioned to have renderings done of things that they want to see come out of the ground. Those things were forwarded to me after it was discovered that these guys had a plan, they just don't have the time to come and talk with us.

Ms. Mayfield said thank you for providing this information.

Councilmember Smith said is part of the Cross Mecklenburg Trail going to go through this site?

Ms. Keplinger said part of the Cross Charlotte Trail does go through this site. As I mentioned, one of the conditions that was associated with the rezoning petition in 2008 was the dedication for greenway and they were dedicating 100-feet of SWIM buffer and 50% of the FEMA floodway. That was an important connector and that has been a challenge with this rezoning petition since it is a conventional request. I've worked with Parks and Recreation and with our Real Estate to see if there is another way to acquire that property without the conditions on a rezoning.

Mr. Smith said that is a pretty critical component for the Cross Charlotte Trail.

Ms. Keplinger said they feel that it is, yes.

Mayor Clodfelter said if this is a part of the Cross Charlotte Trail how will the railroad tracks be crossed by the trail?

Ms. Keplinger said I'm sorry Mayor, I cannot answer that question but we can get you an answer.

Councilmember Phipps said it says that no community meeting was required so did this go through the standard mailing to affected property owners?

Ms. Keplinger said absolutely. This is a conventional request just like any other conventional request that is on your agenda. There is a sign posted, we mail notices to everyone that owns property within 300 feet, every neighborhood organization within one mile and there are actually two mail notices that go out, a courtesy and a legal notice and then we also put legal ads in the newspaper. All of these things were done and we also had an open house forum for people that were interested in coming to hear about this rezoning. The only thing that is not required of a conventional case is the community meeting.

Mayor Clodfelter said but you said you had an open house; isn't that a community meeting?

Ms. Keplinger said no sir it is a little bit different.

Mayor Clodfelter said if the City or the Planning Department or the petitioner, shouldn't they have a community meeting just like everybody else has a community meeting.

Ms. Keplinger said it is not required for anyone that has applied for a conventional rezoning petition.

mpl

Mayor Clodfelter said but these special districts we have; we call them conventional but they are highly design driven and detail driven. It seems like a community meeting would be a pretty important thing for those kinds of districts too even though we call them “conventional” just because of the character and what the district is. Just an observation.

Mr. Phipps said the open house forum, apart from that individual citizens would have to contact the Planning Department on their own if they had any concerns or questions about the petition?

Ms. Keplinger said yes sir.

Mr. McMehan said Councilmember Phipps, in conjunction with what the gracious lady said concerning having mailed residents within 300 feet; no-one lives within 300 feet of that property. That is surrounded by business and the only residents are across the railroad track, more than 300 feet away, no-one was notified of anything.

Ms. Mayfield said actually this addresses a couple of concerns, one which I have brought up on more than one occasion and that is how we identify impacted area versus that 300 number because we know a lot of times development affects an area greater than that mailing number that we’ve come up with. What I really would like to know Ms. Keplinger is since this is a request that is being introduced by staff at what point do the dots connect if there is a developer that is promoting with the idea of potentially selling in the area, but as was mentioned by one of my colleagues, since they did not go through the rezoning process themselves that consist of conversations, consist of filing fees, consist of not using tax dollars to do the work for them, at what point do these dots connect so that you are not out promoting something on land that you don’t own yet but you are relying on staff to move forward a particular development. This just seems like this sends a mixed message. It sends a mixed message to me and I want to make sure that the community understands when things like this happens someone is keeping their eye on it to make sure that the proper procedures are being followed.

Ms. Keplinger said I can assure you the proper procedures were followed and the notifications did not only go out to residents, they went out to property owners within 300 feet. In terms of what someone else is marketing on this property, we certainly cannot control that through the rezoning process. What we do have control of is what the proposed request is and that is to a TOD-M (a TOD Mixed Use development) which has specific standards in our zoning ordinance that the petitioner is required to meet. At one time years ago we talked about on the south corridor going in and doing blanket re-zonings to TOD districts and we decided not to do that and that we would take them individually as they came in and in order to encourage that type of development that we would sponsor the re-zoning cases.

Ms. Mayfield said so as an example if we were to move forward with this; even though I do have concerns with staff being the one that is initiating this type of rezoning request, the next step once we rezone it then by-right if this particular development was actual and we still don’t know, it is just a rendering that is out there, but if they were to come before Council with this particular proposal then is there any catch measures in place to make sure that they come back in front of this body for us to have discussion or would it then be available for by-right development?

Ms. Keplinger said it would be available for by-right development if it is rezoned to the TOD-M so it would have to meet the ordinance requirements and go through all the reviews that we normally require for our transit oriented developments. The City did not initiate this rezoning, the petitioner approached us as with all of our TOD districts, and said is this within one of the station locations, is this an area that we can possibly rezone and staff said yes, it is in the station location, it is recommended for transit oriented development and it qualifies for staff being the petitioner and running it through the process.

Councilmember Fallon said let me understand something because I really don’t. Somebody requested the Planning Staff to do it, why didn’t he do it himself?

Ms. Keplinger said we have TOD re-zonings every month and each month the property owners approach City staff and if they are where there is a transit station location then the policy is that they fill out the application and that we support it and run it through as the petitioner.

Ms. Fallon said do you think perhaps the policy ought to be changed and if somebody wants it they should come, petition it, not us doing it because essentially it is us doing it and if they want it they should and it doesn't confuse the neighborhood which I'm sure it is doing to begin with. I'm trying to understand why you would do it and I understand TOD, I was a Planning Commissioner, but maybe this needs a revised way of doing things since we are doing a lot of TOD.

Mayor Clodfelter said I think Ms. Keplinger is not going to be able to answer that this evening but I think I gather with our dinner discussion about this topic, this is probably going to get a lot of internal discussion in the Department, I suspect so, and Mr. Manager is nodding his head so I'm sure it will, then we will get some recommendations.

Councilmember Kinsey said this is in District 1 and until I saw this I had no idea although I do go to neighborhood meetings I do want to ask Mr. McMehan a question. You said it was discussed at a neighborhood meeting, what was the outcome. Obviously, they didn't have anybody there to give them any information but were they generally in favor of it? Generally NoDa is right on top of everything going on in that area.

Mr. McMehan said that is part of why I'm here Ms. Kinsey. I actually e-mailed you earlier today with the same basic information but some links to some other videos and slides and things of that nature. What was discussed at the meeting which was at the beginning of November was that this issue was coming up and that there was no site plan, there was no environmental impact study, and there was nothing. There was a potential developer out there but he did not have the time and he did not have the site plan and he did not want to come speak with us. At that point the members of the NoDa MBA Association voted to ask our Board to write City Council a letter asking for postponement on this particular rezoning.

Ms. Kinsey said of the hearing?

Mr. McMehan said yes ma'am and I came here to make sure that either that letter had been written or that I had a chance to speak.

Ms. Kinsey did we receive a letter Tammie?

Ms. Keplinger said no ma'am I did not receive a letter.

Ms. Kinsey said I was not at that neighborhood meeting; I had gone to Druid Hills instead. This just smells fishy to me. I think this is a highly sensitive area with Little Sugar Creek and the railroad tracks and it just seems to me that whoever that petitioner or whoever that petitioner supposedly is, is just trying to get out of working with the neighborhood on a project. I don't know who it is and I don't mean to be ugly about it but it just smells a little bit to me. This is not something I could support right now.

Mayor Clodfelter said Council is not obligated to close the public hearing tonight; we can keep it open if you want to.

Councilmember Barnes said I am not defending anybody in this discussion, but I have this feeling looking at this aerial that staff is attempting to execute and implement the policies we've passed regarding TOD. If you look at the aerial from Matheson Avenue going north towards 36th Street my sense, and Ms. Keplinger you tell me if I'm wrong, my sense is that you guys see an opportunity for a South End type redevelopment, higher density and height that would run from Matheson all the way to the station at 36th Street.

Ms. Keplinger said yes sir.

Mr. Barnes said I remember a few years ago when we rezoned the land across the railroad to MUD-O. I believe that is kind of in the middle there, and that was being talked about at that time, yeah MUDD (CD). That was being talked about at that time as well so one, would it be fair to say that you are trying to implement a higher density Blue Line, almost like the South Corridor type development through that area. Two, a statement, and I think Ms. Kinsey is correct that the land owner should have paid for the rezoning, but I understand why we did it based upon our historical policies. Three, when we talked at dinner about the northern stretches of the Blue Line Extension and corrective re-zonings there, it is very much similar to this and in fact it is the same thing that we talked about at dinner in terms what Park Chevrolet has already done and some other sites, the one that Mr. Phipps mentioned with the storage facilities might be that need corrective rezoning. I am sensitive to the creek although I realize that the voters just approved Cross Charlotte Trail and we will be spending a lot of money from North Charlotte all the way to South Charlotte creating and improving a greenway system, but if you could briefly respond to the few things that I've said I would appreciate it.

Ms. Keplinger said in terms of implementing the policy, yes, that is the intent, to implement the policy and to develop transit oriented development along this corridor. In terms of the Cross Charlotte Trail, yes, that is a concern. I think the idea is to, if we can acquire that property through the rezoning process....

Mr. Barnes said I'm sorry Ms. Keplinger go back to the aerial for me. What I wanted you to speak to is what is the staff's vision. If you guys are envisioning nine, ten story type buildings, or higher, running from Matheson all the way to 36th this man is saying that he and many of his neighbors don't necessarily want to see tall buildings in the area, but if that is staffs vision for the area you guys should share that with us so that we could appreciate it, have that discussion with the neighbors and figure whether we stop at three stories or go to 20 or stop at 10 or whatever that may be. I think I see your vision but it would be great if you all would share it with us because if he had not come tonight you could have easily painted a picture that would look a lot like South End that would run from Matheson to 36th, it would have 20-story apartment buildings, retail, art facilities, all kinds of stuff and some people would say okay, great perfect. But I don't know if that is your vision but if it is it would help for us to hear that. That part you don't have to do tonight, but I want to know what you all were thinking as you were moving forward with this petition. Feel free to respond to any parts of what I ask that you can.

Ms. Keplinger said you are correct Mr. Barnes that this is in a transit corridor and there is a vision that is established in the Transit Station Area Plans for this corridor. Now whether it means three story buildings, ten story buildings, 25 story buildings, I don't think that is something that I can tell you. It talks about land use and what land uses are supportive for transit development and those would be office and residential mainly and I think that any of these areas along the corridor have... this is probably not going to be a repeat of South End. I think it is going to be a unique area and that as the proposals come in they would be examined either through the TOD review that is part of the permitting process or either through the rezoning process if there are optionals or conditions that we need to consider. There are some cases where we may want to go with a conditional plan, but in this case we didn't feel that it was necessary.

Mayor Clodfelter said that is sort of the point I'm focused on; I'm not sure that is correct in this case and again it is a question of neighborhood input. Your existing zoning is UR-3(CD) which is a very high intensity urban style residential use; certainly a supportive use for transit. There is nothing wrong with that as a transit supported use and because it was a CD plan somebody thought it was pretty important to put some conditions on that plan. If those are going to be dropped I think a little more input from the neighborhood might have been useful because they are all sitting there thinking this property is going to develop according to a conditional site plan that we've seen before and we know what it is. That is why you are getting a lot of process questions.

Ms. Keplinger said I understand the point.

Mayor Clodfelter said I think if this were I-2 General that is a different kind of situation you are dealing with but people understood what was going to happen on this property from a high density urban style conditional district site plan.

Mr. Smith said I just want to point out I welcome this policy discussion and I think it is a fascinating policy discussion and I think it is an important policy discussion and I think it is one we probably ought to have with the Council. I just want to make sure we are consistent because earlier tonight we were talking about corrective re-zonings for a property in which a person owned the property and wants to put up self-storage along the Blue Line, but it falls within a transit station and I'm not speaking to whether either project is right or wrong. All I'm saying is I do think if we are going to have the policy it needs to be consistent and this falls within the station location then we need to be consistent as we go along the north line. I don't think we should pick one project and say we are not crazy about this, but we don't like the proposed mini-storage so we are going to rush to put a corrective rezoning towards the front of the bus to prevent that from happening. I think we need to have a plan both as a Council and as a City to address this as this line is moving forward. Again, I'm not speaking to the merits of this project or the conversation we had earlier, I think they both will require additional study by me to get comfortable with them but I do think we need to be as best possible have some consistency.

Ms. Fallon said I kind of don't believe that because I think you have to handle each neighborhood as it comes, not consistently everybody is going to get 20-story buildings. Every neighborhood is unique, some of them don't need 20-story buildings and don't want them and I don't want to see Charlotte look like Brooklyn, New York.

Ms. Kinsey I'm not so sure I can add much to that, but I do think the surrounding areas need to have some say. This is the problem quite frankly I have with PED and with TOD; you really can't be consistent because you've got to look and see what is around. I just don't think we are doing the right thing and I would love to get rid of PED and TOD right now.

Mayor Clodfelter said we are into policy discussion now and I think as we discussed at dinner there was a Council interest and I think staff has heard loud and clear in sort of talking a little bit more about how we are approaching zoning issues along the Blue Line Extension and I think that is really important and they are getting a lot of information out of this. I'm not sure what they are going to do with it but this is good policy discussion. What do you want to do with the petition we have on the table?

Motion was made by Councilmember Lyles and seconded by Councilmember Fallon to leave the public hearing on Petition No. 2014-100 open until February 16, 2015.
--

Mr. Smith said the issue is not so much Councilmembers Kinsey and Fallon as to whether we put 20-story skyscrapers as much as I want the process to be consistent. If we are going to ask staff to rush in to certain areas and put it ahead for corrective rezoning then that appears to be the policy direction we are heading in. I'm not arguing that NoDa or up on North Tryon, one deserves a 20-story building the other doesn't, mine is we are going to move forward with what we view as corrective rezoning's and I'm not altogether comfortable with corrective rezoning's so I welcome policy discussion.

Mr. Phipps said I was wondering where February 2015 came from; is that like a projected timeline that we would think they would have another –

Mayor Clodfelter said I am having whispered in my ear that is a way to skip the holidays and give the staff ample time to figure this out.

Mr. Smith said the existing owner owns the land?

Mayor Clodfelter said the existing owner owns the land so there are no contract issues. Is that a workable time?

Ms. Keplinger said I believe it is.

Mr. Barnes said that was my issue too, whether there is a difference between February or December.

mpl

Ms. Keplinger said I don't know if the property owner is present tonight.

Mr. Barnes said is the property owner here?

Tony Kuhn, 427 Shasta Lane said the petitioner is here.

Mayor Clodfelter said the petitioner is the City of Charlotte.

Mr. Barnes said come on down, we've been talking about you all night. You should have shot a flare off or something.

Mr. Kuhn said I don't know how the process works.

Mr. Barnes said Mr. Kuhn I don't want to put you on the spot completely, just basic information; you heard a motion from my colleague to hold the public hearing open until February 2015. Is there any reason we should move it to December of January as opposed to February, number one. Number two, could you respond very briefly to the questions you've heard from us regarding the development potential at that site, long-term thinking?

Mr. Kuhn said let me clarify, thank you for your time. I appreciate all of the 'for' and 'against' discussion about this policy because it is very important. Let me clarify a little bit of misinformation on kind of my side and some of the things that were reported or communicated earlier. I have been working on this site, the current owner of the site is Mr. Pete Godley with First Industrial Land and I have been working with him on this site for about 4 ½ years, first as a broker four years ago. This site is extremely challenged from an access standpoint; from an environmental standpoint, it is really on the wrong side of the tracks and has very limited connectivity. The previous plan which was adopted through the UR-2(CD) process in 2008 was done before the TOD policies were put in place, before the light rail got funded and so it was more of a suburban style.

Mayor Clodfelter said UR-3 is not a suburban land use.

Mr. Kuhn said in all due respect it is still a surface park, non-structured deal that you probably wouldn't see or want to see in certain TOD areas. What we tried to do when we were brokering this for him four years ago we put this out there and everyone that looked at basically said, we appreciate your interest and your ideas put forth but this site is so challenged we are not interested in developing it. What I have done is tried to present or suggest something that might be a little bit more of a destination location than cut off surface park, multifamily site and really wanted to engage the greenway and to create almost a sense of place of this actual location. As far as the NoDa Homeowners Association, certainly I have talked with the President today and have extended and accepted the invitation to come to their meeting in December. I support everything they do and the fervor with which they protect that NoDa neighborhood and that is why I'm interested in investing and doing this project there. Certainly I'm going to take the time to come and talk with them. At this point I'm not the developer of the deal. We are suggesting what might happen as opposed to something that has previously been approved through a prior rezoning.

Mayor Clodfelter said the question before the Council is how much time would you like to have to conduct those discussions and then we come back after that and you've had a chance to have those discussions and then we continue the decision on this. The proposal is that we keep this open until February; is that too much time, does not give you enough time or not enough time; that is the question.

Mr. Kuhn said there are contractual issues of my involvement and with our group's involvement that could be challenging if this gets pushed past the New Year. Pete has been fortunate to give us a long period of time to do this and we can go back and discuss it with him but it could be challenging if it goes past for our involvement.

Ms. Kinsey said Mr. Mayor I think we are the ones to decide how much time we need and I believe February is reasonable as far as I'm concerned because that gives us time to maybe get our arms around the policy. I would like to ask Mr. Kuhn something. I know that you are assembling a great deal of property along North Tryon; is this just another parcel of that property?

Mr. Kuhn said no it is a separate investment idea, it is a separate entity; it is approximate to our other holdings that we have on North Tryon but it is a completely different idea on greenway development and transit development and is more specific towards NoDa than it is towards that North Tryon assemblage that we are working on.

Ms. Kinsey said but is it the same organization?

Mr. Kuhn said I'm a part of this one and this one is more specifically just me than our organization because I had the relationship with the owner for four or five years now working on it and I felt it was something that could be a little bit better vision for the site than what had been proposed. On the previous invitee to the NoDa Homeowners Association, I definitely would have made that first meeting. Ms. Kinsey, as you know, I do a lot of stuff with North End Partners and make myself available through all those deals, but I was invited at 4:30 p.m. for a 6:00 meeting and had some prior commitments.

Mayor Clodfelter said that is tough for you and tough for everybody. The question before the Council, and if this motion doesn't pass you can make other motions so let's see how many votes there are for the motion that is on the floor which is to keep the hearing open.

Councilmember Autry said the motion is to extend the hearing until February; there is nothing that would prohibit someone coming back in December or January with a solution or proposal or recommendation and not have to extend this all the way to February. Is that correct?

Mayor Clodfelter said is that correct Madame Attorney?

Senior Assistant City Attorney Terri Hagler-Gray said we have to notice it for a particular date so that is why we prefer a specific date and I think bringing it back earlier would be difficult for staff.

Mayor Clodfelter said are you ready to vote on the motion? If this does not pass then of course you can make other motions, if it does pass then it passes.

Mr. Barnes said I do agree with Ms. Kinsey that we get to make the decision about the date. The reason I raised that issue is because we frequently have negative impacts on people's businesses by setting dates that interfere with what they are doing in private business. I heard him say that going beyond the end of 2014 could impact contractual relationship, I don't know what it is, but out of respect for that I ask that question. Is it a problem?

Mr. Kuhn said it is a problem for us. It is a problem for me if it goes past the end of the year.

Mayor Clodfelter said then I will ask this question; if it was a problem why didn't you petition for the rezoning?

Mr. Kuhn said I thought I was going through the appropriate process and channel with the City's stated policy and a parcel that has had a lot of work on the approved Station Area Plan and the Transit Oriented Development Ordinance so that was the stated policy that I talked to the Planning Department. We've got this process we should we go through those channels.

Mr. Barnes said I'm not going to vote to have a negative impact on this man's business because of a decision that our staff made, so I'm not supporting moving it to February 2015.

Ms. Fallon said can you get an extension maybe because of our findings tonight?

Mr. Kuhn said I will certainly have that discussion as soon as we finish here.

mpl

Mayor Clodfelter said let's see what action the Council takes first. I don't know where this one is going to come out.

Ms. Lyles said I don't know how your business works; I assume you work really hard, you are here. I'm going to suggest to the Council why don't we give you some time to make a phone call and see if there is an opportunity, or ask you if that is possible tonight so that we would have an affirmative answer about your business and the plans. I think the Mayor makes a point that if you are in charge of your business you ought to do your own business. You can't wait for other folks to kind of do that. I agree with Mr. Barnes we are in a very difficult position for you to come and say well this is an impact on my contract with the owner by the end of the year; that is what I heard you saying. Is that correct, it could impact your contract with the owner?

Mr. Kuhn said correct.

Ms. Lyles said I wonder if you want to take this opportunity for us to pause this.

Mayor Clodfelter said I'm going to take that as a suggestion that we displace this item to the end of tonight's agenda, keeping it open with the motion on the table and we are going to displace this and move to the next item. This will move to the end of the agenda; Mr. Kuhn will have a chance to talk about that and then also consider how long it is going to take to have the neighborhood discussions that I think everybody wants you to have. That is another consideration. We will take this up as the final item this evening; everything is still hanging.

At the end of the meeting Council went back to this petition to complete the hearing.

Mayor Clodfelter said Mr. Kuhn what did you find out?

Interim Planning Director Ed McKinney said what I would recommend or suggest is we go to the January 20th date for the extension of the hearing. That gives us time to do a couple of things; staff will come back to you in December at the December meeting to discuss and clarify the policy issues. It will also give us time to schedule between now and January a community meeting to discuss this petition in particular and bring it to closure I think with enough time that with this sort of sensitivity to the specific issues we have with the site and the petitioner's relationship with the land owner.

Ms. Kinsey said you said come back and talk about policy issues at the December 20th meeting?

Mr. McKinney said as we discussed at the Dinner Meeting tonight, we had already requested the staff to come back to you at the Dinner Meeting in December.

Mayor Clodfelter said it is not the 20th. The December meeting is the 17th.

Ms. Kinsey said my comment is if we are going to have another demanding meeting like we've had tonight we are not going to have time to really discuss the policy issues the week before Christmas. I don't mind continuing the hearing until January 20th I just question whether there is time to really talk about the policy that close to the holidays and with all of the agenda items that we have had, at least for the last two months.

Mayor Clodfelter said I also think we may have opportunities in January at the Council Workshop in January so Mr. Manager I think you are going to get this one on the agenda for sure with ample time to discuss. I have every confidence of that.

Ms. Kinsey said January is fine; December I think is a little ...soon.

Mayor Clodfelter said let me put the question back to the maker and the seconder of the motion.

Ms. Lyles said accept the suggestion to leave the public hearing open until January 20th, the seconder of the motion, Councilmember Fallon agreed with that change.

Mayor Clodfelter said the modified motion on the table now is to continue the public hearing on this matter to January 20th, the January Zoning Meeting.

Motion was made by Councilmember Lyles and seconded by Councilmember Fallon to leave the public hearing on Petition No. 2014-100 open until January 20, 2015.

The vote was recorded as follows:

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

NAYS: Councilmember Smith.

* * * * *

ITEM NO. 32: HEARING ON PETITION NO. 2014-101 BY LGI HOMES NC LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 14.30 ACRES LOCATED ON THE EAST SIDE OF REAMES ROAD BETWEEN BELLA VISTA COURT AND LAWNMEADOW DRIVE FROM UR-1(CD) (URBAN RESIDENTIAL, CONDITIONAL) TO R-5 (SINGLE FAMILY RESIDENTIAL).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said this request is from UR-1(CD) to R-5 single family residential. You can see the property is located between Reames Road and I-77. In 2007 the property was rezoned to allow 95 for sale dwelling units; they were both attached duplexes and single family residential. The density was 6.64 dwelling units per acre. There was a specific site plan that was approved with building elevations that were required to be met.

In terms of the property currently it has never been developed so it is vacant and as I mentioned earlier the request is to rezone go R-5 with a density of five dwelling units per acre. The area plan was amended by the 2007 rezoning to allow 6.6 dwelling units per acre so the request for five dwelling units per acre is consistent with the Northwest District Plan by way of that previous site plan. As you can see from the future land use map there are a lot of properties across I-77 to the south of the property that are zoned for industrial and then you have residential across and to the north of Reames Road.

This is a conventional petition, there is no site plan associated with it. The density is consistent with the Northwest District Plan recommendations and staff is recommending approval.

Councilmember Austin said I will tell you before we hear from our speaker that I've been troubled by this particular rezoning since its beginning and Tammie, can you share with us kind of the last rezoning. I do believe there was some controversy around it; there might even be members of the previous Council who might be able to shed some insight on that. Tammie, can you talk about little bit about what was planned for this area, what it was designed to do and kind of set the ground work here. I've got additional questions as we move forward.

Ms. Keplinger said the rezoning was somewhat controversial especially for the property owners along the northern property line. They were extremely concerned about the edge of this development and also the community as a whole had concerns about the quality of the development. That is why there were some very specific design guidelines that were put on the petition in 2007; it was a unique product which was basically duplexes that were attached, kind on the back side of the house so that you couldn't see their storage rooms were attached. That qualified to make them duplexes. I think there was one actual single family home that was located on the property and these were all to be craftsman style houses and there was some controversy with it so we did work for a long time to come up with the resolution and the site plan that was ultimately approved.

Mr. Austin said I do like the fact that this is going to be a down zoning because we have it at 95 and we are going to about 70. I think the fact that there is no requirement for a site plan, there is

no requirement, I have no design guidelines and I don't have any elevations really to hold this particular petitioner accountable for. It is troubling for me. I know we have the petitioner here and he can share and I want to first say thank you for having a community meeting that you didn't have to have but I still have some concerns and I still have some residents that have shared those concerns.

Mayor Clodfelter said I think he knows what his task is.

Stephen Rosenberg, 14822 Resolve Lane said tonight I represent LGI Homes; LGI is a public builder from Dallas that purchased a company and moved here so I think we should be nice to them because they are coming to create jobs and this is their first public hearing. This is a down zoning as Mr. Austin said from 95 semi-detached vinyl homes to 71 single family homes. There is a 15-foot buffer on the plan that was not on the semi-detached; this sits between Reames Road and I-77 adjacent to an industrial area. Staff recommends approval and again as Mr. Austin said we met with the neighborhood community even though it was not required and they sent me an e-mail on Friday night that they have voted in favor of this particular rezoning. The purpose of this e-mail is to announce that the Bahama Havana Park Community organization voted to support rezoning petition No. 2014-101.

There has been two issues raised, one is the site plan that under this particular zoning we don't have to show a site plan. We've discussed this with staff; we will take the site plan that we used at the community meeting and will enter into an agreement with the community association and record it on title that we will use that site plan. What we are trying to do is, we don't want to get into this petition where well you said and then something is changing. No, we will do exactly what we said by taking that plan, entering into an agreement with the community and recording that on title because we can't do it with the City. It is not allowable under the zoning or we would be happy to, but again there is no vehicle to do that.

With respect to the second issue, I just think we need to be frank as you've been all night. It is vinyl versus hardy plank. The petitioner will continue to examine that over the next month before we come back but it is very difficult to offer affordable homes that back up to an interstate beside an industrial park and upgrade them to the point where you can't sell them. It just doesn't make sense quite frankly. The designs have been presented; the designs are attractive, they are the Craftsman Series and again we are happy to commit to use those designs with the community association.

Councilmember Kinsey said are the homes all vinyl or is it a mixture of vinyl?

Mr. Rosenberg said no, brick accents and stone on the front with porches and decorative.

Councilmember Austin what is the percentage; what are we talking about?

Ms. Kinsey said I'm sorry this is a conventional petition and any information that is provided we can't take into consideration.

Mayor Clodfelter said that is correct; this is a straight up zoning. It is not a conditional rezoning. If you want a conditional rezoning you can ask for one, but it is not a conditional rezoning.

Mr. Austin said I think that is where I have my most concern, is that it is not a conditional site plan zoning and I don't get the opportunity to hold you accountable. There have been too many times in our district where developers have come in and I have no way of holding them accountable for what is proposed. Now you have sent wonderful e-mails and I appreciate your working with my community, but they have been ambiguous at best to me about what the aesthetics are going to be and a few other items so I would prefer a zoning that is conditional and a site plan

Mr. Rosenberg said we have examples of the homes that we showed; I apologize I don't have them for the overhead, but again we are happy to include these in our agreement with the local neighborhood association to show this is what we are building.

Mayor Clodfelter said Councilmember Austin is suggesting that you make them part of a conditional zoning plan and that way they become enforceable as well. Then you don't have to have a separate agreement.

Mr. Rosenberg said that delays the whole process and again the option for the applicant is to build 95 vinyl semi-detached townhouses which they have approval for or upgrade to single family with brick and stone accents and trying to get the middle ground to make sure that the representative and the community is happy, we are willing to enter into an agreement with that and at least that lets us to proceed but we are committed to what we have showing and proposed.

Councilmember Barnes said Ms. Keplinger the 2007 petition, was that vinyl?

Ms. Keplinger said Mr. Barnes I know that there were a lot of design guidelines on that. I honestly do not remember if there was a prohibition on vinyl in that or if there were specified materials. We will try to find out that information very quickly.

Mr. Barnes said I vaguely recall that the District Rep at that time and that Council viewed that petition as something of an achievement I believe for that area. I support Mr. Austin is saying about a conditional plan because what we are trying to do is find ways to elevate these areas. We've recognized that you are not going to have half-million dollar custom homes in certain parts of the area because it is near I-77 but the question is whether they could be something that might address more of his concerns. I call it the 07 Plan and I'll wait for your response on that but I thought it was a decent and good plan.

Mr. Rosenberg said Mr. Barnes we want to get to the same place; we are trying to elevate the plan and to give comfort to the community we are willing to enter into some type of agreement and record it on title. We want to get to the same place it is just a question of how to do it.

Mr. Barnes said the problem Mr. Rosenberg is that when communities enter into these agreements with developers they frequently don't have the resources to pursue their private right of action if the agreements are breached.

Mr. Rosenberg said we are happy to enter into the agreement with the City.

Mr. Barnes said and we don't want to be the plaintiff in that lawsuit.

Mayor Clodfelter said that would be a conditional district plan; that is the way the agreement with the city works. It is a conditional district plan.

Debra Griffin, 7704 Reames Road said on the upper left hand corner if you take a quick right you are in my driveway and that is about two cars wide and it is 428 feet deep. My concern is my whole yard is exposed. From what I've been hearing is there is no tree buffer, no privacy, it supposed to be two-story elevation. I'm just totally open and have no privacy at all with what is being proposed and I don't want to be a little piece of something in the middle of New York with everybody peering down on me and I live by myself so I'm nervous about it.

Councilmember Lyles said actually I would like to ask the staff. I've seen you use a pointer and I was wondering if she could have that pointer so we could point out where she is; if you could just point to where the property that you are speaking about.

Ms. Griffin pointed to the property and said it is 428 feet deep which is totally backed up to the two-story homes that are going to be over seeing me. I have absolutely no privacy because when I called about it I was told there is no tree buffer, not going to be any walls, no fencing to where I could put some type of bushes on my side to overcome that angle of vision down into my yard. As far as I know there is nothing but land; they can walk right into my whole yard from those properties. I am not aware of anything else buffering it with security and privacy.

Ms. Lyles said I would like to ask the staff a question about the current zoning on the property and what impact would the current zoning have on her property.

Ms. Keplinger said the current zoning on her property?

Ms. Lyles said no the current zoning which is UR-1(CD) what would be the impact of development as is on her property?

Ms. Keplinger said you can look at the site plan and I apologize we are doing this off of a cell phone so it is a little difficult to read but the site plan as I recall from 2007 there was a buffer that was established along that adjacent property line to the north that was to provide protection for the adjacent property owners and it was something that was worked out during that process with the adjacent property owners.

Ms. Lyles said how long have you lived there?

Mr. Griffin I was there before then and I remember going through all that before and what we had worked out before is they were going to have a wooded buffer; they were also going to put kind of like a green buffer type thing because they were going to have an alley going down the back. They were going to leave a little bit of green and they agreed to put a wood fence up along my whole property line and they gave me the elevations to see how high and they were going to plant greenery on my side that I could control to eliminate that line of sight. I would be happy to do the same thing again; just give me my privacy.

Ms. Lyles said I would like to know if that buffer extended beyond her lot to the other adjoining lots across the back line of that property.

Ms. Keplinger said I believe that it did and she is correct with her description according to the approved site plan. Also I do have the information on the materials if you would like for me to read it.

Ms. Lyles said I think we should share that information with ourselves in the follow-up and as well with the current petitioner.

Mayor Clodfelter said Councilmember Barnes did ask the question, can you give the answer now?

Ms. Keplinger said the permitted exterior building materials for the dwelling units shall be a combination of vinyl, vinyl shake, brick, stone and similar masonry products notwithstanding the foregoing and not withstanding any attached schematic architectural renderings; horizontal vinyl may not be utilized on more than 25% of the front elevation of the building units excluding doors, windows and rooftops.

Mr. Rosenberg said in the previous plan, which we have a copy of, the adjoining neighbor who just spoke would back up to an alley with garages and a 10-foot buffer. What we have proposed is a 20-foot tree buffer on one side and a 50-foot tree buffer down around the bottom.

Mayor Clodfelter said the problem again this is not a conditional plan so we can't consider that. It is a straight up R-5 zoning.

Mr. Rosenberg said right, all I can do is inform you what the applicant can do.

Mayor Clodfelter said if you made it a conditional plan we could latch onto that. I think that is the issue Council is having.

Mr. Rosenberg said if I can ask staff, what is the timing on that/

Mayor Clodfelter said I don't know. Ms. Keplinger is going to have to talk to you about that; the timing on converting this to a CD site plan.

Ms. Keplinger said we would have to have another hearing because the law requires them to have a community meeting before they have a public hearing.

Mayor Clodfelter said I think you have your answer.

Mr. Rosenberg said we will continue to explore with our attorneys what we can do that will put this in stone and to us the deed was the best way to go, to actually put this in the deed, but we will continue to look at that.

Mayor Clodfelter said I think what I'm doing is trying to communicate what you are hearing from the Councilmembers on this one.

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

ITEM NO. 33: HEARING ON PETITION NO. 2014-102 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT TO ESTABLISH ZONING FOR APPROXIMATELY 0.59 ACRES LOCATED ON THE WEST SIDE OF EAST STONEWALL STREET BETWEEN SOUTH COLLEGE STREET AND SOUTH CALDWELL STREET FROM NO CURRENT ZONING TO U-MUD (UPTOWN MIXED USE.)

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said this is a request to establish the zoning on a small little piece of property that looks like a smile; it is right off of John Belk Freeway, Stonewall and just north of Caldwell and Brevard Streets. This is actually a remnant from the I-277 construction. If you look at this property it has actually been used as a parking lot for many years, but it actually does not have zoning. If you remember, we used to have the big traffic circles here that were part of the interchange, and then in about 2007 or 2008, this interchange was realigned and that is where the property remnant came from. The future land use plan; which is the 2020 Vision Plan, calls for the property to be mixed use. It is within ½ mile of the Stonewall Street Station and you can also see the Carson Boulevard Station located on the map. This is consistent with the 2020 Vision Plan which calls for a mix of residential and non-residential uses. It allows all uses in the U-MUD district and it is a conventional case with no outstanding issues.

Councilmember Mayfield said since it has been used for parking for a number of years, what is the proposal, if we were to move forward with this, to identify the lack of parking that we have uptown since that is used a lot for a lot of people that work in the area that don't have access or chooses not to use public transportation at this point. What are we proposing to offset redeveloping this and the lack of parking that we have in the immediate area?

Ms. Keplinger said I'm not sure there is an actual redevelopment proposal for this site; this is just to establish the zoning when none existed before. Since it is conventional it is all uses that would be allowed in the U-MUD district.

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

ITEM NO. 34: HEARING ON PETITION NO. 2014-103 BY WEEKLEY HOMES, LP FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.5 ACRES LOCATED ON THE NORTH SIDE OF ENDAHVEN LANE BETWEEN NORTH COMMUNITY HOUSE ROAD AND MISTY RIDGE LANE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL.)

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said to orient everyone this is I-485 Belt-loop, Community House Road, and Endhaven Lane. This property should look familiar to you; this is the Trotter rezoning that was approved last year. This is the Torrington Development; we've had several rezoning's in this area, site plan amendments and also one on this corner for the hotel most recently. This site is basically three parcels; there are three single family homes that are located on the site. As you can see in terms of the zoning we have basically single family residential to the east of the site, you have the commercial node at Torrington, MX-2 Innovative. Most adjacent to the site is this residential property which is a school and there is also a school over on this site. You can see the three single family homes in the aerial and also the two schools.

The petition will allow up to 45 single family attached homes at a density of 8.2 dwelling units per acre, maximum height of 40-feet, two parking spaces for each unit in garages. It will provide a 15-foot wide buffer adjacent to the single family uses which are located on along this property line and 10-feet along the school. We had to turn the slide in order to get everything on there to show you so this is Endhaven; this is the south side of the site. There are private streets and alleys located in association with this development and there is a water quality facility located on the northern most portion of the site.

In terms of the architectural design guidelines they are proposing brick, stone and other masonry products of hardy plank and other similar siding materials. They prohibit vinyl as a siding material and they also prohibit blank walls exceeding 20-feet for all end units that have sides along Endhaven. This is an example of what the development may look like.

In terms of the future land use plan this property is located in the South District Plan, it recommends single family residential. When we ran the GDP it scored eight dwelling units per acre. The request is actually for 8.2 which is a slight increase over the eight that is recommended by the GDP but we feel that is just a minor amount and that it is something that we can support. The outstanding issues are related to transportation and they are a few technical issues which we think we will be able to resolve so staff is recommending approval upon the resolution of those issues.

Walter Fields, 1919 South Boulevard said Shannon Boling from Weekley Homes is here with me if there are any questions you might have that I'm not able to answer. We are making a three minute presentation tonight because we've been working very closely with the community on this project for a number of months. We had two community meetings even before we filed the petition and we got some really good input from the folks that are most closely associated with this site to the east, single family homes adjoin us on that side and around a portion of the rear and they gave us several challenges to take away and work on. We've done that and we've come back and actually had two follow-up community meetings after the staff analysis came back; we've made changes to the plan in response to statements from the community and statements from the staff. One of the things I want to do tonight is be sure and get on the record some additional changes that we plan to make to the plan. This came out of our last community meeting which we held on November 5th. There were questions and concerns raised at that meeting about lighting and you all talked about lighting earlier on a commercial site; this is floodlights on the corners of people's houses and since David Weekley is constructing the homes they have control over that and will put a covenant that prevents any future homeowner from adding or modifying those lights so they shine on the people's property. That is a note we are adding to the plan. We would like the ability to construct an entry feature; we don't have it designed yet, but we are going to put a note on the plan that gives us the ability to do that, much like we did at the David Weekley project over on Sharon View. We've had some early comments that people were concerned about storm water because there is water running off this site now down through the rear yards of the single family homes to the east. Obviously, there is nothing there to stop it and the natural contours carry the water that way. We think that working with the site we are going to pick up a lot of that water and deliver it into a storm drainage system after it goes through the PCCO facilities and we are adding a note that says if we can work it out with the City we will try to direct more of that water away from the single family, but in either case we are attentive to their concerns. Last but not least, and this was a comment from our meeting on the 5th, concern was expressed that even though we have the buffer that folks thought they would like to see some additional planting so we are going to up the amount of planting in terms of the shrubbery in terms of numbers we are going to up the size of the trees

mpl

that we put in initially to try to address that concern. These are all changes that we committed to make to the plan. I agree with Tammie, these other small technical changes we can easily resolve.

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

Mayor Clodfelter turned the gavel over to Mayor Pro Tem Barnes and excused himself.

* * * * *

ITEM NO. 35: HEARING ON PETITION NO. 2014-106 BY QUAIL HOLLOW VILLAGE FOR A CHANGE IN ZONING FOR APPROXIMATELY 19.13 ACRES LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION BETWEEN PARK ROAD AND GLENEAGLES ROAD FROM CC (COMMERCIAL CENTER DISTRICT) TO CC SPA (COMMERCIAL CENTER SITE PLAN AMENDMENT).

Mayor Pro Tem Barnes declared the public hearing open.

Tammie Keplinger, Planning said the property is located at the intersection of Gleneagles and Park Road; the site is currently zoned CC which is commercial center. Quail Hollow Middle School is located to the south. We have a shopping center across the street. This came in for a rezoning several years ago to redevelop that center; R-12 PUD is residential and R-3 single family residential. When you look at the aerial you can see that there is currently nothing on the property; you can see the property to the south which is the Middle School and the shopping center across the street.

In terms of the site plan, I'm not going to go over the site plan in a lot of detail because I believe Mr. Fields is going to show a new site plan tonight, but I will catch some of the highlights. The proposal will allow all uses in the CC (commercial center district) except for gas stations, convenience stores and automobile service facilities. It will allow up to two uses with drive-thru service windows but only one could be a restaurant. It allows up to four buildings and in those four buildings they can have up to 76,000 square feet of retail restaurant uses. They can have up to 60,000 square feet of office uses, 200 hotel rooms, 100,000 square of what is noted on the site plan as specialty retail, 290 residential dwelling units, not to exceed 22 dwelling units per acre and with all of those right and entitlements are various conversions so that if there is a more of a market for retail than office or for hotel than office they can switch those back and forth.

I want to show you the elevations and even though the site plan has changed, in talking with Mr. Fields he has indicated that the feel for the elevations that we are sharing are still correct so the detail may be a little bit different but you can still see the feel is more of the Mediterranean style development. You can see the elevation Gleneagles, Park Road, the south which is toward the school and then to the east.

In terms of the future land use plan the property is zoned CC so the South District Plan does recommend retail office and residential uses for the site so the request is consistent with the land use plan. There are outstanding issues that are related to transportation and there are other technical issues, but we have been working with the petitioner and we believe that we can have most of those resolved by the time we go to the Zoning Committee next week.

Dee-Dee Harris, 6400 Fairview Road said Ms. Keplinger just told you a lot of what I was going to tell you; this is not a rezoning, it is an amendment to a previous rezoning. The property already has a CC designation as Ms. Keplinger just said and we already have certain conversions from that hotel which allow conversions from residential to office, etc. We would like to make four requests; we would like to have more flexibility in the already allowed conversions and be able to build up to 350 apartments or apartments, condominiums, townhomes, etc. without exceeding the current square footage and keeping the traffic neutral as zoned and capped as requested by C-DOT. The second thing we would like is the ability to use one of the already approved two drive-thru windows for a drive-thru restaurant, a restaurant with a window. The

third request is the ability to accommodate up to 60,000 square feet on one floor. We are now able to accommodate 45,000 square feet on one floor so we are asking for 15,000 more square feet for one tenant on one floor. The fourth request is for another curb cut on Park Road and Richard is going to point that out to you. It allows trucks to deliver without going through the heart of the center; it provides a short-cut to the eastbound traffic and thereby easing the pressure on the intersection. C-DOT would like for us to do this. In a changed environment we are heeding the comments from the staff, from neighbors, from perspective tenants as well as perspective joint venture partners. For example, we have removed all the parking along the corner of Park Road and Gleneagles and in so doing our site plan has evolved. Yet we have never lost sight of the purpose to develop a Quail Hollow Hub in the form of true venture, mixed use village which would not only capture the local residents but also the traveler who would come to stay in the hotel for one of many purposes served on campus. We want to show you the new site plan as it has evolved. Thank you for this consideration.

Councilmember Smith said without revealing who the developer may be have you all lined up anchor tenants and JV partners for the hotel and then the 60,000 square foot single story ground floor use?

Ms. Harris said yes; they are under a letter of intent. We do have a partner in the apartments, a developer. We do have a hotel, not only a hotel flag a management company, but we have a hotel owner. In previous days we were going to be the owner, now we have an owner and we love him. He is very, very in tune with all of the things that we would like to do. We also have a perspective joint venture partner in the retail.

Councilmember Phipps said I have a question for C-DOT about the request for a curb-cut on Park Road. Does that meet the distance requirements for safety concerns for curb-cut criteria?

Mike Davis, Transportation said yes it does; the site is pretty large and it will benefit from having additional access to that location.

Councilmember Lyles said I probably missed this, but when you were saying the flexibility, I'm not sure of the number of apartments, it has been a long night, you asked the four requests, what was the first one with the apartments?

Ms. Harris said up to 350 apartments and in the conversions we would be giving up retail or office to make those conversions. I think maybe one thing that was not clear earlier was that we already do have some conversions, but we need a little more flexibility. We are capping ourselves; Mike would you like to address that? We have worked with C-DOT in capping ourselves to make sure that we remain traffic neutral when we make those conversions. You have to be able to park it number one, and we are not going to exceed the present traffic count as zoned.

Ms. Lyles said this is a question for staff; what I hear is when we get to the 13,200 trips per day that the flexibility for changing the square footages in the four footprints, you are going to do that through the traffic control versus the buildings? Am I saying that correctly?

Mr. Davis said no, let me briefly put this in sequence and it will make a little more sense. When we started the conversation on this being a site plan amendment what we heard was a similar story to what you have heard tonight which is we are really looking for flexibility and they wanted to understand what they should expect from C-DOT. Our position was this is fairly simple as long as we keep it trip neutral and the belief was from the petitioner's side they would be able to do that through varying sort of formulas of conversion rights. We worked a lot on how you would do that and as a sort of final punctuation of that they have added a note, which is great for us, which simply said no combination of these uses shall exceed that amount of trip generation. We think the actual blend of uses and intensity achieves it anyway, but there is just a hard cap in there for some reason we got that.

Ms. Lyles said Tammie can you help me understand how many times the conversions can roll over, one, two, three, four until the flexibility gets it right. What is the process for doing that?

Ms. Keplinger said the conversions would be handled through the administrative approval process and some of our outstanding issues do relate to those conversions and actually how many you could have and how many would be allowed. I will have to work those out with the petitioner and have some more information on those.

Mr. Smith said Mike can you help explain regarding that particular intersection the minimal proposed increase in car count? What kind of alleviations are we are going to have a second curb-cut, and there would be access now onto Gleneagles so what kind of traffic dispersion; I assume that is going to help alleviate some congestion at the site just based on having some ability with the access points.

Mr. Davis said is your question about just the drive-way or other types of things as well?

Mr. Smith said primarily the driveway and if any way shape or form now that this site is pushing forward for development that will be an assistance of congestion at that intersection.

Mr. Davis said so like a lot of things it is about tradeoffs and on the smaller site we would say the proliferation of driveways sort of harms the pedestrian environment, creates unnecessarily sort of conflict points along the street for drivers. For the size of this site and the number of trips we are serving the intersection space and the driveway spacing is perfectly acceptable so the benefit you get from that is just rather than concentrating all of that at one location you get the benefit of spreading that out a little bit. It is really as simple as that.

Mr. Smith does that help at all with congestion?

Mr. Davis said yes and by providing some people those convenience options it will absolutely help with the congestion points but mainly the congestion is going to be at Gleneagles and Park Road. There are some additional mitigation's that come with this project that are related to that intersection, primarily along Gleneagles. An extra driveway helps a little but not significantly.

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

Ms. Harris said our appreciation for all of you has heightened greatly!

* * * * *

ITEM NO. 37: HEARING ON PETITION NO. 2014-111 BY CAMBRIDGE PROPERTIES, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.31 ACRES LOCATED ON THE NORTH SIDE OF ALBEMARLE ROAD BETWEEN HOLLIROSE DRIVE AND CIRCUMFERENTIAL ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) AND B-1(CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL) TO B-1(CD) (NEIGHBORHOOD BUSINESS CONDITIONAL) AND B-1(CD) SPA (NEIGHBORHOOD BUSINESS, CONDITIONAL, SITE PLAN AMENDMENT).

Mayor Clodfelter declared the public hearing open.

Tammie Keplinger, Planning said this property is located on the north side of Albemarle Road. It used to be a plant nursery and a garden center, at least a portion of it. It was rezoned for that in 1992; it allowed 30,000 square feet and there was also a single family home which is located on this side of the property which is not included in the rezoning. As you can see from the aerial the old garden center building is located here. In terms of the proposed use it will allow three commercial buildings on three separate parcels. It prohibits some of the more intensive land uses and they are listed in your agenda. It allows only one use with an accessory drive-thru window and it specifies the building materials and designs.

A couple things to point out about the site plan you can see the three building locations; they will have interconnected driveways which is a plus when you have this type of development and they

also have future drive connections to the adjacent properties. There are buffers for the adjacent single family properties. They have provided building elevations that give you a typical rendering for what the buildings may look like.

In terms of consistency with the plan, this is one of the cases that is both inconsistent and consistent with the Eastside Strategy Plan. Part of the property that is currently zoned commercial for the garden center is consistent with the rezoning, however part of the development which is zoned residential was proposed for institutional uses. In terms of this request, although part of it is inconsistent and part of it consistent we feel like the property is located between other commercially zoned property so it is appropriate to rezone the R-3 site to allow for a more cohesive and consistent development pattern. Staff does have outstanding issues; they are related to transportation and some storm water issues and we have some minor technical issues. Once those are resolved staff will recommend approval of this petition.

Jay Priester, 831 East Morehead Street said I am with Cambridge Properties, the petitioner of this rezoning. We are pleased to have staff's support pending the outstanding resolution of these few issues which are minor in nature. I want to address a couple of things with our site here; again the location is directly across from the existing Lowe's and Target Center along Albemarle Road. Our adjacent property neighbors are vacant property that is zoned B-1(CD) on either side of this property so this property actually has two zonings on it, B-1(CD) and R-3. The R-3 portion of this property is split or kind of sandwiched in between B-1 on either side. The B-1 portion of the property is currently zoned conditional with one use allowed on it which was the nursery center that Tammie had mentioned.

Here is the conceptual site plan showing the three buildings, the existing tree save; we are showing the tree save in the back which is existing trees. This also depicts the new 8-foot planting strip and 6-foot sidewalk along Albemarle Road. Currently this sidewalk is at the back of the curb on Albemarle Road so we will be improving that condition. We are going to have a 30-foot setback and we will also have included, and this is new, which we will be adding to a new submittal this Thursday, a two-foot eight inch knee wall along Albemarle Road. This is to protect visually the streetscape along Albemarle Road so we are dramatically improving that, including the landscape hedgerow in front of the knee wall. The knee wall material is specifically going to match our new building elevations which we will also be submitting as a part of a resubmittal for Thursday. These are two of the three buildings; we are agreeing that 35% fenestration on the fronts of all the buildings facing Albemarle Road. They will also have four-side masonry with the minimum two different brick colors.

This shows our third building very consistent harmonious in terms of architectural design and elements and features, including an example of the brick knee wall that would show alone Albemarle Road the screen, parking and fronts of the vehicles. To the right of the screen we have shown a pallet of materials of which we intend to use within the development, including standing scene, two different brick colors with different architectural features, including some precast concrete along the bottom of the buildings to create a little architectural appeal.

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

ITEM NO. 38: HEARING ON PETITION NO. 2014-001 SUB BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE SUBDIVISION ORDINANCE TO 1) MODIFY THE DEFINITION OF PLANNED DEVELOPMENT; 2) CLARIFY EXISTING REGULATIONS AND UPDATE REFERENCES, FORMATTING THE TABLES; 3) RELOCATE REGULATIONS INTO THE PROPER SECTION; 4) CORRECT THE DIMENSION OF THE RIGHT-OF-WAY REQUIREMENTS FOR LOCAL RESIDENTIAL WIDE STREETS; 5) REMOVE THE REQUIREMENT FOR DELIVERY OF FINAL PLATS TO THE PLANNING DEPARTMENT AND REMOVE REFERENCE TO THE COUNTY AND BOARD OF COMMISSIONERS; 6) CLARIFY

STREET SPACING REQUIREMENTS; 7) CLARIFY THE STANDARDS FOR REQUIRED STREETS WHEN LOTS OR BUILDING SITES ARE PART OF A MULTIFAMILY DEVELOPMENT; 8) UPDATE THE NOTICE AND HEARING REQUIREMENTS FOR VARIANCES AND APPEALS; THE STANDARDS FOR GRANTING A VARIANCE; AND THE STANDARDS FOR MAKING DECISIONS; AND 9) UPDATE THE APPEAL REGULATIONS.

Mayor Clodfelter declared the public hearing open.

Shannon Frye, Planning said I'm going to introduce these minor changes that we are making to the Subdivision Ordinance and as you may recall I was here in September with a change that was made to the Zoning Ordinance and this was on the basis of what we did in 2010 to implement the Urban Street Design Guidelines to a regulatory piece in the Subdivision Ordinance. After implementing it for this period of time it has become apparent that we've needed to revisit it to update some of the references. We've reformatted some of the text; we've clarified the standards for the required streets in the multifamily development and similar to what was done in the Zoning Ordinance with respect to the notice and hearing requirements that the legislation changed, we are now implementing those same requirements in the Subdivision Ordinance and that was also applicable to the appeal regulations that were in the Subdivision Ordinance.

We updated the ordinance last in 2010 and we have now gone in and make some formatting changes; really this is kind of laying out the order of the street network. We've also noted that we had a typo which I'm going to try to get to in a minute with respect to multifamily and street network. At a high level modify the definition of block, made a consistency with what is in the Zoning Ordinance for planned development. That definition now is consistent in the Subdivision Ordinance. With the modernization of digital plan review we've reviewed the requirement for paper copies being delivered for plats, clarified titles and sections and then back to variance and appeal standards making that consistent with State Legislative requirements. Also the reference to the Metropolitan Union Planning Organization is being corrected to the current CRPTO. The one issue that I'm really trying to clarify here is what is before you is a slide that was used when we presented this information to public view back in 2010 that talked about public streets being required in each direction. What got codified in the ordinance was the word "either" and we spent some time explaining the intent was that one was in each direction so that is a word correction that is being proposed with this amendment and the picture is basically showing what we presented, blue being streets that could be public, red being streets that could public, but all of that is not required to be public so it is a combination of public and private streets that can meet that goal, but we need a north and a south which goes back to one being in each direction versus the "either" reference that we currently have. Staff is recommending approval of this petition, finding it to be consistent with the Centers, Wedges and Corridors Framework and it preserves and enhances existing neighborhoods.

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

* * * * *

MAYOR AND COUNCIL TOPICS

Councilmember Mayfield said I want to actually congratulate the Latiba Collard Green Museum, which a lot of people might not even realize is located at 720 Tuckaseegee Road; they are open Tuesday through Saturday from 10:00 a.m. till 5:00 p.m. and Sunday from 1:00 p.m. to 5:00 p.m. but yesterday they had a standing room only with over 300 from the community in attendance and this was a creation that started in NoDa and has moved to historic West End Partners, thanks to the leader and board member, Topo Femister, so I want to make sure that the community know that you have this amazing art gallery/exhibit right in the heart of historic West End that Councilmember Austin and I share, but truly an amazing piece is on the back side of this building there were railroad tracks so they created an actual art exhibit that simulates the underground railroad. You have information on one side that is very educational but you have this art that depicts a family going through the process of finding the supporters and those that look out for us as part of the underground railroad. It will be an amazing opportunity to just

educate the community as well as our youth, but I want to congratulate them on their soft opening for yesterday where they were able to kick off their art and soul. I will keep the community posted of upcoming events.

Councilmember Smith said at tomorrow night at 6:30 I will have a town hall meeting and I have three lovely ladies from my district that attend our meetings regularly and hopefully you will join me tomorrow night at the Morrison Library from 6:30 to 8:00. We will talk about transportation issues within District 6, planning issues and we will have a representative from CMPD. The scope of the conversation will be sort of a 30,000 foot level, we may not be in detail on every project announced, but we are going to talk about the larger development practices coming through District 6.

Councilmember Barnes said on December 4th in furtherance of our high grown entrepreneur strategy I am having a meeting at 2:00 with high growth entrepreneurs in Charlotte. The website is talkaboutqc.com so you can visit that talkaboutqc.com and get more information and register.

Councilmember Autry said I just wanted to say I'm very encouraged by the interest that several of my colleagues have expressed this evening in storm water.

* * * * *

ADJOURNMENT

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

The meeting was adjourned at 9:57 p.m.



Stephanie C. Kelly, City Clerk

Length of Meeting: 4 Hours, 47 Minutes
Minutes completed December 8, 2014