

DINNER BRIEFING

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Thursday, April 19, 2010, at 5:23 p.m. in Room CH-14 of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Councilmembers present were: Nancy Carter, Warren Cooksey, Andy Dulin, Patsy Kinsey

ABSENT UNTIL NOTED: Councilmembers Susan Burgess, Patrick Cannon, David Howard, James Mitchell, Edwin Peacock III, Warren Turner

ABSENT: Councilmember Michael Barnes

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Tammie Keplinger, Planning, went over two deferrals and items with a staff presentation. She also explained a request for an expedited public hearing for Petition No. 2010-038 from June to May with the decision requested the same night.

Council did not have a quorum at that time in order to vote.

Councilmember Howard arrived at 5:34 p.m.

Ms. Keplinger introduced for discussion Planning staff public hearing presentations and when to prepare/present. Debra Campbell, Planning, provided further explanation of Planning's process for preparing presentations, and she asked for Council feedback. The majority of those in attendance preferred presentations.

Councilmember Peacock arrived at 5:45 p.m.

Ms. Campbell provided an update on the upcoming Planning Coordinating Committee Meeting. Steven Rosenboro, Chair, Zoning Committee, invited Council to the meeting intended for elected officials.

Councilmember Dulin suggested limiting the time for awards/recognition presentations.

Curt Walton, City Manager, said City staff is developing guidelines.

[Motion was made by Councilmember Dulin and seconded by Councilmember Howard]
[to expedite Petition No. 2010-038 and move the public hearing from June to May and]
[have the decision made the same evening.]

Councilmember Kinsey said she was opposed.

Councilmember Carter asked if the question could be divided.

Councilmember Dulin said yes.

The vote was taken on the motion to move the public hearing to May and recorded as follows:

AYES: Councilmembers Carter, Cooksey, Dulin, Howard, Peacock

NAYS: Councilmember Kinsey

Councilmember Howard explained there are economic development reasons for the request to expedite the public hearing.

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PETITION NO. 2010-038 BY ARROWOOD PARTNERS LIMITED PARTNERSHIP FOR A CHANGE IN ZONING OF APPROXIMATELY 10.41 ACRES LOCATED ON FOREST POINT BOULEVARD NEAR WEST ARROWOOD ROAD FROM B-D(CD) TO I-1

[Motion was made by Councilmember Kinsey and seconded by Councilmember Carter to]
[reconsider expediting and moving the public hearing for Petition No. 2010-038 to May 19,]
[19, 2010.]

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

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The briefing was recessed at 5:55 p.m. for the Council to move to the Council Meeting Chamber.

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ZONING MEETING

The Council reconvened at 6:05 p.m. in the Council Meeting Chamber of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Present were Councilmembers Carter, Cooksey, Dulin, Howard, Kinsey, Peacock, Mitchell

ABSENT UNTIL NOTED: Councilmembers Burgess, Cannon, Turner

ABSENT: Councilmember Barnes

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Councilmember Burgess arrived at 6:06 p.m.
Councilmember Turner arrived at 6:06 p.m.

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INVOCATION AND PLEDGE

Mayor Foxx gave the Invocation and led the Council in the Pledge of Allegiance to the Flag.

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Mayor Foxx explained the Zoning Meeting rules and procedures. He recognized the chairman of the Zoning Committee, Steven Rosenboro, who introduced his committee and said their next meeting would be Wednesday, April 28, 2010.

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DECISIONS

ITEM NO. 1: ORDINANCE NO. 4407-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 4.71 ACRES LOCATED ALONG WEST 6TH STREET AND NORTH SYCAMORE STREET FROM UR-2 AND UR-3 TO UMUD(CD) WITH FIVE-YEAR VESTED RIGHTS

Mayor Foxx said the Zoning Committee found this petition to be inconsistent with the Third Ward Land Use and Urban Design Plan but reasonable and in the public interest.

[Motion was made by Councilmember Mitchell and seconded by Councilmember Carter to]
[approve the Statement of Consistency and Petition No. 2009-074 for the above rezoning by]
[Sycamore I, LLC as modified and as recommended by the Zoning Committee.]

Councilmember Mitchell said I need to thank all the citizens in District 2 who have written the City Council on this particular rezoning issue, so I feel like, as the district rep, I need to explain my reason why I'm supporting this petition. A lot of the opposition says that this is not in line with the 1997 Third Ward Master Plan, and that is a correct statement. But since 1977, you notice that Third Ward has really changed with Ray's Splash, the Gateway Village, and it has become more dense and more urban. I think this is a great development for the land particularly with CMS being a part of new redevelopment. I will ask my colleagues if they could join me in supporting this Sycamore development. I know I might make some of my citizens upset, but at the end, I think this is the right development for the right location, so I ask for your support.

Councilmember Dulin said one question about the site plan. I was over there today, and I'm still working on how the building sits in relation to Ray's Splash Planet and the current parking lot that is there. The entrance to Ray's Splash Planet comes down. Doesn't the building take most of that parking lot? I mean they are cozied up in there. I walked around trying to envision how things would lay out, and I walked along the creek, and I think we heard last month that this project is going to greatly improve the creek, and I would like for you to bring me up to speed on that a little bit because I know what good work we have done along Sugar Creek in Metropolitan, and I'm just sort of envisioning what we can do down there.

Tom Drake, Planning, said, first of all, the parking lot that is there now will be replaced. When the first phase is built, the 59 spaces dedicated to Ray's Splash Planet will be within the parking deck that comes with the first phase, or if the first phase is just surface parking, it will be in that. The creek, the greenway through it, is being improved. I'm not sure it's a complete rebuild and complete relandscaping of the whole greenway area, but the trail will be improved across this site. There are some retaining walls that need to go in. There is a creek crossing that connects the trail to the north.

Councilmember Dulin said, Mayor and Council, this is the second visit really, but today I really got out and gave it more than a once over. If we indeed want to develop the inner city, the inner core, we have walkable communities over there, and Third Ward is beautiful. I again drove most of the neighborhood today. That linear park along the creek I think this would be a good anchor at that end of it with the cemetery right on the other side of the wall. No development is going to go further down, so this will be the beginning or the end point of really I guess it's a mile – at least three-quarters of a mile – from there over to 285, so I'm going to support Councilmember Mitchell. I just want folks in Third Ward to know that my vote to support is not without getting my homework done and getting my feet on the ground and understanding. I listened to you. Thank you for your emails.

Councilmember Howard said I just want to somewhat do the same thing that Councilmember Dulin just did. I, too, spend some time talking to Miss Jenny over in Third Ward, and she gave me a lot of the neighborhood side of the situation, and I spent time talking to the developer and a little bit with Park and Rec and the Schools. I'm like Councilmember Dulin on this one. I'm looking at the positives of this development to help me understand that there were a lot more good things that would come from this than bad. To me, I agree with Andy, that if you are going to put development of this size anywhere in the corner of downtown, up against the cemetery and up a creek makes a lot of sense to me with great access – not to even mention the infrastructure work that this development is going to require, and it will be of benefit to the full uptown community. I also wanted to make sure that CMS was on board, and I got that word, so I wanted to make sure that the neighborhood understood where I was coming from with it, and, I, too, like Andy did my homework, and I'm going to support Councilmember Mitchell as well.

Councilmember Kinsey said I hate to vote against a friend here. I have really struggled with this, and I agree that it's a nice development. I am concerned about the phasing. What happens if some of those buildings aren't built? Are we just going to have that asphalt parking lot behind

that first phase? I'm concerned about the housing locational policy, and even though we were assured that if they didn't get a waiver that would be all right; it wouldn't do anything to the project. I'm just a little concerned about that, and there's just something down inside me that says no. So my vote is no tonight, but I don't necessarily disagree with what has been said around this dais, and I certainly know that I'm in the minority. Deep down I'm going to have to say no.

Councilmember Burgess said during the hearing I asked the developer, petitioner, if they intended to ask the City for incentives for financial support for infrastructure or anything else, and the petitioner told me they would get back to the staff about that. My question is have they gotten back, and if they have not, can we rule it out that they would come back and ask for financial support?

Mr. Drake said they have a written response that is at least in my packet, and essentially what they have said is while the project is not dependent on it, they would like to leave that option open for the future, so they have not said definitely no.

Councilmember Burgess said I would like to close that option, but that is not the reason that I'm opposed to it. This is just way, way too big for that site. A 20-story building within a residential community is too massive, and I have to say I really appreciate the advantages of this development because there are some with parking for Ray's Splash Planet, with improvements to the greenway. It's hard in this day and age to turn down a big development because we see so few of these petitions, but I think it's the wrong development in the wrong place, and, Mr. Mitchell, in all due respect, I'm going to join Councilmember Kinsey in opposing it.

Councilmember Carter said part of my concerns rest with the parking. To address the statement made by one of the members of the Planning Committee that the Phase 1 surface parking could become a permanent use, and I'm very concerned that be restricted. Is it restricted within the notes on the project?

Mr. Drake said, I'm sorry, when you say restricted, you don't want that eventuality to be allowed?

Councilmember Carter said as a permanent use. I think that would be a detriment.

Mr. Drake said my recollection is there nothing in there that would prohibit that. It is a build-out type plan.

Councilmember Carter said the other concern I had was the statement with the Neighborhood and Business Services about the prohibited area for assisted multifamily housing. This, to me, is a very interesting statement, and I would like to see the full statement regarding prohibited areas and how much can be used in large developments to see all the ramifications and fully understand this waiver. I'm concerned about the Fair Housing policy that is overseen by our federal government to see if this is an appropriate statement.

Mr. Drake said the waiver that is required is through this body, so they would have to come back if they needed to do that, if they incorporate that into the plan, as they have said they would.

Councilmember Carter said that alleviates some concern. Thank you.

Councilmember Dulin said I just want to remind Council that this is exactly what the urban infill type of project that we have been saying we wanted for a number – as long as I have been on Council, y'all have been trying to get high density urban infill, and here it is in the inner core of our city – urban infill. Now, I want to also let everybody remember that when the Gateway building was built in 1988 or '89 or '90 or so, that was intrusive in this neighborhood, too. I wasn't on Council clearly. Mr. Mitchell, you might tell us what was going in 1990 on Council.

Councilmember Mitchell said, no, I wasn't here.

Councilmember Dulin said but that is closer – the Gateway buildings are closer to those homes than this building is closer to those homes, and this building is shoved over in the corner next to

a cemetery and an interstate highway. For goodness sakes, we have somebody that wants to buy that property and build something for our community. We need to get government out of the way and let these folks have at it. That's just my opinion.

Councilmember Cannon arrived at 6:19 p.m.

Councilmember Mitchell said, Mayor, I just want to make sure my motion includes the following modifications. I did not include that in my original motion.

Mayor Foxx said so the five modifications. Very well.

Councilmember Burgess said, Mr. Dulin, I'm glad you brought up the Gateway Center because that is an example of good urban infill, and it's certainly nowhere near 20 stories high. That is in scale with the rest of the West Trade, and that's what I would like to see on this property. But I was reminded. I asked a question before if members of the Board of Education were aware of this petition because we haven't heard from them, and I just wonder if they know about this.

Councilmember Mitchell said I know Mike Raible is here.

Mayor Foxx said, Terrie, I'm relying on you to keep us from crossing the line on the hearing.

Mike Raible, Charlotte-Mecklenburg School System, said in answer to your question, yes, the Board of Education is aware of this petition.

Councilmember Howard said I want to go back to something my colleague, Ms. Carter, mentioned a second ago. If for some reason this was surface parking, then appropriate landscaping would be required. They have to submit, if they phase this, some type of landscaping around that parking lot.

Mr. Drake said where visible from a public street, yes, there's a screening requirement.

Councilmember Howard said basically a surface parking lot also means until they provide a deck they couldn't go to the higher density they were talking about.

Mr. Drake said that's also correct.

Councilmember Howard said so that's clear.

Mayor Foxx said, thanks, good debate, and various sides of the issue have been talked about quite a bit. We have a motion on the table by Mr. Mitchell.

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

AYES: Councilmembers Cannon, Carter, Cooksey, Dulin, Howard, Mitchell, Peacock, Turner

NAYS: Councilmembers Burgess, Kinsey

The modifications are:

1. The petitioner has eliminated sheet SP-3 and revised note one under "Storm Water/SWIM Buffer" to indicate the development will comply with the PCCO ordinance. Note that the petitioner reserves the right to use green roofs to meet a portion of the PCCO requirements, provided the green roofs meet water quality specifications.
2. The petitioner committed to coordinate all greenway design and construction with MCPR as part of Phase I.
3. Under "Phasing", the petitioner has noted that surface parking will be asphalt and meet all ordinance requirements.
4. The petitioner has deleted note four under "Parking", which does not meet minimum standards.
5. The petitioner has deleted note one under "Urban Open Space/Open Space", which conflicts with minimum standards.

The ordinance is recorded in Ordinance Book 56 at Pages 596-597.

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ITEM NO. 2: ORDINANCE NO. 4408-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 24.55 ACRES LOCATED ON THE WEST SIDE OF SARAH DRIVE SOUTH OF WEST CAMA STREET AND ON BOTH SIDES OF ORCHARD CIRCLE FROM R-22MF TO R-8

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Scaleybark Transit Station Area Plan and reasonable and in the public interest.

[Motion was made by Councilmember Howard, seconded by Councilmember Cannon, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2010-044 for]
[the above rezoning by Charlotte-Mecklenburg Planning Commission as recommended by the]
[Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Pages 598-599.

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ITEM NO. 3: ORDINANCE NO. 4409-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 7.95 ACRES LOCATED ON THE WEST SIDE OF CHINA GROVE CHURCH ROAD, THE SOUTH SIDE OF ERVIN LANE, BOTH SIDES OF DENDY LANE, AND BOTH SIDES OF PACKARD STREET FROM R-17MF TO R-8

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Sharon and I-485 Transit Station Area Plan and reasonable and in the public interest.

[Motion was made by Councilmember Cannon, seconded by Councilmember Burgess, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2010-005 for]
[the above rezoning by Charlotte-Mecklenburg Planning Commission as recommended by the]
[Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Pages 600-601.

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ITEM NO. 4: ORDINANCE NO. 4410-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 0.60 ACRES LOCATED ON THE EAST SIDE OF EASTWAY DRIVE NEAR THE INTERSECTION OF WELDON AVENUE AND CITISIDE DRIVE FROM R-22MF TO O-2

Mayor Foxx said the Zoning Committee found this petition to be inconsistent with the East District Plan but reasonable and in the public interest.

[Motion was made by Councilmember Carter and seconded by Councilmember Cannon to]
[approve the Statement of Consistency and Petition No. 2010-019 for the above rezoning by]
[Betty S. Triece by Pamela Triece Rhynes, POA, as recommended by the Zoning Committee.]

Councilmember Howard said I just wanted to hear staff's take on that one just real briefly. Staff disagreed.

Tom Drake, Planning, said staff was opposed to this petition. It's inconsistent with the plan, and in 2004, Council turned down a similar rezoning across the street and a couple of lots up. We believe that this marches nonresidential zoning up the street, and it's not a precedent we would like to see set.

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

AYES: Councilmembers Burgess, Cannon, Cooksey, Dulin, Howard, Kinsey, Peacock

NAYS: Councilmembers Carter, Mitchell, Turner

The ordinance is recorded in Ordinance Book 56 at Pages 602-603.

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ITEM NO. 5: ORDINANCE NO. 4411-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 1.32 ACRES LOCATED ON THE NORTH SIDE OF PINEVILLE-MATTHEWS ROAD BETWEEN CARMEL EXECUTIVE PARK AND BANNINGTON ROAD FROM R-3 TO O-1(CD)

Mayor Foxx said the Zoning Committee found this petition to be consistent with the South District Plan and reasonable and in the public interest.

[Motion was made by Councilmember Cooksey and seconded by Councilmember Mitchell]
[to approve the Statement of Consistency and Petition No. 2010-020 for the above rezoning]
[by Duke Energy Corporation as modified and as recommended by the Zoning Committee.]

Councilmember Carter said I am rather concerned about the access and egress from this area. It's an educational purpose. I'm wondering if there's room for buses, for turn-arounds? I think that's part of the educational process, and it seems like there might be school buses there.

Tom Drake, Planning, said we have discussed that with the petitioner, and I believe they would characterize it as the odd school bus. It is not designed or intended for school bus size groups. It really is to accommodate the kind of, you know, curious visitors that are dropping by now. However, with an organized group like that, they could accommodate a turn-around.

Councilmember Carter said they could. They are not necessarily providing it.

Mr. Drake said I'm not exactly sure how to characterize it. It would require an event kind of management to do that.

Councilmember Carter said magic school bus size, in other words.

Mr. Drake said not intended. Can't say one would never pull in, but I think as soon as they set the thing up they would be advised are you sure you want to do that kind of thing.

Councilmember Dulin said, Ms. Carter, I think I can help you a little bit on that. You might have been out. You are good at doing your legwork. You might have been over to the site.

Councilmember Carter said I have seen the site. I have not been on it.

Councilmember Dulin said there is a large area now to pull in there – gravel. You know, it's not an industrial site, but it's a solar panel farm now to grow, and there's plenty of room. Remember, last time we talked about the back area. There are two or three or four acres behind this that are still in their ownership that I'm sure they could do some sort of bus turn-around, if they wanted to expand the educational aspects of it. It's neat now. It's a science class now for me and my kids as we drive by to talk about it, so I hope with the land they have back there they could expand the educational portion of what they are trying to do. It would be pretty neat.

Councilmember Carter said, thank you, Mr. Dulin, I appreciate that, but if they are getting some sort of reduction on taxes or by designation as an educational site I think it should actually be an educational site with access provided. That's my point.

Councilmember Dulin said that's a perfectly good point.

Councilmember Cooksey said I'll ask the petitioner's agent what is your take on the bus situation, sir?

Unidentified Speaker said thank you for that question. We did put a note on the site plan, and I reminded Tom of that that should there be a bus or buses that would need to access the site that it would be specifically coordinated with Duke officials. As Mr. Dulin pointed out, there is ample property behind, which is secure, and Duke would allow those buses back there and coordinate that so that has been taken care of.

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

The modification is:

1. The petitioner amended Note 7 to indicate new street trees replacing the Bradford Pears along Pineville-Matthews Road will be planted 30 feet on center in the 20-foot setback prior to issuance of a driveway permit associated with this project.

The ordinance is recorded in Ordinance Book 56 at Pages 604-605.

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ITEM NO. 6: ORDINANCE NO. 4412-X FOR THE ADOPTION OF A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD SPECIAL EVENT OFF-STREET PARKING OR NON-CONSTRUCTION STAGING AS A PRINCIPAL USE ALLOWED WITH PRESCRIBED CONDITIONS IN THE UMUD ZONING DISTRICT

Mayor Foxx said the Zoning Committee found this petition to be consistent with the adopted policies and reasonable and in the public interest.

[Motion was made by Councilmember Burgess, seconded by Councilmember Mitchell, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2010-026 for]
[the above rezoning by Charlotte-Mecklenburg Planning Commission as recommended by the]
[Zoning Committee.]

The ordinance is recorded in Ordinance Book 56 at Page 606.

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ITEM NO. 7: ORDINANCE NO. 4413-X AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING OF APPROXIMATELY 0.54 ACRES LOCATED ON THE NORTHERN CORNER AT THE INTERSECTION OF SOUTH CALDWELL AND EAST 3RD STREET

Mayor Foxx said the Zoning Committee found this petition to be consistent with the Center City 2010 Vision Plan and reasonable and in the public interest.

[Motion was made by Councilmember Mitchell and seconded by Councilmember Carter to]
[approve the Statement of Consistency and Petition No. 2010-029 for the above rezoning by]
[James Small as modified and as recommended by the Zoning Committee.]

Councilmember Carter said I was wondering if the Charlotte National Building were attached to this plan. From the drawing, it seems it is detached but that it's historical nature will be preserved.

Tom Drake, Planning, said since that is not part of this petition I am not aware of additional arrangements, and I'm not sure what the historical status is either.

Councilmember Carter said I thought it was a designated landmark.

Mr. Drake said I'm not sure. John is not sure either.

Councilmember Kinsey said it is just the façade on that building, so I don't know if it's designated. It is just the façade facing toward the street.

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

The ordinance is recorded in Ordinance Book 56 at Pages 607-608.

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DEFERRALS

Tom Drake, Planning, said, Mayor, it has been pointed out to me that we have not gone over the deferral request for the hearings.

Mayor Foxx said we have a couple of items that have been deferred. Item No. 10, Petition No. 2010-009 by St. Paul Baptist Church, request for two-month deferral. Is there a motion on that?

[Motion was made by Councilmember Burgess, seconded by Councilmember Cannon, and]
[carried unanimously to defer Item No. 10, Petition No. 2010-009 for two months.]

Mayor Foxx said Item No. 14; is there a motion on that?

[Motion was made by Councilmember Mitchell, seconded by Councilmember Carter, and]
[carried unanimously to defer Item No. 14, Petition No. 2010-022 for one month.]

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DECISIONS (CONTINUED)

ITEM NO. 8: CONSIDER RESUBMISSION OF REZONING PETITION FOR GREATER GALILEE BAPTIST CHURCH

Melissa Johnson, Deputy City Clerk, said there are speakers for No. 8. I have one additional here, and from what I understand, since there was never a hearing, it will be –

Mayor Foxx said we are actually being asked to reopen a zoning petition or allow the petitioner to resubmit a zoning application.

Terrie Hagler-Gray, Assistant City Attorney, said I'm sorry. Was the question there should be a hearing at this point?

Ms. Johnson said can speakers be allowed to speak on No. 8?

Ms. Hagler-Gray said the resubmission?

Ms. Johnson said yes.

Ms. Hagler-Gray said it won't be a public hearing, but the Council can hear comments regarding whether to allow the resubmission at its discretion.

Mayor Foxx said I will allow it if there are no objections to doing so. We have four or five speakers, I think.

Dexter Snead said we are basically going to turn it over to Judge Fulton. We are going to have Deacon Sanders and Missy Epps to speak in reference to Greater Galilee because there are some other things we want to fold over to on Petition 9, so we are going to split it up that way. I'm going to turn it over to Judge Fulton

Judge Shirley Fulton said we are here tonight to ask Council to permit us to resubmit what was Petition 2008-158, the Wilmore Greater Galilee earlier petition that was denied based on a 6-6 vote. We come because we think there have been some substantial changes in the petition that we are asking you to consider at this point versus the one that we asked you to consider before. Primarily, we have resolved a number of the issues, but those are not the changes that you will hear about. The neighborhood and Greater Galilee stand together tonight to ask for resubmission of the petition and reconsideration by City Council.

I believe the issues that divided us before were parking, housing preservation, and the siting of the building. We are in agreement on those issues, and we have developed with the help of the City staff as well as a consultant provided to us by the City some guiding principles as well as a new design. The building we propose to develop has been resited, the parking has been resited, and the setback or the buffers in the setback have been redone. So, we stand here tonight to ask you to reconsider the petition, and that is under the general statute that permits City Council to reconsider in less than the normal two-year period. We are relying on Section 4 of that, and to support that we say that the new petition will include additional properties between Spruce Street and Mint Street that were not included in the previous petition. The most intense development component, the sanctuary, has been relocated to the center of the site away from single family housing and from Spruce Street. Vehicular parking and circulation has been moved to minimize the impact on the neighborhood, and existing single family homes on the site will be relocated to other church-owned properties within the Wilmore neighborhood. So, I think we have addressed all of the concerns raised by Council and raised by the neighborhood, and without continuing on, I will give the next person the opportunity to speak.

Missy Epps said I'm here tonight on behalf of the Wilmore Neighborhood Association and the Wilmore neighborhood in general. Our current president, Brian Walker, could not be here tonight. He is at the hospital delivering his healthy baby girl with his wife. Wilmore is so excited to be here tonight with Greater Galilee standing up for this petition. I think you have all of the particulars of the revised version in front of you. All I will say is we have been working very hard with Greater Galilee and with the Planning Department. Debra Campbell has been great to get us to a place where not only does Wilmore and the Wilmore Neighborhood Association and the people involved intricately – not only do we think we are going to be satisfied with the new plan, I think we are all very excited about the new plan. It is something that is going to be a beautiful centerpiece for Wilmore, and we really are just tickled at how we have all worked together and gotten to where we are now. We are very much in support of allowing the church to resubmit and are very confident that we are going to end up with a site plan that just really tickles everyone, so thank you very much.

Richard Sander, said again we are thankful to be here tonight to resubmit, and I'm not going to be but a few seconds. We are appreciative of all the hard work that Zoning and the Historic District, the Wilmore community, as well as the church has come together and just tried to work out these things so that we all might be blessed and be able to move forward with something that the whole neighborhood as well as the historic development will be pleased with.

Mayor Foxx said Mr. Turner, I know, has put a lot of work into getting this item moved forward.

Councilmember Turner said I want to recognize those individuals I hear from Greater Galilee as well as the Wilmore neighborhood. If they will continue to stand while I continue to speak, please – if you will stand up. I am asking you to stand because in my eight years now I have been on Council I have never witnessed one time or any other time where we have actually

denied a petition and the community has been able to come together with the petitioner to resolve the issues and to bring forth a project, so I want to commend you for setting I think a great example of what we can do when we work together and set aside our differences and communicate. I know for a fact you all have put a lot of time and hard work and working with Planning staff – Ms. Campbell -- as well as the pastor of the church and all his members and Wilmore. It was great just seeing you all and attending those meetings with you just to see your dialogue and your sincerity about trying to bring about a unity of community, and I thank you for that.

Councilmember Dulin said I just want to echo what Councilmember Turner said. That was a difficult vote in December, and you guys are an example of what is good about our community. We get this thing right I'm going to pass a proud yes vote when you come back to us again. We know better than to speak for one another, so I'm speaking from my chair, and thank you very much for working so hard, and I know you were kind about Debra Campbell, but I know she worked very hard and her staff worked very hard, so thank you for coming together. We have been right in the trenches with you, so thank you very much.

Councilmember Cannon said real quick. I don't know there is an action as of yet, and if there isn't, I'll be happy one to yield of way to the district representative, who has been working hard on this, and if he wants to make that motion.

[Motion was made by Councilmember Turner and seconded by Councilmember Cannon to]
[accept the resubmission under Section 6.112 of the City Council Zoning Ordinance to]
[reconsider the decision and vote on this matter at the appropriate time.]

Councilmember Carter said I would like to echo those words of appreciation. They are city-widely important, and I know from my own district that it will have impact. You all worked together to come up with something of great beauty that blends into the neighborhood, and I am truly grateful because I have places of worship that are on dead-end streets that want to expand, and now we have the best example to show how neighborhoods and places of worship can come together. I cannot thank you with all the emotion in my heart that I want to show you, but I am very grateful, and, staff, thank you so much for enabling this. It does work, and I thank you.

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

Mayor Foxx said that carries unanimously and congratulations and very good work.

HEARINGS

ITEM NO. 9: HEARING ON PETITION NO. 2001-099 BY WILMORE NEIGHBORHOOD ASSOCIATION FOR THE ESTABLISHMENT OF THE WILMORE HISTORIC DISTRICT OVERLAY, THE UNDERLYING ZONING WILL REMAIN UNCHANGED, OF APPROXIMATELY 171.28 ACRES LOCATED EAST OF INTERSTATE 77 BOUNDED BY DUNKIRK DRIVE, WEST TREMONT AVENUE, SOUTH TRYON STREET, AND WEST SUMMIT AVENUE

The scheduled public hearing was held on the subject petition.

Mayor Foxx said we have a protest petition that has been filed. The sufficiency is currently under review. Do we have an update on that?

Tammie Keplinger, Planning, no, sir, at this point in time, we do not. After the public hearing, we anticipate that the boundaries of the overlay may change. That will affect the outcome of the protest petition, so we will have the information on that for you at the time of your decision.

John Rogers, Administrator, Charlotte Historic District Commission, said just very briefly Petition 2001-099 is a roughly 171-acre petition bounded roughly by Dunkirk, West Tremont, South Tryon, and West Summit Avenue. It lies just west of the I-77 corridor, just to the east of

Dilworth and South End. This petition was originally filed in 2001 but was put on indefinite deferral in 2002 at the request of the Wilmore Neighborhood Association. They had some internal issues and some other pressures on the neighborhood that they wanted to change their focus to for a while, so it got tabled. They approached the Planning staff in 2009 to come back and reactivate this process. The Historic District Commission staff, along with some other interested citizens, have been working with the neighborhood association and the neighborhood at large on and off for years on this. We have had over a half dozen public meetings in the neighborhood that the neighborhood association has sponsored to explain the historic district program and how it works and to answer whatever questions have come up at those meetings not to mention the countless phone calls that have been coming on since this got reactivated.

The neighborhood, very briefly, was developed in the early 1900s by a Charlotte businessman named F.C. Abbott on top of what was once the old Rudisill gold mine. All this is outlined in the historic survey and research report I believe was made available to you. It talks about the history of the neighborhood both its early development starting in the 1920s up through a period of decline and kind of renewal again in the 1990s. That survey and research report was looked at by the Historic District Commission at their March meeting this year where they voted unanimously to endorse the creation of this local historic district before it was forwarded to the State Historic Preservation Office in Raleigh for their review and comment as we are required under state statute, and that review letter, which I think you received a copy of as well, came back with very positive comments about this neighborhood and this possible designation.

In a nutshell, that's it. You can see the geography on the map up above. It is really focused on the residential core of the neighborhood, the area that was developed between 1920 and 1949. The boundaries are drawn to make sure that we capture as much of that existing historic character as possible while not blending too far into the business areas along the edge of the neighborhood. Just an aerial shot to help orient you a little more. You can see the real residential core of the neighborhood along Wilmore and Woodale Drive, west of Kingston and Park Avenue. It is really kind of a mirror neighborhood of Dilworth in a lot of ways. It was developed to take advantage of the existing streetcar system that was in Dilworth.

This is some representative photographs to give you an idea of some of the housing stock and some of the ages of the housing stock in the neighborhood. These are actual photos of the building by building historic resource survey that was done in the neighborhood that was forwarded to the state for comment. There are about 500 more of these slides, but I figure you really don't want to see them. Other than that, I'll entertain questions.

Mayor Foxx said we actually have a number of speakers who wish to speak in favor. Do we have any opposed tonight. Okay, none opposed.

Jonathon Crotty, 2027 Dilworth Rd., said I'm the chair of the Charlotte Historic District Commission. I just want to echo what John Rogers said. In March, as required under state law, this petition was brought before the full HDC. We spent some considerable time reviewing it – not only the historic background of the neighborhood but the boundaries for the suggested petition, the intact nature of the neighborhood itself, and at the end of that process, the HDC unanimously concluded that the area met all of the requirements under state law for a local historic district and also endorsed and recommended it be designated as such. On a personal note, I will just note that it's remarkable how intact Wilmore is in terms of its historic character in some ways much more than some of the existing historic districts we have got in the city right now, and I think the entire HDC is looking forward to adding it to our historic districts in Charlotte.

Missy Epps, 1624 Wilmore Dr., said again I'm here tonight speaking on behalf of the Wilmore Neighborhood Association, the petitioner. I have lived in Wilmore since 2003 and have been on the board of directors of the neighborhood association since 2004. In 2004, we started working on the historic district process again building on this 2001 petition, and what we learned at the time was that back in 2001 there had been a lot of misinformation given to Wilmore residents about what it means to be an historic district. Residents were told they couldn't hang their laundry out in their backyard if we became an historic district and things like that. So, as a result of this misinformation as well as the previous rather large proposed boundaries of the historic district, there were, in fact, a number of protest petitions filed at that time back in 2001.

However, if you will notice tonight, you will find that the majority of, if not all, I think, of those protest petitions that are on file tonight were filed back in 2001 and many of those property owners have now been excluded from the district with the new boundaries. Since 2004, Wilmore has been working very hard on getting its historic district designation. We went back to the drawing board and started garnering neighborhood support for this process, and we did accomplish a lot of things.

First off, the first thing we did was to dramatically reduce the footprint of the historic district to exclude industrial and business properties especially on Tryon and east of Tryon. In that process, we are still tweaking the boundaries somewhat particularly around Summit Street to remove a few more industrial properties along the northwest corner there along Summit Avenue. That was the first thing. Secondly, we have worked so hard. So many people who are in the audience tonight have spent so many hours working on the research and survey report that you have. It is an enormous document. People like John Rogers and Wanda Birmingham at Planning; Stewart Gray at the Landmarks Commission; numerous, numerous neighborhood volunteers, who are here tonight; students from UNC-Charlotte, (inaudible). She is an architect student. Diane Althouse and Lea Birch from the nonprofit Historic Charlotte worked very hard for us on the survey and research report, and it really took us five years to get that thing together. We have photographs of almost 600 houses and detailed architectural descriptions of each of those houses for that report. We are very proud of it. It was a huge task, and I can't thank all these people enough for their help with that.

Finally, the other thing we have been doing since 2004 is spreading the word and getting people to understand what it really means to be an historic district. We have gone door-to-door handing out flyers. We have had numerous discussions and question/answer sessions at community meetings. We have included information about being an historic district in almost all of our newsletters that we have been putting out to all Wilmore residents since 2007. Most recently, we have even started a Web site about the historic district that gives this information, and not only that. That Web site is going to be up and remain up to be a resource for Wilmore residents, who, when we become an historic district, want to make a change to their house. They will be able to go to that Web site and have a very clear diagram of how they can go through that process. The Wilmore Neighborhood Association is committed to retaining a board member that will be specifically designated to helping Wilmore residents with that process to making changes to their home when we become an historic district. We feel that is very important.

So, of course, the reason we have gone through all these efforts is because we feel in Wilmore that becoming an historic district is so important and will really preserve the incredible architectural history of our beautiful neighborhood. There are so few places in Charlotte and even in the United States where you can walk down the street like you can in Wilmore and it looks the same today as it did almost 100 years ago. Once something like that is removed and gone due to development or whatever else, it can never be replaced, so we really urge you to support this historic district overlay for the Wilmore neighborhood. We have a few residents that are going to be speaking tonight, and there are many people here that are in support of this historic district, so hopefully I have left a little bit of time.

Dexter Snead, 501 W. Park Ave., said I'm not going to stand before you long because I know we don't have a lot of time, but we at Greater Galilee Baptist Church, Inc. are joyous and at peace and standing in effort for the goal with the historic district. It didn't take us long to get to this point. We sat down around the table. At first, it was kind of hard, but as we prayed together, as we talked together, hearts began to melt, minds began to get clear, spirits joined together, and that's the reason why we are here today. I want to talk more and highlight the relationship that was built more than the historic district or the rezoning because all that was just the benefit – I say again – the benefit of doing those things that got us here today. So just to keep things as short as possible, I want to say we are standing in support of the historic district. We are anchor tenant, therefore, we have a lot of responsibility for what takes place in that neighborhood, and we stand here today as that anchor tenant.

Angela Days said just as Missy said, I have actually been a member of Greater Galilee for over 30 years, been a resident of Charlotte all my life, and driving through the neighborhood is reminiscent of grandma's house. Like she said, with a neighborhood that has been there for over

100 years, you get a feel of security and an opportunity to be mindful of where you grew up and how you were raised and things of that nature, so, as Dexter said, we are anchored in the community, so we 100% have bought in to the HDC designation for the community, and we are here hoping and praying that you will support the petition for that designation.

Darius Johnson, 1536 Merriman, said I have lived in the community for about 12 years now. I believe you should support the historical designation because in my mind the tourism industry we are trying to build here in Charlotte is very new. It's starting to grow and blossom. Our current conditions to our City – the NASCAR Museum, the cultural campus, as well as the Children's Learning Center – I think that Wilmore alone with the other historic neighborhoods: Elizabeth, Wesley Heights, and Dilworth – add to our tourism industry that we are trying to build and continue to blossom here in Charlotte, so that's why I think we should all support the historic designation for Wilmore and support our historic community as a whole.

Mayor Foxx said I thank all of you. Any questions from the Council?

Councilmember Turner said I just want to make a comment. It was stated earlier that this process started in 2001. Over the period of time, I think timing is everything because I recall when I got elected, we were in the midst of this very discussion. And, you are right, there was a lot of miscommunication, there were a lot of different opinions, the neighborhood was still as it was at that time not communicating, and you had bad information and you had some good information. I'm just wanting to believe that timing is everything. I think this is the right moment, this is the right time, and I'm excited about it, and I think it's important what we have done to get to this point because it was about communication and it was about growing together and understanding the benefits of working together over this period of time.

Councilmember Carter said noticing the slides that we were presented integral in those pictures were large trees. When we deal with historic preservation, do we talk about the landscaping or the large landmark trees at all?

Mr. Rogers said in the existing historic districts in Charlotte the Commission does deal with trees over a certain size. To make a distinction, volunteers are very small trees, and ordinarily when something is built, a canopy tree is supposed to be lost in the process, the Commission, unless there is some compelling reason not to, usually requires a canopy tree to be replaced on the lot to try to keep the canopy healthy over time. Like the other historic districts, they are all dealing with aging tree canopies, and that's the way to try to perpetuate it over time.

Councilmember Carter said so that's itemized in the presentation and hopefully on the Web as well. Well done. This looks like a very good proposal. Thank you so much.

Councilmember Howard said I wanted to just echo some of the comments that have been made already. I grew up a little further down West Boulevard closer to Clanton Park, and whoever knew there would be a day when West Boulevard would be considered special. It was a challenging place back then. Redevelopment – I remember the first time I saw one of those houses on West Boulevard actually selling as high as it was selling. I called the developer to say something is wrong on your sign; it can't be right, but it was because this area started to redevelop. That thing that is making it special is also one of those things that I do have a little bit of concern about, and I would love to hear from somebody maybe between now and the decision, and that is the treatment of the residents who have been there a very long time. What happens when they want to make updates to their houses, that extra burden? I would like to be assured that it's not a burden; that's what I guess I'm trying to get at because there are some residents who have been in Wilmore and they are part of what anchors Wilmore as well. I think at the same time I'm excited about it. I'd like to kind of have some reassurances about the older residents as well.

Councilmember Turner said I want to go back to -- Councilmember Carter just touched on something for a minute. I think one of the things that I hope that we can get our arms around. Over the years I know we have had the issue with Duke Power coming in and cutting the trees out. That is generated because of the power lines, and that is a very expensive fix to bury those lines, but as I told Duke Power and I had this discussion a year or two years ago when we were out there. Actually I had to go out in the neighborhood and meet with citizens that live there

because they were out just cutting the trees down, and a lot of people didn't understand what was going on. To protect that, not just in Wilmore but all over our city, I think that some of those things we are going to have to get together and work out how do we make it better so we won't have to experience that drastic ugly change when you take a 100-year-old oak and you come in and cut one side of it completely out. That is part of the integrity of that community and many of our older communities, so I hope that in the future that not only this historic district and the neighborhood but as a Council that we start having more dialogue with Duke Power in addressing those areas where we can bury those lines to protect the integrity of our community and the city.

Councilmember Burgess said I want to also remark that I think it's wonderful that the church and the neighborhood came together on both the rezoning and on the historic district, but one thing that has not been mentioned is the wonderful asset of the original sanctuary building of Greater Galilee to the historic aspect of the neighborhood. I love to look down West Park and see that beautiful building. I don't know if it has historic status. It's art deco; is that right?

Mr. Roberts said it's art modern kind of structure.

Councilmember Burgess said it just looks like it needs to be in an historic district, and it is lovely and a great asset to the community. I just wanted to let you church members know that you are a tremendous contributor to the historic district in lots of ways but especially with your beautiful building.

Mayor Foxx said thank you very much, John, and all the other speakers.

[Motion was made by Councilmember Cannon, seconded by Councilmember Turner, and]
[carried unanimously to close the public hearing.]

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ITEM NO. 11: HEARING ON PETITION NO. 2010-023 BY RED PARTNERS FOR A CHANGE IN ZONING OF APPROXIMATELY 9.06 ACRES LOCATED ON THE WEST CORNER OF ARDREY KELL ROAD AND MARVIN ROAD

The scheduled public hearing was held on the subject petition.

Councilmember Cannon left the meeting at 7:01 p.m.

Tammie Keplinger, Planning, said this petition is a rezoning for approximately 9.06 acres. It's part of a rezoning that was approved in 2005 for a larger area of 24.4 acres. The 2005 petition allowed 4,500 square feet of commercial office uses with a maximum of 35,000 square feet of retail and included 42 live-work units. The proposed request tonight is to increase the number of originally approved townhomes from 120 to 129, to allow 18 unbuilt live-work units to be either live-work units or an additional 23 townhomes, and to allow 12 of the original live-work units to be non-live-work units, 12 townhomes or 9,000 square feet of office space. Basically what this petition does is allows a lot of flexibility within the development. It is consistent with the South District Plan, and staff is recommending approval upon the resolution of outstanding issues.

Councilmember Carter said when we have a reconfiguration of an existing plan, it's helpful to see the old plan as well, and I think that would help us evaluate what is going on when we are confronting it. Thank you very much.

[There being no speakers either for or against, a motion was made by Councilmember]
[Burgess, seconded by Councilmember Cooksey, and carried unanimously to close the]
[public hearing.]

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ITEM NO. 12: HEARING ON PETITION NO. 2010-027 BY THE CAROLINA GROUP PARTNER, LLC FOR A CHANGE IN ZONING OF APPROXIMATELY 3.92 ACRES BOUNDED BY SCOTT AVENUE, EAST BOULEVARD, AND FLORAL AVENUE FROM B-1(PED) TO B-2(PED-O)

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this petition proposes the redevelopment of a shopping center that most of us know formerly housed Talley's because the buildings are existing and the petitioner is requesting non-optionals to aid in the redevelopment of the site. The optionals include proposing the keep the current planting strips, the sidewalks, the utility blocks, the signs, the retaining walls, parking and maneuvering spaces. The optionals also allow modifications to the PED standards for the portions of the buffers, the screens, the blank walls, the recessed doorways, and additional signage. The land use portion of this petition is consistent with the East Boulevard Land Use and Pedscape Plan, but it does not meet the Urban Design Standards of that plan, however, because the proposal is part of the rebuilding of a center and in its current location, staff feels that the petition is appropriate for approval and does recommend it.

Keith MacVean, King & Spalding), 227 W. Trade St., said I'll try to do the speaking, and David Haggart with Childress Klein is available to answer questions. Jeff Brown of our firm and myself are here representing Dilworth Gardens Shopping Center. The petitioner is the Carolina Group as well as the owner. With me tonight, as I mentioned, is David Haggart with Childress Klein Properties, which is the fee developer for the site and they are also assisting the Carolina Group with development of the site or redevelopment of a portion of the site. Brad Murrow with the Carolina Group is not with us tonight. He had a conflict, but he does send his regards. We want to thank the Planning staff and the City Department of Transportation for their help with this petition. We are pleased they are recommending approval of this petition and that all the issues have been resolved.

Also want to thank our neighbors on Floral Avenue, which is the street that kind of runs behind the center, the long portion of the center. We met with them on several occasions, and also with the Dilworth Land Use Committee, and they met with us. They were very kind to meet with us on the site and helped us identify issues and solutions to those issues. When you get commercial development next to residential, there are going to be some issues that come up from time to time.

As Tammie mentioned, this rezoning petition involves 3.92 acres located at the intersection of East Boulevard and Scott Avenue. The site is the current location of the Dilworth Gardens Shopping Center. Current zoning B-1 with a PED overlay. The request is B-1 with PED overlay optional request. The request will allow the petitioner to redevelop a portion of the site that has been vacant. Tammie mentioned it's where Talley's Green Grocery used to be. There are also some additional vacant spaces in the center. The redevelopment would allow those vacant spaces to be consolidated and a new tenant to be located at the center. Because those spaces are oddly configured and on different elevations – they are not all on the same floor elevation – the developer is required, the owner is required to demolish the portion of the building kind of in the corner of the site and redevelop that portion of the site with a new building. The building would go in the same area as the existing building, and there wouldn't be any large or hardly any increase in the existing square footage.

But because it is a redevelopment, we are required to comply with the requirements of the pedestrian overlay district. Because it's only a redevelopment of a portion of the site it's not possible to bring the site into compliance with the overlay district. The only way you could really do that would be to redevelop the entire site and then bring the site into compliance with the pedestrian overlay district. If the petition is approved, it would allow the redevelopment of a portion of the site, as I mentioned, without complying with all the requirements. Some of the requirements would be adhered to, but a lot of them would not be.

As I mentioned, we did meet with the Dilworth Land Use Committee and the adjoining neighbors, and we have made several changes to the plan as a result of those meetings to really address the issues of noise and lights and to add additional notes regarding screening of existing

dumpsters and service areas. Be glad to answer any questions if you have them, and thank you for giving me this opportunity to speak.

Councilmember Turner said I have a question for staff. Can you go over – it's inconsistent with urban design standards, but it's consistent with our pedscape standards. Can you tell us what it is that is inconsistent?

Ms. Keplinger said, yes, sir, within the East Boulevard Land Use and Pedscape Plan there are established urban design standards. There are so many nonoptionals that the petitioner is requesting relief from. That takes it out of compliance with those urban design standards, but because this development is already there and they are trying to improve it and redevelop it, we feel it's appropriate to allow those optional, and even though it's out of compliance, we feel it will be better than what is currently there and more in compliance.

Councilmember Turner said I guess for me since that comment makes it clear to me that if we had a some visual of what we have versus what we are seeking to compare it to, and I respect your decision on that, I respect your opinion based on that, but that is kind of out in the air for me, and I understand the difference, but it would help me to see that because you are right. We have an existing building that is going to be some modifications done to it, but there are also going to be some modifications that we are not going to require them to do because it's in existence. I think for this Council, at least for myself, it would help to have those visuals to see the comparisons.

Councilmember Dulin said, Keith, what year was the center built? I remember, but –

Mr. MacVean said 1990.

Councilmember Dulin said it's time. I mean it's like the roof on the arena. Things need updating, things need maintenance, and it's time for the developers of this to fix this up and redo it and release it. How much empty space is there?

Mr. MacVean said I think there is approximately just a little bit close to 20,000 square feet – 18,000 to 20,000 feet. The total center is about 48,000.

Councilmember Dulin said so 42% of the thing is vacant.

Mr. MacVean said that's right.

Councilmember Dulin said a facelift and some capital infusion will fix that, and appreciate it.

Mr. MacVean said new anchor tenant will help the rest of the center and the neighborhood.

Councilmember Dulin said Outback at one end ain't going anywhere.

Councilmember Turner said I find that interesting that Mr. Dulin would make my point almost for me with the arena. Even the arena new top, the repair had to fall within our new guidelines, and we paid for that, so that makes my point even more why I want to see the comparisons of what we are talking about.

Councilmember Burgess said I read in *The Business Journal* that Talley's, which is empty, will be replaced by Fresh Market, and I don't know if you can reveal that official, but I can tell you everybody who read that in Dilworth is really excited, so I hope this works out really well.

Mr. MacVean said it will be a new grocery tenant, but I just can't reveal their name. They asked us not to.

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

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ITEM NO. 13: HEARING ON PETITION NO. 2010-030 BY PROSPERITY SHOPPING PLAZA, LLC FOR A CHANGE IN ZONING OF APPROXIMATELY 1.11 ACRES LOCATED AT THE NORTHEAST CORNER OF PROSPERITY CHURCH ROAD AND JOHNSTON OEHLER ROAD

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this petition originated in 1997. At that time, what was approved was 120,000 square foot shopping center, and one of the conditions on the conditional plan was that there not be any restaurants with drive-thru windows. Well, the proposed request is to modify that prohibition. The request will allow a restaurant that is approximately 2,621 square feet with a drive-thru. They will have shared parking with the rest of the shopping center. One of the reasons that staff is comfortable with supporting this particular petition is if you look at the diagram the drive-thru itself is interior to the shopping center and does not have frontage along either of the roads – either Johnston Oehler or Prosperity Church Road. For this reason, staff is comfortable with this rezoning. The land use is consistent with the Prosperity Church Road Villages Plan with the exception of the drive-thru, however, as I stated because of its internal nature, staff is willing to support this petition.

Jeff Boone said I'm with Greenbriar Design Group. As you can note on the site plan, we have gone through numerous iterations to come up with a plan that would make the drive-thru in a non-compete relationship with all the pedestrian traffic that is intended in this neighborhood. Also would like to point out as is illustrated on the overhead there now there are two other existing uses within the district plan that have drive-thru facilities, so we are not the first one out of the block on this. There are several site issues we are still working on, and we will work with staff to get those resolved and show those in revised plans in the next week. If there are any other questions, I would be happy to answer those.

Councilmember Carter said I was marginally supporting you before you made that statement. There are two other drive-thru areas in that same area, in that same development?

Mr. Boone said that is correct – not in the same development, no. No, no, no, forgive me. Within the same Prosperity Village Plan, within that district. There is a Bojangles approximately a half mile to the north, and there is a Rite Aid Pharmacy as well. It is not on t his property; it is not related with this project, no.

Councilmember Carter said thank you for clarifying that statement because we have air quality problems, and cars idling in line is not my ideal use of land. Half a mile separation, I'll have to think about it, but thank you very much for clarification.

[Motion was made by Councilmember Dulin, seconded by Councilmember Burgess, and]
[carried unanimously to close the public hearing.]

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ITEM NO. 15: HEARING ON PETITION NO. 2010-025 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR THE ADOPTION OF A TEXT AMENDMENT TO SECTION 12.102 OF THE CITY OF CHARLOTTE ZONING ORDINANCE TO CLARIFY THE YARD REQUIREMENTS FOR CORNER LOTS WHEN THE REAR LOT LINE IS SHARED IN COMMON WITH THE SIDE LOT LINE OF AN ABUTTING LOT

The scheduled public hearing was held on the subject item.

Tammie Keplinger, Planning, said this petition is to clarify the dimensional regulations for side yards of corner lots. We are not changing anything. The language that is existing in the zoning ordinance is somewhat confusing to both citizens and to staff, so we are proposing the clarification, which also includes a new diagram, which you can see basically what the text says is that if you have a relationship where you have a common lot line of this nature. This is your

front yard setback. The building residential structure here this setback will be half of A, so B equals half of A. Again, this is existing in our current ordinance. It's just some language to clarify.

Councilmember Dulin said I don't know. I don't want it to get past me though. Tammie, I'm sorry, can you describe that one more time. I was listening, but it just didn't sink in. I just want to make sure that it doesn't get past me without understanding it. I was sitting right here. I just didn't understand it.

Ms. Keplinger said in any district where you have a corner lot that has a rear lot in common with a lot line of an abutting lot – this situation here – then the side yard on the street side, B, is equal to one half of the front yard setback as A. So, for example, if A is 40, then B is 20.

Councilmember Dulin said why do we need that?

Ms. Keplinger said what the zoning ordinance normally would say is that this could be as small as a six-foot side yard, and what that creates is an inconsistency between the front of this building and the side of this building, so it increases B on corner lots only.

Councilmember Dulin said obviously if you push something then something else gets squeezed, so on the back side corner lot that squeezes that.

Ms. Keplinger said, no, it actually wouldn't. If your side yard setbacks in this district were six feet, you would normally have six feet on this side and six feet on this side. What this says is that because it's on a corner lot with this side lot relationship, this setback is 20. This can remain six.

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

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ITEM NO. 16: HEARING ON PETITION NO. 2010-028 BY MECKLENBURG COUNTY PARK & RECREATION FOR AN NS, MX-2, AND O-1(CD) SITE PLAN AMENDMENT OF APPROXIMATELY 80.87 ACRES LOCATED OFF CINDY LANE AND BOUNDED BY INTERSTATE 77, MISSIONARY AVENUE, AND BEATTIES FORD ROAD

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said in 2000, the petition site was rezoned for mixed use development, and that mixed use development contained retail development, church, a childcare center, assisted living, hospice unit, Alzheimer's, and several other types of uses. The change that is before you tonight relates to the athletic fields that are on the site. There is a lighting prohibition that says that lighting could not exceed 25 feet in height. They have determined that it needs to be 30 feet in height on the tennis courts and the ball fields in order to operate properly. So the one change is to allow the height of the lighting for the athletic fields to be 30 feet. All of the previous conditions approved by the 2000 rezoning will still apply. I will show you the location of the areas we are referring to. The petition is consistent with the Northwest District Plan, and staff is recommending approval upon the resolution of the outstanding issues.

Gary Wirth said I'm with Wirth and Associates, and I'm representing the Mecklenburg County Parks and Recreation Department on this plan. I think I will be very brief here. What I wanted to present to you was the original plan in the year 2000 that was rezoned, and you can see that it shows recreation elements in the particular area we are talking about. The problem that we encountered when the Parks and Recreation Department went to develop this was there was a stipulation on this 2000 year zoning plan that limited free-standing lights to 25 foot in height. We can't build and light ball fields with a 25-foot height requirement. You can't have the lights at 25 feet. They would be shining the ball players' eyes, so we have to be higher. That's very standard. Typically ball field lighting is 60, 70 feet high.

What I want to do is show you the actual plan that is being implemented. You can see that the elements are basically in the same place. The only change we are really asking for here is to make a site plan amendment and to exclude the athletic and tennis court lighting from that 25 foot requirement. All other requirements and all other stipulations of the original zoning plan in the year 2000 will remain in place as well as the development itself that the church is proposing. Rod Fritz is here representing the Mecklenburg County Parks and Recreation Department also if you have any questions for him.

Councilmember Howard said this may be just as much for staff as it is for the petitioner. On the original zoning, it was contemplated to have athletic fields, but this part just kind of slipped through, or what happened with the lighting on this one because the 20 feet I'm sure – the 25 talked about the rest of the community – not the athletic fields, so no plan really talked about lighting the fields?

Ms. Keplinger said I would imagine that when we looked at this rezoning in 2000 we did not anticipate the height that was needed for the recreational portion.

Councilmember Howard said this was not included in the conversations probably.

Ms. Keplinger said right.

Councilmember Turner said that's Cindy Lane at the back where the baseball field is, and Beatties Ford Road is here. So the residential component part of it that is across the street, there is a neighborhood across the street, so we are definitely making sure that our lights are positioned where it's not going to affect them. Are there any restrictions on the length of time they can play on those fields? In other words, are we restricting them to a timeframe not to exceed late night play?

Mr. Wirth said I can answer one question. First is that any spillover light from the ball field lights has to meet City code, which has to be less than .5-foot candles along any exterior property line of the project. We have already done our photometrics on the lighting we are proposing here, and at no point do we exceed .2-foot candles, and most of the time it's about .1-foot candles along the property line. I don't think we answered your question about the timeframe.

Rob Fritz said just to answer that question I don't believe that any of the (inaudible – not near a microphone). Since it's a Parks and Recreation joint project with Friendship Baptist as a private enterprise, I would assume that the games that would be played at night would be over at whatever is a decent hour. They wouldn't go on until the wee hours of the morning.

Mr. Wirth said normal programming for parks is usually 10:00 or 11:00 when lights usually go out.

Councilmember Turner said I have had to deal with that issue before in my district, and I think it's important that we deal with it upfront due to the high density of residential area around that area, and I know you can get into an overtime game that can end up at 12:00, and if you are running more than one game on that field, it could happen, so I hope we would consider those restrictions to make sure people understand so we won't get those calls and won't get those complaints later.

Mayor Foxx said that's a good point.

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

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MAYOR AND COUNCIL TOPICS

Councilmember Carter said I would like to remind everybody that there are streetcar meetings this week – April 20th, Tuesday, at St. Andrews Episcopal Church on Central Avenue, and Thursday, the 22nd, at Government Center, Room 267, so please come out and give us your support and ideas about the streetcar. Because we have had an issue escalate for us with the announcement that Eastland Mall will be closing on June 30th, I would like to request that Council consider asking our Neighborhood and Business Services to see if they can assist the small businesses and nonprofits at Eastland Mall. I'm not suggesting a financial investment at this point, but I would very much like to see what the staff could offer us in the wait for approval if they determine that we have projects in place which could fit and help these folks in their need and fit into our own current budget parameters. I think it's a very important gesture for the City to see if we can get them together with brokers perhaps that would cost us nothing. It might reallocate some time of our staff, and I'm cognizant that would be a sacrifice for our staff, but it is a very important process that is going on in the east side now to see what our Neighborhood and Business Services can do to assist the small businesses in this large movement in the east side, and I would like to recognize the president of the Charlotte East Community Partners, Vicky Fuel, who is with us. To state that this is a concern for the Eastland Area Strategic Team, for the Charlotte East Community Partners, and for the Chamber East that we all come together in this focus on Eastland at this point.

Mayor Foxx said, Mr. Walton, has there been some thought given to what kinds of assistance we could be providing perhaps?

Curt Walton, City Manager, said I don't believe there has yet, Mayor, but we will take this request back and look at our existing programs and see how we can fold those in to help the tenants that are in Eastland now. We'll report back to you on what those programs are and generally what the process will be for doing that.

Mayor Foxx said I think it's a good idea, Ms. Carter, and without objection, I think we can deputize our staff to go ahead and take the time it takes to help those tenants.

Councilmember Dulin said some of them haven't asked or might not ask.

Mayor Foxx said so they won't be helped.

Councilmember Dulin said at some point we are going to have to let them make a decision of whether they want to come to us for help. I don't want to spend staff time hunting for people that we can serve because there are plenty of folks out there that are seeking us out every day that we need to serve, and they are queued up right now. I want to make sure. Eastland Mall is important to all of us, Ms. Carter, but I want to make sure that we are not leap-frogging people that have already queued themselves for assistance from our staff.

Mayor Foxx said that's a fair point.

Councilmember Howard said I think I heard Councilmember Carter say it's the very least to just make sure they are aware those programs are available. I mean at the very least.

Councilmember Dulin said information distribution.

Councilmember Howard said at the very least.

Councilmember Turner said I just want to send out my condolences to one of our officers, Dee Faulkner. Her father passed and had his funeral this weekend. She is a captain with the Charlotte-Mecklenburg Police Department, and we want to send our condolences out to the Faulkner family.

Mayor Foxx said thank you, Mr. Turner, and all of our condolences to her family.

Councilmember Dulin said one other quick medical note. As you can tell, our clerk, Stephanie Kelly, is not here with us. Stephanie, after last Monday night's Council meeting, had some heart

palpitations driving herself home to Waxhaw and turned herself around and drove herself to the Emergency Room and spent a couple of nights in the hospital and went home; went back to the hospital last Thursday. We visited with her on Friday, and she is home now resting, but she has a little bit of a wake-up call that she is going through about better health, and we hope that after she rests up for another week or two that she is back with us, but Stephanie, as we all know, is a dear lady, and I wanted to give you an update.

Mayor Foxx said thank you for that, and we do wish you well, Stephanie, if you are watching.

Councilmember Dulin said she better not be.

Mayor Foxx said we hope we haven't violated HIPPA in the course of this.

Councilmember Howard said just to round out the night just to remind folks that the second round of census forms is coming out, and you guys need to get them in. It's an important way of making sure we get money to our community, and, if not, starting on May 1st, there will be a brigade of people going out and knocking on doors trying to get that information, so just a reminder.

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ADJOURNMENT

The meeting was adjourned at 7:31 p.m.

Melissa T. Johnson, Deputy City Clerk

Length of Meeting: 1 Hour, 58 Minutes
Minutes Completed: May 17, 2010