

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Monday, September 19, 2011, at 5:22 p.m. in Room CH-14 of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Present were Councilmembers Barnes, Burgess, Cannon, Cooksey, Dulin, Kinsey, Mitchell

ABSENT UNTIL NOTED: Councilmembers David Howard, Edwin Peacock III, Warren Turner

ABSENT: Councilmember Nancy Carter

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Councilmember Howard arrived at 5:28 p.m.

Tammie Keplinger, Planning, reviewed the agenda highlighting the deferrals requested.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Howard, and]
[carried unanimously to defer Item No. 2.]

Councilmembers Peacock and Turner arrived at 5:45 p.m.

The dinner briefing was recessed at 5:59 p.m. for the Council to move to the Council Meeting Chamber.

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ZONING MEETING

The Council reconvened for the regularly scheduled Zoning Meeting at 6:02 p.m. in the Council Meeting Chamber of the Charlotte-Mecklenburg Government Center with Mayor Foxx presiding.

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INVOCATION AND PLEDGE

Councilmember Cooksey gave the Invocation and led the Council in the Pledge of Allegiance to the Flag.

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Mayor Pro Tem Cannon explained the Zoning Meeting rules and procedures. He recognized the chairman of the Zoning Committee and the Planning Commission, Steven Rosenboro, who introduced his committee.

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DEFERRALS

[Motion was made by Councilmember Howard, and seconded by Councilmember Kinsey to]
[defer Historic Landmarks Item Nos. 1 and 2 for one month; Item No 6, Petition No. 2011-041]
[for one week; and Item No. 10, Petition No. 2011-045 for one week.]

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

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

NAYS: Councilmember Turner

Mayor Foxx said that carries 9-1.

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DECISIONS

ITEM NO. 4: PETITION NO. 2011-035 FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.82 ACRES LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION AT PARK ROAD AND TYVOLA ROAD AND FAIRVIEW ROAD FROM R-22MF TO B-2(CD)

Mayor Foxx said the petition is found to be consistent with the Northwest District Plan and to be reasonable and in the public interest.

[Motion was made by Councilmember Howard, seconded by Councilmember Barnes, and]
[carried unanimously to recuse Councilmember Dulin.]

Tammie Keplinger, Planning, said this is the item we do have some changes on. We have several changes that the petitioner has submitted to the notes. There are three. One is to reference the elevations. Instead of saying elevations, Note 4-A, we'll say elevations on Sheets RZ-356.1 and 6.4. On Section 5E, there is a typo from RZ-3. It should be RZ-2, and 18 the following sentence should be added that says the alarm associated with the security system must be a silent alarm. These changes were made after the Zoning Committee Meeting, so three-quarters vote of the Council not to send this back to Zoning Committee is required.

[Motion was made by Councilmember Howard, seconded by Councilmember Mitchell, and]
[carried unanimously to accept the changes without going back to the Zoning Committee.]

Mayor Foxx said we need a three-quarters vote. Is that eight or nine?

Terrie Hagler-Gray, Assistant City Attorney, said it's eight of ten Council members, but you are down nine, so eight.

Mayor Foxx said it requires eight.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, and]
[carried unanimously to approve the Statement of Consistency and Ordinance No. 4723-Z]
[for the above rezoning by CAH Holdings, LLC as modified and as approved by the Zoning]
[Zoning Committee.]

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

AYES: Councilmembers Barnes, Burgess, Cannon, Cooksey, Howard, Kinsey, Mitchell, Peacock

NAYS: Councilmember Turner

The modifications are:

1. The "Proposed Uses" under "Rezoning Summary" have been amended by removing references to institutional or office uses and leaving a car wash facility as the only proposed use.

2. Staff has removed the request to eliminate the note stating the accessory buildings and structures will not be considered in any limitations on the number of buildings on the site.
3. The zoning of adjacent properties has been labeled.
4. A minimum five-foot pedestrian connection from the building to the proposed sidewalk along Park Road has been provided.
5. The existing 5-foot sidewalk (along back of curb) has been labeled to remain along Tyvola Road.
6. The wording "possible location" has been added to the water quality areas identified on the site plan.
7. The proposed directional sign locations have been removed from the site plan.
8. A detail of the proposed 6-foot masonry wall has been provided (to be finished with precast concrete product similar to "Suretouch" by Oldcastle).
9. Elevations have been provided showing the building, proposed water feature, and wall signs. Sheet RZ1 also identifies location of proposed water features.
10. A note has been added to RZ3 "Preliminary Planting Plan" stating plant species may be administratively modified and such modifications will be in conjunction with Urban Forestry.
11. A CDOT comment has been addressed by relocating the proposed driveway further north.
12. The following sentence has been added to Note 2b: "The vacuuming equipment used must meet the following specification: the vacuum equipment utilized may not generate more than 71 decibels at ten (10) feet."
13. The following sentence has been added to Note 3a: "The Petitioner, if allowed by CDOT, will install white tubular delineator markers to delineate this left turn from the outside through lane on Park Road.
14. The following sentence has been added to Note 5e: "An automatic irrigation system will be installed in these landscape areas."
15. Development Standard Note 8 has been changed from "Lighting" to Lighting and Security" and reads as follows: "The Petitioner will install a motion activated security system that will activate a two-way speaker system that notifies trespassers that they must leave or the police will be notified.
16. Language has been added to Note 8e allowing the petitioner to reserve the right to install a six-foot black vinyl coated chain link fence along the southwestern boundary of the site as generally indicated on sheet RZ-1.

The ordinance is recorded in Ordinance Book 57 at Pages 349-350.

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ITEM NO. 3: PETITION NO. 2011-024 FOR AN INST(CD)(LWPA) SITE PLAN AMENDMENT FOR APPROXIMATELY 2.38 ACRES LOCATED AT THE NORTH CORNER OF THE INTERSECTION OF MT. HOLLY-HUNTERSVILLE ROAD, HARWOOD LANE, AND MOUNTAIN AIRE CIRCLE

Mayor Foxx said the petition is found to be consistent with the Northwest District Plan and to be reasonable and in the public interest.

[Motion was made by Councilmember Cannon, seconded by Councilmember Mitchell, and]
[carried unanimously to approve the Statement of Consistency and Ordinance No. 4722-Z]
[for the above rezoning by City of Charlotte Neighborhood and Business Services as modified]
[and as approved by the Zoning Committee.]

The modifications are:

1. The architectural elevations have been modified and a note added stating the building will have a residential look with a base of stone or brick with shingle siding and architectural shingle roof.
2. The number of required parking spaces has been confirmed under Note B1 and proposed number of employees added in order to calculate the required parking.

3. Per CDOT's request, the petitioner has added notes phasing transportation improvements to correspond with the phasing of the proposed structures. Phase I (3,000 square foot building and accessory building) will require the dedication and conveyance of right-of-way along Mt. Holly-Huntersville Road and Harwood Lane in fee simple, the construction of the sidewalks along Mt. Holly-Huntersville Road and Harwood Lane, and the vehicle access connection onto Harwood Lane. Phase II (7,500 square foot building) will require the widening and/or realigning of Harwood Lane.
4. Notes have been clarified on site plan to state the proposed use is a child day care facility.
5. The maximum total building square footage proposed under "Design Guidelines" has been revised to note the maximum 10,500 square feet of building area and the 1,000 square-foot storage building.
6. The site plan has been revised to provide a clearer layout of the phasing of the parking area including the ultimate number of parking spaces upon completion of both Phases I and II.
7. Class "C" buffers are labeled on the site plan.
8. Notes C ("Storm Water Management"), E ("Signs"), and "Internal Tree" requirements have been removed as these are minimum ordinance requirements.

The ordinance is recorded in Ordinance Book 57 at Pages 347-348.

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ITEM NO. 5: PETITION NO. 2011-040 FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.36 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF PEGRAM STREET AND 18TH STREET FROM R-5 TO UR-2(CD)

Mayor Foxx said the petition is found to be consistent with the General Development Policies and the intent of the Belmont Area Revitalization Plan and to be reasonable and in the public interest.

[Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, and]
[carried unanimously to approve the Statement of Consistency and Ordinance No. 4724-Z]
[for the above rezoning by The United House of Prayer as modified and as approved by the]
[Zoning Committee.]

The modifications are:

1. The petitioner has updated all elevations to be compatible with the architectural style of the surrounding single family residences. Roofs are pitched, residential style windows have been included, and building materials will consist of brick and wood.
2. A note stating that no vinyl siding will be permitted except for windows and soffits has been added to the site plan.
3. The inaccessible dumpster has been removed from the site plan and a note has been added that individual trash receptacles will be provided for each unit.
4. The petitioner has modified note 8B to state that the site will comply with PCCO.

The ordinance is recorded in Ordinance Book 57 at Pages 351-352.

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ITEM NO. 7: PETITION NO. 2011-042 FOR A CHANGE IN ZONING FOR APPROXIMATELY 10.63 ACRES LOCATED ON THE EAST SIDE OF PERIMETER PARKWAY BETWEEN WEST W.T. HARRIS BOULEVARD AND PERIMETER WOODS DRIVE AND BOUNDED BY INTERSTATE 77 ON THE EAST FROM CC TO UR-2(CD)

Mayor Foxx said the petition is found to be consistent with the Northlake Area Plan and to be reasonable and in the public interest.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Barnes, and]
[carried unanimously to approve the Statement of Consistency and Ordinance No. 4725-Z]
[for the above rezoning by WP East Development Enterprises, LLC as modified and as]
[approved by the Zoning Committee.]

The modifications are:

1. The following has been added to Note C.1.: “The carriage units/garage buildings identified along Perimeter Parkway and the northern private street shall receive certificate of occupancies prior to the final certificate of occupancy for the last building located within building envelopes one and two”.
2. Note 1.1 related to a solid waste management plan has been eliminated.

The ordinance is recorded in Ordinance Book 57 at Pages 353-354.

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ITEM NO. 8: PETITION NO. 2011-043 FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.23 ACRES LOCATED ON THE WEST SIDE OF THE INTERSECTION AT WEST SUGAR CREEK ROAD, GRAHAM STREET, AND MINERAL SPRINGS ROAD FROM B-2 TO MUDD-O

Mayor Foxx said the petition is found to be consistent with the Northeast District Plan but not reasonable and in the public interest.

Tammie Keplinger, Planning, said the Zoning Committee recommended denial by a vote of 5-2. The staff is recommending approval upon the resolution of the outstanding issue. The outstanding issue relates to the sidewalks and planting strip along the street frontage.

[Motion was made by Councilmember Barnes and seconded by Councilmember Cannon to]
[approve the Statement of Consistency and Ordinance No. 4726-Z for the above rezoning]
[by Louis Ratcliffe, Inc. as approved by the Zoning Committee pending the resolution of the]
[outstanding issues.]

Councilmember Howard said I think I’m going to say what Mr. Cooksey is going to say. In that case, shouldn’t we delay it so they can finish that issue because it’s not resolved?

Ms. Keplinger said I don’t believe that the staff and the petitioner are going to come to an agreement on this. The petitioner has worked with the state. There is a state road project along the street frontage, and in order to do the six- and eight-foot sidewalk that staff is requesting, the petitioner has discovered that he may have to give additional right-of-way that may cause him to lose an additional row of parking, and all of that is kind of unclear at this point, and he does not want to give any further right-of-way up or make an agreement that he cannot do.

Councilmember Howard said are we talking about the property owner or the petitioner?

Ms. Keplinger said it’s one and the same.

Councilmember Howard said or the guy that wants to lease the property?

Ms. Keplinger said it is the property owner.

Councilmember Howard said is the property owner here? Can I ask questions? What I’m trying to do is if they need more time I was trying to see if that was possible so it wouldn’t just be slowed down.

Mayor Foxx said, Ms. Hagler-Gray, is this permitted?

Ms. Hagler-Gray said, yes, sir, if there is a specific question to be asked of petitioner.

Mayor Foxx said the question is would more time be helpful to this process.

Ms. Keplinger said I beg your pardon. I'm sorry.

Mayor Foxx said would more time be helpful to resolving the issues?

Unidentified Speaker said, no, out of 19 requested modifications from City staff, we were able to complete 18 of those. This last issue is just the uncertainty with what the DOT is planning and the potential loss of an additional row of parking that we simply cannot agree to this.

Councilmember Cannon said call for the question.

Councilmember Kinsey said, first of all, I want to make sure what I'm voting for, but, secondly, when they referred to DOT, it's really NCDOT, so it is sort of held up by the state; is that correct.

Ms. Keplinger said, yes, ma'am. It is a state project.

Mayor Foxx said the motion is to approve the petition, and the question has been called. Any further questions or comments?

Councilmember Barnes said a specific question, Mr. Mayor. In light of what staff is asking of the petitioner, if you all do not do or are not able to do what staff is requesting, what will we see on the ground there in terms of the infrastructure?

Unidentified Speaker said good question. The DOT's construction plans currently show a five-foot sidewalk and a variable width planting strip; however, if this property is ever developed, it is tied to this site plan. If it's ever redeveloped or renovated, it would have to come in for a rezoning and comply with the six-foot sidewalk, eight-foot planting strip.

Councilmember Barnes said even after the NCDOT has done the road widening? I guess this is a part of the Graham Street project.

Unidentified Speaker said it is, and the current DOT construction plans do show a five-foot sidewalk and a variable width planting strip. However, if this property is redeveloped in the future or if there is an expansion or any change to this site plan, the City staff and the City would have the opportunity to come back and require that the sidewalk be widened and it be brought into compliance with MUDD standards.

Councilmember Barnes said so the next owner would lose the row of parking potentially.

Unidentified Speaker said that could happen.

Councilmember Howard said what you are saying is you want to leave the sidewalk exactly in the place that it is now. You don't want to change that at all.

Unidentified Speaker said we don't have a choice right now with the DOT going to be widening the road in front of the property, and they are going to take a substantial piece of property – section from the front of the property as part of their road widening project, and then after they have completed the widening, they are going to install per their plans – their plans show they are going to install a five-foot sidewalk and a variable width planting strip.

Councilmember Howard said, Tammie, could you help me understand what staff's issue is with all that?

Ms. Keplinger said one of the reasons for the rezoning to the MUDD district is to eliminate the 400-foot radius requirement for nightclubs, bars, lounges. In the MUDD district that requirement goes down to 100 feet. Staff feels that in order to acquire the MUDD district that the petitioner needs to meet some of the MUDD standards, and they have met some of the standards as indicated in your agenda. They came up with 17 of the 18 issues. This is just one that we felt was very important. We feel like they can work with NCDOT. We do understand the concern about the loss of additional right-of-way. We were willing to put a note on the site plan that says that if the planting strip could not be accommodated and the sidewalk could not be accommodated then the Planning director would have the authority to waive or make changes to the site plan, but the petitioners still felt that there were too many questions involved and they weren't willing to meet this last request.

Mayor Foxx said there is a motion to approve with the modifications and the statement of consistency.

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

AYES: Councilmembers Barnes, Burgess, Cannon, Cooksey, Dulin, Howard, Kinsey, Mitchell

NAYS: Councilmember Turner

Mayor Foxx said that passes.

The ordinance is recorded in Ordinance Book 57 at Pages 355-356.

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ITEM NO. 9: PETITION NO. 2011-044 FOR A CHANGE IN ZONING FOR APPROXIMATELY 520 ACRES GENERALLY BOUNDED BY INTERSTATE 485 TO THE NORTH, BALLANTYNE COMMONS PARKWAY TO THE SOUTH, AND RUSHMORE STREET AND NORTH COMMUNITY HOUSE ROAD TO THE WEST AND EAST RESPECTIVELY, FROM R-3 AND BP(CD) TO BP(CD), O-3(CD), AND BP(CD) SPA, 5-YEAR VESTED RIGHTS

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

[Motion was made by Councilmember Cannon, seconded by Councilmember Cooksey, and]
[carried unanimously to approve the Statement of Consistency and Ordinance No. 4726A-Z]
[for the above rezoning by the Bissell Companies, Inc. as modified and as approved by the]
[Zoning Committee.]

The modifications are:

1. Added a note (Note M.2.b) which commits to integrating a minimum of 10,000 square feet of retail/restaurant uses within the Corporate Park East area prior to the development of the final 200,000 square feet of office square footage.
2. Modified Note G.2 regarding commitments to a pedestrian/bicycle mobility network including a description of the current network and a commitment to expand the network in a similar manner as additional development occurs within the Corporate Park.
3. Modified Notes J.1 and J.2.b to indicate a minimum of the 50 percent of the required open space (25 percent of Corporate Park West and 32 percent of Corporate Park East) will be areas designed for active/usable open space.
4. Modified Note M.1 to read "...at least 200 residential dwelling units shall have been developed within Corporate Park East prior to development of the final 200,000 square feet of office square footage..."
5. Modified Note D.2.d to limit the number of hotel rooms that may be converted to office space to 200 rooms and commit to additional residential units developed (one residential

- unit per one hotel room) prior to the development of the final 200,000 square feet of office square footage if more than 100 hotel rooms are converted.
6. Modified Note D.2.c to limit the number of residential units that may be converted to hotel rooms to 50 residential units.
 7. Modified Note C.4. to reflect the wording of the existing unified development note for the Ballantyne development regarding FAR calculations.
 8. Modified Note F.1.e. to read “All dumpsters and service areas will be screened from public streets and adjoining properties when viewed at grade”.
 9. Eliminated Note F.2. regarding signs and graphics. This information is provided within Note K signage.
 10. Eliminated Notes H.1. and H.2. These are ordinance minimums or are indicated within the Development Data Table.
 11. Relocated Notes H.3 (a, b, and c) to under Note E Transportation Committee.
 12. Eliminated Note H.3.d. The content of the note does not pertain to the heading “Driveways and Streets”.
 13. Modified Note 1.2. to reflect resolutions with Storm Water Services regarding storm water management.
 14. Modified Note L.1 to clarify that “landscape accent” lighting may be installed without full cut-off type lighting fixtures rather than “decorative” lighting.
 15. Addressed all of the following CDOT issues.
 - a) The revised site plan shows mutually agreed upon development (entitlement) levels and corresponding required transportation improvements.
 - b) CDOT and the petitioner reevaluated the conversion rights of hotel rooms to office space and agreed to the revised conditional note.
 - c) The revised plan clarifies the amount of developed entitlements. Existing zoning entitlements not built/occupied = 2,066,000 square feet of office and 20 hotel rooms. The projected trip generation for the remaining entitlements is approximately 14,820 daily trips.
 - d) The exhibits identifying the required transportation improvements are now legible.
 - e) A 77’ wide cross-section for the Community House bridge/I-485 overpass has been provided which allows CDOT the flexibility in the design phase to provide wider pedestrian/bike space
 - f) The petitioner plans to acquire the necessary r/w to properly align the Endhaven/Community House intersection. This intersection is also planned to be signalized by the petitioner when Community House is extended south over I-485.
 - g) The petitioner has added traffic signalization to the following three intersections as part of their traffic mitigation commitment: 1) Endhaven Lane and Community House Road; 2) John J. Delaney and Brixham Hill; and 3) Community House Road between Ballantyne Commons Parkway and I-485 (location to be determined).
 - h.) Additional analysis determined that eastbound dual left turns are needed on Ballantyne Commons Parkway at Community House Road. The site plan has been revised to reflect this transportation improvement.
 - i.) The note regarding the sequence of transportation improvements has been revised to CDOT’s satisfaction.
 - j.) The note regarding the timing of completion and certificate of occupancy issuance has been revised to CDOT’s satisfaction.
 - k.) A conditional note has been added to enhance the pedestrian/bike elements within the Ballantyne Corporate Park creating a pedestrian/mobility network.
 16. Mecklenburg County Parks and Recreation comments have been withdrawn.

The ordinance is recorded in Ordinance Book 57 at Pages 357-358.

ITEM NO. 11: PETITION NO. 2011-046 FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.2 ACRES LOCATED ON THE SOUTH SIDE OF CENTRAL AVENUE AND BOUNDED BY THE PLAZA, McCLINTOCK ROAD, AND NANDINA STREET FROM B-2(PED) TO B-2(PED-O)

Mayor Foxx said the petition is found to be consistent with the Plaza-Central Pedscape Plan and to be reasonable and in the public interest.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Cannon, and]
[carried unanimously to approve the Statement of Consistency and Ordinance No. 4727-Z]
[for the above rezoning by the Bissell Companies, Inc. as modified and as approved by the]
[Zoning Committee.]

The modifications are:

1. Use has been specified as a grocery store/retail sales in addition to uses allowed by-right and under prescribed conditions in the B-2 PED district.
2. Automotive sales and automotive service stations listed as uses not permitted.
3. Amended "Site Summary" to label existing zoning as B-2PED.
4. A detail and written description of the proposed "green screen" has been provided.
5. Added Note K under "Architectural Standards" to state that the building wall along McClintock Road will be designed to either have vines or murals.
6. Added Note F under "Environmental Features" to state that portions of the building will incorporate clear story windows to promote passive day lighting to help minimize load on electricity and HVAC systems.
7. Amended Note 4(a) to state that the petitioner reserves the right, in its sole discretion, to not construct the left-turn lane on Central Avenue if the design of the left-turn lane does not fit within the ultimate right-of-way upon the dedication of such additional right-of-way.
8. Petitioner agreed to add to Sheet RZ-1 a reference to Note 4(a) regarding the proposed left-turn lane on Central Avenue.

The ordinance is recorded in Ordinance Book 57 at Pages 359-360.

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HEARINGS

ITEM NO. 12: HEARING ON PETITION NO. 2011-008 BY THIES REALTY & MORTGAGE CO. FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.16 ACRES LOCATED ON THE WEST SIDE OF PROVIDENCE ROAD BETWEEN MORAVIAN LANE AND ARDSLEY ROAD FROM B-1 TO UR-C(CD)

A protest petition has been filed and is sufficient to invoke the 20% voting rule requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Council members not excused from voting in order to rezone the property.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this rezoning is for the former Mecklenburg Furniture building on Providence Road. The purpose of the rezoning is to allow the existing building to be reused for office, retail, restaurants, and some institutional type uses. As you can see from the land use, there is a lot of retail along Providence and then residential along the outskirts.

The site was developed as a furniture showroom, and it does not have enough parking to meet the traditional suburban requirements for retail uses or for office uses. Rezoning to the UR-C district will allow the site to redevelop with the proposed uses while utilizing the parking standards of the UR-C. Although it's inconsistent with the Central District Plan, which recommends single family at a rate of four dwelling units per acre, the urban context of the site, the fact that it is on a major thoroughfare, the zoning and the land use of the surrounding properties makes this a suitable location for this particular use. Staff does recommend approval upon the resolution of the outstanding issues. I'm sorry, if I may, this petition is also protested, and it is a sufficient protest. That was determined late this afternoon.

John Carmichael, 101 N. Tryon St., said I'm here representing Thies Realty and Mortgage Company, the owner of the site and the petitioner under this rezoning petition. With me are Boyce Thies and Frank Thies of Thies Realty and Mortgage Company, and Boyce is available to answer any questions you may have. Thies Realty and Mortgage Company has been a fixture in Mecklenburg County since 1907.

This site contains about 1.16 acres located on Providence Road between Moravian Lane and Ardsley Road. As Ms. Keplinger indicated, it is zoned B-1, and it is currently improved with a 43,050 square foot building, and the building is currently vacant. As you can see from the picture, it is a very attractive building and construction of the highest quality. That would operate as a great bomb shelter. I have been in the building, and it is just built to the nine's. It was constructed in 1967 by the Thies family, and at that time, it presumably complied with all of the applicable requirements of any ordinance and any regulation. Mecklenburg Furniture occupied the entire building from its completion in 1967 until 2007, so it occupied the building for 40 years. In 2000, it vacated the building.

During that intervening 40-year period, ordinances were adopted and ordinances were amended, and as a result, the building, as Ms. Keplinger indicated, and the site do not comply with the current requirements of the B-1 zoning district. As I understand it, there are three issues. There is parking, the floor area ratio requirement, and the buffer requirements, therefore, the building cannot be utilized as it sits there today. It must remain empty and unoccupied.

When the Thies' approached me and we discussed it, we concluded that they basically have three choices. One is to request variances from the zoning ordinance. We didn't feel like that was an appropriate solution or a viable solution particularly on a long term basis. There were just too many variances that would be required. The second option is to demolish the building and redevelop the site under the current B-1 zoning, but we thought that might be a shame to do that, and then the third one is to rezone the site to a zoning district that will allow the building to remain in its current place in its current condition and then reused and put back to produce use.

The Thies' are seeking to rezone the site to the UR-C(CD) zoning district. Under the conditional rezoning plan, the use and development of this site would be restricted to the reuse of the existing building and no additions or expansions of the building would be permitted. The only permissible uses would be office, retail, a furniture store, a restaurant at a maximum size of 5,000 square feet, neighborhood food and beverage, dental/medical/optical labs, and universities, colleges, and junior colleges. Medical office uses would not be permitted on the site.

If we can flip to the site plan, please? There would be no buffer on the site, and the UR-C district does not require buffers, but that really just maintains the status quo and allows the building to operate as it has for 40 years. I have some people here to speak in favor, but I apologize.

Mayor Pro Tem Cannon said if there are any questions from Council on this petition?

Councilmember Peacock said what were you going to tell us about the front part of the building itself?

Mr. Carmichael said there are no buffers would be required under this district. If there were buffers, they would be here and here, a portion of the northern edge and the western edge, but that just really maintains the way the building has operated for over 40 years. Access would be by way of two driveways. They would be one-way driveways. There is a protest petition, but the neighbors that live here were here to speak tonight in favor of the request.

Councilmember Peacock said there are no speakers signed up against you. How many neighborhood meetings have you had and tell us about what types of objections you received.

Mr. Carmichael said we had one official meeting, but then we had several smaller meetings with the neighbors that live directly adjacent to the site. You have the Smith and Mesrobian families that live just to the north, and then Ms. Nesbitt has filed a protest petition, and, as I understand it, her objection is the restaurant use. I don't want to speak for her, but that's what the document

says, and that's based on our meetings. We met as recently as last week, and we'll continue to reach out to Ms. Nesbitt.

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

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ITEM NO. 13: HEARING ON PETITION NO. 2011-011 BY DAVID H. BALDAUF AND G.T. GODWIN. FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.37 ACRES LOCATED ON THE NORTH SIDE OF PENCE ROAD AND ACROSS FROM HOLLY HILL ROAD FROM B-D TO I-1(CD)

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this property is located on the north side of Pence. It's approximately 2.37 acres. The purpose of the rezoning is to allow two churches in the buildings that were previously occupied in industrial uses. The request does not allow building expansions, and it sets limits on the non-industrial uses. It is inconsistent with the East District Plan, which recommends heavy industrial uses for this site, but this rezoning will allow the reuse of the vacant buildings while maintaining the ability for the property owner to have some industrial purposes for the future. Staff is recommending approval upon the resolution of the outstanding site plan issues.

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

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ITEM NO. 14: HEARING ON PETITION NO. 2011-033 BY DANIEL SCHWARZ, SARDIS ROAD LAND COMPANY, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.05 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF SARDIS ROAD AND CHEVRON DRIVE FROM R-3 TO INST(CD)

Protest petitions have been filed and are sufficient to invoke the 20% voting rule requiring affirmative votes of ¾ of the Mayor and Council members not excused from voting in order to rezone the property.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said there were actually four protest petitions submitted on this rezoning case, and two of them by themselves qualify, but they are sufficient altogether. The proposed request is to allow the development of an age restricted community with 54 units plus amenities. You can see by the zoning map that all of the adjoining properties are zoned single family residential – in terms of land use – single family residential and institutional.

The site is currently developed with one single family house that has been built in recent years. This house will be used as two condominiums and the amenity area for the development. The site proposes duplexes and two multifamily buildings, the use of the existing home, as I mentioned. They have provided elevations and building materials. They will have a private street through the center of the site, which will be gated. The request is inconsistent with the South District Plan, and that's because these plans frequently do not tell us where institutional uses should locate, but staff is recommending approval of this rezoning upon the resolution of outstanding issues.

Mayor Foxx said we have several protest petitions and also speakers in favor and against.

John Carmichael, 101 N. Tryon St., said I represent the petitioner, Sardis Road Land Company. With me tonight are Mr. Daniel Schwarz of Sardis Road Land Company and Stephen Overcash of Overcash Demmitt Architects, the project architect. They are available to answer any questions you may have with respect to this zoning petition. The subject site is about a five-acre site located on the northeast corner of Sardis Road and Chevron Drive. It's currently zoned R-3 and subdivided into nine single family lots. The original development plan of Sardis Road Land Company was to develop nine large single family homes on the site, and only one single family home is actually built. It is close to Sardis Road. It's about three and a half stories in height and contains 7,900 square feet of living area.

Sardis Road is seeking pursuant to this petition to rezone the site to the INST(CD) to accommodate an age-restricted living community comprised of 54 independent living units and related common areas and amenities. The independent living units would be located in two, two and a half story buildings and in three duplex style buildings. Two units would also be located in the existing single family home. The existing single family home would also serve as the project's amenity building.

I did mention that it's an age restricted community, and the age restrictions are on the conditional rezoning plan, and the conditional rezoning plan would require those restrictions to be in the restrictive covenants as well, so that would provide for two mechanisms of enforcement of the age restrictions – a public mechanism, namely, the zoning process or the zoning ordinance, and a private process through the deed restrictions.

What the age restrictions provide is that each dwelling unit, if occupied, must be regularly occupied by at least one person who is 55 years of age or older; however, in the death of the person who met that qualification, namely, 55 years of age, and the remaining occupant was under 55 years of age that person could continue to reside in that living unit provided that person's occupancy did not cause a violation of the state or federal fair housing act. The restriction would also provide that no person under 19 years of age could reside in any dwelling unit located on the site for more than 90 days in a calendar year.

Elevations of the two, two and a half story buildings have been provided and are part of the conditional rezoning requests. They are designed to residential in character and residential in scale. The maximum height of the front elevation of the building would be 40 feet, and the maximum height as measured from the rear elevation would be 53 feet. The topography of the site slopes downward as you move from the front of the site to the rear of the site. The maximum height of the duplex buildings would be two stories. The exterior building materials would be brick, Hardy plank, and architectural shingles, and the building is really designed to look like a couple of large single family homes or several large single family homes that are attached to one another. Elevations of the proposed duplex buildings have not been submitted, but there is a note that requires them to be compatible with these structures in terms of architectural style, character, quality, and building materials.

Each living unit would be designed using AARP universal design guidelines or the equivalent. There is an existing brick wall located along Sardis Road. That would be extended down Chevron to the entrance there. Some of the amenities that would be provided on the site include a security system for each unit, exterior home maintenance and lawn maintenance, an amenity building, which would be located here as I have previously mentioned, with a computer room, central meeting areas, exercise equipment, and a theatre, and there also would be a nature trail and walking path. There would be sidewalks located on both sides of the internal private street as well as street trees that would be planted. As Ms. Keplinger mentioned, the entrances would be gated. It is a private road.

We are going to be submitting a revised conditional rezoning plan on Friday that will note a few changes. One change is this road will be straightened out a little bit. That is going to allow these two buildings to be moved a little further from the rear property line, and the revised plan will also allow internal sidewalks to meander to save trees and to allow the internal sidewalks to be located back of curb adjacent to the on-street parking spaces.

With respect to parking, the parking for these two buildings here will be located underneath the building. The parking would be accessed by this drive here. You go down the drive and turn left or right into the relevant parking area. Parking for the duplex buildings would be located in the garages here -- the garages connect to each unit -- as well as in the driveways, and then there would be on-street parking as well along portions of the private internal street. There will be a 30-foot Class C buffer along the rear and side of the site.

You can see a lot of green space on this plan, and really a driving factor in the design of the site plan and in the decision to put the parking underneath the building was to preserve as much open space as possible and as many trees as possible. In fact, at least 50% of the site will be devoted to open space and at least 30% of the site would be devoted to tree save areas. In addition to those 35% tree save areas, the petitioner is also going to save other existing trees located in different portions of the site. There will be a note on the revised conditional rezoning plan that will require the petitioner to engage an arborist to prepare a tree preservation plan for those additional existing trees and to submit it to the Planning staff prior to engaging in any grading activities on the site.

CDOT has reviewed the plan and has determined it will have a minor impact on the thoroughfare system. Currently according to CDOT, the existing zoning will generate about 115 trips a day. This proposal would generate 300 daily trips according to CDOT. Because it is an age-restricted community, it will have no impact on the schools. The Planning staff does support this petition, as Ms. Keplinger indicated and which we are appreciative, and we are happy to answer any questions you may have.

Eric Butler, 148 Medearis Dr., said since we only have a few minutes, I will be short and to the point. I'm a 27-year resident of the Medearis neighborhood, which is right down the street from the proposed site on Sardis Road. Having lived in the neighborhood for 27 years, I have seen several rezoning requests come and go in the area, and I would like to argue that this one is somewhat different in this environment. I think everyone would agree that the real estate market today is very different from what it was two and three years ago, and, as a result, I think there is some additional risk associated with this project that frankly was not covered in the staff analysis that was presented to you folks earlier last week.

I'm going to cover three key points, and, by the way, I sent a memo to many of you over the weekend that went into a lot more detail about some of the concerns that the surrounding neighbors have about this project, but I just want to leave you with three key points. The first one is that this zoning request to multifamily is meant to fix a failed real estate project on this site. The developer here, Mr. Schwarz, acquired this property back in 2008 for the purpose of building single family homes on it in excess of a million dollars. He bought the property at the peak of the cycle. Obviously the market dropped. The house that is sitting there vacant as well as the vacant lots for over two years now, so this is an attempt to change the zoning to multifamily in an attempt to fix the problem from the original real estate project.

Since we have already got a failed project on this site already, as residents we are very acutely aware and sensitive about any other attempt that may result in a failed project. We already have another one at the corner of Boyce and Sardis Road, which is down below the entrance to Medearis -- another five-acre tract that was rezoned to denser single family, again, top of the cycle, market drops, and they constructed maybe three or four units. The rest of the property is left vacant now. So, really the purpose of the rezoning request is somewhat different than what you may have seen in future time.

The second key point I want to make for you is that this project as mentioned was a condo project directed to the over 55 year old buyer. It is a type of project that has not been tested in the area. I have not seen any information that would lead one to think that not only in the surrounding area but also in this particular area that a project like this would be successful, and also the developer, Mr. Schwartz, doesn't have experience in developing this kind of a property. This would be the very first one. So, again, I think that creates a scenario that potentially the risk of failure again could be greater than the chance of success.

The third point, and I'll conclude with this one, is this is a condominium style project, and I'm sure all of you here are fully aware of the condo statistics in the city of Charlotte as far as the absorption rate, so, again, another factor that could lead this to be a more of a project that has a greater chance of failure than it does success. So at the end of the day, if the rezoning to multifamily is granted and the project is not successful, we will have yet again another failed project that borders either side of Sardis Road in that particular area, and on top of that, you have now opened the door to multifamily designations in what has always been a single family area. I will conclude with that, but thanks so much for your consideration.

Douglas Collings, 6326 Sardis Rd., said I live on Sardis Road directly across from the Sardis Road driveway from Shady Knoll. We moved into that location 38 years ago, and the McAdams family lived in Shady Knoll at that time. We don't get to complain about their use of the property. Subsequently, McAdams family left, and the property was purchased, and there was a plan with zoning R-3 to build less than ten houses there – pretty good plan. We liked the idea. Unfortunately after building one of them, they found that there was no market, so they changed to a plan that had less than 60 condos – perhaps 55 – and proposing the change did not actually go through with that to R-12.

They changed their minds about that and went to another plan with about the same number of living areas, which is reporting now as institutional district. Up until now we have had no problem with any of that. In fact, the structure of the present plan won't cause any grief at all. What I do object to is the institutional district zoning. Instead of this being residential use, institutional district contains a number – really a multiple choice. It includes a lot of uses which we would find perfectly all right but includes some that we do not – a day labor service agency, donation drop-off, dormitories for colleges, beneficial health site, and also inert debris fill sites. I have no idea what those include, but I have a suspicion I would not like them if they occurred. The last time on my list would be jail – totally inappropriate in my opinion for that location.

Arthur Bell, 6216 Amber Mist Ln., said I'm not a sophisticated person. Frankly, I'm very nervous to be in front of you this evening, so please bear with me. I'm against the idea of rezoning this property. My property is immediately behind the existing building that is on this 5.2 acres. It's a 7-8,000 square foot house in a neighborhood full of 2,000 to 2,500 square foot houses. It's a bad idea. It won't work. You won't sell 55 condos on the hill up behind my house. When I look out the back of my house when I stand on my deck and look out, there is the white elephant that hasn't sold in the past couple of years.

If Mr. Schwartz is able to put eight more houses up there of 2,000, 2,500 square feet, he probably won't break even. He has already tied up too much money. To put 55 condos, he'll never sell them, and then not only will we have a great big empty house but we'll have a bunch of empty condos. There will be problems with flooding. There is already flooding down the street around the corner. Putting more impervious areas up there is going to cause more flooding. It's going to exacerbate an existing bad problem. It's a bad idea. Please don't do this.

Mr. Carmichael said Mr. Butler is right. The prior project is and was a failed project. Unfortunately for Mr. Swartz, it was developed at the wrong time – a good location but the wrong time, I think. In terms of Mr. Swartz's experience, he does not have personal experience developing this type of project, but what he said at the community meeting is he would be partnering with folks that did have that experience. In terms of what Mr. Collings was saying about certain uses allowed in the institutional district, I would agree 100% with him that many of the uses – I don't recall all of them – would not be appropriate at the site. Would say that this is a conditional rezoning, and if it were approved, the only use that would be allowed is the use that is proposed under this petition and depicted on the conditional rezoning plan.

We do reckon that we do see from time to time concerns about that district use for this purpose for senior living communities or age restricted communities or adult communities. I would love to see a new district in our zoning ordinance that would allow those types of uses and not have them in an institutional district – a continuing care retirement district or some other mechanism.

In terms of Mr. Bell's concerns, I can't forecast what will happen here. I can tell you the developer would work as hard as possible to make this successful if the petition is approved.

What he also said at the community meeting was there would have to be pre-sales of the condos in order to make a sufficient start on the project.

Finally, I just wanted to point out once again that the abundant green space and tree save areas between the two and a half story buildings and the single family homes to the rear – I mean they won't block all the views. I can't represent that to you, but they will go a long way towards providing sufficient separation and screening. As to the flooding, Mr. Schwarz will be required to comply with the post-construction controls ordinance.

Councilmember Howard said I'm wondering from either one of you guys – why institutional, why not some multifamily? What does institutional allow you to do that a normal multifamily zoning won't?

Mr. Carmichael said it allows – it's staff's preferred – well, I don't want to speak for Planning staff, but for independent living units and things of that nature it was our understanding that institutional district is a preferred district, but I will defer to Ms. Keplinger on that.

Ms. Keplinger said Mr. Carmichael is correct. When you're dealing with the nursing homes, homes for the ages and infirmed, housing for age which are 55 and older, we try to put those into an institutional district, which accommodates those. As John said, this is a conditional plan, so the only way that any of the uses can change were if it came back through the rezoning process.

Councilmember Howard said are you saying you are doing this to protect the neighborhood from other uses coming in?

Ms. Keplinger said it is a way to protect the neighborhood.

Councilmember Kinsey said I think they make this print small so we won't read it and won't ask questions, but I do have a question. I guess this is the site plan under the notes. It says the site may be devoted to an age-restricted senior living community comprised of a maximum of 54 units. For sale independent living units and related common areas, blah, blah, blah. It says it may. Does that mean they can change their mind and not restrict it to seniors and also if they don't sell rent them?

Ms. Keplinger said, no, ma'am, that will be cleared up on the final site plan. This is the second revision of the site plan. There will be a third, and that is an item that we will get corrected.

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

Councilmember Dulin said a comment. This is in District 6 and it's got my attention, and I wanted to thank the gentleman that came down to speak to us that hadn't been down here before. Thank you for coming down. You don't need to be nervous, but we get it that it sometimes can be difficult, and I appreciate you being involved.

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ITEM NO. 15: HEARING ON PETITION NO. 2011-036 BY CRESCENT RESOURCES FOR A CHANGE IN ZONING FOR APPROXIMATELY 62.70 ACRES LOCATED ON THE SOUTH SIDE OF WEST MALLARD CREEK CHURCH ROAD BETWEEN CLAUDE FREEMAN DRIVE AND LEGRANGER ROAD FROM RE-1 TO RE-3(O) AND FIVE-YEAR VESTED RIGHTS

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this petition is to rezone from RE-1 to RE-3 and also for five-year vesting of rights. The property is located on the south side of West Mallard Creek Church Road and consists of 62.70 acres. The area is located in the University Research Park Area Plan, which was recently adopted. The developer is utilizing the recently amended RE-3

district to achieve the plan amendment for mixed use development with office, retail, and residential uses. They are proposing to have 350,000 square feet of nonresidential uses with two drive-thru service windows, which are limited; 200 hotel rooms with a conversion to nonresidential square footage if the hotel rooms are not developed; 330 multifamily units at a rate of 18 dwelling units per acre. There are conditions on the building materials, the architecture, the pedestrian and vehicular circulation.

They are asking for two optionals. One is to allow more than 10,000 square feet of retail on Parcels A and B, which are the front parcels along Mallard Creek Church Road, and they are also asking to allow parking and maneuvering between the buildings and Mallard Creek Church Road. The proposed concept is concept with the University Research Park Area Plan, however, we are still working with the petitioner on many of the outstanding issues. Once these issues are addressed, we believe we will be able to recommend approval of this petition.

Keith MacVean, King & Spaulding, 100 N. Tryon St., said Jeff Brown and I are here today assisting Crescent Resources with this rezoning petition. As Tammie mentioned, this is approximately 62 acres located at the intersection of Mallard Creek Church Road and Senator Royal Place. With me today representing Crescent Resources is Ned Austin, Elizabeth McMillan, Ben Collins, and Elam Hall. Also here tonight is Rhett Cocker and Kathy Kuneyl with Land Design, and Jake Carpenter, who is the traffic engineer that worked on the traffic study.

As I mentioned, 62 acres currently zoned RE-1, currently vacant. A proposed zoning is RE-3 as was recommended by the University Research Park Plan, which looked at amending the plan and also made a recommendation to take the current RE-3 district and make it more of an urban district by allowing a mixture of uses, more compact development forms, and more pedestrian friendly environment.

This is just a snapshot of the research park. It's about 2,300 acres. There are 1,600 acres currently developed – 700 currently undeveloped. That 62 acres is part of that undeveloped acreage. This portion or this 62 acres is located within the District C of the University Research Park Plan, which called for a lifestyle district, mixed use, a mixture of uses, retail, office, and residential, and as Tammie mentioned, what is being proposed tonight is consistent with that vision. Again this is a close up of the 62 acres. Senator Royal Drive, which is an existing road, splits the site from east to west.

The specifics of the proposal are there are four development parcels. Parcels A and B are located along Mallard Creek Church Road and are primarily going to be developed with retail uses, retail and restaurant uses, up to 75,000 square feet and a hotel with up to 200 rooms on Parcel A. Parcel D can be developed with up to 330 multifamily units, and then Parcel C primarily is looking to be developed with office buildings or office uses. There are some support retail also allowed, and that's up to 250,000 square feet. There are four public streets within the development that will connect both Mallard Creek to Senator Royal and then extends to the west for future connectivity, and then there is a public street through the multifamily development for connection from Legranger back to Senator Royal, and then also a public street extending through the office development in this area that would allow for future connections to other portions of the park, which is one of the visions of the park – to create a better, more robust network of streets and sidewalks. All those streets will have sidewalks. There is also a trail system that has been included as part of the petition that links these parcels together, but then in the future as other parcels develop we'll also link those parcels to this development and to the future to the existing greenway area that is located in the central part of the research park. Glad to answer any questions.

Councilmember Barnes said, Mr. MacVean, could you tell us what the tree-save commitment is?

Mr. MacVean said we will be meeting the Tree Ordinance commitment of 15% of the site.

Councilmember Barnes said it is all wooded now.

Mr. MacVean said it is all wooded as you would have seen in the aerial elevation.

Councilmember Barnes said also with regard to the URP Plan and the District C classification, the lifestyle district, explain to us what the line in here that says “encourage compact urban design forms”. Explain how your proposal conforms with that language.

Mr. MacVean said one of the major changes to the RE-3 districts were the setback changes. The old district had 100-foot, 150-foot setbacks. The new district has 35- and 14-foot setbacks. This plan proposes to have 14-foot setbacks along Senator Royal with on-street parking. Once we get past this major intersection, we are looking to do on-street parking if possible as well as bike lanes. All the buildings are oriented to those streets. They are also oriented to the interior public streets. As you can see the buildings are up on those edges – also a requirement of the district. The other commitments of the plan are to provide sidewalks and trails that link all those uses together. First put the buildings up towards the street and provide access for pedestrians to get quickly out of the buildings out to that pedestrian network and then to other portions of the site.

Councilmember Barnes said also during our Dinner Meeting we had a discussion of ongoing work that the Planning staff is working on. Among the things they are doing in my district is reviewing higher density zoning classifications. I think it would be helpful for me and perhaps my colleagues to hear why your proposal is any different from the myriad of multifamily/retail proposals we hear in that part of the city.

Mr. MacVean said one of the things that Crescent is going to do with this multifamily development, as you can see, is they are going to have several amenity area. There is a large pool area, an outdoor kitchen that is part of this. There is a garden area. The buildings are arranged in a quad format here creating more of an urban form. They are trying to take advantage of this water quality feature and making that an amenity by putting an additional community space or common area space here, hopefully being able to use the pond itself as an amenity. There will be some cottages or additional units that are oriented to the lake with the possibility of having kayaking or canoeing on that actual pond. Also included are building elevations and specific notes regarding materials, commitment to at least 30% masonry materials. These are the buildings that will be developed on the site, enclosed breezeways, and, again, the target market from Crescent’s perspective, and Ben Collins is here and can answer this more specifically, is executive – tenants that are executives within the research park – work in the research park, don’t want to travel a long way, want to be close to where they work, and that’s another important component here of why the plan, both the University Area Plan and this plan, call for retail amenities to be part of it – amenities for those residents of the park so they can stay in one location and not travel far to get their needs met in terms of retail services and other uses like that.

Councilmember Howard said I was wondering if you could describe to me what the options are. Why go away from the RE-1 since that is new? What are the options that you are changing from what you can do with RE-1?

Mr. MacVean said two options. One is there is a limit on the amount of retail in a RE-3 district to 10,000 square feet, so we wanted to be able to do – there is a restriction here that the largest single retail tenant can be no larger than 27,000 square feet, so that was option one, slightly larger than 10,000. The second option was to allow some parking and maneuvering between the buildings and Mallard Creek Church Road. Just the way the site is oriented, a lot of these two parcels up here because this one has three streets, this one has two, we wanted to have a little bit of flexibility on allowing parking and maneuvering between the buildings and Mallard Creek Church Road. There is a 100-foot setback along Mallard Creek Church Road. That will be landscaped to a Class B buffer, so you really won’t notice that parking between the building and Mallard Creek Church Road. Those were the two optionals. Also the RE-1 district does not give us the amount of flexibility we need to do the mixed use lifestyle development that the plan called for.

Councilmember Howard said, Tammie, really what I’m kind of getting at is that Area C is calling for what is described in there, and RE-1 doesn’t do that really. It’s a brand new plan. I’m just wondering if we really looked at that. Should that be RE-1 or should that be something else so it encourages what they are doing?

Ms. Keplinger said I want to make sure I understand your question, Councilmember Howard.

Councilmember Howard said I can ask you off-line actually.

Councilmember Dulin said let's talk about the two major intersections you have got there. The first one you are coming down Senator Royal right there, and then the next four-way. Tell me about traffic calming, traffic movement, possible circles, etc.

Mr. MacVean said no traffic circles at this time. There will be additional lanes added to Senator Royal, an additional southbound lane in this direction, an additional left-turn lane going this way, and an additional right turn with channelization here and some additional lanes on Mallard Creek Church Road. There is already a lot of traffic in the park that uses this road to get out. We are adding additional traffic. There was a traffic study that recommended improvements. Once you get in this area here there will be a center turn lane as you move south in this area, and the Department of Transportation has asked us to install a minimum of three pedestrian refuge islands within that area, raised pedestrian refuge islands. We have agreed to do that. There will also be raised crosswalks within the development to facilitate pedestrian movement.

Councilmember Dulin said one follow-up. That's fine. Y'all design it however you want, but I'm concerned about the speed of traffic through there and those major intersections that will become major intersections. That was a comment.

Councilmember Cannon said, Tammie, any level of concern from DOT or anyone else with regard to the trip generation that we see that will be additional in this particular proposal?

Ms. Keplinger said that is something that we have looked at, and I would like to refer to Mike Davis with CDOT to answer that question.

Mike Davis, Charlotte Department of Transportation, said I heard you had a question about trip generation, but I didn't hear what your question was.

Councilmember Cannon said any level of real concern with regard to the amount that will be increased as a means of this proposed rezoning.

Mr. Davis said no. It is a large trip generator. The existing zoning is also a large trip generator. This is slightly more by about 10% to 15% more, but we are confident that the mitigations they have proposed are adequate.

Councilmember Barnes said, Mr. MacVean, you and I did not have an opportunity to discuss this earlier when we met, but from your professional perspective, Mr. Davis, would roundabouts help at the two major intersections? Mr. Dulin is correct. There is a lot of – in fact, I have used it as a cut-through when Harris is backed up to get back to Mallard Creek Church. There is a lot of traffic that uses Senator Royal, and if you are introducing a residential element, pedestrians, potentially children, into the area, it might be a good idea to consider some additional traffic calming. Mr. MacVean mentioned raised pedestrian refuge areas, but in terms of actually slowing vehicles down. Have you all given any professional analysis to roundabouts at those two major intersections?

Mr. Davis said the answer is no. It's a good idea. It's not something we thought was appropriate to request specifically. It's something we can talk to the petitioner between now and the zoning committee. It could work here. It probably has some advantages. I don't know what the implications might be in terms of costs or impacts in terms of real estate right-of-way, etc. It's something we would be happy to look at. From our perspective, what was important was in recognizing that this proposal does put on the table different uses that we hope will be the kind that people will want to walk in between and cross Senator Royal, and that was the importance of getting those pedestrian refuge medians in. So from the perspective of traffic calming, I think giving pedestrians a place to cross they feel safe and comfortable is about the best thing we can do, but we'll look at roundabouts as well.

Councilmember Barnes said one of the reasons I think it would be a good idea is that essentially at 5:00 you have several thousand people who get out of there like nobody's business, and they are heading for Mallard Creek Church to get to 85 and heading to Harris Boulevard to get to I-85, and they don't do it in a slow fashion, so it would be, I think, advisable to consider that, and I'll talk further with Mr. MacVean about it, but from a public safety perspective, I think it would be a good idea and for other reasons.

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

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ITEM NO. 16: HEARING ON PETITION NO. 2011-050 BY QUIK TRIP CORPORATION FOR A CHANGE IN ZONING FOR APPROXIMATELY 7.07 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF ALBEMARLE ROAD AND REGAL OAKS DRIVE FROM B-2(CD) TO B-1(CD)

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said the property is located on the north side of Albemarle Road. In terms of the zoning in the area, we have a mixture of institutional, multifamily. In terms of future land use, we have the same mixture of multifamily, commercial, institutional. The site currently has two houses located on it. The proposal is for a convenience store/gas station in a nonresidential building, which will be developed in the future, which is limited to the B-1 uses.

The property was rezoned in 1994 with an adjacent property for a shopping center, but the proposed land use that currently is consistent with the Eastland Area Plan, which recommends a mix of residential, office, and retail uses. One of the plan's main goals is to improve the appearance and the pedestrian friendliness of Albemarle Road. We feel at this point that the petition does not quite accomplish that goal. We are working with the petitioner, and we hope we will resolve that issue and the others that are outstanding prior to the Zoning Committee meeting on the 28th, and once that is done, we will recommend approval of this petition.

Collin Brown, 214 N. Tryon St., said on behalf of Quik Trip. Joining me tonight from Quik Trip are Jake Sutton, Jake Satcher, and Mike Carey. They are available if you have any questions. Jake Satcher is our site expert, so if you have any detailed questions, he is on hand to answer those. I understand that Ms. Lindsey has indicated to me that she is speaking in favor of the petition, therefore, I have three minutes. I'm going to cede most of my time to her. I would ask you thought – I know Susan pretty well. I feel like she is going to speak in favor. If there are things I need to respond to, I would ask you for some rebuttal time if that is the case.

Tammie has done a good job on the overview. It's a pretty simple site currently zoned B-2 for a large shopping center. This can actually be seen as a down zoning. We have made good progress with staff. We have made very good progress, I think, with the neighborhood groups out there. As Tammie indicated, the outstanding issue we are working through together is going to be the frontages, the pedestrian friendliness. That is something staff has asked for. That is something that Quik Trip folks are looking at, and I'm optimistic that we are going to have that issue resolved by the revised plan deadline on Friday. Unless you have any specific questions for me, I'm happy to turn my remaining time over to Ms. Lindsay.

Susan Lindsay, Charlotte East Community Partners, 6205 Rosecroft Dr., said as chairman of the Charlotte East Community Partners Planning and Zoning Committee, you know that we do not officially take a position on rezonings, however, I have been in contact with a number of the neighborhoods. We urged people to attend the community meeting. The outline here is basically the pros and cons as the neighborhood leaders saw the issues.

This particular parcel has been one that it is the only green spot on that terrible strip of Albemarle Road that has just been stripped out commercially, and for a number of years we have been asking staff to back zone it because it was rezoned in 1994. This would have been a nice

break from all the commercial stripping. Unfortunately, staff is taking a different tact and it never happened. So this plan and the current zoning meet the East Side Strategy Plan because the zonings are part of the adoption in determining what the plan is.

One of the things is in the current economic climate we see a \$5 million investment as something positive in the area, and we are hoping – one of the things that really impressed everyone was the corporation, and, although I keep telling ones it's the land, it's the land because corporations come and go, there is still some good support for this proposal partly because it's seen as a down zoning to a certain degree and the conditions on it limiting drive-thru places and so forth on the second parcel in the back there help it.

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

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ITEM NO. 17: HEARING ON PETITION NO. 2011-051 BY WOODFIELD INVESTMENTS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.70 ACRES LOCATED WEST OF THE INTERSECTION OF GRIFFITH STREET AND POINDEXTER DRIVE NEAR SOUTH BOULEVARD FROM TOD-MO AND I-2 TO TOD-M

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said the purpose of this rezoning is to remove the optional request that was approved for additional height and to allow the site to develop under the TOD standards established in the zoning ordinance, which would allow maximum height of 120 feet. This property was actually rezoned in 2008 to the TOD-MO. The proposed request is consistent with the New Bern Transit Station Area Plan. It's a conventional request with no site plan, and staff is recommending approval.

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

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ITEM NO. 18: HEARING ON PETITION NO. 2011-052 BY ODELL SCHOOL HIGHWAY INVESTMENT TRADERS, LLC FOR A SITE PLAN AMENDMENT FOR APPROXIMATELY 2.80 ACRES LOCATED ON THE WEST SIDE OF ODELL SCHOOL ROAD NEAR THE INTERSECTION OF CAROLINA LILY LANE AND ODELL SCHOOL ROAD

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this one is a little bit complicated, so if you will bear with me. This is a CC site plan amendment for 2.8 acres located in the lower southeastern quadrant of this red area which is zoned CC. This property including the larger portion was all rezoned in 1998 to the CC district for an overall development. The purpose of the rezoning that is before you tonight is to allow an option on this portion of the property only to reduce the required buffer.

The buffers that are required by the zoning ordinance are based on the acreage of the land. For example, if you have a Class B buffer and you have one acre of land, then you have a 27-foot wide buffer. If you have ten acres of land then you would have a 75-foot wide buffer. The proposed request will allow the 2.8 acres to redevelop independently of the original 92 acres. If this occurs, they have to meet all the development standards on this parcel. The parcel must be able to stand alone. The buffer on the southern edge of the property will be based on the 2.8

acres, and the site cannot benefit from any of the development standards shared with the remaining 89.2 acres.

If this tract, the 2.8 acre tract, is developed as a part of the overall development then the buffer will be based on the 92 acres. The difference is a 75-foot buffer if it's based on the overall or a 38-foot buffer based on just the 2.8, and both of those buffers could be reduced 25% by the use of a wall or a fence. The proposal is consistent with the Northeast Area Plan. Staff is recommending approval of the outstanding issues.

Heath Kendrick, 223, N. Graham St., said I'm the petitioner. Just here to answer any questions you might have.

Councilmember Barnes said, sir, I just wanted to get some clarification on what the purpose of the amendment is. I understand what she explained technically, but what is the practical purpose.

Mr. Kendrick said the reason for the rezoning is petitioner has been approached by Piedmont Natural Gas for a 60-foot gas easement to run parallel to that property line where the buffer is located. What would happen is if we had the 75-foot buffer plus the 60-foot easement, essentially 135-foot swath along that property line that corner of the development area becomes almost unusable. The reason we are asking to reduce that buffer is, A, to allow the easement to come through. It's a giant main. It's like from Rockingham to somewhere, so it has to come through here. It would allow us to reduce the buffer, fit the easement in, and allow for enough area to redevelop that corner of the property, but, as Ms. Keplinger said, if it's part of the overall development, if it becomes say a larger shopping center, the buffer in essence goes back to what it was on top of the 60-foot easement. Does that make sense at all?

Councilmember Barnes said it does.

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

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ITEM NO. 19: HEARING ON PETITION NO. 2011-053 BY 1200 SOUTH BOULEVARD PARTNERS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.85 ACRES LOCATED ON THE WEST SIDE OF SOUTH BOULEVARD BETWEEN THE JOHN BELK FREEWAY AND ARLINGTON AVENUE FROM TOD-MO TO TOD-M

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this is the former Simpson Lighting site, and it was rezoned in 2008, and part of the rezoning was to allow an optional for additional height. The proposed request before you tonight is to rezone to the TOD standards to eliminate the optional for the additional height and to allow the site to develop under the straight ordinance standards. It's consistent with the South End Transit Station Area Plan. As I stated, it is a conventional request with no associated site plan, and staff is recommending approval.

John Carmichael, 101 N. Tryon St., said here on behalf of the petitioner. As Ms. Keplinger said, it's a conventional rezoning request. The petitioner just doesn't need the density of the project that was approved by Council in 2008 and doesn't need the building height and just desires to develop uses on the site in compliance with the requirements of the TOD-M district. The site is located adjacent to the light rail, so it would be transit supportive, and, as Ms. Keplinger stated, it is consistent with the South End Station Area Plan, and we are happy to answer any questions we are legally able to in the context of the conventional rezoning request.

Kirk Otev, 1308 Lexington Ave., said I live on Lexington Avenue and have for 25 years. I used to be the president of the Dilworth Community Development Association and have appeared here a number of times over that time period. The Dilworth neighborhood is asking

that we are not opposing the petitioner's plan, but there is a collateral plan that is connected with this that was originally connected with the previous petitioner's plan. We are asking that you take the CDOT plan to reengineer the connection of Carson Boulevard with Lexington Avenue at South Boulevard and direct CDOT to go back to the drawing board, include all stakeholders in a discussion about how that intersection can best be redesigned to meet the needs of the South End Transit Plan and the needs of all adjacent stakeholders especially before you invest any of our precious budget dollars in the capital improvement plan for that project. We were a little taken by surprise that we were not invited to participate in the South End transit planning process that resulted in a directive that there should be enhanced connectivity between Carson and South Boulevard and Lexington Avenue. We have a tremendous track record of working with Planning and with CDOT in developing projects that enhance the economic success of the City of Charlotte, and we stand ready to do so again. Our track record goes back to the Lane-Frenchman Plan, the first Dilworth Small Area Plan. The Lane-Frenchman Plan actually resulted in South End and substantially in the light rail. We worked with CDOT on a number of pedscape projects, so we stand ready to do this again. We don't understand why we weren't invited before. A little background on Lexington Avenue's intersection with South Boulevard. In the late '80s, the planning for I-277 to replace Independence Boulevard and the freeway included several workshops that included the Dilworth neighborhood in which it was recognized by all involved that there need not be a full intersection between Lexington and South Boulevard because you would derive a tremendous amount of traffic off of South Boulevard that was exiting the interstate and also that Carson Boulevard was going to have a tremendous urban flow of traffic off of, number one, the I-277 exit, Church Street, and Tryon Street, and that would never benefit Lexington Avenue. So, CDOT agreed at that point to put in a permanent median in South Boulevard to prevent any connection. When the I-277/South Boulevard interchange was redesigned about ten years ago, that was revisited, and again, it was seen that there was no reason to remove the median. We think that currently both Carson and Lexington have a right-in, right-out traffic flow. That works for everyone except possibly pedestrians who want to get to the light rail station. We think that intersection can be redesigned to enhance pedestrian and cyclist safety, drive more pedestrian traffic to the light rail station, but also prevent a significant urban flow of traffic down into a very narrow Lexington Avenue that was designed as a residential street. So, again, we ask that you direct CDOT to revisit that planning so the South End Transit Plan can be fulfilled but without sacrificing Lexington Avenue.

Mr. Carmichael said this is a conventional rezoning, so the improvements to the Lexington Avenue/Carson Boulevard intersection improvements are not a proffered condition of this rezoning. My client is from out of town, wants to come in and cooperate with City officials, do a nice project, and we had preliminary meetings with CDOT and staff as we are required to do, and during those meetings, our client was asked if he would consider doing those intersection improvements with some participation from the City, and ultimately our client agreed to do that. The way this came about is we weren't required to have a neighborhood meeting, but we did have one with DCDA and then we had a general neighborhood meeting, and then these intersection I imagine were brought to light – we brought them to light, and I imagine that's the first time that Mr. Otey and folks heard about it. My client is agnostic about this. He doesn't have a dog in the fight other than he wants to do what is right in connection with his proposed development and is willing to cooperate with the City and willing to do it, but if folks don't want it then he is fine with that, too. Our client was asked to do this in some prior meetings and agreed to do it and then we'll just await direction from CDOT and Council on this issue in terms of the connectivity.

Councilmember Kinsey said may I ask Mr. Davis to comment on the request that Mr. Otey made? I guess can this be pulled out? I know it's not a part of this rezoning, but it was a part of the prior rezoning, which would carry it over, so I ask for your comments to Mr. Otey's request.

Mike Davis, Charlotte Department of Transportation, said just a few things. One would be as it relates to this zoning proposal there is nothing in this zoning proposal that relies on or even mentions this project of opening the median along South Boulevard at Carson. What we have done is when this project came back in we went back to what had been described in 2008 rezoning, an associated abandonment petition and ultimately a development reimbursement agreement that was based on a design done in 2008, and since the request was to do a by-right zoning, we saw fit to not bring in this design issue as a part of the land use issue and instead

agreed let's let this go forward as a land use question and see if we can reach any kind of agreement on the project that was agreed to in 2008.

As it relates to broader participation and the decision making process, this was described in the South End Plan. It was also included in the Dilworth Plan, and then it would have gone before Council three different times with various hearing opportunities, so it was a little bit of a surprise to us that there hadn't been some of that groundwork laid. As we have talked about, there are going to be more opportunities to refine the design. I did have the fortune of meeting with several residents including Mr. Otey about a week ago, and my sense of it was, and I hope I'm not portraying this in the wrong way, we felt like we, through the course of the meeting, built a lot of consensus around some common objectives of the project.

Briefly, those objectives would be that there is a lot of demand today for pedestrians and bicyclists trying to cross South Boulevard, so much so that we are looking at other ways we can remedy that location. The other would be that this part of South Boulevard acts a little bit like a freeway in terms of the fact that when you get to this section of South Boulevard and you reach that median speeds tend to pick up, and the Dilworth residents who attended agreed that is also a worthy thing to look at ways to reduce speeds on South Boulevard. So this project accomplished two objectives that we shared. Where there was concern was the design of Lexington itself, and in that meeting, it was brought to my attention, and I will admit for the first time, that maybe Lexington is not adequate in terms of its width with the on-street parking on Lexington today, so where we left that meeting was the project decision really doesn't need to be associated with the zoning, but knowing that any approvals for this project would still come before Council with an opportunity to speak and give us the opportunity to continue working with the neighborhood on the issues they brought to our attention, which is really about Lexington.

Councilmember Kinsey said are you saying you have separated this project out of both this rezoning and also the former rezoning? I mean totally, totally separate from everything.

Mr. Davis said it is separate, but there is a relationship that is important for me to explain. I'm sorry that it's a little complex. In 2008, there was a contingent abandonment approved by City Council, and there were rights-of-way that were all tied together. I'll describe them briefly. There's right-of-way actually back along South Tryon. There was a strip of Carson. There was a right-of-way for Morehead Station or College Street. There is a strip of Carson as you get close to South Boulevard, and there was Palmer, and it was Palmer that was the key to this thing.

When the petitioner came to us to describe this proposed zoning, they indicated that they needed Palmer abandoned, and when we looked at our records, we recognized that Council had already authorized the abandonment of Palmer but it was contingent upon the relocation of Carson. That's where this project kind of came from when we started working with this petitioner. So as we understand it, the petitioner needs Palmer abandoned, and they need the rezoning. So this rezoning is really not tied to the project, but from what the petitioner has told us, they will also need Palmer abandoned, which as of today requires that Carson be connected. Doesn't mean that project can't be redesigned, doesn't mean we can't incorporate various design suggestions from the neighborhood or anyone else, but the contingency is based on Carson being realigned and a traffic signal being installed at that location.

Councilmember Kinsey said I don't know who to ask. Maybe, Mr. Manager, I'll just ask you. How can we disconnect those two right now? The abandonment of Palmer is fine, but how can we disconnect that abandonment from the traffic light and the realignment of Carson and Lexington?

Curt Walton, City Manager, said since the original connection in all of this was in 2008, I don't know what action. I am sure there is action, but I don't know what action you could take. Terrie?

Terrie Hagler-Gray, Assistant City Attorney, said I don't. We would have to research that.

Councilmember Kinsey said could I ask that be done?

City Manager Walton said certainly.

Ms. Hagler-Gray said sure.

Councilmember Cannon said so noted. We'll look to research the information and get it back to Councilmember Kinsey as well as Mayor and Council.

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

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ITEM NO. 20: HEARING ON PETITION NO. 2011-054 BY PHILLIPS PLACE PARTNERS, LLC FOR A CC SITE PLAN AMENDMENT FOR APPROXIMATELY 16.11 ACRES LOCATED ON THE SOUTH SIDE OF FAIRVIEW ROAD AND ACROSS FROM CAMERON VALLEY PARKWAY

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this is a rezoning for Phillips Place as you mentioned located on Fairview Road. The purpose of the rezoning is to add an additional 10,000 square feet of nonresidential uses. All of the uses in the CC district will be permitted except those with drive-thru's. The request is consistent with the SouthPark Small Area Plan, and staff is recommending approval.

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

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ITEM NO. 21: HEARING ON PETITION NO. 2011-056 BY TENNYSON AND LORNA CURTIS FOR A CHANGE IN ZONING FOR APPROXIMATELY 6.19 ACRES LOCATED ON THE EAST SIDE OF STEELE CREEK ROAD BETWEEN WHISPERING PINES LANE AND SHOPTON ROAD FROM R-3 TO O-2(CD)

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this is a rezoning from R-3 to O-2(CD). The purpose of the rezoning is to allow development of a hotel and a meeting space. The property is located on the east side of Steele Creek Road north of Shopton. In terms of the site, it is currently undeveloped. In terms of the development, it includes limitations, the site plan includes limitations on the building materials, the realignment and dedication and construction of Red Spring Drive, which is shown here on the site plan, and additional buffers beyond what is required by the ordinance. The West Side Strategic Plan recommends business, office, park, and industrial uses for the property. Staff is recommending approval upon the resolution of outstanding issues.

James McGovern, P.O. Box 692, Pineville, NC, said I'm representing the property owner, the petitioner. Subsequent to our community meeting, I held a meeting with the Steele Creek Residents Association, who asked the petitioner to add additional plantings along Steele Creek Road, which he has agreed to, and also to limit the signage height on Steele Creek Road, and we have discussed that with staff, and that will be added to our revised plan. I promise to keep it under 60 seconds, so I'm here to answer any questions, if there are any.

Councilmember Cannon said that's pretty good. That was 13 seconds. Any questions from Council?

Councilmember Howard said any concern from staff of commercial creeping to the neighborhood?

Ms. Keplinger said, no, sir. We feel there is kind of a natural buffer along this area and with the extra plantings that the property owner is providing. This section is not being rezoned, so that will protect the residents in this area and also the neighborhood's open space. Like I said, there is additional buffer, and there is I believe a natural drainage feature at this location.

Councilmember Howard said going up Steele Creek?

Ms. Keplinger said, no, sir. We don't have any concern about it moving up north Steele Creek either.

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

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ITEM NO. 22: HEARING ON PETITION NO. 2011-057 BY MERIDETH SORRENTINO FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.38 ACRES LOCATED ON THE NORTH SIDE OF NORTH McDOWELL STREET AND EAST OF THE INTERSECTION OF EAST 37TH STREET AND NORTH McDOWELL STREET FROM I-2 TO R-5

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said I would like to point out this property. It's kind of hard to find on this busy map, but as you can see, the property is currently zoned I-2, and the request is to rezone it to R-5. It is for a single family residence to be built on the site. It's conventional request. The North Charlotte Plan recommends industrial uses, but we feel the use is compatible with the surrounding properties, which are residential for the most part. We are recommending approval.

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

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ITEM NO. 23: HEARING ON PETITION NO. 2011-055 BY CHARLOTTE REGIONAL VISITORS AUTHORITY FOR A CHANGE IN ZONING FOR APPROXIMATELY 10.96 ACRES GENERALLY BOUNDED BY SOUTH COLLEGE STREET, MARTIN LUTHER KING JR. BOULEVARD, SOUTH BREVARD STREET, AND EAST STONEWALL STREET FROM UMUD TO UMUD-O

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this is a rezoning for the Charlotte Convention Center from UMUD to UMUD-O. The purpose of the optional request is to allow the main identification sign along College Street to be replaced with an electronic video board. The sign will be in addition to other signs, which are allowed on the site. It will not exceed 650 square feet per side. It will be used to identify the facility, promote both current and upcoming events, and display welcome to Charlotte messages as well as the time and the temperature. It is consistent with the Center City 2020 Vision Plan, and staff is recommending approval. As you can see in this picture, the top shows the existing sign and the bottom shows the proposed sign, so the square footage of the sign is going to be the same. It's just that you will have a larger message center.

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

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ITEM NO. 24: HEARING ON PETITION NO. 2011-058 BY FAIRHILLS PARK SOUTH ASSOCIATES, LLC FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD A NEW SUBSECTION TO THE URBAN RESIDENTIAL DISTRICTS FOR AREA, YARD, AND HEIGHT REGULATIONS, AND TO MODIFY DEFINITIONS

Tammie Keplinger, Planning, said the purpose of the amendment is to increase flexibility by allowing the reduction in individual lot sizes under certain circumstances to allow zero lot line lots, to allow private streets for single family development under certain conditions. Typically we are not supportive of private streets, however, the conditions are very limited and include the development of 35 or fewer units, public sidewalk access must be maintained, and cannot be used for streets meeting an important connectivity objective. Staff is recommending approval of this text amendment.

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

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ITEM NO. 25: HEARING ON PETITION NO. 2011-059 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD STANDARDS REGARDING HOUSING DESIGN

John Howard, Planning, said this project some of you all have seen before. It's looking at single family residential design standards, and it came from a 2004 recommendation by the City Manager to look at certain quality of life issues with residential development in Charlotte. The Planning Department was asked to take the lead on it, and we have been doing this about three, four years now, so we are in the pen to the finish line. It was sent to Transportation and Planning Committee for review and sort of an update on the RDS project.

What are residential design standards? Basically they are regulations that establish minimum design features for single family housing, and it focuses on enhancing the public realm, encouraging visual variety, providing design flexibility in some conditions, and protecting and enhancing the character of older neighborhoods.

The process has been very thorough. The project has been very involved. We met with stakeholders several times, and it has been a very inclusive stakeholder group with developers. We have had housing, home builders, we had advocates on both sides for affordable housing, residents, of course, so it has been a very involved process. We try to touch everyone that we could. We also met with special interest groups like the Chamber of Commerce's Land Development Committee. We met with affordable housing providers one-on-one, and also we have been meeting with Code Enforcement and Building Standards to look at how if we adopt something it can be enforced, so we have been working with them hand-in-hand throughout this whole process, and I think we are at a pretty good place now where we can enforce this. There is no additional staff needed, so I think it is going to be a pretty enforceable project.

As far as the categories, there are two different sets. One deals with land development issues, and one deals with design issues. Everything in yellow that is highlighted we are going to bring forward tonight as recommendation. Under land development, there are setbacks. An issue was consistency with infill development in some situations. Side yards the issue was safety and privacy with three-foot side yards and that reduction down to those narrower side yards. Streetscape design and looking at the UR district and how it can make that more flexible, and utility towers, the large metal structures that are in the fronts of yards – not in the rear side – was an issue that was brought up by our stakeholders. Under design, we are looking at breezeways and allowing breezeways to be attached to the home from an accessory unit without having the rear yard standard kick-in.

This is called the first phase looking at the text amendment being heard tonight. That addresses again setbacks, side yards, streetscape design, utility towers in the front yards, and breezeways, and it would take effect, if adopted, January 1, 2012. In phase two, we are going to readdress the design part of this text amendment, of this project. This looks at architectural standards like garages and blank walls in public areas, and basically we put it on hold for now because of Senate Bill 731, but we were directed by Council to look at or the committee to look at this as a phase two project to begin in the next couple of months. There will be a cost study that will be involved with this as well that will show what the cost impacts are of all these different improvements.

Under future phases, we have two more projects. One is neighborhood conservation overlay districts, which was pretty much unanimous vote by stakeholders. They loved the idea, loved the concept. It adds another layer of choice for neighborhoods. And, the MX zoning district update. That has a single family component in it as well, so we will look at the MX zoning district probably in a later phase next year.

The first recommendation looks at setbacks mostly in our older neighborhoods. The picture in the top right is the old 1910-20 community where the new home that was built had to meet the current zoning standard of 20 feet being setback from the curb line. So what we are saying in these rare occurrences where you have an older neighborhood you might have a ten-foot setback or a 15-foot, we should allow that to happen so that house can encroach up and meet that established block design. Again, that is a choice – not a mandate. If they want to do it, they can; if not, they don't have to. It's a choice we don't have right now in our zoning code.

Under streetscape, we are looking at the UR zoning district, and right now we are trying to add flexibility because right now you have to put in a certain streetscape standard – I think it's eight feet for planting strip and six feet for sidewalk. That may not always every condition in every neighborhood, so we are going to look at that on a case-by-case basis. We are going to allow staff to look at every UR zoning district case by case – not a one size fits all.

Again, under breezeways, we are looking at how you can attach that breezeway to the home without kicking in the rear yard standard. Right now we are going to lift that standard where if you want to build a breezeway open air cannot be structural, it cannot have anything on top, it has to be non-condition space. We should allow that to happen to have that as an amenity for a detached garage – encourage detached garage design.

Under utility structures, as you can see in the top right, there is a large utility tower that is in the front yard of a home. Normally they are in the back, but sometimes they wind up in the front. We are saying that should not be allowed, and Duke Power has also agreed that they hate this, and they would like us to restrict it, so we are going to put conditions in where you cannot have a large utility structure that close in your front yard from the front door of your dwelling.

Under three-foot side yards, again, there are issues with maintenance and safety and security, so we are looking at a text amendment to disallow the reduction to a three-foot side yard. You can still reduce your front and your rear but not by-right a three-foot side yard. You can still get it through rezoning or UR districts still allow that side yard reduction, but as general by-right in R-3 through R-8 we think there needs to be more review about how we allow those side yards, so we are going to take that part out. It's still there, but you have to go through a different process to get them – a little more scrutiny.

Tonight is our public hearing. The next step is the Zoning Committee recommendation in September, Council decision October, and then phase two we are going to begin the second phase of this project looking at garage design and blank walls, and we are going to have a consultant come on board to help with that project and with the cost analysis, too.

Joe Padilla, Executive Director, REBIC, 1201 Greenwood Cliff, said I want to start off by actually saying that my comments tonight are going to be specific on phase one of the RDS. We are still working obviously on phase two as is your staff, and we have concerns on that we'll address at a later date. On phase one, first of all, I want to start off by commending your staff. I

think this has been a very, very good process in terms of us being able to get feedback from them and give them our concerns and have those concerns addressed as the process moved on. They have been very willing to listen to our concerns on specific language changes and work throughout the process to make sure that any minor concerns we have were addressed.

We think the final product in phase one is one that very wisely reforms your development regulations and allows some greater design flexibility, and it actually addresses some genuine public welfare concerns such as large electrical towers in someone's front yard. The one concern we do have is on the elimination of the option to go down to three feet on your side setback, and for us this is really a conservation issue. As you may recall, those incentives were put there essentially to provide an incentive for tree save as well as for saving more SWIM buffer as well. Removing that option is a disincentive, and if anything, is going to be more of an impact on the ability to create denser, more pedestrian friendly, and more environmentally friendly neighborhoods as well. We really don't see the public welfare benefit in this particular change, and again, we see negative impacts coming from the loss of density as well as the inability to really conserve as much green space as the incentive currently pushes for. But that aside, I would again commend your staff. We are very pleased with the amount of work that went into it. We would recommend when this comes back for you in a couple of weeks that you vote to exclude that particular portion on the side yard reduction, but everything else we are very happy with.

Dr. James Rogerson, 9500 Robert Burns Ct., said this is a difficult and complicated process to get up here, but I had so much help along the way. I wouldn't have made it if it hadn't been for Stephanie Kelly and Ed Spencer. She told me right on only two minutes off. That's pretty good for good government work. I live in College Downs community, a community of homeowners. We are proud of our community, and we want to keep it beautiful, enjoyable, and safe. The density regulations here are good for the city and are going to improve the city, but they just aren't right for College Downs community. They would hurt the character of our community, create parking problems, and fire hazards. It wouldn't be R-3. It would really be R-12. First, housing is too many, too much for the character of our community. Current single story and two-story houses would produce lot sizes, setbacks, attached buildings, and live multifamily duplexes that are not suitable. Multifamily duplexes are not single family residences in an R-3 district even if a single family lives in each unit. According to your petition, there would be three per acre. This is too many, too much, and too dense. Crowded together it will look like an apartment complex. Forty foot high or higher three- and four-story buildings, which would be multifamily, duplex, triplex, quadraplex, and perhaps parking decks as well as huge homes are not a fit for our community. Multifamily triplex and quadraplex are not allowed in R-3 districts. These are not single family residences, and one big multifamily residence is too many, too much, and too dense. These dwellings will tower over every home in the neighborhood. Second, parking for the housing is too many, too much, and too dense. The single story and two-story houses with the same changes of four per acre and more to family duplexes do not fit our neighborhood. It is too many, too much, and too dense. There probably will be eight cars or more for a space laid out for three or four, and people do not want to move cars to get out, so most will end up on the street. The entire neighborhood will look like people are parking at parties all the time. Forty foot high three- and four-story buildings and multifamily duplexes under the prescribed conditions, detached buildings, and possibly higher buildings with the same conditions as before are too many, too much, and too dense. Multifamily triplex and quadraplex are not allowed; only multifamily duplexes are allowed with prescribed conditions. If allowed, the multifamily duplex could have eight or nine cars, maybe more, and most would be parked on the street. A parking deck makes it even worse. It would be like a big parking lot next door. Third and final, the risk from fire for these houses would be too many, too much, and too dense. The one-story and two-story houses and multifamily duplexes if allowed with the same features as those above would be closer together than now. There are too many, too much, and too dense. They are so close together the fire would spread from one to the other. A natural gas explosion would be worse, and would even be worse if a strong wind is blowing. The 40-foot high, three- and four-story buildings and possibly higher with the same changes are too much, too many, and too dense. Certainly they should not be allowed if they are multifamily. You propose to make them acceptable. We propose not to. They will allow a fire to spread even faster and farther as they spray sparks over the surrounding houses, and the wind will carry sparks to the houses all around you. In short, Mr. Mayor Pro Tem, and Council members, density is in the eye of the

beholder. Multifamily residences and oversized houses in our R-3 community will be too many, too much, and too dense for our neighborhood. There will no longer be R-3 districts; only R-12 districts. What I was wanting to ask you to do is to give College Downs community a reserve status exempt from the density requirements so we can transition into part of the University of North Carolina at Charlotte. We want to be like Matthews and the others, jewels for this community, and we want to be a part of that, be a contributing and really outstanding part of Charlotte. We were the first planned community in northeast Charlotte, and we have a rich, lasting, and rewarding relationship with the University of North Carolina at Charlotte, and we want to continue that. We think they could use this for their university purposes, faculty and staff offices for groups, fraternities, sororities, sports teams, especially the '49s, and some honest groups and efficacy groups. It would just be great for Charlotte, great for College Downs, great for the University, and great for northeast Charlotte. I think we can really do that. I think we can become a really wonderful, contributing, helpful and beautiful part of Charlotte, and I think everybody would be pleased. The College Downs Community Association, the University of North Carolina at Charlotte, University City Partners, and all the other people involved, I think we would really make something good for Charlotte. So I just want you to think about that and remember it's Charlotte for Charlotteans and Charlotteans for Charlotte. We have got it all here, and we can make it a whole lot better, and we want to help.

Councilmember Peacock said first question I think is just a general question, and maybe the City Manager can chime in on this one. This started in 2004, so it predates you. So this has taken seven years. I saw that had begun primarily from concerns from the east side. Can you talk about why it's taken seven years?

Mr. Howard said why it's taken seven years is the project was identified in '04. We didn't start until '06, '07, around there somewhere, so it was caught as a list of things like parking in the front yard. There was a definition of family. There is a list of quality of life projects that came out of that 2004 recommendation. This was one of them and the last one that we were addressing, so it's been about a three-, four-year project.

Councilmember Peacock said next question is on page two of your write-up – uses and structures prohibited and allowed and required setbacks. No regulations for breezeways is the way it currently is right now. Your write-up doesn't really explain, and maybe I missed it in your PowerPoint, but what is the problem with breezeways?

Mr. Howard said I'll try to explain it simply. Right now it's interpreted that if you attach a breezeway to an accessory dwelling, the whole thing becomes a principal dwelling, so, therefore, your rear yard, which is 30 feet, has to be enforced. That's the problem. It's the terminology of what is attached, so we are saying a breezeway is really an open air structure, non-condition, no HVAC, very small, very limited in width, so it cannot be an enclosed structure. We should allow that kind of thing to happen to attach your rear garage or your rear ADU to your house without having that rear yard kick in because then you couldn't build it unless you have like a half an acre or an acre lot then you could do it. But if you are a small infill, you could not have a breezeway attachment onto your house right now.

Councilmember Peacock said if you could send me some pictures of what you are talking about. I heard what you are saying, but I'm having a hard time visualizing and your attachments don't really spell that out, but thank you for your explanation.

Councilmember Barnes said, Mr. Howard, with regard to the issues that Dr. Rogerson raised, are you or is any other member of staff prepared to respond specifically with regard to whether what we are discussing this evening has the unintended consequences that Dr. Rogerson articulated?

Mr. Howard said I don't think there are any unintended consequences. I think we thought through this very thoroughly and looked at what could happen and what may not happen. I think through the stakeholder process we identified things that should come out, so that list is very short from where we had it in the beginning. We had a very long list of items, and some were just not enforceable or some didn't make sense, so we got down to a point where right now these are pretty common sense kind of recommendations based on land development issues. I think his conversation was about density, and we are not really looking at density in this text

amendment except for the three-foot side yard rule that we are looking at maybe taking away or amending, but we didn't really look at multifamily housing in this. This is only for single family housing; not for multifamily, so we are not really looking at the density issue here.

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

Councilmember Cannon said before you depart, Mr. Howard, I certainly want to take a moment of personal privilege and say on behalf of all of us thank you. We believe that this is your last time serving in the shop you are currently in right now. I think I saw you rolling some stuff across the street. I'm like, "Where are you going? What are you doing?" But it appears that you are still going to be with the City but you are moving from Planning and you are headed to another department. Which department are you going to, sir?

Mr. Howard said Neighborhood and Business Services. I'm working with Tom Warshauer in community and commerce.

Councilmember Cannon said you have been very sharp over the years. You have always conducted yourself well in your place of business here before this Council, and, sir, we really are glad that you are able to move on to do something else, and we know you are going to do it well. So on behalf of all of us thank you for what you have been doing in the Planning Department and thank you for what you are going to do over in NBS.

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ITEM NO. 26: HEARING ON PETITION NO. 2011-T001 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT OR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE TREE SAVE REQUIREMENTS FOR SINGLE FAMILY DEVELOPMENT

Councilmember Cannon said I thought John was done. It appears he isn't.

John Howard, Planning, said this is a text amendment to the tree ordinance looking at the bonus you get if you save a bunch of trees on your site or a certain number of trees on your site that can reduce that side yard, so that's what is coming out of the tree ordinance.

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

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ADJOURNMENT

The meeting was adjourned at 8:01 p.m.

Stephanie C. Kelly, CMC, City Clerk

Length of Meeting: 2 Hours, 36 Minutes
Minutes Completed: October 26, 2011