

### DINNER BRIEFING

The City Council of the City of Charlotte, North Carolina, convened for a Dinner Briefing at 5:21 p.m. on Tuesday, January 17, 2012, in Room Ch-14 of the Charlotte-Mecklenburg Government Center, with Mayor Anthony Foxx presiding. Councilmembers present were: John Autry, Michael Barnes, Patrick Cannon, Warren Cooksey, Andy Dulin, Claire Fallon, Patsy Kinsey, LaWana Mayfield, James Mitchell, and Beth Pickering.

Absent until noted: David Howard

**City Attorney, Bob Hagemann**, introduced the new Deputy City Attorney, Carolyn Johnson, and Senior Assistant City Attorney, Hope Root.

**Tammie Keplinger, Planning**, reviewed the public hearings, decisions and deferrals on the agenda and responded to questions.

The briefing was recessed at 6:05 p.m. for the Council to move to the Meeting Chamber for the Zoning Meeting.

\* \* \* \* \*

### ZONING MEETING

The Council reconvened at 6:11 p.m. in the Meeting Chamber of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Councilmembers present were John Autry, Michael Barnes, Patrick Cannon, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell, and Beth Pickering.

\* \* \* \* \*

### INVOCATION AND PLEDGE

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

Mayor Foxx said I want to acknowledge the presence of one of our former Mayors in the audience today. Mayor Vinroot, good to see you; always glad to have you in the house.

Mayor Foxx then explained the Zoning process and Steven Rosenberg, Chair of the Zoning Committee, introduced the Committee.

\* \* \* \* \*

### DEFERRALS

Mayor Foxx announced the items requested to be deferred as follows:

Item No. 4, Petition No. 2010-080; No. 9 Petition No. 2011-075; No. 14, Petition No. 2011-068, No. 15 Petition No. 2011-072 and 20, Petition No. 2012-001 requests deferral for one month.  
Item No. 3, Petition No. 2008-032 requests deferral to April.

[ Motion was made by Councilmember Cannon, seconded by councilmember Kinsey, and ]  
[ carried unanimously, to defer Item Nos. 4, 9, 14, 15 and 20 to February, and Item No. 3 ]  
[ Petition No. 2008-032 deferred to the April. ]

Item No. 3 was reconsidered and acted upon later in the meeting

\* \* \* \* \*

### DECISIONS

**ITEM NO. 1: ORDINANCE NO. 4805-Z DESIGNATING THE "EASTOVER ELEMENTARY SCHOOL" AS A HISTORIC LANDMARK.**

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and ]  
[ carried unanimously, to adopt the subject ordinance. ]  
The ordinance is recorded in full in Ordinance Book 57, pages 477-480.

\* \* \* \* \*

**ITEM NO. 2: ORDINANCE NO. 4806-Z DESIGNATING THE “JOHN B. ROSS AND COMPANY MILL” AS A HISTORIC LANDMARK.**

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Mayfield, and ]  
[ carried unanimously, to adopt the subject ordinance. ]

The ordinance is recorded in full in Ordinance Book 57, pages 481-484.

\* \* \* \* \*

Councilmember Barnes said Mr. Dulin, I wanted to clarify, were you intending to raise this Petition No. 2008-032 tonight for a decision?

Councilmember Dulin yes, thank you for bringing that up.

Mr. Barnes said we included Item No. 3 in the deferrals for April.

Mr. Dulin said this is something that’s been in front of us since 2008. We’ve gained some information tonight from staff that the protest petitioners have verbally said that they would be lifted, and that our action tonight, if we went ahead and denied the petition, would only help that process.

[ Motion was made by Councilmember Dulin, seconded by Councilmember Barnes, and carried ]  
[ unanimously, to reconsider Item No. 3, Petition 2008-032. ]

**ITEM NO. 3: PETITION NO. 2008-032 BY MYERS PARK HOME OWNERS ASSOCIATION FOR A CHANGE IN ZONING OF APPROXIMATELY 38.79 ACRES LOCATED ON BOTH SIDES OF SELWYN AVENUE AND ROSWELL AVENUE FROM LORENE AVENUE, NORTH TO BUCKNELL AVENUE FROM R-22MF TO R-8MF.**

A protest petition has been filed and is sufficient to invoke the 20% rule requiring affirmative votes of ¾ of the Mayor and Council in order to rezone this property.

[ Motion was then made by Councilmember Dulin and seconded by Councilmember Barnes, to ]  
[ deny Petition No. 2008-032, including the Statement of Consistency that this petition is ]  
[ inconsistent with the latest recommendations of the Central District Plan. ]

Councilmember Howard said I want to hear from staff. If everything is clear, why is it still on here for deferral?

**Tammie Keplinger, Rezoning Planning Manager**, said the reason is that the petitioner, Myers Park Homeowners Association, is requesting that the petition be withdrawn. That is the result of the Height in Residential District text amendment. They have four sufficient protest petitions. The zoning ordinance says that if you have a sufficient protest petition, the item cannot be withdrawn; it has to go through and have those protest petitions deemed insufficient or the Council can deny it. In this case, the Council requested information on what a denial would be, and because this is a third-party rezoning, there would be no further action and the properties would not be penalized by the two-year rule that would normally penalize a property owner if their petition is denied.

Mr. Dulin said the gist of this is, this came before us in 2008 as a protest against one particular project. This zoning petition in its quest was to downzone thirty-eight pieces of property in this neighborhood that they do not own, which is as we’ve all learned, is everyone’s right. You can

go try to rezone any piece of property you want to whether you own it or not. Property rights conversations I've had over the last five years now, and it's time for this thing to move on. The homeowners association got basically what they wanted. They were concerned about height and height restrictions in keeping buildings down in their neighborhood which was passed. I think it would save everyone time if we moved on from this tonight. This particular zoning petition is shared by representation from Ms. Kinsey and myself, and of course all of us at the dais, and I think this is a good motion and one I am comfortable with supporting. Mr. Barnes and I are in congruence.

Councilmember Kinsey said Mr. Davies is here representing the Myers Park Homeowners Association. I'm sure, if you have any doubt, he is here and could address that. Mr. Davies, you're representing the Myers Park Homeowners Association. Can you report to us their position on this?

**Mr. Ken Davies, Myers Park HOA**, said as Mr. Dulin mentioned, we did obtain the results we wanted with the text amendment so we are okay with the denial of our petition.

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

\* \* \* \* \*

**ITEM NO. 5: ORDINANCE NO. 4807-Z FOR A UR-2 (CD) SITE PLAN AMENDMENT FOR APPROXIMATELY 12 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF ARDREY KELL ROAD AND PROVIDENCE ROAD.**

[ Motion was made by Councilmember Cooksey, seconded by Councilmember Barnes, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-064 for ]  
[ the above site plan amendment by Fairway Row, LLC, as modified and as recommended by ]  
[ the Zoning Committee. ]

The modifications are:

1. All buildings illustrated on the "Golf Course Buffer Planting" sheets have been removed.

The ordinance is recorded in full in Ordinance Book 57, pages 485-486.

\* \* \* \* \*

**ITEM NO. 6: ORDINANCE NO. 4808-Z FOR A BD (CD) SITE PLAN AMENDMENT FOR APPROXIMATELY 4.15 ACRES LOCATED ON THE SOUTH SIDE OF CROSS BEAM ROAD BETWEEN BEAM ROAD AND ROSE LAKE DRIVE.**

[ Motion was made by Councilmember Barnes, seconded by Councilmember Fallon, and ]  
[ carried unanimously, to approve the Statement of Consistency and Petition No. 2011-066 ]  
[ by 52 Eighty, LLC, for the above site plan amendment as modified and as recommended by ]  
[ the Zoning Committee. ]

The modifications are:

1. "Rezoning petition 2011-066" was added to Sheet Z.100.

The ordinance is recorded in full in Ordinance Book 57, pages 487-488.

\* \* \* \* \*

**ITEM NO. 7: PETITION NO. 2011-071 FOR A ZONING CHANGE FOR APPROXIMATELY 1.02 ACRES LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION AT EAST SUGAR CREEK ROAD AND ATMORE STREET FROM R-5, B-1, AND I-2 TO B-2 (CD).**

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Mitchell, to ]  
[ approve the Statement of Consistency and Petition No. 2011-071 by Krzysztof Broszkiewicz, ]  
[ for the above change in zoning, as recommended by the Zoning Committee. ]

**Tammie Keplinger, Rezoning Planning Manager**, said I would like to give you an update on the fencing detail on this petition. The Zoning Committee in their recommendation did ask that the details of the fence be worked out prior to the Council decision. What you have on your screen and what was handed out tonight at your dinner meeting represents what staff has worked out with the petitioner. It is an aluminum fence that is black and is approximately six feet tall. The staff is comfortable with this fence.

Councilmember Kinsey said some of the surrounding neighborhoods are not very excited about this particular petition. I did receive some information about that. However, I did contact the Howie Acres neighborhood. This particular piece of property sits right there on the edge of Howie Acres neighborhood, and they are OK with it. In fact they feel like it's a better use of that property than they have had there. This is a conditional rezoning, and because of that, the petitioner must put up not only this decorative fence, but privacy fencing around the house that's there for which he is requesting to be rezoned. It does abut another single family home. He also has to add sidewalks, plantings, street trees, curb and gutter, and green strips. So, they feel like they're coming out ahead. Also, a piece of this property is already zoned that could be used for a used car lot. And that's, frankly, what he is going to put there. He's just moving a lot that he has already closer to Tryon Street – he's just moving it here. He's already cleaned off the lot, he owns it, and I think he fully intends to go ahead and set up his business there. If we don't rezone it, then the neighborhood loses some of those amenities and, quite frankly, we all lose some of those amenities. I'm going to support this petition. I'm doing it because the neighborhood does support it as well, Howie Acres neighborhood.

Councilmember Dulin said as much as I'd like to support Ms. Kinsey on this, when I read this this weekend, and I made my first rush and my first notes, it's full of notes, I'm going to stick to my original 'no' on it.

Councilmember Howard said I'm going to agree with Mr. Dulin. Having grown up in Charlotte, the idea of seeing that corridor kind of become just a strip of car lots is just not something that I support. It's not something that I think would be good. I just can't support it.

Councilmember Barnes said I would like to support my colleagues on petitions. My concern about this one is we will see along Sugar Creek Road what she and I actually are currently both dealing with along Tryon Street, which is the Pizza Huts that have turned into used car dealerships, the fast food places that have turned into car dealerships. I appreciate that he can use part of the site for that purpose, but I'm not comfortable supporting the petition.

Councilmember Cannon said just for clarity, first of all, it is a very poor use of real estate. I think that's been echoed around this dais; no one agrees with that. It's terrible use. I remember going through something similar in District 3 off of South Tryon Street. But Tammie, right now, as I think I heard the District Rep state earlier in our dinner meeting, nothing's really changing but for this decorative fence going up. Correct?

Ms. Keplinger said the rezoning will take the house that is currently zoned R-5 and allow it to be used as the office for the business. There's a small piece of property that is zoned I-2 that's probably undevelopable by itself; it will allow it to be integrated in with the other property. They will put the decorative fence that we showed the picture of, they're going do the 6 and 8, which is the six-foot sidewalk and eight-foot planting strip. They're also going to be buffering beside the adjacent house on Atmore Street. So, there are some improvements; also, instead of having the cars all the way up to the street, we know the location and it's going to be hinged on the location of the fence. We do get some good esthetics, as well as we can.

Mr. Cannon said and that is probably the only reason why I'm going to support it; because it's better than what you got. If you want to try to at least do what you can to try to improve the area, then you should support this. If not, then obviously, leaving it out in the open for what already is an unpleasant site in terms of the kind of things we like not to see, in my opinion, is not the way we should be going. I'm going to support the District Rep in this because, esthetically, it should be a bit more pleasing to the eye. And I think going that route will allow that.

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

YEAS: Councilmembers Cannon, Cooksey, Kinsey, and Mitchell.

NAYS: Councilmembers Autry, Barnes, Dulin, Fallon, Howard, Mayfield, and Pickering.

\* \* \* \* \*

**ITEM NO. 8: ORDINANCE NO. 4809-Z FOR A CHANGE IN ZONING FOR APPROXIMATELY 18.60 ACRES LOCATED ON THE SOUTH SIDE OF BELHAVEN BOULEVARD AND ACROSS FROM OAKRIDGE DRIVE AND WESTBOURNE DRIVE FROM R-8MF (CD) (LWPA) TO R-4 (LWPA).**

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, and ]  
[ carried unanimously, to approve the Statement of Consistency and Petition No. 2011-074 by ]  
[ Kids Going Bananas, for the above zoning change as recommended by the Zoning ]  
[ Committee. ]

The ordinance is recorded in full in Ordinance Book 57, pages 489-490.

\* \* \* \* \*

**ITEM NO. 10: ORDINANCE NO. 4810-Z FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.38 ACRES LOCATED ON THE SOUTH SIDE OF WEST BOULEVARD BETWEEN SIRUS LANE AND YORKMONT ROAD FROM I-1 TO I-2.**

[ Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, to ]  
[ approve the Statement of Consistency and Petition No. 2011-076 by Elam Group, LLC, for ]  
[ the above zoning change as recommended by the Zoning Committee. ]

Councilmember Mayfield said I have a question regarding this particular zoning petition. Looking at the proposal of light industrial to general industrial – what is the impact of the surrounding homes and the neighborhood, and did we have communication from those residents? Unfortunately, I received some correspondence stating that some residents did not have access to be a part of the conversations.

**Tammie Keplinger, Rezoning Planning Manager,** said Council’s notification policy for rezoning is that we notify any individual property owner within 300 feet, State law requires us to notify within 100 feet, so we triple that. We also notify any neighborhood organization that is registered with the Planning Department at the time of submittal of the rezoning that is located within one mile. So, if they’re registered with us, we’ll pick up the neighborhoods that are in that area. If you look at the map that’s associated with this petition, the residential property – there’s basically one that’s off of Bonham Drive to the South, so my guess is there aren’t many that fall within that 300 feet. Your first question was what is the impact of this rezoning on the residential properties in the area. I would say the impact is probably going to be minimal. The difference between an I-1 and an I-2 district, you still have to have the screening for the parking lot and for any outdoor storage. Although it does allow some uses that are more intense, some of those uses require large amounts of land. This is only 5.38 acres so that would eliminate a lot of those uses.

A vote was taken on the motion to approve and carried unanimously.

The ordinance is recorded in full in Ordinance Book 57, pages 491-492.

\* \* \* \* \*

**ITEM NO. 11: ORDINANCE NO. 4811-Z FOR A CHANGE IN ZONING FOR APPROXIMATELY 42.0 ACRES LOCATED ON THE NORTH SIDE OF CINDY LANE BETWEEN INTERSTATE 77 AND MURRAY STREET FROM R-4 TO B-2 (CD).**

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, and ]  
[ carried unanimously, to approve the Statement of Consistency and Petition No. 2011-077 by ]  
[ Carolina Golf Lodge, for the subject zoning change, as modified, and as recommended by ]  
[ the Zoning Committee. ]

The modifications are:

1. A note has been added stating that the petitioner/developer shall terminate Oakwood Drive by constructing street improvements per City of Charlotte public street standards and extend driveways from the new terminus.
2. A detail of the proposed six-foot high wood fence has been added.

Councilmember Mitchell said thanks to Bob Young and to the developer who is going to develop this golf course in District 2 for so long. It was a site that everyone was thinking that something was going to go there that was less desirable. But, we finally waited until we got something that the community's proud of. So, thanks Bob. We're looking forward to the new development of a golf-training academy.

The ordinance is recorded in full in Ordinance Book 57, pages 493-494.

\* \* \* \* \*

**ITEM NO. 12: ORDINANCE NO. 4812 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE REGULATIONS FOR SHORT TERM CARE FACILITIES.**

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-080 by ]  
[ the Charlotte-Mecklenburg Planning Department, for the subject Text Amendment as ]  
[ recommended by the Zoning Committee. ]

The ordinance is recorded in full in Ordinance Book 57, pages 495-496.

\* \* \* \* \*

**ITEM NO. 13: ORDINANCE NO. 4813 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY OFF-STREET PARKING REGULATIONS FOR MOTION PICTURE THEATRES.**

[ Motion was made by Councilmember Barnes, seconded by Councilmember Mitchell, and ]  
[ carried unanimously, to approve the Statement of Consistency and Petition No. 2011-081 for ]  
[ the subject text amendment by the Charlotte-Mecklenburg Planning Department, as ]  
[ recommended by the Zoning Committee. ]

The ordinance is recorded in full in Ordinance Book 57, page 497.

\* \* \* \* \*

**HEARINGS**

**ITEM NO. 16: HEARING ON PETITION NO. 2011-073 BY WELLS PROPERTY NUMBER ONE, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.81 ACRES LOCATED ON THE SOUTH SIDE OF EAST 3<sup>RD</sup> STREET AND SURROUNDED BY SOUTH KINGS DRIVE, CHARLOTTETOWN AVENUE, AND CHERRY STREET FROM B-2 TO MUDD-O.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Rezoning Planning Manager**, said I would like to remind Council that we did hand out a new staff analysis this evening. You might want to refer to that one as we go through this petition. In terms of this property, it's 2.18 acres. The request is to rezone from B-2, which is a general business to MUDD-Optional. Just a little bit about the petition and the area that the petition is located in. You can see in terms of the zoning, we have a lot of mixed use in this area with a lot of commercial showing up in red. In terms of the actual land use, again, it is a mixture. We have some residential which shows up in yellow; the commercial and institutional uses. Future land use is representative of a lot of the zoning that is on the ground in terms of commercial and mixed use. You can see the property which is located off of East 3<sup>rd</sup>

and Cherry Street. The target site and Metropolitan is located within this area with Little Sugar Creek greenway along the perimeter. The site plan that is associated with this petition shows that the building that is proposed will be a maximum of 100 feet. Their streetscape improvements and setbacks that are consistent with those that are proposed in the draft Midtown-Morehead-Cherry plan. There's a sixteen foot setback along 3<sup>rd</sup> Street. As discussed with the petitioner, the Midtown-Morehead-Cherry plan actually recommends a twenty-two foot setback, but staff did commit to agree to sixteen feet, and we felt that we needed to be consistent with that. There's a concrete passenger shelter pad for CATS. There are two optional provisions for this petition. One is an eleven-foot setback on Cherry Street from the future non-recessed curb, and also, a minimum six-foot sidewalk adjacent to the back of the curb along the site's frontage on Cherry Street. The proposal is consistent with the draft Midtown-Morehead-Cherry plan which recommends a mixture of uses for the property. Staff is recommending approval upon resolution of outstanding issues.

**Richard Vinroot, 101 North Tryon Street**, said it's a pleasure to be here, representing Mr. Jim Zanoni standing next to me. We are representing the Wells Property Number One development proposed for this area. I think if you all are familiar with it, as you head out 3<sup>rd</sup> Street, before you turn on Charlottetown Drive, it's the little triangular area over there where there's an ABC store on the right. There's the Pancake House on the other side, and as you know, the Target's around it. We've worked on this, and have been working on it for some time. All of that development in there has been with a close working relationship with the staff of the City. Basically, we are filing a petition that anticipates the small area plan – the PED Overlay District in the cue now, to be approved by your honors in the near future. We are asking that the B-2 that's there now be rezoned to MUDD-Optional. It's a pedestrian-friendly mixed-use development. It will limit height to 100 feet and exclude vinyl exteriors. All of these things are consistent with the on-coming small area plan. There will be a bus shelter on 3<sup>rd</sup> Street built by the development. Right now there is no planned development, but all the things that are going to be permitted there are consistent with what's there at this time and what is around it. I'm not aware of any opposition. My partner, John Carmichael, has conducted two community meetings. I think there were seven people at one and two at the other. There were really, I think, no reservations that we are aware of by anyone there associated with that. There may be protestors tonight, but I'm not aware of that. In lieu of the hour and that you have many more to go, I'll be brief unless you have questions of either Jim or me.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

\* \* \* \* \*

**ITEM NO. 17: HEARING ON PETITION NO. 2011-078 BY SAMI NAFISI FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.91 ACRES LOCATED ON THE SOUTHWEST CORNER OF CENTRAL AVENUE AND WESTOVER STREET FROM R-5 AND B-1 TO NS.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Rezoning Planning Manager**, said this petition is a change in zoning for approximately an acre of land that's located on the southwest corner of Central Avenue at Westover. The change is from R-5 and B-1 to NS (Neighborhood Services). As you can see along Central Avenue, we have commercial uses in B-1 with residential along the perimeter. In terms of the land use, it reflects the zoning for the area with the residential along the perimeter. The future land use, again, calls for Central as the corridor with commercial development. You can see the property in question; the front portion is shown as commercial, but the rear portion is shown as residential. Currently, there is a convenience store on the site. It has a non-conforming drive-through carwash which is actually located on the R-5 property. The petition is to rebuild a new convenience store and to reutilize the existing pumps and canopies once they are revitalized. The carwash will be removed, and it will not be replaced. The Central District plan, as I pointed out, recommends retail where the existing convenience store is, but it does recommend single family residential where the carwash is. Even with that, staff would recommend approval of this

petition if all of the outstanding issues were resolved. However, the issues have not been addressed to our satisfaction. At this point, we are recommending denial of this petition.

**Beth Brown, 1407 Westover Street**, said I live on the abutting property on the southern side of this subject rezoning site. The right side of my home and back yard sits adjacent to the property in review for rezoning. Currently, the carwash exists on that property which is zoned residential. One of my favorite things to do when I get home after work is to sit in my backyard with my dogs and relax from the day. Some days there are actually some really great music being played by the people washing their cars. There are also the times when the music is being so loud that my house actually rattles. People wash their cars all day, and a lot of times into the night. But the washing of cars is not the only thing that goes on at the carwash. Drunks gather back behind the carwash. I've witnessed what appeared to be drug deals behind the carwash. And on any given day I can count on witnessing various men walking behind the carwash and urinating. I can see all of this happening because between me and the carwash there currently exist just a chain link fence with small wooden slats. The fence provides no privacy at all from the goings-on behind the building. From the drawings of the proposed rezoning, it appears as though the carwash will be replaced with a convenience store. My request for my safety and privacy is that an appropriate wooden stone or brick wall be constructed – something that is opaque, attractive, and hinders my viewing of the back of the building that is proposed.

**Dean Prevette, 2923 South Tryon St., Suite 120**, said I'm a local consulting engineer. I've been involved in the design process with this particular piece of property and attended the two previous informal meetings. To the best of my knowledge, we have no one that is opposed to what we're doing. To address Ms. Brown's questions, we are actually proposing a Class B buffer which would be a 20-1/4 foot buffer with an eight-foot fence and the landscaping as required with the trees, plants, etc. Her backyard would be greatly improved, and the noise issue would go away. There is no rear entrance to the proposed c-store. In one of our earlier meetings, we had one of the residents on the other street adjacent to us request that we not have any music coming from the canopy speakers. There is no intention of having any speakers in the canopy. There will be the usual speaker in the pumps so that you can ask the cashier to turn the pump on and off and that's it. One point of clarification I'd like to bring to everybody's attention, the portion of this property right now that's zoned R-5. The carwash was built in 1989. I'm not sure what the zoning was in '89. But in 1993, that whole tract of land, both residential and commercial, was rezoned and the carwash was rezoned as residential, even though it was existing as a carwash as a non-conforming use. My personal opinion is that it probably should have been rezoned at that time. But, I don't have the specific history. What we'd like to do is get the entire tract rezoned as a neighborhood services, demolish the entire site, put up the landscape buffer, not only on the side adjacent to that, but also on the other side, there will be a partial landscape buffer on the residential, adjacent property. There is a use next door that is business and there would not be a landscape buffer between us and the business park.

**Andrew McCullough**, said I'm the attorney for the property owner and petitioner. I've nothing to really add to what Dean said, but I can answer questions. I'm here in that capacity.

Councilmember Fallon said if this is so longstanding, why wasn't it grandfathered in?

Ms. Keplinger said I am not sure. We would have to do a little further research on the history of this property to see if there was actually a grandfather there. Regardless of whether it is or not, the petition has come in to rezone it. They're asking to remodel and to tear down what would be non-conforming.

Councilmember Howard said to the designer, you mentioned an eight-foot fence that would separate you from the young lady that came down and spoke. Privacy fence? Chain link?

Mr. Prevette said there would be a wooden privacy fence as required in the City ordinances under the Class B buffer. The ordinances require, on that particular sized property, a twenty-seven foot buffer without a fence; we have opted to go with the reduced buffer to put the fence up, because the neighbors were asking for a fence. So there will be a fence there with landscaping.



Mr. Howard said what about lighting? A lot of times, I'm not sure what kind of lighting the carwash has right now, but what about a convenience store? Any concerns there at all for you guys?

Ms. Keplinger said that is one of our outstanding issues. We've asked for them to limit the detached lighting to twenty-five feet. Of course, that would have to be shielded in so that it wouldn't affect any of the adjacent properties. That was not shown on the revised site plan. So, it is outstanding.

Mr. Prevette said that is being addressed. We didn't get the information back, but we'll be resubmitting the revised plans on Friday. Right now, we're having a zero light level at the property line for the cutoff limits so that there will be no light going beyond the edge of the property.

Councilmember Kinsey said another outstanding issue that I'd like to know the situation there is the eight-foot planting strip. Street trees, six-foot sidewalk, on Central and Westover – is that going to be done?

Mr. Prevette said yes, that's currently being addressed. The architectural firm is actually doing the work, is in Arkansas, and they are supposed to be getting the plans back to me for review tomorrow. They will be resubmitted by noon on Friday for a working session.

Ms. Kinsey said I would call Council's attention to the fact that this is very similar to the case that you denied earlier this evening.

Councilmember Cannon said who was responsible for organizing the community meeting?

Mr. Prevette said that would have been me. We sent out sixty-nine invitations.

Mr. Cannon said of the sixty-nine invitations, it looks like only Mr. and Mrs. Arrant attended the meeting?

Mr. Prevette said Jessica and Chad; and they were very much in favor of it. They were opposed to the noise and similar issues that the other party discussed.

Mr. Cannon said I noticed that you had the meeting beginning at 5:00 p. m. to 6:00 p. m. I understand that there are, maybe, some folks out of work with a recession going on, but I wonder why you would have a meeting from 5:00 to 6:00 p.m. to not allow others who may have wanted to attend the meeting, which probably would be better suited around 6:30 or so, to be able to get there to express their support or lack thereof.

Mr. Prevette said that was a concern of ours also. The timing on the meeting required that it be between Christmas and New Year's. The only place that we could find where we could hold the meeting was at the Public Library. They close at 7:00 pm, and they asked us to vacate the room by 6:30. We talked about having a meeting at one of the hotels downtown, but when I discussed that with some of the Planning staff, they preferred we have something closer to the neighborhood. I didn't like that timing, either, but I didn't have many options.

Mr. Cannon said you always have options.

Ms. Kinsey said I would say anytime you have a problem finding a place, contact your District Rep because we probably can help you with that. I will be attending the community meeting next week, and I'm going to present this to them. I want to see if you would be willing to come to another meeting with them if they wished.

Mr. Prevette said yes, no problem at all.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

\* \* \* \* \*

**ITEM NO. 18: PUBLIC HEARING ON PETITION NO. 2011-082 BY STEELE CREEK 1997 LIMITED PARTNERSHIP FOR A CHANGE IN ZONING FOR APPROXIMATELY 11.0 ACRES LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH TRYON STREET AND STEELE CREEK ROAD FROM R-17MF(CD) AND CC TO CC AND CC SPA.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Rezoning Planning Manager,** said this is a rezoning for approximately eleven acres of land. It's located on the southwest corner of the intersection of South Tryon and Steele Creek Road. The proposed request is from R-17MF(CD) an CC, which is a commercial center, and to CC and CC SPA. The site that is proposed to be rezoned is shown in this area. As you can see, this is a commercial node that is at the intersection of Steele Creek and South Tryon Street in terms of zoning. In terms of land use, it has developed with commercial, institutional and office, and then residential high intensity and then lower intensity as you move away from the center of the road. In terms of future land use, again, it shows just basically what the current land use is for the site. This property was part of a 500-acre rezoning in 1992. Our next petition is 2011-083, it involves this site. And we're going to be talking about both of these. Most of the information that I'm going to provide to you will apply to both of these petitions. Both of them were rezoned as part of that 1992 rezoning. At that time, there was 71,000 square feet of office that was permitted, and 495 multi-family units. The petition that is before you tonight, for 2011-082, is just a portion of it, the eleven acre portion. It's predominantly office with some support retail. The total square footage is 100,000 square feet and that includes both the office and retail uses. There's one single family building that's allowed for a restaurant or retail; it's not to exceed 20,000 square feet. There is a limit of one accessory drive-through use for a financial institution only, so there would be no fast food restaurants on this site.

The vision is for a mixed use activity center at the intersection of South Tryon and Steele Creek. There are multiple components of this vision that are achieved through the design of this petition and the next petition, 2011-083. Those include greenway, street network, horizontal integration of land uses, common pedestrian connections, and open space. The petition 2011-082 is consistent with a draft Steele Creek Area Plan and the land use recommendations for mix of uses. While this petition includes office and retail and does not have a residential component, there are other multi-family residential uses within this mixed used activity center. For that reason, staff is supporting this petition upon resolution of outstanding issues.

**Jeff Brown, 100 N. Tryon Street, Suite 3900, 28202,** said if I could, before we start the presentation, we did want to mention that the speaker in opposition, Mr. and Mrs. Dallas Lott and we had a productive meeting with them in advance of the public hearing, and I don't believe they are speaking; so I think we would be limited to three minutes.

**Chris Thomas, 301 S. Tryon Street, Suite 2800, 28202,** said I'm with Childress Klein Properties. I'm also here tonight in the capacity as representative of the property owner, Steele Creek 1997 Limited Partnership. It's a family partnership that is in the Sara Belk Gambrell family. As Tammie noted, we have been some twenty years in the process of planning the properties around the intersection of South Tryon Street and Steele Creek Road. This is a progression of those activities. It involves some property that was already zoned for office that we're amending to include some property that is contiguous to it that is part of the original multi-family zoned site that was bisected by the realignment of Steele Creek Road about six or seven years ago, as Tammie has shown you. We are here tonight with our development team, certainly ready to answer your questions. We did have a good community meeting. I appreciate Councilmember Mayfield being there; we had a chance to review this with her. We certainly appreciate your consideration of this petition and the one that follows.

Mr. Brown said as Chris mentioned, and Ms. Keplinger as well, this is really part of two petitions. As you can see, it's a continuation of the original Rivergate Development in this location. We're dealing with an office piece here. I'll just highlight quickly in this location, particularly on the next slide, a number of sidewalk connections throughout the project for this predominantly office piece, new internal street and extension of Steele Croft Parkway; and again,

significant sidewalk connections which we think are also consistent with the Community Plan. Happy to answer any questions on this particular petition. We're excited about it. We've had a great response from the community, and we appreciate the opportunity to continue working with staff on the final, modest site plan issues. We'll talk about on the next petition, the retail petition, we've had extensive discussions with CDOT, also with regard to this whole area, and significant improvements will be made to the transportation infrastructure. We're excited about this, and again, happy to answer any questions. At your desk, we did provide highlights of the road improvements that will be made in connection with this petition, as well as just a summary of the benefits at the end of the presentation. We will not belabor it, but happy to answer any questions on this petition. Then we'll be happy to talk further about the next one, the retail site.

Councilmember Mayfield said mine isn't a question; it's more so of a comment regarding the collaboration between staff and the community and with the developers on this. There were some conversations and questions that came from the community, and I am excited to say why I do support this potential growth. There was the opportunity to come together, make some adjustments, make some changes that I think will be very beneficial for the Steele Creek area when we're looking long term for growth. So, just wanted to commend staff and commend you on bringing a really well put-together proposal.

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

Council's decision was deferred pending a recommendation by the Zoning Committee.

\* \* \* \* \*

**ITEM NO. 19: PUBLIC HEARING FOR PETITION NO. 2011-083 BY STEELE CREEK 1997 LIMITED PARTNERSHIP FOR A CHANGE IN ZONING FOR APPROXIMATELY 22.0 ACRES LOCATED ON THE SOUTHERN CORNER OF THE INTERSECTION OF STEELE CREEK ROAD AND WALKER BRANCH DRIVE FROM R-17MF(CD) TO CC.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Zoning Planning Manager**, said this one will be quite brief. I won't go through everything I went through on the last petition, but everything does still apply. This is the commercial component as Mr. Brown alluded to. It is 22 acres, the current zoning is R-17MF(CD) and the proposal goes to CC-Commercial Center. They're proposing 155,000 square feet of shopping center with a mix of uses that include the minimum of one medical office building. There is a limit to one accessory drive-through, and this time it is not limited to just a financial institution. There are two plazas that provide open space on the site. One is located in this area, and the other is located, I believe, in this area. They connect the shopping center to the greenway which runs along the southern property line. They're proposing the installation of an eight-foot, multi-use trail along a portion of the greenway that runs from this area to approximately to this area to the plaza, so that they can make those pedestrians connections. Again, this petition is consistent with the draft Steele Creek Area Plan. CDOT is available and has prepared a small presentation if you would like to hear from them regarding the transportation issues on this petition.

Councilmember Mayfield said I would like to have CDOT present for the sake of clarity.

**Mike Davis, Charlotte Department of Transportation**, said the impacts and mitigations for this petition are significant. I thought it was good for the public to be able to see this, and the notes in your notebook are pretty detailed as well; so, I'm just going to try to give you kind of a visual summary. This is sort of an aerial of the area in question, and South Tryon, for frame of reference, carries about 30,000 vehicles per day. Steele Creek is carrying about 15,000 vehicles per day. Where those two intersect, we do experience congestion today. This signal kind of controls everything, sort of throttles traffic along South Tryon and Steele Creek and the area. As we consider the rezoning petitions 082 and 083 and the impacts that we'll have specifically adding that 10,000 additional vehicle trips per day. We became concerned enough that we had the petitioner commit to completing a traffic impact study considering the combined effects of

both petitions. What came out of that reveals lots of things. Probably the most important issue to deal with is that, particularly in the afternoon, if you can see this red arrow is northbound Steele Creek to outbound South Tryon left turn is kind of a heavy move that would be added on top of the already stressed Steele Creek-Tryon intersection. The way that we're looking at mitigating this with the petitioner: they were already proposing to build this street here that's shown in yellow, and the idea here would be to introduce a new traffic signal along South Tryon and take advantage of this new route that would allow for those left turns to occur. It would actually be a full movement traffic signal, so it would do a lot to relieve congestion at the Steele Creek/NC-49 intersection. That's probably the main improvement, but in addition to that, the traffic study revealed the need for, and we'll follow through and get this on the site plan, assuming the petitioner is willing to do this, would be to add a second left turn lane from southbound NC-49 into the River Gate Phase I. This is an area where we are already experiencing some left-turn vehicles spilling out into the through lanes during most of the congested parts of the day. In addition, the egress movement from 082 onto Steele Creek would be handled by modifying that approach to add a second left turn lane. We would also look to have the storage increased along southbound 49 for the left turn movement. In addition to that, they're just sort of too-detailed to get into it here, but there are quite a bit of median and access modifications as well as curb-gutter, sidewalk, bike lanes, and things of that nature that sort of run that whole perimeter, depicted in orange. There are numerous improvements to deal with the impacts. I'm available to answer questions if you have any.

Ms. Mayfield said thank you for the presentation because I did want to make sure that the watching audience not able to attend tonight see where a lot of improvement based on the conversations from the community and a lot of thought was placed into this plan. I think that alleviation of traffic with that traffic light is going to make a major difference for the backup that happens, especially around 5:00 or 6:00 in the afternoon.

**Chris Thomas, 301 S. Tryon Street, Suite 2800, 28202,** said we view this proposed expansion of River Gate Shopping center as a logical progression in a situation where we've got property that's in multi-family. I think the community would suggest that there's ample multi-family product available in this immediate vicinity. They're excited about the proposed use as Councilmember Mayfield has indicated. We intend, architecturally and otherwise, to present this as an expansion of the existing shopping center with complementary uses, and we're happy to continue our work with staff and CDOT to resolve the outstanding issues.

**Jeff Brown, 100 N. Tryon Street, Suite 3900, 28202,** said I'm thrilled to be assisting Childress Klein and also the Steele Creek Limited Partnership which is made of Ms. Gambrell. Many of you know Ms. Gambrell, significant landowner in the community, and we're happy to be a part of this team. I won't do much more than just a couple of points of emphasis on this particular plan. This is the retail site which is the extension, as you will note. We have an extensive sidewalk system, we have connectivity, and new street network that we think is a very strong positive. Ms. Mayfield referenced some of the things that we worked with staff on early on, for example, creating a break in the buildings and a plaza that will allow connections to the greenway that will take place here, also providing connections in this location. We are working closely with CDOT, and we really appreciate the professionalism that CDOT has brought to the table and our ability to work and try to find the highest and best value for the improvements. There are significant improvements being made, very costly and significant dollar improvements. We're working through those issues, and we're optimistic we'll be able to reach resolution because we've made a great deal of progress. Again, at the dais, there is a summary of the improvements. Mr. Davis did a great job in a much more visual manner that we need to take a cue from in providing a sense of what the improvements are. Again, I leave you with these benefits. We are excited this is consistent with the Steele Creek draft plan, and we think also, not to go without mentioning, this is a very significant development project during a time when there's not a lot of that going on. We're excited about that, and we're excited about bringing it to you tonight.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

\* \* \* \* \*

**ITEM NO. 21: PUBLIC HEARING ON PETITION NO. 2012-002 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO REMOVE THE DUPLICATE LANGUAGE REGARDING OUTDOOR STORAGE.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Zoning Planning Manager**, said this is, very briefly, just a request to amend the zoning ordinance to eliminate a requirement that is actually listed in the ordinance twice. It's related to outdoor storage. If you look at the information provided at your dais, Section 9.8056 and 9.8058 are exactly the same. What we are proposing to do is to leave the text in 9.8056 and mark 9.8058 as reserved.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

\* \* \* \* \*

**ITEM NO. 22: PUBLIC HEARING FOR PETITION NO. 2012-003 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE DEFINITION OF MARQUEE SIGNS, MODIFY THE REGULATIONS AND ADD MARQUEE SIGNS TO THE MUDD ZONING DISTRICT.**

The scheduled public hearing was held on the subject petition.

**Sandra Montgomery, Charlotte-Mecklenburg Planning Department**, said this petition proposes a text amendment to the Zoning Ordinance that updates the definition for marquee signs, adds marquee signs as an allowed sign type in the MUDD Zoning District, clarifies that marquee signs are also permitted in the UMUD, PED, TOD, and TS Zoning District, and adds some provisions to regulate marquee signs. I have some examples of marquee signs so everyone knows what I'm talking about. This is an example of some traditional marquee signs that have the manually-movable letters that you typically have seen. Here are some examples of LED-pegboard style marquee signs that are the little dot lights that you might see at a movie theater, typically inside a movie theater, not outside as shown in the galaxy. But that's an example of a marquee sign from another community. Of course, we have the electronic, computer-generated changeable copy marquee signs, which are becoming increasingly more prevalent. A marquee sign is a structure that bears a sign that provides some changeable copy that relates to the principle use which is on the site. We propose to update the definition to that, and a marquee sign also projects over the entrance to the same use. We've added some examples of where marquee signs would be appropriate, such as at a movie theater, museum, hotel/motel, night club, cabaret, a convention center, stadium, or coliseum. There are some limitations placed on marquee signs if someone chooses to have them. There would be a minimum nine-foot overhead clearance from the sidewalk. It cannot extend above the roof line. There are some limitations if it is placed within the required setback. Changeable copy is permitted as long as it doesn't change more than once in a twenty-four hour period. Staff recommends approval of the text amendment.

Councilmember Barnes said there are at least two of us who prefer the traditional marquee signs, first of all. Second of all, and I think the answer to this is yes, but several months ago we passed some adjustments to the outdoor signage ordinance that applied to uptown, particularly, and I think this will be consistent with what we passed there. Is that true?

**Tammie Keplinger, Zoning Planning Manager**, said I believe it is consistent. These are signs that you do mostly see in the uptown area. I would say it is consistent with that ordinance.

Councilmember Barnes said from a dimension perspective from change of text?

Ms. Keplinger said absolutely, from dimensions in terms of the changeable copy sign, and from all of the requirements that go along with these signs.

Councilmember Cooksey said I have a question about the message shall not change more than once in a twenty-four hour time period. Does that mean if someone put up a misspelling, they can't change it for a day? Especially an embarrassing misspelling perhaps?

Ms. Montgomery said I don't think that that would apply. I think they could change that.

Ms. Keplinger said I think the intent behind that is to change the entire message.

Councilmember Howard said this feels a lot like the conversation we had a couple of years ago about the digital billboards on the freeway. When we talked about it, we talked about the different luminous, how bright it can be in the daytime, how bright it can be in the evening. Because two different levels that can be distracting at night time if it's the same level as it is in the daytime. Are you addressing that as well?

Ms. Montgomery said no, not in this Ordinance, not in this text amendment. Billboard signs do have some regulation for that because they do tend to be brighter. This is advertising for a business, and it's typically in an urban environment and in the MUDD and UMUD districts, TOD and TS, and we have not added any limitations for luminous.

Councilmember Howard said would you think about that please?

Ms. Montgomery said certainly.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

\* \* \* \* \*

**ITEM NO. 23: PUBLIC HEARING FOR PETITION NO. 2012-004 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO CORRECT A SECTION REFERENCE IN THE URBAN INDUSTRIAL ZONING DISTRICT.**

The scheduled public hearing was held on the subject petition.

**Tammie Keplinger, Zoning Planning Manager,** said this is another very short text amendment, and it is an issue in the Zoning Ordinance where we have a reference to the height exceptions in the Urban Industrial District that needs to be corrected. It says 12.109 and it should be 12.108.

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

Council's decision was deferred pending a recommendation from the Zoning Committee.

\* \* \* \* \*

Meeting was adjourned at 7:13 p. m.

---

Stephanie C. Kelly, City Clerk

Length of Meeting: 1 Hour, 18 Minutes  
Minutes Completed: February 21, 2012