

The City Council of the City of Charlotte, North Carolina, convened for a Dinner Briefing at 5:23 p.m. on Monday, February 20, 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, and Beth Pickering.

Absent: Councilmember Mitchell.

Laura Harmon, Assistant Director of Planning, reviewed the agenda deferrals, decisions, and hearings. Planning Director, Debra Campbell, reviewed the area plan status and text amendment update.

The briefing was recessed at 5:50 p.m. for the Council to move to the Meeting Chamber for the Zoning Meeting.

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ZONING MEETING

The Council reconvened at 6:00 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.

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INVOCATION AND PLEDGE

Councilmember Cooksey gave the Invocation, and Mayor Foxx led the Council in the recitation of the Pledge of Allegiance to the Flag.

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

Mr. Rosenberg said I wanted to report to Council that the Vice-Chair and I met with County Council and updated them on issues that were going on. We were quite well received last week, and they've asked us to do that on a regular basis, so we will continue to do that. They took particular interest in our Economic Development initiatives.

Mayor Foxx said thank you very much for your work. We appreciate all of you for your time as well.

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DEFERRALS

Mayor Foxx announced the items put for deferral, as follows:

Item No. 1 Petition No. 2010-80, deferral requested to May. Item No. 5 Petition No. 2011-082, Item No. 6 Petition No. 2011-083, and Item No. 18 Petition No. 2012-010, and Item No. 20, Petition No. 2008-039 deferral requested to March.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon,]
[and carried unanimously, to defer the subject items as specified above.]

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DECISIONS

ITEM NO. 2: ORDINANCE NO. 4832-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.81 ACRES LOCATED ON THE SOUTH SIDE OF EAST 3RD STREET AND SURROUNDED BY SOUTH KINGS DRIVE, CHARLOTTETOWNE AVENUE, AND CHERRY STREET FROM B-2 TO MUDD-O.

[Motion was made by Councilmember Dulin, seconded by Councilmember Barnes, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-073]
[for the above rezoning by Wells Property Number One, LLC, as modified and as]
[recommended by the Zoning Committee.]

The modifications are:

1. Amended proposed zoning to reflect MUDD-O.
2. Recessed parallel parking shown in correct location.
3. Amended notes under heading of Optional Provisions to state that the building setback line along Cherry Street is 11 feet from back of the future non-recessed proposed curb line, and to request a reduction of the eight-foot planning strip along the site's Cherry Street frontage and allow the street trees to be located within the recessed parking curb extensions.
4. Amended note B under the heading of Optional Provisions to state that the petitioner shall install on-street, recessed parallel parking along the site's frontage on Cherry Street.
5. Amended note D under the heading of Setbacks/Streetscape to state that the petitioner shall install on-street, recessed parallel parking along the site's frontage on Cherry Street.
6. Provided a cross-section of Cherry Street Improvements.
7. Amended note E under the heading of Setbacks/Streetscape by adding a time frame for improvements on Cherry Street.

The ordinance is recorded in full in Ordinance Book 57, pages 524-525.

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ITEM NO. 3: ORDINANCE NO. 4833-Z FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE REGULATIONS FOR RELIGIOUS INSTITUTION IN RESIDENTIAL DISTRICTS.

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-075 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, pages 566-567.

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ITEM NO. 4: ORDINANCE NO. 4834-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-078]
[for the above zoning change by Sami Nafisi, as modified and as recommended by the]
[Zoning Committee.]

The modifications are:

1. An eight-foot planting strip for street trees, a six-foot sidewalk, five-foot strips to accommodate shrubbery and curb and gutter are shown along Central Avenue and Westover Street and are now labeled on the site plan.
2. Screening in the form of a 10-foot landscape strip along abutting B-1 properties is shown and labeled on the site plan.

3. The zoning of surrounding properties is now shown on site plan.
4. Language is now provided on the site plan limiting detached lighting to 25 feet in height including the base.
5. Language is now provided on the site plan stating all lighting shall be fully shielded with full cut-off fixtures.
6. Language is now provided that states no "wall pak" type lighting shall be allowed.
7. The sheet showing only the existing site layout has been removed.
8. Notes in standard conditional form, including the language relating to lighting, are now provided on the site plan.
9. A detail/elevation of the fence that is part of the proposed 10-foot landscape strip abutting
10. B-1 zoned properties is now shown on the site plan.
11. The proposed Class "B" buffer along the property lines abutting lots zoned R-5 (portion along west property line and along entire south property line) has been amended to reflect 20.25 feet wide on the site plan.
12. A note specifying building materials is now provided on the site plan.
13. The petitioner has addressed the following CDOT issues:
 - a. The site plan shows eight-foot planting strips and six-foot sidewalks along Central Avenue and Westover Street.
 - b. The site plan now shows a proposed right-of-way line along Central Avenue, reflecting dedication of 10-feet of additional right-of-way to accommodate the required eighty feet along this roadway.

The ordinance is recorded in full in Ordinance Book 57, pages 568-569.

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ITEM NO. 7: ORDINANCE NO. 4835 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO REMOVE THE DUPLICATE LANGUAGE REGARDING OUTDOOR STORAGE.

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-002]
[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 570.

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ITEM NO. 8: ORDINANCE NO. 4836 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.

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2 012-003]
[for the subject text amendment by the Charlotte-Mecklenburg Planning Department, as]
[modified and as recommended by the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, pages 571-573.

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ITEM NO. 9: ORDINANCE NO. 4837 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO CORRECT A SECTION REFERENCE IN THE URBAN INDUSTRIAL ZONING DISTRICT.

[Motion was made by Councilmember Barnes, seconded by Councilmember Mayfield, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-004]
[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 574.

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HEARINGS

ITEM NO. 10. HEARING ON PETITION NO. 2011-065 BY CHAPEL COVE AT GLENGATE, LLC, FOR A MX-1 INNOV SITE PLAN AMENDMENT (LLW-PA) AND (LLW-CA) AND 5-YEAR VESTED RIGHTS, FOR APPROXIMATELY 319.91 ACRES LOCATED ON THE EAST AND WEST SIDE OF SHOPTON ROAD WEST GENERALLY SURROUNDED BY WINGET ROAD, ELKHORN DRIVE, LIMEHURST PLACE, AND HATFIELD ROAD.

A protest petition has been filed and is sufficient to invoke the 20% 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.

Shad Spencer, Planning Department, This is a site plan amendment for approximately 320 acres and this site is located on both the west side and east side of Shopton Road West. It is a site plan amendment to an existing MX-1 INNOV zoning classification that is located within the Lower Lake Wylie critical area and the Lower Lake Wylie protected area. They are also requesting a 5-year vested rights with this petition. The site plan amendment would be to increase the single family density for this portion of the original Sanctuary rezoning which currently calls for approximately one dwelling unit per acre, and they're proposing 1.75 dwelling units per acre. The overall density of the original Sanctuary rezoning would increase from 0.4 to 0.52 dwelling units per acre. If you look, you can see there are the surrounding zoning as the majority of it is zoned for single family. But then over here to the west is the original Sanctuary zoning, MX-1 Innovative. The current land use is predominantly single family residential with vacant parcels also, and there is the Charlotte Fire Station which is located right here on Shopton Road West near the lake. The adopted future land use for this calls for residential, one dwelling unit per acre. This is an aerial that identifies for the properties located. Some of the additional details that go along with this rezoning, they've provided some architectural standards for the single family homes that would be built within this development which would deal with building materials, roof pitches, and garages, and things like that. They're also indicating a 100-foot buffer of common open space that would run along Shopton Road. They're also indicating a minimum of 15 percent tree save which exceeds the minimum requirement of 10 percent. They have large areas of open space that exceed the minimum standards. Within the open space, they identify some walking trails that run throughout the development. All the lots would have a minimum width of 50 feet, and they are also requesting some innovative provisions for street cross sections on some of the existing, abutting streets within this development. This area is located within the draft Steele Creek Area Plan which you will be seeing next Monday night for approval or recommended for approval. In that plan, it recommends for residential land uses up to one dwelling unit per acre within the original Sanctuary rezoning area. Again, with this proposal, the overall density of the original rezoning would remain below one dwelling unit per acre at 0.52. So with that, staff is recommending approval upon resolution of outstanding issues.

John Carmichael, 101 N. Tryon St. 28246, 704-377-8341, said I'm here on behalf of the petitioner, Chapel Cove at Glengate, LLC, which is a related entity of Crescent Resources. With me tonight are James Martin of Crescent Resources and Matt Levesque of ESP Associates, the petitioner's land planner. The site subject to this petition has approximately 320 acres and is comprised of two non-contiguous parcels of land. One of the parcels of land contains about 180 acres, located on the west side of Shopton Road West. The other parcel of land contains approximately 140 acres, and it's located on the east side of Shopton Road West, just south of the future Winget Road Extension, and as I said, that's about 140 acres there. The site is part of a larger 1,828-acre site that was rezoned to the MX-1 Innovative Zoning District in 2003 pursuant to Petition No. 2003-024. This slide depicts the 1,800 acres that were rezoned to MX-1 Innovative. As you can see, that zoning divided the 1,800 acres into three parcels, Parcel A, Parcel B, and Parcel C. Parcel A contains approximately 1,323 acres. Under that 2003 rezoning, a maximum of 200 single family homes could be developed on Parcel A. Under the existing

zoning, there is no minimum lot size in Parcel A, and Parcel A has been developed in the existing Sanctuary residential development. I think it contains about 187 single family homes. Parcel B contains 204 acres under the original rezoning. It allowed up to 220 single family homes. The minimum lot size in Parcel B is one-third of an acre, or 14,520 square feet. Parcel C contains approximately 301 acres and that would allow up to 320 units which is just a hair over unit per acre, just as is allowed in Parcel B. The minimum lot size in Parcel C, likewise, is one-third of an acre, or 14,520 square feet. Under the existing conditional rezoning plan governing the use and development of the site, Parcel B and C could be developed more densely than Parcel A.

Additionally, under the existing rezoning, there are no architectural standards imposed on the single family homes. The 100-foot common open space or buffer along Shopton Road West that Mr. Spencer mentioned is not required. The petitioner is seeking a site plan amendment pursuant to this rezoning petition for a 180-acre portion of Parcel B, and the southern portion of Parcel C, that area located south of the future Winget Road Extension. The request is to allow the development of a residential community containing only for-sale, single family, detached homes and developed to the density of 1.75 units an acre. The total number of homes that would be permitted if the petition is approved is 559. 315 of the homes could be located on Parcel B, and 244 homes could be located on, this is actually called Phase 3 on the conditional rezoning plan, but it's the Parcel C. Now this is the conditional rezoning plan for Parcel B, and this is the conditional rezoning plan for that portion of Parcel C designated as Phase 3.

Under the current plan before you tonight, the minimal lot width is fifty feet. We mentioned a 100-foot common open space located along the site's frontages on Shopton Road West. Under the plan, existing trees measuring four inches in caliber or greater would be preserved except the trees could be removed if a widening was ever required in the future by NCDOT or CDOT. That would be something that we couldn't control obviously. Or, there's a Duke Power right-of-way along a portion of our frontage on Shopton Road West, and presumably if Duke Power required the removal of the trees, then that would have to be done as well. But other than those exceptions, trees four inches in caliber or greater would be preserved. The sidewalk called to be installed along Shopton Road West could meander to preserve existing trees. A 50-foot Class C buffer would be established along portions of the perimeter of the site. A 75-foot Class C buffer would be located along this portion of Withers Cove Road. Additionally, a shared walking path would be established or installed along this portion of Withers Cove Road. There's an abundance of open space in tree save areas. Parcel B, 25 percent of the site would be devoted to common open space, 15 percent would be devoted to tree save areas. Phase 3, which once again is the southern portion of Parcel C on the original zoning, 20 percent of this area would have to be devoted to common open space and a minimum of 15 percent would be in tree save areas. Under the notes on the plans, the common open space area is designated as tree save open space. It has to be passive open space, and it would be maintained in a natural state except for minimal hand clearing for the installation of natural surface trails for hiking, jogging, walking. Those structures could be installed in these areas.

We have imposed architectural standards or restrictions on the homes. These include permitted exterior building materials that would have to be face brick, cementitious siding, manufactured stone and stucco. Vinyl would not be a permitted exterior building material, but you could have vinyl accents such as shake on reverse gables and dormers, vinyl could be installed on the soffits, and you could have vinyl windows. Exterior roofing material would have to be minimum, 25-year architectural shingles. You could also have metal roofing materials. The minimum pitch for the primary portion of the roof would be 7 to 12; all other portions of the roof such as portions over garages and porches, would have to have a minimum pitch of 3 to 12. There would have to be a minimum 8-inch overhang required for the main or primary portion of the roof for each home. At least half the homes would have to have front porches. Each home would be required to have a two-car garage. The front plane of a front loaded garage couldn't extend more than four feet above the front plane of the home so you wouldn't permit the snout houses that you've heard about in the past. Then, a minimum of two hardwood trees, which are at least 2-1/2 inches in caliber at the time of installation, would have to be installed on each lot. For a corner lot, it would be four such trees, and these would be in addition to the street trees that would be required under our ordinance. The Planning staff, as Mr. Spencer stated, supports the approval of the petitioner, they recommend the approval of the petition. They found it to be consistent with the draft Steele Creek Area Plan. There are a few outstanding site plan issues

which we can and will address prior to Friday, which is required in advance of the Zoning Committee meeting. CDOT did not require a traffic study, but NCDOT will require a traffic study prior to driveway permits being issued for this development in the event the petition is approved. The petition was filed last summer, I think at some point in July. We've had eight meetings with area residents regarding this rezoning request, and we're appreciative of the time that they've devoted. They've devoted a lot of time to it, particularly a small committee that was formed to work with us on this rezoning. Petitioners tried to address as many concerns as they can, and we've implemented changes to the plan to hopefully address those concerns. We know there's still opposition, and in the intervening weeks between tonight and the decision, we'll reach out again to those neighbors and have discussions, if they are amenable to that. Our last meeting was on Monday, February 13th. It was a fairly well attended meeting. After that meeting, the petitioner and I talked about things and we decided to make additional changes to the plan. They're not before you tonight, but the commitment is being made tonight to make these changes. There's concern about 50-foot wide lots, so what the petitioner is committing to do is, with respect to Parcel B which is before you right now, no more than 60 percent of the lots may have a minimum width of 50 feet. The remaining will be required to have a minimum width of 60 feet. On Phase 3, no more than 60 percent of the lots could have a minimum width of 60 feet, and the remaining lots would have to have a minimum width of 70 feet. So with respect to Phase 3, you're really getting close to an R-3 development because 70 feet is the minimum lot width in R-3, and on a cluster subdivision, you can have a 60-foot wide lot. Now, we haven't done all the calculations to see whether this would qualify as a cluster, but we're getting close to a R-3 lot in Phase 3, and there are no 50-foot lots under this commitment. On Parcel B, no more than 60 percent of the lots could have a minimum width of 50 feet. Lastly, there is a great bit of open space here. We're really trying to stay off of the drainage areas as you can see because we know those are sensitive areas. We're happy to answer any questions that you may have, and we'll just wait to see if you have any.

Nancy Nyberg, 13824 Claysparrow Road. said I represent a group called Save Lake Wylie's Coves. The group includes residents from all over the Steele Creek and immediate area that you have shown on the map, including Woody Point, Limehurst Road, Hatfield, as well as the neighbors in the Chapel Cove and Sanctuary subdivisions. There are 193 people in Save Lake Wylie's Coves, and there's been a perception by many that this is about the Sanctuary, and a group of very large home sites. I can tell you there are 55 homes built in the Sanctuary. We could never have gotten 193 or gotten as far as we have come with Crescent were it all by ourselves. So, we're a fairly broad group in the area. All of us knew that the land that we're talking about tonight would have homes on it, and none of us thought these homes would be a negative for the neighborhood. Crescent does good work, and I think everyone on Council would acknowledge they've done some nice developments. The original plan as shown had 740 homes total on 1,826 acres. When they talk about a density of 0.52, that includes the very, very low density of the Sanctuary. Today, they're looking for 879, but it's all clustered on a very small portion of this development. So, the initial petition that they had was a disappointment in terms of density and its impact to the area. We worked with Crescent to make significant changes to the proposal, and as Attorney Carmichael said, it is better. We have concerns, though, and we would like to keep talking with the parties to make it better. For example, 4 driveways onto Shopton Road West is vastly too crowded, and I think Crescent would work with us on that, which we want. We respectfully request that City Council instruct Crescent and our group's Save Lake Wylie's Coves, to continue to work together.

Jim Hughes, 10526 Green Heron Court. said I'm a resident of the Sanctuary. I want to express my appreciation to the Council for your thorough and thoughtful consideration of this zoning petition and your willingness to work with all parties involved to reach a mutually beneficial conclusion. For the neighbors in Save Lake Wylie's Coves, this is the largest single investment that any of us will ever make. Many of us have invested the better part of our life's savings in our homes. Most of us are long-term investors who are committed to this area's future. What did we buy or, at least, what did we think we were buying? Many of us believed we were investing in a unique area of Charlotte where the preservation of the environment and protecting Lake Wylie were the top priorities. Our beliefs were the result of having read the codes, covenants, and restrictions, as well as the Crescent marketing materials. The neighbors of Save Lake Wylie's Coves are committed to preserving the uniqueness of this area and we believe Crescent was committed to this goal as well. Our concerns with the rezoning plan of this ecologically sensitive area set around the overdevelopment of the water shed and the

corresponding construction runoff, significantly increased population density, and the dramatic rise in car and truck traffic resulting from this plan. Today's traffic pattern already stresses the road capacity, creates daily Shopton Road access problems, and increases the risk of traffic accidents for all the residents of this area. We appreciate the way in which Crescent has worked with the residents of the community and realize they have made some compromises which are favorable to us. We are thankful for those compromises. At the same time, we believe Crescent can and should do more, specifically in the area of increasing lot sizes and reducing housing density while still preserving the planned passive open space and the natural beauty of our area. Reducing and limiting population density will lessen the unfavorable impact on this unique environment and reduce the potential traffic, road, and safety issues which we believe will inevitably occur as a result of further development. We also believe these important steps will help us to preserve the investment we have made and hold Crescent accountable for delivering on their commitments and promises to us as investors in their development.

David Chavoustie, 13726 Claysparrow Road. said this issue is about land use as well as honesty and integrity. A few years ago, the discussion centered on a plan development called the Sanctuary. At that time, Crescent presented their vision for a community with oversized lots surrounded by future development of the remaining land with lots of approximately one acre in size, all nestled in an area around Lake Wylie. The zoning change proposed then was enthusiastically approved by the area residents as it maintained the peacefulness and serenity of the environment around their homes. The Sanctuary and Chapel Cove development has been what we all expected until we were made aware of Crescent's plan to seek another revision to the zoning plan and change the expectations they had set for property owners. Yes, Crescent did advise us of the proposed changes, and it found immediate resistance from a broad section of Steele Creek residents who supported the previous zoning change. We have met with them on a number of occasions, and Crescent has removed the townhouses they originally proposed and have increased the setbacks from Shopton Road. But they have stood firm on their proposed 50- and 60-foot lots which remain a significant issue for all of us. They claim that they need these small lots because of the current economy so they can maximize revenue on this pristine land. This firm position is being taken in spite of the success at Chapel Cove which apparently is the fastest growing development in the greater Charlotte area. These homes have significantly larger size lots and are much more consistent with the original plans we all supported. They claim they will continue with this type of lot as long as the demand remains but must have the flexibility of smaller lots. This is where we're at an impasse. Before making your final decision, I would urge you to drive around the area in question, if you've not already done so, to see how beautiful it is, and then continue to developments in the surrounding area that have 50 and 60-foot wide lots. The contrast is striking. I'm sure you will have at least an appreciation of our reluctance to support this change as it is currently written. The bottom line is that Crescent misled us when they were marketing this land, and being low on funds, is driven for short term cash to support the mother company's other projects. Hopefully, the Council will see through this and approve this change, assuming Crescent finds a compromise to their proposed lot sizes with the same folks who supported the initial Sanctuary change years ago, and those of us who have made major purchases based upon their previous commitments.

Unidentified speaker said I'm going to be really quick because some of the things and thoughts that I had is to reiterate some of the things that have already been said. My main appeal would be to you, as the Zoning and the City Council, that we need someone to protect our interests. The way the property is and 50-foot lots, our property values have already decreased by about 40 percent. If something like that happens and the economy comes back, we wouldn't even have a way to recoup that much. It would go down even more. So, my appeal would be for the Zoning Committee to help protect us and our investment that we've made in this property.

Renee Jackson, 9801 Hatfield Road said I represent a family of four on Hatfield Road behind the Sanctuary. I'm a long time 21-year resident of Steele Creek. My husband and I moved here as soon as I graduated from Clemson and we got married. We're in our third residence within a 5-mile radius, and we even have the same phone number. We moved to this part of Charlotte because it had the look and feel of a small town like the one we came from in South Carolina. It is different than the rest of Charlotte. It's got less traffic and a more home-town feel and a wonderful lake, which I now live on and have for 15 years. My husband fishes at least one to two times a week, and we all enjoy it in the summer; we want to continue to. My family, like others, has invested a large part of our income and our time into this property, and we plan on

leaving it to our children and our grandchildren. We don't want to move. Everyone new and old of the residents that I know in the area, they love the look and feel and don't want it to look like the rest of Charlotte. I want to thank the Planning Commission for all their time and, especially, Melony McCullough and Debra Campbell. They worked closely with me and other members of our group throughout the Steele Creek Area Plan approval process, and we really appreciate that, and we are pleased with the outcome of that plan. Also, as one of our other speakers noted, our area residents are very concerned about the potential traffic safety impacts and have already been in contact with Shannon Frye at the City, and she's assured me that she will work with us every step of the way to ensure safety is the top priority with all the traffic changes to come. Thanks again for your time, and we hope you will consider our viewpoint on the rezoning and appreciate the opportunity to make our voice heard.

Marian Black, 11112 Limehurst Place said earlier this evening, I dropped off a brochure for City Council, and I hope you get a chance to look at it.

Mayor Foxx said we have a two-minute rebuttal, and then we can have questions and things of Council.

Mr. Carmichael said with respect to the driveway connections to Shopton Road West, that would be a common goal between Crescent and the neighbors. As I understand it, it's something that your ordinance requires and we're happy to work on that issue, and we'll continue to do that. We think that this plan is environmentally sensitive. There's a great deal of open space. The development is far off of Lake Wylie as you can see from the plan. There is going to be an increase in traffic, clearly that's going to happen. There will be a traffic study required by NCDOT, as I mentioned. This is still, for Charlotte's purposes, a low density development at 1.75 units an acre. It's also, we think, the architectural commitments will hopefully insure some quality with respect to this development. Once again, we'll continue to have dialogue with the neighbors, as I mentioned during my presentation. The only other thing I would say is, I'm not sure what market materials were provided between Crescent and folks that bought homes in the Sanctuary, but I will say that the rezoning plan, the approved conditional rezoning plan, as I pointed out earlier, shows about one unit an acre on Parcels B and C, and then one-third minimum acre lots. So we're asking for some changes to those provisions. But we're happy to answer any questions.

Councilmember Barnes said I have a question for Ms. Nyberg or someone who's speaking against the project. Simple question, I wanted to know if you could tell us, Ms. Nyberg, what minimum lot width you all were proposing?

Ms. Nyberg said that's been a really hard question for us because we're not the developer, and we're respectful that Crescent needs to make a profit as a publically-traded company. But what we've talked about amongst ourselves is we thought we would be comfortable with between 80 and 100 feet, similar to what's already in Chapel Cove.

Councilmember Howard said actually, I was going to ask that same question of the petitioner. But in another way. So, John, somebody. I was wondering what the average width is at Sanctuary and at Chapel Cove?

Mr. Carmichael said I'm going to ask Mr. Martin to answer that question if I could.

James Martin said I work with the petitioner, Chapel Cove at Glengate, LLC, Division of Crescent Resources in the Sanctuary, there's really not an average width. The average size parcel there is a little over five acres on those 187 parcels within Parcel A. Within Chapel Cove Phase I, there are 100-foot wide lots. Of course, that's above the minimum as it stands today with current zoning.

Mr. Howard said what about the houses that you built recently? Were those 100?

Mr. Martin said those are 100; that's in Phase I of Chapel Cove, yes.

Mr. Carmichael said that's north of Winget Road Extension.

Mr. Howard said what about the widening of Shopton Road? That may be a question for CDOT. I know that's a State road, do we know if there are any plans to widen Shopton Road at all?

Mike Davis, CDOT, said the answer is no, there are no plans to widen Shopton Road West. Its future is probably a 3-lane roadway. There are portions of it that are 3-lane today and portions that are not. So, probably what will happen is, through development, that 3-lane section would be completed and that will probably be as much as Shopton Road West will ever be widened.

Mr. Howard said in the portions that front Sanctuary, if I remember right, are already 3-lane?

Mr. Martin said Crescent widened that to 3 lanes from the fire station when you cross the bridge at Withers Cove, all the way through its entirety through Parcel C at the southern end.

Councilmember Mayfield said I have a question, because thanks to this, I went to the website for Sanctuary Crescent, only 20 percent of the land in the Sanctuary would ever be developed. Is this in that 20 percent?

Mr. Spencer said what they are proposing on this site is in the area on the west side of Shopton Road West which is Parcel B, they're proposing open space at 25 percent. Then on the east side, they're proposing open space at 20%, which is a Base 3, which would be consistent with that.

Councilmember Cannon said is that lot width required in the current zoning right now in terms of what's being talked about? He made mention of that the 100 foot separation right now is above the minimum. So, I'm trying to figure out what exactly what is the minimum?

Mr. Spencer said currently, what you're talking about is along Shopton Road West, they made the commitment to do a 100-foot wide common open space area that would run along here. Right now, in the current plan, that is not a requirement, so that's just an added extra buffer between the road and the single family development.

Mr. Cannon said so, no requirement?

Mr. Spencer said not a requirement under the current zoning.

Mr. Howard said in the zoning as it sets right now, is there a lot width?

Mr. Spencer said no.

Mr. Carmichael said it would just be whatever is required under the ordinance. There's no specified width in the conditional rezoning plan. Mr. Spencer, what is the minimum lot width in MX?

Mr. Spencer said MX would refer you back to the R-6 zoning which would be a 40-foot wide lot. Mr. Carmichael said the conditional rezoning plan doesn't have a note that says what the minimum lot width should be. But, in Parcel A, if you can only do 200 lots in 1,300 acres, you're not going to do a 40-foot lot probably. Keep in mind that block width is measured at the setback, so you can have a 40-foot lot setback in Parcel A, and then it goes way out.

Mayor Foxx said let me applaud both sides for continuing the dialogue. There's some time between now and the time we make a decision on this issue, and I do hope that both sides continue the dialogue. A lot of times we find that these things can actually get worked out as both sides continue talking, so I do want to encourage that. The sufficiency of the petition, according to our materials is still to be determined, but it has been filed and we will find that out as we get closer in.

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

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ITEM NO. 11. HEARING ON PETITION NO. 2011-068 BY MOREHEAD PROPERTY INVESTMENTS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.50 ACRES LOCATED ON EAST MOREHEAD STREET BETWEEN KENILWORTH AVENUE AND MONTICELLO TRAIL FROM O-2 TO MUDD(CD).

A protest petition has been filed and is sufficient to invoke the 20% rule, requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Council in order to rezone the property.

The scheduled public hearing was held on the subject petition.

Sonja Sanders, Planning Department, The petition proposes to allow up to 250 multi-family units and up to 10,000 square feet of residential supportive services. The existing zoning on the site, there are three individual properties here, each zoned O-2. There are several office zonings around both sides of East Morehead Street. There's some single family to the west and to the east. There's a band of commercial along both sides of South Kings Drive. The existing land use, the subject properties each contain an office on each of the three properties. There are a number of office, some single family, multi-family, some institutional uses along each side of Morehead Street. You have some single family to the west and to the east. There is a strip of commercial along the east side of Kings Drive. The recommended land use plan calls for a mixture of multi-family, office, and commercial on the subject properties. Here on the aerial photo, you can see the three individual office units on each site. The petition proposes a maximum building height of 100 feet, except it will be limited to 85 feet along the east side abutting Monticello Terrace Condominiums. A minimum of 65 percent of the units will be one bedroom units. Commercial uses are permitted only within the residential building so there will be no free standing commercial uses. A 26-foot setback is proposed along East Morehead Street which is in keeping with the recommendations set forth in the draft plan. Parking will be located in a parking structure underneath the residential units. Access to the site will be provided via two driveway entrances off of East Morehead Street. The proposal is consistent with the draft Midtown-Morehead-Cherry Plan as well as the Central District Plan, and the general development policies do qualify the site for a density in excess of 17 dwelling units per acre. Staff does recommend approval of the petition upon resolution of outstanding site plan issues. I did want to note that there is one outstanding CDOT issue that is listed in the staff analysis. Those changes were already included in the revised site plan.

Charles McAlpine, 1329 East Morehead Street said I represent the Morehead Investment Group. The property is located at just below the intersection of Kenilworth and Morehead Streets, directly across from Carolinas Medical Center, the largest employer in the county. You will probably be familiar with this intersection from a six-story building that sets on the corner of Kenilworth and Morehead that's been vacant for some time. I'll come back to that later. Looking at it from an aerial point of view, I just want to give you a perspective of what's happened in the area over the last few years. This is our site here, if you can see where my pointer is, directly across from the hospital. This is it looking from the Midtown Square area, this is the site, again, looking directly across at an eight-story parking deck at the hospital, a few hundred yards from the greenway investment that the City and County have put in. This is our view from the owners of this property. There are three separate owners, they have owned the property nine years, six years, and 13 years. This for the last five years has been our view directly across Morehead Street. We've got some beautiful trees and some very large buildings coming in at the hospital. You are all very familiar, I'm sure, with the Little Sugar Creek Greenway Plan, the City and County have invested a lot of money to make this plan viable. It is a few hundred yards, again, from our site. As Sonja mentioned, the Midtown-Morehead-Cherry Area Plan is in the process. It sounds like it's going to be approved in the near future, and our plan is very consistent with that. Just to point out a few things that are within that plan, the building architectural requirements, design with transparent openings, ornamental and architectural character, orient the buildings toward the street, natural environment to protect and preserve the tree canopy, to encourage green building practices, pedestrian and vehicular network, bicycle paths, walking paths, extensive landscaping, etc., our plan meets all of those and exceeds them. Just some excerpts from that, and I direct you to the bottom of the page, the Midtown-Morehead-Cherry study area represents a very strong location for the development of new and higher density residential, bolstered by its unparallel access to jobs, regional accessibility, strong access to parks, greenways, and a strong skyline view. I want to point out that, again, this is the property that's on the corner of Morehead, but it has been approved

Petition 2008-127, for 155,000 square feet of building area and 22,000 square feet of retail and restaurant, building height of 140 feet, and this will be important as we go forward. This is our next door neighbor up Morehead from us at the intersection of Kenilworth.

The existing plan proposes 250 units, the proposed plan, again, is consistent with the area plans that are in progress. The Charlotte-Mecklenburg Planning Department supports it, and most importantly, our next door neighbor, which is the only residential property, is in full support of this. Restrictions for the site, we've had close to 100 hours of public meetings back and forth with neighborhoods, specific neighbors, the hospital, everybody has had some interest in the site. As Mr. Dulin and I were discussing, we've driven by it for 30 years, that vacant building on the corner, and it's frustrating. Everybody wants to see something better on this section of Morehead, and we think that we providing that. Very specifically, we've limited the maximum density to 250 units, setbacks to 26 feet, although PED overlay that will come with the area plan would allow 100 feet in height. We've agreed on our external property line to be 85 feet. Parking ratio far exceeds the ordinance. It's a concern in Dilworth that there's enough parking and that we don't have any overflow into the neighborhoods. Obviously, we're going to meet the post-construction storm ordinances. The tree save, we've agreed in detail, and you can read the specifics on our plan to hire an arborist and to follow that arborist's recommendations. The way we see it, the trees along Morehead are one of the amenities that sell this site.

Sustainable standards, this building will absolutely be energy star-rated, and we'll attempt to certain lead certifications. We'll meet or exceed open space requirements, perimeter screening to meet or exceed, building architectural style, pedestrian friendly. This is the rendering of the building without the trees on Morehead, and we show you this so that you get a good idea of what the building is. This is our illustrative plan that shows the screening that we've agreed to with Monticello Terrace, and we propose to use with our other neighbors. This shows how Monticello Terrace fits the shadow of that, and this was directly done for height, I don't think the setbacks are exact right. Effectively, as you go up Morehead, this is Monticello Terrace as it exists now. This is our future building. This is what is approved on the corner and if you can see in the middle of that, that is what is existing now. There's a dotted line there. This is the building from a top-down view. As Sonja mentioned, this is the circulation pattern. One of the things that we've agreed to is all the residents would enter on the lower intersection, and vehicular access would be at the upper. We only have two exits out onto Morehead. We can come back to that with any questions. This is important that the trees will be preserved along Morehead, and the height of these trees now will come close to the height of our building. You'll see the plan that we decided to go with actually has another two floors in the center, but these are approximately the existing tree height along Morehead, and again, across from the hospital. Just to be brief and try to sum up because I'm sure we have some opposition, and we'd like to give them plenty of time, and we want to respect your time, it is consistent with the area plans. It absolutely blends in. Directly across the street we face an eight-story parking deck. Directly behind us, we have a house that has been converted to an office use. One correction from Ms. Sanders presentation, there is no single family use behind us or around us. I would also say there's no commercial in our building. We have residential support services for the residents themselves, but no retail operations. I want to be very clear about that.

Robert Penny, 1328 Harding Pl. 28204, 704-372-1400, said I've owned for 14 years the office property at 1328 Harding Place. Our property backs up to the lots you're considering tonight. I'm also the leader on the neighborhood group that filed the petition asking that rezoning not be approved given the current information. Our neighborhood filed a petition protesting this rezoning in early October, 2011. We filed it because the original plans were nebulous and out of character with the neighborhood. Over the 20 weeks and the three City Council deferrals since we filed our protest, our neighborhood has invested a tremendous amount of time in this development, and we all hoped we would be able to come to you tonight and report that we had a final agreement. Unfortunately, that is not the case. Before I give you more detail, I want to be clear that this failure means that the developer is asking that three-fourths of you will vote against the neighborhood that will have to live with this development for many decades. Our neighborhood accepts and welcomes the improvements good development offers. But none of us want a building or buildings that will destroy the wonderful mixed usage block that we currently enjoy. We want to preserve the kind of mix the City's advocating in the Midtown-Morehead-Cherry Plan. We have it now; keeping it is important to us. At this point, our differences come down to three key issues. First, we want to be sure that our trees are protected, not just the trees

on Morehead, but the trees on our property as well. The developer has said this will be done, but we still need it in writing. We particularly want to be sure that if the trees are destroyed, they will be replaced in kind. Trees are a critical part of our neighborhood. Second, given the slope of the land, we want to be sure our properties are protected from the erosion that will take place when the construction occurs as well as after the construction is completed. Again, the developer has said this will be done. Again, we need it in writing. Third and finally, we want an adequate setback from our property. The developer has asked us to settle for a zone of just 15 feet, and I'm happy to report tonight and as a gesture of good faith, we will agree to a 15-foot setback zone. We just want to be sure that we've got adequate protection for our trees and for the erosion, given that small setback zone. Our hope is that by the time this rezoning petition comes back to you in a month that the developer will have worked with us to resolve these issues. We certainly want good development, and we certainly want an appropriate project on that land. If not, however, the developer's asking that at least three-fourths of you vote against us. We ask you not to vote against us.

John Fryday, 1119 Belgrave Place said I'm here to speak for the Dilworth Community Development Association Land Use Committee. This is an important project for us and for the City. It is before you as the Morehead-Midtown-Cherry Plan is being considered for adoption, where the Morehead portion of that is the completion of the Dilworth Small Area Plan that we started seven years ago. When this project was first presented last November, we and the planning staff had similar, real concerns about the process relative to its height, to its setback, and a number of other issues. But these City agents worked carefully with McAlpine Group and has requested Planning's help in writing one last thing, which is how some height conditions are set up relative to the back of the property. That's the only issue outstanding for us, and one I think that will reach agreement on. In talking with Bob after your dinner meeting, I discovered they had a different view on how they were going to present tonight. So, sort of like Gilda Radner on the Saturday Night Live, it's sort of like 'never mind.' But, they filed their protest, and the DCDA really supports its neighborhood. And this is part of our neighbors, and so we have been with them throughout this. We've encouraged them to work with the developer. It sounds like they're going to reach agreement, so we're very happy with that. The new people on Council, I'd like to remind you that since 2005, we are now at 49 rezonings the DCDA has reviewed. We have only opposed seven. And apparently, we're not going to add to that which is great. Regardless, Morehead Street is very important to Charlotte. Its majestic appearance forms the very edge of Dilworth. It's already the kind of corridor that we spend hundreds of thousands of dollars trying to create in this City and to cultivate and have that elsewhere. We expect this will be the first of many MUDD rezonings that come on the property. I think they worked really hard to create a good project. What we ask is that when other projects come before City Council as well, that you make sure they meet those standards and meet the needs so that Morehead Street is protected. The scale, the massing, the setback is important to safeguard an irreplaceable asset in Morehead Street.

Chad Peterson, 1311 Monticello Terrace, said I represent the Monticello Condominium Association. I'm on the board. I've lived there for about 15 years. It's a wonderful place to be on Morehead. Up until now, we've been the only people residing on this section of Morehead, and we're extremely happy to have the greenway. So, that has been exceptional. We've been working with Morehead Properties for about five months on this and with Dilworth Community Association as well. We've reached a very amicable agreement with setbacks and screenings, so we're very happy to support Mr. Lindsey and get this project done.

In rebuttal, Mr. McAlpine said as you've heard, there were four issues listed, the setback, the tree protection, slope versus erosion, and DCDA with elevations. We have agreed to the tree protection, it is written in our plan. We obviously want to offer that to neighbors around us as well. The slope and erosion protection is part of your ordinance, but we absolutely agree to that. The elevations, we've agreed with DCDA that we're going to work with staff to try to define the language right. So, the one issue that we actually have is setbacks. I want to take you to our site, again. This is a zoning map. So, you just heard from Monticello Terrace, the president of the HOA there, and they are in support of this. The people that are protesting us are office users that leave about 5:00 p.m. This is Monticello Terrace, it's been there for about 80 years, and if you'll notice, the power lines, that's the property line. Bob Penny's office has been there, our protestor, has been there for about 80 years also. So, this is approximately 10 feet off the property line at their corner, which is what we're proposing for the neighborhood. It's been there for 80 years

and it has not yet destroyed the neighborhood. This is, again, another side view of Monticello Terrace, but where I want to get you to is, this is our lot. We back up to a parking lot here on the O-2 property behind us, who is the protestor that you've heard from. This is the one tree that is actually on the neighbor's property that we will agree to protect. But as you see, there are structures on that property line at this point. This is 10 feet off of the property line, a very similar relationship to what we propose. So, this is Mr. Penny's property, this is what he sees and has seen for the last 80 years, 10 feet off of the property line in the back. What we're proposing is exactly what the neighborhood currently has now, and this is a 2012 version of Monticello Terrace, if you will. So, that is our one issue that we're down to, and there must have been forty issues that we've solved.

Councilmember Kinsey said I hate to admit, I think I'm a little bit confused. Mr. Penny, I thought you said that you had agreed on a 15-foot setback, but now I'm hearing that maybe that agreement is not firm.

Mr. Penny said we will agree to the 15-foot setback, we just want to be sure that the trees and the erosion that comes along with all that with that 15-foot setback is adequately addressed. We don't have that agreement yet.

Ms. Kinsey said Lindsey, did I hear you say you all hadn't agreed on setbacks? I just want to make sure I'm clear on this. I know you've been working on this for a long time, and I was very much in hopes that you were coming tonight with an agreement.

Mr. McAlpine said I completely agree with you. As of this meeting, we have not fully agreed on that setback in the language. The response that we got was that they wanted the setback and the screening, so we gave a lot to Monticello Terrace. We've put a lot into making sure that this project's right. We're not even sure we can do the 15 feet and make it work right. What we propose is the 10 feet and the screening all the way around the building. But, prior to this meeting, we hadn't had any agreement to the 15 feet or the 10 feet with the screening or anything with our rear property neighbors.

Mr. Penny said the protest group has agreed to 15 feet.

Ms. Kinsey said are we going to get all of this in writing pretty quickly now, hopefully?

Mr. McAlpine said I think everything is in writing except for this setback issue. The setback issue equates to about 70,000 square feet lopped off the back of the building. It becomes a major issue because that is what pays to do the other architectural restrictions and other setbacks, rebuild the wall at Monticello Terrace, so we're trying to get there. And we will continue to try, right up to the time of the vote.

Councilmember Howard said what you're telling me right now, there's a 10-foot setback to the property line, now, where the current building is?

Mr. McAlpine said I can get with you and show you the pictures, but the current buildings that exist there now, Monticello Terrace which is two below us, this is not the exact right slide.

Mr. Howard said that is the one that's 10 feet off?

Mr. McAlpine said yes. If you were standing at the hospital looking across the street from Morehead, this is Monticello Terrace, this is what we propose, and this is the building on the corner of Kenilworth and Morehead. So, this building is currently about 10 feet off their rear property line and has been for about 80 years. They were both built in the '30s. All the neighbors behind it, built in the 30's. So it's not an imposing issue as it sounds. This property line swings down that way, it's very similar. But to be very clear, the way the plan is, there's no interaction in the back. There's no cut-through to Harding, there's nothing like that.

Mr. Howard said how tall is the building on the back side?

Mr. McAlpine said there's about a 20-foot grade separation from Morehead to the back corner of the property. So what we've agreed to is a height limitation on the face wall, and Planning

Department has a way that they define that that I can't quote. But 85 feet where the PED overlay that you guys are adopting would actually allow 100 feet, and the building to our left, if you're looking, is approved at 140 feet.

Mr. Howard said what would be the height of that building that you're going to tear down?

Mr. McAlpine said there are two-story offices with some peaks, two-story with an attic, so 30 to 40 feet.

Mr. Howard said so you're a little bit taller than what is listed now?

Mr. McAlpine said yes. Our projections were about one story taller than what Monticello is now.

Mr. Howard said you have a flat roof?

Mr. McAlpine said yes.

Mr. Howard said this tree thing that I keep hearing you say, you're going to protect their trees. How do you protect their trees if it's not on your property?

Mr. McAlpine said it's similar to how would do it on Morehead, and I assume this is what the neighbors mean also. We're hiring an arborist, we're going to follow their recommendations of how we protect the trees on Morehead. There is a tree just off of the back property line on the Kindermourn property that's probably a similar maturity to the Morehead trees. So, we need to get an arborist to look at that tree and tell us what we need to do to protect it.

Mr. Howard said Mr. Penny, what tree? I mean, I saw one tree on that picture. Is there more trees that you're asking to be protected that we don't see?

Mr. Penny said there's a tree that is partially on my property, partially on Kindermourn property. There are several trees on Kindermourn's property, not all along the back line, but we're concerned about cutting the roots, and with the construction and going down several levels for the parking, that it would destroy the tree. And we're concerned if the 70 or 80 year old trees are destroyed, that they be replaced in kind.

Mr. Howard said you're talking about A tree, though; not trees.

Mr. Penny said no, there are several trees.

Mr. Howard said along the property line?

Mr. Penny said within a close proximity to the property line, yes.

Councilmember Cannon said this is pretty close to the intersection of Kenilworth and East Morehead Street. Relative to any left turns out of the proposed development, any issues there? And also, even going right as they are merging into traffic, heading towards Kenilworth?

Mr. Davis said when we first started review of this petition, we requested the petitioner complete a traffic, wasn't a full-fledge traffic study, that we were also concerned about the proximity of this development's access to the existing signalized intersection. We requested that consultant do what's called a cueing analysis to understand during the worst times of day how far vehicles stack up from the signalized intersection to know how best to locate the driveways. We've used that information that's made its way into the conditional zoning and it's sort of informed where those driveways need to be placed to insure that there is not that conflict. But Morehead is the kind of street that we simply don't want to widen for left turn lanes, we don't want to install median. There is a character to the street that we want to preserve, and this is a concept that we think will work fine.

Mr. Cannon said I hear you, I'm concerned about that, but still, from a safety perspective, and I hope you're right. I'm looking at the number of trips that are currently generated in 400, and I think this will generate another 1,595. Actually, this proposes 1,959, which is an increase of

1,595. So, I hope you're right about that, but it really concerns me about those folks that will have to exit that property, more so than those that will be turning into it. Another question, is there a median that's going to be there?

Mr. McAlpine said no, there's a turn lane in the middle of Morehead now. It's basically a five-lane road. So, there's a turn lane in the center of Morehead now.

Mr. Cannon said so if that traffic happens to back up on a certain given day, going out of town, what happens when all the traffic stacks up there and folks are trying to make a right turn out to get into the proposed lane that may be turning left? The District Rep has it, but we'll talk off line.

Mr. Davis said I'll be happy to provide follow up information on this question if you'd like as well with the results of the technical analysis we've got.

Mr. McAlpine said can I give you one piece of added information that is brand new to this?

Mr. Cannon said what might that be?

Mr. McAlpine said specifically to your point, CDOT has asked us to consider the zoning on the corner that I mentioned, the 2008 zoning is having some discussions about reigniting their plan, and they've asked us to make some provisions to have a joint driveway in the back. We've agreed to do that as sort of an outlet, so we're addressing some of that as we can. We're trying to work with the neighbor that is there to do that.

Ms. Sanders said I'd like to point out that the current plan does state in regards to the rear yard, does state that a 15-foot rear yard with no screening or a 10-foot rear yard with landscaping with fence treatment will be provided. And that's on the current revised plan. So I'm sure the neighbors and the petitioner will continue to work together.

[Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, and]
[carried unanimously, to close the public hearing on the subject petition.]

ITEM NO. 12. HEARING ON PETITION NO. 2011-072 BY UNIVERSITY INVESTMENT GROUPS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 6.0 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF UNIVERSITY CITY BOULEVARD AND EAST MALLARD CREEK CHURCH ROAD FROM NS TO MUDD(CD).

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

The scheduled public hearing was held on the subject petition.

Shad Spencer, Planning Department, said this is about 6.07 acres located on the northwest of Mallard Creek Church Road and University City Boulevard. The current zoning is NS, which was a rezoning that was approved back in 2002. They're proposing to rezone the site to MUDD(CD), which is a mixed use development district, conditional. This would allow for the development of up to 250 multi-family dwelling units. The surrounding zone as you can see along, to the west and north is multi-family around it. Then there's institutional across Mallard Creek Church Road, and then commercial zoning across University City Boulevard. This piece just to the north is also zoned NS which was part of that original rezoning back in 2002. Existing land use is, again, to the west and north is multi-family. Now, that's under development for multi-family up here. That is a fraternal organization located just due north. Then you've got commercial uses right across University City Boulevard. The adopted future land use for this area calls for residential up to 17 dwelling units per acre. Here's the area that identifies the site. Here's the proposed site plan. Some of the other details that go along with this proposed rezoning include 8-foot planting strips, 6-foot sidewalks along Mallard Creek Church Road. Then they have individual pedestrian connections from the building out to this 10-foot wide joint

use pedestrian path along University City Boulevard. They're proposing it would be one building that would be limited to 90 feet in height, which this would include two levels of structured parking with five levels of residential on top. Then, along the rear property line, they would limit to three stories along a minimum of 75 percent of the rear building along that rear yard. It would be limited to three stories in this area where it's white. Then once you get to this dark area, it could jump up to five stories. Also, elevations are included within this petition that commit to exterior building materials that would consist of brick, precast concrete, stone, EIFS stucco. There is also a decorative fence that would be along the rear property line. There is an interior courtyard here for open space. They're also committing to provide pedestrian lighting along University City Boulevard that would be consistent with what is shown on the University City Area Streetscape Plan. This petition is inconsistent with the adopted University City Area Plan. However, it is generally consistent with the staff-developed University City Boulevard design guidelines. What this document is, it supplements the University City Area Plan and the guidelines are not a formal policy recommendation. Rather, they're design recommendations when evaluating development proposals. One of the things this document encourages is for developers to take advantage of these design guidelines as an opportunity to gain additional, higher density. Their site plan does include some of the elements that are included in those guidelines such as structured parking, usable open space, specified design materials, and pedestrian access and lighting. Based on that, staff recommends approval of this petition upon resolution of outstanding issues.

Charles McAlpine, 1329 East Morehead Street said just to be clear, I represent University Investment Group. It is an absolutely different group than the Morehead Properties, so I want to be sure and give them a fair shake in that. As many of you know, I'm a past president of UNC-Charlotte Alumni Association. I currently am on the board of the Real Estate Graduate School Advisory Board, and I bleed green like a lot of '49ers out there, so this is a project that I'm very passionate about. This is strictly student housing at the corner of Highway 49 and the new Mallard Creek Church Road. This kind of brings you into the site, but you'll also see the University that is right next door to us, one of the few sites that's remaining that's not going to be institutional in the future that's walkable to the campus. The University right now has 25,300 students. They expect to grow to about 35,000 in the next few years. They will house 21 or 22 percent of that on campus, which means they're going to have approximately 27,300 of those students living off campus. It's very important to get them within walking distance of the campus to reduce traffic in the area and work on campus atmosphere. This property ownership group has owned this property for about 10 years. We've worked with the University and the CDOT to provide a multi-modal walk to the campus. The University City Area Plan, the University City Partners and UNC-Charlotte are both fully in support of this. We've worked very closely with our neighbors and Councilmember Barnes on the plan. I want to take you to the existing corner, the road right-of-way for Highway 49, which is just off of this, was cut through just a few years ago so this has not been developed. The things that exist on the site now are a little unsightly. More specifically across the street from us we've got some retail that has gone the way that none of us would like. We would all like it to thrive and benefit, but I think what we are seeing is that the area might be deteriorating and we hope this plan is going to change that. The site is currently zoned for 90 residential units, 34,000 square feet of retail and the current zoning generates 3,970 trips per day and the proposed zoning of 250 units restricted to students only will generate 1,513 trips per day. That is a 68% reduction in traffic against current zoning.

We've met a lot with the area, with Planning Staff, with Councilmember Barnes and worked through a variety of conditions which are listed on your plans, but as always we are working within the post construction storm ordinance, open space and tree save requirements. We are absolutely committed to that. Sustainable design standards, we are committed to that. Any parking or anything around us will be screened as required by the ordinance. Building materials, we are very strict about our building materials. Maybe the most important, the streetscape of this plan, this building is very much intended to look like a building that you might see on the campus. Over time, when I went to school at UNC-Charlotte you would enter the campus from the intersection of 49 and 29 coming down the hill and running into campus. What we are going to see in the future is now that I-485 is open to this section, this will be one of the first sites that you will get to coming to the University and we consider it absolutely important that this looks like it is part of the University and presents that right face for the University's future growth. This is the first plan layout. We still have some issues that we are working out, specifically with

the proximity of the building to the property line. I want to get to another issue, which is going to define how we got to where we are now. As you all know the Federal government has given NCDOT money for high speed rail from Charlotte to Raleigh. That high speed rail line is just paralleling 49 at this point. The future Mallard Creek Road comes across that intersection so kind of to our surprise, we are told that the right-of-way requirement from the setback, instead of the normal 29 and 34 feet, would need to be 55 feet here or we were going to tussle with NCDOT so I really owe a lot of credit to our engineers and designers and C-DOT and NCDOT for working with us on this. Our current design takes into account that road widening and the future economic development provided by that high speed rail. Our site plan takes into account that 55-foot setback.

With regards to specific architectural requirements, this is an excerpt from the face of the building which will be stone, stucco, hard plank materials, brick and metal. No vinyl of any kind. This is very specifically what the tree planting will look like in your packet you will have a better close-up of this, but you will also notice that the light design here is exactly like the lights that are used on UNC-Charlotte's campus. This extends the face of the campus out to this intersection which we believe is very important. Through the process we've agreed to break up the massing. We've labeled the height and we are working on those details. We've provided elevations on all sides and we've come to an agreement there, we've addressed the storm water comments and we will come back to that in some rebuttal. We labeled the storm water detention areas, added the setback, again that setback being very important.

I want to give you an example. This is student only housing and it is way better than the housing I lived in when I was in UNC-Charlotte. No longer do we stack milk crates and boxes. Now this is the residential support services so they basically have their own Y-fi room and coffee shops, study areas, very ornate, but very secure exterior property. We've provided some fence detail of our area but this will be the safest and most secure site around the UNC-Charlotte Campus and we are very proud to offer that.

Joe Pries, 9526 Lyndon Tree Lane 28277, said I am the President of the HOA at University Terrace North, which abuts this property and also Vice President of the adjacent property, University Towers. We are right next door and obviously have some concerns. This property is currently zoned for neighborhood services and we want it to remain this way. We're not sure why we need to change that. We don't have an issue with the construction and the quality here. We are sure it is going to be first rate. Our issue is more a function of the height. We're going to 90 feet and there is nothing on 49 that anywhere near 90 feet, so that is an issue for us. We understand that because of the 55-foot setback we've had to go from the initial plan of four stores and are now going to six stories. We feel that is too high for the area. Additionally the density units per acre as stipulated by the City plan is 17 and we are looking to go north of 40. That is significant as far as adding to congestion and just the overall for that little plot of land. We feel it is just too much. The properties next door are what we call affordable student housing. It is not the high-end greatest, it's been there for about 20 years and our student population is probably comprised of a good 35% to 40% of international students. These students come in from every country you can imagine. They don't have cars, they don't have access to good neighborhood services. This is originally slated for neighborhood services and that is they what to see there quite frankly. We have students who are walking across 49 right now and it is pretty scary. The Harris Teeter is a good 15 minute walk and they pretty much have to hitch a ride with someone to get there. They can't just walk there safely. The neighborhood services that are now are minimal at best. There is a Domino's Pizza and a little Japanese take our place and not really much use as far as getting your basic neighborhood services type of sundry items. We know that this is better than what is there now and we are not against developing the property. We're just saying why 90-feet and again that is a function of that 55-foot setback and they've gone from four stories to six stories because have to put the parking deck underneath now so it is going to way higher 10 feet within our property line and that is just too much. The DUA from 17 to north of 40, we would love to see that reduced. We are not saying we don't want this here, we understand the need and we are just asking if we can bring it down a little bit. We've got another property that is going to be developed also a few blocks down and it is going to be north of 200 units, so obviously congestion if you've driven on 49 in the afternoon it is absolutely atrocious. Between I-485 and WT Harris the traffic is just a mess and you can barely move. Those are our major issues. I represent about 335 apartment owners that are next door so I'm speaking on their behalf. We are not saying don't build this,

but if you do build it we would like to see some neighborhood services because we have people who would benefit from that. If that don't happen, then let's make it a little bit smaller so it is not such an impact on the surrounding community.

Alex Mills said I'm Vice President of North Carolina New Volunteer Corporation and our property is adjacent to the property for consideration of rezoning. We are not in favor of the plan to rezone at this time. The property was rezoned in 2004 at which time we supported the proposed rezoning actively. The Commission's approved land use plan 7 years ago would have provided mutually beneficial neighborhood services to surrounding residents, including those in our facility. Currently, such neighborhood services are unavailable to the nearby residents without the risk of crossing a divided highway to access them. The land use proposal in 2004 was thoughtfully coordinated to protect natural resources where possible and to encourage a contiguous feel to the adjacent property. Based on current known details, we feel this proposal is lacking in both of these areas and potentially incompatible with our prior stated and approved use, particularly in light of the fact that their plans are based on over 40 units per acre in a building that is 90 feet tall. In November 2011 we gave a letter of 17 issues to the developer we would like resolved before rezoning. The Board has not received a response to any of these issues. We would welcome the developer to attend any of our monthly board meetings. We had a representative attend the open forum for upcoming petitioners on November 11, 2011, the developer did not show up. We have a signed copy of our grievance that we were in attendance by a Mr. Solomon. We were the only improved property between John Kirk Drive and Highway 49 when we purchased the property 15 years ago. We invested with the intent of developing a residential learning center that would offer a unique student learning experience in keeping with our organization's sound mind, sound body principles. We've been working with a committee that includes a member employed by a local downtown Charlotte architectural firm to help us begin the process of realizing our ultimate goal. We feel that since we have long maintained continuous use of the property for its stated purpose we should not be subsequently subjected to a non-contiguous plan that may have a negative impact. We will maintain our objection to rezoning until there are details sufficient to assess the full impact on the proposed use and assurances that such use will not be unduly detrimental. Rezoning could affect our present and future plans for the property in addition to potential security and aesthetic concerns. We will also formerly submit our written details of our concerns. Our mortgage will be paid on this property. We used our assets we had available at the time to purchase the property 15 years. Our mortgage will be paid in full next year and that is why we've been planning this development of this residential learning center that would be unique to anything in the area. It includes and is part of a concept created by our national organization that even includes classrooms that actually brings professors to the residence where the students live. It is a highly unusual innovative type of community and we are heavily invested in developing this concept and we feel this proposal by the petitioner could create some issues with our being able to realize our initial intent for the property.

In rebuttal Mr. McAlpine said the issues I heard there is some interest in mixed use around us. I think as you are aware from driving up and down Highway 49, most of the retail that is in the area has not done particularly well and there is several vacant buildings around this. Our site has actually been zoned for a neighborhood shopping center for 9 or 10 years and there has been no interest whatsoever in developing it. Now with the change of the intersection the right-of-way has been pushed back, ingress and egress are more compromised so retail is not a very good option here. University City Partners agrees with us as does staff in that particular regard. We do need the GDP's and have gotten support from both the University and University City Partners and staff on the density issue. Most particularly, the sites around us in the last 6 months there has been 223 reported incidents in ½ mile of our property. We've got some significant crime issues from both the properties, University Terrace and the Fraternity. We believe this is going to change the area drastically for the positive if you see what is going on out there. In the last 6 months there has been 29 reported incidents in the University Terrace and SIGAP National owns the house and we have been in conversation with one of their local representatives and have had several meetings with them. We talked to them about what is there. SIGAP National actually removed their fraternity from the place. They moved ALFASIG in that was there for the last two years.

Councilmember Barnes said the first question I could direct toward staff, you heard some expression of concern regarding density. Would you talk to us briefly about density along the 49

corridor near the University and also I would remind people that we approved a rezoning at Tryon and Mallard Creek Church Road that includes up to a 20-story office building, so there is a precedent being set for higher density. Speaking specifically with respect to that corridor, I would like to hear you talk about that, also talk about the anticipated densities and potential heights around the TOD zoned properties that will be coming as we move toward light rail which is on the other side of the campus.

Mr. Spencer said this property is located within the University City Area Plan which was adopted a couple years ago. It recommends a base density of 17 dwelling units per acre, however there is this document which is called the University City Boulevard Design Guidelines which was a staff initiated document that talks about certain design guidelines such as the building form, structured parking, open space requirements, access circulation, building design and signage. What it talks about is that as the University City develops and redevelops that it is wanting a more compact urban design and that this design guideline would allow increases in density if they comply with a lot of these design guidelines. They want quality design and then you can possibly have higher density.

Mr. Barnes said also with respect to some of the concerns I've heard expressed tonight, I would say that a lot of that area needs to be redeveloped. There are a number of residential developments in that general area that are a problem and they need to be cleaned up. I hope this proposal, if it passes, will lead us in that direction. Mr. McAlpine and you all know how I feel about the proliferation of apartments in northeast Charlotte. This particular project is within walking distance of UNC-Charlotte and is intended to serve the campus. I believe you all have worked on an arrangement to have a shuttle moving from the campus to your project, etc. Also regarding the sidewalk project that you mentioned Mr. Spencer, I believe that is a project that we actually approved participating in with NCDOT and the University so it will run from the University entrance to this particular project so we've partnered in terms of helping to improve the infrastructure in that area. There was an issue that I have been discussing with Mr. McAlpine regarding parking and the number of parking spaces and I understand that the University itself is trying to avoid parking more vehicles on campus. I've told him what a nightmare Highway 49 is during the PM rush hour so I'm concerned about adding more cars to 49 at anytime of the day and based upon the schedules of many students I suppose there wouldn't necessarily be more students leaving the site at the PM rush hour, but I want you to talk about any considerations you've made to reducing the number of units within the development and also the number of parking spaces and how you've arrived at your assessment regarding parking.

Mr. McAlpine said the units and the parking go hand in hand and Mr. Barnes and I have had a lot of passionate discussions about this, but very friendly. We can't keep students from having cars. They are going to have cars and likely because they are students they are going to bring their cars to campus. The campus has a parking problem now and they can't part all the students they have. That sometimes, as you pointed out, runs in conflict of having more cars on the streets around so what we are trying to do is build that bridge where we provide, and in excess of the ordinance we are providing one space per bed in the project, which is far more than the ordinance desires, but as a neighborhood like Dilworth would tell you, the worst thing that you can do is under park and have people that overflow into next door neighbors parking lots and then you have a lot of fights. From a developer standpoint it is one of those issues that if I do it wrong the first time I'll never be able to correct it years to come. Look at the land site that is there, things around it that are developed. We've got road right-of-ways and we have to do it right now or not, but to your point, we are providing plenty of parking. We are making sure that that is not particularly visible from the road rights-of-ways and we are making it just too darn easy to walk. That 10-foot multi-modal right-of-way that we've agreed to with CDOT and the University and we've actually extended that down our section of Mallard Creek Road. The transportation bus route that the campus helps align private developers to participate in, we have a stop on our site so the intent is that we make it a lot easier to walk than drive, but we don't them to agree that yes, it is easier to walk than drive, but I'm going to part my car at University Terrace. That won't work. We are doing our best to bridge that gap of having enough parking for everybody, but keeping them out of their cars.

Mr. Barnes said Ms. Campbell, you and I have talked about the fact that Mr. McAlpine is essentially proposing an urban use in a suburban setting and that I believe you talked about 1,000 parking spaces Mr. McAlpine. Is that right?

Mr. McAlpine said no sir, one per bed which is probably more like 750.

Mr. Barnes said 750 parking spaces, if you could briefly talk about any thoughts you may have regarding how we are going to handle parking as more of these petitions come along and also with respect to the Blue Line and the TOD rezoning to come as this connects folks. Talk about the way we will handle parking around those sites and how the two might connect.

Debra Campbell, Planning Director, said as a general trend I will say we are trying to minimize and discourage over parking these types of developments, particularly when you mention the issue of transit. As part of our TOD standard there are literally maximum types of parking requirements so that helps us when it relates to transit oriented development. For these types of developments we have minimums and this type of a district has a minimum parking where TOD would have a maximum parking ratio. That is how we are better able to manage parking. Lindsey knows and hopefully my staff conveyed that we are concerned about the amount of parking and we've expressed that to him. We also are concerned that unfortunately on 49 the entire frontage will be parking, although it will be in a deck. It is podium parking so the first two floors will literally be parking. That is a concern.

Mr. Barnes said you won't be able to see it as parking, is that right?

Ms. Campbell said you won't be able to see it, but there will not be any activity as well. That is people moving about and coming in and out of the building. I don't know how to resolve that issue because Mr. Lindsey said there is a need, based upon I'm assuming his marketing or whatever he feels like he needs the amount of parking that has been recommended as part of the plan. We accepted that and we hope that we can design it differently, but we rely on him. He is meeting standards as dictated by the actual district that he is rezoning to.

Mr. Barnes said did you have a desired parking outcome? In your professional opinion was there some number that you had in mind?

Ms. Campbell said what Mr. McAlpine is doing is beds and generally we go by units so there is a disconnect. We are saying parking per unit and he is going by the number of beds or bedrooms within the unit. You can see if there is a two-bedroom than that is two parking spaces.

Mr. Barnes said we are not encouraging carpooling if each kid can have a car. What I'm hearing from staff is somewhere around 250 to 500 parking spaces at most and I'm hearing 750 from the petitioner. Is that true on your end Ms. Campbell?

Ms. Campbell said yes and I believe because of the product type and because he is marketing to students who he says each one of those students will have a car, that is why we've said okay in terms of the number of parking spaces.

Mr. McAlpine said we are committed to working on the design and we've got some ideas about how we might minimize that. I would say just so everybody is understanding of the type of product that we are doing. It is a suite environment and there is a common suite that each student gets their own bedroom and bathroom so there will be certain students who don't have cars, but also because it is a student environment we are going to have approximately 30 to 40 people that are on staff there all the time and we are going to have people that visit the students and we're going to have people that come that are potential renters so the one per bed is a general ratio that by the wall all of the competitor sites around us have. The sites have been approved by this Council have and if you visit, for instance, the Flats which is just down Mallard Creek Road, you will find that their parking lot is absolutely full. It is a general ratio, but we do understand that some won't have cars. There won't be any allowance for students to have multiple cars, but if they decided to drive to go to class they have a bigger problem finding parking on campus than they will with us. It is better for them to get on their bike and take it to class, or to walk. We are five minutes from the classroom space and it would be harder to drive than to walk. It is kind of a carrot and stick philosophy, we can limit their parking or we can make it so easy for them to get there without driving they will likely do that.

Mr. Barnes said I think this project in terms of competing multifamily projects has the potential to substantially elevate what competitors have done and hopefully will do. There is another one

down the street that hopefully we can talk about in the next 30 days. I appreciate your efforts to try to address the issues and I hope you will remain open to some considerations regarding parking and perhaps the number of units in order to address some of the concerns from the neighbors. Ms. Campbell I appreciate your help as always. Anything else that you want to share.?

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

Councilmember Dulin said along the parking lines and when you mentioned that the students will have visitors, there will be parking for the visitors so that their cars won't just be stacked up out on the road, junking the place up and it is going to have a very nice apartment style look and feel to it. Is that correct?

Mr. Alpine said it is absolutely correct and the current design standards, and we agree with staff on this, bringing the building more to the frontage, the right-of-way and putting the parking behind so whether you are a resident or a visitor, parking won't be very visible.

Mr. Dulin said I agree and I hadn't really thought about it, but when you were talking about it being one of the entrances into the UNC-C really made a lot of sense to me. The other thing about it is if we are asking the kids to get on their bikes and get on their feet to get back and forth to school, what are we doing to make this building safe for them because it is exposed where it is to outsiders.

Mr. McAlpine said that is a huge concern when you are doing student housing and University Terrace will tell you that they've added gates to their entrance, just people that shouldn't be there. We are planning to gate all the way around. We will have card access both into the building and into the parking lot. We will have on site security, we will have cameras and I think everyone here would be floored by the level of technology that we will have there, both for their protection and for their enjoyment. Camera security, officers and everything else and there is a fencing detail on part of our zoning submission if you want to see what the fence will look like, but absolutely secure.

Mr. Dulin said I don't have any idea what student housing costs now, but as you add more technology you have to add the cost to it to pay for that technology. Are you modeling where your price points will be and to what a kids parents can afford?

Mr. McAlpine said for budgeting sake we are paralleling our model to the projects that are already out there so we are kind of average where the market is for suite type student housing. Suite type is probably a little more expensive per square foot, but for the student individually it is not any more expensive. I would say there is a direct correlation with number of units and that price. The less units we do, the price goes up.

The vote was taken on the motion to close the public hearing and was recorded as unanimous.

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

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PUBLIC HEARING ON PETITION NO. 2011-079 BY SAMI NAFISI FOR A B-1(CD) (LLWPA) SITE PLAN AMENDMENT FOR APPROXIMATELY 1.21 ACRES LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION AT TUCKASEEGEE ROAD AND LITTLE ROCK ROAD.

The scheduled public hearing was held on the subject petition.

Sonja Sanders, Planning Dept., said the site is approximately 1.21 acres located on the northeast corner of Tuckaseegee Road and Little Rock Road. The site proposes a B-1(CD) site plan amendment and the site is located within the lower Lake Wylie protected area. The petition proposes an expansion to an existing convenience store and gas station. The existing zoning is a commercial zoning and there is also commercial zoning to the south of Tuckaseegee Road. The

remainder of the surrounding properties are primarily zoned R-3. The existing land use, the commercial gas station, convenience store on the subject property and a number of commercial uses to the south. There are several institutional uses along the north side of Tuckaseegee Road. The remaining sites are developed with single family, a few duplex units at corner lots and there are a number of vacant lots in the area. The recommended land use plan, the Northwest District Plan recognizes the existing commercial zoning on the subject property, which was rezoned in 1999. You can see the gas station along the front and the existing convenience store to the rear. The site plan amendment proposes an increase and the maximum building square footage for 1,495 square feet to 2,682 square feet. The expansion is located at the rear of the building. A portion of the existing 30-foot class B buffer will be reduced to 22.5 feet with a fence in order to accommodate the proposed expansion. There will be new sidewalks that run from the front of the building and will tie into the existing sidewalks along Little Rock Road and Tuckaseegee Road. The request is consistent with the Northwest District Plan, however staff does not support the petition in its current form. It is lacking development notes, specifically we are looking for proposed building materials, maximum building height. We are awaiting building elevations and there are also some outstanding C-DOT issues. Staff would be able to support the petition upon resolution of outstanding issues.

Dean Prevette, 2923 South Tryon Street, said you guys have a very interesting job. We had a petition that was submitted last month that you approved earlier and I thank you for that. I'm a resident of Dilworth so I got very interested in the Morehead Street issue and I'm a graduate of the University of North Carolina at Charlotte and have clients with properties in the area that you just discussed. It has been interesting and entertaining for me.

As far as the property we are looking at now on Little Rock and Tuckaseegee we do have some outstanding issues. We have addressed most of those issues and I've talked with Planning and will probably have those plans ready for submittal tomorrow or the next day. Regarding the DOT right-of-way, DOT has asked us to install a traffic median on Little Rock Road so the traffic out onto Little Rock will be right in/right out only so you can't come across that turning lane. DOT did a traffic count for us and the traffic trip increase is in the order of 160 trips today so it is not a major impact on the site. Visually when you go to the site you will see the new sidewalks, the traffic median and the two fences. The addition to the building will actually be behind the existing building. I think we have sufficient paved area to accommodate the necessary parking and based on our final design we may wind up having to put a rain garden out in front of the property which is shown on our proposed plans, just to meet the storm water regulations.

Andrew McCullough, 6832 Morrison Boulevard, said I'm the attorney for the petitioner and I'm here to answer any questions. I don't have anything to add to what Dean said.

Councilmember Cannon said you stated you have satisfied a majority of the issue?

Mr. Prevette said we've actually addressed the issues but the one open item that I have not got ready to submit to Planning staff is the building elevations and I should have those by Wednesday.

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

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

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ITEM NO. 14: HEARING ON PETITION NO. 2012-001 BY MERCURY NODA, LLC FOR A MUDD-O SITE PLAN AMENDMENT AND 5-YEAR VESTED RIGHTS, FOR APPROXIMATELY 3.87 ACRES LOCATED ON THE NORTHEAST CORNER OF NORTH DAVIDSON STREET AND EAST 36TH STREET.

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 the property.

The scheduled public hearing was held on the subject petition.

Shad Spencer, Planning Dept., said this is another Site Plan Amendment for about 3.87 acres located on the eastern corner of North Davidson Street and East 36th Street that includes the neighborhood theatre building. It is a Site Plan Amendment for an existing MUDD-O site plan and they are also requesting a five-year vested rights with this rezoning. This site plan amendment would increase the number of residential units that are currently allowed on the exiting rezoning plan from 160 units to 250 dwelling units, however it would reduce the amount of non-residential square footage that was allowed on the previous rezoning which was 42,000 square feet and it would go down to 22,500 which is the square footage of the existing neighborhood facility. They do have an option to have live/work units that would front along East 36th Street so there could be ground floor retail and a live/work type situation. There are various zoning categories around it mainly commercial across 36th Street, and commercial zoning across North Davidson Street. Once you get back on Mercury Street you have R-5 single family zoning and there is single family zoning to the south of the site. The current land uses, across North Davidson there is commercial, non-residential uses on 36th Street also. Just south of the site in blue are the institutional uses and along Mercury Street and back along to the east is all single family residential land uses. The future land use for this area is near the 36th Street Station area and this is calling for a mixture of transit supported uses for this site. The aerial identifies the neighborhood theatre building and there is an existing single family house there. Some of the elements that go along with this site plan is they would provide parking at this facility at a rate of one space per residential unit and then for restaurant and night club uses the parking would be at a rate of one space per 150 square feet of those uses, which is an increase of what is normally allowed, which is 1 space per 600 square feet, so they did increase the parking ratio for that. All other uses would be 1 space per 600 square feet. They are indicating 16-foot setbacks from the back of curb along all streets except for where the existing building is, they can't meet that. An 8-foot planting strip, 8-foot sidewalks along all streets except North Davidson and 36th Streets where the existing building is located. They would be providing recessed parking along Mercury Street to provide some on-street parking in that area. They indicate a maximum height of 55 feet and along Mercury Street it would have a maximum base height of 40 feet and it would increase as you get back toward 36th and Davidson, again up to 55 feet. They are also indicating that along this property line there is an existing single family house and there would be an 8-foot wide buffer with a 6-foot wide fence or wall and they would also provide some additional plantings which would include 6 trees and 20 shrubs per 100 linear feet. They are also indicating a 6-foot wide pedestrian path that would connect Mercury Street out to North Davidson Street along the railroad corridor, that is if they get approval from railroad company to do that. Internally they've got this mixed pedestrian vehicular court that would extend from Davidson out to 36th Street and it has amenities such as planters, benches and tree wells and they are indicating that there would be specialty pavers would be integrated in both the vehicular and pedestrian areas so it is one unified design. They are also requesting some optional provisions which would be to allow some of the parallel parking that is on this little internal mixed pedestrian/vehicular court. They are also asking for some optional provisions for signage to allow wall signage. Three projecting wall signs in addition to allow wall signage within the MUDD District and each of those signs would be 100 square feet. Those are generally located at the corner of Davidson and that pedestrian/vehicular court and at the corner of 36th Street and the pedestrian/vehicular court and down at the corner of Alexander and 36th Streets. The petition is consistent with the North Charlotte Plan and also with this Transit Station Area Principles, therefore staff is recommending approval upon resolution of the outstanding issues.

Tyler Foster, 620 E. Worthington Ave. 28203, said I'm the petitioner for rezoning 2012-001 Site Plan Amendment. I bought the property at 36th Street and North Davidson in 2007, rezoned it in 2008 as MUDD-O. We are currently proposing a site plan amendment to that conditional rezoning. Our revised project remains mixed use and continues including savings and improving the existing neighborhood theatre building, one of the most important historic buildings in the NoDa neighborhood. The previous plan approved for rent or for sale had several factors that prohibited us from moving forward relative to market conditions. First the original plan 6-story building was too expensive to meet market pricing. The second issue was the inability to secure financing for a large speculative retail space on 36th Street. The third issue was the project was originally intended to be built in two phases with two separate parking structures. In response to these issues we are proposing the following changes: The first is to lower the project to a more

continuous four-story design which greatly improves efficiency. The second is to convert the 11,000 square feet spec retail space into 8,000 square feet of live/work units. This provides affordable live/work units which are more viable and flexible given the type of retail uses that NoDa can support. The third is to consolidate the parking into one structure and design the project to be built in one phase. These new features create a project that is financeable and more practical in several ways. The new plan provides better overall vehicular access and consolidated parking, for example we were able to eliminate a large commercial truck loading drive off residential Mercury Street, as well as eliminate other project traffic previously exiting on Mercury Street. Further our plan creates a new open pedestrian/auto plaza between the old and new buildings that will enhance walkable connectivity with the neighborhood. Architecturally our plan will feature the same high quality exterior finishes as the previously approved plan and includes more specific design comments along Mercury Street.

Trip Beacham, Project Architect said while working with the neighborhood we took part in at least eight formal meetings to get neighborhood input on the project. Some of these meetings with the neighborhood association, the neighborhood board as well as smaller specific groups along Mercury Street. There were four main concerns in general from the neighbors and we have worked diligently to address each of them. In the beginning of the redesign process we had only residential units on the ground level facing 36th Street in place of the previous spec retail. In direct response to neighborhood input we changed these units to live/work units and have maintained the original retail architecture. This creates units that are affordable while maintaining the retail component in the new building. The second concern was the adjacent property at the corner of Mercury and North Alexander Streets. Our team has worked closely with the owner and have satisfied all her requirements, including providing extra landscaping, a wider buffer than is required and fencing for the property. Similar to the original rezoning this property owner is in support of the project. The third concern was parking. At a significant cost to the project we are providing an additional 88 spaces above and beyond what is being requested by Planning Staff. The fourth concern was the height of the building facing Mercury Street. We had a number of meetings with the Mercury Street neighbors and height was the primary concern. After much discussion we proposed reducing the building from 4 to 3 stories facing Mercury Street. It was our understanding that this concession would satisfy the Mercury Street neighbors concern of height and prevent their filing of a protest petition. These neighbors have chosen to file the protest anyway, but in spite of this the development team is still willing to fulfill our part of the commitment by continuing to reduce the building height on Mercury as discussed. You will see in your handouts that we have modified the building elevations on that side accordingly.

Mr. Foster said in addition to acting on all the neighborhood concerns that were brought in at the meetings we had, we are also adding three more enhancements to the plan. The first is that we are actively working with the City's Economic Development office to study adding public parking to our parking deck. This process is commenced and we are waiting the results of a parking study. The second is to commit to saving and improving the existing neighborhood theatre building and to work with Historic Landmarks Commission and State Officials to apply for an official historic designation. The third is to provide \$30,000 minimum to fund a public art project on the pedestrian plaza. Through this amendment process we are pleased to have gained Planning Staff and neighborhood support. By providing increased density and structured parking while saving and enhancing a critical building to the fabric of the neighborhood this rezoning will allow more people to live in this walkable district one block away from the future light rail line. This plan will provide more daily customers for independently owned neighborhood businesses, supporting their viability and success in the future. The project has been the main focus of my small company for over four years. We've been very active in the neighborhood and are still working hard to promote the success of NoDa beyond just our property and project. Our team is looking forward to building a place to live and work that will contribute to the neighborhood for many years to come.

Chad Maupin, VP of Neighborhood Assoc., 1109 E. 35th Street. said I am speaking on behalf of the neighborhood association. Hopefully you received a letter earlier today via e-mail from our association. I want to thank Mayor Pro Tem Cannon for responding to that and giving encouragement for the work that we have put into this project. Over the last four months, as the developer has mentioned, we've spent considerable effort to come to a compromise on this project to make it a project that works better for the neighborhood. He has already mentioned

most of the caveats and conditions that we required and we want to get help from the City staff to make sure those are included in the notes of the project so they bind not only this developer, but anybody that might own the project in the future. One of the other things that hasn't been mentioned is the mitigation for the owner 3315 North Alexander Street. This will be the last parcel on this block that is not included in the project. The other thing I wanted to focus on was the allowance for air rights for additional parking to put on top of the parking deck. As the petitioner has stated, right now we have a parking study that is being done with Patrick Munford and the Neighborhood Business Development team in order to determine the parking needs in NoDa. We expect that to be done soon and we implore the Council when that comes through to take advantage of this opportunity for some affordable parking that our neighborhood needs.

Alexandria Manzanarez, 3315 N. Alexander Street said I am the owner of 3315 North Alexander Street and I moved here about 6 years ago and knew that development was coming and was prepared for it. This is a great project, I think they have done very well with the neighborhood in doing what they want. We've worked out an agreement that makes it livable for me to live there and be happy. I think this is a great thing for NoDa because you can walk everywhere, you don't have to drive or get on a bus so I'm happy with this project. As the only person that is going to live right beside it that says a lot. Actually Chad owned the house before me and I bought it from him and he likes the project too.

Linda Vista, 1000 E. 35th Street. said I am speaking for NoDa residents in opposition to 2012 Mercury at NoDa rezoning application. I will speak about public parking concerns first and then about the inappropriate use of location. Apparently how many public parking places will actually be available is still in a state of flux. I do understand that the 2000 Plan is already an improvement over the 2008 Plan, however in both plans the starting point is a next deficit of available parking spaces from what we have now. What we have now on popular nights in NoDa are people blocking driveways, parked cars blocking corner visibility. Well, you get the congested picture. Please keep in mind that the streets adjacent to this project are narrow, curbsless, century old streets laid out when automobiles were a novelty. The 2012 rezoning will increase the density of occupants and will also increase density of the occupant's guest who will not have assigned parking and who will require public parking, plus there is the overflow of the businesses who are already woefully in need of parking. The neighborhood theatre with the capacity of 950 patrons, it goes on and on. I ask you to evaluate the parking situation in perhaps a different way. Instead of looking at the situation in terms of what is being provided, look at it in terms of how many public spaces are actually needed to truly minimize the street parking. To my other point of opposition, inappropriate use of property, what sets this zoning apart from the usual development issues is location, location, location. We are talking about 36th Street and North Davidson Street, the crossroads of NoDa. This is our Trade and Tryon so imagine the last undeveloped quadrant of Trade and Tryon. What belongs there? This is a defining location and the focal point of the NoDa Business District. It seems odd that Mr. Tyler's initial 2012 Plan eliminated all of the commercial and retail space. As a result of concession to the neighborhood association Mr. Foster now proposes a handful of live/work optional spaces along 36th Street to make up for the loss of retail. We believe that this focal point of the NoDa Business District is too important to settle for a handful of live/work option spaces. We believe that the 2012 proposal is now too top heavy in residential and too underutilized in commercial retail for this prime and defining parcel. I understand that you will be receiving a letter of support for this rezoning from the neighborhood association. With all due respect the support letter is based on a total of 29 favorable votes. There is a completed, but as yet un-submitted 2030 NoDa Vision Plan. This is comprised of input from the neighbors and the neighborhood at large and not limited to the voting members of the neighborhood association. This 2030 NoDa Vision Plan calls for commercial development extending down 35th Street and to evolve like an East Boulevard. The 2012 Plan and its lack of substantial commercial retail space will impede this vision. Bottom line we are not opposed to development. We welcome development. We welcome development that will grow the arts district and that will provide walkable neighborhood services. We welcome development that will benefit the neighborhood for decades to come. We got a nice valentine last week from the Federal Government, \$70 million budgeted for the North Charlotte light rail line, finally. This will be a major milestone in the evolution of the neighborhood. The 2012 rezoning before you is not speaking to a better future for NoDa, the 2012 rezoning is merely accommodating Mr. Foster's financing difficulties. Our Trade and Tryon deserves better than that. I ask for your supportive vote.

Dennis Marsoun, 100 North Tryon Street. said I am not a NoDa resident, I'm a realtor and I have the distention of being the only realtor in Charlotte without a car. I believe in density and I think density is a good thing. I believe in light rail and I look forward to being able to take the train to NoDa when I go there. I think this development is going to cause some severe strains on the neighborhood itself. As a realtor I'm very uniquely aware of property values. I think the people who live on Mercury Street, their property values will decrease significantly when they start to look at a huge building right across the street from them, weather it is 35 feet, 45 feet or 50 feet it is going to change the value of their property. The parking is going to be a severe issue. I think it is safe to assume that there be more like 1.5 cars per unit which would bring it up to almost 400 cars that would be in that parking garage. If any of you have gone to NoDa on week-ends you can't find a place to park. Mercury Street, Alexander Street all gets over parked and it is difficult to get in and out. The addition of 250 units and up to 400 cars is going to make it even more severe. When I did an analysis for the neighbors that I'm working with in NoDa of something similar that showed where property values really went down, I took a look at Fifth and Poplar, a building in downtown Charlotte on the corner of Fifth and Poplar and the property values on the Pine Street side when the View went up. Since the View has gone up there have been 10 properties that sold on the Pine Street side of Fifth and Popular, 7 of them have sold through foreclosures. They have all lost an average of \$81 per square foot. If you go into of those units you have to have the light on during the day because it is so dark. There are some differences between a 51-story high rise that the View is and the development that Tyler is planning, but the effect is going to be the same. It is going to cause the people who live on Mercury Street to lose value in their property. My last point, there are many areas of Charlotte that have been called the next Dilworth and certainly NoDa has been one, Plaza/Midwood, Wesley Heights, there have been a lot that have been the next Dilworth. If you drive around the NoDa community in the single family section of NoDa there has been significant efforts being made to make that the next Dilworth. When property values like this go down, it is going to cause an erosion in the single family neighborhood and 3 or 4 years from now we are going to be talking about rezoning the people north on Mercury Street to have that rezoned to Mixed Use so that the apartment on slot can continue.

Leigh McDonald, 620 E. 37th Street. said I am an artist and I'm speaking tonight to represent other aspects of my community that will be impacted by this proposed development. The parts that celebrate artists and creative endeavors. The part that values the history of our mill village. NoDa is a home to a street that has no equal anywhere else in Charlotte, Mercury Street. One of the streets bordering the property in question tonight is home to the greatest concentration of tea planned, first built, 1903 mill houses in historic Mecklenburg Mill Village. Ten of these homes out of the last remaining 13 make up Mercury Street. Once they are gone they cannot receive a gained. The historical contribution of Mercury Street is too valuable to be lost to development. We are asking you to plan wisely for the future of our city and to recognize the importance of NoDa as more than just another stop on the light rail. Please don't underestimate the importance of Noda's personality and character as a draw for economic progress. The value of NoDa is a function of the art community that currently exists and provide our unique and ... Plan wisely so the value of my neighborhood will continue to thrive.

In rebuttal Mr. Foster said parking for the project, we have 88 spaces beyond what is required. Since we are a MUDD District it is a minimum requirement and in the TODD District we would actually be over the limited amount for parking. We are also looking at working with the city on adding more parking which is a great opportunity for the neighborhood. As far as the retail, we went from 11,000 square feet down to 8,000 square feet of live/work and we are designing these units to be commercial in finish. We are going to have a commercial retail architecture on that first floor addressing 36th Street. These units are designed to be small, 550 to 1,000 square feet, actually at apartment rent so that artists, small business people, office users can actually be able to rent there. The problem in NoDa has been that the spaces are too large and there are many vacant spaces out there. We are addressing that commercial need on 36th Street in a very important way that we think is viable. The other aspect was the arts and I think saving the neighborhood theatre and continuing that feel down 36th Street is very important. Keep in mind as well that the project in 2008 had the right to be for rent product as well so we are really not changing the for rent or for sale aspect of this project at all. We are just changing the design somewhat. We intend to keep all of our architectural integrity with the new version.

Councilmember Kinsey said Ms. McDonald when your time ran out you were talking about NoDa's future and the importance of Mercury Street. Did you have one last point you wanted to make.

Ms. McDonald said plan wise we said the value of my neighborhood will continue to thrive by committing spaces for the growth of art galleries and other retail venues that contribute to a vibrant urban experience. Plan wisely so the potential for our NoDa Square is not wasted on this sprawling apartment complex.

Councilmember Howard said normally when we hear words like public parking and talking to city staff that means that there may be a public ask coming. Is that something that is anticipated?

Mr. Foster said I was actually approached by the City. Peter Zeiler with that department who is actually on the Board of the NoDa Association had mentioned that there was some possibilities with that. What we've done to make that a potential possibility is to write that into our rezoning that we will be glad to work with the city in any capacity to accommodate them.

Mr. Howard said is there flexibility in your plan to go backwards to add more commercial space if the demand comes back on the bottom floor?

Mr. Foster said not more flexibility to go deeper into the project. I'll have to ask the architect how deep those are.

Mr. Beacham said they are about 25 feet deep and behind that would be the parking structure so there would not be any ability to go any further back. Right now we are working with staff to basically accommodate the retail along 36th Street, which is virtually identical to what we had in the original rezoning for 2008.

Mr. Howard said the space you had for commercial in the original rezoning was deeper than that.

The Architect said it was 40 feet and there was one small portion as you get closer to the neighborhood theatre that was 60 feet.

Councilmember Fallon said did I hear you say there is a lot of empty apartments there?

Mr. Foster said no ma'am, not apartments. There is a significant amount of empty retail space in the district.

Ms. Fallon said the last time I was there, there is a high rise that seemed to be very empty.

Mr. Foster said the last numbers I got were 96% full in all of the projects in NoDa and all of our comparable projects.

Councilmember Cannon said with regards to parking, you said you are going to have 88 more parking spaces?

Mr. Foster said we have 380 spaces total.

Mr. Cannon said that is including the 88 correct?

Mr. Foster said yes sir. We actually have 412 and that is 88 more than what is required by Planning standards.

Mr. Cannon said someone made mention of a study being done by Mr. Mumford in Neighborhood Services, can you shed more light on that please?

Mr. Foster said we had a couple of meetings with Peter who is working with that office. I think he is in Economic Development and he approached us in one of the Board meetings and mentioned the opportunity. I know they had commenced the study and I have offered to participate in any kind of cost analysis or construction analysis that they require.

Mr. Cannon said 412 spaces – I'm really concerned and sometimes when I have some time I might frequent the NoDa area and if it is anything like just a given night being even First Ward, when it gets to be around 6:30 and if you are a resident of the community, you can ride around the block for a moment before finding a parking space. I worry about that for area residents who reside there now who may look for some level of on-street parking. It was suggested that on-street parking would be a part of this. How much on-street parking in terms of spaces might there be?

Mr. Beacham said out of that total it is about 20 spaces that represent the on-street. We are also parking the residential units at one per bed rather than one per unit so we fully anticipate that all of the homeowners or renters would be accommodated in the parking structure.

Mr. Cannon said one per bed. At some point I think we need to have some discussion about where we are trying to go with our parking requirements. We really need to have that discussion because it seems to be folks are creating just what they want to create and that might be okay, but I have some level of concern about what we are hearing. I hope we can have that discussion at some point Mr. Mayor because it does suggest that the maximum of 250 residential units are there which would read to me like there is 250 parking spaces per se, but we learned this evening that it is 412 that they have, or 750 in Mr. Barnes' case. Who are you parking?

Mr. Foster said we are parking all the folks that live in the apartment complex and the neighborhood theatre building complex.

Councilmember Mayfield said if I'm hearing you correctly, you said 20 spaces on the street. Have you identified how much parking is complementary as opposed to how much parking there will be associated with? I do have a shared concern with the amount of parking from visiting NoDa at different times of the week and different times for different events and the lack of parking that is already in the area and the fact that we now have paid parking in the area. I'm just trying to determine is there any complimentary parking included in this design.

Mr. Foster said the on-street parking would be complimentary and currently the parking that is there now is paid parking.

Ms. Fallon said I can't get my arms around one car per bed. I thought we were talking about dorms one car per bed. Why apartments one car per bed?

Mr. Foster said we are required one per unit and if we provided one per unit realistically we would not have enough spaces. So we are providing more parking for the apartments than what is required.

Councilmember Dulin said when I was reading this over the week-end, my only note that I wrote to myself was, is this too large. I'm enjoying the conversation and quite frankly the young lady that came down and spoke in favor who is the next door neighbor, I put a lot of weight on that and thank you for coming down here to see us. I'm still trying to get my arms wrapped around, is this too large. I know you don't think it is too large, but I know they do. The neighborhood theatre is one of the jewels in our crown of our community so anything that encroaches on that, and I'm taking this real seriously folks.

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

Mr. Barnes said I wanted to amplify something that I heard and I will perhaps follow up with Manager Walton about it, but I heard that we have a city staff member who is on the Board of the association who suggested to them that they perhaps pursue a taxpayer subsidy for parking. There are a number of projects we hear, including the one from my district and one more to come where that sort of ask is not being made. That concerns me some but I will follow up with the Manager and apparently there is some study going on in Neighborhood Business Services right now that we don't know anything about, but I look forward to hearing more about it.

The vote was taken on the motion to close the public hearing and was recorded as unanimous.

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

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ITEM NO. 15: HEARING ON PETITION 2012-006 BY LOMAX PROPERTIES FOR A MUDD-O SITE PLAN AMENDMENT FOR APPROXIMATELY 5.75 ACRES LOCATED ON THE NORTH SIDE OF MILLERTON AVENUE NEAR THE INTERSECTION OF WEST MOREHEAD STREET.

The scheduled public hearing was held on the subject petition.

Shad Spencer, Planning Dept., said this is a Site Plan Amendment for approximately 5.75 acres located on the north side of Millerton Avenue north of the intersection of West Morehead Street. They are proposing a Site Plan Amendment to an existing MUDD-O site plan that was approved back in 2007. The number of residential units stays the same. It is currently allowed to have 270 residential units and that is what this plan proposes, however the reason this has come in for rezoning is because the original rezoning indicated one building and this developer is proposing four principle buildings on this site. Some other details that go along with this Site Plan Amendment is that it also eliminates 20,000 square feet of office and retail square footage that was incorporated in that one building that was identified on this site. It reduces the building height from 120 feet to 80 feet and they also indicate a CATS passenger waiting pad on Millerton Avenue. The site is surrounded by some office uses to the south, vacant property to the north that is zoned industrial. To the west the vacant property was a portion of the rezoning back in 2007. Across Millerton Avenue is some industrial property. The I-1 parcel is owned by Mecklenburg County and is part of the future greenway system that will eventually connect to uptown. The future adopted land use plan calls for residential multifamily at this location. Since there is no increase in density, it is still consistent with the Bryant Park Land Use and Streetscape Plan and staff recommends approval upon resolution of some of the outstanding issues which deal with building design.

Brian Fincher, 2441 Greenland Ave., said I'm Vice President of the Camp Greene Neighborhood Association in Bryant Park. The petitioner came to us about the new proposal for this and the neighborhood is in full support of this.

Councilmember Mayfield said Shad, we've had a discussion about this. Have you received the elevations for this yet. I actually rode through this site on Saturday afternoon and I do have a concern that from the community and for disclosure I am a resident of this community. The information that went out regarding the community discussion within an e-mail version 24 hours prior to the meeting. I have spoken with a representative of Lomax and was informed that nine residents were in attendance. I would like to see if another meeting can be scheduled because what I did not hear in this petition or in the presentation the current housing community that is closest to this development, I just want to make sure that the community has a full opportunity since only 9 people were in attendance for the meeting and that there is a clear consensus and understanding of this potential development. Mr. Fincher do you know what the time limit was for the mailing? Was it a week, two weeks that the mailing went out?

Mr. Fincher said I think it went out the week before but as soon as I found out I sent out e-mails to every resident that was in that area on that street, about the meeting to attend. I actually called a couple of people on Millerton asking them to make sure they were there and they didn't show up. Everybody that was interested came.

Councilmember Dulin said do you know how many invites we did send out to the neighborhood?

Mr. Spender said I don't know the number, but we sent the standard where we send it to all residents within 300 feet and all the neighborhood leaders that are registered with our office, within a mile, which is the list we give them to use for their community meetings.

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

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

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ITEM NO. 16: HEARING FOR PETITION NO. 2012-007 BY RAINIER BUILDERS FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.62 ACRES LOCATED ON THE NORTH SIDE OF YADKIN AVENUE BETWEEN EAST 35TH STREET AND EAST 36TH STREET FROM R-5 AND O-2 TO MUDD-O.

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.

The scheduled public hearing was held on the subject petition.

Sonja Sanders, Planning Dept., said the site is approximately 0.62 acres located on the north side of Yadkin Avenue between East 35th Street and East 36th Street. The current zoning is R-5 and O-2. The petition proposes to allow 15 attached, for sale, townhomes. Looking at the existing zoning the subject properties are zoned R-5 and O-2. There are a number of commercial zonings, including some industrial zoning to the north. To the south we have primarily R-5 zoning on the south side of North Davidson. The existing land use, both of the subject properties currently contain one single family home. There is some multifamily, commercial, institutional uses along the north side of North Davidson Street and a few institutional uses to the south and the remainder of the property is developed with single family and some duplex units. The recommended land use for the area, the adopted North Charlotte Plan calls for single family on both of the parcels. The transit area station principles call for a minimum density of 15 dwelling units per acre for sites located within ¼ and ½ mile walking distance of a transit station. On the areal you can see the two subject properties, one house on each of the properties. The petition proposes 15 for sale townhomes. There is a maximum 50-foot building height. The development will be phased with 5 units proposed in Phase I and the remaining 10 units proposed in Phase II. Each unit will have a garage, either for one car or a two-car garage. There will also be 15 surface parking units. Building materials have been specified and elevations were provided. There are two optional provisions associated with this petition, the first proposes to allow a 4-foot sidewalk along East 35th Street in order to retain some existing trees. The second request seeks to allow an existing wall along East 35th Street to be reconstructed and that wall would be in the right-of-way. The petition is inconsistent with the North Charlotte Plan, but it is consistent with the residential densities recommended by the Transit Station Area Principles and staff does recommend approval of the petition upon resolution of outstanding site plan issues. I also want to note that the outstanding issue, a request of right-of-way dedication along Yadkin Avenue has been removed by staff.

Brett McDonough, 1623 South Mint Street said as discussed we are proposing rezoning for 15 townhomes, featuring a garage on the first floor, living and dining on the second floor, two bedrooms on the third and a covered balcony on the fourth floor. The one thing I really want to emphasize that we've really worked hard to hear the community and to work with the community, hear their questions and concerns and address as many of those as we think we can. That consisted of four public meetings and one private meeting with the NoDa Association president. From those meetings the two predominant criticisms that we've heard tonight is parking for this area and some façade enhancements. People felt that the end units having just a blank brick wall aesthetically wasn't as pleasing. The other criticism was the height. We were at 44 feet and Planning asked us to limit the maximum to 50 feet. We went back and made some revisions and those are the revisions that are being passed out to you tonight. We change the façade and added a number of windows, reconfigured the corner unit and also added the parking spaces on the surface. I know there has been some confusion around parking and how you qualify that as far as units or beds, but at a minimum we are having two parking spaces per bed and at a maximum there would be three parking spaces per unit. At a minimum there are two parking spaces per unit which have two beds. That seemed to have satisfied the community and we didn't have any objections to that. We felt that adding those surface spaces accommodated that concern. We did our best on the height and we were able to lower it 18 inches so we are 43 and we were at 44 ½ before that. The main reason is the balcony. We feel that in this kind of challenged sales market we need the balcony as an aesthetic enhancement to bring in buyers. We think it is something that is going to be attractive and also feel that it fits with the neighborhood. Less than a block away there is Fat City Loafs which is a 7- story complex. The

petition you've heard tonight with 55 feet, the Mercury, that is a block away also. We didn't feel we were too far out of the mark on that.

Christopher Allred, 415 W. 7th Street, said as staff has mentioned the petitioner plans to redevelop the urban site within the NoDa District for 15 for sale townhomes in two phases. Since the project inception we've worked closely with the Planning staff to develop the project and we believe it is a project that will be a benefit both to the City and the neighborhood. To this point the project has seen many revisions in an attempt to address the comments and concerns raised by both the Planning Department and the Neighborhood Association. The revisions included changes to the building façade as you can see in the handout provided this evening. Our apologies that that was not included in the submittal that you received concerning this petition. Additionally we have made revisions to the streetscape and the site work. The petitioner is requesting an amendment to allow the existing sidewalk along 35th Street to remain or to be replaced as it is existing as well as the site wall. In an attempt to save some existing mature trees C-DOT has requested that we inquire with Urban Forestry regarding those trees, whether or not they are worth saving and are of a healthy nature to save. The Urban Forestry should determine if those are not savable and the petitioner will remove that amendment and go back with the streetscape plan of an 8-foot planting strip along 35th Street and a 6-foot sidewalk. We plan to continue our efforts through the project development and the revisions to the site plan and continue to work with the Planning Department and the community in the best way we can to help the project to move forward. We ask for your review and hopefully approve our petition.

Chad Maupin, 1109 E. 35th Street said I'm Vice President of the NoDa Neighborhood Association and I'm speaking on behalf of the Association. First, to provide a little history on this site and rezoning past. In 2002 or 2003 this actually came up for rezoning, a very similar project at that time, a three-story condominium on the same site, different in design, but same in concept. At that time the Neighborhood Association was not in favor of it and City Council voted against it. We think the conditions at that time for the reasons for the no vote was the scale of the project. That one was a three-story building with single story residence diagonally across the street and more R-5 property directly across the street. Along with that height there are also historic mill homes. This parcel used to have mill home all along it and there are still two that will be torn down for the 2012 project. There were a lot of mature trees on the property some of which have been removed by the owners. There are still many mature trees and some people felt the aesthetics of the other project were unappealing. The current proposal a lot of those conditions still exist. It is indeed a much attractive project and townhomes could possibly be a good use for the site, but it is taller than the previous proposal. It is a three-story building with a fourth shelter to provide a roof-top access. I understand that is a nice amenity for the future owners but basically there is a fake fourth story that makes the building taller, just to provide that amenity and will loom over the rest of the neighborhood. For those of you who haven't been to the site, this parcel topographically is actually at a higher elevation than the parcels across the street so it exaggerates the height that much more. Also we requested a more comprehensive tree save plan. The site plan shows a lot of tree saves that the root system is well within the new sidewalks and within the new building that are going to be added, both along the back property line and along the streetscape. We do not feel this site plan shows how those trees could be realistically preserved. Also if you look in the top right corner there is an amenity space and right now that space is being used as one of the last parking spots in NoDa. Obviously, it is privately owned land and should remain public parking, but we do feel there could be a solution where that land is reused as parking. More importantly, the parcels that shares the same back yards faces North Davidson Street and there is an abandoned alleyway back there, or an existing alleyway and if it becomes abandoned there will be no access for that parcel and it will have to keep a curb cut on North Davidson Street. In the future we want to remove that curb cut off North Davidson Street so we want to maintain that access.

Brian Herdman, 308 East 35th Street, said I live just three houses down from this proposed development on 35th Street. I would like to point out that my main concern is with the height of it. I know they mentioned the height of NoDa Lofts which are on the other side of North Davidson Street, but this is really more the residential side of North Davidson on 35th Street. The maximum height of any of the buildings is only three stories and there are only two of them that are three stories. The rest of the development are single family with one or two stories so this is way out of proportion to what the development is height wise.

Giovanni Ulloa, 604 East 35th Street, said I live two houses down from this proposed development and again I'm just here to reiterate and support the neighborhood association and all the points that have been made. My concern is being so close to this and seeing it from my front porch is primarily the height of it and the difference in scale in context of where it is going to be. These are all historic mill homes along 35th Street and that is my primary concern. I do understand the aesthetic value of having that fourth covered terrace, but it is just out of scale from where it is going to be and where we all live. Another concern of mine, being where my house is that I don't know how it would affect my property value. It has already gone down significantly in the past two years for other reasons. If this isn't done in a more thoughtful way, I would fear that those of us that are directly near this development it could hurt even more so. The parking and the height are my main concerns and hopefully we can work together to make it as good as possible.

Mr. Maupin said one of the other things I wanted to comment on was our communication with the developer. As they stated they did come to two of our association meetings. They have made some changes to the original plan that were concessions that we asked for. Other things they did not address, however since then we told them we still needed work on this project before they could get approval from us and we were under the understanding, and perhaps it was a miscommunication, that there was going to be a deferral and we were going to work on this further. The only reason I signed up today is that I came to speak on the other petition and I did not realize this was going through. We will have a letter for you that better articulates our position, but we were expecting this project not to go through today and hoping that we could work with the developer to try to come to a compromise, but apparently it is going through at this point. We felt we needed to get our opinion in.

In rebuttal Mr. McDonough said it sounds like the real issue is the height and we feel we've done the best that we can on the height. We are at 43 feet, 7 feet under what the city proposed as a maximum. We also feel that it conforms with the block it is on and with other proposed developments. As far as the deferral, we've met and had 4 public meetings, two with the community association and we received zero feedback from them after those meetings, so as far as deferral for this I was never personally contacted. My partner was never personally contacted so that comes as a surprise to me. We met with them on the 6th of February and we haven't received anything from them as far as feedback. I felt we addressed the majority of their comments. With regards to parking we offered that green area in the top right corner. We said from the beginning that we are open to doing parking there. There were a number of individuals that proposed they would not like any development there because of some right-of-way issues and possibly purchasing that from us. We've said we are open to suggestions and we haven't seen or heard anything as a follow-up. As far as the lot in back not having access, that is not true, it has access from North Davidson Street. People are using our property currently for parking and we just allow that to go on and we don't charge anything. We feel like parking is an issue in the community and we are trying to address that as best we can and as thoughtfully as we can.

Councilmember Kinsey said where are the garages? Are they underneath, is that the first floor?

Mr. McDonough said yes, the garages are on the first floor. I'm sorry we don't have a rear rendering so it is a little hard to see that, but they are on the first floor. When I was saying we had a maximum of three parking spaces, you'd have one on the surface and two in the unit if you park back to back. I assume most people would not be parking back to back so we are saying at a minimum two spaces, one surface and one in the garage.

Ms. Kinsey said how many structures are actually on those properties? In the book it looks like there are at least three, but someone mentioned there were two.

Mr. McDonough said currently there are two houses, I would call them dilapidated single family houses and the rest is parking. We acquired the property in 2011 so we didn't have anything to do with the demo or deforestation or anything like that. We bought the property as is.

Ms. Kinsey said is the third structure that is shown on here been demolished?

Ms. Sanders said currently there is one single family home per lot. I think there were a number of structures on this property but it is now down to just one and there is one here.

Ms. Kinsey said I'm referring to the information you've sent us, it looks like there is one house facing 35th Street that is very close to the property line.

Ms. Sanders said there is a woodshed that is actually in the alley. Maybe that is what you are speaking about.

Ms. Kinsey said no, I'm talking about a house that faces 35th Street.

Ms. Sanders pointed out what she was considering one home and one home.

Ms. Kinsey said it is not very easy to see. It is not on the property that is petitioned to be rezoned, it is on the property next to it on 35th Street. The house looks like it is on the property line and I'm just curious.

Ms. Sanders said that is something we can take a look at.

Ms. Kinsey said you said something was removed by staff and I didn't understand that.

Ms. Sanders said there was one outstanding site plan issue which is actually note #12 stating that subdivision requested right-of-way dedicated along Matheson Avenue and that was taken away by staff.

Ms. Kinsey said are those two houses being occupied right now?

Mr. McDonough said they are. They are being rented.

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

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

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ITEM NO. 17: HEARING FOR PETITION NO. 2012-008 BY NLCM, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 30.21 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF REAMES ROAD AND BAYVIEW PARKWAY FROM R-3 AND R-8MF(CD) TO R-8MF(CD) SITE PLAN AMENDMENT.

The scheduled public hearing was held on the subject petition.

Shad Spencer, Planning Dept., said this is a rezoning petition for approximately 30 acres on the west side of Reames Road and Bayview Parkway. Along the western side of the property is where the future Fred D. Alexander will come in. There is two pieces of this and the northern piece is on R-8MF(CD) which was part of a rezoning that was done in 2001 which also included this larger MS-2 Innovated zoning which is not the McIntyre Subdivision. The lower piece which is about 7 acres is currently zoned R-3. They want to rezoning both these parcels, one to R-8MF(CD) Site Plan Amendment and the lower piece R-8MF(CD). They are proposing to allow up to 240 multifamily residential units on this site and currently on the R-8MF(CD) piece they are allowed to have 152 townhome units. There was a planned multifamily subdivision approval that was granted on that R-8MF(CD) site back in 2008 that allowed for 149 multifamily units and as we look at the aerial they have put in some of the infrastructure that was approved during that rezoning. They've done grading for the roads and put in the infrastructure so this plan proposes to utilize that existing infrastructure in their proposal. To the west is MX-2, which is part of the rezoning in 2001, the south is mainly single family dwelling, R-3 and R-4, to the east is multifamily zoning and there is some single family and institutional zoning. The land uses to the west is single family, basically all around it is single family residential with some vacant parcels except when you to the east across Reames Road there is multifamily and some

institutional uses directly across. The proposed future land use for the northern track that is currently R-8MF(CD) the Northlake Area Plan calls for residential density up to five dwelling units per acre which is to reflect what was approved back in 2001 for that original rezoning. The southern piece, the density proposed in the Northlake Area Plan is 4 dwelling units per acre. Some of the elements of the rezoning plan, they indicate that the building facades along the new public street will have facades that face the public street and individual pedestrian accesses to that street. They would have an 8-foot planting strip, 6-foot sidewalks along all new public streets. There would be a 50-foot landscaped buffer along Fred D. Alexander which in on the western side of the site. Additional right-of-way would be dedicated along Fred D. Alexander and Reames Road and the property that is currently R-3, the entire 7 acres is identified as a tree save area. They are proposing to do nature trails through there. They limit the buildings to three stories and they also indicate some of the building materials that are included. They have some two-story buildings that are also included in the plan. The petition is consistent with the Northlake Area Plan because the overall original rezoning from 2011 will remain below 5 dwelling units per acre, therefore staff is recommending approval upon resolution of the outstanding site plan issues.

Collin Brown, 2114 N. Tryon Street. said there are a few things I want to point out about this petition. The infrastructure has pretty much been developed on this site. It is approved for 152 townhomes as is. The previous owner graded the site, cleared the site, installed infrastructure, platted streets then things happened with the economy, they lost the property to the bank. I am representing the new owner of the property. Initially the current owner looked at doing townhomes on the site and he was approached by Ethic Properties out of Florida that were interested in doing a more luxury apartment development on the location. That is what we are proposing this rezoning for. As Shad pointed out, this is about 23 to 24 acres, already cleared, entitled for 152 townhomes. We want to put all of our development on this site, but we've got 240 units so doing that drove the density up. Staff did not want to exceed 8 units per acre so the petition acquired this 7 acre tract that is adjoining. By bringing in that 7 acres, it takes the overall density of the site below 8 acres and allows them to leave the site virtually undisturbed. Staff has worked with us to accommodate the existing infrastructure so we are very pleased that we have been able to work those issues out. This is a close up of the site and you can see the streets are already platted so it is really a win/win situation and the developer is able to come in and use that existing infrastructure, provide what we think is a superior site plan. The petitioner has worked with staff and this is a main public street going through the site, has reoriented the buildings so that they address that public street. This is abutting some residential so this will be two-story units there and this overall seven acres will be undeveloped. Councilmember Fallon was instrumental in helping us maintain the natural state of that area and we thing there might be some paths of recreational uses. We've been very involved with the neighbors and Councilmember Fallon was able to attend the community meeting. Although there are no speakers tonight I don't think there is a lack of interest. We had over 20 to attend and I think the feedback was overall very positive. The neighbors are excited about seeing this produce versus a potential townhome product which is already entitled. We've got architectural renderings and we've got a few issues to work through with staff and I think the petitioner has agreed to address all of those. Shad and I have got to interpret a portion of the architectural so we can nail that down, but we are committed to these renderings and we feel confident that our revised site plan is going to address all outstanding issues.

Councilmember Fallon said I think DOT was very cooperative regarding the 7 acres. They wanted a road through it and they moved it to a side so that area is going to be left totally tree save, walking trails and Councilmember Mitchell asked me to speak for him since he had to leave, that he was in favor of this.

[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.

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ITEM NO. 19: PUBLIC HEARING FOR PETITION NO. 2012-011 BY SINGH DEVELOPMENT, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 8.44 ACRES LOCATED ON THE EAST SIDE OF RANDOLPH ROAD BETWEEN WONDERWOOD DRIVE AND SHASTA LANE FROM UR-2(CD) TO INST(CD).

The scheduled public hearing was held on the subject petition.

Sonja Sanders, Planning Dept., said this site is approximately 8.44 located on the east side of Randolph Road between Wonderwood Drive and Shasta Lane, currently zoned UR-2(CD). It was rezoned via a 2006 petition and that petition did allow 51 townhomes or condos. The proposed zoning is Institutional (CD). The petition proposes a nursing home consisting of 125 dependent units. The surrounding properties are primarily zoned R-3. The subject property is vacant and there are a number of institutional uses that front along Randolph Road, at least two churches. There is multifamily to the south and the remainder of the area is developed single family and some duplexes on corner lots. The South District Plan recommends residential up to 6 dwelling units per acre on the subject property. The petition proposes 125 dependent units including a memory care facility. The maximum building size is 122,780 square feet, maximum building height of 55 feet and three stories. There will be access to the site by two driveways along Randolph Road. One will be a full access and the other may be limited to one way access. There is greenway dedication proposed along the east side of the site. There is a 44-foot class C buffer that will abut the residential zoning. The plan is currently inconsistent with the South District Plan, however our area plan physically don't specify a suitable location for institutional uses. The staff does recommend approval of the petition upon resolution of the outstanding site plan issues.

Councilmember Kinsey said in looking at the material there is a significant piece of floodplain on the property. Is the building in the floodplain at all or is that the greenway and holding pond?

Unidentified speaker said none of the buildings are in the floodplain.

Councilmember Dulin said Mr. Archery and I have been working this together because it is important to both of us. The neighbors were rightfully concerned here a little bit and they have been very involved. You and the folks you work for on this matter have done a very good job of communicating with the neighbors, listening to the neighbors and then changing your plan. Flooding, as we all know, through this section of Charlotte is a major problem and the neighbors were concerned, both upstream and downstream from this point about added runoff and the developer has done a good job of doing that. This is going to be a good project and I hope to see it in a month where we can move it forward.

Councilmember Cooksey said I just wanted to ask the petitioner, do you want your three minutes?

Collin Brown, 2114 N. Tryon Street, said I do need a few minutes because there are some people watching from home that I said I would make commitment to. In the interest of time I will skip my presentation and I think we have offered a superior site plan. In addition I distributed a memorandum on Friday acknowledging that we will submit a revised plan addressing all of staff's concerns. In addition to staff's concerns, there were three major neighborhood concerns. Mr. Dulin has hit the nail on the head and Mr. Archery has heard as well, the number one concern is the frequency and severity of flooding along McMullen Creek. Staff has requested that we comply with PCCO. The petitioner, same development is going much further and PCCO would require us to detain for a 25-year storm event and the petitioner has agreed to detain for a 100-year storm event. They have engineered the site and we've shared those site plans with neighboring property owners and I think the property owners are pleased with that. The next issue was the location of the dumpster area. Due to the larger size of the pond to accommodate a 100-year storm and the floodplain, there is not much room for us to relocate it. However, the petitioner has committed to providing a compacting dumpster with a four-sided structure with a roof. The structure will have four sides brick and peaked roof. Our revised plan will contain elevations. The final issue is with the northern driveway. We are showing two driveways and the only reason we have this is there is a sight distance concern here at this curve. Our main access is as far down the hill as we can get and not be in the floodplain. Our northern driveway is required for emergency access so we are showing that. Neighbors

were concerned about safety there as is the petitioner, so we are going to work with C-DOT and make sure there is no left-turn movements. There will be no left-turn into the site or left-turn out of the site. We are going to go through design with our engineering team and C-DOT to figure out the best way to do that, but there will be a physical impediment to prevent that. There is a lot of neighborhood involvement and they are looking for those commitments so I wanted to make them to you.

Councilmember Kinsey said you said left in and left out of the property.

Mr. Collins said there could be no left in or left out movements from this northern driveway.

Ms. Kinsey said I was just thinking about emergency vehicles.

Mr. Collins said I understand that emergency will be able to access however they need to at that driveway.

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

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

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ITEM NO. 21: HEARING FOR PETITION NO. 2012-012 BY THE CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO UPDATE THE ZONING DISTRICTS IN WHICH CREMATORY FACILITIES ARE ALLOWED AND THE PRESCRIBED CONDITIONS.

The scheduled public hearing was held on the subject petition.

Sandy Montgomery, said the purpose of this Text Amendment is to update our zoning districts in which crematory facilities are allowed with prescribed conditions, to allow within cemeteries of 100 acres or larger, to also allow them as an accessory use to a funeral home, again with prescribed conditions and the Text Amendment also adds prescribed conditions for these facilities. The Text Amendment was initiated to address neighborhood concerns that arose with a recently permitted and established crematory facility that was adjacent to a residential use. The first thing we did was remove crematories as a principle use allowed by right in the Office, B-1, B-2, U-MUD, CC and NF zoning districts. We started again with a fresh slate and basically what we are proposing is to now allow crematory facilities as a principle use again with prescribed conditions, which we didn't have in the past in the B-2 and Industrial Districts. Those crematory facilities, when they are a principle use, we are requiring them to be located at least 400 feet from any residential zoning district. The second type of crematory facilities we are going to allow is when they are accessory to a large cemetery over 100 acres. We are permitting them with prescribed conditions with expanded design districts so it can be an accessory use in a cemetery if the cemetery is in single family, multifamily, institutional, office, the MX district, most of business districts and the industrial districts. In this circumstance the crematory would be located in a residential district at least 100 feet from exterior property line of the cemetery. The third type of crematory facilities we propose for allowing are those as an accessory use to a funeral home when the funeral home is the principle use on the site. We would allow that in the office, the B-1, B-2, U-MUDD, MUDD, CC and NS zoning districts. General conditions for all of the crematories would be that the facility would have to be in an enclosed building that meets building and fire code requirements. The off street parking and loading requirements in our zoning ordinance would apply as would any applicable federal or state or local regulations would be met. Staff is recommending approval.

Councilmember Cannon said those that are already existing would be grandfathered I assume?

Mr. Montgomery said yes, we have 10 existing crematories in the city. Some of them are in residential district, others in B-2, a variety. Some would become non-conforming, but they would continue to exist.

Mr. Cannon said I hear your presentation relative to funeral homes and that they are sort of the exception under the classifications office, B-1, B-2, NS, etc. This makes me think about a rezoning that the Council approved some years ago off of West Boulevard and if that is still in place, and I don't know what has happened since that time, nothing has taken place as of yet with regard to that rezoning, but that rezoning would concern me if indeed the funeral home does decide to open up its doors there, largely in part because it sits right in the neighborhood and would obviously be within 400 feet and more like 100 feet in some cases of a resident. With that already being rezoned for that type of use, there is little that this body can do about that I would imagine because it has been zoned for that use, correct?

Ms. Montgomery said that hasn't been built yet so this would apply. If it is conditional and if it did allow that it would be permitted. We can investigate that further.

Mr. Cannon said would you please and also to see if a corrective rezoning might be in order given what has happened and/or changed over the years. I would like to have that looked into.

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

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

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ADJOURNMENT

The meeting was adjourned at 9:28 p.m.

Ashleigh M. Price, Deputy City Clerk

Length of Meeting: 3 Hours, 28 minutes
Minutes Completed: April 13, 2012