

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, April 16, 2012 at 5:20 p.m. 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, Clarie Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell and Beth Pickering.

Tammie Keplinger, Planning, reviewed the public hearings, decisions and deferrals on the agenda and responded to questions. Pam Wideman, Neighborhood & Business Services, gave a power point presentation that was deferred from April 9, 2012 on Incentive Based Inclusionary Housing. Planning Director, Debra Campbell, reviewed the area plan status and text amendment update.

The meeting was recessed at 6:15 p.m. to move to the Council Chamber for the regularly scheduled Zoning Meeting.

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ZONING MEETING

INVOCATION AND PLEDGE

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

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Mayor Foxx explained the zoning process and asked Emma Allen to introduce the Zoning Committee.

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DEFERRALS

Mayor Foxx said we have requests for the deferral of several items tonight, Item No. 3, Petition No. 2008-039; Item No. 4, Petition No. 2011-065; Item No. 5, Petition No. 2011-068; Item No. 7 Petition No. 2012-010; Item No. 11, Petition No. 2012-016; Item No. 12, Petition No. 2012-017; Item No. 13, Petition No. 2012-018; Item No. 15, Petition No. 2012-020; and there is a request for the withdrawal of Item No. 16, Petition No. 2012-021.

[Motion was made by Councilmember Cannon, seconded by Councilmember Mitchell, and]
[carried unanimously, to defer the above petitions until May and to allow the withdrawal of]
[Petition No. 2012-021.]

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ITEM NO. 1: PUBLIC HEARING TO AMEND THE ORDINANCE FOR THE HISTORIC LANDMARK KNOWN AS THE DR. GEORGE E. DAVIS HOUSE TO INCLUDE .356 ACRES OF LAND LISTED UNDER TAX PARCEL NUMBER 06901220 AS OF MARCH 1, 2012.

The scheduled public hearing was held on the subject matter.

Stewart Gray, Historic Landmarks said the Davis House was designated back in 1985 and the amendment would change the ordinance to include .365 acres of land which is an increase from the current .186 acres of land so the amendment would include more property associated with the historic house.

[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.

ITEM NO. 2: PUBLIC HEARING TO AMEND THE ORDINANCE FOR THE HISTORIC LANDMARK KNOWN AS FIRE STATION NO. 2. THIS AMENDMENT EXPANDS THE LOCAL HISTORIC DESIGNATION OF THE PROPERTY TO INCLUDE THE .17 ACRES OF LAND ASSOCIATED WITH THE BUILDING, LISTED UNDER TAX PARCEL NUMBER 12303612 AS OF MARCH 1, 2012.

The scheduled public hearing was held on the subject matter.

Stewart Gray, Historic Landmarks said this is a very similar situation except we are not proposing to expand the land designation. Currently none of the land is designated, just the building on a small lot. The lot is .17 acres of land and the owners have requested that the land also be included in the designation. The Landmarks Commission would support the designation of the land because it is a good preservation principle to include the property around the historic landmark because that enables the commission to exercise design review control over any changes to the property.

Councilmember Barnes said I was curious as to what the tax referral piece and what the additional amount of taxes deferred would be if this request is approved?

Mr. Gray said I have some figures in front of me if you'd like me to go over them.

Mr. Barnes said please.

Mr. Gray said currently the city taxes are \$1,936 annually on the property and that is with a 38% tax deferral which is currently in place. If you were to adopt this amendment to the ordinance then the Charlotte taxes for this property would be \$1,574, a reduction of approximately \$350 per year.

Mr. Barnes said you said the commission would support including this .17 acres because of what reason?

Mr. Gray said it is good preservation practices. This was designated back in 1976. I do not think that if this property came before the commission today they would recommend designating only the building because when you do that you lay yourself open to inappropriate building around the building. If zoning would allow it someone could put up a large fence, someone could put an addition right in front of the building. We have no jurisdiction over what happens on the lot at this point. The only way we would have jurisdiction and design review control of the lot is if the designation is increased.

Mr. Barnes said is the .17 acres behind it or beside it?

Mr. Gray said that is the entire lot.

Mr. Barnes said what could you envision happening underneath that building that would change the historical nature of it?

Mr. Gray said without speaking to what the city would allow through their planning ordinances, we could see inappropriate walls or other landscape features added to the front of the property. If it was a different property and set back farther from the road we could also envision an addition added to the front of the building.

Mr. Barnes said I have driven past it and I see the picture here but I was trying to envision what you were talking about. I appreciate it.

Councilmember Kinsey said Mr. Gray, tell me the difference between the 38% and the 50%.

Mr. Gray said North Carolina State Law allows for a property owner to request up to a 50% property tax deferral, which is in essence the same as a property tax reduction. Currently Mecklenburg County Tax Office has calculated, because not all of the property is designated.

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The land is not designated, the building is. The tax office does a simple equation based on the value. When we see our tax bills, one value is for improvements, which means the buildings and the other value is just for the land so this is a calculation done by the tax office. They have calculated that this property receives a 38% tax deferral under the current designation.

Councilmember Dulin said if you remember this thing was very controversial two years ago. There were face book sites, websites and the guy who owns it ended up stepping back in and I don't know if he made money or lost money or whatever, I did go in there a few months ago to see what he had done with he and he has created a very nice business. It is a hair salon kind of place, but it is very nice so I was glad to see the old Fire Station No. 2, after all the discussion that went on be resurrected and whatever is in there is better than it being empty. There is a valuable business with employees that go to work there every day now so I just wanted to get a plug for the building, it really has come back.

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

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

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DECISIONS

ITEM NO. 6: ORDINANCE NO. 4863-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY .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 $\frac{3}{4}$ of the Mayor and Council, not excused from voting, in order to rezone the property.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Howard, and]
[carried unanimously, to adopt the Statement of Consistency and Petition No. 2012-007 by]
[Rainer Builders for the above zoning, as modified, and as recommended by the Zoning]
[Committee.]

The modifications are:

1. "Rezoning Petition 2012-007" is now noted on the site plan.
2. The zoning of adjacent properties and those properties across Yadkin Avenue and East 35th Street are now labeled on the site plan.
3. The widths of the landscape strips along East 35th Street are now labeled as 1'-10" and 3'.
4. Petitioner has added language to the site plan identifying locations of existing Oak and Maple trees in proposed tree save areas as the reason for the proposed streetscape amendment.
5. Language has been added to the site plan stating the existing wood shed in alley will be removed or relocated.
6. The word "amenity" is now spelled correctly on site plan.
7. The 8' landscape area along Yadkin Avenue is now labeled 8' foot landscape strip.
8. Language has been added to the site plan stating plantings will consist of 25% Evergreen trees, 75% Evergreen shrubs, and 40% large maturing trees.
9. The petitioner has revised language on the site plan to clarify that the corner of an existing fence is located on adjacent Fire Station property.
10. The petition has responded to the CDOT comment by stating the optional request is intended to preserve the large existing trees and to retain the existing site wall. The petitioner will work with Urban Forestry and if it is found the trees are not worth preserving, the petitioner will provide the required streetscape improvements along 35th Street, however, the petitioner reserves the right to use the optional request if needed.
11. The petitioner has responded to comments from the urban Design by incorporating larger windows (including two at the pedestrian level), and more painted fiber-cement lap

siding to the side elevation facing 35th Street. Sheet A3 has been added to the site plan package. A note has been added stating that the sidewalk at 35th Street will be widened to the wall where possible to preserve existing trees if requested.

12. The Subdivision comments requested for dedication along Yadkin Avenue has been removed as it is no longer a requirement.

The ordinance is recorded in full in Ordinance Book 57, at Page 566-567.

ITEM NO. 8: ORDINANCE NO. 4864-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATED 21.38 ACRES LOCATED AT THE INTERSECTION OF WESTINGHOUSE BOULEVARD AND D. DUCKS LANE BETWEEN STOCKPORT PLACE AND SOUTH TRYON STREET FROM I-1 AND I-1(CD) TO I-2(CD).

[Motion was made by Councilmember Howard, seconded by Councilmember Kinsey, and]
[carried unanimously, to adopt the Statement of Consistency and Petition No. 2012-013 by]
[Marc H. Silverman for the above zoning, as modified, and as recommended by the Zoning]
[Committee.]

The modifications are:

1. Removed "other similar uses" from the list of permitted uses.
2. Remove "(1-2 only)" which is attached to specific uses on the list of permitted uses.

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

ITEM NO. 9: ORDINANCE NO. 4865-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY .48 ACRES LOCATED ON THE EAST AND WEST SIDE OF LOUISE AVENUE BETWEEN EAST INDEPENDENCE BOULEVARD AND EAST 8TH STREET FROM B-1 AND O-2 TO R-5 AND R-12MF.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and]
[carried unanimously, to adopt the Statement of Consistency and Petition No. 2012-014 by]
[Charlotte-Mecklenburg Planning Department as recommended by the Zoning Department.]

The ordinance is recorded in full in Ordinance Book 57, at Page 570-571.

ITEM NO. 10: ORDINANCE NO. 4866-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY .65 ACRES LOCATED SOUTH OF INDEPENDENCE BOULEVARD AND BETWEEN HAWTHORNE LANE AND LAMAR AVENUE FROM B-1 AND O-2 TO R-12MF.

[Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, and]
[carried unanimously, to adopt the Statement of Consistency and Petition No. 2012-015 by]
[Charlotte-Mecklenburg Planning Department for the above zoning as recommended by the]
[Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 572-573.

ITEM NO. 14: ORDINANCE NO. 4867-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY .47 ACRES LOCATED ON THE SOUTH SIDE OF WEST

KINGSTON AVENUE BETWEEN CAMDEN ROAD AND HAWKINS STREET FROM B-1 TO TOD-M.

[Motion was made by Councilmember Mayfield, seconded by Councilmember Cannon, and]
[carried unanimously, to adopt the Statement of Consistency and Petition No. 2012-019 by]
[Charlotte-Mecklenburg Planning Department for the above rezoning as recommended by the]
[Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 574-575.

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Mayor Foxx and I will apologize in advance, I'm going to take leave tonight as there is an After School Summit, folks that are here from the North Carolina League of Municipalities and they came partly because I invited them to come and I need to go and pay my respects to them. I will take my leave and I apologize in advance.

HEARINGS

MOTION TO RECUSE COUNCILMEMBER HOWARD FROM ITEM NOS. 18 AND 27.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Mayfield, and]
[carried unanimously, to recuse Councilmember Howard from voting on Item Nos. 18 and 27.]

ITEM NO. 17: HEARING ON PETITION NO. 2012-009 BY DAVE RANSENERG AND DOUG LEVINE FOR A UR-3 (CD) SITE PLAN AMENDMENT FOR APPROXIMATELY .45 ACRES LOCATED ON THE SOUTH SIDE OF NORTH DAVIDSON STREET BETWEEN HERRIN AVENUE AND DONATELLO AVENUE.

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

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this property is located on North Davidson Street between Davidson and Warp Street. The current zoning of this property is UR-3(CD). There are adjacent UR properties in the area from single family residential and some industrial. In terms of land use there is a mixture of land use in the area as it is transitioning. We still have some industrial in the brown, single family residential in yellow and multifamily and mixed use in the orange and purple. The future land use shows this property as a mixed use development. In 2002 the property was rezoned to allow six residential units, four live/work units and 4,000 square feet of commercial uses within two buildings. At that time the site plan showed the commercial and live/work units along Davidson and the residential units along Warp Street. The proposal shows one building with 20 multifamily units that are located along Warp Street, with the parking in front along North Davidson Street. There is a special fence with a special buffer treatment along Davidson to help improve the pedestrian look of the site. The fence has been reduce a little bit due to the sight distance triangles in terms of height, but it is to be a decorative fence which will be black aluminum and the planting. Along the side of the parking lot they are required to do screening per the zoning ordinance. The sidewalk that is required is located on the right side of your screen that is adjacent to some existing multifamily residential to protect the single family residential that is located on the left side. You have an elevation of the site from North Davidson Street and we also have an elevation of the building from Warp Street. The petition proposes to eliminate the live/work units. There is a three/two split along Davidson Street due to the elevation of the property, so there will be three stories on Davidson with two along Warp Street. There are restrictions on the building materials and also the provision of the fence that we talked about on Davidson Street. We are recommending approval upon resolution of outstanding issues. The proposal is inconsistent with the North Charlotte Plan due to the 2002 rezoning which amended that plan. It is consistent with the 36th Street Station Area Concept and it provides the high density for residential with direct access to the transit station, so staff is recommending approval.

Chad Maupin, 1109 East 35th Street, said I am Vice President of the NoDa Neighborhood Association and I'm speaking on their behalf. The first revision of this proposal dated March 12 was presented at the April monthly NoDa Neighborhood Association Meeting. We the NoDa NA do not support this petition as it is revised. We believe the rezoning petition does present a slight improvement over the current zoning and a significant improvement over their first rezoning proposal dated November 2011. The new plan does improve parking and density over those and loading onto North Davidson Street will significantly reduce traffic burdens on the connecting residential roads. We appreciate the developer working towards compromise to at least improve these aspects of the project. However, we cannot support this project for two reasons, first and foremost the NoDa neighborhood has a very negative experience with this developer on a neighboring project. They developed both the Colony down the street and the Reissuance project which is an adjoining property. The NoDa NA supported both of these projects about a decade ago due in part to the distressed status of those areas. We did receive some warnings from industry professionals about their workmanship and customer satisfaction and in time in deed both condominiums had significant issues expressed by their tenants. The Reissuance in particular has had a list of issues and a massive volume of unsatisfied purchasers that is unlike anything we have ever experienced in our neighborhood. The scope of this displeasure can be seen in part in the number of names that appear on the protest petition presented to the City for this rezoning. We in NoDa NA had no creation in the management of this protest petition but the names on there are NoDa residents and the are based in large part on the negative experiences they have had as both homeowners in the Reissuance as well as negatively affected surrounding neighbors. Examples of their complaints include shoddy craftsmanship that has led to significant costs, site amenities that were not delivered at the level promised, landscaping that was substandard as well as others. Many residents over the past decade have filed lawsuits against their developers. Another complaint that residents and neighbors consistently site is an untenable parking situation created by the Reissuance. In practice the Reissuance does not park itself and this massive project has placed a huge burden on three small neighboring mill town streets that connect to it. This area is cut off from the rest of NoDa by two rail lines and an industrial area so the burden can only extend to the small historic enclave. The proposed project in this petition does technically meet our parking minimums that we have created for NoDa, but it is still not appropriate for this site. The developer has already built a massive project below these standards right next door and the site we are considering today has indeed become a defective parking lot in practice. Building here with no other solutions in place will greatly increase the parking crisis and the proposed project will actually add additional overflow into the area. In our past 12 years as NoDa neighbors, myself and the President, deliberated on over 100 rezoning development proposals. This will be the first time that we have based an option on past performance of the petitioner. We hope that this makes clear our level of dissatisfaction and this is a position that we do not take lightly. We have asked the petitioner if they would consider selling.

Mayor Pro Tem Cannon said we can accept the remainder of your comments if you would like to turn those over to the Clerk and you were speaking to Item No. 17, which is right there at North Davidson Street between Herrin Avenue and Donatello Avenue, is that correct?

Mr. Maupin said yes.

Councilmember Barnes said sir, if you had 10 seconds what else were you about to say?

Mr. Maupin said I just wanted to make sure you guys were aware this is a position we have never taken before and we do not take it lightly based solely on past performance of the petitioner. That is our main reason that we are against this project.

Mr. Barnes said Ms. Keplinger, I recall that when we voted on and considered the McAlpine Project at Highway 49 and Mallard Creek Church Road we were spoon fed, shovel fed several hundred parking spaces according to the proponents of part of that proposal in order to avoid under parking development. They wanted to provide what was almost the equivalent of one parking space per bed. Here the petitioner is proposing one space per unit. Are they all one bedroom units?

Ms. Keplinger said I do not know the answer to that.

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Mr. Barnes said I recall also when we dealt with the McAlpine situation that what we were dealing with was minimums not maximums and here it seems that once again we are dealing with minimums and not maximums. I take a lot of what he said to heart because if it is under parked, a lot of those folks will be parking in the community behind it and also the concerns he expressed about quality are in my opinion a really big deal. I don't know if the developer is here, but that is a big deal in my opinion.

Mayor Pro Tem Cannon said is the developer represented or the petitioner? That can be a question to come a little bit later.

Councilmember Kinsey said I was by there today and I don't see how in this world they will put 20 units on that narrow piece of land. I did not get out of my car and walk it, but the topography was such that I don't see how they will do that. I don't know where they could park and I'm not real fond of them parking on Davidson or the parking being seen from Davidson. I guess an interior parking would be better, but it is a narrow lot and I am real concerned that it is a little bit too high density for that particular lot. I really appreciate Chad coming down and speaking on behalf of the neighborhood.

Ms. Keplinger said just as a point of process, I'm not sure if the petitioner signed up to speak, and evidently they did not, but Chad was in opposition so he actually should have 10 minutes if we follow the rules. I just wanted to point that out and I don't know if the petitioner's agent is in the audience and I'm wondering if they would like to respond since they didn't sign up.

Mayor Pro Tem Cannon asked Mr. Maupin if he had anything more to add, considering you are in opposition.

Mr. Maupin said I think we are fine.

Mayor Pro Tem Cannon said for the record, he feels they are covered.

[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. 18: HEARING ON PETITION NO. 2012-024 BY NRP PROPERTIES NORTHLAKE SENIORS FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.72 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF WEST W. T. HARRIS BOULEVARD AND FOREST DRIVE FROM CC 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.

Tammie Keplinger, Planning said this petition is to rezone from CC to MUDD-O. It is 1.72 acres and is located at the corner of W. T. Harris Boulevard and Forest Drive. In terms of the zoning you can see mostly single family residential in yellow. The red indicates a commercial center called Pecan Ridge that was developed in late 1998. The new Walgreen is located on the opposite corner. The land use is consistent with the zoning with the exception of the subject site which is an out parcel for Pecan Ridge that has yet to develop. The future land use map shows the property as commercial reflecting the rezoning from 1998, the single family residential in green and mixed use over where the Walgreen is. From the aerial you can see the Walgreen under construction, the proposed site and the single family residential neighborhood back in behind off of Forest Drive. This petition actually has two components. It has an elderly multifamily component which is for 70 units. It is four stories and we have building elevations which I will show on one of the next slides. There is an option provision which will allow the parking to be

reduced from one space per dwelling to ½ space per dwelling. There is a screening provision, a buffer provision for the adjacent property which is an 18-foot buffer with a fence that will be a wooden fence with brick tiers. The access to the site is actually through Pecan Ridge Shopping Center. There are urban open spaces located along W. T. Harris. In terms of the building elevations I believe these are side views although they are not labeled in this slide, these are side views of the building. This would be the side view from the Pecan Ridge Center and this will be the side view from Forest Drive and the petitioner may need to clarify that for us.

The second development option for this site is for a 10,000 square foot commercial building that would be a maximum of 35 feet in height or one story. It would be architecturally compatible with the adjacent Pecan Ridge, 80% of the exterior material would be brick. The optional provisions on this one would allow drive-thru windows as an accessory use for a bank of financial institution. It would allow parking and maneuvering between the building and the street and a modified streetscape. The buffer is a 57-foot buffer to the adjacent residential properties. It includes an undisturbed area and a disturbed area. There is also access through Pecan Ridge as with the other site, there is no access off of Forest Drive. There is also a 42-foot buffer along Forest Drive, part is undisturbed and part of it can be disturbed. As I noted before staff is not in favor of this petition and we are not recommending approval. In terms of this plan, it is inconsistent with the NorthLake Area Plan. One of the things we look at in area plans, we look at institutional uses and we take them on a case by case basis, but in this case the multifamily that is for the elderly, we feel the design and scale are out of character with the single family residential neighborhood and the rest of the area. Also this proposal includes two development scenarios and through the conditional rezoning process we do not recommend two scenarios, we like to have one scenario for redevelopment. It also introduces the MUDD District which is an urban district into a suburban location and when you are looking at the site plan there are two big differences. With the multifamily you see a very urban scale development and when you look at the commercial component you see a very suburban scale development and that suburban scale development is within a MUDD District which is an urban district so it contradicts what the ordinance wants us to do in the MUDD District. The design and scale of the multifamily is not compatible with the surrounding areas so again staff is not recommending approval of this petition.

John Carmichael, 101 North Tryon Street, said I represent the Petitioner NRP Properties Northlake Seniors. With me tonight are Bobby Drakeford of the Petitioner and Mr. Jim Guidone of Design Resource Group, which is the Petitioner's land planner and they are available to answer any question you may have relating to the request. The site does contain about 1.72 acres and is located at the northeast corner of intersection of West W. T. Harris Boulevard and Forest Drive. It is part of a larger 12.7 acre site that was rezoned in 1998 to the CC Commercial Center zoning district to accommodate the development of the Pecan Ridge Shopping Center and two out parcels. As we sit here today, the shopping center has been developed as well as one of the out parcels. The second out parcel is the site that is subject to the petition and it is currently undeveloped. Under the current approved conditional rezoning plan governing the use and development of the site, the site may be developed with one free standing commercial building and it may be devoted to any use that is allowed in the CC zoning district, except that the following uses are prohibited. A convenience store/gas station, a restaurant with a drive-thru or drive-in window, an ABC Store and an adult establishment. Under this petition the petitioner is seeking to rezone the site from CC to MUDD-O to accommodate two development alternatives as Ms. Keplinger mentioned. Under the first the development alternative, and it is the preferred alternative from the petitioner's perspective, the site could only be devoted to a maximum 60-unit age restricted, senior or elderly multifamily community. We haven't turned in our revised plan because we couldn't before the public hearing, but the revised plan will reduce the units from 70 to 60, so Ms. Kiplinger didn't have the benefit of that plan, but we will turn that plan in before noon on Friday.

Under the conditional rezoning plan occupancy of the units would be restricted to individuals 55 years of age or older. The building would be an L shaped building that fronts West W. T. Harris Boulevard and Forest Drive. The petitioner will install 8-foot planting strip and 6-foot sidewalks along its frontages. There would be an 18-foot class C buffer next to the single family home just to the east of the site as well as a 44-foot wide tree save area along a portion of that eastern property line. That tree save area would be undisturbed except to the extent necessary to

accommodate the installation of a fence along that eastern property line. Specifically the petitioner has committed to install an 8-foot wood fence with masonry columns spaced no more than 25 feet apart and the fence would be required to be installed within 90 days of the commencement of the construction of the senior multifamily building. This fence would provide additional screening and separation to that adjoining residential use. Elevations are a part of this rezoning petition, although the elevations Ms. Keplinger showed you did show four stories and the plan that is currently in the process would allow a maximum of a four-story building but the petitioner's revised conditional rezoning plan will reduce the maximum height to three stories and these are the revised elevations that will also be submitted no later than noon on Friday. The height has been reduced from four to three stories and we think this makes it more compatible to the surrounding residential and other commercial uses. The permitted exterior building materials are noted on the elevations. It is cementitious board and batten siding, cementitious lap siding, cementitious panels and trip, cementitious is essentially hardy plank, brick and fiberglass dimensional roof shingles, vinyl siding would not be permitted, but you could have vinyl windows, vinyl glass doors and vinyl coverings on the railings on the porches.

I want to point out on the elevations that this is the eastern elevation, this is the part of the building closest to the residential neighbor, the single family residential use. On the revised elevations the windows have been removed from that portion of the building because it is closest to the adjoining single family residential neighbor and this was done in an effort to address some of the concerns that neighbor expressed at the community meeting. The petitioner feels that these elevations and the reduced height of the building insure its compatibility with the area and also insures aesthetically appealing project. Once again those windows have been removed from that very eastern end of the building.

With respect to the commercial alternative, this application does seek the approval of two alternatives. The first was the senior multifamily alternative. The second is the commercial alternative and it is essentially trying to preserve the existing commercial development rights of the current owner of the site. The petitioner would be the developer of the senior multifamily community and it has an option to purchase the site. The owner of the site is requiring that the petitioner preserve the existing development rights for the site under this rezoning request. This is because the senior multifamily community is a restricted and very limited use and if this rezoning petition were to be approved and the senior multifamily residence community not developed, the owner would lose his commercial development rights and he feels he really needs those to be maintained. The current owner is a commercial developer so these were some of the confines within which our petitioner is required to operate. Under the commercial alternative, it will be a free-standing building, maximum size would be 10,000 square feet, maximum height of one-story and 35 feet. The uses would be office and medical uses, a bank or financial institution, restaurant uses, retail uses, beauty and barber shops, show rooms, a childcare center and other commercial uses. Additionally the site could be devoted to an automotive service center without gasoline sales, similar to a AAA repair center or Jiffy Lube. That use was inadvertently omitted from the conditional rezoning plan, but we would intend to add that use within the plan this is filed by Friday and that would also make it consistent with the existing zoning. As under the existing zoning this plan would also prohibit restaurants with drive-thru windows, a convenience store gas station, an ABC Store and an adult establishment, so the plan here is to keep the commercial alternative consistent with the existing zoning of the property. The buffers would remain the same and they would remain in place if developed under the commercial alternative. The building would be required to be architecturally compatible with the remainder of the shopping center. Eighty percent of all exterior wall surfaces would be required to be constructed with brick. There are optional provisions that are being requested under this petition and those are done to essentially accommodate a more traditional suburban design, namely a building in the center of the site with parking around the exterior that is prevalent under the approved conditional rezoning plan.

The Planning staff is not recommending approval of the petition and as we understand it, there are four reasons for that. One, is the two development alternatives. The second is the use of the MUDD zoning classification in this wedge location rather than the UR-3(CD) zoning designation that is recommended by the Planning staff. The suburban layout of the commercial alternative while seeking a MUDD rezoning and of course that necessitates the optional provisions and then the four-story height of the proposed senior multifamily building. The MUDD-O is necessary to

enable the petitioner to preserve the current owner's existing commercial development rights while enabling the petitioner to have a more urban design for the senior multifamily residential building. The petitioner doesn't have the flexibility not to pursue two development alternatives under his agreement with the current owner. With respect to the four-story height concern, the petitioner has committed to reduce the height from four stories to three stories. There are outstanding site plan issues with respect to each alternative. I think all of the outstanding site plan issues with respect to the senior multifamily alternative can be resolved to the satisfaction with staff and we will know more definitively by Friday with two exceptions. One is we will still need two alternatives and the second is we still would need the MUDD-O zoning district, but the other issues I think we can resolve. With respect to the outstanding issues related to the commercial alternative, we are working through those and it is our hope that we can address most if not all of those by Friday, and we will work hard in that effort.

Jeremy Oddy, 9533 Forest Drive, said I am the resident that is next door to this property that is being petitioned for rezoning. I am opposed to this. I am for the current zoning and I do like the things that are already in place. We bought this residence nearly five years ago and I knew Food Lion was behind our backyard, I knew commercial property was to the left of our property, but I enjoy the 57-foot buffer that is there. Anything that is built in that commercial part, it does not feel like intrusive to us whatever does go there, but we believe this large apartment building and the decreasing of this buffer will be very intrusive to our property. We have young children that enjoy our yard. We bought this property in this neighborhood to enjoy this spacious large lot so with this apartment complex coming that close to our home is very intrusive to us and we would no longer feel that quality of life. I am grateful for our neighborhood, our neighbors and our quality of life and I enjoy that with my wife and 5 children. I do appreciate Bobby Drakeford and I've been working with him for several months about this, going back and forth on different things. I do appreciate his character and being a gentlemen in the process. I'm not opposed of development, I'm just opposed to this development. I don't think it will increase the value of our property or the surrounding areas, it doesn't conform to our area. I am for senior residents with low income or affordable housing. I just don't think it is right be right next door to us in our neighborhood in this area of Charlotte. I'm very highly opposed to this buffer being decreased. The 57-foot buffer does feel like a shield to us. I am highly opposed to how it affects our property value. I've spoken to several real estate professionals and all of them have said yes, the value of your property will be negatively affected by this project. I am very concerned about the possibility of younger family members or non-family members staying with these seniors for some amount of time. I think it could lead to a nuisance to our community and to even possibly crime so I am concerned about that. I don't think it will be effectively managed by whoever manages that property. Also the plan that I understand is in this is going to have a trash and recycle area right next door to our back yard. I don't want to deal with the flies, don't want to deal with the smell on a daily basis. We can't just pack our bags and move somewhere easy so I'm very opposed to those things. Couple of other things I think would be similar to other neighborhood residents. We have storm water issues and I don't think is going to help. They will actually make it worse. Right now we are dealing with a large culvert right behind our yard. I don't know where all the water comes from, but we get liter, dirty water going between my neighbor and my yard on a regular basis on rainy days. I have young children, they play nearby and I don't know what is in these waters, but it looks like a river going through our yard and it hasn't been dealt with yet. The other things is increased traffic. I am concerned about that and I don't think Harris Boulevard on that end near Mount Holly Huntersville Road is that adequate or effective and I just don't think this will be helpful at all. My final appeal, I think it is common sense and common courtesy not to do this. Everyone I talk to, family, friends or whoever says I hope this doesn't happen. I don't want this next to my house and I don't think any of you would either. Right now I feel like the quality of life for my family is at stake with this. We do hope the City of Charlotte will act in good will toward our neighborhood and us as well on this. Again, I'm strongly opposed to this and am for the current zoning as it is right now.

Becky Oddy, 9533 Forest Drive, said I am the mother of five children and one on the way. I am not for this rezoning and strongly opposed to it. Before I give reasons why I'm opposed to it I want to give some things before that. First or all, I'm all for elderly low income housing, just not in this area. I am coming from a mother's point of view, I would like to put yourself in my situation of having five children and one on the way and think how you would feel if you had this big building coming to your place next to your house and how your spouse and your children may

feel. These are the reasons why I'm opposed to it. For one it is for low income housing which typically from experience in what I've seen, it brings crime. Who will be staying with the elderly and can that be managed? Who is going to be looking out for who comes and stays? Low income housing is certainly would drop the value of our neighborhood and that is a concern for our neighbor. Also the huge building, our privacy will be taken away and we will be uncomfortable know that residents could be looking at us from a three-story building and people can see into our lot. We are not used to having that and that would be very intrusive to us. There also will be a dumpster near our house and I definitely don't want that. There will be a smell and I'm sure flies will cling to that. We do enjoy our place and we do not want to have this building here as I feel it will be intrusive to us and it is something that we are not for. We are for the way it is now.

Nancy Detweiler, 9639 Forest Drive, said I moved to Forest Drive 8 months ago from out of state. I love the neighborhood. I'm opposed to the rezoning of the property at the corner of W. T. Harris and Forest Drive. I'm opposed to 3 to 4 story building. Parking areas would create substantial runoff to our community which already has a huge problem with storm water drainage. Runoff literally causes a river to come down the side of the road on Forest Drive and there is erosion for the entire length of Forest Drive. Right now I have submitted to the county a request to look at our property, an area between the street and our property line over the past 8 months, there has been aggressive erosion. We have one hole that is 36 inches deep and this has all occurred in the last 8 months. The lot next to us is a standing swamp. My concern is additional runoff, no matter how well controlled is only going to aggravate the situation for the neighborhood and it could negatively impact anyone who is trying to sell their home. I am aware that the current parcel is zoned commercial center which would allow certain retail businesses to be built and I would prefer that to the multistory building that is being proposed. I also have issues with the traffic patterns that could cause a negative impact. W. T. Harris is two-lanes prior to Forest Drive, it merges into one lane right before Forest Drive and then it becomes the entrance to Food Lion after Forest Drive. Many people don't know that is the case and trying to turn from W. T. Harris onto Forest Drive, many times I've been almost rear-ended and it really causes a huge issue especially during rush hour when traffic is two lanes, merging down into one. Many times during the day it is extremely difficult to get out of Forest Drive or Food Lion, especially making a left turn. With the proposed entrance to the apartment complex coming off of the Food Lion parking lot and going into the exit lane I'm afraid there is going to be more congestion, a potential for accidents and adding an elderly component, drivers I'm just not sure what that is going to do. I'm not sure that all of the traffic issues have been addressed. We are being told that there is a great need for 55 plus housing in the Charlotte area. If that is truly the case then I'm puzzled why NRP Properties would choose a parcel of less than 2 acres on which to build these apartments. If you look at their website, most of their communities are large complexes that include many amenities, swimming pool, tennis courts and club houses. Since they are asking for less than one parking space per unit, as they feel many residents will not have vehicles, then being in close proximity with shopping and services within walking distance, with existing traffic lights and cross walks would be a much better option. The parcel offers none of these and trying to cross W. T. Harris would be extremely dangerous. If there is such a great need for this type of housing, then why not choose a larger parcel with ample acreages for expansion. In order for these apartment complexes to be built the adjacent home must be bought and forces one of our families to be displaced. No-one in our community is pleased about that.

In rebuttal, Mr. Carmichael said as I mentioned in my presentation we are hopeful that the reduction in the height of the building from four to three stories makes it more compatible with the surrounding neighbors and also that it is a senior community which we think would make good neighbors. They would serve as eyes on the neighborhood in a sense to offer additional diligence when folks are out of town and that sort of thing. I live by elderly folks and they are always helpful to keep eyes on the neighborhood. We've heard at our community meetings that storm water is a significant problem in the area. I will say that I'm told by Mr. Guyton that the existing storm water detention pond at the Pecan Ridge Shopping Center was sized to accommodate storm water from the site, but the development of this site will be required to comply with the Post Construction Controls Ordinance. Water quality improvements will also have to be installed. I don't think they are installed on the site now as this plan was approved and developed in advance of the adoption of the Post Construction Control Ordinance. I will remind you that the windows from the eastern portion of the building have been removed to aid in the

privacy of the adjoining property owner would feel if the apartment community is developed next door. With respect to traffic concerns, we understand there are concerns. I will note that CDOT determined that the trip generation by the commercial alternative under this rezoning request would be the same as the existing zoning because it is essentially the same thing, but that if the senior multifamily building was developed and occupied, it would actually result in a decrease in traffic that could be generated when compared to the commercial development of the site. The multifamily development could actually be an improvement over traffic as compared to if the site were developed commercially. I do understand that it is a vacant parcel now and it doesn't generate any traffic.

Councilmember Kinsey said I just learned something. Actually this is an option and both of these projects will be built. Either or?

Ms. Keplinger said that is correct. One of the issues we have with it is that conditional rezoning is meant for firm development plans and having two options is not something that we recommend.

Ms. Kinsey said I did ask this question at the Dinner Meeting, but let me ask it again because staff is opposing and thank you for explaining why. Is there any part of this that you are comfortable with, the site plan for one or the other?

Ms. Keplinger said with the site plan and the zoning district that they are requesting, no ma'am. Mayor Pro Tem Cannon said it appears Mr. Carmichael that you all are modifying as you go. Is Friday going to be it in terms of all that you submit to staff to gain their level of a change in position on this particular petition.

Bobby Drakeford, 1914 Brunswick Avenue, said I'm here representing NRP Properties. We do intend to modify the plan to comply with the request for the multifamily use. The MUDD-O that is being required by the commercial use, we do not control, but regarding the height, the three story, we've made that modification and there is a setback being proposed from 15 feet to 30 feet and we are going to make that modification. Our intent is to comply with all site plan recommendations from staff for the multifamily use and the NorthLake Area Plan does recommend R-8MF for the surrounding neighborhood, not R-3 as was represented.

Mayor Pro Tem Cannon said does it help staff in the way of the stories being lowered from 4 to 3?

Ms. Keplinger said that is a step in the right direction, however I think we have other issues that still need to be addressed and that one change by itself is probably not enough for us to say that we would recommend approval.

Mayor Pro Tem Cannon said in terms of what is already there in the area, it seems like I heard some information about it not blending with the fabric of the community. Would you describe for the sake of the audience that is represented here today and those that might be watching by way of TV or internet, what is currently in the surrounding area?

Ms. Keplinger said I can show you from the aerial, you can see the property in question is outlined in yellow. The residential neighborhood is a suburban neighborhood, large lots, single family residential homes. Across the street we did have the rezoning for the Walgreen and some multifamily that is a little higher density, but again behind this we have single family homes that are basically still suburban development. We have Pecan Ridge, which the property is a part of their original development and then behind this is the institutional uses, the church. When you look at the elevations for the site, you can see with the four stories and even with the reduction to three stories, most of these homes are probably one or two stories in height. The intensity of the development is not consistent with that area.

Mayor Pro Tem Cannon said what about the material usage in terms of what is in the area right now and what is being proposed?

Ms. Keplinger said I think the material usage is somewhat compatible with what they are trying to do. They have limited the use of vinyl which is always a concern and they have committed to the elevations so they would have to follow that design or similar design.

Councilmember Fallon said isn't there a strip mall next to it with a Food Lion, a Pizza Place?

Ms. Keplinger said yes ma'am that is Pecan Ridge development which this is an out parcel to. It was rezoned in 1998 and you can see on the aerial Pecan Ridge and that is the convenience store.

Ms. Fallon said where the church is, was a soccer field before.

Ms. Keplinger said the soccer field was located over here with the church where the Walgreen is.

Mayor Pro Tem Cannon said do we know of any 55-year old plus criminals and low income housing?

Mr. Drakeford said no, I don't know but I can speak to NRP's practices. They are an Ohio based multifamily development firm with a Raleigh office and most of the properties that you will see on their website are family affordable community, so that is why you have lower density amenity feel community. This building does include a significant number of interior amenities and most of the like projects are parked at parking ratios of one space for every two units or even one for every four units as allowed in some

Mayor Pro Tem Cannon said I understand the point that was trying to be made, but I would hope that there would be a lot more balance when making assertions about criminal elements relative to low income housing and who might be in communities as such that would commit them. As one who actually grew up in low income housing, I don't think I'm a criminal and there is enough people on this Council the same way. I would hope that going forward that folks could be a little bit more balanced in their comments relative to the reality of that. These are for seniors as I understand it.

Councilmember Barnes said the major concern I have is that when you travel west of I-485 there is nothing of this height or density in the area. I've been through there quite a bit and I don't see where that would change, it is fairly a rural setting so there aren't many tow-story houses out there as I recall, certainly not 3 and 4, etc. My major concern is, just so you guys know because I know both of you, the height and density issue is a concern for me and also the point that Ms. Keplinger made, deciding whether it is going to be a multifamily development or a commercial development would be important because as you know I like to have a very good idea of what you want to do and be able to support you if I can, but it is fairly problematic for me now.

Mayor Pro Tem Cannon said Mr. Drakeford, I will be honest with you, what is before us right now I hope you can work to some end to make some changes because if we had a vote this evening I would inclined to probably not be in support of it. If you have a few more seconds to devote some time to what you were about to say a moment ago what it would be?

Mr. Drakeford said regarding the residence there is a very thorough screening process that does include a criminal background check and we understand staff's concerns regarding the multifamily in regards to the setback and other site plan issues, but the commercial component, we have no authority to modify.

Mr. Fallon said that troubles me. It can't be an either or, can it be housing where you would give us a definite what you are going to put there. I understand the commercial part would be for the prior owner or whether you have an option or not. I think the troubling part is, it is an either or and it is hard to make a decision when you don't know a definite of what is going to be there.

Mr. Carmichael said we will certainly investigate that with the owner.

Ms. Fallon said you are reserving his rights to put something commercial in. Is that the way property is usually sold?

Mr. Carmichael said there are complications sometimes with financing these projects and as I mentioned during the presentation this rezoning for the senior multifamily apartment community would be very specific and a very limited use and the existing owner was concerned if this is rezoned and I'm not assuming that it is, but if it were rezoned by this Council and for some reason the financing could not be secured for the project and it didn't go forward, then you would have a commercial developer or commercial owner with a project that he couldn't develop so he wanted to have the option to maintain the commercial rights.

Ms. Fallon said so you are saying it is commercial now and if you could not raise the funding it would revert right back to commercial.

Ms. Keplinger said if the property is rezoned by the Council and the proposal is for only multifamily, and the multifamily project doesn't come to fruition, then that is all that can be built there. The conditions run with the property so the commercial property owner would then have a multifamily site and the only way that he could change it would be to go back through the rezoning process again, so he does have that option.

Mr. Carmichael said sought to maintain the either or scenario so he wouldn't have to go through that process again, but if the petition were approved in its current form then the two development scenarios would be either the senior multifamily apartment community or a commercial free standing building and the commercial development would be identical to what is currently allowed under the existing conditional approved zoning plan.

[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. 19; HEARING ON PETITION NO. 2012-026 BY THOMPSON CHILD & FAMILY FOCUS FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.65 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF NORTH WENDOVER ROAD AND MARVIN ROAD FROM R-22MF TO O-1(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said the site is currently zoned R-22MF. We have neighborhood services located on the left side of the map, that is the Providence CMPD Station that is currently under construction, then we have commercial along the remaining part of Wendover with multifamily and single family. In terms of land use, there is a mixture of land use and you can see how the CMPD site is showing up. The site we are talking about tonight is actually a former day care that has closed down so you have two buildings on the site. The adopted future land use calls for multifamily development for the petitioned site. When you look at the aerial you can make out the two buildings, this was the main classroom building and the gymnasium. The current proposal is to reuse and expand the existing childcare facility. The buildings show up in red and the proposed expansion will be to the rear of the gym and to the left of the existing daycare building. There is an area to the back which is going to be left as open space. There is an old cemetery that is actually located on that site so that will remain as open space or tree save. One of the things I would like to point out to you is that the limits of the Police Department facility on the left side of the site is approximately at the edge of where the open space will occur so they are not going any farther back into the neighborhood.

In terms of the site plan they are proposing to remove some existing parking along Marvin Road, but they are reserving the right to ask for a variance to allow that parking to remain if they need to. Staff is recommending approval. It is inconsistent with the Central District Plan and the Grier Heights Neighborhood Association Action Plan, but institutional cases are considered on a case by case basis. This is located next to the CMPD site which is a non-residential use and it is the

John Friday, 1119 Belgrave Place, said I represent Thompson Child and Family Focus. For 125 years, Thomson Child and Family Focus have provided diverse services and treatment education and care for children. Here they will house all of their community based services that wrap around children and families and that office use is what necessitates this rezoning. The existing buildings on the site have been vacant for some time and it is our intention to re-use those to repurpose them for various levels of clinic therapeutic programs, support staff for foster care, family support program activities and counseling and a targeted case management staff would be located there. The location is important to them because it is in close proximity to Mecklenburg County DSS with whom they partner. It is also centrally located with good transportation options. They are bringing new life to a neighborhood liability and we hope you will support the rezoning.

Councilmember Kinsey said this is in District 1, right adjacent to the Grier Heights neighborhood and I think it would be a real benefit to the neighborhood. I know there are multiple offices or sites, are they consolidating any of those into this site or will they maintain some of the other sites as well?

Mr. Friday said they have a number of sites in Charlotte. The Seventh Street site primarily will populate this facility.

Ms. Kinsey said will it close the Seventh Street site?

Mr. Friday said I'm not fully sure, but the idea is to put the people that work most closely together instead of different areas here because it will be near DSS and it provides the cross education and cross training they need for that to work well.

Councilmember Dulin said what kind of feedback are you getting from the Grier Heights folks?

Mr. Friday said we had a community meeting and had three people I believe come. Everyone seemed fine with and we've really had no negative reactions at all. I think the fact that we are using existing buildings, which frankly are a liability for the neighborhood now, they've been vandalized, with options for expansions just for the future means that the site will now be populated again and there will be people there into the hours at night. Right now it is just sitting there vacant.

Mr. Dulin said what are the hours of operation of facility going to be?

Mr. Friday said they have some evening activity because they work with families who work.

Mr. Dulin said but it will shut down at 10:00 and it is not going to be late?

Mr. Friday said oh yes, absolutely.

Mr. Dulin said that strip from that edge of the new Police Station all the way down for a ¼ of a mile is in bad need of some work and some renovation and to take those two buildings that are closed and are an eyesore to any of us that use that section of road, I'd like to see you make a success out of this. That will be interesting.

[Motion was made by Councilmember Howard, seconded by Councilmember Barnes, 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. 20: HEARING ON PETITION NO. 2012-027 BY KEITH HAWTHORNE AUTOMOBILE FOR A CHANGE IN ZONING FOR APPROXIMATELY 9.80 ACRES LOCATED ON THE EAST SIDE OF SOUTH BOULEVARD AT THE INTERSECTION OF SOUTH BOULEVARD AND HILL ROAD FROM R-4, R-17MF, AND R-22MF TO B-2(CD).

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The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said most of the zoning to the east is zoned single family residential. We have some multifamily along South Boulevard and we have commercial zoning and we are starting to see some of the transit oriented development on the west side of South Boulevard. In terms of land use, it is pretty consistent with the zoning, although some of the transit oriented development has not yet started on the west side of South Boulevard. In terms of the adopted future land use plan for the petitioned site it does call for multifamily residential. The only access to the site is from Tiffany Lane. At this point in time it is surrounded by car dealerships on either side and we have the single family residential and some multifamily on the adjacent sides. In terms of the site plan for this petition, the site plan allows six structures, although they are only showing three on the site plan. They noted six so they could divide those in two additional buildings if they needed to, but the square footage would not increase. In terms of the buffers, there are three different types of buffers for this property. The areas that are shown on the map show where the 75-foot buffers will be. There is an area which will have a 56.5-foot buffer and that is basically the 75-foot buffer reduced by 25% with the use of a fence, and then finally the area in blue is grandfathered and they don't have to put a buffer there, but they are proposing to put a 6-foot wooden fence in at that location. The proposed buildings will be compatible with the existing buildings that are around the site and they have made a commitment that any outdoor speakers provided will be directed toward South Boulevard and away from the single family and multifamily residential properties. Staff is recommending approval of this petition. It is inconsistent with the Arrowood Transit Station Area Plan, but the site is not suitable for multifamily development under the current conditions with the car dealerships located on either side so this will allow for the expansion of the existing use until the time the property is ready to transition to transit oriented development.

Keith MacVean, 100 North Tryon Street, said I am with King & Spalding and Jeff Brown of our firm and I am assisting Keith Hawthorne Automotive with this rezoning petition. With me is Keith Hawthorne of Keith Hawthorne Automotive, Don Potter with Potter Construction and Jason Dolan with ColeJenest & Stone. We want to thank the Planning Department for their assistance with this rezoning petition. We are pleased that the Planning Department is recommending approval of the request upon resolution of the remaining outstanding issues. We have discussed those remaining issues with staff and we will be resolving those with a revised plan we will submit to them on Friday. At this time I would like to turn it over to Keith Hawthorne so he can tell you about his business and the plans for the site and then we will go over the details and be ready to answer any questions.

Keith Hawthorne, 7601 South Boulevard, said I currently own and operate five franchises in Gaston and Mecklenburg County. I employ around 300 people. My wife and two kids live here in Charlotte and have since 1991. I have requested this petition for this particular parcel to expand my existing operation. I purchased Harrelson Ford in January 2009 and the facility at 6500 South Boulevard was not adequate for manufacturer's standards so I relocated my current Ford store and I acquired Lincoln in September 2009. Under their requirements I'm having to build a new facility and I wanted to have everything on one parcel. I own 15.4 acres on South Boulevard now and I purchased this 7.78 acre tract which would put all of this under one umbrella of about 23 acres. My plans were to build a Hyundai building, a standalone Lincoln building. Each manufacturer requires independent representation and they don't want to co-mingle McDonald's and Burger King so this petition will allow me to do that and have separate representation for each brand. We feel we have been reasonably prudent in contacting all of the neighborhood people and seeing who would have any concerns and addressing those concerns. You will notice we've left a wide buffer there. There were four existing homes on this parcel when I purchased it, that we ended up demolishing. They were not rented out and just had vagrants in them which allowed a lot of access from South Boulevard from people walking through the neighborhood. The people we've contacted felt this would allow them a little more security because I would have this area secured if I am successful in this rezoning.

Mr. MacVean said as Tammie mentioned the site has 9.8 acres and is zoned multifamily and single family and would allow about 125 residential units to be developed on it. The request is for B-2(CD) to allow the existing car dealership on the adjoining tract to expand. Based on its

configuration and access it would be very hard to develop with residential uses. It doesn't have good access, it is tucked behind car dealerships and by allowing it to be combined with the adjoining property and zoned to B-2 allows it to be redeveloped, allows an existing car dealership on South Boulevard to expand and stay on South Boulevard which we feel will help South Boulevard maintain its commercial character and maintain a thriving business corridor. The plan does propose buffers along the parameter of the site, a 75-foot undisturbed buffer. There are a number of large trees and vegetation within that area that will be preserved and then there is a slight reduction along Tessava Court where it goes down to 56-feet with a fence. That is the low point of the site and that is where the storm water pond exist now and that will be enhanced to provide water quality in addition to detention. As a tenant, there is actually a grandfathered site here. This will be developed in phases over time. Most likely the first building will actually be on the site that is already zoned B-2, but by rezoning this it allows the other accessory uses that a part of an auto dealership to start to be developed on the adjoining site, the detail shop, truck shop and service bays and it also potentially allows again an additional dealership at a later date to also be accommodated on the site. Access to the site will be from South Boulevard and Hill Street. There will not be other access points. We do have the support of the Starmount Community. We have met with them twice, once before the community meeting and during the community meeting and they do support this rezoning petition.

Councilmember Barnes said I just want to clarify, is this configuration or at least the concept, something similar to what Hendrix did on Highway 74 with the Porch, BMW, Land Rover, Acura type deal where there separate brands owned by the same entity?

Mr. Hawthorne said yes sir.

Mr. Barnes said regarding the 6-foot fence, I was trying to figure out is that in the lower part of the diagram there? Is that a multifamily building?

Mr. MacVean said yes, there is multifamily adjacent to the site at that location. There is multifamily along that edge and then it transitions to single family development.

Mr. Barnes said regarding the area where the fence would be, I see what looks like 3 or 4 small buildings.

Mr. MacVean said those are existing buildings that are part of the existing body shop.

Mr. Hawthorne said that is a body shop currently and the buffer was grandfathered in there. This was part of the original parcel that you see the wooded area before the buffer. We couldn't allow to get around that corner there logistically because we handle 100 plus cars per day coming through our service drive. If we put a fence there and extended that buffer then we wouldn't have access to that building sitting in the middle there.

Mr. Barnes said is there something separating your property from the multifamily now?

Mr. MacVean said other than a security fence. We were going to add the fence and then a little farther into the site, actually where the storm water detention current sits, we are actually going to move that detention pond farther away from the multifamily and put part of that buffer in, but in the area where Keith was speaking, we looked at putting the buffer in, but if you remove that parking and circulation then the current site wouldn't work any longer due to circulation issues.

Councilmember Fallon said you said that you would have speakers directed toward South Boulevard. What about spot lights?

Mr. MacVean said we have limited detached lights to 25-foot maximum and they will be fully shielded and down lights.

Ms. Fallon said I don't understand something under the staff recommendation, it says, however the existing automotive service uses impacts the suitability of the site for multifamily uses until the area begins to transition to transit oriented development. If you are giving away zoning to something else what happens when it transitions or do you expect not to. I don't understand that sentence.

Ms. Keplinger said we expect at some future date that all of the property to transition to transit oriented development. At this point in time, as I indicated, this site because of the way it is tucked in between the existing automobile dealership, it is really not suitable for multifamily which is considered a transit oriented use. What we would rather see is the entire area come in at a future date and develop for a larger transit oriented project. One of the concepts in the Station Area Plan is to allow the existing businesses to maintain and continue until that transition occurs. By allowing this rezoning we would allow the existing business to continue.

Ms. Fallon said in other words buy it back from them when you are ready?

Ms. Keplinger said no, it wouldn't be a situation where we would be buying it back. It would be someone else that would come in, another developer later in the future that would want to do a transit oriented development.

[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 ON PETITION NO. 2012-028 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.13 ACRES LOCATED ON THE EAST CORNER AT THE INTERSECTION OF COMMONWEALTH AVENUE AND MORNINGSIDE DRIVE FROMO-2 TO R-22MF.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said if Council will indulge me for a minute, I would like to talk to you about the next six rezoning petitions that are before you tonight. These are all part of the Independence Boulevard Area Plan. This project began in June and July of 2008. There have been ten public meetings and you can see on your monitors that in five of these meetings, the ones noted in yellow, the key property owners that had property that we were looking at doing corrective rezoning on received special notification telling them that we were looking at correctively rezoning their property. In addition to those five meetings where they received special notice, they also received a courtesy letter in January of this year before we even filed any of these rezoning petitions to tell them that we are moving forward with this implementation process. As you recall the Independence Boulevard Area Plan was adopted in May of last year. In addition to all of these notifications all of these property owners have also received the notifications through the rezoning process so there have been multiple notifications and I wanted to let you have that information before we started in on the actual petitions themselves.

Councilmember Howard said I was wondering if we need to do public hearings for each one of these or can we hear all of them and do them at one time.

Assistant City Attorney, Teri Hagler-Gray said I think the presentation can be from staff as a whole, but each hearing needs to be opened and closed separately.

Mayor Pro Tem Cannon said largely in part because we have some speakers on some that are for and against.

Ms. Keplinger said I will be very brief with my presentations on the individual cases. The first one 2012-028 is rezoning from O-2 to R-22MF. It is on Commonwealth Avenue and in terms of the property, you can see that it is part of a 30 unit apartment complex that was built in R-22 and O-2. One of the Council's corrective rezoning guidelines is to align zoning with the existing land uses and that we are attempting to do with this rezoning. We are recommending approval.

Susan Lindsey, 6204 Rosecroft Drive said I just want to make some brief comments and particularly on the background about Independence Boulevard and the Southeast Corridor. It

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seems like eons ago when the city was struggling with identifying the five transit corridors and when they were looking at the Southeast Corridor there was a great deal of opposition on the east side because there was concern about the preservation of the single family neighborhoods that were behind a lot of the strip zoning going out Independence Boulevard. One of the things that convinced people to support transit was that there would be steps taken to protect and preserve that housing. If we want to continue to have a wide choice of housing in this city, both intensely dense and suburban and the housing neighborhood patterns that we've got within the first and second ring of the city, then we need to move forward with staff's proposals for these corrective zoning that implement the Independence Plan. Charlotte East Community Partners was a supportive ..., at their meeting last month invited a lot of the neighborhoods that border these areas to come and hear a presentation from Elisha and Brian and the general feedback from all of them was, this is a wonderful first step, there is lots more we want done, always ask for more. But we do feel that all of these recommendations are going in the direction that was promised and that will support that diversity of housing along that corridor.

Councilmember Barnes said Ms. Lindsey, would those be your general feelings about then next five items?

Ms. Lindsey said yes. I think there are seven all together.

Councilmember Kinsey said in looking at the environmental report it mentioned for this site in particular and for some of the others, Little Sugar Creek, but I happen to know that this is sitting on Briar Creek. Is that because Briar Creek flows into Sugar Creek down across the North Carolina/South Carolina line. Nobody has to answer that tonight, I've looked at maps and I've tried to see that myself, but I was curious. There are several that list Little Sugar Creek when I know that they are in the Briar Creek area.

Ms. Keplinger said if it is okay we will answer that question in our follow-up report.

Ms. Kinsey said that is just fine. Thanks.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, 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. 22: HEARING ON PETITION NO. 2012-030 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 4.0 ACRES LOCATED ALONG EAST INDEPENDENCE BOULEVARD BETWEEN PIERSON DRIVE AND NORTH SHARON AMITY ROAD FROM B-2 TO R-4.

A protest petition has been filed and is sufficient to invoke the 20% rule requiring affirmative votes of ¾ of the Mayor and Council, not excused from voting, in order to rezone this property.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said the next plan's map showed petition so I'm going to try to focus you on one which is Petition No. 2012-030. This is along Independence and most of you know this because the Olive Garden is located right in this area. It is not the property proposed to be rezoned, but there are actually two areas, one to the west of the Olive Garden and one to the east. The current zoning is commercial and when you look at the aerial plan you can see that all of these sites have been void of buildings now. Ms. Keplinger pointed out the parcel that is owned by NCDOT and the site that is owned by the City of Charlotte. As part of the Independence Area Plan this whole strip eventually is to revert back into residential and become part of the neighborhood again. Since NCDOT owns two of the lots and the City of Charlotte owns one, we are requesting that we go ahead and rezone these to be consistent with the plan which is R-4. There is a sufficient protest petition on this petition and it is from the property

owner which owns the commercial strip that is located right here. I believe their representative has signed up to speak against the petition. Staff is recommending approval.

Mayor Pro Tem Cannon said Ms. Lindsey you are also signed up to speak on this petition and as stated there is opposition so I don't know if you want to say anything more. Councilmember Barnes had asked if your sentiments were still the same.

Susan Lindsey, 6204 Rosecroft Drive said my sentiments are still the same and more strongly so.

Jim Gamble, 1111 Metropolitan Avenue said I represent LPZ Limited Partnership, the owners of Lanier Plaza which is the affected area and adjacent to the smaller parcel that Ms. Keplinger presented a little earlier. Just a bit of history on this small half acre parcel is that it was originally owned by LPZ Partnership and about 8 years as part of the Independence widening project, the city condemned that parcel and had that taken back as part of the right-of-way. Over the last 8 years or so our clients have been dealing with both the City of Charlotte and the state for additional right-of-way takings along Independence Boulevard while trying to maintain a viable shopping center that is very important to that community, particularly along Lanier Drive, an area between Monroe Road and Independence Boulevard. They have been working with the State of North Carolina for over a year on the additional right-of-way takings along Independence for the Sharon Amity interchange. Ironically they just settled that two weeks ago after a lot of attorney fees and a lot of costs to the center. Therefore their eyes have been a little bit off the ball on all the notifications that they have gotten. They are out of state so we represent them as out of state. The owners would like to re-enter some dialogue with the City of Charlotte for the potential of working together to take back this parcel and maintain it as an existing B-2 zoning rather than zoning it as R-4. It seems a little ridiculous the first time we looked at it, with all due respect to the Independence Plan, which we do support, but this little half acre parcel between our shopping center and Independence Boulevard would be requested to be zoned R-4, but now we understand why, it is part of the overall plan. With that we'd like to look at being able to use that parcel working with the City of Charlotte to maybe recapture some of the parking that we've lost over time by the gradual taking of right-of-way. We are in the process of working hard to continue to attract tenants and maintain existing tenants in the shopping center while at the same time having lost the parking, we are non-complying with the ability to recapture this parcel, we would have an opportunity to get back into a more parking compliance situation to be able to attract new tenants that need that parking and otherwise help with our overall parking redesign which we are going to have to undertake due to the taking along Independence now with the new right-of-way by the state. We feel like rezoning this parcel to R-4 from its existing B-2 continues to exasperate our situation while we've worked hard to continue to maintain a viable shopping center over time. What we would like to see is withdraw this portion of the petition, however, we have no comment and I think we would support the other piece on the state owned property because it is not a viable commercial piece either. I would like to thank Councilmember Autry for his quick response when we learned of this last week. We needed to move quickly and thank you for your response.

Councilmember Autry said Ms. Keplinger, the little parcel there at the juncture of Independence and Lanier Avenue, what is the size of that piece.

Ms. Keplinger said I do not know the size of that piece by itself, but if you will hang on I'll get that information for you.

Mr. Autry said if it is going to be R-4 and it is less than an acre, how does that play into the Independence Area Plan?

Ms. Keplinger said Alicia Osborne worked on the Independence Area Plan and she is an expert on this so I will ask her to address your question.

Alicia Osborne, Planning, said these parcel are part of a larger land use strategy that would require some property assemblage in the future so this is the first step to rezone the property to a lower intensity and in the future to work with property owners to assemble the property to revert it back to the neighborhood. Individually no they won't be a viable property but with proper assemblage in the future these properties will revert back to the neighborhood. That is the vision within the Plan.

Mr. Autry said but you don't know what the size of that parcel is.

Ms. Osborne said it is definitely less than an acre.

Mr. Autry said that is where the old Enterprise Rental Car used to be?

Ms. Osborne said I think the Enterprise was within the shopping center if I'm not mistaken.

Mr. Autry said actually now it is over on the other side of Independence off Sharon Amity but it used to be there and I'm just trying to make sure that is the piece we are talking about.

Ms. Osborne said it is right next to the Bascom Corners Shopping Center.

Councilmember Dulin said way back when it was the Town and Country Ford location.

Mayor Pro Tem Cannon said Mr. Gamble how much parking do you currently have and under what is being proposed how much would be taken away?

Mr. Gamble said I don't have the exact parking numbers. I can give you some approximate numbers. I think we are at about 70 parking spaces right now, and with the current parking configuration and the way the alignment needs to change it is my understanding from a preliminary design that we are going to lose about 15 to 20 spaces would be a good estimate on that.

[Motion was made by Councilmember Dulin, 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. 23: HEARING ON PETITION NO. 2012-031 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY .93 ACRES LOCATED ON THE WEST SIDE OF DRIFTWOOD DRIVE NEAR THE INTERSECTION OF ALBEMARLE ROAD AND DRIFTWOOD DRIVE FROM R-17MF TO R-4.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said these are the same map as the previous petition. These are two single family homes that are zoned R-17MF and we are trying to make the land use consistent with the zoning and we are recommending approval.

[Motion was made by Councilmember Barnes, seconded by Councilmember Fallon, 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. 24: HEARING ON PETITION NO. 2012-032 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 7.89 ACRES LOCATED ALONG THE WEST SIDE OF BRIARDALE DRIVE BETWEEN WALLACE LANE AND SHARON FOREST DRIVE FROM R-17MF TO R-8.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning, said this is a 7.89 acre section and all the houses in this area are actually duplexes, although they do look like single family homes. The property is currently zoned R-17MF and the proposal is to go to R-8 which will allow the duplexes to remain. Staff is recommending approval.

[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.

ITEM NO. 25: HEARING ON PETITION NO. 2012-033 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 15.11 ACRES LOCATED NORTH OF MONROE ROAD AND ABUTTING NORTH WENDOVER ROAD, MAYVIEW DRIVE AND COLDSTREAM LANE FROM R-17MF TO R-4.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is quite a large area, 15.11 acres so it is the largest of our corrective rezoning. This is an entrance to the Echo Hills Neighborhood, it is actually zoned R-17 now and is a contiguous grouping of single family residential. We want to protect that residential character so we are recommending rezoning to R-4.

[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.

ITEM NO. 26: HEARING ON PETITION NO. 2012-034 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY .57 ACRES LOCATED ALONG FUGATE AVENUE NEAR THE INTERSECTION OF MONROE ROAD AND FUGATE AVENUE FROM O-2 TO R-4.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this property is located right behind the B-2 that fronts on Monroe Road and it kind of serves as a buffer area to the residential. It is at the entrance to the established neighborhood and is currently zoned O-2. We are requesting rezoning to R-4 single family residential. You can see the location of the houses, one is on the west side and one on the east side.

Mayor Pro Tem Cannon said we have speakers for and against on this petition. Susan Lindsey has already stated her position on this.

Jay Wilson, 814 Fugate Avenue, said I have lived in this neighborhood since about 2003. I purchased a couple of homes in this neighborhood and really fell in love with this community. It is a nice urban neighborhood. We bought kind of insolently and thinking there were big changes coming to our area of town, especially with the recent completion of the Independence Boulevard corridor and the Chantilly and Plaza/Midwood areas and we thought we were getting ahead of the curve on the next section and willingly bought in part and parcel and have lived happily in this neighborhood for a long time. There has been a lot of transition in this area and there has been a lot of wrangling between Council, Planning and residents and local area businesses. I won't pretend that I understand all the political intricacies between all the groups. I will say that as a resident of this area and someone who has very heavily invested in this area that I'm looking out for my interest and the interest of my family and the interest of the neighbors that I speak with. I think in many cases the city as a whole is being led by the loudest

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voice which has historically been the businesses along Independence Boulevard and the concerns they rightly have about the loss of their business uses along this corridor that for near as I can tell has long been planned to be a very highly traveled corridor between the Monroe area and downtown. It is my understand that there are tens of thousands of trips into and out of the city, upwards of 90,000 and maybe more every day. If you look at a map you can clearly see there is really no good way into Charlotte between I-85 North and I-77 South. There is really a large gap where there is not really a very nice spoke so it stands to reason that Independence should meet the use that it was designed for which is to be a transit corridor. The issue to me seems no so much an issue of parking and right-of-way, but it seems to be an issue of traffic. When we started the transition from Independence, was born in Charlotte and I remember it being a 4-lane divided highway and not much before that. It had a little curb in the middle you had to watch out for, but it one point in time it started in transition and became a traffic nightmare and it is very difficult to get up and down that corridor. I don't go outside of Wendover Road because it takes too long. I do not know Mr. Moore who is speaking in opposition of this petition. I am here to support the Independence Area Plan and staff recommendations in accordance with this rezoning petition and hopefully keep our area of town and our little enclave moving in a positive direction. We've seen a lot of change in our neighborhood from the existing population which were a lot of original residents from the 50s. They are aging out and moving to a different living situation and we have a lot of young professional couples moving in, lot of children in the neighborhood. A lot more than when I was there just a few years ago and we are hoping we can continue to nurture our community and grow the value of our investments and continue to realize our little bit of paradise within the city. As a general rule I would like to support all of the rezoning corrections as they are termed by the zoning staff for the Independence Area Plan.

Adam Whitlow, 600 Mayview Avenue, said I live in the Echo Hills Neighborhood and for this particular parcel, I see it as a buffer from the businesses that are on Monroe Road to the residents and I support the rezoning.

Brent Moore, 750 Lansdowne Road, said like most things in life, timing is everything and I'll start by apologizing to actually being here to take your time because I didn't receive notification that my specific property would be affected by this overall program until late February at which time I have been in contact with several folks. Elisha Osborne has been very helpful with the process as well. I'm actually considered on the west side, 626 Fugate Avenue which that photo must be more than 10 years old. The house didn't even look like that when I purchased it in 2007, but the property was purchased specifically because of its O-2 zoning. Right after purchase of the property changes and improvements started to be made to move this property toward O-2. The 1,100 square foot house now has over 3,600 square feet under roof. There is over 6,200 square feet of impervious area on the property between concrete and roof space. After finding out about the petition to change I have spoken with several folks with the City of Charlotte, Craig Sloop with C-TAC and Plan Review and Cam Marrell with Zoning Review and we are currently working on submitting a proposal to finalize the changes to the house so it will actually be an official change of use. The property was bought for its zoning and it has been improved for its zoning, but a change of use on the property hasn't happened because I'm sure as many of you know through late 2008 and 2009 the economy as we know it has changed significantly as well. I have been somewhat biding my time to wait that out.

I know that use and zoning is what it is so someone could come behind me and do things different, but I work as an independent sales rep. This isn't a piece of property that I'm looking to do commerce out of or am doing commerce out of. The property is being used for business now and I think anyone in the neighborhood would know and realize that we are good neighbors. We maintain the property as a residence with well kept yards of concrete. It is a beautiful house and I brought photographs but I'm not very schooled in speaking to Council so unfortunately I didn't bring copies to pass out to everyone because I didn't realize I would need to do that. If you would like to take a look at the property and the improvements that have been made I would be glad to hand them up to you.

Mayor Pro Tem Cannon said that is fine and we can have copies made if you want to leave those with us.

Mr. Moore said I have also made photographs of the adjoining commercial properties that butt up to me.

Councilmember Dulin said I'm looking forward to seeing his pictures and why do we have such bad information?

Ms. Keplinger said these are pictures that came from the Plan and the Plan started in 2008. I am not sure the origin of these pictures, but the Plan has been going for several years. I know Mr. Moore said that was very, very old.

Mr. Moore said we also have a current survey showing the additions to the property as well. Mr. Dulin said Tammie you all don't miss it very often, but this doesn't give us very good information.

Ms. Keplinger said typically there are a lot of site visits with our area plans and a lot of pictures that are taken so I'm not sure. Alisha is coming up and she is the expert on the Plan.

Alisha Osborne, Planning said I was actually on the site this past Friday and the front of the property is used for a residential structure. The improvements he has made are behind a fence that you can't really see unless you walk on the property. There is no way of knowing if there have been any improvements or if there is any non-commercial activity on the site because the front is a residence.

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

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

Mayor Pro Tem Cannon said Mr. Moore are these pictures for us to keep or would you like to have them back.

Mr. Moore said you are welcome to keep them.

Mr. Dulin said those pictures will rotate through Council and Planning and if you will wait around you can have them back. We don't need them and I think you want them don't you?

Mr. Moore said it is not a problem for me I can reprint them. The only reason they were printed was for you folks.

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ITEM NO. 27: HEARING ON PETITION NO. 2012-042 BY TCB NODA MILLS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 10.30 ACRES LOCATED ON THE NORTH SIDE OF NORTH DAVIDSON STREET BETWEEN EAST 36TH STREET AND PATTERSON ROAD FROM UR-3(CD) AND I-2 TO TOD-R.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this petition is a conventional petition which means we do not have a site plan associated with it. In terms of zoning you can see a hodge-podge of zoning in this area as the North Davidson area is in transition. In terms of land use we have a little bit of everything including multifamily and institutional type uses as well as commercial. The future adopted land use plan is actually calling for transit oriented development for this site. This petition is consistent with the North Charlotte Plan and is consistent with the 36th Street Station Area Plan Concept and staff is recommending approval.

Collin Brown, 214 North Tryon Street, said I am with K & L Gates, representing the Community Builders, the leading non-profit urban housing developer in the country. Because this is a conventional rezoning there is not much detail I can provide. I can let you know that Community Builders purchased this property from the City of Charlotte in 2011 and as part of that transaction there was a deed restriction which requires the existing historic Johnston Mill
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and Mecklenburg Mill to be maintained in their historic state. That is not a part of the rezoning, that is a deed restriction which is why I can share that information with you. Although no community meeting is required for a conventional rezoning petition, the petitioner has met three times with the NoDa Community Association and they are supportive of the petition. That being said I don't have any other information to share. Rob Fossi, with Community Builders is on hand if you have any questions about the Company and also Chad Maupin with the NoDa Association is here if you have questions about the community's response.

Councilmember Kinsey said my understanding is that the Neighborhood Association supports this strongly, is that correct?

Chad Maupin, 1109 East 35th Street said that is correct. The Neighborhood Association voted in favor of this project. It is relatively unusual for us to even be presented, much less consider project that don't have a site plan attached, but our level of comfort and trust with this developer is so high we are comfortable going forward with the petition.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, 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

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously, to adjourn the meeting at 8:17 p.m.]

Ashleigh Price, Deputy City Clerk

Length of Meeting: 2 Hours, 57 Minutes
Minutes Completed; June 12, 2012