

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, July 16, 2012 at 5:15 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, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell and Beth Pickering.

Mayor Foxx calls the meeting to order at 5:15 p.m.

Tammie Keplinger, Planning, reviewed the agenda and answered Council questions and reviews the follow-up report.

Planning Director, Debra Campbell reviews Text Amendment, Area Plan and study update and answers Council questions.

The Dinner Briefing was recessed at 5:55 p.m. for the Council to move the Meeting Chamber for their regularly scheduled Zoning Meeting.

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The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:01 with all members of Council present.

INVOCATION AND PLEDGE

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

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EXPLANATION OF THE ZONING MEETING

Mayor Foxx explained the rules of the Zoning Meeting, introduced the Chair of the Zoning Committee, Yolanda Johnson and asked her to introduce her Committee.

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DEFERRALS

Mayor Foxx said there has been a request to withdraw Item No. 1, Petition 2012-40; a request to defer Item No. 4 Petition No. 2012-48; Item No. 11, Petition No. 2012-59; Item No. 17, Petition No. 2012-67-B; and Item No. 21, Petition No. 2012-65 for one month.

[Motion was made by Councilmember Cannon, seconded by Councilmember Mayfield, and]
[carried unanimously, to allow Item No. 1 Petition No. 2012-40 to be withdrawn and defer]
[Items No 4, 11, 17 and 21 for one month.]

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DECISIONS

MOTION TO RECUSE COUNCILMEMBER BARNES

[Motion was made by Councilmember Kinsey, seconded by Councilmember Cannon, and]
[carried unanimously, to recuse Councilmember Barnes from voting on Item No. 2, Petition]
[No. 2012-043.]

ITEM NO. 2: ORDINANCE NO. 4919-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 3.62 ACRES LOCATED ON THE NORTH AND SOUTH SIDE OF NC MUSIC FACTORY BOULEVARD NEAR THE INTERSECTION OF I-277 AND NORTH GRAHAM STREET FROM I-1, I-1(CD) AND I-2 TO MUDD(CD).

[Motion was made by Councilmember Mitchell, seconded by Councilmember Kinsey, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-043 by]
[Seaboard Street Condominiums for the above zoning, as modified, and as recommended by]
[the Zoning Committee.]

The Modifications are:

1. Provided additional pedestrian connections, minimum five feet in width, from the building to the public sidewalk along NC Music Factory Boulevard.
2. Modified the "Minimum Parking Required" under the "Development Summary" to indicate one parking space per dwelling unit.
3. Indicate the boundary of the right-of-way to be dedicated along the future alignment of the NC Music Factory Boulevard.
4. Added a sentence to the end of Note B under "Setback and Yards/Streetscape/Screening" that states the existing five-foot sidewalk along NC Music Factory Boulevard will remain until the street is realigned.
5. Removed the "Loading Space" identified on the site plan along NC Music Factory Boulevard.
6. Addressed Transportation comments.

The ordinance is recorded in full in Ordinance Book 57, at Page 756-757.

ITEM NO. 3: ORDINANCE NO. 4920-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.76 ACRES LOCATED ON THE WEST SIDE OF EAST MOREHEAD STREET BETWEEN MYRTLE AVENUE AND ORIOLE AVENUE FROM B-1 TO MUDD-0.

[Motion was made by Councilmember Dulin, seconded by Councilmember Barnes, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-044 by]
[The Duke Endowment for the above zoning change, as modified, and as recommended by]
[Zoning Committee.]

The modifications are:

1. Modified the maximum building heights for both Building A and Building B to be 62 feet to the top of the standing seam roof and a maximum of 47 feet to the top of the parapet of the buildings. These heights are measured from the average grade of the building wall along the streets from which these buildings front (i.e. Myrtle Avenue for Building A and Oriole Avenue for Building B).
2. Provided a building elevation of the roll-out trash and the recycling enclosure along Myrtle Avenue and included a commitment for supplemental landscaping around the enclosure.
3. Provided a detail of the driveway/drop-off area and the open space at the corner of Morehead Street and Myrtle Avenue. The area is designed to appear as a plaza with the incorporation of plantings, hardscape, and outdoor seating. Indicated that the driveway will be constructed with pavers and/or stamped asphalt.
4. Modified Note 4F to indicate if ventilation openings are provided on the western side of the structured parking facility that ornamental metal grillwork will be provided for screening.
5. Provided a note that prohibits construction vehicles serving the site from parking on Lexington Avenue.

6. Provide a note indicated that the petitioner will make a formal request to CDOT to prohibit on-street parking along the site's frontages on Myrtle Avenue and Oriole Avenue. This request shall be limited to the site sides of Myrtle Avenue and Oriole Avenue.
7. Provide a note indicating that the petitioner will hire at least one off-duty law enforcement officer to manage traffic for any event at the site.
8. Provided a note indicating a minimum of 130 parking spaces within the parking structure.

The ordinance is recorded in full in Ordinance Book 57, at Page 758-759.

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ITEM NO. 5: ORDINANCE NO. 4921-Z ESTABLISHING THE PEDESTRIAN OVERLAY DISTRICT FOR APPROXIMATELY 374 ACRES LOCATED ON THE SOUTHWEST SIDE OF I-277 BEGINNING AT CALDWELL STREET FOLLOWING SOUTH ALONG MOREHEAD STREET THEN CONTINUING NORTH ALONG NORTH KINGS DRIVE TO EAST 3RD STREET ENDING AT QUEENS ROAD (UNDERLYING ZONING WILL NOT CHANGE).

[Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-050 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 760-761.

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ITEM NO. 6: ORDINANCE NO. 4922-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.3 ACRES LOCATED ON THE NORTH SIDE OF SOUTH TORRENCE STREET BETWEEN LUTHER STREET AND EAST 3RD STREET FROM R-22MF TO R-8.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-051 by]
[Charlotte Mecklenburg Planning Department for the above zoning change as recommended]
[by the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 762-763.

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ITEM NO. 7: ORDINANCE NO. 4923-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.24 ACRES LOCATED ON THE WEST SIDE OF KENLEY LANE NEAR THE INTERSECTION OF GRIFFITH ROAD AND WESTPARK DRIVE FROM I-2 TO I-1.

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-052 by]
[EVP Properties, LLC for the above zoning change as recommended by the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at page 764-765.

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ITEM NO. 8: ORDINANCE NO. 4924-Z FOR A MUDD-O SITE PLAN AMENDMENT FOR APPROXIMATELY .90 ACRES LOCATED ON THE WEST CORNER OF THE INTERSECTION OF EAST 4TH STREET, SOUTH CASWELL ROAD, RANDOLPH ROAD AND NORTH CASWELL ROAD.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-053 by]
[Joy Greear for the subject site plan amendment as recommended by the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 766-767.

ITEM NO. 9: ORDINANCE NO. 4925 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO 1) CLARIFY HOW REQUIREMENTS FOR SCREENING AND STREETScape IMPROVEMENTS IN THE PEDESTRIAN OVERLAY DISTRICT ARE DETERMINED WHERE THERE IS A CHANGE OF USE FROM ONE-NON-RESIDENTIAL USE TO ANOTHER NON-RESIDENTIAL USE, WITH NO EXPANSION, AND 2) CLARIFY THE APPLICABILITY OF THE PED URBAN DESIGN STANDARDS ALONG THE STREET FRONTAGE OF STRUCTURED PARKING FACILITIES.

[Motion was made by Councilmember Cannon, seconded by Councilmember Mayfield, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-054 by]
[Charlotte Mecklenburg Planning Department for the subject Text Amendment as]
[recommended by the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 768-770.

ITEM NO. 10: ORDINANCE NO. 4926-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.13 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF PARK ROAD AND DREXEL PLACE FROM MUDD(CD) TO MUDD-O FIVE YEAR VESTED RIGHTS.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Cannon, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-056 by]
[Selwyn Property Group Investments, LLC, as modified and as recommended by the Zoning]
[Committee.]

The Modifications were:

1. Reduced the width of the one-way entrance driveway on Park Road to 16 feet and maintained the 16-foot dimension to the proposed parking lot. Modified orientation of the Park Road driveway to discourage motorists exiting the site from the Park Road driveway.
2. Identified the tree on Park Road that is protected by the City's Tree Ordinance.

The ordinance is recorded in full in Ordinance Book 57, at Page 771-772.

ITEM NO. 12: ORDINANCE NO. 4927-Z FOR A UMUD-O SITE PLAN AMENDMENT FOR APPROXIMATELY 2.60 ACRES LOCATED ON THE EAST CORNER AT THE INTERSECTION OF SOUTH TRYON STREET AND EAST TRADE STREET.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-060 by]
[Lincoln Harris for the Site Plan Amendment, as modified and as recommended by the Zoning]
[Committee.]

The Modifications were:

1. "Rezoning Summary" information has been revised to note proposed zoning is UMUD-SPA.
2. The petitioner has listed existing optional provisions under rezoning Petition 2007-10 pertaining to overhead Pedestrian Bridge Encroachment, Water Garden Encroachment and Founders Hall and Façade Encroachments.
3. Added the word "proposed" to Heading C "Optional Provisions".
4. Included the following language to Heading C: "...with Development A as generally depicted on the Rezoning Plan and Building Elevations and Sign Area Plan."
5. Re-lettered Note H© to Note C5(b) and modified language to read that: "A business in Founders Hall would be allowed a business identification sign per street on Tryon, Trade and College Streets. A business in the Corporate Center would be allowed a business identification sign per street on Tryon, Trade and College Streets".
6. Revised language in Note C5(d) to state that signage area shall be 10 percent of the building wall area associated with the signage location, that signage is currently limited to 200 square feet per building frontage and will be limited to up to 500 square feet.
7. Re-lettered "Amendments to Rezoning Plan: UMUD Review" to "E". Note (a) under this heading references Section "D".
8. Re-lettered "Binding effect of the Rezoning Documents and Definitions" should be re-lettered to "F".
9. On Sheet RZ1.0, added notes and details identifying building face encroachment into setback allowed by rezoning Petition 2007-107. Revised site plan now shows support columns for pedestrian bridge along College Street.
10. Added Note C5(e) to state no signs will adversely impact the health and vitality of street trees.
11. The agent has indicated that it is unknown at this time what the proposed signage will look like.
12. Added Note D entitled "Other Development Alternatives under UMUD without Optional Variations" and associated language, as was listed and provide on rezoning Petition 2007-107 site plan.

The ordinance is recorded in full in Ordinance Book 57, at Page 773-774.

ITEM NO. 13: ORDINANCE NO. 4928-Z FOR A MUDD-O SITE PLAN AMENDMENT, FOR APPROXIMATELY 2.80 ACRES LOCATED ON THE NORTH SIDE OF WEST 4TH STREET EXTENSION AT THE INTERSECTION OF JOHNSON AND WALES WAY AND WEST 4TH STREET EXTENSION.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Kinsey, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-061 by]
[Gateway West-FCA, LLC for the subject site plan amendment as recommended by the]
[Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at page 775-776.

ITEM NO. 14: ORDINANCE NO. 4929 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ALLOW "INDOOR TRAINING AND SHOOTING FACILITY AS AN ALLOWED USE WITH PRESCRIBED CONDITIONS IN THE B-2, 1-1 AND 1-2 ZONING DISTRICTS.

[Motion was made by Councilmember Cannon, seconded by Councilmember Autry, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-062 by]
[Carolina Sporting Arms Company, Inc. for the subject Text Amendment as recommended by]
[the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 777-778.

ITEM NO. 15: ORDINANCE NO. 4930-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY .54 ACRES LOCATED ON THE SOUTH SIDE OF MONROE ROAD BETWEEN ROSS MOORE AVENUE AND SUMMEY AVENUE FROM B-1(CD) TO O-2(CD).

[Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, to]
[approve the Statement of Consistency and Petition No. 2012-063 by Francis Obeng, as]
[modified and as recommended by the Zoning Committee. The vote was recorded as follows:]

YEAS: Councilmembers Autry, Barnes, Cannon, Cooksey, Dulin, Fallon, Howard, Kinsey, Mitchell and Pickering.

NAY: Councilmember Mayfield.

The Modifications were:

1. Recalculated open space to exclude off-street parking areas.
2. Amended notes under the heading of Transportation to rectify that surface parking will be provided to the rear of the site and the new bike rack will be provided in the front.
3. Amended note under the heading of Signage to delete the last sentence regarding number and location of proposed signage.

The ordinance is recorded in full in Ordinance Book 57, at Page 779-780.

ITEM NO. 16: ORDINANCE NO. 4931 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO:

- **ADD A NEW USE, “ACCESSORY DWELLING UNITS” (ADU’S) AS AN ACCESSORY USE TO A SINGLE FAMILY DETACHED DWELLING, WITH NEW PRESCRIBED CONDITIONS IN THE R-3, R-4, R-5, R-6, R-8, R8-MF, R-12MF, R-17MF, R-22MF, R43MF, UR-1, UR-2, UR-3, UR-C, MX-1, MX-2, MX-3, O-1, O-2, O-3, B-1, AND B-2 ZONING DISTRICTS, WITHOUT TENANT RESTRICTIONS, AND**
- **DELETE TWO USES TITLED, “ELDERLY AND DISABLED HOUSING” AND “GUEST HOUSES AND SERVANTS QUARTERS” ALONG WITH THEIR PRESCRIBED CONDITIONS AND REGULATIONS.**

[Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2012-067A]
[by Charlotte Mecklenburg Planning Department as recommended by the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 781-790.

Councilmember Howard said for the public’s sake on Item No. 16, if the staff wanted to explain that that was split just so the public understands what we just did with No. 16.

Tammie Keplinger, Planning said Item No. 16, Petition No. 2012-067A is a Text Amendment that is related to inclusionary housing. There were two major portions of this Text Amendment, one dealt with ADU’s which are accessory dwelling units, the other related to allowing duplex units within single family. Because we received comments on two separate issues we decided to divide the Text Amendment into two parts. What just occurred is that Council approved the portion for the accessory dwelling units and the portion for the duplexes in single family will come back after further study.

HEARINGS

ITEM NO. 18: HEARING ON PETITION NO. 2012-045 BY WOODFIELD ACQUISITIONS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.20 ACRES LOCATED ON THE NORTHWEST CORNER OF BARCLAY DOWNS DRIVE AND MORRISON BOULEVARD ACROSS FROM CARNEGIE BOULEVARD FROM O-2(CD) TO MUDD-O.

A protest petition has been filled, however its sufficiency has not been determined at this time, but will be determined by the time of the decision.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this petition is a rezoning for the property located at the corner of Barclay Downs Drive and Morrison Boulevard. The map that I am showing you is the adopted future land use map. The purpose of this map is to show you what the long-range plans show for this area. The request is to rezone from O-2(CD) to MUDD-O. The property is 3.2 acres in size. In terms of the future land use you can see the purple, orange and the light yellow all is representative of office, residential, single family and multifamily and includes the second property and the property is to the east and to the west. To the north you see the green which is the recreation area for Barclay Downs Neighborhood and then you see part of SouthPark Mall which is located to the south and the symphony park.

In the aerial photo you can see the office development to the east and the west, the tennis courts and the pool to the north and again symphony park to the south. This is a copy of the map for the SouthPark Small Area Plan and you can see that it runs from Park South Drive over to Colony and up from Richardson down to Sharon View Road. The property that is in question is located on the outside edge of the area plan. This map shows the building envelope that the petitioner is proposing. You can see the setback from the tree save area. The petitioner will go into further details of the site plan, but what I wanted to show you is the number of stories. They have a step-up approach away from the recreational area, four stories, six stories and then eight stories. There is a terrace area with a pool which is three stories. This is an elevation of the building from Morrison Boulevard and this is what it would look like from a view of the Tennis Courts of the recreational area.

I would like to talk to you a little bit about the future land use for this property. The SouthPark Small Area Plan does call for office and residential uses in this area. SouthPark is a Center when you look at our Center, Corridors and Wedges Policy and the centers promote a mixture of uses being office, multifamily and some retail. The MUDD District which was originally designed in the very beginning to promote urban form in the urban district, mostly uptown, has now been looked at in other areas. We've seen it used in other centers throughout the city. In looking at this petition we felt the MUDD was appropriate because this is in a Center and it does have the intensification that we desired to promote the Center. In terms of the SouthPark Small Area Plan goals, one of those goals was to create a mixture of uses and one of the notes that is incorporated into that plan is to especially include changes to some of the office that is in that area to multifamily. The idea behind that is to promote more of the Center atmosphere where people don't have to walk and they can live, walk, shop and work in the same area. The plan concept of adding multifamily residential to the area also provides better opportunity for people to use transit.

In terms of this petition, the petitioner has responded to staff's initial comments and concerns about the transition from this property to the residential property. They have addressed by graduating the height which I just showed you on the building plan. They have changed the building locations and they have oriented the buildings away from the Barclay Downs Recreational area. The site is appropriate for this type of use and this type of intensity once the outstanding site plan issues are resolved. For this reason staff is recommending approval of this petition.

Jeff Brown, 100 North Tryon Street, said I am with my colleague Keith MacVean and the Woodfield Investment Group as well as members of the Keith Corporation and the design team

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are here. I have the pleasure of representing Woodfield, one of the most experienced developers of Class A apartments on the east coast and with a number of really high quality projects in Charlotte. We appreciate the efforts of Planning and Transportation professionals of the City, the efforts of the leaders of the Barclay Downs Swim and Racket Club as well as the HOA, John Reeves, Hilary Larsen to name a few.

We are disappointed that we haven't been able to reach resolution at this time. We've worked very hard as have these folks. We are hopeful we can continue a positive dialogue, but I really want to emphasize this is a challenge when you have an area near a Center. Barclay Downs is a neighborhood that has been near SouthPark and has seen traffic increase over time. As we move toward the Town Center activity area, it can be challenging with change on the horizon. We must emphasize however, the concerted efforts of the leaders, the petitioner and the staff, we've made a number of changes that we believe have made this a better product in keeping with the SouthPark Plan and keeping with your Centers and Corridors Plan. We tried to be as sensitive as possible as well to the next outdoor recreation uses. As the staff analysis and the Transportation Plan indicates, it is squarely in keeping with the SouthPark Plan, it is in keeping with your Centers and Corridors Plan, it will create less traffic when compared with the existing 130,000 square foot office opportunity which could include retail on the ground floor, particularly in the a.m. and p.m. peak hours. Your approval is even more warranted because having said that Woodfield is willing to put \$100,000 of pedestrian improvements and calming devices which are recommended by the SouthPark Area Plan and also enhance buffers. We've handed out material showing the changes from the recent submittal, we've handed out material showing numerous pages where we believe the SouthPark Area Plan is being adhered to, and other material we hope will be helpful to you.

Tammie has already talked about this, you see the SouthPark area, the site surrounded by office, the mall and the racket club to the rear. A close-in view you've already seen, office buildings that are again surrounding the site at the front. One thing that is important is that it can be developed for an office building now under a very flexible building and parking envelope. Keith Corporation is here and they have indicated to us that they would move forward with an office building in the coming years. They could very well have parking up on Morrison, thereby having the building further back on the site than this envelope would allow to occur. You can see the comparison of the approved office plan edge in red as well as the Woodfield Plan. One of the changes we are making is to make sure that our technical data sheet reflects the drawing to the right.

This is a quick snapshot of the foliage as you come down toward SouthPark. Trees that essentially block the office building that is just on the other side. Those trees I think are also reflected as you look at our site. You will see this reflects existing trees on the site and a number of those trees along the common boundary with the swim club and the tennis courts will be preserved. Those do thin as the site falls because the court is on the property line, but many of those trees will remain and provide a very significant screen and buffer from the proposed building.

Desiree MacSorley, 2459 Wilkinson Boulevard said this site shows that the closest portion of our proposed building which is 69 feet in height is approximately 407 feet from the closest residential home. It is also located next to a very dense tree canopy. As you can see there are several office buildings that are much closer, particularly in the upper right hand corner. The Coke Cola and the Nucor Buildings which are 185 feet from the closest homes and these are approximately 91 feet tall. Besides working with the neighborhood we've worked diligently with the swim and racket club to adjust the design and to move the building further away and to lower the height along the clubs outdoor recreation uses. There is a six-story portion and the closest area to the building that is 48 feet from the property line. This six-story portion is 69 feet in height and at the furthest portion we are 124 feet from the property line. The corner of the building that is the closest, which is this six-story portion here, please note that there is a significant dense tree canopy there and the building itself is approximately 130 feet from the swimming pool. I will also note that the image Tammie showed shows a four-story element there. This element has been removed when the density was reduced from 300 to 280 units. The building then shifts away from the boundary and with input from the club residents, we have another six-story component in this area and we have also committed to substantial tree save and

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plantings along the edge, much of which would not exist under the approved office rezoning. This is a view from the swim and racket club at the entrance on Inverness. I won't dwell on this but we want to show you the significance of the changes that we've made in response to the Swim and Racket Club and the neighborhood. I think you can see them closer and more accurately from this slide which is a view from the lower tennis court. A lot of our discussions have centered on concerns with massing and scale, and this slide actually shows the most intense situation because the lower court is the closest to the building from a proximity standpoint, not so much but for the fact that there does exist a large tree canopy separating it. You can see the results of our efforts to change the building. The old building is on the left and it really massed out into the tennis court area. We changed the angle, we've lowered the stories down to six stories and we've included substantial ever green and deciduous tree planting. These changes and reduction in units from 300 to 280 demonstrates considerable efforts on behalf of Woodfield.

Mr. Brown said one of the changes we made was to eliminate the four-story components in the rear and again reduce the unit count down. Primarily we are reducing the flexibility that Woodfield has with regard to the project. Time doesn't permit us to go into a lot of the discussions we've had in working with the nearby outdoor recreational use of the club. We did do shadow studies to try to compare the existing trees, the proposed building, office alternatives, principally on the winter time because there will be no impact from a shadow perspective on the pool area and as you know there is the heavy trees that we've talked about when the pool is in operation. During December, January and February there are portions of the day, with the existing trees, as well as the various development alternatives will cast some shadows on various portions along the lower court. That is in December and January and the concern has been about freezing and our desire has been to try to work with them, but at the same time to create the screening that we need. The court is on the boundary line which limits the amount of distance that could be there for additional separation, but again our building from that edge starts at about 70 feet and then moves back from that location and that is with the six-story component. As you move toward the office component it is above the parking deck, but it is primarily at the corner down near that lower court and near the office building.

Transportation aspects, we'd like for you to talk to your transportation officials. They have reviewed the report and this residential building will create fewer trips during the critical a.m. and p.m. peak hour and the overall daily trips when you talk about this being a mid-rise as well as comparing that to a suburban apartment, the blend of those two would also yield a wash on total daily trips and a very modest wash. A point is that in the a.m. and p.m. peak this will be less and on week-ends, frankly when all of the SouthPark office buildings are vacant there isn't as much traffic to begin with. Having said that Woodfield has agreed to do these improvements that are in your packet, up to \$100,000 and we think that is a strong indication of their willingness to move forward.

John Reeves, 3921 Fellsway said I'm the President of Barclay Downs Swim and Racket Club and I'm a member of this 1971 Barclay Downs Swim Team. We own the property that is zoned R-3, the north border along this site. Our club is 51 years old and is a significant part of the Barclay Downs community. We are 440 families strong and many of our children being over 18, we have about 1,000 voters on the roles. Our club is an extension of our backyards. We come to play and enjoy each other's company. It is where we celebrate holidays together and where we desire to continue the peaceful enjoyment of our club. We are not opposed to developing this property and in fact in 1994 we worked to rezone this same property to office. When Chad and Jeff approached us with their intent to petition you for MUDD rezoning we were delighted that Woodfield invited our input and Hilary will share with you our experiences. Throughout our discussions with Woodfield, Barclay Downs has been very clear, we do object to this apartment's building current mass, scale and density. We've had a lot of discussions. This building is very, very large and has a minimum set back as Jeff pointed out of 48 feet. Forty-eight feet is the length of the charter bus that brought us to this hearing. That is too short of a distance for us. Call me passionate, but as I drive through our great city streets I count the multifamily building height adjacent to R-3. This is an example of the Tranquil Courts property. It is a small property along the Selwyn Avenue and Colony Road corridor. Three stories are next to the R-3 areas and four stories along Selwyn where the commercial areas reside. Four stores is what is called for in the current SouthPark Plan next to R-3. With their three parking decks on top of the six-stories of building and eight stories on front, that is an equivalent of ten stories on

Morrison. So what do we want? We've repeatedly told Woodfield that we need them to reduce the building height along our entire club boundary and increase their setback to 100 feet then we would not object to this project. In a moment, Rebecca will discuss what we believe are reasonable transition heights. What about setbacks and mass? I share the fact that the current minimum setback is the length of a bus. Look closely at the original site plan to the current plan. Woodfield responded to our distance concern by moving that minimum setback by two feet. Two feet, is that reasonable? Is that just? Regarding mass, this photo is an R-3 home on Ferncliff that backs up to the Rosewood. It is an 8-story building over one parking deck and again I point out to you that what Woodfield is proposing is 8 stories over three parking decks. Clearly our community needs your help. We are the little guy. We are the David facing this Goliath. Woodfield is well funded, well represented and is pushing its will onto our community. We seek a just resolution and believe the City's role is to bring just balance to this project. Right now the scales of justice seem out of balance and we are looking to our City officials to tell Woodfield to come back to us with a more reasonable and balanced site. Again, we are not opposed to development. We are opposed to this unprecedented large structure right on top of our peaceful club. Move it back more than a bus length.

Rebecca Fant, 2500 Sayre Road said thank you for the opportunity to share my understanding and concern from the proposed rezoning. My family and I are members of the Barclay Downs Club and we are nearby homeowners. Our neighborhood understands and even supports that Charlotte's growth, both physical and fiscal will come from within, from the few remaining undeveloped sites and from the redevelopment of existing sites. New development in SouthPark will be denser than the existing. What you will see here is 3 to 5 story buildings with surface parking lots are the norm. The slide shows the land use of the area with the SouthPark Business Center in red, the residential neighborhoods in green and the sites that transition between the two in orange. The proposed site is at the intersection of Barclay Downs and Morrison. The only comparable MUDD rezoning to the white Woodfield site is the Circle Project by Crescent Resources. It is on 7.8 acres which is 2 ½ times larger site than Woodfield. It has a 100-foot buffer to the neighborhood, 75 feet of which is undisturbed. The building sits at least 230 feet from the residential property line. The building heights are comparable with the Woodfield proposal and it was approved for 350 apartments, just a few more than Woodfield whose site is less than half the size and with very little buffer. The proposed mostly 8-story building with three levels of parking underneath covers most of this small 3 acre site close to the maximum size of buildings that could be built here. The light pink on the left is the approved six-story office building. The dark pink around it is the three-story parking deck underneath. The beige is the proposed footprint of the both proposed apartment building and the three levels of parking underneath it. Compared to existing office zoning the proposed apartment building is two to five times closer to residential. It is 230% larger in square footage. It is 250% larger in building volume. It increases residential units 400% over what is allowed under the current office zoning and at 94 units per acre it is comparable to density uptown. Woodfield's modifications are minimal. They've moved the buildings two closest points 13 feet and 16 feet farther away from the swim club to distances of 48 feet and 62 feet. They've dropped two stories off the back, but still the maximum height at the back is 95 feet. In fact the maximum height actually increased by 5 feet to a total of 95 feet for the project, so it is still a very tall building. The developer's financial motives to maximum return on investment should not be imposed at the cost of reasonable zoning and appropriate transition to the adjacent neighborhood. Just as MUDD was designed as an appropriate transition uptown from skyscrapers to mid-rise to low-rise and residential, MUDD projects like Woodfield should also transition from the SouthPark Business Center to the residential neighborhoods that surround SouthPark. More density is fine, but this project is too much.

Hilary Larsen, 3015 Clarendon Road said I am the President of Barclay Downs Homeowners Association, a neighborhood of about 500 homes. We are here tonight because we need your help in trying to resolve three basic issues with this project that relate to building height, setback and some related issues dealing with traffic and management practices. We are not opposed to this project, we are not opposed to development, we do however object to some of these revisions that we will talk about.

Who are we? Barclay Downs is about a 50-year old neighborhood of ranch homes directly north of SouthPark Mall. Since February we have spent hundreds of hours trying to find common
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ground with the developer and frankly avoid being here tonight. We are not an activist organization and in fact before this meeting the largest event that we've held is a neighborhood clean up over with our neighborhood school. The fact that so many people are here tonight on this rainy day I think gives you some idea of how strongly we feel that this project has crossed that boundary or line of what is reasonable and fair. We do support development. We are adjacent to SouthPark Mall and we understand that development is important for economic viability and that development will continue to cur at our edges. We believe however, that this site will be developed and whether office, retail or residential, it will generate taxes for the City. We look to you however, to find a way to encourage development that not at the expense of adjacent residential neighborhoods. If this project truly needs maximum height, maximum density and covers the entire site in order to break even, then perhaps it is the wrong use for this site. There are some things that we would like you to know. First the developer has done a very good job of giving you a laundry list of miscellaneous things that they've changed in response to our neighborhood concerns. We want you to understand that while we appreciate those changes they did not address the basic issue that we've had since February regarding the projects mass and scale. We also want you to understand how hard we have worked to try to make this project work. We are not opposed to higher density and development on this site, although we feel that a jump from 22 units to 94 is extreme. We do not opposed 95-foot heights along Morrison Boulevard, however we do feel that the guidelines in the SouthPark Small Area Plan relating to adjacencies of residential neighborhoods should be adhered to. We don't even oppose a full move in driveway in Barclay Downs which is a very hotly contested issue in the last rezoning. Even though we believe it will add traffic to Barclay Downs Drive, particularly at our Runnymede intersection where we have 5,500 students attending school and we also know that this project will encroach into our neighborhoods. For the first time we are starting to come down Barclay Downs Drive, this building will be closer, taller and more visible than the office building. What we are asking you tonight is to simply lower the height of the building.

Councilmember Kinsey said before Mr. Gallagher sat down I was going to ask him if he had something he wanted to add that has not already been said.

Jim Gallaher, 3313 Ferncliff Road said resident of Barclay Downs 33 years. I thank City Council for establishing and having the vision to set up the SouthPark Plan. The petitioner proposes to build an 8-story high-rise apartment on a postage stamp of land. SouthPark requires on their plan a building height to be compatible with surround development. This structure would dwarf the Coke Cola Headquarters Building along with every other one along Morrison and Carnegie Boulevard.

Mayor Foxx said Mr. Gallagher I'm very sorry but I'm getting a signal from our Attorney that we've gone outside our protocol. If you will just hang on we will have a two-minute rebuttal and then we will see where the questions land.

In rebuttal Mr. Brown said this petition is understandably near and dear to the hearts of the residents of Barclay Downs and particularly those who are members of the swim club. I do want to clarify some points. It is very important in our mind and I believe the staff's as well as they review the SouthPark Plan to bear in mind the distances from the proposed project and building at the closest point, the narrowest closest point to the various residences in Barclay Downs is over 400 feet. Having said that we recognize that the swim club is an important resource and that is why we tried to do all we can to work very hard to get at some of the issues of concern. The average distance along the edge is 85 feet, it does vary. The closest part at right angle to the upper tennis court is 48 feet. We moved the building further back and we also reduced the four story edge so we have tried to accommodate that. It is very important to recognize the tree canopy here. We are not going to impact the pool facility, we are not going to impact the lower court or the other courts, we are trying to provide screening in order to be able to be consistent and we think we are with your Planning staff's view of the SouthPark Plan. To compare us to Rosewood respectfully we think is not accurate. Rosewood has homes that are 100 feet from the building. We don't have homes but are 400 feet from the building. We do recognize the club is an important resource, we recognize the outdoor recreational uses are important to a number of residents and I think 50% of the members who are residents of Barclay Downs and we continue to work in that area. The SouthPark Plan boundary begins with the yellow, it recognizes the swim club within the activity center and we believe like the staff that it is a transitional use
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already, that the racket club is important, but it is outdoor recreational uses and we need to balance as we've tried to do in that regard.

Councilmember Dulin said Mr. Gallaher, we have an Attorney over here to make sure that everything runs smoothly. We have to ask you a specific question and then you give us an answer. Tell me what are your thoughts on this project and what it would do to your home on Ferncliff if we went forward.

Mr. Gallagher said it would bring more traffic obviously down to Ferncliff. Charlotte Transportation, and I challenge their numbers, with this building there would actually be more cars, more trips per day than what there would be with the office. Mike Davis is here and can testify to that because it is right here on the SouthPark, Barclay Downs area transportation map.

Mr. Dulin said I've seen neighborhoods and developers get together and work on projects before. This is probably number one in my seven years of sitting at the dais and it is an honor to sit here, the neighborhood being engaged, the developer working hard. Now the developer might not have come as far or might not be where the neighborhood and swim club wants them, but they are working hard too. I want to give everybody a shout out that the neighbors are here in numbers and by the way, most of these folks I know and I'm thrilled to see kids on the front and it is fun seeing everybody here seeing how this works. With that said I've been involved in maybe 10 of these meetings as well, and I've missed 10 so you guys have done a good job, but I'd like to ask the petitioner, Mr. Brown to go over the traffic numbers a little bit as well.

Mr. Brown said this is a snapshot of the study work that has been engaged by the traffic engineer working closely with C-DOT. The traffic report showed the comparison of the office building, the roughly 130,000 square feet, apartments using a suburban residential model, 280 dwelling units. When I say suburban, more of a traditional broad range in apartments, a combination of a mixture of different types of units. We also included mid-rise apartments because this is technically a classification in the mid-rise. As you can see there is a reduction in the a.m. and p.m. peak hour when the traffic is heaviest in the area between the residential, both of those alternatives and the office. The total daily trips does show between the more conservative apartment approach 234 more daily trips all through the day than the office building. I think C-DOT can talk about this and I think in their estimation sounds like a number of cars when you are talking about a 24-hour period, it is relatively modest in terms of the differential. In the a.m. and p.m. peak when cars are most on the road, the current project would generate fewer trips. In addition as we've indicated, we've also made improvements, turn lanes and also trying to do some pedestrian safety. That is it in a nutshell and gives you a little sense of that.

Mr. Dulin said with the neighbors and the swim club might want to have an answer as well, but one of the things that hit us and I've never seen a shadow study in all these years. So the neighbors thought it was too high and it would cast a shadow on the tennis courts so they go out and they get a shadow study which I thought was interesting. We saw that in a neighborhood meeting so I'd like for you to take one minute Jeff, because I then want to ask the swim club to respond. The shadow that would come through here in the winter time, it was interesting information to me.

Mr. Brown said I did okay in school, but I wasn't particularly good in 9th grade physical science so bear with me when we talk about the shadows and what have you. We did engage someone who does that type of architectural engineering and looked at the potential shadows on the four scenarios. Principally in the winter time, but also did it in the summer time to confirm no impact on the pool facility under any of these scenarios. The scenarios included mostly focusing on the lower tennis court where there were some potential shadow. It compared existing trees, it compared office alternative that could be built under the existing plan and compared out project various points of the day, various times of the year. Reflecting that generally speaking during the December, January and February months during the winter time, there was some shade cast on the lower tennis court where the clay court is by the existing tree canopy. It was also cast by the various office alternatives and our building. Those shadows are however fairly modest when you compare the entire length of the day. Having said that we were aware of the club's concerns and we've also discussed alternatives because it is a clay court and I think if it wasn't a clay

court it wouldn't be as big of a concern. That is how we have discussed with them alternatives to try to address that concern as well.

Mr. Dulin said I appreciate the Council's indulgence for my questions. Mr. Reeves or someone from the swim club, it has appeared to me and I've seen the shadow studies and all I know is what I've seen in the meetings and I'm not debating the developer's side here, but it appears to me that there is as much or more shadow coming from the trees that are there now than if the building were built. Am I missing something there? I get the mass of the building and where it is.

Mr. Reeves said our tennis pro is John Williams and he is the one that advised us on this. When you look at a tree shadow it is opaque and it moves. When you get that constant shadow on the court that is the concern in the winter months. That constant shadow is what give us freeze concerns on our courts. I do have to say that our issues are mass, scale and density, that was an ancillary issue.

Mr. Dulin said correct, mass, scale and density, height, setback related issues.

Ms. Kinsey said the SouthPark District Plan called for a maximum height of 40 feet?

Ms. Kiplinger said what the SouthPark Small Area Plan recommends is a transition. It does say that when adjacent to residential uses that the height should be 40 and should transition.

Ms. Kinsey said the write up says that this does exceed the 40-foot height. I just want to make sure that I understand what the height is closest to the building. I think I know but I would like to hear it.

Ms. Kiplinger said the height closest to the building, I will have to ask the petitioner because they did make a change tonight. They took off the four stories that were the closest so if it is okay I will ask Jeff to verify.

Ms. Kinsey said I just need a number. I don't need to see a pretty picture.

Mr. Brown said the reason for the picture is because the building moves with the property line so we are talking about one spot. The corner of the closest part of the building is 48 feet.

Ms. Kinsey said time out, that's not what I need to know. I want to know the height of the building at the back and I want to know what that is and also want to know what is it at the front of the building. I know there are 8 stories and 6 stories.

Mr. Brown said I think it would be helpful for us to do the drawing because that way she can show the height. It varies in a few places so we could at least show the building I think it would be helpful.

Desiree MacSorley, 2459 Wilkinson Boulevard said when we talked about the closest point that height is 69 feet, this height where we are 124 feet away is 95 feet in height. The height here where we transition to the 6 stories, and just in this area is 86 feet in height along this edge and then it drops off at the end as we get down to the swim buffer and at that point it is 95 feet in height. As we go around, the tallest portion of the building is actually in this area facing the parking garage and the office building and there we are at the lowest point of the site and it is 117 feet in height. The front along Morrison and Barclay Downs is about 85 feet, maybe a little taller in height with the parapet.

Councilmember Autry Ms. Kiplinger, you said the height as far as the SouthPark Area Plan goes when next to residences, what was the maximum?

Ms. Kiplinger said the SouthPark Area Plan calls for it to be 40 feet and to transition, but the SouthPark Area Plan considered the recreational area part of the transition. I'm almost afraid to go them to ask them to go back to my presentation but with that map you can see that the recreational area was in the SouthPark Area Plan and it was green so you have the subject
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property and then the transition of the recreational area and then the residential. Technically, in terms of the site, the subject property being here, it does not abut the single family residential because again the recreational area was used as the buffer or the transition area.

Mr. Autry said so actually the closest these apartments would be to a real resident I think in one slide it was 407 feet?

Ms. Kiplinger said I believe that is correct in accordance with what the petitioner provided.

Councilmember Howard said just to clarify, isn't this site in a hole, doesn't it go down? Does it have elevation issues? When you get down to that 100-foot height what is it really at street level that you can see at street level, 8 stories?

Ms. MacSorley said at street level on Morrison and on Barclay Downs all the underground parking is totally underground there so you will only see the 8-stories of the residential.

Mr. Howard said on Barclay Downs where it goes down to four stories I believe you said.

Ms. MacSorley said six stories.

Mr. Howard said at street level that height is what? Are you counting the parking underneath it when you say it is 86?

Ms. MacSorley said no, it is approximately 65 to 69 feet in height as you come around the corner to Barclay Downs at that point. It will basically not see the garage there at all. We do have a driveway that comes down, but that will be hidden with the retaining wall. You will not see the garage from either Barclay Downs or from Morrison and you will only see a small portion of it from the club site and then as it transitions down at the bottom at the swim buffer, just in that one portion, we are filling there and then transitioning. At that point you would see the garage but it is committed to be decorated with louvers and to be as aesthetic as possible. It is along the creek and adjacent office part.

Mr. Howard said we saw a slide from the neighborhood folks that talked about what the existing zoning calls for. That is what I'm looking at, I'm looking at what the difference is between not just what this project is, but the density, the height and mass, what those differences are between what is allowed and what we are talking about. From a staff standpoint, is this a CD?

Ms. Kiplinger said yes sir it is.

Mr. Howard said what it is, is what it is, so right now it is proposed for what?

Ms. Kiplinger said right now in the O-2(CD) the 1994 rezoning provided some general development standards for the site. There was an administrative that was approved in 2001 and that administrative approval is what the neighbors showed to you. At that time the administrative showed an 82 foot height in terms of the office building and then a parking deck that was four stories. That is just one of the ways that property could be developed. We have to go back to the original petition and those original conditions and it allowed up to 160,000 square feet of office development. So there are varying ways and varying heights that it could be developed.

Mr. Howard said in the numbers that we got earlier from the neighborhood about what the total square footage of the building, did that include the parking deck?

Ms. Fant said no.

Mr. Howard said I'm wondering what the floor area ratio difference is between the existing plan with all of the impervious area being covered and what this one is. It seems kind of similar in the area that it covered, I'm just wondering if that was the same square footage that would be put on the site as well.

Ms. Kiplinger said it is not a calculation that we have, but it is something that we can look at and see if we can provide that.

Mr. Howard said I would be interested in that.

Councilmember Cannon said Ms. Fant or Ms. Larsen, I can't recall which of you made the comment, when you were showing the slide, one of you made reference to the transition but I think what you were suggesting in the way of the transition, were you suggesting in the way of the design for it to be built?

Ms. Fant said the reason we are here today is because this is a MUDD rezoning.

Mr. Cannon said let me finish my question to you, were you looking for the design to go up and back somewhat away from the recreational center?

Ms. Fant said you have the Rosewood and the Circle Project that both back up against residential and is dealt with in two ways. You either move the whole mass of the building a good distance away or you taper the building height from the maximum down to the lower and I think I can speak for all of us to say we don't have a problem with the, and I think it is 95 feet, according to the drawings we've had from them that is on Morrison and right now on Barclay Downs except for that very tiny little portion. We don't have a problem with the 95 foot height, the 8 stories on the Morrison end, we do have a problem with what they are calling six stories, but it does sit on top of the parking garage that is buried in the ground initially, but then becomes exposed, so it ends up with 95 feet at this highest point and I think Ms. MacSorley said 69 feet at the shortest point against the swim club.

Mr. Cannon said in the wake of what we've heard this evening how much room is there for continued talks and dialogue to try to work something out. I heard Mr. Dulin, the District Rep talk about how neighborhoods and developers have been working pretty well in years past, but we also know that there sometimes can be an impasse. How close may you all be to try to continue to get there relative to setback, scale and mass?

Mr. Brown said one of the benefits of engagement from the community and the hard work of the petitioners we been at this quite a while so there have been a lot of efforts to try to continue to work on the design. We've made some changes I think were reflected in the photographs that we've showed. Going forward, certainly we want to keep a dialogue. We think the better opportunity is probably more screening, perhaps going to a Class A buffer versus a Class B. There may be some opportunities, but it is very challenging for the following reasons. Moving the building closer to Morrison makes it challenging because of easement conditions, monument at the corner, and also the need to accommodate the service which is restricted to Morrison. That is challenging. We tried to move the massing as best we can, certainly we are open to continued dialogue but it is tough to see us having a substantial change. We are averaging 85 feet, again the narrowest portion is closer and we are averaging 85 feet in distance, but to get all of it within 100 feet will be challenging.

Mr. Cannon said Department of Transportation – we've heard from both sides relative to the level of trip generation and for the record from the information that you have, would you be so kind as to share that with Council? Will these numbers escalate or will they go up in terms of the number of trips generated?

Mike Davis, Charlotte Department of Transportation, said briefly a couple of things to put this in context to get to the trip generation. We started an evaluation of this petition and we often times will try to initially determine whether or not a traffic study is needed and in this case we determined that one was not needed because the trip generation differential is so small.

Mr. Cannon said define small.

Mr. Davis said less than about 2,500 trips per day difference between an existing zoning entitlement compared to a proposed zoning entitlement. We are within a few hundred trips of one another at peak hour. When we began evaluation of this petition the petitioner agreed it was

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in everyone's interest that we commission a study to be done to address concerns from the neighborhood, so the study that was done is not one that we've required, it is one that we've done to try to answer questions as we understood them from the neighborhood. Your question is specifically about trip generation, the numbers that have been presented tonight are not really on the record yet because they reflect a reduction in the number of units that has occurred. The numbers that have been put into the presentation are fewer than what we have in the report and what you have in terms of your staff analysis because the petitioner has reduced the number of units by 20. The numbers that we are showing are under the existing zoning, trip per day would be 1,630 trips per day. The proposed zoning according to the initial site plan would be 1,940 and with the 20 unit reduction in terms of the number of residential units that would bring that number down to about 1,860. The net effect of all of that is that there is an increase between the proposed and existing zoning with this proposal and what was stated previously about the peak hour trips is also true. What is going on in terms of the morning peak and the afternoon peak, the office delivers a more concentrated amount of trips as compared to multifamily which are more distributed through the day.

Mr. Cannon said I just want to encourage both sides to continue to try to work together as best you can.

Mr. Howard said the buffers compared to what the existing zoning calls for and what this proposal is calling for, help me figure those out. Up against the swim club the buffer before was a Class what and what is it now?

Ms. Kiplinger said it would have been a Class B buffer which actually under the MUDD zoning which is proposed now, there is not a requirement for a buffer, so they are showing a Class B which is a 36-foot buffer. I believe I just heard Jeff say that they were willing to increase that to a Class A.

Mr. Howard said which is up against the building so that is space that you had left over or are you going to mess with the building again?

Mr. Brown said what we are proposing is we actually show on the conditional plan areas in which we are saving trees and we are also supplementing trees. We are also willing to increase from the Class B to a Class A along those areas as another opportunity to try to continue. We showed a slide earlier that shows the actual distance of the buffer that we are committing to under this plan is more than what the office would have required under the conditional plan.

Mr. Howard said that is what I thought I heard. The other thing is that it seems at least one person was okay with more height being on the two main thoroughfares. What is the issue with that?

Mr. Brown said in the interest of time we didn't show you the actual change in the building. We did move the massing of the building we think pretty significantly toward Morrison already.

Mr. Howard was that a staff thing? Was staff against it being taller?

Mr. Brown said the SouthPark Area Plan does talk about wanting to have the orientation of the building and the massing more along the regional mall location and we've tried to accommodate that as best we can.

Mr. Howard said is staff against any more height?

Ms. Kiplinger said Jeff is correct, the SouthPark Area Plan does talk about having the height toward the corridor and along Morrison Boulevard for this particular site would be accurate. Then transitioning back to the recreational area.

Mr. Howard said is 8 stories the max of what staff would look for?

Ms. Kiplinger said to support any more we would have to see an elevation, site plans and things like that. It would just depend on the component that we had.

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Mr. Howard said it sounds like the only point up at against the swim club that is a problem is the parking deck area. Is that correct? It is not the six stories, it was the parking deck and then the other corner?

Ms. Fant said it is a very complicated site like you observed earlier that it is down in a hole. If you look across from the swim club across the back of the building on the right side you would have Barclay Downs and at that point they show a very small portion of the 6-story building but behind that and continuing along the north or the elevation that we are looking at in our minds is the 8-story building. It goes to 69 feet and goes up to 87 feet then the grade starts to slope away from Barclay Downs down to the creek and it starts to expose the three levels of parking that were buried in the ground when it was on Barclay Down, but they come out of the ground so the 6-story portion that shows they have a swimming pool there, then become 95 feet out of the ground. It tapers from the high point near the creek at 95 feet up to about 87 feet, then it jumps up to 8-stores and I think it is 95 feet again and then there is a tiny little bit that drops down to 6 stories.

Mr. Howard said out of fairness to them it is kind of below ground.

Ms. Fant said yes, but so is the swim club. The adjacent property is equally below ground. It is at grade all the way down on both sides.

Mr. Howard I see all these great signs saying save the swim club, what would happen, is it going to go away if this happen? What do you mean save the swim club?

Mr. Reeves said I hope we don't go away. I don't think we are going away. Save the Swim Club Mr. Howard, the concern we have is the viability of this club. We have a four-year waiting period for people to get on and it is just peaceful enjoyment that we have as a club. What we are worried about is what I call Vegas-est feel. Think of being in Los Vegas and you are at the swimming pool or the tennis court and today we are facing something pretty reasonable with office, but when you building this 8-story or 6-story over three you get this very, very large mass up against our club. That is what we are concerned about.

Mr. Dulin said good comments on both sides. A little bit of housekeeping for those of you that are here and folks watching at home. Council does not meet for zoning in August so this is the hearing portion and normally we have the vote one month later. Because of the summer break we will vote on this on September 24th. That will give all of you an opportunity to send me another e-mail, to come to my house and knock on the door, and do whatever. It is part of the deal and I'm glad to have it. This will somewhat unusually have a two-month break before the decision on September 24th.

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

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

Mayor Foxx said I want to applaud people on both sides for your level of preparation and for your energy behind this and of course it is going to be a tough decision for us, but we appreciate you all being here tonight.

Ms. Kiplinger said point of clarification, the Zoning Committee will hear this item on July 25th.

Mr. Dulin said I didn't misspeak, but there is an opportunity between now and September where it will be heard by the Zoning Committee on Wednesday, July 25th at 4:30 in this building.

ITEM NO. 19: HEARING ON PETITION NO. 2012-049 BY FAISON-HOLLOW, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 34.0 ACRES LOCATED ON THE WEST SIDE OF CARMEL ROAD BETWEEN QUAIL HOLLOW ROAD AND BRIDGEWOOD LANE FROM MX-2 (INNOV) TO R-12MF(CD).

The scheduled public hearing was held on the subject petition.

Tammie Kiplinger, Planning said this petition is to rezone approximately 34 acres from MX-2 Innovative to R-12MF(CD). As you can see on the future adopted land use the multifamily residential adjoining a small area of commercial and then single family residential. The property is currently developed with 232 apartments. It was rezoned back in 2007 to allow 229 residential units but that development never occurred. The current request before you is to allow 390 multifamily units in the form of Manor Houses and Podium type development. The overall density is 11.4 and the General Development Policies recommends up to 12. In terms of the site plan, I will orient you, this is Quail Hollow Road, Carmel Road, McMullen Creek along the western edge. If you can make out these five buildings all have P's on them. This is the Podium Building and I'm going to show you an example of what that is. It is a pool and a club house in the center of the development. The rest of the units are going to be Manor House type units. This is what a podium building looks like and again these are the ones along the edge of the creek. There are five of these buildings and then the Manor House buildings and these buildings actually have garages. In terms of the site plan the petitioner has committed to the type of building materials, they have dedicated land to the greenway, they have edge treatments for adjacent residential development. There are two communication towers on the site which are to remain, but they do have a provision that no additional towers will be permitted. Staff is recommending approval upon resolution of outstanding issues. It is consistent with the South District Plan and the General Development Policies.

Keith MacVean, 100 North Tryon Street, said I'm with King and Spalding. Jeff Brown of our firm and I are assisting Faison-Hollow, LLC with this rezoning petition. First I want to thank the neighbors who have helped us throughout this process of developing the plan that is before you tonight. They have spent a lot of time and effort working with us diligently for the last six months to come up with this proposed site plan. He recognized several of the neighbors who have been involved in working on this plan and said they have given us a lot of input. We were able to respond to that input and come up with a plan that is a win/win for everybody.

Matt Karres, Montibellow Homeowners Association said all three homeowner associations have worked closely with Keith and Jeff as well as Chris Branch and Steve Smith over the last four months and we want to express our extreme appreciation to them for the collaborative manner in which they've dealt with us and express our unqualified support for the petition. We really appreciate what they have done. They worked with us to increase the setbacks, to add some tree save buffers and do some wonderful landscape plans that Faison supported and we think will make this project a real benefit for our area.

Mr. MacVean said I will run quickly through the slides. This is a 34 acre site on Carmel Road with apartments that were developed in the 70's. We are proposing to redevelop the site with 390 higher end, high quality units, both Manor House and Podium style buildings. Each unit has a one-car garage in the Manor House units and in the Podium Buildings which are at the back of the site there is parking underneath. These units are targeted to high end demographic empty nesters. We did a lot of work with Rock Bridge and Montibellow to come up with a sensitive edge treatment. This is the original plan and we actually eliminated several buildings along this edge and then moved buildings away from the property line to create a greater buffer and tree save area. A very detailed landscape plan along Carmel Road which also includes a decorative masonry wall or rock wall you can see at the bottom of the slide. Specific landscaping, etc. and generous setbacks along Ashfield. We actually moved a Podium building and relocated it.

Councilmember Kinsey said I only see one type of housing and you talk about two. Do I have another picture that I need to be looking at?

Mr. MacVean said I don't think we included the picture of the Podium Building in the slides. It is part of the petition and it is in Tammie's presentation.

mpl

Ms. Kiplinger said we can go back to our slides, it is in there.

Ms. Kinsey said that is okay you can show it to me later.

Councilmember Barnes said Mr. MacVean I assume based upon this photograph of what currently exist there, that is not what you would consider a high-end empty nest.

Mr. MacVean said no, what is there today was building in 1979, 33 years old and really is at a point where tearing them down and starting over is what...

Mr. Barnes said and so I imagine the rents are fairly low?

Mr. MacVean said they average about \$800 per month, give or take.

Mr. Barnes said I raise the issue because when we have these discussions about affordable housing, clearly you are not replacing this with anything that would be affordable under the definition we use, but it seems that is essentially an elimination of that opportunity, but I like it.

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

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

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ITEM NO. 20: HEARING ON PETITION NO. 2012-055 BY CHARLOTTE PORTFOLIO OF THREE, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 12.93 ACRES LOCATED ALONG BEAM ROAD BETWEEN CROSS BEAM DRIVE AND ASSOCIATES LANE FROM BD(CD) TO 1-2(CD). ORDINANCE NO. 4962-Z AMENDING THE OFFICIAL ZONING ORDINANCE OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 12.923 ACRES LOCATED ALONG BEAM ROAD BETWEEN CROSS BEAN DRIVE AND ASSOCIATES LANE FROM BD(CD) TO 1-2(CD).

The scheduled public hearing was held on the subject petition.

Mayor Foxx said you will note that there is a Planning staff request for a decision on this petition on the same night as the public hearing.

Tammie Kiplinger, Planning said this petition is for 12.93 acres located on Beam Road at Associates Lane. The request is to rezone from BD(CD) which is a distributive business conditional district to I-2(CD) which is an industrial district. The site plan that accompanies this rezoning basically shows the existing buildings that are on the site. This is Beam Road, there is one area that there is not a building and the site plan does show a future building in that location, but all the rest of these buildings have already been constructed. If you recall as we talked about at the dinner meeting when the petitioner originally came in they were asking if they could have vocational schools which is a beauty school basically in this case within the BD(CD) district. We advised them to file a text amendment. After reviewing the text amendment we decided that it was not good policy for us to allow a use to be permitted in previously approved conditional districts so we asked the petitioner to file a rezoning, which they did. This has delayed them somewhat. They were originally scheduled for a June public hearing and now they are here before you in July so the staff, trying to keep them on schedule has asked for a decision tonight.

In terms of the land use plan this petition is consistent with the Westside Strategic Plan which recommends mixture of office park, business and industrial land uses. The petitioner has eliminated the heavy industrial land uses from this site so what you see is basically uses that can go within the existing buildings so you would not have something such as an asphalt plant or a cement plant going in on this site. In terms of staff recommendation, we are recommending approval. All the outstanding issues have been addressed.

Walter Fields, 1919 South Boulevard said CIP Real Estate is the owner of this property as well as other properties in the Cross Beam Business Park. We want to extend our appreciation to the staff who has been working with us on this literally for months and months trying to figure out the best way to solve what at first Tammie and I thought was a fairly simply problem, but these days there is nothing as simple as it appears to be. We've compressed four months worth of work on a conditional plan into as many weeks and having our open house forum and having our community meetings on the site out at the park because there are other owners in the park and those would be the people that would have the most direct interest. Coffee Creek when it was originally approved back in the 80's included a mixture of I-1, I-2 and distributive business zoning. Since then there has been industrial zoning both to the north and to the south of us and to the west of us. I was sitting in Jerry's office and literally we were reading the brand names on the tires on the planes as they came in to land on 36-right so it is right on the center line of the runway. This is an area which the City has identified for many, many decades as being one for employment type uses and with staff's cooperation and their endorsement we hope that you will agree with us and change the zoning on this property to this conditional and industrial zoning plan.

Councilmember Barnes said what are going to be the uses here Mr. Fields?

Mr. Fields said I can open up the plan and show you the entire plan sheet of uses that have been reviewed and approved by the staff and we added some additional requirements in that we brought forward from the old zoning plans so it would be perfectly clear that all of the streetscape improvements and all the road improvements that were originally a part of the county approval would carry forward with this approval as well. There is literally dozens and dozens and dozens of uses.

Mr. Barnes said what is your intended use? I get that there are dozens and dozens of uses. What are you going to do with this?

Mr. Fields said what got us started with this was essentially a beauty school, an 8,000 square foot lease for a beauty school and we believed that we could do it with a text amendment or that it was allowed under the old zoning, but after much review and much conversation the staff asked us if we change horses in mid-stream and convert this to a rezoning instead of a text amendment.

Mr. Barnes said so it is going to be a beauty school?

Mr. Fields said that is the tenant that started the conversation yes.

Mr. Barnes said so what is it going to be? Am I speaking in tongues?

Ms. Kiplinger said there are multiple uses on this 13 acre site so there are multiple users and multiple tenants within the existing building. There is all kinds of uses out there existing currently.

Mr. Barnes said now go down the list, what are they? If you can't answer my question start your list.

Mr. Fields said I will be happy to read as many of these as you like.

Mr. Barnes said read all of them if you can't give me the ones that I am asking, give me all of them.

Mr. Fields said as I said this is a list that began with the list of I-2 uses in the ordinance. Tammie and I went through the list one use at a time everything from an animal crematorium armory, assembly of fabrication of manufactured parts, apparel, textile products, electronic equipment, fabric samples, auction sales, bakeries, barber and beauty shops, clinics, medical office building, veterinarian clinics, contractor's office, but not their storage yards, distributive business, dry cleaning, engraving, a whole series of manufacturing uses, child care centers.

Mr. Barnes said so what you are saying is that you have no idea what your clients are going to be doing in the buildings?

Mr. Fields said most of the buildings are occupied currently Mr. Barnes. This was a large tenant space that someone wanted to move into. The use that they wanted to put there was one that wasn't permitted under the old conditional zoning so we started with a text amendment to add that one use.

Mr. Barnes said was that the beauty school?

Ms. Kiplinger said yes sir.

Councilmember Mayfield said when was the community hearing held and how much notice was given since unfortunately this conversation started off on one direction and it was changed in a short period of time. I agree with the question where I clearly did not hear an answer that Mr. Barnes just asked as far as what exactly are you asking us to approve today, but I also need to know how much notice was given for the other businesses to be able to attend the meeting and how many people showed up.

Ms. Kiplinger said according to Mr. Fields' community meeting report no-one showed up for the community meeting. In terms of the amount of time that he allowed I would have to defer to him because he is responsible for mailing those notices.

Mr. Fields said the letters went out about two weeks before the meeting. The meeting was on July 5th in the evening at Mr. Rogers' office in the park. We had a mailing list of probably close to 50 people. I believe that community meeting report is in the file which included all the property owners within 300 feet in every registered neighborhood organization within a mile of the site. I did not receive any phone calls from any adjoining property owners or any neighborhood leaders. I believe I heard that the staff received one call that they dealt with. We had an open house forum here that staff sent out notices for the same mailing list and I came and sat for the open house forum and nobody came to that and at the community meeting nobody came to the community meeting.

Ms. Mayfield said so the community meeting was held on July 5th, the day after the holiday.

Mr. Fields said yes ma'am. In order to make the schedule work according to the Council's adopted rules that was the last day we could hold it and still meet the deadline requirements for tonight's meeting.

Ms. Mayfield said there is some concern that I have with the fact that I did not receive a notice as the District Rep to know that if any of the constituents called me or for me to talk to talk to them since that is a holiday. I also have a very clear concern on exactly what are you asking us to approve because this seems like a blank sheet that we are getting ready to approve where anything can be put in there. If it started out as a beauty school, why has it changed?

Ms. Kiplinger said let me try again and see if I can help explain that. If you look at the aerial you can see the existing buildings are already in place. Right now any use in the BD(CD) district that was approved in the 1982 rezoning, which basically covers multiple, multiple uses, are allowed in any of those buildings. When Mr. Fields and his client first approached us they said they wanted to have a vocational school, a hair school and the best way we could figure to work it out is to do a rezoning to an I-2 district, an I-2(CD). We were not willing from a staff perspective, to open it up to all uses in the I-2 district so we asked them to go conditional. We went through the list if I-2 districts, compared it to the list of uses that are currently allowed on the site plan from 1982 and he added a few uses, including the vocational schools as well as other industrial type uses like manufacturing and then he excluded any of the heavy industrial uses. As opposed to one of our previous rezoning where we could tell you there were 390 multifamily dwelling units, this is an industrial park and it has multiple options and multiple tenants so this allows the property owner to lease out in accordance with the I-2(CD) if it is approved.

Mr. Fields said it is very similar to a petition the City Council approved in 2010.

Ms. Mayfield said do we have any zoning proposals that are similar to this?

Mr. Fields said in 2010 there was a rezoning for a 57 acre tract just to the north of this site. That one went from an office classification to an I-1 classification and met all the same requirements in terms of meeting the City's adopted land use policies, working well with the adjoining communities and that was approved unanimously in October 2010. In terms of the history of land use decisions that the City Council has made in this area, really started back in the 80's with the County Commission, there has been a consistent history of dealing with conditional plans in this area all of which pin down many, many uses. As Tammie said, excluding the most obnoxious sorts of uses that you wouldn't want to have in a park like the Coffee Creek Business Park, so that is what we did.

Ms. Mayfield said since we are looking at this short timeline, what is the hardship as far as us not having enough time to really review all of this opposed to having a hearing and decision this evening?

Ms. Kiplinger said because staff changed our ideas on how we should approach this mid-stream, we felt that the petitioner indicated some concern about the timing and having to wait till the September 24th meeting for a decision. Since we changed in mid-stream we would ask for a decision tonight on his behalf.

Councilmember Howard said thank you for that last question. That was one of the things I wanted to clarify just to get Walter off the hot seat because it feels like, and Walter and I don't always agreed on things but I don't think this is his thing tonight. Staff is saying we sent them down one track, we realized we needed to do another one, and we want to accommodate them as best we can. Let's take the petitioner off, this is really something we may want to talk to staff about, not the petitioner. The other thing with staff amendments, a lot of time, what you are doing is actually trying to clarify something that can be used across the board. In this situation I want to make sure I hone in on what those differences were between what is permitted with BD(CD) and the I-2(CD). Those uses were limited to what?

Ms. Kiplinger said the uses on the 1982 site plan is very long. It takes up two whole sides and as Walter has indicated, his uses that he is proposing take up a whole page. We could provide that comparison, I just can't do it verbally tonight.

Mr. Howard said what I'm trying to get at, we were trying to make sure that if we go to industrial for the whole thing, there were uses that were not too far off from what originally was in the spirit of what was decided originally.

Ms. Kiplinger said that is absolutely correct and that is what I indicated when I said that we went through the BD district and compared the I-2 and got the similar uses, including vocational schools.

Mr. Howard said are there other industrial uses in the area? Could I see an existing zoning map. Is this a big difference in what is allowed? To me that area is all flex space anyway, almost everything in that whole area.

Ms. Kiplinger said if you look in your agenda, and I'm sorry we've tried to cut our presentations a little bit shorter, that is the future land use map, but if you look in your agenda you can see that we do have some industrial in the area. We have I-1(CD), I-2(CD), the whole area around Cross Beam and Beam Road is an office/industrial business park, distributive business type area.

Mr. Howard said so actually this fits right in. It is just changing from one use to what is kind of already in the area as it is. It is not a far stretch is my point to my colleagues. Basically I just wanted to make sure we covered that. I don't think it is the petitioner's fault that we are here tonight. I don't think it is staff's fault, we are just trying to figure out the best way to deal with a use and what we don't want to do is just hem them into just one thing. It is not a rezoning, it is a text amendment which means if for some reason this beauty school doesn't work, what else
mpl

could it be not that it is an I zoning is what we are trying to cover so that you can keep tenants in the building. Any thought to just changing the CD so the solon or beauty school could be allowed in what was there already?

Ms. Kiplinger said the BD district does not allow vocational schools so we couldn't just modify the BD(CD), we can do a BD(CD) site plan amendment. We have to take it to another district in order to accomplish the goal of allowing the beauty school.

Mr. Fields said my clock says I have a minute, 15 seconds is that true?

Mayor Foxx said you kind of finished your comments.

Mr. Fields said I did but I heard some other issues raised that I could try to address.

Mayor Foxx said you have to respond to a question that is put to you sir.

Councilmember Cooksey said alright I'll do it this time. What other issues did you hear that you think should be addressed?

Mr. Fields said a question was asked about urgency and as Ms. Kiplinger pointed out we filed this case as a text amendment thinking we would have a hearing in June and a decision in July. Mr. Rogers has a tenant with a lease that is tied to that commitment date of a decision in July so it puts him in a bad spot with a tenant who needs to start updating space. If we end up being thrown into the September decision, really through no fault of our own, just a series of consequences that brought us here tonight to ask you for this very, very unusual treatment. We would really appreciate it.

Councilmember Cannon said Mr. Fields you know what a blind 6 is, you ever play spades? It is not personal, but I think what you are hearing from the District Reps is something that they are a little bit cautious about and I would be too on the use because it sounds like the District Rep hasn't had an opportunity to be engaged. She may want to do some things beyond being engaged to maybe help to notify some of the other folks in the area that you have a list of that you might be able to present to her to be able to touch base and make sure they are okay with it. It just makes a little bit of sense to kind of have some idea about the possibilities of what might be coming. I too would have some reservation if I were them. I understand exactly what Mr. Howard is suggesting, but if I were to go back from whence I came I'd be asking the same questions and I would probably suggest that we not make a decision tonight and that we continue to keep this open to allow that very thing to happen where the community is engaged and the District Rep does have an opportunity to be able to talk about this and get a better feel for it for it to be approved rather than for it to be potentially denied. I'm not saying it will be denied, I'm just saying there is a possibility for that to occur, knowing and understanding how she feels about it and how important it is for us as a body to want to make sure the community is engaged across the board. What time were the meetings that were held?

Mr. Fields said the open house forum that was help up here was typically from 5:00 to 6:00. That is when that occurred and our community meeting out at the site also started at 5:00 and Mr. Rogers and I stayed there until 6:00 in case anybody came.

Mr. Cannon said let me tell you why I asked that question, because not long ago I asked the same question to another petitioner who had a meeting at 5:00 and I think it was in Ms. Kinsey's District. Five o'clock is not a decent time for working class people to get there is they are working and for those that may not be working it may be some level of difficulty for them to get to where they need to be because of maybe not having access to transportation or the ability to afford it. Once again I'm going to be non-supportive of something like this based upon several things, but I'm really concerned about the land use piece that we need to be making our judgment on and nothing else. I do have concern about just not absolutely knowing, but I will express some concern about that time slot. I think we can do better by way of engaging people at a more appropriate time.

Councilmember Kinsey said Mr. Fields I heard you say that this needed to go forward because the property owner has a tenant.

Mr. Fields said yes ma'am.

Ms. Kinsey said I think an earlier question was, what is going into that space. This is apparently what prompted all of this, this tenant, who is the tenant?

Mr. Fields said the name of the beauty school?

Ms. Kinsey said is it a beauty school? We never got quite a final answer. It is a beauty school?

Mr. Fields said yes.

Ms. Kinsey said it just seems like everybody was hedging on what was going on in there.

Mr. Fields said that is how we got here tonight. That is who wants to go in there.

Ms. Kinsey said thank you, it might have been easier if you had said it right up front.

Mr. Fields said perhaps I didn't understand Mr. Barnes' question.

Ms. Mayfield said Tammie this is a question you can help me with better. We have a meeting next week, is there a possibility that it could be delayed? We are not talking about a September delay, but possibly a week delay or looking at the August meeting, but preferably next week's meeting, just to have enough time to go through all of the information.

Ms. Kiplinger said those are certainly options that the Council has. You could ask the petitioner if he is willing to wait until the August meeting and he could go to Zoning Committee next week as regularly scheduled and then he could possibly have another community meeting if you wanted him to do that before the August meeting.

Ms. Mayfield said would that create too much of a delay because I do understand that you have tenants that are looking to move in and need to do some retrofitting. Would that push you back too far in order to insure, listening with the concerns from Mayor Pro Tem with that time slot and making sure that there was ample opportunity to have engagement. Would that be pushing it back too far for you?

Mr. Fields said I need to understand the dates that we are talking about. I heard a July date and an August date.

Ms. Mayfield said I was saying the meeting next week. Would it really be the August?

Ms. Kiplinger said I do not know the August date.

Mayor Foxx said August 27th.

Ms. Mayfield said would August 27th be too late?

Jerry Rogers, CIP Real Estate said I'm representing the landlord and we've got 90 days to get a tenant in, 30 days to design, 60 days to build out so I don't have 30 days.

Ms. Mayfield said what we are saying tonight, just so I am finally clear because I think there was some confusion earlier. What we are saying is this tenant is the beauty school?

Mr. Rogers said the 9,000 foot which goes in the corner of that space is what brought us here. Correct, 9,000 of this roughly 130,000 feet represents these buildings. That is why I need the I-2 zoning to jump start this development.

Mr. Cannon said is the decision tonight contingent upon you actually having a tenant or is the tenant already?

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Mr. Rogers said based upon the early discussions with the staff I've already executed my lease with the tenant targeting roughly late September or early October occupancy date.

Mr. Howard said I just want to be clear on something, with the original solution that you gave them Tammie, was a public meeting required?

Ms. Kiplinger said the original was the vocational school text amendment, and a community meeting would not have been required.

Mr. Howard when did they get notice that you wanted to change? When they did, they did exactly what you asked them to do.

Ms. Kiplinger said yes sir, that is correct.

Mr. Howard said the time we can leave to interpretation, but they did go and do exactly what you said when you said they needed to change directions. The only thing that would be a problem with going with next week would be whether or not the Zoning Committee could give us a recommendation or is there a time period that has to happen?

Ms. Kiplinger said the Zoning committee meeting is next Wednesday and I believe your meeting would be on Monday so you would not have a recommendation from the Committee unless they decided to do that tonight.

Mr. Howard said we've already prepared them to meet tonight to give us a recommendation so Madame Chair you could meet after this meeting and still give us a recommendation so we could move forward with a decision next week at our regular meeting?

Mayor Foxx said there is sort of two issues, one is the timing and one is the merits of the petition and I think we need to figure out what our north star is on the timing.

Ms. Mayfield said we are thinking of the timing and knowing that the conversations that have been held between the developer and staff the process was started correctly, I just needed to get more clarification this evening. I'm comfortable with that clarification.

[Motion was made by Councilmember Mayfield, seconded by Councilmember Barnes, to]
[close the public hearing. The vote was unanimous.]

Mayor Foxx said if the Council is to made a decision tonight or to expedite that decision before September 24th we need to have a motion to do so. Is that right Ms. Kiplinger?

Ms. Kiplinger said I believe that would be in order.

[Motion was made by Councilmember Cannon, seconded by Councilmember Mayfield, to]
[allow the Zoning Committee to meet and make a recommendation back to us to have a]
[decision on our agenda tonight to consider this petition. The vote was unanimous.]

Ms. Kiplinger said the Zoning Committee found this petition is consistent with the West Side Strategic Plan and reasonable and in the public interest, and voted to recommend approval.

[Motion was made by Councilmember Mayfield, seconded by Councilmember Dulin, and]
[carried unanimously, to approve the Statement of consistency and Petition No 2012-055 by]
[Charlotte Portfolio of Three, LLC for the above zoning as recommended by the Zoning]
[Committee.]

The ordinance is recorded in full in Ordinance Book 57, at Page 851-852.

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ITEM NO. 22: HEARING ON PETITION NO. 2012-068 BY STERLING FOX GROUP, LLD FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.72 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF BALLANTYNE COMMONS PARKWAY AND REA ROAD FROM B-1SCD TO NS.

The scheduled public hearing was held on the subject petition.

Tammie Kiplinger, Planning said this petition is for a small piece of property, a little under two acres in the Piper Glen area, just off of Rea Road and Ballantyne Commons. The property is currently zoned B-1SCD and the request is to rezone it to NS so the site plan can be modified. The B-1SCD district is not a district that we have in our zoning ordinance any more so they have to go to a different district. You can see residential properties and commercial and office surrounding the site. The site plan is for an 8,000 square foot building which will be office and retail. Access is off Piper Station Drive and there is an existing access to the adjacent property. You can see the elevations that are proposed for the building with different views from the roads in the area. The petition is consistent with the South District Plan and staff is recommending approval upon resolution of outstanding issues.

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

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

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ITEM NO. 23: HEARING ON PETITION NO. 2012-069 BY JOE MURPHY FOR A MX-2 SITE PLAN AMENDMENT, FOR APPROXIMATELY 7.08 ACRES GENERALLY LOCATED ALONG ROCKEFELLER LANE, KENSINGTON STATION PARKWAY, KATY FLYER AVENUE AND MOUNT CLARE LANE.

The scheduled public hearing was held on the subject petition.

Tammie Kiplinger, Planning said this is the old Celanese site that was rezoned back in 2004. It is about 120 acres that was rezoned to MX-2. Tonight the two areas that are shown in the red circle are proposed to be rezoning again. It is actually a site plan amendment. The proposal will allow 55 single family attached or 55 detached homes within these two proposed areas. There are some innovative requests that went along with the 2004 original zoning and those are being carried over into this petition, as well as any of the other conditions that applied to the site. This is a reduction in the number of units and it is going from condominiums to single family. It is consistent with South District Plan and I do have some building elevations to show the types of houses and I'm sure they will not be built skewed as my drawing shows.

Steve Schreiner, 17513 Calverton Road, Huntersville said I'm here representing the petitioner. I just want to point out that staff has done an adequate job of describing the rezoning. The areas we are rezoning from condos, there is 7 condo buildings presently shown on the plan that could potentially be developed into 140 units. We are rezoning to single family of 55 units and the reason for this request is based on the market that we are all trying to work with right now. That is in basic response to what we see out there right now.

Councilmember Dulin said I represent this neighborhood and it has been very active in other years on other issues, parking, etc. etc. I'm a little bit surprised that there is nobody from the neighborhood association. Oh, there is somebody from the neighborhood association. Can you come down sir? I've got a lot of blood, sweat and tears over there and I just want to make sure you guys are represented and are okay. Are you guys represented and okay with what is going on?

Lee Carnes said I have a concern and that concern is parking and I would like to hear from the petitioner what they plan to do with parking because we've had several cars booted because of parking. I think the petitioner has made some suggestions about parking, but I would just like to hear more elaboration on it.

mpl

Mr. Dulin said I'll take care of that right now. Those roads were built awfully narrow, lot of parking problems. I have flat earned my strips over there. Can you talk to us a little bit about the parking and what you are going to do with these new units?

Mr. Schreiner said presently the plan has 1,548 total parking spaces required by the plan.

Mr. Dulin said that is the plan for the entire project. Let's talk about the specific rezoning that we are working on here.

Mr. Schreiner said the single family units will have two spaces per unit, one space will be in a garage, the other space is allotted on the driveway so there will be two per unit, as compared to the condo units that are on the plan now, those will have 1 ½ spaces per unit.

Mr. Dulin said will the secondary parking space that is not in the garage have enough room for the car and/or pick-up truck to pull up and not block the sidewalk?

Mr. Schreiner said first off I was corrected that the garages in the single family homes will be two car garages, not one single and the driveway space, and staff can certainly correct me if I'm wrong on this, the driveway has to be long enough to accommodate a car so that it does not over hang the attached walk along the street.

Mr. Dulin said that is what I will be watching over the next couple of months as we move forward on this.

[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.

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ITEM NO. 24: CLOSED SESSION

[Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and]
[carried unanimously, to adopt a motion pursuant to NCGS 143-318.11(a)(5) to go into closed]
[session to establish, or to instruct staff or negotiating agents concerning the position to be]
[taken by or on behalf of the City Council in negotiating the price and other material terms of]
[contract or proposed contract for the acquisition of real property by purchase, option,]
[exchange or lease.]

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ADJOURNMENT

The meeting was adjourned at 8:03 p.m.

Stephanie C. Kelly, City Clerk

Length of Meeting: 2 Hours, 48 Minutes
Minutes Completed: September 7, 2012