

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, June 17, 2013 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, Patsy Kinsey, LaWana Mayfield, and Beth Pickering.

ABSENT UNTIL NOTED: Councilmember David Howard

ABSENT: Councilmember James Mitchell

* * * * *

REVIEW OF AGENDA

Tammie Keplinger, Planning reviewed the Agenda with Council and explained the referrals.

* * * * *

Councilmember Howard arrived at 5:25 p.m.

MECKLENBURG-UNION METROPOLITAN PLANNING ORGANIZATION MEMORANDUM OF UNDERSTANDING.

Debra Campbell, Planning Director briefly reiterated the reason the Memorandum of Understanding (MOU) had been revised as being to reflect the increase in MUMPO's planning area as a result of the 2010 Census.

Planning staff provided council with an update on area plan statuses and text amendments.

* * * * *

CLOSED SESSION

<p>Motion was made by Councilmember Barnes seconded by Councilmember Autry and carried unanimously, to go into closed session pursuant to NCGS 143-318.11 (a) (3) to consult with the City Attorney to preserve the attorney-client privilege concerning the handling of a potential legal matter.</p>
--

The Closed Session was recessed at 6:20 p.m. until immediately after the Zoning Meeting.

* * * * *

ZONING MEETING

The Council reconvened at 6:24 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Anthony Foxx presiding. Councilmembers present were John Autry, Michael Barnes, Patrick Cannon, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield and Beth Pickering.

Absent: Councilmember James Mitchell

* * * * *

INVOCATION AND PLEDGE

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

* * * * *

INTRODUCTION OF GUESTS FROM SISTER CITY BAODING

Mayor Foxx said we have the Vice Mayor of Baoding. This is a Sister City relationship that has been in existence since the mid 1980's. It was initially envisioned as a cultural exchange but what we've found over the last 20 or 30 years is that both areas have actually grown in some of the same directions. There is quite an energy hub that is developing in Baoding and there is also quite a bit of work going around in the automotive area in the same region and of course we are the home of 90% of the NASCAR teams in this area so it is pretty interesting to see how without a whole lot of fore thought about the economics that both places have very similar things happening. I was the first Mayor to go visit our Sister city in Baoding and it was quite a wonderful occasion for me. Also Councilmember Patsy Kinsey has traveled to Baoding.

Charles Lansdon, Charlotte International Cabinet said on behalf of the International Cabinet I take great pleasure in introducing to you the Honorable Zhou Xingshi the Vice Mayor of the Baoding Municipal Government who is leading a distinguished delegation from our Sister City of Baoding, China.

Mayor Foxx presented a gift of pottery to Mr. Xingshi which was made in North Carolina by a local artist and is something you will not find anywhere else in the world.

* * * * *

Mayor Foxx explained the process of the Zoning Meeting and recognized Yolanda Johnson, the Chair of the Zoning Committee who introduced members of the Committee.

* * * * *

DEFERRALS

Mayor Foxx said Items 2, Petition No. 2013-040; and Item No. 15, Petition No. 2013-052 have been deferred for one month.

Motion was made by Councilmember Howard, seconded by Councilmember Cannon, and carried unanimously, to defer Items 2 and 15 for one month.
--

DECISIONS

ITEM NO. 1: ORDINANCE NO. 5131-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 4.99 ACRES LOCATED ON THE EAST SIDE OF GUM BRANCH ROAD AT THE INTERSECTION OF GUM BRAND ROAD AND OLD GUM BRANCH ROAD FROM R-3(LWPA) TO MUDD-O(LWPA).

Motion was made by Councilmember Cannon, seconded by Councilmember Mayfield and carried unanimously to approve the Statement of Consistency and Petition No. 2013-018 by Ralph Wood as modified and as recommended by the Zoning Committee.

The modifications are:

1. Addressed Neighborhood and Business Services, Code Enforcement Division's comment by removing the tractor trailer parking identified on the site plan and replacing it with short-term parking and customer parking.

The ordinance is recorded in full in Ordinance Book 58, at Page 219-220.

* * * * *

ITEM NO. 3: ORDINANCE NO. 5132-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.02 ACRES LOCATED ON THE SOUTHERN CORNER AT THE INTERSECTION OF GRIFFITH STREET AND SOUTH TRYON STREET FROM I-2 TO I-2(TS-0).

Motion was made by Councilmember Mayfield, seconded by Councilmember Autry, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-041 by MSC Development, LLC for the above zoning change as modified and as recommended by the Zoning Committee.

The modifications are:

1. Modification No., 1.i. by eliminating the specific square footage assigned to each use.
2. Eliminated Note 1.l. and replaced note with: "Parking Ratio: As required by the Ordinance".
3. Modified Note 4.a. as follows: "The majority of the proposed building will be indoor storage. A minimum 3,300 square feet of the ground floor of the building shall be developed to contain other non-residential uses allowed within the I-2 TS district. Retail and/or office space associated with the indoor storage facility may count towards this minimum requirement."
4. Modified the building elevations on Sheet RZ1.1 so that the first floor building facades facing the public streets do not contain expanses of blank walls exceeding 20 feet in length.
5. Provided schematic three dimensional building elevations to better illustrate the massing of the building and the recessed areas along the street facades.
6. Eliminated the "Wall Motif optional": identified on the Tryon Street Elevation. The illustration was a graphic that identified the indoor storage facility and is considered signage.

The ordinance is recorded in full in Ordinance Book 58, at Page 221-222.

* * * * *

ITEM NO. 4: ORDINANCE NO. 5133-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.42 ACRES LOCATED ON THE EAST SIDE OF SOUTH MINT STREET BETWEEN WEST BLAND STREET AND LINCOLN STREET FROM TOD-MO TO I-1 TS.

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-042 by Paul Kardous as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 223-224.

* * * * *

ITEM NO. 5: ORDINANCE NO. 5134-Z FOR A MUDD-O SITE PLAN AMENDMENT, FOR APPROXIMATELY 6.4 ACRES LOCATED AT THE INTERSECTION OF QUEEENS ROAD AND EAST 4TH STREET AND GENERALLY BOUNDED BY QUEEENS ROAD, EAST 4TH STREET, EAST 3RD STREET, AND SOUTH CASWELL ROAD.

Motion was made by Councilmember Kinsey, seconded by Councilmember Mayfield, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-043 by Novant Health, Inc. for the above site plan amendment, as modified and as recommended by the Zoning Committee.

The modifications are:

1. Included the approved documentation and site plan from Petition No. 2012-053 in the site plan amendment request.
2. Update the requested language below on the site plan:
 - a. The portion of the property that fronts along East Third Street where the deck is proposed to be constructed as indicated on the Site Plan may be used for surface parking until the parking deck is constructed. The surface parking lot will be allowed to be constructed between the existing parking deck and existing medical tower and Queens Road as an optional provision.
 - b. A note has been added and labeled that the existing trees along Third and Fourth Streets will be saved for the Phase I surface parking use.

The ordinance is recorded in full in Ordinance Book 58, at Page 525-526.

ITEM NO. 6: ORDINANCE NO. 5135-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 4.26 ACRES LOCATED ON THE EAST SIDE OF PROVIDENCE ROAD BETWEEN SOUTH WENDOVER ROAD AND PROVIDENCE DRIVE FROM R-3 TO R-8MF(CD).

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

Motion was made by Councilmember Dulin, seconded by Councilmember Mayfield, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-044 by Wendy Field, WFG Associates LLC for the above zoning as modified and as recommended by the Zoning Committee.

The modifications are:

1. Amended Note 3 under Architectural Standards to include that elevations oriented to or visible from public or private streets shall be articulated at the pedestrian level with windows, doors, elements or architecture or including landscaping treatment to address blank walls on all elevations oriented to or visible from public or private streets.
2. Amended Note 1 under Architectural Standards to state that vinyl as a building material may only be used on windows and soffits.
3. Amended Note 2 under Architectural Standards to state that at least 30 percent of the exterior of each building, exclusive of windows, doors and roofs, will be constructed of masonry products.
4. Added Note 8 under Streetscape and Landscaping specifying that the Class C buffer along Lot 10 on Providence Drive will be reduced with a pressure treated wood privacy fence similar to fence proposed by Lot 10 owners and stained to match. Fence will begin at the setback of Providence Drive and be installed approximately 15 feet from the property line and terminate approximately 40 feet from the rear lot line of Lot 10 as illustrated on the schematic site plan and coordinated with owner of Lot 10.

5. Amended Note 3 under Transportation to indicate that the petitioner shall improve the project frontage along Providence Drive to meet the standards for a local residential wide street to include on-street parallel parking. Final layout and design of on-street parking will be reviewed during the planned multi-family permitting process.
6. Illustrated on-street parallel parking on Providence Drive.
7. Added note 9-12 under Streetscape and Landscaping to state the following:
 - a. Petitioner will install street trees along Providence Drive between the sidewalk and back of curb.
 - b. Street trees along Providence Drive streetscape will include a mix of Willow Oak trees, Maple trees, and/or other varieties native to the Providence Drive neighborhood.
 - c. Street trees will have a minimum caliper of 3 inch DBH.
 - d. The proposed buffer areas will include a mixture of preserved trees and proposed trees and shrubs. Proposed landscape material will be selected from varieties native to the neighborhood including, but not limited to, Chindo, Viburnum, Cherry, Laurel, Green Giant Arborvitae Hollies, Magnolias, Willow Oaks, Maples, etc. Buffer along Lot 10 on Providence Drive will primarily utilize Green Giant Arborvitae and will not include magnolias.
8. Amended the interior courtyard perspective on Sheet RZ0.01 to reflect a larger area.
9. Amended Note 6 under Streetscape and Landscaping to state the setback along Providence Drive may be reduced per Section 9.303(19)(f) and the reduced setback shall not be less than 37 feet measured from the proposed back of curb.
10. Delineated the 37-foot setback as measured from the farthest location of the back of curb on Sheet C2.1.

The ordinance is recorded in full in Ordinance Book 58, at Page 227-228.

ITEM NO. 7: ORDINANCE NO. 5136-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 18.22 ACRES LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST W. T. HARRIS BOULEVARD AND I-85 AND GENERALLY BOUNDED BY IBM DRIVE FROM RE-2 TO RE-3.

Motion was made by Councilmember Kinsey, seconded by Councilmember Pickering and carried unanimously, to recuse Councilmember Barnes and Cannon from participating in Item No. 7.

Motion was made by Councilmember Howard, seconded by Councilmember Mayfield, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-046 by BECO South for the above zoning change as modified and as recommended by the Zoning Committee.

The modifications are:

1. Remove Note B from Architectural Standards.
2. Updated the proposed square footages for the permitted uses and parking structures.
3. Added a note listing the number of structures and buildings that can be built.
4. Removed family childcare homes and childcare centers in a residence from the list of prohibited uses as they are not allowed in the RE-3 district if there are no residential issues.
5. Added a note for public access easements for all private streets.
6. Modified conditional transportation Note D to read "proposed Private Street B shall be implemented prior to the issuance of a certificate of occupancy for the second building to be constructed on this site".

The ordinance is recorded in full in Ordinance Book 58, at Page 229-230.

mpl

ITEM NO. 8: ORDINANCE NO. 5137 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE MAXIMUM SIZE OF WALL SIGNS IN THE PED, TOD, AND TS ZONING DISTRICTS IF A GROUND MOUNTED OR MONUMENT SIGN IS NOT UTILIZED.

Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, and carried unanimously, to approve the Statement of Consistency and Petition No. 2012-049 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 58, at Page 231-232.

ITEM NO. 9: ORDINANCE NO. 5138 FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD BREWERIES AS A USE ALLOWED UNDER PRESCRIBED CONDITIONS IN THE MUDD, UMUD, TOD-E AND TOD-M ZONING DISTRICTS AND IN THE PED AND TS OVERLAY ZONING DISTRICTS, WITH PRESCRIBED CONDITIONS.

Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and carried unanimously to approve the Statement of Consistency and Petition No. 2013-050 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 58, at Page 233-234.

HEARINGS

ITEM NO. 10: HEARING ON PETITION NO. 2013-034 BY WILLIAM C. BIRMINGHAM FOR A CHANGE IN ZONING FOR APPROXIMATELY 10 ACRES LOCATED ON THE EAST SIDE OF BROOKSHIRE BOULEVARD NEAR THE INTERSECTION OF CALDWELL WILLIAMS ROAD AND BROOKSHIRE BOULEVARD FROM R-4(LWPA) TO I-1(LWPA).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a request to rezone from R-4 to I-1. The property is located in the Lower Lake Wylie Protected Area. This is a conventional rezoning for approximately 10 acres. As you can see the property is surrounded on the south side by industrial land, that is the Future Land Development Plan and residential to the north along Old Plank Road. In terms of this site one of the important things I want to show you are the natural features that run through it. It is about 10 acres but only about 4.5 acres are actually developable and it is close to the I-1 property. Any development for the R-3, if this remains R-3 would have to cross that creek in order for the property to have residential development. This is a conventional request, the narrow shape of the property, the stream crossing, the water quality buffers and the zoning buffers make this small section of residential property hard to develop. Staff is recommending approval. It is inconsistent with the Northwest District Plan recommendation for single family residential, but it is consistent with the land use in the area and it shifts the zoning line to a more natural boundary.

Lee McLauren, 420 Hawthorne Lane said I think Tammie did a good job of explaining this. It is I hope a very simple and logical relocation of an existing boundary line to a more logical place on the property which would respect the topography and drainage and the natural features of the

site and would lead to a better development in the long run. I have with me Bill Birmingham who grew up on the property and would like to say a few words about the property.

Bill Birmingham, 6 Rosemary Street, Raleigh, NC said my sister, brother and I grew up on this family farm in the 40's, 50's and 60's. We raised cattle and crops and utilized all of the land, but for the last 20 years the only thing we've been growing on it is pine trees and that is okay. We have no immediate plans with this property other than making improvements where we can. The fact that we siblings are reaching our golden years we feel like it is time to make improvements for the property. We want to leave the property in better shape than when we received it and this is the reason that we are asking for the zoning line to be relocated. I also wanted to thank the Planning staff for supporting us on this. I don't exactly understand the whole procedure on how these things work but I want to ask that the City Council and the Zoning Committee follow the Planning staff's recommendation on this and if they would support us I would be very appreciative. Thank you for allowing me to have this time with you.

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

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

* * * * *

ITEM NO. 11: HEARING ON PETITION NO. 2013-045 BY CSL SUTTLE AVENUE, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 21.55 ACRES LOCATED ON THE NORTH SIDE OF WILKINSON BOULEVARD ALONG SUTTLE AVENUE AND I-77 FROM 1-2 TO MUDD AND O-1.

Mayor Foxx said this is an item on which a decision is being requested tonight.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a conventional request and is a rezoning from I-2 to MUDD and O-1. You can see by the future land use map that calls for this area to be mixed use development. The green area is flood plain that is located on the site. The Charlotte School of Law is located at the corner of Suttle Avenue and Wilkinson Boulevard and the proposal is for this portion of the property to be rezoned to MUDD and the portion across Suttle Avenue to be rezoned O-1. This is a conventional request and is consistent with the Bryant Park land use and streetscape plan which recommends the mixed use, office, residential and retail for the site. This request supports the plan recommendation for a dense pedestrian oriented development and we are recommending approval.

George Macon, 521 East Morehead Street said I am with Merrifield Patrick Vermillion, LLC, the developer for the Bryant project. We appreciate staff's support and we've been working very closely with them over the last couple months trying to put this together and they have been extremely helpful trying to help us meet a schedule. We are trying to change from I-2 over to MUDD and O-1 to permit uses that are consistent with the Bryant Park Area Plan and we have a use that has a very specific timeframe that we are trying to meet.

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard, to close the public hearing and for Council to make a decision on this petition tonight.

Mayor Foxx said that would require us to close the public hearing and the Zoning Committee would have to go out and review the petition and then come back with a recommendation by the end of the meeting .

Councilmember Kinsey said this is something I usually don't like to do and I don't do it very often. I am going to do it tonight because I understand the need, but this is not something I'm comfortable doing on a regular basis at all.

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

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

NAYS: Councilmember Cooksey.

* * * * *

ITEM NO. 12: HEARING ON PETITION NO. 2013-047 BY BROOKLINE RESIDENTIAL, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 26.68 ACRES LOCATED ON THE WEST SIDE OF I-77 NEAR THE INTERSECTION OF REAMES ROAD AND LAKEVIEW DRIVE FROM MX-1 TO UR-2(CD).

The scheduled public hearing was held on the subject petition.

Mayor Foxx said a Protest Petition has been filed and is **insufficient** to invoke the 20% rule requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Council in order to rezone this property.

Shad Spencer, Planning said this is a petition by Brookline Residential LLC where they are wanting to rezone about 27 acres located between Reames Road and I-77 just north of Lakeview Road. The property is currently zoned MX-1 which is mixed use residential and they are proposing UR-2(CD) which is urban residential conditional. The North Lake Area Plan currently recommends residential, 5 dwelling units per acre for the site. This land use recommendation reflects the overall density of the previous rezoning which was approved in 2006 for single family residential of which this site was a part of that original rezoning. When you look at the aerial you can see where a portion of that 2006 rezoning has been developed on the southern part with a gated, private street development with 9 single family homes that are currently developed. To the north you can see there is multifamily development which has a density of about 12 dwelling units per acre. The site plan associated with this petition indicates multifamily development of 324 residential units which has a base density of about 12.14 dwelling units per acre and there is a 50-foot Class C buffer along I-77. They indicate a mix of two and three-story apartment buildings throughout the development but along the southern boundary of this rezoning adjacent to this partially developed single family development, these buildings are indicated to be limited to two-story. They also have tree save areas and common areas provided throughout the site and most of these are in the areas closer to the single family development to the south. There are also building elevations associated with this rezoning. You can see the two and three-story buildings and this is to reflect the general character and scale of the development. There is a conditional note on the plan that does indicate that a minimum 25% of the building facades would be masonry. These are the buildings that are proposed closer to the single family which is the two-story element.

The request is inconsistent with the North Lake Area Plan which recommends 5 dwelling units per acre. The proposed density is consistent with the multifamily that is north of the site which is around 12 dwelling units per acre. The petition provides for a height transition from 3-story to the north of the site to 2-story south of the site adjacent to the partially developed single family. The outstanding issues are technical and staff does recommend approval upon resolution of the outstanding issues.

Anthony Fox, 401 South Tryon Street said I think staff has done an excellent job in the presentation and I want to specifically thank Shad for his help. Also Debra Campbell, Laura Harmon and Tammie Keplinger have been instrumental. There have been a number of meeting back and forth with my client, the developer. The team that is before you tonight is the new developer for Brookline includes, Neil Kapadia, Russell Ranson and Jim Guiton has also provided some architectural design and assistance. He is with Design Resource Group.

This property is approximately a 26 acre site located on the west side of I-77 north of the intersection of Reames Road and Lakeview Road. Note that the Brookline Residential LLC which is the current developer of the site and is the new developer owns 55 acres of this site including the acreage located on the west side of Reames Road as well as the previously residential component of the development. It is important to talk a little bit about the history of

this site because it is important to bring that to the Council's attention. Brookline was originally envisioned in 2006 as an up scale gated neighborhood along the west side. The plan was to develop it as the market unfortunately began collapsing and it resulted in only 9 of the original 250 single family homes that were planned for this area actually being constructed. Five of those 9 homes were taken back by the bank along with the development. Of the 4 homes that were sold, 2 of the homes are currently occupied by the original owners who still live in the community. The two remaining owners bought their property around the 2008 2009 timeframe and they are not opposed to this new development and plan for the area. The new developer, Brookline Residential LLC has rescued this neighborhood from uncertainty with we believe a plan that will restore the stability of the neighborhood and bring the neighborhood back to life and provide some physical support for the HOA that currently has been in place in this site.

The plan calls for the construction of a maximum of 324 Class A multifamily units with an overall density of approximately 12 dwelling units per acre. It promotes the continuation of a gated community for a single family community as well as an apartment community. The entire community will provide for a gated feature. It commits to the exterior elevation of the site being and containing at least 25% at a minimum of some masonry features. It commits to substantial design features and transitions to compliment the transition between the single family component and the multifamily component. There are the Carriage House that Shad showed you in the slide and Neil and Russell will speak more about that. It promotes various tree save areas abutting the single family development as well as two water features along two ponds that will be situated on the property.

Neil Kapadia, 121 West Trade Street said I'm going to start by showing you an aerial of the site that we are trying to rezone and also a little bit of the context of where it is located and what is surrounding it. The aerial in front of you will show you in pink the three multifamily communities directly adjacent to this site and next to it is the property that we are looking to rezone. You will notice this is a high density corridor that supports a regional mall that has been built in that areas as well as office and industrial that is further to the south on the east side of I-77. It is a business corridor with heavy retail use transitioning to multifamily high density and then going further into single family residential use. The plan is consistent with the other uses along Reames Road and we believe it will be additive to the area for the North Lake Mall, adding high density, high income, class A apartments to support the mall's future.

I will show you again the colored site plan that will give you an idea of the development itself and then we will talk about the transition of the development between the single family and multifamily. We've spent an inordinate amount of time with staff to try to figure out the best way to create this as one harmonious community similar to the communities you will find in Olmstead Park and other places where you've got multifamily and single family trying to get together into one community. The key area of focus is really along the line of Boylston which is the separation road between the two communities. I will take you to a rendering that was done that was the original drawing to show you a little bit about the streetscape of Boylston Avenue and how it will feel with the two-story units that are the right side, the home on the right is actually an existing home, how it interplays with the adjacent homes on the other side.

Russell Ranson, 121 West Trade Street, said what you have in front of you shows you a pretty creative way to address and balance the competing entrance for architecture along Boylston Street where you have apartments on one side of the road, single family on the other. What we've done is separated those units with a garage so that the unit actually reads much like a single family home with masonry product on front and introduces a much more successful streetscape so a resident of the Brookline Neighborhood that exists today will actually look across to something that is a front door relationship as opposed to what we have historically done where we turn our backs on different uses. A lot of times you get these design elements created by large buffers and it is a much weaker planning process. This view shows coming in from Reames Road, you can see there is a gate and then there is a turn out so that guest can wait to get a gate code and come in. We've tried to think through that detail. This mall corridor provides a landscape element unlike anything you might have seen in any apartment complex here in Charlotte. You get front doors to Reames Road and you will get enhanced landscaping along Reames Road so this will become a much more up scale gateway kind of feel along Reames. The apartment buildings, we placed a cupola on top, we have stairwells that are more customary
mpl

in higher end apartment types homes. The rents in this area are allowing us to do these more expensive design details. It is kind of interesting in this particular corridor, rents are rising while home prices are falling creating this unique opportunity and really an obligation in terms of saving this neighborhood to reposition it in the way that we suggest. This is the edge where we have the tow-story homes abutting the single family so you get this balanced transition. You have a pond here and a pond here both provided with fountains that will provide noise abatement for both the single family and multifamily homes and the multifamily homes will buffer the single family homes from I-77 thereby enabling us to command higher prices.

Mr. Fox said we think this plan is an appropriate plan for what was a distressed neighborhood. This provides hope for the residents out there and the homeowners association out there to revitalize this area as opposed to looking out over vacant and distressed property. This provides a marriage and a mix of housing uses that will compliment the area. It is important to note that the new developer owns not only the development that is before you but also the remaining single family lots and will provide for the continued development of that consistent with the current development.

Jeffrey Lison, 5238 Irving Drive said I am the home owner of 5238 Irving Drive and I'm speaking in opposition to the rezoning petition for the Brookline community. While I cannot speak on behalf of everybody who signed the protest petition because I didn't have the opportunity to meet with each of them, I can comfortably say that they share many of the concerns that I do. I have also been given authorization to speak on behalf of Christian and Ashley Varnadoe who live directly across the street from me and couldn't make it tonight. We bought our home back in August 2012. Four other homes in the community sold between August and October all of which were foreclosed properties. We felt comfortable that purchasing the home was a strong financial decision because it was a tastefully designed single family gated community with covenants in place that run with the land that were intended to protect the investments of the individual homeowners. By purchasing the property the only uncertainty we had in our minds was the look of the homes that would soon be built and never took into account that the City could overturn the zoning on two-thirds of that community. The true risk on the property is not on the single family homeowners who bought into a community, but legally binding documents that protected the integrity of the rest of the neighborhood. The people that took the real risk are the investors who purchase the land knowing that they would need to overturn the current arrangement in order to complete their plan successfully. In a neighborhood discussion that we had with Neil and Russell they stated that the new homes could not be built to the specs that were listed in the covenants unless the apartment home concept was approved, which would help absorb some of the cost associated with building an exclusive community. If they felt that they could not successfully complete the project by adhering to the covenants on the entire property they should not have purchased it. There are a number of reasons why we are opposed to the idea of an apartment complex being built within the confines of the Brookline Community. Some of the issues we have with this concept are the decreased home values, increased traffic, decreased public safety, decreased sense of ownership, heightened crime rates, decrease sense of exclusivity and governance issues. I will now speak to each of those points.

First is decreased home values – With an apartment community incorporated into our single family community there is a high likelihood that home values will be negatively affected. Home in an exclusive gated community will bring much higher prices than homes in a mixed community. I understand it is difficult to quantify how much of our home values will be lost and that is because it is something that is non-traditional and not done very often. That uncertainty in itself should be enough to halt the plan. Another point to consider is that the apartments are only exclusively for a short period of time. As they become outdated they become eye sores and neighboring communities are negatively affected. As the community ages and becomes less desirable so do the tenants which needs to be taken into account when determining how this decision will impact home values. I'm sure that if our mortgage companies were cued into this proposal they would be against it because they would have outstanding loans on properties set at values higher than the homes are worth. As we know from what happened previously in this community that is a problem that can easily lead to more foreclosures. This community has already suffered from enough foreclosures and I don't think we need anymore.

Next I would like to discuss the issue of increased traffic. When this plan was first delivered to us the first reasonable negotiation that we all ask was that the apartment community be entirely

separated from the single family community, with its own entrance and its own private streets. We were told by the investors that the apartment plan will be denied by the City if the plan was presented with only one entrance due to safety concerns because any apartment complex of this magnitude to have two access points from public roads. This left the entrance off of Lakeview Road to be the only other secondary entrance possible. I'm not sure how much merit their argument has considering a comparably size community next door, Austin Woods, only has one entrance. Adding 324 apartment homes will add significant traffic to the private roads in Brookline. Since the roads are deemed to be private roads by the City, the Brookline HOA will ultimately be held responsible for paying cost associated with road repairs and upkeep. Since my home is also on a corner lot at Lakeview entrance to the community, the increased traffic is also going to bring excessive noise from non-homeowners, honking horns to be let into the community as unauthorized guest. I'm speaking to this from experience because I lived in an apartment that was right next to a gate in the past and know the annoyances associated with unauthorized guest.

The second issue is that not all roads in the community have sidewalks which are a safety concern when traffic is added. Since the sidewalks would likely not be built until the completion of the single family homes we would be left with excessive traffic in a private gated community with very narrow streets. This proposes a major safety concern to people walking within the single family portion of this community. Since the second half of the community will be rented apartment homes this proposal takes away the exclusivity and sense of ownership that the neighborhood currently has. The interesting part about the proposal is that the apartment renters will have all of the benefits of living in the community, including access to our private roads and Shared gate usage, however the homeowners will not be entitled to the benefits that the renters are entitled to including access to a community swimming pool, club house and work out facility. If the proposal was truly for a shared community concept it would only make sense to allow full access to all amenities but that is far from what is being proposed. If they are taking away our sense of exclusivity but limiting access to the benefits that the apartment community offers, I don't see any benefit to the homeowners in Brookline. Along with the loss sense of property ownership that the neighborhood would soon have we would also see a height in crime rates because it is impossible to monitor unusual activity. There would be too many different guests in and out of the community to determine who belongs there and who does not. Since we already have had one incident in the last month involving the theft of patio furniture at one of the homes in Brookline I can only imagine that crime rates will soon rise as the apartment complex shares private access to the community.

Another point to consider is that most of the families that have moved into Brookline are young couple who either have young children or planning to have young children in the next few years. With three of the homeowners in our mid to late 20's and another family with a young daughter we all chose Brookline as a place to call home because it offered a sense of safety and comfort as a private gated community. We are all responsible young families who are trying to get our families off to a great start. Putting apartment homes in Brookline would be a direct violation of our privacy and would negatively impact the livelihood of our families. As we all know apartment homes are less than the ideal place to raise a family so this proposal will take away the benefit that we all thought we were getting by moving into this luxury community.

The last item I would like to discuss are the governance issues associated with a split community. It would be very difficult to determine which portion of the community would be responsible for expenses associated with keeping the neighborhood up to par. I can already envision problems where the homeowners feel that the apartment homes would be responsible for paying for damages and vice versa. Since the HOA is funded by the homeowners we would soon be in a deficit due to expenses incurred by the residency apartment homes leaving us with no option but to raise HOA dues. I'm entirely opposed to the rezoning petition and feel the community should be resurrected in accordance with the original plan as luxury single family gated community. If we need to wait in order to complete the plan for the market to fully correct itself, I'm okay with waiting as opposed to accepting this quick fix which will ultimately hurt me in the long run. According to published statistics the average selling price of a three-bed room, single family homes have increased 21.7% year over year in Charlotte and the number of three-bedroom family homes listed for sale has decreased 4.8% in that same timeframe. That being

said Charlotte is in a deficit of three-bedroom single family homes and I feel Brookline would fill in that void.

In closing I hope you will consider my interest and the interest of seven other homeowners in the community when you make your decision on the rezoning petition. While the decision to deny the rezoning request will be a let down for the investors, their livelihoods will not be impacted. In addition to the interest of the homeowners please consider the impact this proposal will have on families that will occupy the homes in this neighborhood. The request presents a scenario that is the opposite and from the spectrum from what Brookline was intended to be. It took an exclusive gated single family home concept and turned it into a run of the mill apartment complex community. Eight homeowners will be devastated if this proposal passes and also neighboring communities will also be negatively impacted by this business decision. That being said I hope you take into account concerns that the working class community and this have when coming to a decision on this matter.

Dzung Hetcote, 7620 Cushing Drive said I live in the Brookline community and I agree with Mr. Lison 100% and the rezoning will violate the Brookline community governance and restrictions that require single family homes. The rezoning will increase traffic and cars passing through in front of my home will impact the safety. The rezoning will change the character of the community and increase cost to homeownership, maintenance and roads. I have a copy of the declaration of the covenant conditions and restrictions for the Brookline community and if you would like I will give you a copy of it.

In rebuttal Mr. Fox said I thank them for their comments and obviously, this is a difficult situation. It was a failed community; it was 257 single family homes that were originally planned for the community. The market did not support that option. What we have is an option to bring life back to a distressed community and while the speaker spoke on behalf of some individuals, he did not speak on behalf of all the owners there. Two of the owners that were the original purchasers of property are in support of this. I have a letter here from Ashley Tyler and Donnie Moony Tyler who are residents and owners in the neighborhood and are in support of this option. The option is viable, it provides safety; it provides stabilization for the community.

Mr. Ranson said I actually own the home closest to the Carriage Houses on Boylston Street. I guess I'm the 9th homeowner. Secondly I would like to just say the Homeowners Association is in dire straits right now. With only 9 homeowners they make about \$16,000 a year in revenue and the budget is about \$46,000. They are \$30,000 shy of breaking even. The gates don't currently operate; there is not enough money to fix that; there is shared water with the neighborhood and things are physically difficult to say the least. Our plan, and we've promised in writing, we will repair the gate; we will maintain the gates; we will share in landscape costs; we will share in road maintenance costs; we will do such things to lift up that Homeowners Association that is so fragile today, in addition to creating a vibrant apartment community that will attract renters from all over the city at very, very high rental rates.

Mr. Kapadia said with respect to violation of covenants, the property we are speaking about is not encumbered by the covenants of Brookline although it was originally envisioned to be a part of Brookline.

Councilmember Fallon said wasn't there originally at that spot supposed to be a club with a swimming pool and other things?

Mr. Kapadia said there is a spot in the community for a club. This club is for the apartment complex, it has nothing to do with the club for the single family residential. That is a conversation and discussion we've been having with the single family owners. There is a spot in there that is designated on the single family side for a club house and we are simply going through with the discussion – this is what will be built; this is what can be built; this is what it costs to build it. Right now we are dealing with a situation where the HOA is under water and we are funding it to help support it the way it is today, but there will be a club there is that is what the homeowners want. We have to build a club for the single family homeowners and we are committed to doing that if that is what the homeowners would like to have done.

Ms. Fallon said I thought originally when I saw it, it was sold to be a club with a swimming pool.

Mr. Kapadia said it is a \$400,000 neighborhood and it may well have a club, it is just a question of can people afford to pay the additional dues to support that expensive facility. If that is the consensus of the group we will build.

Mr. Ranson said if you will look here on the plan the area I'm circling is a location for a club and swimming pool. That area has been reserved for a swimming pool and there will be a swimming pool if that is what the homeowners want. The only way we would not build that club is if all the homeowners say we don't want to do it because the operational costs is higher than the capital costs.

Ms. Fallon said are you going to build more than those 9 houses? Are those the original models?

Mr. Fox said no, one of them was the original model and we will have all of the rest of this built out as single family homes. The zoning request is not for this area, that will all stay and that is why so much care was taken in the integration of both sides of this road because what we wanted to do was to create a streetscape and a walking scape. There is a greenway park that is planned here; there is a giant tree save area here with large trees. You've got the Carriage Houses which are the two-story units so that we can create this streetscape for the separation.

Councilmember Barnes said there are a few things about the petition that concern me. The first of which is not necessarily in any particular order, but to have a Class C buffer along I-77 seems to be somewhat overly minimal. Also I understand the statements that Mr. Lison made because this isn't what he bought into and it is not what Ms. Hetcote bought into and the other people. If I had bought what I thought was going to be a custom or semi-custom home in a gated community and you came back and said we are going to put 324 apartments behind you and use your streets to get people in and out of those apartments I'd be upset too. I can appreciate the struggles that you all are having regarding the project, but I really, really relate to what he said and the challenges that folks who bought those houses are experiencing. You've got 25% masonry and are those homes all brick or close to it, so you wonder whether the masonry percentage should be a lot higher on the product and perhaps even some of the design features. I've been to this site. I was at a meeting over there one day and drove around and happened upon the entrance to the neighborhood so I have actually seen it. I can understand exactly where the opponents are coming from. I understand your plight but I can really relate to and understand what Mr. Lison and Ms. Hetcote talked about. I don't know if there is anyway for you to resolve some of these issues, but to put the traffic created by that apartment complex on their street is unreasonable. To build the Class C buffer along I-77 I think you should rethink and also think that the 25% masonry product on the buildings is below what would be reasonable expectations from them.

Councilmember Cannon said do you all have a petition from those residents that reside in the community to be in support of this petition that you are asking for tonight?

Mr. Ranson said informal e-mails and we've met with them repeatedly and worked with them; and frankly some great ideas. We haven't attempted to have a petition.

Mr. Kapadia said we have a letter in support.

Mr. Cannon said you have a single letter of support out of how many homes in that community?

Mr. Kapadia said out of 9 homes.

Mr. Cannon said do you reside in the home you just bought?

Mr. Ranson said it was the one most affected because it is on Boylston Street.

Mr. Cannon said are you renting the home out?

Mr. Ranson said yes I am.

mpl

Mr. Cannon said that is interested. I too share a concern about the buffering and I would ask that you go back and take another look at that. I think it is too thin in my opinion and I'd written down while the presentation was being made by the staff about the 25% and then I looked at some of the renderings. That concerns me as well. Right now there is a concern about what you are putting up to compliment or do better than what is already existing and I think that some of the feedback that you are getting tonight I'm concerned about that as well and maybe you can increase that or produce a better look of some sort. You did make mention of the declarations name I would like to get a copy of that and you can present that to the Clerk. Can you all speak to declarations piece at all and if there are real issues there and if so what might that be?

Mr. Kapadia said the declaration still covers the single family homes. It doesn't cover the remaining land in Brookline. The way the development is you put a set of declaration, you have some property and then additional property can be brought into the scheme of the declaration or it can be brought out of the scheme because development plans change over periods of time. The development plan is still there; the declaration is still there that applies to each of those homes. These streets are designed to be private streets; they can be made public streets; part of the declaration. They were all built to public standards. If the HOA cannot function properly or doesn't have enough money to support there are provisions to open up the gates, let the streets be public. That area is bound by the HOA yes and there is no deviation from that.

Mr. Cannon said Shad, you did point out that this is inconsistent with the North Lake Area Plan?

Mr. Spencer said that is correct.

Mr. Cannon said and then you came back and made reference to what is north of it in the way of some other multifamily development that occurred. With that being where it is further north versus what we are talking about at that particular site, staff still feels it is okay to move approval with this particular petition, mind you other things being rectified?

Mr. Spencer said the North Lake Area Plan was adopted after that rezoning that occurred in 2006 so the North Lake Area Plan reflects the density that was approved by that single family development. I pointed out the property to the north, actually the two properties further north are both recommended for 12 dwelling units per acre so with the design elements that they provided within this we feel they have succeeded in making a transition between the multifamily and the existing partially developed single family by having those two-story buildings facing that internal private street and having some single family design elements and then the large open space areas that transition between those two.

Mr. Cannon said you said that area plan was adopted in 2006?

Mr. Spencer said the rezoning was done in 2006 and the area plan was 2008.

Mr. Cannon said and we are comfortable that the traffic in the 300 plus addition will not have a negative impact on the community?

Mike Davis, C-DOT said true.

Mr. Cannon said I'll take that for the record. I look forward to riding by one day if this comes to fruition and giving you a call to say you were right or maybe not.

Councilmember Pickering said on the Carriage Apartments, we got a letter from Mr. Fox that said the apartments units would be located on the second story of the Carriage Homes while the first story would contain garages for apartment residents. Is that what we are seeing here in this drawing that we have?

Mr. Kapadia said if you will look at these houses, this is the side that faces the street going into the single family. The garages are on the back side of that so they are only available to be accessed from inside of the apartment community. This is the front of the house; the garages are on the back side on the apartment side so that purposefully you don't have any garages facing out onto Boylston Street. You will have a lead walk so for all intents and purposes it reads like

mpl

a single family house that you are walking out on. It happens to be that the units are actually located on the second floor.

Ms. Pickering said so this is an accurate reflection that the rendering that we have and then the typical apartment building elevation that we have is indicative of what you plan to build?

Mr. Kapadia said yes mame.

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

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

* * * * *

ITEM NO. 13: HEARING ON PETITION NO. 2013-048 BY ELEVATION CHURCH FOR A CHANGE IN ZONING FOR APPROXIMATELY 22.15 ACRES LOCATED ON THE EAST AND WEST SIDE OF LANCASTER HIGHWAY AND AT THE INTERSECTION OF LANCASTERE HIGHWAY AND JOHNSTON ROAD FROM R-17MF(CD) AND NS TO O-1(CD).

The scheduled public hearing was held on the subject petition.

Sonja Sanders, Planning this is a 22 acre site located on the west side of Lancaster Highway at the intersection of Johnston Road. The subject properties are currently zoned R-17MF(CD) and NS and the proposed zoning is O-1(CD). The future land use for the area calls for single family, multifamily and office to the north, retail to the east and a mixture of single family and multifamily to the south. The R-17MF(CD) zoned property is currently developed with a single family home and a barn. The NS(CD) property to the east is current vacant. There is existing multifamily development to the south; a single family home to the north and a fairly recently developed retail site adjacent to the north. The existing development rights for the R-17MF(CD) property allows 603 multifamily units. The NS site allows one building to be developed for office or retail uses. The request is O-1(CD) zoning for a religious institution. There is a worship center consisting of 42,000 square feet; no more than 1,600 seats and a 22,000 square foot accompanying children's ministry area; also a request for 200,000 square feet of office use associated with the church. In addition the worship center will be limited to 40-feet in height; the office building will be limited to 60-feet in height. Access to the site will be provided via a new public street that will come off of Lancaster Highway and via a new right-in/right-out driveway that will come onto Johnston Road. There is a 75-foot Class B buffer that will be provided abutting the residential zoning to the south. A low masonry wall will be provided along the street fronts along Johnston Road and Lancaster Highway to assist with screening of parking. There will be an administrative amendment that will be submitted to reduce the number of residential units currently approved to an amount that falls within the allowed density. The building materials consist of metal, glass and concrete; the exterior building walls will be insulated to dampen noise.

The petitioner did provide elevations and this elevation is for the proposed worship center and it shows views from all four sides. There is also an elevation for the proposed office building also from all four sides. Staff does recommend approval upon resolution of outstanding issues. The petition is inconsistent with the South District Plan which recommends multifamily residential and retail uses as amended per the previous rezoning. However, our area plan simply don't specify locations for institutional uses, in addition the proposed use is compatible with the surrounding residential and commercial development.

Suzzane Todd, 1065 East Morehead Street said I want to thank you for allowing us to be here tonight and also a special thank you to Sonja and Tammie Keplinger for working through this petition with us. We are here tonight on behalf of Elevation Church and this is an exciting project. We've got our development team with us and they are available to answer any of your questions. Elevation Church is the second fastest growing church in the United States. We've

outgrown our current headquarters in Matthews and we are proposing a 1,600 seat worship center and it will have a children's ministry as well as a church office building which will be used by our employees and volunteer staff; also contain production broadcast studios; wellness and staff dining spaces. This is a plat or our site plan and you will notice there is an elevation, sort of a cross section over to your left that shows that we are actually below the adjacent neighborhood. We received comments from C-DOT last week and we are working with staff to work through those comments and come up with a traffic plan that will not only accommodate our project but also improve and address concerns of existing traffic in the area. We are estimating to spend about \$400,000 in area traffic improvements.

Elevation Church has seven area campuses; they donated over 102,000 hours in Charlotte; donated over \$1 million to local partners. In 2012 their Love Week, 7,300 volunteers worked 54,000 hours serving throughout the Charlotte community and in 2013 there over 1,000 church members becoming mentors to at risk children. We appreciate your consideration of this petition.

Motion was made by Councilmember Cooksey, seconded by Councilmember Barnes, to close the public hearing. The vote was recorded as follows:
--

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

NAYS: Councilmember Mayfield.

Councilmember Cannon said I would at some point welcome a conversation with regards to this petition, with the petitioner as we move forward over the next 30 days, given it is a stones throw away from where a lot of folk reside that have some questions of me. I would like to be able to bring those forward and have some conversation about that.

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

* * * * *

ITEM NO. 14: HEARING ON PETITION NO. 2013-051 BY PROVIDENCE PREPARATORY SCHOOL, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.97 ACRES LOCATED ON THE NORTH CORNER AT THE INTERSECTION OF PROVIDENCE ROAD AND WESTBURY ROAD FROM R-3 TO INST(CD), 5-YEAR BESTED RIGHTS.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this request is at the corner of Westbury and Providence Road and you can see the future land use plan calls for multifamily. There is single family residential and office and institutional uses located around it in terms of the land use map. You can see from the aerial the property is vacant right now; there are residential properties surrounding it except for the Providence Preparatory School that is to the northwest. In terms of the site plan I would like to point out that there is an alleyway or roadway called Bermuda Road that is to the north of this site. The petitioner is in the process of having that alleyway abandoned and this rezoning does depend on the abandonment of that alleyway. One of the things that will happen with this petition is we will have the public hearing tonight and then the abandonment will come through probably sometime in August and this case will come back before you for a decision in September instead of July as it normally would. With that said we still are comfortable moving through with the public hearing tonight.

The proposal is for a preschool and a child development center. Access to the property will be with a shared driveway to the school beside of it. The building is up to 13,500 square feet; one story limited to 40 feet in height. There will be a 5 and 6-foot masonry wall along Westbury Road. The 6-foot will be at the area where the play yard is and the 5-foot will be the rest of the area along the parking. There will be pedestrian breaks within that wall so that people walking on the sidewalk from the Westbury area can come into the development. This petition is

inconsistent with the South District Plan which recommends multifamily uses for this site. Many years ago we actually did have rezoning in this area for multifamily and they were highly contentious. In 2011 the adjacent property came in for Providence Preparatory School and was approved. This is basically an expansion of that although it is for the daycare. The area plans a lot of times do not tell us where institutional uses should be located so staff feels this is consistent with what is going on in the area. It is a good transition between the single family area along Westbury and the Providence School that currently exist. The outstanding issues are technical and we are recommending approval.

Andrew Weathersbee, 2907 Providence Road said little would I have known two years ago when I stood here that I would be standing here again wanting to build what is technically the second phase of a very successful first phase. We opened in September 20, 2012; we were fully enrolled by March with a two-year wait list. We propose to build the same building with effectively the same architecture; the same brick; the same landscaping; all the other site amenities that are part of Phase I and we have worked with neighbors as in two years ago. We met with neighbors; there weren't really any issues; there were cosmetic issues all of which we dealt with to the neighbor's satisfaction and in a very compatible way with what we need to do. We worked with staff and I don't need to add any comments; we just optimistic that we can continue what we've started right next door to what we've already done successfully.

Eric Runge, 618 Westbury Road said I'm a neighbor and live right next door to this proposed site and I want to attest to what Mr. Weathersbee was saying that he worked with the neighborhood and I can totally agree with him with that. He worked with my wife and myself on this property and we are in full support of this. I just want to thank him for his time for doing it so I don't see any reason why not to approve this petition.

Councilmember Kinsey said I don't see an elevation. Am I missing it?

Ms. Kiplinger said we will get that to you. I apologize for that.

Councilmember Dulin said just as a comment to Council; those of you who have been around for a number of years, we had a real tussle on this site back in about 2006 or 2007 for some apartments. Actually I thought it was a pretty good but that did not pass. This site has stayed empty and the Weathersbees came and developed half of it and it is very successful. I'm by there a lot and have not been disrupted by traffic a single time. That doesn't mean that it hasn't happened when I don't come by but I'm through there virtually every day. There have been zero complaints from the neighbors and I'm glad that you have come tonight sir. That always helps and Phase II is going to be a good project and I appreciate the Weathersbees putting some capital at risk and continue to develop that piece of property.

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.

ITEM NO. 16: HEARING ON PETITIOIN NO. 2013-054 BY MARK SWARTZ FOR A MX-2 SITE PLAN AMENDMENT, FOR APPROXIMATELY 4.47 ACRES GENERALLY LOCATED ALONG MOUNT CLARE LANE, PARK SOUTH STATION BOULEVAD, AND AT THE INTERSECTION OF PARK ROYAL AVENUE AND ARCHDALE DRIVE.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a site that is now known as Park South Development. It was at one time the Celanese site as most people refer to it. We've had a history of rezoning for this particular petition, the most recent in 2011. Tonight what we are here to talk about is three small areas that equal a little less than 5 acres. There are two areas here and then one small

area up along Archdale. I will talk about the one Archdale first in terms of what that is. That is the sales office that was build as part of this development. Single family residential is not allowed on that piece of property in accordance with the CD Plan so the proposal tonight is to allow a single family residence so that that office which is actually a home can be sold. Area B which is along Mount Clare, I did a little chart to help understand what they are asking for. Currently they have 24 detached dwelling units that are permitted and 21 attached. They are asking for the same number of detached and an increase of 10 in the attached. For Area C, which is the area along Park South Station the number of detached will remain the same; the number of attached will increase from 12 to 21. They will have the option in both B and C of doing either attached or detached housing based on the numbers that are represented in the chart. This is an MX-2 site plan amendment. The total number of units including the one single family home would be 52 single family homes that are attached or 37 that are detached. The overall density is below the 7.1 which is recommended for that area by the plan. The elevations are those that are carried over from the original rezoning that are on the screen in front of you. This is consistent with the South District Plan; there are minor adjustments to the larger master plan community; it supports the policy for mixed residential use development and the outstanding issues are mostly technical so staff is recommending approval.

Councilmember Howard said you are right, this is the rezoning that keeps giving. When do we say enough with this one? They are kind of making it up as they go and that bothers me a little bit. You continue to have that one way in and one way out. I'm going back to what was said earlier about the folks that bought not knowing what they were going to get and it kind of changing. The folks that bought in there first; this doesn't look anything close to what they originally bought into. I know staff has to react to what the petition is but I'm a little concerned that this is a bunch of stuff at this point.

Ms. Keplinger said they actually did have some options for the attached and detached in the original petition for these areas; they are just making small modifications to those options now by increasing or decreasing the number of units they would have. They are still under the number of residential units that were proposed for the overall site development. I think you are correct; I think they are acting a lot out of some response to market conditions.

Mr. Howard said in this situation all the residents would have to be notified again so I guess we will find out between now and next month whether they like it or not because of e-mails or otherwise, but they had to be notified, correct?

Ms. Keplinger said yes sir, they have been notified and we have received a few calls, but once we explained the issues are and what the request is most people did not have any further questions.

Councilmember Dulin said this is an extremely tight site and some of the homes over there are pretty homes, but this was the definition of high density building in a suburban area. Actually had they planned it just a little bit better and made the streets wider it would work. One of the things I spent a lot of time over there is the streets are too narrow and they didn't quite think through that process for this number of units. I'm over there pretty often and I know these sites, but I haven't gone over there to look at sites B and C with the specificity of knowing what we are getting ready to build. The front building which they've been using as a sales center, fine they need to have that and we can talk about that in a month. These other two sites, I'm going to get over there and put my feet on the ground and look at it and I'll report back to you. I'm getting very few complaints; actually I've gotten none. One of the biggest problems over there is they have one of those private water servers and that has been a problem and will remain a problem. I'll report back to you within the next month.

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

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

* * * * *

ITEM NO. 17: HEARING ON PETITION NO. 2013-062 BY 8601 MCALPINES, LLD FOR AN O-1(CD) SITE PLAN AMENDMENT FOR APPROXIMATELY 6.83 ACRES LOCATED ON THE EAST SIDE OF MCALPINE PARK DRIVE NEAR THE INTERSECTION OF MCALPINE STATION DRIVE AND MCALPINE PARK DRIVE AND TO THE WEST OF MONROE ROAD.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this site is off of Monroe Road and this is for one particular site within this proposed development. There was a 76 acre tract that was rezoned some years ago to allow office development. There was one part of the site that was slated for a daycare and it is up to the north. The petition that we have before us tonight; we have an existing building where they are actually wanting to put in a daycare. In order to do that we are putting in the use that is requested are elementary schools, secondary schools, vocational schools, universities, colleges and junior colleges. The proposal is to go in the existing building but there is also redevelopment opportunity. The building is 54,000 square feet and again we are going to add the uses that I talked about, the schools. The original retail and office square footage for the overall development will not change and will remain the same as will all of the conditions that were previously approved. It is inconsistent with the Independence Boulevard Area Plan recommendation for industrial warehouse distribution for this site but the plans as we know don't call for institutional uses and this one fits in well with this development. The outstanding issues are technical and we are supporting it.

Lee Cochran, 2601 Lawton Bluff Road said I'm with Levine Properties, the owner of the Business Park and I will not take much of your time. First I want to thank staff and Council for we've done this on a fairly tight timeframe and I appreciate the cooperation we've received on that. Beth Warshauer couldn't be here tonight; she is head of school and we are going to speak together for the Charlotte Secondary School. This is actually the relocation of a Charter School that is on our campus. They are a Charter Middle School, 6th through 8th grade. They are in the 22,500 square foot building and they have been very successful and they are adding a high school so all they are doing is moving across the street from one building in the business park to another building in the business park which will allow them to expand in that high school. They have been a great tenant of our and we have been very happy to work with them for the last 6 years. Unless anyone has any questions I won't take any more of you time, but I really appreciate the support and all the help.

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

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

* * * * *

Mayor Pro Tem Cannon said at this juncture I would like to ask the Zoning Committee if they would take up Petition No. 2013-045. This is the action where a decision has been requested this evening so you are excused to go do that piece of business. While they are taking care of that business we have another piece of business to take care of relative to directing our Council designee to take some action on something.

ACTION TO DIRECT THE COUNCIL DESIGNENE ON MATTERS RELATED TO REVISIONS TO THE MECKLENBURG—UNION METROPOLITAN PLANNING ORGANIZATION'S (MUMPO) MEMORANDUM OF UNDERSTANDING (MOU).

Mayor Pro Tem Cannon said our Council designee is Councilmember David Howard and Mr. Howard is there anything you would like to add to this particular item in the way of explanation?

Councilmember Howard said we've talked about this one a lot already so unless there are questions I would ask that we move on.

Mayor Pro Tem Cannon said for the sake of the general public who may not be engaged MUMPO established a sub-committee back in May of 2012 to develop recommended revisions to the MOU and the MOU sub-committee members have reached consensus on a number of items related to the new MOU, some things such as the name and I'll let Mr. Howard tick those other ones off.

Mr. Howard said every ten years after the census we have to go through this so what we are talking about now is trying to come to some consensus on what the new organization will look like. We know already that the MOU Committee is recommending that we change the name to the Charlotte Regional Transportation Planning Organization. We know that the organization is going to grow because now we are taking on a good part of Iredell County. We know that we want to kind of streamline the quorum process but we had a question with that that will be part of this motion as well. The hardest thing was trying to get our hands around the amount of money that every member has to spend as well as the weighted voting calculation so the Committee made recommendations on all of those issues and that is the recommendation before us tonight.

Motion was made by Councilmember Howard, seconded by Councilmember Barnes, to approve the Committee's recommendations. The vote was recorded as follows:
--

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

NAYS: Councilmember Cooksey.

* * * * *

MAYOR AND COUNCIL TOPICS

Councilmember Howard said last week we heard the conversation about the condemnations on the Blue Line and we got that write-up. The one thing I asked for in that write-up was to tell me what the value of the mitigation work on each individual property would be and they just said it would be more than what the value of the property was. Mr. Manager, could we still get them to go a little lower into that one so we can legitimately say that the work we will do on the property has more value than anything we could pay you for.

City Manager, Ron Carlee said we will get you a report.

Councilmember Barnes said I have a request of staff regarding the sign ordinance. You will recall that we passed a sign ordinance a few years ago to deal with a lot of the signs in city right-of-way and I'd like to know whether we have been able to collect fines. I believe the Finance Department is responsible for collecting on the signs and I would like to know if we have been able to collect, and if not, why not and if so, how much have we collected and what are we doing with the money. I assume it would go into the general fund, but I would like to know whether we've had any success with the sign ordinance.

Councilmember Mayfield said I want to make sure that we acknowledge and let those in the community be aware that this Saturday, the Delta Sigma Sorority will be celebrating their Centennial Torch Parade and that will be happening from 10:00 until 1:00 starting uptown off of 9th Street. For all those that may not have known, that will be this Saturday, June 22nd.

Mayor Pro Tem Cannon said thank you for that and we have one of their national presidents that resides right here in our area, Dr. Bertha Maxwell Roddy and we are so very proud to have such a distinguished person represented in our community who will be a part of that parade as well.

* * * * *

ZONING COMMITTEE RECOMMENDATION ON PETITION NO. 2013-045

Tammie Keplinger, Planning said the Zoning Committee found this petition to be consistent with the Bryant Park Land Use and Streetscape Plan by unanimous vote, therefore voted unanimously to recommend approval.

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-045 and Ordinance No. 5139-Z for a change in zoning for approximately 21.55 acres located on the north side of Wilkinson Boulevard along Suttle Avenue and I-77 from I-2 to MUDD and O-1 as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 235-236.

RECONVENE IN CLOSED SESSION

Motion was made by Councilmember Barnes, seconded by Councilmember Mayfield, and carried unanimously, to reconvene in Closes Session pursuant to NCGS 143-318.11 (a) (3) to consult with an attorney employed by the City in order to preserve the attorney client privilege and to consider and give instructions to our attorney concerning the handling of a claim or judicial action.

ADJOURNMENT

The meeting was adjourned at 8:07 p.m.



Stephanie C. Kelly, City Clerk

Length of Meeting: 2 hours, 52 Minutes
Minutes Completed: September 17, 2013