

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, October 21, 2013 at 5:15 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Patsy Kinsey presiding. Councilmembers present were John Autry, Michael Barnes, Andy Dulin, Claire Fallon, Billy Maddalon, LaWana Mayfield, and Beth Pickering.

ABSENT UNTIL NOTED: Councilmember David Howard

ABSENT: Councilmembers Patrick Cannon, Warren Cooksey and James Mitchell.

Mayor Kinsey called the meeting to order at 5:15 asked Tammie Keplinger to review the agenda.

Tammie Keplinger, Planning said in your agenda package you have the Dinner Agenda which we are going to go over; you have Community Report for October so you will know how many people attended the community meetings. You have a Text Amendment Area Plan and Study Update which Debra Campbell will go over. You also have a list of our speakers for tonight.

I will start with our Decisions; Item No. 6, Petition 2013-052, the Auto Mall on City Boulevard and they are asking for a two months deferral, it did not clear the Zoning Committee.

Councilmember Dulin said what does did not clear mean?

Ms. Keplinger said it means the Zoning Committee deferred it.

Item No. 13, Petition No. 2013-068, the DPA Representative came and asked for a continuance but they are asking for a withdrawal and it does require Council action to withdrawn. Ms. Field no longer has a contract on the property.

Mr. Dulin said is that something that Mr. Maddalon would bring up out there? We can't do it here; it has to be public.

Ms. Keplinger said we can tie it in with our deferrals.

Item No. 15, Petition No. 2013-73 – this is the old Wal-Mart on Eastway. This is just for information to let you know there was a protest petition submitted on this case. If you recall this is for mini-warehouses internal storage inside the existing building. The gentleman that filed the protest petition lived too far away so it didn't quality but after we explained the petition to him he declined.

Mayor Kinsey said is he speaking tonight?

Ms. Keplinger said no ma'am, this is a decision; he did speak at the public hearing.

Item No. 20, Petition No. 2013-069- this is a hearing; this is at Tolliver and Providence Road requesting a two-month deferral. This one is protested and because of special election laws you cannot hear a rezoning petition tonight that has a sufficient Protest Petition on it so it is deferred to December. Item No. 22, Petition No. 2013-079; this is a case at Eastway and Audrey Street. The petitioner is requesting a two-month deferral. Staff is not recommending approval of this petition. It is not consistent with the area plan and the petitioner is attempting to convert to a conditional plan. We are working with him and are not going to support the conditional plan at this point. It may eventually be withdrawn.

Mr. Dulin said I made a note over the week-end that said not enough info. It is in that one little section. There are houses right through there now so what can they do with that new zoning?

Ms. Keplinger said they don't have any conditions listed.

Mr. Dulin said so there is not enough info.

Ms. Keplinger continued – Item No. 27, Petition No. 2013-084 – this is Charles C. Davis, Jr.; it is W. T. Harris and The Plaza, they are asking for a two-month deferral until December. They

did not complete their community meeting report in accordance with our regulations. Item Nos. 30, 31 and 34 are all Text Amendments that we are asking for two-month deferral. Item #30 is for the ZBA Text Amendment; Item No. 31 is the exposition text amendment and Item #34 is the eating, drinking and entertainment establishments' text amendment.

Mr. Dulin said #34 that is the one that is bringing back the Noise Ordinance stuff isn't it?

Mayor Kinsey said no, it has nothing to do with the Noise Ordinance.

Councilmember Maddalon said it is the setbacks mostly for outdoor music.

Mr. Dulin said setbacks for outdoor music so it is a Noise Ordinance.

Mayor Kinsey said no, the Noise Ordinance stays in place.

Mr. Dulin said but now you are going to make it harder for them to T-up a band through which is the Noise Ordinance.

Mr. Maddalon said technically they won't even be able to have a TV outside.

Councilmember Howard arrived at 5:22 p.m.

Debra Campbell, Planning Director said the purpose of the Text Amendment is in the definition of a restaurant. It doesn't allow entertainment that is ... related to the definition of a restaurant and you have no ... Our goal with this process was to clarify the definitions to provide flexibility for businesses, actually more flexibility for these type uses, nightclubs, bars, restaurants and lounges and thirdly to minimize the impacts of these uses on adjacent residential areas. What we did through this process was establish actually the entertainment occurs inside of the building, there is no separation requirement. Once the entertainment and the use, like if you are eating or drinking outside after 11:00 we would establish either a 100-foot buffer or 400 feet distance separation from adjacent residential uses. We think we have actually provided more flexibility for businesses than we have in our current zoning ordinance.

Mr. Dulin said as an example, a place like the Selwyn Pub, I drive by it going home every night that I'm here. Tonight I will drive by it like I did last Monday night and I look over to see the crowd that is there watching Monday night football and then I look to the right real quick to see the big crowd at the Mellow Mushroom and all those folks are inside. A large percentage of the people at the Selwyn Pub are outside on the patio. If those games go past 11:00 do they have to turn those TVs off.

Ms. Campbell said no sir, if this particular petition is adopted as recommended there will be some exemptions for existing uses that are defined as restaurants now and if they meet two criteria they can continue to operate in the manner that they are operating now. From our research we have about 11 establishments that would be adversely impacted and we can't say that they would be grandfathered in because they were not permitted as bars; they were permitted as restaurants.

Mr. Dulin said would that include Kennedy's and the Philosopher Stone outside?

Mr. Campbell said they are among the 11.

Mr. Dulin said by the way I don't go to any of those places; I drive by Selwyn Pub but I don't go in.

Ms. Campbell said we are trying to be sensitive to some of the existing uses when we were crafting the language. We feel very confident that the language moving forward will protect both residential areas and will provide flexibility for existing businesses. A lot of the discussion and the reason we offered the deferral, we put this in the Council-Manager Memo on Friday, is that we needed to talk about those exemptions and with more concerned neighborhood leaders.

Mr. Dulin said I'm sorry but this is a big deal and I'm leaving so I have a little bit of a sense of urgency on it. How does that go with a place like the Epicenter that we've worked so hard on? I think the people running those places down there are coming through with their part of the bargain of trying to be good operators.

Ms. Campbell said it only applies when it is adjacent to single family triplex, duplex or quadplex. It does not apply to multifamily or attached housing that is classified as multifamily if this recommendation were to be approved. It is zoned probably U-MUD and the separation requirements are for single family but not for multifamily so the Epicenter is adjacent to U-MUD zoning.

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LOCATIONAL AND TRANSIT RELATED HOUSING

Councilmember Mayfield said what we are looking at is our existing assisted multifamily housing in transit station area policy which was approved by Council November 26, 2001. The policy called for a review within 12 to 24 months after the first rapid transit line opened to determine if additional changes were necessary. The Housing and Neighborhood Development Committee along with Planning and Neighborhood and Business Services staff with input of developers and neighborhood representatives have worked to develop a proposed revised policy and the policy has been discussed on numerous occasions, both within the Housing and Neighborhood Development Committee and full Council. This evening we will be receiving an update on the revised assisted multifamily housing at transit station area policy and the latest committee action. On September 25, 2013 the Committee did vote to recommend the policy changes. This is simply an update and you will be asked to take action on the policy on November 11, 2013 Business Meeting. Debra Campbell, Planning Director will walk us through the proposed revised policy.

Debra Campbell, Planning Director, said this is just an update to remind you of what the Committee's direction is in terms of making modifications to the policy. Ms. Mayfield gave you a little bit of background; this policy has not been looked at since 2001. Your policy suggested that we should look at it after the first development along our South Corridor, but we have not done that. Since 2011 we have been trying to update this policy and so in terms of what the policy tries to achieve is to encourage some amount of affordable housing in the transit station areas when there are public funds that are being used. If there are local, state or federal funds being used we look at this station area policy for guidance in terms of making locational or financial decisions. It provides guidance as to the maximum number of multifamily units that can be incorporated into a development at that station, the location of the units and the targeted income level. The City shall evaluate and assess the progress of the policy every 12 to 24 months, and obviously we are very late in terms of doing that.

We had several meetings with both development professionals and neighborhood leaders with regards to the policy and possible policy changes and we had a number of very committed individuals who either have developments along transit corridors and from the neighborhood perspective real close to ... a close proximity to station areas that participated in this process and then others that were just interested and passionate either about affordable housing or development of our station areas or both. In terms of the process timeline what we tried to do is to color code all the different options and places that we have touched in terms of the Council or the public or the Planning Commission so you will see City Council in green; the Housing and Neighborhood Development committee are the greens in the schedule in terms of how many times we went to the Committee; the Planning Commission in wine and then public input in red. You can see since 2011 we have been to the Housing and Neighborhood Development committee on numerous occasions as well as we really appreciate the time the Committee has spent discussing these policies. To our Planning Commission for updates and the public for we have even gone to a public hearing where we had input from our citizens within the community with regards to this policy which brings us to the September 25 date with our Housing and Neighborhood Development Committee related to the actual vote they took regarding some of the proposed changes and now we are here on October 21st for the actual update.

In terms of concerns and issues that were out there related to this policy, and again this policy is about when there is public resources being used. Look at this policy as to how much affordable housing should be incorporated; how much in terms of the station area would be a maximum amount. There are a number of things that will be addressed through this policy, but what we heard were some of the outstanding issues related to this policy was about encouraging 100% assisted housing in a development. That is one building that is 100% assisted, whether that should be a part of this policy or not, then whether we should actually exempt the Blue Line Extension area due to some of the uncertain market conditions along that particular line.

I know this is a whole lot of words and you may not be able to understand all of it, but I will essentially point out a couple of things. One is that the first sentence is kind of a preamble; what is the purpose; who are we trying to address; whether it is the station area; whether it is the distance of the station area and what is the income levels we are trying to address at 60% or less of the area median income. Items A – E, this was the proposed policy we brought to Council in May 2013. Item A addresses the half-mile station area and then it puts a cap, no more than 15% of the total number of existing housing units that are already assisted units, it can't be any additional. You are at 15%, which is similar to the locational housing policy, then we cannot add anymore within that station area. Item B is that assisted multifamily housing shall always be developed as part of the larger mixed income development which means that even if you had one building that was 100% assisted, it still needed to be a part of a larger mixed income or market rate development. Item C establishes a minimum of 5% and a maximum of 20% of a development in terms of total units should be assisted.

Councilmember Howard said is a large mixed use development the same as a Master Plan Development?

Ms. Campbell said it could be. Item D is assisted multifamily housing shall be the same in appearance which is essentially saying let's not make a difference from the design perspective from the affordable that are assisted and those that are not. Assisted multifamily housing units shall be scattered throughout the development which would negate the 100% in this particular policy recommendation. Then we had notes that the Silver Line which is the Southeast Corridor, because we are very uncertain where the stations are as well as the alignments right now, that we would use the existing locational policy as a guide for development and then the City should come back and look at this two years of the first project being developed and operational for the additional lines which would under this proposed policy from May 2013 would be the Blue Line Extension. What the Committee discussed were some changes and it is essentially to two areas; Item E which would put back in the allowed 100% assisted in one building that would be a part of this policy. I just want to make sure everybody got that one because we are adding that back in. That is what the committee discussed in the September 25th meeting. The other notes and the reason they felt like moving in this direction was okay whereas under the May policy we recommended that the Silver Line be exempt; under this policy we are recommending that both the Silver Line and the Blue Line Extension be exempt from this policy; that we use the locational housing policy as the guidance as to where assisted multifamily housing can be located. Remember there is a map that shows an area that is permissible and prohibited. That is where the Committee landed in terms of my applications to the May Policy and they are approving what staff recommended in terms of those modifications at their meeting on September 25th. In terms of our next steps is that are just providing this as an update as information for action on November 11th.

Councilmember Dulin said thank you for all that hard work and that is a lot of hard work that went into what you just told us.

Ms. Campbell said just for clarification, if the Silver Line and the Blue Line Extension are prohibited, for the most part this policy applies to the Blue Line which is the South Corridor; potentially the Red Line in the future and if there is something that goes to the west at that time as well as if we come back and reassess we can actually recommend that we add the Blue Line Extension back into this policy just to be sure that we get the type of mixture of housing for the range of incomes that I think you want to encourage along the transit corridor.

Councilmember Maddalon said when you said this is where the Committee landed, was it consensus or where there any particular communities or industries that still have trouble with where we are headed?

Ms. Campbell said the majority of the comments that we got when we had the public hearing was that most of the people in the communities supported this recommendation which is the revised recommendation from what the Committee did in May. So the Committee went back to this consideration and a lot of the hesitation from the Committee is the Blue Line Extension market conditions adequate enough that we will get the quality and the type of market rate development that we hope to transform that corridor. I will defer in terms of the actual vote to the Mayor or to any of the Committee Members. There were only three in attendance.

Ms. Mayfield said when we had the Committee meeting, as Ms. Campbell mentioned there were three of us in attendance but as now the Chair of the Housing and Neighborhood Development Committee I motioned to move it forward so there were no oppositions of us moving this to the full Council to have this report.

Ms. Campbell said there was pretty much unanimous with one not voting.

Mr. Maddalon said the list names that you had; that is a pretty disparate group of people who don't always agree so it is your belief that you have been able to craft something that all of them in their various corners by nature.

Ms. Campbell said yes sir, with this recommendation, not the exemption of the Blue Line Extension at that time as we did not discuss that, but in terms of this actual recommendation, yes they felt very strongly that we should move forward.

Ms. Campbell said we will come back on November 11th and have a request for Council to take final action on this policy. Just a reminder, we've been in it since 2011.

Mayor Kinsey said she is ready to get it over with. Did you have anything else?

Ms. Campbell said the only thing I would like to do is just to refer you; you've got a lot of paper and that is the reason we didn't give you a hard copy of the presentation. We'll be more than happy to e-mail it out if any of you want it or if you want a hard copy we will do that as well.

The Text Amendment and Area Plan update, we have again highlighted changes for you in yellow. The one that I was going to spend some time on we have already spent that time; Item No. 3, the Eating, Drinking and Entertainment establishments Text Amendment. I will allow you all to maybe take a minute look through it and if there is anything you are interested in I'll be more than happy to try to respond and give you an update.

Councilmember Barnes said I want to make a comment to you Ms. Campbell, and perhaps to Manager Carlee. The Planning Department and Ms. Campbell's staff and office, this is obvious to a lot of people, but I just want to say publically that you guys have been drinking water through fire hoses, water falls, whatever example of algae and I really respect and appreciate the fact that you guys have been hanging in there to get your work done. I see you, Tammie, Laura and Ed much more than I should see anybody other than my family, but it is because of all the work there is to be done. I know there will be more coming, but you guys handle your jobs very well and I appreciate it. I know it is a lot to take on, but thanks for what you are doing.

Ms. Campbell said I appreciate you saying that, thank you very much.

Councilmember Howard said along that same line; I came in the room tonight and congratulated Debra on being the Assistant City Manager for the short period. I definitely look forward to working with you in Transportation and Planning. It has been a long road for us.

Ms. Campbell said it has, since you were an intern.

Mr. Howard said 1992 in fact.

Mayor Kinsey said I do have one more thing I want to mention. We will have a closed session after the Zoning Meeting tonight to talk about litigation. It should not be very long.

The Dinner Briefing was recessed at 5:47 p.m. to move to the Council Chamber for the scheduled Zoning Meeting.

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The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:06 p.m. with Mayor Patsy Kinsey presiding. Councilmembers present were John Autry, Michael Barnes, Andy Dulin, Claire Fallon, David Howard, Billy Maddalon LaWana Mayfield, and Beth Pickering.

ABSENT: Councilmembers Patrick Cannon, Warren Cooksey and James Mitchell.

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INVOCATION AND PLEDGE

Mayor Kinsey recognized the Boy Scout Troop #70 from Paw Creek Presbyterian Church led by Mr. Bob Morgan and invited them to come down and lead us in the Pledge of Allegiance to the Flag.

Mayor Kinsey gave the Invocation and the Boy Scouts led the Council in the Pledge of Allegiance to the Flag.

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ITEM 1: YOUTH VOTE PROCLAMATION

Mayor Kinsey said I would like to present a joint proclamation signed by all the Mecklenburg County Mayors that encourages the youth in our towns to vote during this year's election. Young voters typically do not turn out at the rate that older voters do, but we want our young voters to know that their voice matters and we want them to make it heard during the upcoming election. Early voting in Charlotte began last week and runs through Saturday, November 2nd. As part of this proclamation the Mecklenburg County Mayors have designated this Friday and Saturday as Youth Vote Days and are especially encouraging our young people to come out and vote then.

I will ask Councilmember Dulin to read the proclamation and then I would like to ask my grandson Cooper to come down and say a few words. This year's election is the first that Cooper has been eligible to vote.

Councilmember Dulin read a proclamation by the Mecklenburg Mayors declaring October 24-25, 2013 as "Youth Vote Days".

Cooper Kinsey said voting is a civic duty that everyone should go out and participate in, especially voters whose ages are between 18 and 24. The age group of 18 to 24 is the lowest voter turnout of any age group in the United States. Young adults like myself have plentiful thoughts on how the government should work and voting is a major factor in influencing that. Having a proclamation that makes voting easier for me, my peers and students everywhere can influence a great deal in how our local, state and national government is led. I know someone who will be very happy on this dais because in 7 days I will be 18 and I will be able to vote for her, thus making Youth Vote a very important part in American society.

Councilmember Dulin said that young man skipped football practice at Myers Park this afternoon to be down here with his Grandma.

Mayor Kinsey said he is going to get a note from the Mayor.

Mr. Dulin said my son plays football with Cooper Kinsey and they have thoroughly enjoyed each other's company over the last years in Junior High and High School. It has been fun to watch him grow and have him come down and talk to us tonight.

Mayor Kinsey said they are a team just like you and I are.

Mr. Dulin said correct.

Councilmember Pickering said there is grandmother on this dais tonight who has done a very good job. He is a fine young man.

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Mayor Kinsey explained the Zoning Meeting process and asked Tracey Dodson, Chair of the Zoning Committee of the Charlotte Mecklenburg Planning Commission to introduce members of the Zoning Committee.

Tammie Keplinger, Planning said in terms of items deferred tonight we have Item No. 6, Petition No. 2013-052, deferred for 2 months; Item No. 13, Petition 2013-068, the property owners is requesting a withdrawal; Item No. 20, Petition No. 2013-069, deferred for 2 months; Item No. 22, Petition No. 2013-079, Petitioner is requesting 2 month deferral to December 16th; Item No. 27, Petition 2013-084, requesting 2 month deferral to December 16th; Item No.30, Petition No. 2012-090, requesting 2 month deferral to December 16th; Item No. 31, Petition 2013-061, deferral for 2 months to December 16th; Item No. 34, Petition No. 2013-090, deferral for 2 months to December 16th.

Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and carried unanimously, to defer and/or withdraw the above mentioned petitions as requested.
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HISTORIC LANDMARKS

ITEM NO. 3: PUBLIC HEARING TO CONSIDER COHEN-FUMERO HOUSE AS HISTORIC LANDMARK

The scheduled public hearing was held on the subject matter.

Stewart Gray, 2100 Randolph Road said the Cohen-Fumero House is an important early example of the work of Charlotte Architect Murray Whisnant who is an AIO Fellow and he was greatly influenced by the North Carolina University School of Design which was significant in shaping the landscape of North Carolina in the middle part of the 20th century. It is a rare surviving example of the modernist house style in Charlotte and in east Charlotte in particular and it is also significant as the home of Artist Herb Cohen and Jose Fumero. The Cohen-Fumero House became a center of the creative and social life of the artistic community in Charlotte in the 1960's and Mr. Cohen was also instrumental in the development of the Mint Museum and really directed its growth and I think a lot of people would give him credit for what it has developed into now in the 21st century. The house was truly a solon; it was a center of intellectual and artistic life of Charlotte during the 1960's.

Mayor Kinsey said we have a very good report included with our agenda.

Councilmember Dulin said Murray Whisnant is still alive and still active. He still has his brain engaged in what is going on around this community and he thinks about something then he gets fired up about something and he has no problem finding us and I love to hear from him. But, this house, I know it predates a community like Raintree by a decade. Raintree started in 1972 and this was built in 1960; 12 years. In another five years are all the Raintree houses that are modern going to start rotating up to us? Not all of those have had famous historic residents.

Mr. Gray said the analogy I would use is back in 1955 an engineer for Chevrolet did a design for the Stingray and it wasn't what was produced later, but it was very important and what the ground for what became a commodity later. These houses that we are seeing from the early 1960's that are architect design especially and ones that are designed by an architect in Charlotte, they really are the forerunners and so I agree completely you may see houses that were derived from these early examples that became more common in the 1970's, but they would not be eligible for landmark status because of the architectural significance.

Mayor Kinsey said I think it is very importance frankly because of historical significance, Herb Cohen very instrumental at the Mint Museum.

Mr. Dulin said the current residents are good folks too.

Mayor Kinsey said absolutely, they certainly are.

Motion was made by Councilmember Howard, seconded by Councilmember Autry and carried unanimously, to close the public hearing.
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Council's decision was deferred pending a recommendation from the Zoning Committee.

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ITEM NO. 4: PUBLIC HEARING TO CONSIDER DEFIANCE SOCK MILLS AS HISTORIC LANDMARK.

The scheduled public hearing was held on the subject matter.

Stewart Gray, 2100 Randolph Road said the Defiance Sock Mills built in 1918 and was one of the first two hosiery mills constructed in the City and the only one to survive. The production of socks was an important aspect of the big textile economy of Charlotte early in the 20th century. The Defiance Sock Mill is a good example of mill architecture with heavy timber construction, brick walls, tall windows and narrow form. The location along the Piedmont and Northern Interurban Rail Line also illustrates the importance of rail roads to the industrial development of the City before the era of trucking. Defiance is part of a small industrial district that emerged in McNinchville neighborhood to take advantage of the proximity of the Southern Railway and the Piedmont Northern.

Kara Shaeffer, 520 Elliot Street said I'm coming to you in favor of a Historical Landmark designation. I am an employee there and give many tours to our many, many visitors that we have. It is quite something; the building is immaculately preserved. When you walk down the halls you are actually making noise downstairs because there is no insulation; there is no great lighting; it is preserved the way that it should have been all along. It is important to me because I am a native Charlottean and I see so much of our City that just disappears. We call it downtown so you actually know that I'm from here. I just wanted to say a few words about the face as far as the architecture goes it is the same architect that was responsible for Johnson C. Smith. It also occurs to me that we have a beautiful, beautiful City and even in South End there have been attempts to do store fronts to replicate historic feeling. This is a whole entire building with the exception of the warehouse that was added on the back. It is a beautifully immaculately restored building and Councilmembers Mayfield and Mitchell have been there in person to see it and probably attest to the beauty and preservation. I would like for you to consider it from a Charlottean standpoint that we would love to see more buildings that are kept and protected for the future.

Matthew Spangard, 520 Elliot Street said I am one of the partners at Enventys and. I too am for this. I first saw the building a little over 10 years ago when we were looking to find a home for our modern day innovation factory. What we do is all about innovation and we bring the future to the market, but we wanted the people to see the historic presence that previous innovators had established. Our space has been called a modern day Minlow Park; Minlow Park, New Jersey is the home to Thomas Edison and is a time capsule to him in the spirit of innovation. We produce a television show called Everyday on Edison that runs on PBS Stations

across the country and is licensed in 60 countries around the world. We have an online community of visitors from 192 countries around the world so we are known worldwide for innovation and the entire show is filmed within our building. All of the historic beams that you see and the presence that it brings is something that you just can't fake and we couldn't create in a studio so we try and let that building live on the TV through PBS as well as on Hulu. There are historic buildings out there that are time capsules and one of my favorites is the Hemingway House in Key West. There are modern versions of these historic places as well that really honor the spirit of the history. The Atherton Mill in South End is a great example where air conditioning was invented. I hope everybody knows that but if that building had been torn down and they had put up a strip mall I wouldn't have known that. That history and that spirit of innovation that it is on and that is what we do at Addison Nation at 520 Elliot Street rather than mills spinning up it is now 3-D printers, CMC Machines and laser cutters so we hope you guys honor the spirit of innovation and the history of our building by voting for this.

Virginia Wollard, 1001 West 1st Street said I have come to speak in favor of the designation of the Defiance Sock Mills for Historic Landmark status. Mr. Spangard said he first saw the building 10 years ago and I'm absolutely certain I saw that building 78 years ago because our business is right next door and I'm sure when my dad brought me home from the hospital I was there. We do thank you for your consideration of this and as Mr. Gray said, this is a special place "McNinchville". It is sort of like we are going through a process of sort of an archeological dig because nobody knows much about McNinchville and especially West First Street. I hope you will come see because the Defiance Sock Mill building is just a part of what you will see. The P & N Railroad goes through the middle of this area and if you take the names of the first people who used the buildings on that street, Southern Spindle and Flyer; Standard Oil Company of New Jersey, Armature Wine and Company; Southern Specialty Company which was the production of rayon and silk mill, the Defiance Sock Mill as he is presenting tonight and then over on Hill Street is the great A & P Company. It is an area that I think, and you've built so many wonderful new things for Third Ward, but we lost the Virginia Paper Company and we don't want to lose anymore and we want to honor these buildings if we possibly can. I hope you will begin to feel the passion that we feel for this particular building that we are considering tonight. I mostly hope you will come down and become a part of West First Street and where we are going together. Best wishes to all of you who will not be with us next year. All of Third Ward wants to say Thank You to each of you for all that you have done for us during the past year and for the many years that have come before us.

Councilmember Mayfield said I want to thank Ms. Shaeffer because I did have an opportunity to actually go out and tour the facility and I'd seen the building because we have a beautiful neighborhood that was built a number of years ago right up the street where this historic building is located and if you didn't know that you had this historic building there you wouldn't know unless you just happen to get lost going down the street. Once you get there it is really like stepping back into time and what they managed to do with that building as far as the type of business they have inside and the creativity and energy of looking forward at the same time of being in this historic building, I was really impressed and I don't necessarily have a history of wanting to maintain historic properties. As of overall I think we've lost a lot of that in Charlotte so now I'm really looking at it this last 18 months that I've been sitting in this seat, really looking at how can we preserve those historic spaces that are still in really good condition and how do we maintain some type of history in Charlotte because we don't really have a grounding of a history here. I think this would be a great opportunity for us to identify and designate this particular building as far as being a historic site. There was an addition added onto the building so we are not completely taking this off the tax rolls and I know that is a concern that some of us have when we look at our tax base and look at how businesses are paying back into the community. That is not the case in this particular instance; there is still an investment that is coming from this business, but I do think it would be a great opportunity for us to preserve a historic building within the area.

Mayor Kinsey said who actually owns this property?

Mr. Spangard said I am one of the owners.

Mayor Kinsey said it is kind of nice to have a name.

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. 5: PUBLIC HEARING TO CONSIDER THE LOUISE COTTON MILL AS HISTORIC LANDMARK.

The scheduled public hearing was held on the subject matter.

Stewart Gray, 2100 Randolph Road said the Louise Cotton Mill is architecturally significant as an important example of textile mill architecture in Charlotte. When it was built in 1897 it was the largest cotton mill in Charlotte. It was substantially enlarged in 1901 and it has certain unique architectural features not found in other mills in Charlotte. The use of slow burning construction method of brick construction, heavy timber framing, large and plentiful windows and monitor roofs setback clerestory windows in the original mill and its additions presents the best practices of textile mill design and technology at the time. It is one of only three in tack cotton mills that survive in the City from the 19th century. Louise Mill operated as a cotton mill from 1897 until 1957 when it was closed. We can't emphasize enough that it is a very large and important feature on the landscape.

Herb Coleman, 110 South 15th Street said I am with the Developer, Clachan Properties we are the folks redeveloping the mill. I want to talk about two different things, the significance of the mill historically and then the economic impact to the neighborhood. We are a small development group out of Richmond; we've probably done a dozen projects; came to North Carolina about 5 years ago and we did the Winston Factory Lofts in Winston Salem which is an old Hanes Knitting Factory. It was about a \$30 million project and we have a passion for adaptive reuse. This is what we do; I and another guy own the company. We get goose bumps when we see a building like this. In Richmond we have an abundance of historic buildings; in Charlotte from driving around you guys have very little historic fabric left so we think it is critically important to protect this mill and landmark so it can be preserved. We think economically it is a \$25 million project that we are investing; it will have a huge impact on the Belmont Neighborhood. It will create a lot of jobs; it will bring another 300 people to that area and probably spur economic development down Hawthorne. In terms of economic viability right now the building is assessed at \$2 million which is about \$25,000 per year in taxes. When we are finished with it the building will be worth \$25 million with the 50% abatement the taxes will be \$151,000 per year. That is after getting the 50% abatement so there will be a 600% increase in the tax revenue to the City, not to mention all the positive effect around the surrounding neighborhood. If you go out 5, 10 and 15 years, in 15 years as it is right now the taxes are about \$500,000 extrapolating them over 15 years compared to \$2.8 million with the economic redevelopment. I've seen in Winston Salem the impact it has on that part of the town is huge to the economic development around the mill so we obviously support it since we are the developers and we are very excited about the project. We still have a lot of hurdles to get over, but we are very passionate about trying to save the mill. We are going to bring the mill back to its 1900 structure which there are a couple of additions that were added onto it. We are thinking about rebuilding the tower if it is economically feasible. There used to be a tower that was along the railroad tracks that has been removed.

Vicki Jones, 1237 Allen Street said I'm President of the Belmont Community Association and I will take a very brief moment to indicate our support of both the redevelopment and the historic landmark designation. Belmont is a revitalizing community and as presented to us we do believe this will be a strong anchor for our community. We look forward to tracking progress on this project and hope to see it implemented quickly and calling Louise Mill part of Belmont.

Councilmember Barnes said the gentlemen answered many of my questions so will you be coming back for a rezoning to do the development or is that already in the works?

Mr. Coleman said the rezoning has already been approved. I think it was approved last month so this is one of many pieces. I would add to that that this part is critical to the redevelopment of it. It is as important as the historic tax credits because these buildings typically cost more than ground-up new construction because of the things you run into. The landmark is absolutely essential to moving forward as would be getting approval from the park service. It is just one of those pieces that has to fall in line along with the rezoning; historic designation and all those 3 or 4 different things that have to fall in line and this was one of the last things. We've got the zoning; we submitted our part two to the feds, of course it is kind of stuck up there right now and this landmark is one of the last pieces along with the financing package that has to go in.

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

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

DECISIONS

Tammie Keplinger, Planning said Mayor Kinsey I have a last minute request for a deferral for Item No. 9, Petition No. 2013-064 for a rezoning from Highway Business to Transit Oriented Development. This is for the Parks Chevrolet site and the petitioner is requesting a 2 month deferral.

Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and carried unanimously, to defer Item No. 9, Petition No. 2013-064 for two months.

ITEM NO. 7: ORDINANCE NO. 5208-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.47 ACRES LOCATED ON THE NORTH SIDE OF EUCLID AVENUE BETWEEN TEMPLETON AVENUE AND LEXINGTON AVENUE FROM O-2 TO TOD-MO.

Motion was made by Councilmember Maddalon, seconded by Councilmember Barnes, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-055 by Marsh Realty Company, as modified, and as recommended by the Zoning Committee.

The Modifications are:

1. Provided an elevation and cross section of the proposed 60" high wall/fence along Euclid Avenue to illustrate how the wall/fence and landscaped area will be designed to create an attractive street edge.
2. Modified the site acreage under "Site Development Data" to indicate 2.47 acres.
3. Addressed Urban Forestry's comment regarding the preservation of existing trees within the City's right-of-way.

The ordinance is recorded in full in Ordinance Book 58, at Page 418-419.

ITEM NO. 8: ORDINANCE NO. 5209-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 3.56 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF SOUTH TRYON STREET AND STEELECROFT PARKWAY FROM R-3 TO NS.

Motion was made by Councilmember Mayfield, seconded by Councilmember Fallon, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-060 by LandNet, LLC, as modified and as recommended by the Zoning Committee.

The Modifications are:

1. Provided an additional pedestrian path along the access drive connecting South Tryon Street to Old Steele Creek Road.
2. The issue regarding placing a screen wall between the parking envelopes and Steelescroft Parkway has been eliminated due to the redesign of the site which minimized the need for the wall.
3. The issue regarding the labeling of the screen wall for the drive-through aces has been eliminated.
4. Limited the number of uses with accessory drive-through service windows to either two uses with drive-through windows or one use with a drive-through window and one convenience store.
5. Indicated a minimum open space requirement of 15 percent of the site.
6. Eliminated Note 1.d. on Sheet RZ-2 except for the second and third sentences. Relocate those two sentences to the end of Note 1.a. Also, added to that note a reference to the additional screening requirements of the drive-through lanes indicated on Note 5.e.
7. Modified Note 2.a. on Sheet RZ-2 to eliminate automobile repair, residential, equipment rental and leasing, locksmith/gunsmiths, nurseries/greenhouses, and pet services (outdoor) as permitted uses.
8. Modified Note 4.a. on Sheet RZ-2 to read: "...Each exterior building wall façade, exclusive of doors and windows, will be constructed with a minimum of 50% brick, brick veneer, stone, cementious board (such as HardiPlank), and/or simulated stone. The masonry materials and color chosen shall be consistent throughout the development..."
9. Modified the last sentence of Note 5.e on Sheet RZ-2 to read: "The screen wall will be a minimum of three feet in height and if a low wall is constructed, it will be constructed using materials consistent with the materials used on the buildings within the development. The screen wall will be located within a minimum five-foot wide planting strip behind the required public sidewalk and be placed a minimum three feet from the sidewalk".
10. Addressed Transportation comments.
11. Modified Note 4.b to read: "The design of the building walls that front on Steelescroft Parkway and the building wall that is parallel to the interior access drive of the building at the corner of the access drive and Steelescroft Parkway will include elements such as but not limited to building entrances, non-reflective and/or clear vision glass along at least one third of the building façade to provide views into the interior activates of the building that lies parallel to the interior access, outdoor dining area, a patio, outdoor seating area(s), gardens, or other features that are intended to enhance the relationship between the building and the pedestrian environment.
12. Eliminated the note under "Environmental Features" referencing any future General Assembly actions.
13. Provide a minimum five-foot wide sidewalk and eight-foot planting strip along the internal access drives.

The ordinance is recorded in full in Ordinance Book 58, at Page 420-421.

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ITEM NO. 10: ORDINANCE NO. 5211-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.24 ACES LOCATED ON THE SOUTH SIDE OF IVERSON WAY BETWEEN SOUTH BOULEVARD AND LYNDHURST AVENUE FROM R-5, B-2 AND O-2 TO UR-2(CD).

Motion was made by Councilmember Maddalon, seconded by Councilmember Barnes, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-065 by Weekley Homes, LP, for the above zoning as modified and as recommended by the Zoning Committee.

The modifications are:

1. Provided elevations for the buildings along Iverson Way and clarified that the front façade of those buildings face Iverson Way.
2. The issue regarding an additional “Architectural Standards” note has been eliminated due to building elevations being provided.
3. The issue regarding the list of building materials allowed has been removed due to the elimination of the note requiring a minimum 30 percent of masonry products on the building exteriors.
4. Modified the setback identified on Sheet RZ-1 as “20-foot setback from the back of existing or proposed curb”.
5. Modified the yard requirements illustrated on the Technical Data Sheet and the Conceptual Site Plan to indicate “5-foot side yard/10-foot rear yard”.
6. Deleted the following wording from the first sentence of note “b” under “General Provisions” on Sheet RZ-1: “..., such as those that regulate streets, sidewalks, trees, bicycle parking, and site development...”.
7. Deleted the note on the upper right corner of Sheet RZ-2 which indicates the Conceptual Site Plan reflects a possible arrangement of uses and they may be modified so long as the maximum building envelope and intensity limitation are not violated.
8. The portions of the proposed public sidewalk along Iverson Way located outside the existing right-of-way will need to be located within a sidewalk utility easement measured a minimum of two feet from the back of sidewalk. This issue will be addressed during permitting.
9. Rewrote the note under “Streetscape and Landscaping” on Sheet RZ-1 to commit to certain buffer standards along the property line next to the existing single family home within the R-5 (single family residential) zoning district. These include a buffer planted to a Class C buffer standard along the first 100 linear feet of the buffer and the remaining length of the buffer would include additional parking and a privacy fence.
10. Modified Sheet RZ-2 to illustrate the minimum six-foot public pedestrian access trail to be constructed by the petitioner to the property line with parcel 121-074-09. It is intended that the trail will be extended across the abutting property in the future to connect to Atherton Street.
11. Deleted the second sentence of Note “b” under “General Provisions” on Sheet RZ-1.
12. Modified the “Lighting” note on Sheet RZ-1 to read: “All lighting on the site will utilize full cut-off luminaries and freestanding lighting will be limited to 20 feet in total height, but architectural lighting will be permitted.”

The ordinance is recorded in full in Ordinance Book 58, at Page 424-425.

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ITEM NO. 11: ORDINANCE NO. 5212-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.22 ACRES LOCATED ON THE NORTH SIDE OF SHARON VIEW ROAD NEAR THE INTERSECTION OF SHARON VIEW ROAD AND MOUNTAINBROOK ROAD FROM R-3 TO UR-2(CD).

Motion was made by Councilmember Dulin, seconded by Councilmember Barnes, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-066 by Weekley Homes LP for the above zoning change, as modified and as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 426-427.

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ITEM NO. 12: ORDINANCE NO. 5213-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 18.95 ACRES LOCATED ON THE WEST SIDE OF NORTHLAKE CENTRE PARKWAY NEAR THE INTERSECTION OF MADISON SQUARE PLACE, NORTHLAKE MALL DRIVE AND NORTHLAKE CENTRE PARKWAY FROM R-3 AND BP TO UR-3(CD).

Motion was made by Councilmember Howard, seconded by Councilmember Maddalon to approve the Statement of Consistency and Petition No. 2013-067 by Withrow Capital for the above zoning change as modified and as recommended by the Zoning Committee.

Councilmember Fallon said there are no renderings with this and there are a lot of apartments. Were there not any renderings given?

Laura Harmon, Planning said you are correct we don't have renderings and in a lot of cases the folks are not quite ready to determine exactly what the buildings will look like, but we did get a lot of commitments for architectural features that we think should suffice, at least from our professional perspective do suffice instead of getting renderings but maybe would need to be changed later on.

Mr. Fallon said I would have been happier if I could see some renderings.

Councilmember Howard said just for the sake of following up on what Ms. Fallon said could you talk about some of the descriptions of the architectural guidelines you put in the write-up?

Ms. Harmon said we have things such as stipulating 30% masonry on all exterior below the roofline. We have talked about how the buildings address the street so that the buildings along the streets will be parallel typically to the streets and you will get mostly building face instead of parking between the buildings and the streets and 30% of the building below the roofline will be a combination of brick, stone and similar masonry products.

Ms. Fallon said it says no hardiplank so masonry is what, stucco?

Ms. Harmon said yes, a stucco like product or actual like stucco.

Ms. Fallon said the kind that meets code I hope.

Ms. Harmon said absolutely.

Councilmember Barnes said Ms. Harmon I think among the things that Ms. Fallon is talking about, at last from my experience is that many of these CD plans typically come with some elevations or something to give us a clue about what we are voting on and this one does not, although it is representative of a trend on steroids in the Northlake area, and it is unfortunate that it doesn't have any elevations.

Ms. Harmon said we really struggle with that because what happens a lot of times is the time at which we are seeing the rezoning the petitioners are not yet to the point of architectural design at the kind of level that would be required for elevations. We struggle with this also and we try to get them to provide us with as much information on the commitments they can make with respect to rooflines, building materials, etc.

Mr. Barnes said is there some time pressure on this petition?

Mr. Harmon said I am not aware of any. I believe the agent is here.

Mr. Barnes said my question is whether or not there is some time pressure on the petition; is there an opportunity to address the concerns expressed by at least two members of the Council?

Walter Fields, 1919 South Boulevard said I am not aware of a specific time pressure but I do know that this property is being looked at by several different multifamily developers. It is a great location and a very strong market. I'd be happy to address the question about the building elevations if you would like me to.

Mr. Barnes said do you have any?

Mr. Fields said in an early submission for this rezoning we did include some building drawings and the staff was very gracious with their time. We spent a lot of time working with them on the issues of both sight design and building placement which has become more and more of a focus in terms of building orientation internally, not out on the exterior, but internally. We went back through a process of actually doing building studies of both very urban multifamily structures like you see in the South End along the rail corridor and along South Boulevard and very suburban multifamily structures like you see on the property directly to the south of this where it is three story, traditional, suburban multifamily with brick and masonry and hardiplank siding, etc. which are the same materials we have listed here. As we continued to work with the staff there was concern that we were trying to cover too many bases and they asked us to focus in more on architectural characteristics that we see in these various building types rather than include the building type which invariably would have to come back in for some sort of a site plan amendment. I would echo Laura's comments, we are seeing more and more of where the staff, and I won't put words in her mouth, and she can clearly correct me, is asking us to look more at criteria rather than a specific design because very often those designs come out of a catalog and you have to come back within 2 months or 5 months and unless it matches up fairly closely it puts the staff in the position of either having to make an administrative decision to change it or bring it back to you for a change. You may start seeing more and more conditional zonings that have criteria listed that confine the building types and roof pitches and building placements and things of that nature and the key elements of the site and not so much of a specific design unless you happen to have a developer that has a specific design that he is ready to build the next day.

Ms. Fallon said are these convertible to condos because that market is coming back and I'm really very concerned about rental apartments up there because we are going to be one sea of rental apartments because you have all that adjacent land that is going to be multifamily.

Ms. Fields said these buildings could be built such that they could be converted. There is not a provision in the zoning plan that would deal with that one way or the other. The developer that buys this property could make the decision to build them such that they could be individually metered with water and electricity or whatever and converted to condos at some point in the future.

Ms. Fallon said do you know how big the apartments are going to be?

Mr. Fields said no I don't. The size and mix of the apartments would be driven by the market. I think if you are familiar with the apartments just south of this site, just across the creek where they have built two of the three phases already, they would be comparable in scale to those apartments so they would be comparable in terms of the unit mix.

Mayor Kinsey said I'm going to have to say that if the elevations aren't ready and the Council doesn't see them I'm perfectly willing voting no when I get a vote. I trust staff but ultimately we are the ones that hear from the neighbors or the people in a certain area. If we haven't seen it and we don't know what it is going to look like, and maybe it is just me because I'm a visual person, but I don't like to sign off on something that I really haven't seen myself. I guess what I'm saying is that in the future if you want my vote you might want to show me some pictures.

Mr. Fields said we are taking direction from the staff here and if what I'm hearing tonight is that even with the efforts that we've done here in working with the staff you still want some more, please consider deferring this and let us go back and put something together for you.

Mayor Kinsey said I'm not suggesting that. It is up to the Council to decide if they want to do that. I'm just saying in the future and I will say it to staff, I like to see pictures.

Substitute motion was made by Councilmember Barnes, seconded by Councilmember Fallon, to defer petition No. 2013-067 for two months.

Mr. Howard said why two months? We want to do it with this Council and if you defer for two months it goes to December.

Mr. Barnes said the only reason I said two months is because we won't have a zoning meeting in November.

Mayor Kinsey said but we will have some decisions won't we?

Mr. Harmon said we would need two months to get this done.

Councilmember Dulin said I'm prepared to vote affirmative tonight. This is a group that we've done business with many times over the years. They've never done anything – I don't have a personal relationship with these folks, but they've never done anything that would warrant suspicion from me that they won't go out there and do something nice. I would prefer to vote it affirmative tonight and move on so we don't have to deal with it with a new Council in December.

Mr. Howard said I agree with Mr. Dulin and for that reason I will vote against deferral because I think we should move on. Withrow has done great stuff all over the City so I have no reason to think they won't do the same thing at this site.

Councilmember Maddalon said the Mayor made mention to wanting to see a picture. How important are pictures? Are pictures more important than very specific criteria that you have listed on this page?

Ms. Harmon said I think we a lot of times would prefer to work with criteria whether we can illustrate some of that. We want to give you enough information that you feel comfortable with that final product, but not so detailed that a petitioner is boxed in. I think if you do choose to defer we will work with the petitioner on the specific elements that they are committing to and illustrating those elements without having the exact building that you might see out there, but enough information on how rooflines would be treated; how blank walls would be dealt with; what the materials are in a visual way that might better satisfy your concerns.

Councilmember Autry said I would also remind Council that we've had discussions previously about where we did have drawings and renderings and six or eight months later when the project started coming up out of the ground it didn't always look like that either. The architectural data here seems pretty compelling so I'm willing to move for moving on with this.

Mayor Kinsey said I might remind us this is not the first time we have discussed wanting some pictures when something was presented.

The vote was taken on the substitute motion to defer for two months and was recorded as follows:

YEAS: Councilmembers Barnes, Fallon and Pickering.

NAYS: Councilmembers Autry, Dulin, Howard, Maddalon, and Mayfield.

A vote was taken on the original motion to approve Petition 2013-067 and was recorded as follows:

YEAS: Councilmembers Autry, Dulin, Howard, Maddalon and Mayfield.

NAYS: Councilmember Barnes, Fallon and Pickering.

Mr. Barnes said there are 8 of us, 5 for and 3 against. Is it simple majority?

Assistant City Attorney, Terrie Hagler-Gray said you need 6 votes in order for there to be a deferral and you did not get those six months.

Mayor Kinsey said the original motion didn't get 6 votes either.

Ms. Gray said you are not approving the petition without 6 votes.

Mr. Dulin said this is a rare thing that happens from time to time. We can go back tonight with a majority or with a unanimous vote to at least give it another shot at passing this. I believe, as I said before that this group has done nothing in my 8 years on Council to warrant me questioning whether or not they are going to make a good development. They are land owners out there and it is to their advantage to build a good development, a profitable development because they are neighbors out there.

Ms. Gray said someone on the prevailing side can ask for a revote. The prevailing side would be one of the three folks who voted against it.

Mr. Dulin said I would really like one of those three folks to reconsider this and move this down the road so that we can move on and you don't have to deal with it in December, those of you who are still here.

Mayor Kinsey said let's get a reminder of what the consequence is if it fails tonight.

Ms. Gray said I believe it is two years before the petitioner can come back again, absent substantial changes to the petition.

Mayor Kinsey said what is the pleasure of the three? It will mean two years.

Mr. Barnes said two month deferral.

Mayor Kinsey said I think Mr. Barnes wanted to know if we could go back to a two month deferral.

Ms. Gray said yes if you would like to make a motion for a deferral at this time also.

Mayor Kinsey said one of the three can do that. Would you like to do that Mr. Barnes?

Mr. Barnes said Mr. Dulin just rejected it.

Mr. Howard said Mr. Dulin is one vote.

Mr. Dulin said I might have to take what I can get.

Motion was made by Councilmember Fallon seconded by Councilmember Pickering, and carried unanimously, to reconsider and defer Petition 2013-067 for two months.

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ITEM NO. 14: ORDINANCE NO. 5214-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 17.48 ACRES LOCATED ON THE SOUTH SIDE OF PROVIDENCE ROAD WEST BETWEEN OLD ARDREY KELL ROAD AND COMMUNITY HOUSE ROAD FROM INST (CD) TO INST(CD) SPA.

Motion was made by Councilmember Barnes, seconded by Councilmember Fallon, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-070 by Liberty Healthcare Properties of Mecklenburg County, for the above zoning change, as modified, and as recommended by the Zoning Committee.

The modifications are:

1. Provided all the two-story building height sections from the original plan.
2. Staff is no longer asking for a two-story section in the building section.

The ordinance is recorded in full in Ordinance Book 58, at Page 430-431.

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ITEM NO. 15: ORDINANCE NO. 5215-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 3.74 ACRES LOCATED ON THE WEST SIDE OF EASTWAY DRIVE AT THE INTERSECTION OF EASTWAY DRIVE AND BISCAYNE DRIVE FROM B-1SCD TO BD-(CD).

Councilmember Autry said this petition is inconsistent with the Central District Plan and by approving this petition we will be by proxy modifying the Central District Plan so I will be voting no.

Motion was made by Councilmember Maddalon, seconded by Councilmember Mayfield, to approve the Statement of Consistency, and Petition No. 2013-073 by Eastway II Holdings, LLC for the above zoning change as recommended by the Zoning Committee.

Councilmember Barnes said I recognize that the opportunity for discussion has perhaps passed. I also recognize that this is in Mr. Maddalon's district, soon to be your district again and Mr. Autry raised a good point. I was wondering if we could have some discussion around that point.

Mayor Kinsey said absolutely.

Mr. Barnes said we have a history of ignoring our Area Plans and District Plans and it concerns me.

Mayor Kinsey said I'm not sure anyone voted even though there is a motion on the floor so we are going to say no one voted so if you would like to make a comment please do.

Mr. Barnes said Mr. Autry could you elaborate on the point you just made and Mr. Maddalon if there is something that you could help us appreciate please do so.

Mr. Autry said I appreciate the opportunity there and the building does need something. I'm just concerned about how cavalier we are about approving plans that are inconsistent with the Area Plans where the rezoning is occurring and what the long-range ramifications are of that. I just don't have anything against this particular project, I just think it is not the best interest in the long range plans of what the City is about and want to be about to violate these area plans by approving these rezonings. By approving the rezoning we are going to automatically modify the plan.

Councilmember Howard said I'm comfortable and ready to vote for it because it looks like it not only has staff's support but also has the support of the majority of the Zoning Committee so I'm going to put the Chair on the spot and ask her if she will share with us any insight on why they felt comfortable with this petition.

Tracy Dodson, Chair of the Zoning Committee said we felt it was a good reuse of the building and what it was trying to accomplish was impactful for the community around it.

Mr. Howard said how old is the Central District Plan?

Ms. Keplinger said it was approved in 1993.

Mr. Howard said is there any plan that has been done since then that covers this same area?

Ms. Keplinger said no.

Mr. Howard said this is one of those things Mr. Autry I think where the core of our City has changed faster than our plans have and that is the kind of thing, at least when I was on the Planning Commission, I used to take into consideration and I would think if 6 people said it, that is probably how they felt about it. This is an area where we should do something if it is not a plan that is closer in than 1993.

Councilmember Fallon said that was the thing that always bothered me as a Planning Commissioner. The variances we got and the fact that we didn't – I mean 17 out of 21 one night and I couldn't believe that we don't have consistent plans that have been updated. I know we are working on them, but it makes it very hard sometimes to make a decision because you have to give a variance on a plan that was done in 1993.

Mayor Kinsey said yeah, 20 years old.

Councilmember Maddalon said I think Mr. Autry makes a very good point and that is that obviously while it might be this Council's prerogative to deviate from plans, we should be very careful and considerate when doing so. When I saw this I did take the liberty to reach out to staff and talk about it a little bit. I am comfortable with the change. It is relatively moderate and I was also assured that the Zoning Committee did consider the fact that it deviates from the Area Plan and give that the appropriate weight necessary and despite that elected to vote unanimously to approve it so I'm comfortable with it. This is an area where I think even this kind of deviation will be appropriate although again I want to make sure that I pay attention to the fact that Mr. Autry does point to a very relevant fact and that is when we approve something like this we are by caveat changing our small area plan. I appreciate that but I will support it and I do think it is an appropriate use for the building.

The vote was taken on the motion to approve Petition No. 2013-073 and recorded as follows:

YEAS: Councilmember Barnes, Dulin, Fallon, Howard, Maddalon, Mayfield, and Pickering.

NAYS: Councilmember Autry.

The ordinance is recorded in full in Ordinance Book 58, at Page 432-433.

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ITEM NO. 16: ORDINANCE NO. 5216-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR .24 ACRES LOCATED ON THE EAST SIDE OF SOUTH BOULEVARD NEAR THE INTERSECTION OF RENSSELAER AVENUE AND SOUTH BOULEVARD FROM B-1 TO TOD-M.

Motion was made by Councilmember Maddalon, seconded by Councilmember Barnes, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-074 by Mecklenburg Planning Department for the above rezoning as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 434-435.

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ITEM NO. 17: ORDINANCE NO. 5217-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY .19 ACRES LOCATED ON THE WEST CORNER AT THE

INTERSECTION OF SOUTH CHURCH STREET AND WEST PALMER STREET FROM I-2 TO TOD-M.

Councilmember Mayfield said do we have any idea of what it is that the proposal is for?

Tammie Keplinger, Planning said no ma'am, this is a conventional request so they are not required to submit a site plan or tell us of the use.

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-076 by Charlotte Mecklenburg Planning Commission for the above rezoning as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 436-437.

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ITEM NO. ORDINANCE NO 5218-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 60 ACRES GENERALLY SURROUNDED BY WILKINSON BOULEVARD, MARSHALL DRIVE, SHORELINE DRIVE, I-85 AND VIRGINIA CIRCLE FROM R-3 AND B-2 TO I-2.

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-078 by Charlotte Douglas International Airport for the above rezoning as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 438 -439.

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HEARINGS

ITEM NO. 19: HEARING ON PETITION NO. 2013-024 BY CAMBRIDGE-DAVIS LAKE, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 16.56 ACRES LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF WEST W. T. HARRIS BOULEVARD AND DAVIS LAKE PARKWAY FROM CC TO CC SPA.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this petition is located on W. T. Harris Boulevard at Davis Lake Parkway. It is actually an existing shopping center. You can see the future land use map shows the shopping center in red; some adjacent properties are zoned multifamily and this is mixed us, but it is a multifamily district. We've had some rezoning to the north most recently for an Alzheimer's unit. The property that we are talking about is an existing shopping center; it was rezoned in 1996 and at that time it was for office, conditional and commercial center as part of a 41-acre shopping center development. It allowed up to 332,000 square feet of retail on four outparcels. One of the items that we have is a 100-foot buffer along W. T. Harris Boulevard. The property we are talking about is shown within this blue area. Within the past year the property owner has gone to NC-DOT and they have acquired approximately 6 tents of an acre of land that was left over right-of-way from W. T. Harris Boulevard. With that land they have included it in what they are now calling parcel 6 and they now have a piece of property that is developable. The proposed request will allow a 15,000 square foot building within the building envelope that is shown that removes the 100-foot buffer along W. T. Harris Boulevard and allows a 14-foot setback. The parking will be located in this area with a screening wall and I will show you what the screening wall will look like in just a minute. There will be a planting strip and sidewalk along W. T. Harris Boulevard. It was a 40-foot landscape buffer along Davis Lake Parkway and the petitioner is proposing to reduce it to 20-feet just for this portion of the site. It

is a commercial center site plan amendment; adds the right-of-way to the project and a 15,000 square foot parcel 6.

This is the brick wall that will be in front of the parking area along W. T. Harris Boulevard. There are plantings on the opposite side of the wall and this is the elevation that you will see from T. W. Harris Boulevard. Staff recommends approval of this petition upon the resolution of outstanding issues. It is consistent with the Northeast District Plan recommendation for retail uses; it is a minor increase to the existing shopping center and all of the outstanding issues are technical in nature.

George Maloomian, 831 East Morehead Street said we've met with staff and made an attempt to address a number of the comments that they have given us, mostly with the setbacks. One of the things that we have discussed with them is the preservation of trees. This was a very interesting parcel because I walked it with Councilmember Barnes and we stood on the corner to look at trees and where the development would occur and then also talked quite extensively with Councilwoman Fallon because she lives up the street in the Davis Lake Community. Then I learned that Councilmember Mitchell is the actual District Rep for this area so I have three District Reps to account for, which is okay. We have done a very detailed tree survey and what you see in red are the trees that we can preserve here and have done grading plans and retaining walls along Davis Lake Parkway. There are about 61 trees that can be saved all around this property with what we've done. We have extensive landscaping; we are going to make one change from the 20-foot setback on Davis Lake Parkway. If you go up the entire shopping center it is 40-feet along Davis Lake Parkway and I feel it will be very inconsistent to drop down to 20-feet on the corner so what you see in this plan and in the landscape plan that I have just presented is a 40-foot setback which is consistent all the way up and down Davis Lake Parkway. We are asking for a 14-foot setback on Harris Boulevard and elimination of the sidewalk, in return for which the 14-foot setback would not only be a setback, but also a tree preservation area such that there would be no disturbance of trees in that area. This allowed us to increase the number of existing mature trees that we can preserve along Davis Lake Parkway. A large number of the 61 trees are along Davis Lake Parkway.

In addition we have agreed to plant 4-inch caliber maturing street trees on Davis Lake Parkway and along Harris Boulevard and those are presented there as well. We have done a mock-up of what this would look like. This is a view from the corner. The building is basically showing walls that are for building frontage lines if you will, but all those trees are placed exactly according to the tree survey that we did by an engineer/landscape planner. You see the trees in the middle of the road; those are existing trees and anyone that has driven up and down Davis Lake Parkway can testify to the canopy of trees that is there. This is the view coming W. T. Harris Boulevard.

Mayor Kinsey said Mr. Barnes or Ms. Fallon since you have been out there do you have any questions or comments?

Councilmember Fallon said all I can tell you is we worked on this for about 3 ½ years and it is something very important to the community because we don't have what will have go there within a very large distance, it sort of finishes off our shopping area there. They have been so cooperative and we've worked for hours on this and it is a very big asset to that area and the community.

Councilmember Barnes said I wanted to ask about the precedent setting nature of clearing within that right-of-way along Harris Boulevard. As you travel east into my district one of the battles I've had for years is people wanting to eliminate the buffer and build out much closer to Harris Boulevard than currently is allowed. We are contemplating making an exception here and Mr. Maloomian have walked it on more than one occasion as I recall and talked about the buffer. I wanted to hear from you Ms. Keplinger regarding the precedent setting nature of supporting one petition that does in fact begin to clear out the buffer.

Ms. Keplinger said this piece of property is located in an area where we have already had some of the 100-foot buffer deviated from. There is a building next door to it that, I'm sure it is not 14-feet off the right-of-way, but it is fairly close; it does not have the 100-foot buffer. We felt

that as this property develops and with the adjacent property on the other side of Davis Lake Road, the building are pulled a little closer to the street and we felt this was an appropriate deviation. We are still going to be maintaining the 100-foot buffer for the property that is outside of parcel 6 on the site so everywhere the main part of the grocery center is, there will be a 100-foot buffer there. We are getting the enhanced streetscape and the preservation of many of the trees like Mr. Maloomian said.

Mr. Barnes said we are almost talking about different places. There isn't a building beside this; there is a holding detention pond.

Ms. Keplinger said I'm sorry, beside the entire site if you head west on W. T. Harris right behind the center there is another.

Mr. Barnes said there is or used to be U-Store behind it.

Ms. Keplinger said that is a little bit closer; it doesn't meet the 100-foot setback in that area and as you travel on further west the buildings come a little bit closer to the street so we felt this was helping this center become more of an urban center as a typical suburban center.

Mr. Barnes said what about the precedent setting nature of it traveling east, in other words back into my district?

Ms. Keplinger said most of the property that we have traveling east; we have several additional shopping centers and several apartments and most of those properties are built out. I think we will have to look at those each on an individual basis if they come in for rezoning to see what their site plan offers. I think this is a special case and we look at it on a case by case situation.

Ms. Fallon said if you go down the street east there is a development and there is an AAA Shop which is right on the street so the precedent has been set already.

Mr. Barnes said where are you talking about?

Ms. Fallon said going down W. T. Harris on the left, the Worthington Development, it is right on the street so the precedent was set already.

Ms. Barnes said it is not on the street but I understand.

Ms. Fallon said AAA is.

Mr. Barnes said no it is not.

Ms. Fallon said doesn't have a 14-foot buffer. If it has 6-feet it is a lot.

Mr. Barnes said it is a lot more than 6 feet.

Mayor Kinsey said we are not sure what it is but I have a question regarding the trees. The last picture – some of the trees were shadowed, are those the ones that you are going to plant?

Mr. Maloomian said there is about 55 existing trees on Harris Boulevard; there are a few bare spots as you get to the western portion of it so we are supplementing that with 4-inch caliber trees and they are shaded in gray so we could differentiate them.

Mayor Kinsey said that is what I wondered; I thought maybe that was it.

Motion was made by Councilmember Barnes, seconded by Councilmember Mayfield, and carried unanimously, to close the public hearing.
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Council's decision was deferred pending a recommendation from the Zoning Committee.

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ITEM NO. 21: HEARING ON PETITION NO. 2013-072 BY AVENTINE DEVELOPMENT, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.94 ACRES LOCATED AT THE INTERSECTION OF EASTFIELD ROAD AND PROSPERITY CHURCH ROAD FROM R-3 TO NS.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said Mayor I need to remind the Council of the special election rules regarding this petition. Staff is speaking in opposition and we are not recommending approval of this petition in its current form. With the North Carolina State Election Laws that means that this petition cannot go to Decision until December 16th so the decision on this petition will not be made at your November meeting.

Councilmember Barnes said say that again.

Ms. Keplinger said North Carolina State Law says that if anyone speaks against a rezoning petition at a public hearing basically in October then the decision cannot be made until after the new Council takes seat in December. After talking with our attorney today, because staff is not recommending approval we are actually speaking in opposition so that would mean that this petition does not qualify for decision in November and will be deferred until December.

Mr. Barnes said I guess what threw me off on that is that we are not hearing petitions in November anyway.

Ms. Keplinger said we have decisions in November; we don't have hearings in November.

Mr. Barnes said an additional issues; I've spoken with and met with the petitioner on this petition on a few occasions and I don't know if he had planned to attend to night, but I know there are some outstanding issues Mayor and Council, that he was hoping to address and I'm wondering whether if we defer it to December for the hearing itself then we would have a decision in January?

Ms. Keplinger said yes sir.

Ms. Barnes said no-one is here from his company; is that correct as far as you know?

Ms. Keplinger said I'm not sure.

Mr. Barnes said no-one is saying anything so I will assume not. I know he is really working hard and has spent a good bit of money trying to figure out how to do this the right way and I'd like him at least to have the opportunity to come down here and share his story with you all.

Mayor Kinsey said he was aware of the hearing so I'm a little surprised that he is not here.

Councilmember Howard said she is saying the law says he couldn't do it tonight anyway because staff is against it so it kicks it over to December.

Mayor Kinsey said no, the hearing is tonight.

Ms. Keplinger said you can have the hearing tonight but the decision cannot be in November. The decision will be in December.

Mr. Howard said so you are advocating that we still close the public hearing tonight.?

Mr. Barnes said actually I was advocating a deferral to December. There is a lot of work to be done and you are right Mayor I'm surprised that he isn't here. He lives in California.

Mayor Kinsey said Ms. Keplinger is he aware that the decision would be made in December?

Ms. Keplinger said my staff made a call to the petitioner today to make them aware. We just got the ruling from the Attorney today. I'm not sure if they spoke with him.

Mayor Kinsey said the reason I'm asking is it would only be one month later if we deferred the hearing until December, then we could have the decision in January. It is only one month later and I'm wondering if that would be a real problem for him.

Ms. Keplinger said I wish I could answer that, but I cannot.

Mr. Barnes said he did not ask me to defer I don't know what his business situation is so let's move on with the hearing.

Mayor Kinsey said with the decision in December with the new Council.

Ms. Keplinger said now that I have confused you all; this petition is located at Eastfield Road and Prosperity Church Road. You can see a lot of yellow in this area; that is the residential. This is multifamily residential and this is institutional use. We do have mixed use on the opposite corner from the proposed petition. The site contains a single family home currently. The request is to rezone from single family residential, R-3 to Neighborhood Services NS. The petitioner has agreed to eliminate convenience stores with gasoline sales, automobile service stations, pet crematoriums, funeral homes, night clubs, bars and lounges. All other uses within the NS district would be permitted. They are asking for 67,100 square feet; there are limitations on the building materials and the architectural features. They are showing three buildings currently with three drive-thru service windows. They have a 3-foot screening wall of plantings around the plantings around the parking at Prosperity and Eastfield, a public plaza. They also have a 30-foot landscape buffer. There is an existing wall that meanders along this property line and part of it is actually on the property and part of it is on the adjacent residential properties. The petitioner is going to work with those adjacent residential homeowners and hopefully incorporate that wall, improve it and incorporate it into his buffer. There is a proposed private street; this is required by the subdivision ordinance.

I want to show you what the proposal and approved proposal for the other side of Eastfield Road is. This is what Huntersville has approved and here is Eastfield Road and Prosperity Church Road. The purpose of showing you this is to show you how the buildings are fronting on Eastfield Road. One of our comments on this petition is that we would like for these buildings to front on Eastfield Road to give a sense of place that is cohesive and complimentary to what the Town of Huntersville already has approved. In terms of this petition staff is not currently recommending it in its current form. The land use is consistent with the draft Prosperity-Hucks Area Plan; it is inconsistent with the North District Plan. What we are suggesting at this point is that modifications are needed to establish that pedestrian connectivity and enhancement that we would like for this site and also to establish the urban building edge along Eastfield Road as has been done for Huntersville.

Motion was made by Councilmember Howard, seconded by Councilmember Mayfield, and carried unanimously, to close the public hearing.
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Council's decision was deferred pending a recommendation from the Zoning Committee.

ITEM NO. 23: HEARING ON PETITION NO. 2013-080 BY LIGHTWAY PROPERTIES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.7 ACRES LOCATED ON THE NORTH SIDE OF BALLANTYNE COMMONS PARKWAY BETWEEN ANNALEXA LANE AND PROVIDENCE PROMENADE DRIVE NORTH FROM O-1(CD) TO UR-2 AND UR-2(CD).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said the Council has seen this several times since 2008. The property is located in the purple area; we have single family residential, multifamily residential and commercial surrounding the site. The property has been graded and is vacant. In 2008 we had a rezoning that allowed single family homes and 27 townhomes were approved for the site. In 2010 we had another rezoning on this site for 32,000 square feet of medical office and financial institutions. The request today is from the office conditional district to the urban residential and urban residential conditional. It is for the approval of 53 townhomes that will be attached. There are multiple architectural conditions; the buildings will be limited to 40-feet in height. You can see the proposed site plan; there is a 7-foot masonry wall around the parameter of the site. They have 10-foot to 12-foot tall evergreens to the western side of the property to help shield the adjacent residential. There is a single family neighborhood that backs up to the back that will have a 35-foot rear yard with a 24-foot buffer. The development is proposed to be gated and there is a pond that will be located in the center. This is an elevation of what the proposed gates and wall portions of the site will look like. Staff is recommending approval of this petition upon the resolution of outstanding issues. It is inconsistent with the Providence Road/I-485 Plan that was updated by the 2010 rezoning which allowed the medical office and financial institutions on the site, but the plan prior to 2010 the 2008 case recommended the single family residential so the proposed use is compatible with the surrounding residential uses. All of the outstanding issues are technical in nature.

Councilmember Dulin said is there anybody here from the Berkley Neighborhood or from the petitioner. Mr. Cooksey is home ill tonight but I had a conversation with him on the phone and he stressed to me and asked me to pass on to anybody from your group our important it is. He wanted me to congratulate you, the petitioner on working with the Berkley Neighborhood and how important that was to him for you to work with them and for them to be happy on this particular petition. He thinks they have been kicked around a lot on these other rezonings and I've been sitting here and have been through all these rezonings with them. He appreciates you working with them and please keep that up so we can pass your project next month.

Mayor Kinsey said we appreciate it too.

Rick McCorkle, 7512 Polyantha Rose Circle said all I really want to point out tonight is that the site plan that Ms. Keplinger just showed you, we did add the additional access to Ballantyne Commons Parkway with a gate on it as well just to be consistent with the new ordinance that came out that we weren't aware of. That is why the original plans didn't show that, but other than that everything else has been addressed and I just wanted to bring this to your attention tonight because it was not on the site plan. It is just something we just came to terms with about 2 or 3 weeks ago with C-DOT. They wanted me to take the wall out and put that access in there but we kept the wall and the gate and put the access in.

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. 24: HEARING ON PETITION NO. 2013-081 BY JOANNA ANDRINOPOULOS FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.45 ACRES LOCATED ON THE WEST SIDE OF SOUTH BOULEVARD BETWEEN EAST KINGSTON AVENUE AND EAST BOULEVARD FORM B-1 TO MUDD(O).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said as you can see from the future land use map the subject property is located right in the middle of a lot of property that is scheduled for TOD development. The site currently has a building with parking in front and to the side and to the rear. In 1989 the property was rezoned as a part of an effort of the South Boulevard Special Project Plan and rezoned from general industrial to neighborhood business along with several of the neighboring properties. The request tonight is to reuse and expand the existing building in a

more urban form. The request is for a mixed use development district with several optionals. The optionals will allow the parking and maneuvering between the building and the setback and also eliminate the screening for the parking along all property lines except the South Boulevard frontage. The rezoning request is consistent with the South End Transit Station Area Plan; the building is currently about 3,300 square feet; they are proposing an additional 1,300 square feet. They are adding a pedestrian plaza between the building and the street frontage. This is the South Boulevard elevations with the decks; this will be the East Boulevard elevation. Staff is recommending approval upon resolution of the outstanding issues. It is consistent with the South End Transit Station Area Plan and is located within ¼ mile walk of the East/West Boulevard Station and the outstanding issues are technical in nature.

Councilmember Howard said Tammie, why the MUDD-O? I know that you put a lot of restrictions on it, but that is one of the most liberal classifications we have.

Ms. Keplinger said it is still a conditional district and they have to comply with the site plan, but because the site is already developed sometimes we have difficulty fitting these sites into the TOD District whereas TOD would be our preferred district; they needed less optional request with the MUDD.

Mr. Howard said so in our options for TOD we don't cover the same things that they could do?

Ms. Keplinger said they would need more options so we felt like the MUDD was the better district to go with.

Mr. Howard said while we are reviewing TOD is that something we can review? It just seems like this reminds me of the one out on I-485 where we used MUDD just because it is the most liberal classifications, but it is just inappropriate in some places. Some kind of way so it is consistent with everything else around it would be nice.

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard, and carried unanimously, to close the public hearing.
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Council's decision was deferred pending a recommendation from the Zoning Committee.

ITEM NO. 25: HEARING ON PETITION NO. 2013-082 BY GRUBB PROPERTIES, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 7.95 ACRES LOCATED ON THE WEST SIDE OF SHARON ROAD BETWEEN MORROCROFT LANE AND SHARON TOWNSHIP LANE FROM MUDD(O) TO MUDD(O) SPA.

The scheduled public hearing was held on the subject property.

Mayor Kinsey said we have speakers both for and against on this petition which means the decision on this petition will be made in December.

Tammie Keplinger, Planning said this petition is located at Sharon Road and Colony Road and as you can see from the future land use map we have residential surrounding it and mixed use development. One of our most recent rezoning was along Colony Road for Grubb Properties to develop for multifamily. This site is currently developed with some apartments that have been there for a number of years. There was a rezoning in 2004 for the 7.95 tract which allowed mixed use development of multifamily, office, retail and a 150 room motel. It also allowed 195 residential units and a 10,000 square foot fitness center. That was modified in 2009 to allow the conversion of the undeveloped residential to Continuing Care Retirement Units and/or beds. It also increased the square footage of the fitness center; it added ground floor retail and increased the maximum height for a portion of the building. The request that is before us tonight is to modify this portion of the property, the 7.95 acres, and it is referred to as tract 3. It is a mixed use developed site plan amendment; it increases the number of residential units from 195 to 398. There is an option to convert units to Continuing Care Retirement Units just as there was in the previous rezoning. The units are for lease or for sale; there is an allowance for 25,000 square feet

of retail that can be increased for up to 35,000 square feet of retail if residential units are not constructed. There is a range of building heights based on the proximity to Morrocroft Village which is the adjacent residential property. There are 2-story units along the property line with the single family and we have a 5-story building in the middle; 10-story buildings on the side; the front along where the retail will be is 6-story and then 12-story in the center. I will show you what this looks like in elevation view; if you are looking from this angle viewing the back of the property; looking from Morrocroft Village, you would have this type of view, the lower 2-story buildings, then your 5-story, the 10-story and then the 12-story. This view is from the street view where you would see the 6-story building and then the 10-story and the 12-story. In terms of this request, staff is recommending approval upon the resolution of the outstanding issues.

Councilmember Howard said I just want to make sure I know what is new, so what is approved is now from what I can see; is the whole thing approved already and they are making tweaks?

Ms. Keplinger said yes sir, they are making some tweaks. The building footprint will all be the same; the 2-story will be the same; the number of buildings and the height will be the same. What is changing is the internal components. What is changing is the increase in the units from 195 to 398 and that is an internal change; they will not have additional square footage added to the site; it will just be an internal change.

Mr. Howard said they are changing from one to two or something?

Ms. Keplinger said yes, something along that nature. I'm not sure what they make-up is.

Mr. Howard said the same square footage? What does that do with parking?

Ms. Keplinger said they still have to comply with the parking and the parking for the site I believe is going to be under the buildings. As you can see there is not enough room on the site. They also have some parking on this site and they have parking agreements with both facilities. The request is consistent with the South Park Small Area Plan; it provides a buffer, height transition and gradual intensification of the uses away from the Village of Morrocroft. The outstanding issues are technical in nature and staff is recommending approval.

Collin Brown, 214 North Tryon Street said I'm here on behalf of Grubb Properties and I'm joined tonight by Todd Williams and Allison Metcalf if you have questions for them. Mr. Howard you asked an excellent question and it is something that I want to reiterate. The architectural renderings that you see; as Ms. Keplinger mentioned this originally came through a rezoning in 2004 and in 2009 my colleague Bailey Patrick came through and rezoned this again for most of the entitlements that are in place now. At that time he negotiated for months with the adjoining property owners to figure out the heights of those buildings and what they would look like. All of the site plans that were shown were components of that 2009 rezoning. The buildings the elevations, all of those were agreed in 2009. In those days you might recall that condominiums were very hot so one of the main permitted uses on this site was 198 condominiums, additionally it also allowed for Continuing Care Retirement Center which would have 298 independent living units as well as 66 assisted living units so there could be 364 units. That is what is allowed now and in addition there is about 50,000 square feet of commercial that is allowed. That is what is currently allowed.

Grubb Properties as you all probably all know and have heard, multifamily is very much in demand now and this is an excellent location. Grubb would like the ability to work within the framework that you see here. The heights, the site plan, those elevations; they would like to be able to use those units instead for multifamily rental units so that will give them the option going forward to do multifamily rental, to do the CCR if the market demanded that or to do the condominiums if that is what the market called for. That is the purpose of our request today; to allow that multifamily for rent component. If we go forward with that, that is reducing the allowable commercial square footage by about 25,000 square feet. The impact of that is it keeps the traffic neutral. If this zoning is approved basically the trips that would be generated will be about the same because of the significant reduction in commercial square footage.

I understand there are some speakers tonight and I won't speak for Mr. Campbell who I believe is speaking for the condominium owners, but I will tell you what I understand the main issue to

be. We have not heard a lot of feedback from the community, no real concerns over the new uses. There are a lot of folks as Tammie mentioned there is existing multifamily apartment development that has been there for over 30 years and a lot of folks are happy to see that redeveloped. I have not heard a lot of negative feedback about the uses. I think everyone is comfortable with the architecture that was approved in 2009. The question is about the traffic impact and as I have mentioned our traffic engineers are indicating the traffic would be neutral and what has come up and I think what you will hear about tonight is in this location here, during the 2009 zoning this was limited to right in/right out. There is a median in Sharon Road. What we heard when meeting with neighbors, mostly the folks on Morrocroft Lane, they said what happens is when people come down Sharon Road they can't make a left into your site if they've missed it, so they come past the median and then do a U-turn in our street and come back. The Morrocroft Lane neighbors had told us they had been negatively impacted by that and could we look at a full or a left turn full motion here. This all happened during the zoning process. As we talked with C-DOT Mike Davis said we could look at it and this might be an appropriate location for a traffic signal. When the Grubb team heard that they said that is something we are interested in looking into and that is where we are now. Our traffic engineers are evaluating that, whether it can be done within the existing right-of-way; we don't want to have to take land from across the street; whether we can make this fit and then how that is financed. The Grubb team is very interested in this; we added that to our zoning request to give us the ability to add that signal that we think would be a real benefit to this project, to the existing retail and to the residents of Morrison so we think it is a positive. We put it in at this point and again this is not something that was in the package from the beginning, it is something that came up through this process and we are still evaluating it so at this point we do not have a commitment to build the signal. Our commitment right now is we would like to be able to evaluate it and we would like to be able to do it if we can make it work. I think what you will hear from the neighbors; my understanding is they have said we are okay with the project, but we think the signal must be a component. We are not quite to the point where we can make that commitment; we are still evaluating that.

The other thing I want to mention that is not included in our revised plan, but is another commitment we've made, there is a specific commitment of how this buffer along Morrocroft Lane will be buffered and planted. The residents of the Morrocroft Apartments saw that note and they said would you be willing to carry that commitment across our buffer here so Grubb has made that commitment to do the additional plantings in this area here and that will be submitted on our revised plan. We've indicated to them that we will do that. In a nutshell, just once again the site plan is not changing, the architectural is not changing; we are seeking to change what can be done within that property to really allow the for rent component and in doing that there would be a cutting in half the allowable commercial and the open question that we are continuing to evaluate is this traffic signal which we think would be a real positive for us and for the neighbors.

Donald Campbell, 721 Governor Morrison Street said I'm Secretary of the 721 Morrison Condominium Association. We represent about 100 property owners within 100 feet of this new project. We filed a position paper that I'm pretty much going to follow and it should be in the materials that you have. Our main concern as neighbors to this new project is that we see a rather glaring traffic problem that needs to be addressed and we think this is the appropriate time to address it. Looking at the one slide I have, the top of the slide is the north heading towards downtown; the intersection of Colony Road and Sharon Road is a very busy intersection this new project will be built upon. The buildings in black are the existing or soon to be completed Morrison Complex buildings. There are about 450 apartment and condo units; there is 150,000 square feet of retail and the number 1,000 I have there is that there are approximately 1,000 inhabitants of that little corner of Sharon Road and Colony Road at any given time either residents, shoppers, restaurant patrons or whatever. That is about 10 acres of property on the corner. Right above it to the north is the new development and I'm making a guess as to those buildings, but they will have about 400 apartment units, 25,000 square feet of retail space so roughly again another 1,000 inhabitants of that 8 acres to the north. Putting the two together in that 18 acres sometime in 2016 there will be about 2,000 people squeezed into that little corner or Sharon Road and Colony Road. The issue that we wanted to call to the attention of Council is that at the present time none of those 2,000 inhabitants can turn left onto Sharon Road. They can turn right; none of them can turn left and that is a problem. To turn left you can see the little arrows point that the 1,000 new residents and the 1,000 current residents have to win their way down and around through these private roads of the Morrison complex down to the corner where there is a

traffic light at Roxborough and Colony; that is where they turn left, go up Colony to the traffic light at Colony and Sharon and then finally they can turn left on Sharon Road. Two thousand people will be following that path if they desire to turn left. It is true there are a number of people who will turn right onto Sharon Road, go down the street a ways find a place to do a U-turn and find their way to turn left in that manner.

What we are asking Council to consider is adding to this project a requirement that the new development have a traffic light governing traffic onto Sharon Road; a traffic light that would prevent left turns, right turns and alleviate what we think is a very serious problem. Also we think this is the time to do it when this construction is going to take place; if they are going to put an additional traffic light on Sharon Road, this is the time.

Mr. Brown said I don't know that this is rebuttal any more than that was opposition. We have met with Mr. Campbell and we think it would be a great thing for that site to have a light. We've talked with Mr. Dulin a couple of times and he has gone out there and personally paced it to figure out if it is too close to the intersection. We had asked for the ability to do the signal; we are not at the point where we can commit to do the signal, we've just got to figure out where everything fits; whether it fits within that right-of-way and whether it can be done; relocating all the utilities and also there is a factor of cost because there are a lot of things that need to change and we really think this is a real benefit, not only to this project, but to the existing retail. I think the Grubb team is evaluating many different options right now. I know there is some time before the decision and we hope to have that information ironed out in the near future.

Councilmember Mayfield said I want to make sure that we are not going to run into one of the concerns that I'm noticing over in the Steele Creek area as far as traffic mitigation for those that do not have private forms of transportation being able to safely cross if they are having to use public transportation, but also looking at what the impact for seniors will be that may be in this facility, mainly trying to make sure that we are taking into consideration at the very beginning the safety concerns that may show up based on the amount of traffic that is coming in. I definitely want to make sure that we are really listening to outside of a light where we are putting the crosswalks, making sure that it is accessible and looking at the speed limits. Have there been conversations because Mr. Autry and I were just looking at the numbers and saw how there is a reduction which I'm not really understanding how there is a reduction in the traffic flow, but I want to make sure we are taking it into consideration where the possible impact can be.

Ms. Keplinger said I actually believe this is a question that C-DOT probably should address for you and I would refer over to Mike Davis.

Mike Davis, C-DOT said I think there are two questions in there, one is to account for the trips and two is how to insure safe crossings of Sharon Road. As you will see in your Staff Analysis there is a reference to the trip generation actually going down and what that is comparing is what could be done under the existing approved zoning which is different than what has been built. Yes, the trips will actually go down compared to what they could do by right today under the existing CD Plan and that mostly has to do with having made some exchanges for commercial rights compared to what they are gaining in residential. There is also a little bit less trip generation for rental compared to for sale multifamily so that is why that is going down, but again it is new trips on the road compared to what is there today and so our bottom line is that we do think the project does work better with a signal for all the reasons that have been mentioned here tonight, so it is access in and out of the site and also because there are transit routes on Sharon Road and signalized crossings would probably be a more effective crossing for Sharon Road than crossing at a median.

Ms. Mayfield said so what you are saying is that you are already looking at signalized crosswalks to insure safety?

Mr. Davis said that is right. We've reached out to the petitioner to see if they would be interested in that as a feature in this project. Again it is a little unusual because what they are proposing has less impact than what they can do already today. We think there are benefits to the project to include it and that is why we reached out to see if that is something we could get done.

Ms. Mayfield said so we've reached out; is there a receptiveness regarding including that signalized crossing?

Mr. Brown said absolutely. We think it is a positive. The question is whether we can do it in that right-of-way without adjusting curbs. We have Foxcroft across the street from us and they said we think a signal is great as long as you are not moving it in our backyard. The Grubb Company no longer owns the retail segment anymore so now we'd have to negotiate with them to get the room to expand this. Mike is correct, our conversation started early, we think it is a positive and it was very intentional when we came in with this petition to reduce our commercial enough so that it would be traffic neutral. We know that is the most sensitive thing out there.

We did not think a light would be an option and I think they would love to have had a light when this thing came in in 2009, but we didn't know it was an option and now that it is we are evaluating to see if we can fit that light in the parameters that are established.

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

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

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ITEM NO. 26: HEARING ON PETITION NO. 2013-083 BY DILWORTH CENTER FOR A CHANGE IN ZONING FOR APPROXIMATELY .50 ACRES LOCATED ON THE WEST SIDE OF PARK ROAD ACROSS FROM CHARLOTTE DRIVE FROM B-1(CD) TO B-1(CD) SPA.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said the property is shown right in the middle of your screen. It appears to be land locked parcel and it has been a parcel of land for many, many years. In 1984 it was rezoned for neighborhood business and office to neighborhood business conditional to allow retail that included clothing, gift shops, photography, art, catering, flowers and office uses. The request today is for neighborhood business conditional site plan amendment. The existing building is 4,600 square feet; the proposed addition is 4,400 square feet. The uses will be limited only to office and accessory uses. Ms. Keplinger pointed out the existing buildings and where the proposed buildings will be. They have shared parking with the adjacent grocery store parking facility as many of the businesses in this area share. It is consistent with the Dilworth Land Use and Streetscape Plan. It allows office and associated accessory uses; the expansion and the exterior modifications will be in character with the existing building and outstanding issues are technical so staff is recommending approval upon the resolution of those issues.

John Friday, 118 East Kingston Avenue said I'm here to represent the petitioner, Dilworth Center. The reason we are here, in 1984 this was the entire submission for the rezoning at that time and it has a note on here that the existing structure to remain as is, which meant we couldn't do anything. That is really the purpose of being here with a site plan amendment, to allow the addition on the east side where it is really not seen even from the greenway side in the most hidden part we could put it. That is the purpose of asking for the rezoning.

Motion was made by Councilmember Barnes, 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. 28: HEARING ON PETITION NO. 2013-086 BY GRANDFATHER HOMES FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.61 ACRES LOCATED ON

THE WEST SIDE OF LITTLE HOPE ROAD BETWEEN MARSH ROAD AND PADDOCK CIRCLE FROM UR-1(CD) TO UR-1(CD) SPA.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this property is located off of Park Road and Marsh Road on Little Hope Road. You can see the green all around the site is for single family and multifamily residential at different densities. There are several blue spots for institutional uses. In 2006 the site was rezoned from single family residential to urban residential conditional. It allowed 13 single family homes and two duplexes. The elevations were of modern architecture. The request today is to allow 15 detached single family units so we are eliminating the two duplex units and to change the style from modern architecture to bungalow craftsman style homes. There have been a few modifications to the roads because of the changes in the architecture. There is some open space and there is fences and future connectivity. This is an example of some of the architecture that is proposed for the houses that will sit on this site. Staff is recommending approval of this request upon the resolution of the outstanding issues. It is consistent with the Park/Woodlawn Area Plan and reduces the density from 4.7 to 4.2 dwelling units per acre. The change in the architecture and the outstanding issues are technical in nature.

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

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

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ITEM NO. 29: HEARING ON PETITION NO. 2013-087 BY BEACON #30, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 20.47 ACRES LOCATED ON THE WEST SIDE OF TWIN LAKES PARKWAY BETWEEN VANCE DAVIS DRIVE AND STATESVILLE ROAD FROM BP TO I-1.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this property was part of a rezoning back in 1990 for 363 acres. It was rezoned to Business Park and General Industrial. The majority of the area has been developed and you can see from the future land use map we have industrial to the south; for this site and the adjacent sites to the east we have office and industrial and mixed use to the west. This is a conventional request from the BP Business Park zoning district to I-1, general industrial

It is consistent with the North Lake Area Plan which recommends office industrial to include warehousing and distribution land uses. The petitioner proposes to allow all the uses in the I-1 district and staff is recommending approval.

Collin Brown, 214 North Tryon Street said I'm here on behalf of Beacon #30, LLC and I'm joined by John Morris from Beacon and if you have any questions. I'm at little at a loss; I talked with Councilmember Mitchell on Friday and did not know that he was not going to be here tonight. Because this is not a conditional plan there is only so much information I can share with you. I will take my lead from Terrie on where those lines are. If you saw the aerial photo that was up, you will see this is an existing property; it has been developed and it is underway. I think I can tell you the tenant you see there has vacated the building and we are fortunate that Beacon has landed a new tenant. It was a major economic development announcement. The new tenant is a Fortune 500 Company and will really invigorate that space. For some reason most of the surrounding properties are zoned industrial already; this one just happened to have BP. As we went down the list there was really one use that we needed to be able to take advantage of that was allowed in the industrial district and therefore we are asking for an industrial zoning classification to accommodate that so that this can go forward.

Councilmember Barnes said I recognize that because it is not a CD that there are certain things we can't ask, but the petitioner could willingly volunteer anything he chooses to, correct?

Assistance City Attorney, Terrie Hagler-Gray, said no not with the straight up petition. There are limitations at the public hearing.

Mr. Barnes said even on what they can volunteer?

Ms. Gray said yes.

Mr. Brown said I'll send you an e-mail.

Mayor Kinsey said copy us all.

Councilmember Fallon said this is on the Statesville side of Twin Lakes, not Old Statesville? Twin Lakes goes all the way through and stretches from one road to the other.

Mr. Brown said John Morris is telling me you are correct. Before we close I'm sorry Mr. Mitchell is not here because he is one of the ones that I wanted to thank for his service on the Council. For those of you that I won't appear in front of again I really appreciate your service. I don't know how you guys do it so thanks for your service.

Motion was made by Councilmember Fallon, 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. 32: HEARING ON PETITION NO. 2013-088 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.60 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF SOUTH TRYON STREET AND EAST CARSON BOULEVARD FORM I-2 TO TOD-M.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said I believe Mayor Kinsey just gave my presentation. This is a conventional request from general industrial to transit oriented development, mixed use. It is consistent with the South End Transit Station Area Plan and staff is recommending approval.

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

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

ITEM NO. 33: HEARING ON PETITION NO. 2013-089 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 11.44 ACRES LOCATED ON THE NORTH SIDE OF NORTH TRYON STREET AND I-85 SERVICE ROAD, BETWEEN MACFARLANE BOULEVARD AND STETSON DRIVE FROM I-1 TO TOD-M.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a conventional request; it is consistent with the University City Area Plan. It is from light industrial to transit oriented development, mixed use and staff is recommending approval.

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

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

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MAYOR AND COUNCIL TOPICS

Councilmember Mayfield said I want to remind everyone again that Friday and Saturday, October 25th and 26th Wells Fargo will be hosting an event at the Convention Center from 10:00 a.m. to 7:00 p.m. to discuss how citizens can get access to the \$6.6 million grant and partner with Charlotte Housing Partnership, the City of Charlotte, Wells Fargo and House Charlotte.

Councilmember Dulin said I just want to bring this up to Council; this book is growing and that is a good thing and it shrank in 2008, 2009 and 2010 and it is starting to build back. The economy is coming back; people are starting to come out and starting to put money in capital at risk. I just want the Council to remember to be helpful and not hurtful as people come out and want to help grow our economy and grow our community. This is a good sign; we got down to where there were 12 zoning petitions month after month and now 34 zoning issues in our book for tonight. I'm thrilled to see it growing like that and you all are going to have a good time as it continues to grow.

Councilmember Howard said I just want to remind everybody about the bonds. We have \$290 million in bonds coming up November 5th for schools and then another \$210 million for CPCC. We know how important it is to keep expanding and growing and keeping up with the population and growth for our schools. We understand that CPCC is one of the leading institutions that help us with retooling citizens getting ready for the new jobs coming to the community so please support the bonds.

Councilmember Autry said I just want to take a privilege point here and say Happy Birthday Jude Alexander Levon Autry who is 1 year old today. If you haven't seen the latest photos just see me after the meeting.

Mr. Barnes said I was going to say something similar. John thank you, I want to say Happy Birthday to my boy who will be 7 years old tomorrow. He is still the apple of my eye; his sisters are too, but he was my first born so it is a little different. He is a great little boy and I love him; Happy Birthday.

Mr. Howard said my son turned 7 last week so Happy Birthday.

Mr. Dulin said no birthday, but I do want to say how many of us are going to be at the Habitat 30th Anniversary Build tomorrow. I'm excited about that and I've done a poor job of working on habitat houses; I've been there and done them before and should do three a year so I'm really excited about getting outside tomorrow and building a house. It is going to be a beautiful morning.

Ms. Mayfield said we are going to be doing the Habitat Build in Reid Park Neighborhood starting at 9:00 a.m. tomorrow morning. This is a week-long celebration of Habitat Build and the 30th anniversary of Habitat for Humanity. They also have in District 1 a house that is going to be unveiled this week-end and Saturday we will be having a parade in Reid Park. Anyone interested in throwing in some sweat equity please come out and join us. Mr. Dulin and I will be there with our hard hat and hammer as well as our Mayor who will be there to bring the welcome and greeting.

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CLOSED SESSION

Motion was made by Councilmember Barnes to go into Closed Session pursuant to NC GS Section 14.318.11(a) (3) to consult with Attorneys or employees retained by the City in order to preserve the Attorney/Client privilege and to consider and give instruction to the attorneys concerning the handling or settlement of the case of City of Charlotte vs the State of North Carolina and Charlotte Douglas International Airport Commission which is case #13CVS12678 in Mecklenburg County. Councilmember Fallon seconded the motion and the vote was recorded as unanimous.

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The meeting was recessed at 8:23 p.m.



Stephanie C. Kelly, City Clerk

Length of Meeting: 3 Hours, 8 Minutes
Minutes Completed: November 7, 2013