

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, November 18, 2013 at 5:18 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Patsy Kinsey presiding. Councilmembers present were John Autry, Michael Barnes, Patrick Cannon, Andy Dulin, Claire Fallon, David Howard, Billy Maddalon, LaWana Mayfield, and Beth Pickering.

Absent Until Noted: Warren Cooksey and James Mitchell.

Mayor Kinsey called the meeting to order and said Planning has a little bit they want to talk to us about. I will turn it over to Tammie Keplinger for her report.

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Review of Agenda

Tammie Keplinger said I have no report this evening. In terms of our Agenda Review, everything on your agenda is as is. We have no referrals; tonight is not a public hearing night it is only public decisions and it is only cases that are non-controversial. There are several of those on your agenda that you have heard the public hearings.

In your packet tonight is something that we used to do and we are starting up again. This is rezoning cases of special interest; a document to show you what we have coming up in the next few months that we are getting a lot of calls about and that we know about. On the first page you will see December and you will see the decisions; we have four decisions in December because we don't have hearings tonight. These are the ones that were controversial that got deferred to December last month. You will see some of the cases that we have scheduled for hearing in December. We started out with 26 rezoning cases for public hearing and we are down to 19. We may have additional cases that fly off this list between now and the City Council meeting, but we wanted to give you an update on these. Then for January we have 10 hearings scheduled right now. If you have any questions about these we will answer the questions that we can. You are probably getting a lot of calls about some of these so we wanted to give you a little bit of a heads up. You will see in the information there is a staff contact person; if you want to contact that staff person there is a person on my team that is assigned to that rezoning petition that has the most information. We have the Council districts with the current Councilmember and the Councilmember elect, the location, the description and any additional information that we thought was pertinent.

Councilmember Dulin said I think that is good information and a good working tool.

Ms. Keplinger said we plan to bring it to the Council every month.

Mr. Dulin said great, just as I leave.

Ms. Keplinger said that is all I have unless you have any questions.

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Area Plan status and Text Amendment Update

Debra Campbell, Planning Director I'm going to direct your attention to the matrix when this entire Text Amendment and Area Plan study update dated November 16, 2013. Essentially we provide you this on a monthly basis to give you an update on activities that your Planning Department is engaged in, particularly when we have a Citizen's Advisory Group on the way or where we are initiating a text amendment to the Zoning Ordinance. I'm not going to highlight everything or review everything because we do have another presentation we wanted to present to you as an update on one of the items in this matrix related to student housing and parking issues near colleges and universities so we will spend some time on that issue.

Just to remind you the highlight, the updates to these projects are highlighted in yellow so the only ones I will touch on are Item #2, Eating, Drinking, and Entertainment establishment text amendment. As you all know that text amendment was scheduled for an October hearing but it

was deferred until December so that will be coming to you on December 16th. We are continuing to work with citizens and business owners and one of the concerns regarding this text amendment is some recommended exemptions to allow for existing establishments that would not be non-conforming, but literally would be made illegal because they are currently restaurants and they have some relevant entertainment. We are recommending some exemptions to allow those uses to continue in their existing business modal and that has raised some concerns for some citizens and we are trying to work through those issues as we speak.

Item #4, the mobile grocery stores – We are going to file a text amendment to allow these uses and we are scheduled for a hearing in February on that text amendment.

Councilmember Dulin said something like #4 the mobile grocery stores, if that passes is that something that Council could say let's give it a year and then look back?

Ms. Campbell said this one is a little different certainly than the mobile food vendors.

Mr. Dulin said I know I'm still very nervous.

Ms. Campbell said I understand and we are equally as nervous that we make a clear distinction between a food vendor that prepares food on site and one that is mobile that actually sells non-perishable items. We are trying to make that distinction and we are trying not to redo the mobile food vendor text amendment but we quite understand having some concerns about that text amendment being a little too tight. The vendors and even some of the neighborhoods want a little bit more flexibility that we may have gone a little too far in terms of preventing these types of uses from locating in particularly some of the inner city neighborhoods.

Mr. Dulin said I'm sorry that confused me a little bit right there at the very end. The neighborhoods are complaining –

Ms. Campbell said we are going in the exact opposite direction than we were in.

Mr. Dulin said in other words we are beginning too strict; they want them in?

Ms. Campbell said right and you remember two or three years ago they wanted them out; now they want them back in and I think some of the issue has been about the duration of these uses, for example three years ago they would open at 8:00 a.m. and stay there until 2:00 or 3:00 a.m. and I think that caused some of the adverse reaction from the neighborhoods. Now that they have gotten a sense for if a mobile vendor actually abides by the rules and regulations it is not too bad of a neighbor to have on a temporary basis so we may want to go back in and look at that.

Mr. Dulin said on the mobile grocery stores, I won't be here when you all make that vote, but I would like to see you all say something along the lines let's look back and see how we are doing. The mobile grocery store, to be open, has to actually be parked somewhere, they are not going to be able to stroll a neighborhood like an ice cream truck?

Ms. Campbell said that is correct.

Mayor Kinsey said you mentioned non-perishable, does that mean they can't have fresh fruits and vegetables?

Ms. Campbell said they can. The distinction I was trying to make, and I probably didn't do this very well, is between food that is prepared on site. That is the difference between the mobile vendor and the mobile grocery store.

Mr. Dulin said they could have lettuce and stuff like that.

Mayor Kinsey said would they have dairy products?

Ms. Campbell said they could, like milk and eggs and that kind of thing.

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Mayor Kinsey said what about meat?
Ms. Campbell said we are still debating the meat.

Mayor Kinsey said I mean fresh or frozen, not canned?

Mr. Dulin said Span certainly.

Councilmember Fallon said part of the problem last time that it became a hang out if I recall and these will have hours?

Ms. Campbell said yes, they will have similar hours as a mobile food vendor and again the intent for these uses is to provide access to fresh produce. We have seen them work very successfully in many communities across the country and in fact I think mobile grocery stores have provably worked without as much opposition as the mobile food vendors.

Councilmember Mayfield said I think as we continue to have the conversation, the conversations are going above and beyond talking about meat and start talking about dairy. When I initially brought this before Council I gave very specific examples of very successful mobile grocery stores and also for my colleagues to remember when we first talked about it, it was really looking at fresh fruits and vegetables and those types of items and get them into areas that historically have not had a brick and mortar that were convenient so it is not this mobile vehicle, but it is a bus or another form of bus type transportation. It is not going to set at one location from 6:00 a.m. until 4:00 p.m. The whole purpose of it being mobile is it is going to have designated areas that it goes to so it is basically bringing the grocery store to the community. That is what the ultimate goal is because I know the first wording that came back there was confusion as far as what it was we were trying to do. This is not something to compete with the mobile food truck and compete with those that are cooking meals, this is strictly to address a need that we have where certain parts of the community do not have a grocery store within a 1 ½ miles, you don't have easy access, whether that is public transportation or personal transportation to get to the grocery store for some healthier food choices and this is a way to try to close that gap.

Ms. Campbell said we have to have those stationary for a certain period of time so people will know how to access them. They have to be there for at least an hour or two, but it is not going to be like the ice cream truck that just goes around.

Mayor Kinsey said I would have a little concern that these mobile food stores might charge more than the super markets. I hope that doesn't happen; I can understand they might have to do something there.

Ms. Campbell said we are working with a number of non-profits etc. so we can get a little bit more information to respond to exactly the issue that you raised. Also for these uses to be able to receive EBT (Electronic Benefits Transfer); there are lots of issues we've got to respond to in terms of the details of the transaction.

Councilmember Cannon said Debra I would say tread lightly on that because as I understand it they are going to be operating a business for convenience and sometimes people will pay extra for the convenience. I think we want to be conscious about that, but the market is whatever the market will bear and support, right?

Ms. Campbell said yes sir, and from a land use perspective we can only regulate how these uses, not necessarily from a transactional perspective but which district will they be allowed to develop in; what will be the development standards; are they going to be operating hours? Those are the things that the zoning ordinance can regulate.

Mr. Cannon said I'm interested in wanting to know the same question the Mayor has asked because I would like to see what the price points would be in comparison to the other grocery stores in and around the community, but it is a different kind of model.

Ms. Campbell said it is definitely a different kind of model and we have to be careful about the competition and the standards for a similar use running out of a permanent building and a
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structure and what type of standards do you create for the more permanent versus the ones that are mobile.

Mayor Kinsey said my concern about the cost is I thought or in the discussions we've really concentrated on those neighborhoods that don't have access to a decent grocery store and they tend to be a lower income neighborhood and they can ill afford even though it is convenient. I don't want to see somebody gouging them. That was my only concern.

Councilmember Maddalon said in the Economic Development Committee, there was some information that was supplied to us by the group that has promoted this sort of activity around the country to suggest that that won't happen. Of course every market is different and you don't know who will set up here and how much competition, which ultimately drive the price down. If there is one player than you are going to have higher costs, but that question was asked at the Economic Development level what we were told was that the operating costs for these types of vendors are very low; they don't have any fixed land costs; they don't have the property taxes; there is very little waste and spoilage because of the number of items that are being offered are fairly limited, so I think it is reasonably hopeful that the free market will do its job and keep prices low. As you rightly point out the market that we hope to benefit from this is a market that doesn't have the resources otherwise they would have a Harris Teeter, right.

Mayor Kinsey said I think it is exciting because as I grew up there was a watermelon truck and a fresh produce market on Central Avenue across from my house and it was great so I think it is a great idea.

Ms. Campbell said the only others I would bring to your attention is Item #8 which is Transit Oriented Development and a study that was related to a Council referral to look at the Transit Oriented Development district and work some refinements. We are working with some consultants to give some feedback. It is time for third party eye on our standards and that national perspective as well have provided some feedback and we happen to have our first session scheduled for December 11th with one of the consultants so we will be coming back with updates in that process. I'm sorry I said there were only two, but if you turn the page to Item #9, Multifamily Zoned Lane in City Council District 4. We have begun the process of implementing some corrective rezoning. We've had one property owner who initiated the process independent of us to request a new zoning and we are working with them on design and use etc. We've also contacted three other property owners related to this initiative and we will be working with them to file rezoning petitions before the end of the year and we will continue to work, not only on these rezonings that came out as a result of us looking at all multifamily zoned land in District 4 and identifying what properties we may want to consider for corrective rezoning. We are going to combine those with looking at the Blue Line Extension and Station Area Plans to see if there are additional rezonings to rezone to Transit Oriented Development at stations that we could combine with this initiative. We are well on our way to begin implementing the corrections and meeting and discussing these issues with the property owners. We sent out letters a week or so ago and actually haven't heard from any of the property owners yet and we are really surprised that we haven't had any response, but this may be something positive for us so we are looking forward to carrying those out.

Now I want to introduce from our staff Michelle Jones who is going to provide for you and update you on the student housing and parking issues near colleges and universities. Essentially we wanted to provide you with a presentation that we did with the Transportation and Planning Committee. This is an issue that was referred to that committee and we want to present to you what we presented to that committee in terms of our findings and our next steps related to these issues.

Michelle Jones, Planning said first I would like to thank Chief Baker and Betty Dossier, UNC Charlotte for being here tonight. They have been a huge part of our stakeholder process for the past year and we are really appreciative and really excited for what has come out of this process on their half. This product really came out of our Charlotte Mecklenburg Police Department as they are seeing a lot of crime increases around the Universities and also around UNC-C. What they recognized was that multifamily developments were leasing by the bedroom rather than by the unit. They brought these issues before the City Council. At the same time there were

concerns with parking related to multifamily around the University area so we decided to combine these into one project so the Citizen Advisory Group and the Stakeholders would look at this as sort of a two phase project. We kicked off our Citizen Advisory Group process in October of last year and we've been working since last year to study this issue. Our purpose statement really focused on regulating the ... and trying to minimize the impact of those leasing by the bedroom and the parking issue. We developed two different goals for the project, one related to housing and one related to parking. The housing goal was related to allowing choices while protecting the safety of our students which is really where this project came from. For parking it was to promote an environment that enhances pedestrian mobility and reduces the need for the parking of automobiles.

Regarding our schedule, we kicked off the Citizen Advisory Group in October of last year to start sending the rent by the bedroom development so in November through January we held a series of Citizen Advisory Group meetings. During that process some legal issues were brought forth from the group so we decided to take a setback and put the project on hold and work with our City Attorney's Office to try to work through the legal issues. We also wanted to make sure we were studying this holistically so we looked at all the other areas, colleges and universities to determine what their issues are and we really had a lot of the multifamily development that was leasing by the bedroom was centered around UNC-C but the students from all the universities are the ones living there so it was nice to get their perspective.

In September we took a number of recommendations to the Citizen Advisory Group and then came back to the Transportation and Planning Committee in October to update them. When we looked at our Zoning Ordinance what we found was that rent by the bedroom development does not really fall within any of our definitions that we currently have in the ordinance. It is definition for a dormitory that requires it to be associated with the University and in this case it was private development so there was no association with the University. It didn't fall within the definition of a boarding house and it didn't fall within the commercial rooming house. What we went back to was that it really falls within the definition of a multifamily dwelling because that doesn't deal with ownership.

Our former Zoning Administrator had a presentation that rent by the bedroom was not a permitted use under the zoning ordinance because it did not fall within any of those definitions. After studying this a little further with our Attorney we found that anything ... by the bedroom didn't change the nature of the use as a multifamily dwelling so again it really fell within the multifamily dwelling. We also discovered a court case that goes back to 1981 that zoning cannot regulate ownership. In this case a multifamily dwelling that is leasing by the unit and a multifamily dwelling that is leasing by the bedroom was one and the same as far as land use because they are both multifamily dwellings. What our Attorney advised us was that leasing arrangement controls the manner in which the property is owned and is beyond the scope of the zoning ordinance.

Another legal component came up through the process and this was brought forth from the Citizen Advisory Group and property manager was that of the National Fair Housing regulations and what we discovered is that these properties just do not only provide for the safety of the students, it was having an impact on families, therefore pushing them out of the units if we were to regulate it and limit to student only and our legal advice they didn't feel comfortable with us moving forward with that.

Councilmember Barnes said don't we have an ordinance that concerns the number of unrelated persons who live in a house?

Ms. Jones said we do.

Mr. Barnes said how does that ordinance escape the familiar status piece of that issue?

Assistant City Attorney, Terrie Hagler-Gray said my understanding is that if we include in our regulations a requirement that a landlord only rent to students that it may be not be the intent but it may be the impact that families are prohibited from renting in that particular residence and that would run afoul with the fair housing act. It would be the intent because the goal would be
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to try to protect the students and get them to live together but the impact may be on families and there is a protective status under the fair housing act for families.

Mr. Barnes said so you can have 50 people in a three-bedroom house as long as it is mom, dad and 48 kids. Now if it is mom and dad and 24 kids and they have 24 friends you are saying that is not legal.

Councilmembers Cooksey and Mitchell arrived at 5:40 and 5:45 p.m.

Ms. Hagler-Gray said I think you are referring to the definition of families.

Mr. Barnes said not just that but I'm just curious about how can ... like that if you are saying you can't attack people's familiar status in the housing.

Ms. Hagler-Gray said I think that comes to more use actually as a single family residential neighborhood and single family residential home and there is case law that talks about the ability for us as a city to limit the number of unrelated persons in that type of single family home. The fair housing act comes into play where there is a protected status as far as housing discrimination. The difference may be the multifamily versus the single family character of those distinctions.

Mr. Barnes said the Arcadia Development 29/49, they are continuing on their land site and as I understand it there is a development at 29 and 49 that is being planned as a student housing community and the site plan specifically says it cannot be used as rent by the room. They are busily clearing the site. I'm curious Ms. Campbell if you know what they are doing. I have heard that they are busy building a 700-bed apartment community that will be 3 to 4 bedrooms per unit.

Planning Director, Debra Campbell said I can't tell you specifically what they are doing but I can tell you is what they can't do. They can't do without a design; they cannot have rent by the room. The site plan notes specifically prohibits so in this particular case they are prohibited.

Mr. Barnes said I get that but what I'm concerned about is they will build it and then come in here next year and say look guys we've spent \$20 million, \$40 million building this thing and now we need a waiver. That is what they are going to do because if you look at their website; it is on the website. This is what we do; this is what we want to do.

Ms. Campbell said they have to get a rezoning.

Mr. Barnes said why? If they build it and they come in here a year from now and say you all give us a waiver or give us a rezoning after it is built is a really weird turn around. I'm tell you they are going to build that thing, 750 beds or so and they are going to come in here and say give us a waiver.

Laura Harmon, Planning said actually we've been pretty aware of this issue and we've suggested that in order to accomplish some other public policies with respect to road network that we need to know that their design preference; that legally they can't do it now and probably get it rent by the room, we suggested that they come in and go through a rezoning process and pursue that instead of us potentially being in a situation of a code enforcement if that is really not their intent to rent by the unit.

Mr. Barnes said maybe you know Betty, if you look at their website they talk about renting by the room without using those words, but that is the effect of what they want. I bet they have a sponsorship interest at the school. Have they talked to you all?

Betty Dauson, UNC-Charlotte said I haven't spoken with them but that doesn't mean that they have spoken with someone else.

Councilmember Howard said if everything Mr. Barnes said is correct why can't the Zoning Administrator go out now?

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Ms. Campbell said I just talked to the Attorney.

Ms. Hagler-Gray said that one of the issues that was raised with staff that zoning has limitations with respect to enforcing things on the front end; things that have not happened, so you may anticipate that they may rent by the room, but until they rent by the room zoning could not issue a notice of violation which is why we through having a zoning, even it were legal for zoning to regulate, it would be an enforcement issue. My understanding is that right now while they are in the process there is no check before someone actually builds something for them to determine whether they are going to rent by the room or rent by the unit because it is a private leasing arrangement that the landlord is engaging with the tenant. It has nothing to do with how the county would allow the building to be build or how the City would inspect the building. It is a leasing arrangement so in this particular case we know that they have prohibition against renting by the room. I don't know if you would be able to tell by the way the units are being developed that they intent to rent by the room. We are having conversations with them now and letting them know that you have this condition on your plan that doesn't allow you to rent by the room and hoping that they will comply with that. I think they have been encouraged to come in and rezone if they intend to lease by the bedroom because they would actually be in violation of the plan, not just zoning if we had that particular zoning. We can't regulate; we have to deal with the ... with this particular plan because they have self-imposed the prohibition on themselves.

Mr. Banes said their attorney, Richard Vinroot, has even told them that they can't do it.

Mr. Howard said so you say in contact with them; somebody on staff; what was their response?

Ms. Campbell said their response is that they know that they cannot rent by the room because their site plan specifically prohibits that. They are well aware.

Mr. Barnes said I say they are going to build them and then come in and say will you all give us a waiver?

Mayor Kinsey said Michelle does that finish the presentation?

Ms. Jones said there is a little more to the presentation. We will continue to work with our Advisory Group over the next 2 or 3 months to deal with the parking and transportation concerns that were brought forth. I have been working through this process this week and have been working very closely with UNC-Charlotte to develop and implement what they are calling the Niners' Sport Program that is geared for multifamily development around UNC-Charlotte. These are all multifamily developments not necessarily rent by the room, but this program has been designed where it can be used citywide at our other universities.

I will go through the overview real quickly. They have enhanced the security measures for all campus faculty and they feel this will improve relationships and communication between off campus properties, the University and the Police Department and really helps students and their families to make important housing decisions. It is a voluntary program for single family/multifamily community and the benefit will be that those communities will have advertising and marketing through the University on their off-campus housing website. There will be yearly inspections by a task force that will include representatives from the University as well as the Police Department and there are a number of standards. Most is on security features and the business practices of the development. The advantages to the program are that it directly addresses the crime issues that really brought this subject forward. It is a joint partnership between the Police Department, the UNC-Charlotte Police Department, and UNC Charlotte Dean of Student Office, designed for all students and doesn't limit it to just under graduate students. Because of the volunteer nature of the program the legal issues that we brought forth previously are not applicable and again it is adaptable to other areas and universities. They will kick this off in August of 2014 at the new school year. UNC-Charlotte will have contracts for participating property and there are incentives to include advertising marketing, yard signs and they will be the only properties that ... UNC-Charlotte housing fairs so it is really a big driver for these properties because that is how they get their students and get their properties leased. They will inspect at least 5% of the total units on a yearly basis to make sure the standards are being met and if anything comes about, they will be driven again by complaints.

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The Police Department and UNC-Charlotte will implement their Niner Choice Program and will also affect implementation at other colleges and universities as issues arise. The Planning staff will continue to work with the Citizen Advisory Group on the parking issues in the next few months and bring our recommendation release that back to the Transportation and Planning Committee at the first of the year.

Mr. Barnes said the parking piece is going to be huge because you've got large student developments being built within a mile or two of that campus and they all want 800 to 1,000 parking spaces and all the kids with cars is causing a lot of infrastructure pressure around UNC-C. I had a conversation with Ken Szymanski and some of his constituents a few weeks ago about it and of course they don't believe you should restrict or limit it, but I think they are open to some conversation but I hope we will continue to be mindful of what is happening around UNC-C particularly because it is the largest university in Charlotte.

The Dinner Briefing was recessed at 5:59 to move to the Council Chamber for the regularly scheduled Zoning Meeting.

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The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:02 with Mayor Patsy Kinsey presiding. Councilmembers present were John Autry, Michael Barnes, Patrick Cannon, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Billy Maddalon, LaWana Mayfield, James Mitchell and Beth Pickering.

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INVOCATION AND PLEDGE OF ALLEGIANCE

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

Mayor Kinsey said I'm going to make a deal with Council. We only have 11 items and they are all decisions and my deal with you is that if you will allow me to finish reading the Petition before making a motion I will read fast, but I think it is important that we know what we are voting on, however if you interrupt me I'm going to start over from the beginning.

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HISTORIC LANDMARKS

ITEM NO. 1: ORDINANCE NO. 5243-X DESIGNATING THE COHEN-FUMERO HOUSE AS A HISTORIC LANDMARK.

Mayor Kinsey said I want to make one comment on each of these and that is just to get into the record the amount of taxes that will be deferred on each of these properties. This one is for the City deferred taxes of \$339.81; the County \$591.38.

Motion was made by Councilmember Howard, seconded by Councilmember Cannon, and carried unanimously, to adopt the subject ordinance.

The ordinance is recorded in full in Ordinance Book 58, at Page 527-530.

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ITEM NO. 2: ORDINANCE NO. 5241-X DESIGNATING THE DEFIANCE SOCK MILLS AS A HISTORIC LANDMARK.

Mayor Kinsey said the tax deferrals are for the City \$3,378.39; for the County, \$5,879.57.

Motion was made by Councilmember Howard, seconded by Councilmember Howard and carried unanimously, to adopt the subject ordinance.

The ordinance is recorded in full in Ordinance Book 58, at Page 531-534.

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ITEM NO. 3: ORDINANCE NO. 5242-X DESIGNATING THE LOUISE COTTON MILL AS A HISTORIC LANDMARK.

Mayor Kinsey said the deferred taxes on this one is \$4,887.37 for the City; \$8,505.71 for the County.

Motion was made by Councilmember Cannon, seconded by Councilmember Howard, and carried unanimously, to adopt the subject ordinance.

The ordinance is recorded in full in Ordinance Book 58, at Page 535-538.

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DECISIONS

ITEM NO. 4: ORDINANCE NO. 5243-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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 (COMMERCIAL CENTER) TO CC SPA (COMMERCIAL CENTER, SITE PLAN AMENDMENT).

Motion was made by Councilmember Cannon, seconded by Councilmember Mayfield, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-024 by Cambridge-Davis Lake, LLC for the above zoning, as modified, and as recommended by the Zoning Committee.

The modifications are:

1. A note has been provided that building elevations and site plan will comply with section 11.405 (7) (a) (c) (d) (e).
2. The 100-foot setback along the frontage of W. T. Harris has been shown on the site plan.
3. Submitted an administrative request to modify and note that the existing outparcels not included in this petition, but covered under Petition 1996-009C, will be limited to the existing square footage built, except for the vacant outparcels. Also, provide a maximum square footage for the vacant outparcels.
4. Added a note stating a revised maximum square footage for the site covered by this petition. That square footage should equal the square footage from the 1996-009C petition less the square footage from the administrative approval.
5. Note has been added that the dumpster and loading areas will be screened with masonry walls and the materials will be the same used for the building.
6. An eight-foot planting strip and six-foot sidewalk along W. T. Harris Boulevard has been shown on the plan.
7. Staff has removed the request for the eight-foot planting strip and six-foot sidewalk along W. T. Harris Boulevard.
8. A note was added that a variance(s) may be requested for the sidewalk and doors along W. T. Harris Boulevard. If such variance(s) is requested, the tree save area may be eliminated only in area directly impacted by the sidewalk construction and sidewalk.

If such variance(s) are not granted, the petitioner/developer will install a 6-foot sidewalk with an 8-foot planting strip along the sites frontage on W. T. Harris Boulevard. In

addition, the building frontage along W. T. Harris Boulevard will contain doors in compliance with Section 11.405(7) (a) (c) (d) (e).

The ordinance is recorded in full in Ordinance Book 58, at Page 539-540.

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ITEM NO. 5: ORDINANCE NO. 5244-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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) (OFFICE CONDITIONAL) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL).

Motion was made by Councilmember Cooksey, seconded by Councilmember Barnes, to approve the Statement of Consistency and Petition No. 2013-080 by LightWay Properties, LLC for the above zoning, as modified, and as recommended by the Zoning Committee.
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The vote was recorded as follows:

YEAS: Councilmembers Barnes, Cannon, Cooksey, Dulin, Fallon, Howard, Maddalon, Mayfield, Mitchell and Pickering.
NAYS: Councilmember Autry.

The modifications are:

1. Addressed Solid Waste Services comments as follows:
 - a. Showed and labeled the on-site location for garbage recycling and bulky item collection, as required per section 12.403 for the City of Charlotte Zoning Ordinance.
2. Addressed Transportation comments as follows:
 - a. The existing access that traverses tax parcel 22511253 will be constructed as a private street. This connection will be made by converting the existing westernmost private drive into a private street that will be extended to Ballantyne Commons Parkway, which will be restricted to right-in/right-out via the installation of a raised concrete median at the petitioner's cost. The driveway will be configured so that maneuvering associated with the gated entry is prevented in the setback and right-of-way.
 - b. The existing access easement that traverses tax parcel 22511253 will be constructed as a private street.
 - c. The driveway and gate design will be determined and approved by NCDOT/CDOT during the construction permit process. (This will address sight distances triangles and tapering of pavement edge to allow a planting strip, and tie in of sidewalk at a location that matches the existing sidewalk located on tax parcel 22535348).
 - d. Amended Note 5 (1) under Transportation to indicate that streets are private and not built to public street standards.
 - e. Added a note that the new sidewalk along Ballantyne Commons Parkway will tie into the existing sidewalk at a location that matches the existing sidewalk located on tax parcel 22535248.
3. Broke up the masonry wall section with pedestrian gate along Ballantyne Commons Parkway with iron fenestration and wood panel inserts between brick or stone columns and landscaping along the frontage. The main masonry wall along Ballantyne Commons Parkway will be six to seven feet in height with access and pedestrian gates and connecting sidewalks. The wall will have planting along the side of Ballantyne Commons Parkway consisting of evergreen pencil plants and evergreen vines to provide future wall covering. The wall is located entirely behind the site line along Ballantyne Commons Parkway and, in part, at least six feet behind the sidewalk.

4. Showed and committed to provision of a right-in/right-out gated access point on Ballantyne Commons Parkway.
5. Committed that evergreen plant material will be provided on abutting tax parcel 22535248 along the petitioner's masonry wall in areas located that are agreeable both to the owner and petitioner. Transportation/relocation/removal of existing trees along the masonry wall side of tax parcel 22535248 may be sought to properly place new planting.
6. Committed that rear elevations of the townhome along the west and north property boundaries will be two-story units with no roof dormers and the exterior finish will be brick veneer.

The ordinance is recorded in full in Ordinance Book 58, at Page 541-542.

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ITEM NO. 6: ORDINANCE NO. 5245-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.45 ACRES LOCATED ON THE WEST SIDE OF SOUTH BOULEVARD BETWEEN EAST KINGSTON AVENUE AND EAST BOULEVARD FROM B-1 (NEIGHBORHOOD BUSINESS) TO MUDD-O (MIXED USE DEVELOPMENT DISTRICT, OPTIONAL).

Motion was made by Councilmember Mayfield, seconded by Councilmember Cannon, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-081 by Joanna Andrinopoulos for the above zoning change as modified and as recommended by the Zoning Committee.

The modifications are:

1. Clarified how the exit drive onto South Boulevard aligns with the existing tree planters.
2. Provided a method to prevent vehicles on the southernmost parking spaces from pulling forward and turning the wrong way.
3. Eliminated Note 1 under "Lighting."
4. Eliminated Note 1 under "Signage."
5. Modified note under "Lighting: to read "All outdoor lighting shall utilize full cut-off, downwardly shielded lighting fixtures and detached lighting fixtures will be limited to 25 feet in height."
6. Addressed CDOT issue by noting that refuse pick-up would be limited to non-business hours.

The ordinance is recorded in full in Ordinance Book 58, at Page 543-544.

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ITEM NO. 7: ORDINANCE NO. 5246-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.50 ACRES LOCATED ON THE WEST SIDE OF PARK ROAD ACROSS FROM CHARLOTTE DRIVE FROM B-1(CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL) TO B-1(CD) SPA (NEIGHBORHOOD BUSINESS, CONDITIONAL, SITE PLAN AMENDMENT).

Motion was made by Councilmember Maddalon, seconded by Councilmember Barnes, and carried unanimously, to approve the Statement of Consistency, and Petition No. 2013-083 by Dilworth Center, as modified, and as recommended by the Zoning Committee.

The modifications are:

1. The petitioner has addressed Transportation comment by removing Transportation Note 3.b.2 regarding additional sidewalks required for egress as this is a minimum ordinance requirement that will be addressed at permit.

The ordinance is recorded in full in Ordinance Book 58, at Page 545-546.

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ITEM NO. 8: ORDINANCE NO. 5247-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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) (URBAN RESIDENTIAL, CONDITIONAL) TO UR-1(CD) SPA (URBAN RESIDENTIAL, CONDITIONAL, SITE PLAN AMENDMENT).

Motion was made by Councilmember Maddalon, seconded by Councilmember Cannon, to approve the Statement of Consistency and Petition No. 2013-086 by Grandfather Homes for the above rezoning, as modified, and as recommended by the Zoning Committee.
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Councilmember Maddalon said there has been some concern expressed by community members and for those Councilmembers who aren't familiar with this community, it was originally planned as a community of modern homes, modern architecture, very distinct in that respect. These homes that we are approving tonight would be traditional homes, bungalows. The staff has worked very hard and so has the Zoning Committee to make it work. I'm supportive of it; I do think that we all should be aware that this will be a material change to the nature of this community and it has created some heartache and I think reasonably so for some long-term members of this community who moved into the community wanting a particular optic and now that is getting ready to change. I do think it is in the long-term best interest of the community and Charlotte to do this, but I also want to make sure that these community concerns are being heard in front of each of you.

Councilmember Cannon said how drastic of a change material wise?

Mr. Maddalon said the materials, as I understand it, are going to be essentially the same as the materials that are in use currently. It is mostly an aesthetic and architectural deviation from the past. The materials are the same.

The vote was taken on the motion and was recorded as unanimously.

The modifications are:

1. The required six-foot sidewalk and eight-foot planting strip along Little Hope Road frontage is now shown on the site plan.
2. The proposed fence at boundary lines shared with 3416 Little Hope Road will be constructed of wood.
3. The petitioner agreed to limit the homes on Lots 1 and 15 to 1-1/2 story structures.
4. The petitioner agreed to install a wooden privacy fence between 3416 Little Hope Road and Lot 1.
5. The petitioner agreed to incorporate historical findings into the development by naming streets and development after historical persons or items. The petitioner will work with current residents to determine the names. All street names will comply with the street naming policies of the city.

The ordinance is recorded in full in Ordinance Book 58, at page 547-548.

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ITEM NO. 9: ORDINANCE NO. 5248-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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 (BUSINESS PARK) TO I-1 (LIGHT INDUSTRIAL).

Motion was made by Councilmember Mitchell, seconded by Councilmember Howard, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-087 by Beacon #30, LLC for the above zoning change as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book No. 58, at Page 549-550.

ITEM NO. 10: ORDINANCE NO. 5249-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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 FROM I-2 (GENERAL INDUSTRIAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT- MIXED USE).

Motion was made by Councilmember Mayfield, seconded by Councilmember Howard, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-088 by Charlotte Mecklenburg Planning Department for the above change in zoning as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book No. 58, at Page 551-552.

ITEM NO. 11: ORDINANCE NO. 5250-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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(LIGHT INDUSTRIAL) TO TOD-M, (TRANSITED ORIENTED DEVELOPMENT – MIXED USE).

Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-089 by Charlotte Mecklenburg Planning Department for the above zoning change as recommended by the Zoning Committee.

The ordinance is recorded in full in Ordinance Book 58, at Page 553-554.

MAYOR AND COUNCIL TOPICS

Tammie Keplinger, Planning said on behalf of the Planning Department, I would like to thank Mr. Maddalon, Mr. Cooksey, Mr. Mitchell, Mr. Dulin, and Ms. Pickering for your service to the City and for that you have done to help us through many of these rezoning cases throughout your tenure with the City. We would also like to invite you to continue to watch us on the third Monday of each month, and I know that you will be there doing that. Also I would like to offer congratulations to all of you that will be returning and get to stay with us on the third Monday night each month.

mpl

Mayor Kinsey said thank you, very nice.

Councilmember Dulin said this is a non-zoning matter but it was in our write-up on Wednesday about the street car extension and how we are going to go ahead and start pushing forward with that. I don't need the answers to this tonight; I gave Mr. Carlee a heads up that I was going to ask these questions, but if I don't ask them now I'm not going to ever have a chance so I need to ask these questions. Our write-up says that we are going to go head, even though we didn't get the grant money from the Feds; we have \$63 million out of somewhere and we ask for \$63 million from the Feds, we didn't get the Fed money so our \$63 million that I really was never told or understood where that \$63 million is coming from. I would like a recap of that please. Our write-up says that the City is getting ready to tap into as much as \$12 million of that \$63 million to continue the work anyway. I would like a recap of where the \$63 million is coming from. In the early times of our debates on the street car I was very concerned that the cannery lines were going to be run through Trade and Tryon and it was going to junk up the square of our city. I was told by many, many people that that wouldn't happen because the new street car cars will have battery power and detach from the lines at it goes up Tryon Street and through the square on battery power and then reattach to the line after it passes the square. I'm going to hold folks to that because junking up Trade and Tryon with those lines I don't think is acceptable but confirmation from staff and supporting Councilmembers that the wires will not run through the square at Trade and Tryon as they start this planning. The citizens need to know if those wires are going through Trade and Tryon as we move forward. Then the cost of one single street car vehicle with a battery power that would go through the square; I think the citizens need to know that those cars are going to be close to \$6 million because of the technology with the batteries.

City Manager Ron Carlee said I will be happy to respond to Council on each of those questions.

Mr. Dulin said in the Dinner Meeting next Monday night would be fine.

Mr. Carlee said that will be fine with us.

The meeting was adjourned at 6:18 p.m.



Stephanie C. Kelly, City Clerk

Length of Meeting: 1 Hour
Minutes Completed: December 2, 2013