

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, December 16, 2013 at 5:13 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Patrick Cannon presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Claire Fallon, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

ABSENT UNTIL NOTED: Councilmembers Ed Driggs and David Howard

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Mayor Cannon called the meeting to order and said we've got a lot of speakers so I want us to be conscious about the time on which we take on each one of these items tonight. I know there are some that are protested, so be cognizant of that. To get us started I'm going to ask Debra Campbell if she would come forward because this is the first time that new members of the body will be in this type of session with our Zoning Committee and Debra, I would like for you to talk about the process a little bit so it is not alien to the new members so they can get in the flow accordingly as we move forward with our meeting at 6:00.

Planning Director, Debra Campbell said I will cover this really fast because we were fortunate enough to provide the orientation for the new members but we thought it would be good as a reminder to talk to you a little bit about what is going to happen tonight. The Dinner Meeting is generally our time to provide you with updates on cases or changes that have been made. We provide you with a lot of paper, but this will be the last meeting that we will be inundating you with paper because we are going to the E-Agenda so we will be reducing paper next month, except for those who want paper, we will provide you with paper, but those who want it electronically we will be providing that to you electronically. We will be going over and updating you on the cases, we will talk to you also about things that have been withdrawn; as well as upcoming zoning cases that may be contentious. That is an upcoming case that will come to you in January or February if we know of them. We will also provide you with information on; and this will be in with the pocket that you have; it is a matrix entitled Text Amendment Area Plan and Study Update. What this does is not only keep you abreast of rezoning cases but it is our opportunity also to provide you with area plan initiatives. The things that are highlighted in yellow are the items that we have added additional information from last month so you will have a way to track planning initiatives in general. These are efforts where we have a Citizen's Advisory Group that has been formed and we provide this information hopefully so you are better able to track whether an initiative is underway; you can also be responsive to questions that may be asked.

Councilmember Driggs arrived at 5:16 p.m.

Ms. Campbell said we also give you a staff resource so if you are not able to respond you have the opportunity to give them information from this matrix with regards to the staff resource. We also can give you an opportunity to ask us any questions you may have about the zoning cases within the legal parameters of what we can discuss. We can't have a public hearing in a dinner meeting. We can only go so far in terms of discussing issues related to those cases going to hearing. For the decisions we cannot rehear them, so if there are technical questions or questions of clarification we are more than happy to respond to those, but we have to be very careful on how far we go into discussion. Our Attorney will remind us of where that line is. That is Terri Hagler-Gray who supports us from staff respective related to the zoning process. Once we leave here we will go out and that is when the real fun begins and as you saw from the Agenda and from the Speaker's List we have a lot of controversial rezoning cases that are either up for a decision or for a hearing. The decisions will come first. The hearings that were held last month or previous months will be decided first and then we will move into the hearing portion of the meeting.

We have a group of kids that are visiting us from the Greater Enrichment Program and we have kind of adopted this class. I think they are in the 6th grade and we wanted them to have the full experience of planning and you can't be a planner without having gone through a rezoning hearing so they will be here for a few minutes at the beginning of the meeting, then they will go home and get ready for bed. If there are no questions I will turn it over to Tammie.

Mayor Pro Tem Barnes said are there any questions from anybody?

Tammie Keplinger, Planning said we have a lot of paper tonight so I'm going to direct you to your Dinner Meeting Agenda.

Councilmember Liles said which agenda are we talking about?

Ms. Keplinger said it is a one pager and this is the latest and the greatest information on what is going to happen tonight so we are going to review this and go through it. You also have a copy of a small agenda. On Friday we did send out a Council/Manager Memo regarding some errors that were in the agenda that have now been corrected in this agenda.

Councilmember Howard arrived at 5:20 p.m.

Ms. Keplinger said first, Item No. 3, Petition 2013-072; Aventine Development, Inc. When it got to the Zoning Committee the petitioner had requested a withdrawal of this petition so the Zoning Committee recommended a withdrawal. After the Zoning Committee meeting the Petitioner came back and said we want to send this back to the Zoning Committee instead of having it withdrawn. So the request for Council tonight, instead of the withdrawal they want it to be sent back to the Zoning Committee for the January 6 meeting.

Mayor Pro Tem Barnes said what are they going to do differently?

Ms. Keplinger said we don't know that. We have not received a revised site plan and it should be arriving in the next little bit or by Friday actually, in time for the meeting on the 6th. What I understand is they are going to be reducing their overall development right and that the property owner is now working with it instead of somebody that is going to purchase the property.

Item No. 4, Petition No. 2013-082 for Grubb Properties. This is a decision for tonight and there is a Protest Petition on it which is insufficient. I'm sorry your paper says it is sufficient, but it is insufficient.

Item No. 5, Petition No. 2013-017 for NCDG, LLC this is for a hearing on property at Little Rock Road and Tuckaseegee Road and the petitioner is asking for a one month deferral.

Item No. 6, Petition No. 2013-069 for the Ryland Group, Inc.; this is a hearing tonight and there is a sufficient protest petition.

Item No. 7, Petition No. 2013-071; The Presbyterian Home of Charlotte, Inc. which is Sharon Towers, this is a hearing and there is a sufficient protest petition.

Item No. 10, Petition No. 2013-091 for Shea Anniston, LLC. This is a hearing tonight with a sufficient protest petition.

Item No. 13, Petition No. 2013-095 for Charlotte-Mecklenburg Housing Partnership, this is a hearing and there are several protest petitions that have been submitted and we are still determining whether they are sufficient or not and we will have that information for Council by the time the decision is being reviewed.

Item No. 20, 21 and 23 are all Text Amendments that staff has asked for either a 3 month or 2 month deferral, noted accordingly on your paper.

That is it for the changes for tonight. One of the things that we like to provide Council with is another piece of paper and is Rezoning Cases of Special Interest. Tonight you have four decisions and you have 15 public hearings; 14 now. In January you have 10 public hearings and in February you 22. That is the coming months for our agenda. You also have a report and we talked about that at our new Council orientation for those that are new. We talked about the Community Meetings that were qualified petitioners and how many people attended the Community Meeting.

Councilmember Phipps said this list does not include the ones that are being deferred and are going to go to subsequent months?

Ms. Keplinger said this list is just ones that are of significant interest that we felt you would probably be getting calls about. Also in your agenda you have a revised staff analysis for Petition No. 2013-095 which is the rezoning case for the Charlotte Mecklenburg Housing Partnership. When we sent out the Council/Manager memo on Friday we noted that there had been a mistake in the density calculation. The petition was submitted; they have two acreage calculations and one included part of Weddington Road and that was not part of their property so we had to back that out and staff did not realize that. When we did the density calculations we were coming up with 9.68 dwelling units per acre and it is actually 10.37 dwelling units per acre. A very small difference and it didn't increase the number of units; it is simply because of the land area. The petitioner had been out in the community telling the community 10.37 units so we wanted to clarify that. During the public hearing I will clarify that just for the public.

Mayor Cannon said are there any questions from Council regarding any of the items on tonight's agenda, decision or hearings?

Ms. Campbell said I do have some additional information on the students. They are in the Greater Enrichment Program; 6th graders from Ashley Park Elementary School. We've been working with them for six weeks.

The Matrix is Text Amendment, Area Plan and Study Update and we have the new items highlighted in yellow. Again this is our opportunity to keep you abreast of some major initiatives that have a fairly significant amount of public involvement and those that we may be getting some phone calls about. That is really why we do this so we can make sure that we keep you all informed and abreast of things that current properties are engaged in. The first one is the Pedestrian Overlay District. We have been working with a Citizens group; we have found some things within the language of the text of our current Zoning Ordinance where some citizens feel we are calculating residential density differently than they think it should be calculated. We are working through some of those issues with our Citizens Advisory Group, with property owners and with developers to make sure that we clarify language. You will likely see what we call a Text Amendment; that is an amendment to the Zoning Ordinance, the text of the Zoning Ordinance and that should be coming to you in a couple of months. We have not determined when that hearing will come because we are still working with the public input process.

I'm not going to go through this entire Matrix; I'm just going to highlight some of the key ones. The Mayor looked at me like, Oh, Debra Please, so I won't do that to you all. I do want to focus on those where there is a little bit of concern from citizens. The next item is the Eating, Drinking and Entertainment Establishment Text Amendment, better known as nightclubs, bars and lounges. We are recommending a change to the current definition of these type uses; some of the separation standards for these type uses. We have deferred this Text Amendment twice. The first one was deferred from the October 21st meeting then December 16th and now we are deferring to February 17th. We are still working through a few concerns that some neighborhoods have but we think we are going to get to a point where we can bring this Text Amendment to you with minimal opposition which is what our goal is.

Mayor Cannon said good work on that; that has been a very long time trying to get to where you are. Thanks for continuing to work with all that are involved, residents and industry.

Ms. Campbell said the next one is on Page 2. We have two items related to mobile things; mobile grocery stores and mobile food trucks. The mobile grocery store is a new concept for our community. We are planning to have a public hearing for a Text Amendment to come to Council in February. We've been working with a Citizen Advisory Group and people from the industry. In January we hopefully finalize the language so it can go to hearing in February. Mobile food truck is currently within our Zoning Ordinance. We have had extensive amount of concern expressed by the operators, neighborhood groups, business owners and everybody has a different opinion. Some people feel our changes that we made about 3 years ago were really good and others feel we went too far. We are convening a group and right now we are starting with staff to look at the existing ordinance to see if there are changes that need to be made. I

think everybody loves the concept of mobile food trucks, just not in my neighborhood so we are trying to balance and manage how we amend and change the ordinance.

The other one that I will present to you is the Transit Oriented Development Study which actually goes with the multifamily zoning in Council District 4. I apologize but I'm going to ask you all to pick up another piece of paper which says District 4 Multifamily & Blue Line Extension Corrective Rezoning. From time to time we will do an assessment, an analysis or a study and we will find that the vision for the area is inconsistent with how the current zoning is in order to continue to implement that vision. Because within our Zoning Ordinance there is something called Third Party Initiated Rezoning; so a municipality can initiate rezoning so we as staff can file a petition for property that we don't own obviously, and we would be doing it as a result of trying to achieve a vision for an area. The piece of paper that you have is trying to reap a number of initiatives that we have underway in the northeast portion of our community. One is what we call a District 4 Multifamily Assessment which was an analysis which was done for just District 4 related to the amount of multifamily development that is currently developed, currently zoned and/or planned in the area so we have a number of units that are projected in the future as well. We not only did this for District 4, but we did it for all districts, but in terms of recommendations we only looked at these for District 4. That was one project, then we have the Blue Line Extension and our Station Area Plans that we have done for the corridor, including the South Corridor. The Northeast Corridor is the Blue Line Extension so we have looked at how do we at the Station Areas recommend changes to the existing plan that will be consistent with the vision for the area Blue Line Station Area Planning process. What we have before you is a schedule of a number of initiatives that we have underway in trying to give you a schedule and scope and timeframe for those individual initiatives but they all fall within the Northeast area.

In the first one of District 4 Multifamily Corrective Rezoning; from our assessment we came up with about 7 properties that we think need to be rezoned. We wanted to give you kind of a status report of the four that we've notified the property owners; we have a date for a public hearing and in fact one of those, the individual property owner has initiated the rezoning for that property, but it was a part of our assessment. The Blue Line Station Area Corrective Rezoning you can see a schedule for North Tryon Station, University City Stations and also the South Corridor Stations. Those are the stations again for the Blue Line; the Northeast is the Blue Line Extension. You can see we have a schedule for filing those rezoning petitions both for the North Tryon Stations; those will come first then the University City Stations which are being coordinated with the Area Plan Process that we currently have underway and then the South Corridor Stations. The reason that I give you this is because I wanted you to think of our efforts not about one rezoning petition for an Auto Mall as a station. I wanted you to think of it in a very comprehensive holistic way. It is the way that staff was trying to present this information and to look at the corridor. So that is that and I will be happy to answer any questions.

Councilmember Mayfield said when we are looking at the South Corridor Station; SouthEnd is doing an amazing but from Woodlawn on down there needs to be a little bit more energy. Is that the area that we will be looking at as we go past June 2014?

Ms. Campbell said we will and may look at the SouthEnd area as well. We've got to look at this from two perspectives; one is quantity and SouthEnd is doing that, but the other issue with SouthEnd is quality. We've still got to make sure that we get the best quality development for SouthEnd so we will actually be looking at changing some of the standards related to the districts where we are getting a lot of more urban type development. For Woodlawn we've got to look at how do we encourage more development that is transit friendly. We also have to realize that there is just so much of a market for this type of development and strategically where should we be trying to make sure that it occurs and at what stations.

Mr. Phipps said would it be a safe statement to make; have we always been looking at, as far as our global vision as opposed to looking at it as unavailable rezoning? Hasn't that always been our approach?

Ms. Campbell said it certainly has always been our approach and when I emphasize looking at it holistically is there are so many different things going on in the Northeast right now. We have the actual construction of the light rail facility; we've got collective rezonings that were part of a

District 4 assessment; we've got Transit Oriented Development; we've got individual rezoning cases potentially coming through; we've got a Station Area Plan Development process so we wanted to make sure that you all understood that we were looking at this as one big project, not run-offs. Although there are individual distinct activities that are occurring, we are looking at them holistically.

Councilmember Driggs said you made reference to the Auto Mall; are you suggesting that proposal ties into the vision that you said in the area; that it anticipates some of the changes you want to make?

Ms. Campbell said we would suggest to you that it is a development that we feel that the way it is recommended; how it is designed; the infrastructure that it brings to this area; the location being at I-85 and University City Boulevard that yes, it is consistent with the existing adopted plan.

Mr. Mayor I know there is a petition I sent you all an e-mail message about a hologram. I don't know if you have had the opportunity to look at it.

Mayor Cannon said if you have not seen it go next door; it is really something to see.

The Dinner Briefing was recessed at 5:43 to move to the Council Chamber for the regularly scheduled Zoning meeting.

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ZONING MEETING

The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:02 p.m. with Mayor Patrick Cannon presiding. Councilmember present were Al Austin, John Autry, Michael Barnes, Ed Driggs, Claire Fallon, David Howard, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kinney Smith.

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INVOCATION AND PLEDGE

Councilmember Barnes gave the invocation. The 6th Graders from Ashley Park Elementary School led the Pledge of Allegiance to the Flag.

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Mayor Cannon explained the Zoning meeting Process and asked Tracy Dodson, Chair of the Zoning Committee to introduce the Zoning Committee Members.

Tracy Dodson, Chair of the Zoning Committee, introduced the Zoning Committee and said they will meet on Monday, January 6, 2014 at 9:00 a.m. in the Government Center to make recommendations on the public hearings they hear tonight.

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DEFERRALS

Mayor Cannon said they have a number of deferrals; Item No. 3, Petition 2013-072; Item No. 5, Petition No. 2013-017 deferred to January; Item No. 20, Petition 2012-090 deferred to March; Item No.21, Petition No. 2013-026 and Item No. 23, Petition No. 2013-090 deferred to February.

Motion was made by Councilmember Barnes, seconded by Councilmember Liles and carried unanimously, to defer the above items as stated.

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DECISIONS

ITEM NO. 1: ORDINANCE NO. 5269-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 39.06 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF I-85 AND UNIVERSITY CITY BOULEVARD ACROSS FROM IKEA BOULEVARD FROM CC (COMMERCIAL CENTER) TO B2-(CD) (GENERAL BUSINESS, CONDITIONAL).

Motion was made by Councilmember Autry, seconded by Councilmember Liles, to approve the Statement of Consistency and Petition No. 2013-052 by Arden Group for the above zoning change as modified and as recommended by the Zoning Committee.

Councilmember Phipps said originally I had some trepidation over land use on the site due to its close proximity to the North Tryon Station stop. After many discussions and reviewing the efforts of many I have come to realize and appreciate the tremendous potential we have to do three things: Number one, to relocate several auto dealerships from the North Tryon Corridor to the Auto Mall site; number 2 to leverage significant infrastructure improvements and street connections that will facilitate more transit oriented development, oriented closer to where the trains will be running on North Tryon and finally work with property owners and developers along the North Tryon Corridor to secure appropriate transit friendly mixed use and residential zoning that supports the vision we have. For these reasons I respectfully ask my colleagues to join me in approving this petition.

Councilmember Barnes said I wanted to clarify if I could Ms. Keplinger, something that we had talked about when this petition originally was presented to us and that concerns the number of dealerships. Mr. Phipps and I talked about this; initially the petitioner wanted five dealerships there; we had a discussion about three and I think we arrived at a total of four and four would be what is indicated on the site plan in terms of the layout. I want to make sure that the site plan notes actually say no more than four used or new car dealerships.

Tammie Keplinger, Planning said the wording on that is that it will be up to four and those dealerships may include any associated or manufacturers, for example when we have dealerships that carry more than one brand that they may also have more than one brand at that dealership.

Mr. Barnes said can you tell me where that note is about the number? I had this discussion with the petitioner, but I haven't found it.

Ms. Keplinger said I do not believe it is in the notes in your agenda because it is not a modification note, but it is something that is on the site plan.

Councilmember Autry said I have been involved in several intense discussions about this proposal for this use of this land at this particular place in proximity to a transit station and I have found that by working with both sides that I was able to come to a determination that this indeed is the best use for this land right here, right now for this purpose. I would urge my colleagues to also support this petition.

Senior Assistant City Attorney, Terri Hagler-Gray said I just want to make sure the motion included the Statement of Consistency.

The vote to approve the Statement of Consistency and Petition No. 2013-052 was recorded as unanimous.

The modifications are:

Ikea Boulevard & Site Connectivity

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1. Eliminated inventory parking areas between IKEA Boulevard and the property line (within Duke Power Easement).
2. Added notes under heading of Streetscape, Landscaping, Buffers and Common Plaza to require the following: (a) IKEA Boulevard right-of-way streetscape will include large maturing trees planted on both sides of the street, staggered on either side of the sidewalk and 10-foot sidewalk/trail located within and outside the right-of-way; (b) the 20-foot setback will landscaped; (c) low accent walls will be provided at the private street entrance from IKEA Boulevard; (d) a common plaza area with pedestrian amenities will be located at the private street entrance from IKEA Boulevard; (e) the southwest and southeast corners of City Boulevard and IKEA Boulevard will be designed to create a sense of entry that retains and may add to the existing monumentation.
3. Amended Note 5 under Streetscape, Landscaping, Buffers and Common Plaza heading to state the following: "An easement will be granted and a sidewalk connection will be constructed at the end of Stetson Drive, which will connect to the corner of IKEA Boulevard and City Boulevard. This connection must be made prior to the issuance of the certificate of occupancy."
4. Provided a graphic of the intersection of City Boulevard and IKEA Boulevard.
5. Provide a street cross-section for IKEA Boulevard.
6. Provided a layout of the plaza area along IDEA Boulevard.

Pedestrian/Multi-modal Connectivity

7. Added note requiring MacFarlane Boulevard to be built and extended to connect to the east-west private street and/or the east-west private street shall be aligned to connect to the existing portion of MacFarlane Boulevard.

Building Placement and Architectural Design

8. Provide a broader explanation of the Architectural Design Guidelines that categorizes Primary and Secondary Building materials and frontages. Added qualifications for the use of allowable building materials, and percentage of requirements for materials that frontages (categorized by Primary and Secondary). Provided definitions, examples and illustrations along with visual conceptual vignettes.
9. Added decorative/architecturally finished concrete masonry units (CMU) as an allowable building material.
10. Listed concrete masonry units (CMU) without architecturally or decorative finish, and "stamp type" brick and stone finishing as provided exterior building materials.
11. Required buildings to extend the full length of the building frontage.
12. Required a building base to be provided that shall be maintained through material transitions and building articulation.
13. Addressed massing and scale by requiring facades to be designed to reduce the mass, scale and uniform monolithic appearance of large unadorned walls, while providing visual interest. Large building facades shall be divided into distinct massing elements, and a room line more than 90 feet in length shall include a change in height that must align with the vertical building bays.
14. Added note requiring building façade along the frontages to provide a two-story appearance to define the street edge.
15. Required building service areas to be screened from view with a minimum 5-foot tall masonry wall that is designed to match and complement the building architecture of adjacent buildings.
16. Amended Note 2(d) to state (d) In Areas A, C and D, accessory customer parking, accessory inventory parking areas, freestanding structures for accessory uses and plazas and outdoor activity may be located within the building envelopes provided that a principal structure is also located within the building envelope. For Area B, the building envelope standards and conditions only apply should a building be located within the development area. Development Area B may contain only inventory parking without a building."
17. Defined "service areas."

Other

18. Amended note 5(g) to state that the existing monumentation will remain but may be added to, provided it will comply with the ordinance.

19. Agreed to preservation of the 50-foot Natural Buffer and 50-foot Landscape Buffer as stipulated in Belgate Rezoning Petition 2008-59.
20. Addressed Urban Forestry comments by stating that the site will comply with the Tree Ordinance.
21. Amended Site Development data to list automotive sales and repair excluding tractor trucks and accompanying trailer units as allowed within the B-2 (general business) district as the principal use.
22. Listed accessory uses that may be included.
23. Specified that Development Area B may contain inventory parking, with or without a building.
24. Specified that the site may be developed with up to 275,000 square feet of building area. No single building may exceed 75,000 square feet.
25. Development Area A is limited to a building size of 45,000 square feet.
26. Deleted the term "gross floor area" from the Site Development Data.
27. Clarified that building height is limited to a maximum of 40-feet.
28. Clarified that the site may accommodate an auto mall cluster that includes up to five building envelopes within which principal and accessory uses will be located.
29. Reflected proposed zoning as B-2(CD) (general business, conditional).
30. Amended Note 2(b) under Permitted Uses & Development Areas as follows: "Prior to approval by the City Council of 2013-052, the Petitioner and the owner of the property covered by Petition 2008-059 will file an administrative site plan amendment for Petition 2008-059 that will adjust the development right: (i) reduce the development rights pertaining to retail and restaurant uses to 388,000 square feet for Parcels B1, B2, B3, B4, and B5. The maximum floor area for retail, restaurant and office uses (excluding hotels) shall be adjusted to 438,000 square feet. If Petition 2013-052 is approved by the City Council, the adjustments will be binding and may not be added back through the administrative amendment process. If Petition 2013-052 is not approved by the City Council, the administrative site plan amendment will be null and void."
31. Amended Note 2(a) to remove reference to "Automated freestanding car wash facility(ies)."
32. Deleted the list of prohibited uses.
33. Amended Note 3(b) to indicate that the number and location of access points to the development areas will be determined during the building permit process. Approximate driveway locations are shown on the technical data sheet.
34. Amended note 5(i) to indicate that sidewalk and streetscape improvements will be constructed along the frontage of MacFarlane Boulevard, in accordance with the office-wide street classification standard.
35. Amended Note 3(e) (1) to add the following: "Public street right-of-way dedication (two access points shown) to the edge of the site for connection to tax parcel 04723106 as depicted on the technical data sheet. Provide public street dedication of up to 77 feet of right-of-way as shown on U-054 of the Charlotte Land Development Standards Manual prior to issuance of a final certificate of occupancy or at the time CATS constructs the connection to IDEA Boulevard, whichever occurs first."
36. Amended Note 3(e)(2) to include the following language: "provide public street dedication of up to 77 feet of right-of-way as shown on U-054 (office commercial wide street classification) of the Charlotte Land Development Standards Manual prior to the issuance of the first certificate of occupancy."
37. Added a Note (e)(3) under Transportation as follows: "The petitioner shall reserve right-of-way adjacent to Area C equal to 28.5 feet measured from the centerline of the existing easement to allow for the future extension of MacFarlane Boulevard prior to the certificate of occupancy for Development Area C. The petitioner agrees to dedicate the right-of-way at such time development occurs on tax parcel 047-231-05. All setbacks for Area C shall be measured and established from the future curb line of MacFarlane Boulevard."
38. Provided a retaining wall cross-section.
39. Amended Technical Data Sheet to connect/label the separated building envelopes on Areas C and D.
40. Deleted page 16 of the Development Standards. Not needed because overhead doors are not permitted along a building frontage.

41. Added a note under General Provisions specifying that “plan” as referenced consists of Sheet RZ-1 and the University City Auto Mall Booklet. Ensure that the University City Auto Mall Booklet is referenced on Sheet RZ-1 and vice versa.
42. Added a note under Architectural Standards requiring the petitioner to submit detailed plans to the staff of the Charlotte Mecklenburg Planning Department for review prior to the issuance of building permits for construction.
43. Renamed “Primary Frontage” and “Secondary Frontage” as “Type A building Frontage” and “Type B Building Frontage”.
44. Deleted signage renderings on Page 22.
45. Amended Note 3(e) (3) to reflect tax parcel 047-231-05.

Staff rescinded the following requests:

46. Amended Note 5(g) as follows: “A linear park will be provided (mostly within the utility easement along the south side of IKEA Boulevard) from the corner of City Boulevard and IKEA Boulevard to MacFarlane Boulevard as shown on the Technical Data Sheet. The park and common plaza will contain a combination of the following pedestrian amenities:
 - a. Seating areas,
 - b. Pedestrian walkway/minimum 10’ multi-use trail,
 - c. Land forms (Mounds and stabilized slopes),
 - d. Enhanced landscape areas (within the parameters of the Duke Energy guidelines for utility easements, and
 - e. Specialty hardscape.”
47. Amended Note 5(g) (ii) to state “pedestrian walkway/minimum 10-foot multi-use trail”.
48. Amended Note 5(j) to add that a bike network will be maintained along all of IKEA Boulevard.
49. Amended Note 5(l) to add the following: “This extension will also be provided along the unimproved portion of MacFarlane Boulevard adjacent to the frontage of development Area C.”
50. Add Note 5(e) to limit encroachment into the landscape buffer to no more than 10 feet.
51. Add the following notes under the heading of Streetscape, Landscaping, Buffers and Common Plaza: “Open space corridors will be provided as depicted on the technical data sheet to include:
 - a. minimum easement of 20 feet;
 - b. landscaped concept.”

The ordinance is recorded in full in Ordinance Book 58, at Page 580-581.

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ITEM NO. 2: ORDINANCE NO. 5270-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 14.44 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF NORTH TRYON STREET AND TOM HUNTER ROAD FROM B-2 (GENERAL BUSINESS) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT, MIXED USE).

<p>Motion was made by Councilmember Barnes, seconded by Councilmember Liles and carried unanimously, to approve the Statement of Consistency and Petition No. 2013-064 by Charlotte Mecklenburg Planning Department for the above zoning change as recommended by the Zoning Committee.</p>

The ordinance is recorded in full in Ordinance Book 58, at Page 582-583.

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ITEM NO. 4: ORDINANCE NO. 5271-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT 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) MIXED USE DEVELOPMENT, OPTIONAL) TO MUDD(O) SPA (MIXED USE DEVELOPMENT, OPTIONAL, SITE PLAN AMENDMENT).

A protest petition has been filed but is insufficient to invoke the 20% rule requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Council in order to rezone this property.

Motion was made by Councilmember Barnes, seconded by Councilmember Liles to approve the Statement of Consistency and Petition No. 2013-082 by Grubb Properties, Inc. as modified and as recommended by the Zoning Committee. The vote was recorded as follows:

YEAS: Councilmembers Austin, Autry, Barnes, Driggs, Howard, Kinsey, Lyles, Mayfield, Phipps and Smith.

NAYS: Councilmember Fallon.

The modifications are:

1. Amended note L under Access Point and Note 1 under Transportation to state “The petitioner is currently proposing a right-in/right-out driveway at Access C, which shall be constructed prior to the issuance of any certificate of occupancy for any new development on the site. Upon further evaluation of physical operational, and cost impact, Petitioner may elect to convert the existing right-in/right-out at Access B to a full movement driveway, only if such access is signalized.”
2. Amended note 10 under Architectural Controls to remove the word “substantially.”
3. Amended Note C1 under Other Use Conditions and Limitations to add the following: However, in the event that the Sharon Road right-of-way is modified in order to convert Access B to a full movement driveway, setbacks and yards in that vicinity may be reduced as long as they meet the minimum requirements of the Mixed Use Development District.”

Staff rescinded the following request:

1. Petitioner should add a note committing to the full cost of the design, installation and construction of a traffic signal that may be warranted at the driveway. Access B and any associated turn lanes and geometric modifications necessary to install and operate the subject traffic signal.

The ordinance is recorded in full in Ordinance Book 58, at Page 583-584.

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HEARINGS

Mayor Cannon said I would like to take Item No. 13 our of order and hear that item first, largely in part because I know there are children here and folks want to try to get home. This may take some time so if there is no opposition to that. I also need a motion to recuse Councilmember Howard from this item.

Motion was made by Councilmember Lyles, seconded by Councilmember Mayfield and carried unanimously, to recuse Councilmember Howard from voting on Item No. 13.

ITEM NO. 13: HEARING ON PETITION NO. 2013-095 BY CHARLOTTE MECKLENBURG HOUSING PARTNERSHIP FOR A CHANGE IN ZONING FOR APPROXIMATELY 7.23 ACRES LOCATED ON THE WEST SIDE OF WEDDINGTON

mpl

ROAD BETWEEN SIMFIELD CHURCH ROAD AND PORTSTEWART LAND FROM INST(CD) (INSTITUTIONAL, CONDITIONAL) TO R-12MF(CD) (MULTIFAMILY RESIDENTIAL, CONDITIONAL).

The scheduled public hearing was held on the subject petition.

A protest petition has been filed however its sufficiency is still to be determined.

Tammie Keplinger, Planning said before I begin the presentation on this case I would like to note that the density listed in the staff analysis was based on the acreage that included Weddington Road. When this acreage was removed the density increased slightly from 9.68 units per acre to 10.37. We did send out a Council/Manager Memo in regards to this on Friday and this has been updated on our website.

In terms of the request I will go over the future land use map first; you can see the property is immediately in the middle in the blue and the blue represents the current zoning of institutional (CD). I will give you a little history; back some years ago this property was rezoned for 425 children in a daycare. That is an institutional use and that is why you see it as blue on the land use map. Also you see the area of single family residential surrounding the site and areas of higher density residential to the north. The property is right across the street from Socrates Academy and Image Church; some of the adjacent subdivisions are Willowmere and Nottingham Estates. The subject property is currently vacant. I want to show you the site plan that was approved as a part of Petition No. 2009-077 that approved the Daycare. The site plan showed two buildings that housed 425 children. There was a 35-foot buffer along Willowmere; a 27-foot buffer along Nottingham Estates. The purple area shows a brick wall that was part of the development and this is area where the children's play yard and then you see the parking area.

The petition that is before you tonight is an institutional conditional district to multifamily residential conditional. The proposed use is for 70 multifamily units; the proposed density is 10.37 units per acre; there is one building that fronts along Weddington Road; there are multiple architectural and transportation and general conditions that are associated with this plan. They include a 38-foot buffer with a 6-foot privacy fence along Willowmere's property line; a 38-foot buffer with a 6-foot privacy fence along Nottingham Estates. There is no access from Nottingham Estates and there is a tree save area. The detention pond is located in the corner right where the properties converge. The building envelope is highlighted where the building will locate. In terms of the elevations for this project you can see the left side of the building; the building articulation and how the building is divided up and this is the right side. This is the common line so you put those two sides together.

In terms of this request the general development policies look for us to encourage a range of housing types and densities that will meet the needs of a lot of different people in our community. Although the request is inconsistent with the South District Plan recommendation for institutional uses and the density is slightly higher than what is recommended by the GDP (General Development Policies) which recommends 8 units per acre. The proposal does provide a range of housing types and for a variety of people. Staff feels like this request is compatible in character with the adjacent uses. There is one outstanding issue that is technical in nature and we feel certain that will be resolved before we get to the Zoning Committee.

Jeff Brown, North Tryon Street, said my colleague, Keith MacVean and I are very pleased to assist the Housing Partnership on this important rezoning request. We recognize the energy here tonight; we recognize also that energy often accompanies multifamily rezoning and request that reflect the change in our growing region. We also appreciate the importance of staying on the land use considerations and we appreciate the opportunity to focus on the quality of those items. We do emphasize the Planning Staff's professional recommendation of approval. CDOT's comfort with the rezoning and we also recognize this rezoning will support City Council's housing goals for our community. I would like to ask Julie Porter to provide a little bit of background on the Partnership and how they go about developing their sites.

Julie Porter, 4601 Charlotte Park Drive, said I am honored to serve as President of the Housing Partnership and I am proud of the Partnership's 25 year history of improving the quality

of life of Charlotte residents through better access to workforce housing in our community. We enjoy a reputation for producing high quality developments with excellent property management as demonstrated by these photos. (She showed photos of many of their apartment communities).

First of all I would like to ask our current and past Board Members and Housing Partnership staff to stand. These individuals have been pivotal to our success. In the limited time that I have, I want to focus my comments on concerns that have been raised about our decision to pursue this particular location for the proposed 70-unit apartment community. The Housing Partnership has a strong record of excellent financial stewardship so we must emphasize we would not spend substantial time and resources to pursue this location unless we believe it would result in a successful high quality community that would allow residents to take advantage of the nearby employment opportunities. We have provided to your site selection criterion the factors that the Housing Partnership looks at when evaluating a particular parcel. You will note that this location on Weddington Road scores extremely favorably. For example, the site is located amidst significant employment for essential workers such as Police, Senior Care Givers, medical personal and retail workers who will become our residents. Our criterion requires a grocery store within one mile and this location has two grocery stores approximately .6 of a mile from the center of the site as well as a CVS with a Minute Clinic. It has sidewalk access to Frances Beatty Park with five soccer fields and lighted tennis and basketball courts, less than ½ mile bike ride. We have also provided a list of sites in the south and southeast quadrant of our community that the Housing Partnership has evaluated and pursued during the past several years. Confidentiality considerations prevent us from detailing each effort but this demonstrates that we have been diligent in pursuing other locations which potentially fit our criteria as well as the criteria of the North Carolina Finance Housing Agency, which are all similar to criteria used by for profit developers. While we appreciate the desire that we look for other sites, and in fact we have, and will continue to do so, this is an ideal site for workforce housing. We also emphasize this is challenging work that often requires a rezoning effort that can result in the type of opposition that you see tonight. We do recognize that opposition here tonight and on behalf of the Housing Partnership and our 25-year history of excellence we reiterate our commitment to delivering a high quality product that will be a good neighbor and an asset to this community.

Mr. Brown said as shown on some of the material that we have here, despite individuals that believe to the contrary, we do believe that we are located within a significant number of employment opportunities. We mentioned being located with .6 of a mile of two retail centers, office, the Siskey YWCA within close proximity. Also the broader employment centers, Matthews, Ballantyne Promenade, Arboretum, retail opportunities for the workforce housing residents and other residents within the community. We believe that our project does in fact fit within the guidelines of the Council as set forth. I mention, for example the Plantation Market as well as the McKee Farms and YMCA. In addition when we think about the design and when we think about the project we also note that the GDP matrix calculates this and their matrix is a guideline and they calculate the matrix from the center of the site. Our estimates are that matrix were calculated from the boundary of our site, we would close to, if not right at, ½ of a mile from those uses which therefore under the GDP matrix alone would move us to 12 units to the acre. We want that to be very important for Council to keep that in mind.

As for the architectural and site plan features we also want to make sure that people are very well aware of the protections that we are providing for the adjacent property. We are looking at having the buildings closer to Weddington Road that allows most of the homes in Nottingham and Willowmere to be significant distances from the building. On the edges where the buildings are closer, still 60+ feet away we are lowering the buildings down to two stories on those edges and we are also providing for an updated recommendation and our plans will reflect this, not just a 38-foot buffer, but going to a 50-foot buffer and including the 6-foot privacy fence and going to a Class A buffer treatment. We would also like to talk about the quality and this gives you a good sense of the buffer treatment in your materials. The Zoning Ordinance would actually allow us to be at 28.5 feet with a fence so you can see we are going well beyond by adding evergreen trees and otherwise.

This is one of the architectural renderings; it shows a great deal of variety in the architectural illustrations, courtyards and other high quality treatment. There is commitment to materials and things of that nature which we think reflect very favorably on the quality of the development.

We do recognize there has been a lot of questions about traffic and we recognize that Weddington Road carries a number of trips on this major thoroughfare. We must have you be aware that this site will not be the cause of additional traffic problems. Folks won't agree with that, but I will maintain very stringently that 70 apartment homes will be adding not a material significant change and we have mostly through traffic and we have mostly traffic related to the school. We encourage you to talk to C-DOT and get their recommendation or their thoughts. We were not required to do a traffic study, but we did in order to try to shed light on the transportation issues. As you may know, compared to the existing zoning of the multifamily of the daycare, we would be significantly less in the a.m. peak for example than what a daycare would call for. This is a good example here. The traffic numbers that were done show that in the a.m. peak as an example, the 70 apartment homes would provide for less than 3% of the total traffic at the intersection of the site driveway on Weddington Road. Most of the traffic is through traffic and we recognize the community's concerns about over time how Weddington Road can handle the school generated in the a.m. peak around 28%, but we are at 2.8% from our particular development.

We are also going to do some road improvements; turn lanes, left turn lanes, right turn lanes, in and out of the site to add the site generated traffic of the apartment homes to not be required; we will get them out of the through lane and be able to handle the traffic that way. I want to talk a little bit about the schools. In your packet; there has been a lot of questions about school traffic and we wanted to make it very clear that the Housing Partnership actually came back put their own numbers, based on surveys and their own communities. CMS we think understated the school impact. The schools will be about 45 children, mostly elementary school in McKee Road. That is where we are and we commend the school's memo to you because there has been some misunderstanding I believe about the impact on the school.

Ladies and Gentlemen, these are tricky rezoning decisions. We have a growing community and we are growing, not just in the center city, we are growing throughout our community. This has changed significantly over the 20 years and it is now much more in keeping with the overall fabric of our community; .6 of a mile, really ½ mile from two retail centers and other activities. This is only going to be 2.4 units to the acre. Most apartments typically start at 12 units to the acre and really go up to 17 or 22 units to the acre. This particular development, while I realize that change is challenging, this particular development with only 70 units is actually a relatively modest add on to this community. It is not a 250-unit garden apartment; it is 70 units and it also is located within a lot of these uses.

Michael Kelly, 4012 Manor House Drive said thank you for allowing us to speak with you this evening. The presentation you are about to see is actually an abbreviated version of the full presentation that is in your binder, due to time limit. I'm the President of the Willowmere Homeowners Association and also a member of the Weddington Road Rezoning Committee, an ad hoc group of area residents that are strongly concerned about the proposed rezoning. We speak tonight on behalf of 10 neighborhood communities, Socrates Academy and over 2,100 signed petitioners that have opposed this rezoning. The Committee and our community support the Partnership's initiative to provide affordable housing in stable neighborhoods across all of Charlotte. We feel, however, that this parcel does not meet the stated objectives or support the families they look to enable. We would ask the City Council and Zoning Committee to consider the following: What is the impact of the development on the surrounding community? Is this development suitable for the targeted residents? Does this development conform with current Weddington Road land use policies?

The proposed site as was indicated, is located in the southeast corner of Mecklenburg County, less than .2 of a mile from the Union County border and directly across the street from Matthews Town Limits. It is wedged within four single family R-3 developments; its only road access is Weddington Road which is a two-lane country road with a 45 mile per hour speed limit; no public transportation, bike lane, sidewalk access or on-street lighting. As shown in the photos you are about to see this area historically and as recently as 1993 was rural farm land connected by a two-lane farm to market road. Despite the extensive residential development shown in these photos all of these neighborhoods are still supported by those same farm to market roads. The existing infrastructure public amenities and services available in the Weddington Road area are insufficient to support the high density R-12 development such as the proposed three-story 70-

unit workforce housing community. Workforce housing development seeks to select properties with easy access to local retail and services. Due to no sidewalk or bike lanes and a blind 45-mile per hour curve, the video you are watching is the path the residents will have to take to access that local retail. This presents a safety concern for both those on foot and those in vehicles. In addition the Partnership referenced the two shopping centers; the second shopping center anchored by Bi-Lo has lost five tenants including its Bi-Lo Anchor in the last 12 months. In regards to public transportation this site is over 3½ miles from the nearest CATS stop. The Housing Partnership has stated that the residents of this development will all drive to their workplace and in local retail, however if you look at their other workforce housing developments, 12 out of 13 all have immediate access to public transportation. There is also an inadequate amount of recreational facilities in the area. Their current site plan provides for 2,800 square feet of on-site play area. The only other facility is Cornel Frances Beatty Park, which while the entrance is less than ¼ mile away from the development, it is over 1.13 miles to actually get to the play ground. It is only an easement that the park has out to the roadway. Is this adequate, we would ask, for the projected 42 school age children they referenced? What about the preschoolers?

We acknowledge that the site was rezoned in 2009 to Institutional CD. The Partnership has made several references that the traffic impact to their proposed development would be substantially less than what the current zoning would allow. What that doesn't account for is what has occurred since 2009. There are currently over 1,448 homes within less than ½ mile of this site plus 660 Socrates Academy families all traveling north bound on Weddington Road. The video you are watching is the standard traffic that occurs for Socrates Academy on a daily basis. Given the Housing Partnership's own traffic study reports by 2016 this road will have an average daily trip of 13,600 which grades to a D- level of service, considered on a vote by C-DOT and NC-DOT.

Kristen Priganc, 2909 Waddington Road said thank you for the opportunity to speak with you this evening. I would first like to address the opposing entrances and potential for collision. I've come to understand that lining up driveways is a common practice, but we have a unique case with this project. Socrates has already grown to 660 students and will be adding an additional 100 children over the next four years. We are a school that operates entirely on parent transportation; twice a day we create a high volume of traffic on Weddington Road and are diligent to minimize any further impact we are having on this neighborhood. We have worked with the Charlotte Department of Transportation to insure that our systems are efficient and move as quickly as possible to lessen the traffic impact. With the driveway directly across from our lower lot there is enormous potential for head-on collisions that endangers the lives of the students and parents of Socrates Academy.

Our next concern of the school is related to the stoppage of traffic a school bus pulls onto the turning lane for the apartment complex and unloads children. With the new parking plan there is little room for a bus to turn around and it is not common CMS practice to have buses enter private property to pick up students. Each time the bus stops on Weddington Road all traffic comes to a stand still. Socrates cannot clear out our lot and bring cars more off of the road and back-ups will increase in both directions. As you saw in the video we currently have a left turning lane that often reached to 16 to 20 cars waiting to turn into our lower elementary lot and we've had up to 20 cars waiting on the other side waiting to turn right into our property. We cannot afford to have any more parents sitting at risk on Weddington Road.

Our final concern is the impact that overflow parking from this development could cause. Based on the calculations provided by the Housing Partnership these 70 units will be occupied by 165 residents. If 42 of those residents are the school age children, we are left with 119 working adults who the Housing Partnership assures will have vehicles thus the lack of need for public transportation. One hundred nineteen adults for 115 spaces and that is before anyone invites a friend to dinner or their family over for a holiday. If residents and guests do not have ample parking they have two options, either park on the side of the two-lane country road or park in the school's lot. If these residents do not move their cars before our teachers and students arrive in the morning we are forced to having to have cars towed from our property at 7:30 a.m. The alternative is to pay for gates, lighting and security cameras to reduce the entrance to our campus, a project that is estimated to cost our Charter School at least \$75,000 and that is before

the rise in insurance premiums. The Housing Partnership has referenced that this proposed development would be far less of an impact than the daycare that was previously approved; yet the issue isn't fully about the number of cars, but, rather the ability to development and enforce safe procedures. I am less than confident that the Housing Partnership's solution of working with me on a case by case basis will help to solve the issues we will more certainly face. Waiting until we have problems is not a suitable option for me, my students, our families or this community. I've been told to talk with the property manager who will be on site a few days a week from 9:00 to 5:00 and if there are any problems related to parking and traffic I've been directed to contact local offices. I've found that these local offices are in Norfolk and Richmond, Virginia which will clearly not be useful in solving complications that will affect this neighborhood.

Mr. Kelly said so how does this proposed development integrate with the current city's development plans and policies? The Partnership indicated the basis for this location is the Housing Locational Policy that seeks to disburse affordable housing across Charlotte, however, implementing it under the locational policy would be in direct conflict with multiple other zoning and development policies such as staff has referenced. The current South District Plan, while this particular site was rezoned institutional CD sets the base density for this area at R-3. It requires higher density development to be located within ½ mile of transit corridors or commercial employment centers; neither of those exists here. The Charlotte GDP establishes that a density assessment matrix must be completed. Regardless of other factors, City staff matrix assessment for this site only justifies the site up to a density of R-8, not the R-12 or R-10.4 zoning that they are asking for. In addition the Centers, Corridors and Wedges growth framework defines our area as a wedge. Wedges are recommended for development of low density housing with a limited amount of moderate density housing located only in strategic locations with infrastructure capacity to support that density. As we have illustrated, we don't feel the infrastructure in the Weddington Road area is sufficient to support this development. The map on the site in front of you demonstrates the proposed rezoning in relation to the overall surrounding area. It is evident that the proposed density is absolutely incongruent with the surrounding area. It would be inconsistent with current area land use and density. We obviously feel there are numerous issues with this proposed rezoning. We believe there are better potential development opportunities the Housing Partnership could use this site for, but if the Housing Partnership believes that workforce housing is the only perfect development for our area then we believe there are other properties more viable than the current site. A closer investigation shows only two alternate locations within 4 miles of this site with better level of access amenities; one is already zoned R-15 directly across from the Athletic complex. The other is less than ½ mile from a CATS Transit stop and backs up to an existing multifamily senior development on Pineville/Matthews Road.

The proposed development not only has the potential to overrun the surrounding community and infrastructure, but it also has the distinct possibility of failing the residents it looks to support. Given an estimated \$10 million development costs for a 70-unit site located in the corner of the county, this is a huge risk that is not work gambling on, especially when you consider Rivermere which developed with \$17 million, another one of the Partnership's properties, and created 192 units. As the slide suggest, this rezoning is purely an effort to force a square peg into a round hole.

In rebuttal Mr. Brown said I appreciate the opportunity to clarify a few items. First of all with regards to the location of this site and the community plans and policies, we believe that this is consistent with the community policies and plans. I would ask you to refer and rely as you do, on your professional Planning staff and their interpretation of various plans. I would also say that the GDP's in this particular instance, as I have mentioned to you this site is only .6 of a mile from the center of the site from the two retail centers that would automatically move, just on the matrix alone, to 12 dwelling units per acre. From the edge of the site we believe we are right at ½ mile which would then call for 12 dwelling units per acre. As it relates to some of the questions about infrastructure and public transportation, the Housing Partnership is an excellent steward of money; they would not be going forward with this project and this development if they felt public transit was necessary because these residents do have automobiles that will be no different from other community residents in terms of utilization of employment opportunities. As to parking, we are actually providing more than the ordinance minimum. We have an

opportunity to add more parking if needed. The parking is behind the building so we don't believe that really to be an issue. As to the management, the Partnership at 70 dwelling units will provide for a full-time on site management. I would also mention from the transportation traffic standpoint, we understand there can be differences of viewpoint on that. We actually went out, even though we were not asked to do a traffic study, and we would ask and encourage you to rely upon your transportation officials, this was far below what would normally be required for a traffic study from our site and we are also providing turn lanes and other aspects that we think will provide more than adequate protection for the site development traffic from this site and we ask and encourage you to talk to them as well.

Mayor Cannon advised the Council that this is their opportunity to pose any questions they might have of the petitioner, or those in opposition or even City staff.

Councilmember Kinsey said is this right-in/right-out off of Weddington Road?

Mr. Brown said this site will be a full movement access.

Ms. Kinsey said that is what I needed to know and I'm sorry I missed it in the presentation.

Councilmember Autry said Ms. Keplinger, in the back of the property we have an open space that is identified as storm water BMP area. Am I correct in presuming that would be where the detention pond for the property run-off would be?

Tammie Keplinger, Planning said yes sir, it is the detention pond and the petitioner can probably address what that is going to look like.

Mr. Autry said my question is more about – I see Storm Water has no issues there and we are in compliance with the PCCO.

Ms. Keplinger said they will be in compliance with the PCCO. Doug Lausner from City Engineering is here if you have any other questions related to that, but they do have to comply.

Mr. Autry said do we have any issues with storm water downstream from this property at this point?

Ms. Keplinger said I will ask Mr. Lausner to come address that question.

Doug Lausner, Engineering said regarding your question if there are any issues downstream regarding Storm Water, there are no reported issues, meaning there has not been any calls into our 311 system for requests for service. From that aspect there are none that we are aware of, but judging from the reaction there, there may be some that we don't know of.

Mr. Autry said so you are saying that you don't find any calls for service in our data from previous occurrences of issues with Storm Water?

Mr. Lausner said correct; not in this in area downstream, no sir.

Mr. Autry said for a development this size what in acreage would the detention pond be expected to be?

Mr. Lausner I really don't know that at this time since there hasn't been any modeling or design done for this. I think the petitioner may have done some preliminary calculations at this point. That is something that would be better suited for them to answer at this point, but regarding that with the Post Construction Ordinance it does meet the standards or will meet the standards with regards to detention, peak control, water quality and volume control.

Mr. Autry asked Mr. Brown if there was anything he would like to add.

Mr. Brown said we will be happy to make available this memorandum to Jim Donaldson, The Housing Partnership from Calvin Caldwell of GEO Science in which he has done preliminary

storm water analysis and has information available to talk about the site's ability to comply with Post Construction Control Ordinance and other customary items. They have done some additional preliminary engineering related work; they have not fully developed the site plan because that is not what you do at this stage, but they are very confident of being able to handle those types of issues on this site.

Mr. Austry said it is the Petitioner's opinion that the impervious surface being brought forth this development will not have any negative impact on the Storm Water situation.

Mr. Brown said that is true and I will tell you, we understand the concerns, but there is actually a good bit of open space and as you can see there is a Storm Water area located to the rear that will be able to handle it.

Councilmember Smith said Mr. Brown as we look at this site in many ways it looks less than ideal for development. Can you help walk through how this site was chosen for this particular development from the development side?

Mr. Brown said it is really two fold and I will quickly address the actual way in which the site is being designed and then I would ask Ms. Porter to also talk about this particular site. We referred to a lot of that in terms of why it satisfies the criteria that we have provided for you, the Council. The ability to have the buildings on Weddington Road actually allows us the ability not to have a significant impact on the homes that are deeper into the site. While the triangle parcel itself would like potentially not ideal, with only 70 apartment units and having the building in the location it is and the parking to the rear will actually provide less impact on a lot of those homes on Nottingham and on Willowmere than if a townhome development or a multi-building apartment development which would scatter the buildings throughout the site. That is what we believe allows us to do the 50-foot significant buffer treatment with a fence that is on the interior of the buffer, the evergreen trees and other things of that nature that we think allows us to actually do a good job of treating the adjacencies of the homes. I will be happy to have you refer to the site location material that we provided to you this evening about how the Partnership goes about choosing its site and also the 15 or more sites in the larger southeast wedge the Housing Partnership has had under consideration. They are doing all they can to try to provide for the housing goals and we believe this site for the very reasons we've talked about is appropriate.

Ms. Porter said what I would add is that we are compelled by the market in the community. We know that this is going to be extremely popular from the minute it becomes in service because of the essential workers that are already located in that area. We are absolutely convinced of the market and also it has so many amenities close to this site; the grocery stores and even through Bi-Lo is closing Publix is opening in its place; and the CVS, those types of things are amenities we don't always get to add to our workforce housing communities and we are able to do that with this one. For us it was a tremendous opportunity to add amenities to our residents.

Mr. Smith said 70 units is on the smaller end of your typical development?

Ms. Porter said it is, very small. Typically where we would like to be somewhere in the 90 to 120, looking at this site and realizing the nature of the community, we wanted to keep the green space at 50% and we also wanted to keep it at three stories so when we looked at the site it seemed that 70 units would be about what would be recommended.

Mayor Cannon said Mr. Brown you stated that you have more than the ordinance minimum relative to parking, do you have the ability to expand if you needed to?

Mr. Brown said we have actually received in a differing input along the way, but we have provided for parking in excess of the minimum of the ordinance. We do have some ability to add a few more parking spaces if you note in the curve of the parking area, we could add some additional parking if needed. Actually there are individuals who obviously want try to insure that we don't have too much parking from the standpoint of pervious cover so we are trying to strike the right balance and we have the ability to add parking spaces, but we are in excess of the minimum standards for parking with the current plan.

Mayor Cannon said Ms. Priganc and Mr. Kelley, do you have anything relative to the downstream issues in the way of studies for Council to consider over the next 30 days. Of course we heard the outcry from the audience.

Mr. Kelley said if you will turn to Section 3 of your binder, pages 22 and 23, we have outlined the storm water issues that currently exist in Nottingham Estates. Nottingham Estates is 12-years old; they've had significant flooding with foundations for their residents and the site plan currently indicates that all the storm water runoff from the detention pond will access a 20-inch main at the southwestern corner of the property. If you look on the next slide that 20-inch main doesn't actually connect anywhere. That is four houses down in the current Nottingham Neighborhood that would not be the petitioner's responsibility to fix and as of now we are not classified for storm water services to come out and do anything. That is runoff that comes from a field right now and you see the pipe is half buried in silt and this is from the rains we had last week actually. That same pipe is going to be asked to handle the disbursement from a 22,000 square foot retention pond if you calculate it based on their current drawings.

Mayor Cannon said Mr. Brown or staff, there is nothing to catch that runoff through this development?

Mr. Autry said the retention pond.

Mayor Cannon said I got that, but I want them to be able to articulate that.

Ms. Porter said could you restate your question?

Mayor Cannon said is there anything that will be able to capture what is of concern to the residents?

Ms. Porter said we can. We actually have done preliminary engineering. Kevin Caldwell with GEO Science, I guess he was in the gallery and was not able to get in. He was going to provide a report that showed that we have an existing 24-inch pipe that is adequate to join from our site and then of course the retention pond is a wet pond with a fountain, which will also be an amenity to the community, but we are convinced and certainly by all of those reports and we can provide them at any point, show that it will be adequate for the site.

Councilmember Fallon said has anyone complained about it; the residents in that development complained about it?

Ms. Porter said they have talked to us about it and that is really why we got out and did some of that preliminary engineering to make sure that that retention pond would be adequate. We actually think it will relieve some of the issues that they are having on some of their sites because all of our site will be basically sited down to that retention pond so it will collect there much better than it does right now because it is farm land and it just completely goes off into the other sites and neighborhoods.

Mr. Autry said for staff about the detention pond; the water that is coming off the impervious surface in the development will flow into the detention pond. The rate of that water flowing into the pond is no where near what is going to be coming out the other end correct?

Mr. Lausner said correct. The proposed Post Construction Ordinance and detention, what it does and what they are required to do is to match what we call pre-developed rates so whatever is generated by the site in an undeveloped condition which it is today, even with all the impervious that difference in the runoff that this site will generate is what is detained in the pond and released at the slower rate what the site really sees now.

Ms. Porter said we were able to find our expert so he is here.

Mayor Cannon said I have to be careful; your expert on what, your expert on storm water runoff?

Mr. Brown said this would be for the storm water.

mpl

Kevin Caldwell, Civil Engineer with GEO Science said this is a unique situation because of the openness of this site and the size we can build the storm water pond, it can reduce the flow rates that the 24-inch pipe is getting today. That downstream neighbor will get no more water than they are getting today in terms of peak flows.

Motion was made by Councilmember Barnes, seconded by Councilmember Austin, 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. 6: HEARING ON PETITION NO. 2013-069 BY THE RYLAND GROUP, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 5 ACRES LOCATED ON THE NORTH SIDE OF PROVIDENCE ROAD WEST NEAR THE INTERSECTION OF TOLLIVER DRIVE AND PROVIDED ROAD WEST FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO UR-1(CD) URBAN RESIDENTIAL CONDITIONAL).

A protest petition has been filed and is sufficient to invoke the 20% rule requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Council in order to rezone this property.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this property is actually located in an area where the future land use calls for single family residential at various densities. The property adjacent to this site is actually a church. On the aerial you can see that there is one single family home located on the site; you can see the church next door and the adjacent residential neighborhood. In terms of this request it is from single family residential to urban residential conditional. The proposed use is for 19 single family homes; the overall density is four dwelling units per acre. There is a commitment to 30% masonry materials. They have a 25-foot rear yard along this side of the property and you will notice a 25-foot rear yard and then a reduction to 10-feet for these two lots and then back to 25-feet. In terms of this request staff is recommending approval upon resolution of the outstanding issues. The land use is consistent with the South District Plan recommendation for single family residential. The urban conditional district is being used in this area to reduce the yard requirements due to the format of the property, but the density is still 4 dwelling units per acre. The outstanding issues are technical in nature and we do have a protest petition that is sufficient.

John Carmichael, 101 North Tryon Street said Mr. Ruckman, who filed the protest petition is here and we've worked things out with the protest petitioners. This about a 5-acre site on Providence Road West currently zoned R-3 and the petitioner requests UR-1(CD) zoning to allow 19 single family detached homes, so it is just a little under 4 units per acre. It will be served by one street with a cul-de-sac. We met with Mr. Ruckman and some of his neighbors about 10 days ago and we told him several things that we are going to do and we will do them. We talked about the quality of the homes and said we want to ensure the neighbors about the quality of the homes and we also discussed a landscaping plan that would include a fence along the rear of lots 9, 10 and 11. What we are doing in response to the design of the home concern is they are going to be submitting elevations that you see here; these are just representative elevations and we are going to add notes to the plan that says the side and rear elevation of each home will be all brick with the exception of windows and trim and soffits. The front elevations will have to be consistent with the elevations that we will submit to the Planning Department on Friday and the permitted exterior building materials will be a combination of brick, stone, architectural block or similar masonry materials, stucco and cementitious siding and shake; no vinyl other than soffits and windows and some trim work. Those are the thing we've done to hopefully give Mr. Ruckman some assurances and the Planning Staff recommends approval for which we are very appreciative and we are very thankful for the time that Mr. Ruckman and his neighbors have given to this project.

Mayor Cannon said thank you Mr. Carmichael and Mr. Ruckman. It is always something to be said for people coming together to make things work and certainly you all did.

Motion was made by Councilmember Barnes, seconded by Councilmember Austin, 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. 7: HEARING ON PETITION NO. 2013-071 BY THE PRESBYTERIAN HOME OF CHARLOTTE, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 24.80 ACRES LOCATE ON THE WEST SIDE OF SHARON ROAD BETWEEN EASTBURN ROAD AND HAZELTON DRIVE FROM R-3 (SINGLE FAMILY RESIDENTIAL) & INST(CD) (INSTITUTIONAL, CONDITIONAL) TO INST(CD) (INSTITUTIONAL CONDITIONAL AND INST(CD) SPA (INSTITUTIONAL CONDITIONAL, SITE PLAN AMENDMENT).

A protest petition has been filed and is sufficient to invoke the 20% rule requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Council in order to rezone this property.

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said we still start with the future land use map and as you can see this is Sharon Road and Fairview at the top and then we have Sunnybrook and Eastburn. Ms. Keplinger pointed out the existing Sharon Towers in the blue, a church on this side of Sharon Road; the water tower. We had a recent rezoning in September for a daycare so that it could be redeveloped on this site. There are three single family homes that are on Sunnybrook and Eastburn and on Sharon Road that are part of this petition. There are really four single family homes but one will be removed and three will remain and then the existing Sharon Towers site.

In terms of this request it is from single family residential which is for the portion along Eastburn and Sunnybrook and institutional conditional to institutional conditional and institutional conditional, site plan amendment. There are 336 independent living units that are proposed in five buildings. There are common area additions, skilled nursing care addition and there is a 60-foot rear yard with a 50-foot buffer and a 50-foot buffer that is reduced to 37.5 feet with a fence. The three single family lots over on Sunnybrook and Eastburn will remain single family residential. The petitioner has requested and received a variance for the third house and the request was for variances for the setback and for buffers. Those variances were granted recently by the ZBA and that does allow that existing house to remain and become part of the overall Sharon Towers development. There are currently 372 independent and dependent living units on the site and those will all remain. In terms of commitments on the site plan, there are commitments regarding the height, dumpsters, screening from the roof equipment and the placement of existing fences and lighting. They have some conditions on the construction traffic and the timing of construction so it will not occur on certain days of the week, like Sunday morning, and the storage location of construction materials. They also have a landscape plan that they have submitted and that shows you what the landscaping will look like. This is along the entrance of Eastburn and you can see how this goes around the single family homes that are existing and catches the entrance to the neighborhood.

In terms of this request, the majority of the requests are consistent with the South District Plan as it recommends institutional uses for the existing Sharon Towers site. The proposed single family independent living units are inconsistent with the plan recommendations for single family residential, but this request preserves those existing homes and allows them to become part of the existing institutional use. There are numerous commitments related to design, transportation and landscaping and our outstanding issues are technical. There is a sufficient protest petition and staff is recommending approval upon the resolution of the outstanding issues.

John Carmichael, 101 North Tryon Street said I am here on behalf of the Petitioner, the Presbyterian Home of Charlotte. With me is Ms. Anne Moffat of the Presbyterian Home, Mr. Jay mpl

Stewart who is the project architect, Mr. Robert Ruffo, the project landscape architect, Mr. Randy Caudle and Mr. Tom Pearman of the Fair Meadows Neighborhood. The site contains approximately 25 acres located on the west side of Sharon Road between Sharon View and Eastburn Road. The vast majority of the site is the existing Sharon Towers Campus and the rest of the site is the five adjoining lots. The petitioner owns and operates Sharon Towers. Sharon Towers is a continuing care retirement community and offers independent living units, assistant living beds, skilled nursing beds, medical and rehabilitation facilities, recreation facilities, dining facilities and other support facilities. It has served Charlotte since 1969. The average age of a new resident of Sharon Towers is 82 and the average age of all residents is 86.

The Presbyterian Home is requesting the rezoning for the following purposes; to permit the development of five new independent living unit buildings that Ms. Keplinger showed you in the rendering that would collectively contain a total of 90 units, 18 units per building to incorporate the five adjacent lots into the site to allow three existing single family homes located on the adjacent lots to remain and become independent living units and to expand the nursing and special care building. Anne Moffit will explain in a moment that the petitioner needs to expand and improve the nursing and special care building to remain competitive in the market place. Its ability to do so is directly tied to its ability to develop the five new independent living unit buildings. If this request is approved a maximum of 336 independent living units could go on the site, 96 skilled nursing beds and 40 assisted living beds. The petitioner is not seeking an increase in the number of assisted living beds or skilled nursing beds pursuant to this petition. Once again the expansion of the nursing and special care building would only result in a much needed modernization of that facility. The new independent living unit buildings will be three story, over structured parking, two on the northern end of the site and three on the southern end of the site. The skilled nursing and special care building and the common area building are located in the center of the site. The skilled nursing building addition would be three story over structured parking; the common area building expansion would be two stories. The new independent living buildings have been designed by Mr. Stewart to be residential in scale and character that have gables and porches and the new buildings will be required to look like the building in the architectural rendering. Sharon Towers has worked really close with area residents on the plan and the conditional zoning plan before you tonight is vastly superior to the original plan in our view as a result of the neighborhood input. We've had four community meetings with area residents, two of which are really official community meetings and we've had two meetings with a committee formed by area residents to provide feedback on the plan. Two of those members will speak to you shortly, Mr. Pearman and Mr. Caudle and we are very appreciative of their time. As a result of those meetings there have been numerous revisions to the conditional rezoning plan. These revisions including Building E which is located on the southern portion of the site; it has been moved further away from the Fairmeadows Neighborhood. The finished floor elevations of Buildings B and E which are shown as buildings 1 and 2 on the rezoning plan, the floor elevations of the main entry have been lowered thereby reducing the overall height of the building. Various elements of the rear elevation of Building E have been committed to in the rezoning plan so the neighbors know the heights of the various elements of that building as it faces their neighborhood. The driveway and parking area between buildings E and B, 1 and 2 on your plan, have been moved further away from the Fairmeadows community and extensive landscaping plan has been added to include the berm with plantings to the rear of Building 2; trees and shrubs and a black ornamental fence around Building 1 and the southern edge of the site and then trees shrubs and a black ornamental fence with brick piers on the Fairmeadows side of Eastburn Road. Notes have been added for the plan regarding the construction entrance into the site. The storage of construction related materials, the parking of construction vehicles, the prohibition of construction activities on Sunday and the hours in which construction activities can occur, 7:00 a.m. to 6:00 p.m. We appreciate the support of the Planning staff and the hard work of the neighbors and now I will introduce Anne Moffat.

Anne Moffat, 5100 Sharon Road said the core of our facility is the oldest portion of our campus and that is our health care and assisted living areas. Our health care was built in 1969; it has been added to over time, but it is a very medical model. It is outdated. When I say medical model, very small rooms, they do not have private bathrooms; they have toilet rooms that you have to share the showers down the hallway. This is no longer marketable and it is certainly not what our residents desire or deserve. We would like to extensively renovate the current rooms and add to health care so the rooms can be larger and they can have private bathrooms with

private showers and dining facilities that don't require a portable steam cart to come up in order to feed our residents. This all comes with a very high price tag. In order to do it we currently could not fund the debt service. We can't do it without the addition of independent living. These independent villa units will generate more revenue and that revenue will allow us to handle the debt service for the extensive renovation for healthcare. In addition we help bring our age of plant down; age of plant is a financial ratio used by accreditation facilities; it is a sign of the financial health and marketing health of an organization. We need to bring our age of plant down. We have a lot of older facilities and this will help us do that. If this rezoning goes forward this will help us with our marketing and our financial viability; if not I do fear for the long-term financial health of our institution.

Tom Pearman, 3410 Sunnybrook Drive, said I live on Sunnybrook Drive which is directly across from the proposed project. Just to give you a little background, it was mentioned that there was a formal protest petition filed and I was actually part of the group that spearheaded getting that started and yet I stand in support of the project. We as a neighborhood started about 6 months ago completely against this as it was a large project coming next door to us and how it was going to impact us. The short version is and our biggest concern was the integrity of our neighborhood. This project is literally going to be right next door to us in our back yard. We worked as a neighborhood, starting out completely against the project and it is sort of hard to stand here and say we are for this and we want this to happen, but we are not standing here saying we are against it. We feel like through a number of meetings with our neighborhood committee as well as meeting with Sharon Towers and a number of meetings with both their architects and with Anne that we've come to as John mentioned there has been a lot of changes to the project from where it started so we feel like we came to a spot where if it passes we're in agreement with the plan. We've come to a place in the plan where we can accept all the changes. They have met us half-way on many things and so if it is in the best interest of the City and the best interest and best use of that property then we've come to an agreement on how that would impact us.

Randy Caudle, 3421 Sunnybrook Drive, said I have the property that is probably right next door to the stuff that is going to be taking place and I'm very happy to have been working with John and also Anne in trying to solidify things, keep the house next door to me and etc. I think everything is going to be fantastic here. I do have the issue and if you remember right Mr. Cannon when I came here during the summer and we discussed the entrance there into Fairmeadows and that curvature along Sharon Road. It is something that C-DOT needs to look at very carefully. This construction is going to be good and they've worked out some issues that there shouldn't be major problems, but unfortunately the problems exist with that curvature. You now that the daycare center is going to be going up there at the same time. Please look into the idea of what the City can do to start to get the road leveled out a little bit more to where it won't be as dangerous.

Mr. Carmichael said just to remind Council the daycare dedicated right-of-way for the hopefully potential future of straightening that road and Sharon Towers is also dedicating an additional right-of-way pursuant to this rezoning petition if approved.

Chris Copsis, 4932 Sharon Road said I stand here in opposition to the petition but in a very friendly opposition. We border the right side as the picture shows, of the property. My family has been there since 1964. Our position isn't in a bad way; these folks have worked very hard to appease and work with the neighbors on the other side of the property. We've had very little dialect and my only reason for being here is so we can get some dialect ourselves because we hope down the road to develop our property as well. We see that they have done a beautiful job with the neighbors on Eastburn and Sunnybrook and we ourselves look forward to doing something as well with them. It is that short and that sweet.

Councilmember Phipps said in view of the significant renovations that you propose with the units is there any need or any plans to relocate any of the residents during that renovation period?

Mr. Carmichael said the existing residents in the skilled nursing facility, during construction Anne, what will you do with those folks?

Ms. Moffat said during the construction we would build the new expansion part first and then take residents and move them from our existing into that expansion. It would have to be phased in order to get it all completely done but it is possible.

Mayor Cannon said I want to applaud Councilmember Smith on his efforts in working with both sides of this process. I've gotten a lot of good feedback and I wanted to say thank you publicly for that.

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

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

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ITEM NO. 8: HEARING ON PETITION NO. 2013-079 BY JOSEPH OKOYE AND SYLVIA OKOYE FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.59 ACRES LOCATED ON THE WEST SIDE OF EASTWAY DRIVE NEAR THE INTERSECTION OF AUDREY STREET AND EASTWAY DRIVE FROM R-17MF (MULTIFAMILY RESIDENTIAL) TO INST(CD) (INSTITUTIONAL, CONDITIONAL).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this petition is located on Eastway Drive between Shamrock Drive and Sugar Creek Road. The property on the future land use map is shown as recommended for multifamily residential. I want to point out a couple items in the area; you have Garinger High School, the Brian Center Nursing Facility and you have a daycare that is existing in the residential district just south of this site; multifamily is across the street.

In terms of this request it is multifamily residential to institutional conditional; it is for 5,000 square feet of medical office uses. There are commitments to building materials and we do have elevations which I will show you in just a minute. There is parking to the side and rear of the building, reduced height for the lighting and restrictions on uses beyond medical office. If you look at the site plan, one of the issues that staff has is there is no commitments on this section of the property and this is one of the issues that we feel needs to be addressed before we could support the petition. You see the elevations, the north and the east and then the south and the west.

The request is inconsistent with the Eastside Strategy Plan which recommends multifamily. The Eastside Strategy Plan focus is a mixture of non-residential uses at major intersections, not at mid-block locations such as this one. For those reasons and the reason of the site plan issues, staff does not recommend approval of this petition.

Stewart Wallace, 1520 South Boulevard said I am representing Drs. Okoye and their rezoning application for multifamily to institutional conditional to permit the development of a medical clinic. We believe that there would be many benefits to the community; the easy access to healthcare and employment opportunities and local tax income to the city. We think that the area does need some more healthcare facilities and you can see a map showing the facilities in the local area. The red dots are medical facilities. He pointed out the lot that they are trying to rezone. Going from north to south of the site Garinger High School is immediately to the north and just below that we have an abandoned house or a house that has not been inhabited for many years. At the back we have the daycare, the Brian Center and to the south we have the daycare facility. Across the road is a large lot which is the Eastway Church of God.

I just want to give you a visual feel for the site running from north to south, starting at Garinger High School. As you travel south along Eastway you see the abandoned house to the left, another abandoned house, an overgrown lot that such development would help beautify and bring the street trees to the site. We see the daycare on the south part of the site. Across the way we have the Church of God, open parking lot. We had a community meeting and we felt there was overall support for the project and we felt most of the people there were glad to see some
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kind of development coming to the area. They were happy to see it and were giving us some tips on how to tackle the high crime rate in the area and issues of poor soil quality down by the creek at the back of the lot.

As far as the zoning goes, this is a map of the area and you can see the lot basically in the middle. The Eastside Strategy Plan proposes that non-residential development is restricted to the intersections and as you can see to the south side of the Shamrock intersection we have office and B-2 zoning going about 1,000 feet away from the intersection. To the north by our lot we have office coming up and not quite meeting where our lot is located. In a sense to rezone this as institutional conditional is not too much of a stretch when compared to the non-residential zoning to the south side of Shamrock. I think the rezoning would address some need for medical facilities and there are also no locations in the B and O zoning around the Shamrock intersection right now that are available for rent or purchase. There was no dissention from the community; they welcomed it and no other issues from the City in the application comments that we received. This would provide easy access to healthcare; there would be bus stop right outside the building and we think it would generally benefit the community, the local area and raise up the standards of landscape and development in that area.

Dr. John Gouch, 3616 Michigan Avenue said I am a dentist in the area and I have been there 39 years and I'm about 600 feet diagonally across from where they would be building. My daughter is in with me at this point and we have a staff of 8 that works with us. We've stayed very busy from day one. When I was first in the dental office we had three medical doctors in the facility and Humana bought the building and I later bought it from Humana so four about 14 years they stayed very busy in the community. My understanding is that there are two internal medical physicians here who want to have like a family practice where you see them over and over again. That is somewhat like what I have in my dental office. I see people that I have been seeing for 39 years, an old timey practice and I thoroughly enjoy it. We care about the neighborhood and what we are doing. I actually have a lawn service that goes one block on both sides of Eastway Drive and edge and manicure and I've done this for years and tried to keep the area up. We've had a low instance of crime at my building, probably four things in nearly 40 years and they were all minor. It is not that bad I don't think, and I think this would enhance the area and I know the Drs. that were there before stayed very busy; they were Dr. Blunt, Dr. Softon and Dr. Newell. I feel like it would be a good thing for the neighborhood so I don't see the down side to it. I have no vested interest in it otherwise.

Councilmember Phipps said I understand it that this will be a proposal for brand new construction and not to renovate an existing structure for this type of service.

Mr. Wallace said that is correct; there is nothing on the site right now. It is completely overgrown site with no structures.

Mayor Cannon said the plan on this dates back to 2001 and things have changed over the years and nothing has really been updated. I would hope that staff would take another look at this as we move through the process. I understand some of the issues but I think what you are proposing is worthy in the way of land use for the area. We'll see what happens, but wish you the best through the process.

Motion was made by Councilmember Barnes, seconded by Councilmember Driggs 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. 9: HEARING ON PETITION NO. 2013-084 BY CHARLES C. DAVIS, JR. FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.54 ACRES LOCATED ON THE SOUTH SIDE OF THE PLAZA NEAR THE INTERSECTION OF EAST W. T. HARRIS BOULEVARD AND THE PLAZA FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO B-1(CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL.

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Tammie Keplinger, Planning said this petition is located on The Plaza at W. T. Harris Boulevard. There is an existing shopping center immediately to the left side of the screen. There is multifamily called for across the street; there is a school at this location and another commercial development across the corner of the Plaza and W. T. Harris. The aerial shows this has a single family home and one or two accessory structures that located with it. You can see the existing commercial center; this is a mini-storage facility and the school and existing residential property beside the site. I am showing you this map to actually show you what is happening with this property. The property is actually configured in this manner. There is going to be a land swap as such so that this development can occur so the area that is highlighted in purple along with the area outlined in purple is actually the parcel that is proposed for rezoning.

In terms of the request this is single family residential to neighborhood business conditional. The proposed use is retail for approximately 9,000 square foot building. There is a 30-foot maximum building height. They are excluding drive-thru windows as one of the conditions; you can see the building elevations; this is the front and rear of the building and these are two sides, left and the right. Staff recommends approval of this petition and it is consistent with Eastside Strategy Plan recommendation for single family, multifamily, office and retail land uses. The outstanding issues relate mainly to the elevation and other design issues and we have a few technical issues also.

Ronnie Walch, P. O. Box 843, Wilkesboro, NC said I am with Venture Properties and we are representing Charlie and Gloria Davis. They are present and do not wish to speak, but did want us to convey that they are long time residents of the area and obviously they support the rezoning. We are here to request that you approve this request. As we see it the property is suitable for rezoning. The Planning Board staff has recommended approval. The site does in fact meet the City of Charlotte long-term land use plan for the east side which does provide retail development in the neighborhood. The proposed development is consistent with surrounding development. The property adjacent to the west is developed with a Food Lion anchored neighborhood retail center. The property directly adjacent to the north is improved with convenience store and self-storage. The Middle School is located just northeast of the property and then there is a fairly large tract of undeveloped land that belongs to the television station. We do believe it to be consistent with the goals of development in that neighborhood and for that property. We have made significant architectural improvements to that building in order to make it more esthetically appealing and meet the standards of the City of Charlotte. There is sufficient infrastructure out there. There are five lanes of road there and the traffic count is about 10,000. The other things we would point to are the increase in the tax base for the City of Charlotte and it will provide more jobs for folks in the neighborhood. It enables the retailer to better serve their customers in that neighborhood. They do have an existing location out there that is significantly smaller and with some restrictions they have led them to believe that development of a free standing store would better serve the customers in the neighborhood.

Shea Davis, Venture Properties, P. O. Box 843 Wilkesboro, NC said we've tried to incorporate all the comments that were received to date into our plans. We've made some final revisions actually in the last 36 hours; trying to include some of the outstanding issues. We hope to resolve all those and make everyone happy. The site plan is basically the same thing you had previously seen. The one thing I want to point out is our elevations have changed slightly. We received some comments from the City with some concern about having expanses more than 20-feet as far as a plain wall. We were at 21.5 or 22 so we've added some column pile ... to help bring that down under 20-feet. We've added some decorative brick; I believe the request was for one side, but we've done it on both sides. We've updated the front of the store to give it a more significant entrance. This facility will be all brick as we feel that greatly enhances the aesthetics of the building. These renderings are to show you how we will be situated in relationship to the adjacent shopping center. The landscaping will meet all the required codes and we will also be adding a privacy fence along the left side of the property at the request of one of the property owners. This is a similar store, obviously not quite as dressed up as what we are doing here. This one is just outside Boone, NC in Watauga County, just to show all brick is. The one we are proposing here will be more dressed with additional columns, additional soldier courses and brick accents. As was stated we do meet the requirements of the East District adopted future land use. We did have our community meeting and had 5 people from the community show up.

None of them had any opposition and all seemed to be favorable and Councilmember Autry was there as well. We have gone through preliminary review and no real issues have arisen from any of the departments. Basically that is it and we feel this is a good project for the community and hope you see fit to approve it.

Jerry Clark, 128 South Tryon Street said I appreciate all the work you all are doing for our City. This is David Fuller, Jr. and this is Tony Windell; we own the strip shopping center next door to this parcel which has Food Lion and Dollar General as two of our five tenants. David's day is deceased but he and Tony and I built that center 28 years ago. We've taken good care of it; we're proud of it and we've invested in it heavily. We have replaced the entire parking lot; painted and repainted the buildings numerous times. We've recently put a new roof on the shopping center and we also paid the US Postal Service a fee to connect to gravity sewer a few years ago when the Post Office that is behind our shopping center and fronts on Harris Boulevard was built. When we first learned about the potential building for Dollar General, the first thing we did was try to get out and find a possible tenant that could take their place. They occupy 8,640 square feet in our shopping center and they've been a direct tenant of ours over 8 years and prior to that they sub-leased the same space from the then existing tenant. They have two options to renew, each three years in length that they can renew the lease in our property and if they are interested in a long term lease, which most of these dollar stores are doing now; they have 10-year leases, we would gladly work with them on that. What worries us is if this petition is approved and Dollar General moves to a new free standing store there will be a 65-foot wide; 133-foot deep dark hole in our shopping center which is not good for the neighborhood. If the sales volume of our existing tenants falls due to lack of this Dollar General Store we are worried that other tenants may close down and leave the center. We are sitting on the corner of W. T. Harris and The Plaza and we abut the side of our center adjoins the petitioner's property. There are two free standing Family Dollar Stores in the immediate area; one is kitty cornered across the intersection from us and the other is less than a mile away and there are a lot of Dollar Stores, either Family Dollar or Dollar General in the process of getting put together on the inside of the outer loop in the northeastern part of the City. That is our story and we will thank you if you will think about a position on this matter where we already have this tenant as a long time tenant in our shopping center.

Susan Lindsay, 6295 Rosecroft Drive said I'm here again to talk about free standing stores; particularly the Dollar Stores which are saturating our area. One of the things I would like to point out is that we have shopping centers and this is the only one that I think is completely filled. We have vacancies at every shopping center in the area and they are eye sores and they need to be filled. This new concept that all of these chains are going to for free standing store are stripping out our corridors. If you think Albemarle Road looks bad or Independence Boulevard and some of those sections, this is what is starting to happen on The Plaza and on Milton Road and it is going to spread if this business model continues to be brought forward. The Eastside Strategy Plan; staff recommends and says that it meets the plan. I think that is quite a stretch to have these 9,000 and 10,000 square foot stores taking up spots. It is not good sound planning. We are inundated with these stores. We don't have any choices and I shop at this Dollar General and part of the reason I do is because I go to the Food Lion. I go to the shopping center. I am not going to another separate driveway and I know a lot of people aren't. A big concern and we repeated this last time just a few months ago on another rezoning for another Dollar Store which is a couple thousand feet from my door. That is every time you approve a rezoning it changes the land use plan and it encourages a domino affect for this kind of development. We don't need this kind of development – just a look at the stretch of The Plaza from Milton Road to Harris Boulevard. It is not good looking and it hides the good looking neighborhood. Neighborhoods need visibility out to the main street that they are connected to, to be marketable and to survive. You cannot have a decent market for neighborhoods if they can't be seen behind the clutter that this kind of development that this kind of development puts up along there. I hope you will consider our comments; I have talked to numerous neighborhood leaders in the area and not one supports this project.

In rebuttal Mr. Walsh said there are a couple things I will point to and I sympathize with the owners of this center. We have developed more Food Lion anchored centers as well but the fact of the matter is that a business model for Family Dollar, Dollar General, the Dollar Stores the business models have changed and they deal more on consumables now. Most of these leases in

these grocery store anchored shopping centers contain restrictions against the sale of consumables, which, limits their ability to sell consumables and thereby lessens the competition in the neighborhood and gets into the pocket of the residents frankly. In terms of the residential development around that site is relatively sparse. You probably saw from the aerials that there is not any significant residential development in the immediate proximity to that site. It is bordered by Food Lion anchored center, a self-storage facility, a middle school and a large tract of land that is owned by the local television station, but all that said I point back to it does meet the discussion regarding whether or not this land use plan and the violation of it. This development will be compatible with the land use plan that has been adopted by the City of Charlotte. This project has been recommended for approval by the Planning Board staff. It meets all the requirements that are dictated by the City of Charlotte for this type of development of that site.

Councilmember Autry said Ms. Keplinger, in the Family Dollar Store that was approved earlier this year on Milton Road we required that building to be up on the street. Why is that not being done in this property?

Ms. Keplinger said in this particular case there was already an established pattern because of the shopping center next door and there wasn't any ... while on Milton Road that was the beginning of a new center and a new development; so, it is a little bit of a different circumstance. Some of the parking on this particular case is to the side of the building which is something we would prefer in this location.

Councilmember Barnes said I wanted to point out a couple things that struck me; first of all some years ago there was a proposal to build a Dollar General on the other side of The Plaza, catty cornered to this site beside the Family Dollar and I said no because I didn't believe it was in the public interest and I didn't believe it was the appropriate land use at that site. We now see that they have come back to the other side of The Plaza and Mr. Autry and I have spoken about this so he has an idea how I feel about it. Sir, with respect, it is not our job to keep your center filled and I think you know that, but I understand what you are saying and the concern I have is that since I've been on this Council developers always say we build what is in the area so once you build an apartment complex, guess what is coming, more apartment complexes. Once you build a fast food restaurant you get another fast food restaurant. My concern is that currently as you proceed north from this site there are no other retail establishments after you get past North Ridge Middle School and it is residential and wooded land. I'm not convinced that this is the appropriate site for a Dollar General and I share the concern Mr. Autry just expressed about the building being near the street and I understand what Ms. Keplinger said about following the trend with the shopping center next door, but that concerns me as well. One gentleman indicated that the design features had changed on the building and that was probably a good idea.

With regard to no-one showing up to the public meeting, the Hampton Inn down on Tryon Street isn't really nowhere near this site and people who live near this site and live near Ms. Lindsay would probably not travel down to North Tryon Street to the Hampton Inn to participate in a public meeting. In my opinion, I appreciate what these gentlemen have said to us, but it is another struggle for me. When we dealt with the Family Dollar we heard the same concerns from people in the community about the precedent setting nature of the development and this one in my opinion creates the same sort of challenges that it created when they were proposing it across the street in my former district and now in Mr. Phipps' district.

Councilmember Lyles said Ms. Keplinger in the packet that was submitted by the petitioner there is a similarly designed store in Boone so this may be completely out of the blue, do we allow for ice machines accessory uses to set out in the front of a store like this, is that something that is an allowable?

Ms. Keplinger said yes ma'am that is something that is allowable and you will see that in many places throughout the City.

Ms. Lyles said I know, I was just wondering if those were grandfathered or if that was typical part of it.

Ms. Keplinger said it is something that is allowed.

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Ms. Lyles said I had the opportunity to drive over and look at this lot. Mr. Barnes and I have had the opportunity to go to New St. John's Church and I drove by and took a look at this week-end and I have to echo some of the concerns that Mr. Barnes has. When I see that entire intersection I know that we cannot guarantee the uses to fill someone's shopping center. Times change, business models change but if you look at the entire overall development and you think about what is currently there and how you can make this just as an addition instead of a fit, I'm struggling with it as well. It is a tough go, I think, when you've got existing retail; you've got this lot that is perhaps suited but then you look at what is considered suitable in terms of the parking and the screening and all of that. It is just a very difficult position to see how this works. I am particularly concerned about the public meeting and whether or not people had an opportunity to really comment on that. There are a number of facilities in that area; there are churches in that area; there are other centers and opportunities I think to provide the community more access and more information. It is something that I think is really going to require some thoughtfulness on staff's part when you look at the recommendations and the notes and conditions.

Councilmember Fallon said what is the zoning for that now?

Ms. Keplinger said the zoning is currently R-3 single family residential and the proposal is B-1 which is neighborhood business.

Ms. Fallon said why would we do that?

Ms. Keplinger said the request came in which we processed the request as they come and in this particular case the long range plan for this area calls for single family and multifamily, office and retail uses. From staff's perspective it is something that is consistent with the plan.

Ms. Fallon said but it could have multifamily with retail with it?

Ms. Keplinger said it could have any of those four uses or any variety of them.

Ms. Fallon said is a variance needed for it?

Ms. Keplinger said for this particular case, no.

Ms. Fallon said just a change of zoning, to which Ms. Keplinger said yes mame.

Councilmember Phipps said Ms. Lindsey indicated that in conversation with numerous community leaders in the area that they were opposed to the project. Looking at the attendance at the meetings, only five people there, but was the location really an impediment or was it a matter of communication of the meeting?

Ms. Lindsay said I put the wrong date on my calendar so I missed it and in fact John called and asked where was I? I have a day planner and I'm very organized most of the time and I usually am the one that reminds a number of people about these kinds of things, but it was out of the way and unusual. I have to also add that a number of years ago umbrella organizations such as Charlotte East Community Partners and the Northeast Organization etc. were on the automatic mailing list for rezonings along with neighborhoods that were in a certain radius of the rezoning. I am not getting those notices anymore and Vicky Fula, who is with me, did not get this notice either. It put me way behind and I'm a very busy person; I'm still working and I have to have a lot of time out front to get a lot of people interested. Frankly when you go through this repeatedly; we've been dealing with these kinds of issues for 17 years. You know how tiring that gets for people to respond? I'm trying to build momentum again but it is difficult.

Motion was made by Councilmember Lyles, 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. 10: HEARING ON PETITION NO. 2013-091 BY SHEA ANNISTON, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 11.38 ACRES LOCATED ON THE NORTH SIDE OF MARVIN ROAD, EAST OF JOHNSTON ROAD BETWEEN DONNINGTON DRIVE AND WILKLEE DRIVE FROM R-3 (SINGLE FAMILY RESIDENTIAL TO MX-1 (MIXED USE)).

A protest petition has been filed and is sufficient to invoke the 20% rule requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Council in order to rezone this property.

The scheduled public hearing was held on the subject petition.

Councilmember Lyles said I would like to recognize Councilmember Driggs for all the wonderful petitions he's got on the agenda tonight. It is great to have the economic development going on in your district.

Councilmember Driggs said hit the ground running.

Tammie Keplinger, Planning said I will show you the location of this petition; Johnston Road, Marvin Road; this is the site and there is an existing daycare that is located at the corner of Marvin Road and Johnston Road. Back in 2012 by Petition 2012-085 this property was rezoned to multifamily to allow 281 multifamily units. You can see the existing daycare and the single family residential neighborhoods that are adjacent to it.

The request before you tonight is a little bit different in terms of the residential pattern than we have seen so I wanted to start with this slide to explain to you what this is all about. If you have followed me on the slide you have the interior streets and there is one driveway that flows into a vehicle courtyard that serves six single family housing units. Each of these houses has their own garage and they are on individual lots so they are considered single family homes. In terms of the overall site plan, the common driveway that I just showed you shows up on the site plan in the heavy dark line so you can see the pods of development of these six homes. There are six of these pods. The proposal also has several single family homes that are located off of a common guest parking area so this is a little bit different and it doesn't have the same pod effect, but it does allow some additional parking. Wilklee Drive comes in from the single family residential neighborhood to help transition. The petitioner is showing three single family lots that all have one home and one driveway to that home. The request is to rezone from single family to mixed use, innovative. The proposal allows 52 units; it is at a density of 4.56 units to the acre. There is a 35-foot maximum building height and just so you will understand the innovative standards are actually not approved by Council, but are approved by the Zoning Committee. The petitioner is requesting it all be considered at the same Zoning Committee so we wrapped it all into one package.

There is a large common area and open space and tree save area to the rear of this site. If you look at the property, the property is very deep, but you can see the creek that runs through it and this area will remain open space. You can see a couple of the building elevations, building elevations A and B; there are some additional elevations that are in your packet that the petitioner submitted, so you can see the side elevations also. In terms of this petition, it is consistent with the South District Plan recommendation for single family residential, General Development Policy supports up to 6 units per acre and this is just above 4 at 4.59 units per acre. The General Development Policies recommend that we consider a variety of housing type and housing options and all of the outstanding issue are technical in nature of this petition so staff is recommending approval upon the resolution of those issues. There is also a sufficient protest petition associated with this rezoning petition.

Colin Brown, 214 North Tryon Street said I am with Walker, K & L Gates, representing Shea Homes and joining me tonight is Mike Shea with Shea and for those of you are not familiar with Shea Homes, they are locally owned and operated and have been here for a number of years and have a great reputation in the community. What we are drawing on tonight; actually Shea Homes is a little bit nationwide and they have a product which they have used in the California

market where land is tight and property values are high. They were able to draw on that experience and bring forth the site plan that we will show you tonight which I think is innovative for Charlotte. Staff has been great in working with us and helping us figure out how to make it work. I think it has a lot of positives for issues that we talk about a lot when we talk about concerns with residential. This I think provides some solutions. This is a map of Ballantyne and this is the site, just showing you the proximity; great location with employment in the Ballantyne area. Just south of us is retail; elementary school here so it is a terrific location. This is the original version of the site plan and this is the only colored version we have, but this is about 11.5 acres and everything to the rear of the site over four acres will remain open space. The only disturbance we will have back there are some trails and a picnic area. Over 35% of the site will be open space; 25% of the site will be tree save. The density we are talking about is only about 4.5 units per acre so we it is not a high density product. Just for reference this is Donnington which is a single family neighborhood and that is R-4 which would be equivalent to 4 units per acre. Our density request is not that great; we are extending a little bit over the R-3 but the real point is this innovative site plan and I will take you trough. This was our original plan, working with staff we have adjusted that a little bit and that is our current plan. I wanted to show you the development right down the street in the area and it is a very nice development; these are all brick, but a lot of times when we talk with staff and with you all we talk a lot about when we are doing residential at a little higher density, what we end up with are a lot of narrow deep lots and what that usually translates to is having a lot of homes that have a front facing garage and a driveway. This is very typical; a very nice neighborhood in the area, but what you see it is very automobile oriented when you drive down the street it is driveway, driveway, driveway, lots of impervious space and you see these front facing garages and that is just how these have to site plan. What Shea did was try to innovate this a little bit and we hear a lot of negative feedback about that layout and I want to take you to Shea's product and show you what they have done. Rather than have 15 driveways and front facing garages; there is a total of 5 driveways. Each driveway enters into an auto court and each of these homes will have a 2-car garage that would face the auto court. What that does is give you a more pleasant experience as you come down the public right-of-way and you can see the public street here, enter into the auto court. Shea has already committed to do upgraded paving in this auto so it is not just concrete. You would have paving elements to break it up. Then as you come in you would enter the garages into each of the buildings and we have worked with staff as they wanted to see what these would look like. Shea has been very successful on the west coast with this product, but we have to modify the architecture for the southeast. They are working on the elements and the design, but this would be the look of the home that faces the public street. So instead of the narrow lot and the driveway it looks like an estate home on an estate lot and you don't have the driveway; you don't have the front facing garage. As you enter into the parking area that would how you would access this model and there are two that have front facing garages but they are set back off the street on the automobile court. Just as an example, if this is a six cluster the ones you have facing the street you have no garage or driveway. As you come here you kind of have the long one to the access of the two-car garage and these in the back would have a front facing garage, but it is away from the street.

I think this seems to be a created solution; Shea has had good experience with it. They know the product works, is bringing it to Charlotte; staff has been great working with us; we have a zoning district that works; the innovative provisions are matched each lot so this works for us. There is a protest petition. We had a neighborhood meeting and there were about 15 who attended. We followed up with everyone that attended by e-mail to have on going conversations. The neighbors we talked with the most are in the area behind us and their concerns have really been with the open space area. There is a creek in the area so their questions had to do with flood impact. We spent a lot of time and our BMP is in this location. I know that Carol Hammick has engaged with some of the neighboring property owners; our site designed has done the same and then the other question is how we treat this open space. As you can imagine; there is a cluster area down here so these are not larger yards; these are people who don't want a large yard. Shea did think it was important to have some area for the residents to get out and have an amenity to walk around. We had some discussions with the neighbors and some of the neighbors said we would just like for you to stay out of that entirely. I think we reached a middle point with several adjoining property owners where Shea is providing an undisturbed buffer; our revised plan will show an undisturbed buffer along the parameter and they've agreed to have no lighting, no tract receptacles simply to be allowed to have a trail in this area and a picnic area with some tables.

Those are some of our on going conversations with the property owners. I've received e-mail correspondence from at least one of the owners back here thanking Shea for their cooperation; withdrawing the protest petition and we will continue working with the neighboring property owners. That is an overview but if you have questions I'll be glad to answer them.

Michael Cox, 15614 Donnington Drive said I am one of the residents that is opposed to this rezoning. I wish to thank you for the opportunity to speak this evening. As a former Social Studies teacher and elected official I am always a believer that it is important to have contact with the folks in the field and the folks that represent us, so thank you for giving me that opportunity. I also have learned over the years as an elected Board of Education member when a change is proposed folks will say, you know what, that sounds really good, but not here; not in our backyard. I've heard tonight and I know you always hear yeah, we like that, but not here. Do it somewhere else. Let me tell you; somewhere else where I live in the Kenilworth/ Amberleigh there is an awful lot happening in our back yard. Item 6 on your agenda tonight is one of those areas that you gave approval to rezone and Ryland Homes met with representatives at the other end of our allotment and reached an agreement and we are glad to have an agreement; we wanted to have an agreement; we want to work together. That is what we are all about. I heard this evening some folks in the red shirts being upset about 70 new apartments; well come with me to my neighborhood. We have right now 522 apartments under construction; on Marvin Road we have 280 and down the street less than ½ mile away on Lancaster Highway we have 242. Do the math and I want you to get a visual here for the backyard. I am assuming that you have our handouts along with some petitions so we don't have power point or some other kind of visuals to hopefully get your attention. The first one is entitled "The Map of Kenilworth and Amberleigh Neighborhoods. I want you to see this because in my neighborhood there are 165 properties and of those property owners contacted 78.8% said we are opposed to this rezoning of MX-1. Now the remaining numbers are the folks that rent or the folks weren't around when we knocked on their door. That is kind of a significant number to let you know that we do have some folks that are saying enough; we've got a lot going on here. We will do our part but keep in mind that there is only so much that we can do.

Shea Homes shared earlier that they have been good neighbors and they have met with some of our neighbors and I want to introduce a good friend of mine and a neighbor, Alyssa Cowell, and she wants to talk about the amiable meeting that occurred last week.

Alyssa Cowell, 15615 Donnington Drive said thank you for allowing us the opportunity to speak tonight. As Mr. Cox has mentioned and also Mr. Brown mentioned, I have been in contact with representatives of Shea Homes to discuss specific concerns regarding my property and the site plan for this proposed development. My property directly borders the Shea Homes property and my husband and I had specific concerns about maintaining the privacy of our backyard, as well as the safety and appearance of the area for the water quality measurers which is planned to be built just beyond my property line. Chase Kirley with Shea Homes visited me at my home to view the area behind my house and Shea has agreed to put up a gate around the water quality area for safety and to plant trees around the feature to provide screening and they have also agreed to maintain existing vegetation behind my property which is tax parcel #22314258 and my two adjoining neighbor's property which are tax parcel #22314259 and #22314260 as well as plant additional foliage to provide adequate privacy between the two neighborhoods.

Should the rezoning petition be approved I requested to see those enhancements reflected in the next rendition of Shea's filed site plan. I appreciate the opportunity to have met with them and to discuss my concerns.

Mr. Cox said I would like to draw your attention to the real impact of what is happening in our neighborhood. If you will turn with me to the ongoing projects within 1 mile of the target site, I think this gives City Council members a good idea of what is going on where we live. Item #1 in blue is the one that we are hearing about tonight and I want you to know that we can live with the idea of having it an R-3 zoning which is saying can Shea Homes live, can City Council live with having 20 less. That is all we are saying - 20 less. Look at the number of vehicles that are on the road in the mornings in the proposed changes. We are talking about 18,090. Now if you don't believe that come with me. When I leave for work in the morning I have to go through 6

traffic lights between my house and I-485. Sometimes it takes me 20 minutes to go 2 miles. That is a long time and I know that. I don't know if these figures are completely accurate. Our elementary school, Elon Park, where these students in the proposed change would go, right now, a third of the students are housed in trailers. Plans are underway to take the remaining playground and put more trailers up so that half of the entire population will be housed in trailers. That is one of the impacts that kind of goes on in this area. If you look at this we are not asking for a lot; we are asking for a reduction of 20 homes and we can live with that. One neighbor said to me tonight, oh, don't go there, City Council has already made up their mind; they are not going to change. I said you know George Bernard Shaw, an Irish Play Write once wrote those you cannot change their minds can't change anything. Well, I believe we can all change. When I first started I was against Shea Homes Period; I don't want you there; now I am saying come ahead just build 20 less. I know that we are willing to live with the current congestion and the planned congestion; that is a part of Charlotte's expansion. We are hoping that Shea Homes will reconsider; we are counting on City Council to do something that I know you did as an old history teacher; when Dilworth residents opposed the rezoning and allowing a Walgreen to go in, you sided with the residents. I'm counting on you tonight and the days ahead to side with us because I do believe that we can all change our minds. Thank you for your time and your efforts.

In rebuttal Mr. Brown said thank you to the residents, and to Ms. Cowell's point, one of the folks from Shea did meet with her last Thursday and they discussed some improvements. Certainly we would be happy to make those commitments and have that in our revised plan by Friday. That has been most of the discussion we've had with the neighbors or some adjacent and wondering how their treatment can be. Ms. Cowell is right behind the site and right behind our BMP so her concern was really what am I going to see; is it going to be a danger for my kids. Lee McLaurin, our site designer I think has communicated this is not expected to be a wet pond; it would be dry but Shea has agreed to go ahead and put a fence around it. I think one of the best responses that Shea has had is that their residents are going to live right by the BMP to so it is in their interest to make that as safe and as attractive as possible. I will be happy to have further conversation with Mr. Cox. At our neighborhood meeting the first question that came up was density and could we just stick with 3 and we said that was the lowest number we thought would work for Shea so we said we may have to agree to disagree on that, but let us work with you on any of the site plan conditions we can come up with and again the real driver, there is a slight density increase from 3 to 4.5 but the real driver of the innovative standards to allow us to do that layout which we think is a positive and we think hopefully we will ripple through the community. Mike is here if you have any questions about the product and I'll be happy to follow up with you if you have any questions.

Councilmember Driggs said gentlemen we met sometime ago to talk about this proposal and looked at plans etc. Is this the same or has it changed since our conversation in terms of price points and description of the property?

Mr. Brown said the only change is right now are the ones that we will file on Friday so you had seen the most recent plan that staff reported on. We have some additional commitments that have come out of discussion with neighbors, that undisturbed buffer, the fencing around the BMP and some of those have come together in the past week.

Mr. Driggs said the site is laid out the way it is because you actually cannot build on the green space. Is that correct? Is there any potential for future construction in that area?

Mr. Brown said it would be very difficult to build back there and we said that to the neighbors. In addition to that the neighbors wanted a commitment that no matter what we can't do lights, we can't do a soccer field so that would become a zoning condition. It would be a walking trail only and a picnic area.

Mr. Driggs said you mentioned that this particular model has been used in California. Was the scale and dimensions similar to what you are implementing here?

Mike Shea, 214 North Tryon Street said yes, absolutely.

Councilmember Kinsey said it has been a long time since I've seen what looks like a cul-de-sac on a plan, but I just want to make sure that Wilkee does go into.

Mr. Brown said it does. We will connect to Wilkee and that was a concern of the neighborhood that we explained that that was a condition. If you compare our revised plan to our original plan there is essential a traffic circle that we think will discourage cut-through or high speed cut-through as much as we can.

Councilmember Autry said the arrangement of the homes around the parking opportunities that you are providing here; is that more impervious surface or less impervious than what all of them facing the street would be?

Mr. Brown said it is an interesting question and we could probably have our engineers run that and get than answer. Kind of eyeballing it, it is probably less, but I don't know for sure.

Mr. Autry said that is what it appeared to me but I would like to know just for the sake.

Councilmember Barnes said I just wanted to respond briefly to a statement Mr. Cox made about his neighbors assuming that we have made up our minds and I know that people frequently think that we have made up our minds, but that is not always the case sir, so we are open.

Councilmember Fallon said how many acres are devoted to this green space?

Mr. Brown said over 35% of the site and it is just over 4 acres. That is open space but the bulk of that or 25% of the site would be undisturbed tree save so most of that back there on the other side of the creek is not being touched. The only think we are touching is to put in a trail.

Ms. Fallon said is that almost 8 houses on an acre?

Mr. Brown said on the developed area, yes that is right.

Councilmember Smith said it sounded as if they made those enhancements you would be in support of the plan. Is that a correct understanding?

Ms. Cowell said my first choice is for the property to remain R-3 because I want less dense as possible back there. We have so much congestion and other things going on around our neighborhood that the fewer cars and the fewer children that are added to the area I feel would be better. If, however the MX-1 rezoning passes those are enhancements that I would like to see out of advice to talk about that here so it could be added to the site plan and filed.

Mr. Autry said Ms. Keplinger, this is currently R-3 and the request is to rezone to MX-1; where is the mixed use?

Ms. Keplinger said the Mixed Use District is used to allow alternatives in design and that is why you have the information and the agenda about the innovative request. It doesn't necessarily mean that you going to have a mixture of uses. When you actually read that portion of the ordinance that describes what the MX-1 is it will tell you that it is to allow design alternatives that we don't normally see, which is what this request really is.

Mayor Cannon said if it remains R-3 what is the difference between what is being proposed and if it were to remain R-3?

Mike Davis, C-DOT said the difference in those two if it were development at R-3 with 3 units per acre you would get about 390 trips per day. Under the proposed zoning of MX-1 you get 590 trips per day.

Mayor Cannon said you did say you would have the revisions to the site plan by this Friday for Ms. Cowell?

Mr. Brown said we are going to ... by Friday and we will have that.

Mayor Cannon said I would like to be able to see a copy of that as well please.

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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. 11: HEARING ON PETITION NO. 2013-092 BY FMF MOREHEAD, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.77 ACRES LOCATED ON THE NORTH SIDE OF EAST MOREHEAD STREET AND SOUTH SIDE OF KENILWORTH AVENUE, BETWEEN EAST MOREHEAD AND HARDING PLACE FROM MUDD-O(PED) (MIXED USED DEVELOPMENT, OPTIONAL, PEDESTRIAN OVERLAY, MUDD(CD) (PED) (MIXED USE DEVELOPMENT, CONDITIONAL, PEDESTRIAN OVERLAY) & O-2(PED) (OFFICE, PEDESTRIAN OVERLAY) TO MUDD-O SPA (PED) (MIXED USE DEVELOPMENT, OPTIONAL, SITE PLAN AMENDMENT, PEDESTRIAN OVERLAY) & MUDD-O (PED) (MIXED USE DEVELOPMENT, OPTIONAL, PEDESTRIAN OVERLAY).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is a rather busy map, but this is the location of the subject property. This is Kenilworth, Morehead and you can see the edge of the Dilworth Historic District. You can also see the greenways down Kings Drive. I want to talk a little bit about the history of this property. You last saw a zoning request for this petition in 2011; a rezoning for this petition in 2008 and a petition for this one around 2009. In terms of this request the proposal is to basically take all three of those rezoning requests and combine them into one. The request will have integrated mixed uses; it will have up to 380 multifamily units; 10,000 square feet of residential supportive services; up to 15,000 square feet of commercial uses with the allowance of one drive-thru. If one drive-thru is permitted then the square footage for the retail would go down to 15,000 square feet. The height of the building would be limited to 7 stories or 100-feet. As you can see along the front of Morehead the residential supportive uses are along the front of the mainly residential building. This is the location of the commercial section which will be on the ground floor and then you have the parking deck and residential above. The residential above shows what the floor plan will look like with the different amenity areas and a pool area.

There are several optional requests that are involved with this petition; one for the drive-thru window; building access features to encroach within the setbacks; reduced setbacks, storm water facilities within the setback and parking in the new ring ... to share. As you can see on the elevations ... share areas and this is the proposed plan from Morehead, the elevation for Harding Place, eastside elevation and the Morehead/Kenilworth perspective. Staff is recommending approval upon resolution of outstanding issues. The residential component is consistent with the Midtown, Morehead, Cherry Area Plan which recommends mixed use, pedestrian oriented development. The retail component is inconsistent because we cannot determine if it served the immediate population so that one of our outstanding issues. The proposed change does combine the three sites into a unified development and it only has minor changes from what was previously approved. In fact it actually reduces the height in many instances. The outstanding issues include those related to the variety of uses as I mentioned and the remaining issues are technical so staff is supporting it.

Collin Brown, 214 North Tryon Street said I cannot imagine that I am standing here with only 3 minutes to talk about this petition, but I think that speaks to Four Stars' efforts that they have put into this petition. Four Star is committed to this site; they have purchased the site and many of you know this is an eye sore on the corner of Morehead and Kenilworth. We've been meeting with the Dilworth Community Development Association (DCDA) for about 9 months, talking about different options. The existing zoning on the site, you will probably recall last year the McAlpine Group rezoned this parcel. Four Star bought that intending to develop it under that zoning, but they realized that next door to them they would have this undeveloped parcel that had zoning on it that allowed a large office tower. If developed under the existing zoning you
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would have a multifamily development here, an apartment development here. Essentially the existing zoning would allow 383 residential units and we are only proposing 380 so it is a slight reduction. Retail is allowed, 22,000 square feet is allowed by right. Initially we were requesting 15,000 square feet with a drive-thru and you may recall there was an entrance from a pharmacy in this site so that was the real driver for part of our rezoning. As it turns out about 2 days before our revised plan was due we were informed that the pharmacy might not be interested in the site so that left us in a little bit of a scramble at the last minute. We were reaching out to other retailers and it was indicated that a grocer might be interested so we changed our request to add instead of 15,000 square feet and a drive-thru; we requested the option to that or 25,000 square feet. I think we caught staff a little bit off guard and we caught ourselves a little bit off guard because there was a great response from the neighborhood about the grocer so we talked with staff as we moved forward, we would place some limitations on that to make everyone comfortable.

A few commitments I did want to get into the record for the DCDA folks that may be watching. Right now we have the option, our 15,000 square foot drive-thru, we had said that could be for a pharmacy, a bank or a coffee shop. We will be eliminating the coffee shop and we are agreeing to impose some hours of operations for the retail use. The concern was that they did not want it to be a 24-hour pharmacy. I would still like to have a little feedback from DCDA, but we will have that confirmed by Friday. We are going to tighten up the allowable retail uses to address staff's concern. C-DOT had a concern; we had two driveways on Morehead; this one will be full movement and this one will be right out only. That is a commitment to address C-DOT and in this area we have committed to 6 and 8 sidewalks and planting strips around except for this area in consultation with the Urban Forestry....

Councilmember Mayfield said if you had one minute to finish that thought what would you say?

Mr. Brown said that is important and it is a modification we will make. In this area there is a planting strip with huge trees which we are going to preserve, an existing sidewalk, and on the other side of this sidewalk is this huge mound. Apparently the tree roots have migrated under the sidewalk and are in the mound and if we were to disturb that mound the trees may be injured so Urban Forestry has advised us to essentially not modify the sidewalk width. Our revised plan will show a segment of 5-foot sidewalk in this area and that is the reason for that.

Ms. Mayfield said we are now in the fall and the leaves have fallen. Has there been any discussion since we are looking at the planting partly for the esthetics but partly to keep for the visual of it. Has there been any conversation of maybe a different type of plant as opposed to what we have currently been using. Further up Morehead around Charlotte Pipe and Foundry it is beautiful in the spring and summer, but now that fall has come and all the leaves have fallen off, are we looking at identifying any other kind of vegetation?

Mr. Brown said right now basically our landscaping commitments are tree plantings within the planting strip. These are existing trees in this area. We are not planting any shrubs or rescreening except maybe some on Monticello Terrace which we are discussing with those neighbors, but I think we are just committing to the tree plantings requested by Urban Forestry.

Councilmember Autry said the retail use the 25,000 square feet, would that have a drive-thru?

Mr. Brown said no. The way we have it written you could have 15,000 with a drive-thru, but if you went over that the drive-thru option would go away.

Councilmember Phipps said Ms. Keplinger you said that the petitioner could not insure that the retail component would be serving the immediate community. Given the fact that you have about 25,000 square feet proposed; you have 380 units, the community was overwhelmingly in support of the retail component, what other evidence or documentation do we need to insure that retail will definitely serve the immediate area of the community?

Ms. Keplinger said I think the petitioner has begun that process by limiting the drive-thru component to 15,000 square feet. There could be and we hope there will be some additional conditions on just the type of uses that are allowed in the MUDD District so that we can

eliminate those such as the coffee shop. That is one, although it concerned the DCDA, it also concerned staff and also staff was concerned about financial institutions because they are heavy traffic generators and that might not be appropriate for this location. We talked about that and restrictions on that if they had a financial institution that it would only have one window or one pneumatic tube so it wouldn't be a place that you could have a lot of people waiting; things of that nature is where we hope to go to get some more assurances on the types of uses.

Councilmember Fallon said Mr. Brown do you think a supermarket or a store could exist on just the people in a building which means they are going to draw from outside; where are they going to park?

Mr. Brown said this is our 15,000 square foot concept with the drive-thru and in this case there is a dedicated parking area for the retail. If the retail is expanded to be a grocer, essentially it would expanded and the drive-thru would go away and there would have to be additional parking. It is all below ground or it is below the residential structure.

Ms. Fallon said they would have to get their shopping down below in the parking lot that the building is in?

Mr. Brown said I'm familiar with the Harris Teeter uptown that has structured parking and Trader Joes. I know an architect has looked at it to be sure that option works. We don't know for certain that we will have the grocer.

Ms. Fallon said Trader Joes is not underground.

Mr. Brown said I mean it will be all beneath the residential and some may be underground.

Ms. Fallon said you mean a portion for commercial?

Mr. Brown said that is correct.

Motion was made by Councilmember Autry, seconded by Councilmember Lyles 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. 12: HEARING ON PETITION NO. 2013-093 BY LAUREL OAK FARM, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.23 ACRES LOCATED ON THE SOUTH SIDE OF YOUNGBLOOD ROAD BETWEEN MCKEE ROAD AND WATERMELON LANE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said to orient you this is Youngblood Road and McKee. The subject property is located Youngblood Road and they only rezoning a portion of the property which is what you have highlighted. In terms of the aerial, you can see the property lines and the area to be rezoned. There is an existing single family home located on the site. I have tried to show you the area that is proposed to be rezoned in relation to the existing single family home. The driveway is along this line and will be shared for the proposed use. The request is to rezone from single family residential to mixed use development – optional. It is for indoor/ outdoor pet facilities with the outdoor pet center being very limited; up to 2,000 square feet for the pet center with a maximum of 40 feet in height. The optional request as you can see deals with the fencing, the elimination of sidewalk, the parking between the building and Youngblood Road and the elimination of the sidewalk connection to Youngblood. There are existing trees and a split-rail fence along the property line; there is an existing and a proposed chain link fence in this area. You can see the building and the pet walk area. There is a 15-foot buffer between the property and the outdoor pet area. The zoning ordinance normally requires a 300-foot separation for
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outdoor pet areas and one of the reasons the petitioner is requesting the MUDD District is because they are asking to reduce that 300-feet to 15 feet. We feel this petition is inconsistent with the Steele Creek Area Plan recommendation for single family. The use of the mixed use development district that is not appropriate for this location and it reduces that 300-foot distance separation for outdoor pet activities to the adjacent residential property.

Keith MacVean, 100 North Tryon Street said I am with Moore and Van Allen and Jeff Brown and I are assisting Laurel Oak Farm, LLC, the petitioner with this rezoning petition. With me tonight are Will and Janie Hodges, owners of the property and are also the petitioners. They will be the operators of the indoor pet center and Bill Hodges, Will's dad is also assisting them with the proposed indoor pet center. This site is located on Youngblood Road between Zoar Road and McKee on the south side of Youngblood Road. We are rezoning a portion of a 4-acre parcel that Will and Janie currently own. We are rezoning 1.23 acres of the site. We believe this is a unique request that will allow a very small unobtrusive use that will serve area residents and their pets without changing the residential character of the area or the site. As you can see from this aerial photo, the existing home on the site is set a good 300 plus feet from Youngblood Road, the proposed indoor pet facility would be near the home, also set back 300 plus feet from the road; again, trying to maintain the residential character of the site. Will and Janie currently live on the site. They have improved the existing three acres there and they operate a little small farm operation there. They grow vegetables and fruits on the facility now and would like to have the indoor pet center to help serve a need they see in the community.

The rezoning request will allow the construction of a very small, 2000 square foot building that would be residential in character and would be setback from the road, maintaining the residential character of the site as you drive by on Youngblood Road. The one use that we have asked that is an outdoor use is the ability just on the parameter of the site around the indoor pet center, is the ability to walk and take the pets out for bathroom breaks. When they are taken out for walks they will be attended at all times by Will and Janie who work at the site. It is important to the petitioner that they have the ability for the pets to use the outdoor portion of the site just from a sanitation perspective and a way to provide in their mind a high quality indoor pet care facility. They would want anybody that would be opening a pet facility to have the ability to have that small limited outdoor space so the pets can go outside and not be confined to the inside of the facility all the time. As you will note the site that is being used is actually surrounded on three sides by property they own and utilize currently.

We have met with the area residents; Bill, Janie and Will have met with their neighbors; they have discussed the site with them and have actually gone in the recent weeks and have planted additional landscaping around the parameter of the site. There is a single family sub-division currently under development behind them. They have met with the developer of that development and they are very comfortable with this proposal. In fact that development is going to have a pool and recreation area right here on this portion of the site. That will be their club amenity area so there will be another non-residential use very close in proximity. We also met with the Steele Residents Association and I have put on your desk a copy of the letter they provided us. They looked at the site and looked at what was being proposed and felt this proposal was a good opportunity to provide high quality pet facility for the residents of the Steele Creek Community so they are supportive of this request.

We want to take a moment to thank the Planning Department for their help on this petition. We note that they are not supporting the request because it is inconsistent with the Steele Creek Area Plan, however we do feel that this unique proposal will maintain the residential character of the site and the area and from that perspective it is still consistent with the Plan, if not the spirit of the plan in terms of a residential use and setting. We understand why the Planning Department might be hesitant to support MUDD zoning at this location and it is not a typical location for that type of zoning. The use of the zoning district provides a mechanism to allow the site to develop with the home of the proprietor on the same site without providing buffers between the actual facility and the home on the site without providing a larger parking area and without having to seek additional variances.

In closing the petition represents a unique opportunity to provide a service to the residents of the area without changing the residential character of the site.

Councilmember Austin said how many people attended the community meeting?

Mr. MacVean said we had two area residents attend the community meeting; one resident lives directly to the south of the site and another resident owns a piece of property over here off of Watermelon Lane. We also got a call from the resident that owns this property right here and we explained to them what was going on and I think they felt comfortable with the proposal. They had questions about the facility. It is a climate controlled facility; noise was an issue and again the petitioner responded that the facility's condition; the dogs would have to be maintained inside but when they are taken outside they are attended. If they had pets that became perpetual barkers those pets would not be invited back. I did provide in your packet a copy of what the building would look like so you can see it is residential in character and would be in keeping with the home that is on the site.

Councilmember Autry said how old is the Steele Creek Area Plan?

Ms. Keplinger said that plan was updated in 2012, so it is very recent.

Councilmember Kinsey said when you say pet services, is that boarding, is that breeding?

Mr. MacVean said I'm sorry, I meant to mention that. It would be limited to boarding and grooming of pets.

Councilmember Driggs said I was wondering if the pet related activity only takes place in that small segment and if so would there be any change in the use of the other part of the rezoning request?

Mr. MacVean said the outdoor activity is limited to just this area around the actual building. The remainder of the site remains the same. We are rezoning this amount of area because we want to utilize the existing driveway that serves the home in this portion of the site so we needed to include that in the zoning petition itself.

Councilmember Mayfield said just to get an understanding and a comparison for the constituents that are watching us this evening; we have a number of pet spas that are opening up around town. I'm trying to understand the difference because I don't think we have the language currently for much of it to be the right category for this type of facility to be created because it is surrounded by residential. Have we had any discussions about possible options or in comparison what it would look like to have a pet spa because I think that is part of the disconnect. The understanding I had from meeting with the proposal for this particular development is there is a difference between it being just a kennel as opposed to the pet spa and the fact that we are pampering our pets a lot more today than we may have 20 years ago. Can you help to share a little bit of light on that?

Ms. Keplinger said yes mame, actually in the past three years we actually have done a text amendment because we were finding that there were a lot of new pet services out there that our ordinances just did not address and were not around in 1993 when the ordinance was adopted. We ended up with indoor pet services and outdoor pet services and both of those uses are allowed in the MUDD district although the issue with this particular case there is an issue with the MUDD district being out in this particular area. It is an urban district and this is really not an urban setting. Unfortunately with this particular petition they needed to ask for the optionals because of that 300-foot separation. There are other districts that indoor pet services and outdoor pet services can go in. In the urban area the MUDD might be more appropriate, but in this particular case it is not.

Ms. Mayfield said looking at how we are moving forward; because I don't perceive this being the last conversation we have around this particular service as more and more people are bringing pets into their homes and most people treat their pets as if they were family so you do have a lot of spas. Is there any conversation happening in Planning as far as looking at the possibility because one way I'm looking at this, you look at the ... Center; you are out in the woods, you are riding your horses and it is away from everything. This could very well be the

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beginning of that conversation, not saying one way or another that this is the right time, but I was wondering are we having those conversations because I don't perceive this being the first and last time we are going to be having this conversation.

Ms. Keplinger said the indoor and outdoor pet services are allowed in many of our districts and there are others that might be appropriate. It is a business so in rural locations it is probably going to be difficult each time that we have a rezoning of that nature.

Councilmember Phipps said I see here where you are going to be reducing the separation from 300 feet to 15 and in doing that you are telling us that there was no concern about doing that regarding noise and barking?

Mr. MacVean said we did get questions about noise and again it is a very limited outdoor activity that we are requesting. It is not an outdoor kennel that would require the 300 feet and you have dogs that are outside in open kennels 24 hours per day. This is a very limited outdoor area where pets would be walked and exercised; allowed to go outside and use the bathroom; something that would blend a better environment for the pets at the facility and for the sanitation inside the building. It is a very limited ability; we did have concerns at the meeting about noise but again it is a climate controlled facility and dogs which become a problem with barking would be kept inside or not be invited back to the facility.

Bill Hodges, 17224 Due West Drive said I'm going to take one moment to amplify that question because it is really at the center of the business plan as we understand it today and as we've tried to develop it. The Animal Control Ordinance for CharMeck provides that a barking or howling animal and does that in a way that interferes with adjoining neighborhood property is against the ordinance. If we were to allow that to happen it is very likely that we would lose our business privilege license and we would have to shut down the business. The other point I would like to is that the Animal Control Ordinance also provides that no person shall maintain animals in an unsanitary condition. Also we've come to understand that we will be licensed by the Animal Welfare Section of the Agriculture Department and they have very stringent requirements surrounding sanitation. It is inconceivable to us in trying to develop a business plan for an indoor animal center that you could maintain sanitary conditions with the animals restricted 24/7 inside the facility. I personally actually believe that the text relative to the indoor/outdoor kennel in the ordinance is not as robust as it could be and that it should provide for an indoor kennel some limited space to take the animals out of doors for the purposes of walking and going to the bathroom.

Motion was made by Councilmember Kinsey, seconded by Councilmember Austin, 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. 14: HEARING ON PETITION NO. 2013-096 BY SECOND HARVEST FOOD BANK OF METROLINA, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 15.13 ACRES LOCATED ON THE WEST SIDE OF NORTH GRAHAM STREET AND SPRATT STREET BETWEEN MUSIC FACTORY BOULEVARD AND OLIVER STREET FROM I-1 (LIGHT INDUSTRIAL) & I-1(CD) (LIGHT INDUSTRIAL, CONDITIONAL) TO I-1(CD) (LIGHT INDUSTRIAL, CONDITIONAL) & I-1(CD) SPA (LIGHT INDUSTRIAL, CONDITIONAL, SITE PLAN AMENDMENT).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said the property is located just off of Brookshire Freeway and North Graham Street along Spratt Street at the cul-de-sac of Spratt. You can see from the future land use map that the land use does call for institutional uses. There is residential in the area and industrial and mixed use. In terms of this request the City's current Spratt Street Facilities are located on this property. We have Second Harvest Food Bank in this area. The request is to allow a proposed office, warehouse and distribution facility. The request would take the existing 66,000 square feet of area that is approved and change it to 125,000 square feet. That is for Area A. Area B where the City's facility is located has not changes to it. The Second Harvest Food Bank is proposing additions to help meet the needs of the community. The building additions are located here, here and then two small ones in here. In terms of this request, it is consistent with the Central District Plan recommendations for institutional uses. It allows the extension of the existing facilities and there are no outstanding issues.

John Carmichael, 101 North Tryon Street said I am here on behalf of the Petitioner, Second Harvest Bank of Metrolina. The Food Bank works with over 200 agencies in Mecklenburg County alone and numerous other agencies in its 19 county service area. About 10 years it was providing 7 million pounds of food annually to people in need. As we sit here today it provides 40 million pounds annually. The existing facility has about 38,000 square feet of office, warehouse and distribution space. As you might imagine with over a five fold increase in demand for food, there is a concurrent need for more space. This would essentially double its facility and allow them to continue to serve the community as it has for the past decades. There is some expansion space in case it would need it in the future for Crisis Assistance, about 14,000 square feet and this site is owned by the County and the City and we've been working closely with them on this petition.

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

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

ITEM NO.15: HEARING ON PETITION NO. 2013-097 BY SUGAR CREEK CHARTER SCHOOL, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 15.16 ACES LOCATED ON THE SOUTH SIDE OF GLORY STREET AND HUNSLET CIRCLE AND GENERALLY SURROUNDED BY WEST CRAIGHEAD ROAD, GLORY STREET, WEST SUGAR CREEK ROAD, AND NORTH TRYON STREET FROM R-12-MF (MULTIFAMILY RESIDENTIAL & B-2(CD) (GENERAL BUSINESS, CONDITIONAL) TO B-2(CD) (GENERAL BUSINESS, CONDITIONAL) & B-2(CD) SPA (GENERAL BUSINESS, CONDITIONAL, SITE PLAN AMENDMENT).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this is North Tryon Street at West Sugar Creek; this is a former shopping center about 25 to 30 years ago and actually was a K-Mart if you can remember back that far. The request is to rezone from multifamily residential and general business district conditional to general business conditional and general business conditional, site plan amendment. This is the Sugar Creek Charter School that has been in this facility for sometime and they are a kindergarten through 12 school; they are proposing to increase their square footage from about 114,000 square feet to approximately 228,000 square feet; they are proposing a two-story building addition and they are also asking for an alternate buffer that is along the existing driveway. That existing driveway was part of the original shopping center development and is considered non-conforming. The buffer is something that will be addressed before it comes to the Council for a final vote. The request is consistent with the North Tryon Area Plan recommendation for institutional uses; it allows the expansion of the existing facility and the outstanding issues are technical in nature and staff is recommending approval.

John Carmichael, 101 North Tryon Street said the Charter School opened in August 1999; it is a free urban kindergarten through 8th grade public school; serves about 980 children; it is a North Carolina School distinction; serves a high poverty population and it has been an mpl

unqualified success in terms of improving the academic performance of its students. The school is pursuing the site plan amendment for the sole purpose of establishing the high school and expanding the school facilities to accommodate the high school. It is pursuing the high school in part because the parents of its current students desire that the children have the opportunity to attend high school at Sugar Creek Charter School. The Charter School is working with UNC-C Urban Education Collaborative and CPCC on the establishment of its high school. It will serve a maximum of 300 students; 9th and 10th grade students will attend classes on campus; 11th and 12th grade students will take classes at various CPCC campuses. The mission of the Charter School with the edition of the high school will be to eradicate generational poverty by providing an integrated college and career preparatory education from Kindergarten through 12th grade so its students will be ready to either go to college or to enter the workforce. The sole purpose is to allow them to serve that mission and we are hopeful that you are supportive.

Motion was made by Councilmember Mayfield, seconded by Councilmember Austin, 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. 16: HEARING ON PETITION NO. 2013-099 BY MICHAEL T. WHITEHEAD AND ELIZABETH M. WHITEHEAD FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.70 ACRES LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF RAMA ROAD AND SARDIS ROAD FROM INST(CD) (INSTITUTIONAL, CONDITIONAL) TO INST(CD) SPA (INSTITUTIONAL, CONDITIONAL, SITE PLAN AMENDMENT).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning pointed out the location of the property as well as Sardis Road, Rama Road and Providence Day School. She said you can see the future land use map shows a lot of single family residential with institutional uses at the corner of Sardis and Rama Roads. To give you a little bit of history about this property, in 2005 the property was rezoning to allow conference and retreat center. One of the uses that was restricted at that time was weddings and wedding receptions and this was due to negotiations with the adjacent property owners. In 2012, after operating there for 7 years the property owner came back and asked for that prohibition on weddings and receptions to be removed and that was removed. They have been operating and having weddings and receptions along with other uses of the facility since that time. The request will allow a two-story event center to be constructed. The increase of the maximum building area is from about 8,000 square feet to approximately 19,000 square feet within four buildings. The building will be a maximum of two-stories and there are 121 parking spaces required. This is one of the reasons that staff is not recommending approval of this petition. Right now there are 41 parking spaces on site; the petitioner has a written agreement with Sardis Baptist Church to provide 50 additional parking spaces but we believe that they still may not have enough parking in accordance with the ordinance and that is one issue that we are still trying to resolve.

Ms. Keplinger pointed out the location of the two story building and said they have new outdoor events areas in three locations and three new meeting spaces. There is a 20-foot buffer along the side and the rear of this property; there is an easement in that area with A T & T and petitioner is working to see if that easement is still needed because it could affect the location of the proposed building; also showing a few new parking spaces in the area adjacent to the new building. The request is consistent with the South District Plan recommendation for institutional uses, however the intensity and the proposal exceeds previous approvals. There is a lack of on-site parking and for that reason staff is currently not recommending approval of this petition.

Mike Whitehead, 2230 Cloister Drive said we also have with us tonight our architect, Darryl Williams and our property manager, Chris Bollinger and our operations manager Karen Holt is here. As some of you may know we have owned this conference center on Sardis Road for about 8 years and when we first purchased this property our intension was to add value to the community and then provide space for our small business. Since we purchased the property we

have worked hard to insure that any addition that we make enhances the property and makes it more enjoyable to everyone around it. Over the years we've added flower beds, trees, buffers, new grass, preserved the old trees on the property and we've taken care to preserve the original 120 year old house that is currently on the property. We then since built a complimentary building to allow for new technology and a large meeting space. We've offered the use of this building and the grounds to nearby public schools, churches and neighborhood groups in our area and the property also provides a conference space for our family business, the Center for Intentional Leadership. During this time we have enjoyed a warm, collaborative and mutually respectful relationship with our neighbors from Downing Place, Stonehaven and Sardis Oaks. It is on this foundation of collaboration and these improvements that we are applying for the current site amendment. Our intention for this proposed site is to continue to expand the beauty and use of the property for our business and for the community. As you have seen from the proposed site plan we intend to enhance the grounds by additional garden areas, water features and walking paths. We intend to also additional breakout spaces for on-site meetings and are considering an additional building to contain a large assembly area with a few administrative offices. We have hosted the requested community meeting where the majority of our neighbors have been very supportive of this addition. Tonight you will hear from our neighbors in the Sardis Road Townhomes who offer their perspective of the site plan amendment. We met with them last week to discuss their views of the aesthetics of the building and its size as well as possible issues related to noise or traffic. We are committed to finding solutions and working with our neighbors in a way that works together with us collaboratively. My wife, Beth and I are heavily invested in the success of this property and are intended to own it for many years to come and recognize that its success is dependent upon a great relationship with all of our neighbors. We are committed to finding a solution that takes into consideration the view of our Sardis Road neighbors.

We have also been speaking with the City staff and working with the City staff to resolve some of the outstanding issues and even since this meeting tonight we've resolved some of those things and sent documents accordingly. We believe that over the past 8 years we have developed a great relationship with our neighbors and we are going to continue to do that. We are working to resolve the size of the building and possibly reducing the size of the building, working with the architect on that; working to provide off-site parking and actually secured an off-site parking agreement with Sardis Baptist Church which will take into account all the parking that is needed for the new building. In working with the neighbors we promised them that we would meet with them to go over any aesthetics of the building design with them just to insure that what they are looking at is also appealing to them and consistent with the other architecture of the house.

Jerry Fox, 5935 Bridger Court said I reside at 5935 Bridger Court, Sardis Oaks Townhouse development as Mr. Whitehead mentioned. There are 9 of us in four buildings and we are located on the Sardis Road side of this property. I provided a written statement to you that was included with your agenda. There has been one change and one addition to that which I will mention during my comments. We are here tonight opposing the petition as submitted by Mr. Whitehead in its current proposal. Let me just review some of the facts of the situation. There are two buildings on the site at this time; approximately 8,700 square feet. Mr. Whitehead is asking for four more buildings, one two-story structure and three pavilions which would add another 11,000 square feet to the site. The 9,600 square foot building; the two-story building would be located within 20 feet of the side of one of our townhomes, 20-foot setback from our property line, not from the side of the house. Also according to the site plan the current assembly space would allow for approximately 102 people in the buildings. The proposed assembly space would allow an additional 422 persons to assemble in the buildings. The current conditional plan requires 41 parking spaces; the proposed development requires an additional 103 spaces. These additional spaces are not provided on the site as the staff indicated. We concur with the Planning staff's recommendation that this not be approved in its current form. We object for the following reasons: It is too intense public assembly development on this 2.7 acre site. The back of the two-story building would actually face the side of our townhomes. The floor would be 6 feet above the floor of the townhouse. A smaller less intrusive building cited more in the center of the site would be what we would suggest.

Potential of over 500 persons to be able to assemble on this site would create we feel additional traffic, noise, safety and congestion problems. The parking, staff has mentioned, and we would

mention again that the lack of parking on the site and to provide for off-site parking would require shuttle buses and/or walking from the site that Mr. Whitehead is proposing and crossing either Rama or Sardis Road. We believe that our property values in the current pristine nature of the property would be negatively affected if the site plan is approved as submitted. I will be happy to answer any questions or provide any additional comments.

In rebuttal Mr. Whitehead said we have worked together and sat in the living room just last week discussing some of these items. They were kind enough to provide me with some of their concerns ahead of this meeting. I would like to address four things and I believe this is also the concerns of City staff as well; please correct me if I'm not right. This is a concern mostly from the neighbors, concerns for the size of the building towering over the line; I said we are going to explore design solutions with our architect that will address this structurally, including elevation adjustments. We are looking at elevation adjustments; we are also looking at reducing the size of the building from a two-story building to possibly a one-story building to address their concerns there. Traffic, noise and congestion, actually the plans locate the proposed building on our property in order to provide better noise buffers for our neighbors. You will actually see that the building decreases the noise to the neighbors because we are going to create an outdoor room setup between the two buildings. The current way it exists is there is a field there and if you have people congregating on the feel the noise level would be extremely high. By putting the building there we actually buffer the noise so I think we are actually decreasing the noise itself. Parking – there is no additional parking. We are not adding parking on the site so there is no additional traffic, there is no additional parking. We've entered into a parking lot lease agreement with Sardis Baptist Church to provide 50 spaces of parking. We've also entered into a shared parking agreement with Sardis Presbyterian Church with 70 spaces. This provides an additional 120 spaces if needed. There are no additional cars coming on our property. There are no additional parking spaces on the property. In fact by adding the building it actually reduces the possibility that you could even put people on the lawn itself, so we shouldn't have any problem with that. We will not overlap in hours of operation with any of these facility agreements for parking and we put that into the agreement with the churches. We also have a shuttle service at the Central Church of God on the corner of Sardis and Randolph Road.

Councilmember Lyles said Tammie could we get a map showing how the pedestrian access will work from the facility to the two churches where the parking is. I drive it but I don't know how the sidewalks work and I think that is something that we ought to at least have some comment on and pedestrian safety.

Ms. Keplinger said we could do that.

Ms. Lyles said would you like to explain how you plan on getting pedestrians from the off-site parking to the facility?

Mr. Whitehead said through the shuttle service.

Ms. Lyles said what kind of shuttles are you planning on using?

Mr. Whitehead said Rose Limousine.

Councilmember Smith said Mr. Whitehead we met on the site last week and we discussed the parking and that seems to be the big hurdle with staff and the conversation we had was talking about assuring up more specificity in the parking agreement. Have you been able to do that? That was a big concern of staff and if so maybe you could send me a copy of that.

Mr. Whitehead said you have a copy tonight, right Tammie?

Ms. Keplinger said we did receive a copy today and I'll be glad to send it to you tomorrow.

Mr. Whitehead said we have secured that with Sardis Baptist Church.

Councilmember Austin said even though you are providing a shuttle service, there is no concern that people might take it upon themselves to cross those very high trafficked areas and creating a safety issue?

Mr. Whitehead said no, I think some people will do that and actually some people do now because we do use Sardis Baptist Church as parking now. There is a traffic light; there is a crosswalk and we've not had any problems with people walking across from Sardis Baptist Church because there is a crosswalk there.

Councilmember Driggs said I was wondering what the peak activity periods are. When do people arrive and leave and how does that coincide with peak periods of traffic that exist on the roads?

Mr. Whitehead said 75% of our business is corporate so for the most part those meetings don't start until 8:30 or 9:00 in the morning so we intentionally try to schedule those try to avoid some of the traffic with Providence Day School. Generally speaking an 8:30 to 9:00 start time, which is usually ending by 4:00 or 5:00 p.m.

Mr. Smith said the total of 121 parking spaces, one space per four feet; was that staff's calculation or the Petitioner's calculation?

Ms. Keplinger said I believe that is from the Zoning Ordinance for places of assembly. I would like to clarify Mr. Smith that we received that document today, but we have not had time to review it.

Mr. Smith said that is fine; that is something we had discussed and he said he committed to getting it and I just wanted to follow up on that.

Mayor Cannon said I know Mr. Fox raised the issue of 20-foot setback from a property there. Will there be any movement there? Do you plan to do anything about that or will that be as it is?

Mr. Whitehead said right now there is an easement there with A T & T. We are in conversations with A T & T this week and they are letting us know this week whether that is required or not because that was recorded in 1982 so we are taking into consideration anything the neighbors are concerned about and trying to adjust it accordingly so it will make it work for all of us.

Mayor Cannon said you mentioned reducing the number of stories. You've got a short timeframe right now; when do you think you may come to some agreement about that if it is feasible for you to do?

Mr. Whitehead said Darryl is here tonight for that very purpose so if there is a way for us to get the actual drawings down by Friday; we would like to get it at the work session this Friday. That is our intention for being here tonight, to address the issues that staff has given us and have that to them by Friday.

Mr. Fox said will we get copies of this?

Ms. Keplinger said they will be placed on our website just as any of our general information is; from Planning staff that is how we communicate, through the website.

Mayor Cannon said he probably wants to have some better kind of communication, maybe a phone call to say it is there so he will know what is what.

Ms. Keplinger said we can do that.

Mr. Fox said we will have a chance to comment on the additional information?

Mayor Cannon said I would assume you would. The Zoning Committee will be meeting as well.

Ms. Keplinger said the comments on the revised application would mostly likely be handed through communication, through phone calls with the Council and Zoning Committee or through letters or e-mails because the public hearing will be closed tonight; assuming the public hearing is closed tonight.

Mayor Cannon said Mr. Fox I would encourage you to remain in contact with the District Representative who I'm certain will be all over this in that of Councilmember Smith to help you and aid you along the way.

Mr. Fox said be assured of that.

Councilmember Barnes said it strikes me that because of some of the changes that Mr. Whitehead is proposing that we might want to keep the public hearing open and allow feedback from all concerned. He is making some suggestions and proposal that I think kind of change the plan and probably in a good way, but you've got Mr. Fox asking for an opportunity to see it; we may want to see it before we vote so I'm wondering if we want to keep the public hearing open.

Mayor Cannon said I really don't think that is a bad idea but I want to yield to the petitioner because they may have some other ideas and wishes.

Mr. Whitehead said I would request that we not keep the public hearing open and that have been working in good faith with our neighbors and following the process that the City has outlined. I would request that we follow the process that the City has outlined and let us work to resolve the issues with the staff and resolve the issues with our neighbors.

Mr. Barnes said the reason I suggested it Mr. Whitehead is because if I don't have an much information as I think I have I don't support petitions and I want to be supportive if I can be. I don't think you lose anything by keeping it open and Ms. Keplinger has a comment to make. It was just friendly advice that's all.

Mayor Cannon said and I think good advice. I think in a way of just trying to be helpful to make sure that everyone has enough time to sort of come to a resolution that makes sense is where Mr. Barnes was going.

Councilmember Phipps with respect to the parking agreements, do you have any contingency plans in place in the event that any of those agreements fail to get renewed at the end of the 5-year agreement period?

Mr. Whitehead said there are four churches and a private school within the vicinity and those are our contingency plans. We currently have used the Central Church of God which has a huge parking lot and a lot of shuttles. Sardis Baptist Church is the one that is right across from us and that is the one we have the agreement with which makes it easy, but we do have the Central Church of God as a contingency plan as well as Sardis Presbyterian Church and also the private school down the street.

Mr. Smith said Mr. Fox if you had another minute is there anything you would like to add?

Mr. Fox said what I think is really important in this is the location of this two-story building and so far all we've seen is the site plan. We haven't seen any renderings as you've seen from many of the cases here tonight. We haven't seen this and that is going to be very important for our continuing to not agree with Mr. Whitehead's plans. We would like to be able to see those renderings, see what the relationship is going to be to our townhouses, to his own buildings. The two buildings that are there are very compatible with each other so we just need more information and we need to be able to digest it. We have seven of our nine owners sitting up here and we believe that the concerns recommended by the Planning staff and our own that we should have additional time to look at this.

Mayor Cannon said let me thank everyone for their patience tonight. You've been very patient and we've had a lot of the agenda and you haven't stressed, you haven't done anything, but thank you for being here tonight we really appreciate it. I know Mr. Williams is here tonight.

Mr. Whitehead said he did tell me that it would be useful if we are going to revise the site plan, particularly if we are going to alter the elevation that he might need more time as well. If that is what we need to do then we will do that. We don't want to rush it and we want them to have something that they can feel good about.

Mayor Cannon said hearing that from the petitioner is everybody okay with allowing the public hearing to remain open.

Motion was made by Councilmember Lyles, seconded by Councilmember Smith and carried unanimously, to continue the hearing.

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ITEM NO. 17: HEARING ON PETITION NO. 2013-100 BY SMA CAROLINA, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.20 ACRES LOCATED ON THE SOUTH SIDE OF CENTRAL AVENUE BETWEEN ROSEHAVEN DRIVE AND WINTERFIELD PLACE FROM R-22MF (MULTIFAMILY RESIDENTIAL) TO O-1(CD) (OFFICE, CONDITIONAL).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this petition is located close to the intersection of Central Avenue and Sharon Amity Road. The request is from multifamily residential to office, conditional. The aerial shows the property is vacant. There is a site plan that is associated that shows a 9,000 square foot building; 6,000 feet will be a dental clinic and 3,000 square feet will be other office uses. There is a 40-foot maximum height; a commitment that 30% of the exterior building materials being masonry. In terms of the Eastside Strategy Plan it recommends office for this particular piece of property. The outstanding issues are technical so staff is recommending approval upon the resolution of those issues.

Dan Saltrick, 73-C Island Parkway, Beaufort, SC said I'm here to represent the petitioner and mostly to answer your questions. I think Ms. Keplinger did as good a job as I could of explaining the project. Our client will occupy the building with her dental practice. The site plan itself is a function of the portions of the property. The building will sit on the street as much as we can given the narrow nature of the site. We are keeping the driveway into the site in the same location as the existing driveway. I'll be glad to answer any questions you might have.

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

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

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ITEM NO. 18. HEARING ON PETITION NO. 2013-102 BY WAJAHAT & FERAH SYED FOR A CHANGE IN ZONING FOR TWO PARCELS APPROXIMATELY 2.13 ACRES IN TOTAL LOCATED ON THE SOUTH SIDE OF NORTH DAVIDSON STREET BETWEEN EAST 33RD STREET AND EAST 35TH STREET FROM R-5 (SINGLE FAMILY RESIDENTIAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT MIXED USE) AND MUDD-O SPA (MIXED USE DEVELOPMENT DISTRICT, OPTIONAL, SITE PLAN AMENDMENT).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this petition is located on North Davidson Street right at 34th Street; you can see that the area plan is recommending transit oriented uses. In terms of the sites, I'm going to talk about site A first and then go over to site B. For site A it is currently zoned mixed use development district optional. The proposal is for a site plan amendment to expand the
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current uses to allow all uses in the MUDD except for auto service stations, adult establishments, car washes, restaurants with drive-thru, bars and night clubs. The latest use in this property was a pottery studio. There is also an increase in the square footage from 1,700 square feet to 2,000 and there are several optional requests associated with the petition involving setbacks, streetscape and parking in the required setback. Going back up to area B, Area B is a request to rezone from single family residential, R-5 to TOD-M – Transit Oriented District, Mixed Use. It is a conventional request with no associated site plan. In terms of this particular petition both areas A and B are consistent with the Blue Line Extension Transit Station Area Plan Recommendation. They are within ½ mile walk of the proposed 36th street Transit Station and there are some outstanding issues on Area A that need to be addressed, but they are technical in nature so staff is recommending approval of Area A upon resolution of outstanding issues and just recommending approval of Area B.

Wakajat Syed, 10906 Tavernay Parkway said I would like to thank you for giving me this opportunity. This is the first time my wife and I have come to a meeting like this so please bear with me. We purchased these two properties and they have been sitting for a couple years and we've had a lot of interest from various groups to actually use the properties for various purposes and as you heard they were originally zoned, one residential and the other was zoned mixed use already. We are just simply asking for a change of use from pottery studio to all the uses that are permitted in the MUDD District for the first property and under TOD for the second property.

This is a street view of North Davidson Street and as you can see the first property is the red property and it is pretty well known in NoDa as the red house. The second property is the third house from it. These are the two that I'm requesting zoning changes on. This gives you an idea of what the zoning was and what we are requesting. The next slide will show you a bit of the layout. Currently, the way this is set up, this is North Davison Street; the building actually has a porch in the front which is going to stay. Our goal with both of these buildings is to keep the look of the 100-year old house in tack. We have no plans on making any changes and the only change that we are asking for is an area to the left of the building on 34th Street where there is a deck. There is a possibility, depending on what kind of business goes into that building that we may need more square footage. Right now I think it is about 1,600 and we are asking 2,000 or 2,200 square feet so it will take in that little porch area. There is a beautiful oak tree in the back yard which we have no intentions of taking down. We want to keep the look and feel of this area as consistent as possible. We've had requests from neighbors to keep the house red in color so we are going to honor that request and it will remain red in color. There is some art done on the foundation of the house which it will probably be repainted but we will probably ask artists to go ahead and redo some of the art work there. Our intention with this property, the red house is simply to maybe expand it a little bit and open it up for more business opportunities other than what it is currently zoned for.

This is another shot of the property as it looks right now and this is a look at the property from the YMCA across the street. There is an area where we are proposing some additional parking. There is room for two parking spots here and we've heard some feedback from the NoDa Business Development Community and they have had some concerns around this. I will add that we did send out invitations for a community meeting which was held on December 6th in the community and out of the 82 invitations we sent out we had 30 plus people show up so it is a very active community and we got some very good feedback. We are taking a lot of that into account. This is the site of the house and this is the area that we are proposing to maybe add some square footage and the setbacks will be observed so it is not going to change any of the setbacks. This is another shot of that area, where the deck is located right now and where propose taking that into the building. There is a tree right here and there was supposed to be a tree there but when it bought the property it wasn't there so what we propose to do is additional parking in this area so that will require removing this tree and this site will have to be relocated.

I will move on to the second property; this is 3024 North Davidson Street. This is residential right now and the proposed zoning request is TOD-M and basically this is based on the adopted land use plan for the area. We are fine with whatever the City proposes on this. We would like to have the most flexibility on how this space could be used, but right now as you will see we are setting it up as a residential location. This is a picture of how we bought the house; it was in very bad shape and it was used for residential. The next photo is basically what it looks like

now. We have spent a lot of money restoring it to its original look and it is currently set up as residential and we are requesting the TOD zoning to give us some more flexibility on how it can be used. It is an actual work in progress but we are committed to the neighborhood; we've had meetings with the Neighborhood Association and we are keeping everything they have said and we are taking it to heart and we are going to accommodate as much as we can. There was some feedback provided with respect to parking and we would like to hear the exact solutions that are being proposed because there is some street parking being proposed. I'm not sure how that is going to fit into that area, but we will be open to discussion on that.

Chad Maupin, 1109 East 35th Street said I am Vice President of the NoDa Neighborhood Association and I'm here to speak on behalf of the association. The first point we want to get across is that the petitioners who have come to two of our meetings have been very commutative, very open and we like their plan for the properties. We trust their intent and we hope that this entire row of homes has similar owners and developers in the future. Our concern isn't with their plan for the property; our concern is both the precedent of using TOD rezoning on this specific row of homes and the potential for a future owner of the property years down the line to use that type of zoning for a much higher use that might be detrimental our hope and vision for this row of homes.

I hope you have the letter in front of you from the NoDa Neighborhood Association. It is hard to see on page 2 but there is a very small purple strip of homes along North Davidson Street and the Transit Station Overlay Development Plan, there is this one row of homes that has basically been slated for approval for TOD rezoning in the future and I believe that is why the City staff gave a recommendation for them to pursue TOD or is now giving their support for approval. We are against the idea of this group of homes being used for TOD rezoning because they are historic single family residential properties and we understand and expect that homes on North Davidson Street will be upfit or converted to commercial uses like you would see on East Boulevard or on Monroe Road where homes have been turned into businesses. We support that idea but we are concerned that the use of TOD will give future owners the permission and even the financial incentive to tear down those homes and use them for a much higher use. The two reasons we don't think that is appropriate, first of all is the historic nature of the mill homes and how we want them to continue to tie the mill and also in terms of the actual use they back up to other single family homes on one side and on the other side you have the mill which has been rehabbed for historic preservation and use and you have the Johnson YMCA. Both of these properties we envision and expect for many years to come to stay as they are which are very low impact, low density uses so if you can envision on one side you some modest historic structures and on the other side you have single family residences and then we have a single strip of land that has been slated for TOD redevelopment as far as the plans vision for it. It is incongruous and not only will it esthetically be unappealing but it would be a bad use of protecting the neighbors around it. We want their plan to go forward in terms of their vision. We are suggesting that both properties go for MUDD; we've approved four other MUDD properties along those roads and they have worked successfully for various businesses. We did have one caveat for the one property that has already been zoned for MUDD and they are proposing to put two parking spaces in the form of a new curb cut and a driveway next to the building. It is not usually objectionable, but the City's Station Area Plan already shows that this road already being upfit for on street parking and if you do a curb cut for three spaces it would actually removed three on street spaces in terms of turning radiuses and everything required for those curb cuts. Instead of the petitioner spending more money to create more concrete and a curb cut we would hope that we could paint some parking spaces on the road and start using those on-street parking. On street parking is already allowed there but because of the visual look of the neighborhood it isn't actually used so any effort that goes towards creating that on-street parking would hopefully provide for more parking for them and in the neighborhood in general and it would go towards the City's plan for the future streetscape for that road. The TOD zoning is the bigger issue and if these two properties were separated would be fine with the MUDD property staying as it with the changes they want, but we really want the TOD property to fit into the MUDD model.

In rebuttal Mr. Syed said we will work with the NoDa Neighborhood and will work out amicable solution. I do have one concern and I don't understand the zoning completely to be able to address this very well, but as far as parking is concerned I don't know if there is some more flexibility with TOD versus MUDD, but that is something we need to consider. There is a curb

cut on the property that is zoned R-5 now and the curb cut is actually in the wrong place, but once that is fixed I'm not sure how the street parking is going to go on that road in front of the red house as well as the current that is residential. I don't know what the specific requirements for MUDD are but we will have to accommodate those somehow and if we can't have the street parking it will make it a little challenging.

Mayor Cannon said we have some excellent resources you can talk to about your questions.

Mr. Syed said staff has been extremely helpful and I'm a first timer so they have been super.

Councilmember Kinsey said did staff recommend the TOD zoning? I hear what Mr. Maupin is saying and I would share that concern that the neighborhood has expressed.

Ms. Keplinger said I honestly do not know if that was recommended or if that was the request that came in from the petitioner. The Station Area locations were approved in 2012 and the policy is that until the station locations are set we don't support TOD rezoning so that is why you see so many MUDD and MUDD-O rezoning in this area and now we anticipate that we will start seeing more rezoning to TOD.

Ms. Kinsey said that doesn't necessarily mean that we have to rezone it. I think the comment Mr. Maupin made about that being sort of an island between single family homes and I didn't even look at it that way until he mentioned that and it just wouldn't be appropriate. The lots are not that deep either so it would be very high density. I just don't see that as being appropriate for that neighborhood right now. I would suggest that we look at it as MUDD rather than the TOD.

Councilmember Phipps said I am hoping these houses – they have not been designated as historic landmarks have they?

Ms. Keplinger said not to my knowledge and they are not within a historic district.

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.

ITEM NO. 19: HEARING ON PETITION NO. 2013-103 BY THOMAS KEITH FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.02 ACRES LOCATED ON THE NORTH SIDE OF OLD STATESVILLE ROAD ACROSS FROM SPRING TRACE DRIVE FROM R-17MF (MULTIFAMILY RESIDENTIAL) TO I-1 (LIGHT INDUSTRIAL).

The scheduled public hearing was held on the subject petition.

Tammie Keplinger, Planning said this property is located off Old Statesville Road. I will point out that Old Statesville Road serves as a kind of a dividing line between the industrial and retail development and the residential that is located on the south side of the property. I wanted to show you the zoning map to show you what is going on with the properties that are asked to be rezoned. You can see that a portion of these properties are zoned R-17MF which is multifamily and a portion of them is zoned I-1 which is light industrial. The request that is before you tonight is a conventional request and it would allow one zoning of light industrial for all of these properties. The two properties here you can see there is just a small strip that is actually zoned I-1. The Northeast Area Plan recommends industrial uses for these properties. It rezones the front portion to make it consistent with the back portion of the properties. All the uses in the light industrial district will be permitted and staff is recommending approval.

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

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

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ITEM NO. 22: HEARING ON PETITION NO. 2013-061 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ADD CONFERENCE CENTERS, CONVENTION CENTERS AND HALLS, EXHIBIT HALLS, MERCHANDISE MARTS AND SIMILAR USES AS A USE PERMITTED I-1 (LIGHT INDUSTRIAL) ZONING DISTRICTS.

The scheduled public hearing was held on the subject petition.

Sonya Sanders Planning said this is a text amendment and the purpose of this text amendment is to expand the zoning districts where conference centers, convention centers and halls, exhibit halls, merchandise marts and similar uses are allowed. This text amendment will accommodate facilities such as the Metrolina Trade Show Expo and the Park Expo and Conference Center and it will add prescribed conditions to meet the changing market conditions for these types of uses. Examples of some of these uses include trade shows, home and garden shows, conference centers, exhibit space, meeting space and auctions. These uses are currently allowed by right in the MUDD or Mixed Use Development, the UMUD - Uptown Mixed Use District and the TOD, Transited Oriented Development District. The petition proposes to add these uses to the general business of B-2 District and the light industrial or I-1 District under prescribed conditions. The prescribed conditions include a minimum lot size of 25 acres, requires a frontage on a certain class of street being a freeway, expressway, limited access arterials or a minor or major thoroughfare. The required parking is one space per 250 square feet and it would also require long and short-term bicycle parking. In the B-2 or General Business District there would be no allowance of outdoor activity, no allowance of storage would be permitted. In the I-1 District outdoor activity and uses would be permitted and would be required to be located at least 100 feet from side, rear and front property lines.

Councilmember Kinsey said I'm always concerned about unintended consequences when we go through these text amendments. What prompted this text amendment; was it a specific organization or trade show that did it. What is behind it?

Ms. Sanders said the Metrolina Expo in 2005 was rezoned and in doing so we looked at the nature of some of the uses and realized that our ordinance had not kept up with some of the market changes so we are looking at some of the uses and some of the ways in which they were operating were exceeding the bounds and the zoning and the use that they were currently permitted. We have met with the Expo and the Metrolina Center and they both are familiar with the changes that are being proposed. Metrolina does realize that they will have to come in and rezoning and that their 2005 conditional site plan limited them to the uses that were permitted in the District at that time. They don't really have any opposition to this. We are just trying to make our ordinance meet some of the changing market trends.

Ms. Kinsey said does it just apply to Metrolina and Park Expo?

Ms. Sanders said those are two examples that I'm familiar with. I'm sure that are other conference centers. We heard one tonight, a rezoning of an existing conference center, but those are the two major ones that offer more of the variety of uses.

Ms. Kinsey said I think that is what scares me because I don't know what else or who else it might apply to and are we going to get caught. With the unintended consequences how are we going to – that happened before.

Ms. Sanders said I think maybe with some of the other prescribed conditions that we are proposing being the 25-acre minimum location on a certain class of street that should limit some of the potential locations for this type of use.

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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MAYOR AND COUNCIL TOPICS

Tammie Keplinger, Planning said we have a rezoning petition that we would like to consider to be expedited; it is Petition No. 2014-022 for the Music Factory. It is in Mr. Austin's District and the request is to expedite from March to February.

Councilmember Barnes said for a hearing?

Mayor Cannon said is there any opposition to that?

Councilmember Kinsey said it is not for a decision the same night?

Ms. Keplinger said no name.

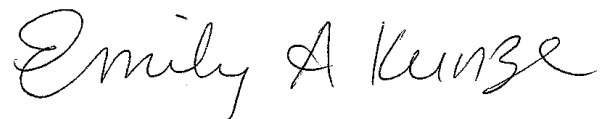
Councilmember Mayfield said actually this would be a question for our City Manager now that we are moving forward with using more technology and finding out, even when we have updates on our speakers list, see if we can reduce the amount of paper to become a more green city and ideas that you may have with us trying to move forward with receiving the E versions of our agendas. I just wanted to see if we could bring it to the attention to look at receiving E versions from anyone that is coming before us.

City Manager, Ron Carlee said we will certainly work on that and it will be a little bit of an evolution and educational process to get people to submit the material in advance in PDF form and to have it where it is readily accessible to Council members so you have the material in front of you when you need it. That is certainly our goal is to do a significant reduction in consumption of paper.

Mayor Cannon said I think the conversation Ms. Mayfield and I had was one like for instance we had several updates tonight for the zoning meeting and being able to have those ready in time for us to be able to reduce the amount of paper would help us significantly so inasmuch as we can turn it around it would be appreciated. Ms. Mayfield, thank you for the reminder of bringing that up.

I think that will conclude our meeting and as already stated to each and every one of you Happy Holidays, wishing you and yours the best. Take care and God Bless.

The meeting was adjourned at 10:08 p.m.



Emily A. Kunze, Deputy City Clerk

Length of Meeting: 4 Hours, 6 Minutes
Minutes Completed: January 7, 2014