

The City Council of the City of Charlotte, North Carolina convened for a Zoning Meeting on Monday, February 16, 2015 at 6:00 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Dan Clodfelter presiding. Councilmembers present via conference call were Al Austin, John Autry, Michael Barnes, Claire Fallon, Patsy Kinsey, Vi Lyles, David Howard, LaWana Mayfield, Greg Phipps and Kenny Smith.

**ABSENT UNTIL NOTED:** Councilmembers Ed Driggs

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*Due to inclement weather, the Zoning meeting was convened by Mayor Clodfelter and Councilmembers participated via telephone conference call.*

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**Mayor Clodfelter** said we will open the February 16th, 2015 Zoning meeting of the Charlotte City Council. I will need to take a roll call, if you will answer yes or present when the Clerk calls your name.

**Deputy City Clerk Emily Kunze** took the roll call. All members were present with the exception of Councilmember Ed Driggs, who was absent until noted.

Mayor Clodfelter said in the Chamber we have the City Manager, the Deputy City Clerk, also on the phone we have Senior Assistant City Attorney Terrie Hagler-Gray.

Mayor Clodfelter said we are doing the meeting this way, I think you all know, because the hearings tonight were advertised in accordance with State law; so, we must open the hearings tonight. What we are going to propose to do is to open all the hearings tonight and then recess the meeting until 6:00 p.m. this Wednesday here in the Council Chamber. What I am going to do is I'll take a motion from whoever wants to make a motion. If you are making or seconding a motion if you will just say your name with the motion, that way the Clerk gets it. The motion will be to open the public hearing on the following rezoning petitions. So before you make the motion, let me read the list of the petitions and we are going to open the hearing on the following petitions.

**Councilmember Ed Driggs called in at 6:02 p.m.**

Mayor Clodfelter said I will entertain a motion to open the public hearings on Zoning Petition No. 2014-078; Petition No. 2014-101; Petition No. 2014-109; Petition No. 2014-115; Petition No. 2015-003; Petition No. 2015-004; Petition No. 2015-007; Petition No. 2015-008; Petition No. 2015-011; Petition No. 2015-013; Petition No. 2015-015; Petition No. 2015-016; Petition No. 2015-018, and Petition No. 2015-021.

Motion was made by Councilmember Fallon and seconded by Councilmember Smith to open the public hearings for the above stated zoning petitions.
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Ms. Kunze performed a roll call vote on the motion; the vote was recorded as unanimous.

Mayor Clodfelter said the hearings are now open on the list of zoning petitions that I've read. These hearings will remain open. Now I will entertain a motion to recess these zoning public hearings until 6:00 p.m. on Wednesday, February 18, 2015.

Motion was made by Councilmember Kinsey and seconded by Councilmember Mayfield to recess the public hearings for the above stated zoning petitions until Wednesday, February 18, 2015 at 6:00 p.m.
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**Councilmember Howard** said you are going to carry a motion to leave the public hearings open or you don't have to do that?

Mayor Clodfelter said we are just recessing the meeting with the hearings open. We've opened the hearings, so the hearings are now open and we are not actually adjourning this meeting, we are simply recessing the meeting.

Mr. Howard said thank you for the clarification.

Ms. Kunze performed a roll call vote on the motion; the vote was recorded as unanimous.

**City Manager Ron Carlee** said we are going to need one more motion. City Attorney Bob Hagemann just came in and consulted with us. So the 6:00 p.m. motion that you just passed will be when you reconvene for the public hearings that are open. We also need you to adopt a motion continuing this meeting until 5:00 p.m. on Wednesday, when you will have your regular dinner briefing prior to your 6:00 p.m. convening.

Mayor Clodfelter said that is for open meeting purposes, correct?

Motion was made by Councilmember Fallon and seconded by Councilmember Driggs to continue this meeting until 5:00 p.m. on Wednesday, February 18, 2015 for the regular dinner briefing.

Ms. Kunze performed a roll call vote on the motion; the vote was recorded as unanimous.

Mayor Clodfelter said I think we stand in recess until 5:00 p.m. Wednesday, February 18, 2015. Everybody stay safe. Good night and take care.

The meeting was recessed at 6:09 p.m.

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The City Council of the City of Charlotte, North Carolina reconvened for a Dinner Briefing on Wednesday, February 18, 2015, at 5:08 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Dan Clodfelter presiding. Councilmembers present were, John Autry, Michael Barnes, Edmund Driggs, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, Greg Phipps and Kenny Smith.

**ABSENT:** Councilmembers Al Austin and Vi Lyles

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## COUNCIL MEETING SCHEDULE

**Mayor Clodfelter** said while Tammie is doing some things let me talk to you about an agenda issue and sort of take your temperature and see what you want to do. On this coming Monday night we are going to have two Councilmembers absent and potentially a third and it is a pretty important set of items on the agenda. There are a lot of items on the agenda and already as of today we have 50 speakers signed up to speak on the Anti-Discrimination Ordinance and even if we limit time which your rules give the Mayor the ability to limit individual speaking time, it is your policy and practice to let everyone speak who wants to speak. If we do that we could be two, three or more hours Monday night listening to speakers and then probably because at least two and maybe three of you will not be there I would strongly urge you not to want to take action that night. You have already heard Councilmember Barnes make that request of you. Councilmember Fallon will not be there and I understand you have to change some flight arrangements to get back so my suggestion to you is that you not try to take any action on Monday night. The question is do you want to have two to three hours of hearing on Monday night when we've got a long agenda. Let me offer you an alternative to think about and see what you think about it; the first meeting in March, March 2<sup>nd</sup>, the following Monday we have just a briefing session, we don't have a Business Meeting. We have two very short items; that is all you have that night on Monday March 2<sup>nd</sup>, and we could start at 5:00, do those two items and go down to the Chamber and let everyone who signs up to speak, speak. Everyone will get their say

and we won't have to disrupt the rest of the Business agenda. That is a suggestion I have talked with a couple folks about and I've talked a little bit with the Manager about it and we think we can make the Business Meeting work if you wanted to do that.

Councilmember Howard said what does the attendance look like for that night?

Mayor Clodfelter said I don't know and that is why I'm bringing it up here, just too sort of ask the question about that all vote.

**Councilmember Kinsey** said I didn't hear what you said.

Mayor Clodfelter said attendance. Is everybody going to be here on March 2<sup>nd</sup>? That is our regular meeting night.

**Councilmember Mayfield** said Mayor, have you by any chance received a breakdown on who has signed up to speak as far as citizens of Charlotte and those outside of Charlotte? The reason I'm asking that question is because when Fayetteville had their discussion, what the Mayor decided then was all of the citizens to be able to speak first and anyone outside of Charlotte Mecklenburg would be at the end of the agenda.

Mayor Clodfelter said I'm proposing to do that unless you all want to tell me not to do that. That is exactly what I propose to do; take comment from people who live in Charlotte first and after all of them have had a chance to speak then take comments from folks who may live elsewhere.

Ms. Mayfield said but we don't know the breakdown?

Mayor Clodfelter said we know right now it is about half and half as of today, but people are continuing to call in on a pretty regular basis and between now and Monday you can probably expect an equal number, even if I limit the time; your rules say I can limit the time each speaker has, but if I do that you are still going to have a very difficult evening and again unless you want to, my strong suggestion to you would be not to plan to act on anything on Monday night because you will have two and maybe three of your members absent who care about the issue.

**Councilmember Smith** said what type of action will it take to move the entire agenda item to March 2<sup>nd</sup>?

Mayor Clodfelter said just putting in the Friday Memo; that is all it would take. You don't have to take any action on that to move it from one agenda to another agenda, but the Manager and I didn't want to do that without talking to you all to see what you want to do. We did not know when you all met last week that we were going to have absences and I think that is a significant change, is the absences we are going to have on the 23<sup>rd</sup> and I'm hoping we are going to honor your colleagues on that and if we are going to do that then you might want to think about allowing the citizens more time to speak about this, it is probably a good process to do that.

Ms. Mayfield said with that consideration I would support the idea of us still having the meeting so that the citizens can speak because the citizens are also working with their work schedules and they have already identified this time even if we decide not to actually take action, but it also gives a little bit more time for, since it is all recorded, for colleagues who aren't able to attend to still be able to hear the comments at a later date and have time to debate on it, but not necessarily push it back because you are still going to have a long meeting regardless and this is a way to possibly break it up by having those in attendance to speak and not make a decision on Monday night to give those that aren't in attendance an opportunity to review the comments since all of that is public record and recorded.

Mayor Clodfelter said so what are the wishes of those of you?

Mr. Howard said so we stay with the first Monday of the month; in that situation we also have a public hearing that is advertised, how does that play into the scenario of us starting? Do we have to stop at 7:00 and take the people that have signed up for that?

Mayor Clodfelter said that is open mic night remember. You don't sign up for a particular agenda item, it is not a Zoning hearing, it is a published public hearing, and it is just open mic. It is not actually an official public hearing, we just open up the mic. The benefit of doing that is that it would let more people speak and give you more to hear from them.

**City Manager Ron Carlee** said you could make the decision on whether or not to have Citizens' Forum on that night or not. We do that regularly and it is scheduled currently, but that could be changed if you wanted to. Two other just factual matters, we have confirmed that the Chamber is available for the 2<sup>nd</sup> so that is not a problem; normally we are not in the Chamber for a Workshop and in fact the Citizens' Forum is usually in the meeting where the Workshop is. The other thing about next Monday night that may not be on your radar screen; we have five zoning hearings before we get to the human rights item. We have done a special schedule for the Housing Authority redevelopment projects in Cherry.

Mr. Howard said so staying with what Ms. Mayfield just spoke about which is going on with the public hearing portion of it, what would be the proposal then? Are we talking about Council then having discussion the first Monday or do we wait until our regular meeting the second Monday?

Mayor Clodfelter said we would put that on a future meeting agenda.

Mr. Howard said it could be the second Monday?

Mayor Clodfelter said well you are in Washington then.

Mr. Howard said I want to talk that trough, so if for some reason took public hearing and we did the Citizens' Forum on Monday night, it would probably the last Monday of next month before we could get to it because we have a Zoning meeting as well.

Mr. Carlee said the 23<sup>rd</sup> of March.

Mr. Howard said the great thing about doing it on Monday is we potentially could hear it and made decisions that night, but at the very least the way you are looking at it if we go on and do citizen comment it could be the end of the month before we get to it as well. We could do that either way, but we definitely are kicking it that far if we go on with it with so many people being out.

Mayor Clodfelter said that is correct.

Mr. Smith said based on the intensity of my e-mail I am assuming they will show up the following Monday night to speak on whichever side you frame it on the ordinance; I think they will show up. I'm just concerned and I want to make sure the Chamber is available so it can be aired publicly because I do think it is important. Procedurally if it stays on the agenda then it is still possibly subject to a vote, correct?

Mayor Clodfelter said if it stays on the agenda it is subject to motions and votes. I would really encourage you with three of your colleagues absent not to do that.

Mr. Smith said I'm not arguing that I'm saying my preference would be if we are going to have three colleagues absent I would rather it not be on the agenda at all; hanging out there with the possibility of a vote short of a full Council. That is my comfort level so I would favor moving it to the following week in March and if we have to vote on it at the end of March I'm okay with that. I would be nervous if it is hanging out on the agenda.

Mayor Clodfelter said on the 2<sup>nd</sup> we can give citizens a full opportunity to speak without interfering with the business agenda.

**Councilmember Phipps** said are you saying we could potentially have two?

Mayor Clodfelter said no, I conferred with Mr. Hagemann today and he and I believe, and he is of this opinion that when we do have the hearing we can tell people then this is your time to speak publicly. If you want to write us or call us or e-mail us of course you can do that at all times, but we will not be having further public discussion or hearing; that is why it is important to give people time. This is not a matter that even requires a legally requirement.

Mr. Howard said what about citizen comment?

Mayor Clodfelter said it does not even legally require citizen comment; you are not required to give comment opportunity on any agenda item ever. We do it out of good governance and not because you are required to do it. Those of you who are going to be absent might want to have some input on this question as well.

**Councilmember Driggs** said I think the people who speak would like to think that everybody that is going to cast a vote is there to hear them and therefore separating the public speaking opportunity from the actual decision and leaving potentially three people out and they are talking.

Mayor Clodfelter said I understand, I am suggesting that may be what you do even on March 2<sup>nd</sup>, but that would be your decision about when to vote.

Mr. Driggs said I just think particularly given the balance of the possibility of the deciding vote is the one that is not there.

Mayor Clodfelter said you three are absent members; what is your view?

**Councilmember Barnes** said I made a motion that didn't get a second on this precise thing so there is not much I can say.

Mayor Clodfelter said well at that time we didn't know how many we were going to have absent so we went ahead and I don't think anybody knew.

Ms. Mayfield said question for clarification; let's say it is that time of year and a lot of people are getting sick, let's say we do move it back and deal with it at the next meeting that is scheduled for us to have the discussion, we have three members out for whatever reason, then what?

Mayor Clodfelter said I don't know.

Ms. Mayfield said we open the door to what we would ... our deferral system where you just have it seems like at time, unlimited number of deferrals on a decision because at any given time we can be out whether it is family related, illness or whatever.

Mayor Clodfelter said you never know and we've learned over the course of the last two or three days something that we didn't know; that is we will have members absent on this night so we know that for a fact, we don't know about the future beyond that. I will say to you however this turns out, whatever you decide to do the community is well served by giving people ample time to talk about it and get things off their chest if they want to do so, however it turns out, and if we have to shoehorn things whichever side is the prevailing side the other side is going to feel like they got less than a full chance to air their point of view.

Ms. Smith said we know that on Monday, March 2<sup>nd</sup> we can't vote so Monday the 2<sup>nd</sup> would purely be –

Mayor Clodfelter said we could vote, you could do that, we are not forbidden to do that.

Mr. Smith said okay.

Mayor Clodfelter said that night is available to you because you have a very limited agenda, you have no Business meeting and have no legally required public hearings and that gives you a lot of time that night.

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**Councilmember Fallon** said exactly when would the vote be?

Mayor Clodfelter said whenever you decide to do it.

Ms. Fallon said it wouldn't be March 2<sup>nd</sup>?

Mayor Clodfelter said it could be if you want to do it March 2<sup>nd</sup>.

Ms. Fallon said if everybody was here.

Mayor Clodfelter said is everybody going to be here on March 2<sup>nd</sup>?

Mr. Howard said as long as there are six of us here we could vote on it.

Mayor Clodfelter said anytime a quorum is here you can vote on it.

Ms. Fallon said I think as suggested Mayor, the public will want to know how everybody votes.

Mr. Howard said let me be clear; I don't know if we get to do that twice. If we punt Monday night they will get to come back and say we don't want to do anything the next night. The idea that we would punt to the 2<sup>nd</sup>, make it the only agenda item and come out of there with well now we want to continue to look at this I don't feel like that is fair to the public either. I would hope that is not what we try to do; we try to punt and just keep going or defer it the way Ms. Mayfield is talking about. We should make some decisions and I would think though that the vast majority, we didn't ask for, we kind of agreed the number. There is this one issue that we need to kind of work through, we shouldn't keep punting on the majority if we can get somewhere on it. I would hope that is not the intent.

Mayor Clodfelter said let me encourage you; I don't know what the intent is, I think the intent right now is we are just trying to find a way to manage the current process about hearing citizen input at a time when Council has a good option to do that. You guys always have the option to decide what you do with the item that is on your agenda. If you want to send this right back to the Manager and say this is a lunatic idea, put it in the trashcan or you can do anything that six of you want to do.

Mr. Phipps said it seems to me that Monday, February 23<sup>rd</sup> agenda is pretty packed.

Mayor Clodfelter said you have the Ethics recommendation coming forward as well. There will be discussion there too.

Mr. Phipps said it just seems to me that March 2<sup>nd</sup> would be more appropriate given the ... we have the time to devote to that particular item as opposed to squeezing it in through a menagerie of different items.

Mr. Barnes said shall I second your motion.

Mayor Clodfelter said if you to proceed by motion we will; I didn't it bring it up for the purpose of doing that but I just really wanted to take your temperature and see.

Mr. Smith said hopefully we can make a decision tonight because I do think it is important to start letting the folks know before Friday.

Mayor Clodfelter said we would do it on Friday; that is the required time with we give the notice of the meeting and the notice of the agenda. The official notice of the agenda actually goes out on Friday.

Mr. Smith said but we couldn't unofficially notice it?

Mayor Clodfelter said we could unofficially notice it before then. Let's do this, I just wanted to take your temperature and try to talk about how to manage this situation and come up with some  
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options. If you have a strong objection to proceeding to preserve March 2<sup>nd</sup> for this issue let us know that by mid-day tomorrow. Carol, will that be sufficient? I think unless there are a lot of strong objections I really would hope that is what you would agree to do. I think you do you citizens well if you give them as much time as we can.

Mr. Smith said procedural question; if we did it by motion we could finish it up tonight. Mayor Clodfelter said would that motion also include not having the regular open mic session that night which you are never required to have; that is purely optional with you.

Mr. Smith said that motion would also include not having the open mic session because we've heard enough about the fluoride.

Mr. Carlee said if we have the other briefings you could begin the hearing as early as 6:00 p.m.

Mayor Clodfelter said we could begin as early as 6:00 p.m. because the other two items won't take more than an hour total.

Mr. Carlee said and you could have them while you eat.

Mr. Smith said that sums up my motion.

Motion was made by Councilmember Smith, seconded by Councilmember Driggs, to move the agenda item regarding the Anti-Discrimination Ordinance from February 23, 2015 to March 2, 2015 and to cancel the regularly scheduled Citizens Forum for March 2, 2015.

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

YEAS: Councilmembers Barnes, Driggs, Fallon, Kinsey, Phipps and Smith.

NAYS: Councilmember Autry, Howard and Mayfield.

Mayor Clodfelter said thank you Tammy for letting us take your time on that; it is really important so thank you.

Mr. Driggs said could I just say that we make every effort to publicize this in all kinds of channels because a bunch of people could show up.

Mayor Clodfelter said that is why I wanted to do this tonight because once we learned that none of you all responded to Michael's e-mail but then we learned about Claire's absence and your absence so I felt we had to bring it up tonight.

Mr. Carlee said we will aggressively get it out.

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**ITEM NO. 1: AGENDA REVIEW**

**Tammie Keplinger, Planning** said the first thing I wanted to tell you there is a little bit of change in the agenda. What we decided to do was to put the follow-up report and the cases of upcoming interest in your notebook instead of handing them out tonight so you can have them in a little more advance, read over that information and also it helps cut down on the papers shuffling around. We have quite a few deferrals tonight; you have an updated agenda in front of you and the code on this is if it is green that is what has changed since you got your agenda last week.

The first one is Item No. 2, Petition No. 2014-43 for Mark Patterson; this is a protested petition and the Council policy is that this will be deferred to the next because all Councilmembers are not present. Because of the change in today's meeting from Monday to Wednesday we cannot get it in on your Monday meeting so they are to defer to March 16<sup>th</sup> which is your regular Zoning

Meeting. Item No. 6, Petition No. 2014-110 for Unique Southern Estates, that is the Van Landingham property and they have asked for a deferral until April and that is for a decision.

Ms. Keplinger said you have the updated Dinner Agenda which tells you what is happening at Dinner tonight. You have a document entitled "Draft, for Discussion Only" which Mr. McKinney is going to go over that. You have a speakers list and after that you a letter from the petitioner on Item No. 18, which is Petition No. 2015-011. This is in Mr. Austin's District and he is not here tonight and we are having the public hearing.

I am going to back up and continue with the deferrals. We started out with Item No. 2, Petition No. 2014-043 for a deferral to March because we don't have a full Council. Item No. 6, Petition No. 2014-110 for Van Landingham which is Unique Southern Estates; they want to defer the decision to April and the Protest Petition is sufficient on that case. Item No. 7, Petition No. 2014-113 for Dona Patterson, this is on Sugar Creek Road; we had a hearing last month and they told you that they had to get a variance and they are in the process of doing that so we will bring it back when that is completed. New Item No. 10, Petition No. 2014-078, Park Selwyn and they are asking for the hearing to be deferred until May. We have heard from some of the citizens that say they do not want to have this hearing deferred; they would like to go on and have the hearing. I am not sure if they are aware of the request for deferral.

**Councilmember Smith** said this is in my District and it has been communicated to me that the citizen opponents are okay with the deferral. The opponents reached out to me over the weekend and said they were okay with the deferral.

Ms. Keplinger said Item No. 11, Petition No. 2014-101 for LGI Homes, this is in Mr. Austin's District that came in as an R-5 and they converted to a conditional request. They did not submit the community meeting report in time with Council's policy so that is deferred until March. Item No. 12, Petition No. 2014-109 Midtown Area Partners, this has been on your agenda a little bit but we are hopefully we can get a hearing set in March and there is a sufficient Protest Petition. We are still trying to work with them and they are working with the neighbors. Item No. 13, Petition No. 2014-115 for Satwinder Singh, this is off Parker Drive, the community meeting report was not submitted by the deadline; they got it in but it was just not by the deadline so that is deferred to March. Item No. 17, Petition No. 2015-008 for Mintworth DEI, LLC, this is at Idlewild Road and Wyalong Drive but I know people know it as Margaret Wallace a little bit better. It is a hearing and is deferred to March. Item No. 19, Petition 2015-013 for Meeting Street Homes and Communities, they are asking for the hearing to be deferred to March. They do have a protest petition which we are still calculating.

Late this afternoon I had a request for Item No. 3, Petition No. 2014-092; they had some changes after the Zoning Committee and because there is an insufficient Protest Petition they have requested this petition be deferred to March and this is a decision.

**Councilmember Barnes** said Ms. Keplinger how does the March agenda look at this point?

Ms. Keplinger said I think that we have about 25 cases but I will tell you that this month we advertised for nine and we are actually going to have seven hearings tonight. Even though I say there are 25 there is a possibility that a lot of those will be deferred and there is a possibility that they won't be deferred.

Mayor Clodfelter said so there is a request to defer Item No. 3?

Ms. Keplinger said right. Under the Miscellaneous Information Item No. 4, Petition No. 2014-100; this is the rezoning that staff sponsored which is at the corner of West 30<sup>th</sup> Street and Chick Godley Road. We had the public hearing in October and there were quite a lot of questions about it. This request tonight is for the public hearing.

Mayor Clodfelter said do we have to vote to do that or is it automatic?

Ms. Keplinger said you have to vote to allow it to be converted to a conventional request and have an April public hearing because our April deadline has already passed. Item No. 5, Petition



No. 2014-103 for Weekley Homes; this one we were ready to bring it to you for decision and the petitioner had some changes and staff feels they are significant. It had already passed through the Zoning Committee so you have a staff recommendation for a new public hearing on this. We want to get this petitioner back in the process and we are hoping that if the Council sees fit that we put on for public hearing in March. Item No. 9, Petition No. 2015-005 for SIM USA, this is the cell tower and the Protest Petition on that is insufficient. The gentleman that spoke at the public hearing was the one that started the Protest Petition but the property is in his wife's name so he couldn't qualify for the Protest Petition. Item No. 22, Petition No. 2015-018 for Laurel Street Residential; this is in the Cherry Neighborhood up for rezoning tonight. We do have a Protest Petition but the sufficiency is yet to be determined.

Unless you have questions I will go quickly to the follow-up report; the follow-up report is in your agenda.

**Councilmember Driggs** said what is the news about Laurel Street?

Ms. Keplinger said they have a Protest Petition.

Mayor Clodfelter said is it sufficient?

Ms. Keplinger said we do not know yet.

Mr. Driggs said we are on the same schedule as we were before.

Ms. Keplinger said right, Laurel Street is on the same schedule.

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## **ITEM NO. 2: FOLLOW-UP REPORT**

**Tammie Keplinger, Planning** said under the Follow-up Report we have Petition No. 2014-074 for Terwilliger Pappas, there was a question about the price of the Ballantyne markers. The two Ballantyne markers were purchased with the land as part of the right-of-way acquisition, the price of the markers were not itemized. The Ballantyne Business Association will pay for the relocation of the markers but not be charged for the markers. If the markers are not removed, the City will have to pay the contractor of the project to remove the markers.

We had a question on Petition No. 2015-002 which is a Text Amendment and is to clarify the changes proposed for the Text Amendment. I think I have this about as simple as I can get it and I hope everyone understands it. Right now in our Zoning Ordinance when you have a small child care facility in a non-residential district you have certain frontage and access requirements that you have to meet. If you have a large child care center in a non-residential district, you don't have to meet those requirements so it backwards, the bigger your day care is you don't have the requirements for frontage and access. So you see how it is backwards, you should have it for the larger center and not necessarily for the smaller center. Let me say it again, the small child care center in non-residential districts have requirements for frontage and access, but a large daycare center in the same non-residential district does not have requirements for frontage. What this ordinance does, it will make it consistent, and it will eliminate the access and frontage requirements for both a small and a large daycare center. You are going to be voting on this tonight and it is not a public hearing so if you have any questions you might want to discuss it in here since we still have time.

**Councilmember Phipps** said I thought we had a public hearing and discussed this.

Ms. Keplinger said we did.

**Councilmember Barnes** said she is just further clarifying.

Ms. Keplinger said Items No. 14 and 15 in your agenda are two TOD cases and I wanted to give you a heads up on those. These cases were already in process prior to our recent discussions

about sponsorship of TOD's, so when we get to these cases tonight, just to give you a heads up, we are still working with these property owns and that is why they are on the agenda tonight.

Mr. Phipps said did we ever come to any conclusions or process on how we would handle future instances like that? I thought that was one of the charges that you were going to take.

**Interim Planning Director Ed McKinney** said that is our charge as you referred it to the Transportation and Planning Committee so we will have those discussions with the Committee as fast as we can. As Tammie mentioned these were two cases that were already in the system and as you will see tonight as we talk about very specific and consistent with the plans that are in place so we fully meet the intent of the sponsorship policy. We have more discussion that has to occur but first we have to think through the sponsorship and community policy moving forward.

**Councilmember Barnes** said it occurred to me that you guys, staff have been implementing a policy that we passed regarding TODs for a number of years, especially in District 3 on the South Corridor and we hit a snag with the NoDa rezoning. Can you tell us to what extent if any that snag has caused ripple effects in that industry? I've heard some things from the private sector about their concerns about the lack of certainty despite policy and how they are viewing the Northeast Corridor. Can you give us some feedback on that?

Mr. McKinney said yes, I've heard what I think you are describing, some concerns about the clarity of our practice and what that means for TOD. I would say though at the same time, even in recent months, we are getting TOD rezoning requests on the BLE Extension, from private developers to the notion that this is creating any kind of delay and thinking from development standpoint you could debate it on both sides.

Mr. Barnes said Mr. McKinney that is where they are bringing their own land in and saying I want to rezone it to TOD; I'm talking about the staff sponsored petitions. There are a number of parcels in District One and District Four that are probably appropriate for TOD classification and it may take you guys to get that ball rolling to make it happen. So people are reaching out to Mr. Phipps or to Ms. Kinsey whether it be that they don't want to pay for it or not and the issue is that according to the Area Plan and the Transit Station Plans it might be a useful idea to have us move forward with trying to get the land rezoned.

Mr. McKinney said yes, and related to the BLE Station Area Plans in University City, it is an Area Plan that is now going through the Transportation and Planning Committee and will be going to full Council shortly, we are specifically looking at how we are going to devise the implementation strategy of that to potentially include what you are describing which is, through that plan we have identified those specific parcels in those Station Areas that we believe through the process are absolutely appropriate for that kind of zoning. The question then and what we will set up during implementation is at a station by station situation tailoring what is the best approach. In some cases potentially doing exactly what you are saying is going out proactively, given a set of conditions that we think are appropriate if we think there is a danger of the wrong thing happening, an opportunity given a vacant development opportunity, for example, to make that part of our implementation and go proactively out and do that. I would advocate that we need to be careful that that strategy is tailored station specific because every station is going to have a different set of development conditions both on the ground and in the future.

**Councilmember Howard** said I just want to clarify something Mr. Barnes; are you saying that in addition to the Planning Department sponsoring properties that other people own, you talking about corrective rezoning's that have been happening. I'm not sure I know about corrective rezoning.

Mr. Barnes said it is more of the former than the latter but the latter may be called for in District 4 and actually maybe in parts of District 1 as you move into 4.

Mr. Howard said just as a different policy approach than what we've been doing. I just wanted to make sure I didn't miss something in the past. We've done corrective rezoning's but only to TOD.

Mr. Barnes said it is a little bit of both; I think there would be cooperative corrective rezoning's.

**Councilmember Kinsey** said the problem we have in District 1 is that most everything now is infill and with a zoning on the ground like TOD or PED or any of these that I really have questions about the neighborhood does not have an opportunity to weigh in and so I'm real leery of all these PEDscapes and TODs and whatever else we call it.

Mr. McKinney said that is why this strategy for implementation should be station specific. In fact in the adopted area plan for the NoDa Station there are some specific things and in addition to saying that these potential parcels are perfect for TOD. That plan did uncover issues of how you can see things that were specific within that plan relative to the context of those parcels and their relationship to the neighborhood which would require a conditional set of parameters on these zonings as they come in. Because of that site and the relationships to the neighborhood; it is different from other stations along the corridor. That again is why I want to be careful that we have a strategy that ... the flexibility to deal with those conditions station by station.

Ms. Kinsey said I just want to make sure that whatever is done does not take away any opportunity for the neighborhood to weigh in or the developer to go and meet with the neighbors because here again we have inner city neighborhoods and certainly NoDa is one but Optimist Park, we've got two things coming up in Optimist Park right on the rail line so I think particularly in the inner city we have some challenges there.

**Councilmember Mayfield** said I agree with Ms. Kinsey and one of the concerns I'm looking at is you look at the development of SouthEnd and you look at who is benefiting from that development, but also the challenges that it is causing for that development. We need to make sure that the community's voice is not left out when we are making any changes. I would prefer if there was going to be a change, the developers are the ones that are initiating it and whatever fees are associated with that are attached to it which is the process, opposed to staff making these types of changes in anticipation of what may be coming down the pike. We have a process in place; maybe that process needs to be updated, but we need to have a lot more conversation around how we move forward with growth where you are seeing high amounts of growth in certain areas of the District and other areas are still very much lacking in diversity of the development that is happening.

**Councilmember Smith** said I just want consistency. That was my big beef the night this originally came up; it wasn't so much whether or not I had big huge support of TOD, whether it was corrective rezoning or whether it is by right, I want us to have consistency and make sure we apply it equally and don't pick and choose. If we ultimately decide as a Council that if it is TOD you still have to come in for review and the City will sponsor it I'm okay with it. If we decide that the City can still sponsor it and that means we can do our corrective rezoning's I'm okay with it, but I would like it to be a written consistent policy so everybody whether it is development, neighbors or Council, we sort of all know what we are working on.

Mayor Clodfelter said so it is crystal clear now?

Mr. McKinney said we will be back.

Ms. Keplinger said just a reminder that on the 23<sup>rd</sup> which is next Monday, you do have the five Charlotte Housing Authority cases. It is public hearing so we will have the public hearings on your Business Agenda. The information on those cases will be sent out to you in your packet on Friday.

Mr. Howard said is staff supporting the five?

Ms. Keplinger said it varies. We are still writing up some of our information at this point. I believe we have two to three where there was support but some minor changes are open....

Mr. McKinney said we are doing a lot of work with them in the last week or so. We have a community meeting tomorrow night; we are making progress and hope to have this one which was the intent of the meeting to give us time to...

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Mayor Clodfelter said it is a work in progress.

Mr. Phipps said I think it may have been answered; I wanted to know would we have any synergy as a result of all of those petitions being by one person but it looks like each one is standing on its own case by case basis.

Mr. McKinney said we separated them for some specific reasons and it does create a little added time obviously in bringing those five at a separate non-zoning meeting ...

Ms. Keplinger said there are two typos that I found; Item No. 16 it says that staff recommends approval upon resolution of the outstanding issues; there are no outstanding issues, we are just recommending approval. Item No. 23 the staff analysis says the request is for B-1PED and it is O-1PED.

Mr. McKinney regarding Meeting Management, as you may recall we've talked during the last couple of meetings about things we could be doing to manage the case load and the length of our Zoning Meetings. We have worked on this and we wanted to spend a little time summarizing which is what you've got handed out. We want to give this to you for information and we can have more discussion at your discretion as to how you want to proceed. I will give you a couple highlights about it tonight and we can talk about it at our next Zoning meeting or however you want to record it. We've organized these things into two basic categories, one is things we can do logistically with the meeting itself out of the agenda; things like moving the dinner meeting up to 4:00 as an example. Those first things are just things we would do relatively easily just from a logistic standpoint with the meeting. The next category are things that are really about petitions, and we talked about some of the ideas that have been discussed before like limiting the number of petitions per month, limiting the number of petitions at a hearing, also different options in there, lots of different ramifications. There is no order here; there is no hierarchy we've just tried to summarize what we felt were some of the good ideas. We thought it was important to break them into those two categories, some of the things we could potentially do more easily just managing the meeting. Things that deal with how we deal with petitions obviously would require a lot more thought and discussion. This is food for thought and we will take your direction as to how you want us to proceed.

Mayor Clodfelter said I think we need to find time on a non-zoning agenda, maybe one of our Workshop Agendas where we can talk about this and have more time to do it. We'll work on something about freeing up a block of time when it is not at one of these zoning meetings.

The Dinner Briefing was recessed at 5:58 p.m. to move to the Council Chambers for the regularly scheduled Zoning Meeting.

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### **ZONING MEETING**

The Council reconvened at 6:06 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center for their regularly scheduled Zoning Meeting with Mayor Dan Clodfelter presiding. Councilmembers present were John Autry, Michael Barnes, Ed Driggs, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, Greg Phipps and Kenny Smith.

**ABSENT:** Councilmember Al Austin.

**ABSENT UNTIL NOTED:** Councilmember Vi Lyles.

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### **INVOCATION AND PLEDGE**

Councilmember Mayfield gave the Invocation followed by the Pledge of Allegiance to the Flag.

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### INTRODUCTION OF THE ZONING COMMITTEE

**Tracy Dodson, Chair of Zoning Committee** introduced the members of the Zoning Committee and said we will meet on Wednesday, February 25<sup>th</sup> at 4:30 p.m. at which time we will discuss and make recommendations on the public hearings that we hear tonight. That is not a continuation of the public hearing but feel free to contact us if you want to have input and you can find all of our contact information at charlotteplanning.org.

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### EXPLANATION OF ZONING MEETING PROCESS

**Mayor Clodfelter** explained the Zoning Meeting rules and procedures.

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### DEFERRALS

**Mayor Clodfelter** said we have a number of petitions that have been requested to be postponed so we will take those up first. If you are here on any of these petitions and if the Council votes to postpone they will not be decided tonight, or if they are here for public hearing they will not be heard tonight; they will be heard at a later time. We could do this by groups but we've got so many different moving parts I think it is cleaner and clearer if we do them one at a time.

#### ITEM NO. 2: PETITION NO. 2014-043

Petition No. 2014-043 by Mark Patterson for property on the west side of Prosperity Church Road between Prosperity Point Lane and Pinewood Lane, the request has been made to defer the decision to March.

Mayor Clodfelter said this is a protested petition and we've had two Councilmembers absent tonight and because of the special vote requirements on a valid protested petition we generally don't vote those unless all the Council is present.

Motion was made by Councilmember Phipps, seconded by Councilmember Fallon, and carried unanimously to defer the decision on Petition No. 2014-043 to March.

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#### ITEM NO. 3: PETITION NO. 2014-092

Petition No. 2014-092 by Pavilion Development Company for property at the northeast corner of the intersection of Nations Ford Road and Tyvola Road. The petitioner has requested to defer the decision to March.

**Councilmember Phipps** said Councilmember Smith needs to be recused from voting on this item.

Motion was made by Councilmember Barnes, seconded by Councilmember Phipps, and carried unanimously to recuse Councilmember Smith from voting on Petition No. 2014-092 due to a conflict of interest.

Motion was made by Councilmember Howard, seconded by Councilmember Mayfield, and carried unanimously to defer Petition No. 2014-092 to March.

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**ITEM NO. 4: PETITION NO. 2014-100**

Petition No. 2014-100 by Charlotte-Mecklenburg Planning Departments for property on West 30<sup>th</sup> Street and Chick Godley Road. The request is to convert it to a conventional request and to advertise this petition for a new public hearing to be held in April.

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and carried unanimously to convert 2014-100 to a conventional request and send this back for a new public hearing in April.

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**ITEM NO. 5: PETITION NO. 2014-103**

Petition No. 2014-103 by Weekley Homes for property on Endhaven Lane between North Community House Road and Misty Ridge Lane. Staff is recommending to us that we set a new public hearing to be held at our March Zoning Meeting due to change in the petition.

Motion was made by Councilmember Driggs, seconded by Councilmember Barnes, and carried unanimously to set a new public hearing in March.

**Councilmember Howard** said why is this one being referred back; is there significant change?

Mayor Clodfelter said I think as staff said at Dinner this one has changed so greatly that it really needs additional public review.

**Tammie Keplinger, Planning** said it had already been through the Zoning Committee and it was ready for a decision and the petitioner changed it and staff feels that it needs to go back to public hearing, but we are working with them to get them through as quickly as we can.

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**ITEM NO. 6: PETITION NO. 2014-110**

Petition No. 2014-110 by Unique Southern Estates for property on the southeast corner of the intersection of The Plaza and Belvedere Avenue. The request has been made to defer the decision to April. There is a valid protest petition.

Motion was made by Councilmember Kinsey, seconded by Councilmember Driggs, and carried unanimously to defer the decision Petition No. 2014-110 to April.

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**ITEM NO. 7: PETITION NO. 2014-113**

Petition No. 2014-113 by Dona Patterson for property on the east side of West Sugar Creek Road between Penny Way and North Tryon Street. The request has been made to defer the decision to the April Zoning Meeting.

Motion was made by Councilmember Kinsey, seconded by Councilmember Phipps, and carried unanimously to defer the decision on Petition 2014-113 to April.

**ITEM NO. 10: PETITION NO. 2014-078**

Petition No. 2014-078 by Park Selwyn, LLC for property on Woodlawn Road between Brandywine Road and Selwyn Avenue. The request has been made to defer the public hearing on this petition to our May Zoning Meeting. Protest Petition is sufficient.

Motion was made by Councilmember Smith, seconded by Councilmember Mayfield, and carried unanimously to defer the public hearing on Petition No. 2014-078 to May.

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**ITEM NO. 11: PETITION NO. 2014-101**

Petition No. 2014-101 by LGI Homes NC for property on the east side of Reames Road between Bella Vista Court and Lawnmeadow Drive. The request is to defer the public hearing on this petition to our March agenda because the Community Meeting Report was not submitted by the deadline.

Motion was made by Councilmember Mayfield, seconded by Councilmember Kinsey, and carried unanimously to defer the public hearing on Petition No. 2014-101 to March.

**Councilmember Phipps** said I notice where we have a couple of these instances where the Community Meeting Report was not submitted by the deadline. Was that purely an oversight; can you shed some light on situations surrounding the failure to do something that looks like it is administratively routine?

Ms. Keplinger said I believe that one of them was truly an oversight by someone who is not familiar with the rezoning process and is going through it for the first time. The other one I cannot tell you. The Community Meeting Report was due on Friday and it was submitted on Monday.

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**ITEM NO. 12: PETITION NO. 2014-109**

Petition No. 2014-109 by Midtown Area Partners II, LLC for property on the northeast corner of Baxter Street and South Kings Drive. The request is to defer the public hearing to March.

Motion was made by Councilmember Kinsey, seconded by Councilmember Fallon, and carried unanimously to defer the public hearing on Petition No., 2014-109 to March.

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**ITEM NO. 13: PETITION NO. 2014-115**

Petition No. 2014-115 by Satwinder Singh for property on Parker Drive between Remount Road and Berryhill Road. The request is to defer the public hearing to our March agenda because the Community Meeting Report was not submitted by the deadline.

Motion was made by Councilmember Driggs, seconded by Councilmember Autry, and carried unanimously to defer the public hearing on Petition No. 2014-115 to March.

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**ITEM NO. 17: PETITION NO. 2015-008**

Petition No. 2015-008 by Mintworth DEI, LLC for property at the intersection of Idlewild Road and Margaret Wallace Drive. The request has been made to defer the public hearing to March.

Motion was made by Councilmember Autry, seconded by Councilmember Kinsey, and carried unanimously to defer the public hearing on Petition No. 2015-008 to March.

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**ITEM NO. 19: PETITION NO. 2015-013**

Petition No. 2015-013 by Meeting Street Homes and Communities for property on Kenilworth Avenue between Buchanan Street and East Boulevard. The request is to defer the public hearing to our March agenda. Protest Petition sufficiency to be determined.

Motion was made by Councilmember Kinsey, seconded by Councilmember Driggs, and carried unanimously to defer the public hearing on Petition No. 2015-013 to March.

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**DECISIONS**

**ITEM NO. 1: ORDINANCE NO. 5577-Z, PETITION NO. 2014-042 BY MOSS ROAD DEVELOPMENT PARTNERS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.84 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF SOUTH TRYON STREET AND MOSS ROAD FROM NS (NEIGHBORHOOD SERVICES) TO NS SPA (NEIGHBORHOOD SERVICES, SITE PLAN AMENDMENT).**

The Zoning Committee found the proposed office building to be consistent with the Steele Creek Area Plan and the proposed retail/automobile services use to be inconsistent with the Steele Creek Area Plan, based on information from the staff analysis and the public hearing, and because the plan recommends office uses for the subject property. However, the Zoning Committee found this petition to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed retail use is less intense than office from a traffic perspective and the applicant has worked to develop a plan that addresses building elevations, site design, and relationship to the neighborhood. The Zoning Committee voted 7-0 to recommend approval of this petition with the following modifications:

1. A Development Data Table has been provided that includes proposed use(s) (general office, medical office, automotive services), and maximum building height (40 feet to top of highest ridge, 30 foot maximum).
2. Labelling on the site plan has been corrected to reflect proposed six-foot sidewalk and eight-foot planting strip along Moss Road.
3. CATS, C-DOT, Engineering and Property Management, and Storm Water Services comments have been addressed as per the following:
  - a. Added note stating petitioner will work with CATS on the location and timing of the installation of a future bus shelter pad on the site if location meets all of CATS and NC-DOT requirements.
  - b. Provided language and detail on site plan as provided in C-DOT memorandum regarding extension of the existing eastbound right-turn lane on South Tryon Street. The exact configuration of the curb, sidewalk, and ramps will be determined during permitting.
  - c. In response to Engineering and Property Management's request, language has been provided under Environmental Features pertaining to tree protection and submittal of a tree survey.
  - d. The petitioner has added language provided by Storm Water Services under the heading Environmental Features pertaining to compliance with the Charlotte City Council approved and adopted Post Construction Ordinance.
4. The petitioner has noted that freestanding lighting on the site will utilize full cut-off luminaires, and will be limited to a maximum 25 feet in height.

Motion was made by Councilmember Kinsey, seconded by Councilmember Fallon, and carried unanimously to approve Petition No. 2014-042 as amended.



Motion was made by Councilmember Mayfield, seconded by Councilmember Smith, that the proposed office building is consistent with the Steele Creek Area Plan and the proposed retail/automobile services uses to be inconsistent with the Steele Creek Area Plan, based on information from the staff analysis and the public hearing, and because the plan recommends office uses for the subject property. However, the petition is reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed retail use is less intense than office from a traffic perspective and the applicant has worked to develop a plan that addresses building elevations, site design, and relationship to the neighborhood.

**Councilmember Barnes** said I just wanted to clarify something with Ms. Keplinger; it says that staff disagrees with the Zoning committee recommendation and that the retail portion is inconsistent with the Steele Creek Area Plan. When was that Area Plan?

**Tammie Keplinger, Planning** said that Area Plan was done not too long ago and in addition it was amended by a rezoning petition that was done in 2007 so that would be the latest time an amendment was done; in 2007 it was slated for office.

Mr. Barnes said so are you okay with it?

**Councilmember Mayfield** said actually yes because when you look at the Premium Outlet and some of the other development that has happened in the area that weren't called for, the area is growing and the Steele Creek Residents Association did send a letter of support for this particular development and they are a very active Residents Association so they did send a letter in support and they are looking forward to moving forward with this development.

**Mayor Clodfelter** said so would I take it then that perhaps Ms. Mayfield you would be amenable to a friendly amendment to your motion to include that the petition is consistent because of the changes made as a result of the Premier Outlets development and because of the support from the Steele Creek Neighborhood Association.

Ms. Mayfield said yes sir I would.

Mayor Clodfelter said the seconder would add that to the Consistency Statement?

No vote was taken on the first motion and as agreed the motion was amended as follows:

Motion was made by Councilmember Mayfield, seconded by Councilmember Smith, that the proposed office building is consistent with the Steele Creek Area Plan and the proposed retail/automobile services uses to be inconsistent with the Steele Creek Area Plan, based on information from the staff analysis and the public hearing, and because the plan recommends office uses for the subject property. However, the petition is reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed retail use is less intense than office from a traffic perspective and the applicant has worked to develop a plan that addresses building elevations, site design, and relationship to the neighborhood; and the area has changed as a result of the construction of the Premier Outlets and the Steele Creek Neighborhood Association supports the proposed rezoning.

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

The ordinance is recorded in full in Ordinance Book 59, at Page 262-263.

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**ITEM NO. 8: ORDINANCE NO. 5578, PETITION NO. 2015-002 BY CHARLOTTE MONTESSORI SCHOOL FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE STREET FRONTAGE AND PRIMARY ACCESS REQUIREMENT FOR CHILD CARE CENTERS.**

The Zoning Committee found this petition to be consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing, and because it meets the plan goal to ensure a diverse, growing, and adaptable economy. Therefore, the Zoning Committee found this petition to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the text amendment deletes the street frontage and primary access requirements for childcare centers located in non-residential districts; and clarifies the street frontage and primary access requirements for childcare centers located in residential zoning districts; and corrects the list of zoning districts in which childcare centers are currently permitted. The Zoning Committee voted 7-0 to recommend approval of this petition.

Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and carried unanimously to approve Petition No. 2015-002.

Motion was made by Councilmember Driggs, seconded by Councilmember Barnes, and carried unanimously that this petition is consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing, and because it meets the plan goal to ensure a diverse, growing, and adaptable economy. However this petition is reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the text amendment deletes the street frontage and primary access requirements for childcare centers located in non-residential districts; and clarifies the street frontage and primary access requirements for childcare centers located in residential zoning districts; and corrects the list of zoning districts in which childcare centers are currently permitted.

The ordinance is recorded in full in Ordinance Book 59, at Page 264-265.

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**ITEM NO. 9: ORDINANCE NO. 5579-Z, PETITION NO. 2015-005 BY SIM USA AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 89.96 ACRES LOCATED ON THE SOUTH SIDE OF CHOATE CIRCLE AND AT THE SOUTHERN INTERSECTION OF MOSS ROAD AND CHOATE CIRCLE FROM INST(CD) (INSTITUTIONAL, CONDITIONAL) TO INST (CD) SPA (INSTITUTIONAL, CONDITIONAL, SITE PLAN AMENDMENT.)**

The Zoning Committee found this petition to be consistent with the Steele Creek Area Plan, based on information from the staff analysis and the public hearing, and because The Plan recommends institutional uses for the subject property, and communication towers are a permitted use in the institutional zoning district. Therefore, the Zoning Committee found this petition to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed communication tower is located over 1/3 of a mile from the nearest single family homes and approximately 1/3 of a mile from the nearest public street. The Zoning Committee voted 7-0 to recommend APPROVAL of this petition with the following modifications:

1. Addressed the C-DOT issue by amending Note 3 to eliminate "...within a reasonable period of time after the Charlotte Department of Transportation has determined that any such left turn lane is warranted by reason of increased traffic volumes" and replaced with the following: "...upon future development of said Tracts (excluding the communications tower installation)."
2. Addressed the Park and Recreation issue by providing greenway documentation for easements for Polk Ditch, Walker Branch, and Steele Creek on this property for future greenway development.
3. Provided a note stating that construction plans for the six-foot sidewalk and eight-foot planting strip along Choate Circle would be submitted prior to issuance of final approvals for the telecommunications tower and that the sidewalk and planting strip would be constructed within six months of the approval of this rezoning.

4. Amended Transportation Note 4. to remove the words “contemporaneously with, and in sequences keyed to, new development taking place on each such Tract (excluding the communications tower installation), but in all events, no later than the fifth anniversary of the date on which this Rezoning Petition is approved by Charlotte City Council” and replaced with language requiring construction plans for the sidewalk and planting strip to be submitted to the City prior to issuance of the final approvals for the communications tower and that the sidewalk and planting strip be constructed within six months of the approval of the rezoning.
5. Removed all references to Tract II. Grayed the area of Tract II and labeled “Not included in rezoning.” Amended the application and site plan data to reflect the reduced acreage.
6. Provided a note that prohibits all buffers from being reduced.
7. Amended Note 2 under Permitted Development within the Site by replacing “a 200-foot monopole communications tower” with “up to a 210-foot monopole communications tower.”
8. Amended the definition of the term “Petitioners” to reflect a singular petitioner.

A Protest Petition has been filed but is insufficient to invoke the rule requiring affirmative votes of  $\frac{3}{4}$  of the Mayor and Councilmembers, not excused or recused from voting in order to rezone the property.

**Councilmember Howard** said just to clarify; the Protest Petition was insufficient so this would be a simple majority vote?

**Mayor Clodfelter** said this is a simple majority vote and the City Attorney has ruled that the Protest Petition was not sufficient to qualify.

Motion was made by Councilmember Mayfield, seconded by Councilmember Barnes, and carried unanimously to approve Petition No. 2015-005 as modified.

Motion was made by Councilmember Mayfield, seconded by Councilmember Driggs, and carried unanimously that this petition is consistent with the Steele Creek Area Plan, based on information from the staff analysis and the public hearing, and because the Plan recommends institutional uses for the subject property and communication towers are a permitted use in the institutional zoning district. Therefore, this petition is reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed communication tower is located over 1/3 of a mile from the nearest single family homes and approximately 1/3 of a mile from the nearest public street.

**Councilmember Howard** said I think this is the one where we had the resident to come in and talk about having the antenna; I would hope that the corporation would continue to work with the neighbors in the area.

The ordinance is recorded in full in Ordinance Book 59, at Page 266-267.

**Councilmember Lyles arrived at 6:30 p.m.**

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## HEARINGS

**ITEM NO. 14: HEARING ON PETITION NO. 2015-003 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.17 ACRES LOCATED ON THE WEST SIDE OF SOUTH BOULEVARD ACROSS FROM SENECA PLACE FROM B-2 (GENERAL BUSINESS) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT – MIXED USE).**

**Mayor Clodfelter** declared the hearing open.

**Tammie Keplinger, Planning** said this is Old Pineville Road and you can see most of the land uses and zoning in this area is for I-2 which is industrial. South Boulevard is located here; this is

our subject property Seneca Place. On the east side of South Boulevard there is a lot of residential but along the corridor of South Boulevard we do have commercial and some industrial. In terms of the site you can see that there are several buildings on the site and they actually have commercial uses located in them. The property is located within ½ mile walk of the Tryon Street Transit Station; the Tyvola and Archdale Transit Station Plan for 2008 recommends mixed use, transit supported development for this property. This will allow all uses in the TOD-M, the Transit Oriented District – Mixed Use. There are no outstanding issues as this is a conventional rezoning and staff is recommending approval.

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

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**ITEM NO. 15: HEARING ON PETITION NO. 2015-004 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY .177 ACRES LOCATED ON THE EAST SIDE OF NORTH DAVIDSON STREET BETWEEN EAST 32ND STREET AND EAST 33<sup>RD</sup> STREET FROM R-5 (SINGLE FAMILY RESIDENTIAL) TO TOD-MO (TRANSIT ORIENTED DEVELOPMENT – MIXED USE, OPTIONAL).**

**Mayor Clodfelter** declared the hearing open.

**Tammie Keplinger, Planning** said this is property is located here and you can see there has been a lot going on along the North Davidson Corridor in recent years. We have a lot of MUD rezoning which shows up in the strips, we have some industrial, we have residential, we have some UR-2 and now we are beginning to see some Transit Oriented and Transit Supported Districts in this area also. The property we are talking about tonight is a vacant single family home located on the site. The proposed request is from R-5 single family residential to TOD-MO for Transit Oriented Development – Mixed Use. It allows all uses in the TOD District; it will retain the existing mill home and retain its residential character. The options they are requesting deal with the streetscape along North Davidson; they are asking for parking between the building and the street, existing planting strip and sidewalk to remain and the existing hedges located within the setback to remain. This is consistent with what we have done along other properties along North Davidson when they are preserving the existing home. One of the things that is noted in the staff analysis is that the petitioner was eliminating the use of eating, drinking and entertainment establishments and the reason they were doing that was because of the required parking. We felt that they could not meet it, but since the time the staff analysis went out we have discovered that they can indeed meet it in the back parking area so they would like to allow all uses in the TOD. In terms of limitations on whether they would be a Type I or a Type II Eating and Drinking Establishment, they would actually be restricted to a Type I or they could be a Type II which will allow the sale of alcohol, but it would only be allowed indoors because of its proximity to residential so there would not be any outdoor alcohol sales for this site.

In terms of the land use, this is on the Blue Line Extension; it is part of the Blue Line Extension Transit Station Area Plan which was adopted in 2013. It recommends transit supported uses; the property is within ½ mile of the future 36<sup>th</sup> Street Transit Station, so for those reasons it is consistent with the area plan, it meets the requirements for heights to be limited to 50-feet by using the existing home. The optional request allows the preservation of that home; the location to the transit station, the outstanding issues are technical in nature and staff is supportive of this upon the resolution of those outstanding issues.

**Councilmember Kinsey** said this actually was the item that Mr. Maupin was signed up to speak to, but I hope everyone received a letter from the NoDa Neighborhood and Business Association supporting this and I thank the petitioner for working with them on this particular petition.

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

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**ITEM NO. 16: HEARING ON PETITION NO. 2015-007 BY VILLAGE AT ROBINSON FARM, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.769 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF REA ROAD AND WILLIAMS POND LANE FROM NS (NEIGHBORHOOD SERVICES) TO NS SPA (NEIGHBORHOOD SERVICES, SITE PLAN AMENDMENT).**

**Mayor Clodfelter** declared the hearing open.

**Tammie Keplinger, Planning** said just to orient everyone, this is Williams Pond Lane, this is Rea Road and Elm Lane; the site we are talking about in this petition is located in this area. As you can see this is a non-residential node; we have commercial, multifamily and institutional. The property as you can see from the aerial is developed with commercial uses; they are mostly retail and restaurants and there are some small offices mixed in. The request we have tonight is to allow the addition of approximately 2000 square feet of outdoor dining area on the roof of one of the existing buildings. That will allow for a total of approximately 4,800 square feet for outdoor dining. All of the existing buildings on the site are to remain and all the conditions from the previous rezoning are also to remain.

In terms of the future land use map the South District Plan from 1993 is amended by the 2006 rezoning for this property recommends commercial retail uses so it is consistent with the South District Plan, doesn't increase the building area on the site; it allows the outdoor dining expansion, we have no outstanding issues and we are recommending approval.

**Councilmember Howard** said I was wondering what the big institutional use is across the street; all that institutional use across the street, what is that?

Ms. Keplinger said it is a church.

**Councilmember Driggs** said there are some stores there; I can't remember exactly what is there.

Mr. Howard said I was just wondering how all that movement would work since it was such a big use.

**Unidentified person in audience** said it is St. Matthews Catholic Church.

Mr. Driggs said I am curious about the parking at that location; it is actually already very crowded, several restaurants so did we give any thought to whether adding that outdoor dining area is going to overload the parking capacity at the site?

Ms. Keplinger said they would still have to meet the parking requirements and outdoor dining does count toward that so that is something they will be required to meet when they go in for permitting.

Mr. Driggs said were there any protest from the adjacent establishments about a possible change in noise levels from this one? There are several restaurants in that area.

Ms. Keplinger said I'm looking to the rest of the staff to see if they have any calls. I did receive a call from a residential property owner concerned about the noise from a rooftop dining facility, but I'm hearing that staff did not receive any other calls.

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

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**ITEM NO. 18: PETITION NO. 2015-011 BY PHYLLIS HOUGH FOR A CHANGE IN ZONING FOR APPROXIMATELY .505 ACRES LOCATED ON THE EAST SIDE OF VALLEYDALE ROAD ACROSS FROM MELLWOOD DRIVE FROM R-4 (LWPA) (SINGLE FAMILY RESIDENTIAL, LAKE WYLIE PROTECTED AREA) TO INST(CD) (LWPA) (INSTITUTIONAL, CONDITIONAL, LAKE WYLIE PROTECTED AREA).**

Mayor Clodfelter declared the hearing open.

Tammie Keplinger, Planning said to orient everyone, this is Valleydale, this is Belhaven; this is a corner that has an automotive use located on it. Back in 2013 we had a rezoning for a portion of this property for a Dollar General or Family Dollar that was eventually withdrawn so that is probably the most recent request in the area that we have had. This property was rezoned in 2011 from R-8MF (CD) multifamily conditional to an R-4; currently we believe the use is a church and possibly a daycare use. We are not positive on the use and we could not confirm that.

In terms of the land use in the area you can see that most of the properties are zoned R-3 or R-4, single family residential with a commercial node that is located at the intersection of Belhaven and Valleydale. The property is located in the Lake Wylie Protected Area which means that special considerations have to be given for ground water protection. As you can see from the aerial, the property is vacant currently; there is a single family home to the north, a single family home to the south and a single family in this area. In terms of the proposed request, it is for the construction of a childcare facility with up to 40 children. The limits on the building are 40-feet and one story; it limits the height of any freestanding lighting to 15-feet and provides a 12-foot buffer around the site with a 6 to 8-foot tall fence. The building is located to the rear of the site with parking in front and one of the concerns that staff has is that the parking in front will basically be in the front yards of the adjacent single family homes that are located to the north and to the south. This is the proposed building elevation and you can see it calls for glass and siding, the color to be chosen by the property owner.

In terms of the future land use plan it does call for single family residential development for this site. It is the Northwest District Plan which was adopted in 1990. The request is inconsistent with that Plan. Usually when we talk about institutional zoning and daycares we say that the plans do not provide us with details on where those uses should go but we should look at them on a case by case basis. In this case we found that use is incompatible with the residential context in which it is located. It is in close proximity to single family residential, the parking area is located in what is considered the front yard and there is no drop-off area for the children. The design commitments are very minimal so we have no commitments to insure that they will maintain the residential character that is consistent with the surrounding residential homes. There are additional outstanding issues that are technical in nature. The staff at this point does not recommend approval of this petition.

Mayor Clodfelter said my geography must be totally off; isn't this in the Mountain Island Lake Protected Area?

Ms. Keplinger said actually I looked it up myself today because I couldn't believe it was in the Lake Wylie Protected Area but there is a sliver that goes up north and it goes all the way to Sunset Road so it is in Lake Wylie Protected Area.

Mayor Clodfelter said all the way to Sunset Road for Lake Wylie Protected Area, not the Mountain Island Lake Protected Area?

Ms. Keplinger said not Mountain Island.

Councilmember Fallon said Tammie; this area has no sidewalks at all. It is all fields and homes with no sidewalks, right?

Ms. Keplinger said I do not believe there are sidewalks.

mpl

Ms. Fallon said does anybody know if they intend to put in sidewalks?

Ms. Keplinger said if I can go back and look at the site plan we will look and see what they have shown on the site plans. They do show sidewalks on the site plan.

Ms. Fallon said but there aren't any there.

Ms. Keplinger said they will be required to put them in, at least on the frontage of this property.

**Harold Jordan, 1313 North Tryon Street** said I am here in support of the petition. The staff has said they are not for the approval of this site due to a 1990 Area Plan that was done. That was almost 20 years ago and our site is going to be a childcare facility of only 40 children. With a childcare facility we are only required to have eight parking spaces and we are actually providing 12 parking spaces and one of the concerns was the drive-through drop-off but with a childcare facility that is under 100 children, even with most childcare facilities the parents are required to bring their children into the facility. This facility will be operating at least two shifts so children will be coming in throughout the day, not everyone coming in at one time like in an elementary school. We are making the building be of architectural character of a residential neighborhood and we are providing the correct buffers for the parking so it won't be just like a big eye sore in the neighborhood. Our lot is actually two lots away from a commercial lot that sits up the street, a gas station and an auto mechanic facility. As you can see you can actually walk to those two sites from where our site is actually located. I will let Ms. Hough explain what she has discovered from just walking the neighborhood.

**Phyllis Hough, 1700 Valleydale Road** said I live in the Coulwood Community and I have been dedicated to providing quality in-home childcare since 1998. I have worked tirelessly to the development of the Coulwood Community through childcare, parental involvement and community resources and I'm seeking childcare at 1700 Valleydale Road. Over the past decade there has been a demand for childcare in the Northwest Charlotte area. Two much needed elementary schools have been added to our community and personally I run a very successful child home daycare that has not had open spaces in years. There is a waiting list that exceeds my care spaces. I consistently receive numerous calls throughout the week from new parents seeking childcare. The need of the community is changing and so is the need of childcare. I'm only asking to extend my services. Initially I had spoken to the immediate neighbors, the ones right beside the site and they were content with the idea; however all neighbors did receive notification of the petition by letter and inviting them to the Community Meeting to express concerns. No-one came to oppose the plans, however the ones that were there were in support. Since the attendance was low I decided to go into the neighborhood door to door to introduce myself and share the idea of a childcare center being in the neighborhood. I received nothing less than anticipation. Some wanted to know when the center would open because they had childcare needs and drove so far for childcare and others wanted to know if there would be opportunity for employment. One neighbor even stated it will be good to have a childcare center in walking distance. Thought my experience, research and speaking to my neighbors I found an overwhelming need for childcare in our community. Therefore I request the City grant me permission to move forward in serving the Coulwood Community. Thank you for your time and consideration.

**Councilmember Driggs** said we are looking at a 25 year old Plan here; is your sense that approving this would be offensive to the area as it is today? Is it a technicality that it doesn't conform to an old plan or is the plans requirement still going to be relevant today if we updated it?

Ms. Keplinger said in this case because it is an institutional use we look at what is going on in the area today. The Plan would say that it is inconsistent but in terms of staff's support we support a lot of daycares in institutional uses that are inconsistent with the area plans. However in this particular case with it being situated between two single family residential homes we felt this was an inappropriate area because of what is happening today in that vicinity.

Mr. Driggs said so the inconsistency with the old Plan is not your principle objection?

mpl

Ms. Keplinger said correct.

**Councilmember Smith** said to the petitioner, do you currently own this property?

The petitioner said I do.

Mayor Clodfelter said ma'am, where do you operate from today?

Ms. Hough said I have an in home child care at 577 Danny Grove Court in the Coulwood Community.

**Councilmember Howard** said I believe this is in the influence or the District of Councilmember Austin and he is not here tonight; have you actually had conversations with him about this yet?

Ms. Hough said I have.

Mr. Howard said in my conversations with him he does have some concern about it being placed between two single family homes so hopefully you can continue to talk to him about that part of it. I think that has to do with some concern about encroachment of business zoning into a neighborhood and that is always a problem for us, especially when it jumps on several homes to do it. Hopefully you will continue to talk to him about it and for sure he will be talking to us about his concerns as well.

**Councilmember Barnes** said what are the hours of operation going to be?

Ms. Hough said the hours of operation will be 7:00 a.m. to 6:00 p.m. Monday through Friday.

**Councilmember Phipps** said the Text Amendment that we just approved earlier; this is outside of that, right because that was for non-residential daycare centers, so this doesn't apply to this one?

Ms. Keplinger said the Text Amendment that you approved earlier would actually eliminate the requirement for access and the association with thoroughfares but they have that so it wouldn't have applied.

Motion was made by Councilmember Barnes, seconded by Councilmember Mayfield, and carried unanimously to close the public hearing.
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**ITEM NO. 20: HEARING ON PETITION NO. 2015-015 BY J. R. DAVIS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 18.03ACRES LOCATED ON THE NORTH SIDE OF BERKELEY PLACE DRIVE BETWEEN PINNACLE DRIVE AND REVENNA LANE FROM BD(CD) (DISTRIBUTIVE BUSINESS, CONDITIONAL) AND CC (COMMERCIAL CENTER) TO CC (COMMERCIAL CENTER) AND BD(CD) (DISTRIBUTIVE BUSINESS, CONDITIONAL).**

**Mayor Clodfelter** declared the public hearing open.

**Tammie Keplinger, Planning** said this property is located right off of I-85 North at West Mallard Creek Church Road, I believe the development is called Pinnacle Point. This property was actually rezoned back in 1999; it had 116 acres that were rezoned originally and it incorporated commercial development in this area with multifamily. There was a plan even for a golf course at one point in time but that did not occur. In 2002 there was a rezoning to allow the expansion of the office square footage and there was an additional rezoning in 2008 and at that rezoning it allowed 58,000 square feet of retail, 200,000 square feet of office and 130,000 square feet of indoor self-storage facility and that self-storage was located in this area. The request you have before you tonight is basically a flip flop. This area was slated for retail/office; this is

mpl



zoned for the storage. They want to exchange this and make this the storage facility area and this retail office. The site plan exchanges the 130,000 square feet of self-storage, it divides it up into multiple buildings and it allows both conditioned and non-conditioned space; it limits the height of the detached lights to 20-feet and it provides adequate buffers to the adjacent single family properties.

In terms of the future land use it is inconsistent with the Northeast District Plan from 1996 which recommends office for this portion and distributive business for this portion of the site, but staff feels this is just a change within the development. It will allow the self-storage to be located further away from the commercial part of the development. There are outstanding issues, but they are technical in nature so staff is supporting this upon the resolution of those outstanding issues.

**Walter Field, 1919 South Boulevard** said let me introduce Josh Davis who is the petitioner and who has joined us this evening. I will not take any more of your time except to point out that we have worked with the staff to do this sort of exchange of a zoning, taking a site which is actually fairly constrained in terms of being pinned along beside a Duke Power right-of-way and putting uses there to free up the central portion of the Pinnacle Point development so it can fulfill its original objective of including a lot more uses, including retail and perhaps office. We really are just exchanging the zoning; as Tammie said there are a couple of small technical issues. I don't think any of those things will be any problem to resolve. There were some questions at our Community Meeting like how long will it take to build and what sort of security with there be etc. The time is eight to nine months; we are going to add an additional note about the lighting because that was a question from our Community Meeting that we couldn't change before tonight. We have included architectural drawings as part of this development to demonstrate that we have picked up the character or the material pallet from the Pinnacle Point Community and incorporated that into this development.

**Councilmember Barnes** said for the last 10-years or so Mr. Fields, you and I have always had this discussion when it comes to petitions in this part of Charlotte. My question always is where are the elevations and why aren't they in this book?

Ms. Keplinger said they were not submitted as part of the application.

Mr. Fields said they didn't come in with the original application; we were still developing these. This is a package that has the building elevations and the list of building materials. Mr. Barnes, you are aware that there is a deadline; we can't resubmit things while the process is moving forward. We did not have this information when the site plan deadline came a month ago; we've since put this together and in fact Mr. Davis delivered these to my office yesterday so these will be added to the zoning plan as part of the commitment.

Mr. Barnes said so all of the storage is indoors?

Mr. Fields said yes sir, all of it.

Mr. Barnes said on the smaller site will be an office building?

Mr. Fields said actually the staff has asked us to file an administrative site plan amendment to restore the original zoning and all the original conditions on the Pinnacle Point Development that would apply to that piece that is going from BD back to CC so that would be done in conjunction with the approval of this we will have a package before the staff so they can do the administrative approval at the same time and it all comes together.

Mr. Barnes said so what will be on the smaller site?

Mr. Fields said it goes back to what it was under the original Pinnacle Point Plan which is a mixture office and retail; still controlled by all of the same original Pinnacle Point zoning. It will go back to what it was before the 2008 petition changed it to provide for storage.

Mr. Barnes said I'm not sure that looks like what is there now so confirm that please.

mpl

Ms. Keplinger said we will have our designers work on that; we haven't seen that yet.

**Councilmember Howard** said can you e-mail us the renderings please?

Mr. Fields said yes, I can do that, absolutely.

Mayor Clodfelter said you can do so and you will do so?

Mr. Fields said everybody want a set, okay.

**Councilmember Phipps** I attended the Community Meeting along with several others and had a good spirited discussion with the petitioner on it and I'm surprised, it looks as if that all of a sudden storage type units seems to be taking the City by storm. I wasn't aware that there was such a need for storage units. I guess with the growth and with the multifamily units that is becoming the next type of niche development or construction that we see popping up near and around multifamily units. I was just curious, has the petitioner done any definitive studies to show the true need for such units in the regular course of business?

Mr. Fields said Mr. Phipps let me answer that question this way; I currently have three clients who are in the storage business. The business of storage is changing; it is not what we are used to seeing built 25 and 30-years ago in an industrial parks in limited parts of town. The storage business is a business that wants to be the same place where you neighborhood grocery store is, the same place where your neighborhood offices and businesses are located because that is where their customers are. If they could get next door to a neighborhood shopping center they would be happy to do that. The sites are smaller than they used to be, the buildings are more sophisticated than they used to be, the technology and security is better than it used to be and the advent of conditioned storage space brings a whole new element so when someone is remodeling the house or storing their business records, they don't have to worry about humidity and climate control and vermin and one thing or another. It truly is an industry which is coming back to Charlotte because we are growing. We do have a large number of residential units, whether they be multifamily or single family. I met with a single family neighborhood just a couple of weeks ago to talk about a storage facility near them and they were excited about it because they all have more stuff than they can fit into their garage. They are looking for a place to put things so the technology has changed, the character of the buildings has changed, the business itself has changed and now they want to be closer to where people are. I actually approached the staff several months ago to do a rewrite of the portions of the ordinance that deal with storage at the behest of one of my clients. The staff didn't want to do that at that point in time, but you did approve last month a Text Amendment that changed the floor area ratio for storage in industrial districts. That is the first of I think many steps that will broaden the base for where these uses can go because they are upping their game in terms of design; they are upping their game in terms of proximity to where they can locate close to other uses, both office and retail and residential. I think you are going to seeing more of these sorts of petitions in the future and I invite Mr. Davis to come and talk if he wants to, but I can't imagine he would have put this plan together and brought forward to you tonight unless he felt there was a very strong market in this community to support his business.

Motion was made by Councilmember Barnes, seconded by Councilmember Mayfield, and carried unanimously to close the public hearing.
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Mr. Barnes said Ms. Keplinger will you all make sure that whatever the renderings are going to be are a part of the site plan notes and a part of the package that we would vote on?

Ms. Keplinger said absolutely.

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**ITEM NO. 21: HEARING ON PETITION NO. 2015-016 BY TOUCHSTONE VILLAGE, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 10.24 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF BEVINGTON PLACE AND CARSWELL LANE FROM B-1(CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL) TO NS (NEIGHBORHOOD SERVICES).**

**Mayor Clodfelter** declared the public hearing open.

**Tammie Keplinger, Planning** said this property is located; it is tucked in a little bit, this is Pineville Matthews Road, Baybrook Drive, Carswell Lane and then here is Bevington Place and this is McAlpine Elementary School. This center was built some years ago and it was intended to be part of the neighborhood and kind of mixed into the neighborhood. It has seen some success; there is a daycare that is located at this side of the property; that is not included in the rezoning so we are talking about what is currently the existing shopping center. They have some spaces in here that have long-term leases and the request that is before you tonight is to talk about the redevelopment of this center. The proposal will be to take down a good portion of this part of the retail structure; there is a portion over here that will remain and then redevelop with an office building in this area. The proposed office building will be located here with parking behind it; this will be the remaining portion of the retail commercial structure, this is the area of the daycare that is not included. The proposed use will have 18,000 square feet of retail; it will have 89,000 square feet of office in three stories; they've got limitations on the height of the lighting; they provide pedestrian and landscaping improvements; they provide building elevations which commit to the use of articulation to avoid large expanses of walls over 20-feet. I will show you the building elevations and I might not be able to read all from this point to tell you which elevation, but I believe this is the front elevation, this will be the back elevation and these will be the sides.

In terms of the land use plan this area is in the South District Plan which was adopted in 1993. It recognizes the existing retail uses which could include office uses. The retail component is consistent with the South District Plan and the office component is inconsistent. The proposed uses that are allowed are appropriate for a commercial environment. There will be less traffic based on the proposed uses. We have several outstanding issues; they are technical in nature and we feel like those will be resolved before it comes back to the City Council for a vote. Staff is recommending approval upon the resolution of those issues.

**Walter Fields, 1919 South Boulevard** said I am representing Enview who proposes this rezoning that is before you tonight. I have the site plan behind me but if need to pull it back up Tammie will help us with that. This is something that planners to from time to time; we come up with these really great ideas and we convince people that they should do it. The Touchstone Community was such an example; it was a community that was built around the promise of both convenient and accessible neighborhood retail and a site reserved for the Elementary School. There were a couple of other examples in Charlotte that I can recall; Candlewick was one, Providence Square Shopping Center was one. I recall working on the Highland Creek Master Plan years ago and we had reserved space there for schools and other facilities, but the market is a cruel master and these ideas that we had years ago about trying to integrate these uses in communities have simply not stood the test of time. This is a great little shopping center; it was originally anchored by a Food Lion Grocery Store and it served this community for a number of years, but as business models change and markets change it has changed in what it represents to the community and has sort of lost that luster that it perhaps originally had. Jim Sankey, my client and the owner of Enview is a very successful business man here in Charlotte. He is a B to B guy that creates very special electronic devices. He is currently located in Pineville, does business in over 80 countries around the world and he owns this shopping center. He has bought it for the sole purpose of relocating all of his corporate and business assets in Charlotte to this location. He will own and occupy the building as his corporate headquarters, so this not a speculative deal. It is a three-story building but it does have a full basement underground for storage and testing and other such things. Interestingly enough one of the things that came out of some of some of our early Community Meetings, one of the first questions I was asked is it going to have a generator, so part of the conversation with the community involved where we locate the generator. It is going to be in some of that basement space.

We will end up with about 18,000 feet of residual retail; that space is pretty much all occupied today, there is a health club there, there is a couple of restaurants that seem to be very popular in the community and that part of the center will stay. We have some additional architectural drawings to add to our packet which represents what the side of the building will look like once the old Food Lion Grocery Store is removed. It will expose a wall that had never been there before and we've designed that to match the other architecture of the remaining portions of the center. We had lots of questions in the community about this development; it is a well-established neighborhood, it has been here for a number of years and a lot of really focused folks and very smart people came to a couple of meetings and at our last Community Meeting I had 38 people on the sign-in sheet. They asked us a lot of questions and we've already made a lot of changes to the plan as a result of that. We have put on this plan a requirement that all of the construction traffic that comes and goes from this site will be directed by contract straight out to Highway 51. This is to respond to concerns that we heard from the community about traffic in their neighborhood already and what can we do to keep it from getting any worse. That is a commitment that is on this plan. Another step beyond that is because Mr. Sankey writes the checks for all the people that work there, his staff will be directed to come and go only directly to Highway 51 and not use any of the neighborhood streets. I was assured by a number of the folks in the community that came to the meeting that they would be watching and he said that is just fine.

In terms of trying to deal with traffic, this is an area that suffers from a lot of cut-through; it is a short-cut to avoid the intersection of Highway 51 and Elm Lane. We are trying to do everything we can to keep from making that any worse. This plan will actually generate less traffic on a daily basis than if the shopping center was still a going concern and with these restrictions we hope to keep that traffic going out onto the major thoroughfare and not down into the community. There were concerns about the maintenance of the existing landscaping; some of the stuff that has already been let go over the years and they were sort of shabby and some trees have died. We have already put notes on the plan to address all of that; we have put notes on the plan dealing with lighting, we have put notes on the plan dealing with realigning one of the driveway designs so people can go to Highway 51 instead of being forced by a pork chop island to turn back into the neighborhood and at this large community meeting, which has already passed the site plan deadline we got several other questions dealing with an outdoor patio that is currently on the back of one of the restaurants and the noise from that. Could the City put no parking signs along the three streets that adjoin the site; we certainly don't have an objection to that, but it is not something that we can do. Can we do more with the lighting on the new part of the site which is where the Food Lion used to be; that will become surface parking, to really be sensitive to the community nearby, especially the folks across Bevington Place? We are going to have to make a few changes to the existing storm water facility as it will require some vegetation to be removed. We found that out after we had our Community Meeting but we will be adding notes to deal with that as well. I think this is a fairly well received plan; there is always a concern when there is a change but we are very pleased that Bob Otten is here tonight to speak about this petition and share his views with you on behalf of the Touchstone Community. I will stop at this point and yield the remainder of my time to him.

**Bob Otten, 9424 Radner Lane** said I am a 27-year resident member of the Touchstone Homeowners Association; I've been asked by its President Linda Moon to express the Homeowners Association in support of the petitioner's plan improvements. Our largest concerns are increased traffic through the neighborhood and landscaping which Walter has said they have addressed. We asked the petitioner to encourage their employees to obey the posted speed limits to 25 MPH. We have a difficult time as it is with our own residents honoring that speed limit, but with the increased traffic that we believe will be coming through the sub-division at times coinciding with the school hours etc. we ask those speed limits to be obeyed. Many believe it will be an improvement to what exist there today. On a personal level I would request concerns expressed by the Touchstone residents that Walter referred to during the last public forum being included as conditions to the rezoning; among them restricting the height of the parking lot light poles for the new parking field to be no higher than 15-feet. The homes that back up to Bevington Place, directly across the street sit at a lower elevation than the parking lot so even with cutoff light fixtures they would still be positioned where they could see the underside of the light so I think bringing those down to 15-feet would help restrict that. The property owner will improve and maintain required screening along Bevington Place; a number of the trees that were

originally required under the zoning of the property have died and were never replaced. The same was true with landscape screening of the fencing that protects the detention area; I request that that be maintained. Due to the noise that exists at the rear patio behind the Touchstone Rose generates as a result of live music and broadcast music at the rear patio we ask that patios be restricted in the event the Touchstone Rose ever ceases its operation that rear patio use be restricted to the shopping center. Any patios then be developed more to the front side of the center and again with no live music or no pipe music. Lastly I would request that the City agree to grant the rezoning, agree to make necessary repairs to the sidewalk that runs across the backside of Bevington Place. There is one storm inlet along the sidewalk area, a 75-foot area; every time we have a heavy rain heavily floods and silt really blocks the access walk across that part of Bevington. We understand that is a City responsibility and we would ask that the City step up and make those necessary repairs. I appreciate the petitioner's and the City's consideration to these requests.

**Councilmember Smith** said I believe there may be an environmental issue associated with an old drycleaners there and it has been put into the state clean-up program. How will that impact this proposed redevelopment?

Mr. Fields said Mr. Smith you are giving me information that I'm hearing now for the first time so I'm making a note to follow-up.

Mr. Smith said I am curious; dealing with the commercial real estate industry gives me some knowledge to some of these sites and I was just curious.

**Councilmember Driggs** said I am pleased to see that the traffic actually decreases, so often in the district a new proposal develops more traffic and that creates heartburn, but we are moving from retail to an office type of setting so have you specifically looked at the peak hour impact on traffic?

Mr. Fields said C-DOT's memo indicates that they don't have any concerns about the peak hour traffic in this area based on the fact that there is already a shopping center there today. It is my understanding based on our conversations with the community that we miss the peak flows from the elementary school that starts earlier and ends in the middle of the afternoon. Employees will come to this building between 8:30 and 9:00 and leave 5:30 to 6:00 so we don't overlap our traffic flows with the peak flows from the elementary school traffic. The larger issue and you may hear this later on in comment from those speaking in opposition, there is a lot of traffic that cuts through this community today that has nothing to do with this site, they drive right by this site or they drive on either one of these two streets. Baybrook has a signalized intersection on Highway 51; that is a very nice place to get out if you don't want to wait at Elm Lane you cut through from Bevington and go out Baybrook and you can get to Highway 51. Whether this is done or not that is an issue that we heard from the community. All we can do is our best effort to try to direct the traffic that we create away from the neighborhood streets and I'm inclined to believe that I worked in an organization where my boss said it is a requirement that when you come and go from this site you come and go on Baybrook Lane or you come and go on Carswell Lane, you cannot go into the neighborhood, that is a pretty powerful requirement. I don't know that I have ever seen that on a zoning document before. I have seen limitations on construction traffic, but I have never seen anybody commit to the operational traffic also being focused toward the thoroughfare in difference to concerns about the traffic that is already in the community.

Mr. Driggs said I am also interested to know what exactly is the enforcement mechanism for the employer to direct the employees to travel a certain way.

Mr. Fields said several ladies that I met at the Community Meetings said they would be paying a great deal of attention to where the cars come and go from. I think the reporting mechanism is the community itself and the enforcement is, Mr. Sankey would be in violation of a condition of his zoning plan if his employees are in fact leaving the site and going down through the neighborhood as opposed to going directly out to Highway 51, which is what this commitment will require them to do.

Mr. Driggs said Kyle and Caryn Martin have raised a number of questions and I'm please they are here tonight so I'll let them discuss their issues. The other question I had was whether the City is in a position to make any commitments about the sidewalk and in particular the storm water?

Ms. Keplinger said in terms of the sidewalk I think Mike Davis is here and he might be able to respond to that for us.

**Mike Davis, Transportation** said we noted the comment during the hearing and will go back and look at that and see what we can do about that in terms of regular maintenance.

Mr. Driggs said but that particular request cannot be part of our zoning decision?

Mr. Davis said I would not advise that would be; I heard that as an item that maybe the City has an obligation to fulfill so we will look into that. I can report back if you would like.

**Kyle Martin, 6425 Felton Court** said my wife and I live on Felton Court in Touchstone for the past 11 years. We wrote a detailed 10-page letter to Councilmember Driggs outlining what we believe should be conditions upon approval of this petition. Many of the concerns can be resolved through Walter Fields and Mr. Sankey and we appreciate the work that they have done in working with the neighborhood, but a lot of these situations that really the City can only resolve. I'm going to go through some of those very quickly. We have two main concerns, the future dynamics of this office building; as we know this office building could potentially be sold; there could be multiple tenants of it someday. The square footage per employee could go down, the number of employees could go up resulting in a potential overflow parking situation. That is the reason why I requested no parking on Carswell, Baybrook and Bevington bounded by Baybrook and Carswell. Just looking out for the neighborhood in the future is the justification for that.

The vegetation buffer, we would like to see a vegetation screening placed on the backside of the parking lot that would filter out noise and light pollution. There has been some discussion about the lights already and I think it should be stated on the site plan a specific goal of this vegetation screen that would guide the maintenance so that it is enforceable and well defined. On the previous site plan for the current location there is supposed to be landscaping on the 12-foot berm on the south side and we would like for that to continue but we would like to see that well defined. It is very generic; it is obvious whoever wrote it had no intention of enforcing it. The neighborhood over the years has been unable to get anyone to enforce the language on the site plan to get them improved, to remove dead trees and replace dead trees. The other issue is traffic. I am going to be very brief because I can get very long winded about the traffic issue. The previous rezoning has created a situation where they have put a single family access road, made it into a conduit between Elm Lane and Rea Road and this business site. I'm wondering if the City Council is really going to continue with this land use pattern and I'm wondering if they are going to do something for the neighborhood to help with traffic. The Neighborhood Association on a number of occasions has tried to get the police out there to help with speed. No one goes 25 MPH, no one obeys the three-way stops; it is a dangerous situation at times especially with the school and then the little retail traffic that is already there. I've heard a number of comments about the traffic is going to decrease; it is not going to decrease. My wife and I have looked at empirical data, counting the amount of cars in the parking lot from mid-January to now. There are 40 to 50 cars on average in the parking lot. On day one this office building is going to bring at least 150 cars from the employees, include the retail traffic, you do the math that is an increase in the amount of traffic. This will occur at large bulks of time, morning, some at lunch and some in the afternoon. I appreciate Mr. Sankey's cooperation with respect to adding to the site plan to enforce his employees to not use the neighborhood roads, but we know that is not enforceable, nobody is going to get out and do this. It is not useful at all. They are going to use the neighborhood roads; if employees are hired from south of the area, any GPS any common sense person is going to use the roads to cut through Bevington. Thank you for listening to me and I really wish that you would take these into consideration and if you want to give the 10-page letter that my wife and I wrote to Mr. Driggs, please ask him to forward it to you or I would be more than happy to forward it to you.

Mayor Clodfelter said Mr. Driggs are you going to forward the 10 page letter?

Mr. Driggs said you are welcome to see it, it is a very thoughtful document and Mr. Martin I just wanted to say for one I'm sorry I didn't get back to you quicker about that. I think my colleagues will confirm we've had somewhat of an overflow situation in our inbox for the last week. One thought I have is that we need to kind of separate our land use decision which relates specifically to what is proposed at the site from issues that you want to bring to the attention of the City that relate to the flow of traffic because some of those issues, in my experience, exist already. We need to tackle them but when we look at the land use decision we are looking at terms of how it changes and in fact the information we have suggest that the count is going down and I'm prepared to engage with you on whether that is a good number or not but I'm just going to say I will follow-up with you and we will talk also to Mr. Fields to make sure that the traffic situation has been properly identified. I have mentioned to my colleagues in general that we have a growing issue in south Charlotte related to through traffic traveling through neighborhoods because some of the major thoroughfares are just not up to the capacity and this is a typical example where people short-cut through. We are looking at a couple rezoning's on Ardrey Kell that could have the same affect so that is very useful information for us. I just want to say we have a couple things we consider rezoning, other things we need to talk about separately with C-DOT. Thank you for being here tonight.

Mr. Martin said I will be more than happy to discuss more about the reason why I think traffic will increase.

**Councilmember Lyles** said I'm not sure this question is for you; I think it is a verification of what you have been saying and this is more for the staff and Mike Davis. While we have the current zoning that shows it 5,400, obviously since that shopping center has declined I would agree what is in that parking lot and the traffic out there would actually be for the neighborhood that is there now would see an increase with the office development because there are very few cars in that parking area now with the existing retail shops. One of the question I have is when I've gone out there the daycare folks are parking in the parking lot that belongs to the retail and I know you are carving it out and I'm just wondering how that works when you carve out that section where it is B-1(CD), is the daycare in complete conformance on parking for staff and I'm not sure how to frame that question but I just know that they park over in the area that is up for the rezoning. I think that there is going to be a difference; it is not going to be what it was designated for I'm not sure how many years ago as Mr. Fields referenced the mistake in the zoning, but right now the current use is definitely not at the 3,300 projected trips that is included there. One of my questions is when that traffic comes out of that space with the daycare timing, are they going to be using the same street, the daycare will use the same street to come out to go to Highway 51 or not or how does that work. Is there any way to do the mitigation of that with some kind of traffic barrier to make it more difficult to turn left instead of coming out right? As much as I understand that an employer can say to the staff folks this is where you ought to go I'm wondering how enforceable that really is without us having some kind of traffic plan for accomplishing that fact. I don't know the answer to that, but I would say to you that it will definitely have an impact turning left out of that development and not going right to go down to the light. I think it is not going to be as indicated in the book; the reality of what is going on out there is different than what the zoning allows to go on.

Ms. Keplinger said Ms. Lyles if I may I will address the question about the parking. One of the things that we have asked the petitioner to provide is parking counts for the daycare because there is overlap, you can see that just the edges of the parking spaces are on the property that is not being rezoned so we've asked them to provide their need and also they will have to provide information to us showing that they have adequate parking for the daycare and that have cross access and parking agreements. That is one of the things that we've requested from them so the parking will be met for both facilities.

Mr. Davis said the two questions I heard and tell me if I missed some, but I think the two things were really kind of clarification on the trips and what to do about restricting turns. To be clear on what we are reporting in the staff analysis on the proposed zoning, those numbers are really a comparison of what is allowed under the approved zoning, not what is there on the ground today. So the unused retail, not just because maybe it is underutilized, but because there are rights that

haven't yet been built out. They are converting some of that from retail to office and office generates at a lower rate than retail. There was a question earlier about sort of how it relates in terms of peak hour trips and we've looked at that too. The only peak that is higher under this scenario is the morning peak, the in and out movements for all of the a.m. and p.m. it is only in the a.m. that is heavier compared to the retail. As a zoning matter it is absolutely less, but compared to what is there today you are right, it is more traffic maybe on the order of about 50% more than what is coming onto the site today.

The other part of it is sort of what to do or what C-DOT thinks about the turn restriction. The existing zoning has in place a turn restriction that is east bound coming out of the site that forces traffic using that driveway to go south and it might be that part of this is for Mr. Fields to answer because it relates to some community concerns. C-DOT's view is that when you give people more flexibility in terms of their route choices they will select the shorter route and clearly in some cases that is going to be cut-through but there are also scenarios in which people will be artificially rerouted down neighborhood streets that might otherwise have found more direct routes to the thoroughfare. It is sort of a double edged sword and we tend to err on the side of giving people that flexibility. We had earlier communications with the agent about whether or not that was generally going to be regarded as a good or bad thing and we remain open to whether or not that is a strong point of community concern, we can retain the existing restriction, but otherwise would be happy to see that be removed and think that would be better.

Ms. Lyles said I would just say to you I believe in gridding as much as possible. I think by not doing that it does make it more difficult. It is always a difficult issue with neighborhood because nobody believes in us enough to say that we will actually carry through gridding the complete section of it. We just do one and everybody thinks that will stop there. In some respects I think Mr. Davis if we could look at the traffic plan and try to address some of these concerns because I do think it is going to be an area where we are going to have an increase much more than what we have now.

**Caryn Martin, 6425 Felton Court** said I don't have too much to say and it is basically I'm trying to really get to the heart of the matter regarding the traffic, parking, crosswalks, stop lights, buffers, detention ponds, aesthetically pleasing architecture, noise and light pollution. Push all that aside, there is a three-store 89,000 square foot office building, really long, tucked into a residential neighborhood. Some people have said the word lucky, our neighborhood would be lucky to have such a thing just yards from their back yards. Would you feel lucky if that were the case for your home? Do you think our neighbors feel lucky to have the half empty shell of a retail center tucked in our neighborhood right now? Do you think future residents will feel lucky when they have a half empty shell of an office building tucked in their neighborhood? The residents of Touchstone deserve to maintain a certain quality of life in their homes in their neighborhood. If all the requests put forth by the residents tonight to both correct the past mistakes and to prevent future mistakes cannot be met then I believe it is your responsibility to the Touchstone Neighborhood to vote no to this petition. None of us want to be doing this again in another 25-years so if we put the effort forward now to dot our I's and cross our T's maybe we can get it right because we didn't 25-years ago.

Mr. Fields said I would like to clarify a comment that Ms. Lyles made, I didn't say the zoning was a mistake, I said it was a great planning idea that just sort of went by the boards and I hope we can take that into account when we now sort of try to start forcing these things to go in the same building, not only in the same community, but in the same building. We've heard the concerns and the Martins have been both at a smaller Community Meeting and the large Community Meeting and I can't dispute their concerns. There are many neighborhoods in Charlotte that suffer from cut-through traffic, there are not very many that have a community shopping center site that was built as part of their neighborhood that has been very successful. This we think is a transition to a sort of use which does not create a lot of impact which does fit in the scale of a community which has protections and certainties that come along with it that cannot be achieved any other way, not only to deal with the issues that exists on that site today, but in terms of how it is maintained and cared for in the future. I would like very much to find a magic wand that would make some of the community concerns about their existing conditions go away. The speed limits are there, the speed bumps are there and people still cut through. We did check with C-DOT about the driveway that comes out to Carswell which currently directs people

mpl



into the neighborhood and one of the first things we decided to do when we heard that was a problem was to find out if we could change that and Mike Davis just responded to that. We show that on our plan as removing that restriction. We are looking forward to working through these few remaining issues and if there are ways that we can address these concerns that you've heard here tonight we will attempt to do that, but we would ask you to recall what we are proposing here is an amendment to an existing plan which we think will revitalize this small center and make it a community asset.

Mr. Driggs said I just wanted to clarify, the Homeowners Association actually wrote in support of this, is that correct?

Mr. Fields said that is correct and Mr. Otten was here speaking on their behalf.

Mr. Driggs said it wasn't clear, but you are in fact in support of this.

Mr. Otten said I believe the concern of many of the residents the reason the Touchstone Homeowners Association is supporting it is that the condition of the existing center is not great. The previous owner did a poor job of maintaining the center; the retail business, the original businesses as Mr. Fields pointed out, Food Lion and Eckerd Drugs that were originally there failed. An infill shopping center development didn't work so a number of the residents are concerned about maintaining their home values and what is going to happen to the shopping center as it exist today nobody knows. What is being presented by Mr. Fields is perceived to be an improvement over what exist there today and we are hopefully that Mr. Sankey, the owner of the building will take a much larger interest in the maintenance and long-term viability of that. I think some of the concerns are legitimate; if Mr. Sankey's business changes, the building ever gets sold, what happens. It is viewed as an improvement to what is there today and that is where the support comes from the Homeowners Association.

Mr. Driggs said thank you for the clarification.

Mr. Smith said so you are going to have 89,000 square feet of additional office, you are going to retain 18,000 square feet of retail and the current footprint is roughly 51,000 square feet. Did I get my numbers right?

Mr. Fields said I'm sorry I didn't understand your question.

Mr. Smith said you are going to retain 18,000 square feet of retail?

Mr. Fields said correct.

Mr. Smith said you are going to add 89,000 square feet of office?

Mr. Fields said total floor area including the basement which is not accessible to the public and is really not space that can be occupied.

Mr. Smith said how big is the basement?

Mr. Fields said it is just a little smaller than the footprint of the building; the building is three stories, about 25,000 square feet per floor so the footprint is about the same size as the footprint that is there today with the old Food Lion Grocery Store. In terms of lot coverage, if that is your question it is about the same amount of lot coverage. There is more floor area but the floor area is in the office building and the three levels of the office building plus the storage and extra space, generator room and whatnot underneath. I do have an answer to the question about parking for the daycare if anybody is interested.

Mayor Clodfelter said you weren't asked that question, but perhaps you will get asked that question and you can provide an answer because I think it was asked earlier so why don't you give an answer.

Mr. Fields said there are 22 parking spaces that are actually physically located on the daycare center property. It went through a separate rezoning a number of years ago and I haven't gone back and checked, but I would be inclined to believe that had to demonstrate that they met their minimum parking requirements at the time they did that rezoning. Their property, including those 22 spaces is not included in this rezoning. If from time to time in the mornings and in the afternoons when people come and go there are cars that park over on the other property, I think that is to be expected. I need to go back and check and see if there is an overlapping parking easement there just to be sure, but there are 22 spaces that are physically located on the daycare center's property today that are theirs and theirs alone.

Mayor Clodfelter said we assume we will get that clarified in the follow-up report.

Mr. Smith said when you said there was consensus from the Homeowners Association, if you could approximate a percentage, was it 51/49, 70/30?

Mr. Otten said that is a fair question; I don't have a number for you. Linda Moon who is the Touchstone Homeowners Association President broadcasted, we have a website associated with the Association and that was communicated throughout the subdivision and she received little or no negative responses to the plan. Based on that but no I can't tell you of 300 surveyed.

Mr. Smith said you do not have the survey here?

Mr. Otten said no sir.

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

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**ITEM NO. 22: HEARING ON PETITION NO. 2015-018 BY LAUREL STREET RESIDENTIAL, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.87 ACRES LOCATED ON THE WEST SIDE OF BAXTER STREET ACROSS FROM AVANT STREET FROM R-6 (SINGLE FAMILY RESIDENTIAL) TO UR-2 (URBAN RESIDENTIAL, CONDITIONAL).**

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

**Mayor Clodfelter** declared the hearing open.

**Assistant Planning Director Laura Harmon** said this is a 1.87 acre site in the Cherry Neighborhood on Baxter Street off of Welker and Avant Street. It in the southern edge of the neighborhood and across from a rezoning that you approved a couple of years ago for single family housing. They are requesting a change from R-6 single family to UR-2 conditional, urban residential conditional zoning. There is a protest petition on this case but we have not yet determined the sufficiency. We will do that before the decision on the case.

As you look at the aerial you can see the property outlined; it is currently vacant. It fronts on Baxter Street and to the rear of the property is Upper Little Sugar Creek. There are single family lots on Welker Street just to the northwest and the majority of the property to the southeast is owned by Nesbit Oil Company and there is one existing single family lot next to the property that is privately owned. Also there is an existing street right-of-way that is in for abandonment of Avant and Eli Street and will be coming to Council in the next few weeks.

As you look at the plan for this area it was part of the Midtown, Morehead, Cherry Plan adopted in 2012 and it does recommend residential housing for up to six units per acre for the property. Some of the elements of the site, it is three buildings with a total of 30 units at a density of about 16 units per acre. Building A on Baxter Street is the smallest of the three buildings. Building C next to the Nesbit Oil site is the largest and Building B backs up to the creek area. There is also proposed tree save area for the property backing up to Upper Little Sugar Creek and there is also

a 16-foot wide buffer with a fence along the property line that abuts the single family lots along Welker Street.

These are elevations that have been provided for the three buildings; Building A is the property that will be on Baxter, you can see it gives the appearance though technically isn't a single family home, give the appearance of a two-story single family home. Building B is at the rear or the property off of Baxter Street as is Building C off of Baxter Street and moved up to the property line abutting Nesbit Oil. Staff is recommending approval upon resolution of a technical issue with this site. Thought the site is inconsistent with the recommendation in the Midtown, Morehead, Cherry Plan for six units per acre, we think there are a number of reasons for supporting this, particularly the design of the site which has been laid out so that along Baxter Street what you see is a structure that looks in height, setback, massing and orientation like the other structures on Baxter Street; looks like a single family home. The multifamily buildings are tucked to the rear of the site away from Baxter Street and the single family housing. Additional buffers have been provided for the site to buffer the properties on Welker Street and along the rear of the creek and again the only issues that we have outstanding are technical and we do think this is something to be considered for approval.

Mayor Clodfelter said in Building A that fronts on Baxter Street, how many units will be in that building?

Ms. Harmon said two.

**Councilmember Lyles** said I just want to have an idea, when you look at where you are talking about, the existing zoning is R-6 and the Nesbit property and the two single family properties. I guess one of the questions I have is this time to sit down and say what happens along this route up to Queens Road? It seems to me that we've got R-6 and we are going to multifamily here if approved and then you've got the R-6. I'm just wondering is there a plan or thoughts that the staff has about the rest of the rezoning?

Ms. Harmon said we actually did the Midtown, Morehead, Cherry Plan had that adopted in 2012 so we've looked at this area pretty recently, but as we look at Baxter Street our understanding is that least the Nesbit Oil property, they don't have any plans on making any changes, making any moves so it is a non-conforming use that would remain. The UR-2 properties across the street have recently been rezoned so we actually see this residential character remaining along Baxter Street.

Ms. Lyles said I understand residential character but residential character at R-6 is one thing versus multifamily residential or any other type of residential so right now we are just a residential character.

Ms. Harmon said we have recommended this for R-6, but the reason that we feel comfortable with this is we are maintaining that R-6 character along Baxter Street and because we are a lot off of Baxter Street we felt comfortable with the higher density off of Baxter.

**Keith MacVean, 100 North Tryon Street** said Jeff Brown and I of Moore & Van Allen are working with Laurel Street Residential, the petitioner for this site and representing them here tonight. With me here tonight representing Laurel Street is Lee Cochran and Kemena Brooks, also here with me tonight are a number of representatives and neighbors and residents of the Cherry Community. They will be addressing you shortly and they are all in support of the petition. We thank Laura and her staff for their help on this petition and their support as well as C-DOT. We will be submitting our revised plan to address the remaining technical issues later this week.

Laurel Street Residential is a Charlotte based company, privately held and owned, specializing in development of high quality mixed income communities. This is a 1.87 acre site, zoned R-6; we are asking for it to be rezoned to UR-2(CD) to allow up to 30 residential units located on the site. There are some different surrounding uses of the site along Baxter. There are single family homes as well as homes along Welker; at the rear of the site there is a small tributary of Sugar

Creek and then Nesbit Oil to our east. Also across Baxter are Cherry Gardens, an elderly senior apartment community.

In terms of the site plan I think Laura went over this well for us. We are proposing buffers and different variety; each building on the site is a different type building, different size building and Laura spent some time explaining how the building that fronts on Baxter is a two-story building with two units on the upper floor. The ground floor of that unit will be the site manager's office as well as some other site amenities. We are providing a buffer next to the existing homes on Welker and as you move further into the site the site actually drops in topography from Baxter Street toward the creek so the two-story building at the rear is actually eight to ten feet lower than Baxter. The creek is here and then the two and three-story building located here actually orients toward Nesbit Oil the non-residential use. We have made some changes to that building and created two-story wings so that portion of the building that is closest to the two lots on Baxter; one lot is currently under development or the single family home will have a two-story element and is actually lower than that existing facility. This is the proposed building that will be built on Baxter and again the appearance of a single family home, entrance to the street, maintaining the character of Baxter which is one of the components of the Cherry Neighborhood Plan.

In terms of land use considerations again we feel we are doing a good job maintaining the character of Baxter, two-story buildings adjacent to the two and three-story single family homes that surround the site, three-story building or the larger building adjacent to the non-residential use. At the rear of the site there are homes on Henley Place that we back up to, but those homes are 20-feet above the site and over 200-feet away from the site.

**Sylvia Bittle-Patton, 1623 Luther Street** said the Cherry Neighborhood Joint Leadership Team is in support of this petition and I will yield the remainder of my time to two residents, Ms. Barbara Rainey, who is Vice President of the Cherry Neighborhood Association and a 60+ year resident of Cherry and Ms. Doris Dennis who is a 70+ year resident of Cherry.

**Barbara Rainey, 317 Baldwin Avenue** said I am here this evening to address what seems to be a never ending battle, Cherry versus developers, Cherry versus zoning and Cherry versus whomever at any given time decides they want a piece of the Cherry pie. I want to say to you when people hear affordable housing they automatically think low income or no income, drugs, no morals, single mama, baby daddy drama, but I'm here to tell you it is in every neighborhood, whether it is behind closed doors or out in front so don't be limited when you hear affordable housing. Also not everyone in or outside of the neighborhood is on the same page, however, we will not be distracted by the I, me, my, but will remain focused on we and us. Cherry has what people and developers want, retail stores, parking deck, the office and doctor's buildings, bank, upscale condo, townhouses and homes. It is time for Cherry to get what Cherry needs, affordable housing. It is commendable to save trees and animals, we expect no less for people.

**Doris Dennis, 700 Baldwin Avenue** said I'm a resident of the Cherry Community, been there for over 70 years and I support Laurel Street. I support affordable houses for the less fortunate. We have been messed over, lied and treated just like we wasn't anything. The Cherry Community needs these houses; some of the people want to come back. We have so many big homes that are coming over there; it don't bother me. What bothers me is that we have people from Henley Place coming in our community telling us what we don't need and never have been over there when things were taken from us, town down. Nobody came over to say why or what. We have let people that is moving into Cherry, homes haven't even been built; you all don't need no low income housing; you all don't need this. We need you all to stand with us. You know what happened to us, I don't have to spell it out, you know what happened to us. We need these homes built; I support Laurel Street and we have a whole lot of people who do. It is your hands and I want to thank you but I want to make a special thanks to Patsy Kinsey; that lady has always stood by us no matter what and I appreciate her. I pray for everybody all the time, every night, thank you Patsy, we love you and we appreciate you. I love you and God Bless you, but Cherry needs your support, and God Bless Cherry.

Mayor Clodfelter said we thank you for your prayers, we need them, and we appreciate it.

Ms. Biddle-Patton said I would like to say again that we are in strong support of this petition. We understand that we do have some opposition but this is something that Cherry needs. Ms. Lyles had a comment about what happens with the remainder of Baxter Street; we do understand that the area plan may say one thing, but the context of Cherry has changed when that 1993 Cherry Small Area Plan was done, when the 2012 MMC Area Plan was done Cherry had a number of parcels that were slated for and actually contained affordable multifamily housing, single family, duplexes, triplexes and quad duplexes and as Ms. Dennis just intimated you all know what happened in that situation and now what has happened most recently is that R-6, R-8 was rezoned to UR-2(CD) for the purpose of 31 single family detached market rate houses. We are asking for the same zoning, but in this instance we are asking for multifamily affordable housing and this is deed restricted land for the purpose of affordable housing. Now we don't really need single family, we did the Bank of America piece, we did the Charlotte-Mecklenburg Housing Partnership piece, now we actually need affordable multifamily housing and we are asking you to support us in this effort. We really do need this housing to replace the housing that was demolished and individuals who had lived in the community for three; four and five generations were displaced. We are asking for this housing to help them to get the opportunity to come back to Cherry and call a place home that they've known for a long period of time.

**Jason Harris, 624 Walker Street** said I have been in the Cherry Neighborhood for about two years, moved there from Matthews because I wanted to live in the City; I wanted to be in a walkable neighborhood and I wanted to actually have the conveniences and actually live in a neighborhood like Cherry rather than a master plan community. I'm here tonight not because I opposed affordable housing. First off let me say that I'm a firm believer in affordable housing and I do agree that affordable housing does not necessarily mean poor. What I am opposed to though is the density in which potentially this project will actually bring to the neighborhood. If you will actually look at the current Cherry Neighborhood, the only multifamily dwelling besides what is currently controlled and owned by the Charlotte Housing Authority is the Cherry Gardens. One of the things I would like to see and I think some residents that are also in the neighborhood are more affordable single family housing for folks. Again we understand that affordable housing needs to be brought to the neighborhood, but bringing it in the multifamily dwelling type concept we don't necessarily believe is the right way. We had much rather see it where affordable single family homes, where the residents of Cherry or really anyone coming into the neighborhood could actually afford to buy a home and actually own a home.

The density that the project actually brings to the table is not that different from the density in which the Charlotte Housing Authority, which you will be hearing in a couple of weeks, is bringing to the table. Specifically from an apartment building and multifamily unit perspective, again the only thing that is in the Cherry Neighborhood is Cherry Gardens. You do have things along the perimeter and fringes which a number of residents have been there for many, many years and again not proposing displacing these residents at all, but really offering them the ability to buy and live in the Cherry Neighborhood in their own single family home. As far as the MMC Plan goes, I know that has been talked about a lot, I know before moving into the Cherry Neighborhood it is something that I and my partner looked at numerous times before deciding where we wanted to live and again one of the nice things about the Cherry Neighborhood is that it really and truly promoted single family homes, a true neighborhood. As you look at the actual plan design itself and our protest petition which I think you have in front of you right now, we point out four separate areas in the MMC Plan that kind of talked about and promoted specifically the use of single family housing from the land use and community development section to the plan concepts and the implementation guide areas as well all talked about residential house, all talked about single family housing. What was brought up earlier as far as the new houses go in the neighborhood, I can completely understand, those new houses are right across the street from me and while I may not agree with it I also agree that what is being done is appropriate for the neighborhood, bringing single family homes. For this particular plot of land I would implore that you look at providing or working with someone who could bring affordable single family homes so the existing residents of Cherry could actually afford to buy their own home and remain in the neighborhood.

The multifamily rental complex again as we've talked about renting versus ownership, I believe that everyone in America has that desire and still want to own their own property or have a piece of the American Pie so to speak. I'm asking that we look at turning this potential piece of  
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property and allowing the individuals that want to and can afford to have affordable housing in a neighborhood have that.

**Lee Cochran, 511 East Boulevard** in rebuttal Mr. Cochran said Ms. Bittle-Patton said it better than anyone else; while there is a predominantly single family in the neighborhood there is other multifamily in the neighborhood, Cherry Gardens and the Crown View Condominiums in addition to Cherry Gardens, there is other multifamily. She made the better point; there has been a tremendous loss of multifamily units so while you drive through there now and see a lot of single family, in the past several years there has been a tremendous loss of multifamily. Cherry has always been both single family and multifamily. This is one of the last opportunities to bring back some affordable multifamily back to Cherry which puts Cherry back to more what it has always been. Regarding Baxter, we were very thoughtful with that building on Baxter; it is 2,700 square feet, while it has two rental units, it is smaller than most of the single family houses that are being built in the neighborhood now. We really do think Baxter Street is designed to be a single family in character street which is why we put our multifamily, which is about 10 to 15-feet below the level of Baxter and Henley Place, it really sits down and that is why we put the multifamily toward the back and it sits way down. What you will see from Baxter is a single family in character house. Cherry actually, about 10-years ago did affordable single family houses in partnership with Bank of America CDC so that has been done. There were 15 houses done, affordable for sale. What we've heard consistently in talking with the neighborhood is what is now needed is affordable rental, at lower rents than what is affordable for those single family houses so this is one of the last opportunities to bring that form of housing back to Cherry.

**Councilmember Smith** said so this is the land that we recently approved the sale of two meetings ago. How often does the City sell land to something that subsequently requires a rezoning and is there a conflict of interest for the body then to vote on something that I assume predicates the sale? I am curious because we approved the sale and the City is going to profit from the sale and then the same body votes on the rezoning.

Mayor Clodfelter said do you want to get that in a follow-up; I think that answer may be more than something you get on the spur of the moment?

Mr. Smith said it can be a follow-up and I'm curious and I'm not indicating pro or con against the petition I'm just curious about that. We may very well do that and often for example with some of the land we are selling for the NASCAR Hall of Fame, I'm just curious for a little bit of follow-up on that to make sure I have a better understanding.

**Senior Assistant City Attorney Terrie Hagler-Gray** said actually I thought you were going to ask something else and I wasn't prepared to answer that but we will follow-up. I just wanted to address the affordable housing issue for the Council because as you know the North Carolina Fair Housing Act prohibits discriminating against affordable housing in land use decisions. The safest course if for you not to address affordable housing, but our office has advised that if you do, if you would like to address a comment that was made by a citizen in the public hearing we would ask that you try to address in favor of affordable housing because again the State Statute says that we can't discriminate against it in land use decisions.

**Councilmember Mayfield** said Mr. Harris mentioned that it is more so the density, that is the concern, what is the area actually zoned for density wise today and what are they asking for?

Ms. Harmon said it is zoned today for 6 units per acre and they are asking for 16 units. The zoning and the Plan are consistent both at 6 units an acre.

Ms. Mayfield said that is a difference, 6 to 16, Mr. Harris you also submitted to us a number of other residents that signed a petition against; the question I have is have any of you had a discussion as far as what the number that the community would support? If not 16 per acre up from 6, has there been any discussion of what will be supported?

Mr. Harris said from that particular standpoint we have not only because from the residents in which I'm working with believe more so in affordable single family homes than the multifamily homes.

Ms. Mayfield said so they are against the multifamily of this development altogether there is concern or a request towards single family?

Mr. Harris said correct.

Ms. Mayfield said that is not on the table so I'm just wondering if there is still some room for conversation with you and the developers that the entire community talk about density because I do have a concern regarding the multifamily that we are seeing throughout the community and the possibility of us over saturating the City in multifamily, but there is a possibility there may be some wiggle room for conversation with looking at the overall since we do have another rezoning request coming in the area. What we don't want to do if at all possible is create a situation where 15 plus years from now we recognize that we could have done something a little different to change the dynamic to afford a better opposed to the worse. Hopefully you all will keep talking.

Mr. Harris said absolutely and to their credit, Laurel Street has been nothing but open and honest with the community; they've worked with the community and had a number of community meetings so our issue is not with the developer themselves, it is the project, but yes, we are open and willing to continue to have those discussions.

**Councilmember Howard** said I'm trying to figure out how to sit and make these comments without sounding like I'm being parental, but I would encourage the new homeowners to work with the older homeowners as much as possible. One of the reasons why this neighborhood is a good investment for you and the other homeowners is because of the care that has been given to this community. Trust me; I've been on the other side of votes that the folks that had been in the neighborhood for a while did not like because I do think there is a need for balance in this. This is one of those situations where I think if you can bring some stability to the folks that live there I would hope the old and the new would talk and you are sitting beside one of the people that I respect a lot in that conversation. This is one of those times where I'm probably going to side with the older neighborhood leaders and I just wanted to go on the record with that. I hope you guys keep talking because we need respect between the two.

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

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**ITEM NO. 23: HEARING ON PETITION NO. 2015-021 BY CITISCUPT FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.38 ACRES LOCATED ON THE SOUTH SIDE OF WEST MOREHEAD STREET BETWEEN SOUTH SUMMIT STREET AND I-77 FROM BD(CD) (PED-O) (DISTRIBUTIVE BUSINESS, CONDITIONAL, PEDESTRIAN OVERLAY, OPTIONAL) TO O-1(PED) (OFFICE, PEDESTRIAN OVERLAY).**

**Mayor Clodfelter** declared the hearing open.

**Tammie Keplinger, Planning** said to orient everyone, this is West Morehead Street, I-77 located here and the property is located here in the hatched area. The property is located within the West Morehead Land Use and Pedscape Plan. This area is basically commercialized and it has seen a lot of redevelopment in recent years. The request we are hearing tonight is for a conventional O-1 PED; there is an existing building with a parking lot that is located on the property. The property was actually rezoned in 2007 to allow 210,000 square feet of office and storage; there was a maximum building height and some options for off-street parking at a different rate than what was required. The request today is for a straight up O-1; the West Morehead Land Use and Pedscape Plan from 2004 is amended by the petition in 2007

recommends office and indoor storage facility uses for the property. Staff does recommend approval of the petition; it is inconsistent with the West Morehead Land Use and Pedscape Plan recommendation for office and indoor storage facility. It allows all uses in the O-1 District and there are no outstanding issues.

**Keith MacVean, 100 North Street** said we are assisting CitiSculpt with this petition and as Tammie mentioned this is a conventional application. The goal of the petition is not to develop the site with climate controlled storage as originally approved in 2007, but take it back to a zoning category that allows it to be developed with office uses consistent with the Morehead Streetscape Plan subject to the PED Overlay District standards in terms of design, building orientation and parking location. That is consistent with what was originally envisioned by the West Morehead Plan that was amended by the petition in 2007. This again goes back to that original recommendation. I'll be glad to answer any questions and hope you can support the petition.

Ms. Keplinger said just a point of clarification; this is consistent with the West Morehead Street recommendation for office. It also recommended indoor storage facility uses but that is not what is proposed in this case so it is consistent.

**Councilmember Kinsey** said maybe I just missed it in the materials, but why are you doing a PED Overlay on this particular piece of property.

Ms. Keplinger said the PED Overlay exists along West Morehead already; that is one of our PED Districts.

Mayor Clodfelter said so that is not a change from the existing zoning?

Ms. Keplinger said no that is not a change.

Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and carried unanimously to close the public hearing.
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## MAYOR AND COUNCIL TOPICS

**Councilmember Smith** said I have been approached by the Charlotte Rescue Mission and they have asked if we would be interested in coming down and maybe serving a meal jointly. I can get you the details but they serve three meals a day. I thought this could be a great outing to do as a group. If you are interested will you please shoot me a note and then we can coordinate with staff to find a time that works. I thought it may be fun to challenge our brethren over in the County to see who could have more folks go down and serve the homeless. If you are interested please shoot me a note. I think this is a very worthy cause and an opportunity for us in a very bipartisan way to go out and do something in the community. I'll remind you; it is an election season so it would be a great way to go out and do some work. I'm not above a little bit of bribery on this and pushing a little hard on it. (Joke)

**Mayor Clodfelter** said nobody else can top that announcement; does anyone want to try?

**Councilmember Mayfield** said just to reminder, weather permitting I will be having this year's town hall on Saturday morning February 21<sup>st</sup>, 9:30 a.m. to noon. They are calling for some weather changes later in the afternoon so we might cut out a little early, but we will be having our first real discussion around gentrification, what it is and what are the impacts, starting at 9:30 at the West Service Center, 4150 Wilkinson Boulevard. You can RSVP to myself at [lmayfield@charlottenc.gov](mailto:lmayfield@charlottenc.gov) or to Ms. Kimberly Oliver which is [koliver@charlottenc.gov](mailto:koliver@charlottenc.gov).

**Councilmember Howard** said I just wanted to share with the public that I am having a town hall meeting next Thursday, February 26<sup>th</sup> at 8:30 a.m. It will be around future government opportunities and I have a panel that includes the regional administrator for the Small Business



Administration, the Regional Administrator for the GSA, a representative from the US-DOT as well as our own Atasha Warner from the City of Charlotte to share with potential business owners as well as service providers opportunities to actually work with those organizations or how to get funding from the SBA. You are welcome to call 704-336-4947 and talk to Alvin Burney to RSVP.

**Councilmember Barnes** said the Heels and the Blue Devils play shortly.

Motion was made by Councilmember Barnes, seconded by Councilmember Driggs, and carried unanimously to adjourn the meeting.

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**ADJOURNMENT**

The meeting was adjourned at 8:26 p.m.



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Stephanie C. Kelly, City Clerk, MMC, NC.CMC

Length of Meeting: 3 Hours, 19 Minutes  
Minutes Completed: March 4, 2015