

## ZONING MEETING

The City Council of the City of Charlotte, North Carolina convened for a Zoning Meeting on Monday, October 1, 2018 at 5:48 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Vi Lyles presiding. Councilmembers present were Dimple Ajmera, Tariq Bokhari, Edmund Driggs, Julie Eiselt, Larken Egleston, LaWana Mayfield, James Mitchell, Matt Newton, Greg Phipps, and Braxton Winston II.

**ABSENT:** Councilmember Justin Harlow

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**Mayor Lyles** said we are going to have the Zoning Hearings that we were not able to hear last Monday, and I just wanted to say thank you for letting us get out at 10:30 p.m., because that really benefits you instead of us, because you would not want us to ask you questions at 10:30 p.m. They tend to not be as precise and succinct and to the point as we would like for them to be.

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## INVOCATION AND PLEDGE

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

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## EXPLANATION OF A ZONING MEETING

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

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## INTRODUCTION OF ZONING COMMITTEE

**John Fryday, Zoning Committee** introduced members of the Zoning Committee. They will meet Thursday, October 4, 2018 at 5:30 p.m. to make recommendations on the petitions that have public hearings tonight. The public is invited, but it is not a continuation of the public hearing. For questions or to contact the Zoning Committee, information can be found at [charlotteplanning.org](http://charlotteplanning.org).

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## ZONING HEARINGS

**ITEM NO. 1: HEARING ON PETITION NO. 2018-074 BY ELISSA MULLIS FOR A CHANGE IN ZONING FOR APPROXIMATELY 9.25 ACRES LOCATED ON THE WEST SIDE OF HOOD ROAD SOUTH OF PLAZA ROAD EXTENSION FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO INST(CD) (INSTITUTIONAL).**

**Mayor Lyles** declared the hearing open.

**Ed McKinney, Assistant Planning Director** said let me provide just a brief overview of the case and the staff's recommendation. The first slide it shows you the site location, again as described, about a nine-acre site right sort of on the east side of Charlotte in an unincorporated part of the County just north of the incorporated portion of Mint Hill, a couple of roads here for context: Hood Road, Robinson Church Road here to the south, then you see the nine-acre site here highlighted in the yellow. I will also make note here of Reedy Creek. We will talk about that as it relates to the petition in a second. This is just another aerial view. So, to give you the context of why this case is before us is this has been commonly known as the Deer Pond Plantation, which has been operating as an event and wedding facility for some time, but only recently came to the recognition that this site is not zoned for that use. I will talk through the details, but the purpose for this

petition is to get that zoning in alignment with the use of the site and provide for the division of this residential site between the operation of the use and the residential lot adjacent to it.

Again, the highlight here is you will see that is Hood Road. You get a sense of the event facility around the pond, and you will see this in the petition, the existing residential home, and it is intended to be essentially subdivided from the event facility itself. This is the future land use view. The real important thing here to highlight is just its relationship to Reedy Creek. The future land use recommendation from the area plan, the Rocky River Road area plan in 2006, was to protect that green space and the creek, and you will say that in this petition. It is essentially within a lower density residential area, but the key part of this petition is its relationship to the creek. Just one more view of that to give you some context, this gives you a better sense of the location of the site. There is I-485, and Mint Hill is to the side of this map. There is a portion of Reedy Creek that the County has already been purchasing. This is part of their greenway master plan. You will be familiar with the Reedy Creek Park and nature preserves, so it is an important link, and this site is a pretty important, critical piece to that. So, this is a really good opportunity with this petitioner to protect that opportunity for the greenway.

Let me just zoom in on the site to give you a little bit of detail of how this is being divided. You will see on this map again the zoning and larger view of the site, the darker portion here is the portion that is actually being rezoned, but I want to highlight the larger full extent of the residential lot. This is sort of a blow up of the same thing from the petition. The red highlight being the portion that is being rezoned. The intent here is essentially to subdivide the existing residential home from the event facility, pond, and facilities around the event and allow that to be institutionally conditionally use which would be designed to allow the facility to continue to operate and essentially separate it from the residential lot and residential use of the home. I will not go through the details. Essentially, most of the provisions in this conditional plan just simply documents what is already there, the event facility, the pond, the parking lot, the road. The new things here are just some more provisions about the operations, some time limits around the operations and some uses and limits around the number of guests. So, essentially this is documenting and codifying the existing use of this facility again, the context of an institutional zoning with these conditions.

Staff recommends approval. While it is technically inconsistent with the greenway land use recommendation, this rezoning as you saw through the discussions and the way it has been so sub-divided and the commitments the petitioner has made actually protect for that greenway. One of the outstanding issues is to kind of provide and make sure we have those details worked out with the County. We are in process of doing that with the petitioner now, but this petition would then allow for and protect that greenway. It is a way to protect the character and density of the site, allow for an adjacent residential use and be consistent with the overall goals that we have for the area plan, so staff supports the petition, again on resolution to outstanding issues really making sure we have the technical language around the dedication for the greenway correct.

**Elissa Mullis, 7919 Hood Road** said I have come here today in order to get my wedding business starting back on Hood Road. I feel like this will help people see how beautiful Charlotte is. Also, it will draw people from the outside area to want to live here. I am proud of how Deer Pond looks, and I feel in my heart other people who will see it will say the same. I just really enjoy seeing couples get married and the happiness on their faces and friends. All I ask is to let me be a part of Charlotte's beauty, a place that people can come to just see their friends get married, and a place where when they leave, they will tell their friends that they went to a place called Deer Pond to see a friend get married, and that place was a beautiful place in Charlotte. I will do my very best to help people feel this way when they leave Deer Pond, in order for people to see Charlotte, not just as a high-rise building but for the beauty. So, I am requesting that I be allowed to continue doing outdoor garden weddings and events. My current zoning is R-3, and I am requesting that it can be changes to institutional zoning so that I may continue doing outdoor garden weddings and events. I am here today to answer any questions, comments, or concerns that you may have. Thank you for your time.

**Councilmember Ajmera** said Mss. Mullis thank you for speaking. I have driven by this site, and I saw a sign for sale. Is this site for sale?

Ms. Mullis said yes ma'am.

Ms. Ajmera said so, you are going to continue to operate that site and preserve the natural features even afterwards? What is the plan?

Ms. Mullis said well, it has been a financial hardship, so it is in God's hands, whichever comes first. If I can get zoned and permitted properly then I would continue. If I were to get a buyer- most of the interested people for that are very interested in doing exactly what I am doing and continue on, a beautiful place for Charlotte to offer to citizens to get married, and I have intended to go ahead and dedicate and convey the greenway to Charlotte, the 100-foot swim buffer.

Ms. Ajmera said it is indeed a beautiful site. In fact, I considered it for my wedding. [inaudible] the natural features that it offers, and I will be supporting this petition.

**Councilmember Mayfield** said Mr. McKinney, while we are having multiple conversations regarding the need for housing throughout not only within the City limits but throughout Mecklenburg County, I am trying to understand why staff would support 9.25 acres that is zoned residential for that to be rezoned institutional for business, when we clearly have a problem throughout Charlotte-Mecklenburg regarding access to land for housing. Help me understand the support of staff when the Housing and Neighborhood Development Committee staff are working with the County, with CMS, and within the City regarding access to land for development. Help me get to this recommendation.

Mr. McKinney said the site again is zoned and future land use for essentially low-density single family residential. This portion of the site has been operating as this event facility. We believe the scale, the nature of that is certainly conducive to the context to this neighborhood and the residential around it. From our perspective, it fits. It maintains the residential portion of the residential home on it but essentially allows for what has been operating now for a number of years for this facility. It is certainly not a site, as you can see here, that we would anticipate for higher-intensity housing. This is a relatively low-intensity area. In addition, there is a significant portion, and it does not show in some of the details of this site that is being rezoned that is constrained by some of the swim buffers and the creek as it exists today. So, even the intensity of development that could occur on that site has some existing limitations that are really restricted from ever being developed at a much higher intensity than it already is.

Ms. Mayfield said so, basically what you are telling me is we have had a business that has been operating for a number of years inside of a residential area, and now what we are attempting to do is rezone it to the standard of the business, oppose to the fact that years ago we did not have a conversation about running a business in a residential area.

Mr. McKinney said absolutely, it comes from sort of a non-conforming use of that site. We believe the conditions in the plan that we have been working on with this petitioner constrain the use of that site so that it is conducive and respects the character of the residential around it. In addition, this is a unique opportunity with this rezoning to get the protection that this petitioner is willing to do to get to the greenway corridor protections. For us, this is a good example of where we can work with a petitioner, find a way through the conditions of the zoning get to some constraints that will exist within its context of a residential neighborhood and also gain some really important greenway connectivity with it in the long term.

Ms. Mayfield said unfortunately Ms. Campbell; the Manager is not here, so I am going to ask you. You hear the question that I have asked.

**Debra Campbell, Assistant City Manager** said yes.

Ms. Mayfield said because what we are saying now is that we are attempting to zone based on non-compliance. So, a business has been operating in a residential area for however many years. That was out of compliance for that neighborhood. Now, we are having a conversation where you also heard that there is a for sale sign. Now, whether or not we are asking for a rezoning tonight for it to potentially be sold, that is not the bigger issue. For me, the bigger issue is that we have had a business operating that has been out of compliance, and this is not the first time, and this is not the first time I am addressing this. I have a challenge when we try to make right what was wrong. So, it was out of the compliance. There is nothing in here to say whether there were fines, whether there was any work on our end to address the non-compliance before now coming before Council to ask us to approve a rezoning to now make what was wrong right. We have to have some different conversations before it comes to Council regarding this compliance and non-compliance, especially if it is a venue that has been operating. I don't care if it was one year or 20 years. There has to be some consistency with how I move forward, because with other areas of town if this was a TOD area, we would not necessarily be having this conversation, because TOD is so broad that you can just build. I have a challenge with how we move forward, because again, we are talking about access to residential housing, but you are telling me that a business has been actively operating in a residential neighborhood, when at the same time within the City limits we have businesses that are starting in residential neighborhoods and those businesses are fined and closed down, as they should be, because it is in a residential neighborhood. I am going to ask for assistance moving forward with how we govern.

Ms. Campbell said follow up, I will do it.

**Councilmember Newton** said we had discussed this last week in our lunch meeting. This business is an institution in the area, so I think that it is very fitting that we are talking about a rezoning to an institutional status. Having visited the site personally, I can tell you it is a small enclave out off the beaten path. As it was certainly nowhere close to center city, and for that reason, experiencing challenges in its own right. I mean, if we are talking about homes being there, maybe we should also be talking about the fact that there are no sidewalks. There is no public transit in the area. I have been speaking with John Lewis about maybe having a shuttle service down Harrisburg Road down Plaza Road Extension just so we can start to reach out into these areas where some sprawl is occurring. I can tell you, this is beyond the sprawl. So, once again, I think very fitting for this type of a rezoning, so having said that, I did have some questions for Ms. Mullis. Were you aware of the non-compliance at any time up until just recently?

Ms. Mullis said yes, I was sent letters to get into compliance, and I have been working on that and fines. I paid the fines, and I have been working on being compliant.

Mr. Newton said sure. How long have you operated this site for weddings?

Ms. Mullis said about 10 years, when I started I was told that I was in the County, unincorporated and that I did not have to get a permit to do an outdoor garden wedding, so I registered the name, and I operated. There weren't any problems with that for the longest time until I appealed my property tax.

Mr. Newton said when did you first find out that there was an issue with zoning? How recent was this?

Ms. Mullis said it was the end of March 2017.

Mr. Newton said so, just this past year and that is when this process started. I am so happy to hear that we have come where we have come to ensure that the zoning is appropriate. You have taken the steps that you have taken to do that, and at the same time too I think it is important to note, you had mentioned- I think the hurdle here Mr. McKinney was the dedication of the greenway, and from what I am hearing is that the dedication is going to occur. So, I think that everything has lined up perfectly so that this rezoning makes sense. This being my district, I would ask the other Councilmembers to support this. I will be supporting this next month.

**Councilmember Winston** said Mr. McKinney; you mentioned that the zoning is not in the area plan, and as Ms. Mayfield said, this was a business operating in a residential area in the first place, and as Ms. Ajmera said, this property is for sale. Sorry if I missed this in the presentation. What type of assurances do we have that the reason why staff is going against the area plan, should this property be sold, and the petitioner is not the owner of this, what kind of assurances do we have for your reasoning behind staff giving approval to this would still stand once this property is transacted?

Mr. McKinney said well, essentially the details of the conditional zoning here essentially restrict and confine the use of this site to precisely how it had been used recently, so any new owner would essentially have to abide by the same restrictions operating under the same rules and regulations that this current owner would require under the zoning.

Mr. Winston said what if that sale occurs, and they say this is a quaint area of institution wedding hall, what if they say we want to phase up our business and you have already made one exception, why not just make an all-out event space that is much more commercially based and provides sidewalks where we are kind of a root down that way.

Mr. McKinney said it is a fair question. I think the premise and the president that we would be setting here like we have in other situations is essentially setting the stage, this is really constrained to how this has been used in that any proposal for something beyond that, at a minimum obviously, would have to come to a rezoning, but from our staff position, what we have set the stage for is that it is really tied to the level and conditions and restrictions as the zoning is. We believe that it is sort of limited to the nature of how it is being used and no more essentially. Given that intensity and the nature of this residential area, we believe that level is consistent with the character of the surrounding context.

**Councilmember Egleston** said for whoever wants it, this says 9.25 acres. The only thing that I could find online about a for sale listing said 16 acres. Is part of this property not needing rezoning for its current use or is there a typo in the thing that I found on the listing?

Ms. Ajmera said that is actually next door.

Mr. McKinney said quick confirmation, my suspicion back to this diagram- the current parcel is this larger piece. The piece that is being rezoned is just the nine-acre red portion. With this petition, essentially this site will end up with essentially two zoning classifications, the existing R-3 under the portion that is highlighted here not in the red, then the red, institutional conditional with the notes that we have talked about. I am not familiar with what is up for sale, but if it is both of these pieces, essentially you would be guided by the R-3 zoning on that residential portion and the institutional zoning on the other.

Mr. Egleston said Ms. Mullis, is that all accurate? It is just part of the property that you need rezoned for institutional. The rest will remain for R-3.

Ms. Mullis said just one house, yes.

**Councilmember Bokhari** said Councilmembers Winston got to the majority of my question, but let me just kind of be more specific, especially knowing that there is a potential sale of the property kind of makes me a little hesitant. So, I see the permitted uses. It says weddings and receptions. How do you define that? What if someone bought it and said well we are going to say receptions are any party that is after something. How do you define and enforce the statement weddings and receptions? I would not ask this question if it were just the existing 10-year business that continues forward, but given the fact that there is a potential sale and we will be increasing the property value in that sale in allowing it to even occur, I do feel an obligation to ask, are we signing up for something new potentially?

Mr. McKinney said yeah, and let us follow up and make sure we have- I do not want to misstate what is currently in the notes or what is currently regulated by our use provisions in zoning ordinance. Let us get a very accurate answer to that and follow up to Council so that we have clarity about what is allowed and what is not.

Mr. Bokhari said thank you.

**Councilmember Driggs** said I think that from a land-use stand point this looks acceptable probably, so what is bothering me here is along the lines of what Ms. Mayfield said. It is not necessarily a zoning issue as such, but how is it that we allow property to be used other than the way that it was meant to for 10 years. I believe it is only here now because there is a pending sale of the property and the buyer is not going to want to assume that they can continue to operate without, so it is necessary to kind of clean it up, but that means to me that the petitioner did not come forward. The fact that we are here is prompted by the desire to sale the property, so again it is not properly, I think, a zoning question. How are we not setting an example that it is just fine to ignore whatever the zoning requirement is at your site and worry about it later?

Mr. McKinney said again, fair question, I would say what we have done from a staff perspective is view the petition on its merits within the context of the existing area plan, the existing context and have come to our recommendation that we believe again the conditions, the restrictions put on this allow it to fit, we believe, within the context of the surrounding land use and is appropriate. Again, with other provisions around the opportunity here to protect for the greenway and insure that we get-

Mr. Driggs said I get that. That is my point. I think that from a land-use standpoint, it is probably acceptable. I think that the question is probably more for the Manager than it is even for Planning. How is it that there are no consequences? Is there some sort of statute on fines that could be imposed for unauthorized land use at that location?

Ms. Campbell said I was trying to get the chronology of what happened with this particular property. It was my understanding that there was a zoning code violation, a notice of violation that was issued to Ms. Mullis prior to her putting this property up for sale. She has been and that is what she has expressed is that she has been fined a number of times, and the economic hardship of trying to bring this property into compliance has I guess forced, that might be too strong of a word, but made her consider having to sale the property. So, there was a notice of a zoning violation, and then there was the issue and concern of selling the house.

Mr. Driggs said so, we did take proper steps to recognize and deal with the inappropriate use of land and therefore all we have right now is a land-use decision?

Ms. Campbell said that is correct.

**Councilmember Eiselt** said if this were an empty piece of land and the owner were asking us to rezone it to this institutional use, how would staff feel about that?

Mr. McKinney said so; a good example on how we deal with institutional uses in residential areas is they are allowed under certain conditions in our residential-zoning districts. There are for example churches and schools, so we would again view it on its merits that there are institutional uses that are appropriate within neighborhoods.

Ms. Eiselt said those are already allowed under R-3, right?

Mr. McKinney said correct, and in this case, we are using the conditional zoning here to very clearly and specifically provide some provisions around it so that we do not end up, from our perspective, with more allowable use than you would normally allow. We would view it on its merits, and again, I think that we believe the opportunity here is an institutional use calibrated to the intensity and context of its surroundings adjacent to the greenway is something that we think is appropriate.

Ms. Ajmera said just to go back on the timeline here, because this is just two miles from where I live, and I have seen the recent sign for sale was this year, and I remember Ms. Mullis had come down here last year and had expressed her concerned around this rezoning. So, I guess in the timeline where the intent is not because the rezoning is because she wants to sell it and get a higher profit because it is institutionalized. The for-sale sign was recent. I guess even if we were to go back to the residential, we were not able to get the greenway connectivity, and some of the trees that we have, but if we were to not to recommend institutional rezoning, would we be able to preserve some of these natural features that we have?

Mr. McKinney said so; the current R-3 zoning would have to follow all of our tree ordinance and tree save and other environmental protection around the creek, so those things are in place regardless. The dedication of the greenway is something that you would not get in the buy-right condition. Again, this is a unique opportunity through a rezoning to get that greenway dedication.

Ms. Ajmera said I think we ought to take that into consideration that we would not had the connectivity and the natural features if we were to look into R-3. Am I correct?

Mr. McKinney said correct.

**Councilmember Phipps** said the 2006 Rocky River Plan; you said that it was inconsistent with it because it recommends greenway use. So, are we saying at the time when we did the Rocky River Plan, we did not do any corrective rezonings with that, right?

Mr. McKinney said no, we did not.

Mr. Phipps said are we saying then that even though it was currently zoned R-3 that even so we recommended a different zoning classification as greenway use vacant land? Is that what we are saying? Is that what the plan basically says even thought it was already R-3?

Mr. McKinney said essentially the plan recognized the quarter of the Ready Creek Greenway and in this case probably did some estimation about the area around that creek that probably was undevelopable. We do not have a zoning category for open space. In this case, as development would occur in this specific situation as a rezoning would come along, we would use the plan as an opportunity to set that stage and begin the discussions about getting the dedication of the greenway. In this case again, the commitment that the petitioner is committing to the 100-foot swim buffer is smaller than what you see on this map, but again it is consistent with how we have been working with the County to get those corridors dedicated. So, we believe that it is an opportunity to do both, essentially to get the dedication of the greenway and allow for the remainder of that site to be used as it has been currently used.

Mayor Lyles said I think that we are struggling with the idea that we have a use that has been there, and it has not been when we say corrective rezoning, usually we are thinking going from institutional to residential. We are thinking about it differently and in this case, we are actually agreeing. I guess I just do not know if there is any other option on the conditions that make this possible to be sold and used for a moment.

Motion was made by Councilmember Driggs, seconded by Councilmember Newton, and carried unanimously to close the public hearing.
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**ITEM NO. 2: HEARING ON PETITION NO. 2017-043 BY NORTHLAKE SYSTEMS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 7.12 ACRES LOCATED AT THE NORTHWEST INTERSECTION OF POINT O' WOODS DRIVE AND NORTHLAKE CENTER PARKWAY, SOUTH OF PHILADELPHIA COURT FROM R-3 (SINGLE**

**FAMILY RESIDENTIAL), R-17MF (MULTI-FAMILY RESIDENTIAL) AND CC (COMMERCIAL CENTER) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).**

Mayor Lyles declared the hearing open.

Ed McKinney, Assistant Planning Director said I want to provide you just an overview of the case and the staff recommendations. On the slide here is the site. Highlighted in yellow is Northlake Center Parkway. You obviously recognize in the aerial Northlake Mall, I-77, W. T. Harris Boulevard. Again, it is a site that is just a little bit over seven acres, essentially in the heart of the Northlake Mixed Use Activity Center. A summary of that Activity Center Plan and the recommendations around it, this is a perspective aerial view again. There is the Northlake Center Parkway and the site as it exists adjacent and across the street from the mall. The Northlake Area Plan adopted back in 2008 recognized and adopted this as a mixed-use activity center appropriate for a mix of residential, office, and retail. It had some specific heights. We will talk about specific heights around the intensity, so in this case, five stories. We had a very specific provision about allowing some greater intensity beyond that, really around insuring that as development of that intensity came along, we are actually getting the kinds of street orientation, pedestrian orientation with the notion that this more suburban activity center overtime is developing more intensely to a more walkable condition, and we would allow that intensity to occur as long as these projects were supporting that through our design. A quick summary of that design this petition, again there is the triangular piece in more detail, Northlake Center Parkway. It connects to a residential project. The Road here that it connects to is Dolly Todd Drive, and then it is essentially broken into two blocks, this portion and this southern portion. On the southern portion is a hotel use, and this is the one that is proposed to be up to eight stories. On the other portion, we have a collection of retail and potential retail office for a total of 40,000 square feet. Again, here you will see the buildings are already into the street. We have connections. We have some very specific design requirements and in this case around the ground floor activation. The transparency and activation around that is again a big part of the kinds of design features that we want to see in these kinds of activity centers which allow us to encourage and see the greater intensity of development.

One optional request, I will make a specific note of this. There is an optional request for drive thru. It would be part of this development site shown in site plan, so you have got a building here, the drive thru I want to make a note here, is oriented to the parking lot side. So, in this case again, we are mindful of making sure that the building is oriented to the street. The drive thru is not between the street, and the building really integrated into the parking lot of the site design. Staff recommends approval of this petition. Again, it is consistent with the Northlake area plan for mixed use. You saw the context. It is an opportunity here to see the kind of mixed use hotel, office, retail. We achieved some design activation and important pedestrian connections. We do have a few more little details and some commitments we want to codify around those things, but again we believe that it supports the intensity and mix and it supports the vision and intent of the Northlake area plan.

Walter Fields, 1919 South Boulevard said let me introduce Von Patel and the rest of our design team over here, and they will bail me out if I get in too deep with your questions. This site is an interesting site. As Ed pointed out, it is the last big piece of what had been a master plan that was zoned right across the street from Northlake Center Mall a number of years ago, and it has been zoned for commercial uses for years and years and years. You will note that this case is a 2017 case number, fairly early in 2017. That is how long we have been working on this. At one of our very early meetings with the staff, we had a piece of property that did not include all of what you see today. A good portion of the site to the north of Dolly Todd Road was actually owned by another owner, and the staff encouraged us to go see if we could not incorporate that piece into the project. It makes a lot of sense to do it, but it cost about six months and I do not know how much money for Von to be able to require this property and pull it in, but it totally changed the character of what we were setting out to do. I want to point out a couple of things about this site that we think is unique. One is that it is right across from the mall. Secondly, it is not the first eight-story hotel in the Northlake area, but it will be the first full-service hotel in the Northlake Center area. We think that is something worth mentioning, because while there



are other hotels around, they are not full-service hotels. This one will be. There is some additional retail and office space on the site. We are requesting the opportunity to include a restaurant that could have a drive thru service window. Times change and that may not get build, but we want to at least create the opportunity to be able to do that. There is no opposition that we know of to this petition. We had our community meeting a number of months ago, and no one came to the community meeting. I have received one phone call from a property owner that lives all the way up in Huntersville that was just curious about what we were doing.

As Ed said, we have a few little details to tighten up. I have responded in writing to the staff analysis, to Ms. Keplinger, and I think that we are being able to address all of these issues. We are waiting on one little piece of information from the Planning staff and one little piece of information from C-DOT to tie up the retaining loose ends. We think that this is a great opportunity to create a focus for activities in this location, with some limited meeting space and a restaurant on this site and a full-service hotel. We think that it is an opportunity to create something that does not currently exist in the Northlake area. We think that an eight-story hotel helps to help offset the extra land that the staff asked us to go buy. Our original proposal is for seven stories, and we did not receive a negative comment about that.

**Councilmember Winston** said what is a full-service hotel versus a non-full-service hotel?

Mr. Field said I will not use any name brands, but based on my best understanding, there are many hotels that you go, there is a room there, and there may be a small exercise facility. You can go down in the morning and get a bagel and bowl of fruit and so on and so forth, but they do not have an onsite restaurant. They do not have meeting facilities, and they are not able to accommodate larger gatherings as this hotel would be able to do and as I said, it is the only one in the Northlake area, existing or proposed, that is a full-service hotel.

**Councilmember Egleston** said I was just wondering for staff, the five story you are asking them, as an outstanding issue, to lower the building height to five stories. A quick Google search yielded a picture of the Drury Inn and Suites across the street that is clearly at least seven stories, so why are we asking them to limit to just five, and is Drury Inn and Suites not in compliance?

Mr. McKinney said the provision in the area plan is five stories, but as I noted, we also recognize and put into the area plan the opportunity to have greater intensity. We use that thought to make sure that we have that provision to ensure that we get the design quality that we want, particularly around the street environment, so in this case, we have that issue in the staff report simply because we were still working through some of the details and commitments that this petitioner was making to the ground floor activation, to the orientation of the buildings. We believe we are going to get there, and we will be supportive of it, and you are correct. We do see and certainly want to see in this case and in this activity center this kind of intensity. We just want to make sure that we have the right tools and the right ability to work with developers to get the quality of that intensity, particularly around the pedestrian environment.

Mr. Egleston said so meeting those requests will allow them the eight-story height that they are asking?

Mr. McKinney said correct.

**Councilmember Phipps** said I had a question about the proposed, optional drive thru facility; are there any other drive thru restaurants on that side of the area where you propose your site to be?

Mr. Fields said Mr. Phipps, right around the corner on Harris Boulevard is one of those double-barreled McDonalds that was approved not too long ago, and it sits right beside Buffalo Wild Wings. That actually fronts out on Harris Boulevard directly, but it also, like

our site, has its circulation sort of behind and away from the building, so there is still a nice street scape along there, and that is what we would propose to do as well.

Mr. Phipps said but there are no definitive plans to add a restaurant with the drive thru? It is just in case?

Mr. Fields said there has been a lot of interest in that site from people in the restaurant business. There has also been a lot of business from folks in the car wash business, but we ran that up the flag pole with the staff, and that got washed out pretty quick.

Mayor Lyles said I took just want to ask about the drive thru service and the restaurant and how it fits with the idea providing pathways through the site parking areas and integrated sidewalk system, and I know that we do not have a design of that yet, but it seems to me that is pretty difficult to do unless the drive thru is right up to the front of the property and cars are not circulating through. I do not know how I may not be measuring- It looks like it is about a half mile from the intersection of Harris, maybe a little bit more than a half mile.

Mr. Egleston said it is not that far.

Mayor Lyles said well, I was trying to look at the placement. I really wonder. Sometimes with the drive-thru, while we like all of that, it seems to me that again the intersection and the traffic and number of cars circulating are- when I go out there it just seems to me, why? Why do a drive thru? It just seems to me to be inconsistent with the idea that you say you are going to have a pedestrian way of looking at it. That is a question that I am asking.

Motion was made by Councilmember Mayfield, seconded by Councilmember Ajmera, and carried unanimously to close the public hearing.
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**ITEM NO. 3: HEARING ON PETITION NO. 2017-195 BY BOULEVARD REAL ESTATE ADVISORS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 19.78 ACRES LOCATED ON BOTH SIDES OF NATIONS CROSSING ROAD, SOUTH OF EAST WOODLAWN ROAD, EAST OF I-77 FROM I-2 (GENERAL INDUSTRIAL) TO TOD-M(O) (TRANSIT ORIENTED DEVELOPMENT - MIXED USE, OPTIONAL) WITH FIVE-YEAR VESTED RIGHTS.**

**Mayor Lyles** declared the hearing open.

**Kent Main, Planning** said this is about a 20-acre site. It is at Woodlawn Road and I-77 generally. It is bordered by Chastain Avenue over here, a small street and Old Pineville Road are right there. It is an application for TOD zoning, and the Woodlawn Transit Station is right there just a block away from the site. The surrounding areas, you see the parcel in yellow there. There are out parcels that are not included that includes a Days End Hotel and a Mexican restaurant. There is also an Exxon gas station that is also not part of this. What is part of it is a suburban office park with one, two, and three-story buildings, many of them in disrepair and not occupied at the moment. Some of the others are occupied at present. The adopted future land use for this plan is actually TOD employment, which is intended and was expected to be the focus on office use. The application is for TOD mixed use, which is the more general that may include residential and may include offices as well. There is also a section over here across Nations Crossing, that little triangle right there that is recommended for highway commercial kinds of uses. It is a little bit on the edge of being just outside of that half-mile radius to the transit station that we usually look for. We are fairly comfortable with that being a part of this TOD as a part of the larger plan as we move forward.

The plan that they have presented has some optional provisions, which I will get into, but basically the idea is that this is Woodlawn Road up here, it includes a new public street

that extends from Nations Crossing over to Chastain Avenue and another street this way providing all of the kinds of street networks that we look for and expect in TOD provisions. The proposal has sort of two development options, one of which is redevelopment of the whole site. The second one is for rehab of three buildings, which I will show you in a moment as to how that might work. The other key thing about this site is that there is an overhead utility easement right here, with some pretty intense looking electric lines that tie into a substation that is just right to the south of this site. So, that impacts its ability to do a lot of the things that we sometimes expect in TOD areas. None the less, this is being requested for TOD, and it is the next station down. As we know, South End was developing and Newbern just seemed it was out of the box for a little while. Now, that station is developing and the Scaleybark Station is now developing, so this is the next station down beyond there, so if it seems like it may not be quite ready for TOD, it is the next station down. So, we think it is probably ready to go.

So, the proposal option one for redevelopment, again you see the new roads that are provided to provide the basic network. There is the provision for the electric lines, so it would provide for new development over the whole site. They are asking for some optional provisions, which we believe are probably a little bit more than we think is called for to allow for parking in front of buildings and some allowance for some additional parking and things like that, which we do not think is necessarily the right idea.

Under the option two for rehabilitation, this calls for existing buildings in this corner right here, over here in the little triangle, and down over there, to be preserved and kept in place and redevelopment on the rest of the site as that moved forward. So, again with some optional provisions to allow for those buildings to remain in place we think that is good. As far as the new buildings, we are concerned about the extent of the optional provisions that would essentially try to get the benefits of TOD but not provide the kinds of buildings up on the street that we would generally look for. That is the essence of this plan. There are some outstanding issues. The notes are a little bit complicated and convoluted. We think we need to clean those up considerably. We also think that we need to remove the options for parking along the streets, for not meeting some of the density requirements and street frontages and various other notes about various things.

It is consistent with the transit oriented development vision for the area, but it is somewhat inconsistent in that it is asking for TOD general, rather than the office focus, and it is also somewhat inconsistent about that one parcel over there that is actually outside of the TOD recommendations. But in general, we are recommending approval of this subject to those outstanding issues.

**John Carmichael, 101 N. Tryon Street** said I represent the petitioner; with me tonight are Chris Branch and Michael Bender, and they are available to answer your questions. As Mr. Main said, it is a little under 20 acres located on the southwest corner of the intersection of East Woodlawn Road and Chastain Avenue. The edge is really about 1,000 feet from Woodlawn Station. There is an existing office park, Woodlawn Green. You can see the multiple buildings that comprise that office park. This is an aerial that shows those buildings. These are just some pictures on the various street frontages. If you have been to Charlotte a long time, I am sure that you are familiar with it, and when I rode through there, I was frankly surprised at the state of that office park. It is virtually, not entirely, but partially abandoned, and many of the buildings are in a sever state of disrepair. So, I was a little surprised of the condition of the site. I will say, just on the outset, that we are going to request a deferral of the Zoning Committee's decision to give us an opportunity to work with the Planning staff on the remaining outstanding issues. I think that some of the questions about the optional provisions may be a lack of understanding on our part on certain elements of the development, but we had a meeting, a community meeting is of course a requirement, and I would say that the attendees- it was well received, and I think that folks in the area want to see something happen on this site, particularly given the existing condition of the current improvements, but I will be real brief.

We are requesting the rezoning of the site to the TOD-MO zoning district. There are two options for the development of the site as Mr. Main said. One involves the demolition of

all of the existing buildings then redeveloping the entire site. The required street network would be provided that would connect Nations Crossing to Chastain Avenue, then a street from Woodlawn Road to the interior of the site. The second development option would involve the preservation of some of these buildings; all or some of the buildings that you see here are existing buildings. The remainder of the site would be redeveloped, and then once again the street network would be provided. We are going to work with the Planning staff, as I said, during the next several weeks. We do not anticipate any issues there, and we are happy to answer any questions that you may have.

**Councilmember Mayfield** said Mr. Carmichael; just so that I am clear, this request is around everything, but it is not touching Azteca?

Mr. Carmichael said it is not touching Azteca or the hotel.

Ms. Mayfield said so the Days Inn. Thank you for agreeing to work on the outstanding issues, because the challenge that we have, even though it is only a half mile from the station, because of where it is located and the proximity to the highway, I don't think that we have had conversations yet regarding parking when you are looking at a TOD area that is right off of the highway. There is still a lot of individual vehicle traffic that is happening, and that part of West Woodlawn Road, as well as some of the other parts off of Nations Ford Road and Old Pineville Road and around there. So, I do not know what that looks like for how we move forward, but we do need to take into consideration proximity to highway, because there is a lot of non-public transportation traffic that is still utilizing that area. For our Director who is still with us for the Planning Department, I do not know if we have had a conversation about that yet, but that may be something to consider as we move forward, because we are going to see a number of new TOD request going further up South Boulevard, and I think this is really one of the ones that is going to kick it off.

Mr. Carmichael said in recognition of that, generally I do not want to make generalizations, often is maybe a better way to say it, traffic studies are not required with TOD rezonings. In this instance, there will be a note on the plan that says when 100 peak trips are generated by this site, a traffic study will be provided, in recognition of the unique location.

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

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**ITEM NO. 4: HEARING ON PETITION NO. 2018-003 BY BOULEVARD REAL ESTATE ADVISORS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.74 ACRES LOCATED ON THE NORTH SIDE OF WEST TREMONT AVENUE, EAST OF SOUTH TRYON STREET FROM TOD-R(O) (TRANSIT ORIENTED DEVELOPMENT - RESIDENTIAL, OPTIONAL) TO TOD-M(O) (TRANSIT ORIENTED DEVELOPMENT - MIXED USE, OPTIONAL)**

**Mayor Lyles** declared the hearing open.

**Kent Main, Planning** said this is a parcel of about three-quarters of an acre, and it was approved in 2016 for TOD residential for a development of 16 townhomes. They have come back and decided to go a non-residential route for this particular site. Its location is in South End on Tremont Avenue just off Camden Road. Here is Hawkins Street. This was one of our first TOD office buildings right next door to it as well, and across the street here is the large 10-story apartment building. The main focus of the design center is right there, and the Common Market just opened right across the street from it. I want to go forward a little bit to the existing zoning map for this area, and you will see here the site is TOD-RO right there. There is surrounding on two sides of it. One of the few remnants of the older industrial uses that are there today, zoned I-2, and it is still there and still operating, and that is the gas fired heater factory I guess that you could say. As you look around it on the other sides, there is TOD. Here is an apartment building. These are new

town houses on what was once Bind-X Binder Factory. There is the other building that we talked about, so this parcel is right next to and surrounded on two sides by that I-2 use. So, it was previously proposed for residential. What they are proposing now is for any and all uses in TOD that are non-residential, so that could include any of the number of office buildings or restaurants or anything else that you could imagine in TOD. They are providing for two different scenarios for this building, one provides for a new building, which would be located on their site plan in this corner right here. I should also mention that the plan does include a new stub of a road, which is intended to provide the connectivity through the block overtime as development occurs to break up those large industrial blocks into smaller more usable building lots, but that road would be provided along the edge of the property here. So again, the building would be in this corner right here at the intersection of the two roads. The industrial properties surround it on these two sides, and this plan provides for parking along the rear along that piece of the industrial. Along the other side over here, they are proposing a building or parking, so that could be a combination or one or the other of those two things. So, it could be a building surrounded by parking. It could be a building along the street with parking behind. They are providing sidewalks, and they are providing all of those kinds of things that we normally expect in TOD. The other proposal is to make use of two of three existing buildings on the site. These buildings are right along the edges of the property on two sides, including backing up to the industrial property and providing for a parking lot on what is now an existing building, which will be torn down to make way for that one parking lot. This would be the use for the existing buildings, so this parking lot again would be adjacent to this piece of the entire industrial property on that side.

The options that they are asking for include provisions to be able to have more than the minimum requirements for parking that is exposed to the front. So, this would be bigger than what we normally allow on the frontages. That would be under both scenarios, and again like the last request, we are quite understanding of making those kinds of accommodations for existing buildings. We are not quite so pleased with the idea of those kinds of exceptions for new construction. At any rate, our issues that are outstanding, again moving the options for not meeting the parking requirements and for exposed parking and some other minor issues related to parking access. We do recommend approval of this petition, because it is supported by the South End Transit Area Plan and also by the more recent vision plan for the South End area.

**John Carmichael, 101 N. Tryon Street, Suite 1900** said I am here on behalf of the petitioner. Chris Branch and Michael Bender are here with me tonight and are available to answer any questions. As Mr. Main said, it is a .74-acre site located on the North Side of West Tremont Avenue between South Tryon Street and Hawkins Street. There are three industrial buildings currently located on the site. The site is comprised of three separate tax parcels. This is an aerial of the site and you can see the three buildings that are currently located on the site. That is West Tremont Avenue, and that is Mr. Horne's facility there to the west and to the north, then this is a bird's eye view from Polaris. You can kind of get a little more sense of the existing buildings. There are three buildings. Those red arrows point to the three existing buildings. You can see they are industrial in character and nature, and this is a street view from Google of the three existing buildings. It is zoned TOD-RO, and as Mr. Main said, it was rezoned in the recent past to allow up to 16 townhome units on the site. You may recall the surrounding zoning is I-2 here to the north and to the west, TOD-MO, TOD-M to the east. You have some TOD to the northwest, MUDD to the north, TOD-MCD a little further west from the site in question, then TOD-MO and I-2 across the street. The request is to go to TOD-MO to allow nonresidential uses on the site, and the rezoning plan expressly prohibits residential uses.

There are two development options. One option involves the demolition of the existing building located on the western portion of the site. That tax parcel would be devoted to surface parking, then the preservation of the two existing buildings located on the center portion of the site and the eastern portion of the site, these buildings would be rehabilitated and repurposed, and once again they could be devoted only to non-residential uses. Additionally, a six-foot tall wooden fence would be installed from the western property line to the western edge of the building, and there could be no openings or gates in that fence.

The second development option is a scrapping of the site, and as Mr. Main said, developing a new building, once principle building on the site; the rear portion of the site would be devoted to parking. The building would be located up here next to the new public street that is required in this building envelop, then portions of the building could extent into the building or parking envelope here, and frankly it could go all the way, under the current plan, to the western property line of the site. In TOD, the side yards are either zero or five feet, one or the other. The Planning staff does recommend approval. The proposal is consistent with the South End's Transit Station Area plan, and like the prior petition, we are going to request the deferral of the Zoning Committee's consideration of the petition. That gives a little more time to work with the Planning Staff on some of the outstanding issues. We do not see any problems in resolving those. The site is about a quarter mile from the East/West Boulevard Transit Station, and we think this would be a nice addition to that area. We would be happy to answer any questions.

**Frank Horne, Jr., 305 Doggett Street** said I am the President and principal owner of Gas-Fired Products. We were founded here in Charlotte in 1949. We have continuously operated our family business between Doggett Street and West Tremont Avenue for almost 70 years. We currently employ about 100 people. Our company manufactures specialized industrial and agricultural heating products, and in fact, we actually export our product to over 50 countries around the world. Our facility is currently zoned I-2, heavy industrial and has been since Charlotte's zoning ordinance was first adopted. The developer's plan, as we understand it, is to either build an office building development scenario R-Z1 or to reuse two of the existing buildings as restaurants, which is the development scenario R-Z2. I will try to speak to both plans as I understand it.

Unfortunately, in the pre-hearing staff analysis on the rezoning request, if you looked at it, they actually had properties to the north and west, and they said they were a mix of residential and office uses. That is not correct. As you can see from the drawing up top, the portion that is in red is actually I-2 and our manufacturing facility. So, it is definitely not a residential or office use. I realize better than most people about the changing character of South End. We have watched transition of the area and its effects on existing businesses there, both positive and negative. Even with these changes, we are a viable, manufacturing employer. We have no plans to sell or to relocate, and all that we want to do is to continue to operate and grow our current business operations in this location. We understand why any developer wants to rezone the Carolina Foundry property, and they are within their rights to do so. We actually applaud some aspects of the proposal, especially the adjustment of the road locations in comparison to the area plan in scenario R-Z1. In fact, if this scenario is eventually chosen, we would like to return to you with a proposed resolution to remove another road that is currently penciled through our property that is being made unnecessary through the addition of the road that is noted in this scenario.

One of the issues that we have relative to the location of the office building and the proposed rezoning R-Z1 as it is currently shown on the property line. If it is placed in this location, it would actually be one and a half feet from one of our manufacturing buildings. That yellow stake shows you the distance that the office building would actually be from our manufacturing plant sidewall. As you can see, that is 18 inches. In order to manufacture heating products, we run air compressors, paint, test appliances, preform metal cutting, welding and general noise, vibrations, and traffic consistent with this type of industrial use. We are concerned that the close proximity will result in noise complaints. While office use is less prone to complaints than a residential use, we believe that any use close to our types of operations, will inevitably lead to conflicts with our neighborhoods. The last thing that we want is to be forced to deal with noise or nuisance complaints from people who occupy the property next door. There are many examples of Charlotte businesses negatively impacted by new residents located nearby who complained about operations that pre-dated them.

In some cases, these businesses have been forced to close or relocate due to cost and other issues associated with these complains. We are concerned that if both buildings are so close to one another whether or not this would also allow the Fire Department

reasonable access in case of a fire or other type of emergency. Our request, given that this is an office and not a residential use, and if you would remember, in the residential use which the previous rezoning was 2016-146. The setback was 20 feet for the townhomes from the sidewalk to the manufacturing, plus it had sound proofing in there to a certain level. In this circumstance, we just believe that with office, five feet is sufficient, and we are happy with that but not on the property line without some soundproofing. So, that is one of the things that we are concerned about. Additionally, we life cycle test appliances outside of our facility and to the north, and it is adjacent to the property in question, on both proposals R-Z1 and R-Z2. The petitioner has already indicated that they would put a six-foot tall fence with no openings. We just wanted to make sure that is actually done because it could be a danger to anyone getting back there inadvertently when we actually are trying to run appliances to simulate 10 years of operation and things of that nature.

Finally, in scenario R-Z2, which is the reuse of existing buildings as restaurants, it shows the parking lot directly onto the property line, which is again one and a half feet from the sidewalk. While there is no noise concern in that situation, we believe a two-foot set back from the property line to allow grass or bushes for some screening would be very helpful. Our concerns regarding the lack of reasonable setbacks, sound proofing and the construction materials, the Fire Department access and the commitment to a significant physical barrier with no access to our property, we would request denial of the petition until changes are made to address these concerns.

Mr. Carmichael in rebuttal said we will, during the intervening coming weeks, certainly be in touch with Mr. Horne. I just want to provide a little context, and I understand what Mr. Horne is saying, but in the industrial zoning districts, it is the same as the TOD, in terms of the side yards, zero or five feet. So, industrial zoning contemplates buildings being located close to the property line. Understanding Mr. Horne's concerns, the petitioner originally proposed the opportunity to have residential uses, and Mr. Branch removed residential uses from the plan as you are aware. In terms of the fence, the fence is a commitment that is on the rezoning plan, to the extent that there is anything that is ambiguous about the note, which I do not think that it is, we will make sure that it is abundantly clear, because the intention and the commitment would be that there will be a fence along the entire northern property line under the redevelopment option, which is this one, and it would go from the western boundary line all the way to the eastern boundary line of the site, including across the terminus of the new public street. Of course, that portion of the fence would be removed if the road was ever extended through Mr. Horne's property, but that would only be extended if Mr. Horne's property was redeveloped under the rehabilitation option there would be a fence on the northern property line for a portion of it rather from the western boundary line to the edge of the building. Those buildings go up to the property line. Maintenance of buildings close to the property line can be an issue, so Mr. Branch has advised me that he is happy to talk to Mr. Horne about some sort of cross access easements for maintenance of Mr. Horne's buildings and potentially under the rehab option this building here. We will have those conversations with him as I mentioned.

**Councilmember Bokhari** said this might just be a take away over the next month for staff, but we look at a lot that is happening in places like South End and only think about the amazing development and things that have occurred. We do not give a lot of airtime or talk about the impact on industrial, the warehouses, and the things that make it cool for that, yet the legacy businesses that have been operating there. I would really be interested in seeing a deeper view of the data. Some of the things that we have heard from Mr. Horne, as it relates to businesses being pushed out due to the types of noise and things that they have historically had as just a normal part of their business that were a part of that fabric for decades, and now it is changing, and that is just an interesting angle I had not really contemplated. Unless you have a view on that now, that would be a very interesting take away for me over the next couple of weeks.

Mr. Main said I do not know that we have any specific data on that. More often what you get paid to move and sell is substantial in some cases, so there are a number of reasons

that people may not continue to operate their businesses there. Many of them have closed down over time, so all of the above, but we will look into that a little bit more.

**Councilmember Egleston** said the issues that Mr. Horne raised seem like ones that hopefully Mr. Carmichael and the petitioners can find some common ground on that doesn't seem like too big of a gap to bridge, but I am curious. I do not feel like at least in our 10 months, that we have seen too many where there are two very different plans being offered up as possibilities and we are asked to support both plans. Is that as unusual as it seems to me? In this case, it is not a minor like, well we can do three stories or four, or we could do 100 units or 110 units. We have seen some where I have seen a little bit of the window for people to operate in. This is two very different plans.

Mr. Main said we have over time had sort of a policy against people presenting multiple options, and we have had that presented to us, and we have been pushing back against that generally. In the situation where we have existing buildings that may or may not be a part of the future plan; that is sort of a different animal that we are a little bit more willing to look at.

Mr. Egleston said so Mr. Carmichael; what would your explanation be for the need to present two plans that are so different from each other?

Mr. Carmichael said Mr. Branch could probably add more detail, but I think that some of it is about exploring the viability of maintaining those existing structures, not only from a structural standpoint but whether they would be interested in those existing buildings from the market. That is really more of a question for Chris.

**Chris Branch, 121 W. Trade Street, Suite 2800** said if we tear the buildings down, we need to put a street in, so that makes a very different plan from trying to save the buildings to where we cannot put the street in, and that is why we have the two viable options there, one of which is if we build a new building we will be putting that half street in and that stub street in, and if we are saving the buildings, then we cannot put that street in. That is why there are two plans in the particular case.

Mr. Egleston said I guess just from my mind in order of operations standpoint, that would be the sort of due diligence needed before you bring it to Council for the hearing. I guess that is your call and not mine.

**Tammie Keplinger, Planning** said I just want to reaffirm what Kent said. We have had over the years people that would come in with several options. They may come in with two, and at one time, we had three. That is very confusing. The public doesn't understand what is happening, and it is hard for staff and for the Council and Zoning Committee. So, we adopted sort of an internal policy that says there is only one way that we will take alternate site plans, and that is if there is a redevelopment condition and a tear down condition. In this case, you see those two proposals.

**Councilmember Phipps** said are you aware of any hazardous materials stored on the site at all?

Mr. Branch said the rezoning site? We are not.

Mr. Phipps said is that something that is going to be done whenever you develop it?

Mr. Branch said we have had a phase one environmental done, and we are going through a Brown Fields program right now, so our consultants, Hart and Hickman are working with the State in order to get a Brown Fields agreement put in place, and that will be put in place before the development of the property. Now, we are covering a number of different contingencies, and there will be a number of different tests that are done there before those are put in place.

**Councilmember Mayfield** said when we first started this conversation last year, for a very different project, there was a lot of conversation regarding the set back because of



the fact that we have a current business that has been there are we are hoping to continue. I am trying to understand the disconnect for why are we not looking at the minimum five-foot set back between the beginning of a new building starting and the current building. So, basically, starting from what is currently there, why are we even having a conversation of considering less than a foot away from where the current building is if you were to tear down and build new? Help me understand that.

Mr. Branch said just the configuration of the site and trying to get the parking in so if we were to give more distance from our property line to where our parking would start, our parking might not fit. We might be able to work with Planning staff to try to understand how we could squeeze that parking bay a little bit, but I am not sure whether there is parking on the property line or whether there is nothing there, and I am not-

Ms. Mayfield said I am talking about the five-foot differential that shows the clear example of the space between the current two buildings. Help me understand, because to my understanding, the two of you, as business owners and land owners have been having this conversation for a little while right now. I am trying to understand why there is a challenge to continue to have the current setback that is there opposed to wanting to reduce that setback to less than a foot.

Mr. Branch said our plan is to reach out to Mr. Horne and try to work on an arrangement where there is some sort of a cross easement where we can maintain our buildings and he can maintain his buildings and work it out through a cross easement that is not in this zoning document but would satisfy his requirements, because even if we have a five-foot setback on our property and our building were to be five feet off the property line, that still doesn't address how he would maintain his building, because he would have to get on our property to maintain it, so we think that might be best arranged outside of the zoning, where we come to a meeting of the minds where he can maintain his building and we can maintain our building, and we plan to reach out to Mr. Horne to try to resolve that.

Ms. Mayfield said again, we worked on this for many months on the previous petition. Unfortunately, we did not move forward with that. I need you to help me understand why staff will consider supporting this petition when we already have clear records from new development that Council has approved under TOD and the impact that it is having on our current industrial buildings with residents calling 311, CMPD, multiple other agencies regarding impact. Please help me understand why staff is supporting this without transferring the setbacks from the last petition into this one.

Mr. Main said well, the setbacks before were provided assuming that they were residential, and this is not a residential site. In the two options, scenario two we have a parking lot there, so again we have a situation where we do not have direct building to building. Now, as far as negotiating whether it is two feet or five feet or zero feet, that doesn't have too much to do with the building. The other scenario, scenario one, we do have concerns about how that building is treated and how wide that is, so that will be worked through in the course of correcting the outstanding issues.

Ms. Mayfield said there is one of the other challenges. As we are working on two potential possibilities, I have seen a third where the third had a building, a courtyard, then the additional building. The challenge of which you all know I am not a fan of TOD in the slightest, because I just feel like is too open, especially when TOD has impacted South End Industrial businesses dramatically. I can tell you that I really encourage the petitioner and Mr. Horne to identify a way to be good partners on this, because it is going to be very difficult for me to support what has been presented in front of us, because I already have seen the impact of our TOD approvals and current industrial business and how that is not positively but negatively impacting long-standing businesses. It would be a lot easier if you are able to work together, since if this does move forward, you are going to be long-term neighbors. It would be helpful to know that from the beginning you are looking to work with each other.

**Councilmember Eiselt** said so; I guess that my question was that also that Councilmember Mayfield brought up. Why the five feet? My question is for Mr. Horne. Is

five feet going to make that much of a difference versus a foot and a half, or is that just sort of what you could live with?

Mr. Horne said I just think of it as what I could live with, only because it is a non-residential use. Previously, in the residential use, it was a 20-foot setback with soundproofing, because people would be asleep at night. Now, you are talking about people who are in offices and conference rooms and I do not think that the noise would carry as much, especially if it was soundproofed on that side.

Ms. Eiselt said five feet?

Mr. Horne said yeah, five feet and sound proof. I think that would be fine. That is a guess. You never know until it is build.

Ms. Eiselt said it sounds like the fence thing is being resolved, because it is in the notes. So, to me it is a little bit how I felt- we had a hearing last week on the residential side that we are really trying to wedge as much as possible into these spaces and make it work, and we are looking at it in isolation; whereas, uptown, when you create density, we have people complaining about the street preachers, because the noise bounces off of buildings that are getting closer and closer to each other. In this neighborhood, I know that off of Dunavant Street and by Hawkins Street there, there is a dog kennel, and there is a business over there that I go to, and when you go down there, whatever time of day, those dogs are barking away, and they are just finishing apartments over there. You know what we are going to start hearing, the new neighborhoods complaining about the dogs barking all day. So, we have got to be more mindful when we create this density and change areas substantially of who was there, not that we cannot ever change, but I just think that we have to work these things out. I will be hard pressed to approve it as well if we are talking a foot and a half versus five feet, so I think that we have to work this out and try to be good neighbors with each other.

**Councilmember Ajmera** said I want to repeat what come of my colleagues mentioned earlier about the set back, but I do want address one concern that Mr. Horne has brought up around sound proof. I did not see that in the notes.

Mr. Carmichael said it is not in the notes. There is no commitment to provide sound proofing. That was in the prior rezoning where there were residential uses, but this is a non-residential proposal, so that is something that Mr. Horne mentioned tonight, but it is not in the notes.

Ms. Ajmera said so, are you considering that with this?

Mr. Carmichael said I do not know that we are at this time, and we are happy to discuss it, but I will be frank with you. I think that is a very unusual request given that industrial setbacks are five feet and this is a non-residential use. We want to work with people, but I also want to be upfront with you and tell you I would find that to be an unusual request for a non-residential use in my experience.

Ms. Ajmera said I appreciate that honesty there. My follow up question is for staff. When we have a building that is an office building next to industrial, what are some of the requirements that we usually have around setback, and how does that compare to what the petitioner is requesting?

Mr. Main said the setbacks required in a situation like this, you can build on a property line, or you have to be five feet. So, building on a property line is okay in TOD under certain circumstances. Again, what is over across the way is a different situation. Just as Mr. Horne's building is a foot and a half off. The foot and a half is not a standard that we would adhere to today, but this building predates some of our regulations.

Ms. Ajmera said so; let me be what I am trying to get to here. What if it was not TOD?

Mr. Main said the regulations in our office would dictate what that would be, and again those are five-foot building setbacks generally or building on the property lines in the case of some of our more urban districts.

Ms. Keplinger said Ms. Ajmera in most of our office districts the rear yard requirement is going to be anywhere from 10 to 20 feet, and again that is not for an office built in a TOD district. That is for an office built in an office district. If you go into an institutional district, the setbacks would increase. It does vary, but 10 to 20 feet is going to be an average.

Ms. Ajmera said so, in this case, because it is TOD it could be right at the property line?

Ms. Keplinger said that is correct.

Ms. Ajmera said how about the noise control if it was not TOD?

Ms. Keplinger said the zoning ordinance does not control noise; that is done by City code.

Ms. Ajmera said in that case, if it was industrial, if a neighbor was to complain about the noise, what would some of the actions that would be taken by our staff?

Ms. Keplinger said since we do not enforce the noise ordinance, I cannot really respond to that. I do not know if the City Attorney might be able to respond.

Mayor Lyles said it is a noise ordinance; it requires police officers to carry a noise meter.

Ms. Ajmera said it would still come through the City.

Mayor Lyles said under a different ordinance.

Ms. Ajmera said the noise ordinance is still within the City's jurisdiction. In this scenario, we have an industrial site, an office building is being proposed right next to the industrial site, so if there is a complaint about noise coming from industrial site, what would staff do? It may not be our zoning staff. It is a different department, which I understand, but it is still within the City's jurisdiction. What would staff do and ultimately it might come to City Council. It may not be the zoning related, but still at the end of the day we have to address that issue.

**Terrie Hagler-Gray, Senior Assistant City Attorney** said it would be the noise ordinance, and if you want more details about how the noise ordinance would be addressed here, we could get that for you.

Ms. Ajmera said that would be great.

Ms. Mayfield said Mr. Carmichael; I want you all to hear. I am not asking anything regarding soundproofing, because it has changed to what type of business it is, but I do have concerns with the setback. Also, for Planning staff, as we are moving forward and we are creating different levels or TOD, at some point, we need to recognize that if this was not transit oriented development, that setback could be anywhere, which we just said, from 10 to 20 feet. What we are talking about because of TOD is it can either be less than a foot; it just depends, with no setback. We have to figure out how to integrate new with current to the point where it does not negatively impact or displace current, because I have seen, unfortunately, just in these last three years, and it is all public record of all the emails I have received because of all of the current business that have had to close their doors and/or sell or move because of our language within TOD. So, that is why I am asking Mr. Carmichael, Mr. Horne for our practitioner, to come together to have a conversation on that setback, because again, as we are trying to grow the City, we have to figure out a way to grow new with current in a way that is going to create a stronger and sustainable community.

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

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**ITEM NO. 5: HEARING ON PETITION NO. 2018-023 BY JASON IDILBI FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.56 ACRES LOCATED ON THE SOUTH SIDE OF SPENCER STREET, EAST OF EAST 36TH STREET, WEST OF HERRIN AVENUE. FROM R-5 (SINGLE FAMILY RESIDENTIAL) TO R-6 (SINGLE FAMILY RESIDENTIAL).**

**Mayor Lyles** declared the hearing open.

**Tammie Keplinger, Planning** said this property is located off of Spencer Street. It should be a little bit familiar, because we had a public hearing on this case several months ago, and at that time, the request was to rezone it to UR-2(CD), and if you remember, this is the case where we talked a lot about flag lots. What are flag lots, and how do they develop in a neighborhood where there is already an existing residential pattern? Staff worked with Mr. Idilbi, and he has revised his petition to rezone from R-5 Single family residential to R-6 single family residential, and this is a conventional rezoning petition. The property is located right off of Spencer Street between 36th and Herrin Avenue. North Charlotte is just down the block. The adopted land use plan is the BLE Transit Station Area Plan 36th Street Station that was adopted in 2015. It shows this property as residential at five dwelling units per acre. You can see all surrounding, it is pretty much R-5 dwelling units per acre also. In terms of what the R-6 will achieve for Mr. Idilbi, all of the same uses are allowed in the R-5 that are allowed in the R-6, so you have residential uses, by right residential uses, farms, highways, and parks. That is pretty much it. Then there are prescribed uses that are allowed, and some of those prescribed uses you will hear us talking about from time-to-time. There will be churches and government buildings, elementary schools, middle schools, and college/universities, but they all come with prescribed conditions, and if you do not prescribe conditions that are already laid out in the zoning ordinance, you cannot have those uses. On a site that size of Mr. Idilbi's site, which is .56 acres, many if not all of the uses that are by prescribed conditions would not work on this site. It is just too small. What would be left for this site is basically residential type uses. So, in looking at how many units can go on this property, if you look at the R-6, you would say okay well that would allow six dwelling units per acre, so this is half an acre, and you would be able to have three. Well, in reality, he would not be able to get three, because the zoning ordinance says that you have to have 40 feet of frontage for each lot along the street. Mr. Idilbi's survey shows that he has 92 feet of frontage. He would only be allowed to have two lots, because there is only enough frontage for two. This property is located in an area where we have a lot of single-family residential. It is already in an established lot pattern, and if it is developed as residential, the zoning would allow the two single-family lots. For those reasons, staff is recommending approval. It is consistent with the BLE Transit Station Area Plan; however, because of a little quirk, it says the density because it allows six dwelling units per acre, we say that the density slightly exceeds what is allowed by the BLE Transit Station Plan. The reality is it will be less. So, with that said, staff is recommending approval.

**Jason Idilbi, 509 Spring Street, Davidson** said I know that you have heard from me before at a Public Hearing and there was some random correspondence. I think that Ms. Keplinger has done a great job summarizing the project for you and the uses that are enabled for it. With that being said, the only thing that I want to add, and I am not trying to butter anyone up, but I do thank Ms. Keplinger and City staff for the hard work that they have done. Just this morning, I emailed Ms. Kelly to confirm my registration, and she responded within a minute, so I do thank them. They are very professional and hardworking, and I appreciate it.

**Benjamin Smith, 3338 Spencer Street** said I originally filed to speak just from the lack of information and detail about what the amended version of this petition meant versus the original version, just from lack of knowledge on zoning ordinances and that this one

does not require site plan. We just were not sure of some of the details, but we appreciate the conversations. Like Mr. Idilbi said that we've had with our civil servants to clear up some of those concerns and address them. There was not that much to oppose here, so I am not really speaking in that fashion at this point, but I just look forward to working with Mr. Idilbi or whoever else is involved in making sure that the redevelopment is a success for everybody involved.

**Councilmember Egleston** said obviously there was a lot of hemming around the first petition, so I appreciate your willingness to be flexible and go back to the drawing board and do something the Smiths could be comfortable with, the staff could be comfortable with, and I think that this is in line with what has been done along that street and throughout that neighborhood, so thank you for that flexibility. Thank you to the Smiths for being understanding that when you went back to the drawing board that he was trying to do right by them in being willing to work with him in that way too. I appreciate it.

Motion was made by Councilmember Driggs, seconded by Councilmember Winston, and carried unanimously to close the public hearing.
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**ITEM NO. 6: HEARING ON PETITION NO. 2018-026 BY LLEWELLYN DEVELOPMENT, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.49 ACRES LOCATED ON THE EAST SIDE OF PARK ROAD, NORTH OF SHARON ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL) WITH FIVE-YEAR VESTED RIGHTS.**

**Mayor Lyles** declared the hearing open.

**Kent Main, Planning** said this is about three and a half acres. It is located on Park Road, right where Sharron Road comes in and intersects, and just for reference, there is a project called The Townes at Tindal Park that is located right on that corner right there. It is new townhouses and a small multi-family building on the corner, and that was approved in 2015. Otherwise, the area is single family in general. There is a little bit of multifamily over here, but this is the project that I was just referring to, so that is the site that we are talking about. It is 20 units of single-family attached or townhouse development. They are in four-unit buildings. The plan is a fairly simple u-shaped driveway with buildings on both sides of it. There are, as I say, 20 units. The maximum building height is 40 feet and three stories on one side, but because of the topography, it is only two stories along the back. There is also a 24-foot buffer to single family, which surrounds on these two sides and some intense planting right here where that driveway is more or less forced to be sort of close to this other driveway right there. The plan also helps to provide for a new sidewalk, which is a little bit further away from the street, a lot of talk and discussion has gone into the location of this sidewalk, but it is further back than usual in order to preserve some particular trees that are right in this area along the street. That is a key piece of this particular design. The issues that remain have to do with some adjustments for sidewalks that need to be sort of find tuned a little bit, also some visitor parking that needs to be provided, which is sort of left out in the case of the dumpster provision, which would probably not happen. So, those are the kind of things that we are dealing with, also some tree save issues and timing of some of the developments. We are recommending approval of the plan. It is consistent with the South District Plan recommendation for single-family residential, with the provision of the general development policy. General development policy would support a density of up to six units per acre. The density here is 5.73, so we are right in the appropriate range of what the plan would call for.

**Walter Fields, 1919 South Boulevard** said let me introduce Rick Judson, who is here to my left, he and Terrance Llewellyn are my clients in this matter. Kent, I think adequately summarized our proposal; there are a couple of things I want to reemphasize, if we could put the site plan back up. We ended up delaying this petition for a couple of months for a very important reason. Along the frontage of this site are actually a significant number of trees, and the topography of the site is such that we have a limited space. We can put

our storm water facilities and a limited space that we can put the City required sidewalk, but what we have been able to do in order to preserve those trees along Park Road, which is a very, very important site element for us, we met on the site with the Urban Forestry staff and the Planning staff, and we walked the area to get a real good sense of what was there. We have worked very hard to keep those trees, and we have pulled the sidewalk and the City's required planning strip back into the site, so we will have the edge of the street, Park Road where the street currently is, and we have this large area of trees that we want very much to preserve, then we have the eight-foot planning strip and the six-foot sidewalk on our site, but it goes behind those trees instead of going through the middle of them and requiring us to lose them.

The other edge that is very important to use are our neighbors, and while we do have a buffer on our site, neighbors that live close to us have had some recent experiences with another nearby development, and they were very, very focused on making sure that they ended up with a good edge relationship. We literally went out and walked everybody's backyard, looked at what was on their property, looked at the trees and things as they related on our property and developed a specific landscape plan for each lot that we are adding to our zoning petition. I was not able to do it before tonight, just because of the way that the rules work, but this landscape plan is not planted on our property. It is specific planting on each individual lot that we adjoin. If they have made a lot of vegetation already there, we can supplement it. If they have no vegetation there, we can create it where it has not happened, and I think that this is a very unique response to trying to address our neighbor's concerns, and I would like to think that they are all comfortable with what we have done. As recent as this last past Saturday with the Ellerbe's to our north looking at a specific plan which would become part of and enforceable as part of our rezoning for the development of our site. We are working on a few of the little last details with the staff, but our hope is that when it comes back to you, it will be with their support and that you will be comfortable with proving this infield location.

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

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**ITEM NO. 7: HEARING ON PETITION NO. 2018-059 BY BOULEVARD REAL ESTATE ADVISORS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.01 ACRES LOCATED ON THE WEST SIDE OF SOUTH MINT STREET, SOUTH OF WEST CARSON BOULEVARD, NORTH OF PALMER STREET FROM I-2 (GENERAL INDUSTRIAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT - MIXED USE).**

**Mayor Lyles** declared the hearing open.

**Kent Main, Planning** said this is a one-acre site, and it is located just off Carson at Mint Street. The stadium is right there; you are going under the Belk Freeway right there. Mint Street, this is the United House of Prayer right here at Mint and Carson, diagonally across from the site. The site right next door there is actually one of our earliest TOD rezonings, sorry to say, but Mint Street is the start and finish of the Gold District, as it now stands as well. This particular site is proposed for TOD use; the plan does support its use. The back half is sort of outside of the original TOD zoning area, so it is sort of extending a little beyond that area; however, it is consistent in the front half with the South End Transit Station Area Plan, and for the whole site with the newer South End Vision Plan, which supports its use along here. As far as the other uses around the area, you will see TOD on this side. There is still considerable industrial behind it that is still in play, although some of that may have Gold District pretensions in the future as well, so we are recommending approval of this proposal.

**John Carmichael, 101 N. Tryon Street Suite 1900** said this is a conventional request, so there is not a whole lot we can tell you, other than it is consistent with the plans that Mr. Main mentioned, the South End Vision Plan, and staff is supporting it. We can answer any questions that are legally allowed, but those would be few unfortunately.

**Councilmember Eiselt** said Ken, what is the inconsistency with the Central District Plan?

Mr. Main said the South End Vision Plan actually put a line right along the halfway point between Graham Street and Mint Street, so this is recommended for TOD. The back piece was not in the original plan. The South End Vision Plan however does sort of update that and provide a vision for the wider corridor for part of the Gold District as it is now sort of perceived.

Ms. Eiselt said so; it was inconsistent with the Central District Plan because that did not call for it to be TOD?

Mr. Main said well, the Central District Plan was the prior plan. This was the edge of the South End Plan as it was originally conceived at half-way point. What you see in brown there is actually in what was the Central District Plan. The South End Vision Plan updates the vision, but it did not provide a fixed line on the map that says this is in, and this is out.

Motion was made by Councilmember Driggs, seconded by Councilmember Winston, and carried unanimously to close the public hearing.
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**ITEM NO. 8: HEARING ON PETITION NO. 2018-065 BY RALEY-MILLER PROPERTIES FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.63 ACRES LOCATED ON THE NORTH SIDE OF NORTH TRYON STREET, EAST OF SALEM CHURCH ROAD FROM NS (NEIGHBORHOOD SERVICES) TO NS(SPA) (NEIGHBORHOOD SERVICES, SITE PLAN AMENDMENT) WITH FIVE-YEAR VESTED RIGHTS.**

**Mayor Lyles** declared the hearing open.

**Ed McKinney, Assistant Planning Director** said this site is located just off of the north side of North Tryon Street, here highlighted in yellow. It is about a 2.6-acre site. Just for context again, I-458 here just outside of the I-485 loop by North Tryon Street, Salem Church Road kind of heading toward the north, Pavilion Boulevard to the South. A real quick glimpse of the future land use plan, the area plan recommends this for retail use in the most recent rezoning, this was a neighborhood service use, so this is really just a site plan amendment to that existing zoning, consistent with the land use and the existing zoning of the plan, really just to amend the details of the site. Here is a zoom in on that site plan. Here is the site itself, North Tryon Street, sort of the stud for Pavilion Boulevard to the north, then there is a private drive that connects you back to the residential, multifamily residential off to the north. Again, the site plan is amended here just to relocate the buildings and adjust for a new development proposal up to 20,000 square feet of commercial uses. You see it in three building foot prints here. The single access is off of the private drive on the backside, so there is no access off of North Tryon Street. You come in off of Pavilion Boulevard and connect back into the parking lot. Again, building design here is allowed for the parking between North Tryon Street, access back to the private drive with really an orientation that is to the parking lot and to the fronting along North Tryon Street. There is a drive through, so this use here in the site plan includes a drive through that runs on the backside of the site and around to the parking lot with access again off of the private drive. Staff recommends approval of this petition. Again, it is consistent with the area plan, the recommendation, and the land use. Again, it is a site plan amendment, same zoning, just a new site plan design. It is consistent with the goals. It actually provides uses and retail services that are walkable and connected to the residential that is around. There are some provisions here with an open plaza, making sure that we have strong pedestrian links to the multifamily and project that is consistent with the goals of how we want to connect to residential around it. A few small site plan design issues for outstanding issues but other than that, we support the plan.

**Ken Orndorff, 10815 Sikes Place, Suite 300** said I am with Raley Miller Properties, and I am just here to answer questions. I do not want to elaborate on what Mr. McKinney said.

**Councilmember Phipps** said in the write up there, you have that this node of neighborhood services is within walking distance of a multifamily residential community. I would submit that there are four apartment complexes there, much needed amenity for the neighbors here, and it is close to PNC Pavilion, so this is something that is needed along this corridor, and I am hoping when we get to that time that we get some good support for it.

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

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**ITEM NO. 9: HEARING ON PETITION NO. 2018-066 BY ANTHONY MOORE FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.82 ACRES LOCATED ON EAST SIDE OF PROVIDENCE ROAD AT THE INTERSECTION OF WESTBURY ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO R-4 (SINGLE FAMILY RESIDENTIAL).**

**Mayor Lyles** declared the hearing open.

**Kent Main, Planning** said this is at the corner of Providence Road and Westbury Road, and you can see here is Saint Gabe's Church over here on Sharron Lane at Providence, the Providence Plaza. This is the Providence Prep School and Daycare Center, which is located right across Westbury, from this particular site, and behind it is Trinity Presbyterian Church. We have a lot, which is a little bit less than an acre, a fairly substantial lot with a small house on it today. It is sort of between the school and the church, but at the entrance of the single-family neighborhood, so it is a fairly prominent site there but also has implications on all sides and all around it. The South District Plan calls for it to be single-family residential. I can say that we have seen a number of higher density proposals for this site that have gone away. The proposal now is for just going from R-3 to R-4, which will allow this particular oversize lot to develop in single-family use for another unit or so in development. It is consistent with the plan. It is consistent with the criteria and the general development policies for what is proposed. It is on a major thoroughfare. It is in between other kind of odd uses on either side, so we think that this is a good proposal, and we recommend approval.

**Anthony Moore, 1401 Central Avenue, Suite 200-G** said I am with Pike Properties. We are very excited to not over densify the area as you said. The neighbors are very excited about it for that same exact reason.

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

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**ITEM NO. 10: HEARING ON PETITION NO. 2018-070 BY FLORIAN & OLTITA BALAJ FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.21 ACRES LOCATED ON THE WEST SIDE OF BOYER STREET, NORTH OF WILKINSON BOULEVARD FROM R-17(MF) AIR (MULTI-FAMILY RESIDENTIAL, AIRPORT NOISE OVERLAY) TO I-2 AIR (LIGHT INDUSTRIAL, AIRPORT NOISE OVERLAY).**

**Tammie Keplinger, Planning** said this site is located on the West Side of Charlotte, just northwest of the Airport. Wilkinson Boulevard, Boyer Street, this is Billy Graham Parkway and this is our small little site that we are talking about tonight. The property is surrounded by undeveloped land or land that is used for warehousing, industrial, and retail land uses. There is some residential, but it is way far away and does not touch the adjacent property to be rezoned. The proposed request is to go from R-17 MF, which is multifamily, to I-2



General Industrial, all in the Airport Noise Overlay. It is consistent with the South West District Plan Recommendation of 1991, which recommends industrial warehouse distribution for this site, and staff is recommending approval of this conventional request.

**Florian Balaj, 543 Bubbling Well Road** said Ms. Keplinger summarized it so good so I just want to change it if it is possible.

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

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**ITEM NO. 11: HEARING ON PETITION NO. 2018-071 BY DEPENDABLE DEVELOPMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 9.54 ACRES LOCATED EAST OF I-485 BETWEEN CALDWELL ROAD AND FARMINGTON RIDGE PARKWAY FROM R-5(CD) (SINGLE FAMILY RESIDENTIAL, CONDITIONAL) WITH FIVE-YEAR VESTED RIGHTS TO R-5(CD) SPA (SINGLE FAMILY RESIDENTIAL, CONDITIONAL, SITE PLAN AMENDMENT) WITH FIVE-YEAR VESTED RIGHTS**

**Mayor Lyles** declared the hearing open.

**Tammie Keplinger, Planning** said this is over on the northeast side of town, right off of I-485 and Caldwell Road. This property should look familiar. I think this is the third time that it has been through the rezoning process, and the request tonight is for a site plan amendment along with five-year vested rights. The request will not change the proposed number of units, which is 41 single-family detached dwellings at 4.3 dwelling units per acre. The Rocky River Road Area Plan recommends five dwelling units per acre per the last rezoning, which was 2007-085. The request amends the minimum read yard requirements to 35 feet instead of 45 feet and amends the side yard to 13 feet as appose to 10 feet. The property is actually located between two existing neighborhoods. It will provide connections to those neighborhoods and from Caldwell Road to Farmington Ridge Parkway, which promotes your connectivity policy, and staff is recommending approval upon resolution of the outstanding issues. We are asking them to remove the five-year vesting and they need to provide tree-save calculations.

**Vince Keene, 5004 Billybrook Court, Monroe** said I am here with the engineering representing Dependable Development, and Tammie did a great job. It was pretty much straight forward. I will answer any questions you have.

**Councilmember Mayfield** said Ms. Keplinger, did you say that you requested for them to remove the request for five-year vested rights?

Ms. Keplinger said yes, that is something that they can remove after the public hearing.

Ms. Mayfield said okay, it can be removed after words, thank you.

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

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**ITEM NO. 12: HEARING ON PETITION NO. 2018-079 BY THREE PILLARS CAPITAL, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.75 ACRES LOCATED ON THE NORTH BREVARD FROM I-2 (LIGHT INDUSTRIAL) TO TOD-M(O) (TRANSIT ORIENTED DEVELOPMENT - MIXED USE, OPTIONAL) WITH THREE-YEAR VESTED RIGHTS**

**Mayor Lyles** declared the hearing open.

**Kent Main, Planning** said this site is about three quarters of an acre. It is right on the rail line headed north. The Parkwood station is right there about a block away from this particular site. It is zoned I-2, it is vacant right now so no displacement in this case, but right across 21st Street on this block is a five-story apartment building being build right now, so the proposal for this particular site, again right on the rail line across from the under-construction building, the Blue Line Extension Transit Station Area Plan calls for it to be TOD, and that is what they are asking for. They do have a couple of options that they are asking for in this case. One of the things has to do with there is a little bit of single family over here across Parkwood Avenue that causes a distance issue that kicks in some parking requirement that are much more intense than would have been the case otherwise. We are looking at an option to sort of overcome that issue. We do not think that it is going to have an issue for the single-family neighborhood, because it is over here across the way and backed up to it, so that is one of the options that is being proposed. The second is to provide for a slight reduction in the size of the building. In this case, we think that is an important thing, because we are getting a lot of residential, and we are not getting much non-residential uses, so in this particular case, we are open to that idea. They are providing planting strip and sidewalk, and they do make revisions for using tree wells and curbed planters as appose to the planting strip.

Generally, in commercial uses we prefer not to have the planting strips because it provides a place where people stomp on the grass and basically kill that grass getting in and out of parked cars, so C-DOT has asked them to look into making sure that provision for tree wells and tree grates rather than a planting strip. That is one of the two things that we are asking for. The other is details on some of the setbacks a little bit. This is consistent with the Transit Station Area Plan and subject to those few outstanding issues, we are recommending approval.

**Nick Tosco, 301 S. College Street** said Colin Jenest is here, he is the site designer, but Three Pillars Capital, the petitioner, is represented tonight by Mike Salzarulo and Ryan Owens. They are not planning to speak; they are just here to answer questions if you have them. I think Kent did a great job explaining the petition. The goal of this- we are convinced that the reason that we are dead last is because this is a brewery, so you are saving the best for last. The goal is to create a community gathering spot. We hope that you all will attend. It is intended to be a community gathering spot, a place where the community can gather in the Optimus Park Area and gather and socialize. We have worked really hard with staff to make sure that all the boxes were checked on this one. We have had our meetings, and the community meeting went really well. We had a lot of community support with this. We have spoken with Councilmember Egleston too about this, and we think that there is a lot of positive support in the community for it. As Mr. Main indicated, the only optional provisions relate to the parking. This is a rather small parcel, and we believe that we are going to provide adequate parking, and it is located right along the Blue Line Extension, so we think we have plenty of transit options, and the other optional provision relates to the floor area ration. That is just a product of the ordinance, and we think that is all in compliance. As it related to the outstanding issues that are left, those are very minor and we have no problem incorporating those in to the site plan. We just appreciate your support for this rezoning, and we are here to answer any questions both from the site design perspective as well from Three Pillars Capital.

**Councilmember Phipps** said how many breweries do you think are within a mile radius of this site?

Mr. Tosco said I do believe this is the only brewery in the Optimus Park community. Is that a correct statement? Yes.

**Councilmember Winston** said carrying off of Mr. Phipps' question, this is more of a comment I think for staff. I think that we should take a look at the way that breweries are popping up. Is there a specific zone honestly that we look to that has- because when we are looking at parking, make sure there is enough parking at a brewery? That doesn't necessarily make logical sense for the type of behavior and things that are going on there, that we might want to take a look at the way that development happens around it and the kind of environment that we are trying to incorporate when people frequent these things.

Honestly, also seeing that the market has created Charlotte, honestly as the epicenter for this industry and that seems to work when there is some type of community, that they do not just pop up randomly around the City, that there is a sort of community. I do not know what the answer is. I do not know if it has been done in other places. Maybe it is forward thinking as we think about our comprehensive vision plan, but it seems like there is an opportunity here to do something different and something that really promotes where the people of Charlotte are trying to take our City.

Mr. Main said of course our TOD areas are trying to build community, and it is coming from scratch here. Insights like this, which are basically undeveloped right now, that is one of the things that we like about this particular proposal is that it is providing those other kinds of uses in areas where we are just seeing a lot of new residential being built and right on the rail line at that.

**Councilmember Egleston** said right on the rail line and right on the greenway and right by where we are about to invest money in making a connection across 25th Street across the creek to get Brevard connected to Davidson so the neighbors in Villa Heights can get to these things a lot easier, including one of our light rail stops, so I think that this makes a lot of sense. The answer to Mr. Phipps' question there is technically one in the same neighborhood, but there are several in the adjacent neighborhoods, but they have not hit the saturation point yet, because I can tell you they are all still very busy pretty much all the time. I imagine you guys have done your business case study as to why this is viable and again right near the light rail and right near the greenway. To Mr. Winston's point I could live with slight a short fall in terms of the amount of parking we would normally require of something like this, because we hope that people will not be driving. I will be supportive of this, and I will ask my colleagues to as well.

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

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#### ADJOURNMENT

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

The meeting adjourned at 8:20 p.m.



Stephanie C. Kelly, City Clerk MMC, NCCMC

Length of Meeting: 2 Hours, 32 Minutes  
Minutes completed: November 1, 2018