

The City Council of the City of Charlotte, North Carolina convened for a Zoning Briefing on Monday, September 16, 2019 at 12:11 p.m. in Room 810 of the Charlotte Mecklenburg Government Center with Mayor Vi Lyles presiding. Councilmembers present were Ed Driggs, Julie Eiselt, LaWana Mayfield, Matt Newton, and Greg Phipps.

ABSENT UNTIL NOTED: Councilmembers Tariq Bokhari and Braxton Winston

ABSENT: Councilmembers Dimple Ajmera, Larken Egleston, Justin Harlow, and James Mitchell

David Pettine, Planning reviewed the agenda and answered questions regarding the zoning decisions and hearings on the meeting agenda.

Councilmember Bokhari arrived at 12:13 p.m.

Councilmember Winston arrived at 12:22 p.m.

The meeting was adjourned at 1:18 p.m.

The normally scheduled Dinner Meeting was cancelled.

ZONING MEETING

The City Council of the City of Charlotte, North Carolina reconvened for the regularly scheduled Zoning Meeting on Monday, September 16, 2019 at 5:04 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Vi Lyles presiding. Councilmembers present were Dimple Ajmera, Tariq Bokhari, Ed Driggs, Larken Egleston, Julie Eiselt, Justin Harlow, LaWana Mayfield, James Mitchell, Matt Newton, Greg Phipps and Braxton Winston, II.

INVOCATION AND PLEDGE

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

EXPLANATION OF ZONING MEETING

Mayor Lyles explained the Zoning Meeting rules and regulations.

INTRODUCTION OF THE ZONING COMMITTEE

Sam Spencer, Chair of the Zoning Committee introduced the members of the Zoning Committee. The committee will meet on Tuesday, October 1, 2019 at 5:30 p.m. in the Government Center to make recommendations on the petitions heard in the 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.

DEFERRALS/WITHDRAWALS

Motion was made by Councilmember Egleston, seconded by Councilmember Mayfield, and carried unanimously to withdraw Item No. 7, Petition No. 2018-147 by Laurel Street Residential and Item No. 8, Petition No. 2018-167 by Verde Homes, LLC and defer the following items until October 21, 2019: a decision on Item No. 9, Petition No. 2019-006 by Amerco Real Estate Company, a decision on Item No. 10, Petition No. 2019-030 by Continental 475 Fund, LLC, a decision on Item No. 15, Petition No. 2019-009 by Joseph Rhodes, a decision on Item No. 17, Petition No. 2019-028 by HHHunt, a decision on Item No. 18, Petition No. 2019-029 by Crescent Communities, a decision on Item No. 19, Petition No. 2019-032 by US Developments, Inc., a hearing on Item No. 33, Petition No. 2018-117 by Hopper Communities, a hearing on Item No. 34, Petition No. 2019-037 by Jay Kamder, a hearing on Item No. 35, Petition No. 2019-072 by Arden Acquisitions, LLC, a hearing on Item No. 44, Petition No. 2019-078 by Charter Properties, a hearing on Item No. 45, Petition No. 2019-084 by Lake Mather, LLC, a hearing on Item No. 49, Petition No. 2019-049 by Apollo Holding Company, and a hearing on Item No. 52, Petition No. 2019-068 by Chelsea Building Group, LLC.

AWARDS AND RECOGNITIONS

ITEM NO. 4: NATIONAL SUICIDE PREVENTION MONTH

Councilmember Newton said there is a member of the community named Fonda Bryant, and she has been a tireless advocate for suicide prevention in our community to the extent that she has championed an initiative to place suicide prevention plaques on the tops of our buildings where we've seen folks jump to their death. I am very proud and honored to recite this proclamation that recognizes this as Suicide Prevention Month.

WHEREAS, suicide is the 10th leading cause of death in the United States and the 2nd leading cause of death among individuals between the ages of 10 and 34, an increase of 33% since 1999; and

WHEREAS, in the United States, one person completes suicide every 12 minutes, resulting in over 47,000 suicides each year (Centers for Disease Control); and

WHEREAS, suicide is the only leading cause of death in the United States that has increased every year for the past decade; over 129 Americans and over 22 veterans die by suicide daily, with suicide being underreported; and

WHEREAS, there are 25 attempts for each completed suicide and over 3,700 Americans attempting suicide daily, with close to 1.4 million people attempting suicide yearly; and

WHEREAS, over 90% of the people who die by suicide have a diagnosable and treatable mental health condition, but the stigma and shame of having a mental condition the is the number one reason people don't seek help; and

WHEREAS, organizations such as The American Foundation for Suicide Prevention, National Alliance on Mental Illness and Mental Health America envision a world without suicide and are dedicated to saving lives and bringing hope to those affected by suicide through research, education, advocacy and resources for those who have lost or struggle, reinforcing "You Are Not Alone, there is HELP, HOPE, and RECOVERY!"; and

NOW, THEREFORE, I, Vi Alexander Lyles, Mayor of Charlotte, do hereby proclaim the month of September as

"NATIONAL SUICIDE PREVENTION MONTH"

in Charlotte and urge all Charlotteans to get educated about the warning signs of suicide. This is the most preventable death of all deaths.

ITEM NO. 5: CHARLOTTE WOMEN'S SMALL BUSINESS MONTH PROCLAMATION

Councilmember Mitchell read the following proclamation:

WHEREAS, women-owned small businesses are an economic engine and own 40% of all U.S. businesses, employing 8% of the private sector workforce; and

WHEREAS, the Charlotte metro area ranks #1 for women-owned firms for growth in number and economic clout; and

WHEREAS, approximately 92,500 women-owned small businesses in the Charlotte metro area are generating \$13.3 billion in sales and employing 70,000 people; and

WHEREAS, the city of Charlotte values local women-owned small businesses and celebrates the diversity of ownership and goods and services they provide as well as the contributions they make to our community; and

WHEREAS, October has been designated as National Women's Small Business Month to celebrate the achievements of women business owners; and

WHEREAS, in 2016, October was designated as Charlotte Women's Small Business Month to celebrate the achievements of women business owners in the Charlotte region:

NOW, THEREFORE, I, Vi Alexander Lyles, Mayor of Charlotte, do hereby proclaim October 2019 as

"CHARLOTTE WOMEN'S SMALL BUSINESS MONTH"

in Charlotte and commend its observance to all citizens and urge all citizens, businesses and community organizations in Charlotte to join this salute to women business owners by encouraging and promoting the celebration of the achievements of all women business owners as they contribute daily to our economic, civic and cultural goals and livelihood.

ITEM NO. 6: MUSEUM DAY PROCLAMATION

Councilmember Winston read the following proclamation:

WHEREAS, Charlotte is a center for the arts and sciences; and

WHEREAS, Charlotte is home to some of the nation's finest museums and cultural institutions; and

WHEREAS, Charlotte supports the dissemination of knowledge and equal access to education for all its citizens; and

WHEREAS, Smithsonian magazine's Museum Day represents a nationwide commitment to boundless curiosity and the pursuit of knowledge wherever you are; and

WHEREAS, Museum Day 2019 will celebrate the Smithsonian Year of Music, an institution-wide initiative celebrating the Smithsonian's vast musical collections and resources through 365 days of music-related programming; and

WHEREAS, museums nationwide and in Charlotte are participating in Museum Day; and

WHEREAS, museums participating will open their doors for free to ticket holders plus one guest for one-day-only:

NOW, THEREFORE, I, Vi Alexander Lyles, Mayor of Charlotte, do hereby proclaim September 21, 2019 to be

“MUSEUM DAY”

in this community and encourage all of our citizens to show their support of museums by participating in this event celebrating the arts, sciences, innovation and culture.

* * * * *

DECISIONS

ITEM NO. 11: ORDINANCE NO. 9624-Z, PETITION NO. 2018-128 BY JAMES POUTIER AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.5 ACRES LOCATED ON THE SOUTH SIDE OF MOUNT HOLLY-HUNTERSVILLE ROAD, EAST OF BROOKSHIRE BOULEVARD FROM R-3 LWPA (SINGLE FAMILY RESIDENTIAL, LAKE WYLIE PROTECTED AREA TO NS LWPA (NEIGHBORHOOD SERVICES, LAKE WYLIE PROTECTED AREA.

The Zoning Committee voted 7-0 (motion by McClung, seconded by Nwasike) to recommend approval of this petition and adopt the consistency statement as follows: This petition is found to be consistent with the Brookshire/I-485 Area Plan, based on the information from the post hearing staff analysis and the public hearing and because the plan recommends multi-family, office, and/or retail uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the site is located within the Brookshire/I-485 Mixed-Use Activity Center, as per the Centers Corridors and Wedges Growth Framework. The site is adjacent to a church, single family neighborhood and a mixed-use center under construction, which will include office, retail and multi-family uses. The proposed use is compatible with the existing developments in the area, and the mixed-use development under construction directly to the west and south. The proposed use is consistent with the recommended office and retail for the site per the Brookshire/I-485 Area Plan.

Motion was made by Councilmember Harlow, seconded by Councilmember Mitchell, and carried unanimously to approve Petition No. 2018-138 by James Poutier and adopt the following Statement of Consistency: This petition is found to be consistent with the Brookshire/I-485 Area Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends multi-family, office, and/or retail uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the site is located within the Brookshire/I-485 Mixed-Use Activity Center, as per the Centers Corridors and Wedges Growth Framework. The site is adjacent to a church, single family neighborhood and a mixed-use center under construction, which will include office, retail and multi-family uses. The proposed use is compatible with the existing developments in the area, and the mixed-use development under construction directly to the west and south. The proposed use is consistent with the recommended office and retail for the site per the Brookshire/I-485 Area Plan.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 347-348.

* * * * *

ITEM NO. 12: ORDINANCE NO. 9625-Z, PETITION NO. 2018-142 BY PROFFITT DIXON PARTNERS AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 20.50 ACES LOCATED ON THE WEST SIDE OF PROVIDENCE ROAD, NORTH OF LYNBRIDGE ROAD, SOUTH OF OLD PROVIDENCE ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO R-8MF(CD) (MULTIFAMILY RESIDENTIAL, CONDITIONAL) AND INST(CD) (INSTITUTIONAL CONDITIONAL).

David Pettine, Planning said the Zoning Committee voted 7-0 to recommend approval. The Consistency Statement is essentially what is within the staff recommendation; the proposed institutional use is inconsistent with the South District Plan. The residential component is consistent with the land use recommendation and consistent with the GDP up to eight and the rationale of that recommendation is the mix of institutional uses, moderate density housing creating diversity of housing in the area. The area plan typically doesn't recommend institutional uses and the active adult community will provide housing options. The site is located on a major thoroughfare with other non-single family uses along the corridor and has access to transit. The proposed uses are residential and institutional surrounded by townhomes, thus limiting visual impact on adjacent single family and the proposal limits the height of townhomes to 40-feet and limits the height of institutional building to 46-feet. It will revise the South District Plan from three dwelling units per acre to up to eight units per acre for a portion of the site as well as institutional uses for a portion of the site.

Just to highlight a few changes that were made from the public hearing as a result of some continued discussions and work between the petitioner and the community; they did reduce the townhome units down to 41. They also adjusted the area where the building envelop would occur on the site plan which would eliminate the townhomes in this portion of the property where they were once shown, so that helped reduce the overall density of the project. This area is further restricted to 55 and older as well and this area is just market rate townhomes, no stacked flats. They also did commit to doing another signal warrant analysis which would be a study to determine if the traffic signal was something that was needed in this area within two years following the final CO, the thought behind that was for them to capture more traffic in the area as it continues to develop and if the signal would then be warranted they would put one in or provide a high intensity traffic crossing for the bus access across the road so either way we will get that ability for folks to safely cross to go over to the transit station. Those are the major change and those were considered this evening by the Zoning Committee who recommended approval 7 to 0 as well.

Motion was made by Councilmember Driggs, seconded by Councilmember Bokhari, to approve Petition No. 2018-142 by Proffitt Dixon Partners and adopt the following Statement of Consistency: The Zoning Committee voted 7-0 to recommend approval. The Consistency Statement is essentially what is within the staff recommendation, the proposed institutional use is inconsistent with the South District Plan, the residential component is consistent with the land use recommendation and consistent with the GDP up to eight and the rationale of that recommendation is the mix of institutional uses, moderate density housing creating diversity of housing in the area. The area plan typically doesn't recommend institutional uses and the active adult community will provide housing options. The site is located on a major thoroughfare with other non-single family uses along the corridor and has access to transit. The proposed uses are residential and institutional surrounded by townhomes, thus limiting visual impact on adjacent single family and the proposal limits the height of townhomes to 40-feet and limits the height of institutional building to 46-feet. It will revise the South District Plan from three dwelling units per acre to up to eight units per acre for a portion of the site as well as institutional uses for a portion of the site.

Councilmember Eiselt said I understand and appreciate that the developer did make some changes based on what the community was asking for, but my understanding was that the reduction in buildings would reduce the amount of traffic that would come out of

there than it would be by right, but that is not what that says here. It says entitlement is 670 trips per day, and the proposed zoning is 1,000 trips per day.

Mr. Pettine said that wasn't something that staff conveyed. We know that the reduction to 1,000 versus 1,220 from the hearing, but I don't think there was a discussion that it would bring it in line with by right traffic that I was aware of.

Councilmember Driggs said I just wanted to say for one that I appreciate over many months the effort that has gone into reaching accommodation between representatives of the neighborhood, Dennis Grills and Doral George and Proffitt Dixon. This has been a difficult decision, because the density issue on Providence Road remains and will need to be addressed, and I hope we will continue to work to address that, but I think in the context of where we are today what has been proposed here represents a responsible accommodation that has been accepted by area residents and therefore, I intend to approve it and recommend it to the rest of you.

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

YEAS: Councilmembers Ajmera, Bokhari, Driggs, Egleston, Harlow, Mayfield, Mitchell, Newton, Phipps and Winston

NAYS: Councilmember Eiselt

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 349-350.

* * * * *

ITEM NO. 13: ORDINANCE NO. 9626-Z, PETITION NO. 2018-163 BY SUNCAP PROPERTY GROUP, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.75 ACRES LOCATED ON THE EASTSIDE OF WAVERLY AVENUE, WEST SIDE OF KENILWORTH AVENUE, SOUTH OF ROMANY ROAD FROM R-8 (SINGLE FAMILY RESIDENTIAL) AND R-22MF (MULTIFAMILY RESIDENTIAL) TO R-8(CD) SINGLE FAMILY RESIDENTIAL, CONDITIONAL) AND MUDD(CD) (MIXED USE DEVELOPMENT).

The Zoning Committee voted 4-3 (motion by Samuel, seconded by Watkins) to recommend approval of this petition and adopt the following Statement of Consistency: The petition is found to provide residential land uses as recommended in the Dilworth Land Use and Streetscape Plan, but it is inconsistent with the density and height recommendations for development area 'A', based on the information from the post hearing staff analysis and the public hearing, and because the plan recommends residential uses at 22 dwelling units per acre (DUA) for the portion of the site along Kenilworth Avenue and residential uses at 8 DUA for the portion along Waverly Avenue. The plan recommends a 40-foot height limit for structures along Kenilworth Avenue. However, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the proposed height is inconsistent, but the height is along an existing major thoroughfare and in context with continued re-development along the corridor where both 3- and 4-story buildings are present. The proposed building height is an average of 58 feet as measured by the ordinance. The maximum height is 65 feet adjacent to existing 3-story townhomes, and 49 feet adjacent to existing the single family lot. The ordinance allows up to 100 feet in building height in the MF-22 Zoning District, so while the proposed height exceeds the area plan recommendation, it falls below the allowed height by-right. The R-8 portion on Waverly Avenue seeks to allow single family detached dwellings, and the minimum setback and yards and building height are compatible with the surrounding pattern of development. The petition will provide improvements that will significantly enhance the pedestrian environment on the subject site through the development of an 8-foot sidewalk and 8-foot planting strip along the property frontage on both Kenilworth Avenue and Waverly Avenue. The approval of this petition will revise the adopted future

land use map as specified by the Dilworth Land Use and Streetscape Plan, from residential at up to 22 DUA to residential over 22 DUA for development area A of the site.

The following changes were made after the Zoning Committee's recommendation:

1. The notched porches will be no less than 10' wide by 12' deep;
2. The top floor corner porches may be covered by a cantilevered dark metal canopy with minimal thickness and no visible column support, to be located at a height below the parapet, if a cover is provided.
3. Install and maintain an 8' privacy fence offset 2.5' from the adjacent property line with the Woodhouse property.
4. Commitment to use best practices and consult with a tree specialist in an effort to save an existing 15" cypress tree that borders the property line of the rezoning property and Woodhouse property.
5. Contribution of \$15,000 to the DCA Tree Canopy Committee for the purpose of planting trees in the Dilworth area.
6. Agreement to provide a sight triangle exhibit at the time of permitting in order to ensure that the sight triangle on Kenilworth Avenue from the Woodhouse property is not blocked.
7. New sidewalk will transition to meet existing sidewalk located on Woodhouse property.
8. Removed note indicating that alley will be abandoned and rezoned to R-8MF (thought alley will still be rezoned to R-8MF).

Motion was made by Councilmember Egleston, seconded by Councilmember Newton, and carried unanimously not to send this rezoning petition back to the Zoning Committee for review.

Motion was made by Councilmember Egleston, seconded by Councilmember Mayfield, to approve Petition No. 2018-163 by SunCap Property Group, LLC, as modified and adopt the following Statement of Consistency: The petition is found to provide residential land uses as recommended in the Dilworth Land Use and Streetscape Plan, but it is inconsistent with the density and height recommendations for development area 'A', based on the information from the final staff analysis and the public hearing, and because the plan recommends residential uses at 22 dwelling units per acre (DUA) for the portion of the site along Kenilworth Avenue and residential uses at 8 DUA for the portion along Waverly Avenue. The plan recommends a 40-foot height limit for structures along Kenilworth Avenue. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the proposed height is inconsistent, but the height is along an existing major thoroughfare and in context with continued re-development along the corridor where both 3- and 4-story buildings are present. The proposed building height is an average of 58 feet as measured by the ordinance. The maximum height is 65 feet adjacent to existing 3-story townhomes, and 49 feet adjacent to existing the single family lot. The ordinance allows up to 100 feet in building height in the MF-22 Zoning District, so while the proposed height exceeds the area plan recommendation, it falls below the allowed height by-right. The R-8 portion on Waverly Avenue seeks to allow single family detached dwellings, and the minimum setback and yards and building height are compatible with the surrounding pattern of development. The petition will provide improvements that will significantly enhance the pedestrian environment on the subject site through the development of an 8-foot sidewalk and 8-foot planting strip along the property frontage on both Kenilworth Avenue and Waverly Avenue. The approval of this petition will revise the adopted future land use map as specified by the Dilworth Land Use and Streetscape Plan, from residential at up to 22 DUA to residential over 22 DUA for development area A of the site.

Councilmember Egleston said kudos to the Dilworth Community Association and the petitioner; it took a long time, but they ultimately got mostly on the same page and everybody is moving forward together. There is hope when you keep getting back around the table. Thank you for doing that.

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

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 351-352.

* * * * *

ITEM NO. 14: ORDINANCE NO. 9627-Z, PETITION NO. 2019-008 BY COHAB, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE, TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.52 ACRES LOCATED ON THE WEST SIDE OF THE INTERSECTION OF SEIGLE AVENUE AND EAST 15TH STREET FROM R-5 (SINGLE FAMILY RESIDENTIAL) TO MUDD(CD) (MIXED USE DEVELOPMENT, CONDITIONAL).

The Zoning Committee voted 7-0 (motion by Wiggins, seconded by Gussman) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Belmont Area Plan based on the information from the post hearing staff analysis and the public hearing, and because the plan recommends residential land uses up to 5 dwelling units per acre and institutional land uses. However, we find this petition to be reasonable and in the public interest, based on the information from the post hearing staff analysis and the public hearing, and because the proposed project is consistent with on-going redevelopment in the area. The project is providing underground parking to help limit impacts to on-street parking needs. The proposed use provides development consistent with the intent and distance requirements of the TOD ordinance. The approval of this petition will revise the adopted future land use as specified by the Belmont Area Plan, from residential uses at 5 dwelling units per acre and institutional uses to residential uses greater than 22 dwelling units per acre for the site.

The following changes were made after the Zoning Committee recommendations:

1. Revise conditional notes to commit to leasing/management space onsite.
2. Revise conditional note to commit to dumpster location being located in the enclosed parking area of the building.
3. Petition shall support the restriction of on-street parking on 15th Street to only one side of the road. In accordance with this goal, until such time as the parking has been restricted to one side of this block of 15th Street, petitioner shall support restricting or prohibiting parking on its 15th Street site frontage.

Motion was made by Councilmember Egleston, seconded by Councilmember Driggs, and carried unanimously to not send this rezoning petition back to the Zoning Committee for review.

Motion was made by Councilmember Egleston, seconded by Councilmember Harlow, to approve Petition No. 2019-008 by CoHab, LLC, as modified and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Belmont Area Plan based on the information from the final staff analysis and the public hearing, and because the plan recommends residential land uses up to 5 dwelling units per acre and institutional land uses. However, we find this petition to be reasonable and in the public interest, based on the information from the final staff analysis and the public hearing, and because the proposed project is consistent with on-going redevelopment in the area. The project is providing underground parking to help limit impacts to on-street parking needs. The proposed use provides development consistent with the intent and distance requirements of the TOD ordinance. The approval of this petition

will revise the adopted future land use as specified by the Belmont Area Plan, from residential uses at 5 dwelling units per acre and institutional uses to residential uses greater than 22 dwelling units per acre for the site.

Councilmember Egleston said this is a tough one, and I know there are folks in the neighborhood who are for it and against it, and we've got those folks here tonight. I think there were concerns, mine and my colleagues; this is a high density and we know that was really the sticking point for the folks in the neighborhood who were against this, but I think that there are several of us who I have talked to and we've looked at it and really feel like in a neighborhood where so many of the original housing stock. So much of the original built environment there is being torn down in favor of half-million dollar homes but for that to be the outcome for this site, and I think many of us felt like that would be the likely outcome in a different read development scenario. I think that only further accelerates the gentrification and the displacement in this neighborhood. For a developer to come to us and offer to put in three affordable units, not asking the City for any money to do so is unusual A, but B I think that it allows there to continue to be a diversity of housing types and a diversity of housing price points both for sale and for rent in that community, and frankly, the investment we are making for the Cross Charlotte Trail, the investments we are making with light rail, we've got to put density near those type of infrastructure investments if we want them to be successful. We've got to have density in our first ring of our neighborhoods around the City and while I think most of us on Council might have liked this project better if it were 42 units instead of 52 units. A majority of us believe this is a better outcome than having three \$700,000 homes in its place. I appreciate the concerns and all the work that the neighborhood did in trying to make this more palatable for the ones who were against it with the petitioner, and that is ultimately how I came to my decision.

Councilmember Winston said I will echo a little bit about what Mr. Egleston said. I plan to vote in favor of this; it is not perfect, but this land use decision will allow a development to happen in a way that brings us in more in line with where we want to go as a City, a more-dense city, a more walkable city, a city that does preserve affordable housing. These units will accept vouchers, and that is a good thing. If this land use decision is declined today, this place is going to continue to develop, but it is going to develop in a way that continues to gentrify and continues to make living in neighborhoods that were diverse less affordable and decrease that diversity. It is going to develop regardless. There is a trailer sitting in the front yard of one of these properties right now ready to pack folks up, and I can tell you that is going to happen regardless of how this vote goes tonight. This is a good decision I think to get us closer to where we want to be, all be it not perfect.

Councilmember Phipps said I wish I could be as enthusiastic about this particular petition as my colleagues are, but I'm not convinced with the arguments that have been portrayed. I just cannot get past the density amount. I think staff makes a good point when they talk about its consistency and compatibility with the community. I think the community has stated their preference as to not choose this particular site for this much density. I'm for increased density, but I don't think that being for increased density means to accept density no matter what it is. You are talking about five units an acre versus 56. Now, I'm willing to bend a little bit on the density, but that is beyond the pale in my opinion, and to sit here and try to equate or put up as a proxy that we are looking for half-million-dollar houses being on a property so as to compensate for not denying this petition. I think it is a false equivalency. I'm going to be voting against this and I regret that I'm the only one that will be voting against it but I just can't in good conscious support it in its current form.

Mayor Lyles said I would like for us to be careful in ascribing values to what would be built that we don't know or won't know. Yes, it is five units per acre, but I think there could always be an opportunity for that, but that is not necessarily guaranteed and when you look at the neighborhood and where they are going to preserve. Yes, there is likely to be people with higher incomes wanting to use our light rail line in their path and all of that but when you look at 56 units per acre I just believe there is more room to work on this. It is unfortunate that we haven't had that kind of ability to get beyond the 56 units per acre. Even when you look at the aesthetics of the building, and I know that there have been some changes in that regard. I think it is of a concern in our neighborhood. and it is unfortunate that we've gotten to, it is either this or that, and as Mr. Phipps said I'm not so

sure that the values are equal and I'm not sure that the density shouldn't be adjusted more.

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

YEAS: Councilmembers Ajmera, Bokhari, Driggs, Egleston, Eiselt, Harlow, Mitchell, Newton and Winston.

NAYS: Councilmembers Mayfield and Phipps.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 353-354.

* * * * *

ITEM NO. 16: ORDINANCE NO. 9628-Z, PETITION NO. 2019-022 BY METROLINA BUILDERS, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 17.63 ACRES LOCATED AT THE SOUTHWEST INTERSECTION OF MOREHEAD ROAD AND GENE DOWNS ROAD, EAST OF SALOME CHURCH ROAD FROM 1-2(CD) (GENERAL INDUSTRIAL, CONDITIONAL) TO I-2(CD) SPA (GENERAL INDUSTRIAL, CONDITIONAL, SITE PLAN AMENDMENT).

The Zoning Committee voted 7-0 (motion by Wiggins, seconded by Nwasike) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Northeast Area Plan recommendation for the main portion of the parcel, and inconsistent with the Northeast Area Plan recommendation on the southern and western edges of the parcel based on the information from the post hearing staff analysis and the public hearing, and because the plan recommends industrial uses for the main portion of the parcel. The plan recommends residential uses on the southern and western edges of the parcel. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the Northeast Area Plan recommends this parcel for industrial development, reflecting the long-time presence of the existing business. The petitioner proposes to restrict the use to a warehouse and exterior parking for tractor-trailers as an expansion of existing legal use of the property. Existing trees in the tree-save areas are to be undisturbed, ensuring a continuing adequate buffer between the development and existing single-family development. The approval of this petition will revise the adopted future land use on the southern and western edges of the site along Gene Downs Road as specified by the Northeast Area Plan, from residential to industrial use for the site.

Motion was made by Councilmember Mitchell, seconded by Councilmember Newton, and carried unanimously to approve Petition No. 2019-022 by Metrolina Builders, Inc. and adopt the following Statement of Consistency: This petition is found to be consistent with the Northeast Area Plan recommendation for the main portion of the parcel, and inconsistent with the Northeast Area Plan recommendation on the southern and western edges of the parcel. Therefore, we find this petition to be reasonable and in the public interest based on the information from the final staff analysis and the public hearing, and because the plan recommends industrial uses for the main portion of the parcel. The plan recommends residential uses on the southern Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the Northeast Area Plan recommends this parcel for industrial development, reflecting the long-time presence of the existing business. The petitioner proposes to restrict the use to a warehouse and exterior parking for tractor-trailers as an expansion of existing legal use of the property. Existing trees in the tree-save areas are to be undisturbed, ensuring a continuing adequate buffer between the development and existing single-family development. The approval of this petition will revise the adopted future land use on the southern and western edges of the site along Gene Downs Road as specified by the Northeast Area Plan, from residential to industrial use for the site.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 355-356.

* * * * *

ITEM NO. 20: PETITION NO. 2019-038 BY DAVE HEGNAUER FOR A TEXT AMENDMENT TO ADD A NEW DEFINITION FOR “COMMERCIAL KITCHEN”; ADD “COMMERCIAL KITCHEN” AS A USE BY-RIGHT IN THE U-I (URBAN INDUSTRIAL), I-1 (LIGHT INDUSTRIAL, I-2 (GENERAL INDUSTRIAL, CC (COMMERCIAL CENTER, B-2 (GENERAL BUSINESS) AND B-D (DISTRIBUTIVE BUSINESS ZONING DISTRICTS; AND ALLOW OUTDOOR STORAGE (PARKING OF FOOD TRUCKS AND TRAILERS ASSOCIATED WITH A COMMERCIAL KITCHEN) AS AN ACCESSORY USE TO A COMMERCIAL KITCHEN BY RIGHT IN THE U-I (URBAN INDUSTRIAL, I-1 (LIGHT INDUSTRIAL), AND I-2 (GENERAL INDUSTRIAL) ZONING DISTRICTS, AND WITH PRESCRIBED CONDITIONS IN THE CC (COMMERCIAL CENTER, B-2 (GENERAL BUSINESS) AND B-D (DISTRIBUTIVE BUSINESS) ZONING DISTRICTS.

The Zoning Committee voted 6-1 (motion by McClung, seconded by Wiggins) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with Centers, Corridors and Wedges Growth Framework recommendation for broadening the economy to include emerging industries, and based on the information from the post hearing staff analysis and the public hearing and because the growth and expansion of mobile food truck and catering businesses has resulted in the growing need for commissary or commercial kitchens to serve as locations for commercial food service providers to prepare, package, and store food at proper food temperatures, in a sanitary environment, and to store products and equipment. This petition supports commercial kitchens by clarifying they are allowed by right in the B-2, B-D, CC, U-I, I-1 and I-2 zoning districts. Commercial kitchens are consistent with other typical retail-based businesses allowed in the proposed zoning districts. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the petition allows accessory outdoor storage (parking of mobile food trucks/trailers) for a commercial kitchen, by-right, in the U-I, I-1 and I-2 zoning districts, consistent with other heavier commercial and industrial uses allowing outdoor storage. The petition allows accessory outdoor storage (parking of mobile food trucks/trailers) for a commercial kitchen in the CC, B-2, and B-D zoning districts, with prescribed conditions.

Mayor Lyles said the summary of the petition is basically around how do we define commercial kitchens and their use and where they will be allowed as well as outdoor storage of what we see as a changing industry on restaurants and trucks. Staff recommends approval of the Text Amendment upon resolution of outstanding issues. I believe staff now recommends approval.

David Pettine, Planning said our recommendation stands as written. There is still one outstanding issue. I think what they are proposing, and staff had the idea of what we would like are little bit different, but we are comfortable with where it is. We just have that one issue; it probably will be an agree to disagree but we are okay with where we are with it.

Mayor Lyles said what is the issue with the disagreement?

Mr. Pettine said the outdoor storage of the food trucks in the CC zoning district is the only outstanding issue that we have.

Mayor Lyles said outdoor storage of trucks in commercial centers has not reached the conclusion that can move forward with the staff. Is that correct?

Mr. Pettine said it can move forward for a decision if it gets decided, and that is something we end up with I think we will just have to work with the folks that have this petition in place and get through that item, but right now it is something that certainly can be decided on. We don't see it as a large sticking point; it is just something that we haven't been able to resolve fully.

Mayor Lyles said I think that is very confusing, so we are not quite sure.

Laura Harmon, Assistant Planning Director said if I could clarify; there is one issue that we could not agree on. We still would prefer to have that removed. The petitioner has decided they won't do that, so I think we are ready for you all to ahead and vote.

Mayor Lyles said but you do not recommend it, because that issue has not been included and resolved.

Ms. Harmon said we support everything in this Text Amendment with that one exception, so we go ahead and recommend approval and have you guys move on.

Mayor Lyles said parking of anything is an issue in the City, much less mobile food trucks and trailers that carry them. I'm still trying to figure out whether we ought to defer this until there is some agreement. The Zoning Committee also had someone that did not approve of it. I'm just saying we need to be very clear on the impact.

Councilmember Egleston said I think the petitioner seems to be at the other lectern, would it be appropriate to have them explain their rationale?

Mayor Lyles said what I'm first trying to get is an understanding of what that means by the staff.

Ms. Harmon said I think we are ready to say we would support this and to move forward. We do also have a change after Zoning Committee of language that was requested today by Councilmembers that we would like to read into the record as well that the petition has agreed to make. That is to say that food truck trailers shall be operational, so anything that is parked out there that is operational, parked in any of the districts that they are requesting this outdoor storage.

Motion was made by Councilmember Eiselt, seconded by Councilmember Ajmera, to defer this agenda item in order to obtain more information.

Councilmember Mayfield said the last comment that was made by staff was a request that I asked for earlier today which the petitioner agreed to, and that was for clarifying language to ensure that mobile trucks that may be parked in any facility are operational at the time to ensure that whether it is a year or five-years from now we don't have the incident that happened along Wilkinson Boulevard where we have a junk yard of unused vehicles or un-operable vehicles. So, that is that additional language so that my colleagues if you weren't at the noon meeting, so we are all on the same page, and I'm happy to say that the petitioner willingly agreed to add that language in perpetuity so that whatever happens down the road you know the actual mobile trucks will be operational and have valid licenses.

Mayor Lyles said my understanding is that Ms. Mayfield did ask the staff about that. Although the petitioner would agree to it, this is a Text Amendment so we own it after this. Is there language that reflects the results that Ms. Mayfield asked about?

Ms. Harmon said yes there is; I read it a minute ago.

Mayor Lyles said I think the Council is uncomfortable not having the working and a piece of paper to do this.

Councilmember Winston said I was just looking at the CC zoning; this is commercial center, 70,000 square feet of retail space. As the Mayor said, there is always an issue of parking anywhere, but if food trucks can't park overnight in a commercial center I just think they won't be able to park anywhere. I don't think this is a big deal. Parking a food truck overnight for instance in a parking lot of a mall or something like that. This would be different if this were on a residential street or something like that; that is not the case. I don't personally see the necessity to defer.

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

YEAS: Councilmembers Ajmera, Driggs, Egleston, Eiselt, Mitchell and Newton.

NAYS: Councilmembers Bokhari, Harlow, Mayfield, Phipps, and Winston.

ITEM NO. 21: ORDINANCE NO. 9629-Z, PETITION NO. 2019-039 BY DEPENDABLE DEVELOPMENT, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 26.50 ACRES LOCATED ON THE WEST SIDE OF SALOME CHURCH ROAD, NEAR MOREHEAD ROAD, SOUTHEAST OF I-85 FROM CC SPA (COMMERCIAL CENTER, SITE PLAN AMENDMENT) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL).

The Zoning Committee voted 7-0 (motion by Watkins, seconded by Ham) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Northeast Area Plan based on the information from the post hearing staff analysis and the public hearing, and because the plan recommends residential use up to 17 dwelling units per acre. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the adopted future land use for this site was amended by rezoning petition 2014-019 from residential at 8 dwelling units per acre for the site to residential use up to 17 dwelling units per acre. The existing approved site plan allows for 380 multi-family units. This petition is significantly less dense than the previous approved rezoning petition with only 250 single family detached and attached residential units, at 9.43 dwelling units per acre. The petition increases pedestrian and motor vehicle connectivity with the extension of Porter Creek Road, connection to Salome Church Road, and a commitment to internal public streets and corresponding streetscape.

Motion was made by Councilmember Mitchell, seconded by Councilmember Phipps, and carried unanimously to approve Petition No. 2019-039 by Dependable Development, Inc. and adopt the following Statement of Consistency: This petition is found to be consistent with the Northeast Area Plan based on the information from the final staff analysis and the public hearing, and because the plan recommends residential use up to 17 dwelling units per acre. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the adopted future land use for this site was amended by rezoning petition 2014-019 from residential at 8 dwelling units per acre for the site to residential use up to 17 dwelling units per acre. The existing approved site plan allows for 380 multi-family units. This petition is significantly less dense than the previous approved rezoning petition with only 250 single family detached and attached residential units, at 9.43 dwelling units per acre. The petition increases pedestrian and motor vehicle connectivity with the extension of Porter Creek Road, connection to Salome Church Road, and a commitment to internal public streets and corresponding streetscape.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 357-358.

ITEM NO. 22: ORDINANCE NO. 9630-Z, PETITION NO. 2019-050 BY LAND GROWTH, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.45 ACRES LOCATED AT THE INTERSECTION OF EAST INDEPENDENCE BOULEVARD AND CROWNPOINT EXECUTIVE DRIVE FROM B-D (DISTRIBUTIVE BUSINESS) TO B-2 (GENERAL BUSINESS).

The Zoning Committee voted 7-0 (motion by McClung, second by Nwasike) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Independence Boulevard Area Plan, based on the information from the post hearing staff analysis and the public hearing and because the plan recommends transit oriented development – employment. However, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the area plan recommends TOD development based on the former proposed alignment for the Lynx Silver Line. The transit alignment was revised and is now proposed for the Monroe Road corridor for this section of the transit line. The area plan recommends retail, office and industrial/ warehouse/ distribution uses along the Independence Boulevard corridor outside of TOD areas. The site is located along a major highway and commercial corridor. The proposed zoning would allow uses consistent with the existing uses and zoning in this area along Independence Boulevard. The approval of this petition will revise the adopted future land use as specified by the Independence Blvd Area Plan, from transit oriented development – employment use to retail use for the site.

Motion was made by Councilmember Bokhari, seconded by Councilmember Harlow, and carried unanimously to approve Petition No. 2019-050 by Land Growth, LLC and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Independence Boulevard Area Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends transit oriented development – employment. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the area plan recommends TOD development based on the former proposed alignment for the Lynx Silver Line. The transit alignment was revised and is now proposed for the Monroe Road corridor for this section of the transit line. The area plan recommends retail, office and industrial/ warehouse/ distribution uses along the Independence Boulevard corridor outside of TOD areas. The site is located along a major highway and commercial corridor. The proposed zoning would allow uses consistent with the existing uses and zoning in this area along

Independence Boulevard. The approval of this petition will revise the adopted future land use as specified by the Independence Blvd Area Plan, from transit oriented development – employment use to retail use for the site.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 359-360.

ITEM NO. 23: ORDINANCE NO. 9631-Z, PETITION NO. 2019-053 BY HOOPER COMMUNITIES FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.56 ACRES OFF BRYANT PARK DRIVE, WEST OF SUTTLE AVENUE, NORTH OF WILKINSON BOULEVARD AND SOUTH OF MOREHEAD STREET FROM O-1 (OFFICE DISTRICT) AND I-2 (GENERAL INDUSTRIAL) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).

The Zoning Committee voted 7-0 (motion by Gussman, seconded by Nwaskie) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Bryant Park Land Use and Pedscape Plan (2007) for a portion of the site and inconsistent with the plan for the remainder of the site, based on the information from the post hearing staff analysis and the public hearing and because the plan recommends residential, office and/or retail uses for a portion of the site, and office use on the remainder of the site by petition 2013-045. However, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the proposed residential development, while not mixed use or as intense as envisioned by the Bryant Park Land Use and Pedscape Plan, is consistent with the overall vision laid out in the plan for a mixed-use neighborhood. The proposed site plan includes the street connections

proposed in the Plan, which will enhance the connectivity and walkability of the emerging mixed-use neighborhood. The parcels surrounding this site are being redeveloped from former industrial and vacant sites into a mixed-use area with office, residential and retail uses. The approval of this petition will revise the adopted future land use as specified by the Bryant Park Land Use and Pedscape Plan and amended by rezoning petition 2013-045, for the portion of the site designated as office use, to residential, office, and/or retail uses for the site.

Motion was made by Councilmember Mayfield, seconded by Councilmember Mitchell, and carried unanimously to approve Petition No. 2019-053 by Hooper Communities and adopt the following Statement of Consistency: This petition is found to be consistent with the Bryant Park Land Use and Pedscape Plan (2007) for a portion of the site and inconsistent with the plan for the remainder of the site, based on the information from the final staff analysis and the public hearing and because the plan recommends residential, office and/or retail uses for a portion of the site, and office use on the remainder of the site by petition 2013-045. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the proposed residential development, while not mixed use or as intense as envisioned by the Bryant Park Land Use and Pedscape Plan, is consistent with the overall vision laid out in the plan for a mixed-use neighborhood. The proposed site plan includes the street connections proposed in the Plan, which will enhance the connectivity and walkability of the emerging mixed-use neighborhood. The parcels surrounding this site are being redeveloped from former industrial and vacant sites into a mixed-use area with office, residential and retail uses. The approval of this petition will revise the adopted future land use as specified by the Bryant Park Land Use and Pedscape Plan and amended by rezoning petition 2013-045, for the portion of the site designated as office use, to residential, office, and/or retail uses for the site.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 361-362.

* * * * *

ITEM NO. 24: ORDINANCE NO. 9632-Z, PETITION NO. 2019-054 BY CEBRON W. HESTER AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.93 ACRES LOCATED ON THE NORTH SIDE OF LAKEBROOK ROAD, WEST OF SAM WILSON ROAD, SOUTH OF I-85 FROM I-1(CD) LWPA (LIGHT INDUSTRIAL, CONDITIONAL, LAKE WYLIE PROTECTED AREA) TO I-1 LWPA (LIGHT INDUSTRIAL, LAKE WYLIE PROTECTED AREA).

The Zoning Committee voted 7-0 (motion by Wiggins, seconded by McClung) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Dixie Berryhill Strategic Plan, based on the information from the post hearing staff analysis and the public hearing and because the plan recommends office/industrial-warehouse-distribution land uses for this site. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the site has been used for industrial uses and is already zoned for industrial uses. The site is adjacent to other industrially zoned properties. The site is adjacent to Interstate 85 and the interchange with Sam Wilson Road. The site is also located in a Growth Corridor as per the Centers, Corridors and Wedges Growth Framework.

Motion was made by Councilmember Mitchell, seconded by Councilmember Harlow, and carried unanimously to approve Petition No. 2019-054 and adopt the following Statement of Consistency: This petition is found to be consistent with the Dixie Berryhill Strategic Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends office/industrial-warehouse-distribution land uses for this site. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the site has been used for industrial uses and is already zoned for industrial uses. The site is adjacent to other industrially zoned properties. The site is adjacent to Interstate 85 and the interchange with Sam Wilson Road. The site is also located in a Growth Corridor as per the Centers, Corridors and Wedges Growth Framework.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 363-364.

* * * * *

ITEM NO. 25: ORDINANCE NO. 9633-Z, PETITION NO. 2019-055 BY MOVEMENT RESOURCES AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 4.19 ACRES LOCATED ON THE NORTH SIDE OF CENTRAL AVENUE, EAST OF NORTH SHARON AMITY ROAD FROM B-1SCD (BUSINESS SHOPPING CENTER) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).

The Zoning Committee voted 7-0 (motion by McClung, seconded by Watkins) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Eastland Area Plan, based on the information from the post hearing staff analysis and the public hearing and because the plan recommends residential, civic, office, and retail uses within a Town Center environment. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the proposal is to rezone a portion of a site adjacent to the former Eastland Mall property to an urban mixed-use zoning district, but limit the permitted land uses to schools, religious institutions, and eating, drinking, and entertainment establishments. The requested urban mixed-use zoning will allow the reuse of an existing building and accommodate site constraints. The proposed land uses are consistent with the area plan's recommendation for a mix of uses, including entertainment and civic uses, in a compact, pedestrian-oriented town center. The project will provide internal sidewalks and pedestrian connections to the site to enhance pedestrian safety.

The following changes were made after the Zoning Committee recommendations:

1. The petitioner has modified the site plan notes to clarify the primary use on the site will be an elementary and secondary school comprised of kindergarten, an elementary school and a middle school.
2. Revised notes to clarify the religious institution is a non- principal and/or accessory use to the school and should the school cease operations for more than consecutive months, the religious institution would be discontinued.
3. The petitioner has modified the site plan notes to clarify EDEE is limited to 2,000 SF.

Motion was made by Councilmember Newton, seconded by Councilmember Mayfield, to deny Petition No. 2019-055 by Movement Resources.

Mayor Lyles said I want to say something about this; I see all of your signs and we have gotten a number of e-mails about this that are what I would call concerns about issues, but I just want to remind you this is a zoning and a land use decision. I have asked our Attorney to describe to us what factors we can consider in this, and I think this is one of those important things that I wish we could talk as openly with each of you individually, but we are going to take this opportunity to talk about City's responsibility and development, and I've asked the Attorney to address this issue so that everyone as we

continue our discussion, you are aware of what we have to consider as members of the Board.

Terrie Hagler-Gray, Senior Assistant City Attorney said I would just like to caution the Council that rezoning decisions should be based on land use considerations only such as traffic concerns and sensitive of uses, parking, setbacks, frontages and that kind of thing and not the ownership of the property. In other words, if the Council makes a decision based on anything outside of the use of land, it could be challenged. My advice would be that you do not consider who owns the property, that you just your consideration to the land use impacts.

Councilmember Newton said I would like to get things started, and I appreciate that comment. One more housekeeping matter, I would like to interject as well so, thank you to everyone who is here tonight. Please understand that this has to be a decision that we make based upon land use considerations. We have gotten a lot of e-mails about this and some of those e-mails would infer that somehow this is tied up with the Eastland redevelopment project and plans. I had a good conversation with Tracy Dodson, our Economic Development Director earlier today, and she has assured me that is not the case. If this passes or if this fails to pass either way we will be still be moving forward with Eastland redevelopment in the same way that we were going to anyhow. I just wanted to mention that. I have given this a lot of thought as I'm sure my colleagues have. I have questions pertaining to this land use particularly at this site. I have visited a gentleman named Garrett McNeil, who is actually in the crowd. He gave me a tour of the Movement School over in West Charlotte, and I think many of us would agree that the school in West Charlotte is a good steward of the community. My question is, are we looking at the same land use here as the school in West Charlotte? What has come to my attention is we are looking at a much more extensive use inasmuch as religious institution is concerned. We've had extensive discussions about that; this is something that we've talked about whether it is going to be primary, secondary, you name it, and for me the question is how would that impact the current zoning, business 2 zoning, if it is necessary? Frankly because it isn't elsewhere business zoning exists and where our religious institutions can meet to hold a worship service on Sundays. Then again too, our plans for the site, Eastland redevelopment in and of itself and secondarily our transit plans.

I looked at the land use plan, and I became very familiar. This is my area, I became very familiar with the Eastland Land Area Plan and looked at the proposed uses, which were very similar to proposed uses for the Eastland redevelopment project that we've all approved here on Council. Much of that would designate this particular area as retail, as commercial and even some residential, single family, multi-family use. The idea to create the economic driver on the east side that is now lacking over the past 10-years. What we've seen at this particular site is we've seen all of our retail stores pack up and leave even at the time of this plan. When this plan was drawn up we had a Dillard's, we had Sears; we had the movie theatre. We had an ice-skating rink and many people remember the ice-skating rink very fondly. That is no longer the case and the reason why I bring this up and why I say this is very important is because there is even more emphasis today to have those items at this site, not institutional uses. I think when I look at this plan, and we had a good discussion about this earlier during our lunch meeting, and we talked about uses outside of commercial, retail, residential and whether or not they do fit the plan, and I think what we've seen is a shoehorning of sorts into this idea of civil use on site. The plan itself and in speaking with some of my colleagues I was asked to provide some information to everyone and so you all see the site plan map that is specifically for this area says retail, commercial and multifamily, single-family residential. It actually allows for institutional use within the Eastland area, which is 16 square miles, but not on the site. Inasmuch, as civil use is concerned that site is seen as a town center and the plan actually says that, town center, and when you turn to the area where it talks about the civil use for the town center it says a community serving public facility. My question here is, do we have consistency with the land use plan; is the proposed rezoning in front of us today a community serving public facility? As wonderful as a fantastic school in East Charlotte could be, at this particular site, the question remains is it a public facility

that is serving the immediate community in its primary purpose. I don't think that is the case here.

I also have questions, and to the extent of my concerns I have very major concerns pertaining to traffic cuing. We have asked this question over the past couple of months, and I haven't received a good answer here. What I've been told is that there are a number of entrance/exit points, the rear access would be limited to bus pick-up and drop-off. That is off of Sharon Amity Road; that particular access point would also be cut off by an additional building being built on site. So, we are left with three access points, two of which would be coming through the Eastland site itself, and we all hope, and I do believe there will be a day where we will have a very vibrant positive unique dynamic development on the Eastland site itself, but to the extent that maybe doesn't happen, not only are we talking about tying the hands of us on Council but also the hands of any perspective future land owner of the site. I do think that under this framework when we look at the potential of one entry/exit point we could have a mess on our hands. We are talking about something that would be a right in/right out. There is a median there, no one can turn left directly into the parking lot. That being the case what you would likely see is a U-turn slightly down the road right in front of the Transit Center, right in front of buses that will be coming and going, during peak hours. So, the question is will we see our own transit be delayed by the type of cuing that at this point we have nothing other than a way to speculate and conjecture upon, but we've been told is the entry place. For me, I know that we have been fighting for years in East Charlotte, one for that type of economic development, and there isn't a whole lot on our side of town and to lose it I think is very disappointing, but at the same time we have been fighting for infrastructure and transportation investment as well, and that is why something like the Gold Line Extension that would go down Central Avenue meeting Albemarle Road is something that I don't want to see undermined either. The idea of a traffic cue coming into that area in a way that could also cause some problems with the construction there and then thereafter the actual use of the Gold Line is something that I have a tremendous concern about.

For all of those reasons, let me be clear here; this is a decision I'm making solely and exclusively on the land use here. This particular site and whether or not a Charter School and in conjunction with the Charter School a religious institution would be appropriate, I don't think so, and that is why I feel compelled to vote no.

Councilmember Ajmera said I've struggled with this one a little bit. I think this comes down to a question of whether a school is the right use of this land or if it is retail. I don't live too far away from this site, and what I struggle with, especially on the east side, we do not have a lot of retail stores, whether it is coffee shops or whether it is shopping, we have to go outside of the District for a lot of the retail amenities that a lot of other Districts have. I think the question we've got to ask is, are we taking away from the retail that could potentially be there? I understand it doesn't exist today, but what happens once Eastland is redeveloped and there is a greater need for retail stores such as coffee stores or fashion, etc. that currently doesn't exist? I think there is a strong need for that, especially the residents that live on the east side deserve the retail amenities that many other Districts have. Considering that, I'm not against the school, but I just don't think this is the right use of the land considering there is a lack of retail access, so I will not be supporting this petition.

A substitute motion was made by Councilmember Winston, seconded by Councilmember Egleston, to defer this petition.

Councilmember Winston said I do believe my colleague from District 5 is trying to make a land use argument here, but the first that I'm hearing and able to consider this land use argument has basically been today. I don't remember this conversation coming up at the public hearing, and I don't know if the petitioner has had the opportunity to address this land use conversation. I believe if this is something that we are discussing from a land use perspective that the petitioner should be given a chance to have a conversation with us and with the community on those grounds to see if we do have a path forward. I think

that is only fair to us as people who have to vote on this but also to all involved to figure out what is best to develop the type of community that we want.

Councilmember Egleston said we haven't heard any of this until the last three days, so I think making a decision in haste is not in anybody's best interest.

Councilmember Harlow said I hope we don't defer.

Mr. Egleston said all of these issues are coming to us very late in the game, and there has been discussion. I think if there was to be a deferral it would need to be not a month. I think they said there was a timeline issue.

Councilmember Eiselt said I would like to hear the reason for deferral. I'm really bothered by the process. I'll be honest. The first I heard anything about this was yesterday, and it is the District Rep's responsibility to share that within the time of the hearing and the decision, and it really is raveling to have to make a decision like this at the last minute when we then get the developer of Eastland to say that this fits within the vision, and we've had 14 public meetings with 700 people, and now we are just hearing it. This isn't just about Eastland; this is about any zoning we have. It is really hard to make a decision right now because of what do we not know.

Councilmember Bokhari said I usually give a ton of deference to the District Rep. in almost all of these cases, but when you look at what we are hearing, we are hearing that a school is not the proper land use for this spot versus something else, when staff has told us it is consistent with the area plan. We are talking about U-turns and things about traffic concerns, when it clearly shows it is almost half of the permissible use of daily trips that they could do in another circumstance. So, I'm not sure what a deferral is going to give us time to figure out here other than the last several days, which have uprooted new angles and problems with this personally. I just rather vote on it unless the petitioner doesn't want us to.

Councilmember Mitchell said I think the comments around the dais have been made have been excellent. We've always got to make tough decisions on the third Monday of the month. We don't try to pick winners or losers but in reality, it occurs. I think the District Rep did an excellent job of representing his District and his concerns. The City Attorney told us clearly that this is a land use decision for Council. If you defer it to next Monday's meeting it is not going to change the District Rep's perspective of those who are going to be against it. I think we have the information in front of us; Mayor, you did a great job of telling us staff and the recommendation. I don't know what defer gets us, because if we start deferring on this, we are start deferring on other tough rezonings. We've been on vacation; let's put back our City Council hat on, and let's make tough decisions going forward.

Mr. Newton said in as much as the idea of the proposition is concerned that a developer from the outside is going to tell us what to do with the Eastland site, I think that is a misnomer. We on the Eastland site and, ultimately it is out decision and Economic Development's decision on what happens there, and we've had a plan for years. At the same time, I want to say this. I have spoken a number of times with the petitioner on this particular case. So, we talked about the possibility of a deferment here. The petitioner indicated to me that they wanted us to move forward on this and that they felt like given their timeline they wouldn't have an opportunity for deferment. So, this is something that has been communicated to me by the petitioner as well.

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

YEAS: Councilmember Winston

NAYS: Councilmembers Ajmera, Bokhari, Driggs, Egleston, Eiselt, Harlow, Mayfield, Mitchell, Newton, and Phipps

Mr. Harlow said we've made a lot of comments tonight and thank everyone for taking your time to come here, and I appreciate the folks that have engaged in this process through e-mail and phone calls and what not. First, Movement, thank you for what you do in this community. We've heard a lot of comments tonight about the Movement School on the west side. I happen to understand a lot of the community relationships that have gone into that institution there, the religious institution that meets there on Sundays.

I just want to be clear, and we had reference to the land use plan and the Town Center and the civic uses; there are a lot of civic uses going on in a lot of buildings with a variety of land use designations in this City, and this would just be another one of those. In fact, I would think we would be inviting of civic uses in our Town Centers. It is important also to note that this particular parcel we are talking about, the four acres here, are not a part of the same, while adjacent and while directly next door and yes has an impact and all of those things, are not a part of the actual 70-acres that we spent pretty much all of last year and prior Councils have spent prior years on when we talk about the actual Eastland Mall site.

Understanding that yes, adjacent sites have impact on one another, we have the development partners that we've had extensive community engagement with and on who support this petition. In fact, when we think about this current petitioner and the goals that we have around mobility and the goals we have around inclusivity and equity, this is a great petitioner who is going to do some good work in the community that needs that type of work. All communities need that type of work, but particularly in the east and west corridors where these works have sometimes been ignored. I'm going to support this petition. I hope that we choose to vote down the current motion on the floor to deny it and then vote to approve it. I'm glad that we are not deferring it. I think this is a good use; it will be a supplement to what is coming when we talk about retail and all of that. We've got acres and acres of future retail and commercial development coming. We have conversations in these meetings all the time about trying to figure out ways to not crowd our schools. This is an opportunity to at least put a small dent in that. I think we are having other conversations and an eleventh-hour conversation that frankly I think are somewhat baseless, and I think this is a great use, and I hope that we can approve this tonight.

Mr. Winston said I have a question for the Zoning Committee; I want to see if the Chair could speak to their recommendation for approval on this petition.

Sam Spencer, Chair of the Zoning Committee said the Zoning Committee voted 7-0 to recommend approval, because we found the petition to be consistent with the Eastland Area Plan and to be clear the Eastland Area Plan recommends residential, civic, office and retail uses within a town center environment. Additionally, there have been some concerns raised about transportation. I do want to note that the transportation component of this will actually raise the number of expected trips below what is the entitlement for the site, and it is a relatively small amount of trips given that this current Council has voted to increase trip generation by over 200,000 trips a day during this current term, so this is a relatively small amount of trips as well.

Mr. Newton said just to further clarify my point from before, the civic use envisions in the Eastland Area Plan isn't a type of generalized civic use that I think most people think it would be. It is actually specifically defined in there, so I believe this is actually a violation of the land use plan. I just wanted to clarify that particular point.

Councilmember Phipps said I guess I have been a beneficiary of attending a startup church that has met in a CMS facility as probably hundreds of different churches have met in school facilities. It didn't really impact the direct primary focus of the school. You go in, set up, and you break down and you return the school to its normal condition for classes on Monday after meeting in a church service on Sunday. So, I really am perplexed as to this whole discussion and what are we even talking about in terms of – The petitioner has a vision; he has residential construction as part of this that is going to be generating school kids, so you have a school to relieve some of the overcrowding. It seems like a

win/win situation for the whole area, but to interject all these superfluous other reasons, I'm just hoping we can move on to the next petition.

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

YEAS: Councilmember Ajmera, Mayfield, and Newton

NAYS: Councilmembers Bokhari, Driggs, Egleston, Eiselt, Harlow, Mitchell, Phipps and Winston

Motion was made by Councilmember Mitchell and seconded by Councilmember Harlow, to approve Petition No. 2019-055 by Movement Resources and adopt the following Statement of Consistency: This petition is found to be consistent with the Eastland Area Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends residential, civic, office, and retail uses within a Town Center environment. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the proposal is to rezone a portion of a site adjacent to the former Eastland Mall property to an urban mixed-use zoning district, but limit the permitted land uses to schools, religious institutions, and eating, drinking, and entertainment establishments. The requested urban mixed-use zoning will allow the reuse of an existing building and accommodate site constraints. The proposed land uses are consistent with the area plan's recommendation for a mix of uses, including entertainment and civic uses, in a compact, pedestrian-oriented town center. The project will provide internal sidewalks and pedestrian connections to the site to enhance pedestrian safety.

YEAS: Councilmembers Bokhari, Driggs, Egleston, Eiselt, Harlow, Mitchell, Phipps, and Winston

NAYS: Councilmembers Ajmera, Mayfield, and Newton

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 365-366.

ITEM NO. 26: ORDINANCE NO. 9634-Z, PETITION NO. 2019-058 BY HOUSING AUTHORITY OF THE CITY OF CHARLOTTE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 4.27 ACRES LOCATED AT THE INTERSECTION OF WEST 30TH STREET AND BELLEFONTE DRIVE FROM R-22MF (MULTIFAMILY RESIDENTIAL) TO UR-3(CD) (URBAN RESIDENTIAL, CONDITIONAL).

The Zoning Committee vote 7-0 (motion by Spencer, seconded by Ham) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the North Tryon Area Plan based on the information from the post hearing staff analysis and the public hearing, and because the plan recommends residential development up to 22 dwelling units per acre. However, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the proposed project is generally consistent with the existing development pattern in the area and is in context with the current use of the site. The petition commits one hundred percent of the multi-family dwelling units constructed on the site will be affordable to households that earn 30% to 80% of the area median income. Currently 36 affordable housing units are located on the site. Built in 1990, the existing units will be demolished and replaced with 140 modernized affordable housing units. The petition commits to building a new waiting pad for the existing bus stop on W. 30th Street. The petition reserves the future right of way for the extension of N. Poplar Street through to W. 30th Street for improved connectivity. The petition commits to enhancing the pedestrian environment through multiple site design elements. The approval of this petition will revise the adopted future land use as specified by the North

Tryon Area Plan (2010), from residential use at up to 22 dwelling units per acre to residential use at greater than 22 dwelling units per acre for the site.

Motion was made by Councilmember Egleston, seconded by Councilmember Harlow, to approve Petition No. 2019-058 by Housing Authority of the City of Charlotte and adopt the following Statement of Consistency: This petition is found to be inconsistent with the North Tryon Area Plan based on the information from the final staff analysis and the public hearing, and because the plan recommends residential development up to 22 dwelling units per acre. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the proposed project is generally consistent with the existing development pattern in the area and is in context with the current use of the site. The petition commits one hundred percent of the multi-family dwelling units constructed on the site will be affordable to households that earn 30% to 80% of the area median income. Currently 36 affordable housing units are located on the site. Built in 1990, the existing units will be demolished and replaced with 140 modernized affordable housing units. The petition commits to building a new waiting pad for the existing bus stop on W. 30th Street. The petition reserves the future right of way for the extension of N. Poplar Street through to W. 30th Street for improved connectivity. The petition commits to enhancing the pedestrian environment through multiple site design elements. The approval of this petition will revise the adopted future land use as specified by the North Tryon Area Plan (2010), from residential use at up to 22 dwelling units per acre to residential use at greater than 22 dwelling units per acre for the site.

Councilmember Egleston said Housing Authority, keep up the good work.

Councilmember Mitchell said great work and I thought I saw the CEO of the Housing Authority here; thank you for your work Fulton.

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

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 367-368.

* * * * *

ITEM NO. 27: ORDINANCE NO. 9635-Z PETITION NO. 2019-060 BY 4400 PARK ROAD, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.31 ACRES LOCATED OFF OF DREXMORE AVENUE, SOUTH OF EAST WOODLAWN ROAD, WEST OF PARK ROAD FROM R-4 (SINGLE FAMILY RESIDENTIAL) TO O-2(CD) (OFFICE, CONDITIONAL).

The Zoning Committee voted 6-0 (motion by Wiggins, seconded by McClung) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Park Woodlawn Area Plan, based on the information from the post hearing staff analysis and the public hearing and because the plan recommends single family residential for this site. However, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing, and because the petition provides relief for residents from parking on Drexmore Avenue by providing parking for office and business uses off-street, on site. It allows the residents of Drexmore Avenue better access to on-street parking. It provides buffers and screening between parking and single family homes. The approval of this petition will revise the adopted future land use as specified by the Park Woodlawn Area Plan, from single family residential to office for the site.

Motion was made by Councilmember Bokhari, seconded by Councilmember Egleston, to approve Petition No. 2019-060 by 4400 Park Road, LLC and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Park Woodlawn Area Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends single family residential for this site. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the petition provides relief for residents from parking on Drexmore Avenue by providing parking for office and business uses off-street, on site. It allows the residents of Drexmore Avenue better access to on-street parking. It provides buffers and screening between parking and single family homes. The approval of this petition will revise the adopted future land use as specified by the Park Woodlawn Area Plan, from single family residential to office for the site.

Councilmember Bokhari said for those who were not at the lunch meeting, I got to confer with staff in there, and again, this is something the petitioner supports, the Zoning Committee unanimously supports it and the neighbors surrounding it supports it and the fact that parking is a real challenge out there, and we are pushing more and more retail and business parking into their neighborhoods and streets, this provides for an adjacent option to solve for that and also is not something like we are making a 30 to 40-year decision structure that is going to change forever again. It is something I think in the interim until we have the Unified Plan and UDO in place to kind of clean up some of the challenges we've had with out of date and older plans this is something that makes sense. I would encourage you to join me in voting for it.

Councilmember Winston said I want to go back to the Zoning Committee and ask them about this one, because this doesn't seem very consistent with the ideas this Council has.

Sam Spencer, Chair of the Zoning Committee said thank you for the opportunity to address the Zoning Committee's decisions. Our discussion on this noted that it is inconsistent with the plan, and we are very careful when we vote in a way that is different than the recommendation of staff. We take a lot of things into consideration there. I think the lack of parking in the area was one of the ways in which we through that this might be able to relieve that. Additionally, we are honored on the Planning Commission to have the Chair of the Madison Park Homeowners Association as one of the many people who gives us input, and we also asked is the neighborhood significantly against this, and their response was no.

Mr. Bokhari said how many trips a day did this Council approve again?

[inaudible]

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

YEAS: Councilmembers Ajmera, Bokhari, Driggs, Egleston, Eiselt, Harlow, Mayfield, Mitchell, Newton, and Phipps.

NAYS: Councilmember Winston.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 369-370.

* * * * *

ITEM NO. 28: ORDINANCE NO. 9636-Z. PETITION NO. 2019-063 BY VLE PARTNERS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.8 ACRES LOCATED ON THE EAST SIDE OF THE PLAZA, SOUTH OF BELVEDERE AVENUE FROM MUDD-O HD-O (MIXED USE DEVELOPMENT, OPTIONAL, HISTORIC DISTRICT OVERLAY) TO MUDD-O SPA HD-O (MIXED USE DEVELOPMENT, OPTIONAL, SITE PLAN AMENDMENT, HISTORIC DISTRICT OVERLAY).

The Zoning Committee voted 7-0 (motion by Watkins, seconded by Wiggins) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Central District Plan, based on the information from the post hearing staff analysis and the public hearing and because the plan recommends residential, retail, and office uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the subject site, location of the Van Landingham Estate, is a historic landmark which has been used as an event facility and five-room hotel in recent years. The proposal commits to retain the Van Landingham Estate home/historic landmark identified as the "Estate Building" and "Orangerie Building," and adds a 18,000 sq. ft. building adjacent to single family attached dwellings on the edge of the estate and a 5,000 sq. ft. building along Belvedere Avenue. The addition of new buildings to the site increases the mix of services available in the neighborhood, while allowing the historic main house to remain on the site. Permitted uses include some retail/commercial uses, consistent with existing approvals. Site and building design will be reviewed and approved by Historic Districts Commission and Historic Landmarks to ensure compatibility, context and appropriateness of exterior features.

Motion was made by Councilmember Egleston, seconded by Councilmember Harlow, and carried unanimously to approve Petition No. 2019-063 and adopt the following Statement of Consistency: This petition is found to be consistent with the Central District Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends residential, retail, and office uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the subject site, location of the Van Landingham Estate, is a historic landmark which has been used as an event facility and five-room hotel in recent years. The proposal commits to retain the Van Landingham Estate home/historic landmark identified as the "Estate Building" and "Orangerie Building," and adds a 18,000 sq. ft. building adjacent to single family attached dwellings on the edge of the estate and a 5,000 sq. ft. building along Belvedere Avenue. The addition of new buildings to the site increases the mix of services available in the neighborhood, while allowing the historic main house to remain on the site. Permitted uses include some retail/commercial uses, consistent with existing approvals. Site and building design will be reviewed and approved by Historic Districts Commission and Historic Landmarks to ensure compatibility, context and appropriateness of exterior features.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 371-372.

* * * * *

ITEM NO. 29: ORDINANCE NO. 9637-Z, PETITION NO. 2019-064 BY NOVANT HEALTH AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 33.16 ACRES LOCATED ON THE SOUTH SIDE OF MOUNT HOLLY-HUNTERSVILLE ROAD, EAST OF BROOKSHIRE BOULEVARD, NORTH OF I-485 FROM NS LWPA (NEIGHBORHOOD SERVICES, LAKE WYLIE PROTECTED AREA) TO O-1(CD) LWPA (OFFICE, CONDITIONAL, LAKE WYLIE PROTECTED AREA).

Motion was made by Councilmember Mitchell, seconded by Councilmember Egleston, and carried unanimously to recuse Mayor Lyles from this agenda item.

The Zoning Committee voted 7-0 (motion by McClung, seconded by Gussman) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Brookshire/ I-485 Interchange Study based on the information from the post hearing staff analysis and the public hearing, and because the plan recommends mixed use development. However, we find this petition to

be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the plan states that “mixed-use is by definition intended to include at least two of the following uses: office, multi-family residential, and retail. These uses must be integrated within the same building”. Stand alone, this petition does not fulfill the plan’s definition of mixed-use, but it is an integrated component of a larger mixed-use development. Institutional uses are considered compatible with the rest of the mixed-use development. The petition commits to the development of a .25-acre urban open space on Smith Farm Road with walkways, landscaping, hardscape area, seating areas, and lighting. The petition commits to pedestrian connectivity with pedestrian connections between the building and Sugar Magnolia Drive and Smith Farm Road, to the sidewalk and multi-use path along each street. The petition increases walkability through the larger mixed-use development by ensuring the building design will include a door facing/oriented towards Sugar Magnolia Drive and Smith Farm Road. The approval of this petition will revise the adopted future land use as specified by the Brookshire/I-485 Interchange Study (2000), from Residential/Office/Retail recommended use to Institutional recommended use for the site.

Motion was made by Councilmember Harlow, seconded by Councilmember Driggs, and carried unanimously to approve Petition No. 2019-064 by Novant Health and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Brookshire/ I-485 Interchange Study based on the information from the final staff analysis and the public hearing, and because the plan recommends mixed use development. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the plan states that “mixed-use is by definition intended to include at least two of the following uses: office, multi-family residential, and retail. These uses must be integrated within the same building”. Stand alone, this petition does not fulfill the plan’s definition of mixed-use, but it is an integrated component of a larger mixed-use development. Institutional uses are considered compatible with the rest of the mixed-use development. The petition commits to the development of a .25-acre urban open space on Smith Farm Road with walkways, landscaping, hardscape area, seating areas, and lighting. The petition commits to pedestrian connectivity with pedestrian connections between the building and Sugar Magnolia Drive and Smith Farm Road, to the sidewalk and multi-use path along each street. The petition increases walkability through the larger mixed-use development by ensuring the building design will include a door facing/oriented towards Sugar Magnolia Drive and Smith Farm Road. The approval of this petition will revise the adopted future land use as specified by the Brookshire/I-485 Interchange Study (2000), from Residential/Office/Retail recommended use to Institutional recommended use for the site.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 373-374.

ITEM NO. 30: ORDINANCE NO. 9638-Z, PETITION NO. 2019-065 BY CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 15.17 ACRES LOCATED NORTH OF WILKINSON BOULEVARD, EAST OF I-485 AND SOUTH OF I-85 FROM B-2 (AIR LLWPA (GENERAL BUSINESS AIRPORT NOISE OVERLAY, LOWER LAKE WYLIE PROTECTED AREA) I-2 AIR LLWPA (GENERAL INDUSTRIAL, AIRPORT NOISE OVERLAY, LOWER LAKE WYLIE PROTECTED AREA).

The Zoning Committee voted 6-0 (motion by Gussman, seconded by Wiggins) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Southwest District Plan, based on the information from the post hearing staff analysis and the public hearing and because the plan recommends office/ industrial uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the proposed I-2 general industrial zoning district is

consistent with the office/industrial land use recommendation for this site, and with the industrial land use recommendation for the surrounding area along Wilkinson Boulevard. The site is located just north of Charlotte-Douglas International Airport, about one mile from the end of Runway 18R/36L. The site is surrounded by I-2 (general industrial) zoned properties, with no residential properties in the general vicinity.

Motion was made by Councilmember Mayfield, seconded by Councilmember Winston, and carried unanimously to approve Petition No. 2019-065 and adopt the following Statement of Consistency: This petition is found to be consistent with the Southwest District Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends office/ industrial uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the proposed I-2 general industrial zoning district is consistent with the office/industrial land use recommendation for this site, and with the industrial land use recommendation for the surrounding area along Wilkinson Boulevard. The site is located just north of Charlotte-Douglas International Airport, about one mile from the end of Runway 18R/36L. The site is surrounded by I-2 (general industrial) zoned properties, with no residential properties in the general vicinity.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 375-376.

* * * * *

ITEM NO. 31: ORDINANCE NO. 9639-Z, PETITION NO. 2019-066 BY FCP AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.18 ACRES LOCATED EAST OF EAST 36TH STREET AND NORTH OF NORTH DAVIDSON STREET FROM I-2(GENERAL INDUSTRIAL) TO T0D-CC (TRANSIT ORIENTED DEVELOPMENT, COMMUNITY CENTER).

The Zoning Committee voted 6-0 (motion by Watkins, seconded by Wiggins) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Blue Line Extension Station Area Plan, based on the information from the post hearing staff analysis and the public hearing and because the plan recommends transit supportive land uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the subject site is across 36th Street from, and within a ¼-mile walk of, the 36th Street transit station. The site is a remnant of property reserved during the construction of the light rail station that ultimately was not needed for the station platform access. The proposed transit oriented development zoning is more consistent with the vision for the area than the current industrial zoning. TOD (transit oriented development) standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening.

Motion was made by Councilmember Egleston, seconded by Councilmember Driggs, and carried unanimously to approve Petition no. 2019-066 by FCP and adopt the following Statement of Consistency: This petition is found to be consistent with the Blue Line Extension Station Area Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends transit supportive land uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the subject site is across 36th Street from, and within a ¼-mile walk of, the 36th Street transit station. The site is a remnant of property reserved during the construction of the light rail station that ultimately was not needed for the station platform access. The proposed transit oriented development zoning is more consistent with the vision for the area than the current industrial zoning. TOD (transit oriented development) standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening.

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 377-378.

* * * * *

ITEM NO. 32: ORDINANCE NO. 9640-Z, PETITION NO. 2019-067 BY JD BROOKS AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.15 ACRES LOCATED ON THE NORTH SIDE OF EAST WORTHINGTON AVENUE, EAST OF SOUTH BOULEVARD FROM B-1 HD-O (NEIGHBORHOOD BUSINESS, HISTORIC DISTRICT OVERLAY) TO TOD-UC HD-O (TRANSIT ORIENTED DEVELOPMENT-URBAN CENTER, HISTORIC DISTRICT OVERLAY).

The Zoning Committee voted 7-0 (motion by Ham, seconded by Wiggins) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the South End Transit Station Area Plan and the South End Vision Plan, based on the information from the post hearing staff analysis and the public hearing, and because the plan recommends transit supportive development. Therefore, we find this petition to be reasonable and in the public interest based on information from the post hearing staff analysis and the public hearing and because the subject site is within 0.25-mile walk of the East / West Boulevard Station on the LYNX Blue Line. The proposal permits a site previously used for commercial uses to convert to transit supportive land uses. Use of conventional TOD-UC (transit oriented development – urban center) zoning applies standards and regulations to create the desired form and intensity of transit supportive development, and a conditional rezoning is not necessary. TOD (transit oriented development) standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening.

Motion was made by Councilmember Egleston and seconded by Councilmember Newton, to approve Petition No. 2019-067 by JD Brooks and adopt the following Statement of Consistency: This petition is found to be consistent with the South End Transit Station Area Plan and the South End Vision Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends transit supportive development. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the subject site is within 0.25-mile walk of the East / West Boulevard Station on the LYNX Blue Line. The proposal permits a site previously used for commercial uses to convert to transit supportive land uses. Use of conventional TOD-UC (transit oriented development – urban center) zoning applies standards and regulations to create the desired form and intensity of transit supportive development, and a conditional rezoning is not necessary. TOD (transit oriented development) standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening.

Councilmember Egleston said if David doesn't mind speaking; we had this conversation earlier, and I wanted to have it in front of the Council and have it on record for the community. I was asked about- This will impact Ms. Mayfield's District, potentially also with Wilmore, but as we have TOD that is overlapping historic districts, how we will address that and what will take priority and how that will change the process? There was concern in the Dilworth Community; this is a small example, so I don't think we will hold this up tonight, but I think there will be other bigger examples of how the neighborhood should expect the historic district character to be preserved in light of things being rezoned to transit oriented development.

David Pettine, Planning said in this particular case it is a really small parcel, 0.15 acres and the UC District does allow primarily a lot of the uses that the NC District would which a lot of the adjacent parcels through the realignment process will go to that NC zoning district and speaking with the petitioner to talk to him about potentially going to NC, I talked to him about the project a little bit and they actually plan to adaptively reuse the building in this particular instance. If we see a redevelopment on the property it would be a little bit of a challenged site because of the size of it and because if they consolidate it

with neighboring parcels then you would have several parcels zoned NC and this one zoned UC so the changes are we would see a clean-up rezoning, but how it interacts with the historic district, it still would have to go through all the steps of the approvals and reviews from the Historic District Commission, and so a lot of times we will continue to see that petitioner and that developer work with the Historic District to get some approvals and buy-in for their project if they chose to redevelop the site even under TOD, they would still have to go through that HDC process.

Mr. Egleston said I guess I'm asking your opinion which might not be fair, but in your opinion, do you believe that the neighbors can rest assured that this will not in any way erode the protections that a historic district overlay affords an area?

Mr. Pettine said I don't think any more or less than it would on the NC zoned properties or other properties zoned TOD. We are going to have to work with the interface of the actual ordinance and then the process of the HDC, but it wouldn't change it with any district really. The HDC still operates as an overlay for properties zoned TOD, B-1, UR. So, we would still go through the same process and steps whether it is UC or NC in this case.

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

The ordinance is recorded in full in Ordinance Book 62, at Page(s) 379-380.

* * * * *

HEARINGS

ITEM NO. 36: HEARING ON PETITION NO. 2019-103 BY CHARLOTTE PLANNING, DESIGN & DEVELOPMENT DEPARTMENT FOR A TEXT AMENDMENT PROPOSING TO UPDATE THE SIGN REGULATIONS TO: (1) SIMPLIFY THE REGULATIONS MAKING THEM EASIER TO USE AND UNDERSTAND, WITH ADDED GRAPHICS; (2) PROVIDE CONSISTENCY AND UNIFORMITY IN STANDARDS ACROSS SIMILAR ZONING DISTRICTS; (3) MODIFY THE STANDARDS FOR SIGN SIZE, MATERIALS, LOCATION, LIGHTING, PORTABILITY, QUALITY AND HEIGHT; (4) PROVIDE GREATER FLEXIBILITY BY ALLOWING MORE SIGNS WITHOUT A PERMIT, BUT SUBJECT TO SPECIFIC STANDARDS; (5) INTRODUCE NEW SIGN TYPES, INCLUDING A-FRAME SIGN, ACCESSORY USE SIGN, LIGHT POLE BANNER, MULTIUSE PLANNED DEVELOPMENT GROUND SIGN, ROOF SIGN, SKYLINE SIGN, TEMPORARY OUTDOOR SALES SIGN, VEHICLE DEALERSHIP TEMPORARY SIGN, WALL SIGN (PAINTED), AND WALL SIGN (PROJECTED); (6) CREATE CONTENT-NEUTRAL SIGN STANDARDS, TO BE CONSISTENT WITH A RECENT U. S. SUPREME COURT RULING; AND (7) MOVE THE PROCEDURES FOR OBTAINING A SIGN PERMIT INTO A SEPARATE DOCUMENT.

Mayor Lyles declared the hearing open.

Laura Harmon, Assistant Planning Director said this is a little different situation with respect to the Planning Commission and their role, so we wanted to make you aware of that. Major Text Amendments go to the Planning Committee of the Planning Commission and not the Zoning Committee of the Planning Commission. You have met the Zoning Committee members tonight, and I would like Keba Samuel introduce the Planning Committee that will be considering this case.

Keba Samuel, Chair of the Planning Committee introduced the members of the Planning Committee of the Planning Commission. The Planning Committee will meet tomorrow, Tuesday, September 17th at 5:00 in Room 280 of the Charlotte Mecklenburg Government Center. At that meeting the Planning Committee will discuss and make a recommendation on Petition No. 2019-103, the Sign Regulations Text Amendment. The public is welcome at that meeting but please note it is not a continuation of the public hearing that is being held here tonight. Prior to that meeting you are welcome to contact

us to provide input. You can find contact information and information on this Text Amendment on the City's website at charlotteplanning.org.

Ms. Harmon said staff would like to introduce the first of three items will be bringing the Council with respect to the Unified Development Ordinance, and I will turn it over to Kevin May who has been working with a staff team and with the community on these sign regulations for Charlotte.

Kent May, Planning said I am representing the petitioner which is also the Planning Department. This petition is an application to through Text Amendment update and reorganize the City's sign regulations. To give you a little context of what we are proposing, some of you may know that our ordinances, especially the sign regulations have a little bit of age on them. They were last adopted in 1992; there has been some Text Amendments to kind of address one off situations through the years, but nothing more recent than the last six-years. What we are proposing is to update those ordinances that were largely adopted in 1992 but also create some consistency and uniformity of sign standards across the zoning districts and also bring a lot of the sign standards that are in the Zoning Ordinance scattered throughout in many different chapters into one location and one chapter in the Zoning Ordinance.

Just to give you kind of a high-level overview of where we are with the current regulations. As I said, they are 27-years old; anything that old at this point in time largely becomes incompatible with the environment in the community which they are in and they are really not relevant to current and future Charlotte. Additionally, the current chapter is very long; it is text heavy, and it is difficult to understand, not just for staff, but the end users in the community and the sign contractors or others who may be seeking to use it.

I touched on this briefly; we've got many different sign standards that are scattered throughout the Zoning Ordinance. I have listed for example, you can find sign standards in six different locations in our Zoning Ordinance. With this proposed Text Amendment going forward, what we aim to do is try to collate and bring as many of those standards as possible into one location, so if you are coming to the City or the County for a project with regard to signs you know exactly what location and what chapter you need to go to find out what those standards are.

I've also said that the current standards lack consistency and uniformity of standards across zoning districts, and I'll touch on that in the next slide. I do want to make mention that this mural that you may be familiar with from over in Plaza/Midwood, currently under our standards this would be treated as a regular wall sign, but what we are trying to do is innovate and create some different standards and some new standards that would look at signage such as this in a little bit of a different way.

A little bit more about our current regulations, as I said, they do not really capture and have no allowances for popular types of signs that are currently used in our community. Quite often you may see A-frame signs in and around the City. Our current standards don't have allowances for that. Additionally, we've heard feedback from the community, and certainly it was something that we permitted in the recently adopted TOD districts that roof signs were a desire sign type. Our current sign standards are very content driven; that is no longer feasible going forward. We've gotten legal guidance with regard to that so for example, in our current regulations, we have many different sign types such as campaign or election, directional, instructional, identification and public interest signs which in the standards as they exist today explicitly state what the sign content is supposed to be, and that is not something that is feasible going forward.

A little bit of an example of the inconsistency and the scatter shot of the sign standards throughout the Zoning Ordinance, I touched on the wall sign example earlier, and that is a great example. You may know that, depending on your zoning district, currently your wall sign standards may be if are in an urban overlay district, five percent of wall area, up to 100-square feet, or if you are not, it could be 10% of wall area up to 200-square feet and that difference is noted in a couple different locations. If you didn't have that

knowledge or that experience dealing with the ordinance, it could be very difficult to navigate.

Additionally, all wall signs no matter the media whether it is paint on wall or whether it is a cabinet or whether they are channel letters on a wall, currently they are all treated the same.

So, what are we proposing to do to go forward? First, we've engaged the community; we've engaged the industry. We've recognized that in the last 27-years to no surprise been changes. We are trying to address, not only, trends that have happened within that period of time but also to be a little bit innovative and forward thinking as we prepare this Text Amendment and the standards for signs going forward. We've significantly reduced the number of regulations that currently exist. It is about an 80-page chapter currently, but we've managed to cull that down to about 40 to 50. It is a lot leaner document, a lot easier to understand. Also, much similar to the TOD districts that this Council adopted in April, it is a lot more graphical, so it is a lot easier to pick up and understand rather than to have to get into the weeds with a lot of text and words. As I said, it brings the sign standards into one location and one chapter in the Zoning Ordinance, it creates consistent and uniform standards across zoning districts, it will also create those allowances for those popular sign types that we currently see in our community and are also for desired use. Then lastly, it creates content neutral sign standards so going forward really the standards that are sign copy content driven currently will go away and the characteristics of the sign are what will be governing them going forward.

So, what are a few impactful changes of the proposed new sign regulations? Wall signs which I have used as an example a couple times, this proposes to create a uniform standard of 10% of the wall surface area up to a maximum square footage of 300 square feet, whichever is less. Depending on your zoning districts this could be a 50% to a 200% increase in allowable wall signage. This Text Amendment would also introduce two new sign wall subtypes, a painted sign and a projective wall sign. Either of those new sign subtypes for wall signs would not account that previous 10% or 300-square foot limit above and then additionally, the size limitations of those projected or painted wall signs are really limited by the physical constraints of the canvas on which it would be applied.

Let's talk about ground signs for a little bit; ground signs, this would establish a universal maximum height of seven-feet and also a sign area of either 36 or 42 dependent on zoning district. We are proposing that ground signs going forward would be of monument type construction, unless you are in a B-2, I-1 or I-2 district in which case you would still be allowed to have a pole or pilon sign up to a maximum height of 30-feet. The only caveat to that would be a B-2, I-1 or I-2 property at also an urban zoning overlay then you would still be constrained to have a monument type ground sign only.

For window signage, we are proposing a reduction and coverage of window sign area from 50% to 25%, but we've also kind of change the methodology by which we take that measurement of window sign area. Currently, really superficial mullions that are really there structurally supporting the glazing of the window kind of count as the separation for window areas. Going forward we are proposing that that not be the case, that anything that would break up a window surface area going forward would have to be an architectural or structural element. We are also proposing introduction of several new sign types; I've mentioned the A-frame sign, also we are seeking to introduce an accessory use sign, a light pole banner, a multiuse plan development ground sign, the roofline skyline, which you may be familiar with from the TOD districts, a temporary outdoor sales sign, a vehicle dealership temporary sign and the two new wall sign subtypes I mentioned, painted and projective wall signs. Additionally, creating content neutral standards and as part of that allowing non-commercial messages allowed to be displayed where commercial messages are already permitted.

For Petition 2019-103, staff is recommending approval; we find it to be consistent with the Centers, Corridors and Wedges growth framework, goal of supporting a diverse and growing economy and the rationale for our recommendation is it is a consolidation of the sign regulations, provides consistency and uniformity in standards across zoning districts. We are introducing new sign types to address trends, not only that we may have been

behind, but going forward with and furthermore, it allows more signs without permit and established content neutral standards.

Tony Lathrop, 100 North Tryon Street said I Chair the Ordinance Advisory Committee, and I used to Chair the Planning Commission. So, I thank you for your service, and I know it is a great effort and a lot of time. In my other hat, I wear North Carolina Department of Transportation hat as well, so I'm immersed in a lot of these kinds of issues. I am here to speak in favor of this as Chair of the Stakeholders Advisory Committee. This ordinance updates after 27-years; it is in step with the times now and the different kinds of signs. It aligns with City policy, reflect the current kinds of development we are seeing in the modern era. It makes it easier; it simplifies. It is easier to use and understand for everybody, people that use them, people that make them. There are more options; it can be more creative. It applies the concepts that have been involved with the TOD which was adopted this spring, and importantly to me the process with this has been great, and I've said this ever since we started the UDO discussions probably six years ago that the process has to be inclusive and thorough and transparent and this is all of those.

A lot of stakeholders have been involved. The staff of course of Planning and Zoning but different kinds of staff, the permitting staff, the Planning, the enforcement staff, the development industry, a lot of folks in that industry, the Center City Partners, the Apartment Association, REBIC and of course the sign industry as well. As I said, the Advisory Committee has spent a lot of time on this and that committee, as you all know has development and business interest as well as lots of folks from neighborhood groups as well, and there have been a lot of public meetings about this so from a big picture standpoint I again want to thank the staff and the Advisory Committee for all their work on this. Number one it is simpler; number two it is a big, very useful update, three it is a great thorough process, and it is a chance for Charlotte to really shine and show that we are committed to best practices here and doing things the right way in the modern era, so respectfully I hope that you will approve it.

Councilmember Mayfield said just clarifying, current signage is grandfathered in; this is for new signage that may be coming out of the ground?

Mr. May said correct. Any currently, legally compliance signage would be grandfathered if this were to be adopted, but, if it was not legal to begin with then it would not be grandfathered by the adoption of this process.

Ms. Mayfield said have we already done the outreach to identify how many, if any signs, that are out of compliance now?

Mr. May said respectfully, that would be our Code Enforcement Division, and that is not an answer I could give you this evening.

Ms. Mayfield said up to this point have you been working with Code Enforcement creating this language to identify if we had a number of signs that have been out of compliance?

Mr. May said Code Enforcement staff has been involved from the very beginning in helping up draft this language.

Ms. Mayfield said that would just be helpful I think for Council to know at some point, because you don't want to get down the road a couple of months and then find out what you through was a historic sign, historic community wise with something that has been out of compliance and now that we move forward with new language that sign is either being removed or permits or fines have been issued. It may be helpful for Code Enforcement to give an update.

Mayor Lyles said would it be grandfathered in though?

Ms. Mayfield said that is what he said; it would be grandfathered in if it is in compliance, but let's say it is determined that the beetle on top of Pinky's is not compliant. It should be compliant, but let's just say it has been out of compliance; under this new language, it would not be grandfathered in, because it was out of compliance. It was just stated by

staff, if there was incompliance under the old rules it would be grandfathered in, but if it was out of compliance then, and if you didn't know it was out of compliance then once this new language comes in, then there are fines or removal. That is why I asked if they had been working together, and if Code can just give an idea because there may be like three signs that might be out of compliance then again it could be 30.

Mr. May said I certainly for a follow-up report we can get information from Code Enforcement to glean idea as to how many signs are not in compliance.

Mayor Lyles said that would be helpful.

Councilmember Eiselt said can you go back to the sign with the picture of the ice cream cone mural?

Mr. May said this one and the one later in the presentation are both from the same establishment.

Ms. Eiselt said in this case are you talking about 10% of just that wall or the whole building; would this sign be in compliance?

Mr. May said my understanding is that this sign is in compliance, but when we talk about wall surface area, it is each individual wall of the building would have the ability to have that 10% up to 300-square feet whichever is less. On the side of this particular building, it is a very long wall and to which they would be able to have 10% 300-square feet, but that would not include that painted wall sign, because we are proposing that that not count against that limitation for that 300-square feet.

Ms. Eiselt said because that long is wall and maybe I'm not as familiar with that one.

Councilmember Egleston said because it is painted; they are saying it wouldn't count because it is painted.

Mr. May said on the surface of that wall, where both of these are located, if they so choose, they could paint the entirety of that wall with all manner of people eating ice cream, and it not count towards that 300-square feet. They could also if they wanted, put a cabinet sign up there is they want to.

Ms. Eiselt said okay, so those are in compliance.

Mr. May said yes.

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

* * * * *

ITEM NO. 37: HEARING ON PETITION NO. 2019-104 BY CHARLOTTE PLANNING, DESIGN & DEVELOPMENT DEPARTMENT FOR A TEXT AMENDMENT PROPOSING TO UPDATE THE TREE ORDINANCE AND ZONING ORDINANCE FOR SITES ZONED FOR URBAN DEVELOPMENT (1) PROMOTES BETTER INTEGRATION OF TREES INTO URBAN SITES; (2) PROVIDES FLEXIBILITY OF WHERE TREES ARE PLANTED ON URBAN SITES; (3) RESULTS IN NO NET LOSS OF CODE REQUIRED TREES ON URBAN SITES; (4) MODIFIES THE PERIMETER TREE PLANTING, INTERNAL TREE PLANTING AND TREE SAVE AREA REQUIREMENTS ON URBAN SITES; AND (5) ADDS NEW DEFINITIONS.

Mayor Lyles declared the hearing open.

Laura Harmon, Assistant Planning Director said this is the second item that we are bringing you that is part of the larger UDO process, and the final one we will be bringing

tonight, the next one we will be bringing next month. This is a very limited change, a very focused change, to the Tree Ordinance for urban sites and I'm going to hand this off to Pete Grisewood, the Urban Forestry Supervisor to take you through the proposed Text Amendment.

Pete Grisewood, Planning said we will start with a little bit of back story about the Tree Ordinance; the Tree Ordinance protects trees in the public right-of-way and also provides requirements in association with development across the City. This proposed Amendment is specific to our urban development, and it is an early phase. It is an early part of the Unified Development Ordinance (UDO). Current tree standards are intended for a more suburban type of development, lower intensity, compliance is often challenging for these urban sites, sometimes difficult to find a good location for internal trees and there are limitations as to what can go into the tree planting area. This particular Text Amendment is specific to urban areas only, it has got a limited scope, targeted towards promoting better integration of trees into urban sites and specifically our overarching principle throughout the entire discussion has been to result in no net loss of code required trees; however, many trees would be required under today's standards that exact same number is going to be required going forward. Another big thing is we want to test these new ideas in advance of our UDO try to learn what we can and put forward some of the good things and good ideas that have come out of our discussions.

The process to develop this amendment began with discussions with a stakeholder group that was comprised of a variety of different folks; Arborists, community members, Catawba Land Conservancy, Sustain Charlotte, members of the development community, and staff. In April and May, we put together a draft Text Amendment; we also presented to the Ordinance Advisory Committee and that stakeholder group and we got feedback from all these folks. We also held two community meetings, one in July and one in August and received feedback through that process as well and most recently filed this draft in July.

Proposed changes, this particular draft was very important to me when I first saw it, because what it shows you is the whole City and then it shows in the darker and light bluish purple that is across the Center City and up and down the Blue Line. Those areas are really the only areas that are zoned urban and that would be affected by the text changes that we are looking at doing. That represents less than four percent of the entire Charlotte and ETJ (Extra Territorial Jurisdiction).

Recommended amendments to the Tree Ordinance, there are three different kinds of trees that ordinance regulates. The first is the parameter trees, those are street trees, the second is interior trees which we will get to and a third would be tree save areas which I will also get to later. For these street trees our current standards require an eight-foot wide planting strip and we require large maturing trees every 40-feet along the street frontage.

Proposed changes, the only real changes we are looking to do is if there are site constraints in that street frontage in that right-of-way area, site constraints such as overhead power lines, driveways, backflow preventers, utilities, things like that restrict our ability to place trees. We would like to allow a limited adjustment to those spacing requirements, we would like to allow placement elsewhere on those site, and lastly, if we can't find a place for those trees on that site, rather than not getting any trees, we would like to get a fee in lieu to be used to plant trees elsewhere.

This graphic kind of breaks it down, on the one side you see the current standards, one tree per 40-feet of frontage and the other side, this is what we are proposing. We are still maintaining the one tree per 40-feet of frontage. What the Text Amendment will do is to codify some flexibility, so we have the ability to put trees on a little bit different spacing, a little bit different location and also potentially ask for a fee in lieu for trees that we cannot otherwise get.

Internal trees are the second types of trees that we regulate. The current standards, the ordinance requires that you have one large maturing tree for every 10,000 square feet of impervious area on your site and inside the 277 loop there is a little different calculation.

Current standards for internal trees, most of the internal trees that are regulated particularly going back to the suburban way that development was envisioned in the past, most of those trees are captured within parking lots. So, trees need to be planted within 40-feet of every parking spot on a typical suburban site, that is our current standard. Our proposed changes are to recognize that all sites have parking lots and not all sites have very much parking to begin with though they may have quite a few required internal trees. What we would like to do is do a little forward thinking and allow trees to be located in different locations, roofs, permanent planters, raised plazas, over parking decks. These trees would not be allowed to be planted in any old planter; they would still be soil volume and square requirements that are currently in place today. We would also look to have alternative location for some parking lot trees in townhome situations.

This graphic shows current standards, we have one tree per 10,000 square feet of impervious area, that is currently what we require. Going forward, assuming this Text Amendment moves forward we are still going to have one tree per 10,000 square feet of impervious area. What we are going to look to be able to do is to have some codified flexibility for alternative placement within that same site that allows us to get a better tree in a better location, have the right tree in the right place.

Tree save areas; that is the third type of regulatory trees that we have. The tree save area is generally based on 15% of an overall commercial site. Within the 277 loop and some other districts there are some exemptions for that. One important thing to understand is currently today, most urban sites have options to providing tree save on site. Those options include replanting, doing off site mitigation, installing a green roof, or doing a payment in lieu.

Our proposed changes, we would like to allow some amenitization within these tree save areas. The same number of trees as current regulations, just to allow those tree save areas to be in a range of different areas around the site and to allow some important things like irrigation, landscaping, grassed seating pathways, lighting and those types of things that you would associate with a park like setting that is appropriate for urban development. Much as this picture shows, that is a really good representation of what we would like to see from an amenitized tree area. The current standards for tree safe 15% of your site, replanting is allowed. Once again most of these urban sites have compliance options to include replanting, payment in lieu, etc. The proposed changes with the Text Amendment, once again we are still at 15% of the site for tree save, nothing has changed there. Replanting is still allowed; all the compliance options are still allowed. What we are adding is some codified flexibility to allow amenitized tree save area, so that would be a new option for urban sites only.

Staff recommends approval of this petition. We feel that there is some strong consistency, most particularly with the Urban Forest Master Plan that came out in 2017. The goal was to enhance Charlotte's tree canopy cover and to recognize the forest is a vital City asset that needs constant care and replenishment. Our rationale for recommendation, this Text Amendment helps to define those urban zones and create codified flexibility. It requires accountability for all required trees. There is no net loss of Tree Ordinance mandated trees in this. It provides alternative approaches for locating street trees when urban sites are constrained by these right-of-way street frontages, driveways, powerlines, and those types of things. It allows internal trees to be planted in alternative locations on site such as roof tops, raised plazas, over parking garages, areas where they are not currently permitted to be placed. It creates new amenitized tree areas as an optional incentive to promote and provide urban tree canopy on site.

Tony Lathrop, 100 North Tryon Street said I've already introduced myself earlier tonight, so I'll move ahead. I Chair the Ordinance Advisory Committee, the Stakeholder Committee, and I'm here in that capacity to speak in favor. These amendments align with the Urban Forestry Master Plan and enhance the tree canopy, which needs constant care and replenishment. It gives flexibility for tree location in urban sites and ensures that all the trees that are required are planted. The best stewardship means that recognizing that we need these tree regulations to fit in with our increasing urban form. It gives flexibility for better trees, tree placement and better landscape design. It is innovative,

and it help our City again be a leader in this kind of thing, and it is a very forward thinking in particular the amenitized tree areas have potential for more urban trees and green space than with the current code. I will again say that the process on this has been incredibly inclusive and thorough and transparent through a lot of stakeholder groups and through the Advisory Committee to reach consensus with neighborhood and development folks involved in lot of public hearings. Presentations to the Tree Advisory Committee, and I am informed and can say that the City Arborists, Tim Porter, has approved and endorses this as well. Again, I want to thank the staff and the Advisory Committee for all their work and respectfully request that you approve this.

Eric Zaverl, 828 East 36th Street said I served on the Tree Ordinance Stakeholder Committee and worked on this amendment. I support the amendment, and I want to stress this, as the first piece of continued look at improving the Tree Ordinance in Charlotte. The amendment is not a comprehensive rewrite but designed to have flexibility and testing of ideas in our urban tree scape. The amendment will add flexibility to street tree spacing, new amenitized tree save areas and allows for tree placement in more areas on the site. These changes should not result in no net loss of code retired trees and help the City reach its tree canopy goal by 2050. The opportunity to test these changes and learn what works and what doesn't work is vital before we move ahead with the UDO. There is still plenty of work to be done moving forward, and I look forward to working with all of you to create a better Charlotte.

Matt Langston, 6721 Kirkstall Court said as a practicing Landscape Architect who has lived in Charlotte for the past 19-years, I work with the Tree Ordinance every day. I and several other design professionals have worked with other stakeholders and urban forestry staff over the past several months to vet these proposed changes against the experience that we have every day designing urban projects in order to ensure that we can practically apply these changes and continue to meet the intent of the ordinance. These changes do not propose a reduction in the number of required trees but they do provide more flexibility for the where and the how, which will benefit the land plans and improve the health of the trees.

One of the most exciting improvements is the addition of the amenitized tree areas that Pete had mentioned earlier where designers can incorporate creative green space solutions for the enjoyment of the tree canopy by Charlotteans. As Charlotte continues to urbanize we find that more and more is asked of the land beneath our feet. That land may need to hold up buildings, it may need to provide stormwater treatment, it may need to be walkable, it may need to provide buffer space and tree canopy and open space and it needs to help Charlotte promote and maintain its tree canopy. It may need to do several of these things at once, as Charlotte grows we much be more efficient and creative in our solutions to absorb growth and manage a healthy tree canopy and this Text Amendment helps us in that direction. In summary these proposed changes represent the hard work of Urban Forestry staff, design professionals and other stakeholders. These changes are only for urban districts; these changes allow for more flexibility and better more creative solutions to preserve and enhance the tree canopy in those urban districts. The changes allow for better use of innovative tree planting methods as technology changes and these changes align with the City's Urban Forestry Master Plan and will help ensure Charlotte will have a healthy tree canopy for the future. I ask that you please approve this Text Amendment.

Jon Morris, 500 East Morehead Street said I think what has been said in support is a lot better than I could ever do. As a member of the Unified Development Ordinance Committee, we are coming up on our third birthday with that, I'll just talk about the process and tip my hat to Tai and his staff. They've brought vision and leadership to this, and as a stakeholder I'm really happy with the way we are bringing certainty and precision to our ordinance where really the goal is for the ordinance to match the policy, both the Sign Ordinance which you heard about, the Tree Ordinance do those things, and they bring for my business a certainty and predictability. I know what the code says, and I know how it is going to be enforced. As importantly, they bring the ability for flexibility. It is not really in there now, it has now been codified so if one of our engineers or landscape architects comes up with a creative solution that meets the intent of the ordinance we can talk about

that, and it is now codified as to how you do that. I will close with that and ask you for your full support of this ordinance.

Kim Hombs, 16303 Farmchase Court said I'm here in opposition to the proposed Petition No. 2019-104. It is extremely poignant in this time of climate crisis, global warming, poor air quality, flooding, all of which the number one most affective mitigating factor for all of these issues is trees, big mature trees and permeable space with trees, shrubs, natural green space, not concrete.

I'm here to advocate for a delay on the City Council's vote regarding the Tree Ordinance and rezoning until further Charlottean citizen feedback and involvement can be obtained and much needed clarifications can be made on the proposed ordinance changes. I was involved in the stakeholders specifically regarding the input from Charlotte citizens. I think many Charlotte citizens are very disturbed and concerned regarding the massive and rapid clear cutting and loss of mature trees and green spaces. The common roadblock I hear and in fact they started a non-profit even to address this issue, so I get a lot of feedback if they don't know where to go or to address. They call City tree people; they are understaffed and can't follow up on these things. The stakeholder meetings regarding citizens feedback, like I said I was part of that, seems to be dominated by developers and those in the industry and when concerned citizens and recognized Arborists in town tried to speak up the comments remained unaddressed or dismissed. The notification systems for the existing of tree related meetings seemed quite inadequate. There was nothing in the paper, television or anything. When I repeatedly asked the question, how are you notifying citizens of these meetings? They said they perhaps notified HOAs, but this has been something broad across the board as far as hearing from citizens that are even members of HOAs that are not getting notified. Also, unclear messaging regarding these tree meetings. This evening is a good example, when I called to sign up they said there was nothing regarding trees. I had to do some investigating and digging to find out this even existed. Regarding the Tree Ordinance meeting of August that I attended, was asked what is the next most critical meeting to attend and they e-mailed and said check out our website for Charlotte 2040 Vision.

I'm proposing and also based on locations where the meetings are held and the times of day, and I won't belabor it, but I don't think that you are getting true citizen input, and that is why I'm asking for a delay. Charlotte citizens have not had their voice heard in this. A couple of quick specifics regarding the actual trees themselves, saying that there is not going to be a reduction in the number of trees, there is no comparison to planting a sapling for a mature tree, talking about canopy for flood mitigation, air quality, shade, etc. You've got to have green space and places where those trees can grow. That is a perfect example in that slide where you've got one little sapling planted in the concrete, 200 square feet. So, that and also the nuisances of saying oh, well this is only applying to urban zoning or urban designated areas, that is a very fluid and liquid designation as it seems many of our areas are now becoming classified as urban.

Hermes Goudes, 4100 Woodfox Drive said I have been a lifelong resident of Charlotte for about 50-years, definitely love our trees, and I am not ashamed to speak out for them. So, I'm here tonight. Basically, I have to narrow down a few topics because we have other people, but staff has been very nice meeting with me and others. I have no complaints with that; however, they don't seem to be willing to reduce the building sizes on these sites and I think that is partly driven by our density goals. We also have to understand that urban zoning is changing; we have townhomes near my neighborhood that are urban zoned; it is not just transportation districts. It is not just uptown; it is not just mixed use; townhomes are one of the hottest things right now. So, we are seeing reductions in greenspace from January required for townhomes; they are talking about not requiring trees in parking areas. That means the soil for trees is not going to be there. The accumulative effect of losing the trees and the greenspace is going to have a big impact long-term, and I don't think anybody has studied that accurately under these guidelines. I also want to mention that amenitized trees which is a new word for something that is already existing, in my opinion, they allow up to 25% of pavement within these areas. So, please consider that. I did not see any specific language that required putting amenitized tree areas into a conservation easement. Under the tree save guidelines

currently, I believe you have to put them in a conservation easement permanently. I've seen firsthand at shopping centers near me where amenitized trees are now being built upon, so we need to think about that as well. Open space is also in another document that staff told me is not directly related, but the way we are defining open space in some of our current UDO wording is not what is traditionally open space, meaning green, natural tree areas. I've looked at cities like Durham for example, their UDO does not talk about paved areas as open space. We need a different wording for that, because it leads us to think we are creating naturally green open space as in all our old plans referred to it. Something needs to be adjusted with the wording on that. I would also reiterate what Kim said, the Ordinance Committee allows public attendance but not participation during those meetings. We don't know what is really going into these drafts until the public meetings, and like I said, I met with staff, they were really friendly and provided information but didn't seem to offer any changes.

Sarah Hart, 4616 Crooked Oak Lane said in my previous e-mails to City Council regarding the loss of trees in which staff said I was incorrect. Staff keeps saying that there is no loss of required trees but what I haven't heard is there is no loss in tree canopy. According to the TOD public hearing draft stated February 2019 the City has already been discussing changing the meaning behind the 5050-canopy goal, because they feel that 50% is no longer attainable, and this is apparent in some of the things that we are changing where builders are trying to build on small spaces. So, they do want that flexibility.

In the 2010 American Forest provided the City with urban echo system analysis of Charlotte and in that they recognize the loss of the canopy and provided solutions to the City and also tools for the City to use to maintain and increase the tree canopy. The experts felt that the 50% canopy was obtainable, so why are creating more flexibility when we are losing our tree canopy? I think developers will still buy the land; they will still utilize the land, and they will still make a profit on the land. We are now giving developers more land to build porches on when we didn't have it before with the open space ordinance. The proposed changes for the 10-foot buffer between the building and the tree save area, which is now being counted as part of the tree save area when it wasn't before, then a parking deck tree versus a tree in the ground, as mentioned before. The pervious land cover that a large canopy tree in the ground provides is a lot different than what a parking deck tree could provide. Newly planted trees and parking deck trees are not apples to apples when we are comparing it to a large tree that was cut down.

Rosemary Peduzzi, 3954 Churchhill Road said I'm going to talk fast and try to make a few key points. I had no idea that this whole initiative was underway, and I do not feel that a broad range of citizens have been asked to participate in understanding it, much less commenting on it. Here is my fundamental issue; carbon sequestration is critical; it is only getting more critical. We don't have until 2050 to have these little baby trees that get planted grow to maturity to help protect our air quality and the lives of our citizens. My sense of how development happens in Charlotte is very often sadly, a mow them down approach. Mow down mature hardwood, put in heathy little saplings and to me that is like taking a very seasoned professional and putting in a middle schooler and hope it makes it and watch it grow, maybe. Both pictures that were shown, huge buildings, skinny little trees. It is not enough. This is not an either/or situation that we either have mature hardwood or we have robust development. It can be both/and, and to me a really good approach would settle for nothing less than that. I see cities where this can happen. Every time I visit family in Portland, Oregon the most robust part of the City is the urban City and it has gobs and gobs of mature trees and they are protected. We should settle for nothing less in this City.

Taiwo Jaiyeoba, Assistant City Manager said I would like to respond to the outreach [inaudible]. I know that we've had two community meetings, and we also used the same process that we went through the Transit Oriented Development Ordinance, reaching out, sending out information but not only going through the Ordinance Advisory Committee but also forming a group that we felt was also nimble enough that would be able to read and go through a lot of the technical drafts. We met with Catawba Lands Conservancy, Charlotte Tree Commission, the Charlotte Center City Partners, Sustain Charlotte, former

Arborists, it is a long list, and I understand that one of the speakers also we had e-mailed and invited but they didn't get the e-mail on time. We've done as much as we can, but we can do better; however, I also want to be able to [inaudible] what Pete said that this is really the limited in scope and one other thing that we are hearing here tonight, they are very valid. Not only are they speaking to this, but they are also speaking to the overall intent of the Unified Development Ordinance itself. So, we will definitely be taking that into consideration as we go through the UDO, but this is really [inaudible] in scope to the urban sites, and I think I want to make [inaudible] to all of us but all of the comments we will definitely take them into consideration. Our overall goal is also sustainability, making sure that we have a green Charlotte and a community that we can really be proud of in terms of its ability to preserve its tree canopy but also be able to provide flexibility in terms of; maybe the word flexibility is a little confusing but, better opportunities for trees to be planted in our community. That will be by response in terms of the outreach effort.

Mr. Grisewood said thank you very much too all the speakers; I thought there were some really good points made on both sides. Trees are important to the City of Charlotte, vitally important. I think there is a big opportunity, as we move into the larger UDO discussion, to incorporate all those points of view and really kind delve into what we want as a community in terms of the larger goals of the Tree Ordinance and the 50 by 50 goal was mentioned. That is something that I think needs to be looked at a little bit as well and not many of you know about that. One thing I want to point out is that a lot of the things that were mentioned in terms of planting back smaller trees or being able to take down trees for development, current regulations allow that right now. Under our current regulations those things are happening and their code; they are okay. They are within their rights to do so. Nothing that we are doing is walking that back or making it easier for development. Really, what we are doing with this Text Amendment is we are talking about tree placement, and how do we put trees back? We have our current regulations; we are not really changing them very much. We want to look at how to maybe make some changes later on when we get the larger UDO discussion, but for right now, I think these changes are 100% geared towards, how do we get better trees with better site design given our current type of urban development?

Councilmember Eiselt said I think the statement in the plan consistency says the petition is consistency with the Urban Forest Master Plan goal to enhance Charlotte's tree canopy cover and saying that the current regulations allow X right now so we are not walking anything back doesn't tell me that we are enhancing the canopy cover. It is just saying we are giving flexibility to what is existing right now, and I think what we are all saying is we want to do better because our urban core is growing. We can identify what is urban right now, but we all know. We sit here every Zoning Meeting and look at density increase throughout the City, and so more land area is becoming urban. That doesn't tell me that this is going to enhance the tree canopy cover. I still do struggle with the one for one replacement, because if we are counting on trees to take pollutions out of the air, a sapling isn't going to the job of a mature tree.

I do think the public needs to weigh in on this a little bit more. We've heard that there were some problems with having that opportunity and I just personally don't see that we are doing better. Flexibility is good, and I do agree that we've seen some projects where they really could have used that flexibility, and we would get a tree where we want a tree, but to me it is just not enhancing the canopy cover and going where we want to go with tree coverage in Charlotte. Thank you for that work, but I think we need to do a little bit more work on this.

Councilmember Ajmera said Taiwo, how was the public notified about this? Was it just on our website? I attended the first public forum, and there was very low attendance, so how were they notified?

Ms. Harmon said we notified everyone that now General Services, previously Engineering and Property Management had on their list of people that had come to tree events. We notified all of them; we notified the neighborhood leaders list that we have as we went through this at the meetings. I think we had the press there that also talked about this, so anyone that we knew of that was on a City list that would be interested, we notified,

tree Charlotte, again anyone that had an interested that was registered in some way with the City.

Ms. Ajmera said pretty much the list that we had, I think there needs to be more of a public notice of some sort because not just the folks that are on our list but obviously, we are talking about 850,000 plus population. The turnout has been really low, and I've got an e-mail in just the past two days, even one from Tree Charlotte that I received and in fact actually today, and they were notified pretty recently. Some of the questions I have- how are you measuring the no net loss? How are we measuring that?

Mr. Grisewood said when we are talking about no net loss we are talking about numbers of trees, and that is how the current ordinance is set up. It talks about this is how many trees you need.

Ms. Ajmera said so, it is the quantity, not the quality.

Mr. Grisewood said correct.

Ms. Ajmera said I think I had asked that question, and I had raised this concern. This is probably my fourth time raising this concern. I think we need to look at how do we measure the no net loss; the quantity is not the right measure, because we are not looking into consideration the quality of life that we need to measure. The stormwater, air quality, carbon emission reduction, and I think that is how we should be measuring this, not the quantity. When I hear the word flexibility, it sounds more like loosening the regulation, especially when you are growing at such a fast pace where there was a report I was reading on trees where they are going be running out of developable land by 2030, and we are not on trajectory to meet our 2050 goals. I don't know if we need to go down the path of flexibility. I understand this is just for urban; it is a very small percentage of overall goal; however, it is important. We have to start small. Have we looked into the conservation requirement that one of the speakers raised earlier?

Mr. Grisewood said have I looked into it?

Ms. Ajmera said yes.

Mr. Grisewood said tree save area is not required to be held in a conservation easement currently.

Ms. Ajmera said I understand that we are really comparing everything to what is current but maybe the current form is not perfect. To me that is not the right comparison. I guess we should be looking at what other cities are doing that have urban reach tree canopy, and are we doing the best in preserving and protecting out tree canopy? I think that should be the standard. I think you had said something under current regulations that something was allowed and I wasn't clear on that. In 20% save can developer cut down currently mature trees and plant saplings? Is that allowed under the current?

Mr. Grisewood said yes.

Ms. Ajmera said I think that is where the challenge comes, that the current regulation allows that. Maybe we need to revisit that to actually preserve the mature trees that we have on site. This also ties into our SEAP goals, because trees play an important part in our carbon emissions reduction, so if we are looking at taking mature trees down and putting in saplings we are not meeting out SEAP goals either. I'm not pleased with the way it is currently, and I hope that based on the feedback we have received from speakers today we will revisit some of this. I appreciate the work that you all have done; I attended the first meeting and what was presented from the first meeting I am seeing it down. Some of the concerns that I had raised along with some of the folks who attended the meeting have not been addressed, and I hope to see those being addressed.

Mayor Lyles said I appreciate those comments, but I think we are giving the staff a lot of what we want, and we haven't voted on it, haven't put out a policy around it. These folks

are updating the portion that we can define and do some experimental on. I think if this discussion is going to have changes in the ordinance, overall for the City, I think the Council has to say I hear the ideas, but you have to have a way to get that done and approved by this Council. When we say we want or hope and wish we've got to do that with a number of votes around this Council. We can do it the Retreat in January, or we can start with something if there are six votes to begin to change that now, we'd have to figure that out. Again, I think it is very hard to just say that we have something that we don't really like and we want it to be. I want to make sure we are asking the staff to do what a majority of the Council suggest and wants to accomplish, and we are probably not going to do it tonight, but at some point, we will have to figure that out and when we do these kinds of big changes and ordinance and policies we usually have a discussion by the Council and some information from the staff. I think all of us agree on the change. I think four years ago we realized how hard the change to get to where we were and what it meant as a part of our affordable housing strategy; it is a part of what we are doing, and I think we've got to figure out as a Council discussion, so perhaps at the next Strategy Meeting we say this is what my thinking is, this is my aspiration. What do other people believe?

Councilmember Bokhari said just to clarify I think it is important for us to all remember what staff set out to do with this in this specific topic right now. It wasn't solving everything from a tree preservation perspective in the entire City in my purview. They went with a group of professionals and experts both from the development and building community and the Arborists and tree save community, some of the best minds we have around the table, and they figured out in this specific area of integration and placement and things that some may view the word flexible. I view and think of it as the word predictability. Understanding kind of not looking for someone to translate, oh, well here is what you can do in this instance rather it be written down. I think you guys did a very good job in this very narrow yet comprehensive area that you had to deal in, and I think for all the community members out there who want to be a part of this broader conversation, a lot of the things you brought up are very much still on our docket, they are still very much so going to be solved either through unified planning and UDO and other things.

I will tell you there is going to be a lot of tough conversations, and it won't just be from a tree perspective. I've mentioned this before, and I'll say it again; at some point in time, you have to do the same thing you've done here with placement and integration between the decisions we have to make anecdotally today between sidewalks and the walkability people and trees and the tree save people. That isn't going to be easy, because we are never going to please 100% of this room and it will be full when that times comes. I really hope that everyone will come out for that broader initiative, but for what you've done today, I think you've done an admirable job.

Councilmember Driggs said we had a presentation in Committee about the larger subject of trees, and I haven't been able to get my hands on the slides, but that talks about the 50 by 50 whether or not that is the right thing, and it just seems to me like we ought to know where we come out on that in order to have a context to look at this. I'm afraid that this prejudices some of the conversations we might want to have in that other context. So, I'd be interested to know what the timeline is for us to keep working on that larger reexamination of our 50 by 50 policy. Do we have one?

Mr. Jaiyeoba said yes, you are right we started that conversation, and we intend to continue that, and this is the implementation tool of whatever we come out with in that area, but I don't know what the timeline is in terms of when we come back to you.

Mr. Driggs said some of the issues that people have raised tonight will probably actually be better considered in the context of that broader conversation, but it is very relevant to this, right. So, we don't want to lock ourselves in with this to something that then limits us later or prejudices, particularly the question about saplings and mature trees and things like that, it is all in there, right, whether other types of canopy will count, whether we will allow for certain types of substitution, a much meatier treatment of the subject. So, I guess we could move ahead with this in an operational sense of just having a clean-up of the

text around these urban areas, but we always need to be thinking in terms of that bigger conversation that is still out there.

Mayor Lyles said I agree with you on the bigger context. My concern is with as much building and growth that we are going to have going on downtown and people submitting their plans now, whether we miss something by not doing something immediately, is it just going perhaps be more difficult. As everyone has said development is taking us everywhere; so, if we are going to have this development, and we have a clear understanding that this is an interim action until the 50 by 50 starts.

Again, I'm trying to get a sense of what the Council wants and expects from the staff. We don't want them to work on things without that context. I think what I'm hearing is that this effort is good, we need to do something more quickly than not, but it shouldn't be considered the final action that keeps our tree canopy cover the most important part of one, the way we attract people to live here as well as the impact on the air, and we also haven't had a chance to have full citizen engagement around that question. I hope you guys will hang in there and will push and encourage. I've always said criticism is a great thing when we can act on it. So, I hope that you will continue to step up and give us ideas and ways to do it. Taiwo, I hope this is what you are hearing is that the tree canopy goal for the City is very important as an action to be done, and I can see that you are saying yes, we can finish this. Then the second thing that I'm asking the Council is with this Text Amendment, is it something that you believe is an interim step because this is just the hearing, and we will be voting on it in a month.

Councilmember Phipps said I do think this is an interim step, and I do applaud the staff for the work that they have done and I happen to like the word "flexible," because I think it is flexible, because even now do we enjoy the same flexibility under the current policy that we now have that this proposed policy will introduce for us?

Mr. Grisewood said we do not.

Mr. Phipps said so in my mind that is an enhancement. It might not be the caveat to all that we want, but it is an enhancement and when we talk about tree canopy, once you get to that word canopy that is something that is evolved over a period of time that you have this magnificent canopy which to enjoy. I would like to remind my colleagues that even those magnificent trees with awesome tree canopies they started out as a sapling, right, a seed or a sapling and they grew to a canopy size. So, it is not like it is going to be over night, and I'm reminded by a colleague of mine that sat at this dais, Mr. John Autry, he used to have a saying that we all live under the shade of trees planted by others. So, that is what a sapling will do; we might plant a sapling today, but 10-years from now it could be a canopy. That is what we should be aspiring to; we can't save every mature tree and expect to plant an immediate mature tree.

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

ITEM NO. 38: HEARING ON PETITION NO. 2018-073 BY MOORES CHAPEL RETAIL, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.99 ACRES LOCATED AT THE INTERSECTION OF MOORES CHAPEL ROAD, RHYNE ROAD AND BELEMEADE ROAD FROM R-3 LLWPA (SINGLE FAMILY RESIDENTIAL, LOWER LAKE WYLIE PROTECTED AREA) TO B-1(CD) LLWPA (NEIGHBORHOOD BUSINESS, CONDITIONAL, LOWER LAKE WYLIE PROTECTED AREA.)

Mayor Lyles declared the hearing open.

David Pettine, Planning said this just under two acres on Rhyne Road, east of I-485 at Moores Chapel Road. The existing zoning is R-3, the proposed zoning is B-1(CD). We are looking at a future land use plan that makes recommendation for office and retail for

the site, that is the Catawba Area Plan adopted in 2010. The petition is consistent with that and allows for up to 10,000 square feet of neighborhood services and retail allowed in B-1, an additional 6,600 square foot building with three drive-thru windows and 10 fueling stations. There is some future development on the north side of the property here and on the other side of the road is actually going to be the tree save area and there are some buffers and other things put in along the property to buffer the adjacent single family residential uses as well as some architectural standards and requirements. C-DOT has a slide to talk about some of the studied intersections in the traffic impact study, so I will turn it over to Felix Obregon for that.

Felix Obregon, Transportation said this rezoning was required to do a traffic impact study and as a part of that they were required to study four intersections that are circled in red. From the traffic impact study, these are the improvements that came out from that. The blue are the new improvements on Rhyne Road; they are going to provide a new left-turn lane on Rhyne Road, they are going to provide a 50-foot right-turn lane into another access that they are having on Rhyne Road they are going to provide a new right turn lane at the roundabout at Moores Chapel Road and then also they are going to extend the existing right-turn lane by 100-feet making it a 300-foot length storage on that right-turn lane.

Mr. Pettine said staff doesn't recommend approval in its current form. I just want to clarify, we support the uses outlined on the plan. It is consistent, it is providing the type of uses that are recommended in the Catawba Area Plan; however, some of the items that were incorporated and included from the traffic impact study have not yet been incorporated into the petition. We have talked to the petitioner about getting those in before the Zoning Committee vote, so we can review our recommendation at that time but currently as it sits in its form we don't support it until we can get those transportation commitments noted into the plans in writing and then consideration for the Zoning Committee.

Walter Fields, 1919 South Boulevard said I am representing the urban development; you may take note of the case number on this petition is 2018-073. I think it was filed in May of last year or possibly April. This is a very small site, and the first thing I would like to do is call your attention to the fact that it is in two pieces. There is a large tract to the right as you look at the site plan and then there is a small triangle area that happens to be labeled tree save on the left side of the site plan. It all used to be one piece of property and Rhyne Road, which comes into the map from the upper righthand corner used to go straight down, and you can even see the old right-of-way along this area. This is the old Rhyne Road, and it used to go like that. Well, when NC-DOT committed to build this portion of I-485 the interchange design that they chose included a roundabout and they bought a significant amount of additional right-of-way and at least a portion of that right-of-way ended cutting this site in half. So, we have a large piece over here, and we have a small piece over here. That is good and bad; it is good in that it gives us an opportunity to create what is essentially going to be a permanent open space and tree save area. It is bad in that it takes it away from the ability of the owners to ever have been able to develop it if it had remained as a single piece of property.

As Felix mentioned and David touched on it, the largest amount of effort that has been involved with this petition has been working with C-DOT and NC-DOT. There is really no land use issue here; this is part of an area which was designed for a mixture of uses, it is just going to be one of those components in the future, but because of where it is and because of the nature of this interchange which used roundabouts instead of signalized intersections, it created a whole series of challenges in terms of trying to figure out the actual traffic impact.

I want to show you the plan that we originally filed; it has been suggested that we made some radical changes to our plan along the way but in the original plan that we filed way back last year, the same piece of property, big piece over here, little piece over here; we actually showed this as future development in the original plan and then later pulled back from that and just committed it to be tree save area, and what you see is a convenience store with a building and gas pumps and then a small triangular area for future development. We thought we would line up with Belmeade Road; we thought that made

some sense for a wide variety of geometric reasons but the more we got into it with our traffic consultant the more-clear it became that that was just not a good idea.

So, the plan that is in front of you tonight still has the same C-Store, still has the same gas pumps but they are now reoriented, so the store relates to the street and the gas pumps relate out towards the interstate, which I think is one of the elements in the Catawba Plan, and we have added a driveway just short of Belmeade Road for people to get into the site and what we were going to do at Belmeade Road, we've pushed all the way to the north of the site and from both C-DOT's standpoint and from NC-DOT standpoint with the improvements that we will be making to Rhyne Road and even to the off ramp from I-485 south at Moores Chapel Road, those improvements will offset the impacts of this development.

I want to talk specifically about a couple of things that are in the staff analysis; there is a lot of information if you are reading the staff analysis about requests from C-DOT for information. David was kind enough to forward me the list of outstanding issues that you see here today a week or so ago, and we've pretty much gone through, and I've sent back an e-mail. We will fix this or do that and so we've actually gone ahead and made those changes on our site plan. We have listed out the individual transportation improvements, we have noted on the plan where we're going to have screening and buffering and how we will manage it. We have clarified that the small site is going to be permanent tree safe, and there won't be any future development there. We've relocated the driveway; we will be adding turn lanes along Rhyne Road to facilitate much better movement in and out of that site and have done all of that without affecting the intersection of Belmeade Road and Rhyne Road.

I will tell you and I think that David and Felix would agree that at some point in the very near future, and I would encourage you to think about this, Rhyne Road is a much more important road to the future of that part of town than we have given it credit for. It connects an interstate interchange here at Moores Chapel Road up to Freedom Drive to interstate interchange there. It essentially serves as the frontage road to a lot of land along I-485, and there is a lot of industrial land there that is now coming on line as this portion of the City has sort of popped up on the radar screen. It's got great accessibility, great visibility, close to the Airport, and I would encourage you, whether it is through the Comp Plan process or through some other planning process to really go back and take a look at Rhyne Road, because I think over time it is going to be a much more significant street than we have it called out for in the current small area plan.

What I want to make sure that you understand is, there are a lot of things listed in the staff analysis that appear to be unresolved issues. I think we have resolved the vast majority of them and I have already sent those communications to David. There are a couple things that I will use as examples for why we don't exactly know how to address, for example there is a comment that says Moores Chapel Road is going to be a four-lane road and it needs 42-feet from the center, and that will be the future curb line, and that is fine. With that point where Moores Chapel Road is, right at the corner of that site the right-of-way is 250-feet wide. When you turn the corner and start going up Rhyne Road, it is a different classification of street with a slightly smaller cross section. The right-of-way up there is 168-feet wide, so I think we can work with Felix and David and make sure that if we put a note on there that says we will dedicate the necessary right-of-way, that is a piece of cake, because there is already more right-of-way there than any of the road plans call for. I want to be sure that they don't think we are just ignoring that comment, but we've gone and done the research, so we think every single thing they have asked us to do in terms of future curb and this, that, and the other all falls within existing right-of-way, so there is not any additional right-of-way for us to deal with. The only loose end that we've got and we need to get a verification through C-DOT and perhaps NC-DOT is how we would do the City's normal streetscape requirements, because if you have an eight-foot planting strip and a six-foot sidewalk but the right-of-way is 168-feet wide; we are not sure exactly where that would go.

There is also portions of this site in the right-of-way down towards the interstate ramp on Moores Chapel Road where there is a guardrail. We are not exactly sure, and we will

hope they will give us a little more specific guidance about how to address their concern given that it is an NC-DOT road, and they have different ways of looking at things. The bottom line is the staff has put in a lot of work, time and effort on this especially the C-DOT staff as well as the NC-DOT staff and as well as our consultants, and I believe that everything that we have been asked to do we have now done and that will be put on the plan before it goes to the Zoning Committee. David made a good point; he said we hadn't added that to the plan, that agreement was made after the site plan deadline and after the deadline we can't make changes before the hearing, but we've already sent them communications and all that information is on the plan, in fact here it is; this is a shot down version of the plan, we will resubmit and all that information is on there.

This is a small development that is consistent with the use plan; we have worked very hard with the City and with the state to figure out, not only a site configuration and access points that work but additions to the road network in the area to offset our impacts, and we are most hopeful that with all those taken into consideration that this is something that you will be able to support and approve.

Sarah Massoud, 2112 East 7th Street said we are speaking in opposition to the rezoning of Petition 2018-073. Just to reiterate the staff has not recommended approval on this for the items that they've stated. The transportation plan should not be compromised at all to accommodate the current site plan. The current site plan has big problems. This part of Moores Chapel Road is designated as a four-lane divided thoroughfare with buffed bike lanes and Rhyne Road is designed as a three-lane divided avenue. Both roads should not have just sidewalks but wide sidewalks and potentially greenways. Almost all of the land near or adjoining these roads is zoned as single family and has been since at least 2001 as you can find in the adopted area plan.

Sticking to the transportation plan, especially the part of the plan that promotes multimodal transportation will create healthy home values and promote the use of non-vehicular access among the neighboring communities. In referencing the current site plan, since Rhyne Road is designated as a divided avenue, it makes no sense to approve two driveways for this site plan. Even though Rhyne Road is not divided now, if and when it is divided neither driveway will permit access back to Moores Chapel Road. This is especially problematic for semi-truck access which will be necessary to service this gas station. The site plan should account for this anticipated expansion in the roadway now to avoid unnecessary complaints later. Since this area is experiencing residential growth capacity on Moores Chapel Road and Rhyne Road may be necessary sooner rather than later. Another thing to address is that the community meeting for the residents of this area have been over a year ago. They did it in the summer at the beginning of August 2018 so school was out, everybody was on vacation and there were only five attendants. The petitioner has refused to have another community meeting despite many offers and asks to do so. We believe that they should do this again and have the rest of the community put their input. In all, this site plan is extremely short-sited; the only goal is to maximize the retail space and because of that it does not maximize benefit to the community. We ask that you please deny this petition.

Ken Davies, 1924 East 8th Street said I'm an attorney, and today I represent Co-Star LLC which owns and operates a small business center at the intersection of Belmeade Road and Rhyne Road. We have filed some written objections to this petition, and I hope they are in your packages, if not the Clerk has them, and we'd like to make sure those get in front of you. The two things I want to talk about very briefly are the procedure issues here. This petition was filed over 15-months ago; the required community meeting was held over 13-months ago. There have been many, many continuances, and apparently there is no policy with the Planning Department as to how continuances you can request. There have been changes to the site since the community meeting, especially as points of ingress and egress, and we did request a new community meeting, but the petitioner has refused to do that, and I'm not sure why. Our position is that 13-months between the meeting and the hearing today violates the spirit of intent of the ordinance which requires the community meeting, especially with changes to the site plan and apparently there are more changes ahead.

The second point is that the small area plan could be interpreted different ways, but it seems to call for a multi-use project on this site that is larger and has a strong residential component with internal circulation and pedestrian orientation. This plan has none of that, and it is yet another totally automobile dependent project, which is certainly against the environmental health of this community.

In rebuttal Mr. Fields said I would like to clarify a couple of things. One is and Ken and I go way back; we've worked together on things. We've been opposite things, so I respect him, but I can produce e-mails going back several months where we have asked for him to arrange a meeting between us and his clients to talk about whatever it is their issues seem to be. It is my understanding that they have an interest in acquiring this property; they own the little commercial site right across the street, sort of an anti-competitive thing, but I can understand that. They don't have gas pumps; this will have gas pumps. This site directly adjoins the interstate highway. It is a high traffic location and is a valuable site in the context of this sort of use and being something that is available, not just to the community but to the traveling public. The community meeting that we had, if you read the community meeting report, it is correct to say that five people attended, but if you read the report five people signed the sign-in sheet and about 15 or 16 people attended. So, I think we had a pretty good crowd. There were 10, or 11 or 12 or 13-days' notice from the time we sent the letters out until the meeting occurred. Mr. Davies has asked me on several occasions, are you planning on having another community meeting? Our response has been no, because number one, we are not required to under the process, but number two the changes to the plan are actually fairly small. We've moved the driveway; we've reoriented the building, and that was to respond to one of the elements in the land use plan to have the pumps behind the building and the building oriented to the street, so there has been no radical change of the site plan one way or the other.

Councilmember Mayfield said Mr. Fields I'm trying to identify how and if the roundabout is going to be utilized, since it is noted on here but when you look at the actual map the roundabout is actually off from the site. So, help me understand where and if staff can go back. We had a green arrow where we were showing a right-turn. That green arrow was a little confusing to me in conjunction with the roundabout. Help me understand what are we doing right here.

Mr. Fields said it is your map, but I will take a shot at it. If I understand this map correctly; the green arrow is an improvement to the off ramp from the interstate. We've been asked as part of this project to extent the stacking lane on the ramp for people getting off south bound I-485 onto west bound Moores Chapel Road, and that is one of the specific recommendations that came out of the traffic study.

Ms. Mayfield said Felix, explain that to me if we have a roundabout that should be helping to ensure continuation of traffic, why would we need to have a turn?

Mr. Obregon said you are correct; there is already an existing right-turn lane. What the development is going to do is to extend the exiting right-turn lane by 100-feet.

Ms. Mayfield said why.

Mr. Obregon said because of the additional traffic the site is going to generate.

Ms. Mayfield said how does that corelate with the roundabout or is the roundabout going to be eliminated? Help me understand the logic, because if you have a roundabout, and the whole purpose of a roundabout is to keep traffic moving, why do you need to extend a turn lane unless you plan on eliminating the roundabout?

Mr. Obregon said there is already an existing right-turn lane so what is going to happen is they are going to keep it where it is at, they are just going to widen to extend that right-turn lane 100-feet more.

Ms. Mayfield said the other map is a little misleading. That is the challenge because that map is very misleading from we are looking at right now, because the roundabout is all the way on the other side, which goes back to my original question. When you look at this

map the roundabout is really off site from what is on here, so help tie me in to yes or no, is this roundabout a part of this project?

Mr. Obregon said they will be doing some off-site improvements at that roundabout by extending the existing right-turn lane.

Mr. Pettine said I think what we are trying to do is allow that right-turn lane to start further up that off ramp, so as folks are approaching it they can get out of the way a little bit further from the flow of traffic. So, it really just adds a little bit more capacity as people approach that roundabout to capture some of the additional trips that will be generated by this site, so it is really just taking a right-turn lane and allowing it to start further up that on ramp, so as people approach it they can get into that turn lane a little bit easier rather than going into the internal lane, which will kind of kick them back around and over I-485. It allows for people to get out of that travel lane a little bit earlier and adds some additional capacity to that right-turn lane to absorb some of the traffic from the site.

Ms. Mayfield said okay, this map does not reflect what you are saying. So, let's go back to the page we were just on. We are saying where you are seeing in the lower corner the I-485. So, basically when you come around currently, there is only one lane. What staff has requested is that we have two.

Mr. Pettine said no, we are still keeping the lane configuration as it is. We are just extending the taper for that lane further up the on ramp, make it a little bit wider so folks can get into that lane, so they can go towards Rhyne Road versus the traffic that is going to go internal to the roundabout and go across I-485 over to Moores Chapel Road. It is not adding lanes, just capacity.

Mr. Obregon said right now, the roundabout has a through lane and it also has a right-turn lane adjacent to that. It is just going to extend that existing right-turn lane, make it longer to increase capacity.

Councilmember Eiselt said so, they are not entering the roundabout?

Mr. Obregon said they will be entering the roundabout.

Ms. Mayfield said right, they are going to be coming into the roundabout but that is what I'm saying, the way that we are being presented the map is not blown out enough for us to really look at the total impact, because I'm trying to understand staff's concern for the project outside of the Catawba Area Plan and also for full transparency I did ask Mr. Fields to e-mail me correspondence that he had with the petitioners to try to identify additional meetings, because I want all information. I don't want any one person to say well, we did this, and we didn't do that. Just send me the e-mails, because paper trails do everything. I'm just trying to understand, how if we a request in here and for us to be looking at just what is provided, this does not reflect what staff's request is regarding the lane for us to be able to clearly understand what is happening. So, along with requesting the lane there was another challenge that staff had with this particular petition is that the outstanding issue?

Mr. Pettine said there are some outstanding issues listed in the staff report which Mr. Fields had mentioned. We did have some correspondences and feel like those can be addressed prior to Zoning Committee. The main issue that we've still got is we need to make sure that what is found in the traffic study- several years ago C-DOT sent our kind of memo to folks letting them know if you do a traffic study as part of a rezoning the expectation is those commitments are on the plan prior to the public hearing, so without those being incorporated into the plan prior to the public hearing our position is that we don't support it as it currently sits, because we have to see those written commitments into the plan. That is where we have the issue of the traffic study isn't reflected yet on the plans that are being presented. They shouldn't radically change the layout orientation; it will just be how we address traffic impacts to Rhyne Road, I-485 and the other roads that are serving the site.

Ms. Mayfield said I will also note for Council and staff for full transparency because Mr. Fields is not going to say it nor should he identify, but also during the time that we've been having a number of these conversations and getting everything in he was in the process of his wife's transitioning and everything that goes along with saying good-bye to a loved one. Life happens so somethings may not have been, but with us having the hearing tonight, what I'm hoping is that we will have opportunity if you have that information.

Mr. Fields said we have already put it on the map; we will be resubmitting to the staff.

Ms. Mayfield said Mr. Fields; I have to ask you an actual question in order for you to respond; you have the information, you have the language in place but it hasn't been presented to staff.

Mr. Fields said correct because we are not allowed to amend the plan after the deadline for the hearing but we weren't able to resolve those final details until after the deadline. So, while we could commit to them in an e-mail we are not permitted by the process to add them to the plan, but we can present those changes tonight, and there it is and there they are.

Ms. Mayfield said that is helpful, and staff is in agreement with the statement that was made.

Mr. Fields said correct.

Councilmember Driggs said just to clarify does that means we have the makings of an agreement here, and we just need to kind of catch up?

Mr. Pettine said I believe so. We did talk to the petitioner and Mr. Fields and did see if they could move this petition hearing to next month to give us some time to incorporate that. I understand that all the items that are going on we've just decided that we could move forward with the recommendation as it were. We let them know full transparency that would be the recommendation. I do feel like we have all the items addressed; they should be fully addressed by Zoning Committee and when it gets back to you for a decision.

Mr. Driggs said so you anticipate based on what he is saying that you could get there in terms of recommending it.

Mr. Pettine said yes sir.

Councilmember Phipps said are there any truck stops or parking facilities associated with this site?

Mr. Fields said no.

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

ITEM NO. 39: HEARING ON PETITION NO. 2018-092 BY CONTRAVEST DEVELOPMENT PARTNERS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 14.5 ACRES LOCATED ON THE WEST SIDE OF OLD STATESVILLE ROAD, SOUTH OF WEST W. T. HARRIS BOULEVARD FROM I-1(CD) (LIGHT INDUSTRIAL, CONDITIONAL), R-MH (MANUFACTURED HOUSING) AND B-2 (GENERAL BUSINESS TO UR-3(CD) (URBAN RESIDENTIAL, CONDITIONAL).

Mayor Lyles declared the hearing open.

Davie Pettine, Planning said this about 14.5 acres located on the west side of Old Statesville Road, just south of W. T. Harris Boulevard, just to give you some site context of where this petition is located. The current zoning is R-MH, B-2 general business as well as I-1(CD) light industrial. The proposed zoning is UR-3(CD) urban residential. The Northeast District Plan does recommend office industrial land uses for this site. The GDP (General Development Policy) does provide some policy guidance but only got up to six dwelling units per acre. The site itself is up to 22 units per acre as recommended on the petition itself. So, we have up to 280 multi-family units at a density of 19.35 units per acre. They do have limitation on the height of buildings, one including a four/five split, multiple landscape areas along the property, commits to transportation improvements, both pedestrian and vehicular, architectural design elements as well as active and passive open space on the site as it stands.

Staff does not recommend approval of this petition in its current form; I'm not sure why we have the overlay on there, but if we can talk a little bit of why that reasoning is, NC-DOT has come in recently with a new road project that would connect Old Statesville Road back up to W. T. Harris Boulevard. That has impacted the petition to where this entrance on Old Statesville Road is limited to only a right in/right out. Staff and C-DOT had provided the petitioner back at the end of August with some options to alleviate the concern of having not just one point of access, but a limited one point of access that is right in/right out, and we feel until those points of access can be resolved to provide some full movement in the interim of the NC-DOT project staff would like to see those issues resolved before our recommendation and consideration is a little bit different than we are this evening.

Walter Fields, 1919 South Boulevard said Mark and Alfred are with Contravest. They are my clients, and they are here to answer any specific questions that might come up along the way. Mr. Mac is the property owner, and he would like to address you in terms of how long this property has been for sale and all the opportunities that he is trying to take advantage of, and there just seems to be no market.

This is at the corner of Harris Boulevard and Highway 115; let me put up a map because you know me, I'm for crayons and paper copies. This is our first plan, and the purpose is to demonstrate when you look at the map that is on the big screen right now you see this little thing that looks sort of like a shoe, but that is not what we started with. We started with a piece of property that connected to Harris Technology Boulevard, connected to Singh Drive, went all the way to the corner of Harris Boulevard and Old Statesville Road. We all learned early on in the process, as did the City, that NC-DOT has big plans for the intersection of Harris Boulevard and Old Statesville Road, and it is a road called a quadrant left. It is a transportation engineer's dream; it may be a transportation user's nightmare. I'm not sure, but we had this entire site as part of our plan. It was originally 23 acres, and we were proposing 350 units and then I want to show you this map, and the red area and the purple area was our original site. That is what was in the original petition that we filed last year. This is another 2018 case. The red area is no longer involved in the petition at all; the impact of the state's road project basically eliminated that piece of property from the case. but we have left is the purple part, and the blue part which was land that had to be acquired just to still have something large enough to be a reasonable development site. This might give you a little bit better idea of what happened to the site; here is the corner of Harris Boulevard and Highway 115. This was all originally part of the site; this large road right here is what NC-DOT dropped in our lap many, many months ago, and you can see the impact it had on this piece of property.

We are now down to a site that is about 14.5 acres; we are from 350 units down to 266 units, and we have a site plan that looks like this. This was all originally part of the plan; now we are down to about half of what we originally had because of the impact of that road. We've had to make a lot of changes to the plan obviously, we've had to acquire additional property and most important we've had to work with NC-DOT to gain future access to what we call the quadrant left loop road and that access would be right here. Obviously, we can't build that access point until the road is there, but we've been in deep discussions with NC-DOT and their engineering staff because having that driveway there requires the extension of a culvert, the addition of more pavement and a turn-lane and a

lot of stuff that goes along with it. That will function as our second access point to the site. We have an access point onto Old Statesville Road and even if it was full access today when they come and build this project it will be limited to right in/right out. The residential street that adjoins our site, its full access today will be limited to right in/right out and up and down Harris Boulevard are a number of developments which function with a right in and right out access.

The land use question here is after this property has been sitting here for 25 or 30-years zoned industrial and there seems to be no industrial market for it, is it time to look at an alternate use which fits in the neighborhood's plans and serves the community purpose providing more housing. We are right across the street from an area that is designated as a future transit station. Now, that is the Red Line, and we know there are some uncertainty about where it is going to be, but most of that uncertainty is north of Harris Boulevard. So, we are right across the street literally from what is supposed to be a future transit station which seems to suggest that a higher density development is appropriate at this location. We have been working to try to find a means by which to satisfy the concerns of C-DOT; we've met with the Planning staff, the subdivision staff, C-DOT staff, and we would all like to have a second access on the day the property opens but our second access is tied to the construction by NC-DOT of the quadrant left interchange. That is sort of where we are now with the Planning staff, and the transportation staff, that is the 800-pound gorilla sitting on this project is how can we find the means by which to have adequate access when none of us in this room has any control over when NC-DOT may or may not build the road. I will welcome Felix to come up and add; this is a funded project, but it is also one that is on that list in the Observer a few weeks back that was now delayed. So, will it be next year or the following year?

The people really taking the risk here is Contraves,t because if they build a \$35 million or \$40 million project that has to live with only a single-access point, they've got a marketing issue. By the same token, if they have to create another false street connection to a place where there won't be a street in the future or to a place that involves a normal stream crossing or to a place that dumps traffic into a single-family neighborhood; we don't think that benefits the community either.

So, somewhere between now and the Zoning Committee we are going to have to work through the issue to deal with the principle concern of about do we really want to have two access points. We believe we do; we have the access to Highway 115, and we have the access to new loop road, but we can't say with any certainty when that second access point would be constructed.

I'm going to stop at this point and let Mr. Mac come up and talk about his history with this property and how he feels this is a plan which makes a lot of difference for a piece that he has held for a number of years.

Baldeep Mac, P. O. Box 1230, Albemarle said I am and represent the property owner for this piece of land that we are talking about here. I just wanted to take a few minutes and give you some words around the impact, the detrimental and significant impact the way DOT has been handling it. I don't know that Mr. Fields has really articulated the back and forth and the frustration that it has caused. There seems to be some do it this way, do it that way that has caused a lot of issues with Contravest and as a result we have lost the sale contract that was pretty significant, and furthermore we are paying a holding cost of over \$30,000 a month. Now, you all have a fiduciary duty sitting there to not only me and our group as a property owner but also to the taxpayers. We are losing money, because the development hasn't been built yet and again it is the wishy-washiness of NC-DOT that has caused this situation.

Mr. Fields said we understand the issue that the staff is concerned about but we also see up and down Harris Boulevard similar communities that function today and have functioned for years with a single right in/right out access point. We know we are going to have a second access point. We are building a street through the project under the direction of the Subdivision Ordinance, so if the land to our south redevelops that street would be extended in the future. We are pretty much doing it by the book; the only

uncertainty is when is NC-DOT going to build that road? If I knew that I would probably be retired.

In rebuttal Mr. Pettine said certainly we understand there are other projects that may have the conditions similar to this on Harris Boulevard but as we look back many of them were approved in the early 80's, late 90's, early 2000's. We did point out to the petitioner and their agent a similar petition back in 2018 that had an NC-DOT project impact their multi-family project, they did construct some temporary roads to provide secondary access. They also limited the number of units before they would be able to move forward with building more until they had some of those secondary access points in place. These are suggestions we've made to the petitioner to say if you want to build 280 units maybe you cap it at a certain number until you get that second access point on line, but again we are inconsistent with the land use plan to the degree of proposed uses. We are increasing the density with what the GDP would recommend, so to be able to stand and say that a right in/right out for 280 units until we kind of cross our fingers and hope NC-DOT gets that other access point finished I think there are some other alternatives we still can explore to maybe put some more safety measures into, if we do have to function for a period with a right in/right out, then maybe it is not the full build out of 280 units. We will be happy to work with the petitioner prior to Zoning Committee to try and get those resolved but we just didn't feel they had been resolved adequately at this time.

Councilmember Winston said when was the last time this Northeast District Plan was updated?

Mr. Pettine said the Northeast District Plan is from 1996; it hasn't been updated since. Certainly, land use recommendations haven't developed in an industrial manner and again if we are going to consider residential that is maybe more dense than the GDP would call for at six DUA, let's make sure we have proper access to that and get those items worked out prior to us looking at this from a little bit of a different perspective.

Mr. Winston said I would like to ask about the proposed plan to cut that street around the corner of Harris Boulevard and Old Statesville Road; would that be a City maintained street?

Mr. Pettine said it would be a state maintained road.

Mr. Winston said this is the first I've seen of this and it seems kind of interesting on how to maybe develop that area around Harris Boulevard a little differently moving forward. Is there a certain term for that in terms of they are cutting that out?

Mr. Pettine said no, they call the project a quad left, so I'll Felix elaborate a little bit on what it does in its function around that intersection.

Felix Obregon, Transportation said NC-DOT is looking at different alternative intersections and what they are proposing right now is called a quad left, so in essence, you displace the left to a different intersection to be able to make those movements. I can provide in the follow-up report an exhibit that shows that a little better for you guys.

Mr. Winston said is this unique to this intersection on Harris Boulevard or are there other places on Harris Boulevard that it would be used?

Mr. Obregon said it will be unique to Harris Boulevard, yes.

Councilmember Harlow said I'm not sure we've had a conversation about this since it was originally the whole site, so this is my first time seeing the slice through. This is a 2018 Petition, and we talked last year about the 350 and didn't hear much from it since. So, this I guess unfortunately it is kind of a consequence here of the state coming in and saying hey, we've got a funded project to come through. I do struggle with this idea of 280 units and only one access point. These are major, major roads, Old Statesville Road and particular Harris Boulevard and so how to get into that without that state road being there I just don't know. I kind of lean with Mr. Pettine here; is there some development

compromise that says we can get some units here now and then a couple years down the road the state comes in and does what they want to do and then you still have site control over the site and do the rest of it. I think that is probably a better way to look at it. I'm not so sure I can get supportive around that much density with just one site in and out.

I like the concept of trying to look past I-77; I think we've had so much around North Lake and the interstate has been such a divider and then Statesville Road and so looking at the west wide of Statesville Road to the east side of Statesville Road moving this direction. It is good to start seeing some new development coming that way. Is the petitioner open to that suggestion the staff made, or is this kind of hey, we've made some compromise on losing half of our site already?

Mr. Fields said let me let the answer to that question come from either Mark or Alfie about whether or not they could take on the whole property but only be able to develop half of it for some unknown period, but that is a very fair question.

Mark Ogier, 237 Westmontie Drive, Altamonte Springs, FL said the short answer to that question is no; you can't take a development, cut it in half and have the economics work. The other options that have been proposed really are difficult to work as well because of the topography of the site; you've got the transportation challenges, you've got the topography challenges, you've got the stream buffer challenges and every time we turn around we get squeezed in on trying to make it feasible. There has been another option presented as far as trying to connect the site to Twin Drive which is a residential road to the south. We don't see how we can make that work because we don't physically control the land. We can't acquire the land, and the City design requirements for a road to connect to that don't fit into that space. We've had our neighborhood meetings; the neighbors do not oppose the project. The only question they asked was, was it going to connect to Twin Drive, the answer at that time was no, because it wasn't a requirement. So, we are in a bind on not knowing how to solve all the problems that are being thrown at us by C-DOT, NC-DOT and staff. We are willing to continue to try to work through that; we've been doing that through Friday of last week with some of these issues as they still come about. We are trying to do everything we can do, but right now we don't have a solution for that. We look to try to work forward with that and work with the Zoning Committee as well. We'd like to provide a different and additional form of housing choices for the residents; we think it is a great location for it, think it is a better location than industrial, and we have been working for a year on it. Spent a lot of time and a lot of money, and we're still at the same spot which is people asking us to do things we can't do.

Mr. Harlow said Mr. Fields, could you speak to the open space stuff? We've talked a lot about the infrastructure, when we think about 280 units we think about what the equality of life is going to be like for these residents from an amenity standpoint. You've got the colored map, and we've got the black and white one here, but I see a lot of proposed parking envelope and then this kind of small, square or rectangular potential open space. Are we amenitizing that with anything or is it just open?

Mr. Fields said we actually have another exhibit that we took with us to the community meeting, because these buildings and this model is a model of another project they've done, and in fact in the photographic images we have of the other projects is this exact swimming pool. There will be a club house and activity center here; there will be some other smaller open space elements throughout the site. There is a large portion of the site over here, which is tree save and permanent open space. It is floodplain, so it is an area that we would want to leave alone anyway. There are significant amenities as part of this site and probably the same amount of amenities now that they were when it was 350 units, and now it is down to 266.

Mayor Lyles said I was curious about when NC-DOT came in and did their part of changing the size of the project. Can you tell us a little bit more about that history? When did that happen? What went on there? We don't have to do it tonight, but I think as you

say if NC-DOT is saying we are not quite sure, but what happened when they were doing the negotiations for the property?

Mr. Fields said I won't go into all the history but part of the uncertainty, not only for Contravest, but for the property owners is that they have essentially said we are going to build this. Now, whether it is two feet this way or three feet that way, it is not fully engineered yet, but the footprint of this type of interchange, if you are familiar with the intersection of NC-73 and Highway 21 in Huntersville, that is a quadrant left intersection. You drive across Highway 21 and go by the Library, and that is what this will be. They really sprung it on everybody and I think C-DOT was as surprised as we were when we had a meeting, and they said oh, by the way, we are doing this, and so, that was this time last year we were getting this information and trying to figure out what it all meant and we've been working with great diligence to get from them the most accurate and most current drawings that they have, and we have incorporated that onto this plan. So, first of all, you could see it and second of all, it helps to demonstrate how this area will work in the future and why our ability to negotiate with them to have an access there is very critical. They have agreed to let us do that, especially if we write a check to pay for the difference in the construction costs, but, when it is going to be done we can't control. So, that is sort of the catch 22.

Mayor Lyles said did they acquire right-of-way for you?

Mr. Fields said they haven't bought anything.

Mayor Lyles said they have bought anything; they are just holding it.

Mr. Fields said and Mr. Mac is the one, in particular, is the one sort left holding the bag because it altered significantly our site and it still impacts the remainder that he will continue to own if Contravest closes on the property.

Mr. Mac said I want to be clear that DOT has not acquired the property; we haven't been compensated, and essentially what they have done is they have condemned our property.

Mr. Winston said am I incorrect or misremembering, did we not approve a rezoning recently off of Belmeade Road near the Whitewater Center?

Mr. Pettine said it was approved, and I don't think the issue particularly for staff is just having one entrance; we do have projects that function with one access. It is that it is a limited access for right in/right out and it is not a full movement access that provides movement in all directions and allows folks to not have to go down Old Statesville Road or up Old Statesville Road to turn around to come back in. It is not that it is one access; it is one access that is limited to right in/right out.

Mr. Fields said I think it is important to know that would happen anyway when this is project is built, and it will happen to Twin Drive when this project is built.

Mr. Pettine said and we would have a second full access in place at that time.

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

* * * * *

ITEM NO. 40: HEARING ON PETITION NO. 2018-160 BY K SADE VENTURES FOR A CHANGE IN ZONING FOR APPROXIMATELY 93.86 ACRES LOCATED ON THE NORTH SIDE OF UNIVERSITY BOULEVARD AT THE MECKLENBURG/CABARRUS COUNTY LINE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO MX-1(CD) (MIXED USE, CONDITIONAL).

Mayor Lyles declared the hearing open.

Kent Main, Planning said the site is 93 acres; it is right on the Cabarrus County Line in Mecklenburg County, abutting Cabarrus County. On University City Boulevard, there is a Seventh Day Adventist Church, and that is about the only land mark that you will see if you drive out that way. It does abut some adjoining residential property to the west as well. The existing zoning is R-3; they are asking for MX-1 for 250 units of single family, 288 units of multifamily, and that gives you a density of about six units per acre. The existing plan is the Northeast District Plan, which recommends residential up to four unit per acre with General Development Policies as a possible way of looking at higher density and it does score for six units per acre, so the plan is looking pretty good. The transportation improvement includes internal public and private streets, planting strips and sidewalks and the usual kinds of things. They are providing architectural and design elements as a part of that as well. There are some C-DOT issues, and Felix will address some of those.

Felix Obregon, Transportation said this rezoning required a traffic impact study; the red circles are the intersections that were part of the impact study. The star is the site which is in over in the far right. There is going to be multiple road improvements being done by the developer. At their main access they are going to provide a left-turn, which will be a left over making a left here; also, at Cabarrus Farm Road they are going to provide another left as well and then on Harris Houston Road they are going to provide another left over as well and will do some minor modifications at Oak Leigh Drive.

In addition, at the I-485 ramp they are going to extend the dual left-turn lanes and what is happening here is we have the NC-DOT widening project, NC-49 and as part of that project NC-DOT is going to provide some additional capacity at the Pavilion intersection and also provide some through lanes on University City Boulevard.

Mr. Main said taking another look at the site plan, it is adjacent to other properties along the edge. This includes a multi-family property toward the front and then goes back to townhouses and single-family homes back in the back which will immediately abut our particular site. The site plan does have some consistency between where those multifamily units are up to the road as well as the single family behind, and there are connections made into those existing streets as well. Staff is recommending approval of this plan upon resolution of issues and transportation includes a north/south collector street that is still being asked for by C-DOT. Some tree save standards and some stream buffering labels most of which we will be able to work out. It is inconsistent with the plan, which says four units per acre and approval of this plan will revise that to six units per acre. The rationale includes that it does abut compatible residential, as I mentioned those single family and multi-family areas which do seem to align with where they are placing their densities. The density is lower than what the entitlements are right now which are eight units per acre actually. The petition does include off-site improvements as were discussed and there are commitments to a multi-use path and upon resolution of some of those design issues we will be able to support this and it will be consistent with the General Development Policies.

Ty Shaffer, 101 North Tryon Street said I represent the petitioner; Mr. Sy Ede is here, the principle as well. We have Drew Ritter from Ramey Kemp is also with us to the extent you have questions about transportation matters, and we will discuss a couple of those briefly if time permits. Thanks to staff for their report and recommendation; we will work with them on the design and technical matters in the coming week and will continue to work with C-DOT to get some clarity on additional matters.

The site is just shy of 94-acres in the ETJ right on the Mecklenburg County/Cabarrus County line, currently undeveloped. You heard staff report currently zoned R-3, and the request is that it be rezoned to MX-1, currently surrounded by an assortment of business, some industrial across University City Boulevard, some R-3 and an MX-2 development immediately adjacent that Mr. Main mentioned.

The request is to accommodate up to 288 multi-family units and up to 250 single family detached units. I believe the density calculation comes out at 5.73 units per acre. The

adjacent property is zoned MX-2, the staff report mentions that the petitioner's request is consistent with that use. It was a 2002 rezoning that has a density of eight units per acre on a 78-acre site, has some single family in the rear to which the petitioner is going to include some connections.

The entrance off of University City Boulevard; the multi-family component will be located immediately to the right when you enter the site, the balance will be single family, also some stormwater management areas. There is a pretty significant stream buffer area on the west of the site that must be maintained. Two connections in the northern part of the site to stub roads in the neighboring single-family portion of that development. I believe those road names are Deer Chase Lane and Turtle Point Road. The applicant is requesting waiver of two additional connections to stub roads that will require them to disturb the stream buffer on the western side of the site, also a stub road out to the north.

Transportation improvements, there is one clarification that I think Felix can help with. Our understanding is that the improvements on the other side of I-485 are actually part of a funded TIF and already taken care of and wouldn't be the petitioner's responsibility, but these are three locations.

Councilmember Phipps said this is a very worthwhile project, and I like the fact that we are getting construction of some single family, owner occupied, for sale housing options there. One questions I wanted to ask about the transportation improvements, which are pretty substantial, at the intersection of University City Boulevard and Harris Houston Road, will that be a signalized intersection?

Mr. Shaffer said the petition is contributing toward a signal at that intersection.

Mr. Phipps said that is something that the residents along that Harris Houston corridor has been asking for, for years, because that stretch from Harris Houston Road going on to University City Boulevard and going toward Cabarrus County line to Harrisburg. I think that is 55 mph, and it is a struggle trying to make a left there going towards Harrisburg so that would be a good addition. I like the fact that it is owner occupied, for sale, single family; now the multi-family part, is that all apartments or some townhomes associated with that?

Mr. Shaffer said that will be apartments, no townhomes on this site.

Drew Ritter, 8307 University Executive Park Drive said I am with Ramey Kemp, we did the traffic impact study. I just want to clarify that the signal at Harris Houston Road is currently born to the day based on the volumes that are out there. Our site was not the one to bring it over the threshold. That is an existing issue that is already out there; the signal has been needed for some time.

Mr. Phipps said NC-DOT has always said that it is approved but not yet funded.

Mr. Ritter said correct, I just wanted to clarify that, it wasn't that our site was pushing it over the volume threshold for a signal. It has been an existing issue that has been out there, and as you said, it is the funding and the developer has agreed to make a contribution towards the cost of the signal.

Mr. Phipps said so a contribution has been made but I guess we still have to determine whether or not the contribution is going to be enough to actually get the signal in place.

Mr. Ritter said yes, all that is to be determined.

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

* * * * *

ITEM NO. 41: HEARING ON PETITION NO. 2019-027 BY LIBERTY PROPERTY TRUST FOR A CHANGE IN ZONING FOR APPROXIMATELY 20.50 ACRES LOCATED AT THE EAST SIDE OF THE INTERSECTION OF SAM WILSON ROAD AND LAINE ROAD, SOUTH OF I-85 FROM R-3 LLWPA (SINGLE FAMILY RESIDENTIAL, LOWER LAKE WYLIE PROTECTED AREA) TO I-2(CD) LLWPA (GENERAL INDUSTRIAL, CONDITIONAL, LOWER LAKE WYLIE PROTECTED AREA).

Mayor Lyles declared the hearing open.

David Pettine, Planning said this is 20.5 acres located on the east side of Sam Wilson Road and Laine Road, south of I-85. The existing zoning is R-3, the proposed zoning is I-2(CD), and it is in the lower Lake Wylie Protected Area. The adopted future land use in the Dixie Berryhill Strategic Plan from 2003 does recommend this site for office, retail, light industrial uses for this parcel east of Sam Wilson Road. The site is located within a growth corridor as per the Center, Corridors, and Wedges framework. The proposal proposes to construct up to 250,000 square feet of industrial uses with a maximum of 20% for office uses. The maximum building height is 50-feet. It does prohibit uses like petroleum storage, junk yards, medical waste disposals and other things that we typically wouldn't like include in an I-2 zoning that may be a little more noxious given there are still some existing residential and there is still a decent amount of residential in this area. It does also prohibit type one and two eating and drinking establishments as well as shooting facilities.

There are buffers proposed along the property as well as improvements to Sam Wilson Road at the site's entrances to accommodate some truck traffic as well as some dedicated car ingress and egress to kind of split those entrances between those two types of vehicles. The future right-of-way is being reserved along the southeast property line for a new public street to connect to the I-85 Service Road.

Staff does recommend approval of this petition. There are a few outstanding issues we need to work through prior to the Zoning Committee. It is consistent with the adopted land use plan, the Dixie Berryhill Strategic Plan, and again we feel the conditional plan does limit I-2 uses making it consistent with some of the light industrial recommendations for the site, and there are some other industrial uses and zoning classifications within that area and the 75-foot Class A buffer will certainly help with some of that adjacent R-3 property east of this project.

John Carmichael, 101 North Tryon Street said Massey Flippin and Jaime Maldonado of Liberty Property Trust are with me; Glenn Morris of Burton Engineering, and this is Pastor Todd Marlowe of Hope Community Church in Metrolina. Massey, Jaime, and Glenn are available to answer questions and Pastor Marlowe will address you at the end of presentation.

This is about a 20.5-acre site located at the southeastern corner of the intersection Sam Wilson Road and South I-85 Service Road. It is just south of Sam Wilson Road and I-85 interchange. This is Home Community Church in Metrolina, and this the site in question. The church actually owns this 20.5-acre site and would be selling it to Liberty in the event the rezoning is approved, and this is Sam Wilson Road. The site is currently zoned R-3, to the north we've got a parcel zoned B-2. We've got R-3 across Sam Wilson Road to the west, R-3 to the east and south and then further to the south you've got industrial and some office zoning. The request is to rezone the site from R-3 to I-2(CD) to accommodate the development of a building or buildings on the site that would be devoted to warehouse distribution, industrial and office uses and certain other uses allowed in the I-2 zoning district. The maximum size of that building would be 250,000 square feet, or the buildings but more likely would be one building. The maximum of 50,000 square feet could be devoted to office uses and the maximum height would be 50-feet.

This is the site plan. This is Sam Wilson Road. This is the church; this is that B-2 zoned property between the site and the Service Road, I-85 is to the north. There would be a

truck entrance here along the northern part of the site, trucks only. Other vehicles passenger cars, pick-up trucks, vans would enter here on the south. The truck court would be to the rear of the building between the building and the Service Road. It would shield the truck court and limit noise to the south of the site. Vehicular parking would be located between the building and the front of the site. The site is well buffered; a 75-foot Class A buffer with a berm along the eastern portion of the site. It increased to 100-feet in width here, and this would be a 55.25-foot Class B buffer with a fence. It is a little less of a buffer because it is next to business property that is zoned business. Then along Sam Wilson Road, you would have a 37.5-foot class buffer with a berm, so the building and the site would be bermed or screened somewhat from Sam Wilson Road. Along the south you would have a buffer between the church and the proposed use.

This is the land use plan, the Dixie Berryhill Strategic Plan; this is our site and once again the plan calls for office, retail and light industrial. This is a zoomed-out version of the land use plan, and you can see that the land use is called for essentially from the Service Road almost all the way down to Wilkinson Boulevard and here Wilkinson Boulevard is office, retail, and multifamily. This is an aerial of Sam Wilson Road between I-85 and Wilkinson Boulevard just to show you the existing development pattern. This is our site and also includes that little parcel there; this is the church. These are a couple of undeveloped parcels, and this is Air West Park, which is an industrial park to the south between the undeveloped parcels and Wilkinson Boulevard, so you can see that some industrial development has already occurred.

In terms of trip generation, this is C-DOT's trip generation table, the site is currently zoned R-3 so you could do 61 single family detached on the site currently if that was the direction the site would be developed in, it would generate 660 daily trips under the current zoning. The proposed zoning would generate 900 daily trips according to C-DOT so it is an increase of 240 trips. There will be transportation improvements, right-of-way would be conveyed along Sam Wilson Road, a southbound left turn lane on Sam Wilson Road at the northern most access point into the site, which was the truck entrance, a northbound right turn lane on Sam Wilson Road, at the northern most access point into the site which once again is the truck entrance. There would be a southbound left turn lane on Sam Wilson Road at the intersection of Sam Wilson Road and the Service Road then a northbound left turn lane on Sam Wilson Road at the intersection of Sam Wilson Road and Centergrove Lane. Curb and gutter would be constructed along Sam Wilson Road at a future location. The southernmost entrance would be restricted to cars, pickup trucks and vans as I previously mentioned, the petitioner would also install an eight-foot planting strip and a 12-foot multi-use path along the site frontage along Sam Wilson Road.

Liberty Property is a developer of Class A industrial parks and industrial buildings throughout much of the country, but they have quite a bit of product here in the Carolinas and this is just an example of some of their product in the Carolinas. This is in Greer, South Carolina, this is a project in Durham, and this is a project that is going to happen in Charlotte. Staff does recommend approval as Mr. Pettine said and we have one outstanding issue that we will certainly address prior to next Monday.

Todd Marlow, 525 Holiday Road said thank you for the privilege of coming and speaking to you on behalf of the petitioner. I am the Pastor of Hope Community Church and on behalf of the church we ask you to seriously consider this petition favorably. We are 100% in favor of the petition; we feel very confident that we have a good working relationship, a long relationship so far with the petitioner and we feel like they will be great neighbors. We ask you to seriously consider and give us a favorable consideration.

Mr. Pettine said I will follow-up with Ms. [inaudible] and see if she had comments she wants to submit in writing. For some reason she may have had to leave this evening, but I have spoken to her, and I believe Mr. Carmichael has spoken to her, so I will follow-up to see if she wants to submit something to us in written form.

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

* * * * *

ITEM NO. 42: HEARING ON PETITION NO. 2019-047 BY NR PINEHURST PROPERTY OWNER, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 36.06 ACRES LOCATED ON THE WEST SIDE OF PROVIDENCE ROAD BETWEEN CLOISTER DRIVE AND KNOB OAK LANE AND ACROSS FROM STRAWBERRY HILL DRIVE, FROM MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL) TO MUDD-O SPA (MIXED USE DEVELOPMENT, OPTIONAL, SITE PLAN AMENDMENT).

Mayor Lyles declared the hearing open.

David Pettine, Planning said this is just over 36-acres located on the west side of Providence Road between Cloister Drive, Knob Oak Lane, across from Strawberry Hill Drive just up from the intersection of Providence Road and Fairview Road. There are existing multi-family units on the site, both newly constructed and pre-existing on the backside of the project. The existing zoning is MUDD-O, mixed-use development, and they are looking for a site plan amendment to that MUDD-O at this time. The South District Plan from 1993 does recommend residential land use up to 17 dwelling units per acre. That plan was amended by the previous rezoning, 2016-032 that allowed the covenant entitlements on the site which again, we are looking for an amendment to increase that to 23.68 dwelling units per acre. So, therefore, we've got that increase in density on the site. It does increase the number from 581 to 854 units. It does commit to no fewer than five percent of those units to be constructed and dedicated as workforce housing for a minimum of 15-years prior to the first CO. There are 130 older units that are being committed to be maintained and preserved, and that 130 units would be part of that backside of the site of those existing ones.

As it relates to the previous plan, we do amend some of the things for the internal drives and building orientation to number, increase the height of those internal buildings from two to three stories to four to five stories. We have some commitments to adding some open space totaling 11,000 square feet in two locations as well as buffer plantings along the northern and western property lines, also carry over additional development standards for the remainder of the site. C-DOT has a slide in here about the studied intersection at Strawberry Hill, Providence Road, and Sardis Road. They did a traffic study for the 2016 petition that studied traffic for up to 830 units; the entitlement only went to 581, so we did look at traffic for this petition up to 830 units even through the build out was 581, but the traffic impacts were mitigated for up to 830 units, and most of those, if not all, I believe some of the improvements that have been put in place as a result of that traffic study. With that I will turn it over to Felix to talk about the intersection.

Felix Obregon, Transportation said the star is the site and the circles are the two intersections that were studied as part of the traffic impact study that was done as part of Phase I. On this slide, it shows the improvements; on Providence Road they had extended the left-turn lanes on to Strawberry Hill Drive, as well as extend the existing left-turn lane into the development itself. They are installing a new traffic signal; they also provided a right-turn lane from Providence Road into the site. Part of the traffic impact study they are providing dual left from the site onto Providence Road, in addition, one of the right-turn lanes is actually being extended as through right-turn lane up to their property line. I also want to be able to show you some of the other improvements that are going to be happening with the adjacent development; Carmel on Providence which is a rezoning that was approved next to this one and the construction plans have also been approved. They are also providing a left-turn lane into the development across the street, and they are also providing a signal left-over to accommodate pedestrians, so they can cross the road. Part of that is extending that through right-turn lane all the way to Sardis Road to provide additional capacity. In addition, with the new traffic signal at Strawberry Hill Drive and Providence Road, it is also going to provide pedestrian the ability to cross the road safely and also have access to the bus stops and CATS buses.

Mr. Pettine said as mentioned earlier in the presentation staff does not recommend approval of the petition in its current form. We do have inconsistency with the land use

plan up to 17 dwelling units per acre. As we look at the project, we do want to point out again that we had studied traffic up to 830 dwelling units and right now we are at 581 and they want to go to 854. So, there is still I think some room for us to continue to work with the petitioner on this to kind of get a little bit more of a handle on what some of those impacts may be, if there is anything else we need to take a look at, are there any other public benefits. We do have plenty of access to transit, there are four different transit routes that run along this corridor, so I think we still have some opportunities to continue some discussions with the petitioner to work out some of the outstanding issues and work out where some staff concerns will be and look at this project maybe through the lens of some additional public benefit prior to the Zoning Committee and prior to decision. Again, I just wanted to let you know where we are with it now, the recommendation for that 854 is something we will continue to study and work with the petition on to move forward prior to Zoning Committee.

Keith MacVean, 100 North Tryon Street said I am with Moore & Van Allen; Jeff Brown of our firm, and I are assisting Northwoods Raven with this petition. With me tonight is Mike Gribble with Northwoods Raven and Dan Putman with Cole, Jenest & Stone, the site engineers for the site. I want to thank David for his assistance with this petition; we've been working on this since the spring and through the summer. We did defer it a couple of times to allow us additional time to work with the staff. We felt we were pretty close and we will continue to work with David and the staff to resolve the remaining issues, including the C-DOT issue that was mentioned. I also want to thank the residents of Columbine Circle and Providence Town Townhomes, two neighbors, Columbine Circle is located along our western boundary and Providence Townhomes is located on our northern boundary across McMullen Creek. They took a number of nights out from their busy schedules to meet with us and give us some thoughts on the proposed development. We've made numerous changes to the plan to address their concerns regarding additional buffers, and I'll explain that later as we move through the presentation.

The site is part of the South District Plan, and there is an inconsistency here in terms of density. When we look at this site, we see it as a unique site on Providence Road. When you look starting at Highway 51 where the Arboretum is all the way to the intersection of Providence Road and Fairview Road there really isn't another area in that part of Providence Road that is similar to this location. There is the existing Strawberry Hills Shopping Center; there is the Pinehurst on Providence, which is the location of this site, and this rezoning is affected by; there is a future mixed-use development at the corner of Providence Road and Fairview Road. It will add additional residential and retail. What the petitioner has been doing and why we think additional investment at this area will allow the area to transition. It will allow continued investment and redevelopment of the site, and it promotes placemaking and smart growth. Continued redevelopment of the site will allow the area to transition from an auto dependent form of development to more of a pedestrian walkable neighborhood and mixed-use center anchored by those other retail uses you see in the area. The recent development on the adjoining parcels, including this site, have really been working to knit together those separate developments that have occurred at this intersection overtime. They have added walkability, additional sidewalks, there is inner connectivity between these sites, there is a new private street that has been constructed on this site that extends parallel to Providence Road starting at the signal that Felix mentioned and then accesses this future development here at the corner of Fairview Road and Providence Road. That also has a private street that accesses Fairview Road that creates inner connectivity within these parcels. The new signal at the intersection creates walkability so residents of this community can easily now access the Strawberry Hills Shopping Center and then when the future signal goes in this other location it also has pedestrian amenities making connectivity across Providence Road more achievable from a pedestrian perspective.

We have made several transportation improvements as Felix mentioned. Most of those have been implemented by the petitioner as part of Phase I development; the only piece missing is a dual left-turn out. In terms of land use policies, the South District Plan which is the governing District Plan for this site was approved in 1993. It has some age on it. The GDP location criteria was approved in 2003; these policies do not recognize this unique nature of this location and the benefits of reinvestment and revitalization in those

uses that were previously established at this location this additional density allows us to do. By investing more in this site, by making it more of a pedestrian area and moving away from auto oriented we need that additional density. It is a unique location on Providence Road, because it has those uses that have historically been there, we are reinvesting in an area that has already been developed with those higher density residential uses and retail uses.

Again, the site is a good location for density, it is appropriate here, it creates housing choices and it functions as a neighborhood activity center. It has adequate bus service as David mentioned more than adequate. There is a number of routes that go along Providence Road and Fairview Road, a unique feature for this location. The City has funded a sidewalk project along Providence Road that will give additional access to this site and the commercial uses at this intersection by residents further north on Providence Road. This site also abuts McMullen Creek, which is a future greenway. The first phase has been very successful occupancy, pace of lease up has been good and has proven that there is a demand for new residential units at this location.

Just a little bit of history about Pinehurst on Providence, developed in 1967, was originally developed with 407 units. The long-term Northwoods Raven goal here is a long-term ownership renovation and redevelopment of the site. They have invested a generous amount of money in taking what they got when they bought it in 2014 was already rezoned by the previous owner; they renovated and have rehabbed a number of the existing buildings that have been on the site since 1967 and have spent several million dollars in doing that. The new investment is existing units, new pedestrian infrastructure, as I mentioned, and connectivity. This is the new private street that is inner connected to the adjoining piece and also connects and starts to organize the rest of the site. Proposed additional investments, this does add 272 units to the site, a modest increase in our opinion. New building additions will be located along the private street; this is Providence Road, this is the new internal street, this is existing Phase I building. This will be the new building that is up along that private street with easy connections to the future mixed-used development here and then back to the signal here as well as the new signal at that location. The site will have between 27 and 30% of the site as open space. Under the GDP criteria that does qualify it for additional density. Parking for the new building will be in a parking deck located in the center of the site surrounded by residential buildings. The new plan does maintain the transition to the adjoining neighborhood both on Columbine Circle and the Providence Townhomes. A traffic study was completed and identified road improvements have been implemented and one final piece will be completed as part of the next phase.

As I mentioned in terms of transition, we are over 400-feet from the new building to the homes on Columbine Circle and over 480-feet to the townhomes at Providence Place. It maintains the previous transition in this area, which is two and three-story buildings. Ninety-four of the older units will be removed, but 161 of the older units will remain, and there is a commitment to maintain those older units for a minimum of five-years to allow some of that to act as naturally occurring affordable housing.

We have added some additional buffering adjacent to the two existing residential areas that we have to our north and west. That is this additional buffer by removing parking areas and existing buildings that have been there since 1967 and adding additional landscaping. There is already a brick wall that has been established next to the homes on Columbine Circle. We were asked by the Providence Place townhome folks to add additional landscaping between the proposed development and the existing units and the creek; we have done that and that is an example of how that will be done. Eventually when the third phase of the development occurs these older units that are now located in the floodplain will be removed and a larger buffer area will be provided here as well as here.

Plan connectivity and integration with the adjacent mixed-use development, as I mentioned private street and connectivity to this piece. There was one of the rezonings on this site was actually to accommodate this inner connectivity and to facilitate that third southbound through lane on Providence Road. That took an actual rezoning petition,

change in the site, change in the development of this site, something that was time and money for the petitioner, but they were willing to do because they believe in the inner connectivity and the improvements to the road. A new internal street will provide all these sites with new access to new signalized intersections with good pedestrian mobility to cross Providence Road. Phase I development modified to accommodate the turn lane as I mentioned.

In terms of traffic improvements, I believe Felix has gone over this. The 272 units increase traffic here by about 1,000 cars per day. It is not a large amount of traffic increase; we have added right-turn lanes, closed medians, extended left-turn lanes, installed the traffic signal, dedicated additional right-of-way, designed and constructed the internal road for internal connectivity which will eventually get the residents from this site out to Fairview Road, without having to go through the intersection of Fairview Road and Providence Road. We will add a second left-turn lane to go out from the site and will be adding pedestrian ramps at the intersection of Providence Road and Strawberry Hill.

Ben Schwartz, 806 Huntington Park Drive said I live on Providence Road between Sharon Amity Road and Fairview Road. I am here to oppose any further expansion of the proposed housing on the west side of Providence Road across from Strawberry Hill more specifically known as 2019-047. Myopic capitalism limited by inadequate infrastructure runs counter to the common good. The City Council has many functions, not the least among them is a check on development. The development on Providence Road has not slowed or stopped. Providence Road is going to become a parking lot. It is my understanding that a traffic impact analysis was done before this development built the first units on Providence Road. While the traffic impact analysis tries to tell us, what may or might happen to traffic on Providence Road I can tell you what is actually happening to traffic on Providence Road. It is not without its benefits, the actual stopped traffic.

When my wife leaves to go to work in the morning, it is not that bad. Traffic is stopped all the way from South Wendover Road half-way down Providence Road, and she is traveling northbound towards the City, so people just let her in, not a big deal. I'm lucky. I actually get to travel southbound on Providence Road, and I make a left. It is Fairview Road if you make a right and it is Old Sardis Road if you make a left. I'm not mad about the traffic I'm in, because it not so bad even though they added a traffic light. What is depressing is when I pass the development on the right-hand side and see the people there stopped; they can't even get out of the condo complex. They have to wait for their light, but what are they waiting for, traffic is backed up on Providence Road, and they want more. A modest increase; 47% is what they are asking for, 253 units. It is nice when you just give a number but it is 47% more than they already have that Providence Road can't even afford to have. Again, Counsel for the developer says it is just 1,000 cars.

I'll tell you what; meet me at the Dunkin Donuts on the westside of Providence Road in the morning, and we can look at the traffic. My only bit of advice is show up real early, because traffic is really bad. If the expansion is approved the developer is going to be long gone when Providence Road becomes impassable. The road to hell was paved with good intentions, and I don't want the same thing to be said about Providence Road. Thank you for your time consideration and my opposition this expansion.

In rebuttal Mr. MacVean said I did want to go back as part of my rebuttal to the affordable housing slide that I didn't get a chance to comment on and I'll be glad to comment on Mr. Schwartz's comments. There is a commitment to affordable housing here, a minimum of five percent of the total units for a minimum of 15-years. That 15-year period does not start until the first CO for the new building is constructed so effectively about an 18-year commitment if you start from today. There is also a commitment to preserve a minimum of 130 of the existing older units on the site for a minimum of five-years to preserve existing naturally occurring affordable housing.

In terms of the rezoning, it does add some trips, but it doesn't that many trips; it is 61 trips in the a.m. and about 83 in the p.m. That is about one car per minute additional in the

a.m. and a little bit more than one per minute in the p.m. We have mitigated that with additional improvements. This site is well served by transit service; it has a variety of uses here, the folks that do live here have the ability to go to other services without getting in their cars. The issue of Providence Road is bigger than this site so there are issues and other things that can be looked at to improve traffic on Providence Road. We think we are doing our portion of that by adding signalized intersections, improving turn lanes and adding an additional southbound through lane.

We have done workforce housing, it is an appropriate location to add housing in a community and a city that needs additional housing. The investment has already been made here, we are making additional investment in a location that has historically been used for higher density residential. The additional increase in density allows us to do that in a form and in a way that creates a place versus separate developments on three different quadrants of an intersection.

Mayor Lyles said I just have to say on this one, there are two things that I really think we have to look at, and it is not just Providence Road. It is Columbine Circle; it is Randolph Road, the intersection of Fairview Road and Providence Road, coming in town/out of town. We've got the development that we've already approved at the intersection, and this is coming back down towards the single-family residential coming into town. Everything that has been said about Providence Road for any of the petitions that we've talked about, this is just going to mean more of it and it is only a car a minute. A car a minute can stop traffic; it is just a very difficult situation for me to understand, and the density increase is-

I'm going to say this and then I'm going to let Council; when we built the hotels on Sharon Road we took down housing that people that lived in that community were able to afford to live in. I will never forget the woman that worked at the Library, and those are gone. We are taking down affordable units, and I understand you've got five percent, and I understand you will phase out but in that area where there are good schools to go to, where there is transit access we are getting an idea of five percent out of an increase of 45% for affordability and a phased in, you can stay in the old unit until we get ready to do it. This one is just amazing to me, and I know it is Carmel Road. It is Randolph Road; here we are I think one of the parts of the City that people understand the need for diverse city and incomes and use, and I look across the street where the transit stop is, and you have to cross that road to get there and you have to go up to Fairview Road light to cross over or the light that they have just put there. I don't know where we stop; I just frankly don't know where we stop, and I'm not asking you to reply. I guess I should ask you a question of some sort, but instead of building economic mobility we are deleting opportunity for people to live in areas that is affordable, and it is not to 30%. It is the people that go to work every day. This one is a tough one; diminishing the quality of life in a community, we have to take very seriously. I guess there are questions for Mr. MacVean, and I just had an opinion.

Councilmember Bokhari said we've talked about many cases along this corridor. Obviously, there is a lot of challenges with it, but on the flip side of this argument I would also say that somewhere between 60 and 100 people are moving here per day, and we know that we are at a severely depleted state from a housing stock perspective, and we've got to do something about that. I try to weigh these with both of those sides of the coin in mind, and I would say that I understand staff's position now but we've all spoken, and there are several weeks of work that I believe needs to happen to figure out how we can make a bigger and even better impact on this surrounding community based on this starting point and where we are and where we go from there. If that is an increase in affordability, if that is an increase in NOAH great, right, but I will trust you guys to be able to get to work on that and figure out how you could come to the table with an even better option and then finally back to this same thing, and I've said this multiple times. I know we talked about earlier today, but we seem to only talk about Providence Road during rezonings, and it is supper annoying. So, for all of us that have a passion about it and I'll bring it up again, if it is getting NC-DOT to a table with us, if it is sitting and saying we are going to formalize Taiwo, a quarter plan that informed and lets transparently everyone know who is going to potentially develop along Providence Road here are the new rules

of engagement, great, but every time we bring up the traffic problem and lay it at the foot of developers on a petition by petition basis it is no different than calling for a moratorium. That is not what I think anyone here is about so,

I think we've got to actually start doing some very specific work on that front or don't do it, and we won't ever bring it up at a petition again, because it is not the developer's problem who has mitigated a good chunk of the traffic they've brought into the mix with their petition to solve all the rest of our problem that is laying at our footsteps.

Mayor Lyles said Mr. Bokhari, I think that is a fair statement except the density on this is going up by one-half, and if it were just the idea that we were doing something to develop in the neighborhood then that would be fine, but this is not development redevelopment. This is actually getting to a place where you are increasing it so much and it is not necessarily just about the traffic, and it is not just about Providence Road. It is about that entire gridlock that you've got in SouthPark and around that. It is not saying we are asking the developers to solve our problems; what it is, is a community that has to be planned in a way to do something and if they were tearing down and rebuilding and maybe another 20 or 15%, but this is basically saying we are going to do one and a half times what we've done before and development along that way close to where single family is going where traffic is bad, it is not just the traffic. It is a lot more than that.

Mr. Bokhari said again back to the point; what I'm saying that is why we have to weigh the greater good of what we need. What is a fair percentage of affordable housing; what is a fair percentage of NOAH and the right timeframe for it? That is what they have to work out and then we get to decide is that a fair trade for what they have proposed. I'm just particularly calling out the traffic issue, and you are right it is everywhere, and it is hard for us to do something about that in a lot of cases.

Mayor Lyles said well, you've got a lot of investment in that area; you've got what started with the apartments. You've got the new Strawberry Hill, and to say we are going to put in more that really begins to diminish what we've already invested in. I don't know where to start and stop, but I just think it is time for this kind of discussion.

Councilmember Eiselt said I have been talking about Providence Road and not just on the rezonings. At some point, I have to ask staff what is the saturation point? The way we do these things doesn't make any sense; we look at one at a time and we measure one at a time with what we think is happening, and I guess because I don't have the professional background, but I don't understand why we let this kind of density go anywhere when we should be having some kind of a policy that says if a road like Providence Road is at a certain saturation point and the state has that percentage we don't get that in our zoning information? I guess we could, so if they are at 80% of their capacity or 105% of their capacity, whatever the number is, then why can't we start saying we won't allow increased density or only a certain percentage over the entitlement and start pushing that density out to the parts of town we would love development like this.

We don't have any other way to get it out there unless developers know that we have a policy or at least guidelines that say we are going to look at all of the projects in one area and say that enough. I don't know; this is why we don't go past 10:00 p.m., because it starts to get hard to think about this clearly, but I just don't know when enough is enough, and I don't know if you can answer that.

Mayor Lyles said maybe at the intersection it is a 30-minute wait to get through a light; that is the standard I like.

Ms. Eiselt said Fairview Road and Providence Road, when my kids were still in school, they are all grown, two of them out of college. When I used to take them to soccer games it was a 20-minute wait at 4:00 in the afternoon to turn left onto Providence Road from Fairview Road, so that was I don't know how many years ago. It has got to be a lot worse now, and at what do we just say that is enough?

Councilmember Driggs said you are saying so now, right? You are not recommending this, right? I have just one [inaudible] question, if you increase the number of units by 47%, how come the number of trips only goes up by 28%?

Mr. MacVean said in terms of percentages it is 272, units and 272 units increase the trips 1,000 trips a day. It is not a straight-line progression when the units –

Mr. Driggs said I'm not sure why not.

Mr. MacVean said I'm not a traffic engineer; those are the numbers based on ITE models.

Mr. Driggs said I will need to get back to C-DOT about that; I'm struck by the fact that there is no proportionality there at all, and normally we do have a number of trips associated with a certain type of unit. I don't want to kind of dwell on that too much, but I think to the conversation we just had, from where I sit on Providence Road further south I'm under a huge amount of pressure to find ways to limit from where we are today, like to reduce the kind of new trip creation that takes place.

I've actually on a couple of occasions not been prepared to introduce those new limits without prior policy being put in place so that people know what to expect. What I struggle with here is the idea that we have a density of 17, and now we are talking about moving in the other direction, which is introducing an element of density that is way above the existing. We've heard earlier too, people were saying why can't we actually cut that back, or why can't we do more on the trees for example? So, in this case it just feels like this whole petition runs counter to the conversations that we need to have about Providence Road, which have to do with kind of better metrics. I would love to have those conversations in a constructive fashion with developers, but the other point I will make is there are a number of moving parts here, and you've talked about the existing housing and the replacement of the housing.

There are a couple of theories at work here that are not generally accepted policies; you are offering explanations for why we should do this that are not supported by any existing procedures or policies that we have. So, I don't know that is a specific question, as I've told you before I'm struggling with this because if somebody comes to me and says, exactly why was it that you thought allowing 50% more density there given the context of Providence Road was a good idea I'm not sure what I would tell them. I heard you speak before, but it doesn't actually get directly to that question.

Mr. MacVean said well, I think policy wise, it is a unique location because it has other uses than just multifamily uses at the location. From our perspective, it is similar to an activity center; it is not a huge activity center. It is a small neighborhood type activity center. The Centers and Corridors policy doesn't recognize this site as that, but there is also no mechanism in the Corridors and Wedges Policy Framework to add new centers that evolve over time. We think this is an evolving center. There have been other petitions at this location that have created that place, that have created a center by adding residential units by adding retail and other uses and services to a location that has historically had them. When you look at Providence Corridor, there aren't locations up and down the corridor that have the mix of uses we have here. You have to go all the way to the Arboretum going south before you encounter another location like this.

Mr. Driggs said that is the theory that I can't relate to anything that we do currently. To come in and make the case of this kind of uniqueness and those particular dynamics when I try to equate that to the language that we use for land use decisions it is sort of like you are ahead of us. Like, you may well be right but you are ahead of us in terms of some of those points as to why we should just depart from our traditional kind of approach of saying this is the density and we have kind of ways that we look at density. Maybe I need to spend more time with you and understand this new paradigm, but I can't sit here in a Zoning Meeting and listen to that and find a reason to just discard our normal.

Mr. MacVean said it seems like the only objection is traffic.

Mayor Lyles said I would disagree; I don't think the only thing is traffic.

Mr. Driggs said I don't think that is it.

Mr. MacVean said it is density translated to traffic. You don't hear opposition that the building is too big and too close. It is 400-feet away.

Mayor Lyles said I think that with more than what we have here would probably ask if there are too many buildings or too close. I don't know that we have the information to say that tonight.

Mr. MacVean said the relationship to the adjoining neighborhoods have remain constant since this was originally rezoned in 2013. In fact, it is improving a situation that was built in 1967 where it has existing buildings within 20-feet of single-family houses. We are locating new buildings hundreds of feet away, removing buildings from the floodplain, adding buffers and landscaping to make an appropriate transition. We are mitigating our traffic. Now, there are other traffic issues on Providence Road because there is other development in the City that is using Providence Road, but we are doing what we need to do to mitigate our traffic increase. We are increasing units, yes, but we are mitigating that, and we are trying to take a location that is three or four different developments done by different developers over time and knitting them together to create a place that is a place where you can go home after work and walk across the street, walk next door and never get back in your car. That is going in the right direction, does it solve all problems, no, but it moves in the right direction of development. We need housing, and this is a way to get housing.

Mayor Lyles said when you come home from work are you going to walk across Providence Road?

Mr. MacVean said there will be two traffic signals, pedestrian crosswalks to facilitate that. Before that it was a challenge to get across Providence Road; we have improved the matter and made things better. That is what additional development can do, it is like taking SouthPark where it was in 1972 to where it is today. It is moving in a better direction. Does it solve everything? No, but it is making progress.

Councilmember Winston said Mr. MacVean why are we only committing to keeping the NOAH's at their price point for five-years?

Mr. MacVean said the units are old; they are expensive to maintain. Northwood Raven has already invested over multiple millions of dollars to just reroof the units, redo the siding on the older units, improve the interior. They have other structural problems with those units. They need to be replaced; they've outlived their useful lifetime. So, there is a commitment for at least a minimum of five-years, somewhere between 130 and 160, but again, it gets more and more expensive every year to maintain those older units. Eventually, they will need to be replaced and that is why the commitment for five-years.

Mr. Winston said would it be fair to say that this will be built in phases, and we will get to that phase when these are eliminated five-years down the line once construction begins basically?

Mr. MacVean said that is correct. Eventually, the last phase will remove all the existing units, yes.

Mr. Winston said I don't think that counts as preservation of affordable housing.

Mr. MacVean said there is an argument to be made for removing all the older units today because there is an increase in expense to the developer of maintaining and renovating existing older units that have limited amount of rent capacity. They can only rent them for so much because they are older units; they don't have the same amenities and space as the newer units. The developer does have the choice, and he is saying he won't do this. He will preserve units for a longer period of time. He could eliminate them sooner; there are some economics that would say that would make sense.

Mr. Winston said are these NOAH units currently occupied?

Mike Gribble, 558 East Stonewall Street said yes, the majority of them are.

Mr. Winston said when we are talking about all this traffic around Providence Road, I think there are two sides to the conversation. One person sees only one car per minute but in the mornings and afternoons when you are trying to get out it can take five to 10 minutes to get out and all of a sudden you have a line of 10 cars that could contribute to the further lock on the roads, but also how much of this traffic can be attributed to the growth that is happening in Union County and folks that are traveling to jobs in Charlotte via Providence Road? What kind of control might we have if we stop development like this, would we actually decrease the amount of volume that is happening on Providence Road?

Mr. Pettine said I think that is a tough question to quantify an answer, not fully getting a true look at the entire corridor in terms of numbers. I do think we had some discussions I believe at our last meeting on the 26th when we had a petition further down on Providence Road and we talked about if we have density in areas that are further outliers from some of these areas that are closer into downtown, and really we are still going to add that traffic along that corridor, it is just going to take it longer to travel from one end of Providence Road to the other, and again that is no advocacy for anything regarding the project or other things going on, just the fact of if you allow density in areas outside of where we are talking about now that is going to be somewhere, and it is going to end up on that corridor to some degree.

I think in terms of what is going on in Union County I wouldn't be able to answer that question without some help from NC-DOT and some other studies that may be done, but in terms of density outside of this location, it is still going to add volume and increase in traffic somewhere along this corridor. It is just where does that occur, and where do we pick that volume up? It is just in a different location.

Mr. Winston said C-DOT, do you take into consideration the growth in a surrounding region in terms of how we deal with our capacity on particularly market to farm roads in the City?

Mr. Obregon said one of the things that is happening on Providence Road is NC-DOT is actually doing a feasibility study on Providence Road, and part of that feasibility study is they are going to take into consideration this signal, as well as the other two signals further inbound into town. Part of that study will take into consideration what you are saying which the study will go all the way to Union County, and it is going to take all of that into consideration. One of the things we are doing with this particular development is trying to provide the ability for folks to be able to use transit, and the signals that are going to be provided are going to make it easier for folks to cross the road and have access to the bus stops. So, it does encourage a different type of motor transportation as well.

Mr. Winston said I want to ask the person who spoke in opposition a question; I wouldn't even call what happens on Providence Road gridlock, because to have gridlock you have to have a grid. Does this look like grid to you sir?

Mr. Shwartz said it does not.

Mr. Winston said I would say the big reason that we have the type of traffic problems along Providence Road are because of the way we all have developed this City, specifically in this part. We have developed in a way that cuts off neighborhoods from one another, that segregates neighborhoods from one another so, in order to fix that we have to create some type of grid system so that we can connect people to places that they want to go.

Would you be comfortable accepting and trying to deal with this Providence Road problem going back to your neighborhood and championing and saying we have to connect these streets that do not connect right now in order to facilitate our problems and in order to do that things are going to have to change within our neighborhood. We will have cars going

through here that our kids might have to look out for cars as they are playing in the street. We might have to do things like that happened during urban renewal and take people's property from them so that we can create infrastructure in our neighborhoods that helps to solve the problem that we all complain about day in and day out. Would you be comfortable going into your neighborhood and having that conversation?

Mr. Shwartz said absolutely.

Mr. Bokhari said you've got one.

Mr. Winston said you laugh, but how else are we going to do this?

Mr. Shwartz said we can talk about it; are you talking about eminent domain where you are going to take off the front of people's lots on Providence Road, so the road is widened?

Mr. Winston said in order to create pathways to move people from where they are to where they want to go you have to have better pathways for that transportation to move on, because how can you get from one part of the City to the other if you don't have roads that connect as opposed to cut the City off? If you are willing to have that conversation, do you think other people in your neighborhood would be amenable to that?

Mr. Shwartz said we will have that conversation; some of the problem is that the infrastructure that we are talking about today is on the west side of Providence Road. You've got a lot of people there who want to go north, and in order to get to that mass transit they have to cross the road. I drive that way every day; someone is going to get killed crossing that road. That light where you walk across, that people wait and they have 12 seconds to 20 seconds to get across, someone is going to die crossing that road, and we can't be responsible and anticipate someone's negligence. That is what the law says, but we have a moral responsibility to take that into account.

Mr. Winston said I would say for all of us have to have a different conversation, because what you are dealing with, people who live on the east side are going across Independence Boulevard all the time. People deal with that going across Harris Boulevard all the time. People deal with that going across Brookshire Boulevard all the time, and we have to have more honest conversations, and we've got to stop this hand ringing around the dais when we are dealing with these rezonings like this and really bite the bullet and stop waiting for the State. Stop waiting for whatever magic dust we think we can put over this and deal with what we have built us intentionally to get to this point right now. I hope we can get there sooner rather than later.

Councilmember Phipps said I don't have a question, just an observation; I have great sympathy for the petitioner, because under normal circumstances we would be applauding a petitioner that would be doing a self-directed NOAH. We would be saying no Housing Trust Fund money is involved with it. As the District Rep has said, we've got a lot of people moving here every day, and they need some place to stay. They are moving here, but they are not bringing any infrastructure with them, they are just bringing their cars with them. So, it seems to me we keep having this circular argument about Providence Road; to me, I think it is just leading to an eventual moratorium. How else are you going to deal with it?

Mayor Lyles said Mr. Phipps, you know how much I appreciate you, but I don't think we are talking about a moratorium.

Mr. Phipps said that is what we always say; we don't think we are talking about a moratorium, but I'm trying to figure out what is the end gain. Are we going to say no more development on Providence Road?

Mayor Lyles said I think what Mr. Winston is suggesting is that we look at ways to build out some things that occurred that don't necessarily connect all the way. I'm actually where Mr. Winston is. When they built Sharon Elementary School you would have thought

that we would have connected it to Morrocroft. They did not put a street or a path from Sharon School where the Morrocroft Neighborhood was to a Library. So, we don't do these things, and I agree with you. We haven't and when we actually try to do some of that there was not the political will to get it done. I don't know if this Council is going to have that kind of political will, but that is why earlier today I said well, let's get a place where we can connect some streets. Let's find out where those are, but to this petition it is not just about Providence Road; it really isn't. It is the safety of Providence Road, but we are not going to be able to expand and take out Providence Road. I say that about every neighborhood that we have. I don't know when any major arterial that we can do anything more than restripe. Someone asked me about Tyvola Road; why don't we just widen that even more? It is not going to happen, so we need to do that. I have one more question; are you doing relocation for the people that currently live in the units?

Mr. Gribble said when we redeveloped this first phase we worked with the residents who were there. Some people naturally move out; there is the constant turn on the property. We make sure that we communicated early and often with those folks. We were able to do that the first phase without offering any specific relocation, and we didn't have any issues. If it gets to that point we will certainly make accommodations, but to date, we don't have to do that yet.

Can I respond to a couple of things, one, the connectivity which we heard at the public lunch as well? We don't control what happens north and south of us on Providence Road, but I do think within the confines of our petition we are adding more of a grid system to the neighboring parcels and creating some more of that connectivity. When we first bought the property, don't disagree with the safety issues with people crossing Providence Road. We did install a full movement traffic signal that added a crosswalk that is signalized. We don't control the timing; C-DOT controls the timing, so if that is an issue that is something we could look at, but I think within what we are able to do within our rights as the property owner and this particular property, I think we have actually made some improvements here.

Related to the NOAH, our commitment to NOAH actually went back to when we bought the property at the end of 2014. That is when we acquired a property that had significant deferred maintenance, the roofs, and I think there was a picture that Keith showed, leaked constantly, because the previous owner just had not invested in those buildings. We reroofed the buildings that we kept; we've done quite a bit to extend the life of those building, but they are the end of their useful life, and we have certain buildings that have foundation issues that are just extremely expensive to repair and maintain, so that has got to be part of the conversation.

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

* * * * *

OPEN AND CONTINUATION OF REMAINING PUBLIC HEARINGS

Mayor Lyles said we said we would stop at 10:00 p.m.; it is now 10:00 p.m., so I need a motion to open and continue the remaining hearings.

Motion was made by Councilmember Mayfield, seconded by Councilmember Newton, and carried unanimously to open the following hearings and continue them to Monday, September 23, 2019: Item No. 43, Petition No. 2019-074; Item No. 46, Petition No. 2019-061; Item No. 47 Petition No. 2019-118; Item No. 48, Petition No. 2019-036; Item No. 50, Petition No. 2019-056, Item No. 51, Petition No. 2019-062; Item No. 53, Petition No. 2019-070; Item No. 54, Petition No. 2019-071; Item No. 55, Petition No. 2019-076; Item No. 56, Petition No. 2019-079; Item No. 57, Petition No. 2019-081; Item No. 58, Petition No. 2019-082; and Item No. 59, Petition No. 2019-083.

ADJOURNMENT

The meeting was adjourned at 10:03 p.m.

A handwritten signature in black ink that reads "Stephanie C. Kelly". The signature is written in a cursive style with a large initial 'S' and a long, sweeping tail on the 'y'.

Stephanie C. Kelly, City Clerk, MMC, NCCMC

Length of Meeting: 4 Hours, 59 Minutes
Minutes Completed: September 26, 2019