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The City Council of the City of Charlotte, North Carolina, met on Monday, December 16, 1974, at 8:00 o'clock p.m. in the Board of Education Meeting Room, for a televised meeting, with Mayor John M. Belk presiding, and Councilmembers Kenneth R. Harris, Pat Locke, Milton Short, Neil C. Williams and Joe D. Withrow present.

ABSENT: Councilman James B. Whittington absent at the beginning of the meeting.

The Charlotte-Mecklenburg Planning Commission sat with the City Council, and, as a separate body, held its public hearings on the zoning petitions, with Chairman Tate, and Commissioners Boyce, Drummond, Finley, Jolly, Kratt, Ross and Royal present.

ABSENT: Commissioners Ervin and Turner.

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INVOCATION.

The invocation was given by Reverend Frederick Klein, Ascension Lutheran Church.

COUNTRY DAY SCHOOL FOOTBALL TEAM RECOGNIZED AS STATE INDEPENDENT SCHOOL FOOTBALL CHAMPIONS.

Mayor Belk recognized the members of the Country Day School Football Team and presented each with a certificate as the State Independent Football Champions. Also recognized was John Cook, Coach of the Team, and the Assistant Coaches and Team Managers.

ORDINANCE NO. 490 AMENDING CHAPTER 20 OF THE CITY CODE TO PERMIT RIGHT TURNS ON RED TRAFFIC SIGNALS AT CERTAIN INTERSECTIONS.

Mayor Belk stated City Council had a meeting today with the State Senators, and Senator Moore suggested that Council consider an ordinance to permit right turns on red traffic signals at certain intersections. He asked the City Attorney to explain the ordinance.

Mr. Underhill, City Attorney, stated before Council is an ordinance that would amend the City Code by adding a new section which would permit any vehicle, after coming to a complete stop for a red light and yielding to pedestrians and other vehicles that may be within the turning radius, to proceed and make a right turn on red after so yielding, except those intersections which are posted with signs that specifically prohibit right turns on red traffic signals.

Because of the mixup in the 1974 General Assembly, the legislation which permits right turn on red was later repealed by oversight by that same Session, and by a new Bill which will become effective January 1, 1975.

He stated he has researched this matter and feels that the city has the authority under its charter to pass legislation in the form of an ordinance that would permit right turn on red even though the State enabling legislation goes out of existence on January 1. This ordinance, if adopted, would continue the permissive traffic movement of right turns on red signals after stopping for other pedestrians and vehicles even after January 1, 1975 when the State Legislation goes out of effect. This ordinance, if adopted, is proposed to become effective immediately upon its adoption, and would remain in effect until City Council repeals it or takes some other action.

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Mr. Underhill stated since this is not a matter that is on the agenda, the Council policy and procedures regulating the conduct of Council Meetings require that the Council must unanimously decide to consider to take action on this matter.

Mayor Belk asked if the item should wait until the return to the meeting of Mayor pro tem Whittington? Mr. Underhill replied that Mr. Whittington was not present when the meeting began, so he is not counted, and there is a quorum of Council and action can be taken without him being present. There is a sufficient number of Council present to consider any legislative matter. His presence is not legally necessary.

Councilman Short moved that Council consider the ordinance. The motion was seconded by Councilwoman Locke, and carried unanimously.

Councilman Short moved adoption of the ordinance amending Chapter 20 of the City Code to permit right turns on red traffic signals at certain intersections. The motion was seconded by Councilman Harris.

Councilman Williams asked the City Attorney if he has an opinion on whether or not the Council has the authority to enact this ordinance? Mr. Underhill replied he believes in looking at the "Rules of the Road" in Chapter 20 of the General Statutes in conjunction with some authority the City has in its charter which permits the city to take whatever action, be it that of an emergency nature or of any nature which is necessary to regulate and control traffic through the use and installation of traffic control devices that when you read our charter provisions and what the state law says on the subject, he does not believe there is a conflict. He believes Council has sufficient authority to proceed on this at this point even without the enabling legislation which is going out of existence and is automatically repealed on January 1. He stated the City of Lexington has had an ordinance on its books for about 20 years that permits right turns on red. In talking with the City Attorney there he could find no local legislation that permitted them to adopt that ordinance at that time. The ordinance has been in effect for 20 years, and the authority of the City Council to adopt such ordinance has not been challenged. Mr. Underhill stated based on the language in the Charter, it is his opinion that the City has the authority to do this even without the State Enabling Legislation, which he understands will be re-enacted in the early days of the '75 Session.

The vote was taken on the motion, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 21, at Page 380.

HEARING ON PETITION NO. 74-53 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR A CHANGE IN ZONING FROM I-3 TO R-6MD OF PROPERTY EXTENDING FROM THE SOUTH SIDE OF WEST FOURTH STREET EXTENSION NEAR WESTBROOK DRIVE, AND FURTHER LOCATED APPROXIMATELY IN THE MIDDLE OF THE BLOCK BETWEEN VICTORIA STREET AND CEDAR STREET.

The scheduled public hearing was held on the subject petition on which a protest was filed and was sufficient to invoke the 3/4 Rule requiring six (6) affirmative votes of the Mayor and City Council in order to rezone the property.

Mr. Fred Bryant, Assistant Planning Director, stated the subject petition is sponsored by the Planning Commission and represents the request from the Planning Commission to consider the rezoning of a single parcel of land. He stated this is an outgrowth of Planning Commission mandatory referral considerations which it has recently gone into. This is authority that is granted to the Planning Commission to review not only property

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transactions, but any transactions which involve the capital expenditure by any unit of government in Mecklenburg County or the City of Charlotte. In this particular instance the Planning Commission received a request from the Charlotte-Mecklenburg Board of Education to review a consideration on their part to declare surplus and sell lands which they own in the Third Ward neighborhood. Secondly, the Planning Commission received at the same time, a request from Mecklenburg County to review a potential purchase of the property by them. It was through the consideration of the mandatory referral authorization that the Planning Commission became concerned about the use of this particular tract of land and felt it should have the advantage of a public exposure through the rezoning consideration to give an opportunity to present the facts that surround this situation.

Mr. Bryant stated this is a tract of land approximately four acres in size, and is bounded by Fourth Street, Cedar Street, Westbrook Drive and Victoria Avenue in the Third Ward Community; it is property that was associated with and a part of the old Zeb Vance School area; the Board of Education purchased this parcel of land, and they now own parcels of land on each side of Westbrook Drive. The property is vacant. The land uses in the immediate vicinity are primarily residential in nature. The subject property is zoned I-3 as is all the property on the intown side of the tract; on the Westbrook and Victoria sides there is R-6MF zoning. The entire parcel owned by the Board of Education consists not only of the I-3 zoning, but also the R-6MF zoning. On the Fourth Street side of the tract going all the way over to Trade Street is a pattern of B-2 zoning. The subject property has industrial zoning on one side, multi-family on two sides and business on the fourth side.

Mr. Bryant stated the property has been declared a surplus parcel by the Board of Education; the County has expressed an interest in purchasing the property for their garage function.

He stated the concern the Planning Commission has is one related to what is the long range future of this particular area. There has been underway for some lengthy period of time consideration of the Third Ward area for rehabilitation and redevelopment project area. Council itself has gone on record in the past as approving at least Section 1 of that area in some specific details. The Planning Commission became concerned about the fact that on one hand redevelopment and renewal of the area was underway, or under consideration, and on the other hand forces were at work which would in effect bring into the area possible uses that would be detrimental to the long range future of the area. This is the reason the Planning Commission sought to have the public exposures through the hearing process for consideration of rezoning the property. With it zoned as industrial it is available for any type of use that would be allowed under that classification. Some of the uses that are allowed there could be detrimental to the future of redevelopment and renewal of the area.

(COUNCILMAN WHITTINGTON CAME INTO THE MEETING AT THIS TIME AND WAS PRESENT FOR THE REMAINDER OF THE SESSION.)

Mr. Bill Poe, Chairman of the Board of Education, and Mr. Tom Harris, member of the Board spoke in opposition to the rezoning.

Mr. Harris stated on the 13th of November, the Board of Education voted to send he and Mr. Poe to City Council in opposition to this petition. To express that opposition he made the following points: (1) The rezoning of the center city site (4.7 acres) from I-3 to residential multi-family will result in the withdrawal by the County Commissioners from their agreement to purchase this property for the sum of \$103,000. He stated it is their understanding that the County Commissioners have signed a contract.

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(2) A change in zoning from I-3 to R-MF will decrease the value of the property by at least 50 percent. (3) Rezoning from I-3 to R-MF will totally reduce the flexibility of the use of this property by the Board of Education in the event that the County withdraws their decision to purchase and the property remains under Board ownership for future use. (4) A rezoning from I-3 to R-MF will permit the City of Charlotte to acquire the property, either by negotiations at a greatly reduced price by virtue of the restrictive uses permissible under the R-MF Classification.

Mr. Poe stated this site was purchased by the Board of Education several years ago to augment a site they already owned, and they had every intention of building a new school on the site. It was to be called the New Center City School. After a series of events that occurred in the United States District Court, and in the community generally, it was decided that was not the appropriate site for a school, and it was decided from the School Board's standpoint it was not likely to be the site for the development of a residential area. It surprises them to some extent to see a plan proposed for the residential development of this particular area.

Mr. Poe asked then to look at the plot before depriving the Board of Education and the people of this community of a very substantial sum of money, which has been invested there, and which they will lose if the zoning change goes through. He stated they have a signed contract with the County Commissioners; also there was a lot of interest on the part of the City of Charlotte in that site. They were in the process of negotiating a sale with another arm of the City of Charlotte. Still another arm is telling them that it is not suitable for what the other arm of the City was about to buy it for.

Mr. Rowe Motley, Member of the Board of County Commissioners, stated he is present to request that the zoning be left as it is, and give the County the opportunity to pay the \$103,000 the School Board wants for the property. He stated they are in a position to do this, and they plan to use the property at the earliest possible time. According to the County Manager today they are ready to move if the zoning is left as I-3. The County does want the property and it has a contract for it, and it will be signed if the City Council votes to deny the request for a change in zoning.

Council decision was deferred for a recommendation of the Planning Commission.

HEARING ON PETITION NO. 74-50 BY HAMPTON H. AND BURRELL G. ROSS FOR A CHANGE IN ZONING FROM R-9 TO B-1 OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF CAMPBELL DRIVE AND SHARON AMITY ROAD.

The scheduled hearing was held on the subject petition.

The Assistant Planning Director advised the property has on it a single family residential structure, as is most of the land use along Campbell Drive. All single family uses is to the rear of the property, and on both sides of Campbell Drive. Across Campbell Drive from it is a duplex, and then a service station at the intersection of Sharon Amity Road and Campbell Drive. There is a rather solid pattern of commercial usage extending along Sharon Amity Road from Campbell Drive back down to Albemarle Road. Across Sharon Amity is a retail bicycle shop and a restaurant. North of the property is the beginning of a large pattern of apartment uses.

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Mr. Bryant stated the zoning pattern reflects a similar relationship with the subject property being zoned R-9 as is the property all along Campbell Drive to the rear; there is B-1 zoning on both sides of Sharon Amity Road, from Albemarle Road up to the subject property, and B-1 zoning directly across Albemarle Road. Beyond that on Sharon Amity Road is a pattern of R-6MF zoning. He stated this is an odd shaped tract with 273 feet of frontage on Campbell Drive, about 90 feet of frontage on Sharon Amity Road, and about 230 feet of depth back. It is generally in the vicinity of an acre of land.

Mr. Hamlin Wade, Attorney for the petitioners, stated this property is the only property that fronts on Sharon Amity Road, between Central Avenue and Albemarle Road on the south, which is zoned for single family. Everything else on the west side and on the east side is zoned either multi-family or business. He stated the property on the east side and west side is not only zoned B-1 but it is actually being used for business purposes and for multi-family. He then described the businesses located from Albemarle Road up to Central Avenue.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for a recommendation of the Planning Commission.

MAYOR LEAVES CHAIR AND MAYOR PRO TEM PRESIDES DURING HIS ABSENCE.

Mayor Belk left the Chair at this time due to a conflict of interest in the next zoning petition, and Mayor pro tem Whittington presided during his absence.

HEARING ON PETITION NO. 74-51 BY UNIVERSITY PARK IMPROVEMENT ASSOCIATION FOR A CHANGE IN ZONING FROM R-6MF AND I-2 TO R-6 OF PROPERTY BOUNDED TO THE NORTH BY A DUKE POWER RIGHT OF WAY IN THE VICINITY OF CELIA AVENUE AND REMINGTON STREET, TO THE EAST BY PORTIONS OF ESTELLE STREET, CELIA AVENUE AND DAVIDSON CIRCLE, FURTHER EXTENDING IN A SOUTHERNLY DIRECTION TO THE NORTHWEST EXPRESSWAY, AND TO THE SOUTH AND WEST BY THE NORTHWEST EXPRESSWAY.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this request has been filed by a Neighborhood Improvement Association rather than by the property owners within the area being considered. A few of the owners have joined in the request, but a majority of the property being requested for rezoning is not represented by the petitioners. It constitutes an effort on the part of the University Park Improvement Association to have considered for rezoning a sizeable area from a combination of multi-family and industrial zoning to a single family classification. He stated by their count, there are about 115 property owners in the area representing about 150 separate parcels of land. The petition which was submitted had 165 signatures, twelve of which lie within the area proposed for rezoning. Out of the 115 separate properties involved, only about 12 of them have signed the petition requesting the rezoning of the parcel. He stated Staff has sent registered letters to all the property owners, notifying them their property is being considered for a zoning change. Up to this point they have received a small amount of reaction.

Mr. Bryant stated the land in question is bordered on the south, southwest side by the Northwest Expressway; the tract involved is predominately vacant; there are some scattered single family residence along LaSalle Street and a few on the other streets. The adjoining area to the north

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along LaSalle Street, Remington, Bellaire, Botony and all the other streets in the area is solidly developed with single family residential structures. To the east of the tract is a mixture of uses, mostly residential in nature, with a fair amount of apartment development and duplex development at the end of Dundeen Street and Pitts Drive. The land use to the west is predominately vacant and then it picks up with single family uses. The exception to the generally vacant or residential land use pattern occurs across the Northwest Expressway from the subject property, which is an industrial area.

Mr. Bryant stated the subject property is about evenly divided between multi-family zoning, which lies west of the creek which runs through the area. The Beatties Ford Road side of the tract is zoned R-6MF, and the property west of the creek bounded by the Expressway and the Creek is zoned I-2. The surrounding zoning is much the same. Further west there is a massive pattern of I-2 zoning, and then to the east there is a continuation of a very large R-6MF zoning parcel which runs all the way out to Beatties Ford Road; north of the tract is the beginning of a very large single family area. The request is to extend the single family pattern down into the area, changing a portion of the multi-family and a portion of the industrial to single family.

Speaking for the petition were Reverend Howard J. Campbell, Chairman of the University Park Improvement Association, and Mr. Tennyson L. Johnson, Jr., Chairman of the University Park Rezoning Committee.

Reverend Campbell stated the University Park area is a large neighborhood of well-kept homes and apartments; they are a community of people who have built and maintained their neighborhood for more than 20 years; they have no sidewalks, no parks, but they have plenty of highways, pollution and zoning. Yet they are proud of their neighborhood and their people. This summer they discovered there is a large area of vacant land between their homes and the Northwest Expressway that is zoned for apartments and heavy industrial. The only access to this property is through residential areas of University Park and Biddleville. If any of this area is developed under the present zoning, their neighborhoods would be overburdened with traffic, heavy through trucks, and many more people with no public facilities to serve any of them.

Further, the Comprehensive Development Plan recommends low-density residential development for this area. Finally, the Comprehensive Plan as presented to the University Park Improvement Association includes a proposed belt road - four lane relocation of LaSalle Street. This proposed belt road would open the area they are seeking to have rezoned for industrial and high density development and would create traffic between the industry on the west side of the Northwest Expressway and I-77 to the east of them. They feel industrial zoning next to their homes will encourage the construction of that belt road through their neighborhood.

Reverend Campbell stated since the adjacent area is developed as a single-family residential area, they think that is the best type of development for this vacant land. In fact it would be a good location for a park to serve the neighborhoods along Beatties Ford Road.

Mr. Johnson stated he is speaking as a resident of the area immediately next to the property petitioned for rezoning. At present the neighborhood is a quiet, well-kept residential area. They are proud of their neighborhood and like where they live, and want University Park to continue as a pleasant place to live. It is for these reasons they are seeking this rezoning from industrial and multi-family to single family classification.

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He stated there is a tremendous need for park and recreation facilities in the northwestern area of the City, particularly along Beatties Ford Road as is documented by a recent study of parks by the staff of the Planning Commission. This largely vacant land with a small lake and a stream through it would be a good location for a park and would provide a buffer between the residential area and the noisy Northwest Expressway. Since the property is not suitable for industrial development as there is no access, and high density apartments, park facilities would be a logical use.

Mr. Johnson stated there are already numerous apartments in the area. University Gardens on Southwest Boulevard has 133 units; Pitts Drive apartments has 56 units; privately owned apartments on Pitts Drive, Dundeen Court and Celia Avenue, total about 100 units, and Boulevard Homes just across the Northwest Expressway has 200 units. All of these apartments are within a one-half mile radius of the land petitioned for rezoning. They urge the approval of the rezoning petition of the entire area to R-6 and then to study its potential use as a park for the inner city neighborhoods along Beatties Ford Road which currently have no parks.

Speaking in opposition to the rezoning was Mr. David Henderson, an Attorney and owner of property in the subject petition.

Mr. Henderson stated the thing that bothers him is the growing trend that takes away from a person who owns a piece of property his right to have a sayso about what is done with that property. That he is not talking about broad, general zoning because no one can live in a community that is not zoned, that does not have some sort of pattern of operations. Here is a piece of property that was zoned in 1962. It is inconceivable to him that these people have ^{been} living next to that property since 1962, and did not know that is had a different zoning from the University Park present concept of what it should be. The way the law in the City of Charlotte stands today is that a person from New York City, or from some other state can walk into Charlotte, lay down his \$100 and file a petition and say he wants to change the zoning on a piece of property. The fact is that anyone can put the property owner to the trouble and expense and the fear of having to defend the value of the property that has been bought in good faith relying on the zoning as it comes about. So long as we have a system that permits that, he thinks we have to adopt a principle at this point so that Mr. A. cannot change Mr. B's zoning without Mr. B's concurrence. That he thinks the proper body to initiate broad zoning concepts is the Planning Commission, approved by the City Council and the County Commissioners.

Mr. Henderson stated a protective device is needed and he asked the Planning Commission and the City Council to take this under advisement.

Mayor pro tem Whittington requested the Planning Commission to take this under advisement and advise Council on this request.

Council decision was deferred for a recommendation of the Planning Commission.

MAYOR RETURNS TO CHAIR.

Mayor Belk returned to the Chair at this time and presided for the remainder of the session.

ORDINANCE NO. 491-Z, AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE, AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY AT THE NORTHWEST CORNER OF THE INTERSECTION OF SOUTH MCDOWELL STREET AND EAST MOREHEAD STREET, AS PETITIONED BY THE HOUSING AUTHORITY OF THE CITY OF CHARLOTTE.

The scheduled hearing was held on Petition No. 74-52, as petitioned by the Housing Authority, for a change in zoning from B-1 to R-1.OMF of property on the northwest corner of the intersection of South McDowell Street and East Morehead Street.

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The Assistant Planning Director advised this is a request from the Housing Authority of the City of Charlotte for a type of zoning that we have never had before. It is a very limited use district, R-1.OMF District, which at present is applicable in only one location in the City, and this is the Fourth Ward section. This is a specialized district that was designed to allow certain types of rather high density type of residential structures, with a floor area ratio type control rather than a unit per size of lot type of control. In this instance it allows a floor area ratio of one to one, which means that you can have a building equal to in square footage size the size of the lot. This is a request for a change in zoning from B-1 to the R-1.OMF the Addison Apartment site, on the corner of Morehead Street and McDowell Street, and has recently been bought by the City of Charlotte through the Housing Authority, and is now being considered for remodeling and for re-use in a higher density fashion.

Mr. Ray Wheeling, Executive Director of the Housing Authority, stated they purchased the Addison Apartments and they are finishing the drawings and specifications to remodel it. At present there are 73 units in the building, and under B-1 they are only permitted 55 units. Some of the apartments are too large, and they plan to divide them up and have 90 units. They plan a small park and green area in addition to the apartments.

No opposition was expressed to the rezoning of the property.

Councilman Whittington requested the Planning Commission to return its recommendation as soon as possible on the petition as it is very important to the Housing Authority.

Prior to the adjournment of the meeting, Mayor Belk advised that the Planning Commission recommended the petition be approved.

Upon motion of Councilman Whittington, seconded by Councilman Short, and unanimously carried, an ordinance was adopted changing the zoning from B-1 to R-1.OMF as recommended.

The ordinance is recorded in full in Ordinance Book 21, at Page 381.

HEARING ON PETITION NO. 74-54 BY EUNICE WATSON MCCOY FOR A CHANGE IN ZONING FROM B-1 TO B-2 OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF EAST THIRTY-FIFTH STREET AND THE PLAZA.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this is a request to change from one type of business zoning, B-1, to another type, B-2, a single parcel of land located at the intersection of The Plaza and Thirty-Fifth Street. The property has on it a service station which is no longer used for that purpose. The petitioner wants to operate an automobile repair garage on the site, and is already doing so. If the request for rezoning is not granted, he has been served notice by the Inspection Department that he will have to vacate the property. There is another service station directly across 35th Street; diagonally across The Plaza is a dry cleaners, and several other commercial uses that extend down the Plaza towards Shamrock; directly across from the subject property is an apartment complex, which extends between 35th Street and 36th Street. Adjoining the site on the out of town side is a continuation of commercial activities, except for the apartments.

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He stated there is a solid B-1 zoning pattern all along The Plaza on both sides; immediately adjacent on 35th Street to the rear is a small pattern of O-6 zoning to serve as a transition; then begins a pattern of multi-family zoning extending back into the 35th and 34th Streets area. At the intersection of 36th Street there is an area of I-2 to take care of the Pet Dairy Operation.

Mr. Dick Stoever, representing the petitioner, stated he has had this property for sale or lease for approximately 18 months. Just recently they were able to get a tenant that would go in and lease the property. It was leased on the basis of using it for minor auto repairs. It was found in the process that he was unable to make enough money out of it to pay the rent which was required on the property. He is capable of doing auto repair which would include painting. The station is already set up with two bays where he can do the body repair work; there is already a separate bay in which he could do the repainting on the body repair. This is not a big change in the use of the property, and they request that the rezoning be granted.

No opposition was expressed to the proposed rezoning of the property.

Council decision was deferred for a recommendation of the Planning Commission.

HEARING ON PETITION NO. 74-55 BY GOLDEN EAGLE INDUSTRIES, INC. FOR CONDITIONAL APPROVAL OF PROPOSED SHOPPING CENTER, POSTPONED FOR INDEFINITE PERIOD.

Mr. Bryant, Assistant Planning Director, advised that a letter was filed today by Mr. Bob Perry, Attorney for the subject petition, requesting that the hearing be postponed for an indefinite period.

Councilman Whittington moved that the hearing be postponed as requested. The motion was seconded by Councilwoman Locke, and carried unanimously.

HEARING ON PETITION NO. 74-56 BY FLORENCE CRITTENTON HOME OF CHARLOTTE FOR A CHANGE IN ZONING FROM R-6MF TO B-2 OF PROPERTY LOCATED ALONG BLYTHE BOULEVARD, BETWEEN SUGAR CREEK AND HARDING PLACE.

The scheduled hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated the subject property is occupied by the Florence Crittenton Home; on the Morehead Street side of the property is the Farmers Market on Harding Place and the Creek. There is an office building immediately adjacent to the site with access out onto Morehead Street. The subject site generally has non-residential activities associated with it.

He stated the zoning pattern reflects the use of the property; there is business zoning along Morehead Street and down Kings Drive; across the creek from the subject property is office zoning. Then there is R-6MF zoning to accommodate the hospital.

The extent of the request is to change the multi-family zoning to a B-2 classification. The intended use of the land as indicated by the petitioner would be for commercial parking facility.

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Councilman Short asked if this would not be adjacent to a tremendous amount of parking that is already there for the Hospital? Mr. Bryant replied the portion of the property they are anxious to associate with this use is an area that is already being used for parking. In the area adjacent to the creek is an area that is paved and used for parking back in the direction of the office building. They want to operate it on a profit making basis.

Mr. Bill McNair, member of the Board of Directors of the Home, stated this is a non-profit institution which is a residential care facility for unwed, expectant mothers. They operate on an annual budget in excess of \$240,000 of which about \$100,000 comes from N. C. United - they are a United Fund Agency. Another \$100,000 comes from various departments of Social Services in North and South Carolina. Then the balance comes from families of residents of the facility. This property was acquired by a gift from Mr. Edwin Jones in 1945 when the present facility was built. It houses 69 beds for the girls and they receive their medical care from Memorial Hospital. He stated they are interested in developing the property they own adjacent to Crittenton Home, which is virtually unuseable, economically speaking, as a parking facility. They believe they can generate approximately \$20,000 in income from this property each year. That is in the neighborhood of one months operating cost. They believe this facility would help to alleviate an already existing crowded parking problem around Memorial Hospital.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for a recommendation of the Planning Commission.

PETITION NO. 74-43 BY ENCHANTED FOREST, INC. FOR A CHANGE IN ZONING FROM R-9 AND R-12 TO R-9MF, R-20MF AND B-1SCD OF PROPERTY FRONTING ON THE NORTH SIDE OF SHAMROCK DRIVE, EAST OF THE INTERSECTION OF GAINESBOROUGH ROAD AND SHAMROCK DRIVE, AND A TRACT OF LAND ON THE SOUTH SIDE OF SHAMROCK DRIVE, DENIED.

Upon motion of Councilwoman Locke, seconded by Councilman Harris, and unanimously carried, the subject petition was denied as recommended by the Planning Commission.

APPOINTMENT OF HARVEY B. GANTT AS COUNCILMEMBER TO REPLACE FRED D. ALEXANDER.

Council was advised that at the last meeting of Council the following nominations were made to fill the Council vacancy created by the resignation of Fred D. Alexander.

Councilman Withrow placed in nomination the name of Harvey B. Gantt.
Councilwoman Locke placed in nomination the name of James K. Polk.
Councilman Williams placed in nomination the following names: James Richardson, Robert L. Walton, Lena Sammons and Charles Dannelly.

Mayor Belk asked for further nominations. No further nominations were made and the Chair ruled that the nominations were closed.

Mayor Belk requested the City Attorney to state the Rules to be followed. Mr. Underhill replied the nominations have been declared closed by the Chair, and unless there is a motion that would relate to the method of voting, no other motions or discussions or debates are in order at this time. If there is not a motion relating to the method of voting, then the first name nominated should be read, and the Chair should put the question to members of Council to appoint that person to the position to fill the vacancy on the City Council.

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It will require four affirmative votes of the members of the City Council to approve the nomination of any candidate. In the event of a tie, the Mayor, under the Charter, is required to vote to break the tie, one way or the other. If the first candidate fails to receive four affirmative votes, then the Chair should put the question of the person nominated second before the members, and follow that until one of the candidates receives at least four affirmative votes.

The City Charter requires Council to fill vacancies by appointment, and this agenda item speaks to that procedure. The only motion in order at this time, as he reads Robert's Rules of Order, is a motion to change the method of voting. Unless a motion is made and approved, the method of voting will be as on all other matters by the City Council by voice vote.

Mayor Belk stated Councilman Whittington has a motion he would like to bring up; that he made a motion during the informal session, and this is now a formal meeting. Councilman Whittington stated his motion was a matter of position for the Council, and he moved that if there are any candidates that have been nominated for the City Council at a previous meeting in the audience who wish to speak to Council they may; but Council would not be permitted to question those nominated candidates for City Council. Councilman Harris called for a point of order; that he thinks this is in direct conflict with what Mr. Underhill has said. Mayor Belk replied he wanted to be sure that it was on the floor as it was brought up in the informal session.

Councilman Williams stated he would like to make an incidental motion relative to the method of voting.

Councilman Williams stated in accordance with Sections 45 and 30 of Roberts Rules of Order, he moved the adoption of the following method of filling the vacancy on the Charlotte City Council created by the election of Fred D. Alexander to the North Carolina State Senate:

1. Each Councilmember shall list all nominees in numerical order of preference. Upon tabulation of the ballots, the first preference of each Councilmember shall be assigned six points; the second preference shall be assigned five points; the third preference shall be assigned four points; the fourth preference shall be assigned three points; the the fifth preference shall be assigned two points; and the sixth preference shall be assigned one point. The nominee receiving the highest number of points shall fill the vacancy. In the event of a tie, no nominee shall be appointed under this resolution.
2. The ballot of any Councilmember which fails to list all nominees shall be disqualified and not counted in any respect.
3. The voting herein described shall be carried out by written ballot. The ballots shall be signed by the Councilmember and shall be tabulated by the Mayor or his designated representative and shall then be made a part of the minutes of this meeting.

The motion was seconded by Councilwoman Locke.

Mayor Belk asked if this is not the same motion that Councilman Williams brought at the last meeting, and it failed to pass? Councilman Williams replied it differs in two respects. The motion he brought up last time set a timetable for the nomination and the election of members.

Mr. Underhill advised there can be no debate or discussion on this type of motion according to Robert's Rules of Order.

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

YEAS: Councilmembers Williams, Locke and Harris.
NAYS: Councilmembers Short, Whittington and Withrow.

Mayor Belk broke the tie voting against the motion.

Councilman Williams asked if it is proper at this time to discuss all six of the nominees or is Council restricted in its discussion to one nominee? Mr. Underhill replied as he reads Robert's Rules of Order on a voice vote situation, the Council's method for filling vacancies, he does not find any mention of permitting debate on the question. Once the nominations have been closed, as he reads Robert's Rules of Order, the Chair is to immediately put the name of the first person nominated for consideration and possible appointment. It seems to him it is now in a non-debateable status and the vote must proceed with that person being nominated first being voted upon first, and follow that procedure throughout the list of all those nominated.

Mayor Belk stated the first person nominated is Harvey B. Gantt.

Councilman Williams asked if he can comment about Harvey Gantt? Mr. Underhill replied he does not find anything in Robert's Rules, once the nominations have been closed, that permits any form or type of discussion on this type of question. It simply is not there. That he does not see anything that says you can or cannot. He read Robert's Rules of Order about the election process. It says "The candidates are voted on in the order in which they are nominated. When nominations have ended the Chair repeats the nominations and continues as many as are in favor of Mr. X for the office say Aye, and those opposed say no. As soon as one of the nominees receives a majority vote the Chair declares him elected. No further votes are taken on the remaining nominees for that office." He stated as he reads that, no debate or discussion is permitted once you get into that process. Once the nominations are closed, then the Chair asks for a vote on the first nomination.

Councilman Harris requested that the hand vote be used rather than the voice vote. Mayor Belk replied that will be fine.

The vote was taken on the nomination of Harvey B. Gantt, and carried as follows:

YEAS: Councilmembers Withrow, Short and Whittington.
NAYS: Councilmembers Harris, Locke and Williams.

Mayor Belk broke the tie, voting in favor of Mr. Gantt, and ruled the election of Mr. Gantt.

Councilman Williams stated on behalf of Mr. Gantt, he thinks Council has selected a man who has tremendous intelligence, integrity, and independence. That he thinks anyone of these six people who were under consideration would have been a credit to this Council and to this City. We were in a position where we could not have really gone wrong. Mr. Gantt, in his particular instance, was his second preference; he only wishes he could have had an opportunity to vote him that way. In view of what has happened, he moved that Mr. Gantt be elected by acclamation of Council. The motion was seconded by Councilwoman Locke, and carried unanimously.

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REQUEST THAT NEXT AGENDA INCLUDE AN ITEM TO RECONSIDER THE METHOD BY WHICH A COUNCIL VACANCY IS FILLED.

Councilman Harris stated he would like to state his disagreement with the procedure in using the present arrangement to fill a vacancy on the Council. The current process allows for no direct citizen input into the choice of a representative. The process at best is inferior, and fosters misunderstanding of the good intentions of this Council.

He requested the City Manager to put on the agenda for the next Council Meeting, an item to reconsider the method which we use to appoint a Council vacancy.

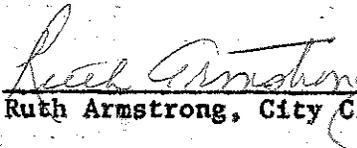
Councilman Short stated with the permission of Mrs. Locke he would also include that we discuss whether we want to continue to use Robert's Rules of Order. Councilman Harris replied he would just like to reconsider the method of appointing a Council vacancy.

REQUEST THAT NEXT AGENDA INCLUDE THE ASSIGNMENT OF THE CONTRACT HELD BY MR. GANTT.

Councilman Withrow requested that the next agenda, before Mr. Gantt is sworn into office, include an item for the assignment of the contract and agreement he has for the Belmont Center.

ADJOURNMENT.

Upon motion of Councilman Short, seconded by Councilman Whittington, and unanimously carried, the meeting was adjourned.


Ruth Armstrong, City Clerk