

A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber, City Hall, on Monday, February 21, 1966, at 2 o'clock p.m., with Mayor Stan R. Brookshire presiding, and Councilmen Claude L. Albea, Fred D. Alexander, Sandy R. Jordan, Milton Short, John H. Thrower and Jerry C. Tuttle present.

ABSENT: Councilman James B. Whittington.

The Charlotte-Mecklenburg Planning Commission sat with the City Council, and the two Bodies held their Public Hearings on Petitions for changes in Zoning classifications at the same time, with the following members of the Commission present: Mr. Sibley, Chairman; Mr. Ashcraft, Mr. Gamble, Mr. Jones, Mr. Lakey, Mr. Stone, Mr. Tate, Mr. Toy and Mr. Turner.

ABSENT: Mr. Olive.

INVOCATION.

The invocation was given by Councilman Sandy R. Jordan.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Jordan and unanimously carried, the Minutes of the last meeting on February 14th were approved as submitted to the City Council.

PETITIONERS FOR CHANGES IN ZONING CLASSIFICATIONS DIRECTED TO PRESENT ANY REQUESTS FOR THE WITHDRAWAL OF OR AMENDMENT TO PETITIONS AT THIS TIME.

Mayor Brookshire stated that if there was anyone present who wishes to withdraw or amend his Petition for a change in Zoning Classification to present his request at this time, prior to the public hearings.

PERMISSION DENIED SHARON HOME LOAN COMPANY AND JAMES J. HARRIS TO AMEND PETITION NO. 66-13 FOR CHANGE IN ZONING OF PROPERTY EXTENDING FROM SHARON ROAD TO NEAR INVERNESS ROAD.

Mr. Irvin Boyle, Attorney, stated that the Council was written a letter on February 8th advising that Sharon Home Loan Company and James J. Harris, Petitioners for a change in Zoning of property extending from Sharon Road to near Inverness Road and lying to the south of Wickershan Road, from R-12 to R-12MF and O-15, wished to amend their petition to revise the westerly and part of the northerly boundaries of the O-15 area, so that the acreage within the 150 foot portion is eliminated and thus remains R-12. By the amendment the Petitioners would reduce the area of the O-15 classification to 51 acres in lieu of the initial 60.987 acres; that a copy of the letter was filed with the Planning Commission by the Petitioners.

Mr. Boyle then made a formal request that the amendment be allowed.

Councilman Tuttle asked that the property be pointed out on the map of the area and he asked if any houses are left that would be affected who might, had they known about the amendment, invoked the 20 percent rule.

Mr. J. J. Delaney presented an ariel photograph of the area and pointed out the property in question, the area involved in the amendment, together with the residences backing up to Inverness Road. He stated the area withdrawn under their amendment is all R-12 and the rear of the lot of the nearest house is 150 feet away and the house itself is 250 feet away.

Councilman Albea asked how the amendment would affect the 20 percent rule? That he does not think too much of people finding out the 20 percent rule has been invoked by the neighbors and then wanting to withdraw this, does not give the adjoining property owners a fair shake, in his opinion. That he has not talked to a single person about this particular matter.

Councilman Tuttle replied to Councilman Albea that what the amendment does is simply to change the Council vote from a six to one vote to a four to three vote.

Mr. Boyle explained that this petition was set for a hearing on a previous date. Some of the residents of the area stated publicly that they had not had the opportunity to discuss the matter with the petitioners, and by reason of that statement, a request was made that the hearing be continued; and subsequent to the continuance of the initial hearing, three separate and distinct meetings were had with the residents. The residents said they did not want the boundaries of this petition to come up adjacent to the Barclay Downs area. So, not because any protest had been filed, and not for the purpose of eliminating the portion of the property by virtue of which the protest invoked the 20 percent rule, but in an effort to give the people the buffer zone that they asked for - they are requesting permission to withdraw the 150 feet. Now, the 150 feet goes up to a creek and a drainage ditch, it does not go up to the residences, and the property that backs up on the other side of the creek to the drainage ditch is the rear of the fifteen lots. That is why the request to amend the petition was made, because it would have suited the Petitioners better to have the zoning all the way to the creek, but this is to meet their request for a buffer area.

Councilman Alexander asked Mr. Boyle if he understands that they met with the residents about this buffer, and it was agreed upon? Mr. Boyle replied that three separate meetings were had with them, and they said the principal thing they objected to was that the change in zoning, if granted, would be contiguous to their property. Because of their objections to this, the Petitioners then agreed to put in a 150 foot buffer, which is approximately 10 acres in all, and would withdraw it from the petition, and that is what the request is before Council today. Now, the question that Mr. Alexander asked was if the residents had agreed to this, and it is obvious that the group of residents present at this meeting is not in agreement.

Mr. Robert Burroughs, Attorney for the residents protesting the change in zoning, stated that he would like to answer Mr. Alexander's question. This appears to be a move by the Petitioners to withdraw the 150 feet and thereby deprive the residents of the opportunity to invoke the 20% rule. That their Protest was filed in ample time to meet the dead-line for filing protests, and they were prepared to have the Hearing on its original date. As the result of some of the questions of the Barclay Downs residents, the group decided it would be best to talk with the petitioners to see if something could be worked out on a friendly basis. But at the meeting with the Petitioners, they were unable to work anything out, and they did not reach any agreement; therefore, the Barclay Downs people thought that the 20% rule was still invoked and the Petitioner's amendment to withdraw the 150 feet is merely to get around this rule. He asked the Council not to grant the request to amend the petition.

Councilman Tuttle stated that he is in sympathy with Mr. Boyle and the Petitioners, and he thinks they did honestly try to appease the residents. That Council granted the delay in the petition in order that they could try to reach an agreement with the residents, but apparently the removal of the 150 feet has done nothing except to remove the vote from a 6 to 1 vote to a 4 to 3 vote. Therefore, he moved that the request to amend the petition to remove the 150 feet be denied. The motion was seconded by Councilman Albea, and unanimously carried.

PETITION NO. 65-117 BY MELVIN T. GRAHAM ET AL FOR CHANGE IN ZONING OF PROPERTY ON EAST SIDE OF PARK ROAD WITHDRAWN.

Mr. Charles Henderson, Attorney for Melvin T. Graham and others for a change in zoning of property on the east side of Park Road, advised that because they are sincerely seeking to work out a solution with their neighbors to their objections to the change in zoning, they have withdrawn the entire Petition, and so notified the Council a week ago.

Mayor Brookshire asked the City Attorney for a statement regarding his ruling when the matter was before Council a week ago.

Mr. Kiser, Acting City Attorney, stated that last week he ruled that Council should take action on the request for the withdrawal of the petition on the date of the public hearing. Since that time he has looked at procedures and opinions and he is a little in the position that a Jurist once was in when he was confronted with the problem of overruling a prior opinion when he said "it appears that it does not appear to appear to me now as it appeared to appear to me then", and he believes that the withdrawal that was filed by Mr. Henderson was effective as of the day of the withdrawal. And the entire Petition having been withdrawn there is nothing before Council on which to act at this time.

Mr. Myles Haynes, Attorney, stated he is representing the petitioners protesting the change in zoning of the Graham property. That in view of the City Attorney's ruling he would like to make one comment as they could not apparently at this point oppose the withdrawal. This matter is now being sent in ninety days in advance. The petition was filed on November 10, 1965 and three times the Grahams have changed their position in regard to what they want to do with the property, and frankly, in his opinion, this thing has deteriorated to a chess game, and he thinks we now have a stalemate, and he thinks the next step will be to file a new petition. That he would say the property values in this area are up in the air and will be until this thing is settled. The residents are up in the air because of this thing, and he sincerely hopes that when the Petitioners come here the next time they will stand on their petition and let the Council rule on it as it is filed.

Councilman Short asked Mr. Kiser if, in view of the fact that the petition was advertised to be heard today, it would do any harm if it were officially withdrawn by the Council, notwithstanding his remarks that this may be a superfluous activity? Mr. Kiser replied there is nothing on which Council needs to act.

PERMISSION GRANTED HUMBLE OIL & REFINING COMPANY TO AMEND PETITION NO. 66-20 FOR CHANGE IN ZONING OF PROPERTY ON THE NORTHEAST CORNER OF SHARON-AMITY ROAD AND PROVIDENCE ROAD, BY WITHDRAWING FROM THE PETITION A PARCEL OF LAND FRONTING APPROXIMATELY 146.84 FEET ON PROVIDENCE ROAD AND APPROXIMATELY 100.19 FEET ON SHARON-AMITY ROAD.

Mr. Beverly Webb, Attorney for Humble Oil and Refining Company, the Petitioner

for a change in zoning of property on the Northeast corner of Sharon-Amity Road and Providence Road, stated that in accordance with their letter to the Mayor, City Council and Planning Commission on February 2, 1966, they request permission to amend their petition by withdrawing from the petition that parcel of land on the corner of Providence Road and Sharon-Amity Road, fronting 146.84 feet on Providence Road and 100.19 feet on Sharon-Amity Road. That by withdrawing this portion of their Petition that particular corner property will remain zoned Office-15. The Petition, as amended, will be approximately 200 feet on Sharon-Amity Road requested changed from Office-15 to Business-1, and it adjoins the existing B-1 zoned property. That it is his understanding that no petition of protest has been filed, and so they are not considering the 3/4th Rule, but this is in no way a means of denying the rights of the adjoining property owners.

Mayor Brookshire asked the Acting City Attorney if Council could either accept or reject the amendment, and Mr. Kiser replied this petition has not been considered by the Planning Commission for their recommendation. This is the date set for the public hearing on this petition, and the Planning Commission is hearing it today for the first time, along with the City Council. The request is to withdraw a portion of the petition and Council will get the recommendation of the Planning Commission, if you permit the withdrawal, on the remainder of the petition. The question now is whether or not the City Council will permit Mr. Webb to withdraw that portion of the property which he requests in his amendment.

Councilman Short moved that the request to amend the Petition to withdraw a portion of the property be granted. The motion was seconded by Councilman Alexander.

Councilman Tuttle asked Mr. Webb regarding the length of the lot on Providence Road from which they are withdrawing 121.84 feet on Providence Road, if this is the entire length down to the first residence? Mr. Webb replied that it is the entire length of the property in the Petition. Councilman Tuttle asked Mr. Webb what is the proposed use of the land? Mr. Webb advised that it is for a Service Station, and their entire plans for the property would be explained at the Hearing today.

Councilman Short advised that Mr. Webb could have entered this petition this way to begin with. No one has objected to the change in zoning, and he does not see why he cannot be allowed to have the Hearing on such size of piece of land that he could have originally filed for. Councilman Albea commented that he could have, but the point is that he did not.

A lady in the audience stated that Mr. Paul Ervin, Attorney, is suppose to be here to represent their group, and they are protesting the change in zoning, they met last night and decided to do so.

Councilman Tuttle remarked that no doubt Mr. Ervin thought this matter would be delayed by the discussion on other requests scheduled prior to this, and he would suggest delaying the discussion for fifteen minutes for Mr. Ervin.

Mayor Brookshire stated that the motion before Council is to allow the petitioners to amend their petition by the withdrawal of the frontage on Providence Road, and the hearing on either the original petition or the amended petition will be held.

Councilman Albea offered a substitute motion that the matter be postponed until the time for the hearing on their petition. The motion was seconded by Councilman Tuttle, and unanimously carried.

Later in the meeting, at the time for the hearing on their petition, the discussion on the requested amendment was resumed.

Councilman Thrower asked if O-15 will allow them to park, and Mr. Bryant replied that it will allow parking for B-1 uses. Councilman Thrower then asked if they would still want access from Providence Road, and Mr. Webb replied they would not. Councilman Thrower asked Mr. Webb what their plans are for the property, and Mr. Webb stated he would like to introduce Mr. McLeod, Regional Manager for Service Station Operations, who will be glad to present their plans for the property.

Mr. McLeod presented a map and stated it is a rendering of their intended use of the property under discussion, and actually Council is looking at the inside portion of the Service Station, and to the right facing the drawing is the corner of the building, and it is their intention to place their district sales office on the corner in keeping with the existing zoning. He presented a picture of the type structure they are talking about. That currently they are at the corner of Euclid and Morehead Streets in an old residence on a lease which is drawing close to termination and are faced with relocating and have so made the recommendations to their headquarters in Houston. That it is their full intent to use this property for a district sales office.

Mayor Brookshire asked if this is in accordance with the present zoning for the corner? And if the rendering which he is presenting is to cover the development of that portion which they want considered under the present petition? Mr. McLeod replied that is correct.

Councilman Albea asked if he understood him to say he is going to put the office on the corner? Then why would he want to withdraw it at this time? Mr. McLeod replied it is zoned O-15 which will allow the office building. That they can build the office under the current zoning. He pointed out from a blueprint the 300 feet facing on Sharon Amity Road, and stated it actually has 15,000.174 square feet which they are retaining. That the portion to the left is what they are, in fact, requesting the rezoning consideration on, and the question was asked what specific use will you make of the corner, and this is where they would intend to put the office, and they can do that now.

Councilman Thrower stated there is nothing wrong with their moving the station to the end of the line and then using the whole thing in the station work? Mr. McLeod replied the only use possible would be for parking.

Mr. Bryant, Assistant Planning Director, stated to clarify it, that it can be used for customer and employee parking only. Now, this raises the question of whether or not you can have someone's car in there to work on, and whether or not after you finish that car, park it on that part. That the ordinance does permit parking for employee and customers on the office zoned part. Councilman Thrower asked who else would be in there?

Mr. McLeod stated there are other remarks he had intended to make perhaps on the other portion when they made that request for the rezoning, and perhaps will clear up some of these questions, but if Mr. Thrower would like, he will go into that now.

Mayor Brookshire asked that for the moment the discussion be kept on the request to amend the petition by leaving that corner off.

Mr. McLeod stated that Humble Oil has never actually made a request in the eight years that they have had the property. That he as District Manager at that time got very directly involved in making a formal request as they are today, and he talked with a number of the people in the area, hoping to gain support, but they got no one to come forward and say they would come

up and testify in their behalf. The entire process they have followed to date has been to keep everyone totally informed as to what their plans are, and that includes up to this moment. That some eight months ago a number of calls were made and at that time we had only 150 feet, and it was at all times quite a controversy, on Providence Road primarily. That at that time they committed themselves as best as they could that they would not request access onto Providence Road. Then based on conversations, not only the 150 feet square came up but additional property came up, so they did not proceed at that time. Now, within the last three months they obtained an option on the 150 feet to connect them to the small shopping center, and again they talked to a number of people and the opinion was that just purely from a planning standpoint, it was certainly a better request than the previous one, and this is when they got into the amended request to fulfill a need they had with the district office. At that time and with the party they talked to, they submitted in writing the fact that they would never come back and request access and/or other uses. Of course, they were willing to do this. How this could be legally done is something they will work out. But they would commit themselves that they would never come back actually or use it for any other purpose than as they are stating, and have so gone on record with some of the people.

Councilman Tuttle stated that Mr. McLeod has said there are definite plans for a filling station, and that they had planned to build an office?

Mr. McLeod stated with any cooperation they would have to have approval from their headquarters office. They actually do not have capital money budgeted for 1966, so it would probably be at the earliest 1967. They would immediately take steps to beautify until such time that they could come in and build the office, but they would go on record that this is their intent.

Councilman Tuttle asked if they definitely would build the office building? And Mr. McLeod replied subject to having management approval, and the recommendation has been made, but this will be the only condition. They would have to seek prior approval before they could so state in deed. They would state no intent of other usage. Councilman Tuttle asked if they would include this in the deed and Mr. McLeod replied they would.

Councilman Short stated that Mr. McLeod has stated their lease is going to run out on Morehead Street, he asked if there would be any possibility that his firm would build this office building without the service station? That he is not declaring one way or the other about the filling station, but they would certainly be free to do this, would they not?

Mr. McLeod replied yes, and to be completely honest, the office is to support their request which they would like to place before Council later. That they will move somewhere as their facilities are totally inadequate, and regardless of the lease situation, even possibly prior to that, they will move from the old residence. But no, they probably would not consider this as strongly without the service station.

Mayor Brookshire stated the question before Council is if they will allow Humble Oil to amend their petition by withdrawing a portion of the property stated in the petition.

Mr. Paul Ervin, Attorney, stated they have no serious objection to the amendment to the petition. It would simply mean that the opponents and proponents and the Council and Planning Commission would have to hear this all over again, and although they could fill this room a good many times with interested people if they had a little more time to do so, he does not think they should face them with the hardship of coming back again and they are content to let them proceed without objections as far as the amendment is concerned.

Councilman Short moved that Mr. Beverly Webb's request to amend the petition be granted. The motion was seconded by Councilman Alexander, and carried unanimously.

HEARING ON PETITION NO. 66-13 BY SHARON HOME LOAN COMPANY AND JAMES J. HARRIS FOR CHANGE IN ZONING OF PROPERTY EXTENDING FROM SHARON ROAD TO NEAR INVERNESS ROAD AND LYING TO THE SOUTH OF WICKERSHAM ROAD, FROM R-12 TO R-12MF AND Q-15.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated the property consists of three large tracts of approximately 185 acres requested for multifamily zoning and 61 acres requested for office zoning. He pointed out on the Map of the area the tract in question lying west of Sharon Road between Sharon Road and the rear of lots fronting on Inverness Drive, the tract on which Belk-Ivey Shopping Center is proposed to be built, the Celanese Company Office Building, and Barclay Downs Drive. He advised that the subject property is vacant land, to the south it is vacant pending the development of the Shopping Center, and other than the Celanese Building the area is developed on the west side with single family homes. The proposed Shopping Center property is zoned B-1 SCD, the Celanese property is zoned O-15 and other than that the area is zoned entirely R-12.

Mr. Irvin Boyle, Attorney for the Petitioners, first pointed out the area of Fairview Road, and advised that along Fairview Road there is a Shopping Center, J. P. Sevens Office Building, Eastern Airlines Office Building, Blythe Bros. Office Building and Laurel Wood and Fairmeadows. On the other side is the Celanese property with their Office Building and the area for the proposed Belk-Ivey Shopping Center. He then pointed out the property in question, zoned R-12MF and O-15. He advised that the persons present today objecting to the change in zoning are from the Barclay Downs area which adjoins the Celanese property. He then pointed out the undeveloped area, which the Petitioner requested withdrawn, on which there is a creek and drainage area. He pointed out on the map that the drainage into that area is not caused by bridges, and that is why he says it constitutes a natural barrier. That the residents are objecting on the theory that they do not want anything but residences adjacent to them. That when you mention the words Office Park they throw up their hands, and he thinks that an Office Park is compatible with what is out there now. He called attention to the area which shows the entire Harris property, they being one of the petitioners and no request has been made to withdraw this from the petition and it is to remain as is. That following the filing of the Petition, the Petitioners met with the Barclay Downs residents at their request, and their request was not for a buffer zone but they just wanted the entire petition withdrawn. Therefore, it is a question of whether the owners of the 15 to 20 residences which adjoin the property and those who are located elsewhere in the area are to control the entire tract. That it is not a question with them of good planning, that is the question with the Petitioners, and they say that it is, and this decision they leave with the Planning Board.

He stated that some statements have been made about access, that it is the intention of the Petitioners to have the access to the proposed apartments and office areas from Sharon Road or from Colony Road. That the question also arose when the Sharon Road property was developed, whether it would create any traffic problems, He stated it will be developed by what is known as reverse frontage along Sharon Road, that is the area below Red Fox trail - the houses will not face Sharon Road but will face in the area, and along Sharon Road will be beautified with screen planting, shrubbery and trees that will screen off that area.

Mr. Boyle stated he wants to emphasize to the Council that the disapproval of their request to amend the Petition has put them in a bad light. The petition was originally filed in the shape in which it is now. The amendment was the result of conferences which were not requested by the Petitioners, but

requested by the residents, and they agreed to withdraw the 10 acres, and you can see by the response of the residents in the audience that now this does not suit them. So, they assume from that the only thing that would suit them would be if the entire petition were withdrawn, and he says to withdraw it, to abandon such a proposal as this is not in the interest of good planning, it is not in the best interest of the City of Charlotte, and it is not in the best interest of the area out there, and it is obvious that this is the direction in which the City is growing at the present time.

Mr. Boyle stated he does not want to belabor this, but if any member of the Council has any questions, they will be glad to answer them.

Mr. Turner asked if there would be any change in the residents' thinking if the petitioners reversed the O-15 and the apartment area - in other words if they left the 150 ft. buffer-- Mr. Boyle stated he would be impolite and interrupt to say, they do not want that either. In fact, as he has said, they do not want any proposal that might be made, except to withdraw the entire petition.

Mr. James E. Walker, Attorney, stated that he and Mr. Robert Burroughs appear for many of those who are protesting this proposed rezoning. That they have the signatures of 414 persons on a petition opposing it; they originally had 265 signatures on the first petition, which was filed with the City Clerk and he will now file the second petition with the Clerk. Mr. Walker read the names of the street on which some of the signers reside - Sharon Road, Foxcroft Road, Fairvalley Drive, Ferncliff Road-which shows it is not only the people in Barclay Downs who oppose the petition, but people who live in the area.

He stated when they got into this matter there was one person in the Barclay Downs area who tried to work out some kind of compromise because he had some sort of business commitment with Mr. Harris, and he did not want to offend him, and he and one other person are the only people at the meeting who wanted to discuss this rezoning. The whole Barclay Downs group did not think anything could be worked out. So these two people, without a lawyer, set up the meeting with Mr. Delaney and at the first meeting Mr. Delaney and those with him thought allowing a 100 foot buffer zone was ridiculous but now they have gone up to a 150 foot buffer. Now, the point was that nothing could be worked out with these people, and that was the end of it, and there was never any agreement about a buffer zone, and he contends that this was done to take the protest from within the 3/4th Rule.

Mr. Walker stated further that one reason for their opposing this rezoning is there is a traffic problem out there already. The recently proposed widening of the road that goes along Runnymede into the school complex will bring more traffic than at present, and to have an Office Park just a short distance away will increase traffic tremendously. Another problem which exists is the problem of water; at least on three occasions in the last two years there has been a complete flooding of property. He presented an article about a flooding out there that involved the house of Mr. Abney, together with a photograph of his house with the water swirling around it in a whirlpool. He stated that Mr. Abney lives right on the creek that the Petitioners say is the natural boundary. That we all know an Office Building Complex is made of cement and brick so where is the water going, down the hill into the creek. Mr. Walker presented pictures of the creek as it is ordinarily, and of some of the homes along the creek bank, and pointed out the area where the Office Park will be constructed on an elevation that must drain into the creek. He stated it means nothing to these people to have the 150 foot buffer, as it is on elevated land and the residents would have a clear vision of the Office Complex. He presented a map of the area on which the home of every person opposing the rezoning was indicated in red, and stated this is a clear indication that all of the residents are opposed to this petition.

Mr. Walker also presented photographs of the homes on Wickersham Drive, across the creek, that are in the \$40,000.00 plus classification, now being developed. He also showed a brochure of Barclay Downs, that was given these people when they bought in the area, with its glowing description of the area and its promise of lasting dignity, and stated these people were assured that it would be a highly restricted area. Now, he knows that the answer to this will be from the petitioners for he heard something of this at the hearing - "We, the Harris people, know nothing of this, we the Sharon Land Corporation had nothing to do with this because we had no dealings with the people. They bought from some Corporation called Barclay Downs or some such name." Now, as we all know the Harris' and the Harris interests owned all of this property, including Barclay Downs and other surrounding areas at one time, but in any event it is inconceivable to him that the Harris interest would have sold this property to other Corporations without requiring the highly restrictive covenant that went along with the property. That the Foxcroft area is one of the most highly restricted residential areas we have, as a matter of fact they cannot sell their lots, they have to sell them back to the same people they were purchased from - that is in their deed. That he will say this for the Harris interests, if they have an Office Park he expects it would be a good one, if they put up a Shopping Center, he expects it would be high price, they do not do anything half way, and if there are apartment houses, they will be fine ones. Yet, it does not take away from the fact that we all know, apartment houses in close proximity to residential developments decrease the value of the residences tremendously.

Now, in connection with "sound zoning principles", we have heard talk about - for some extent he goes along with Mr. Boyle, the zoning principle is not particularly bad, but the trouble with it is what he calls "Reverse zoning", the idea is to get your shopping center and then to come back from the shopping center with your Office Park and then your multifamily dwellings and then, perhaps, your R-9 and on to R-12 and R-15 and so on, but the trouble with this zoning situation is they started out with high zoning in R-12, with \$40,000 to \$50,000 homes in the area, and now they want to put up apartment houses and an office park. He stated he looked at their Petition that they filed with the Planning Board, and it states the reason for the proposed change in zoning is to provide a buffer zone between the business zoning that is now in effect at Fairview and Sharon, in other words, to protect the residential area with a little buffer, a little 60 acre of buffer, and it seems to him that is a right big buffer zone. That it is his understanding that the Belk-Ivey interest did not buy this whole area, and their deed has a line running across the back rather straight, and the reason he points this out is that if there is any problem in here with the buffer zone Mr. Harris has plenty of property to provide himself with any size buffer zone; he is trying to get a buffer from a situation he created himself. He came in in December, when no one knew what was going on, of course they could have found out by going around and looking at the Sign, but the bare facts are that most of these people did not know about this until they read about it in the papers. One part was zoned Business for the Belk-Ivey Store, and these people did not protest that because 90% of them did not know anything about it. Mr. Boyle says that we will not be satisfied with anything except to turn down the whole package - we have never taken that attitude - at one meeting where a compromise was discussed - a compromise proposal was made to run the road across here like it was set out on the map which showed this area to be residential, and showed streets and lots, but for the life of us we have not been able to find them. He stated it is their information that these maps have been withdrawn but similar maps were on the wall of the Real Estate Office where they sell the lots in this area. That he has not seen the maps himself but some of the residents have seen them. In any event, the proposal was made to run the road through and that would still leave 40 or 45 acres - but Oh No, that would ruin the whole concept, they could not do that, and why not, because it would not give them enough land to have a large enough Office Park.

Mr. Walker said that he knows most of the people in the Barclay Downs area do not have any particular interest whether they get an apartment at this location or not, but the people over here on Sharon Road and in Foxcroft Road who signed this petition certainly care.

Another objection some of them have about the Office Park is the fact that like some of the buildings out there, it possibly will be heated by the lighting which has to stay on all night, and instead of looking like a nice residential area, it will look like Douglas Airport. And in the event it is not heated this way, there will be large areas for parking, and there will be parking at night - dating and muggings, it is a small thing but it is in the minds of some of them.

Mr. Walker said his people have not been calling the members of the City Council because he asked them not to. He told them to let's go down to the Council Meeting and present our case there, these are fair men, and they are not going to make any decision before we present our side of this - they may have written some letters, but a person does not mind getting mail.

But things like this upset folks, for example, here is an article in The Charlotte News dated February 15th talking about the Belk Bros interests etc, in which it says "announcement was also made that a huge apartment complex, as a buffer between the business and residential developments, will be immediately erected", and not that they are going to file a petition for a zoning change to make it possible, they just announced in the newspaper it will be erected - and the article goes on - "almost at once the area was becoming a small-scale replica of the famed century city development near Beverly Hills, California. Some planners and developers have begun to refer to it as Crescent City, extending all the way to the Park Road Shopping Center and Humble Oil & Refining Company's building."

He stated what they are talking about is inequities. The City of Charlotte can get along without Office Buildings way out there. What we need is more people uptown, we all talk about building it up, but if we start building these office buildings all over the city you are just spreading out - just look at it objectively as to what is good for Charlotte and not what is good for Barclay Downs and not what is good for the Harris'. That what they are saying is, are we going to put money in the pockets of the Harris interests or are we going to take away property values from those people who live near this proposed office park. These are fine homes out there that will back up to the Office Park, or those up on the hill will look right into it, and at the apartment building, and they will not be able to sell their homes without taking a licking. They do not even know the size of the Office Building, two, three, five or six stories, and the same goes for the apartment building - the only thing that will restrict them is the Zoning Ordinance itself, and you can start with a base of 40 feet and for every foot you move in from 8 feet of the side lot line you can go up another 2 feet - why Mr. Harris enough space out there to put up the Empire State Building. The point is, he could build a high-rise apartment that could be seen from all over Barclay Downs and that area. Go into the nice Foxcroft area, where there are homes \$65,000 to \$100,000- drive into the one street that is cut through there now and you look straight into what is to be the multifamily dwellings and the apartments - how would you like to put \$65,000 to \$100,000 into a home and be able to look across and see apartment houses and multifamily dwellings?

Mr. Walker stated that according to the Petition the property is owned by Mr and Mrs Harris, but Mrs Harris did not sign the Petition, and the only person wanting to change the zoning according to the Petition on file is Mr Harris, and the Harris' are not here today, so he supposes they are not too interested, but whether or not they are interested, they are not here.

He stated they say it is the intention of the Petitioners to have access roads, etc.; however, back at the time these people bought their property it was the intention of those people who sold to them to only have a good residential area there - somewhere along the way their intentions got changed.

Mr. Walker asked the large group of persons who were present opposing this change in zoning to stand. He urged the Council to deny the Petition.

Mr. Irvin Boyle stated he wishes to add two aerial photographs of the area one made at an altitude of 10,000 feet and the other at 2,000.

That he does not want to belabor the matter, but in response to Mr. Walker he regrets that he feels it necessary to deal in personalities, that he does not think the motives or the character of the Petitioner ought to be impugned. Mr. Walker is a real good attorney and he thinks he knows that a petition for a change in zoning can be signed by a person who has no interest in the title. There have been cases before this Council in which persons owning no interest in the property filed a petition to change the zone.

With reference to the development of the property, Mr. Walker says it is inconceivable to him that it could be this way - if he will look on the public record he thinks he will find the answer to every question, and the answer to whether or not the Harris' are the developers is No.

Mr. J. R. Abney, resident of Barclay Downs, stated he is the gentleman who owns the house that Mr. Walker discussed and presented pictures of; that he lives where these two so-called creeks merge. On two different occasions last summer, water came up to his patio and his entire yard was covered. That it is his understanding that a survey has been made by a U. S. Government Agency of the potential flood area, but to him it is not a potential one, it is a flood area. That they met with Mr. Delaney and he said he did not know what type Office Park they were going to build, they had no plans whatsoever, but the residents could feel sure that it would be a beautiful, well kept area. Mr. Abney stated he doubts that and his reasons is because of the vacant lot next to his house; after he moved in they said they were going to reroute the creek some 20 feet right down his boundary line, it is now washing away part of his property, and all the trees are dying. Since they rerouted the creek he has done nothing to beautify it, so if Mr. Delaney is doing this with property right next to him what is he going to do with the property right behind him? Frankly, if it is a big Park they are going to have to grade down the hill, and that is going to push the flow of more water down on him and his neighbors, Mr. Campbell and Mr. Young who have been flooded and their entire foundations covered. That he knows that something is going to have to be done about the drainage in Barclay Downs by the City or someone. That personalities do not interest him at all and whether it is Mr. Jones, or Mr. Harris or Mr. Smith, he is bitterly opposed to the proposed development unless there is better planning done on it - if they can show them a buffer zone and pull the development back - in other words he is looking out for Dick Abney - everyone else is looking after themselves - but he is looking after himself from the standpoint of his children and increased traffic from these apartment houses. So he is just raising his protest to the proposed development and the change in zoning.

Mr. Jones, Planning Commissioner, addressing Mr. Walker said that he has the impression there are probably just two alternatives - one is to leave the land idle or the other to build single family houses on R-12 all the way up to the back of Belk-Ivey Store, he asked if this is correct? Mr. Walker stated that is one alternative to build single family dwellings, but you do not have to have R-12 zoning, you can have something like R-9 or R-6 and build smaller dwellings. That the situation is, there is already some houses in here, and they can have trees and shrubbery to take away from the

Office Park. They could build some houses in here not quite as expensive maybe as some of the others. They say they cannot build single family residences because of some problem - but what is the problem - with 60 acres you can keep building and when you get up close to the B-1, then is the time to seek relief. That what he says is this - the person who buys with the Shopping Center there knows it is there and he would find it hard to complain - but his people are in a different situation. It is not a case of the Petitioners not being able to do anything with the property; it is a good residential area, he can put in streets and the property will sell like hot cakes and at a good price.

Mr. Bruce Wright stated the key issue in this is that when they, practically everyone, purchased property in Barclay Downs they did so with the good faith that it was going to be continued to be developed as a quality neighborhood, and that good faith has not been kept.

Mrs Dora Gunnerson stated she lives in Barclay Downs where they use to hear Mr. Harris' cows mooing and they wish they still could. They are asking that Council deny this rezoning not only for Barclay Downs and Foxcroft residents but because they love the City of Charlotte and they want to keep it the way it is. A City's assets are often the intangible ones, and they feel the image of Charlotte is one of beautiful homes and nice residential districts, and they want to feel safe in buying in those residential areas that they are ^{not} going to be turned into a jungle of steel, and that they can feel safe in buying a home where our Planners and City Councilmen are going to protect them.

Council decision was deferred for one week.

HEARING ON PETITION NO. 66-16 BY BREVARD S. MYERS AND JOHN S. MYERS FOR CHANGE IN ZONING FROM R-6MF TO B-2 OF THREE LOTS LOCATED AT 715, 717, AND 721 SOUTH TORRENCE STREET.

The public hearing was held on the subject petition.

Mr. Bryant, Assistant Planning Director, stated this is a request for rezoning three lots on South Torrence Street near King's Drive intersection. There are houses on two of the lots and one lot is vacant; there are homes adjacent to the property on the side near King's Drive intersection, and also on the other side of the lots leading towards Elm Street. Along King's Drive, itself, there is a mixture of business uses, with Charlottetown Mall located between Baxter Street and Independence Boulevard. The general area behind these three lots is a mixture of singlefamily and multifamily and vacant lots. All of the area along King's Drive on both sides is zoned B-2, including the Charlottetown Mall area; the three lots themselves are zoned R-6MF, as is the property at the rear and to the side.

Mr. Brevard Myers, one of the Petitioners, stated their purpose is to provide a logical development of these houses into the type of commercial development they have been endeavoring to make on King's Drive, represented by Monroe Calculating Machine Company, Saco-Lowell and Dictaphone. He stated that these houses were built in the 1920's and they are in good condition, but this is the logical expansion of a business area. That they intend to use a vacant lot between this property and Monroe Calculating Machine Company for additional parking space for that Company. He stated that one reason he was asking for B-1 or B-2 is they have a number of office equipment people, who sell from the premises and who make deliveries and service from the premises, which they could not operate in an O-6 zone. And since

the property adjoins a B-2 zone, they would like consideration given the rezoning of their three lots to B-2.

No objections were expressed to the proposed rezoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 66-17 BY NEAL C. HUNTER AND JAMES H. ROGERS FOR CHANGE IN ZONING FROM R-9MF TO I-2 OF PROPERTY FRONTING APPROXIMATELY 515 FEET ON THE SOUTH SIDE OF I-85, BEGINNING APPROXIMATELY 3,450 FEET EAST OF TOM HUNTER ROAD, AND ON PETITION NO. 66-18 BY KATHERINE D. DULIN AND MRS EMELYN A. LAYNE PERSON FOR CHANGE IN ZONING FROM R-9MF AND B-2 TO I-2 OF 95.68 ACRES OF LAND FRONTING 2,547.49 FEET ON THE SOUTH SIDE OF I-85 AND EXTENDING SOUTH TO NEAR TOM HUNTER ROAD, BEGINNING APPROXIMATELY 1,100 FT. WEST OF US 29.

The public hearings were held on the subject petitions.

Mr. Bryant, Assistant Planning Director, advised that the Map he is submitting shows the areas of both petitions.

Petition 66-17 consisting of property fronting 515 feet more or less on the south side of I-85, beginning approximately 3,450 feet east of Tom Hunter Road is the smaller of the two areas, and is located on I-85 and the property is very near what will be the interchange point of the present I-85 and the new I-85. On the property at the present time there is one house and a series of lakes. To the west of the property there are several small homes with a couple of trailers parked on the property. Other than that the area is vacant until you come down Tom Hunter Road and there is a mixture of vacant lots and single family homes under construction. The zoning in the area consists of R-9MF of all the area between Tom Hunter Road and I-85 until you get over along US 29 and that area is zoned B-2 on both sides of US 29. Other than that the zoning in the area is R-9.

Mr. Robert Potter, Attorney representing the Petitioners, stated the purpose for which they want the property rezoned is to put a trucking terminal on it, and in his opinion there is no better place to put a trucking terminal than on an interstate highway. That it seems to him the purpose of the Zoning Ordinance is to remove these tractor trailers from our city streets. The City is having a hard time acquiring right of way and paying a lot of money for it, to build Expressways, and this is an opportunity to take a terminal with tractor trailer units and keep them out of the city and put them out where they belong on a highway.

Mr. Potter stated that he has letters from three property owners, stating they have no objections to us building a trucking terminal on the subject property, which are just across the road which runs into the access road, and from this access road at present trucks could come down and come into I-85 and down a little further into Sugar Creek Road. None of these trucks would have to go on any city street in order to get to any part of the country. He filed the letters referred to with the City Clerk.

That he believes the purpose of zoning is No. 1 to relieve congestion on the city streets. With 5,000 company based tractor trailer units in this city, he cannot think of a better way to get rid of them than to put them out on the highway. Also, Charlotte is a distribution center with a \$2,000,000,000 industry in this city, and we are not going to have the transportation which we need, which is another purpose of the zoning ordinance, we are going to lose some of our distribution, and we are going to lose some of our trucking companies and going to lose them to Gaston, Cabarrus and Union Counties -

unless we have the areas in this city best suited to the purpose allotted to these companies. The property he is requesting rezoned is ideally suited for that both from the standpoint of the trucking companies and the City of Charlotte.

Mr. Bryant stated that the property involved in the second petition, Petition 66-18, consisting of 95.68 acres of land fronting 2,547.49 ft. on the south side of I-85 and extending south to near Tom Hunter Road, 1,100 feet more or less west of U. S. 29, is represented by the larger area on the map extending all the way from I-85 almost over to US 29, and comes down to the Tom Hunter Road at one location which he pointed out on the Map. The zoning of this tract is R-9MF although a small portion of it is in a B-2 zoning.

Mr. Dick Cohan, Attorney representing the Petitioners, Mrs Dulin and Mrs Person, stated this property has been in their family, who are long time residents of this county, for quite a number of years. They are concerned with the larger tract shown on the map and keep in mind that this runs diagonally through the side of an equalateral triangle, as it were, that was formed by North Tryon Street, US 29 and I-85, the front portion of it that will front on the new interchange that will go on north. As Mr. Potter has emphasized, he will not belabor this point that this property lies between two very high traffic areas. The property being described as raw land, gradual slope from US 29 towards I-85, wooded in part.

In order for the petitioners to enjoy the highest and best use of this property, it is their contention that it should be zoned industrial. The Petitioners have taken into account the residential property located along Tom Hunter Road and have provided for a sixty-foot buffer zone all the way up to I-85. As it has been pointed out, the property along I-85 curves and has been zoned for Business. That he will not belabor any of the arguments that Council has heard over and over again in this type of thing - that the Council has a most difficult job - he has heard many times that everybody wants zoning and nobody likes it, and there is probably a lot of truth in that when it applies to the other person; we would like everybody's property zoned but our own. That he recently read a case containing this statement that expresses the Council's dilemma and his clients perdicament: "Zoning is a means by which a Governmental Body can plan for the future; it may not be used as a means to deny the future," and it is, in his opinion, for the proper growth and development of this community that this property should be rezoned Industrial.

Mr. Sol Levine, Attorney representing the Owners of both tracts of land, submitted as Petition No. 66-17 and Petition No. 66-18, stated that he, too, wants Charlotte to grow and to have all the industry and terminals that it has, but there is no necessity for putting them where they are asking this to be put. That he has been before Council several times concerning the property in this Valley; they have taken the property there and built hundreds of residences near to the City. The property before Council for rezoning is running close to Hidden Valley, and he pointed out both tracts on a map of the area. He stated the property represented by Mr. Cohan is the old Abernethy property which has all been purchased by the Hobart Smith Construction Company, and the plans for its development have just been approved by the Planning Board, and there are hundreds of residences planned for the property; in one of the areas there will be houses constructed in the \$20,000 class. This property will be developed with a long range view of hundreds of residences, and they do not want a truck terminal adjoining the property. That he has a petition, signed by practically everyone in the area, objecting to the change in zoning. He stated there is plenty of land located in and around Charlotte for a Truck Terminal, but there is not too much land of sufficient

size to be developed by a continuous plan over five to ten years for residences.

Mr. Levine pointed out that Charlotte College is located just a few miles down the road, and they do not need a truck terminal here; what they would like to see is for Charlotte College to grow and expand. He stated this land has laid dormant for many years, and why they think it cannot be used for anything but industrial development, he cannot see for they can sell it for residential purposes.

He urged the Council to let the property stay zoned as it is and stated that to change it to Industrial zoning would actually be destructive to hundreds and hundreds of homeowners located in the area and would do much harm to the plans for the development just approved by the Planning Board.

Mr. Turner, Planning Commissioner, asked Mr. Fred Bryant how close the property is to Hidden Valley, and Mr. Bryant replied not Hidden Valley but Virginia Manor is just getting started that Mr. Levine is talking about; the plans, however, have not been approved as yet, they have seen the plan in preview stage only, and they have not submitted it for approval yet, but he is sure they will.

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Mrs. Norris, who lives on Hunter Road, stated this where they live, it is their home, not just a house, and they have worked so hard for the homes in this area and to have a Trucking Terminal put right in their back door is hard to believe and hard to take. A trucking terminal is a noisy thing and most disturbing at night. It seems they could go on down I-85 beyond the residential area, maybe between Beatties Ford Road and Statesville Road or Derita Road, and there are For Sale signs all in that area.

Mr. William Trotter, representing Nance-Trotter Realty Company, stated they are Mr. Hobart Smith's competitors in this section of town, and we consider his to be a fine Company. We are interested in the neighborhood, as he is, from a residential viewpoint. While he has no specific parcels that he thinks should be residential and the other industrial, he wants to assure the Council it is a residential area, and there are hundreds of families who have bought homes out there and intend to settle on this land developed by Hobart Smith Company. That he does not doubt at all what Mr. Levine has said about there being hundreds of houses to sell, for there are plenty of people who want to live out there, and we are depending on that. New Hidden Valley School is well under construction, and this will be a very fine residential area. The City Council and Planning Commission, in their wisdom, have seen fit to zone large areas out there residential, and this is supposed to be sound, and people purchase homes believing this to be true. And so his plea is that very careful consideration be given before any property in this area is zoned Industrial.

Mr. Robert Benjamine stated he is a Salesman and travels quite a bit. That he would like to try to contradict a statement made by Mr. Potter that the best place for a Truck Terminal is on an Interstate-Highway. That he thinks that is the place for residents to live, or close to them. In Syracuse, New York, where he came from, he could get out of his home and onto the highway and travel all across the State without any trouble. This is the reason he selected Hidden Valley to live in in Charlotte, because it was close to I-85; he can get out of his home and on the road and be in Raleigh in two and a half hours, or any other place he wants to go - so he would like to refute the statement that the only thing we should have on an Interstate-Highway is a truck terminal. And in his opinion we should keep Hidden Valley and the other developments out there for residents because of its convenience to the large number of salesmen who live out there. That he says if the Council allows a truck terminal in there, it will be the end to a very fine residential area.

Mr. Robert Potter stated he would like to point out to the Council that Hidden Valley at the present is about .8 of a mile away from the subject property; that he does not know what their plans are for the future, but his clients plans are to build a trucking terminal now; and whether they build these houses or not, he does not believe that very many people are going to want to live on an Interstate-Highway right in front of the Interchange, where US 29 comes in with all the traffic from Raleigh and Durham, as well as traffic from the west and the south. They talk of putting all of their houses over here but nobody has said anything about putting a house on this particular piece of property and that is what we are talking about and that is the piece of property we are asking you to rezone - not anything adjacent, just this piece of property on which to put a trucking terminal next to the highway where it belongs.

Mr. Jim Cochran stated he works in the County Tax Department, and he is building a home in this area, and he also owns another piece of property, so he owns approximately 1,300 feet adjoining the property requested rezoned, and his house is under construction at this time.

Council decision was deferred on both Petitions for one week.

HEARING ON PETITION NO. 66-19 BY FRANK A KENNEDY, M. E. ALEXANDER, P. P. TURNER, AND B. K. HAMILTON FOR CHANGE IN ZONING FROM R-6MF TO B-1 OF PROPERTY ON THE SOUTHWEST SIDE OF BELHAVEN BOULEVARD, EXTENDING FROM HONEYWOOD AVENUE TO NELSON AVENUE WITH A DEPTH OF APPROXIMATELY 150 FEET.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated the property is on NC 16, coming into I-85 Interchange. The property, itself, is on the southeast side of Belhaven Boulevard extending from Honeywood Avenue to Nelson Avenue. The property, itself, is vacant, but there are two houses on the property, one facing Nelson Avenue and the other facing NC 16. On the intown side of the property, there is a shopping center, and the out-of-town side, there is a Service Station facing Honeywood Avenue and NC 16. There are houses to the rear and houses interspersed with vacant property towards NC 16. All the area around the Interchange is zoned B-1, the subject property is zoned R-6MF as is a great deal of the adjoining property, and on the intown side it is zoned Industrial.

Mr. Charles Henderson, Attorney for the Petitioners, presented a map of the property and stated it is located next to the present Shopping Center and is in the immediate vicinity of the Interchange between I-85 and NC 16. The property is now zoned for multifamily use, and the present plans for the property are not known. That they do not know of any opposition to the rezoning.

No opposition was expressed to the proposed rezoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 66-20, AMENDED, BY HUMBLE OIL & REFINING COMPANY FOR CHANGE IN ZONING OF 196.50 FEET OF PROPERTY ON THE SOUTHEAST SIDE OF SHARON-AMITY ROAD, BEGINNING 100 FEET NORTHEAST OF PROVIDENCE Road FROM O-15 TO B-1.

✓ Mayor Brookshire stated the public hearing will now be held on the Petition of Humble Oil & Refining Company, as amended, for a change in zoning from O-15 to B-1 of 196.50 feet of property on Sharon-Amity Road, beginning 100 feet from Providence Road.

Mr. Fred Bryant, Assistant Planning Director, stated this property is at the intersection of Sharon-Amity Road, which changes to Sharon Lane across Providence Road, and Providence Road. The property is a part of a larger vacant area that extends along Sharon-Amity Road for about 300 feet and along Providence Road for about the same distance and along the unopened street called Orient Road and is bounded on the other side by the Providence Shopping Center. Other than the Shopping Center, two office buildings and an Apartment building the land uses along Sharon-Amity Road in this vicinity, and along Providence Road and Sharon Lane is single-family. That the entire corner area, including the subject property is zoned O-15; the Shopping Center site is zoned B-1; the property directly across Sharon-Amity Road is zoned R-12MF and other than that, the area is all zoned R-15 single-family.

Mr. Beverly Webb, Attorney for the Petitioner, stated Humble Oil owns the lot located at Sharon-Amity Road and Providence Road. Their reason for filing this petition is that Humble has acquired an option to purchase the adjoining property on Sharon-Amity Road, connecting it with the existing Shopping Center facility on Sharon-Amity Road. As a result of the amended petition, the existing property and all the property under option would be zoned for business usage, connecting it with the existing Business zoning of the existing Shopping Center. The corner property will retain the present zoning of Office-15. That their request is that 196.50 feet on Sharon-Amity Road be rezoned Business-1 for the contemplated use for a Service Station development. Of the property requested rezoned approximately ten feet, under the terms of the option, have been reserved for an easement, and so they would have the use of 186 feet fronting on Sharon Amity Road for the Service Station development. The remainder of the property owned by Humble on the corner retaining the Office-15 classification contains 15,000 square feet and the owner proposed to construct on it a district office. That this property will be adjoined on the northerly side by existing B-1 zoning and this will be an extension of the business zoning; across Sharon-Amity Road the zoning is multi-family residential, and it is undeveloped except for a single-family residence; on the south and on the east would be the existing Office-15 zoning and then the buffer afforded by Providence Road and the unopened street, so that this property would be completely protected from adjoining single-family homes. That Council may recall the property has been subject to much controversy in the past; in 1957 there was a petition to rezone the property surrounding the present property owned by Humble. At that time the entire corner was zoned Residential and the request was to make it all Business, and the request was denied, because they did not want to extend business into an existing residential zoning. In 1962 this entire corner property was rezoned as Office-15 because, under that Code, the buffer concept was adopted of office use between existing residential and existing commercial use. That this property has remained Office-15 since 1962 until the present time. The concept of putting it in Office-15 was to keep commercial zoning off of Providence Road because it was feared once commercial zoning went into the corner, the remaining corners would be open, and the entire length of Providence Road might well be open to commercial zoning. So the concept was sound, but the property remained vacant, so the planning principle has resulted in a vacant lot, and vacant lots can, not only create an unsightly lot, but they also tend to create uncertainty in continuing areas of possible zoning conflict in the future. Office-15 zoning is designed primarily for office use, but it allows some uses that might be objectionable to the surrounding residential owners. For instance, Office-15 zoning permits hospitals, sanitoriums, nursing homes, banks, beauty parlors, barber shops and motels without any regard to aesthetics. Humble has been approached by a motel investment company wanting to put a motel on this property. But what they want to do is to develop the property so that it does not go the round of possible uses that might generate traffic hazards or deflate property values. They want Council to rezone that portion

of the property adjoining the existing business zoning. Humble is proposing to modify the existing zoning and by doing so, it would first remove this property from the zoning arena it has been in ever since zoning was first introduced in the City of Charlotte. Secondly, it would afford a use that is compatible with the surrounding neighborhood, and it certainly is compatible with the adjoining business property because the shopping area does not now contain a service station. And they believe it will be compatible with neighboring residential property under the concept of the design; also, because you would have developed property with a retained buffer zone of Office-15 on that all important corner of Providence Road. Now, with these progressive advantages, you would have not only a modification of the zoning code, but it is a modification recognizing the realities of the situation and recognizing that Providence Road is to be retained residential and recognizing that this would be a development along only Sharon-Amity Road and an extension of an existing business zone. For these reasons, they believe they have answered the usual arguments that are posed by the property owners in the southeastern area of the county regarding Providence Road. Here, they would be retaining an existing office zoning along Providence Road and only extending existing commercial zoning rather than creating a new commercial zone in the heart of a residential area.

Mr. Webb stated that Sharon-Amity Road in front of this property is now four-lane, and the proposal is to extend Sharon-Amity as four-lanes from North 29 North Tryon Street straight through Sharon Lane and on down Sharon Road, and it will be an anti-belt road. At present it is four lanes from Providence Road to Tangle Drive and the contracts have already been approved to extend the four lane to Independence with no target date set.

He stated the other service stations in the area are located at the intersection of Sharon-Amity and Randolph Road a half-mile away; at the intersection of Sardis Road and Providence Road about one and a half miles away; at Fairview Road which is two and a half miles away; and the Queens Esso station at Providence and Queens which is over two miles away. Now, the argument may well be made that it is not needed even though the stations are some distance away. Based on the 1962 traffic counts the estimated traffic at this intersection is 10,000 on this road in a 24-hour period, so they will be located on a heavily travelled road adjoining an existing business zone. It is their opinion that the average residential lot along Providence Road and along Sharon Lane and Sharon-Amity are now or will be adjoining a four-lane Belt Road, and as this property will be separated by a buffer strip of Office-15, the erection of a service station on this site would not have any adverse effect on the residential property.

Mr. Webb advised that they will have adequate distance to have safe means of ingress and egress from the Sharon-Amity Road. That it is his understanding that service stations per se do not increase traffic hazards, they merely serve what is already there. For these reasons, and recognizing the advantages to be gained for the public good by the extension of the buffer concept and allowing the development of the property, the developer believes that their development is in keeping with the surrounding neighborhood and that there are advantages in developing vacant lots adjoining an existing neighborhood shopping center.

Councilman Jordan asked if they have any agreement with the Shopping Center people regarding entrances and exits and so forth. He asked if the traffic going into their property would not add greatly to the congestion?

Mr. McLeod, Regional Manager of Service Station Operations, replied they talked with the people in the Shopping Center, and they support Humble's position. They would welcome the opportunity to open it up because it would help their situation.

Councilman Tuttle asked Mr. McLeod if it is not true that the minute they go there, these other oil companies - American, Shell, Texaco, Gulf and others - will want to open up across the street? Mr. McLeod replied he would certainly recognize that it would be a desirable corner. Councilman Tuttle remarked that Mr. Webb has stated that service stations do not increase traffic hazards, he asked if Mr. McLeod has ever been on Sharon-Amity Road headed south around five o'clock in the afternoon trying to get into Providence Road? That cars are backed up beyond the shopping center a quarter of a mile on Sharon-Amity Road, and he wonders what opening a service station there will do when they want to get into there and go ease on Providence Road? Mr. McLeod replied you are limited at best to the number of cars that any service station can take care of and they would have the good fortune of 200 front feet at this location. But with the amount of frontage you have from the standpoint of turning right off Providence Road, they in fact would probably help the situation that now exists with the small shopping center. If you were coming down Sharon-Amity and turning left on Providence Road, this would not be a problem. That he would envision when the street is brought up to four lanes, probably there will be some median restriction in there anyway.

Councilman Tuttle remarked that this is a very valuable spot for a service station and it is also a very valuable area from the standpoint of the values of the property of the homeowners. The fact that it is so valuable was a point that Mr. Webb made and is the thing that concerns him. It is not just this one service station, but the ones that are going to be fighting from now on once one goes in there.

Mr. McLeod replied that he would have to agree that it would be attractive to other people. But their reason for being here today is to present what they think is good planning to the Board and to Council. Any subsequent action would have to take the same ride. One thing they contend is with the existing zoning; they can do more than possibly will be done if they do not go in there. They would have in excess of \$200,000 invested in the layout if they are allowed to go in there. That Mr. Ervin made the statement that there has not been much time. That he personally talked to him thirty days ago, two days after he made Humble's application; and win, loose or draw, they have tried to take this route as far as the existing neighborhood is concerned. That he met with them last night purely but their willingness to let him present basically what he has presented here today. The notice was made public, the sign was so placed on the property for everyone to see, and there has been no intent, at any time, by the Company to keep this from public knowledge which, of course, they could not do even if they had wanted to. That the layout which they talked about earlier is actually what they would put there. It is a residential station; it would be beautified on the perimeter of the service station, and it would be aesthetically agreeable as far as the type structure they would use.

Councilman Short asked Mr. Webb about the documents that would be recorded burdening this property for the benefit of the adjoining property. He asked if this would go the extent of arranging that the corner lot would have no access into Providence Road at all for the benefit of the office building, or merely that the filling station would not have access all the way across. In other words, would there be any driveway at all entering into Providence Road for use of either building?

Mr. Webb replied in the first place there is no document. Their agreement has been negotiating with the adjoining property owners, so that they would reach an understanding with them and Humble has committed themselves if agreeable with the property owners. As to the access into Providence Road, under the current zoning code, you could not have access across the Office-15 zoning to serve the service station.

Councilman Short asked if they would have access to serve the office building directly onto Providence Road? Mr. McLeod replied they would so stipulate. The only thing they would like any consideration on, they would naturally like to see no competition come in - but they would hate to see competition come in ten or fifteen years from now and have access to Providence Road and Humble to be restricted against having it. That would be the only condition, and they would so state. From an operational standpoint, they are willing to sink or swim with their layout, and would be willing to so stipulate with the one condition that they are not so restricted if at some future date it becomes a reality.

Councilman Tuttle stated the competition will be out there sixteen days later. Mr. McLeod stated it took them eight years to even make the presentation, and he has his doubts if they get their zoning it would be so stated on others, because he believes they are willing to make conditions that perhaps would not be met by competition.

Councilman Tuttle asked Mr. Fred Bryant if the zoning is granted to build the office building, under the Office-15 zoning, can they use that lot for parking? Mr. Bryant replied they can use it for parking for the existing purpose. Mr. McLeod stated they would so restrict it, as previously stated, even in an interim period of time.

Mr. Webb stated it is their understanding that the property directly across on Providence Road has residential restrictions on it that prohibits commercial development on that corner. Of course, the third corner is owned and developed by the Providence Methodist Church. That Humble controls one corner, and if they were to ever sell it, you can be well assured that it would be restricted against other service stations coming in.

Mr. Paul Ervin, Attorney, stated he is representing the Providence Road community, and his concern with this location goes back many years; when the zoning law was first proposed they fought this battle, and the point was made at that time that to open this particular area for business-type operation would very greatly depreciate the whole area of Providence Road, and fortunately, this property was not zoned for business. That probably some of those present will recall that about the time the hearing was to be held on the original zoning law, the then owners of the property, which is now occupied by the little shopping area, hurried out and got some work under way so they could beat the deadline, and there was nothing that could be done insofar as the area on which the building had been started was concerned. Since then this matter has been before the Planning Commission and the City Council to change the zoning regulations. Some eight years ago they had the matter here before the Commission and the Council, and the matter was thoroughly argued at that time; and finally the community agreed, by way of a compromise, to permit the property to be zoned O-15 and that was done, and they thought the matter was over and done with. For eight years the property has laid there vacant, growing increasingly more of an eye-sore, nothing in the world done to improve it. Now, he is intrigued by the proposal of Humble that they will beautify this remaining portion if their present request is granted, and he can only say that they have had eight years in which to do that, and they could have done something to make it more compatible in appearance with the community - as a matter of fact, he would like to remind them and the Council that the community itself proposed that we, at our expense, landscape this particular property and get it out of the mudhole situation into which it has been permitted to degenerate, and we have heard nothing from them at all. Now they want to have a Filling Station there. That it is true, and he would like to say to the Council and to Mr. McLeod that Mr. McLeod has done a yeoman bit of work in trying to convince the people in the community that this will not hurt the community - that he thinks that Mr. McLeod has done such a good job, the Humble Oil & Refining Company ought to award him, at least, the Purple Heart; and he thinks he should say that Mr. McLeod has been, so far as he can determine, absolutely fair in his presentation of their proposal.

He stated that Mr. McLeod came to him six or eight months ago, or perhaps it was Mr. Ray representing Humble, and at that time, they wanted to build a Service Station on this corner. That he listened to what he had to say and told him that he would sound out the community. More recently, they came back with the rendering which is before Council and said they proposed to build the Filling Station on the inside lot only and leave the 150 feet as it was, and recently they have said they have put in their request to their Home Office to put some sort of an office building on the 150 feet of space. That Mr. McLeod said this was a request that had gone to Management and, as we all know, it takes a long time to get a commitment on things of that nature.

The rendering which the Council has before them is the architect's conception, or dream, of what this property would look like after the construction; that his observation is that architects who are interested in buildings and getting the job to plan it, etc., do a pretty good job in dressing up these pictures and making them just as attractive as possible. This rendering does not show, however, the traffic situation that would prevail if the Filling Station were located there; it does not show the tremendous increase in traffic hazards that would take place; it does not show the large number of cars that would be parked from time to time on the Filling Station location; it does not show the oil cans and other accouterments that go along with a Filling Station, or the Signs that are hung at every possible vantage point, and the Advertising and the Merchandise located on the outside of the building, and things of that nature, all of which will tend to degererate the entire community.

In the first place, they feel the Filling Station should not be located there. And their proposal that they have access only from Sharon-Amity Road does not solve the traffic problem; he passes through that intersection in the afternoons and it is becoming an astoudingly busy intersection. That he thinks the Council should be very much concerned about maintaining as much safety precaution as possible in that particular area because of the heavy traffic passing through it daily and hourly. The fact that the Filling Station is there is bound to increase the traffic hazard. Their present proposal, even if approved by the Humble Oil & Refining Company to build an Office Building on the corner, would tend to increase that traffic hazard.

The question was asked as to whether there would be any access off of Providence Road. Well, he asked this question - if you have only 150 x 150 feet and if you have proper setback lines and proper clearance at the corner of Providence Road and Sharon-Amity Road, you are not going to have much space left for a building; and the fact they are putting their building there is going to increase the traffic hazards at that particular corner. Now, even though there is no grass in the mudhole, there are no buildings there to obstruct the view and from a traffic standpoint it is much better off now than it would be for any structure to be erected on that corner lot. There is an additional piece of property lying right back of where the Service Station would be and fronting about 150 feet on Providence, the owners of that property now own the larger portion of the property which Humble now seeks to obtain; and which, he understands, they have an option on. And the Council knows and he knows that just as soon as any change is made in this property, the owners of that property will be down here within fifteen or twenty days wanting to get a similar change on their property; and thus, this cancer will spread. Some question has been asked about the property across Sharon-Amity Road. As we all know, and there is no use kidding ourselves, if this Planning Commission and this Council grant this request, you will have a petition immediately for that property over there. It will become immensely valuable for business purposes.

Mr. Ervin stated they have ample filling stations in their community; there are four located only a short distance away from this location. That he does not blame Humble for wanting this location; it is wonderful location for their type of business. But there is a much wider question involved here. One of the best accesses with the outlying portions of the City of Charlotte is Providence Road, and Providence Road has been a definite asset to the City. Here is one residential area of our town that can be approached without going

through an unsightly industrial or business area and it is about the only one left. Everytime anybody suggests anything on Providence Road, the community becomes aroused and the reason for it is that once you break down the barrier, which so far has been maintained, you will have a flood of these petitions and you will find yourselves in an embarrassing position of justifying the granting of one petition and not granting another.

He stated further he is pleading for the whole area. After Mr. McLeod and some other gentleman came to see him, he arranged a meeting last evening in order to give Mr. McLeod an opportunity to explain this matter before some of the residents who were immediately located nearby. That he told them he would not argue for their position nor against it in that meeting as he wanted them to speak their own mind on the subject. That Mr. McLeod left after he made his presentation and after the meeting was over, he asked every person there to vote his convictions about it, and the vote was unanimous to oppose this proposal. Since then, a great many people in the area have been called, and to his knowledge, there is not a single person that they have been able to contact, and they have contacted them far and near in an effort to get a fair reading of public sentiment, who is not definitely and positively opposed to it.

Mr. Ervin stated they feel if this petition is granted, it will open Pandora's box. They feel that on its merits this petition does not deserve to be acted favorably on. And in connection with the welfare of the community as a whole, the Council would be undertaking a very dangerous thing to make this change and to grant this petition. He stated there are many people here in the Council Chamber who have very strong feelings on the matter, and he is sure that some of them would like to speak to the Council concerning their views.

Mr. Lloyd Mumaw stated he lives very close to this corner and has been down here about five times, as they have had about five hearings on this subject. That he will confirm the fact that they have not found one person in the area that favored this petition. Everyone has stayed on his side of the fence, and they are still trying to protect Providence Road, and he trusts Council will protect it with them.

Mr. A. W. Lawing, 3641 Providence Road, stated this has been about his fifth time up here on the Providence Road question. That he has lived out there since 1937 and that was the road he chose many years ago to live on because he liked it and because there were no filling stations and business of that type to mar it, and he would like to second Mr. Ervin's words - he is against it.

At the suggestion of Mr. Ervin, a number of persons in the audience, opposed to the Petition, stood.

Mr. E. L. Ray, a retired Official of Humble, stated this has been a very interesting case; during his career with the company, he had a lot of these problems with permits, and he thinks the merits of this case have been expounded very ably on both sides. That he would like to point out that a great deal of emphasis has been put on the importance of maintaining Providence Road as a Boulevard of residential homes, which he thinks is a very fine thing, but he would like to remind Council that the proposal which Humble has does not contemplate marring that in the slightest. The application for a filling station is on Sharon Amity; the zoning beside this permits offices and other business establishments and he knows that the plans of the Humble management are to put a very attractive office there. It is their policy to maintain a separate local district office from their headquarter's office and they usually locate it in a residential area and close to where they have other property. That Humble has a considerable investment in this property, but the district office itself represents a minor part of the investment, because the land for the service station will represent 75% of the total investment. That he has seen the image of service stations change, and Humble has tried to keep in the forefront

in designing stations to fit the architecture of the neighborhood and for the acceptance of the motorists and inhabitants of the neighborhood. Humble has no intention of making a lot of enemies here or anywhere else. They do not want to offend a lot of people who will never trade with them, after all they like to do business with people in the neighborhood as well as the passersby. Another point that was made was this would increase traffic hazards, and he agrees if a service station is on the corner, instead of 100 feet away from the corner, that is a possibility; but by moving the station farther south on Sharon Amity, the usual problem of criss-cross traffic turning will be avoided. That the Humble boys here today have made some statements about their plans and he happens to know something about the policies of the Company because he was Vice-President in charge of Marketing for the Company for many years. He knows when the Regional Manager here in Charlotte submits an application to Houston for an appropriation to build a service station they have to tell Management in detail what they are going to put on the other property; and the whole package may not be approved in dollars and cents but it will be approved in principle, so he has no qualms about the Company coming through on their suggested plan.

Mr. Ray stated further that another factor which enters into this is that there have been several applications made for shopping centers and business establishments along Providence Road; they have been publicized and have built up a considerable amount of emotional opposition on the part of people, and that is natural. Now this situation is not comparable to the others that have been submitted heretofore; this is purely a completion of a project that was started several years ago. The building of a service station and an office on the corner of this property will round up the bob-tail Shopping Center that is an eye sore today, and if he lived in the community, he would rather see it dressed up than in its present condition. That he knows we are all opposed to business near us and he would oppose business close to him, but he would recognize the practicability of a business where it is once established being improved to the point where it would be more acceptable from an appearance standpoint, than it is today. That he believes with the approval of this plan the neighbors in this community within a year's time will say "well, maybe we were wrong, things don't look as badly as we thought they did." Certainly, he knows that to be the history of many other cases.

Mr. Ervin stated he cannot follow these gentlemen when they say there will be no increase in the traffic hazards. If you have a stream of cars going in and out of this station across heavily traveled Sharon-Amity Road, very close to the outlet from the little shopping area that is here, you are bound to have a bad traffic situation; there is no way in the world that it can be avoided. The question was asked about the access to the service station lot from the business area. That he would remind Council and the Planning Commission especially, there is a row of parking along here and in order for that to happen the row of parking would have to be eliminated. Already the parking area is quite cramped in there, and you can increase your traffic as well as your parking problems.

Mr. Ervin stated they will renew their proposal to Humble Oil & Refining Company that they will beautify this lot at their own expense if they will permit them to do so.

Mrs Ballard, who lives on Sharon Lane, stated they moved here in 1937 and into what they thought was the country, and as we all know, it is no longer country. That her husband was over at the intersection of Sharon-Amity and Randolph Road this morning and at one of the filling stations, they told him there is another service station - Phillips 66 - going up behind the Aermican Oil Company right now at the south corner of Sharon-Amity and Randolph and then there is another filling station going up - Pure Oil - and there will be six filling stations on that corner which she thinks will amply provide us with all the gas and oil, lubrications, wash jobs and everything else we need.

Council decision was deferred for one week.

HEARING ON PETITION NO. 66-21 BY COOK AND BOARDMAN, INC., FOR CHANGE IN ZONING FROM B-1 AND I-1 TO B-2 OF PROPERTY ON THE SOUTH SIDE OF MONROE ROAD, BEGINNING APPROXIMATELY 220 FEET WEST OF RICHLAND DRIVE.

The public hearing was held on the subject petition.

Mr. Bryant, Assistant Planning Director, advised that the property is located on the south side of Monroe Road and is vacant with the exception of a house on one of the frontage lots on Monroe Road. Adjoining the property on the east side is a combination of small retail establishments and extends on out Monroe Road. On the west side of the property the area is developed with single-family residences all the way along Monroe Road and on the Richland Drive side. The zoning of the area is B-1 all along Monroe Road including the frontage portion of the property in question and the rear part of the property is zoned I-1, as is a large area running back to the Seaboard Railroad. Other than that the remainder of the property, including the school property, is zoned R-9MF. On the west side of the property, the zoning is O-6.

Mr. Kiser, Acting City Attorney, advised that a protest petition was filed that invoked the 20 percent rule, but today we received a letter from the property owner who was the only one close enough by to invoke the 20 percent rule and he has withdrawn his protest to the petition, so that the 20 percent Rule does not now affect this property.

Mr. Tom Lockhart, Attorney for the petitioner, stated that Cook and Boardman, Inc., is a hardware supplier and is currently located on Seigle Avenue in two buildings. Their operation is wholesale supplier of hardware material and equipment. They do a very small amount of retail business.

That they own five small lots on Monroe Road, two lots directly on the highway and three lots, all irregularly shaped, in the back. The two lots on the front are already zoned B-1. This would permit the retail outlet for the business. The three lots in the rear are already zoned industrial, and this would permit the wholesale operation of the business. To put their business at this location would require separating it into two separate and distinct buildings; they would have to have a separate building on the front for their office and retail sales, and on the rear portion would have to have their storage and warehouse. In view of the business development in this area, Cook and Boardman feel that a general rezoning of all five lots from B-1 to B-2, which would permit the entire building being put under one roof and being located at a more suitable spot on the five lots, would be beneficial not only to themselves but would permit a more orderly development of the entire property. He stated for this reason they are requesting the rezoning of the entire property from B-1 and I-1 to B-2.

Mr. Lockhart stated they have thoroughly discussed this matter with representatives of the school administration; he has conferred with Mr. Tangle, Superintendent of the Oakhurst School, who was not able to be here today, and he has authorized him to say that the School Board has no objections to the proposed rezoning of these five lots. They have conferred with Mr. Royston Angel who is the Vice-Chairman of Oakhurst School Committee, and he has assured them that he has no objections so far as the School is concerned. In addition, they have the signed certification of all the property owners who have houses on Richland Drive certifying they have no objections to the rezoning petition of Cook and Boardman, and they believe the rezoning will be beneficial to their area.

Mr. Lockhart stated actually this rezoning will create a buffer zone for the people living on Richland Avenue as to the property on the west side of the

Cook & Boardman property, all of which is zoned Industrial all the way down to the right-of-way of the Seaborad Railroad; and by the rezoning of this strip a buffer zone will be created for these people which will be beneficial to them.

He pointed out a lot to the west of them and stated it is owned by the School Board and Mr. Tangle, Principal of Oakhurst School, lived in the house for a considerable period of time, and they went to Mr. Tangle and through him the School Board because they wanted to be certain as to how he stood as to this proposed rezoning, and he assured them after consideration of the entire proposal that he has no objections. They did not contact the owner of the property next to the house owned by the School Board which goes all the way down following their property on the rear because that property owner is contiguous to the Cook & Boardman property only at the point where the property is zoned Industrial-1, and they did not believe this gentlemen would oppose a change of zoning from Industrial-1 to B-2 when his own property at that identical point already was zoned Industrial-1, and when they found out about Mr. McMahon having filed an objection, they approached him and gave him the facts of the matter and he immediatley said he did not understand and he would withdraw his objections. Mr. Lockhart filed with the City Council and Planning Commission the certification of Mr. McMahon.

He stated further that by the Bond Issue recently approved, Old Monroe Road will be widened and will be a major thoroughfare, and they believe that the proposal for the building of Cook & Boardman will be in keeping with an orderly business development of the area.

Mr. Jim Royster stated his house is located about three blocks from this proposed change. That Monroe Road is a very peculiar Road and they already have a traffic hazard at Monroe and Commonwealth Avenue. That this proposed change will put another industrial entrance into Monroe Road across from the school; those children already have enough trouble getting up Monroe Road and getting across without having to dodge industrial trucks coming out there; this will increase the value of his property but he hates to see the Planning Commission and Council nibble at residential owners out there as they seem to do. He asked that they give the residential owners a little consideration.

Mr. Carroll York stated he is with the Charlotte-Mecklenburg Schools and their interest in any rezoning request is for the safety of the school children. That when they iirst looked at this from a B-1 to B-2 change, they thought going from retail to wholesale would eliminate some traffic, but they always want to consider whether this particular zone will continue on down Monroe Road. That Mr. Tangle at Oakhurst has some concern because of the congestion at Commonwealth and Monroe Road at this time, and if they can decrease the traffic hazard at this point, this would help.

Mr. Lockhart stated they have made a survey of how much traffic goes in and out of Cook & Boardman's place of business, and it is a maximum of five or six trucks a day plus the various employees they have, and that is a very small traffic load.

Council decision was deferred for one week.

HEARING ON PETITION NO. 66-22 BY GUS PAPPAMIHIEL FOR CHANGE IN ZONING FROM R-9 TO B-2 OF PROPERTY ON THE NORTHEAST SIDE OF US 74, BEGINNING AT McALPINE CREEK AND EXTENDING IN A SOUTHEASTERLY DIRECTION TO A POINT APPROXIMATELY 355 FEET SOUTHEAST OF TARLETON DRIVE.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, pointed out the subject property on the northeasterly side of Independence Boulevard, going toward Monroe, crossing McAlpine Creek and Tarleton Drive, the first street beyond McAlpine Creek leading off to the left of Independence Boulevard. He stated the property is vacant with the exception of a restaurant. There is a shop on Tarleton Drive immediately adjacent to the property and other than that down Tarleton Drive are single family residences. There are single family uses along Margaret Wallace Road and other than that the area is entirely vacant. There is B-2 zoning on both sides of Independence Boulevard as far as McAlpine Creek, then from McAlpine Creek to the perimeter line, it is zoned single family residential; the subject property is R-9.

Mr. Nick Miller, Attorney representing the petitioner, stated they are asking for a piece of land to be rezoned from R-9 to B-2; it is adjacent to the present B-2 zoning, and the building the Petitioner is using now was there when the Commission zoned the property up to it B-2, and if they had gone about 300 or 400 more feet, they would have included his little building, and they would not be here today. He stated the topo map which he will file with the Clerk was made by the Commission and it shows the elevation and the tremendous gully on the property next to McAlpine Creek. That it would cost a tremendous amount of money to fill the gully and regrade it, one estimate was \$28,000.00, and he does not believe the residential use can afford it.

Mr. Miller stated that before zoning came into existence the petitioner owned this property and before zoning came into effect he was offered on three different occasions the opportunity to lease his land to a junkyard - long before Lady Bird Johnson proposed any legislation to keep junkyards off of federal highways. That his client and his wife discussed this long and hard and decided against it because they did not want their property used for a junkyard coming into our city. If they had leased their property over ten years ago to a junkyard, they would have received in rental all the money they had invested in this lot; but they turned the junkyard down and this has been a liability the whole time. They have spent money grading it and tried to rent the building on different occasions and so far have been unsuccessful. In the last couple of years, one of their sons opened a restaurant on the property called "Captain's Galley", which is a family restaurant, and they need more parking space and need to pave the lot and increase the kitchen facility and enlarge the building and make a better looking building.

Mr. Miller stated he has a petition which he filed with the City Clerk, signed by people who live on Tarleton Drive and a majority of the people who live on that street have no objection to this change, and several of the ladies are here in the audience to substantiate this. That a protest was filed but does not invoke the 20% Rule because two or three were residents who have seen fit to take their names off of it as they did not understand the intent of the protest.

He advised that the Mecklenburg County Health Department has seen fit to advise his clients and the owners and operators of this restaurant that unless they can enlarge their kitchen they will have to give up some of their dining room facilities for storage room to maintain a Grade A restaurant, and this they have to do unless the requested rezoning is permitted. That

directly behind this property is approximately 20 acres which they also own and this is a buffer area to any residential use. There is another property on the corner also used for a non-conforming use, which is the C & B Cabinet Shop, and they have no objections to the rezoning.

Mrs Cary Tarleton and Mrs Mary Walker were introduced by Mr. Miller as residents of the area who had no protest to the rezoning.

Councilman Jordan asked if most of this property is not in the flood plain area? Mr. Bryant replied he would not say most of it but there is a certain amount of this property in the area of the creek that is subject to flooding.

Mr. Miller stated the property is next to what is called the "Greenway", and his clients have talked to the "Greenway" people and are seriously considering donating several acres to the "Greenway".

Mr. Ed Clark stated he lives on Tarleton Drive, and they have a very unique situation in that Tarleton Drive joins Margaret Wallace Road and Independence Boulevard, and there is no side roads coming in at all; there is a proposed road going into the area to take care of the lots should they be developed as residential; but the people coming down Margaret Wallace Road have no occasion whatever to come down to Independence Boulevard over Tarleton Drive. There are about 20 families in there and there are two of them, his wife and himself and one young couple, who did not have children, and he does not believe that any of them would care to have anything built down there that would increase the traffic of outsiders coming down Tarleton Drive.

Council decision was deferred for one week.

MAYOR BROOKSHIRE CALLED A TEN MINUTE RECESS AT 5:30 P.M. AND RECONVENED THE MEETING AT 5:40 P.M.

Mayor Brookshire called a ten minute recess at 5:30 P.M. and reconvened the meeting at 5:40 P.M.

ORDINANCE NO. 430-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE, CHANGING THE ZONING FROM R-6 AND B-2 TO R-6MF OF 11 LOTS ON THE WEST SIDE OF FAIRBROOK DRIVE, BEGINNING AT FAIRDALE DRIVE AND EXTENDING SOUTH TO THE DEADEND OF FAIRBROOK DRIVE AND ONE LOT ON THE SOUTHEAST CORNER OF LYNCHESTER PLACE AND FAIRBROOK DRIVE; AND CHANGING THE ZONING FROM R-6 AND B-2 TO B-1 OF PROPERTY ON THE WEST SIDE OF BEATTIE'S FORD ROAD, BEGINNING APPROXIMATELY 300 FEET NORTH OF HOSKINS ROAD AND EXTENDING NORTH TO FAIRDALE DRIVE; AND CHANGING THE ZONING FROM R-9, R-6MF AND O-15 TO O-6 OF PROPERTY ON THE EAST SIDE OF BEATTIE'S FORD ROAD, BEGINNING AT "A" AND EXTENDING NORTH TO FAIRDALE DRIVE; AND CHANGING THE ZONING FROM B-1 SCD AND O-15 TO B-1 OF PROPERTY AT THE NORTHWEST CORNER OF BEATTIE'S FORD ROAD AND INTERSTATE 85.

Councilman Thrower moved the adoption of the subject ordinance as recommended by the Planning Commission. The motion was seconded by Councilman Albea and unanimously carried.

The ordinance is recorded in full in Ordinance Book 14, at Page 274.

PETITION NO. 66-11 BY J. H. CHEATWOOD FOR CHANGE IN ZONING FROM R-9 TO O-6 OF A LOT ON THE SOUTHWEST CORNER OF WATERMAN AND SHENANDOAH AVENUE DENIED.

Councilman Albea moved that the subject petition be denied as recommended by the Planning Commission. The motion was seconded by Councilman Thrower.

Councilman Short stated that the Planning Commission has pointed out that you cannot have a buffer zone between a Residential zone and Office zone, and what it seems to be doing here is extending the Office zone a little bit. That he is going to vote against the Planning Commission again, because he thinks the situation is that we have a man who has been living here in a home for many years and all of a sudden a large motel is to be next to him. He is the last man in the block and his house is only 100 feet from the main entrance to the motel - not the sideline of his property but the actual physical building. That he realizes that the motel is an Office use, but this is a rather special kind of an office, different from others in that it is operated around the clock, 24 hours a day, with cars and people coming and going. That he thinks we also participated in this ourselves when we recently changed the zoning in order to make the motel possible here, pushed right up against this man who had lived there for many years. That this man is in a special position within his block, being the last man until you get to this proposed motel. So we can say that he is different from the others in the block, and this is not an opening wedge at all, because anyone else in the block could be told that they are just not the last man who is right up against the entrance to the motel. He called attention that there are no protestors to the change in zoning this man is requesting, in fact, one person in the block called him and said that Mr. Cheatwood is a fine man, has his savings invested in his home, and he hoped the Council would help him.

Councilman Short stated he intends to vote that Mr. Cheatwood's petition be granted. That he can imagine how he would feel if he had a motel with its main entrance just 100 feet from his home.

Councilman Albea stated he is very much in sympathy with the man and would like to help him, but the Planning Board has reviewed this for the second time and disapproves the change in zoning and that is the reason he is going to vote against the change.

Councilman Thrower asked about the next man, what are we going to do when he comes in? Councilman Short replied the next man is in a different position,

and he can be told this. That he does not deny that he has a certain feeling for this last man in the line as the man out on Peterson Drive. He is in a different position from the others. For a man who is just one block away from the entrance to the motel, equity just does not dictate that we give him the same relief that we give the man who has it right square up against him.

The vote was taken on the motion and carried by the following recorded vote:

YEAS: Councilmen Albea, Thrower, Alexander, Jordan and Tuttle.
NAYS: Councilman Short.

RESOLUTION AMENDING THE PAY PLAN TO INCLUDE CLASSIFICATION OF SYSTEMS ANALYST.

Councilman Short moved the adoption of the subject Resolution which was seconded by Councilman Tuttle.

The City Manager, stated what they pain is to include this in Range 31 within a starting salary of \$8,640.00. That they purposely did not present this to Council as part of the Pay-Plan Revision a number months ago because they felt at that time they were not sure what type of Range would properly attract someone to this position as provided in the budget. They are in a position now to know what it is going to cost and what the situation is on recruitment.

The vote was taken on the motion and carried unanimously.

The resolution is recorded in full in Resolutions Book 5, at Page 214.

RESOLUTION FIXING THE DATE OF PUBLIC HEARING ON MARCH 7TH ON PETITION OF NANCE-TROTTER COMPANY AND MCDANIEL JACKSON FOR THE ANNEXATION OF 108.46 ACRES OF PROPERTY IN PAW CREEK TOWNSHIP TO THE CITY OF CHARLOTTE.

Upon motion of Councilman Jordan, seconded by Councilman Albea and unanimously carried, the subject Resolution was adopted and is recorded in full in Resolutions Book 5, at Page 215.

LEASE WITH SHULMAN, INC. FOR SPACE IN THE AIR CARGO BUILDING AT DOUGLAS MUNICIPAL AIRPORT.

Councilman Tuttle moved that a Lease be entered into with Shulman, Inc., for approximately 3,012 square feet of space in the Air Cargo Building at Douglas Municipal Airport, for a term of ten years, at a rental of \$7,981.80 per year. The motion was seconded by Councilman Albea and unanimously carried.

RESOLUTION FIXING THE DATE OF PUBLIC HEARING ON MARCH 21ST ON PETITIONS NUMBERED 66-23 THROUGH 66-31 FOR ZONING CHANGES.

Councilman Short moved the adoption of the subject resolution, which was seconded by Councilman Jordan.

Councilman Thrower stated it was on his motion that it was decided to hear only ten zoning petitions at one meeting. He asked if more than ten petitions have been ready to be heard at one time? The City Clerk stated there

were only the ten petitions to be heard today, but there are twelve to be heard in March, ten of which have been scheduled for March 21st and the remaining two for hearing the next week, March 28th. She called attention that his motion was that petitions in excess of ten be heard "at the next meeting" and this was interpreted as the next Council meeting, while he may have intended it to be the next meeting on which Zoning petitions were heard, the next month. Councilman Thrower stated he did say the next meeting, and he does not know whether it would be fair to hold the petitions off that long.

Councilman Tuttle expressed the opinion that we would have an accumulation that would keep building up if they were carried over the to next month's hearing date.

The City Manager commented that Council might want to keep in mind that this will pose an extra burden on the Planning Commission if they come back on successive Monday, and the Commission will, in the near future, be involved in hearings on that portion of the County outside the City. He advised that the Planning Commission is now in the process of looking at their whole operation as to what they might want to suggest as a possibility. Nevertheless, they have indicated a willingness to try holding the necessary hearings on the second Monday, but have not indicated approval on their part to continue on this.

Councilman Tuttle suggested that we proceed on this basis to carry over the excess petitions over the ten to the next week; then if and when it becomes a burden on the Planning Board they ask for relief.

The vote was taken on the motion for the adoption of the resolution and carried unanimously.

The resolution is recorded in full in Resolutions Book 5, at Page 216.

RESOLUTION FIXING THE DATE OF PUBLIC HEARING ON MARCH 28TH ON PETITIONS NUMBERED 66-32 THROUGH 66-34 FOR ZONING CHANGES.

Upon motion of Councilman Short, seconded by Councilman Jordan and unanimously carried, the subject resolution was adopted. The resolution is recorded in full in Resolutions Book 5, at Page 217.

CONTRACTS AUTHORIZED FOR APPRAISAL OF RIGHTS OF WAY.

Motion was made by Councilman Jordan, seconded by Councilman Alexander and unanimously carried, authorizing the following contracts for the appraisal of rights of way:

- (a) Contract with L. H. Griffith for appraisal of one parcel of land on Sixth Street for the Northwest Expressway.
- (b) Contract with Leo H. Phelan, Jr. for appraisal of two parcels of land on Eastway Drive in connection with the Eastway Drive Widening Project, and one parcel of land on Plaza Road for the Plaza Road Widening Project.
- (c) Contract with B. Brevard Brookshire for appraisal of two parcels of land on Plaza Road for the Plaza Road Widening Project.
- (d) Contract with L. D. Bass, Sr. for appraisal of two parcels of land on Eastway Drive for the Eastway Drive Widening Project.

ISSUANCE OF SPECIAL OFFICER PERMITS AUTHORIZED TO JERRY WAYNE COGGINS FOR USE ON THE PREMISES OF CHARLOTTE PARK & RECREATION COMMISSION, AND CHARLES K. JACKSON FOR USE ON THE PREMISES OF JOHNSON C. SMITH UNIVERSITY.

Upon motion of Councilman Alexander, seconded by Councilman Jordan and unanimously carried, the issuance of Special Officer Permits was authorized to the following persons:

- (a) Issuance of permit to Jerry Wayne Coggins, 809 Jackson Avenue, for use on the premises of Charlotte Park and Recreation Commission.
- (b) Renewal of Permit to Charles K. Jackson, 2842 LaSalle Street, for use on the premises of Johnson C. Smith University.

TRANSFER OF CEMETERY LOTS.

Upon motion of Councilman Albaea, seconded by Councilman Thrower and unanimously carried, the Mayor and City Clerk were authorized to execute deeds for the transfer of the following cemetery lots:

- (a) Deed with George W. Davis for Grave No. 5, Lot 159, Section 2, Evergreen Cemetery, at \$60.00.
- (b) Deed with Mrs. Louise S. Durham for Lot 101, Section 3, Evergreen Cemetery, at \$733.50.
- (c) Deed with Mr. E. C. Griffith for Lots 9 and 84, Section 2, Evergreen Cemetery, at \$1,315.50.
- (d) Deed with Mr. William N. Tritt for Lot 375, Section 6, Evergreen Cemetery, at \$240.00.
- (e) Deed with Mr. J. Dallas Moore for Lot 277, Section "Y", Elmwood Cemetery, transferred by Mrs. Paula Hunsucker-Compton, at \$340.00.

CONTRACT AWARDED VULCAN MATERIAL COMPANY FOR 1,000 U-POSTS.

Councilman Thrower moved the award of contract to the low bidder, Vulcan Material Company for 1,000 U-Posts, as specified, in the amount of \$2,770.70, on a unit price basis. The motion was seconded by Councilman Tuttle and unanimously carried.

The following bids were received:

Vulcan Material Company	\$2,770.70
Brighton Steel Company	2,832.50
Southeastern Safety Supplies, Inc.	2,914.90
Traffic Engineers Supply Corp.	2,934.47

Other Bid Received Not Meeting Specifications:

Franklin Steel Division	\$2,781.00
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ACQUISITION OF RIGHT OF WAY FOR NORTHWEST EXPRESSWAY AND OF EASEMENTS FOR SANITARY SEWER LINES TO SERVE BRIAR CREEK AND CASCADE CIRCLE.

Upon motion of Councilman Albaea, seconded by Councilman Alexander and unanimously carried, the following property transactions were approved:

- (a) Acquisition of 16,260 square feet of property at 1012-22 East Sixth Street, from Ann Barrentine Brown, at \$10,500.00, for right of way for the Northwest Expressway.
- (b) Acquisition of 5,564 square feet of property at 1000-02 East Trade Street, from Carl J. Beachum, at \$7,800.00, for right of way for the Northwest Expressway.
- (c) Acquisition of 36,008 square feet of property at East Ninth Street and East Tenth Street on Long Branch, from Ann Barrentine Brown, at \$22,000.00, for right of way for the Northwest Expressway.
- (d) Acquisition of 15' x 278.38' easement over property on Commonwealth Avenue, from Duke Power Company, at \$1.00, for sanitary sewer line to serve Briar Creek.
- (e) Acquisition of 10' x 228.39' easement over property on Cascade Circle, from Lone Star Builders, at \$1.00, for sanitary sewer line to serve Cascade Circle.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY OF EDWARD J. WEDDINGTON, LOCATED AT 609-11 EAST ELEVENTH STREET, FOR THE NORTHWEST EXPRESSWAY.

Upon motion of Councilman Albea, seconded by Councilman Alexander and unanimously carried, the subject resolution was adopted and is recorded in full in Resolutions Book 5, at Page 218

CITY MANAGER REQUESTED TO CHECK CONDITION OF KELLY STREET.

Council Thrower requested the City Manager to look at Kelly Street and see what can be done, whether it can be closed up or what can be done.

MAYOR AND COUNCIL INVITED TO OPENING OF IZZIE PITTLE'S RESTAURANT ON EAST BOULEVARD ON FEBRUARY 25TH AT 6 P.M.

Councilman Jordan advised that the Mayor and Council and their wives are invited to the Opening of Izzie Pittle's new Restaurant on Friday night, February 25th, at six o'clock for a buffet supper, and the Restaurant is on East Boulevard, about a half block below the Drum Restaurant.

STUDY OF PROCEDURES WITH REGARD TO ZONING PETITIONS REQUESTED.

Councilman Alexander requested that a study be made of our procedures on zoning matters regarding the withdrawal of a petition. That he thinks something could be found to eliminate Council's dilemma on withdrawals and, also, that of the petitioners. That it looks to him as if we leave ourselves open to everyone signaling with the zoning procedures.

Mayor Brookshire replied that Mr. Kiser has ruled on more than one occasion that the petitioner does have the right to withdraw a petition.

Councilman Alexander stated he did not say that he disagreed with the right that the petitioner has, but it seems to him we need a regulation that would prevent this type of thing.

Councilman Tuttle remarked that Mr. Alexander is probably aware that our Charter was changed the last session of the Legislature, but he believes there is still room for improvement, and he suggested that the City Manager put this on the Agenda for a Council meeting prior to the next session of the Legislature.

Councilman Albea stated three weeks ago he suggested then that after a man advertised and had all the neighborhood worked up, he should not be allowed to withdraw his petition. When a man pays his money to advertise, he should be willing to go through with it and not go around and have the people in the neighborhood all stirred up for two or three weeks and then come up here and say he withdraws it. That he does not go along with that at all.

Mr. Kiser, Acting City Attorney, stated he has been endeavoring to study these procedural problems with the hopes of coming to Council with a recommendation on some procedure that would minimize it, if not eliminate the problems, which we have been having with respect to amendments of these petitions. That he plans to do that within the next few weeks.

Councilman Alexander stated that answers his question.

ORDINANCE NO. 431-X TO AMEND ORDINANCE NO. 360-X, THE 1965-66 BUDGET ORDINANCE, AUTHORIZING THE TRANSFER OF A PORTION OF THE NON-TAX REVENUE IN THE GENERAL FUND UNAPPROPRIATED SURPLUS ACCOUNT.

Councilman Short remarked that he thinks we are all proud of the fact that in Charlotte during the last fifteen years we have maintained the Veterans Center as a reasonably wholesome and attractive place as contrasted with some others that he has seen in a number of communities. That on September 16, 1964, the Veterans Authority borrowed \$2,500.00 to pay off operating expenses and gave as security a Note of the Authority. This Note was endorsed by a number of individuals, including four members of this City Council whose potential liability was, specifically by the terms of the Note, limited to \$100.00 each. This Note was not paid, and on March 16, 1965, a renewal Note was given to the lending agency, and this Note was endorsed by a number of individuals, none of whom is a member of the City Council. Nevertheless, during the week of February 14th, in order to remove all doubt as to their continuing liability in the amount borrowed, each of the four Councilmen either paid or made arrangements to pay \$100 and interest to the holder of the Note. This leaves a balance of \$2,184.00 due and payable on that Note. That he believes an additional small public assistance is in order so as to complete the plan of assistance which was gotten under way about eighteen months ago, and in which a number of our local citizens and also our Legislature has taken part. Everyone who has taken part in this, of course, has done so in the hope that this facility can get on its feet and become self-sustaining. The money was used by the Veterans Authority for utilities, maintenance, insurance and things which are legitimate expenditures for the operation of any building. Therefore, he moved the adoption of an Ordinance authorizing that \$2,184.00 of the non-tax revenue in the General Fund, unappropriated Surplus Account, be transferred and added to the appropriation made in the 1965-66 Budget Ordinance for the Veterans Recreation Authority. The motion was seconded by Councilman Tuttle.

The vote was taken on the motion and carried unanimously.

Council Tuttle stated he seconded the motion in the hopes that this is the end of this and that the Veterans will be able to get the building on its feet and operate in the black henceforth.

The ordinance is recorded in full in Ordinance Book 14, at Page 276.

OPENING OF NEW FIRE STATION ON FRONTENAC STREET RESCHEDULED ON MARCH 7TH AT 12 NOON.

Councilman Jordan moved that in view of the opening of the new Dodge Dealership on Monday, February 28th at 12 o'clock, and the Mayor and members of the Council being invited to attend, that the opening of the new Fire Station on Frontenac Street be rescheduled for the following Monday, March 7th at 12 noon. The motion was seconded by Councilman Thrower and unanimously carried.

ADJOURNMENT.

Upon motion Councilman Thrower, seconded by Councilman Albea and unanimously carried, the meeting was adjourned.

Lillian R. Hoffmann

Lillian R. Hoffmann, City Clerk