

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, July 18, 2016 at 5:17 p.m. in CH-14 of the Charlotte Mecklenburg Government Center with Mayor Jennifer Roberts presiding. Councilmembers present were Al Austin, John Autry, Julie Eiselt, Claire Fallon, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps, and Kenny Smith.

**ABSENT UNTIL NOTED:** Councilmember James Mitchell

**ABSENT:** Councilmember Ed Driggs

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**ITEM NO. 1: AGENDA REVIEW**

**Tammie Keplinger, Planning** said good evening, on your tables, you should find an updated agenda. You will know that it is updated because it has some green writing at the bottom of the page. Those two changes that occurred, we are going to go over those in a minute. In your notebook, you have a follow up from last month. If you have any questions about that, just let me know. One item that I want to bring to your attention is the last item in your notebook this month is called Meeting Schedule. We would like to move that up to right after the Invocation and Introductions tonight. It is to call a special meeting on August 9, 2016, and Cheryl Brown is here, if you have any questions for her now or during that meeting out in the Chamber about that meeting.

We will go over, just briefly, two things that have been added to the agenda. Item number 27, Petition 2016-096 for the City of Charlotte, for those that attended lunch, we have talked about this rezoning a little; it is sponsored by the City of Charlotte. The Engineering Department has requested a deferral of this zoning to September 19, 2016. They want to have a little talk with some of the Councilmember about this petition before it moves forward. Item No 11, Petition 2016-067; again, at our lunch meeting we have talked about one of the notes that was on the site plan, especially regarding the perspectives that were shown, and it was a note that was pretty lenient in what it allowed. So the petitioner has modified that note, and if you look over on the third page you will see how that note has been modified and basically what it does is describes how the perspectives will be used and what they are actually agreeing to. Those are the two changes. In the essence of time, I am not going to go over any of the other items on the agenda, unless there is something in particular that you have a question about. We do have one case that is a protested petition; 2015-11, Item 6. It is not only a protested petition but they also had changes after the Zoning Committee vote. We have to deal with that also as to whether it will go back to the Zoning Committee for review. We have several cases like that tonight, and the Zoning Committee has indicated that they feel none of the changes are significant, and that they do not need to come back to them. The staff agrees with that. We feel the changes are enhancements to the rezoning.

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**ITEM NO. 2: DEVELOPMENT ORDINANCE STATUS UPDATE**

**Ed McKinney, Interim Planning Director** said what I would like to do for the ten minutes that we have left is give you a little preview and some context for our Council decision requesting Council action to be in front of you next week on your business agenda, relating to the contract and the scope of work that we have been teeing up for the Unified Development Ordinance. So this is sort of a briefing presentation that I will do quickly in the few minutes that we have, I want to make you aware of that we have more time scheduled at the Dinner Meeting next Monday so we will have a little more time to walk through this and answer questions next Monday as well. This Council action on the contract will be in your business agenda for the Business Meeting next Monday on the 25th.

I will walk you through the background of the Council action that we are asking. I will walk through sort of a an update on the project, where we from kind of a scope and approach on a schedule standpoint and then talk a little bit about the last steps and why we are asking now and what we need to do to keep the project moving from the development ordinance standpoint. The action is to essentially approve an amendment to the current contract that we have with our consultants. We have selected and hired a team of consultants back in December of 2015. We have been working with them since January. We have been in front of the TAP Committee, the Planning Commission now for six months, just kind of veering up to defining the broad scope and effort schedule and community engagement of this broader zoning ordinance update. What we are asking

for now is, now that we have defined that scope of work and have a better sense of the schedule and the breadth of it, we now have a scope of work and we have a fee attachment. I will walk you through in a moment, the pieces that get to that scope of work. The fee is \$650,000. As a reminder, back in 2015, we approved consulting money for us to do this. The reason why it is in front of you now is it is at a scale, like many other contracts that you have approved, that require Council approval, but the money is there, and we suggest that we have worked to move forward. You have seen this before; we have talked a lot about the notion of why we were doing this. We have been in this effort now since 2013, the assessment that we have had on the ordinance, really define about making sure that we have got a tool that implements the vision that we are trying to create for the city. There is lots of opportunity to clean up sort of the technical disconnects that have been made over the years of this ordinance, but also it is really a great time to reinvest with the kind of thinking lately with our area plans with our community discussion about what we are trying to create in Charlotte and make sure that we have a zoning and development ordinance tool that gets us to that vision. The key part of this relates to two pieces. We have talked a little about this before. This column here is kind of a little of the policy framework that we have. We talk a lot at our zoning decisions and meetings and hearings about how projects are consistent or inconsistent with our growth framework, the Centers, Corridors, and Wedges, our development policies, and our area plans. What we have discovered and defined through this process is we feel like there is a new piece of that policy framework that we need to make sure that we have a clear connection to the zoning ordinance. As an example, we know where our Centers, our Corridors, and our Wedges are, and what we wanted to find with this tool, the place type tool, is the layer below that that says what kind of center are we trying to create? What kind of neighborhood are we trying to make, and then make sure then that the zoning tools are designed to actually achieve those and provide some clarity for both the community, the developer, and us, and you as decision makers about insuring that when you are approving zoning you are implementing that vision. So, this is a new piece. We have talked a little bit about it, the notion of creating that frame work as a foundation, so that we could insure that everything that we are doing with the zoning ordinance and those tools is designed to connect. The box that I have outlined now on the regulations side of this column is to say that we also have an opportunity to take on all of the ordinances that we have that regulate development and wrap it into this notion of a new kind of development ordinance, kind of a terminology that is used. Many cities now are really doing that; thinking not only with land use and zoning kind of regulations but subdivisions regulate street connectivity. We will talk a little bit about the tree ordinance and how we deal with sidewalks and post construction and all of those ordinances that we have guide development, this is an opportunity for us to insure that they are all speaking the same language that they are all achieving the same goals and this has really been a clear tool for us and for the development community and the broader community of what we are trying to achieve.

The notion of the unified development ordinance, updating the zoning is a big piece of that all tied to the foundation of a set of new policies surrounding places that we are trying to create. I will quickly walk through the broad categories of the scope of work for the consulting team. A big piece of that is the public stakeholder engagement and that sort of defines the framework of everything that we are doing, and it includes a higher level of interaction from the Planning Commission, a notion of creating an Advisory Committee like we do with many other projects to help guide this process. It is a very robust set of community meetings in all sorts of different formats, workshops, open houses, focus, forums, and topics and obviously directed regular consultation with the TAP Committee and City Council, as I have already talked about and kind of established a working website, that is now just simply a framework for information, but will be morphed into a tool that will be how we gather comments and how we engage in a more interactive way with the community, as we get into the more specifics of the ordinance. The other two pieces that are in the drafting, that is really the meat of this work and actually where many of the resources of our consulting team are going to be spent, helping us work through the whole series of drafts that will be run through again in this community process we talked about, the Advisory Committee and the Council, that is a process that obviously gets very technical and again the notion that is based on this goal of what we are trying to create. A key component I want to highlight is this notion of an annotated outline. One of the first steps that we are going to doing the next few months is to really work through creating the skeleton of what we are trying to create, so we know are there certain new districts we want to create? Are there districts we want to amend? Define the issues in each of those districts that we want to focus on so that before we get into the heavy drafting of it, we provide you, the Council, the community, and everyone involved kind of a cleaner sense of what the frame work is that we are trying to create and identify, so we have all of the issues at the front of the process, not to say that a lot of those issues will require all sorts of discussion.

**Councilmember Mitchell arrived at 5:28 p.m.**

I want to be clear about what the goals are, essentially the skeleton of it. The last piece of this, and again all of these now are part of this scope that we put together. It is how can the consultant help us walk through the adoption and the implementation of it. So, there is a process once we have gone through a series of drafts, vetted that through the Advisory Committee and the Council; there will be sort of a public hearing draft and then there will be a process and will go through a formal adoption through several hearings and a discussion with Council. The consultant will be permanent. They will actually be helping us create some tools that they will leave us with that will help us to do manuals and explanations and workshops to help its way to developers to neighborhoods and to the broader community, kind of how this works and kind of be some lessons in terms of how to explain the process of the ordinance.

We have talked a little bit about this, and this is the danger of putting the schedule out there, it sets expectations, but it is important that we do that. We have talked a little about here is where we are today. We have been doing this work with our consultant to frame this up. We believe the drafting, that whole process of going through the outline and working with the community, working with the Advisory Committee to get to a series of drafts that are left to include with a draft that will go through a public adoption process, which conceptually, we think that takes a year and a half, starting more or less with today, when we get this contract amended, and then we have sort of sketched up the notion with that draft it is probably going to take at least another 12 months to walk through the methodical process of kind of adoption, hearing with Council, and kind of final revisions then ultimately, adoption by City Council. So, the immediate issue for use today are the actions being considered next Monday is again, that scope of work and the contract and fee that goes with that, and essentially amending the current contract that we have with our consulting team to allow us to start the process that I just described and kind of keep the momentum where we are today.

Moving forward, the next things that we will do immediately upon that with those resources is get the Advisory Committee established and use the fall really to be kind of the major public kick off of the efforts that are underway with. So, with that action to that in 10 minutes, as a reminder, we will have a similar presentation for you at the Dinner Briefing next Monday. I have a few minutes to answer any questions, and we will have the opportunity next week and next Monday night to further clarify or answer any questions that you have.

**Councilmember Lyles** said I will just say that this is will come before the TAP Committee on a regular basis, and we are also working with Tony, the Planning Commission, to actually talk about how we continue to have this ongoing dialog with the Commission, so that we know this is one of the most important efforts that we have. Thinking about our land use maps, I think Fred Bryant was probably here when that happened, and I always think about Kenilworth where it's zoned multi-family 22 and all of those bungalows. So, we are trying to get ahead of this so we can have our land use for the kind of city that we want to be in the next 20 to 25 years. We are going to pay a lot of attention to it. It is a long process, but hang in there. We will have bike lanes everywhere.

**Councilmember Autry** said will I be able to ride to Raleigh?

**Councilmember Phipps** said the different stakeholder groups that we have had, like parking near Universities, is that going to be folded into this, or are those groups ever going to resume their discussion?

Mr. McKinney said I am sorry; I did not get all of that.

Mr. Phipps said we have some unfinished business with the stakeholder groups and one of them is parking near college campuses and things like that. Is that going to be connect to this or is that going to resume at some point?

Mr. McKinney said it will fold into this; what he is mentioning is that there has been a series, over the last year or so, of issues that have been raised about our current ordinance and another one is TOD, and I know there is a lot of emphasis on trying to get those things fixed. Our mission has been the zoning process where we can deal with all of those issues under one umbrella comprehensively within the ordinance itself, do that in a way that is expedient but also done in a way that allows us to solve them comprehensively, but none of them will be lost and will be part of this process.

Mr. Phipps said the concern is that it has been going on for like a couple of years now, so now there is a prospect of going on another three years. That is like half a decade.

Ms. Lyles said I would like to say, I think it is something that we really have to worry about, and we are trying to place in priority. We know where the development is taking us faster, so we have to actually ask for some outline of what the questions are for TOD that we have all been saying, making sure that we collect that, the PED, and seeing if we can have a short term interim step on some things. Parking was not on the list immediately, but we recognize that those are things that will have to come up and if we need to. So, I think we have asked the commission to come in and help us with two things, affordable housing being one of them. We have not asked the Planning Commission, but we have asked the advisory group. What are we doing now? Today, what do we put in place that is not in conflict? It may need to be tweaked, but at the same time, taking advantage of some of the opportunity before we lose any opportunity.

**Councilmember Fallon** said we are moving so fast with other stuff. What do we do when the community doesn't want it and they come back and say the community shouldn't have it?

Mr. McKinney said doesn't want?

Ms. Fallon said these things that we are doing now that are in place; how do we handle that?

Mr. McKinney said developments that are doing it now?

Ms. Fallon said yeah.

Mr. McKinney said well, we are running under the policies that we have now and the area plans that we have now, so we are dealing with tough issues on intensification and traffic.

Ms. Fallon said because you cannot turn back what the community doesn't want

Mr. McKinney said it important for us to make sure we hold true to the area plans that Council has adopted and even some of the more recent ones where we are anticipating growth and intensifications in some areas that are causing us to kind of have that discussion with the community as we go through specific development approvals. That is going to continue, and in many ways, some of those infrastructure and growth issues are even beyond the ordinance itself; it is kind of relevant with how we want to deal with funding those kinds of infrastructure.

**Mayor Roberts** said it is important too, in looking at how rapid we are growing, to make sure that we have a new ordinance that will stand up to a decade or two of that kind of growth.

Ms. Fallon said and real input from the community, because if I recall, Deborah doesn't remember, I think the Chamber called a meeting at UNC once and we had a whole group of women from Colorado, and we did go through all of this, and they were laypeople, but they had decided how the communities would look, and it seemed to have worked for a while.

Mr. McKinney said that is what this is about. We are going to build on our area plans, use this to be a place discussion to make sure that we are all clear about it.

Ms. Fallon said can't we put that in abeyance until then?

Mayor Roberts said tell that to the developers.

The meeting was recessed at 5:36 p.m. to move to the Meeting Chamber for the regularly scheduled Zoning Meeting.

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## ZONING MEETING

The City Council for the City of Charlotte, North Carolina reconvened at 5:44 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center for their regularly scheduled Zoning Meeting with Mayor Roberts presiding. Councilmembers present were Al Austin, John Autry, Julie

Eiselt, Claire Fallon, Patsy Kinsey, Vi Lyles, LaWana Mayfield, James Mitchell, Greg Phipps, and Kenny Smith.

**ABSENT:** Councilmember Edmund Driggs

**Mayor Roberts** said I want to welcome Ron Kimble as this is his first meeting as our Interim City Manager. We are really pleased to have you on board and you hit the ground running and we are glad to have you here.

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**INVOCATION AND PLEDGE**

Councilmember Fallon gave the Invocation followed by the Pledge of Allegiance.

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**ITEM NO. 32: 15-3617 AMEND THE 2016 CITY COUNCIL MEETING SCHEDULE**

**Mayor Roberts** said before I explain the zoning process, I actually want to move one item in our agenda up, and that is Agenda Item No. 32. N.C.G.S. § 143-318.12 requires the City Clerk maintain on file a schedule of our regular meetings and that is going to be posted on our website. We are adding a closed session meeting on August 9, 2016 to conduct initial review of applicants for our City Manager search process and will be meeting with Mr. Robert Burg of Ralph Andersen and Associates. That meeting will be from 3:00 p.m. to 5:00 p.m. on August 9, 2016 in CH-14.

Motion was made by Councilmember Fallon, seconded by Councilmember Mayfield, and carried unanimously to approve an amendment to our 2016 City Council and Budget Meeting Schedule.

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**EXPLANATION OF ZONING MEETING PROCESS**

Mayor Roberts explained the Zoning Meeting rules and procedures.

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**INTRODUCTION OF ZONING COMMITTEE**

**Tony Lathrop, Zoning Committee** introduced the members of the Zoning Committee. They will meet next Wednesday, July 27, 2016 at 4:30 p.m. here in the Government Center. At that meeting, the Zoning Committee will meet to discuss and make recommendations on the petitions that have public hearings here tonight. The public is welcomed to come to that meeting on July 27<sup>th</sup>, but note that that meeting is not a continuation of the public hearings tonight, but before that meeting, you are welcomed to contact us to provide your input on the zoning petitions, and you can find our contact information and information on each of these petitions on the city's website at [charlotteplanning.org](http://charlotteplanning.org).

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**DEFERRALS**

Motion was made by Councilmember Mitchell, seconded by Councilmember Austin, and carried unanimously to defer the following: a decision on Item No. 4, Petition No 2016-075 by The Drakeford Company; a hearing on Item No. 19, Petition No 2016-016 by Clarke Allen; a hearing on Item No. 20, Petition No 2016-074 McKinney Holdings NC II, LLC; a hearing on Item No. 21, Petition No 2016-087 by Haven Campus Communities, and a hearing on Item No. 27, Petition No 2016-096 by City of Charlotte to September 19, 2016.

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**ITEM NO. 5: PETITION NO. 2015-093 BY 1351 WOODLAWN (MELROSE), LLC**

**Mayor Roberts** said due to significant changes in this petition staff has recommended that a new public hearing be scheduled for October 17, 2016.

Motion was made by Councilmember Kinsey, seconded by Councilmember Mitchell, and carried unanimously to schedule a new public hearing on October 17, 2016.

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**DECISIONS**

**ITEM NO. 6: PETITION NO. 2015-111 BY NORTH WENDOVER PARTNERS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.48 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF NORTH WENDOVER ROAD AND MELCHOR AVENUE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL).**

The Zoning Committee found this petition to be consistent with the South District Plan, based on information from the staff analysis and the public hearing, and because: the petition is consistent with the residential use recommended by the South District Plan. In addition, the site meets the criteria set forth in the General Development Policies for consideration of an increase in density up to 17 dwelling units per acre. Therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the property is located on a segment of Wendover with multifamily, office, and government uses. Immediately east of the site is an existing multi-family development that also has access from Wendover Road; and the site is separated from existing single family residential units by a stream and a fairly significant grade change; and the proposed driveway location aligns with a potential future extension of Cascade Circle from Billingsley Road to Wendover Road; and access to the site is limited to the single driveway reducing the number of potential driveways along this heavily traveled portion of Wendover Road. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

Site and Building Design

1. The fencing along Wendover Road has been removed from the site plan and the fencing along the property boundary will be 50 % transparent.
2. The fencing along Wendover Road has been removed; therefore, the request to add a note that the fence will not be a solid wall but will have openings such as gates/entries is no longer needed.
3. Staff has rescinded the request to add a note that there will be no blank walls over 20 feet vertically or horizontally as the petitioner has submitted building elevations.
4. Staff has rescinded the request for the facades fronting Wendover Road to not have a private elevated deck as building elevations have been provided.

Other Minor Issues

5. Specified the maximum building height as 40 feet and not to exceed three stories.

Infrastructure

6. Added a tree protection fence to protect existing right-of-way trees, and labeled potential tree protection area at rear of site.
7. Added a note stating that petitioner acknowledges that there is no water system availability to the site and that development cannot occur until there is availability.

**REQUESTED TECHNICAL REVISIONS**

8. Labeled the private open space on the Private Street Section provided on Sheet RZ-2.
9. Deleted Note 4 under General Provisions, Note 3 under Transportation, Note 1 under Streetscape and Landscaping, Note 3 under Environmental Features, Note 1 under Signage and Note 3 under Binding Effect of the Rezoning Documents and Definitions.

The following items have been added or modified since the public hearing:

1. Amended Note B1 under Permitted Uses to specify 38 for sale single family attached dwelling units.
2. Amended Note C1 under Transportation to replaced "access points" with "access point."

3. Added the following note under Transportation: “each single family attached dwelling unit shall have a minimum two car garage.”
4. Added the following note under Transportation: “A minimum of six surface parking spaces shall be installed on the site.”
5. Added conceptual architectural renderings (Note 3) under Architectural Standards that are intended to depict the general conceptual architectural style and character of these elevations. Accordingly, the conceptual architectural renderings set out on Sheet RZ5.0 of the rezoning plan shall be designed and constructed so that such elevations are substantially similar in appearance to the relevant conceptual architectural renderings set out on Sheet RZ5.0 of the rezoning plan with respect to architectural style, character and primary building materials. Notwithstanding the foregoing changes and alterations which do not materially change the overall conceptual architectural style and character shall be permitted. The conceptual architectural renderings depict the following:
  - I. “The front or north Wendover Road facing elevations of the single family attached dwelling units that will be located adjacent to North Wendover Road,”
  - II. The rear elevations of the single family attached dwelling units that will be located adjacent to North Wendover Road,
  - III. The front or private drive facing elevations of the single family attached dwelling units that will be located adjacent to the rear boundary line of the site,
  - IV. The rear elevations of the single family attached dwelling units that will be located adjacent to the rear boundary line of the site, and
  - V. The end or side elevations of the single family attached dwelling units that are intended to depict the general conceptual architectural style and character of these elevations.
6. Added Note 4 under Architectural Standards as follows: “Although not depicted on the conceptual architectural renderings, exterior decks may be constructed on the second floor of the rear elevations of the townhome units.”
7. Added Note 5 under Architectural Standards as follows: “The permitted exterior building materials for the single family attached dwelling units shall be brick veneer and cementitious siding. Vinyl and aluminum shall not be permitted exterior building materials provided, however, that vinyl and/or aluminum may be utilized on the soffits and trim, and vinyl windows, shutters, doors and garage doors and railings may be installed on the single family attached units. Additionally, in the event that a deck is constructed at the rear of a single family dwelling unit, the deck shall be constructed of pressure treated wood or a composite material.”
8. Added Note 6 under Architectural Standards as follows: “Brick veneer shall be utilized on those portions of the building elevations that are depicted and described on the attached conceptual architectural renderings.”
9. Added Note 7 under Architectural Standards as follows: “As generally depicted on the conceptual architectural renderings, a combination of vertical and horizontal cementitious siding shall be installed on the exterior of the single family attached dwelling units, and a variety of colors shall be utilized as well. The same color cementitious siding may not be utilized on single family attached dwelling units that share a common building wall. The colors actually utilized on the single family attached dwelling units may vary from the colors set out on the conceptual architectural renderings.”
10. Added Note E4 under Streetscape and Landscaping as follows: “A fence shall be installed along the western, southern and northern boundary lines of the Site as depicted on the Fencing Exhibit set out on Sheet RZ - 4 of the Rezoning Plan. Those portions of the fence designated with a green line shall have a minimum height of 4 feet and shall be an aluminum black fence that is substantially similar in appearance to the black aluminum fence depicted on the Fencing Exhibit. Those portions of the fence designated with a purple line shall have a minimum height of 6 feet and shall be a wood shadowbox fence that is substantially similar in appearance to the wood shadow box fence depicted on the Fencing Exhibit.”
11. Added Note E5 under Streetscape and landscaping as follows: “As depicted on the rezoning plan, a retaining wall shall be constructed along the southern boundary of the site. The exterior building materials for the retaining wall shall be modular block.”
12. Added Note E6 under Streetscape and Landscaping as follows: “To soften the appearance of the retaining wall as viewed from the adjacent parcels of land located to the south of the site, petitioner shall plant junipers or other cascading plant materials on top of the wall that will grow over and onto the southern side of the retaining wall. A picture of the plant materials at maturity is set out on the Fencing Exhibit.”
13. Added Note F3 under Environmental Features as follows: “All solid waste and recycling collection services are to be provided by private collection service. Roll-out bins will be

provided for each unit and located internally within the unit's footprint except when rolled out of the unit for pick-up."

14. Amended Note G2 under lighting as follows: "The maximum height of any freestanding lighting fixture installed on the site, including base, shall not exceed 15 feet."
15. Labeled 50 feet from the center line along Wendover Road.
16. Identified the tree save area on the site plan.
17. Amended the density to 15.3 units per acre.
18. Identified the location of the required solid waste containers.

The petitioner made the following change after the Zoning Committee vote. Therefore, the City Council must determine if the changes are substantial and if the petition should be referred back to the Zoning Committee for review.

1. Second floor decks have been added to the rear elevations of the southernmost townhome units on the site as seen on Sheet RZ5.0.
2. Sheet RZ4.0 has been revised to provide more detail on the perimeter fencing.
3. A new Sheet RZ6.0 has been added to the rezoning plan, which is a landscaping and screening plan for the retaining wall located along the southern boundary of the site. The purpose of the landscaping is to provide screening of the retaining wall.
4. Note D.3 was amended to clarify the applicable architectural elevations for each proposed townhome building. (See attached revised site plan.)

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

Motion was made by Councilmember Kinsey, seconded by Councilmember Mayfield, and carried unanimously not to refer Petition No. 2015-111 by North Wendover Partners, LLC back to the Zoning Committee.

Motion was made by Councilmember Kinsey, seconded by Councilmember Mayfield, and carried unanimously to deny Petition No. 2015-111 by North Wendover Partners, LLC, as modified.

Motion was made by Councilmember Kinsey, seconded by Councilmember Autry, and carried unanimously, that this petition is consistent with the South District Plan, based on information from the staff analysis and the public hearing, and because the petition is consistent with the residential use recommended by the South District Plan; in addition, the site meets the criteria set forth in the General Development Policies for consideration of an increase in density up to 17 dwelling units per acre; however, we find this petition not to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the property is located on a segment of Wendover abutting single family residential to the west and south. The proposed townhomes are not consistent with the single family residential character of the homes in the area.

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**ITEM NO. 7: ORDINANCE NO. 8073-Z PETITION NO. 2016-015 BY FCD-DEVELOPMENT, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.68 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF EAST SEVENTH STREET AND NORTH CASWELL ROAD FROM NS (NEIGHBORHOOD SERVICES) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL), WITH FIVE-YEAR VESTED RIGHTS.**

The Zoning Committee found the proposed uses to be consistent with the Elizabeth Area Plan; however, they found the proposed height to be inconsistent with the Elizabeth Area Plan based on information from the staff analysis and the public hearing, and because the plan recommends a mix of residential, office and retail uses in the area in which the site is located; and the proposed height of 58 feet for Building A and 48 feet for Building B is higher than the recommendation of a

maximum building height of 40 feet along Seventh Street, except for a corner element of 60 feet at the intersection of Seventh Street and Caswell Road; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the proposed development will provide a mix of residential and non-residential uses that will reinforce Seventh Street as Elizabeth's primary retail corridor; and the proposed site plan includes a mix of active residential and nonresidential uses on the ground floor that are oriented to the sidewalk network; and the petition also provides architectural design commitments for the ground floor and street facing facades that encourage pedestrian activity and complement the pedestrian environment; and the proposed maximum building height of 58 feet for the building at the corner of East Seventh Street and Caswell Road, and the maximum building height of 48 feet for the second building fronting Seventh Street, is inconsistent with the plan recommendation for a maximum building height of 40 feet; however, the increase in height above the plan recommendation for the majority of the development will accommodate usable ground floor non-residential uses; and the development will be divided into two buildings and as a result will decrease the massing from the single building originally proposed; and the development provides parking beyond the ordinance requirements in order to ensure that parking demand will be met onsite. The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

Site and Building Design

1. An eight-foot planting strip and an eight-foot sidewalk have been shown along Caswell Road.
2. A 16-foot setback has been labeled and shown along North Caswell Road.
3. The five-foot pedestrian connection along the northern edge of the development has been labeled.
4. Note 5C has modified to be consistent with how height is measured in the Zoning Ordinance; total height of the proposed buildings will be 58 feet for building A and 48 feet for building B.
5. Note 5R has been modified to read: "Petitioner will provide a signed letter from the Elizabeth Community Association to the Planning Department stating the funds for community art have been received by the Elizabeth Community Association prior to the first Certificate of Occupancy."
6. Note 10A has been modified to read: "A letter and elevations will be provided to the Community Association when plans are submitted to the City of Charlotte for review".

The petitioner made the following change after the Zoning Committee vote. Therefore, the City Council must determine if the changes are substantial and if the petition should be referred back to the Zoning Committee for review.

1. Max height references have been show on the plan and elevations.
2. Elevation changes for Building B that includes the height of the parapet, and minor modifications to the roof line of the craftsmen style building.

Motion was made by Councilmember Kinsey, seconded by Councilmember Autry, and carried unanimously not to refer Petition No. 2016-015 by FCD-Development back to the Zoning Committee.

Motion was made by Councilmember Smith and seconded by Councilmember Autry, to approve Petition No. 2015-015 by FCD-Development, LLC as modified.

**Councilmember Lyles** said I know that we have all talked about this development a great deal. I am going to vote to support the petition; however, I am very much concerned about the access on Caswell, and I understand that the petition, as it is written, allows them to have that access, and it will not be coordinated with the development going next door, and it will be two driveways in very close proximity. When you look at Caswell during peak hours of traffic with the hospital and the access to 7th Street, I do not think that is where we should have landed on this. I think there is an opportunity with the two developments coming in for creating a better point along Caswell Road that didn't contribute additionally to the stacking of vehicles along the way. I know that sometimes there are some small things, but this one makes a difference. I do not know what we can do about it, but I would really note that this would not be what we would like to have in a development like this. If there is an opportunity that actually deals with it, I would encourage the developer and the adjacent developer to determine how best to serve the neighborhood instead of creating a problem

that may come back to us to fix as government later on. So, with that, I will support the petition and knowing that we still have a ways to go on designing access in dense, urban development.

**Councilmember Smith** said I just want to say I support the petition. This is a situation where the Planning Staff supports it; the Zoning Committee Supports it, but more importantly, the correspondence is from the neighborhood association, the ECA, was in support. Often times, when neighborhoods come out and routinely oppose opposition, we take that as sort of speaking to the neighborhood. This is a situation where I think that the developer worked the neighborhood. It is not a uniform opinion from the neighborhood, but by in large, the neighborhood appears to be behind it. Significant changes were made to meet the requests of the ECA. I am falling down in favor of it. I think ultimately it will be a good project and a transformational project for a very important corridor in the city.

**Councilmember Eiselt** said I just want to go on record as being a disgruntled yes, because I am frustrated with the fact that we are creating more density in very important parts of the city where we are not providing more pedestrian and bike access in corridors that are already congested. We know it is creating more congestion. I think that we need to do a better job, as a city, it is not just the developer, but taking the opportunity when we have it to create more opportunities for people to be able to get in and out of Uptown. This is an area that is a pretty important intersection for that. I am going to support it, but I am disappointed.

**Councilmember Fallon** said I want to thank the builders and developers, because I think my statement was that everything here looks like a factory or barracks, and they did change it and made architectural design different. It conforms more with something that I could approve. I want to thank Councilmember Kinsey for working with the architects and getting something that looks more like Charlotte, thank you guys.

**Councilmember Kinsey** said I appreciate that, and I appreciate the architect meeting with me and making some changes. It is still too tall. It doesn't meet the height standard; it is over the height standard for the area plan, not by a whole lot, they did bring it down a little bit. I appreciate that. I have concerns, just as Ms. Lyles mentioned, about the entrances off of Caswell. I also have concerns with the entrance off of 7th. I think it is very important that they do a right in right out. Unfortunately, our C-DOT people have not asked for that. They had no traffic study, and here again it is C-DOT, not them. I guess they would have done it had they been asked. The traffic there is horrendous, and it is not always at peak hours to tell you the truth. While there are some people in the neighborhood who do support this, there are many, many people in the neighborhood who do not. I know that, because I hear them. I can't support it right now. I am not going to vote for it. I am asking my colleagues just to vote their conscience on this one, but I can't support it because I think there are too many unanswered questions. It is a very important part of that neighborhood, and it is going to create an awful lot of traffic along the 7th Street corridor. I am afraid it is going to create a domino effect. Had we been able to defer this as we had hoped, I would have supported it, because I think then we could have gotten some answers to some of the questions that we have about the traffic and about the entrances to the project itself off both 7th and Caswell.

**Councilmember Phipps** said in view of the many questions that still remain, even if it is approved, does that preclude the parties from actively working to resolve some of these issues on a mutual basis.

**Tammie Keplinger, Planning** said I think it does not preclude that from occurring. I think that C-DOT and the petitioner would work together through the development of this property. There is a possibility that some of the changes would require further Council action, but we would work with them as much as we could.

**Mayor Roberts** said I feel like I need to say something since this is right around the street from where I live. I see a number of my neighbors here tonight. I also want to thank the neighborhood and developers. I think there has been a lot of conversation. I think there is a recognition that this is a rapidly developing area of town. It is close in and a great place for people to walk or bike to uptown. We are looking at densifying our transit corridors and some of those heavily traveled corridors, especially as they get closer to the city. I think the neighborhood has recognized that and has been very accepting of change that has come very rapidly. I do have concerns, as you mentioned the right in, right out. Turning a left from anything that is on 7th Street right now is really hard. It is my hope that the developers and the neighborhood will hold the folks who are managing that development, hold them to improving it if that becomes a very dangerous way of getting in and out,

because I think those changes can be made even if they are not required by C-DOT, that the neighborhood has to put some pressure to make sure that it happens and that it continues to be accessible, also the entrance on Caswell if the developer is able to make that work better for everyone and to make that a positive feeling once it is developed and in operation and everyone is living with it, then they will talk to the other driveway on Caswell and help to make sure. Again, very difficult to get in and out of the access points that are so close to a major intersection; Caswell and 7th Street is a major intersection. I go through it many times a day. So, I do not know if I am going to have to vote because we have an even number. I think I will be okay. I just want to say that I appreciate the neighborhood. I appreciate the developers. I look forward to continuing to work through those issues. I think we can make it work. I have heard from a lot of people who are supportive with the changes, and I look forward to making sure that it develops the right way.

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

YEAS: Councilmembers Austin, Autry, Eiselt, Fallon, Lyles, Mitchell, Phipps, and Smith.

NAYS: Councilmembers Kinsey and Mayfield

Motion was made by Councilmember Smith, seconded by Councilmember Autry, and carried unanimously that this petition is consistent with the Elizabeth Area Plan; however, they found the proposed height to be inconsistent with the Elizabeth Area Plan based on information from the staff analysis and the public hearing, and because the plan recommends a mix of residential, office and retail uses in the area in which the site is located; and the proposed height of 58 feet for Building A and 48 feet for Building B is higher than the recommendation of a maximum building height of 40 feet along Seventh Street, except for a corner element of 60 feet at the intersection of Seventh Street and Caswell Road; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the proposed development will provide a mix of residential and non-residential uses that will reinforce Seventh Street as Elizabeth's primary retail corridor; and the proposed site plan includes a mix of active residential and nonresidential uses on the ground floor that are oriented to the sidewalk network; and the petition also provides architectural design commitments for the ground floor and street facing facades that encourage pedestrian activity and complement the pedestrian environment; and the proposed maximum building height of 58 feet for the building at the corner of East Seventh Street and Caswell Road, and the maximum building height of 48 feet for the second building fronting Seventh Street, is inconsistent with the plan recommendation for a maximum building height of 40 feet; however, the increase in height above the plan recommendation for the majority of the development will accommodate usable ground floor non-residential uses; and the development will be divided into two buildings and as a result will decrease the massing from the single building originally proposed; and the development provides parking beyond the ordinance requirements in order to ensure that parking demand will be met onsite.

The ordinance is recorded in full in Ordinance Book 60, at Pages 140-141.

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**ITEM NO. 8: ORDINANCE NO. 8074-Z PETITION NO. 2016-020 BY RIDGELAND RECREATIONAL VEHICLES, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.93 ACRES LOCATED ON THE SOUTH SIDE OF I-85 AND NORTH OF LAKEBROOK ROAD, WEST OF SAM WILSON ROAD (OUTSIDE CITY LIMITS) FROM I-2(CD) LWPA (GENERAL INDUSTRIAL, CONDITIONAL, LAKE WYLIE PROTECTED AREA) TO I-1(CD) LWPA (LIGHT INDUSTRIAL, CONDITIONAL, LAKE WYLIE PROTECTED AREA).**

The Zoning Committee found this petition to be inconsistent with the Dixie Berryhill Strategic Plan, based on information from the staff analysis and the public hearing, and because the petition is inconsistent with the Dixie Berryhill Strategic Plan which recommends single family residential up to four dwelling units per acre; however, this petition was found to be reasonable and in the public

interest, based on information from the staff analysis and the public hearing, and because the Dixie Berryhill Strategic Plan recommends that the area in which the site is located transition to residential uses and become less industrial; and while the proposed use is not residential, it will allow the reuse of a building formerly used for the manufacturing of forklifts to be used for a less intense use, display and sales of boats and recreational facilities; and the proposed use is also compatible with the adjacent warehousing uses; and no expansions of the building or parking area are proposed, therefore limiting the impact on the adjacent properties, and there are no residential dwellings located within 400 feet of the existing buildings; The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

Technical Revisions

1. Under "Development Data Table", maximum building area of 70,000 square feet has been reduced to 24,137 square feet.
2. The "Development Data Table" has been revised to note the existing zoning is I-2(CD) LWPA, and the proposed zoning is I-1(CD) LWPA.
3. The 27-foot "Class A" buffer along Lakebrook Road has been removed from the site plan. It is not required as the site is legally, non-conforming and no expansions are proposed.
4. The signage note has been revised to state that proposed signage will be per ordinance.
5. Staff rescinded the request for a letter delineating wetlands as the portion of the property with possible wetlands was removed from the petition.
6. The petitioner has amended "General" Notes C and D to reference "LWPA" in language.

Motion was made by Councilmember Mayfield, seconded by Councilmember Mitchell, and carried unanimously to approve Petition No. 2016-020 by Ridgeland Recreational Vehicles, Inc., as modified.

**Councilmember Mayfield** said what I would like to do is to thank the petitioners for reaching out to the community, even though there was no residential within 400 feet. This particular reuse of an existing building, there was no opposition, and I think that there was actually a little bit of excitement from the neighboring communities for what the product is that they are going to be taking over. So, I am glad that they were able to identify a building as appose to tearing down and building new and figuring out how to repurpose it.

Motion was made by Councilmember Mayfield, seconded by Councilmember Autry, and carried unanimously that this petition is inconsistent with the Dixie Berryhill Strategic Plan, based on information from the staff analysis and the public hearing, and because the petition is inconsistent with the Dixie Berryhill Strategic Plan which recommends single family residential up to four dwelling units per acre; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because the Dixie Berryhill Strategic Plan recommends that the area in which the site is located transition to residential uses and become less industrial; and while the proposed use is not residential, it will allow the reuse of a building formerly used for the manufacturing of forklifts to be used for a less intense use, display and sales of boats and recreational facilities; and the proposed use is also compatible with the adjacent warehousing uses; and no expansions of the building or parking area are proposed, therefore limiting the impact on the adjacent properties, and there are no residential dwellings located within 400 feet of the existing buildings.

The ordinance is recorded in full in Ordinance Book 60, at Pages 142-143.

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**ITEM NO. 9: PETITION NO. 2016-043 BY ESSEX HOMES AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.67 ACRES LOCATED ON THE SOUTH SIDE OF WEST SUMMIT AVENUE BETWEEN MERRIMAN AVENUE AND WILMORE DRIVE FROM: I-2 (GENERAL INDUSTRIAL) TO UR-1(CD) (URBAN RESIDENTIAL, CONDITIONAL).**

The Zoning Committee found this petition to be inconsistent with the Central District Plan, based on information from the staff analysis and the public hearing, and because, the plan recommends industrial uses for the subject parcel; however, this petition was found to be reasonable and in the

public interest, based on information from the staff analysis and the public hearing, and because: the subject property abuts single family homes fronting on Merriman Avenue and located within the Wilmore Historic District; and the proposed development will add four additional homes along Merriman Avenue; and the proposed residential density of six dwelling units per acre is compatible with the adjacent residential properties' density of five dwelling units per acre; and although the zoning district requested is UR-1 (urban residential) and the immediate area has been developed under more suburban districts such as R-5 (single family residential), the setback along Merriman Avenue, the wide side yards, and the buffer abutting the existing industrial use to the rear are sensitive to and compatible with the existing residential and industrial context; and the proposed 20-foot wide buffer will screen the development from the existing industrial use, as will the requested 10-foot buffer along West Summit Avenue. The Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

Site and Building Design

1. A 10-foot "Class B" buffer has been shown along West Summit Avenue.
2. Note 4B under "Streetscape and Landscaping" that allows the buffer located along the northern property line to be reduced by 25% has been removed.

Motion was made by Councilmember Mayfield and seconded by Councilmember Eiselt, to deny Petition No. 2016y-043 by Essex Homes, as modified.

**Councilmember Mayfield** said the concern with this project is every time we have a discussion as far as what our goal and plan is, as we grow the city, I do understand that the neighborhood association was in support of this project, but if we look in neighborhoods today, decisions that were made 20 years ago and the negative impact on the residential is something that we cannot go back and fix necessarily. Here is an opportunity; we know there is a major project that is coming in that area that we have no control over really. It is a state project that is happening that will potentially cause some challenges with the quality of life in this particular area for residential, so we are trying to look at the impact of community down the board. It was very difficult to see a path for this particular project as well as looking at the area is zoned for and calls for industrial, so to have residential, that could potentially open up the door for some different conversations in the immediate area.

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

Motion was made by Councilmember Mayfield, seconded by Councilmember Smith, and carried unanimously that this petition is inconsistent with the Central District Plan, based on information from the staff analysis and the public hearing, and because, the plan recommends industrial uses for the subject parcel; therefore, we found this petition not to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the adjacent properties to the northeast and south are zoned industrial, and if rezoned, the adjacent industrial properties will be required additional buffers and the adjacent industrial properties will have a negative effect on the proposed residential development.

\* \* \* \* \*

**ITEM NO. 10: ORDINANCE NO. 8075-Z PETITION NO. 2016-066 BY JWM FAMILY ENTERPRISES, INC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.32 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF ROXBOROUGH ROAD AND REXFORD ROAD FROM O-1 (OFFICE) AND O-15(CD) (OFFICE, CONDITIONAL) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).**

The Zoning Committee found this petition to be consistent with the SouthPark Small Area Plan based on information from the staff analysis and the public hearing, and because the plan recommends office or a mix of office and residential uses; therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because a hotel, which is the use proposed for this site, is classified as an office/business use and allowed in office and business zoning districts; and the Centers, Corridors and Wedges Growth Framework identifies SouthPark as a Mixed Use Activity Center, a priority

area for intensification and urban, pedestrian-oriented development; and the more specific vision articulated in the SouthPark Small Area Plan calls for the SouthPark area to transition from a suburban shopping and business environment to a town center composed of a balanced mixture of land uses; and the proposed site plan intensifies the subject site by redeveloping a surface parking lot located between an existing hotel and Rexford Road, with a second hotel and accessory structured parking; and the new hotel will enhance the pedestrian environment by providing active, ground floor uses oriented to the public sidewalk on Roxborough Road; and where the proposed parking structure fronts Rexford Road, the site plan commits to architectural treatment to the structure and also provides a wide setback to allow tree preservation and additional landscaping to partially screen the parking deck from the public sidewalk; and the site plan also provides wide setbacks along Roxborough Road to preserve existing mature trees and provide added green space consistent with other recently approved rezonings and to support the concept of a “green ribbon” along streets in the SouthPark area as discussed in the recent Urban Land Institute study of the SouthPark area; and the portion of the building adjacent to Rexford Road is limited to a maximum building height of 88 feet which is similar to the height of recently approved development on the “Colony Apartments” site to the east, and mid-rise building heights are appropriate in a Mixed-Use Activity Center; The Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

#### Site and Building Design

1. Provided a note under “Streetscape, Buffer, Landscaping Open Space and Screening” that specifies that the petitioner will provide additional landscape plantings along Roxborough and Rexford Roads as generally depicted on RZ-3.
2. Provided a note that a network of internal sidewalks with a minimum width of five feet will be provided as generally depicted on RZ-3.
3. Clarified what “first floor pedestrian-oriented architectural features” are as referred to in Note 5a.
4. Limited the total amount of encroachment allowed for outdoor seating and amenity area in the 40-foot setback specified in Note 5a along Roxborough Road.
5. Revised Note 5c to clarify commitment to preserving additional trees and removed the wording related to “intent.”
6. Indicated that in the area where additional trees will be preserved outside of the 40-foot setback, the building setback will be greater than 40 feet as generally depicted on the site plan.
7. Defined “prominent elements within the building façade” as referred to in Note 6c.
8. Reduced the size of the three-sided sign located on the top of the building from 200 square feet to 100 square feet per side to reflect what is shown on the building elevation.
9. Added a note stating that the existing monument sign located at the corner of Rexford Road and Roxborough Road shall remain as is or be replaced with a sign no greater than six feet in height and 36 square feet in area.
10. Added Note 5f under “Streetscape” stating the petitioner will coordinate landscaping with the Colony Apartment redevelopment to provide a consistent but not identical landscape along Rexford Road.

#### Transportation

11. Added a note to the site plan stating that the petitioner agrees to consider dedication of signal utility easements needed for the intersection of Roxborough Road and Rexford Road if signal equipment is needed on this corner of the intersection.
12. Committed to a contribution of \$50,000 to the City of Charlotte prior to the issuance of a certificate of occupancy for the hotel. These funds will be used to help fund a future signal at Roxborough Road and Rexford Road.
13. Added a note that the petitioner will coordinate the location and installation timing of the midblock crossing with Synco and CDOT resolving CDOT’s concerns about the proposed crossing location and possibility of duplicate efforts by Synco in rezoning petition 2015-131.
14. Committed to amending Note 4d under “Access” to remove the word “consider.”

#### REQUESTED TECHNICAL REVISIONS

#### Site and Building Design

15. Amended the maximum building height in the site development data on RZ-1 through RZ-3 to match the elevation on RZ-4.
16. Amended the maximum building height to clarify the height will be limited to 8 stories not to exceed 88 feet along Rexford Road and 97 feet along Roxborough Road provided that the roof top lounge will not extend closer than 75 feet from the edge of the building fronting Rexford.
17. Amended the parcel number for the subject rezoning site to reflect the correct parcel.

18. Amended the elevations to remove “AC” from the architectural feature/sign at the top of the building.

The petitioner made the following change after the Zoning Committee vote. Therefore, the City Council must determine if the changes are substantial and if the petition should be referred back to the Zoning Committee.

1. Amended Note 4D under “Access” to state “The petitioner agrees to dedicate a maximum 35’ by 35’ (measured from right of way) signal utility easement, upon CDOT request, at the intersection of Roxborough Road and Rexford Road. CDOT recognizes that such dedication should not unduly restrict the petitioner’s ability to comply with the requirements/design aspects of this rezoning plan and will consider this during signal design and equipment placement and in connection with encroachments such as sidewalk, seating areas and similar features allowed within the easement area.”
2. Amended “Optional Provisions” Note 2A to change the three signs on the architectural feature at the top of the building from walls signs to roof signs.
3. Amended Note 2B under “Optional Provisions” to remove the following: “in addition to those permitted on the architectural feature at the top of the building.”

Motion was made by Councilmember Smith, seconded by Councilmember Fallon, and carried unanimously not to refer Petition No. 2016-66 by JWM Family Enterprises, Inc. back to the Zoning Committee.

Motion was made by Councilmember Smith and seconded by Councilmember Austin to approve Petition No. 2016-066 by JWM Family Enterprises, Inc., as modified.

**Councilmember Smith** said the Marriott folks have worked exceedingly hard with the loan residential outposts at the condominiums right by them. Going to work in conjunction with Synco Development on that corridor, which is very important, and I think that the neighborhood leaders from Deering Oaks and Barclay Downs appreciate some of the concessions were made and them working to have a consistent store front to match up with what is going on across the street.

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

The ordinance is recorded in full in Ordinance Book 60, at Pages 144-145.

*\* The Statement of Consistency was approved at the October 17, 2016 Zoning Meeting. The action is recorded in full in Minute Book 141 at Pages 345.*

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**ITEM NO. 11: ORDINANCE NO. 8076-Z PETITION NO. 2016-067 BY POLLACK SHORES REAL ESTATE GROUP, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 8.36 ACRES LOCATED ON THE SOUTH SIDE OF WEST TREMONT AVENUE BETWEEN SOUTH TRYON STREET AND HAWKINS STREET FROM I-2 (GENERAL INDUSTRIAL) TO TOD-M(O) (TRANSIT ORIENTED DEVELOPMENT – MIXED-USE, OPTIONAL).**

The Zoning Committee found this petition to be consistent with the South End Transit Station Area Plan recommendation for mixed-use transit supportive development. The proposal is also consistent with the recommendation for a new north/south street between Tremont Avenue and Rampart Street; however, it is inconsistent with the plan recommendation for a new street connection between South Tryon Street and Hawkins Street, as only a portion of this street will provided based on information from the staff analysis and the public hearing, and because: the plan recommends mixed-use transit supportive development for this site; and the plan recommends a full street connection between South Tryon Street and Hawkins Street; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the subject site is within a 1/4 mile walk of the East/West Boulevard Transit Station on the LYNX Blue Line; and the proposal allows a site previously used for industrial/office purposes to convert to transit supportive land uses; and the proposal sets up enhanced connectivity by providing a new north/south street between Tremont Avenue and the site’s southern boundary; and in addition, a new east/west street will be provided between the new north/south street and the eastern property line; and instead of extending the east/west street to the western property line

toward South Tryon Street, a 12-foot pedestrian connection will be provided. Requiring the east/west street to be connected to South Tryon Street would result in two 250-foot blocks which are significantly shorter than the 400-foot block length recommended for station areas; and the petition supplements the base ordinance standards for TOD-M (transit oriented development – mixed-use) with design standards that ensure that uses orient and connect to public streets; the Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

Site and Building Design

1. Architectural standards for non-residential uses have been provided on the site plan.
2. The optional request 2(II) (b) for Development Areas “B” and “C” has been modified to read “parking will be screened for a change of use or redevelopment.”
3. The optional request 2(II) (c) has been modified to read that a sidewalk connection will not be required for Development Area “B” until redevelopment occurs.
4. Note 2(I) (a) has been moved to the Transportation section.
5. A note has been added that a green screen will be used to screen existing parking for a change of use on Development Areas “B” and “C”.
6. A note has been added that non-residential uses in Development Areas “B” and “C” will have entrances and orient to the public streets.
7. Provided that residential buildings will meet additional architectural standards with the following elements: transom windows, terraced or raised planters, decorative lighting, archways, entrances every 150 feet.

The petitioner made the following changes to the site plan after the Zoning Committee vote. Therefore, the City Council must determine if the changes are substantial and if the petition should be referred back to the Zoning Committee for review:

1. These perspectives are provided to reflect the architectural style and quality of the building to be constructed on this Site. The actual building constructed on this Site may only have minor variations from this illustration that adhere to the general architectural concepts and intent illustrated.

Motion was made by Councilmember Lyles, seconded by Councilmember Mitchell, and carried unanimously not to refer Petition No. 2016-067 by Pollack Shores Real Estate Group, LLC back to the Zoning Committee.

Motion was made by Councilmember Mayfield, seconded by Councilmember Mitchell, to approve Petition No. 2016-067 by Pollack Shores Real Estate Group, LLC, as modified.

**Councilmember Mayfield** said I would like to thank the developers. There were quite a few conversations in the community with the South Boulevard Neighborhood Association, as well as Community Partners and Business Leaders, and I wanted to thank them for the commitments that have been made and language regarding this particular development and how we move forward and just ask them to continue to stay engaged with the community.

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

Motion was made by Councilmember Mayfield, seconded by Councilmember Kinsey, and carried unanimously that this petition is consistent with the South End Transit Station Area Plan recommendation for mixed-use transit supportive development. The proposal is also consistent with the recommendation for a new north/south street between Tremont Avenue and Rampart Street; however, it is inconsistent with the plan recommendation for a new street connection between South Tryon Street and Hawkins Street, as only a portion of this street will be provided based on information from the staff analysis and the public hearing, and because: the plan recommends mixed-use transit supportive development for this site; and the plan recommends a full street connection between South Tryon Street and Hawkins Street; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the subject site is within a 1/4 mile walk of the East/West Boulevard Transit Station on the LYNX Blue Line; and the proposal allows a site previously used for industrial/office purposes to convert to transit supportive land uses; and the proposal sets up enhanced connectivity by providing a new north/south street between Tremont Avenue and the site's southern boundary; and in addition, a new east/west street will be provided between the new north/south street and the eastern property line; and instead of extending the east/west street to the western property line toward South Tryon Street, a 12-foot pedestrian connection will be provided. Requiring the east/west street to be connected to South Tryon Street would result in two 250-foot blocks which are significantly shorter than the 400-foot block length recommended for station areas; and the petition supplements the base ordinance standards for TOD-M (transit oriented development – mixed-use) with design standards that ensure that uses orient and connect to public streets.

The ordinance is recorded in full in Ordinance Book 60, at Pages 146-147.

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**ITEM NO. 12: ORDINANCE NO. 8077-Z PETITION NO. 2016-070 BY WOODFIELD ACQUISITIONS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 17.52 ACRES LOCATED NORTH OF MADISON SQUARE PLACE AND NEAR THE INTERSECTION OF MADISON SQUARE PLACE AND NORTHLAKE CENTRE PARKWAY FROM: R-3 (SINGLE FAMILY RESIDENTIAL) AND CC (COMMERCIAL CENTER) TO UR-3(CD) (URBAN RESIDENTIAL, CONDITIONAL).**

The Zoning Committee found this petition to be consistent with the Northlake Area Plan based on information from the staff analysis and the public hearing, and because: the plan recommends residential, office and/or retail uses for this site; therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the proposed density of 17.12 units per acre is consistent with the plan's recommendation of a maximum density of 22 dwelling units per acre if the site is developed with residential as a single use; and the subject property is located within the Northlake Mixed Use Activity Center, which is a priority area to accommodate future growth and appropriate for new multi-family development; and the proposed project will be Phase 2 of Woodfield Northlake apartments. Phase 1 of this project is underway; and the development will maintain the site design characteristics of the first phase, by locating buildings along the street with parking to the side and rear, thus supporting walkability; and in addition, the site design calls for the dedication of land along Dixon Branch for a future greenway and connection to the greenway; The Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

Site and Building Design

1. Specified a maximum height of four stories for buildings located along Dixon Branch and six stories elsewhere on the site.

Other

2. Removed the area to remain as trees, north of the 70-foot gas line easement, from the proposed rezoning thus reducing the rezoning acreage from 21.68 acres to 17.52 acres and increasing the density from 13.38 units per acre to 17.12 units per acre.

Motion was made by Councilmember Austin, seconded by Councilmember Autry, and carried unanimously to approve Petition No. 2016-070 by Woodfield Acquisitions, LLC, as modified.

Motion was made by Councilmember Austin, seconded by Councilmember Lyles, and carried unanimously that this petition is consistent with the Northlake Area Plan based on information from the staff analysis and the public hearing, and because: the plan recommends residential, office and/or retail uses for this site; therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the proposed density of 17.12 units per acre is consistent with the plan's recommendation of a maximum density of 22 dwelling units per acre if the site is developed with residential as a single use; and the subject property is located within the Northlake Mixed Use Activity Center, which is a priority area to accommodate future growth and appropriate for new multi-family development; and the proposed project will be Phase 2 of Woodfield Northlake apartments. Phase 1 of this project is underway; and the development will maintain the site design characteristics of the first phase, by locating buildings along the street with parking to the side and rear, thus supporting walkability; and in addition, the site design calls for the dedication of land along Dixon Branch for a future greenway and connection to the greenway.

The ordinance is recorded in full in Ordinance Book 60, at Pages 148-149.

\* \* \* \* \*

**ITEM NO. 13: ORDINANCE NO. 8078-Z PETITION NO. 2016-073 BY NODA 3215, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.151 ACRES LOCATED ON THE WEST SIDE OF NORTH DAVIDSON STREET BETWEEN EAST 35TH STREET AND EAST 36TH STREET FROM B-1 (NEIGHBORHOOD BUSINESS) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).**

The Zoning Committee found this petition to be consistent with the Blue Line Extension Transit Station Area Plans, based on information from the staff analysis and the public hearing, and because: the plan recommends transit oriented development for this site. therefore, this petition is found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the subject property is located on North Davidson Street, the main street for the NoDa business district; and the rezoning proposes reuse of an existing structure that is compatible with surrounding uses and maintains the unique character of the NoDa business district as recommended by the Community Design Guidelines of the area plan; and the proposed site plan limits the height of any future addition to the existing structure to 50 feet, which is consistent with the recommendation in the Structure Plan, the section of the area plan that governs building height; and the site is within ¼ mile walk distance or less than a five-minute walk from the 36th Street Transit Station and supports the City's policies to encourage the location and retention of a healthy mix of transit supportive businesses in transit station areas; and the option to reduce parking to zero spaces will allow the site to accommodate the desired streetscape and activate the pedestrian environment with a patio area, outdoor seating, and landscaping; and in addition, the site is not located adjacent to existing residential dwellings (closest residential dwelling is a duplex that is approximately 140 feet from the subject property), which helps to mitigate any concern with spillover parking in established low density residential areas; The Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

Site and Building Design

1. Clarified that artwork and design components referenced in Note 6C under "Architectural Standards" and labeled on Sheet AZ-1 will be provided in outdoor spaces as part of patio and planting areas.
2. Specified that additional covered patios and permanent fixed awnings may be added to existing buildings.
3. Labeled the existing/future back of curb along North Davidson Street on the site plan.

4. Clarified information regarding changes or modifications to the existing mural as follows:  
“Existing building mural shall remain and may be modified but existing lettering may be removed. Modifications to the mural shall not result in the mural becoming a sign as determined by the Zoning Administrator.”

Motion was made by Councilmember Kinsey, seconded by Councilmember Autry, and carried unanimously to approve Petition No. 2016-073 by Noda 3215, as modified.

Motion was made by Councilmember Kinsey, seconded by Councilmember Mayfield, and carried unanimously that this petition is consistent with the Blue Line Extension Transit Station Area Plans, based on information from the staff analysis and the public hearing, and because: the plan recommends transit oriented development for this site. therefore, this petition is found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the subject property is located on North Davidson Street, the main street for the NoDa business district; and the rezoning proposes reuse of an existing structure that is compatible with surrounding uses and maintains the unique character of the NoDa business district as recommended by the Community Design Guidelines of the area plan; and the proposed site plan limits the height of any future addition to the existing structure to 50 feet, which is consistent with the recommendation in the Structure Plan, the section of the area plan that governs building height; and the site is within ¼ mile walk distance or less than a five-minute walk from the 36th Street Transit Station and supports the City’s policies to encourage the location and retention of a healthy mix of transit supportive businesses in transit station areas; and the option to reduce parking to zero spaces will allow the site to accommodate the desired streetscape and activate the pedestrian environment with a patio area, outdoor seating, and landscaping; and in addition, the site is not located adjacent to existing residential dwellings (closest residential dwelling is a duplex that is approximately 140 feet from the subject property), which helps to mitigate any concern with spillover parking in established low density residential areas.

The ordinance is recorded in full in Ordinance Book 60, at Pages 150-151.

\* \* \* \* \*

**ITEM NO. 14: ORDINANCE NO. 8079-Z, PETITION NO. 2016-079 BY NODA GREENWAY ONE, LLC AND NODA GREENWAY TWO LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 18.3 ACRES LOCATED ON THE WEST SIDE OF EAST CRAIGHEAD ROAD BETWEEN NORTH DAVIDSON STREET AND NORTH TRYON STREET FROM I-1 (LIGHT INDUSTRIAL), I-2 (GENERAL INDUSTRIAL) AND I-2(CD) (GENERAL INDUSTRIAL, CONDITIONAL) TO TOD-M(CD) (TRANSIT ORIENTED DEVELOPMENT - MIXED-USE, CONDITIONAL) WITH FIVE-YEAR VESTED RIGHTS.**

The Zoning Committee found this petition to be consistent with the Blue Line Extension Transit Station Area Plan, based on information from the staff analysis and the public hearing, and because: the plan recommends transit supportive uses for this site; therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the site is within the 36th Street transit station area and is located less than 1/2 mile from the 36th Street station; and the proposed rezoning allows a site zoned for industrial to be rezoned and developed with transit supportive uses; and the petition commits to the street network that is needed to maximize access to the station, support walkability and connect to surrounding development; and specific transportation improvements provided with this petition include: the final design alignment and full cross section of Philemon Avenue including on-street parallel parking and bike lane; and o The installation of the back of curb along the west side of Craighead Road with room for a future six-foot bike lane, on-street parallel parking, 13-foot planting strip (which will be reduced to eight-feet when the bike lane is installed), and eight-foot sidewalk while maintaining existing centerline and travel lane width; and commitment to the construction of the Cross

Charlotte Trail located on the subject property; the Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications as agreed to by the petitioner:

Site and Building Design

1. Amended Note 6B under “Architectural and Design Standards” to state that ground floor entrances shall be provided for all residential units on Philemon Avenue and that on Philemon Avenue, a building entrance may be located on the corner with additional entrances at a minimum of every 100 linear feet for nonresidential uses.
2. Amended Note 6C to specify that 100% of the frontage on Philemon Avenue shall be either residential or nonresidential leasable, usable space, with a minimum height of 12 feet from floor to floor for the first floor, and a minimum depth of 20 feet excluding public right-of-way, parking access drives, open space and land environmentally undevelopable.

Environment

3. The areas to be dedicated or the area that will revert back to the developer in case a split trail is used has been indicated in Note 9I under “Parks, Greenways and Open Space.”
4. SWIM Buffer conveyance and dedication has been negotiated and addressed via Notes 9H through L under “Parks, Greenways and Open Space.”

Transportation

5. The proposed zoning district has a setback measured from an existing or proposed future curb line. The location of the future curb line for Craighead Road and Philemon Avenue has been reflected correctly.
6. Revised the proposed typical cross section for Philemon Avenue shown on sheet RZ-2 to include on-street parallel parking and bike lane.
7. Revised the site plan to add Note 7B stating that the centerline of Philemon Avenue has been adopted in accordance with the plan previously studied by Engineering & Property Management. The petitioner will set the back-of-curb along each side of Philemon Avenue which will allow for a symmetric cross section containing a through lane, on street parallel parking, six-foot bike lane, eight-foot planting strip, and eight-foot sidewalk on each side of the centerline alignment. The petitioner will make these improvements along Philemon Avenue as development along Philemon Avenue occurs. The petitioner will be responsible for constructing improvements on the site’s side of the centerline of Philemon Avenue when sufficient pavement exists on the opposite of the center line to accommodate a lane of traffic. If insufficient pavement width exists to accommodate a through lane on the opposite side of the center line of Philemon Avenue the petitioner will improve both sides of Philemon Avenue as indicated above.
8. Amended Note 7C under “Streetscape and Landscaping” as follows: “The petitioner will set the back of curb along the west side of Craighead Road, which will allow for a through lane, on-street parallel parking, six-foot bike lane, eight-foot planting strip and eight-foot sidewalk. The future bike lane will be incorporated into the proposed planting strip.”
9. The petitioner revised the site plan “Greenways” notes as follows: a. Corrected cross section label from “Little Sugar Creek Greenway” to “Cross Charlotte Trail” b. Note H: i. Removed “Greenway” from the second sentence. ii. Amended Note 9H under “Parks, Greenways and Open Space” as follows: “Petitioner shall grant to the City a minimum of 35-foot wide easement...” iii. Replaced the fourth sentence with “The developer shall not be responsible for the maintenance of the Cross Charlotte Trail.” c. Note I – Removed “Greenway” from the third sentence. d. Replaced Note J with: “Petitioner agrees to obtain permits for and construct an eight-foot wide pedestrian pathway and a separated 12-foot wide two-way bicycle facility within the minimum 35-foot Cross Charlotte Trail easement. The final alignment and cross section of the Cross Charlotte Trail will be determined during permitting in coordination with the CDOT’s Project Manager. Specific details for partnering between the City and the Developer for this facility will be determined during permitting.” e. Amended Note 9K under “Parks, Greenways and Open Space” as follows: “Easements will be dedicated and conveyed in fee simple, and all easement dedication and conveyance will occur prior to the issuance of the first certificate of occupancy for the site or when requested by the city, whichever occurs first.” Greenway trail easements equal to 35 feet will be dedicated and conveyed. f. Removed Note M.
10. Added Note 9L under “Parks, Greenways and Open Space” as follows: “The proposed greenway commitments will be made as part of each development phase that abuts the greenway and must be completed and approved before the first building certificate of occupancy for the development phase is issued.”
11. Added Note 5F under “Transportation” as follows: “All transportation commitments must be completed and approved for each phase of development before the site’s first building certificate of occupancy is issued.”

12. Craighead Road is classified as a Collector Street and will require 36 feet of right-of-way to be dedicated from the existing center line, per the Subdivision Ordinance. The following Note 5D under "Transportation" was added: "The petitioner will dedicate and convey 36 feet of right-of-way from the center line of Craighead Road as described below." Added Note 5E as follows: "Petitioner agrees to dedicate and convey rights-of-way, permanent easements, and temporary easements along the site's Philemon Avenue and Craighead Road frontage. Right-of-way will be dedicated and conveyed in fee simple, and all right-of-way and easement dedication and conveyance will occur prior to the issuance of the first certificate of occupancy for the site or when requested by the city, whichever comes first."
13. The portion of Philemon Avenue abutting the site will be constructed to an Office/Wide cross section in conjunction with development of the site.

Technical Revisions Land Use

14. Specified permitted uses as residential and nonresidential uses as permitted by right and under prescribed conditions in the TOD-M (transit oriented development – mixed-use) zoning district together with accessory uses as allowed in the TOD-M district.
15. Specified that the facades on Philemon Avenue shall include more transparency on the ground than upper floors. 100% of the frontage on Philemon Avenue shall be either residential or nonresidential leasable, usable space, with a minimum height of 12 feet from floor to floor for the first floor, and a minimum depth of 20 feet excluding public right-of-way, parking access drives, open space and land environmentally undevelopable.

Infrastructure

16. Amended Note 7A under "Streetscape and Landscaping" to state the following: "Use of tree grates along Philemon Avenue streetscape shall be conditional based on coordination with the City of Charlotte."
17. Amended Note 9E under "Parks, Greenways and Open Space" to add that meter banks will be screened from public right-of-way.
18. Added Note 12B under "Lighting" to add that pedestrian scale lighting will be installed on Philemon Avenue as Philemon Avenue is improved, and lighting will be spaced as recommended by the lighting engineer.
19. Deleted the following note under "Streetscape and Landscaping": "The proposed zoning district has a setback measured from an existing or proposed future curb line. The location of the future curb line is TBD. Exact curb locations as it relates to existing centerline and opposite curb will be coordinated and determined with Planning, CDOT and urban forestry during site plan review process."
20. Added Note 3A under "Optional Provisions" as follows: "The petitioner seeks the optional provision to exceed the maximum allowed height of the TOD-M ordinance for residential uses/buildings within Development Area 1 by 12 feet, and only for architectural elements such as towers and alike that may or may not contain heated area."
21. Petitioner agrees to amend Note 9G under "Parks, Greenways and Open Space" to add the following: "Public trail connections shall be built to a minimum pavement width of 10 feet."
22. Petitioner agrees to revise Note 5D under "Transportation" to match the cross-section shown for Craighead Road.

<p>Motion was made by Councilmember Kinsey, seconded by Councilmember Autry, and carried unanimously to approve Petition No. 2016-079 by Noda Greenway One, LLC and Noda Greenway Two LLC, as modified.</p>
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Motion was made by Councilmember Kinsey, seconded by Councilmember Eiselt, and carried unanimously that this petition is consistent with the Blue Line Extension Transit Station Area Plan, based on information from the staff analysis and the public hearing, and because: the plan recommends transit supportive uses for this site; therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the site is within the 36th Street transit station area and is located less than 1/2 mile from the 36th Street station; and the proposed rezoning allows a site zoned for industrial to be rezoned and developed with transit supportive uses; and the petition commits to the street network that is needed to maximize access to the station, support walkability and connect to surrounding development; and specific transportation improvements provided with this petition include: the final design alignment and full cross section of Philemon Avenue including on-street parallel parking and bike lane; and o The installation of the back of curb along the west side of Craighead Road with room for a future six-foot bike lane, on-street parallel parking, 13-foot planting strip (which will be reduced to eight-feet when the bike lane is installed), and eight-foot sidewalk while maintaining existing centerline and travel lane width; and commitment to the construction of the Cross Charlotte Trail located on the subject property.

The ordinance is recorded in full in Ordinance Book 60, at Page 152-153.

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**ITEM NO. 15: ORDINANCE NO. 8080-Z, PETITION NO. 2016-081 BY MICHAEL ADAMS AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.79 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF NATIONS FORD ROAD AND TYVOLA ROAD CC (COMMERCIAL CENTER) TO MUDD-O- MIXED-USE, DEVELOPMENT CONDITIONAL) WITH FIVE-YEAR VESTED RIGHTS.**

The Zoning Committee found the retail and eating/drinking/ entertainment establishment uses to be consistent with the Southwest District Plan; however, the climate controlled storage and office uses are inconsistent with the plan based on information from the staff analysis and the public hearing, and because: the plan, as amended by rezoning petition 1997-015, recommends retail uses for this site; therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the subject property is part of a larger multi-use development located at the Interchange of I-77 and Tyvola Road and developed with a range of commercial uses, including three hotels, an office and a financial institution; and the prior rezoning prohibited automobile oriented uses such as convenience stores with gasoline sales and restaurants with drive-through service windows; and he proposed retail and/or eating/drinking/entertainment establishments on the ground floor of the climate controlled storage are consistent with the adopted retail land uses for this site, and will complement the surrounding hotel, office and residential uses; and while technically inconsistent with the Southwest District Plan recommendation, the proposed climate controlled storage on the subject property has been designed to resemble an office building with ground floor commercial and is visually compatible with the surrounding commercial uses; and self-storage facilities have low traffic volumes and the proposed eating/drinking/entertainment establishments do not have an associated drive-through window; and in addition, the site design supports pedestrian activity along Nations Ford Road and Tyvola Glen Circle, by placing the building at the back of sidewalk with parking to the side and rear, making it easy for nearby residents, employees and hotel guests to walk to the retail and/or eating/drinking/entertainment establishments; and the proposal also provides for a number of improvements at the intersection of Tyvola Road and Nations Ford Road that will enhance pedestrian safety via improvements to the adjacent pedestrian refuge islands, new accessible ramps, and installation of new sidewalks; the Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

Site and Building Design

1. Amended the "Development Data Table" to reflect a minimum of 50 parking spaces provided. The site plan from the hearing showed +/- 60 parking spaces provided. Staff does not have an

issue with this change because 50 spaces provided are greater than the minimum required by the proposed zoning district.

2. Amended the site plan and Note 6C to provide a minimum eight-foot sidewalk along Tyvola Glen Circle abutting proposed on-street parking and loading.
3. Committed to remove "Optional Provision" Note 3A, related to landscaping along Nations Ford Road, in its entirety and provide a new note under "Streetscape and Landscaping" that specifies the commitment to maintain the existing landscaped buffer except where the building fronts Nations Ford Road.

Signage

4. Added an optional provision stating the petitioner may provide two additional detached signs at a maximum of eight feet in height and 120 square feet in area.
5. Committed to amend "Optional Provision" Note 3C to reduce the maximum sign area from 120 square feet to 65 square feet.
6. Committed to amend the western possible sign location to show the sign on the site along the edge of the right-of-way.
7. Committed to amend the parking screening so that it is behind the eastern possible sign location.

Other

8. Added a note limiting the hours of operations for the storage facility from six am to ten pm.
9. Committed to file an Administrative Amendment, prior to the rezoning decision, to the previously approved overall (1997-015) site plan to reflect changes made to update the entitlements for the overall site.

REQUESTED TECHNICAL REVISIONS

Site and Building Design

10. Specified the setback from the existing curb along Tyvola Glen Circle.
11. Removed "(Note: Original Rezoning 1997-015 allowed for a max building height of 2 stories for this parcel)" from the "Development Data Table."
12. Committed to remove the tree save area from the right-of-way at the corner of Nations Ford and Tyvola.
13. Committed to amend the maximum building height in the "Development Data Table" and Note 5A by changing "or" to "and not to exceed" and remove the following from Note 5A "(Note: previous rezoning for this parcel 1997-015 allowed for a maximum building height of 2 stories for this parcel)."
14. Committed to change measurements for setbacks along Tyvola Road and Nations Ford Road to reflect a measurement from the back of curb because in the MUDD (mixed use development) zoning district setbacks are measured from the future back of curb and CDOT has confirmed the curb locations depicted on the site plan are accurate.

Transportation

15. Amended the label for the location of sidewalk and planting strip along Tyvola Road by changing the last sentence to say "Final location of these elements may be modified pending NCDOT review and approval during construction plan review."

Motion was made by Councilmember Mayfield, seconded by Councilmember Austin, and carried unanimously to approve Petition No. 2016-081 by Michael Adams, as modified.
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**Councilmember Mayfield** said I want to thank the petitioners. There was a lot of conversation with the community as well as the business community that is directly across and would be impacted by this development. I want to thank the petitioners as well as the potential customers that will be in this product, because it is actually a really good win for the west side of the district with the retail and the diverse retail that they have on this ground floor.

Motion was made by Councilmember Mayfield, seconded by Councilmember Kinsey, and carried unanimously that the retail and eating/drinking/ entertainment establishment uses are consistent with the Southwest District Plan; however, the climate controlled storage and office uses are inconsistent with the plan based on information from the staff analysis and the public hearing, and because: the plan, as amended by rezoning petition 1997-015, recommends retail uses for this site; therefore, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the subject property is part of a larger multi-use development located at the Interchange of I-77 and Tyvola Road and developed with a range of commercial uses, including three hotels, an office and a financial institution; and the prior rezoning prohibited automobile oriented uses such as convenience stores with gasoline sales and restaurants with drive-through service windows; and the proposed retail and/or eating/drinking/entertainment establishments on the ground floor of the climate controlled storage are consistent with the adopted retail land uses for this site, and will complement the surrounding hotel, office and residential uses; and while technically inconsistent with the Southwest District Plan recommendation, the proposed climate controlled storage on the subject property has been designed to resemble an office building with ground floor commercial and is visually compatible with the surrounding commercial uses; and self-storage facilities have low traffic volumes and the proposed eating/drinking/entertainment establishments do not have an associated drive-through window; and in addition, the site design supports pedestrian activity along Nations Ford Road and Tyvola Glen Circle, by placing the building at the back of sidewalk with parking to the side and rear, making it easy for nearby residents, employees and hotel guests to walk to the retail and/or eating/drinking/ entertainment establishments; and the proposal also provides for a number of improvements at the intersection of Tyvola Road and Nations Ford Road that will enhance pedestrian safety via improvements to the adjacent pedestrian refuge islands, new accessible ramps, and installation of new sidewalks.

The ordinance is recorded in full in Ordinance Book 60, at Pages 154-155.

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**ITEM NO. 16: ORDINANCE NO. 8081-Z, PETITION NO. 2016-082 BY TAYLOR/THEUS HOLDINGS, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.67 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF ARDREY KELL ROAD AND COMMUNITY HOUSE ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO I-1(CD) (LIGHT INDUSTRIAL, CONDITIONAL).**

The Zoning Committee found this petition to be inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because: the plan recommends residential uses at up to three dwellings per acre; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the proposed site for the storage facility provides an appropriate transition between the adjacent residential and institutional uses due to its location between a major intersection and the athletic fields associated with Ardrey Kell High School; and the plan provides large building setbacks, building design commitments, extensive undisturbed tree save areas and enhanced landscaped areas along Community House Road and Ardrey Kell Road that minimize the impacts on residential uses in the area; and the petition limits maximum building height to three stories, not to exceed 40 feet, which is consistent with the maximum base building height allowed in the surrounding R-3 (single family residential) zoning; and self-storage facilities have low traffic volume; the Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications:

Site and Building Design

1. Changed the words “These proposed setback” and “The building setback” at the beginning of the second and third sentence in Note 5a under “Setbacks, Buffers and Screening” to “The provided building setback.”

2. Removed the words “this buffer may be reduced in width as allowed by the Ordinance as long as any such reduction does not infringe upon the Undisturbed Tree Save Area described in Section 5.b. above” in Note 5c.
3. Amended the maximum height of freestanding lighting in Note 10b from 20 feet to 22 feet to accommodate Duke standard lighting heights.
4. Deleted the reference to “Wall pak” lighting in Note 10c.
5. Provided a maximum width of all “breaks” in the tree preservation along Ardrey Kell Road and Community House Road. At the corner of Ardrey Kell Road and Community House Road there will be a 22-foot break and along Ardrey Kell there will be a 100-foot break for the driveway.

Transportation

6. Changed the word “adjusted” to “increased” in Note 3c under “Access” related to the planting strip width along Ardrey Kell Road.

Other

7. Fixed the numbers for “Amendments to the Rezoning Plan” and “Binding Effect of the Rezoning Application” to reflect Note 11 and 12 versus 10 and 11.
8. Added a section of notes dealing with additional security measures including key pad controlled building entry, limited hours of operation from six am to ten pm, provision for interior and exterior security cameras, and exterior building lighting.

Motion was made by Councilmember Autry and seconded by Councilmember Austin to approve Petition No. 2016-082 by Taylor/Theus Holdings, Inc., as modified.

**Councilmember Fallon** said I voted against this to begin with because I am not thrilled with storage units, but looking into it, there is nothing else that is going to go there that is not going to create traffic. You are not going to get residential. You will get a McDonalds or a bank with a window and more traffic. Other ideas that I had were not able to be done, so I do not see any way out of this. I have a commitment from the builders that if there is a security problem, they will put in a CPI or someone who will have cameras, and it will go to a police station. Hopefully there will not be that problem, so I will vote for it.

A vote was taken on the motion and recorded as followed:

YEAS: Councilmembers Austin, Autry, Eiselt, Fallon, Kinsey, Lyles, Mitchell, Phipps, and Smith

NAYS: Councilmember Mayfield

Motion was made by Councilmember Fallon, seconded by Councilmember Austin, and carried unanimously that this petition is inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because: the plan recommends residential uses at up to three dwellings per acre; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the proposed site for the storage facility provides an appropriate transition between the adjacent residential and institutional uses due to its location between a major intersection and the athletic fields associated with Ardrey Kell High School; and the plan provides large building setbacks, building design commitments, extensive undisturbed tree save areas and enhanced landscaped areas along Community House Road and Ardrey Kell Road that minimize the impacts on residential uses in the area; and the petition limits maximum building height to three stories, not to exceed 40 feet, which is consistent with the maximum base building height allowed in the surrounding R-3 (single family residential) zoning; and self-storage facilities have low traffic volume.

The ordinance is recorded in full in Ordinance Book 60, at Pages 156-157.

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**ITEM NO. 17: ORDINANCE NO. 8082-Z, PETITION NO. 2016-084 BY QUIKTRIP CORPORATION AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.85 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF BROOKSHIRE BOULEVARD AND NORTH HOSKINS ROAD FROM R-5 (SINGLE**

**FAMILY RESIDENTIAL) AND B-2(CD) (GENERAL BUSINESS, CONDITIONAL) TO : B-1(CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL).**

The Zoning Committee found the portion of the subject property that includes an existing gas station to be consistent with the Thomasboro/Hoskins Area Plan, but the remaining portion of the property to be inconsistent with the Northwest District Plan, based on information from the staff analysis and the public hearing, and because: the Thomasboro/Hoskins Area Plan recommends retail land use for the portion of the site with the existing gas station; and the Northwest District Plan recommends single family residential at up to six dwelling units per acre for the remaining eastern portion of the site; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the use is of the same use currently on the site and would be an improvement and benefit to the area; and the abutting property owners support the rezoning; and there has been no expressed opposition to the rezoning; and the petitioner provides rigorous security and site monitoring; and the use will provide enhanced food availability consistent with the Livable Cities Policies; the Zoning Committee voted 6-0 to recommend approval of this petition with the following modifications:

Land Use

1. Staff rescinded the request to complete the alley abandonment prior to the decision on this rezoning petition.

Transportation

2. Revised the site plan to include an eight-foot planting strip and six-foot sidewalk along each of the site's three public street frontages, including right-of-way dedication and/or a sidewalk utility easement (two feet behind back of sidewalk) if needed.
3. Revised the site plan to maintain the existing centerline and widen Cloudman Street to accommodate the following half street section along the site's Cloudman frontage: 12-foot travel lane, two-and-a-half-foot curb and gutter, eight-foot planting strip, and six-foot sidewalk.
4. Revised the site plan to provide a diagonal sidewalk connecting the northeast corner of the Brookshire Boulevard/Hoskins Road intersection to the site (in the direction of the convenience store's front door). Additionally, revised the eastern and western pedestrian access to the site from Hoskins Road to better align to the eastern access of the convenience store.
5. Added a note under Transportation that the petitioner will dedicate and convey right-of-way along North Cloudman Street.
6. Specified that sidewalks or portions thereof may be located in an easement rather than in the public right-of-way.
7. Committed to modifying the site plan to reduce the driveway width between the building and canopy/fueling stations from 65 feet to 63 feet thus increasing the width of the drive between the canopy/fueling stations and Brookshire Boulevard by two feet.

Infrastructure

8. Included the following notes on the plan sheet under "Environmental Features": "The location, size, and type of storm water management systems depicted on the Rezoning Plan are subject to review and approval as part of the full development plan submittal and are not implicitly approved with this rezoning. Adjustments may be necessary in order to accommodate actual storm water treatment requirements and natural site discharge points."

Site and Building Design

9. Increased the setback on Brookshire Boulevard from 10 feet to 15 feet.
10. Reduced the width of the rear driveway and increased the distance from the setback along Brookshire Boulevard to the fueling stations from 43 feet to 50 feet. (Note: The distance will be increased to 52 feet with the modification committed to in Note 7 above.)
11. Added a double sided, six-foot tall, wooden fence along the Cloudman Street frontage across from the single family homes.

**REQUESTED TECHNICAL REVISIONS**

Site and Building Design

12. Amended the label on the site plan for the setback along Brookshire Boulevard to reflect the 15-foot setback that is provided.
13. Amended the maximum height of detached lighting to 21 feet to match industry standards.
14. Added a note under "Streetscape and Landscaping" committing to the installation of a wood fence along the northern property line. This fence was depicted on the site plan for hearing.

Motion was made by Councilmember Austin, seconded by Councilmember Mitchell, and carried unanimously to approve Petition No. 2016-084 by QuikTrip Corporation, as modified.
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**Councilmember Austin** said I just want to say that I want to thank the petitioner working with the community. They are excited about moving the blighted project that we already have there out of the way and something nice coming in, so I thank them for their work and thank the community for their feedback.

Motion was made by Councilmember Austin, seconded by Councilmember Autry, and carried unanimously that the portion of the subject property that includes an existing gas station is consistent with the Thomasboro/Hoskins Area Plan, but the remaining portion of the property to be inconsistent with the Northwest District Plan, based on information from the staff analysis and the public hearing, and because: the Thomasboro/Hoskins Area Plan recommends retail land use for the portion of the site with the existing gas station; and the Northwest District Plan recommends single family residential at up to six dwelling units per acre for the remaining eastern portion of the site; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the use is of the same use currently on the site and would be an improvement and benefit to the area; and the abutting property owners support the rezoning; and there has been no expressed opposition to the rezoning; and the petitioner provides rigorous security and site monitoring; and the use will provide enhanced food availability consistent with the Livable Cities Policies.

The ordinance is recorded in full in Ordinance Book 60, at Pages 158-159.

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**ITEM NO. 18: ORDINANCE NO. 8083-Z PETITION NO. 2016-086 BY ECP NODA, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.123 ACRES LOCATED SOUTH OF THE NORFOLK SOUTHERN RAILROAD AND NORTH OF NORTH DAVIDSON STREET OFF NORTH DAVIDSON STREET BETWEEN EAST 33RD STREET AND EAST 36TH STREET FROM B-1 (NEIGHBORHOOD BUSINESS), I-2 (GENERAL INDUSTRIAL) AND MUDD (MIXED USE DEVELOPMENT) TO TOD-MO (TRANSIT ORIENTED DEVELOPMENT – MIXED-USE, OPTIONAL).**

The Zoning Committee found this petition to be consistent with the Blue Line Extension Transit Station Area Plans; however, the height is inconsistent with the Blue Line Extension Transit Station Area Plans based on information from the staff analysis and the public hearing, and because: the plan recommends transit supportive uses for this site with a maximum height of 50-feet; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the proposed site is located within ¼ mile walk distance from the 36th Street Transit Station on the LYNX Blue Line Extension; and the proposed rezoning allows a site used for warehouse purposes to be rezoned and developed with residential and nonresidential transit supportive uses; and this site will provide a transition from the established business district to the multi-family development on the opposite side of the AC&W railroad corridor at the 36th Street transit station; and the request meets the area plan's goal for activating the frontage along East 36th Street by creating a plaza area and providing space for future nonresidential uses along this main transit station area corridor; and the 29-foot increase in height above the plan recommendation of 50 feet is minimized by the increased building setback for upper stories on 35th Street, the plaza and the 40-foot building setback on 36th Street and the site's distance from North Davidson Street, where lower scale buildings are recommended; and the petition supplements the base ordinance standards for TOD-M (transit oriented development – mixed-use) with design standards that ensure that uses orient and connect to public streets and the Cross Charlotte Trail; the Zoning Committee voted 5-0 to recommend approval of this petition with the following modifications and with resolution of the transportation issue pertaining to the construction of East 35th Street along the property frontage to CDOT's satisfaction. (Note: The transportation issue has been resolved since the Zoning Committee meeting by the addition of a note indicating that the petitioner will be responsible for the base repair, milling, and paving on East 35th Street to accommodate the potential increased trips created by this petition.)

1. Removed the potential emergency access point, which crosses the proposed open space.
2. Amended Note 4A under "Access" to state that no vehicular or emergency access will be allowed from East 36th Street.

3. Deleted Note 6D and amended Note 6C under “Streetscape” to note that a 16-foot wide amenity zone with street trees in grates will be provided along East 36th Street.
4. Provided architectural details for uses along East 36th Street, which is designated as a Main Street in the adopted area plan and requires retail frontage, as follows: Added Note 6I to state that “the building façade along East 36th Street will have at least one building entrance facing East 36th Street”, and Note 6K stating that “facades facing on East 36th Street and the proposed open space shall include a minimum of 60% transparent glass between two and ten feet on the first floor. Except for areas used as common entrances, and emergency access points, the ground floor of the building facing East 36th Street may be developed with leasable, usable space for nonresidential uses as allowed by the TOD-M zoning regulations or as amenity space associated with a residential use. The nonresidential spaces will have a minimum first floor height of 14 feet and a minimum depth of 20 feet.”
5. Amended Note 6C under “Architectural Standards” to specify the standard will apply to all uses on East 36th Street instead of only nonresidential uses.
6. Amended Note 6E under “Architectural Standards” to specify that a minimum 60 percent of the linear ground floor frontage of the building facing the future Cross Charlotte Trail will be designed with ground floor active uses.
7. Amended Note 3B under “Permitted Uses” to state that nonresidential uses associated with a residential community, such as club house, fitness room, or leasing office, may not count toward the minimum 5,000 square feet of nonresidential uses.

Transportation

8. Added Note 4B under “Access” as follows: “The petitioner will coordinate the proposed streetscape improvements along East 35th Street with the parties responsible for the construction of East 35th Street across the site’s frontage. The petitioner will also coordinate with the parties responsible for the construction of East 35th Street the timing of the proposed improvements to East 35th Street with the timing of the development of the site to minimize impact of construction on the new road.”
9. The petitioner revised the site plan to remove the “jog” in the curb line through the site frontage on East 35th Street.
10. The petitioner agreed to label the rail corridor as “AC&W (NS) Corridor” and make Cross Charlotte Trail small and subordinate

Motion was made by Councilmember Kinsey, seconded by Councilmember Austin, and carried unanimously to approve Petition No. 2016-86 by ECP NoDa, LLC, as modified.

Motion was made by Councilmember Kinsey, seconded by Councilmember Fallon, and carried unanimously that this petition is consistent with the Blue Line Extension Transit Station Area Plans; however, the height is inconsistent with the Blue Line Extension Transit Station Area Plans based on information from the staff analysis and the public hearing, and because: the plan recommends transit supportive uses for this site with a maximum height of 50-feet; however, this petition was found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because: the proposed site is located within ¼ mile walk distance from the 36th Street Transit Station on the LYNX Blue Line Extension; and the proposed rezoning allows a site used for warehouse purposes to be rezoned and developed with residential and nonresidential transit supportive uses; and this site will provide a transition from the established business district to the multi-family development on the opposite side of the AC&W railroad corridor at the 36th Street transit station; and the request meets the area plan’s goal for activating the frontage along East 36th Street by creating a plaza area and providing space for future nonresidential uses along this main transit station area corridor; and the 29-foot increase in height above the plan recommendation of 50 feet is minimized by the increased building setback for upper stories on 35th Street, the plaza and the 40-foot building setback on 36th Street and the site’s distance from North Davidson Street, where lower scale buildings are recommended; and the petition supplements the base ordinance standards for TOD-M (transit oriented development – mixed-use) with design standards that ensure that uses orient and connect to public streets and the Cross Charlotte Trail.

The ordinance is recorded in full in Ordinance Book 60, at Pages 160-161.

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## HEARINGS

**ITEM NO. 22: HEARING ON PETITION NO. 2016-T001 BY ENGINEERING AND PREOPERTY MANAGEMENT AND CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A TEXT AMENDMENT TO SECTIONS 21-2, 21-95 AND 21-96 OF THE CHARLOTTE TREE ORDINANCE TO 1) CLARIFY DEFINITION OF SINGLE FAMILY DEVELOPMENT, 2) LIMIT THE APPLICABILITY OF THE TREE SAVE INCENTIVES TO SINGLE FAMILY DEVELOPMENT SITES THAT ARE SUBJECT TO THE SUBDIVISION ORDINANCE, AND 3) REQUIRE A PERIMETER TREE SAVE BUFFER FOR DEVELOPMENTS WITH GREATER THAN 25 PERCENT TREE SAVE.**

Mayor Roberts declared the hearing open.

Councilmember Phipps said I was wondering if in the future, as far as decisions go, can we somehow highlight if there was a difference between the Planning Committee Commission's decision, and the Zoning Committee, so the viewers will know that it might be a split, that it was not unanimous as it might appear, as we go forward on the next one?

Mayor Roberts said absolutely, what we will do is, and anybody who is watching or anybody who is in the audience, all of this is online in the Council's agenda.

Councilmember Kinsey said I was just going to suggest that he buy a highlighter. That is what I do. I mark what I need to.

Mr. Phipps said I just want for the public to know what is going on.

Mayor Roberts said absolutely, there are some of these that have different approval from staff versus Zoning Committee, versus the Council. As I said, going forward I can read those quickly as we go through decisions. Also, anyone who wants that information, it is available online, so you can see the whole history of the petitions and how they were approved. I also want to point out, before we go into the hearings, there are three of the hearings tonight that will have decisions on August 22, 2016, which is just next month. Those are items 22, 23, and 28. You will find all of that online as well.

Laurie Reid-Dukes, Urban Forestry said this is a text amendment to the City of Charlotte's Tree Ordinance. What we are seeking here is to clarify the definition of single-family development, to limit the applicability of the tree save incentives to single-family development sites that are subject to the subdivision ordinance and also to require a perimeter tree save buffer for developments that are providing greater than 25% tree save. We will go into more detail. Trees provide many community benefits. They increase the aesthetics; they add to the character of our city of trees. They provide color, texture, and form, and they soften buildings as well. One large tree can supply a day's supply of oxygen for four people. They reduce temperatures. They provide shade. Concrete, steel, and asphalt absorbs heat during the day, and that heat is radiated at night. The trees will reduce that by providing shade, so there is less heat that is absorbed during the day and radiated back during the night time. They provide energy savings for heating and air-conditioning. They increase property value. Research has shown that between five and fifteen percent of property values are higher in areas with trees. Apartments and offices rent faster and have higher occupancy rate in areas with trees as appose to areas without trees. They provide reduced erosion. As well, the trees intercept initial rain that is coming down, so a lot of the rain does not actually get to the ground. The roots of the trees help to hold on to the soil. They also increase permeability, which allows the stormwater to go to the ground as appose to running off. Trees contribute to our City Council tree canopy goal of 50% tree canopy by the year 2050.

The tree ordinance has several different purposes, and it was intended to protect public interest by regulating the planning of trees, maintenance of trees, and also removal of trees. This applies to public property and new and altered development of private property. It was adopted in 1978 and has been changed over the years to meet the needs of the city. In 2002, it was amended to provide for a minimum tree save for single-family developments. There were also incentives that were introduced to increase above that minimum tree save requirement. These minimum requirements are used to promote tree preservation, to reduce clear cutting. Before 2002, a lot of single-family developments, the sites were being clear cut. This is actually providing an area where trees that are existing are being preserved, and also, trees are being planted. The requirement in 2002 was a

minimum of 10% of the site to be preserved as tree save. During that 2002 amendment, some incentives were introduced, and these incentives were to increase and in large our tree canopy across the city through tree preservation through the tree save and also through tree planting above and beyond that minimum 10% requirement. The goals of these incentives were taken directly from the tree ordinance language, was to enhance the tree canopy in residential settings, to approve the overall quality of life within residential areas, to further city land use policies, to encourage open spaces and preservation of wooded sites, and to discourage clear cutting of sites when single family development was being constructed.

**Shannon Frye, Planning** said as Laurie has described, what the tree incentives have been set up to do, I am going to tell you how these are applying on subdivisions. At the top of this slide, you will see that there are really three major categories of subdivisions. The first one that I will refer to will be a major subdivision, and that is your typical green field development, where you are getting new lots and new streets that are being created. The middle category is referred to in the subdivision ordinance as a minor subdivision. That is along an existing street, where no new streets are being created but lots are being re-subdivided or maybe further subdivided from how they currently exist. On the right, we have what is defined in the subdivision ordinance as not subject to the subdivision ordinance. That has an acreage threshold of two acres when there are no more than three lots. If it would be the fourth lot, that would bump it over to the minor category. I am going to go down through what is highlighted in green and just tell you what is applicable in these categories. From the subdivision ordinance in both categories major minor, we do require that if there is no curb or gutter, that be installed, sidewalk, as well as stormwater would need to be installed as a part of that approval. Again, on not subject too, there are no requirements for these improvements. Then, if we go and step into the tree ordinance, we see that there was at least 10% tree saved required for these types of developments, but we did not implicitly say that tree save was going to be applicable on these not subject to development, so it there for says no requirement to save trees there. The incentives went from, if you had greater than 10% up to 25% you can reduce your size in lot width, and if you went up to the greater than 25% then you got a further reduction in that lot size and width.

This graphic here is really what I would say is this not subject to category when you are in the less than two acre scenario. For this particular example, this would be a property that is zoned R-3, and the developer has elected to save 25% tree save on that site. That would be this green ribbon that you see to the rear of these lots, and in that application of that incentive, they are taking the R-3 zoned property and getting a 40% reduction in the lot area, which would take it from a 10,000 square foot lot to a 6,000. Then the lot area that would be 70 or greater, for those existing R-3 lots, is now being minimized to 50 feet, so this is really showing you visually trying to depict to the rear of the green ribbon those larger existing lots of record and the relationship to how when this incentive is applied in an existing established neighborhood, that there those result in lots are created much smaller in contrast to the existing. Back to that previous slide, there is no infrastructure, curb, gutter, or storm water but just the smaller lot in relationship to what exists in the surrounding area.

Ms. Reid-Dukes said from September 1, 2014 to May 30, 2016, there were 408 not subject to plats submitted for review. Not all of these were using the incentives of the tree save and the tree ordinance, but of those 408, 19 plats were trying to use the incentives and the tree ordinance to be able to subdivide the property. Urban Forestry approved these plats during this time frame. That's about less than one per month that Urban Forestry reviewed and approved. Currently, there are seven plats that are under review right now that haven't been approved. We have seen a little bit of an increase in frequency in these not subject to wanting to use the tree ordinance to be able to subdivide.

**Councilmember Smith** said of the 19 that were applied city wide, how many of those were on Wonderwood?

Ms. Reid-Dukes said I would have to look at my notes, but I think there were six.

Mr. Smith said and two pending approval?

Ms. Reid-Dukes said yes, I think there were two pending approval.

Mr. Smith said do you know how many might have been on Hunter Lane?

Ms. Reid-Dukes said just one.

Mr. Smith said so almost just shy of 50% city wide were clustered on one area.

Ms. Reid-Dukes said if you look at this map right here, these green squares do show the approximate locations, so you can see that they are clustered. Some of these 19 are on the perimeter of the city, so up north on I-485 and down south on I-485, but they tend to be clustered in certain areas around the city.

**Councilmember Kinsey** said there are a number in Cotswold, on Ashmore, and also in Freedom Park neighborhood.

Ms. Reid-Dukes said correct. So, when we started looking at these, we noticed that there were some issues and some concerns with these individual lots that were using the tree ordinance to be able to subdivide the property. It is inconsistent with the intended purpose and application of these incentives. These are not subject-to. They are not required to preserve that minimum 10% of tree save that the minor and the major subdivisions are required. Also, these incentives in the tree save was intended to be used for subdivisions and not individual lots of record, which we are seeing here. It results in a negligible tree save area for these not subject-to plats. During either the demolition of existing structure or during the construction of the house or during the grading process, trees can be damaged. Trees can be removed inadvertently or on purpose we have seen on some sites as well. The tree save areas that are resulting because the lots are small, the tree save areas are small as well. It is not a contiguous force of trees. It may be one, two, or three trees in the entire tree save area. It is administrative and burdensome for Urban Forestry to enforce these in perpetuity. If there are issues with these tree save areas, such as the trees illegally being moved or trees that die and need to be replaced, they have to go out and inspect the site. Property owners, the tree save abuts to the back of the property. The property owners in front of that tree save area, they have called Urban Forestry to install pools in the area or fences or playgrounds. Sometimes they illegally cut down trees, so Urban Forestry has to go out and do notices of violation, do mitigation, and have to go back to continue with that. The current work load of the Urban Forestry staff is very high right now with just the commercial development and also single-family development to enforce the tree ordinance and to make sure it is in compliance. In addition, this adds to the work load, which is very difficult for us to do.

In result of looking at our issues and concerns, we have gone back and evaluated how this was intended to be applied, and so this slide that I showed you a short while ago, if you will go down to the proposed change, what we are going to recommend over here to the right is that we remove the incentives that are currently being applied on the not subject-to, such that that property can still be subdivided if it meets the current zoning that the property is zoned, but not in turn use the tree ordinance to go to a different lot size lot area inconsistent with the zoning of the surrounding properties.

Ms. Frye said there will still be the ability to apply the 25% tree save. We are going to remain with that incentive, but we are going to recommend, because this will be done in those minor subdivisions in existing neighborhoods, that a 20 foot perimeter strip of tree save be set aside those a joining property owners, so that they have some protection against and beside what is going to be a smaller, more narrow lot than what is adjacent to them. So, those are our two proposed changes.

**Councilmember Fallon** said when does that take affect?

Ms. Frye said the 25%, if they elect to save 25% of that existing canopy, if they want to do the smaller lot on the exterior boundary of that development, then they will need to show this 20 foot buffer around the edge. Conversely, I have a slide I can show you this more implicitly, but if they do not want to do those smaller lots, they can always show the external lots at the zoning that is current on the property. The way that we have this proposed language is that in option one that is indeed the example, and if you will use what you described a minute ago, someone would take the R-3 zoned property; this would be a minor subdivision, they are not doing street, divide that property into lots that meet the R-4 cluster, which is an R-5 lot size, in doing that, they will put that green ribbon of 20 feet of perimeter protection around all of the existing lots that abut that development. In option two, they can do the green 20 foot buffer just on the external boundary for the lots that are inside the development, and for those two outside lots, they would show those at the R-3 cluster lot size, not taking it down to the next lower zoning category. We have given them the option, that if you are going to exceed the application of the 25% reduction for those smaller lots, that you give the adjoiners perimeter protect all the way around or you do it to the rear of the

adjoiners and then your external lots to the sides can go down to the cluster for that zoning district. This is really to graphically depict that perimeter buffer application with that incentive level.

Ms. Reid-Dukes said that perimeter buffer can be the tree save area counting toward the 25%. It is not additive; it is a part of the complete 25% they would set aside an existing canopy.

**Councilmember Lyles** said I really just need to understand what is the difference between one and two? I am not quite sure. I understand the perimeter one, and you are protecting the units on the side and creating a buffer, but I am not sure that I understand the rationale for option two.

Ms. Frye said why we do not show that along the side is you see in option one, because the two outside lots, they are not doing those at the R-4 cluster lot size, the 50 foot lot wide; they are doing those at a 60 foot lot size, which if that property is zoned R-3, is an R cluster lot size. They are making the lot widths and minimum lot area larger on the perimeter, such that they do not have to do the buffer for the entire boundary.

Ms. Lyles said I was thinking it was the residence as shown outside of the perimeter, but what you are saying is that in option two that size would be also inside of the perimeter.

Ms. Frye said the size inside with the green ribbon in the rear in option two is actually a smaller lot. It is not correctly all to scale, but visually, I am trying to show you that the inside of that black box, for those internal lots, those would be reduced for R-3 to a 50 foot wide lot instead of 70. The two exterior lots that do not have the perimeter buffer in the rear nor the sides would be 60 foot, which would be an R-3 cluster. We are giving them the option to do all of the smaller lots if they provide complete perimeter protection or do the smaller lots on the interior and for the exterior show the larger lot.

Ms. Lyles said it is hard to see that that is really two 60 foot lots together. I guess I am just trying to figure out why wouldn't you have the rationale for the tree save area to be even between the interior 60 foot lot.

Mayor Roberts said the box should be smaller.

Ms. Lyles said I know. Was there any rationale for not going ahead and making it a three sided tree?

Ms. Frye said we are trying to give them an option, because if they indeed want to do the smaller lot for the entire development, then we are saying that it is appropriate to put a perimeter buffer around that entire development site at all three sides.

Ms. Lyles said why not on option two on all three sides? Was it thought about, and what was the rationale?

Ms. Frye said if you do that 20 foot perimeter tree save, you have a 10 foot staking limit, so someone is going to say that that is 60 feet that I have set aside in order to do this perimeter. The rationale on the other side is, if it makes sense that you can get those lot width and do that 60 foot and a lot and not get the smaller lot's interior, so it is just depending on the frontage that you have.

Ms. Kinsey said I think that the intent is to protect neighborhoods, so single-family lots will not be subdivided. If someone wants to take advantage of one of these two options, that means they can go in these same single-family neighborhoods and buy up a string of properties and develop?

Ms. Frye said under the current recommendation, if that site and what is assembled is greater than two areas, then yes.

Ms. Kinsey said two acres would be the minimum?

Ms. Frye said that they would need, greater than two acres and more than three lots would be something that would be applied as shown here.

Ms. Kinsey said when you say more than three lots, what dimensions are you using?

Ms. Frye said it could be any dimension as long as it is not greater than two acres. What we are proposing is if it is less than two acres, you cannot apply these incentives to subdivide those lots. That's not subject to the subdivision ordinance, and we are recommending that these incentives not be applied.

Ms. Kinsey said so the two acre is the rule. It has to be two acres?

Ms. Frye said under current recommendation.

Mr. Smith said if you say that you have a single lot that was 200 feet wide or 185 feet, and it was R-3, you could still go divide that single lot and build 3 homes with 60 foot...

Ms. Frye said well R-3 is actually 70 foot. Say it was R-4; you would have to have 60 feet of frontage for each of those lots. You will still divide those lots that are less than two acres. You just have to meet the zoning, not a further reduction that is being used.

Mr. Smith said the largest complaint that you get from the neighborhoods on the way that the ordinance is written now is that they feel that effectively you are going through the zoning process with an increase in density without the subsequent hearing, so you are using this incentive that we intended for one aspect and it is being used in another aspect. So, you are able to do without the hearing. You can still rezone a lot. You can still subdivide a lot; you just couldn't affect an increase in density.

Ms. Frye said under what we are proposing, you wouldn't be able to create lots that are inconsistent with the zoning of the adjoining properties.

Mr. Smith said regarding grandfathering in when this is affective, perfect.

Ms. Reid-Dukes said so the process that we have taken so far is in May, we briefed the Environmental Committee and Transportation and Planning Committee. In May and June, we sought stakeholder input on the recommendations that we have proposed tonight. We have been to several different stakeholder meetings. We have also had a community forum where neighborhood representatives could come and learn about this tree ordinance proposal. At that meeting, developers were also present there as well. You can see tonight in July we are here, and our next step is moving forward. We have gone through an engagement process to get recommendations from community and stakeholders as well. Some of the things that we have heard during these meetings, the proposed perimeter buffer, one thing that was brought up was that the perimeter puffer may act as a disincentive to use these tree ordinances because you are providing that 20 foot buffer in the first option around all of the parcel on all three sides. The tree ordinance requires a 10 foot no-build area next to the tree save areas, so you do not get impact during construction and grading, so you have a buffer area between that construction and the tree save area as well. That is a concern that has been brought up to us. You may have received a letter from the Tree Advisory Commission. I am not sure if you have seen that, but there is some information there as well. Some of the information that we have from homeowners was that this is essentially a rezoning, without any public input. You have heard that from communities as well. The smaller lots may impact the character and fabric of the neighborhoods. The tree save area, as we have depicted in some of these, are often in the rear of the yards, so there is concerns from the neighbors of who owns that property, who pays taxes, who is monitoring it, who is making sure it is enforced as well. Some developers also would prefer to have higher fines or penalties or more requirements than these proposed changes. We have gotten a lot of input from different stakeholders.

Ms. Frye said to summarize, we find that this is consistent with the Center, Corridor, and Wedge framework to maintain a healthy and flourishing canopy. As you will see, we are just trying to clarify that the tree save provisions would be for single-family development and in turn exempt the application of the incentive for developments for subdivisions that are considered not subject to the subdivision ordinance by definition. Recommend the perimeter protection to minimize the visual impact that this is having on the adjacent single-family properties and then we feel that these proposed changes are not expected to impact the city's overall tree canopy goal.

So, to Councilmember Smith's question about applicability, the following slide is just saying that anything that is currently under review would not be subject to these proposed changes, and any application that is submitted between now and the tentative date of decision would not be subject to the changes and furthermore, any complete applications that we have received that includes signatures and fees in that time, we will review those weather or not making any changes to those requirements. The only changes that will be applicable will be to applications that are received after our Council adoption date.

Mayor Roberts said I also want to let Council know that we have speakers signed up for and against this text amendment. Six are in favor and four are against.

Mr. Smith said I met with a group of neighbors on Wonderwood the other night. I thought it was going to be two people, and it was about 30, which was great community activity. Mr. Howell posted it. You spend a little time on Wonderwood and you can see the impact of the loophole. They don't like it to be called loophole but essentially the loophole, and those folks are really bearing a great deal. It has been almost 50% of applications are in that one area. You all may have recalled about a year ago, a Ms. Giles, her daughter came and spoke to us. This is when I first became aware of it, and Ann Wall was really active in this, but there was a split lot on Wonderwood, and we sent staff out there on many, many occasions. They did everything by the book. There was no recourse. We made sure that there permits were up to date and everything. It was effectively using this ordinance. I know that Ms. Giles is probably not here tonight, but hopefully this will bring some relief at some point to her.

Ms. Kinsey said every one of them may not want to speak; I met with some of them yesterday.

**Kathy Spence, 2128 Vernon Drive** said I am one of the founders and owners of Banister Homes, which is a small infield builder. We completed renovations and homes in older Charlotte neighborhoods for over 17 years. We have worked in Chantilly, Elizabeth, Plaza-Midwood, Dilworth, Eastover, Myers Park, Cotswold, Foxcroft, and SouthPark. Over the years, we have subdivided double lots to build two homes on a parcel that previously had contained only one house, for clients and for our own houses. Like every builder, we want our product to be a welcomed addition to the neighborhood. I was unfamiliar with the tree save ordinance until recently since our firm had not utilized it. We do work with one client who invests with us who utilized it on a parcel in SouthPark. Even though I have a client that has utilized this in the past, I am not in favor of the tree save ordinance for the one to three lot subdivisions, which is what my firm does, for several reasons. One is that the zoning for neighborhoods is in placed to retail the density and feel of a certain lot size. I make a living off increasing density where I can, but in the past, I have been limited by local zoning, and I think that is a good thing. Higher density option is making lots that are eligible to be divided using this ordinance, priced too high to be considered for single homes. Although, the seller of the land may benefit from the higher sale price, the benefit is sometimes taken at the adjacent neighbor's expense in my opinion. Two homes on smaller lots could inherently remove more trees than the original single home would have. I am also not sure that the city has resources to make sure the trees stay put long term. A tree save can increase the density on a parcel without neighbor input or consent, unlike a zoning change.

**Mary Frances Parker, 608 Ashworth Road** said thank you for taking the time to make sure that this is important to listen to. If everyone here in favor of the amendment could stand up please, this amendment is causing unintended negative consequences for those of us who live in the neighborhood. You are going to hear from three speakers who are against this amendment tonight and none of them, to my knowledge, live in the neighborhoods where this is happening, and two of them have financial gain in not amending this. What you have up here are neighbors that have to live with this. The unintended negative consequences are the following: the infield is going to eventually cause some school rezoning to happen. You all have been talking about infield tonight. You understand the effect of that. That is what this ordinance is going to cause. If you have this many single-family houses being replaced by double homes, it will eventually affect the neighborhood so that we are rezoned or someone has to be rezoned out of their school. This is what your neighbors want. This is what the residents want. This is what the people that you represent and who votes for you want. The people who do not want this are monetary stakeholders. I would ask you to consider that when you are voting. If there is anybody on this Council, Mayor and Pro Tem included, that has any question as to whether you want to vote for this amendment or not, I ask you to take your pen in your hand right now and write down two things, Ashworth Road and Wonderwood. You need to drive down these streets. Luckily I am on Ashworth and Cotswold. We have a limited number of these, but Wonderwood has taken the brunt of this, and it looks like a bomb went off on the street. Don't let that happen to the rest of us. Don't let it happen to Cotswold; don't let it happen to these other neighborhoods, because they are going to use it to their benefit if they can. I want to say one last thing. I think you are going to hear from a gentleman tonight that was on the original committee that wrote this, and what you are going to hear from him is that this was the original intent. Number one, if it was the original intent, too bad. Too bad for you, that should have never happened. If it wasn't the original intent, then over turn this. Don't let this happen, because it is the neighborhoods that have to bear the burden.

**Stan Howell, 219 Wonderwood Drive** said we have communicated with a couple of you, and we have appreciated the time that you have taken in order to do that. Wonderwood Drive is a

neighborhood of trees, but we have seen an explosive change in that. To date, that little short street of five blocks has had eight of these that are done under the tree ordinance, so affectively almost 20% of our lots have been changed to an R-3 without our having a say in it whatsoever. We need you to help protect us. We thought the R-3 zoning, which requires 70 feet, would be enough in this neighborhood of trees to help us save trees. The reason we are vulnerable is almost none of our lots have a deed restriction that prevents the vision of the lots. We have been a target for a lot of this that is going on. We need your protection; otherwise, we have nothing to say about it. If you want to see a neighborhood that respects trees, drive down Wonderwood Road, but you better hurry because they are disappearing. I stood by one lot this morning, and the lot has been cleared. The building has not started, and you cannot even see the tree save on the back of the lot. That is what is happening. We ask you to help protect us.

**Eleanor Bernhardt, 3335 Willow Oak Road** said I represent the Freedom Park Neighborhood Association. Like our neighbors in Cotswold and on Wonderwood, we have seen the effects of applying the ordinance with the unintended language. I believe it was unintended. Although, I know there is at least one person who thinks that it was. It is damaging to the adjoining properties. It changes the character of the neighborhood, and it defeats the intent of understanding when you buy a property, in our case we are R-4, so we think no one less than 60 foot frontage will be next to us, but by use of the tree save, we are getting skinny little lots which require the foot print of a new home on each of those skinny lots, go within five feet of the property line, which imperils the trees that the adjoining neighbors have spent great time and expense protecting. It works contrary to the intent of tree save. Having our druthers we would prefer what Mr. Smith said is no rezoning without a hearing, but by use of this ordinance, as it is written, we have been blindsided by effective rezoning from an R-4 to an R-5 or potentially and R-6 size lot, with no opportunity to be heard or to have Council weigh in on the wisdom of that change. I want to thank staff, Planning, Engineering, the City Attorney, and City Manager, for listening to us and trying to help us work through this problem.

**Councilmember Fallon** said how does it help them now? This doesn't take effect for them. Is there something that we can do? Can it be moved up? Could it be an abeyance for anyone coming now? Could it be enforced?

Ms. Reid-Dukes said because the tree ordinance is part of the zoning ordinance, we have to go through this process for a text amendment, and we have looked into other alternatives. We have spoken with the City Attorney's Office and it did not look like those alternatives would be viable.

Ms. Fallon said so you mean all of these lots can be subdivided into little parcels.

Ms. Reid-Dukes said until this text amendment is approved or if it meets the underlining zoning, they can still be divided, but using the tree ordinance, unless the proposal is adopted, it could continue.

Ms. Fallon said is there anything you can do when people come for review?

Ms. Frye said they show a plan that meets the zoning, and they show the 10% tree save; if they are showing compliance with the current ordinance, we have to approve that because there is no deficiency that we want identify that makes that.

Ms. Fallon said so the horse is out of the barn.

Mayor Roberts said until August 22. Anything that is petitioned after this gets past would have to go through the new.

**Councilmember Eiselt** said my question, I guess, is more a technical one. Why August 22, 2016? We don't have the opportunity to vote before that?

Ms. Frye said it has to go the Zoning Committee. It has to go through the text amendment review process.

Ms. Eiselt said so that is the soonest we could vote on it?

Ms. Frye said yes ma'am.

Ms. Eiselt said and the application process, we cannot change the applications are accepted before that? We cannot say anything in the works, that has already been applied for is exempt?

Ms. Frye said no ma'am.

Ms. Eiselt said new applications we couldn't possibly exempt.

Ms. Frye said no.

**Councilmember Lyles** said I just wanted to say that this came forward as quickly as it possibly could. Councilmember Kinsey deserves a lot of recognition along with Councilmember Smith, but more particularly, I want to thank the neighborhood for bringing it forward. It will go to Planning; it will go to the Zoning Committee for review, and come back in our earliest time, that first meeting in August. Ordinarily, it might have fallen September or October, but there were a few eyes on it. It didn't get there.

Ms. Kinsey said this came to my attention back, I think it was actually from the Freedom Park Neighborhood first. The first thing we started looking at was what could we do? We did look at a moratorium, and I see our lawyer sitting up there. We did look at a moratorium; we are not allowed to do that. We couldn't do it. That is what we were hoping to do quite frankly; I will admit that. This has gone through a lot quicker than an ordinary text amendment would go through. Frankly, I wish it could have gone through faster, and I did push it. A number of us pushed it. This was about the best we would do. I wish it would have moved faster. I appreciate staff doing what they have done. They have really hurried this through, and in some cases, maybe even ahead of some other work. Thank you all for being here tonight.

**Steve Johnson, 412 Hunter Lane** said a couple of points and I may be repeating some of the other folks that have spoken here. First, as to the intended consequences of the tree save ordinance, when you go down Wonderwood, I think most of the lots have greater than 25% tree cover, so we are not really saving any tree coverage by saying that they have to maintain 25% or more. What is happening is they are actually reducing the tree coverage in the neighborhood and on lots that may have 30, 40, 50% coverage as it is and still being able to split it. If we look at the plain text of the ordinance, it is pretty clear what the intention was. I think when it was put in place. It isn't a lot splitting ordinance. This was a tree save ordinance. It wasn't intended to be applied in these situations where you are both reducing tree coverage and increasing density. As one of the prior speakers said, you can see the writing on the wall that as this continues you are going to have two or three times the population in the same area. This is going to affect zoning for school zones and what not. You are going to be affectively changing what people thought they were buying into, without going through the process. I think this is a problem; it really amounts to a taking of property rights, if you will, because people thought they were buying into an area that was zoned into R-3 and in fact, due to this, they are being stuck with something that is completely different. Lastly, we appreciate the work that staff has done. We appreciate this is moving rather quickly compared to maybe a normal text amendment. To the extent to there is something we can do in terms of abeyance or a moratorium, what would urge Councilmembers to maybe speak to staff attorneys or what have you. People are speaking about seeking a preliminary injunction or something of that nature, if that is the only option, because a 30 day ticket to these builders to put in an application is too long.

**Rick Roti, 7322 Versailles Lane** said I am the President of the Charlotte Public Tree Fund. I also Chaired the Charlotte Tree Commission for six years, during the time that we wrote this ordinance. Additionally, I did serve as a stakeholder on this and all of the other stakeholder committees that have revised the tree ordinance over the years. I am speaking here on behalf of our volunteers and members of the public tree fund and also the 3,000 plus members of the Sierra Club, who urge you not to go along with this amendment. The fact that I hear Patsy Kinsey saying that this was rushed through, now I understand. I was unaware of this change, and it has happened very rapidly, something that is not generally wise when you are amending tree ordinances or any ordinance for that matter; however, I was able to rush and make a community meeting a couple of weeks ago. Two things struck me, one of which struck me tonight, a lot of passion and anger on the part of the homeowners that have been affected on a couple of these streets in our vastly large city, that deal with tree ordinance issues on a regular basis. Secondly, I was really surprised by the lack of information about this use of our tree save. Let me remind you that the developing community and environmental community came together to craft this provision for tree save. It has been extremely successful, boosting tree save way beyond the minimum 10% to an average of 17% over the years. In most recent data I received from staff, which is very limited, shows that up to 13 properties that have used this recently, they saved up to 25% tree canopy, which is gigantic on a development. Also, I am hearing a lot of confusion tonight. Our tree ordinance allows, if I went into one of these

Wonderwood properties and tore a house down, I could cut down all of the trees. This has nothing to do with our tree ordinance provision allowing removal of trees. This provision was crafted to save trees. Tree save is very difficult; tree save in back yards is extremely valuable, much more valuable than side yards. You get a contiguous area; you have habitat. You have in place roots and they are extremely valuable in compare to any other kind of tree, much better than tree planting. So, how many times has this been used? I am not sure. How many acres have been saved by this provision? We do not know. How many acres of trees could be saved through this provision? We do not know. I would like to see, personally, some answers to those questions before we have a knee jerk reaction and modify our tree ordinance when it has a save provision that has proven to be the most powerful weapon that we have to get tree canopy in Charlotte.

Also, you guys have had the benefit of four tree canopy analysis, two of which I lead, years ago, that tell you that for us to reach the 50% tree canopy goal in this city, we must rely on residential property, private property, and we need to save as many trees as we can to reach that goal. Undermining this provision is not the way to go. It needs to be well thought through and understood before we make change. With that, I would just ask that you not make the change until we have the facts. I would ask the staff to provide the facts about what benefits this can really bring us, before we just look at a few properties.

**Lee McLaren, 410 Hawthorne Lane** said I do not have a financial stake in this. I have, like Rick, served as Chairman in the Tree Commission. I lobbied hard for the tree ordinance in order to get the state enabling legislation for the tree ordinance. A number of years ago, I served as one of the first tree commission members. I was Chair from 1978-1983. I served on the same committee Rick did. I can assure you that this was an intended consequence. It was not an unintended consequence. I will assure it is saving a lot of trees on Wonderwood, which will not be there if this is gone. I hear the passion behind the people who are there who do not understand the consequences. They have not sat down and looked at what will happen and what is going to happen on one of these lots if it had not been for the tree save ordinance. It would have been cleared property line to property line. There would not have been a five foot side yard. There would have been a driveway on the side yard, a three car garage on the back of the property line, a two million dollar house that went property line to property line. Now, there are two one million dollar houses that have a very big tree save area in the back, and in addition to that, they have saved trees in the front, which is not even a part of or counted for in the tree save area that we are talking about. This is a situation where there is a lot of passion about the redevelopment of their community, but they do not understand, I do not think, that their community will be much the poorer if this provision is taken out.

**Judson Stringfellow, 17537 Jetton Road, Cornelius** said I have issues about a couple of things in the revisions. I am only going to address the bit about reducing the perimeter lot sizes, or eliminating the reduction of perimeter lot sizes, not so much in the examples that were shown up here or in Wonderwood. I am talking about real subdivisions where someone is not going in and buying one or two lots on an existing street and carving them up but a subdivision where someone is going in and putting in roads and so forth. The rear sub-perimeter lots would include all of the lots around the perimeter of a new subdivision. To eliminate the ability to reduce those lots down is going to make it much more difficult to be able to achieve 25% of tree save areas in a new subdivision with new streets and detention and so forth. The rear setbacks of perimeter lots, whether they are the reduced size or the standards size, still have to be the same. That rear set back has to be the same on the reduced lot size. You cannot build a home any closer in the rear if you do the reduced lot size. The same requirement of perimeter lot restriction was why I could not affectively make the affordable housing incentive ordinance work in two subdivisions that I tried to work on. That same restriction applied there. By the time I tried to make it work, it ended up with just two or three lots that just didn't make it worth all of the hassle. I have two subdivision development plans in permitting now, using the 25% tree save area incentives, and I have a couple more in the works. Actually, one was being submitted this week, hopefully. A couple more are in the works, and none of these will work on what I have purchased the property for without that ability to have the reduced perimeter lots. These are homes that will be in the \$150,000 to \$220,000 dollar price range. They are not big expensive homes. These are actual real subdivisions. The unintended consequence here of applying this across the board to everything would hurt the opportunities that we have for real subdivisions, bigger subdivisions with a 25% tree save area.

**Joe Lesch, 335 Wonderwood Drive** said there are some of us who do not appreciate the change in the ordinance for a lot of different reasons. I think one thing that you did not hear is that we have had at least five single-family homes built where houses have been torn down, just one home, didn't

use the tree save ordinance. Those lots were clear cut. It happens when you just have one lot and one house redeveloped. It is not just associated with the tree save. What the tree save ordinance does do, it does provide for a lot that will save trees in perpetuity. I find it a little difficult to understand staffs argument that it takes a lot of manpower to oversee this over the long term. I am in the planning business, and I know that they review it initially. They do not go out there and review it on a weekly basis or anything like that. They respond to complaints. It is basically enforced, those tree save areas, by the neighborhood, just like it is in larger neighborhoods where you have big tree saves or big common open spaces. I don't really understand that arguments. To me, the real issue has to do with set back of the homes. I think that the tree save ordinance allows you to basically reduce your lot width, lot size setbacks two zoning districts. I think from and R-3 to and R-5 is really what it boils down to. What I am looking for is consideration of a compromise. I think that if you just allow a reduction of one zoning district, in our case R-3 to and R-4, you would have a 60-65 foot lot width I think. In addition to that, you would still maintain the front setbacks of the existing zoning district, that way you have uniformity when new houses are being created. A couple of the new homes that have been built on Wonderwood have done that, and to me it is acceptable; I know it isn't to a lot of these folks, but to me it is. I think if you just tweaked the ordinance and not just throw it away, you would be better off. Personally, it means a lot of value to my piece of property, so it is a little bit selfish, but I would like to have the opportunity to do what I plan to do for quite some time in the future, and I am not planning to do it. I would like to have an opportunity.

**Councilmember Autry** said I am way too intimately familiar with the tree save ordinance effect on the subdivision ordinance, due to a subdivision that was abutting to my neighborhood back in 2007. Using the subdivision ordinance and the tree save in an R-4 neighborhood, the developer planned to build 72 900 square foot single-family homes on 15 acres, on three cul-de-sacs, with no driveways, and the homes were six feet apart from each other. My neighborhood, we ended up suing the city and the developer in 2007, and that put a long, painful experience for my community to fight that subdivision and basically building R-5 cluster on R-4 property without any input from that community, we saw as a major encroachment and a threat to our neighborhood. I understand and appreciate how the communities would come to this point to find this; however, we just got this language on Thursday of last week. I had hoped that we had a little more time to digest this and put it in the hopper and open up with some discussions with staff back and forth. I look forward from doing that in the coming weeks. I would also like to know how many times has the tree save ordinance been used in the subdivision. How many acres of trees have been saved? Based on that, we should be able to sift through the information that we have had over the years since this have been enacted and get that data and that information, because I do like data in my decision making process. I understand a motion, and I have certainly been racked up on it many times since 2007, but I would like to keep that motion off of the table and be able to have data and facts that I can make a decision on. I do have another question, and I have tried to determine how this is all broken down. I am sure it is very legal and very up to snuff, but on the B, Article 4, General Land Development Requirements, underneath the 1A then it goes to E, I, and I turn the page and the next things are two, three, and four under two, "improve the overall quality of life within the larger single-family developments." Do we have a definition of what a larger, single-family development is? Is that where that two acre threshold comes into place?

Ms. Reid-Dukes said that language was in the tree ordinance previously. That is not language that we added to this text amendment. I was not involved with the original process for this to go through. I do not have that answer.

Mr. Autry said I see that you are striking through the residential and the area. There is no determination to further refine what is there?

Ms. Frye said I was here in 2002 and 2001 when we started the conversations about the clear cutting and what is going on, so kind of back to speaking to intent, we actually went back and looked at those Council minutes and talked about larger subdivisions. We have documentation of that intent that this was on a larger residential area, so this contrast that we have today and tonight about existing lots and existing neighborhoods and where we were in these references and in these incentives, we are matching it to the larger residential areas that were being clear cut, where no tree save was being required. When Laurie says we are not changing that, back in 2002, what we were looking at and what we were fitting this to was a larger residential suburban green field development.

Mr. Autry said green field development?

Ms. Frye said green field, not these urban, existing sub divisions, where there are not a development, but it is a division of an existing lot of record. We were looking at developments, and Laurie does have some quantities here to your numbers that we can report.

Ms. Reid-Dukes said the information that we have is from September 1, 2014 to May 30, 2016. Of all development, including commercial, minor and major subdivisions, and these not subject-to, the total tree save area preserved is 540 acres. Of that, the minor and major subdivisions preserved 180 acres of tree save. The not subject-to plats preserve 4.27 acres. Those are those 19 plats that were approved by Urban Forestry. Some of these tree save areas are small, .3 acre or .1 acre. The tree ordinance requires 18 trees per acre, so some of these may have one, two, three trees planted. Some may have some existing trees as well; there are sites that have exiting trees. I have visited 14 of the 19 tree save areas to look at the quality of trees and the quantity of trees out there. Some do have some wooded areas that they have preserved. Some do not have any trees at all. Either through the construction process, the demolition process, the trees were removed. There is only one tree existing. That tree was removed. It kind of varies.

Mr. Autry said I am sure that the Arborist is involved in determining what a healthy tree is and what is not and what is worth saving and what isn't worth saving?

Ms. Reid-Dukes said yes and the Urban Forestry staff as well, when these plats are submitted to us for review, we go visit the site to inspect the site to determine if the number of trees that are required by the tree ordinance are existing and their health as well.

Mr. Autry said another thing that bothers me is, whenever you say the enforcement is burdensome. That shouldn't be an issue. For a city who prides itself on its tree canopy and refers to itself as the City of Trees, we should be able to staff that department sufficiently to make sure these approvals are being complied with and that we have enforcement. That is probably a different discussion that will be not addressed in this discussion, but that concerns me deeply.

Mayor Roberts said I think that it would be helpful, in light of Mr. Autry's questions, for everyone on Council to get that information in term so of acres saved. Did you get an answer to your question of how many times it had been used? Any of that information would be helpful for us as we continue to evaluate, because this is a hearing tonight. We are not voting tonight. We will be voting August 22, 2016; we still have time to get more information. That will be great to share that with everybody.

Mr. Autry said I think we heard about this at the Environment Committee meeting in May, and I am just amazed that we are already at this point, this quickly, within just a couple of months. Can we also do that with the bicycle and the pedestrian planning?

Ms. Smith said this is as much of a density argument as anything. I think that is what you hear a lot from the neighbors. There are areas of the city in which we do want to promote density, and as you get closer to the true urban core, and you described suburban and then urban. I think a lot of folks in the Cotswold area, we are urbanized but do not consider that to be urban, but we do have areas that are closer to the city where I think that smaller lot size, bigger house, is something that people actively are looking for. I think that is something that we probably want. As density goes, did we look at any possible radius restriction on this? Did we take into consideration areas that may need more revitalization, they do not need to split for two million dollar homes per se, but areas in which the use of this ordinance can help revitalize community and get a foot hold and have some of the growth and stuff that we are looking for. Either it was a distress corridor like we use for the PCCO or radius resection or anything of that nature considered by staff. If so, why wouldn't that work?

Ms. Frye said no, but we did look at area plans and looked at what the existing zoning is of those properties and the consistency of what is happening based on that zoning in seeing that is the appropriate land use in intensity, but not any situations like you have described, looking at certain geographies. Using the area plan as the basis for this is what these properties are zoned and the area plan calls for being single family at R-4, R-6, R-3, and pointing to that.

**Councilmember Phipps** said I would hope that during this intervening period of time that we have to discuss this, that we would take a closer look to assess the systemic impact across the whole city that this would warrant a whole change in this ordinance. I think I am sort of leaning toward the gentleman that has said maybe it could be tweaked some or that there could be some sort of compromise. If we say it has only been like 19 times that this has been used, I am wondering why are we rushing to make such a change when the impact, that I have heard so far, has not been really

that significant. I think it has been significant in terms of the number of acres that have been saved, but I am trying to wrap my hands around the urgency of this when it compares to the systemic impact across the city.

Mayor Roberts said if any of you that are here have additional questions, you can email any of us who are here, and we can pass those questions on to staff and get those answered in the next month. We do have a month more of gathering information on this issue. We look forward to any further questions or requests that we can certainly answer as elected officials.

Mr. Autry said can you get us this data from the time of the enactment of the ordinance?

Ms. Reid-Dukes said the data that we have, the September 1, 2014 through May 2016, we have that range, because that is when Urban Forestry became involved with looking at and improving these plats, because we had a site that we did not know that had tree save in their yard that had split a lot using this tree save ordinance and Urban Forestry was not aware that it had happened. That is how we became more aware and Urban Forestry started to review the plats. Prior to that, Planning was looking at the plats and seeing if it met that minimum 10% requirement and making sure that it met the zoning requirements as well.

Ms. Frye said we were approving these because they showed compliance with it, but when we started having issues and concerns, then engineering now goes out and looks at the site, inspects it. That is why that date, of the more over site, is providing us those acreage and more specific data that we don't have prior to that date.

Ms. Reid-Dukes said so then 19 is just in that specific time period; it is not since the ordinance was enacted in 2002. It is just that September 2014 to May 30, 2016. It is a brief window when we can tract these, because Urban Forestry is becoming involved with them.

Mr. Autry said that is disappointing. Is that another burdensome task, to try to sift through all of those and all of the subdivision improvements and approvals and find out?

Ms. Frye said I would say yes.

Mr. Smith said I think this would be an easy request. We are talking about 19. I do not have to burden my colleagues with this, but I would be curious just seeing the mapping on the 19 that were used and where the tree save actually occurred. As I was riding down Wonderwood the other night, it looked like the tree save was an area that was not buildable, and from where the community sits, it doesn't feel as if it is much of an amenity, so if we could get the 19 that were approved, I would love to see how the trees set out on the lot.

Ms. Reid-Dukes said in all of these, the tree save is located to the rear of the parcel.

Mr. Smith said we have seen pictures of custards like in the center of a rear lot. To the extent that we could see it, we would like to see that picture.

Motion was made by Councilmember Smith, seconded by Councilmember Mayfield, and carried unanimously, to close the public hearing.
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**ITEM NO. 23: HEARING ON PETITION NO. 2016-083 BY DEMETER PROPERTIES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 15.38 ACRES LOCATED ON THE NORTH SIDE OF DAVID COX ROAD BETWEEN HARRIS COVE DRIVE AND DAVIS LAKE PARKWAY FROM R-9 PUD (MULTI-FAMILY RESIDENTIAL, PLANNED UNIT DEVELOPMENT), R-4 (SINGLE FAMILY RESIDENTIAL), AND RU(CD) (RURAL, CONDITIONAL) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL) WITH FIVE-YEAR VESTED RIGHTS.**

Mayor Roberts declared the hearing open.

Tammie Keplinger, Planning said just so everyone knows where they are, this is David Cox Road, Davis Lake Parkway, and this is Harris Cove Drive. WT Harris is located here; I-77 is located to the west. I want to show you first the property that is to be rezoned as outlined in red. It is surrounded by Davis Lake, which is to the north, east, and south and then Harris Cove, which was a rezoning

that was done in the year 2000. In the terms of the existing zoning, the request is to rezone from R-4 Single-Family Residential RU(CD), which is a very old district from our prior zoning ordinance called Rural Development Conditional, and then again R-4 Single-Family Residential and a little bit of R-9 PUD, which was part of the Davis Lake Development. The request is to go to UR-2 CD, Urban Residential Conditional with five-year vested rights.

So, from the existing zoning, you can see that we have Davis Lake to the north, Single-Family Residential, then we move to the south across David Cox Road. This is the area of Davis Lake, which provided a little more intensity. We have the Davis Lake Shopping Center. This property here should be familiar; it was petition 2015-107. It was approved for 98 townhomes just last year. Then I mentioned Harris Cove Drive; this is a petition that was from 2000 and was approved for 58 duplex townhomes. That has been constructed. This has not been constructed yet. As a part of the future land use map, you can see the development in this area. Mostly you have the Single-Family Residential in the Davis Lake to the north. South of David Cox Road, you have Multi-Family and the Davis Lake Retail Center, then you have some warehousing and industrial over to the west side of the property.

The reason I wanted to show you this map is to show you this property's location in coordination with the Davis Lake Development. This property is located in between the commercial, the more intense area of Davis Lake that was approved back in 1990, and the residential component. These little areas right here were also part of Davis Lake. This property and this little portion right here and the Harris Cove community, were not included in the original Davis Lake approval in 1991. Before I go to the site plan and talk to you about the site plan, there have been some questions that have been raised about the use of the UR-2 district in this area. I wanted to go ahead and touch on that just briefly. I want to read to you what the zoning ordinance says about the UR-2 District. It says that the intent of this district is to promote the maximum opportunities for moderate density residential development. This district functions as both a transition between lower and higher density and as the predominant residential district throughout much of the fringe area of the uptown area. What that does not say is that the UR-2 District should only be used in the fringe of the Uptown. I want to be clear; we have used the UR-2 District in many locations throughout the city. We have approved six UR-2 Districts just in 2016 alone.

There is also a question about the Centers, Corridors, and Wedges growth framework in the use of the UR-2 District. The Centers, Corridors, and Wedges, I am going to call it the CCW to make it a little bit shorter, recommends limited, moderate density residential or housing in the wedges. This property is in a wedge. The original rezoning, I am going to go back to the site plan for a minute, showed this property as being rezoned as zoned for Multi-Family Residential. The density for that parcel was 8.9 dwelling units per acre. The proposed request for the density that we are going to talk about tonight with this petition is for less density than that; it is 7.8 dwelling units per acre. The point that I am making is that the proposed request is for a density that is consistent with what is already in the area and with what the recommendations of the CCW recommends. The density is slightly less than what was recommended by the 8.9 dwelling units of the Davis Lake approval, but this petition provides alley ways, streets, and pedestrian networks that enhance the livability of the residential community. Also in addition, we have because of the conditional rezoning process; we have resulted in better development for the joining single-Family residential properties by providing buffers, greater setbacks in height limitations. I am going to go into that in a little more detail as I go through the site plan with you. The site plan proposes to allow 120 single-family residential attached dwelling units at a density of 7.8 units per acre. It limits the number of units in a building to a maximum of five. The height is limited to 40 feet or two stories. It provides a 20 foot buffer along all property lines that are abutting single family residential. That is important because the UR-2 District does not require any buffers. This is an enhancement that we are getting through the conditional rezoning process. In addition, the building setback for the buildings closest to this property line will be 40 feet. No building will be within 40 feet of the property line. There is an additional set back buffer area that is part of the Davis Lake subdivision, which I believe is about 25 feet. In essence, these buildings could not be within 65 feet of any other existing building in the Davis Lake Community. This petition, as I mentioned earlier, creates an internal vehicular network that will connect to one point of egress on to David Cox and one to Harris Cove Drive. In 2000, when this petition come in for the duplex units, it was a controversial petition, and at that time and currently, the cities policy on connectivity is that we provide connections to vacant land, that way we have future developments that connect, and we have less cul-de-sacs. The reasons that we might not have a connection are mostly when there is some type of physical boundary, such as a stream or something that is topographically challenging. So, for this petition, this is a requirement of the

subdivision ordinance that this connection be made. This petition provides on street parking, which is included for guest parking along some of the internal streets. It commits to sidewalks on internal network as well as on David Cox Road and provides a number of architectural and building designs and specifies the acceptable building materials.

This is just another vision of the site plan, a colored rendering. You can see again the main entrance off of Davis Lake, the connection over to Harris Cove and the buffers for the Davis Lake Community. Another point of note, this property that is located here is part of the Davis Lake Community. It is a strip of land that will probably never be developed. I do not think that there is any type of development that can go on that. It is probably part of their common open space. This petition is consistent with the Northeast District Plan recommendation for residential uses. It is inconsistent with the general development policies, criteria for eight dwelling units per acre. It missed meeting eight dwelling units per acre by one point. We believe that is mostly because of the road network in the area and the limited connectivity as adjacent properties have developed. As a reminder, we do already have this type of density in the area existing in Davis Lake. In terms of the rationale, the property is situated between more intense development, including retail, assisted living, single-family residential in the Davis Lake Community.

The rezoning will serve as a transition, just as the UR District is intended to do, between the more intense retail and the assisted living and the single-family. It seeks a density of 7.8 units per acre, which is consistent with the 7.54 that we just approved on the Southside of David Cox and with the 8.9 that was approved in the original Davis Lake rezoning. The proposal provides the extensive vehicular pedestrian network for sidewalks, public streets, and alley ways. The petition includes a number of design elements, which I reviewed earlier. It provides the 21 foot buffer to the adjacent single-family residential properties, and the site plan provides architectural standards for the proposed unit that address porches, stoops, roofs, roof pitch, building materials, decorative garage doors, blank walls, and corner units.

**Councilmember Fallon** said for weeks I have worked with DOT and Planning Commission on Harris Woods. I did not see why there should be a little road disturbing a small community that bothers nobody. Unfortunately, Mr. McKinney I think you can explain it better. There is a stub road in there. According to the subdivision ordinance, which I cannot get varied, even though in past years I have seen 18 variances on 21 things brought to us. The subdivision ordinance cannot be moved evidentially, because there is a stub street in Harris Woods, which meant that eventually some road would go through there, because no matter if they put four houses on an acre there, that stub road would have to come through. Ed would you explain to them what exactly stub road is and why? It is connectivity. I do not see why you needed it. The builder didn't want it, but we have a subdivision ordinance that we have to obey.

**Ed McKinney, Interim Planning Director** said the city has an adopted connectivity policy. It is really to support the desire of our development and our growth to provide greater connectivity as development occurs. One of the ways that we implement that is through the subdivision ordinance, which is what Councilmember Fallon is referring to. That ordinance governs development as it comes along, either both through rezoning as we are seeing tonight and through by right development. The subdivision ordinance treats roads and this case Harris Cove Drive, when they are stub to an adjacent property, a public street; it is a requirement of the subdivision ordinance for the adjacent development to essentially connect to it. That would occur as you described both through the by right development, as Tammie Keplinger showed a portion of the two lots that are immediately adjacent to this neighborhood, are currently zoned R-4. If development were to occur on that site today by right, single-family development under the R-4 density would be required through the subdivision ordinance to provide a street connection to that stub. The subdivision ordinance again is something that doesn't, unless there is a physical and environmental issue that keeps the road from actually being connected; it is simply a requirement of our ordinance. What you are seeing here is just a replication of this rezoning, sort of a combination of that connection, but again that would be required through by right development as it exists today. This is just an example of how it is being accommodated in this particular request.

Ms. Fallon said and we have gone through it and tried to find a way to wave it and we can't.

Mr. McKinney said as an example, we have seen that there has been similar cases to this. We saw one this past year in Councilmember Phipps district up on Salome Church Road, where again there are situations where you got an existing residential neighborhood that has been there for a period of time. It is immediately adjacent to a large piece of land that hasn't developed. We certainly

understand that the neighborhood sort of has now felt like that existing condition exists without a connection. It has always been in place, both the ordinance requirement for that connection and the by right development opportunities for the adjacent undeveloped land. We are seeing this as sites are developing, but again it is simple a pure application of our subdivision ordinance, which again really is the way that we are implementing a city wide policy that we have for connectivity.

Ms. Fallon said in addition, I had worked with the developer before the Z's went up. He did come down in the number of units by six with me. He did use better material. He said there would be no frontage that wasn't far back from the road. There would be sidewalks. There would be a bigger greenway that was originally planned. The two end units on everything would be taken away so there would be a better flow. I am not happy with the density either, but I am aware that there is someone looking for an option to put an apartment house there. It is your choice. You are going to fight it; you can either get this, which is residential or we get another apartment house up there, which we do not need.

**Keith Wilkins, 19825 North Cove Road, Cornelius** said I am here to speak on behalf of two of the property owners, Teresa Sabin and Teresa Temple. They could not be here. They really wanted to be here. Teresa Temple currently suffers from MS and with the emotion and stress of the process and everything she is going through, it is probably not a good idea for her health to be here. That is why she was not here, and they wanted me to speak for them. At this stage in their life, this move is really what is best for them. It has become very difficult for them to keep and maintain such a large property. They have seven acres of this property. They are looking to move closer to family members. That is what they are doing. Teresa Temple grew up on the property. It has been in the family since the early 1950's. She would like everyone to know about all of the changes that she has seen over the past 60 plus years. She grew up running around and playing in what is now Davis Lake. That was their playground. It was not a development. The Coca-Cola plant across the street was a soy bean field, so they have seen a lot of change in the past. The only stores around were JJ's Country Store, the Davis Feed Store, which is still there, and Don's Gas Station, which she has told me. It was a very rural area. It is very easy to say a lot of things to protest and oppose a development; however, in reality change is something that is constant, and in this case they feel it is a positive change for the area. Think about the change that they have lived through in the past 60 years. They have had to deal with a lot of things as well. There were some opportunities for some other developments, apartments being one of them for sure. There are some rental home developers looking at it. Tiny Homes Company approached us, and they were on the news tonight at 5:00 p.m., that company. There have been some opportunities for other bigger developers. The biggest opportunities came from some institutional developers and some apartment developers, but those were passed up. What they really wanted to do, having grown up with the property and with the other family members that have been on that property and grew up there as well, they wanted to leave something that they could be proud of and look back at with a smile and know some other families would be able to have memories there as well. That was kind of from them.

**Terry Gray, 4912 David Cox Road** said I live on the corner of Davis Lake Parkway and David Cox Road. My family has been there; I have lived there all of my life. I am still there. My mother sold the farm to Davis Lake and kept the four and a half acres in that first parcel, and they got the right for the right of way. Davis Lake was trapped to get a road back then. She sold them the side to get a road out of there, plus her back farm. I have a lot of memories there and change, you talk about change. I have seen a lot of change. It went from country to neighborhood and now it is community. You have everything from Starbucks to grocery store, to daycare, to Alzheimer's care, right there in the sidewalk walking. I like what they are proposing to do. I think it fits the community, and I just want to share that with everybody. I am one of the parcels of the land selling, that they are buying from.

**David Malcolm, 3436 Toringdon Way** said I represent the development team. I am just going to address a couple of key features of the project in and our process. First and foremost though, I want to specifically thank Councilmember Fallon, Councilmember Phipps, Tammy Keplinger, and staff, who have done an outstanding job working with us from the very get go on this project. We have worked hard to bring a plan, which can be ultimately supported and approved as we move this to the process. We are currently addressing some remaining technical issues that are relative to the plan in the notes. For example, just this afternoon we were speaking with Engineering on just a nuance relative to storm water, where we were trying to clarify if we were ultimately going to do this we have a planning document that we want to ultimately build it. We had to work out a couple of features. We are currently working with them. We will be submitting one final change as we move

this plan forward, which will address some of those final comments. Again, as we have worked with the Davis Lake HOA, early in discussions, we came to staff before we ever drew this plan to talk about density, to talk about what was appropriate, to talk about what would fit. Together, working with the land owners and the development team, we really feel like we came up with something that hit all of the principles of good development with this area. As Tammie has already mentioned, when we made our first submittal, again we wanted to follow some key principles that looked at some of the things that would make this a really good urban plan, such as a plan that fronts on David Cox with units that address the street. We think that is important, because a lot of developments that are fairly dense, often try to turn their backs to the street. We did not want to do that here. We wanted to actually provide a variety of units with front loaded and rear loaded units. That gives buyers options on what kind of townhome they would like to purchase. Also, an internal network of streets with plenty of parking that would meet the ordinance in sidewalk and street tree requirements. Again, we have six foot sidewalks, eight foot planting strips throughout the community, which will be addressed. We have committed to the tree planting along David Cox as well and building a side walk all along the frontage. This original plan had 125 units and then it got reduced down as we made changes. Again, increasing some of the green areas as well as increasing the buffer along the rear. We originally had 16 feet. We increased that to 21 feet; again after our community meeting, we heard a lot of input about that separation, and we wanted to make sure that we addressed that in a positive way. Again, there is a good tree save along that area. We have also committed to enhancing that tree save where ever it is not plentiful enough, if we need to come back and supplement, there is a substantial buffer shown on the plan. That commitment has been made. Also, in this plan there was removal of some unnecessary roads and drives and impervious areas are reduced. Lots of improvements have been made along the way. This was just a diagram about stormwater and the existing outflow; we set on the top of a hill side ridge basically. This just shows how we will be holding back that stormwater meeting the ordinance requirements, all falling to where the outfalls are currently planned when they originally planned Davis Lake.

Just some sample images of what we planned to plant around the stormwater and some of the stormwater features, just to enhance those. Just taking note of the Davis Lake entrance and how nice that is planted in the frontage commitments and plantings that will be along David Cox as well. This is an example of what we want to try to keep doing. These are some distances. Again, this is not precise but fairly accurate using an aerial and measuring what the distances will be to units. Again, just trying to emphasize the separation of what the unit distances are and how good that buffer is going to be in creating a visual barrier between all of those units. This just really talks about, again as Ms. Fallon talked, about our two points of entry along David Cox, as we utilize Harris Cove. Originally, we came with a plan that didn't connect and then of course we found out that we needed to make that connection. We have accommodated it to help create connectivity throughout the neighborhood. This just emphasizes the adjacent townhomes. Again, 98 townhomes were approved across the street. We have our entrances aligned. There is really good example here of the improvements that are going to be made. There will be 150 feet of stacking in either distance to help alleviate the turn movements. We believe that the continuous motion of traffic going east and west will be maintained as the development continues. I just want to say a word about Eastwood Development. They are the builder. They are going to be bringing a variety of options to this, multiple plan options with body front and rear loaded, starting with the \$180's up to \$245,000 is sort of the beginning pricing of this project. The square footage is 1,650 to 2,300. We looked at the closings in the last six months and this product is going to be well above the average of those adjacent closings. There is very strong and specific language about the materials and what is going to be allowed and not allowed, for example: no vinyl, no aluminum, there is going to be corner and end unit provisions and limiting buildings of five units or less on these.

**Richard Alsop, 5904 Shore Haven Court** said I am a Davis Lake resident. I am against the development, and you all probably have received emails from me. I am the one who talked about urban residential, and I appreciate the presenter for talking about that in her introduction. As you know, the petition seeks to clarify or classify existing rural and R-4 into urban residential. Urban residential districts, this is important, have to be identified on the official zoning map for the City of Charlotte. This area that they are designating is not on the official zoning map for the City of Charlotte; therefor, really urban residential really can't even happen here so we shouldn't be having this discussion. There are no special plans or policy guides that make UR zoning appropriate for that section. Right now, the Northeast District Plan and the GDP, General Development Policies, proposed R-4 zoning for that property. So, if we do anything other than R-4, we are not consistent with our Northeast District Plan; we are not consistent with our general development policies. Again, UR-2 we shouldn't even be talking about. We shouldn't be talking about eight units per acre.

We should be talking about four units per acre. Davis Lake, all of my neighbors that are here, would certainly support four units per acre. We are talking about 60 units, not 120. I do not care what is being said; 120 units on that site is way too much. It is a density issue, right? The proposed plan that you guys adopted said R-4, 60 units is all that can be on that property. I do not know why we are discussing anything other than that, because if we cannot rely on our plans that you guys adopt, we might as well through the whole thing out the window. It doesn't make any sense. If we can't say, when I put this thing down on a plan that it is going to be R-4, that they can come in and the first guy who comes in saying I want to build 120 units and we say okay, I think that is setting the wrong policy. Just to address the development that has happened. David Cox Road and I think that Councilmember Phipps might know, David Cox Road is the dividing line between intense development and less intense development. Everything south of David Cox Road is intense. We do have some multi-family in there. Everything north of David Cox, right up against Davis Lake, eight units per acre is the max. Some of those, Harris Cove is a similar sized property and it only has 58 units. So, 60 units seem to be the right size for a 15 acre track along David Cox Road to the north.

**Bonnie Gore, 5469 Harris Cove Drive** said I am very disappointed that it is in the record that the road has to be connected. We are mostly seniors. We have 58 patio homes, and we have people that use motorized wheelchairs to get to the mailbox, walkers to get to the mailbox, and we cannot cross that road with that type of traffic coming through. The mailboxes are at the dead end. It is a bank of mailboxes. We do not know what we are going to do at this point. There is going to be too much traffic. I wish I had known when I had bought into this community that that street had to connect to something at some time, because to me the builder should have put the mailboxes on the front door or someplace else so we were able to step out of our door and pick up our mail. So, we do not know what we are going to do at this point.

**Nancy Boulware, 5352 Harris Cove Drive** said I am really concerned about the quality of life that is going to affect our neighborhood in Harris Woods. When you open up Harris Cove Drive, it is going to have additional cars, something like maybe 200 or more coming in and out. This is really going to affect the people walking to the mailbox; it is going to affect even walking and having a walk out in the neighborhood. I don't know what to really think of why they wanted to open up that small, narrow street. We are already experiencing parking issues. We have visitors coming in and parking on the side of the street, because we only have two parking spaces in our drive way. That causes visitors to park on the side of the street. That is causing problems in the neighborhood as is, so I am really concerned about that.

**Joe Shorter, 5305 Harris Cove Drive** said I live right on the corner of David Cox and Harris Cove. Someone said something about there would be no problem going east and west on David Cox that is going to be a problem. I have a problem getting out of my house every day, and getting back in, there has been two accidents right in front of my house where people were waiting to turn and were hit in the rear end. It doesn't make sense. I have only been there two years. As far as people going back and forth to their mailbox, there are going to be some people who are not going to be able to get to their mailbox because they have to walk 200 yards to get from their house to get across the street. Once you open up this dead-end, how many cars are going to come around? I know they can make a road on the other side of that fence where they are going to have all of those trees to make it accessible to David Cox so that you can come in one way and go out the other way without going through Harris Cove.

**David Comer, 8911 Shore Haven Court** said I will make this very brief, as my neighbor Mr. Alsop already addressed most of the issues that I had. It is like the neighbor from Harris Cove said; it is the quality of life, and for staff to compare the rezoning designation of 7 some odd, for the townhomes at the southeast corner of David Cox and Davis Lake Parkway, is not a fair comparison to the residential area of R-4 that is Davis Lake. I have been a homeowner in Davis Lake for 19 years. I have bought two houses in Davis Lake, and I consider it home. Moving from Atlanta, witnessing all of the growth, all of the changes, here in Charlotte we were very pleased to find a mixed-use development with various types of homes, various types of price points that allowed my wife and I and three year old son, to be first time homeowners. I do not disagree to Councilmember Fallon's comment; there will be something built there. I would rather have more of a say so in what it is. I do think that something can go there and do well but not 120 units, maybe 80, maybe 90. What I would encourage and urge the City Council to do please is to send this back to staff for modification. Try to make some more changes that are more of a compromise to the neighbors of Davis Lake Proper, is what we call it, most of the residential homes between this a very unique opportunity for those four homeowners on David Cox Road. They have been my neighbors for the

last 10 years. I have got to know a couple of them, because my kids ventured over to their property, and they were not sure who they were, many years ago, but we are glad to see that they are moving on, and they wish for the best for us as Davis Lake residents. I do appreciate that to all of you, but please from a developing stand point, let's knock it down a number of units to make it less impactful to this particular community.

**Patrick Quinn, 2857 Westport Road** said I am with Eastwood Homes, and we are excited to be here. We are excited about this project. We do believe that it is a great location. There is a great quality of life out there that we want to be a part of, that we believe that the quality of product that we do bring to the market place is exceptional, and we think that it would be a great fit for the community out here. A little bit about us, we do build in this area. Charlotte is our home; this is where we started. We have other communities in other cities and areas that we work in. Charlotte is our home. Some of the things specifically about this project, the UR-2 is a transitional zoning. It is meant to be a zoning used between a more intense zoning and a less intense. Less intense in this case is four units per acre. The more intense you are seeing up to 15, 8's. We are right in that heading down. We do believe that it is a good use and an appropriate location. A couple of things that you heard from your staff were that we are adding a buffer in. In the UR-2 zoning, there is not a perimeter buffer required there. That is something that we are bringing in to help to try to buffer between the lower densities and our proposed project. Also, the connection with Harris Cove, as you heard, we do not want to make that connection. That is not something that we were hoping for. For us, we prefer to have our community be a community unto itself. That is a staff requirement, which we are fine with. We have seen in other communities where they have allowed the connection to happen but also to have an emergency gate, so it was more of an emergency access point, and obviously that is something that we are willing to work with that Councilmembers and the staff to see what may be an opportunity there, if there is an opportunity. A couple of other points, we have had multiple meetings, the development team has had with the POA board members for Davis Lake and with the HOA; they have opened that up. Things were not required. We tried to do that; it was great. They attended. We had a lot of good dialogs. We did take things and implement them on the plan. We appreciate the opportunity to speak and be here to discuss the process with you. I look forward to moving forward.

**Councilmember Phipps** said I thank the community for the numerous emails that I have received. I promise you that I have read all of them. Some of them were sort of the same, but I did read all of them. I know some of the most contentious and frustrating discussions that I have had is when you open up a stub road, like to Harris Cove Drive. We have had numerous petitions that have come up that have always been a point of contention and frustration for the neighbors. We do have these connectivity objectives in the city and part of the sub division ordinance that makes it sort of a nonstarter in terms of trying to change that. I have heard the concerns of the residents that live along Harris Cove, and I want wanting to know, if Mike Davis, if you could sort of describe, I heard concerns about safety, walking, people in wheelchairs, walking to the mailboxes and such. Could you describe if this is approved and that road has to come through there, what are going to be the requirements that this road will have to have to insure safety of those residents that live along Harris Cove Drive?

**Mike Davis, Transportation** said I think your question is about the existing street, not the new street that is being constructed. The petition doesn't require anything to be done physically to Harris Cove. What I was listening to in terms of the speakers remarks, had to do in particular, I hear about being able to comfortable and safely walk down to the mailbox for example. It had me looking and also listening to comments about vehicles obstructing sidewalks and things like that, some of which is evident if you look at the photography. My sense is there may be a need for us to do something just today where CDOT may be able to work with that community on things that may be able to help that condition. The fact that there are sidewalks already there is a helpful thing. Nothing comes to mind that should be incumbent upon this development to go in and make changes to that street.

Mr. Phipps said but there are things that we might can do now that can help the situation?

Mr. Davis said yes, I think that is something that we are going to want to explore, as to use some other CDOT staff to engage, to have some dialog around some things that are happening today on that street.

Mr. Phipps said I know that you have some pictures. Are those the exact elevations that we are going to see on this project? I know there has been some interest to have what the elevations are going to actually look like if this is approved, for the project.

Mr. Quinn said those are representative of what we are intending to build. The only thing that I would say is that part of the process of working with the staff, they had some architectural changes that they had requested that are listed in the notes on the sheet, like the architectural features of the doors, hardware, porches, and setbacks that are not represented on there just because of time, but those are basically base, and we are going to have additional architectural that are noted on the site plan.

Mr. Phipps said I noticed the back elevations would contain, I think I read somewhere in the small print that it is permissible to have a vinyl there. Is that correct?

Mr. Quinn said yes.

Mr. Phipps said I know that is something that we are probably going to want to discuss in terms of, in my district its always been a source of frustration too in terms of having, we look forward to having more quality type materials being used on buildings and such because we have had experiences in the past that after a few years some of these new structures really don't look so new, so we want to make sure that the types of material and the quality are such that they will endure and last.

Mr. Quinn said we would be more than happy to have that discussion.

Mr. Phipps said I also want to have some discussion on some of the open space that you have as listed in your site plan here. I know that I guess you have reduced it five units or whatever, but I am interested in seeing how we can have more cohesive open space in this center part here. I do not know what that will entail or if it is something we can work on, but I would like to get with you on that in the event that this makes its way through the process. I think those buffers are pretty substantial; it had 18 from I guess your site then another 21, then another 25, before it gets to Davis Lake for a total of about 64 and a half feet.

Mr. Quinn said Davis Lake has a 25 foot buffer along their rear property line that abuts us. We have another 21, so just in buffers there is going to be 46 feet before you get to any individual property owner's property line. Obviously, you can see in Davis Lake a lot of their rear yards on their personal property is still vegetated and provides additional buffer beyond the 46 that will just strictly be buffer. I guess to one point you made, what we brought up here is the first plan we had you can see we had the common open space, but we had additional streets, and we had additional alley way in here and the street, and then we had 25 units here. Originally we started with 140 units on this site. Conversations with adjacent HOA, we came here; we are down to the 120. We got rid of some roads that we could use. We could front on or provide additional sidewalk to try to increase more of a central tree save open space for people to come out and congregate.

Mr. Phipps said that original 140 that definitely would have exceeded the required density for the site?

Ms. Keplinger said it would have been inconsistent with the general development policies, yes.

**Councilmember Lyles** said can you tell me the bedroom mix in the 120 units?

Mr. Quinn said people have two to three bedrooms. I cannot tell you that exactly this unit will have two bedrooms, and this one will have three bedrooms.

Ms. Lyles said so when I look at that and I think about the space, as you have the tree save, but two or three bedrooms usually means families and children. I just wonder when you look at this, the density and having family. It just seems to me to be perhaps, you have the tree save area, play amenities for a neighborhood that big. Most of the time when you see some of these types of developments, you would see some type of ability for people to, as you say congregate, which I am assuming you are saying the tree save area is?

Mr. Quinn said the central area is the tree save, it is meant to be landscaped and used for common open space.

Ms. Lyles said I too am a little bit concerned about with the bedroom mix, the density in there and the opportunity for amenities as well as parking. I haven't seen how it all works on the private roads and whether or not the garages have room for two cars. Will there be garages?

Mr. Quinn said yes.

Ms. Lyles said and there will be two car garages?

Mr. Quinn said yes.

Ms. Lyles said and the pad will accommodate two cars?

Mr. Quinn said in the driveways, yes.

Ms. Lyles said and there will be parking in the street?

Mr. Quinn said yes.

Ms. Lyles said okay. I guess one of the other questions that I have raised is the materials as well. Generally, I would like to see the commitment to the type of materials that you are going to have, especially with this level of density. What does it do to make sure that these properties are maintained? I will just say that we have had some communities built, and they have not had the kind of materials at the price point that people could afford to replace the materials that they have purchased and the materials were not substantial enough for them to be able to maintain. I do not know what the price points here in these units are, but I think we really do need to pay attention and a commitment to materials in it. I guess the final thing, this may just be just for the staff; a couple of weeks ago, I asked about the vested rights and you said that you guys would be coming back to us in August. The five year vested rights is something we vote for and the two year vested right to me is something that comes automatically with the petition. I do not know why you are requesting the five years, but generally with our development and what is going on now, I think a two year vested right is more appropriate for almost any place that we are developing in Charlotte. I just wanted to make you aware that that is a real concern of mine to have a five year vested right. So, when I look at the development, I understand that we have had a lot going on in that area. I just wonder about your density, the materials, and why the five years vested rights.

**Councilmember Kinsey** said I am generally a fairly strong component of connectivity, but in looking at this, the road that goes through the smaller neighborhood of mostly older adults, I really do not like it. It is a public road and yet the other roads, except the one that goes back out to David Cox, the other roads are private. Why are we interrupting a neighborhood of mostly senior citizens to put a public road through, when we could do something else to have two entrances. I am one of those senior citizens. It takes me a little bit longer now to get up in the morning and get out and walk, and I just don't like that. I know you said, well the subdivision, well shucks. We just decide we are not going to open it. I think this Council has a right to do that if indeed that is the wish of most of us.

Ms. Fallon said that is what I have tried to do. They don't move.

Ms. Kinsey said well, we are the Council, and we vote. I didn't think too much about it until I saw the private roads, and I thought, my gosh, why are we allowing all of these private roads and yet forcing this road through a senior development? I am sure it could be better designed to allow two entrances from within the development itself. It is very dense. If it is two and three bedroom, and they are families, there is no place here for the kids to play. I know we don't build in parks; well, it would be nice to build in parks. I know that is not what we can do with this, but I don't like it the way it is. I guess I will just end with that. I am not happy with it the way it is, particularly that public road when there is room other places in the development to get the access.

Ms. Lyles said I have a follow up to Councilmember Kinsey. I do not understand the private road. Why wouldn't it be dedicated as a public?

Ms. Fallon said it is not wide enough.

Ms. Lyles said well, if it isn't wide enough, how are we going to pick up garbage and have fire service there?

Ms. Fallon said they do but it has to be 22 feet, I believe, in order for the city to take over maintenance of it. If it is shy by a foot, you lose it.

Mayor Roberts said do we need Mr. Davis to answer that?

Ms. Lyles said I do not understand why it isn't, because it is connected to a public road. It says public road, whatever. Private road is like half way.

Mr. Davis said I can help with part of this. So, parts that can be a little bit in dark areas for me are just the strict application of the ordinance, which I do not administer. The parts that I do feel like I understand pretty well, there are basic requirements for the street to extend on its own. I think some of what is being talked about is the possibility of having two connections on to Davis Cox, which I think is a part of the subdivision, then extending by connecting to the existing street, helps achieve that. As I understand that, it is not the only subdivision issue. One of these subdivision ordinance requirements is to extend the stub regardless of how many other connections there are to David Cox. I just wanted to share that. It seemed like there was a little bit of confusion around that. To your question Council Member Lyles to why some public and why some private, over a period of, I would say a few decades, there has been an evolution in this relative strength of our development ordinances and overcoming a disconnected street network. We have seen reduction of cul-de-sacs; we have seen increase requirements for street connectivity. Where we stand today with the most recent change in the subdivision ordinance occurring in 2010 was that in multi-family developments, we wanted to make sure that we had a minimum level of public street connectivity understanding that they sometimes get disconnected from one another. In other words, apartment complexes sometimes had a history of gating off from one another. So, there was this notion that needed to be a minimum amount of inner connectivity between developments. There was also a recognition that not every street needed to be public. In order to serve the densities that are anticipated, sometimes developers can serve their products well by creating private streets that serve other advantages, and that we were not going to insist on all of them being public. The specific question that you asked about, waste collection is not something that I know necessarily how that piece is handled.

Ms. Lyles said I am going to say this to the petitioner. When we have developments like that, when things go wrong and there is a public street that runs through them and then there is a problem with the private street, often times, the people that buy these do not know that they are private streets. When assessments come in and they have been paying their taxes on what they think is a public street, it is not quite that easy. The developer is gone; the HOA is stuck with the tab, and I do not know why, if the density is driving private or not, if that is what is driving the private streets. For my preference, I always try to think of the consumer, and those things are not always evident. Now, if there was a big gate there, I think you would kind of know. When we are talking about public road up to the coming out of David Cox and making a trail through there and the development is all around that and depends on that circulation, I wouldn't understand that, and I would be very concerned if I am paying my taxes and I get no street maintenance. I do not know why the private roads are there, but it is just to me disingenuous for us to expect citizens to always be protected that way. We have neighborhoods like that today that call us and say, where is our street policy? Why can't we get our streets maintained? I am sure it is in the disclosure. It is like that commercial, blah blah blah blah blah, it is in there, but nobody reads it.

Mr. Wilkins said there are a couple points those maybes we can clarify. I will take Councilmember Kinsey's comments about the connecting points; again we were only doing what we were asked to do with C-DOT, making that connection. We would like to see it as a separate neighborhood and perhaps investigate other opportunities to make a connection to David Cox. We are a little concerned about separation distances and safety with turn movements and having multiple access points that close on David Cox. We have looked at that. That is a challenge. Also, coming out to Davis Lake Parkway, we have to go through private property. We do not have access there. We cannot punch out, plus there is a median. We would be restricted to a right in right out only in that location. We feel like for connectivity, we probably need two points. C-DOT is really pushing us to have two points of connection, so we need to find a way to balance these concerns, and maybe we can take another look. At this point, because of the separation issues, this connection point to Harris Cove is probably our best option at this point. As far as the private streets, we have designed them to public standards, so they are public. It is preference. We have a public road that goes all the way through the community and connects. The rest of the roads are designed to public standards. The alleys will remain private. We can have a private alley back there that would be maintained. At this point, it is preference and how they want to set it up. Again, if they want to dedicate it later, that certainly can happen because we are designing them to be that wide.

Ms. Lyles said is that in the notes now that it will be public streets?

Mr. Wilkins said it is not intended to be dedicated as public. At this point, they are set up to be private.

Ms. Lyles said why?

Mr. Wilkins said just preference.

Ms. Lyles said preference for price point, consumer, developer?

Ms. Wilkins said yes, developer and HOA flexibility. They can pave it whenever they want.

**Councilmember Smith** said a couple of things first; we finally found an area plan older than South Park. This was in 1996. Number two, I think this issue of connectivity is where our policy is just stupid. This is a point where I don't think this connectivity makes much sense, and I think it is going to put an undue burden on a particular neighborhood. We had an incident earlier in Cherry, where we could have solved the problem with a cul-de-sac. We could have solved a lot of problems with a cul-de-sac, and didn't do it. I appreciate our larger attempts at connectivity. I think this is one that is just wrong. Mr. Alsop, what is the primary opposition to the density? It looks like the trip generation is negligible, so this is a good handout and informative. What is the opposition to the eight units per acre?

Ms. Alsop said I am an architect. I design public spaces all of the time. To be quite honest, I know the planner of this property, who also feels it is too dense. He is obligated to his client to design this this way, because it means a pay check to him, and I get that. That is fine, but when we look at what the district plan says, is the proposed zoning for this property. It says R-4. When we look at the general development policies for this property for developing this area, it says four units per acre maximum; you have to justify to this, Council why it should be higher than that and they failed to do that. They missed it by a point. It doesn't matter. They missed it, so R-4 is what this property should be. I bought my property back in 1994-1995. My backdoor is going to look into the back of one of these units now. I look across there now and it is idyllic. It is perfect. I have a place for my kids to play. I have two boys; they run all of the time. When I look out there now and 40 feet from my backdoor is going to be somebody else's backdoor, I have a problem with that. It is not what that zoning is supposed to be for that property. When I bought my house I looked at the zoning for that, and I said it is going to be something someday; what is the maximum it could be? My City Council tells me it is going to be R-4, so if someone comes and says it is going to be eight units per acre, I have a problem. It shouldn't be that.

Mr. Smith said Tammie, what would the setback be if it were single family?

Ms. Keplinger said if it were single-family residential it is going to be 45 feet if it is R-4 and R-3.

Ms. Smith said I have one question for the petitioner. Are these 18 foot units?

Mr. Wilkins said 22's and up to 24's, we are that same set back on this property as well.

**Tony Lathrop, Zoning Committee** said one of our committee members just wanted to ask, in light of the point that was made a few minutes ago about the 200 plus bedrooms. What is the basis for the conclusion that it would only produce 27 students? Not sure there would be an answer tonight. That may be something that would have to be found, but I wanted to put that out there.

Mayor Roberts said that may be a question for CMS.

Ms. Keplinger said we will follow up with that in our follow up report.

Mayor Roberts said we will ask the school system; I guess that relates to their calculation.

Mr. Phipps said as far as Charlotte Water goes, given the size of this project, number of units you describe, you have an existing eight inch water distribution main, then you have the existing 12 inch water main. Is this sufficient to support the proposed project in density? Does anyone know that?

Mr. Keplinger said that is not an answer that Charlotte Water provides us within their memos. In their memos, they provide us with information telling where the lines are that are close to this property. They don't tell us in their memos about whether we have sufficient capacity or whether that is adequate to cover this property and this development, because those things are examined at the time of permitting when the site plan comes in. This property, if it is rezoned, it can sit for several years before it is actually constructed and before it goes through permitting, so to provide that information, at this point it may be different later when they go for permitting.

Ms. Fallon said the timeline to replace that water main, which is inadequate to begin with, is 30 years from now.

Mr. Quinn said before I started with Eastwood Homes, I have been a professional engineer for 15 years, designing subdivisions like this. Typically, you will run an eight inch line; it is what most municipalities will extend. You can go down and sometimes see six inch waterline subdivisions like this, depending on the size. Here we will probably bring an eight inch through the middle when I met with Charlotte Water we connect at David Cox, through the middle of our site and connect over at Harris Cove. What that does is that helps to loop the system, which helps to increase the capability of the system. Right now, Harris Cove will hopefully have a better performance when it is looped. I think it is an eight inch over in Harris Cove. When we bring that eight inch through, we will have a very solid system through there. If you do all of your hydraulic calculations, that is how it will work. It provides better capacity, better pressure, and better flow through there. Plus, it minimizes the dead end line, which has water quality issues. At minimum, you will have an eight inch connection through this site. Then from there, maybe a couple of looped six inches off of that.

Mr. Phipps said are there any discussions under foot to use existing amenities that may be available in adjoining projects?

Mr. Quinn said not that I know of. There are no ongoing conversations that I know of to that affect.

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

Mayor Roberts said that will be decided in the August 22, 2016 meeting.

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**ITEM NO. 24: HEARING ON PETITION NO. 2016-088 BY ANNOINTED FUTURE DAYCARE FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.79 ACRES LOCATED ON THE SOUTH SIDE OF HICKORY GROVE ROAD BETWEEN CRAIGWOOD DRIVE AND MCALPINE LANE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO INST(CD) (INSTITUTIONAL, CONDITIONAL) WITH FIVE YEAR VESTED RIGHTS.**

**Mayor Roberts** declared the hearing open.

**Tammie Keplinger, Planning** said this property is located on Hickory Grove Road. Just to help orient you a little bit, Sharron Amity is over to the left off this map and East W. T. Harris is in this direction to the right off of the map. The existing zoning on this property is single-family residential, R-3. The proposed request is for institutional CD with five years vested right. The adopted future land use, there is nothing but yellow. It is all single-family residential. Most of our area plans do not tell us where institutional districts are located, but that is something that we look at during the rezoning process. What this request is for is to allow a 5,600 square foot daycare with up to 79 students. It will have a maximum building height of 40 feet, which is consistent with the residential in the area. Outdoor play area is to the rear of the site. There are architectural commitments. There is a sidewalk system, both internally and externally on Hickory Grove Road and the dedication of a 50 foot post construction buffer.

This petition is inconsistent with the Eastland Area Plan, which recommends single-family residential for this site, but as I said, this is an area when we look at institutional uses; we look at them on a case by case basis. This is on an existing minor thoroughfare. It is separated from abutting properties by utility lines and water quality buffers. It is isolated on a cohesive and interconnected development that includes this site and abutting properties is not feasible. Although the proposed institutional use is inconsistent with the area plan, locations for new institutional uses are not typically identified through the adoptive plan process. In this case, the proposed daycare is separated from other properties. Like I said, it is located on Hickory Grove Road, and it is across the street from the Hickory Grove Church of God. It is limited to the square footage and height and size. Staff is recommending approval upon the resolution of the outstanding issues. I would be happy to answer any questions.

**Councilmember Autry** said the community behind this development, Fox Hollow, has expressed support for this petition, and my only concern is with the five years vested rights. That is becoming more the norm than I think it should be for what we do and how quickly the character of our city is evolving in all kinds of different directions and different places. I am a little concerned about that. With no one here to speak in opposition of this, moving on.

There being no speakers, either for or against, a motion was made by Councilmember Autry, seconded by Councilmember Smith, and carried unanimously, to close the public hearing.

Mayor Roberts said quick question on that about vested rights, if they ask for five years but we can also only approve two years, correct?

**Terrie Hagler-Gray, Senior Assistant City Attorney** said that is correct.

Mayor Roberts said that is something that I have heard a couple of times tonight, and we should remember that when we get to the decision if we want to. Let's make sure that we remember that, because I think that is right.

Mr. Autry said there is no statute that prohibits us from doing that?

Ms. Hagler-Gray said no, there are some factors that are listing in the zoning ordinance that you can consider to determine if you want to vest for five years.

Mayor Roberts said we will remember that next time we are voting.

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**ITEM NO. 25: HEARING ON PETITION NO. 2016-105 BY CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.08 ACRES LOCATED ON THE SOUTH SIDE OF BAXTER STREET BETWEEN QUEENS ROAD AND ELI STREET FROM R-6 (SINGLE FAMILY RESIDENTIAL) TO R-22MF (MULTI-FAMILY RESIDENTIAL).**

**Mayor Roberts** declared the hearing open.

**Laura Harmon, Assistant Planning Director** said this is a very small parcel located here on Baxter Street off of Queens Road, at the edge of the Cherry neighborhood. It is a request to go from R-6 to R-22 MF, and you can see that there is a lot of multifamily zoned property next to and single-family abutting it. There is a bit of a story with this site. This was part of a Central District Plan corrective rezoning in 1993. That plan called for this site to be rezoned from R-22 MF to R-6. During the public input process prior to the actual hearing on this, the property owner asked staff that this site be removed and staff agreed. The reason that staff agreed is this is actually part of a large parcel, a .47 acre parcel. By taking that zoning to R-6, it was splitting the zoning on the property; however, it inadvertently remained in the corrective rezoning, and the zoning was changes to R-6.

So, the intent in 1993 was to keep the zoning on this property at R-22 MF. That was what staff committed to, to the property owner, and it was simply an over site that it remained in the corrective rezoning and was then changes from R-22 MF to R-6. This has recently been discovered with the help of the property owner bringing this to our attention, so, staff that is why we are sponsoring this rezoning, to correct what happened in 1993 and to take it back to the original zoning, as promised. In the meantime, we have had the Midtown, Morehead, Cherry Plan update the Central District Plan and it actually called for this site to be zoned or to be developed at 22 or to be incorporated with the other parcel and over all development at 22 units an acre. That is consistent with the rezoning. Our rationale for actually sponsoring this and supporting it is, it is one that very small, less than a tenth of an acre site that is part of a large, almost half acre parcel. The remainder of that tax parcel is zoned R-22 MF. It cannot be developed on its own under R-6, the single-family residential zoning. What this will do is correct the earlier over site and will make all of the zoning for that .47 acre parcel consistent at R-22 MF and with the exception of R-6 property directly to the west. It is surrounded by properties on Queens and Baxter that are zoned for multi-family. Finally, again, it is consistent with the recently adopted area plan. In light of those factors, staff is both sponsoring this and asking for your approval.

**Councilmember Smith** said was the rezoning mishap determined after the building had started on the adjacent parcel?

Ms. Harmon said it was probably in that same timeframe. I think that is probably what caused someone to really look at this closely. I think they may have thought that it still remained at R-22.

There being no speakers, either for or against, a motion was made by Councilmember Austin, seconded by Councilmember Mitchell, and carried unanimously, to close the public hearing.

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**ITEM NO. 26: HEARING ON PETITION NO. 2016-092 BY CHARLOTTE-MECKLENBURG HOUSING PARTNERSHIP, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 5.808 ACRES INCLUDING 2.884 ACRES LOCATED ON THE WEST SIDE OF STATESVILLE ROAD BETWEEN CINDY LANE AND COCHRANE DRIVE AND APPROXIMATELY 2.924 ACRES LOCATED ON THE EAST SIDE OF MEADOW KNOLL DRIVE AND THE NORTH SIDE OF CINDY LANE NEAR WHERE CINDY LANE PASSES OVER I-77 FROM R-4 (SINGLE FAMILY RESIDENTIAL) AND MX-1 INNOV (MIXED USE, INNOVATIVE) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL).**

**Mayor Roberts** declared the hearing open.

**Tammie Keplinger, Planning** said this area should look familiar; this is I-77, Cindy Lane and Statesville Road. We had a rezoning last year in 2015 for a development called O'Dillon Lake, and it encompassed most of this area. You can barely see the properties to be rezoned. One is on Statesville Avenue, and one is located off of Cindy Lane. The proposed request is to add these two parcels of land to the overall O'Dillon Lake development. It is to go from R-4 single-family residential and MX-1 innovative to UR-2 (CD) urban residential conditional. In terms of the future land use, you see all of the yellow which indicates residential. South of Cindy Lane, you see mostly industrial. There is a little bit of institutional and a little bit of retail that is in that area. In terms of this request, the proposal is for an additional phase of 270 residential units in area B-2, E-1, and E-2. Now, O'Dillon Lake was approved for 750 residential units of different types. This 270 that is proposed is part of that 750, so they are not actually adding any units, they are just adding acreage and spreading the residential units out. The request provides numerous transportation improvements that are associated with the original rezoning and with this one. It limits building heights. It provides commitments related to the treatment of ground floor elevations, materials for building, for multi-family, for architectural features such as porches and façade treatments. It prohibits backing and maneuvering between the proposed buildings and the abutting public streets, except for Cindy Lane, if reversed frontage is used. It prohibits rear and single family detached dwelling units from being oriented towards the proposed existing public street, and it provides buffers for the abutting residential properties. Again, you can see on this site plan how the two areas, this is E-1 and E-2, and this is B-2, will fit into the overall development of O'Dillon Lake. Again, they are not proposing to add any additional residential units, it is just to allow them to spread out a little further. In this particular case, development area B-2 will have 150 multi-family residential units, and in E-1 and E-2, near I-77, 120 dwelling units that could be a mix of single family detach units or lots or attached duplex, triplex, or quadruplex, or age restricted housing. If they have age restricted housing, it will not exceed 110 units.

In terms of the plan consistency, the proposed residential use is consistent with the Northeast District Plan. The density of 11.66 dwelling units per acre is not supported by the general development policies, but staff is recommending approval upon the resolution of the outstanding issues. I will go through some of the points in our rationale. As I mentioned earlier, this adds acreage to the original O'Dillon Lake proposal; it does not add additional units. It helps to expand the O'Dillon Lake development, which will help stabilize the once predominately single-family owner occupied neighborhood that is now transitioning to a now predominately renter occupied absentee owner neighborhood. The site is located within the Sunset/Beatties Ford Comprehensive Neighborhood Improvement Plan, or CNIP area, and this development complements the plan capital investments and supports the community enhancement goals of that area. In addition, the subject site will have access to recreation and natural areas, the lake, the open space areas, and the larger O'Dillon Lake community. Again, staff is recommending approval. We have a couple of outstanding issues, which we feel we will be able to resolve.

**Keith MacVean, 100 North Tryon Street** said I am with Moore Van Allen. Jeff Brown of our firm and I are representing the Charlotte-Mecklenburg Housing Partnership with this petition. Tammie has done a great job explaining what the petition is all about. It is really not about adding units, it is about adding just roughly over five acres and taking the units that were previously approved last year, the 750 units, and expanding them out a little bit further to some adjoining sites. Housing Partnership, as you all know, founded in 1988 to expand or promote neighborhoods and expand high-quality affordable housing that is well maintained. Again, as Tammie mentioned, adding two parcels, the 64 acres that were first phase of O'Dillon Lake approved last year with a mix of housing and mixed income housing with a mixture of housing types. Again, the two out parcels that are being added are mainly for age restricted housing here and multi-family here, not adding units. Some of the existing open space that is being preserved and will be part of the O'Dillon Lakes community, some images in terms of housing and what the multi-family will look like, these are images from Brightwalk and the other mixed income, mixed housing community that the Housing Partnership is developing and is almost finished with at this time. Here are some images of what O'Dillon Lakes will look like in terms of the streetscapes housing. They are looking down at the lake in the open space area, kind of a bird's eye view. You see the two lakes that are being preserved are the focal point of the community. I would be glad to answer any questions. We will be working with the staff to address any remaining issues.

**Councilmember Austin** said you know my community is very excited about this particular development, because it is similar to the project that they have down at Brightwalk. A matter a fact, the initial meeting, we took a lot of people down to Brightwalk, and they were very excited as a result of that, so thank CMHP for their work on that. I do just have a few questions, and this might be cursory. Are we married to this name? Is that what it is going to be?

Mr. MacVean said I do not think so.

Mr. Austin said it sounds like an old farm house or something like that. I do not mean to undermine.

Mr. MacVean said the name is an old family name.

Mr. Austin said exactly and I do not want to dishonor that.

**John Butler, 4601 Charlotte Park Drive** said it will be renamed as part of the overall process; it is just that we have not gotten to that yet.

Mr. Austin said okay, again I am not dishonoring O'Dillon family. Lastly, up in the top right corner, where we have I guess a parcel, are we still looking to develop that or what is happening?

Mr. Butler said it is a property that we have been unable to acquire.

Mr. Austin said are we still trying to pursue it or not?

Mr. Butler said their expectations on value are well north of ours.

Mr. Austin said last question still has to do with Cochran. I still have concerns with that. I am not quite sure how we are going to reach some conclusions of that. I still feel like those neighbors are going to be trapped in some regards. I know we have created some private streets and the network in there, but I still have concerns about that and effect on how people are going to be turning. I do not know what we could do about it. I just want to let you know that is still a concern for my neighbors.

Mr. Butler said we have tried to address that with Planning and be sensitive to the residential homes as well by moving the multi-family to Statesville frontage from Cochran. In the original designs, it was actually on Cochran, and as part of the reason to acquire this parcel on Statesville so we can move multi-family directly on Statesville so it will have direct access to Statesville and alleviate any of the traffic that would be going on Cochran as a result of that. We also have seven or eight points of ingress and egress that are being added to try to spread the points of people getting in and out of the neighborhood without driving much traffic to Cochran.

Mr. MacVean said there actually will be a new public street right below this phase right here that will provide access to Statesville Road.

Mr. Austin said so conceivably, people living back in that area, they can work their way down to the community and come out that way?

Mr. MacVean said absolutely.

Mr. Austin said lastly with the seniors, are we doing bungalows or duplexes or we haven't decided?

Mr. Butler said the expectation right now is that there will be a multi-family development that shows in the bottom left corner. We also have on our road map cluster homes. At this stage, we have not got a developer signed up for that, but we are anticipating about 40 cluster homes, kind of patio homes specifically designed for seniors.

Mr. Austin said again, I have nothing but positive feedback from the community.

Motion was made by Councilmember Austin, seconded by Councilmember Mayfield, and carried unanimously, to close the public hearing.
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**ITEM NO. 28: HEARING ON PETITION NO. 2016-091 BY SAUSSY BURBANK, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.4 ACRES LOCATED ON THE NORTH SIDE OF NORTH DAVIDSON STREET BETWEEN EAST 33RD STREET AND NORTH BREVARD STREET FROM MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL) TO MUDD-O SPA (MIXED USE DEVELOPMENT, OPTIONAL, SITE PLAN AMENDMENT) WITH FIVE-YEAR VESTED RIGHTS.**

**Mayor Roberts** declared the hearing open.

**Laura Harmon, Assistant Planning Director** said this is a 1.4 acre site that is split into two subareas, located here on the area, and it is at the edge of the Highland Mill number three site, which is a locally designated historic landmark. These are two areas, one on 33<sup>rd</sup> Street, one on Brevard Street that are either currently grassy areas or a portion used for parking. This is in the NoDa area; it is within a half-mile approximately of the 36th Street Station on the LYNX Blue Line Extension, and the sites also abut the alignment of the future Cross Charlotte Trail. The request is for these portions of the larger site to go from MUDD-O to MUDD-O site plan amendment with five year vested rights. Again, that is part of a larger MUDD-O zoning from 2001 for 9.22 acres for that larger Highland Mill site to allow the reuse of the mill for office, retail, and residential, which has since come to fruition. As you look at the zoning, you can see that it is largely surrounded by MUDD and TODD zoning in this area, then you can see the neighborhood zoning, which is primarily R-5, to the south. When we look at the future adopted land use, this is in the transit station area. It is recommended for transit supported development, again, related to the 36th Street Station. So, the proposal for this site is for 35 single-family attached dwelling units, maximum height of three stories and 45 feet, as well as an open space at the corner of North Davidson and 33rd Street. This does include conceptual renderings, which I will show you in a minute and a few optional provisions to really make things work on this site. So, the optional provision requests are to maintain a 16 foot minimum set back measured from the back of the existing curb instead of the future curb along 33rd Street to maintain the mature oak trees along 33rd Street, then also deviation from streetscape requirements to eliminate bicycle lanes on Brevard. Before we go too much further, I want to say we looked at that very closely to see that there is a parallel street that will actually probably be more appropriate for bicyclist to use then putting a bike lane on this portion of Brevard. Also, it has very low traffic volume, so it would still be very easily ride-able by bicyclists. The other optional provisions relate to the frontage on North Davidson having a 33 foot setback, which was requested by the Historic Landmarks Commission in order to be consistent with the development that is already there and provide view quarter to the mill buildings and then relief from the requirement per the zoning ordinance to have active ground floor retail along North Davidson Street, because with that 33 foot setback, that really did not make a lot of sense when you are moving further back from the street. These are the renderings of what will be built out there. I think some of this is still in progress and you may see a bit more this evening. Because this is located on a historic landmarks site, it will require approval by the Historic Landmarks Commission. The petitioner does have conceptual approval at this point and will need final approval before moving forward. This is consistent with the Blue Line Extension Transit Station Area Plans, recommendation for transit supported uses. It is actually technically inconsistent with the adopted streetscape recommendations that we talked about a minute ago that they are requesting optional provisions for, and it doesn't implement that ground floor retail, but we think for very good reasons. Staff is supporting this; it is located within a half mile of the 36th Street Station. We think the

addition of townhomes is providing a different housing option to the station area, which is one of our transit station area principles, to have a range of housing types. The site design respects the existing Historic Mill in the way that it is laid out. While the proposal does not provide that active ground floor retail space along North Davidson, it is providing an amenitized open space at the corner of North Davidson and 33rd Street. We think that in light of the tightness of the site and our objectives, they have met our streetscape objectives even though they are not doing exactly what was called for or anticipated in the area plan. Staff is recommending approval upon the resolution of some relatively minor outstanding issues.

**Collin Brown, 214 North Tryon Street** said I am with the law firm of K and L Gates, here on behalf of Saussy Burbank. I think that we have some slides that I would like to T up if they are coming. I would start it by saying this has been a very collaborative effort with the community. We started with an outreach meeting a month before we filed to meet with community representatives and some stakeholders. I also happen to represent Tribridge Properties, which owns the underlying property. This was kind of the first mixed use project to come in and start revitalizing NoDa. The original rezoning was about 15 years old. I want to point out that on this larger site, there is existing retail. There is Heist Brewery there; the NoDa Animal Hospital is there. In the old mill are multi-family buildings, so now we are bringing along the final components to this redevelopment in the areas that you are seeing here. If you see the old plans, those are just surface parking areas on the approved plans, but this will bring in a for sale townhome component. I can tell you the folks in the community see pretty excited to be getting a for sale product out there. They thought it worked pretty well. I think everyone was pleased. We weren't doing a retail component to compete with the retail that was there. The real exercise in this project was the site design. Laura talked about the 33 foot setback. I want to point out, the 33 foot setback that is 33 foot behind the wall of the existing mill, 33 feet behind this to make sure there is no obstruction of view. It is actually about a 90 foot setback from the back of curb. There is a substantial set back there. That will create an area that can become an active open space area so you can see that here. There is a zoom in on that. You can see the 33 measured from the front of the building is substantial from the back of curb. Most of the work that we spend a lot of time with city staff and Urban Design in trying to get these streetscapes right, because this is such a crucial part of the community, right here in the heart of NoDa, making sure that we are adding some on street parking where it is appropriate. On the other side on 33rd Street where there is existing matured trees, we have an option to allow us not to disturb those trees. We have a cross section here of the unit, in case that is something that you would like to talk about, then Councilmember Kinsey asked if we could put a little more meat on the bones for the presentation at night. So, Shook Kelley put together some renderings to show you, which is pretty cool here on the North Davidson Street view; there are actually some lower level lock off units. Affordable housing is something that is really important in NoDa. These units, the townhomes, will sell for multiple thousands of dollars, but the CEO of the company, Charles Teal was with us at the initial community meeting and said, you know what, the way these townhomes layout is we kind of have this little space down there where it could be a one bedroom apartment, and can we design these like when you go to Philadelphia, they have these garden, ground floor apartments. So, that has been done to accommodate that. This could be done if the owners wanted to do that. On the 33rd Street side, one of the things that staff wanted to see from us was the end unit that faces North Davidson. It is not going to be retail. You have the park area that would be here to really have an elevation that faces and addresses North Davidson. It doesn't look like an ugly end unit.

**Councilmember Mayfield** said if I am to understand correct, you will have the for sale up top with rental on the bottom?

Mr. Brown said it would be a townhome. You would buy the entire thing. The point, if you want I can walk you through it, here is what the building would look like. The street would be up here. All of the units, if you can see the elevations, if you are looking at them from Davidson Street or 33rd, you do not see and driveways; you do not see any garages. The garages are tucked into the back, because the garage is tucked here; here is the main floor, here is the upstairs. There is kind of this dead space, which Mr. Teal said that is kind of a lock off unit; we sometimes use it for storage. Usually, it is just a basement, but he kind of challenged the architects to say, alright, what if you had a stair that you could walk down, so you had a front entry. That is a space that will be sold with the unit, and the unit owner can make it a home office or a storage room, but they can also even if they wanted to rent a bedroom or they wanted to have a roommate that would have a separate entry, you would have a small square footage space that is available to do that. There is no guarantee that it would happen, but there is a commitment in the design that this would be built like that, and that gives another option in this neighborhood where that is maybe viable where if you but this upstairs

unit and you have a space down there and you want to rent it out, you can do it. It puts the option on the table. I think it diversifies the housing stock a little bit more. I thought it was a creative approach by this developer.

Ms. Mayfield said another question regarding the on street parking, that is going to be public parking, or is that going to be parking that is associate with guest that come to visit.

Mr. Brown said every one of the units will have its own two car garage. Some will have a little parking area. The on street parking that we are creating will be publicly available. Now, the owner here might get their first and park there, but it will be publicly available. That was something that the neighborhood was excited about to get a little more parking out here. We talked about it on 33rd Street, whether to add some more there, but the decision was made that it was more important to preserve the trees. There will be public on street parking on Brevard Street, no new spaces on 33rd.

Ms. Mayfield said say one of them purchases it, they have a housewarming party, I am thinking that it is going to be more than three people. Where are they going to be parking, or is it just on their own to try to find parking in the area?

Mr. Brown said it will be on their own. That is living in an urban community. I hear it, and then I hear it from Councilmember Autry. He says we are doing too much parking, so each unit will be self-park. We are creating more parking then there is now. That is all that we can say. The rest, we hope some will take light rail and the Cross Charlotte Trail is there; go figure it out.

**Councilmember Kinsey** said when we talk about the lock off units; it is really just a room.

Mr. Brown said there is a bedroom and a bathroom. There can't be a kitchen.

Ms. Kinsey said okay, I wanted to make sure. It is really just a bed and bath.

Mr. Brown said it is just a bed and bath. We talked to the zoning administrator and they felt you can rent a bedroom in your house and they will have an exterior entrance and the other requirement of our code is that there is also access to the interior of the unit. There would then be a backdoor that would walk into the garage. So, if you wanted to keep it on your own, you could access it that way.

Ms. Kinsey said I knew there was something we couldn't do Ms. Harmon, did you check with the Landmarks Commission?

Ms. Harmon said actually, I spoke with the agent, Collin Brown and he may want to speak to this also if you want, but they have gotten through conceptual approval. They are not through final approval. I did mention to him the interest in possibly having this not remain part of the landmark site in the long term.

Ms. Kinsey said it should not be part of the historic designation. I am sorry; I cannot support that. It is not historic. It is new and very attractive.

Mr. Brown said it let me tell you what I found out. I do not want to get between you and Dan and Stewart. The entire site is designated History Landmark. It is important for them that we do not do anything on this site to detract. I was wondering if your question is about the tax abatement. The tax abatement on this would only be available for the dirt, not the units. If this townhome sells for \$450,000, the only tax abatement would be for the land value of the underlying land, which is probably 10 or 15%.

Ms. Kinsey said I think that should be removed as well.

Mr. Brown said we will have to talk more about that.

Ms. Kinsey said they get 50% tax abatement you all.

Mr. Brown said just on the dirt, not on the units because those are brand new.

Ms. Kinsey said I know, but it is 50% tax abatement.

Mr. Brown said I do think that Historic Landmarks would say that they want to maintain that deed restriction to maintain control.

Ms. Kinsey said we vote here.

Mr. Brown said I don't want to be in the middle of it. We will talk about it.

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

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**ITEM NO. 29: HEARING ON PETITION NO. 2016-094 BY THE BERRY COMPANY, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.82 ACRES LOCATED ON THE EAST SIDE OF JOHNSTON ROAD BETWEEN PINEVILLE-MATTHEWS ROAD AND WALSH BOULEVARD FROM O-1 (OFFICE) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL), WITH FIVE-YEAR VESTED RIGHTS.**

**Mayor Roberts** declared the hearing open.

**Laura Harmon, Assistant Planning Director** said this is the property here on the east side of Johnston Road, north of Pineville-Mathews Road or Highway 51. It backs up to Charlotte Catholic School, which you can see right here. This is a picture of the property from Johnston Road. It currently have is a daycare facility on the site or at least previously has if it hasn't come down yet, then this is a parking deck for Charlotte Catholic High School that the site butts up to, which we think is an important factor in this case. This request is to go from O-1 to MUDD-O, with five year vested rights. As you look at the zoning in the area, the zoning is largely office in the immediate area. There is NS zoning at the corner of Johnston and Pineville-Mathews Road, and B-1(CD) zoning on Pineville-Mathews Road, the B-1SCD across Highway 51 or Pineville-Mathews. The adopted future land use is generally consistent with that, with originally anticipating that this area would be largely office and then there had been some rezoning to retail. Since the South District Plan was adopted, this does relate back to the South District Plan. In addition, in this office area, we now have Charlotte Catholic High School. There is a townhome/condominium project across Johnston Road as well. We have a little bit greater mix of uses then were originally anticipated by the plan. The request for this site is a 100,000 square foot enclosed storage facility, and this is one of the uses that we have been seeing a lot of demand for recently, with 1,000 square foot office and 4,000 square feet of leasable space for retail or office on the ground floor for a total building of 105,000 square feet. It is currently a maximum height of 90 feet, though one of our requests is that height be brought down on the site plan to be about 65 feet. There is a proposal to include amenitized urban open space at Walsh Boulevard and Johnston Road. The setback is a bit greater than what we would typically see in a more urban environment with a 24 foot setback from the future back of curb. This is the building here on the site with access to access points on Johnston Road. This proposal does include conceptual building elevations, which I will show you in a minute and building materials specified. There are two optional requests, one is to allow a greater amount of wall signage then is typically allowed in MUDD. This is a request that we are seeing consistently with MUDD rezoning conditional or optional rezoning, so it is not something out of the ordinance and probably something that we need a standard to look at as we update our ordinance. The other is to allow less than 100% active space along the ground floor. The only reason for that is, as this is designed, there is a little bit of parking over here and a little bit of parking over here. We did not want them to get caught by not meeting that 100% active space along the ground floor, so we asked them to put that optional requests in. These are renderings of what the building could look like. What I think that we feel is important is that it does help to screen that precast, concrete parking facility that is behind this that serves Charlotte Catholic High School, which is really not adding to the urban environment. This is technically inconsistent with the plan, which calls for office uses, but the site does front on Johnston Road, with a large multi-story parking garage on the property to the rear and very visible from Johnston Road. We think that the use is compatible with the surrounding environment. The multi-level storage building will be designed to resemble an office building. It will have active ground floor uses that will either be office and/or retail, and this will add activity along the street frontage along Johnston road. Staff is recommending approval upon the resolution of some outstating issues.

**Councilmember Smith** said help walk me through; so you are looking at the trip count of these zonings approved, it was 340 trips a day. This one was 1,130. I assume it is the office. This is smaller building mass than the previous one, so I assume it is the office/retail that is driving the trip count? How would it vary if it was office versus if it were retail? Is that a requirement of the City that we want this street activation?

Ms. Harmon said with the MUDD District, yes it is. That was part of a text amendment that you all approved about a year ago, and to go into MUDD and have enclosed storage, we did require a requirement for ground floor activity.

**Mike Davis, Transportation** said I will need to follow up with a breakdown on the usage that you just described and kind of what contributes to what, but I will tell you that generally, the self-storage piece is a very low trip generation; it is the other pieces that are driving it, that difference between retail and office.

Mr. Smith said I imagine that an office would be low too.

Mr. David said yes, per square foot, yes.

Mr. Smith said and would a faux front meet our street activation?

Ms. Harmon said it would not. The activation requires that you actually have usable, leasable space.

**Tony Berry, 4701 Old Course Drive** said I am part of the development group for this project. What you have before you is an elevation that does show what we intend to build and are willing to make part of our proposal. We have met with staff a couple of times and appreciate the input that they have offered to us as it relates to how the project will evolve. The next slide shows you the existing conditions, both from ground level and from an aerial perspective. It is our perspective that we do hope that what we are proposing to build would enhance esthetically this part of Charlotte. We have talked about the site plan; probably one thing that was not discussed but that we took staff's advice on is kind of looking at some of the height of the buildings in the area. The number five is basically a street grade elevation, and we have just some reference elevations of the height number one; of the property that we would be proposing to develop, number two; the corner height of the Charlotte Catholic Deck, number three; the corner of the Charlotte Catholic Office; and then number four, the office building. There are some large, massive structures already in that corridor. We have reviewed all of the staff comments. We are in agreement with every comment that they have asked us to consider. We are in total agreement of making all of those changes. I would be happy to answer any questions you have.

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

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**ITEM NO. 30: HEARING ON PETITION NO. 2016-102 BY THE OLDE MECKLENBURG BREWERY, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 9.52 ACRES LOCATED ON THE EAST SIDE OF SOUTH TRYON STREET BETWEEN YANCEY ROAD AND EAST PETERSON DRIVE FROM I-2 (GENERAL INDUSTRIAL) TO I-2 (TS-O) (GENERAL INDUSTRIAL, TRANSIT SUPPORTIVE).**

**Mayor Roberts** declared the hearing open.

**Tammie Keplinger, Planning** said I think that most of us are familiar with where Yancey Road is. We have had several rezonings in this area in recent months, including one right across the street. You have another one that is going to be coming up in this area in another month or two. So, let's just orient everyone; this is the Lynx Blue Line; this is South Tryon Street, this is Yancey, Old Pineville Road, and South Boulevard. In terms of the existing zoning in this area, a lot of it has been industrial. We did have the rezoning to MUDD-O, then we have the request that was before us tonight, and as I mentioned, we have another request that is coming in September. The request is to go from I-2 general industrial to I-2 transit supportive overlay optional. The Future Land Use Map shows most of this area as residential/office/retail. We have a lot of the TODD along the rail line. It did not quite come down to this area yet, but most of it is still up in here. We have a little bit of spots of retail, then some residential as you can see in the green and yellow color. So, the request that was before you tonight is to allow the expansion of the Olde Meck Brewery to retain the existing buildings, add an outdoor gathering area, and add a new future building for manufacturing or office. They provide access to Yancey Road, with service access from South Tryon Street. They are providing sidewalks along Yancey and along South Tryon Street. The ones that are existing along South Tryon Street will remain until a point in time that this building is developed, then they will put the new sidewalks in. There is a provision for buffer along the northern property line, and

they are asking for several optional requests, and they are related to the sidewalk and planning strips along the street trees, reduced parking and maneuvering locations to allow the brewery uses to exceed 15,000 square feet, which is limited by the ordinance, to allow the existing buildings not to meet the clear glass blank wall and roof line provisions and to allow the floor area ratio to the buildings to be less than .50 square feet of floor area to one square foot of development for the site.

In terms of this petition, it is consistent with the Scaleybark Transit Station Area Plan recommendation for low to moderate intensity office and industrial warehouse distribution uses. In terms of rational, it is within a half mile walk of the Scaleybark Transit Station on the LYNX Blue Line. The station area plan did not identify this area as an area for transit supportive development, which we typically find in the transit station areas. Instead, it anticipated this area as office/industrial/warehouse/distribution uses that were in place at the time that the plan was written. Since the adoption of that plan and as I mentioned earlier, we have had several rezoning in this area to establish eating and drinking and retail establishments. The proposal will continue to use two buildings for manufacturing and office and will add a new building for manufacturing with is consistent with the area plan. The site is enhanced by adding a new beer garden to the existing eating and drinking and entertainment use, which is part of the evolving entertainment district located near the Scaleybark Station, and as a result of the zoning, the development will provide sidewalks and buffers, which will improve both safety and the pedestrian experience. From a staff perspective, we are recommending approval of this petition, and we do have several outstanding issues, but we believe that we are on our way to resolving those.

**Jeff Brown, 100 North Tryon Street** said it is a pleasure to be existing Olde Mecklenburg on this rezoning. The hour is late, and I will be very brief. Tammie did a great job of summarizing things. You all know Olde Mecklenburg Brewery. It is a great success story, a great addition to this part of South End now for not quite nine years or so. It is also a great gathering spot for the community as you know, both indoors with the restaurant activity and also outdoors with what we will be talking about, which is the expansion of the beer garden area, which serves not only for that engaging purpose, but also activities such as yoga and community activities in that area. So, it is a multi-purpose space. I am not going to go through the presentation. We have handed it to you. It is really an opportunity to bring the transit supported zoning to allow us to normalize the parking, to allow this mixture of uses from the brewery activities, the indoor eating establishment activities, the outdoor activities, all in a way that will continue to support what is one of our great success stories. We do have the opportunity through this to provide for some additional sidewalk treatment, buffer treatment, and other things. We had a community meeting, in which just two individuals attended. Both of them are business owners. A lot of the businesses nearby have really flourished in a result of Olde Meck's presence in the area. They are very supportive of this effort. We will work with the staff on the remaining issues, and with that, I am happy to conclude.

**Councilmember Mayfield** said currently, there are three outside tanks on this property, and I was asking with the construction of this additional building, are we looking at outside tanks along with tanks inside this building, or are they looking at figuring out a way to have the current tanks that you can see, incorporated inside this new building?

Mr. Brown said the current tanks are outdoor tanks close to the existing older building. We are reserving an opportunity for a smaller building that would be closer to Tryon Street. In that location, the idea of that building could be office or it could be an expansion with some of the tanks. If it was to be in an expansion with the tanks, it would have to comply with the transit overlay standards, which would be glass. So, the thought process, again this is early; nothing has been planned for that potential expansion, but would be to provide more of a signature building, which would have the tanks enclosed in glass to be able to be viewed from Tryon Street as part of really promoting the existence of Olde Mecklenburg being on that site. That would be an enclosed building in that location. We have not committed to do screening of the existing tanks that are there now. They are deep into the site, as you know, with a lot of the wooded area. It is the new building that would have to comply with the transit overlay standards, which again would be one of the signature features inside glass that people could see that the actual brewery exists. You do not really know that when you come down South Tryon Street.

Ms. Mayfield said I am trying to figure out about the connectivity with what our requirements in TODD are now, with thinking about how, if you were to take the light rain in to access, or if you are driving, are you going to be able to access this off of Tryon as well as off of Yancey?

Ms. Keplinger said my understanding from, and Jeff will have to correct me if I am wrong on this, but my understanding is that the public access is going to be off of Yancey. There will be some service access off of South Tryon Street.

Mr. Brown said yes, that is the current plans. If there is an expansion then there could be an opportunity for access off of Tryon on the expansion with the new building. Currently, it is really accessing off of Yancey.

Ms. Mayfield said so, it is not really looking at the fact that Orchard Circle is basically a dead street that comes out. We are not looking at connecting that into the property?

Mr. Brown said well, we have had discussions as one of the staff issues, that if we were in fact to place an expansion building on Tryon that we would provide for some internal connectivity that could allow that to work through the site. We have to recognize, that at the same time, it is an existing going concern with an existing brewery facility there, so we are continuing to work with language that we think will preserve that prospect but at the same time recognize really what we have, which is an existing facility.

**Councilmember Eiselt** said I was going to say that right now as it is it is a little bit dangerous. It seems as if it was an industrial area that turned into an entertainment spot, and the parking there is kind of dangerous, especially at night after people have had a couple.

Mr. Brown said we are trying to look at some sidewalk enhancements. Right now, it is not an easy place to walk around. I think that it is a classic example of sort of an evolutionary situation, and the opportunity to provide for some enhancements for the sidewalks is something that we think is important. We are still trying to preserve as many of the trees that are on the Tryon side, so this is an opportunity to recognize also that the nature of the uses is a mixture. In the spring and summer, when the weather is nice people do tend to go outside to the beer garden for eating then not eating as much inside. In the winter time, they are eating more inside. This allows us to really create the parking standards that are more appropriate for the site.

Ms. Eiselt said the other point that I was going to make about that is, not to make jokes about another beer garden or beer facility, but some of the uses of that beer garden I think are great for families. They do the Christmas market there, which is a really need event that they have at Christmas time, a German Christmas market, which has been I think a lot of fun. It just brings other opportunities to the area that isn't just about sitting and drinking beer. I love the beer garden concept, and I love to see them expanding.

Mr. Brown said thank you for those comments; I know John Marino, who is the owner, really sees this as a gathering spot in addition to obviously being an important economic development component for the community.

Motion was made by Councilmember Mayfield, seconded by Councilmember Autry, and carried unanimously, to close the public hearing.
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**ITEM NO. 31: HEARING ON PETITION NO. 2016-103 BY JRE REAL ESTATE, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 3 ACRES LOCATED ON THE EAST SIDE OF STATESVILLE ROAD BETWEEN REAMES ROAD AND METROMONT PARKWAY FROM I-1 (LIGHT INDUSTRIAL) TO I-2 (GENERAL INDUSTRIAL).**

**Mayor Roberts** declared the hearing open.

**Tammie Keplinger, Planning** said this is actually a conventional request, so this would be rather fast. The property is located on the east side of Statesville Road. Just to orient you, this is I-77, W. T. Harris Boulevard, Reames Road, and again our site is right here in the center. It is about three acres. The property is currently zoned I-1, as is the property that is between it and Statesville Road. The majority of the properties in this area are zoned I-2, you can see back in this area. The request that we have is to go from I-1 to I-2, light industrial to general industrial for these three acres. It allows all uses in the I-2 district. Here is the Future Land Use map; it shows that this area is slated to be industrial and it does not distinguish between I-1 or I-2. The petition is consistent with the Northlake Area Plan recommendation for industrial warehouse distribution land uses. The site is in

a growth corridor, as per the CCW. It is surrounded by existing industrial zoning, and the adoptive plan recommends industrial zoning; therefore, staff is recommending approval of this petition.

**Councilmember Austin** said I probably will vote for this. The only thing that I had concerns with is the petitioner did not reach out to me. I do not like that necessarily, because I like to see what is going on. If the petitioner is anywhere out there, he or she probably needs to watch out to the Council representative. That would probably be a good protocol moving forward.

There being no speakers, either for or against, a motion was made by Councilmember Austin, seconded by Councilmember Mayfield, and carried unanimously, to close the public hearing.

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#### MAYOR AND COUNCIL TOPICS

**Councilmember Mayfield** said I want to make sure that our residents in Historic Camp Greene and Westerly Hills know that tomorrow evening the Historic Camp Green Neighborhood Association meeting will be a joint meeting between the two communities. There has been a lot of conversation in the community regarding a potential housing development off of Wilkinson Boulevard. There have been numerous articles. The business community as well as the residential community has reached out with concerns. My intern Caleb will be joining you tomorrow evening as I have a Council commitment, but to give everyone the address, it will be held at Christ Presbyterian Church, which is located at 2461 Arty Avenue. The meeting will start promptly at 6:30 p.m. You can arrive early at 6:00 p.m. for fellowship prior to the meeting, but if you have concerns regarding the potential upcoming development along Wilkinson Boulevard, that will potentially bring in housing that would assist with the chronically homeless, there are challenges with this particular location, please attend the meeting. If you are unable to attend the meeting, please contact my office at lmayfield@charlottenc.gov or 704-336-3435.

**Councilmember Smith** said my thoughts and prayers are with members of CMPD as they head out to keep us safe. We have the finest police force in the country and prayers in Dallas, Minnesota, and Baton Rouge as well.

**Councilmember Phipps** said I echo those comments. I just wanted to make the community aware of our Community Safety Town Hall meeting that we are going to be having in District 4. It will be cosponsored jointly by myself and Councilmember Eiselt. The theme of it is District for Focus Citywide Impact. This particular town hall meeting was more or less in the planning stages way before we had these unfortunate shooting events over the last couple of weeks. What it is, before these shootings, everyone was concerned and focused on the increase on crime in our community, so we are going to be looking at the crime issues in the district as well as around the city and just soliciting CMPD's input on strategies that they have put in place to mitigate some of the crimes. That is what the focus of that particular town hall is going to be. It is going to be on July 28, 2016, 6:30 p.m. at Elevation Church on University City Campus off of IBM Drive. Stay tuned for more announcements about it.

**Mayor Roberts** said I want to echo some of the things said about law enforcement in our community, and I wanted to thank all of the groups that have come to gather to have real dialoged and conversation about public safety, about respecting all of our citizens and our officers and learning how we can work together. Public safety is a two way street, and we are grateful for our officers who go out every day to keep our community safe. We want them to be safe as well. I am pleased to see how many community groups are, on their own accord, coming together to have real discussions about this issues that we all face and working very hard to talk across differences and to acknowledge that there are divisions that we need to bridge. I look forward to continue to work the community to do that, and again our thoughts and prayers are with law enforcement and citizens around this country who are in conflict right now. We look forward to having Charlotte show that we are going to move forward in a positive way and continue to bring our community together.

**Councilmember Eiselt** said I echo the Mayor and my colleagues comments about law enforcement; when you see a police officer, tell them how much you appreciate what they do.

**Councilmember Kinsey** said I want to commend Neighborhood and Business Services for another successful neighborhood retreat, and also Nicole Storey there in that department. I also want to commend Councilmember Austin and Councilmember Mayfield; they each had four neighborhoods

in attendance, so they rocked. I was there until 11:00 a.m. I do not know came after that. Al and I were there early. He spoke very eloquently on behalf of Council.

**Councilmember Autry** said I just would like to add that I do not think that violence solves anything, no matter what the problems are that we perceive anywhere. I do not think that violence is the answer for any of that. I would also like to commend our counterparts in the City of Cleveland, who last week unanimously approved LGBT protections for their citizens and their visitors. I think that was a great move in the right direction.

**Councilmember Austin** said a great man said, darkness cannot drive out darkness, only light can do that. Hate cannot drive out hate, only love can do that, Dr. Martin Luther King.

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**ADJOURNMENT**

The meeting was adjourned at 9:53 p.m.



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Stephanie C. Kelly, City Clerk, MMC, NCCMC

Length of Meeting: 4 Hours and 18 minutes  
Minutes Completed: August 8, 2016