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The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, July 25, 1977, at 2:30 o'clock p. m., in the Council Chamber, City Hall, with Mayor John M. Belk presiding, and Councilmembers Betty Chafin, Harvey B. Gantt, Pat Locke, James B. Whittington, Neil C. Williams and Joe D. Withrow present.

ABSENT: Councilman Louis M. Davis.

The Charlotte-Mecklenburg Planning Commission sat with the City Council, and as a separate body, held its public hearings on the zoning petitions. Present were Chairman Tate and Commissioners Broughton, Kirk, Marrash, Johnson, Jolly, Ross and Royal.

ABSENT: Commissioners Campbell and Ervin.

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INVOCATION.

The invocation was given by Mr. William A. Watts, Deputy City Attorney.

APPROVAL OF MINUTES.

Upon motion of Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, the minutes of the last meeting on Monday, July 11, 1977 were approved as submitted.

HEARING ON PETITION NO. 77-28 BY CLIFFORD M. AYCOTH, SR. FOR A CHANGE IN ZONING FROM R-9 TO O-6(CD) FOR THE PURPOSE OF OFF-STREET PARKING, A TRACT OF LAND LOCATED ABOUT 170 FEET TO THE REAR OF PROPERTY FRONTING ON THE SOUTHERLY SIDE OF OLD MONROE ROAD, ABOUT 400 FEET SOUTHEASTERLY FROM THE INTERSECTION OF OLD MONROE ROAD AND RICHLAND AVENUE.

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

Mr. Fred Bryant, Assistant Planning Director, stated the land involved in this particular proposal consists of the rear portions of three lots fronting on Doris Avenue. He stated Doris Avenue parallels Monroe Road and located it on the map as running from Richland Drive to the east. That the land use in the area is almost a solid expanse of commercial related activities on Monroe Road; that the immediate ones associated with the subject property consist of a service station, an entertainment center used for a number of game-like activities; a lounge and a convenience food store. He stated a number of other small activities are associated with that general vicinity, but basically it is a solid area of commercial related activities fronting on Monroe Road.

He pointed out the Woonsocket Mills facility and the Hudson Hosiery facility. He stated the subject property is related to the rear of lots which front on Doris Avenue. That area is almost entirely utilized for single family residential purposes at the present time. There is one vacant lot which does adjoin the subject property on the westerly side.

The zoning pattern reflects very much the similarity of the land-use pattern - B-1 zoning is constant along Monroe Road in front of the subject property and R-9 single family zoning being generally present to the south, or rear, of the subject property, along Doris and Elder. Industrial zoning accommodates the Woonsocket facility and there is office zoning present on Monroe Road, farther to the east. Basically the subject property is related to the business zoning on Monroe and the residential zoning on Elder Avenue.

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Since it does involve the use of the parallel conditional district concept, it does require the submission of a plan of usage with the request which becomes binding if approved as submitted. That the proposal of the petitioner is to utilize the portion of land which is involved in this request as additional parking, related primarily to the commercial activities on Monroe Road. The proposal is to bring the traffic in from Monroe Road at a point he identified on the map, coming back into a parking situation.

Mr. Roy McKnight, representing Mr. and Mrs. Aycoth, owners of the property on Doris Avenue, stated his clients have owned this property for a good number of years. That the recent problem stems primarily from the fact that a building which he pointed out on the diagram has been vacant for some eight to nine months due to a lack of parking. That approximately eight or nine months ago property which is now occupied by Gate Petroleum Company, was vacant. At that time there was agreement on rental of property for parking so there was ample parking to be used by Mr. Aycoth and his tenant. Since the Gate Petroleum has put up their service station, he has lost his tenant; there is not ample parking to take care of the purposes for which his property was developed - a beautiful little business development.

Under the zoning which they are requesting they will have to fence this property in - they will have to put up a good buffer between this property and any residential property. They have proposed a six-foot redwood fence to completely surround the back side of this property. It would be a one hundred percent buffer from any residential property whatsoever - no through traffic whatsoever. The subject property has been vacant, for all practical purposes, since the beginning since the homes have never utilized this property. They cannot see how under any stretch of the imagination, that by allowing this petition that they can cause any harm to any other residential property in the neighborhood. They propose to provide 47 parking spaces and it will be maintained in a clean, orderly manner. The area is 225 feet by 69 feet. He stated that Mr. Aycoth also owns property to the right and they did not ask for any rezoning of that property for the simple reason that he did not own the property from that point to Monroe Road. They are trying to maintain everything they have right behind their present property so that there will be no neighborhood problems or encroachments.

He passed around photographs of Mr. Aycoth's property to indicate that they are very nice structures and stated they intend to maintain the parking area the same way he maintains the buildings.

Councilman Gantt asked if the property they want to put the parking lot on and is zoned residential, does Mr. Aycoth own the entire tract? Mr. McKnight replied they have owned it for a number of years. Councilman Gantt asked if the houses are occupied and Mr. McKnight replied it is his understanding that they are occupied and this was confirmed by the owner. Councilman Gantt asked that even in taking this 69 feet he would still comply with the single family residential backyard requirements? Mr. Bryant replied that this has been checked and they would comply with the minimum requirements.

Mr. Alton R. Hamilton, 4800 Doris Avenue, stated he purchased his property in 1957 and has lived there continually since that time. That he is also representing his neighbors in both the 4700 and 4800 blocks of Doris Avenue in requesting that this petition be denied. Mr. Hamilton recognized other representatives of the neighborhood who were present.

He stated the two blocks on Doris Avenue which they represent are solid - not divided by any streets. The property in question contains twenty residential lots, single family dwellings presently zoned R-9, there is one vacant lot which he understands is owned by the petitioner. Other than the property involved, the lots are occupied by the owners, with one exception. They have a good, congenial neighborhood.

They object to this rezoning for the following reasons: (1) Since these three lots are in the center of this two-block area, if they are rezoned it is going to devalue their property as residential locations. If they have to sell these lots in the future they will have a time financing them because you will have the invasion of the community of something other than the R-9.

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Of immediate concern to them is the residence of Mrs. Kate Yandle. Her property joins the east lot of the three-lot area. If this rezoning is granted, she is going to find herself with a backyard bordering on one of these parking lots. They appreciate the fact that it has been stated that a fence would be built, but in observing the manner in which this property has been kept over the past years, the fence would only stand for a little while and it would not be long before Mrs. Yandle will be disturbed at night by the car lights and noise; and even though there is a fence there will be debris thrown over in her yard.

Mr. Hamilton pointed out the residence of Mrs. Rose Wynne, who lives there with her daughter and three small grandchildren. If this petition is granted this family will be forced to put up with the same situation.

He stated that it will not be long before the driveways will be used as entrances and exits. That this will mean that those residences across Doris Avenue will catch the brunt - as they come out of the driveways the lights will shine on their homes and they will be subject to all the noise, air pollution and littering of the streets. It will also double or triple the amount of traffic on Doris Avenue. They have no confidence that this man will live up to his agreement to put a fence around the property; and if he does it will not stay there and their only relief would be to resort to litigation to see that it is maintained. They are no strangers to this man and his business ventures. They recognize and respect any person's right to engage in a legitimate enterprise, but over the past years this man's businesses on Monroe Road have continually become nuisances in the community. He called Council's attention to the nightclub-lounge operation which was started a few years ago under the name of The Matador. It soon took on another name, a little more colorful - The Midnight Sun; and it finally ended up as the New Dixie Saloon. Night after night, into the wee hours of the morning, those in the immediate community were kept awake by the screaming of the entertainers; by the thumping of their basses and the beating of their drums; and it always appeared between 11:00 and 12:00 at night, by listening to the sounds coming from the parking lot, that happy hour was not from 5:00 to 7:00 but from 11:00 to 12:00 in the parking lot.

Mr. Hamilton requested that Council protect the residents of this area from this kind of thing happening again. They ask only to be let alone and their community be permitted to remain as a residential area; that their property be protected; that their lives and welfare be respected. They have no objection to this man running a legitimate business as it is right now - the convenience store is doing an excellent job. Most of the people in the area are middle-age and beyond and they hope to live and retire there. They are one block from a good bus line; within a few blocks of two churches; three blocks from Precinct 34 voting place. He filed a General Protest with the Clerk, containing 23 signatures of residents in the area.

There was no other opposition expressed to the petition.

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

COUNCILMAN WITHROW EXCUSED FROM VOTING ON NEXT AGENDA ITEM.

Councilman Whittington moved that Councilman Withrow be excused from voting on the next item. The motion was seconded by Councilman Williams and unanimously carried.

HEARING ON PETITION NO. 77-30 BY DR. WILLIAM H. CARLISLE FOR A CHANGE IN ZONING OF A TRACT OF LAND AT THE INTERSECTION OF WOODLAWN ROAD AND ROCKFORD COURT, POSTPONED UNTIL MONDAY, SEPTEMBER 19, 1977 AT 7:30 P. M.

Council was advised by the Deputy City Clerk that a written request had been received from Mr. Samuel Williams, Attorney for the Petitioner, that the subject hearing be continued until September.

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Mr. Thomas Brim, representing the signers of a protest petition, stated they have no objection to the postponement.

Motion was made by Councilman Williams, seconded by Councilman Whittington, and unanimously carried, to re-schedule the hearing for Monday, September 19, 1977 at 7:30 p. m.

HEARING ON PETITION NO. 77-24 BY THE COMMUNITY DEVELOPMENT DEPARTMENT FOR A CHANGE IN ZONING FROM B-2 TO R-6MF OF PROPERTY GENERALLY LOCATED ON THE SOUTHEASTERLY SIDE OF NORTH CALDWELL STREET FROM 174 FEET NORTH OF EAST EIGHTH STREET TO 200 FEET NORTH OF EAST ELEVENTH STREET, AND BOTH SIDES OF EAST ELEVENTH STREET FROM NORTH CALDWELL STREET TO 200 FEET SOUTH OF NORTH ALEXANDER STREET.

Mr. Fred Bryant, Assistant Planning Director, stated this petition involves property which is included in the First Ward Redevelopment Area and represents property which is owned entirely at the present time by the City of Charlotte and is, for the most part, vacant at the present time. They are the buildings which have been acquired but were saved by the court order from any further activity occurring with them and, for the most part, are boarded up at the present time.

He stated the request is to change this area from a business classification to a multi-family residential one which is in keeping with the First Ward Plan which was approved sometime ago. He pointed out on the map the land use of the area. Generally speaking, the property in question is either vacant or has all of the acquired structures on it while awaiting some disposition of the matter. He pointed out the expressway facility across Eleventh Street which has been there for several years.

He stated the zoning pattern is one which generally reflects the vast area of multi-family zoning which is predominant in the First Ward Area. With this re-zoning the whole area would retain that particular category. There is B-3 zoning across Caldwell Street going in the direction of Brevard; and a small amount of Industrial zoning in the block between Eleventh and Tenth.

Mr. Vernon Sawyer, Director of Community Development, stated he would just emphasize that this B-2 zoning they are requesting be changed to R-6MF does split the blocks that have been designated in their entirety for residential use in the Redevelopment Plan. This conformity in zoning would permit them to develop or sell this land for residential purposes.

Councilman Gantt asked where will the general business development for First Ward be located - neighborhood facilities - if they do away with all that business classification? Mr. Sawyer replied there is one small location right across the street - between Tenth and Ninth - for neighborhood type convenience facilities. At a later time when they acquire all that land they will petition to have that changed.

There was no opposition expressed to the petition.

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

HEARING ON PETITION NO. 77-25 BY PROVIDENCE SQUARE III PROPERTIES FOR A CHANGE IN ZONING FROM R-20MF TO R-15MF AND B-1(CD) FOR AN INDOOR TENNIS FACILITY ON PROPERTY FRONTING THE WESTERLY SIDE OF LANDMARK DRIVE, ABOUT 175 FEET SOUTH OF THE INTERSECTION OF LANDMARK DRIVE AND SARDIS LANE (TO R-15MF) AND PROPERTY FRONTING THE EASTERLY SIDE OF LANDMARK DRIVE AT ITS DEAD-END TERMINUS (TO B-1(CD)).

Mr. Fred Bryant, Assistant Planning Director, stated this request was heard about two years ago. That it involves basically the facility within the large Providence Square development area which is now utilized for an indoor tennis facility. He pointed out the location on the map. He stated

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that back when the apartments were approved it was proposed at that time to build a facility which would be utilized as a recreational amenity for the apartments only, and is theoretically available only to the people within the apartment complex and not to the general public.

After some period of time it was determined that there was apparently some operational difficulties with that arrangement. Therefore the request before Council today is one to re-zone this parcel of land on which the tennis facility is located to a B-1(CD) classification with the proposed use being an indoor tennis facility only. Through this process it would make it available for general public use in addition to being available for the people who live in the apartments. The basic distinction is that the change which is proposed on this property will be a conversion from a recreational amenity or an extension of the apartment facility to a public one, making it available for general public use.

He explained that the other part of the petition is one which will change the property from R-20MF to R-15MF and is needed in order to make the density factors work out correctly. If you take away the R-20MF land in the first instance as proposed, then the area requirements for the other land have been lowered below what the R-20MF standards would be. He stated the whole area is developed now - there is no new development proposed; it is only recognizing what is already there. He pointed out other uses in the area: the Hebrew Academy on Sardis Lane; a fire station and another tennis facility. He stated the general vicinity of the subject property is a combination of the adjoining B-1SCD and multi-family zoning throughout the area.

Mr. Ben Horack, representing the petitioner, the parcel in question is .33 acres. He stated the tennis facilities are existing ones; they propose no change in either their location or their appearance. There are three indoor courts, and fourteen outside parking spaces. He stated when this request was presented two years ago, it was approved by a vote of 7 to 1 by the Planning Commission and an almost unanimous, if not unanimous, vote of Council turning it down. He thinks, as he did then, there is no reason it should not be approved.

Mr. Horack stated the reasons for the petition are substantially the same as they were two years ago. That experience has shown since these facilities went into operation that they will not "fly." This was true two years ago and the petitioner has suffered through two more years of losses - \$31,000 during this past fiscal year - and things are getting worse, not better. They really do need help. He equated the area to a doughnut showing the righthand side being zoned R-20MF and the lefthand side it is all R-15MF with the shopping center being the hole in the doughnut.

He stated the R-20MF currently has 262 units owned by the petitioner. He also has about 38 R-15MF units - those on the lefthand side. They were completed in late December 1973. The amenity package for the R-20MF included not only this building with the three indoor courts, but also three outdoor courts, the swimming pool and the clubhouse. They are not suggesting any change by way of changing the total amenity aspect of the three outdoor courts, the pool and the clubhouse. It is only the indoor building that they seek to make a B-1SCD. This was a costly mistake from the beginning and the petitioner has paid consistently and dearly and has been at this loss process for three and a half years. It is estimated that 10 percent of the court time is being used. The petitioner cannot go on indefinitely absorbing these losses generated by the conceived notion of making this an amenity in the first place.

Apart from the petitioner's financial aches and pains there really is a tragic waste of these facilities. Charlotte is a tennis city and probably the center of the tennis community is out there in the Providence Road area. It is a shame that this facility cannot be made available in bad weather to others than having it exclusively for the apartment dwellers.

He stated he believes there is a tendency to hear the B-1 and go into orbit over the B-1 part and ignore the CD and what it is all about. There is no reason why the business aspects of this thing ought to give any real concern.

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That until Council passes Item 12 on the agenda today, the comprehensive amendment that wipes out most of the quasi-judicial efforts of it, a tennis court such as this is permitted as a matter of right in a residential area. In the second place, the petitioner owns all of the property surrounding this particular facility; and in the third place, a B-1SCD submission requires the submission of a schematic plan which normally is designed to show proposed use. There is nothing proposed here; the facilities are there and there is going to be no change in either the location or appearance or size. There are only three courts involved and they are encased in a building. He stated no facility is going to be used 100 percent of the time and he cannot envision these three courts bringing a floodtide of customers to the detriment of the area.

Councilman Gantt stated Mr. Horack made a very complete presentation, but he would like him to address the question of what impact if any this facility will have on the existing residential community. That there is a substantial differential between something which is offered for the use of two or three hundred residents and something that is offered for the use of the general public.

Mr. Horack replied it cannot be very much different. If it increases the use of the indoor facility more than 10 percent, even up to 11 percent, that is a 1 percent additional impact as against leaving it exclusively for the apartment dwellers who are not using it. As far as traffic is concerned, there are fourteen parking spaces and you can only get so many people on three courts. There cannot be a severe impact on the residential property that is not owned by the petitioner. He knows that the people in the apartments are people too, whether they are renters or homeowners, but the access to this comes off of Sardis Lane and Landmark and the facility itself generates some traffic.

Ms. Karen Nagle, 101 Providence Square Drive, stated her street is an internal one, the same as the tennis courts and they had questioned whether this change would include the outdoor courts and the swimming pool, but that has been answered. She stated the pool is overcrowded now with just the residents. She is concerned about the traffic. It is already very heavy because of the shopping area there now and there are many young children in the area. That the Charlotte Police Department has told them that they do not have jurisdiction because this is private property; that they do not have the security in the complex to enforce speeders and people who run the stop signs at the intersection where the tennis courts are located.

She stated that the residents do use the indoor courts in the wintertime when the weather is bad and she has never been there when there has been an empty court. That they have to telephone 24 hours ahead in order to secure a court.

Ms. Brenda Patton, Valley Brook Road, stated in response to Mr. Horack's question as to why this request has not been granted that she has found that the people in Providence Square are not honorable people. They have promised them a 100-foot buffer zone, and a few weeks ago they were told the buffer zone is down - right behind her property - what is there is a drainage ditch, all the trees gone and they can see right into the apartments. She was given absolutely no notice of this happening. She understood when they bought their property, the buffer zone was promised; it was in the newspapers. If it was not deeded it certainly was a public promise. She stated she called Providence Square and was told they had checked with the City and it was all right.

Councilman Whittington stated he and other Councilmembers had received copies of a letter from another resident on this same matter; he requested that Mr. Bryant explain to Mrs. Patton and to the audience that this buffer is still there and the pounding of water was required when the development was made by the Planning Commission under the zoning ordinance.

Mr. Bryant stated one of the things that Councilmembers need to be aware of is that this is not what we are now dealing with, for the most part, with parallel conditional, and the other type of zoning ideas. When this area

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was rezoned to R-20MF to allow the apartments, there was a 100-foot area left residential. It is not a conditional district by itself, it is merely a 100-foot strip that was left zoned R-15. There is no plan effective in that area. It was intended at the time to be a 100-foot strip which would serve to separate the apartment development from the rear of the adjoining lots, and that, of course, is still true. The fact that the trees are being cut or whatever, could happen in any residentially zoned land. It is just that that was not included in any planned, controlled situation. That the property owner can do legitimately anything with that property that anyone could do with a residentially zoned strip of land.

Mr. Bryant stated he is not familiar with what is being done in this case. If it is an accessory part of the apartment development itself, then perhaps someone can take a look at it, but as far as the cutting of the trees, there is no planned control of that property and therefore, anything that is allowed under residential zoning can occur. He stated he is speaking of the legal zoning ramifications, not of the word the property owner gave at the time the development occurred.

Ms. Patton stated Mr. Bryant may legally have a point, but the developer has not lived up to his word as far as they are concerned and they are extremely concerned about what is going to go on with this property because it is worded very vaguely and none of them seem to understand exactly what is meant by "no physical change of the property at this time." This leaves it very open; they have no idea what will be put in there.

No other opposition was expressed.

Mr. Horack stated in rebuttal that this is exactly what he was alluding to when he was talking about the emotionalism of getting a B-1(CD). This request has to have the handle "Business 1(CD)" for this reason. A prerequisite to this request is the filing of a schematic plan which was part of the petition and is on file with the Planning Commission, and it shows an existing facility. The property can only be used for tennis facilities so that the visions of using it as a massage parlor, gas station or anything else just cannot be. It is confined to these tennis facilities and furthermore, the facilities cannot be enlarged or expanded or materially changed.

Ms. Patton stated she was referring to the part of the petition which refers to the change in the density factor. Mr. Horack stated the petitioner who owns all of the R-20MF apartments, the tennis facility, the pool and the clubhouse, also owns some R-15MF in addition. That the line between R-15MF and R-20MF bisects nine units as well as seven more. They have heretofore been zoned R-20MF. That as Mr. Bryant has said previously, when you take out the tennis court out of R-20MF and make it B-1(CD) it upsets the ordinance prescribed densities for R-20MF, that says you can only have a certain number of units per acre. In order to correct that imbalance, they changed a small .33 acre parcel to reclassify it from R-20MF to R-15MF.

Councilman Withrow stated in 1973 when this zoning came into effect as R-20MF it was a hot issue. That he voted for it at that time, but he believes that in order to get that R-20MF the petitioner promised to leave that 100-foot strip in back as a buffer. That Mrs. Patton is talking about that 100-foot strip and that should be cleared up. That the Council minutes should be checked and if the petitioner promised to leave that strip, then they should abide by it.

Mr. Horack stated he will answer the question but it has only a minimal amount to do with the request they are here with today. As he recalls, and he will welcome being corrected, there was indeed a 100-foot buffer which was designed for a two-fold reason. One was to circumvent or prevent the application of the 3/4 Rule; the other one was to create a 100-foot wide variance that could only be single family and was intended to give solace to the Valley Brook people whose rear lines backed up to it that it too would not become multi-family. He mentioned a suit that had been filed by one of the residents because of the pond - that the water was either diversified or accelerated; that it has been going on for a couple of years and was finally settled recently by alleviating this situation by creating that holding pond so the water would run off.

A decision was deferred pending a recommendation of the Planning Commission.

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HEARING ON PETITION NO. 77-27 BY H. D. ALBRIGHT FOR A CHANGE IN ZONING FROM I-1 TO I-2 OF THE SOUTHERLY PORTION OF A LOT LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH TRYON STREET AND TRYCLAN DRIVE.

Mr. Fred Bryant, Assistant Planning Director, located the property which is the subject of this petition on the map. He stated at the present time the property is split with the I-2 and I-1 zoning boundary line, and this petition proposes to change that portion of the property from I-1 to I-2 in order to have all I-2 zoning on the property. The property is vacant at the present time and is generally surrounded to the rear and to the north by existing warehouse-distribution type activities; it is adjoined on the south by a commercial structure. There is one residence but the general area is utilized for commercial purposes. Several hundred feet south of the subject property, on Yorkshire Drive there is a concentrated area of residences. The zoning pattern is generally one of industrial zoning throughout the general area.

Mr. John Hunter, representing the petitioner, stated the larger portion of this property is zoned I-2 and their petition is to rezone the rear portion to I-2 to conform to the surrounding use. The property comprises an area of approximately 3 percent of one lot and the problem is if you construct a warehouse or other structure on it you can basically have 10 to 15 feet of the rear portion of a building that would be zoned I-1 where the majority would be zoned I-2. It will not change the use of the surrounding area and will really be of no effect to the adjacent landowners. Replying to a question from Councilman Williams, he stated they would build a warehouse and it would more than likely be an I-2 usage - it is part of Tri-Planned Industrial Park now which is an I-2 area.

No opposition was expressed to this petition.

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

HEARING ON PETITION NO. 77-29 BY LEONARD J. AND ANNALIES CLEMMER FOR A CHANGE IN ZONING FROM R-6 TO O-6 OF A TRACT OF LAND ABOUT 400 FEET TO THE REAR OF PROPERTY FRONTING THE WESTERLY SIDE OF PARK ROAD, ABOUT 245 FEET SOUTH OF THE INTERSECTION OF PARK ROAD AND MOCKINGBIRD LANE.

Mr. Fred Bryant, Assistant Planning Director, indicated the location of the subject property on the map, stating it is a parcel of land which is internal to the road system in the area. That the property is vacant at the present time; to the Park Road side of the property there is a house; there is an existing gymnasium that has been there for many years located just to the north of the property. Along Mockingbird Lane the usage is generally residential, but there is a parking area associated with the office buildings located on Park Road. At the intersection of Mockingbird there are a couple of non-conforming business uses - a plant sale facility and a beverage dispensing facility, and a lawnmower repair business.

Across Park Road there is generally office development - the former All-State office building which has been acquired by the PTL Group but still operated for office purposes, another office building and a bank. Along Seneca there is general residential usage.

The zoning pattern in the area is generally office zoning along Park Road; it extends back 400 feet to the subject property, and beyond that is R-6 and R-9.

Mr. Don Barton, representing the petitioners, stated they are not asking for an opportunity to build a high rise apartment or an office complex; the purpose is very isolated. It is to construct a larger and more modernized gymnastic and dancing facility wherein the property owners see themselves, along with their sons now, as highly qualified professionals who wish to continue training young people and adults of this community. The gymnasium has been there for 45 years or more; it is a well-known Charlotte landmark - formerly it was Patterson School of Gymnastics and Ballet. Mr.

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and Mrs. Clemmer now own what in effect is two tracts. To the rear of the gymnasium is property owned by the Pattersons who formerly owned the whole area. It is his understanding that the Pattersons, who are presently in Tennessee, have no objections whatsoever to this zoning change. To the southwest of the proposed new zoning area is the residence of Mrs. Lucy Hager. She has been a neighbor of the Clemmers for many years and so far as he knows she has no objection to this change.

Mr. Barton stated this is a very simple request to allow existing property owners some useful opportunity to utilize their property in a manner which will in no way interfere with the present design of the community nor in any way interfere with or harass the neighbors and which will indeed be a useful service to this community.

No opposition was expressed to this petition.

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

REQUEST MADE OF THE PLANNING COMMISSION FOR PROMPT ACTION ON PETITION NO. 77-33 BY WILLIAM F. CHERRY FOR SPECIALIZED ZONING.

Councilman Whittington referred to Agenda Item 27 which includes setting hearing dates for conditional zoning requests, particularly one by Cherry Oil Company. He stated Mr. Cherry has to put in storage tanks in order to take care of oil being made available by his supplier for the whole winter. That they will need to get a decision back just as quickly as possible and hopefully in the affirmative, and he is calling this to the Planning Commission's attention for this purpose.

Mr. Bryant, Assistant Planning Director, stated since these cases will require the quasi-judicial procedure they normally have been set at a time other than the regular hearing time.

CITY-OWNED LAND FORMERLY KNOWN AS THOMPSON ORPHANAGE OFFICIALLY GIVEN THE NAME "THOMPSON PARK."

The scheduled public hearing was held to officially name city-owned land formerly known as Thompson Orphanage.

Councilman Gantt moved that Council accept the recommendation of the Director of the Mint Museum to name the area "Chapel Oaks."

Ms. Charles Pesta, 5738 #C Landmark Drive, stated the citizens of Charlotte owe a large debt to all the various people who have operated and maintained this park and she would like to thank each one. She stated she would like for it to be named "Thompson Park" but "St. Mary's Chapel" and "St Mary, the Virgin, Chapel" are two other names that have been suggested by various groups.

Mayor Belk stated the Harry and Bryant Funeral Home has a chapel called "Chapel in the Oaks."

Councilman Gantt stated since there have been several suggestions, it has become more complicated than he thought and he would withdraw his motion.

Councilman Withrow moved the city-owned land formerly known as Thompson Orphanage be officially named "Thompson Park." The motion was seconded by Councilwoman Locke.

Mr. Milton Bloch, Director of Mint Museum, stated they did not have any great stake in the matter other than they would like to have the park properly named and in their own deliberation as to what might constitute a proper name, it came to their attention that Thompson Orphanage is still in existence and there might be some confusion in calling it Thompson Orphanage Chapel or Thompson Park, as to exactly what area was meant by that. He stated the staff and members of the Mint Museum would have no objection to the name of "Thompson Park."

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Mr. Robert D. Noble, Executive Director of Thompson Orphanage on Margaret Wallace Road, stated the chapel has been considered as an historical site and along with that tradition, the name should go along with it. That the chapel itself is St. Mary, the Virgin, and has over the years become known as St. Mary's Chapel and this has always been perfectly acceptable to them. He stated he would hate to see this become a popularity contest between past superintendents because everyone has their favorite name. That it seems to him and his agency that a simple name such as "Thompson Park" would serve the total purpose of the community and give the community some idea of its origin, some historical value and would remove it from any type of popularity contest; that he would like to see it continue as "Thompson Park."

Councilwoman Locke asked if he would mind the chapel being called St. Mary's Chapel and Mr. Noble replied that would be fine.

The vote was taken on the motion and carried unanimously.

ORDINANCE NO. 634-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE BY AMENDING THE ZONING MAP CHANGING THE ZONING OF PROPERTY FRONTING 75 FEET ON THE NORTH SIDE OF TYVOLA ROAD, LOCATED ABOUT 525 FEET EAST OF THE INTERSECTION OF TYVOLA ROAD AND SOUTH BOULEVARD, FROM R-9 TO O-6, AS PETITIONED BY JAMES H. ALEXANDER.

Councilman Whittington moved adoption of the subject ordinance changing the zoning from R-9 to O-6, as recommended by the Planning Commission. The motion was seconded by Councilman Williams, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 24, at Page 307.

ORDINANCE NO. 635-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY FRONTING ON THE WEST SIDE OF CHERRY STREET, ABOUT 100 FEET SOUTH OF THE INTERSECTION OF CHERRY STREET AND BAXTER STREET, AND PROPERTY FRONTING ON THE EAST SIDE OF CHERRY STREET AT ITS DEAD END TERMINUS AND PROPERTY LOCATED ON THE WEST SIDE OF CHERRY STREET AT ITS DEAD END TERMINUS FROM R-6MF TO O-6(CD) AND FROM R-6MF TO O-6, AS PETITIONED BY BREVARD S. MYERS.

Motion was made by Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, adopting subject ordinance, as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 24, at Page 308.

DECISION ON PETITION NO. 77-22 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION TO CONSIDER A TEXT AMENDMENT TO THE ZONING ORDINANCE TO ESTABLISH A CLEAR DISTINCTION BETWEEN THE CONDITIONAL REZONING PROCESS AND SPECIAL USE PERMIT PROCESS, AND TO CLARIFY CERTAIN USES ACCORDING TO THIS DISTINCTION, DEFERRED UNTIL AUGUST 8TH.

Councilman Gantt stated he would prefer not to vote on this item today because he could not locate his copy of the proposed text amendment and he would like to have the time to read over it.

Mr. Burkhalter, City Manager, advised that Councilman Davis had written to the City Attorney and asked that two letters be placed in the minutes when this item was discussed. He stated one of the letters was from Mr. W. D. Cornwell, Executive Vice President of C. D. Spangler Construction Company and the other letter was from Mr. Richard E. Knie, Executive Vice President of Home Builders Association of Charlotte. That both of these gentlemen requested Council to defer action on this petition until they could have time to study it.

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After further discussion, Councilman Whittington moved to defer decision on Petition No. 77-22 until August 8th, which motion was seconded by Councilman Withrow and unanimously carried.

Councilman Gantt requested the City Manager to have someone notify the Home Builders Association that a decision on this petition would be made by Council on August 8th.

AMENDMENT TO CONTRACT FOR TECHNICAL AND PROFESSIONAL SERVICES WITH MOTION, INC., APPROVED.

Motion was made by Councilman Gantt and seconded by Councilwoman Chafin, to approve subject contract amendment providing for a two-month extension and increasing the contract amount from \$264,000 to \$286,000.

Councilman Whittington asked the Director of Community Development to explain the purpose of the amendment and Mr. Sawyer replied this amendment was necessary until his staff could receive an evaluation report from the Budget and Evaluation Department.

Mr. Burkhalter, City Manager, stated it was either to approve this amendment or approve another contract for one or two years, so they have only requested a two-month extension until they could obtain and evaluation report.

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

ACCEPTANCE OF CETA TITLE VI FUNDS FOR EMERGENCY JOBS PROGRAM, APPROVED.

Councilwoman Locke moved acceptance of \$752,883 in CETA Title VI Funds to continue 370 Emergency Jobs Program positions through November 12, 1977, which motion was seconded by Councilwoman Chafin, and unanimously carried.

ACCEPTANCE OF CETA TITLE II FUNDS FOR PUBLIC SERVICE EMPLOYMENT PROGRAM, APPROVED.

Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, approving the acceptance of \$455,673 in CETA Title II Funds to increase the number of positions in the Public Service Employment Program from 135 to 163.

APPROVAL OF PUBLIC HEARING TO ESTABLISH A LOGICAL STREET NAME PATTERN FOR THE FAIRVIEW/CARMEL/SARDIS ROADWAY CONFIGURATION.

Councilman Williams moved approval of the recommendations of the Planning Commission with regard to establishing a logical street name pattern for the Fairview/Carmel/Sardis Roadway configuration and to consider holding a public hearing. The motion was seconded by Councilwoman Chafin.

Councilwoman Locke stated the home owners in that area should be notified of the date of the hearing.

Councilman Whittington stated the only thing he would have a problem with would be that Council ought not to do anything about that part of Sardis Road which is now closed off as it enters the New Sardis Road until such time as some office development goes in that triangle, or until such time as Mr. Marsh, if he elects to do so, develops more of his Cherry Hill Development there; then perhaps the Planning Commission might want to make a recommendation for that street, since it would only serve this property. He stated he does not think Council ought to name the little stump of Old Sardis Road.

Councilman Chafin stated since she has received so many comments from citizens about this, she would very much like to have a public hearing scheduled before Council takes any action.

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Mr. Randolph Norton, 5201 Sardis Road, stated he had been asked by the Session of the Sardis Presbyterian Church to present a resolution to City Council. He stated the Session read in Saturday morning's paper that this item would be on the agenda for today's meeting so they adopted a resolution at their meeting on Sunday night. Mr. Norton introduced some of the members of his Church.

He read the following resolution:

"WHEREAS, it has come to the attention of this Session, the governing body of the Sardis Presbyterian Church, that the question of the name "Sardis Road" may come up for consideration by the Charlotte City Council; and

WHEREAS, Sardis Church, founded at the time of George Washington's presidency, gave its name to the road which for almost 200 years has been known as "Sardis Road"; and

WHEREAS, "Sardis" remains one of the most recognized historical names which identifies a large residential area extending from Providence Road to Matthews; and

WHEREAS, Sardis Road has from its beginning traversed this area of southeast Charlotte-Mecklenburg, intersecting with historical Providence Road to the west and with what is now N. C. No. 51 near Matthews on the east; and

WHEREAS, the major entrance to this widely recognized Sardis community is now, and always has been, the point where Sardis Road intersects with Providence Road; and

WHEREAS, the attraction of this Sardis area as one of the finest residential communities of the city and county is due in no small measure to the flavor which historic Sardis Church has given to the region served by Sardis Road and its tributaries; and

WHEREAS, any altering of name patterns with respect to Sardis Road, or to other roads or streets carrying the Sardis prefix, would cause distinct losses to thousands of persons who have reason to rejoice in the name "Sardis"; and

WHEREAS, more than 1,600 such persons are now members of the Sardis Church congregation, which has an intense and very practical interest in maintaining the Sardis name in all of its connotations;

NOW, THEREFORE, the Session of the Sardis Presbyterian Church, in regular meeting Sunday evening, July 24, 1977, respectfully requests Mayor Belk and all the members of the Charlotte City Council to give approval to maintaining the historical name pattern of Sardis as embraced in this resolution; and specifically to oppose any changing of the naming of any segment of Sardis Road from its intersection with Providence Road to its intersection with N. C. Highway No. 51, near Matthews."

(Signed) Session of Sardis
Presbyterian Church.

Mr. Norton stated if a hearing is held on this matter at any time in the future, he would like to request that they be informed in advance of it.

Mayor Belk requested the Clerk to advise Mr. Kent Paterson, c/o Sardis Presbyterian Church, 6100 Sardis Road, of the date and hour of the public hearing.

Councilman Whittington made a substitute motion that the public hearing be scheduled for August 8, 1977, which motion was seconded by Councilman Withrow, and unanimously carried.

AGREEMENT ALLOWING THE NATIONAL WEATHER SERVICE TO CONSTRUCT AN ADDITION TO THE GENERAL AVIATION DISTRICT OFFICE BUILDING AT DOUGLAS MUNICIPAL AIRPORT, APPROVED.

Motion was made by Councilwoman Locke, seconded by Councilman Gantt, and unanimously carried, approving subject agreement, as recommended by the Airport Advisory Committee.

PUBLIC HEARING SCHEDULED FOR SEPTEMBER 12 REGARDING THE ABOLITION OF THE CHARLOTTE PARK AND RECREATION COMMISSION AND THE ESTABLISHMENT OF A CITY PARKS AND RECREATION DEPARTMENT.

Councilman Whittington moved that a Public Hearing be scheduled for September 12, 1977, at 3:00 o'clock p.m., to consider abolishing the Charlotte Park and Recreation Commission and the establishment of a City Parks and Recreation Department. The motion was seconded by Councilwoman Locke, and unanimously carried.

Councilman Whittington stated he would like to request the City Manager and Mr. Diehl to inform the public of this hearing so they can have some input which will be helpful to Council in their final decision.

ORDINANCE NO. 636-X TRANSFERRING FUNDS IN 1969 BOND FUNDS TO THE NORTHWEST PARK DEVELOPMENT ACCOUNT TO CORRECT AN EROSION PROBLEM.

Upon motion of Councilman Gantt, seconded by Councilwoman Locke, and unanimously carried, the subject ordinance was adopted transferring \$5,000 in 1969 Bond Funds to the Northwest Park Development Account to correct an erosion problem.

The ordinance is recorded in full in Ordinance Book 24, at Page 310.

ORDINANCE NO. 637-X TRANSFERRING FUNDS TO PROVIDE FOR THE PURCHASE OF LAND TO JOIN SUGAR CREEK PARK.

Motion was made by Councilman Whittington, seconded by Councilman Williams, and unanimously carried, adopting subject ordinance to provide for the purchase of 3.27 acres of land to join Sugar Creek Park, at a cost of \$15,000.

The ordinance is recorded in full in Ordinance Book 24, at page 311.

COUNCILMAN WITHROW EXCUSED FROM VOTING ON NEXT AGENDA ITEM.

Councilman Withrow asked that he be excused from voting on Agenda Item No. 21.

Councilman Whittington moved that Councilman Withrow be excused from voting on Agenda Item No. 21, which motion was seconded by Councilwoman Locke, and unanimously carried.

APPROVAL OF RESOLUTION ADOPTED BY THE PARK AND RECREATION COMMISSION DIRECTING RECONVEYANCE OF A TRACT OF LAND ON WEST BOULEVARD TO A. T. WITHROW AND WIFE, CLARA L. WITHROW.

Motion was made by Councilman Whittington and seconded by Councilwoman Locke that Council approve a resolution adopted by the Park and Recreation Commission, at their meeting on April 26, 1977, authorizing the reconveyance of a 10.528 tract of land on West Boulevard to A. T. Withrow and wife, Clara L. Withrow. A vote was taken on the motion, and carried unanimously.

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RESOLUTION ACCEPTING AN EPA GRANT TO ASSIST IN THE DESIGN COSTS OF THE MCALPINE CREEK WASTEWATER TREATMENT PLANT IMPROVEMENTS, THE SUGAR CREEK INTERCEPTOR, THE MATTHEWS INTERCEPTOR, THE TOBIN CREEK INTERCEPTOR AND MISCELLANEOUS DESIGN EXPENSES.

Councilman Gantt moved adoption of subject resolution accepting an EPA Grant, in the amount of \$733,952, to assist in the design costs of the McAlpine Creek Wastewater Treatment Plant Improvements, the Sugar Creek Interceptor, the Matthews Interceptor, the Tobin Creek Interceptor and miscellaneous design expenses, which motion was seconded by Councilwoman Locke.

Councilwoman Locke asked the Director of Utilities about an article she read in the newspaper about a bond issue concerning this Grant and Mr. Lee Dukes replied every time the City takes another step with 201, we are closer to the point where we are going to have to give some consideration to the funding. He stated he is hopeful the engineering work on this would be completed in September or October and then this would qualify us for a Grant for the construction. That if we are going to proceed with the construction at that time and we have no funds, we would have to get funding from somewhere. He stated someone must have read between the lines as to where we are going to get the funding, but he certainly did not give out that information to the newspaper.

Councilwoman Locke asked Mr. Dukes if he thought there would be a bond election in 1978 on water-sewer construction and he replied yes, prior to that.

After further discussion, a vote was taken on the motion, and carried unanimously.

The resolution is recorded in full in Resolutions Book 12, at Page 444.

CONTRACT WITH SOIL SYSTEMS, INC. FOR SOIL TESTS AT THE MCALPINE CREEK WASTEWATER TREATMENT PLANT, APPROVED.

Upon motion of Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, the subject contract was approved on a unit cost basis, with an anticipated cost ceiling of \$5,700.

CITY ATTORNEY AUTHORIZED TO UNDERTAKE AN APPEAL FROM THE DECISION OF THE REGIONAL OFFICE OF THE DEPARTMENT OF LABOR WITH RESPECT TO THE 1974 AND 1975 SUMMER JOBS PROGRAM.

Motion was made by Councilman Whittington, and seconded by Councilwoman Locke, authorizing the City Attorney to undertake an appeal from the decision of the Regional Office of the Department of Labor with respect to the 1974 and 1975 Summer Jobs Program requiring payment of \$917,095.79.

Mr. W. A. Watts, Deputy City Attorney, advised the Labor Department has said at one time that the City should repay funds of some \$950,000. That the City Attorney's Office had argued with them about this for a period of some months, and then the Labor Department decided they would give them relief in the amount of some \$33,000, which brought this figure down to about \$917,000.

He stated the Administrators are very reluctant to grant relief like this unless it is very, very clear they are entitled to it; an Administrator does not want to stick his neck out and grant relief if there is any question at all and the City Attorney's Office feels the City would be much better off if they had a hearing and that is why they have requested to be authorized to go ahead and ask for a hearing. That they feel the City would do much better there than they will in the situation at present.

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

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ORDINANCE NO. 638-X AMENDING ORDINANCE NO. 576-X, THE 1977-78 BUDGET ORDINANCE TRANSFERRING FUNDS FROM THE GENERAL FUND CONTINGENCY TO PROVIDE FUNDS FOR RENOVATION OF THE CITY COUNCIL CHAMBER.

Councilman Whittington moved adoption of subject ordinance appropriating \$9,560 for the renovation of the City Council Chamber, which motion was seconded by Councilwoman Locke.

Councilwoman Chafin stated she has a concern about this and it seems to her that the County left the door open for further exploration of the use of the courthouse in the event that the Board of Education turned the City down. That it seems the plans for renovation of the present Council Chamber would actually reduce the number of seating capacity for the public, or citizens and this really disturbs her as we are getting more and more citizen participation and with the advent of district representation, the citizens participation probably will, in fact, increase. She asked if the City could still go back to the County.

Councilman Whittington stated the reason he made the motion was because he was told the City could not get the space in the courthouse.

Councilwoman Chafin stated Mr. Blaisdell's letter indicates the door is open and Mrs. Liz Hair has indicated the door is still open.

Mr. Burkhalter stated our latest information is that the County still needs this space as a court room and did not intend to turn it fully into just a Commission chamber, as they were told at first. Secondly, Council is still going to need the present Council Chamber anyway, even if they have another place to meet with the new Council, they ought to have another place to meet for small meetings, committee meetings, etc. and then they would have this to fall back on. He stated he has not given up on the County - if they have a place that is better than our present Chambers, they will take it.

Councilwoman Chafin stated she would like for the Staff to continue to explore alternatives.

Mr. Burkhalter stated they will place monitors outside and it will be much better; they will take all of the Staff out of the meetings and let them meet in the Conference Room with the monitors; they will not be in the Meeting until they are needed.

Councilwoman Locke asked where the Council will meet during the time the present Council is being renovated and Mr. Burkhalter replied they can do the work in the two weeks between now and the next meeting.

Mayor Belk read the following letter from Councilman Davis into the record:

"I will be on vacation next week and expect to miss the Council Meeting scheduled for Monday, July 25th. I would like to request that any discussion of the proposed City Council Chamber be deferred in order that I might have the opportunity to discuss it."

Councilman Whittington replied that Councilman Davis's letter concerned the next agenda item. (The other Councilmembers were in agreement.)

The vote was taken on the motion to provide funds, in the amount of \$9,650, for renovation of the City Council Chamber, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 24, at Page 312.

CONSIDERATION OF ITEMS IN CONNECTION WITH AUTHORIZATION OF \$4.4 MILLION OF MUNICIPAL BUILDING BONDS FOR A PROPOSED COUNCIL CHAMBER BUILDING AND RELATED FACILITIES, DEFERRED UNTIL AUGUST 8TH.

Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, deferring action on items in connection with authorization of \$4.4 million of Municipal Building Bonds for a proposed Council Chamber Building and related facilities until August 8th.

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REQUEST TO SET PUBLIC HEARING TO CONSIDER REZONING PROPERTY ON THE NORTHERLY SIDE OF MORRISON BOULEVARD AT ROXBOROUGH ROAD TO O-15, DENIED.

Councilman Whittington stated as he understands the attachment with this item Council cannot do this.

Mr. William A. Watts, Deputy City Attorney, replied the request is to set a public hearing on August 22, and they can certainly do that.

Mr. Bailey Patrick, Attorney representing the owners of this property, stated he does not think it is within Council's power to adopt a motion to do this at this late date; that with regard to the small B-1SCD area, his clients have done too much now; that they have so much invested because of the steps they have taken with regard to that property over the last twelve years; it would be in excess of the legislative power delegated to this Council.

Mr. Watts stated the Council is not bound, at this point, and that they can do this if they want to do it; that it is a matter for the Council to decide as to whether they want to do it.

Councilman Williams moved adoption of a resolution setting a public hearing. The motion was seconded by Councilman Gantt.

Mr. Patrick stated he is opposed to this motion and reminded Council of the number of times he has appeared before them on this issue. That he is probably the most frustrated he has ever been in his practice of law. He has several reasons for opposing this proposal to downgrade the property of James J. Harris and his wife from B-1SCD to O-15.

First of all, based upon his intimate knowledge of what has transpired with regard to this 6.5 acres tract of land since 1965, he is convinced that any attempt at this late date to down-zone this property would neither be fair nor equitable. Moreover, such action would also constitute an arbitrary, unreasonable and capricious, and therefore unlawful, exercise of Council's legislative authority.

On the question of fairness, first. This 6.5 acre tract was part of a larger 10.86 acre tract of land that was re-zoned to the B-1SCD classification in 1965 as a part of the re-zoning which was necessary for the SouthPark regional shopping center. Section 23-35 of the City Code provides that the purpose of B-1SCD is to provide special districts for the development of integrated shopping centers to serve the needs of residential neighbors and areas. It was, therefore, this City Council's intent in 1965 to permit a shopping center to be developed on this B-1SCD property.

He stated that in 1966 Mr. and Mrs. Harris filed another petition to have additional property re-zoned so as to accommodate the general plan of development for the SouthPark area. This involved, among other things, the establishment of O-15 zoning for the property which lies immediately north of his clients' B-1SCD property and multi-family zoning for adjacent property. By mid-1969 the location of Morrison Boulevard was well established and both the City Council and the Planning Commission were aware of the existence of his clients' B-1SCD property north of Morrison Boulevard.

No attempt was made at that time, however, to question the advisability of B-1SCD zoning outside the block in which the SouthPark Shopping Center was located. No attempt was made to change the zoning of this property from B-1SCD to O-15. Following approval of the 1966 zoning changes, Mr. and Mrs. Harris, at substantial cost, constructed a sewer line running from Roxborough Road in a southwesterly direction, along the northerly boundary of the B-1SCD property in reliance upon the fact that they would be permitted to develop their property as zoned - namely, for a shopping center.

In addition, they dedicated an 80-foot right-of-way for Morrison Boulevard and a 60-foot right-of-way for Roxborough Road, neither of which would have been necessary to accommodate single-family type development. Moreover, both Roxborough Road and Morrison Boulevard were paved without cost to the City or State.

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Following the rezoning of their property in 1965 and 1966, they paid ad valorem taxes on these properties based upon the shopping center use and office use until they deemed it economically feasible to move forward with development as zoned. In 1976 they deemed it had become economically feasible to develop the property and accordingly they petitioned the Council for approval to locate a grocery store, restaurant and bank on a portion of this property.

When he says "approval" he thinks that is critical to Council's consideration of this motion. Under a B-1SCD type zoning, there is not one thing that the petitioners could do with that property without Council's permission and without the Planning Commission's permission - nothing could they do. As a matter of fact and as a case in point, a church asked them for permission to use their property one year at the Christmas season to sell Christmas trees on. They made an inquiry at the Planning Office and were advised "No, there is nothing you can do on B-1SCD property without permission of the Council."

Mr. Patrick stated the petition that they filed in 1976 was denied by the City Council. Following the denial the Council did not come back and say this property ought to be O-15; they let it stand as B-1SCD; not one word was mentioned at that time about down-zoning the property to O-15. Mr. and Mrs. Harris continued to believe, and reasonably so, that they would ultimately be permitted to develop their property for a shopping center.

That in March of this year his clients filed another petition seeking approval of a site plan for a 98,000-square foot shopping center on a larger tract which included this 6.56 acre tract which this motion affects. By this time, Mr. and Mrs. Harris have incurred substantial expenses in connection with their efforts to develop their property, again in a manner authorized by the zoning. For example, they incurred expenses in connection with the employment of a nationally recognized landplanner, who stated to Mr. Harris that he would not take charge of this work until he came down at his own expense and convinced himself that his plan was right. This was because he does a lot of work with municipalities in working with plans. This planner came down, saw the project, saw the site and then called back and said "Your plan is sound; I'll do the work for you."

They also hired a water run-off consultant because they had to respond to some concerns and allegations that had been made with regard to water run-off. They hired a traffic consultant because there were concerns about traffic. Then, of course, they had to hire a lawyer; they had to conduct a market analysis; and then they had to go to the expense of developing the overall plan which was presented to Council in great detail, designed to eliminate the possibility of any strip commercial development along Morrison Boulevard, to establish a suburban regional office park which through careful planning would reduce the environmental impact of the entire development; and the development of a unique, innovative, and (as all of Council has previously agreed) an attractive and quality-type shopping facility clustered at the northwest corner of Morrison Boulevard and Roxborough Road.

He stated all of this was designed to take into account the interest of the concerned residents of Barclay Downs, the interest of the citizens of Charlotte, the fiscal responsibility of the City and the County governments, and the interest of the Harris's as well. But they did not stop there - they voluntarily agreed to reduce the size of the existing B-1SCD property from almost 11 acres to 9.23 acres and to relocate it at the corner of Morrison Boulevard and Roxborough Road, thereby clustering the B-1SCD property and eliminating the strip of B-1SCD property from a point west of the corner of Roxborough Road toward Barclay Downs Drive. They did not stop here - they agreed to limit the height of any buildings that might be constructed on their office property which was later the rear of the B-1SCD property; they agreed to limit the maximum number of square feet of office space that could be constructed on their office property; they agreed to create ample buffer zones to insure that their single-family neighbors were not being imposed upon by their proposed development; they agreed to install pedestrian paths running from the single-family property to the office park and to the proposed shopping center; and they agreed to a limited access to Morrison Boulevard for the shopping center.

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Mr. Patrick stated there were no laws that required them to make those restrictions upon their office and business properties or to down-zone some of their existing B-1SCD to O-15. Their motivation in making these concessions was based upon the hope and expectation that members of the Planning Commission and members of this Council, as well as members of the Barclay Downs subdivision, would thereby be convinced of their good faith and their intentions to develop their property responsibly and with minimum impact on their neighbors.

He stated they were able to convince a large number of residents in the area that their plan was sound and reasonable. No protests were filed by residents on Wickersham Drive that could have been filed and invoked the 3/4 Rule. The Board of Directors of the Trianon Apartments was supportive of their efforts and the entire plan, including the shopping center. They were also able to convince a majority of the Planning Commission that their plan was sound. Unfortunately, however, they were not able to convince the City Council and by a vote of 6 to 1 their petition was resoundly defeated.

Again, in denying that petition, no action was taken by Council to down-zone the property to O-15 - no action. Indeed, the SouthPark Landuse Study about which Councilman Davis kept referring to, recommended keeping it at B-1SCD. By that time they had leased up nearly 80 percent of the shopping facility. What were they to do? Obviously, if they could not get a provision they came back with another petition. Again, more expense and reliance on a hope and a reasonable expectation that Council would be amenable to their efforts.

In view of the fact that they had the shopping center leased up and that they made the attempt to establish a shopping center which was now from some 11 or 12 acres down to 6.5, all given up voluntarily - the shopping center went from 98,000 square feet to 60,500 square feet. Nevertheless, they were willing to take it again and they filed application seeking approval for a shopping center on this 6.5 acres, which is the subject of this motion.

This petition which is now pending envisions only 60,500 square feet for the shopping center and the schematic plan they have adopted with it incorporates the same clustering principle and incorporates all of the favorable aspects of the original Raincamp plan, including limited access to Morrison Boulevard, elimination of the possibility of a strip commercial facility; remoteness to existing single-family development; a courtyard; a people-oriented, quality designed shopping center and a small lake as well. He stated this petition was filed some ten days prior to July 11, the date on which Councilman Williams announced he was going to place this motion on today's agenda.

Having reviewed briefly the previous actions taken by the City Council, the expenses which his clients have incurred, the restraints which they have voluntarily imposed upon the use of their property, the concessions they have made, he asked if any reasonable person deem it fair, equitable or just, at this late date, to deprive them of the right to construct a small shopping facility on this property? His sense of fairness and justice, and that of any reasonable person, leads him to the firm conclusion that the answer is "No." They have made one concession after another with the hope and reasonable expectation that Council would respond fairly and responsibly to their concessions and accept them for what they were - namely, a fair and equitable balancing of the interests of the property owners, the residents in Barclay Downs and in the surrounding neighborhoods, the community at large and the fiscal needs of the City and County governments.

He is shocked and disappointed to say the least, having been involved in this as deeply as he was, when the motion to down-zone the property was made. From a purely personal standpoint, he had counselled his clients to make these concessions with which they are now stuck because he was convinced that Council and the neighbors would respond favorably and not lead them down a primrose path to defeat. He stated if this motion carries, he will have completely misjudged the Council and hindsight would indicate that he was wrong in recommending to Mr. and Mrs. Harris that they make those concessions and impose restrictions on their property. More importantly, favorable action on this motion would, in his judgment, constitute unreasonable and arbitrary

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the property owner in deciding what is fair and equitable. If you look at what the City has done by virtue of the development in that area, the City has made a sizeable investment out there. First of all, the people who now request the B-1SCD approval are the ones who did not develop but sold the property for the development of the regional shopping center known as SouthPark. That shopping center has attracted terrific volumes of traffic and has caused the need for the City to make expenditures in street development and street widening in that area. He mentioned Sharon Road, Sharon Lane, Fairview Road and Wendover Road possibly and stated it will not go away. Just this week he was looking at the proposed Thoroughfare Plan for the next twenty years and noticed one item which contemplates widening Sharon Lane as it exists between Providence and Sharon Roads from the present four lanes and 60 feet of right-of-way to six lanes and 110 feet of right-of-way. If they can remember how much consternation was caused when that road was widened just to four lanes they can imagine what consternation is going to be caused if it is ever widened to six lanes.

He stated there is a connection between development in this area and the pressures to widen roads such as Sharon Lane, Wendover, and to build Fairview. Considering the fairness of this, he related the story of the old lawyer who said "When I was young I lost a lot of cases that I should have won, but when I was old I won a lot of cases that I should have lost, so justice was done in the long run." To some extent, he feels like justice may be served in the long run if you take the totality of the development of the area out there and what the City has had to do to support it.

He stated this is a policy decision; Council must come to grips with whether or not there will be office zoning or the shopping center on the north side of Morrison Boulevard. When the petitioners presented their petition for the shopping center at the corner of Roxborough and Morrison a few weeks ago, he was convinced that was an excellent plan, of high quality. He had to come to grips with the question of whether or not it should be office or shopping center and he resolved that in favor of office. Of course, it is not fair to continue holding out this enticement of B-1SCD if you really think it ought to be office, and that is the reason he has made the motion for the public hearing on office zoning. As to whether or not it is more of a legal matter than a policy matter, he does not know. It is beginning to look a little bit as if they are going to be involved in litigation in this if they do anything except what the petitioners want to do.

If they go ahead and have a public hearing on the office zoning and it is zoned for office, they will probably find themselves as defendants in a law suit. On the other hand, if they do not do this and go ahead and have the quasi-judicial hearing for the B-1SCD and deny that, they will probably find themselves defendants as in the Arlen cases. They find themselves between a rock and hard place. He stated the City Attorney has advised him that from a legal standpoint, his opinion is that they are on firm ground by going ahead, if it is the policy of Council to zone it office, to set the machinery in motion and do that, because there is no invested right yet to have it something else. That they still have the legislative discretion to zone it office if that be the ruling of this body.

He stated it does bother him a little bit as to whether or not the petitioner should go ahead and have a hearing, have his day in court so to speak, on the B-1SCD, where they are operating as a quasi-judicial body, and have to answer those three questions. That when Mr. Patrick pointed that out to him, about the best thing he could say in response was "Well, you had your day in court already when you requested the shopping center rezoning at the corner of Roxborough and Morrison."

That even under the B-1SCD, as it has existed for some time, and the petitioner has petitioned under it a few times, office zoning has always been possible. It is not as if the petitioner could not make any use of the property, it is just that he could not make the B-1SCD use of it without getting special approval of the zoning board. He could have utilized it as office.

Councilman Williams asked Mr. Bryant to state what the staff's recommendation was for this area several months ago before these petitions started to be presented.

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Mr. Bryant stated the staff study was presented to the Planning Commission but was never adopted by that body; they should keep that in mind as he makes the comments.

That the comment which was in the study at that time was that they would not recommend the rezoning of the strip B-1SCD along the northerly side of Morrison Boulevard because they did not basically feel that it was necessary. The study did say that it was felt that the best use for the northerly side of Morrison Boulevard was basically the same type of use which has been occurring in that portion east of Roxborough, which would be basically office, banks - this sort of activity. In effect, it was saying that office type and office related uses would be best along that northerly side of Morrison Boulevard.

He stated that office uses are allowed, but they would still require site plan approval, the same as any other use. That in effect the study said they are not recommending that the B-1SCD zoning be removed but they feel like the office type uses are best for that side of Morrison Boulevard.

Mr. Patrick stated that Councilman Williams made a few points that he feels should be brought up. That he made the statement that when developers come before Council they are always asking that the zoning be brought up from single-family to office or from single-family to apartment, or office to business. That he would point out that the great majority of their 60 acres involved in this SouthPark land use has gone down. Their O-15 where they could have put two million square feet of office space, they are down to O-15(CD) voluntarily and are limited to 600,000 square feet. In addition, they have taken 6 acres that was B-1SCD and voluntarily taken it down to O-15. They are only asking Council to deal with the 6.5 acres.

He referred to Councilman Williams' statement that if they do not accept what Mr. and Mrs. Harris say, then they are going to take them to court. That is not accurate; if he implied that he wants to clear the record. What he said was they feel that at this late date to take them to O-15 would be unreasonable; they are amenable to suggestions from Council; they have been begging them to give them some idea of what would be acceptable; they will work with Council within that B-1SCD context. They think that the plan they have given Council is fair. That Councilman Gantt has pointed out some things that bother him; and Mr. Gantt will tell them that he has told Mr. Gantt to let them hear from him and they will respond.

The point that was made that they have had their day in court - that does need some response. They came in with the B-1SCD as an accommodation to City Council so that they would not have to have this quasi-judicial hearing. It was Mr. Bryant's recommendation that they do this; and it was with the great hope and expectation that because of the concessions they have made, because of the restrictions on their other property, Council would find it reasonable. But, they have not had their day in court; not on this issue of B-1SCD. They have not been able to put on experts to refute some of the things that the other side has said. They have not had their day in court. They should think about how east of Roxborough has been developed - there is an Exxon Station up there and Sherwin-Williams. To say that is all office is not fair.

His last point - and this is very critical to Council's consideration - is the legal point. There are two legal questions involved. First, their petition was filed first. But the more important consideration is Councilman Williams' question about the right of the City Council to change zoning. He will agree with Mr. Williams' general statement that this body has the right to change zoning whenever it feels it is advisable to do so - only if, however, the property owner has not relied to his detriment and incurred expenses that would necessarily cause the Supreme Court to find that the amendment was unreasonable. They have to keep in mind that they have not been able to develop their property. They have been prohibited; they could not do anything without Council's permission - it is B-1SCD. They have spent all of their money trying to convince Council of a plan and they

have failed three times now. That he submits that where they are couched in that category, the Court is going to look a little different than they are from the standpoint of an apartment building where there is a zoning change motion and then he goes in and quickly gets a permit to develop. It is an entirely different issue. They have done everything they could to develop their property the way Council told them they could and have spent literally thousands of dollars doing it. They have acted in reliance and to their detriment if it goes down, because all of their expenditures are down the drain.

Councilwoman Locke stated she had planned to vote to have this hearing, but now she plans to vote against it because what Mr. Patrick says is right. Had Council changed it or asked for that to be done - the O-15 - the day they had the hearing, then she could have voted for it. That what Mr. Patrick says is right - from the very beginning they have gone on the assumption that it was B-1SCD and all of their efforts have been directed towards that and she feels Council has to follow right straight through on that and if they go to court on the B-1SCD that they have come back with, okay, she can go with that. But, at this late date, to go to O-15 - they should have done it the day of the hearing and it would have been fair and proper, but it is not at this late date. She will vote against the motion for that reason.

Councilman Gantt stated he is not quite sure he understands about the timing of introducing a resolution for a public hearing regarding office zoning for that particular site. That what they were trying to do in the 6 to 1 vote against the shopping center as proposed had much more to do with the impact of that kind of land use in that location, and the fact that the Council still had not resolved that question at the time they voted on that decision. The fact that they were remiss in calling for a hearing at the time they made the decision does not change the fact that Council was interested in having a clear policy set for what the use of that property will be. If that were not the case, then he suspects that a 60,000 square foot shopping center in this situation versus 90,000 square feet would almost be not a substantial difference. The land use and the impact of the land use would be pretty much the same and possibly the Council should have made the decision in favor of the petitioner at that time. His argument is that the entire B-1SCD in that particular location in light of a main shopping center across the road indicated that it was a proper use, given traffic and other kinds of things.

Councilwoman Locke stated they have come a long way under the assumption that it has been B-1SCD and to change it at this late date is a mistake.

Councilwoman Chafin stated she agrees with Councilwoman Locke. That two very eloquent attorneys argued their respective cases; that philosophically she finds herself in agreement with Councilman Williams, but she feels there is a question of fairness here, there is a question of time; that she thinks Councilman Williams will admit that his motion was made in reaction to Mr. Patrick's appearance before Council announcing that the site plan had been filed and that such a motion very clearly should have been made at an earlier date in anticipation of Mr. Patrick's doing exactly what he did and what she thinks they all knew could happen if they denied the petition. That some might say that all is fair in love and war and politics, but in this case she has to agree with the petitioner who does deserve an opportunity for the hearing. She will vote against the motion. Both she and Councilwoman Locke stated it hurts them to do so.

Councilman Whittington stated when they made a decision on this petition he asked for the chronology of all of the zoning to be made a part of the minutes of that meeting before they voted. Some of the people in the audience will recall that when they voted on it in 1973 he was the only member of Council who voted for the B-1SCD and the reason he voted for it at that time was he thought they ought to get this problem over with once and for all. He talked with several members of Council who voted against it at that time who told him thirty minutes before the vote or two weeks before the vote they were now in agreement with Mr. Patrick and they thought they

were going to vote for it. Nevertheless, the Council denied this petition 6 to 1 and he voted with the majority of the Council. He thinks he needs to say that. That he is not going to vote for Councilman Williams' motion now or any other time because he feels it is unfair. The history of that whole area out there has been a cooperative effort between landowners, the State Highway Department and the City of Charlotte. When this land was bought, the roadway prices were a part of it and the rights-of-way were given by property owners. The center would have never been built if all that had not taken place when the property transactions were made.

To come now and say to these people - he has not always agreed with them - "No, we are going to confiscate your property" or "you can rezone for less" he will not support that. That this B-1SCD will be back before them and Council will have to make a decision on that when the time comes, but to do this to them within a month after they denied it, is grossly unfair and just not the way government works.

The vote was taken on Councilman Williams' motion to set a public hearing on August 22 to rezone property on the northerly side of Morrison Boulevard at Roxborough Road to O-15, and was defeated as follows:

YEAS: Councilmen Gantt and Williams.

NAYS: Councilmembers Chafin, Locke, Whittington and Withrow.

RESOLUTION SETTING A PUBLIC HEARING ON AUGUST 22 ON PETITION NOS. 77-35 THROUGH 77-38 FOR ZONING CHANGES.

Mr. Burkhalter, City Manager, stated on Agenda Item No. 27(b), he would suggest that Council strike out Zoning Petition No. 77-26 in the Resolution.

Councilwoman Locke moved adoption of subject resolution setting a public hearing on August 22, 1977, at 2:30 o'clock p.m. on Petition Nos. 77-35 through 77-38 for zoning changes, leaving out Zoning Petition No. 77-26. The motion was seconded by Councilman Withrow, and unanimously carried.

The resolution is recorded in full in Resolutions Book 12, at Page 445.

RESOLUTION SETTING QUASI-JUDICIAL HEARINGS ON AUGUST 29 ON PETITION NOS. 77-31, 77-32 and 77-33.

Mr. Burkhalter stated he would like to suggest the last week in August for these hearings. That they would probably take about one afternoon.

After discussion, Mr. Fred Bryant, Assistant Planning Director, stated he would like to suggest August 29 because he will be out of town the week of August 22nd.

Motion was made by Councilwoman Locke, seconded by Councilman Whittington, and unanimously carried, adopting subject resolution setting the quasi-judicial hearings on August 29, 1977, at 2:00 o'clock p.m., on Petition Nos. 77-31, 77-32 and 77-33.

The resolution is recorded in full in Resolutions Book 12, at Page 446.

RESOLUTION DECLARING AN INTENT TO CLOSE A PORTION OF CRESTBROOK DRIVE AND CALLING FOR A PUBLIC HEARING ON AUGUST 22, 1977.

Councilwoman Locke moved adoption of subject resolution declaring an intent to close a portion of Crestbrook Drive and calling for a Public Hearing at 2:30 o'clock p.m., on August 22, 1977. The motion was seconded by Councilman Whittington, and unanimously carried.

The resolution is recorded in full in Resolutions Book 12, at Page 447.

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RE-APPOINTMENTS OF MRS. HUGH B. CAMPBELL, JR. AND DR. CHALMERS DAVIDSON BY THE MECKLENBURG COUNTY BOARD OF COMMISSIONERS TO THE CHARLOTTE-MECKLENBURG HISTORIC PROPERTIES COMMISSION, CONFIRMED.

Upon motion of Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, the re-appointments of Mrs. Hugh B. Campbell, Jr. and Dr. Calmers Davidson by the Mecklenburg County Board of Commissioners to the Charlotte-Mecklenburg Historic Properties Commission were confirmed for three year terms each, to expire July 16, 1980.

APPOINTMENTS TO THE CHARLOTTE-MECKLENBURG PLANNING COMMISSION, DEFERRED FOR TWO WEEKS.

Motion was made by Councilman Withrow, seconded by Councilwoman Chafin, and unanimously carried, deferring appointments to the Charlotte-Mecklenburg Planning Commission for two weeks.

MR. MICHAEL TYE NOMINATED FOR A TERM ON THE CHARLOTTE-MECKLENBURG PLANNING COMMISSION.

Councilman Gantt placed in nomination the name of Mr. Michael Tye for a three year term on the Charlotte-Mecklenburg Planning Commission

MR. CRUTCHER ROSS AND DR. BEN ROMINE RE-APPOINTED TO THE HISTORIC DISTRICT COMMISSION FOR THREE YEAR TERMS.

Councilwoman Chafin moved the re-appointments of Mr. Crutcher Ross and Dr. Ben Romine to the Historic District Commission for three year terms each, which motion was seconded by Councilman Whittington, and carried unanimously.

MR. DOUG BURNS AND MR. ARMOND W. LANE APPOINTED TO ZONING BOARD OF ADJUSTMENT AS ALTERNATE MEMBERS.

Upon motion of Councilman Gantt, seconded by Councilwoman Chafin, and unanimously carried, Mr. Doug Burns and Mr. Armond W. Lane were appointed to the Zoning Board of Adjustment as Alternate Members, for terms to expire January 30, 1979.

CONTRACTS AWARDED.

(a) Councilwoman Locke moved award of contract to the low bidder, Palmer's Rowan Stationers, Inc., in the amount of \$6,364.00, on a unit price basis, for 185,000 1978 City Automobile License Decals. The motion was seconded by Councilman Whittington, and carried unanimously.

The following bids were received:

Palmer's Rowan Stationers, Inc.	\$ 6,364.00
Weldon, Williams & Lick, Inc.	7,215.00

(b) Motion was made by Councilman Withrow, seconded by Councilman Gantt, and unanimously carried awarding contract to the low bidder, Blythe Industries, Inc., in the amount of \$802,186.45, on a unit price basis, for Sanitary Sewer Construction - McDowell Creek Outfall, Phase I.

The following bids were received:

Blythe Industries, Inc.	\$ 802,186.45
Sanders Brothers, Inc.	850,077.55
Hickory Sand Company	859,814.05
Ben B. Propst Contractor	867,483.05
Gilbert Engineering Company	874,378.39
Rand Construction Company	905,929.00
Dickerson, Inc.	971,299.75
Olin/Georgia Corporation	988,066.75
Dellinger, Incorporated	995,223.40
Terry Construction Company	1,109,194.40
Breece & Burgess, Inc.	1,199,053.40
Ballenger Corporation	1,231,697.40
CFW Construction	1,388,603.40
Preston Carroll Construction	1,397,002.50

(c) On motion by Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, contract was awarded the low bidder, Piedmont Grading & Wrecking Company, in the amount of \$11,000.00, on a unit price basis, for West Morehead Community Development Demolition.

The following bids were received:

Piedmont Grading & Wrecking Co.	\$ 11,000.00
Moretti Construction Company	14,696.00
Crowder Construction Company	17,250.00
Jones Fence Construction & Grading	39,900.00

(d) Motion was made by Councilwoman Locke, seconded by Councilman Withrow, and unanimously carried awarding contract to the low bidder, Muncie Reclamation & Supply, in the amount of \$17,655.60, on a unit price basis, for 34 Bux Bumpers.

The following bids were received:

Muncie Reclamation & Supply	\$ 17,655.60
Hamill Manufacturing Company, Div. of Firestone Tire & Rubber	18,720.06

AUTHORIZATION GRANTED TO THE CHARLOTTE-MECKLENBURG UTILITY DEPARTMENT TO DEMAND FORFEITURE OF P. C. GODFREY, INC.'S BID BOND FOR REFUSAL TO EXECUTE THE PLUMBING CONTRACT FOR MALLARD CREEK WASTEWATER TREATMENT PLANT AND AUTHORIZE AWARD OF CONTRACT TO THE SECOND LOW BIDDER, TOMPKINS-JOHNSTON OF MATTHEWS, NORTH CAROLINA.

Councilman Whittington moved that the Charlotte-Mecklenburg Utility Department be authorized to demand forfeiture of P. C. Godfrey, Inc.'s bid bond for refusal to execute the plumbing contract for Mallard Creek Wastewater Treatment Plant and authorize them to award contract to the second low bidder, Thompkins-Johnston of Matthews, North Carolina, in the amount of \$20,000. The motion was seconded by Councilwoman Locke, and unanimously carried.

AGENDA ITEM NO. 42 (J) AND (K) REMOVED FROM CONSENT AGENDA.

Councilman Whittington stated he would like Council to consider delaying Agenda Item Nos. 42 (j) and (k) on the Consent Agenda until Council can have an on-site tour of this area so the Director of Community Development can explain the plans for this property.

Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, removing Agenda Item Nos. 42 (j) and (k) from the Consent Agenda until the Director of Community Development can take the Councilmembers on a tour of this site so Council can determine if these properties should be demolished or not.

Mr. Burkhalter advised Mr. Sawyer plans to take Council on a tour of these CD areas on August 8th, at 11:00 o'clock a.m.

CONSENT AGENDA, APPROVED.

Upon motion of Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, the following Consent Agenda were approved:

1. Approval of an assignment by the Charlotte Nature Museum, Inc. of an Option to the City to purchase land at 300 North Church Street and 309 North Tryon Street. The Option to purchase contains a covenant to acquire the property for a balance of the purchase price, in the amount of \$159,990.
2. Adoption of Ordinance No. 639 Amending Chapter 8 of the City Code, entitled "Fire Protection and Prevention."

The ordinance is recorded in full in Ordinance Book 24, beginning on Page 313.
3. Approval of a settlement of claim of Michael Baker, in the amount of \$8,000 for injuries received in bus accident.
4. Approval of Change Order No. 1, in contract with Abernethy Construction Company, in the amount of \$5,000 to increase the number of manholes from 13 to 23, serving Jason Street, Carlotta Street and Connelly Circl3.
5. Ordinances affecting housing declared unfit for human habitation:
 - (a) Ordinance No. 640-X ordering the dwelling at 2803 Seymour Drive, Apt. #4, to be closed.
 - (b) Ordinance No. 641-X ordering the dwelling at 2805 Seymour Drive, Apts.#1,2,3 and 4, to be closed.
 - (c) Ordinance No. 642-X ordering the dwelling at 2811 Seymour Drive, Apts.#1,2,3,4,5,6 and 7 to be closed.

(continued)

5. (cont.)

- (d) Ordinance No. 643-X ordering the dwelling at 2815 Seymour Drive Apts. #1,4,5,6 and 7 to be closed.
- (e) Ordinance No. 644-X ordering the dwelling at 2909 Ravencroft Drive to be vacated and closed.
- (f) Ordinance No. 645-X ordering the dwelling at 915 Yellowstone Drive to be vacated and closed.
- (g) Ordinance No. 646-X ordering the dwelling at 927 Yellowstone Drive to be vacated and closed.
- (h) Ordinance No. 647-X ordering the demolition and removal of the dwelling at 117 House Lane.
- (i) Ordinance No. 648-X ordering the demolition and removal of the dwelling at 121 House Lane.
- (j) Ordinance No. 649-X ordering the demolition and removal of the dwelling at 119 House Lane.

The ordinances are recorded in full in Ordinance Book 24, beginning on Page 318.

6. Approval of the following streets to be taken over for continuous maintenance by the City:

- (a) Charmapeg Avenue, from 365' east of Roselawn Place to Briarpatch Lane.
- (b) Briarpatch Lane, from 215' north of the centerline of Charmapeg Avenue to 240' south of the centerline of Charmapeg Avenue.
- (c) Wamath Drive, from 115' south of Cotillion Avenue to Woody Grove Lane.
- (d) Brookmont Place, from Wamath Drive to end at cul-de-sac.
- (e) Woody Grove Lane, from 145' north of centerline of Wamath Drive to 435' south of centerline of Wamath Drive.
- (f) Big Oak Drive, from 210' west of Highview Road to Woody Grove Lane.
- (g) Clematis Drive, 200' east of Arborway to 205' southwest of Columbine Circle.
- (h) Trillium Lane, from Clematis Drive to Columbine Circle.
- (i) Arborway, from 150' south of Edenton Road to Fairview Road.

7. Ordinances ordering the removal of weeds and grass:

- (a) Ordinance No. 650-X ordering the removal of weeds and grass at 4410 Argyle Drive.
- (b) Ordinance No. 651-X ordering the removal of weeds and grass at vacant lot adjacent to 6211 Fair Valley Drive.
- (c) Ordinance No. 652-X ordering the removal of weeds and grass at 341 Glenrock Drive.
- (d) Ordinance No. 653-X ordering the removal of weeds and grass at vacant lot adjacent to 900 West 5th Street.
- (e) Ordinance No. 654-X ordering the removal of weeds and grass at vacant lot adjacent to 409 Wake Street.
- (f) Ordinance No. 655-X ordering the removal of weeds and grass at vacant lot adjacent to 5300 Manning Road.
- (g) Ordinance No. 656-X ordering the removal of weeds and grass at vacant lots rear of 5617 Park Road.
- (h) Ordinance No. 657-X ordering the removal of weeds and grass at vacant lot 3100 block Amy James Avenue.
- (i) Ordinance No. 658-X ordering the removal of weeds and grass at I-85 Service Road across from 2606 Senior Drive.
- (j) Ordinance No. 659-X ordering the removal of weeds and grass at 1219 Echo Glen Road.

The ordinances are recorded in full in Ordinance Book 24, beginning 328.

11. Approved the following property transactions:

- (a) Acquisition of 30' x 60' x 67.08' of right-of-way at southside Highway #51 at McMullen Creek, from Carolina Connecticut Properties, Inc., at \$60.00, for 12-inch Water Main Relocation N. C. Highway #51 at McMullen Creek.
- (b) Acquisition of 30' x 93.90' of easement at 525 Hillcrest Street, Huntersville, N. C., from Henry A. Wellmaker, ux, Marsha, at \$200.00, for Torrence Creek Outfall, Phase III.
- (c) Acquisition of 30' x 113.82' of easement at 529 Hillcrest Street, Huntersville, N. C., from David Ward Thompson and wife, Rebecca Tate, at \$200.00, for Torrence Creek Outfall, Phase III.
- (d) Acquisition of 10.07' x 131.95' x 13.09' x 131.50' of right-of-way, plus a construction easement, at 4831 Idlewild Road, from Charles D. Shirey, Sr. and wife, Laura Moss Shirey, at \$2,000.00, for Delta Road Extension.
- (e) Acquisition of 421.27' x 10.0' x 443.18' x 35.02' of right-of-way at 2301 Rama Road, from Rama Properties, at \$9,300.00, for Florence Avenue Widening.
- (f) Acquisition of 19.47' x 139.70' x 23.45' x 145.00' of permanent easement, at 2445 Wensley Drive, from Charles Joseph Wylie and Jean K. Wylie, at \$750.00, for Sugar Creek dredging.
- (g) Acquisition of 23.45' x (r) 115.64' x 106.44' of permanent easement at 2439 Wensley Drive, from Franklin L. Redd and Doris N. Redd, at \$450.00, for Sugar Creek dredging.
- (h) Acquisition of 57.69' x 74.05' x 219.49' x 45.42' x 306.04' of permanent easement on vacant land at dead end of 5300 block of Buckingham Drive, from Beatrice E. Blankenship, at \$1.00, for Sugar Creek dredging.
- (i) Acquisition of 134.12' x 120.20' x 138.04' x 148.54' of temporary easement on vacant land at dead end of 5300 block of Buckingham Drive, from Beatrice E. Blankenship, at \$500.00, for Sugar Creek dredging.

MRS. MARY BOYER'S NAME PLACED IN NOMINATION FOR RE-APPOINTMENT TO THE HISTORIC PROPERTIES COMMISSION FOR A THREE YEAR TERM.

Councilman Whittington placed in nomination the name of Mrs. Mary Boyer for re-appointment to the Historic Properties Commission for a three year term.

CITY MANAGER INFORMS COUNCIL THAT SECTION 8 HOUSING WILL BE ON AUGUST 8TH AGENDA.

Mr. Burkhalter advised that Section 9 Housing will be on the August 8th Agenda.

(MAYOR BELK LEFT THE MEEING AT THIS TIME AND WAS ABSENT FOR THE REMAINDER OF THE SESSION.)

MAYOR PRO TEM WHITTINGTON PRESIDES FOR THE REMAINDER OF THE SESSION.

In the absence of Mayor Belk, Mayor pro tem Whittington presided for the remainder of the session.

MOTION TO PLACE AN ITEM ON THE AGENDA FOR TODAY'S MEETING, DENIED.

Councilman Gantt moved that a Resolution concerning the Outer Belt Road be placed on today's agenda for consideration. The motion was seconded by Councilwoman Chafin.

The vote was taken on the motion and failed to carry by the following vote:

YEAS: Councilmembers Gantt, Chafin, Locke and Withrow.

NAYS: Councilman Williams.

Councilman Williams stated he felt an issue this important should have some time for the public to react to.

MOTION TO PLACE AN ITEM ON AUGUST 8TH AGENDA, APPROVED.

Councilman Gantt moved that a Resolution concerning the Outer Belt Road be placed on the Agenda for the August 8th Council Meeting, which motion was seconded, which motion was seconded by Councilwoman Locke, and unanimously carried.

COMMENTS BY COUNCILWOMAN CHAFIN.

Councilwoman Chafin asked about the status of the study on neighborhood cut-through traffic and when a report would be given to Council and Mr. Burkhalter replied he did not know how far along the report was right now.

Councilman Whittington stated Council needs a policy to go by. They do not have anything now and there are some streets that ought to be opened or closed.

Councilwoman Chafin stated she feels when the Planning and Public Works Committee meet next Monday, August 1, that some issues will come up which will again put up a need for these policies. That it will be difficult to make some of the decisions they will be faced with without these guidelines.

Mr. Burkhalter advised he will give Council a report on it on August 8th.

Councilwoman Chafin asked if there was any need for Council to take action on the question of closing Pinehurst Place since they have a very strong recommendation from Staff that Council not proceed with the closing and Mayor pro tem Whittington replied he would hope that Council will take the recommendation. Councilman Williams stated he felt inaction would be action.

Councilwoman Chafin stated a week ago Friday, she had an opportunity to sit in on a presentation that all of Council were invited to by the Governor's Energy Coordinator, Mr. Bryan Flaggerty, who was speaking to the Staff Energy Task Force, and had some very interesting things to say. She stated she feels there is a lot we can do and staff will be coming back shortly with some specific proposals.

That she would hope our Transportation Task Force, which Council and the County, with USC, appointed some several months ago, might take a look at some of the concepts that were mentioned, with the possibility of some funds there.

COMMENTS BY COUNCILWOMAN LOCKE.

Councilwoman Locke stated all the Councilmembers received a letter from Mr. John Shaffer of Spirit Square. She asked the Clerk to send him a copy of the minutes for the week when the Spirit Square appointments were made, for his information.

COMMENTS BY COUNCILMAN WHITTINGTON.

Councilman Whittington stated he would like to endorse the Department of Transportation's concept for the Outer Belt Road; that where it is going to be, he does not know, but feels Council should take a position on this road.

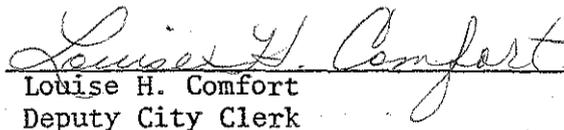
Councilman Williams asked if he meant no matter where the road went and Councilman Whittington replied yes.

Councilman Whittington stated he would like to suggest to Mrs. Locke's committee that while they are studying the plan, they give Council recommendations on continuing Sharon Amity Road, where it dead-ends now, into Shamrock, going on across to Dillard Drive, which is developed for one block, and then going through more vacant land as it crosses Milton Road and tying in to the Newell-Hickory Grove Road. He stated right now it is vacant land and if they do this now, they will be getting another route to UNC-C on that end of town and take some of the burden off Shamrock Drive where the people have been complaining about it.

Councilman Whittington stated he would also like to ask the City Manager to move as quickly as possible on a hearing on the new water and sewer rates.

ADJOURNMENT.

Upon motion of Councilwoman Locke, seconded by Councilman Withrow, and unanimously carried, the meeting was adjourned.


Louise H. Comfort
Deputy City Clerk