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The City Council of the City of Charlotte, North Carolina, met in a televised session on Monday, July 26, 1976, at 7:30 o'clock p. m., in the Education Center, with Mayor John M. Belk presiding, and Councilmembers Betty Chafin, Louis M. Davis, Harvey B. Gantt, Pat Locke, James B. Whittington, Neil C. Williams and Joe D. Withrow present.

ABSENT: None

The Charlotte-Mecklenburg Planning Commission sat with the City Council and, as a separate body, held its public hearings on the zoning petitions, with Commissioners Campbell, Ervin, Kirk, Marrash and Royal present.

ABSENT: Chairman Tate, and Commissioners Boyce, Finley, Jolly and Ross.

INVOCATION.

The invocation was given by Reverend L. K. Stephens, Minister of Grace Baptist Church.

APPROVAL OF MINUTES.

Upon motion of Councilwoman Locke, seconded by Councilman Withrow, and unanimously carried, the minutes of the last meeting, on Monday, July 12, 1976, were approved as submitted.

HEARING ON PETITION NO. 76-57 BY BOWMAN AND ELLIOT ENTERPRISES FOR A CHANGE IN ZONING FROM R-6MF TO B-1 OF PROPERTY FRONTING 100 FEET ON THE NORTHWEST CORNER OF THE INTERSECTION OF TUCKASEEGEE ROAD AND PARKWAY AVENUE.

The scheduled public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this petition represents a proposal to change from a R-6MF classification to a B-1 classification, two lots located at the intersection of Tuckaseegee Road and Parkway Avenue. He stated the property has two structures on it at the present time - the one at the corner of Parkway and Tuckaseegee is being used as a used book store; the structure on the adjoining lot is being used for a used appliance sales facility. It is obvious from the fact that these lots are being requested for a change in zoning from multi-family residential to business, that the present uses are not allowed at that location. Both of those uses have been established without the proper permit procedure. They have been, he understands, under some instruction from the Building Inspection for some time now to cease the violation and as a result of that enforcement action, the request for rezoning has been filed.

Mr. Bryant stated the adjoining land uses are primarily residential in nature. Going on out Tuckaseegee there are a couple duplexes adjacent to the parcels and then single family residential usage farther down Tuckaseegee and across the street from the property in question. There is a church located on the opposite corner of Parkway and Tuckaseegee; and then more residential structures, single-family, duplexes and small apartment structures. The broad area of vacant land extending diagonally across the map is a very wide Duke Power Company right-of-way that has been there for years - high powered, high-tension transmission lines. He stated there is some business activity on Tuckaseegee Road which begins in about the first block off of the map and extends west on Tuckaseegee over several blocks; and then in the direction of the downtown area on Tuckaseegee there also begins some commercial activities a couple blocks off of the map in the easterly direction. But in this immediate area there is no existing use or business zoning as such. He pointed out the location on Parkway of the

site of a combination park and community center. The zoning configuration in the area reflects pretty much the existing land use. All of the immediate area around the subject property is zoned R-6MF at the present time. There does begin at the transmission right-of-way and continuing westerly, a configuration of business zoning, although it is not reflected in land use.

He showed several slides of the subject structures and the immediate area, pointing out the use made for outside storage by the used appliance business, both in front and to the rear of the structure, which indicates it is used in a manner which is not allowed by the present zoning.

Councilman Whittington asked Mr. Bryant if the zoning officer in the Planning Commission office is aware that these two buildings are in violation? Mr. Bryant replied the Building Administrator in the Building Inspection Department is responsible for enforcing zoning and they have indicated to him that some months ago they sent a letter to the property owner indicating there was violation and it was apparently as a result of that letter that this action was filed. Normally, in situations like this the administrator will give some time for the matter to be determined when a rezoning request is made. Of course, if the rezoning request is denied, then they will proceed with the enforcement of zoning ordinances.

Mr. John Hunter, attorney in behalf of Bowman and Elliot Enterprises, owners of the subject property, stated they purchased the property some two years ago. He has been told this property for approximately 27 years was used as medical offices - two doctors. Even though they look like residential structures, the inside has been completely revamped and has been used for a number of years as medical offices. That was a proper use at that time in an R-6MF zoning. Not knowing that there was any difference between the zoning classification for medical use as opposed to the present use, they did not check the property out. The bookstore is not a pornographic bookstore of any nature - it is a very nice store of very hard-to-find books and a lot of people use it. Adjacent to it, the premises are used as an appliance store. They have made several attempts to get the gentleman to remove the appliances. The property owners did not purposely or intentionally violate the restrictions of the zoning ordinances - they really had no knowledge; they knew the property had been used for a number of years as medical offices and the doctors moved out due to the change in the area.

What is not shown on the map is that for thirteen blocks on Tuckaseegee Road, both west and southeast, it is zoned B-1. It is just this two and a half block area that is zoned R-6MF. Their property is on the corner of Parkway and Tuckaseegee, a major thoroughfare, and certainly it is very difficult from the way the structures have been changed inside over the years, to now rehabilitate them for residential use. Basically, what we have is spot zoning in reverse. They have B-1 to the right of them; B-1 to the left; and they are in the middle. They are not being used as a buffer because in effect they are separating two B-1's. There have been no protests filed in this matter. They do not want to do anything to jeopardize the neighborhood, but in their predicament, based on the structures themselves and on the use and past use of these particular buildings, it would cost them untold dollars to rehabilitate and lease out as R-6MF, when just some 300 feet to the west of them the property is zoned B-1 in the same block. He knows that everyone is going to say this is spot zoning, why did you even come down? They realize this, but this is their last hope. Council will have to be the one to determine the highest and best use. He does not advocate spot zoning, but it has been encroached upon them from both sides. If there was some uniformity to the way the zoning on Tuckaseegee Road is or if they were a buffer zone between a B-1 or I-1 and residential, he could understand. But, they are not really used as a buffer zone because they are between the two B-1's. There are I-1's on Tuckaseegee, I-2's on Tuckaseegee; B-1. That little area that the Planning Commission shows on their map is the only R-6MF. He does not believe when you are coming from either direction, the property at its highest and best use can change that drastically. Certainly if it is a buffer zone, he does not believe it is a buffer between any other properties that are not

already being used out there. He strongly urges their consideration and hope that they vote to change the zoning. He would rather see the whole area zoned B-1 to prevent the spot zoning, but he does not think it is incumbent upon them to request that the entire area be rezoned B-1. If there are some restrictions they could be imposed so that it would not detract from the neighborhood. They could certainly live with that. It is a unique situation and he will be the first to admit it. He will not say that they could never get a tenant who would lease this property for residential purposes. He is sure they could, but he does not believe it is the highest and best use, especially with the traffic they have on Tuckaseegee Road and the way the property is changing both to the right and left of them.

Councilman Gantt stated Council sees a number of zoning petitions requesting change, and Council often grants that change when based on the public interest in terms of the quality of the neighborhood, that change is clearly justified. He has not heard Mr. Hunter say what this particular change would do for that neighborhood. He does not quite understand his argument about the spot zoning when he looks at what he is requesting. He may be talking about Tuckaseegee Road in its entirety. He does not see what his particular petition would add if Council were to change it to B-1.

Mr. Hunter replied they realized that when they came down here because the area is very attractive as far as the residential purpose is concerned. They have a unique problem in the sense that these two structures have been for over twenty years used for medical offices. The doctors vacated. Therefore, the homes have long since changed from a residential use to a medical use or business use. To go back and rehabilitate those would cost untold dollars. He knows they have to weigh that against the needs of the neighborhood. In addition to that point, his argument is that on both sides they are already blocked in as a B-1 area, for thirteen blocks both to the west and to the east - not just in one direction. It seems they have made an attempt to zone Tuckaseegee to B-1 in both directions except in this three-block area which imposes a hardship on them. They do not want to detract or do anything that would jeopardize that neighborhood, but at the same time it is encroaching on them from both sides. If they are going to have it to the east and to the west, make it uniform all the way down.

Councilman Withrow stated it is his understanding the people who are selling the appliances live in that house. He asked Mr. Hunter if this is correct? Mr. Hunter replied he does not believe so, he does not believe they live in that house. To his knowledge, they do not.

No opposition was expressed to this petition.

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

HEARING ON PETITION NO. 76-58 BY W. I. HENDERSON FOR A CHANGE IN ZONING FROM R-12 TO R-15MF (CD) OF PROPERTY FRONTING 100 FEET ON THE SOUTH SIDE OF COUNTRY CLUB LANE, ABOUT 210 FEET EAST OF THE INTERSECTION OF COUNTRY CLUB LANE AND MATHESON 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. Bryant, Assistant Planning Director, stated this lot is located on the south side of Country Club Lane, immediately adjacent to the Charlotte Country Club property. He pointed out Matheson Avenue coming from The Plaza, curving to the north and paralleling Country Club through the vicinity. The subject lot is approximately 100 by slightly less than 200 feet in depth. It is vacant at the present time and is adjoined on every side except for the Country Club itself by residential housing. There is single-family housing across Country Club Lane in front of it. There is a duplex adjacent to it, on the corner of Matheson and Country Club Lane

and other single-family houses facing on Matheson and on Mecklenburg. The land use which is adjacent to it on the Country Club property is primarily tennis courts. The total area is zoned R-12. This is a request for consideration for R-15MF (CD) use and it does involve the submission of a site plan and such plan has been submitted in this instance. It is a relatively simple type plan. The proposal would be to bring two driveways off of Country Club Lane and have a one-story duplex structure located in the large area of the lot with entrances at points which he pointed out on the map. It is a relatively normal sort of plan for a duplex in that situation. He illustrated the area with the use of slides. He stated Country Club Lane is very narrow, a lane type of street. That it is a very residential setting.

Mr. Underhill, City Attorney, stated the petitioner submitted a letter addressed to the City Council asking that this petition be withdrawn, but since the petition is subject to a 3/4 protest requiring six affirmative votes of Council to rezone the property, the City Code does not permit withdrawal of any zoning petitions which are the subject of such protests. His legal advice is that the request for withdrawal cannot be honored because of the provisions of the Code.

Mr. Don Hatley, 2025 Matheson Avenue, spoke in opposition. He stated he lives across Country Club Lane from the property. That he is representing himself, his family, his friends and neighbors.

He stated they were all here to express their mutual disapproval of any rezoning in their neighborhood and community which would change its character. Their entire neighborhood is made up of resident-owner homes and property and they would like to see this continue. The zoning in their neighborhood is R-12 and it is their opinion that it should remain that way. The request to rezone this to R-15MF would be, in their estimation, spot rezoning and would set a precedent that would be harmful to their neighborhood. For all of these very obvious reasons, he and his neighbors would like to see this petition denied.

Ms. Mary Ann Hammond, 1915 Ashland Avenue, spoke also in opposition, stating she speaks in behalf of the Board of Directors of the Plaza-Midwood Neighborhood Association. The Directors have had the opportunity to meet with both Mr. Henderson and the residents of Country Club Lane who oppose this rezoning request and based on the information they obtained, they voted unanimously to oppose the rezoning request in the best interest of the neighborhood as a whole.

She stated in the past year many positive things have been happening in their neighborhood to indicate an increasing level of stability. Two of the most positive occurrences have been the rezoning of The Plaza from multi-family to single family; and City Council's resolution in support of citizens who opposed construction of the new Independence corridor. These two things have indicated to them that as City Councilmembers they are conscientiously attempting to reflect the will of the people of individual neighborhoods while considering the effect of their decisions on the City as a whole. It is not an easy task. They feel the denial of this rezoning petition would be another step in the right direction towards insuring that Plaza-Midwood will remain a desirable inner-city neighborhood.

Mr. George Murr, 2819 Country Club Lane, stated he is in opposition too, but felt, since the petitioner had requested the withdrawal, in the interest of time, five or six of them would not speak.

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

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HEARING ON PETITION NO. 76-59 BY CITY OF CHARLOTTE FOR A CHANGE IN ZONING FROM R-6MF TO R-6 OF TWO PARCELS FRONTING ON THE OPPOSITE SIDE OF HERMITAGE COURT, BEGINNING ABOUT 275 FEET EAST OF THE INTERSECTION OF HERMITAGE COURT AND HERMITAGE ROAD.

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 this is another aspect of the Myers Park rezoning situation. It involves the property located on Hermitage Court which was left out of consideration the previous time and which Council itself felt should come back for review under the circumstances that exist.

One lot has on it an existing four-unit apartment building which has been there for many years. On the opposite side of the street the large parcel of land is predominately vacant although it does have one house located on the Providence Road side of the property. Except for another existing four-unit apartment building which is located to the rear, on Moravian Lane, the entire area surrounding this property is used for single family residential purposes. The zoning pattern in the area, now that the changes were made as decided several weeks ago, the two parcels involved in this petition are the only remaining properties along Hermitage Court which are now zoned R-6MF. Everything else is now zoned R-6. The nearest non-single family zoning now is the beginning of the R-6MF pattern on Queens Road near Dartmouth which continues on Queens Road coming into the city for multi-family purposes. He showed slides to illustrate the area.

Councilwoman Chafin asked what the zoning would have to be on the property where the apartments are located for it to actually be in compliance? Mr. Bryant replied R-9MF zoning would accommodate it. It is in compliance now.

Councilman Williams asked the location of the property owners who filed the protest petition? Mr. Bryant replied the petition was filed by the owner of the four-unit apartment. It actually invokes both of them as it is a single petition so any invocation of the 3/4 vote rule would invoke it on the entire petition. In this instance, since this represents more than 20 percent of the area contained within the petition, it does invoke the voting rule. He thinks they will find that both property owners are opposed to it. The surrounding lot owners are not opposed.

Councilman Gantt stated he thinks it ought to be made clear why Council brought the petition. The original petitions concerning Myers Park left this particularly portion of land out for review and upon some of Council looking at that they felt it ought to come up at least for a public hearing to find out why it is that this particular piece of property should be exempt from the R-6 zoning that was imposed on all the rest of Myers Park.

Councilman Davis asked Mr. Bryant to explain the existence of that single-family dwelling on the side of the lot. Is it just one house and what is the size of that lot that contains the single family residence? Mr. Bryant replied it is all under one ownership, there is no separate lot as far as ownership is concerned. He believes that initially this was about three or four separate lots that were assembled by a common property owner. There happened to be a residence on one lot. Whether or not there was ever residences on the others he is not sure. He believes the one residence occupies about 50 or 60 feet of that property and it is occupied. Councilman Davis asked if there is any precedence for vacant lot zoning? Where you have a vacant lot existing in a mature subdivision? Mr. Bryant replied very few. At the corner of Providence and Hermitage there is a small area that is vacant, but there are few lots vacant in an area like this.

Councilman Davis stated if the whole area is single-family and has a vacant lot, and an individual wants to build a home there, he might have difficulty getting mortgage financing. Recalling the condition of the homes to

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the rear, it might not be reasonable to construct a single-family residence in a quite old subdivision. Mr. Bryant stated the nearest thing he knew to that, is that in the area near Edgehill Park there are a few residences under construction now.

Councilman Whittington asked Mr. Bryant to give the history of the vacant lot that has been excavated on the other side of Hermitage Road. A petition was requested by another petitioner to build a condominium. He thinks the audience as well as new members of Council would be interested in knowing how long ago that was. Mr. Bryant stated he is not sure of the exact length of time he is referring to but he thinks it was somewhere in the general time frame of six to eight years. This property was initially assembled with the view of erecting a hi-rise or semi-hi-rise condominium in this area. At that time there was a request filed to rezone this property from R-6MF to R-6MFH in order to allow construction of that condominium. That was denied by City Council at that time with a considerable amount of opposition from the area. Since then the only additional consideration given to the property was two and a half years ago when the original Myers Park petition was submitted at which time this was included in the area, but as they are aware, at that time the total request was rejected and there were no changes made at all.

Councilman Whittington stated, as he understands it, starting at Moravian Lane you have a non-conforming four-family apartment; next to that you have the property that they are talking about in this petition which has been up for consideration eight to ten years ago and the opposition at that time was led by the late Mr. John White. Across the street you have a four-family apartment that has been there and owned by one principle for thirty years or more. He thinks all of this ought to be in the record as they go along considering this with Council and the Planning Commission.

Mr. R. Michael Childs, 2301 Pembroke Avenue, spoke for the change. He stated he speaks in behalf of the Myers Park Homeowners Association. As they already know quite well, Hermitage Court is a very attractive and important part of Myers Park, and one they are very proud of. Although there is only one petition at issue here there are actually two properties involved. The property on the north side is a four-unit apartment owned by Mr. Heath. The property on the south side is one lot now but it was formerly two lots. One of those lots is a single-family home that is not being occupied at the moment. The rest of the property is a vacant lot which has been excavated and is grown over now with hedges and other vegetation.

First, the Wolfe property. When this rezoning petition first came up at the behest of the City Council, they poled their Board of Directors and with one exception - one member they could not reach, the vote was 100 percent in favor of this rezoning. They felt this is a single-family neighborhood, of single-family character and the zoning proposed is single family. At the same time, they felt even more strongly that the existing R-6MF zoning on the property constitutes a real threat to the neighborhood. That if it were built to its full potential, the building would be quite large and generate quite a bit of traffic in the area and would be incompatible with the single family neighborhood now there.

At the same time, they recognize it is an empty lot; that it is an eyesore and at the present time nothing is being built on it. They realize it would be in the best interest of everybody in the neighborhood if something was constructed there, if that something were compatible with the neighborhood and conformed to the best aesthetics, conformed to the scale, density and so forth. After they had talked with their Board of Directors about this issue, he was advised by two people in that neighborhood that Mr. Wolfe, who owns the property on the south side, had in mind a new project which would involve some construction on the property with a low density scale. Since those two neighbors spoke to him about it, he called Mr. Wolfe and they met today with a scheme he has drawn up for what he is going to propose for the area. On the one lot that has a house on it - he is speaking on the basis of what Mr. Wolfe told him - he intends to fix up and sell as a single family dwelling. That would be the ideal solution for that house and they would wholeheartedly applaud that.

The rest of the area, which is a lot of about 110 x 240 feet, he proposes to build four single-family homes in a courtyard pattern, condominium ownership, so that the front part will be commonly owned and commonly maintained and so would the courtyard. They think that this kind of solution, in this particular instance, could be a good one if it is designed and is on a scale that is compatible with the aesthetics and the scale of the neighborhood. Most importantly, it would fill in an ugly, unused, overgrown lot that now is a real detriment to the neighborhood. They would hope, though, in the course of his coming before Council with a proposal for a parallel conditional use, that the people in the neighborhood would have the opportunity to review this, that the Myers Park Homeowners Association has the same opportunity, and that everybody has the opportunity to satisfy themselves that this proposed construction of only four units will be compatible with the neighborhood. They have two important caveats for that proposition. First is that no one but him, as far as he knows, and maybe some of the neighbors in the Hermitage Court area, have had a chance to see what he has in mind. That this puts him on shaky ground as far as speaking for the Board of Directors, although he informed them of what he intended to do today. It is important that the Homeowners Association and the people in the neighborhood have the opportunity to see Mr. Wolfe's plans. Even more important, he would want to make a very strong caveat that if the parallel conditional use method is used here, Council understand that they are simply saying it is an empty lot in an otherwise fully developed neighborhood; that it would enable a sort of a gap in the entire neighborhood to be filled in. They feel very strongly that the parallel conditional use is not a proper tool to be used if it is a form of redevelopment, if it encourages the tearing down of houses to replace them with something else. The character of Myers Park is in its old houses, but since this does not involve the replacement of housing, in fact it is the perpetuation of one in filling in a lot, the parallel conditional zoning used in this instance probably would be satisfactory since they are talking about a low-density building.

He stated across the street is the Heath property which is a four-unit apartment. The vote of the Homeowners Association Board of Directors was again the same - unanimous in favor of the rezoning. They do not have a great deal of problem with the non-conforming use - there are non-conforming uses all over Myers Park involving small apartment houses. At the same time, they can recognize it would not be incompatible with the existing building and with the existing character of the neighborhood if that building were zoned in conjunction with the type of structure that is there. In other words, if the lowest density, multi-family zoning that would fit that apartment is R-9MF or R-12MF then they think that would probably be the appropriate zoning for that property, but they feel very strongly they would not like to see any encouragement to tear down that building and replace it with a larger apartment building. The one there has been there for some time and is no problem in the neighborhood.

Mr. Childs stated of the two zonings, they would prefer the proposed zoning. In that sense, they are speaking in favor of the rezoning petition. They think the present R-6MF zoning is far too dense for the neighborhood and ought to be changed. Councilwoman Locke stated yet he is saying it is all right with what he does to that piece of property? Mr. Childs stated not what he does to it, it is already there.

Councilman Withrow stated about all of the other petitions that came up on this were negotiated and what Mr. Childs is saying to them is that his group would be willing to accept possibly an R-12 or R-15MF which allows four to an acre and each one of those lots evidently has about a half acre. That is the lowest density if they wanted to be assured that no more than four would be built on that lot. That an R-15MF would assure them that is all the density that can be put there. Mr. Childs stated that is right, that is what they are saying.

Mr. Childs stated their goal is for the preservation of existing houses in Myers Park and they think the solutions they have given are perfectly consistent with that goal.

Mr. Lee Heath, 215 East Morehead Street, spoke in opposition to the petition, stating Mr. Childs has mentioned something about R-9, R-12 and R-15. He appreciates any gestures he gets from the Myers Park Homeowners Association. He stated the lot they are talking about is 106 x 210 feet. It is his lot. It does not seem right to him to have to defend an apartment he built thirty years ago. That the only thing they are up against here if Council, in its wise judgment, will just grant him immunity to the extent that this non-conforming business is out the window, so to speak, he thinks he would be perfectly happy. The building itself is a four-family; built thirty years ago, it sits back sixty feet - he could have set it forty or fifty - he put the apartment right in the middle and physically speaking you just cannot do anything with it. You could hardly add on to it. That the thing they are talking about again is stressing the non-conformity of this building. Coach Simmons originally developed, or was one of the prime developers of Hermitage Court. It is about one and a half blocks long and he did a good job, he was his friend and when he built this apartment he still lived there and came down and they got along very well. He had his blessing then and Hermitage Court had apartments up on the upper end originally - only two of them are still there - and he thinks they have every right to co-exist, as he has said here before, in a previous meeting they had on another issue. That he thinks apartments are here to stay, they have led the field for the last five years, more so than single family. That this constitutes a pretty good argument. At any rate, he will be happy to answer any questions Council might have.

Councilman Williams asked Mr. Heath what is the lowest density zoning that would permit this property to remain conforming? Would it be R-12MF? Mr. Heath stated he could not answer that. Mr. Bryant stated if his lot is 106 x 210 feet, that would constitute 22,200 square feet, and under the R-12MF classification four units would require 21,000 square feet, so it would be conforming as far as the density is concerned. He is not sure about the yard areas. Mr. Heath asked if R-6MF is 6,200 square feet? Mr. Bryant replied yes. Mr. Heath stated he could have gotten about 16 units originally and they put four on there.

Councilman Gantt asked Mr. Heath how his property would be affected if they changed the zoning to R-6? Would he not be allowed to continue to maintain and keep those four units as long as he wants to, but not be allowed to expand them to 10 or 16 units? Mr. Heath replied he thinks so, yes. It would be better than putting the stigma on it of non-conforming. Mr. Gantt replied it would be a non-conforming use but for all practical purposes he would be able to maintain and keep those four apartments. Mr. Heath replied plus the fact that if you ever went to sell it you have a merchantable title. If this property is ever sold and you had a potential buyer, his lawyer would naturally look the title up and he is confronted with a non-conforming use, and the buyer would say "what is that?" and by the time he got through explaining what that was, that buyer would be running out the back door. He is asking Council to put anything on there they want as long as they do not put the "bug-a-boo" on it.

Councilman Williams asked if he could take that to mean Mr. Heath could live with an R-12MF? Mr. Heath replied if that would give him four units; it has been there thirty years with four family. It will not bother him, it might bother someone else.

Councilman Gantt stated he did not see what that would do to the sale of his property if R-12MF would still allow him four units and R-6 even in a non-conforming pattern would still only allow him four units. He thought what he was trying to say is that the potential value of the property is enhanced by the fact that it is still an R-6MF.

Mr. Heath stated perhaps he did not make himself clear. The classification of non-conforming brings up a cloud on the title if you ever went to sell the property. As far as the number of units is concerned, he does not really care. They can make it anything; just do not say the word non-conforming. He stated the attorneys on the Council and Planning Commission have certainly had this problem come up. He just does not want a potential buyer someday if he ever does sell it, to be run off.

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Mr. Harry Wolfe, 501 Hermitage Court, stated he is here wearing several hats. He is an advocate of planning, a preservationist, a property owner on Hermitage Court in addition to the property under consideration. The hat he wants to wear to begin with is that of a dentist because Hermitage Court has a gap right in front and it happens to be on the property that he owns, it is the only gap on Hermitage Court. It is worse than a gap because it is a hole in the ground as Mr. Bryant has said and it is a hole in the ground owned by him; a hole in the ground, owned by him, that he paid some money for.

He stated he and his wife moved on to Hermitage Court several years ago and shortly after they got settled they began looking around and noticed the hole in the ground and made some inquiries and discovered that it was owned by a man who has become a friend of his, Sidney Shapiro. He had at one point in time tried to put an eight-story condominium on the property. That the question was raised earlier about how did the empty single-family house get on the property? As he understands it, Mr. Shapiro originally bought the property which is now the hole in the ground and he demolished the house that was on it and excavated in anticipation of his hi-rise and then discovered that something was not conforming so he bought the property next door which was a vacant house. At any rate, that plan got put on the shelf, the money market got tight or something and it was sort of in the deep freeze when he moved to Hermitage Court. He was concerned about what might happen in the future when the deep freeze thawed, so to speak, so he got with Mr. Shapiro, they struck a deal and he is the owner of the property.

Mr. Wolfe stated two and a half years ago the property was under the Myers Park Homeowners Association petition, which came back from the Planning Commission to the Council recommending exempting it from rezoning. The whole thing subsequently "went out the window". Now, in this last go-around it was not a part of the Myers Park Homeowners Association petition. Now it is the subject of a petition all its own, at least he and Mr. Heath together.

He is trying to get out of a hole in the ground in more ways than one. What he would like to propose for Council's consideration is a compromise that he thinks will be good for the neighborhood. It will allow him to practice that little bit of industry and fill in the gap in Hermitage Court, and to do so in a way that is responsible to the neighborhood. He proposes to take the house that is on the property and fix it up and sell it. Therefore, he would propose that it be rezoned single-family, as the petition suggests. The house and its original lot which is like many of the lots on that street, is 50 feet wide. The remainder of the property he would like to propose to build four homes to be in condominium ownership. The resulting density that will give to that property is less than the lowest density they can have; it is less than R-20; if they designated that property R-20MF in terms of density, you could get more than four units on it. Because of the shape of the property, if you abided by all of the set-backs, the houses would not be but five feet wide but there would be more than four houses on it. What he would like to propose is R-6MF (CD) which Mr. Bryant tells him is parallel conditional use, which means that he has to submit a plan and in that plan he certifies that he will not put more than four dwelling units on that property, so that controls the density, but the R-6MF designation allows him to abide by the side yards and the set-backs that allow the houses to get on there and be more than five feet wide. These are side yards and set-backs that are consistent with those that exist elsewhere in the neighborhood. He submitted a sketch which would give Council some idea of how this might work, pointing out where the entrance drive and courtyard would be located and the location of the cluster of homes which would be scaled in keeping with the street and perhaps most important of all, at least to him, is the fact that he and his family plan to live there. They will sell their house up the street and design their own home as one of the four courtyard houses. They would all be owner-occupied houses.

He stated one of the slides which they saw is the house on the down street side of the property, fronting on Hermitage Court which used to be Jake Houston's house. He built a swimming pool in the backyard and decided

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to screen the swimming pool by planting two or three kudzu plants and they have been fighting ever since. That Bob Suarez, business manager for Knight Publishing Company, recently purchased that house and he is the one neighbor adjacent to the property on Hermitage Court and therefore he is the most affected person. He has met with Mr. Suarez and showed him the sketch and talked with him about what they intended to do. He filed a letter with Council from Mr. Suarez stating that he is not opposed to the plan but in fact would welcome the development of the property in this manner. He also filed letters from other property owners on Hermitage Court, people who are in favor of what he proposes.

Mrs. Harry Wolfe stated she wanted to say, in order to maybe make Mr. Childs feel a little more comfortable about speaking, that this afternoon in about thirty minutes she collected signatures of perhaps two-thirds of the residents around them who are in favor of what they propose to do for the property. She probably could have gotten 100 percent if she had had more time. She thinks the people in their neighborhood feel like they care about the street, that their interest is dual, not just as property owners who want to develop it, but to live there. They care about the street, they have been involved in it since they moved there and would like to continue to be involved, to stay there and fill this gap and make it a more attractive place to be as well as enhance the property around it.

Councilman Gantt stated he personally would like to go on record as saying that this kind of resolution, using the parallel conditional zoning, apparently can work in this particular neighborhood. That he does think the gap needs to be filled in and he thinks it is a laudable plan and the Planning Commission ought to consider it.

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

HEARING ON PETITION NO. 76-60 BY HAROLD C. KEITH, PAUL STEWART, ET AL, FOR A CHANGE IN ZONING FROM R-9 TO B-2 AND R-9MF OF PROPERTY FRONTING ABOUT 1,300 FEET ON THE EAST SIDE OF STATESVILLE ROAD, FROM BURRIS AVENUE TO ABOUT 165 FEET SOUTH OF WINSLOW DRIVE.

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.

Council was advised that Paul R. Haynes, Sr. and Pearl G. Haynes; and Gary W. McVickers have filed requests to remove their names from the petition for rezoning.

Mr. Underhill, City Attorney, stated before hearing from the petitioner, Council should make a decision as to whether or not they will permit the two property owners to withdraw their names from the petition. The entire petition cannot be withdrawn because it is subject to a 3/4 protest petition; but Council can decide whether or not to allow the names to be withdrawn.

Councilman Whittington moved that the names be removed. The motion was seconded by Councilwoman Locke, and carried unanimously.

Mr. Bryant, Assistant Planning Director, stated the request involves a change from a residential classification to a combination of business and multi-family of the property which is located on the easterly side of Statesville Road. It consists of all of the frontage property on Statesville Road extending from a point between Oakwood Drive and Cindy Lane, up past Winslow Drive on up as far as Burris Drive. The frontage portion of the property back to Jane Avenue, is proposed for B-2 classification. The property east of Jane Avenue is proposed for a change to multi-family. That two property owners have requested that their names be withdrawn from the petition. Actually the petition in its original form did not constitute a 100 percent ownership representation; it did involve several parcels of

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land for which the owners had not signed requesting the change and therefore it is a mixed petition constituting both properties which are represented by people asking for the change and property which is represented by people who have not asked for such a change. According to the policy which they normally follow in that sort of situation, those people whose property is being considered without their consent were sent notices to that effect and given an opportunity to be aware of it.

He stated the area involved here is one that at the present time has some mixture of uses. That the actual property which is being proposed for consideration of change is predominately developed with single-family housing. There are a couple exceptions - there is a well-drilling company which has a facility located at the corner of Winslow and a very substantial truck repair facility at the corner of Burriss Avenue. Both of these are non-conforming since they are now in residentially zoned areas. The zoning pattern is all single-family residential in the area which is the subject of the petition, including property to the east, back along Arvin Drive, predominately single-family on the westerly side of Statesville Road with the exception being an I-1 district to accommodate the Consos operation and a beginning of business zoning on Statesville Road at the southerly end of the subject property. On the westerly side of Cindy Lane there begins a considerable pattern of residential zoning which extends for some distance southerly along Statesville Avenue. In general, the immediate vicinity of the subject property is predominately single family zoned.

Mr. Bryant then presented slides of the property requested rezoned and the surrounding area.

Mr. Charles Henderson, attorney appearing for the petitioners, stated he is representing home folks in that area. Mr. Harold Keith and a large family of Keiths have lived in that area for two generations. Harold Keith, in particular, has lived in the largest of the homes, probably the most expensive home, in the proposed business area. He has lived there for some fifteen years. Paul Stewart who operates the well company that occupies a great deal more of the space than the little red dot on the map would indicate, has lived in that area forty-five years and his family lives there. These people are neighbors and do not want to do anything that will be harmful to the neighborhood. They have lived in peace for many years and they have tried to approach what is an extremely unsuccessful subdivision. The typical house along Jane Avenue appears to have four rooms, some five. As houses go in Charlotte, they are tiny homes but very nice homes. A great many lots are vacant through the area. They proposed the inclusion of the area to the right of Jane Avenue be zoned as a multi-family classification because they thought that was good zoning practice; that it would be an insulating factor from the property further to the right. Actually these properties are farmlike in character; they are acreages as distinguished from lots; there are barns, tractors, trucks, all kinds of things that you find in typical rural, agricultural areas, as distinguished from single-family homes.

He stated this unsuccessful subdivision contains no curbs, no sidewalks, has a minimum of trees, the line that they have proposed is a line that would cross at Burriss. They say that when the zoning classifications were put out there in the first place that is where the line should have gone. It is almost like the difference between midnight and day when you arrive at that point because at that point the entire character of Statesville Road changes. If you get on at I-85 and drive from there up to Burriss Road, you see a great deal of undesirable junk; you see the kinds of things that were he those neighbors out there he would not want any more of. He would want his neighborhood developed by people who have a stake in the community, by people who have been residents who are going to continue to be there; he would not want any non-residents, no people opening up these shops that seek men at night or whatever it is that they do. When they found that the neighborhood was upset and they were getting up a petition they tried to find out who appeared to be upset and they found that there is an organization of extremely fine people that operate generally in this area all the way over to Derita. They have done a good job of safeguarding

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that community and he applauds the type of thing they are doing. He has had no opportunity to discuss it with them to see if any adjustments could be made, but he wrote them a letter setting out what they proposed to do. He stated they are not trying to have conflict with the neighbors, but he does think that the line was drawn at the wrong place. The neighborhood in that area is not suitable for the present non-conforming uses; that it is not suitable for residential purposes as presently zoned. He was in the neighborhood this morning and does not know of a single child that he saw and he was out there in broad daylight, after breakfast, and it was a beautiful morning and he did not see a single child or any indication of children in the Jane Avenue or the Statesville Road area. There may be some there, but he did not see any. There are no sidewalks. The line needs to be drawn somewhere and he would suggest that the big industrial establishment - Consos - that is zoned I-1, is where the line should have been drawn in the first place. He explained how it changes at that point. As soon as you pass that point, on the lefthand side, across that side street, there is a used car lot; so there is a little bit beyond that intersection, but for the most part that is where the business stops. As you come back towards town, however, there is almost constant business of some sort. There are machine shops, there are grocery stores, industrial establishments, truck repair outfits, etc.

On the property in question, immediately beside Burris Avenue, is a place that is known as Ray's Mobile Truck Garage - the property belongs to Mr. Harold Keith. Mr. Henderson stated some five or six weeks ago he appeared before Council at which time Mr. Keith and his son Tom were being confronted with the fact that the City would like to have the premises they have occupied successfully on Graham Street in the Fourth Ward Area, incorporated in the Historical District. This property had been set up for purchase by the City. Now, they already own land, it is already being used for garage purposes, it is to the city side of the place that he respectfully argues is the place where the line should be drawn. They not only own the existing garage but they own the largest of the lots; they own the property immediately next to what is zoned B-2. They are not asking for spot zoning; they are asking them to start at the existing B-2 zoning and move it into Burris Avenue.

He stated they think they have proposed good zoning; they are prepared to have Council adjust the sort of things they have suggested. If they do not feel that it is appropriate that there be multi-family usage on the right-hand side of Jane, he would respect their decision to deal with that; but he asks that they deal with that as a separate issue. None of the property that is immediately adjacent to that belongs to anybody other than one of the petitioners except a Miss Wilson, whom he does not know. But, Tom Keith who owns a substantial home on Burris Avenue, owns a considerable amount of the property that has been proposed for multi-family usage, as a buffer strip. If it is more appropriate for Jane Avenue to be the buffer strip, then between Jane Avenue and Statesville Road is the area where Mr. Keith lives and from time to time his lot has been used instead of the business next to it. Mr. Stewart has two large lots at the intersection of Winslow and Statesville Road. This property goes on up Statesville Road as well as to a considerable distance back on Winslow. He stated these people would like to eliminate the present industrial type of usage; they are trying to avoid any suggestion of strip zoning; they are trying to help in the solving of the Fourth Ward problem by bringing their business to the Statesville Road site. The building in Fourth Ward is a substantial building. They would like to improve on the size of the truck garage that is at the corner of Burris. There are steel drums and parked trucks, etc. shown in the slides. This is because the work has to be done outside because the building there is too small for any substantial operation. The hope is that with the change in zoning that building can be sufficiently enlarged that truck service can be done inside and it ought to be an improvement to the appearance of the neighborhood.

Mr. J. W. Sailors, Route 11 - Lake Road, spoke in opposition. He stated that Mr. Henderson spoke of the family being oriented in that neighborhood and their being the ones who are going to live there along with the rezoning

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that is to be done. He stated Mr. Stewart moved some ten to twelve years ago out of the neighborhood into the Newell district, therefore leaving the neighborhood completely but coming back to do his business. He feels this was a false statement. Secondly, the letters which were written - they may have been typed, they may have been mimeographed, but no one can say they were received. As far as the appearance of the neighborhood, the neighborhood is residential; it is being used non-conformingwise by the garage which has been there for a good while. They agree with this but ask that no additional buildings of any type be added to the area, plus the expansion being absolutely null and void due to the fact that just because the building is there, there is no reason to have additional work done to it. They would like to have it moved out and a home put up, but they realize this cannot be done simply because of the area. They sympathize with Mr. Keith's having to get out of the Fourth Ward area, but they also sympathize with the homeowners who are there. He stated a number of the families as well as church members are present in the audience to show their concern. He stated he has tax maps that indicate that the families that would be affected, probably 90 percent of them, are not multi-family, not business, but simply single family dwellings.

Mr. John M. Dunn, Jr., 3742 Arvin Drive, spoke in opposition, stating he is appearing as Chairman and spokesman for the Derita-Statesville Road Community Organization. He filed petitions with the City Clerk in opposition to the rezoning.

He stated the rezoning involves two areas - one for B-2 and one for R-9MF - both currently zoned as R-9. It has been pointed out that the petition for rezoning was filed by six property owners but with the withdrawals it leaves four. In addition to that, in this area that is subject to this rezoning there are 12 separate property owners whose property is being subject to rezoning mostly against their will. There are one or two of them that have not been contacted to determine their desires. They did not sign the petition and they did not contact them for it.

He stated that Mr. Stewart, one of the petitioners, has owned for some years the well and pump service at the corner of Winslow and Statesville Road. It has been in a non-conforming use and has been in existence before the 1962 zoning. That he has taken steps to move his well and pump service from this location and he is now left with a bit of property that will revert back to R-9. What he is wanting to do is to get this property rezoned to B-2. That leaves him two alternatives. He can either build a new business there, develop it; or sell it. He does not feel that it is of any use to him as it is now. He stated the feeling in the community is that it will be sold.

It has been pointed out that Mr. Keith wants to get his property rezoned to B-2 so that he can move his garage and his used car lot from North Graham Street to this area. In the petition that was filed he states there is an area at the south end of this property that was once used as a used car lot. Mr. Dunn stated he has lived in this area for eighteen years and is unaware of ever seeing a used car being sold on that property to which he was referring.

This petition is pure and simple strip zoning. It is an extension of the business zoning they have been forced to live with for some years from I-85 north. They thought they had it held to Nevin Road until last November when Council extended that strip zoning on up to Cindy Lane. That was involved in two petitions - Nos. 75-34 and 75-35 - but in connection with the Planning Commission's recommendations were these words: "However, with the decisions which resulted in an extension of business zoning on the west side of Statesville Road to a point just past Cindy Lane, it now is fairly obvious that a point near Cindy Lane is the next feasible location for attempting to arrest the solid strip effect of commercial zoning in the area, and from that point on, to continue to maintain that commercial changes should not occur." He indicated the property which was the subject of these petitions now has a "For Sale" sign on it. Within a year now they are faced with another extension which he assumes will move this from the Cindy Lane limit up to Burris. Next year they may be faced with one that will move it on up to

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the Iredell County line because there is no holding this thing unless the community goes along with Council or Council goes along with what they need in order to draw a line somewhere because they are faced with too much of this strip zoning.

In connection with the R-9MF, the purpose is given by the petitioners that it would be a buffer zone between the proposed B-2 and what would be remaining R-9. That is a very weak reason for rezoning; perhaps a little silly. What is going to be the buffer zone between the R-9MF and the business, or for that matter between the R-9MF and the R-9 that is remaining. They have been faced with an over-abundance of MF property in their area, in fact, they think they are being persecuted a little bit by so much of it being put in there - not just by the City Council but by the County Commission as well. In fact, they have under consideration now, as a community organization, the filing of a rezoning petition of their own to rezone approximately 74 acres back from R-12MF to R-12. They have been through that fight twice before; they are ready to go again. They are just loaded down with MF.

He stated there is an exceptionally strong feeling in the community about this rezoning, particularly from the owners of the property located within the area to be rezoned. What are you going to do with B-2 property? He suggested that the Planning Commission take under consideration a zoning ordinance that would permit the sale of a residence in a B-2 property and permit the continuance of the use of that property as a residence. If a man wants to pay the B-2 price for it, if he wants to pay the B-2 taxes on it, he should be privileged to buy it and live in it as a residence. Under the current zoning, if a man sells his property then it can be used only for business purposes and that is one of the reasons they have three of these "rub-down" businesses in their community. They are selling the homes and there is nothing they can do but business, and massage parlors are a business.

He stated Jane Avenue is not a street conducive to establishment of businesses on it. You can build businesses on Statesville Avenue but Jane Avenue is just not the type street for businesses. Yet, those people who are being faced by this petition to have their property rezoned for business will pay the taxes of a B-2 over an R-9, plus their inability to sell their property because no one would want it for business. The same thing would apply, for all practical purposes, in the R-9MF.

Of particular concern to this petition are the residents in the areas surrounding it, particularly the Statesville Avenue Baptist Church. They are talking about putting a used car lot and a repair garage plus whatever businesses are established, right across the street from this church. It is a neighborhood church and those people are strenuously objecting to this. They have had this type of petition up before. They are strong in opposition to it this time. Many of them are here tonight and it is not just an accident - they have a concern.

He requested that the Planning Commission recommend denial of this petition in its entirety and that the City Council vote to deny it whenever it comes up for a final vote.

In rebuttal, Mr. Henderson stated that the greatest favor Council could do the petitioners is to go and see, either individually or as a group, to determine if he is correct that the logical line is Burris Avenue.

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

CITY ATTORNEY ADVISES MAYOR DOES NOT HAVE CONFLICT UNDER PETITION NO. 76-61.

Mayor Belk stated he has property in Eastover; it is several blocks away from the property under Petition No. 76-61; but it is in this section. He asked the City Attorney to give him a ruling on whether or not there is a conflict.

Mr. Underhill, City Attorney, replied it is his view that there is not a conflict of interest requiring the Mayor to withdraw from these proceedings.

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HEARING ON PETITION NO. 76-61 BY KILLIAN, KRUG AND ASSOCIATES FOR A CHANGE IN ZONING OF PROPERTY FRONTING ABOUT 120 FEET AND COMPRISING .91 ACRES ON THE SOUTH SIDE OF FENTON PLACE, CONTINUED UNTIL AUGUST 9.

Councilman Williams stated from the informal session of Council prior to going into formal session, it is his understanding the petitioner wants to withdraw his petition in this matter, but is precluded from doing so because of the rule in our ordinance which says that once a protest petition has been filed he is not allowed to withdraw the petition. Secondly, if he is to withdraw it, it has to be done prior to the day of the hearing. Today is the day of the hearing and no written request to withdraw has been received prior to today as he understands it. The petitioner has led us to believe that the protestors are willing to withdraw their protest if he withdraws his petition. Councilman Williams stated if that is true, he would suggest that Council postpone this hearing until the next regularly scheduled meeting, and give both sides a chance to cease and desist.

Councilman Whittington stated he agrees with what Mr. Williams says provided the protestors are willing to be withdrawn. Councilman Williams asked who the legal protestors are? The City Attorney replied the people who signed the protest petition are Thomas J. Brown, Robert Anastes, Katherine Anastes, N. Aubrey Gillis, Eleanor G. Gillis - these are the property owners who filed the protest petition. He would suggest to Council if they are going to continue this that they not start the public hearing. If they are not going to continue the hearing then they should proceed in the normal procedure.

Councilman Gantt asked Mr. Williams if this is a motion to continue, and he replied it is. Councilman Davis seconded the motion for purposes of discussion.

Councilman Williams stated if the legal protestors are in the audience he would like to know if they consent to a total withdrawal, and ending this affair.

Mr. Charles Miller, Jr., President of the Eastover Residents Association, stated Mr. Gillis is present. He stated he thinks they will agree to withdraw provided the petition has been withdrawn. They want to be sure.

Councilman Williams stated he thinks all could save a lot of trouble if this can be withdrawn; if both sides are really willing to desist. It has been announced by the petitioner he is willing to withdraw.

Mr. Miller stated Mr. and Mrs. Gillis are members of the Association. Councilman Williams asked if Mr. and Mrs. Gillis are willing to withdraw their protest upon condition the petitioner withdraws the petition? Mr. Miller replied yes.

The City Attorney advised the motion is not to withdraw the petition; but to continue so he might file a petition to withdraw; he can only do that if the protest is withdrawn. That is the sequence it has to come in. First, Council would have to continue the public hearing. If the hearing were continued and set for another date, then that would permit both the petitioner and the protestors to: (1) withdraw the petition, and (2) withdraw the protest. If both those events occurred and Council, in its discretion could permit the withdrawal, then, in effect, there would be no petition. All that is before Council now, and is the proper subject for debate is whether Council wishes to continue the public hearing to another time.

Councilman Williams stated on the hope that we can avoid a long debate on this subject he hopes Council will move to continue it and give these parties a chance to state their positions. Councilman Williams moved that Council continue the hearing until Monday, August 9. The motion was seconded by Councilman Davis.

Councilman Whittington stated he wants to make sure that both the proponents and the protestors understand what Council is trying to do. It is his understanding that Mr. Krug and his associates want to take this property

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which he knows as El Villa, which has been before this Council at least four times over the past years, for rezoning, to extend the depth of the property which faces Providence Road. That he has talked to some of the people in Eastover and as he understands it, Krug and Associates and Eastover Association cannot reach a compromise on what both sides could live with. This is why he thinks it should be continued. But at the same time he wants both sides to understand that it is only being continued until August 9. Then if some resolve has not been reached by that time, Council would have to make a decision on the merits of the case. The City Attorney replied Council would have to hear the petition. Councilman Whittington stated he wants to make sure everyone understands that.

Mr. Krug stated the reason he did not withdraw prior to today was because he called the Planning Commission last week and they specifically told him the proper procedures to withdraw a rezoning petition was to come down here Monday night in person, and ask for the withdrawal by City Council. This is what he has done. It was not until this morning that he found he was misinformed by the Planning Commission. He stated his intent is not for a continuance; his intent is to withdraw his petition which he feels because he made the intent - he tried to withdraw it - he feels he complied with the spirit of the law; and he also feels because he made the effort to withdraw, it was timely situation. The intent was made prior to the expiration of his being able to withdraw. Mayor Belk stated Council appreciates his intent but they want to be sure they are legal on this action tonight.

The City Attorney stated he wants to be sure that Council realizes all it is doing in continuing this hearing. If the legal protest remains (the one that invokes the 3/4 rule) then Council cannot consider a request to withdraw regardless of whether the request was timely made or not. What Council is doing is establishing a new hearing date to perhaps permit both sides to take further action so that the issue might become mute, and the petition be totally withdrawn from Council consideration.

Councilman Withrow stated all these people came tonight for a public hearing. He is still not convinced they are willing to withdraw. If they say they are willing to take his word that he is willing to withdraw, he is going to vote for the motion; otherwise he is going to vote against it. He asked who can speak for the protestants?

Mr. Miller stated provided Mr. Krug withdraws his petition, they will be glad to withdraw their opposition. Mr. Krug stated he agrees to do the same.

Councilman Williams stated the only ones to say yes or no are the ones who filed the legal protest; that two out of three of those couples are apparently not here tonight. In fairness to everyone as he understands it, there is nothing to preclude the petitioner again in the event it is withdrawn with both sides consent or on the other hand he is precluded from petitioning again for two years for the same thing. On the other hand, the other side runs the risk of having the petition approved down the road somewhere by Council. Both sides have something to gain and lose by it.

Mayor Belk called the question which passed by the following vote:

YEAS: Councilmembers Chafin, Davis, Gantt, Locke, Whittington and Williams.
NAYS: Councilman Withrow.

The vote was taken on the motion to continue the hearing and carried as follows:

YEAS: Councilmembers Williams, Davis, Chafin, Locke and Whittington.
NAYS: Councilmembers Davis and Withrow.

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RESOLUTION SETTING DATE FOR NEW PUBLIC HEARINGS ON ZONING PETITION NO. 76-11 BY NORTH PARK CENTER, INC. AND PETITION NO. 76-12 BY J. E. CARTER, J. H. CONNER, CLIVEDON PROPERTIES, INC., ET AL.

Councilman Gantt moved adoption of a resolution setting Monday, August 30, at 10:00 a. m. as the date for new public hearings on Zoning Petition No. 76-11 and Petition No. 76-12. The motion was seconded by Councilwoman Locke, and carried unanimously.

The resolution is recorded in full in Resolutions Book 12, at Page 7.

LUNCHEON MEETING SET FOR MONDAY, AUGUST 23, FOR CITY ATTORNEY TO BRIEF MAYOR, COUNCILMEMBERS AND PLANNING COMMISSION MEMBERS ON PROCEDURES FOR PUBLIC HEARINGS ON ZONING PETITIONS NO. 76-11 AND NO. 76-12.

The City Manager advised that the City Attorney has requested a date suitable to the Planning Commission and Mayor and City Council for a breakfast or luncheon session in which he can go over with them the regulations and rules prescribed for the hearing, and discuss the procedures with them, prior to August 30.

Mr. Underhill stated he will be presenting a recommended hearing procedure which has not been worked out at this time; they are just in the process of talking with staff. That he would suggest they be familiar with this procedure prior to the date of hearing and to approve it prior to that date. The procedure will be used not only for these two petitions but for other conditional special use hearings.

After discussion, Council voted unanimously to meet at a luncheon on Monday, August 23, to have the procedures presented to Mayor, Council and Planning Commission.

ORDINANCE NO. 213-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 FROM R-9 TO O-6 FRONTING ABOUT 150 FEET ON THE SOUTH SIDE OF WOODLAWN ROAD, AT THE SOUTHEAST CORNER OF THE INTERSECTION OF WOODLAWN ROAD AND DREXMORE AVENUE, AS PETITIONED BY ARTHUR ROCKEY.

Councilman Gantt moved adoption of the subject ordinance changing the zoning from R-9 to O-6 as recommended by the Planning Commission, stating his motion is essentially for the same reasons on the record already from the last Council meeting. The motion was seconded by Councilman Davis.

Councilman Gantt stated it is his opinion that the particular property from Park Road to Drexmore is a reasonable transition zone, and the petitioner requests a change from residential to office. The street offers a normal and logical barrier to stop the zoning at that point.

Councilman Williams stated he is in favor of this rezoning because it is an appropriate transitional area. That he is not unmindful of some of the comments that some people made about rezoning the entire street; that he does not like the all or nothing concept as it applies to Woodlawn Road. It may be, somewhere down the line, a good part or all of Woodlawn ought to be rezoned in some kind of transitional district. That he has heard complaint after complaint from some of the people who live on the street saying they cannot live there; it is not good residential area any more. That he thinks office zoning or multi-family residential zoning is a good transition for a busy street. But he does not think it has to be approved or disapproved in an all or nothing kind of thing. That on a case by case basis it gives Council a chance to review each one, and pay attention to each petition, and rule on its merits. That he thinks on its merits, this one deserves to be approved.

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Councilman Davis stated he plans to vote in favor of this rezoning. He would like to say to the Woodlawn Road residents that he thinks the proposal represents sound zoning procedures, but in voting for it does not lessen his resolve to assist the residents of Woodlawn Road area in any way he can to lessen the impact of this heavily traveled street through a residential district.

Councilwoman Chafin stated she finds this a somewhat confusing issue; not the petition itself and she plans to vote for it as she did at the last meeting for reasons that have already been outlined. She has had lengthy conversations today with residents of Woodlawn Road on both sides of the question. Some feel the entire street should be rezoned; and others do not want to see any rezoning. She does not think it is an issue that is dead and we will continue to hear a great deal of discussion. Perhaps at some future date we might want to have the Planning Commission take another look at Woodlawn Road, and come back to Council with some recommendations.

The vote was taken on the motion, and carried as follows:

YEAS: Councilmembers Williams, Davis, Chafin and Gantt.

NAYS: Councilmembers Locke, Whittington and Withrow.

The ordinance is recorded in full in Ordinance Book 23, at Page 265.

ORDINANCE NO. 214-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 FROM R-9MF TO B-2 (CD) FRONTING 100 FEET ON THE EAST SIDE OF MORRIS FIELD ROAD AND ABOUT 337 FEET NORTH FROM SEYMOUR DRIVE, AS PETITIONED BY MRS. ROSA LEE HILL.

Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, adopting subject ordinance changing the zoning of property from R-9MF to B-2 (CD) as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 23, at Page 266.

PETITION NO. 76-54 BY EXXON COMPANY, USA, FOR CONSIDERATION OF AN AMENDMENT TO A B-1SCD SITE PLAN LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NEWELL-HICKORY GROVE ROAD AND MILTON ROAD, DEFERRED.

Councilman Whittington stated Council has received three communications from the petitioner saying they have not had time to get in a revised site plan for this location by the 6th. He moved that Council delay this decision until the revised site plan is in and until Planning Commission has a chance to study that, and make another recommendation. The motion was seconded by Councilwoman Chafin, and carried unanimously.

ORDINANCE NO. 215-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY ALLOWING A CONDITIONAL CHILD CARE FACILITY IN AN R-9 DISTRICT, LOCATED ON THE WEST SIDE OF OLD PINEVILLE ROAD, ABOUT 950 FEET SOUTH OF THE INTERSECTION OF SILVERLEAF DRIVE AND OLD PINEVILLE ROAD.

Upon motion of Councilman Gantt, seconded by Councilman Whittington, and unanimously carried, ordinance was approved allowing a conditional child care facility in an R-9 District, located on the west side of Old Pineville Road, about 950 feet south of the intersection of Silverleaf Drive and Old Pineville Road, as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 23, at Page 267.

CONTRACT WITH THE RELATIVES TO PROVIDE EMERGENCY SHELTER AND COUNSELING FOR RUNAWAY YOUTH FROM THE CITY OF CHARLOTTE, APPROVED.

Councilman Whittington asked that he be excused from voting on this item due to a conflict. Motion was made by Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, approving the request.

Motion was made by Councilwoman Locke, and seconded by Councilman Gantt to approve the contract with The Relatives, in the amount of \$9,700 for a period of one year, to terminate on June 30, 1977.

Councilwoman Chafin asked if it is that important to approve this now? She understands the Social Planning Council is engaged in a study of The Relatives, and this report should be released sometime in September so they may be recommending some changes. Mrs. Colleen Spencer, Vice President of the Board of Directors, replied that is her understanding also; that she does not know what changes will be recommended. They are already into a fiscal year with a budget of about \$93,000; about 2/3 of that comes from HEW; and they are already getting money from the county for this fiscal year, and from several other sources. It is feasible that there will be a major change in the structure in the agency before the end of the fiscal year; but they have no idea what that will be.

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

RESOLUTION ACCEPTING AN EPA 75 PERCENT WASTEWATER CONSTRUCTION GRANT AWARD FOR CONSTRUCTION OF THE PROPOSED NORTH MECKLENBURG WASTEWATER FACILITY PROJECT.

Councilman Whittington moved adoption of the resolution accepting an EPA 75 percent Wastewater Construction Grant Award, in the amount of \$5,739,862, for construction of the proposed North Mecklenburg Wastewater Facility Project, which motion was seconded by Councilman Withrow, and carried unanimously.

The resolution is recorded in full in Resolutions Book 12, at Page 8.

RESOLUTION ACCEPTING AN EPA 75 PERCENT WASTEWATER CONSTRUCTION GRANT AWARD FOR CONSTRUCTION OF WASTEWATER FACILITIES WITHIN THE METRO CHARLOTTE 201 PLANNING AREA.

Upon motion of Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, resolution was adopted accepting an EPA 75 percent Wastewater Construction Grant Award, in the amount of \$8,485,975, for construction of wastewater facilities within the Metro Charlotte 201 Planning Area.

The resolution is recorded in full in Resolutions Book 12, at Page 9.

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RESOLUTION AUTHORIZING THE FILING OF A PRELIMINARY APPLICATION FOR STATE MASS TRANSPORTATION ASSISTANCE FROM THE FY 1977 MASS TRANSPORTATION PROGRAM.

Councilman Williams moved adoption of a resolution authorizing the filing of a Preliminary Application for State Mass Transportation Assistance from the FY 1977 Mass Transportation Program. The motion was seconded by Councilwoman Chafin, and carried unanimously.

The resolution is recorded in full in Resolutions Book 12, at Page 10.

At the request of Councilman Whittington, Mr. Mike Kidd, Transit Planner, explained the details of the program. After which, Councilman Whittington stated the point he wants to make is that we are getting our share from the State to help in the transportation problems.

RESOLUTION AUTHORIZING THE EXECUTION OF A TRANSIT CAPITAL ASSISTANCE GRANT CONTRACT WITH THE NORTH CAROLINA BOARD OF TRANSPORTATION FOR STATE REIMBURSEMENT OF THE COST OF PURCHASE OF CITY COACH LINES.

Upon motion of Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, resolution was adopted authorizing the execution of a Transit Capital Assistance Grant Contract with the North Carolina Board of Transportation, in the amount of \$317,500, which is the State reimbursement of 10 percent of the cost of the purchase of City Coach Lines.

The resolution is recorded in full in Resolutions Book 12, at Page 11.

ORDINANCE NO. 216-X AMENDING THE 1976-77 BUDGET ORDINANCE TRANSFERRING FUNDS FROM THE UNAPPROPRIATED BALANCE OF THE POWELL BILL FUND TO COMPLETE THE UNIMPROVED STREET PROGRAM.

Motion was made by Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, adopting an ordinance amending the 1976-77 Budget Ordinance transferring \$65,000 from the Unappropriated Balance of the Powell Bill Fund to complete the Unimproved Street Program.

The ordinance is recorded in full in Ordinance Book 23, at Page 268.

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CITY ATTORNEY REQUESTED TO BRING THE MATTER OF PERSONNEL PRIVACY ACT CONCERNING POLICE INVESTIGATIVE PROCEDURES TO ATTENTION OF THE N.C. LEAGUE OF MUNICIPALITIES LEGISLATIVE COMMITTEE.

Councilman Gantt stated he asked that the police investigative procedures report prepared by the City Manager's office be placed on the agenda for some form of discussion rather than approving the memorandum since this particular incident and the policy coming therefrom received substantial amount of publicity in the early part of the year. He stated he thinks the public should know where Council stands on the issue of investigation of police complaints or procedures that surround citizens' complaints against police officers.

His personal reaction is that the memo makes no effort at changing procedures and he guesses he would be accurate in saying the City Manager and staff feel the present procedures are adequate. They do recommend the sending of a letter which would explain to the complaining citizen why it is they cannot find out much more than the name, rank and serial number in the disposition of the case. An additional item that is presented, which evidently Council has no control over, is that the disclosure of personnel records or disciplinary action would be considered personal records. It would be in violation of certain state laws regarding public disclosure of personal files. Mr. Underhill, City Attorney has an interpretation from the Attorney General's office to support the fact that any disclosure of the results of an investigation would be in violation of that law.

Councilman Gantt stated he does not know how to tackle a state law that says you cannot do it. But he would ask the Council, and would have felt very good had the City Manager seen fit to suggest some alternative procedures with regard to changing the state law, or at least looking again at the procedures to see whether there were ways to doubly insure that investigative procedures are "thorough, fair and impartial". That he will reiterate the very point he made in the discussion at the start. That is, probably all seven or eight sitting around this table have a very positive perception of law enforcement in this community, and would absolutely find no fault for the procedures placed here given our confidence to law enforcement. Unfortunately he does not particularly believe that is the case, or is likely to be the case for every Charlottean. Therefore, he would urge Council to consider procedures that would open that process up such that procedures we engage in the Police Department would be above question. He has always had a problem with the fact that the investigation takes place beyond the public's view; or beyond any outside person getting involved other than the Community Relations Committee as an observer. He has had the problem that statements can be taken from a complaining citizen to be used in the evaluation of the officer's conduct and the officer himself can issue a statement and have an opportunity to amplify or clarify his statement before a review board - internal review board - of the Department. But the complaining citizen has no opportunity beyond the statement he filed.

Probably the grossest part of this thing he finds difficulty to digest has to do with the fact that were he to have been aggrieved by a police officer and felt that officer were wrong, this very investigative procedure would be carried out, and he would have no idea whatsoever of what or how the procedures occurred. No disclosure - let alone talk about a citizen being there to observe the procedures. He cannot even be told what action occurred or what discipline occurred to that police officer; or what the findings were or the facts as presented; or even a rebuttal by the police officer in terms of his view of the situation. That seems grossly unfair. He does not think we should stop simply by saying we have a state law that cannot disclose it; that he thinks we should be talking about aggressive action to either have our Delegation seek to change or a further clarification, or even a test case to see whether the intent of that legislation has to do with this kind of police procedure.

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Councilman Davis stated he thinks Mr. Gantt is probably correct that the Council has tremendous confidence in the police department. He has not heard any of the councilmembers challenge any of the investigative procedures for being inadequate or not producing justice in any given cases we have looked at. That the public may not perceive the system is working, although it is working in our opinion well. That the motto of the State of North Carolina is "Esse Quam Videri", "To Be Rather Than To Seem". If we have a system that works but may not seem to, let's not run the risk of throwing the baby out with the bath water. He favors keeping the system. There are some things within the system we can do. It does provide for a civilian review through the CRC; it involves judicial review through the District Attorney. That he thinks we can look within the system to bring about some improvements.

Councilman Davis stated he differs with the wording of the report somewhat. It starts out -"Unfortunately many citizens do not understand the investigative discipline process". This indicates that maybe we started out with the conclusion and then sought to justify it. On page two, he thinks we made a promise to make our correspondence more personalized, and strengthen it to explain the disposition. He thinks in this area this would be an appropriate time to use whatever civilian review we do have, such as the Community Relations Council to assist in communicating to the public. He thinks the report would be much better received coming from someone outside the police department who is in a position to audit the entire investigative process. Given what we have to work with in the present procedures, there is plenty there that we can alter to change this process without stacking upon it another layer of bueraucracy which he thinks would only complicate the process and make it less responsive.

Councilman Williams stated he agrees with a lot of what Mr. Gantt said. But he is at a loss to recommend anyway to modify this procedure. He was also hopeful we might have some alternatives presented instead of the one which essentially says we will go on doing it the way we have been doing it. That he is a little bit restless with the way we have been doing it - mainly because he does not think the "possibly aggrieved party" generally knows the results of the investigation. That bothers him and he wishes there was some way to overcome it, and he wishes they could tell him there was some way to overcome that, or suggest how we might go about changing the state law if that really is an inhibitor of accomplishing what some of us want to accomplish.

Mr. Burkhalter, City Manager, stated the reason the procedure is the same is that during the discussion of this, they sensed that many councilmembers did not fully understand the procedures that were being used, and they felt one of the things that Council wanted them to do was to clarify this for everybody. This does that. Very few things were changed at all. He stated they have investigated this pretty carefully; they have checked police departments all across the country, and find no great disagreement in this type of investigation. It is one of the ones that is copied in a lot of cities. They checked with the International Chiefs of Police and other organizations for ideas on how to set up this sort of investigative procedures. They find this one is recommended throughout. The results are good. They find no faults with the results with one exception. That is, does the person know about it.

He stated in the last three months of this year, April, May and June, there were 27 complaints in the police department; these were filed by police officers as well - not necessarily from outside. Out of these, 14 were sustained; six were not sustained; five were unfounded and two were exonerated; five received written reprimands; one suspended ten working days without pay, and off-duty work permit revoked for six months; one suspended two working days without pay and off-duty work permit revoked for six months. One in an

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internal affair was suspended two working days without pay; the next received a written reprimand; one suspended twenty working days without pay; another a written reprimand, and the next one dismissal. They are the 27 cases of 14 issues that were handled.

He stated what he would like to do is personally have someone tell the aggrieved person what action was taken; deliver the letter to him personally; and explain it to him. This is probably what we will be doing. We cannot tell him, according to the City Attorney, what we did to the person.

Councilman Gantt asked if we can tell him what the findings were - guilty or not guilty? What are you actually telling them? If he was bashed in the head and complained to the internal affairs division, and it was investigated, he would at least like to know what happened to the complaint. He does not know what the letter will say that they will send him.. The only thing he is interested in is what became of it. Did they finally conclude he told a lie? What was the CRC's role sitting in on the investigation? Will they be advocates for him? Or will they simply see whether or not certain procedures are followed? He cannot get clear in his mind what it is they will observe, and whose interest they will operate on behalf of? What are you going to precisely tell the citizen?

Mr. Underhill replied under the current state law you can only tell the citizen the date some action was taken. You cannot disclose what the action was, or any facts or details involved in the investigation leading up to whatever action you take.

Councilman Williams asked suppose the citizen filed a lawsuit; or in a death case, the survivors filed a lawsuit? Would they be able to find out anything through pre-trial discovery, and at the trial? Mr. Underhill replied they could. Councilman Williams asked if this whole procedure would not invite law suits if nothing else but to find out what happened? Mr. Underhill replied one of the five exceptions to prohibition against disclosure is that any information from a person's personnel file may be disclosed by order of the court. Generally, you could obtain any information through the normal discovery procedures in a law suit. Whether it would invite litigation in order to obtain that information he does not know.

Mr. Burkhalter stated Mayor and Council could ask them to seek legislative relief in some way. They could ask Mr. Underhill to seek a study of this situation since it might involve a statewide problem. He could do it through the Institute of Government to see if they would agree to this? Mr. Underhill replied the Institute of Government is already studying the employee personnel privacy act to discover from the various levels of government covered what kinds of problems they are encountering. They will use whatever they find there as a basis for perhaps recommending changes to the Act to the 1977 Session of the General Assembly. This City Council each legislative year prepares and submits to its Legislative Delegation a package which contains requests not only on a local law but also changes in statewide laws the Council has an interest in. If this Council has problems with the Personnel Privacy Act as it is presently drafted, and wishes to have it changed that is a device of the legislative program of this Council; they can also take the matter to the League's Legislative Committee to get them to sponsor or support legislation to seek some sort of amendment.

Mr. Burkhalter stated if Council would like to instruct staff to do this, he does not think Chief Goodman has any reservations about telling a person what happened and what they did.

Councilman Gantt stated he is not aware they told the people what happened prior to this law being passed. The City Attorney stated the law became effective January, 1976. Councilman Gantt stated the discussion has been shifted. At one time he was interested in a Civilian Review Board, and

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apparently Council does not like that kind of policy. Now we are talking about simply letting the people who have felt they have been aggrieved know the results of the investigation. That seems to be a fairly logical kind of thing anyone would like to know. That this was not done prior to the law, and he wonders if there are some other built-in reasons why this is not done.

Chief Goodman stated one point that has not been discussed here is inviting litigation if you make public that Joe Doe and Richard Brown and so and so were suspended for misconduct; this is opening the public for more civil action. He thinks Council should give that some consideration. He thinks the General Assembly was thinking about the rights of the police officers and trying to consider them as human beings, and to give them some civil rights also, and protect them from exposure with this type of information to the public. As long as they are human beings they will make mistakes, and there will be more complaints. There will always be complaints against policemen because of the nature of their job.

He stated when they send out the letters they tell them if they have any questions to come down and talk to them about it, and they will be glad to discuss it with them. They will discuss it with them, but will not give it to them in written form; they do not show them the files. They do discuss it with them. Councilman Gantt asked if he is saying they will orally give them the results when an investigation occurs? Chief Goodman replied yes. They tell them they will discuss it with them; they try to stay within the legal limits of the law when they do this. They have to be very careful. It is fair to say he was suspended on such and such a date, and period.

Mr. Burkhalter stated he thinks the public should know that Council has always been aware of any instance, and any councilmember has the right to go and look at the record and get this information. Council has been notified by reports from time to time in cases that attract public attention. Council does know what is done, and will know what is done.

Councilman Gantt asked if he is suggesting that Council be the vehicle by which they tell a citizen what is going on? Mr. Burkhalter replied he does not think Council can do that. They can find out. He thought it would be well for the public to know that the Council knows or can know.

Councilman Williams stated he thinks it is a pretty sorry state of affairs. Everyone is going to make mistakes now and then, and policemen are not infallible. Nobody is. If you make a mistake and attempt to hide it or cover it up, it just magnifies and grows. We do not want that; he does not think anybody wants that. If you make a mistake, and it is bound to happen if you are human, you might as well admit it and make the best of it. He wishes there was some way to rectify this situation. If it requires starting with legislation, then he is in favor of doing that. Councilman Whittington asked if he is suggesting the Police Department is covering up anything? Councilman Williams replied no. Councilman Gantt stated he is suggesting there may be a possibility, and that does not say anything to impune the integrity of Chief Goodman. But as long as we have a condition existing like we do have, we run the risk of covering up.

Councilman Whittington stated he appreciates everything Mr. Gantt, Mr. Davis and Mr. Williams said. That he was quoted in the Observer this morning by Mr. Jordan that we should leave it alone. He stated he has not heard anything tonight to change his opinion. He would hope Council would leave this alone. If the League of Municipalities and the Institute of Government at Chapel Hill, who are trained and are responsible for the training of police officers, both sheriffs, state highway and city police in the legal procedures of this, think this law should be amended or changed, then let it come from those agencies which we are a part of. Then it is done by the State of North Carolina, and not by this Body.

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Councilman Davis stated Chief Goodman made two points. One is that we invite more civil action; and second, it might infringe on the rights of policemen. He stated he is more concerned about the rights of policemen than the additional civil action. Policemen do have rights that are enforceable in courts. They would be unwise if they did not proceed to exercise them.

Councilman Davis stated he thinks we have a couple of different kinds of cases, and Mr. Gantt used the example of someone being bashed in the head by a policeman. If you felt this was unjustified he does not think this would result in just a routine complaint. He thinks it would result in legal action where these things would be revealed. He stated he thinks more of the police complaints would be of an administrative nature that could be dealt with effectively by the system we have. We just need to explain it better.

He stated someone mentioned this would put the Council in the position of being the vehicle. He thinks Council, and properly, should be the vehicle to convey to the public what is going on in the Police Department. Council receives complaints from the public and receives praise and passes that on. Council is in a position to observe what is going on, and to audit these records and to report back to the public. This is a proper function of Council; also it has the CRC. He stated he would much prefer to do what Mr. Whittington says and not take any action to change the system until we try to work better within the given procedures we have.

Councilman Gantt stated there can be no resolution of this. He just wants to point out he thinks Council should consider asking the Legislative delegation to look into the matter of that particular law, along with Mr. Underhill's information that the Institute of Government is already looking at it.

Mr. Underhill stated whenever any Councilmember brings up an item like this, individually or collectively, he puts it down. He is going to give Council a list of things, and when they are considered Council can tell him which ones should have bills drafted and which they do not want. All they have to do is to ask him to bring Council something on the Personnel Privacy Act, and he will make a note of it and it will come back to Council.

Mr. Underhill stated he is a member of the League's Legislative Committee, and if Council wants this matter brought to the attention of this Committee to ask that consideration be given it, he would appreciate it if he could say he is speaking for the City Council and its wishes.

Councilwoman Chafin stated in that case she thinks Council needs to take a vote on it.

Motion was made by Councilman Williams, and seconded by Councilwoman Chafin, to request the City Attorney to bring this matter to the attention of the League's Legislative Committee.

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

YEAS: Councilmembers Williams, Chafin, Gantt, Locke, Whittington and Withrow.
NAY: Councilman Davis.

PETITION ON BEHALF OF CITY TO ANNEX POLICE AND FIRE TRAINING ACADEMY ACCEPTED AND CITY CLERK DIRECTED TO INVESTIGATE THE PETITION AS TO ITS SUFFICIENCY.

Motion was made by Councilman Whittington, seconded by Councilwoman Chafin and unanimously carried, to accept the petition signed by Mayor Belk on behalf of the City to annex the Police and Fire Training Academy and City Clerk directed to investigate the petition as to its sufficiency.

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PATSY KINSEY AND BARBARA CASSTEVENS REAPPOINTED TO CHARLOTTE-MECKLENBURG HISTORIC PROPERTIES COMMISSION FOR THREE YEAR TERMS EACH.

Motion was made by Councilwoman Chafin, seconded by Councilman Gantt and unanimously carried, to reappoint Ms. Patsy Kinsey and Ms. Barbara Casstevens to the Charlotte-Mecklenburg Historic Properties Commission for three year terms each.

CONFIRMATION OF REAPPOINTMENTS BY COUNTY BOARD OF COMMISSIONERS OF JAMES A. STENHOUSE AND EDGAR LOVE TO CHARLOTTE-MECKLENBURG HISTORIC PROPERTIES COMMISSION.

Councilman Whittington moved that Council confirm the reappointments by the County Board of Commissioners of James A. Stenhouse and Edgar Love to the Charlotte-Mecklenburg Historic Properties Commission for three year terms each. The motion was seconded by Councilman Gantt, and carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY BELONGING TO JEROME L. LEVIN, 2812 DUNN AVENUE AND L. P. MAYHEW, 2901 DUNN AVENUE, FOR THE GRIER HEIGHTS COMMUNITY DEVELOPMENT TARGET AREA.

Upon motion of Councilwoman Locke, seconded by Councilman Gantt, and unanimously carried, subject resolution was adopted authorizing condemnation proceedings for the acquisition of properties belonging to Jerome L. Levin, 2812 Dunn Avenue and L. P. Mayhew, 2901 Dunn Avenue, for the Grier Heights Community Development Target Area.

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

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY BELONGING TO MARY SHEALEY EAMES, 812-14 GREENLEAF AVENUE, FOR THE THIRD WARD COMMUNITY DEVELOPMENT TARGET AREA.

Motion was made by Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, adopting subject resolution authorizing condemnation proceedings for the acquisition of property belonging to Mary Shealey Eames, 812-14 Greenleaf Avenue, for the Third Ward Community Development Target Area.

The resolution is recorded in full in Resolutions Book 12, at Page 13.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY BELONGING TO WILLIAM H. PROTZ AND WIFE, LUCILLE L. PROTZ, AND A LEASEHOLD INTEREST, LOCATED OFF HIGHWAY 29 NORTH, IN THE COUNTY OF MECKLENBURG, FOR THE MALLARD CREEK WASTEWATER TREATMENT PLANT SITE.

Councilman Whittington moved adoption of subject resolution authorizing condemnation proceedings for the acquisition of property belonging to William H. Protz and wife, Lucille L. Protz, and a leasehold interest, located off Highway 29 North, in the County of Mecklenburg, for the Mallard Creek Wastewater Treatment Plant Site. The motion was seconded by Councilman Gantt, and carried unanimously.

The resolution is recorded in full in Resolutions Book 12, at Page 14.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY BELONGING TO CORA ANN CLARK (WIDOW), AND LEASEHOLD INTEREST, LOCATED OFF HARRIS HOUSTON ROAD, IN THE COUNTY OF MECKLENBURG, FOR MALLARD CREEK WASTEWATER TREATMENT PLANT SITE.

Upon motion of Councilman Withrow, seconded by Councilman Whittington, and unanimously carried, subject resolution was adopted authorizing condemnation proceedings for the acquisition of property belonging to Cora Ann Clark (widow), and leasehold interest, located off Harris Houston Road, in the County of Mecklenburg, for Mallard Creek Wastewater Treatment Plant Site.

The resolution is recorded in full in Resolutions Book 12, at Page 15.

CONSENT AGENDA.

Motion was made by Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, approving the Consent Agenda Items, as follows:

- 1.) Settlement in the amount of \$24,250 in the lawsuit of the City of Charlotte v. Catawba Economic Development Association, for the Sharon Amity Road Widening, as recommended by the City Attorney.
- 2.) Settlement in the amount of \$107,500 in the lawsuits of the City of Charlotte v. Harry E. Bush, Jr., and wife, Virginia and First Union National Bank Trustees, for Parcels 7, 9 and 10, for the Tyvola Road Relocation, as recommended by the City Attorney.
- 3.) Settlements in the amount of \$5,300.00 in lawsuit of City of Charlotte v. John Ladley et al, and \$5,500.00 in suit of City of Charlotte v. Elmer C. Whitaker, et al, for the Randolph Road Widening Project.
- 4.) Contract for construction of 3,905 feet of water main and four fire hydrants, to serve Country Roads, Subdivision, inside the City, at an estimated cost of \$31,250.00, with D.M.E. Inc.
- 5.) Contract with John Crosland Company for construction of 3,685 feet of water main and three fire hydrants to serve Chestnut Lake Subdivision, Phase I and II, outside the City, at an estimated cost of \$31,000.00.
- 6.) Encroachment Agreement with the North Carolina Department of Transportation for an 8-inch water main crossing Arrowood Boulevard at Cordage Street.
- 7.) Encroachment Agreement with the North Carolina Department of Transportation for construction of a 20-inch sanitary sewer pressure line within right of way of Moores Chapel Road and Greenhill Road for Long Creek Pump Station Pressure Line.
- 8.) Approval of the following property transactions:
 - a. Acquisition of 30' x 187.78' of easement from Jimmy R. Rollins and Carolyn P. Rollins, at 406 Coulwood Drive, at \$500.00, for Gum Branch Outfall Sanitary Sewer Project.
 - b. Acquisition of 5.61' x 9.38' x 9.04' of easement from Albert J. Parsons and Cathern B. Parsons, at 305 Fielding Road, at \$25.00, for Gum Branch Outfall Sanitary Sewer Project.
 - c. Acquisition of 30' x 111.14' of easement from Billy Frank Aycock and Nancy B. Aycock at 208 Birchwood Drive, at \$500.00, for Gum Branch Outfall Sanitary Sewer Project.
 - d. Acquisition of 15' x 313.52' of easement from George M. Ketchie and Rachel J. Ketchie, at 212 Sardis Lane, at \$1.00, for sanitary sewer to serve Sardis Road and Sardis Lane.

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- e. Acquisition of 30' x 75.54' of easement from Carl H. Stogner and wife, Ruby M., at 2141 Pinebrook Circle, at \$275.00, for Paw Creek Outfall Phase II Project.
 - f. Acquisition of 30' x 41.69' of easement from James O. Hix and wife, Ann Marie, at 2227 Toddville Road, at \$250.00, for Paw Creek Outfall, Phase II Project.
 - g. Acquisition of 30' x 111.72' of easement from Ruth Laughlin at 2623 Dogwood Circle, at \$120.00, for Paw Creek Outfall, Phase II Project.
 - h. Acquisition of 6.70' x 3.67' x 8.01' of easement from Carl H. Stogner and wife, Ruby M., at 2135 Pinebrook Circle, at \$50.00, for Paw Creek Outfall, Phase II Project.
 - i. Acquisition of 30' x 767.94' of easement from W. C. Jetton and wife, Lula Lewis, at 2115, 2117 and 2123 Pinebrook Circle, at \$780.00, for Paw Creek Outfall, Phase II Project.
 - j. Acquisition of 30' x 2,585.52' of easement from Carson E. Burke and wife, Grace Y., at 5035 Thrift Road, at \$3,200.00, for Paw Creek Outfall, Phase II Project.
 - k. Acquisition of 13,500 square feet of property from Frances L. Stroupe, on Orange Street, at \$15,000; 21,000 square feet from Frances L. Stroupe, at 2920 Dunn Avenue, at \$36,500; 29,200 square feet from James Edward Pauling, 3201 Jewel Street, at \$11,700 and 735 square feet from Mrs. W. F. Upshaw, at 600 Billingsley Road, at \$150.00, for Grier Heights Community Development Target Area.
 - l. Acquisition of Air Rights and Land from North Carolina Railroad Company for the Downtown Urban Renewal Project, as follows:
 - 1. 45,710 square feet in the 300 block of East Fourth and East Trade Streets, at \$180,000.00.
 - 2. 17,650 square feet in the 300 block of East Fourth and East Trade Streets, at \$20,000.00.
- 9.) Ordinances affecting housing declared "unfit" for human habitation:
- a. Ordinance No. 217-X ordering the demolition and removal of an unoccupied dwelling at 201-03 S. Irwin Avenue, located in the CDRS Area.
 - b. Ordinance No. 218-X ordering the demolition and removal of an unoccupied dwelling at 840 North Church Street.
 - c. Ordinance No. 219-X ordering the demolition and removal of an unoccupied dwelling at 842 North Church Street.
 - d. Ordinance No. 220-X ordering the occupied dwelling at 1900-02 Gibbs Street to be vacated and closed.
 - e. Ordinance No. 221-X ordering the unoccupied dwelling at 1816-18 Gibbs Street to be closed.
 - f. Ordinance No. 222-X ordering the unoccupied dwelling at 909-11 Parkwood Avenue to be closed.
 - g. Ordinance No. 223-X ordering the demolition and removal of the unoccupied dwelling at 508 North Graham Street.

The ordinances are recorded in full in Ordinance Book 23, at Pages 269-275.

- 10.) Ordinances ordering the removal of grass, weeds, trash, illegal brush and abandoned motor vehicles:
- a. Ordinance No. 224-X ordering the removal of illegal brush at 3627 Old Statesville Road.
 - b. Ordinance No. 225-X ordering the removal of an abandoned motor vehicle at 6605-A South Boulevard.
 - c. Ordinance No. 226-X ordering the removal of an abandoned motor vehicle at 1939 Thurmond Place.
 - d. Ordinance No. 227-X ordering the removal of weeds and trash at vacant lot adjacent to 6229 Fair Valley Drive.
 - e. Ordinance No. 228-X ordering the removal of weeds and trash from vacant lot at corner of Parkway Avenue and Norwood Drive.
 - f. Ordinance No. 229-X ordering the removal of weeds and trash from 801 East 17th Street.
 - g. Ordinance No. 230-X ordering the removal of weeds and grass from 6605-A South Boulevard.
 - h. Ordinance No. 231-X ordering the removal of weeds and grass from vacant lot adjacent to 1817 Patton Avenue.
 - i. Ordinance No. 232-X ordering the removal of weeds and grass from 905 Rodey Avenue.
 - j. Ordinance No. 233-X ordering the removal of weeds and grass from 2501 Carrington Court.
 - k. Ordinance No. 234-X ordering the removal of weeds and grass from 4400 Vailview Lane.
 - l. Ordinance No. 235-X ordering the removal of weeds and grass from 300 block of Clemson Avenue.
 - m. Ordinance No. 236-X ordering the removal of weeds and grass from vacant lot between 2713 and 2725 Mayfair Avenue.
 - n. Ordinance No. 237-X ordering the removal of weeds and grass from 1612 Merriman Avenue.
 - o. Ordinance No. 238-X ordering the removal of weeds and grass from 237 Marsh Road.
 - p. Ordinance No. 239-X ordering the removal of weeds and grass from 1709 East Independence Boulevard.
 - q. Ordinance No. 240-X ordering the removal of weeds and grass from vacant lot adjacent to 1929 Beatties Ford Road.
 - r. Ordinance No. 241-X ordering the removal of weeds and grass from vacant lot adjacent to 2327 Celia Avenue.
 - s. Ordinance No. 242-X ordering the removal of weeds and grass from vacant lot in 600 block of Beatties Ford Road.
 - t. Ordinance No. 243-X ordering the removal of weeds and grass from vacant house at 635 Pennsylvania Avenue.

The ordinances are recorded in full in Ordinance Book 23, at Pages 276-295.

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- 11.) Streets to be taken over for continuous maintenance by the City:
- a. Brooktree Drive, from 280 feet west of Grovewood Drive to 497 feet west.
 - b. Barcan Court, from Park Road to 355 feet west.
 - c. Eaglewind Drive, from 655 feet south of Longbriar Drive to 1,355 feet south of Longbriar Drive.
 - d. Lemon Tree Lane, from 1,123 feet west of Foxcroft Road to 849 feet west of Sedley Road.
 - e. Beretania Circle, from 740 feet west of Foxcroft Road to 1,970 feet west of Foxcroft Road.
 - f. Peary Court, from Beretania Circle to Meade Court.
 - g. Sedley Road, from Lemon Tree Lane to 155 feet west of Foxcroft Road.
 - h. Warburton Road, from 360 feet west of Foxcroft Road to 550 feet west of Foxcroft Road.
 - i. Heywood Street, from Liggett Street to Bullard Street.

MOTION TO CONSIDER NON-AGENDA ITEM APPROVED.

Motion was made by Councilman Whittington, seconded by Councilwoman Chafin and unanimously carried to consider an emergency item.

LOAN TO JEANNINE C. CLARK AND BEVERLY WILLIAM CLARK FOR IMPROVEMENT AND RESTORATION OF PROPERTY AT 504 NORTH PINE STREET IN THE FOURTH WARD URBAN REDEVELOPMENT PROJECT AREA, APPROVED.

Councilman Whittington moved approval of a loan to Jeannine C. Clark and Beverly William Clark in the amount of \$41,000 for improvement and restoration of property located at 504 North Pine Street in the Fourth Ward Urban Redevelopment Project Area. The motion was seconded by Councilman Davis, and carried unanimously.

NOMINATIONS TO CHARLOTTE HISTORIC DISTRICT COMMISSION.

Councilwoman Chafin placed in nomination the following names to the Charlotte Historic District Commission:

- (1) Kim Jolly, from the Charlotte-Mecklenburg Planning Commission.
- (2) Crutcher Ross, from the Charlotte-Mecklenburg Planning Commission.
- (3) Dean Charles Hight, Dean of the College of Architecture, UNCC.
- (4) Dr. Ben Romine, UNCC and resident of Fourth Ward.

Mayor Belk requested written resumes on each for members of Council.

CITY MANAGER REQUESTED TO LOOK INTO COMPLAINT ABOUT TRAFFIC ON WOODLAWN ROAD.

Councilman Davis stated Mr. Charles Baker, 5124 Baker Drive, owns rental housing at 611 Woodlawn Road and has complained about traffic speeding on Woodlawn Road in the vicinity of the blinker light at Murrayhill Road and

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Woodlawn Road. Councilman Davis requested the City Manager to have someone look into this. He stated he has made an indication to these residents that he will take even extraordinary measures to see that the impact of this road is held to a minimum.

PORNOGRAPHY DISTRICT INFORMATION REQUESTED REFERRED TO PLANNING COMMISSION.

Councilwoman Locke requested that what she brought up two weeks ago about pornography districts be referred to the Planning Commission since the City Attorney has given Council some information on it.

ADJOURNMENT.

Upon motion of Councilmember Locke, seconded by Councilmember Chafin and unanimously carried, the meeting adjourned.



Ruth Armstrong, City Clerk