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The City Council of the City of Charlotte, North Carolina, met in Special Meeting on Friday, June 18, 1976, at 2:00 o'clock p.m., in the Council Chamber, City Hall, 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.

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INVOCATION.

The invocation was given by Councilman Joe D. Withrow.

RULING ON PROCEDURES GIVEN BY CITY ATTORNEY.

Mr. Underhill, City Attorney, stated this Council has adopted the Robert's Rules of Order as its procedure for conducting meetings. Under Robert's Rules you may have as many main motions on a particular subject or agenda matter as long as it is pertinent until one motion is finally carried, or until the majority of members of Council vote to deny a rezoning of the property.

In zoning situations it would work this way. If the first motion is to rezone property from R-6MF to R-6, a motion could be made and in order to carry it would require six affirmative votes of the Mayor and Council to do so as it is a 3/4 Rule protested situation. If that vote did not receive the requisite six votes to carry, then another motion would be made to rezone the property from R-6MF to (for illustrative purposes only) R-12MF. That motion would be in order as that would be a zoning classification that would fall in the table of priorities between R-6MF and R-6. In order to rezone any of the properties that has the 3/4 Rule it requires six affirmative votes. It is possible to have more than one main motion on a particular zoning petition. They could theoretically exhaust all the zoning classifications that would be permitted for the property to be rezoned to. For example, between R-6MF and R-6 there is R-9MF, R-12MF, R-15MF and R-20MF. All those classifications could be the subjects of motions.

Mayor Belk asked if one particular part of a parcel can be eliminated? Mr. Underhill replied they have the right to approve as much of the petition as they want; they can modify the boundaries of the requested petition; but it cannot be enlarged upon.

ORDINANCE NO. 126-Z AMENDING THE CITY CODE OF THE CITY OF CHARLOTTE BY AMENDING THE ZONING MAP CHANGING THE ZONING OF PROPERTIES ON BOTH SIDES OF DARTMOUTH PLACE, BETWEEN QUEENS ROAD AND PROVIDENCE ROAD; BOTH SIDES OF HERMITAGE COURT AND MORAVIAN LANE, AND BETWEEN PROVIDENCE ROAD AND HERMITAGE ROAD, AS WELL AS LOTS ON HERMITAGE ROAD AT QUEENS ROAD, EXCEPT A LOT WHICH IS NOW SPLIT BETWEEN O-6 AND R-6MF ZONING, SOUTH OF MORAVIAN LANE, TO REMAIN ZONED R-6MF.

Motion was made by Councilman Gantt, and seconded by Councilwoman Chafin to rezone the subject property from R-6MF to R-6 except for the lot south of Moravian Lane which is now split between O-6 and R-6MF to remain zoned as R-6MF.

Councilman Williams stated on this particular motion what he has to say will relate to some of the others that will be discussed. That he is going to try to explain some of the principles by which he is going to make decisions.

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On this petition and others too, although you hear from time to time that one person should not be able to rezone somebody else's property, he thinks that argument is somewhat valid for this reason. In the beginning when the first zoning ordinance was placed upon a piece of property, somebody else is zoning another person's property. More than likely it is the zoning authority that is doing it. At the same time that happens, conceivably, some of the property that is zoned more restrictively than others is devalued. At the same time some other property is less restrictively zoned and becomes enhanced in value - enhanced in value partly because surrounding property is restrictively zoned.

In giving some thoughts to these principles, he remembered an old case he was taught in law school which went to the United States Supreme Court in 1926. As he recalls that case was the first one where the constitutionality of zoning was decided upon by the United States Supreme Court. As has been pointed out by Mr. Bryant and others, zoning is a relatively new thing in this country, and it has not always been around. In that case the argument was made that when these zoning ordinances were first applied to property in the little town in Euclid, Ohio, property was devalued, and the government had in effect taken property from the property owners without compensating them for it, without giving them due process of law. The Supreme Court grappled with that, and in a six to three decision decided that the police and all the local interests that ensued from the police power outweigh that constitutional argument, and upheld the constitutionality of zoning. That was a six to three decision in 1926 in the case of the Village of Euclid, Ohio versus Ampler Realty Company.

It is interesting the author of the majority opinion was an old conservative judge by the name of Sutherland, who was very conservative during the 1930's. He would like to read an excerpt from that opinion, which he thinks is just as applicable in 1976 as it was in 1926, on the subject of zoning from multi-family and single family. Although this decision dealt with the total series of zoning ordinances, including industrial and other zoning, this particular part is where he discussed multi-family.

"With particular reference to apartment houses, it is pointed out that the development of detached house sections is greatly retarded by the coming of apartment houses, which is sometimes resulted in destroying the entire section of private house purposes. That in such sections, very often the apartment house is a mere parasite constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district. Moreover the coming of one apartment house is followed by others, interfering by their height and bulk of the free circulation of air, monopolizing the rays of the sun which otherwise fall upon the smaller homes, bringing as necessary accompaniment disturbing noises, incidents of increased traffic and business, and the occupation by means of moving and parking of automobiles on larger portions of the street. Thus detracting from their safety and depriving children of the privilege of a quiet and open space to play, enjoyed by those in more favorable localities. Until finally, the residential character of the neighborhood and its desirability as a place of detached residences are utterly destroyed. Under these circumstances, apartment houses which in a different environment would be not only entirely unobjectionable and highly desirable, come very near to be a nuisance."

Councilman Williams stated that is what old conservative Judge Sutherland had to say 50 years ago. So many of those same arguments he has heard again two years ago when this matter first came up before Council, and again during this period. But it is some of those principles that he is going to base his decisions on, and he wants to announce that in the beginning.

Councilman Gantt stated while he supports the recommendation of the Planning Commission, he does want it in the record that he thinks it is unfair that we exempted certain properties within this area. In that light, after these decisions have been made, he is going to move that Council consider hearing that particular exempted piece of property. Mayor Belk requested that he bring this up on any of the petitions. Councilman Gantt stated this is the only one with a glaring example. That he wants to attempt to rezone that exempted portion of property in Area 76-25.

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Councilman Davis stated he favors this motion if it will exempt the two corner lots at Queens Road and Hermitage Road, which relate more closely to Queens Road than it does Hermitage Road.

Mr. Bryant, Assistant Planning Director, stated the Planning Commission had separate motions on this. The initial motion of the Planning Commission affected Area 25 with the exception of the two corner lots at the intersection of Queens Road and Hermitage. A separate motion was enacted on that one, which did result in also recommending that those two lots be changed to R-6 as was requested. But there was additional emphasis placed as far as their discussion of the area is concerned relative to those two lots since they really are related more to Queens Road. If Area 27 were to be denied, and all of Queens Road would remain multi-family zoned, then these would be the only two lots that would be taken out of the Queens Road frontage zoned single family. There were two separate motions on the part of the Planning Commission - the majority did recommend that it be changed to R-6. The motion just made by Council would change the entire area as recommended by the Planning Commission.

Councilman Davis made a substitute motion to approve the recommendation of the Planning Commission except as it pertains to the two corner lots at Queens Road and Hermitage Road, and they be permitted to remain under their present zoning which is R-6MF. The motion did not receive a second.

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

The ordinance is recorded in full in Ordinance Book 23, at Page 149.

ORDINANCE NO. 127-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTY FRONTING ON BOTH SIDES OF HERMITAGE COURT AT THE INTERSECTION OF HERMITAGE COURT AND PROVIDENCE ROAD.

Councilman Whittington moved adoption of the ordinance changing the zoning from O-6 and B-1 to R-6 of property fronting on both sides of Hermitage Court at the intersection of Hermitage Court and Providence Road, as recommended by the Planning Commission. The motion was seconded by Councilwoman Chafin.

Councilman Williams stated he is concerned about the lots at the intersection of Providence and Hermitage Court - the first lot on each side. He asked if they are both now zoned B-1. Mr. Bryant, Assistant Planning Director, replied they are; the first two lots on each side of the street as you begin at Providence is now zoned B-1. Councilman Williams asked if he has any opinion about the idea of zoning the first lot on each side for multi-family as opposed to single family? Mr. Bryant stated for his personal opinion he would question whether or not the lots are really large enough to accommodate any material development from a multi-family standpoint. One of those corners already has a duplex on it, which would be about as much multi-family use as you would expect.

Councilman Gantt stated without question the sort of gateway entrance to Hermitage Road adds a lot of character to that particular lot. The topographical change between Providence Road and Hermitage Road are so substantial that it is difficult to draw a relationship between those properties oriented themselves toward Providence Road as they do Hermitage Court. If we leave them with a business zoning or office zoning that we will end up with situations that any development there will violate the integrity of a very nice residential street. He would rather take the chance and the four to five foot difference in topography would seem that we should leave that. Councilman Williams stated these properties are right on Providence Road a very busy street, and it is already business in character. As to the difference in grade, that might be a physical barrier, but it does not keep the noise out. That he believes the noise would go right up there. He is not sure it would be a desirable area for single family residences, and that there would be a whole lot of demand for single family residences.

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As far as the gates are concerned, they are on public property, and whatever development is done, will not affect the gates. Also there are deed restrictions on these two properties for residential, which has probably kept it from having business there already.

Councilman Williams stated the reason he suggested multi-family is because of the deed restrictions on there already, and it gives some transition between Providence Road. Councilwoman Locke asked what multi-family zoning he is suggesting, and Councilman Williams replied R-6MF for such a small piece of property.

Mr. Bryant asked if he is primarily concerned with the lot which is now vacant? Councilman Williams replied he is concerned with both of them. The ones right on Providence Road. Mr. Bryant stated on the left hand side as you go in the lot is now 58 feet x 181 feet in size. That would be 10,498 square feet. Under the R-6MF classification it would accomodate only three units. There is a duplex on the property now. In effect, R-6MF would accomplish only one additional unit on the property. The vacant lot on the other side he does not have the exact dimensions but there is a duplex facing Providence Road on the rear portion of that area. The actual corner itself is vacant. From the map it looks as though it could not be more than 100 feet by 60 or 70 feet. Under single family zoning you can put a duplex on a corner lot. That being a corner lot even under single family a duplex could be built; but no more than a duplex. Councilwoman Chafin stated the zoning that is recommended would accommodate any logical multi-family use.

Councilman Whittington asked the City Attorney to speak to deed restrictions. Mr. Underhill replied he has no idea what the deed restrictions are in this case. But deed restrictions in general are a legal devise used by a developer of a particular area to restrict and control the types of development that is permitted within that area. If development is in accordance with the scheme or plan for the development they are legally enforceable. That he does not know enough about the particular deed restrictions here to comment one way or the other. Councilman Whittington stated all through these discussions and hearings, deed restrictions have come up. For those who own the property to break the deed restrictions, it would have to go through the court procedures and bonds put up on their property in case someone questioned the legality of the restrictions? Mr. Underhill replied generally that is correct.

Councilman Davis stated he received a letter from the homeowner of the corner lot and he says the window of that home is 20 feet from Providence Road; and it is a very unsatisfactory situation. It is also across the street from a convenience store and service station, and next door to an office. That it might be denying the property owner there the use of his land if it is restricted to single family, and he would support a substitute motion if multi-family is not satisfactory to zone it for some office use.

Councilman Williams made a substitute motion to approve the petition with the exception that both corners be zoned R-6MF. The motion did not receive a second. He stated he would not even be opposed to the corner lots being office; but reality is reality, and the deed restrictions say residential.

Councilwoman Chafin stated one of these properties was purchased fairly recent and the owner was made aware of the deed restrictions, and told just what kind of situation he was getting himself into. Councilman Williams stated it was zoned B-1 when he bought it. Councilwoman Chafin stated it was zoned B-1 but it had the deed restrictions.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 151.

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ORDINANCE NO. 128-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTY FRONTING ON BOTH SIDES OF QUEENS ROAD, BETWEEN MOREHEAD STREET AND HENLEY PLACE, AS WELL AS PROPERTIES FRONTING ON THE NORTH SIDE OF QUEENS ROAD, WEST OF THE INTERSECTION OF HENLEY PLACE AND QUEENS ROAD.

Councilwoman Chafin moved that the property be changed from R-6MF and R-6MFH to R-12. The motion was seconded by Councilman Williams.

Councilman Whittington made a substitute motion to approve the property for R-15MF. The motion was seconded by Councilwoman Locke.

Councilman Gantt stated Mr. Williams gave a very interesting legal basis for zoning in the beginning. That he would like to give a basis for planning an aesthetic or urban design. That the street in Myers Park in his opinion is Queens Road.

It seems Council has an opportunity to preserve some of the most beautiful single family residences we have here. There is a very convincing argument being made that we have a substantial number of non-conforming uses - apartments and other kinds of things - going on. That all of Council rode the street the other day, and many have driven it many numbers of times since the hearing started. He thinks without question those non-conforming uses along that road are such that they still do not change the overall character of what Queens Road is - traffic or no traffic. It seems to him, particularly when this Council is working very hard in the area of trying to preserve other neighborhoods and we are trying to prove to ourselves that on large highly traveled arterials in our city that we must maintain some residential development, and single family residential. That Queens Road itself would be a prime example of a place that this could happen. It would in his opinion reflect the character of what we all like to think Charlotte is. The large trees, the large houses, the considerable setback from the road so that you have the planted medians - all of this reflects on an area that should be preserved. He suspects if we do not make a strong statement to go ahead with saying now that along Queens Road, for all of it, it should be maintained as R-12 with the possible exceptions at the key intersections - the intersection of two arterials or where the property would seem to conform to a higher density of development that you raise it; but the entire street should be zoned R-12 for consistency. That there will be some non-conforming uses but in the end those non-conforming uses do not overcome the overwhelming character of what the street is now. He suspects any form of multi-family zoning if continued along this street, we run the risk of changing the entire character of what Myers Park is. Myers Park is Queens Road - it is all the other streets too, but it is Queens Road. In his opinion this Council should go on record now. There have been a number of arguments made that non-conforming uses can remain. But if we say now that that street can be residential, and we can prove that it can be single family residential, then we may learn a lot and we can say a lot to Plaza Road, Woodlawn Road, all these other new streets we cut, and plant medians on and tell people they have to live in single family houses. That he does not see how we can do otherwise. We have the best possible chance for doing that right now with R-12 zoning.

Councilman Whittington stated he does not know that he disagrees with Mr. Gantt except to say from the very beginning, two and a half years ago, when he became involved with these petitions presented by the Myers Park Homeowners Association on some of those petitions then he made a mistake. He did not take the advice of people who were more learned than he. Since this new petition has come about, presented by the Myers Park Homeowners Association, he has gone about every one of these doing the best he could to reach areas of compromise trying to be fair to both sides. That is the reason he is voting to R-15MF. He respects what Mr. Gantt said and he respects what the homeowners have said over these months; but he also has to respect the people who own the property. That he contends R-15MF is about as restrictive as you can get other than R-15 single family.

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Councilman Withrow stated he agrees with most of what Mr. Whittington says. This property is zoned R-6MF and R-6MFH, and this cuts the density down to where he doubts very seriously there will ever be any apartments built on it. If there are any apartments built, they have to be luxury plus. When you put a R-15MF zoning on a piece of property, you cut the density out on it. You are taking away everything from the property owners out there; he knows you have to give, and he is willing to do that, and he is going to vote R-15MF because he thinks each one has to give.

Councilman Gantt stated he does not want to lose this; and apparently from what he has heard already if the two of them vote against the R-12, the petition is lost anyway. But he would like for Mr. Bryant to tell him the average lot size in that area. That he thinks Mr. Withrow makes an interesting point. What you are doing is being symbolic. He had hoped that Council would have gone on record saying that it believes and agree that Queens Road is special and it should be R-12. Mr. Bryant, Assistant Planning Director, replied the average lot in there would be less than 20,000 square feet. For example, the lot at the corner of Bromley and Queens Road is only about 18,400 square feet. The lots on the opposite side is about the same size. He would say the average is 18 to 20 thousand square feet; that would permit two units.

Councilwoman Locke stated the Planning Commission had a split vote on this. She asked how many times they voted on it? Mr. Bryant replied there were two separate motions; they tied on each of them. The first was to change it all to R-6MF - leave it as R-6MF except change the one lot which is now R-6MFH to R-6MF. That was the first motion, and it was a five to five tie. The second motion was to approve it for R-12, and that was a five to five tie.

Councilman Davis asked the difference in R-12MF and R-9MF on these typical lots if 18,400 is about average? Mr. Bryant replied under R-12MF it would accommodate three units if the lots are 18,400 square feet, and R-9MF would accommodate five units.

Councilman Davis stated the typical non-conforming use in there at present is how many units? Mr. Bryant replied there is a four unit in the block between Bromley and Hermitage Road; there is five in the one at the corner of Bromley and Queens; there is five on the diagonal corner. Councilman Davis stated he thinks he will vote against the substitute motion; but he will support it if he will go down to R-9MF.

The vote was taken on the substitute motion, and carried as follows to change the zoning to R-15MF:

YEAS: Councilmembers Whittington, Locke, Chafin, Gantt, Williams, Withrow, and Mayor Belk.

NAYS: Councilman Davis.

The ordinance is recorded in full in Ordinance Book 23, at Page 153.

ORDINANCE NO. 129-Z AMENDING THE ZONING MAP TO CHANGE THE ZONING OF PROPERTIES FRONTING ON BOTH SIDES OF HENLEY PLACE AND BROMLEY ROAD, BETWEEN QUEENS ROAD AND MOREHEAD STREET.

Motion was made by Councilman Gantt, seconded by Councilman Williams and unanimously carried, adopting the ordinance changing the zoning from R-6MF and B-2 to R-9 of properties fronting on both sides of Henley Place and Bromley Road, between Queens Road and Morehead Street, as recommended by the Planning Commission.

The Ordinance is recorded in full in Ordinance Book 23, at Page 155.

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ORDINANCE NO. 130-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ON BOTH SIDES OF HENLEY PLACE NORTHEAST OF THE INTERSECTION OF HENLEY PLACE AND MOREHEAD STREET.

Councilwoman Chafin moved adoption of the ordinance changing the zoning from O-6 and B-1 to R-9 on properties fronting on both sides of Henley place northeast of the intersection of Henley Place and Morehead Street, as recommended by the Planning Commission. The motion was seconded by Councilman Gantt.

Councilman Whittington asked if this is excluding any of the property at the end of Henley Place, and Councilwoman Chafin replied no; that she is moving the recommendation of the Planning Commission.

Councilman Whittington made a substitute motion to approve the petition as recommended with the exception that the B-1 property on Henley Place owned by Charlie Knox be excluded from the rezoning. The motion was seconded by Councilwoman Locke.

Mr. Bryant, Assistant Planning Director, stated the area being discussed is under Petition 76-29, and it includes three lots on each side of Henley Place, beginning not at the corner of Morehead and Kings, but at the beginning of the first lot back of the corner. There is actually one lot on each side of the street that is now zoned business; then the other two lots from that point on down zoned office. He believes the substitute motion is to leave the office part out. Councilman Whittington stated from the information he has, the red on the map is owned by Crown Oil. Mr. Bryant stated no; he thinks he is talking about the rear part of the area; that Crown Oil Station is on other property; perhaps they own the rear of the area. Councilman Whittington stated there is a residence on the lot he is referring to; it is the last house on Henley Place on the right going toward Morehead Street - everything from that point on is owned by Crown Oil Company. That his motion is to exclude that one lot that is owned by Mr. Charlie Knox.

Councilman Withrow stated since he has been on Council Mr. Bryant has told Council constantly that good zoning and good planning is to separate business from housing by office; or to separate industry from housing by office. Mr. Bryant replied he has indicated time and time again that there are situations where transitional zoning, and transitional use is appropriate and desirable. That we fairly regularly think of office zoning and situations like that as an acceptable transition. Councilman Withrow asked if he has not gone out through this whole city and tried to separate all down Independence Boulevard in back of these businesses with an office strip; also on Eastway by an office strip. That this is what worries him in this petition. This has been done all over the city; and here we are saying allow the residence to come right up to the back of business.

Councilman Williams stated this is the very reason he was concerned about Hermitage Court and Providence Road. There is a lot of similarities between the two locations. He thinks there is another similarity in that they have deed restrictions on them just like they do at Hermitage Court and Providence Road.

That he sympathizes with that position just as he was pointing out at Hermitage Court. If we can work it out in some reasonable manner, he will be willing to exempt those first lots on both sides in some way.

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Councilman Gantt stated Council rode down that street the other day and he has the real impression there was some revitalization going on. It seems to him we have the transition Mr. Withrow is talking about because that is a vacant lot on the corner, and maybe they will end up putting a service station down there. He admits that would not be the best kind of land use for the residence there. But to come in there at that point and arbitrarily omit that house out of that area, when the house on the ground is really a part of Henley Place. It seems to him that is wrong. It seems to be saying we are giving them the R-6 on the major portion of it and then turning around and possibly taking it away, and putting the cancer back in by having that house torn down and made business.

Councilwoman Chafin stated she thinks the vacant lot will take care of the buffer problem Mr. Withrow is referring to.

Councilman Withrow stated Mr. Bryant is the paid planner, and he asked him to tell him what it should be? Everywhere in this city we have put office between residential; if we are not going to do it, then he wants Mr. Bryant to say why we should not do it here, and he is going to vote that way.

Mr. Bryant replied as far as the Planning Commission's rationale in this sort of situation is, there are two factors here that depart from what Mr. Withrow outlined as being the generally accepted, and he thinks perhaps in light of today's development circumstances; perhaps being too generally accepted as far as office being a satisfactory transition. But there are two things he would mention. First, there is not so much the fact that these are vacant lots on the corner, but the fact they are deed restricted to residential use. It is his understanding that one, and perhaps both of these, have been all the way to the Supreme Court as far as challenging those restrictions, and they have been upheld. That he thinks you have as firm a situation as far as deed restrictions are concerned as to whether or not these two could ever be used for any type of non-residential purposes. That is one consideration here. The other consideration is the very character of Henley Place itself. In his opinion, Henley Place is not acceptable for any amount of business or non-residential uses which front on the street itself. Henley Place, and he believes it has occurred since the 1962 zoning happened, is basically a one-way street. You can go both ways on it; but it is signed in such a way that it indicates through traffic in one direction is not to occur. It is a relatively narrow street, and he does not think it is generally acceptable for non-residential activities. This is a situation where the properties are separately owned and front on Henley Place. As the property relationship is now established any use established on any of the three lots would have to front on and have access on Henley Place. In light of the total neighborhood environment, he does not think the conventional transitional arguments are as important.

The vote was taken on the substitute motion, and failed on the following vote:

YEAS: Councilman Whittington and Locke.

NAYS: Councilmembers Chafin, Davis, Gantt, Williams, Withrow and Mayor Belk.

Councilman Williams made a substitute motion that the petition be approved for R-9 with the exception of the first lot on each side of the street, now B-1, be rezoned to O-6. The motion was seconded by Councilman Whittington.

The vote was taken on the motion and failed for lack of six affirmative votes, as follows:

YEAS: Councilmembers Williams, Whittington, Davis, Locke, and Mayor Belk.

NAYS: Councilmembers Chafin, Gantt and Withrow.

The vote was taken on the original motion to approve as recommended by the Planning Commission, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 157.

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ORDINANCE NO. 131-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ABOUT 320 FEET ON THE SOUTHWEST SIDE OF QUEENS ROAD, AND ABOUT 260 FEET ON THE NORTH SIDE OF ARDSLEY ROAD AT THE INTERSECTION OF QUEENS ROAD AND ARDSLEY ROAD.

Councilman Withrow moved that the ordinance be adopted changing the zoning from R-6MF to R-15MF. The motion did not receive a second.

Councilwoman Locke moved adoption of the ordinance changing the zoning from R-6MF to R-12MF as recommended by the Planning Commission. The motion was seconded by Councilman Williams.

Councilman Gantt stated we are back on Queens Road and Council should examine what it is doing.

Councilman Williams stated he likes R-12MF there because this relates a little bit to Morehead Street as it does to Queens Road because you make that swing around and Morehead Street is down below the Edgehill Apartments, the Lutheran Church and the parking lot across the street from the Church. That as you move up away from the Morehead-Queens intersection up towards Providence and Queens, where it is probably going to be higher density anyway, that this is a gradual easing in of that higher density. You go from R-15MF on part of Queens Road, but after you make that almost 90 degree turn, you are easing into R-12MF. That he thinks it is a pretty reasonable compromise, and he will vote for R-12MF.

The vote was taken on the motion, and failed to carry for lack of six affirmative votes, as follows:

YEAS: Councilmembers Locke, Williams, Davis, Withrow and Mayor Belk.

NAYS: Councilmembers Chafin, Gantt and Whittington.

Councilman Withrow moved that the zoning be changed from R-6MF to R-15MF. The motion was seconded by Councilman Gantt, and carried on the following vote:

YEAS: Councilmembers Withrow, Gantt, Chafin, Locke, Whittington, Williams and Mayor Belk.

NAYS: Councilman Davis.

The ordinance is recorded in full in Ordinance Book 23, at Page 159.

ORDINANCE NO. 132-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ON THE NORTHEAST SIDE OF QUEENS ROAD, FROM THE INTERSECTION OF QUEENS ROAD AND ARDSLEY ROAD TO THE INTERSECTION OF QUEENS ROAD AND GRANVILLE ROAD.

Councilwoman Chafin moved adoption of an ordinance changing the zoning of the subject property from R-6MF to R-12 as recommended by the Planning Commission. The motion was seconded by Councilman Gantt, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 161.

ORDINANCE NO. 133-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ON THE SOUTH SIDE OF QUEENS ROAD AT THE SOUTHEAST CORNER OF THE INTERSECTION OF QUEENS ROAD AND ARDSLEY ROAD.

Councilwoman Locke moved adoption of the ordinance changing the zoning on the subject property from R-6MF to R-12MF as recommended by the Planning Commission. The motion was seconded by Councilman Williams.

Councilwoman Chafin made a substitute motion to change the zoning from R-6MF to R-15MF. The motion was seconded by Councilman Gantt, and lost for lack of six affirmative votes, as follows:

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

The vote was taken on the original motion to change the zoning to R-12MF and carried as follows:

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

The ordinance is recorded in full in Ordinance Book 23, at Page 163.

ORDINANCE NO. 134-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ON THE SOUTH SIDE OF QUEENS ROAD, BETWEEN ARDSLEY ROAD AND GRANVILLE ROAD.

Councilman Whittington moved adoption of the ordinance changing the zoning of the subject properties from R-6MFH to R-6MF. The motion was seconded by Councilwoman Locke.

Councilman Williams made a substitute motion to change the zoning of the properties from R-6MFH to R-12MF. The motion was seconded by Councilwoman Chafin, and lost for the lack of six affirmative votes, as follows:

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

The vote was taken on the original motion to change the zoning to R-6MF and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 165.

ORDINANCE NO. 135-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ABOUT 220 FEET ON THE SOUTH SIDE OF QUEENS ROAD, AND ABOUT 210 FEET ON THE NORTHWEST SIDE OF GRANVILLE ROAD, AT THE INTERSECTION OF QUEENS ROAD AND GRANVILLE ROAD.

Councilman Whittington moved adoption of the ordinance changing the zoning of the subject property from R-6MF to R-15MF. The motion was seconded by Councilwoman Locke.

Councilman Davis stated under the previous petition Council voted to change the zoning to R-6MF. He asked why this change to R-15MF? Councilman Withrow replied this is coming from a high rise and it is a compromise down. This is a difference of one lot that is vacant, and the others have two fine homes on it; there is a difference. Councilman Davis stated but there is a R-6MF zoning on Petition 33, and years later the two homes on Petition 34 should have the options of going to a similar zone. It is moving up closer to the intersection of Providence Road and Queens Road where the more desirable multi-family locations are.

Councilman Whittington stated Petition 76-32 is the property on the right hand side of Queens Road, from Ardsley Road or Queens Road West up to the Princess Apartments and that was made R-12MF; next to that is the Princess Apartments; next to that is Petition 76-33 which was made R-6MF (the Planning Commission made no recommendation on that after three votes.) Across the street was single family R-12. Now to get to this petition, which is 76-34, his motion is for R-15MF because these two homes between 76-33 and Granville Road, and the one on the corner would go back to Granville Road; and the former Olive home goes back into that property. To make this property R-15MF would do what we did further up Queens Road. That he thinks it is a good motion.

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Councilman Davis asked how many units can be built under R-15MF for each of those lots? Mr. Bryant, Assistant Planning Director, replied it could possibly be four or five on each one of those lots under R-15MF; that they could have at least four units on each of the lots.

Councilman Davis asked Mr. Bryant to review the Planning Commission's split vote on this. Mr. Bryant replied there was a motion to make the zoning R-9MF, and that was defeated by a vote of three to seven. Then there was a motion to disapprove, or leave it R-6MF, and that was tied five to five and that is the way it stayed.

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

YEAS: Councilmembers Whittington, Locke, Chafin, Gantt, Williams, Withrow and Mayor Belk.

NAYS: Councilman Davis.

The ordinance is recorded in full in Ordinance Book 23, at Page 167.

ORDINANCE NO. 136-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ABOUT 190 FEET ON THE SOUTHEAST SIDE OF GRANVILLE ROAD AND ABOUT 240 FEET ON THE NORTHEAST SIDE OF QUEENS ROAD AT THE INTERSECTION OF GRANVILLE ROAD AND QUEENS ROAD.

Councilman Gantt moved adoption of an ordinance changing the zoning of the subject property from R-6MFH to R-15MF. The motion was seconded by Councilwoman Chafin.

Councilwoman Locke made a substitute motion to approve the property for R-6MF as recommended by the Planning Commission. The motion was seconded by Councilman Whittington.

Councilman Williams stated he likes that idea on this piece of property. This is different from the other two vacant pieces of property that we will be grappling with this afternoon. One of the vacant pieces is across the street, and the other vacant piece is way down towards Selwyn Avenue. He thinks this particular piece of property is different because of what is behind it, beside it and in front of it. There is considerable density already behind it in the form of apartments; this property owner owns the lot beside it which is zoned single family and it will not be changed by this vote today; then, there is a street in front of it to provide a buffer of sorts between it and the single family area across. This is a reduction from the MFH to MF and he thinks it is a reasonable compromise.

Councilman Gantt stated he agrees, and he thinks it is multi-family density. The only reservation he has is whether or not we may not be getting too much that we need to work the traffic problem at Queens and Providence Road now.

Councilman Whittington stated this particular petition is the only one out of the 18 that is unique in that it is there by itself and adjoined by Granville Road, the apartments and property he owns all the way to Providence Road.

Councilman Withrow stated of all these petitions, it was harder for him to bring it up to high rise down to R-6MF because it is unique; it has Queens Towers across the street, and it has the apartments.

Councilman Davis stated the closer we get to the corner, the more desirable it becomes to have a denser type multi-family in housing because presumably a lot of people who would live in those would not even own cars, and maybe would not complicate things. That he knows a number of people who live in some of these, and after some of the action taken on Council, there may be more of them.

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Councilwoman Chafin stated she essentially agreed with what Mr. Davis is saying, but she thinks we need to be very, very careful about the extent of traffic congestion we may be creating with the high density multi-family in this area.

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

The ordinance is recorded in full in Ordinance Book 23, at Page 169.

ORDINANCE NO. 137-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTY FRONTING ABOUT 260 FEET ON THE WEST SIDE OF QUEENS ROAD AND ABOUT 260 FEET ON THE NORTH SIDE OF HOPEDALE AVENUE AT THE INTERSECTION OF HOPEDALE AVENUE AND QUEENS ROAD.

Councilman Withrow moved adoption of an ordinance changing the zoning of the subject property from R-6MFH to R-6MF as recommended by the Planning Commission. The motion was seconded by Councilman Williams and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 171.

ORDINANCE NO. 138-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ABOUT 320 FEET ON THE NORTHWEST SIDE OF QUEENS ROAD, BETWEEN HOPEDALE AVENUE AND PEMBROKE AVENUE.

Councilman Whittington moved adoption of an ordinance changing the zoning of the subject properties from R-6MFH to R-6MF as recommended by the Planning Commission. The motion was seconded by Councilwoman Locke, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 173.

ORDINANCE NO. 139-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTY FRONTING ABOUT 170 FEET ON THE NORTHWEST SIDE OF QUEENS ROAD AT THE SOUTHWESTERNMOST CORNER OF THE INTERSECTION OF QUEENS ROAD AND PEMBROKE AVENUE.

Councilwoman Chafin moved adoption of an ordinance changing the zoning of the subject property from R-6MFH to R-6 as recommended by the Planning Commission. The motion was seconded by Councilman Whittington, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 175.

ORDINANCE NO. 140-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ON THE EAST SIDE OF QUEENS ROAD BETWEEN PROVIDENCE ROAD AND OXFORD PLACE, AS WELL AS PROPERTIES FRONTING ON BOTH SIDES OF QUEENS ROAD, BETWEEN OXFORD PLACE AND ROSWELL AVENUE, AND PROPERTIES FRONTING ON BOTH SIDES OF ROSWELL AVENUE, FROM QUEENS ROAD TO BUCKNELL, AS WELL AS THE EAST SIDE OF ROSWELL AVENUE, BETWEEN BUCKNELL AVENUE AND QUEENS ROAD WEST.

Councilwoman Chafin moved adoption of an ordinance changing the zoning of the subject property from R-6MF to R-12 as recommended by the Planning Commission. The motion was seconded by Councilman Williams.

Councilman Withrow stated he questions the two houses between the Carlton and the Apartment Building being single family or that a single family would ever live there. That not very many apartments could be built in there, and he would make a substitute motion to change the zoning of the properties to R-12 with the exception of the two lots which would remain R-6MF. The motion was seconded by Councilman Gantt.

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Mr. Bryant, Assistant Planning Director, pointed out the site of the Carlton; then immediately adjacent to the Carlton are two single family houses, one lot is zoned R-6MFH, and the rest is zoned R-6MF; then there is a smaller existing apartment.

Councilman Gantt asked how many apartments could be built if it is zoned R-6MF? That is a question of transitional zoning, but he thinks it is logical; that we have made a big mistake with these high rise zonings sitting next to single families. Mr. Bryant replied if it is zoned R-6MF, the two lots are 106 feet frontage by 223 feet of depth and this is about 23,600 square feet, and under R-6MF, that would permit about nine units.

Councilman Davis asked Mr. Withrow if he is excluding the two single family lots, and if he intends to exclude them? That he favors the motion but would like Mr. Bryant to explain what this will do to the non-conforming use? If this is changed to single family, what sort of restrictions will be placed on them? Mr. Bryant replied this will not put restrictions on them as far as maintenance; that non-conformancy under this circumstance you can continue to maintain the structures, and continue to occupy; but you cannot remodel it, add additional units to it; you cannot add structural area to it. But you are not doing anything as far as preventing any sort of normal maintenance or repair operations. Councilman Davis asked if it burned down, could it be replaced? Mr. Bryant replied it could; if it is destroyed by an act of God, it can be replaced within one year.

Councilman Williams stated since Council is talking about non-conforming uses, why not include that and make it more uniform. The two lots under discussion have single family dwellings on them, and then the non-conforming use which has about eight units on it. It looks like a New Orleans house. Councilman Withrow stated in all fairness that should be excluded.

Councilman Withrow amended his substitute motion to exclude that property which will exclude the three lots. The amendment was accepted by Councilman Gantt who seconded the substitute motion.

Councilman Williams stated he is now concerned about the number of apartments that can be built on the two lots. Mr. Bryant replied if the three lots are left as R-6MF, and the one lot changed to R-6MF, they could have in the neighborhood of 27 to 30 units.

The vote was taken on the substitute motion to rezone the properties to R-12 excluding the three lots, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 177.

ORDINANCE NO. 141-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ON BOTH SIDES OF SELWYN AVENUE, BETWEEN WELLESLEY AVENUE AND BUCKNELL AVENUE.

Councilman Whittington moved adoption of an ordinance changing the zoning of the subject property from R-6MF to R-12 as recommended by the Planning Commission. The motion was seconded by Councilwoman Chafin, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 179.

ORDINANCE NO. 142-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ABOUT 220 FEET ON THE SOUTHEAST SIDE OF SELWYN AVENUE AT THE NORTHEASTERNMOST CORNER OF THE INTERSECTION OF SELWYN AVENUE AND BUCKNELL AVENUE.

Councilman Gantt moved adoption of an ordinance changing the zoning of the subject property from R-6MFH to R-15MF. The motion was seconded by Councilwoman Chafin.

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Councilwoman Locke made a substitute motion to change the property from R-6MFH to R-6MF as recommended by the Planning Commission. The motion was seconded by Councilman Whittington. The vote was taken on the motion, and lost for lack of six affirmative votes, as follows:

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

The vote was taken on the original motion to change the zoning to R-15MF and lost on the following vote:

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

Councilman Gantt moved that the zoning be changed to R-9MF. The motion was seconded by Councilman Williams.

Councilman Withrow asked for a point of order on the motion? Mr. Underhill, City Attorney, replied Councilman Gantt's motion to change to R-9MF is one that is permitted under the classifications.

Councilman Gantt stated if you take a look at the overall pattern of zoning existing in that area, he is really at a loss. That there may have been good reasons why this was R-6MFH originally in 1962 to do that but that seems to him to be a clear case of spot zoning at that point, and we will end up with that kind of consistency in that section of Selwyn Avenue. He feels that while we run the risk of penalizing Mr. Heath on that particular property, he does feel it is a clear case of spot zoning; that he does feel the recommendation would be kind to Mr. Heath but not as kind to the people who abut it all around.

Mr. Bryant stated in defense of the Planning Commission's recommendation on this you have a solid pattern of R-6MF coming down to Bucknell along Selwyn Avenue; that he thinks the Planning Commission's recommendation really hinges on the fact that you have the one lot there, with a duplex beside and an existing apartment, and they felt that in that case the R-6MF would not be spot zoning as R-6MFH is now.

The vote was taken on the motion to rezone the property to R-9MF and lost on the following vote:

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

Councilman Williams moved that Council reconsider Councilman Whittington's motion to rezone the property to R-6MF. The motion was seconded by Councilwoman Chafin, and carried unanimously.

Councilman Williams moved that the property be rezoned to R-6MF as recommended by the Planning Commission. The motion was seconded by Councilwoman Locke, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23, at Page 181.

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ORDINANCE NO. 143-Z AMENDING THE ZONING MAP OF THE CITY OF CHARLOTTE BY CHANGING THE ZONING OF PROPERTIES FRONTING ON BOTH SIDES OF SELWYN AVENUE BETWEEN STERLING ROAD AND LORENE AVENUE.

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

The ordinance is recorded in full in Ordinance Book 23, at Page 183.

ADJOURNMENT.

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

  
Ruth Armstrong, City Clerk